

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	625	Press ~~Mis.~~
<i>U-62</i> Dated	2 - 5 -	1920

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
2nd May 1870.*

No. 11. Read the following Proceedings of the Board of Revenue, dated 28th January 1870:—

Read the following letter from the Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 13th January 1870, No. 142.

Suits Nos. 285, 299, and 145, of 1869, in which the Collector is defendant, are now pending before the District Moonsiffs of Guntoor, Bezoarah, and Masulipatam. The Board sanctioned the defence of these Suits at the public cost on the dates noted in the margin*. Answers have been filed in these Suits on behalf of the Collector.

* 4th November 1869, No. 8,178.	
13th December " " 9,138.	
2nd November " " 8,142.	

2. Adverting to the observations of Government in their Proceedings, dated 5th September 1868, No. 2,328, and 28th October 1869, No. 2,863, communicated with the Board's Proceedings, dated 10th November 1869, No. 8,300, I applied to the Civil Court at Guntoor to call up Suit No. 285 of 1869 from the file of the Guntoor Moonsiff's Court.

3. The Court held proceedings on 22nd November 1869, rejecting the prayer of the petition, and stating that this Suit is one which the District Moonsiff is quite competent to try, and the objection ought not to prevail.

4. I have directed the Government Vakcel to make similar applications in the remaining two Suits, Nos. 299 and 145 of 1869, but I anticipate the Court will reject them on the same grounds.

5. The only course now to be pursued is to appeal to the High Court against the proceedings of the Civil Judge.

6. Copy of the Civil Court's Proceedings in No. 285 of 1869 is herewith forwarded for the information of the Board. I have therefore the honour to request the instructions of the Board on the subject.

ENCLOSURE No. 1.

Extract from the Proceedings of the Civil Court of Guntoor, dated 22nd November 1869.

READ Miscellaneous Petition No. 1,029 of 1869, presented on the 17th November 1869, by Toleti Purusholtamaya, Government Vakeel, on behalf of the Acting Sub-Collector, Kistna District, stating that the Collector of Kistna District issued instructions to him to request this Court that the Suit instituted in the Guntoor Moonsiff's Court against the Acting Sub-Collector, Kistna District, and another, may be sent for to this Court; that the Government, at the suggestion of the Board of Revenue in their Proceedings, held that the Suits which will be instituted in the Moonsiff's Court against Collectors may be sent for and referred to Principal Sudder Ameens; and that the petitioner therefore prays the Court to order that the said Suit may either be referred to the Principal Sudder Ameen, or that it may be sent for to this Court for disposal by this Court.

*Proceedings of the Madras Government, Revenue Department,
2nd May 1870.*

ORDER.—The main, if not the only objection to the jurisdiction of the Moonsiff is that the Suit is against a European Revenue-officer. The Suit is one which the District Moonsiff is quite competent to try, and the objection ought not to prevail.

(Signed) R. B. SWINTON,
Civil Judge.

(True Copy.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

SUBMITTED, together with copies of the Board's Proceedings quoted in paragraph 1, to Government, with the Board's recommendation that the High Court be requested to make a rule on the subject.

2. The Board observe that it is very difficult for public officers to watch public interests involved, if Suits may be kept on the file of every Moonsiff's Court. There is no Government Vakeel attached to these Courts, so that it becomes necessary to pay special fees to one of the local and less efficient Pleaders for the defence of each Suit, or to pay the expenses of the Government Vakeel when he travels to be present at some distant Moonsiff's Court.

3. The Board would suggest that Collectors might be enjoined to use a careful discretion in applying to have Suits called up from the lower Courts, but that their opinion as to the necessity for such a step (as regards the public interest and convenience) should be considered final and binding on the Civil Judge.

No. 12.

ORDER THEREON, 2nd May 1870, No. 625.

Miscellaneous.

THE Government are not prepared to make the application in question to the High Court, and resolve to allow matters to remain on their present footing.

(True Extract.)

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

To the Board of Revenue.

Exd. F. R. Bantleman.

No. 8,142.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd November 1869.

Read the following letter from J. A. C. BOSWELL, Esq., Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Komaravallipad, 18th October 1869, No. 203:—

I HAVE the honour to submit copy of a plaint filed in the District Moonsiff's Court of Masulipatam by Yistamsetti Lakshmidēvi against Banobi and Assan Saib for the recovery of a shop situated in the fish bazaar at Robertsonpett in the town of Masulipatam.

