

(1) Number of pages 14

(2) Date of repair 11.2.72

(3) Initials of the Referencer _____

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue

DEPARTMENT

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

442

Press
Mis.

Dated

31.1.1877

197

Not to be folded or roughly handled

402

*Proceedings of the Madras Government, Revenue Department,
31st January 1877.*

No. 960. Read the following Proceedings of the Board of Revenue, dated 24th January 1877:—

Read the following letter from A. WEDDERBURN, Esq., Collector of Coimbatore, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 26th December 1876, No. 264.

WITH reference to the Revenue Board's Proceedings, Miscellaneous No. 7,256, of the 10th August 1875, I have the honor to forward, for the perusal of the Board, copies of the decree and judgment of the District Judge of Coimbatore in Original Suit No. 9 of 1874 on his file, in which I was included as the first defendant by the plaintiff Jothia Naicken, who sued for the recovery of the estate of the late Zemindar of Avelappampatty. The Board will observe that the Judge has decreed that the Collector should bear his own costs, of which a memorandum is enclosed.

2. As regards this portion of the judgment, *i.e.*, that the Collector should bear his cost, I have the honor to call the attention of the Board to the decision of a full Bench of the High Court in the case of Rangasayi *versus* Sreemanien Lakshmana, 3rd November 1876, in which the High Court have decided that a suit does not lie to compel the Collector to effect a registry in the name of the heir of a certain deceased proprietor, Regulation 26 of 1802 being only considered as a fiscal regulation not affecting rights of property.

3. Whether on the strength of the above decision the District Judge may be moved to review his judgment, or whether an appeal may be filed in the High Court, is for the consideration of the Board.

G.O., 7th July 1875, No. 1,030.
" 7th August " " 1,186.

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

2. On the death without issue of the last Poligar of Avelappampatty, an impartible estate held under a permanent sanad, the Revenue authorities after some delay, through mistake, made over the estate to the senior widow (second defendant) and registered it in her name to the prejudice of the rights of several male heirs having superior claims. Plaintiff, one of them, filed a suit, making the Collector first defendant, for the recovery of the property and the registration of the estate in his name. The Board suggested that the registry in the widow's name should be cancelled and the estate registered in the name of the legal heir, plaintiff's grandfather, but Government declined to accede to this proposal, observing that as a suit had been filed the Court's decision should be awaited and registration made accordingly. Meanwhile the legal heir died and the next surviving heir waived his claim in favor of plaintiff, his son. The latter then offered to withdraw the suit against the Collector provided the estate was registered in his name, but Government resolved to allow the suit to proceed.

3. The Court has decided in plaintiff's favor decreeing the restoration of the property and the registry of the estate in his name; and directing the Collector to pay his own costs. It suggests an application for review of judgment or

Superior

*Proceedings of the Madras Government Revenue Department,
31st January 1877.*

an appeal to the High Court as regards costs, with reference to a recent case in which he says the High Court have held that Regulation 26 of 1802 is only a fiscal Regulation not affecting rights of property, and that a suit does not lie against the Collector to compel registry in the name of a deceased proprietor's heir.

4. The Board have not seen the decision referred to, which has not yet appeared in the Indian Law Reports. They observe, however, that in the present case the litigation is entirely owing to wrongful action on the part of the Revenue authorities. On the Poligar's death there was no dispute as to the right of succession. Plaintiff was duly installed as Poligar according to custom and with the consent of all the members of the family, including the widows, who recognized his right until eight months afterwards the property was made over by the Revenue authorities to the senior widow and the estate registered in her name. Finding herself in possession and her title recognized by the Revenue authorities, she for the first time asserted an independent title and resolved to contest plaintiff's claim. In the circumstances the Board are of opinion that there is no ground for appeal as regards costs. They recommend that payment of the amount Rupees eight hundred and fifty-one Annas nine and Pies ten (851-9-10) be sanctioned.

(True Extract.)

(Signed) H. E. STOKES,
Acting Secretary.

No. 961.

ORDER THEREON, 31st January 1877, No. 442.

Miscellaneous.

The Government agree with the
Board of Revenue and direct
payment of the costs.

(True Extract.)

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

To the Board of Revenue, with three enclosures.
„ the Accountant-General.

Wm. A. F. Goodall.

Revenue Department

Proceedings of the Board of Revenue
dated 24th January 1877

Read letter from the collector
of Coimbatore dated 26th December 1876 n^o 264
forwarding copies of Decree & Judgment
of the District Judge of Coimbatore in
O.S. n^o 9 of 1874 on his file.

Submitted for the orders of
G.O. 7th July 1875 n^o 1030 Government with reference to the orders
7th August 1875 n^o 1186 noted in the margin.

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last Poligar of Avellappamputhy an impartible
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superior

Govt. of 1877 Mysore.

REVENUE.

THE BOARD OF REVENUE.

Secy, Secy, Secy.

Dated January, 31st.

Recd.

Encl.

