Bombay (1238) Department.

PRESS SERIES.

G.O., No. 172

Dated 22 March

[Despatch Abstract.]

Refund of the Surplus sale-proceeds of impounded Cattle.

Forwg., in modification of G.O., No. of 12-8-89 to the Bd. of Rev. for information & issue of the necessary instructions, the opinion of the Advocate-General explaining the circumstances under which - may be ad

BACK PAPERS.

Con.	No.	Enclosures.	Date.	Con.	No.	Enclosures.	Date.

SUBSEQUENT PAPERS.

Con.	No.	Enclosures.	Date.	Con.	No.	Enclosures.	Date.

Revenue (1898) Department
Current No. 1818.

G.O. 6th Feb 19-2-98
G.O. 6th Feb 12-2-98 confd

From

Ernest Barclay
Government Solicitor
Madras

To

The Secretary to Government
Revenue Department
Madras

No 122

Dated 5th March 1898
Recd 5 —
Regd 5 —

Encls 3

Opinion

Forwarded with enclosures with reference to the order of Government 1st Ins. dated 19th January 1898 No 869. Revenue.

Ernest Barclay
Government Solicitor

Board of Revenue (Land Revenue), 9th September 1889, No. 619.

PROCEEDINGS OF THE BOARD OF REVENUE
(Land Revenue).

Read—the following G.O., dated 12th August 1889, No. 691, Revenue :—

Read—again the following G.O., dated 10th July 1889, Mis. No. 4305, Revenue :—

Read—also the following Proceedings of the Board of Revenue (Land Revenue), dated 24th June 1889, Mis. No. 3733 :—

W. S. Whiteside, Esq.

Read—the following letter from E. GIBSON, Esq., Collector of Tanjore, to the Secretary to the Commissioners of Land Revenue, dated Vallam, 7th June 1889, No. 388 :—

I have the honor to submit an application for the refund of the surplus sale-proceeds of an impounded cattle sent to me for disposal by the Joint Magistrate and to state that the applicant preferred his claim within the period of 3 months prescribed in section 17 of Act I of 1871. The inquiry into the claim was not however concluded before the amount held in deposit was carried to the credit of Pound fund in the treasury account for April 1889. I therefore request that the Board will be pleased to obtain the sanction of Government for the refund of the amount to the party concerned.

2. I further beg that a general authority may be given that whenever claims are preferred within the statutory period of 3 months for payment of the surplus sale-proceeds, the amounts claimed, though transferred to the Pound fund in the interval, may be paid by the District Magistrate without reference to Government.

Enclosure.

Application for refund under Standing Order No 203.

Name of party claiming refund.	Date of application.	Amount of refund recommended.	Officer recommending refund.	Date of credit in the Government account.	Amount in which the original receipt was credited and the particular items in which it was included.	Grounds of recommendation.	Order of the District Magistrate.
1	2	3	4	5	6	7	8
Ayyasamy Chetti, son of Panchanada Chetti, of Nallamboor, Kumbakónam taluk.	12th Feb. 1889.	Rs. A. P. 6 6 0	Joint Magistrate of Tanjore.	Remitted into the taluk treasury, Kumbakónam, on 23rd Jan. 1889.	Criminal deposit.	The amount shown in column 3 is the surplus sale-proceeds of a buffalo impounded in the cattle pound at Avoor, Kumbakónam taluk. The individual in column 1 has established his claim therefore within 3 months. Hence the application.	

Resolution—dated 24th June 1889, Mis. No. 3733.

Submitted for the sanction of Government.

2. A general order, such as the Collector desires, would save correspondence.

(True Extract.)

(Signed) M. HAMMICK,
Secretary.

To the Secretary to Government, Revenue Department,
with letter and its enclosure, in original, to be returned.
Copy to the Collector of Tanjore.

Order—dated 10th July 1889, Mis. No. 4305, Revenue.

The refund of Rs. 6-6-0 to Ayyasamy Chetti is sanctioned.

2. The Accountant-General will report whether there is any objection to the course proposed in paragraph 2 of the Board's Proceedings.

(A true Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue, with 2 enclosures.
„ Accountant-General.

Read—the following letter from T. W. RAWLINS, Esq., Accountant-General, to the Secretary to Government, Revenue Department, dated Fort St. George, 26th July 1889, No. 2584 :—

With reference to Proceedings of Government, Revenue Department, No 4305, dated the 10th of July 1889, I have the honor to state that there is no objection to payment of the surplus sale-proceeds of impounded cattle being made to applicants entitled to the same in cases where claims to such have been preferred within three months from the date of deposit, even though the amounts have been transferred to the credit of the Pound fund, and Government may, if they see fit, authorise the Magistrates of districts to order refunds in such cases on the credit to the Pound fund of the amounts claimed being certified by treasury officers.

