

MADRAS RECORD OFFICE.**Government of Madras.***Revenue* **DEPARTMENT.**

G.O. No. 1021

Press
Mis.

86-87

Dated

14-5-1861.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
14th May 1861.*

No. 86. Read the following Proceedings of the Board of Revenue, dated 3rd May 1861,
No. 2,268:—

Read the following letter from H. A. BRETT, Esq., Collector of Salem, to J. D. SIM, Esq.,
Secretary to the Board of Revenue, Fort Saint George, dated — May 1861, No. 60.

SIR,

1. I have the honor to forward the translation of a plaint filed by Chinnia Coolia Gounden, of the Darampuri Taluq against Mr. Knox, late Officiating Collector of Salem and another, in O. S. No. 3 of 1860 on the file of the Darampuri District Moonsiff's Court (from whence the suit has been transferred to the Subordinate Court of Salem), together with the draft of an answer which I propose to file, and to request you will be good enough to obtain (the sanction of Government for my defending) the suit at the public expense.

2. The Plaintiff seeks to obtain a patta for the lands specified in the plaint, measuring acres 6-13-14, assessed at Rupees 3-2-3.

3. The circumstances which led to the institution of this suit are as follows: one Narrain Ráu, of Darampuri, held a patta for the lands under dispute in Faslis 1265 and 1266. In Fasli 1267 the lands were left waste, and were entered in the Jamabandi Takarar book of that Fasli. At the settlement the assessment was remitted, and the land was removed from the Putcut accounts.

4. The Plaintiff presented a Durkast for the same lands on the 2nd May 1859. The Tahsildár, on the receipt of the Plaintiff's Durkast, sent the Tahsildár of Tripatur a notice to be served on Narrain Ráu, the 2nd Defendant the owner of the land in Fasli 1266, who it appears, was residing at Tripatur informing Narrain Ráu that another person had applied for the land. Narrain Ráu did not appear before the Tahsildár within the time specified in the notice. The lands were subsequently made over to the Plaintiff on the 11th July 1859.

5. On the 26th January 1860, Narrain Ráu presented a petition to the Tahsildár stating that he had laid out a considerable sum in improving the land; that after giving the land on rent to another person, he went himself to Tripatur on business; and that, in consequence he was not aware that the land had been deducted as waste in Fasli 1267, or that it had been given to a second party in Fasli 1269. The Petitioner prayed that the land might be made over to himself.

6. The Tahsildár entered the matter in the Jamabandi Takarar book for Fasli 1269. At the settlement Mr. Knox cancelled the Tooloochit given to the Plaintiff by the Tahsildár, and ordered that the land should be registered in the name of the 2nd Defendant, on the ground that the land ought not to have been deducted in Fasli 1267, as it did not appear that it was left waste for any sufficient cause, or that the 2nd Defendant was unable to pay the rent. He also believed that Narrain Ráu was not aware that the land had been struck out of the Putcut accounts in Fasli 1267.

7. I observe on referring to the plaint that the suit has not been laid for possession of the land, but simply to obtain an order from the Court desiring the Collector to register the lands in Plaintiff's name. I have, therefore, pleaded in answer, that "it is not in the power of any Courts of Judicature to interfere with the registry of lands;" quoting on this point the words used in the Circular Order of the Sudder Adálat, dated 17th September 1832.

8. Mr. Knox was, I think, right in giving the land to Narrain Ráu, for Narrain Ráu may fairly say that he never by any act of his forfeited his right of ownership. I was in error, it appears, in allowing the land to be removed from the accounts at the settlement in 1267. The present practice, as the Board know, is to hold the owners of dry lands responsible for the assessment, whether they cultivate the lands or not; and to keep waste lands in the accounts till the parties in whose names they are registered formally relinquish them.

made in appen
in line

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9. I have ascertained from the Tahsildár of the Darampuri Taluq that Narrain Ráu (the 2nd Defendant), in whose name the land was registered afresh in Fasli 1269 by Mr. Knox, is also in possession.

10. The appeal time will extend to the re-opening of the Court on the 15th June next.

1. Ordered to be submitted to Government with the Board's recommendation that permission to defend the suit at the public expense be granted.

2. The Board would plead in defence that the 2nd Defendant having long held the land in question, expended capital on it, and never having resigned it, but being still in possession; while, moreover, the land is registered in his name, there is no sufficient reason for complying with the prayer of the Plaintiff for the issue of a patta in his name.

3. The Board are not prepared to argue that no Court is competent to interfere with the registry of lands.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 87.

ORDER THEREON, 14th May 1861, No. 1,021.

1. The Governor in Council concurs with the Board that the suit should be defended on its merits, in the manner proposed. He considers however that the Collector should also plead that it is discretionary with a Collector to grant Government waste to the applicant whom he considers most eligible, and that under the decision in the Special Appeal of the Sudder Adálat No. 136 of 1858, even possession without the Collector's Patta is untenable.

