

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 4114

DATED 21st October 98

[Despatch Abstract.]

Agreeing with the B. of Recs in considering that the right to enhance the assessment on lands assessed at 6 pice per anna in the Wynad does not arise when the land is sold for arrears of revenue and bought in by a third party.

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 (189 P) Department.

CURRENT No. 4837

24/10/98

Recd 824071 d 4 July 1898 From The Board of Revenue
 Revenue Settlement, Land
 Order No: 4114 d 21 October 1898 Records and Agriculture
 Madras.
 No. 4071 Misc

The Govt accept the
 terms expressed in para
 2 of the Bd's resolution
 read above with regard to
 the construction
 which must be
 Dated 4th July 1898
 Received
 Registered
 Enclosures /
 Spare copies
 Rev 0
 22-10-98
 In the body of Rev (Rett)
 but upon the wording of
 G.O no 741 R.D.
 27 Sept 1886

24/10/98

SUBJECT.

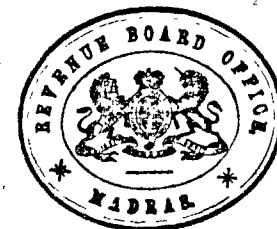
Passing orders on
 the question regarding
 enhancement of assess-
 ment on certain estates be-
 longing to Nilambur Tim-
 malpad, in South East
 Wynad, sold for arrears
 of Revenue.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.



Proceedings of the Board of Revenue

(Revenue Settlement, Land Records and Agriculture).

Dated 1st April 1898

No. 2307. M.S.

Read petn. from Kilambur Thacharakavil Manabikraman, Triumalpad of C
Kilambur Ansum, Ennad Taluk, 20.10.96 No. 12, requesting refund
of assets on certain lands

Read also No. 12-96 forwarding for the Colli's report the petn. read above

READ also the following letter from J. H. A
Tremenheere Esquire, ag.
Collector of the Nilgiris, Ds
No: 32/97 dated 4th January 97.

I have the honour to
reply to Board's reference
dated 4th December 1896
on P. Q 938
1896 concerning an
appeal by the Triumalpad
of Kilambur against a
certain enhancement of
assessment.

2. The Triumalpad
owning certain lands assessed
6 pies an acre partially
allowed arrears to accrue
and

and the lands to be sold in Revenue Auction and then bought them through his Agent. On this the Head Assistant Collector enhanced the assessment to Rs 2 on the strength of Government order 741
27-8-86 and his action was upheld on appeal.

3. The Appeal is on two grounds first that Government has no right to enhance the assessment imposed at the Settlement; Secondly that the Government order quoted applies only to Government jammam lands but not to private jammam lands. But the Government Order quoted specially reserved certain rights of enhancement and it referred to para 13 of a draft notice by the Settlement Officer which specifically related to "Estates held under private jammis". These objections

are therefore invalid.

4. So also is the objection that assessment is imposed only on cultivation. The Government order contemplated the raising of assessment on uncultivated land.

5. It is also argued that private jammam lands do not revert to the State on relinquishment by tenants. But such a contention has not been made.

6. In the present Case, there was the right of enhancing the assessment if the land "reverted to the State by relinquishment or otherwise". These last two words have been explained by Board's Proceedings, 520 dated 23rd December 1893 - The Board used this phrase "that is to say, which ceased to be occupied land paying assessment to Government". The Jammis land fell into this class by his purpose - by withholding the assessment.

7. The Board Continued:
"After Sale of the land for
"arrears of Revenue, it will
"be ~~impossible~~ under section
"13 of the Notification referred
"above to raise the assessment."
That is the present Case exactly.

8. Again "no right to
raise the assessment x x x
Can accrue to Government
So long as the present assess-
ment continues to be paid"
The inference is that the right
accrues when the present ass-
essment is withheld.

9. It would seem there-
fore if the Board's interpretation
of the Government Order was
correct that the right to raise
the assessment had accrued
in the present Case.

