12 Oc
30.10.1873

Proceedings of the Madras Government, Revenue Department, 30th October 1873.

No. 333. Read the following Proceedings of the Board of Revenue, dated 27th October 1873, No. 2,195.

Read again Board's Proceedings, dated 24th October 1873, No. 2180-A.

Read also the following letter from J. F. PRICE, Esq., Acting Collector of Salem, to J. GROSE, Esq., Secretary to the Board of Revenue, dated 8th October 1873, No. 294 :—

I HAVE the honour to enclose a copy of a plaint filed in the District Court against the Tahsildar of Oossoor, the Sub-Collector, and Collector of Salem, and one Kotha Sooba Chetty by the Agraharamdars of Thorrapalli in the Oossoor Taluq, seeking for a decree to set aside the sale of their Agraharam held under Act II. of 1864, and to request that the Board will be pleased to sanction the defence of the suit at the public cost.

2. I beg to submit the draft answer which I propose putting in.

3. Copies of the correspondence connected with the case were forwarded to the Board of Revenue with this office letter, No. 44, dated 19th February 1873. It, therefore, does not appear necessary for me to enter into an account of it.

4. The date fixed for hearing is the 10th proximo.

ENCLOSURE No. 1.—Copy of Plaint.

ENCLOSURE No. 2.—Draft Answer.

PLAINTIFFS are the holders of 53½ of 65 shares of Thorrapalli Agraharam, the whole of which was sold on the 9th May 1872 on account of arrears of revenue, Rupees 1,272. The amount realized by the sale was Rupees 12,015, about half the value of the property.

2. They applied to the Collector to cancel the sale on the ground that it was irregular. The Collector finding that the allegation was not true, confirmed the sale. They then petitioned the Board who declined to interfere. Meanwhile, plaintiffs filed this suit to have the sale cancelled so far as it affects their shares.

3. The material points for consideration in the case are the two referred to in the 4th and 5th paragraphs of the answer proposed by the Collector.

4. Plaintiffs contend that as the purchaser failed to pay the balance of the purchase money within the prescribed time, thirty days, (it was paid on the 31st day) the land should have been re-sold under Section 36, Act II. of 1864 (Madras). To this the Collector proposes to reply that it is a matter with which plaintiffs have no concern.

5. They also contend that the sale was illegal because contrary to the provisions of Section 45; more land was sold than was sufficient to discharge the arrears.

6. In regard to this, the Collector proposes to plead that the sale of the whole property was legal.

7. The Board are of opinion that these points will probably be decided in favour of Government; but, in any case, they think the suit should be defended at the public cost, because the District Officers, if wrong at all, are only technically wrong, and the purchaser has a claim to assistance in the suit. The Board accordingly resolve to submit the case for the favourable consideration of Government.

8. The date fixed for the hearing of the suit is 10th November 1873.

No. 334. ORDER THEREON, 30th October 1873, No. 1,218.

Miscellaneous.

THE defence of the suit at the cost of Government is sanctioned on the usual terms.

(True Extract.)
(Signed) R. A. DALYELL,
Acting Secretary to Government.

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

Exd. F. R. Bantleman.

3 V

163 of Pro 22 May/75.
Ct 8 Ct 231

To,

The Salem District Court

O. S. No. 6 of 1872.

Plaintiffs.

1. Venkatachar of Thorrapalli Agraharam in the Oossoor Talug
2. Sinnasappabattaru
3. Ver Nunjundabattaru
4. Iha Ramabattaru
5. Yogabattaru
6. V. Narainabattaru
7. Sama Sastri
8. R. Subbaraya Sastri
9. S. Venkatasiah battaru
10. Sima Sungarachari
11. S. Venkatacharry
12. Appavien Sreenivasa Raga-vachari
13. V. Sreenivassachari
14. Chukravurthy Iyengar

15.

15. Madappally Streenivasachary
16. Vathantha achary
17. Vengambattaru
18. T. Nanjundabattaru
19. T. Kristnamoorthy
20. Runga charry
21. Ramasamy Iyengar
22. Tiroomala Ragavachari
23. K. Streenivasa Ragavachari
24. Krishna Sastri

Defendants.

