S.R.O. 14 5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	F 2 7	Press Mis.
557-62, Dated	2- - 3 -	18 69

Not to be folded or roughly handled

No. 551. Read the following Proceedings of the Board of Revenue, dated 16th March 1868.

Read the following letter from the Collector of the Madras District, to the Secretary to the Board of Revenue, dated Trivellore, 2nd March 1868, No. 70:—

1. I have the honor to forward translation of a plaint in Original Suit No. 65 of 1862, and a copy of the decision, dated 24th April 1867, of the Civil Court at Chingleput in Original Suit No. 77 of 1864, reversing the decree of the District Moonsiff of Conjeveram, and directing the trial of the suit *de novo* as original, making the Collector supplemental defendant in the suit.

2. I also beg to forward a draft of the answer that I propose to file in the suit, and beg the Board will be pleased to sanction its defence at the public cost.

3. The facts of the case are as follow:—

4. In September 1856, a Durkhast was presented by Apasawmy Moodelly and Cooluppa Naiken, Poyacarry residents of the village of Pillaroukum, in the Conjeveram talook, for 84 cawnies of land. This was followed by a counter-Durkhast, in November following, from one Bohoocootoomby Streenevassa Chariar, a Meerasidar. The land applied for in the first Durkhast was measured, and was found to be of the extent of Cawnies 77-2-2, assessed at Rupees 430-1-11, while that of the second Durkhast was found to be Cawnies 15-14-2 only. Of these cawnies, Cawnies 31-11-0 of the total area were Sheigal, and had been occupied by the Meerasidars, but left waste by them, and the rents accordingly remitted, and the remaining 45 and odd cawnies were immemorial waste.

5. The Tahsildar then gave the usual notice in the village, when one Natu Ragava Chariar and four other Meerasidars appeared before him, and entered into an agreement on behalf of themselves and all the other Meerasidars, but one only, viz., Combaukum Teroovengada Chary, to take up the lands and divide them amongst themselves, and to pay the full assessment from Fusly 1266 unconditionally, that is whether the lands were cultivated or not, and in default to allow their other occupied lands to be sold in satisfaction of the demand and to make over the Durkhast lands. The parties at the same time produced a Razinamah signed by a few of the Meerasidars, expressing their consent to the lands being put in immediate possession of Natu Ragava Chary and his confederates. Two of the Meerasidars, however, would not agree, but wished to be put in separate possession of their share.

6. Custoory Runga Chary and another Meerasidar protested against the lands being given over at all to Natu Ragava Chary and his party of Meerasidars, on the ground that on former occasions they had similarly competed for lands, but when put in possession of them, not only failed to cultivate them, but also obtained remission of the assessment, notwithstanding the execution by them of an agreement exactly similar to the one abovementioned, and therefore they thought that the wisest plan would be to give the lands durkhasted for, to the Poyacarries, who were not only willing and able to pay the Government assessment, but were willing also to pay all the fees to the Meerasidars.

7. The Tahsildar in reporting upon these various claims stated, that it was an undisputed fact that Natu Ragava Chary and his associates had similarly competed for lands on former occasions, and then left them waste, obtaining remission of

the assessment notwithstanding that they had executed an agreement to pay assessment whether the lands were cultivated or not, and that even the 31 and odd cawnies of the durkhasted land were once cultivated by them, but were now left waste, and he therefore suggested that the 45 and odd cawnies, which alone could be said to be immemorial waste, might be made over to Natu Ragava Chary and others, the objecting Meerasidars, with the exception only of such portions of it as would fall to the share of Runga Chary and the other Meerasidars who had wished to have their shares given to them separate.

8. Upon this a Takeed was sent by Mr. Shubrick, the then Collector, to the Tahsildar, saying that it was highly improper for the Meerasidars thus to undertake the cultivation of immemorial waste lands when they were unable to cultivate all the Sheigal lands, and called upon him to report what particular fields the 31 and odd cawnies consisted of, and who were the holders of them, and in what particular Fuslies they were cultivated, as also what guarantees the Meerasidars were prepared to offer against their being again left waste, as also what explanation they had to give for their failure on former occasions to cultivate or pay assessment for the lands which they had taken up.

