M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2021 Press / Mis.

260-261

Dated 21-10-1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 21st October 1861.

No. 260. Read the following Proceedings of the Board of Revenue, dated 16th October 1861, No. 5,689:—

Read again letter from the Collector of Nellore, dated 27th September 1861.

(In Cons. 30th September 1861, No. 6,182.)

Read the following letter from J. W. B. DYKES, Esq., Collector of Nellore, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Damavaram, 5th October 1861, No. 215.

SIR,

1. I have the honor to acknowledge the receipt of the Board's Proceedings, of the 1st instant, intimating that the Board await my formal application to defend the suits against me, and requesting me to report the dates on which the answers must be put in.

2. In reply I beg to express my regret, that through an oversight in forwarding the drafts of the replies I proposed to file, I omitted to request permission to defend the suits at the public expense; I now beg that the Board will be pleased to take the requisite steps to enable me to defend the suits at the public expense. And, as regards the dates, I beg to state that the 2nd and 4th instants were the dates fixed by the Court for filing replies, and that I have requested the permission of the Court to defer the same for three weeks, viz., to the 23rd and 25th instants respectively.

———

1. Ordered that the above papers be submitted to Government in continuation of the Board's Proceedings, dated 15th October 1861, No. 5,618.

2. The Ábkári renter at the first sale of the Gudúr Farm in Nellore District and his brother have brought actions against the Collector, the first for release from his liability and for damages said to have been sustained in connection with his purchase of the Ábkári Farm, the second for the release of his property wrongly attached by the Collector on account of claims against his (Plaintiff's) brother.

3. In the last case the Collector has released the property. So no further defence is needed than a statement of that fact.

4. In the first case the Collector is prepared to prove that the limits of the farm were duly notified, and that if Plaintiff was ignorant of the real area comprised in it, it must have been by his own fault, and that he is properly liable for the loss sustained by Government on the re-sale. The Board have already recommended to Government that all these cases of re-sales of the Nellore Ábkári Farms be treated alike, and that the Collector be instructed not to press their liability against any of the first renters. Should Government see fit to accede to this recommendation the Board presume that the Collector would need only to state that under instructions from Government he was not about to proceed farther in the matter, but if the Plaintiff should still insist on pressing his preposterous claim for damages, then the Collector must put in his defence, and the Board consider that the facts stated form a good and sufficient reply.

5. The 23rd and 25th October instants, are the dates to which the Collector has applied for leave to defer putting in his answers to the suits.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

———

No. 261. ORDER THEREON, 21st October 1861, No. 2,021.

1. The Government approve of the course proposed by the Board in paragraphs 3 and 4 of their Proceedings.

2. If the Plaintiff in suit No. 1, perseveres in his action it must be defended at the public expense, and the Government will determine hereafter by whom the costs, if any be adjudged against the Collector, shall be borne. The Board will instruct the Collector accordingly by Telegraph.

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

Presented in Court on the 3d of
filed on the 4th September 1861

(Signed) E. Story
Civil Judge

(Signed) B Rajavoolu

Original Suit
1861.
№ 2.

To

The Civil Court of Nellore.

Plaintiff

Boddula Raghavaiah Naidu of Golla caste living by service & an inhabitant of Nellore.

Versus.

J. W. B. Dykes Esquire, Collector of Nellore, residing at Nellore.

Complaint.

1. In confiscating on the 6th July the property of my brother Krishnaswami Naidu who was held responsible for the deficit in the price of Abkary Farms of the Gudur Taluq which he bade & which were put up to resale articles lent by me for his use valued at Rs 16-0-0 were also attached & I presented on the 9th Instant to the Defendt a petition to remove the attachment of my articles for which no answer was given
2. He also confiscated on the 16th August for the responsibility of my brother my property both movable & immovable valued at Rs 16391-14-0 as also an upstair house situate to the North of Diddiroad with which I am not connected.
3. Krishnaswami Naidu & I are not connected in pecuniary matters under the Hindu law.
4. Tho' I presented thro' a pleader on the 21st August 1861 a petition dated 19th Instant & another

to

dated 28th Idem by post on the same subject to the Defendant, my property was not removed from attachment.

5. I instituted this suit for my property valued at Rs 16,507 - 14a - 0p attached on the above two dates as particularized below;

V V E J

Enclosure No 4.
to Dis No 2453/61
to a letter from the
Collr of Jaffna to the
Board of Revenue dated
27th September 1861. No 2 Extd
Transcription of
Original Plaint filed
in the Civil Court of
Jaffna in Original
Suit No 2 of 1861.

Jaffna Oct 2 1861

Draft of an answer proposed to
be filed in Original Suit No 2 of
1861, before the Civil Court of Jaffna

Answer.

