

(1) Number of pages 12
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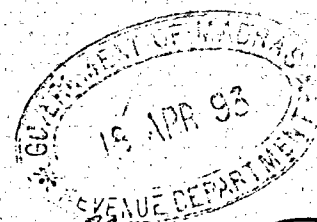
Revenue

DEPARTMENT

G.O. No. <u>1704</u>	~~Press~~
B.P. No. _____	Mis.
Dated <u>8th May</u>	<u>195</u> <u>1893</u>

Not to be folded or roughly handled

To



His Excellency
The Governor in Council
Fort St George
Madras.

The humble petition of Santhiave Fernandez son of
Vasthia Fernandez Puttadar No 65 in the village of
Arampannai Tenkaran Taluq, Tinnevely District.

Most respectfully sheweth,

1. That the special appellant has been ordered by
endorsement No 422 R dated 16th February 1893 to
produce the Proceedings of the Sub Collector of Tinnevely
2. That he had been for merchandise to foreign
districts.
3. That the appellant came to his native place
on the 25th March 1893 and applied for a copy of the
Proceedings of the Sub Collector of Tinnevely, and also
and also a copy of the duplicate petition submitted by S. Pakir Mahomed
4. The Sub Collector has stated in his Pro-
ceedings that some money was spent some money for the

2
cultivation of the land in dispute and afterwards
mortgaged the said land to S. Pakiri Mahomed Lebbai
and 3 others and that they were the original durkashdar.
The said land was not at all mortgaged neither by the
appellant nor his father. In that case they would
have produced the mortgage deed. Further the
appellant has paid water rate till July 1301.

5. That the appellant gave a durkash
petition to the Tahsildar of Tenkarai on 3.3.91 for the
land in dispute which shows that he is the original
durkashdar.

Your august Excellency is therefore most
respectfully entreated to peruse the record submitted
herewith and mercifully reverse the Proceedings of the
Board of Revenue and render justice.

For which act of charity and mercy
your Excellency's most humble appellant as in duty
bound shall ever pray. & *For 7 of 427/2*

11th April 1893.

Enclosures.

1. Proceedings of the Sub Collector of Trinaculi
2. Durkash petition given by appellant to the Tahsildar
of Tenkarai on 3.3.91.
3. Do. given by Pakiri Mahomed Lebbai and 3

4
Read again for. No. 422 R
16-2-93
also No. 3013 of 93

From

P. Periandez, Tirunelveli ST

Dated

11 April 1893.

FOR ORDERS.

Enc. No. 2 to C. No. 870/93
(for. No. 422 R)
16-1-93

Please see B. P. No. 5720, appeal-
ed against, which contains
a brief statement of the case.
It will be seen that in that
progs., the Board of Revenue
reversed an order of the Collector
of Tirunelveli directing the grant
on ~~at least~~ of a piece of land
to the petitioner (an adjoining
proprietor) and restored that
of the Sub. Collr. granting the
same land to one Pakkiri
whomed and 3 others (others
adjoining proprietors) on the
ground that their application
was the prior one and that
as they were then in actual
possession of the land (as mort-
gages from the petitioner) it
would be unjust to vest them.
The petitioner, in para 6 of his
appeal petition to Govt. denies

both the mortgage and the possession.

From the Colbr's letter (under wrapper) it would appear that some 10 years ago, the petitioner's father, who held a putta for S. No 129A (11 cents), by mistake entered upon ^(the Durkhast land) S. No 131G (also 11 cents) instead and, after clearing and rendering it fit for "wet" cultivation, was paying water rate on it as if it was his putta field No 129A.

But in Rashi 1300, the Rev. Inspect, who had an occasion to measure the land, discovered the mistake and brought the cultivation to "Sivogjama" account in the name of the petitioner's father. Field No. 1 is stated to lie immediately east of S. No 131G, the land now darkhasted for.

For orders as to whether under the above circumstances the Board's order should be upheld and the petitioner be made to give up the land?

(for orders)

C No 3013

Petition from S. Hernandez,
Timnevelly St.
praying for the grant on darkhast
of a piece of land.

(1893.)

REVENUE DEPARTMENT.

ABSTRACT.

Current Number. 3013

From
Santhianna Fernandez
Son of Vastina Fernandez
Pottadar No 65
Arampammal Village
Tunkharai Dy
Linnivelly Dist.

Dated 11. April

Received 18.4

Enclosures 3

No.

SUBJECT.

Submitting certain documents called for.

The Petitioner having cultivated the darkhast land for many years past is clearly entitled to be considered as "first darkhast dar" under para 6 of Board's S. O. No 30. He denies the alleged mortgage (but denial is probably false) however - ~~grants~~ ^{he} it is entrusted that the Revenue Authorities should not, in any case, have concerned themselves about the mortgage, but should have decided the case according to the Darkhast Rules, & left the mortgagees to redress their grievances, if any, in a Civil Court.

The Petitioner clearly ought to have had the land a "first darkhast dar" & adjacent landholder.

I am desirous of your Lordship's notice a rule that the petitioner is an interfeer in Darkhast Cases tried to the Court civil & it is perhaps undesirable that the Court should interfere in the present case in this manner. I do not know how the fact that the respondents are in actual possession under a mortgage from the respondents and are reported by petitioners if it is true, & he is in possession of the land & therefore their claim, & that can they deny their mortgage title from petitioners. He denies the mortgage. All

C. No 3013

Darkness appeal
from S. Fernandez
Luisenly St.

Rev. Dept:

Recd. C-3013 / 53

Order No 1704 of 21 May 1893

The Court is unable to
uphold the Board's order
^{in this case}
~~against the petitioner's appeal~~
Mr. Ochimier has admitted by
him cultivating the Darkhast
land for several years past
and is ^{therefore} entitled to
be ~~be~~ considered the first applicant
under para 6 of Board's
Standing Order No 30. The
fact too that he reclaimed
the land at his own expense
& rendered it fit for cultivation
gives him an additional claim
to a patta for the same.
The Respondents to whom the
Board has assigned the
land are alleged to be in
possession of the same under
a mortgage from the petitioner
but no document has been
produced in support of the
mortgage & the pet. denies
that any exists. The facts
of the mortgage & the possession
however

12-10-93

24.3.08 ✓
13.11.06 ✓

strengthen the respondents' claim
as they derive their title, in
that case, only from the petitioners
the mere existence of a mortgage
~~the mere existence of a mortgage~~
is
no good reason for
setting aside the Darkest rules
to the prejudice of the
who, as the
first applicant
and an adjacent landholder
has a clearly superior title

2. The Board's order
assigning the land in dispute to the Respondent
will be set aside, ~~for the~~
~~Board will be requested to~~
Board will be requested to
instruct the Collector to
for the same
issue a pattah in the name
of the petitioner ~~for the same~~
as directed

3. The petitioner will
be referred to the Collector
of Dummell for orders on
his petition

5816/92
F.C.W. 8243/93
F. 80. 243 of 3-11-93



Draft Order

on Darkest appeal
from S. Fernandez.
Dummell Dt.

Secy

~~the~~

(from orders)

Recd

Ch 6.5.53

Shay

The Commr of Land Rev.

para 3 to pet. mtr 6 & mtr

Des 15-5