M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 20.

(2) Date of repair 1-2-67

(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	1289.	Press
B.P. No.		Mis.
Dated	8-10-1874	196 . .

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
8th October 1874.

No. 84. Read the following Proceedings of the Board of Revenue, dated 25th September 1874, No. 2,774.

Read the following letter from W. S. FOSTER, Esq., Acting Collector of the Godavery District, to J. GRIGG, Esq., Secretary to the Board of Revenue, dated Cocanada, 7th August, 1874, No. 2[illegible]:—

I HAVE the honor to forward, herewith, translation of plaint in Suit No. 207 of 1874, instituted in the District Munsif's Court of Rajahmundry by Saripally Phakirrazu of Narendrapuram, in the Amalapur Taluq, claiming the release of the black gram worth 20 Rupees, attached for arrears of revenue.

2. The land referred to in the plaint is situate in the Zemindari Estate of Gopalapur. It was held in Fasli 1282 by one Guttula Marigadu, and was irrigated by him in that year. Water-cess was consequently charged on the land, and a sum of Rupees 7-13-6 was due to Government. Marigadu died leaving no property.

3. The land in question was rented out by the Zemindar in Fasli 1283 to the plaintiff. The crop raised in the land in Fasli 1283 by the plaintiff was attached under the orders of the late Sub-Collector for the arrears of Rupees 7-13-6 due by Marigadu on the land for Fasli 1282, (not Fasli 1283 as stated in the plaint) as the land and its products were regarded as the security of the Public Revenue under Section 2 of Act II. of 1864, and as the demand of water-cess was made on the land as laid down in Section 1, Madras Act VII. of 1865.

4. The Court issued an injunction for the postponement of the sale of the produce, but before the receipt of the injunction the crop was sold and a sum of Rupees 3-10-6 was realized and carried to the credit of Government. The remainder, Rupees 4-3-0, was paid by the plaintiff.

5. The late Sub-Collector seems to consider that the produce of the land is responsible without reference to the person by whom it is held, and if the Board agree with him in this view, I request that the defence of the suit may be sanctioned at the cost of Government, and that the enclosed draft answer may be approved.

6. The hearing of the suit has been fixed for the 9th October 1874.

7. The value of the suit was alleged in the plaint to be Rupees 20, but the sale proceeds amount to only Rupees 3-10-6.

8. It might possibly be that the payment of the residue (Rupees 4-3-0) by the plaintiff is an acquiescence on his part as to the liability of his produce for the arrears; but I do not think a Civil Court would take this view.

9. I beg also to enclose translation of plaint in Suit No. 215 of 1874 on the file of the District Munsif's Court of Rajahmundry filed by one Chickala Venkadu, and the draft answer to be filed therein. The circumstances of this suit are identical with those of the above suit No. 207 of 1874.

10. The value of the produce in this suit was alleged in the plaint to be Rupees 150, but the proceeds realized by sale amount to only Rupees 23-6-3. The arrears of revenue due were for Fasli 1279, and the sale proceeds were equal to the amount due. I request sanction for the defence of this suit also. The hearing of this suit has been fixed for the 14th October 1874.

11. I think that the crop grown by the water for which the cess in question was charged is alone responsible for the arrears due. The occupancy of the lands is changed in the present cases. The late Sub-Collector thinks that the produce of the lands is responsible although they changed hands, and the present Sub-Collector also agrees with him. It is a doubtful point, and I request the instructions of the Board on the subject.

ENCLOSURES Nos. 1 and 2.—Translations of Plaints.

ENCLOSURES Nos. 3 and 4.—Draft Answers.

Proceedings of the Madras Government, Revenue Department,
8th October 1874.

SUBMITTED for the orders of Government.

2. Two tenants of the Zemindar of Gopalapur used Government water for which water-rate is chargeable under Act VII. of 1865 and recoverable under Act II. of 1864, but they died without paying the amount due, and left no property from which it might be recovered. For the arrears, the crops of two other tenants to whom the land was subsequently let by the Zemindar were attached and sold. Plaintiffs, the owners of the crops, sue, under Section 17, Act II. of 1864, for the recovery of their value.

