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(2) Date of repair 15.12.74

(3) Initials of the Referencer _____

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.	1478	Press
B.P. No.		Mis.
Dated	19.4.1877	197

Not to be folded or roughly handled

1078

*Proceedings of the Madras Government, Revenue Department,
19th April 1877.*

No. 453. Read the following Proceedings of the Board of Revenue, dated 16th April 1877, No. 1,704:—

Read the following letter from J. W. HANDIEY, Esq., Government Pleader, Madras, to H. E. Esq., Secretary to the Board of Revenue, dated Madras, 4th April 1877.

I HAVE the honor to acknowledge receipt of the Board's Proceedings noted in the margin, referring for my advice papers connected with two suits brought against the Collector of Salem

by the Muttahdar of Marandahully, and in reply to submit the following opinion.

2. I think that the suits as framed must be dismissed on the ground that they disclose no cause of action, and that one of them (No. 871 of 1876) is undoubtedly barred by the Limitation Act, without its being necessary to decide the question of the right of Government to levy water-cess, or that of the Muttahdar to collect extra assessment for wet cultivation from the ryots.

3. In Suit No. 871 the damages claimed are altogether too remote from the alleged cause of them the notice issued to the Muttahdar by Mr. Price. It cannot be said that his failure to obtain the extra assessment from his ryots was the necessary consequence of that notice. If he had any right to collect such assessment, he might have enforced it in the proper way. The suit is, moreover, clearly barred by No. 40, Schedule II, of Act IX of 1871. The clause of that schedule mentioned in the plaint has no application to the present case.

4. Suit No. 832 seeks to cancel a notice by the present Collector to the ryots not to pay wet assessment to the Muttahdar. I do not think such a suit will lie. The notice is altogether inoperative so far as concerns his legal rights, and if the ryots refuse to pay what he considers is due from them, his proper course is to compel payment by legal process. Even treating the suit as one for the Muttahdar's right to levy the assessment as the law at present stands, the Collector he cannot obtain any consequential relief (see the recent decision of the Privy Council in the Shivagunga Case).

The new Specific Relief Act I of 1877, which perhaps extends the jurisdiction of the Courts to grant declaratory decrees, does not come into operation until the 1st May next.

5. In the above view it becomes unnecessary to pronounce an opinion as to the right of the Muttahdar and his ryots to the use of the water of the channel in dispute as against Government, but I may as well say a few words as to the light in which that question strikes me. I do not understand the Muttahdar's claim as set up in his plaint. He admits the right of Government to levy water-rate, and yet claims to collect wet and garden assessment from the ryots. If he means that Government have a right to levy water-rate from the ryots, it is difficult to see how he can claim to levy extra assessment from them for the use of the same water. But he may mean to say that whatever right Government may have to levy an extra tax from him for the use of the water, they have no right to prevent him from collecting extra rent in consequence from his own ryots, and if this be his contention I do not feel sure that it is not well founded. I am not acquainted with the exact nature of the tenure of these Muttahs, but I presume the holders of them have much the same proprietary interests in the lands within the boundaries of their estates as Zemindars, Jaghiredars, and other land-holders of the same nature; and if so, subject to the restrictions imposed by the Rent Act, they can exact whatever rent they can get from their tenants. I may probably be under some misapprehension in this matter, as I see it has been assumed throughout by the Revenue officials and the Board that the water-cess, if levied at all by Government, must be levied direct from the ryots; but I mention my view of the question as apparently a possible one, and one which may explain the plaintiff's case. I have left the Collector's statement on that point almost untouched in the draft written statements submitted herewith, as it appears to be in accordance with the view taken by the Board.

6. I return all the papers.

ENCLOSURES Nos. 1 and 2.—Written Statements prepared by Government Pleader.

*Proceedings of the Madras Government, Revenue Department,
19th April 1877.*

SUBMITTED for the orders of Government with copy of Board's Proceedings, dated 17th March 1877, No. 1,211, in which the facts of the case are fully stated.

