(1) Number of pages 10

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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No. 1591 Press.
~~B.P. No.~~ Mis.

Dated 30-9-1878 ~~197~~ .

Not to be folded or roughly handled

Archives 1—5,806—24-2-78.

1591
1

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

30th September 1878, No. 1,591.

Read the following paper:—

No. 356. From J. W. HANDLEY, Esq., Government Pleader, Madras, to L. A. CAMPBELL, Esq., Under Secretary to Government, dated 13th September 1878, No. 110.

I HAVE the honor to acknowledge receipt of the Proceedings of Government, Revenue Department, noted in the margin, desiring me to advise as to the necessity for a suit in the matter of the Attapadi Valley under the circumstances therein referred to.

10th September 1878, No. 1,481.

2. I think that a suit is necessary to assert the right of Government to the tract of land in question, notwithstanding that Colonel Morgan has abandoned the land occupied by him and Colonel Scott offers conditionally to submit to the decision of Government. The Nairs and others who claim jenm rights in the lands in dispute have not, I believe, shown any signs of an intention to withdraw from their claims, and they will doubtless go on as heretofore taking every opportunity to create evidence of their title by leases and other means, unless stopped by an authoritative decision of the Civil Courts. The Specific Relief Act (Act I of 1877) makes quite clear the right to ask for a declaratory decree, even where no consequential relief can be given, and this seems eminently a case in which such a decree is desirable, to set at rest once and for ever the question of ownership and prevent future disputes and litigation. It seems to me also that if the title of Government is to be asserted it is expedient that it should be done at once before the lands in question have been occupied and capital spent upon them to any great extent, as may be the case in a few years, when the litigation to be undertaken would be much more complicated.

3. By the Specific Relief Act it is provided that where consequential relief can be sought a declaratory decree shall not be given unless it is asked for. This will make it necessary in the present case to include in the suit for a declaration of the title of Government a prayer for the recovery of such part of the land as is in the possession of lessees from the hostile claimants. Colonel Scott is now I understand the only person in possession of any considerable extent of land in the valley, and I think therefore his case should be made the subject of a separate suit, to which his lessors and the other claimants would also be parties, and the suit would seek for a general declaration of the title of Government to the whole valley and also for a decree against him for recovery of the land leased to him. Of course no conditions can be made with him until the question of title is decided; but, doubtless, if he remains neutral, his claims as a lessee who has spent capital in an honest belief in his landlord's title will receive due consideration from Government.

No. 357. ORDER THEREON, 30th September 1878, No. 1,591.

Miscellaneous.

THE advice of the Government Pleader will be followed, but in the first instance the Collector will act upon the last clause of G.O., 12th September 1878, No. 1,492.

(True Extract.)

(Signed) L. A. CAMPBELL,
Under Secretary to Government.

To the Board of Revenue.
,, the Government Pleader.

Exd. W. H. French.

159/2

Govt. of Madras
REVENUE.
To the Board of Revenue
&c. &c. &c.
Transmitted Copy
Dated 16th September 1878.
Recd. 20th September 1878.
Entered 20th September 1878.
No. 3484-507.
SEPTEMBER
No. 3484-507

No. 110.

1591

Madras
13th September 1878.

From

J. W. Handley Esqr.
Government Pleader, Madras.

To

Lorne A. Campbell Esqr.
Under Secretary to Government.

Sir,

I have the honor to acknowledge receipt of the Proceedings of Government Revenue Department noted in the margin, desiring me to advise as to the necessity for a suit in the matter of the Attapadi Valley under the circumstances therein referred to.

10th September 1878. No. 1481.

2. I think that a suit is necessary to assert the right of Government to the tract of land in question notwithstanding that Colonel Morgan has abandoned the land occupied by him and Colonel Scott offers conditionally to submit to the decision of Government. The Pairs

and others who claim some right in the lands in dispute have not I believe shewn any signs of an intention to withdraw from their claims and they will doubtless go on as heretofore taking every opportunity to create evidence of their title by ~~loans~~ leases and other means. unless stopped by an authoritative decision of the Civil Courts. The Specific Relief Act (act I of 1877) makes quite clear the right to ask for a declaratory decree, even where no consequential relief can be given, and this seems eminently a case in which such a decree is desirable, to set at rest once & for ever the question of ownership and prevent future disputes and litigation. It seems to me also that if the title of Government is to be asserted it is expedient that it should be done at once before the lands in question have been occupied and capital spent upon them to any great extent, as may be the case in a few years, when the litigation to be undertaken would be much more complicated.

1591
11

3. By the Specific Relief Act it is provided that where consequential relief can be sought a declaratory decree shall not be given unless it is asked for. This will make it necessary in the present case to include in the suit for a declaration of the title of Government a prayer for the recovery of such part of the land as is in the possession of lessees from the hostile claimants. Colonel Scott is now I understand the only person in possession of any considerable extent of land in the valley and I think therefore his case should be made the subject of a separate suit to which his lessors and the other claimants would also be parties and the suit would seek for a general declaration of the title of Government to the whole valley and also for a decree against him for recovery of the land leased to him. Of course no conditions can be made

with him until the question of title is decided, but doubtless if he remains neutral his claims as a lessee who has spent capital in an honest belief in his landlord's title will receive due consideration from Government.

I have the honor to be,
sir,
Your Most Obedient Servant
J. W. Bambly
Government Pleader.

1591/5

Revenue 1878 Septr

No. 4083.

From
The Government Pleader

To The Under Secretary
to Government.

dated 13th September.

No. 110.

Received 16th do.

Attapadi Valley Malabar District advising as to suit to establish title of Government &c.

[illegible]

No 1491. 30 September 1878

[illegible]

No 1491

The advice of the Government Pleader will be followed and in the first instance the Collector will act upon the last clause of G.O. 12 Sept 1878 No 1492.

G.O. 12-9-78 No 1517-52
11-6-78 - 129-30
19-4-78 - 192-95
18/6-78 - 1193/208

[illegible]

30 September 1878