P. 21

Paper taken out of the Records from the charge of the Record-keeper.

of 1

Regular / Miscellaneous No.

For what Current.		To whom given.	When taken out.
No.	Year.		

Revenue (1899) Department.

PRESS SERIES.

G.O., No. 594 1R

Dated 6th September 1899

[Despatch Abstract.]

Boundary dispute.

Stating with remarks that the Govt. sees no reason to interfere in the matter of the rival claims of the ryots of the Pudukkottai State and the Sivaganga Zamindari to use the water of a certain Channel and that the parties interested may apply to the Civil Courts for a determination of their respective rights.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government (1899) of Madras.

REVENUE.

Recd. } 1899. *Enclosures*
Regd. } *Spare copies*

G.O., No. 594, 6th September 1899.

SEPTEMBER.

Boundary dispute.

Stating, with remarks, that the Government sees no reason to interfere in the matter of the rival claims of the ryots of the Pudukkóttai State and the Sivaganga zamindari to use the water of a certain channel and that the parties interested may apply to the Civil Courts for a determination of their respective rights.

NOTES CONNECTED WITH G.O., NO. 594, REVENUE, DATED 6TH SEPTEMBER 1899.

Read letter from the Political Agent for Pudukkóttai, Ref. No. 176 *O., dated* 4*th February* 1898.

(Dispute regarding the water of a channel between the Sivaganga Zamindari and the Pudukkóttai State.)

To the Under Secretary—

Please see G.O., No. 661, Revenue, dated 3rd October 1895, which embodies the papers connected with, and the orders passed on, the appeal preferred by the Pudukkóttai state against two awards of Mr. Pope of the Madras Survey Department delivered as arbitrater for the settlement of the boundary dispute between the Karungalur village of the Pudukkóttai state on one side and the Aramanavayal village of the Sivaganga zamindari on the other. Board's Proceedings, No. 227, dated 9th July 1895, printed in the above Government Order, gives a clear account of the disputes, and the map stitched with G.O., No. 8, dated 7th January 1896, shows the boundary as decided on by the Madras Government to which an appeal was provided in the agreement * to arbitration.

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for

2. The present communication from the Political Agent relates to the right to the vari (channel) marked T_1 T_2 T_3 T_4 on the map, which formed one of the subject matters of one of the awards, and which is shown on the map as feeding the Aramanavayal (Sivaganga) tank. The contention of the Karungalur (Pudukkóttai) ryots appears to have been that this vari should not be diverted to the Aramanavayal tank, but should be allowed to flow uninterrupted into the Karungalur tank, and they claimed a boundary line which lay considerably to the north of this channel. On the other hand, the Aramanavayal ryots claimed a boundary line much to the south of the vari. "Mr. Pope not finding any material "assistance in the documentary and other "evidence adduced on either side, dicided "to divide the disputed ground into almost "equal portions giving to Aramanavayal the portion which they claimed to have "cultivated, and the remainder to Karungalur," but added a rider that "it must be "understood that this decision does not affect the right of the villagers of Karungalur "to the supply channel or vari, through which the surplus water of the Mel "Aramanavayal tank flows into the "Karungalur tank . . . . ." Mr. Pope's rider appears to have been added with reference to the "award of a pancha-"yat appointed to decide certain disputes "between the villages of Karungalur and Aramanavayal" in 1846, although Mr. Pope considered that award to be inadmissible as evidence as it had not been acted upon. But this award was the only document produced which the then Political Agent, Mr. Miller, and the Board of Revenue did not reject as unreliable, and their recommendations, as also the decision of Government, were based on its provisions. The portions of the award relating to the point now under reference are clauses (3) and (11):—

Last sentence of paragraph 27 of Board's Proceedings, No. 227, dated 9th July 1895.

Paragraph 3 of Board's Proceedings, No. 227, dated 9th July 1895.

Paragraph 13 *ibid.*

Printed at pages 6–7 of G.O., No. 661, dated 3rd October 1895.

Paragraph 12 of Board's Proceedings, No. 227, dated 9th July 1895.

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* G.O., No. 609, dated 21st August 1883.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following letter from R. H. SHIPLEY, Esq., I.C.S., Political Agent for Pudukkóttai, to the Chief Secretary to Government, dated Trichinopoly, 4th February 1899, Ref. on Cur. No. 176-O. :—

I have the honour to report that I have inspected the site of the Kurungalúr-Aramanavayal boundary dispute in company with Mr. MacIver (Head Assistant, Madura) and with representatives of the Pudukkóttai State and Sivaganga zamindari.

2. In Government Order, No. 736, Political, dated 1st November 1895, it was laid down that Mr. Miller's line should be accepted by both parties, with the important exception that the Pudukkóttai boundary should be south of the "vari", which is said to run from the old and abandoned Melaramanavayal tank to the Kurungalúr tank. This "vari" Mr. Miller has identified and it is marked T_1, T_2, T_3, T_4, in the sketch.

3. The dispute between the State and zamindari ryots is entirely a water dispute. The latter claim that this "vari" is the supply channel of the Aramanavayal tank, while the former deny that the zamindari ryots have any claim to the water, and assert that it should flow uninterrupted into the Kurungalúr tank There can be no doubt that this latter view is the correct one. It is apparent from the terms of the panchayat award in 1846 that the Kurungalúr ryots have the right to the water, although the channel itself is not within their limits. I take it that the Government has, by implication, accepted this view, although it has not actually been so stated in words.

