M.R.O. 14—13,000—27-6-84

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 209 Press Mis.

442-443

Dated 21 — 6 - 1867.

Not to be folded or roughly handled

209

No. 442. Read the following letter from the Receiver of the Carnatic Property, to the Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 10th January 1867, No. 19 :—

1. I do myself the honor of reporting, for the information of the Right Honorable the Governor in Council, that on the 16th of March last an Original Suit was brought against me, as the Receiver of the Carnatic Property, by Madar Ool Omrah Bahadoor, the late Dewan of His late Highness the Nabob of the Carnatic, and Mahomed Saied Khan, who was described as Superintendent of the property of the Mosques of Mahomadee and Baigam Sahiba at Trichinopoly, on behalf of themselves and all other members of the Mahomedan community.

2. The suit was numbered 92 of 1866.

3. The relief sought for in this suit is shewn in the enclosure marked A.

4. The cause was tried by the Chief Justice and Mr. Justice Bittleston, and their Judgment, delivered on the 18th of July last, appeared in the daily papers, and probably did not escape the observation of Government.

5. Messrs. T. Shaw and Alldritt acted as my Attorneys in the suit, and I requested their opinion and advice as to whether they considered it my duty to appeal from the Judgment to Her Majesty in Her Privy Council. A copy of their opinion I also enclose marked B.

6. The form of action is most unquestionably objectionable. The attention of Mr. Justice Bittleston was drawn to it on the settlement of issues, and the question raised whether the Advocate General should not have been a party; he however declined to interfere at that stage of the proceedings, and when the cause was tried, the objection appeared to have been forgotten by the Court.

7. I was not in Court when the case was tried, and have not had an opportunity of referring to the evidence adduced; I am, therefore, unable to form an opinion whether I concur in the views taken by Messrs. Shaw and Alldritt. Having, however, every confidence in their judgment, I am not disposed to question the soundness of their opinion, founded, as it is, on a careful consideration of the evidence adduced in the case. I shall, therefore, act on their advice, and, on my own motion, shall not appeal.

8. Under these circumstances, I deem it my duty to return to you the enclosed six Title Deeds, which were forwarded to me, with four others, with the Proceedings of Government noted in the margin.

Proceedings of Government, 1st March 1866, No. 538, Revenue Department.

9. The village of Hookcuddy *alias* Ulkadee, the hamlet in Hurryahoor *alias* Aryavur, the piece of land called Kirirmathee *alias* Kiermati, and the piece of land called Terootanthony *alias* Terutantore, were sold by me on the 21st of November last, and the Title Deeds relating to them were delivered to the purchasers.

10. The form of a proposed Title Deed for the hamlet in Vaddeloor *alias* Vadavour, was returned by me to you in my letter, dated the 27th ultimo, No. 217.

11. You will observe the postscript to Messrs. Shaw and Alldritt's letter, should His Lordship in Council, under the advice of his Law Officers, deem it desirable that an appeal to Her Majesty in Council should be prosecuted in my name, but at the risk of Government. The six Title Deeds now returned would be required to

send with the record to the Privy Council. No steps for cancelling them should, therefore, be taken until that question has been settled, nor, indeed, till after the 19th instant, as the plaintiffs may wish to appeal.

2. The time for appealing will expire on the 18th instant.

No. 443. ORDER THEREON, 21st January 1867, No. 209.

Miscellaneous.

1. The Government understand that the Suit went against the Receiver, though this is not stated.

2. The Government do not desire to appeal from the Judgment of the High Court in the matter. The Title Deeds received with the above letter will be cancelled after 18th instant.

(Signed) W. HUDLESTON,
Secretary to Government.

Whereas the Receiver of the Carnatic Property under Act No. XXX of 1858, has produced good *prima facie* evidence of the Title of His Highness the late Nabob of the Carnatic to the premises hereunder specified, now held free of quit-rent or other land tax, and not justly liable to any such payment according to the custom of the District or the Regulations of Government, and has applied for a Certificate, I hereby declare accordingly under the authority of the Governor in Council of Madras, that the said land is permanently exempt from all demand on account of quit-rent, assessment, or other land tax.

