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M.R.O. 1—20,002—12-8-65.

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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.
~~B.P. No.~~ 1270

Press
Mis.

Dated 5-10-1874 ~~196~~.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 5th October 1874.

No. 47. Read the following Proceed gs of the Board of Revenue, dated 30th June 1874, No. 1,631 :—

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Villapuram, 14th May 1874, No. 231.

WITH reference to the Board's Proceedings, dated 31st January 1872, No. 221, I have the honor to forward herewith a copy of a decree passed by the District Judge in Appeal Suit No. 104 of 1871 (Alamelamangapuram suit), on the file of his Court, based upon a Razeenamah filed by both parties in the suit, which declares that "the appellant should receive Rs. 910 in the revenue deposit, and which he paid at the time when the disputed property was put up to sale for arrears of revenue."

2. The decree is, therefore, very much in favor of the appellant, as not only is all the money paid by him at the time of purchase to be restored to him but the respondents (Lakshmana Reddy and Subbarayer) agree to give him up half of the lands under dispute, which, as far as the decree enables one to judge, he gets for nothing at all.

3. Of the 910 Rs., 549-5-10 have been carried to the credit of Government and the balance is in deposit; and I have now the honor to request permission to pay to the decree-holder the sum of Rs. 910.

4. Immediate steps will be taken against the land to recover the arrear of Rs. 549-5-10, with interest, by attachment and sale, if necessary.

5. These are the lands with regard to dealing with the arrears on which Mr. Dique's conduct is now under the Board's notice.

6. The money now to be refund was first carried to the credit of Government in January 1868.

ENCLOSURE . 1.—Copy of Decree.

SUBMITTED for the orders of Gove ment.

2. Certain land was sold for arrears of revenue and realised Rs. 910, of which Rs. 549-5-10 were credited to Government as land-revenue and the balance held in deposit. On appeal the Collector, finding that the formalities prescribed by Act II. of 1864 had not been observed, cancelled the sale as irregular. The purchaser then brought a suit for the confirmation of the sale, but it was dismissed. He appealed to the District Court, and it is now reported that the parties have entered into a compromise, and the Court has decreed (amongst other things) that the whole of the Rs. 910, which the appellant paid when the lan was sold for arrears, should be repaid to him. Sanction is requested for payment of s. 549-5-10 of this amount, which has been credited to Government.

3. The rest is in deposit, and, wh sanction is received, the Collector will pay the Rs. 910 into Court and proceed anew against the land for the arrears.

No. 48. ORDER THEREON, 5 October 1874, No. 1,270.

Miscellaneous.

THE Board request sanction of Government to refund Rs. 549-5-10 out of Rs. 910 realised by the sale of certain lands in Alamelamangapuram village, in South Arcot, and credited to Government for arrears of revenue more than six years ago. The balance (Rs. 360-10-2) is held in deposit. This request is based on a Razeenamah-decree in Appeal Suit No. 104 of 1871 on the file of the District Court of Cuddalore.

2. The Original Suit No. 7 of 1869 in the Small Cause Court on the Principal Sadr Amin's side was against, among other defendants, the Collector Mr. Reade and Mr. Hathaway, late Sub-Collector. Mr. Garstin, the present Collector, and Mr. F. R. H. Sharp, Acting Sub-Collector, also appear to have been made supplemental defendants. The claim was for the recovery of land purchased in a sale for arrears of revenue, which Mr. Reade cancelled ten months afterwards without notice to the purchaser, although he (the purchaser) had received the certificates and possession of the lands. The circumstances connected with this suit are more fully explained in Mr. Reade's letters recorded in the Proceedings of the Board of Revenue noted in the margin.

18th March 1869, No. 1,861.
11th Sept. „ „ 6,855.

3. The suit was dismissed on account of irregularities in the sale. The Judge criticised very severely the conduct of all the Revenue-officials concerned, except Mr. Hathaway, and adjudged Mr. Reade to pay his own costs. The Judge, also, remarked that Mr. Reade had no power to cancel the sale; for Section 38 of Act II. of 1864 provides that "the sale certificate given by the Collector to the purchaser shall be conclusive evidence of the sale in all Courts." The Board sanctioned* the payment of these costs.

4. At this stage, Mr. Garstin applied to the Board for permission to transfer the sum of Rs. 549-5-10 to "Deposit Account," and thus to revive the arrear against Subbarayer, the original holder of the land. Mr. Garstin, however, intimated that the plaintiff was about to appeal against the decree of the Small Cause Court Judge, and the Board considered it premature to take any steps in the matter till the result of the appeal was known.

Board's Proceedings, dated 31st January 1872, No. 221.

