In the District Court of Nellore

Thursday the 7th day of January

one thousand eight hundred and ninety two.

Present

C. Ramachendra Iyer Esqr., District Judge.

Appeal Suit No. 39 of 1891.

Chittamur Krishnareddy. Appellant (Plaintiff)

Versus

1 Unde Rajaha Raja the Honourable Sir Raja Dheyoti Sriraja Gopala Krishna Gyachendra Bahadur K. C. I. E. Pauchaw Hazar, Marsubdar, Rajah of Venkatagiri. 2 Veppur Gunda Row — Respondents (Defendants)

Appeal against the decree of the Head Quarter Deputy Collector's Court of Nellore in Summary Suit No. 32 of 1890 dated 6th January 1891.

This regular Appeal coming on for hearing this 7th day of January 1892, the Court delivered the following Judgment

The Plaintiff sued for the removal of an attachment by the 2nd Defendant for arrears of rent due, on the ground that

the patta tendered to him was illegal
in as much as it included an amount of
Rs 22-2-6 on account of Village Officer's
meras to which he had taken objection.

The Deputy Collector dismissed the
suit and the Plaintiff appeals.

For reasons given in the judgment
in Appeal suit No 38 of 1891 this day disposed
of, I reverse the lower Courts decision
and remand the suit to the Deputy Collector
for disposal on the merits after taking
evidence which the parties may adduce.
The costs of the appeal will be borne
by the Defendants. The Court fee paid
on the appeal memo will be refunded
to the Appellant.

Pronounced in open Court this 7th day
of January 1892.

/Signed/ C. Ramachendriar
District Judge.

/True Copy/

Exhibit IX

In the Court of the District Judge at Nellore.

The 7th day of September 1892.

PRESENT :—C. RAMACHENDRIER ESQUIRE, *District Judge.*

ORIGINAL SUIT No. 30 OF 1890.

Duvvur Narayanareddy Capu, landholder and a resident of Kota, Gudur Taluq. ... PLAINTIFF.

Versus.

Undé Rajaha Rajé the Honourable Sir Raja Velugoti Srirajagopala Kristna Yachendra Bahadur, K. C. I. E., Pancha Hazar, Mansubdar, Rajah of Venkatagiri. ... DEFENDANT.

Substance of the plaint

Suit to recover Rs. 4000 being the amount of damages sustained by the plaintiff in the contract entered into with the defendant.

On the application of the plaintiff, the Dewan of the defendant accepted the plaintiff's Izara of the village of Valamêdú in Mallam Taluk, of Venkatagiri Zemindari, for an annual rental of Rs. 1400 and sent a Takid to the Tahsildar No. 1584, dated 24th October 1889. The plaintiff on the 30th November 1889 executed in the name of the defendant, in pursuance of the above Takid a Kabuliyat on Rs. 20 stamp paper and a mortgage deed for a year's rental on Rs. 7½ stamp paper and on the same day a cowle was drafted in the name of the plaintiff on a stamp paper of sufficient value and the village put in his possession. Whereupon he exchanged pattas and muchilikas with some of the ryots. As the defendant retained possession of the cowle and Kabuliyat and the mortgage deed, the plaintiff on the 28th April 1890 sent a notice to the defendant to have them registered. But instead of it the defendant exchanged pattas and muchilikas with the ryots of the village for fasli 1299. The plaintiff thereby sustained a loss of Rs. 4000 which he now sues to recover.

2. The defendant contends that as there has been no mutual exchange of cowle and muchilika, the contract is not complete, and as the suit cowle and muchilika are not registered, they are inoperative. He contends that the plaintiff should first establish the contract and then sue for the yearly damages, and not claim Rs. 4000 in lump without giving the details. He says that in the 12th para of the muchilika intended to be given to plaintiff there is a clause that the muchilika can be revoked in case of any irregularity; and that as the villagers complained against the oppression of the plaintiff which was also borne out by the report of the Peshkar, the village has been kept amani. The defendant therefore prays that the suit may be dismissed.

3. The issues are :—

(1) Whether or not the acceptance of the plaintiff's darkhast by the defendant's Dewan and the latter fixing an annual rent of Rs. 1400 as payable by the plaintiff constitute completion of the contract.

(2) Whether or not Kabuliyats, muchilikas and mortgage bond have been signed and executed.

(3) Whether or not the plaintiff committed the improper acts named in the 8th para of the written statement and whether the defendant was entitled to declare the lease forfeited and whether the plaintiff has legally forfeited the lease.

(4) Whether or not the plaintiff has sustained a loss of Rs. 4000 by the cancellation of the lease by the defendant.

1893
Encloss. No. 5
To
O. No. 169

4. As to the 1st issue. The plaintiff put in a darkhast in April 1889 offering to take on Izara the villages called Valamêdù and Budedalavagú in the defendant's Zemindary (III). With reference to this the Tahsildar of Mallam examined the plaintiff and took a kyfyat on the 14th August 1889 to the effect that he would take on Izara, Valamêdù on an annual rent of Rs. 1100 and the other village on a rent of Rs. 550 for five faslies from 1299 and would give security of real property for one year's rent (X). The plaintiff prayed for speedy disposal of his darkhast as cultivation season had approached.

5. The defendant's Dewan Mr. Narayanasawmy Chettiar B. A., sent Takid (IV) dated 25th October 1889 to the Tahsildar informing him of the acceptance of the plaintiff's darkhast for Valamêdù on an annual rent of Rs. 1400 for 5 years from fasli 1299 which commenced from 1st July 1889 and requiring the Tahsildar to cause to be prepared cowle and kabuliyat and security bond for one year's rent and put the plaintiff in possession of the village. The Dewan issued another Takid to the same effect but this is signed by a subordinate for the Dewan (I).

6. The Tahsildar of Mallam informed one Nallapareddy Raghavareddy that the village would not be put in the plaintiff's possession unless he executed Izara cowle and asking him to attend the office with plaintiff. The Tahsildar further informed him that he had sent a peon to watch the lands of Valamêdú and that his salary should be paid from the funds of Reddy mera (E., dated 29th October 1889). The Tahsildar took a list of the items of real property which he would name in the security bond as security for year's rent and reported to the Dewan on the 2nd November 1889 that he would depute a Vontudar to value the property correctly and that though the plaintiff was anxious to take possession of the village at once he could not see his way to allow it before documents were executed and soliciting instructions as to what he should do in the matter (K). The Tahsildar directed the plaintiff to have stamp papers of Rs. 20 and 7½ value ready for cowle and security bond. (H., dated 4th November 1889).

7. The Dewan by Takid dated 9th November 1889 directed the Tahsildar to obtain cowle and kabuliyat from the plaintiff on the receipt of the Vontudar's report on the value of the plaintiff's property and put him in possession of the village (J). The Dewan by Takid dated 20th November 1889 informed the Peshkar of the division that the plaintiff's Izara of Valamêdú for 5 years from 1299 had been accepted on condition of his furnishing security of real property for one year's rent, that the plaintiff represented to him that the Tahsildar would not have cowle and kabuliyat and security bond drawn up and executed but threw obstacles in the way and that he (Peshkar) should get them executed and put the plaintiff in possession (R).

8. The plaintiff executed kabuliyat and security bond on the 30th November 1889 to the name of the Raja and a cowle was drawn up in the name of the Raja to the plaintiff (V, VI, VII) and the Tahsildar accepting the cowle and kabuliyat issued a Takid (G) the same day to the plaintiff declaring he was put in possession of the village. The Tahsildar obtained a receipt from the plaintiff to the effect that he had taken possession on Izara cowle for 5 years. This is signed by the Sheristadar for the Tahsildar. The plaintiff was required to get the deeds registered. These exhibits would appear to have been forwarded to the Dewan for approval who returned them to the Tahsildar to have the name of the Dewan inserted instead of the Raja as claiming party. The Tahsildar was called upon to explain why they had not been drawn up so in the first instance (VIII). The Tahsildar got the name of the Dewan inserted and the alterations initialled by the plaintiff and forwarded them to the Peshkar on the 21st January 1890 (IX).

9. On the report of the plaintiff that the Village Curnam would not help him, the Tahsildar issued a Takid on the 30th January 1890 that he had issued instructions to the Curnam to obey orders and that on permission he would send to plaintiff Dittam book for 1298 (F).

