M.R.® 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No.	3144	Press ~~Mis.~~
271-272 Dated	17-12-	19 1868

Not to be folded or roughly handled

G 3144

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

No. 271. Read the following Proceedings of the Board of Revenue :—

Suit No. 379 of 1866, instituted in Peddapoor Moonsiff's Court, Godavery District, for recovery of additional quit-rent charged on excess area of an Inam. Revised Draft Answer to be filed in —, forwarded to Collector.

(Here enter 19th November 1868, No. 8,197A.)

No. 272. ORDER THEREON, 17th December 1868, No. 3,144.

Miscellaneous.

1. The Right Honorable the Governor in Council observes that the proposed defence of this Suit should have been submitted for the sanction of Government, in accordance with the instructions issued in G. O., under date 9th December 1862, No. 2,565.

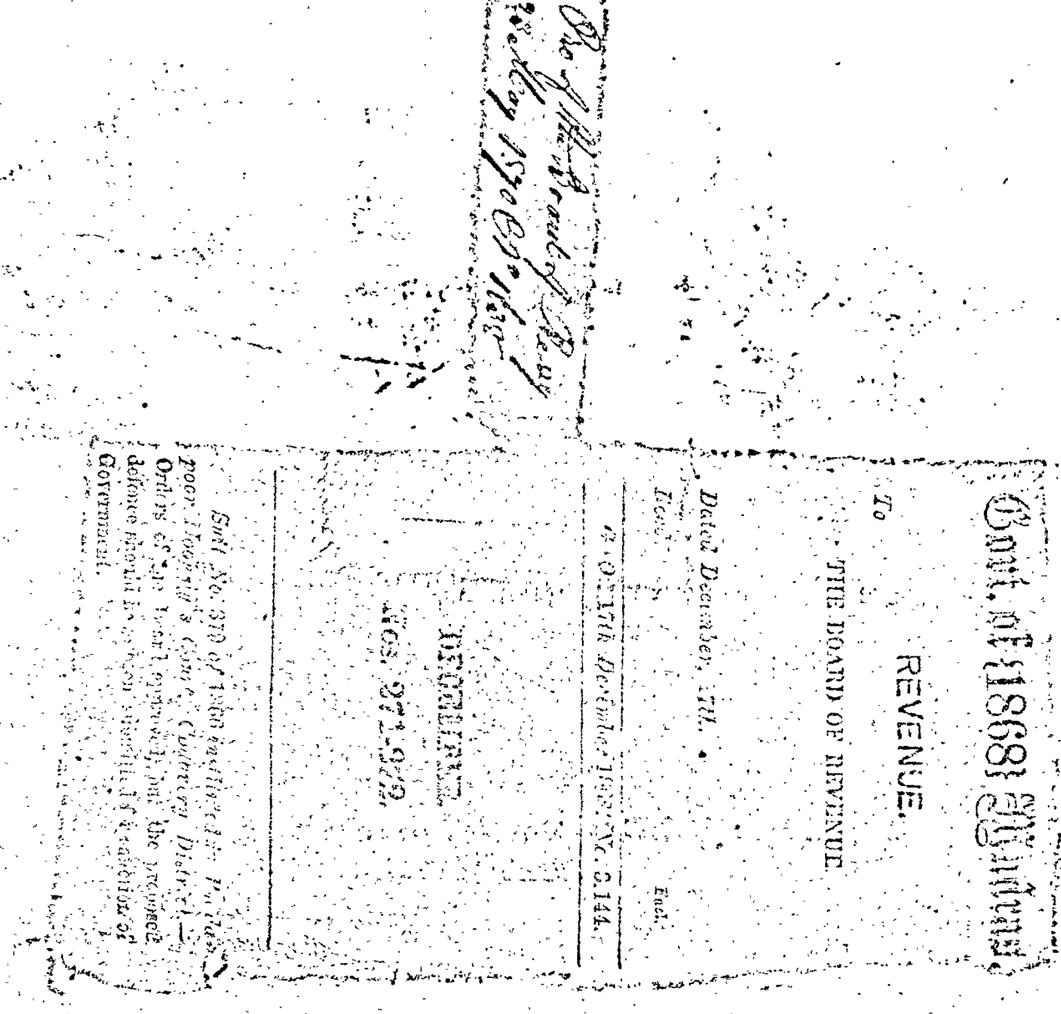
2. The orders of the Board are, however, approved.

