(1) Number of pages 16

(2) Date of repair 20-10-1983

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No. / ~~B.P. No.~~	981	Press. / Mis.
Dated	28-6-1878.	

Not to be folded or roughly handled

Archives I—5,806—24-2-78.

981
T

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

28th June 1878, No. 981.

Read the following paper:—

No. 336. Proceedings of the Board of Revenue, dated 18th May 1878, No. 1,350.

Read the following letter from C. T. LONGLEY, Esq., Collector of Salem, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated 4th May 1878, No. 184:—

With reference to G.O., No. 1,017, dated 10th March 1877, I have the honor to enclose herewith copies of decree and judgment in Suit No. 5 of 1876 on the file of the District Court of Salem in which the agraharamdars of Thorapalli were the plaintiffs and the Sub-Collector the first defendant. The judgment is in favor of the defendants, the District Judge holding that the first sale of the agraharam to the second defendant, Kotha Subbu Chetty, having been set aside by the decree of the 1st April 1875, the plaintiffs (irrespective of the question whether they were put in possession of the agraharam in accordance with the decree or not) were the defaulters within the meaning of Act II of 1864, and that therefore the notices Nos. 4 and 5 were properly served on them. Steps are being taken to recover the costs of Government from the plaintiffs.

2. With reference to paragraph 1 of the above Government Order and paragraph 1 of the Board's Proceedings thereon, dated 23rd March 1877, I beg to state that Mr. Jones, the late Tahsildar of Oossoor, has not explained why, on his own authority, he released the movable property of Kotha Subbu Chetty which had been attached for arrears due on the agraharam. On the receipt of the Board's Proceedings above quoted, I communicated the same to him on the 16th April 1877 and called on him for an explanation. On the 25th idem he asked for certain papers to enable him to furnish the explanation, and I sent the same through the Collector of North Arcot with letter, No. 460, dated 25th May 1877, in which the facts of the case as elicited from the papers and the point on which explanation was to be furnished were clearly stated. Again, on 9th June 1877, Mr. Jones asked for some further information from the Oossoor Taluq, and this was furnished on 13th July. On the 14th August Mr. Jones requested to be furnished with a spare copy of the Board's Proceedings regarding the present suit, and I complied with this request on the 29th idem; up to date I have received no explanation from Mr. Jones, but the Collector of North Arcot informed me on the 17th September that Mr. Jones quitted the district, having been dismissed from service in G.O., No. 2,071, dated 29th August 1877. The Board will thus see that Mr. Jones tried to put off the explanation by calling for the papers connected with the case piecemeal.

3. I enclose herewith copy of my letter, No. 460, dated 25th May 1877, to the Collector of North Arcot (*vide supra*), from which the Board will observe (1) that Mr. Jones attached the movable property of Kotha Subbu Chetty on the 6th November 1875 by order of the Sub-Collector dated 25th October; (2) that when Subbu Chetty requested him on the 9th November to release his property and proceed against the agraharam, he (Mr. Jones) wrote an order on the petition refusing

to comply with the request; and (3) that without assigning any reason he released the property on the 10th. His proceeding of the 10th is quite irreconcileable with his order of the 9th, and is therefore capable of the only construction put on it by Government.

4. I may mention that Mr. Jones' conduct was still more suspicious, as he subsequently appeared—though, of course, with the permission of the Sub-Collector, which I afterwards condemned as being opposed to the Standing Orders of the Board, as one of the *bidders* at the second sale of the agraharam which was conducted by Mr. Wilkinson.

5. As Mr. Jones is not now in service, I consider that no further notice need be taken of his conduct.

ENCLOSURE No. 1.—Copy of Judgment.

ENCLOSURE No. 2.—Copy of Decree.

ENCLOSURE No. 3.

From C. T. LONGLEY, Esq., Collector of Salem, to W. S. WHITESIDE, Esq., Collector of North Arcot, dated 25th May 1877, No. 469.

WITH reference to your letter, No. 512, dated 1st instant, I have the honor to enclose herewith the several papers required by Mr. Jones, and request that they may be returned to me with his explanation.

