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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.	2026	Press
B.P. No.		Mis.
Dated	18- 6- 1877.	197

Not to be folded or roughly handled

2026
GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

18th June 1877, No. 2,026.

Read the following paper :—

No. 361. Proceedings of the Board of Revenue, dated 8th June 1877.

Read the following letter from W. McQUHAE, Esq., Collector of Madura, to H. E. STOKES, Esq., Secretary to the Board of Revenue, dated Osilampatti, 28th May 1877, No. 355 :—

With reference to the Proceedings of the Board, dated 24th May 1876, No. 1,374, I have the honor to submit translations of judgment and decree in Original Suit No. 60 of 1876 on the file of the District Munsif of Dindigul adjudging that the plaintiff may recover his claim from the 3rd defendant and awarding the costs incurred by Government.

2. Measures will be taken to recover the costs awarded.

ENCLOSURE No. 1.—Translation of Judgment.

ENCLOSURE No. 2.—Translation of Decree.

SUBMITTED to Government with reference to G.O., 6th June 1876, No. 755.

2. In this case plaintiff sued to recover a debt of Rupees 1,215 on land sold for arrears of Abkari revenue due by the late Mr. Sperschneider on the ground that the land was hypothecated to plaintiff as security for payment of the debt.

3. In defence on behalf of Government it was pleaded—

(1.) That the land was sold free of incumbrances (Section 42, Act II of 1864).

(2.) That the land being the security for the public revenue, Government had a prior claim on it in respect of arrears of revenue (Section 2, Act II of 1864).

(3.) That plaintiff as an incumbrancer might have availed himself of Sections 35 and 37 of the Act.

4. The District Munsif's decision on the three points is adverse to Government. Holding that the sale was subject to incumbrances he has decided in plaintiff's favor, and decreed that his claim must be satisfied by the purchaser of the land, 3rd defendant, who is further adjudged to pay his own costs and the cost of Government. He has been held solely liable apparently because there is evidence to show that prior to the sale he had notice of plaintiff's lien on the property.

5. Though Government are not directly affected by the decree, it is probable that the 3rd defendant will look to them for compensation in case the decree is allowed to stand, and it does not appear that he has appealed.

6. The Board are of opinion that Section 2, Act II of 1864, does not apply to revenue other than land revenue, and that the Munsif's decision on this point is correct. As the other two points however they think his decision is wrong, for Section 2, Act II of 1864, clearly provides that all sales of land for arrears of

revenue shall be free of incumbrance and there seems no reason why Sections 35 and 37 should not be held to apply to the case in question.

7. The points involved are of great importance, and the Board consider that an appeal should be preferred on the ground that the Munsif's decision on the first and third pleas for the defence is contrary to law. As the decree is dated 24th April, and it is not stated when the appeal was made, the Collector will, in anticipation of the sanction of Government, be instructed by telegram to prefer an appeal on the grounds above suggested.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Secretary.

No. 362.

ORDER THEREON, 18th June 1877, No. 2,026.

Separate Revenue, No. 16.

Abkari.

FORWARDED for the opinion of the
Government Pleader.

(True Extract.)

(Signed) C. G. MASTER,
Secretary to Government.

To the Government Pleader,
the Board of Revenue.

No. 2,672.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 8th June 1877.

Read the following letter from W. McQUIHAE, Esq., Collector of Madura, to H. E. STOKES, Esq., Secretary to the Board of Revenue, dated Osilamputti, 28th May 1877, No. 355:—

With reference to the Proceedings of the Board, dated 24th May 1876, No. 1,374. I have the honor to submit translations of judgment and decree in Original Suit No. 60 of 1876 on the file of the District Munsif of Dindigul adjudging that the plaintiff may recover his claim from the 3rd defendant, and awarding the costs incurred by Government.

2. Measures will be taken to recover the costs awarded.

ENCLOSURE No. 1.—Translation of Judgment.

ENCLOSURE No. 2.—Translation of Decree.

SUBMITTED to Government with reference to G.O., dated 6th June 1876, No. 755.

2. In this case plaintiff sued to recover a debt of Rupees 1,215 on land sold for arrears of Abkari revenue due by the late Mr. Sperschneider on the ground that the land was hypothecated to plaintiff as security for payment of the debt.

3. In defence on behalf of Government it was pleaded—

(1). That the land was sold free of incumbrances (Section 42, Act II of 1864).

(2). That the land being the security for the public revenue Government had a prior claim on it in respect of arrears of revenue (Section 2, Act II of 1864).

(3). That plaintiff as an incumbrancer might have availed himself of Sections 35 and 37 of the Act.

4. The District Munsif's decision on the three points is adverse to Government. Holding that the sale was subject to incumbrances, he has decided in plaintiff's favor and decreed that his claim must be satisfied by the purchaser of the land, 3rd defendant, who is further adjudged to pay his own costs and the costs of Government. He has been held solely liable apparently because there is evidence to show that prior to the sale he had notice of plaintiff's lien on the property.

5. Though Government are not directly affected by the decree, it is probable that the 3rd defendant will look to them for compensation in case the decree is allowed to stand, and it does not appear that he has appealed.

6. The Board are of opinion that Section 2, Act II of 1864, does not apply to revenue other than land revenue, and that the Munsif's decision on this point is correct. As regards the other two points, however, they think his decision is wrong; for Section 42, Act II of 1864, clearly provides that all sales of land for arrears of revenue shall be free of incumbrances, and there seems no reason why Sections 35 and 37 should not be held to apply to the case in question.

