

Revenue (1899) Department.

MISCELLANEOUS SERIES.

G.O., No. 1054

DATED ^{13th March 99}
~~13th March~~

[Despatch Abstract.]

Declining to interfere on behalf of the inhabitants of Fraserpetta, Coconadu praying for the removal of all restrictions of alienation of their house sites.

BACK PAPERS.

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

FURTHER PAPERS.

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

PETITION

to Canada

⁰/₁₈ 4,000-18-10-98.

Revenue (189) Department.

CURRENT No. 949

From

The Inhabitants of
Fraserpeta
Cachauada.
Gudavari D.

Order mis

(The terms offered to the
petitioners are sufficiently liberal.)
The Govt (accordingly) declines to
interfere on the petitioners' behalf.
/from order/

No.

Dated 2 — 2 — 99.

Received 6/2.

Registered 6/2.

Enclosures 4.

Spare copies.

SUBJECT.

Sub 1. Certain further papers
in connection with the former
petition praying for the
removal of all restrictions
against the alienation of their
house sites, without the impo-
sition of any add. taxes thereon.

To the files
Copy to the Board of Rev. L.P.
3-99

BACK PAPERS.

G.O.	No.	Department.	Date
	5814	Rw	2-11-97
	630		28-10-98
	527		16-9-98
	1592		14-11-98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

PETITION

0031

REVENUE DEPT

Cocanada

Dated 2nd February 1899.

To

THE SECRETARY

TO THE GOVERNMENT OF MADRAS,

REVENUE DEPARTMENT.

Petition presented by the inhabitants of Fraserpeta, Cocanada.

SIR,

With reference to your Endorsement No. 1592 R. of 1898 dated 15th November 1898 on our petition dated 31st October 1898, we beg to submit the following papers:—

1. Copy of petition presented by D. L. Devalraju one of these petitioners, to the Head Quarters Deputy Collector, on 24th November 1898.
2. Endorsement Ref. 645-H.D.C. Sup., of 98 dated 3rd December 1898, sent by that Officer in reply to the said petition.
3. Copy of the notice issued to us by the Head Quarters Deputy Collector on 14th December 1897, together with an English translation thereof.
4. Copy of pottah granted by Government to the holders of sites in Fraserpeta in 1869.

We have already submitted with our petition dated 31st October 1898, a copy of our petition dated 16th February 1898 presented to the Collector.

2. Enclosure No. 2 shows that the Collector has submitted to the Board our petition dated 16th February 1898, but that the Board has declined to move the Government on the subject. We, therefore, beg leave to submit this appeal against the orders of the Board.

3. We invite the attention of the Government to enclosure No. 4, which is the form of the pottah granted in 1869. We humbly submit that the proposal to impose a ground-rent of Rs. 10 an acre is inconsistent with the terms and spirit of the pottah. The pottah shews that for each site a lump sum of money was received from every grantee in the very beginning as price for the land in addition to the rent of one anna payable annually, and that heritable rights were conferred on the grantees. The pottah recognises every sort of enjoyment of the sites by the grantees, their heirs, representatives and assigns, and the only restriction imposed upon the grantees was that they should not, without the license in writing of the Collector for the time being, assign, underlet &c., these sites except to an Officer of the Collector's Huzur Establishment. This provision was inserted in the pottahs, as will be seen from the correspondence that took place at that time, simply for the benefit of the subordinates of the Collector's Office, and not with a view to reassess these sites at some future time. The reasons for inserting such a provision in the Pottahs are obvious, when it is remembered that a large majority of the Huzur Officials were Brahmins. In those days, when there was not a sufficient number of houses in the town, Government thought it necessary to help the subordinates of the Collector's Office by providing them with house sites, and to impose some such restrictions upon the powers of alienation of the grantees, so that the object of the grant might not be defeated. The Collector was accordingly empowered to give his sanction for the alienation of these sites to strangers in fit and proper cases, and it was never intended that such sanction should be burdened with any price—either a lump sum or an annual tax. The Collector too has been granting during these 30 years such permission without any fresh impost. What the Government has now proposed is, that it would itself give such a permission once for all to each and every one of the site-holders if they should agree to pay the proposed ground-rent. It is, however, difficult to see how the Government is justified in demanding a price for it in the shape of an enhanced ground-rent, while the Collector is at liberty, under the terms of the Pottah, to grant such permission free of any charge. If the necessity for the restriction of the power of alienation has now ceased to exist, we submit that the restriction may be removed altogether, without charging any

