M.R.O. 1—81,000—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1424 Press Mis

429-500

Dated 20th May 1869

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
20th May 1869.

No. 499. Read the following Proceedings of the Board of Revenue, dated 29th April 1869, No. 2,885 :—

Read the following letter from the Acting Collector of South Canara, to the Acting Secretary to the Board of Revenue, dated Mangalore, 3rd February 1869, No. 132.

2nd June 1864, No. 3,383.

With reference to the Board's Proceedings noted in the margin, I have the honor to forward herewith, for their information, an English translation of the Decree and Judgment passed by the Principal Sudder Ameen of Mangalore in Appeal Suit No. 589 of 1866, quashing, as illegal, the sale effected of certain land in satisfaction of the arrears of revenue due thereon. The Decree of the Sudder Ameen is well founded in law, and I see no exception to take to the same. Any appeal therefrom would, in my opinion, be unreasonable. I observe, however, that the irregularity in the sale dwelt on by the Sudder Ameen is clearly attributable not to the Collector or Deputy Collector, but to Rudrappa Sheristadar, the chief Ministerial Officer of the Huzoor, since dead, who prepared the Notice of Sale irregularly, not allowing one full months' notice as required. The Collector who signed the order was Mr. James Fraser, who was not made a party to the Suit. Mr. Cadell and Mr. Thomas, his successors in office, were made parties and Mr. Fernandez the Deputy Collector, who simply carried out the order of the Collector in putting the land up to auction. Each of these has been ordered to bear his own costs.

	Rs.	A.	P.
* In Original Suit	5	7	2
,, Appeal do	2	15	2
	8	6	4

2. I have, therefore, the honor to request that you will be good enough to obtain sanction to charge the expenses* incurred in defence of the suits, Original and Appeal, in the above case to Government.

Enclosure No. 1.

Court of the Principal Sudder Ameen of Mangalore, Friday the 9th October 1868.

Present—Srinivas Rao.

L. S.

In the District Moonsiff's Court of Karakal, Original Suit No. 1,627 of 1861. In the Principal Sudder Ameen's Court, Appeal Suit No. 589 of 1866.

1. Abbeiye (female.)
2. Kotaye (do.
3. Unhi (do.
4. Nilu (do.
5. Chicku (do.

Plaintiffs. *Appellants.*
By Vakeel K. Manjanathaya.

1. J. F. Fernandez, Esq.,
2. Brahmaiya Shetti,
3. William Cadell, Esq.,
4. H. S. Thomas, Esq.,

Defendants. *Respondents.*
Supplemental do.

The 3rd Respondent has been transferred to another district. 2nd Respondent, by Vakeel Shiva Rao, and 4th Respondent by Government Vakeel, Subba Rao.

2. The plaintiffs being dissatisfied with the Decree passed by the District Moonsiff of Karakal, have preferred this appeal for the recovery of a land yielding a produce of Rupees 49.

3. The Principal Sudder Ameen, Shrinivas Rao, having taken up this appeal for inquiry, reverses the decree appealed against, and cancels the sale of the land in dispute, on the ground of irregularity in the same. It is, therefore, decreed that, as the purchase amount paid by the 2nd defendant has gone towards the payment of the assessment due by the plaintiffs, the 2nd defendant make over to the plaintiffs the land in dispute, on their paying him Rupees 25, the said purchase amount, and that the plaintiffs having made only the 1st and 2nd defendants parties to the suit and the 3rd defendant having been made a party by the lower Court, and considering the circumstances of this suit, the parties bear their own costs.

4. No process of execution will be issued to enforce this decree, unless some proceeding shall have been taken to keep the same in force within three years next preceding the application for such execution.

Given under my hand and seal of the Court, this 9th day of October 1868.

(Signed) SHRINIVAS RAO,
Principal Sudder Ameen.

P. S.—The Government assessment on the litigated land is collected. No Tarow has been fixed upon it. The land pays an assessment of Rupees 35-10-10.

Judgment of the Principal Sudder Ameen's Court of Mangalore.

Present.—SHRINIVAS RAO.

