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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.
B.P. No.

1017.

Press
Mis.

Dated

10th March 1977

Not to be folded or roughly handled

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

No. 337. Read the following Proceedings of the Board of Revenue, dated 7th March 1877:—

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. 130.

I HAVE the honor to state that the Agrahamdars of Thorapalli in the Oosoor Taluq have again instituted a suit in the District Court of Salem for the cancellation of the second sale for arrears of revenue for Fasli 1284, which was reported to the Board in my letter, No. 262, dated 14th October last. The defendants in the suit are the Sub-Collector who conducted the sale and Kotha Subbu Chetty who again purchased it.

2. The Sub-Collector's letter and the draft answer prepared by him are herewith submitted.

3. It appears to me that the Sub-Collector should have caused Notices Nos. 4, 5, and 7 to be served on Kotha Subbu Chetty, who was in possession of the Agraharam at the time the arrears occurred, instead of on the plaintiffs, as the decree of the District Court cancelling the first sale, and which was passed on the 1st April 1875, was not executed.

4. As now the legality of the second sale conducted by the Sub-Collector is made the subject of a suit, I am doubtful whether, as recommended in my letter, No. 262, dated 14th October 1876, any part of the purchase money thereof can be appropriated towards recouping the Government for what they paid into the District Munsif's Court. The course to be adopted, under the circumstances, appears to be that suggested by the Government Pleader in his letter to the Board, No. 104, dated 23rd August 1876.

ENCLOSURE No. 1

From F. WILKINSON, Esq., Acting Sub-Collector, to C. T. LONGLEY, Esq., Collector of Salem, dated Oosoor, 15th February 1877, No. 61.

I HAVE the honor to forward translation of plaint and the proposed answer in Suit No. 5 of 1876 on the file of the District Court, Salem. The hearing of the case is posted for the 12th March 1877. I request that you will obtain the sanction of the Board of Revenue to defend the suit at the cost of Government.

The facts of the case are as follows:—

The Thorapalli Agraharam in the Oosoor Taluq was put up to auction for the jodiga due on it on the 9th May 1872, and bought by second defendant, Kotha Subbu Chetty, and a sale certificate was accordingly given him. The Agrahamdars appealed to the District Court against the said sale, and it was decided in Suit No. 6 of 1873 on the 1st April 1875 that the sale was illegal.

For the arrears of Fasli 1284 I issued orders to the late Tahsildar, Mr. Jones, to proceed against the movable property of second defendant, as he was in the enjoyment of the Agraharam during that fasli, and the said Tahsildar attached the movable property of the second defendant, but subsequently released them without reference to me and without my knowledge.

On receiving the demand, collection, and balance statement for the month of February 1876 I found there were Rs. 3,113-8-5 due against the Thorapalli Agraharam, and ordered the Tahsildar to attach the Agraharam and bring it to sale in due course.

The Agraharam was attached on the 29th May 1876, and, after all the provisions of the law had been duly observed, sold by me in public auction on the 4th July 1876; the plaintiffs made no objection to the attachment nor to the sale, at which they were not present.

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10th March 1877.*

The sale of 9th May 1872 having been on the 1st April 1875 declared by the District Court illegal, I had no option in February 1876 but to proceed against the Aghaharam for the arrears due; and as the Aghaharamdars having been declared by the Court to be the possessors of the Aghaharam, Nos. 4, 5, and 7 were served on them as the defaulters.

REVISED ANSWER.

The property referred to in the plaint was on the 4th July 1876 sold for arrears of revenue due thereon under Act II of 1864 (Madras), and the sale is legal and valid.

The usual processes under Sections 25, 27, and 36 of the Act were served on plaintiffs, as they were the owners of the land on which the arrears were due.

It was open to plaintiffs to have prevented the sale by payment of the arrears with interest and costs, as provided in Section 37 of the Act, but, though they had due notice of the attachment and intended sale of the property, they failed to tender payment or raise any objection previous to the sale.

(Signed) F. R. WILKINSON,
Acting Sub-Collector.

