

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	348	Press MIS.
¹⁶³⁻⁴⁵ Dated	7-2-	1868.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
7th February 1863.*

Read the following:—

No. 143. Proceedings of the Board of Revenue, dated 9th January 1863,
No. 144.

Read the following letter from the Collector of the Godavery District, to the Secretary to the Board of Revenue, dated Cocanada, 30th November 1867, No. 339.

1. I have the honor to inform you that the Zemindar of Vizianagaram has filed a Suit (No. 3 of 1867) against me in the Civil Court at Rajahmundry, for the recovery of an island of the extent of 390 acres, valued at Rupees 9,600, and yielding an annual assessment of Rupees 1,200, together with its past proceeds, viz., Rupees 16,618.

2. This is an island which was formed in the bed of the river Godavery in the year 1850 near Kota and Kotipalli, Government and Zemindary villages respectively, and claimed by the Zemindar of Vizianagaram. This matter has already been the subject of much correspondence as noted in the margin, and according to the opinion and advice given by the Government

From Collector to Board, 16th May 1860, No. 62.	
Do. Board, 29th " " " 2,578.	
Do. do., 23rd June " " 2,983.	
Do. Collector, 11th July " " 101.	
Do. Board, 21st " " " 3,331.	
Do. do., 26th " " " 3,429.	
Do. do., 18th March 1862.	
Do. do., 9th May " " 2,978.	
Do. Collector, 21st " " " 70.	
Do. Board, 10th June " " 3,715.	

Pleader Mr. Dale, in his letter to Government, dated 14th April 1862, No. 66, and under the Order of Government, contained in their Proceedings of the 1st May 1862, No. 939, the Board of Revenue in their Proceedings, dated 10th June 1862, No. 3,715, directed the Collector to refuse to acknowledge the claim of the Vizianagaram Zemindar to the island in question, and the Collector accordingly wrote an Inayatnama stating this to the Zemindar on the 28th September 1862. The

* See plan forwarded by me, P. statement of the plaintiff that this island marked F.,* was formed as an accretion to his island called Betarlanka, marked F. and G., is not correct; because, from the Survey plan† of the village of Kota, prepared in 1863

according to the demarcation made in 1859 or 1860, and received in my Office from the Director of Revenue Settlement, I see that the island in question, which is denominated as "disputed lanka between Kota and Kotipalli," was manifestly an accretion formed in the bed of the river, to what is undisputedly the Government lanka D. of Kota, and at that time nowhere touched the island now in the possession of plaintiff.

3. It will be seen that in the Survey plan there is a small channel dividing E. from F. and G. This is now obliterated, but its locality is marked on my plan by a double black line. At the time of demarcation the site of G. (on my plan) was entirely water. The accretion G. has formed since the time of demarcation in the deep bed of the river on the west, but whether to E. or F., I cannot confidently say.

4. A small accretion H. was formed in Fusly 1276, and was claimed by the ryots of both Kota and Kotipalli. I therefore, in the month of February 1867, had a plan shewing the position of the new accretion and the lankas in its vicinity carefully prepared by a Surveyor, who was for a long time employed in the Revenue

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Survey Department. A copy of this marked P. is my plan already referred to. It shows exactly the position of the old islands and new accretions as they stood after the freshes of Fusly 1276, and just before the filing of the suit by the Zemindar.

5. The three pillars marked A., B., C. on my plan correspond with the three pillars similarly placed on the Survey plan. The dotted line, drawn from C. to I. on the south of the river bank, is the boundary line between Kota and Kotipalli, according to the demarcation fixed by the Settlement Department. The new lanka marked G. was occupied by the ryots of Kotipalli, because it was not claimed by the ryots of Kota at any time on the ground that it is within the boundary line between their villages as laid down by the Survey. II. (colored green) is an accretion formed in last year; the portion that is numbered 1 was claimed by the ryots of Kota on the ground that it was formed within the boundary of their village.

6. Under the ruling specified in the Board's Proceedings, dated 23rd October 1866, No. 7,653, I ordered that this piece should be the property of the Zemindar, because it is an accretion to land already in the possession of the Zemindar.

7. A portion of the disputed island, numbered 3, which existed at the time of demarcation, has since been washed away, and the portion numbered 4 has been formed adjoining it on the north in the channel. The land washed away and newly formed was found to be 162 acres and 48 acres, respectively. So the island under dispute contains 276 acres as shewn in the margin.

8. Under all the foregoing circumstances I think that the Government right in the island under dispute can be maintained.

9. I have the honor to submit, herewith, translation of the plaint, and a draft of an answer, and to request that the Board will, if they approve of it, return it to me to be filed in the Court.

