

- (1) பக்கங்காவின் எண்ணிக்கை 16
 (2) புதுக்கித் திருப்பிய நாள் 22/1989
 (3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம் 16/9

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

விடுவந்தி துறை

அரசாணை எண். மு. கோய்ப்புத் தாள் எண்.	88	அச்சகம் பலவகை
நாள் :	15-1-1877	188.

சுரு

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

15th January 1879, No. 88.

Read the following paper :—

No. 222. Proceedings of the Board of Revenue, dated 21st December 1878, No. 6,623.

Read the following letter from H. SEWELL, Esq., Collector of Trichinopoly, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated 23rd November 1878, No. 362 :—

I HAVE the honor to submit, for the information of the Board, authenticated copies of judgment and decree* passed by the District Judge in Original Suit No. 8 of 1877, in which I, as Collector of the district, was made 12th defendant, and the defence of which was sanctioned in G.O., dated 25th September 1877, No. 2,932.

2. The Board will observe that the Judge has passed a decree against the Government as regards $\frac{1}{4}$ th share of Lot No. 2 of the old palace buildings in the fort of Trichinopoly. By the decree $\frac{1}{4}$ th portion of the lot is made liable for the debts due to the plaintiff in the suit and it has been valued by the Court at Rupees 109.

3. The above $\frac{1}{4}$ th share of Lot No. 2 was purchased on behalf of Government from one Locumdooss, who had purchased it in a Court's sale and who was also made 4th defendant in the suit in question on account of some other property. This man executed to Government at the time of salan indemnity bond binding himself to make good any loss to Government if other claims on the property were substantiated hereafter. I sent for the man and asked him as to what he had to say, now that the Court has made the property sold by him liable for the debts due to plaintiff in the suit. He states that he will lose by the decree other property to the value of about Rupees 2,000, and that he means to appeal against the decision in conjunction with some of the other defendants. I confess that I do not think it would be worth while appealing on behalf of Government, and I doubt much whether Locumdooss would gain anything by his appeal. He, however, promises to purchase the portion made liable when it is sold in execution of the decree and convey the same to the Government by a deed. A simpler plan perhaps would be for Government to purchase the lot straight off when it is put up to sale. In any case we have the indemnity bond as a security, or, again, the lot might be taken up by Government under the Land Acquisition Act, in which case the value (Rupees 109) would be settled by the Court decree already passed; we could pay that amount to the decree-holder and recover it from Locumdooss under the indemnity bond.

4. As for the costs, which amount to Rupees 78-11-0, and of which Rupees 44-10-0 have to be defrayed by Government, the master states that he is now much reduced in circumstances and requests to be excused from paying it. This, of course, is out of the question.

5. In this suit the Government Vakil having taken a vakalat from the plaintiff in ignorance of the fact of the Government interests being involved, he reported the matter to me and I engaged another Vakil of the District Court, one Subbaiyah, B.A. The Court has awarded costs on nine-elevenths of the property, Rupees 34-1-0, to be paid by plaintiff to 12th defendant (Collector) and Rupees 5 as costs on two-elevenths

of the property to be borne by 12th defendant (Collector). But the Court has valued the whole property at Rupees 600 only, whereas we valued it at the actual sum which it cost to purchase it, viz., Rupees 1,113. Our Vakil, therefore, has calculated his fee on the latter sum, which makes his fee Rupees 5-5-10-0 plus Rupees 9-1-0 for stamps. There is also a charge of Rupees 14 for obtaining copies of judgment and decree, &c. The total costs therefore amount to Rupees 7-11-0, of which we receive Rupees 34-1-0 from the plaintiff, leaving a balance of Rupees 44-10-0 to be paid by Government, for which I request sanction.

ENCLOSURE No. 1. Copy of Judgment.

ENCLOSURE No. 2. Copy of Decree.

SUBMITTED for the orders of Government with reference to G.O., dated 25th September 1877, No. 2,932.

2. This suit was for the recovery of Rupees 12,588 on property which, it is alleged, originally belonged to one Chinnasami Pillay and was on his death, in 1866, hypothecated by his brother as security for debts contracted by the deceased. Government are intrusted in the suit only as regards Lot No. 26 in the plaint mentioned, which was originally purchased in the name of Chinnasami Pillay and was divided as follows:—

1. Chinnasami Pillay	...	...	...	...	2/11
2. Munisami Moodelliar	...	...	...	...	4/11
3. Viraragavaperumall Chetty	...	...	...	...	2/11
4. Muthusami Pillay	...	...	...	...	3/11

Chinnasami's share was sold in execution of a decree and was purchased by Locumdess, who sold it to Government in 1873 for Rupees 159 and at the same time executed an indemnity bond, agreeing to make good any loss to Government in the event of any claim to the property being established by a third party. Munisami Moodelliar having purchased the shares Nos. 3 and 4 sold them with his own share to Government in 1873 for Rupees 2,120. The property in question was purchased by Government in connection with the improvements to the old palace at Trichinopoly.