G.O., 30th October 1873, No. 1,218.
" 2nd June 1875, " 859.
" 8th Sept. 1876, " 1,236.
" 19th Feb 1877, " 740.

SUBMITTED for the orders of Govern-
ment with reference to the orders noted
in the margin.

2. Thorapalli Aghaharam, an enfranchised Inam, was sold in 1872 for arrears of revenue, amounting to Rs. 1,272, and was purchased by one Kotha Subbu Chetty for Rs. 12,015, about half the value of the property. The Inamdars declined to receive the surplus sale proceeds, and the holders of 53½ of 65 shares of the village sued for the cancellation of the sale on the ground of certain alleged irregularities. The sale was cancelled and a decree was passed for the restoration to plaintiffs of the property claimed, and it was not deemed advisable to prefer an appeal.—G.O., 2nd June 1875, No. 859.

3. Meanwhile Rs. 2,426-9-8 out of the surplus sale proceeds was paid on the requisition of the District Munsif of Oosoor in satisfaction of decrees against certain of the Inamdars. Though the decree cancelling the sale actually affected only 53½ of 65 shares, the purchaser, Subbu Chetty, repudiated the purchase of the entire property and claimed the refund of the purchase money. The matter was referred to the Government Pleader; he, considering Subbu Chetty's claim valid, suggested a refund of the purchase money and proceedings *de novo* for the realisation of the arrears. As regards the recovery of the money paid into Court, he advised that application be made to the District Munsif for the refund of the money, but he doubted whether it would be successful, and thought it probable that the money could be recovered only by regular suit. The Collector was authorised to act on the advice of the Government Pleader, but the Government desired to be informed whether any portion of the amount paid into Court was recoverable, and how far the old arrears could be recovered by enforcement of Act II of 1864 *de novo*.—G.O., dated 8th September 1876, No. 1,236. In reply the Collector reported that the Aghaharam was sold on the 4th July 1876 for arrears of revenue due for Faslis 1284 and 1285, and that the amount realised, Rs. 9,550, was more than sufficient to cover all arrears of revenue and the amount paid into Court.—G.O., 19th February 1877, No. 740.

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

4. The arrears, Rs. 3,651, for which the property was last sold, accrued while Subbu Chetty, the original purchaser, was in possession, and he has now purchased the property for Rs. 9,550, or Rs. 2,465 less than he originally paid for it.

5. The Aghaharamdars have now filed a suit for the cancellation of the second sale, on the grounds that the arrears for which the property was sold a second time accrued while the fourth defendant, Subbu Chetty, was in possession; that he is responsible for the amount, and that coercive process should have been issued against him as the actual defaulter, and not against plaintiffs, who were unable to obtain execution of the decree in their favor owing to the attachment of the property for arrears of revenue; and that Subbu Chetty allowed large arrears to accrue in view to injure plaintiffs and benefit himself by having the property resold.

6. There seems to be no doubt but that the fourth defendant, as the registered holder in actual possession, was personally responsible for the arrears of Faslis 1284 and 1285, and it is to be regretted that the demand was not enforced by the attachment and sale of his movable property according to the Sub-Collector's instructions to the Tahsildar. In the circumstances the revenue should have been punctually collected as it became due, and the Revenue authorities are to blame for having allowed arrears to such a large amount to accumulate. They are also to blame for not having included in the arrears for which the property was last sold the amount due for Fasli 1281, for which plaintiffs are undoubtedly responsible. It is clear, however, that the property itself, being the security for the public revenue (Section 2, Act II of 1864), was liable to attachment and sale for the arrears, no matter by whom due, and that the sale is valid. It was open to plaintiffs to prevent the sale by payment of the arrears as provided in Section 37 of the Act, but, though they had due notice of the attachment and intended sale, they raised no objection.

7. The Board recommend that the defence of the suit be sanctioned, and suggest that the annexed answer be substituted for the one proposed by the Collector.

8. As regards paragraph 4 of the Collector's letter, the Board are of opinion that consideration of the matter therein referred to may be deferred pending the result of the suit.

9. As the 12th instant is the date fixed for the hearing of the suit, the Collector should apply for fifteen days' extension to admit of the orders of Government being obtained.

