

Revenue (1899) Department.

PRESS SERIES.

G.O., No. 361

Dated 7th June

ms. (P) 1/10/03

[Despatch Abstract.]

Passing orders on certain questions connected
with the relinquishment of lands in private Govern-
ment Jannam Estates

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
S.O.	174	Rev	1-3-00.				

Government {1899} of Madras. REVENUE.

Recd.

Enclosures

Regd.

} 1899.

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G.O., No. 361, 7th June 1899.

JUNE.

Passing orders on certain questions connected with the relinquishment of lands included in private and Government jannam estates.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
S.O.	174	Rev	1-3-00.				

Government {1899} of Madras. REVENUE.

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G.O., No. 361, 7th June 1899.

JUNE.

Passing orders on certain questions connected with the relinquishment of lands included in private and Government jannam estates.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), Mis. No. 608, dated 30th January 1899:—

Read—the following letter from F. C. PARSONS, Esq., I.C.S., Acting Collector of Malabar, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated 25th October 1898, Ref. on C. No. 1916-R. of 1898:—

With reference to Board's Proceedings, Mis. No. 3238, dated 30th June 1896 (communicating G.O., No. 250, dated 11th May 1896), and Board's Proceedings, Mis. No. 4071, dated 4th July 1898, regarding relinquishment of lands in Wynaad, I have the honour to solicit the Board's orders in the following two cases in which applications for relinquishment have been made:—

(i) Mr. T. J. Ferguson, holder of a power-of-attorney from the pattadar of Elk Hill estate (estate No. 1 noted below) which is Government jenmam wholly assessed at 6 pies per acre, applies that he may be allowed to relinquish the estate until such time as the land is again cultivated or utilized in some other way with the object of deriving a profit therefrom. A copy of his application is enclosed. It will be observed that the applicant wishes to retain the land and to be freed from the liability to pay assessment thereon until it is again brought under cultivation or occupation.

(ii) Mr. J. W. Hockin, attorney on behalf of the owners, applies in respect of the Vayitiri and Perinthamethal estates (item No. 2 noted below) that he may be allowed—

(1) to relinquish portions of the cultivated area which have now wholly gone out of cultivation; and

(2) to relinquish the uncultivated extent assessed at 6 pies per acre. A copy of his application is submitted.

Serial number.	Survey number.	Amsam.	Desam.	Name of estate.	Dry.	Whether Government or private janmam.	Revenue.	
							Assessment.	Janma-bhogam at 8 annas per acre.
1	685	Wynaad. Kalpetta.	Teriote.	Elk Hill estate ..	163-10	Government janmam assessed at 6 pies per acre.	Rs. 5 1 7	Rs. 81 8 10
	212	Vayitiri.	Kunnath Edavatha.	Vayitiri estate ..	30-81	Private janmam assessed at Rs. 2 per acre.	61 9 11	..
	..	..	..		187-31	Private janmam assessed at 6 pies per acre.	5 13 8	..
	301	..	..	Perinthamethal estate.	209-45	Private janmam assessed at Rs. 2 per acre.	418 14 5	..
2	..	..	..		711-66	Private janmam assessed at 6 pies per acre.	22 8 10	..

2. In this connection the following points arise as regards estates settled under rule 13 of the settlement rules:—

(a) In a private janmam estate can part of the Rs. 2 land and the whole of the 6-pie land be relinquished, the janmi pattadar retaining the remainder of the Rs. 2 land?

(b) In a Government janmam estate consisting only of 6-pie land can the whole be relinquished?

As regards (a) the first part of rule 13 seems to contemplate that the total assessment made up of the Rs. 2 and 6 pies rates should be imposed on the estate as a whole and that a relinquishment of a part of an estate cannot be accepted. If the relinquishment of a portion be accepted, the Government cannot give that portion on patta to a third party unless the janmi consents. Thus the Government revenue on that portion is entirely at the janmi's mercy and the revenue is likely to be permanently lost seeing that a janmi would not readily allow a third party to cultivate a part of his estate and the fact of janmi relinquishing shows that the janmi will not cultivate it himself. As regards (b) the relinquishment may be accepted, but the pattadar must clearly understand that the estate lapses entirely to Government. Government is at liberty to re-assess and to grant the land to any applicant. The relinquishing pattadar cannot re-enter on the land without a fresh application and a fresh assessment of revenue.

ENCLOSURES.

From T. J. FERGUSON, Esq., holder of a Power-of-attorney from the Pattadar of Elk Hill Estate, to the Tahsildar of Wynaad, Manantoddy, dated Calicut, 13th August 1898.

Referring to correspondence which passed between us in March last, on the question of relinquishing the Elk Hill estate, I have now the honour to enclose a power-of-attorney from the owner of Elk Hill estate, authorising me as his attorney to present an application to the Collector of Malabar or to you, requesting that the Elk Hill property may be relinquished, and no further taxes collected until such time as the land is again cultivated, or otherwise utilized in some other way, with the object of deriving a profit therefrom. I therefore request that you will issue the necessary relinquishment order.

From J. W. HOCKIN, Esq., Attorney for James Finlay & Co., to the Tahsildar of Wynaad taluk, Manantoddy, dated Vayitiri, 8th March 1898.

The petition presented by Hockin, Muktiyur Agent under the General Power-of-attorney to Messrs. James Finlay & Co., residing at Jalamala estate in Vayitiri amsam of Wynaad taluk.

Respectfully sheweth—

That lands measuring 209-45 acres lying in Perinthamethal estate, survey No. 301 and lands measuring 30-81 acres in Vayitiri estate, survey No. 212 in Kunnathedavaka desam, Vayitiri amsam, belong in jenm to the aforesaid company and settlement pattayams were accordingly granted in their favour in 1889, and that the revenue is being collected with reference to those pattayams.

That 150 acres in the said survey No. 301 and 15 acres in the survey No. 212 are only under cultivation and the rest are lying waste overgrown with jungles and that therefore the revenue for the latter cannot possibly be levied.

