

REVENUE D.

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Regular
Miscellaneous

No. 633 - 91-9- of 1 899

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6309/02		S. S. H. S.	25/4/02
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2234 A/06			7-6-06
1739 A/p7		W. M. M.	18/5/p7
367 A/p. 01		Dr. M.	19-7-07
19-8-09 L. O. R.			3
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Revenue (1899) Department.

PRESS SERIES.

G.O., No. 633

Dated 21st September 1899

[Despatch Abstract.]

Passing orders on the question of apportionment of the Cost of Survey of the Proprietary Estates between proprietors and tenants

BACK PAPERS.

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

FURTHER PAPERS.

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

Office of the Board of Revenue,
Land Revenue.

Dated 29th June 1899.

Read the following:-

1. Official Memorandum from the Ag. Under Secretary to Government, Revenue Department, No. 45, dated 15th February 1899 and Reference thereon A. No. 22 dated 21st February 1899.

2. Also letter from D. W. G. Cowie Esq, Ag. Collector of Chingleput to the Secretary to the Commissioners of Land Revenue, Madras, Ref. on No. 155 A/B & G of 1899 dated 29th May 1899, submitting the report regarding the survey of Chunampet and Soranjeri estates with reference to Board's Proceedings Ref. on No. A/22 dated 21st February 1899.

3. Also letter from the same Officer Ref. on No. 155 A/B & G of 1899 dated 4th June 1899, submitting a copy of letter from Deputy Superintendent No. III Survey Division regarding the cost of the survey of Chunampet Zamindari with reference to Board's Proceedings Ref. A. No. 22/L.R. dated 21st February 1899.

4. Also letter from the same officer Ref. on No. 155 A/B & G of 1899 dated 7th June 1899, submitting copy of letter from the Deputy Superintendent, No. 3 Survey Division regarding the survey operations in the Soranjeri Mittah, Saidapet Taluk.

5. Also Memorandum from the Ag. Under Secretary to Government, Revenue Department, No. 68 dated 8th June 1899.

Reference. A. No. 212 dated 29th June 1899.

With reference to para 1 of Memorandum No. 45 of 1899 from Government calling for certain information in connection with the applications made by the proprietors of Soranjeri and Chunampet (in the Chingleput District) for the apportionment of the cost of survey payable by their tenants, the Board submits that the mittadar of Soranjeri has supplied survey marks of the value of Rs. 583, while the proprietor of Chunampet is providing stones and labour for the demarcation of the lands in his estate. No further particulars as to the cost incurred by the proprietors on the operations mentioned in -----

clauses

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clauses (a), (b) and (2) of subsection 3 of section 6 of Act IV of 1897 will be available until after the completion of the survey of the estates, i.e., until ~~the~~ about the middle of July next; but it is reported that in both cases the tenants have given no assistance in the clearance of boundary lines or the supply of flagholders, chainmen, &c.

2. On the general question of the apportionment of the cost of survey between proprietors and tenants, the Board sees no reason why occupancy ryots paying rents which compare not unfavourably with the assessment on similar Government lands, should not be treated in exactly the same way as Government ryots, and required to pay the entire cost of the operations falling under clauses (a), (b) and (c) of ~~section 6 (3)~~.

(3)
Section 6. On the other hand, the contribution recoverable from tenants who are rackrented should certainly not be so great and might in many cases well be reduced to a smaller proportion than the one-half suggested by Government. In the Board's opinion however the question is one which should be settled with reference to the circumstances of each case as it arises, the main criterion being the extent to which the rates of rent are considered to be equitable. The Board may state in this connection that these are the considerations by which it has been guided in its capacity as Court of Wards when dealing with applications received from Collectors under section 20 (1) of Act IV of 1897 in respect of estates under its management.

3. In the case of home-farm or other lands cultivated by tenants who have clearly no occupancy right, the Board concurs in the views of Government as to the inexpediency of recovering from the tenants any portion of the cost of survey. In doubtful cases the course to be pursued is less plain but here also the Board would recommend that the tenants should not be called upon to contribute any portion of the cost of survey. The decision should in each case, however be coupled with an explicit statement that Government must not be taken to have expressed any opinion on the question of the occupancy right of such tenants, as otherwise the Government Order might be utilised by the proprietor as a means of shifting on to the tenant the onus of proving his occupancy right.

4. If these views are approved by Government the following

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rules might be laid down on the subject of the recovery of cost of survey from tenants:-

(1) The tenants shall contribute the entire cost of the operations under clauses (a), (b), and (c) of section 6 (3), in cases where the rent they pay compares not unfavourably with the assessment on similar Government lands in the same district, provided their occupancy right is unquestionable. ~~Section 6 (3) of Act IV of 1897~~

(ii). If their occupancy right is clear but they are rack-rented, the contribution to be recovered from them will, at the discretion of Government, be reduced to such proportion of the cost of survey as may seem equitable in each case having regard to the circumstances of the estate and especially the extent to which the tenants are rack-rented.

