M.R. O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 678 Press
Mis.

40-43

Dated 16 — 5 — ~~19~~ 1859

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, from 11th to 17th May 1859.

No. 40. Read the following Petition.

To the Honorable Government.

The humble Petition of Vooroogoonta Ramah Naidoo, the Village Moonsiff of Ticcavarapoopaty in the Talook of Survapully of Nellore.

1. According to the orders of Government and in accordance with Regulations 4, 5 and 11 of 1816, which treat of the duties of Village Moonsiff, I have been conducting my business in such a way as to prevent quarrels in the village, and have also disposed of Civil suits of Rupees 10 and under.

2. In the villages of this Zillah, it has never been the custom that people of pariah and shoe-maker caste should, on occasions of marriage, come into the village *in procession.*

3. When a pariah man called B. Paupadoo attempted to come in procession into the village in the year 1856, I prevented him from so doing telling him that it was opposed to long standing custom, and so, he desisted from the attempt.

4. In the year 1857, when the pariahs made an attempt similar to the former, on the occasion of the marriages of G. Kibbadoo and G. Pottygadoo, I put a stop to it as it was against mamool, and sent a report according to rules to G. Hanoomunta Row the late Head of Police of the Talook, on the 1st September 1857, informing him of the particulars of the case.

5. Upon this, G. Bootchigadoo and G. Vencatagadoo and others lodged a complaint against me before the late Head of Police who issued an order giving license for the procession in question.

6. Upon which, myself and some other persons in the village, brought the decision of the late Head of Police to the notice of the Head Magistrate, stating in detail, that contrary to custom, the pariahs had entered the village in procession, thereby causing disturbance, and pointing out that in 1841, on the occurrence of a quarrel of a similar nature, Razeenamah No. 77, had been executed on the 7th August in the presence of the Head of Police, giving permission only for *Arivany Coondah* (*a ceremony*) which is to be conducted previous to the marriage.

7. Upon this, the Head Magistrate issued an order No. 48, dated 16th June 1858, to the Head of Police of the Talook, directing him that only the ceremony of *Arivany Coondah* should be performed as regulated by custom and the Razeenamah of 1841, that *the procession in the village should not be allowed* ; and that the decision of the Head of Police must be reversed.

8. From this decision, the pariah people made a summary appeal before the Session Court, who confirmed the decision of the Head Magistrate and dismissed the summary appeal, No. 19, on the 8th October 1858.

9. Although this matter has been clearly settled by the decrees of 2 authorities, yet founding their claim upon the unjust decision of the late Head of Police which was rendered null and void by the orders of higher officers, the said pariahs brought a suit against me and some others, contrary to Sections 9 and 10 of Regulation 2 of 1802, in the Moonsiff Court of Goodoor Talook in No. 693 of 1858, complaining that they were prevented by me from coming into the village in their usual and customary procession, and praying that the loss of 16 Rupees occasioned to them by being twice hindered from the procession should be recovered and paid to them.

10. Although in filing my answer, I produced public copies of the decisions of the Magistrate and Session Court and proved by witnesses that the procession in question was unusual and never practised, yet the District Moonsiff of Goodoor having declared that the procession in dispute has been practised in the Zillah and town of Guntoor, gave the decision in favor of the plaintiffs on the 28th February 1859, ordering us to pay the amount sued for together with costs.

Therefore it is a hard case that I who acted according to the regulations enacted by Government and in accordance with the orders of higher officers, should be thus made a party in the suit and cost for damages. My hands are thus tied and I am unable to discharge my

duties as per regulations and rules laid down for my guidance. With reference to the former settlements made by higher officers, and with respect to the way in which I conducted my duty as per regulations, I beg that the records connected with the case may be called for and perused together with the copies I have sent herewith, of the decisions of the Head Magistrate and Session Court and of the report sent by me to the Head of Police.