10. The Izara cowle and security bond have been, ever since their execution, with the Dewan and they were produced by the defendant in this case. Time for registration was 4 months and presentation may be made either by the executant or by the claiming party. No attempt has been made by the Dewan to have the Exhibits registered and cowle executed and it is not alleged that the plaintiff had at any time shown unwillingness to see them registered. He himself could do nothing, for the deeds were not with him. He held possession and dealt with the tenants by granting pattas and taking muchilikas and he says he relied upon so many Takids and letters which confirmed his cowle.

11. On the 31st January 1890 the plaintiff reported to the Dewan that the villagers, naming some of them, would not allow the persons who took from him leases for unoccupied lands, to occupy them that they denied the title of the Raja to the lands and that the Curnam of the village had set up the villagers to do so assuring them that he would get the Izara cancelled. The plaintiff requested that he may be permitted to employ some other Curnam and informed that the Taluk Officials were acting in collusion with the villagers, and some Magisterial complaints between him and Village Curnam and ryots were pending before the Magistrate. The Dewan referred it to the Peshkar as "Zarur" (XXI).

12. What was done on the report the defendant has not explained. The defendant's Vakils say they see no papers to show what investigation was held by the Peshkar into the subject matter of the above complaint. The plaintiff repeated his complaint to the Dewan by Exhibit XX dated 9th March 1890 alleging distinctly that the Peshkar told him that what he wanted the demarkation plan and dittam for, when there was uncertainty about the Izara. The Dewan made the following endorsement on the letter. "Is there no order directing registration of the Izara Kath". The defendant's Vakils have produced no papers to show what notice the Dewan took of the petition and what order or reply he gave to the plaintiff who was entitled to some definite order. The Vakils say they are unable to explain what proceedings were held by the Dewan in the matter. As the plaintiff received no reply he sent a letter to the Dewan through Mr. Venkatramana Aiyar B. A. B. L., requiring him to have the cowle registered within 4 days and in default he would go to Court. The Dewan sent no reply to the plaintiff but the letter (O) bears an endorsement to the effect. "His Izara should not be accepted. Keep it "under Amani. If not grant it to others on Izara. In future no Dowls, or Izaras "of lands will be given to the Reddy or his men. Send the Reddy to us. Publish "by tom tom cancellation of his Izara". This was on the 28th April 1890.

13. The plaintiff had been in possession of the village from the 30th November 1889 and had granted pattas to and received muchilikas from ryots and they have been filed as Exhibits (A, B, C, D & M to M^{17} dated between 5th January and 7th February 1890). He had received 17 darkhasts for new lands from various ryots (N to N^{16}). A, B, C, D are muchilikas executed by the defendant's 5th, 6th, 9th and 10th witnesses. The Dewan accepted the plaintiff's cowle, put him in possession of the village obtaining from him a security bond for one year's rent and Kabuliyat, allowed him to hold the village as Izaradar, and the plaintiff relying upon the writing and the encouragement held out to him issued pattas and muchilikas and held actual possession of the village till the Dewan announced through Peshkar in

May 1890 that the Izara was cancelled. These facts are sufficient to find upon the 1st issue for the plaintiff and hold that the contract was complete. Proposal and acceptance constitute an agreement and in this case there has been more than acceptance.

14. As to the 2nd issue. The Exhibits were not before the Court when issues were framed and the defendant's Vakils did not then know in what state they were. Muchilika and security bond have been signed and executed by the plaintiff but cowle was not signed and executed by the Dewan.

15. As to the 3rd issue. What was it that induced the Dewan to cancel the cowle on the 30th April 1890 by beat of tom tom. No notice of it was given to the plaintiff and he was not called on to show cause why it should not be cancelled or to explain the circumstances which appeared to the Dewan to warrant such a procedure. Even in settling a dispute between two boys quarrelling for nothing the guardian thinks it desirable to hear both the boys. The following clause appears in the 12th para of the cowle. "If during the term of your Izara, you do not "improve cultivation, and look to the comfort of the ryots, and if you should "behave in a way adverse to the safety of the village and commit any irregularities, "this village will be taken from you &ca." This clause should not be arbitrarily enforced. The defendant should prove by evidence the case against the plaintiff which he thought came within the clause. Oral evidence that there was a disturbance in the village between the villagers and the plaintiff and that he put them to a difficulty and inconvenience by preventing the villagers from grazing their cattle on the dittam lands or pasture land or village-site and preventing them from having their cattle in public streets is not entitled to credit.

16. The defendant has filed 2 petitions said to have been received from the ryots of the village dated 29th January 1890 and 17th February 1890. 3rd witness says he signed Exhibits I and II, and 4th witness signed it without knowing its contents. This evidence proves nothing, and mere petitions by ryots against the plaintiff will prove nothing. The defendant is a very enlightened Raja having under him 9 Tahsildars, 2 Peshkars or Collectors and a Dewan at the Head Office, and a formal enquiry ought to have been held before taking any action on the lease, giving an opportunity to the plaintiff to explain the charges and his conduct. If any such record was produced showing how the plaintiff had misbehaved it would be of great avail to the defendant. The Dewan referred the complaint of the people (D) to the Peshkar of the Division for personal enquiry and report urgently by a D. O. What was the enquiry made and where is the report of the Peshkar? In the absence of any enquiry and report in the matter after giving the plaintiff an opportunity to explain the charges of the ryots, the Dewan's order declaring the cowle cancelled was arbitrary and unfair. My finding on the 3rd issue is against the defendant. The plaintiff is not shown to have been guilty of any misconduct that would entitle the defendant to enforce the forfeiture clause in the cowle.

17. As to the 4th issue. The plaintiff was entitled to hold the village for five years from fasli 1299. The Dittam book for fasli 1298 produced by the defendant shows that lands yielding an annual rent of Rs. 1934 were in the occupation of the ryots. There were 53 gorrus of dry, wet and garden land fit for cultivation, left unoccupied but used by them as pasture land. The plaintiff assigned some of the unoccupied lands to tenants in fasli 1299 as would appear from Exhibits A, B, C, D, M to M^{17} and obtained muchilikas securing an annual rent of Rs. 331–3–11 on the unoccupied lands during the time he was in possession. He had received 17 darkhasts N to N^{16} for unoccupied lands bearing a rent of Rs. 559–5–0, but the plaintiff was deprived of possession of the village and turned out before he assigned the lands to the darkhastdars. Plaintiff swears to the truth of the darkhasts and leases

and I do not see any reason to discredit his evidence. Taking the average of the demands from fasli 1294 to 1298 which is Rs. 1788, the average of the collections for these 5 faslies including the amount secured by bonds and mortgage deeds is Rs. 1250. The defendant may have since collected some rent for those faslies. The plaintiff as Izaradar could lease out lands on a rent of Rs. 2678—1—0 annually. Deducting therefrom Rs. 1400 due to the defendant as per cowle, Rs. 132 for extra servants he would have to employ, the rent comes to Rs. 1068 a year. Faslies 1299, 1300, and 1301 were bad years and a fair allowance ought to be made in calculating the net income of the village. Tank could not have received supply of water sufficient to irrigate all the unoccupied lands. There may have been relinquishments by tenants or remissions of rent by the plaintiff. I would allow a deduction of 35 per cent a year and reduce the yearly rent to Rs. 694. Five times Rs. 694 or Rs. 3470 is the amount to which the plaintiff is fairly entitled. By deducting 35 per cent. I make a liberal deduction for adverse seasons and irrecoverable items.

18. I award to plaintiff against the defendant Rs. 3470 with all costs. I allow full costs as this is a suit for damages and as the plaintiff had good grounds to believe he could claim what he had claimed.

Pronounced in open Court, this 7th day of September 1892.

(Signed) C. RAMACHENDRIER,
District Judge.

(True copy).

Printed by C. Ekambara Gurucкal at his Victoria Press :—Nellore.

Exhibit X

JUDGMENT

IN

ORIGINAL SUIT No. 30 OF 1890

NELLORE

District Judge's file

Words 2925

PRINTING CHARGE Rs. 2—8—0.

1893
Jud. Dept.
Enclos. No. 1x
To
O No 1694

IN THE DISTRICT COURT OF NELLORE.

Thursday the sixteenth day of February

one thousand eight hundred and ninety three.

PRESENT:—C. RAMACHENDRIER *Esquire, District Judge.*

Appeal Suit No. 53 of 1892.

