CHAPTER IV

Miscellaneous Features of Landlord Management

(a) Registration of Tenants and Tenants.

Tenants in order to facilitate the collection of their rents, were naturally obliged to maintain some system of registration.

The landlords of Coimbatore concerned themselves with the tenants, landlords or tenants, who paid rent directly to them, and had no record of subordinate tenants or tenants. The same principle was followed in all subordinate tenants and tenants, Chettinadu, but the lower grade of proprietorship the more crude and elementary was the system of registration followed.

All grades of landlords experienced great difficulty in maintaining their systems of registration up to date. These difficulties were due to several causes:

i) The system of "squattting" under which a tenant took up land without previous intimation to the landlord.

ii) The unwillingness of heirs to register succeeds by inheritance.

iii) The difficulties attendant on transfer of land by sale, gift and mortgage.

Apart from the question of the legal transferability of subordinate tenants or tenants, a generally accepted axiom of the Law of Property that a landlord had every right to demand early intimation of any change of ownership of subordinate tenants or tenants, paying rent to him, and of
the formation of any new holding within his property, which was or would under ordinary circumstances be liable for the payment of rent to him. That was the general contention of the Goalpara Zamindars.

The general attitude of the tenants throughout the district however, suggests the inference that it was the business of the landlord to discover any change in the ownership of a subordinate tenure and tenancy or the creation of a new holding, and that it was no part of the tenant's duty to give his landlord the requisite information. That these difficulties were largely the outcome of the Zamindar's system of management and partly also due to the uncertainty of the existing law.

In the Bijn Pargannas, the system of 'slatting' had undoubtedly been in force from time immemorial and every attempt of the Bijn Raj to introduce compulsory applications prior to settlement had met with strenuous opposition. That opposition was largely owing to the nature of the rules regarding the submission of applications, with the fees consequent thereon, which had been followed in the Estate, and to the unwillingness of ignorant tenants to run the gauntlet of a rapacious and ill-controlled herd of Zamindari underlings.

With regard to the registration of mutations on the ground of inheritance, the opposition of the tenants was largely the outcome of the system of fees and charges introduced from Bengal and the fear of the tenant that the registration of a
mutation might have the effect of destroying the ancestral charac-
ter and privileges hitherto attached to the holding.

In the case of mutations on the ground of transfer by sale, gift or usufructuary mortgage, the difficulty was mainly due to
the refusal on the part of the zamindar to recognise the register
as such transferred by sale, gift or mortgage, and their insis-
tence on the quibble of prior resignation and subsequent
resettlement, with the attendant fees; and on the part of the
tenants to an insistence on the free right of transfer which they
had been accustomed to exercise for generations, and to a fear
that registration, in the manner demanded by the zamindar, might
have the effect of destroying that right.

It is generally admitted that, in most of the Coimbatore
Zamindary Estates, owing to the non-registration of mutations
by the tenants, the zamindari 'touads' were very far from being
up to date, with the result that confusion, and in some cases
hardship ensued, when the landlord sued a tenant for the rent of
a holding with which he had long ceased to have any connection.

(B) - On Leases and Contracts.

Though in the first part of the 20th century there had been
a marked development of the custom of exchanging formal leases
and counterparts in the western portion of the district, the
development had taken place quite independently of the provisions,
of the existing law, and in the eastern portion of the district the
custom of exchanging formal 'Pattas' and 'Kabuliates' was then
almost unknown.
Generally speaking, the tenants of Goalpara were an ignorant and unintelligent class of men and they were almost universally averse to receiving or executing a legal document prescribing the terms of their tenancy, as they were always animated by a suspicion that any such transaction would result in the curtailment of rights and privileges which they had been allowed to enjoy in the past.

(C) Other Features of Zamindary Management.

1. The position of co-sharer landlords raised many problems, mainly with regard to: (a) the effecting of settlements with tenants, (b) realisation of rents, (c) the realisation of cesses and other charges.

