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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No.	1597	Press.
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Dated	2-10-1878	197

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

1597
GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

2nd October 1878, No. 1,597.

Read the following paper :—

No. 11. From E. J. SINKINSON, Esq., Under Secretary to the Government of India, Financial Department, to C. G. MASTER, Esq., Acting Chief Secretary to Government, Fort St. George, dated Simla, 19th September 1878, No. 2,893.

I AM directed to acknowledge the receipt in the Department of Revenue, Agriculture and Commerce of Mr. C. G. Master's letter, No. 802, of the 28th May 1878, and in reply to state that the proposal of the Government of Fort St. George that the Deputy Collector and Magistrate of Wynad should be permitted to draw travelling allowance at Rs. (10) ten a day for periods of absence from head-quarters on duty, but "no mileage," is sanctioned on the understanding that the period of halt for which the allowance may be drawn will be restricted in accordance with the general rules on the subject.

2. I am desired, however, to add that exceptionally high rates of travelling allowance ought, in the opinion of the Governor-General in Council, to be subject to periodical revision, and, accordingly, to request that in this and every case in which an officer in any district of the Madras Presidency has been permitted to draw travelling allowance at rates higher than those prevailing for officers of his class in other districts, a report as to the necessity of continuing the allowance may be submitted at the end of five years.

ORDERED that copies of the foregoing letter be forwarded to the Home Department, the Department of Revenue, Agriculture and Commerce, and the Accountant-General, Madras.

No. 12. ORDER THEREON, 2nd October 1878, No. 1,597.

Miscellaneous.

COMMUNICATED to the Board of Revenue with reference to G.O., 28th May 1878, No. 801.

2. The instructions in paragraph 2 of the Government of India letter must not be lost sight of.

(True Extract.)

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

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

Exd. T. D. Ryan.

Procedure

21-1-16

The following Affidavit of the 10 a day to the
Deputy Collector and Magistrate, signed —
Communicating with a return, letter from Govt.
entitled of India sanctioning — for period of
absence from head-quarters on duty, but no
milege.

OCTOBER
Nov. 11-12

THE BOARD OF REVENUE

REVENUE

GOVT. OF INDIA 1878

In the Court of the Subordinate Judge
at Timmerelly.

Suit No. 124 of 1878.

Charles Henry Roosmale Esq. ^{Esq.} Plaintiff
against

J. B. Pennington Esq. ^{Esq.} Defendant.
Collector of Timmerelly }

Defendants Statement.

I the undersigned Defendant state
as follows

1. I am not liable to be sued in respect
of the acts of my predecessors or the Board of
Revenue or Government and the plaintiff discloses
no cause of action against me. If the suit is
intended to be against the Government it
should have been brought against the
Secretary of State for India in Council
under Chapter XXVIII of the Code of Civil
Procedure

Procedure.

2. No such notice of this suit as is required by Section 424 of the Code of Civil Procedure has been given.

3. For the above reasons the suit cannot be entertained.

4. On behalf of the Government I state as follows to the best of my information and belief. The suit is barred by the law of Limitation.

5. In 1853 Plaintiff applied to the then Collector of Tinnevely on darkhast for a pottah for a tract of forest land for coffee cultivation the boundaries of which were specified by him and in 1854 pottah was given to him for the same by order of the Board of Revenue. No measurement was made of the lands for which pottah was so granted but their extent was estimated at 427 acres 20 cents the boundaries being pointed out by the plaintiff's servants. The plaintiff's Coffee Estate called the Hope estate does I believe form part of the said pottah.

gr. Is this so
12/1/54

1597
pottah was so issued but I do not know exactly what is the area of that estate and if it is necessary to determine such area a survey must be made of the said estate and also of the rest of the land for which pottah was so issued as aforesaid.

