M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2167 Press ~~Mis.~~

9.160

Dated 15- 11- 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 15th November 1861.

No. 159. Read the following Proceedings of the Board of Revenue, dated 19th October 1861, No. 5,763 :—

Read the following letter from Æ. R. McDONELL, Esq., Officiating Collector of Trichinopoly, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated 10th October 1861, No. 189.

SIR,

1. With reference to my letter, No. 182, dated the 28th ultimo, I have the honor to submit an English translation of copy of a plaint, No. 46 of 1861, on the file of the Trichinopoly Mufti Sudder Amín, in which the Collector of Trichinopoly is included as 1st Defendant, for having made over certain land to a party who presented a Durkhast for it. At the same time I beg to forward a draft answer which I propose submitting, and request that you will be good enough to obtain the sanction of Government for defending the Suit at the public expense.

2. The answer must be filed in Court by the 31st of December next.

Translation of Original Suit No. 46 of 1861.

To the Mufti Sudder Amín's Court at Trichinopoly.

Plaintiff. *versus.* *Defendants.*

Streerunga Naik son of Runga Naik, cultivator residing at Iyempolliem in the Táluq of Culutallai.

1. The Collector of Trichinopoly.
2. Perichy vira Gounden, residing at Iyempolliem.
3. Maruthanayaga Mudali, village Munsiff of Iyempolliem.
4. Lenu Iyen, village Curnum of do.
5. Ruttnagherry Gounden, son of Muthumary Gounden.
6. Vencatammah, mother of the 5th Defendant.

This Suit is brought by the Plaintiff for the recovery of a Kulam of the estimated value of Rupees 60.

The Kulam called Mottyankoolam forms a part of the Poramboke in the village of Iyempolliem, the boundaries whereof are hereunder given. The Kulam was excavated by my grandfather Mottyan, and kept in repair by him as also by my father and myself. It does, therefore, belong to me. The 5th and 6th Defendants have a patch of land outside of this Kulam immediately adjoining it. With a view to irrigate it by this Kulam, the 5th Defendant's father Mutumary Gounden entered into a written agreement with my father on the 11th Vaiasy of Jeya corresponding to the 23rd May 1834, by which he bound himself to defray one-half the cost of the repair of the Kulam. Under this agreement the 5th and 6th Defendants have availed themselves of the Kulam which also supplies water to the cattle. My opponents the 2nd, 3rd and 4th Defendants misrepresented that the embankment thereof have been breached in different parts, and on stating that six Cawnies on the inside of it are fit for cultivation, the 1st Defendant (Collector) made it over to the 2nd Defendant (Durkhastdár). The 5th and 6th Defendants with fraudulent intent filed an action against the 2nd, 3rd and 4th Defendents stating that the Kulam was their own and subsequently withdrew the plaint.

Upon hearing all this I tendered four Petitions to the 1st Defendant (Collector), who held no inquiry into the matter. The embankment is being removed, and the Kulam filled up for the purpose of carrying on Punja cultivation. This Suit is, therefore, brought for procuring a cancelment of the transfer of the ground in question made by the 1st Defendant, and for recovering it as it is my own Kulam, and intended for charitable purposes for the public.

The Kulam under litigation is situated to the east of Manthapillaiarcovil Naut Voykal, south of the embankment of the Kulam, west of the street running from north to south and of a chuckler's house, and north of the 5th and 6th Defendants' garden.

I therefore beg to request the Court will be pleased to cancel the abovementioned transfer made by the 1st Defendant, and to put me in possession of the Kulam under litigation which is valued at Rupees 60.

I do declare that what is stated herein is true to the best of my information and belief.

Marked by STREERUNGA NAIK.

30th March 1861.

(True Translation.)

(Signed) Æ. R. McDONELL, *Officiating Collector.*

Draft answer proposed to be filed by the Officiating Collector of Trichinopoly, 1st Defendant in Original Suit No. 46 of 1861, on the file of the Mufti Sudder Amín Trichinopoly, vested with the powers of a District Munsiff.

The spot in dispute is not a "Kulam" as stated in the plaint, but is Circar immemorial waste adjoining a small pool called "Madai." The Madai is useless as a source of irrigation, and is not included in the land made over to the Durkhastdár. The Plaintiff has no claim to the land made over by Mr. Bird to the Durkhastdár, nor has he any title to the "Madai." Such waste land the Revenue authorities have full power to make over under the existing rules to the 2nd Defendant or to any other Durkhastdár for the purposes of cultivation.

