

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 244	Press <u>Mis.</u>
482.483	
Dated 29-1-1866.	

Not to be folded or roughly handled

Third Defendant denies Plaintiff's alleged jenm right, and asserts that he purchased the hills from Mr. Frank Richmond, the Trustee of the Estate of the late Mr. Richmond, and not from first Defendant.

Fourth Defendant affirms that the hills formed part of the property which belonged to the Payshi Rajah, whose property was confiscated for acts of rebellion, and the hills consequently escheated to Government.

Fifth, sixth, and seventh Defendants did not answer. The case coming on for hearing, the following issues were settled :—

Plaintiff affirms, and first, second, third, and fourth Defendants deny, that the hills in dispute

1867 The Plaintiff's Jenm right is vested in the Plaintiff's Bhagavadi Devasom, as affirmed by him, or in the Trishaleri Devasom, as asserted by first, second, and third Defendants, or in the Government, as contended by fourth Defendant.

Plaintiff's Exhibits.

A. Attested copy of a Proclamation issued by Mr. James Vaughan, the Collector of Malabar, showing that only the property specified therein, and which is situate at Kottayom Taluk, Kuttiadi, and Wynad Taluk, belongs to Government.

To rebut fourth Defendant's allegation.

Dated 26th Karkedagom 998 (9th August 1822).

B. Kychit by deceased Plaintiff to Mukatumpretta Kunhi Paeki and another, the Cardamom Contractors, showing that the Vadijor Hill No. 2, entered in it under No. 2, is Plaintiff's jenm.

To prove that the Hill No. 2 belongs to Government.

Dated 22nd Tulam 1023 (5th November 1852).

C. Do. by do. to do., in accordance with the purport of exhibit B.

Dated 12th Tulam 1023 (27th October 1853).

D. Do. by do. to do. do.

Dated 27th Tulam 1030 (11th November 1854).

E. Do. by do. to Avokarmolandeagata Kunhi and another, the Cardamom Contractors, showing that the Hill No. 2, and entered under No. 1, is jenm.

Do.

Do.

Do.

Third Defendant's Exhibit.

I. Kudima jenm deed by Keyekavittil Chulapani Variar, Pattoli of Trishaleri Pagoda, to Mr. W. F. Richmond, assigning to him, on Kudima jenm tenure, the southern portion of the Narinerangui Hill, for Rupees 450.

To prove that the hill belongs to Trishaleri Devasom.

Dated 8th Danu 1032 (20th December 1856).

- 29-1-66
482-53
- Plaintiff's Witnesses.*
1. Naduvillevittil Vadakedata Chapu Nair.
 2. Kochat Pudiavittil Odenan Nair.
 3. Peruvaka Kypravan Anandan.
- To prove the plaint.

First and second Defendants cited no Witnesses.

- Third Defendant's Witnesses.*
1. Nandot Krishnan.
 2. Mr. X. Affonso.
- To prove that the hill belongs to the Trishaleri Devasom.

Fourth Defendant's Witnesses.

Parakemittel Suban Pattar.

To prove the defence.

JUDGMENT.

1. The Plaintiff claims restoration of the above-mentioned hills, with arrears of rent, on the ground that they are the jenm of his Vadiyur Bhagavadi Devasom. His claim is disputed by first and fourth Defendants, of whom the former asserts that the hills are the jenm of his Trishaleri Devasom, and the latter that they are Government escheat.

2. We should, in the first place, proceed to consider what evidence has been adduced by Plaintiff to prove his proprietary right to the hills, which are acknowledged to be in the possession of other parties.

3. Plaintiff's exhibit A, is an attested copy of a proclamation issued by the late Collector of Malabar, dated 26th Karkedagom 998, (9th August 1822,) showing the particulars of property belonging to Government, and situated at Kottayom and Wynad Taluks, as well as at Kuttiadi. The Plaintiff argues, from the non-insertion in this voucher of the names of hills now under litigation, that the Government have no claim thereon, but the Court would remark that it does not necessarily follow, from the omission noticed, that the proprietary right of the hills is vested in Plaintiff.

