M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 521	Press / Mis.
Dated 12. 4.	1859.

Not to be folded or roughly handled

Fort Saint George, Revenue Consultation of 12*th April* 1859.

No. 89. Read the following Extract from the Proceedings of the Board of Revenue, dated 25th March 1859, No. 1053.

Read the following letter from the Acting Collector of Malabar, dated 10th January 1859, No. 4.

(In Con. 17th January 1859, No. 203.)

In Con. 7th November 1857. Resolved that the foregoing letter and its accompaniments be submitted to Government with reference to Extract Minutes of Consultation dated 17th October 1857, R. D. No. 1065.

2. The Acting Collector submits copies of the Decrees of Civil Court of Tellicherry in Appeal Suits Nos. 63 and 86 of 1857.

3. In the first case the action was instituted for the recovery of the Kottikalla Hill valued at Rs. 150 which the Collector had made over to certain Coffee planters for cultivation; and in the second, it was sought to recover payment of a Salt compensation allowance amounting annually to Rupees 82-14-0.

4. In both cases the decisions of the lower Court, which were in favor of the Collector, have been affirmed in Appeal by the higher Court.

(A true Extract.)

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

No. 90. ORDER THEREON, No. 521; dated 12th April 1859.

Ordered that the foregoing Extract be recorded.

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

No. 203. From P. GRANT, Esq., Acting Collector of MALABAR, dated Buddagherry 10th January 1859 No. 4

To Board of Revenue dated 3rd August 1857 No. 125.
From do. 7th October 1857 No. 3353
From do. 7th November 1857 No. 3812.

With reference to the correspondence noted in the margin, I have the honor to forward for the information of the Board, copies of Decrees of the Civil Court of Tellicherry, in Appeal Suits Nos. 63 and 86 of 1857.

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ENC. 1.

DECREE OF THE CIVIL COURT OF TELLICHERRY.

Original Suit No. 7 of 1855 on the file of the Principal Sudr Ameen of Tellicherry.

Appeal Suit No. 63 of 1857 on the file of the Civil Court of Tellicherry.

1. Naddoovillay Madatil Shreekristna—dasabharada alias Mannaputter Samy.
2. Tekkoomoottunum.
3. Vadakkoomoottunum.

Versus.

1. J. C. Grant Esq. (deceased)
2. T. R. Richmond Esq.
3. A. Brown Esq.
4. H. V. Conolly Esq. Collector of Malabar (deceased.)
5. T. Clarke Esqure. Collector of Malabar.

1. Naddoovillay Madatil Shreekristna-dasabharada alias Mannaputter Samy.
2. Tekkoomoottunum.
3. Vadakkoomoottunum by Vakeel Sheshien and Krishna Menon.

Versus.

1. A. Brown Esq.
2. W. Robinson Esq. Acting Collector of Malabar.

1st. Respondent by Vakeel Kellun.
2d. By Government Vakeel Mootta Podwal.

This was an action for the recovery of a Hill bearing the name of Kottikalla in the Elloornad sub-division of the Wynaad Talook, on the ground that it is the Jemum property of the Trinelly Temple of which the Plaintiffs are Ooralers or Trustees; the 1st to 3rd Defendants having taken possession, and planted it with Coffee. The Hill is valued at Rupees 150.

2. The 5th Defendant, Collector of Malabar, stated that the Hill is forest land, 5 miles distant from the Temple, from which it is separated by a range of Hills, and that the Plaintiffs possess no rights whatever in the Hill in question.

3. The Principal Sudder Ameen, before whom the case was tried in the first instance, dismissed the suit with costs. The appeal Plaint contains no additional argument which requires remark.

JUDGMENT.

4. The Plaintiffs in this case have produced no written proof in support of their claim, although the onus of such proof clearly rests upon themselves, as the parties out of possession, and the evidence adduced as regards the exercise of acts of ownership on their part in former years is of a character much too vague and unsatisfactory to form the basis of a judicial decision. The Civil Judge confirms the original Decree, and dismisses the Appeal with costs.

COSTS.

Stamp duty on institution under Section XIII Regulation XIII of 1816.				8	0	0
Fee of Appellant's Pleader under Section XXV Regulation XIV of 1816...				7	8	0
Do. of 1st Respondent's do. under do. do.				7	8	0
Do. of 2nd do. do. under do. do.				6	0	0
Value of Stampt papers filed by Appellants...				5	0	0
Do. do. by 1st Respondent...				5	0	0
Do. do. by 2d do.				3	12	0
Expences incurred by Appellants in serving processes...						
			Rupees.....	50	4	0
COSTS INCURRED IN THE LOWER COURT VIZT.						
By Plaintiffs, Appellants...	43	13	0			
By 5th Defendant...	17	11	0	61	8	0
			Total Rupees.....	111	12	0

EXHIBITS, &c. FILED IN COURT

Appeal Petition 1, Appellant's Vakalutnamahs 2, Mookiastan's report 1, 1st Respondent's Vakalutnamah 1, Answer 1, 2d, Respondent's Vakalutnamah 1, Answer 1, Miscellaneous Petition No. 872 of 1858 presented by Appellant 1, Bundle of Original Proceedings 1.

Given under my hand and the Seal of the Court this 13th day of October 1858.

(Signed) H. FRERE,
Civil Judge.

Sealed and Signed this 18th day of December 1858.

The period for preferring a Special Appeal from this Decree will expire on the 17th day of March 1859, within which time the application for Special Appeal accompanied by copies of the several Decrees previously passed on the case must be presented to the Court of Sudder Udalut, or the application will be rejected.