This is a suit brought by Bod-
dula Rajarala Nayadu to reco-
ver possession of certain property at-
tached by the Defendant, 1st. to the
extent of Rupees 16, being articles
sent to his brother Boddula Kirith-
-ginal Suit No 1 of the current year,
and 2ndly, to the extent of Rupees
16, 391 14 a. o., as particularized, which
property, when attached was in
Plaintiff's own possession.-

2.- Plaintiff further refers to an
upstair house, also attached by
Defendant. North of the Kiddi Road
with which, he says, he has nothing

to do, and, this being the Case, seems superfluous for him to refer to.-

3.- Plaintiffs younger brother Boddula Krishnama Nayadu having failed to abide by certain conditions deliberately entered into, and having thereby occasioned a heavy loss to the Government, and in accordance to those conditions rendered himself liable to the laws of distraint for recovery of arrears of Revenue in carrying out those laws, it became the Respondents duty to attach the property of the Plaintiff, as set forth in part in the Plaint. inasmuch as full and sufficient proof was afforded him, that Plaintiff and his brother were one undivided family, and therefor jointly liable.- And in respect that the Plaintiff and his brother are one undivided family, and, that

so far, they are jointly and severally liable for the debts contracted by either, the Respondent is fully prepared to produce, before the Court, ample and convincing evidence.-

4. Subsequent to the attachment of the property the Plaintiff represented, that the property attached, was self acquired.- Strictly speaking, not having left his fathers house till Land, of mature years, according to Hindu, Plaintiff is incapable of being possessed of self acquired property, as a member of an undivided family. But, this point not being upheld, the Respondent understands by our Courts, he on receiving the protest, that the property was self acquired, ordered inquiry to be made thereon.- And the inquiry, so ordered, tending to show, that the property attached had been acquired by Plaintiff since he came to Nellore, and was

ver

Decree of the civil court in the Zila of Nellore.

Original Suit before the civil court of Nellore No. 2 of 1861

Plaintiff	Defendant
Boddula Raghavulanaidu	J. W. B. Dykes Esquire
an inhabitant of Nellore	Collector of Nellore
Pleaders	Pleader
1 C. Venkatakrishnamacharlu	Government Vakeel
2 Mahamad Rahamtullasaib	N. Singaracharlu

This suit is brought for the removal of an attachment placed by the Defendant on his real and personal property valued at Rupees 16.507-14-- to liquidate the amount for which the Plaintiff's brother Boddula Krishnaswaminaidu has been held answerable on account of the deficiency that occured by the resale of Akkarce farm of Goodoor Taluq bid for by the latter on the 1st June 1861 for five years.

The court finds for Plaintiff with all costs.

Costs incurred by Plaintiff.

Stamp duty on a Plaint under Act XXXVI of 1860.....	500--"--
Stamp duty on 2 additional papers under Act XXXVI of 1860.....	1--"--
Do on a Vakalutnamah under Act XXXVI of 1860.....	"-8-"
Stamp duty on 2 papers of the Motion.....	"-8-"
Fee to Pleader under Section XXV Regulation XXV of 1816 & Section VI & VII Act I of 1846.....	480-2-2
This amount to be paid by Defendant to Plaintiff	982-2-2

Corrections None

1st Sheet

and hereditary, the Respondent ordered the attachment to be removed; and, in submitting for the consideration of the Court, that the Course pursued was strictly in accordance to the Law, he further requests, that the Court will be pleased to give decision accordingly in his favor, and dismiss the Suit with Costs.

E. W. B. Dykes

Collector.

Enclosure No. 2

Per 24.59/61

of a letter from the Collector of Nellore to the Board of Revenue dated 27th September 1861. No. 824 Extract.-

Respectfully 27th Sept 1861

Copy of an Application presented to the file in R. D. No. 2 of 1861. for the Civil Court of Nellore

No. 824 1861.

Costs incurred by Defendant. ..... "-8-"

Stamp duty on a Kyfiat. .....

Fee to Pleader under Section XXV Regulation XIV of 1816 & Section VI & VII Act I of 1846 ..... } 480-2-2

This amount to be borne by Defendant 480-10-2

No application for the execution of this Decree will be entertained after the lapse of 12 years unless excepted from the general rule of limitation prescribed in Clause 4 Section XVIII Regulation II of 1802 on one or other of the grounds specified in that Section.

