Revenue Department

Minutes of Consultations

8th Dec 1857

Pack nos 41 & 42

Order no 12605/7 4th Dec 1857

17, [illegible]

செப்பனிடுபவர் பெயர்

செப்பனிடுவதற்காக எடுத்துக்
கொள்ளப்பட்ட நாள்

செப்பனிட்டு முடித்த நாள்

சரிபார்க்கும்
மு. நி. பத. எ.
கையொப்பம்

ஆராய்ச்சினதாரி
யாளர்
கையொப்பம்

Fort Saint George, Revenue Consultation of 8th December 1857.

No. 41. Read the following Petition.

To the Right Honorable the Governor in Council Fort St. George.

The humble Petition of Satheyanatha Pillay and others, the Coodycanatchy Meerasedars of Ramasawmy Govindarow Toattam to the west of Vennar in Trewady talook in the Zillah of Tanjore; dated Madras 26th October 1857.

SHEWETH,

That our ancestors and then we ourselves have enjoyed the Toattam both before and for 70 years after its grant by the Rajah of Tanjore to Camatchy Ummen Covil, and held it indisputably and with all rights of Coodieanatchy and practice of mortgaging and pledging it to others, but in view to oust us, Gopaula Moodaly an Agent newly appointed by the Stanics in 1851 on a term of 10 years played many frauds in the Magistracy and at last harvested away the crops ready on the lands cultivated by us in 1856, and caused us great damages by ejecting us from possession. Touching our possession and crops we laid a complaint under Section XI. Regulation V. of 1822, but without enquiring into any of the several documents, or examining any one of the witnesses for us, we were furnished with mere endorsement, "stating that we were Peracoodies and that we cannot interfere in the land without the consent of the Pagodah people."

The reasons assigned by the Collector are, (1) that it appeared from the proceedings of two years from 1855, that we were mere Peracoodies, and (2) that the Maniamdars have a right to eject Peracoodies at their will, and that Zillah custom is also to that effect.

I. As for the first point, it is to be remarked that the whole of the proceedings of 1855 and 1856 are favorable to us, for

1. The first complaint was given by us in 1855 complaining of the present Agent having claimed, as the Pagodahs, the brickkilns put by us and prohibited us from taking them. The Special Assistant Magistrate referred both the parties to the Civil authority, but on the Session Judge requiring at our appeal to define the party who should so resort, the Special Assistant Magistrate, under the order of the Magistrate, put us in possession of the kilns, on the ground that our claim was fully proved, and referred the Agent to the Civil authorities.

2. The order of the Magistrate in a complaint laid by the Agent about the land in the village was reversed by the Session Judge's order of the 1st November 1856, which said that our illegal interference was not even pretended by the Agent in his motion, and in virtue of which a proclamation was issued on the 14th January 1857 setting aside his former prohibition, conveyed by his order of the 9th August 1856.

3. Suit No. 53 of 1856 of Teroovady Moonsiff's file instituted by the Agent under the Magistrate's order which referred him to the Civil Court about the land and brickkiln was dismissed. Hence, the Collector's observation at once falls to the ground, and besides the remark of the Collector that he has considered only the proceedings of 1855 and 56, manifestly shews that he has not noticed any one of the several documents for the 70 years prior to 1855, and that therefore the Collector's enquiries are very defective.

II. The Collector says that we are Peracoodies. If so, the Pagodah might have, in any one of the 70 years during which we have held the enjoyment, obtained any Varaday Olay Varaka Chits, and Canakooroopoo, &c., as it is usual with Peracoodies and Merassadars, nor did we at at all give them any.

4. The Cavul given us in Pelavengah of the last cycle was given by the whole of the Staniks, the proprietors of the Pagodah, and they have stated us to be Coodies and engaged to pay us Coodivaram and also Sothentharam as was ever usual, and while the proprietors themselves have allowed us as Coodies, how can the Agent who has a mere term of 10 years, call us Peracoodies.

5. In Sarvary, the Pagodah's Agent let us the Malevarem on contract calling us Coodies and engaging to give us Coodivaram and Soodantaram. This the Stanik Punjabicasien has admitted by his giving receipt for the payment to him of the said amount of contract paddy. The

Government is requested to consider that either in this, or in any other Zillah there is no practice of allowing Sooduntrum to Peracoodies.

6. In the several receipts given by the Staniks and their accredited agents for the payment of the contract paddy, they have called us and others "contractors such and such" and their Takkeeds to us are addressed as "Nattamgars." But if we were Peracoodies we could not be mentioned as contractors without the word Peracoody with it, and the appellation "Nattamgar" was never applied to any Peracoodies in any Zillah.

7. The contested Toattam and Iv[illegible] Moovaly villages were endowed by the same Rajah to the same Pagodah on the same date and through one and the same Sicca, and they were enjoyed by their Meerassedars with all rights, when the Pagodah people having contended that the occupiers of the 2 villages were Peracoodies at will, final decrees have been passed to the effect that the occupiers were entitled to the right of Coodeeanatchy and that the Maniemdars should only get the Maylvarum; and ever since the occupiers use to dispose of the lands on sale, mortgage and Bendagam deeds drawn out on stampt cajans and to the knowledge of the Circar; while so, how can we alone, who are the occupiers of the contested village, which is equally embraced by the same Sicca, be counted upon as Peracoodies?

8. In the same manner as the occupiers of the said 2 and other villages were under the Elackah usage surveyed as Peracoodies, we too were surveyed as such. However, when decrees are passed that the said occupiers who were surveyed as Peracoodies were not Peracoodies and that the survey was useless, how can we alone be called as Peracoodies?

9. While we were in undisputed possession of Poothootoatum and Paluntoatum villages, which be next to the one in question, Somnat Pundit who was endowed with their Maylvarum, laid complaints in the Collector's Cutcherry stating that we the Coodies had sold him our Coodieanatchy, when, Police authorities sent a memo. stating that the Coodieanatchy belonged to neither the complainant nor ourselves but to them. But Mr. Bishop the late Collector passed an order on the 10th July 1847, that it belonged not to the Palace but to ourselves. This was also confirmed by the Civil Judge on the 4th July 1850.