The Plaintiff's claim to the abovementioned immemorial waste for which he paid no revenue to Government, is not therefore admissible.

Trichinopoly, 10th October 1861. (Signed) Æ. R. McDONELL, *Offig. Collr.*

Original Suit, No. 46 of 1861.
Mufti Sudder Amín's Court.

Plaintiff.	Versus.	Defendants.
Streerunga Naick.		1. Collector of Trichinopoly. 2. Perichy vira Gounden. 3. Maruthanayaga Mudali. 4. Lenu Iyen. 5. Ruttnagherry Gounden. 6. Vencatammah.

1. Resolved that the foregoing letter be submitted for the orders of Government.

2. The object of the above Suit is to recover possession of a spot of land (which the Plaintiff denominates a "Kulam") of the estimated value of 60 Rupees, which was made over on Durkhast by the late Collector, Mr. Bird, to the 2nd Defendant.

3. The Plaintiff grounds his title on the allegation that the "Kulam" was excavated by his grandfather, and kept in repair by himself and his father. But the Officiating Collector points out that the spot in dispute is not a "Kulam," but is Circar immemorial waste, adjoining a small pool, which is useless as a means of irrigation, and is not included in the land made over to the 2nd Defendant. It appears further that the Plaintiff never paid any Revenue to Government for the land he claims.

4. Under these circumstances, the Board consider that he has no right whatever to the spot in question, and, therefore, recommend that the Officiating Collector be authorized to defend the Suit.

5. The time for filing an answer will expire on 31st December next.

6. In last year, the 5th and 6th Defendants brought a Suit for the same land, but withdrew their claims shortly afterwards.

From Collector 16th, in Cons. 19th November 1860, No. 5,761.

(True Copies and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 160. ORDER THEREON, 15th November 1861, No. 2,167.

The Governor in Council sanctions the defence at the public expense, on the usual terms, of O. S. No. 46 of 1861, instituted by one Streerunga Naik against the Collector of Trichinopoly, and others, in the Mufti Sudder Amín's Court at Trichinopoly.

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

IN CON. 19TH NOVEMBER 1860, No. 5,971.

From Æ. R. McDONELL, Esq., Officiating Collector of TRICHINOPOLY, dated 16th November 1860, No. 163.

I beg to submit an English translation of copy of a Plaint filed in No. 80 of 1860, of the Mufty Sudder Amin's file in which the late Collector is included as 1st Defendant, for having made over certain lands to a party who presented a Durkhast for the same. At the same time I have the honor to forward a Draft Answer which I propose submitting, and request that you will be good enough to obtain the sanction of Government for defending the suit at the public expense.

2. The Answer must be filed in Court by the 7th of February 1861.

ENC. 1.

TO THE MUFTY SUDDER AMIN'S COURT, TRICHINOPOLY.

Plaintiffs.	*Defendants.*
1. Rutnagherry Gounden, cultivator, residing at Iyenpollem, Vitticutty Taluq.	1. The Collector of Trichinopoly.
2. His mother Vencutammal, residing at the same village.	2. Perichyvira Gounden, residing at Iyenpollem.
	3. Maroodanoyaga Mudeli, village Moonsiff of Iyenpollem, cultivator.
	4. Chenoo Iyen, village Curnum of Iyenpollem.

This suit is instituted on behalf of the Plaintiffs by Vakeel Soobaroyer for the recovery of a coolum (low ground), valued at Rupees 60.

The coolum hereunder described is in Porumboke land of the village of Iyenpollem. It was constructed by the Plaintiffs' ancestors and repaired by them, and subsequently by the 1st Plaintiff's father. It belongs therefore to the Plaintiffs. The water of the coolum is made use of by the inhabitants of the village, travellers and cattle, as well as by Plaintiffs to irrigate their adjoining nunjah, punjah and garden lands. While so, the 2nd Defendant on the evil persuasion of the Plaintiffs' enemies, the 3rd and 4th Defendants, represented to the late Collector that the coolum is so much breached in different parts of its embankment, that it would not hold water, that an extent of 6 Cawnies thereof is fit for poonjah cultivation, and that therefore he tenders a Durkhast for the same. The Collector made it over accordingly to the Durkhastdar in Fusly 1268, without making any investigation into the rights of the claimants, and inspecting the spot as to its fitness or otherwise for cultivation.

