Revenue (1899) Department.

MISCELLANEOUS SERIES.

G.O., No. 305

DATED 20th January 99

[Despatch Abstract]

Considering that the title deed issued for the Thottiyam of Therkuthittai village, S. Arcot Dt, ~~xxxx~~ should not now be cancelled & the inam resumed, & the petitioner informed with reference to his petn. praying for the removal of another's name from the title deed that Govt cannot interfere.

BACK PAPERS.

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

FURTHER PAPERS.

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

$\frac{0}{18}$ 2,0 30-3-08.

Revenue (1898) Department.

CURRENT No. 1449

From

The Government Solicitor,
Madras

Order

No. 498

Dated 31 Oct.

Received 1 Nov.

Registered 1 "

Enclosures one file.

Spare copies

SUBJECT.

Forwarding the opinion of the Hon'ble the Advocate-General re. the Toti Inam of Thirukkattai, Chidambaram Taluk, South Arcot Dist.

BACK PAPERS.

G O.	No.	Department.	Date.
—	841	Rev.	29-10-90
	46	—	22-1-91
—	830R	-	30-4-97
	1714R		15-9-97
	59R		11-1-98
	787R		1-5-98
Endt 3655 Mis			8-9-98

FURTHER PAPERS.

G.O.	No.	Department.	Date.
	G.O. 749 of 98		

O P I N I O N

I. In this case there does not appear to be much evidence as to - what actually took place before the settling officer with reference to the inam in question. It is clear, however, that the fact that - the inamdars were out of possession was not brought to his knowledge.

2. The G. O. to the effect that, in the district in question, - enfranchisement should be restricted to cases in which a member of the Mirasi family was in possession of the lands at the time of - enfranchisement is dated January 22nd 1891. The Acting Collector of South Arcot, in his letter of May 17th 1898, states that the inam - inquiry was held partly in 1889 and partly in 1894. I assume that - the inquiry in respect of the inam in question was held after the - issue of the G. O. of January 1891.

3. The inamdars, when called upon to show cause why the title deed should not be cancelled, stated that they were not questioned with regard to possession. Having regard to the terms of the G. O. of - January 22nd 1891 it seems extremely unlikely that the settling - officer would have omitted to question the inamdars with reference to possession. I observe, too, that both the Acting Collector and - the Inam Commissioner are of opinion that not much credit can be - attached to the statements of the inamdars. On the other hand, it - seems to be taken for granted by the Inam Commissioner that the - inamdars were guilty only of "passive" and not of "active" misrepre-sentation. See the Inam Commissioner's letter dated November 29th 1897.

4. If, in fact, the inamdars, at the time of the inquiry were not guilty of "active misrepresentation", but merely refrained from - informing the settling officer that they were not in possession of the lands in question, I feel considerable doubt as to whether the inam can now be legally resumed and fully assessed, and the title - deed cancelled. The general rule is that a person is not allowed to allege mistake on a matter of fact which it was his duty to know, or which, having the means of knowledge it was wilful or negligent of him not to know. See Leake on Contract, edition 3, p.263, Tamplin vs. James, 15 ch. D.215, Mackenzie v Hosketh, 7 ch, D.675.

5. I do not think that Government would be justified in resuming the inam lands in question, and cancelling the title deed which has been granted, on the ground that, on the actual facts as they existed at the time, the inam Commissioner had no authority to enfranchise the inam, or to issue a title deed for the same.

6. On the evidence before me, I am unable to satisfy myself that the Inamdars have been guilty of such misrepresentation as would entitle the Government to resume the lands in question, and cancel the title deed which has been granted.

C. Arnold White

Advocate General.

M a d r a s)
)
31st October 1898)

(True Copy)

Ernest Bandes

Government Solicitor.

(1898) Department

From

Ernest Barclay
Government Solicitor
Madras

To

The Secretary to Government
Revenue Department
Madras

GOVERNMENT OF MADRAS
98 NOV 14
LEGAL DEPARTMENT

No 498

Dated 31st October 1898
Recd

Enclos 6.

Forwarded with enclosures with reference to the Order of Govern-ment Mis: dated 8th September 1898 No 3655 - Revenue

Ernest Barclay
Government Solicitor

Revenue (1898) Department.

CURRENT No. 8509

In c.no 7479/98 with the Regr.