The time for appeal from this Decree is (90) days

(Signed) E. Story
Civil Judge

(True Copy)

1 Date on which the Copy was applied for. } 11th December 1861

2 Date on which any additional Stamps may have been called for } "

3 Date on which such additional Stamps may have been furnished. } "

4 Date on which the Copy was ready for delivery } 11th December 1861

Corrections None E. Story
Civil Judge

2 pages and last Sheet

SEAL OF THE ZILLAH COURT OF MIDNAPORE

Judgment of the Civil Court in the Zila of Nellore-

Original Suit before the Civil Court of Nellore No. 2 of 1861

This Suit is brought for the removal of an attachment placed by the Defendant on his real and personal property valued at Rupees 16507-14-0 to liquidate the amount for which the Plaintiff's brother Boddula Cristnadwaminaidu has been held answerable on account of the deficiency that occurred by the resale of Abkaree Farm of Goodoor Taluk, bid for by the latter on the 1st June 1861 for five years.

2. The Plaintiff avers that the Defendant having in causing the property of the said Cristnadwaminaidu to be attached caused some articles of the Plaintiff valued at Rupees 16 to be sequestered on the 6th July 1861, the latter presented an arzi to the Defendant on the 9th Idem on the subject, but no answer was given to it; that the Defendant again on the 16th August last, caused to be attached the Plaintiff's real and personal property valued at Rupees 16491-14-0 whereas the Plaintiff has nothing to do with the said Cristnadwaminaidu's pecuniary matters and therefore not liable for his debts under the Hindu Laws and that although the Plaintiff presented to the Defendant through a Pleader of the Nellore Munsif's Court on the 21st August an Arzi dated 19th Idem and another arzi through the Post on the 28th August, yet the Plaintiff's property was not yet released.

3 The Defendant in written statement states that the Plaintiff's brother having rendered himself liable for arrears

Corrections Vouch 1st Sheet

of revenue, the property of the former was attached, the same being an undivided one; that the Plaintiff having subsequently represented that the property was self acquired his statement was enquired into and having been found correct, the release of the property was ordered; the Defendant therefore urges that there is no cause of action and that the Suit should be dismissed with costs.

4. The Plaintiff presented a miscellaneous Petition to the Court on the 30th October 1861 producing with it two public letters addressed to him by the Tahasildar of Nellore Taluk viz one dated 3rd October 1861 to the effect that the Defendant had issued to him an order No. 184 directing him to deliver over to the Plaintiff the property claimed, and the other dated the 14th Idem (A) (B) to the effect that on his communicating to the Collector the contents of the reply of the Plaintiff to this letter the Collector of Defendant by again issued an order No. 226 directing him to intimate to the Plaintiff that if he fails to take possession of the attached property in obedience to his orders, he himself would be responsible and not the Circar for any loss which may thereby be occasioned.

5. The Defendant produced with his written Statement exhibit No. 1 purporting to be Copy of an order issued by him to the Tahasildar of Nellore Taluq under date the 22d September 1861 directing the release of the property sued

Judgment

6 Under these circumstances the Court proceeds
at once to Judgment.

7 The Defendants Vakeel admits that the
Defendant received the Plaintiffs Arzees of the 9th July and
of the 21st and 22d August last in all of which the Plaintiff
prayed for the release of his property as having been
Self acquired, that the only notice taken of these 3 Arzees
was the Defendants Document No 1 dated 22d September last,
that Plaintiffs property as set forth in the plaint was seized
by order of the Defendant on the 6th July and 16th August last;
that A & B are genuine, and explains that the delay in
answering Plaintiffs Arzees arose from pressure of public
business.

8. The Defendants Document No 1 shews that the
Plaintiffs property was on these dates Seized as being un-
divided with his brother and after enquiry on that point only,
and the Defendants Vakeel admits that it was so; not
a word about the Plaintiffs property having been self-acquired
before the 22d September 1861: as to the plea of pressure of
business for not answering the Plaintiffs Arzees it is un-
reasonable and unsound; further Plaintiff has never received
any direct answer to his Arzees and if there was much
public business, there was no necessity for the Defendant to act
hastily

Corrections Vakeel 3rd Sheet

hastily in the matter of the Zuft.

9 Under these circumstances the Court is of opinion that Plaintiff had grounds of action, for the Defendant should have paid attention to the Plaintiffs arzee of the 9th July in which he stated that the property was self-acquired, and before ordering the further Zuft of the 16th August, have directed an enquiry in to the Plaintiffs assertion; moreover no present answer was vouchsafed to the Plaintiffs arzees of the 21st and 28th August last.

10 From all these circumstances, what could the Plaintiff suppose, but that the Defendant was determined, to carry out his own views in the matter without any reference to the Plaintiffs plea.

11 The Plaintiff presented his Plaint on the 3rd September and in the opinion of the Court, was quite justified in doing so.

