M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1089 Press ~~Mis.~~

Dated 12th August 1889

Not to be folded or roughly handled

No. 9. Read the following Proceedings of the Board of Revenue, dated 4th August 1859, No. 3009.

Read letter from the Sub-Collector of Salem dated 30th July 1859, No. 153.

(In Con. 3d August 1859, No. 3882.)

O. S. No. 4 of 1859, *Lutchmien, Plaintiff.*
versus.
1. *A Hathaway, Esq.*
2. *Vencatachelly Chetty, Defendants.*

With the above letter the Sub-Collector in charge submits the plaint and draft of an answer in a suit instituted against the late Acting Collector, and another in the Subordinate Court of Salem.

2. The object of the suit is to obtain possession of land assessed at Rupees 16-14-9 with a well valued at Rupees 7.

3. Plaintiff and 2d Defendant *jointly*, applied for the land in question on the 27th May 1858. On two previous occasions 2d Defendant *alone* had applied for it, and shortly after the receipt of the *joint* application, petitions, purporting to come from him, and abandoning his claim, were received by the Acting Collector, who, on enquiry, came to the conclusion, that they had been fraudulently put in by Plaintiff, in order that he might obtain sole possession of the land.

4. The 2d Defendant maintained that he still desired the land, in terms of the joint application, while Plaintiff declined a *joint* Puttah, on the plea of 2d Defendant's subsequent renunciation in the peiitions above referred to. Under these circumstances, the Acting Collector issued a Puttah solely in the 2d Defendant's name and it is to upset this arrangement that the suit has been brought.

5. The Plaintiff's refusal to receive a joint Puttah clearly left the Acting Collector free to dispose of the land to the other applicant. The Board think the proposed answer much too lengthy, and submit a brief one, which they think sufficiently meets the case, so far as Government are concerned, and which they recommend for adoption.

6. The time for filing the answer expires on the 26th Instant.

DRAFT ANSWER.

1. The Sub-Collector admits that Plaintiff and second Defendant submitted a joint application for the land sued for.

2. The late Acting Collector, after due enquiry, satisfied himself that second Defendant had not sent the petitions referred to in the plaint, and that he still desired the land on a joint puttah, with Plaintiff.

3. Plaintiff having declined to accept a joint puttah in terms of the original application, the Collector was justified in treating it as thereby void, and in giving the land to second Defendant, who had formerly applied for it on his own account.

(A true Extract.)

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

No. 10. ORDER THEREON, 6th August 1859, No. 1059.

The Honorable the Governor in Council grants authority for the defence, in the first instance at the public expense, of original Suit No. 4 of 1859 instituted in the Subordinate Court of Salem by one Lutchmien of Adamancottah in the Dharampoory talook, against the late Acting Collector of Salem and another; 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.

2. The Draft answer prepared by the Board of Revenue will be substituted for that proposed to be filed by the Sub-Collector in charge.

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

No. 153

Salem Collectors' office

Salem 30th July 1859

From W. G. Smith Esqr

Sub Collector in Charge of Sale

To J. D. Sim Esquire

Secretary to the Board of Rev

Sir

Fort Saint George

I have the honor to forward herewith translation of a plaint in O. S. No. 4 of 1859 filed by Lute =mien of the Dasanoory Tsloork in the Subordinate Court of Salem against A Watkinson Esqr the late Acting Collector — toge =ther with the Draft of an Answ which I propose to make and to request the Board will be good enough to obtain the sanc =tion of the Government for defen =ding the suit at public cost.

2. The time for putting

the answer will expire on the

26th August next.

I have the honor to be

Sir

your most obdt. Servt.

Salem Collectors Office
Salem 30th July 1859.

E. G. Smith
Sub Collr in charge

To

J. D. Finn Esqr.
Secretary to the Board of Revenue
Fort St. George.

Translation of a plaint filed in the Subordinate Court of Salem by Lutchmiah son of Coopsien a Brammin by Caste, and a resident of the Village of Alumoottah in the Dharmapoory Talook against A Watkinson Esqr. Acting Collector of Salem. (1), Veerata chella chetty son of Kistna chetty (2), an Vilanoger by Caste and a resident of Mangaray in the Dharmapoory Talook.

The suit is instituted to recover possession of a land assessed at Rs. 16-14-9. and yielding an annual produce of 25 Candies and situated within the boundaries described below together with a well valued at Rs. 7 and situated on the land above referred to. The land called Cattoomeyan Pothoval Poonjah No 59 together with the well situated in it, is claimed by the Plaintiff. It is situated to the east of the well to which the Villagers resort for water, south of the land called Kunjah Chetty

Original in Court of Principal Sudder Adawlut 1859.
Salem 4th August 1859.

1859 Oct 4th
From
No 3782.
The Sub Collector
in charge of Salem.
To
The Secretary to the
Board of Revenue
Fort St George.
Dated 30 July 1859
Rec'd 3 Augt.
Answered 7 Do
Forwarding a
Plaint and Answer
connected with
B. of Rev. No 31 of 1859 and
Proceedings
& Enclosures
Referring the
Subject

Ettymaram Poonjah, west of Fitha
=campully and north of the land
called Ramien Poonjah. Myself
and the 2d Defendant jointly pre
=sented a durkast-petition to the
Tahsildar of Darumpoory, requesting
him to make over to us the land
in question for cultivation for fasly
1266. The 2d Defendant also ad=
=mitting the joint-Durkast, gave
a written Statement to the effect
that a puttah might be issued in
the names of both parties.

