M.R.O. 1—20,002—12-8-65.

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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 1098 Pros

~~B.P. No.~~ Mis.

Dated 28. 8. 1874 ~~196—~~.

Not to be folded or roughly handled

1095.

Proceedings of the Madras Government, Revenue Department.

28th August 1874.

No. 275. Read the following Proceedings of the Board of Revenue, dated 14th July 1874, No. 1,805:—

Read the following letter from the Honorable D. ARBUTHNOTT, Collector of Tanjore, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Point Calimere, 1st June 1874, No. 138:—

I HAVE the honor to submit the following case for the orders of the Board.

2. The Nadiam Mattam, which has formed the subject of much lengthened correspondence as will be seen by a reference to the Board's Proceedings marginally noted, was handed over to the ex-Gosayi or trustee, with its endowment and mesne profits, in the year 1871, under a decree of the High Court.

Dated	23rd February	1856, No.	551.
,,	27th April	1857.	
,,	11th May	,, ,,	1,515.
,,	7th March	1861, ,,	1,296.
,,	3rd June	,, ,,	2,854.
,,	10th August	,, ,,	4,345.
,,	2nd August	1865, ,,	4,565.
,,	26th July	1869, ,,	5,426.
,,	19th January	1870, ,,	387.
,,	13th July	,, ,,	4,848.
,,	16th September	,, ,,	5,769.
,,	6th December	,, ,,	6,961.

3. The endowment of this institution consists of seven villages yielding a net annual income of about Rupees 1,400. The villages are all Inam, and have, under the Inam rules, been confirmed as "Dharmadayam" or "charitable endowment on tax free tenure," to be held without interference so long as the conditions of the grant are duly fulfilled.

4. The conditions of the grant, however, have totally ceased to be fulfilled; for the villages have, with the exception of one, the smallest of all, been sold by the Courts for decrees for debts due by the Gosayi, and have been purchased by various individuals. What belonged to the Mattam was the right of collecting the revenue, and this having been conveyed by the Courts' sales to other individuals, there is nothing left for appropriation to the Mattam; in fact what was exempt from the payment of revenue to Government upon the condition that it was to go to support the Mattam, has now gone to the purchasers at the Courts sales.

5. I request, therefore, that I may be authorized to resume the Inam tenure of the six villages which have been alienated.

SUBMITTED for the orders of Government.

2. The Collector of Tanjore reports that six of the seven Inam villages which form the endowment of the Nadiam Mattam, and which are granted on free tenure so long as the conditions of the grant are duly fulfilled, have been sold by the Courts on account of debts due by the Gosayi, and have thus been alienated from the Mattam, and ceased to satisfy the conditions on which alone they were to continue rent-free.

3. The Board are accordingly of opinion that Government have the power to impose full assessment on all these villages and should do so.

4. The orders noted in the margin, and the papers disposed of in them, show that the Gosayi is a man of abandoned character, and that it would be useless to show any leniency with regard to the Mutt.

Extract Minutes of Consultation, 9th May 1857, No. 438, R. D.
G. O., 22nd December 1869, No. 1,094, R. D.
G. O., 7th September 1870, No. 1,389, R. D.

5. Moreover, the Board think that the imposition of full assessment on these villages may have some effect in preventing similar fraudulent alienations occurring in future.

6. The Board have carefully considered the effect of Act XX. of 1863 with regard to this case, but they have come to the conclusion that there is nothing in that Act to prevent Government from enforcing its right to impose full assessment on Inams held conditionally when the conditions cease to be fulfilled, even if the Inams were granted as religious endowments.

No. 276. ORDER THEREON 28th August 1874, No. 1,098.

Land Revenue, No. 6.

HIS Excellency the Governor in Council concurs with the Board of Revenue that the only course left is to resume the Inam tenure of the villages in question, and he accordingly authorizes the imposition of full assessment.

2. He is unwilling, however, that property once conveyed for beneficial uses should be altogether lost to the public, and accordingly resolves to address the Government of India with the object of obtaining the income of these Inams for some purpose of general utility.

(True Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

To the Board of Revenue.

Exd. W. H. Fr[illegible]ch.

1098

29-8-91
Further Rec 4/57/75
22-11-04
21-8-41
31-10-88
21-8-91
21-3-77
16-5-85
26-12-07
4-1-08

Govt. of India, 1874. 3 Volumes.

REVENUE.

THE BOARD OF REVENUE,

Dated Aug. 1857.

Rec'd.

G. O., 28th August 1857, No. 1098.

Nos. 275-277.

Notice, Madras in Tanjore District.—Authorizing the Institution of Suit against certain villages forming the endowment of — which have been set apart by the Courts for the debts of the trustee, and relating to address the Government of India about appropriating the income of these Inams for some purpose of general utility.

Fort Saint George, Revenue Consultation of 12th May 1857.

33. Read the following Extract from the Proceedings of the Board of Revenue; dated 27th April 1857, No. 1303.

Read letter from the Acting Collector of Tanjore dated 28th March 1857.

In Consultation 27th April 1857.

(Here enter No. 50.)

In the foregoing letter, the Acting Collector of Tanjore requests permission to defend at the cost of Government an action which has been brought against him and others in the Sub-Court under the following circumstances.

2. In a letter dated 19th January 1856,† No. 10, the Collector of Tanjore reported that 8 villages in the Puttookottah talook of that District were held on Survamaniem or rent free tenure by a Gosayee for the distribution of food to travellers, but that the conditions of the trust had not been duly observed.

† *In Consultation 23d February 1857.*

3. The Gosayee was himself wholly ignorant of every thing connected with the charity he was supposed to administer, and his servants so interested in concealing the actual state of matters that it was difficult to arrive at a correct knowledge of the income and expenditure of the villages. The accounts however of the two previous Fuslies ranged from 1,950 to 2,230 Rupees, while the expenditure on account of the charity was only 15 per cent. of the income, and it was doubtful whether even this limited amount had been properly expended in furtherance of the object of the grant. The remainder was said to have been expended in a pilgrimage to Tripaty, in the repayment of private loans and other irregular modes.

4. The Gosayee had moreover alienated portions of the trust lands, some in perpetuity and some for various periods, he had no desciples, was incapable of teaching and was a man of abandoned character.

5. Under these circumstances, the Collector recommended the resumption of the lands, and as the existence of a Chuttrum maintained by the Rajah within two miles and at which food was gratuitously distributed rendered the re-establishment of the Gosayee's Chuttrum as an almshouse unnecessary, Mr. Forbes suggests that the proceeds of the resumed villages should be appropriated to the erection of shelter for travellers on lines of road then deficient in such accommodation, the Gosayee's Chuttrum being repaired and retained as a halting place for travellers, providing their own food.

6. The Board concurred with the Collector that the Gosayee's misappropriation of the Funds of the charity and illegal alienation of its landed endowment warranted the resumption of the trust, and they authorized the Collector accordingly to resume the lands, holding the proceeds in deposit.

7. The Collector was also requested to submit his proposals for the future appropriation of the revenue of the villages more in detail. This information has not hitherto reached the Board, and the matter has not been brought formally before Government for confirmation under Regulation VII. of 1817.

8. In carrying out the Board's orders a dispute arose between the parties who are respectively Plaintiff and 3d Defendant in the suit now referred to, as to the right of possession to a portion of the lands included in the endowment, Plaintiff claiming under a mortgage deed, and 3d Defendant under a lease from 2d Defendant, the Gosayee.

9. The case was investigated by the local Revenue officers who decided in favor of the 3d Defendant.

10. The matter depends entirely on the nature of the evidence adduced, but the Acting Collector is not liable under Act XVIII. of 1850.

11. The Board have added a clause to the draft answer to this effect, and another maintaining that the alleged mortgage was illegal, being contrary to the provisions of Regulation VII. of 1817.

12. They recommend that the Acting Collector may be authorized to conduct the defence of the suit in the mode proposed at the public expense, and they request that the resump-

Fort Saint George, Revenue Consultation of 12th May 1857.

tion of the Board ordered in their Proceedings of the 23d February 1856 may now receive formal confirmation of Government, the disposal of the revenues of the villages in some mo[illegible] inconsistent with the terms of the grant being left for future consideration.

(A true Extract.)

(Signed) J. D. SIM, *Acting Secretary.*

No. 34.

ORDER THEREON, No. 483; dated 9th May 1857.

The Right Honorable the Governor in Council grants authority for the defence, in the first instance, at the public expense, of the suit instituted by Vythy Taven in the Subordinate Court of Combaconum against the Acting Collector of Tanjore; but will determine when a copy of the decree shall be submitted whether the costs, if any be adjudged against the Collector, shall be borne by that officer or by the Government. The answer as revised by the Board is approved.

(Signed) H. FORBES,
Acting Secretary to Government.

No. 2,854.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 3rd June 1861.

Read the following letter from W. M. CADELL, Esq., Collector of Tanjore, to J. D. SIM, Esq., Secretary to the Board of Revenue, Chepauk, dated 13th April 1861, No. 109:—

1. With reference to paragraph 2 of the Order of Government, dated 14th February 1861, communicated to me with Board's Proceedings of the 7th March last, No. 1,206, I have the honor to forward herewith a Statement exhibiting the funds which have accrued from the Inam lands attached to the Nadiem Matum in the Puttucottah Taluk of this District, and the disbursements made therefrom annually from Fasli 1265 to 1270, from which it will be seen that there remains a net surplus of Rupees 4,030-1-[illegible] deposit in my Treasury.

2. On referring to the former correspondence on the subject, the Board will observe that Mr. Forbes, the late Collector, proposed to appropriate the surplus funds for the repair of the said Matum, and to apply the residue for the construction of choultries in the more frequented lines of roads. On inspecting both the building and the villages attached to the Matum last year, I, however, found that both had been so much neglected that nearly the whole of the funds now in hand will be required for the repairs of the building, and the improvement of the sources of irrigation, and also for the renewing of the topes and gardens connected therewith. With the approval of the Board, I would, therefore, recommend that for the present the surplus funds should be retained.

ENCLOSURE No. 1.

ABSTRACT.—Statement showing the funds accrued from the Inam lands attached to Nadiem Matum, and the disbursements made therefrom annually since its resumption in Fasli 1265.