2. Plaintiff's Muttah village is irrigated by a Government channel. The question whether Government can levy water-rate on land irrigated from this channel is referred to the Board. The Board decided that water-rate is chargeable, and with reference to this decision the Collector issued a notice intimating that the ryots would be charged from Fasli 1286, and warning the ryots not to pay water-rate to the Mutahdar. The latter filed a suit for the cancellation of the notice.

• Proceedings, 1st July 1876, No. 1,098.

3. In pursuance of Board's Proceedings, dated 1st July 1876, the Sub-Collector had issued a notice to the Mutahdar warning him not to collect water-rate from the ryots for the use of Government water, and in reference to this the Mutahdar filed another suit claiming Rupees 1,422-1-1, which he alleges he was unable to collect owing to the Sub-Collector's notice.

4. The Government Pleader is of opinion that both suits must be dismissed on the ground that they disclose no cause of action, and that the second suit is barred by limitation. The Board, therefore, recommend that the defence of the suits be sanctioned.

5. In reference to paragraph 5 of the Government Pleader's letter, regarding the question as to who is primarily liable to Government for the water-rate, the Mutahdar or the ryot, the Board are of opinion that the matter is not important, for so long as the right of Government to levy water-rate is established, it is immaterial who pays it. In the Godavery and Kistna Districts the rule and practice is well settled. If the landlord applies for water, the arrangement is made and the water-rate recovered from him. Zemindari ryots, however, are allowed to apply for and relinquish the land to the Mutahdar. In the absence of any application by or understanding with the Mutahdar, the Revenue authorities must look for payment to the ryots who actually use the water, and are *prima facie* liable; but if the Government Pleader is right in assuming that plaintiff admitting his liability to Government for water-rate only claims the right to make his own terms with his tenants, the Board see no objection to such arrangement as far as Government are concerned.

6. The suit is to be heard on the 21st April 1877.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Secretary.

No. 454.

ORDER THEREON, 19th April 1877, No. 1,478.

Miscellaneous.

The defence is sanctioned.

(True Extract.)

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

to the Board of Revenue.
the Collector of Salem.

and F. R. Bantle Jan.

1877

REVENUE

BOARD OF REVENUE

1877

APRIL

1877

Suit filed by a Muttahdar against the Collector for

Sanctioning the defence of the

No. 1211.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 17th March 1877.
Read the following letter from C. T. LONGSTREET, Esq., Collector of Salem, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 19th February 1877,

No. 131.

I HAVE the honor to report that the Muttahdar of Marandahully has filed two suits, Nos. 832 and 871 of 1876, in the District Munsif's Court of Darampury in respect of the assessment of lands brought under wet cultivation subsequent to the permanent settlement under the supplying channel of the Singanahully tank, regarding which the Board passed orders in Proceedings No. 1,683, dated 1st July 1876.

2. Suit No. 832 is filed with reference to the notice issued by me under the Board's orders above quoted, and Suit No. 871 is based on a similar notice given by the late Sub-Collector, Mr. Price, who was instructed to do so by my predecessor, Mr. Pochin—vide paragraph 5 of my letter to Board, No. 123, dated 6th June 1876.

3. Translations of the plaints as well as of the notices to which objection is taken by the plaintiff, together with the drafts of answers which I propose to file, are herewith submitted.

4. The hearing of both suits is fixed for 21st March 1877.

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

ENCLOSURES Nos. 3 and 4.—Translations of Notices.

ENCLOSURES Nos. 5 and 6.—Draft Answer.

REFERRED for the opinion of the Government Pleader.

2. Near the village of Marandahully held on Muttah tenure there is an ancient for diverting the river water into a channel which runs through the Muttah and supplies the tank of Sanga. In a Government village, lower down. The area of the channel was separately demarcated in the Pymash. When the Muttah was formed in 1814 its actual wet cultivation irrigated from the channel comprised only eighteen fields, but subsequently thirty-eight other fields which were waste at the time of settlement were from time to time brought under wet cultivation and irrigated from the channel. The Muttahdar charged wet rates for the increased wet cultivation, and double rates for such portion of it as had been converted into valuable coco and areca plantations which were gradually extended until they encroached considerably on the bed of the channel causing a deposit of silt which impeded the supply of the Government tank and entailed an annual loss of Rupees 359, assessment on land left waste owing to the diminished supply.

