

M.R.O. 1—8,000—16-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 852 Press Mis.

19-20

Dated 26—6—1920

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, from 18th to 24th June 1859.

No. 19. Read the following letter from JOHN BRUCE NORTON, Esq.; to THOMAS PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 17th June 1859.

In the absence of the Chairman of the Committee appointed at a Meeting of the inhabitants of Madras to draw up the accompanying Memorial to the Secretary of State for India, I have the honor to forward the document with a request that it may be laid before the Right Honorable the Governor in Council with a view to its dispatch to His Lordship by the earliest practicable opportunity.

No. 20. ORDER THEREON, 21st June 1859, No. 852.

Ordered that the Memorial received with the above letter, be forwarded to the Right Honorable the Secretary of State for India.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters.

From the Secretary to the Board of Revenue.

Drawing the attention of Government to the importance of the principle involved in the decision passed by the Sudr. Court in A. S. No. 89 of 1856, affecting the right of the proprietor of the Gopaulpooram Mootah in Rajahmundry to an Island formed in the bed of the Godavery and alleged to come within the limits of the village. } (Here enter 3rd June 1859, No. 2032.)

From the Secretary to the Board of Revenue.

Submitting a report from the Government Pleader on the decree of the Sudr Udalut in A. S. No. 89 of 1856, determining the right to an Island formed in the Godavery by the action of the river; and stating the grounds on which the Board deem the institution of further proceedings in the matter inexpedient. } (Here enter 10th June 1859, No. 2196.)

Order thereon, 17th June 1859, No. 802.

Commissioner's letter No. 47, 23d April 1855.

Ex. Mins. Cons. No. 560, 9th May 1855.

Board's letter 1st March 1858, No. 753.

Decision of S. U. O. S. No. 287 of 1854.
Appeal S. No. 89 of 1856 30th October 1858.

Joghi Jugganatha rauze proprietor of Gopaulpooram filed a suit against Mr. G. N. Taylor, Sub-Collector in charge of Rajahmundry, for about 10 pooties of island land in the bed of the Godavery together with value of produce for nine years from Fusly (1255 1845-46) to Fusly 1263 (1853-54) amounting to Rs. 13,000. Authority was granted by Government for the defence of this suit in the first instance at the public expense, and plaintiff's claim was rejected by the Civil Court, as he could not prove that the new formation was within the bounndary of his village. The case was appealed to the Sudr and the decision of the lower Court has been reversed, on the ground that plaintiff is entitled to whatever land has been formed in the bed of the river opposite to his own shore.

2. The question now for Government to decide, is whether an appeal should be made to the Privy Council or not. The Government Pleader states that though he would urge a private client to appeal, he does not recommend that course to Government, because he thinks that Government ought not to appear in Court as a plaintiff except with very clear right on its side.

From Govt. Pleader to the Board No. 70, 8th June 1859, paras. 22-23.

Bd's letter No. 2032, 3d June 1859, paras. 6-7.

Bd's. letter 10th June para. 6, 1859, No. 2196.

The Board are of the same opinion chiefly because they find from Mr. Dale's letter that the general question concerning the right of Government to all land newly formed in the bed of rivers, a question which they regard as of great importance, could not be argued in the Privy Council, because it was not raised in the Civil Court, they therefore think it advisable to wait for a better opportunity to bring this point to a legal issue. In accordance with the opinion of their legal adviser, the Government resolve to abandon the case; the Collector will be directed to make over the land, and to disburse the sum due as soon as it shall be ascertained by the Civil Judge. The amount so paid to be eventually reported to Government.

Govt. Pleader's letter to Board 8th June 1859, *para.* 19, *No.* 70.

3. The Government Pleader considers the case to have been "grossly mismanaged" in the Civil Court. He states that certain exhibits specified ought not to have been admitted; and

Para. 12. *do.*

Para. 16.

in the oral evidence, adduced by the plaintiff, the witnesses were examined, he says, only as to the boundaries of the lunka in question, and its occupation; nothing was brought forward to identify the lunka of which they spoke as being "Voota lunka" claimed by the plaintiff, and although the evidence is full of discrepancies the witnesses do not appear to have been cross examined.

4. He also points out that the answer put in by the Collector was very badly prepared, and he particularly notices paras. 2 and 8. The Board will report to Government who prepared the answer and who is responsible for the mistakes noticed by Mr. Dale, as well as for the omission of the general plea of the right of Government to new land in the beds of rivers which the Board consider so important. The Board will also call the attention of the Collector to the very unintelligible character of the plan sent up by him.

Para. 25, *Mr. Dale's letter.*

5. Under the opinion given by Mr. Dale of the qualities evinced by the Government Vakeel, the Governor in Council resolves to dismiss him from that employment.

6. Government cannot close these proceedings without remarking on the long delay which has occurred in bringing this decree to their notice. The date of the decree is 30th October 1858, but was not signed and sealed till the 20th December; the term of appeal expires on the 20th instant. It was not received by the Government Pleader till March, and this delay much shortened the time; but three months cannot really have been necessary to him to report on it, especially as he had but a short time before made himself fully acquainted with the case. It is not only inconvenient but highly reprehensible that when the law allows six months for appeals, Government by the delay of their officers, should obtain only ten days of that time for deliberation and decision.

(True Extract.)

Secretary to Government.

To the Board of Revenue.
To the Government Pleader.
To the Judl. Dept. with reference to para. 5.

Exd. H. M. Elliot.

No. 852.

Ordered that the Memorial received with the above letter, be ~~forwarded to the Board of Revenue for the opinion of the Board, & thereafter~~ forwarded to the Rt. Honble the Secretary of State for India.

Fort St George, 21 June, 1859.

To H. B. Harton Esqr. Dispd. 23d