

(1) Number of pages 16
(2) Date of repair 20-9-47
(3) Initials of the Referencee

MADRAS RECORD OFFICE.

Government of Madras.

REVENUE DEPARTMENT.

G.O. No. <u>53</u>	Press <u></u> Mis. <u></u>
Dated <u>9. 1.</u>	<u>1871</u>

Not to be folded or roughly handled

13

*Proceedings of the Madras Government, Revenue Department,
9th January 1871.*

No. 107. Read the following Proceedings of the Board of Revenue, dated 10th December 1870, No. 7,064:—

Read the following letter from the Government Pleader, to the Acting Secretary to the Board of Revenue, dated Madras, 8th December 1870, No. 154.

WITH reference to the Proceedings of the Board of Revenue noted in the margin, I have the honour to forward Dated 2nd December 1870, No. 6,927A. Draft Grounds of Appeal to the High Court from the Decree of the Civil Court of Chittoor in Original Suit No. 26 of 1868.

2. It is stated in the order of Government, embodied in the above Proceedings, that the time for appealing does not expire until the 21st instant. In the Government Order, 30th Nov. 1870, No. 1,886. absence of a copy of the decree I am unable to verify this statement, but I beg to direct the Board's attention to the fact that the only time allowed, in addition to the ninety days from the date of the decree (29th August 1870), is the time between the date of the application for a copy and that on which the same was furnished. The former of these date does not appear in the papers before me, but will be mentioned on the back of the copy of the decree.

3. The Memorandum of Appeal on the proper stamp must be filed, with a copy of the decree, within the time calculated as above. I should, therefore, be furnished with the Board's instructions, and a copy on stamped paper of the decree, at least a day before the expiration of the time so calculated.

4. With regard to the general question of the rights and powers of Government over irrigation works in ryotwary villages I have nothing now to add to the opinion expressed in my letter of 21st March 1870, referred to in paragraph 10 of the above Proceedings. Judgment has not yet been given in the Trichinopoly case referred to in that letter, in which the question was raised. The case having been tried before the Chief Justice cannot be decided until his return, unless it is re-argued before another Judge.

ENCLOSURE No. 1.

Draft Grounds of Appeal to the High Court from the Decree of the Civil Court of Chittoor in Original Suit No. 26 of 1868.

THE decree is contrary to law and the weight of evidence.

2. The villages of Avalur and Sithanthi in the plaint named are Government villages, and the Avalur tank is the property of Government, who have, therefore, the full right to regulate the supply of water to the said tank and the distribution of water therefrom in such manner as they may think best for the interests of Government and of the inhabitants of the Government villages, and for that purpose from time to time to make such alterations in the said tank and the channels and works connected therewith as they think fit.

3. The inhabitants of the plaintiffs' village, and those of the village of Sithanthi, being in law mere tenants at will of Government, the former could not acquire any easement against the latter or against Government.

4. If the plaintiffs had acquired any easement, they have lost the same by acquiescing in and enjoying the benefit of the alterations in the said tank and the works connected therewith, by which the burthen upon the servient tenement was increased.

5. The plaintiffs have shown no such substantial injury or prospect of injury as to call for the interference of the Court in the manner prayed for.

*Proceedings of the Madras Government, Revenue Department,
9th January 1871.*

THE Board approve of the Draft Grounds of Appeal, with the exception of paragraph 3 and perhaps paragraph 4. Ryots are not tenants at will, for they cannot be ousted so long as they pay the Government demand on their holdings. The other paragraphs seem to raise the question at issue with sufficient distinctness.

2. It appears that fifteen days elapsed between the application for the copy and its delivery, so that the appeal time expires on the 12th instant. — Stamped copies of the judgment and decree will be forwarded to the Government Pleader with these Proceedings.

No. 108.

ORDER THEREON, 9th January 1871, No. 53.

Miscellaneous.

THE Government concur in opinion with the Board that under no circumstances can ryots be rightly described as "tenants at will."

2. Ryots are occupiers possessing positive rights established by custom and by law, and subject only to the payment of the established dues of the State.

3. If possible it should be insisted on strongly in arguing the appeal that equitable compensation is to be granted for all real injuries caused by the acts of the Government in such cases. In the present instance, it is contended that no such injury has been sustained by the plaintiffs.

(True Extract.)

(Signed)

W. HUDLESTON,

Secretary to Government.

To the Board of Revenue.

Ed. F. R. Bantleman.

No. 7,064:

PROCEEDINGS OF THE BOARD OF REVENUE, dated 10th December 1870.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to the Acting Secretary to the Board of Revenue, dated Madras, 8th December 1870, No. 151:—

WITH reference to the Proceedings of the Board of Revenue noted in the margin, I have the honour to forward Draft Grounds of Appeal to the High Court from the decree of the Civil Court of Chittoor in Original Suit No. 26 of 1868.

