M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 822. Press ~~Mis.~~

17-18

Dated 27-5-1869.

Not to be folded or roughly handled

No. 17. Read the following Proceedings of the Board of Revenue, dated 12th March 1860, No. 2,322 :—

Read again letter from the Officiating Collector of Salem, dated 30th March 1860, No. 86.

(In Con., 3rd April 1860, No. 1,505.)

Read also the following letters from the same Officer.

Dated 13th, in Con., 19th April 1860, No. 1,754.

21st, in Con., 24th April 1860, No. 1,870.

SUB COURT OF SALEM.
Original Suit No. 43 of 1853.
Plaintiff.
Ramen, residing in Olagaripatti, in the Táluq of Paramutti.
versus.
H. D. Phillips, Esq., Collector of Salem.
Govindoo Rán, Tahsíldár of Wómalur, and 8 others. } *Defendants.*

1. The above letters relate to the Suit noted in the margin, which was authorized to be defended in Extract from Minutes of Consultation dated 27th May 1854, Revenue Department, No. 605.

In Con., 29th May 1854.

2. This Suit was originally instituted to regain possession of certain lands which Plaintiff alleged he held on Pattá, but which were taken from him and given to other parties. For the defence it was asserted that Plaintiff never had possession of all the lands he claimed, but that they were fraudulently entered in his Pattá, instead of other land, by the Karanam who was punished for the offence. The question, therefore, was whether the Pattádár was entitled to have the lands to which the entries in his Pattá referred, or whether the Pattá should be corrected according to his true holding. The latter course was adopted, after a careful investigation by the then Sub-Collector, but the Plaintiff was dissatisfied and brought the matter before the Court.

3. The decision of the Sub-Judge now forwarded is adverse to the Collector, and adjudges him to pay costs. The Decree states that the Pattádár really and formally obtained the lands on Pattá, and that he was actually in possession of them when they were given to other parties, on the plea that although entered in the Pattá, they were not actually in his possession.

4. The Officiating Collector proposes to appeal against this decision on the grounds stated in detail in his Memorandum of Appeal, but the Board are unable to support his request. From the evidence adduced before the Court, there are grounds for believing that the lands were formally acquired by Plaintiff, from the Subordinate Revenue authorities; that they were duly entered in his Pattá; and that he held peaceable possession of them when they were made over to other parties. It, moreover, appears that according to the Hukumnáma, a party holding land under a pasture Pattá (which seems to have been the description of title first granted to Plaintiff) has the preferential right to obtain it on full assessment. The Plaintiff's refusal to keep the lands in dispute at the enhanced rate has not been proved, nor does it appear that he in any way consented to their being given away to others. Under all these circumstances, therefore, the Board would recommend that further proceedings be abandoned, and that the Plaintiff be allowed the benefit of the decision of the Court in his favor.

In Con., 19th April 1860, *No.* 1,754.

5. With regard to the proposal in the concluding paragraph of Mr. Knox's letter, dated 13th ultimo, the Board observe that Government have recently decided that the privilege of taking up a certain extent of land as pasturage at a lower rate than the regular assessment shall not be withdrawn for the present. This being the case the Board think the person who pays the pasture tax may reasonably claim to have the option of retaining the land at full assessment when it is required for cultivation.

6. The Collector will report the amount of costs adjudged against Government.

(A true Extract.)

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

No. 18. ORDER THEREON 22nd May 1860, No. 822.

1. This Proceeding of the Board relates to a Suit in the Salem Subordinate Court, in which a Decree has been delivered adverse to the Collector who is the 1st Defendant. The late Acting Collector Mr. Knox advised that an appeal should be made; but the Board recommend that no further Proceedings should be taken.

