M.R.O. 14—13,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2856 Press / Mis.

375-376

Dated 22-11-1865.

Not to be folded or roughly handled

No. 375. Read the following Proceedings of the Board of Revenue, dated 6th November 1865, No. 7,106.

Read the following letter from the Government Pleader, to the Acting Secretary to the Board of Revenue, dated Madras, 29th September 1865, No. 142 :—

1. With reference to the Proceedings of the Board of Revenue, under the date and number noted in the margin, I do myself the honor of stating that, in my opinion, it is not competent to Government, as the matter now stands, to take any proceedings in a Court of law. It is not competent, as a general rule, for a vendor to institute proceedings for the purpose of establishing the title of a purchaser, whose purchase has been completed. That duty devolves on the purchaser, should such a course become necessary.

2nd June 1865, No. 2,907.

2. I am further of opinion that Subbramanian, the purchaser at the sale on the 10th of December 1860, cannot successfully maintain any suit against the Government in respect of that sale.

3. The latter opinion is founded on the supposition that the sale was regularly conducted in accordance with the regulations ; as also on the fact that the sale was duly concluded, the purchaser put into possession, which he retained for nearly two years, and that the purchaser was subsequently dispossessed under an execution of a decree passed in a suit to which such purchaser was not a party, and by which he was not bound.

4. Under Section 230 of the Civil Procedure Code, the purchaser could have applied to the Court of the Principal Sudder Ameen, within one month after he was dispossessed, when his title would have been investigated. I am of opinion it was a great mistake his petitioning the High Court.

5. In my opinion, the only remedy which the purchaser now possesses, is by a suit against the Plaintiff in Original Suit No. 12 of 1860, and to which, I think, he should add Vyapoory Anna as a second Defendant.

6. I now come to the consideration of the orders passed by the Principal Sudder Ameen on the 19th of July 1862, and by the Civil Court of Negapatam on the 14th of October 1862. From the papers before me, it appears that the Principal Sudder Ameen's order was passed on two petitions presented to him by the Defendants in Original Suit No. 12 of 1860, on the 14th of January and 10th July 1862. I have nothing before me to shew that the purchaser made any application to that Court, and I am at a loss to understand how the Principal Sudder Ameen came to make that portion of his order, where he directed that the 5 Velies, 9 Mas, and $45\frac{3}{8}$ Kulies sold by Government, should be delivered to the purchaser, nor do I know under what law he considered himself justified in introducing that direction into his order. It appears from the papers before me that the purchaser retained possession of the lands till October 1862. Consequently he could not, at the time that order was passed, (19th July 1862,) have made the application prescribed by Section 230 of the Civil Procedure Code; it could not, therefore, be under that Section; and which, moreover, prescribes a different course to be pursued, and I am not aware of any Section in the Code under which the Principal Sudder Ameen was authorized to give that direction. The question then arises,

had the Civil Judge any jurisdiction to deal in appeal with that portion of the order of the Principal Sudder Ameen? I am not aware of any provision in the Code which gives him such jurisdiction. I am of opinion that Section 246 does not apply to the case. If, however, it should be held to apply, then the order of the Principal Sudder Ameen was not subject to appeal. But the Civil Judge professes to have acted under the authority of the 11th Section of Act XXIII. of 1861. I am of opinion that, in the case under consideration, this Section did not give to the Civil Judge jurisdiction, (so far as relates to the portion of the order of the Principal Sudder Ameen which affects the purchaser,) for it is by that Section enacted, that "questions arising *between the parties to the suit* in which the "decree was passed, and relating to the execution of the decree, should be deter-"mined by order of the Court executing the decree, and that such order is open "to appeal." In the case under consideration, the purchaser not being a party to Original Suit No. 12 of 1860, the Section is not applicable.

7. If, however, the Civil Judge had jurisdiction, I am of opinion that his order is erroneous. It does not appear from the papers before me, whether the attachment by the Collector was before or after the institution of the suit. The Civil Judge seems to infer it was after the suit had been instituted. It does not, however, appear to me to be of the slightest importance whether it was before or after the institution of the suit. The Civil Judge lays stress on the sale having taken place pending the suit. There is no doubt such was the case, but I do not understand how that affects the question, nor does the Civil Judge shew. The Government was not a party to the suit, but it was competent to the Plaintiff to have applied for an injunction to restrain the Government from proceedings to a sale, if he thought he had sufficient grounds for such an application. There was no excuse for his not doing so, he was of age in 1853, and it is impossible he could plead ignorance of the sale. It is to be regretted that the Curnum should have selected the portions of the Mirassi claimed by the Plaintiff, for it is not likely that he was unaware of the suit, and if he did not know what portions of the Mirassi were claimed by the Plaintiff, it would have been desirable he should have caused inquiries to be made through the Government Vakeel. Those portions, however, having been sold does not affect the question now under consideration, and I have not the slightest doubt, that the construction put by the Civil Judge upon the 223rd Section of the Civil Procedure Code, is erroneous. Moreover, the Civil Judge's proposition, that other lands remaining in the first Defendant's possession "should have been transferred to the purchaser," *is so* monstrous and illegal on the face of it, that it is scarcely credible that any gentleman, having the slightest experience in legal knowledge, could have committed himself to it.

8. I observe the Civil Judge endorses on his order, "Under the Code of Civil Procedure no further appeal lies from this order." If he was right in dealing with the appeal under the 11th Section of Act XXIII. of 1861, it would appear that *a suitor*, feeling himself aggrieved by his order, was not precluded from appealing against it to the highest tribunal, for the Act expressly provides that the order passed by the Court executing the Decree "shall be open to appeal." The provision is general, and in my opinion does not confine a suitor to one appeal, and does not prohibit him from the rights of appeal which the law allows, unless where such

rights are expressly curtailed. It is true that on the 23rd of February 1863, the High Court held that no appeal lies against an order of a Civil Judge passed upon appeal whereby he reversed an order made by a Sudder Ameen relating to the execution of a decree of the High Court. The High Court certainly did dismiss the petition of appeal preferred by the purchaser, and did confirm the order of the Civil Judge. The grounds on which they did so are not stated in their order. I have already stated I think it was a mistake the purchaser presenting that petition. I do not think it could be entertained, because the purchaser was not a party to the suit, and the Code provides a remedy for his case; but without having the petition of appeal before me, I am unable to form an opinion whether the High Court was right in confirming the order of the Civil Judge. I apprehend, however, the High Court must have based their judgment on technical grounds, and could not have gone into the merits of the case.

