M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2444 Press ~~Mis.~~

376-317

Dated 18 12 1860.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
18th December 1860.

No. 316. Read the following Proceedings of the Board of Revenue, dated 10th December 1860, No. 5,784 :—

Read the letter from the Acting Collector of the Kistna Division, dated 22nd November 1860, No. 276.

(In Cons. 26th November 1860, No. 6,139.)

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

2. The answer should be simply a demurrer to the jurisdiction of the District Munsif in the case, the matter at issue being in regard to emoluments attached to an hereditary village office, questions regarding which are expressly removed from the jurisdiction of the Court by Regulation VI of 1831.

3. The Racha Curnums were it seems Gumáshtas of the Mirási Curnums, were nominated by the Collector, and paid out of the fees attached to the office, which were collected by the Officers of Government, the balance of the fees not so expended being left with the Mirásidárs.

4. How or when this system originated does not appear ; the mode of remuneration was prescribed by Mr. Stonhouse, the then Collector of Nellore in 1841. The Petitioner was appointed in 1850, by Mr. Stokes, and he received his pay up to October 1856, from which date until May 1857, when the services of the Racha Curnums were dispensed with, and the Office Mirásidárs were re-employed, he received no pay, though he performed the usual duties, payment of the fees in question having been refused by the weavers.

In Cons. 2nd August 1859, *No.* 3,878.

5. These fees were subsequently altogether abolished by Government, under date 1st August 1859, No. 1,037, Revenue Department.

6. Plaintiff seeks to obtain direct from Government on the strength of his having been nominated by the Collector and received his share of the emoluments through a Government Officer, the amount due for the period from October 1856 to May 1857, which the weavers declined to pay, and which the abolition of the fee by Government precludes him from recovering in any other way.

7. It is clear that Plaintiff as a mere "*locum tenens*" could not exercise a superior right to his principal, and the Civil Courts would certainly have no jurisdiction had the Mirási Curnum preferred the suit. The Board, therefore, consider that the Collector should simply demur to the jurisdiction of the Court.

8. At the same time as the claim appears to be an equitable one, he should if the demurrer be not allowed, pay into Court the sum of Rupees 58-14-0, which he states to be what is really due to the Plaintiff, and show cause if he can do so, why the claim was not hitherto adjusted. There is nothing in his letter to show that it was pressed on the Collector, since Mr. Newill's order in 1857 that the arrears due to the displaced Racha Curnums should be liquidated from the subsequent collections of fees, which were never made.

9. Should the Court allow the objection and dismiss the suit, the Acting Collector should at once report fully on the claim of this Plaintiff and of his fellow Curnum, applying for sanction to pay to them from the State funds such amount as may be proved due to them, should he be satisfied that the Government Order of 4th August 1859 has destroyed the source whence it was properly payable, and that no assets are available.

(A true Extract.)

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

From G. THORNHILL, Esq., Acting Collector of Kistna District, dated Gudivada, 22nd November 1860, No. 276.

1. I have the honor to state that a notice has been issued to me by the District Munsif of Bapetla, requiring me to present an answer to a complaint* preferred by one Bapetla Ramaya under Clause 6, Section 26, Act VIII of 1859, claiming the payment to him of Rupees 60, being the amount of salary said to be due to him at Rupees 9 per mensem for the period he performed the duties of Racha Curnum in the village of Chirala in the Bapetla Táluq, viz., from 1st November 1856, up to 17th May 1857.

* *Translation herewith sent.*

2. The matters connected with the subject are briefly as follows:—

3. The Plaintiff was appointed on the 18th February 1850, as a Racha Curnum of Chirala, on a salary of 9 Rupees per month. It is not clear when these Racha Curnums or Gumáshtas were originally appointed in the room of Mirási Curnums; but they were paid out of the fees, at 8 Annas per loom, collected by the Government servants under the orders of Mr. Stonhouse, a former Collector of the Nellore District, dated the 11th October 1841; the remaining amount of fees was left to be enjoyed by all the Mirási Curnums of the village instead of being carried to the credit of Government as was done prior to that time.

4. The Plaintiff, though appointed by Mr. Stokes on the 18th February 1850, entered upon his duties on the 25th idem. From that date he received his pay up to the month of October 1856. From 1st November 1856 to 17th May 1857 he received no pay though he performed the duties, the weavers having declined to pay the fees in question in Fasli 1266.

