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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No. 1598 Press.
~~B.P. No.~~ Mis.

Dated 2-10-1878 ~~197~~ .

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Archives I—5,806—24-2-78.

1598/1

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

2nd October 1878, No. 1,598.

Read the following paper :—

No. 13. Proceedings of the Board of Revenue, dated 23rd September 1878, No. 2,613.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Madras, 12th September 1878, No. 105 :—

With reference to the Proceedings of Government noted in the margin, I have the honor to submit draft of a written statement to be filed by the Collector in Suit No. 14 of 1878 on the file of the Tinnevelly Subordinate Court.

Revenue Department, 30th August 1878, No. 1,392.

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 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 two 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 3rd July 1878, which was less than two 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 first 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 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 first three paragraphs.

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 putta in 1854 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 possession. The answer to this is that there is no such implied covenant. The putta is really nothing more than a lease, although as a rule Government never oust the

Puttadar 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. Cocq 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.

ENCLOSURE No. 1.—Draft Answer.

SUBMITTED to Government with reference to the order quoted.

(A true Copy and Extract.)

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

No. 14. ORDER THEREON, 2nd October 1878, No. 1,598.

Miscellaneous.

Dated 30th September 1878.

THE answer prepared by the Government Pleader is approved.

2. The Collector of Tinnevelly has already been directed by telegram to apply for an extension of time, and he will take care that in filing the answer now forwarded to him exception is taken to the suit on the points and in the manner indicated in paragraphs 2 and 3 of Mr. Handley's letter.

(True Extract.)

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

To the Board of Revenue.
,, the Collector of Tinnevelly, with copy of the letter and answer.

Exd. T. D. Ryan.

REVENUE DEPARTMENT.

No. 4250.

1598/3

From Board of Revenue
Dated 23 September 1878.

FOR ORDERS.

I do not think that
such can be done
unless the accounts
Notice rejected
before legal proceedings
it is a necessary
safeguard protection

Write this
& answer
& Revenue con-
clusive
26/9/78
Jps. LK

Govt. of India 1878. Words.

REVENUE.

To The BOARD of REVENUE.

&c., &c., &c.

Dated October 2nd.

Printed 90

Desk

(Ord. Ref. October 1878. No. 1598.)

OCTOBER.

Nos. 13-14.

Sec. No. 14 of 1878. Honorable Sub-Order—
Approving answer prepared by the Government
Pleader (?)—brought by Mr. Codd for compen-
sation for loss for which he holds a pattah
and requesting the Collector to take consideration
in this the answer exception & taken to the
report on the points indicated in paragraph 2 and
of Mr. Handley's letter.

1598
4

Post-vela Hearing

That explan-
being taken -
Stan the relat
ance of Decrees
May be fatal

Jul 8 07 9

FOR ORDERS.

c 25-9-75
R 2-10-75

No 1598

27 October 1875

1598/5

L.O.

Revenue Board's
Box. d: 23 Sept 1875
No: 2613.

The answer prepared by the Solr. Pleader is approved.

2. The Collector should immediately have already been directed by telegram to apply for an extention of time and he will take care that in filing the answer now forwarded to him exception is taken to the suit on the points indicated in para 2 of Mr. Handley's letter

td: 23 October 1875 (HE dealt)

In Sept
To Board of Revenue and Col
do — Collector of Tinnevelly
Bombay Copies do 27 Oct

Sept for orders

Put Sept 23
Mr Cooper

No. 10.

Answer to the
filed in Suit
brought by Town Clerk
against Collector of Timber

Dec 10 - 14