

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 55 1659	Press Mis.
325-26.	
Dated 28.10.1970	19

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
28th October 1870. 12

No. 325. Read the following Proceedings of the Board of Revenue, dated 26th September 1870 :—

Read the following letter from the Acting Sub-Collector in charge, Godavery District, to the Acting Secretary to the Board of Revenue, dated Cocanada, 9th September 1870, No. 276.

I HAVE the honour to forward herewith public copies of decree and judgment, passed by the Civil Judge of Rajahmundry in Suit No. 15 of 1869, the defence of which was sanctioned by the Board of Revenue in their Proceedings, dated 25th November 1869, No. 8,715.

2. The plaintiff sought for the recovery of five cents of land which he claims as a portion of his Inam, but which the Head Assistant Collector asserts to be a part of the pathway. Judgment is given for the plaintiff. I think that there are no sufficient grounds for making a regular appeal to the High Court. If the Board agree with me in this view, I request sanction for payment of the costs, amounting to Rupees 24-2-6, to the plaintiff.

SUBMITTED, (together with a copy of the Board's Proceedings, dated 25th November 1869, No. 8,715,) for the information and orders of Government.

2. The Suit has been decided in favour of the plaintiff who claimed, as part of his Inam, certain land which the Collector in his defence stated to be a public pathway.

3. It will be seen that the Board sanctioned the defence of the Suit on the express understanding that the Collector had "*satisfied himself* that the land in dispute could be proved to be a public pathway."

4. The costs incurred by the Collector amount to Rupees 24-2-6.

No. 326. ORDER THEREON, 28th October 1870, No. 1,659.

Miscellaneous.

PAYMENT of the costs (Rupees 24-2-6) incurred by the Collector is sanctioned.

(True Extract.)

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

To the Board of Revenue.
,, the Accountant-General.

Exd. F. B. Bantleman.

Suit No. 15 of 1869 in connection with certain land in Godavery District.—Payment of the costs incurred by the Collector sectioned.

OCTOBER.
Nos. 325-326.

G. O. 2304 October 1870, No. 1,639.

dated October, 28th.

Recd.

Encl.

THE BOARD OF REVENUE.
Secy. Secy. Secy. Secy.

REVENUE.

Oct. of 1870 325-326.

No. 5,872.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 26th September 1870.

Read the following letter from J. G. HORSFALL, Esq., Acting Sub-Collector, in charge of the Godavery District, to the Acting Secretary to the Board of Revenue, dated 9th September 1870, No. 276:—

I HAVE the honour to forward herewith public copies of Decree and Judgment, passed by the Civil Judge of Rajahmundry, in Suit No. 15 of 1869, the defence of which was sanctioned by the Board of Revenue in their Proceedings, dated 25th November 1869, No. 8,715.

2. The plaintiff sought for the recovery of five cents of land, which he claims as a portion of his Inam, but which the Head Assistant Collector asserts to be a part of the pathway. Judgment is given for the plaintiff. I think that there are no sufficient grounds for making a regular appeal to the High Court. If the Board agree with me in this view, I request sanction for payment of the costs, amounting to Rupees 24-2-6, to the plaintiff.

ENCLOSURE No. 1.

Original Suit No. 15 of 1869.

In the Court of the Civil Judge of Rajahmundry, the 6th day of August 1870.

PRESENT: HENRY MORRIS, Esq., Civil Judge.

Plaintiff

versus

Defendants.

Devulapalli Rama Subbarayudu, Agraharamdar.

1. Chunduri Ramasawmy Ryot, Village Munsif.

2. Tallapragadu Narasayya.

3. Do. China Nagarazu.

4. Do. Virayya.

5. W. Happel, Esq., Head Assistant Collector of the Godavery District.

6. Arigala Sundarazu Naidu, Tahsildar.

7. James Fraser, Esq., Collector of the Godavery District.

Plaintiff's Pleaders.
In the Ellore Munsif's Court. Damarazu Sitaramayya.

In the Civil Court, T. Kondayya.

1st, 2nd, and 4th defendants' Pleader.

In the Ellore Munsif's Court, Sitamrazu Rajanna.

3rd, 5th, and 6th defendants tried ex-parte.

7th defendant's Pleader.

In the Ellore Munsif's Court. Jonnala-gedda Krustasastrulu.

In the Civil Court, C. Kamarazu.

Judgment.

THIS is a Suit for a small piece of land in the Agraharam of Korumilli, which the plaintiff claims as a portion of his Inam, but which the defendants assert to be a part of the pathway, and, as such, excluded from the permanent settlement, and reserved for public purposes.

2. The 1st defendant is the Village Munsif, and the 2nd, 3rd, and 4th defendants are the village Curnums, and the plaintiff asserts that the 5th defendant, who is the Acting Head Assistant Collector, imposed an assessment on the land on their false representation. The 7th defendant, being the Collector of the district, who defends the Suit on behalf of Government, asserts that the 5th defendant was justified in doing so. The sole point for determination is therefore whether the disputed land forms a portion of the plaintiff's Inam, or whether it is part of the adjoining pathway on which he has encroached, and is consequently liable to assessment.

