M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue. DEPARTMENT.

G.O. No.	544	Press ~~Mis.~~
58. 61		
Dated	3rd March	1869.

Not to be folded or roughly handled

Ins

Read the following :—

No. 58. Proceedings of the Board of Revenue, dated 11th May 1866, No. 3,312.

Read the following letter from the Collector of the Kistna District, to the Secretary to the Board of Revenue, dated Nizampatam, Repally Talook, 4th May 1866, No. 132.

1. I have the honor to transmit, herewith, translation of a complaint, in Original Suit No. 344 of 1865, on the file of the Masulipatam District Munsiff's Court, brought by Muttavy Mangauna Charlu, *alias* Mangaya Charlu, against the Collector and another, Ellore Sudursanam, for the recovery of a sum of Rupees 233, being the commutation money of a Bád Inam, pertaining to the Pagoda of Kodunda Ramaswàmy, at Kara Agraharum, situated in the Talook of Bandar, which was sanctioned by the Government to be paid to the plaintiff.

2. The facts of the case are fully stated in the accompanying Memorandum. Whether the worship was performed or not by the plaintiff, the Bád Inam money allowance of the Pagoda was yearly paid to him by the Collector of the late Guntoor District ; and arrangements for commuting the same were concluded with the plaintiff, and sanctioned by the Government. It was subsequently decided, that the commutation money should be paid to the plaintiff ; but, from some cause unknown, the money was not paid.

3. On what grounds the late Deputy Collector, Narsimha Pantulu, satisfied Mr. Foord, that the younger brother of the said Brummajee was really the Temple Trustee, and obtained his permission for the payment of the commutation money to him, I cannot now state ; as the English Memorandum, said to have been prepared by Narsimha Puntulu for Mr. Foord's perusal, is not forthcoming.

4. The commutation money, however, was intended for the Pagoda support, and steps were taken to secure it for that purpose, by the purchase of an Inam to be devoted to the Pagoda.

5. The object of the plaintiff in bringing this suit, is to revive his Trusteeship to the Pagoda, as well as his right to Church Wardenship. If he is so recognised by the Court, there is no bar, on the part of the Government Officers, to the plaintiff being placed in possession of the Pagoda Inam, by order of the Court.

6. I think the accompanying brief answer will suffice to relieve the Collector from all responsibility, and should the Board approve of it, I respectfully request that they will be pleased to permit the suit to be defended at the public cost.

7. The time for filing the answer will expire by the 13th of May.

ENCLOSURE No 1.

TRANSLATION.

Complaint No. 344 of 1865.

To the District Munsiff's Court, Masulipatam.

Complaint preferred by plaintiff Muttavi Munganna Charlu, otherwise called Mungaya Charlu, Trustee and Warden of Sree Kodanda Ramaswamy Temple, situated at Peda Kara, and an inhabitant of Buttayapela, against the defendants— 1, T. A. N. Chase, Esq., Collector, Kistna District, residing at Chilkalapudy in the Town, and 2, Elur Sudarsanam, a merchant, and an inhabitant of Khojillipeta.

1. When the temple was consecrated, at Peda Kara, my grandfather, named Ramanna, *alias* Rama Charlu, held the trustee and wardenships, to be occupied in his family from generation to generation. To perform the ceremony attending the consecration, and the daily offerings of the temple, he courted the favor of the then Government Officials, named Mosaliganti Kamoji Row Pantalu, and Rajah Kondragula Jogi Pantulugar, and succeeded in procuring in his name a Deed of Gift of three-quarters of a Katti of Inam land in Fusly 1174, and enjoyed the same ever since. After his demise, my father, and after him, I enjoyed the produce, &c., of the land, and conducted the duties of the trusteeship of the said temple.

2. As the wardenship of the temple of Sree Sitaramaswàmy, situated at Buttiapeta, also devolved on us, and as I could not conveniently attend to the services of the two temples, I employed one Vadantam Gopala Charlu to act for me, agreeably to the conditions of an Agreement executed to me, under date the 26th January 1826. He performed the daily services of the said Sree Kodanda Ramaswàmy temple, and after his death his sons did so, receiving remuneration from me for their services.

3. Agreeably to the Minutes of Consultation of Government, who resumed the Inam lands above referred to as "Bád Inams," a Revenue Circular was published in the Guntoor District Gazette, to the effect, that the amount of compensation, Rupees 233, sanctioned to be paid to me for the same, should be received by me. When that money was about to be paid to me, agreeably to that order, one Brummajee, elder brother of the second defendant, presented an Arzi, asserting that he was the trustee of the temple. That Arzi was rejected by Mr. E. B. Foord, * the then Collector in charge, who issued a Memorandum to the late Treasury Deputy Collector to the above effect, on the 5th April 1861. The latter procrastinated the payment of the compensation referred to. On the 21st November 1863, the then Acting Collector again issued a Memorandum to the Deputy Collector, directing him to pay me the said money, when the second defendant represented that he was the trustee. On this mere representation, the money was, I learnt, paid to him, without his statement being inquired into. I then presented a petition to the said gentleman on the subject. The said Arzi was endorsed by Mr. Thornhill, the Collector, on the 1st February 1864, to the effect, that the amount of compensation was reported to have been paid by the late Acting Collector to the party who, as trustee of the temple, purchased an Inam land for the maintenance of the said Pagoda.

* Mr. J. W. Reid, sic. in or.

4. I therefore prefer this plaint under Section 26 of the Civil Procedure Code, and Sections 1, 6, and 7 of Act XIV.

	RS.	A.	P.
Amount paid to the second defendant by the Collector	233	0	0
Interest at the rate of one Rupee per cent. from the date of the said endorsement on the Arzi	54	6	0
	287	6	0

I pray the Court will be pleased to examine the case and pass Decree, awarding that the first and second defendants should pay me the sum of Rupees two hundred and eighty-seven, and Annas six, together with subsequent interest and costs. I beg to present, herewith, seven documents, viz. :—

1 Extract from the Guntoor District Gazette.
2 Memoranda sent by the Collector to the Treasury Deputy Collector.
1 Endorsed Arzi.
2 Hakikat and a Mahazar, or general petition, partly torn off.
1 Agreement on stamped paper.

7

Please to consider this.
13*th November* 1865.

(Signed) MUTTAVY MUNGAY CHARLU.
(,,) KONDAPILLI SOMALINGAM,
Plaintiff's Pleader.

(True Translation.)
(Signed) G. THORNHILL,
Collector.

ENCLOSURE No. 2.

DRAFT ANSWER.

Original Suit No. 344 *of* 1865, *Masulipatam Moonsiff's Court file.*

Muttavi Mungana Charlu, *alias* Mungaya Charlu, *Plaintiff,*

versus

1st. T. A. N. Chase, Esq, Acting Collector, Kistna District,
2nd Ellore Sudarsanum, } *Defendants.*

The Statement of the first Defendant for the time being.

1. The claim of the plaintiff was for the Wardenship of the Pagoda, and for the commutation money assigned by Government, in lieu of Bád Inam.

2. The commutation money, assigned in 1857, was awarded to the plaintiff by the Collector as warden of the Pagoda; but, from some cause unknown, payment was withheld.

3. Application for payment was again made in 1863, when the case was examined, and it was decided that the second defendant was the Trustee of the temple.

4. The commutation money was, accordingly, paid to him, and invested by him, with the addition of a sum of Rupees 167 from his own funds, in the purchase of an Inam, which he devoted to the service of the Pagoda.

5. There is no obstacle to the plaintiff suing the second defendant for possession of the Inam in question, or for the refund of the commutation money.

6. The commutation money was paid by the Collector in good faith to the second defendant, as warden of the Pagoda, and may be recovered from him, if the Court so award.

7. Under these circumstances, the first defendant prays the Court will dismiss the suit as against him, with costs.

(Signed) G. THORNHILL,
Collector.

NIZAMPATAM,
4*th May* 1866.

ENCLOSURE No. 3.—Memorandum.

THE Board sanction the defence of the suit on the usual terms, and authorise the Collector to file the answer as proposed

2. This permission is, however, not likely to be received in time, as the answer has to be filed on the 13th instant, the Collector's letter having been received only on the 11th. The plaint is dated 13th November 1865, and the Collector will explain his excessive delay in seeking leave to defend the suit.

