MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No. Press Mark

Dated

Not to be folded or roughly handled

No. 11. Read the following letter from W. S. NESBITT, Esq. Acting Subordinate Judge of Chicacole to T. PYCROFT, Esq. Chief Secretary to Government, Fort St. George, dated 22nd June 1859.

1. I have the honor to forward herewith a translation of a petition, together with a draft of the proposed encroachment, which has been filed in the Chittoor District Munsiff's Court, by one Pamula Chinnaswamy Naidoo of the place, against Mr. Duncan the Chittoor Judge, and one of the Jail Darkhasts, both of whom have been summoned to attend before the Munsiff, complaining of injuries which he considers alone to have accrued to his premises while having the street gutters cleaned and repaired by a party of Coolies.

2. I received also through the post a petition on this subject from the plaintiff, and on his coming of his own accord to Court, a deposition was taken from him to confirm the petition, and more fully explain its contents.

3. In his deposition he represented that he had erected two years ago an embankment of mud in front of his pial half a yard broad, and half a yard high, and that it had been washed and washed away by the rain which had fallen during the last four or five months. From my inspection and measurement of the place, I consider it impossible for an embankment of such dimensions to have yet stood, there not being sufficient space between the pial and the gutter to have allowed of its erection; even however had it existed, the petitioner's assertion that the mud now cleared out of the gutter is the identical mud of the embankment is untenable, because whatever mud might have been washed down from the embankment must, in the nature of things, have been covered over by the flowing water, and the mud now cleared out has been similarly brought down by the current from a distance. It is not as if the embankment had now fallen in bodily into the gutter, and were lying there apparent to every one. If however the petitioner really considered the mud taken from the gutter belonging to him, his abstaining from all attempts to prevent it, or even asking for its being restored to him, for so long a time, is especially to be noticed. It is only when the gutter is cleared that he attempts to set up a claim. If every one made a similar demand when the gutter in front of his house was cleared, the work might be altogether left undone, which of course could not be at all permitted.

4. By the date on the plaint, it would appear that he had also on the same day filed his suit in the Hussur Court, but of this he made not the slightest mention before me. The plaintiff's petition was not however merely regarding the injury done to his premises, but contained various other allegations, some of them being of a most puerile nature, whilst others were gross imputations against the Judge, and evidently put in for no other purpose than to annoy and, if possible, injure the character of a respectable man, the document doubtlessly being drawn out by some intriguing instigation. In further corroboration of this opinion, I received two days afterwards through the post a petition (written on the intervening Sunday) from another party, a woman) complaining also of injuries having been done to her premises by the hunting down of a wall, and removal of the drain. I had her premises examined and myself visited the place, when to my surprise and sorrow there not a vestige of a wall to be seen on the spot as she had represented, but it appeared that the street gutter which had previously run through her pial recently above the public ground had at some former time been encroached upon, and at last was a sufficient bona fondly carried outside her wall (the house to all the appearance of a mansion) and by close measuring her pial from overhanging of the gutter in every case, a portion beyond had been reclaimed as hers. The admissions in Court showed that she had been also in communication with the other complainants. These facts will show how really groundless complaints can be got up by ill disposed persons.

5. Had the petitioner P. Chinnaswamy Naidoo presented a truthful representation of matters, confining himself to what alone affected him, I would have permitted the building by the removal of the small encroachment in front of his door, on his providing the requisite stones, but considering the course he has pursued, I think it would be improper to render him any assistance at the Court. Indeed it is questionable whether his petition is not of a nature rendering him liable to be fined. Surprise will probably be felt at the course adopted by the petitioner. I attribute it purely to his youth and his being influenced by bad advice. You are therefore

sures that wherever a Jail exists in the Mofussil stations, the cleaning and repairing of the streets and roads is done by the convicts under the orders of the Judge or Sub Judge, the Judge owing to the proper execution of the work. The duties of the Judge are numerous, and whether engaged in or outside the Jail, he has enough to well occupy him. These duties however he cannot satisfactorily discharge, if he is liable to be withdrawn from them at any moment to the every suits of a frivolous nature like the present one, and as the sole complainant of any contempt of Jail rules, I have the honor with reference to Clauses I and 2, Section II. Regulation I of 1822 which, in principle, would I think in such cases allow protection to servants as well as to officers, to request you will be good enough to procure the sanction of Government for the defence of the suit being conducted by the Government Pleader, and thus prevent the needless withdrawal of the Jail servants from their duties.

6. An extension of time to file an answer pending this application has been obtained from the District Munsif's Court.

No. 12 Order thereon, 25th June 1859, No. 871.

The Honorable the Governor in Council grants authority for the defence, at the first instance at the public expense, of the suit, instituted in the District Munsif's Court at Chittoor against Mr. Dimeno, the Jailor, and against the Jail Dafadar—but will determine, when a copy of the Decree is furnished, whether the costs, if any be adjudged against the Defendants, shall be borne by them or by the Government.

(Signed) T. PYCROFT,
Chief Secretary.

Lol P. Carlisle

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The Subordinate Judge
of Chittoor.