M.R.O. 14—18,000—27-9-54

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 65 — Press ~~Mis.~~

126.127

Dated 9 — 1 — 1867.

Not to be folded or roughly handled

No. 126. Read the following Proceedings of the Board of Revenue, dated 8th January 1867, No. 114.

Read again Board's Proceedings, No. 5,772, dated 16th August 1866.
Do. Government Order thereon, No. 2,214, dated 24th idem.
Do. Board's Proceedings, No. 6,241, dated 1st September.
Do. Do. ,, 6,901, dated 26th idem.

Read also the following letters:—

From the Collector of Salem, to the Secretary to the Board of Revenue, dated on Circuit at Ahtur, 21st September 1866, No. 176.

1. In obedience to the Government and Board's orders, contained in the Board's Proceedings dated 16th August 1866, No. 5,772, I have the honor to forward the records in both cases referred to.

2. In explanation of my refusal to give an opinion, as mentioned in paragraph 4 of my letter to the Board, I have the honor to state that I was, at the time of refusal, utterly ignorant of the whole case, nor was I aware that any correspondence had taken place between Deputy Collector Ramiengar and the Superintending Engineer. On this point Ramiengar's Yadast was perfectly silent. The Tahsildar's Arzi shewed that he had written a former Arzi to Ramiengar, giving a different opinion from that which was contained in the Arzi sent to me. The mere fact that the Tahsildar had changed his mind roused no suspicion, although it shewed that another Arzi had been previously written, and not forwarded to me. Having thus no suspicion that anything was wrong, having no knowledge of the situation of the land, I declined to take the responsibility of passing an order; more especially as it was a case on which the Deputy Collector had authority to pass his own order, and one on which, from personal inquiry and inspection, he was more capable of forming a correct opinion than I could be.

Enclosure No. 1.—Records.

From the same Officer, dated 10th October 1866, No. 189.

1. With reference to the Board's Proceedings of the 26th ultimo, No. 6,901, I have the honor to state, that in my letter to Board of the 21st ultimo, No. 176, I have replied to the question asked by Government in paragraph 1 of their Order of the 24th August 1866, No. 2,214.

2. The entire records in both cases having already been submitted to the Board, I am unable to send the abstract translations called for.

3. My opinion in Puttabiramien's case was given in my report to the Board on his petition, and in the other case my opinion is recorded in my English decision, which is now before the Board.

Ordered that the above papers be submitted to Government with reference to their Order quoted.

1. The Board observe that the first of the two cases referred to in the first paragraph of the Government Order, dated 24th August 1866, No. 2,214, relates to

certain land in the village of Manapally, in the Namcal Taluk of the Salem District, for which one Puttabiramien applied some time previous to May 1863.

2. Deputy Collector Ramiengar, who was in charge of the division, sent orders to the Tahsildar of Namcul, under dates the 21st April and 27th May 1863, to report on the subject of Puttabiramien's applications for the land in question.

3. On the 9th June 1863 the Tahsildar submitted the required report* accompanied by a sketch plan of the land. In this report he stated that all the land for which Puttabiramien had applied, (included, as it would seem, in two separate Durkhasts,) was Kattukadu land; that the villagers had given a Mahazernama† objecting to this land being made over to the applicant, on the ground that it was reserved as Kattu land for the protection of their cultivated fields; and that he had personally inspected the land, and so satisfied himself that the objection made by the villagers was well-founded.

* Translation accompanies.

NOTE.—Kattukadu or Padugai is land on the banks of the rivers, reserved and planted with high grass, trees, and scrub for the purpose of strengthening the new bank, and protecting the cultivated land from inundation and the action of the stream. It is extremely rich and fruitful from the silt and deposits of the rivers.

† Translation accompanies.

