

Revenue (1897-) Department.

MISCELLANEOUS SERIES.

G.O., No. 176.

DATED 11. Jan'y. 1897.

[Despatch Abstract.]

Declining to interfere on behalf of
J. Veeranna objecting to the grant
of a house site in Adoni Bellary
dt.

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 (189) Department.

CURRENT No. 8919

From
The Collector of
Bellary

Order

Order No. 4452

Dated 3-12-1896.
Received 57/6
Registered 67
Enclosures (1)
Spare copies

SUBJECT

Site at Adani & Joster Karama

Forwarding Copy of
Adani by Collector's letter dated
for in G.O. No 2262R
27-11-1896

BACK PAPERS.

G.O.	No.	Department.	Date.
	to 2262		27-11-96

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Dis No. 4452/96

BELLARY COLLECTOR'S OFFICE,
Dated 3. 12. 1896.

FROM R. H. Campbell Esq.
COLLECTOR OF
BELLARY.

To

THE Secretary to Government
Revenue Department
Madras.

Sir,

In obedience to G. O. No. 2262 R
27-11-96
I have the honour to forward a copy of Adami
Deputy Collector's letter No. A of 30th March 96
Therein called for.

I have the honour to be.

Yrs,

Your most obedient servant.

[Signature]
Asst Collector.

B. H. Campbell
3/12/96.

years
the Board have had
an officer of the
suitable and
Revenue

Abstract

with 2 more damaged Review Department
 No A of 20. 3. 96.
 with 2 more damaged with Adm Division by Collector's Office
 with 2 more damaged with Case Adm
 of 29. 3. 1896.

Yours

Włocławek, 1880. J. Rancu Eyr. Kuziat
by C. Meibol.
Adami Owisław.

... The Collector of Customs & Excise
Bally;

I have the honour to return the petitions
 No. 2495 of 18.7.95 and 477 of 4.11.95, together with
 connected papers and to report thereon as follows.

Contrasted papers.
 one Siringappa Narasayya claimed the
 black of lands containing the pieces marked 1, 2,
 $\frac{3}{1}$, $\frac{3}{2}$ and 4 in the sketch marked A, Nos. 1, 2, &
 3, as having been purchased from one Madub-
 Razzack Saib by a registered sale deed of
 28.1.95, and Nos. $\frac{3}{2}$ and 4 from Gadiki Ho-
 nayya and Siddappa by a deed of 13.5.95.
 + building on the

He has constructed a terraced building in the portions of the blocks marked (a) and (b) as shown in sketch B leaving the remaining space marked

marked. Enclosed with a compound wall to the north separating the premises from the road with an opening in the wall at the north western point marked c.

3. Petitioner Juhar Verrama is the owner of the adjoining house consisting of pieces marked $\frac{5}{1}$ and $\frac{5}{2}$. He objects to Counter-petitioner's occupation of all this piece referred to above except No 1. In his earlier petition of 3rd June 1895, he had apparently acquiesced in Counter-petitioner's title to No 2, but in his subsequent petition of 20th 10. 1895, he questions even this. He primarily objected to Counter-petitioner's occupation of the block in question, on the ground that it interfered with the exercise of certain rights of easement over the piece of land marked $\frac{3}{2}$, but latterly owing to the natural jealousy of a neighbour and feelings embittered by this dispute, he has questioned the Counter-petitioner's right to occupy the block at all.

4. Before the Counter-petitioner purchased this block, there were the remains of

of some buildings over the plots 1 and 2 and also the rest was open space. It had been practically turned into a latrine by people residing in the neighbourhood. A municipal stone dust-bin was in existence at the point marked No 23.

5. When the land was in this condition my attention was drawn as Chairman of the Municipal Council more than once to the unsanitary condition of it, and I was told that it belonged to one Ahmed Razgacki Sahi, a municipal bill collector. Notices were issued to him accordingly to keep the premises clean. Thereupon, he represented that he could not enclose the land unless the dust-bin were removed. Thereupon, the removal of the dust-bin was sanctioned. In that connection, however, there were petitions from some of the people in the neighbourhood objecting to the removal of the dust-bin. As the petitioner states that the land belonged to Government, the question was referred to the Tahsildar of oldani for report. On his reporting that the land did not belong to Government, permission was granted by

by the Municipal Council to Abdul Razzak Sahib to enclose the lands and the order for the removal of the dust bin was confirmed.

