Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2744

DATED 29th June.

[Despatch Abstract.]

Declining to interfere on behalf of the Zamindar of Chagantipalayam, Cummum Jillah, in the matter of the Gorthi Mokhasa Agraharam, Yemaguden Pt., Godavari, praying for remission of the Peishcush of Rs. 154-13-0 under Sec. 52 of the Rev. Recovery Act due to Government for Fasli 1298, for Contumacy in the

BACK PAPERS.

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

FURTHER PAPERS.

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

Card 3 1/4 P.

Revenue (1898) Department.

CURRENT No.

Order Mis. no. 274 of 29th June 98 **From** Bhagavatula Subbayya Canaum of Lankapattapeyyi Govt Mokhasa Agraharam Yernagudem Taluk Godavari Dist.

No.

The Government declines to interfere.
Pro.
11/6/98
29.6.98

(Sd.)

(Gr. O.)
To the petitioner with Encls.
-Desp.
1.7.98

Dated 13th May

Received 1 June

Registered 3 "

Enclosures 12.

Spare copies.

SUBJECT.

Prayer for issue of orders for the recovery of Rs. 154-13-0 under Sec. 52 of the Revenue Recovery Act due by him for Fasli 1298 & for continuance of the same.

M.I.
27.6.98.

BACK PAPERS.

G.O.	No.	Department.	Date

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CHIEF SECRETARY TO
31 MAY 1893
GOVERNMENT OF MADRAS

To

The Right Honourable the
Governor in Council of Madras.

PETITION
3

The humble appeal petition of Thaganti Palayya Karnam of Isukapatla paugidy, Government Mokhasa Agraharam, Yernagudem Taluq, Godavari District, Madras Presidency.

Humbly sheweth as follows: —

I. The appellant, first of all, applied to the Head Assistant Collector (Godavari) claiming assistance under Sec. 52 of Act II of 1864, for the recovery of meras and rusums due for Fasli 1298 from the villagers of Isukapatla paugidy, which was referred to the Tahsildar Yernagudem for report, who thereupon sent in a report in no $\frac{380}{18-7-90}$ simply on the perusal of the later part of the same report the Head Assistant Collector gave him an endorsement in no $\frac{368}{22-8-90}$ to the effect that he cannot get them recovered unless there is a distinct agreement on the subject.

X With the Head Asst. Collr-vide para IX of this appeal petition

II That he then appealed to the Collector Godavari on the said order Proceedings no $\frac{330}{29-1-91}$ X when he was pleased to give stating that as there was no

X Enclosure A

no district agreement he could not enforce Collection vide Act II of 1864, relying only on the appeal petition and the Head Assistant Collector's letter no 16 / 7-1-91 ; whereupon he again presented a petition to the Collector requesting to reopen the case when he was pleased to endorse him in no x nil / 10-3-91 to appeal to the Board if dissatisfied therewith.

III The appellant then appealed to the Board of Revenue, who after mere reference to the Collector Godavari and relying simply on his letter no 643 x / 25-11-92 gave proceedings in no 8158 x / 13-12-92 Miscellaneous that the Board received a report from the Collector on the subject of the petition and sees no reason to alter the orders passed by the district authorities, against which he now appeals. The proceedings nos 23/2 x(a) / 4 reference dated 4-11-91 x(b) & no 3840 x(c) / 1-12-91 Enclosures 1 to Enclosure are herewith annexed (being enclosures to Enclosure D of this appeal petition).

IV The agreement of the Mokhasadars regarding the settlement and rates of Meras and Russums due to him was clearly indicated in their kyphiet given before the Tahsildar on 18-7-1883 x and the eight Muchilkas of the Mokhasa ryots already filed in the record as well as from the muchilkas now appended to this newly cited in para V.

V The Collector, in para 3 of his letter no 643 / 25-11-92, above cited as reference to Board's Proceedings no 8158 / 13-12-92, said "Mokhasadars retracting the statement made in their kyphiets deny having ever Collected any russums for the Karnam or that they are aware of any such. The ryots on the other hand who have executed muchilkas plead that they are illiterate and are not aware that they have engaged therein to pay fees to the Karnam." The Collector's statement as such clearly indicates that he has not completely perused the Contents of the kyphiets before the Tahsildar in which

they admitted the Custom or Mamool.
It is true and usual that Mokhasadars' ryots pay russums due to the Karnam &c direct to those to whom they are due but not by the medium of Mokhasadars. The Condition is being embodied in the Muchilkas only to that effect but the Mokhasadars will have to do nothing in the matter of Collection. The ryots, as stated by the Collector, admitted that they were ignorant of any such Condition before but at the same time on the other hand, filed two Cowles as evidence in which they agreed to pay russums &c as usual to the Village Establishment.