No. 59. Proceedings of the Board of Revenue, dated 16th October 1866, No. 7,469.

Read the following letter from the Collector of the Kistna District, to the Secretary to the Board of Revenue, dated Circuit Cutcherry, Gudewadah, 2nd October 1866, No. 334:—

1. In reply to the Board's Proceedings,* dated 30th July last, No. 5,234, I have the honor to state that I have deferred submitting this report until the result of the four Cherivole† Lanka Suits similarly circumstanced, which were pending in the Civil Court of Guntoor, should be known. The Court have lately decreed two of the suits in question in favor of the Government, and one of these cases is precisely parallel to the one under report.

* The four enclosures received with the Board's Memorandum, 31st July 1866, are returned herewith.
† Vide Correspondence.
From Board, 7th October 1864.
,, 5th November 1864.
To Board, 25th August 1865, No. 141.
From Board, 13th September 1865, No. 5,675.
,, 20th November 1865, No. 7,442.

2. With reference to paragraph 4 of the Proceedings under reply, it appears to me that the plaintiffs' claim in the suit alluded to is quite invalid. The Seri or Government land, which they once possessed, was washed away entirely ten years ago, and no assessment has been paid on it since.

3. As portions of the land were gradually cut off by the stream year by year, the assessment on the portion so lost was each year remitted to the plaintiffs. In the following year, the Amarakam‡ account, presented by the plaintiffs and other villagers, shewed only the extent of land actually remaining, with its proportionate assessment. The land actually washed away each year was, in point of fact, relinquished by the holder, and struck out of the accounts, and the holder thereby sacrificed all claim to it whatever. Had the holders continued to pay the assessment in the hope of the land reforming on the old site, then their claim would be valid; but the fact of relinquishment appears to be decisive against their claim, and the Civil Court of Guntoor in the Cherivole cases appears to have held the same view.

‡ Showing the land under occupation of each ryot, with its assessment.

4. In the present instance too, the *whole* of the plaintiffs' old land disappeared ten years ago, and no part of it having remained, it is impossible to state that the new accretion is on the same spot, and there is no documentary evidence to support the plaintiffs' claim.

5. The Board will observe that this land is not claimed as an accretion to land actually in possession of the plaintiffs, but as a reformation of land formerly held by them.

6. The land under dispute is an accretion partly to the old bank of the river held by D. Nagaya, and partly to a recent formation held by certain others, and

purchased by them at a Government sale held under precisely the same circumstances as those now existing.

7. Supposing even that the right to the accretion rests with the holder of the adjoining fields, and not with the Government as owners of the soil, the plaintiffs in this case have no grounds for their claim, and the suit should, I think, be defended, and I request the Board's sanction to do so.

8. The time for filing answer will expire on the 12th October, but I have asked for an extension of one month from that date.

9. Copies of the decrees of the Guntoor Court in the Cherivole Lanka cases, will be submitted when received.

ENCLOSURE No. 1.

A.

Translation of Plaint.

No. 411 of 1865.

To the District Munsiff's Court at Masulipatam.

Complaint preferred by the plaintiffs, viz, 1, Davanaboyena Hanumiah, 2, Do. Sunder Ramudu, ryots, inhabitants of Kottapeta, a hamlet of Avenegudda, in the Devi Pergannah; against the defendants, viz., 1, T. A. N. Chase, Esq., Acting Collector of the Kistna District, on behalf of Government, an inhabitant of Chilkalapudi; 2, Mr. Peter Tims, Tahsildar of Bander Talook, an inhabitant of Idapalli; and 3, Murripudi Venkatachellam, Sub-Magistrate of Devi Talook, an inhabitant of Avenegudda.

1. Twenty kuntas of dry Seri land, called Nakkapalli Tippa, which were acquired by our forefathers in Pochikal Lanka, a hamlet of the said village, were washed away by the river about ten years ago. About ten kuntas were reformed on the same site in Fusly 1274; consequently we cultivated that land last year, and presented Arzis to the first defendant, requesting him to put the land in question in our possession; but he issued no decisive orders on the subject.

2. Two-fold sist was received from us for Fusly 1274.

3. While it is thus standing, we learn that the first defendant issued a Hukum (order) to the second defendant, directing him to put the said land to sale, together with certain other Lanka lands, on the 18th instant, and that the second defendant issued a Memorandum to the third defendant on the subject; as by this act our right has been affected, we prefer this suit:—

	RS.	A.	P.
Value of one putty of Jonna produce, (being the probable quantity which the ten kuntas may yield,) at Rupees 30 per putty, after deducting the sist, Rupees 11-4-0, payable to Government...	18	12	0

Rupees 18 and Annas 12. We pray that the Court will be pleased to examine the case, and pass a decree cancelling the order issued by the first defendant, and directing the defendants to make over to us, as our right, the land in question, and pay us the costs. We will present the plan hereafter.

(Signed) HANUMIAH.
(,,) SUNDER RAMUDU.
(,,) KURUMADDALI SOMARAJA,
Pleader.

(True Translation)

(Signed) T. A. N. CHASE,
Acting Collector.

B

ENCLOSURE No. 2.

B.

Translation of a proposal tendered by the undersigned, and marked cultivators, inhabitants of Avenegudda, to Murrapudi Venkatachellum, Deputy Tahsildar of Bander Talook, dated 6th October 1864.

As an accretion of about twelve kuntas had formed in the Kistna Island, situated east to Pochevanelunka, a hamlet of Avenegudda, which has not been put up to sale, and has been unoccupied, you will be pleased to grant permission to our cultivating it. We shall pay the tax agreeably to the orders of Government. If the said land is put up to sale, and if, in the bid that we and others shall make, we refrain from increasing our bid, we agree to surrender this land to the successful bidders. Consequently, we pray that we may be allowed to cultivate the land until that time. We execute and tender this proposal with our free will and consent.

Please to consider this.

(Signed) DAVANABOYENA HUNUMIAH.
(,,) Do. SUNDER RAMUDU.
(,,) Do. RUNGIAH.

(True translation)

(Signed) T. A. N. CHASE,
Acting Collector.

ENCLOSURE No. 3.—Plan.

ENCLOSURE No. 4.

WRITTEN STATEMENT.

In Original Suit No. 411 *of* 1865, *on the file of the District Munsiff of Masulipatam, wherein*

1. D. Hanumiah,
2. D. Sunder Ramudu, inhabitants of Kotapetta, Bunder Talook, are Plaintiffs.

versus

1. T. A. N. Chase, Esq., Acting Collector,
2. Mr. P. Tims, Tahsildar of Bunder,
3. M. Vencatachellam, Deputy, are Defendants.

The first defendant says as follows :—

1. The plaintiffs possessed twenty kuntas of land in Pochikani Lanka, a hamlet of Avenegudda, in Fusly 1253. From Fusly 1254, the river gradually washed away that land, till the land entirely disappeared in Fusly 1265. The extent of land lost every year was deducted with its assessment from the Amarakum* of the plaintiffs. From Fusly 1265, the plaintiffs paid no assessment whatever, as admitted by themselves, the whole land having been washed away. Hence they have no right to the new land now formed.

* Account showing the area occupied by each ryot.

	AG.	G.
In Fusly 1273	0	8
,, 1274	4	26
,, 1275	0	78
	5	12

† On 11th October 1864.

‡ Extra land not included in the account of the occupied area.

2. In Fuslies 1273, 1274, and 1275, the new Lanka, which is the subject of the suit, was reformed on the left bank of the river, as specified in the margin. The plaintiffs applied† for permission to cultivate the land as Adanusagu,‡ agreeing to relinquish it if others purchased it at public auction. Seven months later, they claimed the new Lanka as having been formed in the place where their old land existed. They have no documents to prove that the Lanka lately formed is their land which was washed away by the river. This defendant puts the plaintiffs to the proof of these points.

3. The bed of a tidal and navigable river is the property of the State. The plaintiffs have no right whatever to land now formed in the bed of the Kistna, a tidal and navigable river. *Vide* decree of the High Court, in Regular Appeals Nos. 58 and 61 of 1864.

4. Under the foregoing circumstances, this defendant prays, that the suit may be dismissed with costs.

MASULIPATAM,
13*th July* 1866.

(Signed) T. A. N. CHASE,
Acting Collector.

