

MADRAS RECORD OFFICE.**Government of Madras.***Revenue* **DEPARTMENT.**

G.O. No. 1673	<u>Press</u> <u>Mis.</u>
73-74	
Dated 6 - 8. 1862	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
6th August 1862.*

No. 73. Read the following Proceedings of the Board of Revenue, dated 31st July 1862,
No. 4,968 :—

Read the following letter from the Honorable D. ARBUTHNOTT, Collector of Salem, to W.
HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 25th July
1862, No. 172.

SIR,

1. I have the honor to forward herewith the translation of the plaint in Original Suit No. 2,826, on the file of the Munsiff's Court at Usur with draft of an answer, which I propose to file in the Suit in question, and to request the Board will obtain the sanction of the Government to my defending the Suit at the public cost.

2. This Suit has been instituted by Ramiah, Curnum of Dorapully in the Usur Taluq against Mr. H. G. Smith, Sub-Collector, Kuppanah and Gundiga Lingumamah of Usur to obtain possession of a tank (valued at 750 Rupees) at Kenjamadunapulli in the Usur Taluq and the Ayacut Nunjah lands situated under the tank; also to recover Rupees 50 being the value of the Melvarum of the Nunjah lands in question, and to compel the 2nd and 3rd Defendants to remove that portion of the tank bund which they constructed.

The facts of the case are as follow :—

3. In the year 1847 Ramiah, son of Secta Ramiah of Dorapully, and cousin of the Plaintiff, presented a Petition to the Collector stating that his grandfather Ramiah constructed the tank under dispute at his own expense and enjoyed for a long time one-fourth of the produce of the Nunjah lands cultivated under the tank as "Kodigi" under a Sanad given him by the then Tahsildar Babu Row; that the tank having been breached, the lands below the tank remained waste; and requesting that he might be permitted to restore the tank at his own expense, and that he might either be allowed as before to enjoy one-fourth share of the produce of the Nunjah lands cultivated under the tank or land might be granted him as "Kodigi" in lieu of the produce.

4. The Petition was referred to the Tahsildar of Usur for report, but the Petitioner having stated before the Tahsildar that owing to his ill-health he was not able to restore the tank, and that he might be allowed to withdraw his Petition, the Petition was accordingly struck off the file.

5. In 1852 the said Ramiah and the Plaintiff jointly presented a Petition to the then Collector repeating the request contained in the Petition above referred to, and adding that in Fasli 1211 the Kodagi was attached along with other "Kodaghies" of a similar tenure; that their ancestors had no means to restore the tank; and that an endorsement was given to one of them by the former on a Petition presented by him.

6. An endorsement dated the 18th April 1852, No. 289, was passed on the Petition requiring the Petitioner to produce the endorsement referred to in their Petition, as the purport of it was not given in their Petition. The Petitioners never produced the endorsement as directed.

7. In 1859 Kapinipatiah and three others of Usur presented a Petition to the then Collector stating that if the tank under dispute was restored at the expense of Government, they were ready to cultivate the whole Ayacut under the tank or if permission was granted they were prepared to restore it at their own expense and to pay Punjab assessment to Government.

8. This Petition was referred to the Tahsildar of Usur for report. The Tahsildar, in his report dated the 28th February 1859, No. 4, recommended that the Petitioners might be allowed to restore the tank at their own expense, and to pay Punjab assessment on lands below the tank.

9. This report and the Petition were sent by Mr. Hathaway, then Acting Collector, to the District Engineer with a letter, dated the 10th March 1859, No. 65, requesting him to depute one of his subordinates to inspect the tank, and to report whether it could with advantage be restored at the expense of Government, and if not, whether by granting the permission sought by the Petitioners any prejudice was likely to arise to existing interests.

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10. In reply the District Engineer stated in a letter, dated the 7th October 1859, No. 602, that Mr. O'Hara inspected the tank, and reported against its restoration at the expense of Government as the supply of water would be comparatively small owing to the recent construction of another tank higher up in the same direction, and that the Petitioners might be allowed to restore the tank at their own expense if they wished.

11. On the receipt of this letter Mr. Hathaway sent a Takeed to the Tahsildár of Usur, dated the 12th October 1859, No. 326, directing him to permit the Petitioners to restore the tank at their own expense and to give Punjab assessment on wet lands under the tank.

12. Subsequently the Plaintiff gave a Petition on the 26th October 1859 to Mr. Knox, then Acting Collector, stating that he had been given to understand that the 2nd Defendant and others had been permitted to restore at their own expense the tank, and that as he has claims to the tank it should be given to him.

