

Proceedings of the Madras Government, Revenue Department,
19th July 1873.

No. 170. Read the following Proceedings of the Board of Revenue, dated 12th July 1873, No. 1,278:—

Read letter from the Collector of Tanjore, dated 3rd July 1873, No. 237.

ABSTRACT.—Reporting the institution of a Suit (No. 36 of 1873) in the Court of Small Causes at Negapatam by one Arumuga Chetty against thirty men, and in which he has been included as a supplemental defendant by the Court.

This case will be submitted for the orders of Government, as the value of the suit exceeds Rupees 1,000.

2. In the village of Sigal, the mirassi right of which belongs to a pagoda, 2nd defendant in 1860 took up, on account of the pagoda, 170 acres, which were accordingly entered in the pagoda putta. In 1867 he presented a Razinamah relinquishing this land. The Razinamah seems to have been accepted in the belief that he was duly authorized to relinquish, and the land was struck out of the pagoda putta. Subsequently 124 acres of this land were obtained on dhurkast by defendants 2, 5, 27, and 28. Plaintiff as Trustee of the pagoda sues to recover this land, alleging that it belongs to the pagoda, that 2nd defendant is a mere tenant, and had no authority to relinquish it, and that he did so with the fraudulent intention of obtaining it on dhurkast independently of the pagoda. The Collector thinks there is good reason to believe that the allegation of fraud is true, and proposes to leave the suit undefended. The Board are of opinion that the following draft answer should be filed on behalf of the Collector, who has been made a supplemental defendant:—

DRAFT ANSWER.

The land referred to in paragraph 4 of the plaint belonged to the pagoda, of which plaintiff is Trustee, and was entered in the pagoda putta. It was struck out of the putta, with reference to a Razinamah executed by 2nd defendant, which was accepted in the belief that he (2nd defendant) was duly authorized to relinquish the pagoda land. Of the land so relinquished, 123 acres were subsequently assigned on Dhurkast to defendants 2, 5, 27, and 28.

2. This defendant will abide by the terms of the Court's decree. He prays for his costs.

No. 171. ORDER THEREON, 19th July 1873, No. 754.

Miscellaneous.

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

proposed by the Board of Revenue is approved.

(True Extract.)

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

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

Exd. F. R. Bantleman.

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Tanjore District Office
Pondicherry
Tritapondy Taluk
3^d July 1875

No 237.

From The Honorable D. A. Buttworth
Magistrate of Tanjore

To J. Grose Esq.
Secretary to the Board of Revenue
Madras

No 36 of 1875
Sir I have the honor to report on
a Suit which has been instituted in
the Court of Small Causes at Negapatam,
by one Arumuga Chetty against
Vannayyali and others, and
in which I have been included by the
Court as a supplemental defendant,
because the Plaintiff showed that I had
an interest in the subject matter.

2. The suit, however, as will be seen
from the enclosed translation of the
plaint, relates to two distinct subject
matters, the one being rent due by
tenants and the other land alleged to
have been fraudulently obtained or
discreet from the Revenue authorities.

Yr

It is in this letter that the Collector has an apparent interest.

3. The facts of the Case of Durkhaat are briefly as follows:—

In the Sitturapoondy Taluk, there is a Ryotwary village called Sighial, of which the sole Inerassi or the right of holding belongs to the Pagoda of Sivastamankeswaraswami in that village. In this village about 170 acres of dry and wet land were given up by Razimamash by one Simwengadakonam in 1866 and 1867 (who this individual was will appear from what follows), and of these, about 134 acres, dry and wet, were subsequently obtained on Durkhaat by four individuals including the said Simwengadakonam.

The present Plaintiff is a Panchayat or Trustee of the Pagoda and his plea is, that Simwengadakonam, who was merely one of the tenants of the village had no right to relinquish the land, the property of the Pagoda.

and

and that its relinquishment by him and its subsequent acquisition on Durkhaat on their own account by himself and three other individuals have been acts of fraud. The Plaintiff accordingly seeks to recover the land for the Pagoda with mesne profits. I am afraid there is truth in this assertion. The whole case necessarily turns on the question what authority the Konam had to tender a Razimamash for the land. It is here to be observed that at first a Razimamash Petition was presented by him to the Tahsildar on the 31st August 1866 and in this there was nothing to show that it was tendered on behalf of the Pagoda, it was addressed by him in his own name as if he was himself the Inerassi holder of the land. This Petition was returned to him by the said Tahsildar with an endorsement that he had no right to relinquish land which belonged to the Pagoda and that the Razimamash ought to come from the Panchayat or Trustee of the Pagoda. Then another Petition was

was presented by him on the 24th May
1867 in which he stated by way of
Explanation that there was no Pauchayat
at the time, and that it was he
(Srivengadakoman) who had
acted on behalf of the Pagoda when
the land was originally obtained as ^{7.4.8}
Duskhast for the Pagoda. A special ^{The land was originally}
order was then passed, nor any ^{waste and it was}
enquiry instituted into the matter. ^{included in the}
The land was however eventually ^{Puttali in 1869, by}
struck off the Jamabandi as ^{reason of its having}
being taken up ^{Duskhast on behalf}
of the Pagoda
relinquished; the case having apparently
been lumped up with other ordinary
Pazimamab Cases, which according
to the established practice of
this District, are submitted to the
Divisional Officer in a tabular
form, for sanction to deduct
the lands from the Jamabandi
which is accordingly noted thereon.
5. The land in question thus came
to be struck off the occupied area
in 1867, and in 1869 applications
were made for the same land
on