2. From the enclosed papers it appears that, under an order of the Sub-Collector dated 22nd July 1875, Mr. Jones issued a demand (No. 4) to be served on Kotha Subbu Chetty, in which intimation was given that the agraharam would be brought to sale unless the arrears were paid within a fixed period. Against this proceeding two petitions were presented to the Sub-Collector—one by Kotha Subbu Chetty and the other by the agraharamdars, the former contending that the demand (No. 4) should not have been served on him on the ground that his connection with the agraharam ceased directly the decree had been passed by the District Court cancelling the sale, and the latter desiring that the arrears for Fasli 1284 might be recovered from Subbu Chetty by the attachment and sale of his movable property instead of proceeding against the agraharam, as he had been in possession of the same till the end of that fasli. The Sub-Collector passed an endorsement on Subbu Chetty's petition directing the Tahsildar to withdraw the demand (No. 4) served on him and to proceed against the agraharam, but referred the petition of the agraharamdars to the Tahsildar for report as to what steps he would take for the realization of the revenue. On this Mr. Jones instituted an inquiry, and reported that, as the agraharam had been in possession of Kotha Subbu Chetty, he should be held responsible for the arrears, evidently intending that Subbu Chetty's movable property should be attached and sold if the arrears were not paid. The Sub-Collector approved of this suggestion in his order to the Tahsildar, dated 25th October 1875, and dismissed Subbu Chetty's petition with an endorsement that he must be responsible for the arrears. In obedience to this order Mr. Jones issued a demand (No. 1) on 4th November 1875 for the attachment of the movable property of Kotha Subbu Chetty, and it was returned on the 6th by the Village Munsif of Oossoor with a report (No. 2) that the order was carried out. On the 9th November Subbu Chetty presented a petition to Mr. Jones requesting the release of the movable property pending the decision of his appeal to the Collector as regarded his responsibility for arrears, but Mr. Jones refused to comply with the request, writing on the top of the petition that he (petitioner) must pay up the arrears; without assigning any reason, however, Mr. Jones subsequently releases Subbu Chetty's property on the 10th and takes a receipt from him for the articles returned. The reason for this proceeding must be explained by Mr. Jones as it is quite inconsistent with all the previous correspondence and with his own conduct as evidenced by his report to the Sub-Collector on the petition of the agraharamdars and by the order passed by him the previous day on Kotha Subbu Chetty's petition.

(True Copy.)

(Signed) C. T. LONGLEY,
Collector.

SUBMITTED for the information of Government with reference to the Orders noted in the margin.

G.O., dated 10th March 1877, No. 1,017.
" " 20th June " " 2,052.
" " 16th July " " 2,314.

2. In 1872 Thorapalli Agraharam was sold for arrears of revenue, but the agraharamdars filed a suit and obtained a decree cancelling the sale as irregular.

3. The property having been again sold for arrears in 1876, plaintiffs filed another suit for the cancellation of the sale. The Court, finding the second sale valid, has dismissed the suit with costs.

4. Adverting to the first paragraph of G.O., dated 10th March 1877, No. 1,017, the Board concur in the Collector's opinion that, as Mr. Jones (late Tahsildar) has been dismissed the service, there is no occasion to take further notice of his conduct in connection with this case.

(True Copies and Extract.)

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

No. 337. ORDER THEREON, 28th June 1878, No. 981.

Miscellaneous. RECORDED.

(True Extract.)

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

To the Board of Revenue, with two Enclosures.

Exd. F. R. Bantleman.

981
3

C. N. 2426 of 1878 Revenue Department

Memo. for orders.

Proceedings of the Board of Revenue submitting letter from Collector reporting dismissal of Suit No. 5 of 1876 instituted in District Court of Salem regarding sale of Thorapalli Agraharam for arrears of Revenue.

H. C. 18th May 1878 No. 1350.

Thorapalli Agraharam, an Inam village in Salem District was sold in 1872 for arrears of Jodi amounting to Rs 1272, and was purchased by one Kotta Saiba Chetty for Rs 12,010 about half the value of the property. The Inamdars filed a suit and obtained a decree cancelling the sale as irregular.

In July 1876, the property

Collt. of (1878) Madura
REVENUE.
To
The BOARD OF REVENUE.
Dated June 28th.
Read.
Encl.
G.O. 281 June 1878, No. 981.
JUNE.
Nos 385-387.
Suit No. 5 of 1876, instituted in District Court of Salem regarding sale of Thorapalli Agraharam for arrears of Revenue.—Recording Proceedings of the Board of Revenue reporting dismissal of—.

was again sold for arrears amounting to Rs 365/ which accrued while Subbu Chetty, the original purchaser was in possession, and was purchased the second time also by the same person for Rupees 9.5.0 or Rs 2.6.5 less than he had originally paid for it.

