M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1020	Press Mis.
Dated 29th July 1859.	

Not to be folded or roughly handled

No. 73. Read the following Proceedings of the Board of Revenue, dated 23d July 1859, No. 2887.

Read the following letter from the Acting Collector of Guntoor, dated 13th July 1859, No. 80.

(In Con. 18th July 1859, No. 3542.)

Zillah Court of Guntoor.
O. S. No. 2 of 1859.

Moottanee Vencatacharloo, worshipper of Sree Vencataswara Swamy Pogada at Butchoopett in Masulipatam.

versus

H. Wood, Esq., Collector of Guntoor.

With the foregoing letter the Acting Collector forwards the pleadings in the suit particularized in the margin.

2. Plaintiff seeks to recover two Coochels (one wet and one dry) of Inam land, alleged to be part of a larger Inam of 12 Coochels said to have been granted for the support of the Sree Vencataswara Sawmy Pogada at Butchoopett in Masulipatam, about 83 years ago, and to have been excluded, accordingly, at the permanent settlement of Fusly 1212, A. D. 1802-3. Plaintiff states that, the land being of inferior quality and situated at a great distance from the village, was but partially cultivated, and the proceeds appropriated to the use of the Pagoda. In Fusly 1251, A. D. 1841-42, the wet land received a proper supply of water from a good fall of rain and was wholly cultivated; but the Curnum, through prejudice, represented that the land was formerly incorporated with the Government land. An enquiry was instituted, which resulted in the late Collector, Mr. Stokes, directing the lands to be incorporated with those of Government, and the income for Fusly 1251 to be credited to the public accounts. Plaintiff, therefore, seeks to recover the two Coochels of land, together with the value of its produce for 12 years, amounting to Rupees 197-8, and explains the cause of the delay in instituting the suit.

3. In the answer which has already been filed, it is denied that the Inam was ever in Plaintiff's enjoyment. It is stated to be entered in the Register of Fusly 1207, and not in that of any previous or subsequent year till Fusly 1234. In the Inam Kyfeut of that year, it is said to be entered as granted 70 years before, but resumed 30 years prior to the date of the Kyfeut, and further that it was not known where the Maniem land was situated. In Fusly 1251 Plaintiff claimed the Inam, an enquiry was instituted pending which the proceeds were held in deposit, but as he could not prove his claim, the Inam was included in the Circar lands in Fusly 1256, and the amount in deposit carried to account.

4. It will thus be seen that it is, simply, a question of evidence for the decision of the Court. The fact of possession by Plaintiff is positively denied, and the Revenue authorities will, no doubt, be able to rebut successfully the statements of Plaintiff.

5. Had the draft answer been submitted to the Board before it was filed in Court, they would have pleaded the statute of limitation, and probably the povisions of Regulation XXXI. of 1802, Section IV. They, however, consider that it constitutes a good and valid defence, and recommend that the Acting Collector may be authorized to conduct the proceedings at the public expense.

6. The Acting Collector expresses his regret that sanction was not previously obtained to defend the suit, and trusts that the omission may be excused. The answer seems to have been filed by the Head Assistant in charge, who probably, overlooked the orders, requiring that the sanction of Government should be obtained before proceeding with the defence of a suit. The case is, however, one which ought properly to be defended, and the Board hope that Government will be pleased to overlook the irregularity.

(A true Extract.)

(Signed) J. D. SIM, *Secretary.*

No. 74. ORDER THEREON, 29th July 1859, No. 1020.

The Honorable the Governor in Council sanctions the defence, in the first instance, at the public expense, of suit No. 2 of 1859, instituted against the Collector of Guntoor in the Civil

Court of the district by M. Vencatacharloo; but will determine, when a copy of the decree is submitted, whether the costs, if any be adjudged against the Collector, shall be borne by that officer or by the Government.

2. The Board have properly pointed out the error of the Head Assistant late in charge, in undertaking the defence without the previous permission of Government.

Mins. of Cons. 13th June 1857, No. 587, para. 6.

3. The attention of the Board is called to the order in the margin requiring that the equivalent in acres shall always be given when local land measures are stated.

(Signed) J. D. BOURDILLON,
Secretary to Government.

In Con. 18th July 1859, No. 3542.

From J. W. B. DYKES, Esq., Officiating Collector of GUNTOOR,
dated Guntoor, 13th July 1859, No. 80.

I have the honor to state for the Board's information, that a Suit, No. 2 of 1859, was filed in the Civil Court at Guntoor against the Collector on the 7th February 1859, by one M. Vencatacharloo for the restoration of an alleged Inam of a Pagoda at Bunder, consisting of two Coochels of land in the village of Potoomerca in the talook of Repully in this district, resumed in 1846 under the orders of the Collector, Mr. Stokes.

