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M.R.O. 14-10,000-21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 6	Press Mis.
11-12	
Dated 3-1-	1861.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
3rd January 1861.*

No. 11. Read the following Proceedings of the Board of Revenue, dated 24th December 1860, No. 6,040 :—

Read the following letter from B. CUNLIFFE, Esq., Collector of Madras, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, dated Sydapet, 20th December 1860, No. 506.

SIR,

* Order of the Board of Revenue No. 2,182, dated 3rd May 1860.
To Board of Revenue 5th June 1860, No. 167.
Proceedings of the Board of Revenue No. 3,074, dated 4th July 1860.
To Board of Revenue 9th July 1860, No. 243.
From the Board of Revenue dated 12th July 1860, No. 3,209.
To do. do. 28th " " No. 286.
From do. do. 3rd August 1860, No. 3,562.
From do. do. 29th " " No. 3,953.

1. Adverting to the letters marginally noted,* which passed between this Office and the Board, relative to the cancelment by the late Collector, Mr. Shubrick, of the sale of the land purchased by P. Viráswami Chetti of Yerumavettipolliem in

the Ponnari Taluq, I have the honor to submit herewith translation of a Complaint, filed by him in the District Munsif's Court at Tripasúr on the 8th October 1860, in Suit No. 757 of 1860, against the Tahsildár and his Sarishtadár, the 2nd and 3rd Defendants, praying for the recovery from them of Kánis 5-12-6 purchased by him at public auction. The time fixed in the Court's notice issued to the Tahsildár under date the 25th October 1860, for hearing the case, was the 12th November, but an application for an extension of two months was allowed, and this will expire by the 11th January 1861.

2. As the public Officers sued acted under the orders of the Collector whose cancelment of the sale was approved by the Board (Proceedings 4th July 1860, No. 3,074) and by the Government under date 27th August No. 1,448, I request permission to move the Court to relieve the 2nd and the 3rd Defendants, from defending the suit and to substitute my name in their stead.

3. As from Section 120 of Act VIII of 1859 a written statement of the answer is permitted at the 1st hearing, I think that it is well to follow this course, when Government is a party to the suit as the plaint or answer being prepared under the instructions of the Board, it will bring what is intended to be urged before the Court, without depending merely upon the oral pleadings of the advocate, though the latter might enlarge upon the written statement, if he thought fit.

4. In this case the answer appears simple enough, and I beg to enclose a draft of it.

5. Combination cannot, or very rarely I think, be proved. It may be inferred, and I "presumed" its existence from the fact of the Mirásdárs being present and the offer for the land being below its value; but by the terms of the sale advertisement, the purchase is "conditional on the final order on such appeal," which was regularly made, and resulted in the cancelment of the sale, and it was competent to the Government to give such order from whatever cause arising.

6. If I am correct in this opinion there will be no need to give the reasons for the cancelment, which was grounded on the existence of a combination which was proved to the satisfaction of the Board and the Government.

7. If we enter upon that argument, however, it may be difficult to equally satisfy the Court of the fact of combination, and it may declare the sale a valid one; so that I have merely stated in the answer that the final order was one putting aside the sale.

8. I request that you will return the original Tamil papers forwarded with my letter of the 28th July 1860, No. 286.

Ordered to be submitted to Government with reference to their Proceedings, dated 27th August 1860, No. 1,448, Revenue Department, with the Board's recommendation that the

*Proceedings of the Madras Government, Revenue Department,
3rd January 1861.*

Collector be authorized to defend the suit at the public expense and to file the proposed answer, of which the Board approve.

(True Copy and Extract.)

(Signed) W. HUDLESTON, *Acting Secretary.*

No. 12.

ORDER THEREON, 3rd January 1861, No. 6.

1. The Honorable the Governor in Council grants authority for the defence at the public expense, of the Suit instituted by Pokala Viráswami Chetti of Yerumavettipolliem in the Court of the District Munsif of Tripasúr, against the Tahsildár and Sarishtadár of the Ponnari Tálúq.

Vide Enclosure.

2. The draft answer, which has been slightly modified, will be forwarded to the Collector by the Board.

(Signed) J. D. SIM,

Acting Secretary to Government.

No. 6,040.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 24th December 1860.

Read the following letter from B. CUNLIFFE, Esq., Collector of Madras, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, Fort Saint George, dated Saidapet, 20th December 1860, No. 506 :—

* Order of the Board of Revenue, No. 2,182, dated 3rd May 1860.
To Board of Revenue, 5th June 1860, No. 167.
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From the Board of Revenue, dated 12th July 1860, No. 3,209.
To do. 28th do. " 286.
From do. 3rd August " 3,562.
From do. 29th do. " 3,953.

