

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 2321

DATED 8th May '97

[Despatch Abstract.]

Requesting that the Govt may be favoured
with the opinion of the Honble the Finance
Secy in regard to the defence of the suit
instituted by the Revenue of Tanks for the
recovery of certain amount of land
tax collected from him.

BACK PAPERS.

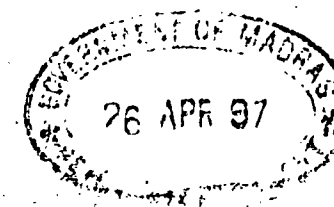
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

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

Revenue (1897) Department.

CURRENT No. 3404



From the Board of Revenue
(Land Revenue)

Order

No. 1448 mis.

Dated 21st April 1897.

Received 26-4-97.

Registered 27-4-97

Enclosures 6

Spare copies

SUBJECT.

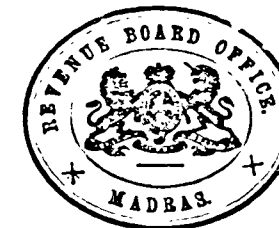
Submitting for the orders of Government with remarks letter from the Collector of Gajam reporting the institution of a suit by the Zemindar of Parla in the District Court, Compulsory, for recovery of certain amount of land cess collected from him and recommending that the opinion of the Advocate General may be obtained in regard to the defence of the suit.

BACK PAPERS.

G.O.	No.	Department.	Date.
80	1626	—	15-5-69
—	1626	—	5-12-5

FURTHER PAPERS.

G.O.	No.	Department.	Date.



Proceedings of the Board of Revenue

(Land Revenue),

Dated 21st April

1897.

No. 1448.

Miscellaneous.

READ

Letter from H. J. Taylor Esq., acting Collector of Gajam, to the Secretary to the Commissioners of Land Revenue, Madras, ref. on C. No. 21 of 1897, dated 23rd March 1897.

Resolution:-

Submitted to Government.

2. The Zemindar of Sarla has instituted a suit against the Local Fund Board of the Gajam district praying for the refund of Rs 1031-4-0 levied from him as land cess due on the villages of Kambatigam, Puttapadu and Chinanchala, and for the payment of interest or damages at the rate of one per cent per mensem from the date of collection.

25/ He alleges that Kambarigam and Kettapadu had been granted as Jaghir villages before the date of permanent settlement, that the 3rd village Chinanchala, was also recently declared by the High Court to have been assigned for the maintenance of certain relatives of the Zamindar before the permanent settlement, and that whether the villages were granted subsequent to the date of permanent settlement, as assumed by the Local Land Board, or before that date, the land cess due thereon should have been levied from the present holders thereof and not from him.

3. The Local Government Pleader, who was consulted in the matter, states that the suit is defensible only in so far as the levy of land cess on the village of Chinanchala, which was described as Jarayaki at the time of the permanent settlement, is concerned, and that the High Court's judgment referred to in the plaint is not binding either on Government or on the Local Land Board as they were not parties to the suit. As regards

26/ 153 regards the other two villages which were described as Jaghir (or Inokhasa) at the time of permanent settlement the Local Government Pleader is of opinion that they fall under the class of Lakhiraj or Jyvanichly assessed lands which were excluded from the permanent settlement under Section 4 of Regulation XXV of 1832, and that the right to fully assess such lands or villages having been reserved to Government under Sections 12 and 13 of the Regulation, the Jaghirdars must be taken to be holding the villages under Government, and to be liable to pay land cess on the villages direct to Government, and not through the intervention of the Zamindar. He adds that the High Court's judgment communicated with Board's Proceedings $\frac{55}{13.2.1897}$ does not give any reasons for the finding regarding the liability of zamindars holding lands from a Zamindar free of rent to pay one half of the local cess under

under Section 73 of the Local Board's Act,
but that it appears, from the circumstances
of the case, to refer only to inams granted
subsequent to and not before the perma-
nent settlement. As the question in-
volved is one of general importance
the Collector suggests that the opinion
of the Law officers of Government may
be obtained in the matter.