3. This state of things apparently attracted the notice of the Revenue authorities for the first time in 1842. Inquiry then commenced, and correspondence between the district authorities ensued as to the question whether the Muttahdar had a right to irrigate from the channel land in excess of the actual wet cultivation at the time of the permanent settlement. Eventually the matter was referred to the Board who decided that as the channel was Government property supplying a Government tank, and the Muttahdar had only a limited right to the water at the time of settlement, there was no doubt that Government have a right to levy water-rate on land irrigated in excess of the area with reference to which the assessment were determined at the time of settlement, and that by having refrained from making the charge hitherto they have not forfeited their right. They accordingly directed that notice should be given to the Muttahdar, and his ryots that water-rate would be levied for the current fasli—Board's Proceedings, dated 1st July 1876, No. 1,686.

4. A notice was accordingly issued intimating that water-rate would be charged for Fasli 1236, and warning the ryots not to pay water-rate to the Muttahdar. The latter has filed a suit to have the notice cancelled. He admits the right of Government to levy water-rate, but he claims for himself the right to charge wet or garden rates according to the nature of the cultivation on land in excess of the original wet area. It is proposed to plead in defence that he has no such right.

Previous to Board's Proceedings, dated 1st July 1876, above referred to the Sub-Collector had issued a notice to the Muttahdar warning him not to collect any assessment, collection of any kind whatever on account of the use of the water of the ancient channel as it belonged exclusively to Government. In reference to this notice the Muttahdar has filed a suit claiming Rupees 1,422-1-1 rent which he alleges he was unable to collect from his ryots owing to the Sub-Collector's notice. In this suit also it is proposed to deny plaintiff's right to charge anything above the ordinary rate on wet cultivation in excess of the original wet area, and to plead in regard to the money claimed that the notice was no bar to his enforcing any legal demand against his ryots.

6. The Board think it might be pleaded that the suit is barred by limitation under Act No. XL, Second Schedule, Act X of 1871, and that Act No. LXXXVI of the same schedule is not applicable to the case.

7. As the 21st instant is the date fixed for the hearing, the Collector should apply for a month's extension to admit of the advice of the Government Pleader and the orders of Government being obtained, and should also apply for the transfer of the suit to the District Court.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Secretary.

To the Government Pleader, with 6 original enclosures to be returned,
and copy of Board's Proceedings, dated 1st July 1876, No. 1,636,
the Collector of Salem.

Edw. J. Lewis.

Suits—Nos. 832 and 871 of 1876 filed in District Munsif's Court at Dhanuvar in Salem District by Muttahdar of Marandahully regarding assessment of lands brought under wet cultivation subsequent to permanent settlement and under supplying channel of certain tank.—Referring for opinion of Government Pleader papers on subject of—, and requesting Collector to apply for a month's extension and for transfer of the suit to District Court.

MARCH
No. 1,911.

Received
1876-77
1876-77

5
1876-77
East

PROCEEDINGS, 17th MARCH 1877, No. 1,911.

1877
Journal of the
MADRAS.

No. 1,686.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 1st July 1876.

Read the following letter from T. LONGLEY Esq., Collector of Salem, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Salem, 6th June 1876, No. 128:—

I HAVE the honor to request the Board's instructions in the following matter.

2. There is an ancient across the Sana Korra Nadi near the village of Marandahully in the Dhanuvar Taluq, which supplies the large tank known as Sanganasavan and some other tanks. The channel which is taken from the ancient to the tank is nearly two miles in length and runs through the lands of the Marandahully Muttah. The ancient and channel having been in existence at the time of pymash, a deduction of eleven chains was made in the accounts for the width of the channel. At the formation of the muttah, there were eighteen fields which were irrigated from the channel and which were classed as wet and included in the assets of the muttah. These are marked thus ° in red ink in the enclosed sketch. Subsequent to the Muttah Settlement, the Muttahdar's ryots brought under cultivation, from time to time, thirty-seven other fields, marked thus + on the sketch, which were originally waste. These were irrigated by means of sluices placed in the channel without any sanction whatever on the part of the Government authorities. These sluices appear to have been so placed under the authority of the Muttahdar, who commenced to levy wet rates on the lands as they came under cultivation, and Dwayam or double rates as they were turned into valuable cocoa and areca topes, which they now are. Not only the water going to a Government tank was thus diverted, but also the bed of the channel was by degrees encroached upon to a considerable extent by the extension of these topes. It is, of course, very doubtful whether the Tahsildars and other taluq officials of the day were ignorant of what was going on, or whether they connived at it. Probably the latter was more likely the case. The result, however, has been that the channel silted up, and that the Sanganasavan Tank did not receive its proper supply, and that as a natural consequence, Government lands under it paying an assessment of Rs. 359 were left waste. Thus not only were the Government deprived of water-rates on lands irrigated from the channel, but also suffered loss by the diminution of the supply to the tank.