10. The time fixed for the hearing is 26th November 1867, and I have applied for an extension of two months from this date which has been granted. I send also copy of the plan filed by the plaintiff in the Court. I received it only five days ago. I sent this to the Court to be compared with the original, and authenticated as a true one by the Civil Judge's signature.

*Original Suit No. 3 of 1867 of Rajahmundry Civil Court's file.
To the Civil Court of Rajahmundry.*

Amended plaint for the one preferred under Section 26 of Act No. VIII. of 1859, by Mupparapu Venkatanandam Pantulu, residing at Vizianagaram, Huzoor Accountant, and recognized Attorney on behalf of plaintiff, His Highness Maharajah Mirja Sri Vizayarama Gajapatyraz Maharaz Mannesultan Bahadar, of Vizianagaram Samastanam, K. C. S. I., against defendant James Fraser, Esq., Collector of the Godavery District, at Cocanada, on behalf of Madras Government, for the recovery of 390 acres of Zirayat land, capable of yielding annually Rupees 1,200, and valued at Rupees 9,600, together with its past proceeds of Rupees 16,618, making a total sum of Rupees 26,218, and with subsequent income.

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1. Adverting to the island marked B., in the plan herewith presented, which was an accretion in Fusly 1260, adjoining the island marked A. in the plan, (island called Betarlanka, appertaining to the plaintiff's village of Kotipalli,) and the land situated at the eastern direction of that Betarlanka, and covered with sand-hills, the ryots of the plaintiff's village of Kotipalli and those of the Government village of Kota having disputed that it should belong to their respective villages, the then Collector of this district has issued a Hukum stating that the matter will be settled by instituting hereafter an inquiry into the same, and caused the sist or assessment of the said land to be held in deposit.

2. The Collector of the Godavery District having subsequently, under instructions from the Board of Revenue, addressed a letter to the plaintiff to inform him whether or not he is willing that the dispute should be settled by a decision of an arbitration, under Act No. XX. of 1860, he (plaintiff) sent his answer expressing his willingness for the same. Although it was so done, the Collector, without instituting any kind of inquiry into the dispute, sent a letter on the 8th September 1862 to the plaintiff, stating that the claim which the plaintiff advanced to the said land or island, was not acknowledged by Government. The said land with its assessment was accordingly annexed to the village of Kota.

3. The right of the island B. is vested in the plaintiff according to the law by reason of its having been formed close to the said island marked A., which belonged to plaintiff.

4. Plaintiff, therefore, prays the Court will pass a Decree adjudging that the Zerayat Lanka land in question marked B., namely, 390 acres, situated within the undermentioned boundaries, with its assessment of Rupees 16,618, from Fusly 1260 to Fusly 1276, subsequent proceeds, and costs of the suit, be made over by the defendant to plaintiff.

Boundaries.

On the east by the lanka land belonging to the village of Kota; on the south by the river Godavery; on the west by the said lanka land marked A.; and on the north to a small extent by the dry land of the village of Kota, and to a great extent by the channel close to the bank under that village.

(Signed) MUPPAVARAPU VENKATANANDAM,
Accountant and Mukhtyar or Attorney.

12th September 1867.

(Signed) SAREPALLY SATTANNAH, *Pleader.*
(„) S. GOPALA KRISTAMMAH, *C. P.*

I, Mupparapu Venkatanandam Pantulu, Huzoor Accountant, and empowered by the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my information and belief.

(Signed) MUPPAVARAPU VENKATANANDAM,
Huzoor Accountant and Mukhtyar or Attorney.

Stamp duty on the amount of claim, viz. 26,268								RS.
For two Stamps, at Rupees 250 each	...	...	...	...	...	...	...	500
Do. do. do. at do. 150 each	...	...	...	...	...	...	...	300
Do. four do. at do. 50 each	...	...	...	...	...	...	...	200
One Stamp	...	...	...	...	...	...	...	100
Do. do.	...	...	...	...	...	...	...	12
Do. do.	...	...	...	...	...	...	...	1
								1,113

Filed in Court, 24th September 1867.

(Signed) H. MORRIS,
Civil Judge.

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Statement to be filed in answer to Suit No. 3 of 1867, in the Civil Court of Rajahmundry.

1. Defendant denies the plaintiff's right to the island claimed by him, and puts him to the proof of the same. He also denies the plaintiff's statement that the island in question was formed as an accretion to his island called Betarlanka, attached to his village of Kottipalli. Defendant puts the plaintiff to the proof of his own statement. The defendant maintains that the island in question is the property of the State; first, because it is an accretion in the bed of the river Godavery, a navigable and tidal river, within the boundary line of Kota, a Government village, and opposite to the main land of it on both sides of the river; second, because it was formed as an accretion to what was at the time undisputedly Government property, viz., the Kota lanka D.; and therefore it now having become united to the Kottipalli lanka by the silting up of the "obliterated channel," cannot alter the ownership that existed previous to that silting up.

