

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1320	Press
		~~Mis.~~
150-151		
Dated	29.10.1861	#

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
29th October 1861.

No. 150. * Read the following letter from. *Æ. R. McDONELL, Esq.,* Officiating Magistrate of Trichinopoly; to *T. PYCROFT, Esq.,* Chief Secretary to Government, Fort Saint George, dated 10th October 1861, No. 19.

I have the honor to submit an English translation of copy of a plaint, No. 171 of 1861, on the file of the District Moonsiff of Torriore, Trichinopoly, in which the Head Assistant Magistrate Mr. Nisbet is included as 1st defendant for an order issued by him in his Magisterial capacity upholding a party in the enjoyment of certain land and leaving plaintiff to prosecute his claim in the established Courts of Judicature. At the same time I beg to forward a draft answer which I propose submitting, and request that you will be good enough to obtain the permission of Government for defending the suit at the public expense.

2. The answer must be filed in Court by the 10th of January next.

Translate of O. S., No. 171 of 1861, on the file of the Torriore Moonsiff.
To the District Moonsiff of Torriore.

Plaintiff.

Venkatachella Moodelly, son of Sakrapa Moodelly, residing at Streeramasamudrum (Ayaloor) in the Taluq of Museri.

Defendants.

The Head Assistant Magistrate of Trichinopoly (1.)

Venku Iyer, Sub Magistrate of Torriore, residing at Torriore (2.)

Alagattai, widow of Tiruvengada Moodelly, residing at Ayaloor and Tottiem (3.)

Pulla Nullanamupan, residing at Ayaloor (4.)

Marda Viran (5.)

Suba Moodelly (6.)

The 1st and 2nd defendants are public servants, 3rd a ryot, 4th and 5th laborers and 6th cultivator.

This Suit is instituted under Section 26, Act VIII of 1859.

1. My father acquired $4\frac{1}{2}$ shares (pangús) of nanjah lands in the above mentioned Streeramasamudrum (Ayaloor) village. The accounts and puttahs for the same are in my father's name. I therefore have every right to inherit them.

2. Of the abovementioned extent of land my father assigned $1\frac{1}{2}$ share for the maintenance of the 6th defendant (his brother's son) the remaining $3\frac{1}{2}$ shares were in the enjoyment of my father and after him of myself during the last 60 or 70 years.

3. My father's other brother Murdanayaga Moodelly (3rd defendant's father-in-law) and his son Tiruvengada Moodelly (3rd defendant's husband) were under my father's protection, the latter died without any issue. We lived undividedly, the 3rd defendant was under my protection till five months back.

4. While this was the case the 3rd defendant at the instigation of a certain party preferred, in collusion with the 4th defendant, a complaint to the 1st defendant in which he stated that five cawnies had been left to her father-in-law as his quota in the aforesaid $3\frac{1}{2}$ shares (pangús); that she had leased the same to the 4th and 5th defendants and that 33 cullums and 6 marcals of paddy, the produce of one of the abovementioned 5 cawnies named Ayacaran Cutlay, were unjustly taken away by me. The 2nd defendant investigated the case under orders of 1st defendant, but omitted in his arzee to bring to light the merits of the documents I hold. The 1st defendant without himself making any enquiry into the case issued an order to the 2nd defendant, dated 24th January 1861 to the effect that 3rd defendant should be allowed to enjoy the one cawny in question together with five other cawnies of mine which were not claimed in the above complaint and that I should be prevented from interfering in the same.

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5. My lands and the produce of my labor are now in the unlawful enjoyment of the 3rd defendant, this Suit is therefore brought for their recovery.

List of lands and their produce in the village of Streeramasamudrum.

	Actual extent.	Extent as per former measurement.
No. 3, Ayakaran Cuttlay, cawny ...	1 45 1/2 ...	cawny 1 0 0
" 82, Topady do. ...	1 43 1/2 ...	do. 1 0 0
" 290, Codical Cuttlay do. ...	1 65 1/2 ...	do. 1 1/2 0 0
" 332, Arasady do. ...	1 67 ...	do. 1 0 0
" 355, Maruthady do. ...	0 98 ...	do. 1 0 0
" 223, Pulla Servadu do. ...	1 47 1/2 ...	do. 1 0 0
Total nanjah cawnies...	8 64 1/2 ...	do. 6 0 0

Assessed at Rupees 96-15-1

The average annual produce of the above lands is 200 cullums..