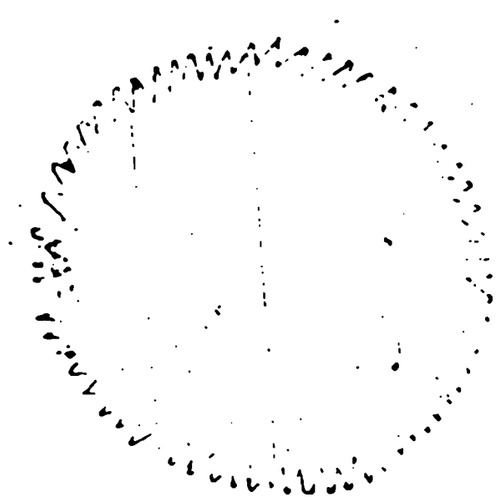
Provided, however, that this Certificate in no way affects any rights or interests which other parties than the said late Nabob may have in the said land.

District.	Taluq.	Village.	Name, if any.	Boundaries.	Extent.
Chingleput	Sholinghur	Chattampakkam	Pagoda Choultry	On the North and East by the Village of Pullalchuttay, and on the South and West by the Village of Cavanjoor	Quantity of land included in the grant Three Kuntahs

By order of the Government of Madras.

Secretary to Government.

FORT SAINT GEORGE,
Government Office,
Revenue Department,
21st March 1866.



Lot 2

Whereas the Receiver of the Carnatic Property under Act No. XXX of 1858, has produced good *prima facie* evidence of the Title of His Highness the late Nabob of the Carnatic to the premises hereunder specified, now held free of quit-rent or other land tax, and not justly liable to any such payment according to the custom of the District or the Regulations of Government, and has applied for a Certificate, I hereby declare accordingly under the authority of the Governor in Council of Madras, that the said land is permanently exempt from all demand on account of quit-rent, assessment, or other land tax.

Provided, however, that this Certificate in no way affects any rights or interests which other parties than the said late Nabob may have in the said land.

Cancelled L.D. Butler Vide G.O. 26 January 1867

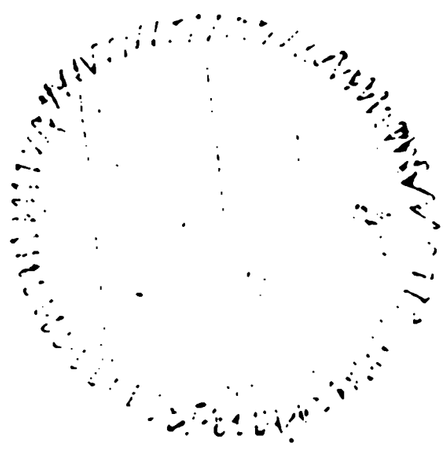
Specification of the Land.

District.	Taluq.	Village.	Name, if any.	Boundaries.	Extent.
Trichinopoly	Mussery	Mussery	The Village of Tennavanallur-Alias-Alamangedu	On the North in part by a portion of the Village of Trouvancadoy and in other part by a portion of the Village of Alagaray; On the South by the River Coleroon; On the East by another portion of the Village of Trouvancadoy and on the West by another portion of the Village of Alagaray.	Cawnies four hundred and seventy five Goodies Nine-tenths five and eleven Twenty fifths or thereabouts

By order of the Government of Madras.

FORT SAINT GEORGE,
Government Office,
Revenue Department,
4th March 1866.

Secretary to Government.



Lot 3

Whereas the Receiver of the Carnatic Property under Act No. XXX of 1858, has produced good *primâ facie* evidence of the Title of His Highness the late Nabob of the Carnatic to the premises hereunder specified, now held free of quit-rent or other land tax, and not justly liable to any such payment according to the custom of the District or the Regulations of Government, and has applied for a Certificate, I hereby declare accordingly under the authority of the Governor in Council of Madras, that the said land is permanently exempt from all demand on account of quit-rent, assessment or other land tax.

