M.R. O. 1—82,009—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2025 Press ~~Mis.~~

Dated 14—12—~~19~~1876

Not to be folded or roughly handled

No. 282. Read the following Proceedings of the Board of Revenue, dated 10th December 1870 :—

Read the following letter from the Collector of South Arcot, to the Acting Secretary to the Board of Revenue, Madras, dated Cuddalore, 3rd December 1870, No. 325.

I SUBMIT copy of a plaint brought against me and others in the Principal Sadr Amin's Court in connection with the disposal of the land situated within the bed of the Sitt Ary tank of the Trikalore Taluq, and which was the subject of correspondence with the Board of Revenue.

2. I need only refer the Board to their Proceedings, under date 22nd January 1870, No. 447, which will bring all the facts to their remembrance, and a draft answer to the plaint, based on my report recorded in the said Proceedings, I also forward, and request sanction for the defence of the Suit at the public cost.

ENCLOSURE No. 1.

Suit No. 16 *of* 1870.

To the Principal Sadr Amin of South Arcot.

Plaintiffs	*versus*	*Defendants.*
The ryots of Theroovananellore attached to Trikalore Taluq. 1. Muttu VencataputhyReddy. 2. Muttia Oodian. 3. Ayasawmi Pillai. 4. Gurusawmi Iyer. 5. Manika Pillai. 6. Maduranayaka Pillai. 7. Ramalinga Chetty. 8. Appasawmy Oodian. 9. Appasawmy Coundan. 10. Ramachendra Maistry. 11. Soobroya Oodian. 12. Veerasawmy Moodelly. 13. Venkatarama Moodelly. 14. Lutchumana Counden. 15. Sreenivassa Naicken.		1. C. W. Reade, Esq., Collector of South Arcot. 2. Sree Balliah, General Charge Deputy-Collector. 3. Appavoo Naicken, son of Mothu Naicken of Manacoopum in the taluq of Trikalore.

THE Suit is brought for a decision cancelling the order permitting the third defendant to cultivate the lands of Sitt Ary (small tank) of the plaintiffs' village, and prohibiting the third defendant from entering on the land in question.

The village of Theroovananellur contains 700 and odd cawnies of land. These lands are cultivated with the aid of two tanks called Perya Ary and Sitt Ary, as well as a spring channel common to three villages. The supply from these sources being insufficient, the ryots have been suffering a loss. About 170 cawnies out of the above area are irrigated by the said Sitt Ary. The area of the said Sitt Ary is cawnies 72-13-0. Out of this area, cawnies 43-2-0 form the Neerpidippoo (have occupied with water). The rest of the land being Padookai was assigned for cultivation by the late Deputy-Collector Sooriamoorthi Pillay, reserving the first-mentioned portion for Neerpidippoo only. As the plaintiffs, who are the ryots of the said village, have been using for a long time the water of the said tank for cultivation, they have acquired a right to the said tank. They have also been executing for a long time repairs to the tank mostly at their own expense. The tank continues in

their possession. In violation of the rights of the plaintiffs, the third defendant obtained the Neerpidippoo lands under the orders of the second defendant, issued with the permission of the first defendant, and has been, for the last ten days employed in destroying the bund and filling up the tank, so as to make it fit for cultivation. He is also trying to destroy the sluices. The third defendant is not a Puttahdar according to the revenue accounts, and has no right to the tank in dispute. The Collector has clearly stated in his endorsement that the tank should be preserved for storing up water. Several orders have also been received both from the Collector and Sub-Collector, stating that the tank should be applied solely for irrigation purposes. Such Neerpidippoo lands are not subject to the Darkhast Rules. No notice was given by the Deputy-Collector to the plaintiffs, desiring them to show what rights they had to the tank, and what objections they had to the granting of the land on Darkhast. The objections raised by the ryots were over-ruled by the Deputy-Collector. Even if it be supposed, for the sake of argument, that the revenue authorities can grant the land in question for cultivation, the rights of the plaintiffs are superior to any other right. In such a case, the plaintiffs would reserve for their use the tank, and pay the assessment to the Circar. If the tank is given over to the third defendant, the lands abovementioned will be deprived of the supply which they have hitherto drawn. The supply would be proved absolutely insufficient. The measures besides will deprive the plaintiffs of their rights. Under these circumstances, the plaintiffs pray for a decision cancelling the adamanum (making over) to the third defendant of the said tank, valued at Rupees 2,380-2-8, establishing the plaintiffs' land to the tank in dispute, and prohibiting the third defendant to destroy the said tank or to enter upon it.