5. The plaintiff did appeal, but he excluded from the Appeal Suit all the defendants in the Original Suit, except Subbarayer, the 1st defendant, and added a new man (Lutchmana Reddy) which certainly was objectionable. From this, it is evident that the parties had colluded in order to procure what is called "a Razeenamah-decree" from the Court; for, if they,—at all events the plaintiff,—intended that the appeal should be decided on its merits, the Court would, when going over the record, require the inclusion of the other defendants, and any Razeenamah would have been out of the question. The Government Pleader should have watched the conduct of the plaintiff and taken steps to have the public officers included in the appeal. The appellant (plaintiff) and the two respondents put in a Razeenamah and obtained a decree under which "the appellant should receive Rs. 910 in the revenue deposit, and which he paid at the time when the disputed property was put up to sale for arrears of revenue." As remarked by Mr. Garstin, the decree is very much in favor of the plaintiff, as, besides receiving back the entire sum of money paid by him, he is to get also half of the lands under dispute, which he gets "for nothing at all."

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* Board's Proceedings, dated 27th October 1871, No. 4,515.

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6. Before passing final orders on the subject the Government resolve to instruct the Board to consult the law-officers of Government as to the recovery of the arrears due on the land. The Government are not bound to recognise the last decree, as they are not parties to the action; but plaintiff is entitled to receive the 910 Rs., with interest, under the first suit which upheld the annulment of the sale. The interest of Government is limited to the arrear, for which the whole of the land was liable, and if they recover this they have no ground on which to dispute the Razeenamah. If the arrear is now recoverable, the Collector should proceed first against defendant and *his* portion of the land; but it may be well to give notice of the arrear and the liability of *all* the land to plaintiff. The law-officers will, however, advise the Board on the subject, but the Government would not waive their claim if it can be enforced.

(True Extract.)

Acting Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

1270/3

No. 1,861.

Proceedings of the Board of Revenue, dated 18th March 1869.

Read the following letter from C. W. READE, Esq., Collector of South Arcot, to the Acting Secretary to the Board of Revenue, dated 11th February 1869, No. 2[illegible]:—

In returning Board's Petition No. 3,020 of 1868, I have the honor to report, as desired in their endorsement, dated 6th November last, that further inquiry has failed to elicit any thing showing irregularity or collusion on the part of any of the Talook Officers; but it is clearly proved that the Batta Ameen, employed on the occasion, was totally unacquainted with the work, and neglected to observe any of the formalities of attachment required by law, and for this neglect and ignorance he was dismissed, and his re-employment hereafter forbidden.

2. It is true that the defaulter tendered the money only on the morning of the sale, but this was because he had no previous intimation of when the sale was to take place, and therefore had no opportunity beforehand. The Notices Nos. 4 and 5 of Attachment and No. 7 of Sale were never served on him as the law requires, and thus he was in ignorance of the date appointed for the sale of his lands; but on being informed suddenly of the sale, he immediately sent the money through his agent who tendered it to the Zuft Ameen and the Revenue Inspector, both of whom refused to receive it, and the defaulter thereupon presented an appeal before the Sub-Collector, and subsequently a petition of review within the prescribed time, but instead of referring the matter at once to me for disposal or directing the petitioner to represent his case to the Collector, Mr. Hathaway gave endorsements referring the petitioner to the Civil Court for redress, and from these orders the defaulter appealed to me, and, in a letter on the subject, dated 8th April 1868, after admitting the illegality and irregularity of the sale, the Sub-Collector stated his opinion that it was not possible to cancel the sale, the certificate having in the interim been granted.

3. It so happened that the sale certificate was issued through the Sub-Collector in the ordinary course, as I was wholly unaware of the fact that any appeal had been preferred. Had the Sub-Collector at once sent me the appeal, or had he desired the defaulter himself to do so, which I conceive was the proper course, instead of directing him to have recourse to the Civil Court, the issue of the certificate would clearly have been deferred, and the defaulter would have obtained justice then and there; and the Board will agree that the dereliction and neglect of duty, brought to notice on the part of the Government Officers deputed to carry out the sale agreeably to Law, ought not to deprive the party injured of that redress which is equitably his due.

4. The purchaser of the property is a very rich and influential man in that part of the country, and this, I think, would fully account for any misdoings by petty subordinates in his interest and for his benefit.

5. Under the circumstances now stated, I recommend that the petition be rejected and the cancelment by me of the improper and irregular sale be upheld.

Enclosure No. 1.—Petition.

The following endorsement will be passed on Petition No. 3,020 of 1868:—

"The Board have received a report on this subject and decline to interfere."