I pray that as there is not much time for making an appeal from the decision of the Moonsiff, the above statements may be taken into consideration and orders may be passed by Government soon rendering him justice.

9th March 1859.

(Signed) RAMA NAIDOO.

(A true translation.)

(Signed) V. VENCATASOOBBAH SASTRY,
Translator.

No. 41. From F. B. ELTON, Esq., Magistrate of Nellore ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 15th April 1859, No. 11.

With reference to the Endorsement on the Petition of V. Ramanaidoo, Village Moonsiff of Thickavarapaud attached to Survapully in this District, herewith returned, I have the honor to report briefly the circumstances of the case, for the information of Government.

2. The matter at issue is a caste dispute between the pariahs and some of the villagers of the above named place, as to the right of the former to enter the village in procession during the celebration of a marriage. The petitioner, who is the Village Moonsiff, prohibited the pariahs from doing so, upon which they complained to the Tahsildar, who upheld their right.

3. The Village Moonsiff appealed to the Joint Magistrate, then in charge who gave a general order to act according to custom, but did not finally decide the case. Having meamwhile resumed charge of the District, I sent for the record, and finding that the mode of procedure in such cases had been settled by a Rauzeenamah, or agreement filed before a former Head of Police in 1841, I decided that I could not sanction any deviation from the same, and that that arrangement must be considered the settled usage, by which, under the orders of Government circulated under date October 29th 1853, the inhabitants of the place are required to abide, and that the Tahsildar's decision must be therefore altered accordingly.

4. Since the receipt of the order of Government directing me to report on the allegations contained in the petition under consideration, the Sessions Judge, in reply to a reference made by me, has informed me, that an appeal having been preferred to him against my order in the case referred to, the same was rejected, the appealable time having elapsed, and the order appearing correct. The Judge also states that a Civil suit having been filed in due and proper course, by the dissatisfied parties, before the District Moonsiff of Goodoor, against V. Ramanaidoo the Village Moonsiff and three others, for damages, for preventing a procession, claiming 8 Rupees as the loss sustained, and a right to continue the same, that Officer passed a decision against V. Ramanaidoo and others in favor of the plaintiffs ; that the defendants preferred a regular appeal to his Court against this decision, on the 29th Ultimo. which was rejected without entering into the merits of the case, as the decision of the Moonsiff is final under Section XLIII, Regulation VI of 1816, the amount of the claim, which is not connected with property in land, being below Rupees 20.

No. 42. MINUTE by the HONORABLE the PRESIDENT, dated 5th May 1859.

The Village Moonsiff should of course, be *held harmless* for obeying the order of the Magistrate—*damages* 16 *Rupees*—but as the action was brought against the Officer who acted in the matter, I do not think that the discretion exercised by the Native Judge can be questioned, as suggested by Mr. Pycroft.

(Signed) C. E. TREVELYAN.

Proceedings of the Madras Government, Judicial Department, from 11th to 17th May 1859.

No. 43. ORDER THEREON, 16th May 1859, No. 678.

On the occasion of a caste dispute as to the rights of the pariahs to enter the village in procession during the celebration of a marriage, the petitioner who is Village Moonsiff prohibited their doing so. The matter, after passing through the various stages of appeal before the Head of Police, the Magistrate, and the Session Judge, was finally brought before the District Moonsiff of Goodoor, in a regular Civil suit, and petitioner was cast in damages. His appeal from this decision was rejected as inadmissible under the regulations, the amount decreed as damages—Rupees 16—being within the limit of the District Moonsiff's *final* jurisdiction.

2. It is shown, however, that the act for which the Village Moonsiff was sued was in accordance with the instructions issued to him by the Magistrate, and under these circumstances, the Honorable the Governor in Council is of opinion that he should be held harmless. The amount of damages, therefore decreed against him, sixteen (16) Rupees, will be borne by the State.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No 857 of 1859.

Referred to the Collector and Magistrate of Nellore for report on the allegations contained in this petition.

