

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 217

DATED 15th Aug 1897

[Despatch Abstract.]

Stating that the Govt is not satisfied that there has been any material error in the appor'iment of the assessment and declining to interfere on behalf of the petitioners Messrs Bunder Bros & Co.

BACK PAPERS.

G.O.	No.	Department.	Date.

G.O.	No.	Department.	Date.

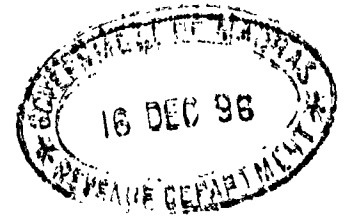
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FURTHER PAPERS.

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Revenue (189.6) Department.

CURRENT No. 9250



From
The Board of Revenue, India
Revenue, Madras.

No. ~~5584~~ 5504 NISC.

Dated ~~10th~~ 11th December 1896.

Dated 10th December 1896.
Received 16-12-96

Received 10-1-1965
Registered 11-1-1965

Enclosures

Spare copies

SUBJECT.

Submitting to Govt. report on the
appeal preferred to it by Messrs.
Borden Brothers & Co. in the matter
of the apportionment of police
between the Chinchinda and Chan-
doparru villages, Godavari District.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.



To

His Excellency the Right Hon'ble
SIR ARTHUR ELIBANK HAVELOCK, KT., G.C.I.E.,
GOVERNOR AND PRESIDENT IN COUNCIL,
AND THE HON'BLE THE MEMBERS IN COUNCIL OF
FORT SAINT GEORGE.

PETITION
0876
REVENUE DEPT.

The humble petition of BOWDEN BROS. & Co. in Liquidation.

RESPECTFULLY SHEWETH,

That your petitioners present this humble petition to Your Excellency in Council, praying Your Excellency in Council to exercise the powers conferred on Your Excellency in Council by Madras Act I of 1876 (Separate Assessment), Section 8, on the ground that in the case of the present petitioners there have been material errors in the apportionment of the separate assessment of their lands, which call for re-adjustment. The admitted facts in the case of Your Excellency's petitioners are as follows:

2. In 1867, the petitioners purchased from Khandakuri Borrayya Bhushana Rao by a Conditional Deed of Sale, which became absolute in 1868, the *village* of Chandaparru, part of the Ellamunchili Muttah in the Narsapur Taluq of the Godavari District. By private arrangement it was then agreed that the proportion of peishcush payable by Chandaparru should be Rs. 368 with the *proviso* that the petitioners should, when the then contemplated sub-division of the Ellamunchili Muttah was effected, pay whatever amount was assessed on the *village* in such sub-division.

3. In 1871, the proposed sub-division took place, the Muttah being divided into five estates, one of which was the *estate* of Chinchinada consisting of the *village* of Chinchinada, the assets of which were entered as Rs. 1,453-7-1 and the *village* of Chandaparru the assets of which were entered as Rs. 697-2-0. The *estate* of Chinchinada was registered in the name of Khandakuri Borrayya Bhushana Rao and assessed at Rs. 1,651-10-5 peishcush, but the assessment on each *village* was not separately entered in the Register. Subsequent surveys show that the area of Chinchinada *village* is 1,130 acres and of Chandaparru 804 acres, while as to the quality of the land the advantage is in favour of Chinchinada which contains a much larger proportion of garden cultivation than Chandaparru.

4. In 1871, Khandakuri Borrayya Bhushana Rao informed Your Excellency's petitioners that the *village* of Chandaparru had been sub-divided from the *village* of Chinchinada, the peishcush on the former being settled at Rs. 526-2-9, which sum he claimed and the petitioners paid for that year; but in 1872 they refused to pay the increased amount except on production of official documentary proof of the separate assessment of the *village* of Chandaparru. On this Khandakuri Borrayya Bhushana Rao applied to the Deputy Collector of

Narsapur Taluq for the required documentary proof, and the then Deputy Collector issued Order No. 103 of 14th November 1872 (Exhibit I) the assessment in which was based on the accounts for twelve years on which the Muttah of Ellamunchili was sub-divided in 1871. This order Khandakuri Borrayya Bhushana Rao produced as proof of the separate assessment of the *village*; it was accepted as such by your petitioners who paid the increased peishcush direct to Government for upwards of twenty years. The Revenue Authorities also accepted the Order of the Deputy Collector in 1872 as a separate assessment of the *village*, collecting Rs. 526-2-9 from the petitioners as the peishcush due on Chandaparru, and in cases of arrears issuing Zuft notices (*see* Exhibit M) on your petitioners for any balances of this amount that were due. Subsequently the amount was reduced to Rs. 523-4-0 as some lands were taken up for Government purposes. Later, when Local Cist was levied, the amount payable by Chandaparru was separately assessed on Rs. 523-4-0 in proof of which your petitioners beg to enclose letter from the Deputy Collector of Narsapur to Mr. E. S. Bowden, No. 140 of 15th December 1887 (Exhibit X). The Zuft notices above referred to could not have been issued and separate assessment of Local Cist could not have been made unless it had been accepted that the *village* of Chandaparru was separately assessed.