That petitioner protests against the levying of Rs. 28-1-6 as revenue at 6 pies per acre for uncultivated forest lands measuring 711-66 acres and 187-31 acres, respectively, included in the survey Nos. 301 and 212.

That the aforesaid lands having been declared by the Settlement officer to belong in jenm to the said company, it is not right and proper for the levy of 6 pies and of Rs. 2 per acre for uncultivated forest and formerly cultivated waste lands, respectively.

That in these circumstances petitioner prays that revenue may be levied only for actually cultivated land and that for uncultivated forest and waste lands be remitted.

That the lands for which remission is now asked have been uncultivated for over two years and that there is no present intention of cultivating them.

Resolution—Mis. No. 608, dated 30th January 1899.

Submitted for the orders of Government with the following remarks.

2. The Collector raises two questions in respect of "estates" settled under rule 13 of the Wynad settlement rules, that is, estates assessed at Rs. 2 per acre on the cultivated and 6 pies per acre on the uncultivated portion at the time of settlement—

(1) Whether the holder of a Government janmam estate consisting only of 6-pie land can relinquish the whole estate?

(2) Whether the holder of a private janmam estate consisting partly of Rs. 2 land and partly of 6-pie land can relinquish the whole of the latter and part of the former, retaining only a portion of the Rs. 2 land?

3. In the case of Government janmam lands, it is open to estate-holders to relinquish their estates wholly or in part, but under the settlement rule quoted above, the relinquished land will, as observed by the Collector, lapse entirely to Government, and Government will be at liberty to re-assess and grant the land to any applicant.

4. In the case of private janmam estates, the rules are not clear. In respect of ordinary private janmam holdings, Government has conceded the right of relinquishment, subject to certain conditions (G.O., No. 250, Revenue, dated 11th June 1896, and G.O., No. 738, Revenue, dated 3rd December 1898), even though the effect of relinquishment will be merely to transfer the land from "occupied" to "unoccupied," and Government will not be at liberty to assign the land for occupation without the consent of the janmi.

5. It is not clear whether this concession extends to private janmam estates. If relinquishment is allowed in respect of these estates, there is the difficulty that, as the relinquished land will not revert to the State, Government cannot enhance the assessment on relinquished 6-pie land when the land comes again to be occupied. Possibly paragraph 3 of G.O., No. 741, Revenue, dated 27th August 1886, which reserves to Government the power to enhance the 6-pie rate in certain cases was intended to apply to private janmam estates also.

6. Another difficulty in the case is that the conditions laid down in paragraph 2 of G.O., No. 738, Revenue, dated 3rd December 1898, cannot be easily applied to cases like the present one, in which the estate holder is also the janmi of the land.

(True Copy and Extract.)

(Signed) R. V. SRINIVASIAH,
Secretary.

To the Secretary to Government, Revenue Department.

ORDER—No. 361, Revenue, dated 7th June 1899.

Miscellaneous.

The Government agrees in the view expressed in paragraph 3 of the Proceedings read above in regard to the relinquishment of Government janmam estates either wholly or in part.

2. It is observed that the petition from Mr. J. W. Hockin forwarded by Board does not raise the issue stated in paragraph 2 (a) of the Collector's letter and in paragraph 2 (2) of the Board's resolution. Mr. Hockin does not propose to relinquish any portion of the estates belonging in janmam to Messrs. James Finlay & Co. What he contends is in effect that as the company has been registered as janmi of the two estates, the said estates were not liable to be settled under rule 13 of the Wynad settlement rules, and that therefore unoccupied waste and forest is not liable to pay any assessment.

The papers before Government contain no information as to when and under what circumstances the company acquired a janmam title to the estates in question,

but seeing that ten years have elapsed since the settlement took place, the Government is not now prepared to allow the question to be opened as to whether or not it was correct to assess the estates as if they were held under a private janmi within the meaning of rule 13 of the Wynad settlement rules. Mr. Hockin should be informed accordingly.

(True Extract.)

(Signed) N. E. MARJORIBANKS,
Ag. Secretary to Government.

To the Board of Revenue (Revenue Settlement,
Land Records and Agriculture), with enclosures

Exd. Shaik Karim.

40 Copies.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., No. 361, REVENUE, DATED
7TH JUNE 1899.

[SUBJECT.—*Regarding relinquishment of Private and Government Janmam estates in Wynaad.*]

Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), No. 608, dated 30th January 1899.

To Under Secretary—

The questions discussed in the Board's Proceedings have arisen in connection with two applications to the Collector of Malabar for relinquishments of lands in Wynaad, settled under paragraph 13 of the Wynaad Settlement Notice, *i.e.*, in respect of estates assessed at Rs. 2 *per* acre on the cultivated portion and 6 *per* acre on the uncultivated portion at the time of settlement. In one of these cases the estate measuring acres 163.10 is Government janmam and is assessed wholly at 6 *per* acre, and the holder proposes to relinquish the property and requests "that no further taxes (be) collected until such time as the land is again cultivated or otherwise utilized in some other way with the object of deriving a profit therefrom"; the holder evidently wishes to retain the property, and the relinquishment application is merely a request for exemption from payment of assessment till the land is again brought under cultivation. In the second case, the holder is himself the janmi of two estates partly assessed at Rs. 2 *per* acre and partly at 6 *per* acre, and proposes to relinquish portions of the area assessed at Rs. 2 *per* acre which have now gone out of cultivation and the uncultivated extent assessed at 6 *per* acre. He declares that these lands have been uncultivated for two years and that there is no present intention of cultivating them. Here also the applicant evidently wishes to retain the land and to be exempted from the payment of assessment.

2. On these applications the Collector raises the following questions and solicits orders thereon;—

- (i) whether the holder of a Government janmam estate consisting wholly of 6 *per* land can relinquish the whole estate; and
- (ii) whether the holder of a private janmam estate consisting partly of Rs. 2 land and partly of 6 *per* land can relinquish the whole of the latter and part of the former, retaining only a portion of the Rs. 2 land.

