

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	3113	Press Mis.
<u>73-4</u>		
Dated	6 th December	1889.

Not to be folded or roughly handled

17.

*Proceedings of the Madras Government, Revenue Department,
6th December 1869.*

No. 73. Read the following Proceedings of the Board of Revenue, dated 24th November 1869, No. 8,647 :—

Read the following letter from the Acting Collector of the Madras District, to the Acting Secretary to the Board of Revenue, dated Sydapet, 6th November 1869, No. 394.

I HAVE the honour to forward translation of a plaint filed in the Civil Court of Chingleput, by the Zemindar of Calastry, against the Collector of Madras and two others, and to request that the Board will, if they approve the answer proposed to be filed, permit the defence of the suit at the expense of Government as against the Collector. The facts of the case will best appear from the accompanying copy of the decision passed by me as the Settlement officer, and need not, therefore, be re-capitulated here.

ENCLOSURE No. 1.

To the Civil Court of Chingleput.

Plaintiff. versus Defendants.

Chidambaram Seshagiri Row, Agent to the Zemindar Voomathayraz Haraza Damar Kumar Vencatappa Naidu, Bahadur, living on the Jaghire at Calastry, Chittoor District.	1. Venca Reddy, late Maniem and Ryot of the village of Mudiyr of the Trivellore Talook, Chingleput District, (father's name unknown.) 2. Muttu Reddy, present Maniem, (father's name unknown.) 3. E. G. R. Fane, Esq., Collector of Madras, Sydapet.
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PLAINT filed under Section 25, Act XXVIII. of 1860, and Section 26 of the Civil Code, by the Court Vakeels, Trivellore Iyengar and Ramakistna Iyer, on behalf of the plaintiff requesting to cancel the decision of the Settlement officer, dated the 10th March 1869, to the effect that under Act XXVIII. of 1860, Punjab lands measuring Cawnies 1,078-14-8 yielding a yearly assessment of Rupees 1,281-0-9, and Porumboke lands to the extent of Cawnies 906-14-0 valued at Rupees 906-14-0, (thereby forming on the whole Cawnies 1,985-12-8) belonged to the village of Mudiyr; and soliciting thereby that the said lands may be decided to belong to the village of Array and Methacandigai *alias* Kundan Kolattur, a hamlet of Array, and to Saktheganswarapuram Agraharam, a hamlet of the village of Thiguvaputtur, (all belonging to the Zemindary of Calastry,) and that the said may be placed in possession of the Zemindar, sets forth.

1st.—The lands under dispute belonged to the village of Array, and to its hamlet Methacandigai *alias* Kundan Kolattur, and to Saktheganaswarapuram Agraharam, (all belonging to the Zemindar) the plaintiff.

2nd.—That such being the case Mr. Thornhill appointed as Settlement officer, under Act XXVIII. of 1860, decided on the 10th March 1869, against the plaintiff and in favour of Government, that the lands in dispute only belong to the village of Mudiyr.

They accordingly request that the Settlement officer's decision, dated the 10th March 1869, to the effect that Punjab lands measuring Cawnies 1,078-14-8, assessed at Rupees 1,128-0-9, and Porumboke lands to the extent of Cawnies 906-14-0, valued at Rupees 906-14-0, (forming an aggregate of Cawnies 1,985-12-8) belonged to the village of Mudiyr, be cancelled, and that the said lands may be decided to belong to the village of Array and its hamlet Methacandigai *alias* Kundan Kolattur and to Saktheganaswarapuram Agraharam, a hamlet of Thiguvaputtur (all belonging to the Zemindar) and may be placed in his possession.

Description of lands.

In the village of Array to the north of Nagargundu and the boundary marks (such as Sangu, Chokram, Soolam, etc., situated to the southernmost corner of Pollithibay, to the east of

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Pollithibay, to the south of Voolpathibay and the northernmost corner of Reddi Colum, and the Curnum Conay, and to the west of Peria Malay, are situated Punjab lands to the extent of 1,034-12-8, and Porumboke lands 786-15-8, as well as Punjab lands in the village of Methacandigai *alias* Kundan Kolattur to the extent of Cawnies 23-9-12, and Porumboke Cawnies 8-6-4.