(True Extract.)

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

To the Board of Revenue.

Exd. J. Tulloch.



No. 8,197A.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th November 1868.

Read the following letter from J. FRASER, Esq., Collector of the Godavery district, to the Acting Secretary to the Board of Revenue, dated Cocanada, 7th November 1868, No. 282:—

I HAVE the honour to submit, herewith, translation of a plaint filed against me in the Peddapoor District Munsiff's Court by Challa Acharlu, holder of an Inam at Marripudy, in the Peddapoor talook, from which it will be seen that he seeks for the recovery of Rupees 25-10-0 being the additional quit-rent for Fusly 1275, charged on the excess area discovered in his Inam by Survey, and for the exemption of his Inam from the imposition of the additional assessment. He appears to claim the above on the two following grounds:—

I. That in paragraph 28 of the Inam Rules, approved by Government in their Order, dated 9th August 1859, No. 1,069, promulgated with the Board's Circular Order, dated 12th August 1859, "the Inam once converted into freehold in accordance with the foregoing Rules will be subject "to no further interference on the part of the Government, except such as may be necessary for the "punctual realization of the quit-rent charged thereon, and even this degree of interference may be "avoided at the discretion of the Inamdars by the purchase, once for all, of the fee-simple of the land "by paying a sum equal to twenty times the amount of the annual quit-rent."

II. That the whole Inam in his possession, whatever its extent may be, according to the Curnum's accounts or according to the Survey, was valued by the Inam Commissioner at an annual assessment of Rupees 64, and Rupees 8 were charged as quit-rent at 2 Annas a Rupee, and that he is, therefore, liable to pay nothing more than that.

2. From the Government Proceedings, dated 16th November 1859, No. 1,559, it appears that the point, namely, the mode of dealing with excess found by the Survey in Inams provisionally settled by the Inam Commissioner, was reserved to be specially considered by Government, and that this question was finally disposed of in the above Order thus. The excess in Inams found by Survey beyond that of the Government land plus ten per cent. should be treated as an encroachment, and charged with assessment.

3. In the Standing Circular No. LX. of the 13th September 1865, the Board have prescribed Rules how the additional quit-rent should be calculated on such excess area in such minor Inams, and in strict accordance with the instructions therein contained, Rupees 25-10-0 have been added to the quit-rent of Rupees 8 imposed by the Inam Commissioner on the Inam, as shown in the accompanying Statement. It appears that the assessment of Rupees 64 has been entered by the Inam Deputy Collector by guess on the estimated area of 20 Acres of wet and 16 Acres of dry Inam belonging to the plaintiff.

4. The Survey and new Settlement shist of the whole Inam is as follows:—

	Rs.	A.	P.
On A. 43, C. 1 of wet land	64	8	0
On A. 55, C. 64 of dry land	25	1	0
	89	9	0

The rent value of this land would doubtless be double or treble the amount of Settlement shist.

5. Under the foregoing circumstances, I have prepared the enclosed draft of an answer which I propose to file in the suit, and beg to submit it for the approval of the Board.

6. The District Munsiff at first rejected the plaint, he being of opinion that he was precluded from trying the suit by Section 58, Act No. II. of 1864, as the Collector had fixed the shist in accordance with the Board's Standing Circular Order, dated 13th September 1865, No. 60, but the Civil Judge on Appeal ordered the suit to be remanded to the District Munsiff, to give a decision on the merits of the case after due inquiry, for the reasons mentioned in the accompanying copy of his Proceedings, dated 13th November 1867.

