

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 940	<u>Press</u>
436.437	<u>Mis.</u>
Dated 26.4.1861.	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
26th April 1861*

No. 436. Read the following Proceedings of the Board of Revenue, dated 13th April 1861,
No. 1,945:—

Read the following letter from H. A. BRETT, Esq., Collector of Salem, to J. D. SIM, Esq.,
Secretary to the Board of Revenue, Fort Saint George, dated Vellur, 28th March
1861, No. 47.

SIR,

With reference to the Board's Order, dated the 19th February 1859, No. 642, conveying
the sanction of Government for the defence of Original Suit No. 12 of 1858, instituted by one
Venkataraya Pillai in the Subordinate Court of Salem, against the Collector of this District, I
have the honor to forward, for the Board's information, the copy of a decree passed in the
Sub-Court in favor of the Collector:

1. Submitted for the information of Government, with reference
In Cons. 15th February 1859. to their Order, dated 14th February 1859, No. 199, Revenue
Department.

2. The decision of the Court is in favor of the Collector, whose proceedings in
transferring the Patta for the land in dispute from Plaintiff to the 1st and 2nd Defendants
though irregular were substantially just.

(A true Copy and Extract.)

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

No. 437.

ORDER THEREON, 26th April 1861, No. 940.

Ordered to be recorded.

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

Subordinate Court Zilla & Salem

Original Suit No 12 of 1858.

Plaintiff

Vers.

Defendants

Venkatadoga Pillay

1. Sannayya-peruman

Vahid Hossay Pandit

2. Collan

3. M. A. Brothappa

Sd/- Gulamussain Sait

for the 2^d Dept.

Sd/- Hossain Sait

for the 1st Dept.

1. The object of this suit was to obtain possession of 8 patta for 5 plots of Malagazery Muray lands, yielding annually a produce of Rs 10-0-0, and assessed at Rs 3-13-8, as also to recover from the 1st & 2^d Depts Rs 22, being the value of produce for Fush 1267.

2. The plaint sets forth that Plff. Cultivates the plaint lands, previously fallow, in Fush 1266 "Aphad", or

"Of his own authority," & obtained patta
for the same in his own name; that
he leased them to 1st & 2^d Defendants
& one Ponganna Chetty on lease terms,
& enjoyed the profits thereof, paying
the Standayam; that the 2^d (Def^t),
on the plea that he is entitled to the
lands, lodged a Complaint before the
Tasildar; that, on an enquiry, 1st & 2^d
Def^{ts} & the Saranam gave depositions
on the 18th September & 18th December
1856 fully admitting the Plaintiff's
right to the lands; that the Complaint
was in consequence withdrawn; that
the 3^d Def^t on a Verbal Complaint
made to him subsequently by the
1st & 2^d Def^{ts}, transferred the patta
to their names for Faski 1267, in
violation of the Nukun & Noulamam,

& that the Plff. instituted suit in 1862
of 1857 on the file of Darompani Plff.
for the recovery of the value of produce
for Faski 1266.

3. The 1st & 2^d (Def^{ts}) were rep^{re}sented.

4. The 3^d (Def^t in his answer)
admitting in the Plea the Contents
of the plaint, states that the Plff.
had not Cultivated the Contested land
in Faski 1266 "upto", as stated in
the plaint, consequently he had no
right to assume the possession of land he
respected them; that in ignorance of
this damaging fact a patta was
given to Plaintiff in that Faski
that during the Sanatandy of Faski
1267, the actual Cultivators (1st & 2^d Def^{ts})
appeared & proved the Cultivation of
the land by themselves; that the 3^d
Def^t therefore taking this into Consider^{ation},
- then,

8 being satisfied that the Puff, who is an influential person, had imposed upon the Depts (who are unsophisticated men) to withdraw their Complaints, transferred to them, as the actual Cultivators & in possession of the land, the Patta which the Puff had obtained under a false impression of his title.

