

Revenue Department

No. 205

Dated 15-2-1859

Fort Saint George, Revenue Consultation of 15th February 1859.

No. 65. Read the following Extract from the Proceedings of the Board of Revenue, dated 9th February 1859, No. 477.

Read the following letters from the Collector of North Arcot.

(No. 8, 19th in Con. 27th January 1859, No. 282.)

(No. 21, 31st January in Con. 3rd February 1859, No. 435.)

With the first of the above letters the Collector submits the pleadings in O. S. No. 8 of 1853, on the file of the Subordinate Court of Chittoor, in which he has been made a Defendant.

2. The Plaintiff it would seem obtained in Fusly 1262 two Cawnies of Poonjah Porumboke land on Cowle to plant a tope, and an equal extent on Durkhast for cultivation, both being parts of a Poonjah tract numbered 215 in the accounts.

3. He did not however cultivate any portion of this land till Fusly 1267, but in Fuslies 1263, 5, 6 and 7, he planted trees and cultivated parts of Nunjah fields bearing the Nos. 1253, 1254, 1255, 1256, 1262 and 1263.

4. The assessment demanded from Plaintiff, for the whole of the abovementioned land cultivated by him, was Rupees 141-3-5, of which he paid Rupees 34-2-10. Subsequently Rupees 107-0-7 were recovered by distraint and sale of his property. This left a balance of Rupees 77-6-2 which sum it will be seen from the second of the letters recorded above, he has now paid, without however withdrawing the Suit.

5. The grounds on which Plaintiff prefers his Suit are that the lands he cultivated were portions of the four Cawnies of Punjab No. 215 he obtained in Fusly 1262 on Cowle and Durkhast, but that from malicious motives the public servants changed the number of the said land in order to make him liable for Nunjah Teerwah.

6. The question therefore is one of fact, and as the Collector seems prepared to make good the allegations contained in his Answer which negative those of Plaintiff, the Board recommend that he may be authorized to file his proposed Answer and conduct the defence in the first instance at the expense of Government.

7. The Collector should also in his answer note the fact of Plaintiff having since paid the whole balance due by him.

8. The Board remark that there has been great remissness on the part of the local authorities, in allowing Plaintiff to fall into arrears for so many successive years.

(A true Extract.)

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

No. 66. ORDER THEREON, No. 205 ; dated 15th February 1859.

Before authorizing the defence of the Suit referred to in these papers, the Governor in Council wishes for some further explanation respecting the case.

2. The Plaintiff obtained four Cawnies of land ; he applied for it as Poonjah, and it was given to him by the proper officers as Poonjah. When he cultivated under this authority he was charged as for Nunjah land. It does not appear clear whether he cultivated the land assigned him or other land ; if the former, the mistake is clearly that of the village officers and the Plaintiff ought not to suffer. It does not appear in the papers that he cultivated Nunjah crops or used Government water.

3. If on the contrary the land cultivated was not that assigned to the Plaintiff, then it is to be enquired whether the mistake was his, and whether the proper land was duly pointed out to him. It appears from the closing part of para. 3 of the Collector's letter of 19th January, that even the village Curnum was uncertain whether the land cultivated was really the land given to Plaintiff, or perhaps whether it had been rightly described in the order giving it to him, for the correctness of which description the Curnum is responsible. The Board will be pleased to report the facts, with their own opinion ; and they will instruct the Collector to obtain further

Fort Saint George, Revenue Consultation of 15th February 1859.

time for filing his answer, on the ground that it is under consideration whether the case is to be defended or not. He may be directed, if this should be refused to file the answer proposed by him, subject to any amendments which the Board may think fit to make.

4. In the Board's Proceedings the plaint in such cases should precede the draft answer instead of following it as in the present instance.

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

IN CON. 3RD FEBRUARY 1859, No. 485,
From C. WHITTINGHAM, Esq., Collector of NORTH ARCOT,
dated Chittoor, 31st January 1859, No. 21.

I have the honor with reference to para. 6 of my letter of the 19th January 1859, No. 8, to state for the information of the Board that, I have received a report from the present Tahildar of Caveripauk dated 27th instant, informing me that Stree Rama Iyengar, the plaintiff in the Civil Suit referred to in my letter, paid on the 17th and 20th instant, the entire balance due on account of the Nunjah lands as shown in the Statement subjoined to para. 6 of my letter. The Tahsildar states that the payment was entirely voluntary on the part of Stree Rama Iyengar. The suit however has not been withdrawn.