1. Seshagheri Row, Tahsildar of Oossoor
2. J. F. Price Esqr. Sub Collector
3. C. T. Longley Esqr. Collector of Salem
4. Oossoor Kootta Subbichetty

The Thorrapilli Agraharam containing 65 Vrities, or shares and yielding an annual profit of Rupees 215 in ready money, having been sold by the 1st, 2nd & 3d defendants for arrears due to Government, the

the plaintiffs request that the sale should be cancelled with regard to 53½ Vrities which belong to them, that a decree should be passed confirming their rights to these Vrities, and that an order should be issued continuing them in their possession without their being made over to the 4th Defendant, the purchaser at the sale.

The ready money collections on the said 53½ Vrities amount to Rupees 588-8- and the value of the suit is Rupees 8,827-8- calculated at 15 times the ready money collections, viz Rupees 588-8- on the said 53½ Vrities.

The 2nd Defendant attached the Thorrapally Agraharam belonging

belonging to the Plaintiffs for Rupees 1,258-7-7, being the arrears due to Government for Fasli 1281, and issued a notice marked A, herewith enclosed, under section 27 of Act 2 of 1864.

2. Though it is the duty of the said Defendant to issue a notice of sale under section 36 of the said Act subsequent to the notice of attachment, and to publish the notice one month at least before the sale, he failed to do so, and sold the Agraharam contrary to law through the 1st Defendant on the 9th May, the time allowed in the notice marked A for payment of arrears.

Though

3. Though payment of arrears was tendered by Plaintiffs to the 1st Defendant on the 8th May and prior to the commencement of sale on the 9th, as shown in B; and though they requested on the 3rd to be allowed to tender security adequate to the amount of arrears as shown in C, the Defendants, instead of staying the sale under the Act, sold the plaintiffs highly priced property at a reduced rate, and thereby caused them great loss, contrary to the provisions of Sections 37 and 47 of the Act; which proceedings are admitted by the Defendants in BE.

4. Though the 4th Defendant the purchaser of the Agraharam has

failed

failed to pay the purchase money within a reasonable time, as shown in DE, the 1st, 2nd and 3rd Defendants instead of causing the property to be resold under section 36 of the Act, and paying the plaintiffs the excess amount if any, they confirmed the sale, contrary to law.

5. Though it was the duty incumbent upon the Defendants under section 45 of the Act to sell only a portion of the Agraharam, adequate to the amount of arrears, they sold the whole Agraharam contrary to law.

6. The above sale which should have been conducted either by a Covenanted Officer or Deputy Collector, under the Board's

Board's Circular Order No. 265, was carried out by the 1st Defendant under the approval and confirmation of the 2nd and 3rd Defendants, though they were perfectly aware that it was contrary to law in every way.

7. On petitioning the Board on this subject, they referred the matter to this Court stating, as shown in C, that the Civil Court is only competent to cancel the sale conducted by Revenue Authority.

The Plaintiffs therefore beg that a decree be passed as requested in the plaint and that costs incurred by them be paid to them by the Defendants.

We the 1st and 17th Plaintiffs

do

do hereby declare that what is stated in the above plaint is entirely true, and beg to state that the declarations made by other plaintiffs are inserted in the list herewith enclosed.

2nd November 1872

(Signed in Telugu) Muthumbi Venkatachar

Do. Vellara Venkatabattaru

Produced documents marked from A to G—

(Signed) A. Doraisagayam Pillay

/True Translation/

(Signed) W. Johnston

Deputy Collector for Acting Collector

/True Copy/

J. Grole
Secretary

C. Mahaffy

C. M. Narasimacharry

Draft answer of the 1st, 2nd & 3rd defendants in O.S. No. 6 of 1873 on the file of the District Court of Salem

I. The sale of the Torepalle agraharam was held in accordance with the provisions of Act II of 1864. The plaintiffs' allegations that it was not are untrue.

II. The tender of the arrears due by the plaintiffs was not made within the period allowed by law and it could, therefore, not be accepted. It was discretionary with, and not binding upon, the 2nd defendant to receive security for the payment of the arrears due. In the exercise of this discretion, the application which was not made in person or by authorised agent

Enclosure in Proceedings of the Board of Revenue No. A.S. of Secretary to Govt. R.D. dated 27th October 1873.

R. No. 3433/35

Copy of Petition in O.S. No. 6 of 1873 on the file of the District Court of Salem

agent was refused, and the 2nd defendants act was ratified by his superior the 3rd defendant.

III. The defendants having acted according to law are not responsible for any losses pecuniary or otherwise caused by the laches of the plaintiffs.

