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G.O. No.

755

Press

B.P. No.

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Dated 6-6-1876 196 .

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
6th June 1876.*

No. 60. Read the following Proceedings of the Board of Revenue, dated 24th May 1876, No. 1,374 :—

Read the following letter from H. W. BLISS, Esq., Acting Collector of Madura, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated 8th May 1876, No. 177.

I HAVE the honor to submit translation of the plaint in Original Suit No. 60 of 1876 on the file of the Dindigul District Munsif's Court together with a draft of the written statement I propose to put in, and to request sanction for the defence of the suit at the public expense.

2. In May 1875 the landed property of the late Mr. Sperschneider was attached for arrears of abkari revenue, when the plaintiff, among others, sent in a petition to the Collector on the subject of his claim to Gulies 24-5-1 of the deceased's property based on an alleged bond of hypothecation. This petition was referred to the Sub-Collector for report. I was then the Sub-Collector, and reported that no inquiry was necessary on the subject of the petition, as it was clear that no private claim could take precedence of a claim on behalf of the Crown. On this report Mr. McQuhae dismissed the petition with an endorsement to the effect that the petitioner's request could not be complied with. The lands referred to in the plaint were then sold in due course. Hence this suit has been filed.

3. The value of the suit is Rupees 1,215, and it is posted for hearing on the 10th June 1876.

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ENCLOSURE No. 1.—Translation of Plaint.
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ENCLOSURE No. 2.—Draft Answer.
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SUBMITTED for the orders of Government.

2. Plaintiff sues for the recovery of Rupees 1,215 on land which has been sold for arrears of abkari revenue due by the late Mr. Sperschneider, who, it is alleged, had hypothecated the land as security for payment of the debt which plaintiff sues to recover.

3. The Board are of opinion that plaintiff's claim to recover on the land is not sustainable as land brought to sale for arrears of revenue is sold free of incumbrances (Section 42, Act II of 1864, Madras).

4. The Collector proposes to file an answer for himself and the Administrator-General (first defendant). The Board think the Collector should answer for himself alone and only in respect of the claim on the land as though plaintiff has lost his lien on the land, the debt is recoverable from the first defendant if assets are available.

5. In regard to the plea (Clause III of draft answer) that the claim of Government takes precedence of all others, the Board observe that, according to the

opinion* of the late Advocate-General, Government have no priority of claim in respect of arrears of revenue, but they

* G. O., dated 30th November 1870, No. 1,891.
" " 18th April 1871, No. 694.

*Proceedings of the Madras Government, Revenue Department,
6th June 1876.*

think it would be well to raise the point now in view to its being judicially settled.

6. As to the plea of limitation (Clause V) referring to the date of attachment, it is observed that the subsequent sale afforded a fresh cause of action.

7. The Board recommend that the defence of the suit be sanctioned, and suggest the following answer:—

The land mentioned in the plaint was sold free of incumbrances under the provisions of Act II of 1864 (Madras) for arrears of abkari revenue due by the puttadar.

The land being the security for the public revenue, Government have a prior claim on it in respect of arrears of revenue (Section 2, Act II of 1864).

Plaintiff might have obtained the release of the land from attachment and have prevented its sale by paying the arrears, &c., as provided in Sections 35 and 37, Act II of 1864, but he did not do so.

8. The suit is to be heard on the 10th June 1876.

(A true Copy and Extract.)

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

No. 61.

ORDER THEREON, 6th June 1876, No. 755.

Miscellaneous.

THE Government sanction the defence of the suit and approve the draft answer prepared by the Board of Revenue.

(True Extract.)

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

To the Board of Revenue.
„ the Collector of Madura.

Exd. F. R. Bantleman.

Revenue Department.
Proceedings of the Board of Revenue
Dated 24th May 1876, No. 1374.
No. 177. Read the following

From H. W. Bliss Esquire
Acting Collector of Madras
To C. A. Galton Esquire
Secretary to the Board of
Revenue - Madras.

Sir, I have the honor to submit trans-
lation of the plaint in C. S. No. 1876 on the
file of the District District Munsiff's Court
together with a draft of the written state-
ment. I propose to put in and request
sanction for the defence of the suit at the
public expense.

In May 1875 the landed property of the
late Mr. Sperschneider was attached for
 arrears of Alkani Revenue, when the
Plaintiff among others sent in a petition
to the Collector on the subject of his claim.

Full No. 149/77

G.O. No. 1876, No. 755.

THE BOARD OF REVENUE.

REVENUE.

GOVT. OF MADRAS.

JUNE.

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Original Sub. No. 60 of 1876 on the file
of the District Munsiff's Court, Madras District.
Sanctioning the defence of — and approving the
draft answer prepared by the Board of Revenue.

No Gules 24-5-1 of the deceased property
based on an alleged bond of hypothecation.
This petition was referred to the Sub-Collector
for report. I was then the Sub-Collector and
reported that no inquiry was necessary
on the subject of the petition as it was
clear that no private claim could take
precedence of a claim on behalf of the
Crown. On this report Mr. McAlister dis-
missed the petition with an endorsement to
the effect that the petitioner's request
could not be complied with. The lands
referred to in the plaint were then sold
in due course. Hence this suit has been
filed.

3. The value of the suit is Rupees
215 and it is posted for hearing on the
10 June 1876.

I have for
Collector's office (Sd) M. W. Bliss
Madura. 8 May 1876
By Collector

Submitted

Submitted for the orders of Government

Plaintiff sues for the recovery of
Rupees 1215 on land which has been sold
for arrears of Abkari revenue due by the
late Mr. Spenghneider, who it is alleged
had hypothecated the land as security for
payment of the debt which plaintiff
sues to recover.

The Board are of opinion that
plaintiff's claim to recover on the land is
not sustainable, as land brought to sale
for arrears of revenue is sold free of incum-
brances (Section 42, Act II of 1864, Madras).

The collector proposes to file an
answer for himself and the Admini-
strator General (1st defendant). The Board
think the Collector should answer for
himself alone and only in respect of the
claim on the land as though plaintiff
has

has lost his lien on the land the debt is recoverable from the 1st defendant if assets are available.

In regard to the plea (Clause III of draft answer) that the claim of Government takes precedence of all others, the Board observe that according to the opinion of the Late ^{Advocate General} ^{1870, to 1891} Advocate General, Government have ^{18 April 1871} no priority of claim in respect of arrears of revenue but they think it would be well to raise the point now in view to its being judicially settled.

As to the plea of limitation (Clause IV) referring to the date of attachment it is observed that the subsequent sale afforded a fresh cause of action.

The Board recommend that the defence of the suit be sanctioned and suggest the following answer:—

The land mentioned in the plaint was sold free of incumbrances under the provisions of Act II of 1864 (Madras) for arrears of Abkari revenue due by the putthar.

The land being the security for the public revenue Government have a prior claim on it in respect of arrears of revenue Section 2 Act II of 1864.

Plaintiff might have obtained the release of the land from attachment and have prevented its sale by paying the arrears &c as provided in Sections 35 and 37 Act II of 1864 but he did not do so.

The suit is to be heard on the 10 June 1876.

(True Copy Extract)

Cal. [Signature]
Acting Secretary
To the Secretary to Government
Revenue Dept with 2 Enclosures to be sent to

