

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	897	Press Mis.
108-9 Dated	A. A.	18 68.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
4th April 1868.*

Read the following papers:—

No. 108. Proceedings of the Board of Revenue, dated 8th November 1867,
No. 7,347.

Read the following letter from the Acting Collector of Trichinopoly, to the Secretary
to the Board of Revenue, dated 28th October 1867, No. 298.

1. I have the honor to transmit translation of plaint in Suit No. 563 of 1866,
on the file of the Perambalore District Munsiff's Court, in which the Collector is
included as the twenty-fifth defendant, together with the draft answer I propose to
put in.

2. The case formed the subject of Board's Petitions Nos. 3,803 and 3,958, and
on receiving a report thereon from Mr. Banbury, the Board disposed of the matter,
(*vide* their Proceedings, dated 14th December 1866, No. 8,872.) I leave it to the
Board to determine whether the plea put forward in paragraph 3 of my draft answer,
should be urged in this particular instance. I think no opportunity should be lost
of pleading the rights of Government in the matter of water-supply.

3. The hearing of the suit is fixed for the 27th proximo, and sanction is
requested to defend it at the public cost.

To the District Munsiff of Torriore, in Trichinopoly District.

Plaintiffs.

versus

Defendants.

1. Annachi Iyen,
2. Naranyen,
3. Chetumberyen,
4. Vencatasubyen,
5. Saishyen,
6. Pichuvyen,
- All Mirassidars residing at Mullal village,
in the Trichinopoly talook.

1. Muttyamavaly.
2. Ramasamy Muppen.
3. Maruday Nadavan.
4. Periyakolunday Muppen.
5. Chinnakolunday Muppen, the divided brother
of the fourth defendant.
6. Subba Muppen, son of the deceased Rama-
sawmy Muppen, the divided brother of the
fourth defendant.
7. Venga Muppen, the undivided brother of the
sixth defendant.
8. Vailayudha Muppen, son of Mutta Muppen.
9. Muttusawmy Muppen, the undivided brother
of the eighth defendant.
10. Arunachella Muppen.
11. Ponnyen.
12. Sattyavachakyan.
13. Chetumberyen, son of the deceased Subayen.
14. Panduvyen.
15. Ramasawmyen.
16. Thandavamanaly.
17. Maruday Taven.
18. Verabhudra Nadavan.
19. Kolundavala Pudiachy, son of Runga Pudi-
achy.
20. Nullu Pillay.
21. Ramasawmy Pillay, the undivided brother
of the twentieth defendant.
22. Ponnyen, a Mirassidar of Mullal, residing at
Cusbah Oodiarpolliem, in the Oodiarpolliem
talook.
23. Appavyen, residing at Kullikudy, in the
Trichinopoly talook.
24. Naranyengar, a Mirassidar and the late Cur-
num, residing in the abovementioned village
of Mullal; and
25. The Collector of Trichinopoly.

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This suit is brought under Section 26 of the Civil Procedure Code; (1), to prevent the defendants one to ten from diverting into a branch channel newly excavated by them the water of the Mavadicanni channel, which irrigates 21 Cawnies and 97½ Gulies of Malguzary Nunjah land in the abovementioned Mullal village; (2), to have the said branch channel filled up at a cost of 5 Rupees; (3), to have the decision of the twenty-fifth defendant, respecting the above channel, cancelled; and (4), to recover from the defendants one to ten the loss, viz., Rupees 281, and Annas 12, which the plaintiffs have sustained. Thus the aggregate amount sued for is Rupees 286, Annas 12.

1. After a dispute between the villagers of Aulungoody on the one side, and the plaintiffs and the defendants one, eleven, twelve, and fourteen to twenty-three, making in all nineteen individuals on the other, concerning the channel by which the above 21 Cawnies and 97½ Gulies of Nunjah land were formerly irrigated, the above nineteen individuals, who are the owners of the above land, caused the abovementioned Mavadicanni channel to be excavated at their own expense; and with the water thereof cultivated only the above 21 Cawnies and 97½ Gulies of Nunjah land; paid the assessment thereon, and were enjoying the land. While so, in 1859, the defendants one to ten excavated a channel branching from the aforesaid Mavadicanni channel, in order to convert into Nunjah some of the Punjab lands lying to the west of the Mavadicanni channel. The plaintiffs and the defendants eleven to twenty-three obstructed the excavation, but as the defendants one to ten gave no heed to the obstruction, the second plaintiff and the eleventh defendant, and the defendants one to ten complained on the subject both in the Revenue and Magisterial departments, and several Sunnuds have been issued to the effect that only the aforesaid 21 Cawnies and 97½ Gulies of Nunjah, and not any portion of Punjab land, should be irrigated by the above Mavadicanni channel; and that the branch channel in question should be restored to its former condition. Moreover, a Sunnud was formerly issued fining the twenty-fourth defendant, the late Curnum of the Mullal village, for fraudulently entering certain Punjab land as Nunjah in the names of the defendants one to ten in the Circar accounts.