4. Proceeding on this assumption, I would ask that Government instruct the Collector of Madura to order the channel of the "vari" to be replaced *in statu quo* by the Sivaganga ryots who have diverted it into their own tank. This may be done either by removing the new tank bund, or by a fresh cutting, or by putting up another bund to prevent the channel water from flowing into the Aramanavayal tank.

5. The *modus operandi* may be left to be settled by the State and zamindari officials; what is wanted now is a distinct order of Government that the Kurungalúr ryots have the exclusive right to the "vari" water and that immediate steps be taken to ensure the uninterrupted flow of that water to their tank.

6. I may mention that in my opinion nothing less than a distinct order to this effect will end the dispute.

Endt. No. 422.

Transferred to the Revenue Department.

(Signed) G. STOKES,
Chief Secretary.

10*th February* 1899.

ORDER—No. 594, Revenue, dated 6th September 1899.

Miscellaneous.

The boundary line was laid down by Government with due formality, nor is there any ground to question the correctness of the decision. It follows that the vari, or channel, marked T_1, T_2, T_3, T_4, in the sketch, is within the limits of the Madura district, and within the jurisdiction of the Madura civil courts. As regards rival claims to use the water of the channel, the Government sees no reason to interfere and leaves the parties interested to apply to the Civil Courts for a determination of their respective rights.

(True Extract.)

(Signed) H. TREMENHEERE,
Ag. Secretary to Government.

To the Political Department.
" Board of Revenue (Land Revenue).

Exd. A. F. Eccleston.

40 Copies.

NOTES CONNECTED WITH G.O., NO. 594, REVENUE, DATED 6TH SEPTEMBER 1899.

Read letter from the Political Agent for Pudukkóttai, Ref. No. 176 O., dated 4th February 1898.

(Dispute regarding the water of a channel between the Sivaganga Zamindari and the Pudukkóttai State.)

To the Under Secretary—

Please see G.O., No. 661, Revenue, dated 3rd October 1895, which embodies the papers connected with, and the orders passed on, the appeal preferred by the Pudukkóttai state against two awards of Mr. Pope of the Madras Survey Department delivered as arbitrater for the settlement of the boundary dispute between the Karungalur village of the Pudukkóttai state on one side and the Aramanavayal village of the Sivaganga zamindari on the other. Board's Proceedings, No. 227, dated 9th July 1895, printed in the above Government Order, gives a clear account of the disputes, and the map stitched with G.O., No. 8, dated 7th January 1896, shows the boundary as decided on by the Madras Government to which an appeal was provided in the agreement * to arbitration.

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2. The present communication from the Political Agent relates to the right to the vari (channel) marked T_1 T_2 T_3 T_4 on the map, which formed one of the subject matters of one of the awards, and which is shown on the map as feeding the Aramanavayal (Sivaganga) tank. The contention of the Karungalur (Pudukkóttai) ryots appears to have been that this vari should not be diverted to the Aramanavayal tank, but should be allowed to flow uninterrupted into the Karungalur tank, and they claimed a boundary line which lay considerably to the north of this channel. On the other hand, the Aramanavayal ryots claimed a boundary line much to the south of the vari. "Mr. Pope not finding any material "assistance in the documentary and other "evidence adduced on either side, dicided "to divide the disputed ground into almost "equal portions giving to Aramanavayal the portion which they claimed to have "cultivated, and the remainder to Karungalur," but added a rider that "it must be "understood that this decision does not affect the right of the villagers of Karungalur "to the supply channel or vari, through which the surplus water of the Mel "Aramanavayal tank flows into the "Karungalur tank . . . . ." Mr. Pope's rider appears to have been added with reference to the "award of a pancha-"yat appointed to decide certain disputes "between the villages of Karungalur and Aramanavayal" in 1846, although Mr. Pope considered that award to be inadmissible as evidence as it had not been acted upon. But this award was the only document produced which the then Political Agent, Mr. Miller, and the Board of Revenue did not reject as unreliable, and their recommendations, as also the decision of Government, were based on its provisions. The portions of the award relating to the point now under reference are clauses (3) and (11):—

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Paragraph 13 *ibid.*

Printed at pages 6–7 of G.O., No. 661, dated 3rd October 1895.

Paragraph 12 of Board's Proceedings, No. 227, dated 9th July 1895.

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* G.O., No. 609, dated 21st August 1883.

(Translation appended to Board's Proceedings, No. 227, dated 9th July 1895.)

(Translation of clause 3 as given at paragraph 17 of Board's Proceedings, No. 227, dated 9th July 1895.)

"The drainage from Anjanavoyal fields, the rain water "falling into the same, and the water in the feeder "channel north and west of the Karungalur tank, shall "be directed along the channel last referred to and "made to flow easily deepening the channel where "necessary with mamooties."

(3) "The rain water that falls from where "the Anjanavayal escape is situated and the "water of the feeder channels to the west of "the surplus weir which lies to the north of the "Karungalur tank should be made to flow "readily into the above tank by deepening the "said channel with mamooties (மண்வெட்டி, "வெட்டாய் வெட்டி)."