By Order

Fort St George
29th March 1859

T. Pycroft
Dy Secy to Govt

For orders.

Memo. on Mags. Report
dd 15th April 59.

In the occasion of a caste-dispute as to the right of the Pariahs to enter the Village in procession during the celebration of a Marriage, the Petr. who is Vil: Moonsiff prohibited their doing so - The matter after passing through the various stages of appeal before the Head Police Mag.e & Sessions Judge, was finally taken before the District Moonsiff in a regular Civil Suit and Petrs was cast in damages. His appeal from this decision was rejected as inadmissible under the Regulations -

The Village Moonsiff should of course be held harmless for obeying the order of the Magistrate but as to action damages brought against the Officer who gave effect to the matter, I do not think that the discretion exercised by the Native Judge can be questioned at suggested in the Govt letter dated 5th Nov - the Case deals with the actual acquittal in an action brought

The 5th Govt 17 May 1859 DFC

From W. Pennington Esqr Collector & Magistrate of Nellore
Dated 10th March 1859
Rd 12th March 1859
Nos 3 enclosures

10. Subject

Asks sanction of this Govt to the grant of a Reward to the Police Officers who apprehended the murderers of the late Mr Goodwin

Refers to the Govt Order on the Petition of Pariahs of Kavelly praying for the removal of the Moonsiff of that Village

Encloses Petition of Pariahs

Encloses Report of Moonsiff

Encloses Report of Sessions Judge

Encloses Report of Police Magistrate

Encloses Petition of appellant

The Petr was sued was in accordance with instructions sent to him by the Magte, and under these circumstances it seems but equitable that Saul should pay the amount adjudged against him by the Court. Collectors are thus protected when in the exercise of their office, they give orders which are afterwards reversed in a Civil suit with cost or damages.

Translation of the petn is given in full and the orders referred to by Mr Elton are just as

L. P.

It does not appear to me why the Plaintiff who merely acted under the orders of his superior was made a Defendant in the suit. The proper Defendt would have been the Magistrate who gave the order. The District Plaintiff should have struck out the Petitioner from the Defendants and included the Magistrate. The Magistrate is aware of the action that had been brought against himself I conceive I can move the Court to that effect, taking upon himself the responsibility of the proceedings caused by his order. But there seems no remedy now as the decree is final. The amount decreed being below that on which an appeal will lie.

JP.

42.

Memo. for
orders

By Govt. 15 May

Judicial

Proceedings of the Madras Govt.

Read Petition of V. Ramanadien Village Moonsiff of Thekkumaspaud- 9 March 59.
Read letter from the Magistrate of Nellore ——— Enter 15 April 1859 No. 11.
Minute by the Hon'ble the President ——— " 5 May

Order thereon - 16 May 1859 No 675.

On the occasion of a caste dispute as to the rights of the Pariahs to enter the Village in procession during the celebration of a marriage, the Petitioner who is Village Moonsiff prohibited their doing so. The matter, after passing thro' the various stages of appeal before the Head of Police, the Magistrate, & the Sessions Judge, was finally brought before the District Moonsiff of Coodoor, in a regular Civil Suit, & Petitioner was cast in damages. His appeal from this decision was rejected as inadmissible under the Regulations, by amount decreed as damages - Rs 16 - being within the limit for the Moonsiff's final jurisdiction.

2. It is shown, however, that the act for which the Village Moonsiff was sued was in

C. 5 May
R 13 -

in accordance with the instructions issued to him by the Magistrate, & under these circumstances, the Hon'ble the Governor in Council is of opinion that he should be held harmless. The amount of damages, therefore, decreed against him, Sixteen 16 Rupees will be borne by the State

The Collector of Nellore.
" Civil Auditor
" Acct. Genl.

} Sent 21st

Edwd Lutz & Bro
vs
Coy

Pres of Govt by mail

Judicial 1859 Dept

No 675

Order of Govt

9/16 May 59

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