MR. O. 1—33,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1965 Press ~~Mis.~~

148-149

Dated 16.12.1863. ~~19~~ .

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Not to be folded or roughly handled

No. 148. Read the following [illegible] W. READE, Esq [illegible] of South
to the Honorable A. J. ARBUTHNOT, Chief Secretary to Governm
George, dated Trikalore, 9th December 1863, No. 65.

I have the honor to forward translation of an Original and [illegible] No. 1314 of 1862, filed before the District Moonsiff's Court at Chedumbrum by one Narraina Chetty of Virdachellum against Mr. Whiteside, the Joint Magistrate of this District and five others, together with a Draft A[illegible]der Section 120 of Act VIII of [illegible] which the Joint Magistrate proposes to put in [illegible].

2. I request [illegible]ion of Government for the defence of the suit at the public cost.

The period allowed for filing the answer expires on the 7th instant, but the Court has been [illegible]d through the usual channel to extend the time until the 5th January 1864.

Plaintiff.	*Defendant.*
Narraina Chetty, a Resident of Cusbah, Virdachellum—Profession, Trade.	Allaga Pillay, Curnum of Nemum and other villages, residing at Virdachellum.

On the defendant raising an illegal [illegible], an order was issued by the Magistracy under date 23rd July 1862, by which the plaintiff was denied possession of the materials of the roof [illegible] house in which Annamai, his deceased concubine who died on the 8th February 1862 was living under his orders, and of certain other moveable property which had been left by him with her. The same order directs, that parties who consider themselves to have any just claim to the property, should apply to the Civil Court. This suit is therefore brought by plaintiff for the recovery of the undermentioned property, valued at Rupees 125-4-9 now in depos[illegible] with a request that his legal claim to the said property may be taken into consideration [illegible] passed in his favor.

Note.—"Here follows a detailed list of articles of all kinds occupying two sheets of foolscap and amounting

Also a Rent Deed of the said house, dated 28th Margaly of the year Sobacrittu

A counter-document to the same, dated 2nd Anny of the year Parthi

Four other Deeds belonging to the same house.

[illegible]ge Bond of jewels.

Seven Cadjans

Although the above documents are not valuable, still as they are required in substantiation of the plaintiff's claim, and as they were found in the house in which Annamai, died, they have been entered in the list.

I Narraina Chetty, the plaintiff, named in the above plaint, do declare that what is stated herein is true to the best of my information and belief

[illegible] *October* 1862. [illegible]TTY.

Filed, 1st November 1862.

(True translation.)

(Signed) C. W. READE,
Collector.

Draft Answer.

[illegible]tiff has no re[illegible]to the proper[illegible] deceased woman Annamai. her relative, nor was she his concubine. She was of a different caste to him. She lived in a separate house to his and carried on a trade of her own. Her property was self-acquired, and plaintiff has no more just claim to it, than the other individuals, who used to visit the deceased Annamai for purposes of co-habitation. Her funeral ceremonies were not performed by the plaintiff, but by her nephew Allaga Pillay, who is her lawful heir, and as he declines to receive it owing to the infamous manner in which it was acquired, the property must of necessity escheat to the Government.

2. Mr. Smith when Acting Magistrate, issued an order, dated the 23rd July 1862, directing that if the property was not claimed in the Civil Courts within three months from the date of that order, it should be carried to the credit of Government. These three months therefore expired on the 23rd October 1862. During that time the Tahsildar of Virdachellum issued a proclamation calling upon intending claimants to come forward and prove their claims. Notification was made by plaintiff that he had filed a Civil Suit, as he asserts, for the recovery of the property; and on the 17th November the Joint Magistrate issued an order, directing the order of the Acting Magistrate to be carried into effect, and the property sold by auction. Plaintiff did not address the Joint Magistrate until the 18th November, and as the Acting Magistrate had already disposed of his claims, and had set them aside as stated in his Order of the 23rd July 1862, the Joint Magistrate was not justified in abstaining from carrying out the order of his superior.

3. Even supposing that the Civil Court sees ground for investigating further the claims of plaintiff, the Joint Magistrate should be struck out of the number of defendants on the grounds set forth in Section 78 of the Indian Penal Code.

VIRDACHELLUM,
3rd November 1863.

(Signed) W. S. WHITESIDE,
Joint Magistrate.

(True Copy.)