To the north of the said boundary mark at Pollithibay and Moccootty limit, to the east of Sunnamboo Calvay, to the west of Pollithibay, are situated the Punjab lands (20-8-4) and Porumboke lands to the extent of Cawnies 111-8-4, forming on the whole Punjab 1,078-14-8, assessed at Rupees 1,281-0-9 at 1-3-0 per cawny, and Porumboke 906-14-0, valued at 906-14-0 at 1 rupee per cawny.

Copy of agreement between the Ryots of Array and Assistant Surveyor, Mr. J. Chadler, dated 29th June 1839	...	...	...	...	1
Yadast to the Sattiavedu Tahsildar by Mr. Chadler, dated 30th June 1839	...	...	...	...	1
Plan	...	...	...	...	1
The decision of the Settlement officer	...	...	...	...	1
Mookthiar Namah	...	...	...	...	1
Total documents	...	...	...	...	5

(True Translation.)

(Signed) G. THORNHILL,
Acting Collector.

Decision of the Settlement Officer in Case No. 22.

Government. Zemindary.

Mudiur. Array and other villagers of the Samastanum.

This dispute is very extensive and of long standing. It comprises a portion of the western face of that range of hills, the eastern side of which was included in the Nagalapur dispute, and a large tract of land in the plain about 1,100 cawnies in extent and mostly cultivated by the ryots of the Government village of Mudiur and its hamlets.

The red line in the Plan, which agrees with the Pymaish boundaries, shows the area claimed by the Mudiur ryots.

The blue line shows the limits claimed by the Zemindar.

This line, if continued through the hills nearly due east from the spot called Nagargundu to Yellaratikona on the Nagalapuram side, would show the complete boundary in this direction between the Government and Zemindary as claimed by the Zemindar.

The claim of the Government to the land in dispute is supported by the Pymaish account of 1816, when the village was under Mocassa tenure, and by another Pymaish which was framed in 1836 after the village came directly under the Government.

It is also shown, by evidence, that the lands had been for many years in possession of the Mudiur ryots, as jungle before the year 1849, when application was made to the Government to rent them by an inhabitant of Array, the Mudiur people objected to this, when inquiry was made by orders of the North Arcot Collector, and it was decided that the land was within the Mudiur limits; in 1852 Durkhast was made for 700 cawnies by Narasa Reddy, who undertook to cultivate 400 at once and the rest by degrees.

His Durkhast was admitted, and cowle issued by Mr. Bourdillon after personally visiting the ground. It appears that the Zemindary people at that time urged their claims to the ground, but were unable to substantiate them.

In 1856 permission was sought to plant boundary stones, and orders were issued to that effect by Mr. Banbury; stones were placed, but were again taken up on the representation of the Zemindar that his claim was still undisposed of, the stones were left lying on the ground and are still there.

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After the grant of cowles by Mr. Bourdillon, the lands were gradually cleared and cultivated, and two or three hamlets were built, one of which bears the name of Mr. Bourdillon himself, and there now remains but a very small extent of jungle on the extreme west of the tract.

Large sums of money have been expended in clearance and in the construction of tanks and villages by the cowle holder.

The Zemindar's claim go back to the time when Mudiur was held as a Mocassa and are urged on behalf of three villages, Array, Methacandigai and Saktheganaswarapuram, the two latter are held on Shrotriem tenure under the Zemindar, and all adjoin the Mudiur lands.

The claims are based on statements, that the Zemindar formerly had a Tanna in the disputed tract, that on some land being cultivated thirty years ago by Mudiur people, his ryots objected and prevented the produce being carried off, and on statements to the effect that dues were paid to him for cutting and gathering jungle produce within the disputed tract, but chiefly on a boundary account said to have been prepared in 1839 by a Government Surveyor named Saddler or Chatler, in which it was stated that the boundary line ran from the point Q. in the Plan to Nagalapuram at the foot of the hill. The account in question is not forthcoming, but it is shown to have been presented to Mr. Bourdillon when the land was given on cowle, and to have been mislaid or lost between the Huzoor and Talook Cutcherry.