In further support of this contention that the apportionment made by the Deputy Collector in 1872 was recognized and acted on by the Revenue Authorities, Your Excellency's petitioners beg to refer to Letter No. 140 of 15th December 1887 (Exhibit X) from the Acting Deputy Collector of Narsapur, mentioning that the peishcush of the *village* of Chandaparru was Rs. 523-4-0. The petitioners respectfully submit that it would have been impossible to arrive at any such figure unless it was considered that the village had been separately assessed.

5. In the belief that the Order of the Deputy Collector (Exhibit I) fixed the peishcush of Chandaparru at Rs. 526-2-9, Your Excellency's petitioners have expended large sums of money in the improvement of Chandaparru from which the Government derives great benefit as is shown by the fact that the water-tax on Jerioti and Assalaminaha which in fusli 1282 amounted to Rs. 398-14-1, in fusli 1304 amounted to Rs. 1,117-15-5. Up to fusli 1301, Chinchinada paid no water-tax, and the petitioners have no information as to whether anything has been paid since that date. Your Excellency's petitioners beg to submit *inter alia* that it is unjust to them to tax improvements effected by them, in the belief that the action of the executive was in order, for the benefit of a neighbouring proprietor who has apparently done nothing to improve his property.

6. In 1878, the *village* of Chinchinada was mortgaged by Khandakuri Borrayya Bhushana Rao to Alluri Vencataragavarazu, the deed stating that the peishcush was Rs. 1,125-7-8 (*see* Exhibit N) which sum was paid by him and his undivided relative Alluri Sitaramarazu direct to Government until 1885, when the latter purchased the *village* and applied together with the vendor for its registration in his name; but no request was made in these applications for separate assessment, the reason being that it was understood by all parties that this had already been effected, and that Chinchinada *village* was separately assessed in the sum of Rs. 1,125-7-8. On these applications an irregular and ambiguous entry was made in the Register (Exhibit G) which, it is now contended by the Revenue Authorities, had the effect of transferring the *estate* instead of the *village* of Chinchinada to Alluri Sitaramarazu, but Your Excellency's petitioners beg to submit that a more reasonable construction of this entry would be to regard it as a transfer of the *village* of Chinchinada assessing it at Rs. 1,627-13-0 peishcush. The entry in the Register is signed on behalf of the vendee, but not on behalf of the vendor. However the entry may be read, it expunges the *village* of Chandaparru, and the name of Khandakuri Borrayya Bhushana Rao as a Registered proprietor, from the Register.

7. Alluri Sitaramarazu and Your Excellency's petitioners continued to pay peishcush on their respective *villages* Chinchinada and Chandaparru at the rates at which they understood them to be separately assessed, *viz.* Rs. 1,125-7-8 on Chinchinada and Rs. 523-4-0

on Chandaparru till 1893. In 1890 the mistake made in the Collector's office in the Register No. 2 of 1886 (Exhibit G) was discovered and steps were taken apparently with the intention of correcting it, but the petitioners beg to submit that the entry made in the Register No. 4 of 1893 (Exhibit H) only complicates matters instead of rectifying the mistake, as it purports to be a transfer of the *village* of Chinchinada from Khandakuri Borrayya Bhushana Rao to Alluri Sitaramarazu with a separate assessment of Rs. 518-5-0, though at that time Khandakuri Borrayya Bhushana Rao's name was not in the Register as a proprietor, while Chinchinada either as a *village* or as part of the *estate* of that name was already registered in the name of Alluri Sitaramarazu. The application for this transfer is not entered in the Register nor is the name of the applicant given, but the date of the application is entered as 15th January 1893; which is the date of an application by Alluri Sitaramarazu applying under the orders of the Collector for apportionment of peishcush, which apportionment was opposed by Khandakuri Borrayya Bhushana Rao the vendor on the ground that the peishcush had already been separately assessed and by your petitioners as proprietors of Chandaparru. Neither vendor nor vendee signed this entry in the Register.

8. The *village* of Chandaparru has not been restored to the Register nor does the amount of assessment thereon appear in it. In support of this statement Your Excellency's petitioners beg to enclose Letter No. 159 of 25th June 1895 (Exhibit Y) from the Collector in reply to one from them asking for extracts of any entries in the Register, subsequent to No. 4 of 1893 (Exhibit H) affecting the *village* of Chinchinada ^{and} or Chandaparru. In 1893 a demand was made on your petitioners for Rs. 1,109-8-0 as peishcush due on Chandaparru, which sum corresponds with the amount assessed on the *estate* of Chinchinada when it consisted of the two villages after deducting Rs. 518-5-0 the amount assessed on the *village* of Chinchinada by the entry in the Register of 1893 (Exhibit H).

