

Revenue Department

Minutes of Consultations

5th May 1857

Back Nos 22-23

Order no 404 dated 1st May 1857

(10 Dec 1857)

2/204

Fort Saint George, Revenue Consultation of 5th May 1857.

No. 22. Read the following letter from J. D. SIM, Esq., Acting Secretary to the Board of Revenue; to H. FORBES, Esq., Acting Secretary to Government, Revenue Department, dated 9th April 1857, No. 1121.

SIR,

I am directed by the Board of Revenue to submit for the orders of Government the Plaints and proposed answers in 2 suits instituted in the Subordinate Court of Madura against the Acting Sub-Collector and others.

Original Suit No. 30 of 1856.

2. This suit has been brought to establish the Plaintiff's right to 7 Goolies of land assessed at 7 Rupees and a well valued at 130 Rupees; and to recover the value of the produce last amounting to 70 Rupees.

Original Suit No. 37 of 1856.

3. This suit was also instituted to obtain restoration of certain land, measuring 15 12 $\frac{1}{2}$ -16th Goolies, and assessed at Rupees 13-2-6 together with a well situated thereon, valued at Rupees 18.

4. In both cases the land had been waste and unpaid for, for very long periods, far exceeding the time which ownerships can subsist according to the Hookoomnamah of the District. The claims of the Plaintiffs therefore on the ground of ancestral right, must, the Board think, be peremptorily denied.

5. In the case of suit No. 30, moreover, the party in possession was the 1st Defendant who had cultivated when the Plaintiffs took violent possession and re-ploughed the land. The interference of the officers of Government under such circumstances was necessary for the conservation of the peace, and their inclusion as Defendants is litigious and vexatious.

6. In the case of suit No. 37, the land, which is Poonjah, had been waste 20 years, and being applied for by the 3rd Defendant for cultivation, was given to him by the Revenue authorities. Plaintiff's false complaint that she had been forcibly dispossessed was thrown out by the Head of Police, whose decision was confirmed by the Joint Magistrate.

7. The claims put forth by the Plaintiffs in both cases are founded on this assumption, that a family retains its right to land once held by a member of it however long it may have ceased to pay the Government tax thereon. This claim the Board believe to be as devoid of foundation as it is inconsistent with the general public interests, and being apprehensive that unless the contrary principle is asserted more strongly and clearly than is the case in the drafts of answers forwarded by the Acting Collector, the Civil Courts may be led into error as to the rights which Government claim to hold in regard to waste land, they have prepared fresh drafts which are submitted for the consideration of Government.

8. It will be seen that the parties in possession are resident villagers. The orders of the Honorable Court of Directors therefore have not been contravened in respect to these lands.

No. 23. ORDER THEREON, No. 404; dated 1st May 1857.

The Right Honorable the Governor in Council approves of the draft answers proposed by the Board of Revenue to be filed in original suits Nos. 30 and 37 of 1856 instituted in the Subordinate Court of Madura against the Acting Sub-Collector of the District, and grants authority for their defence, in the first instance, at the public expense; but will determine when a copy of the decree is submitted whether the costs, if any be adjudged against that officer, shall be borne by him or by the Government.

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

பாதுகாப்பு பிரிவு-1

செய்யுவிருப்பவர் பெயர் J. D. SIM

செய்யுவிருவதற்காக
எடுத்துக்கொள்ளப்பட்ட நாள் 7/10

செய்யுவிரு முடித்த நாள் 10/10

சரிபார்க்கும்

முதல் மு.நி.பா.எ.

கையொப்பம்

சரிபார்க்கும்

2ம். நி.பா.எ.

கையொப்பம்

ஆய்விக்க

உதவியாளர்

கையொப்பம்

Proposed Answer to Plaintiff in O.S. N^o 37 of 1856 on the file of the Sub Court of Madura.

The Statements contained in this Plaintiff's statement are contrary to fact, and the claim is groundless.

2. The land sued for was entered in Plaintiff's Grandfather's name, but having been left waste, and not tilled, and no tax was paid for it for twenty years previous to 1855, all right and title which that family may have possessed in regard to it had ceased long before that time. In 1855 it was given to the 3^d Defendant on his application for cultivation.

3. There is no Well in the land which is Peerjah and is so entered in the Ryasul Accounts.

4. Plaintiff's brothers did not cultivate the land in Shooly 1264. His complaint to the Head of Police that the 3^d Defendant had destroyed Crops he had planted thereon was thrown out as false. by the Tahsildar, whose decision was confirmed by the joint Magistrate. Moreover as the land had been previously given to the 3^d Defendant by the Revenue authorities his cultivation thereof, if it had taken place would have been illegal and given him no title.

5. Under these circumstances this Suit is against the 1st Defendant whose proceeding in keeping the 3^d Defendant in possession was a judicial act is litigious and

and vexatious, and the 1st Defendant prays
that the Court will fine the Plaintiff in
consequence.

Adm
by Secretary

1837 *Debar*

Enclosed in a letter from
the Secretary to the Board
of Revenue to the Secretary
to Government R.D. dated 9th
April 1837 N^o 1121

P 38/57

Proposed Answer to Claim
in the Original Suit N^o 37.
on the file of the Sub. Court
of Madras.

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Answer of 3^d Defendant in C.S. N. 30.

On the file of the Sub-Court of Madura.