3. In the case of the former the Collector and the Board of Revenue consider that it is open to holders of Government janmam to relinquish their estates wholly or in part, but that with reference to paragraph 13 of the Wynaad Settlement notice, as approved in G.O., No. 741, dated 27th August 1886, the relinquished land will lapse entirely to Government which will be at liberty to reassess and grant it to any applicant. In the case of the latter the Collector inclines to the view that the first part of paragraph 13 would seem to contemplate that the total assessment made up of the Rs. 2 and 6 *per*

G. S. FORBES.
H. W. [INTERBOTHAM].

Paragraph 2 of his letter, dated 25th October 1898, in the current.

"* * *. With regard to relinquishments of portions of estates assessed in the lump to declare that the assessment on the divided portions shall be fixed by the Collector who will settle with reference to the amount of cultivated and uncultivated land included, what should be charged on each portion. Relinquishments should only be allowed on this condition. The same rule should, I think, be applied to transfers." The Hon'ble Mr. Sullivan thereupon noted: "It is not very likely that any one would relinquish an estate in cultivation and yielding crops merely to commence work afresh and it is still more unlikely that any one would relinquish his hold on land held at the nominal rate of half-an-anna an acre save by sale. Let whoever hold the cultivated portion pay Rs. 2 *per* acre. If the proprietor sells the portion assessed at six pies, the lightness of the assessment will of course be taken into calculation between the vendor and the vendee in arranging terms; but Government have no concern with such arrangements. All that the Settlement-officer has to secure is the payment to Government of Rs. 2 *per* acre on the cultivated area and six pies *per* acre on the uncultivated land. Who pays it is a matter of indifference."

Notes under the above Government Order. "As the law now stands janmis are not re-

"land in their estates and this involves allowing janmis to tell Government when any
"of their tenants have relinquished. The occupants should signify their intention of
"relinquishing to them and they should signify it to Government. The question
"whether Government can grant waste land in janmams to outsiders for purposes
"of cultivation must be considered in connection with the Malabar Tenancy Bill".
It was accordingly laid down in G.O., No. 250, dated 11th June 1896, that having
regard to the existing practice of exempting from assessment unoccupied janmam
lands, the janmis should not be required to pay assessment on lands the cultivation of
which was to cease and that the relinquishment of such lands should be accepted
provided that notice thereof was given by a certain prescribed date. In G.O., No. 738,
dated 3rd December 1898, the exemption from assessment was restricted to cases in
which land was not in the possession, actual or constructive of a tenant. Paragraph
3 of this order further stated that the janmi of a few acres of land who cultivated the
whole of it himself was in the position of an ordinary ryotwari proprietor and should
not be permitted to relinquish any portion of his land unless he surrendered the janmam

right in it also, but that this restriction was not meant to affect large janmis. In the discussions in G.Os., No. 250, dated 11th June 1896, and No. 738, dated 3rd December 1898, attention appears to have been confined to private janmam holdings.

9. To return now to the questions of the Collector stated at paragraph 2 of this note:—

First question.—As stated by the Board and the Collector, it is open to the holder of a *Government janmam* to relinquish a portion of it, but the portion relinquished will then lapse entirely to Government which will be at liberty to reassess and grant the land to any applicant.

G.S.F.

Second question.—In regard to private janmam estates, it was originally clearly contemplated by Government that relinquishments of occupancy in portions should be allowed; but this was at a time when it was open to the Collector to put in a new tenant without reference to the janmi, but this is no longer the case. Notwithstanding this the Government has in the case of private janmam *holdings* allowed relinquishments, but subject to certain conditions. Is the same principle to be followed here? If so, the conditions cannot, as pointed out by the Board, be easily applied to cases in which the estate holder is also the janmi of the land.

There seems to be no doubt that the Government can enhance the assessment in the case of six-pie lands relinquished in private janmam estates.

R.S.

6-3-99.

To Secretary—

N. E. MARJORIBANKS.
9-3-99.

To the Honourable Member—

In the case of Government janmam land relinquished, or of private janmam land which *reverts* to the State by relinquishment or sale for arrears, etc., there is apparently no difficulty. When it is reassigned the Government may impose the enhanced assessment. Under paragraph 3 of G.O., No. 738, dated 3rd December 1898, a small janmi who relinquishes must be held to relinquish the whole janmam rights. The cases of the two janmis referred to in the Board's Proceedings seem to come under this rule; and if they relinquish, the janmam right passes with the relinquishment, and on reassignment, either to themselves or to others the enhanced rate may be imposed.

G. S. FORBES.
15-5-99.

I totally disagree with the Government Order; but in any case it refers to the small janmi as "the janmi of a few acres of land who cultivates the whole of it himself".

In the case reported the land is over 1,100 acres in extent, out of which 900 acres are virgin forest.

The disposal suggested by the Secretary evidently won't do. The point of Mr. Hockin's contention appears to have been altogether missed.

He says in effect "The company is the registered janmi of the property. Under what rule do you assess the janmi for uncultivated virgin forest not leased to a tenant?" He says nothing whatever about any relinquishment.

Paragraph 13 of the Wynaad Settlement notification certainly refers only to "Estates held under private janmis or under Government". Mr. Hockin would urge that the estate in question does not come under this category.

I think the orders of Government regarding so-called relinquishment in the Wynaad are wrong and will have sooner or later to be cancelled.

In this case I think we may evade tackling the difficulty as follows:—

First.—Answer the question as to relinquishment when the land is sirkar janmam.

Then say—

"The Government observes that the petition of Mr. J. W. Hockin forwarded with the Board's Proceedings does not raise the issue stated in paragraph 2 (a) of the Collector's letters and in paragraph 2 (2) of the Board's resolution. Mr. Hockin does not propose to relinquish any portion of the estate. What he contends is in effect that, as the company has been registered as janmi of the two estates, the said estates were not liable to be settled under Rule 13 of the Wynaad Settlement Rules, and that therefore unoccupied waste and forest is not liable to pay any assessment."