5. Mr. Newill, the late Acting Collector of the late Guntoor District, considering the interference on the part of the Officers of Government in the distribution of the emoluments to be objectionable, issued an order under date the 9th May 1857, that the Mirási Curnums should be re-appointed, and that the distribution of the emoluments among them should be left to themselves, the two displaced Racha Curnums being paid the arrears of their pay from the fees to be collected. But in consequence of the refusal of the Ryots to pay the usual fees on the looms for Fasli 1266, which led to the correspondence noted in the margin, the salaries due to the plaintiff and to his fellow Gumáshta, viz., Rupees 117-14-0,† at 9 Rupees each per month, were not paid from the 1st November 1856, up to the date of their discharge.

To Board,	*5th October*	1858,	*No.*	127.
From ,,	*15th November*	,,	,,	4,248.
To ,,	*2nd May*	1859,	,,	28.
From ,,	*4th August*	,,	,,	3,031.

	RS.	A.	P.
† *Due to Plaintiff*.....	58	15	0
Due to M. Sashia..... ..	58	15	0
	117	14	0

6. In paragraph 3 of their Proceedings, dated 1st August 1859, Revenue Department, No. 1,037, communicated in the Board's Proceedings, dated 4th idem, No. 3,031, the Government directed the abolition of the practice of exacting fees from weavers for the payment of the Curnums, consequently the fees for Fasli 1266, out of which the Plaintiff should be paid, were never collected.

7 From the foregoing circumstances, it appears that the sum in question is due to the Plaintiff in the present suit and his fellow Racha Curnum, who has not taken legal steps for the recovery of his pay.

8. As it is impracticable now to collect the fees owing to changes in the number and owners of looms, and as the Plaintiff has good grounds for his claim, I beg to recommend that the sum of Rupees 58-14-0, found to be due to him, may be disbursed to him from the Government Treasury.

Proceedings of the Madras Government, Revenue Department,
18th December 1860.

9. I request that I may be favored with the Board's instructions on the subject at an early date, as the time allowed to present an answer will expire on the 9th December next. I have, however, applied for one month's further time from that date, and I authorized one of the Pleaders in the Munsif's Court to plead in my behalf, and obtained through him a copy of the Plaint.

Mandapati. Varadacharlu.

To the District Munsif's Court at Bapetla in the Guntoor District.

Plaintiff.

Bapetla Ramaya, Bramin, inhabitant of Bapetla, subsisting upon service.

Defendants.

1. Mr. Thornhill, Acting Collector of the Kistna District.
2. Lakkaraju Bapaya, Tahsíldár of Bapetla Táluq and an inhabitant of Bapetla.
3. Ganapatiraju Venkatanarasimha Dasu, an inhabitant of Chirala.

The Plaintiff prefers the complaint under Clause 6, Section 26, Act VIII of 1859.

2. Agreeably to the order, No. 523, issued by the late Collector of the Guntoor District under date the 18th February 1850, the then Tahsíldár of Bapetla Táluq appointed me as Racha Curnum for the village of Chirala on a monthly salary of Rupees 9 and gave me a yadast (Memorandum) on the 25th February 1850. I performed the duties from the above date up to the 20th May 1857; when a yadast was received to the effect that the former Curnums were re-appointed and that I was displaced. I received from the Cirkar the salary due to me up to the month of October 1856.

3. Although the 3rd was written to in yadasts by the 2nd Defendant to pay me the subsequent salary due to me, yet he did not pay me. As the Collector also, to whom I presented Arzis on the subject, did not cause the same to be paid to me, and as my salary is due to me from the Cirkar, I prefer this complaint against the present Officers including them as Defendants.

4. I pray that a decree may be given that the Defendants should pay me the sum of Rupees 60, at Rupees 9 per mensem for six months and twenty days, from November 1856 to 20th May 1857, as well as the costs.

(Signed) BAPETLA RAMAYA.

I, Plaintiff in the Suit, do hereby certify that to the best of my knowledge and belief, all that is stated in this is true.

(Signed) BAPETLA RAMAYA, *Plaintiff.*

Stamp correct.
(Signed) A. VENKATADRI,
Head Gumáshta.

Filed 20th October 1860.

Correction, one.
(Signed) MANGU NURSINGARAS, *District Munsif.*

I, Kotumrajah Venkupuntulu, Javabneviss of Bapetla division, have taken, in my own hand writing, this correct copy from the original complaint handed over to me by the Court.

