

No. 146. Read the following Proceedings of the Board of Revenue, dated 20th February 1873 :—

Read the following letter from the Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 13th February 1873, No. 31 :—

I HAVE the honour to forward translate of a Complaint filed in O. S. No. 39 of 1872 in the Principal Sadr Amin's Court, Tellicherry, against me and the Acting Sub-Collector as 1st and 2nd defendants by one Mulloolvittil Krishnan of the Kunnapurom Amshom, Cherakal Taluq. I also submit a draft answer which I propose to file on behalf of Government.

2. It will be seen that the plaintiff, as a creditor of the late Moyan Kunhi Ramen Nair whose property was declared by Government as escheated to the State, seeks to recover Rs. 2,100.

3. Plaintiff, it appears, was an agent of the deceased, and as such he had charge of the latter's receipts and expenditure, for which he rendered accounts to the deceased at no fixed times. He had, he alleges, in the course of his business expended on account of his master in excess of the receipts, *e.g.*, from his own pocket, and tries to recover the excess expenditure.

4. The evidence upon which plaintiff seems to found his claim is an account written by himself on several pieces of cadjans and papers, the credibility or otherwise of which depends upon his personal veracity and honesty. The greater portion of this account we have no means of checking several of the items, simply stating that the sum noted against them was either paid "to the master" or others named at his order.

5. As for the trustworthiness of the plaintiff's verbal statement I should say that this is far from satisfactory. He was a man of poor circumstances before his employment as agent of the deceased on a monthly salary of Rs. 5. In this capacity he is reputed to have become worth not less than 15,000 Rs., and that in the course of a few years. The allegation by a servant on 5 Rs. that his wealthy master died owing him upwards of 2,000 Rs. is *prima facie* improbable.

6. On his first demand I minutely scrutinized the plaintiff's account and instituted careful inquiries into the truth of the entries. The result was that I found several of the items both of receipts and expenditure were clearly false. A few instances may be noted—

First, as to the payment of public revenue on behalf of the deceased. The actual sums paid to Amshom Officials have been overcharged for a series of months; secondly, collections actually made by plaintiff as agent of the deceased have not been credited; and, thirdly, items which had been evidently paid off by the deceased as shown by plaintiff's own receipted bills are again charged. No means of checking the account as to all the items existed, but I found it to be false on every point admitting of test, and I accordingly rejected the plaintiff's claim.

7. The hearing of the suit is fixed for the 28th instant, and I request early sanction of the Board to defend the suit at the cost of the estate.

Proceedings of the Madras Government, Revenue Department,
24th February 1873.

SUBMITTED for the orders of Government.

2. Plaintiff sues to recover Rs. 2,100 alleged to be due from the estate of his late master Kunhi Ramen Nair, on whose death, on the 30th August 1863, it escheated to Government in default of heirs.

3. The Sub-Collector, Mr. Logan, in his report* on the assets and liabilities of the estate, stated that on balancing the accounts (plaintiffs) for the year 1043, Rs. 1,587-14-10 was found to be due to

M. Krishnan (plaintiff). This amount is entered in the list of liabilities, Enclosure No. 8 in Mr. Logan's letter to the Collector, dated 16th October 1869.

4. In submitting this report to the Board the Acting Collector Mr. Webster recommended that the Sub-Collector should be authorized to settle all claims against the Estate on their being satisfactorily established before him or recognized as valid in the Courts of law. This proposal was sanctioned by Government in their

Order dated 4th March 1871, No. 395; but in his letter† dated 25th May 1871, the Collector recommended that the proposals

sanctioned by Government should not be carried out pending the final decision in a Suit which was filed by certain parties to establish their claim to the Estate as

heirs of the late Kunhi Ramen Nair. This suit has since been dismissed‡ with costs and the original decision has been confirmed§ by the High Court.

5. From the letter recorded in these Proceedings it appears that there are good grounds for questioning plaintiff's honesty and that his accounts, on which the claim is based, are wholly untrustworthy. On their being scrutinized every item that admitted of being tested proved to be false. His claim was therefore rejected by the Collector. He then filed a suit which the Collector proposes to defend on the ground that the claim is a false one.

6. The Board recommend that the defence of the Suit be sanctioned and that a plea to the effect that the Suit is barred by Act XIV. of 1859 be added to the draft written statement.

7. The date fixed for the hearing of the suit is 28th February.

No. 147. ORDER THEREON, 24th February 1873, No. 207.

Miscellaneous.

APPROVED.

(True Extract.)

(Signed) D. F. CARMICHAEL,

Secretary to Government.

To the Board of Revenue.
.. the Collector of Malabar.
.. the Accountant-General.

Ed. G. A. Turton.

No. 31.

Malabar Collector's Office
Calicut 13th February 1873

From

A. MacGregor Esquire

Collector of Malabar.

To

J. Grose Esquire

Secretary to the Board of Revenue
Madras

Sir,

I have the honor to forward herewith
late of a plaint filed in C. S. No. 39 of 1872

in the Principal Sudder Munsif Court, Calicut,
against me and the Ag. Sub-Collector as 1st and

2nd Defendants by one Muloobittil Krishnan
of the Kunnapuram Amishom Cherakal Taluq. is

I also submit a draft answer, which I pro-
pose to file on behalf of Government.

2. It will be seen that the Plaintiff, as a
Creditor of the late Moya Kunhi Ramen Nair

whose property was declared by Government
as escheated to the State, seeks to recover Rs. 2100.