The papers before Government contain no information as to when and under what circumstances the company acquired a janmam title to the estates in question, but seeing that ten years have elapsed since the settlement took place, Government is not now prepared to allow the question to be opened as to whether or not it was correct to assess the two estates as if they were held under a private janmi within the meaning of Rule 13 of the Wynaad Settlement Rules. Mr. Hockin should be informed accordingly.

If I am bound to answer the question, I think, I should say: "Portions of private janmam estates whether assessed at the Rs. 2 or the six-pie rate may be relinquished on the understanding that the relinquishment leaves it open to Government to assess the land at such rate as it deems proper if, and when it is again leased out, occupied by a tenant, or cultivated."

I stick however to my opinion that no relinquishment should be allowed unless it is such a relinquishment as enables Government to put another pattadar on the land.

H. W. [INTERBOTHAM].
18-5-99.

To Under Secretary—

Please see draft below.

2. It is presumed that the question of the relinquishment of portions of private janmam estates need not be dealt with till Mr. Hockin comes up with a specific proposal to relinquish a portion or portions.

R.S.
3-6-99.

To Secretary—

N.E.M.
6-6-99.

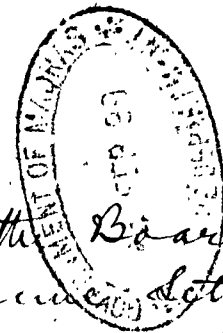
Issue.

N.E.M.
7-6-99.

[Issued as G.O., No. 361, Revenue, dated 7th June 1899.]

Revenue (1899) Department.

CURRENT No. 926



From the Board of Revenue
Revenue Settlement, Land
Records and Agriculture
Madras

Order

No. 608 Misc.

Dated 30th January 1899.

Received 4/2

Registered 5/2

Enclosures 2

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SUBJECT.

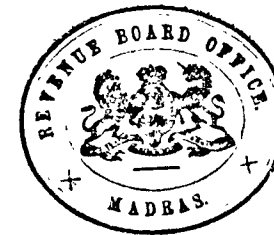
Submitting, with remarks,
for the orders of Government
letter from the Collector of
Malabar requesting order
on certain points in
connection with two -
applications for relinquishment
of lands in Wynad

BACK PAPERS.

G.O.	No.	Department.	Date.
	250 (0)		11-5-96
	738 (0)		3-12-98
	741 (0)		27-2-96

FURTHER PAPERS.

G.O.	No.	Department.	Date.



Proceedings of the Board of Revenue

(Revenue Settlement, Land Records and Agriculture.)

Dated 30th January 1899.

No. 608 Miscellaneous.

READ

the following letter from J. C. Parsons Esq.
Ag. Collector of Malabar Refon C No 1916
dated 25th October 1898:-

With reference to Board's Proceed-
ings dated 30th June 1896 No 3238 Misc: —
(Communicating G.O. No 250 dated 11th May 1896)
and Board's Proceedings dated 4th July 1898
No 4071 Misc: regarding relinquishment
of lands in Wynad, I have the honor
to solicit the Board's orders in the
following two cases in which applica-
tions for relinquishment have been
made:

i. Mr J. J. Ferguson, holder of a
power of Attorney from the Puttadar
of Elk Hill Estate - estate No 1 in the
margin which is Government jennam
wholly assessed at 6 pias per acre, —
applies that he may be allowed to
relinquish

Whether Government or Private jennam	Revenue assessment at present
1. 685 Kappetta Estate Elk Hill Estate 163 7/8	assessed at 6 pias per acre 5 1 7 81 8 10
2. 212 Kappetta Estate Vayikuni Estate 30 81	assessed at 6 pias per acre 5 13 8
301	assessed at 6 pias per acre 22 3 10

on the land without a fresh application and a fresh assessment of revenue.

Resolution

Submitted for the orders of —
Government with the following remarks:—

2. The Collector raises two questions in respect of 'Estates' settled under rule 13 of the Wynād Settlement rules, that is estates assessed at Rs 2 per acre on the cultivated and 6 pies per acre on the —
uncultivated portion at the time of Settlement.

(1) Whether the holder of a Government jammam estate consisting only of six-pie land can relinquish the whole estate.

(2) Whether the holder of a private jammam estate consisting partly of Rs 2 land and partly of six-pie land, can relinquish the whole of the latter and part of the former, retaining only a portion of the Rs 2 land.

3 In the case of Government jammam lands, it is open to estate holders to relinquish their estates wholly or in part, but under the Settlement rule quoted above the Relinquished land will, as observed by the Collector lapse entirely to Govern-
ment, and Government will be at —
liberty

liberty to re-assess and grant the land to any applicant.

4. In the case of private jammam estates, the rules are not clear. In respect of ordinary private jammam holdings, Government has conceded the right of relinquishment subject to certain conditions (G.O. No 250 Rev. dated 11th June 1896 and G.O. No 738 Rev. dated 3rd December 1898) even though the effect of relinquishment will be merely to transfer the land from 'occupied' to 'unoccupied'; and Government will not be at liberty to assign the land for occupation without the consent of the jammis.

5. It is not clear whether this concession extends to private jammam estates. If relinquishment is allowed in respect of these estates, there is the difficulty that, as the relinquished land will not revert to the state, Government cannot enhance the assessment on relinquished six-pie land when the land comes again to be occupied. Possibly para 3 of G.O. No 741 Rev. dated 27th August 1886. which reserves to Govern-
ment the power to enhance the six-pie rate in certain cases was intended

13 of 110
rule 13 of 110
G.O. No 741
21-2-1896

intended to apply to private Janmam estates also.

6. Another difficulty in the case is that the conditions laid down in para 2 of G.O. No 738 Revenue, dated 3rd December 1898, cannot be easily applied to cases like the present one, in which the estate holder is also the Janmi of the land.

(True Copy & Extract.)

R. V. Srinivasan
Secretary

To The Secretary to Government
Revenue Department.