Order—dated 12th August 1889, No. 691, Revenue.

Miscellaneous.

Communicated to the Board of Revenue for information.

2. District Magistrates may order refunds in the manner suggested by the Accountant-General.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Board of Revenue (Land Revenue).
„ Accountant-General.

RESOLUTION—dated 9th September 1889, No. 619.

Communicated to all Collectors.

(A true Copy and Extract.)

(Signed) M. HAMMICK,
Secretary.

(True Copy.)

(Signed) C. CLARK,
Registrar.

To all Collectors.

Exd. A. Aubert.

REVENUE DEPARTMENT.

1889.

Board of Revenue

(Land Revenue),

MADRAS.

Printed September 17th.

Proceedings, 9th Sept. 1889, *No.* 619.

Communicating to all Collectors Government Order authorising District Magistrates to sanction refunds of the *surplus sale-proceeds of impounded cattle* to applicants entitled to the same and applying within the prescribed period of three months.

E R R

O P I N I O N

Under Section 17 of The Cattle Trespass Act, 1871, not only should the claim be preferred, but the same should also be establish within the period therein prescribed. If under departmental orders, the surplus sale proceeds be remitted to the taluk treasury, instead of direct to the District treasury, the period of three months should be computed from the date on which the remittance reaches the taluk treasury. If Tahsildars are authorised to receive claims preferred under the Section, enquire into them and submit their report through the Divisional Officer to the Magistrate of the District, the requirements of the Section will be satisfied, though the claim is not preferred to him direct, nor the enquiry made by him personally. The disposal of the claim, however, on receipt of such report, rests entirely with the Magistrate of the District, and if he deems fit, he may make further enquiry before disposing of the claim. If the claimant prefers his claim, and, if required, adduces the necessary proof in support of such claim within three months from the aforesaid date, he would be entitled to the payment of the surplus sale proceeds though the passing of the order admitting his claim be delayed beyond the three months. If the necessary evidence had been adduced within the three months, an order passed by the Magistrate of the District after the expiration of such period admitting the claim, really declares that the claimant had established his claim before the expiration of the three months. But if the whole or any portion of the evidence be delayed beyond the three months, though the claim had been preferred within that period, the surplus sale proceeds cannot be held in deposit pending the enquiry, but must be disposed of under Section 18.

V. Bhashyam Iyengar

Offg: Advocate General.

M a d r a s)
)
4th March 1898)

(True Copy)

Ernest Barclay

Government Solicitor.

From the Govt. Solicitor's
No. 122 dt. 5-8-98 (Cl. No. 1818)

Secretary,

The District Magistrate of Tiruchirapalli submitted the following question for orders, namely, whether the surplus sale proceeds of impounded cattle can be refunded to successful applicants when they have been credited to the Provincial Fund after keeping held deposit for the prescribed period of 3 months under section 13 of the Cattle Trespass Act II of 1871. He stated that the necessity arose on the subject were complicating because while G.O. No. 1344 Revenue dt. 5-8-1884 declared that the Act did not contemplate refund after 3 months Sometimes

Reference
Letter dt. 17-1-98 No. 1134 of 97
(illegible)

C. 1815/98

allowed District Magis-
trates to forfeit refunds
of deposits even after
they had been incorpora-
ted with the ~~specified~~ Pound
Fund, provided the
claims to them had
been preferred within
the statutory period
~~deposit, decide, accept, extend~~
~~of application~~. . .
He pointed out that
the claim to the sur-
plus money should
under this section quoted,
be preferred and
established within
the prescribed period
of 3 months from the
date of deposit of the
surplus sale proceeds
and felt a doubt
as to whether refunds
"is one of the purposes
"for which the fund
"constituted under
"the act" ~~and~~ under
"section (8) ~~extended~~ the act,
because
it is

~~expressly~~ "purposely abs-
~~deciede~~." given to enable
"owners to claim the
residue of the sale
"proceeds of their cattle
and "if the Legislature
"had intended that
"refunds should be
"granted after the
"credit of the sums it
"would scarcely have
"prescribed a deposit
"stage for the sums in
"question in section
"17 of the act." Mr Shipley
further remarked:-
"The practice in this
"district in the matter of
"these refunds is that
"applicants ... generally
"prefer their claims ~~to~~
"in the first instance before
"Talks in whose treasury
"the surplus sale pro-
"ceeds are deposited.
"They enquire into the
"claims and report the
"results to the Dt Magste
"through the Subdivisio
"nal Magistrate. Sometimes
The
disposal of the claims
"however, on receipt

paras of the letter

"enquiry is delayed in
"the Taluk beyond the
"3 months allowed and
"the sums come to be
"credited to the fund and
"the fact of claims to
"them being under
"enquiry lost sight of
"and not reported to
"the Dt. Magistrate under
"whose sanction these
"amounts are, as a rule,
"transferred to the
"fund by the Treasury.
"This causes hardship
"to the applicants even
"when they apply in
"time".

