M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 74 — Press / ~~Mis.~~

144-145

Dated 11-1- 1861.

Not to be folded or roughly handled

No. 144. Read the following Proceedings of the Board of Revenue, dated 4th January 1861, No. 18 :—

Read the following letter from JAMES FRASER, Esq., Collector of South Canara, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, Fort Saint George, dated Mangalore, 10th December 1860, No. 219.

SIR,

1. I have the honor to acknowledge the receipt of copy of the Proceedings of Government calling for a full explanation of the circumstances connected with Original Suit No. 1,115 of 1858, filed against the Collector of South Canara and others in the Court of the District Munsif of Mangalore by R. Rámа Joysye. At the risk of some repetition I proceed to detail the circumstances "ab initio."

1st December 1860, *No.* 2,291.

2. On the 25th July 1849, the present Plaintiff complained before the Tahsíldár of Mangalore against Anna Joysye and his son Narsimha Joysye,* that they had pulled down a partially built house and removed a hedge on the ground now sued for, which he (Plaintiff) claimed as being at that time in his possession, and as forming part of his share of Wurg No. 1. This Wurg had long previously been divided into three shares, two of which went to Anna Joysye, and the third to R. Rámа Joysye. This complaint was dismissed in consequence of the non-attendance of Plaintiff. He filed a second complaint to the same effect on 3rd July 1850 before the Tahsíldár, who, after enquiry, reported to the additional Sub-Collector, Mr. Fisher, that the dispute was one between two members of one family, regarding a division of landed property; but that both parties had failed to produce before him the deed of partition, showing the boundaries of their respective shares; that in his opinion the matter should be referred for decision to a District Panchávat, to which course both parties had agreed. Mr. Fisher in reply, in an order No. 500, translation† of which is appended, stated that from the plan of the estate forwarded, the disputed piece appeared to be Government property; that therefore the Tahsíldár was to enquire whether this was the case or not. He, without going to the spot, and solely on the faith of a Mahazarnáma‡ written not before himself, but a shanbhogue, reported that the disputed ground belonged to Wurg No. 1 and was not Government property; on which Mr. Fisher referred§ the dispute to a Táluq Panchávat for settlement as one in which Government interests were not concerned. The Plaintiff did not attend, and consequently the record was returned by the District Munsif; and in a deposition given before Mr. Chamier, Head Assistant Collector, in January 1852, Plaintiff stated that he did not want a Panchávat and would abide by a Civil Suit. Mr. Chamier therefore ordered the complaint to be struck off his file, and that the Defendants Anna and Narsimha Joysye should be continued in possession of the ground. In 1855 Plaintiff filed his Suit against these parties before the Munsif, who dismissed it for default. He again in 1858, filed a similar suit in the same Court against the same parties, which was referred to the Moofty Sudder Amín; and this was withdrawn on the pretext, that Anna Joysye having died, he would file a separate suit against Narsimha Joysye alone, which he did, viz., the suit in which the Collector was, on 4th August 1860, made a Supplemental Defendant. The reasons for this step are said to be my order to the Tahsíldár of Mangalore, No. 9‖ dated 10th July 1860. The circumstances connected with its issue are as follows :—

* *Present Defendant.*

† *Enclosure No.* 1.

‡ *Translation sent No.* 2.

§ *By order No.* 237, *dated 9th October* 1851.

Translation sent No. 3.

‖ *Translation sent No.* 4.

3. On the 25th September 1858 Ananta Bhut, one of the parties to the Mahazarnáma referred to in paragraph 2, gave in a durkhast before the Tahsíldár for the very ground in dispute; and a month after him Narsimha Joysye gave in a similar durkhast claiming the right to cultivate the ground on the score of long possession. The Tahsíldár (a different man from the one who held office in 1851) instituted an enquiry regarding the ground through the Monegar, and reported, on 5th July 1860, that the former enquiry had been an imperfect one; that

now a full one had been made; and that besides, on measurement of the Wurg, it had been found to contain an excess of land over that entered as its content in the public accounts, exclusive of the disputed ground; that therefore this was without doubt Government property. The Tahsíldár examined Ráma Joysye as to his willingness to pay rent or not for this ground, which he declined to do, as he claimed it for a part of his Wurg and had made it the subject of a Civil Suit. Narsimha Joysye agreed to pay rent for the ground in question as Government land, and because of his agreement to do so, of his having been in possession of the ground ever since the year 1849, and of my belief that the Tahsíldár's enquiry had proved the ground to be Circar and not private property, the order No. 9, in consequence of which I was made Supplemental Defendant, was issued.

The Plaintiff claims the ground on two grounds :—

(1.) That it formed part of his Bettoo land, and that a boundary stone on it shows the limits of his and Defendant's land.

(2.) That it forms part of his Kumaki land.

I have shown that

(1.) The land is not from its soil and position, and never could have been, Bettoo land; and that the said boundary stone is nothing of the kind.

(2.) That Kumaki land is Government property and liable when claimed, for cultivation, to Assessment.

4. The time for filing the answer to the plaint expired on the 30th November, but an answer has been filed this day. To the draft answer of the Board, I will add only one short paragraph which appears necessary to complete the defence, viz., "that his description of the "land in his supplemental plaint as Bettoo is erroneous, as a personal examination of the ground "in dispute has demonstrated that it never has been, nor could from the nature of the soil ever "be cultivated as Bettoo land, and that the so called boundary stone is nothing of the kind."

5. Trusting that this explanation will be considered satisfactory.

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1. Submitted for the information of Government with reference to paragraph 3 of their order, dated 1st December 1860, No. 2,291.

2. The addition proposed to be made to the draft answer in paragraph 4 of the letter under review is approved.

3. As desired by Government the Collector's attention was called to the imperfect manner in which the case was originally submitted for the consideration of the Government and the Board in the Board's Proceedings, dated 3rd December 1860, No. 5,660.

(A true Extract and Copy.)
(Signed) W. HUDLESTON, *Acting Secretary.*

No. 145. ORDER THEREON, 11th January 1861, No. 74.

Ordered to be recorded.

(Signed) J. D. SIM,
Acting Secretary to Government.

order dated 1st December 1860, No. 2291.

2- The addition proposed to be made to the draft answer in para 4 of the letter under review is approved.

3- As desired by Government the Collector's attention was called to the imperfect manner in which the case was originally submitted for the consideration of the Government and the Board in the Board's Proceedings dated 3rd December 1860 No. 5660.

A true Extract & Copy

Hudleston
Ag Secretary

To J. D. Sim Esqr
Ag Secretary to Government
Revenue Department.

Pro. of 1st Dec. 1860 No. 10 - 11 -
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Revenue 1861 Depart.t
Pro. of Govt. for Jany: 1861.
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Proceedings of the
Board of Revenue

Dated 1st
Recd 4th } January
Rec.d — } 1861.
Encls 15 - Ol. Encls.
No 18.

No 74 - 11 January 64

Submitting with the Bd's observations a letter from the Coll.r of South Canara furnishing a full explanation of the circumstance connected with the O.S. No 1115 of 1860 as required by Government —

Returned
J D

No 74

Recorded -

11 Jan.y 1861.

No 12 & 145

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11 Jan.y No 74

Ordered to be recorded