Calicut 13th August 1898

To The Tahsildar of Wynad
Manantoddy

Sir, Referring to correspondence which passed between us in March last, on the question of relinquishing the Elk Hill Estate, I have now the honor to enclose a Power of Attorney from the Owner of Elk Hill Estate, authorising me, as his Attorney, to present an application to the Collector of Malabar or to you, requesting that the Elk Hill property may be relinquished, and no further taxes collected until such time as the land is again cultivated, or otherwise utilized in some other way, with the object of deriving a profit therefrom. I therefore request that you will issue the necessary relinquishment order.

I have the honor to
(Signed) R. J. Ferguson
(True Copy)
(Signed) V. Rajagopalachari
For Ag. Collector
(True Copy)

R. V. Srinivasan
Secretary

ccad
3/11

Vayitiri
8th March 1898

to
The Tahsildar of
Wynad Taluk
Manantoddy

The petition presented by Hockin
Mattiya Agent under the General
Power of Attorney to Messrs James Finlay
and Company residing at Jalamala
Estate in Vayitiri Amsam of Wynad
Taluk,

Respectfully sheweth:-

That lands measuring
209 acres 45 cents lying in Perumthammittal
estate Survey No 301 and lands measuring
30 acres, 81 cents in Vayitiri estate survey
No 212 in Kunnathedavaka Desam, Vayitiri
Amsam belong in gemm to the aforesaid
Company and Settlement pattayoms were
accordingly granted in their favor in
1889 and that the revenue is being collected
with reference to those pattayoms.

That 150 acres in the said Survey
No 301 and 15 acres in the Survey No 212
are only under cultivation and the rest
are lying waste overgrown with jungles
and that therefore the revenue for the
latter cannot possibly be levied

That

That petitioner protests against the levying of Rs 28-1-6 as revenue at 6 pias per acre for uncultivated forest lands measuring 711 acres 66 cents and 187 acres 31 cents respectively included in the Survey Nos 301 & 212.

That the aforesaid lands having been declared by the Settlement Officer to belong to the said company, it is not right and proper for the levy of 6 pias and of Rs 2 per acre for uncultivated forest and formerly cultivated waste lands respectively.

That in these circumstances petitioner prays that revenue may be levied only for actually cultivated land and that for uncultivated forest and waste lands be remitted.

That the lands for which remission is now asked have been uncultivated for over two years and that there is no present intention of cultivating them.

(Signed) J. Williams Hockin
Attorney for James Dinlay & Co

(True Copy)
(Signed) K. Rajagopalachary
For Collector

(True Copy)

REVENUE

R. V. Srinivasan

Secretary

Revenue (1899) Department.

CURRENT No. 2570

From

The Board of Revenue,
Revenue Settlement,
Land Records and Agriculture,
Madras

No. 1891 Inve.

Dated

11th April 1899

Received

7th do

Registered

10th do

Enclosures

Spare copies

SUBJECT.

Submitting to Government,
in continuation of B.P. 608 dated
30th January 1899, letter from
the Collector of Madabar, submitting
copy of letter from Mr. Ferguson
regarding the remission of taxes
on Elk Hill Estate, Madabar.

Order

To the Under Secretary

The previous paper is
now with the Secretary.

17.4.99

Place it out
put it with this
& submit to Secy
20.4.99

Lodged

RS
3-6-99

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

(Sett. 13--2,000 4 08.)



Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture)

Dated 11th April 1899.
No. 1891 Ins

READ.....

the following letter from Mr. F. J. Ferguson,
Plantation House, Calicut, dated 21st March 1899,
to G. W. Dance Esquire, Collector of Malabar.
Referring to your letter No. P. 141/99.
as the official year is rapidly drawing to a
close, I have the honor, with reference to
my letter addressed to you on the 20th
ultimo, to state that the remission of taxes
on Elk Hill Estate was actually promised
by the Sahsildar over two years ago, but
owing to some oversight the proper steps
were

were not taken in the matter. I hope now
you may be able to grant the concession
to the Rev. John Miller.

Apologising for troubling you on this
matter, in which the family of an old
and much respected Wynaad planter are
interested.

Read also the following endorsement thereon from
the Collector of Malabar, Further Refon C No 1916
dated 27th March 1899:-

Submitted to the Board (in the Settlement
Department) with reference to its Proceedings No 1139
Bris datd 24th February 1899, communicating
Board's Proceedings No 608 made dated 30th January
1899 for favour of early orders.

Resolution

Submitted to Government, in continuation
of B.P. 608 dated 30th January 1899
(True copy and extract)

R. b. Srinivasan
Secretary.

The Secretary to Government, Revenue Department
Collector of Malabar.

Revenue Department.

G. No. 928.

[Re: relinquishment of Criminal/Jamman estate
in Wynaad]

The Board of Revenue, Revenue Settlement, &c.

No. 608, dated 30th January 1899.

FOR DEEDERS

to Under Secretary.

The questions discussed in
the Board's Proceedings have arisen
in connection with two applications
to the Collector of Malabar for re-
linquishments of lands in Wynaad, set-
tled under ^{para} 13 of the Wynaad Set-
tlement Notice, i.e. in respect of
estates assessed at Rs. 2 per acre on
the cultivated portion and pies 6 per
acre on the uncultivated portion at
the time of settlement. In one of
these cases the estate measuring
acres/63.10 is Govt. ^{Jamman} and is as-
sessed wholly at 6 pies per acre, and
the holder proposes to relinquish the
property and requests "that no further
"taxes (be) collected until such time
"as the land is again cultivated or
"otherwise utilized in some other way
"with the object of deriving a profit
"therefrom"; the holder evidently

Vide notice stitched with C.O.

893

11-10-93

Marginal statement at page 1
of the current.