(Signed) C. W. READE,
Collector.

To the District Moonsiff of Chellumbrum.

Supplemental Plaint presented by Swaramier, Court Vakeel, on behalf of the plaintiff Narraina Chetty in Suit No. 1314 of 1862, on the file of this Court.

While the plaintiff's claim to the property mentioned in the plaint in this suit was still before the Taluq Magistrate of Virdachellum, the Joint Magistrate on the 23rd July 1862, issued an order to the effect that the said property should be held in deposit and that the parties who considered themselves entitled to it, were at liberty to file a suit in the Civil Court, within a period of three months. On the issue of this order the plaintiff, under date 15th October 1862, presented a plaint to the Court of Small Causes in this District for the recovery of the said property, which plaint was returned by the said Court, stating that the matter was not within the jurisdiction of that Court. Whereupon the plaintiff on the 22nd idem, filed the said plaint in the present suit, and produced an extract to that effect before the Sheristadar in charge of the Virdachellum Taluq and subsequently before the Tahsildar. As this plaint was filed according to orders of these Officers, the plaintiff submitted by Tappal, on the 18th November of the said year, an application to the Joint Magistrate, requesting to defer the sale of the said property, and this officer passed an endorsement on the said application, directing the personal attendance of the plaintiff, who accordingly appeared on the 1st December of the said year with an application and an extract of the plaint, and he informed the matter to the said officer, who notwithstanding gave an endorsement dated the 2nd idem, to the effect that the said property had already been ordered to be sold and that such order could not therefore be cancelled. The said property was accordingly sold by the Tahsildar. The issue of the order and the sale which followed it are improper, as the plaintiff had informed the Magistrate, before the sale took place, of the circumstance of the suit having been filed in the Court. As those who purchased the property at the sale at a depreciated value, and the Joint Magistrate who issued the order of sale should be included as defendants in this suit (excepting only those who purchased the articles at their proper price, as set forth in the plaint), this supplemental plaint is filed. The plaintiff therefore prays for an order to include as defendants (1) Mr. W. S. Whiteside, Joint Magistrate of the Cuddalore; (2) Colandavelu Tamberan of Reddimadam attached to the Taluq of Virdachellum, who purchased for seven Annas the Brick walls mentioned in the plaint valued at 10 Rupees; (3) Rama Reddi of the said village, who purchased for Rupees 9-8 beams and other wooden articles valued at Rupees 12-8; (4) Shunmoga Pandarum, son of Auromuga Pandarum, of Gopurapuram attached to the said Taluq, who purchased for Rupees 1-12

two pairs of gold jewels called "Mattecoppu" valued at Rupees 5, and (5) Rangapillai of Erisancuppam attached to the said Taluq, who purchased for Rupees 4-8 a pair of jewel called "Pelakacoppu" worth 6 Rupees, and for the recovery for him (plaintiff) from the said Colandavelu Tamberan, Rama Chetty, Shunmoga Pandarum and Rangapillai of the said property so purchased by them, and he further prays that a decree be given awarding to him payment of the sum held in deposit in the Government Treasury being the sale value of the other disputed property sold in public auction at prices approximate to those mentioned in the plaint.

21st April 1863.

(Signed) NARRAINA CHETTY.
(,,) K. SWARAMIER,
Court Vakeel.

Filed on the 22nd April 1863.

(Signed) P. M. PEDROZA,
Offg. District Moonsiff.

(True translation.)

(Signed) C. W. READE,
Collector.

No. 149. ORDER THEREON, 16th December 1863, No. 1965.

Authority is granted for the defence at the public expense in the first instance, of the suit, referred to in the foregoing letter, but it will be determined hereafter, when a copy of the decree is submitted, whether the costs, if any, should be borne by the Government or not.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

T. O'Connor.

Judicial.

Proceedings of the Madras Govt.

Read letter from the Magistrate of South Arcot — Dated 9th Decr. '63 — No. 65.

Order — 16th December 1863 No. 1965.

Authority is granted for the defence at the public expense in the first instance, of the suit referred to in the foregoing letter, but it will be determined hereafter, when a copy of the decree is submitted, whether the costs, if any, should be borne by the Govt. or not.

GPO

The Magistrate of South Arcot.

Judicial 1833. Department.

No. 1965

PROCEEDINGS of GOVERNMENT.

Feb. 1837.

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