M.R.O. 14—10,000—21-4-22

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue DEPARTMENT.

G.O. No. 456 Press ~~Mis.~~

48-49

Dated 24 – 3 – 1860.

***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Revenue Department, for the month of March* 1860.

No. 48. Read the following Proceedings of the Board of Revenue, dated 16th March 1860, No. 1,359 :—

Read letter from the Collector of Chingleput, dated 25th February 1860, No. 54.

(In Con. 28th February 1860, No. 930.)

Read letter from the same Officer, dated 9th March 1860, No. 70.

(In Con. 10th March 1860, No. 1,108.)

In the above letters the Collector reports the institution of a Suit in the Court of the Muftí Sadr Amín of Chingleput by the Zamíndár of Padianellúr, against the Tahsíldár and Ziladár of the Náyer táluq of that District, and ten others.

*O. S. No.* 8 *of* 1859,
*Muftí Sadr Amín's File.*
*Plaintiff.*
*Annasami, Pillai, Zamindar of Padianellúr.*
*Versus.*
1 *Perumál Naidu, Tahsr. of Náyer.*
2 *Rámánuja Aiengar, Ziladár and* 10 *others, Defendants.*

2. From the papers submitted, it appears that the Zamíndári and certain heaps of grain, its produce, were attached on the 11th July 1859, for an arrear of 80 Rupees due for Fasli 1268, A. D. 1858-59; that eleven days after the attachment the Ziladár proceeded to sell the produce, but was prevented from doing so by the Plaintiff and third and fourth Defendants, who each claimed "Kuppatam" Fees on it; and that the produce accordingly remained under attachment until (apparently) the succeeding October, when Plaintiff paid up his arrear.

3. Plaintiff declares that the estate alone was replaced in his possession; and his Suit is to recover the value of produce missing from the heaps (estimated at Rupees 2,074-14-10) and Kuppatam Fees (Rupees 34-9-0), or, in all, Rupees 2,109-7-10.

4. Plaintiff further takes exception to the attachment on the ground of its being excessive; complains of the Revenue Officers not having at once sold enough to meet the arrears, releasing the remainder from attachment, and declares that the loss of produce was entirely owing to their want of care.

5. The Collector proposes to plead that the attachment was in accordance with Law; that it was Plaintiff's own fault that an immediate sale was not effected; that any loss which may have occurred was the consequence of his own acts, and that the Officers of Government have no concern with Kuppatam Fees.

6. In his second letter to the Board, the Collector states that due care was taken of the produce while under attachment. This point is of importance and should be specially pleaded in the answer.

7. The Board observe that though Plaintiff takes exception to the legality of the attachment, he sues for no damages or compensation for it. This point, therefore, need not be discussed in the defence, paragraph 4 of which the Board would on this account omit.

8. They would also strike out paragraph 5, which is of no material consequence.

9. Paragraph 6, they would revise and they would specially plead that due care was taken of the produce while in the custody of the Revenue servants.

10. The Collector's draft answer has been revised in accordancewith the views above expressed. The Board recommend that sanction may be granted for this being filed and for the Suit being defended in the first instance at the expense of Government. If the Court's decision be in favor of Plaintiff, the Board will submit their views fully as to whether Government should pay any portion of the damages or costs which may be awarded. It will be optional of course with first and second Defendants to have the Suit thus defended or to put in any answer they please on their own responsibility.

11. It will be observed that the Board have omitted paragraph 8 of the answer, in which the Collector takes up the defence. They have done this as well as proposed specially to give the first and second Defendants the option of putting in their own defence, because the action really turns on a question of fact, viz. whether due care was or was not taken by the Collector's subordinates of property in their custody, and for neglect of such a duty Government cannot reasonably be expected voluntarily to render itself liable before the question is decided by the Courts. The Plaintiff does not sue the Collector, and the intervention of that Officer is quite unnecessary. Moreover, the Board are not prepared to uphold all the proceedings of the Revenue authorities. The course which the Board have proposed will, however, afford the Tahsíldár and Ziladár all the support they can at present claim without identifying Government unnecessarily with their acts.

(A true Extract.)

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

No. 49. ORDER THEREON, 24th March 1860, No. 456.