4. The Collector quotes B.P. 9052
(relating to the Hattubadi Dakhwas suit)
as laying down that Zamindars possess
a reversionary right to Jaghirs granted
prior to permanent settlement and that
as far as the Gaujam district at any
rate is concerned, the peshtash was based
on a rough estimate of the revenue of the
Zamindaries as a whole, but not upon
any detailed account. The orders of Govern-
ment on this point not being traceable
in his office, the Collector holds that the
question whether the reversionary right to
Jaghirs

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Jaghirs villages granted before the pre-
-sent settlement rests in Government or
in the Zamindar of the estate, in which
they are situated, has not yet been de-
-finitely settled; but, being personally of
opinion that such villages should, ex-
-cept as a matter of grace, revert to Govern-
-ment and not to the Zamindar, he con-
-siders that the only defence to the pre-
-sent suit lies in the position that the
Hattubadi payable to the Zamindar by
the holders of the Jaghirs having been
included in the assets on which the
peshtash was based, the Zamindar is
liable to pay revenue to Government
in respect of the Jaghir villages and, as
such, is a landholder liable to pay land
cess on the Jaghirs within the meaning
of section 3 (XI) of Act V of 1884. Mr. Enfor
requests that the opinion of the Government
pleader may be obtained as to the sustaina-
-bility of this position.

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defended only on the ground urged by the
 Collector. The Honorable Mr. V. Baskinham
 - Ingkar has in another connection given
 it as his opinion that in the case of a
 rent free grant made by the Zamindar
 of Biredi in the Ganjam district before
 the permanent Settlement, land cess on
 the lands granted is by law leviable only
 from the holder thereof or the grantee of
 the lands and not from the grantor. The
 question involved in the present case
 thus resolves itself into this viz whether
 the mere circumstance of the inclusion
 in the assets of the Zamindari of the Kattu-
 - badi or favourable rent on Jaghir villa-
 - ges payable to the Zamindar, makes a
 difference as regards the liability of the
 Zamindar to pay land cess on the village.
 The High Court has held that for the
 purposes of the Rent recovery Act a
 person holding Inam lands, subject to
 payment

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J.L.R. XVI
Madras 40.

payment of Kattubadi to a Zamindar,
is a tenant of such landholder. But
under Section 3(XII) of Act V of 1884, a
tenant is a person who not merely
pays rent to a landholder (as under
the Rent Recovery Act) but also occupies
land under such landholder; and the
question arises whether a Kothasa-
-dar who pays Kattubadi to a Za-
-mindar and can be made to pay the
difference between the full assessment
and the Kattubadi to Government at its
will, can be said to be occupying land
under the Zamindar, until Government
exercises its right to levy full assessment.
As the value of the suit exceeds Rs 1000, the
papers are submitted for the orders of
Government; the question involved being
one of general importance, the Board
requests that the advice of the Hon:
the Advocate General may be obtained
in

in regard to the defence of the suit, of
which the first hearing has been fixed for
June. 1-97.

/ True extract /

Deputy
Secretary.

To
The Secretary to Govt., R.D.,
with Collector's letter and its
five enclosures in original
to be returned.

The Collector of Gaujans.

Not
The B

Read Cuo. 3464 of 1897

G.D. v. Ho. 23218/8th May 97.

The Hon. Mr. Grose C.J.E.

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The Honorable the Advocate General will be requested to favour the Govt with an expression of his views in regard to the defence of the Brit. The 1st hearing has been fixed for the 1st of next month.

4.5.97

AK
4/5/97

To the Hon. the Advocate Genl. List
(thru the Govt. ~~Plunder~~ solicitor)

With copies of fas 1626
6-12-58
364
12-2-69
690
15-3-69

10/5/97

(all to be returned)

Note

The case is fully set out in the Board's Profs. The first hearing has been fixed for the 1st of next month.

7/5/97

5/5/97

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

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READ AGAIN G.O., No.
 189

DATED

CURRENT No.

0

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

IN OF GOVERNMENT.

STATEMENT WITH DITO.

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 IN ORIGINAL

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