~~(iii)~~ (iii) If the tenants admittedly have no occupancy right to the lands in their occupation (whether such lands are home-farm lands or not) they shall not be called on to pay any portion of the cost of survey.

(iv) In doubtful cases the proprietor's application under section 20 (1) of Madras Act IV of 1897 will not be entertained, unless it is accompanied by an admission on his part that occupancy rights vest in the tenants; but in cases where an application is rejected for want of such an admission the refusal thereof will, to save the interest of the tenants from being prejudiced, be coupled with an explicit statement that Government must not be taken to have expressed any opinion in regard to the question of occupancy right which must be settled by the proper courts.

5. The Collector of Chingleput reports that of the two estates now in question, the tenants of the Chunampet Mitta have no occupancy right and need not be called on to pay any portion of the cost of survey and that the ryots of Soranjeri might, as observed by Government, be required to pay half the cost. The Board presumes that the tenants of the former estate are clearly

non-occupancy

nonoccupancy tenants falling within clause (iii) of the rules suggested in the preceding para and do not come within clause (iv). To enable the Government to decide whether the application presented by the mittadar of Soranjeri should be complied with and, if so, to what extent, the Collector is requested to enquire and report at an early date if the rates of rent paid by the tenants of this estate are fair or excessive as compared with the rates of assessment on similar ryotward lands in the neighbourhood.

/ Sd / . Lionel Davidson.

Acting Secretary.

To

The Secretary to Government, Revenue Department.

" Collector of Chingleput.

Revenue Department.

Reference:-

- (1). Read Board's Petn. Ref. No. 173 dated 23rd October 1898 (C.No. 7347).
- (2). " Ref. No. 1195 d/ 25-10-98 (C.No. 7346).
- (3). " Petition from the Zamindar of Chunampet d/ 11-10-98 (C.No. 7985).

Official Memorandum. No. 45. D/ 15-2-99

Before passing orders on the question of the apportionment of the cost of the survey of the villages in the Chunampet and Soranjeri estates referred to in the above papers, the Government desires to receive a report from the Board of Revenue as to the cost incurred by the proprietors during the survey of these estates on the operations mentioned in clauses (a), (b) and (c), of sub-section (3) of section 6 of Act IV of 1897 (M). It should also be stated whether any portion of the line clearance was done by the ryots or tenants and whether any assistance in the way of supplying flagholders, chainmen &c. was afforded by them.

2. Both the estates are in a part of the Presidency in which the ryots of a proprietary estate may be presumed to have occupancy rights. In the case of lands held by occupancy ryots, the Government would be inclined to fix at one half the portion of the cost of the survey which may under section 20 of the Survey and Boundaries Act be apportioned among the lands surveyed and borne by the ryots. In the case of sir or home-farm lands on which there are temporary occupancy tenants, the Government doubts whether any portion of such cost should be imposed on them. The Board is requested to be good enough to favour the Government with its views on the above matters.

(By Order).

/Sd/. N.E. Marjoribanks.

Ag. Under Secretary to Government.

To the Board of Revenue, Land Revenue.

Court of Wards Office.

M a d r a s .

Read Government Order, Revenue Department, No.1048-R,
dated 10th August 1899.

Reference thereon No.76 dated 29th August 1899.

The Collector of Chingleput has, in a separate communi-
cation, been directed to expedite the submission of the informa-
tion called for in Government Memorandum No.222 Rev., dated the
12th ultimo.

The Court however ventures to urge that the general
question submitted for orders under Board's Reference A.No.212,
dated 29th June 1899 need not lie over for the reply from the
Collector of Chingleput which relates only to a single estate. An
early decision on the subject of the recovery of the cost of sur-
vey from estate tenants is particularly desirable as the appor-
tionment of the cost should be made while the Survey Officer is on
the spot.

/ Sd. / Lionel Davidson.

Ag. Secretary.

To

The Secretary to Government, Revenue Department.



*Read again
only this copy
with the original*

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Print full

Read again Official Memorandum No.45, dated 15th February 1899, requesting the Board of Revenue, to furnish the apportionment of the cost of the survey of certain information regarding Chumampet and Soranjeri estates, Chinglaput District.

Print full

Read Proceedings of the Board of Revenue, Land Revenue. A.No.212, dated 29th June 1899, furnishing to Government certain information in connection with the survey of the Soranjeri and Chumampet Mittas in the Chinglaput District and stating the Board's views as to the rules that might be laid down on the subject of the recovery of cost of survey from tenants of proprietary estates.

