M.R.O. 14—13,000—27-9-24.

# MADRAS RECORD OFFICE.

## Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1813 Press ~~Mis.~~

37.38

Dated 3-10- ~~19~~ 1863

**Not to be folded or roughly handled**

## *Proceedings of the Madras Government, Revenue Department, 3rd October* 1863.

No. 37. Read the following Proceedings of the Board of Revenue, dated 19th September 1863, No. 5,946:—

Read the following letter from the Honorable D. ARBUTHNOTT, Collector of Salem, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Pullipoliem, 22nd August 1863, No. 158.

SIR,

1. With reference to my letter dated the 31st March last, No. 49, submitting for the information of the Board copy of the Decree passed by the Principal Sudder Ameen in Original Suit No. 2 of 1856, I have the honor to forward for the information of the Board translation of an Appeal Memorandum filed by Koopien of Razipoor, heir of the original Plaintiff Venket Ramiengar in the Civil Court in Appeal Suit No. 84 of 1863.

2. As usual the Government Vakeel will be instructed to appear at the hearing of the appeal and to urge what is necessary.

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ENCLOSURE No. 1.

*Appeal Memorandum.*

Translation of an Appeal Memorandum presented to the Civil Court against the Decree of the Principal Sudder Ameen's Court in Original Suit No. 2 of 1856.

| *Plaintiff and Appellant.* | *Defendants and Respondents.* |
|---|---|
| Venket Ramiengar, Plaintiff, deceased, his heir Koopien of Razipoor. | 1. Komarasamy Mudali.<br>2. Ganapathi Mudali.<br>3. Soondra Mudali.<br>4. Kyiasa Gounden.<br>5. Komara Gounden, Guardian. |

The Collector of Salem having been dissatisfied with the Decree of the Principal Sudder Ameen's Court passed on the 6th March 1863, depriving me of certain Malgoozari lands yielding annually Rupees 6, and also charging me with costs, I appeal against the Decree in the Civil Court at Salem on the following grounds:—

1. My claim has been admitted by the Defendants 1st to 5th.

2. The case has been proved by my witnesses. By the Ayacut account and also by the evidence of the Record-keeper of the Collector's Office tried on the side of the Court; it was proved that the land under dispute belonged to the Defendants 1st to 5th, who gave me the land.

3. The land was inspected by the Sub-Court, and the Decree was passed in my favor.

4. The Collector, who appealed against the Decree of the Sub-Court, did not plead that the land belonged to such village of Government and as such it was proved by such account. The Collector claimed the land as if belonged to Government, and because a well was sunk in it.

5. When the well was sunk by the Collector, it was stipulated that the Mootadars should use the water of the well for their irrigational purposes, and on this stipulation the well was sunk, and the water is used by the Mootadars accordingly.

Paragraphs 4, 5 and 6 are not intelligible in the original.

6. A Puttah was given to me excluding the land belonging to the well. I filed a Suit about it, and the Sub-Court accordingly passed their Decree in my favor.

7. While the facts so stand, the case was remanded for re-investigation on the presentation of an appeal by the 6th Defendant (Collector) on the ground that no points at issue were given him for proof. The Principal Sudder Ameen recorded points for my proof. While I have stated in my deposition with regard to these points that all these points were proved by me previously, and that my witnesses have since died, the Principal Sudder Ameen's dismissing the case under Section 118 of the Civil Procedure Code, without entering into the merits of the case, is contrary

to Law. The Principal Sudder Ameen has no authority to reject proofs adduced in the Sub-Court.

8. Under these circumstances I request the Court will be pleased to render me justice with reference to my original plaint.

*8th July* 1863 (Signed) MUTHATCHI SOONDRUM PILLAY,
*Plaintiff's Vakeel.*

(True Translation)

(Signed) D. ARBUTHNOTT, *Collector.*

Ordered to be submitted for the information of Government with reference to the Board's Proceedings, No. 2,274, dated 20th April 1863, and the Order of Government thereon, No. 823, dated 12th May 1863.

No. 38. ORDER THEREON, 3rd October 1863, No. 1,813.

Ordered to be recorded.

(True Extract.)

(Signed) C. G. MASTER,
*Deputy Secretary to Government.*

To the Board of Revenue.