1. Adverting to the letters marginally noted*, which passed between this Office and the Board, relative to the cancelment by the late Collector Mr. Shubrick of the sale of the land purchased by

P. Viraswami Chetti of Yerumavetti Palayam in the Ponneri Taluk, I have the honor to submit herewith translation of a Plaint filed by him in the District Munsiff's Court at Tripassore on the 8th October 1860, in Suit No. 757 of 1860, against the Tahsildar and his Sheristadar, the 2nd and 3rd Defendants, praying for the recovery from them of Kanis 5-12-6 purchased by him at public auction. The time fixed in the Court's notice issued to the Tahsildar, under date the 25th October 1860, for hearing the case, was the 12th November; but an application for an extension of two months was allowed, and this will expire by the 11th January 1861.

2. As the public Officers sued, acted under the orders of the Collector, whose cancelment of the sale was approved by the Board (Proceedings 4th July 1860, No. 3,074), and by the Government under date 27th August, No. 1,448, I request permission to move the Court to relieve the 2nd and the 3rd Defendants from defending the Suit, and to substitute my name in their stead.

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4. In this case the answer appears simple enough, and I beg to enclose a draft of it.

5. Combination cannot, or very rarely, I think, be proved. It may be inferred, and I "presumed" its existence, from the fact of the Mirasidars being present and the offer for the land being below its value; but by the terms of the sale Advertisement, the purchase is "conditional on the final order on such appeal," which was regularly made, and resulted in the cancelment of the sale, and it was competent to the Government to give such order from whatever cause arising.

6. If I am correct in this opinion, there will be no need to give the reasons for the cancelment, which was grounded on the existence of a combination which was proved to the satisfaction of the Board and the Government.

7. If we enter upon that argument, however, it may be difficult to equally satisfy the Court of the fact of combination, and it may declare the sale a valid one; so that, I have merely stated in the answer that the final order was one putting aside the sale.

8. I request that you will return the original Tamil papers forwarded with my letter of the 28th July 1860, No. 286.

ENCLOSURE No. 1.

To NARRAYANASAMI NAYADU, District Munsiff of Tripassore, Madras District, dated Saidapet, 20th December 1860.

1. The Plaint filed by Court Vakeel Srinarasimah Charriar, on behalf of Pocula Viraswami Chetti of Yerumavetti Palayam in the Nayer Taluk, son of Pocula Jangama Chetti, Kanarai

2^d Defendants' Statement

The 2^d Defendant admits the sale and purchase of the land as set forth by the Plaintiff, but the Court will observe by the sale advertisement filed herewith, that parties "deeming themselves aggrieved by the sale, shall have liberty to appeal to the Collector within thirty days from the day of sale, and the purchase shall be conditional on the final order on such appeal."

M. Viraswami Chetti appeared 4 days after the sale, and to the Collector on the 10th October 1859, after due consideration and that Officer cancelled the sale on the 15th 1859. The final order on such appeal was that of the Government in their Proceedings of 3rd August 1860 confirming the cancellation of the sale.

The 2^d Defendant prays therefore that the suit may be dismissed with costs.

Madras District Collector's Office...
Saidapet...
20th December 1860...
Signed / B. Cunliffe
Collector
(True Copy)
L. Under Secy
Acting Secretary

caste, and living by agriculture; versus Mullur Viraswami Chetti of the said Yerumavetti Palayam, son of Mullur Mutyalu Chetti, and of the same caste and livelihood—1, Perumal Nayadu, Tahsildar of Ponneri Taluk, and residing at Ponneri; 2, Ramaswami Iyer, Sheristadar of the same Taluk; 3, praying for the recovery from the Defendants of certain Malguzari Nunjah and Punjab lands, Kanis 5-12-6 situated in the said Yerumavetti Palayam, and bearing the annual assessment of Rupees 16-11-5.

1st.—The land of Yerumavetti Palayam particularised below, and belonging to the Plaintiff, was regularly attached by the 2nd and 3rd Defendants, on account of arrears of revenue due by him for Fasli 1268, viz., Rupees 14-11-5, and being put up to public auction on the 6th October 1859, was bought by the Plaintiff for Rupees 17-8-0. Out of this amount, the Plaintiff paid Rupees 2-10-0 being the deposit money, and obtained a receipt for the same on the same date, signed by the 2nd and 3rd Defendants and their Saraf. The said receipt is herewith submitted.

2^{ndly}.—When the Plaintiff brought the remainder of the purchase money within the period allowed, the 2nd Defendant refused to receive it, telling him that he wrote to the Collector and got the sale cancelled, and realised the arrears from the 1st Defendant. The endorsement given by the Collector regarding this is herein enclosed.

3^{rdly}.—While the Plaintiff bought the lands at the sale, binding himself to undergo, according to Section 19, Act XXXIX of 1858, the loss which may be sustained by a re-sale of the lands in case he fails to discharge the remaining purchase money, the Act does not authorise the 2nd Defendant, and the Collector to cancel the sale on the ground that the land is worth more, and to realise the arrears from the 1st Defendant. This cancellation is in violation of the provisions of the above Act, and the Sudder Adalat's Circular Order, dated 11th October 1827.

I, therefore, request that the Court will pass decision for the Defendant's restoring the lands in question to the Plaintiff, receiving from him (Plaintiff) the above balance of Rupees 14-14-0.

Lands claimed by the Plaintiff in Yerumavetti Palayam.