(True Copies and Extract.)

(Signed) H. E. STOKES,
Secretary.

No. 338. ORDER THEREON, 10th March 1877, No. 1,017.

Miscellaneous.

THE conduct of the Tahsildar in releasing the defaulter's property from attachment in the manner described is susceptible, *prima facie*, of but one inference. The Board will report further after procuring any statement Mr. Jones may have to make.

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

2. Though the suit may be defended on the technical grounds suggested, the position of the plaintiffs, who have thus for the second time lost their village owing to the errors or misfeasance of a public officer, is to be greatly commiserated. An expression of this feeling should find place in the defendant's answer; and it should be added that, if the Courts intimate in their decision that reparation is due to plaintiffs by the action of the local authorities, which should be fully set out as in the original draft answer, the Government will give every consideration to the same, although the plaintiffs' suit may be thrown out.

(True Extract.)

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

To the Board of Revenue, with two enclosures.

Exd. A. F. Goodall.

337. Rev. Mr. Jones
March 1877 No 130

Salem Collectors 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 state
that the Agraharindars of Koropalle
in the oopoor Taluk have again
instituted a suit in the District
Court of Salem for the cancellation
of the second sale for arrears of
Revenue for fasli 1284 which was
reported to the Board in my letter
No 262 dated 14 October last.
The Defendants in the suit are the
Sub Collector who conducted the
sale and Kotha Subli Chetty
who again purchased it.

The

Subt. of 1877 20th

REVENUE.

To

THE BOARD OF REVENUE

Local March 1877

Recd

G.O. 10th March 1877, No 1,017.

MARCH

Nos. 337-338.

Suit. Obeying with reference to Box
Proceedings recommending to record suit for
defence of second sale - filed by Thora
Agraharindars in Salem District, question
legality of sale for arrears of revenue, the
conduct of the Talukdar in releasing default
property from attachment in manner described
report further after procuring any state
Mr. Jones may have to make

The SubCollector's letter and the draft answer prepared by him are herewith submitted.

3. It appears to me that the SubCollector should have caused notices Nos 4, 5 and 7 to be served on Kotha Subbly Chetty who was in possession of the agharam at the time the arrears were in dispute of on the Plaintiffs, as the decree of the District Court cancelling the 1st sale and which was passed on the 1st April 1875 was not executed.

4. As now the legality of the second sale conducted by the SubCollector is made the subject

of a suit, I am doubtful whether as recommended in my letter No 262 dated 14th October 1876 any part of the purchase money thereof can be appropriated towards reimbursing the Government for what they paid into the District Munsiff's Court. The course to be adopted under the circumstances appears to be that suggested by the Government Pleader in his letter to the Board, No 104 dated 23rd August 1876

I have &c
S^d C. J. Longley
Collector
, True copy,

Stewart
Secretary

[Signature]

Enclomine a 1233/12
6 the day 6/10/12
8 7 March 1877
—
Dec: 16/12/77
1877-78



N^o 61.

Salem Sub-Collector's Office

Ossoor, 15th Feb: 1877.

From

The A^d Sub-Collector
of Salem.

To The Collector of Salem.

Sir, I have the honor to forward
translation of plaint and the pro-
posed answer in Suit N^o 5 of 1876
on the file of the District Court Salem.
The hearing of the case is posted
for the 12th March 1877. I request
that you will obtain the sanction
of the Board of Revenue to defend
the Suit at the cost of Government.

The facts of the case are as
follows.

The Thorapully Agraharam
in the Ossoor Talug was put up
to auction for the jodiga due on it,
on the 9th May 1872 and bought by
2nd

2^d Defendant Kotha Subba Chetty
and a sale certificate was accordingly
given him. The Agraharundars
appealed to the District Court against
the said Sale and it was decided in
Suit N^o 6 of 1873 on the 1st April 1875
that the Sale was illegal.