3. The Collector doubts whether their crops are liable for the arrears. He is of opinion that "the crop grown by the water for which the cess in question was charged is alone responsible."

4. The Board consider that under Section 2, Act II. of 1864 the land, though it is Zemindari land, and its products are liable for the arrears. The case seems hard, but the owner of the crop has a remedy against the defaulter, and if there is much hardship, the Zemindar will be driven to compound under the water-rate rules. They therefore recommend that the defence of the suits be sanctioned. The plea in regard to acquiescence in the Draft Answer in suit No. 215 should, they think, be omitted.

No. 85. ORDER THEREON, 8th October 1874, No. 1,289.

Miscellaneous.

HIS Excellency the Governor in Council is of opinion that though, according to the strict letter of the law, the land may be liable, it would be inequitable to recover the arrear from the present occupants who derived no advantage from the irrigation, and did not obtain the land as heirs or assigns of the defaulters.

2. The suits should be compromised, and the sale proceeds of the crops sold, refunded to the owners.

(True Extract.)

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

To the Board of Revenue.

Fxd. T. O' Connor.

REVENUE DEPARTMENT.

No. 3389

From Pres. Bd of Rev.

Dated Coast 3 Sept 1874

FOR ORDERS.

Govt. of {1874} Madras.

REVENUE.

To

THE BOARD OF REVENUE.

Dated October 8th.

Read. *Encl.*

G. O., 8th October 1874, No. 1,289.

OCTOBER.

Nos. 84-85.

Suits, Nos. 207 and 215 of 1874, on file of Rajahmundry Moonsif's Court, Godavery District.—Directing that —, for recovery of value of certain crops attached and sold for arrears of revenue be compromised, and the sale-proceeds of the crops sold, refunded to the owners.

4/1289

the only authorities I can find on the most point of law. I would therefore allow the contention & proceed to remit the costs to the Lower Court

8/10

The 1st appears to have been inequitable, now repugnant to our law legal: and I do not see that we are justified in upholding the inequitable acts of our Courts for the purpose of ascertaining whether or not they are legal 4/10

dismissed the action upon the first two issues - and the third was determined against the plaintiff & the defendant

L.B.L.

8/10

The case is a hard one (there are two) but I am afraid I cannot overlook the principle of the decision in

FOR ORDERS.

Revenue Department.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 25th September 1874.

Read the following

No. 271.

From,

W. S. Frosler Esqre,

Asst Collector.

To,

J Grose Esqre,

Secretary to the Board of Revenue

Madras

Sir,

I have the honor to forward herewith translation of plaint in Suit No 207 of 1874 instituted in the District Munsiffs Court of Rajahmundry by Saripally Phakiraju of Narendrapuram in the Amalapur Taluk claiming the release of the black gram worth 20 Rs attached for arrears of Revenue -

2. The land referred to in the plaint is situated in the Zemindary Estate of Gopalpur. It was held in F 1282 by one Guttula Narigadu, and was irrigated by him

-kini; in that year. Water cess was consequently charged on the land and a sum of Rupees 7-13-6 was due to Government. Marigadu died leaving no property.

3. The land in question was rented out by the Zemindar in Fusly 1283 to the Plaintiff. The crop raised in the land in Fusly 1283 by the Plaintiff was attached under the orders of the late Sub Collector for the arrears of Rupees 7-13-6 due by Marigadu on the land, for Fusly 1282 (not Fusly 1283 as stated in the Plaint) as the land and its products were regarded as the security of the Public Revenue under Section II of Act II of 1864, and as the demand of Water cess was made on the land as laid down in Section I Madras Act VII of 1865.

4. The Court issued an injunction for the postponement of the sale of the products but before the receipt of the injunction the crop was sold and a sum of Rs 3-10 was realized and carried to the credit of Government. The remainder Rs 4-3- was paid by the Plaintiff.

5. The late Sub Collector seems to consider that the produce of the land is responsible without reference to the person by whom it is held, and if the Board agree with him in this view, I request that the defence of the suit may be sanctioned at the cost of Government and that the enclosed draft answer may be approved.