4. B to E were executed by the deceased Plaintiff himself. Any allusion made in them to his own jenm right, is no conclusive evidence in support of it. These exhibits have not been proved.

5. The oral testimony of Plaintiff's witnesses is vague and unsatisfactory, and I have no doubt that it has been prepared for the purposes of this suit. Second witness deposes that he saw Plaintiff and their ancestors collect the produce of the hills for these fifty years; but in giving this evidence, he lost sight of the fact that they could not collect any from such parts of the hills as have been cultivated since 1030, (1854-55,) or for these ten years. The same remark applies to the testimony of third witness. The first witness is no doubt much more cunning than the second and third witnesses, for, he deposes that he merely witnessed the collection of the hill produce from 1020 (1844-45) to 1029 (1853-54).

6. The first Defendant has adduced no proof whatever.

7. In my opinion the Supplemental Plaintiff has failed to prove his proprietary right to the hills sued for, and I therefore, without entering into the evidence adduced by fourth Defendant, proceed to dismiss the suit, with costs against Plaintiff.

(Signed) F. P. PEREIRA,
Principal Sudder Amin.

(True Copy.)

(Signed) G. A. BALLARD,
Collector.

No. 2.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 3rd January 1866.

Read the following letter from G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Calicut, 12th December 1865, No. 264:—

Collector to Board of Revenue, 1st December 1865, No. 259A.
Board of Revenue, 22nd " " " 8,128.
Government Order 24th " " " 2,361.
Received with Board's Proceedings, dated 31st December 1865, No. 8,153.

Adverting to the correspondence noted, I have the honor to forward, for the information of the Board, copy of a Decree passed by the Original Suit No. 37 of 1862.

ENCLOSURE No. 1.

Decree of the Court of the Principal Sudder Amin of Tellicherry.

Original Suit No. 37 of 1862.

In the Court of the Principal Sudder Amin.

Present.—Mr. F. P. PEREIRA, Principal Sudder Amin.

Plaintiffs.

Defendants.

1. Tindumel Odenan Nambiar, Urallen of the Vadiyur Bhagavadi Devasom (dead).
1. Kavumpretta Shangaren Namboodri, Urallen of the Trishaleri Devasom.

Supplemental Plaintiff.

2. Edavaletta Govina Marayan.

Tindumel Kanaren Nambiar, by Vakil Paidel Menon.

3. Mr. F. R. Richmond.

Supplemental Defendants.

4. G. A. Ballard, Esq., Collector of Malabar.

5. Kalpatigramom Vytianatan Patter.

6. Vadeke Munatil Raghavavariar (dead).

7. Puykalivittil Achudavariar.

1st.—By Vakil Ramayan, but since discontinued.

2nd.—By Vakil Kottiyatta Rama Menon.

3rd.—By Vakil Ramunni.

4th.—By Vakil Amboo Polwal, and since continued by Vakil Ramayan.

Suit for setting aside the first Defendant's alleged jenm right to the two undermentioned hills, valued at Rupees 6,375, and for recovering Rupees 1,875, as arrears of rent upon payment of Rupees 4,375, as value of Kuyikanom.

Schedule.

No.	Names of Hills.	Boundaries.			
		East.	South.	West.	North.
1	Narinerangui Hill.	Mundakuti.	The Peak of Ambala Hill.	The Peak of Kan-non Hill.	The Peak of Keepullachi Hill.
2	Vaderi alias Narinerangui Hill.	Payan water-course and high road leading to Coorg.	Vaderi land and Mundakuti water-course.	Mundakuti water-course and Peak of Keepullachi Hill.	The Peak of the Vali Narinerangui Hill.

DECREE.

Ordered that this Suit be dismissed with costs against Plaintiff.