5. In his reply the Puff states that the Depts gave a deposition before the Sashidar, fully admitting the fact of the Puff having Cultivated the lands in dispute "Aptud" in Husli 1266, which Circumstance is entered in the Samabandi Sakhar Book for Husli 1267; that the Patta granted for the lands is not annual but permanent one; that the Ag Collector about 11 Months ago issued a

Safid to the Sashidar, directing him to issue a Patta in Puff's name after obtaining a formal relinquishment by the 1st & 2d Depts; but that that officer having improperly reported that Puff was willing to withdraw his Complaints, & that in consequence Puff presented a petition to the Collector in his Division, and both parties directed the 1st & 2d Depts to tender a 'Lodi' Pargamand which they declined doing.

6. In his rejoinder, the 3d Deft supports the tenor of his answer, and adds that he attempted to effect a compromise for the benefit of both parties, but that an unauthorized expression in a Police order subsequently issued, cannot affect the Merits of the Case.

7. Points for the Plaintiff

To prove,

1. That he Cultivated the plaint. lands in July 1266. "optimal" or of his own Authority.
2. That the Defts were his heirs.
3. His Claim to produce as set forth in the plaint for the year Pingala.
4. To file his Documents.

For the 3^d Deft

To prove,

1. That the Plff did not Cultivate the plaint lands "optimal";
2. That the 1st & 2^d Defts were the actual Cultivators;
3. That the 2^d & 3^d Defts were induced by unfair Means to relinquish their title to the plaint lands;
4. To file any document he may think necessary.

Judgment

8. Judgment

The question raised in this suit is the right of the 3^d Deft, as Collector, to transfer a Patta for the plaint lands issued to the Plff in July ¹²⁶⁶1856, to the names of the 1st & 2^d Defts for the following year. In that year, 1266, these lands were fallow and the Plff's contention is that he Cultivated them "optimal", that is neither open (Dakhat), nor with the knowledge & permission of the Revenue officials, but by this he does not mean that he was the actual Cultivator, as has been inferred in the answer, for he asserts in his plaint that he farmed the lands to the 1st & 2^d Defts on warin terms. The Defts on the other hand, deny their occupation of the lands on these terms, & maintain

that they on their own account cultivate them "apkhud". The Plff, however, secured patta for 1266 in his name, & in 1267, on the verbal Complaint of the 1st & 2^d Defts, the 3^d Deft, believing them to be the actual Cultivators transferred this Patta to their name. The Plff & 1st & 2^d Defts quarrelled about the produce of their lands for 1266, & in consequence the former filed O. S. No 1062 of 1857 in the Darasyni Munsiff's Court. In this suit the Claim for produce was disallowed on the ground that the specified cultivation was not proved, as well as the conflicting nature of the evidence. This suit was filed 18th December 1857. But it appears that early in this year, the 3^d Deft had complained to the Tahildar to put a stop to the Plff's interference

in the Cultivation of the plaint-lands, & that this Complaint was withdrawn by the Razwanah "C" (filed by the Plff) in the Month of April 1857, without date, but its receipt in the Taluk is shown to have been on the 26th of that month, in which Document 2^d Deft sets forth his willingness to allow the Patta of 1266 to be continued for that year in Plff's name. But on the day previous (25 April) it is Char from No 1, which is a Harar created by the Plff to the 1st & 2^d Defts, & which was filed by them in O. S. No 1062, before referred to, that the Plff admitted that he had received his own share for Finely 1266, engaged to relinquish the plaint-lands, & transfer the Patta for them in favor of the 1st & 2^d Defts in 1267, & absolutely

waived all title to them themselves.
 There can be no question, therefore, that
 the Parganah "C" filed in the Sd. Mag.
 on the 26th April was executed in consequence
 of the Plff's Concessions to the 1st & 2^d
 Defts under "N^o 1" dated the 25th April,
 that is the day before. The Court
 is therefore of opinion, that, irregular
 as the proceedings of the 3^d Deft were
 upon the facts before him, in
 transferring a patta upon a mere verbal
 Complaint of the parties aggrieved, by
 its formal issue to the Plff, the
 transfer to the Deft's names must be
 upheld upon its merits. The Plaintiff
 is unquestionably bound to the transfer
 by the terms of "N^o 1" executed by him
 in favor of the 1st & 2^d Defts.
 Having deprived adversely of Plff's
 title to the lands sued for, his Claim

to the produce for Fyaly 1267, the year
 in which it is held he was bound
 to have transferred his Patta to the
 1st & 2^d Defts, can have no reality.