1. Undé Rajaha Rajé the Honourable Sir Raja Velugoti Srirajagopalakristna Yachendrulavaru, Bahadur, K. C. I. E., Pancha Hazar, Munsabdar, Rajah of Venkatagiri.
2. Vuppu Gundrow, Brahmin, and a resident of Manubolu, Gudur Taluq.

... APPELLANTS (Defendants).

Versus.

1. Anupalli Veeraraghavareddy.
2. Anupalli Pencheluredddy.
   Capus, cultivators and residents of Kothapallem, hamlet of Manubolu, Gudur Taluq.

RESPONDENTS (PLAINTIFFS).

Appeal against the Decree of the District Munsiff's Court of Nellore, in Original Suit No. 228 of 1891, dated 19th December 1891.

This regular appeal coming on for hearing this 16th day of February 1893 the Court delivered the following

Judgment:—

1. The 2nd defendant who is a Tahsildar in the service of the 1st defendant, obtained an order of ejectment for non-payment of rent for Fasli 1299 on the 24th July 1890, and the plaintiffs were to be ejected from the lands covered by Pattas Nos. 132, 52 & 46 standing in the name of the 1st plaintiff, and Nos. 14, 34 & 178 in the 2nd plaintiff's name. As six ejectment orders were issued, the plaintiffs preferred six appeals under Section 43 of the Rent Recovery Act, on the ground that the demand notice claimed some unauthorized and illegal items, that they had sufficient moveable property available for distress and that they had saleable interest in the lands. The Deputy Collector after hearing the evidence that the parties adduced, dismissed the appeals on the 8th May 1891 (XXII). The plaintiffs were ejected on the 28th May 1891 (Z).

2. The plaintiffs filed this suit on the 29th June 1891 under Section 44 of the Act to have the delivery of possession set aside. The grounds of the suit are exactly the same as those relied upon by them in their appeals to the Deputy Collector.

3. The District Munsiff allowed the plaintiffs' claim, and the defendants appeal.

4. The plaintiffs do not take any exception to the rent charged on the lands and the road cess, but question the defendants' right to include certain meras which they say are illegal.

5. Patta No. 132 charges Rs. 182—1—3 for rent and road cess, and requires the pattadar to pay ... ...

Rs.	2	15	1 as Swamy mera.
Rs.	4	9	7 as Palagiri mera.
Rs.	4	9	7 as Reddy mera.
Rs.	4	9	7 as Curnam mera.
Rs.	0	8	3 as Shroff mera.
Rs.	1	9	9 as Vetty mera.
Rs.	0	1	6 as Patta fees, and in all
Rs.	18	15	4 as meras.

The plaintiffs admit the correctness of the balance Rs. 141-9-0 (182—1—3 minus 40—8—3) but deny the 1st defendant's right to the meras.

Demand notice was issued for the total of the items in the pattas less by Rs. 40—8—3 paid by the plaintiffs (XVIII), and for the same the 2nd defendant filed a statement as required by Section 41 of the Act.

6. Muchilika for patta No. 46 charged the land with Rs. 131—7—0 for rent and road cess, and provided for:—

Rs.	2	1	6 as Swami mera.
Rs.	3	5	1 as Palagiri mera.
Rs.	3	5	1 as Reddy mera.
Rs.	3	5	1 as Curnam mera.
Rs.	0	6	1 as Shroff mera.
Rs.	1	2	6 as Vetty mera.
Rs.	0	1	6 as patta fees, and in all
Rs.	13	10	10 as meras.

The plaintiffs admit the correctness of (Rs. 131-7-0 minus Rs. 53—15—9) or the balance of Rs. 77-7-3; but deny the 1st defendant's right to the meras and unauthorized cultivation and Faslijasti.

The defendants by their demand notice claimed Rs. 77—7—3 and the meras, and Rs. 29—11—8 for unauthorized cultivation and Rs. 23—5—5 for Faslijasty. The 2nd defendant filed written statement for these items under Section 41 of the Act.

7. Patta No. 52 charges Rs. 164—12—10 for rent on the lands and road cess, and claims ... ...

Rs.	2	10	1 as Swamy mera.
Rs.	4	2	7 as Palagiri mera.
Rs.	4	2	7 as Reddy mera.
Rs.	4	2	7 as Curnam mera.
Rs.	0	7	6 as Shroff mera.
Rs.	1	7	4 as Vetty mera.
Rs.	0	1	0 as Patta fees, and in all
Rs.	17	1	8

The plaintiffs admit the correctness of the balance of Rs. 129—12—11, but deny the 1st defendant's right to claim the meras and the other two items.

The defendants by demand notice claimed Rs. 129—12—11 being the balance of rent and road cess after deducting the payment of Rs. 34—15—11, the meras, and 0—8—4 as Faslijasti and 1-15-10 as Teervajasty. These items were included as arrears in the written statement filed by 2nd defendant under Section 41.

2nd plaintiff's pattas.

8. No. 14. Muchilika charges Rs. 122—2—0 for rent and road-cess, and includes ... ...

Rs.	1	13	7 as Swamy mera.
Rs.	6	4	0 as Palagiri mera.
Rs.	4	10	2 as Reddi mera.
Rs.	5	3	10 as Curnam mera.
Rs.	0	6	0 as Shroff mera.
Rs.	1	0	0 as Vetty mera.
Rs.	0	1	0 as Patta fees, and in all
Rs.	19	6	7 as meras.

The plaintiffs' Vakil admits the correctness of the sum of Rs. 122-2-0, but denies the 1st defendant's right to claim the meras.

9. Patta No. 34. Muchilika charges Rs. 20—8—1 for rent and road cess, and charges ... ...

Rs.	0	5	3 as Sawmy mera.
Rs.	0	8	3 as Palagiri mera.
Rs.	0	8	3 as Reddy mera.
Rs.	0	8	3 as Curnam mera.
Rs.	0	0	11 as Shroff mera.
Rs.	0	2	11 as Vetty mera.
Rs.	0	0	3 as Patta fees, and in all
Rs.	2	2	1 as meras.

The plaintiffs have paid admittedly Rs. 20—8—1. They deny their liability for the meras and the other two items.

The demand notice added Rs. 6—2—11 as Teervajasty and Rs. 22-3-8 as unauthorized cultivation.

10. Patta No. 178. Muchilika imposes Rs. 156—14—0 as rent and road-cess, and ... ...

Rs.	2	8	4 as Swami mera.
Rs.	3	15	6 as Palagiri mera.
Rs.	3	15	6 as Reddy mera.
Rs.	3	15	6 as Curnam mera.
Rs.	0	7	2 as Shroff mera.
Rs.	1	6	2 as Vetty mera.
Rs.	0	1	0 as Patta fees, and in all
Rs.	16	5	2 as meras.

The plaintiffs' Vakil admits the correctness of the sum of Rs. 156—14—0, but denies the 1st defendant's right to claim meras.

The 2nd defendant filed written statement under Section 41 of the Act with reference to the said 3 pattas including the meras and Teerwajasty and Faslijasty as arrears due by the plaintiffs.

11. Before going into the merits of the appeal, I have to dispose of the 2nd and 3rd grounds of appeal. The 2nd is that the suit was barred by the Act of Limitations. The plaintiffs had one month under Section 44 of the Rent Recovey Act. The date of ejectment was 28th May 1891; and the suit was due on the 28th June, which was a Sunday. As the suit was filed on the 29th, it is not barred.

12. The plaintiffs have paid Court-fee on the rent payable for the year preceding the suit, and this is consistent with Clause XI, Section 7 of the Court Fees Act. This disposes of the 3rd ground of appeal.

13. As to the 4th ground. The plaintiffs are undivided brothers and they have been treated by the defendants as members of one family*; several causes of action between the same parties may be joined in one suit, but if necessary separate trials may be had for the sake of convenience. I do not see any complication in the case, for the six ejectment orders were passed at one time and executed on one day. The suit is not guilty of misjoinder of causes of action.

*See 1st defendant's plaints in A. S. Nos. 337 and 338 of 1892.

14. The 5th ground of appeal is hardly entitled to consideration. After the Deputy Collector had passed the ejectment orders and before they were executed, the plaintiffs filed Suit No. 17 of 1891 on the 14th April 1891 for a declaration of their occupancy right as against the 1st defendant. The suit was rejected by the District Court as premature on the 21st October 1891. The suit was not then entertainable and the remedy to the plaintiffs lay in appeal to the Collector under Section 43 of the Rent Recovery Act, and their appeals were then pending before the Deputy Collector.