For the arrears of Fashi 1284
I issued orders to the late Tahsildar
Mr. Jones to proceed against the
movable property of 2nd Defendant
as he was in the enjoyment of the
Agraharum during that Fashi &
the said Tahsildar attached the mo-
vable property of the 2^d Defendant
but subsequently released them
without reference to me & without
my knowledge.

On receiving the Demand
Collection and Balance Statements
for the month of February 1876, I
found

found there were Rs 3113-8-5 due
against the Thorupally Agraharum
and ordered the Tahsildar to attach
the Agraharums and bring it to Sale
in due course.

The Agraharum was attached
on the 29th May 1876 & after all the pro-
visions of the Law had been duly ob-
served, sold by me in public auction
on the 4th July 1876, the Plaintiffs
made no objection to the attachment
nor to the Sale at which they were
not present.

The Sale of 9th May 1872 having
been on the first April 1875 declared
by the District Court illegal, I had
no option in Feb. 1876 but to proceed
against the Agraharum for the
arrears due and as the Agraharundars
having been declared by the Court
to be the possessor of the Agraharum

N^o

No 4, 5 and 7 were served on them
as the defaulters.

I have &c

S^r F. Wilkinson

A^d Sub Collector

(True copy)

S^r T. Pritchard

for Collector.

(True copy)

Johns

Secretary.

Revised Answer

The property referred to in the
plaint was on the 4th July 1876
sold for arrears of revenue
due thereon under Act 2 of 1864
(Madras) and the sale is legal
and valid.

The usual processes under sections
25, 27 and 36 of the act were
served on plaintiffs as they were
the owners of the land on which
the arrears were due.

It was open to plaintiffs to
have prevented the sale by
payment of the arrears with
interest and costs as provided
in section 37 of the act but
though

Enclosure in 1880

Proceedings to the

Secretary to Govt. Rs

1000 7 March 1880

Recd. 18th 7/11

1000-2-22 m 1007

though they had due notice of
the attachment and intended
sale of the property they failed
to tender payment or raise
any objection previous to the
sale

Witness

Secretary

Edw

Proceedings of the Board of Revenue
Dated 7 March 1877

Read letter from the Collector of Salem, 21 Feb: 77, No: 130.

G.O. 30 Oct: 73, No: 1218.

2nd June 1875, No: 859.

8 Sept: 76, No: 1236.

19 Feb: 1877, No: 740.

Submitted for the order of Govt: with reference to the orders noted in the margin.

Thorapalli Agraharam, an encumbered Inam, was sold in 1872 for arrears of revenue amounting to Rs 1272, & was purchased by one Kotha Subba Chetty for Rs 12015, about 66 half the value of the property. The Inamdar declined to receive the surplus sale proceeds & the holders of 53½ of 65 shares of the village sued for the cancellation of the sale on the ground of certain alleged irregularities. The sale was cancelled & a decree was passed for the restoration to the Plaintiffs of the property claimed & it was not deemed advisable to prefer an appeal. G.O. 2nd June 1875, No: 859.

Meanwhile Rs 2426-9-8 out of the surplus sale proceeds was paid on the requisition of the District Munsiff of Coimbatore in satisfaction of decrees against certain of the Inamdar. Though the decree cancelling the sale, actually affected only 53½ of 65 shares the purchaser Subba Chetty repudiated the purchase of the entire property.

G.O. 22-6-77 No: 107

Res: 5-1627/77

Enclosure - 123 Rs
to the Secretary Govt
New Delhi New Museum

& claimed the refund of the purchase money.
The matter was referred to the Government Pleader,
he considering Subba Chetty's claim valid,
suggested a refund of the purchase money
& proceedings de novo for the realization of
the arrears. As regards the recovery of the
money paid into Court, he advised that
application be made to the District Munsiff
for the refund of the money but he doubted
whether it would be successful & thought
it probable that the money could be recovered
only by regular suit. The Collector was
authorized to act on the advice of the Govern-
ment Pleader but the Government decided
to be informed whether any portion of the
amount paid into Court was recoverable,
& how far the old arrears could be recovered
by enforcement of Act 2 of 1884 de novo. —
G.O. 88 Sept. 1876, no. 1236 — In reply the
Collector reported that the Agraharam was
sold on the 4th July 1876 for arrears of Revenue
due for Inslics 1284 and 1285, &
that the amount realized

Rs. 9550, was more than sufficient to
cover all arrears of revenue and the
amount paid into Court. S.O. 19th Feb.
-ary 1877, no. 740.