7. This is a matter of great importance, involving a general question connected with Government Revenue throughout the Madras Presidency. The Board are well aware of the facts and circumstances, as well as the legal views of Government and Inam Commissioner, under which the

imposition of the additional quit-rent has been regulated in the Board's Standing Circular, dated 13th September 1865, No. 60. I, therefore, request that the Board will consider the subject carefully and draw out the defence so as to meet the plaint fully.

8. I also hope, that if the Board of Revenue think that the views of the Civil Judge in remanding the suit to be tried and decided on its merits are not correct, they will also add a clause in the defence denying the jurisdiction of the Court.

9. The day fixed for hearing the Suit is 27th November 1868; application will be made for extension of the time if necessary.

10. The suit has been ordered by the Civil Judge upon my application to be transferred to the Principal Sudder Ameen's Court at Rajahmundry.

ENCLOSURE No. 1.

No. 379 of 1866.

Stamp paper of 4 Rupees value.

To the District Munsiff's Court of Peddapoor.

PLAINT preferred, under Section 26 of the Code of Civil Procedure, by plaintiff Challa Acharlu, Inamdar, inhabitant of Peddapoor, against the defendant James Fraser, Esq., Collector of the Godavery district, on behalf of the Board of Revenue, Madras, residing at Coconada.

The defendant, in accordance with the Order, No. 60, dated 13th September 1865, imposed an additional assessment of Rupees 25-10-0 on A. 37, C. 13 of land, saying it to have been the excess discovered unassessed, in my Inam situated in the village of Marripudy, which, being my ancestral property, has been under my enjoyment for a long time past, and which had been, under the provisions of Clause 3, Section 5, but not under Section 8 of the Inam Rules, charged by the Inam Commissioner with a quit-rent of Rupees 8 calculated at the rate of two Annas in every Rupee of the full assessment of Rupees 64 on the whole extent situated within the boundaries specified in the statement taken from me, and converted into a freehold tenure by the grant of a puttah. He collected the said assessment of Rupees 25-10-0 from me on the 7th and 9th June 1866. This complaint has been brought because the collection is opposed to Section 28 of the Inam Rules, wherein it is declared that Inams once converted into freeholds would be subject to no further interference on the part of Government, except such as may be necessary for the collection of the quit-rent charged thereon.

I, therefore, request that the Court will be pleased to examine my witnesses and peruse my documents, and to pronounce a Judgment to the effect that Rupees 12-6-0, being the full assessment charged on the dry portion, A. 28, C. 29, at 7 Annas per acre, and Rupees 13-4-0, being that of the wet portion, A. 8, C. 84, at Rupees 1-8-0 per acre, of the extent said to have been left unassessed, amounting in all to Rupees 25-10-0, be paid to me by the defendant with costs of the suit, and that Rupees 25-10-0, the assessment to be annually collected from me, be remitted for the future. No receipt has been granted to me for the additional assessment collected from me.

I presented the Title-deed of the Inam with the application.

7th November 1866.

(Signed) CHALLA ACHARLU,
Plaintiff.

(Signed) OGIRALA RANGAIYA,
Pleader.

I, Challa Acharlu, plaintiff named in the above plaint, do declare, that what is stated therein is true to the best of my information and belief.

(Signed) CHALLA ACHARLU,
Plaintiff.

Filed on the 16th November 1866.

(Signed) NAVOB SAIB,
District Munsiff.

(True Translation.)

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 2.

Original Suit No. 379 *of* 1866, *on the file of the District Munsiff of Peddapoor.*

Appeal Suit No. 150 of 1867.

In the Court of the Civil Judge of Rajahmundry.

The 13th day of November 1867.

Present:—HENRY MORRIS, Esq., Civil Judge.

Plaintiff, (*Appellant.*) *versus* *Defendants*, (*Respondents.*)

Challa Acharlu, Inamdar.

James Fraser, Esq., Collector of the Godavery district.

Vakil for plaintiff, (appellant,) Saripalli Gopalakistama.

Vakil for defendant, (respondent,) Samineni Rangaprasad Naidu.