(A true Copy and Extract.)

(Signed) J. GROSE,
Sub-Secretary.

To the Collector of South Arcot.
M.S. copy of endorsement to Petitioner.

Exd, T. O'Connor.

1869.

Board of Revenue,

MADRAS.

PROCEEDINGS, 18TH MARCH 1869, No. 1,861.

Received Encl.

MARCH.

No. 1,861.

Petition—No. 3,020 of 1868, complaining of cancelment of sale of certain land purchased by Petitioner in South Arcot District.—Endorsement on,

Vide G. O. 5 October/74 No 1228

No. 6,855.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 11th September 1869.

Read the following letter from C. W. READE, Esq., Collector of South Arcot, to the Acting Secretary to the Board of Revenue, dated Cuddalore, 3rd September 1869, No. 197:—

I HAVE the honor to submit translation of a plaint filed against me in Suit No. 7 of 1869, on the file of the Principal Sudder Ameen's Court of Cuddalore, together with a draft answer which I propose to file, and I request sanction for the defence of the suit at the public cost.

2. In my letter to the Board, dated 11th February last, No. 27, recorded in Board's Proceedings, No. 1,861, of the 18th March 1869, I explained the circumstances attending the sale of the 1st defendant's land, and stated that he had tendered the money previous to the actual sale, and the Board were pleased to confirm my cancelment of the sale in their Proceedings just quoted; and as my draft answer contains all further particulars of the facts, I have thought it unnecessary here to reiterate what is thus already so fully before the Board.

3. The time allowed for putting in the answer expires on the 12th October next.

ENCLOSURE No. 1.

Translation of Plaint.

To the Court of the Principal Sudder Ameen of Cuddalore.

Plaintiff. *versus*	*Defendants.*
Mahomed Murad Merkoyer, son of Mahomed Bava Merkoyer, residing at Cuddalore, Cultivator.	1. Sooba Royer, residing at Alamelumungapuram, in the Chidambaram Talook, and at Madanoor, in the Shealiy Talook, of the Tranquebar District. 2. C. W. Reade, Esq., Collector of South Arcot. 3. W. F. Hathaway, Esq., Sub-Collector of the same district. (1st defendant) Cultivator.

ARREARS of Circar revenue having become due against the 1st defendant in respect of certain [illegible] in his name and situated in the said village of Alamelumungapuram for Fusly 1276, the usual notices and demands were issued to the 1st defendant by the Revenue authorities as prescribed in Act II. of 1864. But as he still kept the arrears outstanding and did not pay them, 66 acres and 11 decimals of punjah land specified below were sold in public auction on the 10th October 1867, and were knocked down to this plaintiff for Rupees 910. The plaintiff having paid the price, the above sale was confirmed, and a certificate was issued by the 2nd defendant to the plaintiff, and the lands were also transferred to his possession by the village servants.

2. The 1st defendant presented a petition to the 3rd defendant, requesting that the sale might be cancelled, but the latter after due inquiry rejected the petition in October 1867.

3. After this, the 1st defendant preferred a petition of appeal to the 2nd defendant, long after the time allowed for such appeal had expired, urging that the lands had been sold for less than their value, and that the sale had not been conducted fairly. The 2nd defendant entertained the appeal and called upon the 3rd defendant to report on the matter. Upon this, the latter officer instituted inquiries through the Tahsildar, ascertained the truth of the matter from the depositions of the Puttah Monigar of the village and the report of the Tahsildar, and reported to the 2nd defendant that no irregularities took place in connection with the sale, that the lands were sold for their proper value, and that there was no reason to interfere with the said sale. Such being the case, the 2nd defendant has entertained this appeal, which is utterly untenable, and decided (on the 14th August 1868) that the sale in question is cancelled, stating that the 3rd defendant has subsequently reported that he (3rd defendant) had since discovered that irregularities had really taken place in connection with the sale. The 2nd and 3rd defendants did not give notice to the plaintiff of such appeal having been preferred, nor did they allow him an opportunity of urging his objections. Relying on the strength of the said decision by the Collector, the 1st defendant has entered upon the lands in question and cultivated them unlawfully in the current fusly.

4. The proceedings of the 2nd defendant in having entertained the appeal after the expiration of the period allowed, and in having cancelled the sale, notwithstanding he had first confirmed the sale and issued certificate, are entirely opposed to the provisions of Act II. above cited, and as the sale has been cancelled in the absence of sufficient grounds for doing so, this suit is brought for the purpose of reversing the 2nd defendant's decision abovementioned, and in order that the sale may be confirmed, that a puttah may be made out in the plaintiff's name for the said 66 acres and 11 decimals of land, (assessed at Rupees 131-4-0 per annum, and whose value under the Stamp Law amounts to Rupees 1,050), that the defendants may be prohibited from interfering with the lands, and that the same may be delivered possession of to the plaintiff.

