MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1498 Press Mis.

21e-71

Dated 27-9-1920 M.

Not to be folded or roughly handled

No. 270. Read the following Proceedings of the Board of Revenue, dated 17th September 1870, No. 5,781 :—

Read the following letter from the Collector of Madura, to the Acting Secretary to the Board of Revenue, dated Dindigul, 8th September 1870, No. 248.

I HAVE the honour to submit herewith translate of a plaint filed by the Ranee of the Shivagangah Zemindary in Original Suit No. 31 of 1870 on the file of the Madura Principal Sudder Ameen's Court, making the Collector and the Deputy-Collector on general duties (with others) defendants.

2. Seliaman, referred to in the plaint, is a Government village in the Madura Talook, and has a tank of the same name. The tank has three sluices, two of which irrigate the Government lands under the tank, and the remaining one the lands of Keelady village belonging to Shivagangah Zemindary.

3. The said tank has always been repaired and maintained by Government exclusively, and neither the present Zemindarni, nor her predecessors have ever claimed or exercised any right of interference with the tank, but one-third of the expenses incurred in the repair and improvements of the tank has been customarily levied from the Shivagangah Zemindars.

4. At the end of 1868 the ryots of Kallambel, also a Government village situated above the bed of the Seliaman tank, complained to the Deputy-Collector that the ryots of the latter village have newly and improperly extended their tank-bund, thereby causing a portion of their wet lands to be submerged.

5. In a decision passed by a Panchayat so far back as the 20th January 1804, the point up to which Seliaman villagers have been permitted to construct their tank-bund has been defined. With reference to this award the case was referred by the Deputy-Collector to a Village Panchayat with the consent of the people of both villages; but as the Seliaman people subsequently declined to have the case settled by arbitration, an inquiry was made by the Madura Tahsildar, and the Deputy-Collector, after satisfying himself that the Seliaman villagers have, without the permission of the Revenue authorities, newly and improperly, and in opposition to the term of the decision of the Panchayet referred to above, extended the tank-bund by 72 yards to the injury and annoyance of the Kallambel villagers, issued an order to the Madura Tahsildar to cause the bund to be removed, but his order was not executed owing to the resistance offered by some of the Seliaman villagers. This order was, on appeal, confirmed by the Officiating Collector, under whose instruction the Deputy-Collector, in his capacity of Deputy-Magistrate, issued an injunction under Section 62 of the Criminal Procedure Code, directing the removal of the bund in question; but his injunction having been disobeyed, the parties concerned were prosecuted before the 1st-class Sub-Magistrate of the Madura Talook, and punished.

6. It was against this injunction the present Suit has been instituted by the Shivagangah Ranee.

7. A few days after the filing of the plaint the plaintiff applied to the Court for an injunction to restrain both the Collector and the Deputy-Collector from

removing the bund, pending the disposal of the Suit, but her application was rejected on a counter-motion presented on behalf of Government.

8. Wet lands to the amount of cawnies 32, assessed at Rupees 176-12-2, were in Fusly 1279 submerged by the enlargement of Seliaman tank, which necessitated the grant of a remission of Rupees 115-9-6.

9. The disputed tank-bund lies in the limit of Panayar, a Government village, and is reported to have been raised in the course of the last four or five years.

10. I enclose draft of a written statement I propose to put in both on behalf of myself and of the Deputy-Collector, and request that sanction of Government may be obtained for conducting the defence of the Suit at the Government expense. The Suit was posted for hearing on the 30th ultimo, but an application has been made to the Court to adjourn the case till the 30th instant.

Enclosure No. 1.

Translation of the Plaint in Original Suit No. 31 *of* 1870 *on the file of the Principal Sudder Ameen's Court of Madura.*

Plaintiff	*versus*	*Defendants.*
Streemathoo Mootheoveliaregoonada Rance Cathama Nachiar, Zemindarni of Shivagangah, (a female).		Shaidapillay, Nattamgar of Kallambel village in Madura Taluk, and 12 others.

Plaint under Section 26 of Act VIII. of 1859 by Soobramania Iyen, Court Vakeel on behalf of the plaintiff, to obtain a decree for the preservation of the tank-bund referred to below in its present state.

Value of the Suit, Rupees 1,200.

The bank of the tank, which is common both to the villages of Keelady in Tirupoovanum Taluk of the said Zemindary and of Ain Seliaman in Madura Taluk, is formed of earth to the distance of 2,078¾ yards, and west of it, it is formed of turf to the extent of 161 yards, while the remaining portion of the bank, viz., 284½ yards, extending as far as the channel of Sottathutty is the open space left for the passage of surplus water. It has been customary for a long time to secure water in the above tank, and irrigate the munjah lands of the said village. The defendants, one to eleven, and certain others who cultivate Ain lands in the bed of the said tank, preferred a complaint as if the turf-bund has been extended. Without ascertaining the truth of the statement by referring to the public accounts and measuring the bund, the twelfth defendant (the Deputy-Collector on general duties) ordered the turf-bund to be removed to the extent of 72 yards. Against this order some of the ryots of the said two villages preferred an appeal to the thirteenth defendant (Collector), who confirmed the above order without inspecting the locality, etc. Whereupon the plaintiff, who became aware of the above circumstances, wrote to the thirteenth defendant by her manager, stating that it was not proper on his part to pass the above order without taking her explanation while she is the proprietress of the melwarum produce of Keelady village, and that she is likely to suffer loss by the removal of the turf-bund, but no answer was received thereto. As the plaintiff is now given to understand that the ryots are put to the trouble of removing the bund and as she is likely to suffer loss from the above act, she is led to have recourse to the present Suit, with a view to obtain a Decree for preserving the bund in its present state. The present order is against the Panchayat decision, dated 20th January 1804, which decides the extent of the turf-bund and of the space left for the passage of surplus water. A Decree is therefore requested to the above effect.