UNDER the circumstances stated, and at the instance of the Collector, the Board sanction the defence of the suit in the first instance at the public cost on the usual terms, and authorise the Collector to file the draft answer, with the addition of a statement to the effect, that the land sued for is not an accretion to any land held by the plaintiffs.

2, The Board do not see the force of much that is urged by the Collector. The fact of similar land having been formerly sold by auction is no proof that the Collector then or now was legally justified in his proceedings, and he must clearly understand once for all, that accretions to land already in occupation are the property of the owner of the land to which the accretion takes place. This point of law has been unassailably established by the highest Court, and cannot be questioned. The right of Government to its tax on the land is a perfectly distinct question.

3. The Board do not understand the distinction drawn by the Collector between "the holders of the adjoining fields," and "the Government as owners of the soil."

4. The Government are not the owners of the soil in the case of occupied land, nor of accretions thereto.

No. 60. Proceedings of the Board of Revenue, dated 8th February 1869, No. 846.

Read the following letter from the Acting Sub-Collector in charge of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 16th December 1868, No. 387 :—

I HAVE the honor to inform you that the Munsiff's Court at Masulipatam, has passed Decrees in favor of the Collector, in Original Suits Nos. 344 and 411 of 1865, the defence of which was sanctioned by the Board, in the correspondence noted in the margin. Translations of Decrees and Judgments are enclosed for the Board's information.

Board's Proceedings, 11th May 1866, No. 3,312.
,, 16th Oct. ,, ,, 7,469.

ENCLOSURE No. 1.

District Munsiff's Court at Musulipatam, Original Suit No. 344 *of* 1865, 31*st December* 1867.

Plaintiff.
Muttevi Narayana Charlu, heir of deceased Mangaya Charlu.

versus

Defendants.
T. A. N. Chase, Esq., Collector of the Kistna District, and several others.

JUDGMENT.

The plaintiff sets forth that the first defendant, without paying him, (who is the Trustee and Warden of the Temple of Kodandaramasawmy, situated at Peda Kara,) the money sanctioned by

Government in commutation of a Bád Inam land belonging to that temple, unjustly had it paid to the second defendant: he brings this suit to recover the aforesaid money, the principle and interest being Rupees 287-6-0.

2. The plaintiff likewise states, that Vedantum Venkatakrishnama Charlu executed a Kararnamah (Agreement) in the name of his father on 26th January 1826, and performed the duties of the Warden as Agent of his father.

3. The first defendant pleads that it had been determined in 1857 to pay the said sum to the plaintiff, but by some reason or other it was not paid; so that on an inquiry held in 1863, as it was determined that the second defendant is the Trustee, the sum was paid to him; that he (second defendant) did likewise purchase a maniem land for the benefit of the temple; and that the second defendant only, is the responsible party

4. The second defendant pleads that his grandfather, Reddy, and late Tadapala Ramanappa, did first consecrate the temple to the god; that while the grandfather and father of the plaintiff were acting as Wardens, Narsimha Charlu, the father of the plaintiff, having made away with some jewels and things, the property of the temple, in 1804, corresponding with the year Raktashi (sixty-three years ago), was dismissed from the office of Warden, and succeeded by one Vedantum Venkatakrishnama Charlu; that the trusteeship was being successively held by his ancestors and by him; and that the money paid by the Collector was laid in the purchase of an Inam land for the benefit of the temple.

5. The heirs of the above-mentioned Vedantum Venkatakrishnama Charlu having argued that they have exclusive right to the trusteeship, were admitted as supplemental defendants.

6. Sesha Charlu, the third supplemental defendant, pleads in favor of the argument of the second defendant, adding, that his father was never an Agent of the plaintiff, nor executed an agreement to that effect, and that he and his brothers have been jointly conducting the duties of the Warden in an independent manner.

7. Supplemental defendant, Alemalamma, being the minor and wife of the brother's son of the said Sesha Charlu, argued, through her guardian, in the same manner.

8. Supplemental defendant, Rangama, being the minor and wife of the brother of the said Sesha Charlu, pleaded through her guardian, much in favor of the plaintiff's argument, but adds, that Venkatakrishnama Charlu did not execute any agreement in the name of the plaintiff's father; that the plaintiff's father being unable to perform the duties of the Warden, employed his brother-in-law, Venkatakrishnama Charlu, to whom he used to pay, for some time, a moiety of the gifts presented to the idol for the maintenance of his family, and afterwards the plaintiff agreed to take only one-third for him; that while the case was thus, it occurred to the sons of the said Venkatakrishnama Charlu—that is, the third defendant, &c.,—to enter into partition in 1861: the right to wardenship of this temple fell to the share of her husband, but the earnings of which being extremely limited, the brothers of her husband were in the habit of paying to her husband every month at half Rupee; and that the second defendant, who received the money in commutation of the Bád Inam, misrepresented that the entire wardenship should be conferred on her husband, and took a certain sum of money from him, which, being added to the commutation money of Bád Inam, was laid in the purchase of Inam land.

9. The points at issue are, whether the plaintiff exercised the duties of a Trustee as well as of a Warden; whether the father of the third defendant executed an agreement to the plaintiff on 26th January 1826, and received any wages in remuneration of his being Agent; whether the wardenship was transferred from the plaintiff's father to Venkatakrishnama Charlu, the father-in-law of the fourth defendant, as alleged by the fourth defendant; and whether, at last, the right to the wardenship fell to the share of the fourth defendant's husband.

10. On behalf of the plaintiff, the documents marked A., B., C., D., E., F., G., H., I., J., K., L., M., N., O. P, Q., R., S., T., U., V., W,, X. Y., Z., AA., BB.,, CC., DD., EE, are filed.

Nine witnesses have been examined.

On behalf of the defendants, the documents marked I., II, III., IV. V., VI., VII., VIII., IX., X., XI., XII., XIII., XIV., XV., XVI., XVII., XVIII., XIX., XX., XXI., XXII. are filed;

Proceedings of the Madras Government, Revenue Department,
3rd March 1869.

ten witnesses on behalf of the second defendant, seven witnesses on behalf of the third defendant, and two witnesses on behalf of the fourth defendant have been examined.

A.—Extract from the *Guntoor District Gazette*, dated 21st January 1858, containing a Revenue Circular No. 11, inviting the attendance of Bád Inamdars.

B.—Yadast No. 143, dated 8th April 1861, from Mr. Reade to S. Narrainamgar, Treasury Deputy Collector, requesting to pay Rupees 233 to Muttevi Mangaya Charlu, the Warden of Sree Kodandaramasawmywar at Kara, in Bandar, being the money sanctioned by Government in commutation of a Bád Inam situated in Bapatla Talook, and to take a receipt as well as documents regarding the said Inam.

C.—Yadast, No. 214, from Mr. Foord to M. Narsimha Puntalugar, Treasury Deputy Collector, referring the Arzee (presented by M. Mangaya Charlu, Warden and Trustee of the Temple of Sree Kodadaramaswamywar, situated at Peda Kara, complaining that the commutation money, sanctioned by Government, was not paid to him), and calling for an explanation why the sum was not yet paid, although the late Collector had sent an Yadast, No. 143, to the same effect, and if the sum remained still unpaid, it should be communicated what had passed in this case.

D.—Arzee addressed to the Collector on 2nd December 1863 by M. Mangaya Charlu, Trustee and Warden of the said temple, claiming commutation money due on Bád Inam in Bapatla Talook, as well as an endorsement thereon, dated 1st Febuary 1864, to the effect that the said sum was paid, by order of the Acting Collector, to a person that applied for it, alleging that he is Trustee of the temple.

E.—Mahajarnamah (unanimous agreement) written by the villagers of Peda Kara on 10th January 1826, corresponding with Monday, or the second day of Pushiasudam in the year Parthiva.

F.—Kararnamah (Agreement) executed by Vedantum Gopala Charlu in the name of Muttevi Mangaya Charlu, dated 26th January 1826, corresponding with Thursday, or the third day of Pushia Bohulam in the year Parthiva, stating that he would serve as Agent in the temple of Kodandaramasawmy, being remunerated at two Pagodas, per month.

G.—Hakikhat (Statement) written by the inhabitants of the town on the 17th August 1828, corresponding with Sunday, or seventh day of Stravanasudam in the year Sarwadari.

H.—Dumbala or Permit granted to the Wardens regarding the Inam at Viswanadhapall for Fusly 1226 (1811-12).

