No. 22. Read the following Proceedings of the Board of Revenue, dated 30th October 1873, No. 2,217 :—

Read the following letter from the Hon. D. ARBUTHNOTT, Collector of Tanjore, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Vallam, 23rd October 1873, No. 366 :—

I HAVE the honour to submit, herewith translation of plaint in a Suit No. 207 of 1873, which has been instituted by one Vyagarajayyan, in the District Munsif's Court at Tranquebar.

2. In this case, plaintiff sues for the recovery of money* alleged to be due by one Vaithinada Pillay, and has included Mr. Martin, the late Acting Sub-Collector, as a co-defendant, because the land stated to be hypothecated as security for the debt, forms part of the property which has been confiscated under Section 184 of the old Code of Criminal Procedure and is under the charge of the Collector and not of the Sub-Collector, as erroneously supposed by the plaintiff.

* Rupees 1,309-6-0, including interest.

3. The facts of the case are these —

The individual Vaithinada Pillay abovenamed, having absconded in order to avoid arrest on a Criminal Warrant for preferring a false complaint, the whole of his property was attached on a warrant of the Joint Magistrate Mr. Stokes, and under the provisions of the section above quoted, the attachment of that portion of it which consists of land† paying revenue to Government was made through the Collector of the district. The property has in due course been also declared to be at the disposal of Government; and although Vaithinada Pillay who eventually surrendered himself, was acquitted by the Tranquebar Sessions' Court of the charge of false complaint, solely from want of sufficient evidence; an application made by him for the restoration of his property has been rejected by the same Court, which could see no reason to doubt that he absconded to avoid arrest. A petition since made by him to Government has also proved unsuccessful.

† 35 Acres of wet and 6 of dry land, both valued at about Rupees 4,400.

4. The only question, therefore, for consideration in reference to the present suit is, whether plaintiff had a valid claim on the property prior to the confiscation. The property was attached in July 1870, and the date of the bond on which this suit is brought is stated to be 18th October 1869; so far, therefore, the plaintiff would seem to have an apparent lien on the property, at least to the extent of the portion stated to be hypothecated to him. It does not appear whether the bond has been registered or not; but whether it is or not, it does not seem advisable to undertake an amicable settlement of this claim, since others might spring up, and it is also possible that the criminal delinquents' own individual right to the property might be some day questioned.

5. As, moreover, the truth or otherwise of the claim in a case like this will be best tested by a judicial investigation, I propose to leave the suit to be decided by the Court on its own merits, with the only reservation that the Government Vakil shall watch the proceedings in the trial of the suit, and have the evidence

adduced in support of the plaintiff's claim duly sifted. I enclose a draft of written statement to this effect for the Board's approval.

6. As plaintiff's mistake in making a co-defendant of the Sub-Collector instead of the Collector of the District who has the legal charge of the landed property in question, does not alter the course of defence to be adopted in this case and as nothing is to be gained by objecting to the suit by reason of this error, I propose to put in the necessary written statement in my name, merely pointing out that the Sub-Collector is not legally liable to be sued.

7. The hearing of the suit stands adjourned to the 26th November.

ENCLOSURE No. 1.—Translation of Plaint.

ENCLOSURE No. 2.—Draft Answer.

SUBMITTED for the orders of Government.

2. Plaintiff sues to recover Rupees 1,309-6-0 principal and interest alleged to be due on a bond dated 18th October 1869, by which 1st Defendant Vaithinada Pillay hypothecated as security for the debt a portion of his land. Vaithinada Pillay having absconded to evade the service of a warrant, his land was in July 1870 attached under the provisions of the Criminal Procedure Code and was finally declared to be at the disposal of Government.

3. The Board agree with the Collector in thinking it advisable to contest plaintiff's claim. They accordingly recommend that the defence of the suit be sanctioned and the draft answer approved.

No. 23. ORDER THEREON, 8th November 1873, No. 1,241.

Miscellaneous.

THE defence of the suit at the cost of Government is sanctioned on the usual terms, and the draft answer is approved.

(True Extract.)

(Signed) J. STURROCK,
Acting Under-Secretary to Government.

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

Exd. G. A. Turton.

2217

32

Revenue Department

Proceedings of the Board of Revenue

Dated 30th October 1873

R. 2217

No. 366. Read the following

From

The Honorable D. Arbuthnott

Collector of Tanjore

To

H. E. Stokes Esquire

Secretary to the Board of Revenue

Chepauk

Sir,

I have the honor to submit herewith translation of plaint in

× No. 207 of 1873.

a suit which has been instituted by one Tyaga-rajayyan in the District Munsiff's Court at Trangambar.