(Affirmation.)

(True Translation.)

(Signed) C. W. READE,
Collector.

Enclosure No. 2.

Draft Answer to Plaint in Original Suit No 16 *of* 1870.

In the matter of this Suit, the plaintiffs have no real grounds of action against this defendant, nor can they make good their claims to the tank-bed lands or to its water, the right to which they now seek to establish. The facts connected with the relinquishment of the Sitt Ary tank as an irrigation reservoir, and the subsequent distribution of the tank-bed lands objected to by the present plaintiffs are all fully detailed in the document accompanying, and which is an authenticated printed copy of a report made to the Board of Revenue by this defendant in regard to this very tank. The Government right to utilize the tank, which is a Government irrigation work, in such way as may be most conducive to the public interests, while, in reality, violating no prescriptive rights or interests of others is undoubted, and it rests with the plaintiffs to disprove the facts as detailed in the said document relating to this tank, and to show that they have, as stated, been injuriously affected. This defendant is prepared to prove that such assertion is purely chimerical, and neither at the time when the Sitt Ary was given up as an auxiliary source of water-supply, nor since have any complaints or objections been taken; and this defendant puts the plaintiffs to the proof that they have sustained any loss whatever from the closing of the tank; he therefore prays that this Suit being causeless and vexatious may, as regards himself, be dismissed with all costs.

2. The second defendant having acted under the orders of the first a separate answer is unnecessary, and it is requested that this answer may be accepted for both.

Cuddalore, (Signed) C. W. READE,
3rd December 1870. *Collector.*

Submitted for the orders of Government, the amount at issue being Rupees 2,380.

2. The subject of the dispute is a portion of the bed of a small tank. In 1868, it was decided that the whole tank was useless, and should be abandoned

The requisite arrangements had previously been made for irrigating all the lands dependent on it from another tank.

3. The Deputy-Collector, who carried out the order, did nothing with respect to a swampy portion of it, but gave the rest to ryots. In Board's Proceedings, 22nd January 1870, No. 447, copy of which is submitted herewith, the Board authorized the grant of the swampy portion to Appavoo Naick, the third defendant in the present Suit. The plaintiffs complain of this order.

4. The Board recommend that the Suit be defended by Government on the usual terms, and that the following draft answer be filed:—

The first defendant submits—

1*st*.—That the tank referred to in the plaint was constructed without the permission of Government, and was not kept in an efficient condition by the plaintiffs or any one else.

2*nd*.—That plaintiffs have suffered no injury by the cultivation of the "Neerpidippoo" land, regarding which they complain, nor by its ceasing to store water.

3*rd*.—That the late Deputy-Collector Sooriamoorthi Pillay, when he gave a portion of the tank-bed to cultivators, was acting under orders to allow the whole of it to be cultivated.

4*th*.—That the tank and tank-bed belong to Government; that they had a right to give the land in dispute to third defendant; and that plaintiffs have no valid claim to it.

5*th*.—That the second defendant acted under the orders of the first, and is not responsible.

The first defendant accordingly prays that the Suit may be dismissed with costs.

No. 283. Order thereon, 14th December 1870, No. 2,025.

Miscellaneous.

The defence of the Suit on the usual terms is sanctioned.

2. It is observed that the date for filing the answer is not stated by the Collector.

(True Extract.)

(Signed W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

No. 447.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 22nd January 1870.