thing extra. Though the putta is styled a lease for 99 years, it is nevertheless a permanent lease, and the Government did not reserve to itself the power of revising the quit-rent at the end of the term.

4. We presume that the Government and the Board, at the time of passing orders regarding these sites, must have had in view the Proceedings of the Government of India No. 21-223-12, dated 7th October 1895—Land Revenue—, embodied in G. O. No. 527, Revenue dated 16th September 1898. These orders not having been made public until very lately, we could not refer to them in our petitions to the Collector. The Government of India, while pointing out the course which should be followed in assessing all newly granted dwelling sites, pointed out in para 3 of its Proceedings that an exception should be made regarding the lands that have been already alienated. Our sites have actually been alienated to the original grantees in consideration of a certain amount received by the Government for each and every site granted. The consideration, according to our calculations, amounts to nothing less than Rs. 115 per acre, as pointed out in our former petitions. Rs. 115 per acre is even now a sufficiently high price for such a sandy soil as these sites are. It is further stated, in para. 6 of the Proceedings above referred to, that "The Government of India desire that the above principles may be followed in future, and applied not only to all new grants but also to all renewals of existing grants or leases, which may fall in in future, so far as they are not inconsistent with their terms." From the para quoted above, it is clear that the object of the Government is not to apply the principles enunciated by it to all existing grants and leases even when those grants and leases are to run yet for a number of years but only when those grants and leases become ripe for renewal at some future time. Even then, the Proceedings direct that the principles may be applied only so far as they are not inconsistent with the terms of such puttahs and leases. Our leases are to run yet for a period of 69 years, and we submit that in the case of all building grants of 99 years term, the past policy of the Government has always been to renew them on the same terms as before. It was never the intention of the Government of India that the principles enunciated by it should be applied to cases like this, which is nothing but the granting of a permission, to which by virtue of the lease we are already entitled, and which costs the Government nothing. Board's Standing Order No. 37, now proposed to be revised, is not, therefore, applicable to our sites. To try to bring these sites under the operation of that Standing Order will be opposed to the principles upon which the grants were originally made.

5. Cocanada is a Zamindari town, and it is only this petta and a few other plots of ground, that belong to Government. It was but recently that almost all those other plots of ground, such as the field on which the Collector's bungalow stands, were made *Inams*, though they contain rich buildings and also fetch the highest rents possible. So their position has become safe. Again our neighbours in the Zamindari portion of the town have no taxes to pay, not even quit-rent. Our sites are 37 or 38 in number and we sincerely trust that we will not be made to regret that we have spent some capital, trivial though it be, in building houses on Government instead of on Zamindari land.

6. We therefore, respectfully pray that Government may be pleased to remove once for all the so called restrictions of alienation of our sites and houses, and to order that the same may be endorsed on our puttahs under the signature of the Collector, and that this may be done without the imposition of any new taxes. We further pray that our petition dated 31st October last and its enclosure may be read along with these papers.

