Revenue Department

Minutes of Consultations

23rd June 1857

Back Numbers 48-49

Order No 622 dated 22nd June 1857

பரதகரப்பு பிரிவு - 1

செப்பனிடுபவர் பெயர் ·கி· ஸோமசுந்தரம்

செப்பனிடுவதற்கான எடுத்துக் கொள்ளப்பட்ட நாள் 7/06

செப்பனிட்டு முடித்த நாள் 11/06.

சரிபார்க்கும் முதல் மு.நி.பா.எ. கையொப்பம்

சரிபார்க்கும் 2ம். நி.பா.எ. கையொப்பம்.

உதவியாளர் கையொப்பம்

Fort Saint George, Revenue Consultation of 23d June 1857.

No. 48 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 Fort St. George, 12th June 1857, No. 2015.

SIR,

I am directed to submit for the consideration and orders of the Right Honorable the Governor in Council the accompanying letters from the Acting Collector of Malabar with the former of which is forwarded copy of an adverse Decree passed by the Subordinate Court of Calicut in O. S. No. 7 of 1856. The Plaint and proposed answer in this was laid before Government with the Board's Proceedings of the 29th Aug. 1856.

From Collector 15*th May* 1857.
From do. 5*th June* ,,
In Cons. 12*th June* 1857, *Nos.* 1861, 2243.

2. The cause of action was as follows. Portion of the lands of a family were held by a junior member. A remission had been granted for the whole property, but the Head of the family appropriated it entirely to herself. The detached portion having fallen into arrear, Mr. Conolly under the circumstances held the head of the family or Jenmikaren responsible, and sold her *personal* property. On which she instituted this suit in her own and her son's name.

3. The line of defence adopted was first to plead that Mr. Clarke who had succeeded Mr. Conolly, and was made first defendant was not reponsible for the acts of his predecessor, and secondly, to show the reasonableness of recovering the arrear from the Plaintiffs, instead of from the tenant from whom they had withheld a share of the remission.

4. The Sub-Judge dismissed the first plea in an argument which the Board think cannot be gainsayed, and the second he pronounced irrelevant. The question, he considered, to turn on whether personal property could be sold for the arrear, without the defaulters having been allowed the option of surrendering their land for sale in preference, and on the ground that under the law as interpreted by the Sudr Udawlut on the 12th March 1829 it could not ; he awarded Plaintiff damages to the amount of 400 Rupees.

5. With the latter letter, the Acting Collector forwards a revised Draft of an Appeal, of which, as far as it goes, the Board approve ; but dissenting, for reasons stated in their Proceedings of the 3d Instant from Mr. Robinson's opinion, that Act No. XXIII of 1856 is not applicable to the Jenmy Tenure of Malabar, they propose, should the Government assent, to make the alteration, shewn in red ink, to the 3d Plea ; and they request that the Acting Collector may receive authority to prefer the appeal thus amended.

No. 49. ORDER THEREON, No. 622 ; dated 22d June 1857.

The Right Honorable the Governor in Council authorizes the institution, at the public expense in the first instance, of an appeal by the Acting Collector of Malabar, in the Civil Court of Calicut against the Decree passed by the Subordinate Court of the same place in original suit No. 7 of 1856 ; 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. The proposed appeal Petition as revised by the Board of Revenue is approved.

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

Revenue Board Office,
Fort St. George
12th June 1857.

No. 2015

From

J. D. Sim Esqre
Ag Secretary to the Board of Revenue

To

H. Forbes Esqre
Ag Secretary to Government
Revenue Department

Sir,

I am directed to submit for the consideration and orders of the Right Honorable the Governor in Council the accompanying letters from the Acting Collector of Malabar with the former of which is forwarded Copy of an adverse Decree passed by the Subordinate Court of Calicut in O.S. No. 7 of 1856. The Plaint and proposed Answer in which was laid before Government with the Board's Proceedings of the 29th August 1856.

