MT. O. 1—89,000—18-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No. 1666	Press Mis.
Dated 28-10-1920	19

Not to be folded or roughly handled

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

No. 337. Read the following Proceedings of the Board of Revenue, dated 27th September 1870, No. 5,891 :—

Read the following letter from the Acting Sub-Collector in charge of the Godavery District, to the Acting Secretary to the Board of Revenue, dated Cocanada, 8th September 1870, No. 274.

I HAVE the honour to report that I have received a Notice from the District Munsif of Cocanada for the payment of Rupees 35-13-7 to the plaintiff in Original Suit No. 276 of 1865, the defence of which was sanctioned in their Proceedings, dated 19th August 1865, No. 5,037. The Board have, in their Proceedings, dated 16th July 1867, No. 4,493, ordered that no special appeal should be made to the High Court against the decision of the Appellate Court in this case. Of the above sum, Rupees 24-3-9 are the costs adjudged to the plaintiff, and Rupees 11-9-10 are the assessment of the land under dispute for Fasli 1274. This amount was collected and credited to the Government accounts in the year 1864. I request sanction for the refund of this sum and for the payment of the costs.

SUBMITTED for the sanction of Government, together with copies of the Board's Proceedings noted in the margin.

Board's Procs., dated 19th Aug. 1865, No. 5,037.
" " 13th Oct. " " 6,498.
" " 1st June 1867, " 3,371.
" " 16th July " " 4,493.

2. The Suit was instituted in 1865 by an Inamdar of Cocanada against the Collector, on the ground that a portion of his Inam had been assessed; the Collector denied that the land in question formed part of the Inam, and the District Munsif dismissed the Suit.

3. The plaintiff appealed to the Principal Sadr Amin at Rajahmundry, and the result was that the decree of the lower Court was reversed, and the Suit decided against the Collector. After consulting with the Government Pleader, the Board* decided that an appeal to the High Court was inexpedient.

Proceedings, 16th July 1867, No. 4,493.

No. 338. ORDER THEREON, 28th October 1870, No. 1,666.

Miscellaneous.

THE Government accordingly sanction payment of Rupees 35-13-7.

(True Extract.)

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

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

Exd. F. R. Bantleman.

Govt. of India 1870

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated October, 28th.

Recd.

Encl.

G. O., 28th October, 1870, No. 1,666.

OCTOBER.

Nos. 337-338.

Suit No. 276 of 1865, regarding certain land in Godavery District.—Costs incurred in its defence, sanctioned.

No. 5,037.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th August 1865.

Read the following letter from J. FRASER, Esq., Collector of the Godavery District, to R. A. DALYELL, Esq, Acting Secretary to the Board of Revenue, dated Cocanada, 31st July 1865, No. 165 :—

1. I have the honor to submit herewith translation of a Plaint filed against me in the Cocanada District Munsiff's Court by one Yedida Kamasastrulu, an Inamdar of Cocanada, and the answer, which I propose to file in the Court in reply.

2. The Plaintiff claims Government waste land of the extent of A. 4 C. 70 which adjoins his Inam, under a pretence that it forms part of his Inam. He states that the extent of his Inam is 10 acres, as entered in the Inam Puttah; but this was not the measured extent. The Inam Commissioner always enters in the Title Deeds the extent mentioned in the accounts; but this is in most cases found to be less or more to a large amount than the Survey area, as the Board are aware. The Plaintiff's whole Inam was measured by the Peshkar of the Cocanada Division in 1861 to ascertain the amount of compensation due to him for a portion of it taken up by Cocanada Canal, and it was found to be only A. 5 and C. 90, 60 cents. of which occupied by the Cocanada channel being deducted there remains A. 5 C. 30, which is now in the possession of the Plaintiff, and within the ridge or boundary mark placed by himself before the year 1861. The land, which he now claims, is a part of the Government wastes formerly used for salt pans. A portion of it has been cultivated by means of anicut irrigation, since Fasli 1271, by the holders of the adjacent Zemindary Jeroyti lands, as mentioned in the margin. The assessment fixed on it was collected from them and credited to Government without any objection being raised by Plaintiff until last Fasli 1274, when he advanced a claim to the land now sued for before the Sub-Magistrate, who inquired into the case and reported on it to the Huzur. The Plaintiff has adduced evidence to show that this land which he claims was cultivated by some ryots for his father after the cyclone which occurred in the year 1839, but not stating the particular year. I considered this evidence to be totally incredible, because the whole tract comprising the salt pan ground has never been cultivated, or fit for cultivation from the time when it was inundated by salt water in 1839 until irrigation from the anicut was available, and this was in Fasli 1263. I therefore ordered the land to be assessed as usual, viz., Government Jeroyti.