G.O., 31st January 1877, No. 442.

JANUARY.

Nos. 960-961.

Original Suit No. 9 of 1874 on the file of the
District Court of Coimbatore.—Agreeing with the
Board of Revenue that there is no ground for
appeal as regards costs in —, and directing the
payment of the same.

superior claims. Plaintiff, one of them, filed a suit making the Collector 1st Defendant, for the recovery of the property and the registration of the estate in his name. The Board suggested that the registry in the widows name should be cancelled and the estate registered in the name of the legal heir, plaintiff's grandfather, but Government declined to accede to this proposal observing that as a suit had been filed the Court's decision should be awaited and registration made accordingly. Meanwhile the legal heir died and the next surviving heir waived his claim in favor of plaintiff, his son.

The latter then offered to withdraw the suit against the Collector provided the estate was registered in his name but Government resolved to allow the suit to proceed.

The Court has decided in

442
plaintiff's favor decreeing the restoration of the property and the registry of the estate in his name, and directing the Collector to pay his own costs. He suggests an application for review of judgment or an appeal to the High Court as regards costs, with reference to a recent case in which he says the High Court have held that Reg. 26 of 1802 is only a fiscal Regulation not affecting rights of property and that a suit does not lie against the Collector to compel registry in the name of a deceased proprietor's heir.

The Board have not seen the decision referred to which has not yet appeared in the Indian Law Reports. They observe however that in the present case the litigation is entirely owing to wrongful action on the part of the Revenue Authorities. On the Poligar's death there was no dispute as to the right of succession. Plaintiff was

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herself in possession and her title recog-
nized by the Revenue Authorities she for the
first time asserted an independent title
and resolved to contest plaintiff's claim.

In the circumstances the Board are
of opinion that there is no ground for ap-
peal as regards costs. They recommend
that payment of the amount Rupees eight
hundred and fifty one, annas nine and
pies ten (851 9 10) be sanctioned.

(True Extract)

Per

Acting Secretary

To, The Secretary to Government R. D.
with 3 original enclosures to be returned
with copy of collector's letter.

No. 264. Coimbatore Collector's office
26th December 1876.

From

A Wedderburn Esquire
Collector of Coimbatore

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

Sir,

With reference to the
Revenue Board's Proceedings
Miscellaneous No. 7256 of the
10th August 1875, I have the honor
to forward for the perusal of
the Board copies of the decree
and judgment of the District
Judge of Coimbatore in O.S.
No. 9 of 1874 on his file, in which
I was included as the first
Defendant, by the plaintiff
Jothia Naicken, who sued for
the recovery of the Estate of the
late

Decr. 1877 20th

No. 876

Proceedings of the
Board of Revenue

Dated 24th Jan 1877

Decr 24

Decr 25

Decr 26

Decr 27

Decr 28

Submitting for order

of Govt with new and

on letter from Coll of Coim

-batore regarding O.S.

No. 9 of 1874 on the file

of the District Judge
of Coimbatore.

under order

Decree that these papers

be referred to the Government

for opinion as to

whether an appeal can be

preferred to the High Court

on the grounds stated by the

Collector or on other grounds.

No. 442

D.

He for you on the 20th of

and should be referred to the

ms. 2 734 New

6. 2nd 4th 5th 6th 7th 8th 9th 10th 11th 12th 13th 14th 15th 16th 17th 18th 19th 20th 21st 22nd 23rd 24th 25th 26th 27th 28th 29th 30th 31st 32nd 33rd 34th 35th 36th 37th 38th 39th 40th 41st 42nd 43rd 44th 45th 46th 47th 48th 49th 50th 51st 52nd 53rd 54th 55th 56th 57th 58th 59th 60th 61st 62nd 63rd 64th 65th 66th 67th 68th 69th 70th 71st 72nd 73rd 74th 75th 76th 77th 78th 79th 80th 81st 82nd 83rd 84th 85th 86th 87th 88th 89th 90th 91st 92nd 93rd 94th 95th 96th 97th 98th 99th 100th

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I have the honor to call the
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decision of a full Bench of
the High Court, in the case of
Rangasagi versus Sreemanian
Lakshmanan, 3rd November 1876,
in which the High Court have
decided that a suit does not
lie to compel the Collector
to effect a registry in the name
of the heir of a certain deceased
proprietor, Regulation of 1802
being only considered as a
fiscal regulation, not affecting
rights of property.

3 Whether on the strength
of

of the above decision, the District
Judge may be moved to review
his judgment, or whether an
appeal may be filed in the
High Court is for the consider-
ation of the Board.

I have &c
Signed / A Wedderburn
Collector.

/ True copy /
W. R. M.
Acting Secretary

W. R. M.

Enclosure in Pro-
ceedings of the
Board of Revenue
to the Secretary
to Government
Revenue Department
dated 10 January
1977

Rev: 8/6/77

831-1-77 K.442-

Received by 1/1/77 & 1/1/77