

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1873	<u>Press</u> <u>Mis.</u>
Dated 8-10-19-26	

76-77

3/3

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
8th October 1866.*

No. 76. Read the following letter from the Magistrate of Tanjore, to the Secretary to Government, Fort Saint George; dated Vallam, 26th September 1866, No. 246.

With reference to paragraph 4 of the Order of Government, dated 22nd August 1866, No. 1296, I have the honor to inform you that the requisition contained in paragraph 2 of the Government Order, 14th October 1865, No. 1461, was met from the enclosures to my letter, No. 236, of the 23rd October 1865, Mr. Plumer entering in his letter fully into the then condition of Tiagasammanda Mudaliar's property. Since then this property continued in the same state till the receipt of the Government Order under reply, and it is now being delivered over to the owner as directed by Government.

2. As regards the suit referred to in Government Order, 24th November 1865, No. 1079, I beg to forward copy of the Judgment passed thereon by the Small Cause Court of Negapatam, from which it appears that the case has been decreed in favor of the late Acting Joint Magistrate, Mr. Plumer. The Vakeel has been directed to take the necessary steps for the recovery of the amount of costs (Rupees 322-14-10) awarded to the Joint Magistrate, which was formerly disbursed from the public Treasury under orders from Government.

Original Suit No. 44 of 1865.

In the Court of Small Causes of Negapatam on the Principal Sudder Ameen's Side.
Present—Maurice Cross, Esq.

Judgment.

Plaintiff, a widow, has instituted this suit to set aside the attachment of a house and bungalow made by the 2nd Defendant, Joint Magistrate of Tanjore, under Section 184 of the Criminal Procedure Code, Plaintiff alleging her claim to said property under an agreement executed in her favor by her son, 1st Defendant.

The property with rents, sought also to be recovered from 2nd Defendant, is valued in the plaint at Rupees 8393-12-0.

1st Defendant is *ex parte*. 2nd Defendant pleads, that the attachment of the property sued for was legal and regular under Section 184 of the Criminal Procedure Code; that the property sued for was, at the time of the attachment, the absolute property of the 1st Defendant, and was, therefore, liable to attachment in consequence of his absconding to avoid the service of a warrant; that the Plaintiff's claim to said property is a fraudulent and collusive one, and that the attachment of said property being legal and regular the Court has no authority to order the release from attachment of said property.

3rd Defendant applied and was made supplemental Defendant as mortgagee of the bungalow attached.

The following issues were settled:—

1. Is the agreement sued on a collusive document?
2. If *bona fide*, is Plaintiff's claim to the property as security for the income arising from the Calambady bungalow and to reside in the Nagore house, a bar to its attachment by 2nd Defendant, under Section 184 of the Criminal Procedure Code?
3. Is 2nd Defendant liable for the rent as claimed in plaint?

On the hearing day the Vakeel for Plaintiff appeared, stated that neither Plaintiff nor her agent was in attendance; that none of Plaintiff's witnesses had attended, and that he was without any instruction from his client.

Proceedings of the Madras Government, Judicial Department,
8th October 1866.

As Plaintiff has failed to produce proof in support of her claim, as set forth in the plaint, the Court is of opinion that, according to the evidence on the record, her suit must be dismissed which it accordingly is, under Section 148.

Plaintiff to pay the costs of 2nd Defendant.

3rd Defendant will bear his own costs, as he was made a party to the suit on his own application.

6th September.

(Signed) M. CROSS,
Judge.

(True Copy.)

(Signed) G. L. MORRIS,
Collector.

No. 77.

ORDER THEREON, 8th October 1866, No. 1573.

To be recorded.
(True Extract).

J. D. SIM,
Secretary to Government.

Pro. 22. 1866. 219-220
- 14. 1866. 219-220
- 24. 1866. 219-220

1866
J. 1866 Department
From M. N.
The Magistrate

J. Tanjore
The Secretary to
Government

Fort St. George

Dated 26th
1866

24th

Disclaim

No 2176
* 8 Oct 1866. No 1573.

Superior on the Condi-
tion of Sijagammunda
- Kungeliam property.

* J. H. 1866
W. N. 1866

clerk
R. B.

76-77

rd. J. Tulloch.