

- (1) பத்தங்கலின் எண்ணிக்கை _____
(2) புதுக்கித் திருப்பிய நாள் _____
(3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம் _____

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

உருவிய திறை

அரசாணை எண். மு. கோப்புத் தாள் எண். 1287	அச்சகம் பலவகை
நாள் : 20 - 11 - 1882	199

மடிக்கலோ கண்டபடி கையாளலோ கூடாது.

PROCEEDINGS OF THE BOARD OF REVENUE.

READ—the following G.O., dated 23rd October 1882, No. 1157, Revenue.

Read—the following Proceedings of the Board of Revenue, dated 12th October 1882, No. 2484:—

Read—the following letter from C. S. (ROLE, Esq., Acting Collector of Madura, to the Acting Secretary to the Board of Revenue, dated 20th September 1882, No. 339.

With reference to the Proceedings of the Board of Revenue as per margin, and in continuation of my telegram* of No. 1126, dated 22nd June 1881. the 17th instant, I have the honor to No. 2461, „ 22nd Oct. „ forward, herewith, copies of judgment* *Authenticated copies sent to the Government and decree* in Original Suit No. 1 of Pleader direct. 1882, on the file of the District Court,

Madura, regarding the disputed boundary between the Government village of Kāmayakavundanpatti and the Yerasakkanayakanūr Zemindāri in Periyakulam Taluk, Madura District. It will be observed that the decision is unfavorable to Government.

2. As the Board are already acquainted with the nature of the dispute, I need not now trouble them with details. I append, herewith, a memorandum containing Mr. Stokes's observations on the important points connected with the question, and the Judge's remarks, with the conclusions arrived at by him, together with such notes and observations as are called for, in view to arriving at a clear understanding of the subject.

3. The Board will observe that the Judge questions the correctness of the evidence of the old man Kāmayakavundan and of the Forest-ranger regarding the names of places and their position, and, on the other hand, accepts as genuine the evidence given by defence-witnesses concerning the same. In my experience in this district on matters connected with forests, &c., I have uniformly observed that the inhabitants of hardly any two villages give the same name to hills and rivers, especially if these happen to lie in remote and neglected parts; and, in the present instance, I think it is not at all reasonable to expect any conformity as to nomenclature, and dangerous to accept the names of the hills as identified by one of the parties to the suit. The Judge finds that the stream north of II, pointed out by the Ranger to be Yelarusodei, is not correct, because (1) the old man had shown him XVII to be the stream bearing that name, and (2) there are no Cardamom (yela) gardens at its head to give the name to it, while there are such gardens at the source of XVII. But, for reasons mentioned in the abstract, the old man's statement cannot be given much weight on account of his old age and palpably failing powers; and, with respect to the Judge's second observation, I argue that there might have easily been Cardamom gardens at the place sixty years ago, although they are not to be found now, and that their non-existence at the time of Ward and Connor's survey has not been at all elicited in the evidence, as it should have been, to support the Judge's conclusions.

4. Again, in paragraphs 26 and 27 of his judgment, the Judge impugns the accuracy of the map by Ward and Connor, although he admits that the map and the memoir formed the principal basis of his decision in some of the boundary cases settled by him, that they are entitled to great value and respect as being the earliest record of the Province of Dindigul, and that the survey was accurately prepared. It is an unbiassed account prepared in 1821, i.e., some sixty years back, and has been recognised as the surest and safest authority in many an important

மாதுகாப்பு பிரிவு -1

செயல்பெற்ற பெயர் : ஸ்ரீ ராமகிருஷ்ண

செயல்பெற்றதற்காக எடுத்துக் கொள்ளப்பட்ட நாள்.

செயல்பெற்ற குடித்த நாள்.