No.	Punjab lands.	Extent.
	Name.	Kanis.
50	Polgan...	0 7 12
51	River side land ...	0 15 0
52	Venkan Kollai ...	0 13 4
447	Tadam ...	0 1 0
485	Lanan ...	0 11 6
486	Do. ...	0 9 6
Total...		3 9 12

No.	Nunjah land.	Extent.
		Kanis.
381	...	0 0 4
383	...	0 2 4
384	...	0 2 4
388	...	0 1 6
389	...	0 2 12
392	...	0 3 14
393	...	0 3 14
397	...	0 1 4
398	...	0 1 4
399	...	0 1 2
401	...	0 0 12
402	...	0 8 0
439	...	0 5 0
Total Kanis...		2 2 10

Total Nunjah and Punjab lands, Kanis 5-12-6.
Assessed at Rupees..... 16-11-5.

18th October 1860.

(True Copy.)
(True translation.)
(Signed) B. CUNLIFFE,
Collector.

ENCLOSURE No. 2.

2nd Defendant's Statement.

1. The 2nd Defendant admits the sale and purchase of the land as set forth by the Plaintiff; but the Court will observe by the sale Advertisement filed herewith, that "parties deeming themselves aggrieved by the sale, shall be at liberty to appeal to the Collector within thirty days from the day of sale, and the purchase shall be conditional on the final order on such appeal."

2. M. Viraswami Chetti appealed to the Collector on the 10th October 1859, and that Officer cancelled the sale on the 15th November. The final order on such appeal was that of the Government under date 27th August 1860, confirming the cancelment of the sale.

3. The 2nd Defendant prays, therefore, that the Suit may be dismissed with costs.

(Signed) B. CUNLIFFE,
Collector.

Saidapet, 20th December 1860.

Ordered to be submitted to Government, with reference to their Proceedings, dated 27th August 1860, No. 1,448, Revenue Department, with the Board's recommendation that the Collector be authorised to defend the Suit at the public expense, and to file the proposed answer of which the Board approve.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Acting Secretary.

To J. D. Sim, Esq., Acting Secretary to Government, R. D.

Copy to B. Cunliffe, Esq., Collector of Madras, with 11 original Tamil Documents.

Ed. J. Wright.

Memo

The lands belonging to one M. Veraswami Chetty in Ponnari Taluk Madras District, were sold at auction to Pokala Veraswami Chetty, on account of certain arrears of revenue due by the former, but owing to a commutation among the Merasidars the price offered was very low; and on an appeal from the defaulter, who subsequently paid the money, the collector cancelled the sale under clause 5 of the sale advertisement which allowed an appeal being made

Dec 860 Department 6

No. 3083

Proceedings of the

Board of Revenue

Dated 21st

Dec 12th 1860

Page 313

No 6060.

Submitting a letter from the Collector of Madras reporting the institution of a suit No 757 of 1860 in the District Munsiff's Court at Trichinopoly against the late Sirdar & his heirs & assigns & recommending that the Collector be authorized to defend the suit at the public expense & to file the proposed answer of which the Board approve.

made within 30 days by parties
deeming themselves aggrieved, &
declared the sale to be conditional
on the final order on such appeal -
Under the circumstances of the case
the Board & the Government have
upheld the cancellation of the sale
by the Collector, & P. Veraswami
Chetty has therefore preferred a
suit in the Munsiff's Court,
against the Taluk authorities -

to compare the Board's
public notices & to file
the proposed answers of
which the Board approves.

Not yet ready for

Memo: regarding
a suit in the
Tripasur District
Munsiff's Court

Proceedings of the Government of Madras
Under date 3 January 1861

Read the following Proceedings of the Board of Revenue

Recommending that the Collecting
Madras be authorized to defend at
the public expense, a suit filed
in the District Munsiff's Court of
Tripasur against the Tahasildar
& Sheristadar of Ponnari Taluq, &
to file the answer proposed by Mr.
Cunliffe which the Board approve

Here enter 24 December 1860
No 6040

The Hon: the Governor in
Council grants authority for the
defence at the public expense of
the suit instituted by Pokala Vera-
sami Chetty of Yerumavethipol-
liem in the Court of the District
Munsiff of Tripasur, against
the Tahasildar & Sheristadar of
the Ponnari Taluq -

2 The draft answer, which
has been slightly modified
will be forwarded to the Collecting
by the Board.

V. Encl:

2 Copies to the Secy to Govt
with answer amended.

J. P.

Rev. Pres. 3 Jan. / 61 No 11

Public reference & to file
the proposed answer of
which the Board approve.

Defence of the suit in
District Muff Court at
Tiptur, ag^t the Ponnari
Zaharidas -

P. No. 330-331
27-8-1860

Vol 11, 412.

Revenue 1860 Sept 11th.
Pro: of Gov^t for January.

Feb.
Pro: of the Madras Gov^t
27th January/61.

Defence in a suit
filed in the District
Munsif's Court of Tiptur
against the Zaharidas
and Zaharidas of
Ponnari Taluk, revenue.