9. The purchaser has been dispossessed of a portion of the land purchased by him from Government under the order passed by the Civil Judge on the 14th of October 1862, and (although that order has been confirmed by the High Court, as I have just mentioned,) I entertain no doubt such order was bad in law. The Judge who passed that order is a servant of Government, and if Government should, on those grounds, feel they ought to save the purchaser harmless from the consequences resulting from such erroneous order, I am of opinion, under all the circumstances disclosed by the papers laid before me, the simplest plan of adjusting the matter would be to refund the 4,000 Rupees on the purchaser re-conveying to Government the portion of the land still in his possession. The purchaser is not disposed to accede to the arrangement proposed in the first part of the 16th Section of the Board's Proceedings, under date the 3rd February 1865, and I am of opinion the proposition to attach other land from that still in Vyapoory Anna's possession could not be legally effected. Some difficulty may arise in settling the amount on which interest should be calculated; but I surmise that will be more easily arranged than the attempt to adjust the value of the land of which he has been dispossessed has proved.

10. The Rupees 4,000 is not a matter of much moment to Government, but if the erroneous decision of the Civil Judge had affected a private individual, the consequences might have been serious, if not ruinous.

Board's Proceedings,	10th June 1864,	No.	3,572.
,,	2nd July 1864,	,,	4,093.
,,	21st September	,,	6,228.
,,	3rd Feb. 1865,	,,	583.
,,	2nd June 1865,	,,	2,907.

1. Submitted for the consideration and orders of Government, with copies of the papers marginally noted.

2. The Board do not think it necessary to recapitulate the circumstances of the case, as a clear statement of the same will be found in their Proceedings of the 3rd February last. Under the opinion expressed by the Government Pleader in the letter recorded above, they see no other way out of the difficulty than that suggested in paragraph 9 of Mr. Dale's letter, and they accordingly recommend that the sum of Rupees 4,000, paid by Subbramanian for the land which he purchased in 1860, be refunded to him with such interest as may be deemed

equitable, on his re-conveying to Government that portion of the land which is still in his possession.

3. The Board can only express their regret that the Government should be placed in such a position through (apparently) the gross mistakes of their own Judges.

No. 376. ORDER THEREON, 22nd November 1865, No. 2,856.

Miscellaneous.

1. The Government are of opinion that the purchaser must adopt the means of obtaining redress indicated in paragraph 5 of Mr. Dale's letter, viz., by bringing a suit against the brothers Panchasami Anna and Vyapoory Anna, before any question of compensation for losses sustained can be entertained by Government.

2. In prosecuting this suit the Collector will afford him all the assistance in his power, and will, if necessary, communicate with the Government Pleader on the subject.

3. The issue involved is one of considerable importance to Government.

(True Extract.)

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

To the Board of Revenue.
,, the Government Pleader.

Exd. S. T. Augustin.

No. 3,572.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 10th June 1864.

Read the following letter from the Collector of Tanjore, dated Puttoocottai, 6th May 1864, No. 145 :—

1. I have the honor to submit the following report on the subject of Petition No. 4,234 of 1863.

2. Under the authority conveyed in the Board's Proceedings marginally noted, V. 8, M. 16, and G. 20 of land belonging to one Vaiyapuri Anna were put up to public sale for the arrears of revenue on the 10th December 1860, and were purchased by this Petitioner for Rupees 4,000. The lands were accordingly in due course made over to him and remained in his possession until October 1862.

3rd November 1860, No. 5,085.

3. Previous to the sale referred to, a suit had been instituted in the Principal Sudder Amin's Court at Tranquebar by the defaulter's brother, one Panjusami Anna for a division of the family property, and which suit was subsequently decided in June 1862 in favor of the said Panjusami Anna, to whom the Court awarded a share of the landed property originally held by his brother, the aforesaid Vaiyapuri Anna, including in that share also the lands purchased by the Petitioner at the revenue sale. Petitioner, however, having protested against his being dispossessed of land which he had acquired previous to the Court's decree by lawful purchase and at a public sale, the Principal Sudder Amin declared him to be entitled to retain possession, observing that under Clause 1st, Section 6, Regulation XXVII of 1802, those lands formed security for the revenue.

4. From this order of the Principal Sudder Amin, the decree holder preferred an appeal to the Civil Judge who, on grounds set forth in the enclosed copy of his order, reversed that of the Principal Sudder Amin, and directed that the decree holder be put in possession of the lands purchased and held by the Petitioner. This order has further been confirmed by the High Court on an appeal preferred by the present Petitioner. A copy of the High Court's order is also herewith enclosed.

5. It thus happens that the Petitioner after having purchased the lands in due course, and for full consideration, at a public sale held by competent officers of Government under the sanction of law, has been deprived of them by an order of the Civil Court. The case is beyond all question one of palpable hardship, but the verdict having been upheld by the highest Appeal Court, there appears to me and the Petitioner no remedy save that of entering on a regular suit, and with what chance of success it is indeed difficult to foretell.

6. I confess that the law, as propounded in the Civil Judge's order, is altogether strange and incomprehensible. By that dictum it would seem, that Government are bound, before distraining and selling lands in the possession of revenue defaulters, to inquire whether the same form matter of litigation in the Courts of Law, and that sales held without such precaution are null and void at the instance of the parties who might afterwards obtain a decree against the defaulters.

7. The most remarkable feature of the Civil Court's order is, that it assumes the sale to have been a transaction between the revenue defaulter and the purchaser, and goes on to say that the first Defendant (the defaulter) created in the purchaser a title which under Section 223 of the Code of Civil Procedure, could not be upheld, thus evidently losing sight of the fact that the sale was a coercive measure duly authorized and sanctioned by law, and regarding which the defaulter had no option.

8. It is further stated in the order that the purchase was made without any specification of land. This however is an error, for, as will be seen from the sale advertisement in the Board's office, and the certificate granted to the Petitioner by the Sub-Collector, particular Katlais or fields, known by particular names were put up to sale and purchased by the Petitioner.

9. There may have been other lands in the possession of the defaulter in this case as observed by the Civil Judge, but the Government are not restricted in the selection of a portion for the satisfaction of the arrears due on an entire holding, the whole of which forms by law an essential security for the revenue.

10. As matters now stand, however, there would seem, as I have already stated, to be no means by which the Revenue Department can afford any remedy for the loss and injustice which has unquestionably been entailed on the Petitioner. Perhaps the Board, if they deem it expedient, may take the opinion of the law officers of Government on the subject, and if the course be deemed practicable may move the High Court, through the Government Pleader, to re-consider their order by which that of the Civil Court stands confirmed.

11. I beg that the papers herewith enclosed may be returned when no longer required, as they have to be returned to the Petitioner from whom they were obtained.

ENCLOSURE No. 1.—Petition.