9/2009

25/11/09
சரிபார்க்கும்
முதல் குறியாளர்
கையொப்பம்

சரிபார்க்கும்
2ம் குறியாளர்
கையொப்பம்

25/11/09
சரிபார்க்கும்
உதவிப்பாளர்
கையொப்பம்

boundary dispute settled by the Si is no reason why it should not be instance also. Sitting at Madura, was hardly justified in impugning, entitled to great respect, and prepa

5. The area of the Zemindári, 36½ square miles, or 27,000 odd gr, sponds pretty nearly with the ex of the space enclosed by dotted lines as Yerasakkanayakanúr Zemindári in t map, calculated according to the scale given at foot thereof; and what Mr. Stokes wished to urge in respect to the area was, how could the additional space be accounted for if the boundary was to be taken down further south. Further, if the tract in dispute really belonged to the Zemindári at the time the memoir was written, the extent of hilly tracts in the Zemindári, including this portion which alone measures nearly seven square miles, would form no inconsiderable portion of it, and would be about one-fifth of the entire area of the estate as given in the memoir. Under such circumstances, I ask, would it not be preposterous to say that "the country presented a perfect flat surface," as is stated in the memoir? This single circumstance is enough to show that the Zemindári did not contain the hill tracts now adjudged to defendant.

6. The Judge seriously discusses the entry of the word "Rashu Malay" in the memoir, although his difficulties might have been easily disposed of by recognising in it a palpable clerical error for "Pashumalai." He lays much stress upon "Ullal Malay," and says that the map should be discredited, as also the ancient Peimash Goshwara account, as the boundary of the estate, according to these records, excludes the "Ullal Malay" mentioned in the memoir. But, as I have already pointed out, it is very dangerous to depend upon names of remote and unfrequented places in those matters. Oral evidence is the worst of evidence in such cases, and cannot be relied on. A dozen witnesses can be produced at any time to prove that a place does not bear its usual recognised name. The slopes of Ullal Malay on which Mr. Hutchins lays so much stress may also refer to the slopes on the other side of II in the sketch, and there are Cardamom gardens to the north of it. The memoir, probably nay, must refer to the cultivation in those parts.

7. The Judge, disbelieving these valuable and ancient records, on the ground that they do not give a detailed boundary of the Zemindári, rock by rock and river and river, admits as genuine the document V produced on behalf of the Zemindári, which is unauthenticated and spurious for reasons adduced by Mr. Stokes. The recognition of it by Mr. Tomlinson on the ground that it agreed with the other accounts forthcoming, that it was a *bona fide* copy deserving of consideration, can form no valid ground for using it as a genuine guide, nor does the fact that, as the District Judge observes, it is the only detailed account forthcoming, and that it tallies with and harmonises with some other evidence count for much; and the other evidence he refers to are—(1) "the panchayet decision," upon which, it will be seen from the memorandum, he has not put the right construction; (2) "other old accounts" by which the Judge refers to puttahs produced on behalf of the estate; (3) enjoyment; and (4) Ward and Connor's memoir. I do not understand how this last can be said to agree with the account No. V. The Judge evidently refers to the entry of Ullal Malay in the memoir, concerning which I have already expressed my opinion. As for 2 and 3 I have to observe that it is not improbable to suppose that the Zemindárs ever since they say that Government began to show interest in the forests, and that these tracts were becoming more and more valuable, in remote and unfrequented parts and neglected by Government, with or without the connivance of the adjoining village officers, and, in support of the same, have been fabricating accounts to suit their purpose. The present case is evidently one air of genuineness, have naturally been supplied with that object. In support of this presumption, I may cite an instance, viz., that so far back as 1874 it was reported that the Zemindári had obliterated certain original marks "Panamole"

Department and the Civil Courts. There been similarly acted upon in the present but ever having seen the locality, the Judge account which he cannot but admit as being after personal inspection and measurement.

in the memoir of Ward and Connor, viz., as per Ayacut account of Fasli 1203, corresponding of the space enclosed by dotted lines as map, calculated according to the scale given

at foot thereof; and what Mr. Stokes wished to urge in respect to the area was, how could the additional space be accounted for if the boundary was to be taken down further south. Further, if the tract in dispute really belonged to the Zemindári at the time the memoir was written, the extent of hilly tracts in the Zemindári, including this portion which alone measures nearly seven square miles, would form no inconsiderable portion of it, and would be about one-fifth of the entire area of the estate as given in the memoir. Under such circumstances, I ask, would it not be preposterous to say that "the country presented a perfect flat surface," as is stated in the memoir? This single circumstance is enough to show that the Zemindári did not contain the hill tracts now adjudged to defendant.

