

**LAND RESOURCES MANAGEMENT**  
**IN FRENCH INDIA**  
**A PUDUCHERRY EXPERIENCE**

**PRESENTED IN THE INTERNATIONAL SYMPOSIUM  
ON MODERN TRENDS IN CADASTRAL SURVEY AND LAND TITLING  
HELD ON 28<sup>TH</sup> AND 29<sup>TH</sup> APRIL 2008 AT HYDERABAD**

*Presented by*  
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## 1.LAND REVENUE ADMINISTRATION IN FRENCH INDIA

1.1. Even though the French established their *loge* in Pondicherry as early as in 1673 they firmly established only from 1699 when they purchased all rights of sovereignty from Dutch. The old principle that all lands belonged only to the King was maintained by the French Company. France became, in the place of Indian Kings, the sole proprietor of all lands thus, the company was always free to take away any land required for safeguarding its interest. Lands at that time were either farmed out to renters who, in turn, gave them to other sub-renter or leased out direct to the ryots themselves. Lands were farmed out normally for a period of five years considering the vagaries of nature. The renters leased out the lands to ryots under *adamanam*, which was of two kinds namely *waram* and *theervai*. Under *waram* the produce was shared between the farmers and ryots and under *theervai* the land was granted to the ryots on a fixed rent.

1.2. The assignment of lands on *adamanam* was announced to the people by beat of tom-tom and it was effected by giving *cowles*, an agreement to handover land without payment for a certain period or on payment for a certain period of a diminished assessment gradually rising to full assessment. The deeds pertaining to *adamanams* were registered with a local notary called *tabellion*. The body of notaries and *tabellions* was regulated by the Edict of 18<sup>th</sup> November, 1769. The right of ryots and cultivators were recognized and assured by the company through this system of registration. According to the established custom followed from time immemorial, land had to be passed on from father to son in every family, though it did not belong to them.

1.3. Land revenue was collected by officers called *amaldars* posted in each *parganah* or group of villages. They were assisted by one or two peons. They were bound to give the renter and the farmer accounts in respect of each year and each village. The collected amount should normally be remitted to the Government before the time limit fixed for the purpose. *Nattars* are heads of villages helped the *amaldars* in performing their duties.

1.4. While collecting their share, the farmers levied also some other petty taxes namely *resum*(customary perquisites) and *sadalwar*(contingencies), salary of *sibindhis* (employees), etc.,.

1.5. The ***Ordonnance Royal*** was issued on 25<sup>th</sup> October, 1826 under which lands were perpetually farmed out to Europeans or other descendants enjoying the rights of a French citizen on condition that the land should be brought under cultivation within a fixed time. The average of last fifteen years harvest was fixed as the price of the farm, which was to be paid every year in the *domaine* into equal installments. At the end of 15 years in the case of wetlands, and six years in the case of *porombokes*, the ownership was transferred to the farmers who thereafter could sell, transfer, hypothecate and give up their lands wholly or partly.

1.6. The farmer with the help of *e'crivain*(village officer) had to draw up every year in the month of July and in respect of each ryot a contract called *patta* stating the extent of land to be cultivated by him, the taxes due on such lands, the quantum of *waram* (share of crop) and the terms of payment. The *pattas* were drawn in duplicate, signed by the lessor, the cultivator and the *e'crivain* and in turn registered in the ***bureau du domaine***. The ***Ordonnance Royal*** further described the duties and responsibilities of farmers and cultivators. If the cultivator failed to remit his dues the farmer had the right to attach and confiscate the harvest with the help of *e'crivain* and the *talaiyari*(peons).

1.7. It may be seen that the French administration assured the interest over the landed properties through the system of registering the *pattas*.

1.8. By repealing the Ordonnance of 25<sup>th</sup> October 1826, a new Ordonnance was issued on 7<sup>th</sup> June 1828 according to which all lands in Pondicherry were divided into four categories namely

- a) Certain lands were permanently transferred to private persons with or without payment of rent, over which the Government gave away the right of ownership. They include *manais*(dwelling sites), *manaimappus*(village housesites, garden lands) *sanadu maniams*(offered in recognition of service rendered), *devasthanams*(temple lands) and *tarpadai maniams*(given to village servants as remuneration for the services). These lands could be freely enjoyed by the proprietors with certain restrictions.
  
- b) This category comprise all lands permanently given by the Government to private persons, however, retaining the right of ownership. These were called *adamanams* and they were subject to a tax in cash proportionate to the value of the crops raised varying from 32 percent to 48 percent. The owners of *adamanam* lands had the right to alienate their properties or to mortgage them and they could not dispossess off by parceling out these lands. They were exempted from payment of all other fees like *sibindhi* etc.,. The tax to be paid could never be increased or revised. The cultivators who hold *adamanam* lands were given an advance in the month of August every year to meet the agricultural expenses. In case of default of taxes which was payable by the holders of *adamanam* lands, attachment proceeding was issued by Government. If they wanted to part with their holdings they were required to execute a *rasinamah* deed in the presence of two witnesses and the *e'crivain* and *commis du bureau du domaine*. The deed would be approved by *receveur du domaine*(custodian of government property).

