

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2839

Press
~~Mis.~~

556.557

Dated 29-11-1867.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
29th November 1867.*

No. 556. Read the following letter from the Secretary to the Board of Revenue, to the Secretary to Government, Revenue Department, Fort St. George, dated Madras, 25th October 1867, No. 6,985 :—

1. With reference to the Orders of Government, under date 13th September and 2nd October 1867, Nos. 2,160 and 2,300, I am directed to request a re-consideration of the instructions of Government to the Board, in regard to making a reference to the Collectors of Districts on the subject of the mistake which has unfortunately been allowed to occur in the preparation of the Inam Title Deeds.

2. The Board are of opinion that, while a reference of the sort can have but little practical result, inasmuch as there may be cases in which pretensions of the description indicated have come before the Courts without the Collector's knowledge, and as, even had no instances of the prosecution of such claims occurred, it would be no guarantee that they might not be put forward by the holders of the Title Deeds in future years, when they would be more difficult to refute, it will probably have the effect of shaking the confidence of the Inamdars in the finality of the Inam Settlement.

3. The Board would beg, therefore, to suggest that no communication of the difficulty be made to Collectors, until the Government have determined in what manner the error may most conveniently be remedied. They cannot but fear that any mere declaratory order of the Government would fail of effect, and they believe that either the whole of the Title Deeds must be re-called and fresh Deeds issued in an amended form, or that a declaratory enactment must be passed by the Legislative Council, somewhat in the form of Regulation No. IV of 1822, as already suggested in the Board's Proceedings, under date 8th July 1867, No. 4,274.

4. With reference to the remarks of Government in paragraphs 10, 11, and 12 of their Order, under date 13th September 1867, No. 2,160, I am to state that the Board see very considerable difficulty in carrying out the combined system proposed. If a Puttah be issued by the Collector to the ryot occupant of the land included in the Inam Title Deed, the Collector must proceed against him should he fall into arrears under Act No. II of 1864, (Madras,) and such a ryot would again proceed against his sub-tenant, supposing him to have one, under Act No. VIII of 1865, (Madras.) Under such circumstances it is difficult to understand how the Inamdar is to recover his beneficiary interest in the revenue of the land from the ryot, for he could hardly sue as a *tenant* one who was already treated as a landholder by Government. Such a system would, in any case, in the Board's opinion, lead to serious complications in regard to remissions, water-rate, &c., and would, in fact, be a breach of faith with the Inamdar, who has made his settlement with the Inam Commissioner on the understanding that the whole revenue of the quantity of land which is entered in his Title Deed has been assigned to him on condition of his making a certain annual payment to Government.

5. The Board further see no reason why the ryots of Tinnevely should be thus specially treated, when no such exception was made in favor of the Mirasidars of Tanjore or the Madras District, whose rights in the land are equally well known. Should the same rule be applied to the ryots of this district, as has been followed in other districts, they would not be in a worse position than those ryots whose lands under recent orders have been assigned as the endowments of pagodas, and

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the Board see no more difficulty in ceasing to issue the Puttah in the one case than in the other. The abstract right of the Government to assign its share of the produce, commuted as it now is to a fixed annual payment, has been recognized from time immemorial, and the Board see no reason why it should now be allowed to be questioned.

6. The Board believe, too, that the system in force in Tinnevelly was simply a departmental arrangement in the Collector's Office, and that in order to issue facility in the collection of the quit-rent or Jodi, it was customary to require the cultivating ryot to pay it direct to Government, leaving the Inamdar to obtain the balance of the revenue of the land as best he could. They understand from the Inam Commissioner that there is nothing peculiar in the original Sunnuds of these Inams, which usually profess to give the Inamdar so much land as Inam, subject to the payment of a certain "Jodi" or quit-rent.

No. 557. ORDER THEREON, 29th November 1867, No. 2,839.

Miscellaneous.

1. The Government do not desire to press the reference to Collectors in the face of the Board's objections; but they observe that in paragraph 8 of the Board's Proceedings, dated 8th July 1867, No. 4,274, very similar objections were raised to the suggested enactment of a declaratory law, which the Board now appear disposed to advocate.

2. The re-call of the issued Title Deeds would unquestionably create the widest distrust among the Inamdars if it were practicable to carry out the measure, which it, probably, is not, and this is the only alternative suggested by the Board.

3. Under all the circumstances of the case, and as it is certainly desirable to remove the blot which has been hit, the Government are of opinion that the enactment of a short declaratory Act is open to the fewest objections, and they accordingly desire that a short Draft Bill, suited to the exigencies of the case, be prepared in the Legislative Department, to which the correspondence that has passed will be communicated.

