M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1744	Press ~~Mis.~~
22-23	
Dated 22-12-1859.	

Not to be folded or roughly handled

No. 22. Read the following letter from J. D. SIM, Esq., Secretary to the Board of Revenue; to J. D. BOURDILLON, Esq., Secretary to Government; dated 16th December 1859, No. 5235.

I am directed by the Board of Revenue to submit, for the orders of Government, the accompanying letter from the Officiating Collector of Salem, dated 25th November 1859, relative to the suit particularised in the margin, in which he has been made a defendant.

In Consultation 29th Nov. 1859, *No.* 5940.
Subordinate Court of Salem.
O. S. 13 *of* 1859.
Plaintiff.
Mutthu Gounden, son of Rungiah Gounden of the village of Manucuttanur, Trichengode táluq.
Versus.
1. *Peruma Gounden, son of Cullaya Gounden of the above village.*
2. *Sengoda Gounden, son of Terumalu Gounden.*
3. *Peruma Gounden, son of Rungaya Gounden.*
4. *Cundapa Gounden, son of Ramaswami Gounden.*
5. *T. J. Knox, Esq., Offg. Col. of Salem.*

2. The facts of the case, as collected from Mr. Knox's letter, seem to be as follow;—

3. The Plaintiff, on the 16th February 1856, presented an application for the land referred to in this suit on kaul tenure. Subsequently, on the 6th March 1857, four other parties (two of whom like plaintiff were sons of the former Pattidars of the land) applied for the same land. After some enquiry as to the former occupants, and the preferential rights of the several applicants, the Tahsildar issued an order to the village Karnam, on the 11th April, directing him to make over the land to the four persons who had preferred the second application.

4. When plaintiff found that the opposite parties had obtained the land, he commenced to cultivate it. His opponents also at the same time cultivated a portion of it, with the permission of the Tahsildar.

5. On the dispute coming before the Sub Collector, Mr. Grant, at the settlement for Fasli 1267, he decided that the plaintiff, as first applicant, should have the land on full assessment, and issued a putta in his name, but the Collector, on an appeal being preferred to him, cancelled Mr. Grant's decision, and ordered the land to be made over to the other parties, who are defendants in this suit. A putta was accordingly issued in their names, and the object of the suit now instituted is to obtain a decree compelling the present Officiating Collector to cancel the putta issued under the orders of his predecessor.

6. In his proposed answer the Officiating Collector admits the fact that plaintiff was the first applicant, but contends that this does not *per se* give him an absolute right to the land; he also points out that plaintiff took possession of the land without permission, and justifies the act of the Collector in disposing of it as he did.

7. In his report, lengthy as it is, the Acting Collector has omitted one important particular, viz. the year in which the disputed land was given up by its former occupants. Some limit of time must be assigned within which claims founded on former occupancy can be admitted, for to allow of their revival after any lapse of time, and just when others want the land is clearly unjust to the general community. Moreover, it is not the business of the revenue authorities when waste land is applied for, to endeavour to trace out persons, who may possess antiquated claims on it, and such a course only leads, as in this case, to complication, and involves Government in unnecessary litigation. A notice duly published in the village where the lands are situated, is all that can be reasonably expected from the officers of Government, and those interested may, after such notice, be left to look after their own rights. Considering that plaintiff applied for the land in February 1856, while those now in possession sought it only in March 1857, or 13 months later, the Board certainly prefer the Sub Collector's decision to that given by the Collector in appeal. As, however, the defendants are and have been in possession (which the Board cannot disturb) the following appears to the Board a more appropriate answer than that proposed by the Acting Collector.

ANSWER.—"The decision of the late Collector, which plaintiff seeks to annul, was passed by that officer in good faith, after full investigation and was within his powers as Collector of the district. The land having been left waste for several years, its disposal rested entirely with him."

8. The points referred to in paragraph 7 will be provided for in the hukmnáma which will accompany the revision of assessment. The kaul system has already been considered by the Board and placed on a proper footing.

9. The time for filing an answer in this suit expires on the 7th proximo.

No. 23. ORDER THEREON 22nd December 1859, No. 1744.

The Honorable the Governor in Council sanctions the defence, in the first instance at the public expense, of Suit No. 13 of 1859 instituted against the acting Collector of Salem

and others, in the Subordinate Court of the district, by Mutthu Gounden; 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 the Government.

2. The Government request that the Board will lay before them, their order on the subject of kaul referred to in paragraph 8; and that they will submit the proposed hukmnáma for approval before issuing it. It appears to Government that under the present greatly simplified revenue system a hukmnáma should be an extremely brief and simple document.

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

R. C 3

№ 1744

Proceedings of the Madras Government

Under date the 22nd Decr. 1859

Read the following letter

from the Secretary to the Board

of Revenue.

Submitting a letter from the officiating Collector of Salem relative to a Suit instituted against him and others in the subordinate court, & recommending that the defence may be conducted in the first instance at the public expense.

(Here enter 15 Decr. /59 № 3235)

Suit

The Hon: the Govr: in Council sanctions the defence, in the first instance at the Public expense, of Suit № 13 of 1859 instituted against the acting Collector of Salem and others, in the Subordinate Court of the district by Muttoo Goundan; but will determine, when a copy of the decree is

Rec. 15 Dec. 1859
Board of Revenue
№ 2410

From

The Secretary to the
Board of Revenue

To

The Secretary to Govt.
Fort St. George

Cadastral Office
Dated 20
Rec'd 21
Encl. 1 Letter
3 Copies
Subject

Collector of Salem
Suit instituted in the Subordinate
Court against the Collector &
others for the recovery of a piece
of land & for damages for
certain land & for damages for
the Plaintiff

№ 1744, 22 Dec.

is submitted. whether
the costs, if any be
adjudged against
the Collector, shall
be borne by that
Officer or the Govt.

2 The Govt re-
quest that the Board
will lay before them,
their order on the
subject of Haul
referred to in para 8,
and that they will
submit the pro-
posed Instruction
for approval
before issuing it.
It appears to Govt
that under the
present greatly
simplified Revenue
System a Instruc-
tion should be
an extremely brief
and simple docu-
ment.-

6 Copies
to The Dy: Surveyor Dated 25th
with D.O. Letter

Revenue 1859 Departt.
Pro: of Govt. 31st Decr.

No 1744.

Pro: of the Madras Govt.
Dy 22d Decr. 59.

Pro: of the Bd of Revt. Dy 19th
No 16 & 2549 inst.

Defence in O. S.

No 13 of 1859 on the Salem
Sub Court file, sanctioned

No 22 & 23-

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