Revenue (1898) Department.

PRESS SERIES.

G.O., No. 160–1

Dated 18th March 98

[Despatch Abstract.]

Darkhast

Ordering that the memorials from one Tirumala Chari of Madura regarding his ? case be forwarded to the Govt. of India.

BLOCK PAPERS.

G.O.	No.	Dated	Init.	G.O.	No.	Dated	Init.

PUTTEDDI PAPERS.

G.O.	No.	Dated	Init.	G.O.	No.	Dated	Init.

Revenue (1897) Department.

CURRENT No. 1013

Order

From The Collector of Madura

Dis. No. 4804 of 97

Dated 21st December 1897

Received 24

Registered

Enclosures 1 bile (26)

Spare copies

SUBJECT.

Submitting report called for in the Roc of the Madras Govt. No. 1400 Dis of 13 March 1897 on the petition of Thirumalachari of Nallurkadu to the Government of India re Durkast

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Madras 14th December 1896

CHIEF SECRETARIAT
17 DEC 1896
GOVERNMENT OF MADRAS

The Local Government Madras

PETITION

1018

REVENUE DEPT

GOVERNMENT OF MADRAS
17 DEC 96
LEGISLATIVE DEPARTMENT

The humble Petition of Tirumalay auchary a Hindu inhabitant residing at No. 26. Vathiar Canda Pillay street Choolay Madras.

Sheweth

That your Petitioner hereunto enclose the Petition to His Excellency the Right Honorable Governor General in Council, and other documents as required by your said Endorsement and humbly pray that the Local Government of Madras will be graciously pleased to transmit the same to His Excellency the Right Honorable Governor General in Council and favour the Petitioner with an Endorsement of the same.

With reference to your Endorsement No. 2244 R. requiring the Petitioner to attest his signature in all the accompanying documents and to insert a Specific prayer.

For which act your Petitioner as in duty bound

Will Ever pray

T. Tirumalay auchary

Dis. No. 480.

Madura Collector's office
Madura 21st December 1897.

From

J. Twigg Esquire
Collector of Madura.

To

The Secretary to Government
Revenue Department
Madras.

Sir,

With reference to G.O dated 13th March 1897, No. 1400 Dis requesting me to submit a brief report on the petition of Sirumalachari of Nallurkadu I have the honor to report as follows.

2 The land referred to by the petitioner is 2.50 acres of forest land in Field No 462 of Periyar village in the Lower Palnis. The petitioners' brother, Ramatchi Asari (since deceased) and one Peraandi Kerudi of Nallurkadu jointly applied for the land on the 10th March 1880 for the cultivation of cardamum. Two more applications were put in for the same land by Pulangattan Nadan and another on the 5th May and the 15th August 1880 respectively. These applications were allowed to lie over pending completion of Survey of the hill villages and as the

e Government order prohibiting the alienation of Forest land was then in force.

3 The darkhast land was however entered upon and cultivated by Pulankatha Nadan and in 1883 penal assessment was inflicted & collected from Pulankatha Nadan as he was reported to be the occupier of the land.

4 The darkhastdar Kamatchi Asari died in 1883 and his brother, the petitioner, and his mother had ever since been petitioning the Collector, the Board and the Government to have the land registered in his or her name. On rejecting his petitions to the Board, the Board in its Proceedings dated 24th June 1889 No. 3728 ordered a final disposal of the claims put forth by the petitioner as the prohibitive order in respect of any further land on the Pahis had been withdrawn.

5 The assignment of the darkhast land was at first prohibited as it was believed to lie within the Forest Reserve and the fact was stated in this office letter No. 187 dated 12th May 1890 to the Board. The District Forest officer to whom the Board's Proceedings No. 3429 Dis, dated 4th June ... passed thereon prohibiting the assignment of the land on patta was communicated, reported in his letter No. 1219 dated 23d August 1890 that the land was not within the Forest Reserve and that the statement that it formed part of a forest reserve was incorrect.