Specification of property.

(Here enter, boundaries, extent, etc.)

I, Mahomed Murad Merkoyer, plaintiff above-named, do hereby declare that what is above stated is true to the best of my knowledge.

18th January 1869.

(Signed) M. MAHOMED.
,, JANIKIRAM PANTOOLOO,
Vakeel.

Filed on the 22nd February 1869.

(Signed) F. H. WOODROFFE,
Acting Principal Sudder Ameen.

(True Translation.)

(Signed) C. W. READE,
Collector.

ENCLOSURE No. 2.

To the Court of the Principal Sudder Ameen of Cuddalore.

Draft answer to be filed by C. W. Reade, Esq., Collector of South Arcot, 2nd defendant, in Suit No. 7 of 1869, on the file of the said Court.

THE facts of this case are briefly these. Certain lands belonging to the 1st defendant sold for arrears of Government Revenue due thereon, and the said lands were purchased by the plaintiff. The plaintiff now rests his claim on this sale, praying that it may be made absolute, and in support of his prayer he alleges, 1st, That all the proceedings, preliminary to the sale were conducted in strict conformity with the requirements of the law. 2nd, That the scale was subsequently confirmed, and a certificate issued to him by this defendant, the Collector. 3rd, That a petition by the 1st defendant objecting to the said sale and presented to the 3rd defendant was rejected by the latter on the ground that no irregularity had been committed in the matter of the sale. 4th, That the Tahsildar of the talook had likewise expressed himself in favor of the sale, and lastly, that the sale having once been confirmed, this defendant (the Collector) was not competent to cancel it.

2. The first point urged in support of plaintiff's case, namely, that the sale was conducted regularly, is untrue, as fully established by an inquiry held by the 3rd defendant. With regard to the 2nd point, this defendant submits that although it be true that the sale had been confirmed and a certificate granted, yet that this was done under a misconception of the facts, and before the irregularities which occurred were brought to this defendant's notice, and the issue of puttah to the plaintiff was immediately stayed, consequent on which, the sale remained incomplete and was not finally ratified. The next point urged, namely, that a petition had been presented in October by 1st defendant to the 3rd, and which was by the latter rejected in the same month is not true: on the contrary, 3rd defendant kept the said petition with him until March 1868, when only he gave an endorsement referring the 1st defendant to the Civil Court, a delay and detention for which 1st defendant was not answerable, but which prevented his appealing to the 2nd defendant at an earlier date. As regards the plaintiff's further plea that the Tahsildar reported the proceedings to have been properly conducted, this defendant observes that the said report was founded on an entire misapprehension and imperfect knowledge of what had really passed, as shown by the subsequent discovery that grave irregularity had been committed in connection with the conduct of the sale.

3. As respects the 5th and last ground urged by plaintiff in objection to this defendant's acts, it is submitted that the proceedings antecedent to the sale having been very irregular and illegal, were void *ab initio*, and consequently the sale arising out of such proceedings became null and void, and the mere formal certificate granted under a misapprehension of the facts, cannot avail the plaintiff.

4. The law requires the greatest regularity and strict observance in all the procedure preliminary to the sale of land for Government arrears, and the defaulter or party aggrieved is permitted to object on the ground of illegality, fraud, or irregularity, and in cancelling the present sale to the plaintiff in this instance, this defendant merely carried out the spirit and intent of the legislature in the interest of defaulters and acted in good faith with that object, as will be found by a reference to the various papers and documents which this defendant if necessary is prepared to put in evidence. This defendant therefore requests that on the above grounds this suit may be dismissed with all costs.

5. The 3rd defendant having left the district, the 2nd defendant requests that this answer may be accepted equally on his behalf.

(Signed) C. W. READE,
Collector.

CUDDALORE,
2nd September 1869.

THE defence of the suit is sanctioned and the draft answer is approved.

(True Copies and Extract.)

(Signed) J. GROSE,
Acting Secretary.

To the Collector of South Arcot.

Copy to the Accountant General.

Exd. G. A. Turton.

1869.
Board of Revenue,
MADRAS.

PROCEEDINGS, 11TH SEPTEMBER 1869, No. 6,855.

Received

Encl.

SEPTEMBER
No. 6,855.

Suit—No 7 of 1869, filed in Cuddalore Principal Sudder Ameen's Court in South Arcot District to obtain confirmation of sale of certain lands, to Plaintiff,—Defence of, sanctioned, and draft answer, approved.

