

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1194	Press ~~MIS.~~
88.89	
Dated	4. 7. 1863

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
4th July 1863.*

No. 88. Read the following Proceedings of the Board of Revenue, dated 17th June 1863,
No. 3,554:—

Read again letter from the Collector of Madras, dated 4th October 1862, in Board's Proceedings,
dated 9th idem, No.—.

Read also the following letter from B. CUNLIFFE, Esq., Collector of Madras, and Acting
Member Board of Revenue, dated 7th May 1863.

1. With reference to the Board's Proceedings of the 9th October 1862, I have the honor
to report the result of the suit alluded to therein.

2. The cause, after several postponements, came on for hearing on the original side of the
High Court on the 6th and 11th of March, and judgment was delivered by the Honorable the
Chief Justice on the 27th idem.

3. I beg to enclose a report of the decree as published in the "Daily News" paper of the
7th April, which the Government Solicitor informs me is substantially correct, and from which
it will be observed that the plaint was dismissed with costs.

4. Putting aside the remarks of the Court as to the issue raised regarding its jurisdiction,
it will be seen that the merits of the case were considered, and that the Judges held that the
rent was, as contended for by the Defendants, given by the Collector for the benefit of the entire
village community, who, it was declared, possessed immemorial rights in the jungles rented, and
as these latter had been sub-rented by the Monigars to the Plaintiff on terms which were sub-
versive of the village rights, the Monigars had acted in fraud of their brethren, and that their
act could not be supported by the Court.

5. The suit having been successfully defended I should have merely reported this result,
did I not consider that the conduct of the Tahsildar of the Talook, now the Tahsildar of the
Sydapet Talook, had been so improper that it was my duty to bring it to the cognizance of the
Board, for his acts, in disobedience of my express orders, were the cause of the suit being brought.

6. As stated in my letter of the 4th October last, I had issued two orders (translations
enclosed) under dates the 6th February and 20th March 1862, informing the Tahsildar that I
had rented the jungles to the Monigars and Ryots of the respective villages, from whom he was
to obtain Muchilkas and security Bonds.

7. A Muchilka was however taken from the Monigars alone, and this being signed by me,
it was forwarded to the Tahsildar with my order of the 20th March, who nevertheless put the
Monigars only in possession, reporting his proceedings to the Hoozoor on the 8th April.

8. No reply was sent to this Arzi, though properly it should have been prominently
brought to my notice, as the proceedings of the Tahsildar were opposed to my instructions.
The Revenue Munshi of that time declares that he sent it to the Serishtadar, who states that he
never received, nor indeed saw it, and as there was endorsed upon it "No answer" in the hand-
writing of the Munshi, there was the less reason that the Serishtadar should be informed of it.
The Munshi asserts that as the orders on the matter had been prepared in the Serishta Depart-
ment, and as the Tahsildar was merely reporting what was apparently a carrying out of previous
instructions, he had endorsed it as above, and had sent all the papers to the Serishtadar, and I
was satisfied on inquiry that he had done so.

9. Though it is unfortunate that the Tahsildar's Arzi of the 8th April had not been
answered, and that Officer directed to follow my orders, and to place the Ryots also in possession
of the jungles, I am not of opinion that the omission arose from a corrupt motive on the part of
any of the Hoozoor servants, whose share moreover in the transaction, whether improper or
otherwise, is distinct from that of the Tahsildar, who, as my local agent was bound to carry out
the orders issued to him.

10. The Ryots of the several villages having complained to me in May that their Monigars
had sub-rented the jungles, and had refused to allow them to participate in the lease, I directed
the Tahsildar to prohibit the entry of any party into the jungles, because I had distinctly given
the rent to the villagers generally.

11. The Tahsildar also was called upon for an explanation of his conduct, and this, of
which a translation is enclosed, he forwarded on the 23rd July. He declares that the Monigars
alone bid for the rent; that it was given to them and a Muchilka taken from them; and that he
had put them only in possession, and had reported his proceedings on the 8th April, to which no
objections had been taken.

