Proceedings of the Madras Government, Revenue Department,
20th May 1871.

No. 265. Read the following Proceedings of the Board of Revenue, dated 18th February 1871, No. 769:—

Read the following letter from the Acting Collector of North Arcot, to the Acting Secretary to the Board of Revenue, dated Chittoor, 30th November 1870, No. 549.

I HAVE the honour to submit, for the consideration and orders of the Board, the following case, which I think requires special notice.

2. In the villages of Tattipat and Badivarikam of the Gudiatham Taluq, there is a large tract of land covered by an enormous palmyra tope, consisting of upwards of 15,000 trees. The trees really form two topes, but are not divided by any open space. They were held on Izara for various periods until Fasli 1277 (1868), when the Izara Puttah was cancelled, and the trees made over to the several individuals on whose puttah lands they stand, under the spirit of the Board's Standing Order No. 129.

3. The palmyra trees thus made over amount to 13,500, and the remainder, together with 4,484 date trees standing on Government waste and poramboke lands, were let on Izara for a term of 15 years to one Thimmaia Goudu at the rate of Rs. 15 per annum. Four hundred and eighty-nine palmyra trees were, however, deducted, and given at the same time on a Bilmucta Puttah to a ryot named Srirungi at Rs. 11 and odd per annum.

4. As regards the trees in the Tattipat village, no dispute now exists. The trees in the Badivarikam village were formerly held by one Madhaviah on lease for 25 years from Fasli 1267 to 1291 at Rs. 130 per annum.

5. The lease-holder, in the year 1858, made over his right in the trees to one Rama Row by a document, dated 7th September 1858, and then surreptitiously transferred his right by another and similar document to one Tamanna.

6. A dispute subsequently arose as to the enjoyment of the trees between the lease-holder and the two persons to whom he had thus assigned the trees.

Rama Row filed a Suit (No. 11 of 1866) in the Civil Court, to recover possession of the trees in question according to the document executed by Madhaviah in his favour.

7. Before the suit was instituted, and while the parties were quarrelling about the enjoyment of the trees, the several ryots on whose puttah lands the greater number of the trees (upwards of 8,000) stand, applied in the year 1866 to the Collector to have the trees made over to them.

Mr. Robinson, after personally inspecting the trees, declined* to grant their request, observing that the object of those ryots in applying for the trees was evidently to cut them down, and sell them for the handsome price which they would fetch owing to the proximity of the village to the Amboor Railway Station.

Mr. Robinson also remarked, at the same time, that the loss to Government, calculating the value of each tree at Annas 12, and not at Rs. 2, which they are really worth, would be enormous, and that on these grounds he would not transfer to the applicants the right possessed by Government in the trees.

* Order No. 43 of February 1866.

Board's Petition No..2,496 of 1866.

8. These ryots then appealed to the Board of Revenue, and their petition was referred to the Collector for disposal.

Mr. Robinson, without any further inquiry into the facts of the case, on a reconsideration of the matter, addressed to the Head Assistant Collector, who was then in charge of the Gudiatham Taluq, his letter, dated 22nd February 1867, No. 134, copy of which is herewith forwarded.

Mr. Robinson was then evidently ignorant of the right which the present claimant, Rama Row, had in those trees; but even if Rama Row had at that time put forward his claims, it is doubtful whether, judging from the tenor of Mr. Robinson's letter above quoted, he would have given any other order than that which he had issued.

9. The Board will observe from this letter that Mr. Robinson had then taken a totally different view of the whole case. He instructed the Head Assistant Collector to make over to the ryots the trees claimed by them, and to cancel the Izara Puttah that had been in force for so many years.

10. In accordance with Mr. Robinson's directions the trees on puttah lands were made over to the ryots, and those standing on waste and poramboke land were ordered to be let on Izara to the former lease-holder Madhaviah.

