

Revenue Department

Minutes of Consultations

2nd Oct 1858

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Order No 13317 1st Oct 1858

2nd Oct 1858

Fort Saint George, Revenue Consultation of 2d February 1858.

No. 44. Read the following Extract from the Proceedings of the Board of Revenue ; dated 21st January 1858, No. 286.

Read letter dated 8th January 1858,* from the Collector of Coimbatore, forwarding a decree and other documents connected with appeal suit No. 58 of 1857.

(Here enter No. 8.)

Resolved that the foregoing letter and the papers † From Collector 24th September in which accompanied it, together with the correspondence Consultation 20th October 1857. noted in the margin,† be submitted for the consideration Bd's. Pro. 20th do. „ and orders of the Right Honorable the Governor in Council.

2. The history of this case is given in enclosure No. 1 of the Collector's letter recorded at the head of these Proceedings.

3. The original suit was brought to recover a spot of land which appellant alleges is his ancestral property ; the Collector pleads that this land was given for public purposes ; viz. the construction of a Roman Catholic Church ; and that as appellant had sold a part of it, the then Collector had properly directed him to refund to Government the sale proceeds, and to give up the remainder of the land.

4. The Collector has already filed his draft answer and the Board recommend that he may be allowed to conduct the defence at the public cost.

5. The Board doubt whether Mr. Thomas is correct in claiming exemption under Act XVIII. of 1850, from the consequences of his predecessor's proceedings but it will be for the Court to decide how far the plea holds good.

(A true Extract.)

(Signed) J. D. SIM, Acting Secretary.

No. 45. ORDER THEREON, No. 133 ; dated 1st February 1858.

With their Proceedings above recorded, the Board of Revenue recommend that the Collector of Coimbatore may be authorized to conduct the defence in appeal suit No. 58 of 1857 on the file of the Civil Court of that District, at the public cost.

2. The Government learn from the papers before them that the Collector was no party to the original suit, and they find from the Principal Sudder Amcen's Decree that he refused to admit the Collector as a Defendant, though he was directed to do so under orders from the Court of Sudder Udahut. The Civil Court's proceeding in filing an appeal Petition including a Respondent not a party to the Original Decree, is the Government believe not in accordance with the practice of the Courts. Under these circumstances, the Government cannot withhold their sanction to the Collector's defending the appeal suit at the public cost in the first instance on the ground that similar authority was not obtained for the defence of the original suit ; when a copy of the appeal Decree is submitted, the Government will decide whether the costs, if any be adjudged against the Collector, shall be borne by that officer or by the Government.

3. The Government must also remark that Mr. Thomas should have filed no answer and should have stated as an objection to appearing that he had not been heard in the original suit.

(Signed) H. FORBES,

Acting Secretary to Government.

செப்பெருபவர் பெயர்
செப்பெருவாற்காக எடுத்துக்
கொள்ளப்பட்ட நாள் 08/08
செப்பெரு முடித்த நாள் 09/08
சாபாராக்கும ஆராய்ச்சி உதவி
மு. நி. பா. எ. யாரார்
கையொப்பம்

1286 (187)
Extract from the Proceedings of the Board
of Revenue, dated 21st January 1858.

Read letter dated 8th January 1858
from the Collector of Coimbatore, forwarding
a decree and other documents connected with
Appeal No. 58 of 1857.

(Enclosure No. 8)

Resolved that the foregoing
letter and the papers which accompanied it,
together with the correspondence noted in
the Margin, be submitted for the consideration
and orders of the Right Honourable the Governor
in Council.

From Collector 25th Dec 57
and from 26th Dec 57
1857 (No. 20) - 2nd - 1857

2. The history of this case is given
in Enclosure No. 1 of the Collector's letter re-
corded at the head of these Proceedings.

3. The original suit was brought
to recover a spot of land which a plaintiff
alleges is his ancestral property, the Col-
lector pleads that this land was given
for public purposes, viz. the construction
of a Roman Catholic Church, and that

as Appellant had sold a part of it, the then
Collector had properly directed him to refund
to Government the sale proceeds, and to give
up the remainder of the land.

4. The Collector has already filed
his draft answer and the Board recommend
that he may be allowed to conduct the defense
at the public cost.

5. The Board doubt whether Mr.
Thomas is correct in claiming exemption
under Act ~~XVII~~ of 1850, from the consequences
of his predecessors' proceedings but it will be
for the best to decide here for the plea holds
good.

(True Extract)

J. L. Jones

Secretary

S.