Provided, however, that this Certificate in no way affects any rights or interests which other parties than the said late Nabob may have in the said land.

Cancelled Vide P.D. January 1867.

L.R.

Specification of the Land

Specification of the Land.

District.	Taluq.	Village.	Name, if any.	Boundaries.	Extent.
Sriehinopoly	Lotes assigned by Mr. Thurston to Conagoody alias Konagudi	The Village of Comagoody alias Konagudi		On the North in part by the Village of Vellanur, and in other part by the Village of Edamangalem, on the South by the Village of Thennium, On the East by the Village of Sembarai, and on the West by the Village of Sirumayangudi.	Cawnies Four hundred and Sixty Gorlis Six Pucca Nine or Ten.

By order of the Government of Madras.

FORT SAINT GEORGE,
Government Office;
Revenue Department,
1st March 1866.

Secretary to Government.

Whereas the Receiver of the Carnatic Property under Act No. XXX of 1858, has produced good *primâ facie* evidence of the Title of His Highness the late Nabob of the Carnatic to the premises hereunder specified, now held free of quit-rent or other land tax, and not justly liable to any such payment according to the custom of the District or the Regulations of Government, and has applied for a Certificate, I hereby declare accordingly under the authority of the Governor in Council of Madras, that the said land is permanently exempt from all demand on account of quit-rent, assessment, or other land tax.

Provided, however, that this Certificate in no way affects any rights or interests which other parties than the said late Nabob may have in the said land.

Cancelled. Vide P.D. of January 1869.

L. B. Bowring.

26. January 1869.

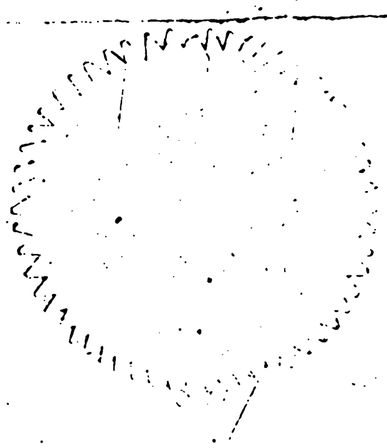
Specification of the Land.

District.	Taluq.	Village.	Name, if any.	Boundaries.	Extent.
Trichinopoly	Late Manaparai now Coolcottaiyar	Sittanaikenpatti alias Sittanaikenpatti	The Village of Sittanaikenpatti alias Sittanaikenpatti	On the North by the Village of Nullamenoor putty; on the South by the Village of Nadalaeka putty; on the East by the Village of Atanna putty; and on the West by the Village of Vadasery	Cawnies One Thousand two hundred and Eighty four and Gool is Ninety four and Annas twelve & Pie is Twelve

By order of the Government of Madras.

Fort Saint George,
Government Office,
Revenue Department,
4th March 1869.

Secretary to Government.



Whereas the Receiver of the Carnatic Property under Act No. XXX of 1858, has produced good *prima facie* evidence of the Title of His Highness the late Nabob of the Carnatic to the premises hereunder specified, now held free of quit-rent or other land tax, and not justly liable to any such payment according to the custom of the District or the Regulations of Government, and has applied for a Certificate, I hereby declare accordingly under the authority of the Governor in Council of Madras, that the said land is permanently exempt from all demand on account of quit-rent, assessment, or other land tax.

Provided, however, that this Certificate in no way affects any rights or interests which other parties than the said late Nabob may have in the said land.

Cancelled. Vide G.O. 2 January 1867.

21. January 1867.

Specification of the Land.