10. In cases where lands are granted as Survamanium, the Rajahs, the proprietors of the Maylvarum grant the Maylvarum, purchase the Coody Merass from the inhabitants and give it to the grantee. But this was not the case in respect to our contested village, and the Pagodah people do not pretend to have so received our Coodieanatchy.

11. Disputes were given rise to by the Peishwar the Maniamdars of Tervopaltoray in Pabanasum talook (a Moogasa manium alike the village in question) having attempted to turn out the occupiers on plea that they were Peracoodies, when, under the decree in special appeal No. 9 of 1839, final decrees were passed in remanded No. 1 of 1843 and its appeal No. 104 of 1844 stating the occupiers to be Meraseedars.

12. If we were mere Peracoodies, the Pagodah people might have objected to such of the lands as were alienated by us by mortgage, Bendagum, &c., being newly enjoyed by those, who have so obtained them from us, but they have allowed their enjoyment, thus giving a tacit consent to it.

13. Under the Magistrate's order referring the present Agent Gopala Moodely to the Civil authorities, he instituted No. 53 of 1856 for the brickkilns, and stated the whole land to belong to the Pagodah, but in our answer we put forward our claim and cited him as a witness. If his plaint statements were true he would have boldly come forward and given his evidence, but on the contrary, he wanted to shift himself by vain excuses, and for the fear of incurring the penalty of perjury has allowed the suit to be struck off under Section VIII. Act X. of 1855, and that dismissal was confirmed in appeal and special appeal. The special appeal from the Session Judge's order touching the land was also dismissed by the Sudr Court.

14. When the landed effects of the Rajah of Tanjore excepting the Moogasa Maniums were placed under zuft under the Government order issued at the close of 1856, the occupiers of Ivaly and Moovaly produced on being required by the Circar 131 documents in proof of their Coodieanatchy, and had them released together with the contested village, it being included in the same secia although we did not raise any objections, we then being involved in the disputes, the subject of the present litigation.

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Fort Saint George, Revenue Consultation of 8th December 1857.

Under these circumstances it is evident that there is not the slightest reason even to conjecture that we were Peracoodies.

III. The Collector then says that the Maniamdars have a right to dismiss the Peracoodies. This at once falls to the ground when it is considered that from all what was stated above, it was clear that we are no Peracoodies, but Merassdars, and that the Maniemdars cannot eject us.

It now remains to be considered whether the custom of the Zillah warrants such ejection.

The villages lying immediately to the east of that in question, and which were granted to the Pagodahs of Neelamagaperoomal, Annundavully Ammen, Singaparoomall, Mamecoondaperoomal and Sarvaysrum Covil are enjoyed by us and certain others with Coodyeany right and with powers of alienation by mortgage, Bendagum and the like. The Maniemdars might have ejected us if they had a right to do so, and if the Zillah usages sanctioned it, but it is not the case.

15. In Cathara Mungalum, Teroopaultorey and Colaya Mavojee Raja Tottam disputes arose between the Mauniemdars and the occupiers, but as there was no such custom as to dismiss the Coodies, final orders and decrees were respectively passed by Collectors and Judges in favor of Coodies.

We shall, if required, produce several other instances.

In the presence of these circumstances, the Collector without inquiring into any of the several documents and witnesses in our behalf, and being deaf to all our entreaties to the effect, and in direct opposition to the repeated orders of the several Collectors and Judges, has made the endorsement in question putting the land in possesion of the Pagoda people, who were as above said repeatedly referred to the Civil Courts, and illegally ordering us to the judicial tribunals who were often put in possession of the lands.

We represented this matter to the Board of Revenue, who, without entering into the case, passed an endorsement herewith submitted.

We, therefore, request that the Government will be pleased to refer to the accompanying orders of the Collector and the decisions of the Courts, and restore us possession of the land in question, and refer the Pagodah people to law suit, as before done, by cancelling the recent order of the Collector complained against.

For this act of justice we your humble Petitioners shall, as in duty bound, ever pray.

Extract from the Proceedings of the Session Court in the Zillah of Combaconum under date the 24th April 1857.

Read again Report A of case No. 4 of 1857 before the Special Assistant Magistrate submitted on the 27th March 1857.

Read also Return from the Special Assistant Magistrate dated 14th April 1857, to the Extract from the Proceedings of the Session Court dated 1st Idem.

Also Return from the Magistrate dated 9th April 1857, to the Extract from the Proceedings of the Session Court of the above date.

Also Return from the Special Assistant Magistrate dated 20th April 1857, to the Extract from the Proceedings of the Session Court dated 17th Idem.

Also Return from the Magistrate dated 22d April to the Extract from the Proceedings of the Session Court of the 17th Idem.

Also the records in the case No. 4 of 1857 and in that of the counter complaint preferred by the 1st prisoner in No. 4 of 1857 against the prosecutor, &c.

1. It appears that certain of the prisoners in 1853 complained to the Magistrate that the Prosecutor was endeavouring to oust them of their right of cultivating (Coody Cauniachy) a garden called the Ramasamy Totum which forms part of the endowment of the Camachy Ammen Pagoda in the Fort at Tanjore, and that orders were passed under instructions from the Magistrate by the Special Assistant Magistrate on the 30th October 1855, referring the parties for the adjustment of the dispute to the Courts of His Highness the Rajah, who was stated to have jurisdiction in Revenue matters over the garden.

2. In order to guard against breaches of the peace, however, the Special Assistant Magistrate requested the Magistrate to move the proper authorities to decide the question of possession, and on the 2d November 1855, the Magistrate addressed the Sirkele on the subject, but it was only on the 18th July 1856, that a report was received from this officer to the effect that the prisoners and their party were more Pooraccoodies liable to be ejected at the pleasure of the Manager of the Pagoda.