15. The 2nd plaintiff was once ejected from the lands covered by pattas Nos. 14 and 185 on the 8th and 9th January for non-payment of rent and he sued the 1st defendant and another for possession asserting his occupancy right, which was denied. The Court had raised an issue as to the alleged occupancy right; as the plaintiff failed to produce his witnesses to prove his claim, the suit was rejected by the lower Court on the 30th January 1890 (XIX). This was confirmed in appeal on the 8th December 1890 (XXI). Notwithstanding the above decision the plaintiffs have been in possession, and the said dismissal order is no bar to the present suit: cause of action being subsequent dispossession.

16. The next question for determination is whether the order of ejectment for non-payment of rent passed by the Deputy Collector on the motion of the 2nd defendant was warranted by the facts of the case and was legal. Section 10 of the Act provides for ejectment of tenants for refusing to execute muchilikas, while Section 41 provides for ejectment for non-payment of rent. Section 41 presupposes the right of the landlord to proceed under the Act, and such right is acquired either by exchange of patta and muchilika which constitute a contract, or by tender of a proper patta and refusal by the tenant to accept it, which vest in the landlord a statutory right to exercise all the privileges allowed to him by the Act. Before taking proceedings under Section 41, a landlord should be entitled to distrain the moveable property of his tenant for the arrears at the end of the year; and he could not have such right if pattas and muchilikas were not exchanged, if proper patta was not tendered, or if the landlord had not obtained a decree directing exchange of patta and muchilika, which is equivalent to the execution of such document by the parties themselves.

17. In this case, the 1st defendant cannot be considered to have had such right when his agent the 2nd defendant applied to the Collector for a warrant authorizing him to take possession of the land under Section 41. All the muchilikas produced by the 1st defendant himself contain the terms which the plaintiffs would accept. They have written at the foot of the muchilikas that out of the sum claimed, they would pay only the rent and the road cess due thereon and that they would not pay the other cesses called meras and fees. This shows the refusal of the plaintiffs to accept the pattas tendered to them and their willingness to accept them when the terms were modified as they proposed. There has been therefore no exchange of patta and muchilika unconditionally, which would constitute a contract entitling the 1st defendant to take legal proceedings under the Rent Recovery Act.

18. The 1st defendant has accepted the muchilikas, and, without taking legal proceedings by a Summary Suit under Section 9 of the Act to enforce acceptance of the pattas, received payments made by the tenants, who, as they now affirm, thought that the 1st defendant had accepted their terms. Granting for the sake of argument that the 1st defendant was entitled to distrain the plaintiffs' property for the balance of rent and road cess only, the ejectment order could not be justified inasmuch as the written statement filed by the 2nd defendant under Section 41, and the demand notice previously issued by him, included the meras and other items in the amount due for arrears. The 1st defendant was not entitled to demand larger sum than what had been due according to the plaintiffs' agreement, and to file a written statement showing larger amount as arrears and ask for a warrant to dispossess the plaintiffs. This shows that the statement filed by the

2nd defendant upon which warrant for delivery of possession was obtained under Section 41 did not represent correctly the items that were due and for which the landlord could take legal proceedings. The order passed by the Deputy Collector relying upon such statement was therefore illegal.

19. The plaintiffs affirm that the pattas tendered to them were not proper ones inasmuch as they charged them with unauthorized items as meras and contained illegal and objectionable clauses.

20. The right of the 1st defendant to include the meras, and the propriety of the clauses referred to by the plaintiffs have been dealt with in A. S. No. 338 of 1892 this day disposed of; and the lower Court's finding that the pattas were not such that the plaintiffs were bound to accept, seems to be correct. The District Munsiff was right in reversing the delivery of possession made by the Deputy Collector and directing restoration thereof to the plaintiffs.

21. It is not necessary to go into the question whether the plaintiffs have made out their alleged occupancy right to the lands.

22. I dismiss the appeal with all costs against the appellants.

Pronounced in open Court this 16th day of February 1893.

C. RAMACHENDRIER,
District Judge.

(True copy).

Printed by C. Ekambara Guruckal at his Victoria Press:—Nellore.

Exhibit XI

JUDGMENT

IN

A. S. No. 53 of 1892

NELLORE

District Court's file.

Words 2204

PRINTING CHARGE Rs. 1—14—0.

1893
Jud. Dept.
Enclos. No. 3
To
C. No. 1169

IN THE DISTRICT COURT OF NELLORE.

Thursday the sixteenth day of February

one thousand eight hundred and ninety three.

PRESENT:—C. RAMACHENDRIER *Esquire, District Judge.*

Appeal Suit No. 292 of 1892.

Undè Rajaha Rajé the Honourable Sir Raja Velugoti Srirajagopalakristna Yachendrulavaru, Bahadur, K. C. I. E., Pancha Hazar, Munsabdar, Raja of Venkatagiri. — APPELLANT (Plaintiff).

Versus.

1. Jayimpu Ayapareddi.
   His maternal uncles living with him as one joint family:—
2. Anupalli Veeraraghavareddi.
3. His younger brother Anupalli Penchelureddi.
4. Chennur Varadareddi.
   Panta capus, cultivators, and residents of Kothapallem attached to Manubole, Gudur Taluk.

— RESPONDENTS. (Defendants).

Appeal against the Decree of the District Munsiff's Court of Nellore in Original Suit No. 127 of 1892 dated 30th June 1892.

This regular appeal coming on for hearing this 16th day of February 1893 the Court delivered the following

Judgment:—

1. The plaintiff sued to recover Rs. 328—10—0 balance of rent due for Fasli 1299 on patta No. 1 standing in the name of the 1st defendant. The 2nd and 3rd defendants are the maternal uncles of the 1st, and the 4th defendant is his brother-in-law.

2. The 1st defendant contended *inter alia* that the suit was not sustainable as there was no exchange of patta and muchilika and that the claim was illegal as it contained objectionable items to the extent of Rs. 247—12—6, and did not give credit to the payment of Rs. 118—8—0 made by him.

3. The 2nd and 3rd defendants denied their liability as unconnected with the 1st defendant. The 4th defendant was *ex parte*.

4. The District Munsiff dismissed the plaintiff's suit.

5. The plaintiff appeals.

6. The evidence very clearly shows that the patta was read out to the 1st defendant and that he refused to accept it. This is sufficient to entitle the plaintiff to sue for rent if the patta tendered was a proper one. It is for the Court to decide whether the patta was such that the 1st defendant was bound to accept.

7. The suit patta No. 1 charges Rs. 226—13—4 for rent and road cess, and requires the pattadar to pay

Rs.	3	9	10 as Swamy rusum.
	5	9	7 as Poligar rusum.
	5	9	7 as Reddi mera.
	5	9	7 as Curnam mera.
	0	10	1 as Shroff mera.
	1	15	4 as Vetti mera.
	0	1	6 as patta charges.
	23	1	6 as meras.
The plaintiff also claimed in this case	12	15	8 as Teerwajasti.
	151	6	10 as Fasaljasti.
	60	5	6 as Interest.
	247	13	6 in all.

8. The 1st defendant also takes exception to the plaintiff's right to include in his patta the above meras and to clauses 2, 4 and 9 of the patta.

9. I have dealt with these questions in my judgment in Apppeal Suit No. 338 of 1892 this day disposed of; and for the reasons therein given, I find that the patta in this case was not such that the 1st defendant was bound to accept. The plaintiff has not asked the Court to modify the patta and give him a decree for what may be found due.

10. I dismiss the appeal with all costs against the appellant.

Pronounced in open Court this 6th day of February 1893.

C. RAMACHENDRIER,
District Judge.

(True copy).

Printed by C. Ekambara Guruckal at his Victoria Press:—Nellore.

JUDGMENT

IN

A. S. No. 292 of 1892

NELLORE

District Court's file.

Words 540

PRINTING CHARGE Rs. 0—8—0.

IN THE DISTRICT COURT OF NELLORE.

Thursday the sixteenth day of February

one thousand eight hundred and ninety three.

PRESENT:—C. RAMACHENDRIER *Esquire, District Judge.*

Appeal Suit No. 75 of 1892.

