M.R.O. 14—13,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1996 Press ~~Mis.~~

443. 444

Dated 25-8-1863.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 25th August 1865.

No. 443. Read the following Proceedings of the Board of Revenue :—

Submitting letter from the Officiating Director of Revenue Settlement, and recommending that sanction be granted for the defence, on the usual terms, of O. S. No. 5 of 1865, instituted in the Guntoor Civil Court for obtaining the reversal of a decision passed in a boundary dispute in Kistna District. } (Here enter 18th August 1865, No. 5,019.)

No. 444. ORDER THEREON, 25th August 1865, No. 1,996.

Miscellaneous.

1. The defence of the Suit is sanctioned on the usual terms. The Board were competent to do this without reference to Government, no principle of importance being involved in the suit.

2. The draft answer is approved.

(True Extract.)

(Signed) W. HUDLESTON,
Acting Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

No. 5,019.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 18th August 1865.

Read the following letter from R. E. MASTER, Esq., Officiating Director of Revenue Settlement, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated Madras, 5th August 1865, No. 929-38 :—

1. Referring to the Order of Government, dated 9th December 1862, No. 2,565, I have the honor to report that a Suit No. 5 of 1865 has been brought in the Civil Court of Guntoor against myself, the Deputy Director at Kurnool, Bramasamudram Narrain Row, Head Gumastah in the Settlement Department, and five others, by Cavelly Vencata Narainapah, Jaghiredar of Tinnanore, and Zemindar of Vissanapet, with the view of obtaining the reversal of a decision passed by the late Deputy Director, Mr. F. W. Morris, in a boundary dispute between the village of Nurukulapad in the Plaintiff's Zemindary of Vissanapet, and the Mokhassa village of Tolakodu, both in the Kistna District, and also to obtain damages and costs.

2. The history of the case may be briefly stated as follows :—In the course of the demarcation of the Bezwadah Taluk of the Kistna District, a dispute between the above two villages was found to exist. The case was taken up by the late Deputy Director, Mr. Morris, who, on the 27th October 1860, decided it *ex parte* under Section 25, Act XXVIII of 1860. Against this decision an appeal was preferred by the present Plaintiff to the late Director, who, after further correspondence, pronounced the decision irregular, inasmuch as it had been passed by the Deputy Director without personal inquiry, but only on an investigation conducted by a Boundary Inspector, and on reports made by him ; and on the 23rd February 1861, Mr. Newill remanded the case for re-investigation, directing Mr. Morris to pass a fresh decision after personal inquiry. The Deputy Director conformed to these orders, and on the 26th September 1861 passed a fresh decision. The Plaintiff, on the 19th October 1861, again addressed the late Director, objecting to the decision generally, and complaining that the Deputy Director did not allow his Vakeel to cross-examine the witnesses. Explanation on this and other points was called for by the late Director, and was furnished by the late Deputy Director in his letter of the 23rd January 1862. The Plaintiff's Petition was ultimately disposed of by myself, and the following is an extract from my Proceedings rejecting it.

"The Officiating Director has perused the papers connected with the case, and sees no "ground for interfering with the Deputy Director's decision. The irregularities and informali- "ties formerly objected to have been remedied. The investigation has been carefully conducted "by the late Deputy Director in accordance with the requirements of Act XXVIII of 1860, and "no further revision by the Settlement Department is called for. The Officiating Director does "not consider it necessary to follow the Petitioner in his remarks on the evidence adduced, or "on the mode in which that evidence was appreciated by the late Deputy Director. These are "matters, the consideration of which more properly falls within the province of the Civil Court, "to which it is open to the Petitioner, under Section 25 of the Act above quoted, to appeal on the "merits of the case."

3. The Plaintiff is of course perfectly at liberty to bring the present suit, which is in fact an appeal from the decision passed by the Settlement Officers ; but he is not justified in including those Officers as Defendants. It can hardly have been the intention of the Legislature in prescribing in Section 25, Act XXVIII of 1860, a Civil suit as the mode of appeal in such cases, that such suit should be brought against the Officers, who, in a Judicial capacity, passed the decision appealed against ; neither is Plaintiff justified in including, as a Defendant, the 6th Defendant, a mere subordinate in the Settlement Department, who marked out the boundaries in accordance with the orders of his official superior. The Deputy Director, whose decision is appealed against, is dead, and the present Officiating Deputy Director has had nothing to do with the case.

4. Under these circumstances, it will, I think, be sufficient to plead the entire want of interest of the three public servants sued in the matter of the suit, and also on behalf of the 7th and 8th Defendants (the Deputy Director and Officiating Director) exemption from liability under Act XVIII of 1850. I enclose translations of the plaint, and of a statement put in by the Plaintiff, also of the proposed answer. I request permission to file the latter, and to defend the suit, as far as the 6th, 7th, and 8th Defendants are concerned, at the public cost. The first hearing of the suit was originally set down for the 28th ultimo ; but I have instructed the Government Vakeel to apply for extension of time for two months to enable me to obtain the Board's Orders.