1. The Mechpara Estate with 13 co-sharing proprietors and 4 different managements. 2. The Parbatjor Estate with 3 proprietors and 3 distinct managements. 3. The Tarin pergannah with 5 sets of proprietors and 5 distinct management (i.e., 3 Parbatjor and 2 Gauripur sharers (in the year 1917).

The position of co-sharing tenants with regard to Registration and Settlements also presented difficulties. The existing custom was to register the name of the principal tenant only, and in the settlement and resettlements, the assent of one or two co-sharers was usually considered sufficient. The validity of that custom was often questioned and the exact legal position of the

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registered tenant or 'devnaia' in relation to his landlord and to his own co-sharers presented difficulties.

Distraint - Distraint was practically unknown in the District but there was a practice in vogue in Gauripur Raj Estate (1)

There was considerable uncertainty in the treatment of relinquishments and abandonments of holdings. Then, under Sec. 39 of Act. VIII, prior payment of arrears of rent before relinquishment was not enjoined. Regarding abandonments, uncertainty existed as to what constituted the determination of a tenure or tenancy sufficient to justify its resumption by the landlord. As a general rule refusal or omission to pay rent for a certain period, coupled with the removal of residence and the practical abandonment of cultivation, was considered a valid reason for resumption, but each case was usually considered on its merits.

Points of Contract between Landlords and Tenants :-

CRIMINAL LITIGATION : The following facts and customs had given rise to a certain number of cases :-

(1) The practice of giving fairly large grants of land under vogue 'Kukumnasas' or 'Amalinemas' without any attempt of defining the boundaries. Such grants not infrequently overlapped each other and gave rise to boundary disputes and disturbances.

There had been many such cases in Mechpara and Parbatjoar.

(1) Found in Gauripur Zamindari Record.
(2) The custom of recording joint holdings in the name of the leading tenant only, to the exclusion of other co-sharers. Sometimes the dishonest leading tenants deprived their co-sharers of their rights and dealt with the holding as if it were their sole property (Gauripur Raj).

(3) The Bengal practice, introduced mainly by certain Gauripur Jotedars, of giving pattas to, and extracting fictitious 'Kabuliyat' from, new tenants in order to create evidence of title and possession to enable them to seize refractory tenants' lands, or the lands of neighbouring Jotedars, when the Jote boundaries were ill-defined.

(4) The practice of resettling so called abandoned holdings with new tenants where the holding had not been formally relinquished or fully abandoned. In most cases the majority of the co-sharers had in reality left the holding, but there usually remained one or two or more co-sharers with minor shares who asserted their claims as soon as an attempt at re-settlement was made. The rents of such holdings were invariably in arrears.

(5) The summary cancellation of Jote grants on account of some 'lacs' (e.g., non-payment of Salami, etc.) or other reason, and resettlement with others (e.g., in Chapur Estate).

(6) Attempts by Jotedars to forcibly oust sub-tenants who were unwilling to pay enhanced rates of rent (Gauripur Raj Estate).

CIVIL LITIGATION :- There were all together 8,782 rent suits instituted during period from 1907 to 1916 at Dhubri and Goalpara Courts.
Those rent suits had been brought almost entirely by the Gauripur, Karaitari and Mjri Estates against their tenants or by the H Jotedsars of Gauripur and Karaitari against their Sub tenants. In other Estates, rent suit were rare, but in the case of one Estate at least, that rarity was probably due to the difficulties which beset a divided and discordant management.

The majority of rent suits were complicated by various questions, such as:

a) Uncertainty as to rate of rent payable for each class of land, in the absence of Pattas and Kabuliyats and any record in the hands of the tenants giving that information.

b) Uncertainty as to the area of the holding, more particularly in view of the vagueness of boundaries, the extension of cultivation in adjoining waste land, the expansion of the holding by accretion or division.

c) Uncertainty as to the occupants of the holding, in view of the frequent transfers which took place without the knowledge of the landlord.

d) Uncertainty as to the distribution of the demand between current rent, arrear rent, interest or compensation and various cesses, raised in various rent suits.