1. Undé Rajaha Rajé the Honourable Sir Raja Velugoti Srirajagopalakristna Yachendrulavaru, Bahadur, K. C. I. E., Pancha Hazar, Munsabdar, Rajah of Venkatagiri.
2. Vuppu Gundrow, Brahmin, and a resident of Manubolu, Gudur Taluq.

... APPELLANTS (Defendants).

Versus.

Jayimpu Iyapareddy, Capu, cultivator and a resident of Cherlopallé attached to Manubolu. ... RESPONDENT (Plaintiff).

Appeal against the Decree of the District Munsiff's Court of Nellore in Original Suit No. 227 of 1891 dated 19th December 1891.

This regular appeal coming on for hearing this 16th day of February 1893 the Court delivered the following

Judgment:—

1. The plaintiff sued to set aside the order of the Deputy Collector ejecting him from his holding at the instance of the 1st defendant.

2. The 1st defendant the Rajah of Venkatagiri supports the decision.

3. The District Munsiff of Nellore framed the following issues:—

   (1) Whether the plaintiff was properly ejected as a tenant-at-will from his lands by the summary suit laid under Act VIII of 1865 before the Deputy Collector.

   (2) Whether the plaintiff has moveable property and right of occupancy to the lands as property seizable for the arrears due by him before suing out in ejectment.

   (3) Whether the arrears charged against him included any charges which the plaintiff was not bound to pay or whether according to the terms of the pattas taken by him he was bound to pay the full amount.

   (4) Whether the plaintiff is debarred from laying this suit in consequence of his having on the file of the District Court No. 18 of 1891 another suit for the recovery of the same property.

   (5) Whether the suit is barred by limitation.

   (6) Whether the claim is properly valued or not?

4. The District Munsiff decreed the plaintiff's claim.

5. The defendants appeal.

6. The facts of the case are exactly similar to those in Appeal Suit No. 53 of 1892 this day disposed of.

7. For the reasons given in Appeal Suit No. 53 of 1892, I dismiss the appeal with all costs against the appellants.

Pronounced in open Court, this 16th day of February 1893.

C. RAMACHENDRIER,
District Judge.

(True copy).

PRINTED BY C. EKAMBARA GURUCKAL AT HIS VICTORIA PRESS:—NELLORE.

JUDGMENT

IN

A. S. No. 75 of 1892

NELLORE

District Court's file.

Words 403

PRINTING CHARGE Rs. 0—6—0.

IN THE DISTRICT COURT OF NELLORE.

Thursday the sixteenth day of February

one thousand eight hundred and ninety three.

PRESENT:—C. RAMACHENDRIER *Esquire, District Judge.*

Appeal Suit No. 337 of 1892.

Undè Rajaha Rajé the Honourable Sir Raja Velugoti Srirajagopalakristna Yachendrulavaru, Bahadur, K. C. I. E., Pancha Hazar, Munsabdar, Raja of Venkatagiri. — APPELLANT (Plaintiff).

Versus.

1. Anupalli Pencheluredi. His undivided elder brother,
2. Anupalli Veeraraghavareddy. Their nephew, (Sister's son)
3. Jayimpu Ayapareddy.
4. Chennur Varadareddy. Panta Capus, cultivators and residents of Kothapallem, attached to Manubole, Gudur Taluk.

— RESPONDENTS (Defts).

Appeal against the Decree of the District Munsiff's Court of Nellore in Original Suit No. 129 of 1892 dated 29th September 1892.

This regular appeal coming on for hearing this 16th day of February 1893 the Court delivered the following

Judgment:—

The plaintiff sued to recover Rs. 421—5—8 said to be rent due for Fasli 1299 on three pattas, Nos. 178, 34 and 14 granted to the 1st defendant. The other defendants are made so on the ground that they and the 1st defendant are members of an undivided family and are jointly liable for the rent.

2. The defendants 1 and 2 contended that the pattas were not proper ones inasmuch as they included certain unauthorized items called meras, and that they had never accepted them in their entirety.

3. This suit was filed after the District Munsiff had reversed the Deputy Collector's order directing delivery of possession of the lands to the plaintiff under Section 41 of the Rent Recovery Act. See A. S. Nos. 53 and 75 of 1892 this day disposed of.

4. Muchilikas (*a, b & c*) referring to pattas Nos. 178, 34 and 14 are copies of pattas said to have been tendered to the 1st defendant, and the items of rent and meras in each of them are as follow:—

Patta No. 178. Muchilika imposes Rs. 156–14–0 as rent and road cess and ... ...

Rs.	2	8	4 as Swamy mera.
Rs.	3	15	6 as Palagari mera.
Rs.	3	15	6 as Reddy mera.
Rs.	3	15	6 as Curnam mera.
Rs.	0	7	2 as Shroff mera.
Rs.	1	6	2 as Vetty mera.
Rs.	0	1	0 as Patta fees, and in all
Rs.	16	5	2 as meras.

The defendants' Vakil admits the correctness of the sum of Rs. 156-14-0 but denies the plaintiff's right to claim meras.

Patta No. 34. Muchilika charges Rs. 20-8-1 for rent and road cess, and charges ... ...

Rs.	0	5	3	as Swamy mera.
Rs.	0	8	3	as Palagiri mera.
Rs.	0	8	3	as Reddimera.
Rs.	0	8	3	as Curnam mera.
Rs.	0	0	11	as Shroff mera.
Rs.	0	2	11	as Vetty mera.
Rs.	0	0	3	as Patta fees, and in all
Rs.	2	2	1	as meras.

The defendants have paid admittedly Rs. 20—8—1. They deny their liability for the meras and the other two items.

The demand notice added Rs. 6—2—11 as Teerwajasti and Rs. 22—3—8 as unauthorized cultivation.

No. 14. Muchilika charges Rs. 122—2—0 for rent and road cess, and includes ... ...

Rs.	1	13	7	as Swamy mera.
Rs.	6	4	0	as Palagiri mera.
Rs.	4	10	2	as Reddi mera.
Rs.	5	3	10	as Curnam mera.
Rs.	0	6	0	as Shroff mera.
Rs.	1	0	0	as Vetty mera.
Rs.	0	1	0	as Patta fees, and in all
Rs.	19	6	7	as meras.

The defendants' vakil admits the correctness of the sum of Rs. 122-2-0 but denies the plaintiff's right to claim the meras.

The Plaintiff filed written statement under Section 41 of the Act with reference to the said three pattas including the meras and Teerwajasty and Faslijasty as arrears due by the defendants.

5. The muchilikas for Fasli 1299 relied upon by the plaintiff contain distinct endorsements signed by the 1st defendant to the following effect:—

	Patta No. 178.	Patta No. 34.	Patta No. 14.
"Out of this:— Land tax	152 1 11	19 14 2	118 6 10
Road cess	4 12 1	0 9 11	3 11 2
	156 14 0	20 8 1	122 2 0

I would pay you total Rs. 156—14—0 Rs. 20—8—1 Rs. 122—2—0

I need not pay you the other items.

Mark of Anupally Penchelu reddi."

6. As the plaintiff accepted such muchilikas, and without taking legal steps to enforce acceptance of the pattas in their entirety, accepted payment of Rs. 20—8—1 towards patta No. 34, it is to be presumed that he accepted the muchilikas with the endorsement made by the 1st defendant agreeing to receive the rent and road cess alone. In this view of the case, the plaintiff is entitled to recover only the balance of rent and road cess thereon with interest as per muchilikas.

7. The plaintiff affirms that proper pattas were tendered to the 1st defendant for Fasli 1299, and that they were accepted by him; but this is contradicted by the muchilikas which the plaintiff himself has produced, and which show that the 1st defendant refused to accept the pattas in their entirety questioning the plaintiff's right to include in the pattas certain fees payable to village servants and certain russums payable to the plaintiff and certain temples.

8. The District Munsiff raised an issue as to whether or not the pattas tendered to the 1st defendant were proper ones, and found that they were not such as he was bound to accept.

9. The terms of the pattas are exactly similar to those in A. S. No. 338 of 1892 this day disposed of. For the reasons given in my judgment in that case, I am bound to accept the finding of the District Munsiff that the pattas tendered were not proper ones, and that the 1st defendant was therefore not bound to accept them.