2. The plaintiff says that the shop in question was granted to her husband forty years ago for selling curry-stuff, etc., and was in his enjoyment up to his death; that afterwards she occupied it up to ten months after the cyclone, when she fell sick and went away to Ellore; that about a year after the cyclone of 1864, she having heard that the husband of the 1st defendant had taken possession of her shop and built a verandah beneath the old one, she immediately hastened to Masulipatam and reported the circumstance to the Talook Magistrate who referred her to the Civil Courts for redress; and that while she was endeavouring to institute a complaint accordingly, the 1st defendant's husband, Alli Saib, died, and the 2nd defendant occupied the shop in question.

3. This 2nd defendant having presented a Kaifiyet that the proprietary right of the bazaar belongs to Government, the District Moonsiff ordered that the Collector should be made a supplemental defendant to the suit.

4. From the Tahsildar's inquiry it appears that there are no documents to show that the ground or the buildings thereon belong to Government, but the head butcher and others say that the ground belongs to Government; that the buildings and the shops in the bazaar were originally built by Mr. Robertson, Collector, at the time of constructing the Robertsonpett; that the shop sued for has, during the last forty years, been in the occupation of ten or eleven different individuals; that about twelve years ago, the plaintiff's husband occupied the shop for three years and died; that the plaintiff has never occupied it; and that after the cyclone, butcher Assan Amed took possession of it as it was vacant, without the permission of anybody according to custom.

5. Under the above stated circumstances, I think the plaintiff's claim is altogether invalid. A draft answer is accordingly enclosed for the approval of the Board, and their sanction to conduct the suit at public expense is solicited.

6. The time for filing the answer expires on the 20th November 1869.

ENCLOSURE No. 1.

To the Talook Moonsiff's Court of Masulipatam.

COMPLAINT PETITION presented by the plaintiff Yistamsetti Lakshmidēvi, residing at Ramannapeta, and living by trade, against the defendants, (1) Banobi, mother and guardian to the minor son and heir to late Alli Saib, and living upon the property of her husband; and (2) Assan Saib *alias* Khader Saib, a butcher, residing at Rajapeta.

Subsequent to the construction of the fish bazaar by Mr. Robertson, the building marked A, shown in yellow colour was granted, forty years ago, to my husband Yistamsetti Venkatrayudu who was a trader in the Military bazaar and sold curry-stuff, etc.

2. Ever since, my husband carried on trade with curry-stuff in the said shop paying Moturpha tax to Government and made the necessary repairs.

My husband about thirteen years before, entertaining no hope of recovery from dangerous illness, executed a deed in my name authorizing me to hold the said shop as my own and carry on trade in it for my livelihood in liquidation of my dowry consisting of jewels he had made away with.

3. I have likewise continued pursuing my trade in the said building (shop) for my subsistence.

Govt. of 1870

To

REVENUE.

THE BOARD OF REVENUE.

Dated May, 2nd.

Recd.

End.

G. O., 2nd May 1870, No. 625.

IIAY.

Nos. 11-12.

Suit No. 285 of 1869 in Guntoor District Moonsiff's Court—Proceedings Board of Revenue regarding the Civil Judge's proceeding, declining the application for its removal from the file, with orders thereon.

I have suffered considerable loss in consequence of the roof, etc., of the said shop having been damaged, and my house together with the above-stated documents, etc., perished in the cyclone of 1864.

4. Having been attacked with illness for ten months together after the cyclone while continuing to trade in the said shop, I went away to Elloro finding it inconvenient to carry on trade here.

5. About a year after the cyclone, having been informed that the deceased Alli Saib, husband of the defendant No. 1, has been exercising trade in the said shop (building) which is my property, unlawfully taking possession of it, and that he had built a verandah beneath the old one, I immediately hastened to this place and reported the circumstance to the Talook Magistrate, who thereupon has been pleased to endorse that I should obtain relief through the Civil Court.

6. While I was endeavouring to institute a complaint accordingly, Alli Saib died, and the building used as shop has been since fraudulently occupied by the 2nd defendant, therefore this claim is now brought:—

	RS.	A.	P.
Value of site occupied by the above specified building	9	0	0
Cost incurred for removing the verandah recently added by late Alli Saib	1	0	0
Total...	10	0	0

I therefore pray that the Court will be pleased to order the removal of the verandah recently added by the husband of No. 1, and to obtain for me the possession of the site of the building together with costs from the defendant. Please to consider this.

