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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

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

1282

Press
Mis.

Dated

31-3-1877 197

Not to be folded or roughly handled

1282
Proceedings of the Madras Government, Revenue Department,
31st March 1877.

No. 931. Read the following letter from J. W. HANDLEY, Esq., Government Pleader, Madras, to the Hon. D. F. CARMICHAEL, Officiating Chief Secretary to Government, dated 23rd March 1877, No. 48:

ABSTRACT.—Suits in Salem District Court to set aside lease to Government of Chinna Kulroyen Hills.—Advising as to defence of—

No. 932. ORDER THEREON, 31st March 1877, No. 1,282.

Miscellaneous.

COPY of this letter and its enclosures will be forwarded to the Collector, Salem, who will inform the Government

Pleader fully on all points on which Mr. Handley remarks—at an early date.

2. When the correspondence between the Collector and the Government Pleader is completed, Mr. Handley will advise further on the written answer.

3. The Government think it desirable, if ultimately the case should go into Courts, the Government Pleader should personally conduct the defence.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Officiating Chief Secretary.

To the Collector of Salem.
„ the Board of Revenue.
„ the Government Pleader.

Exd. F. R. Bank

for

16/5/1876.

REVENUE.

Col. of (1877) 23/10/76

THE COLLECTION OF SALES.

Dated March, 1876.

G.O. No. 1000, 1876, No. 1, 1876

MARCH.

No. 101, 1876.

Each sheet of this form should be filled up by the Collector of the District, and forwarded to the Government for the purpose of being printed and distributed to the Collectors of the Districts.

In the District Court of Salem
D.S. No 6 of 1876
Sankara Gounden & 4 others
Plaintiffs

1. Annamalai Gounden
2. C. J. Longley Esq
Collector of Salem
Defendants

Written Statement of the 2nd Defendant
above named.

1. The property to which the
suit relates is an un-
-panched *Prani* and the
Court's jurisdiction is therefore
barred by section 4 of the
Pensions Act 1871. (Act
XXIII of 1871).

2. The suit is improperly
valued under the Court Fees
act. As the Government
are in possession under the
lease in the plaint mentioned
the suit should be valued
for

for the purposes of that Act upon the whole value of the property in dispute and cost fees paid upon that amount.

3. The 1st defendant had a right to grant the lease in the plaint mentioned and the plaintiffs have no right to dispute it at any rate during his life-time.

4. The lease in question was a very advantageous one for the family. At the time it was granted the lands included in it were subject to a lease to one Subramonia Chetty of the forests thereon at a rental of Rs 50 per annum for 20 years of which 17 had right to run. The total annual income from cultivation and other sources besides this rental did not exceed Rs

700

is this so?
M.A.

Rs 700 per annum. The Government procured a surrender of this lease at a cost of Rs 12,500. By the lease in question in this suit it is stipulated that Government should pay from the date thereof a yearly rent of Rs 2000 and should moreover allow the lessor to retain 90 acres of land rent free for cultivation.

5. For the above reasons the 2nd defendant prays that this suit may be dismissed with costs.

In the District Court of Salem
O. S. No. 7 of 1876

Annamalai Gounden Plaintiff

C. F. Longley Esq
Collector of Salem - Defendant

Written Statement of the Defendant

1. The suit is improperly valued under the Court Fees Act. as the Government are in possession under the lease in the plaint mentioned the suit should be valued for the purposes of that Act upon the whole value of the property in dispute & Court Fees paid upon that amount.
2. The lease in question was executed by the plaintiff of his own free will and accord and after full

11/16/20

Salem District Court
Filed 6 of 1876

Annamalai Gounden
& 14 others

Collector of Salem
& another

Deft.

Written statement
of Plaintiff

No 31-5-77 v. 1282

Annamalai Gounden

Consultation with his relatives

and advisers, and he was not subjected to any pressure or restraint whatever by the defendant or any other person to induce him to execute the same. At the time when the said lease was executed plaintiff had been arrested at Madras on a Magisterial warrant issued by the Taluk Magistrate in a Criminal matter altogether unconnected with the said lease and he was detained on the said warrant for one night in the Taluk Cut-Cherry, but at the time when he executed the said lease he was at liberty and he executed

Had he any other advisers besides the Government Bakil who was also acting for the Collector? If not better omit the words underlined.

JMA

was this so?

JMA

the same voluntarily after having had it fully read and explained to him and well knowing its contents and he himself took it to the Registrar's office for Registration.

3. Defendant does not know what is meant in the plaint by the allegation that the said lease was for "Illegal Consideration". The Consideration for the said lease was the rent reserved therein which was a very good one as is mentioned herein after mentioned.