2. To show the merits of the case, I beg to enclose translations of the complaint, answer, reply, and draft of rejoinder, which I now propose to file.

3. As the time allowed by the Court of one month for filing the rejoinder will expire on the 9th proximo, I request that I may be favored with the Board's orders on the subject at an early date, and that I may be permitted to file it at the public cost.

4. I am sorry that the sanction of the Board to defend the said suit was not obtained previously, and I trust that the omission may be excused.

—

Enc. 1.

To the ZILLAH COURT of GUNTOOR.

Original Suit, No. 2 of 1859.

Plaintiff.		*Defendant.*
Moottanee Vencatacharloo, worshipper of Sree Vencataswaraswamy's Pagoda at Butchoopett in Masulipatam and an inhabitant of the same Petta in the same town.	*versus.*	H. Wood, Esq., the present Collector of Guntoor.

Plaint.

Eighty-three years ago, on the 15th Chytra Soodhum of the year Munmadha, the then Administrative authorities granted to Sree Vencataswaraswamy's Pagoda, situated at Butchoopett in Masulipatam, 12 Coochels of Inam land in some villages of this district, of which lands, 2 Coochels, viz., 1 Coochel of dry Inam land, and 1 Coochel of wet land, were granted in Potoomerka with a Sunnud and Chekoonamah. The whole extent of the above-mentioned Inams were deducted in the course of the permanent settlement which took place in Fusly 1212. Messrs. Rungum and Reid and other gentlemen ordered the continuation of our Inams, &c. and caused them to be deducted from Goodecuttoo or Ayacut.

2. As the land in question is of inferior value, and is situated at a great distance from the village, the whole extent of it had not been brought into cultivation, and consequently the income derived from the cultivated portion was appropriated to the said Pagoda up to Fusly 1250. In Fusly 1251, the wet land having received sufficient supply of water from the good fall of rain, was wholly cultivated in that Fusly and yielded a fair return; whereupon, one of the village Curnums, through prejudice against us, resulting from our not having acceded to his will, gave a Kyfeyet to the effect that the land in question was formerly incorporated with Government lands.

3. The Tahsildar of Baupetla, under whose administration the said village falls, then made an enquiry about the documents that were with us, as well as the public accounts, and submitted an Arzee, No. 351, to the then Collector on the 26th December 1843, accompanied by the record of his enquiry into the case, stating that the Inam in question was duly granted, and that the statement made by the said Curnum was false; and recommending the continuance of the Inam to the said Pagodas. On my representing the matter to Mr. Stokes, the then Collector, on several occasions for final orders, he issued an order, No. 15, to the Tahsildar of Repully on the 15th of July 1847 admitting, among other circumstances, that the Sunnud, Chekoonamah and other documents in support of the Inam in question were legal, that the said lands were deducted from "Goodecuttoo," directing to carry to the credit of the public account a large amount of the income derived from the Inam in question from Fusly 1251 and to incorporate the same with the Government lands, whereas there was nothing to prove the conversion of the said Inam into Circar land, and in contrary with the documents in existence and without the orders of the higher authorities; and stating that the matter in dispute, would be duly disposed of in the course of general enquiry into rent-free tenures. I was waiting for some days

for the general investigation of Inams in hopes of justice being rendered in this case. Shortly afterwards, an order prohibiting the Courts from filing suits regarding the rights of Inams was received in the year 1852. This barred the institution of the suit in the matter.

4. After the receipt, in 1855, of an order authorizing the Courts to hold cognizance of the suits for Inams alienated to Pagodas, some delay occurred for advancing a suit in consequence of some inconvenience produced from my being an inhabitant of Masulipatam. Although the Inam Commissioner has now been appointed, yet, as the Inam in dispute is one alienated to the Pagoda, and for fear that my claims would be barred by the law of limitation, if 12 years elapse by the time the Inam Commissioner enters upon the investigation of the Inams in this district, I now sue for the recovery of 2 Coochels of Inam belonging to the said Pagoda, situated in the said village (Potoomerka) and which yields an annual income of Rupees 60-4-0 and is bounded in the manner below described and also for the recovery of the past year's produce from Fusly 1251 to 1267 as hereunder particularized.

