

Revenue (1897) Department.

ROUTINE SERIES.

G.O., No. 2067

DATED 11.11.97.

[Despatch Abstract.]

Declining to interfere on behalf of
S. Manthya, Coimbatore St. in
regard to a darkhast appeal.

BACK PAPERS.

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

FURTHER PAPERS.

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

⁰/₁₈ 4,000-19-7-97.

Revenue (1897) Department.

CURRENT No. 8686

From

J. Ananthiga,
Crimchatore St.

No.

Order

Dated 15th Sept. 1897.

Received 7.10.97

Registered 5.10.97

Enclosures 1

Spare copies.

SUBJECT.

Requesting Govt. to
refer to the Board of Revenue
a darkhast appeal for
reconsideration.

25/10

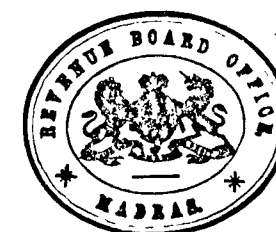
BACK PAPERS.

G.O.	No.	Department.	Date.
57	575		1-1-95
	963		8-1-95

FURTHER PAPERS.

G.O.	No.	Department.	Date.

2,000
16-8-97.



Proceedings of the Board of Revenue (Land Revenue).

No. 759 his dated 15 February '95.

Recd petition from Seshaiyengar, a ryot of
Agraharakkarai Episetipoliam, Sathiamangalam Taluk, Coimbatore District dated 22/10/94.

Resolution.

The Collector was wrong in admitting
a Second appeal in the appellant's darkhast
case in the face of G.O. 3-11-93 which is perma-
nent. His Propo. as well as that of the Deputy
Collector will therefore be cancelled as being
ultra vires and that of the Assistant Collector
dated 7th Feb. 94 restored.

2. The appellant will be referred to the Collector
for orders on his appeal.

(True Extract)
(SD) L. M. Wynne
Secretary

To the Collr of Coimbatore
Copy to Petn (per 2 only)
with enclos. rets. (True Copy)

18 OCT 1897

Kadwamikanu
Asst Secretary.

To,

His Excellency the Right Honorable

the Governor in Council,

PETITION

Fort Saint George,

2728

MADRAS.

REVENUE DEPT

THE HONORABLE MEMORIAL OF T. ANANTHIA
OF GOBICHETTIPOLAM, SATYAMANGA-
LA TALUK, COIMBATORE DISTRICT.

1. Knowing full well that there is no appeal to Government in Durkhast cases, your Memorialist respectfully begs to approach Your Excellency not with a prayer that Your Excellency might go into the merits of his case but should remand it to the Honorable Board, which has, as shewn below, erred in its Board's Proceedings No. 4027, Miscellaneous, dated 2nd September 1896, apparently overlooking its own order No. 42, dated 29th January 1894 wherein it is said to have been stated that Collectors can admit Second Appeals in Durkhast cases where there may be grave irregularities.

2. Such grave irregularities the Collector found in the case of your Memorialist's Durkhast appeal before the Divisional Officer and directed a retrial on his second appeal presented to him. The result was that the land was granted to him on Durkhast. But the respondent appealed to the Board which set aside the Collector's order on the ground that the Collector's action was *ultra vires* in that he admitted your Memorialist's second appeal to him. Your Memorialist thereon submitted to the Board a review petition pointing out that the Collector's action was not *ultra vires*, but based on the Board's Proceedings No. 42, dated 29th January 1894 which is said to authorize him to retry Durkhast cases whenever he finds grave irregularities. Such irregularity he found in the present case as pointed out in para 3 of your Memorialist's petition to the Board (copy of which is herewith annexed).

Notwithstanding all these representations, the Honorable Board, rejected the petition stating that there is no ground for reconsideration.

3. Your Memorialist feels that justice has not been done to him by the Board inasmuch as he feels that the Board has not given any heed to Board's Proceedings No. 42, dated 29th January 1894, upon which the Collector acted and your Memorialist pointed that the Collector's action was not *ultra vires* but just. He therefore prays that Your Excellency will kindly peruse the Board's Proceedings No. 42 of 1894 (the copy of which was applied for by the Memorialist, but declined by the Board, *vide* Board's endorsement herewith submitted), and also the copy of printed petition to the Board with its enclosures, and direct the Honorable Board to retry the case and render him justice.

4. For which act of justice and kindness, he shall ever pray.

T. Ananthia

15-9-97

The Hon Mr. Linrose C. J. & E.

