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MADRAS RECORD OFFICE

Government of Madras

Public Works

DEPARTMENT

G.O. No. . 395	(W)	Press
B.P. No.		Mis.
Dated	14. 2	18 76.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
14th February 1876.*

No. 231. Read the following letter from the Superintending Engineer, Tanjore,
dated 2nd February 1876, No. 154:—

ABSTRACT.—Reporting upon a suit brought by the Durmakatha of Streevigunthum
against the Public Works Department.

No. 232. ORDER THEREON, 14th February 1876, No. 395.

ESTABLISHMENT, No. 11.

THE papers will be transferred in
original to the Government Pleader for
defence of the suit. Any further inform-
ation which may be required should be obtained in direct communication with the
District Engineer, or the Board of Revenue.

(True Extract.)

Major-General *[Signature]*,
Secretary to Government.

To the Government Pleader, with papers in original.

„ District Engineer, Tanjore.

„ Judicial Department.

Exd. S. T. Austin.

Spare Copies

3

To The District Moosif
Perambalore.

Plaintiff

Gopalasami Iyer of Ambel Village,
a Merasidar and Durmakartha
of Sreevythenatha Sani Covil,
situated in Tirumalavadi Village,
Wodiarpalliem Talug.

Defendants

1. Mr O. Shaughnessy, Acting
District Engineer, Tanjore
2. Lieutenant Smart R.E., Range
Officer, Tanjore
3. Palaniandy Pillay, Maistry
residing in Munni Head, Kelangudi
Village, attached to the jurisdiction
of the Trivadi Moosif, Tanjore
Talug.
4. Iyar Pillay, son of Malayaperum
Pillay, residing in Trimanore Village,
Wodiarpalliem Talug.

Occupation of Defendants 1, 2, 3 is
Government

Government service and of the 4th Defendant, Meras.

Complaint under section 26 of the Civil Code

The relief sought for
Requesting judgment to the effect that the plaintiff may recover possession for the said Tythenatha Sami of the undermentioned land and nanal padugay &c worth Rs 60 which have been illegally appropriated by the Defendants together with the revenue derived therefrom from this date and costs, also that the case may be disposed of according to its nature and as the Court may deem proper.

2 - Subject of Complaint

The whole of the said Tirumalvadi shrothriem lands as well as the fish in the Coleroon bed at the Eastern edge opposite to Tirumalvadi &c limits and the nanal padugay formed along the Coleroon edge belong solely to the said Tythenatha Sami from the date of the construction of

of the pagoda.

3. Cause of Complaint.

While the lands were being thus enjoyed the 1st and 2nd Defendants have in February 1875 illegally interfered with and taken possession of the undermentioned ground along the Western edge of the Coleroon, some portions of which have already been planted with nanal and the other fit to be planted with nanal and have caused new nanal to be planted by the 3^d Defendant in places which were fit for the purpose from cuttings taken from the old nanal; and the whole of the land including the nanal has been left by the 1st, 2^d, and 3rd Defendants in the possession of the 4th Defendant and is being enjoyed by the 4th Defendant.

This suit has been brought for the lawful recovery of the possession of the said land for the said Tythenatha Sami against the Defendants.

4. Time on which cause of Complaint

Complaint has arisen - 1st February 1875.

To be obtained from the De-
pendants 28 acres of land on some
parts of which nanal is planted and
on other parts no nanal has been
planted bounded on the North by
the Vijthenatha Sani Coril Shunmathi
steps in Tirumalvadi Shrotriya
Village, Wodiarpalliem Taluq, Trichi-
nopoly District, on the South by the
nanal padugay of the said Sani in
Aramanacoorchy Village; on the East
by the bed of the Coleroon and on the
West by the Western edge of the
Coleroon valued at Rs 28-0-0

Value of nanal &c }
in the above land } 32-0-0
60-0-0

(Signed) Sreenivasa Iyer
Takeel

17. September 1875.

(Signed) Gopalasami Iyer of
Arubel Village. Durmatkatha
Filed on the 18. September 1875.

