M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 668 Press ~~Mis.~~

Acc - 401

Dated 21 - 3 — 1861.

Not to be folded or roughly handled

No. 400. Read the following Proceedings of the Board of Revenue, dated 7th March 1861, No. 1,278:—

Read letter from the Collector of Madras, dated 26th February 1861, No. 53, forwarding translation of the decree in Suit No. 2 of 1859, on the file of the Principal Sudder Amín's Court at Chingleput.

(In Cons. 27th February 1861, No. 1,266.)

1. Resolved that the letter above recorded with its enclosure, be submitted for the information of the Honorable the Governor in Council, with reference to order of Government, 10th September 1859, No. 1,221.

In Con. 12th September 1859, *No.* 4,545.

Periya Mádan of Mángádu, Poonamallee Táluq, *Plaintiff.*

Versus

1. Saravana Mudali,
2. His Gumástah, Veerabaddra Pillay,
3. Soobbaroya Pillay,
4. Veerasawmy Pillay (Zilladar),
5. Kristnier (Táhsíldar),
6. C. J. Shubrick, Esq. (Collector),
7. Soobbaroya Pillay, *Supplemental Defendant.*

Defendants.

2. This Suit was instituted by one Periya Mádan against the Collector of Chingleput and five others for the recovery of Rupees 105-10-8, the alleged value (after deducting the Government assessment of Rupees 15-13-4) of his *Cur* produce and straw which were attached and sold on account of a balance due to Government by the first Defendant.

3. The entire village in which the Plaintiff's lands are situated, was entered in the Revenue accounts as the Merassi of the first Defendant who held a Puttah for it. The cultivation was carried on in his name and all payments were credited to his account; hence when he fell into arrears, the crops raised on certain of the lands entered in his Puttah were attached and sold in the usual course and the proceeds carried to his account.

4. The Proceedings of the Government servants included in the Suit, being thus legal, they have been struck out of the list of Defendants, and the costs incurred by them have been adjudged against the Plaintiff, so that the issue has been successful to Government.

(A true Extract.)

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

No. 401. ORDER THEREON, 21st March 1861, No. 668.

Ordered to be recorded.

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

In Cons. 27th February 1861, No. 1,266.

From B. CUNLIFFE, Esq., Collector of MADRAS,

dated Saidapet, 26th February 1861, No. 53.

In forwarding a translation of the Tamil Decree referred to in the Board's Proceedings of the 11th February 1861, No. 763, I have the honor to inform you that translation of the plaint in that Suit, together with the draft answer proposed as far as Government is concerned, having been already furnished to the Board with Mr. Shubrick's letter of the 23rd August 1859, translation for the Decree alone is now forwarded.

Enc. 1.

Abstract.—Translation of a Decree in Suit No. 2 of 1859, on the file of the Principal Sudder Ameen's Court at Chingleput.

Exd. J. Tulloch.

1861 Dec. 1st

Enclosure in Proceedings
of the Board of Revenue
to the Secretary to Government
No. 6. dated 5th March 1861.
No. 1278.

Encl: 1-0-0

Rs 6 0 2 / 0 / 1.

Letter from the Collr
of Madura to the Board of
Revenue dated 26th February
1861 No. 53. regarding the
Deed Cattapoolay &c
Decree in Suit No 2 of 1859.

3

Translation of the Decree in Suit No 2 of 1859
on the file of the Principal Sudr Ameens Court
and subsequently referred to the Salug Munsiffs
Court.

—Plaintiff—

Periya Mandan, residing at
Periya Parachery of Mangadu
in Punamalli Salug

—Defendants—

Saravana Mudali of Mangadu — 1
Virabadra Pillai ——— 2
Subbroya Pillai ——— 3
Viradami Pillai (Billadar) — 4
Kistnayer (Jahedar) ——— 5
C. J. Shubrick Esqr (Collector) — 6

—Supplemental Defendant—

Subbroya Pillai ——— 7

—Decree—

The Documents filed and the evidence
given in this Suit have been thoroughly
investigated and the following Decree passed

Kararnamah No 51 filed by the 1st
2d and 3d Defendants is said to have been
executed in favor of the 1st Defendant
by the Plaintiff, by his elder brother
Viravadian and by his other brothers

Sinna Mandan and Kullakaramban, obtaining from him (1st Defendant) land for cultivation, including the 2 pieces of land Nos 780 and 782 (Karis 1-10-6) for the produce of which the Plaintiffs claims compensation from the 1st Defendant. This document appears to have been executed by Sirnvedian and his Copartners, though it bears the marks of Sirnvedian alone. It does not name particular fields or limit particular extents of lands to be cultivated by particular persons. Neither does it make Sirnvedian responsible for all the lands cultivated. Witness No 61 who appeared on behalf of the Defendants 1, 2, and 3, states that the Kudi Vadambadikkai (agreement among the ryots) is generally drawn as follows;- The cultivation of Periya Mandan by order of Sirnvedian. But he at the same time alleges that the 7th Defendant paid to the Pattamaniagar (2nd Defendant) the assessment for Fasli 1266 of the land cultivated by the Plaintiff, and obtained receipts from him (Pattamaniagar). From the Harvest Chits Nos 38 to 43 filed by the Plaintiff, it clearly appears that he used

to carry on his cultivation separately, and pay the assessment to Government. The genuineness of these documents is established by Witness No 61 of the first three Defendants. The Receipt No 37 filed by the Plaintiff appears to have been issued by a Gumastah of the 1st Defendant. In this receipt, it is stated that the 7th Defendant paid in the presence of the Tahsildar Rupees 25 for the arrears of Revenue due by the Plaintiff Periya Mandan and Thanan, to the 1st Defendant for Fasli 1266. Then according to this receipt, the Plaintiff having paid the arrears for Fasli 1266 the 1st Defendant should have claimed from him the assessment due on lands cultivated in Fasli 1267 alone. Instead of doing so, he credited the individual payment to the whole amount due by the Plaintiff Sirnvedian, and others put together, and for the outstanding balance Rupees 25-12-8 for Faslis 1266 and 1267, he procured the attachment of the Plaintiffs' property. This procedure is far from being right.

