

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	150.	Press Mis.
<u>311 - 312.</u>		
Dated	19 th January 1969.	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
19th January 1869.*

No. 311. Read the following Proceedings of the Board of Revenue :—

Submitting to Government, letter from Collector forwarding translations of Judgment and Decree in Suit No. 24 of 1867 filed in Rajahmundry Principal Sudder Ameen's Court, Godavery District, for recovery of certain land. (Here enter 5th January 1869, No. 13.)

No. 312. ORDER THEREON, 19th January 1869, No. 150.

Miscellaneous.

1. Ordered to be recorded.
2. Steps should be taken for the defence of the Appeal Suit, which the

Collector reports has been filed by the Plaintiff in the Civil Court.

(True Extract.)

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

To the Board of Revenue.

Ed. G. A. Turton.

Suit for recovery of certain land in Godavery.—Judgment of the Principal Sudder Ameen, recorded. Steps ordered to be taken for the defence of the Appeal Suit filed by the Plaintiff.

JANUARY.
Nos. 311-312.

G. O., 19th January 1869, No. 150.

Dated January, 19th.

Recd.

THE BOARD OF REVENUE.

REVENUE.

Jan. 1869

No. 13.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 5th January 1869.

Read the following letter from J. FRASER, Esq., Collector of the Godavery District, to the Acting Secretary to the Board of Revenue, dated Coringa, 3rd December 1868, No. 307:—

As directed by Government in their Proceedings, dated 2nd December 1867, No. 1,961, communicated with the Board's Proceedings of the 12th idem, No. 8,029, I have the honor to forward, herewith, for submission to Government, translations of the Judgment and Decree of the Principal Sudder Ameen of Rajahmundry, dismissing the Original Suit No. 24 of 1867, the defence of which was sanctioned at the public expense in the Board's Proceedings, dated 26th July 1867, No. 4,804.

2. The plaintiffs have lately appealed to the Civil Court against the above decision.

ENCLOSURE No. 1.

The Principal Sudder Ameen's Court of Rajahmundry.

Present:—SAMINENI VENKATADRY NAIDU, Principal Sudder Ameen.

Original Suit No. 24 of 1867.

Plaintiffs.

1. Badam Manikyalu.
2. Do. Kamarauz.
Turimella Kondiaya, Pleader.

versus.

Defendants.

1. Nalam Venkatrayudu.
2. J. Fraser, Esq., Collector.
Nanduri Ramachendrudu,
Pleader for the first defendant.
Chittrapu Kamarauz, Pleader for
the second defendant.

JUDGMENT.

The plaintiffs, among other circumstances, state in their Plaint that the second defendant made over to the first a portion measuring 128 square yards, and valued at Rupees 1,500, of the southern side of their ground situated at Cocanada on the river side, and within the boundaries specified in the Plaint, and caused boundary posts to be fixed; and request a Decree against the defendants, directing that plaintiffs be put in possession of their ground, the boundary posts being removed, and that the costs of Suit be borne by the defendants.

2. In the Statement put in by the first defendant, he states—
Firstly.—That the plaintiffs' claim is false, and that the documents filed with the Plaint are not genuine.

Secondly.—That at the places marked A. and B. in the plan, the tide water of the salt river formerly used to flow, and that the site belongs to Government.

Thirdly.—That the second defendant had, under Orders of Government, caused the whole of that ground to be raised; that the spot marked A. had been left to be used as a high road; that a portion of the ground marked B. had been granted to some persons, with a quit-rent fixed on it; and that the remainder had been given to certain others in exchange of their former building sites occupied by the Cocanada road.

Fourthly.—That in lieu of his building site marked G., which had been likewise occupied by the Cocanada road, the piece of ground marked D., and measuring 28 yards in length from east to west, and about 8 yards in breadth from north to south, including that of 16 yards in dispute, was granted to him by the second defendant on 16th March 1867, and that there he began to construct godowns, laying out a considerable outlay.

