Proceedings of the Madras Government, Revenue Department, 12th February 1873.

No. 81. Read the following letter from the Officiating Collector of Madras, to the Secretary to Government, Revenue Department, Fort St. George, dated 3rd February 1873, No. 22 :—

Dated 11th September 1872 on letter from the Quartermaster-General, to Secretary to Government, Military Department, No. 330-6,545 of 21st August 1872, herewith returned with enclosures.

WITH reference to the endorsement noted in the margin, calling for a full report as to the ownership of the building known as Dakshinamurti's [illegible] and as to the compensation necessary to be paid to the owners (if any) for its transfer, I have the honour to report as follows :—

2. *First as to its Origin and Ownership.*—The site in question and some adjacent ground, measuring altogether C. 1, G. 17, Sq.-feet 465, appears to have been a burial ground for Pariahs from before 1835 up to 1859. About the year 1838 a priest of the Pariahs named Dakshinamurti is said to have been buried there, and as he was believed to have worked miracles, the Pariahs deified him, and began to perform regular worship at his grave, building over it a small temple. Ever since his burial the present site has been a place of worship, while the rest of the burial ground continued to be used for the burial of Pariahs till 1859 when the Municipality prohibited* further burials in that locality. The temple seems to have been all along the property of the Pariahs who were disciples of the deceased. The proper party entitled to its possession was, however, judicially determined last year by a decree (copy sent) of the High Court (No. 106 of 1872) to be one Kolandavelu Paradési. He was put in possession of the temple on the 11th of July last under an order of the Court in accordance with the above decree. On the 27th idem he transferred its management to the present holders, Jagannadha Mestri and four others, by a deed bearing the above date, and has since left Madras. Subsequent to the above decree one Raghavulu Naidu filed a suit in the High Court against Kolandavelu claiming the temple as his property, but the suit has not been yet decided owing, as alleged by Raghavulu, to the absence of Kolandavelu.

* Notification at page 1191 of the *Fort St. George Gazette* of 23rd December 1859.

3. *Secondly as to the Compensation necessary.*—As there has been adverse possession for nearly thirty-five years, I doubt whether the site of the temple can now be claimed as Government property, and the present holders called upon to remove the tomb and vacate the ground without any compensation. Twelve years' adverse possession appears to be enough to create an indefeasible title even against Government, according to the opinion of the Advocate-General Mr. Norton, contained in paragraph 5 of his letter to Government noted in the margin. The present Managers of the temple, however, are unwilling to part with the temple for any compensation. As disciples of the deceased their attachment to the spot is very strong, and being very superstitious they apprehend the most serious consequences to themselves should they transfer his remains to any other place. Under such circumstances it is utterly impossible to induce them to accept any compensation. Either the temple should be left alone, or the land taken under the Land Acquisition Act. They, however,

Dated 21st February 1870, recorded in Board's Proceedings No. 2,546 of 20th April 1870.

pray that the latter course may not be adopted, saying that the measure would seriously injure not only their own religious feelings but also those of the numerous devotees resorting to the temple, and that the regiments which occupied the lines previous to the present one have put up with its existence and lived in perfect harmony with its Managers. There appears to be much truth in their statements, and the temple seems to be resorted to also by caste Hindus as Dakshinamurti was a Brahmin by birth, though he lived with Pariahs in the latter part of his life. I would, in consideration of the above circumstances, recommend that the temple be allowed to remain.

No. 82. ORDER THEREON, 12th February 1873, No. 173.

Miscellaneous.

IN view of all the circumstances of the case the Governor in Council is of opinion that matters must be left as they are. It will remain for the Police and Military authorities to prevent any further collisions between the towns' people and the sepoys.

To the Officiating Collector of Madras.
,, the Board of Revenue.
,, the Commissioner of Police.
,, the Military Department.

Small Cause

In the High Court of Judicature at Madras

In its ordinary Original Jurisdiction

Monday the Eighteenth day of March One thousand Eight hundred and Seventy two.

Present

The Honorable Mr. Justice Holloway.

O. S. No. 106 of 1872.

Collandavelu Paradaser an Officiating Priest of the temple of Dakshanamurthy Swamy and Hindu Inhabitants of Madras residing at No. 19 in Thondara Moothy Street at Peddanaikenpetta in the Black Town of Madras Plaintiff.

and

Yagambaram an acting Officiating Priest of Dakshinamurthy Swamy temple and Hindu Inhabitants of

THE SEAL OF THE HIGH COURT MADRAS

of Madras residing at
No 2 in Mullappen Street
in Peddanaickenpettah in
the Black Town of Madras
Defendant.