3. On the 9th August 1856, the Acting Magistrate issued orders prohibiting the prisoner's party from interfering with the land.

4. An appeal was preferred from these orders to the Session Judge, who on the 2d November 1856, reversed them on the ground that no cause however for the interference of the Magistracy had been shown. It would appear that it was only on the 14th January 1857, that the former orders were withdrawn and on the 20th Idem, the affray, the subject of the present charge, occurred.

5. The fact that the prisoners and their party were confessedly deprived of possession by the order of the Magistrate of the 9th August 1856, up to within 6 days of the outrage now charged against them, goes to support the evidence for the prosecution in respect to the prosecutor having previously planted the plantains which were on the lands in which the affray took place. On this point, however, the investigation has not been as complete as was desirable; for there is nothing to shew when the plants were put into the ground, whilst there seems reason to suppose that this must have been done but very recently, as the Prosecutor's coolies are said to have been digging the trenches when the attack was made upon them.

6. It is indeed possible that the prisoners and their party for the purpose of gaining a footing on the land again may have attempted to plant the lands in question, and that this may have led to the affray, but supposing this to have been the case, the prisoners and their party were not justified in breaking the peace. The Magistrate was close at hand, and to him they should have resorted for the removal of any obstacles that stood in the way of their regaining the position that they occupied prior to the issue of the orders which had been cancelled by the Session Judge.

7. That the prisoners and their party were the aggressors may be inferred from the facts that one of the opponents was seriously maimed and two others severely beaten, whilst it does not appear that any one of their partizans received a scratch, the only person who is said to have been injured not having a bruise to show when brought before the Police.

8. It remains however to be considered whether the prisoners were all present at the affray.

9. On this point, it is to be remarked that there is a long standing feud between the parties, and that none of the witnesses for the prosecution can be looked upon as wholly unbiassed, the 1st and 8th witnesses being cultivators of the Prosecutor; the 3d and 7th witnesses being employed in the Camachy Amen Pagoda, and the 2d, 3d, 4th, 5th, and 6th witnesses having all more or less frequently given evidence for the Prosecutor and his party.

10. It is singular that the 8th witness who spoke of the 1st prisoner before the Police should have failed at once to point him out before the Special Assistant Magistrate, that he should have named the Prosecutor before the Police, and yet before the Special Assistant Magistrate have referred to him as a Bramin whose name he did not know, and that before the Police he should have spoken of the 2d witness by name as having been wounded, but before the Special Assistant Magistrate have referred to the 1st witness as the only person of his party whose name he knew. The lapse of time between his first and second examinations and the effects of the wound in his arm are insufficient to explain away such discrepancies as these, whilst as his first deposition before the Police was given only on the 22d January, there was sufficient time for concocting a story for the occasion between the affray and his examination.

11. Though the prisoners may be the parties chiefly interested in the dispute with the Prosecutor, it is highly probable that those of the party who had the most influence amongst them, and who on this very account would be the most likely marks for a prosecution would keep aloof from the affray.

12. The admissions of the 2d, 6th, 7th and 8th prisoners show that they were on the spot at the time, and coupling their admissions with the evidence for the prosecution, I see no reason for questioning the propriety of their conviction; but doubting as I do the trustworthiness of the

evidence, the other prisoners must have the benefit of the doubt and the sentences passed upon them are reversed.

13. I must further remark that had all the papers now before me been sent up formerly, I should have qualified the order passed on the 2d November 1856. It then appeared to me that the Magistrate's interference had been solicited by the Manager of the Pagoda and the Palace authorities, whereas the Magistrate as pointed out above had applied to the Palace authorities to determine the right of occupation, and this for the purpose of making the decision the guide of his future Proceedings. As the garden is within the jurisdiction of the Courts, the Collector and not his Highness the Rajah's Court was the proper authority summarily to adjudicate on questions arising between the owner and the occupants of the garden, and had the case been fully before me, I should have pointed out that the reference of the question to his Highness the Rajah's Court was erroneous, and that the proper course to be pursued was to transfer the case from the Magistrate's office to the Revenue Court, when all necessity for the interference of the Magistrate in the matter would cease.

14. This course I consider should still be followed, as it is clear that the prisoners and their party are now out of possession in virtue of an order issued by the Magistrate founded upon the decision of a tribunal having no jurisdiction in the case.

Ordered that Extract from these Proceedings be forwarded to the Magistrate for his information and guidance by precept returnable in three days, and that a copy of it be granted to the Petitioner on his application.

(True Extract.)

(Signed) G. T. BEAUCHAMP,
Session Judge.

IN No. 2462 OF 1857.

Takeed issued to Setoo Row, the Tasildar of Teroovady talook.

In the matter of the dispute, between Satyanadapillay and others on the one hand, and Gopala Moodaliar the Stanikam or Manager of the Camatchyammal Pagoda on the other, the former claiming a *Coodycaniachy* or tenant right to certain Survamaniam land situated in Valoor village belonging to the said Pagoda, but the latter denying the same right; your Arzee No. 34 dated 13th Instant, has been received, from which it appears that on examination of both the parties according to my order No. 1388, it was admitted by the Agent of the said Gopala Moodaliar, that he would consent to allow Plaintiffs, the present petitioners, to cultivate, if they would enter into an engagement as *Peracoodies*, which they refuse to do; it is also stated, that the parties will never settle the dispute among themselves unless a final decision be passed by the Circar.

An order was at first issued prohibiting the interference of both the parties with the land in question, with a view of compelling them to come to an agreement amongst themselves; but as it is mentioned in your Arzee, that such settlement cannot take place, as the said Satyanadapillay and others, decline to engage as Peracoodies, the order referred to has been hereby cancelled.

The Collector can interfere in this matter (according to the C. O. of Board of Revenue dated 28th December 1844) only in case of *Satyanadapillay and others having sufficient proof of their Caniachy or tenant right*, and on consulting the documents executed since 1855, to ascertain this point, it seems clear that they have *no* Coodycaniachy, but are only *Pooracoodies*: hence the owner of the Meerasy or holder of the maniam has the power of ejecting these Peracoodies at his pleasure, in accordance with the practice of the Zillah. Therefore if the aforesaid parties consider themselves to possess Caniachy or tenant right, they must establish such right by law.

