M.R.O. 14—10,000—21-4-32

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1221 Press Mis.

Dated 16th September 1859.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, from 10th to 16th September 1859.

No. 11. Read the following Proceedings of the Board of Revenue, dated 2d September 1859, No. 3465.

Read the following letter from the Collector of Chingleput, dated 24 August 1859, No. 316.

(In Con. 26th August 1859, No. 4255.)

Principal Sudar Ameen's Court of Chingleput O. S. No. 2 of 1859.

Plaintiff.

Periamandun of Maungaudoo Poonamallee Talook.

Versus.

1. Saravana Moodelly of Maungaudoo.
2. His Goomashta Veerabadra Pillay.
3. Soobaroya Pillay of Matavelagum.
4. Veerasawmy Pillay the then Zillahdar of the Taqhil.
5. Krisnier Tahsildar of Poonamallee Talook.
6. C. J. Shubrick Esq., Collector of Chingleput.

With the foregoing letter the Collector forwards the Pleadings in the Suit (particularized in the margin) instituted against him and 5 others under the following circumstances.

2. The Plaintiff sues for the recovery of Rupees 105-10-8, the alleged value (after deducting the Government assessment of Rupees 15-13-4) of his Car produce and straw which were attached and sold on account of a balance due to Government by 1st Defendant.

3. The Plaintiff states that he has long been in the enjoyment of 2 pieces of Nunjah land Nos. 780 and 788 bearing the abovementioned teervah of Rupees 15-13-4 payable to Government. The lands are said to be situated in the Curdigay lands of which P. Soobroya Pillay is Meerassdar, and Plaintiff holds them on condition of paying the teervah. The produce and straw raised by him in Fusly 1267, were, he states, attached for certain balances for that and the previous Fusly due by one P. Teerooveedyan, a resident of the same village; and sold under the orders of the Collector, without any notice being given to him. After the produce was cut it was left unmeasured for 4 months, by which Plaintiff was subjected to loss. He asserts that a sale advertisement, in Teroovidian's name, was deceitfully stuck up in his house in October last and declares that there was no balance due by him to Government.

4. The draft answer submitted by the Collector is unnecessarily lengthy and might have been condensed with much advantage; its substance is that the entire village in which the lands referred to are situated, is entered in the revenue accounts as the Meerassy of Saravana Moodelly (1st defendant) who holds a puttah for it. The cultivation is carried on in his name, and all payments are credited to his account. He fell into arrears, and the crops raised in certain of the lands entered in his puttah were attached and sold in the usual course, and the proceeds carried to his account.

5. The proceedings of the Collector seem to have been strictly legal and Plaintiff's remedy is against 1st defendant alone.

6. The Board intend however to instruct the Collector in future similar cases to attach lands in the actual occupation of defaulting Puttahdars in the first instance, avoiding process against their subtenants as much as possible.

7. The Board have amended the draft answer which he has submitted and have struck out much irrelevant matter; with these modifications they recommend that he may be authorized to file it, and to conduct the defence in the first instance at the public cost.

(A true Extract.)

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

No. 12. ORDER THEREON, 10th September 1859, No. 1221.

The Government grant authority for the defence in the first instance of the Suit No. 2 of 1859 instituted in the Principal Sudder Ameen's Court of Chingleput against the Collector and others; 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 him or by the Government. The draft answer will be filed as amended by the Board; but it is necessary that it should contain a specification of the provisions of law on which the proceedings in question were based, and the Board will see that this omission is supplied.

2. While thus permitting the defence of the action, however, the *Governor in Council* is of opinion that the facts of the case, as they appear in the papers before Government, call for further enquiry and explanation. However the proceedings against the Plaintiff may have been strictly "legal," it appears very doubtful to Government for the following reasons, whether they were fair and bonâ fide. First. The defaulter himself appears to *Plaint para.* 2. have taken an active part in attaching the Plaintiff's crop. A defaulter aiding in the attachment of his own property; for so the notice must certainly have run. This seems to indicate that the proceeding was collusive; and that the Mirasdar secured the aid of the taluq officers to realize his alleged dues in an illegal manner.

2dly. It appears that the Plaintiff was not really a defaulter even to the 1st Defendant. He declares distinctly that he had paid his rent for Fusly 1266; and that for 1267 could not be considered overdue in May. The real defaulter to the Mirasdar, if any, was not Plaintiff, but Tiruvidian who probably had no goods forthcoming.

Para. 6 *of plaint.*

3rdly. Plaintiff naturally disliking to see his crop carried off by strangers, and making what was styled resistance, the Police powers and the Judicial powers of the Tahsildar were both called in to support the apparent misapplication of his revenue powers, and the Plaintiff was fined.

4thly. After the crop was attached four months elapsed before it was even measured, and it is impossible to say what waste and loss occurred in the interval. The delay is attributed in the "answer" to the Plaintiff, but it is obvious that he had no power to prevent the measuring as he had none to prevent the cutting and carrying off. The grain was ultimately sold on the 19th October 1858, above five months after the attachment.

3. The foregoing circumstances appear to Government to indicate an improper understanding between the táluq servants and the defaulter Saravana Mudali; and they request the Board to take such steps as they may consider proper to ensure a thorough investigation of the circumstances. This investigation should include the actual relations in connection with the land and with the Miras, subsisting between Saravana Mudali (Mirasdar and 1st Defendant) Soobraya Pillay, Teruvidian, and the Plaintiff; and the conduct of the revenue officers in respect to the latter on all the points noticed above. The result of the enquiry should be reported to Government.

