

Revenue (1897) Department.

PRESS SERIES.

G.O., No. 255

Dated 22nd April

[Despatch Abstract.]

Recording copy of the Judgment of
the Dt. Munsiff of Rajahmundry in
the Suit Connected with the levy of
Village-Cess on the Lanka Land
leased out in the Godavari Dt.

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 (1899) Department.

CURRENT No. 1799

Order

From J. A. Brodie, Esquire
Collector
Godavari.

Ref G. B. No. 195 of 99
Rev 899

Dated 8-3-99.

Received } 13th March 1899.

Registered } 4th

Enclosures 15

Spare copies -

SUBJECT.

Submitting the judgment of
the District Munsiff of Rajah-
mundry in Suits Connected
with the levy of village cess
on the Lanka lands.

to the us

Please see proof copies

below, and draft.

13-4-99
13-4-97

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

15,000-5-96.

Ref No. 195-G.B. of 99
Rev

GODAVARI DISTRICT COLLECTOR'S OFFICE,

8 - 3 - 1899

DESPATCHED

9-MAR-1899

FROM

V. A. Broda, Esquire.

COLLECTOR,

Godavari District.

To

THE

Secretary to Government,
Revenue Department
Madras.

SIR,

With reference to G.O. No. 4889
3-2-99

I have the honor to forward herewith a copy of the judgment delivered by the District Munsiff of Rajahmundry in all the suits connected with the levy of village cess on the lander lands leased out.

2 It will be seen from the closing sentences of para 9 of the judgment that the District Munsiff is of opinion that the tenure under which the plaintiff

REVENUE (189) DEPARTMENT.

FROM

COLLECTOR,

Godavari District.

TO

THE

No.

Dated

Despatched

Received

189

SUBJECT.

lands are held by the
plaintiffs, is a sort of
ryotwari tenure within
the meaning of Act IV
of 1893. The Municipality appears
to have considered it
unnecessary to enter into
the question of limitation
(vide para 10).

I have the honor to be
Sir

Your most obedient servant

W. A. Brodie
Collector

W. A. Brodie
9-3-99
For Collector

for
7329

Revenue Department

Read letter from the Collector
of Godavari 8-3-98 No 125.
(Cen 1798)

G.O. Press. No. 255 D. 22nd April 1899

Recorded.

W. A. Brodie

To the Board of Rev (Land Rev).
No. 6-5-99 40

14-4-99
RS
14-4-99

Government (1899) of Madras.
REVENUE.

Recd.

Enclosures

1899.

Regd.

Spare copies

G.O., No. 255, 22nd April 1899.

APRIL.

Suits.

Recording copy of the judgment of the District Munsif of Rajahmundry in the — connected with the levy of village-cess on the lanka lands leased out in the Godávári district.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again G.O., No. 2945, Revenue, dated 15th July 1898.

ABSTRACT.—Expressing the opinion that all the fourteen suits on the file of the District Munsif of Rajahmundry, filed by the lessees of certain lankas in the Gódvári district for the refund of the amount of village-cess levied from them by Government should be contested, and approving the draft written statements in the case subject to certain alterations.

READ—again the following G.O., Mis. No. 488, Revenue, dated 3rd February 1899:—

Read—the following telegram to the Collector of Gódvári, dated 26th January 1899.
Reference Order No. 2945, dated 15th July last. Have suits been decided. If so (with) what result.

Read—the following telegram from the Collector of Gódvári, to the Secretary to Government, Revenue Department, dated 28th January 1899:—

Your telegram 26th instant. Village cess suits dismissed.

Order.—Mis. No. 488, Revenue, dated 3rd February 1899.
Recorded.

2. The Collector is requested to obtain and forward copies of the judgments for the information of Government.

(True Extract).

(Signed) G. S. FORBES,
Secretary to Government.

To the Collector of Gódvári.
„ Board of Revenue (Land Revenue).

READ—the following letter from V. A. BRODIE, Esq., Collector of Gódvári, to the Secretary to Government, Revenue Department, dated 8th March 1899, Ref. No. 195-G.B.-Rev. of 1899:—

With reference to G.O., Mis. No. 488, dated 3rd February 1899, I have the honour to forward herewith a copy of the judgment delivered by the District Munsif of Rajahmundry in all the suits connected with the levy of village-cess on the lanka lands leased out.

2. It will be seen from the closing sentences of paragraph 9 of the judgment that the District Munsif is of opinion that the tenure under which the plaint lands are held by the plaintiffs is a sort of ryotwari tenure within the meaning of Act IV of 1893. The Munsif appears to have considered it unnecessary to enter into the question of limitation (*vide* paragraph 10).