5. In Gunganapollem a hamlet of Potoomerka.

	C.	V.	C.
1 Coochel of dry Inam land bounded on the East by the Kistna River; on the South at present by Advipollem, the Silk Cotton tree standing before on that point having been subsequently blown down; on the West by cattle path; and on the North by an Inam field belonging to a Clergyman	1	0	0
6 Veesums and 3 Cawnies of a Coochel of wet land, i. e. $\frac{27}{64}$ths of a Coochel bounded on the East by the cattle path; on the South by a place called "Covalachetla Chavoodoo"; on the West by "Pota Guttoo" or raised dam; and on the North, mark of a Channel called "Tambelladibba Calva"	0	6	3
9 Veesums and 1 Cawny of a Coochel of wet land bounded on the East by the Sary field held by Yellapragada Lingarauze; on the South, by the North mark of a Channel "Tambelladibba Calva"; on the West an erected dam; and on the North by a sandy tract occupied by the Barbers' houses	9	9	1
	2	0	0

These two Coochels as well as the amount of Rupees 371-6-3 are recoverable by me as shown below :—

	Rs.	A.	P.
Fusly 1251	104	15	0
„ 1252	22	8	11
From 1258 to 1264 at Rs. 9-0-4 per year	63	2	4
From 1265 to 1267 at Rs. 60-4-0 per do.	180	12	0
	371	6	3

Being unable to pay the stamp duty for the whole sum due to me, I have voluntarily not included a sum of Rupees 173-14-3 in the amount litigated. I therefore humbly pray that the Court will be pleased to examine my witnesses and documents, and to adjudge for the delivery of the 2 Coochels of Inam to me, and for the payment of Rupees 197-8-0, being balance, after deducting the sum alluded to, from the amount of past year's income as well as of the costs incurred by me.

(True Translation.)

(Signed) J. W. B. DYKES,
Officiating Collector.

—

Draft of an Answer to be filed in Suit No. 2 of 1859.

Coochels. Wet, 1 Dry, 1 — 2

The Plaintiff in his complaint claims the restoration of two Coochels of Inam situated at Potoomerca in the talook of Repully in this district, to the Pagoda of Venkatas-warasawmy at Bunder, together with the value of its produce for the 12 years, viz., Rupees 197-8.

2. The result of an enquiry into the old records in this office with reference to the alleged Inam is as follows:—The Inam in question was merely entered in the Register of Fusly 1207, and not at all in the accounts of other years either prior or subsequent to that Fusly up to 1233. In the Inam Kyfeyet of Fusly 1234, it was mentioned that the Inam was granted 70 years ago, but was resumed 30 years previous to date of Kyfeyet, and that it is not known where the Meniem land is situated. The Inam was not even enjoyed up to Fusly 1250 either by the Plaintiff or by the Pagoda, nor did he raise any objection during the Fuslies in which the land was cultivated by other Ryots; and the rent carried to the credit of Government.

3. In Fusly 1251 the Plaintiff preferred a complaint through the Tahsildar of Baupetla, stating that he was prevented by the Village Curnums from enjoying the produce of the Inam for that Fusly. An enquiry was ordered to be made on the subject, holding the proceeds of the Inam in deposit. The enjoyment of the Inam by the Plaintiff not having been proved, the land was finally included in Sary or Circar lands in Fusly 1256, and the sum of Rupees 124-7-9, then in deposit, being the proceeds of the Inam was also carried to account.

4. Thus the Inam was never in the Plaintiff's enjoyment, and it was finally resumed long ago. The statement of the Plaintiff to the effect of his having enjoyed the Inam up to Fusly 1250, is totally untrue.

Vide Section IV, Regulations XXXI. of 1802.

5. Under the foregoing reasons, the Head Assistant Collector in charge requests the Civil Judge to dismiss the suit, and refer the Plaintiff to the Inam Commissioner if necessary, as was already communicated to him in an order from the former Collector, Mr. Stokes.

(True Copy.)

8th June 1859.

(Signed) J. W. B. DYKES,
Officiating Collector.

—

To the ZILLAH COURT of GUNTOOR,
No. 2 of 1859.

Plaintiff. *Defendant.*

Moottanee Vencatacharloo. *versus.* H. Wood, Esq., Collector of Guntoor.

Reply presented by the Plaintiff.

It will be manifest to the Court from the Urzee addressed by the Tahsildar of Baupetla on the 26th December 1843 and also from the accounts, that the Inam land in dispute was deducted from the village Goodecuttoo accounts up to Fusly 1234 and till the Defendant issued subsequently an order to the Tahsildar of the Baupetla talook to the effect that the land in question should be incorporated with the "Sary" or Government land.

2. There is nothing to prove the conversion of the said land into Government lands. The record containing the depositions taken again from the Curnums in the case, will show to the Court the localities of the Inam lands in dispute and their boundaries, and that the Kyfe yet given by the said Curnum in Fusly 1234 was a false one, being given through malice.

3. The Inam lands in dispute were enjoyed by the said Pagoda until Fusly 1250. To support this, there are Doombalahs given by the public servants up to Fusly 1245 as a public proof.

