

48
6 May/71 No 71-72
12 April/71 - 120-121

Rev. 1872. *Depart.*
Board of Revenue,
MADRAS.
#731.

PROCEEDINGS, 13TH FEBRUARY 1872, No. 304.

Des: 19 March/72.

Encl.

Received 29 March.

FEBRUARY.

No. 304.

Suit No. 28 of 1870—on file of Madura Civil Court, instituted by Zemindar of Saptur against Forest Department to establish his title to certain hills.—Correspondence relating to—, forwarded to Government Pleader, with request to advise whether the Suit can be defended, except so far as to alleged over-estimation of damages.

#411.

Concluded to be granted?
of District.
8 March/72

Vide but No 826 of 1872.

*13 L. O. the Government of Forests & Revenue
14. The Board of Revenue*

No 99-100

6 March/72 R. 7. Mar/72

*Proceedings of the Madras Government, Revenue Department,
8th March 1872.*

No. 99. Read the following Proceedings of the Board of Revenue, dated 13th February 1872, No. 304 :—

Read the following letter from W. McQUHAE, Esq., Acting Collector of Madura, to the Secretary to the Board of Revenue, dated Periacolam, 10th January 1872, No. 4 :—

With reference to the Proceedings of the Board of Revenue, dated 10th May 1871, No. 1,952, I have the honour to report that I am unable to obtain clear evidence regarding the boundary between Saptur Zemindari and the village of Wattrap, in Tinnevelly, which forms the subject of Suit No. 28 of 1870, on the file of the Madura Civil Court.

2. I submit two plans, marked A. and B. The first was prepared by Mr. Symonds, when Assistant for settlement in Tinnevelly, and the second by Kistnasami Iyengar, a Revenue Inspector of Tinnevelly. In the second plan, the undisputed boundaries of Wattrap are marked yellow, and the disputed hills red. The question for decision is, whether the piece marked red is included in Wattrap or in Kodikkulam, a village in the Zemindari of Saptur.

3. The disputed hills are about 6 square miles in extent. The Forest Department assumed the Conservancy of the western half of the disputed tract in 1866, and on the 18th February 1868, Alagiri Row, a Forest Maistry, reported to Mr. Turnbull, then Sub-Assistant Conservator of Forests, that the Department Map of the Wattrap hills was wrong in describing the Government Hills as extending only up to the south of the "Mattu pass." On this, Mr. Turnbull having obtained from the Taluq Cutcherry of Strivelliputtur an Extract, from the Punjab Ayacut olugu of 1804 giving the boundaries of Wattrap village, ordered licenses to be issued for felling throughout the whole of the tract in dispute.

4. The Zemindar of Saptur complained to the Collector of Tinnevelly. Mr. Symonds, Assistant for Settlement in Tinnevelly, and Devasikamoney Pillai, Deputy-Collector in Madura, were deputed to examine the disputed boundary. These officers were not unanimous in their decision. They both agreed that the Zemindar had been in possession for more than sixty years, but Mr. Symonds thought that the octagonal Boundary Accounts of 1803 and 1804 showed that the disputed hills once belonged to Wattrap while Devasikamoney Pillai thought that there was no clear evidence to show that the hills belonged to Government and that the balance of evidence was in favor of their belonging to the village of Kodikkulam.

5. A Memorandum (copy sent) prepared by Devasikamoney Pillai is enclosed, and with regard to the decision of Mr. Symonds it is necessary to read together his letters to the Collector of Tinnevelly, dated 19th February 1870, No. 39* and 9th April 1870, No. 89.

* Copies are herewith sent.

6. Careful search for records bearing upon this matter has been made, and those found have been sent here by the Collector of Tinnevelly, but the result is that the case for Government must rest upon the Wattrap Boundary Accounts of 1803 and 1804. These boundary accounts were found in the Strivelliputtur Taluq records, and the Collector of Tinnevelly says they may be relied on. The boundaries in the account of 1803 differ slightly from those in the account of 1804.

*Proceedings of the Madras Government, Revenue Department,
8th March 1872.*

The disputed boundaries are on the west and north-west. The account of 1803 describes the western boundary of Wattrap thus—"To the east of the Dindigul Poligar Tirumala Gantama Naik's limits, the Versanad limits the "Manalkeni" and the "Oorani." The account of 1804 states it thus—"To the east of Varsanad "Manalkeni." The Board are aware that Varsanad is a great tract of hill and jungle, belonging to the Guntama Naikanur Zemindari in Madura. These accounts of 1803 and 1804 describe the North-western boundaries of Wattrap thus—"To the South-east of Saptur Kamaya Naik's Kodikkulam limits."

7. The first question is whether we can prove in Court the situation of the "Manalkeni" and "Oorani." Mr. Symonds first fixed the Manalkeni at one point in the river, but afterwards discovered it half a mile lower down the stream, under the circumstances stated in his letter to the Collector, dated 9th April 1870. It seems clear from the plans that the spots marked A. and B. are not the western boundaries of Wattrap. The Revenue Inspector sent here from Tinnevely says that no other "Manalkeni" or "Oorani" can be found except those discovered by Mr. Symonds and himself, and that these may therefore be taken as boundaries mentioned in the accounts. Two Curnams of Wattrap who accompanied Mr. Symonds doubted whether the spots marked A. and B. were the boundaries referred to in the accounts, but Mr. Symonds had been informed that these Curnams favored the Zemindar.