12. In reply to this, I can declare that my entire proceedings, except the single fact of the
Muchilka recognized by me, and which was taken from the Monigars only, show that my inten-
tion throughout was to give the rent to the villagers. All other rents of this nature have been
so disposed of, and my orders of the 6th February and 20th March expressly inform the Tahsil-
dar that the rent had been given to the Ryots generally, and that they were to be placed in

possession. I believe, too, that though the Monigars were, as usual, the organ of the villagers at the bidding, that some of the latter were present and consented.

13. I attach no importance to the Monigars only having given security for the fulfilment of the rent conditions, for they are well remunerated for performing the duties of the head of a village, and for representing the village in all transactions with the Circar, and I am convinced that the villagers would not have repudiated any liability of their Monigars, incurred for the general good even should the latter alone be legally involved in the responsibility.

14. When also in September 1861, a resident of Madras had made an offer to rent the jungles, and the matter was under disposal, these very Monigars petitioned me that the jungles should be rented to the villagers generally and not to a stranger. I have no doubt then that my wishes, carried out in other cases of jungle rent, were well known to the Tahsildar and every servant of the District.

15. His having acted contrary to my orders, and having obeyed the letter of the Muchilka, which was only an enclosure, and having disobeyed the letter of the covering order, I can attribute only to personal and improper motives. If the enclosure and the order were at variance, it was his duty to refer to me for further instructions.

16. I cannot divest myself of the conviction, an impression generally entertained too by those conversant with the particulars, and with whom I have spoken, that the Tahsildar knowingly disobeyed my orders, and favored the Monigars from influences by which as a public servant he should not have been governed, but of this the Board will be enabled from the papers before them to judge for themselves.

17. In my opinion he is deserving of severe punishment, and that his conduct has merited degradation to a lower Tahsildaree, if not removal from that grade to an inferior position.

18. As the suit was brought against myself, I have thought it proper to report the issue, and the Tahsildar's conduct in connection with it, rather than leave the duty to the Acting Collector, and I do so with the less hesitation, as in a few days, and probably before the case is disposed of by the Board, I shall cease to have a share in its deliberations.

ENCLOSURE No. 1.—Report of Decree.

ENCLOSURE No. 2.

Takid from B. CUNLIFFE, Esq., Collector of Madras, to NAJMOOD DEEN SAHIB, Tahsildar of Trivellore, dated 6th February 1862, No. 37 of 1862.

With reference to your Arzi, No. 431, of 15th September 1861, you are informed that Kodandaramaiyer having applied for the rent of the jungle of Sattivedu, Kattamarikuppam, and Sinna Yettivakum for three Faslies, at the rate of 150 Rupees per Faslil, it was to put to competition during the annual settlement of this year when the Puttahs were being distributed in the presence of the Darkhastdar and of the Puttamoniagar, &c., Ryots of each village, when the said Puttamoniagar, &c., Ryots made the highest bid for Rupees 300, and agreed in my presence to have the rent at that rate for ten Faslis from the current year. You are therefore required to divide the above Beriz according to the extent of the jungle in each village, to obtain Muchilkas and Security Bonds from the Puttamoniagar and Ryots of each village, and forward them with a report. Orders will be then sent for putting the jungle in their possession.

(True Copy.)

(Signed) B. CUNLIFFE, Collector.

ENCLOSURE No. 3.

Takid from B. CUNLIFFE, Esq., Collector of Madras, to NAJMOOD DEEN SAHIB, Tahsildar of Trivallur, dated 20th March 1862, No. 88 of 1862.

1. Read your Arzi, No. 51 of the 25th ultimo, with enclosures.

2. When the jungle of Sattivedu, Sinna Yettivakum and Kattamarikuppam was sold at auction during the last annual Settlement, the Puttamoniagar, &c., Ryots made the highest bid for Rupees 300, and having divided it by each village as mentioned below, not only executed Muchilkas before you agreeing to hold the rent for three years, and a Kararnamah at the Hoozoor, prescribing certain conditions to be observed in felling wood in the said jungle, but appear to have also given Security Bonds for the rent Beriz. You shall, therefore, on the receipt of this Takid, put the jungle in their possession with direction to fell wood according to the conditions of the Kararnamah, and obtain the rent Beriz according to the instalments fixed in their Muchilkas. You shall further intimate the same to the village Curnums, and direct them to enter this amount in the account with the annual Beriz.

