M.R.O. 1—89,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1402 Press Mis.

455-458

Dated 19th May 1869

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 10th May 1869.

No. 455. Read the following Proceedings of the Board of Revenue, dated 28th April 1869, No. 2,870:—

Read the following letter from the Officiating Collector of Madura, to the Acting Secretary to the Board of Revenue, dated 24th March 1869, No. 108.

As requested in the Board's Proceedings, dated 5th November last, No. 7,871, I have the honor to submit, herewith, translations of a Judgment and Decree passed by the Madura District Moonsiff, non-suiting the plaintiff.

Original Suit No. 90 *of* 1866, *on the file of the District Moonsiff of Madura.*

Plaintiff seeks to effect the transfer of Puttah in his name from that of the first defendant for 1¾-16th Cawny of land which is in the plaintiff's possession.

2. The defendant denies the plaintiff's claim.

Plaintiff's Documents.

A.—Authenticated copy of the Kyfiat of Fusly 1277.

B.—Do. do. of a deposition given by Aurumugum Pillay, under date the 11th July 1865.

C.—Do. do. of the Tahsildar's report, dated 26th August 1865.

Plaintiff's Witnesses.

1. Moottoocoomaroo Pillay, 2 another Mootoocoomaroo Pillay, and 3 Sivanaraina Pillay.

Defendant's Documents.

I.—Authenticated copy of the deposition given by Carooppana Pillay on 15th August 1865.

II.—Do. of the order issued by the Tahsildar, under date the 16th October 1865.

III.—Puttah issued for Fusly 1272.

Defendant's Witnesses.

1. Cundasami Pillay, 2 Carooppana Taven and 3 Auroomooga Moodelly.

The first point to be considered in the case is, whether the cause of action has occurred or not.

2. The plaintiff states that the disputed land is in his possession; that the Puttah for it is being issued in the name of the first defendant and that it should be transferred in his name.

3. The plaintiff's plea for the mere transfer of Puttah in his name will not constitute the cause of action. The High Court have ruled in their Decree, in Special Appeal Suit, No. 306 of 1865, that actions of similar nature should not be entertained.

Decree.

The plaintiff was therefore non-suited and adjudged to pay the costs of the first defendant.

The above Decree was reversed by the Principal Sudder Ameen, in Appeal Suit No. 61 of 1867, and the suit was remanded with instructions to replace it on its original file and dispose of the same on merits.

With reference to the extract of the above Court, dated 18th March 1868, giving cover to copies of the above Judgment and Decree, the suit was replaced on the file and the Collector included as third defendant.

In his written statement, the third defendant states, that the disputed land forms a portion of the Nunjah land No. 358; that it was lying waste since Fysal; that with reference to the Collector's notice, dated 24th January 1862, which was in force for the time being, the first defendant applied for the land under date the 30th August 1862; that although the second defendant had written a

remark in the Memorandum furnished on the above application that the land was reclaimed by the plaintiff, yet it was ordered to be given over to the first defendant in consequence of the plaintiff not having made a formal application; that the plaintiff's son Mootoocoomaroo Pillay made an application for the land under date the 24th September of the said year, but an order was passed thereon to the effect that the matter had been already disposed of; that on 25th April 1865, the plaintiff presented a motion requesting the issue of Puttah in his name for the above land; and that as it was proved during the inquiry, that the plaintiff holds possession of the and and that the first defendant continues to pay its Teerwah and holds a Puttah from Fusly 1272, an order was issued informing the parties to seek redress in the Civil Court.

During the re-investigation, both the parties filed no documents.

Judgment on re-investigation.

1. The points for consideration are, first, whether the plaintiff reclaimed the land previous to the date of the first defendant's application and brought it under cultivation—secondly, whether the land is included in the first defendant's Durkhast and, thirdly, whether the plaintiff is entitled to receive the Puttah when he has paid no Kist, notwithstanding he reclaimed it previous to the Durkhast.

2. The first point is proved by the evidence of the plaintiff's witnesses, and by the documents A., B., C.

The second point also is proved by the evidence of the first defendant's witnesses as well as by the written statement of the third defendant and the documents marked 1 to 3.

3. The second and third defendants state, that a Circular was issued in Fusly 1271 to the effect that landholders should include with their lands the adjoining wastes and pay the Kist due thereon; that in case they fail to do so, they will be given up to the applicants in Fusly 1272; and that the plaintiff who reclaimed the land accordingly, not having paid its Kist, it was given up to the first defendant who applied for it in Fusly 1272.

The above reasons seem to be satisfactory, and lead the Court to conclude that the plaintiff is not entitled to receive the Puttah as stated in the third point, inasmuch as he failed to pay its Kist, notwithstanding he reclaimed it previous to the date of Durkhast.

