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(1) Number of pages 11

(2) Date of repair 6 - 1 - 40

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 988 Press —Mis.—

204 206

Dated 26 7 1872.

204 - 206 81

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
26th July 1872.

Read the following papers:—

No. 204. From Colonel A. RITHERDON, Officiating President of the Municipal Commission, Madras, to the Chief Secretary to Government, Fort St. George, dated Madras, 28th June 1872, No. 123.

I have the honour to request that you would be so good as to bring to the notice of His Excellency the Governor in Council that the sea has been encroaching very considerably at the two points shown in the enclosed plan. The waves reach to within 10 feet of Colonel D'Haviland's sea-wall, and the Executive Engineer of the Municipality reports that he is apprehensive of the corrosive action being still further extended towards the land, unless immediate steps are taken to remove the cause, which is undoubtedly owing to the wrecks of the ships *Armenian* and *Invereshie*.

2. Mr. Lee states that so long as the winds blow from the south-east, south, and south-west, which are the prevailing winds, and which will continue with occasional land winds till about the middle of October, the sea will continue to wash away the foreshore on the north of each obstacle opposed to the littoral current; and that on the north-east monsoon setting in, the encroachment would not cease, but simply be transferred from the north to the south of each wreck. It is, therefore, of importance that action should be taken at once, as allowing time to pass would not mend matters.

3. By Section 100 of the Act the Commissioners are vested with the foreshore up to high-water mark, and though the damage now brought to notice is within municipal limits, no assessable damage has yet been done. I have, therefore, to solicit the orders of Government as to what action, if any, is to be taken by me.

Referred, through the Government Solicitor, to the Advocate-General for his opinion as to the steps proper to be taken to ensure the prompt removal of the wrecks which are causing the damage and endangering the stability of the beach road.

OOTACAMUND,
3rd July 1872.

(Signed) W. HUDLESTON,
Secretary to Government.

No. 205. From the Government Solicitor, to the Chief Secretary to Government, Fort St. George, dated Madras, 9th July 1872, No. 316, submitting the following opinion of the Advocate-General:—

OPINION.

I am of opinion that the best course will be to proceed against the present owners of the *Invereshie* and of the group of ships (*Armenian, Sir John Scott, Hotspur*, &c.,) lying opposite Messrs. Parry's, calling upon them, under Section 308 of the Criminal Procedure Code, within a given time, to remove the ships as being nuisances in a public place, or to appear and show cause against the order.

2. The nuisance must be shown to consist in leaving the vessels stranded in such a position and for such a length of time as to endanger the safety of the public road. The Municipality may, with great propriety, set this proceeding on foot,

inasmuch as by Section 100 of the Madras Municipal Act 1867 all public streets, not being the property and under the control of Government, are vested in the Municipality, and by Section 107 it is charged with their maintenance and repair. It can be pointed out that the prolonged continuance of the vessels in their present position is incompatible with the due maintenance of the road.

3. I think all the ships in the group should be joined in the order, and not merely the *Armenian*, as otherwise the owners may with some reason maintain that it is not they but their neighbours who are causing the nuisance, and, to judge by appearances, the *Hotspur* must do at least as much harm as the *Armenian*.

4. An endeavour will, of course, be made to show that the inroad is not caused by the wrecks; Mr. Lee, and, if possible, other trustworthy and disinterested witnesses should, therefore, be produced to show that the encroachment is owing to the ships' action. He should also be prepared to explain the second encroachment near the *Invereshie*, which is sure to be commented upon, and indicates apparently the presence of some other cause besides the vessel, which it would be well to clear up.

5. If the vessels were so stranded as that it could be said that they interfered with the navigation of the port, proceedings might be taken under Section 23 of Act XXII. of 1855 (for regulating ports, &c.) ; this, however, appears to be out of the question; nor again can we regard this as an "obstruction or encroachment on a public street, &c.," within the meaning of Section 117 of the Madras Municipality Act. The procedure above indicated appears accordingly to be the only available course, unless an application for an injunction were made to the High Court; the proceeding by the Magistrate is likely to be the speedier and more convenient, and as the Magistrate will have the right to nominate the foreman and one-half of the remaining members of the jury, a favourable report ought to be secured.