ENCLOSURE.

IN THE COURT OF THE DISTRICT MUNSIF OF RAJAHMUNDY.
THE THIRTY-FIRST DAY OF DECEMBER ONE THOUSAND EIGHT HUNDRED AND NINETY-EIGHT.

Present:

M.R.Ry. A. Raghunadha Row Pantulu Garu, District Munsif.

Plaintiffs.

Defendant.

O.S. No. 2 of 1898.

1. Mamidi Ramaswamy ...	} The Secretary of State for India in Council.
2. Jupudy Venkataramanujam ...	

O.S. No. 3 of 1898.

1. Mamidi Ramaswamy ...	} Do. do.
2. Jupudy Venkataramanujam ...	

O.S. No. 4 of 1898.

Mamidi Sriramulu ...	Do. do.
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O.S. No. 5 of 1898.

Mamidi Sriramulu ...	Do. do.
----------------------	---------

O.S. No. 6 of 1898.

1. Mamidi Ramaswamy ...	} Do. do.
2. Jupudy Venkataramanujam ...	

O.S. No. 7 of 1898.

1. Mamidi Ramaswamy ...	} Do. do.
2. Jupudy Venkataramanujam ...	

O.S. No. 8 of 1898.

1. Mamidi Sriramulu ...	} Do. do.
2. Jupudy Venkataramanujam ...	

O.S. No. 9 of 1898.

Mamidi Sriramulu ...	Do. do.
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O.S. No. 10 of 1898.

Mamidi Sriramulu ...	Do. do.
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O.S. No. 11 of 1898.

Mamidi Sriramulu ...	Do. do.
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O.S. No. 12 of 1898.

1. Jupudy Venkataramanujam ...	} Do. do.
2. Allampally Subbarayudu ...	

O.S. No. 13 of 1898.

Mamidi Sriramulu ...	Do. do.
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O.S. No. 703 of 1898.

1. Jupudy Venkataramanujam ...	} Do. do.
2. Mamidi Ramaswamy ...	

O.S. No. 704 of 1898.

1. Jupudy Venkataramanujam ...	} Do. do.
2. Mamidi Ramaswamy ...	

The amounts claimed in the suits are as mentioned below:—

O.S. No.	2 of 1898	RS.	A.	P.
Do.	3 of "	119	3	6
Do.	4 of "	96	9	0
Do.	5 of "	52	4	3
Do.	6 of "	74	9	3
Do.	7 of "	190	5	0
Do.	8 of "	486	15	8
Do.	9 of "	359	13	0
Do.	10 of "	172	4	3
Do.	11 of "	39	6	0
Do.	12 of "	131	1	6
Do.	13 of "	413	3	3
Do.	703 of "	1,275	9	2
Do.	704 of "	600	9	7
		684	6	0

2. Plaintiffs in the above suits sue for a refund of the above sums on the ground that they were levied illegally by the defendant's subordinates.

3. Plaintiffs allege that the Collector leased out to them certain lanka lands, gave them pattas and took muchilkas from them; that the pattas and muchilkas do not provide for the payment of any village-cess on the above lands; that the Collector had also no authority in law to levy village-cess on the above lands; that the right to enjoy the above lands for specified periods was sold by the Collector in public auction and purchased by the plaintiffs; that such being the tenure under which plaintiffs held the lands, Madras Act IV of 1893 did not apply and the Collector was not justified in levying the village-cess under the said Act; and that the Collector failed to refund the amount so levied in spite of plaintiff's demands for the same. Hence the suits.

4. The defendant took objection to the correctness of the amounts in some of the suits and put in a statement in O.S., No. 2 of 1898 stating the correct amount in each suit. He contended that the amounts referred to in the above statement were rightly levied from the plaintiffs under section 7 of Act IV of 1893.

5. At the settlement of issues the defendant's vakil raised the plea of limitation also in all the above suits;

6. The issues settled for decision in these suits are the following:—

- (1) whether the defendant is justified by law in collecting the sums claimed in these suits.
- (2) whether these suits are barred by limitation wholly or to any, and what extent?

7. All these suits being of the same nature the evidence for all these suits was, at the request of both the parties thereto, recorded in O. S. No. 2 of 1898; and this evidence forms the basis for decision in all the above suits. No oral evidence has been adduced on either side. The documentary evidence adduced in O. S. No. 2 of 1898 is as shown in the list of documents appended hereto.

