M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2013 Press ~~Mis.~~

1-2

Dated 1 — 11 — 1860.

Not to be folded or roughly handled

No. 1. Read the following Proceedings of the Board of Revenue, dated 25th October 1860, No. 4,896 :—

Read letter from the Collector of Madras, dated 9th October 1860, No. 405.

(In Cons., 10th October 1860, No. 5,131.)

O. S. No. 1860
Plaintiffs.
Anattai Mudali.
and
Subroy Mudali.
Versus
(52) *Kistna Row*
(53) *Reverend Father LeRoux.*
(54) *Alagaya Pillai, and* 51 *others.*

1. In the above letter the Collector of Madras reports the institution of a Suit in the Mufty Sudder Amín's Court against the late Péshkár of Chingleput and 53 other Defendants. The Suit is for the recovery of land granted by the late Collector of Chingleput to the 53rd and 54th Defendants.

2. The land sued for is in the possession of two different persons and is held on two distinct puttahs. The inclusion of both claims in one suit is clearly objectionable and exception should be taken to this, in the first instance.

3. The 54th Defendant Alagaya Pillai, Principal Sudder Amín of Chingleput

	Ans.	Chains.
holds Kanis.....	12	1
"Punjah Sheigal" and Kanis.....	1	12
"Anadi," or altogether.....	13	14

of the land in dispute. The Defendant obtained this land from the majority of the Mirásdárs by purchase, paying them Rupees 63-12-0 for their rights. It was made over to him by an order of the late Collector dated 10th March 1850, the 2nd Plaintiff objected to this but the matter was investigated by Mr. Ellis (then Officiating Collector) who on proof of the purchase declined to interfere.

4. The puttah for this land appears evidently to have been granted in consequence of Defendant having purchased the rights of the Mirásdárs in it and the Board consider that Government are not interested in the matter. It is for the Sudder Amín to uphold the title he acquired by his purchase and the Collector should content himself with moving the Court to remove the Péshkár's name from the list of Defendants.

5. In the other instance the land is held by a Roman Catholic Missionary, Defendant No. 53, and comprises Annas 4, Chains 14. The land is entered in the accounts as "Punjah Seigal" but has been waste for upwards of 30 years. When it was being measured, preliminary to its grant to this Defendant who seems already to have taken possession, Anattai Mudali, 1st Plaintiff and a Mirásdár of the village objected, alleging that it had been given to him by the Mirásdárs and that he held a Deed of Gift for it. Inquiry showed that Plaintiff was not in possession of the land, that the Missionary had already enclosed it and that it had been waste for upwards of 30 years. The so called deed of gift had never been recognised by the revenue authorities it was unregistered, and Plaintiff had neither applied for the land nor paid any portion of its assessment. The late Collector considered Plaintiff's objections vexatious, and made over the land to the Missionary, the present Collector and the Board, to whom Plaintiff preferred a Petition held the same view and declined to interfere.

6. With the full explanation now before them, the Board consider these decisions erroneous and they apprehend that the grant of this land cannot be upheld. They concur with Mr. Cunliffe that the deed is not binding on Government who were not parties to it, and might decline to recognise it. The Mirásdárs of a village where Merassy right is fully recognised, are however as free to give away as to sell whatever rights they possess and so long as Government gets its assessment there is no reason why Government should refuse its assent to either arrangement. The proper course in this case was to make over the land to Plaintiff and realize the assessment from him. In case of his default, the course prescribed by the Regulations should have been followed and ultimately if necessary his rights in the land could have been sold and a good title conveyed to the purchaser, The objections raised by Mr. Cunliffe to the deed of gift may have weight with the Court, but the Board think they should not be pleaded by Government, when the land was given in contravention of their standing order. These objections and the malicious character of Plaintiff's opposition may properly be urged by Defendant who should at the same time press his claim to be reimbursed the value of his buildings and improvements.

