

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1292	Press
		~~Mis.~~
<u>217-219</u>		
Dated 10 th May 1869		

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
10th May 1869.*

Read the following :—

No. 217. Proceedings of the Board of Revenue, dated 26th July 1867,
No. 4,826.

Read the following letter from the Acting Collector of the Kistna District, to the
Acting Secretary to the Board of Revenue, dated Masulipatam, 9th July
1867, No. 218.

I. I HAVE the honor to enclose translation of plaint in Original Suit No. 113
of 1867, on the file of the District Munsiff of Masulipatam, against the Collector of
Kistna, for the recovery of certain land. The facts of the case are correctly set
forth in the plaint, and are briefly these :—

By a petition dated 17th October 1863, the plaintiff, Panumurty Lakshmi-
paty Sastrulu, requested the Collector to cause the correction of the accounts of
the Survey of 1859, so far as they excluded the present subject of suit (marked A.,
B., and C., on the annexed plan) from his Inam, and restore the same to his enjoy-
ment, the lands thus sought are known as the "Sorrax tank and channel," and
extend to A. 2, C. 89. On inquiry the Collector found no reason to accede to the
prayer of the petitioner, and communicated the same to him by an order dated

14th June 1864, No. 265. The plaintiff
* Government Proceedings, No. 6,330, dated 7th October 1865. appealed to the Board, and was inform-
ed* in answer to a request made for

permission to sue under Regulation IV. of 1831, that "the land claimed had been
"by competent authority declared not to be Inam, and his application for permis-
"sion to sue therefore needed no further notice." The "competent authority"
referred to by the Board is the Inam Commissioner, who on the 26th October 1859
granted to the petitioner a Title-deed No. 731 for Acres 21 C. 11: one of the

† The East.

boundaries† of this Inam is in the Inam
Commissioner's Statement of the case,
the Sorraz tank now in dispute. For this, the soil of which is very rich, durkhasts
had been received from many persons, and from the plaintiff among others. As the
best way of disposing of these, the Collector on the 16th February 1867 ordered
its sale to the highest bidder, whereon this suit was on 26th February 1867 filed,
and at the same time an injunction to restrain sale craved; the Collector on 15th
March 1867, in answer to the Court's notice in that behalf showed cause whereon
injunction was refused, and the lands were sold and purchased by Mahommed Galub.

2. I may mention that the enfranchised Inam as now held extends to Acres
22-23, or Acres 1-12 in excess of that enfranchised, and was demarcated in 1859 in
two khandams.

I propose the following :—

Answer.

I. THIS suit is barred by the provisions of Clause 13, Section I, of Act 14 of
1859, because the plaintiff having ac-

‡ *Vide* admission in the plaint.

quiesced‡ till 1863, a period of fourteen
years, in the result of the Survey of 1849, which gave rise to the cause of action,
only seeks to recover by action at law in 1867, a period of eighteen years there-
after:

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2. The land at issue, if Inam as contended, is not within the jurisdiction of the Court, but within the provisions of Regulation IV. of 1831, for it has not been enfranchised.

3. If the land at issue is *not* Inam, then the suit must be dismissed, for it is for the recovery of Inam.

4. Prays therefore that this suit may be dismissed with costs.

NOTE.—The hearing was fixed for 12th June, but application was made for two months, further time.

(Signed) W. WILSON,
Acting Collector.

ENCLOSURE No. 1.

In the Court of the District Munsiff of Masulipatam, Original Suit No. 113 of 1867.

PLAINT.

To the District Munsiff's Court, Masulipatam.

Plaint preferred by the plaintiff Panumurti Laksmipaty Sastrulu, Inamdar, an inhabitant of Khojillepeta in Bander, against the defendant Mr. G. Thornhill, Collector, Kistna District, on behalf of Government, residing at Masulipatam.

1. The late Apparow Bahadur, Zemindar, granted to our ancestors a Kasarapatty Kutty* of Inam land in Salivahana era 1635, corresponding with A. D. 1713, in the village of Kondipurru, in the Vinnakota Pergunna, and executed a sunnud accordingly. Ever since the aforesaid land had been in the enjoyment of our family from generation to generation.

2. The then Collector granted us a public receipt, showing that the sunnud of the aforesaid Maniem was presented in the Collector's Office in 1805 with the documents of all the other Maniems possessed by our family, at the inquiry made regarding Maniems, agreeably to Regulation XXXI. of 1802, and that they (documents) were there inquired. He (Collector) also issued a Standing Order on the 23rd October 1821 to the effect that the aforesaid Maniem should remain in our enjoyment.

Moreover, the original Chakunama† having been worn out, another was given by the villagers in Fusly 1203, which was filed in Suit No. 160 of 1831 in the late Adalat Court at Masulipatam. That Court retained that Chakunama in that record and granted a Public Extract therefrom.