On analysing the evidence offered by the Zemindar, there do not appear to be any proofs of occupation of the land in question or of enjoyment of the produce. There are a certain number of letters from the Zemindar to the Collector, asserting these rights and asking that encroachments might be punished; but the replies of the Collector do not in any instance acknowledge the asserted rights; indeed to certain complaints of the nature above-named, addressed to Mr. Ogilvie, Collector in 1839-40, replies the reverse of favourable to the Zemindar's claims had been addressed to him. One such is quoted by the Zemindar, in a letter, dated 3rd June 1840, and another from Mr. Ogilvie to the Zemindar is dated 1st July 1840.

As regards the Boundary account said to have been prepared by Mr. Saddler or Chatler, it is quoted by the Zemindar more than once, and is said to have been prepared in 1839; but in 1840, Mr. Ogilvie writing to ask the Zemindar if he will submit his claims to arbitration takes no notice of it. Had Mr. Chatler been employed to investigate the boundary or to settle it, it is not possible that the Collector of the district should have been ignorant of the fact. Again, on the boundary question being again mooted in Mr. Bourdillon's time in 1851, it appears that there was no information on the subject in the Collector's Office, as Mr. Bourdillon writes to Zemindar, under date the 5th February 1851, desiring him to send a Vakcel to the Huzoor with records to illustrate his claim to the disputed land, and requests him to explain on what authority Mr. Chatler had laid down a boundary, and on what documents the decision was based; reminders to reply to the above were sent by Mr. Bourdillon on 13th April 1851, and by Mr. Ward on 14th June 1851, and on 14th October 1851, the receipt of the document was acknowledged by Mr. Ward, and the Zemindar ordered to send a Vakcel to meet the Tahsildars with a view to settling the dispute.

On the 19th February 1854, Mr. Bourdillon again wrote to the Zemindar on the same subject. It is clear from these documents that the matter received close attention from the Collector of the day; it is equally clear that the Zemindar's claims were by them regarded as inadmissible, as we find that Mr. Bourdillon, after receiving the Zemindar's objections, issued cowles for the cultivation of the whole extent, and permitted one of the newly erected hamlets to be called by his name. No satisfactory explanation of the authority on which Mr. Chatler pronounced on the boundary was forthcoming either then or in Mr. Ogilvie's time, and of course none is forthcoming now. It is probable that Mr. Chatler was employed in some Survey and had no authority whatever to determine boundaries. The claim of the Government to the tract appears quite undoubted, and without the very strongest grounds it would not be just to assign to the Zemindar land which had been given on cowle for the purpose of clearing the jungle, and on which large sums of money had been spent on the faith of those cowles.

On the extreme west only does there appear any ground for supposing that the boundary has at all encroached in the Zemindary ground. A large tract there is still jungle, but it is held on

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puttah, the area, however, evidently exceeds that given in the puttah, and I have moved the line about 100 yards further to the eastwards along the greater part of that side. I have also given a small strip of jungle and some mountain land on the north to the Zemindar.

The boundary between the Government and the Zemindary lands will run as shown in the plan from Q., where the Calastry and Carvetynuggur bounds meet the Government land, through the points P. L. N. M. etc., downwards to A. till it meets the Nagalapuram boundary on the top of the hills, the points in the plain were all marked by myself on the spot, and the bearings of the point A. on the hills, taken from B. in the plain by compass.

It forms one of the line of marks shown in the plain on the summit of the hills, the remainder of which were fixed by myself in person in determining the Nagalapuram boundary.

NAGALAPURAM,
10th March 1869.

(Signed) G. THORNHILL,
Settlement Officer.

MEMORANDUM.

Nagalapuram and Mudiur Plan.

The boundary fixed as shown by the black line in the plan. Stones have been planted at the points denoted by the letter A. near Vembakum village to R. in the summit of the hills.

The Mudiur boundary is shown by the black line also, and stones have been planted at the points denoted by the letter A. near the junction of the Carvetynuggur and Calastry boundaries to Q. in the summit of the hills.

The four points on the hills, viz., P. Q. and R. Q. read from east to west should, I think, be marked by lofty obelisks, so as to be visible from a distance. This is especially necessary, for the two points P. on the east and Q. on the west, as these points are visible from the stations on the plain next adjoining them.