This is doubtful. The arrears were for $\frac{1284}{1874\text{-}75}$ & $\frac{1285}{1875\text{-}76}$. From the decree cancelling the first sale was of 1 April 1875 i.e. 3 months before the close of Fasli 1284. From that date the Chetty had no status in the Agraharam. For the arrears prior to 1 April 1875 he was doubtless liable & the Agraharam dars could hold him responsible but not so &c.

In paragraph 6 of their Gos (G.O. 16 March 1877 No. 33) the Board observed that as Subbu Chetty, as the Registered holder in actual possession was personally responsible for the arrears of Fasli 1284 and 1285, and regretted that the demand was not enforced by the attachment and sale of his moveable property, but that a process should have been issued against the Inamdar also against whom to sue in order to get the sale cancelled under circumstances fully noticed in the Boards' Proceedings quoted above, the Government were pleased to order as follows.

This as above observed is begging the question.

The present decree shows that the course suggested Cd not have been followed.

(G.O. 10th March 1877 No. 101 R.D para 2.)

"Though the suit may be disallowed on the technical grounds suggested, the position of the plaintiffs, who have twice for the second time lost their village owing to the errors or misfeasance of a public Officer, is to be greatly commiserated. The expression of this feeling should find place in the defendants' answer, and it should be added that, if the Courts intimate in their decision that reparation is due to plaintiffs by the action of the local authorities, which should be fully set out as in the original draft answer, the Government will give every consideration to the same, although the plaintiffs' suit may be thrown out."

* The present decree goes to show that if the Ryots, the late Subadar had sold the Chetty's more legally wrong decree under the original decree under 2 the Chetty held the Agraharam was declared void. and the Court holds that the Sub Collector's subsequent action against the Agraharamdars who the only ones seen to have

This promise was virtually cancelled by G.O. 20 June 1877 No 2052 - please see Hon'ble Members notes - Sir W. Robinson said "We need not pledge ourselves to do" "this" we may act when the decree is passed."

It is now reported that the Court has found the second sale valid and has dismissed the suit with costs.

The Plaintiffs impugned the validity of the sale on the ground that the arrears were not claimable from them but from Subbu Chetty in whose name the register stood for Faslies 1284 and 1285 and who they asserted was in possession during that period, but Subbu Chetty deposed that he had only collected from the Agraharam Rs 500 or 600 and that he had paid this sum to Govt.

The Evidence as to possession, the Court considered immaterial in this Case, and held that the word "defaulter" under Act II of 1864 "meant the landholder

If there is any mistake in the Collector's Book since the decree of April 1875 it was obviously the neglect of the Agraharamdars

But it does not follow that the Agraharamdars in force in the second sale in July 1876 exercised the right of possession they did having ever been in possession

who is in default", were at the date of the proceedings in question the sale to second defendant having been set aside, the Plaintiffs had in fact been declared to have been all along entitled to the village", that "they were the only persons interested in saving the village from sale", and that it had "no doubt that the Lotteries were properly credited to them".

In paragraph 2 of their Petn of 23rd March 1877 No. 433, the Board begged the Government to Consider what was meant by the "promise of Consideration of the Plaintiffs' petition" referred to in paragraph 2 of G.O. 10th March 1877 No. 1017 of 1877 quoted above. They pointed out that the difference between the purchase money

as the second sale and the value of the property, added to the costs of the suit would at least amount to 16000 Rupees. Thereupon, the draft answer originally ordered proposed to be filed in Court was amended, so that no pronouncement was actually made about the reparation.

Under these circumstances, will any Consideration be shown thereon to the Executors.

With reference to the 1st paragraph of G.O 10th March 1877, both the Board and the Collector are of opinion that no further notice need be taken of the Conduct of the late Tahsildar Mr Jones. He was dismissed for certain Offences by G.O 29th August 1877 no 2079/D.

Submitted that the Agraharamdars no merit no consideration.