The claim of the Plaintiff is groundless and the statements made in his Pleint contrary to fact.

2. The land in dispute never belonged to his Father. If it had been held by him, the circumstances would have afforded Plaintiff no claim to it at the present time, for he admits that his father left the Village in July 1243 ¹⁸³² and that the land lay waste from that time till the cause of action arose, a period of more than 20 years. He does not state that he or his father have been paying the tecrua thereon during the interval, and they have not done so. All right or title that they may have ever had in the land therefore has ceased a long time ago.

3. In truth, the land was waste from a period anterior to the Tjyal till July 1244 when 1st Defendant's husband cultivated a portion of it. He also cultivated a portion and received a Pattah for it in July 1255.

In
1834

In July 1204 the land was first cultivated
by the 1st Defendant and the Plaintiff acted
illegally in endeavouring to oust her. The Ra.
jeenamah alluded to was given by 1st Defent.
anti Bakel without her consent and was
of no avail. The District authorities acted
properly, and judicially in keeping the 1st
Defendant in possession.

The Plaintiff has shown no good
cause for suing the 3rd and 4th Defendants.
but in so doing has acted litigiously and
vexatiously. and the 3rd Defendant prays
therefore that he may be fined by the Court.

I D. S. M.
By Secretary.

1857 Department

Enclosure in a letter from
the By Secretary to the Board
of Revenue to the By Secretary
to Government dated 9th April
1857 No. 1121

P 381/57

Answer of 3rd Defendant
in Ad. No. 60 on the file of
the Sub. Court of Madras.

in C. S. No. 57/57

507
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Revenue Board Office,
Fort St. George,
7th April 1857.

No. 1121

Sir,

J. D. Sim Esq.

Acting Secretary to the
Board of Revenue.

M. Forbes Esq.

Acting Secretary to Government
Revenue Department.

Sir,

I am directed by the Board of Revenue
to submit for the orders of Government the Plaints
and proposed answers in 2 suits instituted in
the Subordinate Court of Madras against the
Sub Collector and others.

Original Suit No. 30 of 1856.

2 This suit has been brought to reestablish
the Plaintiffs right to 7 booles of land assessed
at 7 Papes and a well valued at 130 Papes,
and to recover the value of the produce lost
amounting to 70 Papes.

Original Suit No. 37 of 1856.

3 This suit was also instituted to obtain
restitution

restoration of certain land, measuring $15\frac{11}{16}$ Gookes, and assessed at Rupees 13 2 6; together with a well situated thereon, valued at Rupees 18. "

4. In both cases the land has been waste and unpaired for very long periods, far exceeding the time which ownership can subsist according to the Hootoomnamah of the District. The claims of the Plaintiffs therefore on the ground of ancestral right, must, the Board think, be peremptorily denied.

5. In the case of Sub No 30 moreover the party in possession was the 1st Defendant who had cultivated when the Plaintiff took violent possession and reploughed the land. The interference of the officers of Government under such circumstances was necessary for the conservation of the peace, and their inclusion as Defendants is litigious and vexatious.

6. In the case of Sub No 34, the land, which is Poonjah, has been waste 30 years and being applied for by the 3rd Defendant for cultivation, was given to him by the Revenue authorities. Plaintiffs false complaint that the land had been

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been forcibly dispossessed was thrown out by the Head of Police, whose decision was confirmed by the Sub Magistrate.

7. The claims put forth by the Plaintiffs in both cases are founded on the assumption, that a family retains its right to land once held by a Member of it however long it may have ceased to pay the Government tax thereon. This claim the Board believe to be as devoid of foundation as it is inconsistent with the general public interests and being apprehensive that unless the contrary principle is asserted more strongly and clearly than is the case in the drafts of answers forwarded by the Acting Collector, the Civil Courts may be led into error as to the rights which Government claim to hold in regard to waste land they have prepared fresh drafts which are submitted for the consideration of Government.

8. It will be seen that the parties in possession are resident at

Villagers

post

The orders of the Honorable
Court of Directors therefore have not
been carried out in respect to these
matters.

Yours most obedt Servant

John
Acting Secretary

1st Secy
1st April 1851

W. P. C. Esq.
Acting Secretary to Government
The Department

Extract from B2 of Revue
of 1st Aug 1858 p. 266 in
175

Rev. 1851
26th Aug 1851

the Board of Directors

to the Acting Secretary
to Government

Revenue Department

Dated 29th April 1851
Recd 15th May 1851

7 Encls

To Mr. P. C. Esq. 1st Secy
to Govt. 1851
In relation to the
proposed answers in
two suits instituted in
the subordinate Court
of Madras against the
Acting Col. Collector
and others -
1851
With an order.

1. 22. 52

503

2. 25. 1851

1851

The Right Honorable the
Governor in Council approves of the
draft answer proposed by the Board
of Revenue to be filed in Original -
in the 1st 30 and 37 of 1851 instituted
in the subordinate Court of Madras
against the Acting Sub. Col. Collector of
the District, and grants authority
for their defence, in the first instance,
at the public expense, but will de-
termine when a copy of the decree
is submitted whether the cost if
any be adjudged against that
Officer, shall be borne by him or
by the Government.

W. P. C. Esq.
Acting Secretary
to Government

1st May 1851

Copy to the Col. P. C. Esq.
with 503 Encls