Judgment.

THIS is an appeal from a decision of the District Munsiff of Peddapoor, striking off from the file, without inquiry, a suit against the Collector for the refund of shist which he had levied on an excess found in the plaintiff's Inam in Marripudy.

2. The District Munsiff was of opinion that he was precluded from trying the suit by Section 58, Act No. II. of 1864, (Madras,) as the Collector had fixed the shist in accordance with the Proceedings of the Board of Revenue, dated September 13th, 1865, (Standing Circular No. LX. regarding the excess discovered in minor Inams.)

3. The plaintiff appeals on the ground that the Munsiff had authority to try the suit, and therefore the only point for my determination is, whether a suit of this nature is cognizable by the ordinary Courts of Judicature.

4. The Section to which the Munsiff refers runs as follows:—

"No Court of Civil Judicature shall have authority to take into consideration or decide any "question as to the rate of Land Revenue payable to Government, or as to the amount of assessment "fixed, or to be hereafter fixed on the portions of a divided estate."

5. This is no question regarding the rate of Land Revenue payable to Government. The cause of action is, whether the disputed land is —— belonging to the plaintiff or whether, being in excess of his Inam, he is fairly liable to pay revenue on it; and this question is, I am of opinion, a fit subject for judicial inquiry, and within the District Munsiff's cognizance.

6. The suit is remanded to the District Munsiff to give a decision on the merits of the case after due inquiry. The costs of this appeal to be included in the costs of the original suit.

(Signed) H. MORRIS,
Civil Judge.

Memorandum of Costs.

Stamp duty on institution under Act No. X of 1862...	4	0	0
Value of a Stamp filed by the plaintiff's Pleader for Vakalutnama...	0	8	0
One-fourth fees to the plaintiff's Pleader Saripalli Gopalakistama under Act No. I. of 1846...	0	10	2
Value of Stamp filed by the plaintiff for a copy of the original decree.	1	0	0
One-fourth fees to the defendant's Pleader Samineni Rangaprasad Naidu under Act No. I. of 1846.....	0	10	2
Total...	6	12	4

NOTE.—A Certificate for the refund of Stamp duty will be granted on application to this Court.

(Signed) H. MORRIS,
Civil Judge.

To the District Munsiff of Peddapoor, with record, for his information and guidance.

(True Copy.)

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 3.—Statement.

ENCLOSURE No. 4.

To the Principal Sudder Ameen's Court of Rajahmundry.

Suit No. 379 of 1866, of the file of the Peddapoor District Munsiff's Court.

Challa Acharlu, Inamdar, inhabitant of Peddapoor, plaintiff, against the defendant, James Fraser, Esq., Collector of the Godavery district, on behalf of the Madras Government.

The written statement of the Defendant.

The claim of the plaintiff for the recovery of the sum of Rupees 25-10-0, the additional quit-rent charged and collected for Fusly 1275 on the excess area found by survey in his Inam situated in the village of Marripudy, in the Peddapoor talook, and for the exemption of the land from the charge of the additional quit-rent for ever, is groundless. In passing the Inam Rules in August 1859, the Government resolved that the mode of dealing with the excess found by the survey in Inams provisionally settled by the Inam Commissioner will be specially considered. The Government accordingly issued an Order in the month of November 1859, that the excess in Inams found by survey beyond that of the Government land plus ten per cent. should be treated as an encroachment and charged with assessment. In September 1865, the Board have prescribed Rules how the additional quit-rent should be calculated and imposed on the excess area in all minor Inams. In strict accordance therewith, the additional quit-rent of Rupees 25-10-0 has been correctly charged on the plaintiff's Inam. The Inam Commissioner granted to the plaintiff a Title-deed for 36 Acres of land with a quit-rent of 8 Rupees, at 2 Annas per Rupee, on the annual value of the land. This value was merely fixed by guess at so much per acre on the 36 Acres of land. By survey, the excess discovered is 62 Acres and 65 Cents beyond the area entered in the Title-deed. A. 25, C. 52, were allowed to the Inamdar as equivalent in acres of local Native measure on average of village as found by survey plus ten per cent. for original error in measurement, and the remaining 37 Acres and 13 Cents were charged with the additional annual quit-rent of Rupees 25-10-0. This mode of dealing with the excess in minor Inams has been observed throughout the Madras Presidency.