(Signed) Sreenivasa Iyer.
District Moudif.

True Translation

J. F. Baker Lieut. Col. R.E.
Superintending Engineer, Tanjore

Enclosure in a
letter from the
Superintendent Engineer
to the Secretary to
Govt. No. 152, dated
2nd February 1876.

No. 14th Feb 76 B N 231
Translation
of Plaint.

M. 906/76.
2/76.

Superintending Engineer, Tanjore

No 606.

Camp Tirumalavadi

28th October 1874

From

The Thasildar of
Noodiarpollim

To

The Collector of
Sriehinopoly.

Sir,

I have duly received your
Order No 121 dated 2nd Instant en-
closing copies of your letter No 915
and its enclosures and directing
that the Aramanakurchi Padugay
therein referred to be personally in-
spected and the matter enquired into
by me, also the matter referred to
in para 2 of the said letter and the
same be reported upon with all the
papers connected therewith.

2. What is stated as Aramana-
kurchi Padugay in the Tanjore En-
gineer's letter forms the canal Padu-
gay situated in the Agaw river

bed.

Con bed of Aramanakurichi No 44 and
in the river bed in the limits of
Sirmulavadi, a Shrothriem Village.
part 3. The said No 44 is entered in
on the settlement Register as ^{Revenue} ~~Revenue~~
the ^{Revenue} Padugay and the Kurnam and Patta
step-momazor state that this land
Vill was never under the occupation
nor of any individual before or after the
settlement and has been for long time
by under the charge of the Govt.
West

It appears that, when in 1873
Col the D. P. W. men of the Tanjore District
V. planted banal in the said No 44,
in one Gopala Eyen, an empowered Agent
of Kuppudayan the Devastanum
Manager of Sirmulavadi had igno-
-rantly objected to it. The said Gop-
-pala Eyen has since been dismissed
from his post and the present Ma-
-nager Kuppudayan &c have given
a Deposition to the effect that they
will not interfere with the land any
more - hence it is clear that the

Devastanum

Devastanum people of Sirmulavadi
or any others prefer no right to the
Aramanakurichi Padugay No 44 and
now the D. P. W. people of the Tanjore
District have planted banal in the
said land and placed it under the
charge of the D. P. W. of this District.

5. Banal has been planted by
the Sirmulavadi Devastanum people
along the Coleroon north bank to a
length of 500 yards near the Cudu-
-cotta village and 680 yards near the
Aramanakurichi limits in the Shro-
-thriem village of Sirmulavadi at-
-tached to the Padugay of Aramana-
-kurichi. These plantations have been
taken over by the D. P. W. of this
District and they are now under their
charge and the fact of the banal
having been planted by the Devasta-
-num people is admitted by Kishnu
the D. P. W. Momazor under whose
charge the Padugay is. The Kurnam
of the Sirmulavadi Shrothriem village
who was examined relative to this subject
states

that the Devastamam people have for a long time planted nanal in the Coleroon bed in the limits of Tirumalaivadi but there is no entry made regarding it in the accounts of the shrothriem village.

The managers of Tirumalaivadi Devastamam have deposed that they always rented the fish in the Coleroon bed in the said Village and also planted nanal in it but they have no accounts to prove the same now, that they have no objection to nanal being planted by Government in the Coleroon bed along the Tirumalaivadi shrothriem Village like the Tirumam Padugay - Thus there appears to be no objection to the Department Public Works planting nanal in the Coleroon beds of Aramanakurche and Tirumalaivadi Villages.

But the managers of the Tirumalaivadi Devastamam state that a sum of Rupees 150 which has cost them to plant nanal in the limits

limits of Tirumalaivadi should be paid to them and that they should be allowed to cut the nanal now existing in those limits. From the statement furnished by Kishinagar the Manager, it is observed that it is true that nanal has been planted by the managers. I therefore request that a letter may be sent to the Engineer Department requesting them to inspect the locality and estimate the cost of planting the nanal and to pay the same to the Durmakurthas. - In the event of paying the Durmakurthas the cost of the nanal, it appears to be unnecessary that they should be allowed to cut the nanal as they request.