10. I dismiss the appeal with all costs against the appellant.

Pronounced in open Court this 16th day of February 1893.

C. RAMACHENDRIER,
District Judge.

(True copy).

Printed by C. Ekambara Gurucкal at his Victoria Press:—Nellore.

JUDGMENT

IN

A. S. No. 337 of 1892

NELLORE

District Court's file.

Words 950

PRINTING CHARGE Rs. 0—14—0.

IN THE DISTRICT COURT OF NELLORE.

Thursday the sixteenth day of February
one thousand eight hundred and ninety three.

PRESENT:— C. RAMACHENDRIER *Esquire, District Judge.*

Appeal Suit No. 338 of 1892.

Undé Rajaha Rajé the Honourable Sir Raja Velugoti Srirajagopalakristna Yachendrulavaru, Bahadur, K. C. I. E., Pancha Hazar, Munsabdar, Rajah of Venkatagiri. ... APPELLANT (Plaintiff).

Versus.

1. Anupalli Veeraraghavareddi.
   His younger brother living with him
2. Anupalli Penchelureddi.
   Their nephew
3. Jayimpu Ayapareddi.
4. Chennur Varadareddi.
   Panta Capus, cultivators and residents of Kothapallem attached to Manubolu, Gudur Taluk.

... RESPONDENTS (Defts.).

Appeal against the Decree of the District Munsiff's Court of Nellore in O. S. No. 128 of 1892 dated 29th September 1892.

This regular appeal coming on for hearing this 16th day of February 1893 the Court delivered the following

Judgment:—

1. Plaintiff filed this suit to recover the rent &c., due for fasli 1299 as per Pattas Nos. 132, 52 and 46 held by the 1st defendant as tenant.

2. The suit was filed after the District Munsiff had reversed the Deputy Collector's order directing delivery of possession of the lands to the plaintiff under section 41 of the Rent Recovery Act (See Appeal Suits Nos. 53 and 75 of 1892 this day disposed of).

3. The defendants 1 and 2 are brothers, and their sister's son is the 3rd defendant; the 4th defendant is brother-in-law of the 3rd defendant. It is alleged that pattas Nos. 46, 52 and 132 were tendered to the 1st defendant, whose name alone appears therein.

4. The 1st and 2nd defendants contended that proper pattas were not tendered to them and that they were not liable to pay anything more than the rent and the road cess thereon.

5. Muchilikas (*a, b & c*) referring to pattas Nos. 132, 52 and 46 are copies of pattas said to have been tendered, and the items of rent and meras in each of these are as follow :—

Patta No. 132 charges Rs. 182—1—3 for rent and road cess, and requires the pattadar to pay ... ...

Rs.	2	15	1	as Swamy mera.
Rs.	4	9	7	as Palagiri mera.
Rs.	4	9	7	as Reddi mera.
Rs.	4	9	7	as Curnam mera.
Rs.	0	8	3	as Shroff mera.
Rs.	1	9	9	as Vetty mera.
Rs.	0	1	6	as Patta fees, and in all
Rs.	18	15	4	

Patta No. 52 charges Rs. 164—12—10 for rent on the lands and road cess, and claims ... ...

Rs.	2	10	1	as Swamy mera.
Rs.	4	2	7	as Palagiri mera.
Rs.	4	2	7	as Reddy mera.
Rs.	4	2	7	as Curnam mera.
Rs.	0	7	6	as Shroff mera.
Rs.	1	7	4	as Vetty mera.
Rs.	0	1	0	as Patta fees, and in all
Rs.	17	1	8	

Muchilika for patta No. 46 charged the land with Rs. 131—7—0 for rent and road cess, and provided for ... ... Rs. 2 1 6 as Swamy mera.
Rs. 3 5 1 as Palagiri mera.
Rs. 3 5 1 as Reddy mera.
Rs. 3 5 1 as Curnam mera.
Rs. 0 6 1 as Shroff mera.
Rs. 1 2 6 as Vetty mera.
Rs. 0 1 6 as Patta fees, and in all
Rs. 13 10 10 as meras.

6. The muchilikas for Fasli 1299 relied upon by the plaintiff, contain an endorsement signed by the 1st defendant to the effect that he would pay only the rent and the road cess entered in the pattas and that he would not pay the other items, which he was not liable to pay. As the plaintiff received such muchilikas and accepted payment of Rs. 40-8-3, 53—15—9 and 34—15—11 towards the rent due without taking any legal step to enforce acceptance of the pattas as they were tendered, it is to be presumed that the plaintiff accepted the muchilikas with the endorsement made by the 1st defendant and thereby accepted his offer to pay the rent and road cess alone. If this view is correct, the plaintiff is entitled to recover only the balance of the rent and road cess thereon with interest as per muchilikas (*a*, *b* and *c*).

7. But the plaintiff affirms that proper pattas were tendered to the 1st defendant for Fasli 1299 and that they were accepted by him. This is contradicted by the muchilikas produced by the plaintiff himself, which show that the 1st defendant refused to accept the pattas in their entirety questioning the plaintiff's right to include in the pattas certain fees payable to village servants and certain *russums* payable to the plaintiff and certain temples.

8. The plaintiff would be entitled to a decree if he showed that the pattas tendered by him to the 1st defendant were proper ones and that he had improperly refused to accept them. It is for the Court to decide whether the pattas were such that the 1st defendant was bound to accept.

9. The defendants' 1st objection is about the meras or fees included in the patta. Section 4 of the Rent Recovery Act authorizes a landlord to include in the patta "any fees or charges payable with it (rent in kind or money) according to established usage or to law." In Second Appeal No. 1744 of 1891, the High Court have decided that fees payable to village servants have no proper place in a patta and that they are not due to the Zemindar at all. As regards russums or presents, it has been observed by the High Court that no authority was quoted in support of such exaction and it was clearly not enforcible.

The 2nd clause in the patta is "I bind myself to pay Teerwajasty and Faslijasty and also any assessment that may be charged upon lands I hold in excess of the patta extent."

In the case reported at page 150 I. L. R. 7 Madras, patta tendered by the landlord contained a clause exactly similar to this and it was held that the patta was not one which the tenant was bound to accept.

The 3rd clause in the patta is "I shall also pay in time the Kalavasam due according to the custom obtaining in the village to the officers appointed by you and obtain receipts therefor."

This clause is bad for uncertainty; it ought to mention the customary rates of Kalavasam payable by the tenant.

4th clause is "If without entering into any contract with the Circar, I dig wells &c., or otherwise increase the sources of water-supply and raise crops by its aid, I bind myself to pay the assessment found due in excess either at Pairlavari or Babathuvari rate, according to the custom obtaining in the village."

In the case reported at page 27 I. L. R. 9 Madras it has been held that the proviso to Clause 4 Section 11 of the Rent Recovery Act implies that when the tenant has improved the land at his own expense the landlord is not entitled on that ground to enhance the rent. The clause does not define what the customary Pairlavari or Babathuvari rates are. This clause is therefore objectionable.

10. Clauses 5, 6, 7 and 8 seem to me unobjectionable. By clause 8, the landlord gives the tenant an opportunity to convert the pasture land in his possession into cultivable land, when others offered to take it up on payment of the taram rent.

11. Clause 9 requires the tenant to relinquish his holding by an *Istifa* before the 31st of May, while the Act by Section 12 allows a tenant to relinquish at the end of the Revenue year.

12. The District Munsiff finds that the pattas tendered to the 1st defendant were not proper ones and that the plaintiff was therefore not entitled to maintain this suit to recover the rent. In this finding, I concur. As the plaintiff has not asked the Court to modify the terms of the pattas in case it considered them improper ones, I have to reject the appeal with costs.

13. I accordingly reject the appeal with all costs against the appellant.

Pronounced in open Court, this 16th day of February 1893.

C. RAMACHENDRIER,
District Judge.

(True copy).

PRINTED BY C. EKAMBARA GUBUCKAL AT HIS VICTORIA PRESS:—NELLORE.

Exhibit XII

JUDGMENT

IN

A. S. No. 338 of 1892.

NELLORE

District Court's file.

Words 1344

PRINTING CHARGE Rs. 1—2—0.

1C 1
Judl. Dept.
Bundle No. 2
No
1875

IN THE DISTRICT COURT OF NELLORE.

Friday the twenty fourth day of March

one thousand eight hundred and ninety three.