Under Section 26, Act VIII. of 1859, and under Clause 12, Section 1, of Act XIV.
23rd June 1869.

(True Translation.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

ENCLOSURE No. 2.

To the Talook Moonsiff's Court of Masulipatam.

Kaifiyet given by Assan Saib, Defendant No. 2 in No. 145 of 1869.

The allegations set forth in the complaint are not at all correct.

1. The building used as shop under dispute was not granted by Mr. Robertson to the plaintiff's husband, nor has he any right to it.

2. At the time of the formation of the pettah by Mr. Robertson about sixty years before, he got the buildings constructed towards its north-eastern side at his own expense to be used as shops and allowed them for the temporary use of the butchers (myself and others) to trade in meat; but it (the shop) was not given to the plaintiff's husband, a weaver.

3. Mr. Robertson was not in this town forty years before. This falsifies the allegation made by the plaintiff that the said gentleman granted the building for being used as shop to her husband at that time.

4. A spot of ground sufficient for a single shop was granted to the plaintiff's husband in the range of shop buildings for dealers in grocery. He accordingly erected a shop building and pursued trade therein in grocery. This shop building was sold in auction twenty years ago in satisfaction of debts due to certain persons. Ever since, the plaintiff's husband has been selling curry-stuff in the fish bazaar under the Zuvir tree under a Palmyra umbrella.

5. When the shop-buildings in the fish bazaar were blown down during the cyclone, the then Collector, Mr. Thornhill, got the localities repaired, and ordered the butchers to repair the roof for themselves. The said gentleman gave 4 rupees to my brother, husband of first defendant, and myself for repairing the shop-building, the subject of dispute. Accordingly, I and my brother

spent Rupees 25 on these buildings for repairs and carried on trade therein. Neither they nor we have any right to the building. The proprietary right in the whole fish bazaar belongs to Government. The plaintiff also keeps a shop in the fish bazaar.

Under these circumstances, I beg that the Court will be pleased to dismiss the claim with costs. Please to consider this.

(True Translation.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

7th July 1869.

No. 145 of 1869.

THE site occupied by the shop-building is stated in the Kaifiyet given by the defendant No. 2 to be the property of Government. In the settlement of this suit, if it be necessary that the claims of Government should be considered, proceedings will have to be commenced. The Court, therefore, direct that the Collector of the district should be made supplemental defendant in this suit, and accordingly issued a notice under Section 73 of the Code of Civil Procedure.

Time fixed, 20th September 1869. (Signed) V. SASHAYA,
District Moonsiff.

13th August 1869.

(True Translation.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

ENCLOSURE No. 3.

Proposed Draft Answer to be filed in Suit No. 145 of 1869, on the file of the Masulipatam District Moonsiff's Court.

Plaintiff.

versus

Defendants.

Yistamsetti Lakshmidēvi, residing at Ramannapeta.

1. Banobi (mother and guardian to the minor son and heir to late Ali Saib.
2. Assan Saib, alias Khadar Saib, (a butcher residing at Rajapeta.)
3. J. A. C. Boswell, Esq., Officiating Collector, (supplemental defendant.)

This supplemental defendant represents that the plaintiff has no right whatever to the ground or the building thereon in the fish bazaar sued for; that the ground belongs to Government, and the buildings thereon were constructed by Mr. Collector Robertson for the purpose of the fish bazaar at the time of building Robertsonpetta; that the shop sued for has, during the last forty years, been in the occupation of different individuals; that about twelve years ago, plaintiff's husband occupied it for three years and died; that plaintiff herself has never occupied it; and that after the cyclone of 1st November 1864, Butcher Assan Amed, second defendant occupied it, as it was vacant, without the permission of any one according to mamool.

This defendant therefore prays that the suit may be dismissed with costs.

(Signed) J. A. C. BOSWELL,
Officiating Collector.

THE Collector is authorized to defend the suit on behalf of Government and to file the subjoined answer:—

"The Collector as representative of Government who own the land, has no objection to the occupation of the shop by whichever of the parties the Court may decide to be entitled thereto.

"He, therefore, request, that the suit as against him may be dismissed with costs."

(True Copies and Extract.)

(Signed) A. MACGREGOR,
Acting Secretary.

To the Officiating Collector of the Kistna District.

Copy to the Accountant-General.

Exd. T. Cartledge.

No. 8,178.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 4th November 1869.