4. The Deputy Collector passed no order on this report till the 6th February 1864. On that date he sent an order‡ to the Tahsildar, informing him that the villagers had given before the Deputy Collector another Mahazernama,§ certifying that they had no objections to Puttabiramien's application being complied with, and that the Deputy Collector, on himself visiting the spot, had found that the "Odai (water course) land lying between the Kattukadu and the plantain garden" was fit for cultivation, and that by this land being brought under cultivation, the Kattukadu land would not be injured. The Tahsildar was, therefore, instructed to measure this "Odai" land, to take the usual documents from the villagers, and to report his own opinion as to the propriety of making over the land to Puttabiramien.

‡ Translation accompanies.

§ Ditto.

5. The Tahsildar replied‖ on the 25th March 1864 that the land referred to measured Acres 3-2-11, and that certain of the villagers, including some who had signed the first Mahazernama, had given a fresh Mahazernama,¶ stating that they had no objection to the said land being cultivated. The Tahsildar then observed, "As reeds are planted and encouraged "between the river and the land in question, and as a new Vaganai (groin) is "being constructed by the side of the said land, it now appears that the land may "be made over for cultivation."

‖ Translated.

¶ Ditto.

6. Captain Gahagan, the then Superintending Engineer, had previously, on the 2nd of March 1864, sent to the Deputy Collector a letter from Sub-Engineer Veerasawmy, dated 27th February, complaining that the practice which the Revenue Department had before followed of consulting the Department of Public Works when persons wished to cultivate Kattukadu land, was now abandoned; and he referred especially to two recent cases, one of which is the case now under consideration. The Sub-Engineer understood that the Deputy Collector had ordered "almost all the Kattu lands in the limits of Manapully to be taken up for cultiva- "tion, retaining only from ten to twenty yards of Kattu between the Cauvery "and the Nunjah lands," and that the Tahsildar was now engaged in carrying out that order. He observed that the Nunjah lands and the channel were in consequence threatened with serious damage at the time of the freshes; that though, at present, there were from thirty to seventy yards of Kattu between the river, the wet lands, and the channels, the freshes were still the cause of great damage; and that on this account he had proposed to construct two Vaganais (groins) at an estimate of Rupees 2,150. He further stated that, after the Kattus had been made over to the ryots, almost all the trees which had been carefully tended by the channel servants had been cut down by the villagers and sold. Captain Gahagan, in forwarding this letter, requested the Deputy Collector to inform him under what authority and to what extent the Cauvery Padugai Kattukadu lands in the Deputy Collector's division had been given for cultivation.

7. The Deputy Collector replied on the 26th of March 1864. He writes as to the case now under report, as follows :—

"In the other case in which the Sub-Engineer reports that I have ordered all "the Padugai lands within the limits of Manapully to be taken up for cultivation, "I am at a loss to know whence he got his information, for no such order has issued "from my Office. It is true that there is an application before me for land in "Manapully. It is under inquiry, and as I thoroughly appreciate the importance "of keeping waste Padugai lands, as far as they may be necessary for the protection "of the river channels, I have only to assure you that Durkhasts for such lands are "never hastily disposed of by this department, or without your professional advice, "where such is really required."

8. Shortly after despatching his letter to the Superintending Engineer, the Deputy Collector, on the 7th April 1864, addressed the Collector by Yadast, as stated in paragraph 4 of Mr. Arbuthnott's letter to the Board, dated 26th July 1866, No. 136, (in Board's Proceedings dated 16th August 1866, No. 5,772). In this Yadast, the Deputy Collector acknowledges the receipt of a Yadast from the Collector's Office, dated 26th August 1863, referring, as it would seem, to an application presented direct to the Collector by Puttabiramien for the land now in question. He then stated, after referring to the particulars given in the Tahsildar's Report, dated 25th March 1864, to the Mahazernama submitted with that report, and to the fact of his having himself inspected the land, that, in his opinion, the land might be given for cultivation, and he recommended that, if the Collector concurred, the land should be made over for Fusly 1274, but he altogether failed to notice the Tahsildar's first Arzi or the Superintending Engineer's letter, or to forward them to the Collector, and Mr. Arbuthnott has himself remarked, in his explanatory letter, that Ramiengar's Yadast was "perfectly silent" as to this correspondence having taken place.