6 Several petitions were received from Tirumalachari regarding his darkhast in this office and they were all referred to the Sub Collector for disposal. The Sub Collector called for a report from the Deputy Tahsildar of Kodaikanal in June 1893. The Deputy Tahsildar in his cirzi No. 161 dated 4th December 1893, reported that the petitioner's brother had neither patta nor adjacent land, that he was a settler in the village a year before the date of his darkhast application, that Pulankatha Nadan had adjacent land, that the land in question was therefore assigned to him and patta issued to him by the Settlement Department, that the land was never cultivated by

the Government [illegible]
of the petitioner's brother as alleged by
the petitioner and that the petitioner's
petitions might be dismissed. The
Sub Collector accordingly dismissed
the petitions.

7 The petitioner appealed to me
against this order of the Sub Collector
on the following grounds:—

(1) That under the durkhast rules
prior applicants should have the
preference in the absence of privileged
persons and that as petitioner's brother
was the prior applicant, the land
should be assigned to him.

(2) Pulankatha Nadan whose
durkhast application was long
subsequent to the petitioner's was
neither a ryot nor an adjacent
landholder.

(3) Pulankatha Nadan had no interest
in any landed property in the village
at the time of his application.

(4) No ryot in the village objected
to the assignment of the land to
petitioner's brother.

8 Puttah had been given to Pulankatha Nadan and
an appeal to the Sub-Collector was decided against petitioner.
I dismissed the appeal as there is no second appeal in durkast cases.

9 I regret the delay in the submission of this report. The records of
the case called for from the Sub Collector
have not yet been received and they still
appear to have been mislaid somewhere
between the offices of the Sub Collector
and the Deputy Tahsildar of Kodaikanal
as I reported in my letter dated 29th
August 1897, Report No 197. This
report is based on a memo setting
forth the facts of the case, prepared
in my office for orders being passed
on the appeal of Tirumalachari to
this office referred to above.

10 The petitions and its enclosures
are returned.

I have the honor to be,
Sir
Your most obedient servant

Chairman M.C.

Dr S
18.

for Collector
W.12-8-97

O/18 4,000—19-7-97.

Revenue (1898) Department.

CURRENT No. 614

From Tirumalai Ruchari
Madras.

Order

No.

Dated 19 Jany.
Received 21 "
Registered 24 "
Enclosures /
Spare copies.

SUBJECT.

Praying that the accompanying memorial in addition to the one of the 7th December 1896 may be forwarded to the Govt. of India.

BACK PAPERS.

G.O.	No.	Department.	Date

FURTHER PAPERS.

G.O.	No.	Department.	Date.

PETITION

No. 3078 Madras 19th January 1898.

To REVENUE DEPT.

The Local Government
of Madras

CHIEF SECRETARY 20 JAN. 1898 GOVERNMENT OF MADRAS

The humble Petition of Perumalai
Reddiar residing at No. 126
Vathiar Coudaddy Street
Choolay Madras.

Sheweth

That your humble petitioner humbly request that the accompanying Memorial be added with the Memorial dated 7th December 1896 and that the same be forwarded to the Government of India.

That your petitioner further request that his Memorial be forwarded as early as possible to the Government of India.

And your petitioner as in duty bound will ever pray.

Perumalai Reddiar

C.No. 11013 of 1897 & 617 of 1898

Secy

Please see note under G.O. No. 1400 dt 13-3-97 and the Hon. member's remarks thereon. The first paper referred to above contains the report called for from the Collector of Madura in that order.

The accompanying draft letter to the Govt of India is submitted for approval.

C.P.
24 Feb 98.

Hon.

Please see draft letter for approval.

26/2/98

Issue with H.S. addition in para 2

10/3/98

Read C. nos 11013 of 97 & 617 of 98

No 160 of 18th March 1898.

L. O. (Issued)

Ordered that the memorials be forwarded to the Government of India and that the memorialist be informed of the same.

To The petitioner 28/3/98

Letter No 161

To

The Secretary to the Govt of India
Revenue & Agri Dept.

