

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2261

DATED 25th May 98

[Despatch Abstract.]

Referring to ^{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
proprietors' duties under Madras Act II of 1894 in Estates
under the management of the Court of Wards & Civil Courts

BACK PAPERS.

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

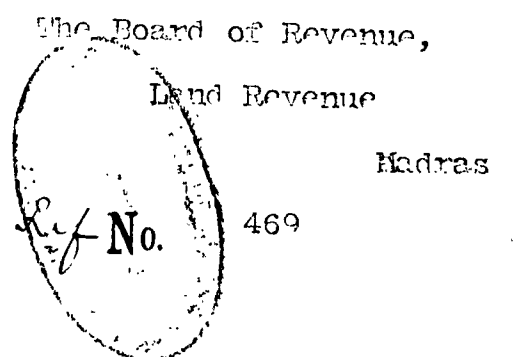
FURTHER PAPERS.

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

Revenue (189⁸) Department.

CURRENT No. 3182.

From



Order

Dated 25th April 1898.

Received 28th

Registered 30th

Enclosures/

Spare copies

SUBJECT.

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 and of Civil Courts.

G.O.	No.	Department.	Date.
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G.O.	No.	Department.	Date.
Chas. East	316	8 20-8	96
	379	8 6-10	96
	148	8 7-5	97
* Count of Wards Prop			110 8 27-1-98

Inc

Collector
 VIZAGAPATAM GOVERNOR'S AGENT'S OFFICE,
 DATED 28 March 1898.

W. O. Home, Esquire
Agent to the Governor,
Acting Collector
Vizagapatam District.

M. C. C. 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 Zamindari 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 have 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' remain unaltered. A similar disability attaches to the guardian of

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.

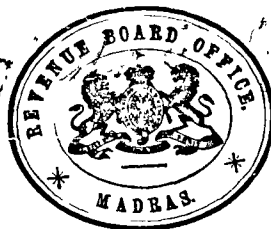
I have the honor to be,
Sir,

your most obedient Servant,
 Provinda Ram
 For Acting collector.

passing along on the
bottom cells of the
aquatic life surface
under the II of light
down with water of the
aquatic 'bats'.

Monroa proceedings no 316 of 30 August 1896.	no 379 of 16 October 1896	no 379 of 16 October 1896	no 379 of 16 October 1896
Monroa proceedings no 140 of 17 May 1897	no 140 of 17 May 1897	no 140 of 17 May 1897	no 140 of 17 May 1897
Monroa proceedings no 110 of 13 January 1898	no 110 of 13 January 1898	no 110 of 13 January 1898	no 110 of 13 January 1898

In replying the above should be quoted.



(LAND REVENUE.)

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

Reference No.469, dated 25th April 1898

Submitted for the orders of Government.

2. In para 1 of its order No.5369 Rev.,dated 23th 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.

5. 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.

Virianagaram 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.

Local District

Ag. Secretary.

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

Md. R. H.

Board's Prop No. ^{R4469}
25-4-98
(Cus. 3182)

To Secretary.

The Collector of Vizianagaram 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 Virianagaram Zamindari is under the management of a ^{Guardian} ~~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 Sect 4 as "the person in whose name an estate is registered in the Collector's office: and does not expressly include an

* Preparation of certain Registers
Separation & grouping of villages
Reporting the occurrence of
vacancies in village office
Filling up of vacancies
etc.

Amthor (S)

authorized Agent or Guardian.
In view of the difficulties
adverted to above, the Col-
lector 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 compe-
tent to perform the duties
laid down in the Sections
quoted above. In G. 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).

Section 46 of the Court of Wards Bill

May A

May C.

like page flagged
D

But this provision is incom-
plete as so many other duties
of the proprietor remain un-
provided 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} ~~the Govt~~ ^{as to the correctness of the Board's}
~~on that point~~ ^{in the opinion conveyed by Govt}
~~proprietor~~ ^{therefore} ~~is not necessary~~

In the discussion connected
with the passing of this
Act, the Hon. N. Subbarao
Pantulu proposed the insertion
of the words "or his autho-
rized 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) Blin
added that the effect of

add me

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" wherever 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
17-5-98

Sing

It is submitted that the reference should be made

18.7.98

Yes
20/5/98

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

G.P. Lris no. 2261 d/25th May 98.

Referred to the
Honorable the Advocate
General for favour of opi-
nion as to whether the law
^{RS}
24-5-98 as laid down in Act II of
1894 will permit of the
functions of the 'proprietor'
under that act being per-
formed by his 'authorized
agent'.

18.7.98

20/5/98

To the Hon. the Advocate General
thro' the Govt Solicitor
Copy to Board (L.R.)

18.7.98
20/5/98