C. O. B. R. Vol. 1 para. 366.

Under these circumstances, the Peracoodies alluded to must be informed that they cannot interfere with the land in dispute, even at present, without the consent of the Manager of the

Pagoda; and that if they are of opinion that they have any legal right to cultivate the land, they must establish it by a civil suit as abovementioned.

Dated 25th July 1857. (Signed) H. D. PHILLIPS.
Acting Collector.

(A true Translation.)

T. SINGALACHARYAH,
Translator.

To the Honorable the Members of the Board of Revenue.

The humble Petition of Sattianatha pillay and others, the Coodicaniatchy Merassdars of Ramasawmy Govindarow Toattam to the west of Vennar in Trivady talook; dated Combaconum 19th August 1857.

SHEWETH,

That our ancestors and then we ourselves have enjoyed the Toattam both before and for 70 years after its grant by the Rajah of Tanjore to Camatchy Amman Covil and held it indisputably and with all rights of Coodicaniatchy and practice of mortgaging and pledging it to others; but in view to oust us, Gopaulah Moodelly an Agent newly appointed by the Stanics in 1851 on a term of ten years played many frauds in the Magistracy and at last harvested away the crops ready on the lands cultivated by us in 1856 and caused us great damages by ejecting us from possession. Touching our possession and crops we laid a complaint under Section XI. Regulation V. of 1822, but without enquiring into any of the several documents or examining any one of the witnesses for us, we were furnished with mere endorsement stating that we were Peracoodies and that we cannot interfere in the land without the consent of the Pagodah people.

The reasons assigned by the Collector are, (1) that it appeared from the proceedings of two years from 1855 that we were mere Peracoodies, and (2) that the Maniamdars have a right to eject Peracoodies at their will and that the Zillah custom is also to the effect.

I. As for the first point it is to be remarked that the whole of the proceedings of 1855 and 1856 are favorable to us; for,

1. The first complaint was given by us in 1855 complaining of the present Agent having claimed as the Pagodah's the brickkilns put by us and prohibited us from taking them. The Special Assistant Magistrate referred both the parties to the Civil authority, but on the Session Judge requiring at our appeal to define the party who should so resort, the Special Assistant Magistrate under the order of the Magistrate put us in possession of the kilns, on the ground that our claim was fully proved and referred the Agent to the Civil authorities.

2. The order of the Magistrate in a complaint laid by the Agent about the land in the village was reversed by the Session Judge's order of the 1st November 1856, which said that our illegal interference was not even pretended by the Agent in his motion, and in virtue of which a proclamation was issued on the 14th January 1857, setting aside his former prohibition conveyed by his order of the 9th August 1856.

3. Suit No. 53 of 1856, of Tiroovady Moonsiff's file instituted by the Agent under the Magistrate's order which referred him to the Civil about the land and brickkiln was dismissed. Hence, the Collector's observation at once falls to the ground, and besides the remark of the Collector that he has considered only the proceedings of 1855 and 1856, manifestly shows that he has not noticed any one of the several documents for the 70 years prior to 1855, and that therefore the Collector's enquiry is very defective.

II. The Collector says that we are Peracoodies. If so, the Pagodah might have in any one of the 70 years during which we have held the enjoyment obtained any Varaday Olay, Varaka chits and Canakaroopoo, &c., as it is usual with Peracoodies and Merassdars, nor did we at all give them any.

5. The Cavul given us in Pelavengah of the last cycle, was given by the whole of the Staniks, the proprietors of the Pagodah, and they have stated us to be Coodies and engaged to

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pay us Coodivaram and also Soothantiram as was ever usual; and while the proprietors themselves have allowed us as Coodies, how can the Agent who has a mere term of 10 years call us Peracoodies?

6. In Sarvary the Pagodah's Agent let us the Maylwaram on contract calling us Coodies and engaging to give us Coodywaram and Soodantaram. This the Stanik Punjabicasien has admitted by his giving receipt for the payment to him of the said amount of contract paddy. The Board is requested to consider that either in this or in any other Zillah there is no practice of allowing Soodantaram to Peracoodies.

7. In the several receipts given by the Staniks and their accredited agents for the payment of the contract paddy, they have called us and others "contractors such and such" and their Takkeeds to us are addressed as "Nattamigars." But and if we were Peracoodies we could not be mentioned as contractors without the word Peracoody with it, and the appellation "Nattamigar" was never applied to any Peroocoodies in any Zillah.

8. The contested Toattam and Ivaly and Moovaly villages were endowed by the same Rajah to the same Pagodah on the same date and through one and the same Sicca, and they were enjoyed by their Merassdars with all rights, when the Pagodah people having contended that the occupiers of the 2 villages were Peracoodies at will, final decrees have been passed to the effect that the occupiers were entitled to the right of Coodicaniatchy and that the Maniamdars should only get the Maylvaram; and ever since the occupiers use to dispose of the lands on sale, mortgage and Bendagam deeds drawn out on stampt cadjans and to the knowledge of the circar. While so, how can we alone who are the occupiers of the contested village which is equally embraced by the same Sicca be counted upon as Peracoodies?

9. In the same manner as the occupiers of the said 2 and other villages were under the Elackah usage surveyed as Peracoodies, we too were surveyed as such. However when decrees are passed that the said occupiers who were surveyed as Peracoodies were not Peracoodies and that the survey was useless, how can we alone be called as Peracoodies?

10. While we were in undisputed possession of Poothootoattam and Palam Toattam villages which lie next to the one in question, Somnot Pundit who was endowed with their Maylvaram laid complaints in the Collector's Cutcherry, stating that we the Coodies had sold him our Coodicanicatchy, when, Palace authorities sent a Memo stating that the Coodicaniatchy belonged to neither the complainant nor ourselves but to them. But Mr. Bishop the late Collector passed an order on the 10th July 1847, that it belonged not to the Palace but to ourselves. This was also confirmed by the Civil Judge on the 4th July 1850.