Fifthly.—That Atchappa, the undivided son of the first plaintiff, having presented a Petition to the Tahsildar of the Cocanada Talook, on 18th April 1866, requesting that the site marked D., which had been given to him (first defendant) by the second defendant, as well as that marked E., belonging to Government, might be granted to him, a certain amount of quit-rent being fixed thereon; the Tahsildar then caused the same to be measured, and sent a Report to the second defendant on 26th May of that year, No. 135, stating that a site measuring 320 square yards might be granted to Atchappa; that whereupon the second defendant issued also an Order, No. 125, on 4th June of that year, to the Tahsildar, to the effect that the site could not be granted as requested, and that it is therefore clear that the ground under dispute is the property of Government, but not of the plaintiffs, and requests therefore that the Suit may be dismissed; that costs incurred by him may be recovered from the plaintiffs, and that they be held responsible for the loss sustained by him.

3. In the Statement filed by the second defendant, he states—

Firstly.—That the plaintiffs have no right to the ground sued for, nor are they in possession and enjoyment of the same, and that they should prove that it belongs to them.

Secondly.—That the boundaries of the disputed ground referred to in the Plaint do not clearly show the exact position of the same; that the Court will, on an inspection of the plan, which he will cause to be presented, showing the correct boundaries of the site in question, and of the ground itself, and on a consideration of the evidence and the documents for him find that the disputed ground does not belong to the plaintiff; that the whole of the ground on the southern direction of the plaintiffs' wall, namely, the ground under dispute, and that lying between the disputed ground and the plaintiffs' wall, are the property of Government; that ten years ago this site formed part of the bed of the salt river, and used to be inundated by tide water; that subsequent to the construction of the stone bank along the river, the ground in question was not only filled up with the earth taken out of the river, and levelled at the cost of Government, but was also put in good order; that the remaining portion of the ground so levelled along the river is marked with yellow color in the plan; that that marked B. had been sold to Mr. Simson at a Public Auction; that a portion of the ground marked F. had been occupied by the Post Office; that pieces forming another portion thereof, viz., marked B, C, D, and E, had been granted to Nalam Venkatrayudu and Polnati Nagamma, in exchange of their ground situated in the vicinity of the bridge; that Atchappa, the son of the first plaintiff, applied to the Sub-Magistrate on 18th April 1868, for the pieces marked C. and E, for rent; that the site marked C. is the one now sued for; and that the Sub-Magistrate reported to him that he had measured the site applied for in the presence of the applicant, and that the ground at issue had then formed part of that applied for, and recommended that the ground asked for be granted to the applicant at an yearly assessment of Rupees 6-6-5; but that he had not approved of the recommendation; and,

Thirdly.—That were the ground in dispute really the property of the plaintiffs, there would be no occasion for Atchappa, the son of the first plaintiff, applying to the Sub-Magistrate for the grant of the same at an annual assessment; and requests that for these reasons, the plaintiffs may be non-suited with costs.

4. Documents filed by the plaintiffs:—

A.—Authenticated copy of the Plaint No. 317 of 1858, on the file of the Cocanada District Munsiff's Court.

B.—Extract from a motion filed in the Civil Court by the Government Vakeel, No. 561 of 1858.

C.—Extract from the Proceedings held by the Civil Court on the above Petition, dated 22nd December 1858.

D.—Authenticated copy of the Decree in Suit No. 317 of 1858, on the file of the Cocanada District Munsiff's Court.

E.—Authenticated copy of the Decree in Appeal Suit No. 106 of 1861.

5. Document filed by the first defendant:—

I.—Plan showing the position of the ground in dispute.

6. Exhibits filed by the second defendant:—

II.—Plan of the ground in dispute.

III.—Application of Badam Atchappa, the son of the first plaintiff, to the Sub-Magistrate of Cocanada, dated 16th April 1866, asking him to rent out to him the ground in dispute as well as some other site.

IV.—Report of the Sub-Magistrate of the Cocanada Division, to the Collector, dated 26th May 1866, accompanied by the abovementioned application.

V.—Copy of the order of the Collector, to the Sub-Magistrate of the Cocanada Division, dated 8th June 1866, refusing compliance with the request of the said Atchappa.

VI.—Petition from the Sub-Magistrate of the Cocanada Division, dated 12th July 1867, in reply to the Collector's Order.

VII.—Order dated 11th July 1867, issued by the Collector to the Sub-Magistrate of the Cocanada Division, inquiring whether the ground forming the subject of the Suit includes that lately applied for by Atchappa.

7. The Court have heard the pleadings of both parties to the Suit and the facts set forth by them, and perused the documents presented by them as well as the plans brought forward for the defence, and are of opinion that an award can be given in the case without further inquiry.

