M.R.O. 14—18,000—57-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 3464 Press ~~Mis.~~

416-417

Dated 21- 12 — ~~19~~ 1866.

Not to be folded or roughly handled

in 3464

Proceedings of the Madras Government, Revenue Department, 21st December 1866.

No. 416. Read the following Proceedings of the Board of Revenue, dated 14th December 1866, No. 8,858 :—

Read again Proceedings of the Board of Revenue, dated 3rd Nov. 1866, No. 7,982.

Do. do. dated 8th idem, No. 8,109.

Do. do. dated 12th idem, No. 8,167.

Read also the following letter from the Collector of Madura, to the Secretary to the Board of Revenue, dated 1st December 1866, No. 392.

With reference to the correspondence noted in the margin, I have the honor to submit, herewith, for the information of the Board, copy of a Motion presented to the Civil Court on my behalf, objecting to the enforcement of the Decree passed in Original Suit No. 1 of 1860, on the file of the said Court, as well as copy of an Order passed thereon.

Proceedings of the Board, No. 7,982, dated 3rd November 1866.
Do. do. No. 8,167, dated 12th November 1866.

Motion presented to the Civil Court of Madura by the second Defendant in Original Suit No. 1 of 1860, *on the file of the said Court.*

1. The second defendant respectfully submits, for the consideration of your Honorable Court, the following reasons under which the assistance of the Court, applied for by the plaintiff for the enforcement of the decree, cannot be granted.

2. The relief prayed for by the plaintiff in the above suit, was, " that the said Zemindary, " together with all its appurtenances, yielding annually a beriz of Rupees 5,55,000, assessed at " Rupees 3,24,444-3-10, and priced about Rupees 55,50,000, may be adjudged to the plaintiff."

3. The decree in that suit was couched in the following terms :—" The Court decrees that " the order of the Collector, dated the 15th November 1855, and those to the Alam Amildar and " Head of Police, dated 3rd idem, referred to therein, directing them to suft the Zemindary and " all the property appertaining thereto for Government on the first defendant's demise be cancelled, " and that the second defendant, having failed altogether to establish any right to interfere with " the estate, or question the acts of the first defendant in respect to it, do abstain from such inter- " ference, and that the first defendant, subject to the provisions of Hindu Law, and Section 8, " Regulation XXV. of 1802, can assign and transfer, without the previous consent of the second " defendant, or of any other authority, to the plaintiff, or whomsoever she may think proper, by " sale, gift, or otherwise, her proprietary right in the Ramnad Zemindary."

4. By the application of the plaintiff above alluded to, the plaintiff in the last column states, that the assistance " of the Court is required for the following purposes." " That the second " defendant may be directed to register the Zemindary of Ramnad in the name of the plaintiff, in " whose possession it was placed by the first defendant ; that a receipt may be granted in the " name of the plaintiff for the amount of peishcush paid in by him ; and that the second defendant " may not be allowed to offer any let or hinderance to the performance, by the plaintiff, of the " duties connected with the Zemindary, so far as he (second defendant) is concerned with the " same."

5. It will be observed that the application is totally at variance with the prayer of the plaint and with the terms of the decree ; the assistance now sought, that the Court should compel the Collector to register the Zemindary in the name of the plaintiff, or that receipts for the peishcush should be granted in his name, or that the second defendant may not be allowed to offer any let or hinderance to the performance, by the plaintiff, of the duties connected with the Zemindary, so far as he (second defendant) is concerned with the same, formed no part of the relief he (plaintiff) originally sought, moreover, the decree does not make any order to that effect. The

plaintiff must be left to establish a fresh suit, should he persist in requiring the assistance he now seeks.

6. As regards the granting a receipt in the name of the plaintiff, the second defendant begs to submit that he has no objection to grant receipts in the following form :—" Received by the " payment of Vijaya Ragoonada Mutturamalinga Setupaty the sum of &c., omitting the name of " the Rauni, and not describing him as Zemindar."

7. The second defendant further begs to submit, that an appeal against the decree of the High Court in the case in question, has been preferred to the Privy Council on the part of Government, and is still pending before them.

(True Copy.)

(Signed) V. H. LEVINGE,
Collector.

Extract Proceedings Civil Court, 26th November 1866.

Read M. P., No. 406 of 1866, by Gurusamy Sastry, Vakeel on behalf of Streematoo Mootoo Vizia Regunada Mooturamalinga Saithupathy, plaintiff in Original Suit No. 1 of 1860, praying execution of the decrees passed in his favor by the Civil and High Courts, declaring him to be the adopted son and heir of the late Zemindar, Ramasamy Saithupathy, and as such entitled to the Ramnad Zemindary, and that second defendant may be directed to acknowledge him as such.

