

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2300	Press ~~Mis.~~
42.43	
Dated 2-10-1867.	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
2nd October 1867.*

No. 42. Read the following letter from the Civil Judge of Tinnevely, to the Acting Chief Secretary to Government, Fort St. George, dated Tinnevely, 20th September 1867, No. 487 :—

1. As directed in paragraph 5 of the Proceedings of Government, 13th September 1867, No. 2,160, I have the honor to forward the copy of my Judgment in the suit referred to.

2. It will be observed that the point of right to the land is not directly raised in the suit, which was one for arrears of rent.

3. I believe an appeal is to be lodged against the Decree, but it has not yet been filed to my knowledge.

4. I have not, to the best of my recollection, had a question of the kind referred to before me other than this.

5. As among the records filed in the suit were the two referred to by me in my letter of 25th May 1867, I thought it right to bring the matter before Government, especially as from what fell from the plaintiff at the hearing, it was evident that the present suit was merely preliminary to an attempt to oust the ryots, on the ground of the Inam Puttah declaring the land to be the freehold of the Inamdars.

No. 43.

ORDER THEREON, 2nd October 1867, No. 2,300.

Miscellaneous.

Communicated to the Board of Revenue, whose reply to the G. O. of 13th September 1867 the Government await.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
.. the Civil Judge of Tinnevely.
.. the Inam Commissioner.

Erd. S. T. Augustin.

Appeal Suit. N^o 93 of 1867.
In the Civil Court of Tinnevely.

Present J. S. Child Esq^r Civil Judge.

Vaithanarayana Iyer Defendant. Appellant.
Versus.

1 Ambaye and 3 others 2^d 3^d 4th 5th 6th 7th 8th 9th 10th 11th 12th 13th 14th 15th 16th 17th 18th 19th 20th 21st 22nd 23rd 24th 25th 26th 27th 28th 29th 30th 31st 32nd 33rd 34th 35th 36th 37th 38th 39th 40th 41st 42nd 43rd 44th 45th 46th 47th 48th 49th 50th 51st 52nd 53rd 54th 55th 56th 57th 58th 59th 60th 61st 62nd 63rd 64th 65th 66th 67th 68th 69th 70th 71st 72nd 73rd 74th 75th 76th 77th 78th 79th 80th 81st 82nd 83rd 84th 85th 86th 87th 88th 89th 90th 91st 92nd 93rd 94th 95th 96th 97th 98th 99th 100th 101st 102nd 103rd 104th 105th 106th 107th 108th 109th 110th 111st 112nd 113rd 114th 115th 116th 117th 118th 119th 120th 121st 122nd 123rd 124th 125th 126th 127th 128th 129th 130th 131st 132nd 133rd 134th 135th 136th 137th 138th 139th 140th 141st 142nd 143rd 144th 145th 146th 147th 148th 149th 150th 151st 152nd 153rd 154th 155th 156th 157th 158th 159th 160th 161st 162nd 163rd 164th 165th 166th 167th 168th 169th 170th 171st 172nd 173rd 174th 175th 176th 177th 178th 179th 180th 181st 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of Melvaram is now claimed, were granted to Plaintiff's father as a reward for his military service; that $\frac{1}{3}$ of the Inam was resumed by Government in 1820 on the death of the grantee's eldest son and the rest in 1844 on the death of the grantee's widow; that in April 1859 the whole Inam was restored to Plaintiff together with the Collections made by the Government on the lands referred to during the resumption and 5 per cent interest.

3 Now the Plaintiff claims the amount mentioned above as being the balance of rent omitted to be collected by Government during the resumption of the Inam, and arrears of Melvaram since

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since the regrant of the Inam upto the date of the suit, i.e. for Fushis 1269, 1270, 1271, & 1272 and Car of Fushy 1273; and interest on the arrears referred to.

4. The Defendant pleads that Plaintiff being in the position of Government with respect to the Inam lands is entitled to nothing more than the Assessment according to the Okunga price fixed upon Ryau lands; and that Melvaram was never paid to the Inamidat at the rate mentioned by Plaintiff.

5 The Principal Sudder Ameen disallows the balance of rent or Melvaram claimed as due for the period of the resumption, as well as the Melvaram for Fushy 1269 and Car of Fushy 1270 as being levied by

by the law of limitation, and
adjudges the Defendant to pay to
Plaintiffs with interest at 5 percent
per annum the value at Papes 6
per Cottah of the Melvaram paddy
due on the land in Defendants
possession for 3 years preceding
the suit, taking the gross income
of each crop upon a Cottah of
land to be 20 Cottahs of paddy.

6 Both parties have appealed
on the grounds set forth in the
Appeal decree.

Judgment.

7. Regarding the question
of the action of the limitation act
in this suit I take the same view
as the Principal Sudder Ameer.

The suit is for one of back rent

and

And three years is the limit.

