M.R.O. 14—10,000—21-4-22.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2098 Press
~~Mis.~~
165-166

Dated 10-11- 1869.

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

## *PROCEEDINGS OF THE MADRAS GOVERNMENT.*

Read the following Proceedings of the Board of Revenue:—

*Submitting correspondence regarding the Decree of the Civil Court of Chingleput in appeal Suit No. 174 of 1859, and observing that they do not deem it expedient that a special appeal should be preferred to the Sudder Court.* } (Here enter 2nd November 1860, No. 5,052.)

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Order thereon, 10th November 1860, No. 2,098.

1. The Board of Revenue forward a letter from the Collector of Madras submitting the draft of a Plaint, proposed to be filed in Special Appeal from the decision of the Civil Judge of Chingleput passed against the Collector in the matter of the levy of Quit-rent on a piece of ground in Comaleswarampettah, belonging to one Cavali Venkatanarraenappúr.

2. For the reasons stated by the Board the Government agree with them that it is not expedient to make a Special Appeal in this case.

3. The Government approve the course prescribed by the Board to the Collector in paragraph 8, to be taken in future similar cases.

4. The Governor in Council cannot but notice the excessive delay on the part of the Civil Judge in signing and sealing the Decree in the present case. The decision was declared on the 2nd May 1860 but the Decree was not signed till the 4th August last, and a copy was not obtained by the Collector till the 19th September four months and a half after the decision had been declared. The Court of Sudder Adalut will call the attention of the Civil Judge to this delay.

(True Extract.

(Signed) J. D. BOURDILLON,

*Secretary to Government.*

To the Board of Revenue.
„ Court of Sudder Adalut.
„ Judicial Department.

Exd. Thos. McMootry.

No. 5,052.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd November 1860.

Read again letter, dated 3rd October 1860, No. 397, from the Collector of Madras, forwarding a copy of the Decree of the Civil Court of Chingleput, in Appeal Suit No. 174 of 1859, and recommending a Special Appeal therefrom.

(In Cons., 4th October 1860, No. 4,986.)

Read also letter, dated 20th October 1860, No. 420, furnishing the information called for in the Board's Proceedings of the 13th idem.

(In Cons., 22nd October 1860, No. 5,353.)

Resolved that the letters above recorded, be submitted for the orders of the Honorable the Governor-in-Council.

Principal Sudder Ameen's Court of Chingleput.
Original Suit No. 37 of 1858.
Cavali Vencatanarayanappier, *Plaintiff*,
*versus*
B. Cunliffe, Esq, Collector of Madras, *Defendant*.

Civil Court of Chingleput.
Appeal Suit No. 174 of 1859.
Cavali Vencatanarayanappier, *Appellant*,
*versus*
B. Cunliffe, Esq., Collector of Madras, *Respondent*.

(In Cons., 14th January 1860, No. 196.)

1. The question at issue in this Suit was, as stated in paragraph 3 of the Board's Proceedings, dated 12th January 1860, No. 154, the right of Government to levy quit rent on a piece of land in Comalesweram pettah, belonging to Plaintiff. The Principal Sudder Ameen decided the suit *virtually* in favor of Government.

2. Against this decision, the Plaintiff appealed to the Civil Court; and under the sanction of Government, dated 14th January 1860, No. 71, an answer was filed by the Collector reiterating the arguments contained in his original answer, viz., that the land in question *was* liable to quit rent, and was not a Lakiraj tenure exempt under Section 2, Act XII of 1851.

3. The Civil Judge, however, has dismissed the appeal on the ground, that no notice of the intended assessment was given by the Collector to the Plaintiff, so as to allow of an appeal being made to the Board of Revenue, against the demand, as provided by Section 3 of the Act.

4. Against this decision, the Collector applies for permission to appeal to the Sudder Udalut on the two following grounds:—*First*, that the plea upon which the Civil Court's decision rests was not raised in the original pleadings. *Secondly*, that the presentation of the quit-rent bill was sufficient notice, there being no special notice prescribed in the Act.

5. The Board do not consider the above grounds tenable. It is true that the plea referred to was not directly raised in the original suit, but it is evidently connected with one of the pleas upon which the defence rested, viz., that the Plaintiff ought to have appealed to the Board of Revenue under Section 3 of the Act instead of resorting to a Suit; and, therefore, the Board think that the Civil Court was at liberty to act upon it particularly as it was in consonance with the view held by the Court as to the requirements of the Act.

Proceedings Board of Revenue, 23rd December 1858, No. 4,740.