11. This latter order was not, however, carried out. The first order, in the terms of Mr. Robinson's letter, was issued by Mr. Wilkinson; but when the Tahsildar's subsequent report about these trees was received, Mr. Lee-Warner had succeeded to the office of Head Assistant, and he expressed it, as his opinion, that the trees on Government waste, etc., should not be given to any particular person, but should be let by public auction. Mr. Lee-Warner was evidently ignorant of the previous correspondence on the subject. Accordingly, these trees were let on Izara for the space of 15 years to one Thimmaia Goudu at 16 Rs. per annum.

This Izara was confirmed by Mr. Wilkinson in February 1868.

12. Before this lease was concluded, and some time after Mr. Wilkinson's first order was issued, Rama Row, in a petition, dated 4th December 1867, strongly protested against all these proceedings, and submitted copy of the judgment of the Civil Court in Suit No. 11 of 1866 already adverted to, which was in his favour.

13. In this suit, before the Judgment was delivered, the parties, that is to say, Rama Row and Madhaviah, came to some amicable arrangement, and filed a Razeenamah, by which plaintiff consented to have three-fifths of the trees, and the 1st defendant (Madhaviah) the remainder.

The judgment was, of course, passed in terms of the Razeenamah, and when Rama Row moved the Civil Court to put him in possession of his share of the trees, the Court ordered him to go to the Collector with the Judgment then passed.

14. These are the facts of the case, and my object in thus addressing the Board is to secure, if possible, the right of the Government in the trees, which have, I conceive, been improperly made over to the ryots.

As I read it, the Board's order, as conveyed in their Standing Order No. 129, was not intended to affect the right of Government in such valuable and extensive topes as those now in question.

15. When in camp at Amboor lately, I visited the topes myself, and, judging from the nature and size of the trees, I am of opinion that Government have lost, at the very least, Rs. 30,000 by the transfer.

16. It is, I fear, now rather late in the day to revive the rights of Government, either by renewing the old Izara on the trees, or compelling the ryots to pay the tax on the trees.

17. I request, however, to be informed if the order of the Board above quoted applies to cases of this kind. Several applications, founded on the principle that has been enunciated in Mr. Robinson's order, are now being put forward by the ryots in the Gudiatham Taluq; I should like, therefore, to know if I am justified in rejecting them. The object of the ryots in making these applications is manifest. The punjah lands on which all these trees stand are worth comparatively nothing, and the ryots in applying for the trees are simply actuated by a desire to cut them down for sale at the nearest railway station.

18. I may mention that Madhaviah has made no claim whatever to the trees on the Government waste and poramboke. Translation of a deposition given by him is enclosed.

The Board will observe from the tenor of this document that the deponent had evidently some private object in making such a statement, and so completely giving up his right, if, indeed, he really had any at the time.

19. His real motive appears to have been to defraud Rama Row, and in this he has no doubt succeeded; for, after such a lapse of time, the Revenue authorities cannot interfere or assist him in enforcing the terms of the decree he holds.

He should have taken steps promptly to have the Izara Puttah transferred to his own name simultaneously with the document executed by Madhaviah on the 7th September 1858.

Having failed to do this, his only redress lies in the Civil Court where he can bring a suit for damages against Madhaviah.

20. Copy of the Civil Court's Judgment and Decree and translation of Rama Row's petition are enclosed for the information of the Board.

ENCLOSURE No. 1.

From J. D. ROBINSON, Esq., Collector, to the Acting Head Assistant Collector of North Arcot dated Chittoor, 22nd February 1867, No. 134.

