

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	54	Press Mis.
104-105		
Dated	8 - 1 -	1866.

Not to be folded or roughly handled

12

*Proceedings of the Madras Government, Revenue Department,
8th January 1866.*

No. 104. Read the following Proceedings of the Board of Revenue, dated 16th December 1865, No. 8,066.

Read the following letter from the Collector of Malabar, to the Acting Secretary to the Board of Revenue, dated Lakady, 17th November 1865, No. 248 :—

With reference 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. 56 of 1863.

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

Original Suit No. 56 of 1863.

In the Court of the Principal Sudder Ameen.

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

Plaintiff.

Defendants.

Peringalom Moyithien, by Vakeel Puten Madatil Rama Menon.

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

2. Poodiotile Chatielen Chatu Kurup.

Supplemental Defendants.

3. Vallaben Chaten Ukaren *alias* Kutali Muta Nair.

4. Krishnen *alias* Avinhat Muta Nair.

5. Killiaden Teyi (female).

6. Her son Ananden.

7. Madaven Ramen Nair (deceased).

8. Eledatie Chatu Nair.

First Defendant, by Government Vakeel Ambu Muta Podival (dead), and since continued by Ramayen; second and fourth Defendants, by Vakeel Kottiyela Rama Menon.

Suit to recover Rupees 1,080, as due on a deed said to have been executed by Vayaputta Rairapen Nair, since deceased, in favor of Plaintiff, under date the 27th Kumbhom 1034 (9th March 1859,) mortgaging the undermentioned property :—

Schedule.

Talook.	Amshom.	Deshom.	Num-ber.	
Wynaad.	Kurumbala.	Irritur.	1	Vayaputta Rairapa Nairude Vitum-
			2	kandi,
			3	Vallaruhi Vitumkandi,
				Buffaloes, Bullocks, and Cows.
				Containing 2,500 Coffee plants. 20 in number.

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Decree.

Ordered that the suit be dismissed with costs against Plaintiff.

<i>Costs.</i>		RS.	A.	P.
Stamp duty on Institution	...	50	0	0
Fee of Plaintiff's Pleader	...	54	0	0
Do. of first Defendant's Pleader	...	54	0	0
Do. of second and fourth Defendant's Pleader	...	54	0	0
Value of Stamps filed by Plaintiff...	...	1	8	0
Do. by first Defendant	...	1	0	0
Do. by second Defendant	...	1	0	0
Do. by fourth do.	...	1	0	0
Expenses incurred by Plaintiff in serving Processes	...	7	4	0
Total Rupees...		223	12	0

Exhibits, &c., filed in Court.

Bill of Plaintiff, Notices 5. Plaintiff's and Defendant's Vakalatnamahs 4, Statements 3,
Supplemental Petition 1, Order 1. 1

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 15th day of July 1865.

(Signed) F. P. PEREIRA,

Principal Sudder Ameen.

Original Suit No. 56 of 1863.

In the Court of the Principal Sudder Ameen of Tellicherry.

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

Plaintiff sues to recover Rupees 1,080, [as due on a deed said to have been executed by Vayaputta Rairapen Nair, since deceased, in favor of Plaintiff, under date the 27th Kumbhom 1034 (9th March 1859), mortgaging certain property, real and personal. Plaintiff recites that upon an adjustment of accounts, a balance of Rupees 300 appearing against Vayaputta Rairapen Nair, the latter executed the aforesaid bond, engaging to supply Plaintiff yearly with 7½ maunds of Coffee, and 45 Pothies of paddy as interest or profit, and pledging the above-mentioned property as security for the debt; that upon Rairapen Nair's death, the second defendant assumed possession of his assets; that Plaintiff bringing an action against him before the District Moonsiff of Wynaad under No 110 of 1860 for the paddy and coffee due for one year, the Moonsiff dismissed it on the ground that the dispute as to the jenm right should be first settled; that the said Rairapen Nair having left no heir, the whole of his property, inclusive of those under pledge, was taken as an escheat by Government, and made over to the charge of the second Defendant upon security, who accordingly manages the estate and pays the income to Government; that the escheated property being now under the charge of first Defendant, he and the property are answerable for the debt amounting to Rupees 1,080 as follow :—

	RS.
Amount of the bond	300
Price of thirty maunds of Coffee from date of bond to 27th Kumbhom 1038, being four years, at 160 Rupees a candy	240
Price of 180 Pothies of Paddy, at 3 Rupees per Pothy	540
Total Rupees ...	1,080

which, with further interest, Plaintiff prays may be recovered by sale of the property under mortgage, and out of the income hitherto enjoyed by Government.

First Defendant states that the property mentioned in the plaint was taken charge of by the Revenue authorities as an escheat on failure of heirs to the deceased Vayaputta Rairapen Nair,

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8th January 1866.*

and that if heirs or holders of liens on the property establish their claims, he is prepared to surrender it, and has no counter-claims to adduce.