Read the following letter from J. A. C. BOSWELL, Esq., Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Bapatla, 25th October 1869, Extra No. 261:—

I HAVE the honour to report that a complaint has been preferred in the Guntoor District Moonsiff's Court, No. 285 of 1869, by Pamarty Nagalingam and nineteen others, plaintiffs and inhabitants of Guntoor, against the Sub-Collector as first defendant, and Congara Venkataswamy, second defendant, regarding a site in the town of Guntoor granted to the latter for building purposes.

2. The facts of the case are fully detailed in the enclosed copy* of the Sub-Collector's letter, No. 146. The draft answer† prepared by the Sub-Collector is forwarded herewith for the approval of the Board, and I beg to request their sanction to defend the suit at public expense, and to file the answer in the Collector's name. The time for filing answer expires on the 13th November 1869.

* Enclosure A.
† Enclosure B.

‡ Enclosure C.
§ Enclosure D.

3. A translation of the plaint,‡ and a plan§ of the ground, are also herewith sent.

ENCLOSURE No. 1.—A.

From B. HORSBRUGH, Esq., Acting Sub-Collector, to the Officiating Collector of the Kistna District, dated Guntoor, 4th October 1869, No. 146:—

I HAVE the honour to transmit copy of plaint preferred by Pamarty Nagalingam and nineteen others, plaintiffs and inhabitants of Guntoor, against myself as first defendant and Congara Venkataswamy, second defendant, regarding a site in the town of Guntoor granted to the latter for building purposes, in Suit No. 285 of 1869, on the file of the District Moonsiff of Guntoor.

2. The facts in connection with the suit are as follow.

3. In the town of Guntoor there is a site adjacent to the Madras road, a portion of which was formerly assigned to the goldsmiths to be used as their burial ground; they formed a compound wall around it, with a gate on its west side. In its vicinity there is a well,|| the water of which has been used by the people in general.

|| Constructed for charity.

4. Between the burial ground and the Madras road there is some vacant ground, measuring from east to west 21½ yards and from north to south 29 yards, being 623½ square yards.

5. For a portion of the above land one Congara Venkataswamy, the second defendant, and others, made applications, which were referred to the Tahsildar of Guntoor for his report.

6. The Tahsildar by his Arzi¶ of 21st July 1869, No. 422, reported that upon his personal inspection of the spot, and inquiry made through the villagers, he found that the land applied for by Congara Venkataswamy, measuring 250 square yards, might be given for building site, as it would not affect the interests of anybody; the Tahsildar recommended the grant of the land to the second defendant.

7. It was accordingly granted to the second defendant, C. Venkataswamy.

Vide copy of the Hukum, 29th July 1869, No. 419, enclosed.

** Dated 2nd August 1869.

8. Thereupon the goldsmiths (plaintiffs) have brought a suit in the Guntoor Moonsiff's Court, No. 285 of 1869, ** praying that, in reversal of the Sub-Collector's order, the land may be ordered to be left vacant as before, on the ground; that by the grant thereof to the second defendant they are put to much inconvenience; they value the land at Rupees 20.

†† Copy enclosed.

9. The Moonsiff's Court issued an injunction,†† to the effect that the site in question should be left as it is, pending the disposal of the suit.

1869.
Board of Revenue,
MADRAS.

PROCEEDINGS, 2nd NOVEMBER 1869, No. 8,142.

Received

Encl.

NOVEMBER
No. 8,142.

Suit—No. 145 of 1869, filed in Masulipatam Moonsiff's Court in Kistna District, for recovery of a shop situated in Fish bazaar at Robertsonpet, —Defence of, on behalf of Government, authorized, and draft answer prepared by Board, forwarded to Collector.

10. A plan showing the burial ground, the well, and the site given to the second defendant, and the remaining unoccupied portion, is herewith sent.

11. From this plan it is quite clear that no inconvenience at all is likely to be felt in passing to and from the burial ground and the well.

12. Moreover, the plaintiffs have no right at all to the site sued for, but they base their claim on an endorsement passed by the late Head Assistant Collector in charge of the Sub-division on 20th November 1863, to the effect that the site having been considered necessary as way to the burial ground and under the well the same might not be given to any one.

13. The said endorsement has been reviewed by me, and as no inconvenience is likely to be felt by anybody, nor are any one's interests likely to suffer, the site in question was granted by me to the second defendant for building purposes.

14. The Court issued a notice* on 2nd August last, which was received on the 3rd idem, requiring the first defendant to appear before the Court for the first hearing; an extension of six weeks' time was applied for and obtained, which will expire on the 13th instant. I have, however, applied for a further extension of two months, from 14th of this month.