Costs.				RS.	A.	P.
Stamp duty on institution	...	...	...	250	0	0
Fee of Plaintiff's Pleader	...	...	...	277	8	0
Do. of second Defendant's Pleader	...	...	...	277	8	0
Do. of third do.	...	...	...	277	8	0
Do. of fourth do.	...	...	...	277	8	0
Value of Stamps filed by Plaintiff	...	...	...	277	8	0
Do. do. by first Defendant	...	...	...	6	0	0
Do. do. by second do.	...	...	...	1	0	0
Do. do. by third do.	...	...	...	1	0	0
Do. do. by fourth do.	...	...	...	1	0	0
Expenses incurred by Plaintiff in serving processes.	...	...	...	2	0	0
Do. by third Defendant in do.	...	...	...	7	14	0
Do. by fourth Defendant in do.	...	...	...	6	0	0
Do. witnesses	...	...	...	4	0	0
Do. by Plaintiff in surveying property.	...	...	...	22	5	0
Total...				1,411	3	0

Bill of Complaint 1, Notices 5, Proclamations 3, Vakalatnamahs 7, Statements 4, Supplemental Petitions 2, Points of proof 1, Lists of Witnesses 3, Plaintiff's documents 5, and copies thereof 4, Deposition of Plaintiff's witnesses 3, ditto of third Defendant's witnesses 2, ditto of fourth Defendant's Witness 1, third Defendant's document 1, and copy thereof 1, Summonses 3, Batta Receipt 1, Nazir's Report 1, Order to Amin with his answer thereto 1, Accounts 1, Paper of Oath 1, Statement of fourth Defendant's Vakil 1, Deposition of Plaintiff's Vakil 1, ditto of Defendant's Vakils 3, Miscellaneous Petitions, Nos. 418, 601 of 1862, and 104, 140, 259, 373, 760, and 824 of 1863, 8, Orders by the Collector of Malabar to the Vakil 2, Abstract of the examination of Witnesses 3.

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.

Given under my hand and the seal of the Court this 13th day of September 1865.

(Signed) F. P. PEREIRA,
Principal Sudder Amin.

Original Suit No. 37 of 1862.

In the Court of the Principal Sudder Amin of Tellicherry.

Present.—Mr. F. P. PEREIRA, Principal Sudder Amin.

Suit for setting aside the first Defendant's alleged jenm right to the aforesaid two hills, valued at Rupees 6,375, and for recovering Rupees 1,875, as arrears of rent upon payment of Rupees 4,375, as value of Kuyikanom.

Plaint recites that the hills are the jenm of Plaintiff's Vadiyur Bhagavadi Devasom; that the first Defendant's father, the late Vasudevan Namboodri, on the plea that the hills were the jenm of his Trishaleri Devasom, let the Hill No. 1, to second Defendant, on simple lease in 1031 (1855-56), and No. 2, to third Defendant, on Kudima tenure in 1035 (1859-60); that the rent of the Hill No. 1 from 1035 (1859-60), at Rupees 500 yearly, comes to Rupees 1,500, and of the Hill No. 2 for 1037 (1861-62), is Rupees 375.

First Defendant affirms that the hills belong to his Trishaleri Devasom; that the Plaintiff has no right thereto; that his (first Defendant's) deceased father did not let them to the second or third Defendants on any tenure whatever; and that No. 1 is called Umballa Hill, and No. 2 Narinerangui.

Second Defendant contends that he, jointly with fifth Defendant's younger brother, the deceased Soobramanien Patter, and sixth Defendant, obtained a portion of the Hill No. 1, measuring fifty cawnies, from Vasu Devan Namboodri, the Urallen of the Trishaleri Devasom, in virtue of a Karar, dated 1031 (1855-56); that they and their tenants have hitherto managed the land and discharged the Porapad; that it is not usual to pay a rent of five Rupees for every cawny of ground; and that the property has been under-valued.

Proceedings of the Madras Government, Revenue Department, 29th January 1866.

No. 482. Read the following Proceedings of the Board of Revenue, dated 3rd January 1866, No. 2.

Read the following letter from the Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 12th December 1865, No. 264 :—

Adverting to the correspondence noted, I have the honor to forward, for the information of the Board, copy of a Decree passed by the Principal Sudder Ameen of Tellicherry, in Original Suit No. 37 of 1862.

Decree of the Court of the Principal Sudder Ameen of Tellicherry.
Original Suit No. 37 of 1862.

In the Court of the Principal Sudder Ameen.

Present.—Mr. F. P. PEREIRA, Principal Sudder Ameen.