(44 of Mr. Stokes's letter) and fabricated evidence by making holes in a different place to support her account V.

8. And now I come to the last and most important point. The whole question hinges upon which is the Varattáror, as the Judge admits, the exact position of the Varattárkaradu. Admitting the importance of this, the Judge has, however, failed to do justice to the case. As a matter of fact, the Varattárkaradu is said to extend a good deal north of the position assigned to it in Mr. O'Neil's map (J) (*vide* paragraph 14 of Mr. Stokes's report), and the Judge would have discovered it if he had only inspected the disputed locality. He could likewise have found that his inference as to the relative size of II and IV from the map was inaccurate, and that though IV was in a position to receive many feeders, it was likewise, after all, only a feeder to II, and so seen the correctness of Mr. Stokes's observation that the subject of the dispute 1835 was beyond the range of the present dispute. He gives credit to the report of Muthusami Aiyar, which the latter's immediate superior has found to be not trustworthy, and it is even more than doubtful whether he ever inspected the spot personally.

9. It is on a review of these grounds that I recommended an appeal.

10. Messrs. Stokes and Gass, who are the persons having a thorough insight into the case, being absent from the district and I having, unaided, to go through all the intricacies of the case and consult the Forest-officers and the Government Vakil, delay became unavoidable in the submission of this report.

11. The records of the case accompany as per list enclosed.

ENCLOSURES Nos. 1 to 11.—Records.

ENCLOSURE No. 12.

List of Records in the Yerasakkanayakanúr boundary dispute case (Original Suit No. 1 of 1882 of the District Court, Madura), sent to the Board of Revenue with letter, No. 339, dated 20th September 1882.

- (1) Translation of the Faisal Ayacut Account, showing the extent of wet and dry lands within four limits of Yerasakkanayakanúr Estate.
- (2) Extract from Ward's memoir descriptive of the Tenkarai Taluk of the Dindigul Province.
- (3) Judgment of the Madura Civil Judge in Original Suit No. 12 of 1866.
- (4) Do. do. do. " 13 of "
- (5) Do. do. do. " 14 of "
- (6) Decision of Mr. Gompertz, Deputy Superintendent, Revenue Survey, dated 11th February 1875.
- (7) Decision of Mr. Tomlinson, Assistant Superintendent of Revenue Survey, dated 4th March 1879.
- (8) Decision of Mr. Tomlinson, Assistant Superintendent of Revenue Survey, dated 3rd July 1879, with sketch.
- (9) Notes of Evidence in the case taken by the District Judge.
- (10) Judgment of the District Judge, dated 1st June 1882.
- (11) Decree of the District Judge with sketch map.

E. G. RICKETTS,
Treasury Deputy Collector,
for Acting Collector.

ENCLOSURE No. 13.—Memorandum containing observations of Mr. Stokes.

Resolution—dated 12th October 1882, No. 2454.

On the 17th ultimo, the Collector of Madura having telegraphed that an appeal should be filed immediately, on 10-Rupree stamp paper, against the decision of the District Court in Original Suit No. 1 of 1882, as the appeal time was about to expire, the Board instructed the Government Pleader to do this at once, and, at the same time, pointed out to the Collector that he should have reported the result of the suit in sufficient time to admit of the Board considering fully whether

were sufficient grounds for an appeal and of obtaining the orders of Government in the matter. The Collector has since forwarded a copy of the judgment to be appealed against, and has explained the grounds on which his recommendation was based, and the question for consideration is whether the appeal should be proceeded with, or the Government asked to accept the District Judge's decision, the prosecution of the appeal being dropped.

2. The suit in question was instituted by Government under the sanction conveyed in G.O., dated 27th May 1881, No. 839, against the Zemindári of Yerasakkanáyakanúr to set aside a boundary decision passed by the Revenue Survey Department in 1875, and to recover from the Zemindári about seven miles of hilly country as appertaining to the Government village of Kámayakavundapatti. The facts of the case were fully narrated by the Collector Mr. Stokes in his letter printed in Board's Proceedings, 23rd March 1881, No. 478, and as it then appeared that there were sufficient grounds for questioning the correctness of the settlement made by the Survey Department, the Board recommended that the dispute should be re-investigated and settled by the Civil Courts.

