

Revenue Department

Minutes of Consultation

1st June 1858.

Back No^s 52 & 53.

Order No. 712 \$29.th May 1858

1-4

பாஜகாப்பு பிரிவு-1

செப்பனிருபவர் பெயர்: செ. கந்தசாமி (மா)

செப்பனிருவதற்காக எடுத்தக் - 08/08

கொடுக்கப்பட்ட நாள். 21/09

25/2/109

சரபார்க்கும்
முதல் முற்பாள
கையொப்பம்

சரபார்க்கும்
2ம் முற்பாள
கையொப்பம்

ஆராய்ச்சி
உதவியாளர்
கையொப்பம்

712
2

Fort Saint George, Revenue Consultation of 1st June 1858.

No. 52. Read the following Extract from the Proceedings of the Board of Revenue, dated 20th May 1858, No. 1823.

In Con. 14th May 1858. Read letter from the Collector of Masulipatam, dated 30th April 1858, submitting copy of the decree of the Civil Court of his district, in suit No. 105 of 1855.

(Here enter No. 78.)

Resolved that the foregoing letter and its accompaniment be submitted for the information and orders of the Right Honorable the Governor in Council.

2. The suit was instituted for the recovery of Enam land valued at 120 Rupees per annum, claimed as the endowment of the Goodoor temple.

3. The defence was undertaken under the special instructions of Government contained in Extract from Minutes of Consultation, 29th August 1856, R. D., No. 912. The Board would refer to this document as embodying a summary of the case, and the reasons which induce Government to contest the claim.

4. The grounds of the defence as summed up in the decree were the following :—

1st. That there are no sunnuds granting the land in question.

2nd. That the land never was enjoyed by the Pagoda continuously.

3rd. That the Pagoda has no right to the Money allowance alluded to, inasmuch as that if the right to the land is invalid, it follows of course, that the right to the money payment founded on it is so also.

4th. That the decree of the Weyoore District Moonsiff alluded to in the plaint, is not binding on Government.

5. The decision of the Judge is in favor of the Plaintiff with costs. He overrules the chief objection in the defence, viz. the absence of a sunnud, by quoting a passage from a despatch from the Honorable Court, given at page 454 of the Board's Circular Order Book, in which it is en-joined that long possession should not be disturbed. The reasoning of the Court in this respect is in the Board's opinion, quite irrelevant.

6. In para. 10 the Court say that it has been proved that the lands are surva maniem and not sary; this is going beyond the Plaintiff, who admits that he never had enjoyment of the land till recently, but had a money payment in lie.

7. The objection of Government noticed in para. 13 of the decree, viz. that they were not parties to the suit in the District Moonsiff's Court, is not discussed by the Judge.

8. The extraordinary tone of the Court in para. 15, in which the course taken by Govern-ment is attributed to a spirit of litigation is altogether unjustifiable.

9. The Collector states that he takes the same view of the case as the Court does, but as it is a question of very great consequence and many other suits will probably be instituted when the issue of this one is known, he suggests that the opinion of the Government Pleader be taken as to whether or not there is good ground of appeal against the Court's ruling.

10. The Board recommend that the case may be put into the hands of the Government Pleader, and they would also suggest that he be requested to move the Sudder Udalut to re-mand the decrees to the Court below for a review of judgment, on the ground of its being defec-tive in many important particulars.

11. The Collector notices an allusion made in one of the exhibits (viz. copy of an Urzee addressed to the Magistrate in 1818) to the existence of a sunnud, and states his belief that, had this been brought to notice by Mr. Ballard, it would have probably led to the recognition of Plaintiff's right to the lands. It is scarcely necessary to observe that, in the absence of the document itself, no such result could have followed.

12. The appeal expires on the 23d Instant, but the Collector has been requested to apply for an extension.

(A true Extract.)

(Signed) G. S. FORBES, Secretary.

Fort Saint George, Revenue Consultation of 1st June 1858.

No. 53.

ORDER THEREON, No. 712; dated 29th May 1858.

