

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	<i>432</i>	Press
		<i>Mis</i>
<i>353-354</i>		
Dated	<i>15th February 1889</i>	

Not to be folded or roughly handled

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	<i>432</i>	Press
		<i>His</i>
<i>353-354</i>		
Dated	<i>15th February 1887</i>	

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Proceedings of the Madras Government, Revenue Department
19th February 1869.

No. 353. Read the following Proceedings of the Board of Revenue, dated 27th January 1869, No. 548 :—

Read the following letter from the Collector of the Godavery District, to the Acting Secretary to the Board of Revenue, dated Cocanada, 18th December 1868, No. 317.

As directed by Government in their Proceedings, dated 2nd December 1867, No. 1,961, communicated with the Board's Proceedings of the 12th idem, No. 8,029, I have the honor to forward, herewith, for submission to Government, copy of the Judgment and translation of the Decree of the District Munsiff's Court of Cocanada, dismissing the Suit No. 112 of 1868, the defence of which was sanctioned at the public expense in the Board's Proceedings, dated 28th September 1868, No. 6,904.

ENCLOSURE No. 1.

No. 112 of 1868, Cocanada District Munsiff's file.

Present :—GEORGE WELLS.

<i>Plaintiffs.</i>	<i>versus</i>	<i>Defendants.</i>
E. de Linares and Co.		1. Mr. Mangey.
		2. Ponnamanda Jaggarayudu.
		3. Captain Thomson.
		4. J. H. Master, Esq., Acting Collector.
		5. J. Fraser, Esq., Collector.

Judgment.

1. The plaintiff seeks to recover the value of firewood taken by second, with the permission of first defendant from the jungles of Kobbari Kayala tippa, &c., leased by him from the proprietrix of Polekurru.

2. The first defendant did not appear in this case, but admitted in his deposition in No. 106 of 1868, Small Cause side ; that he permitted second defendant to cut wood in the Hope Island jungle, and that he had authority to do so from his immediate superior, the Master Attendant.

The Master Attendant is included as the third defendant.

3. The second defendant says that with permission of first defendant, he cut the firewood in Hope Island jungle, that first defendant acted under the third defendant's orders ; that the firewood he took was to the value of 80 Rupees ; that plaintiffs or the proprietrix has no right to that jungle, which belongs to Government.

4. The third defendant says that the disputed jungle is the property of Government and in their possession, that plaintiffs or the proprietrix has no right to it.

5. The fifth defendant, Collector, denies that the proprietrix has any right to the Hope Island jungle in which firewood was cut by second defendant : says that as the Island was formed in the sea by deposits brought down the Godavery, and did not originally touch the main land, it is consequently the property of the Crown ; that the proprietrix has no right or possession of Hope Island or the firewood thereon, and that she could have no right to lease the same to plaintiffs.

6. The three first defendants admit that the firewood was taken from the Hope Island jungle. The fifth defendant, the Collector, denies the right and possession of the said Island to the proprietrix.

7. This case is brought for the recovery of the value of wood said to have been taken from the jungle which plaintiffs contracted from the proprietrix. I cannot therefore, here, go into the

*Proceedings of the Madras Government, Revenue Department,
19th February 1869.*

right of either the Government or the proprietrix to the Island, but the only issues that can be raised are :—

Whether the lease given by the proprietrix includes the Hope Island jungle ; and

Whether plaintiffs, from the date of their contract, exercised any right or control over the same.

8. The proprietrix leases to plaintiffs, for the purpose of cutting fuel, certain jungles said to form a part of the proprietrix's estate. Hope Island, Dalmain tippa, Light-house tippa, Kurra or Bancolu tippa, the several names given by both parties to the Hope Island, is not mentioned in the contract. The proprietrix however, says, that she rents the whole of the jungles appertaining to her estate to plaintiffs for the purpose of cutting fuel.

9. The proprietrix in her motion in this number, acknowledges that Hope Island was also leased to plaintiffs, and that it forms a portion of Dalmain tippa of her estate ; hence it appears necessary to know whether this admission of the proprietrix is sufficient, notwithstanding that this jungle was not mentioned by name in the contract, to shew that plaintiffs did contract the same. I should say it was, not only from this, but from the wording of the contract itself " all jungles under my estate difficult to name I lease to you ;" whether however this jungle forms a portion of the proprietary estate is not a subject for this suit.

10. The proprietrix moved the Court to be admitted as plaintiff, because an injunction was issued by the Collector preventing her interference with Hope Island. The Court was of opinion that this was a separate cause of action and rejected the same.

11. The proprietrix's husband, first witness for plaintiff, says, the land on Hope Island is let out by her, and has been for a considerable time, for cattle grazing ; to bear out which, certain documents were put in, but this again involves the right of land.

12. The third defendant says he has a right as Conservator of the Port, and Master Attendant to protect Government property, and has been doing so since his tenure of office, as did those of his predecessors ; that to his knowledge they, nor he, ever knew or heard of proprietary interference with Hope Island jungle.

13. Plaintiff himself says that it was only three months ago when he turned his attention to this part of his contract, Hope Island, though he is said to hold the Deed of Contract since 1866.

14. It is clear, whatever may be the right of the proprietrix to this jungle, and however she may be prepared to establish that right, that so far as the cutting of firewood is concerned, she, nor plaintiffs, ever heretofore exercised any authority soever over the same.

15. With this fact undenied, notwithstanding the admission by the proprietrix that she gave, and the acknowledgment of plaintiff that he had taken, the Hope Island jungle on contract, and the denial of the fifth defendant, the Collector, that this Island forms a portion of the proprietrix's estate, I am unable, her right being thus in question, to find for plaintiff, and therefore dismiss the claim with costs.

COCANADA,
19th November 1868.

(Signed) G. WELLS,
District Munsiff.

(True Copy.)

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 2.—Translation of decree in Suit No. 112 of 1868.

SUBMITTED for the information of Government.

2. No costs have been awarded against the Officers of Government.

*Proceedings of the Madras Government, Revenue Department,
19th February 1869.*

No. 354.

ORDER THEREON, 19th February 1869, No. 432.

Miscellaneous.

Ordered to be recorded. If another suit is brought involving the proprietary right to the Island, the Collector should apply to be made a party to the suit on behalf of Government.

(True Extract.)

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

To the Board of Revenue.

Exd. G. A. Turton.

Revenue Department
N. 432.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 19th February 1869
Read the following No. of the 13th
of Rev.

Submitting to Govt.
Godavery Coll^{rs} letter forwarding
copy of Judgment and transla-
tion of decree in Suit No 112 of
1868 filed in Coconada Dist^{ct} Muni-
cipal Court in Godavery Dist^{ct} by
de Lincres & Co. against Shifto
of Hope Island Light House
for recovery of value of a quanti-
ty of firewood cut on Island.

(H. E. 24th Jan^y 1869 No. 548)

Ordered to be re-
corded - If another suit
is brought involving the proprietary
right to the island, the Coll^{rs}
should apply to be made
a party to the suit on be-
half of Govt.

W.A.
M.A.

11 Copies to Mr. B. J. P. and Mr. M. Encl. 20

S. D. Ball

Govt. of 1869: M. 112.

REVENUE.

To THE BOARD OF REVENUE.

Dated February, 19th.

Recd. G. O. 19th February 1869, No. 432.

FEBRUARY.

Nos. 353-354.

Suit No. 112 of 1868, against Collector of
Godavery.—Report of its dismissal, recorded.
Collector to apply to be made a party should another
suit be brought.

40.
Suit on acct of
Hope Island
Lycanor Dist

Cir:
(Dls)