Plaintiffs.

Defendants.

1. Tindumel Odenan Nambiar, Urallen of the Vadiyur Bhagavadi Devasom (dead).
1. Kavampretta Shangaren Namboodri, Urallen of the Trishaleri Devasom.
2. Edavaletta Govina Marayan.
3. Mr. F. R. Richmond.
2. Tindumel Kanaren Nambiar, by Vakeel Paidel Menon.

Supplemental Plaintiff.

Supplemental Defendants.

4. G. A. Ballard, Esq., Collector of Malabar.
5. Kalpatigramom Vytianatan Patter.
6. Vadeke Manatil Raghavariar (dead).
7. Puykalivittil Achudavariar.
- 1st.—By Vakeel Ramayan, but since discontinued.
- 2nd.—By Vakeel Kottiyatta Rama Menon.
- 3rd.—By Vakeel Ramunni.
- 4th.—By Vakeel Amboo Podwal, and since continued by Vakeel Ramayan.

Suit for setting aside the first Defendant's alleged jenm right to the two undermentioned hills, valued at Rupees 6,375, and for recovering Rupees 1,875, as arrears of rent upon payments of Rupees 4,375, as value of Kuyikanom.

Schedule.

No.	Names of Hills.	Boundaries.			
		East.	South.	West.	North.
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2	Vaderi alias Narinerangui Hill.	Payan water-course and high road leading to Coorg.	Vaderi land and Mundakuti water-course.	Mundakuti water-course and Peak of Keepullachi Hill.	The Peak of the Vali Narinerangui Hill.

DECREE.
Ordered that this suit be dismissed with costs against Plaintiff.

Costs.				Rs.	A.	P.
Stamp duty on institution	...	...	...	250	0	0
Fee of Plaintiff's Pleader	...	...	...	277	8	0
Do. of second Defendant's Pleader	...	...	...	277	8	0
Do. of third do. do.	...	...	...	277	8	0
Do. of fourth do. do.	...	...	...	277	8	0
Value of Stamps filed by Plaintiff	...	...	...	6	0	0
Do. do. by first Defendant	...	...	...	1	0	0
Do. do. by second do.	...	...	...	1	0	0
Do. do. by third do.	...	...	...	1	0	0
Do. do. by fourth do.	...	...	...	2	0	0
Expenses incurred by Plaintiff in serving processes	...	...	...	7	14	0
Do. by third Defendant in do.	...	...	...	6	0	0
Do. by do. for the attendance of his witnesses	...	...	...	4	0	0
Do. by Plaintiff in surveying property...	...	...	...	22	5	0
Total...				1,411	0	0

Bill of Plaintiff 1, Notices 5, Proclamations 3, Vakalutnamahs 7, Statements 4, Supplemental Petitions 2, Points of proof 1, Lists of Witnesses 3, Plaintiff's documents 5, and copies thereof 4, Deposition of Plaintiff's witnesses 3, ditto of third Defendant's witnesses 2, ditto of fourth Defendant's Witness 1, third Defendant's document 1, and copy thereof 1, Summonses 3, Batta Receipt 1, Nazir's Report 1, Order of Ameen with his answer thereto 1, Accounts 1, Paper of Oath 1, Statement of fourth Defendant's Vakeel 1, Deposition of Plaintiff's Vakeel 1, ditto of Defendant's Vakeels 3, Miscellaneous Petitions, Nos. 448, 601 of 1865 and 104, 140, 259, 373, 760, and 824 of 1863, 8, Orders by the Collector of Malabar to the Vakeel 2, Abstract of the examination of Witnesses 3.

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.

Given under my hand and the seal of the Court, this 13th day of September 1865.

(Signed) F. P. PEREIRA,
Principal Sudder Ameen.

Original Suit No. 37 of 1862.

In the Court of the Principal Sudder Ameen of Tellicherry.

Present.—Mr. F. P. PEREIRA, Principal Sudder Ameen.

Suit for setting aside the first Defendant's alleged jenm right to the aforesaid two hills, valued at Rupees 6,375, and for recovering Rupees 1,875, as arrears of rent upon payment of Rupees 4,375, as value of Kuyikanom.