9. The Tahsildar, in answering the above communication, reported that the 31 and odd cawnies above referred to were in the occupation of no less than twenty-two of the Meerasidars, and that he had served a notice on them all, but that only two of them, Appaviengar and Streenevassa Chary, had appeared and executed agreements binding themselves to pay full assessment whether they cultivated the land or not. He also reported that out of the 31 and odd cawnies, Cawnies 1-10-12 were cultivated in the current Fusly 1269, while Cawnies 18-15-12 had been cultivated within the last five Fuslies. He therefore proposed that all but the above extent out of the 31 and odd cawnies should be made over to the Durkhastdar, and that the share of Appaviengar and Streenevassier, the other Meerasidars who had responded to his notice, amounting to Cawnies 1-12-10, should be made over to them, and of the remainder Cawnies 9-3-14, that all that had been allowed to be waste for more than five years, together with the 45 and odd cawnies of immemorial waste should be made over to the Poyacarries.

10. A notice was then issued by the Collector requiring all the Meerasidars who had any claim to the Durkhast land to appear either at the Hoozoor or at the Tahsil Cutcherry within a given time, but only three of them, viz., Veerasawmy Iyengar, Kristhama Chary, and Streenevassa Chary, responded to the notice, and executed Kararnamahs, agreeing to pay full assessment for their shares of the 31 and odd cawnies, whether they cultivated them or not. Mr. Shubrick then issued orders to the effect that Cawnies 10-0-14 out of the 31 and odd Sheigal lands should be given to the above-named three Meerasidars and the other two, referred to in paragraph 8, who had executed Kararnamahs for the due payment of the assessment. Of the remainder (Cawnies 21-10-2) he ordered to be made over to the Poyacarries, together with Cawnies 8-15-10, which had been left waste for more than five years, as also the 45 and odd cawnies of immemorial waste, only stipulating that they were to pay the usual Swatuntram, &c., to the Meerasidars.

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11. The lands were accordingly put into possession of the Poyacarries, but were entered in the Samoodayem, or joint Puttah of the village, the names of the Poyacarries being, however, noted down as the occupants. This arrangement continued for two successive Fuslies, viz., 1267 and 1268. In the meantime the Poyacarries appealed to the Board, and requested that separate and individual Puttahs might be made out in their names. The Board, after some correspondence on the subject with the Collector, finally ordered the issue of separate Puttahs in their Proceedings of the 14th March 1860, No. 1,310, and their order was duly carried out in that year.

12. The Meerasidars, with the exception of the small minority of them who were in favor of the Poyacarries, then filed a suit in the Conjeveram Moonsiff's Court against the Poyacarries for the recovery of the whole extent of the land, or Cawnies 54-13-4, and for the cancellation of the individual Puttah issued in Fusly 1269.

13. The Moonsiff gave a judgment in favor of the Meerasidars, but against this decision the Poyacarries appealed to the Civil Judge, who finding that the interests of Government were much involved in the disposal of the suit, made the Collector supplemental defendant, and ordered that the suit should be tried *de novo* in his Court.

14. It is to be observed that everything that Mr. Shubrick did in this case was in accordance with the Hookoomnamah, and the then prevailing custom of the district, and although at first sight Mr. Shubrick's acts may seem to the Board contrary to the rulings of the Sudder Court, such is not really the case. The Collector had to consider not only the preferential rights of the Meerasidars, but also the interests of Government as regards the chances of the rent being paid punctually, which was quite in accordance with the rulings of the late Sudder Court in case 30 of 1851, whereas, as the Board will see from what I have stated above, Mr. Shubrick had no security for the payment from the Meerasidars of the Government revenue, inasmuch as they had frequently before taken up lands on condition of paying for them whether they cultivated them or not, and had as frequently failed to fulfil their engagement. The making over of the lands, therefore, in this case to the Poyacarries was not only just and proper, but, as observed above, in keeping also with the then custom of the district. I would also observe that the grant of 10 and odd cawnies to the Meerasidars out of the Sheigal waste of 31 odd cawnies appears to have been an indulgence that they did not deserve. Under these circumstances, I trust the Board will uphold Mr. Shubrick's decision, and permit the answer herewith sent to be put in.

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1. Resolved that the Collector's letter be submitted for the orders of Government, as important points are involved in the suit to which he refers.

2. The Board are of opinion that it would be well that the suit should be allowed to proceed, in view to the precise rights of Meerasidars being defined by the Courts.

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No. 552. ORDER THEREON, 30th March 1868, No. 827.

Miscellaneous.

1. The Government sanction the defence of the suit, and desire that the result may be reported to them in due course.

2. The Collector has omitted to mention the date fixed for the hearing, which should invariably be stated.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Accountant General.

Ed. S. T. Augustin.