9. 2,000—5-3-98.

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2271

DATED 25th May

[Despatch Abstract.]

Stating that, in matter of the petition from certain minor ryots of the Vyasarpadi village relative to the levy of Quit-rent on certain lands, the Govt. has obtained a report from the Collector of Madras and understands that the petitioners' grievances have, as far as possible, been remedied.

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 (1898) Department.

CURRENT No. 2955.

From The Board of Revenue, Land Revenue Madras.

Order R.

The petitioners are informed that the necessary action has been taken on their petition dated 5th June 1897.

No. 1006 Misc.

Dated 13th April 1898.

Received 18 —

Registered 18 —

Enclosures 6

Spare copies

To the petitioners.

SUBJECT.

Submitting to Govt report from the Collector of Madras re levy of back assessment for 60 years on certain lands in Vyasarpadi, Madras Town.

BACK PAPERS.

G.O.	No.	Department.	Date.
329	2	7-6-	
522	28-10-97	Confidential	

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Report No. 597/908 [5&1/326] Madras Collector's Office
Encls. 2. 29th March 1898.

From

J. N. Atkinson Esq^r.
Collector of Madras

To

The Hon^ble Secretary to Government
Revenue Department
Madras.

Sir,

Adverting to G.O. No. 3294 Mis dated the 29th June last I have the honor to state that in accordance with the Opinion of the Acting Advocate-General Communicated with G.O. No. 5249 Misc dated the 8th October 1897 the claim to 60 years' arrears of Quit rent has been withdrawn and steps have been taken to Collect Quit rent on the lands in question only from Fasli 1306 (1896-97) at Rupees 5-4-0 per Cawny, a rate adopted in Consideration of its being nearer to the Town of Madras and Consequently being more valuable and that the applicants have therefore no grievance now.

2. The enclosures to the G.O under reply are herewith returned.

I have the honor to be
Sir
Your most Obedient Servant

J. N. Atkinson
Collector

To The Secretary to Govt., Rev Dept, Madras
Thro' The Secretary to the Commr. of Land Revenue with reference to Board's Proceedings ending No. 374 Mis / Confl. No 15 dated the 7th Ultimo.

8

1
2955

Extract from the Judgment
Sir Charles Turner in C.S.
No 1 of 1882.

PETITION

3353

REVENUE DEPT

To

The Right Honourable
The Secretary of State
for India in Council
and
The Secretary of the Government
of Madras on his behalf

Your Lordships.

It is represented to us by Puthuram Moodelly, Appavoo Moodelly and Shunmugam Moodelly Mirasidars of Vyasarpadi Village, Madras and residing in the Village of Vyasarpadi within the Local limits of Madras that sometime in the month of March 1895 a Revenue Officer professing to act under the orders of the Deputy Collector of Madras proceeded to measure a certain portion of the Land comprised in Survey No 40, which, it was stated, was required for the purposes of a Chunnam Kiln whereupon our clients objected to the measurements of the said land and to the contemplated lease of it by Government for the purposes aforesaid on the ground that it was mirasy land belonging to them and was not the property of Government.

It is further represented to us that on the 3rd of February 1896 our clients were served with

North Beach Road.
Madras 5th June 1897.

SECR. GOVT. MADRAS
10 JUN 97
REV. DEPT.
CHIEF SECRETARY
9 JUN 1897
GOVERNMENT OF MADRAS

a notice by the Deputy Collector of Madras intimating that the land comprised in Survey No. 40 is Government property and that their claim to the property had been disallowed by the Collector of Madras and that anyone entering on the land would be treated and dealt with as a trespasser. On the 14th of February 1896 we addressed the Deputy Collector of Madras on the subject of his notice above referred to and on the 14th of May 1896 the Deputy Collector of Madras requested us to produce before him whatever evidence our clients had in support of their claim to the land in question and on the 19th of May 1896 an enquiry was held by the Deputy Collector of Madras and the matter was referred to the Tahsildar who at the conclusion of his enquiry informed our clients that he would submit his report to the Deputy Collector of Madras and the orders to be passed on the subject would in due course be communicated to them.

It is further represented to us that our clients heard nothing more in the matter till the 17th day of November 1896 when they received a notice issued by the Deputy Collector of Madras demanding a sum of Rs. 5742-8-0 as arrears of quit rent for a period of 60 years at Rs. 5-4-0 per Cawnie for a year for 18 Cawnies 5 Grounds and 1288 Square feet of land in the said Survey No. 40.