4. At the time the said lease was granted the lands included in it were subject to a lease to one Subramonia Chetty of the forests thereon at a rental of Rs 50 per annum for

for 20 years of which 10 years
has yet to run. The total
annual income from Cultivation
and other sources besides this rental did not
succeed Rs 700. The Government
procured a surrender
of this lease at a cost of Rs
12,500. By the lease in question
in this suit it was stipulated
that Government should pay
from the date thereof a yearly
rent of Rs 2000 and should
moreover allow the lessee
to retain 90 acres of land
rent free for cultivation. The
lease was therefore a most
advantageous one for the
plaintiff and his family.
5. For the above reasons the
defendant pray that the
suit may be dismissed with
costs.

So this is ?
M/P

1282
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No 48. Madras
23 March 1877

Mr. J. W. Handley Esq
Government Pleader
Madras

To the Honble D. F. Carmichael
Off^r Chief Secretary to
Government

Sir,
I have the honor to acknowledge
receipt of the Proceedings of
Government in the ^{General} ~~General~~ ^{General}
Department noted in the margin
referring for my opinion papers
connected with two suits pending
in the Salem District Court for
Cancellation of a lease of the Chinnia
Philoozan Hills granted to Govern-
ment in 1875 by the Prindar
or Pattagar of those Hills. I
telegraphed to the Collector to apply
for an adjournment of the 1st
hearing of the Cases, which had

been
me

10th March 1877
No 1015

Salem District
Court
D. F. No 74/1876
S. P. No 12/1877
Collector of Salem
District
Salem District
Court
D. F. No 74/1876
S. P. No 12/1877
Government Pleader

been fixed for the 14th Instth, and
have since heard from him that
an adjournment has been granted
to the 23rd of July.

2. I have carefully perused the
papers especially with reference to
the question of the aspect in
which the case of Corcoran and
duress set up by the plaintiff in
one of the suits may present itself
to the Courts. There are undoubtedly
many circumstances which would
induce the Courts to look with
suspicion upon the transaction.

The facts, that the Portagay
~~had just been brought from Ecuador~~
~~to Holm under arrest, if not~~
actually in custody, at the time of
the execution of the document ~~and~~
~~just been brought from Ecuador to~~ ~~under arrest;~~
that he had not long before written
a letter distinctly refusing to grant
the lease to Government and shortly
afterwards petitions the Board of
Revenue

^{21/8}
Revenue to be retained from it on the
ground that he was not a free
agent when he signed it; all these
are strongly indicative of a certain
amount of pressure having been
put upon him. But with all this
the account of an actual execution
and registration of the document given
by the Collector and the Government
Yakul seems to show that the
Portagay perfectly well knew what
he was doing and did it of his own
free will and after consultation with
his relatives and others. His not only
executing the document but also
himself taking it to be registered
also favours this view. If this be so
the utmost that the case for the
plaintiff would come to would be
that the Collector made use of
irregular and possibly illegal
means to get the Portagay before
him and this would not invalidate
the

the case. The decision of the case
will depend entirely upon how far
the Collector's account of the
transaction is supported by the evidence
and accepted by the Courts and
therefore I cannot at present
pronounce a more definite
opinion as to the probable result.
The Collector should be prepared
to explain the nature of the
criminal charge upon which the
arrest was made, the cause of the
long delay in executing the warrant
and what was eventually done
as to the charge, and whether it
was disposed of before the tran-
-saction as to the lease or afterward.
The evidence on all these points
will have a material bearing
on the case, for, if the charge was
a serious one and was kept
hanging over the man until
he

287/9
he executed the lease, this would
of course make strongly against
the voluntariness of the transaction.

3. I have settled subject to ^{your} review
in the margin the drafts of Written
Statements such as I should advise
being filed on behalf of Govern-
-ment in the two cases. To the
suit by the Puttagar the Pension
Act is no defence and I have
therefore omitted that plea in
the Written Statement in that
case. I am not sure that it is a
defence to the other suit as this
is not a case of rival claimants
to the Inam but of members of
the family admittedly entitled
to the Inam seeking to set aside
an alienation by one member
on the ground that it is not
warranted by Hindu Law.
However there is no objection
to pleading the act in this
case

Case. The general allegation as
to the ship having been instigated
by the Chartis had better I think
be omitted. It may be proved
in evidence but has no proper
place in the pleadings.

4. I return all the papers.

I have the honor to be
Sir

Your most obedt servant

J. W. Bantley

Government Pleader

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5000 10/30/79
10/30/79

[illegible]

Recd 1877. - 1877
 June 19/12
 The Government of the
 State
 The Chief of the
 Court
 dated 23rd June
 Dec 24
 No 48
 No 2-10
 Court in the District
 Court of the District
 House of Government
 of the State
 with -
 according to the
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