Sectt. I (1)-I—10,006—7-16-70.

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(2) Date of repair

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. 1015	Press
B.P. No.	Mis.

Dated 10th March. 197(7)3

Not to be folded or roughly handled

105
1

Proceedings of the Madras Government, Revenue Department,
10th March 1877.

No. 333. Read the following Proceedings of the Board of Revenue, dated 3rd March 1877, No. 1,015.

Read the following letter from C. T. LONGLEY, Esq., Collector of Salem, to H. E. STOKES, Esq., Secretary to the Board of Revenue, dated Salem, 21st February 1877, No. 128 :—

I HAVE the honor to inform the Board that Annamalai Gounden, the Pattagar of the Chinna Kulroyen Hills, has filed a suit, No. 7 of 1876, in the District Court of Salem against the Collector for the cancelment of the lease of his jaghire to Government. His relatives as per margin have filed another suit in the same Court against the Pattagar and the Collector contesting the right of the former to give the lease.

1. Chengara Gounden, brother.
2. Komara Gounden, brother.
3. Periyathumbi Gounden, nephew.
4. Pandara Gounden, son.
5. Letchama Gounden, son.

2. I beg to submit, herewith, for the Board's approval, drafts of answers which I propose to file, together with translations of the plaints in the above suits.

3. The Pattagar seeks to repudiate the lease on two grounds, viz., 1st, that he did not execute it with his free consent having been brought under warrant and kept in custody till he signed the deed; and, 2nd, that the consideration for the lease was illegal.

4. Regarding the first of these grounds, I have nothing more to add to the statements contained in my letter, No. 49, dated 29th February 1876, on a petition from the Pattagar, which, after full consideration of all the circumstances, was rejected by the Board. The second ground is palpably untenable. Two of the plaintiffs in Suit No. 6 of 1876, Pandara Gounden, brother, and Komara Gounden, son, of the Pattagar, petitioned the Board (No. 3,012 of 1874), alleging that the lease had been extorted from the latter against his will, but the petition was dismissed as groundless.

5. These relatives object to the lease, stating that the jaghire is held by them jointly with the Pattagar who is entitled only to one-twelfth of the estate, and that the lease was given without their consent. These two points are explained in the accompanying answer.

6. The hearing in both the suits is fixed for the 14th March.

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

ENCLOSURES Nos. 3 and 4.—Draft Answers.

SUBMITTED for the orders of Government with reference to the orders noted in the margin.

G.O., 14th December 1867, No. 2,977.
,, 14th August 1868, ,, 2,166.
,, 22nd November 1872, ,, 1,609.
,, 29th May 1873, ,, 548.
,, 14th January 1875, ,, 77.
,, 4th February 1875, ,, 185.
,, 9th March 1875, ,, 389.

2. For the better conservancy of Government forests in the vicinity, so far back as 1867, Government deemed it desirable to obtain permanent leases of the Peria Kulroyen and Chinna Kulroyen Hill Jaghires from their respective Pattagars as the proprietors are styled. As regards Peria Kulroyen the object was effected in 1868, but considerable difficulty was experienced in coming to an arrangement with the Chinna Kulroyen Pattaga

as the Revenue authorities were unable to communicate with him owing to his having been kept out of the way by certain merchants who, from interested motives, were opposed to his coming to terms with Government. The Pattagar having been arrested under a magisterial warrant in 1874, an opportunity of communicating with him was afforded to the Collector who previously issued a Revenue summons for his appearance. The result was that a permanent lease of the property was obtained in consideration of an annual payment of Rupees 2,000 subject to the condition that the Pattagar should retain rent free three villages containing about 90 acres (G.O., dated 14th January 1875, No. 77). The renter, who then held a lease of the Chinna Kulroyen forests which had seventeen years to run, surrendered it to Government on payment of Rupees 12,500 as compensation (G.O., dated 9th March 1875, No. 389).

3. Two suits have now been filed against Government in respect of this property; the first is by the Pattagar himself in which he sues to have the lease cancelled on the ground that the document was not executed of his own free will, but was obtained from him under duress while he was in custody under a magisterial warrant. Though it is true he was in custody at the time it appears from the Collector's letter,* dated 29th February 1876, No. 49, that no coercion was used and that "the whole transaction was carried out from first to last with the Pattagar's own free will and consent."