Upon our addressing the Deputy Collector of

2 pf Madras

8

1
2955

Madras we were informed that the tax had been fixed and the demand made under instructions from the Collector of Madras and that our clients if dissatisfied could appeal to the Board of Revenue and our Clients were further informed through us that the Government did not any longer question their title or right to the Mirasy land of Vyasarpadi but that the demand for 60 years quit rent had been made in consequence of our clients having neglected to pay quit-rent on the land in question in previous years.

It is further represented to us that the land in question is not leviable with any quit-rent the same being mirasy waste land and that even if the land is properly chargeable with quit-rent the circumstances do not justify a demand for arrears of quit rent for 60 years at such a high rate of assessment for the omission to pay quit-rent has not arisen from any fraud or dishonesty or from any intention to withhold Government dues but from a bonafide belief that waste mirasy land is not chargeable with any quit-rent until the said land is brought under cultivation or until there is a formal bonafide application for such land by some other person.

It is further represented to us that our clients and their ancestors never paid quit rent

pf 3

although

granted to strangers, the mirasi right was not altogether lost, and in some villages the mirasidars succeeded in

obtaining

although their omission so to do was prominently brought to the notice of the Revenue Officials, and the Government Law Officers in the year 1864 when certain Inamy land was acquired for the Madras Railway Company and again in 1882 in connection with Civil Suit No 128 of 1882 in the file of High Court of Judicature at Madras which was a Suit instituted by C. Appavoo Gramany against Your Lordship. We would respectfully refer your Lordship to the Judgment of Sir Charles Turner passed in the said Suit on or about the 24th April 1883 extract from which we beg to enclose.

It is further represented to us that on or about the 6th day of March 1897 our clients addressed a Petition to the Board of Revenue of the Madras Government. Setting out all the above facts and requesting that the said tax may be remitted but our clients said Petition was rejected on the ground that it was out of time.

It is further represented to us that on the 10th of May 1897 a notice of attachment was published notifying that the land measuring 24 Cawnies 6 Grounds and 1288 Square feet comprised in Survey No 40 in Veyasarpadi Village has been attached for payment of a Sum of Rs 7632-8-- being the amount of Revenue due for a period of 60 years at Rs 3-4-- per Cawnie for a year and that-

4

unless

unless the said sum together with interest thereon at 6 per cent per annum and Rs 2-1-- for expenses be paid on or before the 25th of May 1897 the said land would be brought to sale in pursuance of the provisions of the Madras Act 6 of 1867 and the said notice of attachment has been published in the Madras and Chengalpat District Gazette Supplement of the 17th of May 1897.

We here beg respectfully to point out that in the said notice of attachment for the first time the name of one Singara Mudali who is not a Mirasidar is mentioned and a further extent of 6 Cawnies of land is included.

It is further represented to us that a notice dated 27th May 1897 and signed by the Tahsildar has been published notifying that the said land will be put up for Sale by public Auction on the 1st July 1897.

We beg most respectfully to bring the above facts to your Lordship's notice and to claim that the said land being Inamy waste land is not leviable with quit rent except in the circumstances mentioned above which have not yet arisen that should Your Lordship be of opinion that such land is leviable with tax then that the levying of quit rent for 60 years in the circumstances is

5

illegal

8

1
2955

and resisting the introduction of strangers. When puttahs were granted to strangers, the Mirasi right was not altogether lost; and in some villages the Mirasidars succeeded in

obtaining

illegal and the rate charged is excessive.

We therefore beg respectfully to request that your Lordship will be pleased under the circumstances of the case to direct the said imposition of quit rent to be set aside and withdrawn and that the Collector of Madras may be ordered to desist from selling our cloths. Lands as threatened by him.

We are

Your Lordship's obedient Servants.

Extract from the Judgment of
Sir Charles Turner in C.S.
No. 1 of 1882.

SECY. GOVT. MADRAS
13 JUN 97
REV. DEPT.
9 JUN 1897
GOVERNMENT OF MADRAS

The introduction of a Revenue System which required payment of revenue for cultivated lands and enabled the person accepting an engagement to relinquish that engagement in respect of any part of the lands he had either no means or no inclination to cultivate, added to the confusion of rights.