ENCLOSURE No. 1.

To the Zillah Court of Guntoor.

Plaintiff.

Cavelly Venkata Narainappah, Jaghiedar of Tinnanore, and Zemindar of Vissanapettah, and residing at Comaleswaram of Madras.

Defendants.

1. Inagunta Shobanadriya Garu,
2. Seetiah Garu,
3. Venkiah, wife Narasama,
4. Soobiah Garu,

and

5. Vurdiah Garu ; residents of Totakodu, Bezwada Taluk, Bhimalapati Samut and Mokhassadars.

6. Bramasamudram Narrain Row, Supervisor, Kistna District, present Head Gumastah of the Kistna Party, residing at Cuddapah.

7. Deputy Director of Revenue Settlement, Kistna, Kurnool, and Cuddapah Districts, residing at Kurnool.

8. Officiating Director of Revenue Settlement, residing at Madras.

1. Plaintiff states that the former Proprietor of the aforesaid Zemindary departed this life on the 1st September, Fasli 1259. That the Zemindary was attached by the Government, thereon, and all the accounts pertaining thereunto taken away by it. That the Zemindary so continued under attachment for six Faslis, or up to Fasli 1265, when the Zemindary only was given over to Plaintiff; that the Ayacut of Narukalapadu, which existed from time immemorial to date of attachment, was recognized by the Collector, and the boundaries of the said village and Plaintiff's limits established at the time of the Jummahbundy of Fasli 1259-60, and entered in the Dowles accordingly. From those Dowles and the affidavits regarding the boundaries which existed from time immemorial, executed prior to those Dowles, and from the plans deduced therefrom, the boundaries of Narukulapadu village are clearly defined.

2. After the Zemindary had been taken possession of by Plaintiff in Fasli 1265, the Defendants Nos. 1 @ 5 crossed the boundary, and cultivated certain land, situate near the Inagunta, on the south side of the village, and gave out that the lands thus cultivated belonged to the village of Totakadu, and were prepared for a disturbance thereon. On the circumstance being represented to the then Collector, he stated that he would visit the spot and dispose of the matter at the time of the Jummahbundy, and that pending such settlement, the question was not to be opened by Plaintiff. As the Collector, however, did not settle the matter, the Defendants day by day unjustly encroached on the lands on the south side of the village.

3. While matters were so, the 6th Defendant in 1860 came, on the part of Government, to demarcate the boundary line of Bhimalapaty division, and when the line between the Mokassa village of Tatakodu and Nerkoolapati was to be defined, joined himself to the interests of the Defendants, and without listening to the evidence of Plaintiffs' witnesses, prepared a false Plan and fabricated a report in accordance thereto, with the view of retaining to Defendants that portion of land which was unjustly encroached upon by them, belonging to the village of Markoolapati, near the Irunagunta, and also to the enceinte of Abubalapooram itself, which the inhabitants of the said village were for a long period in the enjoyment thereof, as indicated in black in the Plan, and sent these to 7th Defendant, who without investigating the truth of the matter, established to the Defendants the right to the lands, which were in the uninterrupted enjoyment of Narkoolapati, by his decision, dated 27th October 1860.

4. On this an appeal, hereunto attached, was submitted to 8th Defendant on the 4th December 1860. When the 7th Defendant, having understood that his decision of the 27th October 1860 was irregular, again decided on the 11th December 1860, that a portion of the lands, (set apart to the Defendants,) viz., to the north of Peddapala Vagu belonged to the village of Narkoolapati, and therefore set up boundary marks.

5. Against the said second decision the accompanying appeal was again submitted to the 8th Defendant on the 3rd January 1861, on this the 7th Defendant on the 26th September 1861, delivered an *ex parte de novo* judgment, and adjudged a further portion to the inhabitants of Narkoolapati, situate to the east of the "Chingle Vagu" to the "inscription," (boundary stone inscribed,) but left the boundary marks, erected under a prior judgment, standing.

6. Against the decision of the 26th September 1861, Plaintiff preferred the accompanying appeal to the 8th Defendant, dated 19th October 1861, who, without giving it consideration, confirmed the Judgment of the 26th September on the 17th December 1864. Plaintiff, therefore, prays that the evidence of his witnesses be received, and the prayer of his Petition granted him.

Dated 15th March 1865.

PATHUR VITYANUNDUM, Pleader.

(True Translation.)

(Signed) R. E. MASTER,
Officiating Director of Revenue Settlement.

ENCLOSURE No. 2.

Translation.

Original Suit No. 5, Guntoor Civil Court.

Appellant.

Cavely Venkata Narrainappah, Jaghiredar of Tinnanore, and Zemindar of Vissanapett, and residing in Camaleswaren of Madras.

Respondents.

1. Ianagunta Shoba nadriya Garu.
2. Seetiah Garu.
3. Nursanna Garu, wife of Venkiah Garu.
4. Soobiah Garu.
5. Vurdiah Garu.

