

1001

10

*Proceedings of the Madras Government, Revenue Department,
15th September 1871.*

No. 187. Read the following Proceedings of the Board of Revenue, dated 29th August 1871, No. 3,724 :—

Read the following letter from the Collector of Tinnevely, to the Acting Secretary to the Board of Revenue, dated Sivagherri, 11th August 1871, No. 343.

I HAVE the honour to forward, for approval, an answer proposed to be filed in a suit, No. 8 of 1871, in the Civil Court of this district in a case fully explained in my letter included in Board's Proceedings No. 1,244, dated 22nd March 1871. The date of hearing is fixed for 4th November 1871.

ENCLOSURE No. 1.

Answer to a Plaint filed in the Civil Court of Tinnevely in Original Suit No. 8 of 1871.

<i>Plaintiffs</i>	<i>versus</i>	<i>Defendants.</i>
Naranier, son of Sankaraer, of Alwarkurichi, in Ambasamudram Talook, and 85 others.		R. K. Puckle, Esq., Collector of Tinnevely.
A. Gopalaiengar—by Vakeel.		Sankaranarayanan, son of Subbien, of Ambur, in Ambasamudram Talook, and 19 others.

Allegations of the Plaintiff.

Answer.

THIS is a suit for a declaratory decree establishing plaintiffs' claim to close the breaches in the southern channel in the Alwarkurichi village, and for the cancelment of the 1st defendant's order on the subject.

1. An anicut, named "Chettikulam," taken off the Gatana river, exists from time immemorial for the irrigation of the wet lands in the above village, and is marked A. in the accompanying plan.

2. The water which flows from the anicut to the plaintiffs' tank through the southern channel, marked B. in the plan, irrigates about 400 cottahs of land under the channel and 150 cottahs under the tank.

3. Except in extraordinary rainy seasons the water does not freely irrigate the lands in question.

4. The southern channel bund to the east of the anicut above referred to was breached in 1854, 1861, 1864, and 1868. In the first two years the breaches were small, but in the other two they were large. These breaches were now and then closed under estimates framed by the Department of Public Works at Government cost and also at plaintiffs' own expense.

5. The two breaches of 1868, marked A. and B. in the plan, and which the plaintiffs closed, were claimed by defendants 2 to 92 (the cultivators below) as "Thambogies" irrigating the lands, of their village, and they complained to the Revenue authorities as if they were closed

The plaintiffs endeavoured to divert the entire flow of the Gatana river to their lands, thereby cultivating 625 acres of double crop in excess of the ayacut to the injury of Ambur, just below. Two vents in the rocks near the anicut, by which vents Ambur draws part of its water supply, were partially closed by the plaintiffs, and, on a personal inspection of the spot and a perusal of the voluminous records produced, the Collector decided that one at least of these vents must be kept open; and for its better regulation he ordered it to be faced at the sides with masonry to avoid erosion of the bank, keeping the natural rock as the flooring. This arrangement considerably contracted the waterway even of one of these vents, or breaches, or Thambogies, or calingulahs, as they have been variously styled, and was so far advantageous to plaintiffs, and this arrangement was nearly identical with the proposition of the Public Works Officer, who had previously inspected the spot and prepared a plan.

The other vent nearer the anicut was ordered to be closed as its continuous open was not absolutely necessary for the Ambur cultivation. These arrangements were reported to the Board and approved.

The 1st defendant is, however, prepared to

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15th September 1871.*

by plaintiffs. But the late Sub-Collector, Mr. Pennington, decided that they were not Tambogies but breaches, and directed plaintiffs to close the same.

carry out the decree of the Court, and prays that this suit as against him may be dismissed with costs.

(Signed) B. K. PUCKLE,
Collector.

6. From this decision defendants appealed to the late Acting Collector, who reversed the original decision and referred the parties to a civil suit (13th February 1870).

7. Against this appeal-decision some of the plaintiffs petitioned the Board, who referred it to the Collector, and the latter officer passed orders to the Ambasamudram Tahsildar, under date the 12th January 1871, to open one of the breaches for the use of defendants, and observing that the question of opening the other sluice has been reserved for subsequent consideration. This order was accordingly executed by the Tahsildar.

8. On plaintiffs' appeal to the Board from this decision they declined to interfere with the Collector's order.

9. The Collector's order is prejudicial to the interests of the plaintiffs, and is likely to create an annual loss of 11,000 Rs. to them.

10. The breaches in dispute are not Tambogies, and the defendants have no right to take water through them, nor have they ever used such right; they have got a distinct source of irrigation.

11. The plaintiffs, and they alone, have for a long time been hereditarily in the enjoyment of the use of water flowing down the southern channel without any interruption on the part of Government or other neighbouring villages, and they therefore pray for a decree allowing the plaintiffs to close the breaches, declaring their right thereto, and cancelling 1st defendant's order.

SUBMITTED for the orders of Government with the Board's recommendation that the defence of the suit be sanctioned and the draft answer approved.

2. The suit is for a declaratory decree to set aside an order of the Collector regulating the supply of water to two villages, and to establish plaintiffs' right to close certain openings in their supply-channel, one of which the Collector decided should be left open. There can be no doubt the Collector acted to the best of his ability in the interests of both parties.

3. Plaintiffs estimate their damages at Rs. 11,000 per annum.

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No. 188. ORDER THEREON, 15th September 1871, No. 1,601.

Miscellaneous.

THE defence of the suit in the first instance is sanctioned on the usual terms. The Collector is authorized to file the proposed answer.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

557

TO

THE BOARD OF REVENUE.

Dated September 15th.

Wood.

Eno's

G. O., 15th September 1871, No. 1,601

SEPTEMBER.
Nos. 187-188.

Suit No. 8 of 1871, in Tinorelly Civil Court regarding water dispute between villagers of Annhoor and Alwarbanchi.—Defence of —. sentenced.

11th Dec. 1890

15/2/20

1874-1875

The nature of the suit in the first
 instance is such that no amount
 seems: No suit is authorized: It is
 beyond amount. ✓

Board of Directors,
MADRAS.

Per 1871. Dec

PROCEEDINGS, 29TH AUGUST 1871, NO. 3,724.

Encl
17/10/99

Index

Received. J. K. L.

AUGUST.

No. 3,724

No 1601-15⁵³⁹ December 1871

Suit No 8 of 1871—filed in Tinnaveelly Civil Court regarding water dispute between villagers of Amboor and Alwarkurichi,—Recommendation to Government that defence of, be sanctioned, and answer proposed by Collector, approved.

With only