Appeal Suit No. 589 of 1866.

Abbaiye (female) and four others. — Plaintiffs (Appellants.)
By Vakeel K. Manjunathaya.

J. F. Fernandes, Esq., and three others. — Defendants (Respondents.)

The 3rd Respondent transferred to another district, 2nd Respondent by N. Shiva Rao, 4th Respondent by Government Vakeel, Subba Rao.

THE plaintiffs had brought this suit for cancelment of the sale of their ancestral land of great value producing Rupees 49, which was sold for arrears of revenue for the trifling sum of Rs. 25 and for the establishment of their right to the land.

2. The 1st defendant contends that the sale in question was conducted by him under the orders of the late Collector, Mr. Fraser, and that, therefore, the suit was improperly brought against him to the exclusion of that Officer.

3. The 2nd defendant pleads that his bid which was legally confirmed at the sale cannot be cancelled.

4. The 3rd defendant urges that the claim brought against him for acts done by a former Collector is opposed to the decision of the Sudder Court, in Special Appeal Suit, No. 204 of 1859.

5. The District Moonsiff of Karakal considering the sale in question to be legal, dismissed the plaintiff's suit with costs.

6. From this decision the plaintiffs appeal on the following grounds—

I.—The Moonsiff was not justified in rejecting the suit on the first hearing, without recording the points and calling for evidence.

II.—There was fraud practiced in regard to the sale and there was no reason for the sale.

III.—The amount of arrears of Revenue had already been paid previous to the date of the sale, and no mention was made in the Notice of Sale that the amount should be paid to such and such an Officer.

IV.—The estate of higher value has been sold for a low price.

V.—The sale was not duly published, nor was it held on the spot.

7. The Principal Sudder Ameen has perused the record of this suit together with that in Appeal Suit No. 784 of 1866 connected with this, and which was disposed of this day, and has also heard the discussions of the Vakeels for both parties and taken the same into deliberate consideration.

8. The material point to be determined in this suit is, whether any irregularity or fraud was practised in the sale of the plaint land by the Collector for arrears of revenue.

9. The land in dispute is situated in the village of Valpadi, in Mudbidri Magani, thirty-five miles distant from Mangalore. It appears from the record and vouchers shown by the Government Vakeel that, under sanction of the Board of Revenue, dated 20th December 1860, the Collector determined to sell the estate for arrears of revenue amounting to Rupees 63 and odd, at the Huzoor Cutcherry at Mangalore, before the first defendant, the Deputy Collector, on the 31st January 1861, and that a notice of the same was issued by him on the 4th idem; that the said notice was published in the village where the land is situated on the 16th idem, and affixed to the house of the defaulter, Subba Puvani, the ancestor of the plaintiffs, and also published on the 10th idem, in the town of Mangalore, where the sale was to take place. Further, it appears, that the sale was advertised also in the District Gazette of the 19th idem, and that on the land being sold on the 31st, the 2nd defendant's bid for Rupees 25 was confirmed, as no higher bid was made.

10. The objections raised by the plaintiffs before the Appellate Court to these Proceedings are the following :—

I.—The arrears of Revenue were paid previous to the sale of the land, and therefore the sale cannot be held valid.

II.—In the notice of sale issued, the prescribed period was not allowed.

III.—The land was sold for a low price.

11. With regard to the first point, the Principal Sudder Ameen does not consider the plaintiffs' plea to be of any value, for the plaintiffs were well aware that it was published in the notice that the land would be sold at the Huzoor Cutcherry at Mangalore in the presence of the first defendant, and it appears from the Magani Shanabhog's receipt produced by the plaintiffs, that the amount of arrears of revenue was paid at the village the same day. The plaintiffs statement that the amount was paid to the Shanabhog on the 28th is unfounded, and does not seem true. If such was the case, there was no reason why a receipt should not have been obtained on the date the money was paid. The plaintiffs have now adduced oral evidence on the subject; but as the same is evidently opposed to the receipt produced by them, it cannot be admitted. In case of their producing the amount, they ought to have done so prior to the sale, before the first defendant, who was to conduct the sale. But instead of doing so, the plaintiffs acted improperly in having produced the amount the same day before the Shanabhog, and the first defendant had no reason whatever to become aware of the payment. The plaintiffs' Vakeel urges that the Magani Shanabhog is the Officer whose duty it is to collect the revenue, and that it was not mentioned in the Notice of Sale, that the amount should be produced before the Deputy Collector. This plea is inadmissible. It cannot escape the notice of any person that, if the money were produced at a very distant village on the very day on which it was proposed to hold the sale at Mangalore, the Officer conducting the sale could not in any way know it; and that therefore the amount ought to have been produced before the Deputy Collector himself. The receipt of the money by the Shanabhog at such a stage on the above date, seems also to be an unusual proceeding. The fact that the money had been produced cannot therefore in the least benefit the plaintiffs.