Paragraph 1. The Board of Revenue report the institution of a Suit in the Court of the Mufti Sadar Amín of Chingleput by the Zamíndár of Padianellúr, against the Tahsíldár and a Ziladár of the Náyer táluq of that District and others, and request sanction for filing the Collector's draft answer as revised in their office, and for defending the Suit in the first instance at the public expense. The Board at the same time would leave it optional to the 1st and 2nd Defendants, either to have the Suit thus defended, or to put in any answer they please on their own responsibility.

2. The Government are unable to follow the course recommended, as they do not find that the proceedings of the Revenue Officers in this case are such as they can uphold or defend.

3. In the first place, on an arrear of the Zamíndár's Péshkash occurring to the amount of 80 Rupees, the Revenue Officers attached not only the whole of the heaps of Grain found in his threshing floors to the value of above Rupees 4,000, but also his Landed Estate worth much more, probably. This proceeding was decidedly illegal, as being directly opposed to the enactment which directs that an attachment shall be proportioned to the amount of the arrear.* The Collector appears, to justify the step on the ground that it is "usual;"† but it is not, therefore, the less illegal and oppressive.

* *Clause IX Act 39 of* 1858.

† *Collr's. letter, 9th March para.* 1.

4. Some days after the attachment, the Ziladár proceeded to sell the produce to make good the balance due;‡ but on a dispute occurring between the Plaintiff and others, (as is alleged in the draft answer), respecting certain Fees, the Ziladár improperly stopped the sale. There was no reason whatever for this course: the Fees were trifling, and the small quantity of Grain required to satisfy the Government demand might have been sold at once, leaving the question of Fees for after settlement.

‡ NOTE.—*So expressed in the draft answer, but the meaning probably is that he proceeded to sell so much of this Grain as was necessary to make good the arrear.*

5. Soon after, the arrear of 80 Rupees was paid; but though the Estate was then released,§ the heaps of Grain, it appears, were not made over to the Plaintiff. He, therefore, sues for the value of those heaps estimated at Rupees 2,109-7-10,|| declaring at the same time that due care was not taken of the grain while under attachment, and that loss had in consequence ensued.

§ *October 6th* 1859.

| | *Rs.* | *A.* | *P.* |
|---|---|---|---|
| || *Mélváram*..... | 2,074 | 14 | 10 |
| *Kuppatam Fees*..... | 34 | 9 | 0 |
| *Total*... | 2,109 | 7 | 10 |

6. The question on this part of the subject as the Board correctly observe, is whether proper care was or was not taken of the grain, while in custody of the Revenue servants. This is certainly a point for the Court to decide; and the Government see no occasion to throw itself at present on the side of the Defendants in the Suit. The Civil Courts are the proper tribunals for the protection of the public against the abuse of the large powers of the Executive; and the Defendants in the present case have primâ facie been guilty of neglect at least. They will be left to defend the Suit on their own responsibility; and they may apply to Government for indemnity when an adverse decree is passed, if they can show cause for it.

7. The mode of dealing with arrears of the kind in question in the Chingleput District as above noticed, requires to be investigated by the Board of Revenue and to be brought into conformity with the law and with justice.

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

Letter from Govt. Pareal.

+ Oct 6/59

- ment shall be brought to the arrear. The Collector appears to justify this proceeding, saying it is "usual"; but it is not the less illegal & Oppressive.

3. Some days after the attachment, the Talug[a] Officers proceeded to sell a part of the Land for the arrear; but an arrangement occurring between the Ryots & others (as to the arrear alleged) respecting certain fees, they stopped proceedings. This was improper. There was no reason whatever for stopping the sale. The fees were trifling, & the small quantity of grain required to satisfy the Govt. demand might have been sold, leaving the question of fees for after settlement.

4. Some days after the 80 rupees arrear was paid; but though the Ryots was then released, the grain, if appears, was not sold; he was ordered over to ~~Sale~~ pay the fees: he therefore sues for the value of them.

5 The Govt. servants sued are the Tahsildar & a Gillahdar

6. The question, as the Board correctly say, is whether [illegible] case was taken of the grain. This is certainly a question for the Court to decide, &

Ryot. The legality of the attachment does not seem to be challenged.

Rev Dept.

Proceedings of the Madras Govt.
Under date the 24th March/60.

Read the following
Proceedings of the Board
of Revenue.

Reporting the institution
of a Civil Suit in the Court
of Moonsiff under Arreen of
Chingleput by the Zemindar
of Padianallur against the
Tahsildar of Thayer Taluq and
others and requesting sanction
for the collection draft an-
swer as revised by the Board
being filed and for the suit
being defended at the Expense
of Govt.

