M.R.O 1—38,060—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1168 Press ~~Mis.~~

624- 625

Dated 29 th April 1869

Not to be folded or roughly handled

No. 624. Read the following Proceedings of the Board of Revenue, dated 27th April 1869:—

Read the following letter from the Collector of Madras, to the Acting Secretary to the Board of Revenue, dated on circuit at Kattivakum, 15th April 1869, No. 114.

With reference to the Proceedings of the Board noted in the margin, authorising the defence of Original Suit No. 29 of 1867 on the file of the Civil Court of Chingleput against the Collector and certain others, Payakari ryots, of the village of Pillapakam, in the Conjeveram Talook, I have the honor to forward copies of the Decree and Judgment passed by the present Acting Civil Judge, Mr. Foord.

Board's Proceedings, 16th March 1868, No. 1,910.
Government Proceedings, 30th March 1868, No. 827.

2. It will be seen from them that the Judge has not only decided against the Collector with costs, but has also saddled him with the costs incurred by plaintiffs. As this appears to be unfair to Government, and as the point involved in the Suit is important as affecting the question of Mirassi right throughout the district, I beg to suggest that a Special Appeal be preferred to the High Court against the decision. If the Board agree with me, I beg they will be pleased to forward the papers to the Government Pleader at once, and desire him to prepare the Appeal. The facts of the case are fully set forth in my letter, dated the 2nd March 1868, No. 70, embodied in Board's Proceedings of the 16th March 1868, No. 1,910 A. A printed copy of which, I beg the Board will be pleased to send to the Government Pleader, in the event of their determining to prefer an Appeal to the High Court.

3. Should the Government Vakeel require further information, I shall be happy to furnish it to him. The time for preferring the Appeal expires on the 7th May 1869.

In their Order of the 30th March 1868, No. 827, Government sanctioned the defence of a Suit brought against the Collector of Madras, and desired that the result should be reported in due course.

2. The Collector's letter, with the Decree enclosed, is printed at the head of these Proceedings.

3. The above Decree decides an important point in the Mirass question, *viz.*, that Mirasidars, who are willing to give security for the payment of assessment of waste lands, have an absolute right to claim them; that the issue of Puttahs by the Collector for such lands in favor of others is illegal, and that parties so obtaining possession are liable to be evicted therefrom.

4. The Board are not prepared to defend the action of the Collector in this matter. They think it may be argued that the Hookumnamah of the district, though intended for the guidance of Collector, is merely a departmental instruction, and confers no right of action on parties claiming to be injured, by its provisions not having been carried out.

5. The Appeal, they submit, against its alleged infringement lies to the Board and Government, and not to the Courts.

6. In the present case it was proved that the plaintiffs had actually made and broken engagement for cultivating other waste lands in the same village. It was,

however, held that security having, in the case before the Court, been given, and the lands not being identical, the circumstance was not entitled to consideration.

7. The case as respects the parties now to be evicted is a hard one, and the Board are of opinion that in their interests, as well as with a view of obtaining, as far as possible, authoritative decisions on such points, the case should be taken to the High Court on appeal.

8. To save delay, copy of these Proceedings will be sent to the Government Pleader direct.

9. It is observed that the time for presenting Appeal expires on the 7th May.

No. 625. ORDER THEREON, 29th April 1869, No. 1,168.

Miscellaneous.

THE Right Honorable the Governor in Council sanctions the Appeal proposed by the Board.

2. The Appeal Petition should be prepared by the Government Pleader, in communication with the Board of Revenue, and all rulings of the High Court to the effect that the disposal of waste lands is absolutely in the hands of the Revenue authorities should be quoted.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secretary to Government.

To the Board of Revenue.
,, the Government Pleader.

Exd. F. R. Bantleman.

Govt. of {1869} Madras.

REVENUE.

To

THE BOARD OF REVENUE.

Dated April, 29th.

Read.

G. O., 29th April 1869, No. 1,168

APRIL.

Nos. 624-625.

Suit No. 29 of 1867 against Collector of Madras.—Appeal proposed by the Board of Revenue against the decision of the Civil Judge, approved.