Read the following letter from C. W. READE, Esq., Collector of South Arcot, to the Acting Secretary to the Board of Revenue, dated Cuddalore, 9th November 1869, No. 269:—

I AM in receipt of the Board's Proceedings, No. 3,021, of the 5th May last, in which I am requested to furnish information on certain points connected with the Chittairy tank, the bed of which it was proposed by me to assign for cultivation, being no longer required as a reservoir for irrigation purposes. I will answer the questions put *seriatim*.

Question 1.—Why the small tank was abandoned; whether the land hitherto irrigated from it is now irrigated from the large tank of the village, and what was the cost of the work which has superseded the small tank?

Answer 1.—The tank was abandoned because no longer needed for agricultural purposes. The lands hitherto irrigated by it are now irrigated by the larger tank. The cost of the work (a large sluice) in the big tank, which has superseded the small tank, was Rupees 250.

The abandonment of the tank and the construction of the sluice were agreed to between the Revenue authorities and the Department Public Works. The then Range Officer, Mr. O'Shaughnessy, in a letter of the 11th June 1863, writes—

"The tank has not been kept in an efficient condition, and as it was constructed without "authority the people have never, to my knowledge, applied to the Department Public Works to "get anything done to it. The whole or greater part of the land, said to be irrigated by the tank "at present, can be supplied with water from the large tank by the construction of an additional "sluice, and some of the water from the spring channel may be taken for the same purpose as "at present, and the surplus taken to irrigate the bed of the tank or other lands in the neighbourhood."

Question 2.—What the rates of assessment on the lands in question are, and by whom the latter were surveyed and divided into fields?

Answer 2.—The area of land, wet and dry, in the bed of the Chittairy is, on measurement, found to be Cawnies 66-7-0, assessed at Rupees 401-2-11. According to the Survey Register it was Cawnies 82-3-2, including the tank bund, and assessed at Rupees 514-12-2. These, with other particulars sought in this question, will be found in the accompanying Statement marked A. The lands were surveyed in Fusly 1217 according to report.

Question 3.—Whether the objections urged by the Collector in respect to the sale of land under similar circumstances, recommended by Mr. Hathaway for sale, apply to these lands also; and if not, why not?

Answer 3.—The circumstances of this and the case referred to in the question (*vide* Board's Proceedings, dated 27th April 1869, No. 2,855,) are not strictly analogous. In the latter the land proposed to be sold was regularly assessed waste land; in the present case the land for appropriation is reclaimed land, rendered available for cultivation by the abandonment of a tank no longer required for irrigation purposes, and since Government have, at their own cost, provided other ample means for the cultivation of the ayacut under it the tank bed lands become legitimately available for any use to which Government may think proper to turn them, and I am not of opinion that the same rules which ordinarily govern the distribution or assignment of the recognised waste land of a village have equal applicability to land circumstanced as that under notice, so that my objections urged against the recommendation by Mr. Hathaway, for the sale of the regular waste

lands to be benefited by the Keenanoor anicut, have not the same force or application in a case like the present. While, therefore, fully upholding the principle advocated by me in the former instance as a rule I am prepared to maintain that the present lands admit of exceptional treatment, and that such treatment will be no violation of the principle, the maintenance of which is held to be of fundamental importance in the interests of the agricultural classes of this country.

Question 4.—Whether the persons, among whom about 30 cawnies are said to have been distributed, consent to their resumption, and under what circumstances the distribution was made?

Answer 4.—Portions, or nearly 30 cawnies of the tank bed lands, have been assigned to 11 individuals, but the assignment in reality was only conditional, and agreeably to the standing rules; the consent of the assignees to resumption is not material. Rule 11 of the District rules provides that, "If no appeal be made previously to the Jummahbundy, and if no other objection occurs to the officer making the settlement, the applicant shall be confirmed in possession. Now, objections arose simultaneously with the possession given to the said 11 persons, and have ever since been under consideration by the authorities, so that the question of assignment is quite open to any order on the subject either confirmatory of possession or in cancellation. The precise amount of land assigned, as will be seen by the Statement A., was Cawnies 29-8-2, of which only Cawnies 18-8-1 was brought under cultivation in the past Fusly of 1278, assessed at Rupees 104-2-7; the remaining, Cawnies 11-10-1 in extent, still lie waste, and have not been taken up or paid for. The distribution of the 29 and odd cawnies as above was made by the late Deputy Collector, Sooriamoorthy Pillay, on his consideration of the relative claims of the applicants, and having regard to dates of durkhast and to adjoining field right agreeably to the Durkhast rules in force.