6. The hearing of the suit has been fixed for the 9th October 1874.

7. The value of the suit was alleged in the Plaint to be Rs 20, but the sale proceeds amount to only Rs 3-10-6.

8. It might possibly be that the payment

payment of the residue (Rs 4-3-4). by the Plaintiff is an acquiescence on his part as to the liability of his produce for the arrears; but I do not think a Civil Court would take this view.

9. I beg also to enclose translation of plaint in suit No 215 of 1874 on the file of the District Munsiff's Court of Rajahmundry filed by one Chickala Venkadu and the draft answer to be filed therein. The circumstances of this suit are identical with those of the above suit No 207 of 1874.

10. The value of the produce in this suit was alleged in the plaint to be Rs 150, but the proceeds realized by sale amount to only Rs 23-6-3. The arrears of Revenue due were for Fasly 1279, and the sale proceeds were equal to the amount due. I request sanction

sanction for the defence of this suit also. The hearing of this suit has been fixed for the 15th October 1874.

11. I think that the crop grown by the water for which the assessment was charged is alone responsible for the arrears due. The occupancy of the lands is changed in three cases. The late Sub Collector thinks that the produce of the lands is responsible although they changed hands, and the present Sub Collector also agrees with him. It is a doubtful point, and I request the instructions of the Board on the subject.

Godavery District
Collector's Office
Cocanada 7th August 1874

I have &c
(signed) W. S. Foster
Collector.

Submitted for the orders of Government.

Two

M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 20.

(2) Date of repair 1-2-67

(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	1289.	Press
B.P. No.		Mis.
Dated	8-10-1874	196 . .

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 8th October 1874.

No. 84. Read the following Proceedings of the Board of Revenue, dated 25th September 1874, No. 2,774.

Read the following letter from W. S. FOSTER, Esq., Acting Collector of the Godavery District, to J. GRIGG, Esq., Secretary to the Board of Revenue, dated Cocanada, 7th August, 1874, No. 2,N :—

I HAVE the honor to forward, herewith, translation of plaint in Suit No. 207 of 1874, instituted in the District Munsif's Court of Rajahmundry by Saripally Phakirrazu of Narendrapuram, in the Amalapur Taluq, claiming the release of the black gram worth 20 Rupees, attached for arrears of revenue.

2. The land referred to in the plaint is situate in the Zemindari Estate of Gopalapur. It was held in Fasli 1282 by one Guttula Marigadu, and was irrigated by him in that year. Water-cess was consequently charged on the land, and a sum of Rupees 7-13-6 was due to Government. Marigadu died leaving no property.

3. The land in question was rented out by the Zemindar in Fasli 1283 to the plaintiff. The crop raised in the land in Fasli 1283 by the plaintiff was attached under the orders of the late Sub-Collector for the arrears of Rupees 7-13-6 due by Marigadu on the land for Fasli 1282, (not Fasli 1283 as stated in the plaint) as the land and its products were regarded as the security of the Public Revenue under Section 2 of Act II. of 1864, and as the demand of water-cess was made on the land as laid down in Section 1, Madras Act VII. of 1865.

4. The Court issued an injunction for the postponement of the sale of the produce, but before the receipt of the injunction the crop was sold and a sum of Rupees 3-10-6 was realized and carried to the credit of Government. The remainder, Rupees 4-3-0, was paid by the plaintiff.

5. The late Sub-Collector seems to consider that the produce of the land is responsible without reference to the person by whom it is held, and if the Board agree with him in this view, I request that the defence of the suit may be sanctioned at the cost of Government, and that the enclosed draft answer may be approved.

6. The hearing of the suit has been fixed for the 9th October 1874.

7. The value of the suit was alleged in the plaint to be Rupees 20, but the sale proceeds amount to only Rupees 3-10-6.

8. It might possibly be that the payment of the residue (Rupees 4-3-0) by the plaintiff is an acquiescence on his part as to the liability of his produce for the arrears ; but I do not think a Civil Court would take this view.

9. I beg also to enclose translation of plaint in Suit No. 215 of 1874 on the file of the District Munsif's Court of Rajahmundry filed by one Chickala Venkadu, and the draft answer to be filed therein. The circumstances of this suit are identical with those of the above suit No. 207 of 1874.