This Suit coming on on the thirtenth day of March instant and by adjournment on this present day before this Honorable Court for Settlement of issues in the presence of S. Mullathumby Moodelly Vakeel for the Plaintiff and the Defendant appearing in person and it appearing by the Plaint registered in this Suit that the relief sought is. That the Defendant be decreed to deliver up posession of the Lonte Temple called Dakshinamoorthy Swamy with the Store house and ground attached to the said temple situated and being in Vaspermaun pattah opposite the Madras Native Infantry Barrack within the Local limits of Madras bounded on the North by Vashermans Ghaut On the South by the Madras Native Infantry lines garden, on the East by a Tomb and on the West adjoining the Madras Native Infantry lines of the value of Rupees Three hundred or thereabouts now in the posession of the Defendant. That the Defendant may be decreed to quit the Lonte temple and the Stone House and ground now in his occupation by a short day to be fixed by this Honorable Court and to deliver up posession thereof to Plaintiff. The Defendant may also be directed by the decree of this Honorable Court to deliver up posession of the articles enumerated in the particulars as in the said Plaint mentioned of the aggregate value of Rupees One hundred and forty Seven or thereabouts now in the posession and Custody of the Defendant and wrongfully withheld from the Plaintiff and for further or other relief and Costs of Suit. Now upon hearing what was alleged by the Vakeel for the said Plaintiff and by the Defendant appearing in person This Court doth declared that the Plaintiff is entitled to the posession of the Lonte temple called Dakshinamurthi Swamy with the Store house and ground attached to the said temple situate and being in Vasherman pattah opposite the Madras Native Infantry Barrack within the local limits of Madras bounded on the North by Vashermans Ghaut On the South by the

the Madras Native Infantry lines garden on the East by a Tank and on the West adjoining the Madras Native Infantry lines and the Articles in it in the said Plaint mentioned. And this Court doth order and Decree that the Defendant do deliver up to the Plaintiff possession of the said Tombs Temple with the said Stone House and grounds and the Articles in the said Plaint mentioned.

per Cur. Adv. Vult.

Monday

Plaintiff's Dated

By the Court

Jas. B. Brooke

Asst. Register.

A true copy.

Jas. B. Brooke

Asst. Register.

(True copy)

Jas. B. Rayenshaw

Collectors Office.

(True copy)

Asst. Collector.

Rec. 329/73.

Ex. a letter from the Collr of Madras to the Secretary to Government Mily Dept. dated 3rd Feby 1873 No 23.

Recd 10th Feby 1873. Mily Dept.

No 23.

Madras Collectors Office
3rd February 1873.

From

The Honorable D. Arbuthnott
Offg Collector of Madras.

To,

D. F. Carmichael Esqre
Secretary to Government A.D.
Fort Saint George.

Sir,

With reference to the endorsement noted in the margin, calling for a full report as to the ownership of the building known as Dakshinamurti temple and as to the compensation necessary to be paid to the owners (if any) for its transfer, I have the honor to report as follows.

dated 11th September 1872 on letter from the Quarter Master General to Secretary to Government Military Dept. No 330 of 21st August 1872. Hereunto returned with enclosures.

2. First, as to its origin and ownership.

The Site in question and some adjacent ground measuring altogether 1 — 17 — 465 appear to have been a burial ground for Cooliahs

Pariahs from before 1835 upto 1859.

About the year 1838 a priest of the Pariahs named Dakshinamurti is said to have been buried there, and as he was believed to have worked miracles, the Pariahs deified him and began to perform regular worship at his grave, building over it a small temple. Ever since his burial the present site has been a place of worship, while the rest of the burial ground continued to be used for the burial of Pariahs till 1859 when the Municipality prohibited further burials in that locality. The temple seems to have been all along the property of the Pariahs who were disciples of the deceased. The proper party entitled to its possession was however judicially determined last year by a decree of the High Court (C.S. 106 of 1872) to be one Kolondavelu Paradesi. He was put in possession of the temple on the 11th of July last under

Notification at page 1191 of the Fort St. George Gazette of 28th December 1859.

× Copy sent.

order an order of the Court, in accordance with the above decree. On the 27th idem he transferred the management to the present holders, Jagannadha Mestri and four others by a deed bearing the above date, and has since left Madras. Subsequent to the above decree one Raghavulu Naidu filed a suit in the High Court against Kolondavelu claiming the temple as his property but the suit has not been yet decided, owing as alleged by Raghavulu, to the absence of Kolondavelu.