4. The Circar accounts, previous to Fusly 1251, do not show that any sist has ever been imposed on the Inam in question, consequently there was no necessity for me to raise any objection to that effect.

5. As the order of the Sudr Udalut, dated 12th July 1855, provides for the cognizance, by the Civil Courts, of the suits depending on Inams alienated to Pagodas, I do not see any necesity for my representing the matter to the Inam Commissioner.

6. For the foregoing circumstances I humbly request that the Court will pass a decree in my favor.

(Signed) MOOTTANEE VENCATACHARLOO,
(True Translation.) Plaintiff.

(Signed) J. W. B. DYKES,
Officiating Collector.

Draft of Rejoinder.

The Plaintiff in his reply refers to an Urzee of the late Tahsildar of Baupetla dated 26th December 1843, as showing that the alleged Inam had been entered in the public accounts up to the date of

its resumption. The Tahsildar's opinion given in that Urzee was opposed to the records which accompanied it, and to the Urzee of his predecessor dated 12th April 1842, which shows that the Inam was resumed 30 years prior to Fusly 1234.

The Plaintiff says there is no proof of the resumption of the Inam 30 years before as stated in the Inam Registry of Fusly 1234. But the absence of any entry of this Inam in the Inam Registers from 1207 to Fusly 1234, is alone sufficient to confirm the remark made in the latter Registry. Plaintiff says that the Curnum's depositions show the limits of the Inam in question. But as the depositions given by the Curnums' in 1843 and referred to by Plaintiff are directly opposed to the depositions which they gave on this subject in 1842, their statements on this point are worthless. The records of the Hoozoor Cutcherry show no boundaries for the Inam in dispute.

Plaintiff refers in support of his claim, to certain Doombalahs given to him by public servants—now Doombalahs are only given when an Inam has been cultivated. They are written permissions to remove the crop; and with reference to the alleged Doombalahs, it is enough to refer to the deposition given by Plaintiff before the Tahsildar in 1843, when the Plaintiff himself addmitted that the Inam had not been cultivated for more than 12 years prior to Fusly 1245.

Finally, the Inam having no existence, the order of the Court of Sudr Udalut, quoted in the Plaintiff's, reply does not apply to this case under Section IV. Regulation XXXI. of 1802, and the Board's Circular dated 7th December 1855. And the Officiating Collector therefore trusts that the Court, acting on this and the other grounds set forth in this rejoinder and the answer, will be pleased to dismiss the suit with costs.

(Signed) J. W. B. DYKES,
Officiating Collector.

Printed Copy of
No 33542

From The Offg Collector of Guntoor
To The Secretary to the
Board of Revenue
Fort St George

Dated 13th } July, 1859
Rec'd 18th }
Answered 18" " "
No 80
Enclosure 1

Requesting to be favored with the Board's order to file a Rejoinder at the Public Cost in the suit filed in the Civil Court against the Collr.

Rec'd 13th/59

Ans'd 21st Oct. 2887 of 1859

P. Cor. 29 Oct. 59

Rev: 8th

No 1020

Proceedings of the Madras Govt:
Under date the 4th July 1859.

Read the following Paper

Proceedings of the Bd: of Rev:
Recommending that O.S.
No 2 of 1859 on the file of the Civil
Court of Guntoor. instituted
against the Collector by M.
Venkatachalum of Maculi-
lutam for the restoration of
an alleged Inam of a
Pagoda resumed in 1846,
may be defended at the
public expense

Rec'd 23 July 1859
No 2007.

The Hon: the Govr.
in Council sanctions
the defence, in the first
instance, at the public
expense, of Suit No 2
of 1859 instituted against
the Collector of Guntoor
in the Civil Court of the
district by M. Venkata
Chala

charbos; but will determine, when asked by the decree is submitted, whether the costs, if any be adjudged against the Collector, shall be borne by that Officer or by the Govt.

22. The Board have properly pointed out the error of undertaking the defence without the previous permission of Govt.

23. The attention of the Board is called to the order in the margin requiring the

Asst to the Board
Dist 30

equivalent in acres shall always be given when local land measures are stated

W of Govt 13th June 1857
No 587 para 6.

Revenue 1859 Dept.
Pros of Govt. 29 July

No 1023

Pros of the Madras Govt
Dy 29th July 59.

Pro of the Bd of Rev. Dy 18th
Oct 59 (No 1945 inl. 26 Oct 59 +
No 1448
from Bd of Revd 26 July to
No 1579

Defence at public
Cost of Suit No 2 of 1859
on the file of the Civil
Court of Guntoor cancld.

No 3874.