10. On the other hand it
is just possible that the Board
meant to restrict the operation
of enhancement to Cases where
at the Auction Government
and not a third person was
the

the purchaser of the defaulter's
right.

11. If the legality of enhance-
ment seem at all doubtful
in the present Case, it may
be better to waive any right
Government may have; for
Gove ment gave itself the
power of enhancement to
guard against relinquish-
ment which here the Jemmi
seems not to have contem-
plated.

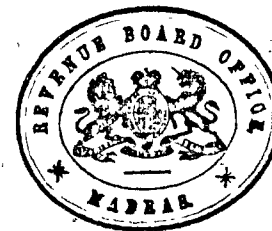
Resolution

The Collector is requested
to state what assessment was
entered as payable on the
lands when they were brought
to Sale for arrears of Revenue.
Vide form No. 7 - Sale notice
of lands in the appendix to the
Bd's Standing Order No. 106.

(True Copy and Extract.)

(Sd) R. V. Srinivasar
Secretary
To the Collector of the Nilgiris
(True Copy)

R. V. Srinivasar
Secretary



Proceedings of the Board of Revenue
(Revenue Settlement, Land Records and Agriculture),

Dated 4th July 1898.

No. 4071 Misc.

READ.

Agani Board's Proceedings,
No. 2307 Mis dated 1st
April 1898.

Read also the following: -

The Nilgiri Hd. Asst Collector's Office
Ootacamund 28th April 98.

Dis no: $\frac{37}{1898}$

from

J. G. Burn Esquire,
Ag. Hd. assistant-Collector of
The Nilgiris.

Sir,

With reference to your
endorsement Ref on B no:
293 of 1898 on Copy of Board's
Proceedings

60-2
REVENUE DEPARTMENT
MADRAS
29th April 1898
J. G. Burn

Gudalur, S.E. Wynad Taluk		Village	Name of defaulter	Description of land whether Wajja, Wajja or garden and buildings (if any) belonging to the defaulter or not	Field number	Name	Estimated	Actual	Assessment	Amount payable by the purchaser on account of the kist for the current Fasli falling due after the date of sale.
a	c	Rs	a	p	Rs	a	p			
Punjia	94	Maraja Kottai Estate	11	66	3	10	4	Land Revenue 5-13-7 Land Cess --5-10 Village Cess --4-4 Rs <u>6-7-9</u>		
-do.	107	Maraja Kottai Estate	5	54	2	3	3			
Punjia	2	Wesbourn Estate	395	44	112	4	Land Revenue 112-4-- Land Cess 7-4-3 Village Cess 5-4-2 Rs <u>124-8-5</u>			

The Sale list shows that fields nos. 94 and 107 of Devala were attached and advertised for Sale and the total sum which the purchaser would have had to pay for both the fields was Rs 6-7-9 and as on the Sale of no: 94 a sum of Rs 8-8-0 was

was realised, the other field was not put up to auction.

2. Field No. 2 of Padantheva was in arrears for Rs 125-12-5 and the highest bid was Rs 110 only.

I have &c

(Signed) J. G. Brown

Ag Hd Asst Collector

(True copy)

Div No: 1230 of 1898.

Submitted to the Secretary
to the Commissioner of Revenue
Settlement, Land Records and
Agriculture, Madras, with
reference to Board's Proceedings
this Ref. No: 2307 dated 1st
April 1898.

(Sd) —

Helgini Collection } for Ag. Collection.
 Mrs. Ootacannud }
 18th May 1898 }

Revolution.

In this Case, the Nilambur
Triumalpad suffered two Coffee
estates

estates, held under him in Kilgiri - Wynaad, to be sold for arrears of revenue, and purchased the estates biyani at the revenue Sale, in order to wipe out the claims of the defaulting Planters.