9. Mr. Arbuthnott has explained in his letter to the Board, dated 21st September 1866, his reasons for having declined to give any opinion on the case when the Deputy Collector referred it to him as above shewn. This explanation is to the effect that it was the Deputy Collector's duty to dispose of such a case, both as having full authority to do so, and as being in a better position than the Collector to understand its merits, as he had himself inspected the land. The Collector also pointed out, in his reply to the Deputy Collector, that the papers which the Deputy Collector had forwarded did not form a complete record of the case.

10. The Collector's Yadast returning the case is dated the 19th July 1864, No. 38. The Deputy Collector did not take any further steps till the 17th November 1864, when he addressed the officer who had succeeded to the post of Superintending Engineer, forwarding him a copy of the Tahsildar's Arzi, (apparently the Arzi, dated 24th March 1864,) and requested him to say whether he was "aware "of any objection to the land therein referred to being given to the applicant for "cultivation without injury to the river bank."

11. Lieutenant-Colonel Wilkieson, the Superintending Engineer, replied on the — February 1865, by forwarding a letter from Sub-Engineer Veerasawmy, who reported that the land in question, being "merely" Kattukadu land, could not be given for cultivation without injury to the cultivated lands; and that as to the new Vagaai, or groin, to which the Tahsildar had referred as sufficient "to preserve the existing interest," this groin was being constructed at a distance of three miles from the Manapully lands, and was of no use in the case referred to. The Sub-Engineer also submitted a survey plan of "the Kattukadu land in the Manapully limits." This plan now forms a part of the record before the Board.

12. On receipt of Lieutenant-Colonel Wilkieson's letter, Mr. Leggatt, who had succeeded Ramiengar on the 21st February 1865, definitively rejected Puttabiramien's application for the lands in question.

13. The Board, after giving careful consideration to the record, are of opinion that Ramiengar is deserving of very serious censure for the part he acted in this case. They have no wish to say, that when he personally inspected the land he did not in good faith believe that the so-called "Odai" land formed no part of the reserved land, but at any rate he ought to have consulted the Superintending Engineer before he came to a positive conclusion on that point. He had ample cause for feeling doubtful on the subject, and the Department of Public Works being in general charge of the Kattukadu land, (*vide* Sub-Engineer Veerasawmy's letter, dated 27th February 1864,) it was but proper that the Superintending Engineer's opinion should be taken. That the Deputy Collector so thought himself is clearly indicated by his having at the last, when the responsibility of deciding the case had been again thrown upon him, (though not till he had allowed four months to pass away,) addressed the Superintending Engineer, requesting him to state whether he saw any objection to the land being cultivated. The Board, therefore, cannot at all understand why he did not take this same step at the first. They also remark that in his answer to the Superintending Engineer's letter of

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the 2nd March 1864, he recognized the Engineer's right to interfere, though in that letter he very incorrectly assumed that it was for himself to judge in the first instance how far it was necessary that Padugai or Kattukadu lands should be kept waste.

14. They are further of opinion that the Deputy Collector, when forwarding the case for the Collector's orders, ought certainly to have sent up the entire record, including Captain Gahagan's letter of the 2nd March 1864, and the Deputy Collector's reply thereto, for the Collector could not possibly form a correct judgment on the merits of the case without seeing the papers that were withheld.

15. They also concur with Mr. Arbuthnott in thinking that the Deputy Collector was the proper officer to pass a decision in such a case, and that in the absence of any express explanation from the Deputy Collector, shewing why this particular case called for a decision from the Collector himself, Mr. Arbuthnott was justified in declining to decide it.

16. The Board are satisfied that the land for which Puttabiramien applied was in reality a part of the land reserved; and they believe that the Tahsildar in his second report contradicted to some extent his previously given report out of deference to the Deputy Collector's opinion as expressed in his order of the 6th February 1864. The Board say only to *some* extent, because the Tahsildar did not certify that the "Odai" land was beyond the limits of the land described in his first report as varying in breadth from ten to forty and sixty yards, but only stated in effect, that it might be made over for cultivation, considering that still there would be nanul reeds growing between it and the river.