2. The cause of action was as follows. Portion of the lands of a family were held by a Junior Member. A remission

From Collr. 15 May 1857
To do 5 June "
In Con 12 June 1857
Nos. 1861- 2243.

remission had been granted for the whole property, but the Head of the Family appropriated it entirely to herself. The detached portion having fallen into arrear, Mr Conolly, under the circumstances held the head of the family or Immediate responsible, and sold her personal property on which she instituted this suit in her own and her sons name.

3 The line of defence adopted was first to plead that Mr Clarke who had succeeded Mr Conolly, and was made 1st Defendant was not responsible for the acts of his Predecessor - and secondly to show the reasonableness of recovering the arrear from the Plaintiffs, instead of from the Tenant from whom they had withheld a share of the remission.

4 The Sub Judge dismissed the first plea in an argument which the Board think cannot be gainsayed - and the second he pronounced irrelevant. The question, he considered to turn on whether personal property could be sold for the arrear,

E-4 3

arrear, without the defaulters having been allowed the option of surrendering their land for sale in preference, and on the ground that under the law as interpreted by the Sadr Udawlut on the 12th March 1829 it could not be awarded Plaintiffs damages to the amount of 500 Rupees.

5 With the latter letter the Acting Collector forwards a revised Draft of an Appeal, of which, as far as it goes, the Board approve; but dissent from, for reasons stated in their Proceedings of the 3d Instant from Mr Robinson's opinion, that Act No XXIII of 1836 is not applicable to the Survey Tenure of Malabar, they propose, should the Government assent, to make the alteration, shewn in red ink, to the 3d Plea; and they request that the Acting Collector may receive authority to prefer the appeal thus amended.

Rev. Board's Office,
Fort St. George,
12th June, 1837

I have the honor to be,
Sir,
Your most obedt Servants,

To H. Forbes Esq
Ag. Secretary to Government
Revenue Department

J. A. Stuart
Ag. Secretary.

Revenue Dept.

No 822

Extract from the Minutes of Consultation

Under date the 22d June 1837

Read the following

Letter from the Acting Secretary

to the Board of Revenue.

(Mem. under date 14th June 1837 No 2015)

The Right Hon-

rable the Governor in Council

authorizes the institution, at

the public expense in the first

instance, of an appeal by

the Acting Collector of

Malabar, in the Civil Court

of Calicut against the Decree

passed by the Subordinate

Court of the same place in

Original Suit No 77 for 63 but

will determine when a copy

Revenue Dept
Dec 23d 1837
No 3082

To the Acting Secretary
to the Board of Revenue

Sir

I am directed to transmit
herewith for the information
of the Board of Revenue a
Copy of a Letter from the
Collector of Malabar dated
the 13th Ult. with its enclosure
on the subject of an appeal
to the Sudder Court from a
decree of the Zillah Court of
Calicut in favor of the Rajah
of Cherakul.

2. The Collector requests
that the sanction of the
Government may be obtained to
the appeal being instituted at
the public expense in the first
instance, and that the Board
will move the Government
accordingly.

I have &c
(Signed) W. Sullivan
Acting Secy

Copy Sent to Mr Scott 26th Dec 1837

of the decree is submitted whether the Costs, if any be adjudged against that Office, shall be borne by him or by the Government. The proposed appeal Petition as revised by the Board of Revenue is approved.

Report to the Bd of Rev with the Petn Encl: 23

Comm. 1885 Sept. 10.
Decree 23rd June 1885 for Comm.
1822.
Ex Petitioning Com.
922 Lines 15.
Pro: Henry Moore Esq. Collr
of Salt & Abkary in the
24 Pergunnahs in
the Month of
Petitioning the Board of Revenue
against the Decree
passed by the Subordinate
Court of the 24 Pergunnahs
on the 23rd May 1885 and
the proposed Appeal Petition
as revised by the Board of
Revenue.

No 4849.