Submitted for the information of Government, with reference to paragraph 2 of their Order, dated 14th February 1861, on the Petition presented
In Cons. 26th February 1861, No. 1,232. by Encesa[illegible]gree Goswamy of Nadiem Matum in the District of Tanjore, No. 3,299 of 1860. The Board approve of the Collector's intention to expend the accrued proceeds on the Mhutt and irrigation works of the villages.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To J. D. Sim, Esq., Secretary to Government, F. D.

Copy to W. M. Cadell, Esq., Collector of Tanjore.

Exd. J. Wright.

No. 1,565.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd August 1865.

Read the following letter from G. L. MORRIS, Esq., Collector of Tanjore, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated 14th July 1865. No. 210:—

1. With reference to the Board's endorsement on the Petition marginally noted, addressed to Government by the ex-Gosayi of Nadiam, Madam, I have the honor to submit the following report.

Government No. 1,036 of 1865, Board's file No. 122.

2. The Sunnud to which Petitioner refers is a genuine document; in fact its existence has at no time been doubted, it being distinctly alluded to in Mr. Forbes's letter* to the Board, dated the 19th January 1856, No. 10, as also in the report† of the then Special Assistant Collector, Mr. Norman, on which Mr. Forbes's recommendation for the endowment of this institution being resumed was based.

* Recorded in Board's Proceedings, 23rd February 1856, No. 551.

† Dated 3rd December 1855.

3. The Sunnud has been registered as No. 318, in the Register of Survamaniem lands made [illegible], Petitioner having failed to produce before me the original Sunnud, which he states in his Petition to be in his possession, I called for its counterpart from the records of the Tanjore Place, and find that it substantially corresponds with the translation attached to the Petition under report.

4. This document does not contain any express condition that food should be distributed to travellers, but the fact of the Mattam being mentioned therein as being on the road to "Setu" or Rameswaram, indicates, I consider, that the endowment was intended for the benefit of travellers.

5. It is true that the very designation of the institution as a Mattam, and the fact of its being presided over by a succession of priests, and of there being a pagoda within it, where religious service was or was intended to be performed, give it in a measure the character of a religious institution; but it is to be observed that there is scarcely a charitable institution in this country, which is not associated with religion. Most of the private Chuttrums are founded for the express or implied purpose of feeding Bramin travellers, and it is only in places which are considered sacred, or on roads leading to such places that they are founded.

6. Under this view of this case, I do not see how this Mattam can be restored to Petitioner, for there is no doubt whatsoever that he looked upon it as his private property, and spent the proceeds of the charity in any way but that for which they were originally intended.

ENCLOSURE No. 1.—Petition.

Submitted to Government with reference to their endorsement, dated 22nd May last, on Petition No. 1,036.

(A true Copy and Extract.)

(Signed) C. G. MASTER,
Acting Sub-Secretary.

To W. Hudleston, Esq., Acting Secretary to Government, R. D.

Copy to G. L. Morris, Esq., Collector of Tanjore.

Exd. J. Wright.

PROCEEDINGS of the BOARD of REVENUE.

No. 1965.

Dated 3rd June 1861.

Despatched.

Received.

No. 2,554.

Submitting a letter from the Collector of Tanjore, forwarding a statement showing the funds accrued from the Inam lands attached to Nadiem Matum and the disbursement made therefrom annually since its resumption in Fasli 1215, and approving of the Collector's intention to expend the accrued proceeds on the Mhutt and Irrigation works of the village.

6. The cost of the defence will, of course, be defrayed from the funds of the institution.

ENCLOSURE No. 1.

To the Civil Court of Tanjore.

Plaintiff in forma pauperis. *versus* *Defendant.*

Insagiri Gosayi Swamiyar, Inamdar of Sarwamaniam lands, attached to the Mattam at Nadiam, in Pattukottai Talook. G. L. Morris, Esq., Collector of Tanjore.

Petition of Plaint.

I AM the Trustee of the Mattam at Nadiam in Pattukottai Talook. I was, according to custom, appointed as Madathipathi by my predecessor. I was in enjoyment of the undermentioned villages attached to the said institution.

2. In 1744 the said villages were granted, as Sarwamaniam, by Pretap Sing, [illegible] Tanjore, for the use of the institution. In [illegible] part of this, there is a Sikka Sunnud in the name of the then Insagiri Gosayi.

3. While in enjoyment of these villages, with all rights and titles thereto attached, they were, in February 1856, attached by the order of the Board of Revenue upon the Collector's report. Since then the Collector has been enjoying the villages together with mesne profits.

4. The said villages were originally intended for meeting charges connected with pujah or worship, etc., of the Mattam, and not for the distribution of food to the public.

5. Till February 1856, the villages were under my management; the pujah and other matters connected with the institution were conducted by me regularly and according to usage. They (the villages) were then unjustly attached under a mistaken notion that they were intended for the distribution of food to the public, and this suit is brought for the recovery of these villages together with mesne profits.

6. As I am unable to pay for the stamps required for instituting the suit, I file this *in forma pauperis* under Sections 299 and 300 of the Civil Procedure Code.

7. The aforesaid Sikka Sunnud was pledged, in 1865, to one Valee [illegible] daliar, of Royal Hotel at Madras. I will cite him as a witness, and cause the said document to be produced at the hearing.

8. I, Insagiri Gosayi, the plaintiff *in formi pauperis* in the above plaint do declare that all that is stated therein is true to the best of my belief and information.

(Here enter the Schedule of Lands.)

	Rs.	a.	p.
Extent of Nunjah and Punjah lands in the seven villages	2	1	0
Estimated value of the gross produce, after deducting Porakudi Varam, etc.	113,280	0	
Do. of mesne profits [illegible] as per annexed accounts of the Circar from 1856 to 1865	19,146	8	0
Total value of the claim	1,32,427	2	0

(Signed) INSAGIRI GOSAMIYAR. (Signed in Maratti.)

Filed on the 9th December 1867.
Original Suit No. 10 of 1867.

(Signed) F. W. FIRD,
Clerk.

(True Translation.)

(Signed) G. L. MORRIS,
Collector.

ENCLOSURE No. 2.

Draft of the proposed written statement.

THE plaintiff's assertion that the grant was made for Pujah and Aradhanai, etc., is untrue, there being not a word regarding these, or of any other religious services whatsoever in the Sunnud.

2. It is true that neither is it mentioned in the grant that it was made for the use of, or the distribution to, the public; but from the fact of the [illegible] being specifically mentioned therein to be situated on the road to Rameswaram, it is to be naturally inferred that the endowment was intended for the benefit of travellers, and is, as such, of a charitable character.

The Mattam, with its endowment, was taken under the management of the Board of Revenue under the provision of Regulation VII. of 1817, because the plaintiff was misappropriating the proceeds and illegally alienating parts of the endowments—a fact which the defendant is prepared abundantly to prove.

Under these circumstances, the defendant begs to state that this charitable establishment, with its endowment, cannot be safely entrusted to the management of the plaintiff, and prays that the suit brought by him may be dismissed with costs.

(Signed) G. L. MORRIS,
Collector.

TANJORE,
10th April 1868.

THE Board sanction the defence of the suit on the usual terms, and approve of the proposed written statement.

No. 466. Proceedings of the Board of Revenue, dated 2nd April 1869, No. 2,165.

Read the following letter from the Collector of Tanjore, to the Acting Secretary to the Board of Revenue, dated 10th February 1869, No. 20:—

WITH reference to the Board's Proceedings, dated the 24th April 1868, No. 3,518, I have the honor to report that the Civil Court at Tanjore has dismissed the suit therein referred to, with costs.

2. I enclose herewith copies of the Judgment and Decree passed by the Court.

3. The cost incurred by me on account of the defence has, as the Board will observe, been adjudged to be paid by the plaintiff; but as he is destitute of means and has instituted this suit *in formâ pauperis*, I apprehend that it will have to be borne by the funds of the Nadiam Mattam under Government management, and to which the suit referred to, and from which funds it has been paid at present. I have, however, ordered inquiries to be made as to whether there is any possibility of recovering the cost from the plaintiff.

ENCLOSURE No. 2.

In the Civil Court of Tanjore.

Present:—H. S. WHITES, Esq., Acting Principal Sudder Amin and Acting Civil Judge.

Original Suit No. 10 of 1867.

Insaghiri Ghosi Swamiyar ... Pauper Plaintiff.

versus

G. L. Morris, Esq. ... Defendant.

THIS suit coming up for final hearing, the Court, after examining the witnesses adduced on both sides, perusing the various documents filed by the plaintiff and the defendant, and hearing the arguments of Subramonia Aiyar, Vakeel on behalf of the plaintiff and of the Government Vakeel on behalf of the defendant, the Court delivered the following:—

JUDGMENT.—In this suit plaintiff, alleging himself to be the Madathipathi or proprietor of the Ghosavi Mattam, situated in the village of Nadiam, in the Pattukottai Talook of this district,

sues *in forma pauperis* to set aside the order of attachment issued by Mr. Forbes, the former Collector of Tanjore, who in the year 1856, acting under the instructions of the Board of Revenue, ousted the plaintiff from the possession and enjoyment of the lands and Mattam above-named, and to recover once more possession of the said lands and Mattam, and also the mesne profits derived therefrom during the years they have been under the management of the defendant.

2. The plaintiff states in his plaint that the lands specified in the list filed by him were granted in the year 1744 under a Sicca Sunnud issued by Pretap Singh, a former Rajah of Tanjore, only for the maintenance of the religious rites, ceremonies, and observances to be performed in the temple of the Nadiam Mattam and not for the distribution of food to travellers, or for general purposes of charity; that plaintiff having succeeded to the post of Madathipathi, continued to perform the duties of his office, properly and with regularity, up to the year 1856, when Mr. Forbes, who was then Collector of Tanjore, ousted him improperly from his possession of the endowed lands of the Mattam, and the Collector has ever since administered them himself, and the plaintiff therefore now sues to recover the lands and the mesne profits derived by defendant from the land, the value of the claim being Rupees 1,32,[illegible]27-2-0 together with subsequent profits and costs.