6. Meanwhile Abdul Razzak Sahib had sold the land (pieces Nos 1, 2, & 3) to Counter-petitioners. The latter subsequently purchased the remaining pieces, and enclosed the whole block and built on it as stated in para 2 supra.

7. The petitioners, thereupon presented a petition of 3rd June 1895 to me as Divisional Officer, pointing out that the piece marked No

$\frac{3}{1}$ had always been an open site & that there had been a dust bin there for 25 years; that

No $\frac{3}{2}$ was similarly an open site and which he had been exercising right of way & and

that No 4 which was once the site of a house had lapsed to Government by the house

having fallen into ruins about 20 years ago.

8. From the situation of the land in question, surrounded as it was on three

sides by buildings, I thought that, if at all, it must be treated as land to which

the

the adjacent house owners had a common right and I was not sure that it could be held to be an unclaimed portion of village site available for allotment for building purposes,

within the meaning of Board's standing order No 37, or that it was common land needed for

general use, and therefore, I considered it unnecessary to interfere in the matter, and that

the dispute being virtually between two individuals they had better be left to settle their

dispute in the Civil Court.

9. I accordingly gave him an endorsement that I did not consider it necessary to entertain the question whether the land belongs to the

State or was private property, and that it was open to the petitioners to have it settled

in a Civil Court.

10. For however, I have been called upon to report on the petition, I have thought

it necessary to make a detailed enquiry into a view to find out whether Counter-petitioners

claim to the land in question is supported by proper titles.

11. First, as regards the lands purchased from Abdul Razzaq Sahib, it is said that pieces marked 2 and 3, together with those marked 1, 10, $\frac{1}{2}$, $\frac{2}{7}$, $\frac{2}{2}$, $\frac{2}{3}$ were mortgaged without possession by one Jahir Shik Sahib to one Jamma Singh by a registered deed dated 8 October 1892; that thereafter secured by this deed not having been paid, a civil suit was brought and a decree obtained by the said Jamma Singh; and in execution, the mortgaged property was sold and purchased for the amount of the decree by the Plaintiff himself (Jamma Singh); that thereupon a Sale Certificate dated 28 September 1893 was issued; that the purchaser Jamma Singh was duly put in possession of the property by an order under the orders of the Civil Court, (as to this, however, no copy of any record of the Civil Court has been produced); and that, thereupon, Jamma Singh transferred the property in question by sale to Abdul Razzaq Sahib, and that the latter sold the portions 1, 2, and 3 thereof to the

Counter-petitioner.

4.

Counter-petitioner.

12. It is a question whether pieces 2 and 3 were really included in the mortgage, and whether they were purchased at Court sale. In the first place, the boundaries given in the mortgage deed of 1892 and in the Sale Certificate of 28 September 1893 which merely reproduces them, are vague. The northern boundary is given as the piece marked 8 in the Revenue Inspector's sketch A, but the Eastern boundary is given as Khaded Singh Sahib's house which is No 26 in the sketch. If the property really extends up to the road, then embracing the plots $\frac{1}{2}$, $\frac{2}{7}$, $\frac{2}{2}$, and $\frac{2}{3}$, 7 and 2 the premises marked No 25 should have also been mentioned as the eastern boundary. Again, the western boundary is given as Khawali Sappo's house, which corresponds with No 4 in the sketch. This house having admittedly rear extended northwards as far as the road, the piece marked $\frac{2}{3}$ but only up to the limits of No 4 which is not only having never had any building or

of wall on it.

13. Again, the two documents referred to in para 12 supra mention the property mortgaged as house No 1545 in the singular number, which corresponds to No 1 only and the sketch of

Plot two houses are mentioned in the sale deed of 1894 from Jaiwala Singh to Abdul Razzaq Sahib, viz Municipal Nos 623 and 624, which corresponds to Nos 1 & 2. Thus No 2 was not actually included in the original mortgage deed, nor in the sale certificate. Again, these deeds do not refer to any vacant space such as 3 was at the time of the mortgage and has been since.