11. In cases where lands are granted as Sarvamaniam, the Rajahs, the proprietors of Maylvarams grant the Maylvaram, purchase the Coody Merass from the inhabitants and give it to the grantee. But this was not the case in respect to our contested village, and the Pagodah people do not pretend to have so received our Coodicaniatchy.

12. Disputes were given rise to by the Peishwa's the Maniamdars of Teroopaltoray in Pabanasam talook (a Moogasa Maniam alike the village in question) having attempted to turn out the occupiers on plea that they were Peracoodies, when, under the decree in special appeal No. 9 of 1839, final decrees were passed in remanded No. 1 of 1843 and its appeal No. 106 of 1844 stating the occupiers to be Merassdars.

13. If we were mere Peracoodies, the Pagodah people might have objected to such of the lands as were alienated by us by mortgage, Bendagum, &c., being newly enjoyed by those who have so obtained them from us, but they have allowed their enjoyment, thus giving a tacit consent to it.

14. Under the Magistrate's order refering the present Agent Gopaula Moodely to the Civil authorities, he instituted No. 53 of 1856 and for the brickkilns and stated the whole land to belong to the Pagodah, but in our answer we put forward our claim and cited him as a witness. If his plaint statements were true he would have boldy come forward and given his evidence, but on the contrary he wanted to shift himself by vain excuses and for the fear of incurring the penalty of perjury has allowed the suit to be struck off under Section VIII. Act X. of 1855, and that dismissal was confirmed in appeal and special appeal. The special appeal from the Session Judge's order touching the land was also dismissed by the Suddr Court.

15. When the landed effects of the Rajah of Tanjore excepting the Moogasa Maniams were placed under zuft under the Government order issued at the close of 1856, the occupiers of Ivaly and Moovayly produced, on being required by the Circar, 131 documents in proof of their Coodicaniatchy and had them released together with the contested village it being included in the same Siccar, although we did not raise any objections, we then being involved in the disputes, the subject of the present litigation.

Under these circumstances it is evident that there is not the slightest reason even to conjecture that we were Peracoodies.

III. The Collector then says that the Maniamdars have a right to dismiss the Peracoodies. This at once falls to the ground when it is considered that from all what was stated above it was clear that we are no Peracoodies but Merassdars, and that the Maniamdars cannot eject us.

It now remains to be considered whether the custom of the Zillah warrants such ejection.

The villages being immediately to the east of that in question and which were granted to the Pagodahs of Neelamagaperoomaul, Aunaudavully amman, Singaperoomaul, Manicundaperoomaul and Sarvayseam Covil are enjoyed by us and certain others with Coodicany right and with powers of alienation by mortgage, bendagum and the like. The Maniamdars might have ejected us if they had a right to do so, and if the Zillah usages sanctioned it, but it is not the case

17. In Cathara Mungalum, Teroopaultorey, and Calayamanojee Rajah, Toattam disputes arose between the Maniamdars and the occupiers but as there was no such custom as to dismiss the Peracoodies, final orders and decrees were respectively passed by Collectors and Judges in favor of Peracoodies.

We shall, if required, produce several other instances.

In the presence of these circumstances, the Collector without enquiring into any of the several documents and witnesses on our behalf, and being deaf to all our entreaties to the effect and in direct opposition to the repeated orders of the several Collectors and Judges has made the endorsement in question putting the land in possession of the Pagodah people, who were as above said repeatedly referred to the Civil Courts, and illegally ordering to the judicial tribunals who were often put in possession of the lands.

We therefore beg the Honorable Board will be graciously pleased to have mercy upon us who are too poor to afford to sue in the Civil Courts, to take into consideration the accompanying Session Judge's order and Collector's order, the records and decrees that will be filed by us and the several arguments above adduced in proof of our Coodicaniatchy, annull the Collector's order, put us in possession of the land and refer the Pagodah people to the Courts as they have heretobefore used to do.

For this act of justice we your humble humble Petitioners shall as in duty bound, ever pray.

ENDORSEMENT.

No. 2889 and 3007 of 1857.

The question involved in this claim is not one for the Board's decision, Petitioners are at liberty to prefer their appeal from the Collector's order to the Court.

REVENUE BOARD OFFICE,
Fort St. George,
14th September 1857.

By Order,
(Signed) L. FORBES,
Acting Sub-Secretary.

No. 42. ORDER THEREON, No. 1260; dated 7th December 1857.

Para. 1. In 1855 the present Petitioners complained to the Magistracy that the Agent of, and others connected with, the Kamatchi Amman Pagoda in Tanjore, for the benefit of which institution they alleged that they and their fathers before them had for many years cultivated certain lands belonging to it, by virtue of the Koodikaniatchi, or hereditary right to cultivate, vested in them, were trying to oust them from the possession of those lands.

2. They were referred to the Courts of H. H. the Rajah of Tanjore, which were stated to possess Revenue jurisdiction over the disputed spot. But with a view of determining the question of present possession, for the avoidance of breaches of the peace, the Magistrate addressed the Sirkhele of the Rajah's Durbar; and upon that officer's dictum that the Petitioners had no tenant right, prohibited them from interfering with the land in dispute.

3. Upon this the Petitioners addressed the Sessions Judge, who reversed the order of the Magistrate (as appears from a certified copy of the Proceedings of the Sessions Court filed by the Petitioners, dated 24th April 1857,) on the ground that no reason for the interference of the Magistracy had been shewn. The effect of this order was to replace Petitioners in the position they were in when they first complained that the Agent or Manager of the Pagoda had assailed their right, and the disputed question of present possession (for each party contended that they were in possession) still remained to be decided by competent authority.

4. Para. 13 of the Proceedings of the Sessions Court noted above, specified the Collector of the Province as this competent authority; "the proper course to be pursued was to transfer "the case from the Magistrate's office to the Revenue Court, when all necessity for Magisterial "interference would cease."