3. The defendant in his written statement denied the plaintiff's allegation that the grant of the lands by the Rajah of Tanjore was solely for the purposes of Pujah and Aradhanai (anniversary ceremonies) inasmuch as no mention whatsoever was made in the Sunnud, under which the lands were held, of any religious services, and that although, on the other hand, no mention was made in that Sunnud that the lands were granted for the benefit of the public, or for the regular distribution of food to travellers, still from the fact that the Mattam is situated on the road to Rameswaram it may naturally be inferred that the endowment was really intended for the comfort and relief of travellers, and as such of a charitable character. Further, that as the plaintiff, when in charge of the Mattam, was abusing his trust by misappropriating the proceeds, alienating parts of the endowment, and generally misconducting himself, the late Collector, as Agent of the Board of Revenue, acting under the provisions of Regulation VII. of 1817, took charge of the Mattam, with its endowments, and has since then continued to retain them in his custody.

4. The following issues were framed:—

I.—Whether the grant of lands by the former Rajah of Tanjore, as specified [illegible] was intended to be applied to the performance of religious services [illegible] feeding, and the benefit of travellers [illegible] plaintiff, when in charge of the said Mattam was guilty of [illegible] charge to the [illegible] or income of the Mattam or not.

II.— [illegible] the public authorities when plaintiff [illegible] Mattam [illegible] property was [illegible] Government, dated 10th November 1865.

5. The following documents were filed by the parties:—

[illegible] Pattukottai Taluk, to [illegible] plaintiff, dated [illegible]

[illegible] of the Board of Revenue, dated 2nd August 1865.

Estimate of value of [illegible] (in the Mahratta language) [illegible] the village in question [illegible] Mattam, etc.

Do. [illegible] mesne profits do.

[illegible] of the village, dated 23rd [illegible] in favour of the [illegible] of the Circar free [illegible] Custom Officer [illegible] Darasuram from the Tanjore Palace [illegible] ing [illegible] city.

[illegible] of cash allowance [illegible] the Collector of Tanjore to Venugoba [illegible] 3rd September 1866.

[illegible] dated by the Tanjore Rajah to Atmaram Ghosami, dated 5th June [illegible] certain Inam.

[illegible] Inam granted to Sadubavasamy by the Tanjore Rajah [illegible] Surasami Ammal [illegible] Arbayammaya Alias.

J.— Do. do. to do. by do. in 1716.

K.—Title-deed granted by the Inam Commissioner to the villagers of Karukkavayal, in the Pattukottai Taluk, dated 30th June 1865.

L.— Do. do. do. to Aiyasamyen and others of Nadiam in the taluk of Pattukottai, dated 28th January 1865.

M. Do. do. do. to Kuppaiyen of Nadiam in the said taluk, dated 19th [illegible] 1865.

6. The defendant filed only one document, a memorandum sent by the Special Assistant Collector to the Collector on 14th January 1856.

7. At the final hearing the plaintiff examined twelve witnesses, of whom the first witness, the Confidential Agent of Velu Moodelly, the keeper of the Royal Hotel in Madras, produced the two Sicca Sunnuds, exhibits D. and E, whereby the lands in dispute were granted by the former Rajah of Tanjore for the maintenance of the Nadiam Mattam, and proved that those documents had been mortgaged by plaintiff, about four years ago, to Velu Moodelly, as security for money then lent to him by Velu Moodelly, who had delivered them to witness for the purpose of filing them in this suit.

8. Second witness, a Ghosami in charge of a Mattam at Combaconum, produced Exhibits E. and F., two Sicca Sunnuds granted by a former Rajah of Tanjore, whereby his Mattam was endowed with lands producing Rupees 22 a-month, which grant was subsequently reduced to this monthly income of Rupees 11 which is still continued. The grant being only designed for the purpose of performing Pujah and certain festive ceremonies and the maintenance of the Ghosami in charge of the Mattam, and not for the distribution of food to travellers or other charity.

9. Third witness, a Ghosami in charge of a Mattam in the Town of Tanjore, repeated the same evidence in regard to his own Mattam, and produced the Sicca Sunnud, exhibit H. and admitted that, as Ghosami in charge, he is not at liberty to alienate or make away with any of the lands assigned for the maintenance of the Mattam.

10. Fourth witness, a Ghosami in charge of a Mattam in the Town of Mannargudi, makes the same statement as third witness.

11. Fifth witness, the Manager of Setu Bava's Choultry, which is situated on the road to Rameswaram, half a mile from the Nadiam Mattam, produced two Sicca Sunnuds, Exhibits I. and [illegible] granted by the former Rajah of Tanjore, also produced two [illegible] signing, for the support of the Setu Bava's Choultry, lands producing an income of Rupees 2,000 per annum, and [illegible] of a choultry in Mannargudi, the whole of which is expended maintenance [illegible] for ten years he managed the Rupees 2,000 for the [illegible] and stated [illegible] in charity to travellers; [illegible] is an annual income of Rupees 2[illegible] which is expended [illegible] support of the third [illegible] Mayaveram Talook [illegible] simply in [illegible] but for no bad purposes; and the Mayaveram Mattam in [illegible] lands to [illegible] knowledge [illegible] alienated or made away with any part of the Mattam, the expenses of religious ceremonies [illegible] lower [illegible] income and [illegible] injurious to the Mattam, he was aware that Mattam, none of the [illegible] (The witness's [illegible] evidence was given in a very [illegible] while he so managed such alienations would [illegible] [illegible] witness was for fifteen years the [illegible] with, and the [illegible] occasion [illegible] affairs of the Nadiam Mattam, and that [illegible] m, he was aware [illegible] occasion [illegible] was duly performed [illegible] by the [illegible] ors for [illegible] certain [illegible] sessions. He declared [illegible] of the Mattam [illegible] 1865, and [illegible] the Mattam [illegible] namely [illegible] former Rajah daily and [illegible] the defendant [illegible] given [illegible] alienations [illegible] of portions of the endowment [illegible] the Mattam by [illegible] plaintiff conducted [illegible] erly [illegible] land on one occasion as a gift to an Astrologer [illegible] the occasion of [illegible] and by defendant [illegible] two Mahs to [illegible] Brahmin. He acknowledged [illegible] while plaintiff [illegible] or the lands formerly [illegible] sionally [illegible] was not then Agent.

[illegible] eighth, ninth, and tenth witnesses, inhabitants of Nadiam [illegible] to time [illegible] the Mattam in their village, and plaintiff always [illegible]

14. The eleventh witness produces two documents, Exhibits K. and L., to prove that plaintiff's predecessors in the post of Ghosami established Veeraharam and granted for its support lands out of the endowment of the Mattam.

15. Twelfth witness proves that plaintiff let to his (witness's) elder brother five Veils of the Mattam endowment lands on the nominal rent of Rupees 7-15-6 per annum.

16. Thirteenth witness (common to both parties) admits that he has received as gift four Mahs of the Mattam endowment lands from plaintiff's predecessor, and three from plaintiff which he now holds.

17. Fifteenth witness (also a common witness) proves that he and his brother have got possession from plaintiff and the preceding Ghosami of eight Mahs of the Mattam endowment lands, of which three were given by plaintiff on the occasion of a new moon.

18. Fifteenth witness, also a common witness, admits that he has eight Mahs of the Mattam lands, which he says was given him by plaintiff's predecessor on the occasion of an eclipse.

19. Sixteenth witness, a servant in the Tanjore Palace, proves that his father obtained for him seven Mahs of the Mattam endowment lands which he now holds.

20. The defendant examined six witnesses, of whom, first, the Village Moonsiff of a village adjacent to Nadiam proves that thirteen years ago plaintiff made a present to him of four Mahs of the Mattam endowment lands which he still holds.

21. Second witness, an inhabitant of Nadiam, proves that fifteen years ago plaintiff owed his (witness) elder brother Rupees 50, and he gave witness one Veli of the Mattam endowment lands, with orders to pay the kist thereon, (namely, Rupees 7-12-6,) to his brother in liquidation of plaintiff's debt of Rupees 50. Witness has kept the land ever since.

22. Third witness speaks to plaintiff's bad and immoral character when in charge of the Mattam; he used to drink, saw him drunk four times, and also saw him frequently going at night to the houses of prostitutes in the town of Pattukottai; states also that he has seen a dancing girl and a woman of bad character of the Gentoo caste going to the plaintiff's Mattam which was being a Sanniyasi.

23. Fourth witness's evidence is unimportant.

24. Fifth witness deposes to having seen plaintiff on divers occasions [illegible] Raja.

25. Sixth witness, who was Police Peon for the town of Pattukottai from 1849 to 1851, proves his having gone one night in 1851 to a dancing girl's house, where there was a disturbance; and finding plaintiff in company with three and two women gambling with cards, plaintiff was redressed, and said he had come to the house on business of his own,—without telling the Tahsildar, who rebuked him for his misconduct, and let him go home.

26. This was the evidence in the case, and it shows very clearly in the opinion of the Court, that the lands granted many years ago by the former Rajah of Tanjore for the support of the Muttam have been misappropriated with the knowledge by plaintiff and his predecessors, that a very considerable portion of the income of the endowment lands have been fraudulently alienated and the income of the remainder misapplied. Plaintiff, it is proved, professing to be the head of an Ascetic of the Circar frequented by inquerors, is passionately addicted to the habit of frequenting the houses of ill-fame, allowing a man of bad character to visit women in the Mattam, drinking liquor, and [illegible] Raja.

The plaintiff charges, that the Nadiam Mattam is not one of those institutions, from the charitable nature of which it is removed by the Collector, while not one of those institutions, from the Sanniyasi is made regularly to travellers, but that it is solely the abode of a Sanniyasi, whereat a regularly certain pious ceremonies and observances in the temple inside the Mattam and his disciples, and for defraying the expenses of the religious ceremonies in the Mattam.

The Court is of opinion that this is a good argument of the plaintiff's, and that the evidence has been adduced does not prove that the Mattam was ever intended as a halting place for travellers, or where a charitable distribution of food was made.

28. The Setu Bava's Choultry, where food is daily provided for all comers of every caste, and for which charity possesses an annual income of about Rupees 1,000 per annum, is situated about one mile from the Nadiam Mattam, from which Mattam some of the lands originally granted by the Rajah for the support of the Setu Bava's Choultry, were taken away by the Rajah and transferred to the Tanjore Rajah, were regularly fed, the Rajah would have hardly transferred from it its endowment lands to another institution of a precisely similar nature close by. In the opinion of the Court it may be fairly inferred that the Rajah ordered that transfer of lands to the Setu Bava's Choultry, where the income would be applied in general charity in preference to continuing the extravagant grant originally made for the support of a so-called Ascetic and his disciples.