2. Four acres and eighty-five decimals of Punjab land were cultivated by the defendants one to ten as Nunjah, and during the settlement in Fusly 1274, (1865,) the twenty-fourth defendant prepared a Puttah for the same, and entered the land in the accounts in the name of the first defendant. The plaintiffs complained about this to the Revenue authorities, by whom a Sunnud was issued prohibiting, among other things, Nunjah cultivation on the above or on any other Punjab land under the channel in question. The above Sunnuds, which are Circar documents, will be produced at the hearing. The plaintiffs preferred a complaint to the Sub-Magistrate against the defendants one to ten, for having diverted the water into the branch channel in question. They (the defendants) were in consequence fined by that officer. Notwithstanding this, the above defendants in the year 1865, (Krodhana,) raised a dam across the Mavadicanni channel, and diverted its water into the branch channel in question. Against this the plaintiffs complained to the twenty-fifth defendant, who has, thereupon, passed an order contrary to all the former orders on the subject, without taking them into his consideration.

3. The plaintiffs have sustained a loss, in consequence of their share out of the 21 Cawnies and 97½ Gulies of Nunjah land having suffered from want of water, owing to its diversion by the defendants one to ten into the new branch channel. The defendants eleven to twenty-three have been included among the number, in consequence of their having joined the defendants one to ten.

Under these circumstances, the plaintiffs request that the loss in question may be made good to them; that the order of the twenty-fifth defendant may be cancelled; and that the new branch channel may be filled up so as to admit of no flow of water through it.

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Of the 21 cawnies and 97½ gulies of Nunjah land in the village of Mullal—

	Nos.	Extent.		Total extent.	
		A.	D.	A.	D.
The first plaintiff's share is made up of three numbers, namely	216	...	73	1	88
	261	...	81		
	277	...	34		
The second do. do. of four do.	211	...	33	2	...
	259	...	16		
	260	...	90		
	273	...	61		
The third do. do. of one do.	259	...	51	...	51
The fourth do. do. of three do.	255	1	15		
	244	...	69		
	276	...	52	2	36
The fifth do. do. of three do.	217	...	52		
	261	...	65		
	279	...	57	1	74
The sixth do. do. of two do.	257	1	6		
	281	1	15	2	21
Total	...	...	...	10	70

Thus the shares of all the six plaintiffs amount to 10 Acres and 70 Decimals of Nunjah land. Adding to the above 1 Acre and 85 Decimals left waste from want of water, the aggregate extent of the plaintiffs' land comes to 12 Acres and 55 Decimals. The produce of this land amounts to 187 Cullums and 8½ Mercals of grain, at the rate of 15 Cullums per acre per annum. Deducting from the above quantity the one-fourth warum or share, viz., 46 Cullums and 11 Mercals, according to the custom of the village, the remaining grain to which the plaintiffs are entitled amounts to 140 Cullums and 9½ Mercals, valued at Rupees 281-12-0, at the rate of 2 Rupees per cullum on an average.

We, Annachi Iyen, Naraina Iyen, Chedumbara Iyen, Vencatasubbiyen, Shasha Iyen, and Pichu Iyen, the plaintiffs named in the above plaint, do hereby declare that what is stated therein is true to the best of our belief and information.

(Signed) ANNACHI IYEN.
(") NARAINA IYEN.
(") CHEDUMBARA IYEN.
(") VENKATASUBBIEN.
(") SHASHA IYEN.
(") PICHU IYEN.

(Signed) KISTNA ROW,
Vakeel for the Plaintiffs.

25th October 1866.

Filed on the 29th October 1866.
(A true Translation.)

(Signed) V. SINGAM AIYANGAR,
Translator.

*Proceedings of the Madras Government, Revenue Department,
4th April 1868.*

*Draft Answer to be filed by the twenty-fifth Defendant in Suit No. 563 of 1866, on the file of the
Perambalor District Munsiff's Court, in the Zillah of Trichinopoly.*

1. The twenty-fifth defendant is sued in order to the cancelment of an order passed by him as Collector of Trichinopoly, allowing the defendants from one to ten to cultivate Acres 4 and Decimals 85 under the Mavadicanni channel referred to in the plaint; and reversing the former orders on the subject.

2. The twenty-fifth defendant states that the land in question, viz., Acres 4 and Decimals 85, referred to in the second paragraph of the plaint, was formerly classed as "Garden," and irrigated by the Mavadicanni channel above referred to; that subsequently in Mr. Puckle's Settlement, the said land was classed as Nunjah, and has to this date been cultivated as such, under the same irrigation, without in the least affecting the supply of water to the plaintiff's land also dependent on the said channel; and that the order of the Head Assistant Collector, as well as the other orders to which the plaintiffs refer as being in their favor, have been abrogated by the new settlement, the decision of which department in all matters connected with the settlement of land revenue, water-supply, &c., must be accepted as final, as far as it is supported by the Collector and Board of Revenue, as in this instance it has been.

3. Further, the twenty-fifth defendant claims to himself, on behalf of the Government, the right to regulate from time to time, in the interests of the whole body of cultivators concerned, the supply of water to the lands of individuals derived from channels, such as that in question, which, together with the water they contain, are the exclusive property of the Government.

