Revenue Department

Minutes of Consultations

14th September 1858

Book No 19 and 20

Order No 1228 of 9th September 58

No. 19. Read the following Extract from the Proceedings of the Board of Revenue, dated 1st September 1858, No. 3321.

*In Cons.* 1*st Sept.* 1858.

Read the following letter from the Acting Collector of Tinnevelly, dated 11th August 1858, submitting translation of the Plaint and Draft of the proposed Answer in Original Suit No. 16 of 1857, on the file of the Principal Sudder Ameen of Tinnevelly, in which Mr. Silver, the Collector, is included as a defendant.

(Here enter No. 273.)

Ordered that the foregoing letters be submitted for the consideration and orders of the Right Honorable the Governor in Council.

2. The Suit in question is preferred against the Collector, and six native revenue officers, together with 122 others being ryots and cavilgars, &c.

3. It does not clearly set forth its objects, but the Board gather that they are as follows:—

1st. To obtain exemption from taxation on certain Palmyrah trees growing on arable land paying teerwa, pursuant to the resolution contained in the Board's Proceedings of the 29th October 1855.

2nd. To procure recovery of 15 Rupees, the value of certain jewels and other articles sold at auction by the 3rd Defendant, the Tahsildar of Vullore, under the orders of the 1st and 2nd Defendants.

3rd. A prohibition by the Court, of the Collection from Plaintiff of Swamybogum and Chatoorbagum on account of certain lands.

4th. An order that the Puttah for the said lands, which are now being issued in the names of certain of the defendants, shall be hereafter granted to the Plaintiff with the Puttahs for the Palmyrah trees.

4. The Answer proposed by Mr. Mayne does not in the Board's opinion meet these several claims in a satisfactory manner, and the letter forwarding it, is deficient in the information requisite to enable the Board thoroughly to understand the merits of the case, and what Pleas it is proper to set forth in the Answer. A number of cutcherry papers, and a correspondence between Mr. Silver and the Civil Court are submitted, bnt their relevancy to the several Pleas of the Plaintiff is not fully explained in Mr. Mayne's letter, and is not evident on perusal. It is highly objectionable, that, a local Officer to avoid the trouble and thought required, to give a clear statement of a case in his letter to the Board, should refer them loosely to a voluminous correspondence with his native subordinates.

5. The Board are left in uncertainty by the papers before them, whether the articles alluded to in the second item of the plaint were sold for an arrear due to Government, or on the distraint of some of the other defendants, for arrears due to them by the Plaintiff. They infer the latter to be the case, as in the 4th para. of the plaint, the property is said to have been zufted by the 3rd Defendant, *at the instance* of Defendants 47 to 52, &c. and they in consequence conclude that the sale was ordered by the Collector, under the authority vested in him by Regulation V of 1822. In an amended Answer therefore, which they will submit to Government with these Proceedings, they have framed a plea according to this view. It is observed, however, that in para. 6 of the letter now recorded, Mr. Mayne states that property was sold to realize arrears of revenue, but what arrears is not mentioned.

*Enc. A.*

6. The Board presume from Mr. Silver's order to the Tahsildar, No. 246, and the observations contained in para. 8 of Mr. Mayne's letter, that the claim of certain of the Defendants to Swamybogum and Chatoorbagum from the Plaintiff, was enforced by distraint of his property by those Defendants, and its sale by order of the Collector. If this be the case, the sale may be the same as that adverted to in the preceding para, and will be justified by the Answer put in to the Plaintiff's 2nd Plea:—but, the Plaintiff also solicits the Court to issue an Injunction against the demand from him, of Swamybogum and Chatoorbagum for the future. This claim does not appear to be met by Mr. Mayne's proposed Answer, wherein Chatoorbagum is no where mentioned. The Board propose to plead that for exemption from Swamybogum, the Plaintiff can only sue

the persons who claim it from him, not the Collector ; and that Chatoorbagum being a remission of the public Revenue, any question regarding it is beyond the jurisdiction of the Court.

7. The last claim of the Plaintiff, is, as already stated, that the *Puttahs* for certain lands now issued in the name of certain of the Defendants, should be issued to Plaintiff together with the Puttahs for the Palmyra trees. In Mr. Mayne's letter para 2, it is stated that the Puttah was retained in consequence of his (Plaintiff's) refusal to receive it ; and, in *his* proposed Answer it is pleaded that the withholding of a Puttah is one of certain questions to be summarily disposed of by the Collector, to enable him to complete the settlement of the land Revenue. These modes of dealing with this point are very unsatisfactory. The Plaintiffs do not advert to any Puttahs which are withheld, but to Puttahs which are being issued to certain Defendants, and which appear to have been so issued during a long course of years. The Board do not agree with the Acting Collector, in denying that the Courts are competent to determine, to whom Puttahs shall be given. The proper Plea in answer to this part of the Plaint appears to them to be, that it was not necessary to sue the Collector, in order to obtain Puttahs which would be given, as a matter of course, to which ever party in a suit the Court might direct.