e) Uncertainty as to the validity or otherwise of settlements and re-settlements at enhanced rates. In a very large number of cases, settlements were purely verbal and of the vaguest character, and some of the terms were frequently repudiated or varied by one party or the other. In a considerable number of rent
softs tenants were sued for rent at enhanced rates, sometimes without any resettlement, sometimes on a settlement which had been effected with only a section of the tenants, sometimes on re-settlements which were repudiated by the tenants as having been obtained through mis-representation, duress or fraud.

f) Uncertainty as to payment of rents. *e.g.* in 1911, Mansiff Court at Dhubri held in several cases that tenants had raised false pleas of payment.

g) Uncertainty as to boundaries of holding. *e.g.* Several cases of overlapping were detected in Suits No. 108 D.W., 29th March, 1918. Issue of 'amalnams and 'Kukumnamas' without specification of boundaries conferred no title on land; 'amalnams' authority displaced by subsequent survey and settlement.

Characteristic Features of Litigation:

I. Attempts were sometimes made by zamindars to resume jotes which had been not fully relinquished, and to settle them with others at enhanced rates.

II. In Cauripur Raj the custom prevailed for the Estate to take over temporarily the management of a jotedar's estate which had fallen into difficulties ('Ikrok mabal'), and advantage was sometimes taken thereby to raise the jotedar's rent or to partition the holding.

III. Ejectment of tenants-at-will without valid reason on record.

IV. Ejectment of jotedars of sub-tenants.
V. In many suits, tenants at will (so-called) raised the plea unsuccessfully that they were non-ejectable by custom.

VI. In a large number of suits the effective transfer of holdings to others by registered sale deed without the zamindars' consent had been accepted by the courts.

VII. Compensation to the evicted sub-tenants held not to be legally claimable but usually awarded by courts in view of long occupation.

VIII. The Court commented on the helpless position of the sub-tenants cultivator, the absence of any limit in the law for the period or degree of enhancement, and the frequent unreliability of zamindar's accounts.

IX. The Court held that a defaulter in an occupancy tenure could arrange to pay rents through others, and that the occupancy tenure was not thereby ended (In S.J. Appeal 21 of 1910 case).

X. In an important series of rent suits from Gauripur Raj estate in 1912, the zamindar sued the tenants for enhancement of the basis of the prevailing rate, but between the Courts of Appeal, there was a difference of opinion as to what constituted prevailing rate.

XI. In suit IR of 1916 (S.J.) -

The Raja of Gauripur as arbitrator admitted that by custom and contract with tenants, zamindars were not entitled to increase of rent, nor tenant to abatement of rent during lease except on legal grounds (e.g. erosion, etc.).

XII. Partitions were often effected by zamindars with consent of
co-sharing tenants, but in some cases partitions came to grief through recusancy of one or more co-sharers.

XIII. The evils of divided management were well illustrated in Dh.M, Suit 773 of 1913 in which the Parbatjor 8 anna Estate settled some land on behalf of the 16 anna Estate and exacted full Nasar and Salama.

XIV. In Dh.M. 344R of 26th April, 1913, the resettlement of a jote by Zamindar was put forward as a plea against heritability of jote.

XV. Question was raised as to what constituted abandonment of jote so as to justify resettlement with third person. (Case Dh.M. of 31st July, 1913.)

XVI. Conversion of agricultural holding into brickfield by tenant, held to be illegal.

XVII. In large number of suits (1910-13) sub-tenants claimed occupancy rights but failed to established their claims, as jotedar's held to intercept the right.

XVIII. In Dh.M. 329 of 22 January, 1914.

The court held that subsequent creation of intermediate interest between landlord and tenant holding for fixed (5 years) term was inoperative as against tenant.

XIX. Bamboos declared by court to be property of tenant, to cut or sell as he liked.

XX. Periodic settlement by jotedar's.

Difficulty in proving acceptance of settlement in case of illiterate.
XXI. Frequent denial of landlords' title, by tenants sued for rents, cause protraction of suits into semi title suits.