Faslis.	Cultivated Extent.	Assessment.
	A. C.	Rs. A. P.
1271...	... 26	... ...
1272...	... 47	... ...
1273...	2 84	21 6 4
1274...	1 55	11 9 10

3. I request that the Board will obtain the sanction of Government to defend the suit at the public cost, and return the answer if approved of.

4. The time for hearing the Suit will expire on 1st September 1865.

ENCLOSURE No. 1.

No. 276 of 1865 of the Cocanada District Munsiff Court's file.

Plaintiff. — Yedida Kamasastrulu, residing at Jagannadhapuram.

Defendant. — James Fraser, Esq., Collector of the Godavery District.

Statement presented by Defendant.

1. The Defendant denies the Plaintiff's Statement that 4 acres and 70 cents. of the Plaintiff's Inam of 10 acres at Cocanada was declared by him (Defendant) to be Government waste land, and that he was ousted from its possession. Defendant further denies the Plaintiff's allegation

that the A. 4 C. 70, of land claimed by the Plaintiff is part of his Inam, and that it has ever been in the enjoyment of either himself or his forefathers. Defendant puts the Plaintiff to the proof of the above points. The extent of the Plaintiff's Inam at Cocanada is one Putty, or nominally 8 acres, according to the accounts. In the Title Deed granted him by the Inam Commissioner 10 acres are entered, but it was not entered so upon measurement. A portion of the Plaintiff's Inam in question having been taken up by the Cocanada Canal, the whole Inam was measured by the Peshcar of the Cocanada division in the year 1861, and found to consist of 5 acres and 90 cents. The bunds, placed before the year 1861 by Plaintiff, around the field still exist, and his Inam is marked A in the Plan. The Plaintiff was present when the Inam was then measured, and never objected that the measurement was faulty or defective. Its extent is the same now as then. The land marked B, situated south to the Plaintiff's Inam land, and claimed by the Plaintiff, forms part of the Government waste land formerly used for salt pans. A portion of this land having been rendered fit for cultivation by means of anicut irrigation, it was cultivated in Faslis 1271, 1272, 1273 and 1274 by Ryots who held the proprietary Zerayati lands in its vicinity: assessment was charged on it, collected, and credited to Government as per margin. To this, Plaintiff did not object. The Plaintiff, who had never before advanced any claim for this land, has, in Fasli 1274, set up a claim that it belonged to his Inam, with the intent of acquiring the land illegally.

Faslis.	Cultivated Extent.	Assessment.
	A. C.	Rs. A. P.
1271...	... 26	... ...
1272...	... 47	... ...
1273...	2 84	21 0 4
1274...	1 55	11 9 10

2. Had the land claimed by the Plaintiff been a portion of his Inam, and accordingly been in the enjoyment of himself and of his ancestors, as stated in his Plaint, why was he silent without advancing his claim to it while the land was being measured in the year 1861, and was under cultivation for four years by others than himself?

3. I therefore pray the Court, will, after taking into consideration the evidence, plans, and Mashat Jabitas, (measurement accounts,) which may be produced on my behalf, and after a personal inspection of the locality under litigation, non-suit the Plaintiff's claim with costs.

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 2.
No. 276 of 1865.
To the District Munsiff's Court of Cocanada.

1. Bill of plaint presented under Section 26 of the Civil Procedure Code by Yedida Kamasastrulu, Inamdar, residing at Jagannadapuram, against Defendant, James Fraser, Esquire, Collector of the Godavery District.

2. Defendant issued an order on the 23rd December 1864, declaring that 4 acres and 70 cents. of his Inam of 10 acres at Cocanada, which was acquired by my ancestors, and which was in my possession and enjoyment lineally from a long time, as entered in the permanent accounts, is Government waste land, and has accordingly ousted me from its possession in the same month. I therefore pray that a decree may be passed, after trial, adjudging the restoration to me of 4 acres and 70 cents of land; (bounded on the east by Government waste land; on the south by a Government Ashalminah swamp; on the west by the Inam land belonging to Wulapally Venkata Charry; and on the north by my Inam land, and capable of yielding an annual assessment of Rupees 16, and a quit-rent of Rupee 1-4-0 is payable thereon) with its assesment of Rupees 16 for Fasli 1274, together with the subsequent produce and costs of the suit.

27th June 1865.