2. The case relates to some uncultivated land which was given by the Sub-Collector for cultivation to certain persons (Defendants 4 to 10) but which the Plaintiff claimed as in his occupation at the time. It appears that the land in question was actually included in the

Plaintiff's Pattá, as held by him for pasture on ⅓rd assessment, according to the practice in the Salem District; but other parties having applied for the land, the Karanam declared that it was not really in Plaintiff's possession, that the land held by him was different, but that it was wrongly described in the Pattá. Mr. F. Maltby, Sub-Collector at the time, (for these transactions occurred so long ago as 1850) investigated the case with care. After visiting the spot, he accepted the Karanam's explanation, and gave the land to the new applicants. Plaintiff brought his action and the defence was based on the same statement of the Karanams; it was however rejected by the Court, who decided that the lands in question were really in Plaintiff's possession; and the Board now express the opinion (paragraph 4) that there are grounds for believing that Plaintiff was in peaceable possession of the lands when they were made over to the other parties.

3. Mr. Knox in his Memorandum of reasons for appealing takes no notice of the allegation that Plaintiff was not really in possession of the disputed lands, which was the main ground of the original defence; but lays stress on the fact that Plaintiff's possession of the land was only conditional and for a specific purpose, viz., for grazing, and that he was bound to give it up when wanted by another Raiyat for cultivation; and his chief argument is that such conditional occupation gave Plaintiff no preferential right to take the land for cultivation. This argument however, is at variance with the District Hukumnáma which expressly gives that preferential right; and Mr. Knox explains in a later letter that he had become aware of his mistake in this particular. It is stated indeed in the original answer (paragraph 19) that the Plaintiff declined in writing to keep the land on full assessment; but this seems to be disallowed in the Decree.

4. The Government have nothing either to gain or lose by the issue of the action, except the amount of the costs. Under any circumstances, therefore, they do not think it would be expedient to make an appeal; and certainly not when the Board of Revenue are of opinion that the right is on the side of the Plaintiff. The Board will communicate this decision to the Collector; and will report the amount of the costs of the suit for the sanction of Government.

5. The Governor in Council resolves to bring to the knowledge of the Court of Sadar Adálat the great delay which occurred in this case. It does not appear to present any extraordinary difficulties; and yet it has taken six years to get a decision. The Decree is stated indeed to have been passed on the 30th September 1859; but the Acting Collector adds that it was not fair copied and sealed till some time in March 1860, as it seems. Even now, only a part of the Decree is given; there is no statement of the case, and the amount of costs is not specified as it ought to be.

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

2

Memorandum

This Proceeding of the Board relates to a suit in the Salem Subordinate Court, in which a decree has been delivered adverse to the Collector who is the 1st Defendant. The late Acting Collector Mr. Throp recommends that an appeal should be made; but the Board recommend that no further Proceeding should be taken.

2 The case relates to some uncultivated land which was given by the Sub Collector for cultivation to certain persons (Defendants 4 to 10) but which the Plaintiff claimed as in his occupation at the time. It appears that the land in question was actually included in the Plaintiffs Pattá,

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as held by him for pasture on 1/3 assessment, according to the practice in the Salem District; but other parties having applied for the lands, the Karanam declared that it was not really in Plaintiff's possession, that the land held by him was different, but that it was wrongly described in the Patta. Mr F. Maltby Sub Collector at the time, (for these transactions occurred so long ago as 1850) investigated the case with care, and visited the spot, and then accepted the Karanam's explanation, and gave the land to the new applicants. Plaintiff brought his action, and the defence was based on the same statement of the Karanam; it was however rejected by the Court who decided that the lands in question were really in Plaintiff's possession; and the Board now express the opinion (Para 4) that there are grounds for believing that

that Plaintiff was in peaceable possession of the lands when they were made over to the other parties.

3 Mr Knox in his Memo of — — reasons for appealing takes no notice of the allegation that Plaintiff was not really in possession of the disputed lands, which was the main ground of the original decree; but lays stress on the fact that Plaintiff's possession was only conditional and for a specific purpose, viz for grazing, and that he was bound to give it up when wanted by another Raiyat for cultivation; and his chief argument is that such conditional occupation gave Plaintiff no preferential right to take the land for cultivation. This argument, however, is at variance with the District Huzurnamah which expressly gives

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issue of the action, except the amount
of the costs. Under any circumstan-
-ces, therefore, I do not think it would
be expedient to make an appeal;
and certainly not when the Board
are of opinion that the right is on
the side of the Plaintiff.