8. The Zemindar's case so far as it can be gathered from the available records is this—

1st.—An old Cadjan account is in the possession of the Curnam of Kodikkulam, shewing the permanent boundary marks of that village. Deputy-Collector, Devasikamoney Pillai says that the disputed hills clearly fall within the boundaries given in that account.

2nd.—That the Perryaur river is the boundary between Wattrap and the Zemindari village of Kodikkulam, that the Punjah lands north of the Perryaur and at the foot of the disputed hills are part of Kodikkulam, and that it may therefore be inferred that the hills beyond them form part of the Zemindari and not of the Government village.

3rd.—That the Zemindars have always been in possession of the disputed tract. This is established by public documents, of which the earliest is a lease, dated 4th January 1831, granted by the Sub-Collector then in charge of the Zemindari to Narayanan Chetty, authorizing him to enjoy the produce of those hills which belonged to Saptur, and among the hills entered in this lease is the Thôppu Mallei, which lies in the middle of the disputed tract. Of the remaining documents, some are orders of the Collector when in charge of the Estate as Agent of the Court of Wards, and the proceedings connected therewith. In some of these Pechikal pass is referred to as in the Kodikkulam hills and this pass is situated in the disputed hills.

9. I think it unnecessary to refer to all the documents bearing more or less directly on this point, because we cannot state in our answer that Government have been in possession. The utmost we can say is that Government ought to have been in possession as shewn by the octagonal boundary accounts.

10. The mesne profits claimed by the Zemindar are excessive. Lieutenant Walker states that the hills never yielded Rupees 2,500 as had been estimated by

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8th March 1872.*

the forest maistry, but as licenses were issued generally for Wattrap forests, without specifying any particular portion thereof, it is impossible to ascertain exactly how much revenue has been derived from the disputed hills since 1867. If this case goes to trial we can only rely on the oral evidence of the Local Forest Officers to prove the amount of mesne profits.

11. I enclose a draft answer to be filed in Court if the Suit is to be defended. I cannot see however what business the Forest Department had to enter into the disputed tract. The boundary being uncertain, it was a question to be settled between Government and the Zemindar, but so far as I can see, subordinate Members of the Forest Department have taken upon themselves to decide the matter and to act on that decision. The result is this action for trespass to which it is difficult to find a defence.

12. The Suit was posted for first hearing on January 17th and I have applied* for an adjournment for two months from that date.

* This has been since granted.

ENCLOSURES Nos. 1 and 2.—Plans.

ENCLOSURE No. 3.—Copy of Memorandum of Devasikamoney Pillai.

ENCLOSURES Nos. 4 and 5.—Copies of letters of Mr. Symonds.

ENCLOSURE No. 6.—Draft Written Statement.

AGREEABLY to Government Order dated 6th May last, No. 795, these papers will be now referred to the Government Pleader, who will advise whether the suit can be defended, except so far as to the alleged over estimation of the damages.

No. 100. ORDER THEREON, 8th March 1872, No. 411.

Forests, No. 2.

COMMUNICATED to the Conservator
of Forests.

(True Extract.)

(Signed)

W. HUDLESTON

Officiating Chief Secretary.

To the Conservator of Forests.
[., the Board of Revenue.

Exd. F. R. Bantleman.

11. The relationship of the disputants is given in letter of the late Sub-Collector, quoted in Board's Proceedings No. 2,498 of May 15th, 1865.

P. S.—The above letter was written by me three weeks ago, but I purposely detained it in order that I might during the Voilpaud Jamabundy find out whether there was any likelihood of the claimants coming to terms. The day before yesterday I saw the present holder of the pension, Vencata Rama Dasappa Naidu, and warned him of the course I was about to adopt in case he still refused to contribute to the support of Raghava Naidu and his family. He persisted in refusing to come to any arrangement, and declined to make any allowance to Raghava Naidu. I have therefore no alternative but to recommend a division of the pension.

ENCLOSURES Nos. 2 and 3.—Translations of Urjees presented by Raghava Naidu.

ENCLOSURE No. 4.—Deposition of Venkata Rama Dasappa Naidu.

ENCLOSURES Nos. 5 and 6.—Translations of Petitions.

ENCLOSURE No. 7.—Chronological Table.

SUBMITTED for the orders of Government.

2. The division of the allowance now standing in the name of Venkata Rama Dasappa Naidu, proposed by the Sub-Collector and approved by the Collector, appears to be necessary. It was proposed to carry this arrangement into effect in 1866 had not an amicable arrangement been then made, (*vide* Board's Proceedings, 15th May 1865, No. 2,498; 22nd August 1865, No. 5,100; and 9th March 1866, No. 1,629, copies of which are enclosed.)

No. 293.

ORDER THEREON, 29th November 1871, No. 2,024.

Miscellaneous.

THE Government sanction payment to Raghava Naidu, for the support of those members of the family dependent on him, of two-fifths of the Peligar pension now standing in the name of Venkata Rama Dasappa Naidu, who refuses to contribute to the maintenance of his relatives in accordance with the principle on which these pensions were conferred.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Accountant-General.

Exd. F. R. Bantleman.