1. The Collector is requested to report at his earliest convenience who held the Puttah for the lands, and what other lands were entered in it. What lands were selected for sale, and whether the defaulter's brother took any steps to prevent the sale. Whether there was any reason that the lands now ceded under the Court's decree to the brother, should be sold in preference to others, and whether the defaulter is now in possession of other lands. Also whether the arrears had accrued on the lands sold only or on the whole holding.

2. The Collector will also please to submit copies of the plaint and of the decree in the suit for the land, and copies of the Court's orders as submitted the Petition with.

(A true Copy and Extract.)

(Signed) R. A. DALYELL,
Sub-Secretary.

To W. M. Cadell, Esq., Collector of Tanjore, with two enclosures.

Exd. J. Wright.

PROCEEDINGS OF THE BOARD OF REVENUE.

No. 3,572.

Dated 10th June 1864.

Despatched

Received

1864. Department.

No.

Requesting further report on Petition No. 4,231 of 1863, and copies of the plaint and of the decree in the suit for the land, and of the Court's orders.

No. 4,093.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd July 1864.

Read the following letter from the Collector of Tanjore, dated Point Calimere, 18th June 1864, No. 209:—

1. With reference to the Board's Proceedings of the 10th instant, I have the honor to state that the villages to which the lands in question belong are of the class of Mottamfaisal, in which no Puttahs are granted. The Mirassi registry of the entire holding consisting of 91 Velis, and of which the lands sold for arrears formed a part as also all other documents relating thereto stood in the name of the defaulter, who was consequently the recognized holder, and the party responsible for the payment of the Government revenue due thereon.

2. The lands sold for arrears and the particulars of which are contained in the sale advertisement in the Board's office were selected indiscriminately from the area comprising the entire holding, and no steps were taken by the defaulter's brother to prevent the sale. There was no reason why the lands now transferred to the latter, by order of the Court, should be sold in preference to others; neither was there any reason why those lands ought not to have been sold, as forming part of the entire holding on which the balance was due. The defaulter is in possession of other lands besides those awarded to his brother by the Court's decree.

3. The arrears for which the lands in question were sold accrued not on those lands only which were sold, but, as already stated in my previous report, on the entire holding. As the Board are doubtless aware, payments on account of revenue are not made, much less credited, in the accounts, separately for the several fields or plots of land of which a holding is composed, but the payments made from time to time by instalments are all credited to the demand on the entire holding, and consequently, any balance left becomes a balance on the entire holding.

4. I have written for copies of the Plaint and Decree referred to in paragraph 2 of the Board's order, and they will be submitted as soon as they are received. I fear, however, there will be some delay in obtaining them as the Courts are now adjourned.

5. As regards the Court's orders mentioned in the same paragraph, those of the Civil Court at Tranquebar and the High Court relating to the subject matter of the Petition under consideration, have formed enclosures to my first report, but having been received back with the Board's order under acknowledgment are again herewith returned. The vernacular copy of the Proceedings of the Principal Sudder Amin containing that officer's order on the Petition presented by this Petition objecting to his dispossession of the lands purchased by him at the Revenue sale, is also herewith enclosed together with an English translation of that part of the Proceedings which relates to the case under consideration, and the substance of which, I may add, is embodied in my first report.* I am not able to find on the records of this office any more orders of the Court submitted by the Petitioner.

* Paragraph 3.

ENCLOSURE No. 1.

Extract from an Extract from the Proceedings of the Principal Sudder Amin's Court of the Zillah of Negapatam, dated the 19th July 1862.

It appears that of the lands made over to the Plaintiff in the village of Adambar, V. 5, M. 9, G. 45⅜, or 14 plots had been sold for Circar arrears. As under Clause 1, Section 6, Regulation XXVII of 1802, the land should be viewed as security for Circar arrears, the Court without recognising the possession given to the Plaintiff, directs that the purchaser at the sale be placed in possession thereof as before.

(True Translation.)

(Signed) SUNDARA NAIDU,
Principal Sudder Amin.

(True Copy.)

(Signed) W. M. CADELL, Collector.

The Board await the copy of the Plaint and orignal Decree promised by the Collector.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To W. M. Cadell, Esq., Collector of Tanjore.

Exd. J. Wright.

No. 6,228.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 21st September 1864.

Read the following letter from W. M. CADELL, Esq., Collector of Tanjore, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Vellum, 18th August 1864, No. 281:—

I have the honor herewith to forward copies of the Plaint and Decree with Judgment referred to in paragraph 4 of my letter, recorded in Board's Proceedings of the 2nd ultimo, No. 4,093.

ENCLOSURE No. 1.

In the Zillah of Negapatam.

Before the Principal Sudder Ameen of Negapatam.

Original Suit No. 12 of 1860.

Panchusami Anna, son of the deceased Ramalinga Anna, living at Athambaur in the Kodavassel Taluk... ... ... *Plaintiff.*

versus

1. Vaiyapuri Anna, living in the said place, and his younger brother, the deceased Viswaswara Anna's heiresses and widows,
2. Arindavattammal *alias* Tangachi Ammal, living in the eastern street of the Nilayadatchi Amman Pagoda at Negapatam; and
3. Kannammal, living in the said Athambaur,

} *Defendants.*

Murugesa Pillay, Vakeel for Plaintiff.

Sundaramaiyar, Vakeel for 1st Defendant

This Suit is for the recovery of 36 Velies, 11 Maws, and 41 Gulies of land, together with produce valued at Rupees 4,898-11-8, being the share of the family property.

The Principal Sudder Ameen adjudges to the Plaintiff the land sued for, but disallows the claim for produce. Proportionate costs on the amount allowed and disallowed to be borne by the Plaintiff, and the 1st Defendant.

To be delivered to the Plaintiff by the 1st Defendant.

V.	M.	G.		Rs.	A.	P.
28	11	32	of Nunjah land with all its appurtenances in the village of Athambaur in the Kodavassel Taluk as enumerated in the Plaint, valued at	1,431	8	8
2	11	53	of Punjah land including Manaikuts do. do...	47	12	0
			6 Tiled houses do. do.	120	0	0
			18 Thatched houses do. do.	90	0	0
			81 Cocoanut trees do. do.	40	8	0
0	5	30	of Soranadayam do. do.	10	10	0
0	3	63	of Tope do. do.	7	4	0
4	14	60	of Nunjah land do. in the village of Annasami Aiyangar Oockadai do. do.	221	13	0
0	4	90	of Punjah land do. do.	5	10	0
0	0	15	of Soranadayam do. do.	0	4	0
			2 Thatched houses do. do.	10	0	0
			1 Tiled house do. do.	20	0	0
			Total...	2,005	5	8

Stating that the Board await the copy of the Plaint and original Decree referred to in letter of 18th June 1864.

No. 4,093.

Dated 2nd July 1864.

PROCEEDINGS OF THE BOARD OF REVENUE,

No.