The Plaintiff filed in the Court the original yadast, No. 340, written by Parega Ramannah Tahsíldár, that the Plaintiff was appointed as Racha Curnum, as well as the original yadast, No. 388, written by the present Tahsíldár, that the Plaintiff was displaced from the 18th May.

(True Translation.)

(Signed) G. THORNHILL,
Acting Collector.

Proceedings of the Madras Government, Revenue Department,
18th December 1860.

No. 317. ORDER THEREON, 18th December 1860, No. 2,444.

1. The Board of Revenue submit a letter from the Acting Collector of the Kistna District, reporting the institution of a complaint against himself and others in the District Munsif's Court at Bapetla by one Ramaya, claiming the payment of salary due to him for the period he performed the duties of Racha Curnum, and recommend that authority be granted for the defence of the suit in the first instance at the expense of Government. The Board remark that the question at issue being one of emoluments attached to an hereditary village office, is not cognizable by the Court, and they therefore express the opinion that the answer should be simply a demurrer to the jurisdiction of the District Munsif in the case. They propose in the event of the suit being dismissed to consider Plaintiff's claim subsequently on its merits.

2. The Government observe that the Plaintiff was duly appointed by the Collector to the office of Racha Curnum and performed his duty as such. He now demands pay due to him up to the date of his discharge, a claim which the Board admit to be equitable. The Government do not consider that it raises any question connected with the office itself, and therefore do not regard a demurrer to the jurisdiction of the Court, as either necessary or just. They are of opinion that the Plaintiff ought to be paid his salary as well as any costs incurred by him, whatever the amount may be. His fellow Curnum, who, it is stated, has not brought a suit, being similarly circumstanced, should be treated in the same way. The Government direct that this course be adopted, and that steps be immediately taken to stop the suit.

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

No. 5,784.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 10th December 1860.

Read the ~~following~~ letter from the Acting Collector of the Kistna Division, dated 22nd Nov. 1860 No. 276.

(In Cons. 26th November 1860, No. 6,139.)

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

2. The answer should be simply a demurrer to the jurisdiction of the District Munsif in the case, the matter at issue being in regard to emoluments attached to an hereditary village office, questions regarding which are expressly removed from the jurisdiction of the Court by Regulation VI of 1831.

3. The Racha Karnams were it seems Gumastahs of the Mirasi Karnams, were nominated by the Collector, and paid out of the fees attached to the office, which were collected by the Officers of Government, the balance of the fees not so expended being left with the Mirasidars.

4. How or when this system originated does not appear; the mode of remuneration was prescribed by Mr. Stonhouse, the then Collector of Nellore in 1841. The Petitioner was appointed in 1850, by Mr. Stokes, and he received his pay up to October 1856, from which date until May 1857, when the services of the Racha Karnams were dispensed with, and the Office Mirasidars were re-employed, he received no pay, though he performed the usual duties, payment of the fees in question having been refused by the weavers.

In Cons. 2nd August 1859, No. 3,878.

5. These fees were subsequently altogether abolished by Government, under date 1st August 1859, No. 1,037, R. D.

6. Plaintiff seeks to obtain direct from Government on the strength of his having been nominated by the Collector and received his share of the emoluments through a Government Officer, the amount due for the period from October 1856 to May 1857, which the weavers declined to pay, and which the abolition of the fee by Government precludes him from recovering in any other way.

7. It is clear that Plaintiff as a mere "*locum tenens*" could not exercise a superior right to his principal, and the Civil Courts would certainly have no jurisdiction had the Mirasi Karnam preferred the suit. The Board, therefore, consider that the Collector should simply demur to the jurisdiction of the Court.

8. At the same time as the claim appears to be an equitable one, he should if the demurrer be not allowed, pay into Court the sum of Rupees 58-14, which he states to be what is really due to the Plaintiff, and show cause if he can do so, why the claim was not hitherto adjusted. There is nothing in his letter to show that it was pressed on the Collector, since Mr. Newill's order in 1857 that the arrears due to the displaced Racha Karnams should be liquidated from the subsequent collections of fees, which were never made.

9. Should the Court allow the objection and dismiss the suit, the Acting Collector should at once report fully on the claim of this Plaintiff and of his fellow Karnam, applying for sanction to pay to them from the State funds such amount as may be proved due to them, should he be satisfied that the Government Order of 4th August 1859 has destroyed the source whence it was properly payable, and that no assets are available.

