M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 667 Press
~~Mis.~~

321.326

Dated 19 - 3 - ~~19~~ 86

Not to be folded or roughly handled

Read the following papers :—

No. 321. Proceedings of the Board of Revenue, dated 23rd March 1866, No. 2,055.

Read the following letter from the Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 9th March 1866, No. 84.

1. I have the honor to bring to the Board's notice, that I called lately on the Government Vakeel here to report how the Suit* before the Special Court, on the claim of the Kurumbranad Rajah to the Government lands in the Munad Amshom of Wynaad, was progressing.

* *Vide* Government Order, 23rd December 1864, No. 2,315.

2. He reports that as one member† has been sick for some months, and as another‡ has left the district, nothing is being done.

† Kalpalli Karuvagara Menon.

‡ Mr. A. C. Burnell, late Acting Head Assistant Collector.

3. I bring this to the Board's notice generally to shew that an early decision of the claims cannot be expected, and particularly with reference to my letter, dated 23rd ultimo, No. 68, regarding Messrs. Minchin and Vertue's application to be allowed to enter on certain lands without opposition on the part of Government, and on certain conditions.

Submitted for the information of Government, with reference to Board's Proceedings, dated 5th March 1866, No. 1,489, forwarding Messrs. Minchin and Vertue's application for orders.

No. 322. Proceedings of the Board of Revenue, dated 29th June 1866, No. 4,457.

Read the following letter from the Collector of Malabar, to the Acting Secretary to the Board of Revenue, dated Calicut, 11th June 1866, No. 179.

1. I have the honor to submit, with reference to paragraph 1 of Government Order, dated 22nd March 1866, No. 700, copy of a Memorandum received from the President of the Special Court.

2. The President observes that, owing to absence or ill-health of some one or other of the members at different times, the sittings have been from time to time postponed.

3. The speedy settlement of the case is reported to depend upon the vacancies, arising from Mr. Burnell's departure, and Karunakara Menon's ill-health, being filled up. I do not know that the absence of any individual member need delay the Court's proceedings.

4. The minimum number constituting a legal Court is three, and it might be well to have an authoritative order, whether the Decree of a Court, constituted under Act XXIII. of 1863, cannot be validly passed without the action of each individual member, provided not less than three members of the Court pass such decree.

5. I must strongly express my opinion that the appointment of a subordinate Revenue Officer employed in the district, to form one of a Court reviewing the

Collector's (not to speak of the Revenue Board's) Judicial proceedings, is unseemly, and I hope that if it is thought necessary to add to the presently existing Court, the new members will be selected from other sources than the District Revenue Service.

Memorandum.

1. The President of the Special Court has the honor, in reply to the Collector's Memorandum, No 1,091, of the 27th March last, to state that the Special Court held its first sitting in the case noted in the margin, on the 3rd August 1865, on which date, the members settled the first issue. Further proceedings were to be held on the 23rd idem, but on this day the plaintiff moved the Court for twenty-five days respite, and obtained it in order to supplement the plaint. On the 16th September, the plaint was accordingly supplemented; and the case was posted for the 24th October. The Deputy Collector, one of the members, was then absent from the district upon other public duty; and the hearing was adjourned for the 24th November. The Court were, however, prevented from taking up the case on the latter date, in consequence of the absence of one of the members, Kalpally Karunagara Menon, who had been reported to be seriously ill. Mr. Burnell, (the Head Assistant Collector,) another member, then left the district.

Vera Varmah, the Rajah of Ramangalot Kovillagom, versus G. A. Ballard, Esq., Collector of Malabar, on behalf of Government.

2. The Government Pleader, the representative of the defendant in the case, was, therefore, duly advised in view to the Collector taking steps to report the matter to Government. The Civil Court was since adjourned for the annual recess.

3. The case is an important one, involving interests to the assumed amount of a lac of Rupees, and as a matter of course, the prosecution is vigorous. The proceedings have been held in the usual course, and amidst a heavy amount of regular business in the Civil, Sessions, and Miscellaneous Departments of the Court. The first issue was upon a preliminary point, and the second issue will also likely be upon another preliminary question. The merits of the case, if the Court will have to enter upon the merits at all, will depend upon the result of the examination of the second point. What amount of evidence will be tendered, or will have to be received, it cannot now be well estimated. The undersigned begs to assure the Government, however, that, as soon as the Special Court can be again legally held, or in other words, as soon as Karunagara Menon, who is said to be still in indifferent health, and Mr. Burnell shall have been replaced by others, their best efforts will not be wanting to bring the case to an early termination.

CALICUT,
5th June 1866.