9. The proceedings leading directly to this demand were, it is humbly submitted wholly irregular. They purport to be taken under the provisions of Madras Act I of 1876, but the provisions introduced into that Act for the purpose of protecting persons in the position of Your Excellency's petitioners have been wholly neglected. These proceedings commenced by the Publication in the *Godavery District Gazette* of the notice filed herewith as Exhibit A. This notice was first published in the issue of 1st June 1893, and continued to be published as late as 1st August 1893. It states that there had not been a *proper* apportionment of peishcush in 1886, thus admitting the previous irregularities; and, as required by the Act, allows two months from the date of the notice for the purpose of showing cause. Your Excellency's petitioners as "persons interested in the Estate", (*vide* Section 2 of the Act), duly and within the sixty days petitioned the Collector on 19th July 1893, but this petition was rejected on the ground that the apportionment had been approved and sanctioned by the Board on the 12th of the same month of July, *vide* Board's Proceedings No. 407 of 12th July 1893 (Exhibit C). Your petitioners were thus, in direct violation of the provisions of the Act, prevented from laying their case before the Collector; and thus Your Excellency's petitioners humbly submit the whole proceedings were bad *ab initio* and ought to be re-opened.

10. In reference to this objection the Board of Revenue in their Proceedings No. 15 of 18th January 1895 on p. 11, para. 7, state 'This objection is untenable, as the Collector reports that though the notice was issued on the 1st June 1893 and the Board's sanction was applied for on the 25th idem, the apportionment sanctioned in Board's Proceedings No. 407 of 12th July 1893 was not declared and given effect to until the 24th August.'

Your Excellency's petitioners beg to submit that the date on which the confirmation by the Board of the apportionment was declared and given effect to has no bearing on the legality or validity of an apportionment made and confirmed in contravention of the Act under which it purports to be made and confirmed. Moreover the statement of the Board that the apportionment was not given effect to until the 24th August is clearly incorrect inasmuch as the petitioners' petition of 19th July 1893, above referred to, was rejected, and they were refused any *locus standi*, on the very ground that the Board's approval was final; so that the

apportionment was given effect to, to the extent at least of refusing to entertain any objections, although such objections were lodged within the time required by the Act. Further under the Act the Collector should not commence his enquiry until the expiry of the said sixty days; but he must have commenced and concluded it *ex parte* as against the petitioners before the Board's confirmation could be applied for.

11. On the 14th November 1893, Your Excellency's petitioners appealed to the Board of Revenue (Exhibit S) against the new demand on the ground *inter alia* that the apportionment was invalid and illegal because it was not made in accordance with the provisions of Act I of 1876. The Board of Revenue in their Proceedings No. 15 of 18th January 1895 (Exhibit T) upheld the legality and validity of the said apportionment but reduced the amount assessed on Chandaparru to Rs. 845-11-7. Such order being final the petitioners are thus compelled to appeal to Your Excellency in Council under Section 8 of Act I of 1876 for re-adjustment on the ground of material error.

12. An irregularity so gross as that just detailed, affords, as Your Excellency's petitioners respectfully submit, sufficient ground for Your Excellency's interference, but further serious irregularities can be pointed out.

13. Thus, the accounts used as the basis for the apportionment on sub-division were, for Chandaparru, those of Your Excellency's petitioners supplied under protest as, though claiming proprietorship, they are not Registered proprietors; and for Chinchinada, the accounts of Alluri Sitaramarazu for a period during which he was not the landholder of that village and did not even claim proprietorship. Neither the petitioners nor Alluri Sitaramarazu were for fiscal purposes "landholders" under Section 45 of Act II of 1864 as defined by Section I of the same Act. The petitioners beg to point out that they believe there is no Act or Regulation which authorizes the Revenue Authorities to call for and act on, for sub-division purposes, the accounts of any one but the "landholder" of a permanently settled Estate. The Board in their Proceedings No. 15 of 18th January 1895 in para. 9 of p. 11 while overruling your petitioners' objection does not quote any authority for so doing.

14. Again the vendor did not concur in the application of the vendee, dated 15th January 1893, on which the entry of 1893 in the Register (Exhibit H) was made; although, such concurrence is necessary under the provisions of Section 2 of Act I of 1876. In reference to this objection the Board states in para. 8, page 11, that the Collector 'only carried out in 1893 the transfer of Registry which was applied for in 1886.' This statement is also incorrect as is proved by the following documents:—

Exhibit A which is the notification in the *District Gazette* of 1st June 1893 states that 'whereas an application has now been made by the said Alluri Sitaramarazu Garu for apportionment of peishcush between Chinchinada and Chandaparru, the remaining other village, &c., &c.'