29. That the Mattam stands on the road to Rameswaram is no doubt the case, but so does the Setu Bava's Choultry close to the Mattam, and at it every traveller who asks for food is given it day by day, and the fact of the Mattam being so situated cannot be considered as a proof that the endowment was only designed for charitable purposes. Moreover, the Sunnud granted to the Setu Bava's Choultry by the Rajah of Tanjore, Exhibit I, makes special mention of the charity to be maintained there; whereas, in that granted to the Nadiam Mattam, it is merely stated that the holders of the Mattam should enjoy the lands rent-free for ever. Had it been intended by the Rajah, when assigning the endowment lands to the Mattam, that the income derivable therefrom should be applied in charity, the Court considers that some special mention of such intention would have been entered in the Sunnud, and as nothing of the kind appears, the Court finds that the lands of the Nadiam were granted not in view to the distribution of food, etc., to travellers, but for the maintenance of the religious ceremonies and pious observances to be performed regularly in the institution.

30. The finding of the Court on the first issue does not, however, remove the Nadiam Mattam from the jurisdiction of the Court, and involve a decree against the defendant.

31. Regulation VII. of 1817 was especially enacted to provide for the due appropriation of the rents and produce of the lands granted for the endowment and maintenance of Mosques, Hindu Temples, Colleges, Charitries, or other pious and beneficial purposes. [illegible] how the plaintiff has strenuously contended that the grant of the lands in this case were designed solely for the support and continuance of the religious ceremonies and services which were to be performed in and regular course in the Nadiam Mattam, and for the support of the Ghosami in charge thereof the temple situated in the Nadiam Mattam, and for the support of the Ghosami in charge thereof [illegible] duties under this tuition.

32. This is a clear admission that the endowment lands were designed for pious and beneficial purposes within the meaning of Regulation VII. of 1817, and consequently the Collector as local Agent of the Revenue Board, had undoubted right to interfere under the provisions of that Regulation, if it were proved that the lands or the income thereof were not being applied to the purpose for which originally granted.

33. [illegible] was conducted by Mr. [illegible] inquiry the Lobbay [illegible] result [illegible] inquiry the plaintiff [illegible] (Exhibit [illegible] nearly [illegible] at the Mattam [illegible] grossly [illegible] the Mattam [illegible] ment sequestrated by the plaintiff in debt [illegible] 1869, and who report to [illegible] by the defendant in this Suit [illegible] himself [illegible] grossly misconducted [illegible] plaintiff [illegible] grossly misconducted himself, and the income derived from the endowment sequestrated by the plaintiff in debt [illegible]

34. The evidence that has now been adduced both by the plaintiff and by defendant shows conclusively that for some time prior to the institution of the Collector for the lands forming the Nadiam Mattam and [illegible] dealt with both the plaintiff and his predecessors in office of Chosami of the Nadiam Mattam regarding those lands as property, in the manner. [illegible] regarding those lands as property, in the manner in which they had merely a life interest, the Chosamis of the Nadiam Mattam evidently

regarded and treated them as if they were their absolute private property to be alienated as they pleased.

35. The plaintiff did not hesitate to assign away portions of the endowment in payment of a private debt of his own in one instance, the land so given being of infinitely greater value than the debt on account of which the alienation was made. It is no justification for the plaintiff to act as he does, that he only did as his predecessors had done before him. There can be no doubt but that, managed as the Nadiam Mattam was in 1855, the endowment of the institution was being seriously impaired and diminished, and the evidence of plaintiff's first witness shows that even during the last few years the plaintiff borrowing money from an Hotel-keeper in Madras has given him a lien on the lands of the Mattam, and as security for that debt has deposited with him the original Sunnuds granted by the Rajah of Tanjore; so that if this Court were now to give a decree in plaintiff's favor, it is clear the income, instead of being expended for the pious purposes intended by the original granter, would go to pay the private debts of plaintiff contracted while he was not in charge of the building.

36. Moreover, the evidence of the credible and respectable witnesses who have been examined, prove that plaintiff, while managing Ghosami, was in the habit of keeping company with prostitutes, of visiting their houses, of gambling, of drinking, and of smoking gunja; all which dissolute practices necessarily entailed the misappropriation of the funds of the Mattam which plaintiff, as a holy ascetic, had been selected to manage. The Court, therefore, upon the second issue is decidedly of opinion that the plaintiff, when in charge of the Nadiam Mattam, was guilty of malversation of the endowment and income of the Mattam, and that the Collector had good and sufficient cause for enforcing against him the provisions of Regulation VII. of 1817.

37. The Court, therefore, dismisses this suit with costs.

Dated this 23rd November 1868.

(Signed) W. S. WHITESIDE,
Acting Civil Judge.

Enclosure No. 2.—Decree.

Submitted together with a copy of the Board's proceedings, dated [illegible] 1868, No. 3,018, for the information of Government.

2. This suit was brought by the ex-Manager of the Mattam in the village of Nadiam for the recovery of landed property of the institution, together with the proceeds during [illegible] years. The Mattam has been under Government management.

3. The institution [illegible] endowment [illegible] taken under Government management in 1856 [illegible] duly conveyed in Board's Proceedings, dated 23rd February 1856, No. 51, in consequence of the plaintiff having misappropriated the proceeds and illegally alienated portions of the endowment.

4. It will be seen that the suit has been dismissed; but as it was brought "*in forma pauperis*," the Collector is of opinion that the costs incurred by him will have to be paid out of the funds of the Mattam.

5. He intends, however, to endeavour to obtain them from the plaintiff.

No. 467. Order [illegible] 22nd April 1869, No. 1,094.

Read

Miscellaneous.

2. [illegible] Board will be good enough to report [illegible] course adopted with reference [illegible] payment of the costs incurred in the case.

(True Extract.)

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

To the Board of Revenue.

[illegible] arrivable [illegible] was intend[illegible]

[illegible] F. R. Bantleman.

No. 5,426.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 26th July 1869.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to the Acting Secretary to the Board of Revenue, dated Madras, 23rd July 1869, No. 320:—

With reference to the Board's Proceedings noted in the margin, I have the honour to forward, for the information of the Board, copy, just obtained from the High Court, of the printed record in Regular Appeal No. 59 of 1869 relating to the Nadiem Muttum in Tanjore District.

Dated 10th July 1869, No. 4,961.

2. The appeal has now been set down for hearing on the 2nd August. I have not yet received an answer from the Collector to my application for copies of such of the depositions and documents in the case as might be in his possession. Should I not hear from him in time I shall apply for a postponement of the case.

3. It will be observed that the case set up by the plaintiff on appeal is shortly this—*1st*, Regulation VII. of 1817 has no application to the case, (I. and II.); *2ndly*, if it did apply, it would not authorize the summary ejectment of the plaintiff from the lands in dispute, though he were guilty of misconduct, (VI.); *3rdly*, he has not been guilty of misconduct. I do not see how the *first* point can be maintained. The plaintiff's own case is, that the lands in dispute were originally given to maintain certain religious ceremonies, (paragraphs 2 and 4 of plaint,) which seems to bring them clearly within the words of Section 2 of the Regulation. That Regulation is no doubt repealed as to religious endowments by Act XX. of 1863; but all acts done under it before its repeal are lawful, and the latter Act nowhere enjoins the restoration of endowments to managers who have been removed for misconduct. When once it is finally decided that this endowment is a religious one, it will be for the Board to take the proper steps under the Act to divest themselves of the management of it; but that has nothing to do with the present suit. As to the second point, a case reported in Volume III. of the Madras High Court Reports, paragraph 334, seems conclusive against the plaintiff. The question directly at issue in that case was the power of a Committee appointed under Act XX. of 1863; but the Court holding that their powers were the same as those given to the Board of Revenue by Regulation VII. of 1817, it became necessary to decide upon the effect of that Regulation, and it was decided that the authority to suspend or remove a manager for just cause was implied, though not given in express terms. The third point is a question entirely of evidence, as to which I can pronounce no opinion until I have read the depositions.

4. I have forwarded a copy of the grounds of appeal to the Collector.

ENCLOSURE No. 1.—Printed record in Regular Appeal No. 59 of 1869 relating to the Nadiem Muttum in Tanjore District.

THE Board concur with the Government Pleader in his view of the case.

(A true Copy and Extract.)

(Signed) J. GROSE,
Acting Secretary.

To the Government Pleader.
,, the Collector of Tanjore.

Exd. A. S. Rodgers.

1869.

Board of Revenue.

MADRAS.

PROCEEDINGS, 26TH JULY 1869, No. 5,426.

Received

Encl.

JULY.

No. 5,426.

* *Regular Appeals*,—No 59 of 1869, preferred to High Court from Decree of Tanjore Civil Court dismissing Suit filed in that Court by one Inasiri Gosayi for recovery of Nadiem Mattam and his endowments.—Concurrence with Government Pleader in his views regarding.

No. 387.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th January 1870.

Read the following letter from F. W. HANDLEY, Esq., Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 16th December 1869, No. 390:—

WITH reference to the Board's Proceedings noted in the margin, I have the honour to report that the appeal, therein referred to, (Regular Appeal No. 59 of 1869,) relating to the Nadiem Muttum in Tanjore district, came on for hearing yesterday before the Chief Justice and Mr. Justice Holloway, when I appeared, as instructed, on behalf of Government to oppose the appeal.

Read 10th July 1869, No. 4,961.
Do. 26th „ „ „ 5,426.

2. The learned Judges said that they would record their decision and the reasons for it in writing, but they stated the conclusion to which they had arrived to be that the plaintiff must succeed on the ground that, whether he was rightly or wrongly removed from the office of manager of the Muttum, Section 4 of Act XX. of 1863 made it incumbent upon the Board of Revenue to restore the lands and other property belonging to the institution, to him.

3. It appears to me, with the greatest deference to so high an authority, that the Court entirely misunderstood the effect of the Act. The point was not insisted upon by the appellant's vakeel, and therefore I was not perhaps as well prepared to meet so novel a view, as I should otherwise have been, but I maintained, and I still think I was right, that Section 4 does not and cannot apply to the present case, that it falls under Section 3, and that under that Section and Section 12 the proper course for the Revenue authorities to pursue was to hand over the property of the Muttum to a Committee duly appointed under Sections 7 to 11, which course would be pursued now that it has been decided that the institution in question is a purely religious one.