4. It would seem sufficient to provide that as in a large number of case Inam grants did not convey the occupancy right in the land concerned, but merely the privilege of receiving the Government dues from the registered or otherwise recognized occupant-by-right of the land, while the terms of the Inam Title Deed offering enfranchisement from liability to lapse on certain conditions, are calculated to mislead by declaring without any reservation that "*the land*" will be the Inamdar's "absolute property to hold or dispose of" as he may think proper, although the actual Sunnud of enfranchisement or redemption merely and rightly states that the "*Inam*" is confirmed in perpetuity, leaving it open to competent tribunals to inquire and decide whether the Inam included the proprietary right in the soil, or was limited to the right to receive the Government dues from the prior occupant; therefore it is declared that the words in the offer of enfranchisement shall not be held to define, limit, infringe or destroy the actual rights of any description of landholders or occupiers, but that the terms of the Inam Title Deeds are absolute only against Government, leaving all claims of right raised by private individuals open to investigation and decision by the established tribunals.

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5. The enactment of a law, such as is above sketched, will adequately guard the right of ryots in Tinnevelly as well as elsewhere, and the Government, therefore, will not object to the discontinuance of the issue of Puttahs to, or receipt of the quit-rent from them. The Collector of Tinnevelly will accordingly notify that the Government dues are henceforward to be paid by the ryot occupants of Inam lands to the Inamdars, who will themselves meet the Government demand for quit-rent.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.

„ the Officiating Inam Commissioner.
„ the Legislative Department, with the correspondence.
„ the Civil and Session Judge of Tinnevelly.

Exd. S. T. Augustin.

Revenue Department

N. 2839.

Proceedings of the Madras Government
Under date the 29th November 1867.

Read the following
letter from the Secretary
to the Board of Revenue.

Requesting re-considera-
tion of instructions of Govern-
ment in regard to making a
reference to Collectors on the
subject of mistake in the pre-
paration of Gram Title Deeds.

(Here enter 25th October/67)
N. 6985

W. H. N.
W. H. N.

The Government
do not desire to press
the reference to Collectors
in the face of the Board's
objections. but they
observe that in para-
8 of the Board's Proceedings.

dated 8th July 1867;—
No. 4274, very similar
objections were raised
to the suggested enact-
ment of a declaratory
law which the Board
now appear disposed
to advocate.

The ^{call} result of
the issued title deeds
would unquestionably
create the widest
distrust among the
Inamdars if
it were practicable
to carry out the
measure, which it,
probably

probably, is not and
this is the only alternative
suggested by the Board.

Under all the
circumstances of the
case, and as it is cer-
tainly desirable to re-
move the blot which
has been left the Govt
ment, are of opinion
that the enactment
of a short declaratory
act is open to the

yes N

fewest objections,
and they accordingly
desire that the Board

in

in communication with
the Officiating Indian
Commissioner, will
prepare and submit
a short draft bill
suited to the exigencies

of the case before in
the Legislative Department. L. S. M.
It would seem
sufficient to provide
that as in a large
number of cases Indian
grants did not
convey the occupancy
right in the land
concerned but merely
the privilege of

convey that
the person
title be com-
municated.

(Attended in Council
26 Nov 1891)
L. S. M.

receiving

receiving the Govt dues
from the registered or
otherwise recognized oc-
cupant-by-right of the
land - while the terms of
the Indian title, de-
serving enfranchisement
from liability to lapse
on certain conditions are
calculated to mislead
by declaring without any
reservation that "the land"
will be the Indian's
"absolute property to hold
or dispose of" as he may
think proper - although
the actual sum of
enfranchisement or ex-
emption merely and
rightly states that the "Indian"
is confirmed in perpetui-
ty - leaving it open to com-
petent tribunals to re-
quire and decide whe-
ther the Indian included
the proprietary right in
the soil - or was li-
mited to the right to re-
ceive the Govt dues for

the prior occupants - and
 therefore it is declared
 that the words in the
 offer of enfranchisement
 shall not be held to de-
 fine limit, infringe
 or destroy the actual
 rights of any description
 of landholders ^{or occupiers} but that
 the terms of the Enam title
 deeds are absolute, only
 as against Court leaving
 all claims of right raised
 by private individuals
 open to investigation
 and decision by the es-
 tablished ~~four~~ ^{tribunal}
~~tribunals~~.

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^{of Dinnwally}
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 the Court demand for
 quit-rent.

L.R.

14 Copies to the Secy of the Govt of Madras

[Signature]

5 _____ Secy to Govt. with correspondence

1 _____ C. S. Judge
 H. Dinnwally

[Signature]

Revenue 1869 Deficit
not paid for now

No 2839

Pro of the Standard Court
at 29th November 1869

Cir

13/9/69
42-43

17-1-17
1-2-18
4-11-27

Ms 536-537