

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 190

Press
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Dated

2 - 2 - 1865.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
2nd February 1865.*

Nn. 27. Read the following Proceedings of the Board of Revenue, dated 6th January 1865,
No. 49.

Read the following letter from J. FRASER, Esq., Officiating Collector of the Godavery District,
to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Cocanada, 25th November 1864, No. 307 :—

1. Referring to the Proceedings of the Madras Government, dated 20th July 1863, No. 1,345, communicated with the Board's Proceedings, dated 21st idem, No. 4,492, I have the honor to inform you that the Suit No. 108 of 1862 filed against the Collector by the Renters of the Attreyapurapu Lanka, has been dismissed by the Principal Sudder Amin at Rajahmundry. An English translation of his decision is herewith submitted.

2. I have taken this opportunity of forwarding a Statement showing the information called for by the Board in their Proceedings, dated 22nd April and 15th July 1863, Nos. 2,343 and 4,841.

3. I have further to state that the Lanka was never measured either before or after the freshes. The Tahsildar has estimated the extent of the cultivable land, both for Faslis 1271 and 1272. The rent value for Fasli 1271 has been estimated to be 2,000 Rupees, because the land, after freshes, was not in such a superior condition for tobacco cultivation as it was before the freshes.

4. During the freshes in Fasli 1272 the Lanka was again covered with sand, and only one Pootty of land was estimated to be fit for tobacco cultivation. This land, and the remaining land in the Lanka, has been rented out by the Tahsildar to the villagers for Rupees 1,000 for Fasli 1272, and the money was collected and carried to the credit of Government.

5. No cultivation whatever was carried on in Fasli 1271.

6. The Renters have not derived any profit whatever from the Lankas during the lease.

7. The Renters have not come to me to ask for remission after the Principal Sudder Amin's decision was passed.

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ENCLOSURE No. 1.

Decision passed by the Principal Sudder Amin's Court of Rajahmundry.

Original Suit No. 108 of 1862.

Present.

Saminaeni Venkatadry Naidu, Acting Principal Sudder Amin.

Plaintiffs.

Defendant.

1. Mudunuri Subbaraz.
2. Lagiraz Venkatraz.
Pleader Chitrapu.
Achutanandam.

Collector of the Godavery District.
Government Vakeel, Saminani Rangaprasada Naidu.

Judgment.

1. Plaintiffs state that they on the 8th February 1861 presented their Durkhast or proposal to the Defendant to rent the Pallapu Lanka, or Island of Atreyapuram for Faslis 1271 and 1272, at Rupees 3,750 per annum; that while the security they offered for the same was under inquiry, the Lanka has been, by the freshes of the Godavery since July 1861, covered over with sand and rendered unfit for cultivation, and that although they in September petitioned the Defendant to cancel their Durkhast, yet he was subjecting them to troubles by attaching their property, &c., for payment of Shist for Fasli 1271, and they accordingly brought forward this claim praying that a decree may be passed, exonerating them from the payment of Rupees 7,500 to the Defendant.

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2nd February 1865.

for Faslis 1271 and 1272, and awarding that the costs of the Suit be defrayed by the Defendant, on the ground that the Island became unfit for cultivation before the execution of Puttah and Muchilka, or tendering security.

2. In the Statement filed by the Defendant, it is alleged, among other circumstances, that the Plaintiffs admitted in their Durkhast that they would, without concern to Government, run the risk or partake the advantages that might arise either by the diminution or addition in the extent of the Island; that it was put in their possession, their proposal having been accepted; that their claim is of the nature of a request for remission in the revenue Beriz, and not of the matter to be decided by Courts of Justice, and that Government have, after taking into consideration the circumstances connected with the damage, &c., caused by the Godavery freshes to the Lanka, been pleased to order that they would allow a remission of half the rent, and accordingly prayed that the Plaintiffs' claim may be rejected.

3. The following is the point at issue in the case:—

(1.) Whether the Defendant put the Plaintiffs in possession of the Lanka in 1861.

4. Documents presented by the Defendant to prove the point at issue.

I. Ijara Durkhast, dated 8th February 1861, presented by the Plaintiffs to the Collector of the Godavery District for renting the Lanka under litigation for Rupees 7,500 for Faslis 1271 and 1272.