Defendant, therefore, prays that the Court will, under the foregoing circumstances, dismiss the suit with costs.

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 5.—Copy of Title-deed.

THE Board resolve to request the Collector to substitute the revised draft answer for that submitted by him with the above letter.

2. The Collector is requested to watch the progress of the suit carefully, as it involves a revenue question of very great general importance, and raises the points in issue in such a manner as either to ensure a definite admission of the right of Government, in the Court of first instance, or to enable the Board to appeal on a definite issue to the Higher Courts if necessary.

3. A copy of the Board's Proceedings will be submitted for the information of Government.

(True Copies and Extract.)

F. Brandt
Acting Sub-Secretary.

To the Collector of the Godavery district,
with an enclosure.

Copy to the Acting Secretary to Government, Revenue Department.
" to the Accountant General.

Answer to be filed by the Collector in Suit No. 379 of 1866.

Defendant states—

I. That plaintiff is, by his Title-deed, entitled to hold only 36 Acres of dry and wet land on a quit-rent, whereas he actually holds 61 Acres and 52 Cents on the same quit-rent.

II. That the 37 Acres and 13 Cents for which he has been charged assessment at the rate of Rupees 25-10-0 per annum being at the rate of 7 Annas per acre on the dry land amounting to 28 Acres and 29 Cents, and at the rate of Rupees 1-8 per acre on the wet portion amounting to 8 Acres and 48 Cents as stated in the plaint, are over and above the aforesaid 61 Acres and 52 Cents, are not included in the plaintiff's Title-deed, and form no part of his Inam.

III. That in respect of these 37 Acres and 13 Cents, this Court has no jurisdiction, inasmuch as, if claimed as Inam, it is protected by Act No. IV. of 1831, as it is not part of the enfranchised Inam held under Act No. IV. of 1862, (Madras.)

IV. The defendant denies the right of the plaintiff to hold the 37 Acres and 13 Cents aforesaid otherwise than as ryotwary land subject to assessment under Act II. of 1864, (Madras,) which assessment, as fixed by the Collector, it is not competent to this Court to modify, under Section 58 of the said Act II. of 1864, (Madras). That the addition of the assessment aforesaid with the plaintiff's Inam quit-rent, and the collection of it therewith, was merely for administrative convenience. The defendant is willing, on behalf of Government, to give plaintiff a separate puttah for this land if plaintiff desires it.

The defendant, therefore, prays that the Court will dismiss the plaintiff's claim with costs.

(Signed) F. BRANDT,
Acting Sub-Secretary.

Exd. T. Cartledge.

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D

Peru 1868. Department.

No. 3804.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 19th *November* 1868.
Dep. 3 *Secy.*
Received [illegible]

No. 8,197.

Subject No. 379 of 1866, instituted in Pedda poor Munsiff's Court, Godavery district, for recovery of additional quit-rent charged on excess area of an Inam.—Revised Draft Answer to be filed in —, forwarded to Collector.

Ref. 31 Nov 17 Dec 2

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Ry. 3146.

Jr. 3804.

17th December 1868

The Hble the Foreign Criminal observes that the proposed defence of this suit should have been submitted for the sanction of Govt in accordance with the instructions issued in G.O. under date 9th Dec 1862 No. 2565

The orders of the Board are, however, approved

WDM

Perhaps this is best. I am not clear as to the necessity for the alteration suggested by the Civil Judge but as it seems reasonable in ordering the amount made the cost of the Govt suit should be borne by the Inamdar

I do not think this worth pressing

Vide also the G.O. similar to this dated 14th March 1866 B

11 Copies sent to Bd of Rev 21 Dec 1868