M.R.O. 1—39,0f0—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 3013 Press ~~Mis-~~

242-243

Dated 22nd November 1869

Not to be folded or roughly handled

27.3.30

Proceedings of the Madras Government, Revenue Department, 22nd November 1869.

No. 242. Read the following Proceedings of the Board of Revenue, dated 15th November 1869 :—

Read the following letter from the Acting Collector of Tinnevelly, to the Acting Secretary to the Board of Revenue, dated Tinnevelly, 15th November 1869, No. 442.

I HAVE the honour to forward for approval draft of an answer proposed to be filed in Original Suit No. 11 of 1869, on the file of the Civil Court of Tinnevelly, in which the Head Assistant Collector and other subordinate officers who acted under the Head Assistant's orders, were made defendants, relative to the recovery of certain thorn trees in the bed of a tank.

2. Translation of the plaint is herewith sent.

3. The date of hearing was fixed for the 30th October last, but application has been made for six weeks' extension.

THE Board request sanction of Government for the defence of the Suit. The Suit involves the important principle of the ownership of timber growing in the beds of Government tanks.

2. Paragraphs 2, 4, and 5 of the draft answer may be omitted: the answer seems otherwise correct.

No. 243. ORDER THEREON, 22nd November 1869, No. 3,013.

Miscellaneous.

THE Government sanction the defence, in the first instance at the public cost, of Original Suit No. 11 of 1869, on the file of the Civil Court of Tinnevelly, instituted by one Subramania Karayalam against the Head Assistant Collector of that district and two other subordinate officers; but they will determine, when copies of the Judgment and Decree are submitted, whether the costs, if any be adjudged against the officers of Government referred to above, shall be borne by those officers or by the Government.

2. The draft answer, as modified by the Board, is approved.

(True Extract.)

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

To the Board of Revenue.

Exd. E. C. Shunker.

Govt. of {1869} Fasliyat.

REVENUE.

To

THE BOARD OF REVENUE.

Dated November, 22nd.

Recd.

Encl.

G. O., 22nd November 1869, No. 3,013.

TOVEIER.

Nos. 242-243.

Suit No. 11 *of* 1869, *in Tinnevelly for the recovery of certain thorn trees in tank beds.*—Its defence at the public cost, sanctioned.

Mr. Hassell

No. 8,456.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 15th November 1869.

Read the following letter from C. T. LONGLEY, Esq., Acting Collector of Tinnevelly, to the Acting Secretary to the Board of Revenue, dated 5th November 1869, No. 442:—

I HAVE the honour to forward, for approval, draft of an answer proposed to be filed in Original Suit, No. 11 of 1869, on the file of the Civil Court of Tinnevelly, in which the Head-Assistant Collector and other subordinate officers, who acted under the Head-Assistant's orders, were made defendants, relative to the recovery of certain thorn trees in the bed of a tank.

2. Translation of the plaint is herewith sent.

3. The date of hearing was fixed for the 30th October last, but application has been made for six weeks' extension.

ENCLOSURE No. 1.

Plaint filed in the District Moonsiff's Court of Strivycuntam, since transferred to Original Suit No. 11 of 1869, on the file of the Civil Court of Tinnevelly.

Plaintiff. *versus* *Defendants.*

Subramania Karayalan, son of Alagaperumal Karayalan, residing at Padmanabhamangalam, in Tenkarei Talook, Cultivator.

1. Head-Assistant Collector of Tinnevelly.
2. Tahsildar of Tenkarei, and
3. Rengasami Naidu, Revenue Inspector.

Vakeel, Ramaiyar.

THE thorn trees in dispute have not been permanently settled.

1. This is a suit for the recovery of Rupees 52, being the value of thorn trees in the bed of a tank in the said village unjustly sold by public auction, and Rupees 200 the value of those cut down and for the undisturbed enjoyment of the standing thorn trees valued at Rupees 48.

2. That the plaintiff's forefathers and then the plaintiff enjoyed the bund and bed of the tank, etc., shown in column 1 of the particulars of the plaint by right of purchase for the last twenty-five years.

3. That the thorn trees situated on the 3½ chains (column 2 of the particulars of the plaint) were planted and conserved by the plaintiff at his own cost, and that the land was consequently brought into his puttah and assessment levied from him annually, according to Order, No. 335 of 1844, issued by late Collector.

4. That the plaintiff was fined in a sum of Rupees 20 by the second defendant (Tahsildar, Sub-Magistrate) on the report of the third defendant for cutting a few of the trees; that the trees were sold by public auction, and that although an appeal has been made therefrom to the Head-Assistant Magistrate, he has not yet passed any orders.

5. That many trees having been cut down by the third defendant for the Strivycuntam Anicut Project before the disposal of the appeal, a petition was made to the Head-Assistant Collector to stay such proceeding, that officer gave an endorsement saying that the trees were the Government property.

6. A summary appeal was preferred from the said endorsement to the Sessions Court, who passed orders, under date the 19th February 1869, to file a regular suit and to apply for an injunction to prohibit the cutting of trees.

7. Plaintiff, therefore, prays that a decree may be passed adjudging the payment of Rs. 252, being the value of trees sold and cut as aforesaid, and to put him in the undisturbed enjoyment of the standing trees.

(Here enter particulars.)