* Board's Proceedings, dated 15th March 1876, Miscellaneous No. 2,294.

4. The other suit is brought by the Pattagar's relations against him and Government. They sue to have the lease cancelled on the grounds that the estate is the ancestral and common property of themselves and the Pattagar who are members of an undivided family, and that the Pattagar was not competent to alienate it without their consent to the prejudice of the family and for illegal consideration.

5. The lease was granted by the Pattagar of his own free will and for lawful consideration, and there is no doubt but that the transaction was for the benefit of himself and family as he secured by his contract with Government better terms than he could hope to obtain from other parties such as the rapacious merchants at whose instigation these suits have been instituted with a desire to enrich themselves at the expense of the Pattagar and his family who are ignorant Mallayallies.

6. The Board recommend that the defence of the suits be sanctioned, and suggest that the first clause of the answer in both cases be amended as shown below. The 14th March 1877 is the date fixed for the hearing:—

Clause 1.—The property to which the suit relates is an unenfranchised Inam, and the Court's jurisdiction is barred by Section 4 of the Pensions' Act XXIII of 1871.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Secretary.

No. 334.

ORDER THEREON, 10th March 1877, No. 1,015.

Miscellaneous.

THE Government think it very desirable that the Government Pleader and revise the written answer as r[illegible] should carefully scrutinise these papers, [illegible]d necessary. His attention is specially directed to the question of how far the plaintiff's contention that he was in duress and in a measure constrained to grant the lease to Government, is likely to be accepted by the Courts in the circumstances of the case.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Government Pleader, with all papers.
,, the Board of Revenue.

Exd. A. Grubert.

Govt. of {1877} Madras.

REVENUE.

To

GOVERNMENT PLEADER

&c., &c.,

Dated March, 1877.

Read.

G.O, Rev. March 1877, No. 1,0

MARCH.

Nos. 333-334.

Subject.—Observing that Government [illegible] desirable that Government Pleader [illegible] use the papers in connection with Civil [illegible] Jaghire—in Salem District, and revise [illegible] answer as may be found necessary; [illegible] special attention to question of how [illegible] contention, that he was in duress and [illegible] considered, that he was in duress and [illegible] likely to be accepted by the Courts in the [illegible] circumstances of the case.

cf 1056/77.

Revenue Department.

Proceedings of the Board of Revenue

Dated 3d March 1877.

Read letter from

the Collector of Salem, dated 21st Fe-

bruary 1877 No 128. requesting Sanc-

tion to defend in Suit No 7 of 1876 &c

Submitted for the orders of

Govt with reference to the orders noted in the margin.

x

GO 14th Decr 1867 No 2977
" 14 augt 1868 " 2166
" 22d Novr Decr 1872 " 1609
" 29 May 1873 " 548
" 14 Jany 1875 " 77
" 4 February 1875 " 185
" 9 March 1875 " 389

For the better Conservancy of Govt forests in the vicinity, &c for back as 1867 Govt deemed it desirable to obtain permanent leases of the Paria Kalrayan and Chinna Kalrayan Hill Jaghirs from the Vencatachellum Pattagars as

as the proprietors are styled.

As regards Pania Kulrayen the object was effected in 1868 but considerable difficulty was experienced in coming to an arrangement with the Chinna Kulrayen Pattagar as the Revenue Authorities were unable to communicate with him owing to his having been kept out of the way by certain merchants who from interested motives were opposed to his coming to terms with Govt.

The Pattagar having been arrested under a Magisterial warrant in 1874 an opportunity of communicating with him was afforded to the Collector who previously issued a Revenue Summons for his appearance. The result was that a permanent lease of the property was obtained in Consideration of

1015/47

an annual payment of Rs. 200 subject to the condition that the Pattagar should retain rent free three villages containing about 90 acres. G.O. 14th January 1875 No. 77. The renter who then held a lease of the Chinna Kulrayen forests which had 17 years to run surrendered it to Government on payment of Rs. 12,500 as compensation. G.O. 9th March 1875 No. 389.