4. Under these circumstances, the twenty-fifth defendant prays that the plaintiff's claim be dismissed with costs.

(Signed) V. VANS AGNEW,
Acting Collector.

The Board sanction the defence of the suit on the usual terms, and approve of the draft answer.

No. 108A. Proceedings of the Board of Revenue, dated 24th March 1868,
No. 2,092.

Read the following letter from the Acting Collector of Trichinopoly, to the Secretary to the Board of Revenue, dated 5th February 1868, No. 23.

With reference to the Proceedings of the Board of Revenue, dated the 8th November 1867, sanctioning the defence of the Suit No. 294 of 1866, on the file of the late Torriore District Munsiff's Court, and No. 563 of 1866 on that of the present Perambalor District Munsiff's Court, in which the Collector of this district was included as the twenty-fifth defendant, I have the honor to forward, herewith, the translation of the Decree passed in the above suit dismissing the claim of the plaintiffs.

DECREE.

No. 563 of 1866.

Present:—APPAVYER, District Munsiff of Perambalor.

Plaintiffs.

1. Annachi Iyen.
2. Naranyen.
3. Chetumberyen.
4. Venkatasubyen.
5. Saishyen.
6. Pichuvyen.

versus

Defendants.

1. Muttyamavaly.
2. Ramasawmy Muppen.
3. Marudu Nadavan.
4. Peryakolunday Muppen.
5. Chinnakolunday Muppen, the undivided brother of the fourth defendant.
6. Subba Muppen, son of the deceased Ramasawmy Muppen, the divided brother of the fourth defendant.

All Mirassidars residing at Mullal village, in the Trichinopoly talook.

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7. Venga Muppen, the undivided brother of the sixth defendant.
8. Vailayudha Muppen, son of Mutta Muppen.
9. Muttusawmy Muppen, the undivided brother of the eighth defendant.
10. Arunachella Muppen.
11. Ponnyen.
12. Sattyavachakyen.
13. Chetumberyen, son of the deceased Subayen.
14. Panduvyen.
15. Ramasawmyen.
16. Thandavamanaly.
17. Maruday Taven.
18. Verahbudra Nadavan.
19. Kolundavala Pudiachy, son of Runga Pudiachy.
20. Nullu Pillay.
21. Ramasawmy Pillay, the undivided brother of the twentieth defendant.
22. Ponnyen, a Mirassidar of Mullal, residing at Cusbah Oodiarpollem, in the Oodiarpolliem talook.
23. Appavyen, residing at Kullikudi, in the Trichinopoly talook.
24. Naranyengar, a Mirassidar and the late Curnum, residing in the abovementioned village of Mullal.
25. The Collector of Trichinopoly.
Kristnier, Vakeel for the twenty-fifth defendant.

1. This suit had been filed in No. 294 of 1866, in the late District Munsiff's Court of Torriore, whence it was referred to this Court. The plaintiffs pray for a decree (1) directing that the channel newly excavated by the defendants 1 to 10, which prevents the proper irrigation of the lands belonging to the plaintiffs, and the defendants 11 to 23rd, should be filled up, and the loss, viz., Rupees 281-12-0, sustained by them (the plaintiffs) made good to them, and (2) cancelling the order of the Collector, the twenty-fifth defendant, to the effect that the channel should remain as it is.

2. The plaintiffs did not appear. The second, eleventh, and twenty-fifth defendants who appeared did not admit the plaintiffs' claim; and the rest of the defendants were *ex parte*.

3. The plaintiffs' claim is dismissed under Section 114 of the Civil Procedure Code with all costs.

Costs to be paid by the Plaintiffs.

To the third defendant.

	RS.	A.	P.
Value of Stamp	0	9	0
	0	9	0

To the twenty-fifth defendant.

Value of Stamp	1	9	0
Vakeel's fees	14	4	9
Total	15	13	9

(Signed) APPAVYER,

District Munsiff.

27th November 1867.

1. Submitted, with copy of the Board's Proceedings, dated 8th November 1867, No. 7,347, for the information of Government, with reference to Government Order, dated 6th December 1867, No. 2,919.

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2. Government will perceive that the plaintiffs' claim against the Collector was dismissed with costs.

No. 109. ORDER THEREON, 4th April 1868, No. 897.

Miscellaneous.

Ordered to be recorded.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

Secretary.

To the Secretary to Government, Revenue Department,
with copy of Board's Proceedings, dated 8th November 1867, No. 7,347.

Copy to the Acting Collector of Trichinopoly.

Exd. T. Cartledge.

Rev. 1868. Department.
Pro: of Govt for April
No. 1063.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 24th March 1868.

Dep 31/3/68
Rev. of Tr. A.P.
E.L.

No. 2,092

Submitting for information letter from Acting Collector of Trichinopoly forwarding Decree of District Munsiff's Court of Perambalora in Suit No 563 of 1866 regarding certain channel.

RECORDED.

82-897.
4-4-68