(Signed) RAMAIYAR,
Vakeel.

(Signed) SUBRAMANIA KARAYALAN.
Plaintiff.

I, Subramania Karayalan, the plaintiff, declare that what is stated in the plaint is true to the best of my information and belief.

(Signed) SUBRAMANIA KARAYALAN.
Plaintiff.

24th February 1869.

Filed on the 25th February 1869.

(Signed) H. SUBRAYA AIYAR,
District Moonsiff.

(True Translation.)

(Signed) C. T. LONGLEY,
Acting Collector.

ENCLOSURE No. 2.

Draft of an answer to be filed by the Head-Assistant Collector, first defendant in Suit No. 11 of 1869, on the file of the Civil Court of Tinnevelly.

Points alluded to in the Plaint.

1. Prays for the undisturbed enjoyment of some Standing thorn trees valued at Rupees 48 in the bed of a tank Nallamutharasankulam in the said village, and for the recovery of Rupees 252 being the value of trees sold by public auction and those cut down.

2. That the plaintiff enjoys the bund and bed of the tank in question by right of purchase for the last twenty-five years.

3. That the trees situated on the 3¼ chains of land in dispute were planted and reared by plaintiff, and that the land was consequently brought into his puttah and assessment levied from him according to Order, No. 335 of 1844, issued by late Collector.

4. That the plaintiff was fined by the second defendant (Sub-Magistrate) for cutting a few of the trees in question, and that the trees were sold by auction, and that although an appeal has been made

Answer.

1. The bed of the tank and the trees standing thereon are the property of Government, and the plaintiff has no claim whatever thereto.

2. The tank being repaired at the expense of Government, the plaintiff cannot claim it as his own; he has simply the right of taking water therefrom to his fields like other ryots who hold land under the tank.

3. Such trees as those referred to, are self-grown and not planted by any one. Repeated orders have been sent against the raising of cultivation in the bed of tanks; consequently, the plaintiff had no right to grow the trees referred to in the bed of the said tank. The Order, No. 335 of 1844, is applicable *only* to the assessment of trees growing on *waste* lands, but not to the planting or assessing of trees in the bed of tanks. It is true that the plaintiff has obtained puttahs for a portion of land in the bed of the tank. This was owing to the fraudulent conduct of the Curnum; the puttah was cancelled in Fusly 1277 as the Government have the sole right to trees standing on the bunds and in the bed of tanks and on Porumboke land. *Vide* Proceedings of the Board of Revenue, dated 7th April 1868, No. 2,594.

4. The plaintiff having clandestinely cut down Government trees, the fact of his having done so was brought to the notice of the second defendant (Sub-Magistrate) therefrom to the Head-Assistant Magistrate, he has not yet passed any orders.

5. That many trees having been cut down by the third defendant for the Strivycuntam Anicut Project before the disposal of the appeal, a petition was made to the Head-Assistant Collector to stay such proceeding; that officer gave an endorsement, saying that the trees were the Government property.

by whom the plaintiff was fined. The disposal of the appeal has been delayed in consequence of this suit having been in the meantime instituted regarding the trees in question.

5. Under an injunction from the Court, the making use of the trees for the Anicut has been stayed.

6. Prays that the suit may be dismissed, and that the plaintiff be ordered to make good the costs incurred by the defendants.

7. The second and third defendants having acted under the first defendant's orders, no separate answer need be put in their behalf.

(Signed) C. T. LONGLEY,
Acting Collector.

THE Board request sanction of Government for the defence of the suit. The suit involves the important principle of the ownership of timber growing in the beds of Government tanks.

2. Paragraphs 2, 4, and 5 of the Draft Answer may be omitted: the answer seems otherwise correct.

(True Copies and Extract.)

Acting Secretary.

To the Acting Secretary to Government, Revenue Department,
with 2 enclosures.

Copy to the Acting Collector of Tinnevelly.

Exd. G. A. Turton.

Revenue Department

No. 3013

Proceedings of the Madras Government
Under date the 28th November 1869

Read the following
Re: of the Board of Revenue.

Requesting sanction for
defence of O.S. No. 11 of 1869 re:
: Cutting 40 certain timber trees in
tank of Ganapathi Samudram
Taluk of Ganapathi
Tinnevelly District. —

B. & P. Nov. 15th 1869 No.

The Govt. sanction
the defence in the pro
mentioned at the public
cost of Rs. 40 to be
on the file of the
Civil Court of Tinnevelly
instituted by one
Subramania Kanyakum
against the said Gov
Collector of the said
District and two other

Endorsed Minute of Sir
Letter with Returns

Endorsed

3916

1869.

Board of Revenue,

MADRAS.

PROCEEDINGS, 15TH NOVEMBER 1869 No. 8,456

Encl

Received

NOVEMBER

No. 8,456.

Suit—No. 11 of 1869, on file of Tinnevelly Civil Court, regarding certain thorn trees in bed of a tank in Padmanabhamangalam village in Tenkarei Talook.—Sanction of Government requested for defence of,

copies of Judgment and
when the Decree are
submitted, whether
the costs, if any be
adjudged against the
Officers of Govt referred
to above, shall be
borne by those Officers,
or by the Govt"

The draft answer
as modified by the
Board is approved.

In Bellew's Case with 2 nos Defts 28