Under the above circumstances, the Court is of opinion that the plaintiff's claim is unfounded, and that it is immaterial here to make any observations regarding the payment of Samybogum.

Decree.

For the reasons stated in the Judgment, the plaintiff is non-suited and adjudged to bear the costs of the 1st and 3rd defendants.

Dated 9th January 1869.

(Signed) SIED MAHOMED,
(,,) MUSTAPHA SAIB,
Moonsiff.

(True translation.)

(Signed) J. R. ARBUTHNOTT.
Officiating Collector.

ENCLOSURE No. 2.—Decree.

SUBMITTED, together with a copy of Board's Proceedings, dated 5th November 1868, No. 7,871, for the information of Government.

2. The suit has been dismissed, and no costs have been awarded against the Collector.

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

No. 456. ORDER THEREON, 19th May 1869, No. 1,402.

Miscellaneous. ORDERED to be recorded.

(True Extract.)

(Signed) H. WELLESLEY,
Acting Under-Secretary to Government.

To the Board of Revenue.

Exd. E. C. Shunker.

Govt. of Madras.

REVENUE.

No.

THE BOARD OF REVENUE.

Dated May, 1869.

Read.

G. O., 10th May 1869, No. 1,402.

MAY.

Nos. 455-456.

Suit No. 90 of 1866, against Collector of Madura.—Proceedings Board of Revenue, forwarding translations of Judgment and Decree, recorded.

No. 7,871.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 5th November 1868.

Read the following letter from the Honourable D. ARBUTHNOTT, Collector of Madura, to the Acting Secretary to the Board of Revenue, dated Camp at Andiputty, in Periacolum talook, 24th October 1868, No. 278:—

I HAVE the honour to forward, herewith, translation of a plaint filed by a ryot of Ponmeni village, in Madura talook, in the District Moonsiff's Court of Madura in Original Suit No. 90 of 1866, including me as the third defendant.

2. The suit is instituted to obtain a decree directing the transfer of puttah from the name of the first defendant to that of the plaintiff for ¼ cawny of land, assessed at 5 annas and 7 pice.

3. The subject of the suit is fully explained in the enclosed draft of a Written Statement which I propose to file in the Court on my behalf.

4. The Court has fixed the 2nd day of December next for the hearing of the suit, before which date the Written Statement should be filed.

ENCLOSURE No. 1.

Translation of a Plaint filed in Original Suit No. 90 of 1866, on the file of the District Moonsiff of Madura.

Plaintiff.	*versus*	*Defendants.*
Coundavaloo Pillai, of the village of Ponmeni, attached to Madura talook.		1. Calianasoondram Pillai, Nattamagar of Soundiapooram village, in the above talook. 2. Auroomooga Moodelly, Curnum. 3. The Collector of Madura.

Amount of claim Rupees 13-4-0. Kristana Iyengar, Court Vakeel, on behalf of the plaintiff.

The disputed land, particularized below, adjoins the plaintiff's land. In consequence of its having been waste, the plaintiff reclaimed it in Fusly 1271, and enjoyed it from [illegible], but the name of puttah continues in the name of the first defendant with the aid of the second. The plaintiff complained of it to the Collector, and it was proved during inquiry that he reclaimed and enjoys it. Notwithstanding which, an order has been issued declining to transfer the puttah on the ground that it is issued in the first defendant's name for the last three years. The plaintiff, therefore, prays for a Judgment to be given directing the transfer of puttah from the name of the first defendant to that of the plaintiff, for ¼ cawny of land which pays an annual assessment of Annas 5 and Pice 7, and which is held in the plaintiff's enjoyment.

Value of two colums of paddy, derivable from the disputed land after deducting the expenses per annum, amounts, at the rate of 6 Rupees a colum, to Rupees ...	12	0	0
Value of five bundles of straw, at 4 annas a bundle	1	4	0
	13	4	0

Particulars of the disputed land.

South of the channel flowing from east to west in the village of Soundipoorum, west of the plaintiff's land called "Meenatchy Vayel," north of the land of Nottum Chokalinga Moodelly called Vellandi Chey, and east of the Vottythiroothel land belonging to the first defendant, within these boundaries is situated ¼ cawny of nunjah land.

Dated 14th February 1866.

(Signed) COLUNDAVALOO PILLAI.
(,,) KRISTANA IYENGAR,
Court Vakeel.

I do hereby certify that the contents of the above plaint are true to the best of my belief.

(Signed) COLUNDAVALOO PILLAI.

Filed 24th February 1866.

(Signed) SIED MOHOMMED MUSTAPHA SAIB,
Moonsiff.

(True translation.)
(Signed) D. ARBUTHNOTT,
Collector.