(Signed) H. D. COOK,
President, Special Court.

Submitted for the orders of Government, with reference to the Proceedings quoted by the Collector.

No. 323. Proceedings of the Board of Revenue, dated 11th October 1866, No. 7,343.

Read the following letter from the Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 4th October 1866, No. 284.

With reference to my letter to the Board, dated 11th June 1866, No. 179, I have the honor to state that, as far as I am aware, nothing is doing towards a

settlement of the claims of the Government and Kurumbranad Rajah to the South-east Wynaad lands, before the Special Court at Calicut, appointed under Act XXIII. of 1863. A new Civil Judge has lately been appointed at Calicut, and I beg that measures may be taken to expedite the settlement of this long pending question.

Submitted for the consideration of Government, in continuation of Board's Proceedings dated 29th June 1866, No. 4,457.

No. 324. From the Acting Civil Judge of Calicut, to the Chief Secretary to Government, in the Judicial Department, Fort Saint George, dated Calicut, 8th March 1867, No. 41.

1. I have the honor to bring to the notice of Government that there is at present deposited in this Court the record of an undisposed of case (No. 1 of 1865), filed in the Court constituted under the provisions of Act XXIII. of 1863.

2. Strictly speaking, I have no concern in the matter, not having been constituted a member of the said Court, and I therefore may possibly incur censure for my interference. That censure, however, I am prepared now to incur, and should have subjected myself to it before, but that I understood the Government were in communication with the Collector on the subject.

3. The proclamation, dated 23rd December 1864, constituting the Court nominated as first and second members "Mr. H. D. Cook, Civil Judge of the Zillah, and Mr. A. C. Burnell, Acting Head Assistant Collector of the District." If the Government are pleased to direct those gentlemen to proceed to dispose of the case, I would suggest that the fact of the suit having been left undisposed of by them should be brought to their notice, with a view to its "speedy adjudication" (see preamble of the above Act).

4. If the duties to which those gentlemen have been since transferred will not permit of their proceeding with the case, I would suggest that the proclamation constituting the Court be so far modified as to nominate as first and second members, without mentioning names, the officers for the time being performing the duties of Civil Judge of the Zillah and of the Head Assistant Collector of the District.

5. A Court composed of seven members must always have difficulty in assembling, but I think that, if my latter suggestion be acted upon without delay, it will be possible to have the issues recorded before this Court adjourns on the 1st proximo, and the suit finally heard and disposed of immediately after the Court re-opens in June.

No. 325. Telegram from Deputy Collector, Calicut, Malabar, to Revenue Secretary to Government, Madras, dated 16th March 1867.

Mr. R. Pierce, merchant, can be appointed Member of the Waste Land Court. He is willing. Mr. Hannington approves.

Proceedings of the Madras Government, Revenue Department,
19th March 1867.

No. 326. ORDER THEREON, 19th March 1867, No. 661.

Miscellaneous.

The Governor in Council resolves to appoint the Civil Judge, or Acting Civil Judge of the Zillah Court of Calicut for the time being, and Robert Hodges Pierce, Esq., to be Members of the Court for the adjudication of claims to waste land in the Calicut Zillah of the District of Malabar, in succession to Messrs. H. D. Cook and A. C. Burnell, who have left the district.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Collector of Malabar.
,, the Civil Judge of Calicut.
,, R. H. Pierce, Esq.

Extd. S. T. Augustin.

Telegram 2 Aug/ct.
Calicut

What is Mr. R. Pierce's
Christian names -

L.B

16-3-67.

Rec'd 1867 - Nov 5th
Prov. & Govt. House Cape 638
Gen. The Depy. Civil Judge
of Calicut
To The Chief Secretary
to Government
Fort St. George.

Postd. 8th } March 1867.
Received 11th }

No 41

S. Orders 651-19th March

Suggestions explanatory
to be taken in the matter
of an undisposed of Suit
filed under Act XXIII of 1861

Pro No. 269-270
23-12-64
354-5
22-3-66

Revenue Department

To

The Secretary to the
Govt. of India

Sir,

1 I am directed to state that difficulty is experienced in this Presidency in working Act No. XXIII of 1863- "for the adjudication of claims to waste lands"- owing to the absence of any provisions enabling a Court constituted under it, to decide a case, notwithstanding the absence of one or more of the members. The working of sections IX-XII and XIII seems to contemplate

trial.

trial by the full Court only,
and the absence of a single
member from illness or any other
cause would apparently
vitiate the proceedings of the
other members, and no power
is reserved to the Government
to remove members of such Courts.

