M.F.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 197 Press ~~Mis.~~

70-71

Dated 4 - 2 - 1862

Not to be folded or roughly handled

No. 70. Read the following Proceedings of the Board of Revenue, dated 29th January 1862, No. 686:—

Read the following letter from B. CUNLIFFE, Esq., Collector of Madras, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Nagalapuram, 23rd January 1862, No. 23.

SIR,

1. A plaint* has been filed in the District Munsif's Court at Conjeveram by one Kolanda Velu Chetty against me, as the Magistrate of the District, and other Defendants named marginally,† for the recovery of a Phæton valued at 200 Rupees and of 600 Rupees, the alleged loss to Plaintiff by neglecting hisown business, and attending the Magistrate's Court and the Court of Foujdari Adálat to obtain a reversal of the previous judgments against him.

* Translation enclosed.

† 2. Nazumuddin, Tahsíldár.
3. Subba Ráu, Royasem.
4. Munisami Nayudu, Daffádár.
5. Ratnammai.

2. On the 21st May 1858, the Magistrate, Mr. Shubrick, fined the Plaintiff in the sum of 25 Rupees commutable to two month's imprisonment for having forcibly carried away a bandy from the possession of the 5th Defendant, with whom it had remained for 15 years, and for assaulting the 4th Defendant in the execution of his duty. He directed also that the body of the Phæton, which alone had been recovered from Plaintiff, should be restored to the 5th Defendant.

3. Plaintiff appealed to the Sessions Court, which confirmed the sentence of the Magistrate. He then appealed to the Foujdari Adálat, where the judgment of the lower Courts was reversed, under date 14th May 1859.

4. The time allowed for the answer, which I have proposed, is the 20th proximo. I have pleaded that I am not responsible for the acts of my predecessor, and I think that it will be sufficient for the 2nd Defendant to urge that he acted judicially in the matter on the complaint of the 5th Defendant to the effect that Plaintiff had entered her premises and forcibly carried off the bandy, and that Act XVIII of 1850 bars the suit as against him. The 3rd and 4th Defendants may answer that their proceedings were in the execution of their duty and in obedience to the orders of their superior the 2nd Defendant. If these pleas are approved of, they will be put in.

To the Principal Sudder Ámin of Chingleput.

The Plaint filed by Court Vakíl Kistna Ráu, on behalf of Kolanda Velu Chetty, a merchant, son of Narasappa Chetty, residing at Tiruvallur Pereapollum Táluq against (1) the Collector of the District; (2), Nazumuddin Saib, Tahsíldár of the above Táluq, residing at Tiruvallur; (3), Subba Ráu, the Táluq Royasem; (4), Munisami Naick, the Daffádár of the Táluq, and (5), Ratnammai *alias* Muniammai, wife of Tanikachella Mudali residing at Tiruvallur, praying for the recovery, from the Defendants to the Plaintiff, of a four-wheeled Phæton, or its value Rupees 200 and of Rupees 600, the loss sustained by the Plaintiff in his merchandize.

1. The 2nd Defendant, with the view of appropriating a four-wheeled Phæton, valued at Rupees 250, and which was in Plaintiff's house, received a complaint from the 5th Defendant against the Plaintiff, and entering his house by means of the 3rd and 4th Defendants on the 20th Punguni of the year Pingala removed to his Katcheri the several component parts of the said Phæton with the exception of the four wheels and an axle tree valued at Rupees 200. The 2nd Defendant further issued a warrant against the Plaintiff, and apprehending him on the 2nd Vaiyasi of the year Kalayukti, corresponding to the 14th May 1858, sent him to the 1st Defendant, who, without proper inquiry, fined him 25 Rupees.

2. The Plaintiff having appealed against this up to the Foujdari Court, got the sentence cancelled as may be seen from the enclosed Diary, dated 14th May 1859.

3. On Plaintiff's showing this Diary to the 1st Defendant, he refunded the fine on the 8th June 1859, and issued a Takid, copy of which is herein enclosed, on the same date to the 2nd Defendant, directing him to restore to the Plaintiff the above conveyance, which was in the

hands of the 5th Defendant. But the 2nd Defendant having failed to do so, the Plaintiff presented the enclosed Arzi, dated 20th July 1859, to the 1st Defendant, asking for the convey- ance, upon which he made an endorsement on the 25th, directing him to go to the Civil Court.