3. This state of affairs appears to have come to the notice of the then Collector (Mr. Gleig) in 1842, when an order was issued to the Tahsildar for enquiry; but nothing really was done till 1854, when Mr. Brett, one of the late Collectors, proceeded to the spot with the then District Engineer, Captain Gahagan, and inspected both the channel, the tank and the lands brought under cultivation subsequent to Muttah Settlement. The state of things as then revealed to him is described in the order which he issued to the Tahsildar, a translation of which is enclosed. This order directed the Tahsildar to measure the lands and send a statement showing what existed at the settlement, and what was brought under cultivation subsequently, with some other particulars. This statement, which appears to have been received only in 1858 or four years after the order directing its preparation, appears to have been laid aside till 1861, when Mr. Brett wrote to the Sub-Collector, Mr. Smith, requesting him to proceed to the spot and see if any further cultivation had taken place since 1858, and to submit a report. He also desired the Sub-Collector to prevent any one

from taking water for the future, or in other words to stop all extension of cultivation under the channel.

4. The Sub-Collector submitted the report on the 10th July 1869 or eight years afterwards, and sent a statement showing the lands which had been irrigated from the channel since the Muttah Settlement, and of which the Muttadar collects wet rates and Dwayam teerwah.

5. Mr. Pochin, the Collector, on the 10th September 1869, wrote to the Sub-Collector, Mr. Price, that the best course, under the circumstances, was, firstly, to warn the Muttadar that he had no right to collect any teerwah for use of water belonging to Government; and, secondly, to give the ryots puttas for water-rates and to tell them that they need not pay any teerwah to the Muttadar, and that if the Muttadar attempted either to force his puttas on them or to distrain their property, they had their remedy in Act VIII. of 1865, and requested the Sub-Collector to adopt the course indicated and to report the result.

6. Further correspondence ensued between the Collector and the Sub-Collector, without any thing being definitely settled till the 11th of December 1873, when the late Acting Collector, Mr. Price, wrote to the present Acting Sub-Collector, and requested him to give notice to the ryots that they were not to pay in future any water-rate to the Muttadar, and that if they did so, it would be at their own risk. He at the same time requested Mr. Wilkinson, the Sub-Collector, to issue water-cess puttas to the ryots.

7. Mr. Wilkinson replied, and stated, that as the Muttadar's right to use the water was not questioned from the time of the formation of the muttah till 1858; that as the amount involved was small, being about Rupees 200, he did not think it worth while running the risk of a Civil Suit with the Muttadar, and that he would send for him and endeavor to effect a compromise.

8. Mr. Price, in a letter of the 23rd February 1874, pointed out that the Muttadar's right to the water was questioned so far back as 1842; that his desire was not to obtain the amount of water-cess, but to prevent the establishment of a dangerous precedent; and that if the Muttadar agreed to an amicable settlement of the question, he must be made to understand that the proposals were to be subject to the confirmation of the Board, to whom the Collector intended to refer the case.

9. Mr. Wilkinson has since reported that the Muttadar declined any amicable settlement.

10. There has been a mass of correspondence on the subject, between the Collector, the Sub-Collector and the officers of the Public Works Department, a precis of which is enclosed for the Board's information.

11. I deferred addressing the Board on the subject until I had visited the spot and personally conferred with the Muttadar. This I did in February last. I saw the anicut and the topes that have been planted since the Muttah Settlement and the encroachments on the bed of the channel, the whole length of which I walked until I reached the Sangana-basvan Tank. I never saw a case in which a Zemindar had been allowed to interfere with Government irrigation works to the injury of Government interests in the manner the Marandahully Muttadar has been permitted to do.