One question constantly occurring was the right of the mirasidar to waste. The better opinion appeared to be that he had a right to the waste, even though he paid no revenue for it, but that if he omitted to cultivate what was cultivable or to provide for its cultivation by Paikaries, the Government might issue puttahs to Strangers for its cultivation.

There resulted a long struggle between the mirasidars and the Government, the former unable to cultivate, and unwilling to pay assessment on such of the land over which they claimed rights, and on the other hand resisting the introduction of Strangers. When puttahs were granted to Strangers, the mirasi right was not altogether lost, and in some villages the mirasidars succeeded in

obtaining

obtaining from the ryots introduced by Govern-
-ment recognition of their interest in the soil
by the payment of small cesses.

Reference on G. R. *No.* 3454 *of* 1897.

In replying the above should be quoted.

(LAND REVENUE)

REVENUE BOARD OFFICE
MADRAS

Read letter from J.N.Atkinson Esq.,Collector of Madras,Ref.NO.1570,dated 15th July 1897.

Reference thereon dated 9th Sept.1897.

Land bearing survey No.40 in Vyasarpady village,—Madras Town,and measuring 24 cawnies,5 grounds and 1288 sq.ft.is entered in the Government survey Register as "Government Property, open ground".Recently when the Tahsildar inspected the land to see whether it could be assigned in lieu of the sites of certain chunam kilns,which it was proposed to take up in connection with the Bezwada-Ennore Railway,certain persons claimed the land as their own on the plea of Mirasi right.In its Proceedings No.3881 dated 24th August 1896,the Board considered it unnecessary to contest the claims of the occupants in the face of Sir Charles Turner's judgment printed in Board's Proceedings No.1725 dated 14th June 1883.The Collector was accordingly instructed to accept the statement of the parties,that either they or their predecessors in interest had occupied the land for the full statutory period and to impose quit-rent for the whole period of 60 years.

2. In the letter read above,the Collector enquires whether,having regard to section 11 of Madras Act XII of 1851,regulating the collection of quit-rent in the Madras Town,more than 6 years' arrears of quit-rent can be collected in such cases.It might be argued that section 11 of Act XII of 1851 limits the period within which arrears may be recovered to "the six years next after the same are due" and that arrears are not due until either

the assessment or quit rent is fixed or a demand for assessment is made. In the present case, the Collector imposed quit rent on the lands only after the issue of Board's Proceedings No.3881, dated 24th August 1896, the lands having had no assessment fixed on them prior to that date. The Government Pleader is requested to state whether it would be advisable to act on the view that the six years period prescribed in section 11 of Act XII of 1851 began to run only ~~after~~ from the date when the Collector imposed the assessment and that the assessment to be collected within the said 6 years may be the assessment for the full period of sixty years when the land was admittedly ~~employed~~ enjoyed without the payment of any assessment and without the knowledge of Government.

3. The bearing on the present case of the words "(within six ~~yrs~~ years) next after the acknowledgment of the same in writing has been given by the person by whom the same is payable" occurring in Sec.11 of Act XII of 1851, has also to be considered. It is a fact that within the six years next before the date of the Collector's demand the occupants claimed the land in writing in virtue of their occupation of the same for the full statutory period. It is a question whether such a claim would not amount at law to an acknowledgment of liability to pay rent or revenue for the same period.

~~True Extract~~

Lakshmikanna
11.227
Assistant Secretary
for Secretary

To the Government Pleader with Collector's letters and enclosures in original to be returned and with copies of B.P 3881/24-8-96, 1725/14-6-83, 143/4-3-91, & 1954/29-4-96.

8,000
10-12-96.

REVENUE BOARD OFFICE MADRAS.

Proceedings of the Board of Revenue

(Land Revenue)

No. 3881 Misc, dated 24 August 1896

Read again Board's Proceedings No. 1954 Misc, dated 29 April 1896.

Read also endorsement of the Collector of Madras, dated 5 August 1896, Ref: 2509.

Resolution.

In the circumstances reported by the Collector, the Board considers it unnecessary to contest the claims of the Khirasidars and their vendee to the lands comprised in S. No. 46, and in the face of Sir Charles Turner's judgment printed in B.P. 1425/14-6-1883, it seems that there would be no advantage in contesting the point. The Collector is accordingly requested to accept as

as true the statements made by or on behalf of the parties themselves, and to impose quit-rent on the lands for the whole period of their alleged actual occupation adversely to Government, not exceeding the maximum limit prescribed in Board's Proceedings No. 143 of 4th March 1891. If the lands come to be sold for the realization of the arrears of Revenue, the Collector can buy in such of them as may be required on behalf of Government.