Print Abstract UP

Read also Proceedings of the Court of Wards, Reference.No.76, dated 29th August 1899, urging that an early decision on the subject of the recovery of the cost of survey from estate tenants is desirable.

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Order thereon Press.No.633 Revenue, dated 21st September 1899.

The Government agrees with the Board of Revenue that the question as to what portion of the cost of Survey should be borne by tenants should be settled with reference to the circumstances

circumstances of each case as it arises, and is prepared to approve and adopt the views set forth in paragraph 3 of the Board's Reference A.No.212 dated 29th June 1899. In dealing with particular cases care must be taken not to prejudice the tenant's claim to occupancy right in their holdings. In each case the proprietor should be called upon to state whether his tenants have occupancy rights or not.

/ True Extract /.

H. T. Menon

Ag. Secretary to Government.

P.C. No. 6-10-99

Issued 22.9.99

To

The Board of Revenue, Land Revenue.

" Court of Wards.

Government (1899) of Madras. REVENUE.

Recd.

Regd.

} 1899.

Enclosures

Spare copies

G.O., No. 633, 21st September 1899.

SEPTEMBER.

Survey of Proprietary Estates.

Passing orders on the question of the apportionment of the cost of — between proprietors and tenants.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—again the following Official Memorandum, No. 45, dated 15th February 1899:—

Reference—

- (1) Board's Petition, Reference No. 173, dated 22nd October 1898.
- (2) Board's Reference No. 1195, dated 25th October 1898.
- (3) Petition from the Zamindar of Chunampet, dated 11th October 1898.

Official Memorandum—No. 45, dated 15th February 1899.

Before passing orders on the question of the apportionment of the cost of the survey of the villages in the Chunampet and Soranjeri estates referred to in the above papers, the Government desires to receive a report from the Board of Revenue as to the cost incurred by the proprietors during the survey of these estates on the operations mentioned in clauses (a), (b) and (c), of sub-section (3) of section 6 of Act IV of 1897 (M). It should also be stated whether any portion of the line clearance was done by the ryots or tenants and whether any assistance in the way of supplying flagholders, chainmen, &c., was afforded by them.

2. Both the estates are in a part of the Presidency in which the ryots of a proprietary estate may be presumed to have occupancy rights. In the case of lands held by occupancy ryots, the Government would be inclined to fix at one-half the portion of the cost of the survey which may, under section 20 of the Survey and Boundaries Act, be apportioned among the lands surveyed and borne by the ryots. In the case of sir or home-farm lands on which there are temporary occupancy tenants, the Government doubts whether any portion of such cost should be imposed on them. The Board is requested to be good enough to favour the Government with its views on the above matters.

(Signed) N. E. MARJORIBANKS,
Ag. Under Secretary to Government.

To the Board of Revenue (Land Revenue).

READ—the following Reference from the Board of Revenue (Land Revenue), A. No. 212, dated 29th June 1899:—

Read—Official Memorandum from the Acting Under Secretary to Government, Revenue Department, No. 45, dated 15th February 1899, and Reference thereon A. No. 22, dated 21st February 1899.

Read—also letter from D. W. G. COWIE, Esq., I.C.S., Acting Collector of Chingleput, to the Secretary to the Commissioners of Land Revenue, Madras, Reference on No. 155-A/B. and G. of 1899, dated 29th May 1899, submitting the report regarding the survey of Chunampet and Soranjeri estates with reference to Board's Proceedings, Reference on No. A/22, dated 21st February 1899.

Read—also letter from the same officer, Reference on No. 155-A/B. and G. of 1899, dated 4th June 1899, submitting a copy of letter from Deputy Superintendent, No. III Survey Division, regarding the cost of the survey of Chunampet zamindari with reference to Board's Proceedings, Ref. A. No. 22/L.R., dated 21st February 1899.

Read—also letter from the same officer Reference on No. 155-A/B. and G. of 1899, dated 7th June 1899, submitting copy of letter from the Deputy Superintendent, No. III Survey Division, regarding the survey operations in the Soranjeri mitta, Saidapet taluk.

Read—also memorandum from the Acting Under Secretary to Government, Revenue Department, No. 68, dated 8th June 1899.

Reference—A. No. 212, dated 29th June 1899.

With reference to paragraph 1 of Memorandum No. 45 of 1899 from Government calling for certain information in connection with the applications made by the proprietors of Soranjeri and Chunampet (in the Chingleput district) for the apportionment of the cost of survey payable by their tenants, the Board submits that the mittadar of Soranjeri has supplied survey marks of the value of Rs. 583, while the proprietor of Chunampet is providing stones and labour for the demarcation of the lands in his estate. No further particulars as to the cost incurred by the proprietors on the operations mentioned in clauses (a), (b) and (c) of sub-section (3) of section 6 of Act IV of 1897 will be available until after the completion of the survey of the estates, i.e., until about the middle of July next; but it is reported that in both cases the tenants have given no assistance in the clearance of boundary lines or the supply of flagholders, chainmen, &c.

