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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No.		Press.
B.P. No.	1161	Mis.
Dated	23-7-1878	197.

Not to be folded or roughly handled

Archives I-5,806-24-2-78.

that a fresh suit must be instituted in the French Court by the Collector as sole plaintiff, but that as it was likely that there would be some delay in making the necessary arrangements it was desirable that a suit should be at once instituted in the District Court of South Arcot for the recovery of so much of the property as is situated in that district. The Board, however, considered that it would be better to institute a fresh suit in the Pondicherry Court and await its result before taking proceedings in the Cuddalore Court, the bulk of the property lying within French territory, and referred the matter for the advice of the Government Pleader.

3. Mr. Handley, in the letter above read, concurs with the Board, and the Board accordingly recommend that the Collector be authorized to institute a fresh suit in the Pondicherry Court as sole plaintiff, and to incur the necessary expenses subject to adjustment hereafter from the funds of the charity.

4. The Collector will be requested to explain why Appu Mudali, who had already been declared by the French Court to have no right to sue, was included as joint plaintiff in the suit instituted by the former.

(A true Copy and Extract.)

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

No. 320.

ORDER THEREON, 23rd July 1878, No. 1,161.

Miscellaneous.

THE Governor in Council approves the adoption of the course proposed in paragraph 3 of the foregoing Proceedings.

(True Extract.)

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

To the Board of Revenue.
" the Accountant-General.

Edw. C. Howarth.

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3. Mr. Handley, in the letter above read, concurs with the Board, and the Board accordingly recommend that the Collector be authorized to institute a fresh suit in the Pondicherry Court as sole plaintiff, and to incur the necessary expenses subject to adjustment hereafter from the funds of the charity.

4. The Collector will be requested to explain why Appu Mudali, who had already been declared by the French Court to have no right to sue, was included as joint plaintiff in the suit instituted by the former.

(A true Copy and Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department, with copy of Board's Proceedings, dated 11th April 1878, No. 1,009, (its two original enclosures in No. 2,498 of 1878, to be returned).
Collector of South Arcot.
Copy to the Government Pleader.

Ed. W. H. French.

No. 1,009.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 11th April 1878.

Read the following letter from F. R. H. SHARP, Esq., Acting Collector of South Arcot, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Cuddalore, 26th March 1878, No. 137:—

REFERRING to the Board's Proceedings noted in the margin, I have the honor to report that the suit which was instituted at Pondicherry to obtain possession of Theagu Mudaliar's charitable endowments from the dismissed trustee was dismissed by the Court on the ground that the new trustee Appu Mudali, who was mentioned as a joint plaintiff in the suit, had no right to be included as such, as the property vested in the Collector alone. A translation of the Court's judgment is herewith forwarded, and the French Vakil who was engaged for the conduct of the case informs me that a fresh suit should be filed in the same Court with Collector as sole plaintiff. He was asked to come to Cuddalore for personal instructions, but he has not been able to do so, nor to prepare draft of a fresh

Dated 26th October 1876.

" 9th November 1876, Mis. No. 9,659.

plaint for my approval as asked in the letters noted in the margin. Meanwhile to prevent delay in acquiring possession of the property, I propose instituting a suit in the District Court of South Arcot for possession of so much of the property as is situated in the district, and with this view I submit for the Board's approval a draft memorandum of the plaint which I propose to present to the Court. The institution fee would amount to Rupees 997. To meet this and other charges, I request the Board's sanction to advance Rupees 1,200 from the Government Funds subject to adjustment from the proceeds of the estate afterwards.

No. 475, dated 26th September 1877.

" 336, " 17th July 1877.

ENCLOSURE No. 1.—Translation of Judgment.

ENCLOSURE No. 2.—Draft Plaint.

In reporting the dismissal of the suit that was instituted in the Pondicherry Court for the recovery of property in French territory forming part of the endowment of the charities founded by the late Theagu Mudaliar, the Collector suggests the filing of a suit in the Subordinate Court at Cuddalore for the recovery of so much of the property as is situate in British territory, and for this purpose he requests sanction for an advance from Government Funds of Rupees 1,200 to be repaid hereafter from the funds of the charity.

2. The suit in the French Court was brought for the recovery from Paranjothy Mudaliar of the trust property, apparently on the ground that he had been dismissed from the office of Superintendent. The Court held that neither under the rules framed by the founder of the charity nor by the terms of his will has the Collector power to dismiss the Superintendent, and that as far as regards the property in French territory, the Superintendent cannot be dismissed otherwise than by a decree of the French Court.

1878.
BOARD OF REVENUE,
MADRAS.

PROCEEDINGS, 16th JULY 1878, No. 1,978.

Copy to 11/11/78

Encl.

Received 19th July 1878

JULY.
No. 1,978.

Suit — for the recovery of the property constituting the endowment of the late Theagu Mudaliar's charities. — Recommending that Collector of South Arcot be authorized to institute a fresh — in Pondicherry Court as sole plaintiff and to incur necessary expenses subject to adjustment hereafter, and requesting explanation as to why Appu Mudali was included as joint plaintiff in the suit instituted by Collector.