(11) "As Karungalur boundary lies to the south of the feeder channel which is to the north of the Karungalur kanmai . . . ."

Paragraph 3 of Board's Proceedings, No. 227, dated 9th July 1895.

Paragraph 11 of Board's Proceedings *ibid.*

Paragraph 27 of Board's Proceedings *ibid.*

Paragraphs 17 and 18 of Board's Proceedings *ibid.*

Vide notes under G.O., No. 661, dated 3rd October 1895.

3. In appealing against Mr. Pope's award, the Pudukkóttai State urged that not only the channel mentioned in his rider but its site also belonged to it, and Mr. Miller, who as Political Agent, inspected the locality and submitted an exhaustive memorandum relative to the claims of the parties, recommended the adoption of a line of boundary which threw the site of the channel on the Pudukkóttai side; while Mr. Rajagopalachari, then Head Assistant, Madura, suggested the adoption of Mr. Miller's line, except that he would draw the Pudukkóttai line south of the channel instead of north of it. The Board of Revenue recommended the adoption of Mr. Miller's line which it considered involved "a prohibition of the diversion of the feeder T_1 T_2 T_3 T_4 into "the Aramanavayal tank." The Board's recommendation appears to have been made with reference to the third clause of the panchayat award which it interpreted as exclusively appropriating the feeder channel to the Karungalur tank. As, however, clause 11 of the said award specifically stated that the Karungalur (Pudukkóttai) boundary lay to the south of the feeder channel, the Government decided that the boundary should run south of the channel marked T_1 T_2 T_3 T_4 on the map, thus throwing the site of the channel on the Sivaganga side. In noting to this effect, the late Hon'ble Mr. Grose (His Excellency Lord Wenlock concurring) wrote: "The papers convince me that the true "vari is T . . . . . , but the award "shows that T is in Sivaganga territory. Moreover, if it is placed in Pudukkóttai "territory, it will entirely cease to give a supply to the Aramanavayal (Sivaganga) "tank. I think, therefore, that the boundary should be fixed south of it." The Order of Government did not contain any instructions relative to the use of the channel by one party or the other (the draft put up by Under Secretary, Mr. Ayling contained a paragraph to the effect that the Government declined to pass any specific order regarding the diversion of the feeder channel, but it was scored out by Mr. Gibson, then Revenue Secretary).

4. The Political Agent for Pudukkóttai now reports in his letter of the 4th February read above that he has inspected the boundary between the two villages in company with Mr. MacIver (Head Assistant, Madura) and with representatives of the Pudukkóttai state and the Sivaganga zamindari. He says that the dispute between the state and the zamindari ryots is entirely one relative to the use of the water of the feeder channel referred to above, which each party claim to be the supply channel to their own tank. He says:—

"It is apparent from the terms of the panchayat award in 1846 that the Karungalur ryots "have the right to the water although the channel itself is not within their limits. I take it that the "Government has, by implication, accepted this view, although it has not actually been so "stated in words.

"4. Proceeding on this assumption, I would ask that Government instruct the Collector "of Madura to order the channel of the 'vari' to be replaced *in statu quo* by the Sivaganga ryots "who have diverted it into their own tank. This may be done either by removing the new tank "bund, or by a fresh cutting, or by putting up another bund to prevent the channel water from "flowing into the Aramanavayal tank.

"5. The *modus operandi* may be left to be settled by the State and zamindari officials; "what is wanted now is a distinct order of Government that the Karungalur ryots have the "exclusive right to the 'vari' water, and that immediate steps be taken to ensure the uninter- "rupted flow of that water to their tank.

"6. I may mention that, in my opinion, nothing less than a distinct order to this effect "will end the dispute."

5. It is presumably intended by Mr. Shipley that the order that he proposes should be issued by Government in explanation of its decision as appellate authority in the arbitration. But it will be seen from the late Hon'ble Mr. Grose's note extracted above that the Government did not, in passing G.O., No. 661, dated 3rd October 1895, accept by implication, as stated by Mr. Shipley, the view that the use of the channel water belonged to the Karungalur (Pudukkóttai) people, but on the contrary intended by placing the channel within British territory to preserve any rights which the Aramanavayal (Sivaganga) ryots might possess therein. Even on the merits of the case, it is not at all clear that the third clause of the panchayat award gives to the Karungalur ryots the exclusive * right to the use of the water in the channel, though the Board of Revenue interpreted it to be so.

* No.

G. S. FORBES.

6. Reference is solicited in this connection to the petition, specially paragraph 8, under G.O., No. 700, dated 11th February 1898, protesting against a reconsideration of the decision in regard to the boundary between the two villages. The petitioner was informed in this order that his representation will be considered when any application was received from the Pudukkóttai State for a reconsideration of the decision.

R.S.
9-3-99.

Secretary—

The Government have all along striven to regard the dispute as a boundary dispute only. The real dispute of course has very little to do with the boundary, but is as to the water flowing in the channel or vari marked T_1 T_2 T_3, etc., on the map. The Aramanavayal (British) ryots want all the water for their tank, the Aramanavayal tank; and the Karungalur (Pudukkóttai) ryots want all the water for their tank, the Karungalur tank. Whatever may be the meaning of the award of 1846 on which the decision in G.O., No. 661, dated 3rd October 1895, was based, it seems clear that, at the time of Mr. Pope's award in 1885, the Aramanavayal (British) ryots had managed to utilize the water flowing in the channel for filling their tank; and G.O., No. 661, Revenue, dated 3rd October 1895, in fixing the boundary on the Pudukkóttai side of the channel naturally strengthened the position of the Aramanavayal ryots, though the intention seems to have been to make no pronouncement as to the water dispute.

