M.R.O. 14—10,000—21-4-32.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 181	Press ~~Mis.~~
36-37	
Dated 3. 2 — 1862.	

Not to be folded or roughly handled

No. 36. Read the following Proceedings of the Board of Revenue, dated 28th January 1862, No. 667:—

Read the following letter from P. GRANT, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Calicut, 20th January 1862, No. 12.

SIR,

Translate of Plaint filed by Manishevi *alias* Varikashevi Manakal Nambudripad of Manishevi Deshom, Panamana Amshom in Nedunganad Taluq, and Illapen, *alias* Kudravattata Nair of Kodavayur Deshom and Amshom, in Palghat Táluq, in suit No. 177 of 1857, before District Moonff of Palghat.
Draft of proposed answer.

1. I have the honor to lay before the Board the accompanying papers, and to request that the sanction of Government may be obtained to defend the suit, to which these papers refer, at the public expense.

2. The Suit, it will be observed, was filed before the District Moonsiff of Palghat against the party noted in the margin, and in his answer, it was asserted that the land sued for had been assigned to him on mortgage by an individual named Analakat Narainen Nambudri, Manager of the "Palakaye Bagavati Devasow" or Temple, and that one parcel of the land was subsequently taken out of his hands and made over to another party, Vadekekave Shamu, by the then Head Assistant Collector of the District, on the ground of its forming part of Chenat Nair's property which had lapsed, as an escheat, to Government.

Vadakekara Karupen of Palghat Táluq.

3. This assertion led to the individuals last mentioned, as well as myself, being included as Supplemental Defendants in the Suit.

2nd Supplemental Defendant, Vadakakara Shamu.
3rd Do. do. Analakat Narainen Nambudri.
4th Do. do. P. Grant, Esq., Collector of Malabar.

4. My inclusion in it necessitated its transfer to the Mufti Sudder Amin's Court at Calicut, in view to ensuring the services of the Government Vakil in conducting the defence.

5. The Plaintiffs aver that the land appertains to the Devasow or Temple aforementioned, of which they are the Uralers or proprietors.

The averment has no foundation in truth, and is utterly untenable.

That the land constitutes a portion of Chenat Nair's escheat above adverted to, is a fact admitting of no reasonable question.

6. All the eight parcels composing the land were discovered in the 1st Defendant's* possession during an enquiry held, many years ago, with a view to detect such of Chenat Nair's lands as remained in the hands of mortgagees and tenants. They were then, without a single exception, found to be the Nair's property, and were afterwards Pymashed or surveyed as such in M. E. 1027 (A. D. 1851-52).

* Vadakekara Karupen.
NOTE—He was of course allowed to retain possession of the whole at the time.

7. As regards five of the parcels, the old Mahratta Pymash accounts† in my Office, are sufficient to establish the right of Government beyond all doubt. They show that five parcels of land belonging to Chenat Nair were mortgaged to the Devasow above-named. The extent of these five, as given in the same accounts, corresponds *exactly* with that of five of the parcels now in dispute.

† Of 1806-7.

Of the remaining three parcels, two have been obviously and incontestably formed out of a garden land admitted on all hands to be Chenat Nair's.

The other one parcel was found to constitute portion of a land which the 2nd Defendant held out of the Nair's property.

8. Looking at all the circumstances of the case, I feel no doubt whatever that the whole land under litigation forms part of Chenat Nair's escheat.

The very situation of the land is a convincing proof of this. It is surrounded by lands confessedly the Jenm property of Chenat Nair, and now in the hands of Government. And as the

proprietary right over it is shown to have been resident in the Nair, by the Pymash accounts above specified, as well as by facts of an undeniable character, the Plaintiffs' pretensions must, as it seems to me, fall to the ground.

9. All that they possess and can, with reason, bring forward, is a mortgage claim; but the question in the present suit is one of Jenm or fee-simple right, which undoubtedly belongs to Government, and which it is our duty to establish. I solicit, therefore, early sanction to carry on the defence of the suit.

The period allowed for filing the answer expires on the 6th proximo.

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1. Ordered to be submitted to Government, with the Board's recommendation that the defence of the Suit at the public expense be sanctioned.

2. The Plaintiffs who are the Uralers of a certain Temple sued the first Defendant for the recovery of certain land said to be the Jenm property of the Temple and held by him (1st Defendant) on mortgage. He in his reply admitted that he had obtained possession of the land on mortgage from the Manager of the Temple, but asserted that a portion of it had been taken out of his hands and made over to another party by the then Head Assistant Collector of the District on the ground of its being part of the Jenm property of one Chenat Nair, who deceased without heirs many years ago, when his whole estate escheated to Government.

3. The Collector has, therefore, been included as a Supplemental Defendant, and asserts that the whole of the land sought can be clearly proved from old documentary and other evidence to be part of the said Estate and thus the property of Government, and the Board entirely concur in opinion with him that their Jenm rights should be defended. They recommend, therefore, that the Collector be authorized to file the Draft answer as slightly modified by them.

4. Early orders are requested as the time for filing the answer will expire on 6th February.

5. The Board consider that Government would do well to relieve itself by sale of all these Jenm rights, as is being done in the case of the Betutnad escheat. The Collector will please to report his opinion on the subject, and to submit a list of the properties in occupation of which the Jenm right has devolved on Government, and also those new properties formed out of Government lands on which a Jenm rent is reserved by Government.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 37. ORDER THEREON, 3rd February 1862, No. 181.

The Governor in Council sanctions the defence of the Suit in the first instance at the public expense, but will determine when a copy of the Decree is submitted whether the costs if any be adjudged against the Collector, shall be borne by that Officer or by the Government.

(Signed) J. D. SIM,

Secretary to Government.

Revenue 1862 Dist.
Pros: of Govt for W. Circy
Proceedings of the Board
of Revenue.

W-181-

Dated 28th
Desp.d 28
Rec.d 29th January 1862.
E. 2. Ol. Encl.
From Bd of Rev. 24 April 62
Ex 125-2 (referring to para 5 of the Bd Pros:
Pro do — do 29 Sept. 61
Encl. 262 Mis.

Submitting a letter from the Collector of Malabar reporting the institution of Suit No 177 of 1854 for the recovery of certain lands and recommending that the defence of the same at the Public expense be sanctioned.

No 181. 3d Feby

With an Order

The Govt will sanction the defence of the suit in the first instance at the public expense but will determine when a copy of the Decree is submitted whether the costs if any be adjudged against the Collr shall be borne by that Officer, or by the Government. —

W. Ill

From Govt
3d July 1862
to Chief to the Bd of Rev. with 2 Encls
Dispd 3

No 36 & 37.

29 Jan 7 & 3d