3. The Court has passed a decree in plaintiff's favor, but the decision is adverse to Government only as regards the portion of the property purchased from Locumdess; that purchased from Munisami Moodelliar is declared not liable, on the ground that it never belonged to Chinnasami Pillay. Government have to pay the costs on the former and plaintiffs on the latter. The Collector does not consider it advisable to appeal, and in this view the Board concur.

4. The question for consideration now is the land purchased from Locumdess to be secured to Government by whom it is required. Locumdess, who is otherwise interested in the suit, says he intends to appeal and he promises to purchase the land at the sale in execution of the decree and transfer it to Government. The Collector suggests that it be purchased by Government when put up to sale or that it be taken up under the Land Acquisition Act, paying to the decree-holders its value as estimated by the Court. It is not clear how proceedings can at present be taken under the Act, as the land is now the property of Government subject to the decree-holders' lien upon it. The Board consider that the best course is to try and arrange with the decree-holders to relinquish their claims on the property for a reasonable sum, say Rupees 159, the amount paid for it to Locumdess. In case they decline to come to terms it seems advisable to await proceedings in execution of the decree and act as circumstances may then require. If Locumdess, according to promise, purchases the property and makes it over to Government with the costs awarded on it, nothing more is required, but should he show intention of purchasing it at the sale, the Collector might be authorized to buy for Government and then proceed against Locumdess on the indemnity bond for any loss to Government.

5. As regards the claim of the Vakil (para 5 of the Collector's letter), the Board are of opinion that in the absence of a fact he cannot legally claim more than the fees awarded by the Court, and they reason to recommend payment of extra remuneration. The Collector will submit application for sanction for payment of costs in the prescribed form.

(True Copy and rect.)

(ed) J. STURROCK,
Acting Secretary.

No. 223.

ORDER THEREON, 15th Jan 1879, No. 88.

Miscellaneous.

These papers will be referred to the Government Pleader for advice as to the mode of securing the position of Government in this matter.

(True E)

d) H. S. THOMAS,
Acting Secretary to Government.

To the Government Pleader, with two Enclosures
,, the Board of Revenue.

Exd. T. D. Ryan.

Proceedings of the Board of Revenue,
dated 21st December 1878.

Read the following. —

N^o 362

From The Collector of
Trichinopoly
To The Secretary to the
Board of Revenue
Madras.

Sir,

I have the honor to submit
for the information of the Board, authen-
-ticated copies of Judgment and decree
passed by the District Judge in O. S. N^o
8 of 1877, in which I, as Collector
of the District, was made 1st Defendant
and the defence of which was sanctioned
in G.O. 25 September 1877, N^o 2932

2- The Board will observe that
the

Sent with letter
N^o 338 of 6 Insts;
also vide letter
N^o 344 of 16 Insts.

File 35/79

Original

RECEIVED

THE GOVERNMENT PRINTING

1878

1878

Original and N^o 1 of 1877 on the file of the
District Judge's Court. — Resolved to refer
the same to the Board of Revenue for their
consideration and sanction.

1878

the Judge has passed a decree against the Government as regards $2\frac{1}{11}$ shares of Lot N^o 3 of the Old Palace buildings in the Fort of Tschinopoly. By the decree $2\frac{1}{11}$ the portion of the lot is made liable for the debts due to the Plaintiff in the Suit and it has been valued by the Court at Rs 109-0-0.

3. The above $2\frac{1}{11}$ share of Lot N^o 3 was purchased on behalf of Government from one Lokam Doss, who had purchased it in a Court's sale and who was also made to be defendant in the Suit in question on account of some other property. This man executed to Government at the time of sale an indemnity bond binding himself to make good any loss to Government, if other claims on the property were substantiated hereafter. I sent for the man and asked him as to what he had to

say

say, now that the Court has made the property sold by him liable for the debts due to Plaintiff in the Suit. He states that he will lose by the decree other property to the value of about Rs 2000 and that he means to appeal against the decision in conjunction with some of the other defendants. I confess that I do not think it would be worth while appealing on behalf of Government and I doubt much whether Lokam Doss would gain any thing by his appeal. He, however, promises to purchase the portion made liable when it is sold in execution of the decree and convey the same to the Government by a deed. A simpler plan perhaps would be for Government to purchase the lot straight off when it is put up to sale. In any case, we have the indemnity bonds as a security; or again the lot might be taken up by Government under the Land Acquisition Act in which case the value (Rs 109) would be settled by the Court decree already passed

passed, we could pay ~~up~~ that amount to the decree holder and receive it from Locum does under the indemnity bond.

4. As for the costs which amount to Rs 78-11-0, and of which Rs 44-10-0 have to be defrayed by Government, the man states that he is now much reduced in circumstances and requests to be excused from paying it. This of course is out of the question.