4. The Governor in Council considers it to be very important to recognize and encourage the practice of subletting land, and to strengthen the titles of tenants; but this object cannot be attained if such practices as the present are allowed. The Government fully approve of the Board's intention to direct that in future similar cases land in the actual occupation of the defaulter shall be attached, instead of the crops of subtenants; and in their opinion the order should go further, and prohibit entirely the attachment of the bonâ fide crops of the tenants of defaulters.

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

R.S.

Memorandum

In this case a clear wrong appears to have been committed under colour of law, — but it appears to me that the acts done are in reality as indefensible in law as in equity.

2. A Mirásdár allows his Mist to fall in arrears & the Revd. authorities then attach, not his property real or personal, but the standing crop of one of his tenants. It is remarkable that the Collector nowhere specifies the provision of law under which he acted, a strange omission, especially in the "answer," and the Board do not supply the defect.

3. As I read the Regulat., however, the course followed was wholly illegal. The Regulation applicable to the case is 27 of 1802 which provides

As this is a case involving legal considerations connected with the interpretation of the local Regulations, I will not give any opinion until I have the advantage of Mr Morehead's assistance.
Wm Morehead
5 Sept 59

It appears to me that the Collector could only deal with the Mirdee of the Patch. To him he had to look for his Mist.

Third Plaintiff naturally desiring to see his crop carried off by strangers, and making what was styled resistance, the Police powers and the Judicial powers of the Thasildar are both called in to support the misapplication of his Revenue powers, and the Plaintiff is fined.

4th After the crop was attached four months elapsed before it was even measured; what waste and loss occurred in the interval it is impossible to say. The delay is attributed in the "answer," to the Plaintiff, but this is absurd, he had no power to prevent the cutting and carrying off, & how could he prevent the measuring

The

The grain was ultimately sold on the 19th Octr. 1858 above five months after the attachment. —

6. — The case appears to me to require further notice from Government. It is admitted to be important to encourage the practice of sub-letting land, and to strengthen the titles of tenants; but how can that be done if such practices as the present are allowed. I beg to suggest that the Collector should be directed to go to the spot and make personally a strict investigation into the case, as to the real relation of Savarana Pillay, (Miraadar & 1st Defendant) Srobraya Pillay Teruvidian

Teruvidian, and the Plaintiff, and the conduct of the Revenue officers in respect to the Plaintiff on all the points noticed above, and to make a full report without delay.

7. — As to the suit, if the Government concur in the views above stated respecting the law of the case, or even respecting its merits generally, I apprehend they will not sanction the defence of the suit, but will authorize the Collector to make an equitable adjustment of Plaintiff's claim.

An early order is necessary as the time for filing

filing an answer expires on the 21st Instant

[illegible]

Sept. 5 – 8 am

Order requesting whether any [illegible] in the [illegible] of the [illegible] [illegible] in the [illegible]. That there was [illegible] the [illegible] [illegible] [illegible] the fact [illegible] [illegible] that there was [illegible] between the [illegible] [illegible] & the [illegible]

[illegible]

Sept. 7

Rev. Dept.

No. 1221

Proceedings of the Madras Government

Under date the 10th Septr 1859

Read the following Proceedings of the Board of Revenue.

Recommending that the Collector of Chingleput be authorized to file the draft answer as modified by the Board in O.S. No. 2 of 1859 for the recovery of Rs 105-10-8 the alleged value of the Plaintiffs cas produce and straw which were attached & sold on account of a balance due to Govt by 1st Defendant.

(Here enter 2d Septr 1859 No. 3465)

The Government grant authority for the defence in the first instance of the suit No. 2 of 1859 instituted in the Principal Sudd. Amens Court of Chingleput against the Collector & others, but will determine when a copy of the

[illegible]

[illegible]

the decree is submitted, whether the acts, if any be adjudged against the Collector, shall be borne by him or by the Government. The draft answer will be filed as amended by the Board; but it is necessary that it should contain a specification of the provisions of law on which the proceedings in question were based, and the Board will see that this omission is supplied.

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of the action, however, the Governor in Council is of opinion that the facts of the case, as they appear in the papers before Govt, call for further enquiry and explanation. However the proceedings against the Plaintiff may have been strictly "legal", it appears very doubtful to Govt for the following reasons, whether they were fair and bonâ fide.

Plaint Para 2

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Para 6 of Plaint

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To The Board of Revenue
with 3 Encls

[illegible] No. 10

Revenue 1859 Departt.
Pro. of Govt. 16th Septr

No. 1221

Pro. of the Madras Govt.
Dated 10th Septr /59

Pro. of the Bd. of Rev. Dy 13. Octr /59.
Cho. 1898. in Cons. 10. Novr. No 56-57.
From Do. Dy 25. Novr. /59 Cho.
2174 in Cons. 7th Dec /59 No. 43-44
From Bd. of Rev. 9th March /60 Cro 652.

Granting authority to
defend O. S. No. 2 of 1859 on the
Chingleput Principal under
Ameen's file.

No. 1112.

207/87