The 2nd Plaintiff petitioned the said Collector on the 14th December 1859 and 24th January 1860, objecting and stating that the coolum having been constructed for charitable purposes should not be destroyed and that the Plaintiffs will pay the Government for it. But the Collector without making any inquiry into the case, dismissed the accompanying petitions by endorsements. This suit is therefore brought against all the Defendants for the purpose of procuring the cancelment of the transfer of land above alluded to, and for recovering the coolum in question for the Plaintiffs. The coolum under litigation is situated to the east of Munthapilliar Covil Nauteulloo, south of the embankment of the coolum, west of the street stretching from north to south and the chuckler's house, and north of the Plaintiffs' garden.

I beg therefore to request the Court will be pleased to cancel the above-mentioned transfer made by the late Collector, and put the Plaintiffs in possession of the coolum under litigation, valued at Rupees 60.

We, Rutnagherry Gounden and Vencutammal, the Plaintiffs named in the above Plaint, do declare that what is stated therein is true to the best of our information and belief.

(Signed) This mark by RUTNAGHERRY GOUNDEN,
(„) This mark by VENCUTAMMAL,
(„) SOOBAROYER, Vakeel.

23rd June 1860.

(True Translation.)

(Signed) Æ. R. McDONELL,
Officiating Collector.

ENC. 2.

DRAFT ANSWER proposed to be filed by the Officiating Collector of Trichinopoly for the late Collector Mr. Bird, 1st Defendant in Original Suit No. 80 of 1860, on the file of the Trichinopoly Mufty Sudder Amin, vested with the powers of a District Munsiff.

The land stated in the Plaint is entered in the Circar accounts as a Punjah Porumboke Madai (low ground.) It has silted up and is of the same level as the adjacent fields, so that it is no use as a water reservoir. Such land coming under the class of Circar waste, the Revenue authorities have full power to make it over under the existing Rules to the 2nd Defendant, or to any other Durkhastdar for the purposes of cultivation.

2. The 2nd Defendant is an Oolgoody of the village of Iyenpollem, in which the land under litigation is situated and he was the first applicant for the land.

3. It was upon these grounds the land under dispute was made over to the 2nd Defendant Perichyvira Gounden.

4. Plaintiff's claim to the above Circar immemorial waste for which he paid no Revenue to Government is not therefore admissible.

TRICHINOPOLY, 16th November 1860.

(Signed) Æ. R. McDONELL,
Officiating Collector.

Exd. J. Tulloch.

Enclosure in Proceedings of the Board of Revenue to the Secretary to Govt. P. D. dated 19th October 1861. No. 5563.

R. 2560/61.

Letter from the Collector of Tricht. to the Board of Revenue dated 16th November 1860. No. 163. Forwarding translation of a Plaint filed in No. 80 of 1860.

1861. Decr 14

R. No 1918/61

3

Note.

In the correspondence these proceedings are submitted for the orders of Govt.

I. The introduction of a Register of Inams in each District for the registration of all future transfers &c of such Inams seems to be a matter of the utmost utility and advantage to such as Registers, and keeps in the proved state of the Inam registration is not compulsory, it is probable that the great majority of Inamdars would register their titles willingly, in consideration of the additional security

which registration would afford in case of litigation.
The Form of Register proposed by Mr Taylor seems well adapted to the purpose. Some of which might be accepted.
His Rules are also generally good - with, as I think, the following exceptions. viz

(a) The Register should, I think, be kept in the Collrs Office only - and not in the Offices of his Asstts & Deputies also. as proposed in Rule 4.

(b) I would not allow written applications for registry at all. The parties concerned should

appear in person before the Collr. of or any of his Asstts or Deputies - or a Tahsildar or Sub Magistrate or before any Judicial Officer not below the Rank of a Dt Moonsiff and sign in their presence for registry - The application would then be forwarded by the Officer of the Collr. for entry with the officers attestation that the parties appeared before him & signed it on such a date - Rule 3.

(c) The registrations should, I think, be published in the Villages where the Lands con-

to Revd Mr Will

- cerned are situated. The more publicity there is, in the neighbourhood where the parties live, the greater the security against fraud- or publication in the District Gazettes might be adopted.

/d/ The date on which a transfer &c was made should be entered in the register - Col 11 of the Form might be headed "Nature & date of transfer".

/e/ I would not allow the registry of any disputed title, as proposed in para 5 of Mr Taylor's letter - The original registry should remain unaltered until the Dispute is settled by competent authority.

/f/ Mr Taylor is wrong /in the latter part of para 5/ in his explanation of the power of collecting an arrear of Quit Rent & there there is a doubt as the ownership of the land - Enfranchisement Grants will be wrongly by Law within the Ryotwary and as the Collr can at his option proceed against the defaulters personal or real property, the right course, when the ownership is disputed, is to proceed in the first instance against the land.