2. The question put by Mr. Shipley was referred to the Hon the Advocate General and ~~[illegible]~~ "~~[illegible]~~ his opinion is "as follows:- "Under "section 17 of the cattle "trespass Act. 1871, not only should the claim "be preferred but the "~~[illegible]~~ should also be

G.O. No. 869 Revd. 19-2-98.

"established within the
"period therein prescribed
"If under departmental
"orders, the surplus
"sale proceeds be re-
"mitted to the Taluk
"treasury instead of
"direct to the Dt. treasury,
"the period of 3 months
"should be computed
"from the date on which
"the remittance reaches
"the taluk treasury. If
"Talukdars are authorised
"to receive claims pre-
"ferred under the
"section, enquire into
"them and submit
"their report through
"the Divisional officer
"to the Magistrate of the
"Dt., the requirements
"of the section will be
"satisfied, though the
"claim is not prefer-
"red to" in direct nor
"the enquiry made by
"him personally. The
"disposal of the claim
"however, on receipt

"such report rests entirely with the magistrate
"of the Dt and if he deems
"fit, he may make fur-
"ther enquiry before dis-
"posing of the claim.
"If the claimant prefers
"his claim and if re-
"quired, adduces the
"necessary proof in
"support of such claim
"within 3 months from
"the aforesaid date, he
"would be entitled
"to the payment of the
"surplus sale proceeds
"through the passing of
"the order admitting
"his claim he delayed
"beyond the 3 months
"If the necessary evidence
"had been adduced
"within the three months,
"an order passed by the
"magistrate of the Dt
"after the expiration of
"such period admit-
"ting the claim, really
"declares that the
claimant had established
"his claim before the
"expiration of the three
"months. But if the whole
"or any portion of the
"evidence be delayed
"beyond the three months
"though the claim had
"been preferred within
"that period, the sur-
"plus sale proceeds
"cannot be held in
"deposit pending the
"enquiry but must be
"disposed of under
"section 68."

3. There seems to be no conflict between G.O. No 1344 Revd 5-12-824 and G.O 691 Revd 12-8-87, as stated by Mr Shipley, for, the one refers to a claim preferred after the prescribed period of 3 months while the other has reference to a claim filed within that period. But having regard to the Advocate Genl opinion quoted above it seems necessary

to modify G.O. No 691 Rev
dt 12-8-89 by restricting
it to cases where not only
is the Application made
within 3 months but the
enquiry also is completed
within that period but
the evidence required
to prove the claim has
been provided.
A draft G.O. is
submitted for approval.

CR:
17 Mar 98.

Re draft may issue

15/3/98

Read again Rs. 869 of 19.2.98.
Read letter from the Govt. Solicitor
No 122 dt 5.3.98.

C No. 1818/98

W 22/3/98

HW

JG
20/3/98

Q.O. No. 172 of 22nd March 1898.

In modification of G.O. No 691 dt 12-8-89, the opinion of the Advocate General read above will be communicated to the Board of Revenue for information & for issue of the necessary instructions.

15/5
18/3/98

To the Bd of Rev (L.R.) } Depd.
" " A.G. ✓ } 15.4.98.
Copy to the J.D.

CR.
17 Mar 98.

50/5

Government {1898} of Madras.

REVENUE.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 172, 22nd March 1898.

MARCH.

Refund of the surplus sale-proceeds of impounded cattle.

Communicating, in modification of G.O., No. 691, dated 12th August 1889, to the Board of Revenue for information and issue of the necessary instructions, the opinion of the Advocate-General explaining the circumstances under which — may be granted.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again the following G.O., Mis. No. 869, Revenue, dated 19th February 1898 :—

Read—the following letter from R. H. SHIPLEY, Esq., Acting District Magistrate of Trichinopoly, to the Chief Secretary to Government, Judicial Department, dated 15th January 1898, Ref. on C. No. 1134-Mag. :—

I have the honour to submit, for the orders of Government, the question whether surplus sale-proceeds of impounded cattle can be refunded to successful applicants after they have been credited to the Pound Fund after being held in deposit for the prescribed period of three months under section 17 of the Cattle Trespass Act I of 1871.