3. Further, the area of the aforesaid Inam land was a Kutty according to the "Kararapati Paggam." It amounts to 1½ Kutty = to Acres 25 according to the ordinary measuring chain. The villagers concealed the fact, and represented that there was an excess of ½ Kutty over and above the extent of Kutty as per sunnud, and that the excess should be incorporated with the Seri. The then Collector instituted inquiry into the matter, agreeably to the Proceedings of the Board of Revenue, dated 22nd September 1828, and decided that the entire land as lying within the limits of the Chakunama should be allowed to continue as Inam; issued an order to that effect on the 21st February 1832, after obtaining the sanction of the higher authorities, and refunded to us the money held in deposit up to that time in the Sirkar treasury on account of the produce of the aforesaid Maniem.

4. While the aforesaid land of 25 Acres was thus held as our sole Inam according to recorded possession, the villagers subsequently reported that at the Chakbandi Mashat‡ made by them in 1849, they surveyed the lands marked A, B,

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and C, situated within the limits described in the plan, and included it in Porumboke, and therefore in Government property. Though at that time but little hindrance to our enjoyment was caused, yet to correct the survey made then, and to cause our enjoyment to be uninterrupted with, we presented an Arzi to the defendant's predecessors on the 17th October 1863. That Officer instituted inquiry into the matter through the Tahsildar, in which the villagers gave in a Kyfeyt or statement, clearly stating that the aforesaid lands marked A, B, and C, were within the limits of the Chakunama as stated by me, and had been under my enjoyment, and that the persons who made the Chakbandi Mashat not knowing the real state of things, included the lands in the Porumboke. In proof of this, the Revenue Inspector, who personally inspected the situation of the land, reported the matter to the Tahsildar, who also made a report with reference to the record of the case.

5. While matters were thus, that is before the settlement of the aforesaid matter, the general inquiry of the Inam Commissioner came on. That Officer imposed quit rent on Acres 21-11 entered in the Curnum's accounts (for which there was no Takarar at that time,) and granted a Title-deed

* There is no written record of this.

No. 731, on the 26th October 1859, stating* that the deed would be modified according to the settlement which might be made in future.

6. Such being the case, the defendant, contrary to the proof of the record of the Tahsildar, intimated to me through an order issued to him (Tahsildar) on the 1st June 1864, to the effect that the lands, the subject of the Suit, could not be included in my Inam land. Thereupon I represented this circumstance to the Honorable Government, praying them to grant me permission to prefer a Suit regarding the aforesaid land; when the defendants predecessors reported to them (Government) the foregoing circumstances and caused an endorsement to be issued on the 7th October 1865, to say that the Board need not take my application into consideration. On the 16th February 1867, he (defendant) also ordered the lands marked A, and C, to be sold by auction without allowing them to remain in my possession (I being the owner of the lands in question) either according to Section 27 of the Inam Rules, or imposing thereon the Seri sist agreeably to my application which I made to prevent the lands from being alienated to others, until justice is obtained from the Civil authorities. If such things were allowed to pass, my legal right would be affected.

7. I prefer this Suit with a view to establish my right to the lands marked A, B, and C, (one) because the lands in dispute are within the limits of the Chakunama of the Inam land which was enfranchised, and (two)† because on the contention of the defendant the lands must be entered as Seri.

† (2) Very obscure in the original.

RS. A. P.

Value of ½ Putty of black paddy remaining after deducting ½ Putty on account of agricultural expenses out of ½ Putty being the produce for a year of the land Acres 2-89 marked A, B, and C, Nos. 70, 71, and 72, situated within the limits described in the plan, at Rupees 28 per Putty	7	0	0
Value of ½ Putty of produce for the ensuing year at the above calculation	7	0	0
	14	0	0

I pray the Court will pass a decree that the defendant should not sell the lands marked A, and C; that the defendant should not prevent me from enjoying the lands marked A, B, and C; and that the defendant should make good to me the ensuing year's produce with costs. Please to consider this.—26th February 1867.

I have filed three documents, viz., two Public Extracts, dated 20th and 21st February 1832, and one Chakunama, dated 3rd March 1832, received from the (M) Adalat Court. Sections 10 and 26.

I shall present hereafter the Inam Commissioner's Title-deed, agreeably to Clause 12, Section 1, Act XIV.

(Signed) P. LAKSHMIPATY SASTRULU.

(Signed) K. SOMANNA.

Pleader.

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I, plaintiff in the above Suit, do declare, that what is herein stated is true to the best of my information and belief.

(Signed) P. LAKSHMIPATY SASTRULU,
Plaintiff.

Filed 26th January 1867.
(True translation.)

(Signed) W. WILSON.
Acting Collector.

ENCLOSURE No. 2.—Plan.

THE defence of the suit at the public expense is sanctioned.

2. The Clause of Section I., Act 14 of 1859, that should be quoted in paragraph 1 of the answer which is otherwise approved, is Clause XII. not Clause XIII. The answer should be amended accordingly.