A. Forbes Esq.

Secretary to Government

Revenue Department.

Extract from the Proceedings of the Board of
Warren, dated 20th October 1834.

Read Letter from the Collector of
Comblaine dated 26th September 1834 reporting
the institution of an appeal writ in the
Civil Court of Comblaine (N^o 58 of 1834) in
which he has been made a respondent,
and submitting for approval draft of
an Answer which he proposes to file.
(Here Rule N^o 156.)

The Board regret to observe
that Pleasings in this case have not
been sent up in a complete form.
The decision of the Principal Judge there
and the Appeal Petition are wanting,
but from the documents submitted
the Board learn that a piece of land
was given to Appellants' Father for the
construction of a Roman Catholic Church,
but instead of its being appropriated for
the intended purpose, Appellant sold a
portion of it to a third party and kept the

Read 1834
20th Oct 1834

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Extract from the Board
of Warren

Dated 21st
Nov 22nd January 1835

11th Nov
1834

1834

1834

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1834

1834

228
1834

the remainder unoccupied.

2. The circumstance seems to have come to the notice of Mr. Underwood whilst Acting Collector and that gentleman ordered the value of the public ground recently sold to be recovered, and the remaining portion of the land to be resumed. The money has however not yet been realized.

3. The appellant appears then to have instituted a suit in the Magistrate's Court with the view of obtaining a reversal of Mr. Underwood's decision. What further legal proceedings occurred is not apparent, beyond the fact that the Principal Sudder Ameen afterwards started the case against the Appellant, which led to his preparing an appeal in the Civil Court.

4. The Board cannot trace the Original Suit on their records and do not know whether Government sanctioned its defence at the Public cost, or whether the Collector issued a Deposition

in it. It is impossible for them therefore without further information to lay the case before Government. The only course open to the Collector (if the additional time which the Board sanction has been granted in extension of the period since 1834 mentioned in the Court's notice will not admit of his giving full details before putting in his answer) is to file the Draft submitted and then without delay place the Board in a position to apply for the sanction of Government.

(Blue Extract)

(Signed) J. D. Lee

Acting Secretary

To, E. B. Thomas Esq.

Collector of Circars

At the Office

J. D. Lee

Acting Secretary

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Extract from the Minutes of Consultation
under date the 1st of January 1858.

Read the following Ex.
from the Progs. of the Board
of Revenue.

(Minutes 21st Jan'y /58. P. 286)

With their Pre-
ceedings above recorded the
Board of Revenue recommend
that the Collector of Ben-
gale may be authorized
to conduct the defence and
appeal suit Nos of 1857
on the file of the Civil Court
of that District at the pub-
lic cost.

2 The Govt. learn from
the papers before them
that the Collector was no
party to the original suit
and

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K
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Indu

By the Hon. Secy. to the Govt.
of Bengal dated 27th January
1858. P. 286

Handwritten initials:
P. 286

of Revenue Proceedings &
the Minutes of Consultation
dated 21st January 1858.
Regarding the appeal
suit No. 1857 on the
Civil Court of Ben-
gale.

and they find from the
Principal Sudder Amers
Decree that he refused to
~~admit~~ the collector as a
Respondent though he was
directed to do so ^{under} ~~by~~
~~the~~ orders ^{from} of the Court
of Sudder Udalet. The
Civil Courts proceeding
in filing an appeal re-
tention ~~with~~ ~~in~~ ~~including~~ a
~~Respondent~~ ^{a party}
~~which~~ not ~~to be~~ ~~from~~
to the Original Decree
~~as~~ ~~from~~ ~~not~~ in accord-
ance with the practice
of the Courts. Under these
circumstances the Court
cannot withhold their
sanction to ~~from~~ the
Collector's ~~defending~~ the
appeal just at the public
out in the first instance
on

on the ground that si-
-milar authority ~~was~~ ^{was} ~~was~~
~~has~~ obtained for the
defence of the Original
suit. When a copy of the
appeal Decree is submitted
the Court will decide whether
the costs, if any be ad-
-judged against the Col-
lector, shall be borne
by that Officer or by the
Government

3 The Government
must also remark that
Mr Thomas should
have filed an answer
~~and~~ ~~but~~ ~~and~~ ~~should~~ ~~have~~ in his answer
have stated an ac-
cession to appearing
that he had not been
heard in the original
suit which appears to have
been already filed with
the permission of the
Board, solicited the
Court to exclude him
from the appeal on the
ground that he ~~was~~ ^{was} not
heard in the original

Report to the Agent, 18th July 1871

W.D.