15. I propose to put in the following answer, which I beg you will be pleased to submit to the Board of Revenue and procure their sanction to defend the suit at public expense.

(True Extract.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

ENCLOSURE No. 2.—B.

Proposed draft Answer as modified by the Board to be filed in Suit No. 285 of 1869, on the file of the District Moonsiff of Guntoor.

Plaintiffs

versus

Defendants.

Pamarty Nagalingam and nineteen others,
residing at Guntoor.

1. Coongara Venkataswamy, residing at Guntoor.
2. J. A. C. Boswell, Esq., Officiating Collector of the Kistna District. (Supplemental Defendant.)

That the claim of the plaintiffs is not sustainable because the site sued for, which was granted to the second defendant, is the property of the Government, and because plaintiffs possess no lien or right whatever over the land in litigation.

2. That the Sub-Collector as the representative of the State is vested with the discretionary power of granting Government land within the village site to any party for building purposes.

3. That the accompanying plan clearly shows that the burial ground referred to in the plaint has no connection whatever with the site in dispute. The endorsement to which the plaintiffs alluded is simply a refusal to an application for the site then made by certain individuals and confer on plaintiffs no right of action. The first defendant, therefore, prays the Court will be pleased to dismiss the plaint with costs.

ENCLOSURE No. 3.—C.

To the District Moonsiff's Court at Guntoor.

Plaint preferred by Pamarty Nagalingam and nineteen other Goldsmiths, inhabitants of Guntoor, plaintiffs, against, first, Mr. Horsbrugh, Acting Joint Magistrate of the Kistna District, and second, Coongara Venkataswamy, defendants.

The lands marked A., D., G., E., and I., situated on the eastern side of the Madras road marked F. in the plan, in the town of Guntoor, are used as open space and a passage leading to the burial ground, and the well marked B. and C. respectively. The well marked C. was excavated by the ancestors of the plaintiffs jointly for charitable purposes. The lands marked A., D., G., and E. belong to Government, and are useful to the public. When a durkhast was formerly made by

some people for the land marked A. these plaintiffs and others raised objections thereto, and the then Joint Magistrate issued an order on 20th November 1863, to the effect that the lands marked A., E., D., and G. should be left unoccupied as before for being used by persons going to B., C., and I. Although the plaintiffs and others brought this fact to notice yet the first defendant, on the application of the second defendant, gave the land marked A. for building purposes in July last, and accordingly the second defendant proposed to build a house and began to erect walls. Consequently it is greatly inconvenient to carry corpses, etc., into the land marked B., and perform the funeral rites according to religion, and to make proper use of the well as usual by the plaintiffs and others. The land marked G. is a low ground on which rain water remains. There is no other way except through the lands marked A. and E. to go and make use of the land etc., marked B., C., and I. We, therefore, beg the Court will be pleased to cancel the order of the first defendant regarding the land marked A., and to oust the second defendant from the possession of the said land, so that the well in question may be used by all people; we further pray that a decree may be passed, ordering the walls erected by the second defendant to be removed, and all costs of the suit to be paid by all the defendants. The value of the land marked A. under litigation is Rupees 20.

(True Translation.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

ENCLOSURE No. 4.—Plan.

The Board consider that the assignment of the land is much to be regretted, and though strictly defensible in law they consider it very desirable that, if possible, an arrangement should be come to under which the suit should be withdrawn, and the land allowed to revert to the use of the owners of the burial ground; the right of access by the public to the well being maintained.

2. Mr. Boswell is accordingly requested to endeavour to make some such compromise. Failing this he is authorised to put in the answer as slightly modified, and defend the suit.

3. The Board must observe that Mr. Horsbrugh is much to blame in over-ruling the judicious decision of his predecessor.

(True Copies and Extract.)

(Signed) A. MACGREGOR,
Acting Secretary.

To the Officiating Collector of the Kistna District,
with draft Answer modified and Plan.

Copy to the Accountant General.

Exd. J. Tulloch.

Suit—No. 285 of 1865 in Guntoor Moonsiff's Court, Kistna District, for recovery of certain land.—Collector requested to make arrangements for withdrawal of —, in failure to put in modified answer.

NOVEMBER
No. 8,178.

Received

Encl.

PROCEEDINGS, 4TH NOVEMBER 1869, No. 8,178.

1869.
Board of Revenue,
MADRAS.
Nov-29/70.

No. 9,138.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 13th December 1869.

