

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 196	Press ~~Mis.~~
385: 386	
Dated	23 - 1 - 1866.

Not to be folded or roughly handled

Revenue Department,
Proceedings of the Madras Council

No. 385. Read the following Proceedings of the Board of Revenue, dated 5th January 1866, No. 56.

Read the following letter from the Government Pleader to the Secretary to the Board of Revenue, dated Madras, 13th December 1865, No. 179:—

In continuation of the letter which I had the honor of addressing to the Acting Secretary to the Board, under the date and number noted in the margin 16th November 1865, No. 166.

I do myself the honor of forwarding manuscript copies of the Judgment and Decree passed by the High Court in Regular Appeal Suit No. 58 of 1864, as also copy of an order in Regular Appeal Suit (cross appeal) No. 61 of 1864, on the files of the High Court, dismissing such cross appeal without costs.

In the High Court of Judicature at Madras.

Thursday, the Sixteenth day of November, One Thousand Eight Hundred and Sixty-five.

Present.

The Honorable Mr. Justice FREER and the Honorable Mr. Justice HOLLOWAY.

Regular Appeal No. 58 of 1864.

Collector of Kistna District, Appellant, (First Defendant.)

Versus

Kanukolanu Naganna, Respondent, (Plaintiff.)

Regular Appeal No. 61 of 1864.

K. Naganna, Appellant, (Plaintiff.)

Versus

Collector of Kistna District, Respondent, (First Defendant.)

Regular appeals against the Decree of the Civil Court of Guntur, in Original Suit No. 30 of 1863.

These regular appeals coming on for hearing, the Court delivered the following:—

Judgment.

1. In this case the Plaintiff sues for the recovery of certain land, which he alleges to have been thrown up by the river Kistna, and to be his property as having formed itself upon the site of Inám land which had formerly disappeared.
2. We heard Mr. Dale, on behalf of the Collector and the Plaintiff in person. All the objections made to the Judgment of the Court below were explained to him, and he combated them with considerable acuteness.
3. It is quite clear to us, however, that there was no case whatever upon which the Lower Court could properly make the decree appealed against.
4. First, as to the law of limitations, the evidence for the defence shews that the land here claimed, has been cultivated by the villagers of Machavaram, and assessed since the year 1849. This evidence is opposed to that of the fourth witness for Plaintiff who says, although with some hesitation, that 1852 is the year in which that enjoyment as assessable land commenced. The Current of Machavaram, Plaintiff's first witness, however, entirely confirms the evidence for the defence, which is quite specific, and is supported by accounts shewing acts in accordance with the evidence given.
5. The Plaintiff urges, as preventing the operation of the statute, his proceedings before the Collector, the Board of Revenue, and the Inám Commissioner. It is quite clear that these proceed-

Proceedings in the Court of the Revenue Department,

ings had been brought up, and at the latest began to run in 1849-50, this suit being brought in 1862.

We have, however, permitted the Plaintiff to state the grounds of his claim, and it is clear that there is no evidence whatever that the land here thrown up was the land of the Government submerged, or had any connection with it. The land which the Plaintiff possesses is the land which he claimed on the other side of the river, and when this was pointed out to the Plaintiff, his answer was that it was his, because the whole bed of the river is his Inam. It is needless to say that the claim of property in the bed of a tidal and navigable river is quite unsustainable both on the general principles of justice and on the express decision (1).

(1) Dec. U. E. I. Co X Mo. P. C. 140.

7. It is quite clear that the decree of the Lower Court must be reversed, and the Original Suit dismissed with costs.

8. This Judgment also disposes of 61 of 1864, in which the present Plaintiff was the Appellant, but there will be no costs in that appeal.

(A true Copy.)

Registrar,
Appellate Side.

ENCLOSURE No. 2.

ABSTRACT.—Reversing the Decree of the Civil Court of Guntur, and dismissing the Original Suit with costs.

ENCLOSURE No. 3.

ABSTRACT.—Order of High Court in Regular Appeal Suit (cross appeal), No. 60 of 1864.

Submitted for the information of Government, with reference to Government Order, dated 8th December 1865, No. 2,995, and communicated to the Acting Collector of the Kistna District.

No. 386.

ORDER THEREON, 23rd January 1866, No. 196.

Miscellaneous.

Ordered to be recorded.

(True Extract.)