8. *Judgment—First issue.*—This issue is common for all the above suits. The Collector of the district leased out to the plaintiffs the lankas referred to in the plaints in these suits, and 704 the Collector leased out the lands for faslis 1300 to 1304 and the claim in these suits is leased out to plaintiffs. In suit No. 7, the Collector leased out the lands for faslis 1305 to 1309 and the claim is for a refund of the village-cess collected in respect of the lands for faslis 1305 and 1306. In suits Nos. 11, 13 and 703 the Collector leased out the lands for faslis 1300 to 1304 and again from fasli 1305 to fasli 1309 and the claim in these suits is for a refund of the village-cess levied for faslis 1304, 1305 and 1306. Exhibits A-1 to A-8 are the pattas given by the Collector and exhibits E-1 to E-8 are the muchilkas which the Collector took from them. These pattas and muchilkas do not provide for the payment of any village-cess to Government. The Collector, however, levied the village-cess in question upon the lanka lands leased out to the plaintiffs and plaintiffs sue for a refund of the amounts credited for village-cess. Plaintiffs paid lump sums towards discharge of the rent due under the muchilkas executed by them and the Revenue authorities appropriated out of the sums paid by plaintiffs the sums due for village-cess and local-cess and credited the balance towards the rent due from the plaintiffs. Plaintiffs contend that the Collector has no authority to levy village-cess upon the lands leased out to them.

9. Now, the Collector levied the village-cess under section 7 of the Madras Village-cess Act IV of 1893. Section 7 contemplates three classes of persons liable to pay the cess. Apparently plaintiffs do not fall under the second and third classes of persons referred to

therein. Defendant contends that the plaintiffs come under the first-class of persons holding land on ryotwari tenure and plaintiffs deny that they come under this class. Unfortunately the Act contains no definition of a "ryotwari tenure." Nor is a complete definition of it to be found anywhere else. The lanka lands referred to in these suits are alluvial accretions formed in the bed of the river Gódavari and liable to occasional erosions by the strength of the current. They are the absolute property of the Government. Exhibits B to D show that these lanka lands instead of being leased out on ordinary ryotwari pattas are put up for sale from time to time and leased out to the highest bidder for a specified term and for a specified annual payment. It is the contention of the plaintiffs' vakil that lands so leased out cannot be said to be held on ryotwari tenure within the meaning of section 7 of the above Act. I am referred to Exhibit J, which is a Government return sent to the Honourable the House of Commons showing under what tenure and subject to what land tax lands are held in the several Presidencies in India, to page 3 of the Settlement Manual, wherein a quotation from the above exhibit J appears, and to pages 70 to 73 of the Manual of the Standing Information for the Madras Presidency, for the incidents of the ryotwari tenure. Even in these manuals an exhaustive definition of the ryotwari tenure is avoided and exhibit J does not also give such an exhaustive definition. In my opinion the term ryotwari tenure is used in the Act IV of 1893 in a general sense to distinguish it from a zamindari or inam tenure and it is not used in a sense restricting it to a permanent holding of land under a ryotwari patta with rights of transfer by sale or gift and with the other incidents mentioned in page 3 of the Settlement Manual. The facts that the lands in question are leased out temporarily to the highest bidders and that the lessees executed muchilkas in favour of the Collector unlike the ordinary Government ryots do not necessarily indicate that the tenure in question in these suits is not a ryotwari tenure. I understand the phrase "holder of land on ryotwari tenure" in the same sense in which the phrase "holder of land under ryotwari settlement" is used in section 3, clause XI of the Local Boards Act V of 1884, and the words "ryotwari settlement" are used to distinguish that settlement from the zamindari settlement or the village settlement. If the phrase "ryotwari tenure" is always to be understood in the only sense in which plaintiff's vakil wishes it to be understood, it is capable of being easily defined and would have been so defined. No complete definition of it occurs anywhere, because several species of tenures on which persons hold lands directly under the Government go by that name. In my opinion the tenure under which the plaint lands are held by the plaintiffs is a species of the ryotwari tenure within the meaning of Act IV of 1893. I hold therefore that the Collector was justified in imposing the village-cess on the lands held by plaintiffs. I find the first issue in the affirmative and against the plaintiffs.

10. *Second issue.*—Such being my finding on the first issue, I need not go into the question of limitation.

11. All the above suits are dismissed with costs.

Pronounced in open court this 31st day of December 1898.

(Signed) A. RAGHUNADHA ROW,
District Munsif.

ORDER—No. 255, Revenue, dated 22nd April 1899.

Miscellaneous.

Recorded.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Board of Revenue (Land Revenue).

Ecl. Shaik Karim.

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READ AGAIN G.O. No.
189 .

, DATED

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ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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