

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 654

DATED 26th March '97

[Despatch Abstract.]

Declining to interfere on behalf of
Papi Reddi of Salem Dt. regarding his claim
to certain taxes in the South land of Chinathi
village, Hosur Taluk.

BACK PAPERS.

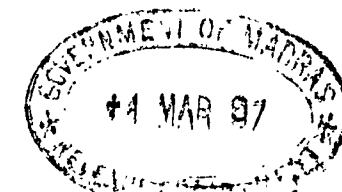
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

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

Revenue (1897) Department.

CURRENT No.



Issued 14.3.97

The Honble Mr. J. Grose C.S.E.

*Read again 20th 1459
24-7-96
also C.N. 1987 of 97 to March 97
Order mis No. 1654 of 26
24/3/97*

From The Board of Revenue
Revenue Settlement, Land
Records and Agriculture
Madras

No. 1509 Miscellaneous

*The Govt. having received
a report from the Board of Revenue,
sees no reason to interfere on the
petitioner's behalf.*

Dated 26 February 1897

Received

Registered

Enclosures 39

Spare copies

*18/3/97
19/2/97*

*To The Board of Revenue (Rs)
with enclosures
Petitioner*

64-30-3-97

SUBJECT.

Submitting to Government report regarding a certain claim to the trees on the bed and bund of Omatti tank, Hosur Taluk, Salem District.

Note: The facts of the case are clearly set forth in the Board's Pros. From the records submitted, it appears that the case was very fully gone into by the st. authorities and that the facts

9/3/97

add 9.3.97

has no real cause of complaint. The
 Colly in his letter no 6128 dated 10th Nov/96
 has categorically examined each and
 every allegation in the petition and
 showed that the allegations are either
 untrue or untenable.

1.19.8/97

I. v. note that I shall with
 this case as Colly in the first instance

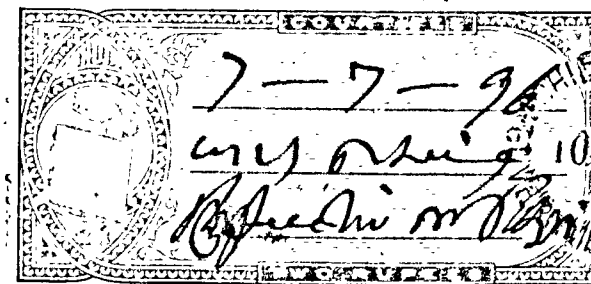
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BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.



HIS EXCELLENCY THE GOVERNOR IN COUNCIL,
 PETITION

FORT ST. GEORGE,

MADRAS.

REVENUE DEPT

May it please your Excellency,

The humble Appeal Petition of PAPI REDDI of MUTTUR, Hosur Taluk, Salem District,
 Most Respectfully Showeth:-

1. That he owns a Desabandam Tank in Onnathi Village, Hosur Taluk, which was given
 over to him for repairs at special rates in the year 1863. Ever since that time the tank as well as
 the trees both on the bund and the bed have been in the possession and enjoyment of the petitioner.

2. That in the year 1894, the Revenue Inspector of Hosur Firka to whose charge the village
 belongs sold in auction a dead pungam tree on the tank bund in question that belonged to the
 petitioner. The petitioner petitioned the Sub Collector requesting him to stop the sale and order the tree
 to be made over to him. The Sub Collector rejected the petition and confirmed the sale.

3. That the petitioner on 30-10-94 submitted a petition to the Collector whereupon
 Proceedings of the Collector No. 1866-I dated 29th. April 1895 which embodies also Board's
 Proceedings mis No 667 dated 7th. February 1895 was passed which purports to say that "Unless
 the number and value (of the trees) is so great as to make it obviously improper that they should
 be made over with the tank, the Board considers that the Collector's order that the long enjoyment
 of the petitioner should not be interfered with is equitable and unobjectionable. It might happen
 that the value of the trees was much greater than the cost of repairing and maintaining the tank. In
 such case there would be a strong presumption that they are not intended to pass to the assignee
 and the right of Government to them might be properly maintained."

4. The number of trees on the tank bund is reported to be 186 valued at Rs. 556-9-6 and in
 the tank bed to be 153 valued at Rs. 125-1-3. The total number and value of the trees on the
 bund and the bed are thus 339 and Rs. 681-10-9 respectively.

5. The tank having been made over to the petitioner for private repairs so long ago as
 1863 the questions that are to be solved are:-

I. What was the number of trees and their value on the bund and the bed then? (i. e. at
 the time of the grant.)

II. Whether the trees numbering 339 as the Revenue Inspector reports are more than 30
 years' standing or are only very small?

III. If there are trees of long standing, i. e. prior to the year 1863, what is the number
 and value of such trees?

IV. What is the number and value of the trees that are in existence subsequent to the
 grant of the tank to the petitioner?