1864. Department.

Plaintiff's cost on the amount decreed.

Value of Stamp paper used...	122	8	0
Vakeel's fee	100	4	0
Peon's batta, &c.	29	15	6
To be paid to the Plaintiff by the 1st Defendant ...	252	11	6

Plaintiff's cost on the amount disallowed.

Value of Stamp paper used...	50	0	0
Vakeel's fee	144	10	5
Peon's batta...	3	6	0
To be borne by the Plaintiff	198	0	5

1st Defendant's cost on the amount disallowed.

Vakeel's fee	144	10	5
To be paid to the 1st Defendant by the Plaintiff.	144	10	5

1st Defendant's cost on the amount decreed.

Value of Stamp paper used...	10	8	0
Vakeel's fee	100	4	0
Peon's batta, &c.	43	4	9
To be borne by the 1st Defendant	154	0	9

30th August 1861.

Appeal time expires on the 29th September 1861.

No process of execution will be issued to enforce this decree unless some proceeding shall have been taken to keep the same in force within three years next preceding the application for such execution.

(Signed) V. SOONDARA NAIDOO,
Principal Sudder Ameen.

(A true Copy.)

(Signed) V. SOONDARA NAIDOO,
Principal Sudder Ameen.

ENCLOSURE No. 2.

Original Suit No. 12 of 1860.

JUDGMENT.

1. The Plaint shows that, during the Plaintiff's minority, his father and brothers, the 1st Defendant and the husband of the 2nd and 3rd Defendants, had entered into a division of property on the 10th October 1838; on which occasion they allotted to the Plaintiff's share 36 Velies, 11 Maws, and 41 Goolies of land, of which the Plaintiff's father took an exclusive possession, and enjoyed the produce thereof until his death, which took place in 1840, when it happened to pass into the hands of the 1st Defendant and his deceased brother; that on attaining his majority in 1853, the Plaintiff tried to get his share from the Defendants without success. Consequently he filed a Pauper Suit against them for the same in the Sub-Court of Combaconum, but was dispaupered; that, when he was to renew it in a regular way, the 1st Defendant put him in possession of the land above alluded to, and granted him Karai Olais also in proof of his having done so, and when he cultivated it, and was to reap the fruit, he was not only dispossessed of it by the 1st Defendant, but also plundered of the produce, together with documents. He therefore seeks the recovery of the land and the plundered produce, both valued at Rupees 4,898-11-8.

2. In his answer, the 1st Defendant denies having ever put the Plaintiff in possession of land, pleading that, although a share was allotted to him during the partition of property between himself and his father, still, a portion of it was since given over to his uncle for his share and to another party for the debts due to him under the Razeenamah and the Decree of different Courts, and, in defending those Suits, it cost him a considerable sum; that his deceased brother bequeathed him his share of the property by a will, and that the Plaintiff had his share in some other land and house at Tanjore on the 14th January 1858, for which he granted him a deed of acquittance on the same date. He further contends that, if he has any land of quality at all, it is all that the Plaintiff claims.

3. The reply and rejoinder are mere reiterations of the plaint and answer.

4. The 2nd and 3rd Defendants allowed the suit to go *ex-parte*.

5. The Plaintiff produced no exhibits.

6. 1st Defendant's documents,

I. Deed of Acquittance granted by the Plaintiff to the 1st Defendant on the 14th January 1858.

II. A Will left by the 1st Defendant's brother under date the 26th January 1853.

III. Letter written by one Annasami Pillay to the 1st Defendant on the 1st June 1859, complaining of the inattention of the Plaintiff in the management of the house and Maniem allowed by the 1st Defendant for his share.

7. Twenty-four witnesses were examined for the Plaintiff and the 1st Defendant.

8. The main point to be decided in the first instance with reference to the first Defendant's admission and the statement which his answer above shown contains, appears to be whether the deed of acquittance I. is genuine. In the opinion of the Court, it is not.

9. Independent of the Deed I being drawn on a plan cadjan, which in itself creates strong suspicion as to its genuineness, chiefly because the 1st Defendant, who seems to be aware of the practice and rules of Courts, could not have allowed it, more particularly at a time when he admits to have been on bad terms with the Plaintiff, the signature it bears does not in any way correspond or tally with the real ones of the Plaintiffs; affixed to the Vakalutnamah, &c., filed on the record of the suit; and besides, of the seven witnesses who attested this document, five were cited, but two of them, the 20th and 21st, were only produced, and examined by the 1st Defendant. The 20th is his brother-in-law, and the 21st a common beggar, whose evidence, under the above circumstances, ought necessarily to be received with caution. It is also to be remarked that, to the genuineness of the letter III, by which the 1st Defendant attempted to establish the fact that possession of the property referred to in the deed of acquittance was actually given to the Plaintiff, not a single witness was produced.

10. Thus, the exhibit I being found to be spurious, it remains for the Court to determine the following points:—

Firstly.—Whether the act of the 1st Defendant as a guardian to the Plaintiff is binding upon him.

Secondly.—Whether the will II has the effect of depriving the Plaintiff of his share.

Thirdly.—Whether the Plaintiff had ever possession of the disputed land, and whether it is of the first sort.

Fourthly.—Whether Plaintiff is entitled to the produce.

First point.—Under the Hindu Law, no act of a guardian in regard to the property or liability of a minor is valid, but such as may be clearly one of necessity, or for the benefit of the minor; but in this case, neither the one nor the other has been proved by the witnesses 13th, 16th, 17th and 22nd examined by the 1st Defendant on those points, and his act cannot therefore be binding upon the Plaintiff.

Second point.—The will, if it had been executed at all as deposed to by the 18th, 19th, and 20th witnesses, can have force to the extent of the grantor's share only, but not to the Plaintiff's.

Third point.—On the part of the Plaintiff, it has been clearly proved by the 2nd, 3rd, 4th, 5th, 6th, 7th, and 8th witnesses that long after the filing of the Razeenamah and the passing of the Decree alluded to in the answer, the 1st Defendant put the Plaintiff in possession of the land in issue, and allowed him to cultivate it for some months, though he afterwards dispossessed him of it. This is indeed an additional proof of the share of the Plaintiff sued for being unaffected, or at least interfered with, by the Razeenamah and the Decree. It is likewise proved by the aforesaid witnesses that the disputed land is equally the same in quality as that of the 1st Defendant, and the testimony of his 23rd and 24th witnesses to the contrary, unsupported as it is, is worthless.

Fourth point.—As regards the produce claimed, proof is wanting; the testimony of the 5th, 6th, 7th, and 8th witnesses on that head being inconsistent and unsatisfactory.

11. For the foregoing reasons, the Court holds the claim to the land good, but disallows that for the produce. Proportionate costs on the amount allowed and disallowed to be borne by the Plaintiff and the 1st Defendant.