Read the following letter from J. A. C. BOSWELL, Esq., Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 22nd November 1869, No. 345 :—

I HAVE the honour to submit translation of a plaint filed in the District Moonsiff's Court at Bezvada, in No. 299 of 1869, by the plaintiffs, 1st, Yalesetty Venkataratnam, and, 2nd, Chullagunta Lakshmayya, against the defendants, 1st, Daleparti Subbaroyudu, 2nd, Palaparti Subbaroyudu, and, 3rd, Kanchi Annajee Row, Tahsildar of Gudivada talook, for establishing their title to certain lands relinquished and disposed of by the Tahsildar.

2. The facts of the case are as follows:—
3. Palaparti Veeraya, a ryot of the village of Palaparru, in Gudivada talook, held a puttah for the lands noted in the margin. In Fusly 1278 he relin-

quished Government lands consisting of Acres 6-49, as per survey Nos. 136 and 593, which pay a sist of Rupees 11-3-0 to Government, and relinquished in Fusly 1278.

When the lands are to be made over to us according to the rules in force, we being the neighbouring ryots, the 2nd defendant sold them to a stranger; the 3rd defendant dismissed the complaint made regarding the offence of disposing of the lands, and in order to screen the proceedings, improperly made over the lands (through the intrigue of the 2nd defendant) to the 1st defendant, who is in no way related, according to Hindoo Law, to the party who relinquished the lands.

We, therefore, bring this suit under Section 26 of the Civil Procedure Code, to recover the lands in question agreeably to the rules in force.

The lands within the limits specified in the plan herewith presented, situate in the village of Pedda Palaparru, within the jurisdiction of the Sub-Registrar of Gudivada, viz:—

Survey Nos.	Extent.	Sist as per Settlement.
136	3 6	6 1
593	3 43	5 2
2	6 49	11 3

Eight fold amount 89-8-0.

We pray the Court will be pleased to examine our witnesses and documents, and pass a decree, giving us the right of the two lands of Acres 6-49, and awarding that the defendants should pay us the costs of the Court.

28th August 1869.

× Mark of VENKATARATNAM.
(Signed) LAKSHIMAYYA.

to the above orders, the Tahsildar made over block No. 136 to Daleparti Subbaroydu, (1st defendant,) who is a relative to the relinquisher, and 2nd applicant, and block No. 593 to Palaparti Subbaroydu, 1st applicant, and a member of the family of the relinquisher.

8. The plaintiffs who are dissatisfied with this decision brought the present suit against the 1st and 2nd defendants, and the Tahsildar of Gudivada talook, alleging that while they were the cultivators of the lands adjoining the fields Nos. 136 and 593, the Tahsildar irregularly gave them to the defendants.

9. According to rules for the disposal of assessed lands, the applications admitted by the Tahsildar are to be considered only conditionally granted till the Jummahbundy. If the plaintiffs have any objections to raise to the refusal of their durkhasts by the Tahsildar, the proper course left to them is to appeal to the Collector or the Revenue Board, who are competent to hear and decide such appeal. The Civil Courts have no jurisdiction to entertain cases of this nature. I therefore propose to put in the accompanying answer, and request the Board will be pleased to sanction the defence of the suit at the public expense.

10. The time for filing the answer expires by 7th December next. I have applied for an extension of time till 7th January 1870.

11. I request instructions as to moving the Civil Court to call up the suit.

ENCLOSURE No. 1.
No. 299 of 1869.

To the District Moonsiff's Court at Bezvada.

PLAINT preferred by the plaintiffs, viz., (1) Yalesetty Venkataratnam, and (2) Chullagunta Lakshmayya of Kamma caste, inhabitants of Pedda Palapurru, in the Gudivada talook; against the defendants, viz., (1) Daleparti Subbaroydu, (2) Palaparti Subbaroydu, Brahmins, Mirassidars, inhabitants of do., and (3) Kanchi Annajee Row Puntulu, Tahsildar of Gudivada talook, at present residing at Gudivada.

In the village of Palapurru, Salasa Veerava, alias Palaparti Veerava, took up for cultivation on 27th May 1868. Boppana Venkatachellam, Daleparti Subbaroydu, (1st defendant,) and Yalesetty Venkataratnam, (1st plaintiff,) made durkhasts for No. 136 on the dates specified in the margin. Palaparti Subbaroydu, Daleparti Subbaroydu, (1st defendant,) and Chullagunta Lakshmayya, (2nd plaintiff,) applied for No. 593 on 2nd and 9th May and 30th June 1869, respectively.