Vide G. O. 5 October /71
No 1270

1270/6

No. 4,515.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 27th October 1871.

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to the Acting Secretary to the Board of Revenue, dated Cuddalore, 27th September 1871, No. 321:—

I HAVE the honour to forward, herewith, a copy of the judgment passed by the Small Cause Court Judge, in Original Suit No. 7 of 1869, on his file.

2. The circumstances under which this suit arose, are set forth in Mr. Reade's letters to the Board, dated the 11th February 1869, No. 27, and 3rd September 1869, No. 197, and in the draft answer forwarded, therewith, (*Vide* Board's Proceedings, 11th September 1869, No. 6,855.)

3. The land which was the subject of the suit is the 50 cawnies in Alamelumangapuram, of which the sale was cancelled by Mr. Reade, and for which a new Puttah, No. 32, was given by him to the 1st Defendant Subbarayar, as mentioned in my letter of the 21st August last, No. 274.

4. The Judge (paragraph 24) criticises very severely the conduct of all the Revenue officials concerned in the sale except Mr. Hathaway, and considers that the sale was fraudulently conducted by the Ameen in favour of the plaintiff, laying much stress on the small amount realized at the auction by the sale of the land (Rupees 910). He has accordingly dismissed the suit, but condemned the 1st and 2nd Defendants (Subbarayar and Mr. Reade) to pay their own costs.

5. The Collector's costs amount to Rupees 52.

6. I request sanction to disburse this amount.

ENCLOSURE No. 1.—Copies of Decree and Judgment.

THE payment of Rupees 52 being costs adjudged against the late Collector is sanctioned.

2. The Board will take an early opportunity of considering the remarks on the irregularities of procedure disclosed in the Judgment.

3. In the meantime the Collector will be requested to state whether any notice has been taken of the conduct of the Revenue Inspector and Tahsildar.

(A true Copy and Extract.)

(Signed) J. B. PENNINGTON,
Acting Secretary.

To the Collector of South Arcot.
Copy to the Accountant-General.

Exd. G. A. Turton.

1871.

Board of Revenue,

MADRAS.

PROCEEDINGS, 27TH OCTOBER 1871, No. 4,515.

Received. Encl.

OCTOBER

No. 4,515.

Suit No. 7 of 1869—filed in Cuddalore Principal Sudder Ameen's Court in South Arcot District to obtain confirmation of sale of certain lands to plaintiff,—Payment of Rupees 52, costs adjudged against Collector in, sanctioned.—Collector requested to state whether any notice has been taken of conduct of Revenue Inspector and Tahsildar in matter of sale.

Vide G.O. 5 October 1874

No 1270

No. 221.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 31st January 1872.

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to the Secretary to the Board of Revenue, dated Cuddalore, 30th December 1871, No. 408:—

ABSTRACT.—Requests (for reasons stated) permission to transfer to the head of "Deposit Account" Rupees 549-5-10, being the amount credited to Government out of the sale proceeds of the land of Subbarayer of Alamalamungapuram sold in 1867 for arrears of revenue.

THE Board think it premature to take any steps in this matter till the result of Bhava Merkair's appeal is known. The Collector will accordingly report again on the subject.

(A true Extract.)

(Signed) J. B. PENNINGTON,
Sub-Secretary.

To the Collector of South Arcot.

Exd. T. Cartledge.

1872.

Board of Revenue,

MADRAS.

PROCEEDINGS, 31ST JANUARY 1872, No. 221.

Encl.

Received

JANUARY.

No. 221.

Revenue—*Arrears of*—Collector of South Arcot informed that his proposal to transfer to "Deposit Account" Rupees 549-5-10 credited to Government out of proceeds of a piece of land sold in 1867 for—, and sale of which was subsequently cancelled, is premature, and requested to report again on the subject when result of purchaser's appeal against cancelment of sale is known.

Vide G. O. 5 October 1874
No. 1210

No. 1,631.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 30th June 1874.

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Villapuram, 14th May 1874, No. 231 :—

WITH reference to the Board's Proceedings, dated 31st January 1872, No. 221, I have the honour to forward, herewith, a copy of a decree passed by the District Judge in Appeal Suit, No. 104 of 1871 (Alamelamangapuram suit), on the file of his Court, based upon a Razeenamah filed by both parties in the suit, which declares that "the appellant should receive Rupees 910 in the revenue deposit, and which he paid at the time when the disputed property was put up to sale for arrears of revenue."

2. The decree is, therefore, very much in favour of the appellant, as not only is all the money paid by him at the time of purchase to be restored to him, but the respondents Lakshmana Reddy and Subbarayer agree to give him up half of the lands under dispute, which, as far as the decree enables one to judge, he gets for nothing at all.