30th August 1861.

(Signed) V. SOONDARA NAIDOO,
Principal Sudder Ameen.

(A true Copy.)

(Signed) V. SOONDARA NAIDOO,
Principal Sudder Ameen.

ENCLOSURE No. 3.

ABSTRACT.—Copy of the Plaint in Original Suit No. 12 of 1860, on the file of the Principal Sudder Amin's Court at Tranquebar.

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1. The Collector will please to forward a detailed statement of the arrears for which the lands in question were sold in 1860, distinguishing the particular years for which the several amounts were due, and stating whether the payments made by the defaulter were sufficient to cover the Government demand on that portion of the original holding, which, by the Court's Decree, has been left in his possession.

2. He will also forward copy or extract from the sale advertisement showing the particular lands sold on account of the demand against the defaulter, and distinguishing those awarded by the Court to the defaulter's brother, and he will state by whom the selection of the land to be sold was made.

3. He will also state when the registry of the entire Mirassi holding was made, the name of the defaulter, and how it had previously stood, and whether the defaulter's brother ever claimed the registry in his name of the share now awarded to him.

4. The Board request an early reply.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To W. M. Cadell, Esq., Collector of Tanjore.

Exd. J. Wright.

Requesting to be furnished with certain particulars relative to Original Suit No. 12 of 1864.

No. 6,228.

Dated 21*st September* 1864.

PROCEEDINGS OF THE BOARD OF REVENUE,

No.

1864. Department.

No. 583.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 3rd February 1865.

Read again letter from the Collector of Tanjore, dated 18th August 1864, No. 281, in Board's Proceedings, 21st September 1864, No. 6,228.

Read also the following letter from W. M. CADELL, Esq., Collector of Tanjore, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Vellum, 17th November 1864, No. 364:—

I have the honor to submit the accompanying Statement as received from the Acting Sub-Collector, containing in a tabular form the information required in the Board's Proceedings of the 21st September last, No. 6,228, together with an extract from the sale advertisement showing the particulars of lands sold for arrears, as also the portions thereof which have been awarded by the Court to the defaulter's brother.

ENCLOSURE No. 1.

STATEMENT furnishing the information called for in the Proceedings of the Board of Revenue, No. 6,228, dated 21st September 1864, regarding the lands sold in 1860 for arrears of revenue payable by one Vaiapoori Anna of Adambar in Nannilam Taluk.

Paragraph 1.	A detailed Statement of the arrears for which the lands in question were sold in 1860, distinguishing the particular years for which the several amounts were due.	1

Villages.	Fasli 1265. Government due. Rs.	A.	P.	Fasli 1265. Interest. Rs.	A.	P.	1266. Government due. Rs.	A.	P.	1266. Interest. Rs.	A.	P.	1267. Government due. Rs.	A.	P.	1267. Interest. Rs.	A.	P.	Total. Government due. Rs.	A.	P.	Total. Interest. Rs.	A.	P.	Grand Total. Rs.	A.	P.	Cost of establishment employed on sale. Rs.	A.	P.	Grand Total. Rs.	A.	P.
Adambar ...	1,061	7	9	571	13	9	556	3	2	229	14	4	122	15	9	36	1	3	1,740	10	8	837	13	4	2,704	0	0	125	8	0	2,704	0	0
Annasami Aiyangar Ukkadai ...	278	9	8	151	3	5	100	13	7	41	14	9	...	...	...	...	...	...	379	7	3	193	2	2	601	3	3	28	10	3	601	3	3
Total amount.	1,340	1	5	723	1	2	657	0	9	271	13	1	122	15	9	36	1	3	2,120	1	11	1,030	15	6	3,305	3	8	154	2	3	3,305	3	8

Paragraph 2.	More than sufficient, viz., He had paid Rupees 4,863-13-7 for the entire lands, whereas the demand on his portion was only Rupees 2,941-11-1.	2	Whether the payments made by the defaulter were sufficient to cover the Government demand on that portion of the original holding, which by the Court's decree has been left in his possession
Paragraph 3.	A Tamil copy marked B. is attached to this.	3	Copy or Extract from the Sale Advertisement showing the particular land sold on account of the demand against the defaulter.
	A Tamil statement marked C. is attached to this.	4	Statement of particular lands awarded by the Court to the defaulter's brother.
	By the village Kurnum.	5	By whom the selection of land to be sold was made.
	In 1858. Registered in the name of the defaulter Vaiapuri Anna.	6	When the registry of entire Mirasi holding was made in the name of the defaulter.
	In the name of Visvasoovara Anna, younger brother of Vaiapuri Anna.	7	How the Mirassi previously stood.
	Never.	8	Whether the defaulter's brother ever claimed the registry in his name of the share now awarded to him.

(Signed) C. G. PLUMER,
Acting Sub-Collector.

ENCLOSURE No. 2.

ABSTRACT.—Extract from the Sale Advertisement submitted to the Board of Revenue with Collector's letter of the 26th October 1860.

1. The facts of this case appear to be as follows.

In 1838, the father of Panchusami Unna and Vyapuri Unna, (the Plaintiff and 1st Defendant in the suit decreed in Plaintiff's favor,) entered into a division of property with his sons, on which occasion a certain share of the family land was allotted to Panchusami Unna, who was then a Minor, which share the father retained in his exclusive possession until his death in 1840, maintaining, it is to be presumed, his Minor son.

2. On the father's death the share passed into the possession of Vyapuri Unna and another brother since deceased.

3. In 1853, Punchusami Unna having attained his majority, endeavoured to obtain possession of his share, and not succeeding filed a pauper's suit, but was dispaupered.

4. Subsequently Vyapuri Unna placed him in possession, but again ousted him.

5. In 1858 the entire *Mirasi* holding of the family which had previously stood registered in the name of the deceased brother above mentioned, was registered in the name of Vyapuri Unna. The lands were of the class designated "Mothamfaisul," which in the Tanjore District are charged with a uniform rate of assessment for all the fields in a village, varying only with reference to the description of cultivation as Nunjah, Punjah, and Bagayet, and no Puttahs are given to the Ryots. Arrears accrued on the entire holding in Faslis 1265, 1266, and 1267, which eventually amounted to Rupees 3,305-3-8, viz.:—

	RS.	A.	P.
Government assessment	2,120	1	11
Interest...	1,030	15	6
Sale expenses...	154	2	3
Total...	3,305	3	8

6. On 26th October 1860, the Collector applied to the Board for leave to sell certain land attached for arrears, in which the above amount was included.

7. In the Sale Advertisement the fields were distinguished by name, and as being Nunjah, Punjah, Garden, or Tope, and the extent of the defaulter's share in the village which was to be sold was specified, and the portion for each field given.