Exhibit H which is extract from the Register No. 4 of 1893 states that the transfer is made on an application, dated 15th January 1893.

Exhibit K is the Collector's (Mr. Happel) Memo. No. 729 of 14th February 1891 to the Deputy Collector of Narsapur, in which he writes: "The Deputy Collector will now be authorized to receive applications for sub-division from Ramarazu and Borrayya Bushana Rao and submit them to this office, &c."

Exhibit V which is the Board's Proceedings No. 1737 of 16th March 1892 disposing of Your Excellency's petitioners' petition of 12th January 1892 states: "That the matter must now be re-opened *ab initio*."

Exhibit W which is the Collector's (Mr. W. B. Higgins) letter to the Board No. 49 of 26th February 1893 states: "There is no formal application for any such apportionment either from Borrayya Bushana Rao or Messrs. Bowden Brothers or Alluri Sitaramarazu and Sitaramarazu alone in his petition, dated 15th January 1893.....approves of the course directed by Mr. Happel."

The above documents prove conclusively that the Collector in 1893 did not act on the applications of 1886, but, on the informal application of the vendee Alluri Sitaramarazu, dated 15th January 1893 and on that only. Your Excellency's petitioners respectfully submit that a sub-division or apportionment made without the concurrence in the application of all the parties to the alienation, is not a sub-division or apportionment made in accordance with the provisions of Act I of 1876 and is therefore illegal and invalid.

15. Your Excellency's petitioners therefore humbly pray Your Excellency in Council to take action under Section 8 of Madras Act I of 1876 and grant the prayers of Your Excellency's petitioners, as follows:—

1. That the apportionment of 1893 be cancelled as illegal and invalid.
2. That the apportionment made by the Deputy Collector in 1872 may be confirmed, as, prior to Act I of 1876, no time-limit was fixed for the confirmation of such apportionments by the Board of Revenue, and no such limit has at any time been fixed for such confirmations by Your Excellency in Council.
3. That if the apportionment made by the Deputy Collector in 1872 cannot be confirmed, Your Excellency in Council will order a fresh apportionment on the same basis, and so do substantial justice to Your Excellency's petitioners.
4. That if neither prayers No. 2 nor 3 can be granted, the Revenue Authorities may be prohibited from using for the purposes of sub-division, Your Excellency's petitioners' accounts, or those of any but the "landholder" in accordance with the provisions of Section 45 of Act II of 1864.
5. That pending the result of this petition the Revenue Authorities may be prohibited from demanding a higher rate of peishcush on the village of Chandaparru than that paid prior to the illegal and invalid sub-division and apportionment of 1893, viz., Rs. 523-4-0.

And Your Excellency's petitioners will, as in duty bound, EVER PRAY.

CHETTIPETT, NIDADAVOL,
GODAVERY DISTRICT,
20th July 1896.

Recd 21/8/96

Bowden Borayya
in sign

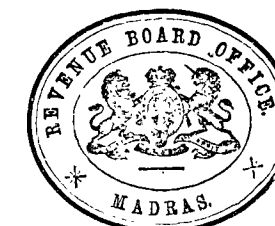
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Proceedings of the Board of Revenue

(Land Revenue)

5504
NO. 5504 Misc. dated 10th December 1893.

Read endorsement of Government, Revenue Department, No. 3585 Misc. dated 7th September 1896, on petition from Messrs. Bowden Brothers & Co. (in liquidation), Godavari District, dated 20th July 1896.

Read Official Memorandum from Government, Revenue Department, No. 257, dated 8th December 1896.

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Resolution.

In the petition received with the endorsement read above, Messrs. Bowden Brothers & Co. request Government to exercise the powers conferred by section 8 of Act I of 1876 in the matter of the ^{apportionment} ~~appointment~~ of peishoush between the Chinchinada and Chandaparru villages of the Chinchinada Estate, Godavari District.

2. The facts of the case are as follow:-
(1) The two villages of Chinchinada and Chandaparru formed a portion of the old Yellamanchili Estate consisting of eleven villages which had been granted by Government to the ancestors of one Handukuri Borrayya Bushana Rao in 1837. Six of the villages subsequently passed away from the grantees' family and the remaining five were divided amongst its members before 1870. Borrayya Bushana Rao to whose share the above-named two villages fell mortgaged Chandaparru to Messrs. Bowden & Co. for Rs. 5500 for 36 years from 1st 1277 (1867-8). The mortgage was to pay a peishoush of Rs. the sub-division based thereon is therefore invalid.

4) In regard to the 4th contention, the Board considers...

EXHIBITS.

A to N and P to R inclusive were sent in to the Board of Revenue in connection with Your Excellency's petitioners' petition, dated 14th November 1893.