- c) The third category included all *poromboke* lands i.e. all lands under the enjoyment and ownership of the Government which were further classified into three groups namely cultivated lands, cultivable fallow and uncultivable/waste lands. The cultivated lands were leased out by Government for a limited period.
- d) The fourth category included all lands which did not fall under the other categories and which might be considered as public property.

1.9. Every year during the first fortnight, the farmers and *patta maniagars* (*re'gisseurs*) had to submit to the *receveur du domaine*, a nominal list who in turn inspected the villages and after hearing the concerned persons submitted a general statement of collection of taxes to the Government. After these statements were approved they were returned to the farmers and *maniagars*.

1.10. The villagers had several times raised objections seeking remission of tax and conferment of ownership rights. The Government appointed a Commission called **Commission du Agriculture et de Commerce** in the year 1848. Following the advice of the commission, representations were sent to France which resulted in general remission of tax and finally an imperial decret on 16<sup>th</sup> January 1854 under which all land holders were declared the undisputed owners of the lands they cultivated, provided they had cleared the payment of tax. Thus, all landholders were conferred with independent salable rights.

1.11. From the above discussion, it may be noted that from the beginning the Government through the system of registration of lease deeds and subsequently conferment of conclusive ownership assured the interest over the properties.

## **2. SURVEY AND SETTLEMENT**

2.1. Land Tax was collected on the basis of *payemache* originally drawn up in 1806, which was register showing the name of the owner of lands, survey number, area, classification, surroundings and summary description of the land in local measurements (*kani, kuzhi, veesam*). The *payemache* was drawn up in palm leaves which contained details of not only the land but also that of superstructures, number of crops grown, amount of tax, mode of irrigation and nature of land. However, since the broad classification of lands into two main categories as wet and dry did not facilitate the equitable imposition of taxes. Therefore, to remedy the defects it was decided to set up by *arrêté* dated 4<sup>th</sup> March 1887, a *cadastre* and by *arrêté* of 6<sup>th</sup> November, 1889 a *bureau du cadastre* in the office of *service des contributions* to deal with all administrative aspects of the survey work. Initially, the work could not progress satisfactorily. However, it was undertaken in various spells in different regions as noted below:

Pondicherry	:	1889-1910
Karaikal	:	1912-1920
Mahe	:	1929-1932
Yanam	:	1887-1890

2.2. The land records so prepared were as follows:

- I. **Tableau synoptique** – Register grouping in serial order and survey numbers of a revenue village containing nature of land, ownership, corresponding *pyemache* number, area in local system and in metric system.

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- II. **Matrice Cadastrale** – Register showing holdings, *pattadar* wise in each revenue village.
- III. **Commune maps** on a scale of 1/40,000  
(40 metres represented by 1mm)
- IV. **Section maps** consists of group of villages on a scale of 1/10,000
- V. **Fiche cadastrale** – Holdings, *pattadar* wise in each revenue village in alphabetical order.

2.3. Though survey was done for each field, maps were not prepared for each field with measurements. They were prepared only for each village and for each of the communes covering a number of villages and dividing the communes into sections. After *de jure* merger with India, the Indian laws were extended and the Pondicherry Survey and Boundaries Act, 1967 was enacted in Pondicherry Union Territory and thereafter resurvey operations were carried out and completed in 1973.

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### **3. REGISTRATION SYSTEM DURING THE EX-FRENCH ADMINISTRATION IN PONDICHERY**

3.1. In the French Legal System there were three categories of law professionals Avocat (Barristers), avoue (court officers) and notaries while the Avocat was independent practitioner the avoue and notaires were public officers.

3.2. The notaires under the French system were different from the notaries public appointed in England and other common law countries. While the notary public could do the functions of both advocates and notaries public, a notaire did only acte authentique within their respective jurisdiction. The notaire were appointed by Minister of Justice who exercised control over the notaries.

3.3. The notaires were given jurisdiction to practice corresponding to the jurisdiction of the Court where they practiced and the jurisdiction is called ressort. If a notaire performs any acte beyond his ressort the acte did not have any authenticity.

3.4. The condition for appointment of a notaire were (1) that he should enjoy the rights of a French citizen, (2) that he has satisfied the demands of military service, (3) that he was over 25 years of age, (4) that he had served the necessary period of apprenticeship in a notaries office, (5) that he has passed the professional examinations and (6) that he had received a favourable report on his moral fitness from the President of the Chamber of discipline for the ressort in which he proposes to practice. The financial status of solvency of the candidate was also taken into account.

3.5. For the French settlements in India the body of notaire was provided for by a decree dated 24.08.1887 and promulgated by arête dated 23.11.1887.

