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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	1574	Press
B.P. No.		Mis.
Dated	4-11-1876	196 .

Not to be folded or roughly handled

Q

No. 47. Read the following Proceedings
October 1876, No. 2,670

Read again Board's Proceedings

Read also the following letter from
Madras, to H. E. STOKES
dated 12th October 1876,

I HAVE the honor to acknowledge

16th September 1876, No. 2,364

of the charities of the late Theagu

2. I am clearly of opinion that
standing in the name of Paranjoti
the registered legal owner, and, as
it is mere conjecture that connected
by Theagu Mudali's will for the
ties are trust property, I doubt that
refuse payment of interest to the
apprehended that he will appropriate
trust has been committed, or is likely
the remedy is by applying to a court
not by refusing payment of interest

3. Assuming that Paranjoti
tion as to render it unsafe to leave the charity
course to pursue will be to bring civil suits
and South Arcot, asking that he may be
decreed to deliver up possession of the charity
for the time he has been in possession.
Superintendent in accordance with the
resign in favor of his son, his resignation
of Revenue has power under Regulation V
for malfeasance, but the powers given by
machinery is provided for enforcing them,
the Civil Courts in the event of resistance
order to assert the Board's right to remove
suits that this has been done, but that he
account for the same. The criminal proceedings
gested by the Collector would not even
ling the delivery of the charity
civil suit. Moreover, it is not
fraud or embezzlement within
Section 16 of Regulation VII
that there may be very good grounds
Mudali's hands and making him
warrant a criminal conviction
to him proposed by the Collector

the Board of Revenue, dated 26th

8th September 1876, No. 2,364.

ANDLEY, Esq., Government Pleader,
ing Secretary to the Board of Revenue,

of the Board's Proceedings noted in the
margin requesting my opinion on certain
matters connected with the administration
Pondicherry and Cuddalore.

of interest on the Government Securities
cannot be refused at present. He is
ed to receive the interest, and at present

securities with the Rupees 10,000 left

Even if it were clear that the securi-
the Collector in his revenue capacity to
fully entitled to receive it, because it is
vest to his own purposes. If a breach of

committed in respect of these securities,
ourt to enforce the terms of the trust and

erson in law entitled to receive it.

has been guilty of such acts of malversa-
property in his hands, I think the proper

against him in the Courts of Pondicherry
ved from the office of Superintendent and

y property and to account for the same
derstand that he was properly nominated

ler's rules, and, although he offered to
not accepted. It may be that the Board

of 1817 to remove a manager of a charity
regulation are extremely vague, and no

that it seems as if recourse must be had to
ng offered to the Board's authority. In

Superintendent, it might be stated in the
es to deliver up the trust property, or to

ngs under Regulation IX of 1822 sug-
cessful, have the same effect in compel-

making the Superintendent account as a
my mind that there is any evidence of

that regulation as made applicable by
stees of charities. It is quite possible

the charity property out of Paranjoti
at there being any case against him to

lation. I should not advise the notice

*Proceedings of the Madras
4th N*

4. I observe that the Collector of Madras. I presume this residence is to be in Pondicherry. At any rate of the charity property situated dismissed Appu Mudali's suit on the Collector of South Arcot being by the property the proper person to exercise

See Appendix I to the yellow pamphlet that Court would entertain the suit being instituted there first, as the residence is in Pondicherry, and, if a decree were obtained against Paranjothi to terms.

5. I return all the original documents

COMMUNICATED to the Collector with reference to G.O., dated 8th March 1876, be authorised to sue in the Pondicherry Court.
(A true copy)

No. 48. ORDER THEREON,

Land Revenue, A.

permit the institution of a suit by the Government Pleader. The Government authorises Paranjothi accordingly.

To the Board of Revenue.

Exd. F. R. Bantleman.

Revenue Department,

Paranjothi is at present residing in Pondicherry as his permanent abode appears to be. He would have jurisdiction in respect of the Pondicherry Court appears to have had no right to bring the suit, the Collector's disposition of the charity property over the Superintendent and see that the charities were properly conducted. From this there is little doubt that the Collector, and I should advise a suit against the charities appear to relate to the property which would probably be sufficient to bring

any of the above Proceedings.

and submitted to Government with a request that the Collector may be advised by the Government Pleader.
(A true copy)

(Signed) H. E. STOKES,
Acting Secretary.