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IN CON. 22ND JANUARY 1859. No. 282.
From C. WHITTINGHAM, Esq. Collector of NORTH ARCOT,
dated Chittoor, 19th January 1859, No. 8.

Para. 1. I have the honor with reference to Clause 2, Section II, Regulation I of 1823 and Circular Order Board of Revenue 19th April 1827, to submit for the consideration of the Board the draft of a proposed answer in a Suit brought against me as Collector, and which I request I may be permitted to defend at the public expense.

2. The Plaintiff Stree Rama Iyengar has brought the Suit to recover what he states to be an over exaction of assessment for some Poonjah land held by him, whereas the assessment in question was levied on other land cultivated by him. In the draft of the answer therefore I have confined myself to this one point, but in order to enable the Board to form a more complete opinion of the case; I beg to submit the following additional particulars.

3. In Fusly 1262 the Plaintiff obtained a Cowle from Mr. Brett the then Acting Collector for 2 Cawnies of Poonjah Porumboke land being a portion of No. 215 for the purpose of planting a tope; and he obtained on durkhast 2 more Cawnies of the same number of Porumboke Poonjah for cultivation. The Plaintiff however did not cultivate any portion of these 4 Cawnies, but he planted trees in a portion of No. 1262 of Nunjah land. The extent of this portion was 1-14-12; he also cultivated portion of 1253, 1254, 1262, the total of those portions being 1-12-12. The Plaintiff was therefore liable to pay in Fusly 1262 Nunjah assessment, both for the land planted by him, with trees, which was not the land specified in the Cowle, and for the land cultivated by him. He was not however called upon to pay the Nunjah tax and the portions of the several Nunjah number above referred to were entered in Plaintiff's putta as being a part of No. 215 Poonjah Porumboke. In explanation of the circumstance of these several portions of Nunjah numbers, having been entered in the Plaintiff's puttah as a part of one Poonjah number viz. 215, the Curnum explains that in that Fusly the land in question was rightly entered as portion of different Nunjah numbers, in the Adungul and Azmaish accounts but that at the Jummabundy he was directed, pending the final decision on the point whether the land was the Poonjah land specified in the Cowle, or the Nunjah land entered in the account of that year, to enter the land in the Plaintiff's puttah as Poonjah No. 215 i. e. the land specified in the Cowle. As far as that Fusly is concerned matters have remained as they were placed at the Jummabundy. No Nunjah teerwah has been at any time demanded from the Plaintiff for the land cultivated in that Fusly.

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4. In Fusly 1863 the trees planted by the Plaintiff in a portion of Nunjah number 1262 having died, he cultivated 2-1-0 of that number, and portion also of Nos. 1253, 1254, 1255 and 1256, all these numbers being entered in the Tarum Chittah as Nunjah. Mr. Binning accordingly at the Jummabundy of Fusly 1863 gave a Puttah to the Plaintiff in which these numbers were described as Nunjah and the Plaintiff was charged the Nunjah assessment thereon. The demand was Rs. 27 As. 8 P. 2, and the Plaintiff paid Rs. 14 A. 6, leaving a balance of Rs. 13 A. 2 P. 2. As the extent of the land cultivated by the Plaintiff in that Fusly was Cs. 3 As. 13 Ch. 8 of which the Poonjah teerwah would have been Rs. 9 A. 15 P. 6, the Plaintiff by paying Rs. 14 A. 6, would seem to have acknowledged, that, the land was not a part of Poonjah No. 215.

5. In Fusly 1264, no cultivation was made by the Plaintiff, and consequently there was no demand against him. In Fuslies 1265, 1266 and 1267, the Plaintiff cultivated as before different portions of Nunjah numbers, and paid part of the teerwah thereon, with-holding the rest. In fusly 1267, he cultivated also a portion of Poonjah No. 215 which was entered in his puttah.

6. As no account of individual defaulters is persisted in with-holding their teerwah, and to report to me their having done so. The Tahsildar of Cauveripanck neglected to obey this order in this instance, and on personally examining in Fusly 1267 the individual balances outstanding in that Talook, and finding that the Plaintiff had continued to with-hold the payment of the amount due by him, I directed that his

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23/5/59

Why not, if
on Cowle -
The cowle
is in the
above
that is not
the land
cultivated by

8. A translation and a copy of the Complaint are herewith submitted.

ENC. 1.