3. From the tenor of the decision there appears to be no doubt but that a suit by the Collector for the dismissal of Paranjothy Mudaliar and the recovery of the property on the grounds of malversation of the funds and the mismanagement of the affairs of the charity would be successful if sustained by satisfactory evidence. The Board are of opinion that such a suit should now be instituted, and that it is better to await the result of this suit than to proceed at once in the Cuddalore Court as suggested by the Collector. They resolve, however, to refer the matter for the advice of the Government Pleader with reference to Board's Proceedings, dated 26th October 1876, No. 2,670. In case he considers it advisable that proceedings should now be taken in the Cuddalore Court, he is requested to revise the draft plaint submitted to the Collector which appears to be defective both in form and substance. The enclosures to Board's Proceedings, dated 9th February 1876, No. 396, and 16 September 1876, No. 2,364, will be sent to the Government Pleader for reference.

(A true Copy and Extract.)

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

To the Government Pleader, with two enclosures in No. 2,498 of 1878;
two in No. 9,068 of 1875; and three in No. 6,159 of 1876, to be returned;
and copies of G.Os., dated 8th March 1876, No. 342, and 4th Nov. 1876, No. 1,574.
Copy to the Collector of South Arcot.

Ed. W. H. French.

Suits—to obtain possession of the charities of the late Theega Mudaliar at Pondicherry and Cuddalore in South Arcot District.—Referring for the advice of Government Pleader papers relating to the proposed institution of —.

APRIL.
No. 1,009.

Received

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Encl.

PROCEEDINGS, 11th APRIL 1878, NO. 1,009.

BOARD of Revenue,
MADRAS.

No 1978 ^{1161/5} Revenue Department.
Proceedings of the Board of Revenue.
Dated 16th July 1878.

Read the following—

No. 71.
J. W. Handley Esq.
Government Pleader Madras.

C. A. Galton Esq.
Secy. to the Board of Revenue.

Sir,

With reference to the Board's Proceedings noted in the margin, I have the honor to submit the following opinion.

11th April 1878
No. 1009.

2. I concur with the Board in thinking that another attempt should be made to obtain a decision of the Pandichery Court before any Proceedings are taken in the Court of South Arcot. The bulk of the property appears to be in French territory and for this reason I advised a suit being instituted there in the first place to secure the due administration of the trusts of Thega — Madalyp behavior, and the suit having only failed on a technical ground there seems to be no reason for not

not persevering in the attempt to get the matter
adjudicated upon in the French Courts.

3. I cannot understand why the Suit
was brought in the form which the Pondicherry
Court objects to. In my former opinion I advised
that it should be brought by the Collector.

Appu Moodelly had been declared by the
French Court in the suit brought by him
to have no locus standi to sue and therefore
he should not have been joined as a plaintiff,
still less should the Suit have been again
brought by him as principal Plaintiff, the
Collector coming in only as an intervenor, as
appears from the Judgment of the French Court
to have been the case.

4. The exact form of the fresh Suit
must of course be left to the French Advocate,
but it must clearly be brought by the Collector
alone against Paranjathy Moodelly and must
make out a case calling for the interference of
the Court: either to remove the present Superintendent

or to compel him to carry out the trusts properly
under the direction of the Collector and to account
for his previous administration. I should think there
could be no objection to the Collector's suggesting
to the Court in the plaint or whatever the docu-
ment is called which commences the Suit, that
Appu Moodelly is a fit and proper person to be
appointed Superintendent, should the Court
think fit to remove Paranjathy Moodelly. A
competent French Advocate should be employed
and all necessary information furnished to him.

5. I have not settled the draft plaint for
the Suit in the Pondicherry Court as I think that
the Suit should be deferred until the decision of the
Suit at Pondicherry.

I return all the original documents.
I have per-
sued J. W. Hurdley
(S^{rs}) Government Secy
Colonial Secy }
1st July 1878 }

Submitted to Government with copy of Board's
Proceedings, 11th April 1878, No. 1009, with reference
to G. O. Dated 4th November 1876, No. 1574.

2. The Collector of S. has reported that the
Suit

Suit instituted in the Pandicherry Court against
Parangathu Muddali for the recovery of the
property constituting the endowment of the late
Taqi Muddali Chaudhary had been dismissed
on the ground that the new trustee Affu Muddali
who was mentioned in the plaint as joint
plaintiff had no right to be included as such,
as the property vested in the Collector alone; that
a fresh suit must be instituted in the French
Court by the Collector as sole plaintiff, but that
as it was likely that there would be some
delay in making the necessary arrangements it
was desirable that a suit should be at once
instituted in the District Court of S. A. for the
recovery of so much of the property as is situated
in that District. The Board, however, considered
that it would be better to institute a fresh suit
in the Pandicherry Court and await its
result before taking proceedings in the French
Court, the bulk of the property lying within
French territory, and referred the matter for the
advice of the Court Pleader.

W.

1161
3. Mr. Handley in the letter above read
concerns with the Board and the Board according
ly recommended that the Collector be authorized to
institute a fresh suit in the Pandicherry Court
as sole plaintiff and to incur the necessary
expenses subject to adjustment hereafter from
the funds of the Charity.

4. The Collector will be requested to explain
why Affu Muddali who had already been declared
by the French Court to have no right to sue was
included as joint plaintiff in the suit in-
stituted by the former.
(True Copy and Extract)

W. J. Cotton
Secretary

The Secretary to Government R. D.
with copy of Bd. Res. of 11th April 1878 No. 1009.
(its original enclosed in No. 2498/3 to the Secy)

20/10