If Government is going to make a decision as regards the water dispute, it is submitted that there is only one practical ground on which to base a decision and that is, to divide the water between the two tanks in proportion to the actual ayakat under each at the time of Mr. Pope's award in 1885. If this can be ascertained, the Public Works Department may be asked to fix a morai (or "turn") in the channel between the two tanks, any necessary regulating dam being put up at the joint expense of the ryots concerned.

A "morai" for an intermittent stream, which probably only flows for a few hours after rain, and when the tank above surpluses, is impracticable.

H. M. W.

This might do.

H. M. W.

If we give the whole of the water to the Pudukkóttai ryots on the strength of what may have been the arrangement in 1846, we do, I submit, a grave injustice to the British ryots; for channels and tanks are continually gradually silting up, or perhaps being deepened, levels thus change; and the action of the British ryots in taking water from the channel at a time now many years ago might very possibly have been due to some such changes and not to pure agression.

A simpler course than that suggested would, perhaps, be to inform the Political Agent that the Government declines to re-open the matter or to discuss the boundary dispute.

The parties aggrieved will then no doubt betake themselves to a Civil Court in British territory as the cause of action arises in British territory.

But the Pudukkóttai ryots cannot sue the Madura ryots for an easement affecting a British channel, could they?

G. S. F.

N. E. Marjoribanks.
23–3–99.

Honourable Member—

I think if the decision is to be re-opened at all, the solution proposed by the Under Secretary, to fix a morai, would be the best practical solution. Unless something is definitely settled as to the user of the water, we shall have perpetual quarrels.

G. S. Forbes.
20–5–99.

I have not seen these two tanks, but I know the locality well. The country is perfectly flat and a network of small rain-fed tanks. The water passes from one to another by shallow ill-defined channels in which there is no flow except for a few hours after rain, and when the tank above is surplusing.

The proposal that the dispute might be settled by fixing a "morai" for the vari T_1 to T_4 is, I am certain, quite impracticable.

Possibly, a masonry regulator might answer, but the channels are so shallow that a few cuts with a mamooty are enough to breach the bank and divert the stream, and this would be constantly taking place on one side or the other.

2. The Board has given two widely different translations of clause 3 of the Panchayat award of 1846; and it is not at all clear what is the meaning of clause 6 under which the Sivaganga ryots have the right to take water to the Aramanavayal fields through a sluice in the northern bund of Karungalur tank. It would not be safe to decide the water dispute on this award without seeing the original, or getting the translation verified; and the effect of clauses 6 and 7 would then have to be considered.

3. But it has been decided that the channel T_1 to T_4 is within the Madura district, and not within Pudukkóttai, and, in my opinion, Government has not the power to decide further who has the right to the water. The question *can* only be legally decided by the civil courts. In answer to the Political Agent I would say:—

"The boundary line was laid down by Government with due formality, nor is there any ground to question the correctness of the decision. It follows that the vari or channel, marked T_1 T_2 T_3 T_4 in the sketch, is within the limits of the Madura district, and within the jurisdiction of the Madura Civil Courts.

It is not the province of Government to adjudicate on rival claims to use the water of the channel, and it must decline to under-take such adjudication."

As a Native state is concerned in the dispute, His Excellency should approve this before it issues.

H. M. W[interbotham].
3–8–99.

To Political Department u.o.

H. Tremenheere.
4–8–99.

Put up the papers in Political of a few weeks ago in which this question of the arbitration in disputes about boundaries, etc., was dealt with.

G. Stokes.
7–8–99.

[*Subject.*—Revenue Order on C. No. 1114 from Political Agent, Pudukkóttai, drafted by the Hon'ble Mr. Winterbotham.]

With reference to the Chief Secretary's note, G.O., No. 404, Political, dated 27th June 1899, prescribing course of procedure to be adopted in the adjudication of future boundary disputes, or irrigation disputes, in connection with the Pudukkóttai State, is submitted for perusal. The notes on which this Government Order is based have been printed and will be found stitched to the order itself.

It will be observed that paragraph 2 of the Government Order limits the prescribed course of procedure to "future cases only" and that the rules laid down "cannot form a ground for re-opening cases which have already been decided."

2. The case now under reference in the Revenue Department having been decided in the first place by the duly appointed arbitrator (the Revenue Survey officer) and afterwards reviewed by Government in its appellate * capacity, in accordance with the rules of arbitration then existing, does not appear to be governed by the new rules for the future, lately laid down.

Please see notes to G.O., No. 661, Revenue, dated 3rd October 1895.

* Please see paragraph 2 of the Revenue note on page 4 of notes to G.O., No. 404, Political, dated 27th June 1899.

F. W. G.
17–8–99.

C. M. S.
18–8–99.

His Excellency the Governor.