3. Of the 910 Rupees, 549-5-10 have been carried to the credit of Government and the balance is in deposit, and I have now the honour to request permission to pay to the decree holder the sum of Rupees 910.

4. Immediate steps will be taken against the land to recover the arrear of Rupees 549-5-10 with interest by attachment and sale if necessary.

5. These are the lands with regard to dealing with the arrears on which Mr. Dique's conduct is now under the Board's notice.

6. The money now to be refunded was first carried to the credit of Government in January 1868.

ENCLOSURE No. 1.—Copy of Decree.

SUBMITTED for the orders of Government.

2. Certain land was sold for arrears of revenue, and realized Rupees 910, of which Rupees 549-5-10 were credited to Government as land revenue, and the balance held in deposit. On appeal the Collector finding that the formalities prescribed by Act II. of 1864 had not been observed cancelled the sale as irregular. The purchaser then brought a suit for the confirmation of the sale, but it was dismissed. He appealed to the District Court, and it is now reported that the parties have entered into a compromise, and the Court has decreed (amongst other things) that the whole of the Rupees 910, which the appellant paid when the land was sold for arrears, should be repaid to him. Sanction is requested for payment of Rupees 549-5-10 of this amount which has been credited to Government.

3. The rest is in deposit, and when sanction is received the Collector will pay the Rupees 910 into Court, and proceed anew against the land for the arrears.

(A true Copy and Extract.)

J. Grose
Secretary.

To the Acting Secretary to Government, Revenue Department,
with one original enclosure.
" the Collector of South Arcot.

Exd. J. Tulloch.

[illegible] [illegible] parties

Re 28/9/74 R.S.I. Octr/74
C.y 1st Sept/74 R. 19th

No 2767
Rev 1874. Depte

Board of Revenue
MADRAS.

PROCEEDINGS, 30TH JUNE 1874, No. 1,631.

Despd 3 July/74.

Encl. 0

Received 4 July 1874

JUNE.
No. 1,631.

Revenue, Arrears of.—Sanction of Government requested for payment of Rupees 549-5-10 credited to Government out of Rupees 910 paid for piece of land in South Arcot District sold in 1867 for, and which sale was subsequently cancelled. When sanction is received the Collector will pay the Rupees 910 into Court and proceed anew against the land for arrears.

GO 5 Octr/74 No 1270

Revenue Dept.

9

Memo for Orders.

Pros: Bd. of Revenue

Requesting sanction of Govt. for payment of Rs 549-5-10 credited to Govt. out of Rs 910 paid for piece of land in S. Arct Dt sold in 1867 for arrears of revenue, and which sale was subsequently cancelled &c — } H. E. 30: June 1874 No. 1631

I would instruct the Govt to consult the Law Officers of Govt. as to the recovery of the arrears due on the land — The Govt. are not bound to recognize the last decree, as they were not parties

The Board request sanction of Govt. to refund Rs 549-5-10, out of Rs 910 realized by the sale of certain lands in Mamalamangapuram village in South Arcot and credited to Govt. for arrears of revenue more than 6 years ago. The balance, Rs 360-10-2, is held in deposit — This request is based on a Razeenamah decreed in appeal Suit No. 104 of 1871 in the file of the District Court of Cuddalore — The

Razeenamah appears to be a collusive one.

2. The original suit No 7 of 1869 in the Small Cause Court on the Principal Sudder Ameen's side, was against, among other Defendants, the Collector Mr Reade & Mr Hathaway late Sub Collector – Mr Garstin the present Collector, and Mr F. R. H. Sharp Ag Sub Collector also appear to have been made supplemental Defendants. The claim was for the recovery of land purchased in a sale for arrears of Revenue, which Mr Reade cancelled 10 months afterwards without notice to the purchaser, although he (the purchaser) had received the certificates and possession of the land.— The circumstances connected with this suit are more fully explained in Mr Reade's letters recorded in the Proceedings of the Board of Revenue noted in the margin ×

× 18: March 1869 No. 1861
11: Sep — — 6855

3. The suit was dismissed on account of irregularities in the sale. The Judge criticised very severely the conduct of all the Revenue officials concerned, except Mr Hathaway, and adjudged Mr Reade to pay his own costs. The Judge also remarked that Mr Reade had no power to cancel the sale, for Sec: 38 of Act II of 1864 provides that "the Sale Certificate given by the Collector to the purchaser shall be conclusive evidence of the Sale in all Courts." The Board × sanctioned the payment of these costs.