8. It only remains to remark, that the Board see no necessity for the Collector answering for any one but himself, and his subordinates. The Defendants No. 47, and others mentioned at the head of his Draft Answer can be left to defend themselves.

9. In case the amended Answer submitted with these Proceedings should be approved of by Government, and yet be found by Mr. Mayne to be based on wrong conclusions as to the facts of the case, it will be necessary that he should make the requisite alterations on his own responsibility.

(A true Extract.)

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

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ENCLOSURE A.

Draft of an Answer proposed by the Board of Revenue, to be filed in O. S. No. 16, before the Principal Sudder Ameen of Tinnevelly, on behalf of the Collector.

2. The plaint does not clearly set forth the objects it seeks to attain, but the Defendant concludes that they are as hereunder stated :—

1st. To obtain exemption from taxation on certain Palmyrah trees growing on arable land, pursuant to certain Rules laid down in an order issued by the Board of Revenue. To this Defendant pleads that to decide what remissions of taxation shall be granted, rests with the Revenue Authorities and Government only, and is not within the jurisdiction of the Court.

2nd. To procure recovery of 15 Rupees, the value of certain property sold at auction by the 3rd Defendant, at the instance of the Defendants 47 to 52, 63 to 84, 89 to 129. In answer to this claim the 1st Defendant pleads, that the order given by him for the sale in question, was passed in virtue of the authority vested in him by Regulation V. of 1822, and that if the Plaintiff felt aggrieved by that order, he should have preferred an Appeal to the Civil Court, within one month, as pointed out by that Regulation.

3rd. To obtain an Injunction from the Court against the levy from him of Swamybogum and the amount of a Chatoorbagum remission on account of certain lands. To this the 1st Defendant pleads, that it is not necessary to sue the Collector for an exemption from Swamybogum which is a matter which only concerns the Plaintiff and other Defendants who claim it from him. And Chatoorbagum is a remission on the Public Revenue, concerning which the Courts have no jurisdiction, and Plaintiff should seek redress from the Superior Revenue Authorities or the Government.

3. In regard to the Puttahs claimed by the Plaintiff in his 4th plea, the 1st Defendant submits to the Court, that, in order to obtain them it was not nece ssary to include him as a Defendant ; as they will, as a matter of course, be issued to whomsoever the Court may decree in a Suit between the parties respectively claiming them.

4. The Defendants 2 to 5 acted under the orders of the 1st Defendant, and will not put in a separate answer.



5. In conclusion, the 1st Defendant begs that the Court will, in consideration of the above pleas, dismiss the Suit with costs.

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

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No. 20. ORDER THEREON, No. 1228 ; dated 9th September 1858.

1. In these Proceedings, the Board of Revenue submit for the approval of Government a proposed answer in a suit which has been filed in the Principal Sudder Ameen's Court in Tinnevelly, against the Collector and six Native Revenue officers, &c.

2. The plaint, as the Board remark, does not clearly set forth its objects ; and most of the points in the reply suggested by that authority, are based upon conjectures as to the real state of the case ; partly on account of the above mentioned cause, but partly owing to the very unsatisfactory way in which the case has been sent up by the Acting Collector on which the Board have justly animadverted in the end of para. 4 of their proceedings.

3. The Government are of opinion that as the plaint is " defective in precision," exception should be taken to it on this score (vide rules for Civil Procedure para. I.; C. O. S. U. page 219) and no further answer put in. The Board will instruct the Acting Collector to file an answer accordingly ; and will inform Government of the result in due course.

4. But had the Government considered it advisable to file an answer entering into the merits of the case, as proposed by the Board, they would have felt it to be unsatisfactory in the extreme, to have to pass orders on a question regarding which the information is so imperfect and uncertain as in the present case.

5. The delay on the part of the Acting Collector to report upon this case so as to procure the approval of the Government to the proposed answer within the time allowed by the Court for filing it, should have been explained.

(Signed) T. PYCROFT,
*Chief Secretary.*

ENCLOSURE A.

Draft of an Answer proposed by the Board of Revenue to be filed in O. S. No. 16 before the Principal Sudder Ameen of Tinnevelly, on behalf of the Collector.

2. The plaint does not clearly set forth the objects it seeks to attain, but the Defendant concludes that they are as hereunder stated :—

1st. To obtain exemption from taxation on certain Palmyrah trees growing on arable land pursuant to certain Rules laid down in an order issued by the Board of Revenue. To this Defendant pleads that to decide what remissions of taxation shall be granted rests with the Revenue Authorities and Government only, and is not within the jurisdiction of the Court.

