

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2185

DATED 20th May

[Despatch Abstract.]

Resolving B. P. passing orders
on the correspondence regarding the levy of contribution
for the repair of Meyyapuram tanks in Patankottai taluk,
Tanjore dist, from the Shrotrimalas benefited
by it.

BACK PAPERS.

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

FURTHER PAPERS.

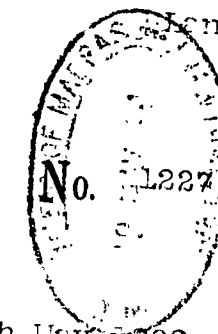
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Revenue (1898) Department.

CURRENT No. 3494

From

The Board of Revenue,
Madras



Dated 7th May 1898.

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SUBJECT.

Passing orders on the correspondence regarding the levy of contribution for the repair of Meyyanur tank in Puttukottai Taluk, Tanjore District from the shrotrigndars benefited by it.

Order

BACK PAPERS.

G.O.	No.	Department.	Date
	1711 R		25-11-95

FURTHER PAPERS.

G.O.	No.	Department.	Date

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25-10-96

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580
17-11-95

Printed in
fo. 808 I
2-10-95

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Proceedings of the Board of Revenue,
(Land Revenue)

No./227 Misc., dated 7th May 1898.

Read the following :-

1. Endorsement of the Chief Engineer for Irrigation in charge of T.R.S. Madras, No. 249-B, dated 24th February 1897. on letter from the Superintending Engineer Fifth Circle, No. 287, dated 25th November 1896.

And Reference thereon dated 6th March 1897.

2. Letter from J. Andrew, Esquire, Collector of Tanjore, to the Secretary to the Commissioners of Land Revenue, Madras, No. 796/Rev. of 1898, dated 25th February 1898.

3. Also letter from the Chief Engineer for Irrigation Tank Restoration Scheme, to the Secretary to the Board of Revenue, Land Revenue, No. 811 I, dated 25th April 1898.

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Resolution

In its order No. 808 dated 2nd October 1895, Government sanctioned an estimate amounting to Rs. 1,710 for repairing the Moyanur tank in Puttukoottai taluk, Tanjore District. The tank has an ayacut of 288 acres of which 185 acres are shrotriend lands and it was accordingly proposed, before the work was started, that a contribution of Rs. 1,367 should be levied from the shrotriendans (Vide para 3 of the report accompanying the estimate printed at page 3 of Government Order No. 808 I, dated 2-10-95). In the remarks recorded by Mr. Winterbotham in Board's Proceedings 4269, 26th August 1895 it was suggested that certain items should be reduced or struck out from the estimate, on the ground that the shrotriendans might reasonably demur at paying so large a sum as Rs. 1,367. The Public Works Department, however, considered that the whole amount was necessary to put the tank in a state of efficient repair. (Vide para 5 of the ^{note} by the Chief Engineer for Irrigation at page 2 of Government Order 808 I, dated 2nd October 1895).

2. The shrotriendans now object to the demand for contribution on the grounds that they have no proprietary

right in the tank and that Government has all along exercised the
G.O. tank at its own cost and has performed various acts of ownership
in respect of it, enjoying the trees standing ~~thereon~~ on the land
and levying a charge from the shrotriendars for the use of the water
(vide communication from the Head Assistant Collector Mangalore, to
the Collector No. 397, dated 23rd August 1896). The Superintendent
Engineer, V Circle, having enquired in his letter No. 237, dated 25th
November 1896, whether in these circumstances the repairs and im-
provements to the tank might not be carried out wholly at the cost
of Government, the Chief Engineer for Irrigation referred the papers
to the Board, and a report was called for by the Board, and a ~~report~~
was called for by the Board from the Collector of Mangalore in Board's
Reference, dated 6th March 1897.

5. The Collector of Mangalore reports that the tank used to be
repaired by the Public Works Department at the sole cost of Govern-
ment and that the Inam lands are entered in the Paimash accounts
as entitled to gratuitous irrigation from the tank for a single
crop. It further appears that both second crop assessment and water rate
on dry lands have been levied from the shrotriendars and that ~~the~~ ^{the} proposed improvements, when carried out, are likely to bring in addi-
tional revenue to Government in the shape of water-tax, as stated in
para 2 of Mr. Winterbotham's letter No. 158, dated 27th February '95.
The Collector however, considers that the shrotriendars are bound
to pay their share of the cost of repair ^{with} reference to Board's Proceed-
ings No. 70 Sett., dated 13th March 1895 and proposes to institute
a suit for the recovery of the cost after the completion of the work.

4. For the reasons ^{as} presently stated, it is doubtful whether
the ruling in the case of the Parayankolathur tank printed in Board's
Proceedings No. 70 Sett., dated 13th March 1895 can be applied to the
case now under consideration. In the former case, the Government and
the Zemindars were co-owners of the tank; but the shrotriendars in-
terested in the Neyyanur tank disown all proprietary right in it, and
from the Survey map of the Neyyanur village, of which Neyyanur is
a hamlet, it appears that the entire water-spread of the Neyyanur
tank is included within the limits of the Government village. Fur-
ther the entry in the Paimash accounts to the effect that the Inam
lands are entitled to a gratuitous supply of water for a single crop
strengthens the presumption that the irrigation work belongs to
Government. In a case somewhat similar to the present one which

Para 1(3)

was dealt with in G.O. No. 2915 Misc., dated 20-7-1895, the
Government negatived the Board's proposal to claim contri-
bution for repairs from the shrotriendars of Mannangidinnai
in the Nellore district. The Government order contained the
following observations:-

"Most important of all is the fact that when the Shro-
triend was settled by the Inam Department in 1873, a title ----
deed was issued in which a certain extent is entered as the
area which the shrotriendars can irrigate without any addi-
tional charge for water." This condition implies that the ir-
rigation work is a Government source (as otherwise there ---
could be no claim to charge for water) and that, to the extent
mentioned in the title-deed, the Government is bound to sup-
ply water free of charge. For the same reason, where water
rates are paid for irrigation beyond the limit to which ^{supply} is
admissible it would appear that a separate contribution for
repairs to the source of irrigation is not leviable, in the
absence of an express understanding on the subject.

6. Accordingly this class of cases appears to be --
clearly distinguishable on the one hand from Hissa Tanks and
Dasabandan tanks properly so called, where there is an ex-
press understanding that the Hissadar or Dasabandandar shall
~~repair~~ repair, or shall render help in order to repair, the work
of irrigation, and on the other hand from such tanks as the -
Parayankolathur one where the obligation sought to be enforced
is imposed on a joint proprietor by Section 70 of the In-
dian Contract Act (1872). The Board is therefore of opinion that
the shrotriendars who are interested in the Neyyanur tank are
not liable to contribute for the repairs of that tank.

7. The repairs must accordingly be carried out at the
cost of Government, but the Public Works Department will be in-
formed that no expenditure should be incurred beyond what is
necessary to secure the supply and the upkeep of the tank-bund
in its normal state.

(True Extract)

Lucas Davidson

To.

Ag. Secretary.

The Chief Engineer for Irrigation.

The Collector of Mangalore.

The Secretary to Govt. R.D., with Collector's letter &
Enclos. in original to be returned.

(E) 1. 2nd

Read B. P. No. 1227. (Case 3497)
7-5-98

Order Mis No. 2185 d/20 May 98

Recorded.

MS
18-5-98

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Depd. { The Board of Rv: Land Rv: with cases
18-5-98 } - Copy to the p. w. D (9).

MS

The facts of the case
appear fully from the Board's
Resolution. MS

The Board's view of the
position seems unquestionable

MS

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16.5.98.