(A true Extract.)

Acting Secretary.

To J. D. Sim, Esq., Acting Secretary to Government, R. D.

Copy to G. Thornhill, Esq., Acting Collector of Kistna District.

Exd. J. Wright.

IN CON. 26TH NOVEMBER 1860, No. 6,139.

From G. THORNHILL, Esq., Acting Collector of KISTNA DISTRICT,
dated Gudivada, 22nd November 1860, No. 276.

I have the honor to state that a notice has been issued to me by the District Moonsiff of Bapetla, requiring me to present an answer to a complaint* preferred by one Bapetla Rumaya under Clause 6, Section 26, Act VIII of 1859, claiming the payment to him of Rupees 60, being the amount of salary said to be due to him at Rupees 9 per mensem for the period he performed the duties of Racha Karnum in the village of Chirala in the Bapetla taluq, viz., from 1st November 1856, up to 17th May 1857.

* Translation herewith sent.

2. The matters connected with the subject are briefly as follows :—

3. The plaintiff was appointed on the 18th February 1850, as a Racha Karnum of Chirala, on a salary of 9 Rupees per month. It is not clear when these Racha Karnums or Gumastas were originally appointed in the room of Mirasy Karnums; but they were paid out of the fees, at 8 Annas per loom, collected by the Government servants under the orders of Mr. Stonhouse, a former Collector of the Nellore District, dated the 11th October 1841; the remaining amount of fees was left to be enjoyed by all the Mirasy Karnums of the village instead of being carried to the credit of Government as was done prior to that time.

4. The plaintiff, though appointed by Mr. Stokes on the 18th February 1850, entered upon his duties on the 25th idem. From that date he received his pay up to the month of October 1856. From 1st November 1856 to 17th May 1857 he received no pay though he performed the duties, the weavers having declined to pay the fees in question in Fasli 1266.

5. Mr. Newill, the late Acting Collector of the late Guntoor District, considering the interference on the part of the officers of Government in the distribution of the emoluments to be objectionable, issued an order under date the 9th May 1857, that the Mirasy Karnums should be reappointed, and that the distribution of the emoluments among them should be left to themselves, the two displaced Racha Karnums being paid the arrears of their pay from the fees to be collected. But in consequence of the refusal of the ryots to pay the usual fees on the looms for Fasli 1266 which led to the correspondence noted in the margin, the salaries due to the plaintiff and to his fellow Gumasta, viz., Rupees 117-14-0,* at 9 Rupees each per month, were not paid from the 1st November 1856, up to the date of their discharge.

To Board 5th October 1858, No. 127.
From do. 15th November do. No. 4,248.
To do. 2nd May 1859, No. 28.
From do. 4th August do. No. 3,031.

	Rs.	A.	P.
* Due to Plaintiff.....	58	15	0
Due to M. Sashia.....	58	15	0
	117	14	0

6. In paragraph 3 of their Proceedings, dated 1st August 1859, R. D., No. 1,037, communicated in the Board's Proceedings, dated 4th idem, No. 3,031, the Government directed the abolition of the practice of exacting fees from weavers for the payment of the Karnums, consequently the fees for Fasli 1266, out of which the plaintiff should be paid, were never collected.

7. From the foregoing circumstances, it appears that the sum in question is due to the plaintiff in the present suit and his fellow Racha Karnum, who has not taken legal steps for the recovery of his pay.

8. As it is impracticable now to collect the fees owing to changes in the number and owners of looms, and as the plaintiff has good grounds for his claim, I beg to recommend that the sum of Rupees 58-14-0, found to be due to him, may be disbursed to him from the Government Treasury.

9. I request that I may be favored with the Board's instructions on the subject at an early date, as the time allowed to present an Answer will expire on the 9th December next. I have, however, applied for one month's further time from that date, and I authorised one of the Pleaders in the Munsiff's Court to plead in my behalf, and obtained through him a copy of the Plaint.

Mandapati,
Varadacharlu.

—

ENC. 1.

To the District Munsiff's Court at Bapetla in the Guntoor District.

Plaintiff.	*Defendants.*
Bapetla Ramaya, Bramin, inhabitant of Bapetla, subsisting upon service.	1. Mr. Thornhill, Acting Collector of the Kistna District. 2. Lakkaraju Bapaya, Tahsildar of Bapetla Taluq and an inhabitant of Bapetla. 3. Ganapatiraju Venkatanarasimha Dasu, an inhabitant of Chirala.