8 It is no use Plaintiffs saying that
they did not know what rate to claim
before that and therefore were unable
to sue till that was decided; for in
the first place they should have
claimed what they thought their due
and 2nd when it was decided by the
Collector Plaintiffs have not abided by
that decision, but claim the same
rate as they did before the Collector
who disallowed that rate. neither
is it of use pleading that they were
litigating their claims before the
Revenue Authorities till they brought
their suit in the Civil Court, for that
will not stop the effect of the act.
The Civil Court was the only court of
competent jurisdiction to give them

Such

such

Arrears of rent and that they were applying to any other court if they did so will not help them.

9. I do not however agree as to the rate given by the Principal Sudder Ameen that is the rate of tax or rent. It appears by exhibit II in Appeal Suit N^o 97 and 98 that the question of the rate of rent or tax was settled by the Collector in August 1863 by a formal decision which though the Section or Regulation is not quoted is so complete and formal as to leave no doubt it was under Regulation V of 1822 section 2. and Act XXVI of 1828.

10. Now that decision not having been appealed against as required
by

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by Section XVI Act V of 1822 is final and the Principal Sudder Ameen was bound by it and by that it is decided that the rate of tax to be paid by the Defendant to the Plaintiffs shall be what it was at the time of the grant of the inam and not what it was at the time of the resumption of the inam years before. being of opinion then that the decision of the Collector is final I do not think it necessary to go into the question raised on this point by the Principal Sudder Ameen though I may remark that I am the more inclined to agree with the Collector than with the Principal Sudder Ameen.

11. The Case arises from one of those

those old fashioned and objectionable grants by which the Government demands on ryots ^{were} transferred as a reward to an individual. This was in 1807. part of this grant was resumed in 1820 and the rest in 1844. The Government in 1859 made a re-grant of the whole to the heirs of an original grantee. This was by favour not by law and at the same time they gave up that which they had received as tax with 5 per cent interest and which they call meone profit. This was collected at a different rate and on a different principle from what the tax ^{was}

was collected from 1807 the date of original grant to date of resumption. The question before the Collector and afterwards in my opinion in. properly reheard by the Principal Sudder Ameen was whether the rate of tax payable by the ryots was that paid previous to the resumption of the lands by the Government or that paid in the interval between the resumption and the regrant. I have no doubt the Collector was right in deciding that the rate paid during the latter period was that to which the Inamdar was now entitled. The question is not one between the Government and the Ryot or

or the Government and the Inamdar
but between the Ryot and the
Inamdar.

12 Government can do what
it likes with its own but there
its right ceases. they made a grant
in 1807 that was resumed in 1820
for part and in 1846 for the rest
of the taxes and in 1859 they made
a regrant of the taxes with
payment of what they had
received. they did not however
repay at the rate of 1807 but at
the rate now allowed by the
Collector and which was the rate
at which they levied the tax for
29 years from part of the Ryots
and for 16 from others. It appears

to

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to me preposterous that because
the Government have chosen of
their favour to make a regrant
of these taxes to the original
grantees heirs that the Ryots are
to pay their taxes not at the
rate they have been levied
for years but at an obsolete rate
levied in years gone by. It may
be said that if the Government
had not resumed the grant the
taxes would have been levied
at their old rate and that the
grantees suffer from the unjust
resumption of the grant. If the
grantees have suffered by the
action of Government let them
ask Government to make it

up

up. but why a Ryot who is the holder of his land should all of a sudden be called on to pay a higher rate of taxation because the Government have determined to continue old grant to the heirs of the original grantee. I do not see.

13. The decree of the Principal Sudder Ameen will therefore be modified and will be for rent for the three years preceding the date of Plaint according to the rate settled by the Collector in the decision above referred to.

14. Plaintiffs must bear Costs of both appeals. Cost to bear 5 per cent interest.

The

15 The costs in the original decree will be modified according to this decree being still as ordered by the Principal Sudder Ameen proportionate.

Pronounced in open Court this 22^d day of June 1867.

Signed/ J. G. Child
Civil Judge

(True Copy/

U. S. S. S.
Civil Judge.

End of

1944

14 Copies Letter of Prof. R. D. P. Esq.
1 Copy - to Court Judge of Tennessee, &
6 Copies to the Secretary

200707

In a letter from
the Unit. Assoc. of Am.
Universities dated 20th
September 1867. at No 487

The
Hon^{ble} J. J. Child, Esq:
To R. & Ellis Esq:
N. Y.

R. 2558/67.
Nov. 29 Oct 25/67 d. d. 12.

Copy of Engagement
in Accordance with the
93994 of 1869 on the
part of the Civil Lord
of Tennessee.

Pro 13 Sept/67. N^o 235 D 240
4-11-2711

Recd
1867. ~~Sept~~ Sept
Pro of Court for Oct
from N^o 2658

The Civil Judge of
Trincomalee
The Chief Secretary
to Government
Revenue Dept
Fort St George

Dated 20th September 1867
Recd 26th

From the Judge to the Board of
Revenue 25th October/67 (745)

N^o 484
Enclosure one
At

18-1-17

Forwards copy of
Judgment in the suit
referred to in Para 5
of the Proceedings of
Government dated 13th
September 1867. N^o 260.
N^o 2300. 2 Oct/67

N^o 42-43.

1/10/67
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