2. It is stated in the order of Government, embodied in the above Proceedings, that the time for appealing does not expire until the 21st instant. In the absence of a copy of the decree I am unable to verify this statement, but I beg to direct the Board's attention to the fact that the only time allowed, in addition to the ninety days from the date of the decree, (29th August 1870,) is the time between the date of the application for a copy and that on which the same was furnished. The former of these dates does not appear in the papers before me, but will be mentioned on the back of the copy of the decree.

3. The Memorandum of Appeal on the proper stamp must be filed, with a copy of the decree, within the time calculated as above. I should, therefore, be furnished with the Board's instructions, and a copy on stamped paper of the decree, at least a day before the expiration of the time so calculated.

4. With regard to the general question of the rights and powers of Government over irrigation works in ryotwary villages I have nothing now to add to the opinion expressed in my letter of 21st March 1870, referred to in paragraph 10 of the above Proceedings. Judgment has not yet been given in the Trichinopoly case referred to in that letter, in which the question was raised. The case having been tried before the Chief Justice cannot be decided until his return, unless it is re-argued before another Judge.

ENCLOSURE No. 1.

Draft Grounds of Appeal to the High Court from the Decree of the Civil Court of Chittoor in Original Suit No. 26 of 1868.

THE decree is contrary to law and the weight of evidence.

2. The villages of Avalur and Sithanthi in the plaint named are Government villages, and the Avalur tank is the property of Government, who have, therefore, the full right to regulate the supply of water to the said tank and the distribution of water therefrom in such manner as they may think best for the interests of Government and of the inhabitants of the Government villages, and for that purpose from time to time to make such alterations in the said tank and the channels and works connected therewith as they think fit.

3. The inhabitants of the plaintiffs' village, and those of the village of Sithanthi, being in law mere tenants at will of Government the former could not acquire any easement against the latter or against Government.

4. If the plaintiffs had acquired any easement they have lost the same by acquiescing in and enjoying the benefit of the alterations in the said tank and the works connected therewith, by which the burthen upon the servient tenement was increased.

5. The plaintiffs have shown no such substantial injury or prospect of injury as to call for the interference of the Court in the manner prayed for.

THE Board approve of the Draft Grounds of Appeal, with the exception of paragraph 3 and perhaps paragraph 4. Ryots are not tenants at will, for they cannot be ousted so long as they pay the Government demand on their holdings. The other paragraphs seem to raise the question at issue with sufficient distinctness.

REVENUE.

THE BOARD OF REVENUE.

Dated January 9th.

Recd.

Encl.

G. O., 9th January 1871, No. 53.

JANUARY.
Nos. 107-108.

Suit No. 26 of 1868, regarding certain irrigation works in North Arcot.—Proceedings Board of Revenue on the subject of appealing against the decision to the High Court, with orders thereon.

2. It appears that fifteen days elapsed between the application for the copy and its delivery, so that the appeal time expires on the 12th instant. Stamped copies of the judgment and decree will be forwarded to the Government Pleader with these Proceedings.

(True Copies and Extract.)

Acting Secretary.

To the Government Pleader, with stamped copies of Judgment and Decree.

Copy to the Collector of North Arcot, with Draft Appeal.

to the Secretary to Government, Revenue Department.

Exd. J. Tulloch.

at 5 p.m. 1871

10/10

10 Dec 70 - 4.4 p.m.

Appeal - to High Court from decree of Civil Court of Chittoor in North Arcot District in Suit, No. 26 of 1868, regarding certain Irrigation Works. - Draft grounds of, prepared by Government Pleader, approved, with exception of certain portions of it. - Stamped copies of Judgment and Decree in Suit, forwarded to that officer.

DECEMBER.
No. 7,064.

Dec 53-9 1871

Received

22

Dec 21 Dec 70

Encl.

PROCEEDINGS, 10TH DECEMBER 1870, No. 7,064.

MADRAS.

Board of Revenue,

Dec 1870. No. 3995.

1871

Chen



R.D.

53 H. 53.

Procs. of the Madras Govt.

Under date the 9th Dec/71.

Read the following
Pro of the Bd of Rev.

Approving, with certain exceptions, Draft grounds of appeal to High Court from Decree of Civil Court of Chittoor in North Arcot District in Suit No. 26 of 1868, regarding certain Irrigation Works.

I would not use the words "in full proprietary right" - I would say "occupation preserving certain rights established by custom and by law"

J.P.S. A.J.

But para 1 of the answer needs the addition. That the title can be taken is to be printed for all real inquiries caused by the acts of the Bd. A.A.

The Govt. concern in opinion with the Bd that under no circumstances can Ryots be rightly described as "tenants at will" -

2. Ryots are, seen as full proprietors, subject only to the payment of the established dues

The State
dues of ~~Georgia~~

J. B. Gossith

It should be strongly insisted
in arguing the appeal
that equitable compensation
is to be granted for all
real injuries caused by
the acts of the Government
in such cases. In the present
instance it is ^{contended} maintained that
no such injury has been sustained
by the plainiffs. L.H.

14. Letter to Mr. B. C. Deane

L.H.

Appell to High
Court from Decree
of C. Court of Appeals
in the case of
1826 of 1835

Special Court

Dropatch
away