9 3,000—5-2-98.

# Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2261

DATED 25th May 98

[Despatch Abstract.]

Referring to the Hon. the Advocate General for favour of opinion B.P. submitting for the orders of Govt with remarks letter from the Collector of Vizagapatam re: performance of the proprietor's duties under Madras Act II of 1894 in Estates under the management of the Court of Wards & Civil Courts

## BACK PAPERS.

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# Revenue (189 8 ) Department.

**CURRENT No.** 5182

***From***

The Board of Revenue,
Land Revenue
Madras

***Order***

No. 469

***Dated*** 25th April 1898.

***Received*** 28 "

***Registered*** 30 "

***Enclosures/***

***Spare copies***

## SUBJECT.

Submitting for the orders of Govt. with remarks letter from the Collector of Vizagapatam re: performance of the Proprietory duties under Madras Act II of 1894 in Estates under the management of the Court of Wards and of Civil Courts.

## BACK PAPERS.

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Collectors

No. 594 VIZAGAPATAM GOVERNOR'S AGENT'S OFFICE,

DATED 28th March 1898.

FROM

W. A. Horne, Esquire
Agent to the Governor,
Acting Collector
Vizagapatam District.

To

R. b. b. Carr, Esquire,
Secretary to the Commissioners of Land Revenue,
Madras.

SIR,

There are at present 7 estates under the management of the Court of Wards, while the whole of the Vizianagaram Samasthanam is under the management of a guardian appointed by the local District Court under the Guardians and Wards Act (VIII of 1890). Vacancies in the village offices arise very frequently in the areas named above, which constitute about two-thirds of the ordinary portion of the district. I hence the honor, therefore, to enquire as to who should be considered to be legally competent to perform the duties laid down in Sections 5, 6, 8, 9, 11, 13 and 15. I, as agent to the Court of Wards cannot perform them nor can the Managers of estates appointed under Regulation V of 1804, so long as the definition of 'Proprietor' remains unaltered. A similar disability attaches to the guardian of a

Vizianagaram Jannasthanam.

If it is not proposed to amend the Act so as to extend the definition of 'Proprietor' therein contained, I request that an authoritative ruling be issued on the point raised above.

2. In regard to the power of fining village officers under Section 16 (1) the Board has repeatedly held in the proceedings noted on the margin that it cannot be legally delegated to Agents, Managers and Guardians of Proprietors.

I have the honour to be,

Sir,

your most obedient Servt,

Govinda Rau

For Acting Collector.

113

Board's Proceedings No 316 of 20 April 1898

Read letter from the Collector of Vizagapatam, No 594, dated 25th March 1898

Reference No 469, dated 25th April 1898

Submitted for the orders of Government.

Board's Proceedings No 3169 of 1896 dated 21st September 1896

Read G.O. No 3869 Revenue, dated 28th September 1896

Read G.O. No 1708 (1) dated 21st July 1897

Ordered that the Collector of Vizagapatam be informed that the Board is unable to recommend the request made by him in his letter 1st cited.

(sd) W. A. C.

Certified that the above is a true extract from the Proceedings of the Board of Revenue.

Reference on No. of 1898.

In replying the above should be quoted.

(LAND REVENUE.)

REVENUE BOARD OFFICE MADRAS.

Read letter from W.O.Horne, Esquire, Acting Collector of Vizagapatam, to the Secretary to the Commissioners of Land Revenue, Madras, No.594, dated 25rd March 1898.

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Reference No.469, dated 25th April 1898

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Submitted for the orders of Government.

2. In para 1 of its order No.3869 Rev., dated 28th September 1896, Government accepted the Board's view that managers of proprietary estates under the control of the Court of Wards and of Civil Courts cannot be legally empowered to fine village officers under Section 16(1) of Act II of 1894 as they do not fall within the definition of Proprietor as given in section 4 of the Act; and with reference to para 2 thereof, the insertion of a special provision in the Court of Ward's Bill conferring the power on managers of estates under the Court's control has been recommended in para 5 of Board's Proceedings No.249, dated 21st July 1897.

3. The Collector of Vizagapatam recently requested that he might, as agent to the Court of Wards, be empowered to fine village officers of the estates under the Court's management in his district; but he was informed in C.P.No. 110, dated 27th July 1898 that his request could not be complied with in view of the definition of "Proprietor" referred to above.