2. The Board finally ask me to report fully on the various claims referred to in paragraph 3 of my former letter, recorded in the Proceedings under acknowledgment, and as well on the appeals which are stated to be now before me. This requisition entails on me considerable labour, but I will endeavour as briefly as I can to meet the Board's wishes, and perhaps it will render the whole matter more intelligible and clear if I give a short resumé of the history of this tank, and of all that has passed in connection with its appropriation up to the date of my previous letter to the Board, and in this way the consecutive steps which have been taken up to the present stage of the question will be readily traced.

3. History.—In the village of Trevanellur, of the Trikalore Talook, there were two tanks, one large the other small, the latter being known by the name of "Chittairy." Since the construction and extension of the Ragavien channel, a main irrigation feeder from the Pooncaur anicut, the supply of water to the Trevanellur village has been abundant and certain, and the large tank was found to be amply sufficient for all cultivation wants of the ryots, and the retention of the "Chittairy" was pronounced to be no longer necessary. So far back as nineteen years ago the ryots sought to resume the land forming the water-spread of this tank for cultivation, and many efforts were made with this object, but from some cause unexplained the then Revenue authorities never came to any decision on the matter, although the propriety of giving up the tank was mooted and examined, and applications for the water-spread lands were duly invited; yet from time to time final orders were postponed until the tank had been personally inspected. Thus from 1855-56 applications for these tank bed lands received from various parties have remained undisposed of. In 1865 the question was revived, and a reference was made to me by the then Deputy Collector, soliciting my definite orders, when I at once took up the matter, and after consultation with the Public Works Department I finally resolved that the "Chittairy" might be given up, and directed that the lands forming the water-spread be assigned for cultivation: but as it appeared that an ayacut of 16 cawnies of nunjah land under the tank were held on puttah by certain ryots it was made a condition that a sluice in the large tank should first be constructed to provide the requisite supply of water in lieu of that furnished theretofore from the "Chittairy." The sluice in the large tank was accordingly constructed at the public cost under my orders, and the bed of the small tank was declared available for cultivation. The local correspondence on the subject extends from April to June 1865, of the dates noted marginally. After this decision the Deputy Collector, Mr. Wright, recommended that the entire lands of the "Chittairy" tank bed should be given to one Pathoo Naick, the father of present appellant No. 3, on the ground of his respectability, and because he had for long applied for the said lands: to this I informed Mr. Wright that it was open to him to assign the lands to Pathoo Naick or to any one else consistent with the claims of the several persons who, it appeared, had all along been applying for them, subject of course to an appeal to me. After that nothing was done and only in 1867 when I took charge of the talook, and was holding the Jummahbundy, I found the matter still lying over and innumerable petitions were presented to me, praying for some definite assignment of the lands. Shortly after the new Deputy Collector, Sooriamoorthy Pillay, joined and he was instructed by me to give his immediate attention to the disposal of the long-standing applications on their merits, and it is that officer's decision against which the present appeals now lie.

To Deputy Collector, General duties, 10th April 1865, No. 378.
From do. 2nd May 1865, No. 27.
To do. 6th do., No. 435.
To do. 15th do., No. 461.
From do. 3rd June 1865, No. 40.
To do. 7th do., No. 535.
From do., 30th do., No. 60.

4. The number of durkhasts for disposal amounted to 12, and the various claims of these applicants were for consideration, and the next stage in the case is their disposal.