PRESENT:— C. Ramachendriah Esquire, District Judge.

Appeal Suit No. 302 of 1892.

Unde Rajaha Raje the Honourable Sir Raja Veluyoti Sriraja Gopalakrishna Yachendra Bahadur, K. C. I. E. Panchahazar, Mansubdar, Rajah of Venkatagiri } APPELLANT. (Defendant).

Versus.

Achutama Venkataramaniah Brahmin and land-holder of Potlapadu, Darsi Division. } RESPONDENT. (Plaintiff).

Appeal against the Decree of the District Munsiff's Court of Kanigiri in Original Suit No. 72 of 1892 dated 1st August 1892.

This regular appeal coming on for hearing on this 24th day of March 1893 the Court delivered the following

Judgment.—

The District Munsiff awards to Plaintiff Rs 42-13-0 for the salary claimed and the Defendant appeals.

2 The Jakid alluded to in the 2nd ground of appeal, has not been produced. The Defendant ought to have summoned the Plaintiff to produce it or filed his office copy, if he declined to file the original.

3 The lower Court has very correctly appreciated the evidence. The evidence adduced to show that loss of pullary was due to Plaintiff's misconduct, is hardly sufficient to warrant the finding in Defendant's favour for damages.

4 Money not accounted for by Plaintiff has been set off against the claim.

5 The lower Court is right in allowing interest on the salary withheld.

6 I dismiss the Appeal with all costs against the appellant.

Pronounced in open Court this 24th day of March 1893.

/Signed/ C. Ramachandra Iyer
District Judge.

/True Copy/

Exhibit XIII

CURRENT NO 1694

District Court
Nellore.
5th April 1893.

From

C. Ramachendriah Esq.,
District Judge, Nellore.

To

The Hon. Mr. J. F. Price
Chief Secretary to Government
Fort Saint George.

Sir,

In obedience to the order contained in the Confidential Memorandum No 693, dated 11th instant, Judicial Department, I most respectfully beg to submit my observations on the letter headed "The District Judge of Nellore" which appeared in the Madras Standard of the 5th instant.

2. The letter in the Standard

1003
Jud Dept.
Enclos. No 1
To
G. No 1694

commences that my transfer to another District will be hailed with joy by that Section of the litigant public, who consider it rather objectionable that I should occupy the Bungalow of the Hon. Raja of Venkatagiri. This statement is a downright and deliberate falsehood intended to prejudice His Excellency the Governor, and have me removed from the district.

3. Dr. R. Ry. Narayanasawmy Chettiar Avl B.A., Dewan of the Hon. Raja has been administering the affairs of the Zemindary, and the latter would seem to have left to the former the entire management without any kind of check or control over him.

4. The Dewan has had no experience of Revenue matters and his arbitrary, oppressive, inconsistent and unprincipled proceedings frequently caused ruffling between tenants and the Raja, and drove the unfortunate victims to resort to the Civil Court for redress.

5. The following facts, I beg to submit, will speak for themselves, and I venture to hope that they will be considered sufficient to show that the allegation in the letter in the Standard is simply false and malicious :—

(a) On the 9th Jan. 1891, Appeal Suit No. 29 of 1890 came on for hearing, in which the Raja had sued a tenant for the rent of 3 Fasles, alleging that he had improperly refused to accept proper pattas tendered to him. The tenant pleaded that the pattas were improper ones inasmuch as they charged him with illegal and unauthorized cesses. Though

the cess claimed was 6 pies for the support of a temple, and another 6 pies for the cost of printing patta forms, the Raja's claim was dismissed on the ground that the pattas tendered were not proper ones. (Exhibit I)

(b) On the 31st January 1891, One Subbiah's appeal against the Tellore district Munsif's decree, awarding to the Hon. Raja of Venkatagiri Rs 1734-15-3 as damages, came on for hearing before me. Upon Examination of the records, it appeared that Subbiah had been improperly dragged into Court upon misrepresentation of facts to the Hon. Raja. I remarked in the judgment that the suit was started on the misrepresentation of somebody responsible for the administration of affairs, reversed the decision, and dismissed the suit saddling the Hon. Raja with all costs in both the Courts. The High Court confirmed my decision on the 18th December 1891. (Exhibit II)

(c) On the 11th Feb. 1891, a Contractor sued the Hon. Raja for Rs 268 + odd being the balance due to him for the construction of the Jubilee Rest-house near the Venkatagiri Railway Station. The Hon. Raja's own Supervisor had certified that the work had been carefully executed and approved by the Raja. The Dewan Narayanaswamy Chettiar, who had passed the bill on the 29th February, declined payment in September 1890, making them for the first time certain unfounded remarks. The party represented that it was due to personal spite. The claim of the contractor was decreed by me with all costs. The Dewan who has

the sole management of all the affairs probably considers this a personal disgrace to himself. (Exhibit III)

(d) On the 30th of June 1891, Appeal Suit No 112 of 1890 came on for hearing, in which an Amil or Tahsildar of Darsi Taluq, who was arbitrarily dismissed by the Raja, ~ claimed refund of Rs 1000, which he had deposited with the Raja as security for the office. The Amil applied for the refund of the deposit and waited for 3 years for orders. The Hon. Raja in his defence pleaded that ~ through the Amils' neglect he had lost Rs 9173-3-0 in rent, and that he should recover from the plaintiff Rs 15-6-8-8, which he had failed to collect from his debtor, and that the Amil was not entitled to interest upon the deposit. The district Munsif decreed the amount with costs and interest against the Raja, who appealed to my Court against the decision complaining that the district Munsif had improperly decreed the amount. Upon Examination of the records, I found that the Amil had applied for the refund of the money some 3 years before the Suit and that the Raja had not taken any notice of it. Remarking that the detention of the deposit was improper, I dismissed the appeal saddling the Raja with all costs. (Exhibit IV)

(e) On the 1st Sep. 1891, Appeal Suit No 111 of 1891 came on for hearing. In this case the plaintiff had purchased a land in the Zemindary for Rs 1586 in Court sale, obtained possession through Court, and raised crops in Fasli 1300. The Tahsildar of the Raja, who was aware of the purchase and who knew that the debtor's

right to the land had ceased with Court sale, tendered a patta to the debtor with a view to entitle the Raja to attach the crops raised by the purchaser, and attached the crops. The tenants' objection was disallowed by the Deputy Collector. On appeal I reversed the decision and allowed the tenants' claim remarking that the procedure adopted by the Raja's official was intended to defeat the tenants' title, and that the proceedings were "illegal, injudicious and ill-advised." (Exhibit V)

(f) On the 1st Sep. 1891, I allowed a similar claim of another tenant in Appeal Suit No 112 of 1891, and saddled the Hon. Raja with all costs in both the Courts. (Exhibit VI)

(g) On the 17th Dec. 1891, a certain Contractor who had executed certain repairs to a tank, sued the Hon. Raja for Rs 197-12-6. The Vakil for the Raja under the instructions of the Dewan pleaded that the money had been appropriated for the arrears of rent due from the Contractor and also from another person who was in no way connected with him. Upon enquiry I decreed the money claimed to the Contractor with all costs against the Hon. Raja (Exhibit VII)

(h) On the 7th Jan 1892, Appeal Suit No 38 of 1891 came on for hearing, in which the Deputy Collector had dismissed the tenants' Suit for the removal of attachment of his cattle made by the Raja's Tahsildar for arrears of rent due. The tenants' claim against the Raja having appeared to me very reasonable, I reversed the decision and remanded the suit for retrial. In this case the patta tendered

The total amount of rent and road cess in this case is Rs 126-9-0. Unauthorized cesses: 11-14-0

The average percentage of the unauthorized cess is 10.

included certain meras, which were unauthorized taxes. (Exhibit VII)

(i) On the 7th Jan. 1892, similar decision was passed in Appeal Suit No 39 of 1891 brought by another tenant. (Exhibit IX)