12. The Muttadar bases his claim to levy water-rates on the lands in question on two grounds, (1) that the channel runs through his muttah, and (2) that in the pynaish accounts of the Marandahully Village, the immemorial waste is divided into

dry and wet. As regards the first, it is clear from the accounts that the land occupied by the channel is deducted from the accounts and reserved for Government; and as regards the second, there is nothing to show that this particular waste is the immemorial waste entered in the pynaish accounts. I cannot ascertain how immemorial waste came to be classified in the pynaish account into dry and wet, for it would have been impossible at the time of pynaish to know what portion of this waste would be converted into wet; and yet the accounts show thus—"Deducting the above, the balance immemorial waste, Punjab 11,687 1/2 gulies, Nunjah 2,687 1/2 gulies," as the Board will see from the enclosed Curnam Account. The entry appears to have been made at the whim of the Curnam of the day, and allowed to pass unnoticed. Even allowing the Muttadar's argument, it does not support his case, for the immemorial waste is entered in the village of Marandahully, which the Sangana-basvan Channel does not belong and to the water of which he has no right. All that the Muttadar can claim is, what is included in the assets on which his muttah was formed, and the settlement accounts distinctly show that there were only eight Nunjah fields under the Sangana-basvan Channel, which were included in the assets of the muttah.

13. The point on which I request the Board's instructions is, whether water-rates are to be levied or not, on the fields irrigated from the channel, subsequent to the Muttah Settlement? The Muttadar is only entitled to dry rates on these lands, and we do not dispute his right to levy the same. If the ryots chose to give him Dwayam teerwah (double rates), we have nothing to do with it. It is a matter between himself and the ryots. I am decidedly of opinion, as all my predecessors in office have been, that water-rates ought to be levied for Government, for the use of their water, and that it should have been collected long ago. If we cannot do so, then the use of the water should be stopped, for it would be very unfair to Government that they should not only lose what is their just due, but also sustain an annual loss of revenue to the extent of Rupees 350 under the tank, by the diversion of the water from the tank to these muttah lands. There is no doubt that the Muttadar will go to the Civil Court if we levy water-rates, but I would not on this account give up our claim. It is not the amount that is involved in the case that I look to, but the principle, which is a very important one, and which ought not to be given up. I would in fact rather that the Muttadar should sue us, for it would be the only satisfactory way of obtaining a decision on an important point affecting the interests of Government.

14. The following abstract shows the particulars of the lands irrigated by the channel subsequent to the Muttah Settlement:—

	RS.	A.	P.
1. Land converted into wet	...	...	50 5 6
2. Wet rates collected by the Muttadar	...	...	186 7 9
3. Deduct Punjab rates to which alone the Muttadar is entitled	...	...	53 3 0
4. Balance to which he has no right	...	...	133 4 9
5. Amount of water-rate payable to Government at 6 Rs. on gardens and 4 Rs. ordinary wet	...	...	275 6 0

Enclosure No. 1.—Precis of correspondence.

Enclosure No. 2.—Translation of Order of Tahsildar of Dharampury.

Enclosure No. 3.—Sketch.
 Enclosure No. 4.—Mahratta Account.

The Board of Revenue, in considering that water-rate is leviable on the fields irrigated from the channel which were included in the settlement of the Muttah. The channel is clearly Government property supplying a Government tank, and the Muttadar had only a limited right to use water at the time of settlement; the Board entertain no doubt, therefore, that the Government have a right to levy water-rate on the land irrigated in excess of the area with reference to which the assets were determined at the time of settlement, and that by having refrained from making the charge hitherto they have not forfeited their right.

2. Due notice should be given to the Muttadar and his ryots that water-rate will be levied for the current year. The latter will no doubt discontinue their payments to the former, and should the Muttadar file a suit against Government, the Board have little doubt that the result will be favorable to them; but, whatever be the result, a judicial decision on a question of such importance is very desirable. The Board fear that the encroachments are of too long standing to be contested.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
 Acting Secretary.