II. In para 4 of the said letter the Collector writes that 5 Muchilkas were in the handwriting of the father & 3 in the hand-writing of the deputy of the appellant. He begs to bring to your Honour's kind notice that in each and every

II (Continued)
Every Zamindary as well as Mokhasa villages it is only usual that Karnams or their deputies should write the Muchilkas and pattas. Hence it is not strange to say that Karnams or their deputies did write them. Moreover Isukapatlapangidy is a village which Contains many illiterate but few literate persons. It is most probable in such cases and villages that none but Karnams should write them as no other educated person will be available there. The Collector also admits the due Execution of the 8 Muchilkas already in record with the Head Assistant Collector. It is also usual in these uncivilized and rural places that registration is not being made even in Compulsorily registerable cases. The Muchilkas cited by the Collector are not Compulsorily registerable as the terms in no case Exceeded five years or the rents reserved per year did not Exceed 50Rs. Hence want of registration in optional cases does not weaken the written engagements.

VI. That according to the order passed by the Head Assistant Collector in his ×171/9-7-83 issued to the Tahsildar yerragudem he has been receiving the meras.te till Fasli 1298 as agreed upon

× With the Head Asst Collector vide para IX

VII. The appellant has full right to request the recovery of meras.te under section 52 of the Revenue Recovery act & the standing orders nos. 106 & 107 of the Board. The orders of the Board and of the District authorities, without perusing the records in full, are quite against justice. The Head Assistant Collector merely based his premature opinion reading the later part of the Tahsildar's report but without Completely perusing each and every paragraph of it in detail. The Collector also gave such Proceedings on the mere receipt of the Head Assistant Collector's letter strengthening his first opinion. Hence his presumption seems untenable. In Zamindary

VII (Contd). Zamindary & mokhasa villages no specific agreement is being entered into between Zamindars or Mokhasadars & Karnams but simply subscribing the Condition in puttas and Muchilkas. It is practically enforced among them as an implied agreement. The Government should also Consider the object of these contents of engagements. If not enforceable what is the use of the insertion of such an obsolete Condition? The Board also strengthening the letter of the Collector passed their Proceedings no. 8158/13-12-92 against the appellant, without Completely perusing the contents of the enclosures to the appeal petition as well as without Considering the Customs Common to such mokhasa villages. Every appellate authority merely sought grounds to strengthen the first premature presumption of the Head Assistant Collector.

VIII In para 2 of the said letter the Collector says that the late ag Collector dismissed the appeal on the ground that there is no distinct agreement as to payment of fees & the rates at which they are to be paid. Your Honour may Consider and enquire whether

VIII (Continued).

whether any Mokhasa or Zamindari Karnam practically enters into any distinct agreement but some such implied agreement as above noted. It seems strange how the Head Assistant Collector could write a Takid to the Tahsildar vide endorsement no 171 9-7-83 to levy the revenue &c, due to the deputy of the appellant, as Arrears under Act II of 1864 when there has not been either any agreement Express or implied, or any Custom to that effect. The rates at which they are to be paid have been clearly indicated or Expressed by the Mokhasadars in their kyphiat before the Tahsildar on 18-7-1883 which is herein Enclosed.

IX. The Board vide their Proceedings no 8158 13-12-83 forwarded 17 Enclosures to be returned out of which the Head Assistant Collector returned only 3 Enclosures. He begs to state that the remaining Enclosures will be produced by the appellant if the Head Assistant Collector is pleased to forward them to him on his petition or requests the Government to call for the record direct from the Head Assistant Collector.

X. When the Kyphiat given before the Tahsildar (a Taluq Authority), the Order of the Head Assistant Collector, (a Divisional officer) & the terms of the muchilkas as to their due enforcement are contained in public documentary evidence the petitioner begs to state that he sees no ground why the Collector merely meant to throw them into waste paper basket without their legal enforcement. The appellant again forwards five muchilkas, except those already with the Head Assistant Collector, for your perusal and kind Consideration.

× Enclosures H, G, A, B, J

XI. It is quite unjust to receive his Karnam's services when no meras te was collected and paid to him. The order of the Collector & the Board are very unjust when there is nothing to show in Sec: 52 of the Revenue Recovery Act that the Consent of the parties is necessary for levy of meras te when the Mokhasadars have agreed by their kyphiat before the Tahsildar & when all these Conditions are being embodied in all the muchilkas whether current or old

The lower Courts orders give inference that they have not completely perused the record in full. The appellant is a man of a poor large family. A copy of the appeal petition to the Board is herewith submitted for your perusal of the grounds.