Two suits have now been filed against Government in respect of this property; the first is by the Pattagar himself in which he sues to have the lease cancelled on the ground that the document

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but was obtained from him under
duress while he was in custody under
a magisterial warrant. Though it
is true he was in custody at
the time it appears from the
Collectors letter dated 29th February
1876 no 49 that no coercion was
used and that the whole transaction was carried out from first
to last with the Pattagars own
free will and consent.

The other suit is brought
by the Pattagars relatives against
him and Government. They sue to
have the lease cancelled on the
grounds that the estate is
the ancestral and common property

* Bond 15 Jan 1876 No 229

of themselves and the Pattagar who are members of an undivided family and that the Pattagar was not competent to alienate it without their consent to the prejudice of the family and for illegal consideration.

The lease was granted by the Pattagar of his own free will and for lawful consideration, and there is no doubt but that the transaction was for the benefit of himself and family as he secured by his contract with Government better terms than he could hope to obtain from other parties such as the

rapacious merchants at whose
instigation these suits have
been instituted with a view
to enrich themselves at the
expence of the Parsees and
his family who are ignorant
& illoyal allies.

The Board recommend
that the defence of the suits
be sanctioned, and sug-
= gest that the first-class
of the answer in both cases
be awarded as shown below.
The 14th August 1877 is the
date fixed for the hearing.

—

Clause I. The property
to which the suit relates
is an enfranchised house
and the Courts jurisdiction
is barred by Section 4 of the
Pensions Act (23 of 1871).

[illegible]

True Extract

W Rhodes
Secretary

To
The Secretary to
Government B. D
with 4 original enclo-
= sures to be returned.
Copy of Board's Proceed-
= ings 15th March 1876
miscellaneous No 2294
(its original enclosure
in No 1324/76 to be returned)
also Copy of Collector's letter.

Revenue Department

1015

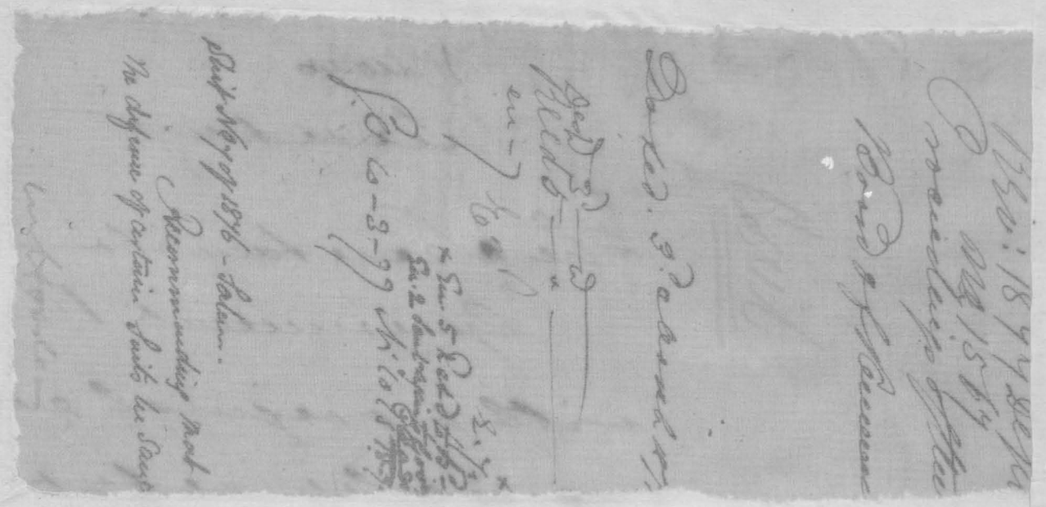
Memo

With reference to His Grace's Note on the accompanying Order paper No. 1013 it is respectfully observed that the papers referred to, and entered below, were sent to His Grace on the 15th November last in Box No. 2, but have never yet been returned.

Current No.	From whom	Date	Subject	Former correspondence	With draft or order	
3808	Proj. Sr. of Rev. Encl 1	9th Sept. 1845	Regarding Draft Bill for better repair of Tanks	Memo for orders & various remarks of Messrs Robinson, Ellis & Hardiston with Papers.	With draft & fresh minute by Sir W. Robinson.	8th October 1846 No 1537
2342	Proj. Sr. of Rev. Encl 2	6th May 1846	Regulation of "Customary Labor by ryots on minor Irrigation works	Papers and minute by Mr. Ellis.	Memo for orders	Transferred to the Committee as proposed under No 264 Sepbr 1881 No. 2358

Fort St. George
4th March 1847.