3. A copy of the above Kararnamah is herewith forwarded.

Village.	Beriz of the Jungle.
Sattivedu...	Rupees 110
Sinna Yettivakum...	" 95
Kattamarikuppam...	" 95
	Total...300

(True Copy.)

(Signed) B. CUNLIFFE, Collector.

ENCLOSURE No. 4.

Arzi from NAJMOOD DEEN SAHIB, Tahsildar of Saidapet, to B. CUNLIFFE, Esq., Collector of Madras, dated 23rd July 1862, No. 281 of 1862.

1. I beg to acknowledge the receipt of the Hoozoor Takid, No. 301 of the 21st June 1862, stating that while the jungle of the villages of Sattivedu, &c. was sold at auction at the late Jambundi for 300 Rupees to the Puttamoniagars, Ryots, &c. of the said villages, and a Takid sent directing me to obtain Muchilkas and Security Bonds from them, I did not obtain Muchilkas from all according to the Takid, and calling upon me to explain why I obtained Muchilkas from the Monigars alone and put the jungle in their possession, and gave an endorsement to the Ryots stating that they had no right in the jungle.

2. When you were conducting the Settlement of Faslil 1271 at Nagalapuram, the jungle in question was put up to public auction in the presence of the Darkhastdar Kodundaramaiyer, and the Monigars of the above villages on the date on which I went to Nagalapuram from Trivallur, and the sale knocked down for 300 Rupees to the above Monigars and one Ryot who made the highest bid, and confirmed to them. A Kararnamah, guarding against the entire destruction of the jungle, was taken from them alone at the Hoozoor on the 12th February 1862. The other Ryots neither bid at the sale, nor were with those who bid at that time. Though it was the settlement time, when all the Ryots should naturally have been present, they were not present at the locality where the sale was conducted. Nor was their presence secured, and the Kararnamah which was taken at the Hoozoor, obtained from the Ryots of each village. If the other Ryots appear at least in any one of these, it may be said that they are concerned in the lease. If the matter is only brought to recollection, it can be clearly perceived that the persons mentioned above were alone present at the sale, and that the other Ryots were absent. The Kararnamah taken at the Hoozoor will support this.

3. According to the personal orders given after the sale, the Monigars were directed to divide the total Beriz of the three villages among themselves according to the extent of each village. When they so divided the Beriz, and executed Muchilkas and Security Bonds, the other Ryots might have appeared and objected; or they might have given an Arzi to you as the Jambundi Cutcherry was there for about one month. They did neither of these. Moreover, when a Darkhast was received for the rent of the jungle in question a year previous to the sale, notices were issued on several occasions inviting tenders for a higher amount, and no one, except those who bid at the sale, made any objection or came forward.

4. But after the renters had sub-rented the jungle to Streerungam Subbaroya Mudali of Madras, securing some profit over the Circar Kist, and after the jungle was formally put in the possession of the renters, the Ryots coming to understand that there is some profit in the jungle, and being then desirous of having it, appeared before me, and presented an Arzi to me advancing their objection on the 15th March last. Upon which I inquired into the matter, and in answer to their objections, I gave them the Endorsement No. 127, noted in the margin, and immediately reported the whole circumstance to the Hoozoor in my Arzi, No. 156 of the 8th April 1862.

ENDORSEMENT.

When the jungle referred to in this Arzi was sold at auction in the Circar, the Monigars of the villages to which it belongs made the highest bid, and agreed to rent it from the current for three Faslis. The Muchilkas, &c., given by them were approved by the Hoozoor, and a Takid received to that effect. In the inquiry conducted consequent upon the complaint of the Petitioners, they (the Monigars) stated that they have no objection for the Ryots to graze their cattle therein, and to use leaves, &c., required for agricultural purposes. Under those circumstances, there is no reason for me to interfere on behalf of the Petitioners and to issue any orders.—4th April 1862, Trivallur.