6. That the petitioner does not dispute as to the number and value of the trees though
 his own estimation may be 275 and Rs. 400 respectively.

1.19/97

7. That there were about 10 trees on the bund at the time of the grant of the tank to the petitioner who cut 4 of them during his long enjoyment and one is the tree in question sold by the Revenue Inspector and there are now 5 trees about 40 years old. The other trees as numbered by the Revenue Inspector may be safely classed between 1 & 20 years. The repairs to the tank at the time of the grant had cost the petitioner about Rs. 1000. Even taking the Board's presumption to be correct and the trees to be 40 years old, the repairs were more than the value of the trees and hence the presumption that they are not intended to pass to the assignee is rebutted.

8. That the petitioner is quite confident that Government never looked for a future growth at the time of grant and never took into account the number and value of the trees that were to grow on the bund and the bed some years thence.

That if the petitioner's view is correct and the Government never took into account the number and value of the trees that never existed at all, the petitioner humbly and respectfully craves your Excellency to cancel the order of the Board and establish his right to the trees on the bund and the bed or institute a regular enquiry as to the number and value of the trees that existed at the time of the grant of the tank to the petitioner, the cost of the repairs executed by the petitioner to the tank and settle the petitioner's claims on the merits. He had been in possession and enjoyment of the trees for the last 37 years and if such enjoyment should be interfered with, the petitioner is at a loss to understand how he should establish his right to them.

10. The Collector has failed to solve the questions enumerated in para 5. supra, and it is desirable in the interests of justice that they should be solved now.

11. Whether the appeal is time barred or not, the petitioner requests that special concession be shown to him as he is only an ordinary illiterate ryot and justice rendered.

12. The Proceedings of the Collector is also enclosed herewith.

13. For your Excellency's kindness and charity the petitioner shall ever pray.

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Petitioner.

William A. T. Miller
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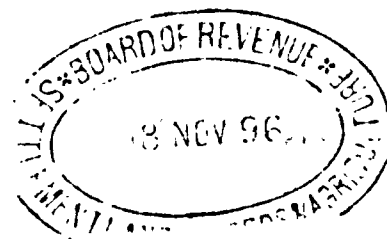
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No 1 to letter
two letter to 6128 letter
10.11.26.



Apparition and
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Salem.

Enclosure No 1 to Collec-
tor's letter No 6128 dated
10.11-96.

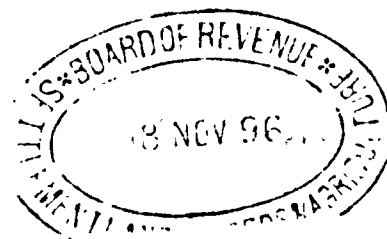


M. 1068/96.

Appeal petition and
its enclosure.

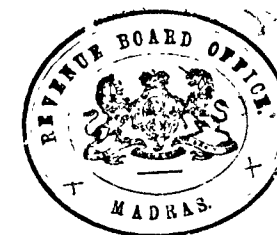
Salem.

Enclosure No 1 to Collec-
tor's letter No 6128 dated
10.11-96.



M. 1068/96.

Appeal petition and
its enclosure.



Proceedings of the Board of Revenue
(Revenue Settlement, Land Records and Agriculture.)

Dated 26th February 1897.

No. 1509 miscellaneous.

READ. Again Board's Proceedings dated 7th

February 1895 No. 667 mis

Read petition from Pappi Reddi of Muthur,
Hosur Taluk, Salem District, dated received
on 13th July 1896, regarding his claim to certain
trees on the tank bund in Annathi village,
Hosur Taluk, Salem District

Read also the following reference thereon
dated 10th August 1896.

Forwarded to the Collector of Salem
for report with special reference to paras
5, 7 and 8 of the appeal to Government.

Read also the following letter from the
Collector of Salem dated 10th November,

In reply to the reference, dated 17th August 1896, on Board's Petition Registered No 602 of 1896, I have the honor to report as follows:-

2 The facts of the Case have been already fully reported in Mr. Stokes's letter No. 4916_{Eng} dated 22nd December 1894, disposed of in Board's Proceedings dated 7th February 1895, No 667 Mis Rev: Settlement. On receipt of the Board's Proceedings, information was called for as to the number and value of the trees standing on the bund etc, of the tank in question in order to decide, in accordance with para 2 of the Board's Proceedings whether the trees could be made over to the appellant or not. It was reported that there were on the bund 186 trees valued at Rs 586-9-6 and in the bed 153 trees valued at Rs 125-1-- as shown in the accompanying statement. The total estimated value of the 39 trees was thus Rs 681-10-9 or much more than

than the estimated cost of repairing the tank, the appellant himself having deposed as reported in para 3 of the letter above quoted, that his father had spent Rs 340 and himself Rs 65 and grain of the value of Rs 15. Mr. Stokes then concluded that the number and value of the trees was such as to make it improper to pass them on to the appellant and hence dismissed his appeal.