IN returning the records received with your letter of the 16th October last, No. 854, I have the honour to observe that, on a reconsideration of the whole circumstances under which I abstained from applying the Board's ruling in petitioners' cases, it will, I think, be better to give them effect by remitting the assessment on the trees growing on petitioners' puttah lands, and thus leaving them an absolute proprietary right in them. In their Standing Order No. 129, the Board observe that in cases where a party who has puttah for trees growing on a land likewise held on puttah by another, who pays the taram assessment, does not consent to pay the tree-tax to the puttahdar, it should be collected from him by the Government officers as before, but credited to the puttahdar: "The intention and object of this order is evidently to abolish, as the opportunity "occurs, the old system of double puttah and division of interest in holdings in which fruit and "other valuable trees grow. The principle is no doubt sound although in applying it in practice "many valuable trees may probably be sacrificed." In the case which gives rise to this correspondence, you will find that the trees on petitioners' puttah land are held under a separate lease by one Venkatasamudram Madhaviah, and that petitioners' desire that this division of interest

should cease, and that the trees should belong to them, as does the land on which they grow. From the Izaradar's deposition, which forms part of the record, I gather that no objection is raised to the cancelment of the lease, and even had it been otherwise, the existing arrangement could not stand under the spirit of the Board's order above quoted.

2. I beg therefore to request that you will be so good as to issue the necessary orders to the Tahsildar in the matter.

ENCLOSURE No. 2.

Madhaviah's statement in the presence of Honoomuntha Row, 3rd-class Revenue Inspector of Gudiatham Taluq.

THE statement made by Madhaviah, the Durkhastadar of a palmyra tope, in the village of Badivarikam near Tattipat of the Gudiatham Taluq.

2. I have heard the petition just read out, presented by the ryots of the above-said village, claiming the palmyra tope that I have held for twenty-five years, on the ground that it stands on their puttah lands. As I agreed to pay the sum of 130 Rs. annually for the said palmyra tope, together with some date trees, my Durkhast was approved, and the tope and trees were made over to me for twenty-five years. I bound myself to abide by any orders that may be passed by the higher authorities in the matter of the above claim, made in accordance with the rules issued in Fasli 1265. After final orders are passed upon that claim, I will put forward my claim for further reduction of rent due by me upon the above trees. It is true that there was a notification issued in the Fasli 1265 and in the year 1858, to the effect that for a single piece of land, both assessments (one for land and another for the trees standing thereon) should not be collected. In accordance with the above notification, the practice of collecting only one assessment prevails in the Vellore Taluq, and in some villages of this taluq. Inasmuch as the complaint brought by the ryots is just, with reference to that practice, I have no objection to urge against it. The above statement is correct. I request that I may be allowed to enjoy the trees that are on poramboke and waste lands, with the exception of those that are on the puttah lands of the ryots.

ENCLOSURE No. 3.

In the Civil Court of Chittoor.

Original Suit No. 11 of 1866.

PRESENT.—C. A. Roberts, Esq., Civil Judge.

JUDGMENT.

THIS suit was brought to recover Rs. 1,575 due on a contract of certain topes.

2. The plaint set out that first defendant had, on plaintiff's security, rented a palmyra tope and a date tope at Badivarikam in the Gudiatham Taluq, for 24 Faslies, from 1268 to 1291, at Rs. 130 a-year. Being unable to manage them, he had made them over to plaintiff under a document, dated the 7th September 1858, and another document, dated the 10th August 1864. Plaintiff paid the Teerva, and enjoyed the topes accordingly, till the middle of January 1866 when 1st defendant, under the instigation of 2nd defendant, etc., plaintiff's enemies, prevented plaintiff's enjoyment, making over the topes to the other defendants who were at the time well aware of plaintiff's title. The net income of the topes, when in plaintiff's possession, was Rs. 85 a-year. It was prayed that defendants might be directed to restore the topes to plaintiff for a period of 17 years, or to pay him Rs. 1,445, the profits of the same.

3. 1st defendant filed a statement denying plaintiff's title and valuation. Under the first document specified in the plaint, plaintiff had enjoyed the tope in dispute for Faslies 1267 and 1268. Some disputes then arose, and the Collector passed a final order in the matter on the 22nd November 1860, since which 1st defendant has been in undisturbed possession of the topes, renting them out to the 2nd and other defendants. 1st defendant having complained to the Magistrate against

plaintiff of trespass, and a warrant having been issued, plaintiff to exonerate himself has forged the second document mentioned in the plaint, and has brought this false suit on account of which 1st defendant's complaint to the Magistrate has been dismissed.