Vizianagaram Samasthanam

4. In the letter read above, the Collector now brings to notice that vacancies in village offices arise very frequently in the 7 estates now under the management of the Court of Wards in his district as well as in the Vizianagaram Samasthanam for the management of which a guardian has been appointed by the Local District Court under the Guardians and Wards Act VIII of 1890 and requests that, if it is not proposed to amplify the definition of Proprietor as given in Section 4 of the Act, an authoritative ruling may be issued as to who should be considered to be legally competent to perform the ~~duties~~ duties laid down in sections 5,6,8,9,11,13 & 15 of the Act. The difficulties brought to notice require an authoritative and early solution, and legislation may be necessary should there be no doubt as to the correctness of the opinion already expressed by the Board and concurred in by Government. In these circumstances the Board ventures to urge the desirability of consulting the Honorable Advocate General as to the precise state of the law. Reference is in this connection requested to the debates in the Legislative Council on section 3 of the Proprietary estates Village Service Bill from which it will be seen that the addition of the words" or his authorized agent" to the Word"proprietor" occurring therein was at the time considered unnecessary.

× Preparation of certain Registers
Separation & Grouping of Villages
Reporting the occurrence of Vacancies in village offices
Filling up of vacancies
&c.

Board's Proc No. R4469 25-4-98
(Cus. 3182)

To Secretary.

The Collector of Vizagapatam brings to the notice of Govt that there are 7 estates in the District which are under the control of the Court of Wards, while the whole of Vizianagaram Zamindari is under the management of a Guardian, and that in these areas vacancies occur in Village offices and difficulty often arises as to who should exercise the powers conferred on proprietors by Sections 5, 6, 8, 9, 11, 13 & 15 of Act II of 1894 (Proprietary Estates Village Service Act). The word proprietor occurring in the Act is defined in Sec 4 as "the person in whose name an estate is registered in the Collector's office" and does not expressly include an

Ag. Secretary.

To

The Secretary to Government, Revenue Department, with the Collector's letter in original to be returned.

Md. R. H.

1898
REVENUE DEPARTMENT
Received No. 2
Dated

authorized Agent or Guardian. In view of the difficulties adverted to above, the Collector requests that either the definition in the Act may be amended or that an authoritative ruling may be issued as to who should be considered to be competent to perform the duties laid down in the Sections quoted above. In C.P. 3869/28-9-96 the Govt accepted the Bd's view that managers of proprietary Estates under the Control of Court of Wards and of Civil Courts cannot be legally empowered to fine Village officers under Sec 16(1) of the Act, as they do not fall within the definition of "proprietor". The Govt has, therefore, at the Bd's request made provision in the Court of Wards Bill, now under Consideration, for the manager acting as proprietor under Sec 16(1). vide Sec 46 of the Court of Wards Bill"

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But this provision is incomplete as so many other duties of the proprietor remain unprovided for. The Board therefore considers that the difficulty should be met by amending the definition of 'proprietor' in Act II of 1894, if there is no doubt as to the correctness of the Board's opinion concurred in by Govt.

In the discussion connected with the passing of this Act, the Hon. B. Bhalachandra Pantalu proposed the insertion of the words "or his authorized agent" after the word "proprietor" in Sec 8. The Hon Mr Garstin said, that the principal party was the proprietor, and if he happens to be absent he can get his authorized agent to act for him, and that the addition proposed was, therefore, unnecessary; the Hon (now Sir Henry) Bliss added that the effect of

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the words "or his authorized agent" to that Section would be to practically exclude him in every other Section, meaning thereby that the word "proprietor" wheresoever it occurs in the Act includes "his Authorized Agent". The Board, however, suggest the desirability of consulting the Hon. the Advocate General as to the precise State of the Law.

Orders are requested as to whether the reference suggested by the Board may be made.

RS 14-5-98

Levy

It is submitted that the reference should be made

Ille 18.V.98

Yes

SH 20/5/98

B.P. 469/25-4-98 (Cus 3182)

G.O. Mis No. 2261 d/25th May 98.

Referred to the Honorable the Advocate General for favour of opinion ~~as to whether the law~~ RS 24-6-98 as laid down in Act II of 1894 will permit of the functions of the 'proprietor' under that act being performed by his 'authorized Agent'.

Ille 23.V.98

SH

X 7578

To the Hon. the Advocate General thro' the Govt Solicitor

Copy to Board & C.L.R.O.

Weston 26/5