8. On 3rd November 1860, the Board sanctioned the sale, and on 10th December 1860, Velis 8 Maws 16 and Gulis 20, of the land registered in Vyapuri Unna's name was sold for Rupees 4,000 to one Soobaramien, the selection of the land sold having been made by the village Kurnum. The land was in due course made over to the purchaser, and remained in his possession until October 1862.

9. Meanwhile on 8th November 1860, Punchusami Unna had filed a suit (No. 12 of 1860) in the Principal Sudder Amin's Court at Negapatam for the recovery of his share of the family landed estate, the extent claimed being V. 36 M. 11 G. 41, which suit was decided on 30th August 1861 in Plaintiff's favor.

10. In the land thus awarded to Plaintiff was included V. 5 M. 9 G. 45⅜ of the land sold for arrears as above stated, and on 19th July 1862, the Principal Sudder Amin passed an order maintaining the purchaser in possession.

11. Plaintiff appealed on 1st August 1862 to the Civil Court of Negapatam against this order, and on 14th October 1862, the Court (Mr. E. Bird, Judge) reversed it and directed that Panchusami Unna should be placed in possession of this land, observing, that the land was sold without specification of boundaries (although as above stated, the name and extent of each portion sold was specified in the Sale Advertisement,) that the attachment and sale took place subsequent to the date of Plaintiff's suit for his land (which may possibly refer to the original Pauper Suit, but is not correct, at least as to the attachment and order for sale as regards the suit decided in Plaintiff's favor,) and that as Vyapuri Unna was bound to have paid the Government dues, he "by "failure has created a title in the purchaser at the Revenue sale subsequent to the suit, which "under Section 223 cannot be allowed by this Court."

12. The Court went on to remark, "there are clearly other lands remaining in 1st Defendant's (Vyapuri Unna) possession after the Plaintiffs decree has been satisfied, which should have been transferred to the purchaser in the Revenue sale. But the Defendant had no right, while other lands remained, to make over to the purchaser what was decreed to Plaintiff, and what the latter had a right to recover from him under the decree. The purchaser having purchased without any specification of the exact lands he bought, must take the risk of loss should such be sustained by him."

13. The Court thus treated the forced revenue sale as if it had been a voluntary act of the defaulters, as if it had taken place after the decree had been passed, and as if the selection of the land sold had been made by the defaulter, all being erroneous assumptions of facts, if the Board have correctly gathered the facts from the record. On appeal, however, to the High Court, the order of the Civil Judge was confirmed on 5th December 1863, and thus the purchaser found himself deprived of land bought by him at a public sale held by competent officers of Government.

14. On 10th December 1863, the purchaser appealed to the Board praying for redress, and several letters have since passed between the Collector and the Board on the subject, from which and their enclosures the facts as above detailed have been gathered.

15. The Board are anxious to afford the purchaser that redress to which he is undoubtedly entitled, but it is not easy to decide how this can be effected.

16. The simplest arrangement would be, to refund to the purchaser the amount paid for that land of which he has been dispossessed, and to attach other land from that still in Vyapuri Unna's possession to make good the amount so refunded.

17. The Collector will report whether the mode in which the sale was conducted, and the record of the actual bids for the land, will allow of this plan being carried out.

18. Another method would be to make over to the purchaser from the land still in Vyapuri Unna's possession other land of corresponding quality, value, and extent with that of which the purchaser has been dispossessed, and for this arrangement Mr. Bird's order would seem to afford sanction.

19. The Collector will also report whether this seems feasible.

20. He will also report whether any other mode of arranging the matter occurs to him as preferable to the above and more in consonance with the practice or ideas of the residents in the District. There is of course the third alternative of cancelling the whole sale, receiving back from the defaulter the surplus sale proceeds paid to him, and restoring to him the portion of the land sold, which is still in possession of the purchaser, and then making a new attachment out of his present holding, but even with an allowance to either party for interest on the money paid, and on the value of the usufruct of the land sold, there seems no likelihood of obtaining the consent of the defaulter and of the purchaser, without which the plan could not be carried out.

21. The Board request an early reply, on receipt of which they will if necessary consult the Government Law Officers on the case.

(True Copies and Extract.)

(Signed) R. A. DALYELL,
Acting Secretary.

To W. M. Cadell, Esq., Collector of Tanjore.

Exd. R. H. Lee.

No. 583.

Dated 3rd February 1865.

Requesting further report on certain l
sold in 1860 for arrears of revenue.

Consn thereon Rec Fifth Bd
Refer to Board's Letter
R. O. Dated 6th March 1865

1865. Department

Rev. 894/65

No.

PROCEEDINGS OF THE BOARD OF REVENUE

10

No. 2,907.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd June 1865.

Read the following letter from W. M. CADELL, Esq., Collector of Tanjore, to R. A. DALYELL, Esq, Acting Secretary to the Board of Revenue, dated 27th March 1865, No. 90:—

1. With reference to the Board's Proceedings of the 3rd ultimo, No. 583, I have the honor to state that none of the three modes therein suggested as to settling the claim of the Petitioner Subbaramaiyan, are, in my opinion, feasible.

2. As will be seen from the second of the two communications received from the Acting Sub-Collector on the subject, and copies of which are herewith enclosed, the Petitioner declines to accept the proportionate value of that portion of the land purchased by him, and of which he has been dispossessed, and even if he agrees to this proposal, I doubt whether other land still in Vipapuri Anna's possession, can now be legally attached for arrears once fully realized in regular course. The mode in which the sale was conducted, and the record of the actual bids have, in my opinion, not been such as would allow of the plan proposed being carried out.

Dated 22nd February 1865, No. 43.
" 13th March " " 63.

3. With respect to the second mode suggested in the Board's order, I concur with Mr. Plumer in thinking that the Revenue Department is not competent summarily to transfer property from the possession of one individual to that of another. Even supposing such a proceeding to be tenable, there is no balance of arrears now outstanding against Vaiyapuri Anna to form a ground for the same.

4. As regards the third alternative suggested, there is, as observed by the Board, no likelihood of the consent of the purchaser being obtained thereto.

5. Under all the circumstances of the case, there appears to me to be no other alternative for the purchaser, but that of instituting a regular suit for the recovery of the land purchased by him, and of which he has been dispossessed, and indeed I am unable to see how this can now be avoided. This, however, I conceive will entail no loss on Government inasmuch as the purchaser will necessarily sue only for the recovery of the land purchased by him. Indeed as it appears to me, his right of action is restricted to this alone. If Subbaramaiyan obtains a favorable decree, as I think he must give up the land which has now been put in possession of Punjusami Anna by order of the Civil Court, will be restored to him together with usufructs which the former will of course have also to pay, and it is to his brother Vaiyapuri Anna, that Punjusami Anna will have to look for restitution. To this, I conceive, he (Punjusami Anna) has legal right.