(Signed) KAMA SASTRULU,
Plaintiff.

(Signed) KAKERLA VENKATA NARASIMHAM,
Pleader.

I, Yedida Kamasastrulu, the Plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my information and belief.

7th June 1865.

(Signed) YEDIDA KAMA SASTRULU,
Plaintiff.

(True Translation.)

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 3.—Plan.

The defence of the Suit is sanctioned on the usual terms, and the proposed answer is approved with a verbal addition. The Acting Inam Commissioner will be requested to report under what circumstances ten acres came to be entered in the Title Deed as the extent of the Inam if it was entered in the accounts as one Putty as stated in the draft answer.

(True Copies and Extract.)

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

To J. Fraser, Esq., Collector of Godavery District,
with a Plan returned.

Copy to W. T. Blair, Esq., Officiating Inam Commissioner.
" to F. Lushington, Esq., Accountant General.

Exd R. H. Lee.

No. 6,498.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 13th October 1865.

Read the following letter from W. T. BLAIR, Esq., Officiating Inam Commissioner, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated Coimbatore, 15th September 1865, No. 21:—

1. In reply to the Proceedings of the Board, dated 19th August 1865, No. 5,037, I have the honor to state that a Putti of land in the Godavery District is generally supposed to be equal to eight acres, but in the settlement of Inams it was converted at six, eight, ten, and more acres with reference to the standard of land measurement ascertained during the inquiry to have originally prevailed in the different parts of the District.

2. In Cocanada, the village in question, the extent of all the Inams was commuted at ten acres a Putti, but the settlement did not convey an assurance that if the actual enjoyment was less than that registered in this settlement the deficiency would be made good. In the case under notice, the encroachment appears to have taken place subsequent to the settlement made by this Department.

Communicated to the Collector of the Godavery District.

(A true Copy and Extract.)

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

To J. Fraser, Esq., Collector of the Godavery District.

Copy to W. T. Blair, Esq., Officiating Inam Commissioner.

Exd. J. Wright.

Communicated by the Collector of the Godavery District.

Received 30th September 1865.

Answered 2nd October 1865.

No.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 19th August 1865.

No. 5,037.

Sanctioning the defence on the usual terms of Suit No. 270 of 1865, instituted in the Cocanada District Munsiff's Court for the recovery of certain land in the District; approving of the proposed draft answer, and requesting explanation from the Acting Inam Commissioner regarding the extent of the land as entered in the Title Deed.

No. 3,371.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 1st June 1867.

Read the following letter from J. FRASER, Esq., Collector of the Godavery district, to the Secretary to the Board of Revenue, dated Cocanada, 8th May 1867, No. 98:—

1. With reference to the Proceedings of the Board of Revenue, dated 19th August 1865, No. 5,037, I have the honour to report that the suit therein referred to has been decided by the District Munsiff's Court at Cocanada, against the plaintiff. An appeal having been preferred by him against that decision, the Principal Sudder Ameen at Rajahmundry has reversed the decree of the Lower Court, adjudging that the land under dispute, together with the past proceeds, be made over to the plaintiff, and that the costs of the suit incurred by the plaintiff in the two Courts be defrayed by the defendant, *i. e.*, the Collector.

2. Translation of the decision of the Principal Sudder Ameen, and a copy of that of the District Munsiff, are herewith submitted for the information of the Board. I think that the Principal Sudder Ameen's reasons for reversing the Lower Court's decision are not good. He states in paragraph 6 of his decree that "10 acres were determined by the Inam Commissioner as equivalent to a putty, and that a title-deed was granted at that rate, and that there can be no question about this point;" certainly there is. The Inam Commissioner, on a reference made by the Board of Revenue, stated in his letter which was conveyed in the Board's Proceedings, dated 13th October 1865, No. 6,498, that a putty is generally supposed to be 6, 8, and 10 acres in the Godavery district; that in Cocanada, the extent of Inams was commuted at 10 acres a putty; that the Inam Settlement did not convey any assurance that if the actual enjoyment was less than that registered in his settlement, the deficiency would be made good. These proceedings were shown to the Principal Sudder Ameen through the Government Vakeel, but he took no notice of them, while the District Munsiff has taken into consideration this point, that actual enjoyment of land is in most cases more or less than th registered extent, and that the entry of 10 acres in the title-deed as the equivalent of a putty does not justify him to adjudge to the plaintiff more than his actual holding which is only A. 5 C. 90. In almost all Inams the extent under enjoyment does not tally with the extent mentioned in the title-deed, as it is much less, or much more, in many cases. The Inams adjacent to the one which was the subject of this suit are such as above referred to, as shown in the subjoined Statement. In the year 1853, as part of this Inam was taken for a Government channel, the whole Inam within its then boundaries as held by the Inamdar was measured in 1855, to ascertain what had been taken for public purposes. This was found to be 60 cents, and the whole Inam to measure A. 5 C. 90. The plaintiff was present with the Taluk Peshcar when he measured the land, and he signed the account prepared by the Peshcar, showing the whole Inam to be A. 5 C. 90; the Inamdar did not advance his claim to the land now in dispute till 1864, although his putta from the Inam Commissioner is dated 14th September 1860. The District Munsiff has given no credit to the evidence of the plaintiff's witnesses who stated that the land under litigation was enjoyed by the plaintiff's father before the cyclone in the year 1839, *i. e.*, 27 years ago. Their evidence regarding the use of land for pasturage of the Inamdar's tenant's cattle is utterly false, because there was no grazing on the ground which was flooded by salt-water until the land was rendered fit for cultivation by the flow of anicut water.