5. The capacity of the tank, exclusive of the area taken up for the bund, was estimated at about 71 cawnies, of which 11 had already been under cultivation some years before and were held on puttah, leaving only about 60 cawnies for distribution, but of these 60 cawnies 30 were declared uncultivable, owing to the low marshy situation of the ground and to the permanent collection of water which rendered the ground unfit for the plough, and thus 29½ cawnies only were assigned by the Deputy Collector to different ryots. The original 12 applicants appeared and pressed their claims; their names and dates of their respective durkhasts will be found in the margin. The first seven were the first to apply, followed by the rest at intervals of only one and two days.

1. Venkatramiah and Iyasawmy Pillay, 1st February 1856.
2. Somasoondra Pillay, ,,
3. Pathoo Naick, ,,
4. Seenevassa Pillay, ,,
5. Cassim Saib, ,,
6. Narasa Coundan, ,,
7. Maree Poosalee, ,,
8. Mootoo Venkatapathy Reddy, 2nd February 1856.
9. Seenevassa Odian, ,,
10. Devanada Moodelly, ,,
11. Pavaday Coundan, ,,
12. Mootoosawmy Naik, 4th February 1856.

6. An analysis of the claims of these several applicants shows the following results:—One of the joint applicants in No. 1, Venkatramiah, and the applicant No. 11, have no puttah holding whatever in the village. The other joint applicant in No. 1, Iyasawmy Pillay, and the 2nd and 5th applicants, had previously cultivated a portion of the tank bed lands to the extent entered in the margin, and they held puttahs for the same prior to the present durkhasts; and the accounts show that two and odd cawnies adjoining these plots were assigned as the Taliary maniem. It also appeared that applicants 1, 2, 4, and 12 had cultivated, without permission, a certain extent of the tank bed lands before, and up to Fusly 1272, and had paid teerwah to Government, though without any puttah, but in that year, owing to the very stringent orders issued by me, prohibiting generally such cultivation, the lands were relinquished. The remaining applicants had no special title beyond being resident ryots and holding puttahs in the village, and the Curnum gave his opinion in preference to the claim of Nos. 1, 2, 4, 5, and 12 on the grounds above noticed. The Deputy Collector being in doubt how to make a satisfactory distribution proposed to the 12 applicants to divide the tank lands proportionally amongst them, and they all agreed to this arrangement except Appavoo Naick, (son of the 3rd applicant, since dead,) who wished for a grant of the entire water-spread lands as originally applied for by his father, on the ground that he was the first who had moved in the matter, and that it was to his exertions the order for the assignment of the

	C.	A.	P.
1. Iyasawmy Pillay...	2	11	4
2. Somasoondra Pillay	1	12	0
5. Cassim Saib	5	0	2

lands had been ultimately obtained; but Sooriamoorthy Pillay seems to have over-ruled or over looked this applicant's special claims, and he passed the order, which is subjoined—

"I have perused the papers in this case. Some have field right and adjoining field claim and "some are Durkhastdars of the same date. Their durkhasts belong to a time when the new "rules now under operation were not promulgated. In Mr. McDonell's order of 1857 he "expressed his views to apportion the land amongst the several applicants. I therefore act on "that principle and direct the lands to be divided according to proportion among the different "applicants. Out of 60 and odd cawnies 30 cawnies are unfit for cultivation and the other 30 "are, therefore, ordered to be divided."

7. From the above decision three appeals were preferred to me by applicants 2, 3, and 4, by name respectively Somasoondra Pillay, Appavoo Naick, and Seenevassa Pillay; also subsequently others objected to the Deputy Collector's decision. The proportion of the tank land assigned to each of these three under the Deputy Collector's decision was as noted in the margin.

	Cawnies.	Assessment.
		Rs. A. P.
1. Somasoondra Pillay	2 0 0	11 4 0
2. Appavoo Naick	0 8 0	2 12 0
3. Seenevassa Pillay.		