Vide Mr. Ferguson's application

of 13.8.98

C. 16/5

10

wishes to retain the property, and the relinquishment application is merely a request for exemption from payment of assessment till the land is again brought under cultivation. In the second case, the ~~applicant~~ ^{holder} is ~~the~~ ^{himself} Janmi of two estates partly assessed at Rs. 2 per acre and partly at pies 6 per acre, and proposes to relinquish portions of the area assessed at Rs. 2 per acre which have now gone out of cultivation and the uncultivated extent assessed at pies 6 per acre. He declares that these lands have been uncultivated for two years and that there is no present intention of cultivating them. Here also the applicant ^{evidently} wishes to retain the land and to be exempted from the payment of assessment.

2. On these applications the Collector raises the following questions and solicits orders thereon:-

(i) Whether the holder of a Govt. jannam estate consisting wholly of six pies land can relinquish the whole estate; and

(ii) whether the holder of a private jannam estate consisting partly of Rs. 2 land and partly of six pies land can relinquish the whole of the latter and part of the former, retaining only a portion of the Rs. 2 land.

3. In the case of the former the Collector and the Board of revenue con-

marginal statement at
page 1 of the current

vide Mr. Hocking's application
of 8.3.98 (Enc. 2 to B.O.)

3

para 2 of Collrs letter of 25-10-98
para 3 of B.P. 608
30.1.99

para 2 of his letter of 25-10-98 in
the current.

para 4 of B.P. ibid.

2

consider that it is open to holders of Govt. jannam to relinquish their estates wholly or in part, but that with reference to ~~para~~ ^{para} 13 of the Wynaad Settlement Notice, as approved in G.O.No. 741 dated 27th August 1886, the relinquished land will lapse entirely to Govt. which will be at liberty to reassess and grant ~~it~~ ^{the land} to any applicant. In the case of the latter the Collector inclines to the view that the first part of ~~the~~ ^{para} 13 would seem to contemplate that the total assessment made up of the Rs. 2 and 6 pies rates should be imposed on the estate as a whole and that a relinquishment of a part of an estate cannot be accepted; as, if this is done, the relinquished portion cannot be given on patta to a third party by Govt. unless the janni consents.

4. The Board of Revenue refers in this connection to the decisions in G.O.s Nos. 250 dated 11th June 1896, and 738 dated 3rd Decr. 1898, and states that "in respect of ^{ordinary} private jannam holdings, the Govt. has conceded the right of relinquishment subject to certain conditions, even though the effect of such relinquishment will be merely to transfer the land from occupied to unoccupied, and Govt. will not be at liberty to assign the land for occupation with-

"without the consent of the janmi."

It doubts whether this concession extends to private janmam estates also

and observes:- "If relinquishment is

"allowed in respect of these estates,

"there is the difficulty that, as the

"relinquished land will not revert

"to the State, the Govt. cannot en-

"hance the assessment on relinquished

"six-pies land when the land comes

"again to be occupied. Possibly para

"3 of G.O. 741 dated 27th August 1886

"which reserves to Govt. the power to

"enhance the six pie rate ~~the xxxxx~~

"was intended to apply to private jan-

"mam estates also."

5. By ordinary private janmam hold-
ings, the Board apparently means
lands whether held by the janmi

himself or by a tenant which have been

settled at rates given in paras 4 & 5

of the Wynad Settlement Notice; the

private janmam estates are those settled

under para 13. The original draft of

this para stood thus:-

"existing estates held under private

"janmis or under Govt. who have taken

"the place of fictitious janmis in c-

"heat lands bona fide acquired will

"be assessed as follows:-

"On the cultivation at the time of

"the settlement, the existing rate of

"Rs. 2 per acre will be charged which

"with the addition of six pies per acre

"will be the rate for the future."

"The Board observe that the rate of

"Rs. 2 per acre will be charged which

"with the addition of six pies per acre

Para 3 of B.O. ibid

As it now stands:-

"It must however be distinctly
"ly understood that the Govt.
"reserve to themselves the right
"of enhancing the assessment on
"any of the land assessed at
"six pies the acre which may
"subsequently revert to the
"State by relinquishment or
"otherwise."

*Notes under G.O. 741
27-8-86*

*Printed at page 5 of G.O. 741
27-8-86*

"on the remaining uncultivated por-

"tion of the estate will constitute

"the whole assessment of the estate

"for the period of the settlement,

"viz., thirty years. This consolidated

"assessment will be apportioned

"rateably per acre over the whole es-

"tate so as to facilitate subsequent

"transfers or relinquishments of por-

"tions of the estate should the occu-

"pant desire to effect the same."

6. When the rule came under consid-

eration, the then Secretary (Mr. (afterwards Sir. Henry)

Stokes wrote:- "The proposal that the

"lump assessment on the whole estate

"shall be rateably apportioned is one

"that will not work. Mr. A.E.C. Stuart

"designed it to prevent relinquishment

"of the cultivated portion, but he has

"forgotten that * * * the ar-

"rangement will offer a premium to

"the planter to relinquish the 6 pie

"portion * * * Govt. probably

"cannot forbid relinquishments and

"transfers of portions of estates as-

"sessed in the lump. * * *

"With regard to relinquishments of

"portions, the only plan I can think

"of is to declare that the assessment

"on the divided portions shall be fix-

"ed by the Collector who will settle

"with reference to the amount of cul-

"tivated and uncultivated land in-

"cluded, what should be charged on

6

"each portion. Relinquishments should
"only be allowed on this condition.
"The same rule should I think be ap-
"plied to transfers." The Hon'ble Mr.
Sullivan thereupon noted:- "It is
"not very likely that any one would
"relinquish an estate in cultivation
"and yielding crops merely to com-
"mence work afresh and it is ^{still} more un-
"likely that any one would relinquish
"his hold on land held at the nominal
"rate of half an anna an acre save by
"sale. Let whoever hold the cultivat-
"ed portion pay Rs. 2 per acre. If the
"proprietor sells the portion assess-
"ed at 6 pies, the lightness of the
"assessment will of course be taken
"into calculation between the vendor
"and the vendee in arranging terms,
"but Govt. have no concern with such
"arrangements. All that the Settlement
"Officer has to secure is the payment
"to Govt. of Rs. 2 per acre on the
"cultivated area and six pies per acre
"on the uncultivated land. Who pays
"it is a matter of indifference".
At the same time he suggested the in-
sertion of a clause reserving the
power of Government to revise the as-
sessment on any of the six pie land
reverting to the State by relinquit-
ment or otherwise. The sentence given
on the margin of para 5 above was ac-
cordingly substituted for the last

7

4

sentence of the original draft.