Dated 15th February 1870.

(Signed) SUNGARIEN,
Monigar of Keelady village.
(,,) NEELAMAIGUM PILLAY,
Nattamgar of Keelady village.
(,,) SOOBRAMANIA IYEN,
Vakeel.

We do hereby certify that what is stated above is true to the best of our belief.

(Signed) SUNGARIEN,
Monigar of Keelady village.
(,,) NEELAMAIGUM PILLAY,
Nattamgar of Keelady village.
(,,) V. JAYARAMA ROW,
Acting Principal Sudder Ameen.

Particulars of the disputed spot.

The bank of the tank of Seliaman and Keelady villages is formed of earth to the distance of 2,078¾ yards, commencing from the western edge of Meerkhan's spot, and then it is formed of turf to the distance of 161 yards, while the remaining space of 284½ yards is left for the passage of surplus water; west to the above earth-bund, and east to the passage of surplus water. Within these limits situates the turf-bund, of which the western portion of 72 yards is now in litigation.

(Signed) SOOBRAMANIA IYEN,
Vakeel.
(,,) V. JAYARAMA ROW,
Acting Principal Sudder Ameen.

(True Translation.)

(Signed) D. ARBUTHNOTT,
Collector.

Enclosure No. 2.

Draft of a Written Statement to be filed on behalf of the Deputy-Collector on general duties and Collector of Madura, the 12th and 13th Defendants in Original Suit No. 31 *of* 1870, *on the file of the Principal Sudder Ameen's Court of Madura.*

The said defendants beg to submit—

I. That the claim of plaintiff to restrain the defendants from removing the newly extended turf-bund of the Seliaman tank is untenable.

II. That Keelady, one of the villages of the Shivagangah Zemindary, is by custom only entitled to such a portion of the water of the Seliaman tank, the property of Government, as the southernmost sluice of the tank can admit the passage of.

III. That neither the plaintiff nor her predecessors have ever claimed or exercised, or are entitled to claim or exercise any right of interference with the repairs, maintenance, or management of the said tank, but that repairs have always been executed by Government, and the maintenance and management have always been vested in Government, one-third of the cost of repairing and maintaining the work being paid by the Shivagangah Zemindar for the time being.

IV. That the villagers of Seliaman have, without the permission of the Revenue authorities, during the last four or five years newly, gradually, and improperly, and in opposition of the terms of the Panchayat decision alluded to in the plaint, extended the southern bank of the Seliaman

tank with turf to the length of 72 yards, whereby certain lands of Kallambel, also a Government village, assessed at Rupees 176-12-2, were submerged in Fusly 1279, besides causing danger to some of the houses in Kallambel.

v. That the 12th defendant, the Deputy-Collector, in his capacity of Deputy-Magistrate fully satisfied as to the unjustifiable acts of the Seliaman villagers issued an injunction under Section 62 of the Criminal Procedure Code, directing the removal of the disputed turf-bund and prohibiting the construction of any such works, and the injunction is still in force.

vi. That the removal of the disputed bund will not affect the interests of the plaintiff or diminish the usual quantity of water to which the Keelady lands are entitled by custom.

vii. That the land on which the disputed bund has been raised is in the limits of Panayar, a Government village.

viii. That the length of the Seliaman tank-bund stated in the plaint is incorrect.

(Signed) D. ARBUTHNOTT,
Collector.

Submitted for the orders of Government with the Board's recommendation that the defence of the Suit, which has immediate reference to a magisterial act, be sanctioned.

No. 271. Order thereon, 27th September 1870, No. 1,498.

Miscellaneous.

The Government sanction the defence, in the first instance at the public cost, of Original Suit No. 31 of 1870 on the file of the Principal Sudder Ameen's Court of Madura, instituted by the Rance of Shivagangah Zemindary against the Collector and Deputy-Collector on general duties of that district and others; but they will determine, when copies of the judgment and decree are submitted, whether the costs, if any be adjudged against the officers of Government referred to above, shall be borne by those officers or by the Government.

2. The draft answer submitted by the Collector is approved.

(True Extract.)

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

To the Board of Revenue.
,, the Collector of Madura.

Ed. F. R. Bentleman.

Revenue Department

No. 11498

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Pro. of the Board of Revenue

(A. E. 17th Sept. 1870)

Ordr. to Pacamund 27 Sept. /70. No. 11498

The Govt. sanction the defence in the first instance at the public cost, of O. S. No. 31 of 1870, on the file of the Principal Sudder Ameen's Court of Madura, instituted by the Ranee of Shiva Ganga Zemindary against the Collector and Deputy Collector on

Genl.

S. D. S.

K. P.

Govt. of 1870 Madras.

REVENUE.

To

THE BOARD OF REVENUE.

&c. &c. &c.

Dated September 27th.

Read. Enl.

G. O., 27th September 1870, No. 1,498.

SEPTEMBER.

Nos. 270-271.

Suit instituted by the Ranee of Shiva-ganga against the Collector and others.—Its defence at the public expense, sanctioned.

general duties of that district and others; but they will determine, when copies of the Judgment and Decree are submitted, whether the costs, if any be adjudged against the officers of Govt. referred to above, shall be borne by those officers or by the Govt.

The draft answer submitted by the Collector is approved.—

[illegible]

Ins. Copy to the Ag. Govt. Dept. 27 Sec. 14 Dept. 5 Cols.
" Collg. Madura Sec. 4 Dept. 5

Govt. of {18 } Madras.

To

Dated
Recd. } 18 , No.

Nos.