2. From the Survey plan of Kota, prepared by the Revenue Survey Department in the year 1863, according to the demarcation made in 1859 or 1860, and revived from the Director of Revenue Settlement, the Court will plainly see that the island in question was manifestly what the defendant has now stated it to be, and that it nowhere touched the island now in the possession of plaintiff.

3. It will be seen that in the Survey plan there is a small channel dividing E. from F. and G., on the plan which the defendant begs to produce in the Court. This is now obliterated, but its locality is marked on this plan by double black line. At the time of demarcation the site of G. was entirely water on this plan.

4. The accretion G. in this plan has been formed since the time of demarcation in the deep bed of the river.

5. The Government were not bound to the settlement of the dispute by arbitration referred to in the plaint merely because the plaintiff agreed to it. Part of the disputed island was subsequent to the demarcation washed away on the south, and a portion has been newly formed adjoining it on the north by the silting up of the channel between it and the main land of Kota. Under the foregoing grounds, the defendant prays the Court to dismiss the suit with costs.

(Signed) J. FRASER,
Collector.

ENCLOSURES Nos. 3, 4, and 5.—Plans and Map.

1. Forwarded to the Officiating Government Pleader, together with spare copies of the correspondence referred to by the Collector, with the request that he will favor the Board with his advice on the case.

2. The Collector's letter is dated 30th November, but only reached the Board on the 29th December. The plaint, too, is dated 24th September. Mr. Fraser will, accordingly, be good enough to explain the extraordinary delay which have been allowed to take place in submitting the matter. He should at once apply to the Court for an extension of the time for filing the answer, and should report the result of his application by telegraph.

No. 144. Proceedings of the Board of Revenue, dated 27th January 1868,
No. 642.

Read the following letter from the Officiating Government Pleader, to the Secretary to the Board of Revenue, dated High Court House, Madras, 20th January 1868, No. 9.

1. I have the honor to acknowledge the receipt of the Proceedings of the Board, noted in the margin, relating to the Original Suit No. 3 of 1867, instituted in the Civil Court of Rajahmundry by the Zemindar of Vizianagaram, against

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the Collector of the Godavery District, for the recovery of certain land formed in the Godavery river in the year 1850, near the Government village of Kota, and the Zemindary village of Kottipalli, and mesne profits.

2. I have, in accordance with the instructions contained in the Proceedings above noted, carefully perused and considered all papers which accompanied them, with the view of advising thereon; and have prepared the draft of a written statement (herewith enclosed) to be filed on behalf of the Collector, in preference, (if the Board think fit,) to the written statement prepared by him.

3. With reference to the concluding part of paragraph 5 of the Draft Written Statement prepared by me and herewith forwarded, I have to point out that I have considered it desirable to raise the point of bar by lapse of time, having regard to the view taken by the Board in their several Proceedings No. 2,978, dated 9th May 1862, and No. 3,715, dated 10th June 1862.

4. The dates in the Draft Written Statement should be carefully checked by the Collectors, and, if necessary, altered according to the facts, before it is filed. His plan, marked P., should be filed with it, and also copies of all correspondence between the Zemindar of Vizianagaram and himself and his predecessors relating to the land in question, and a copy of the Revenue Survey Plan, together with copies of all other papers relating to the subject matter of the suit. Of course, nothing will be filed in the nature of communications from the Board to the Collector, or from the Collector or the Government Pleader to the Board.

5. I return, herewith, the plans and papers which accompanied the Proceedings of the Board above noted. I should like to have a copy of the plan filed by the plaintiff, and also of that filed by the Collector.

In the Civil Court of Rajahmundry.

Original Suit No. 3 of 1867.

Maharajah Mirja Sri Viziararam Gajapatyraz Maharaz Mannesultan Bahada of Vizianagaram Samastanam, K. C. S. I., by his Huzoor Accountant and recognized Attorney, Muppavarapu Venkatanandam Pantulu, *Plaintiff*, against James Fraser, Esq., Collector of the Godavery District, at Cocanada, on behalf of the Madras Government, *Defendant*

The written statement of the above-named defendant.