5 I cannot but notice this
as an instance of the delays of the
Courts. The case appears to present
no extraordinary difficulties; and yet
it has taken six years to get a deci-
-sion. The decree is stated indeed to
have

Should notice
this to the S.G.
the delay in
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very bad.
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1 Oct

I write
a line
Mr
10 Oct
Ird
Ellis

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have been passed on the 30th September
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sealed till some time in March
1860, as it seems. Even now, only
a part of the decree is given; there
is no statement of the case, and
the amount of costs is not specified
as it ought to be.

May 17.

Revenue Dept

No 822

Proceedings of the Madras Government

Under date the 22nd May 1860.

Read the following

Proceedings of the Board of

Revenue.

Submitting with the

Board's observations letters from

the Collector of Salem who forwards ~~the~~

the Decree of the Subordinate

Court ~~of~~ in O.S. No 43 of

1853 and proposes, for

reasons stated, to appeal

against it.

Revenue 12th May 1860 No 23221

This Proceeding

of the Board relates to a suit

in the Salem Subordinate

Court, in which a decree

has been delivered adverse

to the Collector who is the

pltf

4th Defendant. The late
Acting Collector Mr. Knox advised
advised that an appeal
should be made; but the
Board recommend that
no further Proceedings
should be taken.

2 The case relates
to some uncultivated land
which was given by the
Sub Collector for cultivation
to certain persons (Defendants
4 to 10) but which the
Plaintiff claimed as in
his occupation at the
time. It appears that the
land in question was ac-
-tually included in the
Plaintiff's Pattá, as held
by him for pasture on 1/3rd
assessment, according
to the practice in the
Salem District; but other
parties having applied
for

for the land, the Karanam
declared that it was not
really in Plaintiffs possession,
that the land held by
him was different, but
that it was wrongly
described in the Pattá.
Mr. F. Mattby Sub
Collector at the time, (for
these transactions occurred
so long ago as 1854) inves-
-tigated the case with
care. After visiting the
spot, he accepted
the Karanam's explanation,
and gave the land to
the new applicants.
Plaintiff brought his
action and the defence
was based on the same
statement of the Karanam;
it was however rejected
by the Court, who decided
that the lands in question
were

were really in Plaintiffs
possession; and the Board
now express the opinion
(Para 4) that there are
grounds for believing that
Plaintiff was in peaceable
possession of the lands when
they were made over to the
other parties.

3. Mr. Knox in his
Mem.ls of reasons
for appealing takes no
notice of the allegation
that Plaintiff was not
really in possession of the
disputed lands, which
was the main ground
of the original defence;
but lays stress on the
fact that Plaintiff's possession of the land
was only conditional and
for a specific purpose, viz.
for grazing; and that
he was bound to give it
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and his chief argument
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take the land for culti-
vation. This argument
however, is at variance
with the District Kubuli-
namah which expressly
gives that preferential
right; and Mr Knox
explains in a later letter
that he had become aware
of his mistake in this
particular. It is stated
indeed in the original
answer (Para 9) that
the Plaintiff declined
in writing to keep the
land on full assessment;
but this seems to be dis-
allowed in the decree.

The

4 The Government have nothing either to gain or lose by the issue of the action, except the amount of the costs. Under any circumstances, therefore, they do not think it would be expedient to make an appeal; and certainly not when the Board of Revenue are of opinion that the right is on the side of the Plaintiff.

The Board will report the amount of the costs of the suit for the sanction of Government.

5. The Governor in Council cannot but notice ~~this as an instance of the delays of the Courts. The case~~ appears to present no extraordinary difficulties; and yet it has taken six years to get a decision.

The decree is stated indeed to have been passed on the 30th September 1859; but the Acting Collector adds that it was not fair copied and sealed till some time in March 1860, as it seems. Even now, only a part of the decree is given; there is no statement of the case, and the amount of costs is not specified as it ought to be. The attention of the Sadar Adalat will be called to these remarks, thro' the Judicial Department for such notice as the Court may deem to take of them.

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11 Copies to the Board of Revenue with 5th Enclosure
3 " Sadar Adalat
4 " Judicial Depart.