

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1255	Press
	135-141	~~Mis.~~
Dated	7 th May 1869	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
7th May 1869.*

Read the following :—

No. 139. Proceedings of the Board of Revenue, dated 22nd October 1868,
No. 7,569.

Read the following letter from the Collector of Malabar, to the Acting Secretary to
the Board of Revenue, dated Calicut, 5th October 1868, No. 285.

Collector to Board of Revenue, 6th July 1867, No. 143.
Board's Proceedings, 13th July, No. 4,411.

ADVERTING to the correspondence noted, I have the honor to forward copies of the Decree and Judgment in Appeal Suit No. 341 of 1866.

ENCLOSURE No. 1.

(COPIES.)

Decree of the Civil Court of Tellicherry.

L. S.

Original Suit No. 42 of 1863.

In the Court of the Principal Sudder Ameen of Tellicherry.

Appeal Suit No. 341 of 1866.

in the Civil Court of Tellicherry.

Present—A. W. SULLIVAN, Esq., Judge.

Appellant.

Velluvacherry Ponnandi Ahmed

Respondents.

1. Thayakandi Pariye.
2. Molien Ali Cutty.
3. Molien Ahmed.
4. Palakula Ayear Cutty Ali.
5. Ponnandi Kalandan.
6. G. A. Ballard, Esq.
7. Kavumtalakel Kuningareth Ahmed.
- 1st to 4th, by Vakeel Sheshian.
- 6th, by Government Vakeel Ramayan.

Original plaintiff appeals from the Decree of the Principal Sudder Ameen of Tellicherry,
(F. P. Pereira) dated 30th October 1861, on the following grounds :—

- I. Plaint Marupatom proved.
- II. Lower Court not justified in including sixth defendant in the suit, and in having heard him.
- III. Lower Court overlooked the fact that sixth defendant failed to adduce any records to show that the plaint properties had been the jenm properties of the Kotayam Rajah, and that they had been escheated to Government.
- IV. Sixth defendant's document, No. 11, simply decided that the land involved therein had not belonged to Chappa Mala, and it could not, therefore, affect petitioner's documents B, C, E, and F.
- V. Petitioner's documents were not open to any of the remarks made concerning them by the lower Court.
- VI. Lower Court proceeded to judgment before petitioner could produce the decree in Suit No. 54 of 1806, which gave rise to the document C, and which further proved that one

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Valluppa Oother had been the Jenmi, and passed its decree in the face of the admissions in writing of the Collector of Malabar in each year, that plaintiff's Tarwad was the Jenmi and had been in enjoyment for the last forty-three years.

VII. The oral and documentary evidence adduced by sixth defendant was irrelevant; and the several documents deposed to by the sixth defendant's first and second witnesses, and by deponents in Documents Nos. 5 and 6 were not produced.

VIII. Several records in which sixth defendant's first witness and deponent in document No. 5 had admitted plaintiff's Tarwad jenm, were not received by the lower Court when tendered.

IX. Lower Court misconstrued Document IV.

X. Plaintiff's properties came to the possession of petitioner and fifth defendant upon a division of property between them and one Packy.

XI. Petitioner not having succeeded in his application to the Huzoor to obtain some copies of records tending to show petitioner's right, he petitioned to lower Court, by Miscellaneous Petition No. 483, of 1866, to send for such records and peruse them; the lower Court passed a favorable order on that Miscellaneous petition, but failed to act up to it.

DECREE.

It is ordered that the decree of the lower Court be, and the same is hereby, confirmed, and that this appeal be dismissed with costs.

Costs.

	RS.	A.	P.
Stamp duty on institution	150	0	0
Moiety fee of appellant's Pleader... ..	124	0	0
Do. of first to fourth Respondent's Pleader	218	0	0
Fee of sixth Respondent's Pleader... ..	248	0	0
Value of Stamps filed by Appellant... ..	1	2	9
Do. do filed by first to fourth Respondents	0	8	0
Expenses incurred by Appellant	6	4	0
Rupees	778	4	0

Costs incurred in the Lower Court.

By Plaintiff or Appellant... ..	392	6	0
By first to fourth Defendants, or first to fourth Respondents	252	0	0
By sixth Defendant, or sixth Respondent	238	0	0
Rupees	882	6	0

Exhibits, etc., filed in Court.

Memorandum of appeal 1; Appellant's Vakalutnamah 1; first to fourth Respondent's Vakalutnamah 1; Copy of Original Decree 1; Reports 2; Order sent by sixth defendant to the Government Vakeel 1; bundle of Original Proceedings 1.