From

The Inam Commissioner

Order

Dis: No. 491

BOARD OF REVENUE
13 DEC 1898

Dated 12-12-1898.

Received
Registered } 13

Enclosures 1

Spare copies

SUBJECT.

Furnishing, as requested, copy of a letter from the Collector of S. Arcot regarding the Joti Inam of Therkuthi-ttai, Chidambaram Taluk.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Dis No 491

Inam Commissioner's office,
Madras, 12 December 1898.

From

The Honourable Mr J. Sturrock.
Inam Commissioner.

To

The Secretary to Government,
Revenue Department.

Sir,

With reference to your C.M. for C No. 7479 dated 5th December 1898, I have the honour to forward herewith copy of letter from the Collector of South Arcot Refce on No. 3197/ker dated 21st January 1894, and to be,

Sir,
your most obedient servant,

J. Sturrock
Inam Commissioner.

From

THE INAM COMMISSIONER,

To

The Secretary to
Government
Revenue Department.

Dated 12
Despatched } December 1898.
Received

Dis No. 491

ENCLOSURE(S).

Furnishing, as requested, copy of a letter from the Collector of S. Arcot regarding the Toti Inam of Thirukkuthittai, Chidambaram Taluk.

Mis. 10 1,000--10-5-98-

South Arcot

Collector's office,
Cuddalore.

Ref. on Rep. No. 3197/Ver of 1893 21st January 1894.

From

A. E. Castlestuart Stuart Esqre
Ag: Collector of South Arcot.

To

The Inam Commissioner,
Madras.

Sir,

With reference to your letter No. 884/4-6-91 forwarding petition No. 236 presented by Murugan of Therkuthittai, Chidambaram Taluk, asking for the inclusion of his name, as well as that of his brother Sakkalan in the Title Deed to be issued for the Toti Inam of the village, I have the honour to report as follows:

2. The Toti mirasi of Therkuthittai belongs to 4 persons viz 1. Avian 2. Pachian. 3. Murugan (Petitioner) and 4. Sakkalan. Of these, the names of the first two alone have

have been entered in the register by the Inam Deputy Collector who re-commended the issue of Title Deed to these two persons basing his recommend-ation on the statement of one Seenan, the Taliari of the village, who said that Murugan and Sakkalan were not enjoying the Inam.

3. The Deputy Collector's recommend-ation is incorrect as will be seen from this office Ref. on. Regr. No $\frac{2187}{Enq}$ dated 9th May 1891 wherein it was reported that the Inam in Therkuthittai as well as 3 other villages was enjoyed in rotation by 4 co-parceners, the petitioner and his brother being the representatives of one of them. Subsequent enquiry, held by the Tahsildar, has confirmed this fact.

4. I therefore recommend that the petitioner and his brother be included in the Register and a Title Deed issued in their names also.

5. I regret the delay in the submission of this report which is due to your reference having been mislaid and lost in the Tahsildar's office. The present report is based on the statements taken from the party as to the purpose of his petition and on a copy of the Inam register obtained from the Tahsildar which is enclosed for reference.

I have the honour to be,
Sir,
your most obedient Sewant,

(Signed) T. Raghaviah.
For ag: Collector.
23/1/94.

(True copy)

J. Ward
Inam Commissioner.

D
2 1,000—7-9-98.

REVENUE DEPARTMENT.

Current No. 7479. & 8509

From The Govt. Solicitor, Madras.
& His Exam Communicating.
Dated 31st October 1898.
12th Dec. 1898 recd.

FOR ORDERS.

Please see Note stitched under Endt 3655 dt 8th Sept. 1898.

In reply to this Reference, the Advocate-General says that in the absence of direct evidence he assumes [redacted] that the Inam enquiry in respect of these lands was held after the G.O. of 1891 (restricting enfranchisement to cases in which possession was in the hands of a member of the minasi family) was passed. With this assumption he thinks it extremely unlikely that the Settling Officer could have omitted to question the inamdars as to possession. If, therefore the

Opinion in case 7479.

para 2

* The inam enquiry was held partly in 1889 and partly in 1894. Para 2 of the Collector's letter in Go 3655 8-9-98 L

Go. No 46 dt 22-1-91
F

para 3 & 4 of Opinion.