Referred to the Government Pleader for his opinion. The Board of Revenue will furnish for Mr. Dale's perusal the previous correspondence having reference to the subject matter of the suit in question.

2. To make the Board's Proceedings complete, it would have been better had they stated who the Plaintiff and Defendant were.

(Signed) W. H. BAYLEY,
Acting Secretary to Government.

712
3

No. 1823.

Extract from the Proceedings of the Board of Revenue, dated 20th May 1858.
Read letter from the Collector of Masulipatam, dated 30th April 1858, sub-
in Con. 14th May 1858. mitting copy of the decree of the Civil Court of his district, in suit No. 105 of
1855. (Here enter No. 78.)

Resolved that the foregoing letter and its accompaniment be submitted for the information and orders of the Right Honorable the Governor in Council.

2. The suit was instituted for the recovery of Enam land valued at 120 Rupees per annum, claim-
ed as the endowment of the Goodoor temple.

3. The defence was undertaken under the special instructions of Government contained in Extract
in Con. 8th Sept. 1856. from Minutes of Consultation, 29th August 1856, B. D., No. 912. The Board
would refer to this document as embodying a summary of the case, and the
reasons which induce Government to contest the claim.

4. The grounds of the defence as summed up in the decree were the following:

1st. That there are no sunnuds granting the land in question.
2nd. That the land never was enjoyed by the Pagoda continuously.
3rd. That the Pagoda has no right to the money allowance alluded to, inasmuch as, that if the
right to the land is invalid, it follows of course, that the right to the money payment founded on it is so
also.

4th. That the decree of the Weyoore District Moonsiff alluded to in the plaint, is not binding on
Government.

5. The decision of the Judge is in favor of the Plaintiff with costs. He overrules the chief objection
in the defence, viz. the absence of a sunnud, by quoting a passage from a Despatch from
1st Vol the Honorable Court, given at page 454 of the Board's Circular Order Book, in which it
is enjoined that long possession should not be disturbed. The reasoning of the Court in this respect is, in
the Board's opinion, quite irrelevant.

6. In para 10 the Court say that it has been proved that the lands are surva manem and not sary;
this is going beyond the Plaintiff, who admits that he never had enjoyment of the land till recently, but
had a money payment in lieu.

7. The objection of Government noticed in para 13 of the decree, viz. that they were not parties
to the suit in the District Moonsiff's Court, is not discussed by the Judge.

8. The extraordinary tone of the Court in para 15, in which the course taken by Government is
attributed to a spirit of litigation, is altogether unjustifiable.

9. The Collector states that he takes the same view of the case as the Court does, but as it is a
question of very great consequence and many other suits will probably be instituted when the issue of
this one is known, he suggests that the opinion of the Government Pleader be taken as to whether or not
there is good ground of appeal against the Court's ruling.

10. The Board recommend that the case may be put into the hands of the Government Pleader,
and they would also suggest that he be requested to move the Sudder Adawlut to remand the decree to
the Court below for a review of judgment, on the ground of its being defective in many important parti-
culars.

11. The Collector notices an allusion made in one of the exhibits (viz. copy of an Urzee addressed
to the Magistrate in 1818) to the existence of a sunnud, and states his belief that, had this been brought
to notice by Mr. Ballard, it would have probably led to the recognition of Plaintiff's right to the lands. It
is scarcely necessary to observe that, in the absence of the document itself, no such result could have fol-
lowed.

21. The appeal time expires on the 23d Instant, but the Collector has been requested to apply for
an extension.

(A true Extract.)

[Signature]

Secretary.

To
W. H. BAYLEY, Esq., Acting Secretary to Government, R. D.
Copy to the Collector of Masulipatam.

8. 12. 1885
12. 12. 1885
12. 12. 1885

1672

Referred to the Governor

December for his opinions. The ^{2nd} Dec
 of December with friends for
 Booth's funeral the provisions so near
 areas having been before me to the duty.

available of the birds in Guatemala

to write him a good friendly
complete if you'd have been

boiler had sprung and burst with
the escape of steam and was

John W. Smith

29. May 1853

[Faint handwritten notes, possibly bleed-through from the reverse side.]