Holders.	Local native measure.	Conversion rate of the village.	Commutation rate of Inam Commissioner as entered in Title-deed.	Land under actual enjoyment by measurement.
	P. T. M.	A. C.	A. C.	A. C.
1. V. Ramanuja Charloo...	0 12 8	5 0	6 25	8 23
2. S. Teruvengala Charloo	1 0 0	8 0	10 0	7 96
3. P. Latchappa and Surappa	2 0 0	16 0	5 85	6 14

Received in the Board's Office, the [illegible] 1867.
Sent to the Department, the [illegible] 1867.
By [illegible] Department.
No. 3,371.
Read [illegible]

PROCEEDINGS OF THE BOARD OF REVENUE,

No. 6,498.

Dated 13*th October* 1865.

Communicating letter from the Officiating Inam Commissioner reporting the circumstances under which the Inam land measuring one Putty, belonging to Plaintiff in Suit No 276 of 1865, in the Cocanada District Munsiff's Court was entered in the Inam Title Deeds as 10 Acres.

3. In paragraph 9 of the decree, the Principal Sudder Ameen states that there is documentary evidence on the defendant's side to show that the land in dispute was included in the Government waste land. The accounts show that there are 48 putties according to accounts, or 544 acres according to survey of Government waste land, which was formerly used for salt pans in Cocanada close to plaintiff's and others Inams. This land has been decided by the Board to be the property of Government upon a claim preferred by the Zemindar of Pittapur for the land—*vide* Board's Proceedings, No. 3,887, of 23rd June 1864. The whole Government land has been surveyed. From the position of the plaintiff's and others Inams of the land claimed by the plaintiff, and of the Government ground, as appears from the plan which was produced before the Court by the defendant with his statement, as well as from what the District Munsiff describes in the decree from his personal inspection of the locality, it is plain enough that the ground under litigation being A. 4, C. 70, is part of Government waste. There is clear proof from the accounts that the land in dispute has been rented out by Government Officers to certain ryots for cultivation from Fusly 1271, on payment of annual assessment, as particularized in my defence. Consequently, the plaintiff's mere saying that I have ousted him from the possession of A. 4, C. 70, by an Order dated 23rd December 1864, is quite false. The Order was merely disallowing the plaintiff's claim for the land on the ground that he has no right to it, because it is Asalminah land. The issue of the District Munsiff was that the plaintiff should prove his possession of the A. 4, C. 70, until 23rd December 1864, when he was, as stated in his plaint, ousted by me, but he failed to do so. The proof of this principal point is not admitted by the District Munsiff, nor is it admitted by the Principal Sudder Ameen.

• One herewith sent.

4. Moreover, the Principal Sudder Ameen states in paragraph 2 of his decree that I have acknowledged in my statement, as stated in the plaint, the fact of the A. 4, C. 70, out of the Inam land of 10 acres belonging to the plaintiff, having been classed as Asalminah and taken away from the plaintiff's possession, while I have in plain words denied in my statement the above fact. The Board will see it by a reference to paragraph 2 of the statement conveyed in their Proceedings, dated 19th August 1865, No. 5,037.

5. For the foregoing reasons, I consider that the Principal Sudder Ameen's decree is directly contrary to the evidence recorded, and that on this ground a special appeal would be allowed by the High Court. The Government Vakeel in the Rajahmundry Court has been directed to apply for public copies of decree and judgment of the Principal Sudder Ameen. As soon as they are received, they will be forwarded to the Board.