4. The defendants 2, 3, 6, 9, 15, and 21 filed a statement, to the effect that the tope in dispute was enjoyed by 2nd defendant in Fasli 1269 by right of a sale deed given by 1st defendant, whose further statements they corroborated, and pleaded that they had unjustly been made defendants owing to their having presented a Durkhast for the tope to the Revenue authorities.

5. The suit came on for the settlement of issues on the 19th September 1866. Court Vakil Naranayyengar appeared for the plaintiff, and Court Vakil Chedembaraya for the 1st defendant. Defendants 2, 3, 6, 9, 15, and 21 were not present, nor defendants 4, 5, 7, 8, 10 to 14, who were set *exparte*.

The following issues were settled :—

(1.) Whether or not plaintiff's document of 1864 be genuine ?

(2.) What is the yearly net produce of tope in dispute ?

(3.) Whether or not plaintiff's title under the document of 1858 have lapsed ?

(4.) Whether or not defendants 2 to 21 be liable for plaintiff's claim ?

6. The plaintiff and 1st defendant to this suit having appeared before me on the 26th October 1866, by their Vakils and in person, and presented a Razeenamah agreeing to a final settlement of all their difficulties, I will make a decree accordingly.

The matter of costs is provided in the Razeenamah.

Pronounced in open Court the 26th October 1866.

(Signed) C. A. ROBERTS,
Civil Judge.

ENCLOSURE No. 4.—Copy of Decree.

ENCLOSURE No. 5.—Translation of Petitions from Rama Row.

THE case of the large tope referred to in this letter is within the scope of Government Order, 5th May 1868, No. 1,229, where Government remark that the rules of 1859 did not contemplate the case of the Tree-tax being greater than the Land-tax, and order that the rights of the State to valuable topes shall be guarded and maintained—*vide* Standing Order No. 129-1.

2. The Board do not think anything can be done now to revive the rights of Government to the trees in the Tattipat and Badivarikam Tope, but the Collector will report whether any extensive felling of trees has taken place since it was given up.

3. These Proceedings will be submitted to Government.

No. 266. ORDER THEREON, 20th May 1871, No. 888.

Miscellaneous.

THE Government concur in the views expressed by the Board of Revenue. Nothing can be done now to revive the rights of the State which have been very improperly sacrificed to the tope alluded to.

Proceedings of the Madras Government, Revenue Department,
20th May 1871.

2. The Board's Standing Order No. 129-1, based on the Proceedings of Government, dated 5th May 1868, No. 1,229, was not issued till 2nd August 1869.

(True Extract.)

(Signed) D. F. CARMICHAEL,

Acting Secretary to Government.

To the Board of Revenue.

Rev. Department

Proceedings of the Madras Government
Under date 20th May 1871.

Subj. copy of Bd's Pro. relative to reviving Govt's rights to trees in Tallipat and Badivarikam tope in North Arcot Dist. (H.L. 18th Feby 1871 No. 759)

The Government concur in the views expressed by the Board of Revenue. Nothing can be done now to revive the rights of the State to the tope alluded to.

2 The Board's Standing order No. 129, based on the Pro. of Govt. dated 5th May 1868 No. 1229 was not issued till 2nd August 1869.

To Board of Revenue with Govt. Order dept 22

J. D. S. N

^ I would say — "which have been long improperly sacrificed —
N.

Madras Govt. of 1871 No. 935.

REVENUE.

To

THE BOARD OF REVENUE.

Dated May, 20th.

Read.

G. O., 20th May 1871, No. 888.

MAY.
Nos. 265-266.

Tope in Tallipat and Badivarikam in North Arcot.—Proceedings Board of Revenue on the subject of reviving the rights of Government to it, with orders thereon.

Type 2 6/2/71

No 265-266

Records of Port Discharge
Twenty Centuries
Tale of North-West
District