1876, No. 1,574.

As Appu Mudali, the Board's nominee, has failed to obtain possession of the property, there is no alternative but to sue as recommended by the Government Pleader to take proceedings against

(A true copy)

D. F. CARMICHAEL,
Secretary to Government.

Col. of 1876 Madras.

REVENUE.

THE BOARD OF REVENUE.

Dated November 14th.

Recd.

NOVEMBER.

Nos. 47-48.

Charities of late Theagu Mudali at Pondicherry and Cuddalore.—Permitting the institution of a suit by the Collector in view to Appu Mudali being put in possession of the —, and authorising Mr. Garstin to take proceedings against Paranjothi accordingly.

No. 2,364.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 16th September 1876.
Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Cuddalore, 29th August 1876, No. 414:—

WITH reference to the Board's Proceedings, No. 396, dated 9th February 1876, and G.O., dated 8th March 1876, No. 342, I have the honor to report on the present state of affairs in connection with the charities of the late Theagu Mudali both at Pondicherry and at Cuddalore.

2. On receipt of the Board's orders, I communicated them both to Appu Mudali and Paranjothi Mudali, directing the former to receive, and the latter to deliver over, charge of all the properties connected with the charities.

3. Appu Mudali accordingly called on Paranjothi Mudali to put him in possession, but the latter declined. On being apprised of these facts by Appu Mudali, I directed Paranjothi Mudali's agent who was in possession to put Appu Muddali in charge and to obey his orders in matters connected with the management of these charities. I also informed Appu Mudali that in his capacity of Superintendent he might take peaceful possession of all the properties.

4. Paranjothi Mudali's agent declined to recognize Appu Mudali as Superintendent and to deliver possession, and Paranjothi Mudali himself went away to Madras after having locked up two of the rooms in the choultry at Pudupoliam.

5. Appu Mudali represented these matters to me and complained that his efforts to enter into peaceful possession were forcibly resisted by the agents of Paranjothi Mudali, that the servants employed by him to light and sweep the choultry were beaten and ill-treated, and that he was thus powerless to do anything. I informed him that if he was unable to obtain possession quietly he must apply to the Civil Court for assistance, and that the Police would, if called on, suppress any disturbance. I also advised him by a subsequent order to serve notices on all persons who had to pay rents to the charity, not to pay them to any one but himself, and to sue Paranjothi Mudali and his agents for possession, moving the Court at the same time to hear the suit soon on public grounds.

6. In connection with the charity properties at Pondicherry, I addressed a letter to His Excellency the Governor of Pondicherry, requesting him to render assistance to Appu Mudali in taking possession if he should meet with resistance.

7. Appu Mudali having met with similar difficulties at Pondicherry, sought the aid of the French Government who referred him to their Advocate-General. The latter advised a civil action which on being filed was, I hear, thrown out by the French Court of first instance as being beyond its jurisdiction. Appu Mudali again addressed the Governor in May last, and the matter is apparently still under consideration.

8. A list of the properties from which rents are due to Theagu Mudali's charities is enclosed. With the exception of the Municipal Commissioners of Cuddalore who rent one of the bungalows for their office, all the other tenants have refused to recognize Appu Mudali as Superintendent and to pay the rents to him. Some of them have been advised by Paranjothi Mudali himself to withhold payment to him, and Appu Mudali informs me that rents have been received in advance by Paranjothi Mudali's agents in some cases.

9. I understand from Appu Mudali that he has not yet filed any suit for possession in the Civil Courts of the district. I believe he has not the wherewithal to conduct a litigation with his more powerful opponent to a successful issue.

10. By his Will, Theagu Mudali bequeathed 10,000 Rupees to Paranjothi's father, and directed it to be invested either in lands or Company's paper for the benefit of his charities. The oldest register of interest paid on 5 per cent. paper in the office shows that Rupees 10,000 was invested by Paranjothi in 1854-55. The registry shows that the notes are registered in his own name, and he has possession of them. There is little doubt that this is the money, the interest of which should be appropriated for the use of the charities in accordance with the terms of the Will. I request the Board's orders as to whether payment of interest on these notes may be refused if claimed by Paranjothi Mudali. I send a pamphlet containing the Will of Theagu Mudali for reference, and am of opinion that the payment can and should be withheld, and that it should be made to Appu Mudali.