The disputed piece of land is situated in the corner between the boundary-path between Korumilli and the neighbouring village, Chintapalli, and the path leading to Korumilli itself. An Amin was deputed by the Court to inspect the locality, and to make a map of it, and I am of opinion, from an examination of this map, supported by the oral evidence of the Amin, of the sketch submitted by the Collector, and of the Survey plan filed as Exhibit B. by the plaintiff, that the

northern and western boundaries of the plaintiff's Inam field No. 85 ought to be perfectly straight, and that consequently the disputed piece, which is in the right angle formed by those two boundaries is a portion of the above-mentioned field, and is not an encroachment on the path. I place most reliance on the Survey plan, which was drawn before the present litigation commenced, and entirely without reference to it. As Korumilli is an Agraharam, the fields are not mapped out in this plan; but the boundaries between it and the next village must be supposed to be accurately drawn as well as the position of the various paths. This plan was lithographed in 1861.

The witnesses for the plaintiff state that the land is part of the plaintiff's field, but that it was sometimes left uncultivated, because it was lower than the rest of the field and subject on that account to be flooded. There is now a bank between it and the other part of the field, but the two ryots who cultivated the land under Cowle from the plaintiff say, they erected this bank to keep out the water.

5. The 1st, 2nd, and 4th witnesses for the defence state that the disputed land is part of the path, and was not cultivated until Fasli 1277, when the plaintiff annexed it to his field. The 2nd defendant, who was examined as the 2nd witness for the defence, bears testimony to the correctness of the plan prepared by the Amin, and states that the boundaries of the disputed land by the path are straight, joining in a right angle at a boundary mark, which, he says, stands at the corner, but which is not indicated in the Survey plan. The 1st witness also mentions this boundary mark, and if it is really there, (a fact of which I am doubtful) that would be decisive, as it must have been put up by the Settlement Department, as the boundary of the plaintiff's field. However, even without positive proof of this boundary mark, I am satisfied that the corner of his field where the disputed land is situated, ought to be a right angle and not sloped as the defendants state. Judgment is therefore given for the plaintiff's with costs.

6. This Suit was called up from the Munsif's Court at Ellore for trial in this Court at the Collector's request.

(Signed) H. MORRIS,
Civil Judge.

(True Copy.)

Copy applied for 9th August 1870.
Ready for delivery 1st Sept.

(Signed) J. LAKSHMINARAIYANA,
Sheristadar.
(Signed) S. ALAGASINGARY,
Head Writer.

ENCLOSURE No. 2.—Copy of Decree.

SUBMITTED (together with a copy of the Board's Proceedings, dated 25th November 1869, No. 8,715) for the information and orders of Government.

2. The Suit has been decided in favour of the plaintiff who claimed, as part of his Inam, certain land which the Collector, in his defence, stated to be a public pathway.

3. It will be seen that the Board sanctioned the defence of the Suit on the express understanding that the Collector had "satisfied himself that the land in dispute could be proved to be a public pathway."

3. The costs incurred by the Collector amount to Rupees 24-2-6.

(True Copies and Extract.)

J. G. Cole
Acting Secretary.

To the Acting Secretary to Government, Revenue Department,
with copy of judgment and original copy of Decree.

Copy to the Collector of the Godavery District.

Exd. F. R. Bantleman.

Board of Revenue

MADRAS.

PROCEEDINGS, 26th SEPTEMBER 1870, No. 5,872.

Copy to 26 Sept 1870

Encl

Received

25 Oct 1870

SEPTEMBER.

No. 5,872.

Copy to 26 Sept 1870
Suit—No. 15 of 1869, on file of Rajahmundry Civil Court in Godavery District regarding certain land.—Letter from Acting Sub-Collector in charge of District, forwarding copies of Dees and Judgment passed in, in favor of plaintiff, stating that there are not sufficient grounds for appealing to High Court against this decision, and requesting sanction for payment to plaintiff, of costs, amounting to Rupees 24-2-6, submitted for orders of Government.

4th

Revenue Department.

N^o 1659.

Proceedings of the Madras Government.

Under date the 28th Oct^r 1870

Read the following Pros
of the Board of Revenue.

Subm: letter from Ap. Sub. off^r
in charge of Godavery Dist^y forwarding
copies of Decree & Judgment in
Suit N^o 15 of 1869.

D.L. 26th September 1870.

Payment of the
costs (Rs. 24. 2. 6) incurred
by the Collector, is sanctioned.
- ed.

J. D.

Ap. A.
This must not have
been written to.

AP

14. To the Secy. to Govt. with 2 Encls. Despatch.
21 - (M. D. 11/11)



20/10/70