Proceedings of the Madras Government, Revenue Department, 19th May 1871.

No. 247. Read the following Proceedings of the Board of Revenue, dated 4th May 1871, No. 1,872 :—

Read the following letter from the Acting Collector of Chingleput, to the Acting Secretary to the Board of Revenue, dated Sydapet, 31st March 1871, No. 142.

With reference to the Board's Proceedings, dated the 31st August 1870, No. 5,540, sanctioning the defence of Original Suit No. 17 of 1869, filed by the Zemindar of Calastry against Government in the Civil Court of Chingleput, I have the honour to forward, for the information of the Board, copies of Judgment and Decree passed by the Civil Judge of Chingleput.

2. It will be seen that the decree of the Civil Judge is partially against Government inasmuch as the Civil Judge has awarded a larger tract of land to the Zemindar than what has been assigned to him by the Settlement officer.

3. The total area of land sued for by the Zemindar was cawnies 11, the whole of which has been assigned by Mr. Thornhill to Government. The decree of the Civil Judge awards a portion of the above extent to the Zemindar, and the Civil Judge is of opinion that the line of boundary between Nagalapuram, a Government village, and Vembakum in the Zemindary tract, being the triangle J. K. L., ought to be a straight line J. L. M. as shown in black-lead pencil.

In the enclosed plan-book, page 22.

4. As I have no idea of the extent thus awarded to the Zemindar, I have requested the Superintendent of Revenue Survey to furnish me with the exact extent of land lost to Government by the decree.

5. The plan filed in the Civil Court and in which the line of boundary as determined by the Civil Judge is marked, having been sent to the Superintendent of Revenue Survey to enable him to have the land measured, I send my office-copy of the plan-book together with a copy of the Settlement officer's decision in the case, and request the Board to return them both when no longer required.

Vide Sketch in page 22.

6. I leave to the Board to determine whether an appeal should be preferred to the High Court. If an appeal to the High Court is deemed necessary, I beg to suggest that the Government Pleader may be asked to prepare the Memorandum of Appeal.

Enclosure No. 1.

In the Civil Court of Chingleput.

Original Suit No. 17 of 1869.

Plaintiff sues under Section 25, Act XXVIII. of 1860, to set aside the decision of the Commissioner passed under the said Section, declaring that 11 cawnies of wet and dry lands, hitherto enjoyed by the plaintiff, and within the limits of Vembakum, attached to the Calastry Zemindary, are within the limits of the Government village of Nagalapuram.

2. The third defendant denies the plaintiff's claim, and states that the lands sued for were never enjoyed by the plaintiff, and belong to the Government village of Nagalapuram as is shown by the Pymaish and Olungoo accounts of the village.

3. The first and second defendants were placed *ex-parte* at the first hearing.

4. The plaintiff examined four, and the third defendant six witnesses.

5. The following documents were filed :—

Plaintiff's Exhibits.

A. Sketch of the disputed lands.

B. Decision of Settlement officer, Mr. G. Thornhill, dated 25th February 1869.

Third Defendant's Exhibits.

I. Eight books containing Adungal Chittah No. 4 of Nagalapuram village, from Fusly 1271 to Fusly 1278.

II. One Taram Chittah of the above village, dated 25th July 1860.

III. Pymaish Account of do., dated 20th Chettarai of the year Yuva.

IV. One Adungal Chittah (Volume No. 2) of do., for Fusly 1279.

V. One boundary account of Nagalapuram consisting of two leaves.

VI. One plan prepared by Govinda Pillai, second witness for the third defendant.

6. The following issue was framed :—

Whether the land claimed belongs to Vembakum, a village of plaintiff's Zemindary.

7. Whether the boundary fixed by the Commissioner is a just and equitable one is the only point to be determined in this suit.

8. The plaintiff's first witness stated that he prepared the plan A., that the blue line shows the boundary line correctly on which the old boundary stones still stand, and that he heard a rumour that the stone at I. (*vide* plan A.) had been removed from E., where it formerly stood ; the second and third witnesses, the Curnum and Monigar of Vembakum, depose that the lands in dispute belong to Vembakum, that the blue line A. to E. on the plan A. shows the boundary on which stones are still standing ; that these lands were enjoyed by the Vembakum ryots ; that there was a dam of theirs at the Madugu (II. on plan A.) within the disputed site, and earth used to be dug for the said dam in the disputed land ; that a pond (J. on plan A.,) was dug by the Vetty of Vembakum, and irrigation by baskets carried on, the third witness adding that the stone at E. was found to have been moved some ten or twelve years since.

9. Fourth witness, the Vembakum Vetty, stated that the land in dispute belongs to his village, that the dam in the disputed land irrigates the Vembakum fields, that his father told him that his (witness') uncle dug a pond (J. on plan A.) in the disputed land, and that he (witness) occasionally irrigated from it.

10. First witness for third defendant produced the Adungal and Taram Chittah Accounts of Nagalapuram.

11. Second witness, the Curnum of Nagalapuram, stated that the land belonged to his village as shown by the Pymaish of Dhatu (III.), the Olungu (V.) and other accounts, that about 10 cawnies of the disputed lands have been cultivated gradually and at different times by his villagers since Fusly 1271, and that part is still so cultivated ; that, with the exception of the last stone M., the other stones on the blue line are not boundary stones.