G.O. 20th June 1877 no. 2052
" 16th July 1877 no. 2314

The issue of the Suit clearly establishes that the Inamdars had no case for commiseration even had no previous been made for simply Record 22/6 [illegible]

Secretary [illegible]

The original sale was set aside for a technical error and they got more than they deserved in obtaining a decree in their favour. Having got that decree they, from their own account, neglected to obtain execution; tho' from the evidence adduced in the present suit they did exercise right of possession. They were duly informed of the arrears and of the intended sale and had every opportunity of paying - they did not choose to do so, tho' it was obviously their interest to save the Agraharam. No one else could possibly be made liable for the arrears tho' they thought it other wise. They have only

Themselves to Board
for the result.
C & U

C. P. 2426 of 1878.

Decree confirming the Board's
Sale of Thorapalli Agraha-
ram in Salem Dist.

987
7

No. 1,350.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 18th May 1878.

Read the following letter from C. T. LONGLEY, Esq., Collector of Salem, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated 4th May 1878, No. 184 :—

WITH reference to G.O., No. 1,017, dated 10th March 1877, I have the honor to enclose herewith copies of decree and judgment in Suit No. 5 of 1876 on the file of the District Court of Salem in which the agraharamdars of Thorapalli were the plaintiffs and the Sub-Collector the first defendant. The judgment is in favor of the defendants, the District Judge holding that the first sale of the agraharam to the second defendant, Kotha Subbu Chetty, having been set aside by the decree of the 1st April 1875, the plaintiffs (irrespective of the question whether they were put in possession of the agraharam in accordance with the decree or not) were the defaulters within the meaning of Act II of 1864, and that therefore the notices Nos. 4 and 5 were properly served on them. Steps are being taken to recover the costs of Government from the plaintiffs.

2. With reference to paragraph 1 of the above Govenment Order and paragraph 1 of the Board's Proceedings thereon, dated 23rd March 1877, I beg to state that Mr. Jones, the late Tahsildar of Oossoor, has not explained why, on his own authority, he released the movable property of Kotha Subbu Chetty which had been attached for arrears due on the agraharam. On the receipt of the Board's Proceedings above quoted, I communicated the same to him on the 16th April 1877 and called on him for an explanation. On the 25th idem he asked for certain papers to enable him to furnish the explanation, and I sent the same through the Collector of North Arcot with letter, No. 460, dated 25th May 1877, in which the facts of the case as elicited from the papers and the point on which explanation was to be furnished were clearly stated. Again, on 9th June 1877, Mr. Jones asked for some further information from the Oossoor Taluq, and this was furnished on 13th July. On the 14th August Mr. Jones requested to be furnished with a spare copy of the Board's Proceedings regarding the present suit, and I complied with this request on the 29th idem ; up to date I have received no explanation from Mr. Jones, but the Collector of North Arcot informed me on the 17th September that Mr. Jones quitted the district, having been dismissed from service in G.O., No. 2,071, dated 29th August 1877. The Board will thus see that Mr. Jones tried to put off the explanation by calling for the papers connected with the case piecemeal.

3. I enclose herewith copy of my letter, No. 460, dated 25th May 1877, to the Collector of North Arcot (*vide supra*), from which the Board will observe (1) that Mr. Jones attached the movable property of Kotha Subbu Chetty on the 6th November 1875 by order of the Sub-Collector dated 25th October ; (2) that when Subbu Chetty requested him on the 9th November to release his property and proceed against the agraharam, he (Mr. Jones) wrote an order on the petition refusing to comply with the request ; and (3) that without assigning any reason he released the property on the 10th. His proceeding of the 10th is quite irreconcileable with his order of the 9th, and is therefore capable of the only construction put on it by Government.

4. I may mention that Mr. Jones' conduct was still more suspicious, as he subsequently appeared—though, of course, with the permission of the Sub-Collector, which I afterwards condemned as being opposed to the Standing Orders of the Board, as one of the *bidders* at the second sale of the agraharam which was conducted by Mr. Wilkinson.

C 21-6-78
R 26-6-78

5. As Mr. Jones is not now in service, I consider that no further notice need be taken of his conduct.

ENCLOSURE No. 1.—Copy of Judgment.

ENCLOSURE No. 2.—Copy of Decree.

ENCLOSURE No. 3.

From C. T. LONGLEY, Esq., Collector of Salem, to W. S. WHITESIDE, Esq., Collector of North Arcot, dated 25th May 1877, No. 460.