(j) On the 7th Sep. 1892, Original Suit No 30 of 1890 came on for hearing, in which a tenant sued to recover Rs 4000 as damages, sustained from the improper conduct of the Dewan in cancelling 5 years' Izara lease granted to him, securing an annual rent of Rs 1400. The tenant had been put in possession under the orders of the Dewan dated October 1889. Subsequently on the 28th April 1890 owing to a personal spite between the Dewan and the tenant as appeared from the enquiry, the former issued an order to the effect "his Izara should not be accepted; keep it under Amani, if not grant it to others on Izara; in future, no doles or Izaras of lands will be given to the Reddi or his men. Send the Reddi to us; publish by tom-tom Cancellation of his Izara". This arbitrary order was shown to have created a riot in the village, which required the interference of the Police. As the Dewan cancelled the lease without instituting any enquiry and in the absence of circumstances to warrant it, I directed the Hon. Raja to pay the tenant Rs 3470 with full costs as damages, and passed throughout the strongest severe censure on the conduct of the Dewan. I would draw special attention to paras 12, 15 & 16. As regards the Hon. Raja, I remarked that he "is a very enlightened Raja having under him 9 Tahsildars, 2 Peishkars or collectors and a Dewan at the Head office; and a formal enquiry ought

to have been held before taking any action on the lease giving an opportunity to the tenant to Explain the charges" that may have been brought against him (Exhibit IX)

(k) On the 16th Feb. 1893, Appeal Suit No 53 of 1892 came on for hearing, in which certain ryots had sued to set aside an order of ejectment improperly obtained from the Naidupet Deputy Collector. The Hon. Raja's Dewan Mr. Naraganasawmy Chettiar in tendering pattas to the ryots had improperly, illegally and simply with a view to annoy them included in the patta, besides the rent on the land, certain illegal and unauthorized cesses, as Sawmy Dasa, Palagiri Dasa, Reddy Dasa, Karnam Dasa, Shroff Dasa, Vetty Dasa, and patta fees.

The total rent and road cess secured by Pattas Nos 132, 46, 52, 14, 34, and 178 is — Rs 777-13-2. The total unauthorized cess is - Rs 87-9-8.

The average percentage of the unauthorized cesses is 11.

When the tenants had distinctly written at the foot of the patta that they would pay only the rent and road cess, and that they would not pay the other cesses called Dasas and fees, the Dewan set up the Tahsildar under him to take out ejectment proceedings — claiming the Dasas also as rent due. The Deputy Collector granted ejectment. The ryots filed a Suit and obtained a decree in the Lower Court. In appeal I confirmed the decision Exposing in the Judgment the improper manner in which the tenants had been dealt with. (Exhibit XI)

(l) On the 16th Feb. 1893, I passed similar decisions against the Hon. Raja in Appeal Suits Nos 292 of 1892, 75 & 337 of 1892. In another Case No 338 of 1892, the Dewan had included in the patta tendered to certain ryots not only Dasas, but

Rent and road cess on Pattas Nos 178, 34 & 14 is - Rs 299-8-1. Unauthorized cess is — Rs 37-13-10. The average percentage of unauthorized cesses is 13.

introduced some objectionable clauses, affecting the tenants' rights. I found that the patta was not a proper one, and dismissed the Hon. Raja's suit for the rent due on the patta (Exhibit XII)

Rent and road cess on Pattas Nos 132, 52 & 46 is:— 478-5-1.
Unauthorized cesses is:— 49-11-6.
The average percentage of the unauthorized cess is 11.

(k)

(m) On the 24th Mar. 1893, the Hon. Raja's appeal in No 203 of 1892, came on for hearing, in which one K. Venkataramanayya, Vontidar or Revenue Inspector in the service of the Raja sued for the arrears of his pay from April to November 1889. He was dismissed in November 1889, and though he had petitioned the Dewan for his restoration and for arrears of pay, he received no reply. In 1892, he sued the Raja for arrears of pay. The Raja contended that he had sustained a loss of Rs 79 from the Revenue Inspector's failure to secure tenants for the waste lands in the village, and that he had not accounted for Rs 17 given him to feed certain attached cattle. It was found that the Dewan had dismissed the Revenue Inspector without giving any reason and without making any mention of the loss now set up as defence. I confirmed the decision, and dismissed the appeal saddling the Raja with all costs. (Exhibit XIII)

All the above suits have been conducted under the instructions of the Dewan, but in the name of the Raja.

6. The above facts, will, I hope, convince the Government that by occupying the Hon. Rajas Bungalow, as my predecessors did and successors would do, I have not placed—

myself under any obligation to him, and compromised my position of great trust and responsibility.

7. Instead of thanking me for the remarks in my Judgments, and allowing himself to be benefitted by them, the Dewan probably feels provoked and even disappointed in his expectation to have undue influence with the higher officials of the district, and especially with a native District Judge.

8. The Dewan, who had been to Nellore to attend the Local Fund Board towards the close of the last year, drove into my Compound and sent in his card asking for an interview, which I declined, as I thought he was not entitled to that honor for several reasons.

9. On or about the 28th of March last, the Dewan would appear to have visited Nellore to attend the Local Fund meeting. He sent me a verbal message asking me to allow him an interview, which also I refused. I left for Madras on the 29th of March, and the letter in the Standard is dated the 1st of April.

10. The Hon. Raja does not seem to identify himself with the results of his Cases in Civil or Criminal Courts, for he has not given me notice to quit his Bungalow.

11. I joined the District on the 22d of March 1888, and put up from that date up to 1st July 1890 in Mr. Rahamtulla Saibs' Bungalow, (who was also a litigant), which was a furnished house, paying him a monthly rent of Rs 100. The Hon. Raja's Bungalow had been vacant without

a tenant, and on one occassion he had let the Bungalow to an Englishman for a month or six weeks at a monthly rent of Rs 100.

12. In the beginning of 1890, I lost a grown-up daughter of mine in the Bungalow of Rahamtulla Saib, and I and my wife were, naturally, very anxious to quit that house and shift to another.

13. The Raja's Bungalow was vacant, as there was no one else to take it up. My predecessor Dr. Campbell was paying for the first 2 years Rs 150 a month, and finding it too heavy, got the rent reduced to Rs 120. As the Raja had reduced the rent to Rs 100 a month, when he let it for a month or six weeks to a gentleman, I thought Rs 90 a month as permanent tenant was fair rent to the Raja and to myself. The reason for reducing the rent was the reason — which induced Dr. Campbell to reduce the rent from Rs 150 to Rs 120 after 2 years' occupation. The rent of the Bungalow is a matter of contract, and I again beg to submit that I have not placed myself under any obligation to the Raja on account of the house-rent, and that it cannot be the wish of the "litigant public" that I should be sent out of the District.

14. A Judge in every district is obligied to be tenant of some person. The Hon. Raja has not asked me to quit the Bungalow. Should the Government, however

Conceive that I should no longer occupy this house, I beg to submit that I am prepared to obey the order at once.

I have the honor to be

Sir

Your most obdt. Servt.

Wm Cranch Dunn

District Judge.

CURRENT No. 874

Judicial

From

The District Judge
Nellore.

To

The Chief Secretary
to Government
Fort Saint Geo.

HH

In Orders

Recorded 20 ap.

Submitted that the may be
Order: 28 april 1893 No 881
Recorded HH
22 apr

D. J. Nellore.
Accepted 28/4
HH
21/4/93

CHIEF SECRETARY'S OFFICE
19 APL 93
RECEIVED

Dated 15th April 18
Recd 19 April 93

Enclosures. 13.

Subject.

Observations on Notes headed "The District Jge of Nellore", which appd in the Madras Standard of the 5th instant.

C. 21/4
K 24/4

O.

PAPER, No. OF 189 .

READ AGAIN ORDER OF GOVERNMENT, DATED
189 , No.

ER PAPER, No. OF 189 .

ENCLOSURES.

re copies.

Struck .. .. ..

Issued .. .. ..

CURRENT No.

Total ..

In Stock ..

STATEMENT WITH DITTO.

ORDER, &C., OF GOVERNMENT—A.

PAPERS KEPT OUT OF FILE FOR DESPATCH IN ORIGINAL
(not paged.)

NUMBER OF COPIES REQUIRED.
- Order complete.
- Letter only.
- Order complete with Letter.

N.B.—
A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.
R = Print, but not for monthly volume.

[7]

Confidential No. 5
189

Judicial DEPARTMENT

G.O., DATED 28-4-93

No. 881

Series. Mis.

Confidential.

(1) 5/82
124

First copy sent to Press.

Returned for signature.

Despatched.

[Despatch Abstract.]

Recording Mr. C. Ramachandraiya's observations on the article headed "The District Judge of Nellore" which appeared in the Madras Standard of the 5th inst.