4. The wording of the Act however is very obscure, and of course I feel considerable diffidence in my own opinion upon the question, seeing that it is opposed to that of the learned Judges abovenamed. I propose therefore that, as soon as I can obtain a copy of the written Judgment of the High Court, the Board should favour me with an interview to discuss the whole question or to confer upon the desirability of taking further proceedings by way of application for review of Judgment or appeal to the Privy Council. The case is a very important one, not merely considered by itself, but as likely to give rise to many other suits, if the construction put by the High Court upon the Act is ultimately established.

THE BOARD will fix a day to confer with the Government Pleader on this subject, when the judgment of the High Court has been submitted to them.

(A true Copy and Extract.)

(Signed) J. GROSE,
Sub-Secretary.

To the Government Pleader.
„ the Collector of Tanjore.

Exd. T. Cartledge.

Board of Revenue,

MADRAS.

1870

PROCEEDINGS, 19TH JANUARY 1870, No. 387.

Received

Encl.

JANUARY.
No. 387.

Regular Appeal Suit.—No. 59 of 1869, filed in High Court against decree of Tanjore Civil Court in Suit, No. 10 of 1867, relating to Nadiam Muttum and its endowments,—Government Pleader informed that Board will fix a day to confer with him upon desirability of applying for a review of Judgment in, or of preferring a Special Appeal to Privy Council, when Court's written Judgment has been submitted to them.

No. 4,848.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 13th July 1870.

Read again Board's Proceedings, dated 19th July 1869, No. 5,426.
Do. do. 19th Jan. 1870, ,, 387.

Read also the following letter from J. W. H. NDLEY, Esq., Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 22nd June 1870, No. 81:—

WITH reference to the Board's Proceedings, dated 19th January 1870, No. 387, I have the honour to forward copies, just obtained from the I. Court, of the Decree and Judg in Regular Appeal No. 59 of 1869, relating to Nadiam ttum in the Tanjore District. It will be seen that the Court has decreed the restoration of lands of the Muttum to the plaintiff with mesne profits from 1st January 1864, but without cost either in the Lower or Appellate Court.

ENCLOSURE No. 1.

In the High Court of Judi ature at Madras.

Monday the Thirteenth day of June, One th sand Eight hundred and Sev y.

PRESENT.

The Honourable Sir C. H. SCOTLA D, Knight, Chief Justice.
The Honourable Mr. Justice HOLL WAY.

Regular Appeal No 59 *of* 1869.

Plaintiff. *versus* *Defendant.*

Insagheri Gosamiar, Pauper (Appellant.) The Collector of Tanjore, (Respondent.)

Regular Appeal against the Decree of the Civil Court of Tanjore in Original Suit No. 10 of 1867.

2. This Regular Appeal coming on for heari , the Court delivered the following Judgments.

Scotland, C. J.—The plaintiff claiming to be e rightful owner of a Mutt and certain land attached to it under a grant by the Rajah of Tanjo in 1744, from the possession of which he had been ejected by the Collector of Tanjore in 185 on charges of breach of trust by misappropriation of the property of the Mutt and other m conduct, has brought this Suit to recover possession of the land and the mesne profits. The re ded issues raised the questions whether the land was granted for the performance of religious ces, or for the charity of affording food and shelter to travellers; and whether the plaintiff ha been guilty of malversation of the land or the income derived therefrom.

3. The Civil Court found that the gra was for religious ceremonies and pious observances only, and that the plain led a vicious life, and been guilty of malversation in his office of Tr e; and being of opinion that he had on that ground bee pro- perly deprived of the lands belonging to the Mutt under Regulation VII. of 1817 decre the dismissal of the Suit.

4. The main objection ed upon on the par of the appellant is, that the land is formal a religious endowment of a private nature to which egulation VII. of 1817 did not apply; but that if applicable it had been repealed by Act of 1863, and under Section 4 the plaintiff became entitled on the passing of the Act to the re ration of the endowment.

5. I have no doubt that the Regulation w applicable to the endowment, but I am of opinion that the objection is well founded as re ets the effect of Act XX. of 1863. By the passing of the Act all the powers relating to the perintendence and management of religious establishments, which had been vested by the R ulation in the Board of Revenue and the Collectors throughout the country, were completel determined, and either the District Committees appointed under the Act or the Trustees, Mana ers, or Superintendents referred to in Sections 4, 5, and 6, became entitled to the possession and anagement of all religious endowments; the former of all those of the class described in Section 3, and the latter of all within the description in Section 4.

6. Now the Mutt and endowment in dispute appear unquestionably not to be of the class of religious establishments, the nomination of the Trustee or Superintendent of which at the time of the passing of the Act vested in or exercisable by a public officer, subject to the confirmation of the Government or any public officer, and therefore not an establishment of the kind described in Section 3, and passed to the District Committee appointed under the Act.

7. The point then to be considered is the applicability of Section 4. If the term of description in that Section admit of the inclusion of the land in dispute, the plaintiff is the only person who, as Trustee, can be said to have become entitled to the transfer of such land. The Section provides that in the case of religious establishments, "which at the time of the passing of this Act shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not rest in nor be exercised by nor be subject to the confirmation of the Government or any public officer, the local Government shall as soon as possible, after the passing of this Act, transfer to such Trustee, Manager, or Superintendent all the land or other property which at the time of the passing of the Act shall be under the superintendence or in the possession of the Board of Revenue or any local agent, and belonging to such religious establishment." It further provides for the determination of all the powers and responsibilities of the Board of Revenue and the local agents in respect to such establishments and all the land and other property so transferred. The Government Pleader has contended that by the use of the words "under the management of any Trustee," etc., the Section is restricted to endowments which at the time of the passing of the Act were personally managed by Trustees, Managers, or Superintendents.

8. These words by themselves no doubt import personal management; but what follows in the Section shows clearly that the words were not intended to be applicable in that sense to the property of religious establishments, for it is expressly provided that the property in the possession of the Board of Revenue at the time of the passing of the Act shall be transferred. Giving effect to the language of the whole Section, and reading it with Sections 5 and 6, I think it must be construed as including the endowments of all religious establishments, the management of which had belonged to independently appointed Trustees. A different construction would leave in the hands of the Government the landed property of some religious establishments, which would be contrary to the plainly declared purpose and whole scope of the Act.

9. The plaintiff then being the Trustee to whom the land in dispute was made transferable by the Act, the only point remaining to be noticed is whether the plaintiff's conduct which led to his being deprived of the management of the endowment presents a ground for refusing him a decree in this Suit for the restoration of the property as the Civil Court has decided. I do not see that any effect can be given to the evidence as to the plaintiff's subsequent course of life and with respect to such of the appropriations of portions of the endowment as have been proved against him and charged to be improper, (though their effect is a disqualification for the trust is now a defence open for consideration in the present Suit. The Act makes no distinction as to the property of religious establishments which had been taken from the management or control of Trustees, Managers, or Superintendents, because of their misconduct. It provides alike with respect to all endowments under the superintendence or in the possession of the Board of Revenue, that they should be transferred immediately after the passing of the Act. It appears to me therefore that the intended operation of the Act is opposed to the present suit, as a defence to the misconduct of the Collector. A Suit may at any time be brought to remove the plaintiff and make him liable in damages for misconduct in his office of Trustee by any person interested in the Mutt and its endowments.

10. For these reasons the decree of the Court below should, I think, be reversed, and the plaintiff declared to be the Trustee of the Mutt, and as such entitled to the possession and management of the land claimed, subject to the trusts and purposes for which it was granted as an endowment.

11. With respect to the claim of mesne profits, I think that no ground has been shown for making the defendant accountable to the plaintiff for a period further back than the date of the

passing of the Act, not reckoning the time to be allowed for transferring the land, and to and for the year in which the Act passed seems sufficient to allow on that account. The therefore I think be directed to ascertain the amount of mesne profits since the January 54, by taking a proper account in pursuance of the decree, and payment of the amount found due must be ordered to be paid to the plaintiff to be applied to the same trusts and purposes. I think the case is one in which the defendant should not be ordered to pay costs in either of the Courts or the Lower Court.

12. *Holloway, J.*—It has been contended that the endowment is not within the Act. If it depended upon the documentary evidence, it would be difficult to say whether this is so or not. Taken, however, with the plaintiff's allegations, the evidence does show that it was an endowment for some religious purpose. This being so, Section 4 seems to provide for the very case of the Board of Revenue or a local agent being in possession to the exclusion of the Trustee, and taken with preamble to point the provisions of the Section to a case in which it or he has assumed the superintendence by virtue of the old Regulation. They must have acted under the Regulation, or they were simply wrong-doers, and the plaintiff would, on that ground, be entitled to our judgment.

13. If in possession under the Regulation at the passing of the Act, they are bound to restore the property to a Trustee in the position of the plaintiff. With regard to the defence on the ground of the plaintiff's misfeasance and malfeasance, I put my judgment on the ground that there is no such evidence before us as to the purpose of the institution as to enable us to say that the acts of the plaintiff are such a violation of that purpose as to disqualify him for holding the property. Bare immorality according to common ethical standards is not so according to some religious standards. In some cases of public religious endowments the disqualification of a Trustee would in consequence of the precepts of the particular religion is shown by faults perhaps no great ethical enormity, while faults morally much graver would not disqualify. In each case, it is a question upon the precepts and practices of the particular religion and the special purpose of that religion to which the institution is devoted.

14. Even supposing, therefore, that the acts stated would have afforded a good defence, and a defence available as this Suit is framed, I am of opinion that it is not made out. The evidence undoubtedly leads to a strong suspicion that the course of life of the plaintiff is not very edifying, but we are wholly without evidence as to the purpose of the endowment from which we could properly conclude that the plaintiff ought to be removed. Reference to the precepts and practices of the religions of antiquity to which in many points the Hindu bears strict resemblance, will, without unsavoury illustration, explain my meaning. I have had some doubt whether if another starting point for the account than the taking possession is selected, it should not be the period of the ... of the Suit. I do not feel, however, sufficient confidence in my view to urge by way of dissent, either the one or the other.