1. The land or island marked B. in the plan referred to in the plaint, (possession whereof is sought to be recovered in this suit,) was formed in the year 1850, in the bed of the river Godavery to the south of the Government village of Kota, which said village of Kota is situated to the east of the plaintiff's village of Kottipalli. At the date of its formation, and down to the year 1860 or thereabouts, the said land marked B. was bounded on the north by a branch of the Godavery river, on the east by an island theretofore existing in the said Godavery river, and forming part of and belonging to the said Government village of Kota; on the south by another branch of the Godavery river; and on the west by a channel there connecting the said two branches of the said Godavery river, which said channel owing, among other things, to the silting up of the sand, has been filled up and no longer exists. At the date of the formation of the said land marked B., and for some time subsequent thereto, down to the year 1860 or thereabouts, the whole of the land marked C. in the plan referred to in the plaint, and so much of the land marked A. in the said plan as now lies to the west of the site of the said old channel, was land covered with the water of the southern branch of the said Godavery river, the whole of the said land marked C., and nearly the whole of the said land marked A. in the plaintiff's said plan, having been formed from the bed of the said river Godavery sometime in or about the year 1860.

2. The said Godavery river is a tidal and navigable river. The land, possession whereof is sought to be recovered in this suit, has been formed in the bed of the said Godavery river as hereinbefore mentioned, within the boundary line of the said Government village of Kota. The main land

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on the north of the northern boundary of the said land, the main land on the south of the southern boundary of the said land, and the land on the east of and immediately adjoining the said land belong to and form part of the said Government village of Kota.

3. Since the formation of the said land, possession whereof is sought to be recovered in this suit, the Government have solely exercised acts of ownership thereupon, and have in no way recognized the plaintiff's right thereto. Nor have the Government ever consented to be bound by any arbitration with reference to the said land.

4. At the date of the formation of the said land, possession whereof is sought to be recovered in this suit, it contained by admeasurement 390 acres or thereabouts. Since its said date, a portion thereof on the southern side, containing by admeasurement 162 acres or thereabouts, has been washed away by the said river Godavery, and is now covered with the water of the southern branch of the said river, and a certain other portion of land, containing by admeasurement 48 acres or thereabouts, has been formed on the northern side of and is now added to the said land, by reason of which said several changes in the said land, the total amount now remaining of the said land, which was newly formed in the year 1850, is 276 acres or thereabouts.

5. The defendant, therefore, submits that the land in question is not, as is stated in the plaint, an accretion to the plaintiff's island Betarlanka in the said plaint mentioned, and that, whether by reason of such alleged accretion or otherwise however, he has no right or title thereto; but that the said land is the lawful property of the Government. The defendant further submits that the plaintiff's claim to the said land in question in this suit, if, in fact, it ever did exist, has been barred by lapse of time.

6. The defendant craves leave to file, herewith, a true and correct plan, the portion whereon marked with the letter E., corresponding with the portion marked B. on the plaintiff's plan, is the land possession whereof is sought to be recovered in this suit; the portion whereon marked G. is the land marked C. in the plaintiff's plan, and part of the land marked A. on the plaintiff's plan, which, in paragraph 1 of this written statement, is mentioned to have been covered with water down to the year 1860, or thereabouts, the portion whereon marked No. 3 is the portion of land containing 162 acres or thereabouts, which, in paragraph 4, is hereinbefore stated to have been washed away by, and to be now covered with, the water of the river Godavery, and the portion whereon marked No. 1 is the portion of land containing 48 acres or thereabouts, which, in the said paragraph 4, is hereinbefore stated to have been newly formed on the northern side of and added to the said land in the plaint, and hereinbefore stated to have been newly formed in the year 1850.

(Usual verification.)

ENCLOSURES Nos. 2 to 4.—Plans and Map.

1. Communicated to the Collector of Godavery.
2. Mr. Fraser should file the written statement which has been prepared by the Government Pleader, and should pay special attention to the instructions given in paragraph 4 of Mr. Brockman's letter.
3. The Board observe that Mr. Fraser has not reported to the Board the result of his application to the Court for an extension of the time for filing the answer

No. 145.

ORDER THEREON, 7th February 1868, No. 348.

Miscellaneous.

Ordered to be recorded.

(True Extract.)

(Signed) W. HUDLESTON,

Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

Rev: 1868. Department.
Pro: of Govt. for July
No. 350.

*Pro: of the Board of Revenue
of 18th April 1868*

25-3-521

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 27th January 1868.
Recd 1st Feb
Enc: 1. 26.

No. 642.

Communicating to Collector of Godavery district, with remarks, letter from Officiating Government Pleader forwarding Draft of a Written Statement to be filed in defence of Original Suit No. 3 of 1867, instituted in Civil Court of Rajahmundry by Zemindar of Vizianagrum, for recovery of certain land formed in the Godavery river.

RECORDED.

20.348
7th Feb 1868