NEW EXHIBITS.

- S The petitioners' petition to the Board of Revenue, dated 14th November 1893.
- T Board's Proceedings No. 15 of 18th January 1895 in reply to above noted petition.
- V Board's Proceedings No. 1737 of 16th March 1892.
- W Collector's letter to the Board No. 49 of 26th February 1893.
- X Letter from the Acting Deputy Collector of Narsapur, No. 140 of 15th December 1887.
- Y Letter from the Collector to the petitioners, No. 159 of 25th June 1895.

peishcush as might be made at the then contemplated subdivision of the Yellamanchilli Muttu. The mortgage deed further provided that the net income from the village should be taken towards the repayment of Rs. 5000 out of the mortgage debt and that the balance of Rs. 500 should be repaid with interest in instalments. In case this latter condition was not fulfilled, the village was to be taken as sold absolutely and the mortgagor was to get the village registered in the name of the firm.

(ii) In 1870 the Yellamanchilli Estate was subdivided into five portions and they were registered in the names of the actual owners. One of these was the Chinchinada division consisting of the villages of Chinchinada and Chandaparru and it was registered in the name of Kandukuri Borrayya Bushana Rao. The assets were ascertained for each village separately, but the proportionate peishcush was determined for each division of the estate. The figures for Chinchinada were as under:-

	Assets.	Peishcush
Chinchinada. --- ---	1453-7-1	1651-10-5
Chandaparru --- ---	679-3-0	-

(iii) In 1873 the Deputy Collector of the division replying to a petition presented by Borrayya Bushana Rao informed him that though from the statement submitted with the petition it appeared that the peishcush had been fixed in one lump sum for both the Chinchinada and Chandaparru villages, the portion due on the latter village alone, as calculated with reference to the assets of the villages, came to Rs. 526-3-9. This peishcush was accordingly being paid by Messrs. Bowden & Co. and credited to the Chinchinada Estate account.

(iv) In 1878 the remaining village, Chinchinada, was mortgaged to one Alluri Venkataraghava Razu by a deed of conditional sale and it was ultimately sold absolutely to the mortgagee's nephew Alluri Sitaramarazu on the 15th December 1885. Application was then made by both Borrayya Bushana Rao and the vendor for the transfer of registry of the village

(i.e) the registry of the name of the vendee as proprietor, of the village in substitution for the name of the vendor. By a mistake in the Collector's office the estate was assumed to consist of but a single village and was registered in the name of Alluri Sitaramarazu with a peishcush of Rs. 1327-13-11.

applying to the Board for instructions, he was informed that if the parties had applied for the transfer of registry of only the village sold, the registry of the entire estate in the name of the vendee should be cancelled and the necessary steps taken to register the alienated village in his name and to determine the assessment to be fixed thereon in accordance with the procedure prescribed in Act I of 1876. (B.P.No. 1819 Misc., dated 18th March 1893).

(VI) Alluri Sitaramarazu having applied for the separate assessment of the Chinchinada village, a notice inviting objections was published in the District Gazettes of June, July and August 1896 under Section 2 of Act I of 1876 and Special notices embodying the terms of the Sub-division (viz-the assets as calculated with reference to the rent-value of the three years preceding the date of alienation and the proposed apportionment of peishcush) had also been served in the month of May on the alienor, Borrayya Bushana Rao, and the alienee of the village. On receipt of petitions on the subject from both of the last named parties and from Messrs. Bowden Brothers & Co., the Collector applied to the Board for sanction to the apportionment of peishcush proposed by him and at the same time dealt with the objections urged by Borrayya Bushana Rao and Messrs. Bowden Brothers & Co. Borrayya Bushana Rao had no objection to the registration of Chinchinada village in the name of Sitaramarazu and to its separate assessment, but contended that, as the assets of each of the villages, Chinchinada and Chandaparru, as well as the percentage of peishcush to assets, had been determined in 1870 at the time of subdivision of Yellamanchilli muttu and as the proportionate peishcush on the two villages as calculated with reference to those assets was being paid to Government since 1871, the village of Chinchinada should be registered in the name of Alluri Sitaramarazu with a peishcush of Rs. 1125-10-10 and Chandaparru should stand in his name with a peishcush of Rs. 525-15-7. He further urged that the proportionate peishcush payable on Chandaparru should have been determined with reference to the rent value for which the village had been leased out by him to Messrs. Bowden Brothers & Co., and not with reference to the income derived by that firm. These objections of registration, ignored and the assessment based thereon is therefore invalid.