7. The points involved are of great importance, and the Board consider that an appeal should be preferred on the ground that the Munsif's decision on the first and third pleas for the defence is contrary to law. As the decree is dated 24th April, and it is not stated when the appeal time expires, the Collector will, in anticipation of the sanction of Government, be instructed by telegram to prefer an appeal on the grounds above suggested.

(A true Copy and Extract.)

(Signed) H. E. STOKES,

Secretary.

To the Secretary to Government, Revenue Department,
with two enclosures to be returned.

Collector of Madura.

Exd. W. J. Lewis.

Sub No. 60 of 1876 in Dindigul District
Munsif's Court in Madura District.—Forwarding
for the opinion of the Government Pleader Proceed-
ings of the Board of Revenue respecting result of
— and suggesting an appeal.

JUNE,
Nos. 361-362.

G.O. 18th June 1877, No. 2,020.

Recd. 1st July, 1877.

Exd.

To
THE GOVERNMENT PLEADER,
No. 1,
Secy,
Secy.

Govt. of (1877) Mysore.

REVENUE.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 8th June 1877.

Read the following:

no: 355

From, W. M^{rs} Dubae Esquire
Collector of Madras

To, H. E. Stokes Esquire
Secretary to the Board of Revenue
Madras

Sir, With reference to the Proceedings of the Board dated 24th May 1876 no 1374, I have the honor to submit translations of judgment and Decree in O.S. no: 60 of 1876 in the file of the District Munsiff of Dindigul & adjudging that the Plaintiff may recover his claim from the Defendant and awarding the costs

1877.
Board of Revenue,
MADRAS.

PROCEEDINGS, 8TH JUNE 1877, No. 2,672.

Encl.

Received

JUNE.
No. 2,672.

Sub-No. 60 of 1876 instituted in District Munsiff's Court at Dindigul, Madras District, for recovery of a debt of Rupees 1,215 on land sold for arrears of Abkari revenue due by the late Mr. Sperscheider.—Submitting to Government letter from Collector reporting result of —, and instructing Collector, in anticipation of sanction of Government, to prefer an appeal on certain grounds.

costs incurred by Government.

2. Measures will be taken to prevent the costs awarded.

Collector's Office
(Camp) Ovilamputti } I have &c.
28th May 1887 } J. N. M. Dubai
Collector

Submitted to Government
with reference to G.O. dated 6th
June 1876. No. 755.

2. In this case Plaintiff
sued to recover a debt of
Rupees 1215 on land sold for
arrears of Abkari revenue due
by the late Mr. Sperschneider
on the ground that the land
was hypothecated to Plaintiff
as security for payment of the debt.

3. In defence on behalf of Govt.
it was pleaded:—

(a) that the land was sold free
of incumbrances (Sec: 42 act 2 of 1864)

(b) ~~and~~ that the land being the
security for the public revenue
Government had a prior claim
on it in respect of arrears of
revenue (Section 2 act 2 of 1864),

(c) that Plaintiff as an incum-
brancer might have availed
himself of sections 35 and 37
of the act.

4. The District Munsiff's decision
on the three points is adverse to
Government. Holding that
the sale was subject to incum-
brances he has decided in plain-
tiff's

7
tiff's favor and decreed that
his claim must be satisfied
by the purchaser of the land
3^d defendant, who is further
adjudged to pay his own costs and
the costs of Government. He has
been held solely liable apparently
because there is evidence to
show that prior to the sale
he had notice of plaintiff's
lien on the property.

5. Though Government are not
directly affected by the decree
it is probable that the 3^d defendant
will look to them for compensation
in case the decree is allowed
to stand and it does not
appear

7036
appear that he has appealed.

The Board are of opinion
that Section 2 act 2 of 1864
does not apply to revenue other
than land revenue and that
the Mooniff's decision on this
point is correct. As regards
the other two points however
they think his decision is wrong
for section 42 act 2 of 1864
clearly provides that all sales
of land for arrears of revenue
shall be free of incumbrances,
and there seems no reason

only land
revenue
collectible
or recoverable

whether
law
applies
or not

why Section 35 and 37 should not
be held to apply to the case
in question.

7. The points involved are of
great

great importance and the
Board consider that any
appeal should be preferred
on the ground that the Moonciff's
decision on the first and
third pleas for the defence
is contrary to Law. As the
decree is dated 24th April
and it is not stated when
the appeal time expires the
Collector will, in anticipation
of the sanction of government
be instructed by telegram to
prefer an appeal on the grounds
above suggested.

/ True & Coeff

J. H. W. H.

Secretary

By the Secretary to Govt. P. O.
with 2 enclosures

From

Proceedings Board of Revenue

Dated 8: June

1877

FOR ORDERS.

The decree is still thro-
ughout - And will draw
the appeal - He need
not pay ^{20 Sep} He is
under the same law
as we - He got. Oley
to draw gave him a
bought with the usual
chances of the law
But if there be
a doubt we might

Dec. 1877 Ref. 100

PROCEEDINGS OF THE BOARD
OF REVENUE.

No 2836

White Paper

Dated

8

Despatched

21

...

SUBJECT

Submitting to your letter
from the Gallery of Pictures
reporting receipt of such by
box 1876, initiated in the
at Morrisville Court at this
fact for recovery of balance
12 18 on certain bank
note for amount of \$1000
incurred due by the said
Morse & Co., and in the
and collect to keep as usual.
in satisfaction of said bank

215/4h

261-12

instructed me by the late Mr.
"Glenoch" and, and in my
ing to attach to length as usual
in investigation of your situation.

ask the Mr. De-
-ader before writ-
drawing the appen-
ordered by the Mr.
1876 M