3. The District Judge, in an elaborate judgment, has closely scrutinised the available evidence, both oral and documentary, and has expressed a decided opinion that the claim of Government is untenable. He has found, on the evidence chiefly of the Forest-ranger and other witnesses on behalf of Government, that the panchayet of 1835 decided the river marked IV on the plan, to be the Varattár; that this decision was accepted and acted upon by the Collector at that time; that the southern limit of the eastern boundary of the Zemindári extends as far as the mountain B, and not merely to the point A marked on the plan; that there is no reason to distrust the copy of the boundary account produced by the Zemindári in support of her claim; that the Faal Olugu account relied upon by Government is not inconsistent with it; that the survey and map of Messrs. Ward and Connor, placing the southernmost point of the eastern boundary, is incorrect. The Judge has accordingly dismissed the claim of Government to take the boundary along the river marked II, and declared that the western boundary should run along the river IV, but that the boundary stones, instead of being placed by the Survey Department along the bank of the river, should be considered as being in the middle of the stream. The line in which the boundary should run from the southernmost point of IV to B, he has reserved for decision after a personal inspection, but suggests a line which might be taken as fair to both parties to avoid the cost of an inspection by the Judge or by a trustworthy Commissioner. He adds that the case should terminate if the Zemindári would accede to the boundary which he has suggested.

4. The Acting Collector, on the other hand, contends that the Judge has wrongly appreciated the oral and documentary evidence, that the map of Messrs. Ward and Connor and their descriptive memoir are decidedly in favor of the claim of Government, that there is no reason why they should be rejected, and that a personal inspection, by the Judge, of the disputed locality would have placed the contention of Government in a more favorable light.

5. The Board resolve to forward all the papers connected with the case to the Government Pleader, with the request that he will give his opinion as to whether the appeal on the ground suggested by the Collector has a fair chance of success, or whether it is advisable to compromise the suit in the manner suggested by the Judge in the last paragraph of the judgment.

(A true Copy and Extract.)

(Signed) E. GIBSON,
Acting Secretary.

To the Government Pleader, Madras, with 12
original enclosures, to be returned.

Copy to the Collector of Madura.

" " Secretary to Government, Rev.

READ—the following Proceedings of the Board of Revenue, dated 17th October 1882, No. 7975, Miscellaneous:—

Read—Proceedings of the Madras Government, Revenue Department, dated 25th September 1882, No. 1019.

Read—also the following letter from C. S. CROLE, Esq., Acting Collector of Madura, to the Secretary to the Board of Revenue, dated 2nd October 1882, No. 365.

I have the honor to acknowledge the receipt of the Board's Proceedings, No. 2305, dated 18th September 1882, remarking on the delay in the submission of my report on the result of the Yerasakkanáyakanúr suit.

2. I was not aware of the decision in the suit until I received the local Government Vakil's yadast on the 12th August, with copies of judgment and decree, nor was it present to my mind then that nearly half of the time allowed for appeal had expired. Shortly after this, I went up to the Palnis, and was engaged in the inspection of the forest tracts on the Lower Palnis in connection with the report called for by the Board in their Proceedings noted in the margin, my office being, as usual, left on the plains below owing to the unhealthiness of the tract in question. As the Government Vakil, however, advised me in the mean time that the District Judge's decision might be accepted as final, I at first resolved to adopt his suggestion, and even ordered the preparation of a report in that sense.

3. But a closer inspection of the papers and consultation with the Forest-officers convinced me that there were more than sufficient grounds for an appeal, and I have accordingly intimated this to the Board by a telegram, which was immediately followed by my detailed report under reference.

4. The Government Vakil was understood to say that he himself was unaware of the passing of the judgment, as, on the date of it (16th June), the Judge was on the Hills for the recess of the Court. There also appears to have been some confusion in the Court about the grant of the appeal.

5. Be this as it may, the Board will find that I could not be responsible for the delay between 16th June and 12th August in reporting the result of a case of which I had never heard.