7. It will be seen from the Hon.
Members' note extracted above that
relinquishments of portions of es-
tates, cultivated or uncultivated,
was at the time deemed unlikely. The
exact meaning of the word 'relin-
quishment' in para 13 of the notice
is discussed in paras 2 & 3 of G.O.
500 dated 20th May 1887 and in paras
4 & 5 of Mr. A.E.C. Stuart's letter
No. 1157 dated 12th March 1887 print-
ed therein. In regard to Govt. Jan-
man estates it is the relinquishment
of the planter's occupancy right
~~under the Government~~
~~and thereafter the Govt.~~
can let out the land to any other
person who was willing to take it
up and to enhance the assessment
thereon. In regard to private Janman
rights the Govt. stated that "it had
"no concern with the mutual obliga-
"tions of the Janmi and the tenant,
"that these parties made their own
"arrangements but that as soon as
"land was occupied by a tenant the
"claim of Govt. to assessment ac-
"crued whether the land was cultivated
"or not and continued so long as suc-
"cupation existed and that if the
"tenant ceased to occupy the Govt.
"ceased to claim assessment & & &
it will thus be seen that the relin-

8
relinquishment of the occupancy of por-
tions of private janmam estates with-
out touching the janmi's right was thus
distinctly contemplated at the time.

8. The policy at the time was, how-
ever, to make the settlement with the
occupant, not with the janmi, and if a
tenant relinquished it was open to the
Collector to put in a new tenant with-
out reference to the janmi. The High
Court having subsequently laid down
that a janmi was entitled to be regis-
tered as proprietor of the land and
that he alone could be treated as the
"landholder" under the Revenue Recovery
Act, ~~the Government decided~~

~~the Government decided~~
the Govt. decided
in G.O. No. 1152 Revenue, dated 3rd
Decr. 1891 that the settlement of the
Malabar of the District should thence
forward be made with the janmi and not
with the occupant and that the prac-
tice of issuing copies without refer-
ence to janmis ^{the Revenue in S} under the new scheme
the ~~govt.~~ ^{Collector} could not put in new tenants
on relinquished private janmam lands.

In 1896 on a reference from the Collect-
or of Malabar, ^{the Board} stated that it would be
an intolerable position that the Mala-
bar proprietor should be able by sim-
ply leaving cultivable land waste, to
demand that the assessment on it
should be taken off and that the State

9
"should have no voice in its future
cultivation" and instructed the Col-
lector that the assessment cannot
be taken off from any assessed land
unless the janmi made an out and out
relinquishment to Govt. of his whole
right, title and interest. This view
was however overruled by Govt. The
Hon'ble Mr. Grose noted-- "As the la-
now stands janmis are not required
to pay assessment on untenanted
land in their estates and this in-
volves allowing janmis to tell Govt.
ernment when any of their tenants
have relinquished. The occupants
should signify their intention of
relinquishing to them and they should
signify it to Govt. the question
whether Govt. can grant waste land
in janmams to outsiders for pur-
poses of cultivation must be con-
sidered in connection with the Ma-
labar Tenancy Bill". It was accord-
ingly laid down in G.O. No. 250 d/
11th June 1896 that having regard to
the existing practice of exempting
from assessment unoccupied janmam
lands, the janmis should not be re-
quired to pay assessment on lands
the cultivation of which was to cease
and that the relinquishment of such
lands should be accepted provided
that notice thereof was given by a
certain prescribed date. In G.O. No.

Notes under the above G.O.

B.P. 33 under G.O. 250
3-3-96 11-6-9

E

No. 738, dated 3rd Decr. 1898 the exemption ~~from~~ assessment was restricted to cases in which land was not in the possession, actual or constructive of a tenant. Para 3 of this order further stated that the janmi of a few acres of land who cultivated the whole of it himself was in the position of an ordinary ryotwari proprietor and should not be permitted to relinquish any portion of his land unless he surrendered the janmam right in it also, but that this restriction was not meant to affect large janmis. In the discussions in G.Os. 250 dated 11th June 1896 and 738 dated 3rd Decr. 1898 attention appears to have been confined to private janmam holdings.

9. To return now to the questions of the Collector stated at para 2 of this note:---

1st question. As stated by the Board and the Collector, it is open to the holder of a Govt. janmam to relinquish a portion of it, but the portion relinquished will then lapse entirely to Govt. which will be at liberty to reassess and grant the land to any applicant.

2nd question. In regard to private janmam estates, it was originally clearly contemplated by Govt. that relinquishments of occupancy in portions should be allowed; but this was at a

time when it was open to the Collector to put in a new tenant without reference to the janmi, but this is no longer the case. Notwithstanding this the Govt. has in the case of private janmam holdings allowed relinquishments but subject to certain conditions. Is the same principle to be followed here? If so, the conditions cannot, as pointed out by the Board, be easily applied to cases in which the estate holder is also the janmi of the land.

There seems to be no doubt that the Government can enhance the assessment in the case of ^{big pieces} lands relinquished in private janmam estates.

RS
6-3-99

To Secy
H. H. M. 5/3/99

In the case of Govt. janmam land relinquished, or of private janmam land which reverts to the State by relinquishment or sale, there is apparently no difficulty. When it is resigned the Govt. may impose the enhanced ass.
Under Para 3 of G.O.