2. In Fusly 1267 the Plaintiff cultivated 0-13-0 of the said land and received his puttah for it. The land for which the Plaintiff states he obtained a cowle has thus become the property of others by his default.

3. In Fuslies 1263, 1265, 1266 and 1267 the Plaintiff cultivated portions of Nos. 1253, 1254, 1255, 1256, 1262, and 1263 which are entered in the Revenue Accounts as Nunjah Land. A puttah Nunjah teerwah due thereon was levied from the Plaintiff, but no Nunjah tax was ever levied or demanded on No. 215, which is entered in the accounts as Poonjah Poromboke. It is therefore requested that the Plaintiff may be non-suited and that the costs of suit be recovered from him.

Under orders from the Board of Revenue dated 24th June 1839, the 1st Defendant, the Collector, begs to state that no separate appearance or answer is made on behalf of the Native Servants included in this action because they acted under the orders of their superior, who is alone responsible.

ENC. 2.

ENC. 2.
Motion filed in the Sub Court at Chittoor by Moorapaukum Cundaday Streerama Iyengar, a Bramin residing at Moosurpaukum in the Talook of Cauverypauk, gaining his livelihood by cultivation, against (1) C. Whittingham Esq., Collector of North Arcot, (2) Seetaramiah of Wallajahpet, late Tahsildar of Cauverypauk Talook, (3) Sabapathy Pillay, (4) Calaya Pillay, Curnums, (5) Ragavacharrier, (6) Anuntha Charrier, and Vegeyaragaviengar, Monigars of Moosurpaukum.

1. I made an application to the late Collector to allow me two Cawnies for planting a charity tope, and two Cawnies for cultivation, out of the land situated West to the Poonjah land, No. 214 in Moosurpankum, and to the old spring Channel, North to the Curnums Nunjah Moniem, No. 1259 and Sivalingum, kum, and to the bend of the new spring Channel, and South to the road. From the Collector's enquiry it was ascertained by documents produced by the 2nd, 3rd, 5th, 6th, and 7th Defendants, that the land within the above said limits formed part of the 224 Cawnies of Poonjah Porumboke No. 215. A Moochilka was then taken from me; and on the 26th June 1852, in accordance with my application, a Cowlenamah for two Cawnies on account of the tope was given to me, and a Takeed No. 322, issued to the 2nd Defendant to give me the two Cawnies to be cultivated.

2. Subsequently in fusly 1262, I planted a tope on the two Cawnies, and also cultivation on C. 1 A. 12 Ch. 12 of the above land. At the Jamabundy settlement of that Fusly, this C. 3 A. 12 Ch. 12 of land, was entered in the Poonjah No. 215 mentioned in the cowle, and assessment of Rs. 10 As. 5 P. 0, at the rate of Rs. 2 As. 10 P. 11 per Cawny, was fixed, and after deducting remission therefrom of Rs. 5 As. 5 P. 9 on account of the two Cawnies for a charity tope, a puttah was prepared for the remainder Rs. 4 As. 15 P. 3, and that amount was received from me.

3. Accordingly, I continued to cultivate Poonjah on the above land up to the present time, but, through spite, the 3rd, 4th, 5th, 6th and 7th Defendants, with the connivance of the 2nd Defendant, had, from fusly 1263, contrary to the spirit of the above mentioned documents, changed the No. of the above said land, as also of the C. 2 A. 2 Ch. 4 of land annually cultivated by me and situated within the above said boundary as per Circular order in all C. 5 A. 15 Ch. 0, and fraudulently prepared a puttah shewing a balance against me of Rs. 106 As. 12 P. 5, as the Nunjah Teerwah due up to Fusly 1267. To this, I did not agree. In accordance to what was determined upon in Fusly 1262, I paid off, up to Fusly 1267, with the exception of the two Cawnies granted for growing a tope, Rs. 32 As. 12 P. 6, the Poonjah taram assessment for the extent of land cultivated. Thus, although I have paid in my demand without any arrears whatever, still, the 5th, 6th, and 7th Defendants not only compulsorily obtained Rs. 4 As. 11 P. 9 from me as the above said Nunjah balance, but also for the remainder Rs. 102 As. 0 P. 8, the 1st Defendant had my property sold in auction on the 19th September 1858, for the trifling sum of Rs. 31 As. 10 P. 0, which sum he remitted to the Hoozoor Treasury; and the Defendants are now demanding from me the remaining balance of Rs. 70 As. 6 P. 8.