12. The Principal Sudder Ameen considers that the objection raised on the part of the plaintiffs on the second point can be sustained, because it appears that in cases of sales of property of ryots for arrears of revenue, it has been provided in Section 11 of Regulation XXVI. of 1802 that, not less than a month's previous notice should be given of the same; besides, the Board of Revenue have also enjoined in their Circular Order, dated 9th April 1859, that the prescribed time should be a full month. It would appear that in the notice issued in respect of the sale of the land claimed in the present suit, a less period was allowed, contrary to the aforesaid regulation and Circular Order; and it was not denied before the Appellate Court on the part of the defendants that these proceedings were illegal. The Government Vakeel on behalf of the defendants, however, argues that the plaintiffs do not allege their ignorance of the fact of the proposed sale, and that as they did not urge this plea originally, it is not one to be considered in appeal. The Principal Sudder Ameen has given this argument full consideration, but it does not seem to be admissible; for, it is apparent that the sale was conducted in opposition to the rules definitely

laid down. Though the plaintiffs did not make mention of this fact originally, there was no objection to their doing so before the Appellate Court. In the decision noted in the margin, lately passed by the High Court, they appear to have considered that the plea of limitation which was not originally urged, might be urged in appeal. The plaintiff's claim is chiefly based on the fact of the sale having been irregular. Therefore the said circumstance (of a plea not originally made, being allowable before the Appellate Court) is supported by this, (the decision of the High Court quoted above).

Special Appeal Suit No. 415 of 1866.
High Court Report, Volume III., p. 353.

13. From the record of the aforesaid Suit No. 784, which was disposed of in connection with the present suit, it appears that Subba Puvani having executed a usufructuary mortgage deed for the land in dispute in favor of Chandaiya Hegado, the elder brother of the plaintiff in that Suit, in consideration of Rupees 100, the claim accrued thereby, still remains unsatisfied. Further, from the debate made by the parties on the hearing of the case, it appears that this land having once before been attached in satisfaction of a certain decree, so high an amount as Rupees 200 was bid for it before it was brought to the hammer, but the same land has been sold for the very low price of Rupees 25. It appears from the statements of the witnesses examined, in Appeal Suit No. 784, that the land was sold for so small a sum as Rupees 25, and that it was leased by the second defendant to the fifth defendant in the said suit for Rupees 25, independent of the Government assessment thereon. From these circumstances, it appears that the land was sold for a very low price. This fact, however, is not a sufficient ground for cancelling an irregular sale. To cancel a sale, there should be some irregularity or fraud, etc., in it. In the present case, no fraud appears to have been practised, but there has been an irregularity, in the sale having been held within a shorter period than that laid down in the Regulations From the judgment of the Privy Council noted in the margin, which the Principal Sudder Ameen has perused, it appears a sale was cancelled on the ground of an irregularity, the Collector in that case having sold it without having obtained the sanction of the Board of Revenue. The sale in the present case being opposed to the provisions of the Regulations, is one analogous to it. It therefore appears that the same should be cancelled.

Judgment of Privy Council by D. Southerland, 1867.
Maharajah Mitter Jog Sieg Bahadoor and others
versus
The Heirs of the late Ranee, widow of Rajah Jaswant Sieg deceased.
Page 114.