I. Do. do. do. 1227 (1812-13).

J. Do. do. do. 1228 (1813-14).

K. Do. do. do. 1229 (1814-15).

L. Do. do. do. 1230 (1815-16).

M. Do. do. do. 1231 (1816-17).

N. Do. do. regarding the village for Fusly 1232 (1817).

O. Do. do. do. do. 1233 (1818).

P. Do. do. do. do. 1234 (1819).

Q. Do. do. do. do. 1235 (1820).

R. Do. do. do. do. 1236 (1821).

S. Do. do. do. do. 1237 (1822).

T. Do. do. do. do. 1240 (1824).

U. Do. do. do. do. do. do.

V. Do. do. do. do. 1246 (1831).

W. Do. do. do. do. 1247 (1832-33).

X.} Do. torn.
Y.}

ZYZ.—In these marks the plaintiff's name appears.

AA.—Dumbala obtained in the year Vrisha.

BB.— Do. granted in Fusly 1215 (1800-1) regarding Bapatla maniem land.

CC.—As these purport to be copies of Dumbalas said to have been produced before Collector by the plaintiff, cannot be admitted, being copies.

DD. }
EE. } —Receipts purporting to have been executed by the father of third defendant in acknowledgment of receipt of salary paid to him by the plaintiff, as remuneration for his being Agent (Hastakeedu).

FF.—Bearing date of fifteenth day of increasing moon in the month Ashadham, year Sarwadari (1828-29).

DD.—The dates were torn off.

Documents of defendants.

I.—Deed of Gift executed by Abkarry Shop-keepers in the name of the Pagoda on tenth day of increasing moon in the month of Sravanam, year Promoda, corresponding with 10th August 1810, wherein it is stated that the father of third defendant was a Warden.

II.—Adduced by the second defendant, agreement executed by Krishnama Charlu, father of the third defendant, on Thursday of tenth decreasing moon of Vyrakham of former Raktashi year, to the second defendant's father and others as Trustees, that he would act as Church Warden of the aforesaid temple. It appears by this, that it was created after the dismissal of the plaintiff's father.

III.—Deed of Gift of land executed by Rayabaram Veerabhadrudu in the name of the temple, on Saturday the thirteenth day of increasing moon of the month Balgunam, year Sarwadari.

IV.—Chekunamahs in the name of do. on Sunday the thirteenth day of increasing moon of the month Ashadham, year Virodhi.

V,—Dumbalas or Permits issued in Fusly 1186, A. D. 1772-73, to the villages of Tallapollem, Attamur, and Kanur, in order to make over the produce by measurement to the Warden.

VI. Do. do. in Fusly 1185, A. D. 1771-72.

VII. Do. do. do. 1186, ,, 1772-73.

VIII.—List of things said to have been usurped by the plaintiff's father.

IX.—Private copies of papers said to have been presented in Cutcherry, purporting that the second defendant is a Trustee.

X.—Authenticated copy of a Yadast from the Deputy Collector to the Collector, stating that the said papers were not forthcoming.

XI. }
XII. } Endorsements passed in the said matter.

XIII.—Deed of Sale of the maniem land purchased by the second defendant for Rs. 400, (being commutation money, &c., of the Bád Inam) on 21st November 1863, for the benefit of the Pagoda.

XIV.—Title-deed for the said maniem land.

XV.—Copy of the Hukum issued to the Gudivada Talook Tahsildar by the Treasury Deputy Collector on 13th December of the same year, to the effect that the said Inam shall be entered in the name of the temple.

XVI.—Arzee addressed to the Collector of Guntoor District, on 23rd January 1849, by the elder brother of the second defendant, and Chodagam Setaramudu, stating that they are the Trustees.

XVII. Do. do. on 16th September 1864.

XVIII.—Arzee addressed to do. by the Vakeel of plaintiff on 26th October 1841, corresponding with Wednesday of the 11th increasing moon in the month Aswejam, year Plava, praying for permission for the produce of the Inam at Bapatla.

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XIX.—Authenticated copy of charge preferred by the third defendant, regarding Assault Case No. 39 of 1865, between the third defendant and the heir of the plaintiff.

XX.—Authenticated copy of a Yadast from the Treasury Deputy Collector, to the Collector on 15th January 1866, stating, among other circumstances, that the records passed regarding the Wardenship and Trusteeship was washed away in cyclone.

XXI.—Authenticated copy of Kyfeat or Statement presented to the Pagoda Committee, on 26th January 1866, by the third defendant and Narsimha Charlu, a witness on behalf of the plaintiff.

XXII. Do. of do. presented to do. by the said Narsimha Charlu, stating that his signature on the papers executed on the partition between himself and the third defendant, was made through inadvertence.

11. It appears by the extract from the *District Gazette*, marked A. and dated 21st January 1858, that it was determined by Government to pay off, in December 1857, a sum of Rupees 233 in commutation of the Inam situated in Bapatla Talook, and belonging to Kondandaramaswamywar's Temple at Kara, on the ground that the said Inam was granted subsequent to Fusly 1200, and that the plaintiff, who is a Warden, was invited in common with other Inamdars to take the money.

12. It appears by an authenticated copy, marked B. and dated 5th April 1861, that, on the interference of one Bramajee, the brother of the defendant, objecting to the payment of the said money to the plaintiff, on the ground that he is the only rightful claimant to the said sum, an enquiry was held in the Bunder Talook Cutcherry, by which the assertions of Bramajee being refuted, Mr. Reade, late Sub-Collector in charge, had issued orders in 1861 that the sum be paid to the plaintiff; but by some reason or other, the sum was not paid to the plaintiff up to 1863. In 1863, some enquiry was again made by the Revenue Authorities as regards Trusteeship, and at last the Revenue Authorities determining that the second defendant and his forefathers are the Trustees, had the sum paid to the second defendant in the month of November 1863, as appears from authenticated copies marked XXX.

13. To determine the claim now brought forward by the plaintiff, on the ground that he is both Trustee and Warden, it is essential to ascertain which of the plaintiff and the second defendant has been trustee.

14. In the statement given before the Court, on 18th June 1866, by the plaintiff's Pleader, it is stated that the trusteeship and wardenship to temple were vested in Rama Charlu, the grandfather of the plaintiff by Venkatesam, the son of Tadapala Ramanappah Naidoo, who is the founder of the temple.

15. The burden of proof in the above matter, consequently rests with the plaintiff only.

16. Of the 2nd, 3rd, 4th, 5th, 6th, and 8th witnesses on behalf of the plaintiff, some depose that the plaintiff's father and the plaintiff have been trustees, and others that they heard so.

17. It is not probable that the witnesses could have had the knowledge of the circumstance that the plaintiff's grandfather was vested with the trusteeship about 100 years ago. Such an indefinite and hearsay evidence is, therefore, inadmissible. The District Moonsiff cannot place reliance on their evidence.

18. If the circumstance that the plaintiff, his grandfather, and father had been trustees of the temple since about one hundred years, were true, there would have been naturally left any special works or impressions for the benefit of the temple within the space of the said one hundred years by virtue of the trusteeship. Then the plaintiff would have been able to bring forward more or less circumstantial evidence tending to prove that they were the trustees.

19. Nothing appears from the evidence that such events took place by the agency of either the plaintiff or his forefathers. Moreover, the plaintiff is quite unable to adduce even such oral evidence as may be consistent with the above facts,

20. No mention does at least appear in any of the documents filed by the plaintiff that he is the trustee, except in those marked C. and D.

21. It is mentioned in document marked C., which is copy of a Yadast of 21st November 1863, that it was set down in Yadast No. 143, to the effect that the commutation money of the said Bád

Inam should be paid to Mangaya Charlu (plaintiff), the warden and trustee; but in the copy of the above Yadast, (marked B.) No. 143, it was only laid down that the plaintiff is the rightful claimant, but he was not denominated therein as the trustee.

22. By the mere mention in document marked C., dated 21st November 1863, that the plaintiff is the trustee, the District Moonsiff cannot think that the said document marked C. is productive of any advantage to the plaintiff, because in the documents anterior to such date, he was denominated as "warden," but not as trustee

23. The document marked D. purports to have been addressed to the Collector, on 2nd December 1863, by the plaintiff himself. It appears that it is the only first stage when the plaintiff attempted to assume the title of trustee. Whatever he may have written himself in it, the defendants are not bound by it, as it is no evidence.

