M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2196 Press ~~Mis.~~

359-360

Dated 21 11 1860.

Not to be folded or roughly handled

No. 359. Read the following Proceedings of the Board of Revenue, dated 29th October 1860, No. 4,971 :—

Read the following letter from C. DALE, Esq., Government Pleader, Sudder Adálut, to J. D. SIM, Esq., Secretary to the Board of Revenue, Fort Saint George, dated Madras, 17th October 1860, No. 156.

SIR,

1. With reference to the Orders of Government noted in the margin, I have the honor to report for the information of the Board of Revenue, that the Appeal Suits Nos. 127 and 129 of 1859, came on for hearing this morning before the Court of Sudder Adálut, when their Honors the Judges at once, and without hearing Counsel, expressed a decided opinion that the Collector of Masulipatam was not a necessary party to the Original Suit, and had been improperly made a Defendant. To this the Pleaders for the Plaintiff and first Defendant did not offer any opposition, or suggest even a doubt of the propriety of their Honors' opinion, but urged that as the error was made by the Civil Judge, it was hard the Plaintiff or first Defendant should suffer for *his* mistake. The Court, however, stated it was clear that the Collector was entitled to his costs of the Original Suit and of the Appeal Suit No. 127 of 1859; that the Plaintiff was the party against whom those costs must be awarded; and that the Government must be relieved from further contesting the Suits. However, on the Plaintiff's application, their Honors stated that when they had heard the case on the merits, they would determine whether or not the first Defendant should recoup to the Plaintiff the costs he would have to pay to the Collector. The Pleader for the Zamíndár (Appellant in Appeal Suit No. 129 of 1859) then submitted to the Court, that the Collector had voluntarily and improperly appeared and answered in that Appeal Suit. In this opposition he was assisted by the Pleader for the Plaintiff (who claimed to be heard under the reservation made by the Judges as to the party who was ultimately to pay the costs), but their Honors expressed themselves as clearly of opinion, that owing to the manner in which the Petition of Appeal was framed, the Collector had a right to appear and answer. They remarked that there had been an error on the part of the Ministerial Officers of the Court, in the way in which notice of the appeal had been given, but that such error had been condoned by the acts of the Appellant's Pleader, and, therefore, decided that the Collector was entitled to his costs, and intimated that I need not appear further in the matter. I, therefore, retired leaving the Pleaders for the Plaintiff and first Defendant arguing the case on the merits.

Proceedings of Government, 13*th July* 1859, *No.* 933, *Revenue Department.*
Proceedings of Government, 10*th January* 1860, *No.* 55, *Revenue Department.*

2. I have bespoken copies of the Decree. So soon as received, I will do myself the honor of further communicating with you.

In Cons., 14*th July* 1859. *In Cons*, 10*th January* 1860.

1. Submitted for the information of Government with reference to their Orders, dated 13th July 1859, No. 933, and 10th January 1860, No. 55.

2. It will be seen that the Collector of Masulípatam has been declared by the Sudder Adálut to have been improperly made a Defendant in the Original Suit (No. 3 of 1857) brought against the ex-Zamíndár of Nadadavole. He has, therefore, been relieved from further concern in the Suits, and declared entitled to full costs.

(A true Copy and Extract.)

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

No. 360. ORDER THEREON, 21st November 1860, No. 2,196.

Ordered to be recorded.

(Signed) J. D. SIM,

Acting Secretary to Government.

No. 4,971.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 29th October 1860.

Read the following letter from C. DALE, Esq., Government Pleader Sudder Udalat, to J. D. SIM, Esq., Secretary to the Board of Revenue, Fort Saint George, dated Madras, 17th October 1860, No. 156:—

Proceedings of Government, 13th July 1859, No. 933, Revenue Department.
Proceedings of Government, 10th January 1860, No. 55, Revenue Department.

1. With reference to the Orders of Government noted in the margin, I have the honor to report for the information of the Board of Revenue, that the Appeal Suits Nos. 127 and 129 of 1859, came on for hearing this morning before the Court of Sudder Udalat, when their Honors the Judges at once, and without hearing Counsel, expressed a decided opinion that the Collector of Masulipatam was not a necessary party to the Original Suit, and had been improperly made a Defendant. To this the Pleaders for the Plaintiff and first Defendant did not offer any opposition, or suggest even a doubt of the propriety of their Honors' opinion, but urged that as the error was made by the Civil Judge, it was hard the Plaintiff or first Defendant should suffer for *his* mistake. The Court, however, stated it was clear that the Collector was entitled to his costs of the Original Suit and of the Appeal Suit No. 127 of 1859; that the Plaintiff was the party against whom those costs must be awarded; and that the Government must be relieved from further contesting the Suits. However, on the Plaintiff's application, their Honors stated that when they had heard the case on the merits, they would determine whether or not the first Defendant should recoup to the Plaintiff the costs he would have to pay to the Collector. The Pleader for the Zemindar (Appellant in Appeal Suit No. 129 of 1859) then submitted to the Court, that the Collector had voluntarily, and improperly appeared and answered in that Appeal Suit. In this opposition he was assisted by the Pleader for the Plaintiff (who claimed to be heard under the reservation made by the Judges as to the party who was ultimately to pay the costs), but their Honors expressed themselves as clearly of opinion, that owing to the manner in which the Petition of Appeal was framed, the Collector had a right to appear and answer. They remarked that there had been an error on the part of the ministerial Officers of the Court, in the way in which notice of the appeal had been given, but that such error had been candoned by the acts of the Appellant's Pleader, and, therefore, decided that the Collector was entitled to his costs, and intimated that I need not appear further in the matter. I, therefore, retired leaving the Pleaders for the Plaintiff and first Defendant arguing the case on the merits.

2. I have bespoken copies of the Decree. So soon as received, I will do myself the honor of further communicating with you.

In Cons., 14th July 1859.
In Cons., 10th January 1860.

1. Submitted for the information of Government with reference to their Orders, dated 13th July 1859, No. 933, and 10th January 1860, No. 55.

2. It will be seen that the Collector of Masulipatam has been declared by the Sudder Udalat to have been improperly made a Defendant in the Original Suit (No. 3 of 1857) brought against the ex-Zemindar of Nadadavole. He has, therefore, been relieved from further concern in the Suits, and declared entitled to full costs.

(A true Copy and Extract.)

Secretary.

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

Copy to C. Dale, Esq., Government Pleader.
" to G. Thornhill, Esq., Acting Collector of Kistna District.
" to A. Purvis, Esq., Collector of Godavery District.

Adálut Zamíndár

Exd. J. Wright.

Pro: 15th July 59 No 44-45
" 10th January 60 — " 110-111
" 7th Novr 1860 ex: 95-96.

No 359 & 360.

C10 Recd 21st Nov 2216

Pro: of Govt for November

No 2533

Proceedings of the Board of Revenue

Dated 29th October 1860.

Desd. 7th Novr —

Rec'd. 8 — Do. —

Rd. from Govt 22d Augt 1861
No 220 & 1071

Submitting for information with the Board's observation a letter from the Government Pleader Sudder Adalut reporting that the Collector of Masulipatam has been declared by the Sudder Adaulat to have been improperly made a Defendant in the A.S. No 3 of 1857 brought against the ex-Zemindar of Nadadavole and relieved from further concern in the appeal Suit No 12 and 129 of 1859. —

No 2196
Recorded
21st Nov 1860.