Mufti Sadr Amin

Zemindar

Thayer

(Here enter 16 March/60 No 1859)

Para 1. The Board of
Revenue report the institu-
tion of a suit in the Court
of the Mufti Sadar Amin
of Chingleput by the Zemindar
of Padianallur, against the
Tahsildar and a Jiladar
of the Thayer taluq of
that district and others,
and request sanction
for filing the Collr's draft
answer as revised in their
office,
and for defending the
suit

I see no occasion to throw any
on the side of the Defendants at
present: prima facie they have
been guilty of neglect at least.
It seems to me that they may
be left to defend the suit: &
may apply to Govt. for indemnity
when an adverse decree is passed, if they
can show cause for it. The civil Courts are
the proper protection of the Public against the abuse of
& at all events this needs
of dealing with Arrears of this
kind in Chingleput needs the
attention of the Board of Revenue.

the Landholders of the Districts

I concur in Mr Bourdillon's
19 March/60.

W. Morgan

W. M

suit in the first instance at the public expense.

The Board at the same time would leave it optional to the 1st and 2nd Defendants, either to have the suit thus decided, or to put in any answer they please on their own responsibility.

2. The Govt are unable to follow ~~in a similar~~ course ~~recommended~~ by the Board, as they do not find that the proceedings of the Revenue officers in this case are such as they can uphold or defend ~~by the State~~.

3 In the first place, on an arrear of the Zamindar's Peshkash occurring to the amount of 80 Rs, the Revenue officers attached not only the whole of the heap of grain

* ~~Reg. XXVII of 1802~~ ~~Sect.~~
Clause IX Act 39 of 1858.

Collectors letter dated 9 March 1860 ~~&c.~~ para

Note. So expressed in the draft answer, but the meaning probably is that he proceeded to sell as much of this grain as was necessary to make good the arrears



found in his threshing floors to the value of above Rs 1,000, but also his landed estate worth much more, probably. The proceeding was decidedly illegal, as being directly enactment opposed to the ~~Regulation~~ which directs that an attachment shall be proportioned to the amount of the arrears. The Collector appears however to justify the step on the ground that it is "usual"; but it is not therefore the less illegal and oppressive.

4 Some days after the attachment, the Zilladar proceeded to sell ~~the produce to make a part of the grain~~ for good the balance due; but on a dispute occurring between the Plaintiff and others (as is alleged in the Depty answer)

answer) respecting certain
fees, the Vidalair improperly stopped
the sale. There was no
reason whatever for
this course: the fees were
trifling, and the small
quantity of grain required
to satisfy the Govt demand
might have been sold at
once, leaving the question
of fees for after settlement.—

5. Soon after, the arrear
of 80 Rs was paid; & the
Plaintiff, but though the
Estate was then released,
the heaps of grain, it
appears, were not made
over to the Plaintiff. He therefore
sues for the value of
those heaps estimated
at Rs 2109. 7. 10, declaring
at the same time that
due care was not taken
of the grain while under
attachment

* Oct. 6th 1859.

The Plaintiff

* Melwaram. R a p
Kappatam fees. 2075. 14. 10
Total 34. 9 —
2109. 7. 10



attachment, and that
loss had in consequence
ensued.

6. The question
in this part of the subject is,
as the Board correctly
observe, whether proper
care was or was not taken
of the grain while in custody
of the Revenue servants.
this is certainly a point
for the Court to decide. The
Civil Courts are the proper
tribunals for the protection
of the Public against the
abuse of the large powers
of the Executive; and the
Govt see no occasion to
throw itself at present on the
side of the Defendants
in the suit, and the Appellant's case
prima facie has been
guilty of neglect at least.
The Govt will not express
opinion that they will be
left to defend the suit
on their own responsibility;
and

they
and may apply to Govt for
indemnity when an adverse
decree is passed, if they
can shew cause for it.
~~and be direct to the Board~~
~~of Revenue to issue~~
~~order accordingly.~~

7. The mode of dealing
with arrears of the kind
in the Chunglepat district as
in question, has attracted
the notice of Govt, and
they resolve to direct
the Board's attention to
the subject.

above noticed, requires to be
investigated by the
Bd of Rev. & to be
brought into conformity
with the laws & with
justice.

" Chief to the
" Board of Rev Dis. 24 with a Packet
" Coll. of Chinglepat N