1898
REVENUE DEPT.
Book No. 1
Case No. 8509

the mirandars had been asked on the point and they refrained from giving the correct answer, this active concealment would have been, in his opinion, a sufficient ground for the Govt to cancel the title-deed granted. But as there is no positive proof that they were questioned and as the Distn Commr. holds that they were guilty only of "passive" misrepresentation, the Advocate-General holds that the mirandars have not "been "guilty of such misrepresentation as would entitle "the Govt. to resume the "lands in question and "cancel the title deed which "has been granted."

As regards the question whether the title deed can be cancelled on the ground that on the actual facts as they existed at the time of Settlement, the

FOR ORDERS.

Vide Distn Commr's Letter Report Chg 42/97 d/29.11.97. below K.

Vide last para, 6 of the opinion

para 5.

Report Reg. No 3197/97 of 93. d/21-1-94 - Chg 8509 R

para 2 of the above

the Distn Commr. had no authority to enfranchise the mirams, the Advocate-General considers that Govt. will not be justified in cancelling the title-deeds and resuming the lands at present. Under these circumstances, the title deed cannot, it is submitted, be cancelled.

2. The question then for determination is whether Murugan's name should be removed from the title deed as the petitioner Arnan requests. When the title-deed was issued it was considered whether the names of Murugan and his brother should be included in it or not. The Collr. then reported as follows:-

"The Toti Mirasi of Ther-"kuttilai belongs to four "persons, viz. 1. Arnan. "2 Pachian 3 Murugan and

"and (4) Sakkalan. Of
"these the names of the pet-
"two alone have been
"entered in the Register by
"the Inam Dy. Collr. who
"recommended the issue
"of title-deed to these two
"persons basing his re-
"commendation on the
"statement of one Seeman,
"the Taliari of the Village who
"said that Murugan &
"Sakkalan were not enjoy-
"ing the inam"
"3. The Dy Collr's recommen-
"dation is incorrect as
"will be seen from this
"office Rep. on Regr No 2187.
Eng
"dy 9-5-91 wherein it was
"reported that the inam
"in Thenkurichi as well
"as three other Villages was
"enjoyed in rotation by
"4 coparceners, the petr.
"and his brother being the
"representative of one
"of them. Subsequent enquiry
"held by the Tahsildar has
"confirmed this fact.
"4 I

"4. I therefore recommend
"that the petr (Murugan)
"and his brother be included
"in the Register and a title-
"deed issued in their names
"also".
The Inam Commr. accor-
dingly included the two
names when he issued
the title-deed in 1895. The
Collr. also says in para 3
of his letter d/ 10th Aug 97,
No 1678 that "the applicant's
"repudiation of Murugan's
"enjoyment of the inam
"is untenable as a matter
"of fact", as "some of the
"Inam lands have been
"mortgaged both by the
"Appellant and Murugan
"to different persons by
"separate registered deeds."
The petrs' contention that
Murugan's name should
be removed is, it is
submitted, therefore untenable;
he may be informed that
Govt. decline to interfere.

vide S. col. 10, 17 & 11.

in GO 1714 D.
15-9-97

C.S.
14/12/98

Seey
16/12/98

HM

Govt cannot now alter the title deed except with consent of parties (which is not given in the present instance) ; and the petr must therefore be informed that Govt cannot interfere

8/1/99

Please see draft below.

HM 17-1-99 17/1/99.

Secy 19-1-99

Govt HM 13-1-99

C 19.1.99
S 16.1.99

Revenue Department

Read again G.O. 830 R dt 30-4-97
" 1714 R dt 15-9-97
" 59 R dt 11-1-98
" Endt 3655 Mis dt 8-9-98
" also Endt of the Govt Solicitor
No 498 31-10-98 forwarding Opinion of the Advocate General (Cno 7467/98)
Read also letter from the Inam Commr Dis No 491 12-12-98 (Cno 8809 of 98)

Order (Pres) No 305 dt 20th Jan 1899.

The Govt considers that ~~in view of the opinion expressed by the Hon'ble the Advocate General~~ the title-deed already issued ~~cld~~ cannot be cancelled and the inam resumed.

2. As regards the request of the Peti. Arian, that Murugan's name should be removed from the title-deed, he will be informed that the Govt. cannot interfere.

HM 19-1-99

8/1/99

To the Inam Commr
" Peti (para 2).
} dt 25-1-99.

17/1/99.

A.

A 20/1/99 Dept print

1 P.