We beg to remain,

Sir,

Your most obedient Servants,

D. L. Dual Raju.

P. B. Jayasena

H. Krishnamoorthy

(i.e.) Pemmangin Vekkathin

5. *Handwritten signature*
i.e. Paddipatti Kameswara Rao.
6. *Handwritten signature* B.A.
7. *Handwritten signature*
8. J. Nagabhushanam B.A.
9. *Handwritten signature*
(i.e.) Nanagiri Gomedashtam.
10. Lanka Ramabrahman
11. K. Ramabrahman
for
Somayajulu Seshiah.
12. J. Nagabhushanam
for
Annavaipula Venkata Subba Rao
13. Angarabachinijedim
Retired Revenue Officer.
14. A. Suryanarayana Rao B.A.
15. mark of Yalla Pallayya
16. Immanay Ramarao
17. mark of Vinnikonda Kallayya
18. *Handwritten signature*
19. *Handwritten signature*
20. *Handwritten signature*
21. Chakrapani Venkateswaram B.A.
22. D. V. Prakasam B.A.
23. *Handwritten signature*
24. *Handwritten signature*
25. Gopasetti Venkateswaram
26. *Handwritten signature*
27. *Handwritten signature*
28. *Handwritten signature*
29. *Handwritten signature*
30. *Handwritten signature*
31. P. Sitarana Aiyar
32. P. Venkateswaram Rao

36. Klicaduo

D
1 1,000 -7-9-93.

REVENUE DEPARTMENT.

C No. 949/99

Petition From the inhabitants of Fraserpeta, Cochinada

Dated 2 . 2 . 1897.

FOR ORDERS.

To the Under Secretary

The petitioners are
holders of certain house sites in
Cocanada under 99 years leases.
The circumstances under which
the leases were executed were
as under:-

2. In 1866 the collector of Godavari brought to the notice of Govt that owing to the scarcity of house accommodation in the Cocanada town, great inconvenience was felt by the several Cutcherry servants, and suggested the grant to them, free of assessment, of certain lands near his Cutcherry for the purpose of erecting houses thereon. The Govt was willing to grant the lands free of assessment but was of opinion that the lots should be sold by auction. The Collector and the Board of Revenue

A
B
 Vide letters in $\frac{3113}{15-11-66}$ & $\frac{1259}{7-6-68}$

Co. 3113
15-11-66

34 thereupon pointed out that the
 35 lots, if put up to auction, would
 36 be bought in by one or two
 merchants for erecting godowns,
 and having regard to the difficulty
 experienced by the Collector's subordi-
 nates in securing house accom-
 modation, suggested that the
 lands may be assigned to them
 on their redeeming the assessment,
 i.e., paying 25 years assessment.
 The Govt was inclined to think
 that this might not secure
 the Collector's object as it was
 open to the assignees to part
 with the land to merchants or
 others if a "better price" were offered
 them, and sanctioned the
 assignment "on the condition
 "of their (Cutcherry servants)
 "binding themselves in writing
 "to erect dwelling houses for
 "their own occupation on the
 "land."

Collis letter No 43
 13.2.68 } in P.O. 1259
 B.P. 2229 } 7.5.68
 27.3.68

Para 2 of P.O. 1259 B
 7.5.68

C.C. 1536 C
 3.6.98

3. In giving effect to the
 Govt order, it was found necessary
 to frame the agreements taken
 from the officials in the form
 of leases, that being found

vide Govt Pleader's letter
 of 16.3.69 printed in B.P. 2663
 20.4.69
 stitched with P.O. 5814
 12.11.97 D

C. f. however section 105 of the
 Transfer of Property Act IV of 1882 (3).

vide para 2 of B.P. 928 E
 11.2.69

Para 3 B.P. 3861 in P.O. 5814
 14.10.97 12.11.97 D

in B.P. 3861 in P.O. 5814
 14.10.97 12.11.97 D

vide para 3 of B.P. 1612

to be the only means by which
 a restriction on alienation and
 a liability to determine on breach
 of Covenant could be annexed
 to an interest in land. A nomi-
 nal rent of one anna per annum
 per site was also imposed, ^(apparently) ~~to~~
 to satisfy the conditions of a lease.
 The other conditions were (1) pay-
 ment of a lump sum (equivalent
 to 25 years quit-rent), (2) erection
 of a dwelling house within 18
 months on the site granted and
 (3) disability to rent or sell to
 other than a public servant in
 the Collector's office, without the
 Collector's written consent. The
 number of house-sites that
 were assigned on such leases
 in 1869 ~~was~~ was 37.