5. This is the truth of the matter. I have neither acted contrary to orders, nor gave any Endorsement to the Ryots stating that they have no right in the jungle. If the above Arzi, No. 156, and the Petition of the Ryots upon which the above Endorsement was passed, were sent for and perused, it will be clearly seen among other particulars that the Ryots themselves acknowledge the fact of the Monigars having rented the jungle of the above villages, and that the Endorsement passed upon their Arzi states that the inconvenience complained of in it would no longer exist as appeared in the inquiry.

6. If the proceedings have not been as stated above, the Muchilkas, &c., received from those parties who, I state, had taken the rent, and forwarded to the Hoozoor on the 25th February 1862, with my Arzi, No. 51, would not have been approved. Supposing that this was overlooked, objection might have been raised on my Arzi, No. 156, which was written regarding the objection of the Ryots. Even this was not the case.

7. I do not know why the present Tahsildar of Trivallur Talook reported that I gave an Endorsement to the Ryots stating that they have no claim in the jungle, and that I acted in opposition to the other orders.

8. Some persons, though unable to show their own activity, are desirous of obtaining reputation by creating fault upon others. Such persons will naturally show only those points which support them, suppressing the others. This will be clearly perceived by comparing the purport of the Endorsement and the statement of the Tahsildar that it (the Endorsement) states that the Ryots have no claim. I therefore request that if any unsatisfactory point appears to have reference to my time, my explanation may be received before taking the matter into consideration.

(True Copy.)

(Signed) B. CUNLIFFE, Collector.

Proceedings of the Madras Government, dated 12th May 1863, communicating an Order passed in the Judicial Department, and requesting the Board to call for and submit a report on the conduct of Nazemooden Saib, Tahsildar of Sydapet Talook, in connection with the case brought by C. Soobroya Moodali and others against the Government and B. Cunliffe, Esq., Collector of Madras.

1. The Board understand the Judges to have decided that Government, though liable to be sued in the High Court for its own acts done within the Court's local jurisdiction, cannot be so sued on account of the acts of its servants done beyond the Court's jurisdiction. So far, therefore, the decision seems consonant with that of the Calcutta Court in the late suit regarding the Darjeeling land sales.

2. The non-liability of Government for the acts of its servants was not raised as a distinct issue; and this, it appears, was the reason why the Court went into the case on its merits, although the Judges ruled that the Collector was not liable to be sued before them for his act.

3. The fact, however, that the case was tried on its merits, and was decided in favour of the Collector, is more satisfactory than if the suit had been rejected on mere technical grounds.

4. As regards the conduct of the Tahsildar, the Board concur with the Collector that it is open to suspicion. There are, however, some points connected with the case that appear to the Board to need further explanation.

5. Although the Collector's order of 6th February 1862, informs the Tahsildar, in general terms, that the rent had been sold to "the Monigars and other Ryots," and directed him to take, accordingly, Muchilkas and Security Bonds from them, it appears that, on the 19th February 1862, a Kararnamah, determining the conditions of the tenure, was taken at the Hoozoor from the Monigars alone. It also appears that the Collector, in his letter of 4th October 1862, paragraph 2, so far exonerated the Tahsildar as to state, that the "Muchilka and Security Bonds were, of course also taken in accordance with the Kararnamah on the 22nd February by the Tahsildar."

6. Again, from paragraphs 7 and 15 of the letter of the 7th ultimo above recorded, it might be inferred that the Muchilka taken from the Monigars alone was also taken at the Hoozoor, and, after being passed by the Collector, was forwarded to the Tahsildar with the order of 20th March; which order, however, states that the Muchilka was taken before the Tahsildar from the Monigar and other Ryots, and directs the Tahsildar to put them in possession.

7. The Board request the Collector will be so good as to state how these seeming contradictions can be reconciled; and to explain, as far as he can, the precise bearing of the late Collector's remark, that the Muchilka and Security were "of course also taken in accordance with the Kararnamah." The Board wish to see a translation of the Kararnamah, and to be informed how this Kararnamah was transmitted to the Tahsildar. If with any written order, a translation of the order should be also submitted.