3 Para 1 of the appeal to Government.

The allegation in this that the tank is a Dasabandam tank is untrue.

Para 5 of the petition

In regard to this, it is now reported that no record is forthcoming to show the exact number of trees that existed at the time of the grant, beyond the Survey plan of the Village prepared in 1865 wherein trees are marked in a line on the bund, thus leading to the presumption that

that trees existed throughout, on the bund at the time of the grant. In the enquiry now held, the witnesses cited by the appellant depose that trees varying from 8' to 11' existed on the bund at the time of the grant, but the Village Officers who are said to be very aged men say that there were big trees varying from 20 to 25. — Taking 20, the lowest number, the Revenue Inspector estimates the value at Rs 225 (30 cart loads at Rs $7\frac{1}{2}$ per ^{Cart} cart-load).

Para 7

The allegation made in this that Rs 1000 were spent for repairing the tank is clearly false. As already observed according to appellant's own depositions in the previous enquiry, the total amount thus spent was only Rs 420 (Rs 340 + Rs 80). In a suit between him and certain ayacutdars (C.S. No 184 of 1892, on the file of the District Munsiff's Court, Krishnagiri) as to the ownership

ownership of the adjacent lands, a Commissioner was appointed by the Court to estimate the value of the repairs executed to the tank, and as per his report, and estimates, extracts and copies of which are submitted herewith, the total value of the repairs is Rs 328-11-4. From his report it also appears that the petitioner once falsely represented to him the same to be Rs 1000, and on another occasion, to be Rs 400, but subsequently retracted his statements and admitted that Rs 300 was the correct figure.

Para 8

It has been admitted by the petitioner in the enquiry held in 1894 that the trees now existing on the bund were never planted by him (Vide para 8 of Mr. Stokes' letter above quoted). The Sub-Collector observes:- "The trees (Pungam) grow "Spontaneously and luxuriously in the parts

parts and the trees thus growing on the
"bund and bed (which are Porambokes)

"must belong to Government and the
"petitioner cannot lay claim to them.

"All that he acquires by the assignment
"of the tank is the right to use its water
"paying only a favourable rate of assessment.

"This concession is accorded to him, because,
"he spends money in repairing it. In such

"Cases (i.e. Cases under S. G. No. 9) the assignee

"is not required to pay assessment on
"the land occupied by the water spread as
"in the case of a person permitted to construct

"a new private tank under Standing Order

"No. 8) (Vide para 5 of S. G. No. 8). In the latter

"Cases a person is given complete contract

"over the work constructed by him. Whereas

"the lands occupied by the bed and bund

"of tanks made over for private enterprise

"under S. G. No. 9 remain as Government
land

ownership of the ayacut lands, a Commissioner was appointed by the Court to estimate the value of the repairs executed to the tank, and as per his report, and estimates, extracts and copies of which are submitted herewith, the total value of the repairs is Rs 328-11-4. From his report it also appears that the petitioner once falsely represented to him the same to be Rs 1000, and on another occasion, to be Rs 400, but subsequently retracted his statements and admitted that Rs 300 was the correct figure.

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"land and accordingly the trees standing
"on them and those that grow thereon
"Should continue to belong to Government."

4. Under para 17 of Board's Standing Order No. 5 trees growing on Dasabandam tank bunds are the property of the Inamdar whose duty it is to keep the tanks in order but the Appellant, though he claims to be a Dasabandam Inamdar, is really not one as noted in para 3. The petitioner is the assignee of a tank made over for private repair under Standing Order No. 9 and is in a very different position from a Dasabandam Inamdar. The latter enjoys an Inam for constructing an irrigation work and is allowed to enjoy the trees on the bund. The former is allowed to repair a tank belonging to Government on the condition of paying for the ayacut a special rate of assessment which is

is lower than the wet assessment of the ayacut. The cost of repairing a tank is certainly less than the cost of constructing it and the assignee of a tank under Standing Order no. 9 is not entitled to the same concession as the original constructor. There was further no agreement in this case, binding the Government to allow the appellant to enjoy free the trees on the bed and bund of the tank especially when in return for the expenditure he incurred in repairing the tank the Government has given him the concession of paying a lower rate for the ayacut lands than the usual wet assessment. In these circumstances, I am of opinion, that Mr. Stokes's order may be maintained.

5. Records as per list enclosed are submitted.

Read also reminder from Government dated

dated 11th December 1896 M. 22 252.

Resolution

The Collector's letter read above will be submitted to Government with reference to its endorsement no. 1459 dated 24th July 1896.