24. The document marked D. is, therefore, useless for the plaintiff.

25. Even in any of the other documents presented on behalf of the plaintiff, no mention about trusteeship is made except that of wardenship. That document is, therefore, unable to establish the circumstance that either the plaintiff or his forefathers had been trustees.

26. On referring to other documents from the mark H. filed by the plaintiff—that is, Dumbalas or Permits for the produce of the Inam of the said temple,—a presumption arises, whether they will point out to the fact that the plaintiff had the trusteeship.

27. But as it is customary for the Wardens of temples to keep in their possession such documents as Dumbalas, &c., it cannot be reckoned by the mere possession of the said Dumbalas, that the plaintiff is the trustee when there is no *prima facie* proof.

28. It appears by the evidence brought forward by the second defendant, that he (second defendant) and his elder brother were now and then superintending the works of the Pagoda as well as the procession of the idols, by carrying them from Kara to the houses of the town inhabitants.

29. One Nimmasuri Periah, the eighth witness on behalf of the second defendant, deposes that, when one of the idols in the temple, being hugged by a mad Brahmin, was broken, the elder brother of the second defendant got it repaired, and that when the pinnacle of the temple had tumbled down, he only had it replaced and consecrated.

30. He is related to the second defendant, but his evidence is founded. Moreover, he appears to the District Moonsiff to be trustworthy. Because he is the relation, he is considered to have had ample opportunity of knowing the truth of the circumstances.

31. His evidence, therefore, should of course be believed by the District Moonsiff.

32. It does not appear that the Pagoda was consecrated either by Zoghy, the father of the second defendant, or Reddy his grandfather, as alleged by the second defendant.

33. But it appears that the forefathers of the second defendant had acted in the Abkarry business on behalf of Tadapala Ramanappah, the consecrator of the said Pagoda. The elder brother, &c., of the second defendant paid much attention, and got the processions of the idols performed by means of their own funds, as well of those contributed by others. Besides, on referring to the circumstance, among others, that an idol was repaired when broken, and the pinnacle replaced when tumbled down, it is apparently conceived that they themselves took up the position of Tadapala Ramanappah, the former trustee of the said temple, whether by his consent or by virtue of his friendship.

34. However, when they have been performing the duties of the Trustee since so long a time, it is just to resolve that they only are the present Trustees.

35. On referring to documents marked IX., XXI., XXII., filed on behalf of the second and third defendants, it appears that also A. Nagaswara Naidoo and V. Narsimha Charlu, the second and fourth witnesses of the plaintiff, had formerly admitted the trusteeship of the second defendant and his forefathers, while they now argue, that neither the second defendant nor his forefathers are trustees.

36. Of the above documents, one marked IX. is private copy, the original of which is said to have been filed in the Record of Inquiry held in 1857, about the trusteeship. As the public

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document marked XXI. shews that the whole record was washed away by cyclone, the above copy is admitted as secondary evidence.

37. The fourth witness on behalf of the second defendant alleges that he then only wrote the said copy, *i. e.*, the document marked IX., and kept with him; but referring to the appearance of the ink on the said document, it does not appear to have been written eleven years ago.

38. However, P. Ramachendrudu, the fourth witness of the second defendant, deposes on oath, that he himself wrote the original with reference to the above, got it attested by A. Nagaswara Naidoo, the second witness of the plaintiff, and presented before the Tahsildar.

39. Therefore, let the copy be made at any time, by the evidence of the said Ramachendrudu, touching the matter of the original Kyfeat or Statement, the circumstance contained in the above original Kyfeat, that the second witness on behalf of the plaintiff had formerly admitted the trusteeship of the second defendant, is to be determined.

40. P. Nagayah, the ninth witness of the second defendant, and who attested the said original Kyfeat as the above second witness, although first attempted to give evidence to the prejudice of the second defendant with intent to secrete the matter of the above Kyfeat, at last admitted the existence of the above Kyfeat; but in conclusion, he admits having simply attested it, without reading over the whole of the contents, depending on the statements of some one.

41. While he is the Village Moonsiff, it is not worthy of belief that he had attested it for pleasing others, simply depending on the statements of some one Brahmin.

42. As this witness was at first adverse to the second defendant, and afterwards admitted the circumstance of the document even to such an extent, his evidence must, of course, be advantageous to the second defendant.

43. As the fourth witness, on behalf of the second defendant, deposed as to the paper marked X., and as to the circumstance that the second witness of the plaintiff had attested its original, and as it appeared that also the ninth witness, on behalf of the second defendant, did attest the said document, the District Moonsiff decides that the second witness did admit in the above manner of the trusteeship of the second defendant.

44. While the fourth witness had admitted in his deposition of the documents marked XXI. XXII., it is quite strange to say that he did ignorantly attest them.

45. As the ninth witness, on behalf of the second defendant, and the second and fourth witnesses on behalf of the plaintiff, who are Village Moonsiffs, had lately made mention that the forefathers of the second defendant, including his elder brother, were the trustees, and as the elder brother of the second defendant, had been pleading prior to 1848 that he was the trustee, as is manifest by the documents XVI., XVII., the resolution, contained in paragraph 34, is quite justifiable.

46. It appears by the authenticated copies marked XXX. that when the Revenue Authorities called upon the plaintiff and the second defendant as to their willingness to invest the money, awarded by Government in commutation of Bád Inams, in the purchase of an Inam for the benefit of the temple, the plaintiff did not give his consent; but the second defendant, after having purchased Inam land for the benefit of the Pagoda at a cost of Rupees 400, which includes the said commutation money as well as some other funds, was paid the commutation money then remaining in Government deposit.

47. The very fact of the plaintiff's unwillingness to render the said sum useful for the Pagoda, convinces that he is not the trustee, and the circumstance that the second defendant had likewise supplemented the commutation money with his private funds to be laid out on the purchase of an Inam for the benefit of the Pagoda, is a clear proof of his having hitherto held the trusteeship, and of his competency to hold the same.

48. Under these circumstances, it is resolved that the second defendant only is the trustee but not the plaintiff; and that the second defendant being trustee, is entitled to the receipt of the said money, but not the plaintiff.

49. To settle the point in issue, as to who is the rightful claimant of the sum awarded for the benefit of the temple, what has been inquired into in the suit touching the matter of trusteeship is quite enough, which resulted in favor of the second defendant.

50. As the warden's duties are nothing but the performance of worship, &c., business in a temple, they are not competent to manage with the funds of the temple.

51. Moreover, another Suit was filed in 1867, No. 71, regarding the right of wardenship of this temple.

52. The District Moonsiff is, therefore, of opinion that it is unnecessary to inquire in this suit, as to whom the wardenship belongs; and as to the circumstance whether it devolved on the husband of the fourth defendant when partition took place.

53. However, as these parties have been admitted by the late Moonsiff as supplemental defendants, and the points in issue fixed as regards the wardenship, to prove which, evidence is brought forward, it seems necessary to inquire also into the points connected with the wardenship, and dispose of the matter.

54. The second defendant and the third supplemental defendant, Sesha Charlu, allege that Narsimah Charlu, the father of the plaintiff, having stolen some property belonging to the temple anterior to Thursday the 10th decreasing Moon in the month Visakham, year Raktakshi past, was dismissed from temple service, and that the forefathers of the second defendant appointed Venkatakrishnama Charlu, the grandfather of the said Sesha Charlu, in his stead as a warden, as per Kararnamah (Agreement) marked H.

55. The plaintiff alleges that the document marked H. is not genuine.

56. The Pleader, on behalf of the second defendant, argues, that as the document is sixty-two years old, no direct evidence need be taken under the provisions of the Law of Evidence, and that as all the attesting witnesses were dead. no oral evidence can be brought forward.

57. It is true that the document is more than thirty years old, but if the plaintiff's father had been dismissed on account of misdemeanour, as appears from the above document, the connection of the plaintiff as well as of his father with the temple, should have entirely ceased to exist.

58. The plaintiff says that the father of Sesha Charlu, supplemental defendant, executed in his name a Kararnamah (Agreement) marked F. forty-two years ago—that is to say, on 2[illegible]th January 1826,—and held the post of Hastakeedu or servant of the warden.

59. The plaintiff has filed the receipts marked DD, EE., given him by Gopala Charlu, the father of the third defendant, in acknowledgment of the salary due to him for being Hastakeedu or servant in virtue of the above document.

