

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2995	Press Mis.
<u>206-207</u>	
Dated 26 th November 1918	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
20th November 1869.*

No. 206. Read the following Proceedings of the Board of Revenue, dated 16th October 1869, No. 7,706:—

Read the following letter from the Officiating Collector of Madura, to the Acting Secretary to the Board of Revenue, dated 22nd September 1869, No. 298.

With reference to the Proceedings of the Board, No. 3,693, dated 25th May last, I have the honour to submit, herewith, copies of the judgment and decree passed by the Principal Sudder Ameen in Appeal Suit No. 61 of 1869, confirming the decision of the Madura District Moonsiff in Original Suit No. 90 of 1866.

ENCLOSURE No. 1.

Madura Principal Sudder Ameen's Court.

Present:—G. MUTTUSAMY CHETTY, Principal Sudder Ameen.

Appeal Suit No. 61 of 1869.

JUDGMENT.

THE plaintiff represented that a certain land, $\frac{11}{16}$ cawny in extent, which was situated close to his holding in the village of Sammatepuram, attached to the Madura Talook, was waste prior to 1271, when he cleared it without obtaining the permission of the Revenue authorities and occupied it till 1272, when, on the application of the first defendant, the Collector of the district granted the said land to him, and issued a puttah for it in his name in preference to the plaintiff. Hence this suit was originally instituted against the first and second defendants, who were the Nattamgar and Curnum of the said village, to have the puttah issued in the name of the first defendant cancelled, and to get another passed in that of the plaintiff.

2. The first defendant denied that the land in issue was cleared by the plaintiff in 1271.

3. The District Moonsiff dismissed the suit on the ground that no cause of action had arisen, inasmuch as the plaintiff acknowledged that he was in possession of the land in issue, and quoted the decision of the High Court in Special Appeal Suit No. 306 of 1865, in support of his view of the case.

4. On appeal I considered that the decision of the High Court, quoted by the Moonsiff, was inapplicable to the present case, inasmuch as the lands in issue in that suit were held under a cowle issued by the Hukkdars of a certain Inam village, whereas in the present case the plaintiff sought for a puttah for a waste land occupied by him in 1271, but which was subsequently granted by the Collector to the first defendant, under the rules prescribed for the disposal of waste lands. Being therefore of opinion that the plaintiff's claim should be investigated and disposed of on the merits, I remanded the case to the lower Court under Section 351 of the Code of Civil Procedure, observing, at the same time, that the Collector of the district ought to have been made a party to the case, as the first and second defendants simply carried out his orders, and could not change the puttah without his sanction.

5. The Collector of the district was accordingly made a party to this case, and filed a written statement declaring that the disputed land, which was waste since fysul, was granted to the first defendant with reference to the Collector's notice, dated 24th January 1862, which was then in force, and that no notice was taken of the fact of the plaintiff having reclaimed the waste land before the date of the first defendant's durkhast, since he did so without making a formal application for the land.

6. The District Moonsiff rejected the plaintiff's claim.

7. The plaintiff appeals on the following grounds:—

I.—That it was the Collector's duty to have included in plaintiff's puttah the disputed land which was occupied by him prior to the issue of the notice, dated 24th January 1862, and collected the teerwah thereof.

*Proceedings of the Madras Government, Revenue Department,
20th November 1869.*

II.—That the plaintiff caused his son to apply for the land immediately after he became aware of the application preferred by the first defendant.

8. I fully agree with the Moonsiff in the view he has taken of the plaintiff's claim. The plaintiff admits that the land in issue was waste on the date on which he occupied it. As it was not included in his puttah for 1271, he had little or no right to occupy Government waste land without previously obtaining the sanction of the Revenue authorities of the district. After having so cleared it, it was incumbent on him to have brought the same to the notice of the proper officer at the approaching Jummabundy, as directed in the notice published in the *Madura District Gazette* for 1862, page 85, and caused it to be included in the puttah issued to him for 1272. This he not only failed to do, but further cultivated the land in question and enjoyed the produce thereof without paying the fixed teerwah to Government. He did not offer to pay for the land till it was applied for and obtained by the first defendant from the Collector. His conduct throughout has been so unfair towards Government, that I consider that the mere fact of his having of his own accord occupied the land before it was granted to the first defendant by the Collector, does not give him any claim against Government, so as to justify the Court in cancelling the puttah issued to the first defendant under the rules in force regarding the disposal of waste lands in the district.

9. I therefore confirm the original decree and dismiss the appeal, and charge the plaintiff with his own and the defendants' costs.

Pronounced in open Court this 3rd day of September 1869.

(Signed) G. MUTTUSAMY CHETTY,
Principal Sudder Ameen.

(True Copy.)

(Signed) J. R. ARBUTHNOTT,
Officiating Collector.

ENCLOSURE No. 2.—Copy of Decree.

SUBMITTED for the information of Government.

2. Copies of the decree and judgment in the Original Suit No. 90 of 1866, were submitted to Government in Board's Proceedings of 28th April 1869, No. 2,870, recorded in Government Order of 19th May 1869, No. 1,402.

3. The decision of the lower Court has been confirmed.

No. 207. ORDER THEREON, 20th November 1869, No. 2,995.

Miscellaneous.

ORDERED to be recorded.

(True Extract.)

(Signed) H. WELLESLEY,
Acting Under Secretary to Government.

To the Board of Revenue.

Suit No. 90 of 1866, in Madura District
Munsiff's Court.—Board's Proceedings forward-
ing judgment and decree in it, recorded.

NOVEMBER.
Nos. 203-207.

G. O. 20th November 1866, N. 2995.

Printed
No. 100, Sec. 200.

THE BOARD OF REVENUE.

To

REVENUE.

Govt. of 1866, 20th Nov.

(True Copies and Extract.)

Acting Secretary.

To the Acting Secretary to Government, Revenue Department, with copy of decree.

Copy to the Officiating Collector of Madura.

Exd. T. Cartledge.

14 to the Board of Revenue, 22nd Nov.

Rev. 1869. Depart.
Board of Revenue,
MADRAS.

No. 3639.

PROCEEDINGS, 16TH OCTOBER 1869, No. 7,706.

Recd 22 October
Received 23^d 1869

Encl.

OCTOBER
No. 7,706.

Suit—No. 90 of 1866, on file of Madura Dis-
trict Munsiff's Court, regarding puttah for cer-
tain land.—Letter from Collector forwarding
copies of judgment and decree in, submitted
to Government.

RECORDED.

20 Nov 1869

3rd Nov 1869

2019 May/69 uo 455-6.