6. The case was intricate and difficult to comprehend in its details to me, having no previous knowledge of it, and I was unwilling to submit any recommendation before I had been able thoroughly to comprehend all its bearings.

7. With reference to the latter portion of the Proceedings under reference, I have the honor to bring to the notice of the Board that I was not the Collector of Madura on the date of the Proceedings quoted, and that I never saw them.

8. I very much regret the delay that occurred in this case, and have to apologise for such share of it as I can fairly be charged with. But considering that, absent as I was from head-quarters, I had, as it turned out, only a month to get up the case, whereas I should have had, and thought I had, three, I have the honor to submit that the censure passed by the Board on receipt of my telegram should be recalled.

Resolution—dated 17th October 1882, No. 7975 Mis.

The Collector's letter will be submitted to Government.

2. Mr. Crole has explained that the delay which so unfortunately occurred is not entirely attributable to him. It is much to be regretted that the Vakil concerned neglected to obtain a copy of the judgment at an early date from the Collector.

Receipt of fuller information from the district, the Government Pleader as to the advisability of proceeding.

appeal, and Mr. Sheppard's opinion will be duly reported to Government when received.

(A true copy and Extract.)

(Signed) R. SEWELL,
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Collector of Madura.

Read—the following telegram from Secretary to the Board of Revenue, Madras, to Secretary to Government, Revenue Department, Ootacamund, dated 17th October 1882.

Vide Board's Proceedings twelfth instant, No. 2484. Government Pleader reports to-day appeal inadvisable. Necessity for inspection by Judge or acceptance of compromise, suggested in paragraph three, to be decided by local officers. If inspection is decided on, and Judge finds his map decision wrong, it can be altered on review. The Board propose not to appeal, and to leave it to Collector to say whether compromise be accepted or inspection insisted on. If Government desire to appeal, orders should reach Board early to-morrow. Regret no time for post.

Order—dated 23rd October 1882, No. 2603, Revenue.

Miscellaneous.

The Board's recommendations, contained in their telegram of the 17th instant, are accepted.

(Extract.)

(Signed) E. F. WEBSTER,
Secretary to Government.

To the Board of Revenue.
" Conservator of Forests.

READ—the following letter from H. I. SHEPHARD, Esq., Government Pleader, to the Secretary to the Board of Revenue, dated Salem, 16th October 1882:—

With reference to the Proceedings of the Board, dated 12th October 1882, No. 2484, I have the honor to state that, after such perusal of the papers as the extreme shortness of the time allowed and pressure of other work has permitted, I am of opinion that an appeal is not advisable. As far as I can see, there is no argument or consideration advanced by the Collector in support of the claim of Government which has not been fully discussed by Mr. Hutchins in his elaborate judgment. The burden of proving the facts referred to by the Collector in the eighth paragraph of his letter or any other alleged facts which may be deemed inconsistent with the decision of 1875 obviously lay on the plaintiff. If, as seems to be the case, especially with regard to the point as to area of the Zemindari on which Mr. Stokes seems to have placed great reliance, there was a deficiency of evidence as to the features of the country, that is no reason why the High Court should disturb the decision on appeal. While I am unable to find any substantial ground for impeaching Mr. Hutchins' decision and therefore cannot recommend an appeal being filed, I offer no opinion on the advisability of accepting the compromise suggested in the thirty-third paragraph of the judgment. That is a matter which the local officers are best qualified to speak.

It may be desirable to press for a local inspection such an inspection was to convince him that country he might be disposed to review.

add that if the appeal is to be carried on, the full stamp of Rs. 775 value must be forthcoming on Wednesday, the 18th instant, that being the last day of the time allowed by the Court.

RESOLUTION—dated 30th October 1882, No. 2603.

Communicated to the Collector of Madura together with copy of letter from the Government Pleader dated 16th October 1882.

2. The Proceedings in appeal should be dropped, but the Collector should report whether he considers that the compromise suggested by the District Judge in paragraph 33 of his judgment should be accepted or a personal inspection insisted on for the rectification of the southern boundary. It appears to the Board that unless it is expected that a personal inspection by the Judge will so materially alter the complexion of recorded evidence as to affect the entire decision and furnish grounds for a review, it is not worth while to incur the cost of a personal inspection which the Judge considers is likely to be heavy.