Copper Plate.

7. The Durmakurthas have produced a Lambura Sasaram authorizing them to enjoy as Muzam the Padugay in the Coleroon bed from Kandanavadi in the limits of Ponnacottah Village as far as Tirumamam. There are no accounts

at on Documents to establish this right
tion on the part of the Durmakurthahs.
in As the Durmakurthahs themselves
of have now agreed to resign to Govern-
erment the river bed in these limits,
I think it unnecessary to speak
further about the Lambura Sasanum.

8. The Durmakurthahs further
a state that the Paduways Nos 43 and
b. 45 entered as Perambote in the
c. Aramanakurchi Village amounting
d. to acres 41.66 which are under the
e. charge of the Forest Department,
f. belong to them, and should be made
g. over to them. The land in Nos 43
h. and 45 was regarded as Paduway
i. Perambote before and after the
j. settlement. This the Pattanamager
k. of Aramanakurchi named Tiruvu-
l. gadu Pillay, had once given over
m. Dhurkash and was made over to the
n. Dhurkashdar in the Salug, but the
o. Seemvassa Iyer the then Durma-
p. kurthah of the Devastannum ob-
q. jected to it and requested that
the

the land should be given to him. -
On his appealing on the subject to
the then Collector Mr Cadell sent
an Order No 282 of 1870 stating that
the land should always remain
as Perambote Paduway and should
not be given for Cultivation to either
of the parties and from that date
the land remains as Paduway. -

9. If the Durmakurthahs had
any real right to the land as stated
by them, the orders above referred to,
could not have been passed. -

10. With the exception of the entry
in the accounts prepared by the
Kurnam during the time of
~~Survey~~ that these Nos 43 & 45
are under the enjoyment of the
Devastannu people there are no
other accounts to support the claim
11. The Kurnam on being questioned
about it states that the Devasta-
-nnu people having possessed Poni-
-yam adjoining to the above land,
they have also ^{been} enjoying this land
without

without any right, and on stating this verbally to the survey parties, they have entered it so in the Kurmanis accounts, but with this exception that there are no accounts to support this claim.

12. There appears to be no reason whatever to make over to the Durmakurthahs who claim without any ground the lands in Nos 43 and 45 which are now under the charge of the Forest Department containing about 1200 Karnway & trees and which are necessarily required for the protection of the Government riverbed.

13. I beg to forward the papers connected with this case as specified in the enclosed List and request that the Sambura Sasanam may be returned.

(Signed) M. Ottokumarasamy Pillay
Thasildar

True Translation

F. D. A. Liatt Col. R. C.

Superintending Engineer Tanjore.

No 154

Superintending Engineer

17

without any right, and in state of

Enclosure in a letter
from the Superintending
Engineer to the Secretary
D. No. 154, dated
2nd February 1876.

No. 14th Feb 76 B. 1231

Translation of
the report of the
Zahsildar of
Woodierpalem.
M. 986/76

No 154 Superintending Eng^r's Office
Camp Begapatam 2nd February 1876.

From
Lieutenant - C. R. F. Oakes R.E.
Superintending Engineer
Pauore

To
Major-General G. W. Walker R.E.
Secretary to Govt
Department Public Works.

Sir, I have the honor to inform
you that a suit has been brought
by one Gopalaswami Iyer of
Ambal Village, a Merasidas
and Durmakartha of Ikreevthe
natha sami Covil situated in the
Pirumalvadi Village in the Wodian
palliem Taluq of the Trichinopoly
District against Mr. O. Shaughnessy
Lieutenant Smart, Palaniandy
Pillay Maistry and Iyar Pillay
son of Malayaperumal Pillay to
recover possession of land and
naval

1. Naanal padugay which is stated
2. to have been illegally appropriated
3. by the Defendants. The only
4. Defendant who is not a member
5. of the D.P.W. viz. Iyar Pillay
6. is the contractor to whom the naanal
7. has been rented by Lieutenant Smart
8. the Officer in charge of the Tanjore
9. Range.