G. Stokes.
19–8–99.

I would venture to suggest, with regard to the last paragraph of the draft G.O., that perhaps it would be safer not to say so emphatically that it is not the province of Government to adjudicate. I think that, practically, we do sometimes interfere in such matters. Might it not be safer to say that we see no reason to interfere in the matter, and that we leave the parties to apply to the civil courts? But, if the Hon'ble Mr. Winterbotham thinks otherwise, I do not press my suggestion.

A. E. H[avelock].
29–8–99.

Revenue Department u. o. for submission of His Excellency the Governor's note to the Hon'ble Mr. Witerbotham.

G.S.
31–8–99.

Honourable Member—

H.T.
1–9–99.

I amend the draft to meet His Excellency's opinion.

H.M.W.
3–9–99.

Issue.

H.T.
5–9–99.

Revenue.

Political (1899) Department.

Endt:- No. 422, d/ 10-2-99. 3 P

Transferred to the Revenue Department.

G. Stokes

Chief Secretary.

Cur. 8/2/99

CURRENT No. 1114 ~~219~~.

CHIEF SECRETARY
-7 FEB. 1899
GOVERNMENT OF MADRAS

Order

From

R. C. Shipley Esqr I.C.S.
Political Agent
for Pudukkottai

Reference No. 176-C d/ 1898
R.C.

Dated 4th February 1899.

Received
Registered } 7/3 Feb 1899.

Enclosures nil

Spare copies

SUBJECT.

Kurungalur boundary dispute.

Reporting that the Kurungalur ryots have the exclusive right to the 'Vari' water & that order may be passed to that effect.

BACK PAPERS.

G.O.	No.	Department.	Date.
736:	1-11-95	Mis	

FURTHER PAPERS.

G.O.	No	Department.	Date.

CURRENT No. 219 Poll 1P

OFFICE OF THE
POLITICAL AGENT FOR PUDUKOTA
Trichinopoly 4th February 1899.

D. 6.2.99.

Ref-over No. 176-C

FROM

R. H. Shipley ESQUIRE,
POLITICAL AGENT FOR PUDUKOTA,
TRICHINOPOLY.

TO

THE CHIEF SECRETARY TO GOVERNMENT,
POLITICAL DEPARTMENT,
MADRAS

SIR,

I have the honour to report that I have inspected the site of the Kurungalur-Aramanavayal boundary dispute in company with Mr MacIver (Head assistant, Madras) and with representatives of the Pudukkottai State and Sivaganga Zemindari.

vide A

Gu go. 661
3-10-95

2. In Government order no: 736 Political dated 1st November 1895 it was laid down that Mr Miller's line should be accepted by both parties, with the important exception that the Pudukkottai boundary should be south of the "Vari", which

which is said to run from the old and abandoned Melaramanavayal tank to the Kurungalur tank. This Vari Mr Muller has identified and it is marked T.T. 1-4 in the sketch.

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Printed at page 6 of G.O. 661 / 3.10.95

vide clause II (3) of award.

4 Proceeding on this assumption, I would ask that Government instruct the Collector of Madura to order the channel of the 'Vari' to be replaced in statu quo by the Sivagangah ryots who have diverted it into their own tank. This may be done either by removing the new tank bund, or by a fresh cutting, or by putting up another bund to prevent the channel water from flowing into the Aramanavayal tank.

5 The 'modus operandi' may be left to be settled by the State & Zemindari officials; what is wanted now is a distinct order of Government that the Kurungalur ryots have the exclusive right to the 'Vari' water and that immediate

steps be taken to ensure the uninterrupted flow of that water to their tank.

6. I may mention that in my opinion nothing less than a distinct order to this effect will end the dispute.

I have the honour to be,
Sir,
Your most obedient servant,
R H Shipley
Political Agent.

Mudy
5.2.99

Notes Cunnected with
G. O. 594/6-9-99

G.o. no. 594/6.9.99.

A

C

G.O. 609/21-8-83

I

Read letter from the Political Agent for Pudukkottai, Ref No. 176-C d/4.2.98 (Cur. 1114).

To the Under Secretary

Please see G.O. No. 661, Rev, d/3. 10. 95 which embodies the papers connected with, and the orders passed on, the appeal preferred by the Pudukkottai State against two awards of Mr. Pope of the Madras Survey Dept delivered ~~[illegible]~~ as arbitrator for the settlement of the boundary dispute between the Karungalur village of the Pudukkottai State on one side and the Aramanavayal village of the Sivaganga Zamindari on the other. B.P. No. 227/9.7.95 printed in the above G.O. gives a clear account of the disputes, and the map stitched with G.O 8/7.1.96 shows the boundary as decided on ~~settled~~ by the Madras Govt to which an appeal was provided in the agreement to arbitration.

2. The present communication from

relative

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Last sentence of para 27 of B.P $\frac{227}{9-7-95}$ which is the only record available /A

On the other hand, the Aramanavayal ryots claimed a boundary line much to the south of the vari. "Mr Pope "not finding any material assistance in the documentary and other "evidence adduced on either side, "decided to divide the disputed "ground into almost equal portions "giving to Aramanavayal the portion "which they claimed to have cultivated, "and the remainder to Karungalur", but added a rider that "it must "be understood that this decision "does not affect the right ~~of the villagers~~ of "of the villagers of Karungalur to "the supply channel or vari, through "which the surplus water of the "Melaramanavayal tank flows "into the Karungalur tank x x x x".

para 3 of B.P $\frac{227}{9-7-95}$ /A

Mr Pope's rider appears to have been added with reference to the "Award of "a Panchayat appointed to decide "certain disputes between the villages "of Karungalur and Aramanavayal" in 1846, although Mr Pope considered the award ~~to~~ be inadmissible as evidence as it had not been acted upon.