7. The Collector's answer the Board think should be limited to a narrative of the case, and as regards the deed of gift should merely point out that it was never recognised by the authorities and that its holder took no measures to have any rights it conferred on him admitted by Government, until Defendant was already in actual possession of the land and had incurred outlay in adopting it to his purposes. The Court should then be left to form its own opinion of the case.

8. As regards paragraph 19 of Mr. Cunliffe's letter the Board consider that Mr. Shubrick erred in guaranteeing the Defendant's title, which though recognised by the revenue authorities was still open to adjudication by the Courts.

9. The time for putting in an answer on behalf of Government will expire on the 10th proximo, unless Government approve of the preliminary course proposed in paragraph 2 of these proceedings.

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

No. 2. ORDER THEREON, 1st November 1860, No. 2,013.

1. These Proceedings of the Board of Revenue relate to two pieces of waste land in the village of Nattam in the Madras District, for the recovery of which a suit has been brought by two of the Mirásdárs of the village, against the remainder of the Mirásdárs, the Péshkár of the Táluq, and the two persons who hold the two pieces of land.

2. One of the pieces of land was given by the Collector to M. LeRoux a Roman Catholic Priest, on his application, without first offering it to the Mirásdárs, and in spite of the opposition of one of them, viz., the first Plaintiff Anattai Mudali; who alleged, and apparently with truth, that he had obtained a gift of the land from the body of Mirásdárs. This claim was rejected by the Collector, and the Plaintiff has now brought this suit accordingly.

3. The other piece of land, being immemorial waste, was purchased by Alagaya Pilla Principal Sudder Amín of Chingleput, from the majority of the Mirásdárs; and the purchaser on application obtained putta for the land. The second Plaintiff, being one of the Mirásdárs objected to the transaction; but his objection was overruled by the Collector and he now sues accordingly.

4. These two causes of action are totally distinct. The pieces of land which are the subject of the suit are distinct; the parties claiming and those holding the two pieces are respectively distinct; and the circumstances of the two cases are distinct and different. Clearly therefore the two cases cannot properly be united in a single suit, and as proposed in paragraph 2, the Board will instruct the Collector to move the Court to strike the case off the file, and to direct the Plaintiffs to file separate suits, if they wish to sue.

5. The Government agree in the Board's remarks on the course to be adopted in the case in which Alagaya Pillai is concerned, as the Collector has fixed an Assessment and given a puttah. The suit may be left as one between that individual and the Mirásdárs, without the Government coming forward on this occasion to raise the question whether immemorial waste can be disposed of by private sale without their express sanction; and if the Péshkár is made a Defendant when the suit is filed in the amended form, it may be pleaded that he acted under the orders of his superior the late Collector.

See Order of Board of Revenue, June 24th 1839, Circular Order Book, page 264.

6. The other case is far from being so clear. The Collector put himself in the wrong when, in opposition to a positive order of the Government, he gave the land to a stranger, while a Mirásdár was ready to take it. The Government consider Mr. Cunliffe's argument (paragraph 24 of his letter) that the gift to Anattai Mudali was void because possession had not been taken, to be of doubtful force. With regard to Mr. Shubrick's guarantee of Mr. LeRoux's title, that was entirely his own act, and he must be responsible for it.

7. If the Péshkár is again made Defendant when the suit is brought in proper form, and if he really did any act in opposition to Plaintiff's claim, the defence should be that he acted *bonâ fide* under the orders of the late Collector. If the present Collector is sued, the defence will be that he is not liable for the official acts of his predecessor. Mr. Shubrick himself will be back within the next year.

8. The Government concur in the Board's remarks in paragraph 6 as to the proper course to have been taken by the Collector; and if the Plaintiff should obtain possession of the land, that course should be strictly followed.

