M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 824 Press / Mis.

Dated 24th June 1885.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, from 18th to 24th June 1859.

No. 38. Read the following Extract from the Proceedings of the Board of Revenue, dated 17th June 1859, No. 2322.

Read letter from the Collector of Madura, dated 25th May 1859, No. 91.

(In Con. 4th June 1859, No. 2563.)

The Collector reports that he has been made a defendant in O. S. No. of 1859, on the file of the Sub Court of Madura, and requests permission to conduct the defence at the public cost.

2. The facts of the case may be briefly related as follows. A young female aged 15 succeeded with her three younger sisters to certain shares in two villages of the Shevagunga Zemindary, the Stridana property of their mother. On the death of the mother the father managed the property, and leased it in 1855 to one Soobramany Chitty for two years. During the continuance of the lease the father died and appointed his eldest son by another wife as guardian. On the expiry of the former lease the new guardian renewed it in 1857, for five years longer. In the year following, through the intrigues of the great uncle of the girls, a deed of mortgage (regarding the genuineness of which however doubts are entertained) was given to the Plaintiff Saigappa Chetty, hypothecating the property to him for four years, and an order was issued in the name of the eldest proprietress, directing the produce to be made over to the mortgagee.

Stridana. Property of every description obtained by a female—Strange's Manual para. 145.

(3d defendant.)

Also styled Cheekapeh in the correspondence.

3. Disputes followed and the case came eventually before Mr. Hathaway, the late Acting Collector, who passed an order directing that the shares of the village and the produce should be made over to the Plaintiff.

(3d defendant.)

4. Subsequently Soobramney Chetty presented a petition to the Collector, Mr. Clarke, representing among other things that the above-mentioned deed of mortgage was a forgery. After an investigation the Collector saw reason to doubt the legality of Mr. Hathaway's decision, and passed an order suspending it until he could enquire fully into the allegations of petitioner, and obtain the sanction of the Board for its cancelment.

5. Circumstances, however, presented the further enquiry from being immediately undertaken, and meanwhile, Plaintiff instituted the present suit, claiming 4,106 Rupees the value of the produce, which he states he was prevented from collecting in consequence of the orders issued by Mr. Clarke.

6. The Board of Revenue, upon a due consideration of the facts represented by Mr. Clarke, are of opinion that he acted correctly in suspending his predecessor's order, pending a reference to them; and that that order should be cancelled. The adjudication of the rival claims of the disputants was clearly the province of the Civil Courts, and Mr. Hathaway had no authority to interfere further than was necessary, to prevent the person in possession from being ejected otherwise than in due course of law.

7. In his answer the Collector proposes to plead that Plaintiff sustained no loss by the issue of the order complained of, and that even if he did sustain any injury, the Collector is not responsible. Further that the order was passed more than five months after the close of the Fusly, the produce of which is sued for. He also argues that the order of his predecessor was irregular and illegal, and could confer no substantial benefit, whilst its suspension could subject Plaintiff to no wrong or loss; his status as contractor remained the same, and the means of enforcing his contract was within his reach. Under these circumstances he prays for protection, and requests that Plaintiff may be fined for instituting a litigious suit.

8. The Board propose to modify the prayer of the answer, and confine it simply to a request for exemption from liability.

to their order they appear

9. The Civil Courts are open to all parties who feel aggrieved, and except in flagrant cases it seems advisable to leave entirely to the Judge's consideration the question of a Plaintiff's liability to punishment for vexatious litigation. With this exception the Board approve of the Collector's answer, and recommend that he may be authorized to file it and conduct the defence at the public cost.

10. The Collector will be instructed to obtain an extension of the time allowed him for filing his answer, should the order of Government not reach him before the 28th instant.

11. The Collector will inform the Board what notice he intends to take of the reprehensible conduct of the native officers mentioned by him.

(A true Extract.)

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

No. 39. ORDER THEREON, 22d June 1859, No. 824.

Para. 1. The Government sanction the defence in the first instance at the public expense, of the suit No. 9 of 1859 instituted in the Subordinate Court of Madura by Saigappa Chetty against the Collector of that District 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 that officer or by the Government.

2. The Government resolve to call the attention of the Board to their order of the 9th April last, No. 489, requiring that the names of Plaintiff and Defendant should be given in their Proceedings in such cases, and to desire that the order be strictly observed for the future.

3. The Board will inform the Government of the reply which the Collector may make to the requisition contained in para. 11 of their Proceedings, as well as the order which they may pass thereon.

4. The Board will furnish a copy of their Proceedings and of this order to Mr. Hathaway, for his information and future guidance.

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

R. D.

No. 824

Proceedings of the Madras Government
Under date the 22nd June 1859.

Read the following
Extract from the Proceedings
of the Board of Revenue -

(Here enter 17th June 1859. No. 2322)

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No 489 requiring that the names of Plaintiff and Defendant shall be given in their Proceedings in such cases, and to desire that the order be strictly observed for the future.

3. The Board will inform the Collector of the reply which he may make to the requisition contained in para 11 of their proceedings, as well as the order which they may pass thereon.

4. The Board will also furnish a copy of their proceedings & of this order to Mr Galtway, for his information and future guidance.

86.

A Copy to the Bd of Rev Dispr 22. with 12 Enclos

Lost

Rev Cons. 12th Apl 59.
27-28

Revenue 1859 Dept.
Pro: of Govt 24th June

No 824.

Pro: of the Madras Govt.
Dt 22d June 59.

From Bof Revd 9 Aug 59
Cr 1481 - in Cn 19 Augt 1859
p. 70-71

Pro of the Board of Revd 1st March 1861
Cr No 606-

Defence at public
cost of Suit No 9 of 1859
instituted in the Sub Court
of Madura by Saigapa
Chetty against the Collr -
and others, sanctioned -

No 38 & 39.