8. The Tahsildar appears to rest his defence chiefly on the following facts:—First, that the Kararnamah taken at the Hoozoor was so drawn out as to justify him in assuming that the farm was given exclusively to the persons mentioned in that document; secondly, that the mere fact of the jungles being offered to public competition at auction sale warranted him in

believing that the farm was to be given to the actual bidders. He also urges that the Collector might have corrected his mistake, supposing that he made one, when the Muchilkas were forwarded to the Hoozoor for approval; or, when he reported, on the 8th April, that he had made over the jungles to the Putta Monigars; or, again, when he forwarded the complaint preferred by certain of the Ryots on that very point. (The Board are disposed to think that the Tahsildar wrote two Urzees, both dated the 8th April. They gather this from paragraph 8 of the Collector's letter dated 7th ultimo, which apparently admits the correctness of the Clerk's statement, that the Tahsildar's Urzee, reporting that he had made over the jungles, was merely a usual report, certifying that previous instructions had been carried out.)

9. Mr. Cunliffe explained that the Urzee dated the 8th April was not brought to his notice. He ascribed this to the negligence of the Clerk who opened the Urzee. The Revenue Clerk asserts that he made over this Urzee, with all the papers, to the Serishtadar. The Collector declared himself satisfied that the Clerk did so, but the Serishtadar (who, it is understood, was Verdacharry since dismissed), denied that he ever received these papers. Mr. Cunliffe has not directly noticed the point put forth by the Tahsildar in his defence, that he reported on the 8th of April in regard to the Ryots' Petition.

10. When the Board consider that reports having an important bearing on the case were thus concealed, as it would seem, from the Collector, and with this connect the fact that the Kararnamah, the leading document, was taken in the Hoozoor from the Monigars alone, they see much reason to suspect that improper motives were operating in the Seristah Cutcherry; a suspicion that is further strengthened by the fact that the Muchilka taken from the Monigars alone, if not taken in the Hoozoor, was certainly confirmed by the Collector in ignorance of its exact tenor, and was returned to the Tahsildar with an order in which no objection to its terms or tenor was taken.

11. The Collector should therefore ascertain where the Takid of 20th March 1862 was drafted, and by whom, and by whose instructions the Kararnamah was taken from the Monigars alone, instead of from the Monigars and Ryots. This error, or this wilful disobedience of orders, whichever it was, was evidently the origin of the whole subsequent complication, and if it does not fully excuse, it certainly affords some justification for the Tahsildar's conduct. The Board also desire to be informed whether a Putta was not furnished to the Monigars at the time their Muchilka was returned, and if not, the reason why so necessary a document was not given.

12. Copy of these Proceedings will be submitted to Government, with reference to their Order of 12th May 1863.

(True Copies and Extract.)

(Signed) W. HUDLESTON, Secretary.

No. 89.

ORDER THEREON, 4th July 1863, No. 1,194.

The Government will await the Board's final report.

(Signed) J. D. SIM,

Secretary to Government.

4

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6. Again, from paragraphs 7 and 15 of the letter of the 7th ultimo above recorded, it might be inferred that the Muchilka taken from the Monigars alone was also taken at the *Huzur*, and, after being passed by the Collector, was forwarded to the Tahsildar with the order of 20th March; which order, however, states that the Muchilka was taken before the Tahsildar from the Monigar and other Ryots, and directs the Tahsildar to put *them* in possession.

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(True Copies and Extract.)

[Signature]

Secretary.

To J. D. SIM, Esq., Secretary to Government, R. D.
„ Honorable R. S. Ellis, Esq., c. s., Collector of Madras.

Exd. J. Tulloch.

[Handwritten: 10.2.1863]

[Handwritten: Mr. J. D. Sim]

[Handwritten: Mr. R. S. Ellis]

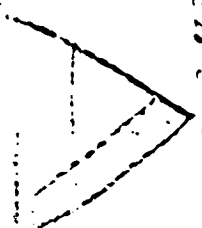
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Submitting with the Board's remarks letters from the Collector of Madras reporting the result of the Sale regarding the sale of the Jungle of Sattirodu, Katturukuppam and Sima Yeti-
valam.

No. 3551.



Date 17th June 1863.
Despatched 23rd June 1863.
Received 24th June 1863.

PROCEEDINGS OF THE BOARD OF REVENUE

No. 119th.

[Handwritten: Mr. J. D. Sim]

1863

Department.