In conclusion the appellant humbly begs of your Honour to be good enough to peruse the records of the case and to consider the grounds above cited & reversing the orders of the lower Courts to grant orders for the recovery of Rs.154-13-0 under Sec. 52 of the Revenue Recovery Act due to him for Fasli 1298 & continuance of the same hereafter viz from Fasli 1298.

For which act of kindness he shall as in duty bound ever be

Your most obedient & humble Servant

Karanam of Ikurapatla

Kanigidy, Mokhasa

Government Yernagudem

Enclosure No. 2

Enclosure 2 to the Current.
A.

Read petition from C.Palayya, dated 13-5-98 (C.No.3959 of 1898).

N O T E .

The Current read above is a petition, originally dated 21-10-93 but since altered to 13-5-98, from one Chenanti Palayya, Karnam of a Mokhasa village in Yernagudem taluk, Godavari Dt. He appeals against the Proceedings of the Board of Revenue No.8185 Mis. dated 13-12-92 in which the Board declined to interfere with the orders of the district authorities refusing to enforce, under section 52 of Act II of 1864, the collection of the fees due to him.

2. It would appear that the petitioner first applied to the Hd. Asst. Collector claiming assistance under the section quoted above for the recovery of mfras due from fasli 1298 (1888-89) from the ryots of Isukrapatlapanigidy, a mokhasa village, and that in the ----

endorsement given by that officer it - was stated that the fees could not be recovered unless there was a distinct agreement on the subject. On appeal, the Collector passed the following Order:- "Petitioner has failed to show that any "distict agreement has been made bet- "ween himself and the Mokhasadars as to "the payment of fees and the rates at "which they are to be paid. If he cannot "get the Mokhasadars to enter into such "an agreement nothing can be done. With- "out such an agreement the Ag. Collector "cannot enforce collection under sec- "tion 52 of Act II of 1864." The Collr. was again addressed by the petitioner but he declined to re-open the case. The petitioner then appealed to the Bd. of Revenue which having received a re- port from the Collector on the subject saw no reason to alter the orders passed by the district authorities - Vide B.P. No.8158 dated 13-12-92.

Encl. 7 to the Current.
C

Encl. 8 to the Current.
D

Encl. 9
A.

not submitted by the petr., having been retained in the Hd.Asst.Collr's Office with some other enclosures.

Pros. of the Collr. d/29-1-91
Encl. 6 to the Current.
B

ed

Encl. 8 to the Current.
D

3. The petitioner after a lapse of about 5½ years now comes up to Govt. - with an appeal against the Board's or- ders. The petitioner relies in support of his case on the Kyphiat given by the Mokhasadars before the Tahsildar on - 18-7-83 and the Muchilikas executed by certain ryots. In regard to these, the Collector in his report to the Board stated that "the Mokhasadars retracting the state- "ment in their Kyphiats deny having ever "collected any rusums for the Nurnam or "that they are aware of their ryots pay- "ing any such. The ryots on the other - "hand who have executed Muchilikas plead "that they are illiterate and are not - "aware that they have engaged therein to "pay fees to the Nurnam." It was also pointed out that out of the eight Muchi -likas filed five were in the handwriting of the petitioner's father and bore the marks of the executants as well as of the two attesting witnesses and that - the remaining three were in the hand-

handwriting of the petitioner's deputy and bore the marks of the executants -- though the attesting witnesses affixed their signatures. The petitioner commenting on the above statements alleges that the ryots pay russums &c. direct to the Kurnam, that in the cowles filed as evidence by them they agreed to pay russums &c. as usual to the village establishment, that in every Zamindari or Mokhasa village it is usual for the Kurnams or their deputies to write only Muchilikas and pattas and that no agreement is generally entered into between Zamindars or Mokhasadars and Kurnams. The Collector however reported that "it is for the Kurnam to prove his "claim by document or well established "custom and this he has failed to do."

4. In the above circumstances, it is submitted that the Government may decline to interfere.

HA 23.6.98.

Sec
Mr
20.6.98

Hon. Lance S. Harbord — Please see draft on the docket
A.S. 22.6.98 Bruce Miller

When given for copying ——
When copied ——
When examined ——
When signed ——
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READ AGAIN G.O., No. DATED
189 ,

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

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Karanam Ikurapatla

Kapuidy, Mokhasa

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Encl. C to the Current.
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Encl. 8 to the Current.
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HA 23.6.98.

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Hon. Dewan Bahadur Please see draft on the docket

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