14. The next question is whether No 2 though not expressly recited in the mortgage deed, was intended to be included. Abdul Razzaq Sahib and one Pitambar Singh Jaiwala's brother of Jaiwala Singh who appeared and said that he was the actual party to these transactions, contend that

5.

it was intended to be included in the mortgage deed. But that, by mistake, it was omitted. Pitambar Singh does not say that he satisfied himself when obtaining the mortgage deed from Jaiwala Sahib, what the land mortgaged was, nor do I think it likely that the omission was a mere mistake. There is nothing to show that No 2 was the property of Sheikh Sahib. He appears to have owned only Nos 1 and 2, & vaguely claimed Nos 10, 11, 12, and 13 which are said to have been once owned by one Shintulla Sahib, his father-in-law. This man had left Adoni long ago, and settled in a street in Karnool district. The house left by him seems to have been a house of as husband of one of Purnatulla Sahib's daughters. Contention between Sheikh Sahib and another daughter of the latter named Rajabi married to Saheb was at Billay. The premises are now in the enjoyment of the latter only, and Abdul Razzaq says that this disputed inclusion in the mortgage deed was unwarranted. The Municipal Register for 1869-70, Nos 1, 2, and 3 are described as houses built

Thitt' by Alondro Alondro Kadar an friend
belonging to Arinitulla Sakh. This curious
description indicates apparently the dispute
which then existed as to this land between
the representatives of the two daughters of
Arinitulla Sakh.

15. Whatever may have been the case
with regard to Nos 2, 2, 2 and 2, Shitt
Sakh had apparently no shadow of claim to
Nos 2 and 2, and for aught one knows,
he never meant to put forward such a
claim. In the plot marked No 2, there is
Kaliuna, a wife of a brother or cousin of
Arinitulla Sakh. She seems to have had a house
and been living in it. After her, one Syed
the Sakh and after him, his son Bado Sakh,
and were living. Alondro Razak Sakh says that
as Bado Sakh and his father were living as
servants of Shitt Sakh. But there is no proof
of this. The house appeared in the Municipal
land registers up to the year 1893, 94, as the property
of Kaliuna, and then struck off from it.
Pitambar Singh

6. Pitambar Singh admits that when this house
came to put him in possession, Bado Sakh
objected to give up possession. What happened
afterwards is not clear, and no certificate of
possession has been produced. Shitt Sakh is
said to have died before the sale in Greenlaw.
of the deed took place, and Kaliuna had died
many years ago. Apparently when No 2 was
taken possession of, there were no representatives
Kaliuna on the spot of the former owner,
wherever it was.
16. If it is granted that No 2 is not
part of the mortgaged property, the claim to
No 3 must also fail, even supposing that it
formed an adjunct to No 2. It is sought to
show that No 3 is part of the tenement in
which No 1 is included, on the ground that
the residents of the latter had a right of way
through it, into the street, by means of the
doorway marked 2. Since blocked up
but a mere right of way through the land
cannot give absolute property in it. That
this

This (No 3) was never in undisputed possession of Sheikh Sahib may also be inferred from the fact that in 1887 when a register of vacant sites within the Municipal limits was prepared with the view of taxing such unappropriated sites, this piece was shown as the property of one Ladder Hallamuna who appears to have claimed it as a title incompatible with that of Sheikh Sahib.

17. That the site 3 has been vacant for at least 25 years is not denied. It is alleged that before then a shed had been erected there by Sheikh Sahib. Even assuming this to be true, the fact that for at least 25 years it is vacant must be held to extinguish every private right in the land that any body may have possessed.

18. From the foregoing, it will be seen that the Council petitioners title to No 2 & 3 is not good.

19. Now, as to Nos 4 and 2. The house which stood on No 4 is alleged by the Applicant Viramma to have come down more than

7.

than 20 years ago, but this cannot be true as the house appears in the Municipal Directory down to the year 1881-82. Justat Viramma himself admits having purchased from the same vendor in 1887, the piece of land marked No 5 in the sketch. It is not clear from the provisions of Board's Standing order No 37, when a vacant site on which there had been a private building, should be held to lapse to Government. I should say that it does so subject to the usual period of limitation of 12 years. In fact, however, that in the Collector's Proceedings of 3rd June 1896, Index No 761, laid down that village sites are the property of Government and cannot be sold by any private person to another, only the buildings standing thereon being proper subjects for sale, and that where there have been allowed to go to ruin, the right of the person to whom the site was granted lapses altogether. But with the utmost deference to the views of the Collector, I am doubtful whether such a view does

8
These not go beyond the intention of the
Board's standing order No. 37. It may hold
good in respect of house-sites which are held
under grants made in accordance with the standing
order as to front boundaries a special provision
that when the building is abandoned, and no
new building erected within one year, the
site shall lapse to the government. But I do
not think that such a rule can be applied
to sites held under private occupation for
a time immemorial. In these cases it is
fair to assume that the general law as to
property applies. I am therefore of opinion
that Counter-petitioner's right to No. 4
cannot be questioned.