12. Third and fourth witnesses, cultivators of Nagalapuram, stated that the lands in dispute are within the boundary of and enjoyed by their village ; that puttahs for portions had been given during the past seven or eight years, and that, according to common report, the stone now standing at I. was at X., (Commissioner's plan,) that the red line is the boundary of their village.

13. Fifth witness, the Vetty, gave evidence to the same effect, stating that he was present at the Pymaish, and that there was a stone at X., and that the cattle of both villages drank at the pond II. (Commissioner's plan), but that dead cattle were given to him as Vetty.

14. Sixth witness, a ryot of Nagalapuram, stated that he had cultivated part of the disputed lands during the past seven or eight years, that the pond (II.) was never used for irrigation, and that the last (fifth) witness got all the carcases of dead cattle.

15. The plaintiff's Vakeel suggested to the Court that a Commissioner should be sent to examine his boundary stones, but I cannot see that any good would result ; at the time of passing his decision, the Commissioner appears to have made a most careful personal inspection of the then state of the stones ; the stone M. on Commissioner's plan (E. on plan A.) is admitted by both parties, so is I., though its former position is disputed, and the Commissioner's reason for starting from A. is clearly explained after examining the stones on either side pointed out by the disputing villagers.

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19th May 1871.

16. The plan A. is filed by the plaintiff, but there is no material difference between it and the Commissioner's plan accompanying the decision appealed against, except that in A., the extent between the line laid down by the Commissioner and the blue line on the west side is clearly exaggerated.

17. Both plaintiff's and third defendant's witnesses deposed to enjoyment of the disputed spot in various ways, but I attach no great weight to the oral evidence ; the disputed spot has clearly been debatable ground, and though the question of limitation is not raised in this suit as a bar to plaintiff's claim, it should be noticed that when Kannan (third defendant's sixth witness) began to cultivate, objection was raised, it is admitted by the Zemindar's people ; the document II. II., too, filed in Original Suit No. 11 of 1869 shows that in 1856 a settlement of the existing boundary disputes was promised by the Revenue authorities.

18. The Pymaish of Nagalapuram III. and the other accounts of that village would tend to prove that the limits of Nagalapuram correspond nearly with the red line on the plans, but it is clear that the villagers of Vembakum have had for many years undisturbed possession of considerable lands to the west of this line ; the exact boundary was probably never really known.

19. Beginning from A. (*vide* Commissioner's plan) a point between the rival starting points claimed, the Commissioner has taken the western limits of the cultivation of Vembakum, and fixed the stones along B. C. D. E. F. G. H. I. J. K. L. to M. a boundary stone admitted by both parties. The course thus taken gives the Vembakum people a boundary nearly corresponding with the stones D. C. and B. on the plaintiff's plan A., and I think this decision a fair one except with reference to the stones K. L. ; according to the plaintiff's evidence, the stone at I. has been moved from its proper position at E. (on plan A.), while the third defendant's witnesses say it used to stand at the spot X. (Commissioner's plan) ; the cultivation on either side of the red line M. X. belongs to Vembakum, and they have a dam near L. K., [illegible] the stone M. is admitted by both sides ; I think therefore the boundary from M. to J. should run as shown in the red ink line (Commissioner's plan) now drawn in nearly a straight line through M. L. K. J.

20. With this modification I confirm the Commissioner's decision. Proportionate costs on the land decreed to plaintiff, which will be determined at the execution of the decree.

Pronounced this 29th December 1870.

(Signed) R. W. BARLOW,
Acting Civil Judge.

Enclosure No. 2.—Copy of Decree.

Enclosure No. 3.—Copy of decision of Settlement Officer.

Enclosure No. 4.—Plan Book.

Submitted to Government, with a copy of Board's Proceedings, 31st August 1870, No. 5,540.

2. The Board think the Court has scarcely shown sufficient cause for modifying the decision of the Settlement officer, but they do not think it advisable or expedient to appeal.

3. The amount of land involved is small, the whole question is one of compromises, and the chief object of Government, namely, to get the boundary settled, is attained.

Proceedings of the Madras Government, Revenue Department, 19th May 1871.

No. 248. ORDER THEREON, 19th May 1871, No. 879.

Miscellaneous.

THE Government concur in the opinion of the Board of Revenue.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Acting Secretary to Government.

To the Board of Revenue.

Proceedings of the Madras Government, Revenue Department,
19th May 1871.

No. 248. ORDER THEREON, 19th May 1871, No. 879.

Rev-1871, Oct.

Board of Revenue,

MADRAS. 10. 1536.

PROCEEDINGS, 4TH MAY 1871, No. 1,872.

Dept. 11 May/71 Encl. 4

Received. 12/5. 3 Odd

To

Rs. 2/15 Coll. Chingleput Rs. 2/15 Coll. Chingleput

MAY.

No. 1,872.

Original Suit, No 17 *of* 1869,—filed in Civil Court of Chingleput by Zemindar of Calastry for recovery of certain land,—Letter from Collector forwarding copies of Judgment and Decree passed in, submitted to Government with opinion that appeal to High Court is undesirable.

No. 247

10 Inscriptions

No. 879.

The Govt. concur in the opinion of the Bd. of Rev. &c.

19th May/71.