Read M. P., No. 471 of 1866, presented by Ramasamy Iyer, Government Vakeel on behalf of second defendant, objecting to the decrees in question being executed for the reasons therein given.

1. The Court finds in the counter-petition of the second defendant no valid grounds for staying execution of the decrees in question; the fact of a special appeal having been preferred, and still pending before the Privy Council against those decrees, is not (Section 338, Civil Procedure Code) alone a sufficient reason for staying execution.

2. The plaintiff in this suit claimed possession of the Ramnad Zemindary as adopted son of the late Zemindar, and to prevent the interference of the second defendant, who had issued orders for its escheat to Government on the death of first defendant, his adoptive mother in possession.

3. The Civil Court decreed the orders of second defendant in question cancelled, and that second defendant, having failed altogether to establish any right to interfere with the estate in question, or to question the acts of the first defendant in respect to it, should abstain from such interference.

4. It further decreed, with reference to the rulings of the High Court then in force, that first defendant, subject to the provisions of Hindu Law, and Section 8, Regulation XXV. of 1802, could assign and transfer the Zemindary in her possession (as she was willing to do to the plaintiff) without the consent of second defendant, or of any other authority.

5. By a decree of the Privy Council, the ruling of the High Court, on which the latter part of the Court's decree (noted in the preceding paragraph) was based was set aside, and on appeal the question regarding the validity of the plaintiff's adoption and right to the Zemindary claimed was made an issue, by the High Court sent to the Court for determination.

6. The Court decreed that the plaintiff had established his status, as adopted son and heir to the late Zemindar, and on appeal to the High Court resulted in the confirmation by it of this Court's decree.

7. The Court, under these circumstances, directs execution of the decree prayed for, the Zemindary in the possession of the first defendant being made over to him as the adopted son and heir of the late Zemindar, the second defendant being bound, under the two decrees passed, to acknowledge him as the rightful Zemindar of the Ramnad estate so long as they are in force.

Proceedings of the Madras Government, Revenue Department,
21st Deeember 1866.

8. The plaintiff having come into the estate by succession, and not by transfer of it to him by first defendant, the provisions of Regulation XXV. of 1802, do not appear to the Court applicable to the case.

(Signed) R. R. COTTON,
Judge.

(True Copy.)

(Signed) V. H. LEVINGE,
Collector

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1. Ordered that the foregoing papers be submitted for the information of Government.

2. It does not appear to the Board that any further action need be taken in the matter, which relates to the execution of the decree in the Ramnad Suits.

3. The Court appears to have ruled that no registration of *transfer* is needed in the case, the plaintiff being held to succeed by *inheritance*, and, under these circumstances, the Board see no need to make any change in the Register, pending the decision of the Privy Council on the special appeal.

4. Similarly as regards the receipt for the peishcush, it can run in the following form :—" Received by the payment of V. R. M. Ramalinga Setupaty the " sum of Rupees——on account of the peishcush due for the Ramnad Zemin- " dary, &c."

5. The plaintiff is in possession, and his management is not interfered with.

No. 417. ORDER THEREON, 21st December 1866, No. 3,464.

Miscellaneous.

The Government wish to have Mr. Dale's opinion on the subject.

(True Extract.)

(Signed) J. D. SIM,
Secretary to Government.

To the Government Pleader.
" the Board of Revenue.

Exd. S. T. Augustin.

No. 7,982.

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

Read the following letter from V. H. LEVINGE, Esq., Collector of Madura, to the Secretary to the Board of Revenue, dated 30th October 1866, No. 359:—

Board's Proceedings, No. 2,203, dated 27th March 1866.
Do. dated 2nd May 1866, No. 3,103.

1. With reference to the correspondence noted in the margin, I have the honor to submit, herewith, translate of an application presented to the Civil Court by the plaintiff in Original Suit No. 1 of 1860, on the file of the said Court, and copy of a notice issued to me thereon by the Court, and to request that the Board will, with reference to the prayer of the plaintiff in the last paragraph of the application, be good enough to favor me with instructions as to the steps to be taken by me on the above notice.

2. I have directed the Government Vakeel of the station to apply to the Civil Court for the extension of the period specified in the notice to 3rd January 1867, in order to enable me to obtain the Board's instructions on the subject.

ENCLOSURE No. 1.

Application for execution of a Decree, submitted under Section 212, Act VIII. of 1859, by Gurusamy Sastry, Vakeel for Plaintiff, to the Civil Court of Madura.