6. By Section 2 of Act XXI. of 1864, Magistrates of Police can exercise the powers given under Sections 308 to 314 to the Magistrate of the District; this Act was extended to Madras by Notification, 21st June 1864 (*vide Fort St. George Gazette*, 24th June 1864, page 1224).

(Signed) H. S. CUNNINGHAM,
Advocate-General.

8*th July* 1872.

No. 206. ORDER THEREON, 26th July 1872, No. 988.

The opinion above recorded will be communicated to the Acting President of the Municipal Commission. Colonel Ritherdon will, in communication with the Government Solicitor, proceed as indicated by the Advocate-General for obtaining the removal of the nuisance.

(True Extract.)

Acting Under Secy. to Govt.

To the President of the Madras Municipal Commission, with plan.
,, Government Solicitor.

Exd. J. Wright.

Govt. of {1872} Madras.

FINANCIAL.

To

THE PRESIDENT OF THE
MUNICIPAL COMMISSION,
Madras.

Dated July, 26th.

Recd. Read.

G. O., 26th July 1872, *No.* 988.

JULY.
Nos. 204—206.

With reference to the damage caused to the beach road by reason of the wrecks being allowed to stand on the beach, directing that immediate measures be taken for the removal of the nuisance.

No. 316.

Madras 9th July 1872.

From H.G. Prichard,
Government Solicitor, Madras

To W. Huddleston Esqre
Secretary to Government
Ootacamund.

Sir,

I have the honor to acknowledge the receipt of the order of Government dated 3rd. Instant, made on a letter from the Officiating President to the Municipal Commissioners at Madras to Government dated 28th Ultimo, No 723, requesting the Advocate General's opinion relative to the steps to be taken by the Municipality at Madras to ensure the prompt removal of the Wrecks which are causing damage and endangering the stability of the beach Road at Madras.—

2. I submitted the matter for the Consideration of the Advocate General and have also conferred with him thereon and

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3. I now forward herewith a Copy of this opinion and return the letter from the Officiating President to the Municipal Commissioners above referred to and the Plan subsequently forwarded to me.—

I have the Honor to be
Sir
Your obedient servant
H. J. Richards
Government Solicitor

No. 988

Government 26th July 1872.

The Grievance above described will be communicated to the Actg. President of the Municipal Commrs. with reference to communication with the Govt. Solicitor moved at [illegible], including by the Advocate General, for obtaining the removal of the nuisance.

M.C.

President Madras Munl. Commrs.
Commn. with 3 Govt. Solicitor

Read No. 1344.

For G.O. 1872. Department

From
The Government Solicitor,
Madras

To
The Secretary to Government,
Ootacamund

Dated 9th July
Recd 11.3 July
No. 1344

No. 316.
Enclosure 1.
Priced 1.

505 G.O. 26th July 72 No. 2

Forwards a copy of the Report from the Govt. relating to the steps to be taken by the Municipality of Madras to ensure the prompt removal of the Wrecks which are causing damage and endangering the stability of the Beach Road at Madras and returns a letter of [illegible].

With an order.

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1872
Financial Department
From
Acting Govt. Madras
12

Dated 29th June 1872
Recd 3rd July 72

No. 988

No. 1217

Reports encroachment of the sea at two points specified on the Beach road, Madras.

H.G.P.
5/7/72

Referred thro' the Govt. Advs. & the Advocate Genl. for his opinion as to the steps proper to be taken to ensure the prompt removal of the wrecks &c. and causing the damage & endangering the stability of the Beach road. — [illegible]
Sec. to Govt.

Ootacamund
3.7.72 To the Govt. Solicitor

Govt. of {1872} Madras.

Financial

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The Presd.t Munl. Comm.r
Madras.

Dated July. 26
Recd.

G. O. 26 July, 1872, No. 988.

204-206

Nos. 203A-203C.

With ref.e to the damage
caused to the Beach-road
by reason of the wrecks
having allowed to stand on
the beach directing that
immediate measures be
taken for the removal
of the nuisance.