Sir,

I am directed to forward for the orders of the Government of India the accompanying memorials addressed to His Excellency the Governor-General in Council by one Timmalachari of the Madura district, in which he prays that a piece of land measuring 2·58 acres

B&R 11/4/98

JG 2/3/98

See note on page 6 B&R 10/3/98

Keep with 2 memorials & reply 28/3/98

in Perinjur village, Palani taluk, Madura District, which was applied for so far back as 1880 by his undivided brother Ramatchi-achari, since deceased, may be granted to him.

2. The facts of the case are briefly these. The memorialist's brother and another jointly applied for the land referred to, in March 1880, while one Pulaniathia Thadan and another severally applied for the same land in May and August respectively of the same year. The applications were allowed to lie over pending the completion of the survey of the Hill villages in the Palani taluk and the constitution of the forest reserves. In the meantime the land was entered upon and cultivated by Pulaniathia Thadan and from which a penal rent was collected from him. When the villages were surveyed and settled, the land in question was assigned and a patta issued by the Settlement Department to Pulaniathia Thadan who was an adjacent land holder. The memorialist then presented an appeal to the Sub-Collector, but that officer on enquiry found that the memorialist's brother had settled in the village only a year before the date of his application, that he had no adjacent land and was not cultivating land in the village, and that he never cultivated the land in question as alleged by the memorialist and accordingly dismissed the appeal. The memorialist subsequently appealed to the Collector of the district, the Board of Revenue and the Government, who all declined to interfere with the orders of the local authorities. I am now to say that His Excellency the Governor in Council has no recommendation to make on behalf of the memorialist.

3. In this connection I am directed to invite attention to the correspondence ending with Sir E. C. Buck's letter no. 193-1-86 Rev 28-4-87 and to re-open the question whether memorialist addressed to

Please see Madura Collector's letter dy 21-12-97 - No. M under G.O. 1101 3/97.

× in L.O. 488/17-5-87 Rev C.

addressed to the Government of India in cases of this nature should continue to be transmitted. Since the date of that letter, the Standing orders of this Government on the subject of the disposal of ~~Landhasts~~ applications or "darkhasts" for land for the purpose of cultivation, have been revised. Applications for land, can best be dealt with by officers ~~who possess~~ local knowledge ~~of the~~ ~~Persons applying~~ ~~to make~~ ~~any use of the grant, it is necessary~~ ~~that they must have a knowledge~~ ~~of the finality of the grant~~. His Excellency the Governor in Council ~~has approved the~~ ~~accordingly laid down~~ as a hard and fast rule that in all cases of "darkhast" only one appeal ~~shall~~ ~~lies~~ be allowed - ie from an original order passed by the Talukdar ~~to~~ the Revenue Divisional officer; ~~from~~ the Divisional officer to the Collector; ~~&~~ from the Collector to the Board of Revenue. As ~~no~~ original order ~~pass~~ of "darkhast" can ~~be~~ ~~an original order~~ be passed by the Board of Revenue, ~~it follows from~~ ~~the above ruling that~~ no appeal lies to

G.O. 943 / 3.11.93 Flag D.

of the circs - In this case

In order to secure the earlier finality of the grant

if the order is that of

the Divisional officer to the Collector; similarly from the Collector to the Board of Revenue

para 15 of S.O. No 30 N.E.

lies to the Government in such cases. These orders have been in force since 1893 and all appeals preferred to Govt in cases of this nature ~~have been~~ rejected as a matter of course. If ~~in~~ such circumstances ~~it had been~~ that memorials to the Govt of India should be transmitted, it would amount to this, as in the present instance, that while the second, third and fourth appeals addressed to the Collector, the Board of Revenue and the Local Government respectively are rejected as inadmissible, a fifth appeal to the Government of India is open to the petitioner. This would ~~be an anomaly and would~~ practically render the orders of this Government nugatory. Nor would the case of ~~any~~ ~~orders~~ effect of any orders which the Government of India ~~should~~ ~~may~~ hold in such a case pass in favour of the memorialist ~~unless such a case~~ ~~is proved to the satisfaction of~~ ~~this Govt~~ that the expiry of a certain period after the appeal time or the disposal of the appeal, if one is presented, the land ~~should be~~ registered in the name of the successful applicant ar

and a patta granted to him; and it has been held by the High Court* ~~of Judicature~~ at Madras that a patta regularly granted, cannot be cancelled ~ unconditionally once granted, ~~and the person~~ cannot be ousted ~~at the person~~ put in possession under ~~the patta granted to him~~ it, unless it can be shewn that the patta has been obtained by fraud.