10. 2. The history of the case
11. is briefly as follows:-

12. Plantations of naanal have
13. for many years been formed and
14. preserved in the bed of the Coleroon
15. adjacent to the Northern padugay
16. or high margin of the River in the
17. Trichinopoly District by the Range
18. Officer of Tanjore to divert water
19. to the head of the Munnigant and
20. when the right to these plantations
21. was disputed many years ago, the
22. matter was referred to the Revenue
23. Board who in their order No. 3142
24. of 17 June 1861 declined to recognize
25. the asserted rights of the Villagers
26. to the naanal plantations and stated
27. that

x
Trimanore
Munjamodu
Cassipakum
and
Anneemun-
galum.

that 'The highest judicial authority
recognized in the country had decided
that the freehold right in the bed
of navigable Rivers vests in Govern-
ment. The Board's order referred
to naanal planted in certain limits
East of that relative to which
this suit has arisen but the exten-
sion of naanal to the West of these
limits was rendered necessary in
order to prevent the naanal planted
in them from being
taken in reverse, as it were, and
which would have rendered them
ineffective. While the Districts
of Tanjore and Trichinopoly form
one Division no dispute relative
to the extension of the naanal to the
Westward for the purpose of se-
curing the naanal to the Eastward
arose but after the separation of
the Districts, Syed Yusuf, a
Sub-Engineer in charge of the Nodi
aspallim Taluk with more zeal
than discretion seized upon and
rented

reuted nanal in the Aramana-
coorchy limits which had been
planted by the D.P.W. in Tanjore
without any reference either to
his own District Engineer or to that
of Tanjore though he must have
been aware that the nanal had
been planted by the Tanjore D.P.W.
for the purpose of diverting water
to the Munnigaur head.

3 - The opportunity of a
dispute relative to the possession
of the nanal by the members of
the Department in the two Districts
was too good a one to be lost and
planting appears to have been vigorous-
ly commenced in the River bed
by the pagoda authorities at Tiru-
malvadi, this nanal Lieut. Smart
the Range Officer of Tanjore directed
should be destroyed whereupon an
action was brought against the
Munigar and Cottens, who had
carried out Lieut. Smart's orders,
by the Trustees of the Tirumalvadi
Thavasthanam in the Sub-
Magistrate's

Magistrate's Court of Nodiaspalli
the case was taken up by the Magis-
trate of Trichinopoly, at the request
of Major Mead then District
Engineer of Tanjore, who dismissed
the complaint on the 1st October
1874 and who, on the 6th November,
forwarded a report from the Tahsil-
dar of Nodiaspalliem stating that
the Trustees of the Tirumalvadi who
had planted nanal in the padugay
of Tirumalvadi and Aramanacoorchy
had abandoned all claim to the land
in question. It is apparently to this
land the Durmakartha is now
laying claim.

4 - From the Tahsildar's
report, a translation of which is en-
closed, it would appear that the
Durmakartha had produced a copper
plate authorizing them to enjoy as
(a gift) the padugay of the Coleroon
from Nandamadu to Tirumalore;
within this limit lie all the Villages
adverted to in para 2 above and hence
I

Para 7.