To the Collector of Salem, with Mahratta Account returned.

Ed. W. H. French.

Fields — irrigated from certain channel in Marandubully Muttah in Salem District, which were not included in Muttah Settlement.—Concurring with Collector in considering that water-rate is leviable by Government on —, and issuing instructions as to steps to be taken by Collector in connection therewith.

JULY.
 No. 1686.

Received
 1876-4-77 No. 1478

PROCEEDINGS, 1st July 1876, No. 1,686.
 2161/77
 Encl.

1876
 Board of Revenue,
 MADRAS.

Revenue Department
 Proceedings of Board of Revenue
 Date 16th April 1877
 Read the following:-
 No. 50
 George W. Mankley Esq.
 Government Pleader
 Madras
 To R. E. Stokes Esq.
 Secretary to the Board
 of Revenue.
 Sir, I have the honor to
 14th March 77 acknowledge receipt of the
 No. 1211 Board Proceedings noted in
 the margin referring for my advice
 papers connected with two suits
 brought against the Collector
 of Salem by the Muttahdar
 of Channudabally and in re-
 ply to submit the following
 opinion

Board of R.
 No. 3596

of opinion -

2. I think that the points as framed must be dismissed on the ground that they disclose no cause of action and that one of them (No 871 of 1876) is undoubtedly barred by the Limitation Act, without it being necessary to decide the question of the right of Government to levy water cess & that of the Mithadar to collect & for assessment for wet cultivation from the ryots.

3. In suit No 871 the damages claimed are alleged to be remote from the alleged cause of them the notice issued No

to the Mithadar by Mr Price.

It cannot be said that his failure to obtain the ryots assent from his ryots was the necessary consequence of that notice. If he had any right to collect such assessment he might have enforced it in the proper way. The suit is moreover clearly barred by Art. 40 of the Act of 1871. The clause of that Schedule mentioned in the plaint has no application to the present case.

4. Suit No 832 seeks to cancel a notice by the present Collector to the ryots not to pay wet assessment to the Mithadar. I do not think such a suit will

will lie. The notice is alto-
gether inoperative so far as
concerns his legal rights and
if the ryots refuse to pay
what he considers is due from
them his proper course is to
compel payment by legal process.
Even treating the suit as one
for a declaration of the Mirkh-
dars' right to levy the tax in ques-
tion, as the law at present stands
as to declaratory decrees, a
decree in his favor cannot
be made, because as against
the collector he cannot obtain
any consequential relief
(see the recent decision of
the Privy Council in the *Chinn-
gunda Case*).
The *stew Specific Relief*

Act of 1877 which perhaps
pleads the jurisdiction of
the Courts to grant declaratory
decrees does not come into opera-
tion until the 1st day next.
5. In the above view
it becomes unnecessary to pro-
nounce an opinion as to the
mistake as to his ryots to the use of the
right of the water of the chan-
nel in dispute as against
Government but I may as
well say a few words as to
the light in which that question
strikes me. I do not understand
the Mirkh-dars' claim as set
up in his plaint: he admits
the right of Government to
levy water rate and yet claims
to collect wet and garden
assessment from the ryots.
J

If he means that Government
have a right to levy water rate
from the ryots it is difficult to
see how he can claim to
levy extra assessment from
them for the use of the same
water. But he may mean to
say that whatever right Govern-
ment may have to levy an
extra tax from him for the use
of the water they have no
right to prevent him from collect-
ing extra rent in consequence
from his own ryots, and if
this be his contention I do
not feel sure that it is not
well founded. I am not
acquainted with the exact
nature of the tenure of these
mittabs, but I

It is
a mittabdar
or Zamindar
interest.

the holders of them have much
the same proprietary interests
in the lands within the boundaries
of their estates as Zamindars,
Jaghir-dars and other landhold-
ers of the same nature, and
if so, subject to the restrictions
imposed by the Rent Act, they
can exact whatever rent they
can get from their tenants.