(True Copies.) (Signed) H. WIGRAM,
Acting Registrar, Appellate Side.

ENCLOSURE No. 1.

In the High Court of Judicature at Madras.

Monday, the Thirteenth day of June, One thousand Eight hundred and Seventy.

PRESENT:—

The Honourable Sir C. H. SCOTLAND, Knight, Chief Justice,
The Honourable Mr. Justice HOLLOWAY.

Regular Appeal No. 59 *of* 1869.

Plaintiff. *versus* *Defendant.*

Langhor Gosamiar, Pauper (Appellant.) The Collector of Tanjore, (Respondent.)

Regular Appeal against the Decree of the Civil Court of Tanjore in Original Suit No. 10 of 1867.

Grounds of Appeal.

I. "Regulation VII. of 1817 does not apply to the present case, and it is considered by Act XX. of 1863.

II. "The plaintiff therefore is not responsible to the Revenue Board [illegible] 3, or any authority for the manner in which he may [illegible] disposal of the property in dispute.

III. "The plaintiff has not misappropriated the funds of the Mutt in question.

IV. "Nor is he a person of an immoral character.

V. "Even if he were so, that circumstance would not give the defendant any right to oust the plaintiff from the possession of the property in dispute.

VI. "For nearly four centuries the property in question has remained in the possession of the plaintiff's predecessors and plaintiff, each Gosami in office appointing his successor according to his own will and pleasure at the time of his death."

Decree.—This Regular Appeal coming on for hearing. Upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the Suit, and upon hearing the arguments of Sunjiva Row, Vakeel for the Appellant, and of Mr. Government Pleader for the Respondent, this Court doth order and decree that the Decree of the Lower Court be, and the same hereby is, reversed, and this Court doth adjudge and declare that the plaintiff is the Trustee of the Mutt, and as such entitled to the possession and management of the land claimed, subject to the trusts and purposes for which it was granted as an endowment, and to the mesne profits derived from the said land since the 1st of January, 1864, to be applied to the same trusts and purposes; and this Court doth order and direct that the Civil Judge do ascertain the clear amount of mesne profits received by the defendant since the 1st of January, 1864, by taking a proper account in execution of the Decree, and that the amount found due be paid by the defendant to the plaintiff, and by him applied to the same trusts and purposes; and this Court doth further order and decree that there be no costs allowed against the defendant in this Regular Appeal or in the Lower Court.

(Signed) C. H. SCOTLAND, Chief Justice.
(,,) W. HOLLOWAY, Judge.

THE Board resolve to submit the Decree and Judgment of the High Court in Regular Appeal No. 59 of 1869 for the information of Government.

2. The facts of the case are detailed in the papers recorded with Government Order, 22nd April 1869, No. 1,094. The plaintiff, Insagheri Gosamiar, was the Madathipatti, or proprietor of the Ghosayi Muttum in Tanjore. It was found that he was misappropriating the proceeds of the estate, alienating parts of it, and living in an immoral manner, and Mr. H. Forbes, the Collector of Tanjore, attached the Muttum in 1858. At that time it was believed that the endowment was of a charitable nature, but when the proprietor filed a Suit for its recovery, it was held to be proved in the Tanjore Court that it was an endowment for religious purposes only.

3. The Judge of Tanjore held that the resumption of the endowment in 1858 under Regulation VII. of 1817 was right and proper. The plaintiff then appealed to the High Court.

4. The High Court held that under Act XX. of 1863, which came into force on the 10th March 1863, Government were bound to give the Muttum back to the delinquent proprietor "as soon as possible," and have taken the 1st January 1864 as the precise date by which this should have been done. They have consequently decreed that the Muttum must be handed back to the Ghosayi with mesne profits from the 1st January 1864, but without costs. This sum will be about Rupees 2,447.

5. The Government Pleader was disposed to doubt this construction of the law, and desired to confer with the Board as to the desirability of appealing against it to the Privy Council.

6. The conference has now taken place, and the Government Pleader and the Board concur in thinking that there are no sufficient grounds for an appeal.

Act XX. of 1863 was designed to divest Government of *all* control over religious endowments, and the nomination of the trustee, manager, or Superintendent of any such endowment was vested in Government, or if it was subject to their confirmation, the law required them to hand over the property to Committees. If the nomination was not vested in them, and the property was under the management of any Trustee, etc., the law required them to hand over the property to the Trustee for the time being.

8. The law implies that this division of religious endowments was intended to be exhaustive, but in order that this may be the case, the word "management" must be understood to mean something different from the *personal* management of the property which the law supposes to be in the hands of the Board of Revenue and its agents.

9. In this case the Ghosayi, though the personal management of the property had been taken from him, continued to be "*the Trustee for the time being*," and Government had never formally deprived him of that title, or attempted to appoint another Trustee in his place.

10. All that can be said is that the case was not contemplated by the law.

11. The Collector will be directed to report on the amount of the mesne profits. It must of course be paid from the Endowment Fund.

(True Copies and Extract.)

(Signed) J. GROSE,
Acting Secretary.

To the Acting Secretary to Government, Revenue Department,
with Board's Proceedings Nos. 5,426 of 1869 and 387 of 1870.

To the Collector of Tanjore.

Copy to the Government Pleader.

Exd. F. R. Bantleman.

Board of Revenue,
1870.

MADRAS.

PROCEEDINGS, 13TH JULY 1870, No 4,848.

Received

Encl.

JULY.

No. 4,848.

Appeal Suit.—No 59 of 1869, filed in High Court against Decree of Tanjore Civil Court in O. S. No 10 of 1867, relating to Nadiam Muttum.—Letter from Government Pleader forwarding copies of Decree and Judgment in, submitted to Government, with intimation that this officer and Board are of opinion that there are not sufficient grounds for appealing to Privy Council.—Collector requested to report on amount of mesne profits to be paid to Appellant under Decree of High Court.

Proceedings of the Madras Government, Revenue Department, 7th September 1870.

No. 46. Read the following Proceedings of the Board of Revenue, dated 13th July 1870, No. 4,848:—

Read again Board's Proceedings, 26th July 1869 and 19th January 1870, Nos. 5,426 and 387.

Read also the following letter from the Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 22nd June 1870, No. 81.

WITH reference to the Board's Proceedings, dated 19th January 1870, No. 387, I have the honour to forward copies, just obtained from the High Court, of the Decree and Judgment in Regular Appeal No. 59 of 1869, relating to Nadium Muttum in the Tanjore District. It will be seen that the Court has decreed the restoration of the lands of the Muttum to the plaintiff with mesne profits from 1st January 1864, but without costs either in the Lower or Appellate Court.

ENCLOSURE No. 1.

In the High Court of Judicature at Madras.

Monday the Thirteenth day of June, One thousand Eight hundred and Seventy.

PRESENT:

The Honourable Sir C. H. SCOTLAND, Knight, Chief Justice.

The Honourable Mr. Justice HOLLOWAY.

Regular Appeal No. 59 of 1869.

Plaintiff *versus* *Defendant.*

Insagheri Gosamiar, Pauper (Appellant.) The Collector of Tanjore (Respondent.)

Regular Appeal against the Decree of the Civil Court of Tanjore in Original Suit No. 10 of 1867.

2. This Regular Appeal coming on for hearing the Court delivered the following Judgments:—

Scotland, C.J.—The plaintiff claiming to be the rightful owner of a Mutt and certain land attached to it under a grant by the Rajah of Tanjore in 1744, from the possession of which he had been ejected by the Collector of Tanjore in 1856 on charges of breach of trust by misappropriation of the property of the Mutt and other misconduct, has brought this Suit to recover possession of the land and the mesne profits. The recorded issues raised the questions whether the land was granted for the performance of religious services or for the charity of affording food and shelter to travellers; and whether the plaintiff had been guilty of malversation of the land or the income derived therefrom.

3. The Civil Court found that the grant was for the performance of religious ceremonies and pious observances only, and that the plaintiff had led a vicious life, and been guilty of malversation in his office of Trustee; and being of opinion that he had on that account been properly deprived of the lands belonging to the Mutt under Regulation VII. of 1817, decreed the dismissal of the Suit.

4. The main objection relied upon on the part of the appellant is, that the lands formed a religious endowment of a private nature to which Regulation VII. of 1817 did not apply; but that if applicable, it had been repealed by Act XX. of 1863, and under Section 4 the plaintiff became entitled on the passing of the Act to the restoration of the endowment.

5. I have no doubt that the Regulation was applicable to the endowment, but I am of opinion that the objection is well founded as respects the effect of Act XX. of 1863. By the passing of that Act all the powers relating to the superintendence and management of religious establishments, which had been vested by the Regulation in the Board of Revenue and the Collectors throughout the country, were completely determined; and either the District Committees appointed under the Act or the Trustees, Managers, or Superintendents referred to in

Sections 4, 5 and 6, became entitled to the possession and management of all religious endowments ; the former of those of the class described in Section 5, and the latter of all within the description in Section 4.

Now the Mutt and endowment in dispute appear unquestionably not to be of the class of religious establishments, the nomination of the Trusteeship of which at the time of the passing of the Act was vested in or exerciseable by or subject to the confirmation of the Government or any public officer, and therefore not an establishment of the kind described in Section 3, and which passed to the District Committees appointed under the Act.

7. The point then to be considered is the applicability of Section 4. If the terms of the description in that Section admit of the inclusion of the land in dispute, the plaintiff is the only person who, as Trustee, can be said to have become entitled to the transfer of such land. The Section provides that in the case of religious establishments, "which at the time of the passing of this Act shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not rest in, nor be exercised by, nor be subject to the confirmation of, the Government or any public officer, the local Government shall as soon as possible, after the passing of this Act, transfer to such Trustee, Manager, or Superintendent, all the landed or other property which at the time of the passing of the Act shall be under the superintendence, or in the possession, of the Board of Revenue or any local agent, and belonging to such religious establishment." It further provides for the determination of all the powers and responsibilities of the Board of Revenue and the local agents in respect to such establishments and all the land and other property so transferred. The Government Pleader has contended that by the use of the words "under the management of any Trustee," etc., the Section is restricted to endowments which at the time of the passing of the Act were personally managed by Trustees, Managers, or Superintendents.

