M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2229 Press
~~Mis.~~

A23 424

Dated 24—11— 18 60.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 24th November 1860.

No. 423. Read the following Proceedings of the Board of Revenue, dated 6th November 1860, No. 5,141:—

Read letter from the Collector of Malabar, dated 22nd October 1860, No. 203.

(In Cons., 30th October 1860, No. 5,538.)

1. Submitted for the information of Government, with reference to their Order, dated 18th May 1859, No. 682.

In Cons., 19th May 1859.

2. In the foregoing letter, the Collector reports the decision of Appeal Suit No. 20 of 1859, on the file of the Civil Court of Tellicherry, in favor of Government; but complains of their being adjudged to bear their own costs on the ground that "the "Plaintiff was encouraged in the litigation, by the lax proceedings of the Collector's Office."

Original Suit No. 10 *of* 1857, *P. S. Amin's file.*
Appeal Suit No. 20 *of* 1859, *Civil Court of Tellicherry.*
Pollakul Amman Cutti, Plaintiff,
versus
Collector of Malabar, and 6 *others, Defendants.*

3. In this remark, the Court alludes to orders of the late Mr. Conolly declaring "the Plaintiff entitled, and that Government had never made any claim upon the subject;" but the present Collector explains the circumstances under which the above orders were issued.

Paragraph 10 *of Decree.*

4. As the amount of costs involved is only Rupees 38-7-2, the Collector does not think it desirable to take any steps in the matter, especially as it will be in the power of Government to object to this part of the Decree under Section 348 of Act VIII of 1859, in the event of the Appellant preferring a special Appeal. In this view, the Board concur, and submit the case for the orders of Government.

5. The appeal time will expire on the 13th December 1860.

(A true Extract.)

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

No. 424. ORDER THEREON, 24th NOVEMBER 1860, No. 2,229.

The Government agree with the Board of Revenue that objection to the payment of costs in the suit referred to in these Proceedings need not be raised unless the Appellant prefers a special Appeal. Meanwhile, payment of the amount Rupees (38-7-2) thirty-eight, Annas seven and Pice two is sanctioned.

(Signed) J. D. SIM,
Acting Secretary to Government.

In Con. 30th October 1860, No. 5,538.

From P. GRANT, Esq., Collector of MALABAR,

dated Calicut, 22nd October 1860, No. 203.

gs of Madras Government, dated 18th May
52, Revenue Department, communicated in the
ution, dated 19th idem, No. 1,829.
Suit, No. 20 of 1859.

With reference to the Orders of Government, noted marginally, I have the honor to submit a copy of the Decree passed by the Acting Civil Judge of Tellicherry.

he Suit, you will observe, has been decided in favor of Government, but they have been
o bear their own costs.

her this is equitable under the circumstances of the case, is a matter of question.

the land sued for is the fee-simple property of Government, is indisputable, and has admitted in the present Appeal Decree, as well as in the original decision passed by the Sadr Amin of Tellicherry.

'he plaintiff pretended that the land had been sold to his deceased father at a public
ld in execution of a Civil decree, and that a sunnud of sale had been granted to the pur-
ır back as 1826.

ale is pronounced in the Decree to be of no weight whatever.

hing is more common," says the Civil Judge, "than to make sales of this kind. The
ts slumber for a succession of years, and are then brought out to make claim to property
ver resided in the judgment debtor."

is and other grounds set forth in the Decree, the plaintiff's claim has been wholly reject-
appeal dismissed, but without costs. The argument advanced by the Civil Judge in
this latter part of his decision, is that "the plaintiff has been encouraged in this piece
ion by the very lax proceedings of the Collector's office."

dverted to in para. 10
ee.

4. This argument seems to refer to the orders* of Mr. Conolly, declaring the plaintiff entitled, and that Government had never made any claim upon the subject. But these orders, the Decree
, are not to be treated as admissions and still less as conclusive admissions of paintiff's
tangible reasons are assigned against them, which show conclusively that they did not
y the plaintiff's pretensions. That such orders should be made the basis for saddling on Government their own costs is not, to my mind, reasonable. The

binson's letters, Nos.
, dated 24th and 26th
1857.

orders were given under circumstances which, it was believed, rendered such a course of procedure, at the time, prudent. As shown in Mr. Robinson's letters to the Board, dated 24th and 26th December 1857, Mr. Conolly decided to forego the pleas which