17. The only point properly in issue in this case was whether the land applied for, formed part of the reserved land or not; the land which the Sub-Engineer likewise described in his letter of the 27th February as being from thirty to seventy yards in width (*vide* the Survey plan prepared by the Sub-Engineer). It did not matter whether a portion of this land could be designated as "Odai" land, the surface of the Kattukadu lands being liable, as explained in the first Mahazernama, to be cut up in various ways by the freshes from time to time passing over it; nor was it really material whether certain villagers objected or agreed to Puttabiramien occupying the Kattukadu land, or a portion of it, for positive orders had been issued, from time to time, as stated by Mr. Arbuthnott, prohibiting the cultivation of this class of land, and it was for the Deputy Collector to see that those orders were obeyed, such land being reserved as much in the interests of the Government as of the people themselves.

18. The other case relates to certain land in the village of Pettapolliem in the same talook. Mr. Arbuthnott remarked in paragraph 5 of his letter, dated the 26th July 1866, No. 5,772, that this Kattukadu land was made over by Ramiengar to one of his Office-Gumastah's relatives, "notwithstanding the remonstrances of the Public Works Department against such a measure." This is one of the two cases referred to by Sub-Engineer Veerasawmy, in his letter dated the 27th February 1864, a copy of which was sent to the Deputy Collector by the Superintending Engineer. On the 2nd March 1864 Sub-Engineer Veerasawmy writes: "In last year one Kistnien applied for the

Referred to in paragraph 6 above.

"Kattukadu in the limits of Pettapolliem, and the Deputy Collector was also "prepared to give up the land, when I strongly protested against his doing so, "and forwarded him also a plan showing the details of the Kattu lands in question, "but he, however, neglected my objections, and made over the same for culti- "vation."

19. The Deputy Collector remarked in his reply to the Superintending Engineer: "This last relates to a Durkhast which was presented for two and odd "acres of land in the Pettapolliem limits, and was disposed of in the talook in the "first instance as all Durkhasts are. The land having been certified by the "Curnum to be Podugal land formerly under cultivation, and there being land "under tillage on both sides of it, it was given to the Durkhastdar by the Talook "authorities. This case subsequently came in appeal before me, and I saw reason, "under the circumstances, to approve of the land having been given for cultiva- "tion. I am not aware, therefore, that any Pudugal land was given away in this "instance."

20. The particulars connected with this case are given in detail in Mr. Arbuthnott's decision, dated 12th March 1866. The applicants, Kistnien and Ramien, obtained a Puttah for the land at the Settlement for Fusly 1272, after, as it appears, a personal inquiry by the Deputy Collector. Before the Puttah was granted one of the Overseers of the Department of Public Works wrote to the Tahsildar, stating that Gopal Iyengar, the Channel Monigar, had objected to the land in question being occupied. Subsequently, on the 6th February, after a Puttah had been issued, Sub-Engineer Veerasawmy wrote to the Tahsildar informing him that a person who held a contract from the Engineer's department for the privilege of cutting reeds on the Kattukadu lands had objected that the land now given for cultivation was included in his contract as part of the Kattukadu lands; and again the same Sub-Engineer wrote to the Deputy Collector on the following 16th May, sending him a plan of the land, denying the correctness of the Curnum's statement that the land was "Pudugal" land, and begging the Deputy Collector to send the Tahsildar personally to inspect the spot. The land was afterwards inspected by Revenue Inspector C. Abdool Kader Saib, as stated by Mr. Arbuthnott, but whether on the orders of the Deputy Collector or not, does not appear from the record. The case, however, was again brought before him for decision, with reference to a complaint made by the owner of the adjoining land, and on the 19th June 1863, the Deputy Collector confirmed the previous orders, on the ground that according to the Tahsildar's report, the petitioner had incurred no detriment from the land being brought under cultivation.