4 At this stage, Mr Garstin applied to the Board for permission to transfer the sum of Rs 549-5-10 to "Deposit Account", and thus to revive the arrear against Subbaroyer, the original holder of the land.

to the action. But Pltff. the Mercury is entitled to receive the 9 10 Rs with interest under the first suit – which upheld the annulment of the sale. ~~[illegible]~~ Our interest is limited to the arrear – for which the whole of the land was liable – and if we recover this we have no power to relinquish to Di- -ver to the Bazar namah. If the arrear is now recoverable we should first proceed only against Deft & his portion of the land – but it may be well to give notice of the arrear & the

× Bd Pro: of 27: Oct: 1871 No 4515

liability of all the land to Pltff. The Law Officer will however advise but I would not waive the claim of Govt if it can be enforced. L.D.L. 1574

Land. Mr Garstin, however intimated that the Plaintiff was about to appeal against the Decree of the Small Cause Court Judge, and the Board considered it premature to take any steps in the matter till the result of the appeal was known

5. The Plaintiff did appeal, but he excluded, from the appeal suit, all the Defendants in the original suit except "Subbarayer," the 1st Defendant, and added a new man, Lutchmana Reddy, which certainly was objectionable. From this, it is evident that the parties had colluded in order to procure what is called "a Razeenamah Decree" from the Court; for if they, at all events the Plaintiff, intended that the appeal should be decided on its merits, the Court would, when going over the record, require the

Bd.s Pro: d/ 31st Jany 1872 No. 22

Papers [illegible] of Govt & the Law Officers for advice
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the inclusion of the other Defendants, and any Razeenamah would have been out of the question. The Govt. Pleader should have watched the conduct of the Plaintiff and taken steps to have the Public Officers included in the appeal. The appellant (Plaintiff) and the 2 Respondents put in a Razeenamah and obtained a decree under which "the appellant should receive Rs 910 in the Revenue deposit, and which he paid at the time when the disputed property was put up to sale for arrears of revenue". As remarked by Mr Garstin, the decree is very much in favor of the Plaintiff, as, besides receiving back the entire sum of money paid by him, he is to get also half of the lands under dispute, which he gets "for nothing at all".

6. The whole transaction

is very suspicious, and the Govt. are not bound to refund the money, as they are no parties to the Decree. But the Plaintiff is nevertheless entitled to receive the money, and another suit against Govt. might get him that. But it is very doubtful if the Govt. will be able to recover the arrears from Subbarayer, who seems to be capable of doing all he possibly can to defraud Govt. The Judge remarks, in para 25 of the Original Decree, as follows:-

"It is admitted that he (1st Defendant, Subbarayer) is a man of good position and considerable means. Nevertheless the evidence goes to show that he is for ever in arrears with his revenue to Govt., not because he cannot, but because he will not pay. It is clear, from the Curnum's evidence, that his policy has been to let the arrears run on, hoping

hoping to get remission at last; and that, when subsequently to 1867 his lands in this village were again sold, his undivided brother bought them in, and has, since the sale, obtained remission for the arrears.

7. The remission here alluded to, is apparently the same for which the Govt. condemned Mr. Reade's proceedings in para 2 of G.O. dated 16th March 1872 No. 465. Subbarayer is the undivided brother of Sambamoorthy Iyer, late Tahsildar of Cuddalore, alluded to in that order. The sale of lands, which formed the subject of the above original and appeal suits, is alluded to by Mr. Garstin in his letter recorded in the Pro: of the Bd. of Rev: dated 2d Sep: 1871 No. 3789.

8 The irregularities connected with the sale of produce for arrears of Revenue in the same village and against the same Subbarayer have been

the cause of much recent correspondence between the Collector and the Board about the conduct of the Tahsildar, Mr Digue. — Subbarayer and Lutchmana Reddy (apparently the new man introduced into the Appeal Suit) are two of the chief parties concerned in the matter. G. O. dated 8: July /74 No. 845

9. Perhaps it will be considered safe, notwithstanding all the intrigues and frauds for which the ryots of this village of Alamelmangapuram ——— have become notorious, and the trouble which they have been giving the Officers of Govt. for several years, to refund the money, but it is thought proper to place all the circumstances connected with the case before Government.

14/8/74

Exd. W.A.b.s

Minutes for Orders

Refund of certain amount out of sum realized by sale of certain lands in S. Arcot, and credited to Govt. for arrears of Revenue in 1867 &c.

1270

Cr

C 17th Augt/74 R. 19th

Revenue Department.

No. 1270.

PROCEEDINGS of the **ADRAS GOVERNMENT.**

Under date the 5 ~~September~~ Oct. 1874.