District.	Taluq.	Village.	Name, if any.	Boundaries.	Extent.
Trichinopoly.	Lalgoody.	Sri Ormanoor Irrakkamatty Chum Kookkamalay Jumba Kattiny or Puttapar	The Kambesseen Cottahs or Syambo Kattapar alias Kattapar	On the North in part by the Village of Irrivarangamanoor in other part by the Village of Naravelli, in other part by the Village of Vadaraiyapuram and in other part by the Village of Arrayangoodi. On the South in part by the Village of Naval Vadi, and in another part by the Village of Sthiruvalgudi. On the East in part by the Village of Chettiyarpatty in another part by the Village of Rottarpatty, and in other part by the Village of Ayyampatty. On the West in part by the Village of Nochiyayal, and in other part by the Village of Tiruvarambur	Cubical Contents 3600 Kumbums or Pucka Kumbums Paid Government Quit Rent for Fasli 1276 Rupees 0-8-0 and Fasli 1277 Rupees 0-8-0

By order of the Government of Madras.

FORT SAINT GEORGE,
Government Office,
Revenue Department,
1st March 1866.

Secretary to Government.

Whereas the Receiver of the Carnatic Property under Act No. XXX of 1858, has produced good *primâ facie* evidence of the Title of His Highness the late Nabob of the Carnatic to the premises hereunder specified, now held free of quit-rent or other land tax, and not justly liable to any such payment according to the custom of the District or the Regulations of Government, and has applied for a Certificate, I hereby declare accordingly under the authority of the Governor in Council of Madras, that the said land is permanently exempt from all demand on account of quit-rent, assessment, or other land tax.

Provided, however, that this Certificate in no way affects any rights or interests which other parties than the said late Nabob may have in the said land.

Cancelled. Fort St. George, January 1869.

E. K. Lushington

Fort Saint George, 21st January 1869. Specification of the Land.

District.	Taluq.	Village.	Name, if any.	Boundaries.	Extent.
Trichinopoly	Satt Comaud. Trichinopoly	Devadanam	Krishnasawmy (called) Rawsawmy, otherwise Doss Pillay has a Lease.	On the North by the River Kaveri. On the South in part by the Village of Coil Seremeant Sullapanic and in other part by the Village of Samanallur. On the East in part by the Village of Ilpha Kurichi. And in other part by the Village of Nyanumalum. And on the West by the Village of Chinnasamy.	Cawnies Seventeen and five Cawnies forty Six Cawnies Seventeen Marcals.

By order of the Government of Madras.

Fort Saint George,
Government Office,
Revenue Department,
9th March 1866.

Secretary to Government.

Madras 10th January 1867.

C. Dale Esquire

Receiver of the Carnatic Property

Dear Sir,

Yourself Vs Madar Ab Comrah and anr.
(O.S. No. 920 of 1866)

We have carefully considered the Judgment given in this Suit on the 18 July last and are of opinion that it is not advisable for you to appeal against it. We think the Evidence adduced at the hearing was sufficient to warrant the Conclusion that the Villages of Cheithrapatty, Seroorunpootam Kaimagoody and Chithamatthum, the Hamlet in Cotthapauy and that piece of land called Dhavatthavanum had been dedicated to the support of the Mosques mentioned in the Plaint and that the Nabobs held the Villages in Trust for the support of the Mosques.

The only doubt which we entertain is occasioned by the fact that the Nabob was not subject to the Jurisdiction of any Municipal Court and that he could not therefore have been compelled to perform his duties as Trustee, but it appears

to us that in a Case of this nature you are in the same position as the Nabob would have been if his privilege of Exemption from process had been withdrawn, in which Case we think a Decree similar to that now under Consideration might have been obtained against him.

We have therefore, to advise you not to take any further steps in this matter.

We are

Dear Sir,

Your faithfully

Bigg Shaw & Allcott

P. S. We have informed the acting Government Solicitor that you do not intend to appeal Except at the Express request of Government

B

In the High Court of Judicature at Madras

Original Suit No. 92 of 1866.

