

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1336

Press
Mis.

257-258

Dated 18 - 6 - 1862.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
18th June 1862.*

No. 257. Read the following letter from the Honorable D. ARBUTHNOTT, Magistrate of Salem, to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to the Government of Fort Saint George, dated Salem, 2nd June 1862, No. 135:—

SIR,

1. I have the honor to forward herewith translation of two plaints in Original Suit No. 913 of 1861 on the file of the Moofy Sudder Amín's Court at Salem, with draft of an answer which I propose to file in the Suit in question, and to request sanction of the Government to my defending the Suit at the public cost.

2. This Suit has been instituted by Sookavana Moodelly, an inhabitant of Salem, to recover from the Defendents (both original and supplemental) Rupees 600 as damages for defamation of character; Rupees 75 on account of expenses incurred by the Plaintiff and Rupees 75 on account of the fine collected from him, amounting in the aggregate to Rupees 750.

The facts of the case are as follows:—

3. The second supplemental Defendant, Assessor of the Salem Táluq, sent on the 26th November 1860 a blank return form No. 17 to the Plaintiff to be filled up with his income for the year 1860-61. The Plaintiff having failed to make the return within the time allowed in the special notice, the Assessor of the Salem Táluq (2nd supplemental Defendant) sent to the 1st supplemental Defendant (Mr. Boalth) statement No. 13, in which he entered the Plaintiff's profits at Rupees 518, yielding tax of Rupees 20-9-0. Mr. Boalth raised the profits of the Plaintiff to Rupees 818, yielding a tax of Rupees 32-9-0, and sent to the Plaintiff a charge notice (form No. 13) on the 23rd July 1861.

4. On appeal Mr. Boalth reduced the tax from Rupees 32-9-0 to Rupees 16, and entered the alteration in the charge notice and gave it back to the Plaintiff.

5. Mr. Boalth sent a Bill to the Assessor of the Salem Táluq in which he entered the tax of the Plaintiff at Rupees 20-9-0 as when he prepared the Bill, he found that he committed a mistake in reducing the tax without reference to the amount of profits, for, if the profits are below 500 Rupees, the tax does not exceed Rupees 9-15-8, and if the profits are above 500 Rupees the tax will far exceed Rupees 16, the sum fixed by Mr. Boalth without any reference to profits.

6. The Assessor of the Salem Táluq gave to the 2nd Defendant, Income Tax Amín, a list of persons from whom Income Tax was due in the Salem Táluq with authority to attach their personal property in default of payment on demand. The 2nd Defendant demanded the tax from the Plaintiff, but the Plaintiff not having paid the tax, the 2nd Defendant accompanied by the 3rd and 4th Defendants went on the 26th November 1861 to the house of the Plaintiff, but the Plaintiff being absent then, the 2nd Defendant desired the Plaintiff's wife to send for her husband. Accordingly the Plaintiff was sent for. The Plaintiff came to his house, and the 2nd Defendant asked him again to pay the tax, but the Plaintiff having refused to pay the tax, the 2nd Defendant ordered the 3rd Defendant to take a brass lamp and to place it before him to make an inventory for attachment. The Plaintiff took away the brass lamp abusing the Defendants most grossly and asking them to get out of the house, and if they did not, he would call the Police Peons and tie up the Defendants.

7. The village Moonsiff of Salem and the 2nd Defendant reported to the Assessor of Salem Táluq on the 26th November 1861, obstruction thus offered by the Plaintiff to the attachment in question.

8. On the same day the Plaintiff appeared before the Assessor of Salem, and showed the notice, in which Mr. Boalth had made a note to the effect, that the Plaintiff's tax was reduced to 16 Rupees.

9. The Assessor of the Salem Táluq received from the Plaintiff Rupees 16, the sum entered by Mr. Boalth in the notice and made an Urzi to the Collector with regard to the difference between the notice and the bill sent by Mr. Boalth.

10. The Táluq Magistrate of Salem (second supplemental Defendant) made the preliminary enquiry into the charge brought against the Plaintiff, for his having obstructed the attachment, and committed the case to Mr. Boalth, Deputy Magistrate.

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11. While the case was under trial, the Plaintiff produced an extract from the Diary Order of the Moofy, which runs as follows:—

Read the Petition presented by Sookavanum Moodelly, Plaintiff in Original Suit No. 913 of 1861.

* Teeroovangadien, Village Moonsiff of Salem.
Vencataramien, Zufti Amin.
Ambajee Abdul Kader, Peon.

The Petitioner states that he has filed a suit against the Defendants* noted in the margin, to ascertain whether they were justified in entering the house of the Plaintiff or not, whether they acted properly or improperly, whether the Plaintiff acted anything wrong, and whether the Plaintiff has been taxed 16 Rupees or 20 Rupees; that while by paragraphs 1 and 4 of the Circular Order of the Fouzdari Adawlut dated the 7th December 1853, Magistrates and Tahsildárs are forbidden to interfere in or enquire into such of the above matters pending before a Civil Court, the Tahsildár with a view to get himself off the charge that may be brought against him for falsifying the accounts, and to give trouble to the Plaintiff, took from the second Defendant a complaint and examined the third and fourth Defendants and the son of the first Defendant as witnesses, and thus acted in violation of the Circular above referred to; that the Acting Principal Sudder Amín of Salem has passed a decree in Original Suit No. 9 of 1860, to the effect that in similar cases parties may bring Civil action without resorting to the Courts of Magistrates; that in the notice served upon the Plaintiff, the tax was reduced from 32 to 16, and a remark has been entered in the notice to that effect; that the Plaintiff complained to the Tahsildár on the 25th November 1861, regarding the false account, and the Tahsildár (who took the notice and told the Plaintiff that he would report the matter to the Collector and that the Plaintiff need not pay more money than that entered in the notice pending his report) allowed the Defendants to proceed to the Plaintiff's house next morning and to attempt to levy from the Plaintiff a higher tax; that this course of the Tahsildár is contrary to Section 195 of Act XXXII of 1860; and that under the above circumstances the Plaintiff requests that either a certificate under the Circular Order above quoted or an order under Section 93 of Act VIII of 1859, may be given to him.

Ordered that the Deputy Magistrate be informed that a suit has been instituted by the Plaintiff regarding the subject, and a copy of the Diary Order be sent to him.

12. Mr. Boalth did not consider that this Diary Order precluded him from enquiring into the case. He therefore investigated the case, and the Plaintiff and his son Marimutoo having been convicted of the offence, Mr. Boalth fined the Plaintiff in the sum of Rupees 50 and Marimutoo in the sum of Rupees 25, under Section 214, Act XXXII of 1862.

13. The case has been called up to the Sub-Court, and time for filling the answer will expire with the re-opening of the Sub-Court, which will be on the 15th proximo, when further time will be applied for if necessary.

No. 258.

ORDER THEREON, 18th June 1862, No. 1,336.

Referred to the Board of Revenue for their opinion.

(Signed) P. P. HUTCHINS,

Acting Deputy Secretary to Government.

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Report to the Board
of Revenue for their
examination -

transferred to
the Rev. Capt.

Board of Revenue
Cairo 22nd Aug 1862

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John St. George
18th June 1862

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