Para 13 ibid

printed at pp 6-7 of P $\frac{681}{3-11-95}$ A

But this award was the only one of the documents produced which the then Political Agent, Mr Miller, and the Board of Rev did not reject as unreliable, and their recommendations, as also the decision of Govt, were based on its provisions. The portions relating to the point now under reference are clauses (3) & (4) :— (Translation appended to BP $\frac{227}{9-7-95}$)

Para 12 of BP $\frac{227}{9-7-95}$ A

"(3) The rain water that falls "from where the Anjanavayal escape "is situated and the water of the "feeder channels to the west of the "surplus weir which lies to the

(Translation of clause 3 as given at para 17 of BP $\frac{227}{9-7-95}$)

"The drainage from Anjanavayal fields, "the rain water falling into the same, "and the water in the feeder channel "north and west of the Karungalur "tank, shall be directed along "the channel last referred to and "made to flow easily deepening the "channel where necessary with "mamooties"

II

relative

"the north of the Karungalur tank should "be made to flow readily into the above "tank by deepening the said channel "with mamooties (உண் வெட்டு வெட்டல் வெட்டு)"

"(11) As Karungalur boundary "lies to the south of the feeder channel "which is to the north of the Karungalur "Kammai x x x x x x x"

para 3 of B.P. 227/9-7-95

3. In appealing against Mr Pope's award, the Pudukkottai State urged that not only the channel mentioned in his rider but its site also belonged to it, and Mr Miller, who as Political Agent, inspected the locality and submitted an exhaustive memorandum relative to the claims of the parties, recommended the adoption of a line of boundary which threw the site of the channel ~~into~~ on the Pudukkottai side; while Mr Rajagopalachari, then Head Assistant, Madura, suggested the adoption of Mr Miller's line, except that he would draw the Pudukkottai line south of the channel instead of north of it. The Board of Rev: recommended the adoption of Mr Miller's line which it considered involved "a prohibition of the diversion of

para 11 of B.P. ibid

para 27 of B.P. ibid

3

"of the feeder $T_1 T_2 T_3 T_4$ into the "Aramanavayal tank". The Board's recommendation appears to have been made with reference to the third clause of the Panchayat award which it interpreted as exclusively appropriating the feeder channel to the Karungalur tank. As, however, clause 11 of the said award specifically stated that the Karungalur (Pudukkottai) boundary lay to the south of the feeder channel, the Govt decided that the boundary should run south of that channel marked $T_1 T_2 T_3 T_4$ on the map, thus throwing the site of the channel on the Sivaganga side. In noting to this effect, the late Hon'ble Mr Grose (H. E. Lord Wenlock concurring) wrote:- "The papers convince me that the true "vari is T x x x x, but the award "shows that T is in Sivaganga territory. "Moreover, if it is placed in Pudukkottai "territory, it will entirely cease to give "a supply to the Aramanavayal "(Sivaganga) tank. I think there"fore that the boundary should be "fixed south of it". The Order of Govt did not contain any instructions

relative

paras 17 + 18 of B.P. ibid

B
vide notes under G.O. 661/3.10.95

III

relative to the use of the channel by one party or the other (the draft put up by Undersecretary Mr Ayling contained a para to the effect that the Govt declined to pass any specific order re: the diversion of the feeder channel, but it was scored out by Mr Gibson, then Rev. Secy);

4. The Political Agent for Pudukkottai now reports in his letter of the 4th February read above that he has inspected the boundary ~~in company~~ between the two villages in company with Mr Mac Iver (Head Asst, Madura) and with representatives of the Pudukkottai State and the Sivaganga Zamindari. He says that the dispute between the State and the Zamindari ryots is entirely one relative to the use of the water of the feeder channel referred to above, which each party claim to be the supply channel to their own tank. He says:- "It is apparent from the terms of the panchayat award in 1846 that the Kurungalur ryots have the right to the water, although the channel itself is not within their limits.

"I take it that the Govt has, by implication, accepted this view, although it has not actually been so stated in words.

"4. Proceeding on this assumption I would ask that Govt instruct the Collector of Madura to order the channel of the 'vari' to be replaced in statu quo by the Sivaganga ryots who have diverted ~~into~~ it into their own tank. This may be done either by removing the new tank bund, or by a fresh cutting, or by putting up another bund to prevent the channel water from flowing into the Aramanavayal tank.

"5. The 'modus operandi' may be left to be settled by the State and Zamindari ~~ryots~~ officials; what is wanted now is a distinct order of Govt that the Karungalur ryots have the exclusive right to the 'vari' water and that immediate steps be taken to ensure the uninterrupted flow of that water to their tank.

"6. I may mention that in my opinion ~~to~~ nothing less than a distinct order to this effect will end the dispute."