2. Parts of the two estates were assessed at half - anna an acre under Rule 13 of the Wynaad Settlement notification, and the question raised in this appeal is whether this half - anna rate is liable to be enhanced owing to the estate having been sold for arrears of revenue. It may be doubted whether para 3 of Government Order Revenue, No: 741 dated 27th August 1886 properly expressed the intention of Government, but the right to enhance is thereby only reserved in case the land "reverts to the State by relinquishment or otherwise". In such event

event, no special provision is necessary to enable Government to assess reverted land as it chooses; but, be this as it may, it is impossible to hold that the two estates in question have reverted to Government since Government allowed another person to purchase them at the revenue Sale; and the Board must hold that under the circumstances the half - anna rate is not subject to enhancement. The amount levied from appellant at the enhanced rate must accordingly be refunded.

3. From the appeal - petition, it appears that the appellant further contemplates an attempt to relinquish the assessment without relinquishing the estates after the manner permitted to jammis in Government Order No: 250 Revenue dated 11th June 96. The

The Collector need hardly be
cautioned against applying
the said order to "Estates" without
special authority.

(True copy and extract)

A. B. Srinivasan

Secretary.

Copy To the Collector of the Nilgiris
" " " " Malabar
" Secretary to Government,
" Revenue Department
" Petitioner. Paras 1 and
2 only.

Good
7.7.

* in f. 27 Aug 1886
No 741 R. B

Revenue Department

B. P. No 4071 dated 4. 7. 1898

(C. No. 4837)

To the Under Secy.:

In G. O. No 611 of 22. 7. 91

the Govt enunciates the principles
and methods to be observed in con-
ducting the settlement of the Mysore
It stated in para 9:-- "In the
case of estates held under private
jennies or under Govt who have
taken the place of fictitious jennies
in escheat lands, the chief object is
to make an assessment which will
be unchanged for the period of settle-
ment, and which will not entail
annual inspections and measure-
ments of cultivation; and they
therefore direct that on the cultiva-
tion at the time of settlement
the existing rate of Rs 2 per acre
shall be charged, and with the
addition of 6 pias per acre on the
remaining portion, shall constitute
the whole assessment of the
estate for the period of settlement."
2. In his letter No 22 dated
18. 8. 1886 the then Director of
Revenue

Revenue Settlement (Sir J. F. Price) proposed on the recommendation of the Special Settlement Officer (Mr Castle Street Street) that in the case of estates held on Rs 2 + 6 pice system the consolidated unit assessment should be apportioned ratably over the whole estate in order to facilitate subsequent transfers or relinquishments. This proposal was made as it was thought that estate holders might relinquish that portion of their estate which is assessed at Rs 2 per acre and retain the land assessed at 6 pice per acre thus causing loss of revenue to Govt. The Director accordingly suggests that whilst the Govt. assure the holders that no increase on the lump payment for the estate, so long as it continues entire, will be made for thirty years, they should intimate that, in case of division, the lump sum fixed upon the portion or portions which

which continue to pay assessment will not be calculated on a consideration of the question of whether at the time of settlement the whole or part, was ultimately or not, but that it will be fixed by assessing upon the area of the divided portion or portions, a rate per acre arrived at by dividing the lump sum, imposed at the settlement, by the total area of the estate." The Govt. however, pointed out that the remedy proposed was open to the equally strong objection that it would offer an inducement to estate holders to throw up the whole or a portion of the unultimated land and to thereby obtain the unultimated lands at an assessment considerably less than Rs 2 per acre; and that the planters would be more likely to throw up the unultimated than the ultimated portions of their estates. The Govt. accordingly directs: - "that all land in the estates referred to, which is under cultivation at the time of

the settlement shall be assessed at Rs 2 per acre, while the uncultivated portions of such estates shall bear an assessment of six pice per acre. There will thus be no difficulty in determining the assessment in case of transfers or relinquishments. It should, however, be distinctly understood that the Govt reserve to themselves the right of enhancing the assessment on any of the land assessed at 6 pice the acre which may subsequently revert to the State by relinquishment or otherwise."