Before all these durkhasts were disposed of by the Tahsildar of the Gudivada talook, oppana Venkatachellam, 1st applicant to No. 136, presented an Arzi to the Tahsildar on 28th 1869, stating that the 2nd defendant (Curnum and brother of the relinquisher of the above sold to him block No. 136 for 11 rupees, and after receiving the money, promised to get and transferred to him; that he thereupon manured the land and prepared for cultivation; but afterwards the 2nd defendant caused the 1st defendant to make a durkhast for this land ostensibly with a view to deceive him: adding, moreover, that the 2nd defendant might be held for "cheating."

The Tahsildar inquired into this case, and found no proof as regards the purchase of the land and payment of Rupees 11 to the 2nd defendant on account of the value of the land. He there dismissed the charge, and recommended to the Collector, on 30th July 1869, that block 36 may be allowed to be given to Boppana Venkatachellam, one of the Durkhastdars for it, block No. 593 to Palaparti Subbaroydu, who was the first of the three Durkhastdars and a member of the family of Vidudaladar (relinquisher).

On 13th August 1869, the Collector issued orders to the Tahsildar directing him that the two blocks in question should be given to the relatives of the relinquisher if applied for within a one year; and otherwise to the ryots whose lands adjoined the relinquished lands.

We solemnly declare that the circumstances above stated are true to the best of our information and belief.

(Signed) KOTTURI GANAPATI ROYDU.

Pleader.

30th August 1869.

× Mark of VENKATARATNAM.

(Signed) LAKSHMAYYA.

2 Stamps of the value of 1 rupee.

[*30 is original.] Filed 3rd August.

1 Do. do. of 4 rupees.

1 Do. do. of 2 ..

Corrections none.

1

(Signature of the Moonsiff in Persian characters.)

Stamp correct with four additional stamps.

(Signed) P. JAGANNATHA ROW,

Head Goomastah.

(True Translation.)

(Signed) J. A. C. BOSWELL,

Officiating Collector.

ENCLOSURE No. 2.—Draft Answer.

THE Board sanction the defence of the suit.

2. The answer annexed will be filed in place of that proposed by the Collector.

3. With reference to paragraph 11 of his letter, the Collector is referred to Board's Proceedings, 14th September 1868, No. 6,549, and 10th November 1869, No. 8,300.

(True Copies and Extract.)

(Signed) A. MACGREGOR,

Acting Secretary.

To the Officiating Collector of the Kistna District.

Copy to the Accountant-General.

DRAFT ANSWER.

PLAINTIFFS have not and never had any title to the land.

2. The land applied for had been relinquished and was at the disposal of Government.

3. The acts of Revenue Officers in regard to the disposal of such land, are not subject to the revision of the Civil Courts.

4. In disposing of the land as he did, the Tahsildar was simply carrying out departmental orders, and the plaintiffs should, if dissatisfied, have appealed to the Collector, or, if need be, to the Board of Revenue.

5. The Collector, therefore, prays the Court to dismiss the suit with costs.

(Signed) A. MACGREGOR,

Acting Secretary.

Exd. T. Cartledge.

Memo. for Orders
on No 290.

In G. O. dated
5th Sept. 1868, No 2328, the Govt.
laid down that "the practice
existing in Salams of applying
to the Civil Judge to transfer
suits in which the Govt. was
concerned from the Munsiff's
Court to that of the Principal
Sudder Ameen, was unobjection-
able and might be adopted
with advantage in other
districts" and that "where
a Principal Sudder Ameen's
Court had not been established,
the application should request
the transfer of the suit from
the file of the District Munsiff

I concur in the
reference to the
High Court. If
it be considered
expedient that
no judge under
the name of a Prin-
cipal Sudder Ameen
should have juris-
diction in cases to
which Govt. is a
party, then the
Law should be
enacted. If on
the other hand, it

Enclosed in this O. P. of Revenue
of District of Kistna District, to establish
the P. O. dated 28th Jan 1870.

1869.

Board of Revenue,

MADRAS.

No. 290/70.

PROCEEDINGS, 15TH DECEMBER 1869, No. 9,138.

Received

Encl.

DECEMBER

No. 9,138.

Suit—No. 299 of 1869, filed in Bezwa
Munsiff's Court in Kistna District, to establish
Plaintiff's title to certain lands—Defence of
sanctioned and draft answer prepared by Board
forwarded to Collector.