10. The value of the produce in this suit was alleged in the plaint to be Rupees 150, but the proceeds realized by sale amount to only Rupees 23-6-3. The arrears of revenue due were for Fasli 1279, and the sale proceeds were equal to the amount due. I request sanction for the defence of this suit also. The hearing of this suit has been fixed for the 14th October 1874.

11. I think that the crop grown by the water for which the cess in question was charged is alone responsible for the arrears due. The occupancy of the lands is changed in the present cases. The late Sub-Collector thinks that the produce of the lands is responsible although they changed hands, and the present Sub-Collector also agrees with him. It is a doubtful point, and I request the instructions of the Board on the subject.

ENCLOSURES Nos. 1 and 2.—Translations of Plaints.

ENCLOSURES Nos. 3 and 4.—Draft Answers.

SUBMITTED for the orders of Government.

2. Two tenants of the Zemindar of Gopalapur used Government water for which water-rate is chargeable under Act VII. of 1865 and recoverable under Act II. of 1864, but they died without paying the amount due, and left no property from which it might be recovered. For the arrears, the crops of two other tenants to whom the land was subsequently let by the Zemindar were attached and sold. Plaintiffs, the owners of the crops, sue, under Section 17, Act II. of 1864, for the recovery of their value.

3. The Collector doubts whether their crops are liable for the arrears. He is of opinion that "the crop grown by the water for which the cess in question was charged is alone responsible."

4. The Board consider that under Section 2, Act II. of 1864 the land, though it is Zemindari land, and its products are liable for the arrears. The case seems hard, but the owner of the crop has a remedy against the defaulter, and if there is much hardship, the Zemindar will be driven to compound under the water-rate rules. They therefore recommend that the defence of the suits be sanctioned. The plea in regard to acquiescence in the Draft Answer in suit No. 215 should, they think, be omitted.

No. 85. ORDER THEREON, 8th October 1874, No. 1,289.

Miscellaneous.

HIS Excellency the Governor in Council is of opinion that though, according to the strict letter of the law, the land may be liable, it would be inequitable to recover the arrear from the present occupants who derived no advantage from the irrigation, and did not obtain the land as heirs or assigns of the defaulters.

2. The suits should be compromised, and the sale proceeds of the crops sold, refunded to the owners.

(True Extract.)

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

To the Board of Revenue.

Exd. T. O' Connor.

REVENUE DEPARTMENT.

No. 3309

From Pres. Bd of Rev.

Dated 23rd Sept. 1874.

FOR ORDERS.

Cons. of 1874 Madras.

REVENUE.

To

THE BOARD OF REVENUE.

Dated October 8th.

Read. *Encl.*

G. O., 8th October 1874, No. 1,289.

OCTOBER.

Nos. 84-85.

Suits, Nos. 207 and 215 of 1874, on file of Rajahmundry Munsif's Court, Godavery District.—Directing that —, for recovery of value of certain crops attached and sold for arrears of revenue be compromised, and the sale proceeds of the crops sold, refunded to the owners.

dismissed the action upon
from the circuit - and
did not dismiss the
bill as against
the defendants
& the defendants

L 4/6

D 4/10

The case is a hard one (Rice vs
Tuttle) but I am afraid of aban-
doning the principle & [illegible] the
decision is a good one &

4/10
1201

Clearly an absolution decree
on a merits point of law. I
wd therefore allow the contention
& proceed to admit the bill
to be successful

4/10

The bill appears to have been
inequitable, from assuming it to have
been legal: and I do not see
that we are justified in supporting
the inequitable acts of one party
for the purpose of ascertaining whether
or not they are legal

4/10

FOR ORDERS.

Revenue Department.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 25th September 1874.

Read the following

No. 271.

From

N. S. Forster Esqre,

Collector

To,

J. Grose Esqre,

Secretary to the Board of Revenue

Madras

Sir,

I have the honor to forward herewith translation of plaint in Suit No. 207 of 1874 instituted in the District Munsiff's Court of Rajahmundry by Saripally Thakirrazu of Narendrapuram in the Amalapur Taluk claiming the release of the black grain worth 20 Rs. attached for arrears of Revenue -

2. The land referred to in the plaint is situated in the zemindary Estate of Gopalpur. It was held in Fy. 1282 by one Guttula Narigadu and was irrigated by him

line in that year. Water cess was consequently charged on the land and a sum of Rupees 7-13-6 was due to Government. Marigadu died leaving no property.