3. According to Rule 13 of the Nagpur Settlement Rules revised as follows:— "Existing estates held under private zemins or under Govt who have taken the place of fictitious zemins in escheated lands bona fide acquired will be assessed as follows:— on the cultivation at the time of settlement Rs 2 per acre will be charged, which with the addition of 6 pice per acre on the remaining uncultivated portion of estate will

Please see p 3 of G.O. No 893
of 11.10.93 and D.O. No 520
of 23.12.93 Vol put up.

will constitute the whole assessment of the estate for the period of the settlement, viz, thirty years. It must, however, be distinctly understood that the Govt reserve to themselves the right of enhancing the assessment on any of the land assessed at 6 pice the acre which may subsequently revert to the State by relinquishment or otherwise."

4. It will be seen from G.O. No. 611 of 22.7.86 that the settlement was to be made with the occupant of the land. It was stated:— "Such person will not necessarily be the zemindar, nor the actual cultivator. The occupant will be the person who has the control over and possession of the land and the buildings and crops upon it which are the security for the public revenue." At the same time the Govt approved of the suggestion that with the new settlement the system of dark hasts and relinquishments

relinquishments should be introduced.
 please see para 5 of the G.O.
 in G.O. No 1162 of 3.12.1891
 the Govt decided that the
 settlement of the Malabar
 district should be made with
 the zemmi and not with the
 occupant and that the settle-
 ment of Wynad which had
 been completed should be
 revised accordingly. The system
 of paying land on mukhas
 and accepting relinquishments
 from them was also there-
 abandoned. In his letter No
 510 C of 20.11.1893 the Special
 Settlement Officer, Malabar
 and South Canara (Mr Moberly)
 points out that in view
 of the above decision: "private
 zamindari lands can never revert
 to the state by relinquishment.
 The occupants of private
 zamindari land may be paid
 upon relinquished but the lands
 still remain private zamindari
 land though unoccupied. It
 was clearly the intention of
 Govt

In D.O. No 520 of 23.12.93
 in the volume put up.
 G.O. of 1894 No 520 R
 slip Y

This is what I have been
 laid down JH

In 1894 put up
 G.O. of 1894 No 520
 slip Y

Govt to reserve to itself the
 right of enhancing the assessment
 on six pias land, which sub-
 sequent to the introduction of
 the settlement) might be ex-
 cluded from the estate in which
 it was included at the time of
 settlement." Mr Moberly proposed
 that the settlement notice issued
 in 1886 should be revised so
 as to make the last sentence
 of Rule 13 run as follows:-
 "It must, however, be distinctly
 understood that the Govt reserve
 to themselves the right of
 enhancing the assessment on
 any of the land assessed at 6
 pias the acre which may sub-
 sequent to the introduction of
 the settlement have passed out
 of the occupation of the person
 to whom a patta was granted
 at the settlement." In its
 Prop No 520 of 23.12.1893
 the Board, however, states that
 the object of Rule 13 was to
 reserve to Govt the right of
 enhancing the assessment on
 any

any of the land in an estate assessed at 6 pias per acre which might "subsequently revert to the State by re-hinichment or otherwise" that is to say, which ceased to be occupied land paying assessment to Govt. that under the decision arrived at in G.O. No 1152 D 3.12.91 the patta for all occupied private jammam lands will run in the name of the jammam unless he refuses registry or desires that the occupant shall be registered as his representative in which case it will be in the name of the occupier; that the registered pattadar will then be responsible for the revenue of the lands until they pass from his possession by sale for arrears or in some other legal manner; that in case the pattadar desires to re-hinich his lands a notice must be given; and that on receipt of such notice or after the sale of land for arrears of revenue

ie in Malabar? but ~~not~~ ^{to} ~~about~~ the Nilgiri Wynaad ~~settled~~ & the case in question ~~is~~: the defaulters were tenants of a jammam ~~the~~

SR

revenue it will be possible to raise the assessment. The Board also stated: "But no right to raise the assessment can accrue to Govt. so long as the present assessment continues to be paid".