Received 15th Dec 1869.

The Munsiffs to a
Superior Court in cases
where Government was
"a party" in G. O.
dated 28 October 1869.
No 2863. A case
has now arisen
which the Civil Judge
when applied to declined
to transfer a suit
from the Mun-
siffs to a superior
court; it is recorded in
the Board's Proceedings

Proceedings dated 28
January 1870 which are
now immediately before
the Government.

5. It appears that
the three suits in which
the Collector of the
Kistna district was
defendant were pending
before the District Muni-
siff of Guntur Beyond
and Basulipatam. The
Offg Collector (Mr
Dowell) in pursuance
of the recommendation of
the Govt made applica-
tion to the Civil Judge
to transfer these suits
either to his own Court
or

or to that of the Principal
Sudder Ameer. The Civil
Judge treated Mr. Boswell's
request in the light of
a petition, held Pro.
and summarily rejected it.

The Offg. Col-
lector therefore re-
ported the case to
the Board. The
Board in submitting
it to Government re-
commended that the
High Court be re-
quested "to make a
rule on the subject"
(and)

and they considered
that Collectors should
"be enjoined to use ac-
"careful discretion in
"applying to have suits
"called up from the lower
"Courts, but that their
"opinion should be con-
"sidered binding on the
"Civil Judge."

Remarks

Three courses
appear open to the
Government viz.
(1) either to cancel their
former order and direct
that

that suits in which the
Government is concerned
which may henceforth
be filed in Munsiff
Courts shall be allowed
to be tried in those Courts
without any action on the
part of the Collector.

(2) Or to allow matters
to remain in statu quo
that is to authorize the
Collector to make the
application for transfer,
but to leave the option of
complying with or rejecting
his application at the dis-
cretion of the Civil Judge.

Or (3) in accordance with
the Board's recommendation

This proposal is
somewhat modified
in the concluding para
of this memo.

etc.

* to request the High Court
to make a rule on the
subject.

8. The arguments
which have at different
times been adduced in
favor of transferring suits
in which the Govt is a
party from a lower to a
superior Court are:

(1) That it is difficult
for public officers to con-
stantly watch the public interests
involved, if suits may be
kept on the file of every
Munsiff's Court.

(2) That, as there is no
Court Vakil attached to
these Courts, it is neces-
sary either to pay special
fees to the local and less
efficient local pleaders
or to pay the travelling
expenses of the Court
Vakil, & that the absence
of the latter from head-
quarters may be incon-
venient, whereas, the
escort of a private liti-
gant to head-quarters
is

is seldom attended with
any real inconvenience.

(3) That the native
population will have
more confidence in the
result of a suit in which
a public functionary of
position is concerned
if it is tried by a higher
Court.

9. It is very doubtful
whether the High Court
will make a rule that
all suits in which the Govt
is concerned should be
tried in the higher Courts,
and it is not likely that
they will recognize the
Collector as the autho-
rity for deciding what
suits are or are not
to be transferred. On the
other hand the present
state of affairs places
the Collector in a very
awkward position, for
his application to the Civil
Judge is always liable
to be met by a refusal.

At

I think the reasons for
making the transfer of suits
are valid - I would ask
the High Court for a rule
that suits in which the Govt
is concerned should be left to
the discretion of individual
Judges as to whether they
will transfer or not. The
present position is very
unpleasant.

MR

I think the best way
is to bring the whole question
under the deliberation
of the High
Court & request the
Judges to frame a rule.

I would think
it better to leave
the matter in the
hands of the High
Court with the
power to make
any rule.

Ed. Webb

10. At the same time
the transfer of such
cases is obviously for
the interest of Govt,
and unless the Court
are of opinion that the
High Court is likely
to make the rule pro-
posed, it is submitted
that the best course will
be to leave matters as
they are, so that this
advantage will be gain-
ed in all cases in
which the Lower Court
grants the application.

AP

Revenue Department

24-625-

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 2^d of May.

Read the following. Proceedings of the

Board of Revenue.

Submitting letter from Collector of Krishna District regarding Proceedings of Guntoor Civil Court rejecting application for removal of suit No. 285 of 1869 from District Munsiff's file.

(H. C. 28th January 1870 No. 1)

J. D. S.

The Government are not prepared to make the application in question to the High Court, and resolve to allow matters to remain on their present footing.

W.

14. To the Board of Revenue

E. H. Bell