M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2364 Press ~~Mis.~~

357.358

Dated 20-12-~~19~~-1923.

Not to be folded or roughly handled

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Proceedings of the Madras Government, Revenue Department, 24th December 1863.

No. 397. Read the following Proceedings of the Board of Revenue, dated 22nd December 1863 :—

Read the following letter from G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Fort Saint George, dated Calicut, 1st December 1863, No. 259A.

SIR,

1. Adverting to the correspondence noted, I have the honor to lay before the Board the accompanying Translate of the Plaint filed by Othenam Nambier, commonly called "Dindimal Nambier," in the Suit* referred to in paragraph 7 of my letter, dated 11th September 1862, No. 190.

Letter from Collector to Board of Revenue, dated 11th September 1862, No. 190, with enclosure.
Proceedings from Board, dated 20th September 1862, No. 6,295.
Do. from Government, dated 5th December 1862, No. 2,551A, communicated with Board's Endorsement, dated 10th December 1862, No. 8,057.

2. The Suit, it will be observed, has been brought against the parties named marginally for the restoration of two hills† alleged to be the Plaintiff's Tarwad or family property.

3. The hills belong to Government being part of the Pychee Rajah's Escheats.

4. The Board are aware that the lands claimed by the Trichileri and Tirunhelli Temples in Wynad have been declared to be the property of Government as they appertain to the Escheats just mentioned.

5. The Trichileri lands include the hills under litigation.

* No. 37 of 1862 on the file of the Principal Sudder Ameen of Tellichery.
1 Kawamporata Shangaran Nambudri, Uraler of Trichileri Temple.
2 Edavalat Govindan Marar.
3 Mr. F. R. Richmond.

† 1 Nari Nerangni Malá.
2 Paderi alias Nari Nerangni Malá.

The Plaintiff avers that the 1st Defendant's late father Vassu Devar Nambudri, the former Uraler or Trustee of the Trichileri Temple, transferred the hills in question to the 2nd and 3rd Defendants, on rent and Rudima (perpetual) Jenmom lease respectively, as if the hills belonged to the Trichileri Temple, but that no such transfer could be made as the hills are the Jenm property of his Tarwad.

6. The 1st Defendant denies the Plaintiff's claim, and advances assertions to show that the hills belong to the Trichileri Temple.

He states that the hills were not transferred by his late father as alleged by the Plaintiff, but by a Pattáli or Manager of the Temple, and that as he, the 1st Defendant, did not agree to the transfer, the 2nd and 3rd Defendants, who obtained the hills, have induced the Plaintiff to bring forward the present action.

In short the 1st Defendant endeavours to create an inference that the Suit is the result of collusion between the Plaintiff and the 2nd and 3rd Defendants.

7. Collusion, if there is any, is imputable rather to the 1st Defendant, than to the other Defendants.

The Plaintiff according to his own showing, was well aware that the transfer of the hills had taken place so far back as M. E. 1031 (1855-56,) and 1035 (1859-60) eight and four years ago. But he brought no Suit for their restoration until the pretended right of the Trichileri Temple, asserted by the 1st Defendant as the Trustee of the Temple, to the Trichileri lands embracing those hills, had been negatived, and the real title of Government advanced.

It is not improbable that the 1st Defendant anticipating that the claim of Government would soon be enforced and established, colluded with the Plaintiff and induced him to sue for the hills with a view to have them passed if possible into the Plaintiff's hands.

8. The 2nd Defendant in his Answer admits having obtained conjointly with two other parties, one* of the hills from the 1st Defendant's late father† as the Trustee of the Trichileri Temple.

The 3rd Defendant who holds the other hill‡ states that he obtained it from a Mr. Frank Richmond, the Trustee to the Estate of the late Mr. W. T. Richmond who appears from the record of the case to have previously taken the hill on perpetual (Kudima) lease from a Pattali or Manager of the same Temple.

* Nari Nerangni Malá.

† Vassu Devan Nambudri.

‡ Paderi alias Nari Nerangni Malá.

In 1863.

9. Thus it is evident that the leases held by both the Defendants, 2nd and 3rd, have been obtained from the Trichileri Temple although one of the leases, that of the 3rd Defendant, seems to have passed through other hands before it came to him. But the simple fact of these Defendants holding their leases from the Temple does not in any way affect the right of Government. The leases were obtained prior to any formal assertion of such right without the knowledge much

less the consent of Government, and the lessees may in all probability have been ignorant of the Government claims.

10. Now as regards the Plaintiff's claim I need hardly say it is manifestly false and untenable.

He presented the documents during an enquiry lately instituted by the Deputy Collector of Wynad in reference to a Petition* he sent to Government claiming 12 forests in the Trichileri and Tirunhali Deshoms. These Forests include the hills under litigation and belong to Government as part of the escheats.
The Petition was refered to me by the Board with their Endorsement, dated 29th May 1863.
I propose reporting on it in a separate letter. Plaintiff seems to have died before this Petition was written.
20th April 1787.

* 26th April 1863.

Several documents have been produced in support of it by his brother Dindimal Kanaren Nambiar, but they are utterly worthless.