60. Although the document marked F. is forty years old, yet the first and ninth witnesses on behalf of the plaintiff, who deposed as to the origin of the same, having related exactly, without the least difference, the circumstances as regards the place and time of the above transaction, their evidence is doubted. The ink with which they attested it is different from that of the other letters. Consequently, it appears clearly that they subsequently attested it.

61. Two Mahajarnamahs marked E. C. have been filed on behalf of the plaintiff for the purpose of supporting the document marked F, and of enfeebling that marked H., filed by the second defendant. The document marked E. came into existence sixteen days prior to that marked F., while that marked C. subsequent to that marked F.—namely, after two years, six months and twenty days. As the document marked E. is half torn, its import is not wholly known.

62. However, as the two documents marked E. C. are Mahajarnamahs, it is quite repugnant to law to recognize them as evidence.

63. However, in the Dumbalas marked S., T., U., Y., Z., issued for the maniems of the temple, it has been mentioned that the plaintiff only was the Warden. It appears from these Dumbalas that the produce of the Inam in several Fuslies was possessed by the plaintiff. The Dumbalas are those that were issued from 1829 to 1846, which were admitted by the Pleader of the second defendant at the time of hearing. Moreover, as many of them are more than thirty years old, there is no necessity to doubt their genuineness.

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64. It has been clearly proved by them that the plaintiff had been Warden from 1828-29.

65. By this, the Agreement also marked F., filed by the plaintiff, and which is more than thirty years old, is however held valid.

66. It also appears by the documentary evidence marked F., S., T., U., V., X., Y. Z., that the plaintiff has been Warden since 1826; but there arises a doubt whether the circumstance that the plaintiff's father was dismissed, and the document marked H. are false.

67. But it is mentioned in Arzee marked XVII. addressed to the Collector of Guntoor District by the elder brother, &c., of the second defendant on 16th September 1848, that the document marked H. came into existence, and that the plaintiff's father was dismissed for misconduct. As this mention was made about nineteen years ago, it must, of course, be considered that it existed at that time.

68. But as it appears by the documents marked XVI., XVII., XVIII., that dispute was pending between the plaintiff and the forefathers of the second defendant since two or three years prior to that date, regarding the produce of Inams, the opposite party might argue that the document marked H. should have been invented in the year 1848-49.

69. In Dumbala or Permit marked R., which existed in the year 1828, subsequent to the date of the document marked F., which is held to have been proved, a phrase "ఆర్చకుని మీశర్తన, *i. e.*, care of Warden" without name was inserted. In the Dumbalas marked H., I., M., N. Q., anterior to the above, *i. e.*, from the year Eswara or 1816 to 1826, a phrase conveying plural sense "ఆర్చకులవరకు-గా, *i. e*, care of wardens," was entered. These also being more than thirty years old, there is no objection to their being admitted as evidence without any independent proof.

70. If the plaintiff and his father, Narsimha Charlu, were undisputedly the Wardens prior to 1826, and the father and grandfather of the third defendant continued to be "Hastakeedu" or servants of the plaintiff, either the name of the plaintiff or that of his father, Narsimha Charlu, should have been clearly written in singular sense in the former Dumbalas marked H, I., &c., as if it were the case with those marked S., T., U., W., Y Z.,

71. The District Moonsiff cannot see any adequate reason as to why it was not written so, and why it should be mentioned in plural sense " ఆర్చకులు, *i. e.*, Wardens"

72. The Deed of Gift of land marked I., (filed by the plaintiff,) dated 10th increasing moon of the month Sravanam in the year Pramody, corresponding with A. D. 1810, being of old date, no other proof appears to be necessary. At the date of such deed, Venkatakrishnama Charlu, the grandfather of Sesha Charlu, third supplemental defendant, was clearly spoken of as the Warden. This document is one that greatly affects the plaintiff.

73. Sesha Charlu, the third supplemental defendant, states in his Kyfeat or Statement (marked XXI.), presented to the Hindu Religious Committee on 19th January 1866, that a dispute occurred in 1825 between the plaintiff and his (third defendant's) father before the Police Officer.

74. On considering the above circumstance, and the document marked I., and on referring to the circumstance that, in the documents marked H., I., J., K., L, M., N., O., P, Q., that came in existence subsequent to 1804, which is the date of document marked H., neither the name of the plaintiff, nor that of his father was mentioned, and that a word implying plural number "ఆర్చకులు *i. e.*, Wardens" was used, it cannot be presumed that the wardenship was permanently vested either in the father of the plaintiff, or in the plaintiff himself, at the time prior to 1826 and subsequent to 1804.

75. The inference to be drawn is, firstly, that the father of the plaintiff lost the wardenship of Kodandaramaswamywar whether by reason of his having left the wardenship himself after serving for some time, with a view to enter in the wardenship of the newly constructed temple at Battiahpetta, or by having faithlessly taken away certain jewels, &c., belonging to Kodandaramaswamywar and placed in the temple of the said Sitaramaswamywar; and that the said wardenship was conferred on Venkatakrishnama Charlu, the brother-in-law of Narsimah Charlu, the plaintiff's father, through compassion on the plaintiff's father, on the ground that he was late warden; or secondly, that Venkatakrishnama Charlu might have been appointed with reference to the conditions privately entered into by him with the plaintiff's father whose brother-in-law he was.

[illegible] unjustly had it paid to the 3rd Defendant: he
brings

76. In the year 1825, a dispute arose (whether from failure of the said conditions or from other cause) between the plaintiff and Gopala Charlu, son of the said Venkatakrishnama Charlu. And it is much probable that thereupon the plaintiff, with a view to rectify former shortcomings courted the favor of the people who excused the deceased Warden's faults, and wrote a Mahazur or general petition; that on this he brought Gopala Charlu and others into the Cutcherry, on the ground that the "Archa Katwam" was formerly his father's right, and obtained the document marked F., and that Gopala Charlu having his nephew, (sister's son) might have naturally executed the said document to the plaintiff.

77. From these circumstances, the document marked II. may on one hand be presumed to be genuine; but there does not appear to the District Moonsiff any reasonable proof to say that it positively originated previous to 1848.

78. There also exist no evidence to say it was fictitious, for it is not uncommon for wicked Church Wardens sometimes to embezzel "god's jewels."

79. Therefore the District Moonsiff cannot venture to say it is false.

80. The origin of the document marked II. was, however, proved by the document marked F. It is, moreover, stated in the documents marked S., T., U., V., W., Y., and Z., that the plaintiff was Church Warden subsequent to 1826. In the same document marked IX., copy of which was filed by the defendant as collateral evidence to prove that the plaintiff had no right to the wardenship, it was clearly stated that Mungaya Charlu was the Warden.

81. Moreover, A. Chelamaya, third witness on behalf of the third defendant, deposes that subsequent to the date of the document marked IX., that is to say, subsequent to the year 1836, one-third of the emoluments of the temple had been received by the plaintiff. The seventh witness for the plaintiff also corroborates that statement.

82. There does not appear any reason to disbelieve their evidence.

83. It also appears from the authenticated copy of document marked XX., which the third defendant caused to be filed, that it was proved by the record before the Revenue authorities that one-third share of the emoluments had been received by the plaintiff.

84. The third defendant should bind himself by the document which he filed.

85. For these reasons, it does not seem necessary to inquire further as to whether the Exhibit marked II. is true or false.

86. From the document marked F., from the Exhibits marked S., T., U., W, Y., and Z., from the Exhibits marked IX. and XX., and from the oral testimony, it is to be resolved that the plaintiff is the Church Warden, and that one-third of the emoluments of the wardenship was received by the plaintiff. The District Moonsiff is, therefore, certainly of opinion that he has a right to one-third of the emoluments of the wardenship, and that that fact is proved.

87. It is argued, on the part of the fourth defendant, that on the occasion of division which took place about six or seven years ago, between the third supplemental defendant and his brothers, the said wardenship fell to the share of his brother named Krishnama Charlu, the fourth defendant's husband, and that the former separately enjoyed the same up to the cyclone.