6. The time for special appeal expires on the 12th May; but as the Courts have been adjourned from the 19th April for two months, the time for appeal will expire on the 13th July or 24 days after the Courts are re-opened.

ENCLOSURE No. 1.

No. 276 of 1865, Cocanada District Munsiff's file.

PRESENT:—GEORGE WELLS.

Plaintiff.	*versus*	*Defendant.*
Yadithe Kamasastrulu.		James Fraser, Esq., Collector of the Godavery district.

Plaint states that from the 10 acres of land obtained from the time of his ancestors and in his possession the Collector took away 4 acres, 70 cents; this suit is for the recovery of the same 16 rupees, the sist of that portion of 1864, and at that rate per year.

A. 23rd December 1864. Copy of Collector's order to Amaldar as it would appear that the land requested by plaintiff is disconnected, being separate from his Inam, and not appearing to have been in his possession and remaining waste, the sist of the same must be carried to credit of Government.

B. Inam Commissioner's certificate for 10 acres of land in the name of Yedithe Bapanna.

The Collector (defendant) denies that plaintiff or his ancestors enjoyed or have any right to the 4 acres 7 cents. demanded, or that the same formed portion of his Inam; that plaintiff's land is 5 acres 90 cents.

The 1st, 2nd, 3rd, 5th, and 6th witnesses for plaint state that the plaintiff has one putty of land, all of which was cultivated before the storm in the year Vicari; that they got this land on a lease from plaintiff's father and cultivated it then; that subsequently on account of salt water the land became useless for cultivation; but that plaintiff's father used it for grazing cattle.

That since the construction of the anicut the land became again useful when plaintiff had small boundary marks made.

The 4th witness says that four years ago plaintiff gave him on a cowle one putty of land, that he cultivated some portion of it only, remaining he had for grazing cattle.

Five witnesses were examined for defendant.

The 1st, 2nd, and 5th witnesses say that plaintiff never held the disputed land, that the same is Government land. The 1st and 2nd witnesses are Curnum and Village Munsiff, the remaining are Cerayati ryots.

The 3rd witness does not know how this land was before the storm, nor whether it was waste then or after.

The 5th witness adds that he only heard that the disputed land was waste.

The 4th knows nothing about the land.

1. The plaintiff has an Inam certificate for 10 acres of land, 4 acres 70 cents of which, he says, the Collector deprived him of; this he now claims.

2. The evidence for the plaint say that plaintiff's father had this land under his enjoyment before the year of the storm *Vicari*, twenty-four years ago, but that the land after that until the opening of the canal was not cultivated but used as a grazing land for plaintiff's cattle.

3. By the village accounts the extent of plaintiff's land is one putty, which according to Inam computation is assimilated to 8 acres; this, plaintiff's, land when measured was found to consist of 5 acres 90 cent. The disputed piece, 3 acres 5 cents which added to above, makes 8 acres 34 cents, not equal in all to the quantity of land claimed as plaintiff's.

4. Now the land in dispute, as plaintiff's evidence say, was, before the construction of the anicut, waste; as such uncared for and coveted by none. Irrigation for the last five years has rendered it desirable to plaintiff, forming, as it does, the outskirts of his land. Plaintiff not unlikely perceiving the healthiness of the crops, (for the middle portion for above period was being cultivated,) thinks it worth his while contesting its right.

5. The lands belonging to plaintiff, and the ryots cultivating thereabouts, has a small embankment to distinguish them from these Government waste lands, and it is only from the past five years that they, the waste lands, have been by canal irrigation brought to use. This land claimed is out of the boundary mark, and is not shown to have been ever cultivated by plaintiff.

6. Indeed, the only way to account for the extent of the land mentioned in account as plaintiff's, is that a small portion of plaintiff's land was taken up by the canal, and last, not least, the fact that whatever or however the extent of land may be computed and entered in accounts, it is a well known fact that some enjoy a great extent of land than that entered, while others have much less than shown in accounts.

7. The plaintiff did not seem for the past four years to have made any objections during the measurement of his land when told that he had a right to, or was under the enjoyment of, A. 5, C. 90, only.

8. Finally, plaintiff not appearing to have ever had possession of this parcel of land, and not having shown that through him, even after the canal irrigation, the same was let out, or that it was cultivated by him or in any manner claimed by him before this, after the same was let out by Government. The Acting District Munsiff does not consider that he would be justified in finding for the plaintiff on the only ground that his Inam certificate shows that his land is 10 instead of 5 acres 90 cents.