No process of execution will be issued to enforce this decree unless some proceeding shall have been taken to keep the same in force within three years next preceding the application for such execution.

Given under my hand and the seal of the Court this 27th day of July 1868.

(Signed) J. C. HANNYNGTON,
Acting Civil Judge.
For A. W. SULLIVAN,
Late Civil Judge.

JUDGMENT.

9. The salient point for decision in this suit was whether the plaintiff was the Jenmi of the plaintiff property, or whether it was the property escheated to Government when the Pieshu Rajah was conquered, his State confiscated.

10. The plaintiff did not appear at the final hearing.

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11. The lower Court rejected the oral eighth documentary evidence adduced by plaintiff in support of the former of these contentions.

12. The oral evidence only bears on the documents A and F, which are documents entirely subsidiary to G, a document it was essential to prove, and the plaintiff did not attempt to do so.

13. It was in evidence that plaintiff's family followed the rule of sons, and it is difficult to understand what possible object there could have been, under these circumstances, for the plaintiff's father to sell his property to his wife, plaintiff's mother.

14. Plaintiff entirely failed to show how he became possessed of the plaintiff property, and his elder brother as plaintiff in Original Suit No. 473 of 1851, and its Appeal Suit No. 261 of 1863, (Exhibit XI.) filed the exhibits in this suit B, C, E, F, and G, as A, B, C, and D, respectively, in that suit, and they were considered by the Judge who heard that appeal as unproved: plaintiff has endeavoured it is true, in the tenth ground of his appeal, to explain how it is that he appeared in the present suit, his elder brother being still alive; but I have nothing before me in the record supporting that explanation.

15. As regards the eleventh ground of the appeal, all that the lower Court engaged to do by its endorsement thereon was to consider the prayer of the petition before disposing of the suit; when passing judgment rejecting plaintiff's jenm title, it would appear that it did not consider it necessary, looking to the trivial nature of the documents as apparent from the petition, to call for them, and I think in this respect it exercised a sound discretion.

16. As regards the sixth and eighth grounds, I observe that plaintiff had ample time to produce any documents he wished, and that he failed to do so; there is nothing before me to show that any documents he tendered were rejected.

17. I proceed on the grounds stated in this Judgment to confirm the decree of the lower Court.

(Signed) J. C. HANNYNGTON,
Acting Civil Judge.

21th July 1868.

For A. W. SULLIVAN,
Late Civil Judge.

ORDERED to be recorded.

No. 140. Proceedings of the Board of Revenue, dated 26th April 1869, No. 2,813.
Read again Proceedings of the Board of Revenue, dated 22nd October 1868, No. 7,569.

Read the following letter from the Government Pleader, to the Acting Secretary to the Board of Revenue, dated Madras, 16th March 1869, No. 240.

With reference to the Board's Proceedings marginally noted, I have the honor to report that the appeal to the High Court (Special Appeal No. 553 of 1868)

Dated 21st January 1869, No. 367.
" 4th February " 775.

from the decree of the Civil Court of

Tellicherry in Appeal Suit No. 341 of 1866, regarding the Jenm of certain lands, came on for hearing yesterday before Mr. Justice Bittleston and Mr. Justice Innes, when I appeared, as instructed, on behalf of Government. The Court being of opinion that the finding of the Civil Judge upon the facts was conclusive against the plaintiff's claim, confirmed the decree of the lower Court and dismissed the appeal with costs.

2. I have this day reported this result to the Collector of Malabar,

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SUBMITTED for the information of Government.

2. There is nothing of importance in the decision and no costs have been awarded against Government.

No. 141. ORDER THEREON, 7th May 1869, No. 1,255.

Miscellaneous.

ORDERED to be recorded.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.

Exd. E. C. Shunker.

1869

REVENUE.

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THE BOARD OF REVENUE.

Dated May, 7th.

Recd.

Ind.

G. O., 7th May 1869, No. 1,255.

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*Special Appeal No. 553 of 1868, against
Collector of Madras. — Report of its dismissal by
the Judges of the High Court, recorded.*

Per- 1869. Opt.
**Board of Revenue,
MADRAS.**

7-1379

PROCEEDINGS, 26TH APRIL 1869, No. 2,813.

Dep. Secy
Received *30* Encl. ✓

APRIL
No. 2,813.

11 April 1869. Opt. Dep. Secy
Special Appeal Suit—No. 553 of 1868, on file of High Court, from decree of Civil Court of Tellicherry in Malabar District, in Appeal Suit No. 341 of 1866 regarding Jemn of certain lands.—Letter from Government Pleader, reporting dismissal of, submitted for information of Government.

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RECORDED
Heu
7 May