IV. The question of the payment or non-payment, by the 4th defendant, of the balance of the purchase money of the Torepallee agraharam is a matter with which the plaintiffs have no concern.

V. The sale of the whole of the Torapallee agraharam for the arrears of Revenue due upon it was perfectly legal.

VI. Circular Order of the Board of Revenue, No. 265, does not apply to Agraharams, and even if it did, the sale held by the 1st Defendant would would not be contrary to law.

VII. The 1st & 2nd defendants being subordinate to the 3rd, and their acts having been ratified by him no separate answers are put in in their behalf.

VIII. The defendants pray that this suit as against them may be dismissed with costs.

(Signed) J. F. Price
Acting Collector

/True copy/

J Gole
Secretary

G. Mungiah
C. M. Narasimhacharry

Revenue Department

Proceedings of the Board of Revenue
Dated 27th October 1873, No. 2195

Read again Board's Proceedings
dated 24th October 1873 No. —

Read also the following

No. 294.

From The Ag Collector of
Salem

To The Secretary to the
Board of Revenue
Madras.

Sir,

I have the honor to enclose a copy of a plaint filed in the District Court against the Tahsildar of Coosoor, the Sub Collector, & Collector of Salem, and one Kotha Looba Chetty. by the Agraharamdars of

* This Proceedings will be sent Tomorrow in Print.

Enclosures in Proceedings of the Board of Revenue No. 2195 dated 27th October 1873

Copy of the Plaint Summons of the Agraharamdars of the Pudukottah Pagoda

Copy of Order No. 6 dated 23rd October 1873 of the Collector of Salem

Copy of the petition filed in the District Court of Salem

Ag Collr
12 Nov 73

of Tarrapalle in the Dassoor
Taluq, seeking for a decree to
set aside the sale of their
Agraharam held under
Act X of 1864, and to request
that the Board will be pleased
to sanction the defence of
the suit at the public cost.

2. I beg to submit the
Draft Answer which I pro=
=pose putting in

3. Copies of the Correspon=
=dence connected with the
case were forwarded to the
Board of Revenue with
this Office Letter No 44 dated
19th February 1873. It therefore
does not appear necessary for
me to enter into an account
of it.

The date fixed for
hearing is the 10th
Proxmo

Proxmo.

Salem Collectorate Office
Salem
8th October 1873

Thane Ve.
Sig. J. F. Price
Ag Collector

Plaintiffs are the holders
of 53½ of 66 Shares of Thara=
=palli Agraharam the whole
of which was sold on the
9th May 1872 on account of
arrears of Revenue Rs 1272.
The amount realized by the
sale was Rs 12015 about half
the value of the property.

They applied to the Collector
to cancel the sale on the
ground that it was illegal.
The Collector finding that the
allegations were not true
confirmed the sale. They then
petitioned the Board who
declined to interfere. Mean=
=while Plaintiffs filed this
suit to have the sale can=
=celled so far as it affects
their

their shares.

The material points for consi=
=deration in the case are the
two referred to in the 4th and
5th paras of the answer pro=
=posed by the Collector.

Plaintiffs contend that
as the purchaser failed to
pay the balance of the
purchase money within the
prescribed time, 30 days (it was
paid on the 31st day) the
land should have been
resold under Section 36
Act II of 1864 (Madras).

So this the Collector proposes
to reply that it is a matter
with which Plaintiffs have
no concern.

They also contend that
the sale was illegal because
contrary to the provisions of
Section 45 more lands were
sold

sold than was sufficient to
discharge the arrears. In regard
to this the Collector proposes to
plead that the sale of the whole
property was legal.

The Board are of opinion that
these points will probably be
decided in favor of Govern=
=ment, but in any case
they think the suit should
be defended at the public cost
because the District officers
if wrong at all are only
technically wrong, and
the purchaser has a claim
to assistance in the
suit. The Board accor=
=dingly resolve to submit
the case for the favour=
=able consideration of
Government.

The date fixed for the
hearing

hearing of the suit is 10th No-
vember 1873.

True Copy & Extract

J Gole
Secretary.

To The Ag Secretary to
Government, Revenue
Department.
with Copies of Plaint
& Draft answer &
Board's Proceedings dated
24th October 1873 +

+ Will be sent tomorrow

E Wauchope
Coll & DM Bunder

1/2 1844
RH

12/18
Rw
30.10.1823

№ 1218

30 Oct. 13