Separate Registers must
of course be kept for Lands
which are not enfranchised.
The forms of these can be
settled by the Bd. It will be
necessary that the tenure &
interest of Prot. should be fully
shown in these Registers.

II. Mr Taylor recommends
that Govt. should issue a
general order ~~publish it~~ in
the Gazette authorising the Civil
Courts to take cognizance of
claims to enfranchised Lands,
notwithstanding Reg IV of 1831.
The Govt. cannot supersede
a Law by an order in Council

the
may
also
in the

relative
be given
to the
Gazette

Sect II Reg IV of 1831 directly
bars the jurisdiction of the Courts
"unless the plaint is accompa-
-nied by an order signed by the
chief or other Secretary to Govt.
referring the complaining party
to seek redress in the established
Courts of Adalet." The only
course is to get an Act passed
declaring enfranchised Lands
exempt from the operation of
this and the other restrictive
enactments now in force. I
would suggest that Mr Taylor
should submit the draft of such
a Law at once & that he should
in communication with the Bd. ~~keep~~
consider whether any ~~further~~
~~etc~~ confirmation of title
the issues should be granted
and in what other respects legal
provision is necessary. He might

in particular
~~for instance~~ consult the
pet. Pleader as to whether it
will not be necessary specially
to provide for the recovery of ar-
-rears of Quit Rent or unpran.
-chised Tenants by the same
process as by this any arrears are
collected. It would be unfortunate
if any Tenancies maintained
that to be held on a covenant
under seal and that a civil
suit was our only remedy!

III. The compulsory registration
of titles &c. I propose merely
transferring this to the Judicial
dept. It is not a Rev. question -
it has already been considered
in the Jud. Dept - and there is
very much to be said on it.
I do not see much profit in troubling
Mr. Foster now when his career as a
legislator is coming to a close. J.B.S.

I have doubts about the advisability of
any special Register pr. recording transfers
of Tenures.-
Service Tenures & Tenures in which no rent
is paid to Govt. (Sirdar Inamdars) cannot
be transferred without sanction in each
case & such transfers are now recorded -
in fact
Enfranchised Tenures become ~~like~~
Registered Lands & should be treated
exactly like them - what therefore some
general Registration law is passed the
proper course seems to be for the Collectors
- note "unfranchised" against these Tenures
- being
in the Register A which is prepared
for the Lands of each Village under the
new system of Revenue Accounts - The
info. to supplied by the Inam Commissioner

To Revd Mr

in particulars

will be the Collectors guide in this & afterwards when the registered holder who has sold an unpurchased Inam & its purchaser come forward & request that a change of name may be made in the Register this can be done as in the case of ordinary Ryotwary lands.

- I am in favor of the Notification in the Gazette asked for by the Inam Commissioner & see no difficulty under Reg 4 of 1831 - But Regn has passed by the Madras Govt for its own protection merely & that Govt may if necessary authorise a slackening of the process laid down for this purpose if it sees fit - But it seems true that the provisions of the Regn are virtually complied with by a Notification in the Official Gazette under the signature of the Secretary to Govt announcing that Govt authorises suits for such Inam lands as have been enfranchised under a sunnud given by the Inam Commr. -

This course will give Inamdars confidence in the enjoyment being real - it will save an infinity of useless correspondence & it can do no harm - for even if the Courts decide to acknowledge the authority of such a Notification we can afterwards give special sanction in each individual case.

- I leave for future consideration the question of a general Registration Law -

Ellis

9 Oct/61

Secretary
Revenue
Board

Revenue 1861 Department.
Pro: of Govt for November.

No: 2560.

PROCEEDINGS OF THE BOARD OF REVENUE,

Pro: of the Bd of Rev
D/13 May 62 Cav. 1441

Dated 19th October 1861.
Despatched. 29 Oct
Received. 30th
E-1-.

No. 5,763.

Submitting for orders a letter from the Collector of Trichinopoly forwarding translation of copy of a plaint No 46 of 1861, regarding certain lands, and recommending that he be authorized to defend the Suit.

No 2167

The Governor in Council

Sanctions the defence at the public expense, on the usual terms, of O.S. No 46 of 1861, instituted by one Sheesunga Nadaar against the Collector of Trichinopoly, and others, in the Mufussil Amins Court at Trichinopoly.

J A S

For 1 Year
15th Nov/61

14 Enclosures

To The Board of Revenue Pro: 15

No 2167. 15th November
W Kaye