14. There is no doubt that the plaintiffs know the date on which the land was to be sold, and that they failed to produce the amount of arrears before the proper Officer within the prescribed time. But when an action comes before the Court, they cannot withhold, for the above reason, cancelling an irregular sale. This is a point in law.

15. In the statement put in by the third defendant in the Original Suit, he pleads that as the sale was held under the orders of the late Collector, Mr. Fraser, the institution of the Suit against him (third defendant) is opposed to the decision of the late Sudder Adalut Court, in Special Appeal Suit No. 204 of 1859, but damages were claimed in the said suit; whereas in the present suit the plaintiffs have claimed no damages, but only seek the cancelment of the sale.

16. Though the plaintiffs have stated in their Plaint that the land in dispute is in their possession, their Vakeel subsequently admitted before the Appellate Court, that it was made over to the second defendant. The second defendant's Vakeel also has admitted his (second defendant's) possession of the plaint land. Though the second defendant has purchased the land at auction, it was his business to have ascertained all incidents connected with the land.

17. The plaintiffs' heirship to Subba Puvani has not been questioned by any one, and their heirship has been established by the record, in Appeal Suit No. 784.

18. For the foregoing reasons, the decree appealed against is reversed, and the sale of the land in dispute set aside, on the ground of its having been irregular; and it is decreed that, as the purchase money paid by the second defendant has gone towards the payment of the assessment due by the plaintiffs, the second defendant make the plaint land over to the plaintiffs, on their paying him Rupees 25, the purchase money; and that, the plaintiffs having made only the first and second

defendants parties to the suit, and the Lower Court having made the third defendant a party, and also, considering the circumstances of this case, each party bear his own costs.

(Signed) SHRINIVAS RAO,
Principal Sudder Ameen.

9th October 1868.

(True Translation.)

(Signed) J. A. C. BOSWELL,
Acting Collector.

THE payment of the amount of costs incurred in the defence of the Suit (namely, Rupees 8-6-4) is sanctioned, subject to the approval of Government, to whom the foregoing letter, together with copies of the Board's Proceedings marginally noted, are herewith submitted.

Board's Procs., dated 20th Dec. 1860, No. 5,993.
" " 2nd June 1864, " 3,383.

2. In their Proceedings of 20th December 1860, No. 5,093, the Board sanctioned the sale of certain lands for arrears of Revenue, and in their Proceedings of 2nd June 1864, sanctioned the defence of a suit which had been brought against the Revenue Authorities, in consequence of the sale.

3. The suit was dismissed by the District Moonsiff of Karakal, on the ground stated in the draft answer put in, namely, that the first defendant, the Deputy Collector, was only acting in accordance with the instructions of his Superior Officer, the Collector, (Mr. Fraser) against whom the suit should have been brought during his incumbency.

4. An Appeal from this decision to the Principal Sudder Ameen of Mangalore, in which Mr. Cadell and Mr. Thomas were included as Respondents, has resulted in the quashing of the sale, each party being adjudged to pay their own costs. The grounds on which the sale was quashed are, that under the old law it was necessary that one month's notice of sale should be given, whereas the Collector, Mr. Fraser, published his notice on the 4th January, appointing the sale for the 31st idem.

5. The Board recommend that the costs be borne by Government.

No. 500. ORDER THEREON, 20th May 1869, No. 1,424.

Miscellaneous.

PAYMENT of the costs incurred (Rupees 8-6-4) is accordingly sanctioned.

2. The Government are of opinion that Mr. James Fraser, the late Collector of South Canara, showed negligence in allowing the issue of the notice of sale to be delayed, thus curtailing the period required by law. From his letter to the Board of Revenue, dated 5th December 1860, it would appear that he was aware of the exceptional advantages attaching to the estate, and he should, therefore, have been careful to follow the prescribed regulation.

(True Extract.)

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

To the Board of Revenue.
" the Accountant-General.
" J. Fraser, Esq.

Exd. E. C. Shunker.

Court of {1869 / 1870}

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated May, 20th.

Recd. *Exd.*

G. O., 20th May 1869, No. 1,424.

MAY.

Nos. 493-500.

