M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 11. Press / Mis.

Dated February 186/.

Not to be folded or roughly handled

No. 579.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2d February 1861.

Read the following letter from C. DALE, Esq., Government Pleader, Sudder Adalat, to W. HUDLESTON, Esq., Sub-Secretary to the Board of Revenue, Fort Saint George, dated Madras, 28th January 1861, No. 15 :—

1. In continuation of the letter I had the honor to address to you under the date and number noted in the margin, I now do myself the honor of enclosing for the information of the Board of Revenue, a copy of the order passed by the Court of Sudder Adalat on the 5th January 1861, on the Petition presented by me praying for a review of their judgment in Appeal Suit No. 140 of 1859.

10th January 1861, No. 4.

2. I have the honor to draw your attention to the 4th paragraph of that order, and the 378th Section of Act VIII of 1859. Under that Section a Petition for review is posted for hearing as soon after its presentation as is convenient; and if on looking at the Petition, or hearing the Petitioner's Counsel, the Judge who passed the order in respect of which the review is prayed, thinks a sufficient *primâ facie* case is made, notice is given by the Court to the opposite party, but no notice is given until after such preliminary hearing. On such preliminary hearing the Court may (if it thinks fit) hear Counsel for the opposite party, if instructed to appear, but if the opposite party does instruct Counsel, no costs are given to him.

3. In the case now under consideration, the preliminary hearing only took place on the 5th instant. No notice had been given to Verakamoo Ammal, nor did her Vakeel in my presence make any application for his costs; nor was I aware that any order for such costs had been made, until I this morning saw the copy procured from the Sudder.

4. Under the course as now pursued in the Sudder, I should not be justified in advising Government to present a Petition for review of that order. I, therefore, purpose considering whether I cannot make that an additional ground for appeal to the Privy Council.

ENCLOSURE No. 1.

Proceedings of the Sudder Court 5th January 1861.

Read Miscellaneous Petition presented on the 8th ultimo, by C. Dale, Esq., Government Pleader, on behalf of R. D. Parker, Esq., Collector of Madura, Appellant in Appeal Suit No. 40 of 1859, on the file of the Sudder Court.

(Here enter S. M. P., No. 386 of 1860.)

1. Petitioner prays for a review of the Judgment of this Court in the aforesaid Appeal Suit, so far as it directs him to pay the mesne profits sued for, notwithstanding they have never been received by the Collector of Madura.

2. The Court observe that the objections to the Plaintiff's claim now taken were not raised before the Court below; nor at the hearing of the appeal was any matter laid before the Court to lead them to call in question the Judgment of the lower Court on the subject of the mesne profits sued for.

3. The Court decline at this period to permit this matter to be opened, and dismiss the Petition.

4. They further direct the Civil Judge of Madura to collect from the Petitioner and pay to Verakamoo Ammal, daughter of the late Zemindar of Eracha Naikennoor, the Respondent in the aforesaid appeal, a sum of Rupees 157-0-1, the costs incurred by the latter in opposing the review Petition in question.

Pro: 1861 Department
Pro: of Govt for February.
No. 299

Proceedings of the
Board of Revenue

Dated 2d
Desp. 2 } February 1861
Rec'd 4

No. 579

Submitting in continuation of the Board's Proceedings dated 21st January 1861, a letter from the Govt. Pleader forwarding Copy of the order passed by the Court of Sadr Adalut on the petition presented by him praying for a review of their Judgment in Appeal Suit No. 140 of 1859.

Lodge.

Misc. No 71