

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2271

DATED 25th May

[Despatch Abstract.]

Stating that, in matter of the petition from certain mirasidars of the Syaspur village relative to the levy of Khirrent 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.

No. 1006 Misc.

Order R.

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

Dated



13th April 1898.

Received 18

Registered 18

Enclosures 6

Spare copies

SUBJECT.

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

To the petitioners.

BACK PAPERS.

G.O.	No.	Department.	Date.
3294	1	7-6-	11-11-97
3294	2	8-10-97	confidential

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Ref on No 597
9th B
Encls. 2.

[58/326]

Madras Collector's Office
29th March 1898.

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

To
The Ag. Secretary to Government
Revenue Department
Madras.

Sir,
Adverting to G.O. No 3294 this 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Communicated with G.O. No 5249 this dated the 8th October 1897 the claim to 60 years arrears of Quit rent has been withdrawn and steps have been taken to collect Quit rent on the lands in question only from Fasli 1306 (1896-97) at Rupees 5-4-0 per Cawny, a rate adopted in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.

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

The Secretary to Govt, Rev Dept, Madras
Thru The Secretary to the Comm^{rs} of
Land Revenue with reference to
Board's Proceedings ending No 374 this
dated the 7th March.

Extract from the judgment of
Sir Charles James in C.S.
No. 122 of 1882.



PETITION

1883

REVENUE DEPT.

CHIEF SECRETARY
9 JUN 1897
GOVERNMENT OF MADRAS

North Beach Road.
Madras 5th June 1897.



The Right Honorable
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 Puthnam Moodelly,
Appavoo Moodelly and Shunmugam Moodelly Mira-
sidars 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 por-
tion of the Land comprised in Survey No 40, which,
it was stated, was required for the purposes of a Chin-
nam Kilm whereupon our clients objected to the measure-
ments 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

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 5442-8-0 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

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Madras

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 Vyasarpati 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 bona fide 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 bona fide application for such land by some other person.

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

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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 Mirasi 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 Negligent Court of Judicature at Madras which was a Suit instituted by C. Appavoo Gramam against Your Lordship. We would respectfully refer your Lordship to the judgment of Sir Charles Sumner passed in the said suit on or about the 24th April 1883 extract from which we put to you.

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 4632-8-0 being the amount of Revenue due for a period of 60 years at Rs 5-4-0 per Cawnee for a year and that

4 1/2

unless

unless the said sum together with interest thereon at 6 per cent per annum and Rs 2-1-0 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 Chingleput 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 Mirasi 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

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illegal

man 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 cir-
cumstances of the case to direct the said imposi-
tion of quit rent to be set aside and withdrawn
and that the Collector of Madras may be ordered
to desist from selling our clients' lands as threatened
by him.

We are
Your Lordship's obedient Servants.
Frank Smeaton

Extract from the Judgment of
Sir Charles James in C.S.
No. 1282 of 1882.

The introduction of a Revenue System which
required payment of revenue for cultivated lands
and enabled the person accepting an engage-
ment 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 latter
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 cul-
tivation by Paikaries, the Government might
issue puttahs to Strangers for its cultivation.

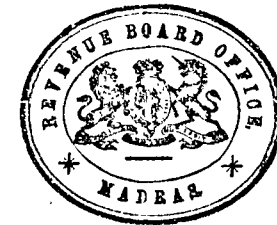
Then resulted a long struggle between
the Mirasidars and the Government, the
former unable to cultivate, and unwilling
to pay assessment on such of the land over
which they claimed rights, and on the other
hand resisting the introduction of Strangers.
When puttahs were granted to Strangers, the
Mirasidari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

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

Reference on G. No. 3454 of 1897.

In replying the above should be quoted.

(LAND REVENUE)



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 chinnam 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 Mirāsi 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 latter 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~~ ^{and that the assessment} from the date when the Collector imposed 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 ^{enjoyed} ~~employed~~ without the payment of any assessment and without the knowledge of Government.

3. The bearing on the present case of the words "(within six 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.

Clause Extract

L. Swamikanathan

11.2.27

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.



Proceedings of the Board of Revenue (Land Revenue)

No. 3881 Misc. dated 24 August 1896

Read again Board's Proceeding 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 herasidars and their vendee to the lands comprised in S. No. 40, 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 Proceeding No. 143 of 4th
March 1891. If the lands come to
be sold for the realization of the
arrears of Revenue, the Collector can
pay in such of them as may be
required on behalf of Government.

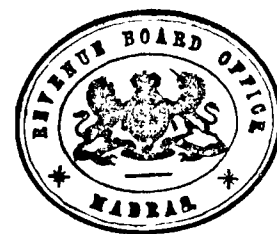
(True Extract)
(Signed). R. C. Carr
Secretary.

To The Collector of Madras.

/ True copy /

L. Dwamkannu
13 SEP 1897
Assistant Secretary.

CB



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, Ref. 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. Carr
Secretary.
To The Collector of Madras.
/ True copy /

L. Dwamkannu
13 SEP 1897
Assistant Secretary.

CB

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Subjct.

Proceedings of the Board of Revenue
(Land Revenue).

No. 1006. *Quise*, Dated 13th April 1898.

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

Read also Endorsement of the Collector of
Madras, Dated 5th April 1898, Rep. no. 597
forwarding copy of G. O. $\frac{3294 \text{ mic}}{29.6.97}$ re land at Vyasarpeti.

Resolution:—

The Collector's report first read above will be submitted to Government with reference to its order &c.

3294 mis dated 29th June 1897.

2. The circumstances which led to the de-
-mand 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.
Conf. No. 128 dated 20. 9. 97.

Conf. No. 128 dated at 9-11-
 (this letter no 597 25-3-98) Vonel Shapso
 To the Secy. to Genl. P.D. with G.R. 1326/98 & 2 Enc.
 & 3 Enclor. retid with G. 6. 5249 mis Rev. 78-10-97. J. Secretary.

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

To Secretary

Reference is requested to the note under G.O. 3294 from which it will 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. accepted 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, but
29-6-97 merely states that the claim
 to 60 years quit-rent ~~has been~~ ^{has been} with-
 drawn and that steps have
^{taken} been to levy quit rent only
 from Fasli 1306 (1896-97)
 at Rs 5-4- 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
~~Government may have considered~~
 with reference to their petition the necessary
 action has been ~~made~~ ^{taken}
 Please see draft on the docket. 15-5-98

vide opinion in g.o. 5249
8-10-97

2/5/98

HM

2/5/98

again g.o. 3294
 Revd ~~petition~~ 29-6-97
 Cuo. 2955/98
a. a. mis. no. 2271 d/25-5-98.
 The Govt has obtained a
 report on the subject matter of
 the above petition from the
 Collector of Madras and under-
 stands that the claim to
 sixty years' arrears of quit-
 rent has ~~not~~ ^{been} ~~considered~~ ^{ruled out}
 and that the petitioners ^{grievance} have
 no ~~more~~ ^{grievance} ~~been~~ ^{been} ~~remedied~~ ^{remedied}
 as far as possible. 11/5/98

1392-268

To petitioners
 To Board 14-5-98
14-5-98

15-5-98