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

R. D.—

No. 2013

Proceedings of the Madras Government—
Under date the 1st November 1860.
Read the following Pro.
of the Bd. of Revr.—

Submitting the instructions issued by the Board to the Collr. of Madras in O.S. No. 4 of 1860 instituted for the recovery of land granted by the late Collr. to certain parties.—

(Here enter 25th Oct. 1860 No. 4896)

These Proceedings of the Board of Revr. relate to two pieces of ~~waste land~~ waste land in the village of Nattam in the Madras District, for the recovery of which a suit has been brought by two of the Mirasdars of the village, against the remainder of the Mirasdars, the Pesh Kar of the Taluq, and the two persons who

Copies to the Collr. of Madras
Board's Solr.
Law Secretary

who

who held the two pieces of land.—

2.— One of the pieces of land was given by the Coll: to Mr. Lorano a Roman Catholic Priest, on his application, without first offering it to the Mindanaos, and in spite of the opposition of one of the Plaintiffs Ancestors Mindali; who alleged, and assures truthfully with truth, that he had obtained a gift of the land from the body of Mindanaos— This claim was rejected by the Coll: and the Plaintiff has now brought this suit accordingly.

The

3.— The other piece of land, being [illegible] immemorial waste, was purchased by Mr. Agaya Pilang Principal Datto of the Mindanaos of Illanun tribe, but from the majority of Mindanaos; and the two claimed an application obtained further for the land. The second Plaintiff, being one of the Mindanaos, objected to the transaction; but his objection was overruled by the Collector and he now sues accordingly

conduct

accordingly. —

4. — These two causes of action are totally distinct. The pieces of land which are the subject of the suit are distinct; the parties claiming and those holding the two pieces respectively distinct, and the circumstances of the two cases are distinct and different — clearly therefore the two cases cannot properly be united in a single suit, and an

injunction to restrain the Municipality from interfering with the Plaintiffs in the possession of the property in dispute, and to direct the Plaintiffs to file separate suits, if they think fit to do so.

5. — As regards the ~~amount of the two cases~~

The Government ~~has~~ agree in the Board's remarks on ~~the~~ the cases which Alagappa Pillai

as the Collector has filed an affidavit setting forth a Bill of

is demurred to. That

suit in Chancery between that

individual and the

Minuedars* and if

the Respondent is made

a Defendant when

the suit is filed in

the circuit Court, this

Bill should be

filed on his behalf,

& it may be pleaded

-ed that he ought

under the orders

of his superiors

* See order of Board of Rev. June 21/34. Cir. Order Book Page 26th.

x without the Government be heard on this occasion to raise the question whether Simon Durnal ought not to be dismissed as the proper party to be without these orders of mandamus

the late Collector.

6. — The allegations of

fact pretending as above. The

~~the entries for plaintiffs~~

~~claim~~ The Collector put

himself in the wrong when

in opposition to a positive or-

-der of the Govt., he gave the

land to a stranger, while

a Minuedar was ready to

take it. The Govt. considers

Mr Cumbiffe's argument

(Par 1st of his letter) that the

gift to Amattia Mudalie

was void because possess-

-ion had not been taken,

to be ~~spirit~~ unintelligible.

With regard to Mr Sim-

-hie's quotation of Mr

Le Roux's letter, that was Captain-
-by his own act, & he must
be responsible for it. -
4. — If the Resolution in
question made Defendant
when the suit is brought
in proper form and if he
really did request in op-
-position to Plaintiff's claim,
the defence should be that
he acted bona fide under
the orders of the late Collr.
If the present Collr. in
sued, the defence will be
that he is not liable
for the official acts of
his predecessor. - the

Shubrick knew & will be
back within the next year.
5. — The Govt. reserves how
the Board's remarks
in part to settle pro-
-per rewards to those
taken by the Collr.; and
if the Plaintiff should
obtain possession of the
land, that should be
strictly followed. ~~that~~
~~in the latter part of~~
~~para 5, the Govt. observe~~
~~that failure to pay an~~
~~assessment of land can~~
~~not work on the title~~
~~to the land, but the~~
assessment

Suits relating to immemorial waste land in Nattam in the Madura Dist.

~~[illegible] which demand~~

[illegible]

12 Copies
To the Board of Revenue
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Aug 1825

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[illegible] 1560 [illegible]
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No 2013

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