6. A part of the land for which the plaintiff obtained pottah as aforesaid was situate to the east and part to the west of the watershed which lies between the Tinnevely District and the territory of the Travancore Government. The Plaintiff's Hope estate and all the land brought into cultivation by him lies to the east of the said watershed and he has never taken possession of or attempted to cultivate any land to the west of the same. He has paid assessment road cess and village cess on the whole land included in the pottah but otherwise has exercised no acts of ownership over any part of the same west of the said watershed.

gr. 12/1/54

7. The exact boundary between the Travancore estate

State and the Tinnevely District has for a long time been uncertain and a survey is now being made for the purpose of settling the same, the general principle agreed upon between the two Governments being to take the watershed as the boundary up to a certain point. At the time when the said puttah was granted it was believed that the lands comprised in it were all within the Tinnevely District. but no covenant express or implied was entered into on behalf of Government that they were so. The plaintiff or his servants pointed out the boundaries of the lands for which the plaintiff sought puttah and he well knew that the boundary between Tinnevely and Travancore was not then settled.

8. In October 1874 a part of the land comprised in the plaintiff's puttah, the exact measurement of which I do not know, was sold by public auction on account of the Travancore Government and was purchased by a Mr. Miller. The sale was advertised for

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3 months before it took place and all persons having any claims upon the land were called upon to come forward. The Plaintiff well knew of such sale and advertisement but he never came forward or in any way made known his claim to the Travancore Government. It is not true as stated in para 5 of the plaint that in 1876 or at any other time the forest land for which puttah had been granted to plaintiff was appropriated by the Travancore Government without the sanction of the Government of Madras or that the plaintiff protested against such appropriation. The plaintiff did not protest against the sale by the Travancore Government. Some time afterwards he brought the matter to the notice of the Government of Madras who attempted to induce the Travancore Government to cancel the sale, but that Government objecting to do so nothing further could

It could be done.

Item 9. On behalf of the Government of Madras
an offer has been made to the plaintiff to
return the whole amount of accretement
to road cess and village cess paid by him ^{9th / 1871 / 1872}
in respect of the lands in question with
interest at 6 per cent amounting to about
Rs. 7,000, but the plaintiff has declined
to accept the same.

Item 10. I do not admit the area of the
land for which compensation is claimed
or the value of the same to be correctly stated
in the plaint. The latter is altogether va-
lueless.

Item 11. I submit that the plaintiff has
no cause of action against the Government
and that the suit should be dismissed
with costs.

Item 12. Even if the plaintiff has any
claim for damages the measure of damages
would not be the value of the lands in
question.

question.

I declare that what is herein stated
is true to my knowledge except as to matters
stated on information and belief as to
which I believe it to be true.

(True Copy)

C. J. S. S. S.
Ag. Secretary.

C. J. S. S. S.

Copied by C. J. S. S. S.

Revenue Department

1597
6

No. 2673

Proceedings of the Board of Revenue
Dated 23rd September 1878.

Read the following

No. 105

From,

J. W. Handley Esq.
Government Pleader
Madras.

To

C. A. Galton Esq.
Ag. Secretary to the
Board of Revenue

Sir,

With reference to the Proceedings of
Government noted in the margin, I have the
honor to submit draft of a Written State-
ment to be filed by the Collector in Suit
No. 14 of 1878 on the file of the Tirunelveli
Subordinate Court.

2. The Suit is clearly defective and
cannot be entertained in its present shape.
The Collector is not personally liable for any
of the acts complained of and if the Suit
is aimed at the Government the new Civil
Procedure

Revenue Department
30th August 1878
No. 1592

Copy of Draft Minutes

Enclosure in Board's

Proceedings to the Secretary

to Government No. 105

Dated 23rd September 1878

By

Rev. J. W. Handley

40.28 Oct/1878

Procedure Code requires it to be brought against the Secretary of State for India. Perhaps the Court might allow the plaint to be amended in this respect, but there is another fatal objection to the suit viz that no such 2 months notice as is required by the Code in suits against Government or public officers has been given. I assume that no such notice has been given. The papers before me contain no trace of any further notice than that given by Mr. Green's letter to the Collector of 3 July 1878, which was less than 2 months before suit and besides is not a sufficient notice under the Code. The plaint must therefore I think be rejected at or before the 1st hearing but of course it will be open to the plaintiff to bring another suit in proper form after giving due notice.