IV

5. It is presumably intended by Mr Shipley that the order that he proposes should be issued by Govt in explanation of its decision as apellate authority in the arbitration. But it will be seen from the late Hon'ble Mr Crosis note extracted above that the Govt did not, in passing G.O. 661/3.10.95 accept by implication, as stated by Mr Shipley, the view that the use of the channel water belonged to the Karungalur (Pudukkottai) people, but on the contrary intended by placing the channel within British territory to preserve any rights ~~with~~ which the Aramanavayal (Sivaganga) ryots might possess therein. Even on the merits of the case it is not at all clear that the third clause of the Panchayat award gives to the Karungalur ryots the exclusive right to the use of the water in the channel though the Board of Rev interpreted it to be so.

B

6. Reference is solicited in this connection to ~~para 8 of~~ the petition (Spelly para 8) under G. Ors. 700/11.2.98, protesting against a reconsideration of

No
8K

D

of the decision in regard to the boundary between the two villages. The petitioner was informed that his representation will be considered when any application was received from the Pudukkottai State for a reconsideration of the decision.

RS
9-3-99

Secy

The Govt have all along striven to regard the dispute as a boundary dispute only. The real dispute of course has very little to do with the boundary but is as to the water flowing in the channel or vari marked $T_1 T_2 T_3$ &c on the map. The Aramanavayal (British) ryots want all the water for their tank the Aramanavayal tank and the Karungalur (Pudukkottai) ryots want all the water for their tank [illegible]

Whatever may be the meaning of the award of 1846 by which the decision in G.O. 661, d 3 Oct 95 was based, it seems clear that at the time of Mr Popes award in 1885 the Aramanavagal (British) ryots had managed to utilise the water flowing in the channel for filling their tanks; & G.O. 661 Rev d 8 Oct 95 in fixing the boundary on the Pudukota side of the channel naturally strengthened the position of the Aramanavagal ryots though the intention seems to have been to make no pronouncement as to the water dispute.

If Govt is going to make a decision as regards the water dispute is submitted that is only one ical ground on which

[illegible] to divide the water between the two tanks in proportion to the actual ayakat under each at the time of Mr Popes award in 1885. If this can be ascertained the P.W.D may be asked to fix a morai (or "turn") in the channel between the 2 tanks any necessary regulating dam being put up at ~~their~~ the joint expense of the ryots concerned.

If we give the whole of the water to the Pudukota ryots on the strength of what may have been the arrangement in 1846 we do, I submit a grave injustice to the British ryots; for channels & tanks are continually gradually silting up or perhaps being deepened, levels thus change; & the action

× A morai for an intermittent stream, wh. probably only flows for a few hours after rains + when the tanks above surpluses, is impracticable ×

This might do.

Sivaganga is no more British than Pudukottai – Both pay a fixed tribute –

Whatever may be the meaning of the award of 1846 by which the decision in G.O. 661, d 3 Oct 95 was based, it seems clear that at the time of Mr Popes award in 1885 the Aramanavagal (British) ryots had managed to utilise the water flowing in the channel for filling their tank; & G.O. 661, Rev d 8 Oct 95 in fixing the boundary on the Pudukota side of the channel naturally strengthened the position of the Aramanavagal ryots though the intention seems to have been to make no pronouncement as to the water dispute.

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British ryots in taking water from the channel at a time now many years ago might very possibly have been due to some such changes & not to pure aggression.

A simpler course than that suggested would perhaps be to inform the Pol Agent that the Govt declines to reopen the matter or to discuss the boundary dispute.

The parties aggrieved will then no doubt betake themselves to a Civil Court in British territory as the cause of action arises in British territory.

23/3/81

H.M. / I think if the decision is to be reopened at all, the solution proposed by the Under Secy, 'to fix a mamul', wd be the best practical solution. Unless is nothing in definitely
cal ground

But the Pudukota ryots cannot sue the Madura ryots for an easement affecting a British channel, can they?

S.H.

G.S.A.

settled as to the user of the water we shall have perpetual quarrels

S.H. 20/5/81

VII

10

the Board has given his widely different from that of Clause 3 of the Panchayat award of 1896 and it is not at all clear what is the meaning of Clause 6 under which the Sivagangai ryots have the right to take water to the [illegible] fields through a sluice in the northern bund of Kunnangudi tank - It would not be safe to decide the water-right on the [illegible] without seeing the [illegible] & settling the [illegible] [illegible] - But the effect of clauses 6 & 7 [illegible] [illegible] - But it has been [illegible]

I have not seen these two tanks, but I know the locality well - The country is perfectly flat, and a net-work of small rainfed tanks - The water passes from one to another by shallow ill-defined channels, in which there is no flow except for a few hours after rain, and when the tank above is surplusing -

The proposal that the dispute might be settled by fixing a "Morai" for the vari T, to T4 is, I am certain, quite impracticable -

Possibly a masonry regulator might answer, but the channels are so shallow that a few cuts with a mamooty are enough to breach the banks & divert the

2

stream, and this would be constantly taking place on one side or the other.