No application for the execution of this decree can be entertained after the lapse of 12 years unless excepted from the general rule of limitation prescribed in Clause IV Section XVIII Regulation II of 1802 on one or other of the grounds specified in that section.

(Signed) H. FRERE,
Civil Judge.

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ENC. 2

DECREE OF THE CIVIL COURT OF TELLICHERRY.

Original Suit No. 5 of 1856 on the file of the Court of the Principal Sudr Ameen of Tellicherry.	Appeal Suit No. 86 of 1857 on the file of the Civil Court of Tellicherry.
1. Pattoovatty Coonjy Cootty. 2. Cunnun. Versus. T. Clarke, Esq., Acting Collector of Malabar.	1. Pattoovatty Coonjy Cootty. 2. Cunnun. Versus. William Robinson Esq., Acting Collector of Malabar, by the Government Vakeel, Amboo alias Mootta Podwall.

1. The original action was instituted for the recovery of a Padanna, or Salt pan, at Andaloor in the neighbourhood of Tellicherry, bearing the name of Kadavatta Padanna, and yielding a net income annually of Rupees 82–14–0, on the ground that it is the jemum property of the Plantiff's family; together with the net profits for 8 years, commencing with the year 1847–8, being Rupees 663.

2. The defendant answered that the Salt pan is the jemum property of the Government, a fact which had been expressly admitted by the father of the 1st Plaintiff; and that the Government as proprietors, were legally competent to dispossess the Plaintiffs, but that as an act of indulgence full compensation had been allowed them for the expences and labour which they had incurred in forming the Salt pan.

3. The Principal Sudr Ameen, who tried the case in the first instance, expressed his opinion that the Plaintiffs had failed to establish their case as stated in the Plaint, and dismissed the suit with costs.

4. The Plaintiffs appealed, urging that they are entitled to the net annual receipts as a matter of legal right.

5. The Respondent in his answer, urges that the Plaintiffs were simple tenants at will, and that "whatever plea for consideration might be urged with Government, Appellants have, and can establish "nothing on which they can claim indulgence as a legal right."

JUDGEMENT.

6. The Civil Judge considers that the Principal Sudr Ameen has taken a just view of this case in his Original Decree, and that its merits are correctly stated in the answer of the Respondent, the late Acting Collector of Malabar.

7. The Civil Judge proceeds therefore to confirm the Original Decree, and dismisses the Appeal with costs.

Costs.	Rs.	As.	Ps.	Rs.	As.	Ps.
Stamp duty on institution under Section XIII Regulation XIII of 1816	32	0	0			
Fee of Respondent's Pleader under Section XXV Regulation XIV of 1816	40	0	0			
Value of Stamp paper filed by Respondent	5	0	0			
Expences incurred by Appellant in serving processes	0	12	0			
				77	12	0
Costs incurred in the lower Court viz.						
By Plaintiff, Appellant	80	5	0			
By Defendant, Respondent	48	12	0			
				129	1	0
Total Rupees				206	13	0

Exhibits &c., filed in Court.

Appeal Pettion 1, Notice 1, Respondent's Vakalutnamah 1, Answer 1, Miscellaneous Petition No. 541 of 1858 presented by Appellant 1, Bundle of Original Proceedings 1.

Given under my hand and the seal of the Court this 30th day of November 1858.

(Signed.) H. FRERE,
Civil Judge.

Sealed and Signed this 21st day of December 1858.

The period for preferring a Special Appeal from this Decee will expire on the 20th of March 1859, within which time the application for Special Appeal accompanied by copies of the Several Decrees previously passed on the case, must be presented to the Court of Sudder Udalut, or the application will be rejected.

No application for the execution of this Decree can he entertained after the lapse of 12 years unless excepted from the general rule of limitation prescribed in Clause IV Section XVIII Regulation II of 1802, on one or other of the grounds specified in that section.

(Signed.) H. FRERE,
Civil Judge.

(True Copy.)
(Signed.) P. GRANT,
Acting Collector.

No. 1053.

EXTRACT from the PROCEEDINGS of the BOARD of REVENUE, dated 25th March 1859.

Read the following letter from the Acting Collector of Malabar, dated 10th January 1859, No. 4.

(In Con. 17th January 1859, No. 203.)

Resolved that the foregoing letter and its accompaniments be submitted to Government with refer-
In Con. 7th Nov. 1857. ence to Extract Minutes of Consultation dated 17th October 1857, R. D. No. 1065.

2. The Acting Collector submits copies of the Decrees of the Civil Court of Tellichery in Appeal Suits Nos. 63 and 86 of 1857.

3. In the first case the action was instituted for the recovery of the Kottikalla Hill valued at Rs. 150 which the Collector had made over to certain Coffee planters for cultivation; and in the second, it was sought to recover payment of a Salt compensation allowance amounting annually to Rupees 82-14-0.

4. In both cases the decisions of the lower Court, which were in favor of the Collector, have been affirmed in appeal by the higher Court.

(A true Extract.)

Secretary.

To

J. D. BOURDILLON, Esq., Secretary to Government, R. D.
Copy to Collector of Malabar.

Coast: 20th Oct 57 No 32433.

Revenue 1859 Depart.
Cons 12th Dec Proc
370

Extract from the Proceedings of the Board of Revenue.

Dated 25th March 1859
Rec 26
1 Encl. No 1053

Submitting a letter from the Acting Collector of Malabar forwarding Copies of the Decrees of the Civil Court of Tellicherry in appeal suits No 63 and 86 of 1857.

No 321.

Recorded

12th April 1859

No 89 & 90.

c 29 Annul Rpt Appeal suits