2. As a remedy for this
cannot be applied without
remodelling the Act, the
Governor in Council would
wish to bring under the con-
sideration of the Supreme
Govt that the Act is generally
ly quite unsuited to the
circumstances of this Pre-
sidency and if fully carried
out would be productive
of

production of serious embar-
rassment.

3 As a general rule
under the prevailing ryot-
wary system, waste land
(that is land for which as-
sessment is either not paid
or has not been specially
foregone) belongs to the State
and the Govt possesses the un-
questioned right of disposing
of it as it deems proper. Ex-
cept in special cases the re-
sident ryots of a village have
the preference given to them over
strangers, & priority of appli-
cation is usually respected
but these are not privileges
that can be legally claimed.
The land is granted on pay-
ment of the fixed assessment

and

and every year a varying extent of land is thus taken up or abandoned when it reverts to the State.

4 The extent of Govt waste thus taken up in 1864/5 exceeded a million acres for much of which, no doubt, there was more than one applicant.

5 The comprehensive description given of the lands to which the Act applies viz "waste lands proposed to be sold or otherwise dealt with" would clearly include

I am also fearful that the Act would tend to

include this end, indeed, all zyotenary waste, and any disappointed applicant might have forced the Collector to adopt the tedious procedure prescribed by the Act - and the mass of work which it would thus lay thrown on Collectors and on the special Courts would be over-whelming. Under any circumstances the whole of the waste - on being applied for, - must have been advertised for 3 months a condition which would have prevented much of it from being cultivated during the season. Even if there were not these serious practical objections to the Act, its operation in this Presidency would be most inexpedient as unnecessarily

unnecessarily preventing
the State from dealing
with its own, as it deems
most conducive to the
public interests - In the
most majority of cases,
there is no doubt as to the
right of Government to
the waste - and neither
a special law nor a
special tribunal is here
necessary or desirable
for the adjudication of
the few instances in
which any doubt exists -
The Collector has every
means that the Act affords -
(for it does not compel a
claimant to show his title)
for sifting claims - and
it is inexpedient that

persons

persons considering them-
selves wronged should
be compelled to resort
for redress to other than
the regular tribunals
of the Country -

The Govt. readily
acknowledge that these
objections should have
been urged at an earlier
date and ~~[illegible]~~
upon it to Me.
~~[illegible]~~

The course which
they would now suggest
for adoption is that the
operation of the Act
in the Madras Presidency
should be annulled and
that they should be per-
mitted to enact a local
Act of a permissive
character,

character, retaining
those parts of the
Imperial act which
are suited to the Presi:
-dency and meet the
original objects of
the Enactment.

L P S

Revenue Department.

No. 661 -

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 19th March 1867.

Read the following papers

Pro: of the Bd of Revr Submitting for information letter from Colr of Malabar reporting that nothing is at present being done by Special Court appointed for investigation of Nurumbrand Rajah's claim to Govt lands in Munad Amsham of Wynad.	G. E. 23rd March 1866 No 2055
Do Do Do Submitting for orders letter from Colr of Malabar forwarding explanation of the Presidency of the Special Court as to the delay in settling the claims of Pellamboor Tirupad.	— " — 29th June — " — 4485
Do Do Do Submitting for consideration letter from Colr of Malabar reporting that nothing is being done towards a settlement of claims of Govt & Nurumbrand Rajah & South-east Wynad lands, by Special Court at Calicut appointed under Act XXIII of 1863, and requesting that measures be taken to expedite their settlement.	— " — 11th Octr " — " — 7345
Nos Civil Judges of Calicut Reporting certain steps to be taken in the matter of pros under proceed of suit filed under Act XXIII of 1863.	— " — 8th March 1867 No 1

Telegram

Telegram from Dr Calls of Malabar.

Stating that Mr R. Pierce merchant may be appointed a member of the Native Land Court

(Recd after 16th March 1867.)

The Governor in Council resolves to appoint the Civil Judge or Dy Civil Judge of the Zillah Court of Calicut for the time being - and Robert Hodges Pierce Esqre to be members of the Court for the adjudication of claims to waste land in the Calicut Zillah of the District of Malabar in succession to Messrs H. D. Cook and A. C. Burnell who have left

left the district.

4 Copies Ladies Address Dupe 20th
to Collr of Malabar
1 Copy Civil Judge of Calicut
1 — R. H. Pierce Esqre

Revenue 1867 Deptt.
Pro of Govt for March

№ 661

Pro of the Madras Govt
d/ 19th March /67

Civil Judge of
Calicut and Mrs R.H
Pierce appointed mem-
bers of the Waste Land
Court in Malabar.

№ 321 @ 326.