M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 876	Press / Mis.
Dated 8th July	18 59.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, from 2d to 8th July 1859.

No. 9. Read the following letter from W. HUDLESTON, Esq., Sub-Secretary to the Board of Revenue; to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department; dated 10th June 1859, No. 2186.

In February 1858, the Government referred Petition No 436 of 1858, for report. It was presented by Abdul Khadar Ammal, and Syud Lavay Tumby and prayed leave to sue for certain Inam land.

To Government 23rd December 1858, *No.* 4736.
From ,, 11*th Jan.* 1859, *R. D., No.* 38,
in Cons. 12*th January* 1859, *No.* 152.
To Government 25th January 1859, *No.* 267.
From ,, 7*th Feb.* 1859, *R. D. No.* 154,
in Con. 9*th Feb.* 1859, *No.* 508.

2. The correspondence noted in the margin has already passed on the subject, but to facilitate disposal the main facts of the case are repeated here.

3. About 50 years ago Pidemalavay Tumby, father of the first and grandfather of the second Petitioner purchased the tope in question from an individual who had himself bought it in 1792 from one Devaya for 105 Pagodas. The deed relating to this last mentioned purchase is produced but how the seller obtained possession in the first instance cannot now be ascertained.

4. Pidemalavay Tumby held the land for 30 years and it is entered in his name in the Survey accounts of Fusly 1238. By his will he directed its division into six shares among his widow, his two sons and his three daughters. The sons however arbitrarily divided it into eight shares and took four for themselves leaving the rest to their mother and sisters and thus it continued to be enjoyed till 1855, when the brothers without regard to the rights of their female relatives sold the whole Inam to one Khader Sah, who has since been in possession.

5. The Petitioners, (the daughter, and the grandson through another daughter, of the Survey Inamdar,) sought leave to sue in the Court for recovery of their rights, and the Collector and the Board concurred in recommending that this leave should be granted, but Government declined to comply, and observing that neither Sunnud nor original Registration supported the Inam, held that its alienation in 1855 as abovementioned was a violation of the conditions on which alone such Inams were allowed to continue and that it had in fact become an escheat to the State. Before however directing its resumption they desired the Board "to ascertain and report whether they considered the tenure sufficient and on what grounds."

From Govt. 11*th Jany.* 1859, *R. D., No.* 38,
in Con. 12*th Jany.* 1859, *No.* 152.

6. These orders were communicated to the Collector by the Board, who however at the same time observed that the object of the Petitioners was to obtain the cancelment of that unauthorized and fraudlent alienation, which Government considered as vitiating the Inam tenure, and that had the purchaser not been in actual possession of the land, they would not have hesitated to direct the Collector to maintain the defrauded members of the family in possession of their proper shares of it, holding that uninterrupted enjoyment of the land by the same family for the last half century at least, constituted for *them* a good title under the Honorable Court's orders of 13th October 1847 and 19th January 1848, even though no Sunnud or Registry were forthcoming.

25*th January* 1859.

Board's. C. O. Vol. I, p. 454.

7. The Government however decided to await the further report called for by them, and the Collector has recently addressed the Board stating that although the Inam is unsupported by Grant or Registry, yet its recognition as Inam in the Survey accounts of the District, and its uninterrupted enjoyment as such since our assumption of the province, constitute in his opinion a sufficient evidence of tenure.

No. 1599, *from Tanjore, 7th in Consultation* 11*th April* 1859.

8. The Board of Revenue entirely agree in this opinion, and direct me to solicit the reconsideration by Government of their orders of 11th January last, R. D., No. 38, refusing permission to sue in the Court, which refusal, should the Inam be still allowed to continue, will afford a triumph to fraud, and must in any case result in depriving the unoffending members of the family of their just rights.

In Con. 12th Jany. 1859, No. 152.

No. 10. ORDER THEREON, 2d July 1859, No. 876.

The Honorable the Governor in Council grants permission to Petitioners Abdul Khadar Ammal and Syud Lavay Tumby under Section II. Regulation IV. of 1831, to sue for the recovery of their shares in the Sarvamányam land in Tanjore, of which they allege that they have been defrauded by their brothers in 1855.

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

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Rev. No. 1100

Memo.

I think leave to sue ought certainly to be given - If the facts are correctly stated in the Petn. of the Petrs. the Petrs have been victims of a fraud - & it is only fair to give them every facility to right themselves - as to the forfeiture of the Inam for the suit in 1855, it is no doubt legal, strictly speaking: but I don't think forfeiture be ever usually enforced in such cases, or could be going where the original suit is so little blameable - But as

all events that Jurisdiction ought
not to affect the Petrs: who,
not only were not parties to
the sale, but were absent &
if it was necessary to set it aside
as regards their shares.

I beg to add that tho'
the order of Jany 11 was signed by
me, it was drafted & in every
other way framed before I returned from
England.

24 June 24.

I concur
28 June

Rev. Dept

No 876.

Proceedings of the Madras Govt
Under date the 2d July 1859.

Read the following
letter from the Secretary
to the Board of Rev.

Submitting a letter from the
Coll. of Tanjore reporting further
on the matter of Petition No 43 of
1858 and soliciting that the Order
of Govt thereon dated 11 Jany 1859
may be reconsidered.

Rev Enter 10 June 1859
No 2186.

The Hon. the Govr
in Council grant to petitioners Abdul
Khadar Ammal and
Syed Lavay Saiby under Section II Regn XX of 1831 to sue
for the recovery of their share
in the Sarvamányam
land in Tanjore, ~~formerly~~
~~the joint property of their~~
~~family~~, of which they
allege that they have been
de

defrauded by their brothers
in 1855.

The following endorsement will accordingly be made on Petition No 436 of 1858.

"Petitioners are"
permitted to sue "
for the recovery of the
property referred to "
by them. "

6 Copies
To The Revenue Board Dublin
1 — to Petitions Dept. Ld. without Petition

Revenue 1859 Dept.
Pro. of Govt. 8th July.

No 876.

Pro. of the Madras Govt.
Dt 2? July 59.

43-4-
11-1-59
82-6
5-12-59

Abdul Khadar
Ammal & Syed Lawy
Tumby, to sue for their
Shares in the Sarvama-
nyam land in Tanjore.

No. 9 & 10.

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