3. The land in question was rented out by the zemindar in Fusly 1283 to the Plaintiff. The crop raised in the land in Fusly 1283 by the Plaintiff was attached under the orders of the late Sub Collector for the arrears of Rupees 7-13-6 due by Marigadu on the land, for Fusly 1282 (not Fusly 1283 as stated in the plaint) as the land and its products were regarded as the security of the Public Revenue under Section II of Act II of 1864, and as the demand of Water cess was made on the land as laid down in Section I Madras Act VII of 1865.

4. The Court issued an injunction for the postponement of the sale of the produce but before the receipt of the injunction, the crop was sold and a sum of Rs 3-10-6 was realized and carried to the credit of Government. The remainder Rs 4-3-- was paid by the Plaintiff.

5. The late Sub Collector seems to consider that the produce of the land is responsible without reference to the person by whom it is held, and if the Board agree with him in this view, I request that the defence of the suit may be sanctioned at the cost of Government and that the enclosed draft answer may be approved.

6. The hearing of the suit has been fixed for the 9th October 1874.

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8. It might possibly be that the payment

payments of the residue (Rs 4-3-11). by the Plaintiff is an acquiescence on his part as to the liability of his produce for the arrears; but I do not think a Civil Court would take this view.

9. I beg also to enclose translation of plaint in suit No 215 of 1874 on the file of the District Munsiff's Court of Rajahmundry filed by one Chickala Venkadu and the draft answer to be filed therein. The circumstances of this suit are identical with those of the above suit No 207 of 1874.

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The arrears of Revenue due were for Fasly 1279, and the sale proceeds were equal to the amount due. I request sanction

sanction for the defence of this suit also.

The hearing of this suit has been fixed for the 14th October 1874.

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Godavery District
Collector's Office,
Cocanada 7th August 1874

I have &c
(signed) W. S. Foster
Collector.

Submitted for the orders of Government.

Two

Two tenants of the Zemindar of Gopalapuram used Government water for which water rate is chargeable under Act 7 of 1865 and recoverable under Act 2 of 1864, but they died without paying the amounts due and left no property from which it might be recovered. For the arrears the crops of two other tenants to whom the land was subsequently let by the Zemindar were attached and sold. Plaintiffs the owners of the crops sue under Section 7 Act 2 of 1864 for the recovery of their value.

The Collector doubts whether their crops are liable for the arrears. He is of opinion that "the crop grown by the water for which the cess in question was charged is alone responsible".

The Board consider that under Section 2 Act 2 of 1864 the land though it

it is Zemindary land, and its products are liable for the arrears. The case seems hard but the owner of the crop has a remedy against the defaulter and if there is much hardship the Zemindar will be driven to compound under the water rate rules. They therefore recommend that the defence of the suit be sanctioned. The plea in regard to acquiescence in the draft answer in suit No 215 should they think be omitted.

(True Copy & Extract)

J Grose

Secretary

To,

The Secretary to Government

Revenue Department

with 4 original enclosures to be returned

2/1289

Revenue Department.

No. 1289

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 8th October 1874.

READ the following Proceedings of the Board of Revenue

Submg: for orders of Govt. letter from Collector of Godavery Dt. requesting sanction for defence of suit for recovery of value of certain crops attached and sold for arrears of revenue.

H. E. 25 Sept. 1874, No.

His Excellency the Governor in Council is of opinion that though according to the strict letter of the law the land may be liable it would be inequitable to recover the arrear from the present occupants who derived no advantage from the irrigation and did not obtain the land

as

as heirs or assigns of the defaulters

2. The suits should be compromised and the sale proceeds of the crops sold refunded to the owners.

Dispd. in M.S. to Bd. of Revenue with 4 orig. Enclosures - 5 Cert. Cs. 14 Copies sent 19 October 1876.

10/1289

58–78

96

Sacrificia Deorum propitiorum
altaria sicuti antiquitus sic
sed precamur ea ut nos
[illegible]