2. The Board has given two widely different translations of clause 3 of the Panchayat award of 1846; and it is not at all clear what is the meaning of clause ~~4~~ 6 under which the Sivaganga ryots have the right to take water to the Aramana vayal fields through a sluice in the northern bund of Kurungalur Tank – It would not be safe to decide the water-dispute on this award without seeing the original, or getting the translation verified – And the effect of clauses 6 & 7 would then have to be considered –

3. But it has been decided

Read letter from the Pol: Agent for Pudukkottai No. 176-C (Cus 1114).
4. Feb. 1899

Order (Rev) No. 594 d/6th September 99

channel T1 to T4 is within the Madura district, & not within Pudukottai, and in my opinion Govt. has not the power to decide further who has the right to the water. The question can only be legally decided by the Civil Courts –

In answer to the Political Agent I would say: –

The boundary-line was laid down by Govt. with due formality, nor is there any ground to question the correctness of the decision – It follows that the vari, or channel, marked T1, T2, T3, T4 in the sketch, is within the limits of the Madura District, and within the jurisdiction of the Madura Civil Courts –

I amend the draft to
meet His Excellency's
opinion H.S.
3-9-99 –

4

~~It is not the province~~
~~of Govt. to adjudicate~~
As regards ~~the~~ ~~on~~ rival claims to use
~~appropriate~~ the water of
the Channel, ~~and~~ the Govt. sees
no reason to interfere and leaves
~~it most decline to~~
the parties interested to apply to
~~undertake such~~
the Civil Courts for a determination
~~adjudication~~
of their respective rights

H.S. – 3-8-99
H.S. –
3 – 8 – 99 –

To the Pol: ~~Apart~~ Dept.
" Board of Rev: L.R.
H.S./3

Put up the papers in Sec
Political of [illegible] a few matters
of [illegible] which [illegible]
the [illegible] in this [illegible]
[illegible]

Pol u o No. 5 d 5. 8. 99.

[illegible]

As a Native State is
concerned in the dispute
His Excellency should
approve this before it
issues H.S. –

To Polit. u o No. 396 / 4.8.99
H.T.
4 8 99

CHIEF SECRETARIAT
4 - AUG. 1899
OOTACAMUND.

[illegible] Winterbotham thinks otherwise, I do not press
my suggestion.

[illegible]
29.8.99

I would venture to suggest, with regard to the last para. of
the draft G.O., that perhaps it would be safer not to say
so emphatically that "it is not the province of Govt. to
adjudicate". I think that practically we do
sometimes interfere in such matters. Might it not
be safer to say that we see no reason to interfere in
the matter, and that we leave the parties to settle
[illegible] But if the [illegible]

R.D. u.o. for submission of H.E. the
Gov.'s note to the Hon Mr. Winterbotham
[illegible]
31/8/99.
H.T.
1999

Pol. u. o. No. 5 / 5. 8 99

C22.8.99
C31-8-99

Note
This file has been delayed
because the Notes required
[illegible] with the Press – and had
to be written for. They
were rec.d today from
Madras.
F.W.G.
17/8.

5

Rev. & Pol. Depts.

Subject – Revenue Order, on C No 1114
from Pol Agent – Pudukkottai –
drafted by the Hon Mr. Winterbotham

Note.

With reference to the Chief Secy's
pencil note on page 4 of the H.M.'s
Note, G.O. No 404 Pol d/27 June 1899
prescribing course of procedure to
be adopted in the adjudication of
future boundary disputes, or irrigation disputes, in connection with the Pudukkottai State, is subm.d for perusal.
The Notes on which this G.O. is based
have been printed & will be found
stitched to the order itself.
It will be observed that para 2 of the
G.O. limits the prescribed course of
procedure to "future cases only" &
that the rules laid down "cannot form
"a ground for re-opening cases which
"have already been [illegible]ded."

2. ~~It is submitted~~ [illegible] The case now
under reference in the Revenue
Dept, having been decided in
the first place by the duly appointed arbitrator (the Rev Sec

22.8.99

Officer) & afterwards reviewed by Govt in its appellate capacity, in accordance with the rules of arbitration then existing, does not appear to be [redacted] governed by the new rules for the future, lately laid down [redacted]

Fwd. Colr.
12/8/99 18/8/

*Please see para 2 of the Rev Note on page 4 of Notes to GO 404 Pol d/27-6-95

Please see Notes to GO No 661 Rev d/3-10-95.

B

I-Z

F./16 1,000—29-6-99.

Print Urgent

Recd [illegible] copy [illegible] with Cir 1114

PROCEEDINGS OF THE MADRAS GOVERNMENT.

A

Read letter from the Political Agent for Pudukottai No. 176-O/Pol of 1898, dated 4th February 1899.

-:::-

Order thereon Press. No. 594 Rev: dated 6th September 1899.

The boundary-line was laid down by Government with due formality, nor is there any ground to question the correctness of the decision. It follows that the Vari, or channel, marked T_1, T_2, T_3, T_4, in the sketch, is within the limits of the Madura District, and within the jurisdiction of the Madura Civil Courts. As regards rival claims to use the water of the channel, the Government sees no reason to interfere and leaves the parties interested to apply to the Civil Courts for a determination of their respective rights.

(True Extract).

(Sd) A. Tremenheere

Ag. Secretary to Government.

To

The Political Dept.
" Board of Revenue, Land Revenue.

Desd. 19-9-99

4/3

First copy sent to Press.

Returned for signature.

Despatched in print.

Number of copies required.
- Order complete.
- Letter only.
- Order complete with Letter.

Read again G.O. No. , dated 189 .

Current No.

Enclosures to C. No.

Order of Government.

Letter of Government.

Statement with ditto.

Papers not filed up being meant for despatch in original.

N.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.