13. On his Petition being referred to the Tahsildár, he, in an Urzi dated the 28th December 1859, reported that in the survey accounts the tank is entered as "Ramakristniah's tank" with a remark that one-fourth share (of the produce of the Nunjah lands under the tank) was continued up to year Roudri, and was subsequently *zuffed. He also reported that the tank appears to have been breached before the survey, and the Plaintiff seems to have no claims whatever to the tank.

14. On the receipt of this report an endorsement, dated the 22nd February 1860, No. 327, was passed, dismissing the complaint, and stating that the Petitioner appears to have no claim to the tank which had already been given away to the 2nd Defendant and others, who have already begun to repair the tank.

15. Subsequently the Plaintiff presented two Petitions to the Sub-Collector, Mr. Smith, one in April 1861 repeating the subject of his former Petition to Mr. Knox, and the other in May 1861 requesting that the repair of the tank which was then in progress might be stopped till an order is passed on his Petition. These two Petitions were referred to the Tahsildár for report.

16. The Tahsildár held an inquiry into the case, and reported on the 24th July 1861 that the Plaintiff was not the heir of Ramakistniah, in whose name the tank is entered in the survey accounts; that Ramakistniah and his brother Ramiah appear to be the maternal uncles of the Plaintiff's father; that they having died without issue Plaintiff's father seems to have taken possession of their property, and in doing so having found a Sanad which seems to have been given to Ramiah, brother of Ramakistniah and the Plaintiff's grandfather's name also being Ramiah, the Plaintiff seems to have taken advantage of the similarity of the names of the original grantee and of his grandfather, and to claim the tank under the Sanad.

17. On the receipt of this report Mr. Smith passed an endorsement, dated the 5th August 1861, on the two Petitions of the Plaintiff dismissing the complaint on the grounds set forth in the Tahsildár's report.

18. This case was transferred to the Principal Sudder Amín's Court in Original Suit No. 14 of 1862, and the time for filing the answer will expire on the 24th proximo.

ENCLOSURE No. 1.

Translation of a plaint filed by Ramiah against H. G. Smith, Esq., Sub-Collector, Kuppanah and Gundiga Lingumamah in the Munsiff's Court at Usur.

That the 2nd and 3rd Defendants having usurped the undermentioned tank and the Kodagi lands (which descended to the Plaintiff from his ancestors) at the beginning of 1860, through the Collector, the Plaintiff requests that he may be put in possession of the tank and the lands in question, and that the 2nd and 3rd Defendants may be made to remove that portion of the bund which they constructed under a decree passed in his favor.

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Particulars.	RS.	A.	P.
Estimated value of the tank bund at Kenjamarunapulli in the Huzur Taluq	600	0	0
Estimated value of that portion of the bund which the 2nd and 3rd Defendants constructed	150	0	0
Value of the Melvarum of the Ayacut Nunjah lands under the tank...	50	0	0
	800	0	0

(Signed) RAMIAH.

Filed on the 24th December 1861.

(True translation.)

(Signed) D. ARBUTHNOTT, Collector.

ENCLOSURE No. 2.

DRAFT of an Answer proposed to be filed in Original Suit No. 2,826 of 1861, on the file of the Munsiff's Court at Usur.

1. That the 1st Defendant submits that at the survey no Inám was attached to the tank.
2. That Kodagi Ináms are granted for the keeping of tanks in repair, and as the Inámdár is allowed to enjoy the Inám only so long as he keeps the tank in repair, the original grantee or his descendants forfeited their claim to the Inám when the tank was allowed to go to ruin in which state it was at the survey.
3. That it is clear from the accounts that the Inám was resumed prior to the survey, and that from the time of survey the tank remained in a breached condition.
4. That the Collector was therefore at liberty to dispose of the tank, the property of Government, in the way he did.

• Ordered to be submitted to Government with the Board's recommendation that the defence of the Suit at the public cost be sanctioned, and that the Collector be authorized to file the answer in the following modified form:—

- "That the Plaintiff's claim is barred by the law of Limitation.
- "That Kodagi Ináms being granted for the purpose of maintaining tanks in order, it necessarily follows that failure to perform the essential condition must entail forfeiture of the grant.
- "That the tank in question had fallen to ruin, and that the Inám had been resumed prior to the original survey.
- "That from the time of the survey the tank remained breached and useless.
- "That Plaintiff is not the heir of the original Inámdárs and has never been in possession of the tank or lands sought.
- "That under the circumstances of the case the Collector was competent to dispose of the tank and lands on behalf of Government in the manner he did, and he prays therefore that Plaintiff's suit be dismissed with cost."