Appeal Suit No. 589 of 1866 against the Collector and others.—The cost incurred in defending it, sanctioned.

4†

No. 5,993.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 20th December 1860.

Read the following letter from J. FRASER, Esq., Collector of South Canara, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, Fort Saint George, dated Mangalore, 5th December 1860, No. 206 :—

1. I have the honor to forward herewith a statement of a landed Estate proposed to be sold by public auction for arrears of revenue, together with a proclamation to that effect, and request that the sanction of the Board may be granted to the same.

	rs.	A.	P.
Muli No. 1	35	10	10
Guesi No. 4	10	15	10
Do. „ 28	2	8	0
Do. „ 3	5	13	0
	57	13	8

2. The arrears of revenue amount to Rupees 57-13-8, which have accrued upon four different Estates for Fasli 1269 as shown in the margin, of three of which the defaulter, by name Subana Puvani, was only tenant under Government, and of the one proposed for sale he was proprietor, and he died with the above liability. One Monnoo Puvani, his nephew, has succeeded the deceased as heir, but pleads his inability to discharge the arrears, and surrenders the Estate now proposed to be sold, for disposal by Government in satisfaction of their demand against it.

3. The Estate is not intrinsically valuable, but there is one consideration which makes it so. The holder of it is, according to the usages of the village, entitled to the first share of the offerings to the village god on festival occasions, and this, it is expected, will make the Estate to some a desirable acquisition. It will probably, therefore, fetch more than double the amount of arrears due, though in other respects it is not considered to be worth so much.

ENCLOSURES Nos. 1 and 2.—Advertisements.

The Board sanction the proposed sale, the date being postponed to 31st January 1861, and direct that the Advertisement, altered accordingly, be published in their Office.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Acting Secretary.

To J. Fraser, Esq., Collector of South Canara.

Exd. J. Wright.

Received 3rd Inst. in the Secretariat
No. 2775.

Rev. 1420/69

No. 3,353.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd June 1864.

Read the following letter from the Acting Collector of South Canara, dated Mangalore, 23rd May 1864, No. 86 :—

1. I have the honor to forward herewith translation of a Plaint filed by the individuals named in the margin, against the Deputy Collector in charge of the Treasury, and another in Original Suit No. 1,627 of 1861 on the file of the District Munsiff's Court of Karkal, as also a draft of the answer which the Deputy Collector proposes to put in, in defence of the same, and request the Board's sanction for the defence of the suit at the public expense.

Original Suit No. 1,627 *of* 1861.

Plaintiffs.	versus	Defendants.
Abbaye, younger sister of Guttina Subba Pavani, residing at Valpadi village in Mudbidri Mogany, and five other females.		1. Mr. J. F. Fernandes, Deputy Collector, 4th Class. 2. Brahmaya Chetti, nephew of Konde Nema Chetti, residing at the Cusbah of Prantia village in Mudbidri Mogany.

2. The period allowed by the Court for filing the answer expires on the 27th June 1864.

ENCLOSURE No. 1.

No. 1,627 on the file for 1861.

In the Court of the District Munsiff of Karkal.

Plaint.

Memorandum of Plaint under Section 26 of Act VIII of 1859.

Plaintiffs.		*versus*	*Defendants.*
1. Abbaye, younger sister of Guttina Subba Puvani. 2. Kotiye, grand-daughter of 1st Plaintiff.	Residing at Vallapadi village, Mudbidri Mogany.		1. Mr. J. F. Fernandez, Deputy Collector, 4th Class, residing at the Town of Mangalore.
3. Unhi.	Daughters of 1st Plaintiff. Residing at Nelliputige village in Honnara Mogany.		2 Brahmaya Chetti, nephew of Konde Nema Chetti, residing at the Cusbah of Prantia village in Mudbedri Mogany.
4. Nilu. 5. Chicku.	Residing at Kukkepadi village in Yelia Mogany.		

We, the above Plaintiffs in this suit, claim possession of land of the value of Rupees 49 from the above Defendants.