"Para. 14. This course should now be followed." **

5. The result of the order above quoted, has been that the Collector has enquired into the Petitioners' claim through the Tahsildar of the Trivady Talook; and decided that Petitioners have no "Koodikaniatchi," or hereditary right to cultivate, and that they can accordingly be dispossessed at pleasure by the holders of the Meerasy right (i. e. the Agent of, and others connected with the Pagoda), according to the usages of the Province.

6. In making their endorsement upon Petitioners' address to them, dated 14th September 1857, it appears that the Board of Revenue have looked upon Mr. Phillip's order, as a decision under Regulation V. of 1822, from which an appeal lies, according to the provisions of that Regulation, to the Subordinate Civil Court. But in the opinion of Government, cases of this description, i. e. disputes between Merasdars and their cultivators respecting the possession of Koodikaniatchi, and the power of the former to oust the latter, are cognizable, as far as the right to decide present possession is concerned by the Collector, not under Regulation V. of 1822, but under the general powers vested in Collectors, and it is for the parties who deem themselves aggrieved by the decision of the final authority to whom Collectors' decisions are appealable, to prosecute their claims in the Courts.

No. 2889 on the Board's file.

7. Under these circumstances, the Government resolve to refer back the case to the Board of Revenue, in order that they may pass an order on the case on its merits as an appeal from the decision of a Collector.

8. Ordered that the following endorsement be made on Petition 2462 of 1857.

"Petitioners are informed that instructions in their case have been issued to the Board of "Revenue."

(Signed) H. FORBES,
Acting Secretary to Government.

6/1260

V/1260

To

The Right Honorable the Governor in Council
Fort St George

The humble Petition of Sathiyanatha Pillay and others the Coody canatchy Inamdars of Ramasawmy Gowndanoor Joattam & the West of Vemaram in Tewadey Talook in the Zillah of Tanjore

That our Ancestors and then we ourselves have enjoyed the Joattam both before and for 70 Years after its grant by the Rajah of Tanjore to Canatchy Vemmen Covil and held it undisputedly and with all Rights of Coodecanatchy and practice of Mortgaging and Subdejuing it to others, but in vain to oust us, Gopaula Moodaly an Agent newly Appointed by the Natives in 1851 for a term of 10 Years played many frauds in the Inspectorship and at last Nominated Canary the Crops ready on the Lands Cultivated by us in 1858 and Caused us great Damages by ejecting us from possession. Desiring our possession and Crops, we laid an Complaint under Section XI Regulation VI of 1822 but without enquiring into any of the several documents or examining any one of the witnesses for us we were for with dismissed with mere endorsement stating that we were Paracoodies and that we Cannot interfere in the Lands without the Consent of the Pagodah people"

The reasons assigned by the Collector are 1) that it appeared from the proceedings of two Years from 1855 that we were mere Paracoodies, and 2) that the Inamdars have a Right to eject Paracoodies at their will and that Zillah Custom is also to that effect

1 As for the first point it is to be remarked that the whole of the proceedings of 1855 and 1856 are favorable to us. The first complaint was given by us in 1855. Complaining of the present Agent having claimed as the Pagoda's the brick kilns put by us and prohibited us from taking them. The Special Assistant Magistrate referred both the parties to the Civil Authority but on the Sessions Judge requiring of our appeal to depute the party who should &c resort the Special Assistant Magistrate under the order of the Magistrate put us in possession of the kilns on the ground that our claim was fully proved and referred the Agent to the Civil Authorities.

2 The order of the Magistrate in a complaint laid by the Agent about the land in the Village was reversed by the Sessions Judge's Order of the 7th November 1856 which said that our illegal interference was not even pretended by the Agent in his Petition and in virtue of which a proclamation was spoiled on the 4th January setting aside his former prohibition consequent by his order of the 6th August 1856.

Suit No 1856 of Provincial Moonsiff's file instituted by the Agent under the Magistrates order which referred him to the Civil Court about the land and brick kiln was dismissed. Hence the Collectors observation at once falls to the ground and besides the remark of the Collector that he has considered only the proceedings of 1855 & 56. Manifestly shows that he has not noticed any one of the several documents for the 70 years prior to 1855 and that therefore the Collectors enquiries are very defective.

The Collector says that we are Peraccodies. If so the Pagoda might have in any one of 70 years during which we have held the enjoyment obtained any Varaday Olay Varaka Cuts and Carnacoopoo as it is usual with Peraccodies and Nerasdars nor did we at all give them any.

The Cabal given us on Belavengadu of the last Cycle was given by the whole of the Stanicks the proprietors of the Pagoda and they have stated us to be Coodies and engaged to pay us Coodiwaram and also to the Nattamaram as we were ever assisting to help the proprietors themselves have allowed us as Coodies however the Agent who has a new term of 10 years Calls us Peraccodies.

In January the Pagoda's Agent let us the Malwaram on Contract calling us Coodies and engaging to give us Coodywaram and Soodeuteram. This the Stanick Periyatnaseen has admitted by his giving receipt for the payment to him of the said Amount of Contract paddy. The Government is requested to consider that either in this or in any other Taluk there is no practice of allowing Soodeuteram to Peraccodies.

In the several receipts given by the Stanicks and their accredited agents for the payment of the Contract paddy they have called yes and others "Contractors such and such" and their Takeeds to us are addressed as "Nattamegaru". But even if we were Peraccodies we could not be mentioned as Contractors without the word

were Peraroody with it, and the appellation Nattamigar was never applied to any Peracoodies in any Zillah

The Contested Soattam and Ivaly Meeravaly Villages were endowed by the same Rajah to the same Pagodah on the same date and through one and the same sunnud, and they were enjoyed by their Meerasedars with all rights, when the Pagodah people having contended that the occupiers of the 2 Villages were Peracoodies at will, final decrees have been passed to the effect that the occupiers were entitled to the right of Coodeeanatchy and that the Inamdar should only get the Verayabaram, and ever since the occupiers use to dispose of the lands on Sale, Mortgage and Bendagaum deeds drawn out on Stamp Papers and to the knowledge of the circar which how can we alone, who are the occupiers of the Contested village (which is equally embraced by the same sunnud) be counted upon as Peracoodies. 2

In the same manner as the occupiers of the said 2 villages were under the Cadchah usage surveyed as Peracoodies, we too were surveyed as such. However often decrees are passed that the said occupiers who were surveyed as Peracoodies were not Peracoodies and that the survey was useless, how can we alone be called as Peracoodies.