3.6. It may be seen that a notaire had a monopoly of his functions which cannot be usurped by other profession, officials or individuals. For such services he is entitled to be paid and his scales of fees were fixed by law. He was not free to reject a client. The Minister of Justice had the right to investigate into his activities and the notaire was liable for severe punishment in case of breach of his duties.

3.7. The notaire received all the actes which the law required or parties desire to be given authenticity. Authenticity means attestation of a fact by a public authority whose declaration is conclusive without previous verification of the writing until impeached for falsity.

3.8. After attesting and acte the notaire issued a grosse which is a certified copy of an acte and concluded it with an executory formula identical with that appearing at the close of orders by the Court. The notaire actes were of conclusive evidential value until impeached for falsity and had high evidential value or probative force. The notaire had the duty of safeguarding the custody of the originals of the actes called minutes and it was his duty to conserve the minutes as an archivist. The notaire actes were ultimately transcribed in a Government Office called Bureau de Hypotheque in whose registers the notaire actes were transcribed by the Conservator des Hypotheques who would issue certified copies, encumbrance certificates on properties and persons. The originals of the actes should always be with the notaire and the notaire was competent to deliver engrossed copies thereof to those who required them. The notaire was also required to keep a list of all the deeds received by him and the list shall be countersigned and numbered by the President or in his absence by a judge of the Court of first instance. A separate list shall be kept by the notary regarding the Will and after the death of the testator the Will shall be transcribed in the registers of Conservator des Hypotheques.

3.9. The French Civil Code in Article 1317 et seq also speaks of a document which is binding only between the parties. Such instruments are signed but not authenticated by any public officer and such documents are purely private documents. They were registered in a public office called Bureau de L'enregistrement. This was regulated by the arête dated 18.01.1888 which provide for a Bureau de L'enregistrement in the chief town of the each of the French settlements in India. The functionary in charge of the Bureau was called Receveur de L'enregistrement. The original with sufficient number of copies is registered on payment of necessary fees and returned to the parties. The Bureau also charged transfer duty (droit de mutation). A copy of the deed was deposited with the Bureau and entered in a prescribed register and they are also transcribed in registers kept in the Bureau de L'enregistrement and copies were issued from the registrar's under the authentication of the Receveur.

### **POST -INDEPENDENCE**

3.10. The French settlements *de facto* merged with Union of India w.e.f 1<sup>st</sup> November, 1954. On and from the 9<sup>th</sup> January, 1962, the Registration Act, 1908, the Indian Stamp Act, 1899, and the Transfer of Property Act, 1881 were extended to the Union Territory of Pondicherry. The Notary system, the office of the conservateur des hypotheque and the office of the Receveur de l'enregistrement were given a go by and to those offices the Registrars and Sub-Registrars under the Registration Act succeeded . Still, the old French laws rule from the grave in this area on account of the fact that for the method of maintenance and custody in respect of documents executed prior to 09.01.1962, the old French procedure is being followed. This may be noted from the facts that for getting any encumbrance certificate over properties and persons for the period prior to 09.01.1962 and for taking certified copies of documents registered prior to that date, searches are conducted only according to the procedure under the former French law. The head office of the Registration Department in each region is the custodian of all records prior to 09.01.1962 inspite of the fact that with the introduction

of the Registration Act, 1908 the Union Territory was divided into different sub-districts with an independent sub-registry office for each sub-district.

3.11. With the closure of the offices of Notaries and Conservateur des hypothèque, the ministerial personnel attached to them were sorbed in corresponding posts in the Government. A few of them however dropped out to take up conveyancing as their profession. These persons have been granted license under the Pondicherry Documents Writers Licensing Rules, 1977 after subjecting them to a small test.

#### **4. CONCLUSION**

4.1. While the British India followed the deed registration system which had the advantage of providing a maximum degree of elasticity, as almost every conceivable right, or, claimed to be a right in land could be registered, however, had the disadvantage namely no enquiry was made into the veracity of the deed either as to form or as to content and it was left to the prospective purchaser of land to investigate all deeds in the chain of title before concluding his purchase. However, in French India the notaries before registering the documents are required by law to enquire the title of the property, description of the property, legal competence of the parties, the authenticity of the deed, etc.,. The registration by notaire will issue guaranteed certificates of title which means that there will be the full benefit of the indefeasibility in the title as well as to the boundaries and area.

4.2. The basic difference between the systems was that the French system provided a simple and cheap method of recording transfer and other dealings with land ensuring security of title by a system of state guarantee. Bureau de Hypotheque, where notaire actes were transcribed had record of particulars of proprietorship to the land together with any changes which occur through transfer, death or other devolution and the encumbrances to which the land becomes subject. The purchaser, upon registration

of a transfer gets an indefeasible title against the world. Under the British system of deed registration, the state does not give guarantee of title and the purchaser should verify the linkages and ensure proper transfer of title.

4.3. The author is of the opinion that appropriate legal framework may be brought out to integrate the provisions of laws relating to registration, settlement, boundaries and surveys and payment of stamp duties so that the transfer of title will be a simple and hassle free affair.

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