between the two villages had actually been made or could at all have been made in 1870 owing to the ownership of both the villages having then been vested in the same person-the objector-and as Messrs. Bowden Brothers & Co., were not lessees but usufructuary mortgagees standing in the position of the registered proprietors in regard to the submission of accounts of rent-value. Messrs. Bowden Brothers & Co., on their part urged that under the deed of 1867 referred to in clause (i) above they had become the absolute Proprietors of Chandaparru owing to the non-payment of Rs. 500 in the stipulated instalments and should be registered as such, that the apportionment of polshcush having already been effected in the Deputy Collector's order of 1872, no re-apportionment was called for and that in any case the proposed re-apportionment should not be based on their accounts of rent value so long as they were not recognised as proprietors. These objections were held to be untenable. The status claimed by the firm could not be recognised by the Revenue officers without the consent of the registered proprietor. The Deputy Collector's order of 1872 did not purport to make any apportionment and was also ultra vires, not having been confirmed by the Board. The Board accordingly sanctioned the apportionment of polshcush proposed by the Collector (Vide B.P., dated 12th July 1893, No. 407).

(VII) On the 19th July 1893. Messrs. Bowden Brothers & Co., presented a petition to the Collector urging that the statement furnished to him by the karnam of Chandaparru in regard to the income of that village was not ~~correct~~ ^{correct} in certain particulars and reporting the above mentioned objection that their accounts, on which the karnam's statement was based, were not eligible as the basis of Sub-division, so long as the Firm were not recognised as proprietors. The Collector in his order of 15th August 1893 referred the petition to the Board as the apportionment of polshcush had already received its sanction in Board's Proceedings No. 407, dated 12th July 1893 (Vide Enclosures B & C to the appeal petition).

(VIII) The apportionment of assessment was declared by the Collector and registered in his books on the 24th August 1893, no valid cause having been shown to the contrary. (Para 5 of Collector's

the inaccuracy of the accounts on which the apportionment was based, are dealt with in paras 3 to 11 of Board's Proceedings No. 15, dated 18th January 1895. The petitioner's allegations on the excepted point having been found to be correct, reports were called for from the Collector with the result that the average assets of the two villages were ~~received~~ ^{revised} and the apportionment of polshcush modified in favor of the petitioners as under :-

Average assets of the three families 1892 to 94		Apportionment of polshcush	
as originally adopted by the Collector.	as subsequently revised.	as originally made	as subsequently modified.
Chinchinada 1668-10- 5	1897-12- 5	518- 5- 0	782- 1- 5
Chandaparru 5572- 0- 7	2052- 2-11	1109- 8- 0	845-11- 7
5240-11- 0	3949-15- 4	1627-13- 0	1627-13- 0

3) It is against the Board's Proceedings of January 1895 that the present appeal has been preferred. The petitioners urge that the apportionment of 1893 should be cancelled as illegal and invalid for the following reasons:-

(1) that the rejection of their petition of 19th July 1893 by the Collector on the ground that the Board's approval of his apportionment was final indicates that the enquiry contemplated by Section 2 of Act I of 1876 had been completed ^{24 parts} as against the petitioners before the expiry of the 60 days prescribed in the Act, and that the apportionment had also been given effect to ~~to~~ ^{their} the extent at least of refusing to entertain ^{their} objections presented within time.

2) that the accounts used as the basis of the apportionment are, for Chandaparru, those of the petitioners who are not recognised as proprietors, and, for Chinchinada, those of Alluri Sitaranrao for a period during which he was not the land holder of the village.

3) that the vendor did not concur in the application of the vendee on which the transfer of registry was effected and that the sub-division based thereon is therefore invalid.

4) In regard to the 5th contention, the Board considers

vide para 4 to 10 of the ref. order of 15-10-94, at page 769 of B.P. 15-1-95 & para 12 to 17 of the Poree chuff.

vide para 4 of Reg. 2 of 18 and section 6 of Reg. 26 of 180

of 19th July 1893 which was not before it at the time of sanctioning the Collector's apportionment-viz the inaccuracy of the kurnam's statement-was fully considered by it on appeal and that the petitioners have not been prejudiced by the rejection of the petition by the Collector. The second objection is not sustainable; for in cases where the registered landholders are not in actual possession of their estates, the Collector can only call for accounts of rent-value from the persons who are in possession of the estates on their behalf. Messrs. Bowden Brothers & Co. and Alluri Sitaranarazu were holding the villages of Chinchinada and Chandaparru respectively as usufructuary mortgagees, and the apportionment was rightly based on their receipts, as modified with reference to such of their objections as were found on enquiry to be valid. In regard to the third objection, the Board observes that, in the petitions addressed to both the Collector and the Board, the vendor (Borrayya Bushana Rao) admitted the justice of registering the village of Chinchinada in the name of Sitaranarazu and entering its peishoush separately in the Huzur Register, but only objected to the amount of peishoush to be so entered. The amount of peishoush is required to be determined by the Revenue authorities with reference to the accounts of the three or more years preceding the date of the alienation on which the application for separate registration is based; and the objections of parties thereto, where they are not well-founded as in the present case, cannot but be disallowed.