I presume the copper plate really affords no evidence relative to the claim of the Tirumalvadi Thevasthanum to the nanal padugays and from para 5 it will be observed that the Managers of Tirumalvadi Thevasthanum can produce no accounts to show that they have been in the habit of planting nanal in the Tirumalvadi limits. From para 10 of the Tahsildar's report it will be observed that Mr. Cadell the late Collector declined to hand over to the then Durmatkarta certain Perimbokke padugay lands in the Aramanaconchy limits which he claimed and which are now in possession of the Forest Department; the only ground on which the claim rested appears to have been an entry in the accounts Para 10. prepared by the Kurnam during the time of survey that these Nos 43 and 45 were 'under the enjoyment of the Thevasthanum people' and this entry is stated to have been made in the accounts by the survey party on the verbal statement of the Kurnam.

Kurnam.

5.- The only defence that can be set up is that the freehold right in the beds of navigable Rivers vests in Government and that private individuals or communities have no right to encroach upon these beds and thus to form accretions. A copy of the decision on which the Board of Revenue based their order should therefore be forwarded to this District with such instructions relative to the defence as the legal adviser of Government may deem necessary, as the decision on the question raised is of paramount importance to Government and in fact upon it will depend the power to conserve Rivers on the part of the members of the D.P.W. or the power to injure them ad libitum on the part of Villagers whose lands border upon the River beds.

6. If the question is decided in favor

favor of Government there will be
no occasion to take up margins of
padugays adjacent to the deep beds
of rivers as has been ordered, but
upon which no action has been taken
except the survey of a few miles of
river, as no funds have been
provided for the purpose. The cost
of taking up such margins would
be enormous. Certainly not less
than Rupees 3000 per mile in the
Coleroon and from 1000 to Rs 1500
per mile in the smaller rivers and
that independently of the margins
it has been further proposed to
take up adjacent to the banks,
from which to obtain earth for
the conservation of the banks,
as few of the Padugays in Tanjore
are inclosed by the Villagers.

7. Relative to para 3 I must
state that there was actually
no dispute between the District
Engineers and that with the consent
of Major Law then Acting District
Engineer

not a day's work
of the
Engineer of Nicheikopoly the canal
plantations in Aramancorahy
and Tirumalavadi were formally
handed over to the Tanjore
District on the 24th December 1874.

I have the honor to be
Sir

Your most obedient servant

A. F. Bates Lieut Col R
Superintd Engineer Tanjore

No 395

P. W. Department

Proceedings of the Madras

Government

under date the 14th Feb 1876

Read the following
(H.R. No 154 4/2 Feb/76)

From. Supt. Eng. Tanjore
Reporting upon a suit
brought by the Dammakoltha
of Streewiguntham against
the Public Works
Department -

The papers will
be transferred in original
to the Government Pleader
for defence of
the suit. Any further
information which may
be required should
be obtained in direct
communication with
the District Engineer,
or the Board of
Revenue

To the Supt. 27. 2. 76
Govt. Pleader with papers 2
in original 17
J. J. Tanjore, in a hand letter to the Govt. Pleader - 11. 2. 76

My. 10/2

No: 14 Feb 76 No: 231

No: No: 3162 217 - June/61
Q. No: 14 24 - Feb/71 origl
- 941 - 30 - June/71
- 855 - 26 - --/72
- 521 - 2 - --/74
- 2462 - 28 - Aug/75
- 380 - 11 - Feb/75
- 2274 - 6 - Aug/75

Reporting upon a
suit brought by the
Dammakoltha of Streewiguntham
- by the Dammakoltha of Streewiguntham
situated in Dammakoltha
village. Dammakoltha
Supt. Engineering Dist
of Tanjore - the Govt.
of Madras 26/76.

To the
The District Engineer
Tanjore
No: 1574
Dated 2nd February 76
No: 5

Dec. 21

No 231 -

P. 11. 2. 76.

906 P.M.

Cont. of 1875

PUBLIC WORKS

To Court^r Peader.

17/2/71

Int.

Exch.

Post.

Encl.

U. O. 14 Feb. 1875, No. 395.

Nos. 231-232

Suit brought by the Durma
-Katha of Chieguntham
against the Public Works
dept in the Tanjore Dist.

Papers regarding the
transferred in original to
the Court Peader for defence
of the Suit.