M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2291 — Press / ~~Mis.~~

60-4

Dated 1—12— 1860.

Not to be folded or roughly handled

No. 10. Read the following Proceedings of the Board of Revenue, dated 27th November 1860, No. 5,489 :—

Read letter from the Collector of South Canara, dated 12th November 1860, No. 190, forwarding translation of a Plaint and Supplemental Plaint in O. S. No. 1,115 of 1858, together with the proposed answer, and requesting sanction for defending the same.

(In Cons., 20th November 1860, No. 5,999.)

1. Ordered that the above letter be submitted to Government, with the Board's recommendation that the defence of the Suit in question in the first instance at the expense of Government, be sanctioned.

2. The Collector's explanation is so imperfect that the Board are left to guess at many of the facts of the case, but as he has not mentioned the date fixed for the hearing, they are not in a position to judge whether the case admits of the delay that would be involved in a reference; neither has he given the slightest explanation of the terms or grounds of the order No. 9, quoted in the Supplemental Plaint, on the strength of which the Collector has been made a Supplemental Defendant; but so far as the Board can make out the facts of the case, the dispute has from the first been as to a division of property between the members of one family, and that the effect of the orders of the Revenue authorities has been to uphold the party in possession, who was one of the original disputants, without, however, directly admitting that the land in question belonged to the family wurg, although such an admission might be inferred from the order of the Acting Additional Sub-Collector Mr. Fisher in 1850, ordering the question between the parties to be referred for decision by a Punchâyat. As, however, the present plaintiff withdrew from his agreement to abide by such a decision, he cannot bring the circumstances forward without laying bare a weak point in his own case; and even supposing the land to be included in the wurg, it does not appear that under the circumstances the maintaining of the party in possession without passing any opinion as the right of property in the land could in any way injure plaintiff.

3. If, as the Board infer from the Supplemental Plaint, the party in possession in order to strengthen his position has applied for the land on Darkhâst, he being one of the sharers in the family property, as a portion of which Petitioner claims it, the fact affords additional evidence of the badness of plaintiff's claim.

4. The draft answer is wanting in precision, and contains much surplusage among good grounds of defence, but the Board in their imperfect acquaintance with the facts hesitate to propose one in substitution. They think, however, that it will be sufficient for the Collector to plead on behalf of Government.

That the land is not included in Petitioner's wurg.

That there is nothing in the public accounts to uphold his claim.

That his own conduct in regard to the matter has shown how little reliance he has on his asserted rights.

That his description of the land in his Supplemental Plaint as "Kumaki" land is of itself sufficient to upset his claim as of right, such land being public property, whereof the usufract alone in its unbroken condition is allowed by Government to the adjoining Wurgdars free of charge under definite and well known rules, the distribution of such "Kumaki" land among the sharers on partition of a wurg being a matter with which the Collector was competent to deal and the Courts are not competent to interfere.

That the grant of the land on Darkhâst to the party in possession, and the owner of closely neighbouring land, was perfectly justifiable under the circumstances of the case and the practice of the District.

(True Extract.)
(Signed) W. HUDLESTON, *Acting Secretary.*

Proceedings of the Madras Government, Revenue Department,
1st December 1860.

No. 11. ORDER THEREON, 1st December 1860, No. 2,291.

1. The Honorable the Governor in Council sanctions the defence, in the first instance at the public expense, of O. S. No. 1,115 of 1858, instituted by one Rájapurohittiya Appana Jósya in the Court of the District Munsif of Mangalore against the Collector of South Canara and others; but he will determine, when a copy of the Decree is submitted, whether the costs, if any be adjudged against the Collector, shall be borne by that Officer, or the Government.

2. The grounds of defence suggested by the Board of Revenue seem suited to the case, so far as its real character can be ascertained from the obscure report of the Collector; and they are authorized to instruct Mr. Fraser to adopt the same.

3. The Board will obtain and submit full explanation of the circumstances connected with the Suit, and will notice in suitable terms the very unsatisfactory manner in which the case has been laid before them and the Government.

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

R. D.

No. 2291.

Proceedings of the Madras Govt.
Under date the 1st Decr 1860.
Read the following
Pro of the Bd of Revr

Submits letter from the
S. Canara reporting
stitution of O.S. No. 1115
on the file of the
Munsiff of Mangalore
himself for the reco-
a piece of ground con-
Govt property & recom-
that the defence of the
sanctioned. —

Hereunto 27th Novr 1860
No. 5689. —

Ordered that the Govt defend the defence, in the first instance at the public expense, of O.S. No. 1115 of 1858 instituted by one Rajapurohittiya Appana Joisya in the Court of the Dist Munsif of Mangalore against the Collector of South Canara and others, but he will determine, when a copy of the Decree is submitted, whether the costs, if any be adjudged against the

the

the Collector, shall be borne by that Officer, or the Govt."

2. The grounds of defence suggested by the Bd of Rev seem suited to the case, so far as its real character can be ascertained from the obscure report of the Collector; and they are authorized to instruct her Excr to adopt the same.

3. The Bd will obtain and submit full explanation of the circumstances connected with the suit, and will notice in suitable terms the very unsatisfactory manner in which the case has been laid before them and the Govt.

J.D.S.

25 10

12 Copies
To the Boards of Revenue

Dec. 1802 Claim of
Wm. Ferguson for 2,638
Acres of Land in the
Parish of Rapides
Referred to Board of Revenue

Dated 24 Feb. 1803
Book 25 Folio 28
Ent. Comptr's Office
4 March 1803

Accepted. 1st December
Submitted to a Letter
from the Collector of
Customs the Claim of
the Memorialist is
recommended to the
favorable consideration of
the Executive of the
United States. Dec. 1802
on the file of the Register's
Office Rapides
Recorded in the Recorder's
Office of Rapides
Book A folio 101

No 10.

To the Board of Revenue with 4 Pap.
No 1 to 4