F. J. Hammond
Secretary to Govt.



No. 128.

Salem Collrs Office
Salem 21st February 1877.

From

The Collector of Salem

To

The Secretary to the Board of
Revenue Madras.

Sir.

I have the honor to inform the Board that Annamalai Goundan the Pattagar of the Chinna Kalrayan Hills has filed a suit No 7 of 1876 in the District Court of Salem against the Collector for the cancelment of the lease of his Jaghire to Government. His relations as per margin have filed another suit in the same Court against the Pattagar and the Collector contesting the right of the former to give the lease.

1. Elangaro Goundan
2. Konna Goundan brother
3. Periathamby Goundan nephew
4. Pandara Goundan Son
5. Latchima Goundan Son

2. I beg to submit herewith for the Board's

Board to approve drafts of answers which I propose to file together with translations of the Plaints in the above suits.

3. The Pattagar asks to repudiate the lease on two grounds viz 1st that he did not execute it with his free consent having been brought under warrant and kept in custody till he signed the deed and 2nd that the consideration for the lease was illegal.

Regarding the 1st of these grounds, I have nothing more to add to the statements contained in my letter No. 49 dated 29th February 1876 on a Petition from the Pattagar which, after full consideration of all the circumstances, was rejected by the Board. The 2nd ground

ground is palpably untenable. Two of the Plaintiffs in Suit No. 6 of 1876 Pandara Gounden Kruthee and Komara Gounden son of the Pattagar petitioned the Board (No. 3012 of 1874) alleging that the lease had been extorted from the latter against his will but the petitioner was dismissed as groundless.

5. These relatives object to the lease stating that the Jaghir is held by them jointly with the Pattagar who is entitled only to 1/12th of the estate and that the lease was given without their consent. These two points are explained in the accompanying answers.

6. The hearing in both the Suits

which was out against him in a criminal case. It was therefore impossible to have an interview with him. I and the late acting Collector Mr. Price endeavored, in vain, to obtain one; in order to communicate with him personally regarding the lease of his Jaghire to Government. In October 1874, I learnt from the late Deputy Conservator Mr. Brougham, that the Pattagar had gone to Meadras with certain chetties of Athur, in view to his signing and registering a document making over the Jaghire to them on a very long lease. I saw at once that my action must be prompt in order to save the Pattagar from these rapacious chetties, and I immediately issued a Revenue Summons requiring the Pattagar's presence before me and I entrusted it to my Duffadar to be served on him. The Duffadar proceeded quickly to the house of the chetties in Black Towns where in an upstair room the chetties had the Pattagar under their own surveillance, and without access to any of his people, or others. The Duffadar took them by surprise, and told the Pattagar that he had brought the summons. The

The Pattagar replied "that he would at once go with him and see the Collector" as he wished very much to lease the Jaghire to Government. During the course of the day, however, the Police Constable to whom the warrant which the Salem Magistrate had issued three years before was entrusted, arrived at Madras and executed the same. The Constable now took charge of the Pattagar, who together with the Duffadar, took train and reached Salem on the evening of the 6th November 1874. As it was too late for me to see him that evening, the man was allowed

allowed to sleep for the night on the pial of the Salem Cutcherry, and was brought before me the next morning. When I told the Pattagar the intention of his readiness to clear up the Govt, he expressed most fully & unhesitatingly to Government, and stated how he was persuaded by the chettiers to lease the Jaghire to them for a mere trifle, which sum he never received, and that had it not been for my summons he would have been completely duped by the chettiers. The Government Pleader of the District Court who was present at my interview with the Pattagar, drew up the deed of lease and explained it fully to him who was

was his client and known to
him as such for several years.
The Pattagar then agreed to the
Deed of lease, and signed the
same, which was in due course
registered. This is the true history
of what actually took place,
in connection with the lease,
and I beg to assure the Board
that the Pattagar was neither
confined in the Police Station
nor was the slightest compulsion
ever used. The transaction was
carried out from first to last with
the Pattagar's own free will
and consent as will be seen from
the enclosed letter of the Government
Pleader, who was present during
the whole time.