8. The ground in dispute is marked C. in the plan filed by the second defendant.

9. The plaintiffs state that the second defendant, the Collector, made over the ground in question to the first defendant, taking it to be the property of Government.

10. But, the second defendant among other circumstances, stated that the disputed ground formerly used to be flooded by the water of the salt river; that a bank having been raised on the river side, the land which formerly used to be moistened by the tide water of the river had been caused to be levelled and put in good order; that portions of this ground had been given to some other parties; that he had caused the ground in dispute to be granted to the first defendant in the same manner; that the plaintiffs have no right to it, and that it belongs to Government.

11. The point left therefore for determination is whether the ground in dispute marked C, is the property of the plaintiffs or of Government.

12. The Exhibits presented on behalf of the plaintiffs cannot prove that the disputed ground belongs to them. In them the southern boundary of the ground belonging to the plaintiffs is mentioned to be the salt river. It cannot therefore be established that the disputed site belongs to the plaintiffs; and the land, as far as which the tide water of the salt river reaches, will have naturally to be concluded a portion of the salt river.

13. Moreover, the disputed ground is situated on the bank of the salt river on the outside of the compound wall of the plaintiffs, as appears from the statement of the second defendant. This fact is not denied, and among the documents presented during the inquiry by the Government Pleader is a Petition addressed to the Sub-Magistrate on 16th April 1866, by the son of the first plaintiff in which he requested that so much of the land on the bank of the river as equals that in dispute might be granted to him, an assessment being fixed thereon. It is admitted by the Pleader for plaintiffs, that that Petition had been presented by the first plaintiff's son; that the first plaintiff and his son are undivided; that the second plaintiff also is not divided with the first; and that the site asked for at an assessment is the one under dispute. The Collector refusing to comply with the request, caused the ground to be subsequently granted to the first defendant.

14. The Court considers that the facts of the disputed ground having been situated on the river bank, and apart from the compound wall of the plaintiffs, and of the first plaintiff's son,

who is interested equally with the plaintiff, having requested the ground to be given to him at an assessment, are sufficient for the Court to conclude that the plaintiffs have no right to the ground in dispute, but that the Government have. The site having been granted to the first defendant by the Collector, should continue in his possession.

15. For the foregoing reasons, the plaintiff's claim is not sustainable.

16. Dismissing the plaintiffs' claim with costs, the Court decree that the costs incurred by the defendants shall be borne by the plaintiffs.

10th July 1868.

(Signed) S. VENKATADRY,
Principal Sudder Ameen.

(True Copy.)

(Signed) V. NARSIMAH ROW,
Serishtadar.

Copy applied for on 23rd July
Do. prepared on 10th August
Do. delivered to the Pleader
for second defendant, do. } 1868.
(A true Translation.)

(Signed) J. FRASER,
Collector.

ENCLOSURE No. 2.—Translation of Decree in Suit No. 24 of 1867.

SUBMITTED for the information of Government.

2. The circumstances of the case are clearly stated in the "Judgment," from which it will be seen that no costs have been awarded against the Collector.

(True Copies and Extract.)

To the Acting Secretary to Government, Rev. Dept.,
with an enclosure.

Copy to the Collector of the Godavery District.

Exd. T. Cartledge.

Suit—No 24 of 1867, filed in Rajahmundry
Principal Sudder Ameen's Court, Godavery
District, for recovery of certain land.—Letter
from Collector forwarding translations of Judg-
ment and Decree in, submitted to Government.

JANUARY
No. 13.

Recd 15. 19 Jan 1869

Recd 9 Jan 1869
Encl 1
Q25

PROCEEDINGS, 5TH JANUARY 1869, No. 13.

BOARD OF REVENUE, MADRAS.
1869.

Revenue Office
No. 72.

Revenue Department

No. 150.

Proceedings of the Madras Government
Under date the 19th January 1869

Read the following Pro-
ceedings of the Board of Revenue

Submitting letter from
Collector forwarding translations
of Judgment and Decree in Suit
No. 24 of 1867 filed in Rajah-
mundry Principal Sudder Ameen's
Court, Godavery District, for recovery
of certain land

(Here entered 5th January 1869 No. 13)

1. Received.

2. Steps should be taken.

for the defence of the
appeal suit which the
Collector's report has been
filed by the Pff in the
Civil Court

MS

1. To the P of Rev Dept 14 SC 14 Dept 20

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1861
C. H. Smith
died

C. H.
died