Between Moodar Col Omrah Bahadur the late Diwan of his late Highness the Nabob of the Carnatic and Mahomed Saeed Khan, Superintendent of the property of the Marquis of Mohamedee and Begum Saheba at Trichinopoly respectively residing at No. 60 Moorbrays Road at Royapettah within the local limits of Madras on behalf of themselves and all other members of the Mohamedan Community — Plaintiffs

and

Clement Dale of Summerhouse in the Village of Saidapet within the local limits of Madras Esquire, Barrister at Law, the Receiver of the Carnatic Property under Act XXX of 1858. — Defendant

Plaint

The relief sought in this Suit is a Decree declaring that the Village, Hamlets, and Lands following

are

as perpetually bestowed by the late Nabob of the Carnatic, as immovable attached to and belonging to the Mosques of Mahomedan and Begums dahibe at Trichinopoly devoted to the maintenance and support of such Mosques, and that the income thereof be decreed to be appropriated towards the purposes of the said Mosques and the Charities appertaining thereto the following are such Villages Hamlets and lands.

The Village of Chattrapilly alias Sattrapilly otherwise called Peria Vaguvu Chattram, in the Taluq of Canaud, measuring Cawnies 400-14-3- or thereabouts.

The Village of Terravanapoorum alias Mammedre in the Taluq of Mooloory measuring Cawnies 475-96-5- or thereabouts.

The Village of Canagoody alias Kanagudi in the Taluq of Langoody measuring Cawnies 406-65-9, or thereabouts.

The Village of Hookondy alias Ulkondee otherwise called Aryanmogalam in the Taluq of Canaud measuring Cawnies 65-62-8 or thereabouts.

The Village of Shettiam otherwise called Settiamtham

in the Taluq of Ollanapuma or Coolastharay measuring Cawnies 1328-94-12- or thereabouts

The Hamlet of Bunyatoor alias Arigyar in the Taluq of Canaud measuring Cawnies 30-1-0 or thereabouts

The Hamlet of Cottapadoy or Chinnatalum alias Semiankalum or Kuttapar in the Taluq of Canaud measuring Cawnies 670-94-8 or thereabouts

The Piece of land called Dhonathoorai otherwise called Kunabat alias Donabatoor in the Taluq of Canaud measuring Cawnies 105-46-14 or thereabouts

The Piece of land called Kurumbadoor alias Kurumbatoor otherwise called Paraguntoor in the Taluq of Canaud measuring Cawnies 10-99-0 or thereabouts

The Piece of land called Tevanathoy alias Tevanadoor in the Taluq of Canaud measuring Cawnies 76-0-0 or thereabouts

The Hamlet of Vadalur alias Vadaloor

That the Estate of his late Highness the Nabob Mahomed Ghause Khan of the Carnatic do be decreed to have no interest in or title to such Villages

and lands or any or either of them or any part thereof
or of the rents, issues, profits, and income of the same
or any part thereof and that his said late Highness
Mahomed Ghouse Khan, and his father and grand
father his declarations having been instituted for the said
benevolent purposes of the support of the said Mosques
and that the Defendant as Receiver of the Carnatic Pro-
perty be declared a Trustee for the said Mosques
Dargah Hamlets and lands and premises
or those entitled to the profits produced or accruing therefrom
or any part thereof and be perpetually restrained from
interfering in any manner whatsoever therewith

And that the Plaintiffs be appointed superintendants of
the said Property of the said Mosques and dedicated
entitled to the management thereof and to possession
thereof and to receive the future income thereof upon
such terms as this Honorable Court may direct
and that they be at liberty to apply the same heretofore
for the support and maintenance of the said Mosques
and other Charities attached thereto under the direc-
tion of this Honorable Court.