3. Plaintiff, it appears, was an agent
of the deceased, and as such, he had charge

of the latter's receipts and expenditure, for which he rendered accounts to the deceased at no fixed times. He had, he alleges, in the course of his business expended on account of his master in excess of the receipts, e.g. from his own pocket, and tries to recover the excess expenditure.

4. The evidence upon which Plaintiff seeks to found his claim is an account written by himself on several pieces of Caodya's and papers, the credibility or otherwise of which depends upon his personal veracity and honesty. The greater portion of this account we have no means of checking several of the items simply stating that the sum noted against them was either paid "to the master" or others named at his order.

5. As for the trustworthiness of the Plaintiff's verbal statement, I should say that this is far from satisfactory. He was a man of poor circumstances before his employment as agent of the deceased on a monthly salary of Rs. 5. In this capacity he

he is reported to have become worth not less than 15000 Rupees and that in the course of a few years. The allegation by a servant of Rs. 5 that his wealthy master died owing him upwards of 2000 Rupees is prima facie improbable.

6. On his first demand, I minutely scrutinized the Plaintiff's account and instituted careful inquiries into the truth of the entries. The result was that I found several of the items both of receipts and expenditure were clearly false. A few instances may be noted:—

First, as to the payment of public revenue on behalf of the deceased. The actual sums paid to Amohom Officials have been over-charged for a series of months; secondly, collections actually made by Plaintiff as agent of the deceased have not been credited; and thirdly, items which had been evidently paid off by the deceased as shown by Plaintiff's own receipts bills are again charged. The result of checking the account as to all the items

created, but I found it to be false on every point admitting of test, and accordingly rejected the Plaintiff's claim.

The hearing of the suit is fixed for the 28th instant, and I request early sanction of the Board to defuse the suit at the cost of the Estate.

I have &c.

(Signed) A. MacGregor
Collector

(True copy)

Attest

By Sub Secretary

Collyer

Board's Proceedings
20th May 1870, no 3651.

~~REVENUE DEPARTMENT~~

REVENUE DEPARTMENT.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 20th February 1873.

Read letter from the Collector of Malabar dated 13th February 1873, no 38, requesting sanction to defend suit no 39 of 1872, at the cost of Mogen Kunhi Ramen Nair's Estate.

Submitted for the orders of Government.

2 Plaintiff owes to recover Rs. 2,100 alleged to be due from the Estate of his late mother Kunhi Ramen Nair, on whose death on the 30th August 1868 it escheated to Government in default of heirs.

3 The Sub Collector Mr. Logan, in his report on the assets and liabilities of the Estate states that on balancing the accounts (Plaintiff) for the year 1868, Rs. 1587-14-00 was found to be due to the Plaintiff. This amount is entered in the list of liabilities, included in Mr. Logan's Collection Report of 10th October 1869.

4 In submitting this report to the Board the Acting Collector Mr. Webster recommended that the Sub Collector should

Enclosed in the proceedings of the Board of Revenue dated 20th February 1873
Respectfully transmitted to the Collector of Malabar for his consideration and report to the Board of Revenue at the Collector's Office, Malabar.
Collector's Office, Malabar.

No. 502/73

should be authorized to settle all claims against the Estate on their being satisfactorily established before him or recognized as valid in the Courts of law. This proposal was sanctioned by Government in their order dated 4th March 1871, No 395 but in his letter dated 25th May 1871 the Collector Board's Proceeding dated 2nd June 1871, No 2248. for recommending that the proposals sanctioned by Government should not be carried out pending the final decision in a suit which was filed by certain parties to establish their claim to the Estate as heirs of the late Kunkhi Kama Nair. This suit has since been dismissed with costs Board's Proceedings of 11th May 1872, No 731. and the original decision has been confirmed by the High Court. Board's Proceedings 18th December 1872, No 240.

From the letter recorded in these Proceedings it appears that there are good grounds for questioning Main-tiff's statement that his accounts, on which the claim is based, are wholly trustworthy, on their being scrutinized and found that admitted of being taken to prove a false claim was therefore rejected by the Collector. He then filed a suit which the Collector proposes to defend on the ground that the claim

is a false one.
The Board recommend that the defence of the suit be sanctioned and that a plea to the effect that the suit is barred by Act 14 of 1859 be added to the draft written statement.

The date fixed for the hearing of the suit is 28th February.

John Robert
Agent Secretary

For the Secretary to Government Revenue Department with 2 enclosures.

P. Adyay
at Kishkappang

18th March 1872-73.
18th March 1872-73.
53-58 p.m.

1200 m. 1873 O.P.
79-502
Proceedings of the Board of Revenue.

REVENUE.

THE BOARD OF REVENUE.

18th March 1872.

Head.

Foot.

G. O. 24th February 1872, No. 297.

FEBRUARY.

NO. 140 147.

Printed by the Government Printer, No. 1, Market Street, Madras. 1872.

No. 146-147

C-21: 30/1/73 R. 2/1/73

Under the Board of Revenue, 14th Feb. 1872.
The Collector of Malabar, 14th Feb. 1872.
The Assistant Secretary, 14th Feb. 1872.

Dated 20th February 1873.
Despatched 20th Feb. 1873.
Received 21st Feb. 1873.

Respectfully submitted
to the Board of Revenue
for the Collector of Malabar
in Malabar &c.
14th Feb. 1873.

14th Feb. 1873.