12. The Plaintiffs Plaint having been filed the Plaintiff was right in refusing to receive back his Zuftid property at the mere order of the Defendant.

13 The Defendant forces the case to a decree when much expense might have been spared by settling the case amicably.

14 The Court finds for Plaintiff with all costs.

3rd December 1861.

(Signed) E. Story
Civil Judge

(True Copy)

Correction
Vide Story
1st and last Sheet

SEAL OF THE MADRAS COURT OF

Enclosure No. I

In a letter from the Collector of Nellore to the Secretary to the Board of Revenue, dated 16th January 1862 No. 10. —

Sub No 396 of 1862
Recd 27 Jany —

Se Encl.

Copy of Decree of the Civil Court of Nellore in Original Suit No. II of 1861 in which Boddoolla Ragavulu Naidoo preferred a complaint against the Collector of Nellore for attaching his property in satisfaction of arrears due to Government by [illegible] Brothers. —

Note

The Collr seems to have bungled matters in the sale but there is no time for further reference & Mr Dykes must defend Suit No 1, at the Govt expense in the 1st instance unless Plff withdraws it. No 2 is virtually [illegible] but the proposed defence cannot be put in — [illegible] should be [illegible] pleaded.

of the 15th

The Bds Mins ~~the~~ are in circulation separately with a Draft which I prepared before this letter reached me.

As regards the suit No 1 of 1861. I do not see how the case can be compromised — Plff says he was not placed in possession of the Farm which he bought — that the Collr in fact had ~~changed~~ altered its extent. If this is virtually admitted by a compromise as the Bd propose, what is to hinder the man who bought the Farm on its resale from repudiating his bargain? There has been bungling in the sale, but there is no doubt that Plff knows well enough what

the

Abbarry Farm the second for the release of

he was bidding for and that
he got all he expected to get.
I should certainly be disposed
to fight out the case, for I
will never do & allow myself
to bid recklessly at auctions
& then submit. But
the Colvin case is certainly not so
clear that a formal offer
can be dictated.

In the second case
a compromise is clearly the
only prudent course. The Co.
should first assure himself
of the liability of the party before
he attacked his property.

For Boland. J. D.

Attorney and Proprietor of Estates
Auctions & Private Sales effected
Insurances effected
Rents Collected &c &c
Brothers.

From Bd/Rev 15th Oct/61
No. 2446

Board's Pro. 8 April/62 C. No. 1110
in

Revenue 1861 Oct
Pro: of Govt for October
No 2439

Proceedings of the
Board of Revenue

Dated 16 October 1861.
Desp. 16 "
Rec. 17 "
E. I. with 4 encs

No. 5689.

1 Enc 5 / No. 2071. 21st Oct 61

Submitting with observations, in continuation of Bd's Prov: of 15th Inst, No. 5618, letter from the Collector of Nellore, requesting permission to defend at the public expence, 4 original Suits Nos 1 and 2 of 1861 instituted against him by certain abkarry renters of the district.

For Order
With an Order

2 Nos. 260 & 261.

For Orders. S. K

abkarry farm the second for the release of his property wrongly attached by the Collector on account of claims against his (Plaintiff's) brother

3. In the last case the Collector has released the property - So no further defence is needed than a statement of that fact -

4. In the first case the Collector is prepared to prove that the limits of the Farm were duly notified and that if Plaintiff was ignorant of the real area comprised in it it must have been by his own fault and that he is properly liable for the loss sustained by Government on the re-sale. - The Board have already recommended to Government that all these cases of re-sales of the Nellore abkarry farms be treated alike and that the Collector be instructed not to press their liability against any of the first renters. Should Government see fit to accede to this recommendation the Board presume that the Collector would need only to state that under instructions from Government he was not about to proceed farther in the

the Matter - but if the Plaintiff should still insist on pressing his preposterous claim for damages then the Collector must put in his defence and the Board consider that the facts stated form a good and sufficient reply.-

5. The 23d and 25th October instant are the dates to which the Collector has applied for leave to defer putting in his answers to the Suits.-

/ A true Copy and Extract /

J Burkinshaw

Secretary

To

J. D. Sim Esqr. Advocate Genl & Secretary to Govt. Pub. Copy & Rd of Letter Dept. Dated 24th Oct to do.

Secretary to Government

Revenue Department

Fortified Dec. 21 1837

Cop H Venkatarow

No 2021 Read the following letter from the Secretary to the Board of Revenue & Copy of the Collector's Answers to the Suits Nos 1 & 2 of Kanneganahalli Venkatarow.

Ordered that the Collector be directed to defend the Suits - and that the Costs, if any be allowed in the account of the Collector.