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MADRAS RECORD OFFICE.

Government of Madras.

Revenue
Public **DEPARTMENT.**

G.O. No.	~~679~~ 5818	~~Press~~ Mis.
Dated	27-12-1884 ~~5-8-1891.~~	

Not to be folded or roughly handled

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5-4-44

PROCEEDINGS OF THE BOARD OF REVENUE.

READ—the following letter from H. J. STOKES, Esq., Acting Collector of Coimbatore, to the Secretary to the Board of Revenue, dated 31st October 1884, Reference on No. 1885-Bd. :—

With reference to Board's Proceedings, No. 1512, dated 14th October 1880, I have the honor to draw the attention of the Board of Revenue to the decision of the Madras High Court in Appasami *versus* Ramasubba printed I. L. R., VII, Madras, 262, which seems to overrule the conclusion arrived at by the Board in the above Proceedings.

RESOLUTION—dated 2nd December 1884, No. 4134.

In this letter Mr. H. J. Stokes, the Acting Collector of Coimbatore, calls attention to two decisions of the High Court.

2. The first decision was on Regular Appeal No. 131 of 1872 against the decree of the Civil Court of Salem in Original Suit No. 2 of 1872. It appears that in Salem District the quit-rent on certain inams, situated within mittahs, was assigned to the Mittahdars for collection on the terms that 90 per cent. was to be paid to Government. A Mittahdar appears to have filed a suit before the District Court against certain Inamdars in his mittah for arrears of quit-rent, and the District Judge seems to have dismissed the suit. The plaintiff then appealed to the High Court and the appeal came before a full Bench, whose decision is reported at VII, Madras High Court Reports, 312. The Court held that if puttahs and muchilkas have not been exchanged, the landholders mentioned in Section 3 of Act VIII of 1865 (among whom farmers of revenue from Government are included) cannot sue for rent in a Civil Court, but that the landholders mentioned in Section 13 can. The appeal then went before a Division Bench of two Judges, who, on 25th March 1874, took the case out of the Full Bench ruling by deciding that in the circumstances, the Mittahdar was not a farmer of the revenue under Section 3 of Act VIII of 1865, and therefore could sue in the Civil Courts. The decree was, therefore, reversed, and the suit was remanded for a finding on the issue as to the amount due by the defendants.

3. Subsequently, in Summary Suit (No. 66 of 1878) before the Assistant Collector of Salem, a Mittahdar sued an Inamdar to accept a puttah. The suit came on as Appeal No. 31 of 1880 before the District Court of Salem, and the Judge, following the decision of the Division Bench of the High Court in the case last quoted above, decided that the Inamdar was not a tenant of the Mittahdar. The Board, thereupon, issued to all Collectors their Proceedings, No. 1512, dated 14th October 1880.

4. The later decision of the High Court is reported in VII, Indian Law Reports, Madras Series, page 262. In this case an Inamdar held his inam directly by title-deed from the Inam Commissioner, but subject to an annual payment to another Inamdar. The High Court have decided that he is the tenant of the other Inamdar.

5. The Board are unable to reconcile these two decisions, but they have no power to give any authoritative instructions in the matter and they see no necessity to modify their Proceedings, No. 1512, dated 14th October 1880. Under Act VIII of 1865, Collectors act judicially, and, in deciding suits under that Act, are bound to follow the decisions of the District Courts and High Court, and they are not bound by any instructions which the Board may issue.

(A true Copy and Extract.) Groom Mackenzie

To all Collectors.

Copy to the Secretary to Government, Revenue Department.

Exd. A. Raitt.

Board's Proc. of 14-10-80 No 1512

Revenue Department

No 8619

REVENUE DEPARTMENT.

1884.

Board of Revenue,

MADRAS.

Mrs. Gaffe & Mr. Wolfe

Recorded.

24-12-84.

Mr. Ramis
24/12

To the Board of Revenue 8.1.85
Copy to the Committee Counsel
Mr Lindsay Bell — Rec'd 12.1.85

Printed December th.

Proceedings, 2nd Dec. 1884, No. 4134.

Rec'd 11/12/84

Stating that Board see no necessity to modify their Proceedings, dated 14th October 1880, No. 1512, communicating to all Collectors, with instructions, letter from Government Pleader regarding the right of Zemindars to proceed under Madras Act VIII of 1865 for recovery of *quit-rent* or *land-cess* on inam lands situated in zemindaris.

20-12-84
22-12-84

With enclosure