II. Memorandum book prepared at the Jummahbundy for Fasli 1270, showing that the Durkhast of the Plaintiffs for Faslis 1271 and 1272 was approved.

III. An Arzi under date the 16th August 1862, from the Amildar of Amalapur to the Sub-Collector in charge Godavery District, in which it is stated among other circumstances that the Plaintiffs, after having taken possession of the Lanka, made preparations to cultivate it, and entered into certain engagements with others; and after having also fed their cattle there, and taken all the precautions for the security of the Lanka, seem to have withheld its cultivation with a view of evading payment of its Shist on the ground that a portion of the Lanka was covered over by sand by the freshes of the Godavery of last year.

IV. Kaifayat delivered on the subject by the village Munsiff, Kurnum and Puttahdar of Atrayapuram, in the name of the Collector on the 14th October 1862.

V. Deposition given by the 1st Plaintiff on the subject before the Tahsildar of Amalapur on the 15th October 1862.

5. Four witnesses have been examined on behalf of the Plaintiffs to prove the point at issue.

1. Mudunuri Vasantaramarauz.
2. Mudunuri Venkataraiz of Chendrarauz.
3. Mudunuri Lachiraz of Bapiraz.
4. Ehamidipalli Subbarayudu of Narsannah.

6. Two witnesses for the same purpose have been examined on behalf of the Defendant.

1. Petri Sulba Rau Pantulu.
2. Kanumuri Manekyam.

7. The Ijara Durkhast marked (I) for the defence in the case, is unobjectionable and the Plaintiffs are bound by the same to run the risk by either the addition or diminution of the Lanka.

8. With regard to the point whether or not the Lanka was put in the possession of the Plaintiffs, the witnesses on their behalf depose to their (Plaintiffs) having not taken any interference in the Lanka land up to July in Fasli 1271, as Puttah and Muchilka were not executed;

and to the entire extent having been in that month covered over with sand. But the witnesses for the defence declare that the mere approval by the Defendant of the Ijara Durkhast, would imply that the Plaintiffs are put in the possession of the Lanka they rented; and that he, at the time of accepting the Durkhast, had also ordered the Plaintiffs to occupy and cultivate it. Of these witnesses, the first a public servant who prepared the Jummahbundy Memorandum Book, and the second who was present at the time when the matter took place, he likewise being a public servant, identify the Memorandum Book II to have been prepared at that time. In that book, it was written that the proposal of the Plaintiffs for Faslis 1271 and 1272 at Rupees 3,750 per annum was approved. The explanation given by these witnesses as to the verbal order of the Defendant to the Plaintiffs for their cultivating the rented Lanka being a sufficient authority, and as to there being no (any) necessity for the issue of a separate written order by the Defendant to the Amaldar to make over the Lanka to the Plaintiffs, is quite right, for, it would become necessary for the Defendant to issue such a written instruction had the matter taken place in the absence of the Amaldar, but then being the Jummahbundy time, the Amaldar was present as stated by the witnesses. What still remains is the objection that Puttah and Muchilka were not executed. The Durkhast, as stated by the witnesses for the defence, having been accepted in Fasli 1270, the Puttah and Muchilka must, according to the prevailing custom, be executed during the Jummahbundy of the ensuing Fasli, namely Fasli 1271 of the two Faslis. This practice is not repugnant to the provisions of Regulations. Vide Section 12, Regulation XXX. of 1802, from which it will be seen that although Puttahs and Muchilkas were not executed immediately, after the lease was approved of, yet they may be executed within two months after the commencement of the year. In the present instance, the Fasli 1271 commenced from July 1861. In September only Plaintiffs failed to get the Puttahs and Muchilkas executed in consequence of their commencing to contest for being relieved from the responsibility of the farm, as appears from the bill of Plaintiffs. Consequently it is the fault of the Plaintiffs only. Moreover their proposal of rent was approved on the 8th February 1861. It was therefore the duty of the Plaintiffs to have the Lanka immediately occupied and cultivated it for Punasa or early crops in due season. Had they not done so, their expectation that they will be set free from the liability of the rent would be unavailing. In reality, the Plaintiffs have assumed possession of the Lanka; sub-rented a portion of it to others; penned into the pounds the cattle of others which trespassed on the Lanka, and fed their own cattle in it—*vide* the documents for the defence III. IV. and the Disposition V. given by the 1st Plaintiff before the Amildar.