2. In this case, Plaintiff sues for

Rupees 1309-6-0 including interest.

the recovery of money alleged to be due by one Vaidyanatha Pillai, and has included

Mr. Martin the late Acting Sub-Collector as a Co-defendant, because the land stated to be hypothecated as security for the debt forms part of the property which has been confiscated under Section 184 of the old Code of Criminal Procedure and is under the charge of the Collector, and not of the Sub-Collector, as erroneously supposed by the Plaintiff.

3. The facts of the case are these:- The individual Vaddyanatha Pillai above named having absconded in order to avoid arrest on a Criminal Warrant for preferring a false complaint the whole of his property was attached on a warrant of the Joint Magistrate Mr. Stokes, and under the provisions of the Section above quoted, the attachment of that portion of it which consists of land paying revenue

[x] 35 Acres of wet and 6 of dry land both Valued at about Rs. 4400.

to Government, was made through the Collector of the District. The property has in due course been also declared to be at the disposal of Government, and although Vaddyanatha Pillai who eventually surrendered himself, was acquitted by the Pranguedar Sessions Court of the charge of false complaint, solely from want of sufficient evidence, an application made by him for the restoration of his property has been rejected by the same Court, which could see no reason to doubt that he absconded to avoid arrest. A Petition since made by him to Government has also proved unsuccessful.

4. The only question, therefore, for consideration in reference to the present suit is, whether Plaintiff had a valid claim on the property prior to

to the confiscation. The property was at-
-tached in July 1870, and the date of the
bond, on which this suit is brought, is
stated to be 18th October 1869; so far, there-
-fore, the Plaintiff would seem to have
an apparent lien on the property at
least to the extent of the portion stated
to be hypothecated to him. It does not
appear whether the bond has been regis-
-tered or not, but whether it is or not,
it does not seem advisable to undertake
an amicable settlement of this claim,
since others might spring up, and it
is also possible that the Criminal
delinquents own individual right to the
property might be some day questioned.

5th. As, moreover, the truth or other-
-wise of the claim in a case like this
will be best tested by a judicial in-
-vestigation, I propose to leave the suit

to

to be decided by the Court on its own
merits, with the only reservation that the
Government Vakeel shall watch the
proceedings in the trial of the Suit and
have the evidence adduced in support
of the Plaintiff's claim duly sifted.
I enclose a draft of the written state-
-ment to this effect for the Board's ap-
-proval.

6. As Plaintiff's mistake in mak-
-ing a co-defendant of the Sub-Col-
-lector instead of the Collector of the
District who has the legal charge of
the landed property in question does
not alter the course of defence to be a-
-dopted in this case; and as nothing
is to be gained by objecting to the suit
by reason of this error, I propose to

put

put in the necessary written Statement in my name, merely pointing out that the Sub-Collector is not legally liable to be sued.

7. The hearing of the suit stands adjourned to the 26th November.

Tanjore Collector's Office
Vaillam, Tanjore Taluq
29th October 1873

I have &c
(Signed) D. Arbuthnott
Collector.

Submitted for the orders of Government.

Plaintiff sues to recover Rupees 1309-6-0 principal and interest alleged to be due on a bond dated 18th October 1869 by which 1st Defendant Vathimada Pillai hypothecated as security for the debt a portion of his land. Vathimada Pillay having absconded to evade the service of a warrant, his

his land was, in July 1870 attached under the provisions of the Criminal Procedure Code, and was finally declared to be at the disposal of Government.

The Board agree with the Collector in thinking it advisable to contest Plaintiff's Claim. They accordingly recommend that the Defence of the suit be sanctioned and the draft answer approved.

(True copy of Extract)
J. Cotton
Secretary.

To
The Secy. Secretary to Government,
Revenue Department.
with two original enclosures
to be returned

Rev: 1873: Dept

No. 3487

Proceedings of the Board of Revenue.

Dated 30th }
Despd 30 } October 1873.
Received 3rd Novr

on Ref.

Subject

Submitting for the orders of Government No. 1241 - 3rd Nov. letter from Collr of Tanjore, on the subject of Suit No. 207 of 1873 on the file of the District Munsiff of Tranquebar, ~~against~~ in which the Sub Collr is made a co-defendant, & requesting that the defence thereof be sanctioned & draft answer approved

No. 1241

The defence of the Suit at the cost of Govt is ~~approved~~ sanctioned in the usual terms, and the draft answer is approved

8th Novr 1873

Despd to Bd & the Advocate General 10 Novr

Rt. of Rev. 7 Dec. 18 Nov.
Acct. Genl. 7 Dec. 18 Nov.

S. No. 1
Circ 4th Novr 1873 C8