The Plff's Claim is therefore
 dismissed with Costs.

Costs incurred by Plff.
 Value of stamp Papers — 10-0-6
 Patta for Summons Peon — 3-7-
 Pleader's fees 1-9-6 15-0-6

Costs incurred by the 2^d Deft.
 Value of stamp Papers — 1-0-
 Pleader's fees 1-9-6 2-9-6

Costs incurred by the 3^d Deft.
 Value of stamp Papers — 9-0-
 Patta for Summons Peon 3-11-
 Pleader's fees 1-9-6 14-4-6
 Total 31-14-6

Amount to be paid by the
 Plff. to Defendants — 16-14-0

Plaintiff

Plaintiff files 5 Documents

- A. Copy of a deposition given by 1st Deft.
before the Sachidan date 18th December 1856.
- B. Copy of a deposition given by Parbhappa
Curnum before the Sachidan. date
18th December 1856.
- C. Copy of a Parganah tendered by
the 2^d Deft. date April 1857
- D. Copy of a decree passed by the Distt.
Munsiff of Dharwad in C. S. No 1802 of 1855
- E. Copy of a Taluk issued by the Colly
to the Sachidan date 30th November 1858.

Document filed by the 3^d Deft
Copy of an account from the Tahsildar
Book for July 1867.

Two witnesses were examined for Plaintiff
and five for 3^d Deft

Signed W. Hodgson,
Sabb. Judge

(True Copy)

R. H. S.
Collector

No. 1,945.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 13th April 1861.

Read the following letter from H. A. BRETT, Esq., Collector of Salem, to J. D. SIM, Esq., Secretary to the Board of Revenue, Fort Saint George, dated Vellur, 28th March 1861, No. 47:—

With reference to the Board's order, dated the 19th February 1859, No. 642, conveying the sanction of Government for the defence of Original Suit No. 12 of 1858, instituted by one Venkataraya Pillai in the Subordinate Court of Salem, against the Collector of this District, I have the honor to forward, for the Board's information, the copy of a decree passed in the Sub-Court in favor of the Collector.

ENCLOSURE No. 1.

ABSTRACT.—Copy of Decree of Original Suit No. 12 of 1858.

1. Submitted for the information of Government, with reference to their Order, dated 14th February 1859, No. 199, Revenue Department.
2. The decision of the Court is in favor of the Collector, whose proceedings in transferring the Putta for the land in dispute from Plaintiff to the 1st and 2d Defendants though irregular were substantially just.

(A true Copy and Extract.)

J. D. Sim
Secretary.

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

Copy to H. A. Brett, Esq., Collector of Salem.

Exd. J. Wright.

1361

Revised

Given letter from the
Collector of Salem to
the Secretary to the Board
of Revenue at Fort St. George
dated 28th March 1861

Q. 945/61

J. D. Sim
Secretary

Copy of the Notice of
Q. 945/61 of 1861

No. 12 February 1869 No. 52.55

Dee 1867

No. of Jan 1868 1865

Proceedings of the

Board of Trustees

Dated 13th April 1861

Page 14th 1865

Recd 19th 1865

Ex 10th 1865

Ex 1

Johnston

1865

1865

1865

Submitting with

reference to the Order of

dated 14th February 1869

1865 D. a letter from 1865

Cells of John Johnston

a decree of the Court

in Ex. 12 of 1858 in favor

of the Collector.

1865 26 April 1865

1865

1865