

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1010	<u>Press</u> <u>Mis.</u>
³⁵⁶⁻³⁵⁷ Dated	17-4-	18 68.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
17th April 1868.*

No. 356. Read the following Proceedings of the Board of Revenue, dated 24th March 1868, No. 2,101.

Read the following letter from the Collector of Malabar, to the Secretary to the Board of Revenue, dated on Circuit at Sultan's Battery, 23rd October 1867, No. 239:—

* Collector to the Board of Revenue, dated 20th July 1864, No. 173 A.
Procs. of the Board, dated 20th Oct. 1864, No. 6,913.
Collector to the Board, dated 13th July 1865, No. 136.
Procs. of the Board, dated 21st July 1865, No. 4,261 A.
G. O. dated 26th July 1865, No. 1,742, communicated with Board's Procs., 27th idem, No. 4,434.

Adverting to the correspondence noted,* I have the honor to forward copies of the Decree and Judgment passed by the Special Court of Calicut, constituted under Act XXIII of 1863, in Suit No. 1 of 1865.

Suit No. 1 of 1865.

In the Special Court of Calicut.

PRESENT—G. R. Sharpe, Esq.
" R. H. Pierce, Esq.
" C. Choy Cooty.
" N. Koman Nair.
" K. Karunagara Menon.
" K. Mahmud Kutti.
" Choorien Kanaren.

Plaintiff.

versus

Defendant.

Ramangalata Kovilagatta Vira Varma Rajah of Kurumbranad. G. A. Ballard, Esq., Collector of Malabar, on behalf of Government.

By Vakeels Govina Menon and Canna Menon.

By Vakeel Shekara Kurup.

Suit was instituted by plaintiff to establish his claim to certain lands, 139 in number, which have been advertised for sale on account of Government.

This suit having been heard in the presence of Govina Menon and Canna Menon, Vakeels for the plaintiff, and Shekara Kurup, Vakeel for the defendant, the Court dismisses the suit.

Given under my hand and the seal of the Court this 24th June 1867.

(Signed) G. R. SHARPE,
Civil Judge.

(True Copy.)

(Signed) J. M. AROUJO,
Serishtadar.

(True Copy.)

(Signed) G. A. BALLARD,
Collector.

JUDGMENT.

1. This suit was instituted by plaintiff to establish his claim to certain lands, 139 in number, which have been advertised for sale on account of Government.
2. Defendant answered that the lands were undervalued, that plaintiff's claim was barred by the Statute of Limitation, and that plaintiff and the Devasom named in the plaint had no title to the lands, which were the property of the late Kotayeth Rajah and escheated to Government when the said Rajah was killed in open rebellion against the English in 1806.
3. The first issue was framed on 3rd August 1865, namely, "what is the value of the lands in the plaint described;" and on 23rd idem, plaintiff was directed to file stamp paper sufficient

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with that already filed for a plaint, claiming property valued at Rupees 1,25,000. This the plaintiff accordingly did.

4. The second and third issues were framed on 26th March 1867, namely :

(II.) "Whether the property claimed is the Jenm of the Devasom named in the plaint, or of the Government by escheat as contended by defendant," and (III.) "whether plaintiff's claim is barred by the Statute of Limitation."

5. The final hearing took place on 24th June, and the Civil Judge delivered the following Judgment, in which the other members of the Court expressed their concurrence :—

6. "I am perfectly aware of the extreme difficulty under which a plaintiff must labor who seeks to establish his claim to property of this description, namely, hills situated in Wynaad; but after making all possible allowances on that account, I cannot but hold that the evidence adduced in this case by plaintiff is very insufficient.

7. "His documentary evidence consists of two exhibits, the one engrossed on a piece of bamboo and the other on copper. The former was produced by the first witness who gave two different dates, namely, first, 4th, "or five years ago," and second "in Magarom last," as the dates when he first came into possession of it. Before relying upon that document, it is necessary that much better evidence should be adduced as to where it has been kept since the date of its alleged execution. The copper document is all but illegible, and nobody was produced to swear to its contents which are written in a character unknown to me.

8. "Plaintiff's oral evidence consists of six witnesses. The first, besides a general statement that all the lands in Ganipattiwattom Amshom belong to the plaintiff, asserts that there is a Kovilagom and a temple on hill No. 40 on the list, the second deposes that he has a house on hill No. 45 for which he pays an acknowledgment to the plaintiff, the third witness asserts the same about hill No. 17, the fourth about Nos. 30 and 31, the fifth about No. 16, and the sixth about Nos. 44 and 54.

"It is, however, sufficient to point the ignorance of those witnesses as to different tenures to show how very little their evidence can assist the plaintiff's claim of proprietary right.