6. With regard to the second argument, the Board observe that the "written demand" mentioned in Section 7 of the Act is a different thing from the "notification" enjoined in Section 3, as under the former, no time is allowed between the demand and recovery by legal process, whereas under the latter, a period of six months is allowed for appeal to the Board of Revenue. The Board, therefore, cannot concur in the opinion of the Collector that the presentation of the quit-rent bill was a sufficient notice, unless indeed he was prepared to give six months' time for its payment, which was not the case in the present instance, as the demand was made on or about the 16th June 1858, and the money recovered on the 25th idem, a warrant of distress having in the meanwhile been issued against the Plaintiff.

From Collector, 20th, in Cons., 22nd October 1860, No. 5,353.

See copy of plaint in letter from Collector 12th, in Cons., 20th November 1858, A No. 5,152.

7. For the foregoing reasons; the Board, after careful consideration of the case as now presented to them, do not deem it expedient that a Special Appeal should be preferred to the Sudder Udalut. The Government will observe that their right to levy quit-rent on the land in question is in no way affected by the decision of the Civil Court, which annuls the act of the Collector on the ground of informality alone, leaving him and the Plaintiff in the position which they occupied before the assessment complained of was levied.

8. The Collector will now formally notify to Appellant the assessment of the land in question from and for the current Fasli. The same course will be carefully pursued hereafter in all similar cases.

9. The time for filing an appeal expires on the 4th instant, the decision having been declared on the 2nd May last, though signed and sealed only on the 4th August last.

(A true Extract.)

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

To J. D. Bourdillon, Esq., Secretary to Government, R. D.

Copy to B. Cunliffe, Esq., Collector of Madras.

Exd. J. Wright.

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Revenue Department

№ (5052)

Proceedings of the Board of Revenue dated 2d November 1860.

Read again letter dated 3d October 1860 № 397 from the Collector of Madras forwarding a copy of the decree of the Civil Court of Chingleput in Appeal Suit № 174 of 1859 & recommending a special appeal therefrom.

(In Cons: 4th October 1860 № 4986)

Read also letter dated 20th October 1860 № 420 furnishing the information called for in the Board's Proceedings of the 13th idem.

(In Cons: 22d October 1860 № 5353)

Resolved that the letters above recorded be submitted for the orders of the Honorable the Governor in Council.

Principal Sudr Ameens Court of Chingleput.
Original Suit № 37 of 1858.
Plaintiff
Cavali Vencatanarayanappier
Versus
B Cunliffe Esqre Collr of Madras

Civil Court of Chingleput.
Appeal Suit № 174 of 1859.
Appellant
Cavali Vencatanarayanappier
Respondent.
B Cunliffe Esqre Collr of Madras.

The question at issue in this suit was, as stated in para 3 of the Board's Proceedings dated 12th January 1860. № 134, the right of Government to levy quit rent on a piece of land in Conaleswaram pettah belonging to Plaintiff. The Principal Sudr Ameen decided the suit virtually in favor of Government.

2. Against this decision, the Plaintiff appealed to the Civil Court, and under the sanction of Government

Sudder Ameen

Cavali

Government dated 14th January 1860 No 71 an answer was filed by the Collector reiterating the arguments contained in his original answer, viz that the land in question was liable to quit rent, and was not a Lakhiraj tenure exempt under Section II act XII of 1851.

In Cons 14th Jany 60 No 196.

3. The Civil Judge, however, has dismissed the appeal on the ground that no notice of the intended assessment was given by the Collector to the Plaintiff so as to allow of an appeal being made to the Board of Revenue against the demand, as provided by Section III, of the act.

4. Against this decision, the Collector applies for permission to appeal to the Sudr Adalat on the two following grounds. First, that the plea upon which the Civil Courts decision rests was not raised in the original pleadings. Secondly that the presentation of the quit rent bill was sufficient notice there being no special notice prescribed in the act.

5. The Board do not consider the above grounds tenable. It is true that the plea referred to was not directly raised in the original suit, but it is evidently connected with one of the pleas upon which the defence rested, viz that the plaintiff ought to have appealed to the Board of Revenue under Section III of the act instead of resorting

Pro: 15th of Rev: 23rd Jan/58 No 4744

resorting to a suit. and, therefore, the Bd think that the Civil Court was at liberty to act upon it particularly as it was in consonance with the view held by the Court as to the requirements of the act.