The principal document produced is said to be copy of a writing alleged to have been granted to Plaintiff's ancestor by the Priest of the Triunhalli Permal Temple in Wynad some 76 years ago.

The Deed exhibited as the original is said to be in Moplah Tamil, but no one has been able to read it, and it bears no signature. It is believed to be a fabrication, as it is highly improbable that the parties concerned whose language was Malayalam would have used Moplah Tamil in drawing up the writing.

† "Dindimal Kari Porayvan."

Even admitting it to be a genuine document, it confers no jenm right on the grantee.† It merely transfers a lease originally granted to another party‡ who had failed to fulfil its conditions for gathering Cardamoms' on forests termed in the Deed "Thekan Malavarom" or "Southern Forests."

‡ Theka Moothanan.

The terms are too vague and general to entitle the Deed to any weight as evidence. No names of forests are given, and there is nothing in it to show that it refers to the hills in question or to any other lands now claimed as Plaintiff's family property out of the Wynad Escheats.

11. The remaining documents produced, five in number, also bear no reference to the hills under litigation. Three of these documents relate, it is true, to some other lands claimed by Plaintiff's brother. in his Petition,* but they do not afford the slightest evidence of jenm right in favor of Plaintiff or his family even in respect to such lands. As I will, however, treat of all the five documents more at length in my Report on the Petition just adverted to, I do not think any comments on them in this lotter necessary.

* Adverted to in paragraph 10.

12. A number of persons have been examined as regards the lands claimed in the Petition as they hold leases of some of the lands including portions of the hills sued for.

All of them state that they have acquired their leases from the Trichileri and Tirunhalli Temples, and that they never heard of Dindimal Nambiar (Plaintiff) holding any right to the lands.

Note.—Plaintiff's brother himself state he has no other documents to show.

13. The documents presented as above stated are, I find, all that can be produced.

They constitute, as I have already shown, no proof whatever of Plaintiff's alleged jenm right.

* Vide his Answer.

14. I will now advert briefly to the 1st Defendant's pretensions* to the hill's as pertaining to his Trichileri Pagoda.

Vide letter to Board, dated 12th December 1859, No. 293.

The claim on behalf of the Pagoda to certain forests, &c., embracing these hills was asserted in the time of my predecessor, Mr. Grant, and ample opportunity to prove it was then allowed.

No evidence establishing the claim was adduced.

See his Report to Director Revenue Settlement, dated 20th February 1862, No. 18, embodied in Board's Proceedings dated 20th September 1862, No. 6,295.

15. Subsequently the claim was enquired into by Mr. Stuart, Deputy Director of Revenue Settlement, then in Wynad.

He entered into a careful investigation of the case, and called on the 1st Defendant, the Uraler or Trustee of the Temple, to show how and when the Temple acquired the lands.

M. E. 1025 (1850-51) M. E. 1029 (1854-55.)
„ 1033 (1857-58) „ 1034 (1858-59.)
„ 1035 (1859-60)

The 1st Defendant was unable to do this, and all that he asserted at the time was that the Temple had held possession of the lands from time immemorial. He did not and could not, however, prove such possession. The documents he produced were of recent dates, and consisted simply of leases of land granted to several parties for Coffee planting, &c.

It is patent that the Temple exercised no right of ownership until recently. That the exercise of such right of late years has been a mere act of usurpation, there is no doubt.

The lands belonged to the Pychee Rajah whose possessions escheated to Government.

16. Under the foregoing circumstances I lately moved the Court to include me as a Defendant in the case, to enable me to assert the right of Government to the hills sued for.

I have now received a notice from the Court that I have been made a Defendant, and that the hearing of the Suit has been adjourned till the 11th January next.

17. I submit a Draft Answer for the approval of the Board, and request that the sanction of Government for the necessary outlay being met at the public expense may be obtained,

The answer must be filed on or before the 11th January next.

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 Draft Answer. The hearing is to take place on 11th January 1864. The Board gather from the Note to paragraph 10 of the letter that the Plaintiff is no longer living.

No. 398. ORDER THEREON, 24th December 1863, No. 2,364.

Sanctioned as proposed by the Board of Revenue who will, however, confer with the Government Pleader as to the sufficiency of the Collector's Draft Answer, and amend it, if necessary.

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

To the Board of Revenue.
„ Government Pleader.

Exd. S. T. Augustin.

Pro 5 December 1862

Nos 89-90

1863. Revs. Dept. Chrs. of Govt for Pores. No. 3141.

Proceedings of the Board of Revenue

Dated 22d Dec. 22d Rec. 23d } Dec. 1863.

Enclosures 3. Rec.

No. 2364.

Sanctioned as suggested by the Bd. of Rev. who will however confer with the Govt Resident as to the sufficiency of the Collr's establishment and amend it, if necessary

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Pro Bd of Rev. dy 3 Jany 64 No 1 to 4

Submitting to Govt a letter from the Collector of Malabar relative to the Suit No 37 of 1862 & recommending that the dispenser may be sanctioned at the public cost.

No. 2364 / 25 Decr

With Order

For St. George 23 December/63

Mr. Copy to the Bd of Rev. Dispt. 23 Dec. 63 with 3 Encls. Dispt 26

2 Copies Govt Resident dr. 26

No 397 & 398.