READ the following Proceedings of the Board of Revenue

Requesting sanction of Govt for payment of Rs. 549-5-10 credited to Govt. out of Rs. 910 paid for a piece of land in S. Arcot District sold in 1867 for arrears of revenue, and which sale was subsequently cancelled &ca. — } H. E. 30th June 1874, No. 1631.

The Board request sanction of Govt. to refund Rs. 549-5-10, out of Rs. 910, realized by the sale of certain lands in Alamelamangapuram village in South Arcot and credited to Govt. for arrears of Revenue more than 6 years ago. The balance, Rs. 360-10-2, is held in deposit. This request is [illegible]sed on a Razeenamah - decree

JDL

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decree in appeal suit No. 104 of 1871 on the file of the District Court of Cuddalore.

2. The original suit No. 7 of 1869 in the Small Cause Court on the Principal Sudder Ameen's side, was against, among other Defendants, the Collector Mr. Reade, & Mr. Hathaway late Sub Collector – Mr. Garstin the present Collector and Mr. F. R. R. Sharp Ag. Sub Collector, also appear to have been made supplemental Defendants. The claim was for the recovery of land purchased in a sale for arrears of revenue, which Mr. Reade cancelled 10 months afterwards without notice to the purchaser although he (the purchaser) had

had

× 18th March 1869 No. 1861.
11th Septr — " — " – 6855.

had received the certificates and possession of the lands. The circumstances connected with this suit are more fully explained in Mr. Reade's letters recorded in the Proceedings of the Board of Revenue noted in the margin.×

3. The suit was dismissed on account of irregularities in the sale. The Judge criticised, very severely, the conduct of all the Revenue officials concerned, except Mr. Hathaway, and adjudged Mr. Reade to pay his own costs. The Judge also remarked that Mr. Reade had no power to cancel the sale, for Sec: 38 of Act II of 1864 provides that "the

sale certificate given by the Collector to the purchaser shall be conclusive evidence of the sale in all Courts." The Board sanctioned× the payment of these costs.

× Bds. Progs: d/27th. Octr. 1871. No. 4,515.

4. At this stage, Mr. Garstin applied to the Board for permission to transfer the sum of Rs. 549-5-10 to "Deposit account," and thus to revive the arrear against Subbarayer, the original holder of the land. Mr. Garstin, however, intimated that the Plaintiff was about to appeal against the Decree of the Small Cause Court Judge, and the Board considered it premature to take any steps in the matter till

the

Bds. Pros: d/31st Jany. 1872 No. 221.

the result of the appeal was known.

5. The Plaintiff did appeal, but he excluded, from the appeal suit, all the Defendants in the Original suit except Subbarayer, the 1st Defendant, and added a new man, Lutchmana Reddy, which certainly was objectionable. From this, it is evident that the parties had colluded in order to procure what is called "a Razeenamah Decree" from the Court; for if they, at all events the Plaintiff, intended that the appeal should be decided on its merits, the Court would, when going over the record, require the inclusion of the other Defendants, and any

Razeenamah would have been out of the question. The Govt. Pleader should have watched the conduct of the Plaintiff and taken steps to have the Public fficers included in the ppeal. The Appellant Plaintiff) and the 2 Respondents put in a Razeenamah and obtained a decree under which "the appellant should receive Rs. 910 in the Revenue deposit, and which he paid at the time when the disputed property was put up to sale for arrears of revenue". As remarked by Mr. Garstin, the Decree is very much in favor of the Plaintiff, s, besides receiving back the

the entire sum of money paid by him, he is to get also half of the land under dispute, which he gets "for nothing at all".

6. Before passing final orders on the subject the Government resolve to instruct the Board to consult the law officers of Government as to the recovery of the arrears due on the land. The Govt. are not bound to recognise the last decree, as they are not parties to the action, but Plaintiff is entitled to receive the 910 Rs. with interest under the first suit which upheld the annulment of

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of the sale. The interest of Government is limited to the arrear for which the whole of the land was liable and if they recover this they have no ground on which to dispute the Razeenamah. If the arrear is now recoverable the Collector should proceed first against Defendant and *his* portion of the land — but it may be well to give notice of the arrear and the liability of *all* the land to Plaintiff. The Law Officers will, however, advise the Board on the subject but the Govt would not waive their claim if it can be enforced.

Td

W. B. [illegible] 16-10/74

[illegible]

3/45

25/9/74

[illegible]

Refund of certain amt. out of [illegible] realized by sale of certain land in S. Arcot & credited to Govt. for arrears of revenue in 1867 [illegible]

Cir

[illegible]

47-48

C 28th Septr/74 R 5/10/74