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in Duskhast by four individuals
of whom, as already stated, ⁱⁿ
Srivengadakoman was one
and appeared of course on his
own account. These applications
were opposed by the Gurukab
or priest in charge of the Pagoda,
but in consequence of the report
made by the then Sub-Idar on the
4th August 1869, to the effect that
the land had been relinquished
by Srivengadakoman under the
authority of a power of attorney
granted to him by the Pauchayat
of the Pagoda, his objection was
rejected and the application
of Srivengadakoman having
been reserved for further
enquiry, the portions applied for
by the other three parties were granted
to them by orders passed by
Deputy

Deputy Collector in charge of the Division on the several applications, on different dates in that year viz 1869. The further Enquiry in regard to Tiruvengadam² Konan's application also resulted in the portion of land applied for by him being granted to him on Duthast by an order of the present Deputy Collector in charge of the Division, in Alasingari Nayidie dated 30th December 1871.

6. In another order of the same date (30th December 1871) passed by him on a subsequent Petition of the Pagoda Gurukul above mentioned, the Deputy Collector takes it for granted, that in Tiruvengadam Konan was the General

General agent of the Pancharatnam and had therefore a separate authority to relinquish the Pagoda land. The grounds on which he bases this Conclusion are:—that the Konan had been in the habit of applying for and obtaining remissions of ^{some} assessment for bad crops; that the Pagoda Gurukul had without any demand accepted on behalf of the Pagoda, the Pottah for fully 1277 (1867/68) for the whole village, in which the land relinquished had been deducted, and that he had been collecting the rents due to the Pagoda less the Sum due on land relinquished. All this, if anything, only shows that the Gurukul was Cognizant of the remission of the land, but this is no justification for the Revenue authorities having accepted the remission from a wrong party.

It

It does not appear to have struck
the Deputy-Mentor how, if the
Roman had been a general agent
who had the power to relinquish
the Pagoda land, the Pattab for
the remaining land came to be
given to any but the Roman himself,
or how the fact of rents for the
remaining lands having been all
along collected by the Pagoda
Gurukul Committee with the Roman
having been the general and
sole agent of the Pagoda. I don't
suppose that the fact of one having
received what was given him
shuts him out from claiming
more afterwards, at any rate
the Courts of Justice will not
admit such a plea. As to the
Roman having been obtaining
remission of Government assessment
this only shows another irregularity in the
procedure observed by the Revenue authorities

throughout

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throughout in regard to this Village.
7. As regards the assumed
general power of the Roman, it
appears to be a myth, and the
only reason upon which the
Tahsildar, in his wazir dated
12th August 1869, took it for
granted that he had such
power from the former Panchayat,
consists of the words "Panchayat
agent" imported by the Committee
into an account given by him
in 1869 in connection with the
applications for Shurkash
and adopted by the Roman
himself in a statement then
given by him before the Tahsil-
dar. In this statement, the
latter gave a version of his own
position different from that given
in his previous petition of the
24th May 1867; he here states
that he had tendered the Raji-
namah for the land in 1867 under
the authority of a power of attorney
then obtained from the Panchayat.
It is to be here noted that according

to his previous Petition, there had been no Panchayat at the time, and it is a fact that both the Panchayats the Pagoda had, had deceased 4 years back, and none had been appointed in their places. At a subsequent stage, the Konan stated that he had a general Mukhtyarnamah in 1861 and a power of attorney in 1862 from the then Panchayats of the Pagoda, and that the former was filed by him in a Magisterial case in the Sahy Sutcheri. This latter assertion, however, is not borne out, by the records, and as to the power of attorney of 1862, it authorizes him only to act in a particular case, and, thus, if any thing, only goes to negative the supposition that he had before that any such general authority as is alleged; for if such had existed, there could have been no occasion for

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for a special power of attorney being given then. It is to be observed that in his Razinama Petitions of 1866 and 1867, there is not a word as to the Konan acting under a general mukhtyarnama from the Panchayats. The fact on which he then grounded his right to give up the land was, that it was he who had originally obtained the grant of the land in question on Durkhaast for the Pagoda, and it is here to be noted, that the Durkhaast mukchelikha or engagement taken from the Konan at that time, i.e. 1860, by the Sahy authorities was cancelled by order of the Collector, and a fresh one was taken from the trustees of the Pagoda, from whom the Konan and other tenants took out sub-leases for the payment of rent to the Pagoda.

