

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	886	Press
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⁶²⁻⁶³ Dated	2-6-1869	~~18~~

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
2nd April 1869.*

No. 42. Read the following Proceedings of the Board of Revenue, dated 9th March 1869, No. 1,573 :—

Read the following letter from the Collector of Tanjore, to the Acting Secretary to the Board of Revenue, dated Vallam, 5th February 1869, No. 17.

WITH reference to the Board's Proceedings of the 3rd November 1868, No. 7,827, I have the honor to report that the suit* therein referred to has been dismissed by the Acting District Moonsiff of Trivalore with costs.

* No. 122 of 1867.

2. A copy of that Officer's Judgment is herewith enclosed, and steps have been taken for the recovery from the plaintiff of the cost of the defence conducted on behalf of the Sub-Collector.

ENCLOSURE No. 1.

Original Suit No. 122 of 1867.

In the Court of the District Moonsiff of Trivalore.

Present:—P. NAMASIVAYAM PILLAY.

Judgment.

THIS suit is brought to set aside a sale of certain land held in satisfaction of arrears of revenue due to Government by first defendant for Fusly 1275, and to recover the land with mesne profits. It is further alleged that the land in question forms a part of what was placed in plaintiff's possession under a Decree of this Court; that it was sold to second defendant in satisfaction of the arrears of revenue due by first defendant; that the day previous to the sale, namely, 15th November 1866, the plaintiff tendered payment of arrears of revenue to the Tahsildar, fifth defendant, who refused to receive the amount, and to postpone the sale; and that the Sub-Collector, fourth defendant, confirmed the sale without any inquiry. Hence the suit.

2. The second defendant resists the plaintiff's claim, pleading bar of limitation. He asserts that no tender was made by plaintiff the day previous to the sale on account of the arrears of revenue, and that no notice was given to plaintiff previous to the sale, because he did not secure the transfer of Merass Registry in his name from that of first defendant.

3. The fourth defendant adheres to the answer of the second, and adds that the plaintiff, who alleges to have tendered payment of arrears of revenue the day previous to the sale, declared, in his petition to the Sub-Collector's Office, that he had made tender on the day of the sale.

4. The first defendant is placed *ex-parte*.

5. On the application of the fourth defendant, the names of third and fifth defendants, the Curnum and Tahsildar, were struck off from the plaint, on the ground that they acted only under the orders of their official superior, fourth defendant, and that there appeared no special circumstances which rendered it necessary to have them included as defendants—*Vide* Circular Order of the Board of Revenue, paragraph 300.

6. It is clear that, in the face of the plaint, the claim is barred by Section 59, Act II. of 1864, and Section 3, Act XIV. of 1859. The land in question appears to have been sold in public sale in satisfaction of the arrears of revenue, under date 16th November 1866; and if the plaintiff had considered himself aggrieved by such sale, he should have brought a suit within six months from the said date, as provided by Section 59, Act II. of 1864; but he has instituted this suit a year after the date of the cause of action, that is, 14th November 1867.

7. Besides, the plaintiff's allegation of having made a tender of payment the day previous to the sale, appears to be clearly false, because he appears to have declared, in a petition to the Sub-

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Collector's Office, that he had made a tender only on the day of the sale. I should think that the plaintiff has introduced such a false allegation in the plaint in view to make it appear that he acted in conformity with the provisions of Section 37 of the said Act, to the effect that a tender must be made before sunset on the day previous to the sale.

8. The plaintiff's suit must, therefore, be dismissed with costs.

(Signed) P. NAMASIVAYAM PILLAY,
Acting District Moonsiff.

4th December 1868.

SUBMITTED for the information of Government.

No. 43.

ORDER THEREON, 2nd April 1869, No. 886.

Miscellaneous.

ORDERED to be recorded.

-(True Extract.)

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

To the Board of Revenue.

Exd. F. R. Bantleman.

Dist. of 1869 30th June.

REVENUE.

THE BOARD OF REVENUE.

Dated April, 2nd.

Recd.

Encl.

G. O., 2nd April 1869, No. 886.

APRIL.

Nos. 42-43.

Suit No. 122 of 1867 against the Sub-Collector of Tanjore.—Report of its dismissal with costs, recorded.

Revenue Office
No. 816.

BOARD OF REVENUE, MADRAS.
1869.

PROCEEDINGS, 5TH MARCH 1869, No. 1,573.

Encl.

Dep 12-2-
Received 13-2-

MARCH
No. 1,573.

Suit—No. 122 of 1867 filed in Trivalore District Munsiff's Court, Tanjore District, to set aside sale of certain land, held in satisfaction of arrears of revenue due to Government.—Letter from Collector forwarding copy of Judgment in submitted to Government.

RECORDED.

20/3/69.

14 Copies Sent to Govt. Secy.