Acting Under Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

Revenue Department

PROCEEDINGS OF THE

Read the following letter from C. L. L. Esq., Secretary to the Board of Revenue, dated Madras, 13th December 1865, No. 79:—

In continuation of the letter which I had the honor of addressing to the then Acting Secretary to the Board, under the date and number 16th November 1865, No. 166.

In the margin, I do myself the honor of enclosing manuscript copies of the Judgment and Decree passed by the High Court in Regular Appeal Suit No. 58 of 1864, as also copy of an order in Regular Appeal Suit (cross appeal) No. 61 of 1864 on the files of the High Court, dismissing such cross appeal without costs.

ENCLOSURE No. 1.

In the High Court of Judicature at Madras.

Thursday, the Sixteenth day of November, One Thousand Eight Hundred and Sixty-five.
Present.

The Honorable Mr. Justice FRERE and the Honorable Mr. Justice HOLLOWAY.

Regular Appeal No. 58 of 1864.

Collector of Kistna District, Appellant, (First Defendant,)

Versus

Kanukolanu Naganna, Respondent, (Plaintiff.)

Regular Appeal No. 61 of 1864.

K. Naganna, Appellant, (Plaintiff,)

Versus

Collector of Kistna District, Respondent, (First Defendant.)

Regular appeals against the Decree of the Civil Court of Guntur, in Original Suit No. 30 of 1863.

These regular appeals coming on for hearing, the Court delivered the following Judgment.

1. In this case the Plaintiff sues for the recovery of certain land, which he alleges to have been thrown up by the river Kistna, and to be his property as having formed itself upon the site of Inam land which had formerly disappeared.

2. We heard Mr. Dale on behalf of the Collector and the Plaintiff in person. All the objections made to the judgment of the Court below were explained to him, and he combated them with considerable acuteness.

3. It is quite clear to us, however, that there was no case whatever upon which the Lower Court could properly make the decree appealed against.

4. First, as to the law of limitations, the evidence for the defence shows that the land here claimed, has been cultivated by the villagers of Machavaram and assessed since the year 1819. This evidence is opposed to that of the fourth witness for Plaintiff who says, although with some hesitation, that 1852 is the year in which that enjoyment as assessable land commenced. The Curnum of Machavaram, Plaintiff's first witness, however, entirely confirms the evidence for the defence, which is quite specific, and is supported by accounts showing acts in accordance with the evidence given.

5. The Plaintiff urges, as preventing the operation of the statute, his proceedings before the Collector, the Board of Revenue, and the Inam Commissioner. It is quite clear that these proceedings had no effect upon the statute, which at the latest began to run in 1849-50, this suit being brought in 1862.

6. We have seen the grounds of his claim, and it is quite clear that the land here thrown up was the land of Plaintiff and that claimed on the other side of the river, and when this was pointed out to the Plaintiff his answer was that it was his, because the whole bed of the river is his Inam. It is to say that the claim of property in the bed of a tidal and navigable river is quite unsustainable both on the general principles of jurisprudence and express decision (1).
(1) Dec. U. E. I. Co X Mo. C. 140.

7. It is quite clear that the decree of the Lower Court must be reversed, and the Original suit dismissed with costs.

8. This Judgment also disposes of 61 of 1864, in which the present Plaintiff was the appellant, but there will be no costs in that appeal.

(A true Copy.)

Registrar,
Appellate Side.

ENCLOSURE No. 2.

ABSTRACT.—Reversing the Decree of the Civil Court of Guntur, and dismissing the Original Suit with costs.

ENCLOSURE No. 3.

ABSTRACT.—Order of High Court in Regular Appeal Suit (cross appeal), No. 60 of 1864.

Submitted for the information of Government with reference to Government Order, dated 8th December 1865, No. 2, 33, and communicated to the Acting Collector of the Kistna District.

(True Copies and Extract.)

Secretary.

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

with three enclosures.

Copy to T. A. N. Chase, Esq., Acting Collector of the Kistna District,
" to C. Dale, Esq., Government Pleader.

Exd. J. Wright.

RECORDED.

Submitting for information letter from the Government Pleader forwarding copies of Judgment and Decree passed by the High Court in R. A. Suit No 58 of 1864 and a copy of an order in R. A. Suit No 61 of 1864 regarding certain lands in Kistna district.

No. 58.

Dated 5th January 1866.

PROCEEDINGS OF THE BOARD OF REVENUE,

No. 97.

1866.

Department.

Revenue Department