For the reasons above given, therefore, the Acting District Munsiff would dismiss plaintiff's claim with costs.

COCANADA, 27th November 1865. (Signed) G. WELLS.

(True Copy.)

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 2.

Principal Sudder Ameen's Court, Rajahmundry.

Present:—SAMINENI VENCATADRY NAIDU, Principal Sudder Ameen.

Original Suit No. 276 of 1865, of the Cocanada District Munsiff's Court's file.

Plaintiff.	*Defendant.*
Yedide Kama Sastrulu.	James Fraser, Esq., Collector of Godavery district.

Appeal Suit No. 15 of 1866, of the Civil Court's file of Rajahmundry.

Plaintiff and Appellant.	*Defendant and Respondent.*
Yedide Kama Sastrulu.	James Fraser, Esq., Collector of Godavery district.
Pleader, Kanukolanu Lakshminarayana.	Pleader, S. Rangaprasada.

Judgment.

1. Plaintiff sues that defendant has, by an order, dated 23rd December 1864, ousted him from the possession of a piece of land measuring Acres 4, Cents 70, classing it as "Asalminah," out of 10 acres of land (as per permanent accounts) which had been acquired by his ancestors, and had been in the enjoyment lineally since a considerable length of time, which was situated at Cocanada, within the boundaries described in the plaint, and paying an annual cist or assessment of Rupees 16, inclusive of quit-rent, and prays that he may be put in possession of the said land together with its assessment of Rupees 16 for Fusly 1274, subsequent proceeds, and with costs of the suit.

2. Defendant caused a statement to be presented, setting forth among other circumstances that he acknowledged, as stated in the Plaint, the fact of the Acres 4-70, out of the Inam land of 10 acres belonging to plaintiff, having been classed as Asalminah, and taken away from the plaintiff's possession; but not to the circumstance of the Acres 4-70 of land in dispute, as either being formed part of the plaintiff's Inam, or having been in his or his ancestor's enjoyment; that in the title-deed granted by the Inam Commissioner, the Inam land which the plaintiff had at Cocanada was entered as 10 acres, while its extent was one putty, that is nominally 8 acres according to accounts; that when measurement of the land in question was made by the Peishcar of Cocanada in 1861, the extent that remained besides that occupied by channels, was Acres 5-90; that at the time of that measurement, plaintiff was present; that the measurement was never disputed; that its extent was always the same; that the ridges raised prior to 1861, to the land marked A. in the Plan, are still extant; that the land marked B. claimed by the plaintiff was included in the Government waste land occupied under Salt Pans; that a portion of that ground having been fit for cultivation by means of anicut irrigation, it was cultivated in Fuslies 1271, 72, 73 and 74, by some ryots who are the cultivators of the adjoining fields; that the assessment fixed thereon was carried to the credit of Government; that plaintiff has, without raising any objections during that whole period, brought a lawless suit in Fusly 1274, claiming that the said land forms part of his Inam land; and praying that the plaintiff may be nonsuited with costs.

3. The District Moonsiff of Cocanada has dismissed the plaintiff's claim with costs.

4. Plaintiff being dissatisfied with that decision, presented an Appeal Memorandum on the following grounds:—

1st. That the defendant admitted the circumstance of the plaintiff having possessed an Inam land of one putty at the above place as per Circar accounts.

2nd. That the above land was enfranchised by the Deputy Collector, recognizing its extent as 10 acres, and a Title-deed was issued for the same by the Inam Commissioner.

3rd. That the defendant caused land of 60 cents to be given to plaintiff in some other locality, in lieu of that portion which had been taken up by the channels and embankments, out of the above extent of land.

4th. That besides the land given in exchange, as above stated, the quantity of land, viz., Acres 5-30 in the possession of the plaintiff as well as that measuring Acres 4-70, under litigation, amount to 10 acres in extent.

5th. That the fact of the said land of 10 acres situated within its boundaries having been in the possession and enjoyment of the plaintiff, was fully proved by the evidence of the witnesses on his behalf.

6th. That the above fact will also be manifested from the report of the Cocanada Sub-Magistrate.

7th. That the allegation of the defendant as to the said land of Acres 4-70 being an Asalminah salt pan, was entirely without foundation.

8th. That the defendant had clearly admitted the fact of the said land of Acres 5-30 now in the plaintiff's possession as well as that of 60 cents given in lieu of the land taken up by the channels (both amounting to Acres 5-90) having been included in the above extent of one putty.

9th. That the above extent of Acres 5-90 and that of Acres 4-70 under dispute, both making a total extent of Acres 10-60, will tally a little more or less with the quantity entered in the Title-deed in question.