5.) In conclusion the petitioners request that the apportionment made by the Deputy Collector in 1872 may now be confirmed, as, prior to Act I of 1876, no time limit was fixed for the confirmation of such apportionment by the Board and no such confirmation by Government. The request is inadmissible as no permanent alienation of either of the villages Chinchinada and Chandaparru had then taken place to warrant the Board's confirmation of that apportionment. Messrs. Bowden Brothers & Co. claim to have become absolute owners in 1868, but as Borrayya Bushana Rao contends that he is still the proprietor and that the petitioners are merely mortgagees, the apportionment cannot be confirmed until the petitioners establish their claim in a Civil Court. They were informed to this effect as long ago as March 1892, and their failure to institute a suit till now seems to indicate their intention to abandon their claim.

of the rent value adopted in 1872, cannot also be acceded to for the same reasons.

(True Extract)

Rece

Secretary.

To
The Secretary to Government Revenue Department, with the petition & its Enclosures returned & a file of records to be returned.

Ed. B. H.

Mr. Hon. Mr. J. P. C. D. E.

Prof. Dr. J. P. C. D. E.

The decision of the Board seems to me to be unwarranted by the facts & as the law says it is final & there is no appeal against it. But the firm do not appeal against it, but ask for an order under Sec 8 of Act 1 of 1876. No doubt Govt could order a modification of the apportionment of pethu of material error was shown & I believe that this was laid down very positively in a recent Madras case (Shivapaya, I think: I should like to see the papers) But Govt. material error has been shown & Govt. should not interfere.

29/12/96

C no 9250 of 1096

For orders

Messrs. Boreddy Brothers and Co appeal in the above current against the apportionment of pethu ordered by the Board of Revenue between the Chinchinada and Chaudapannu villages which formed an ^{intermediate} estate in the Godavari district.

2. In 1867 the firm obtained possession of the latter village on mortgage with possession, and its interest in the village ^{still} appears to be that of a mortgagee. In 1885 the other village was sold to one Adilvi Sitarama Rao. This person applied for the transfer of registry, which was ordered in 1893 and the assessment on the two villages was separately fixed as follows:—

Chinchinada Rs 510-5-0 and Chaudapannu Rs 1109-8-0. The firm appealed to the Board and the figures were revised as under: The former village Rs 702-1-5 and the latter Rs 845-11-7.

3. By an agreement with the registered proprietor of the two villages, the firm paid to Govt. an assessment of Rs 360 for some years and from 1871 onwards an assessment of Rs 526-2-9 a year. The amounts fixed by the Board being in excess of the amount paid by the firm, the present appeal has been preferred.

4. The firm's ground of appeal is that the

Board's apportionment is illegal and invalid.
A notice was published in the District Gazette in
June 1893 stating that "separate assessment will
be made unless under S. 2 of Act I of 1876 cause
is shown to the contrary within two months from
the date of this notice" (vide Exhibit A) ~~flagged~~ flagged A

From para 2 (iv) of the current, it appears that
a special notice was served on the vendor in
the preceding month of May. On the 19th July 1893
expir^{ation} of the ~~two months~~ from the date of the
Gazette notice the firm presented a petition to
the colr^s, stating that so long as ^{its} claim to the
proprietorship of the village was not recognized
by the Gov. Officers, its accounts should not be
used for the purpose of fixing the assessment
and that the Karnam's accounts were incorrect.

(Exhibit B). On this the colr^s. passed the following flagged B
order, ~~was passed~~ "No subdivision of the estate
has been approved and sanctioned by the Board
in its Profs 407. If the petitioners are
aggrieved by the apportionment of the assessment
they may appeal to the Board." (Exhibit C). flagged C

The apportionment was given effect to on the 24th
August 1893. No firm contends that these facts
invalidate the Profs ab initio, ^{and that} as it was prevented
from laying its case before the colr^s by its petition
being rejected on the ground that the apportionment
had been approved and sanctioned by the Board.

It will be observed in the firm's plea that the
firm was only interested in the apportionment

Paras 9+10 of petition flagged D

Para 13 of petition
flagged D

Paras 14 ^{of} petition
flagged D

of the assessment, and the colr^s did not state
that the apportionment was approved and
sanctioned. No word used was 'sub-division'
which is entirely different from ~~an~~ apportion-
ment of assessment. No collector's order can only
be construed as not accepting the objections
of the firm and ~~as~~ referring it to the
Board by appeal. The apportionment also,
as a matter ^{of fact}, had been sanctioned by the Board,
but this was provisional and subject to
alteration on ~~the~~ hearing the parties.