WITH reference to your letter, No. 512, dated 1st instant, I have the honor to enclose herewith the several papers required by Mr. Jones, and request that they may be returned to me with his explanation.

2. From the enclosed papers it appears that, under an order of the Sub-Collector dated 22nd July 1875, Mr. Jones issued a demand (No. 4) to be served on Kotha Subbu Chetty, in which intimation was given that the agraharam would be brought to sale unless the arrears were paid within a fixed period. Against this proceeding two petitions were presented to the Sub-Collector—one by Kotha Subbu Chetty and the other by the agraharamdars, the former contending that the demand (No. 4) should not have been served on him on the ground that his connection with the agraharam ceased directly the decree had been passed by the District Court cancelling the sale, and the latter desiring that the arrears for Fasli 1284 might be recovered from Subbu Chetty by the attachment and sale of his movable property instead of proceeding against the agraharam, as he had been in possession of the same till the end of that fasli. The Sub-Collector passed an endorsement on Subbu Chetty's petition directing the Tahsildar to withdraw the demand (No. 4) served on him and to proceed against the agraharam, but referred the petition of the agraharamdars to the Tahsildar for report as to what steps he would take for the realization of the revenue. On this Mr. Jones instituted an inquiry, and reported that, as the agraharam had been in possession of Kotha Subbu Chetty, he should be held responsible for the arrears, evidently intending that Subbu Chetty's movable property should be attached and sold if the arrears were not paid. The Sub-Collector approved of this suggestion in his order to the Tahsildar, dated 25th October 1875, and dismissed Subbu Chetty's petition with an endorsement that he must be responsible for the arrears. In obedience to this order Mr. Jones issued a demand (No. 1) on 4th November 1875 for the attachment of the movable property of Kotha Subbu Chetty, and it was returned on the 6th by the Village Munsif of Oossoor with a report (No. 2) that the order was carried out. On the 9th November Subbu Chetty presented a petition to Mr. Jones requesting the release of the movable property pending the decision of his appeal to the Collector as regarded his responsibility for arrears, but Mr. Jones refused to comply with the request, writing on the top of the petition that he (petitioner) must pay up the arrears; without assigning any reason, however, Mr. Jones subsequently releases Subbu Chetty's property on the 10th and takes a receipt from him for the articles returned. The reason for this proceeding must be explained by Mr. Jones as it is quite inconsistent with all the previous correspondence and with his own conduct as evidenced by his report to the Sub-Collector on the petition of the agraharamdars and by the order passed by him the previous day on Kotha Subbu Chetty's petition.

(True Copy.)

(Signed) C. T. LONGLEY,
Collector.

SUBMITTED for the information of Government with reference to the Orders noted in the margin.

G.O., dated 10th March 1877, No. 1,017.
" " 20th June " " 2,052.
" " 16th July " " 2,314.

2. In 1872 Thorapalli Agraharam was sold for arrears of revenue, but the agraharamdars filed a suit and obtained a decree cancelling the sale as irregular.

3. The property having been again sold for arrears in 1876, plaintiffs filed another suit for the cancellation of the sale. The Court, finding the second sale valid, has dismissed the suit with costs.

4. Adverting to the first paragraph of G.O., dated 10th March 1877, No. 1,017, the Board concur in the Collector's opinion that, as Mr. Jones (late Tahsildar) has been dismissed the service, there is no occasion to take further notice of his conduct in connection with this case.

(True Copies and Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department,
with two original enclosures to be returned.

Copy to the Collector of Salem, with copy of G.O.,
dated 16th July 1877, No. 2,314.

Exd. J. W. Fischer.

981/6

4 O 10 March 778 N 337-38
20 Jun — 433-34
27 " — 602-3
16 July — 335-6
13 Sept 71 — 543-44

Revenue 1878 Sept
No 2426

1878.

Board of Revenue,

MADRAS.

PROCEEDINGS, 18TH MAY 1878, No. 1,350.

Dep 4-6-78

Encl.

21 2

Received 5 June 78

Dispatched

MAY.

No. 1,350.

Suit—No. 5 of 1876, instituted in District Court of Salem regarding sale of Thorapalli Agraharam for arrears of revenue.—Submitting to Government letter from Collector reporting dismissal of —. A 981

Recorded

28 June 1878

List for orders.

14 Folio Board of Revenue with Despatches

926 927

C 21-6-78
R 28-6-78
N 336