9. "I am therefore of opinion that this suit should be dismissed.

10. "If I had the honor of being a member of this Court when this plaint was filed, I should have certainly called for its amendment, for, as it stands at present, it neither contains any allegation that the lands are "waste," or that they are "lands proposed to be sold on account of Government."

11. "Whether any judgment which this Court may pass upon a plaint so defective can have any validity is a matter which, as a member of this Court, I do not feel called upon to decide."

(Signed) G. R. SHARPE,
Civil Judge.

(True Copy.)

(Signed) J. M. AROUJO,
Serishtadar.

(True Copy.)

(Signed) G. A. BALLARD,
Collector.

1. Resolved that the foregoing letter, with the Decree and Judgment enclosed, be submitted for the information of Government.

2. The following is a brief *resumé* of the circumstance out of which the suit arose.

3. In a letter dated 8th December 1863, No. 263, the Collector reported that the sale of certain Government lands in Ganipattiwattom Amshom, Wynaad, had

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been interfered with by the Kurumbranad Rajah, who laid claim to these lands as well as to others in the Cherangod and Munad Amshoms, and the instructions of the Board were requested as to the course to be pursued by the Government authorities.

4. The Board in their Proceedings, dated 17th December 1863, No. 7,991, directed the Collector to proceed in accordance with the provisions of Act XXIII. of 1863.

5. The Collector acted accordingly, and submitted, in a letter dated 20th July 1864, a full report of the evidence for and against the claims of the Rajah, and also of one Sidhi Gownden who appears to have taken advantage of the opportunity to prefer a claim to Government property.

It appeared from the evidence that the lands claimed by the Kurumbranad Rajah were the property of the late Kolayagath Rajah, who was killed in open rebellion against the British, and whose lands consequently escheated to Government.

The evidence advanced by both claimants was also declared by the Collector to be utterly worthless, and he accordingly rejected their claims, informing them that such rejection would be final unless they appealed within the stated time as laid down in the Act. The Rajah only appears to have done so.

6. The papers were submitted by
* Board's Proceedings, dated 20th October 1864, No. 6,913.

request that the necessary orders might be issued for constituting a Special Appeal Court under Section 7 of the Act.

7. These orders were communicated in Proceedings of Government, dated 4th November 1864, No. 2,036, and the Collector was at the same time requested to submit a list of persons to form the Court.

8. Out of a list of nine submitted by the Collector, seven were appointed† by Government.

9. The Plaint filed by the Rajah, together with the Collector's proposed Draft answers, were submitted to Government in Board's Proceedings, dated 21st July 1865, No. 4,261, and the defence of the suit was sanctioned in Government Order, dated 26th July 1865, No. 1,742.

10. Owing to the illness of one member of the Court, and the absence of others from the district, the hearing of the suit was delayed, and in their Order dated 19th March 1867, No. 661, Government sanctioned the appointment of substitutes, in the room of those members of the Original Court who had meanwhile left the district.

11. The case has now been decided, and the suit dismissed.

No. 357. ORDER THEREON, 17th April 1868, No. 1,010.

Miscellaneous.

Recorded. The Board will issue instructions to the Collector to proceed with the sale of the lands under the latter

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part of Section 4 of Act XXIII of 1863, and with reference to his letter to the Board, dated 23rd February 1866, No. 68, recorded in the Proceedings of Government dated 22nd March 1866, No. 700.

(True Extract.)

(Signed) W. HUDLESTON,

Secretary to Government.

To the Board of Revenue.

Ed. S. T. Augustin.

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Recorded - The Board

will issue instructions to the Collyer

to proceed with the sale of the

lands under the latter part of Section

II of Act of 1863 with refer

ence to letter to the Board dated

23rd February 1866 No 68 recorded

in the Pro: of Govt dated 22nd March

1866, No 700:-

17th April 1868

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To the Bo

Exd. S. T. Augustin,

Exd. J. C. Augustin

Copy to the Collector of Malabar

11. The case has now been decided and the said decision is (See Copies and Extract)

Pro 4 Nov 1864 No. 63-64
23 Dec - - - - - 269-270
26 July 1865 - - - 485-486
19 March 1867 - - - 321-322

4-11-09

N. 3564357

Recd April 20

Rev - 1868. Department.
Pro. of Govt for April
No. 1047.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 24th March 1863.

Depd 30
Rev 31st.

Form No. 2 of 1863
C. N. 2198

No. 2,101.

Submitting for information with remarks
letter from Collector of Malabar forwarding
copies of Judgment and Decree passed by Special
Court of Calicut in Suit 1 of 1865, relative to
claim of Kurumbranad Rajah to certain lands
in Wynad advertised for sale on account of
Government.

N. 1000-17 Ape

With order.