20. It is, however, different with
regard to No. 3. This had never been
in any body's occupation. The owner of the
house in No. 4 when it was in existence could
have only right of way through it from the
street to his house. It was never enclosed.
His sale to the Counter-petitioner was
therefore illegal. As to appellant's
rights

rights over this piece, I do not think much
of them. There is proof that he opened a door
way into it only in 1886. This cannot give him
a right of easement even over it.
21. The question now for consideration is
what should be done. As it is, I see no objection
to the building erected on the land being
allowed to stand, not to the ground being
enclosed. The only person that is affected by
it is the appellant, but I do not see that he
deserves any consideration at our hands. If
by any act of the Counter-petitioner, he should
find his rights of any, curtailed, he is at
liberty to seek redress in the Civil Court as
I have already informed him. I would beg
from Counter-petitioner the value of the piece
marked 3, 2, and 2, at 8 annas a square
yard.

22. I may, in this connection, state
that the absence of a register of vacant
house-sites in private occupation leads
to much doubt and uncertainty as to the
title, and to false claims being preferred

to vacant grounds which are not really private property. Strictly speaking all such sites should be assessed to Municipal land tax, but pending a detailed survey of the town, which has not yet been carried out by the Municipal Council, Government has ordered that the matter should be in abeyance, i.e. by taxing such lands without disturbing, vacant grounds which are really unoccupied and are at the disposal of Government, may come to be recognized as private property. Decision has been made in the next year's budget for the detailed survey in question.

I have the honor to be, Sir,

Your most obedient servant

(Sd/-) R. Rueda Esq.
Deputy Collector

Free Copy

W. G. R.
For Collector

MB 12126

JS
9/1/97

To the petrs
withdwn.
Copy to the collector

26.1.97

Read case 8919 of 96
C.O. no. 176 of 11th Jan'y 1897

The Court sees no reason to interfere on the petrs behalf.

11/1/97

Note

This is an appeal in respect of the grant of a house site in Adoni. In the absence of the sketch maps referred to in the Dy. Collr's letter, the position of the several pieces of land is not clear. It seems, ^{however} unnecessary to call for these maps as the main facts of the case are apparent.

2. A bought a piece of ^{vacant} land from B and began to build on it. C the owner of

c. 4/1/97
R. 5/1/97

several years ago, the Board have had an officer of the name, however suitable age.

of an adjoining house thereupon petitioned the Dy. collector arguing that the land sold to A was Govt. land and should be dealt with accordingly. The Dy. collector was not sure that the land was at the disposal of Govt. and declined to interfere in the matter. On appeal, however, the collector called for a report from the Dy. collector and decided that the land in question should be sold by auction under para 11 of S.O. No. 37. Thereupon, A threatened to file a suit against Govt. for the recovery of the land if it was not given to him. ^{In view of} ~~having regard to~~ the fact that the Dy. collector had

had once found that the land in question did not belong to Govt. and that A had bought and enclosed the land in the belief that it was private property, the collector was doubtful whether the threatened suit would end in favor of Govt. and accordingly effected a compromise by waiving the sale by auction and granting the land to A on condition of his paying an annual quitrent. Not satisfied with this order, C preferred an unsuccessful appeal to the Board and now appeals to the Govt.

3. Under para 11 of S.O. No. 37, it is left to the discretion of the collector to enforce

...as an officer of the requisition, the Board have had several years

enforce sale by auction or not in such cases, though the discretion is vested in him with a special object, viz. "to enable the collector to set aside portions for the occupation of the poorer classes who may well pay a small annual quit-rent but who cannot afford to redeem it by a single payment down." Seeing that the purchaser A has constructed a terraced building on a portion of the land and that ^{he} ~~the case~~ will be taken ^{the case} to a law court ~~if~~ if he should be further interfered with, it seems desirable to let alone the collector's order which has been upheld by the Board.

C.A.
5 Jan 97

There is no evidence to prove the claim of Govt

16/1/97

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

189

READ AGAIN G.O., No
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DETTO

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IN ORIGINAL.

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A A A A A A A

... years
... the Board have had
... officer of the requisition
... suitable age.
... however, now