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MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1927 Press ~~Mis.~~

36. 361

Dated 17 — 8 — 1867.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
17th August 1867.

No. 360. Read the following letter from the Officiating Government Pleader, to the Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 16th August 1867, No. 124 :—

Dated 26th July 1867, No. 1,713, Revenue Department.

1. With reference to the Order of the Government noted in the margin, authorizing me to appear on behalf of the Government on the hearing of the two Civil Petitions, No. 126 of 1867 and No. 135 of 1867, presented to the High Court on appeal from an Order of the Civil Court of Guntoor, made in Original Suit No. 2 of 1861 in that Court, dated the 26th day of March 1867, I have now the honor to report, for the information of the Government, the result of the two Appeal Petitions to the High Court above referred to.

2. The Order of the Civil Court of Guntoor, dated the 26th March 1867, which was appealed against, directed (among other things) that the property of the heirs of the second defendant in Original Suit No. 2 of 1861, which had been attached in that suit, should be sold, and the proceeds paid to the transfer plaintiff, M. A. Lutchmi Narasu Puntalu, on his giving security to meet the contingency of the Government, as a judgment creditor of Vasooreddy Lutchmiputty Naidu, the former transfer plaintiff, being successful in a suit to be brought (if it should be so advised) to cancel the transfer of the decree in Original Suit No. 2 of 1861 by Vasooreddy Lutchmiputty Naidu to M. A. Lutchmi Narasu Puntalu, the present transfer plaintiff. The Order also directed that the ten bonds deposited in Court, which were the subject of the suit, should be restored to the third defendant, the Zemindar of Sullapullay, and not delivered to the transfer plaintiff, who prayed for the delivery of them to him.

3. Against this Order the transfer plaintiff, M. A. Lutchmi Narasu Puntalu, appealed to the High Court in Civil Petition No. 126 of 1867, upon several grounds which resolved themselves into the objections that the Civil Court was bound to accept the arrangement of the parties to the suit as to the settlement of that suit, and should have ordered the delivery to him of the ten bonds (the subject of the Original Suit No. 2 of 1861 in the Civil Court of Guntoor), which he wished to have, instead of compelling a sale of the property of the heirs of the second defendant in that suit.

4. The heirs of the second defendant in Original Suit No. 2 of 1861 also appealed to the High Court against the above-mentioned Order of the 26th March 1867, by Civil Petition No. 135 of 1867, upon several grounds similar in effect to those disclosed in the transfer plaintiff's Civil Appeal Petition.

5. Both these Civil Appeal Petitions came on for hearing this day in the High Court before Mr. Justice Holloway and Mr. Justice Ellis, when I appeared to watch the case and protect the interest of the Government. On hearing the appellants' Counsel and Attorney, and also on hearing me, the Court has passed an order reversing the Order of the Civil Court, declaring that the bonds, the subject of the suit, which were deposited in Court, were the property of the transfer plaintiff, but should be detained in the Civil Court to meet any claim which the Government may make upon them as creditors of the late transfer plaintiff V. Lutchmiputty Naidu. I have applied to the Court for the Order made by the High Court upon the two Civil

Petitions of Appeal above referred to, and when I have obtained it, I will forward a copy of it to you.

6. I gathered from what fell from the transfer plaintiff's Counsel during the appeal, that he had been advised to strike out the Government Pleader at Guntoor and the Government from the list of defendants in the Original Suit No. 3 of 1867, which he, M. A. Lutchmi Narasu Puntalu, had instituted in the Civil Court of Guntoor against the Rajah of Sullapullay and others, and that he had decided upon doing so. I am without information on this point, but I would suggest that the Collector of the Kistna District and the Government Pleader there be informed of this circumstance, in order that they may be prepared for any application which may be made by M. A. Lutchmi Narasu Puntalu to strike out their names as defendants in the Suit No. 3 of 1867, which is now pending. In their written statement filed in that suit, the Government have set up their case, and set forth their claim as creditors of V. Lutchmiputty Naidu to the Decree in Original Suit No. 2 of 1861, and to the bonds deliverable, or to all monies payable thereunder when it was transferred to him, and submitted that M. A. Lutchmi Narasu Puntalu took a transfer of the Decree from V. Lutchmiputty Naidu, subject to the liabilities existing upon it at the date of such last mentioned transfer. It would, therefore, be most desirable, for the interests of Government, that the Government should be retained as defendants in the Suit No. 3 of 1867 in the Civil Court of Guntoor, and that that suit should be pressed on to a hearing, and the Decree of the Civil Court obtained in it as soon as possible. Should the Civil Court of Guntoor grant the plaintiff's application to strike out the Government and any other parties from the list of defendants in Original Suit No. 3 of 1867, the costs incurred by Government in defending the suit should be applied for. Care should be taken that no consent is given to any such application by the plaintiff, and if it is granted, no time should be lost in communicating the result of it to the Government, to enable the Government to decide whether either by and in a separate suit against M. A. Lutchmi Narasu Puntalu, or by and in an application in Original Suit No. 2 of 1861, the claim of the Government to the Decree in the last mentioned suit and to all the bonds deliverable, or the monies payable thereunder, should be asserted and upheld and definitively pronounced upon.

No. 361. ORDER THEREON, 17th August 1867, No. 1,927.

Miscellaneous.

Communicated to the Board of Revenue, who will lose no time in instructing the Acting Collector of the Kistna District in the manner advised by the Government Pleader.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Acting Collector of the Kistna District.
,, the Officiating Government Pleader.

Exd. S. T. Augustin.