11. I should also be glad to receive from the Board some advice as to the measures to be taken to prevent the spoliation of the funds of this fine charity, and to enforce compliance with my orders. In my last report I did not advise action against Paranjothi under Regulation IX of 1822, because I thought him a tool in the hands of others; but I think now there are no means of reaching the designing hands into which he has fallen without instituting criminal proceedings against Paranjothi himself. He is, I believe, living in Madras, and if arrested on a warrant for misappropriation of the charity funds, of which misappropriation there is ample *prima facie* evidence, he might be brought to reason and possession of the charity property might be secured. The Pondicherry charity property too will, I fear, continue to be misappropriated until I am authorized by Government to prosecute Paranjothi criminally or civilly in the Courts there.

12. It is a grave scandal that the state of the law should be such that while the Revenue Board and their agents are held responsible for exercising a proper supervision over the appropriation of the funds of public endowments, there should be no means of summarily enforcing their orders by taking possession of the property forming such endowments and transferring its management to persons appointed by the Board or their agents. There is nothing that I am aware of legally to prevent Paranjothi's sale in Madras of the promissory notes which, in fact, form a large portion of the endowment of the charity. They stand registered in his name alone, and not in the name of the Superintendent for the time being, and if he sold them, the vendee would certainly buy a good title.

13. I enclose a notice which I request the Board, if they approve it, will cause to be served on Paranjothi Mudali, calling on him to surrender within seven days the 10,000 Rupees forming the monied endowment of the trust. If he fails to do so, a criminal information can then be laid at once before a Magistrate and a warrant issued for his apprehension, or he can be dealt with under Section 6 of Regulation IX of 1822.

ENCLOSURE No. 1.—List of Properties.

ENCLOSURE No. 2.—Notice.

ENCLOSURE No. 3.—Pamphlet containing Will.

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REFERRED for the opinion of the Government Pleader as to the course which should be pursued under the circumstances.

2. The Board doubt whether the Collector would be justified in withholding payment of interest due on the Government Securities without an order of a competent Court.

(A true Copy and Extract.)

(Signed)

H. E. STOKES,

Acting Secretary.

To the Government Pleader, with three enclosures to be returned,
and copy of G.O., dated 8th March 1876, No. 342, (its two enclosures,
Mis. No. 9,068 of 1875, to be returned.)

Copy to Collector of South Arcot.

Proceedings of the Board of Revenue
Dated 26th October 1876

Read again Board's Proceedings
16th September 1876 No 2364 and read
also the following:-

No. 138.

From J. W. Handley Esquire
Esquirement Pleader Madras.
H. C. Storer Esquire
Ag Secretary to the
Board of Revenue.

Sir,

I have the honor to acknowledge
receipt of the Board's Proceedings noted
16th September 1876 No. 2364 in the margin requesting my opinion on
certain matters connected with the
administration of the charities of the
late Leagu & Modally at Pondicherry
and Cuddalore.

2. I am clearly of opinion that
payment

1876.

Board of Revenue,
MADRAS.

PROCEEDINGS, 16TH SEPT. 1876, No. 2,364.

Encl.

Received

Rs 444 3 of 1/6
1305/2

Se 4-11-76 d. 1874.

SEPTEMBER

No. 2,364.

Charities—of late Theagu Mudali at Pondi-
cherry and Cuddalore in South Arcot District.
—Referring for opinion of Government Pleader
letter from Collector regarding difficulties
experienced by Appu Mudali in obtaining
possession of — from Paranjothi Mudali, and
passing remarks with reference to proposal to
withhold payment of interest on certain Govern-
ment Securities to latter individual.

payment of interest on the Government
Securities standing in the name of Paranjatho
the Mudali cannot be refused
at present. He is the registered legal
owner and as such entitled to receive
the interest and at present it is mere
conjecture that connects these Securities
with the Rs 10,000 left by Leagu
Moadalip Will for the charities.
Even if it were clear that these Securities
are trust property I doubt the right
of the Collector in his revenue capacity
to refuse payment of interest to the person
legally entitled to receive it, because
it is apprehended that he will appropriate
the interest to his own purposes. If
a breach of trust has been committed
it is likely to be committed in respect
of

of these Securities the remedy is by apply-
ing to a competent Court to enforce
the terms of the trust and not by
refusing payment of interest to the
person in ^{1574/6} is entitled to receive it.