4. In a letter dated
 18.1.97, the Collector of Godavari
 brought to notice that, of the
 above sites, six had been alien-
 ated to non-officials without
 the Collector's permission and
 one with permission, and that
in all cases the necessity for
 Govt's retaining a hold on the

4
sites had ceased, because houses for officials were easily procurable at Cochinada. He accordingly suggested that the leaseholds might be converted into permanent properties on payment of quit-rent at the rate of Rs 10 per acre per annum, which was the rate in force in the town. The Board of Rev. considered that the terms proposed by the Collector were fair, but that the rent to be charged should be in accordance with the ruling of the Govt of India in its Resolution No. $\frac{21-223-12}{7. 10. 95}$, be a ground-rent of Rs 10 per annum subject to periodical revision.

The Govt sanctioned the Collr's proposal as modified by the Board of Rev; and in accordance with this order the Collector appears to have issued notices to the present owners of the lots offering to remove the restrictions as to alienation on their agreeing to pay a ground-rent of Rs 10 per acre subject to periodical revision.

to
5. The present petition is in effect an appeal for a reconsideration of the above order.

The

printed in No. $\frac{691}{13.8.97}$ H
vide also further papers under C.O. $\frac{527}{16.9.98}$

No. $\frac{5814}{12.11.97}$ D

vide enc. 3 to the petition.

But the land was & worth much more than the ass't redemption value.

S.P.

vide copy submitted by the petrs.

The petitioners urge that the original grantee had redeemed the assessment on the lands, that the restriction as to alienation was originally imposed as there was not then a sufficient number of houses in the town to accommodate the Cutcherry servants subordinates, and that if it is now considered that the restriction is no more necessary, it should be removed without imposing any extra charge on the lands.

6. Having regard to the wording of the leases, there is no doubt as to the legal aspect of the case. In the six cases in which the sites have been alienated without the Collector's permission, the Govt can re-let on the land, ~~but~~ if the alienees ~~do not~~ ^{do not} accept the terms offered in the notice. In the one case alienated with the Collector's permission and the remaining thirty cases, it is open to the owners to accept the

the

the terms or not; and in case they do not, the Govt must wait till the leases fall in 1959 before it can impose ground-rent in accordance with the orders of the Govt of India. It is however a question for consideration whether the Govt should insist on its full legal rights in the present case. No doubt it permitted the lands to be assigned in the first instance without any price apart from the capitalized value of the assessment; but the assessment was redeemed and the intention at the time was probably that the servants should occupy the lands free of assessment subject only to the restriction as to alienation. The form of a lease was adopted by the Govt Pleader as this was the only means of enforcing the restriction ~~under the~~

The Govt of India terms are quite liberal enough
S.K.

Why shd. the Public Treasury lose? the lands are very valuable
10. 1536 / 3.6.68

vide Govt Pleader's letter of 16.3.69 printed in B.O. 2663 / 20.4.69 (copy) stitched with B.O. 5814 / 12.11.69

RS 22-2-99
Submitted that the special terms of the leases shd certainly be enforced if the holders are not willing to take the terms offered by the Bd. The Govt may decline to interfere ~~in~~ ~~with~~ ~~the~~

P.T.O

H.M.

If the petitioners do not accept the terms offered, which are sufficiently liberal, the lands shd be resumed & disposed of under those terms.

S.K. 28/1/69

I concur
3.3.69

to us

Please see draft order on sheet on ~~forward~~ below.

und
4.3.99
RS
6-3-99

Lay
9/3/88
mil
H.K.

6/3/19

The Government declines to interfere on the petitioners' behalf. 7

2. The terms already offered to them are sufficiently liberal.

(from orders)

Me
5/3/88 JH

To the Petis with me.

Copy to the Board now: L. R.

ms
6-3-99
ms
6-3-99

ms. 16-3-99.

When given for copying _____
 When copied _____ } 189
 When examined _____
 When signed _____

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 GOVERNMENT

STATEMENT WITH DITTO.

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 IN ORIGINAL.

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