Plaint recites that the hills are the jenm of Plaintiff's Vadiyur Bhagavadi Devasom; that the first Defendant's father, the late Vasudevan Namboodri, on the plea that the hills were the jenm of his Trishaleri Devasom, let the Hill No. 1, to second Defendant, on simple lease in 1031 (1855-56), and No. 2, to third Defendant, on Kudima tenure in 1035 (1859-60); that the rent of the Hill No. 1, from 1035 (1859-60), at Rupees 500 yearly, comes to Rupees 1,500, and of the Hill No. 2 for 1037 (1861-62), is Rupees 375.

First Defendant affirms that the hills belong to his Trishaleri Devasom; that the Plaintiff has no right thereto; that his (first Defendant's) deceased father did not let them to the second or

third Defendants on any tenure whatever; and that No. 1 is called Umballa Hill, and No. 2 Narinerangui.

Second Defendant contends that he, jointly with fifth Defendant's younger brother, the deceased Soobramanien Patter, and sixth Defendant, obtained a portion of the Hill No. 1, measuring fifty cawnies, from Vasudevan Namboodri, the Uralen of the Trishaleri Devasom, in virtue of a Karar, dated 1031 (1855-56); that they and their tenants have hitherto managed the land and discharged the Porapad; that it is not usual to pay a rent of five Rupees for every cawny of ground; and that the property has been under-valued.

Third Defendant denies Plaintiff's alleged jenm right, and asserts that he purchased the hills from Mr. Frank Richmond, the Trustee of the Estate of the late Mr. Richmond, and not from first Defendant.

Fourth Defendant affirms that the hills formed part of the property which belonged to the Payshi Rajah, whose property was confiscated for acts of rebellion, and the hills consequently escheated to Government.

Fifth, sixth, and seventh Defendants did not answer. The case coming on for hearing, the following issues were settled:—

Plaintiff affirms, and first, second, third, and fourth Defendants deny, that the hills in dispute are the jenm of Plaintiff's Tindumel Vadiyur Bhagavadi Devasom.

The issue, therefore, is whether the jenm right is vested in the Plaintiff's Bhagavadi Devasom, as affirmed by him, or in the Trishaleri Devasom, as asserted by first, second, and third Defendants, or in the Government, as contended by fourth Defendant.

Plaintiff's Exhibits.

A. Attested copy of a Proclamation issued by Mr. James Vaughan, the Collector of Malabar, shewing that only the property specified therein, and which is situate at Kottayom Talook, Kuttiadi, and Wynaad Talook, belongs to Government.

To rebut fourth Defendant's allegation.

Dated 26th Karkedagom 998 (9th August 1822).

B. Kychit by deceased Plaintiff to Mukatumpretta Kunhi Packi and another, the Cardamom Contractors, shewing that the Vadiyur Hill No. 2, entered in it under No. 8, is Plaintiff's jenm.

To prove that the Hill No. 2 does not belong to Government.

Dated 22nd Tulam 1023 (5th November 1852).

C. Do. by do. to do., in accordance with the purport of exhibit B.

Do.

Dated 12th Tulam 1029 (27th October 1853).

D. Do. by do. to do. do.

Do.

Dated 27th Tulam 1030 (11th November 1854).

E. Do. by do. to Avokarmolandagata Kunhi and another, the Cardamom Contractors, shewing that the Hill No. 2, and entered under No. 1, is jenm.

Do.

Third Defendant's Exhibit.

I. Kudima jenm deed by Keyekivittil Chulapani Variar, Pattoli of Trishaleri Pagoda, to Mr. W. F. Richmond, assigning to him, on Kudima jenm tenure, the southern portion of the Narinerangui Hill, for Rupees 450.
Dated 8th Danu 1032 (20th December 1856).

To prove that the hill belongs to Trishaleri Devasom.

Plaintiff's Witnesses.

1. Naduvillevittil Vadakedata Chapu Nair.
2. Kochat Pudiavittil Odenan Nair.
3. Peruvaka Kypravan Anandan.

To prove the plaint.

First and second Defendants cited no Witnesses.