(True Copies and Extract.)

(Signed) W. HUDLESTON, Secretary.

No. 74. ORDER THEREON, 6th August 1862, No. 1,673.

The Governor in Council sanctions the defence at the public expense, on the usual terms, of A. S. No. 14 of 1862 on the file of the Principal Sudder Amín's Court of Salem, instituted by one Ramiah against the Sub-Collector of Salem and others. The amended draft answer proposed by the Revenue Board is approved.

(Signed) T. PYCROFT,
Chief Secretary.

ENCLOSURE No. 1.

Translation of a plaint filed by Ramiah against H. G. Smith, Esq., Sub-Collector, Kuppanah and Gundiga Lingummah in the Munsiff's Court at Usur.

That the 2nd and 3rd Defendants having usurped the undermentioned tank and the Kodagi lands (which descended to the Plaintiff from his ancestors) at the beginning of 1860, through the Collector, the Plaintiff requests that he may be put in possession of the tank and the lands in question, and that the 2nd and 3rd Defendants may be made to remove that portion of the bund which they constructed under a decree passed in his favor.

Particulars.	Rs. A. P.
Estimated value of the tank bund at Kenjamarunapulli in the Huzur Taluk.....	600 0 0
Estimated value of that portion of the bund which the 2nd and 3rd Defendants } constructed.	150 0 0
Value of the Melvarum of the Ayacut Nunjah lands under the tank....	50 0 0
	800 0 0

(Signed) RAMIAH.

Filed on the 24th December 1861.

(True translation.)

(Signed) D. ARBUTHNOTT, Collector.

ENCLOSURE No. 2.

DRAFT of an Answer proposed to be filed in Original Suit No. 2,826 of 1861, on the file of the Munsiff's Court at Usur.

1. That the 1st Defendant submits that at the survey no Inam was attached to the tank.
2. That Kodagi Inams are granted for the keeping of tanks in repair, and as the Inamdar is allowed to enjoy the Inam only so long as he keeps the tank in repair, the original grantee or his descendants forfeited their claim to the Inam when the tank was allowed to go to ruin in which state it was at the survey.
3. That it is clear from the accounts that the Inam was resumed prior to the survey, and that from the time of survey the tank remained in a breached condition.
4. That the Collector was therefore at liberty to dispose of the tank, the property of Government, in the way he did.

Ordered to be submitted to Government with the Board's recommendation that the defence of the Suit at the public cost be sanctioned, and that the Collector be authorized to file the answer in the following modified form:—

- "That the Plaintiff's claim is barred by the law of Limitation.
- "That Kodagi Inams being granted for the purpose of maintaining tanks in order, it necessarily follows that failure to perform the essential condition must entail forfeiture of the grant.
- "That the tank in question had fallen to ruin, and that the Inam had been resumed prior to the original survey.
- "That from the time of the survey the tank remained breached and useless.
- "That Plaintiff is not the heir of the original Inamdars and has never been in possession of the tank or lands sought.

"That under the circumstances of the case the Collector was competent to dispose of the tank and lands on behalf of Government in the manner he did, and he prays therefore that Plaintiff's suit be dismissed with cost."

(True Copies and Extract.)

[Signature]

Secretary.

To A. J. Arbuthnot, Esq., Acting Chief Secretary to Government.
Copy to Honorable D. Arbuthnot, Collector of Salem.

The Governor in Council sanctions the defences
at the public expense, on the usual terms

Exd. J. Wright.

W. of A. d. N. 14 of 1862 on the file of the P. Chudder Ameen's
Court of Salem instituted by one Ramiah against the sub
Collo. of Salem and others. The amended draft answer proposed
by the Revenue Board is approved.

First St. George
6th Aug 1862
14 Copies to the Board of Revenue & 1 Copy to the Collector

PROCEEDINGS OF THE BOARD OF REVENUE

Recd 1862 Department
for Govt for Revenue

No. 2181

Dated 31st July 1862.

Despatched 1st Aug 1862

Received 22nd Aug 1862

No. 4968

Submitting a letter from the Collector of Salem and recommending that the Collector be authorized to defend at the public cost Sub No 2826 of 1861, filed against the Acting Collector and two other parties and to file the answer proposed by him as modified by the Board.

No 1873-6-2046

With an order