2nd. To procure recovery of 15 Rupees the value of certain property sold at auction by the 3d Defendant at the instance of the Defendants 47 to 52, 63 to 84, 89 to 129. In answer to this claim the 1st Defendant pleads that the order given by him for the sale in question was passed in virtue of the authority vested in him by Regulation V of 1822, and that if the Plaintiff felt aggrieved by that order he should have preferred an Appeal to the Civil Court within one month as pointed out by that Regulation.

3rd. To obtain an injunction from the Court against the levy from him of Swamybogum and the amount of a Chatoorbagum remission on account of certain lands. To this the 1st Defendant pleads that it is not necessary to sue the Collector for an exemption from Swamybogum which is a matter which only concerns the Plaintiff and other Defendants who claim it from him. And Chatoorbagum is a remission on the Public Revenue concerning which the Courts have no jurisdiction, and Plaintiff should seek redress from the superior Revenue Authorities or the Government.

3. In regard to the Puttahs claimed by the Plaintiff in his 4th plea the 1st Defendant submits to the Court that, in order to obtain them, it was not necessary to include him as a Defendant, as they will, as a matter of course, be issued to whomsoever the Court may decree in a Suit between the parties respectively claiming them.

4. The Defendants 2 to 5 acted under the orders of the 1st Defendant and will not put in a separate answer.

5. In conclusion the 1st Defendant begs that the Court will, in consideration of the above pleas, dismiss the Suit with costs.

*Secretary.*

No 1228.

Extract from the Minutes of Consultation

Under date the 9th Sept. 1838.

Read the following Extract from the Proceedings of the Board of Revenue

(Sea Cable 1 Sept 1838 No 332)

1. In these Proceedings the Bd of Revenue submit for the approval of Govt a proposed Answer in a suit which has been filed in the S. S. Am. Ct. in Jan. 1838, against the Collector and six native Revenue officers

2. The plaint, as the Board remark does not clearly set forth its objects; and most of the points in the reply suggested by that authority, are based upon conjectures

Enclosure A in answer to Extract from the Proceedings of Bd of Revenue dated 9th Sept. 1838 No 1228

Dated Fort St George 11th Sept. 1838 No 332

Draft of an Answer proposed by the Bd of Rev. to be filed on behalf of the Defendants in the Court of Admiralty on behalf of the Collector

the approval of the Govt of the proposed answer within the time allowed by the Court for filing it, shd have been explained.

Wk Lyttle

Jam of opinion that the Plaintiffs objection

to communicate the answer to the satisfied with the reasoning of the Board as to the Insurance of which they appear, that the facts cannot be ascertained. But they deem it unsatisfactory in the Revenue & Law Dept to allow a Question regarding which the information is so completely and exclusively in the Defendants Case

Q. Will be filed except in the Court of Admiralty, the Defendants, the Collector and the Commander of the Ship Bengal Merchant, the Defendants in the Court of Admiralty, the Collector, Defendant in his case to be filed

as to the real state of the case; partly on account of the above-mentioned cause, but partly owing to the very unsatisfactory way in which the case has been sent up by the Ag Coll^r. on which the Bd have justly animadverted in the 2nd Para of their proceedings

2. The Govt are of opinion that as the Plaint is "defective in precision", Exception shd be taken but on this score (vid: Rules for Civil Procedure Para. I.; C.O. S.R. page 219) and no further answer put in. The Board will instruct the Ag. Coll^r to file an answer accordingly; and will inform Govt of the result in due course

3. But had the Govt considered it advisable to file an answer

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subsisting into the merits of the case, as proposed by the Board, they would have felt it to be unsatisfactory in the extreme, to have to pass orders on a question regarding which the information is so imperfect and uncertain as in the present case.

4 The delay on the part of the Ag Collector to report upon this case so as to procure the approval of the Govt to the proposed answer within the time allowed by the Court for filing it, shd have been explained.

J.H.
Sept 7.

J.P.

Dft. & Copy to Sharp Rw.
with 4 Encls. Dispy
2 Dtd Copies to Dr Vil

Revenue 1858 Dep.t.
D.o to Cons.: 14.th Sept.r.

No. 1228.

Extract Mins of Cons.
D.d 9.th Sept.r 58.

~~From~~ Bo.d 8/10 May/57 Ct.o 839
in Cons.

The Bd. of Rev.: to in-
-struct the Ag. Collector
of Tinnevelly, to file an
answer agreeably to the in-
-structions issued in O.S.
No. 16 of 1857, instituted
in the Sudr Ameen's Court
of that District, against
the Collector & 6 native
Rev.: Officers.

No. 1920