5. No firm next contends that the accounts
on which the apportionment was made were
not kept by land holders as defined by Act
II of 1864. My ~~firm~~ ^{firm was} only a mortgagee and
the purchaser of the other village had not
been registered as land holder. This technical
objection was overruled by the Board on the
ground, that when registered land holders
are not in actual possession, the colr^s could ^{call} for
accounts from those who were in possession on
their behalf.

6. No next contention of the firm is that
the apportionment was made solely on the
application of the purchaser, and that the
Vendor did not join therein. The Board pointed
out that the vendor raised no objection to the
separate registry of the village sold or to
the apportionment of the assessment, and
^{objected} that he only to the amount of peshkash on the

village of which he was still the owner. The contention of the firm appears to be invalid also from the facts stated below: — In 1885 when the village of Chinchinada was sold both the Vendor and vendee applied for the transfer of registry of the village. By a mistake the estate consisting of both the villages was registered in the name of A. Sitarame Rao. The mistake was discovered in 1890 and under instructions from the Board the registry was cancelled, and the ~~first~~ joint application of 1886 was disposed of by the sub-division of Chinchinada and its separate assessment.

In 1893 the purchaser of this village submitted a fresh application, which must be treated as a remainder, tho' a reference is made only to the latter application in some accounts in the collector's office.

7. It will be observed from the above that the objections raised by the firm are technical and do not go into the merits — i.e. into the details of the calculation ~~by~~ by which the separate assessments on each village was fixed. Even if a fresh apportionment be ordered, the result can not possibly be different.

8. The second ground of appeal is that an alleged apportionment made in 1872 by a Deputy collector should not be set aside. No fact to which reference is made ~~is~~ ^{is} in 1872 the estate of Chinchinada was sub-~~divided~~

from certain others and the assets of the two villages, of which it was composed, were separately determined. In the agreement between the firm and the registered proprietor of the estate, it was stipulated that Rs 368 should be paid by the firm as the assessment on the village mortgaged to ~~them~~ ^{it} until the proper answer could be ascertained in the sub-division adverted to above. As this was not done, (and there was no necessity for it), ~~then~~ the registered proprietor applied to the Dy collector, ^{whose} order in the matter is abstracted on the margin hereof. It runs as follows: — "Though from the statement received with your assent it appeared that peishkush was in one amount for both the villages of Chinchinada and Chaudaparu, yet if the assets of the villages be taken into consideration, and the peishkush calculated, the peishkush for Chaudaparu comes to Rs 526-2-9. This amount was then forwarded paid by the ~~Sar~~ firm into the Gov. Treasary every year. This was an arrangement between the mortgagor and mortgagee, and cannot be recognised by the Gov. In the first place both the villages belonged at the time to not the same person, the mortgage not being a permanent alienation, and there was no occasion for an apportionment, and the Dy collector, if it was ^{intended to be} an ~~authoritative~~ ^{authoritative}, was invalid

Enclosure D.
Flagged E

NOTE - The estate of the deceased

FOR ORDERS.

The Hon. Mr. Gore C. J. E.

Dr. 15/1

cas. 9250/96.

G. O. No. 2170/15th Jan'y 1897

The Govt. is not satisfied that there has been any material error in the apportionment of the assessment and declines to interfere in the Petri's behalf.

JG
12/11/97

11-1-97

To

Messrs. Bowden Brothers & Co. } with Encl.
The Rev. Dr.

Dec. 19-1-97

Note

With reference to H.M.'s remarks — The Hon. member apparently refers to Govt 1088 of 14-11-91 and 5289 of 12-10-91, the only papers that can be traced on the subject. The rule therein laid down is, however, that in all cases the Board and the Govt. have power

control under Regn. D of 1803.

168
8/1197

18-1-87

When given for copying _____
When copied _____ } 189
When examined _____
When signed _____

READ AGAIN G.O., No. _____
189

CURRENT No. _____

ENCLOSURES TO C. No. _____

ORDERS OF GOVERNMENT

LETTERS OF GOVERNMENT

STATEMENTS WITH DUTTO

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

A A A A A A A

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

Govt. of {189 } Madras.

From

THE FINANCIAL DEPARTMENT,

To

THE *Revenue Dept*

Proceedings, R. No. 29, dated 15 January
1897.

Subject.

Sanctioning proposition statement for the
entertainment of 10 crop dues in the Gajam District

Dr-15/11

G.O. No. 218 of 15. Jan. 1897
Communicated to the Board of Rev

15
15-1-97

To the Board (Settl) Dec. 18-1-97

dis

14/1/95



READ the following paper:—

ORDER, R. No. 29, dated 7th January 1897.

(True Extract.)

To the Accountant-General.

„ Revenue Department-✓

A. S. Hammy
8/6/77
for Chief Secretary.

Paper taken out of the Records from the charge of the Record-keeper.

Regular
Miscellaneous No.

of 189 .

[illegible]