21. The petitioner having appealed to the Collector, Mr. Arbuthnott, on the 13th October 1863, called for the record, and for information on certain specified points. As this call for the records had not been responded to up to the 14th November 1864, the Collector, on that date, peremptorily required the Deputy Collector to send up the papers within two days, from receipt of the Collector's Official Memorandum. The Deputy Collector, in reply, dated the 17th idem, expressed his regret that he had lost sight of the case at the previous settlement, when he intended obtaining the information required by the Collector; that subsequent to the Collector's reminder, dated 30th August preceding, he had called for this information from the Tahsildar; and that as soon as the Tahsildar's reply came, the record would be sent.

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* Translated.

22. The Tahsildar subsequently made a report,* dated 2nd February 1865. In this report, which was received by Ramiengar's successor, the Tahsildar reported, as the result of his further inquiry, that the land was undoubtedly Kattukadu, and that the true circumstances of the case were misunderstood, in the first instance, owing to the deceitful statements made by the Curnum.

23. Mr. Arbuthnott, as stated in his decision, dismissed the Curnum, and after visiting the land in person, he cancelled the Puttah, being quite satisfied that, for the safety of the adjacent cultivation, the land ought to be reserved. In conclusion he remarks, "the whole of the authorities concerned, but especially "Deputy Collector Ramiengar and the Tahsildar were to blame for the loose way in "which the inquiry was conducted, more especially as the Durkhastdars were "strangers in the village and relatives of the Deputy Collector's Jawabnavis, "afterwards Deputy Tahsildar of Parmutty. Two of the parties who gave deposi- "tions to the effect that the land was not Kattukadu, stated that they did so, "because the Deputy Collector and Gopal Iyah's Jawabnavis told them to do so, and "the fact that Deputy Collector Ramiengar did not reply to my Yadast, asking "for a report, (although repeatedly reminded,) for upwards of eighteen months, "and that he finally left the district without doing so at all, renders it highly "probable that he was well aware that the business would not admit of strict "scrutiny."

24. The Board regret that in this case as in the other, they are compelled to view the conduct of the Deputy Collector in an unfavorable light. They consider that both he and the Tahsildar of the talook are much to blame for not having fairly investigated the question in issue. *Prima facie* it was very improbable that land so situated should have been unoccupied, supposing no special bar existed to the people taking it up, for all the land properly available for cultivation under the Cauvery channels has long since been occupied. The objections made by the servants of the Public Works Department were deserving of full inquiry. It was not obligatory on the Revenue Officers to give the land for cultivation, though it were true that at some previous time it had been cultivated. In any such case it might have been retained in its existing waste state if the public interests so required, and, under all the attending circumstances, the Deputy Collector ought to have ascertained from the Superintending Engineer whether he considered it expedient to have the land retained. A glance at the Survey plan forming part of the record is sufficient to shew how such a question would have been decided by the Superintending Engineer, and if either the Deputy Collector or the Tahsildar had taken the same obviously proper step as the Collector ultimately took, and examined the land for himself, he would have been forced to the conclusion that the land ought to be reserved. It was perfectly easy for either officer at any time to have visited Pettapolliem.

25. The Board are also bound to remark that the neglect of the Deputy Collector from the 13th October 1863 to 6th December 1864, the date on which he was appointed to another district, a period of eighteen months, to send up the record of his proceedings, and to enable the Collector to hear and decide the appeal, reflects further discredit on his conduct on this occasion; and that if, as appears to be the case, the persons who applied for the land were connected with a public servant who was either employed at the time in the Deputy Collector's own Office, or was holding office within his charge, it behoved him to be specially cautious how he allowed them to have the land, while other persons had any ground for impugning the equity of such a step.

26. The Board regret to notice that the orders of Government prohibiting departments corresponding by Yadast have been disregarded in the two cases referred to in these Proceedings.

No. 127. ORDER THEREON, 9th January 1867, No. 65.

Miscellaneous.

The Board's Proceedings and the record of the case will be furnished to V. Ramiah, with instructions to submit for the Board's consideration any explanation he may wish to offer regarding his conduct in the instances referred to.