3. Strictly speaking perhaps the proper course would be to raise the above objections to the frame of the suit without going into the merits, but to enable Government to dispose of the whole matter at once.

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I have drawn up a defence on the merits which can be either detached from the first three paragraphs or not as may seem most convenient. There can be no harm in filing the whole statement at once and then if the suit is rejected on the preliminary objections and filed again in proper form the statement will do as a defence to the new suit by withdrawing the 1st three paras.

4. Upon the merits I do not think the plaintiff has any case. If the suit is regarded as one for damages for non-completion of a contract to put him in possession of so much land, then the cause of action arose at the date of the puttah in 1852 and the suit is barred. Neither can he succeed I think on the ground that there was an implied covenant for title and quiet enjoyment, the breach of which is the cause of action and occurred when the Travancore Government put another person in

in possession. The answer to this is that there is no such implied covenant. The Pattah is really nothing more than a lease although as a rule Government never ousts the pattah-dar or his assigners as long as the assessment is paid. Still in law it is a lease and as such implies no covenant for title or for quiet enjoyment except so far as the lessor's acts are concerned. Possibly Mr Coq might be legally entitled to the return of the assessment actually paid in respect of the lands of which he has been deprived, though this is by no means clear, but as he has been offered and declined this he cannot recover it by suit.

5. I forward the two enclosures to the Collector's letter of 3rd August 1878.

Madras
12 September 1878
I have &c
[Signed] J. W. Handley.
Govt Pleader

Submitted to Government with reference to the order quoted.
(True Copy & Extracts)

L. J. G. L.
Secretary

To
The Secretary to Govt. R.D. with 2 enclosures to be returned and
copy to

No. 2893.

1507

The Chief Secretary to the Government
of Fort Saint George

Financial Dept. Sir,

I am directed to acknowledge the receipt in the Department of Revenue, Agriculture and Commerce, of Mr. C. G. Master's letter No. 802 of the 28th May 1878, and in reply to state that the proposal of the Government of Fort Saint George that the Deputy Collector and Magistrate of Wynnad should be permitted to draw travelling allowance at Rs (10) ten a day for periods of absence from head-quarters on duty, but "no mileage" is sanctioned on the understanding that the period of halt for which the allowance may be drawn will be restricted in accordance with the general rules on the subject.

I am desired however to add that exceptionally high rates of travelling allowance ought, in the opinion of the Governor General in Council, to be subject

No. 20.8.48 267-68.

21-1-16

Revenue 1878 & 1879

Vol. 250

Proceedings of the

Board of Revenue

1878-79

Report of the Board of Revenue for 1878

21.10.78

20th 1878-1879

Submitting to Government

letter from the Hon^{ble} Master

forwarding draft order

statement in said Board of

1878-1879

brought by Mr. C. G. Master

contribution for lands

for which he holds a

patent.

For orders call

225-9-78

22-10-78

No. 11

1597
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Accordingly, to request that in this and every case in which an officer in any district of the Madras presidency, has been permitted to draw travelling allowance at rates higher than those prevailing for officers of his class in other districts, a report as to the necessity of continuing the allowance may be submitted at the end of five years.

I have the honor to be,

Sir,

Similar
The 14th Sept
1878

Your most obed^t servant

J. Lukin son

Under Secy. to the Govt. of India

Ordered that copies of the foregoing letter be forwarded to the Home Department, the Department of Revenue, Agriculture and Commerce and the Accountant General, Madras.

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Revenue 1878 Departt
No 4294.

From
The Govt of India
Financial Deptt

Dated 19th } September 1878
Recd 27. }

No 2893.

404
14 Ld. Board of Revenue 2902
1. The Government General

Sanctioning with a -
marks the travelling allow-
ance of Rs 10 a day to the
District Collector of Wynaud for
periods of absence, from
head quarters on duty but

"no mileage"
order

Communicated to the
Board of Revenue with
reference to G.O. 20 May 1878
Noted.

2. The instructions
in para 2 of the Govt of
India letter should
not be lost sight of

Ld

2 October 1878

211-72

N. 11. —

C 28-9-78
R 2-10-78