(Signed) G. THORNHILL,
Settlement Officer.

Draft Answer proposed to be filed in the Civil Court of Chingleput in Suit No. 11 of 1869.

In answer to the plaint, the third defendant prays that the decision of the Settlement officer, dated 10th March 1869, by which he determined that certain lands alluded to in the plaint claimed by the Zemindar of Calastry as forming part of the villages of Array of Methacandigai, a hamlet of Array, and of Saktheganaswarapuram, a hamlet of Diguvaiputtur, attached to the Calastry Zemindar, formed part of the Government village of Mudiur, attached to the talook of Trivellore, of the Madras District, be confirmed.

The third defendant denies that the lands in question ever belonged to the above-named villages attached to the Calastry Zemindary.

The third defendant presumes that the lands claimed are those which are shown in the plan attached to the Settlement officer's decision, as assigned by that officer to the Government.

The third defendant states that the lands in question were included in the limits of the Government village in the Pymaish account framed in 1816, when the village of Mudiur was held on Mocassa tenure, as well as in the Pymaish which was prepared in 1836, after the village had reverted to the Government.

The third defendant also states that, on a Durkhast being preferred by one Narsa Reddy in 1849 for 700 cawnies of the land in question, objection was raised to the issue of puttah on Government account by the plaintiff; that after full and lengthened inquiry, the claim of the Zemindar was set aside by the then Collector of North Arcot, Mr. Bourdillon, and the puttah issued in 1852; that puttahs were similarly issued for the remaining portions of the land in the year 1856, and that as no steps were taken by the Zemindar within the time prescribed by law to set aside the orders of the Collector by recourse to the Civil Courts. The third defendant avers that the Settlement officer might, on that ground alone, have rejected the Zemindar's claim, and the third defendant

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now prays the Court to dismiss this suit on the ground that jurisdiction is barred by the Law of Limitation, and if not, on the general merits of the case, as set forth fully in the decision of the Settlement officer.

(Signed) G. THORNHILL,
Acting Collector.

ENCLOSURE No. 4.—Map.

SUBMITTED for the orders of Government, with the Board's recommendation that the defence of the Suit be sanctioned, and the answer proposed by the Collector, approved.

No. 74. ORDER THEREON, 6th December 1869, No. 3,113.

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 Chingleput, instituted by the Zemindar of Calastry against the Collector of Madras and two others; but they will determine, when copies of the Judgment and Decree are submitted, whether the costs, if any be adjudged against the Officer of Government referred to above, shall be borne by him or by the Government.

2. The draft answer submitted by the Board is approved.

(True Extract.)

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

To the Board of Revenue.

Ed. E. C. Shunker.

Revenue Department

3/13.

Proceedings of the Madras Government
Under date the 6th December 1869.

Read the following
Proceedings of the Board of
Revenue.

Recommending to sanction
defence of Suit N^o 11 of 1869, instituted
in Chingleput Civil Court in Madras
District, by Zamindar of Orakastur,
to establish his claim to certain
land & approving answer proposed
by Collector.

(H. E. 24th Nov^r 1869 N^o 8647)

W. A.

R. A.

The Government
sanction the defence,
in the first instance at
the public cost, of
Original Suit N^o 11 of 1869
on the file of the Civil
Court of Chingleput instituted
by

File No. 1758 of 1871
2/3/71 A.

GOVT. OF INDIA
REVENUE.
THE BOARD OF REVENUE.
Held December 1869.
G. O. No. 100 December 1869, No. 3, 113.
1000/1000
1000/1000
Suit No. 11 of 1869 in Chingleput Civil
Court against Collector of Madras.—Is defence
at the public cost, sanctioned. Draft answer
submitted by the Board of Revenue, approved.

by the Zemindar of Calcutty,
against the Collector of
Madras and two others;
but they will determine,
when copies of the judg-
ment and Decree are sub-
mitted, whether the costs,
if any be adjudged -
against the Officer of
Government referred to
above, shall be borne by
him or by the Government.

2. The draft answer
submitted by the Board
is approved. -

14. To the Secy. of the Govt. Secy. Secy. Secy.

For the Secy.