(True Extract.)

Secretary to Government.

To V. Ramiengar.

Exd. S. T. Augustin

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Revenue Department.

A.

Proceedings of the Board of Revenue dated 8th January 1867.

Read again Board's Proceedings No. 5742 dated 16th August 1866 — G. O. thereon No 2214 dated 24th idem — Board's Proceedings No 6241 dated 1st Septr — do No 6907 dated 26th idem

Read also the following letters from Collector of Salem dated 27th September and 10th October 1866 Nos 176 & 189.

Minuted that the above papers be submitted to Government with reference to their order quoted.

1. The Board observe that the first of the two cases referred to in the 1st Para of the Government Order, dated 24th August 1866, No 2214, relates to certain land in the village of Manapalli in the Namcul Taluk of the Salem District, for which one Puttabiramien applied some time previous to May 1863.

2. Deputy Collector Ramiengar who was in charge of the Division sent orders to the Tahsildar of Namcul under dated the 27th April,

? 27 April

and

and 27th May 1863, to report on the subject of Puttabiramien's applications for the land in question.

3. On the 9th June 1863 the Tahsildar submitted the required report, accompanied by a sketch plan of the land. In this report he stated that all the land for which Puttabiramien had applied, (included, as it would seem, in two separate durkasts) was Kuttoor Kadoo land; that the villagers had given a Mahăzernamah objecting to this land being made over to the applicant on the ground that it was reserved as Kuttoo land for the protection of their cultivated fields, and that he had personally inspected the land, and so satisfied himself that the objection made by the villagers was well-founded.

* translation accompanies. No 1

4. The Deputy Collector passed no order on this report till the 6th February 1864. On that date he sent an order to the Tahsildar, informing him that the villagers had given before the Deputy Collector another Mahăzernamah, certifying that they had no objections to Puttabiramien's application being complied with, and that the Deputy Collector on himself visiting the spot had found that the "Odai" (water course) land lying between the Kuttookadoo, and the plantain garden" was fit for cultivation, and that by this land being brought under cultivation the Kuttookadoo land would not be injured. The Tahsildar was therefore instructed to measure this "Odai" land, to take the usual documents from the villagers, and to report his own opinion as to the propriety of making over the land to Puttabiramien.

+ Note Kuttookadoo or padoogai - is land on the banks of the rivers - reserved and planted with high grass, trees, and scrub, for the purpose of strengthening the river banks and protecting the situated land from inundation and the action of the stream. It is intensely rich & manured from the silt deposits of the river

* translation accompanies No 2

* translation accompanies No 3

do. No 4

5. The Tahsildar replied on the 25th March 1864 that the land referred to measured acres 3-2-11, and that certain of the villagers, including some who had signed the first Mahăzernamah, had given a fresh Mahăzernamah, stating that they had no objection to the said land being cultivated. The Tahsildar then observed "as "roads are planted and encouraged between

* translation No 5

do. No 6

"between the river and the land in
"question, and as a new maganai
"(grain) is being constructed by
"the side of the said land, it now
"appears that the land may be
"made over for cultivation."

6. Captain Gahagan, the then Superintending Engineer, had previously on the 2nd of March 1864 sent to the Deputy Collector a letter from Sub Engineer Vee. Pasawmy, dated 27th February, complaining that the practice which the Revenue Department had before followed of consulting the Department Public Works when persons wished to cultivate Kuttookadoo land was now abandoned; and he referred especially to two recent cases, one of which is the case now under consideration. The Sub Engineer understood that the Deputy Collector had ordered
"almost all the Kootoo lands
"in the limits of Manapully to be
"taken up for cultivation retain-
"ing only from 10 to 20 yards
"of Kootoo between the Pannery
"and the Nunjah lands", and that the Tahsildar was now

engaged

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The Hon. Revs: and the Record of the Case will be furnished to Y. Ramiah, with the instructions of the Hon. for the Hon. consideration any explanation he may think fit to offer regarding his conduct in the instances referred to.

L D.S.