Third Defendant's Witnesses.

1. Nandot Krishnan.
2. Mr. X. Affonco.

To prove that the hill belongs to the Trishaleri Devasom.

Fourth Defendant's Witnesses.

Parakemittel Suban Pattar.

To prove the defence.

JUDGMENT.

1. The Plaintiff claims restoration of the above-mentioned hills, with arrears of rent, on the ground that they are the jenm of his Vadiyur Bhagavadi Devasom. His claim is disputed by first and fourth Defendants, of whom the former asserts that the hills are the jenm of his Trishaleri Devasom, and the latter that they are Government escheat.

2. We should, in the first place, proceed to consider what evidence has been adduced by Plaintiff to prove his proprietary right to the hills, which are acknowledged to be in the possession of other parties.

3. Plaintiff's exhibit A, is an attested copy of a proclamation issued by the late Collector of Malabar, dated 26th Karkedagom 998, (9th August 1822,) shewing the particulars of property belonging to Government, and situated at Kottayom and Wynaad Talooks, as well as at Kuttiadi. The Plaintiff argues, from the non-insertion in this voucher of the names of hills now under litigation, that the Government have no claim thereon, but the Court would remark that it does not necessarily follow, from the omission noticed, that the proprietary right of the hills is vested in Plaintiff.

4. B to E were executed by the deceased Plaintiff himself. Any allusion made in them to his own jenm right, is no conclusive evidence in support of it. These exhibits have not been proved.

5. The oral testimony of Plaintiff's witnesses is vague and unsatisfactory, and I have no doubt that it has been prepared for the purposes of this suit. Second witness deposes that he saw Plaintiffs and their ancestors collect the produce of the hills for these fifty years; but in giving this evidence, he lost sight of the fact that they could not collect any from such parts of the hills as have been cultivated since 1030, (1854-55,) or for these ten years. The same remark applies to the testimony of third witness. The first witness is no doubt much more cunning than the second and third witnesses, for, he deposes that he merely witnessed the collection of the hill produce from 1020 (1844-45) to 1029 (1853-54).

6. The first Defendant has adduced no proof whatever.

7. In my opinion the Supplemental Plaintiff has failed to prove his proprietary right to the hills sued for, and I therefore, without entering into the evidence adduced by fourth Defendant, proceed to dismiss the suit, with costs against Plaintiff.

(Signed) F. P. PEREIRA,
Principal Sudder Ameen.

(True Copy.)

(Signed) G. A. BALLARD, Collector.

1. Submitted for the information of Government, with reference to their Order, dated 24th December 1863, No. 2,364.

2. The Government will perceive that the suit has been dismissed with costs against the Plaintiff, on the ground that he failed to establish his right to the Hills in question.

No. 483.

ORDER THEREON, 29th January 1866, No. 244.

Miscellaneous.

Ordered to be recorded.

(True Extract.)

(Signed) J. GROSE,
Acting Under Secretary to Government.

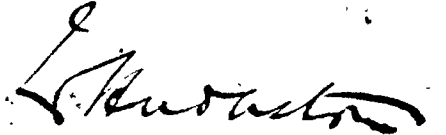
To the Board of Revenue.

Erd. S. T. Augustia.

1. Submitted for the information of Government, with reference to their Order, dated 24th December 1863, No. 2,364.

2. The Government will perceive that the suit has been dismissed with costs against the Plaintiff, on the ground that he failed to establish his right to the Hills in question.

(True Copies and Extract.)


Secretary.

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

Copy to G. A. Ballard, Esq., Collector of Malabar.

Ed. J. Wright

No 94 Considered Feb 6th 1897 - 2798

Dec 2, 1866. Department.
 Dear Mr. Fordham:

No. ~~77~~ -

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 3rd January 1866.
Simpson - do -
22.2.82.

No. 2.

Submitting for information letter from the Collector of Malabar forwarding Decree of Principal Suddar Ameen of Tellicherry in Suite No 37 of 1862 for the restoration of two hills.

88-7204
Pearl

Wm. 20 Aug 1888

No 482 V483.

27 Aug 1961

14 Feb Board of Rec Res 31st Jan'y