10th. The above excess land of 60 cents was the result of the difference between the old and present measurement, and not by any other causes.

11th. That defendant argues that a putt of land is equivalent to only 8 acres. Even if the same be determined by the Circar, it will have be considered that there exists a difference of Acres 2-60.

12th. That difference in the measurement of all lands does thus exist, and that such difference occasioned by the measurement now in force will not affect the right of the plaintiff.

13th. That the decision of the Lower Court in this case is quite against the law.

5. The original and appellate records of this suit, the judgment and decree of the Lower Court, as well as the circumstances represented at the time of hearing by the Pleaders on behalf of both parties, have been taken into consideration.

6. The fact of one putty of land being inserted in the Circar accounts as Inam of the plaintiff was admitted. This was determined by the Inam Commissioner to be 10 acres, and a Title-deed granted for the same. No question lies on this point.

7. Plaintiff had produced certain documents said to be the counterparts executed by the ryots to whom the plaintiff let out the land for cultivation or Amaracam. No evidence was taken touching the origin of those documents. It appears that the Lower Court omitted to examine some of the witnesses of the plaintiff.

8. It is, however, proved by the witnesses already examined on the plaintiff's side, that the land under dispute was included in the said extent of one putty; that since the occurrence of the cyclone in 1839, the land rendered itself unfit for cultivation for a period of twenty years, it being flooded by the tide of the creek; and that during that period, the land now litigated was used as a pasturage to the ryots who cultivated the plaintiff's land.

9. There is no documentary evidence on the defendant's side to show that the land in dispute was included in the Government waste land. It seems that the mere fact of the said land having been rendered uncultivable for some period, cannot be considered as a proof which shows that it belongs to Government.

10. The silence on the part of the plaintiff for a period of four years without advancing any claim after he was ejected by the defendant from the possession of the land in dispute, cannot, it seems, be considered a reasonable ground to suppose that plaintiff had admitted that he had no right to the said land. He, in fact, disputed before the Collector during that period by means of petitions concerning the land in question. The public documents marked A., produced by the plaintiff, may be referred to on the subject.

11. The evidence of the witnesses on behalf of the defendant, is in a great measure inconsistent with the defence; but only a portion of it may probably appear to be in favour of defence. Even that will no doubt be found weak, if a strict examination be made into it.

12. The land under litigation became useful for cultivation, only a few years after the construction of the Godavery canal. No objection was raised by the opposite party as to the amount of the annual assessment, viz., Rupees 16 of the land, as stated by the plaintiff.

13. From the foregoing reasons, it would appear to the Court to be just to decide the suit in favour of the plaintiff.

14. The decision of the Lower Court is reversed, adjudging that the land in dispute together with its past proceeds be made over to plaintiff by the defendant, and that the costs of the suit incurred by the plaintiff in the two Courts be defrayed by the defendant, those incurred by the latter being borne by the defendant.

12th February 1867. (Signature of the Principal Sudder Ameen in English.)

(True Translation.)

(Signed) J. FRASER,
Collector.

19th August 1865, No. 5,037.
13th October 1865, No. 6,498.
23rd June 1864, No. 3,887.

Resolved that the foregoing letter, and its enclosures, together with copies of the Board's Proceedings noted in the margin, and a copy of the form of title-deed in use by the Inam Commission, be forwarded to the Government Pleader, with the request that he will favour the Board with his advice on the case under consideration.

(True Copies and Extract.)

(Signed) R. A. DALYELL,
Secretary.

To the Government Pleader,

with a plan, and copies of Board's Proceedings, dated 19th August and 13th October 1865, Nos. 5,037 and 6,498, and 23rd June 1864, No. 3,887, and with a form of title-deed.

Copy to the Collector of the Godavery district.

Exd. T. Cartledge.

Forwarding to Government Pleader for advice and opinion letter from the Collector of the Godavery district urging that a special Appeal be made against decision of Principal Sudder Ameen of Rajahmundry in O. S. No. 276 of 1865, for recovery of certain land in district.

Dated 1st June 1867.

No. 3,371.

PROCEEDINGS OF THE BOARD OF REVENUE,

Enclosure to the Proceedings of the Board of Revenue dated 25th September 1867. Department.

No. 3,371

Rec. 28th Sept. 1867

No. 4,493.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 16th July 1867.

Read the following letter from H. J. BROCKMAN, Esq., Officiating Government Pleader, to the Acting Secretary to the Board of Revenue, dated High Court-house, Madras, 13th July 1867, No. 114:—

* Dated 11th July 1867.