4 I am in the foregoing circumstances to request that His Excellency the Governor General in Council will be pleased to reconsider the ruling contained in Sir E. C. Buck's letter quoted above and to authorize this Government to withhold the transmission of memorials of this nature addressed to him. I am to add that in reply to an exactly similar reference made to the Right Honourable the Secretary of State for India, that authority intimated that memorials of the class referred to might properly be withheld under rule XII clause 3 of the memorial rules, which corresponds ~~exactly with~~ Rule 3, clause c of Section III of the Rules which govern

* Indian Law Reports. Madras. XII. p. 404.

vide also B.P. under G.O. No 6201 dy 14.10.90 Mag C.

+ I would suggest the insertion of the words "and unconditionally" after "regularly".

B.S.H.

× L. O. 694/18.6.80 Ex.

× L. O. 851/30.10.90 M.

CR. 24 Dec 98.

govern the transmission of memorials addressed to ~~the Local Govt~~ the Local Govt of India; but ~~that~~ the Government has so interpreted this rule as to preclude its applicability to a memorial of a nature of that under consideration vide letter in the Foreign Department No 2757-1-F 18.8.90 and letter in the Revenue and Agricultural Department No 1077-1-55 R dy 3.10.

S/S

28/12/98

Government (1898) of Madras.

REVENUE.

Recd.
Regd. } 1898.

Enclosures
Spare copies

G.O., No. 160, 18th March 1898.

MARCH.

Darkhast.

Ordering that the memorials from one Tirumalachari of Madura regarding his — case be forwarded to the Government of India.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again G.O., Mis. No. 1400, dated 13th March 1897.

Abstract.—Forwarding to the Collector of Madura for report petition from Tirumalachari regarding his darkhast case.

Read—letter from the Collector of Madura, dated 21st December 1897, Dis. No. 4804.

Abstract.—Submitting report called for in the Proceedings of the Madras Government, Mis. No. 1400, dated 13th March 1897, on the petition of Tirumalachari of Nallurkadu to the Government of India regarding darkhast.

Read—petition from TIRUMALACHARI of Nallurkadu, dated 19th January 1898.

Abstract.—Praying that the accompanying memorial, in addition to the one of the 7th December 1896, may be forwarded to the Government of India.

Order—No. 160, Revenue, dated 18th March 1898.

Miscellaneous.

Ordered that the memorials be forwarded to the Government of India and that the memorialist be informed of the same.

(True Extract.)

(Signed) G. S. FORBES,
Ag. Secretary to Government.

To the Petitioner.

Exd. Shaik Karim.

15 Copies.

1898.

DEPARTMENT OF REVENUE AND AGRICULTURE.

From

The Government of Fort St. George.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

Letter, No. 161, 18th March 1898.

MARCH.

Forwarding, with remarks, memorials from one Tirumalachari regarding the grant on patta of a piece of land in Madura and re-opening the question whether memorials of this class should in future be transmitted.

REVENUE DEPARTMENT.

From

The Hon'ble Mr. G. S. FORBES, I.C.S.,
Ag. Secretary to the Government of Madras,
Revenue Department,

To

The SECRETARY to the GOVERNMENT of INDIA,
Revenue and Agricultural Department,

Dated Fort St. George, 18th March 1898.

Sir,

I am directed to forward, for the orders of the Government of India, the accompanying memorials addressed to His Excellency the Governor-General in Council by one Tirumalachari of the Madura district, in which he prays that a piece of land measuring 2·58 acres in Periyur village, Palni taluk, Madura district, which was applied for so far back as 1880 by his undivided brother Kamatchiachari, since deceased, may be granted to him.

Miscellaneous.

