M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2121 — Press / Mis.

70-71

Dated 6 - 11 - 1861.

Not to be folded or roughly handled

No. 70. Read the following Proceedings of the Board of Revenue, dated 29th October 1861, No. 5,932.

Read the following letter from P. GRANT, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Calicut, 19th October 1861, No. 220 :—

SIR,

1. I have the honor to lay before the Board the draft of my proposed appeal against the Decree of the Mufti Sudder Amín of Tellicherry in Suit No. 237 of 1860, a translate of which was submitted to the Board with my letter dated 29th ultimo, No. 209A, and to request, that the sanction of Government may be obtained for conducting the appeal at the public expense.

2. The Mufti Sudder Amín has arrived at a decision opposed to the undoubted right of Government over the land under litigation.

3. The main question involved in the case is, whether the land is comprehended within the boundaries set forth in the Plaintiff's Documents.* That this is not the case, there is ample evidence, circumstantial and documentary, to show.

* A.—Deed of "Karaima" or perpetual transfer of "Ramen Kayi" land executed by Kunata Vassu Govindan to Tollakollat Shangaren Narainen, in *Medom* 890 (April, May, A. D. 1715.)
B.—Do. do. do. executed by Tollakollat Shangaren Keshaven to Vernakote Vishna Govindan, in *Eddaoom* 975 (March, April, 1800.)
and
C.—Do. do. do. executed by Kerke Karavanganom Keshaven Vassu Devan to Plaintiff's father Attaporam Shangaren Vishnu, in *Magaron* 1,005 (Jan. Feb. 1830.)

The land to which the Plaintiff's documents refer, and which is denominated "Raman Kayi" is *now* bounded on the west by a ridge; but the Mufti Sudder Amín, apparently on the strength of the word "Poya," "River," used in the documents to denote the western boundary, has come to the conclusion that its *present* western boundary is the river. He has lost sight of the fact that the first of the documents, on which the other two are based was executed 146 years ago, at a time when the river might have been the actual western boundary of the land. The River has since receded, leaving a considerable extent of alluvial land fit for cultivation. This can in no way be deemed to form part of the Plaintiff's land, but is unquestionably the property of Government, and was pymashed or surveyed as such so far back as 1806.

4. To support his conclusion, the Mufti Sudder Amín avers that the boundaries set forth in documents in question correspond with those laid down in the Plans drawn out by parties deputed to the spot by himself and the Moonsiff of Kavai.

Of the two Plans prepared, the first, which was the production of the Moonsiff's Court Amín, was apparently deemed incorrect, the second† which was subsequently drawn out by persons sent up by the Mufti Sudder Amín, does not at all warrant his views on this head. The very report of the parties who framed the second plan, shows that the land in dispute is the property of Government. Now this land lies on the west of the Plaintiff's land ("Ramen Kayi"), and a ridge, intervening between them, both forms the western boundary of the Plaintiff's land, but the Mufti Sudder Amín takes the river to be such boundary at present, and under this impression, asserts that the boundaries given in the Plaintiff's documents tally with those appearing in the Plans.

† *Vide* accompanying rough Plan.

NOTE.—The river now lies on the west of the land under litigation.

5. The Plaintiff's land "Raman Kayi," as the Board will observe from my first report‡ on this case, was only 10,017,§ square yards in extent, when pymashed so far back as M. E. 982 (A. D. 1806-7), but now it shows an excess of 1,406|| Malabar square yards.

‡ Dated 22nd February 1861, No. 53.
§ Malabar square yards / Poles = 20,034 English square yards.
|| =2,812 English square yards.

The Mufti Sudder Amín lays so much stress in paragraph 2 of his Decree on the specification of certain uncultivated spots "*Kuduru*, (small elevated pieces of ground) *Kunda*, (hollows) &c.," in the Plaintiff's documents, that his argument is apparently calculated to lead to the inference that those spots form the land under litigation, and account for the large excess discovered in the area of the Plaintiff's land.

* =17,390 English square yards.

The land in dispute, which consists of two pieces, is no less than 8,695* Malabar square yards. It is not at all probable that the uncultivated spots adverted to could amount in the aggregate to so large an extent of land, and the excess now apparent in the Plaintiff's land, is to my mind, more than those spots can reasonably be deemed to account for. They are obviously small rises and hollows, &c., which occur in marshy grounds; and even supposing that they were not taken into calculation, as they must have been, when the land was pymashed, they can altogether, so far as I can judge, be considered to form, in all probability, only a part of the excess, as it was in his power to add fresh pieces to his land from the adjoining Government ground as the gradual recession of the river permitted of it.

NOTE.—A Pymash measurement usually includes such spots.

6. The Mufti Sudder Amín, in paragraph 3 of his decree, expresses a suspicion, in reference to the Cowle filed by 2nd Defendant; which is not warranted by any of its contents. The entry of "Sirkar Jenmom" in that Cowle, to which his remarks refer, bears no suspicious appearance whatever.

He moreover seems to distrust the genuineness of the Mahratta Pymash account in which the land in dispute is entered as the property of Government. He observes that it bears no signature. The account is one recognized, I believe, as genuine by all the Courts in the District.

7. The Mufti Sudder Amín disbelieves the Statement of the Amshom, Menon, or Village Accountant, examined in the case; to the effect that the land under litigation belongs to the State. His objection, it will be observed, is that the Menon in a previous report (Exhibit F) to the Táluq Kacheri, stated that the land was the property of the Plaintiff; but this report was evidently based on nothing tangible. He said in it that upon enquiry, he found the land belonged to the Plaintiff.