1. I have the honour to acknowledge the receipt of the Proceedings* of the Board of Revenue, together with the enclosures which accompanied them.

2. In consequence of nearly the whole of the enclosures being in the vernacular, I have not been able to master the contents of them until to-day. Now that I have gone through them, I cannot say that there is no evidence in support of the plaintiff's case, although, as stated by the Collector in his letter to the Board embodied in the Proceedings above noted, none of the plaintiff's witnesses are able to speak to the exact measurement of the plaintiff's land as required by the first issue settled by the lower Court.

3. As far as the defendant's witnesses are concerned, the District Moonsiff, who decided against the plaintiff, does not, in his judgment, seem to attach much weight to their evidence; but relies, chiefly, upon the absence of evidence on behalf of the plaintiff as to the measurement of his land and his lying by for four years previous to his suit; and the lower Appellate Court pronounces it in some part contradictory to the defendant's case.

4. I should be by no means sanguine of success, if a special appeal were preferred on behalf of the Government. But if the Board think fit to recommend it, and the Government authorize an appeal, I should advise that the appeal should be upon the following grounds:—

First.—That the plaintiff must stand or fall by his own case, and there was no evidence to warrant a finding in favour of the plaintiff upon either of the issues settled by the lower Court.

Second.—That the plaintiff's document A. does not amount to a dispossession of the plaintiff by the defendant, and the plaintiff has failed to prove any other dispossession.

Third.—That the lower Appellate Court misconstrued the written statement of the defendant.

Fourth.—That the fact of ten acres being inserted in the Inam Commissioner's Certificate as the Inam of the plaintiff, was not in itself sufficient to give him title to ten acres.

Fifth.—That if the Original Court had omitted to examine any of plaintiff's witnesses, and to permit proof of the counterparts executed by the plaintiff's ryots, the lower Appellate Court should either have referred the case back for such evidence, or taken the evidence itself, and should not without such evidence have given judgment in favour of the plaintiff.

5. I have ascertained from the Deputy Registrar of the High Court in its Appellate Jurisdiction that the last day for filing the appeal, (allowing for the closing of the lower Appellate Court, and the time which elapsed in the delivery of the copies of its Judgment and Decree,) will be the 19th instant, before which date I should be furnished with the Government Order to prefer the special appeal if this is decided upon.

6. I return all the enclosures which accompanied the Board's Proceedings above noted in case the Board require to see them again. If an appeal is decided upon they should be returned to me.

ENCLOSURES Nos. 1 to 6.—English and Telugu documents.

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1. Resolved that the foregoing letter be communicated to the Collector, with reference to his communication, dated 29th June 1867, No. 182.

2. The Board observe that the Principal Sudder Amin has decided, as a matter of fact, that the land in dispute is included in the extent entered in the Title-deed.

3. A special appeal would turn upon this point.

4. This being the case, adverting to paragraph 2 of the Government Pleader's, letter in Board's Proceedings, No. 3,800, dated 19th June 1867, where it is stated that the High Court on a special appeal will not enter into questions of fact, the Board are of opinion that a special appeal would not be likely to be attended with success, and they resolve, therefore, not to proceed further in the matter.

(True Copies and Extract.)

(Signed) J. R. COCKERELL,
Acting Secretary.

To the Collector of the Godavery district,
with enclosures returned.

Copy to the Officiating Government Pleader.

Exd. J. Wright.

Enclosure in Mr. Pr. Sec. to the Bd. of Rev. letter dated 24 Sept. 1867. Department.

Rev. 3026 / 67

Proceedings of the Board of Revenue,

No.

Dated 16th July 1867.

Received

No. 4,493.

Communicating letter from Officiating Government Pleader, and stating that Board would not prefer a Special Appeal in Suit No. 276, respecting certain land in Godavery district.

Revenue Department

No. 1666.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 28th October 1870.

Read the following. Proceedings of the Board of Revenue.

Submg. letter from Act. Sub Coll. in charge of Godavery Dt. requesting sanction for payment to Pffs. in Suit No. 296 of 1865; instituted in Secunda Mff's Ct; regarding certain land, of Rs 35:13:7 Demi cents adjudged to him with assessment of land for Fasly 1274.

H. E. 27th Sept: 1870, No 5891

The Govt accordingly sanction payment of Rupees 35. 13. 7.

I. O. S.

This must not have been overlooked.

H. Takes Bro Revenue Dept 28/10
Acctt Genl