I may probably be under
some misapprehension in
this matter, as I see it has
been assumed throughout
by the Revenue officials
and the Board that the water
cess if levied at all by Govern-
ment must be levied direct
from the ryots, but I submit
my

my view of the question is
apparently a possible one and
one which may explain the
plaintiffs case. I have left
the Collector's statement on
that point almost untouched
in the Draft Written statement
submitted herewith, as it
appears to be in accordance
with the view taken by the
Board.

6. I return all the
papers - I have &
Maddox 18/ Mr. W. andley
4 April 1877 3 Government Pleader

Submitted for the
orders of Government with
copy of Board's Proceedings
dated 17 March 1877 No 1211
in which the facts of the case
are

are fully stated. 1078/10
2. Plaintiffs mittah
village is irrigated by a Govern-
ment channel. The question
whether Government can levy
water rate on land irrigated
from the channel in excess
of the actual net area upon
which the assets of the village
were calculated at the time
the settlement was made
the consideration of the British
authorities for a long time
and was finally referred to
the Board. The Board decided
that water rate is chargeable
and with reference to this deci-
sion the Collector issued
a notice intimating that
water

No. 1st July
1876 No. 1086

water rate would be raised
from July 1286 and warning
the ryots not to pay water rate
to the mittahdar. The latter
filed a suit for the cancellation
of the notice.

3. Previous to Board's
Proceedings dated 10th July 1876
the Sub Collector had issued a
notice to the mittahdar
warning him not to collect
water rate from the ryots
for the use of Government
water, and with reference
to this the mittahdar filed
another suit claiming Rs 1422 1/2
which he alleges he was in-
able to collect owing to
the Sub Collector's notice - The

4. The Government Pleader
is of opinion that both suits
must be dismissed on the ground
that they disclose no cause of
action and that the second suit
is barred by limitation. The
Board therefore recommend
that the defence of the suits
be sanctioned -

5. In reference to para
of the Government Pleader's
letter regarding the question
as to who is primarily liable
to Government for the water
rate, the mittahdar or the ryot,
the Board are of opinion
that the matter is not important
for so long as the right of
Government to levy water rate
is

is established it is immaterial
who pays it. Under Godavery
and Kistna District the rule
and practice is well settled.
If the land lord applies for
water, the arrangement is
made and the water rate
recovered from him. Gentry
and ryots however are
allowed to apply for, and
relinquish water, and in
such cases, the water rate
is recovered from them direct
but, — of course, not by ^{assuming their} sale of the land which ^{debt.}
belongs to the Zamindars.

In the absence of any application ^{not here - the} inherent in
knowledge or understanding ^{the water conds}
with ^{the} ^{convenience of the} ^{but in case of} ^{will be treated as} ^{in order to obtain a} ^{lien on the} ^{property}

1478/12
with the British, the Revenue
authorities must look
for payment to the ryots who
actually use the water and
are prima facie liable, but
if the Government Pleader
is right in assuming that
plaintiff admitting his
liability to Government
for water rate only claims
the right to make his
own terms with his tenants,
the Board see no objection
to such arrangement as
far as Government are
concerned.

6. The suit is for
the

he heard on the 21st April

1877 (True Copy of Report)

W. H. W. W.

Secretary

To the Secretary to Government

W. H. W. W. with original

enclosures for the return of the

copies of Board Proceedings

1st July 1876 No 1686 and

17th March 1877 No 1211.

1178
13

DEPARTMENT.

From *Board of Revenue.*

Dated 16th April 1872.

FOR ORDERS.

ORDER.

The suit would be pro-
ceeded with.
I gather that the land
was waste at the time of
settlement - and was in
no memorial vel could
never temporarily out of
cultivation -
1874

Desmone (1077) Defektmisch

No 2161

[illegible]

Received of the
Treasury of the
City of New York
\$100.00
April 1877.

Dec 16 - Feb 17
 Dec 17 - Apr - Aug

*ent x fine s-red
to 0 mbs 8-47*

101475
1475

19-4-77
J.N. The Ball lists the
the 21st of Oct
Anderson 11

19-
The report
concerning
order of goods
regarding
the

Will have said that

Richard M. Johnson

Handwritten signature: *Handwritten signature*

Andersen

1478
15

Suit-Mittalides of
Marandahallam
FOR ORDERS
Kisses left by of 3a/22

122161/77

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