And that this Honorable Court shall not see fit to
appoint the Plaintiffs to be superintendants of the
Property of the said Mosques that it be referred
to the Commissioners of this Honorable Court to appoint
some fit and proper person or persons of the said
Mahomedan Community to be elected by such Commu-
nity or otherwise as this Honorable Court shall think
fit to be superintendant and superintendants of the
Property of the said Mosques
[illegible] and lands
[illegible] and superintendant and that the
[illegible]

income thereof for the use
of the said Mosques and the
Charities connected therewith be received
and paid by such Superintendent or Superin-
tendents upon such terms as this Honorable
Court shall direct

And that the sale hereinafter
mentioned be directed to be stayed forth
with, and that the Defendant, the
Receiver of the Carnatic Property, his
Servants and Agents be restrained
from proceeding with such or any sale
of the said Villages, Hamlets and
lands or any part thereof,
and from receiving the Rents Profits

or income thereof or any part
thereof and from interfering or
or intermeddling in any manner
therewith

That if necessary and until
the appointment of the Plaintiffs
as Superintendents or the Appointment
of a Superintendent or Superintendents
as aforesaid the said Plaintiffs
or some fit and proper person
of the Mahomedan Community
to be Elected by the said
Mahomedan Community
under the directions of this Honorable
Court

Court for that purpose and approved of by the
Commissioners of this Honorable Court may be appointed
Receiver to get in collect and receive the Income
of the said Villages Hamlets and land belonging
to the said Marquess and to conduct and superintend
the performance of the Ceremonies festivals and
Charities thereof

8 That the Defendant be decreed to pay
the Costs of this Suit (or that such directions may
be given as to the Costs of this Suit as to this Honorable
Court shall seem proper

9 That the Plaintiffs may have such further
and other relief in the premises as this Honorable
Court may seem fit to grant as the nature of the Case
may require

10 The subject of the Plaintiffs claim is that
before the Administration of the Carnatic was
by his Highness the Nabob Azeem Ood Dowlah
in One thousand eight hundred and one transferred
to the Honorable Company of Merchants trading
to the East Indies and now represented by the
Government of Madras (the Highness the Nabob
Vallajah.

Villages Nabab of the Carnatic and Grandfather of his Highness the Nabob Azeem Ood Dowlah endowed the Marquis of Mahomedee and Begum Sahiba at Trichinopoly a place subject to and dependent upon the Government of Fort Saint George with the Villages Hamlets and Lands hereinafore mentioned

11 After the treaty of One thousand eight hundred and one between the late Highness Nabob Azeem Ood Dowlah and the said Company his said late Highness addressed the said Company on the subject of the said Villages and Hamlets and Lands (informing the said Company that the same had been by his said Grandfather devested to the said Lord Marquess and requiring the said Company to desist from interfering in any manner therewith and thereupon the said Company directed the delivery up of all the said property to the Agent who should be appointed by his said Highness the said late Nabob Azeem Ood Dowlah and thereupon the said Highness appointed one Ghouse Mahomed Khan since deceased Superintendent of the said

said Property belonging to the said Marquess (and the said Property which consisted of the said Villages, Lands, and Hamlets, were delivered into the possession of the said Ghouse Mahomed Khan

12 After the Appointment of the said Ghouse Mahomed Khan as aforesaid duly Ameer Lashowy a Pillay was appointed Superintendent and he was succeeded by Mulla Ally Khan who was succeeded by the first Plaintiff who was thereupon designated Chuttool Mudlr

13 The first Plaintiff Continued to hold the Office of Superintendent for about two years and then having been appointed Meerasamaut of his late Highness the late Nabob of the Carnatic at Madras left Trichinopoly Commanding the Superintendence of the property relating to the said Marquess to one Mosjum Navay Gazumfer Hoolsaine Khan who was succeeded by Khabel Navay Khan whose son is the second Plaintiff

14 The Government of Madras are in possession of all the Records shewing the Number of Carnatic Inams and the said Villages Hamlets and Lands have always been treated by them as

Carnatic mains and have been entered as such in their public accounts and in the early Reports prepared by Messrs Wallace and Powers and in Reports of the Inam Commissioners appointed by the said Government of Madras from time to time and in the Statement and Reports of the Collectors of Trichinopoly

15 The Defendant Contends that the Villages Hamlets and Lands Claimed in this Suit are not mains for the reason that the Accounts of the Receipts and disposal of the Revenue thereof used to be sent to the Cutchery of his late Highness