9. It is admitted that the whole or part of the Lanka, capable of yielding tobacco abundantly, has been destroyed by the accumulation of sand. Hence the Plaintiffs state that it is just to relieve them from the payment to Government of Rupees 7,500, being the rental for two years, on the ground that they had already requested the Collector in September only to cancel the contract. The Government Pleader for the defence, pleads as a reasoning, that Plaintiffs should sustain loss occasioned by the accumulation of sand, because they have, in the Ijara Durkhast I agreed to run any risk that may occur by the addition or diminution of the Lanka. The covering of the sand over the Lanka being an act done by the will of God, the grant of a remission or Shist can be said equitable according to usage. The Defendant says that Government have already been pleased to order to allow a remission of half the Shist to the Plaintiffs, and if the Plaintiffs have any claim for any more remission, they may lay them before the Revenue authorities and obtain redress from them.

10. Under the foregoing reasons, the Plaintiffs' suit is dismissed with costs, and the costs incurred by the Defendant are awarded to be paid by the Plaintiffs.

22nd September 1864.

(Signed) S. VENKATADRY,
Acting Principal Sudder Amin.

(True Translation.)

(Signed) J. FRASER,
Officiating Collector.

Enclosure No. 2.
Statement showing the cultivable area and the rent value of the Atreyapuram Lanka in the Godavery District.

The area of the Lanka.	Cultivable area fit for Tobacco cultivation before the freshes.					Cultivable area estimated by the Tahsildar after freshes.					For Fasil 1272.	
	Actually cultivated in Fasil 1270.	Fit for culti- vation.	Shist.	Estimated rent value.	Fit for Tobacco cultivation for Fasil 1271.	Fit for culti- vation of black grain, mustard seed, and other products, 1271.	Total.	Estimated rent value.	Land fit for cultivation.	Shist.	P. T. M.	Rs. A. P.
P. T. M.	P. T. M.	P. T. M.	Rs. A. P.	Rs. A. P.	P. T. M.	P. T. M.	P. T. M.	Rs. A. P.	P. T. M.	Rs. A. P.		
38 3 0	4 18 5	10 0 0	3,750 0 0	4,500 0 0	6 0 0	2 0 0	8 0 0	2,000 0 0	1 0 0	1,000 0 0		

Cocanada,
25th November 1864.

(Signed) J. FRASER,
Officiating Collector.

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Proceedings of the Madras Government, Revenue Department, 5
2nd February 1865.

1. Submitted to Government with reference to the Order quoted by the Collector.
2. Under all the circumstances of the the case, as now reported, the Board would be induced to authorize the Collector to grant to the Contractors on their application, a remission of one-half of the estimated rent value for Fasli 1271, fixing the demand at that value. This would leave Rupees 1,000 only to be paid, and would relieve the Contractors of all demands for the year 1272 when the Island was let on behalf of Government.

No. 23. ORDER THEREON, 2nd February 1865, No. 190.

Miscellaneous.

Ordered to be recorded.

(True Extract.)

(Signed) C. G. MASTER,
Under Secretary to Government.

To the Board of Revenue.

Exd. R. H. Lee.

1. Submitted to Government with reference to the Order quoted by the Collector.
2. Under all the circumstances of the case, as now reported, the Board would be induced to authorize the Collector to grant to the Contractors, on their application, a remission of one-half of the estimated rent value for Fasli 1271, fixing the demand at that value. This would leave Rupees 1,000 only to be paid, and would relieve the Contractors of all demands for the year 1272 when the Island was let on behalf of Government.

(True Copies and Extract.)

M. D. S.

Sub-Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.

Copy to J. Fraser, Esq., Officiating Collector of the Godavery District.

Exd. R. H. Lee.

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Rev: 1865. Department.
 Mr of Govt for the City.

No. 66.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 6th January 1865.

Aug. 10 - 30
Dec 11 1/2

No. 49.

Submitting with remarks letter from the Officiating Collector of the Godavery District reporting the dismissal of Lanka Suit No 108 of 1862 on file of Principal Sudder Ameen of Rajahmundry, and forwarding an English translation of the decision.

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RECORDED

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