2. When I came to know that
the 2d Defendant had addressed
a petition to the first Defendant
to the effect that he did not want
the land he had applied for.
I requested the first Defendant
to issue a puttah in my name
alone for the whole extent, but
the first Defendant instead of
issuing a puttah in my name
alone as I requested him to do,
issued an order under date the
28th February 1859. by which he
secured the exclusive right of
possession and puttah for the
land to the 2d Defendant and
deprived me of the same. I there=
=fore pray that the Court will be good
enough to investigate into my claim
for the land and pass a decree
as requested above.

(Signed) Lutchmiem.

30th March 1859

(True translation as near as it
could be)

J. G. Smith
Sub Coll.r in charge

Draft of an answer proposed to be filed in O. S. No 4 of 1859 by A. G. Smith Esqre Sub Collector in charge of Salem, on behalf of A. Hathaway Esqre, the late Acting Collector of the District and the 1st Defendant in the above Suit.

1. The object of this suit is to recover possession of Certain Poonjah land assessed at Rupees 16. 14. 9 together with a well situated in it valued at Rupees 7 and also to obtain a Puttah for the same.

2. The Plaintiff states that he and the 2nd Defendant Venkatachella chetty both jointly applied for the land in question to the Shasildar of Daramporoy, that the joint

joint applicant having subsequently represented to the Collector that he did not require the land, he requested the late Ag. Collector Mr. Hathaway to issue a puttah in his name alone for the whole extent which he declined to do and issued a puttah in the name of the 2nd Defendant alone for the whole extent.

3. The 1st Defendant admitting the truth of the Plaint in the main, begs to submit that the decision arrived at in the case was quite consistent with principles of justice and equity for the following reasons.

The 2nd Defendant and the Plaintiff presented applications for the land in question to the Thasildar of Daramporry on the 27th May 1858, some time after this two other applications were received at the Kroyor both of which purported to have been addressed and signed by the 2nd Defendant. It was stated in these petitions that the 2nd Defendant did not require the land which he and the Plaintiff jointly applied for and that therefore the land might be given to any other party wishing to take it up.

5. These two petitions were referred to the Thasildar for enquiry. In the enquiry held

held by the Thasildar the
2nd Defendant pleaded that
he never addressed the petitions
in question and said that he
still wanted the land on the
terms mentioned in the applic=
:cation dated the 27th May 1858.

6. The Plaintiff insisted upon
having the land for himself
to the exclusion of the 2nd Defendant
on the ground that the 2nd De:
=fendant had once expressed
to him that he did not require
the land.

7. In the enquiry held by
the Thasildar there was a suf=
=ficient amount of circumstantial
evidence for a presumption
that the Plaintiff addressed
the above two petitions with a
view to secure the land for
himself.

8. The 2nd Defendant Venca=
:tachella Chetty alone applied
for the land on two former
occasions before the date of
the joint application and therefor
Mr Hathaway thought it highly
improbable that the 2nd Defen=
=dant should have addressed
the above petitions. This cir=
=cumstance coupled with the
fact of the Plaintiffs' un=
=willingness to take a joint
puttah for the land, induced
Mr Hathaway to make over
the land to the 2nd Defendant

to the exclusion of the Plaintiff.

9. For the foregoing Reasons the 1st Defendant begs the Court will pass a decree in favor of the 1st and 2nd Defendants with all costs.

E. G. Smith
Sub Collector
in Charge

Proceedings of the Madras Government.
Under date the 6th August 1859
Read the following
Proc. of the Board of
Revenue.

Reporting the institution of a suit in the Sub Court against the late Acting Collr of Salem and another, for the recovery of a piece of land, with well therein, made over to the 2d defendant; and proposing for approval an amended draft answer.

(Presented 4 Augt 59
No 3009)

The Board the Go
in Council grants authori
for the defence, in the first
instance at the public expe
of original suit No 4 of 185
instituted in the Subordin
Court of Salem by one Ambi
nien of Adamancottah in
the Dharampoory talook,
against the late Acting Collr of
Salem and another; but w

No 32.

Ltr a Letter from
the Sub Collector
in charge of Salem
dated the 30th July
1859 No 153

Ltr the 2nd Dpty Collr
Dated 14th

Answer for
to be filed in
C. S. No 4 of 1859
the Sub Collector
in charge of Salem
on behalf of
Kathavarayan Pillai

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 Govt.

2 2 The draft answer prepared by the Board of Revenue will be substituted for that proposed to be filed by the Sub Coll in charge.

J. A. H.

To the Board of Revenue

& Collr

To

The Secy to Govt Revenue Dept. 6

Revenue 1859 Dept.
Pro: of Govt. 12th August.

No. 1059.

Proceedings of the Madras Government.

Dated 6th August 1859

From B. of Rev. 15th July '59
Cr. 1693 in Pro. 23rd & ad. No. 1059

Original Suit No. 40 of 1859 on the file of the Sub Court of Salem, to be defended, at public cost.

No 9 & 10