4. In accordance with Clause II, Section I, Regulation I, of 1823, several Petitions have been presented on the subject, but as the 1st Defendant had not hitherto taken them into his consideration, I file this plaint.

5. I solicit the Court will be pleased to pass a Decree cancelling the demand of Rs. 106 As. 12 P. 5 mentioned in para. 3 of this plaint as a balance against me on account of the Nunjah assessment, and recover for me from the Defendants the sum of Rupees 37-2-0, viz. :

	Rs. A. P.
	31 10 0

	Rs.	A.	P.
the Defendants the sum of Rupees 37-2-0, viz.:	31	10	0
Sale proceeds of my property.....	4	11	9
Formerly collected from me.....	36	5	9
Excess collection.....	0	12	3
Add interest from date of auction to that of the present.....			
Total	37	2	0

As also the interest that may accrue hereafter and the cost of suit. I also request that in accordance

with the specification contained in the aforesaid Cowle and Takeed, I may be allowed to enjoy the C. 5 A. 15 Ch. 0 of land now in discussion. The assessment of this C. 5 A. 15 Ch. 0 of land amounts, at the present Poonjah rate of 2 Rupees the Cawny, to Rs. 11 As. 14 P. 0 of this after deducting remission of 4 Rupees for the 2 Cawnies forming the charity tope, there remains Rs. 7 As. 14 P. 0 which sum, I request may be decreed to be the assessment to be paid annually by me. The Cowle mentioned above is herewith submitted.

23rd November 1858. (Signed) A. S. Moorapakum Cundaday Streerama Iyengar.

Filed in Court this 7th December 1858.

(Signed) J. H. GOLDIE,
Subordinate Judge.

(True copy.)

(Signed) W. S. NESBITT,
Acting Subordinate Judge.

(True Translation.)

(Signed) C. WHITTINGHAM,
Collector.

Exc. 3.—Tamil Document.

*Can be taken for
23/12/58*

23/12/58

Rev Depy

No 205.

Extract from the Minutes of Com.
Under date the

Read the following
Extract from the Process
of the Board of Revenue
(Here enter of July 1858
4/7)

Before authorizing
the defence of the Suit
referred to in these
papers, the Governor in
Council wishes for
some further explanation
respecting the case.

2. The Plaintiff ob-
tained four Cawnies of
land; he applied for
it as Poonjah, and it
was given to him by
the proper Officers as
Poonjah. When he cul-
tivated under this au-
thority he was charged
as for Poonjah land.
It does not appear
clear whether he
cultivated the land
assigned

*He
J.
Wm*

assigned him or other
land; if the former, the
mistake is clearly ^{that} of
the Village Officers
& the Plaintiff ought
not to suffer. It does
not appear in the
papers that he cul-
tivated any crops
or used Govt. water.

3. If on the contrary
the land cultivated
was not that assigned
to the Plaintiff, then
it is to be enquired
whether the mistake
was his, and whether
the proper land was
duly pointed out
to him. It appears
from the closing
part of Para 3 of the
Collector's letter of
19 January, that
even the Village Gov-
ernor was uncertain
whether the land
cultivated was
really the land given

* perhaps whether it had been
rightly described in the order
giving it to him, for the
correctness of which descrip-
tion the Government is responsible.

* the answer proposed by him,
subject to any amendments
which the Board may think
fit to make.

to Plaintiff, or ~~not~~.
~~If there was this doubt~~
~~it would seem best~~
~~to make the Plaintiff~~
~~offer~~. The Board will
be pleased to report
the facts, with their
own opinion, and
they will instruct
the collector to obtain
further time for
filing his answer,
on the ground that
it is under consider-
ation whether the
case is to be defended
^{He may be directed,}
or not - ^{if this should}
be refused ~~he may~~
~~be directed to file~~
~~a formal answer~~
4. In the Board's
Proceedings the Plaintiff
^{in such cases}
should precede the
draft answer, in-
stead of following
it as in the present
instance.

3 Copies to the H. G. Govt.
Dy. 16

DA

November 1859 adjourned.
Case: 15th February.

21st 205.

C.
Contract clause of Case:
21st 15th February 1859.

1st Term 13th of June 1859 / 15th of June 1859
Case: 22nd 14 26 in Case: 22.

Calling for some further
explanation respecting the Q. S.
of 1859 on the side of the
and Court of Chancery before
outstanding the defense of the
suit and seeing the Court
to instruct the Clerk to
obtain further time for
filing his answer and if
this should be refused to
file the answer proposed
by him &c.

1859 66.