Second Defendant denies Rairapen Nair's alleged right to the property, and asserts that it belongs to the Iruvattur Bhagavadi Devasom; that the Coffee trees were planted by him (second Defendant); that Rairapen Nair, as a Kariesten of the Devasom, held management of the property; that upon his demise, second Defendant undertook management under a Kayichit executed by him to the Vithery Sub-Magistrate; that he (second Defendant) resides, and the property said to be under pledge is situated in the Kurumbala Amshom, which was transferred to the Zillah Calicut before the institution of this suit.

Fourth Defendant contends that neither the deceased Ukaren Nair nor Rairapen Nair, nor the first and second Defendants has any right to the property which belongs to his and third Defendant's Iruvattur Bhagavadi Devasom; that his and third Defendant's ancestor, prior to 1030 (1854-55) appointed the said Ukaren and Rairapen to manage the Devasom affairs; that upon the latter's demise in 1034 (1859-60), his ancestor and third Defendant appointed the second Defendant to that office, and that when first Defendant interfered with certain property left by Rairapen Nair, his (Defendant's) ancestor, himself and third Defendant having remonstrated against the proceeding, the first Defendant withdrew from further interference.

Third, fifth, sixth, and eighth Defendants *ex-parte*.

Plaintiff's Vakeel has been orally examined.

Judgment.

The Court has no jurisdiction in the case, the Plaintiff himself acknowledging that the property under mortgage to him, and the sale whereof he seeks in satisfaction of the debt alleged to be due, is situated in the Kurumbala Amshom, which was transferred to the Calicut Zillah long before the institution of this suit. The mere fact of some of the Defendants being residents within the jurisdiction of a Court does not give that Court jurisdiction over cases which has reference to real property situated within the jurisdiction of another Court.

I therefore dismiss the suit with costs against Plaintiff.

1. Submitted for the information of Government, with reference to Government Order, dated 9th August 1864, No. 1,437.

2. The Government will perceive that the suit in question has been dismissed with costs against the Plaintiff on the ground that the Court has no jurisdiction in the case, as the property concerned is situated within the Calicut Zillah, to which it was transferred with the Amshom in which it is situated, long before the institution of the suit.

No. 105.

ORDER THEREON, 8th January 1866, No. 54.

Miscellaneous.

Ordered to be recorded.

(True Extract.)

(Signed) J. GROSE,

Acting Under Secretary to Government.

To the Board of Revenue.

Ld. S. T. Augustin.

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First Defendant states that the property mentioned in the plaint was taken charge of by the Revenue authorities as an escheat on failure of heirs to the deceased Vayaputta Rairapen Nair, and that if heirs or holders of liens on the property establish their claims, he is prepared to surrender it, and has no counter-claims to adduce.

Second Defendant denies Rairapen Nair's alleged right to the property, and asserts that it belongs to the Iruvattur Bhagavadi Devasom; that the Coffee trees were planted by him (second Defendant); that Rairapen Nair as a Kariesten of the Devasom, held management of the property; that upon his demise, second Defendant undertook management under a Kayichit executed by him to the Vithry Sub-Magistrate; that he (second Defendant) resides, and the property said to be under pledge is situated in the Kurumbala Amshom, which was transferred to the Zillah Calicut before the institution of this suit.

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Third, fifth, sixth, and eighth Defendants *ex-parte*.
Plaintiff's Vakeel has been orally examined.

Judgment.

This Court has no jurisdiction in the case, the Plaintiff himself acknowledging that the property under mortgage to him, and the sale whereof he seeks in satisfaction of the debt alleged to be due, is situated in the Kurumbala Amshom, which was transferred to the Calicut Zillah long before the institution of this suit. The mere fact of some of the Defendants being residents within the jurisdiction of a Court does not give that Court jurisdiction over cases which has reference to real property situated within the jurisdiction of another Court.

I therefore dismiss the suit with costs against Plaintiff.

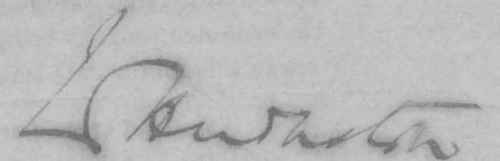
(True Copy.)

(Signed) G. A. BALLARD,
Collector.

1. Submitted for the information of Government, with reference to Government Order, dated 9th August 1864, No. 1,437.

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(True Copies and Extract.)



Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.
„ G. A. Ballard, Esq., Collector of Malabar.

Exd. J. Wright.

Aug 16/58-159

1865. Department
Jany: 166.

No. 3636.
PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 16th December 1865.
20-50-
22104.

No. 8,066.

Submitting for information with remarks letter
from the Collector of Malabar forwarding copy
of Decree passed by Principal Sudder Ameen of
Tellicherry in O. S. No. 56 of 1863, regarding
restoration of certain property.

14 to the Board of Revenue

104/105-

222 20/10/1865

1865. Department
Jany: 166.
No. 3636.
PROCEEDINGS OF THE BOARD OF REVENUE,
Dated 16th December 1865.
20-50-
22104.