4. The Plaintiff carries on cloth and indigo merchandize, having laid out a capital of 3,000 Rupees in it. As he was attending to the Court affairs from the time he was apprehended and sent to the 1st Defendant to the date of reversal of his (1st Defendant's) sentence by the Foujdari Court, the Plaintiff was unable to attend to his merchandize, and consequently lost the profits which he would otherwise gain during that period. The loss thus sustained by him is Rupees 50 per mensem. The Plaint is filed for the recovery from the Defendants of this loss, and of the above mentioned Phæton, with the exception of the four wheels and an axle tree, valued at Rupees 200.

5. The Plaintiff therefore requests that the Court, after inquiry, will pass decision for the recovery from the Defendants to the Plaintiff of the said conveyance or its value Rupees 200, and of Rupees 600 being the loss of profits sustained by him in his merchandize at the rate of 50 Rupees per mensem from the 14th May 1858 to the 14th May 1859, the date of the Foujdari Court's decision.

(Signed) T. KOLANDA VELU CHETTY.
30th October 1861. (Signed) KISTNA ROW, *Court Vakil.*
(True Translation.)
(Signed) B. CUNLIFFE, *Collector.*

Suit No. 1,611 filed in the District Munsiff's Court at Conjeveram by Vakíl Kistna Ráu on behalf of Kolanda Velu Chetty.

The Collector (1st Defendant) in the above Suit pleads that the circumstances, out of which this Suit arose, occurred during the incumbency of his predecessor for whose acts the Collector is not responsible, *and further that in fining the Plaintiff the late Magistrate was acting within his jurisdiction, and judicially, and is not therefore, under the provision of Act XVIII of* 1850, *liable to be sued by the Plaintiff.* He therefore requests that, as against him, the plaint may be dismissed with costs.

MADRAS, Collector's Office, on Circuit,
Nagalapuram,
23rd January 1862. (Signed) B. CUNLIFFE, *Collector.*

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1. Ordered to be submitted for the consideration of Government with the Board's recommendation that the defence of the Suit at the public expense and the filing of the proposed answer as slightly added be sanctioned.

2. The Board consider that the Court should also be prayed to require Plaintiff to amend his plaint by withdrawing from it all imputation of improper motives against the Tahsíldár, the 2nd Defendant, who was acting in the discharge of this duty as a public Magistrate. The defence must be filed within 20th February.

(True Copy and Extract.)
(Signed) W. HUDLESTON, *Secretary.*

No. 71. ORDER THEREON, 4th February 1862, No. 197.

1. The Government sanction the defence to the Suit at the Public expense in the first instance, but will determine when a copy of the Decree is submitted whether the costs, if any be adjudged against the Collector or any of the public servants included in the Suit, shall be borne by the parties themselves or by the Government. The draft answer proposed to be filed by the Collector is approved. He should have submitted the drafts of the answers of the servants alluded to in paragraph 4 of his letter, as it is evident that he intends to have their defences also conducted at the public expense.

2. The suggestion made in paragraph 2 of the Board's Proceedings is approved.

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

Rev= 1862 Departt
Proc.s of Govt for Fort St George.
№ 261.

Proceedings of the Board of Revenue

Dated 29th
Desp.d 29th } January 1862
Rec.d 30th
Ent.d 2 Anjt Sct

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Submitting for consideration a letter from the Coll.r of Madura requesting sanction for defending at the public expense a Suit filed against him & certain others by Kolanda Velu Chetti, for the recovery of a pagodas of and of 600 Rs. the alleged loss to Plaintiff by being obliged to neglect his business, & recommending that the defence of the same be conducted at the public cost Rs. 197-4-Pt

№ 70 & 71.

Ord.d accordingly

Cr Feb 1864

№ 197.

The Govt sanctions the defence of the Suit at the public ex- pense in the first instance, but will determine when a copy of the decree is submitted whether the costs, if any be adjudged against the Collector or any of the Public Servants included in the Suit, shall be borne by the parties themselves or by the Govt. The draft answer proposed to be filed by the Collector is approved. He should have sub- mitted the drafts of the answers of the Servants alluded to in para 4 of his letter as it is evident that he intends