8. The claims of the 1st and 3rd appellants have been already noticed, and as they were among those who agreed to the proposal of the Deputy Collector for adamanum of the lands according to their proportionate holdings, I am of opinion they have quite put themselves out of Court, and the only individual entitled to a hearing in the appeal, and whose case is deserving of consideration, is Appavoo Naick, and I give his objections to the decision of the Deputy Collector somewhat in extenso, as I think myself his claim is clearly preferential to that of any one else, and it would seem to have been the original intention of Mr. McDonell, and subsequently of Mr. Wright, the Deputy Collector, as already noticed, to give the entire water-spread lands of the "Chittairy" to Pathoo Naick, the present appellant's father. Appavoo Naick urges that the Durkhast rules do not provide for any division of lands among several applicants, and that their provisions should alone guide the assignment in this case as in others: 2ndly, that before the present rules no such practise of division of lands obtained when there was more than one applicant, but the custom was where several applied on the same date to draw lots; 3rdly, that some of the applicants, to whom the tank bed lands have been given, possess no holding at all in the village, and that to include them in the division is at variance with the Durkhast rules; 4thly, that his father, Pathoo Naick, applied for the entire lands in 1855, a year before any of the present durkhasts were presented, and that ever since, up to the period of his death, he was seeking possession of the lands; 5thly, that he was the only man who really actively moved in the matter, and it was he who contracted for the work of the sluice in the large tank to admit of the lands of the "Chittairy" being made available for cultivation, and that to this day he has only been paid in part for his contract; 6thly, that although his holding in the Trevanellur village is small, yet that he has a puttah to the extent of Rupees 400 in the neighbouring village which far exceeds the assessment paid by any of the other ryots; 7thly, that, as in the case of Messrs. Keess and Pedrozo in the Cuddalore Talook, a preference may reasonably be given to him over others, considering he was the first applicant and that his father had for years past cherished the hope of owning these lands; and, lastly, he contends that it is a mistake to decide that 30 cawnies of the water-spread extent are not cultivable that he is prepared to make them so, and accordingly he prays that the whole 60 cawnies may be assigned to him in cancelment of the Deputy Collector's orders and in preference to all others.

9. A reference to the records in my office support the assertion that Pathoo Naick (present applicant's father) applied for these lands in 1855, long antecedent to any of the present durkhasts. They were not then given because the question of the abandonment of the tank was not then decided upon, but Mr. McDonell expressed himself favourably to Pathoo Naick's request, although subsequently in 1857 the same officer directed that assignment should be made at discretion proportionately amongst all the applicants, but nothing was done. In 1865 the Deputy Collector, as already stated, recommended that the lands entire be given to Pathoo Naick, when Mr. Wright was authorised by me to assign them in any manner he thought best compatible with the claims of other applicants, and from that date no further action was taken in the matter, until the talook fell under my charge for a brief space in 1867, when the disposal of the lands was brought to a final settlement. It is also true that Pathoo Naick constructed the sluice and was the prime mover in that work, and that he has ever since sought possession of these tank bed lands until his decease, and on these grounds his son, Appavoo Naick, has throughout objected to any arrangement which deprived him of realising the long fostered hopes and anticipations of his father. Had the original disposal of the lands rested with myself it is probable that I should have recognized Pathoo Naick's preferential title and have assigned all the available tank bed lands to him, but under the present decision arrived at by the late Deputy Collector it is difficult to over-rule certain undoubted local claims possessed by others to a portion of the said lands, and as the special features of the case appeared to me to allow of the arrangement I at once seconded the proposal of the Deputy Collector, Sree Baliah, to put the entire lands up to public competition, as recommended in my letter of the 5th March last, No. 58, as the most ready means of solving the difficulty; the bidders of course to be restricted to resident ryots and existing puttah holders within the village, and I still submit that the case is one where this course would be perfectly legitimate, although ordinarily objectionable.

10. If the Board disapprove of this renewed proposal, and are likewise indisposed to interfere with the adamanum made by the Deputy Collector, and leave the appeals for my decision in the ordinary course, I would then suggest that the remaining 30 cawnies, still unassigned as uncultivable, but which Appavoo Naick declares his willingness to take up, should at once be made over to him on the same terms and rates of assessment as the rest, but with the condition that he may hold the land for two years free of any teerwah, to enable him to carry out certain measures that will be requisite for the proper drainage and preparation of the land for rice cultivation.