Residents of Totakodu, Bezwada Taluk, Bhimalapati Samut and Mokhasadars.

6. Bramasamudram Narrain Row, Supervisor, Kistna District, present Head Gumastah of the Kistna Party, residing at Cuddapah.

7. Deputy Director of Revenue Settlement, Kistna, Kurnool, and Cuddapah Districts, residing at Kurnool.

8. Officiating Director of Revenue Settlement, residing at Madras.

This is an appeal from the decision of the Deputy Director of Revenue Settlement, Kistna District, dated 26th September 1861, and confirmed by the Officiating Director of Revenue Settlement on the 17th December 1864, by which about 30 Cutties of land, held under a Peshcush of

Rupees 298-8-0 per annum, on the south side of Ahobalapuram of Nukalapadi in my Zemindary, and in my enjoyment for a long period, have been given over to the 1st 2nd 3rd 4th, and 5th Respondents. This appeal is therefore instituted under Section 25, Act XXVIII of 1860 for the recovery of the land in question and the sist from Fasli 1265 to Fasli 1274, amounting to Rupees 1,190.

The prayer of the Petition is, that the record of the case be called for from the Revenue Settlement Office; that the state of facts which will be filed, and the evidence of witnesses be considered; that the decision of the Revenue Settlement authorities be set aside; the boundary marks erected by them removed; and the Respondents be ejected from the lands in question; that the boundary marks which existed from time immemorial be recognized, and inscription placed thereon; and that the amount of sist, as above stated, together with the costs of this suit, be recovered from the Respondents.

Dated 14th February 1865.

(Signed) P. NITYANUNDUM,
Pleader.

The above statement is made by me, Abbaya, the Vakeel of the Appellant, to the full extent of my knowledge and belief of the facts.

(Signed) GOVINDARAZE ABBAYA,
Appellant's Vakeel.

(True Translation.)

(Signed R. E. MASTER,
Officiating Director of Revenue Settlement.

---

1. Answer by 6th, 7th, and 8th Defendants to the Suit brought against them in No. 5 of 1865, Guntoor Civil Court's file, proposed to be put in, in accordance with Section 120, Act VIII of 1859.

2. The 7th and 8th Defendants plead that in the course of the demarcation of the boundary, between the Plaintiff's village of Narukulapad and the Mokhassa village of Talakodu, a dispute arose as to the line, which dispute was decided by 7th Defendant's predecessor in office under Section 25, Act XXVIII of 1860. The Plaintiff objecting to the said decision complained to the 8th Defendant's predecessor in office, and the 8th Defendant, before whom the case came, seeing no reason to interfere with the said decision, confirmed it, and referred Plaintiff, if still dissatisfied, to the Appeal to the Civil Court provided in the abovenamed Section 25, Act XXVIII of 1860. The 7th and 8th defendants have no objection to offer to the Plaintiff seeking redress in the Civil Court if he considers that he has a right to the ground which he claims; but they submit that he is not justified in including them as Defendants, since they have no interest whatever in the matter of the Suit, and merely acted in their public capacity as servants of Government, as well as judicially, under Section 25, Act XXVIII of 1860. The 7th and 8th Defendants further plead exemption from liability under Act XVIII of 1850.

3. The 6th Defendant pleads, that he has no interest whatever in the matter of the suit, and merely obeyed the orders of his official superior, the 7th Defendant's predecessor in office, in marking out the boundaries.

4. The 6th, 7th, and 8th Defendants, therefore, pray that the suit, as against them, may be dismissed with costs.

MADRAS,
5th August 1865.

(Signed) R. E. MASTER,
Officiating Director of Revenue Settlement.

Submitted to Government with the Board's recommendation that the defence of the suit be sanctioned on the usual terms, and that the draft answer be approved.

(True Copies and Extract.)

Acting Secretary.

To W. Hudleston, Esq., Acting Secretary to Government, R. D.
Copy to R. E. Master, Esq., Officiating Director of Revenue Settlement.
" to F. Lushington, Esq., Accountant General.

Rd. R. H. Lee.

Pen. 1365. Department

Proc. Govt. for August

No. 2521.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 18th August 1865.

Desp. 22 Dec.

Rec. 23rd

No. 5,019.

To Dft. Rev. Settlement

C. No. 2130

Submitting letter from the Officiating Director of Revenue Settlement, and recommending that sanction be granted for the defence on the usual terms of O. S. No. 5 of 1865 instituted in the Guntoor Civil Court for obtaining the reversal of a decision passed in a boundary dispute in Kistna District.

No. 1996-25 Augt

With an order

No 1113 to 1141

26 Augt 65

No. 1996.

The defence of the suit is sanctioned on the usual terms. The Board were competent to do this without reference to Government no principle of importance being involved in the suit.

The draft answer is approved.

25 Augt 1865

To the Board's Dft Dec. 25 August