M.R.O. 14—10,000—21-4-22

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 892 Press ~~Mis.~~

201-202

Dated 13 - 4 - 1861.

***Not to be folded or roughly handled***

## *Proceedings of the Madras Government, Revenue Department, 13th April 1861.*

No. 201. Read the following Proceedings of the Board of Revenue, dated 9th April 1861, No. 1,844:—

Read letter dated 1st April 1861, No. 51, from the Collector of Salem reporting the institution of a Suit against himself and another in the Mufti Sudder Amín's Court (subsequently transferred to the Subordinate Court) and forwarding a draft answer for approval with a request that the defence may be conducted at the public cost.

*O. S. No.* 281 *of* 1860, *Mufti Sudder Amín's file.*

*Plaintiff.* — *Naranavathiar.* — *Versus.* — *Defendants.* — 1. *Appavu Mudali.* 2. *H. A. Brett, Esq., Col.*

(In Cons. 6th April 1861, No. 2,101.)

1. Resolved that the letter above recorded be submitted for the consideration and orders of Government.

2. The circumstances which have led to the institution of the above suit are as follows:—

3. A piece of irrigated land measuring Acres 2, G 7-15, assessed at Rupees 13-13-8, was formerly in the possession of the first defendant Appavu Mudali, the Curnum of the village of Ponnaegoodul. In Fasli 1267 from want of water the land was left waste, in consequence of which it was struck out of the accounts. It remained waste in Fasli 1268, and fresh applications for cultivating it were made in Fasli 1269. The same individual, and the plaintiff were the applicants, but the former, whose application was earliest, failed to appear before the Tahsíldár to obtain possession, and the Tahsíldár issued an order on the 2nd August 1859, allowing the second applicant (plaintiff) to cultivate it. The first defendant however was the actual cultivator of the land in Fasli 1269, while the plaintiff paid a portion of the Kist on it for that year.

4. Mr. Smith, the Sub-Collector, investigated the matter, and confirming the arrangement made by the Tahsíldár, ordered the Kist to be collected from the first defendant, who had cultivated the land, but a Patta to be issued in the name of the plaintiff.

5. On appeal the Collector reversed this decision and ordered the Patta to be given to first defendant; hence the Suit for the recovery of the plaintiff's possession.

6. The proposed draft answer explains that the land was given to the first defendant because he had held it previously and left it waste in Fasli 1267, only owing to the want of water in the tank; and that the Collector, as the chief Revenue authority of the District, had full legal power to revise the proceedings of his subordinates.

7. The Board are of opinion that the first defendant as first applicant was entitled to the land, and that the Tahsíldár should not have cancelled his application merely because he did not appear before him. They would therefore rely on this plea in preference to those urged by the Collector.

The Board have modified the answer accordingly.

8. The Collector states that the practice of striking wholly out of the accounts, lands left waste under circumstances entitling the owner to remission has been discontinued. As the owner's right to such lands still holds good, they should stand in his name in the accounts and the Patta till formally resigned.

9. The Board do not see what necessity there can be for requiring applicants for land to attend at the Tahsíldár's Kacheri. Such a course must be productive of inconvenience to the people, and should be discontinued.

10. It should have been explained why the land was waste in Fasli 1268, as that materially affects first Defendant's claim on the score of prior occupation.

11. The time for filing an answer expires on the 14th instant, but an extension of three weeks has been applied for by the Collector.

(A true Extract.)

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

*Proceedings of the Madras Government, Revenue Department,*
*13th April* 1861.

No. 202. ORDER THEREON, 13th April 1861, No. 822.

1. The Honorable the Governor in Council sanctions the defence, in the first instance at the public expense of Original Suit No. 281 of 1860, instituted against the Collector of Salem and another in the Mufti Sudder Amín's Court of the District by Naranavathiar, but he will determine, when a copy of the decree shall be submitted, whether the costs, if any be adjudged against the Collector, shall be borne by that Officer or by the Government.

2. While thus authorizing the defence of the action at the public cost, and fully agreeing with the Board of Revenue, that the plaintiff has no claim to the land, the Government are unable to concur in the reason given in the draft answer as revised by the Board, for giving the land to the 1st Defendant. The mere fact of priority of application could not give any title; and this was recently asserted by the Board of Revenue in another Suit in the same Zilla, and more strongly insisted on by the Government.* The Governor in Council is of opinion that the 1st Defendant had decidedly the preferable claim, on the ground of previous occupation, interrupted for two years only; and in fact if the practice of the District had been right, the land would not have been struck out of 1st Defendant's Patta in Fasli 1267. But whether the 1st Defendant had a claim or not, it is certain that the Plaintiff had none. The mere fact of his applying for the land could not give him any right to it; and the Tahsíldár being a subordinate acting only under the orders of his superior the Collector, his mere order could give no right.

* *Order, October 24th* 1860, *No.* 1,944.

3. Adverting to paragraph 8 of the Board's Proceedings, if the erroneous practice there referred to, which is directly opposed to the instructions issued in connection with the new system of Revenue Accounts,† is still continued in any other District besides Salem, it should be put a stop to there also.

†*Page* 70 *of Manual of Village Accounts, paragraph* 17.

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

Revenue Departt.

No. 822

ceedings of the Madras Government
Under date the 13th April 1861
Read the following
Proceedings of the Board of Revenue

tting with observations
he Collector of Salem
stitution of Suit No. 281 of 1860
f and another in the
meen's Court.

(Here enter 9th April 1861 No. 1844.)

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with the Board of Revenue, that the Plaintiff has no claim to the land, the Govt. are unable to concur in the reason given in the Draft Answer as revised by the Board, for giving the land to the 1st Defendant - The mere fact of priority of application could not give any title; and this was ~~insisted on~~ asserted recently by the Board of Revenue in the same case & more strongly insisted on by the Board in another suit. The Govt. in ~~the Governor in Council &c~~ of opinion that the 1st Defendant had decidedly ~~the~~ preferable claim, on the ground of previous occupation, interrupted for two years only; and in fact if the practice of the District ~~in respect to the putta~~ had been rightly ~~correctly~~, the land would not have been struck out of 1st Defendants putta in Fusli 1267 - But whether the 1st Defendant had a claim or not, it is certain that the Plaintiff had none - The mere fact of

* Order Oct. 24/Board 1944 -

* Page 90 of Manual of village Accts. - Para 17 -

of his applying for the land could not give him any right to it; and the Tahsildar being a subordinate acting only under the orders of his superior the Collector, his mere order could give no right.

Adverting to Para 8 of the Board's Proceedings & the erroneous practice there referred to, which is directly opposed to the instructions issued in connection with the new System of Revenue Accounts*, is still continued in any other District besides Salem, it should be put a stop to there also.

Copy to the Board of Revenue with 3 Encls. Dis. 13
12 Encl. do. to do. 4

Suit against the
Coll: of Salem

Revenue 1861 Dept.
Pro: of Govt. for April

No 822.

Pro: of the Madras Govt.
Dy 13th April 1861.

Defence at the public ex-
pence of the suit instituted
against the Coll: of Salem
by Karanavathiar in the
Mufli Sudder Ameen's
Court, sanctioned.

No 201 & 202.