The plaintiff prefers the complaint under Clause 6, Section 26, Act VIII of 1859.

2. Agreeably to the order, No. 523, issued by the late Collector of the Guntoor District under date the 18th February 1850, the then Tahsildar of Bapelta Taluq appointed me as Racha Karnum for the village of Chirala on a monthly salary of Rupees 9 and gave me a yadast (Memorandum) on the 25th February 1850. I performed the duties from the above date up to the 20th May 1857; when a yadast was received to the effect that the former Karnums were re-appointed and that I was displaced. I received from the Cirkar the salary due to me up to the month of October 1856.

3. Although the 3rd was written to in yadasts by the 2nd defendant to pay me the subsequent salary due to me, yet he did not pay me. As the Collector also, to whom I presented Arzis on the subject, did not cause the same to be paid to me, and as my salary is due to me from the Cirkar, I prefer this complaint against the present officers including them as defendants.

4. I pray that a decree may be given that the defendants should pay me the sum of Rupees 60, at Rupees 9 per mensem for 6 months and 20 days, from November 1855 to 20th May 1857, as well as the costs.

(Signed) BAPETLA RAMAYA,

I, plaintiff in the suit, do hereby certify that to the best of my knowledge and belief, all that is stated in this is true.

(Signed) BAPETLA RAMAYA,
Plaintiff.

Stamp correct.
(Signed) A VENKATADRI,
Head Gumasta.

Filed 20th October 1860.

Correction, one.
(Signed) MANGU NURSINGARAS,
District Munsiff.

I, Kotumrajah Venkupuntulu, Javabneviss of Bapetla division, have taken, in my own hand writing, this correct copy from the original complaint handed over to me by the Court.

The plaintiff filed in the Court the original Yadast, No. 310, written by Parega Ramannah, Tahsildar, that the plaintiff was appointed as Racha Karnum, as well as the original yadast, No. 388, written by the present Tahsildar, that the plaintiff was displaced from the 18th May.

(True Translation.)
(Signed) G. THORNHILL,
Acting Collector.

Exd. J. Tulloch.

R. D. 5

No 2935

No 24464.

Proceedings of the Madras Government
Under date the 18 December 1860.

Read the following Proceedings of the Board of Revenue.

Here enter 10th December 1860 (25784)

Submits a letter from the Actg Collector of the Kistna District reporting the institution of a Complaint in the District Moonsiffs Court of Bapatla by one B. Ramayya claiming the payment of Salary due to him for the period he performed the duties of Racha Karnum and recommends that the defence of the Suit be authorized at the expense of Government.

The Board of Revenue submit a letter from the Acting Collr. of the Kistna district reporting the institution against himself and others of a complaint in the District Moonsiffs Court at Bapetla by one B. Ramaya claiming the payment of salary due to him for the period he performed the duties of Racha Carnum, and recommend that authority be

be granted for the defence of the suit in the first instance at the expense of Govt. The Board remark that the question at issue being one of emoluments attached to an hereditary village office is not cognizable by the Court, and they therefore express the opinion that the answer should be simply a demurrer to the jurisdiction of the District Munsif in the case.

2. The Govt observe that the Plaintiff was duly appointed by the Collector to the office of Rasha Curnum and performed his duty as such. He now demands pay due to him up to the date of his discharge, a claim which the Board admit to be cog- nizable. The Govt do not consider that it raises any question connected with the office itself, and therefore do not regard [illegible] a demurrer to the jurisdiction of the Court, as [illegible] either necessary or just. They are of opinion that the Plaintiff ought to be paid his salary as well as any costs incurred by him, whatever the amount may be. His fellow Curnum who, it is stated, has not brought a suit, being similarly circumstanced, should be treated in the same way. The Govt direct that this course be adopted, and that steps be immediately taken to stop the Suit.

J. D. L

They propose in the event of the suit being dismissed to consider Plaintiff's claim subsequently on its merits

R. S. Copy
Board of Rev. Dispatch
Dated to do of 20

Revenue 1860 Departt
Pro: of Govt for December

No 2444

Pro: of the Madras
Government

Dt 18th December 1860.

Respecting the
suit instituted before
Ramaya against the
Acting Collr of the Kistna
District for the expenses
due to him for the period
he performed the duties
of Kacha Cherumen

No 316 & 317

Subject a Peon to Cherumen
in Kistna District