2. The Board, it is observed, have not noticed Mr. Knox's declaration that the assessment of the land was erroneously remitted in Fasli 1267. They will deal with this matter in due course.

(Signed) J. D. SIM,

Secretary to Government.

The 15th Subrahmanya
letter from the Mr.
of the land. It is
admitted, and stated
against him, in the
first part and a com-
mend. that he is an
thruled to defend
the suit at the public
expense.

2. The land in
dispute was held
by the 2d Rátt Narrain
Ráu in Fasli 1265 &
1266. In Fasli 1267
it was left waste -
its assessment was
remitted and an
according to the current
practice which then
prevailed. It was struck
out of the accounts.
It seems to have
remained waste.

in 7.12.60 also and
in May of that year
plf applied for
it. The Valholders
asked this applica-
tion to 2^d De Vt. who
failed to appear
before him within
the time specified
in the notice. The
land has consequently
made over to plf
is ~~fully~~ ^{the} succeeding
fully 12.69.

3. The 2^d De Vt. ap-
pealed to the J. W.
in the following form
and the then Acting
Clerk on copying up
the letter and can-
celled the Valholders
"Gorloschik" & ordered
the land to be registered
in 2^d De Vt's name; but
of opinion that it

my 2^d De Vt. & home
line struck out of
the record in 7.12.60

12.67 - with that
2^d De Vt. was not
aware of this being
been done... & 2^d

4. The plf seeks to
set aside this de-
cision, and desires
for a Petition for
the land to be set aside
words for a change
in the Registry -

5. The Clerk wishes
to answer that the
Court cannot in the
face of the Registry
of Land as in the
case of the C.O. of the 2^d De Vt.
of 25 March 1833.

6. The Clerk is of
opinion that it may
fairly be said that
would depend the said

on the ground, that
the 2d. de jure claim
to the land is stronger
than p. 1st.

7. It is true that,
I think, when the
Land is sold, the
maintain its old
rights. See also that
Registered owner follows
by the 1st. p. 1st. is
that such p. 1st. is
in determinable by
the Court. But as
such a defence
should be technical
& should only lead
to p. 1st. changing
his point & saying
for possession, when
it should be irrelevant.
The 2d. de jure claim
certainly seems the
strongest. See also that
he held the land

This is founded
on the strong point
in the case - I
must proceed
to the case
I indeed do not
see how
the opposite could
be used

will

2/ for 2 years & years -
in ignorance of its
transfer to p. 1st.

8. The 18th. and
might, I think, be
considerably strong
by pleading that it
is discretionary with
a Court to grant
to the applicant
& how he considers
much eligible - and
that under the decision
in the Sp. App. of the
Lord Abbot N. 136
of 1850, even p. 1st.
in that the (p. 1st.)
is untenable.

9. The 18th. it will
be seen, do not state
Mr. Knowl's declaration
that the assessment
of the land was
- erroneously assessed in

7. 1267: - ... 2 ...

10. If fit circumstances

in the ... the

... proposed defense

... the merits will be

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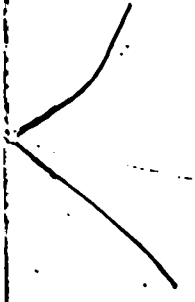
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(11)
Just against the Collr of
Salem

For Orders

R. D.

N^o 1021.

Proceedings of the Madras Government
Under date the 14th May 1867.
Read the following paper
from the Bd of Revs. —

Submitting with Bd's re-
commendation a letter from
the Collr of Salem requesting
authority to defend a ^{certain} suit
against him at the public
-i.e. expense —

(Here enter 3 May 1867
N^o 2268)

The Civil con-
siders with the Bd that
the suit should be
defended on its merits
in the manner proposed.
He considers however
that the Collr should
also plead that it is
discretionary with a
Collr to grant Court
matters to the applicant
or his

whom he considers
most eligible and
that under the deci-
sion in the App.
of the Sadr Ud-daulat
c. 136 of 1858, even
possession without the
C. 136 puttah is un-
tenable.

The B. it is ob-
served have not no-
ticed Mr. Thos's de-
claration that the as-
sessment of the land
was erroneously re-
mitted in S. 1264. They
will deal with this
matter in due course.

J. S.

13 Copies to the B. of Rev. 2/12/14

Suit against the
Coll^y of Salem

Revenue 1861 & of Jan^y 1862
Pro: of Jan^y 1862 for May.

1861021.

Pro: of the checkered
Government.

of 14th May 1861.

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Revenue Dept^l
Pro. of Govt for May

N. 1031.

Pro. of the Madras Govt
14th May 1861.

Pro. of the M^d. of M^d. 8/19th
Oct/61. 6.8² 25 1/5 in the.

Authorize the Coll^r
of Salem to defend a suit
and suggest some argu-
ments.

1861-84.