I. The 1st Defendant on the 31st January 1861 confirmed the very low bid of Rupees 25 made for a land, garden, &c., the property of our ancestors, registered in the name of Guttina Umanna Kotari in Muli No. 1, and situated in the village of Valpadi in Mudbidri Mogany.

II. In the advertisement issued previously on the 4th January, it was stated that the land was attached for the amount of arrears, Rupees 35-10-10, due to Government on the said land by the late Subba Puvani, brother of 1st Plaintiff, for Fasli 1269, as also for Rupees 22-2-10 due on the three Estates, Nos. 6 and 26 Muli, and No. 2 Gueni, situated in the same village.

III. We, who were at the houses of our respective husbands, having heard of this sent on the 16th January to the Mogany Shanbhogue by Monu, the son of the 1st Plaintiff, the amount of the arrears due less the sum of Rupees 7-2-4 due from Government to Subba Puvani on account of the salary of Potelship held by him.

IV. The Mogany Shanbhogue on the same date made a report to the Tahsildar of the Mangalore Taluk, requesting that the sum of Rupees 7-2-4, the balance of the salary of Potelship due to Subba Puvani might be paid into the hands of the said Monu, in order to make up the amount of the arrears due; and the latter having received from the Tahsildar the said sum sent again to the Mogany Shanbhogue the whole amount of the arrears, Rupees 63-13-6, on the 28th of January. The Shanbhogue passed a receipt for the same on the 31st idem.

V. It was according to the usual practice that the said amount of arrears was produced before the Mogany Shanbhogue, and the advertisement did not state that it should have been produced before any one else.

VI. The 1st Defendant has omitted to cause the land to be put up for sale at the spot. Had he done so, the fact of its being put up to sale would have been more generally known, and the land would have fetched a higher price. The 1st Defendant moreover knew well that the land had been attached for the purpose of realizing Rupees 63 and odd, and it was his duty to have taken care so that we were not deprived of a valuable estate by its being allowed to go for a paltry sum without even the amount of demand against it being realized.

VII. Our having taken measures for paying off the arrears of the revenue due before the date fixed in the advertisement was generally known, as shown above; and the amount produced by us has been received in liquidation of the arrears. Under these circumstances neither the Collector nor the Board of Revenue have granted us any redress on the Appeals preferred by us and the 1st Plaintiff's son Monu, under the provisions contained in the 5th paragraph of the sale advertisement.

VIII. We have therefore preferred this claim for obtaining relief.

IX. We therefore pray that the [illegible] may be summoned and examined, [illegible] sale cancelled and our title to the land, as per the [illegible] series yielding rupees 49 per annum and now under our occupation, be confirmed by cancelling the 2nd Defendant's purchase of it for a very low sum.

Boundaries.

1. East, a drain; south, a wall; west, the bettu fields called berumballi belonging to the Wurg in question and separated by a wall; and north, a drain and the wall enclosing the bettu fields belonging to the same Wurg. Within these boundaries are comprised Mazel fields 8, sowing murahs of seed, with the trees on the banks of the fields, viz: cocoanut trees in bearing five, four barren, and eight young trees; and areca trees, fifteen bearing, and ninety-five young plants; and bettu fields five—sowing one murah of seed.

2. East, a wall; south, Maganabona; west, the wall enclosing the bettu fields of Sirtadi Cantaga Padia' Wurg, and the bettu fields of the Wurg of Bagganti Chenna of Valpadi. Within these boundaries are comprised bettu fields 8—sowing murahs 3.

3. East, the bettu fields belonging to the Wurg of Kantagee Pandi of Sirtadi village; south, a wall; west, the wall enclosing the bettu fields of the Wurg of Bagganti Chenna; and north, the bettu fields of the same Wurg, within these boundaries are comprised bettu fields 19—sowing murahs 1½.

4. East, a drain; south, the Bail fields of the Wurgs of Anta and Kantu Chenna; west, a wall; and north, the banks of the Bail Balli fields of the Wurg of Perna Kantu. Within these boundaries are comprised a Bail field called Kambala Gaddi and two Balli fields; the three together sowing murahs 5, with one cocoanut tree in bearing, and eight young plants.