8. These words by themselves no doubt import personal management ; but what follows in the Section shows clearly that the words were not intended to be applicable in that sense to the property of religious establishments, for it is expressly provided that the property in *the possession* of the Board of Revenue at the time of the passing of the Act shall be transferred. Giving effect to the language of the whole Section, and reading it with Sections 5 and 6, I think it must be construed as including the endowments of all religious establishments, the management of which had belonged to independently appointed Trustees. A different construction would leave in the hands of the Government the landed property of some religious establishments which would be contrary to the plainly declared purpose and whole scope of the Act.

9. The plaintiff then being the Trustee to whom the land in dispute was made transferable by the Act, the only point remaining to be noticed is whether the plaintiff's conduct which led to his being deprived of the management of the endowment presents a ground for refusing him a decree in this Suit for the restoration of the property as the Civil Court has decided. I do not see that any effect can be given to the evidence as to the plaintiff's incontinent course of life, and with respect to such of the appropriations of portions of the endowment as have been proved against him and charged to be improper, I think their effect as a disqualification for the trust is not a defence open for consideration in the present Suit. The Act makes no distinction as to the property of religious establishments which had been taken from the management or control of Trustees, Managers, or Superintendents, because of their misconduct. It provides alike with respect to all endowments under the superintendence or in the possession of the Board of Revenue, that they should be transferred immediately after the passing of the Act. It appears to me therefore that the intended operation of the Act is opposed to the entertaining as a defence to the present Suit, the acts of mismanagement which led to the endowment being placed under the management of the Collector. A Suit may at any time be brought to remove the plaintiff and make him liable in damages for misconduct in his office of Trustee by any person interested in the Mutt and its endowments.

10. For these reasons the decree of the Court below should, I think, be reversed and the plaintiff declared to be the Trustee of the Mutt and as such entitled to the possession and management of the land claimed, subject to the trusts and purposes for which it was created as an endowment.

11. With respect to the claim of mesne profits, I think that no ground has been shown for making the defendant accountable to the plaintiff for any period further back than the date for the passing of the Act, not reckoning the time to be allowed for transferring the land, and to the end of the year in which the Act was passed seems sufficient to allow on that account. The Decree below must therefore, I think, be directed to ascertain the amount of mesne profits since the first of January 1864, by taking a proper account in execution of the decree, and payment of the amount found due must be ordered to be paid to the plaintiff to be applied to the same trusts and purposes. I think the case is one in which the defendant should not be ordered to pay costs either in this or the Lower Court.

12. *Holloway, J.*—It has been contended that the endowment is not within the Act. If it depended upon the documentary evidence, it would be difficult to say whether this is so or not. Taken, however, with the plaintiff's allegations, the evidence does show that it was an endowment for some religious purpose. This being so, Section 4 seems to provide for the very case of the Board of Revenue or a local agent being in possession to the exclusion of the Trustee, and taken with preamble to point the provisions of the Section to a case in which it or he has assumed the superintendence by virtue of the old Regulation. They must have acted under the Regulation, or they were simply wrong-doers, and the plaintiff would, on that ground, be entitled to our judgment.

13. If in possession under the Regulation at the passing of the Act, they are bound to restore the property to a Trustee in the position of the plaintiff. With regard to the decision on the ground of the plaintiff's misfeasance and malfeasance, I put my judgment on the ground that there is no such evidence before us as to the purpose of the institution as to enable us to say that the acts of the plaintiff are such a violation of that purpose as to disqualify him for holding the property. Bare immorality according to common ethical standards is not so according to some religious standards. In some cases of public religious endowments the disqualification of a Trustee would in consequence of the precepts of the particular religion be shown by faults perhaps of no great ethical enormity, while faults morally much graver would not disqualify. In each case, it is a question upon the precepts and practices of the particular religion and the special purpose of that religion to which the institution is devoted.

14. Even supposing, therefore, that the acts stated would have afforded a good defence, and a defence available in this Suit is framed, I am of opinion that it is not made out. The evidence undoubtedly leads to a strong suspicion that the course of life of the plaintiff is not very edifying, but we are wholly without evidence as to the purpose of the endowment from which we could properly conclude that the plaintiff ought to be removed. Reference to the precepts and practice of the religions of antiquity to which in many points the Hindu bears strict resemblance, will, without unsavoury illustration, explain my meaning. I have had some doubt whether if another starting point for the account than taking possession is selected, it should not be the period of the institution of the Mutt. I do not feel, however, sufficient confidence in my view to urge by way of dissent, either the one or the other.

ENCLOSURE No. 1.

In the High Court of Judicature at Madras.

Monday, the Thirteenth day of June, One thousand Eight hundred and Seventy.

PRESENT :

The Honourable Sir C. H. SCOTLAND, Knight, Chief Justice,

The Honourable Mr. Justice HOLLOWAY.

Regular Appeal No. 59 of 1869.

Plaintiff	*versus*	*Defendant.*
Insaiyari Gnanamiar, Pauper (Appellant)		The Collector of Tanjore (Respondent).

Regular Appeal against the Decree of the Civil Court of Tanjore in Original Suit No. 10 of 1867.

Grounds of Appeal.

I. "Regulation VII. of 1817 does not apply to the present case, and it is besides repealed by Act XX. of 1863.

II. "The plaintiff therefore is not responsible to the Revenue Board or any other authority for the manner in which he may have disposed of the property in dispute.

III. "The plaintiff has not misappropriated the funds of the Mutt in question.

IV. "He is not a person of an immoral character.

"Even if he were so, that circumstance would not give the defendant any right to oust the plaintiff from the possession of the property in dispute.

"For nearly four centuries the property in question has remained in the possession of the plaintiff's predecessors and plaintiff, each Gosami in office appointing his successor according to his own will and pleasure at the time of his death."

Decree.—This Regular Appeal coming on for hearing. Upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the Suit, and upon hearing the arguments of Sunjiva Row, Vakeel for the Appellant, and of Mr. Government Pleader for the Respondent, this Court doth order and decree that the Decree of the Lower Court be, and the same hereby is, reversed, and this Court doth adjudge and declare that the plaintiff is the Trustee of the Mutt, and as such entitled to the possession and management of the land claimed subject to the trusts and purposes for which it was granted as an endowment, and to the mesne profits derived from the said land since the 1st of January 1864, to be applied to the same trusts and purposes; and this Court doth order and direct that the Civil Judge do ascertain the exact amount of mesne profits received by the defendant since the 1st of January 1864, by taking a proper account in execution of the Decree, and that the amount found due be paid by the defendant to the plaintiff, and by him applied to the same trusts and purposes; and this Court doth further order and decree that there be no costs allowed against the defendant in this Regular Appeal or in the Lower Court.

(Signed) C. H. SCOTLAND,
Chief Justice.
(") W. HOLLOWAY,
Judge.

THE Board resolve to submit the Decree and Judgment of the High Court in Regular Appeal No. 59 of 1869 for the information of Government.

2. The facts of the case are detailed in the papers recorded with Government Order, 22nd April 1869, No. 1,094. The plaintiff, Jagageri Gopmiar, was the Madathiputti, or proprietor of the Ghosayi Muttum in Tanjore. It was found that he was misappropriating the proceeds of the estate, alienating parts of it, and living in an immoral manner, and Mr. H. Forbes, the Collector of Tanjore, attached the Muttum in 1856. At that time it was believed that the endowment was of a charitable nature, but when the proprietor filed a suit for its recovery, it was held to be proved in the Tanjore Court that it was an endowment for religious purposes only.

3. The Judge of Tanjore held that the resumption of the endowment in 1856 under Regulation VII. of 1817 was right and proper. The plaintiff then appealed to the High Court.

4. The High Court hold that under Act XX. of 1863, which came into force on the 10th March 1863, Government were bound to give the Muttum back to the delinquent proprietor "as soon as possible," and have taken the 1st January 1864 as the precise date by which this should have been done. They have consequently decreed that the Muttum must be handed back to the Ghosayi with mesne profits

from the 1st January 1864, but without interest. The sum will be about Rupees 12,447.

5. The Government Pleader was disposed to doubt this construction of the law, and desired to confer with the Board as to the desirability of appealing against it to the Privy Council.

6. The conference has now taken place, and the Government Pleader and the Board concur in thinking that there are no sufficient grounds for an appeal.

7. Act XX. of 1863 was designed to divest Government of *all* connexion with religious endowments. If the nomination of the Trustees, Manager, or Superintendent of any such endowment was vested in Government, or if it was subject to their confirmation, the law required them to hand over the property to the Committee. If the nomination was not vested in them, and the property was under the management of any Trustee, etc., the law required them to hand over the property to the Trustee for the time being.

8. The law implies that this division of religious endowments was intended to be exhaustive, but in order that this may be the case, the word "management" must be understood to mean something different from the *personal* management of the property which the law supposes to be in the hands of the Board of Revenue and its agents.

9. In this case the Ghosayi, though the personal management of the property had been taken from him, continued to be "*the Trustee for the time being*," and Government had never formally deprived him of that title, or attempted to appoint another Trustee in his place.

10. All that can be said is that the case was not contemplated by the law.

11. The Collector will be directed to report on the amount of the mesne profits, but must, of course, be paid from the Endowment Fund.

No. 47. ORDER THEREON, 7th September 1870, No. 1,389.

Miscellaneous.

THE Government do not consider that there are sufficient grounds for an appeal to the Privy Council. The refund due to the plaintiff should be made from the Endowment Fund, if the mesne profits have been paid into this Fund, if not, from the Public Treasury.

(True Extract.)

(Signed) H. STOKES,
Under-Secretary to Government.

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

Extd. F. R. Bowman.

No. 5,769.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 16th September 1870.

Read the following Proceedings of the Madras Government, dated 7th September 1870, No. 1,389, Revenue Department:—

ABSTRACT.—*Suit relating to Nandiam Muttum.*—Proceedings Board of Revenue, intimating that there are not sufficient grounds for appealing to the Privy Council, with orders thereon.

COMMUNICATED to the Collector who will report whether the mesne profits of the Muttum were credited to the Endowment Fund or to the public treasury.

(A true Extract.)

(Signed) J. GROSE,
Acting Secretary.

To the Collector of Tanjore.

Exd. T. Sattledge.

of Tanjore.

dge.

Board of Revenue, 1870.

MADRAS.