3. 2nd Qy As to the Compensation necessary. As there has been adverse possession for nearly 35 years I doubt whether the site of the temple can now be claimed as Government property and the present holders called upon to remove the tomb and vacate the ground without any compensation. Twelve years' adverse possession appears to be enough to create an indefeasible title even against Government according

according to the opinion of the Advocate General Mr. Norton contained in para 5 of his letter to Government noted in the margin. The present managers of the temple however are unwilling to part with the temple for any compensation. As disciples of the deceased, their attachment to the spot is very strong, and being very superstitious, they apprehend the most serious consequences to themselves should they transfer his remains to any other place. Under such circumstances it is utterly impossible to induce them to accept any compensation. Either the temple should be left alone or the land taken under the Land Acquisition Act. They however pray that the latter course may not be adopted saying that the measure would seriously injure not only their own religious feelings but also those of the numerous devotees resorting to the temple, and that the regiments which occupied the lines previous to the present

dated 21st July 1870.
Recorded in Boards Pro No 2646 of 20th April 1870.

one have put up with its existence and lived in perfect harmony with its managers. There appears to be much truth in their statements and the temple seems to be resorted to also by caste Hindus as Dakshinamurti was a Brahmin by birth though he lived with Pariahs in the latter part of his life. I would in consideration of the above circumstances recommend that the temple be allowed to remain.

I have the honor to be,
Sir,
Your most obedient servant,
A Thornton
Offg Collector.

P.W.

Revenue Department.

No 2 dated 2nd February 1873.

Submits copies of papers relative to the claim of Pramchandra Kalidas Desai to certain, alleged Devasthan property in the Surat District, and requests to be favored with the orders of Government thereon.

To the Collector of Surat, and
to the Political Agent, Rewakantha.

Sir,

I am directed to forward herewith, for your information, a copy of a letter from the Collector of Surat, No 170 dated 12th February 1873, with its enclosures, on the subject of the claim of Pramchandra Kalidas Desai to certain property alleged to belong to the Dakor Temple.

2. You are requested to favor this Department with the orders of Government thereon.

I have &c.

(Signed) H. E. Goldsmith
Secretary to Government.

14-10-74

Revenue
1873. Department.

From No. 329.

The Offg. Collector of
Madras.

To
The Secretary to Govt.
P. D.

Dated 3rd February 1873
Received 4th

No. 23.

Encloses
6 Orders of Poland
Dated

SO No 170 - 12 February 1873

Submits a report called for on letter from the Collector General of 21st Augt. 1873 No. 330/6545 regarding the ownership of the building known as Dakshinamurthi Temple and the compensate necessary to be paid to the owners.

Nos 81-82

6 Feby/73 R.S. H. Sly

The Military Commr
Straits & Police
Secretary Colony
Singapore

If any collision
occurs, I would
direct that the orders
of this Govt. only
are to be acted upon

Sd/
Mulgrave
Govr Straits Settlements 2/12

I believe the Secretary
Commr is sent to buy
property that they
wish to be removed
above or below
Lorry. Sd/

I would leave matters
as they are. The Military
authorities & Police must
keep both parties in order
The Malabary are the worse
one. They took their case
before the Magte last week
before the Govr BEC

to the points noted, need
not be further considered;
but, were it otherwise, he feels
almost remark that the facts of the case
do not disclose any necessity for such
peremptory action. It will be seen
that arrangements previously attempted at
Penang have not made a pro-
vision for Pariahs worshipping in the
pagoda. It is only recently that the dispu-
ted Penang have been defined as
including hill side, and on the Order
of Govt on that occasion, it was expressly
laid down that "the possession, by the
"Govt, of the Military Limits would
"be enforced, will not interfere with
"any rights of private property, if any,
"within those limits". Those rights
of course may be purchased, but in the
present case no amount of compensation
would be preferred to the privilege of
worshipping at the Pagoda by the towns
people interested in the matter.

3. In reference to the Collectors statement
that twelve years peaceful possession gives
a good title against the Govt, he is reminded
that the question of adverse possession need
not be raised, as the case is now decided
that the mere dominium with out possession
during years in stead of twelve - as hereto
before by the Secy of State

DS. 5/2.73

Mr. Attorney General
has heard of the Petition
Registered

R.O. 12 Feb 1873
No. 173 Rec.

G.O. 8th. 173.

In view of all the circumstances of the case, the G. Govt is of opinion that the boundaries must be left as they are. It will remain for the Police & Military authorities to prevent any further collisions between the two people & the Pagoda.

DS - 10/2/73

12th Feby

1 To the Hon Colonial Secretary Straits Settlements
2 The Hon Attorney General
3 The Commissioner of Police
4 The Secretary Resident

6 Feb 73 R 8th Feby

Govt. of 1873 Madras.

REVENUE.

To

THE OFFICIATING COLLECTOR OF

MADRAS,

&c., &c., &c.

Dated February 12th.

Read,

Sent.

G. O., 12th February 1873, No. 173.

19-10-94
10-1-95
30-8-01
26-5-05
2615/10
file 24-6947-05/13

FEBRUARY.

Nos. 81-82.

Papers in the Lines of the 7th Regiment of Hyderabad.—Letter from the Collector of Madras reporting on its ownership, with orders thereon.