6. I would, in conclusion, beg to observe that as the Government have been no party to the proceedings to which the order of the Civil Judge refers, they will not be permitted to move the High Court for a re-consideration of the order of that Court by which that of the Civil Court stands confirmed, but the Petitioner may, if he choose to do so, though it appears to me more than doubtful whether, at this distance of time, an application for review under Sections 376 and 377 of the Code of Civil Procedure would be entertained.

ENCLOSURE No. 1.

Statement made before me by VYTHINATHIEN, Agent of Subbaramaiyan.

I am fully empowered by Subbaramaiyan to come to an arrangement for the adjustment of his claim upon the Government in the matter of certain lands, of which he was the purchaser at an auction presided over by a Government servant and of which he has since been by the order of the Civil Court dispossessed. I am not willing to accept on his behalf the proportionate value of the land of which he has been dispossessed, viz., Rupees 2,484-12-2, the land of which he was dispossessed was the best portion of the land purchased by him, and though the above sum is the proportion which the value of that land bear to the actual amount paid for the whole land purchased, yet it does not give the just and proper value of the land of which my client has been dispossessed the only adjustment of his claim which I, on his behalf, am willing to accept is either that the land of which he has been dispossessed should be returned to him, or else that other land of the same extent, and of the same quality, should be made over to him in some other place in the village of Adambar. I am also willing to accept a third alternative, or an adjustment in full of his claim on Government, viz., that the whole amount paid by Subbaramaiyan, viz., Rupees 4,000, should be refunded to him, he at the same time agreeing to make over to Government that portion of the land purchased by him, which still remains in his possession, his additions, however, to the Rupees 4,000 above mentioned my client would require that interest at the rate of 12 per cent. per annum on the proportionate value of the land of which he has been dispossessed, should be paid him from the date on which he was dispossessed of the land.

(ஒ) சுப்பராயனிடத்தில் முஹித்தற்றமாபெத்தகாரியம் வயித்தினதயன்.

Given before me the eleventh day of March 1865 at Negapatam.

NEGAPATAM,
11th March 1865.

(Signed) C. G. PLUMER,
Acting Sub-Collector.

(True Copy.)

(Signed) W. M. CADELL,
Collector.

ENCLOSURE No. 2.

From C. G. PLUMER, Esq., Acting Sub-Collector of Tanjore, to W. M. CADELL, Esq., Collector of Tanjore, dated Negapatam, 13th March 1865, No. 63.

1. With reference to your letter of the 28th ultimo, No. 220, I have the honor to inform you that I have been using my best endeavours to procure the attendance of Subbaramaiyan before me, but without success, his father lately died, and the usual ceremonies will occupy him for some twelve or fourteen days; on Saturday last his agent, who represented that he had full authority to treat for an adjustment of his client's claim upon Government, appeared before me, and being unwilling to delay any longer replying to your letter, I took from him the enclosed statement.

2. From this you will observe that Subbaramaiyan (supposing the agent correctly states his views) refuses to accept the proportionate value of the land of which he was dispossessed as a full adjustment of his claims; he proposes the three following modes of settlement. First, that Government should give him back the very land of which he was dispossessed; secondly, that if this is not possible, Government should make over to him land of an equal extent and similar quality in the village of Adambar; or thirdly, that Government should receive from him the remainder of the land purchased by him, and of which he still retains possession, paying him the purchase money in full, viz., Rupees 4,000, with interest at the rate of 12 per cent. per annum on the proportionate value of the land of which he was dispossessed from the date of his giving up possession.

3. On these three terms only will he treat, and it remains, therefore, for the Board of Revenue to decide whether they will accept either of them, or whether they will leave Subbaramaiyan to seek his remedy elsewhere.

4. I enclose a statement showing the proportion the value of the land of which Subbaramaiyan has been dispossessed bears to the total amount of the purchase money paid by him.

(True Copy.)

(Signed) W. M. CADELL,
Collector.

ENCLOSURE 1 in No. 2.

From C. G. PLUMER, Esq., Acting Sub-Collector of Tanjore, to W. M. CADELL, Esq., Collector of Tanjore, dated Camp Thittacherry, 22nd February 1865, No. 43.

1. In reply to your letter of the 13th instant, No. 166, enclosing a copy of Proceedings of the Board of Revenue, dated the 15th instant, No. 583, I have the honor to inform you that, after due consideration, I am of opinion that the only feasible plan of disposing summarily of the matter referred to, is by the arrangement proposed in paragraph 16 of the Board's Proceedings, viz., to refund to Subbaramaiyan the amount paid for the land, which was afterwards taken away from him by order of the Civil Court, and to attach a sufficient quantity of the land now in Vyapoory Anna's possession to make good the amount so refunded.

2. Vyapoory Anna has lately sold all the land belonging to him to one Prabilanatha Pillai, i. e., the sale bond has been executed, but has not yet come into force; Sammathipattarams have not been issued, and the Mirass and Katchats still remain in the name of Vyapoory Anna. The fact of the sale will not, therefore, prevent us from attaching the land, Vyapoory Anna being still responsible to Government for the kist.

3. Neither of the methods of disposal proposed in paragraphs 18 and 20 of the Board's Proceedings appear to me capable of being carried out.

4. The land in the possession of one man cannot be taken out of his possession, and made over to another except by an order of the Civil Court. The Court that passes the order should itself execute it. If Mr. Bird had intended the remarks made by him in his decision, and to which the Board refer, to have had practical effect, he would, I conclude, have issued the necessary orders on the subject. As he has not done so, I do not think that we can proceed, on a mere expression of opinion, forcibly to dispossess Vyapoory Anna of his land.

5. From what I know of Vyapoory Anna's character, I can safely venture to state that there is not the slightest chance of his being induced to consent to the arrangement suggested by the Board in paragraph 20 of their Proceedings; and this, as the Board remark, could not be carried out without such consent.

6. The only method by which the Board can summarily dispose of this case, other than those already discussed, is to refund to Subbaramaiyan the amount paid by him for the land, and strike that off from the accounts, as irrecoverable balance. This method, however, I do not suppose that the Board would feel disposed to adopt.

7. There is, I should fancy, little doubt of Subbaramaiyan's claim to refund being held valid, should he bring an action against the Government: as the Board are evidently anxious to do full justice to Subbaramaiyan without driving him to this alternative, I think the best mode of rendering him justice, and, at the same time, protecting Government from loss, is to carry out, at once, the first arrangement proposed by the Board.

8. Until I receive further instructions on this subject, I shall abstain from sanctioning any change in the Mirass of the lands now in Vyapoory Anna's possession, and I shall continue to collect the kist from him for the said lands.