5. In this suit the Government Vakil having taken a Vakalat from the Plaintiff in ignorance of the fact of the Government interests being involved, he reported the matter to me and I engaged another Vakil of the District Court one Subbanja Bhat. The Court has awarded costs on

on 9/11th of the property Rs 34-1-0 to be paid by Plaintiff to 12th Defendant (Collector), and Rs 5 as costs on 2/11th of the property to be borne by 12th Defendant (Collector). But the Court has valued the whole property at Rs 600 only, whereas we valued it at the actual sum which it cost to purchase it, viz Rs 1113. Our Vakil, therefore, has calculated his fee on the latter sum, which makes his fee Rs 55-10-0 plus Rs 9-1-0 for stamps. There is also a charge of Rs 14-0-0 for obtaining copies of judgment and decree, &c. The total costs therefore amount to Rs 78-11-0 of which we receive Rs 34-1-0 from the Plaintiff, leaving a balance of Rs 44-10-0 to be paid by Government, for which I request sanction.

Trichinopoly, Collector's
Office.
28 November 1878

I have, &c. &c.
Signed/ H. Swell
Collector
Submitted

Submitted for the orders of
Government with reference to G. O. dated
25 September 1877, N: 2932.

2. This suit was for the recovery
of Rs 12588 on property which it is
alleged originally belonged to one
Chinnasamy Pillay and was on his death
in 1866 hypothecated by his brother as
security for debts contracted by the de-
ceased. Government are interested in
the suit only as regards lot N: 26 in
the plaint mentioned which was originally
purchased in the name of Chinnasami
Pillay and was divided as follows:—

1. Chinnasami Pillay 2/11
2. Munusami Mudaliyar 4/11
3. Viraragavaperumal chetty 2/11
4. Muthusami Pillay 3/11.

Chinnasami's share was sold in execution
of a decree and was purchased by
Locum das who sold it to Government

in 1873 for Rs 159 and at the same
time executed an indemnity bond agree-
ing to make good any loss to Government
in the event of any claim to the property
being established by a third party. ~
Munusami Mudaliyar having purchased
the shares of N: 3 and 4 sold them with
his own share to Government in 1873 for
Rs 2120. - The property in question
was purchased by Government in con-
nection with the improvements to the
old palace at Trichinopoly.

3. The Court has passed a decree
in plaintiff's favor but the decision
is adverse to Government only as regards
the portion of the property purchased
from Locum das; that purchased from
Munusami Mudaliyar is declared
not liable on the ground that it
never belonged to Chinnasami Pillay.
Government have to pay the costs on

The former and plaintiff on the
letter. The Collector does not con-
sider it advisable to appeal and
in this view the Board concur.

4- The question for consideration
is how is the land purchased from
Locumdas to be secured to Government
by whom it is required. Locumdas who
is otherwise interested in the suit says
he intends to appeal and he promises
to purchase the land at the sale in
execution of the decree and transfer it
to Government. The Collector suggests
that it be purchased by Government
when put up to sale, or that it be
taken up under the Land Acquisition
Act paying to the decree holders its
value as estimated by the Court. It
is not clear how proceedings can at
present be taken under the Act as the
land is now the property of Government
subject

subject to the decreeholders' lien on it.

The Board consider that the best course is
to try and arrange with the Decreeholders
to relinquish their claim on the property
for a reasonable sum say Rs 159-0-0,
the amount paid for it to Locumdas.
In case they decline to come to terms
it seems advisable to await proceedings
in execution of the decree and act as
circumstances may then require. If
Locumdas, according to promise, ~
purchases the property and makes it
over to Government with the costs ~
awarded on it, nothing more is required,
but should he show no intention of
purchasing it at the sale, the Collector
might be authorized to buy it for
Government and then proceed against
Locumdas on the indemnity bond
for any loss to Government.

5- As regards the claim of the
Vakil (Para 5 of the Collector's
letter) the Board are of opinion
that

88
That in the absence of a contract
he cannot legally claim more
than the fees awarded by the Court,
and they see no reason to recommend
payment of extra remuneration.

The Collector will submit an
application for sanction for
payment of costs in the prescribed
form.

(True Copy & Extract)

Thurwell
Acting Secretary.

To
The Secretary to Government
Revenue Department
with 2 enclosures to be returned

Handwritten notes:
 The Board of Directors
 of the Board of Directors
 of the Board of Directors
 of the Board of Directors

Proceedings of the
 Board of Directors
 No 5623.

Sales at auction 1879
 Dec 23 - 4

Submitting for order

of order been from Court
 of including of reporting
 the result of O. S. No
 8 of 1877 on file at the
 At Court:

At 88-15 January 1879

Handwritten signature:
 W. S. Foster

Handwritten word:
 Close

Handwritten word:
 Order

These papers will be referred
 to the Government. Please for
 advice as to the best mode
 of securing the location of
 ground in this matter.

And Capt. W. S. Foster Dec 23 with 157 January 1879
 O. S. No 8 of 1877 on file at the
 At Court:

Handwritten notes:
 For
 2224 5
 2223
 1879

The Board of Directors in/paraphrase are of
 moved and the Collector formal application
 for payment of costs will be requested.

Handwritten signature:
 W. S. Foster