The arrears Rs. 3657, for which
the property was last sold accrued
while Subba Chetty the original purcha-
ser was in possession and he has now
purchased the property for Rs. 9550 or
Rs. 2455 less than he originally paid
for it.

The Agraharamdars have now
filed a suit for the cancellation
of the second sale on the grounds that
the arrears for which the property
was sold a second time, ^{accrued} while the
4th defendant Subba Chetty was in
possession, that he is responsible for
the amount and that coercive process
should

should have been issued against him
as the actual defaulter and not against
plaintiffs who were unable to obtain
execution of the decree in their favour
owing to the attachment of the pro-
perty for arrears of revenue, and
that Subba Chetty allowed large
arrears to accrue in view to injure
plaintiffs and benefit himself
by having the property resold.

There seems to be no doubt
but that the 4th defendant as the
registered holder in actual possession
was personally responsible for the
arrears of Fusties 1284 and 1285 and
it is to be regretted that the demand
was not enforced by the attachment
and sale of his movable property
according

according to the Sub Collector's instruc-
tions to the Tahsildar. In the circum-
stances the revenue should have been
punctually collected as it became
due and the Revenue authorities
are to blame for having allowed
arrears to such a large amount
to accumulate. They are also to
blame for not having included in
the arrears for which the property
was last sold the amount due for
Fusty 1280 for which plaintiffs are
undoubtedly responsible. It is clear
however that the property itself
being the security for the public
revenue (Section 2 act 2 of 1864) was
liable to attachment and sale for
the arrears no matter by whom
due

due and that the sale is valid. It was open to plaintiffs to prevent the sale by payment of the arrears as provided in section 37 of the act but though they had due notice of the attachment and intended sale they raised no objection.

The Board recommend that the defence of the suit be sanctioned and suggest that the annexed answer be substituted for the one proposed by the collector.

as regards para 4 of the collector's letter the Board are of opinion that consideration of the matter therein referred to may be deferred pending the result of the suit.

As the 12th instant is the

10
the date fixed for the hearing of the suit the collector should apply for 15 days extension to admit of the orders of Government being obtained

True & correct

Secretary

To The Secretary to Government, Rd
with 2 encls. The ret'd; revised answer, and copies of collector's and sub collector's letters.

When we find in a case that
 the facts are as stated in
 the petition, please see
 the report of the court, 14 Oct 1847

See

1. The court has decided in favor of the petitioners in the case of the *Bank of the United States* vs. *Shreve*, 14 Oct 1847. The court has also decided in favor of the petitioners in the case of *The Bank of the United States* vs. *Shreve*, 14 Oct 1847.

2. Though the court has decided in favor of the petitioners in the case of the *Bank of the United States* vs. *Shreve*, 14 Oct 1847, the court has also decided in favor of the petitioners in the case of *The Bank of the United States* vs. *Shreve*, 14 Oct 1847.

3. The court has also decided in favor of the petitioners in the case of *The Bank of the United States* vs. *Shreve*, 14 Oct 1847. The court has also decided in favor of the petitioners in the case of *The Bank of the United States* vs. *Shreve*, 14 Oct 1847.

Case: 1847 Sept 10 1847
 No. 100 of the Court

Ordered 7th March 1847
 1847 18th 1847
 1847 22nd 1847

14th March 1847

Remedy. That sanction
 be accorded for the
 release of 20 civil
 suits filed by the
 party against the
 in the District Court
 the legality of the
 rule for means of
 recovery with the

I do not see how amicable
 can be made to - as the Chetty Bridge
 the land - out of Court.

But I should like to see the
 cancelled which can only be done

of Court

I would therefore file an
 expressive of Commencement and
 our future action will be guided by
 decision of the Court. I would be
 fact is fully as stated in the
 order to explain our action

Q/B

1847