88. Narsimha Charlu, who is the younger brother of the third supplemental defendant, and who is the third witness for the plaintiff, deposes that when the division took place between the brothers of the fourth defendant, Parikhats or Deeds of Acquittance were executed, and that they were lost in the cyclone. This statement is supported by Nagaswara Naidoo, the second witness on behalf of the plaintiff. The evidence given by the first and second witnesses on behalf of the fourth defendant regarding the aforesaid document contains many contradictions. It is also in a confused state.

89. Therefore their evidence is not satisfactory to the District Moonsiff.

90. Be the evidence of these witnesses in whatever manner it may, from the evidence of the first, second, and third witnesses, who had been examined on behalf of the third defendant, it clearly appears that Krishnama Charlu alone performed the duties of "Archa Katwam" at Kara since six or seven years or up to the cyclone; that his brothers—namely, Sesha Charlu at Rajupetta, Sitarama Charlu at Gilakaladindi, Peda Sitarama Charlu at Mullavolu, and Narsimha Charlu (plaintiff's third witness) at Jalalpetta,—continued to perform the "Archa Katwam" each separately.

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91. Taking into consideration the evidence of the second and third witnesses for the plaintiff, together with the evidence of the first, second, and third witnesses on behalf of the third supplemental defendant, it is to be deemed that in the division of "Archa Katwam," which took place between Krishnama Charlu, husband of the fourth defendant, and his brothers, the third supplemental defendant and others, the temple at Kara fell to the share of Krishnama Charlu; that the emoluments of that temple being insufficient, the other four brothers continued to pay to him monthly a sum of four half Rupees (2 Rupees); and that the brothers remained each in separate temples.

92. Therefore, the District Moonsiff doubts to decide that the husband of the fourth defendant is entitled by virtue of "division" to two-thirds of the "Archa Katwam" of the aforesaid temple.

93. Under all the foregoing reasons, the District Moonsiff adjudges that the plaintiff has no right whatever to the "Dhurmakurtutwam" (trusteeship); that he is only entitled to one-third of the "Archa Katwam;" and that the remaining two-thirds fell to the share of the fourth defendant's husband according to the shares of division.

94. The claim of the plaintiff is, therefore, dismissed.

95. As it is improper for the plaintiff to include the first defendant, in this Suit, who, after a due consideration in regard to the "Dhurmakurtutwam," justly paid the sum claimed to the second defendant, the plaintiff should pay the costs of the first defendant.

96. It would appear that the third supplemental defendant, and the second defendant unreasonably went cross in the way of the plaintiff's right to "Archa Katwam." They should, therefore, bear a moiety of the plaintiff's costs respectively.

97. It is decreed that, as it is irregular for the plaintiff to argue that the "Dharmakurtutwam" belongs to him, and not to the second defendant, the plaintiff should pay only a moiety of the second defendant's costs; that the remaining moiety of costs should be borne by the plaintiff and the second defendant, respectively; and that the third defendant should pay the costs of the fourth supplemental defendant. The third and fifth defendants are decreed to bear their respective costs.

(Signed) M. RUTNASABHAPATI,
District Moonsiff.

(True Copy.)

(Signed) M. RUTNASABHAPATI,
District Moonsiff.

(True Translation.)

(Signed) W. WILSON,
Acting Sub-Collector, in charge.

ENCLOSURE No. 2.—Translation of Decree in Original Suit No. 344 of 1865.

ENCLOSURE No. 3.

In the Masulipatam Moonsiff's Court, in Original Suit No. 411 of 1865, 20*th February* 1868.

Plaintiffs.
Davanaboyena.
Kamunaya, etc.

versus.

Defendants.
Collector of the Kistna District,
and others.

JUDGMENT.

The plaintiffs state that their sery field, called "Nakkalatippa," being their ancestral property, was eroded by the river ten years ago; that subsequently, that is, in Fusly 1274, ten kuntas of land were reformed at the same spot; that the first defendant, who made over the land to them in last year on their application for cultivation, is now about to put it up to auction; and that they therefore bring this suit to establish their right to the aforesaid field.

2. The first defendant contends that the island newly formed does not stand on the same spot on which the plaintiff's former island existed; that the land newly formed is the property of the ruling power, but not of the ryots; and that the land in question was made over to them on 11th October 1864, on the understanding that they might relinquish the same to such persons as may have purchased it at the public auction.

3. By the other defendants, the suit was allowed to run *exparte*.

4. The points at issue for determination are, whether the plaintiffs have any right to the property sued for by them, and whether or not the plaintiffs have taken up the land in litigation, on condition of their giving it up to any one that may purchase it at the auction.

5. On the side of the plaintiffs, seven witnesses were examined and a document was filed; while on the side of the first defendant a Kykole Kararnamah or deed of taking the land for cultivation, dated 11th October 1864, was filed.

6. The first issue involves two points: the one that the land sued for formed on the same locality on which Nakkalatippa, which was formerly enjoyed by them, had existed; on the other, that the Government have exclusive right to dispose of a newly formed accretion as they deem proper.

7. The evidence of the first, second, third, and fifth witnesses on behalf of the plaintiffs shews that the accretion under dispute was formed on the very spot on which Nakkalatippa stood lately; but the fourth, sixth, and seventh witnesses deposed that they do not know of the locality of the newly formed island.

8. The first witness cited by the plaintiffs is the late Curnum. The second, third, and fifth witnesses are the residents of the village. There is no room to suspect that they would dare give false evidence to the prejudice of the rights of Government.

9. It would appear that the fourth witness did not subsequently reside in that village; it is therefore, proper for him to say that he does not know the site where the accretion in dispute had formed.

10. The statements of the sixth and seventh witnesses, (who are the present Curnums of this village, that they do not know of the situation of the islet, are unsatisfactory; for, the sixth witness says that he has been in the service of Curnum office for the last thirty years, and then, to say that he has never visited the spot, is very surprising.

11. The seventh witness, who has been in the Curnum's service for the last six or seven years, admits that the Khat Account, marked A., filed on behalf of the plaintiffs, was drawn up in his own hand-writing, wherein it was stated that the former accounts were destroyed by fire, and the island sued for has formed, in Fuslies 1274 and 1275, on the same spot on which the old Nakkalatippa was. In this account the letters "ಅಕ್ಕಲಚೆರಿಯಮಂತೆ" (on the same spot) were closely written; these also he admitted to be in his own hand writing. It appears that this account was framed after the institution of this Suit.

12. There appears no sufficient and satisfactory cause for the seventh witness, who denied all knowledge of the position of the island in question, to have prepared this document. The sixth and seventh witnesses, whilst under examination, appeared to have been adverse to the plaintiff, and to have withheld the truthful evidence.

13. Some of the witnesses, cited by the first defendant, are unable to define the locality sued for, while others depose that they do not know where the former one was situated.

14. Their indefinite evidence cannot, therefore, affect the plaintiffs.

15. Under these circumstances, the District Moonsiff is of opinion that the island sued for has formed on the same spot on which the old Nakkalatippa was situated.

16. It appears that, after the formation of the island sued for on the site of the old Nakkalatippa, the plaintiffs have sent in a Durkhast for the island. The document marked I., dated 6th October 1864, is the above Durkhast, wherein it is stipulated that, if the land be put in their possession, they would pay its assessment, and that they would give up the land in the event of any one coming forward to offer a higher bid than that they did.

Proceedings of the Madras Government, Revenue Department, 3rd March 1869.

17. Though the plaintiffs denied the Durkhast at first, yet their Pleader admitted it at the time of hearing.

18. Referring to the said document, the plaintiffs have no right to apply now for the land under dispute, contrary to the terms therein contained.

19. The land originally held by the plaintiffs was subject to the gradual river encroachments for the last twenty years, and totally occupied by the river twelve years before, having no traces at all; ever since, the plaintiffs discontinued to pay assessment thereon. In their Order, on Appeal No. 20 of 1863, the High Court ruled that the right of the ryots to their holdings continues so long as they continue to pay assessment thereon. Now the plaintiffs not only had ceased to pay the assessment of the land, but also stipulated to offer the highest bid at the auction, in the event of any one coming forward to purchase it. These terms are now binding on the plaintiffs.

20. The plaintiffs contend that the second and third defendants instigated and caused them to file the document (marked I.) but this is not satisfactory. The plaintiffs have not proved the fact satisfactorily.

21. Moreover, in Suits Nos. 58 of 1864 and 30 of 1863, the High Court decided that accretions formed in the Kistna river are the property of the ruling power.