XXII. Claims of squatters not recognised by Mechpara Estate. Zamindars could not be compelled to recognise squatters.

XXIII. Court held that zamindar could not, under Act VIII, realise additional rent for excess area brought under cultivation, without issuing formal notice of enhancement required by law. Vide 8.J.M.2 of 31st December, 1914.

XXIV. Local rate claimed at varying rates from sub-tenants.

XXV. Rights of zamindars to valuable trees on tenants' holdings established by Karalbari Estate.

XXVI. Compensation for non payment of rent in due time at 37½% included in 'kabuliyaat' enforced by court.

XXVII. Suits by 'Dewangs' on behalf of joint family recognised as valid e.g. D.N.M.17 of 6th October, 1918.

XXVIII. Great difficulty often experienced in establishing service of notice.

XXIX. Bijni 'Bhandas' survey held to be valid and binding on tenants. No enhancement of rate of rent, but simply increase of rent through increase of area.

XXX. Important Injunction suit, 1914-15 in S.J. Court.

Tenants claimed various easements in zamindari forests as rights, but contention was not accepted by Sub-Judge.

XXXI. Important Karalbari Estate - Injunction suit.

Besides there were vast number of disputes between the
landlords and tenant, and between the tenants and sub-tenants of Goalpara which did not come to the Civil courts at all. At each zamindari headquarters a considerable amount of the Chief Officials' time was taken up with more or less regular revenue case-work, for which petition fees and process fees were realised, summons issued, witnesses examined, local enquiries held, judgments delivered and carried into effect, very much on the analogy of Govt. courts. Those proceedings took up a good deal of time, which would be more profitably spent by the chief officials in inspecting and checking the work of their mufussil staff, and were chiefly due to the existing uncertainties in the mutual relations of landlord and tenant for which existing law offered no remedy. It was only when the existing law offered a substantial remedy to one side or the other that the parties came to court; and when the law offered no remedy, and the tenants got no redress from their landlord, the only alternative open to the various classes of tenants was the submission of petitions and memorials which had been a common feature in Goalpara district for many years.

There was of course no objection to the disposal by their own chief officer of most of the revenue questions which arose in those zamindari estates, but sometimes complaints were there from the tenants that those proceedings were expensive and vexatious, and in the end often infructuous, particularly in those estates which were split up into separate fractional managements.

LOCAL AGITATION:

During the last part of the zamindari system a large numbers
of memorials and petitions had been presented to the Govt., reciting the various defects of the local rent law, enumerating a large number of grievances and supposed grievances against the local remindars. Many of these memorials and petitions had, it is true, been engineered by dismissed servants or discontented tenants of various estates, with the help of self-seeking lawyers, for reasons which were anything but public-spirited, and had consequently contained numerous exaggerations and mis-statements, and many personal items which could only be adjudicated on by specific suits or criminal cases, but those had always been a residue of fact which could not be gainsaid and which had by cumulative evidence of various classes of tenants; and similarly the reorganisation (1917) of the Bijni Forest Department, coupled with the measures taken for the more effective conservation of its valuable forests, was followed by a crop of representations from these tenants who considered their previous privileges curtailed by those measures.

And in general, in all the zamindari estates the rapid increase of population during the last two decades, due to extensive immigration from Bengal, had brought to a head a number of disputes between landlord and tenants through the following causes:

I. The rapid extension of cultivation had increased the competition for land and consequently its value, and correspondingly decreased the amount of waste land over which old tenants were allowed to exercise certain easements by way of privilege.
II. The increased competition has had the inevitable result of enhancing the rate of rent, and that had been facilitated by the fact that those immigrants had been accustomed to pay very much higher rents elsewhere and readily agreed to rates in advance of the old prevailing pargannah rates.

III. The increase in the cost of living, coupled with the introduction of forms of cultivation requiring certain technical skill (e.g., jute) had benefited the immigrant, who was usually more intelligent, industrious, and enterprising than the old fashioned tenant, at the expense of his predecessors, who were being gradually outbid, bought up and ousted from the better portions of the district, with the assistance or at least the connivance of the zamindars, who stood to benefit by the change.