6. With regard to the second argument the Board observe that the "written demand" mentioned in Section VII of the act is a different thing from the "notification" enjoined in Section III as under the former no time is allowed between the demand and recovery by legal process, whereas under the latter a period of six months is allowed for appeal to the Board of Revenue. The Board therefore cannot concur in the opinion of the Collector that the presentation of the quit rent bill was a sufficient notice, unless indeed he was prepared to give six months time for its payment, which was not the case in the present instance, as the demand was made on or about the 16th June 58, and the money recovered on the 28th Idem, a warrant of distress having in the mean while been issued against the Plaintiff.

7. For the foregoing reasons the Board after

From Coll.r 20th Oct.r/60
In Cems: 22d Oct.r/60
No 8353
See copy of Plaint in Coll.r's
Coll.r 12th Nov.r/58
In Cems: 20th Nov.r/58 A
No. 5152.

after careful consideration of the case, as now presented to them, do not deem it expedient that a special appeal should be preferred to the Sudr Adalat. The Govt will observe that their right to levy quit rent on the land in question is in no way affected by the decision of the Civil Court, which annuls the act of the Collr on the ground of informality alone, leaving him and the Plaintiff in the position which they occupied before the assessment complained of was levied.

8 The Collector will — now formally notify to appellant the assessment of the land in question from and for the current Fasly. The same course will be carefully pursued hereafter in all similar cases.

9 The time for filing an appeal expires on the 4th Instant - the decision having been declared on the 2d may last though signed and sealed only on the 4th August last.

(A true Extract)

I D Sim

Secretary

To J D Bourdillon Esqre
Secretary to Government
Revenue Department

Ed Hamilton
(Copied) by B Shankaragoriar

No.

Ans. For orders whether a special appeal will be filed - at all events the case presented to the Collr is not is taken. There was exception delay vote on the part of the Court in forwarding copy of the decree, just 3 months, on that of the Collr in referring the case to the Govt, 2 months.

Delay in preferring appeal on part of Govt Judges & to be his delay in referring

Will

Paid

Revue Deptt

No. 2098.

Proceedings of the Madras Government

Under date the 9th Novr 1860

Read the following

Proceedings of the Board

of Revenue

Submitting correspondence regarding the Decree of the Civil Court of Chingleput in appeal suit No 176 of 1859 & observing that they do not deem it expedient that a special appeal should be preferred to the Sudr Court.

(Here Enter 2nd Novr 1860 No 1552)

The Board of Revue forward a letter from the Collector of Madras submitting the draft of a Plaint proposed to be filed in Special Appeal from the decision of the Civil Judge of Chingleput passed against the Collector in the matter of the levy of Quit rent on a piece of ground in Comaleswaramputtah, belonging to one Cavali

Rec'd Novr 23-24.
Rep. Novr 1860 No 1-2.
Referred to the Bd 14 Dec 59.
Rec'd " Letter to Govt
Rep. 2 " Feby 1861 No 28.

Rec'd 8 Novr 1860
Rep. 9 Novr 1860 No 2098.
Proceedings of the Board of Revenue

Paper 2.
Rec'd 3rd
Encr 3. with letter of Encr
No 3862
5 Pack.

Submitting correspondence with the Collector of Madras, forwarding Copy of the Decree of the Civil Court of Chingleput in Appeal Suit No 176 of 1859, observing that the Board do not deem it expedient that a special Appeal should be preferred to the Sudr Court.

No 165.

3rd Revue 1860.

Cavalé Venkatanarrainappier.

2. For the reasons stated by the Board the Govt. agree with them that it is not expedient to make a special appeal in this case.

3. The Government approve the course prescribed by the Board to the Collector in para 2, to be taken in future similar cases.

4. The Governor in Council cannot but notice the excessive delay on the part of the Civil Judge in signing and sealing the decree in the present case. The decision was declared on the 2nd May 1860 but the Decree was not signed till the 4th August last, and a copy was not obtained by the Collector till the 19th September four months and a half after the decision had been declared. The Court of Sudre Adawlut will

will call the attention of the Civil Judge to this delay.

DA

Pol. Copy to
2 Board of Revenue Dist. 9
3 Court of Sudre Adawlut 6
5 — Judicial Dept. V

Revenue 1860 Dept.
Pro: of Govt for Novr.

No 2098

Pro: of the Madras Govt,
Dy 9th Novr 60.

Suit regarding the levy
of Land cess in Ryot
of Land in Coimbatore

Copy in a Letter to Govt.
Dy 2nd Feby 61 No 28.

Observing that it is
not expedient to make a
special appeal from the
Decree of the Civil Court of
Chingleput in S. S. No 174
of 1859.

No 165 & 166.

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