(True Copy.)

(Signed) W. M. CADELL,
Collector.

ENCLOSURE 2 in No. 2.

Memorandum showing the particulars of Subbaramaiyan's claims upon Government.

Items.	Extent of land.	Value.
	V. G. M.	RS A. P.
Quantity of land purchased by Subbaramaiyan at the auction	8 16 20	4,000 0 0
Quantity of land of which he was dispossessed by order of Civil Court.	5 9 45⅜	2,484 12 2
Interest upon Rupees 2,484 12-2, at the rate of 12 per cent. per annum for twenty-eight months from 1st November 1862, to 28th February 1865	... ...	*695 11 9

* Interest at the same rate to be paid up to date of payment.

TANJORE,
27th March 1865.

(Signed) C. G. PLUMER,
Acting Sub-Collector.

(True Copy.)

(Signed) W. M. CADELL,
Collector.

The Board resolve to refer the foregoing letter, and the previous* correspondence, for the advice of the Government Pleader. Mr. Dale will find in their Proceedings of the 3rd February last a clear statement of the facts of the case, and of the Board's views as to the way in which the Petitioner's claims might possibly be settled.

* Board's Proceedings, dated 10th June 1864, No. 3,572.
" " " 2nd July " " 4,093.
" " " 21st Sept. " " 6,228.
" " " 3rd Feb. 1865, " 583.

(True Copies and Extract.)

(Signed) C. G. MASTER,
Acting Sub-Secretary.

To C. Dale, Esq., Government Pleader,
with correspondence noted in margin of Proceedings.

Copy to G. L Morris, Esq., Collector of Tanjore.

Exd. J. Wright.

Enclosure Two of No. 2 to the Proceedings of the Board of Revenue dated 2nd June 1865.

Rev: 8494/65

No.

PROCEEDINGS OF THE BOARD OF REVENUE,

Department.

1865.

Dated 2nd June 1865.

No. 2,907.

Referring to the Government Pleader, for advice, letter from the Collector of Tanjore and Previous correspondence on the subject of certain land purchased by Petitioner in No. 4,234 of 1863, and afterwards taken away from him by order of the Civil Court.

Pros: Bd of Rev: No. 3194 of 1865.

Here appears to have been an error committed at the very beginning of the matter reported on these papers.

For the reason annexed by Vyapury Anna, I think the whole of the mans holding should have been attached. Instead of which his name has no pullas disjoined by a "mulla faisal" attached, the Tour-head-ar have concerned himself in what particular fields were sold by Vyapury. He was liable to the whole of Vyapury's formal demands had taken place between him & his brother, accompanied with equally formal Requisitions & Orders taken by the various officers of the Government & Sahib. That course should have been taken, the arrears would have been paid up at once, & subsequently

Exd. J. Wright.

Wright.

I don't see how we can refuse to entertain Mr. Collector's suit brought against him in his official capacity.

he decided in the crucible of a formal action, liable to appeal, through which through & through that may, we shall be able to get out of the difficulties that the E. Bird's drastic measures will undoubtedly make in a province like Tanjore where every Musician knows & breathes perfumes in the atmosphere of Courts & Cutcherries.

When Subramanian the Petitioner has had his petition now under notice, rejected and has brought his suit against the Collector we can put forward such statements as will serve to correct the Civil Judge's mistake. There is no other way of doing this. To pay him Rupees 4000 would be simply to affirm an error & seriously impede the realisation of future arrears of revenue from lakhs of Cultivators through out the Vyapoory district and thereby establish a precedent for Tanjore.

W.H.L.

16/10/65

12F

still in his possession. The purchaser is not disposed to accede to the arrangement proposed in the first part of the 16th Section of the Board's Proceedings, under date the 3rd February 1865, and I am of opinion the proposition to attach other land from that still in Vyapoory Anna's possession could not be legally effected. Some difficulty may arise in settling the amount on which interest should be calculated; but I surmise that will be more easily arranged than the attempt to adjust the value of the land of which he has been dispossessed has proved.

10. The Rupees 4,000 is not a matter of much moment to Government, but if the erroneous decision of the Civil Judge had affected a private individual, the consequences might have been serious, if not ruinous.

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1. Submitted for the consideration and orders of Government, with copies of the papers marginally noted.

Board's Proceedings,	10th June 1864,	No. 3,572.
,,	2nd July 1864,	,, 4,093.
,,	21st September	,, 6,228.
,,	3rd February 1865,	,, 583.
,,	2nd June 1865,	,, 2,907.

2. The Board do not think it necessary to recapitulate the circumstances of the case, as a clear statement of the same will be found in their Proceedings of the 3rd February last. Under the opinion expressed by the Government Pleader in the letter recorded above, they see no other way out of the difficulty than that suggested in paragraph 9 of Mr. Dale's letter, and they accordingly recommend that the sum of Rupees 4,000, paid by Soobaramien for the land which he purchased in 1860, be refunded to him with such interest as may be deemed equitable, on his re-conveying to Government that portion of the land which is still in his possession.

3. The Board can only express their regret that the Government should be placed in such a position through (apparently) the gross mistakes of their own Judges.

(A true Copy and Extract.)

Acting Secretary.

To W. Hudleston, Esq., Acting Secretary to Government, R. D.,
with copy of Board's Proceedings, Nos. 3,572, 4,093, 6,228 of 1864, and 583 and 2,907 of 1865.

Copy to C. Dale, Esq., Government Pleader.
,, to G. L. Morris, Esq., Collector of Tanjore.

Exd. J. Wright.

Rev. 1865. Department
Proc. of Govt for 1866.

No. 3194.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 6th November 1865.

No. 7,106.

From Govt Pro. d/15th August
Lr. 2586.

Submitting for consideration and orders p
pers connected with the right of one Subbr
maniam of Tanjore district to a portion of ce
tain land purchased by him in 1860 and su
sequently taken away from him by an ord
of the Civil Judge; and recommending th
the sum of Rupees 4000 paid by him for t
land be refunded on his re-conveying to Gove
ment the portion still in his possession.

Nr 2856. 22 Nov
Mr. Ramsay

Nr 3754376.

Nr 2856

The Lr. am of opinion that
the proceedings adopt the
means of obtaining redress
he indicates in para 5. of his
letter - viz: by bringing a suit agt
the Collector Tondaman and
Vijayaraga Ammu. before any
question of compensation for
enhancement can be entertained by
Lr. -

in forwarding this suit the
Collr will appear himself or
in his favor. with if necessary
Communicate to the Lr. Govt
on the subject. The investigation
& measurements made in pursuance
of Lr.

22 Nov 65.

Nr 3194/65

Department

OF REVENUE

on certain l
renue.