Number of the Suit.	Names of the parties.	Date of original decree.	Date of Appeal decree.	What adjustment has been made.	What relief granted by the decree.	The amount of costs if any were awarded.	Name of the person against whom the enforcement of the decree is sought.	The mode in which the assistance of the Court is required.
Original Suit No. 1 of 1860, on the file of the Civil Court. Appeal Suit No. 35 of 1861, on the file of the High Court.	Plaintiff Vija Ragoonada Muta Ramalinga Sathupathy, the Zemindar of Ramnad.	18th March 1861.	Appeal Decree, 14th November 1864, confirming the Original Decree, as well as the finding of the Civil Court under the issue of the High Court.	An Appeal has been submitted by the second defendant to Her Majesty the Queen.	The possession of the Zemindary of Ramnad.		V. H. Levinge, Esq., Collector of Madura, second defendant.	That the second defendant may be directed to register the Zemindary of Ramnad in the name of the plaintiff, in whose possession it was placed by the first defendant; that a receipt may be granted in the name of the plaintiff for the amount of peishkush paid in by him; and that the second defendant may not be allowed to offer any let or hinderance to the performance, by plaintiff, of the duties connected with the Zemindary, so far as the same shall be performed to his (second defendant's) satisfaction.

18th October 1866.

(Signed) R. R. COTTON,
Civil Judge.

(Signed) GURUSAMY SASTRY,
Vakeel.

(True translation.)

(Signed) V. H. LEVINGE,
Collector.

ENCLOSURE No. 2.

COPY OF THE NOTICE.

Under Section 216.

CIVIL COURT AT MADURA.

Original Suit No. 1 *of* 1860, *or M. P. No.* 406 *of* 1866.

Streemathoo Heranea Garbah Yajee Ravikula Vijia Ragunada Moottoo Ramalinga Saithupathy, Zemindar of Ramnad ... ... *Plaintiff.*

V. H. Levinge, Esq., Collector of Madura ... ... 2nd *Defendant.*

To the abovesaid second Defendant.

Take notice that application has been made for enforcement against you of the Decree passed in the above Suit, and that unless you shew sufficient cause on or before the 22nd day of November next, why the Decree should not be forthwith executed against you, an order will be made for it to be executed accordingly.

Dated this 22nd day of October 1866.

(Signed) R. R. COTTON,
Civil Judge.

(True Copy.)

(Signed) V. H. LEVINGE,
Collector.

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1. Forwarded to the Government Pleader, with the request that he will favor the Board with his opinion as to the course proper to be adopted in the matter, pending the decision of the Privy Council on the appeal in the Ramnad case that is now before them.

2. The Board object to any change at present in the registry of the estate, or in the receipt for the Peishcush if it can be avoided, but this need in no way interfere with plaintiff's management.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To the Government Pleader,
with copy of two enclosures.

Copy to the Collector of Madura.

Rxd. J. Wright

Requesting opinion of Government Pleader as to course to be pursued by Collector of Madura in matter of notice issued to him by Civil Court on an application presented to the Court by plaintiff in Original Suit No. 1 of 1860, on file of that Court, for enforcement of decree passed in that Suit regarding Ramnad estate.

Dated 3rd November 1866.

Received

No. 7,982.

PROCEEDINGS OF THE BOARD OF REVENUE.

No.

1866. Department.

4

No. 8,109.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 8th November 1866.

Read the following letter from V. H. LEVINGE, Esq., Collector of Madura, to the Secretary to the Board of Revenue, dated 5th November 1866, No. 374:—

With reference to the 2nd paragraph of my letter to you, marginally noted, I have the honor to submit, herewith, copy of an order passed by the Civil Judge, declining to grant my request for extension of time, and to request that the Board will favor me with early instructions as to the steps to be taken by me on the notice of the Civil Judge.

30th October 1866, No. 359.

2nd November 1866.

ENCLOSURE No. 1.

ABSTRACT.—Copy of an order passed by Civil Judge of Madura.

Communicated to the Government Pleader, in continuation of Board's Proceedings, dated 3rd November 1866, No. 7,982.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To the Government Pleader,
with one original enclosure.

Copy to the Collector of Madura.

Rxd. T. Cartledge.

5.

No. 8,167.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 12th November 1866.

Read the following letter from C. DALE, Esq., Government Pleader, to the Secretary to the Board of Revenue, dated Madras, 9th November 1866, No. 127:—

3 d November 1866, No. 7,982.
8th do. do. No. —.

