

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	557	Press
		~~Mis.~~
7-8		
Dated	11-4	1860.

Not to be folded or roughly handled

19.4.6132

*Proceedings of the Madras Government, Revenue Department,
for the month of April 1860.*

No. 7. Read the following Proceedings of the Board of Revenue, dated 5th April 1860,
No. 1,733 :—

Read letter from the Officiating Collector of Salem, dated 24th March 1860, No. 78.

(In Cons. 29th March 1860, No. 1,423.)

Read also letter from the same Officer, dated 2nd April 1860, No. 91.

(In Cons. 4th April 1860, No. 1,536.)

In the above letter, the Acting Collector of Salem reports that the Sub-Judge has decided in favor of the Plaintiff and adversely to the Government
Sub Court of Salem, O. S. No. 2 of 1856. in O. S. No. 2 of 1856.
Plaintiff.

*Venkataramanaiengor since dead, his son
Tammaien.
Vakil, Appaswami Pillai.*

1. *Kumdraswami Mudali.*

2. *Somapali do.*

3. *Sundara do.*

4. *H. A. Brett, Esq., Collector of Salem.*

2. The Suit was brought by Plaintiff for the recovery of a piece of land, alleged to be held by him on a Pattā of the first four Defendants, proprietors of the Razipūr Muttha. The claim was resisted by the Collector on the plea that the land was not included in the Muttha that it had from time immemorial been enjoyed as common by the villagers and that Government had, 30 years before, constructed a fine Tank on it. The Government had no interest in the matter further than to guard the rights of the public from invasion, and the defence of the Suit was sanctioned with this object in Extract Minutes Consultation, 22d April 1856, Revenue Department, No. 397.

3. The whole dispute as will be seen from the correspondence noted in the margin, turned on the question whether the land was that described by the Plaintiff or that declared by the Collector, and any admission or testimony of the first four Defendants adverse to the Collector's plea, was manifestly open to suspicion, inasmuch as their proprietary right to the land was directly involved in the issue of the Suit.

4. It will be seen from the decree and the Acting Collector's letter, that the Sub-Judge recorded no "points," but decided on a personal inspection of the land that it formed part of the Muttha, that the use of the water of the Tank for irrigation by the first four Defendants and their issue of Pattās were proofs of their ownership and kept their right of action alive, and that the convenience of the village community would not be affected by the transfer of the land to Plaintiffs.

5. The Acting Collector takes exception to this judgment and proposes to appeal on the following grounds :

I. The irregularity of the Judge in recording no "points," though distinct matters of fact were in issue.

II. The acceptance of the documents of the first four Defendants who were really more interested in the Suit than the Plaintiff.

III. The impossibility of deciding the Suit by any inspection of the land.

IV. The irrelevancy of the argument drawn from the bearing of the claim on the convenience of the community.

V. The fact of the decree virtually declaring the first four Defendants to be owners of the land without trial or proof of their title, which was not in action.

VI. The Court's disregard of the presumption of ownership on the part of Government raised by their expenditure of money in constructing a Tank.

6. The Board concur with the Acting Collector that the decision is liable to the exception taken by him, and they are of opinion that an appeal should be preferred on the 1st, 2nd, 3rd and 5th grounds stated, the 4th and 6th being omitted as immaterial. The Government as already stated, have no direct interest in the Suit, but the Board do not think that Government should acquiesce in a decision passed on such unsatisfactory ground.

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The time allowed for appeal, (viz., one month), expired on the 21st ultimo, but the Acting Collector has applied for a further period of one month, which if granted, will extend the appeal time to the 21st instant.

(A true Extract.)

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

No. 8.

ORDER THEREON, 11th April 1860, No. 557.

The Governor in Council authorizes the Acting Collector of Salem to institute an appeal in the District Court from the decree passed by the Sub Court in O. S. No. 2 of 1856. The appeal will be conducted, in the first instance, at the public cost, but the Government will determine, when a copy of the appeal decree shall be laid before them, whether the costs which may be finally adjudged against the Collector shall be borne by that Officer or by the Government.

2. In the opinion of Government, the whole of the draft appeal may properly be filed.

(Signed) J. D. BOURDILLON,
Secretary to Government.

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