(True Extract)
(Signed). R.C.C. Carr
Secretary.

To
The Collector of Madras.

/True copy/

L.D.Swamikannu
13 SEP 1897
Assistant Secretary.

CB

8.000
8-7-97.

REVENUE BOARD OFFICE MADRAS

Proceedings of the Board of Revenue

(Land Revenue).

No. 1954 Misc, dated 29th April 1896.

Read Letter from the Collector of Madras, dated 23rd March 1896, Rep. No. 827.

Resolution As the claimants' solicitors offer to produce further evidence, the Collector is requested to cause a fuller enquiry to be made into the facts of the case and to ascertain whether any acts of ownership have been exercised by the claimants over the land in question and if so, for how long.

/True Extract/
(Signed). R.C.C. Carr
Secretary.

To The Collector of Madras.

/True copy/

L.D.Swamikannu
13 SEP 1897
Assistant Secretary.

CB

1897/96

Board of Revenue

(Land Revenue),

MADRAS.

To

True copy:

Rags. dl 29-4-96

No. 1954 Mis.

Subject.

2,000
20-1-98.

REVENUE BOARD OFFICE * MADRAS *

Proceedings of the Board of Revenue

(Land Revenue).

No. 1006 Misc, Dated 13th April 1898.

Read letter from the Collector of Madras, dated 29th March 1898, Ref on - No. 597/G.& B.

Read also Endorsement of the Collector of Madras, dated 5th April 1898, Ref. on No. 597/G.& B. forwarding copy of G. O. 3294 Misc 29.6.97 re land at Vyasarpadi.

Resolution :-

The Collector's report first-read above will be submitted to Government with reference to its order No. 3294 mis dated 29th June 1897.

2. The circumstances which led to the demand of 60 years' quit-rent adverted to by Messrs. Grant and Greatorex are explained in the Board's Reference dated 9.9.97 which accompanied B.P. 3527 Misc Confl No. 128 dated 20.9.97.

(cdlm letter No. 597/25.3.98) Voted Rs 4 Gs

To Rev Secy. & Genl. R.O. with G.R. 1326/98 & 2 Enc.
& 3 Enclos. returned with G. O. 5249 mis Rev. 28-10-97. Asst. Secretary.

B.P. 1006 (Cas 2955)
13-4-98

To Secretary

Reference is requested to the note under No. 3294 from which it will 29-6-97 be seen that certain Mirasdars of Viasarpadi Village in the Madras Dt laid claim to a certain piece of waste land as belonging to them as Mirasdars, and not at the disposal of Govt, and that the Revenue Dept accepting their statement as true, instead of contesting their claim, demanded quit rent on the land retrospectively for 60 years. As the records before Govt were incomplete, the Collector of Madras was requested to report as to the nature of the tenure of the land in question and as to why quit-rent was not levied in the past. The current contains the Collector's reply. In the meantime the opinion of the Advocate General

28/5/98

general was obtained which was that the Mirasdars of Viasarpadi were as such the proprietors of the land and that the Govt's claim for 60 years quit rent was opposed to law. In view of this opinion, the Collector does not answer the questions raised in G.O. 3294/29-6-97, but merely states that the claim to 60 years quit-rent has been written drawn and that steps have taken been, to levy quit rent only from Fasli 1306 (1896-97) at Rs 5-4-0 per Cawni, and that the Mirasdars have no grievances now. As for the omission to levy quit-rent in the past, it was evidently due to a misapprehension on the part of the Revenue officials that the land was at the disposal of Govt.

Submitted that the Petitioners may be informed that with reference to their petition the necessary action has been taken.

vide opinion in G.O. 5249/8-10-97

Please see draft on the docket

Revd application G.O. 3294/29-6-97
C.A.C. 2955
C.No. 2955/98.
T.R. misc. no. 2271 d/25-5-98.

The Govt has obtained a report on the subject matter of the above petition from the Collector of Madura and understands that the claimants do not only appear satisfy upon the assurance of quit-rent but has also been withdrawn and that the petitioners grievances have no grievances as per as possible.

To petitioners
To Board

RS
14-5-98