Deduct Olavaday varam or cultivating expense, cullums 50.

Remaining... .. 150.

The value of which at Rupees 2 per cullum is Rupees. 300.

The Pesanum and Codacur produce of the above lands is as much as 42 and 60 cullums respectively, making a total of 102 cullums valued at Rupees 204.

Grand total of the amount claimed for is Rupees 504.

I do declare that all what I have stated in the above plaint is true to the best of my belief.

7th March 1861.

(Signed) VENCATACHELLA MOODELLY.

(True translation.)

Filed 18th March 1861.

(Signed) A. R. McDONELL,

Officiating Magistrate.

Answer of the 1st defendant in O. S., No. 171 of 1861, on the file of the Torriore Munsiff's Court.

With reference to the 4th paragraph of plaintiff's plaint the Head Assistant Magistrate begs to state, that a complaint was brought against plaintiff, for having forcibly carried off the produce of certain lands in the village of Streeramasamudrum, which 3rd defendant inherited from her husband, Tiruvocota Mudali, who died without issue. The Sub Magistrate of Museri investigated the case and forwarded his report and the Proceedings, to the Head Assistant Magistrate. From the evidence of Sungara Nairanayen a Puttamoniagar of Streeramasamudrum and of the owners of the adjoining land, it appears that the land in question had been in the sole enjoyment of 3rd defendant and her late husband and father-in-law. This is further proved by a document, produced by Suppa Moodelly, son of plaintiff's father's brother, which shows that in Jeyavarusham (about 1835) the three brothers, viz., plaintiff's father, 3rd defendant's father-in-law, and 6th defendant's father, agreed to divide all their property, which was accordingly done, and this document is one of the three original bonds. The mere fact of all the land being registered in plaintiff's father's name gives no claim at all, as it frequently happens that land enjoyed separately by several individuals is still entered in the name of the original holder. It being quite clear that up to the present time 3rd defendant had, for many years, been in the sole enjoyment of her late husband's share, the Head Assistant Magistrate merely ordered that the 3rd defendant be upheld in her enjoyment of the land, leaving plaintiff to prosecute his claim in the Civil Court.

The Head Assistant Magistrate in issuing the above order acted judicially and plaintiff had no right to appeal against such an order except to the Magistrate or the Sessions Judge.

This being the case, the Head Assistant Magistrate requests that his name may be struck out as defendant in the present suit.

TRICHINOPOLY,
10th October 1861.

(Signed) A. R. McDONELL,

Officiating Magistrate.

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29th October 1861.*

No. 151.

ORDER THEREON, 29th October 1861, No. 1,320.

The defence of the Suit in the first instance at the public expense is sanctioned; but it will be determined when a copy of the decree is submitted whether the cost, if any be adjudged against the Head Assistant Magistrate, shall be borne by that Officer or the Government.

2. The answer should be merely that the 1st defendant passed his order under Section 51, Regulation XI of 1861, and having acted judicially and in good faith within the limits of his jurisdiction, he is not liable to be sued in any Civil Court under Act XVIII of 1850.

(Signed) J. D. SIM,

Secretary to Government.

Exd. F. Cartledge.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the Officiating Magistrate
of Arcachampoly.

More Extra 10th October 1861

Order thereon 29th October 1861 No 1320.

The defence of the suit
in the first instance at the
public expense is sanctioned,
but it will be determined
when a copy of the decree is
submitted whether the cost,
if any be adjudged against
the said Applicant Magistrate,
shall be borne by that Officer
or the Government.

2. The answer should
be merely that the 1st Depen-
dent passed his order under
Section 107 Regulation of
1854 and having acted

Indicially

Sincerely and in good
faith within the limits of
his jurisdiction, he is not
liable to be sued in any
Civil Court under Act XVIII
of 1857.

J. R. V.

Magistrate of Trichinopoly dated 30

Proc. 200

Medical 1864. Department.

No. 1320.

PROCEEDINGS of the MADRAS
GOVERNMENT.

At 200. 1864.

Dated 29th Decr 1861

*(Printed the evidence of the
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