The 7th Defendant in his Answer states, that the Plaintiff having paid to him Rupees 15-13-4 being the assessment

of the lands attached, he offered to pay it to the 4th Defendant (Billadar), and that the latter refused to receive it, saying that the produce in dispute was attached for arrears due by Sirnvedian & Co. This plea cannot be considered valid for the following reason. Admitting that the Billadar refused to receive the money, there was nothing to prevent the 7th Defendant or the Plaintiff from taking it to the Tahsildar or other Revenue Authorities, and effecting the removal of the attachment. This it was his interest to do, and failing to do so, the Plaintiff must undergo the loss he sustained by such negligence. The evidence of the 7th Defendants Witnesses Nos. 63 to 65, on this point, cannot be admitted.

As the Kandigai Mirassi case appears to be still pending, there is at present no necessity to pass any opinion on that subject.

The first Defendant being the sole Mirasidar (of Mangadu), it was the duty of the Sarkar Servants to attach the produce which he pointed out for attachment belonging to his defaulting Sub-tenant.

On this ground, I see no reason to include the 4th, 5th and 6th Defendants in the Suit. The 2nd and 3rd Defendants being the Gumastahs of the 1st Defendant, there named also must be excluded.

The loss which the Plaintiff represents to have sustained, appears to be too much, and the evidence of his witnesses Nos. 44, 47 and 48, is unsatisfactory and incredible. As the produce in question seems to have been estimated by Sarkar Servants, it is just and proper to adopt that estimate.

From the evidence of Karnam No. 61, it appears that the sale proceeds of the produce attached were Rs. 28-7-3 and that, deducting the Sale commission 5% (Rupees 2-10-7) from the above, there remained Rs. 25-12-8. Deducting from this again, Rs. 13-13-4, being the arrears of Revenue due by the Plaintiff to the 1st Defendant, the remainder Rs. 9-15-4 should be made good to the Plaintiff by the 1st Defendant, Rupees 15-13-4, which the 7th Defendant received on account of Sarkar Revenue, should also be restored by him to the Plaintiff.

Therefore it is hereby decreed that

the 1st Defendant shall make good to the Plaintiff Rupees 9-15-4, with costs, that the 7th Defendant shall restore to him Rupees 15-13-4; that the Plaintiff shall pay the costs to the 6th Defendant, and that the 7th Defendant shall bear his own costs.

Plaint filed 30th June 1859
Pleadings closed 4th Augt 1860
1st & 2d hearings not heard
3d hearing 10th Decr 1860
Decree passed 10th Decr 1860

Appeal time extends from the date of the Decree to the 8th January 1861.

(True Translation)

Collector.

No. 1,278.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 7th March 1861.

Read letter from the Collector of Madras, dated 26th February 1861, No. 53, forwarding translation of the decree in Suit No. 2 of 1859, on the file of the Principal Sudder Amin's Court at Chingleput.

(In Cons. 27th February 1861, No. 1,266.)

1. Resolved that the letter above recorded with its enclosure, be submitted for the information of the Honorable the Governor in Council, with reference to Order of Government, 10th September 1859, No. 1,221.

In Cons. 12th September 1859, No. 4,545.

Periamundum of Mangudoo, Poonamallee Taluk, *Plaintiff,*

versus

1. Saravana Moodelly,
2. His Gumastah Veerabaddra Pillay,
3. Soobbaroya Pillay,
4. Veerasawmy Pillay (Zilladar),
5. Kristnier (Tahsildar),
6. C. J. Shubrick, Esq. (Collector), } *Defendants.*
7. Soobbaroya Pillay, *Supplemental Defendant.*

2. This Suit was instituted by one Periamundum against the Collector of Chingleput and five others for the recovery of Rupees 105-10-8, the alleged value (after deducting the Government assessment of Rupees 15-13-4) of his *Car* produce and straw which were attached and sold on account of a balance due to Government by the first Defendant.

3. The entire village in which the Plaintiff's lands are situated, was entered in the Revenue accounts as the Merassy of the first Defendant who held a Puttah for it. The cultivation was carried on in his name and all payments were credited to his account; hence when he fell into arrears, the crops raised on certain of the lands entered in his Puttah were attached and sold in the usual course and the proceeds carried to his account.

4. The proceedings of the Government Servants included in the Suit, being thus legal, they have been struck out of the list of Defendants, and the costs incurred by them have been adjudged against the Plaintiff, so that the issue has been successful to Government.

(A true Extract.)

Secretary.

To J. D. Bourdillon, Esq., Secretary to Government, R. D.

Copy to B. Cunliffe, Esq., Collector of Madras.

Exd. J. Wright.

riya Mádan of Badagádu

R- 16th September /59 No 1142
R- 10th November — — 56-57.
R- 7th December — — 43-44

Rec'd 1861 Department
(3) Pro: of Govt for March.
No 652

Proceedings of the
Board of Revenue

Dated 7th March 1861
Desp.d 11 " "
Rec.d 12 " "
Enclosures 10

No. 1278.

Submitting for information with the Board's remarks a Letter from the Collector of Madras forwarding translation of the Decree in Suit No 2 of 1859 on the file of the Principal Sudder Ameen's Court at Chingleput.

No 668.
Ordered to be Entered
Sent to Secy 21st March 1861

No 400 & 401.

C 16 March 62 142