3 I am quite certain that
the

the petition to the Board did
not emanate from the Pattagar
himself, but is the production
of some of his designing rela-
tives who are deprived of their
illegal gains, which they hitherto
obtained by plundering the Pattagar
who is an innocent and ignorant
Malayaly.

4. I wished to see the Pattagar
before submitting this report,
and ascertain from him if he
had sent the petition, but all
my endeavours to do so have been
unsuccessful, as his people, who are
the authors of the petition are keeping
him away. I have therefore thought
it unnecessary to delay the reply
longer.

I have &c
(Signed) C. J. Longley
Collector

Salem Collectorate
Office Salem 29th
February 1876

1015
19

The Board have received a report on the subject of this Petition and see no reason to interfere. If Petitioner has any representation to make he should appear in person before the Collector.

2. Petitioner will be informed accordingly.

(True copy & Extract)

(Signed) E. Gibson
Ag. Sub. Secretary

To
The Collector of Salem

(True copy)

W Nicolas
Secretary

Enclosure No 1 to Board's
Proceedings dated
3rd January 1872
& the Court of Enquiry

Bo 10-2-72

Copy

Head of the Class are very unsatisfactory. Dress towards the Head of the Class is admitted The cadet was summoned to the Revenue side & arrested on the Brent side - on Madras - having persistently refused to leave his Cabin for years - in 1874 on are 3rd class of 3 years standing (unless otherwise stated) - the transaction took place whilst under confinement - Apparently the members

RD
10/7/72

List of papers on the

R.D.

List of papers on the subject of the Chinna Kalrayan Jaghire in Salem Dist^t sent to the Government Pleader with S.O. 10 March 1877 No 1015

S.O. 10 April 1862 No. 806.
— " 14 Dec^r 1867 — " 2911.
— 14 Aug^t 1868 — " 2166.
— 11 Nov^r — " — " 2821
— 10 — " 1869 — " 2942
— 19 Jan^y 1871 — " 128.
— 3 March — " — " 387.
— 10 June — " — " 1028
— 31 Aug^t — " — " 1488
— 22 Nov^r 1872 — " 1609.
— 29 May 1873 — " — 548.
— 14 Jan^y 1875 — " — 77.
— 4 Feb^y — " — " 185.
— 9 March — " — " 389.

Gov^t. P^r of Rev^e 3 March 1877 with 7 Enc.

No 1567/77

of the Claim were not presented when the deed was obtained & the Lessor had no opportunity of communicating with them

As the Dist^t seems to me most advisable that the Court without legal advice — and Govt after the advice of the Law Officers & Establishing the Claim but it is desirable

Yes without delay 7/3.

Circulate & Return

Mr Grant

Telegraph to get opinion of Advocate

copy & note

No 1567

R D

Reps. Bd Rev - 3 March 77.

Agreeably to Hon'ble Holmans
suggestion, I have telegraphed
for an extension of 14 days
time to file our answer to this
Suit, w.h Shannie is seeking for
hearing on 14th inst.
But as to the dues - as to
be seen from the papers that
he Collr disputed it, engaged
to the Bd's satisfaction - It
is 3 years ago, & the man w.h has
have waited all his time - As
to his relations not being present
(tho' that is not important)
the Govt Pleader of the Salem Ct
expressly contradicts the allegation
When the papers return
from ener - the Govt Pleader
will be asked to advise on the
draft answer w.h the Bd's instrns
to put in to the Suit.

D.S.C. 7/7.

No 1010 Q 10-3-77

The Govt have to req demand
that the Govt Pleader do carefully
examining these papers, & revise his
written answer as may be found
necessary - his attention is specially
directed to the question of how far the
Pltff's contention that he was in
danger & in a measure compelled
to grant the lease to Govt is likely to be
accepted by the Courts in the circum-
-stances of the case.

To Govt Pleader with the papers. 10/3/77.

C/B 4 Bd. on his first.

No 1 & 3 the Govt Pleader with Q dated 10-3-77
— forwarded to Govt of Queensland Philips dated 24-3-77
Received 24-3-77
Govt Pleader & Ho 17-5-77.

C 8/3/77 A 10/3/77