1. I have the honor to acknowledge the receipt of the Proceedings of the Board, under the dates and number noted in the margin.

2. The relief prayed by the plaintiff in Original Suit No. 1 of 1860, was "that the said "Zemindary, together with all its appurtenances, yielding annually a beriz of Rupees 5,55,000, "assessed at Rupees 3,24,444-3-10, and priced about Rupees 55,50,000, may be adjudged to the "plaintiff."

3. The decree in that suit was couched in the following terms:—"The Court decrees that the "order of the Collector, dated the 15th November 1855A, and those to the Alum Amuldar, and "Head of Police, dated 3rd idem, referred to therein, directing them to zuft the Zemindary, and "all the property appertaining thereto, for Government on first defendant's demise be cancelled; "and that the second defendant having failed altogether to establish any right to interfere with "the estate, or question the acts of the first defendant in respect to it, do abstain from such inter- "ference, and that the first defendant, subject to the provisions of Hindoo Law and Section 8, "Regulation XXV. of 1802, can assign and transfer, without the previous consent of the second "defendant, or of any other authority to the plaintiff, or whomsoever she may think proper, by sale, "right, or otherwise her proprietary right in the Ramnad Zemindary."

4. By the application, referred to in the Board's Proceedings of the 3rd November, the plaintiff in the last column, states that the assistance of the Court is required for the following purposes: "That the second defendant may be directed to register the Zemindary of Ramnad in the name "of the plaintiff, in whose possession it was placed by the first defendant, that a receipt may be "granted in the name of the plaintiff for the amount of peshkush paid in by him."

5. It will be observed that the application is totally at variance with the prayer of the plaint, and with the terms of the decree; the assistance now sought, that the Court should compel the Collector to register the Zemindary in the name of the plaintiff, or that receipts for the peshkush should be granted in his name, formed no part of the relief he originally sought. Moreover, the decree does not make any order to that effect. I am of opinion that in that respect the decree is correctly framed, and that if it had travelled out of the record by ordering what is now sought, the decree on appeal would have been amended in that respect; and I am further of opinion that it is not competent for the Civil Court to grant in this suit to the plaintiff the assistance he now asks, but that the plaintiff must be left to institute a fresh suit, should he persist in his requirement, and the Collector should refuse to comply therewith.

6. The Board are aware of the decision passed by the High Court in Appeal Suit No. 58 of 1861, referred to in my letter as per margin. The original suit, from the order in which that appeal suit was founded, was subsequently withdrawn by the plaintiff.

Letter from Government Pleader to Board, 18th July 1863, No. 81.

7. As regards the granting a receipt in the name of the plaintiff, I had the honor of addressing the Board in my letter marginally noted. I think the Collector might now grant a receipt in the following form:—"Received by the payment of Vijia Ragoonada Mutu Ramalinga Suithapathy, the sum of, &c.," omitting the name of the Rani, and not describing him as Zemindar.

Letter from Government Pleader to Board, 28th October 1863, No. 166.

Received 1866. Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 8th November 1866.

Received

No. 8,109.

Communicating to the Government Pleader letter from the Collector of Madura, forwarding copy of order of the Civil Court, declining to grant extension of time asked for in Original Suit No. 1 of 1860, on the Ramnad adoption case.

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8. I do not understand that portion of the application, where the plaintiff asks, "That the "second defendant may not be allowed to offer any let or hinderance to the performance, by "plaintiff, of the duties connected with the Zemindary, so far as the same shall be performed to his "(second defendant's) satisfaction." I am therefore unable to advise upon it.

9. I return the paper which accompanied the Proceedings of the Board, dated 8th November 1866.

Communicated to the Collector of Madura, for his information and guidance.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To the Collector of Madura,
with enclosure.

Copy to the Government Pleader.

Exd. J. Wright.

1866. Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 12th November 1866.

Received

No. 8,167.

Communicating, to Collector of Madura, letter from Government Pleader, on subject of Ramnad Adoption Suit.

1 Dec/66 No 9-10
13 Jany/67 — 119-120
23 March/67 — 382-389
26 April/67 — 436-437

Rev. — 1866. Department.
Pro of Govt for December

No. 2510

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 14th December 1866.

Dec 17-66
Rec'd 17th
E.S.

From Govt Pro 12 Jany/67

Ans — No. 8,858.

Submitting with remarks letters from Collector of Madura forwarding copy of a Motion presented to Civil Court to enforce Decree passed in O. S. No. 1 of 1860 regarding Ramnad Zemindary, and a copy of the Order passed thereon.

No 3464-21 Dec?

With a cover

No 416-417