Sp 11/12/97

Flag C

c no 8686 of 97

For orders.

The present read above is a darkhast petition in respect of a ^{claim} ~~channel~~ poramboke bearing Survey no 79 in ~~the~~ ^{the} Karai village Salyamangalam taluk, Coimbatore district. It appears that the petitioner applied for the whole poramboke on 4th December 1890 but that the counter petitioner applied for 30th ^{of it} ~~cent~~ in 1881, for the whole on 2nd December 1889 and again in 1891. On 14th August 1893, the land was subdivided into 79 A, 79 B and 79 C. Of these three subdivisions, A adjoins petitioner's field no 80, B that of the counter petitioner no 86, while C is a ^{running} channel between the two fields. The Dy. Tahsildar of Lepichattapalayam assigned the two sub divisions A and B to the counter petitioner. This order was confirmed on appeal by the Assistant Collector Coimbatore on the ground that the counter petitioner was clearly the prior darkhastdar and an adjacent land-holder. But on a second

C. 5/4/97
D. 15/11/97

appeal being presented to the Collector, he ordered the case to be restored to the file of the Dy Collector and to be disposed of on its merits because the counter-petitioner having ~~finally~~ applied only for ~~the~~ the pambotte lying between his fields nos 77 and 88, namely subdivision B, it was irregular on the part of the Dy Tahsildar to have granted to him also the ~~unapplied for~~ portion, 79 A, and because the counter-petitioner had no claim to 79 A, which adjoins the petitioner's field; as a channel runs between 77 A and B. On the latter ground, the Dy Collector considered that the petitioner had a preferential claim to sub-division 79 A though he was not the first applicant and accordingly cancelled the Dy Tahsildar's order ^{in so far as it related to} ~~in so far as it related to~~ 79 A. Thereupon the petitioner appealed to the Board which passed the following order: "The Collector was wrong in admitting a second appeal in the appellants' ~~darkhart~~ darkhart case in the face of

face of C. O. 943 ^{of 11.93} which is peremptory. His proceedings as well as that of the Dy Collector will therefore be cancelled as being ultra vires and that of the Assistant Collector of 7.2.94 is reversed. The ~~present~~ petition ^{for a review of the above order} put in by the petitioner, was also dismissed by the Board. 2. In the present petition, the petitioner contends, as he did in his review petition to the Board, that the Collector's action in having admitted a second appeal was correct ^{and} ~~and~~ ^{in support of his contention} in support of his contention B.P. 427 of 29.1.94 recorded in L. O. 576 of 16.2.94, and prays that the Board may be directed to reby the case. The BP referred to lays down that the orders in regard to non-entertainment of second appeals in darkhart cases should be regarded as absolute but that they do not exclude notice being taken of any act of partiality, perversity or gross negligence exhibited by a subordinate official in respect to such cases. No doubt, the Dy Tahsildar's

procedure in having assigned
 to the subdivisions 99 A and B
 the petitioner was irregular;
 and the Dy Collector's order set
 aside on appeal by the Board ^{was}
 correct. But ~~the irregularity~~
~~let the irregularity on the~~
 part of the Dy. Sahildar ~~was~~ is
 so grave enough to ~~warrant the~~
~~interference of Government~~
~~within the exception provided for~~
 in the B.C. ~~provisions~~. It is therefore
 submitted that the following
 endorsement may be given to
 the petitioner.

11/11/97

C. O. (Rev) 2067, d/11/97 7/11/97
 the Government declines to
 interfere.

15/11/97

The petitioner with enclosures
 dtd 15-11-97

Q. I don't think there was any
 mistake. When it comes to
 B's knowledge in any way - either
 by an inadmissible appeal or not -
 that a Col. has transgressed orders,
 it is bound to interfere & see
 the orders obeyed. Jg

It seems to me that the B's fall into
 the same error as the Col. In if
 there was no appeal to the Col.
 a priori there was none to the
 B's who the stamps were let
 the case run alone as it was
 but preserve whatever the B's
 T.W. is may have been. As the
 Col's order was the equitable disposal
 of the case it is when reported the
 B's altered it. The matter is
 however thoroughly of his knowledge
 & I submit. But the Court interferes
 The his later action allowed to happen
 he pointed out:

15/11/97

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

A A A A A A A

LETTERS OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

N.B.-
 A = Copy in full.
 B = Not to be copied.
 P = Copy abstract only.
 Q = Copy heading only.