Exd. S. T. Augustin.

No. 5,946.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th September 1863.

Read the following letter from the Honorable D. ARBUTHNOTT, Collector of Salem, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Pullipoliem, 22nd August 1863, No. 158:—

With reference to my letter dated the 31st March last, No. 49, submitting for the information of the Board copy of the Decree passed by the Principal Sudder Amin in Original Suit No. 2 of 1856, I have the honor to forward for the information of the Board translation of an Appeal Memorandum filed by Koopien of Razipoor, heir of the original Plaintiff Venkat Ramiengar in the Civil Court in Appeal Suit No. 84 of 1863.

2. As usual the Government Vakeel will be instructed to appear at the hearing of the appeal and to urge what is necessary.

ENCLOSURE No. 1.

*Appeal Memorandum.*

Translation of an Appeal Memorandum presented to the Civil Court against the Decree of the Principal Sudder Amin's Court in Original Suit No. 2 of 1856.

*Plaintiff and Appellant.*
Venket Ramiengar, Plaintiff, deceased, his heir Koopien of Razipoor.

*Defendants and Respondents.*
1. Komarasamy Mudali.
2. Ganapathi Mudali.
3. Soondra Mudali.
4. Kylasa Gounden.
5. Komara Gounden, Guardian.

The Collector of Salem having been dissatisfied with the Decree of the Principal Sudder Amin's Court passed on the 6th March 1863, depriving me of certain Malgoozari lands yielding annually Rupees 6, and also charging me with costs, I appeal against the Decree in the Civil Court at Salem on the following grounds:—

1. My claim has been admitted by the Defendants 1st to 5th.

2. The case has been proved by my witnesses. By the Ayacut account and also by the evidence of the Record-keeper of the Collector's Office tried on the side of the Court; it was proved that the land under dispute belonged to the Defendants 1st to 5th, who gave me the land.

3. The land was inspected by the Sub-Court, and the Decree was passed in my favor.

4. The Collector, who appealed against the Decree of the Sub-Court, did not plead that the land belonged to such village of Government and as such it was proved by such account. The Collector claims the land as if belonged to Government, and because a well was sunk in it.

5. When the well was sunk by the Collector, it was stipulated that the Mootadars should use the water of the well for their irrigational purposes, and on this stipulation the well was sunk, and the water is used by the Mootadars accordingly.

Paragraphs 4, 5 and 6 are not intelligible in the original.

6. A Puttah was given to me excluding the land belonging to the well. I filed a suit about it, and the Sub-Court accordingly passed their Decree in my favor.

7. While the facts so stand, the case was remanded for re-investigation on the presentation of an appeal by the 6th Defendant (Collector) on the ground that no points at issue were given him for proof. The Principal Sudder Amin recorded points for my proof. While I have stated in my deposition with regard to these points that all these points were proved by me previously, and that my witnesses have since died, the Principal Sudder Amin's dismissing the case under Section 148 of the Civil Procedure Code, without entering into the merits of the case, is contrary to Law. The Principal Sudder Amin has no authority to reject proofs adduced in the Sub-Court.

Rec'd 12 May/63 No. 138 139.

Rev. 1563 Department

Rec'd of Govt for Selection

No. 2286.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 19th September 1863.

Received 24th

No. 5,946.

1813

Submitting letter from the Collector of Salem forwarding translation of an Appeal Memorandum filed by Koopien of Razipoor heir of the original Plaintiff in Appeal Suit No 84 of 1807.

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Rec'd 3rd Oct 63.

8. Under these circumstances I request the Court will be pleased to read me justice with reference to my original plaint.

8th July 1863. (Signed) MEERIATCHI SOONDRUM PILLAY,
Plaintiff's Vakeel.

(True Translation.)

(Signed) D. ARBUTHNOTT, Collector.

Ordered to be submitted for the information of Government with reference to the Board's Proceedings, No. 2,274, dated 20th April 1863, and the Order of Government thereon, No. 823, dated 12th May 1863.

(True Copies and Extract.)

Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.
Copy to Honorable D Arbuthnott, Collector of Salem.

Ent. J. Wright.

37-24
No 37 & 38.
Rec'd 28 Oct 63