2. The existing orders on the subject are conflicting. Government in the Revenue Department declared in order No. 1344, dated 5th December 1884, on Board's Proceedings, No. 3855, dated 13th November 1884, that the Act did not contemplate refunds after three months, while G.O., No. 691, Revenue, dated 12th August 1889, embodied in Board's Proceedings, No. 619, dated 9th September 1889 (a copy submitted for ready reference), allows District Magistrates to order refunds of deposits even after they are incorporated with the Special Fund, provided the claims to them are preferred within the statutory period. The former Government Order had been communicated to the Judicial Department, while the latter one does not appear to have been so communicated.

3. The claim to the surplus money should, under the section quoted above, be preferred *and established* within the prescribed three months from the date of deposit of the surplus sale-proceeds, that is to say, the sanction of the District Magistrate to the refund should be obtained within that time.

4. I am doubtful whether refund is one of the purposes for which the fund constituted under the Act could, under section 18 of the Act, be expended. Three months' time is purposely given to enable owners to claim the residue of the sale-proceeds of their cattle. If the Legislature had intended that refunds should be granted after the credit of the sums, it would scarcely have prescribed a deposit stage for the sums in question in section 17 of the Act.

5. The practice in this district in the matter of these refunds is that applicants generally prefer their claims in the first instance before Tahsildars in whose treasury the surplus sale-proceeds are deposited. They enquire into the claims and report the results to the District Magistrate through the Sub-Divisional Magistrate. Sometimes the enquiry is delayed in the taluk beyond the three months allowed and the sums come to be credited to the fund and the fact of claims to them being under enquiry lost sight of and not reported to the District Magistrate under whose sanction these amounts are, as a rule, transferred to the fund by the treasury. This causes hardship to the applicants even when they apply in time.

6. I have now a few established claims pending disposal, in all of which the amounts concerned have been credited to the fund. I therefore request that you will be good enough to favour me with early orders of Government.

Endt. No. 266.

Transferred to the Revenue Department.

Fort St. George,
1st February 1898.

(Signed) A. R. KNAPP,
Ag. Under Secy. to Government.

Order—Mis. No. 869, Revenue, dated 19th February 1898.

Referred to the Honourable the Advocate-General for favour of opinion on the question raised in paragraph 1 of Mr. Shipley's letter.

(True Extract.)

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

To the Hon'ble the Advocate-General, through the Government Solicitor, with copy of G.O., No. 1344, dated 5th December 1884.

Read—also letter from ERNEST BARCLAY, Esq., Government Solicitor, Madras, to the Secretary to Government, Revenue Department, Madras, dated 5th March 1898, No. 122, forwarding with reference to the order of Government, Mis. No. 869, Revenue, dated 19th February 1898, the following opinion of the Advocate-General, Madras.

OPINION.

Under section 17 of the Cattle Trespass Act, 1871, not only should the claim be preferred, but the same should also be established within the period therein prescribed. If, under departmental orders, the surplus sale-proceeds be remitted to the taluk treasury, instead of direct to the District treasury, the period of three months should be computed from the date on which the remittance reaches the taluk treasury. If Tahsildars are authorised to receive claims preferred under the section, enquire into them and submit their report through the Divisional officer to the Magistrate of the district, the requirements of the section will be satisfied, though the claim is not preferred to him direct, nor the enquiry made by him personally. The disposal of the claim, however, on receipt of such report, rests entirely with the Magistrate of the district, and if he deems fit, he may make further enquiry before disposing of the claim. If the claimant prefers his claim, and, if required, adduces the necessary proof in support of such claim within three months from the aforesaid date, he would be entitled to the payment of the surplus sale-proceeds, though the passing of the order admitting his claim be delayed beyond the three months. If the necessary evidence had been adduced within the three months, an order passed by the Magistrate of the district after the expiration of such period admitting the claim, really declares that the claimant *had established* his claim before the expiration of the three months. But if the whole or any portion of the evidence be delayed beyond the three months, though the claim had been preferred within that period, the surplus sale-proceeds cannot be held in deposit pending the enquiry, but must be disposed of under section 18.

Madras,
4th March 1898.

(Signed) V. BHASHYAM IYENGAR,
Offg. Advocate-General.

Order—No. 172, Revenue, dated 22nd March 1898.

Miscellaneous.

In modification of G.O., No. 691, dated 12th August 1889, the opinion of the Advocate-General read above will be communicated to the Board of Revenue for information and for issue of the necessary instructions.

(True Extract.)

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

To the Board of Revenue (Land Revenue.)
„ the Accountant-General.
Copy to the Judicial Department.

Exd. P. Seetharam.

50 Copies.

First copy sent to Press

Returned for signature.

Despatched to print.

MADRAS ARMS G.O., No.
1891.

SECRET No.

SEE ALSO G.O. No.

LETTER OF GOVERNMENT

LETTER OF GOVERNMENT

ENCLOSURE WITH MEMO.

DO NOT NEED THE SIGNATURE FOR DESPATCH IN ORIGINAL.