No. 218. Proceedings of the Board of Revenue, dated 26th April 1869, No. 2,802. Read the following letter from the Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 20th March 1869, No. 68:—

WITH reference to Board's Proceedings, No. 4,826, dated 26th July 1867, I have the honor to forward copies of Decree and Judgment in Original Suit No. 113 of 1867 on the file of the District Munsiff of Masulipatam.

2. The Board will perceive from the above that the plaintiff's claim for the recovery of certain land in the village of Condepuru, in Gudewada Talook, was rejected by the Court with costs.

3. Application will be made for the recovery of the Collector's costs from the plaintiff.

ENCLOSURE No. 1.
JUDGMENT.

In the District Munsiff's Court at Masulipatam.
Original Suit No. 113 of 1867.

8th September 1868.

Plaintiff.

Panumarti Lachmepati Sastrulu.

versus

Defendant.

G. Thornhill, Esq., Collector of Kistna District, on behalf of the Madras Government.

THE plaintiff states that a Title-deed was granted to him only for Acres 21-11 forming part of his Inam land situated within the limits of the Chakunama, and not for the remaining land Acres 2-89, and claims that he may be permitted to enjoy the land without the prevention of the defendant.

2. The 1st defendant contends that the land claimed was incorporated with Siri and surveyed eighteen years ago; that the suit is barred by the Statute of Limitation, and that if the land be asserted to be an Inam, the suit is inadmissible, there being no certificate under Regulation IV. of 1831.

3. The points for consideration in this suit are whether the Court has or has not jurisdiction in this suit, and whether the suit is barred by the Statute of Limitation.

4. The plaintiff states in the plaint that the land claimed is the Inam included within the limits of his Chakunama. The Collector asserts it to be Siri. The plaintiff prays that the land may be made over to him even on the Siri tenure as it is situated by the side of his Inam land. Be it so; the chief assertion of the plaint is that the land is Inam. The suit has not been brought on

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the ground of its being a Siri. The plaintiff admits that no Title-deed was granted for the land claimed, which is Acres 2-89.

5. The District Munsiff is therefore of opinion that the plaintiff is not competent to bring this suit in the Court for the recovery of the Inam land (for which no Title-deed was granted) without obtaining a certificate to that effect from Government under Section 2, Regulation IV. of 1831.

6. The plaintiff's request that even if the land be incorporated with Siri, it may be made over to him, seems to be one with which the Court cannot comply; for it is the "rule" of the Revenue Department to grant land themselves. It is at their discretion to grant Porumboke lands accordingly. The High Court also ruled in Special Appeal No. 839 of 1861 that Collectors may grant Porumboke lands to those whom they may like.

7. With respect to the point of the land claimed being in the enjoyment of the plaintiff, the evidence adduced is also very weak, because it was asserted by the defendant that the disputed land Acres 2-89, has been included in the Porumboke since a long time. The plaintiff's witnesses state that cultivation has never been carried on in that land, and that cattle were caused to graze on it without making a separate payment of shist to the Inamdar. Any person may cause cattle to graze on the Porumboke lands which are vacant. This is not a satisfactory enjoyment. If the land be his property to which he has a right, the plaintiff might have caused it to be cultivated, or might have given it to others for cultivation. It does not appear to be the case; such enjoyment therefore does not appear to be satisfactory.

8. Be this enjoyment as it may, but the first mentioned point nullifies the claim of the plaintiff.

9. For the above reasons the entire claim of the plaintiff is dismissed with costs. The defendant's cost also should be paid by the plaintiff.

(For the late District Munsiff.)

(Signed) C. VENKOBACHARY,
Acting District Munsiff.

(True Translation.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

ENCLOSURE No. 2.—Decree.

SUBMITTED (together with a copy of Board's Proceedings, dated 26th July 1867, No. 4,826,) for the information of Government.

2. The Collector's costs will be recovered from the plaintiff.

No. 219. ORDER THEREON, 10th May 1869, No. 1,292.

Miscellaneous.

ORDERED to be recorded.

(True Extract.)

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

To the Board of Revenue

Erd. E. C. Shunker.

Rev. 1869. *Oct*
Board of Revenue,
MADRAS.

7:1406.

PROCEEDINGS, 26TH APRIL 1869, No. 2,802.

Recd 302
Received 1st May

APRIL.
No. 2,802.

N^o 1292

Original Suit—No. 113 of 1867, on file of Masulipatam Munsiff's Court in Kistna District, regarding certain land in Condepurru village, in Gudewada Talook.—Letter from Collector forwarding copies of Decree and Judgment in, submitted for information of Government.

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14 Copies To Mr. W. G. Carr & Mr. A. M. Sweet & Mr. W. G. Carr

SECRET

REVENUE

THE BOARD OF REVENUE

Friday, 10th.

Recd.

Enca

G. O., 10th May 1899, No. 1.202.

III.

105-217-910

Suit No. 113 of 1867 against Collector of Arizona.—Report of its dismissal by the District Attorney, recorded