(True Copies and Extract.)

Chitra
Acting Secretary.

To the Collector of Madura.

Copy to the Secretary to Government, Revenue Department.
" " Government Pleader.

G.O. 230.66/82 N 1157

G. O. 1257.

Recorded.

7/11

30.11.82

To: The Board of Revenue
Dis: 12-12-82.

Reve: 1882. Dept.
Board of Revenue,
MADRAS.

N^o. 6413.

Printed, November th.

Recd. 8th Novr:

Proceedings, 30th October 1882, No. 2608.

Sept 7/11/82

Printed in view of S. C. in relation
Govt Pleader's letter to the Board
in full 20/11

For Mr. W. M. M. M.

Communicated to the Collector of Madras Pleader and boundary and for

the Collector Government regarding the village

20TH NOVEMBER 1882, 1257, REVENUE.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

Read—the following Proceedings of the Board of Revenue, dated 30th October 1882, No. 2608:—

Read—the following G.O., dated 23rd October 1882, No. 1157, Revenue:—

ABSTRACT.—Board's recommendations relative to the proposed appeal to the High Court against decision of District Court of Madras in Original Suit No. 1 of 1882 relating to a boundary dispute, accepted.

Read—the following letter from H. H. SHEPARD, Esq., Government Pleader, to the Secretary to the Board of Revenue, dated Salem, 16th October 1882:—

With reference to the Proceedings of the Board, dated 12th October 1882, No. 2484, I have the honor to state that, after such perusal of the papers as the extreme shortness of the time allowed and pressure of other work has permitted, I am of opinion that an appeal is not advisable. As far as I can see there is no argument or consideration advanced by the Collector in support of the claim of Government which has not been fully discussed by Mr. Hutchins in his elaborate judgment. The burden of proving the facts referred to in the Collector in the eighth paragraph of his letter, or any other alleged facts which may be deemed inconsistent with the decision of 1875, obviously lay on the plaintiff. If, as seems to be the case, especially with regard to the point as to area of the land on which Mr. Stokes seems to have placed great reliance, there was a deficiency of evidence as to the features of the country, that is no reason why the High Court should disturb the decision on appeal. While I am unable to find any substantial ground for impugning Mr. Hutchins' decision, and therefore cannot recommend an appeal being filed, I offer no opinion on the advisability of accepting the compromise suggested in the thirty-third paragraph of the judgment. That is a question on which the local officers are best qualified to speak.

2. It may be desirable to press for a local inspection by Mr. Hutchins; for, if the result of such an inspection was to convince him that he was mistaken about the features of the country, he might be disposed to review his decision. I have only to add that, if the appeal is to be carried on, the full stamp of Rs. 775 value must be forthcoming on Wednesday, the 18th instant, that being the last day of the time allowed by the Court.

Resolution—dated 30th October 1882, No. 2608.

Communicated to the Collector of Madras, together with copy of letter from the Government Pleader, dated 16th October 1882.

2. The Proceedings in appeal should be dropped, but the Collector should report whether he considers that the compromise suggested by the District Judge in paragraph 33 of his judgment should be accepted or a personal inspection in

2

20TH NOVEMBER

for the rectification of the south
it is expected that a personal
complexion of recorded evidence
for a review, it is not worth whi
the Judge considers is likely to

(T

ORDER—dated 20th November

Miscellaneous.

To the Board of Revenue.

Exd. J. W. Fischer.

No. 1287, REVENUE.

ary. It appears to the Board that, unless
by the Judge will so materially alter the
t the entire decision and furnish grounds
the cost of a personal inspection which

and Extract.)

(Signed) E. GIBSON,
Acting Secretary.

1287, Revenue.

Recorded.

Extract.)

(Signed) E. F. WEBSTER,
Secretary to Government.

Original.

Govt. of 1882 Madras.
REVENUE.

Issued

Recd.

Encl.

G.O., 20th November 1882, No. 1287.

NOVEMBER.

Boundary Dispute

between a Government Village and Yersakkanai-
knur Zemindari, Madura.— Board's Proceedings
on Government Order regarding the —, recorded.