2. On the general question of the apportionment of the cost of survey between proprietors and tenants, the Board sees no reason why occupancy ryots paying rents which compare not unfavourably with the assessment on similar Government lands, should not be treated in exactly the same way as Government ryots, and required to pay the entire cost of the operations falling under clauses (a), (b) and (c) of section 6 (3). On the other hand, the contribution recoverable from tenants who are rack-rented should certainly not be so great and might in many cases well be reduced to a smaller proportion than the one-half suggested by Government. In the Board's opinion, however, the question is one which should be settled with reference to the circumstances of each case as it arises, the main criterion being the extent to which the rates of rent are considered to be equitable. The Board may state in this connection that these are the considerations by which it has been guided in its capacity as Court of Wards when dealing with applications received from Collectors under section 20 (1) of Act IV of 1897 in respect of estates under its management.

3. In the case of home-farm or other lands cultivated by tenants who have clearly no occupancy right, the Board concurs in the views of Government as to the inexpediency of recovering from the tenants any portion of the cost of survey. In doubtful cases the course to be pursued is less plain, but here also the Board would recommend that the tenants should not be called upon to contribute any portion of the cost of survey. The decision should, in each case, however, be coupled with an explicit statement that Government must not be taken to have expressed any opinion on the question of the occupancy right of such tenants, as otherwise the Government Order might be utilised by the proprietor as a means of shifting on to the tenant the onus of proving his occupancy right.

4. If these views are approved by Government the following rules might be laid down on the subject of the recovery of cost of survey from tenants:—

(i) The tenants shall contribute the entire cost of the operations under clauses (a), (b) and (c) of section 6 (3), in cases where the rent they pay compares not unfavourably with the assessment on similar Government lands in the same district, provided their occupancy right is unquestionable.

(ii) If their occupancy right is clear but they are rack-rented, the contribution to be recovered from them will, at the discretion of Government, be reduced to such proportion of the cost of survey as may seem equitable in each case having regard to the circumstances of the estate and especially the extent to which the tenants are rack-rented.

(iii) If the tenants admittedly have no occupancy right to the lands in their occupation (whether such lands are home-farm lands are not) they shall not be called on to pay any portion of the cost of survey.

(iv) In doubtful cases the proprietor's application under section 20 (1) of Madras Act IV of 1897 will not be entertained, unless it is accompanied by an admission on his part that occupancy rights vest in the tenants; but in cases where an application is rejected for want of such an admission the refusal thereof will, to save the interest of the tenants from being prejudiced, be coupled with an explicit statement that Government must not be taken to have expressed any opinion in regard to the question of occupancy right which must be settled by the proper courts.

No. 633, REVENUE, 21st SEPTEMBER 1899.

5. The Collector of Chingleput reports that of the two estates now in question, the tenants of the Chunampet mitta have no occupancy right and need not be called on to pay any portion of the cost of survey and that the ryots of Soranjeri might, as observed by Government, be required to pay half the cost. The Board presumes that the tenants of the former estate are clearly non-occupancy tenants falling within clause (iii) of the rules suggested in the preceding paragraph and do not come within clause (iv). To enable the Government to decide whether the application presented by the mittadar of Soranjeri should be complied with and, if so, to what extent, the Collector is requested to enquire and report at an early date if the rates of rent paid by the tenants of this estate are fair or excessive as compared with the rates of assessment on similar ryotwari lands in the neighbourhood.

(Signed) LIONEL DAVIDSON,
Acting Secretary.

To the Secretary to Government, Revenue Department,
,, the Collector of Chingleput.

READ—also Proceedings of the Court of Wards, Ref. No. 76, dated 29th August 1899.
ABSTRACT—Urging that an early decision on the subject of the recovery of the cost of survey from estate tenants is desirable.

ORDER—No. 633, Revenue, dated 21st September 1899.

Miscellaneous.

The Government agrees with the Board of Revenue that the question as to what portion of the cost of survey should be borne by tenants should be settled with reference to the circumstances of each case as it arises, and is prepared to approve and adopt the views set forth in paragraph 3 of the Board's Reference A. No. 212, dated 29th June 1899. In dealing with particular cases care must be taken not to prejudice the tenants' claim to occupancy right in their holdings. In each case the proprietor should be called upon to state whether his tenants have occupancy rights or not.

(True Extract.)

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

To the Board of Revenue (Land Revenue),
,, the Court of Wards.

Erd. Shaik Karim:

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ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO.

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