11. I have given as succint a history of the whole case as far as I have been able, and I hope intelligibly enough, to admit of the issue of final orders by the Board.

ENCLOSURE No. 1.—Statement.

IN a letter, dated 5th March 1869, the Collector of South Arcot submitted a proposal from his Deputy* to sell by auction 60 cawnies of land forming the bed of a certain tank which had been abandoned as a reservoir for water.

* Sree Baliah.

2. The tank, it appears, had been given up for some years and numerous applications for the land forming its bed had been received, but the matter had remained undisposed of up to 1868, when the late Deputy Collector† apportioned 29 and odd cawnies to different persons, and retained the remaining 30 cawnies as unfit for cultivation. This distribution did not afford satisfaction and was appealed against to the Collector. From this appeal the proposal to sell the land by auction arose.

† Sooriamoorthy Pillay.

3. Before disposing of the Collector's propositions the Board called for further information on certain points, and this is now submitted by the Collector.

4. After replying to the four queries put by the Board the Collector gives a detailed history of the case from the commencement. He shows that when the late Acting Deputy Collector proceeded to dispose of the lands there were 12 applicants and that, finding a difficulty in settling all the conflicting claims, the Deputy Collector proposed to the 12 applicants to divide the cultivable parts of the land amongst them in proportion to their holdings in the village, 11 out of 12 consented to this arrangement, which was accordingly carried out; one man only, Appavoo Naick, objecting and claiming the entire tract.

5. Against this order there were three appellants. Two of them, however, having previously agreed to the Deputy Collector's proposition were not entitled, in the Collector's opinion, to any consideration.

6. The third, Appavoo Naick, claimed the whole tract on the ground that his father, Pathoo Naick, was the first applicant so far back as 1855, and that it was through his instrumentality that the tank was abandoned, and that the land became available for cultivation. The Collector is still of opinion that the land should be sold as the best way of settling the dispute; he considers that the portions of the land made over to the applicants in 1868 may fairly be resumed, as the grant was in a manner conditional, objections having been lodged against it from the first, and as no puttahs had been issued. But, failing the approval of the Board to the sale, he recommends that the distribution of 29 and odd cawnies made by the Deputy Collector should be confirmed, and that the remaining 30 cawnies, which, although swampy are capable of being reclaimed, should be given on cowle* to Appavoo Naick, whose claims to the whole tract he considers very strong.

* Two first years rent free.

7. It does not appear to the Board that it would be either just or politic to sell land which has been once placed in possession of ryots of the village.

8. They could only be displaced with any fairness in favour of others possessing a clearly superior claim to the land. The Board do not think that it has been shown that the claim of Appavoo Naick is so strong as to justify a measure of this kind. The Board consider that the question will be properly disposed of in the manner suggested by the Collector in paragraph 10 of his letter, viz., by confirming the Deputy Collector's distribution, and by assigning the rest to Appavoo Naick; a cowle being granted for such portion of it as will require any considerable outlay of money to fit it for cultivation.

(A true Copy and Extract.)

(Signed) A. MACGREGOR,
Acting Secretary.

To the Collector of South Arcot.

Exd. J. Tulloch.

Land forming part of Chittamy tank—in South Arcot District, which has been abandoned as a reservoir for water—Collector authorized to confirm Deputy Collector's distribution of portion of, among certain ryots for cultivation, and to assign remainder to one Appavoo Naick.

On reference to the Order in Council B. of Rev. dated 10 Dec. 1870.

Board of Revenue, MADRAS.

PROCEEDINGS, 22ND JANUARY 1870, No. 447.

Encl.

Received

Read

JANUARY.

No. 447.

Perusal. 1870 Jan 14 No 3842.

Proceedings of the Board of Revenue

Date 10th December 1870
Sept 10 " "
Received 12 "
Encl 4

No 2025

The defence of the suit on the annexed terms is sanctioned

It is observed that the Collector has failed to furnish the information called for in Board's Proceedings of 14th December 1870

MS Copy Folio Register Deaft 485 Dated 17