8. On the whole, there seems the very little doubt that a fraud has been perpetrated in this case

case with the aid of the Curmuree
and possibly also of the subordi-
nates on the Salug establish-
ment. Indeed the indications
of fraud are not wanting, the
bulk of the land obtained on
Durtkhast has been divided
between the Konan and one
Nannaiya, the son of a ^{1st} Defendant
former trustee of the Pagoda,
who however, was not the
ostensible Durtkhastdar. At
this time, as already stated,
there had been no trustees for
the Pagoda for four years,
and it was therefore, a suitable
time for the job being perpetrated
by these two individuals in collu-
sion with each other.

9. Obviously, the affair of the
relinquishment of the land was
managed without the particular
facts of the case being brought
before either the Deputy Collector
or the Tahsildar. It is to be
observed, that since the Razinama
for the land was tendered in
1866

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1866, there have been no less than
six changes in the Office of Tah-
sildar; and that none of these
officers with the exception of
the present Tahsildar, Venkata
ramanayyar, knew much about
the real nature of the case,
is deducible from the incoheren-
cies apparent in the voluminous
record therewith connected. In
justice, however, to the Tahsildar
last named, it should be
stated, that while previously
acting as Tahsildar in this
Salug, he in an order dated
7th July 1870, pointed out that
the Konan had no right to
relinquish the land in question
and that the case had been
irregularly dealt with from the
very first.

10. I must not omit to state that
an appeal preferred to him against
the last order of the Deputy
Collector dated 30th December
1871, was summarily rejected
by Mr. Cadell, presumably also

on

on the supposition, that the land had
been given up by the proper person.

11. As the case stands, however,
I do not see that there is any defence
to be made by Government in this
suit, and it being now too
late to correct the mistake, I
would recommend that the suit
be left to be decided by the Court
on its own merits.

12. The suit has, at my request,
been adjourned for final hearing
to the 25th instant, and I beg I may
be favoured with the Board's in-
structions before that date.

I have &c.

sd/ R. Chubbuck
Collector

(True Copy)

J. G. Goble
Secretary

sd/ J. G. Goble
J. G. Goble

R¹
2110/3
Enclosure in Proceed-
ings of the Board
of Revenue & the
Secy to Gov^r:-
Revenue Dept^r, dated
12th July 1873.

Copy of letter from
Col^r of Tanjore re-
porting institution
of suit no 36 of
1873 in Court of
Small Causes at
Negapatam by one
Arumuga Chetty against
30 men including Col^r
of Tanjore.

duly authorized to relinquish and the
land was struck out of the Pagoda puttah.
Subsequently 124 acres of this land were
obtained on Durkhast by defendants
2, 5, 27 & 28. Plaintiff as trustee of the Pagoda
sues to recover this land alleging that it
belongs to the Pagoda, that 2nd defendant
is a mere tenant and had no authority
to relinquish it, and that he did so with
the fraudulent intention of obtaining it
on Durkhast independently of the Pagoda.
The collector thinks there is good reason
to believe that the allegation of fraud
is true and proposes to leave the suit
undefended. The Board are of opinion
that the following draft answer should
be filed on behalf of the collector
who has been made a supplemental
defendant.

Draft answer

The land referred to in para 4
of the plaint belonged to the Pagoda
of

of which Plaintiff is trustee and was
entered in the Pagoda puttah. It was
struck out of the Puttah with reference to
a Razinamah executed by 2nd defendant
which was accepted in the belief that he,
2nd defendant, was duly authorized to re-
linquish the Pagoda land. Of the land so
relinquished 123 acres were subsequently
assigned on Durkhast to defendants 2, 5,
27 and 28.

This defendant will abide by the terms
of the Court's decree. He prays for his costs.

(True Extract)

J. G. Gole
Secretary

To,

The Secretary to Government
Revenue Department
with copy of collector's letter & one original
enclosure to be returned

E. J. M.

C. M. Karasima (Harry)

~~Recd 19th July~~

No 2110

Proceeding of the
Board of Revenue

Dated 12th July 1873

Deaf. 12 - " - "

Received 16 - " - "

by
~~the~~

submitting a
letter from the
Collyer & Jackson, Esq.
regarding the recti-
fication of the
of 1873 in the Court
of Small Causes at
Mysore

With Order

Do 24. 19 July 1873

Respd in MS.
to Mr. Jackson
in Board of Revenue
4. The Secretary

19 July 73

MS

MS

The distance of the rail at the end of

No 754

not is attachment, in the usual form,
and the draft answer proposed
to the Board of Revenue is attached