5. East, Naganabana; south, the wall enclosing a hill; west, also a wall enclosing a hill; and, north the wall on the borders of the bettu fields of the Wurg of Ireguttu and of that of Sirtadi Cantaga Pandi. Within these boundaries are comprised waste bettu fields three—sowing one and a quarter murah.

The foregoing are the boundaries of the land claimed, dated the 28th December 1861.

As no Stamp papers are to be had from the Stamp Vendor upon which to draw up this plaint, the value of the Stamp duty Rupees 4-8-0 is herewith produced.

Mark of Abbaye.
" Kotaye.
" Unhi.
" Nilu.
" Chicku.

We, Abbaye Kotaye, Unhi, Nilu and Chicku, the Plaintiffs named in the above plaint, do declare that what is stated herein is true to the best of our information and belief.

Dated as above.

Mark of Abbaye.
" Kotaye.
" Unhi.
" Nilu.
" Chicku.

Witnesses.

Nellikar Manju Chetti.
Kabad Parameshvara, alias Kumaraya of Mudbidri.

(Signed) VENKATA RAU, Vakil.
(") ANNAPAYA, Vakil.

Filed, 31st December 1861.

(Signed) TIMMAPPAYA, Munsiff.

(True Translation.)
(Signed) J. G. THOMPSON, Acting Collector.

ENCLOSURE No. 2.

DRAFT of Statement proposed to be filed by the Deputy Collector in charge of the Treasury, South Canara, as 1st Defendant in Original Suit No. 1,627 of 1861, on the file of the District Munsiff's Court at Karakal.

1. The land claimed by the Plaintiffs was sold by the 1st Defendant under the orders of the late Collector Mr. Fraser, in satisfaction of the arrears of revenue due on it, and on three other estates by one Subba Puvani.

2. The 1st Defendant was not concerned in the matter further than carrying out the orders of his late superior, and the Plaintiffs admit that they preferred an Appeal to the late Collector regarding the said sale, and that it was rejected by him. The present suit ought therefore to have been brought by them against Mr. Fraser during his incumbency, and not against the 1st Defendant who merely acted under his orders.

3. The 1st Defendant begs to add that he received no intimation of the defaulters' relations having produced the amount of arrears before the Shanbhogue until the land had been actually sold by auction.

4. Under these circumstances, the 1st Defendant prays that the suit brought against him may be dismissed with costs.

(Signed) J. F. FERNANDEZ, Deputy Collector.
(True Copy.)
(Signed) J. G. THOMPSON, Acting Collector.

The Board sanction the defence of the suit on the usual terms at the public cost, and authorize the filing of the proposed answer.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To J. G. Thompson, Esq., Acting Collector of South Canara.

Exd. R. H. Lee.

Dated 2nd June 1864.
Despatched
Received

No. 3,383.

Sanctioning the defence of Original Suit No. 1,627 of 1861, and authorizing the filing of the proposed Draft answer.

PROCEEDINGS OF THE BOARD OF REVENUE.

No.

1864. Department.

1st Revenue Despatch

No 1424

Proceedings of the Madras Government under date the 20th May 1864

Read the following Report of the 1st Board of Revenue

Submitting letter from Collector of South Canara, forwarding translation of Decree & Judgment in Appeal Suit No. 559 of 1866 on file of Mangalore Principal Sudder Ameen's Court, praying sanction to his satisfaction of arrears of revenue due thereon &c.

R.C. 29th April 1864 No. 2885

1. Payment of the costs incurred Rs. 8-6-4 is accordingly sanctioned.

2. The Government are of opinion that all the Ryots the late Collector of South Canara should

negligence

negligence in allowing
the issue of the notices of
sale to be delayed. From
his letter to the Board of
Revenue dated 5th December
1860, it would appear
that he was aware of the
exceptions & advantages
attaching to the estate,
& he should therefore
have been careful to
follow the prescribed
regulation.

1 Item containing the
period required by
law.

1 Copies Letter of Rec. Dec. 21
& Public Seal
1 Ditto — J. Fraser Esq.

Copy to be sent
Wm. J. Fraser —
Adv