10 While we were in undisputed possession of Doothoatum and Polumtoatum villages which lie next to the one in question, Sonnat Pundit who was endowed with their Mayloverum, laid complaints in the Collector's Cutcherry stating that we the Coodees had sold him our Coodeeanatchy, when Police Authorities sent a Memo stating that the Coodeeanatchy belonged to neither the complainant nor ourselves but to them. But Mr Bishop the late Collector passed an order on the 10 July 1847 that it belonged not to the Palace but to ourselves. This was also confirmed by the Civil Judges on the 16 July 1850.

In Cases where lands are granted as Inamonderum the Rajahs, the proprietors of the Malevarum grant the Malevarum, purchase the Coody Meraje from the Inhabitants and give it to the grantee. But this was not the Case in respect to our Contested Village and the Pagodah people do not pretend to have so received our Coodeeanatchy

Disputes were given rise to by the Peishwar, the Inamdars of Sempalleray in Pabanasum Taluk (a Inoyosa Mariam alike the village in question), having attempted to turn out the occupiers on plea that they were Peracoodies, when under the decree in Special Appeal No 9 of 1839, final decrees were passed in re-mended No 1 and its appeal No 104 of 1843 of 1844 stating the occupiers to be Meraseedars.

If we were mere Peracoodies, the Pagodah people might have objected to such of the lands as were alienated by us by Mortgage, Bendagaum &c. being newly enjoyed by those who have so obtained them from us but they have allowed their enjoyment thus giving a tacit Consent to it. —

Vendor

Under the unregistrated order referring the present dispute Gopaldoss Moodaly laid the Civil Authorities he instituted No 58 1856 for the Brick kilns and stated the whole land to belong to the Pagodah but in our answer we put forward our claim and filed him as a witness. If his plaint statements were true he would have boldly come forward and given his evidence but on the contrary he wanted to shift himself by vain excuses and for the fear of incurring the penalty of perjury has withdrawn the suit to be struck off under section VIII Act X of 1855 and that decree was confirmed on appeal and special Appeal. The Special appeal from the Sessions Judges Order touching the Civil suit was also dismissed by the Sudr Court.

When the Candid efforts of the Rajah of Tanjore excepting the Mayavaram Mauriams were placed under Trust under the Government Order dated the 25th of 1856, the occupiers of Irukpad knowingly produced no deeds being required by the Circular 13th documents in proof of their Coodeemaley and had them released together with the contested village it being included in the same Fasli although we did not raise any objections we then being involved in the disputes, the subject of the present litigation.

Under these circumstances it is evident that there is not the slightest reason even to conjecture that we were Peracoodies

The Collector then says that the Mamundars have a right to dismiss the Peracoodies. This at once falls to the ground when it is considered that from all that was stated above it was clear that we are no Peracoodies but Merassdars and that the Mamundars cannot eject us

It now remains to be considered whether the Customs of the Villages warrants such ejection.

The Villages lying immediately to the East of that in question and which were granted to the Pagodahs of Nedamangalam Annundaveelly Ammen Singaparam Vaelli Mannaroonda perpetual Annundaveelly and Sarvasyam Coil are enjoyed by us and certain others with Coodymaay right and with power of alienation by Mortgage Bandagam and the like. The Mamundars might have ejected us if they had a right to do so, and if the Pallah usages sanctioned it but it is not the case.

In Cotharamangalam Tirupoondy Tooty & Vaiyacheri manoajee Raja Pottam disputes arose between the Mauriamdars and the occupiers but as there was no such Custome as to dismiss the Coodies final orders and decrees were respectively passed by Collectors and Judges in favor of Coodies.

We shall if required produce several other instances

In the presence of these circumstances the Collector without inquiring into any of the several documents & witnesses in our behalf and being deaf to all our entreaties to the effect and in direct opposition to the repeated orders of the several Collectors and Judges has made the endorsement in question putting the land in possession of the Pagoda people who were as above said repeatedly referred to the Civil Courts and

and illegally ordering us to the judicial Tribunals who were often put in posession of the lands.

We represented this matter to the Board of Revenue who, without entering into the Case passed an endorsement hereunto Subenitted.

We, therefore, request that the Government will be pleased to refer the accompanying Orders of the Collector and the decisions of the Courts & restore us posession of the land in question and refer the Pazodah people to Law Suit, as before done by cancelling the recent order of the Collector complained against. —

For this act of Justice we your humble Petitioners Shall as in duty bound Ever Pray.

Madras
26 Octr
1857

Received 28th Octr 1857
Petition of Ramasawmy Chetty
Petitioner
Dated 26th Octr 1857
Petition of Ramasawmy Chetty
and others praying for
Cancellation of Order
passed by the Collector
of Chingleput dated 2nd
Octr 1857 directing
the Petitioners to
appear before the
Collector and
Settle the dispute
regarding the
Pazodah Choultry
and Choultry
Land in Valoor
Village

Sn No 2462 of 1857. 1/260

3

taken up to Tétoo Row, the Tasildar of Tiruvadi Taluke.