3 Dec 1898 No 738 a small
 jammi who relinquishes
 must be held to relinquish
~~the~~ the whole jamman
 rights. The cases of the two
 jammis referred to in
 the B.P. seem to come under
 this rule; & if they relinquish
 the jamman right passes with
 the relinquishment, & on real
 argument either to themselves
 or to their the enhanced
 rate may be imposed

8/12/98

I totally disagree with
 the G.O.; but in any case
 it refers to the small jammi
 as "the jammi of a few acres
 of land who cultivates the
 whole of himself" -
 In the case reported the
 land is over 1100 acres
 in extent, out of which
 900 acres are virgin
 forest -
 The disposal suggested by
 the Sec. evidently won't do.
 The point of Mr. Hocking's
 contention appears to have
 been altogether missed -
 He says "The Company
 is the registered jammi
 of the property -
 Under that rule do you
 assess the jammi for
 uncultivated virgin
 forest not leased to a
 tenant?" He says
 nothing whatever about
 any relinquishment -

Para 13 of the Wymad Settlement Modification certainly refers
 only to "Estates held under private jammis or under
 Govt." Mr. Hocking would urge that the Estate in question
 does not come under this category -

I think the Orders of Govt. regarding
 so called relinquishment in the Wymad are wrong -

will have some or later to be
 cancelled - I think we may
 in this case I think we may
 evade tackling the difficulty as
 follows: -
 First - Answer the question as
 to relinquishment when the land
 is Sirka's jamman -
 Then say: -
 "The Govt. observes that the
 petition of Mr. J.W. Hocking
 forwarded with the B.P.
 does not raise the issue
 stated in para 2(a) of the
 Collector's letter & in para 2(3)
 of the Board's Resolution -
 Mr. Hocking does not propose
 to relinquish any portion of
 the estate - What he contends
 in effect is that as the Company

has been registered as
 jammi of the two estates,
 the said estates were not
 liable to be settled under
 Rule 13 of the Wymad
 Settlement Rules, and
 that therefore unoccupied
 waste & forest is not
 liable to pay any assessment

The papers before Govt.
 contain no information as to the
 & under what circumstances the
 Company acquired a jamman
 title to the estates in question
 but seeing that ten years have
 elapsed since the settlement
 took place Govt. is not
 prepared to allow the question
 to be opened as to when

12
14
or not ~~the~~ it was
correct to assess the two
estates as if they were
held under a private
jammie within the
meaning of Rule 13 of
the Wyand Settlement
Rules - Mr. Hocking
shd be informed
accordingly -

H.S.
18-5-99 -

If I am bound to answer
the question I think I should
say - "Portions of estates ^{private jammies}
whether assessed at the
Rs 2 or the six pie rate
may be relinquished
on the understanding that
the relinquishment leaves
it open to Govt - to
assess the land at such
rate as it deems proper
if & when it is again
leased out, ~~or~~ occupied
by a tenant, or cultivated -

known
I stick to my opinion that no
relinquishment should be
made unless it is such a
relinquishment as enables
us to put another patidar

15
To u.s

8
Please see draft below.
2. It is presumed that the
question of the relinquishment
of portions of private jammie
estates need not be dealt
with till Mr. Hocking comes
up with a specific proposal
to relinquish a portion or
portions

RS
3-6-99

To Secy
H.S.
T.B.L.

Recd
H.S.
5/6/99

Exd 2, G.O. No 36107 7-6-99

14
or not ~~the~~ it was
correct to assess the two
estates as if they were
held under a private
jammie within the
meaning of Rule 13 of
the Wyand Settlement
Rules - Mr. Hocking
shd be informed
accordingly -

H.S.
18-5-99 -

If I am bound to answer
the question I think I should
say - "Portions of estates ^{private jammams}
whether assessed at the
Rs 2 or the six pie rate
may be relinquished
on the understanding that
the relinquishment leaves
it open to Govt. to
assess the land at such
rate as it deems proper
if & when it is again
leased out, ~~or~~ occupied
by a tenant, or cultivated -

known H.S.
I stick to my opinion that no
relinquishment should be
allowed unless it is such a
relinquishment of the whole

15
30.2.5

2 Please see draft below.
It is presumed that the
question of the relinquishment
of portions of private jammam
estates need not be dealt
with till Mr. Hocking comes
up with a specific proposal
to relinquish a portion or
portions

RS
3-6-99

for Secy
Mr.
Ball

Mr.
7/6/99

Enclosed, G.O. No 36107 7-6-99

Printed 7.6.29

Disposit

(A) Read Board's Procs. (Reg. Set. L. R. & A)
No. 608 Misc. of 30-1-99 (C. No. 926/99)
Read also Board's Procs: (No. 517 of 94)
No. 1891 Misc. of 11.4.99 (C. No. 2576/99)

G.O. Press no. 361 D 7th June 1889

The Court agrees in the view expressed in para 3 of the proceedings read above in regard to the relinquishment of Govt. Janmaut estates either wholly or in part.

2. It is observed that the petition from Mr. J. W. Mackinnon forwarded by Board does not raise the issue stated in para 2(a) of the Collector's letter and in para 2(a) of the Board's resolution. ~~Mr~~ Mr. Mackinnon does not propose to relinquish any portion of the ~~two~~ estates belonging in Janmami to Messrs James Finlay & Company. What he consents ^{is} in effect that as the Company has been registered as Janmi of the two estates, the said ~~estates~~ were not liable to be settled under Rule 13 of the Wynaad Settlement rules, and that therefore unoccupied waste and forest is not liable to pay any cesses.

ment.
The paper

The papers before Govt. contain no information as to where and under what circumstances the Company acquired a janmam title to the estates in question, but seeing that ^{ten} years have elapsed since the settlement took place, the Govt is not now prepared to allow the question to be opened as to whether or not it was correct to assess the estates as if they were held under a private janmis within the meaning of rule 13 of the Wynad Settlement Rules. Mr. Stockin should be informed accordingly.

(fr. 0)

RS
3-6-99
ms
6-5-99
ms
7/6

To the Board & Rs. Let into me.
RS 23-6-99

First copy sent to Press.

Returned for signature.

Despatched in print.

NUMBER OF COPIES REQUIRED. { Order complete. Letter only. Order complete with Letter.

READ AGAIN G.O. No. 189 , DATED

STATEMENT No.

ENCLOSURE TO G. No.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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