2. The facts of the case are briefly these: The memorialist's brother and another jointly applied for the land referred to, in March 1880, while one Pulankatha Nadan and another severally applied for the same land in May and August, respectively, of the same year. The applications were allowed to lie over pending the completion of the survey of the hill villages in the Palni taluk and the constitution of the forest reserves. In the meantime, the land was entered upon and cultivated by Pulankatha Nadan and a penal rent on it was collected from him. When the villages were surveyed and settled, the land in question was assigned and a patta issued by the Settlement Department to Pulankatha Nadan, who was an adjacent landholder. The memorialist then presented an appeal to the Sub-Collector, but that officer, on enquiry, found that the memorialist's brother had settled in the village only a year before the date of his application; that he had no adjacent land and was not a pattadar in the village; and that he never cultivated the land in question as alleged by the memorialist and accordingly dismissed the appeal. The memorialist subsequently appealed to the Collector of the district, the Board of Revenue and the Government, who all declined to interfere with the orders of the local authorities. I am now to say that His Excellency the Governor in Council has no recommendation to make on behalf of the memorialist.

3. In this connection, I am directed to invite attention to the correspondence ending with Sir E. C. Buck's letter, No. 193—1-86-R., dated 28th April 1887, and to re-open the question whether memorials addressed to the Government of India in cases of this nature should continue to be transmitted. Since the date of that letter, the standing orders of this Government on the subject of the disposal of applications or "darkhasts" for land for the purpose of cultivation have been revised. Applications for land can best be dealt with by the officers who possess local knowledge of the circumstances. In this view, and in order to secure the earlier finality of the grant, His Excellency the Governor in Council has approved it as a hard and fast

rule that in all cases of "darkhast" only one appeal shall be allowed, *i.e.*, from an original order passed by the Tahsildar there shall be an appeal to the Revenue Divisional officer; and if the original order is that of the Divisional officer, from him to the Collector; and similarly from the Collector to the Board of Revenue. As no original order in a case of "darkhast" can be passed by the Board of Revenue, no appeal lies to the Government in such cases. These orders have been in force since 1893 and all appeals presented to Government in cases of this nature are rejected as a matter of course. If in such circumstances memorials to the Government of India should be transmitted, it would amount to this, as in the present instance, that while the second, third and fourth appeals addressed to the Collector, the Board of Revenue and the Local Government, respectively, are rejected as inadmissible, a fifth appeal to the Government of India is open to the petitioner. This would practically render the orders of this Government nugatory. Nor would it be easy to give effect to any orders which the Government of India should in such a case pass in favour of the memorialist inasmuch as on the expiry of a certain period after the appeal time or on the disposal of the appeal, if one is presented, the land is registered in the name of the successful applicant and a patta granted to him; and it has been held by the * High Court at Madras that a patta once regularly and unconditionally granted cannot be cancelled or the person put in possession under it ousted, unless it can be shown that the patta has been obtained by fraud.

* I.L.R., Mad., XII., p. 404.

4. I am, in the foregoing circumstances, to request that His Excellency the Governor-General in Council will be pleased to reconsider the ruling contained in Sir E. C. Buck's letter quoted above and to authorize this Government to withhold the transmission of memorials of this nature addressed to him. I am to add that in reply to an exactly similar reference made to the Right Honourable the Secretary of State for India, that authority intimated that memorials of the class referred to might properly be withheld under Rule XII, clause 9 of the memorial rules, which corresponds with Rule 3, clause 12, of section III of the rules which govern the transmission of memorials addressed to His Excellency the Governor-General in Council; but the Government of India have so interpreted this rule as to preclude its applicability to memorials of the nature of that under consideration—*vide* letter in the Foreign Department No. 2757-I., dated 18th August 1890, and letter in the Revenue and Agricultural Department, No. 1077—1-55-R., dated 3rd October 1890.

I have the honour to be,
Sir,
Your most obedient servant,

(Signed) G. S. FORBES,
Ag. Secretary to Government.

Exd. Shaik Karim.

50 Copies.

Declared for signature.

Despatched in print.

Order of Government

Letter of Government

Despatched with notes.

Proof not fixed up, being made for despatch in Galley.

Notes:—