3. Assuming that Paranjatho
Mudali has been guilty of such
acts of malversation as to render it
unsafe to leave the charity property
in his hands I think the proper course
to pursue will be to bring civil suits
against him in the Courts of Pondi-
cherry and Tanjore, asking that
he may be removed from the office of
Superintendent and decessed to deliver
up possession of the charity property and
to account for the same for the time he

has been in possession. I understand
that he was properly nominated Superin-
tendent in accordance with the Founder's
rules and although he offered to resign
in favor of his son his resignation
was not accepted. It may be that
the Board of Revenue has power
under Regulation VIII of 1817 to remove
a Manager of a charity for malfeasance,
but the powers given by that Regu-
lation are extremely vague and no
machinery is provided for enforcing them
so that it seems as if recourse must
be had to the civil courts in the event
of resistance being offered to the Board's
authority. In order to assist the Board's
right to remove the Superintendent it
might be stated in the suits that
this

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this has been done but that he refuses
to deliver up the Trust property or to
account for the same. The criminal
proceedings under Regulation IX of 1822
suggested by the Collector would not
even if successful have the same
effect in compelling the delivery of
the charity property and making the
Superintendent account as a civil suit.
Moreover it is not quite clear to my
mind that there is any evidence of
fraud or embezzlement within the
meaning of that Regulation as made
applicable by Section 16 of Regulation
VIII of 1817 to trustees of Charities. It
is quite possible that there may be
very good ground for taking the charity
property

property out of Paranj the Mudali's hands and making him account without there being any case against him to warrant a criminal conviction under the Regulation. I should not advise the notice to him proposed by the Collector being given.

4. I observe that the Collector states that Paranj the is at present residing in Madras. I presume this residence is only temporary as his permanent abode appears to be in Pondicherry. At any rate the Courts there would have jurisdiction in respect of the charity property situated there. The Pondicherry Court appears to have dismissed Appu Mudali's suit on the ground that he had no right to bring the suit. the Collector of South Arcot

Arcot being by the terms of the Foundation's disposition of the charity property the proper person to exercise supervision over the Supt. intendant and see that the charities are properly conducted. I think from this there is little doubt that that Court would entertain the suit brought by the Collector and I should advise a suit being instituted there first, as the most important of the charities appear to relate to Pondicherry and if a decree were obtained there it would probably be sufficient to bring Paranj the to terms.

5. I return all the original Deeds & papers accompanying the above Proceedings.

Madras
12th Dec

I have seen
(Sd) J. W. Handberg
Governor +

See Appendix
I to the yellow
pamphlet.

1574
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Communicated to the Collector South
Arcot and submitted to Government
with reference to G. O. 8th March 1876
No. 342, with request that the Collector
may be authorized to sue in the
Pondicherry Courts as advised by
the Government Pleader.

(True Copy and Extract)

W. H. M. S.

Acting Secretary

To the Secretary to Government

Revenue Department
with 3 Enclosures to be returned &
copy of Board's Pas. Dated 16th
September 1876 No. 2364.

W. H. M. S.

4088 Bank 7601 82-83

Appu... deals the board
man in... failed to obtain
possession of his property, there is no
alternative but to permit the institution
of a suit by the Collector as recommended by
the Govt. Pleader. The Govt. authorize Mr. Parson to
take proceedings against Parangal according
to the Bd. of Rev. 24-14

31-10-76

Received 1876 2804
from the...
Bank of India
1876
2804

with order

Communicating to
Collector of District and
submitting to Govt. with
from the Government to
advise as to proceedings
to be taken against Parangal.
The Govt. in regard to
charities of Parangal in
at all... and...
1574
1571