PROCEEDINGS, 16TH SEPTEMBER 1870, No. 5,769.

Read

Encl.

SEPTEMBER

No. 5,769.

Appeal Suit.—No 59 of 1869, filed in High Court from decree of Tanjore Civil Court in Suit, No 10 of 1867, regarding Nadiam Muttum.—Proceedings of Government, stating that there are not sufficient grounds for appealing to Privy Council against decision in, communicated to Collector, with request to report whether mesne profits of Muttum were credited to Endowment Fund or to public Treasury.

No. 6,961.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th December 1870.

Read the following letter from G. LEE-MORRIS, Esq., Collector of Tanjore, to the Acting Secretary to the Board of Revenue, dated Tanjore, 1st November 1870, No. 388:—

WITH reference to paragraph 11 of the Board's Proceedings, dated 13th July 1870, No. 2,848, I have the honour to state that the amount of mesne profits realized from the landed property of the Nadiam Mattam since 1st January 1864, after deducting the charges incidental to its beneficial management, and which, I think, has now to be paid over to the plaintiff, the late trustee, under the decree of the High Court, is Rupees 7,244-3-9.

2. I have not included among the charges deducted the amount expended in constructing a Chuttrum at Pattukottah under the sanction conveyed in the Board's Proceedings marginally noted, and in keeping up a water-pandal in the Chuttrum during the hot season, and other minor expenses, as well as the law charges connected with the litigation which has terminated in the decree above-mentioned.

Dated 18th December 1865, No. 3,050.

3. Minus the charges last mentioned, the actual balance in hand at the credit of the Nadiam Mattam as per Returns received from the Sheristadar up to September 1870, is Rupees 2,097-12-5. The remainder will, as directed by the Board, be paid from the general Endowment Fund.

4. I have not yet received from the Civil Court any notice to furnish an account of the mesne profits. When I have received it, I will cause the necessary accounts to be produced in the Court.

THE Board approve of the manner in which the mesne profits have been calculated.

(A true Copy and Extract.)

(Signed) J. GROSE,
Acting Secretary.

To the Collector of Tanjore.

Ed. T. Cartledge.

1870.

Board of Revenue.

MADRAS.

PROCEEDINGS, 6TH DECEMBER 1870, No. 6961.

Read

Escd

Received

DECEMBER.

No. 6,961.

Lease proposed of Nadiam Muttam—in Tanjore District—Manner in which amount to be paid to late trustee of that institution under decree of Civil Court in Appeal Suit, No 59 of 1869, has been calculated, approved.

No. 1,805.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 4th July 1871.

Read the following letter from the Honorable D. ARBUTHNOTT, Collector of Tanjore, to J. CROSE, Esq., Secretary to the Board of Revenue, dated Point Calimere, 1st June 1874; No. 138:—

I have the honor to submit the following case for the orders of the Board.

2. The Nadiam Muttam, which has formed the subject of much lengthened correspondence as will be seen by a reference to the Board's Proceedings marginally noted, was handed over to the ex-Gosayi or trustee, with its endowment and mesne profits, in the year 1871, under a decree of the High Court.

Read 3rd February	1856,	No.	551.
,, 27th April	1857.		
,, 11th May	,,	,,	1,515.
,, 7th March	1861,	,,	1,206.
,, 3rd June	,,	,,	2,854.
,, 10th August	,,	,,	4,345.
,, 2nd August	1865,	,,	4,565.
,, 26th July	1869,	,,	5,426.
,, 19th January	1870,	,,	387.
,, 13th July	,,	,,	4,848.
,, 16th September	,,	,,	5,769.
,, 6th December	,,	,,	6,061.

3. The endowment of this institution consists of seven villages yielding a net annual income of about Rupees 400. The villages are all Inam, and have, under the Inam rules, been confirmed "Dharmadayam" or "charitable endowment on tax free tenure," to be held without interference so long as the conditions of the grant are duly fulfilled.

4. The conditions of the grant, however, have totally ceased to be fulfilled; for the villages have, with the exception of one, the smallest of all, been sold by the Courts for decree debts due by the Gosayi, and have been purchased by various individuals. What belonged to the Mattam was the right of collecting the revenue, and this having been conveyed by the Courts' sales to other individuals, there is nothing left for appropriation to the Mattam; in fact what was exempt from the payment of revenue to Government upon the condition that it was to go to support the Mattam, has now gone to the purchasers at the Courts' sales.

5. I request, therefore, that I may be authorized to resume the Inam tenure of the six villages which have been alienated.

SUBMITTED for the orders of Government.

2. The Collector of Tanjore reports that six of the seven Inam villages which form the endowment of the Nadiam Mattam, and which are granted on free tenure so long as the conditions of the grant are duly fulfilled, have been sold by the Courts on account of debts due by the Gosayi, and have thus been alienated from the Mattam, and ceased to satisfy the conditions on which alone they were to continue rent free.

3. The Board are accordingly of opinion that Government have the power to impose full assessment on all these villages and should do so.

4. The orders noted in the margin, and the papers disposed of in them show that the Gosayi is a man of abandoned character, and that it would be useless to show any leniency with regard to the Mutt.

Extract Minutes of Consultation, 9th May 1857, No. 433, R. D.
G. O., 22nd April 1869, No. 1,0[illegible] R. D.
G. O., 7th September 1870, No. [illegible] R. D.

5. Moreover, the Board think that the imposition of full assessment on these villages may have some effect in preventing similar fraudulent alienations occurring in future.

6. The Board have carefully considered the effect of Act IV of 1863 with regard to this case, but they have come to the conclusion that there is nothing in that Act to prevent Government from enforcing its right to impose full assessment on Inams held conditionally when the conditions cease to be fulfilled, even if the Inams were granted as religious endowments.

(A true Copy and Extract.)

Secretary.

To the Acting Secretary to Government, Revenue Department.
" the Collector of Tanjore.

Encl. W. H. French.

REVENUE DEPARTMENT.

C No. 2470.

From Pro. Bd of Revenue
Dated 14th July 1874.

FOR ORDERS.

Pro. Bd of Revenue 2470.
Dated 14th July 1874.

MADRAS.

PROCEEDINGS, 14TH JULY 1874. No. 1,805.

Encl.

Received 27th July 1874.

JULY.

No. 1,805.

Nadiam Allotment—in Tanjore District.—Collector's report that six out of seven Inam villages forming endowments for debts due by Cesari or trustee, and that it has been alienated from Mattam, submitted the orders of Government, and opinion expressed that full assessment should be imposed on these villages.

FOR ORDERS.

1998

28th July 1874 Rect 13 Aug

Revenue Department.

No. 1098

PROCEEDINGS of the MADRAS GOVERNMENT

Under date the 28 August 1874

Read the following Report of the Board of Revenue

Submitting for orders the report from the Collector of Tanjore regarding the sale of six out of seven Inam Villages forming endowment of Nadiam Mallam by Courts for debts due by the Trustee -

E. E. 14 July 1874 & 1855

His Excellency the Governor in Council concurs with the Board of Revenue that the application be rejected as the Inamdar is not authorized to alienate any portion of the villages in question and the sanction of Government has not been obtained for the proposed alienation in full ownership.

2. His Excellency in Council however

Whatever that property is
conveyed for beneficial
uses should be altogether
lost to the public and
accordingly resolves to
address the Government
of India with the object of
obtaining the income of
those Inams for some
purpose of general utility.

Carried

To Bo[illegible] 11-9-74.

275-276.

of the Trustees of funds
for religious purposes
[illegible] Sees temporary
suspensions are [illegible]
this case, for [illegible]
we should be compelled
to avoid the appearance
of appropriation.

In other cases of
the Lands of the
late Incumbents
of the Mulmein
removed as Glebes
in 1856 for misfeasance
of the Trustees or
lease-tenants under
Regulation VII of 1817
the Legislature should
then [illegible] for the
use of religious institutions
Sunday schools

of the Trustees of public
and religious Funds
by persons in possession
is under consideration
with a view to legislative
further provision.

It seems to me
that such revenue-bearing
funds, may very
fairly assume a public
character so as to ensure
for the faithful & impartial
when State interests
are practically subserved

that the Commissioners
aforesaid were to cause
a New Survey of the Premises
for the Use of the Land-
the High Court be informed
that the Purchase being
for religious purposes
the Trustees cannot sell
& hold possession of
the Endowment (under
Section 4 of the Endowment?)
The transfer took place
in 1871 and the Records
have been the Sale of most
the whole property by the
Civil Court. It has
been held private
and to become public
undefended. But
it seems to me that
Section of Act 1863
does not give the right

of any person interested
to sue for the specific
performance of the
obligations of the Commis
and for the restoration
of the Lands to the
Trustees, and also
Damages for the proceeds
of the Lands now sold
to the Records. Whether
such former Commissioners
that Government would
favourably be prejudiced
in appropriating the
proceeds of such Lands
as recommended by
the Board.
We must leave
to Counsel, beyond the
technical question
who has obtained his
Grant and recognized
the proprietary right of the

Commissioners

The Board is sensible of the
benefit which the Island
may derive from the Commissioners
employed in the Charitable
The High Court found
that the funds and for
Religious purposes
(Cy-près). But the
Income Tax Act—issued
possibly since the
High Court decision—has
appeared, affirming
the right to the charitable
(Cy-près) a claim
Income Tax Rebate
Regulations VII of 1917 affirm
Act etc may be dealt
Further Ord. XX of 1863 c
not now
Government bound
to act under the provisions
of the former Regulation
as to refer the Income

Income to the proper
charitable uses by
giving up the proceeds
of the Commissioners on the
declared Income for
the performance under
proper arrangements of
the Charity and think that
the Income Commissioners
should be required
to report.
On the whole I think that
Govt should some distinct
publicity in respect of the re-
sumption & the consent
of some of our most experienced
Collectors & Native Gentlemen
& the Bd & Advocate
12/8 JR Johnson

19-11-17

22-1-23 B II

21 A/27 II

16/10/28 II

29.7.29 II

22.8.32 II

2.3.34 II

14.5.36 J

27-11-[illegible] J

15-12-41 [illegible] C

287/11/42 II

MADRAS RECORD OFFICE.

Government Records.

Revenue Department.

G. O. (Printed).

Dated 28—8— 1874

No. 1098