The interpretation which the Sudder Amín gives of the report, that it was through, inadvertence that the Menon signed the Adighari's account, in which the land is entered as "Sirkar "Jenmom," and that he will be careful to avoid "such error in future," is one which no wording in the report seems to admit of. All that is stated in it, as regards the account, is that he signed it without personally inspecting the locality to which it related, and that he will take care that no such thing occurs in future.

Even admitting that this statement warrants the construction put upon it by the Sudder Amín, it must be remembered, that the report was written at a time when the Menon had not had that local experience and knowledge of Revenue matters, which he subsequently attained, and which enabled him to depose positively, *on oath*, before the Court, that the land is Government property.

Paragraph 7.
Vide Decree, paragraph 5.

8. As observed in my previous letter, the Plaintiff himself gave a deposition inferentially relinquishing the jenm right which he pretends to possess over the land in dispute, but the Sudder Amín views this deposition as not implying such relinquishment; while, in reality, its contents clearly import that he has no objection to the Sirkar dealing with the land in question as they deem expedient, that he was under the impression that *his* jenm land was being measured and included in that land, and that, if such is not the case, he has no grievance, and will refrain from contending about the matter.

Proceedings of the Madras Government, Revenue Department, 6th November 1861.

What I can gather from all this, is an implied acknowledgment of the right of Government, and a tacit renunciation of his pretended right over the land in dispute.

P. S.—The period allowed for presenting the appeal expires on the 15th proximo.

Ordered to be submitted to Government with reference to the Board's Proceedings, dated 14th October 1861, No. 5,609, and with their recommendation that the Collector be authorized to file the proposed appeal, as the Mufti Sudder Amín's decision appears to be directly opposed to the material facts of the case, and to be based in great part on a misconstruction of the documentary evidence adduced on behalf of Government.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 71. ORDER THEREON, 6th November 1861, No. 2,121.

The Government grant authority for the Collector of Malabar filing the proposed appeal against the decree of the Mufti Sudder Amín of Tellicherry in O. S. No. 237 of 1860; the appeal being conducted at the public expense on the usual terms.

(Signed) J. D. SIM,

Secretary to Government.

List of the property belonging to Cundapah Chetty's Charities, for which exemption from Income Tax is claimed under Section 133 of act XXII of 1860.

No.	Assessment No.	Situation	Description of Property	Amount of annual Income			Remarks
1	3982	Mylapur	Choultry	"	"	"	
2	"	Triplicane	Ditto	"	"	"	
3	"	Teranamalai	Ditto	"	"	"	
4	3971	Mylapur	1 Garden called Manacottay	82	"	"	
5	"	Ditto	1 Garden near Wamelton Bridge	480	"	"	
6	3972	Triplicane Seven Wells street	2 Houses No. 22 & 23	26	4	"	
7	1291	[illegible]	1 Fish Bazaar	840	"	"	
8	4286	Ditto	1 Stall	60	"	"	
9	4263	Brutial Pettah Ramasawmy Chetty Street	1 House No. 18	48	"	"	
10	"	Invalid Pettah of Cassamode	1 Toddy Shop and 6 Huts	24	"	"	
11	"	Ditto	1 Toddy Shop	60	"	"	
12	"	Ditto	1 Fish Bazaar	240	"	"	
13	"	Ditto	1 Garden	"	"	"	
14	3981	Tondiarpettah	1 Garden	396	"	"	
15	"	In the service of the Sea Custom office Madras	Five Boats No. 49, 51, 60, 89 and 43	100	"	"	
16	"	Teruvambúr	1 Arrack Godown	21	"	"	
17	"	Nochie Coopum at St Thome	6 grounds containing 6 Huts	"	"	"	
			Total Rs	377	4	"	

Deductions

Amount of Assessment Rs	91	8	"
Amount of Dustpent	85	9	"
Amount of Repairs	99	8	6
Amount of Gomastahs Gardeners Wages &c	498	"	"
	774	6	6
Total annual Net Income of Rs	2402	13	6

2 3 12 12 3 7 7

Office of the Income Tax Comrs

Madras 24 October 1861

R Noble
Commissioner

Y^r March 62 No. 111-112
24 October 61 — 280-281

Rev^e 1861 Depart^t.
Proc^s Govt for Nov^r
No. 2561.

Proceedings of the
Board of Revenue

Dated 29th
Dep^d 29th October 1861
Rec^d 30th
C. 2. 61 Cur^t

No. 5932

Proc^s of the B^d of Rev^e
d/23 Aug^t 62 C No. 2404

Submitting a letter from the Collector of Malabar forwarding the draft of his proposed appeal against the decree of the Mufti Sudr Amin of Tellicherry in Suit No. 237 of 1860 regarding certain land and recommending that the Collector be authorized to conduct the appeal at the public expense.

No. 2121. 6th Nov^r

No. 2121

The Govt grant authority for the Collector of Malabar filing the proposed appeal against the decree of the Mufti Sudr Ameen of Tellicherry in O.S. No. 237 of 1860; the appeal being conducted at the public expense on the usual terms.

Fort St. George
6th Nov^r 1861

To the Board of Revenue

14 Printed Copies to

Dis^t 6
with 2 Encls
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25 10
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No. 70 & 71.

6th Nov^r Rb^t