5. It will be seen from the above that the Settlement notice reserved power to Govt. to raise the assessment of the lands in the Wynaad assessed at the 6 pias rate when they revert to the State by re-hinichment or otherwise and that this was interpreted by the Board in 1893 or 7 years after the publication of the notice to mean when the land is re-hiniched or after its sale for arrears of revenue. The Props of the Board containing this interpretation of the clause was recorded by Govt. and ^{may} ~~might~~ therefore be taken as approving it. have been approved.

6. In the current read above the Board of Revenue report to that the Nilambur Tammilpa suffered

allowed
~~supposed~~ two coffee estates, parts
of which were assessed at 6
pies per acre, held under him
in the Nilgiri. He used to be
sold for arrears of revenue
and purchased the estates himself
at the revenue sale in order to
wipe out the claims of the
defaulting planters. The
Head Assistant Collector enhanced
the assessment to Rs 2 with reference
to para 23 of the Settlement Notice
referred to above. The Board's
interpretation of the rule referred
to in para 4 supra would
seem to justify the procedure
and the question for consideration
is whether that interpretation
is correct. The Board now
states the right to enhance the
assessment is reserved only
when the land reverts to the
State by relinquishment or
otherwise. That it is not
correct to hold that the two
estates in question have reverted
to Govt. since Govt. allowed
another person to purchase
them

How does this
appear? See
13/1/13

them at the revenue sale; and
that under the circumstances
the half anna rate is not
subject to enhancement. The
Board has accordingly directed
that the amount denied at
the enhanced rate should be
refunded. The question for
consideration is whether this
interpretation is correct. In
the case now under consideration
however the above point does
not seem to affect the decision
arrived at by the Board. For
in the sale notice published
the assessment payable by
the purchaser in respect of
the two estates with an area
of 117 acres was entered as
Rs 5-13-7. ^{This is probably} the original
assessment. The Head Assistant
Collector's action in enhancing
the assessment subsequently
was therefore ultra vires.
7. The only question now
for decision is how Rule
13 of the Notification should
be interpreted. No difficulty
arises

assessment land is relinquished

W.P.
21.8.98

W.P.

Put up originals of

G.O. 741 of 27 August 1886

& the G.O. on R.P. 520 of 23 Dec 93

When there is any doubt

as to the intention of

a Govt order always
put up originals.

To the Under Secy

W.P.
28.7.98

The originals of the G.O.

are submitted.

Secy

G.O. 741 of 27 August

1886 para 3 seems to
correctly represent the

intention of the Govt.
Please see the Hon
Mr H.E. Sullivan's note
in the original Flap 2
That intention seems
to have been that
so long as somebody
paid the assessment
fixed at the settlement
the assessment was not to
~~be increased~~
be increased to enhance
it follows that ~~the~~
the assessment is not
~~to be increased~~
to be increased
if the lands are sold
in arrears to a
purchaser who pays
the assessment.

R.P. 520 of 23 Dec 93
does not appear to
have been critically
examined before it
was recorded (vide
Original Flap 2). Of
course if a land
is put up for sale
in arrears & bought
in by the Govt, the
Govt's assessment
could be enhanced
on subsequent re-
assessment.

i.e. under the rule

W.P.

claim in the present
 can seem, therefore
 correct, ^{over}flaming out of
 consideration the
 statement of the
 assessment in the
 sale notice.

He
 28/8/88

I think the original intention
 was that if any one piece of land
 were sold up, the assess^t might
 be readjusted, that is I take
 the Hon^{ble} Mr Sullivan's reverting
 to foot to have included such
 a case. However whether
 this was so or not, the
 language used in the P.O. with
 of 27 Aug 86 No 741 will not
 I fear bear that construction.
 The Board's view must therefore
 be accepted

25/11/07

Issue draft

24/10/18

24/3/98

1886 para 3 seems to
 correctly represent the

When given for copying
 When copied
 When examined
 When signed

189

READ AGAIN G.O., No.
 189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATUTE WITH DITTO

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

N.B.—

A = Copy in full.
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