22. As the document (marked II.) itself affects the claim of the plaintiffs, their Suit must of course be dismissed with all costs.

The costs incurred by the defendants shall be borne by the plaintiffs.

(Signed) M. RUTNASABHAPATI,
District Moonsiff.

(True Copy.)

(Signed) W. WILSON,
Acting Sub-Collector in charge.

ENCLOSURE No. 4.—Translation of Decree in Original Suit, No. 411 of 1865.

SUBMITTED for information of Government, together with copies of Board's Proceedings, dated and numbered, respectively, 16th October 1868, No. 7,469, and 11th May 1866, No. 3,312.

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

No. 61. ORDER THEREON, 3rd March 1869, No. 544.

Miscellaneous.

Ordered to be recorded.

(True Extract.)

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

To the Board of Revenue.

Exd. G. A. Turton.

Decree of the District Munsiff's Court at Masulipatam. 3d December 1867.

Present

Maderedi Patna Subbapaty Naidu

District Moonsiff.

O.S. No. 311 of 1865.

Plaintiff

Muttave Mangaya Charlu alias Mungamma Charlu an inhabitant of Bullaya Pata Trustee & Warden of Sri Kodanda Ramaswamivar temple situated at Pata Para having died during the progress of the suit, his heirs Viz:-

1 Vankamma mother and guardian of (1) Narasimha charlu minor aged about 13 years son and heir of late China Mangaya charlu who was his (Mangaya charlu) son by his first wife.

Son by his second wife named Adamma mother and guardian of

2. Adinarayana charlu.

3 Narasimha Charlu a minor aged 11 years, inhabitant of Bullaya Pata.

Vondrilly Somalingam Pleader-

Defendants.

1 T. A. M. Chase Esqr. Collector of Kistna District.

2 Elluru Suder Sanamvaru an inhabitant of Bezwada Pata.

3 Vadanteum Seshachalu an inhabitant of Rajupalli.

4 Muttave Lakshmacharlu father and guardian of Pungamma heir and minor widow of late Vadanteum Krishnamacharlu an inhabitant of Godugupeta

5 Muttavi Lakshmacharyulu father & guardian of Eleveramma minor heir & Widow of Ramacharyulu son of late Vadanteum Seetaramacharyulu an inhabitant of Pata Muttave in the Davaracotta Purgana.

1st Defendants Pleader Sreepati Ramanna

2nd Defendants Pleader. A. Venkata Subbarayudu

3rd & 5th Defendants' Pleader B. Somaraj.

4th Defendants Pleader B. Lakshmanarasimhamu

1. The Plaintiff sets forth that the 1st Defendant without paying him (he being the trustee and Warden of the temple of Kodanda Ramaswami situated at Pata Para) the money sanctioned by Government in Commutation of a Baid Inam land belonging to that temple, unjustly had it paid to the 2nd Defendant: he

being

Court of Wards.

REVENUE.

To

THE BOARD OF REVENUE.

Dated March, 3rd.

Read.

G. O., 3rd March 1869. No. 514.

Read.

MARCH.

Nos. 53-61.

Suit against Collector of Kistna in connection with certain Bad Land—Report of its dismissal, received.

brings this suit to recover the aforesaid money the principal and interest being Rs. 287.6...

9. The Decree is to the effect. That the 2d Defendant should have the right to the trusteeships That of the perquisites of Wardenship, one-third should be enjoyed by the Plaintiff the remaining two thirds being taken by the 1st Defendant as per shares. That the Plaintiffs claim is dismissed. That as it was irregular for the Plaintiff to include the 1st Defendant in this suit who had after due consideration in regard to the trusteeship, justly paid the money sued for, to the 2nd Defendant, the costs of the 1st Defendant should borne by the Plaintiff. That as it would appear that the 2nd and 3rd Supplemental Defendants also did unreasonably intermiddle with the Plaintiffs right to the Wardenship, they should bear a moiety of the Plaintiffs costs each half. That the Plaintiffs averment that the trusteeship belongs to him and not to the 2nd Defendant being improper, he should pay to the 2nd Defendant only a moiety of his costs. and that the Plaintiff and 2nd Defendant should bear their respective moities of costs.

That the 3d Defendant should bear the costs of the 4th Supplemental Defendant. And that the 3d & 5th Defendants should bear their own respective costs.

No process of Execution will be ifsued to enforce this Decree unless some proceedings shall have been taken to keep the same in force

force within 3 years next preceding the application for such Execution.

	Rs. a. P.	
Costs incurred by the Plaintiff	" - 8 - "	
Valabatnama Stamps	" - 8 - "	
Complaint Stamp	16 - " - "	
Batta for summoning Defendants	" - 4 - "	
Do. for summoning Witnesses	" - 12 - "	
Valabatnamah Stamps	" - 8 - "	
Batta for the Execution of Warrant to Witnesses	6 . 12 - "	
Batta for serving Summonses on Witnesses	" - 4 - "	
Pleaders fees	14 - 5 - 7	39 - 5 - 7
Of this sum Rs 19 . 10 . 9½ should be borne by the 2d & 3d Supplemental Defendants and the remainder by the Plaintiff himself.		
Costs incurred by the 1st Defendant		
2 Kaifeyats Stamps	1 - " - "	
Pleaders fees	14 - 5 - 7	15 - 5 - 7
This, the Plaintiff should pay to 1st Defendant.		
Costs incurred by the 2d Defendant.		
Valabatnamah Stamp	" - 8 - "	
Kyfeyat Stamp	" - 8 - "	
Batta for serving Summonses on Witnesses	" - 12 - "	
Batta for executing Warrant to Witnesses	2 - " - "	
Batta for serving Summonses on Witnesses	" - 4 - "	
Pleaders fees	14 - 5 - 7	18 - 5 - 7

of this half Cost. Rs. 2.9½ should be paid by
2nd Defendant by the Plaintiff and the remaining
sum be borne by the 2nd Defendant.

Costs incurred by the 3rd (Supplemental) Defendant.

	Rs	a.	P		
Valaluttamah Stamps					
	"	8	0		
Motion Stamps					
	"	8	0		
Kyfeyat Stamps					
	"	8	0		
Batta for serving Summonses on Witnesses					
	"	12	0		
2 Warants to Witnesses	1	1	0		
Motion Stamps					
	"	8	0		
Pleaders fees	14	5	7	18	5 7

This should be borne by the 3rd Defendant himself.

Costs incured by the 4th (Supplemental) Defendant.

Valaluttamah Stamps					
	"	8	0		
Motion Stamps					
	"	8	0		
Kyfeat Stamps					
	"	8	0		
Batta for serving summonses on Witnesses					
	"	4	0		
2 Warrants to Witnesses					
	"	12	0		
Pleaders fees	14	5	7	16	13 7

This should be paid to the 4th Defendant by the 3rd Defendant.

Costs incurred by the 5th Defendant.

Valaluttamah Stamps					
	"	8	0		
Motion Stamps					
	"	8	0		
Kyfeat Stamps					
	"	8	0		
This should be borne by the 5th Defendant himself.	1	8	0		

Given under my hand & the Seal of the Court
this 31st December 1867.

(Signed) Maderedy Ratna Sabhapaty
District Moonsiff,

(Signed) K. Ponniah
3rd Interpreter

Corrections none

(Signed) Maderedy Ratna Sabhapaty
District Moonsiff,

Applied for Copy 27th January 1868
Drawed Stamps for Rs 1
15th April 1868.
Copy finished 16th April 1868.
(Signed) S. Ramanadan
Tamulah

True Translation

Asst Sub Collr in Charge

1868 No 1"
In a letter from the
Offg Sub Collr in charge
dated 7th December 1868

No: 387

3

Rev: 474/69.

Translations of
Decree & judgment
in Civ. Suit No: 344 of 1865

In Genl Rev. 9/69

25/1/71

Rec: 3rd March 1869 & Lr 60.

Revenue Dept.

W. 474.

BOARD OF REVENUE, MADRAS.

1869.

PROCEEDINGS, 8TH FEBRUARY 1869, No. 846.

Encl 3

Received 17/2

FEBRUARY.

No. 846.

RECORDED.

Suits—Nos 344 and 411 of 1865 on file of Masulipatam Munsiff's Court in Kistna District,—Collector's letter forwarding translations of Decrees and Judgments in, submitted to Government.

No 824 Dated 15th Feby 69.

With orders

to.