2. The history of the case is briefly as follows:—

The tank referred to in the appeal petition to Government was originally a dasabandam tank. The dasabandam-dandars having expressed their inability to maintain it in a proper state of repair, Government resumed all the inam lands assigned for the purpose and offered the tank for repair by private enterprise at the special rate of Rs 2½ per acre. The original inamdars themselves, accepted the offer, but subsequently, they entered into

into an agreement with the petitioner's father that he should enjoy half the Ayakut lands on condition of executing repairs to the tank. Thus the original inamdars and the petitioner's father, and after him, the petitioner were jointly enjoying the Ayakut lands until 1894, when, on a dispute which arose between the appellant and the inamdars as to the ownership of the lands, the former was put in possession of all the lands on his paying Rs 980 to the pattadars, under a Rajenamah decree passed by the District Munsiff of Krishnagiri. From the above facts, it will be seen that the appellant is only a grantee of the tank for private repair and not a dasabandamdar as alleged in the petition; and as such, is not entitled to the concessions allowed to the latter under paras 16 & 17 of Board's Standing Order No. 5. The facts which led to the petitioner's appeal to

-Government

dated 11th December 1896 M. 22 252.

Resolution

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Government are set forth paras
2 and 3 of the petition to Government.

3 As regards the right of a grantee
of a tank for private repairs, to the
possession and enjoyment of the trees
on the bund and the bed of the tank,
the Board held in its Proceedings read
again above on a reference made by the
Collector in the petitioner's case that the
question was one in which no general
order could be laid down, that it was
a matter for ^{agreement} ~~agreement~~ in each case
when the agreement was made, and
that, unless the number and value were
so great as to make it obviously
improper that they should be made over
with the tank; the Collector's order
that the long enjoyment of the petition
should not be interfered with, was
equitable and unobjectionable. The
Board added that if the value of the
trees

was much greater than the cost of repairing and maintaining the tank, there would be a strong presumption that they were not intended to pass to the assignee and the right of Government, to them might properly be maintained. It having been found on an inquiry instituted after receipt of the above Board's Proceedings referred to, that the number and value of the trees were 339 and Rs 682 respectively and that the amount spent by the petitioner in the repair of the tank was only Rs 420, the Collector decided that the appellant had no claim to the trees.

As regards the other allegations contained in paras 1, 5, 7 and 8 of the petition the Collector's remarks in para 3 of his letter read above show that they are untrue.

In these circumstances, and in view of the fact that in the absence of an agreement in the case, the appellant has no right to the free enjoyment of the trees on the bed and bund of the tank, the Board considers that the appellant's claim to the ownership of

of the trees should be disallowed and
the order passed by the late Collector
Mr. Stokes, confirmed.

(True Copy and Extract)

R. V. Linnear
Secretary

To
The Secretary to Government
Revenue Department with
the petition and its enclosures and
Collector's office records to be returned.

Exad
3/26/07

Revenue (189⁷) Department.

CURRENT No.



From

The Board of Revenue, Land
Revenue, Madras.

Order

No. 683 Routine

Dated 4th March, 1897.

Received

Registered

Enclosures

Spare copies

SUBJECT.

Submitting in reply to the O.M. from Govt. that the G.O. calling for report, on the petition of Papireddi of Salem claiming certain trees on a tank bund, was transferred to the Settlement Department & that that Department will now be requested to transmit the report referred to.

cr/c 6/3/97

Revenue (189⁷) Department.

CURRENT No.



From

The Board of Revenue, Land
Revenue, Madras.

Order

No. 683 Routine

Dated 4th March, 1897.

Received

Registered

Enclosures

Spare copies

SUBJECT.

Submitting in reply to the O.M. from Govt. that the G.O. calling for report, on the petition of Papireddi of Salem claiming certain trees on a tank bund, was transferred to the Settlement Department & that that Department will now be requested to transmit the report referred to.

cr/c 6/3/97

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.



Proceedings of the Board of Revenue
(Land Revenue).

No. 683 Routine, dated 4th March 1897.

Read Memorandum from the Under Secretary to Government, Revenue Department, No. 34 R, dated 26th February 1897.

Resolution

In reply to the Official Memorandum read above, the Board submits that Government Order No. 1459 R., dated 24th July 1896 was transferred to the Settlement Department on 3rd August 1896 and that that Department will now be requested to transmit the report referred to.

(True Extract)

Secretary.

To

The Secretary to Government, Revenue Department,
The Settlement Department, with O.M. in original

Md. R. H.

1897

189 .
Board of Revenue
(Land Revenue),
MADRAS.

To

Subject.

When given for copying _____
 When copied _____
 When examined _____
 When signed _____

189

READ AGAIN G.O., No. _____
 189

DATED

CURRENT

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

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 IN ORIGINAL.

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