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rged on the side of Government, deeming it needless trouble to bring an action to
unnud of a sale effected by a Court of Law, which however erroneously made, could
aside by a regular Suit, more especially as many years had elapsed since the Sunnud
. He moreover, it was believed, considered the matter to be of too insignificant a
call for further measures. It was, however, far from being a trivial one. The land is
nount much larger than that realized at the sale, and the right of Government admits
e whatever.

l these circumstances, which were laid in detail before the Principal Sadr Amin through
ment Vakil, must have come, on Appeal, under the review of the Civil Court. In
n of them and other facts of the case, the Government cannot, so far as I can judge,
harged with the costs. But it being a matter of opinion, which may or may not be de-

	R. A. P.
.....	21 0 0
.....	17 7 2
	38 7 2

cided in our favor by the higher Court, and as the smallness of the amount of costs adjudged does not render it worth while incurring the expenses of a Special Appeal, I think it prudent to refrain from taking any steps in the case, especially as it will be in our power to object to this part of the Decree, under Section 348 of
1859, in the event of the appellant prefering a Special Appeal. I would, however, leave
r the decision of the Board.

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Enc. 1.

.GT.—Copy of the Decree passed by the Civil Judge of Tellicherry in Appeal Suit
859.

loch.

Enclosure No. 1 in the Proceedings of the Board of Revenue to the Secretary to Government Revenue Department dated 6th November 1860 No. 5741.

Entd. J. Wright

No. 2602/60.

Letter from the Collector of Malabar to the Secretary to the Board of Revenue dated 22nd October 1860 No. 203 regarding the Appeal Suit No. 20 of 1859.

No. 5,141.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th November 1860.

Read letter from the Collector of Malabar, dated 22nd October 1860, No. 203.

(In Cons., 30th October 1860, No. 5,538.)

Submitted for the information of Government, with reference to their

In Cons., 19th May 1859. Order, dated 18th May 1859, No. 682.

Original Suit No. 10 of 1857, P. S. Ameen's file.
Appeal Suit No. 20 of 1859, Civil Court of Tellicherry.
Pollakul Amman Cutti, *Plaintiff*,
versus
Collector of Malabar, and 6 others, *Defendants*.

1. In the foregoing letter, the Collector reports the decision of Appeal Suit No. 20 of 1859, on the file of the Civil Court of Tellicherry, in favor of Government; but complains of their being adjudged to bear their own costs on the ground that "the Plaintiff was encouraged in the litigation, by the lax proceedings of the Collector's "Office."

Paragraph 10 of Decree.

2. In this remark, the Court alludes to two orders of the late Mr. Conolly declaring "the Plaintiff entitled, and that Government had never made any claim upon the subject;" but the present Collector explains the circumstances under which the above orders were issued.

3. As the amount of costs involved is only Rupees 38-7-2, the Collector does not think it desirable to take any steps in the matter, especially as it will be in the power of Government to object to this part of the Decree under Section 348 of Act VIII of 1859, in the event of the Appellant preferring a Special Appeal. In this view, the Board concur, and submit the case for the orders of Government.

4. The appeal time will expire on the 13th December 1860.

(A true Extract.)

Secretary.

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

Copy to P. Grant, Esq., Collector of Malabar.

Exd. J. Wright.

No. 2 Vol. Mag 59 Nos 1-2.

Ch. of the 18th of Nov. 07.
19 Jur 161 - Ch 183 in
Civ. 23d. January No. 157.

No. 423 & 424.

C47 Nov. 20th

1860 Department
Proceedings of Govt. for Sept. & Octr.
No. 2602.
Proceedings of the
Board of Revenue.

Dated 6th
Recd 14th } November 1860.
Recd 15
Encl. 1 with 10 Encl.

No. 3141.

Submitting for information with the Board's observations a letter from the Collector of Malabar reporting the decision of Appeal Suit No. 21 of 1859 on the file of the Civil Court of Tellicherry in favor of Government.

No. 2229. 24th Nov.
William Oakes

No. 2229.

The Govt. agree with the Board of Revr. that objection to the payment of costs in the suit referred to in these Proceedings need not be raised unless the Appellant professes a special Appeal. Meanwhile, payment of the amount (Rs 35-4-2) thirty eight Annas seven pie & five is sanctioned.

Fort St. Geo. 24 Nov. 1860.
12 Copies
To the Bd of Revr. with Their Dispatch
3 - Acct Genl
3 - Accts Genl