In the matter of the dispute, between Satyanada-pillay & others on the one hand & Gopala Moodaliar (Statehamor) Manager of the Carnatchyammen Pagoda on the other, the former claiming a Choultry or Tavernright to certain Swarnamaniam Carnachy & land situated in Valoor Village belonging to the said Pagoda, but the latter denying the same right; Your Arzee No. 24 dated 13th instant, has been received, from which it appears that on Examination of both the parties according to my order No. 1388, it was admitted by the agent

agent of the said Gopala Moodaliar, that he would consent to allowing Plaintiffs to cultivate, if they would enter into an engagement as Peracoodies, which they refuse to do. it is also stated that the parties will never settle the dispute among themselves unless a final decision be passed by the Circar-

(for the present Petitioners)

An order was at first issued prohibiting the interference of both the parties with the land in question, with a view of compelling them to come to an agreement amongst themselves but as it is mentioned in your Petn, that such settlement cannot take place as the said Satyanadapillay & others, decline to engage as

as Peracoodies, the order referred to has been hereby cancelled.

12/1260

The Collector can interfere in this matter (according to the C.O. of Bd of Revenue dated 25th Decr/45 only in case of Satyanadapillay & others having sufficient proof of their Caniachy or tenant-right- And on consulting the documents executed since 1855, to ascertain this point, it seems clear that they have no Coodicaniachy but are only Pooracoodies: hence the owner of the meerasy or) holder of the Inaniam has the power of ejecting these Pooracoodies at his pleasure, in accordance with the practice of the Zillah- therefore

018 R
dl. p366.

if

... ordinances to the judicial tribunals

C 1345/57

if the aforesaid parties Consider themselves to possess Caniachy or Tenant-right, they must establish such right by Law-

Under these circumstances, the Poorakoodies alluded to must be informed that they cannot interfere with the land in dispute, even at present, without the consent of the manager of the Pagoda; & that if they are of opinion that they have any legal right to cultivate the land, they must establish it by a Civil Suit as above-mentioned.

Dated 25th July 1857.

(signed) B. D. Phillipps
Ag Collr

(A True Trans[lation])
L Venjalachariyah
Translator

Re Dept

13/1260

No 1266

Extract from the Minutes of Consultation

Under date the 7th December 1857

The following

Read Petition 2462 of 1857

from Sattanada Pillay and others of Velore &c, in the Trivady Talook Tinjore, appealing against the decision of the Board of Revenue refusing to interfere in their case, and referring them to the Civil Courts (Herewith 26 papers)

Pt. In 1855 the present Petitioners complained to the Magistracy that the Agent of ... and others connected with the Karnatcha Sriman Pagoda in Tinjore, from the receipt of their institution, they and their fathers before them alleged that they had for many years cultivated certain lands belonging to it, by virtue of the Koodi-kaniatchi, or hereditary right & cultiva-

vested in them, were trying
to oust them from the pos-
session of those lands

2. They were referred
to the Courts of H.H. the Rajah
of Tanjore, which were stated
to possess Revenue jurisdiction
over the disputed spot. But
with a view of determining
the question of present possession,
for the avoidance of breaches
of the peace, the Resp.t ad-
dressed the Sirkhele of the
Rajahs Durbar; and upon
that officers dictum that the
Petitioners had no tenant
right, prohibited them from
interfering in the land in
dispute.

3. Upon this the Petitioners
addressed the Sessions Judge,
who reversed the order of the
Magistrate / a appears from
a certified copy of the Pro-

14/1260

ceedings of the Sessions Court
filed by the Petitioners, dated
24 April 1833 / on the ground
that no reason for the inter-
ference of the Magistracy had
been shewn. The effect of
this order was to replace
Petitioners in the position
they were in when they
first complained that
the Agent & Manager of
the Pagoda had assailed
their rights, and the
disputed question of present
possession / for such party
contended that they were
in possession / still remained
to be decided by competent
authority

4. Para 13 of the Proceedings
of the Sessions Court recited
above specified the
Collector of the province
as this competent au-

Authority ;—"the proper course to
"be pursued was to transfer
"the case from the Magistrate's
"file to the Rev: Court, when
"all necessity for Magisterial
"interference would cease.
"P 14. This course should
"now be followed. * *

5. The result of the order above quoted, has been that the Collector has enquired into the Petitioners claim through the Tahsildar of the Division Taluk ; and decided that Petitioners have no "Kodikamatchi" or hereditary right to cultivate, and that they can accordingly be dispossessed at pleasure by the holders of the hereditary right (i.e the Agent of the Pagoda), according to the usages of the Province. In making their Sadas-

15/1260

To 2889 on the Board's file

ment upon Petitioners address to them, dated 14 Sept 1859. it appears that the Board of Revenue have looked upon Mr Phillips' order, as a decision under Regn of 1802, from which an appeal lies, according to the provisions of that Regulation, to the Subordinate Govt Court. But in the opinion of Govt, cases of this description, i.e. disputes between Tahsildars & their cultivators respecting the possession of Kodikamatchi, and the power of the former to oust the latter, are cognizable, as far as the right to decide present possession is concerned, by the Collector, not under Regn of 1822.

but under the general powers
vested in Collectors. and
it is for the parties who deem
themselves aggrieved by the
decision of the final authority
& when Collectors decisions
are appealable, & prosecute
their claims in the Courts.

7. Under these circum-
stances the Government resolve
to refer back the case to the
Board of Revenue, in order
that they may pass an
order on the case on its merits
as an appeal from the de-
cision of a Collector.

8. ordered that the following
Endorsement be made on
Petition 24621 1857.

"Petitioners are informed that
"instructions in their case have
"been issued to the Board of Revenue."

Copies to the Bd of Rev. Copy of the Petition & Govt Order Dis 28 Nov 2
Order Dis Dep. 28 Nov

16/1260

Revenue 1857 Dep.tt
D.to Cons.s 8th December
No 1260.

Extract ellm.s of Cons.s
Dy 7th December 57.

Rec.d from Bd of Rev.e D.y 8th Dec.r
1858 C.t No 1587 in b.

No 41842.

Petitioners
that instructions in their
case have been issued by the
Bd of Rev.e directing that
an Order may be passed on
Petition No 2462 of 1857,
as an appeal from the
decision of a Collector.

4th Nov.r 1830.