16 The Government of Madras have admitted that one Village named Pongamoor — Ein mains belonging to the Begum Sahiba Choultry because the Inam petition has been found but it will appear from the Records to which the Plaintiffs shall crave leave to refer at the hearing that notwithstanding such a petition the Accounts of such last named Village were sent into the Nabobs Cutchery —

along with the Accounts of his late Highness private Gardens wherein the Accounts of Villages Hamlets and Lands claimed in this Suit used to be sent to His Highness Cutchery Separately

17 Such Accounts were the Plaintiffs submit sent to His Highness Cutchery for the reason that His said Highness and his Father and Grand Father were Trustees for the said Community for the purpose of Superintending the Management of the said Two Mosques and the property thereof

18 The Defendant likewise Contends that as no Parwanah or any other instrument can be found granting the said Eleven Villages Hamlets and Lands for charitable purposes to the said two Mosques that the same are not mains but from property of the Nabobs estate to be dealt with under Act XXX of Fifteen Hundred and Eighty eight

19 The Defendant has stated in Answer to the Carnatic Property advertised the said Eleven Villages Hamlets and Lands for sale by public Auction

20

The Plaintiffs have applied to the Defendant to stay the Sale until the results of the Suit is known but no Step has as yet been taken to stop such Sale by the Defendant and the Plaintiffs Solicitors have received a Reply to their application to the Defendant signed by the Defendant Solicitors requesting the Plaintiffs Solicitors if they should see instructed to give to give them the said Defendants Solicitors notice of any Application Plaintiffs may make to stay the said Sale as they had been instructed by the Defendant to appear for him to defend any proceedings Plaintiffs might institute

21st The Cause of Action is the refusal by the Defendant to stay the said Sale or to desist to interfere with the said Premises or the income thereof

Signed / Branson and Branson
Plaintiffs attorney

20

We Madhar Col Comrah Bahadur and Mahamud Saeid Khan the Plaintiffs named in the above Plaint do declare that what is stated therein is true to the best of our information and belief

Signed / Branson and Branson Respectfully yours to the Plaintiffs attorney above named Plffs

Khadur Hyfun Khan
of Madras
13th March 1866

2

as the Plaintiffs may wish to appeal.

12. The time for appealing will expire on the 18th Instant.

I do not think any other of the Points urged by the Counsel for the Petitioner deserve any further notice than that they are not supported by the Evidence on the Record.

I have the honor to be
Sir
Your most Obd. Servant
W. Dalrymple
The Receiver of the Carnatic Property

To The Secretary Court of Directors

Rec. 8th Sept. 1806

Read in the Judgment Book of the Court of Directors this 10th day of September 1806

Examined
W. Dalrymple

A

High Court
Madras

Ol. No. 92 of 1866

Dated 16th March 1866

B B
Asst Regr

Madar Col Courtauld
and anr
(W)
Coles & Anr

Plaint

Rec. Stamp Rs. 10 Ld. 1442

Brandon & Brandon
Plffs Attorneys

No 1428/443.

1807 Oct. 2

From The Resident at
To Secretary to Govt.
Dated 10th January 1807
Read 11th

No 19.

(with 8 Enclosures)

Recd

Reporting for the information of Govt the result of the Regl suit brought against him as the Executor of the Carnatic Report by Sadar Adawlut to Mahomed Ghulam late Duwan of his late Highness the Nabob of the Carnatic & Mahomed Saud Khan who was declared to be entitled as the Proprietor of the Property of the Mahomedan & Banyan Inhabitants of Trichinopoly, on behalf of themselves & all other Members of the Mahomedan community.

No 1 to 1807 / 21st January

Read & Ordered

For Orders

Sir

My own opinion has always been that legally his Dale was right and that the Village here & Valid alienation but the Sh[illegible] Court has decided otherwise and as Mr Dale declines to take his own right I do not see his pretensions to do at this