M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 209 Press Mis.

11-12

Dated 2-7-1859

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Web Guide

Proceedings of the Madras Government, Judicial Department, from 2nd to 8th July 1859.

No. 11. Read the following letter from CLEMENT DALE, Esq., Government Pleader, Sudr Udalut; to THOMAS PYCROFT, Esq., Chief Secretary to Government, Madras, 20th June 1859, No. 76.

Para. 1. I do myself the honor of acknowledging receipt of the Proceedings of Government under the date and number noted in the margin, and in reply to state, that in my opinion the District Moonsiff of Bellary had no jurisdiction in the suit referred to.

Proceedings of Government, 16th June 1859, No. 826, Judicial Department.

2. It would appear from the translation of the Decree which accompanied the proceedings that the defendant did not plead to the jurisdiction, and that for 2 years and a half he has acquiesced in the Decree. If he had had any grounds for objecting to the Decree, the defendant should have appealed therefrom within 30 days after the Decree.

3. Under the circumstances, I do not suppose the Civil Court would now admit an appeal; neither do I think the Court of Sudr Udalut would interfere, I therefore do myself the honor of advising that Government should not interpose in the case. It is not likely, that any Civil Court would under similar circumstances attempt to exercise jurisdiction, if the defendant pleaded the want of jurisdiction, it does not therefore appear to me to be a case which calls for any special interference, nor do I consider this defendant has entitled himself to any extraordinary protection; he employed a Vakeel, the suit was defended on the merits, and he was defeated; he did not avail himself in the Court of original jurisdiction, of the defence which the law provides, nor did he appeal from the decision when passed, but has slept on the adverse Decree for upwards of 2 years.

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4. I return the translation of the Decree which accompanied the Proceeding of Government now under acknowledgment.

No. 12. ORDER THEREON, 2nd July 1859, No. 909.

The above letter will be communicated to the Adjutant General, in reference to his letter 6th Ultimo, No. 566.

2. Under the circumstances stated by Mr. Dale, there seem to be no grounds for the interference of Government.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

after, [illegible] Lem

No. 803
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Original suit No. 626 of 1856 on the
file of the District Moonsiff's Court
Bellary.

Plaintiff.

Sakeena Bee, wife of Mahomed
Galib. Havildar, 14th native
Infantry. Military Bazar.
Bellary.
Vakeel - Narasinga row.

Defendant.

Syed Bahadoor Saib, Capoy
in the 7th Comp.y 3, 14th native
Infantry. Do
Vakeels B. Rogavendra row &
Ramachendra row.

The suit was brought on the 23d June by the Plaintiff,
for the recovery of a sum of 216 Rs. from the Deft., as the
charge of maintenance of the son of the latter for a period
of 6 years, at the rate of 36 Rs. P. Annum.

2- It is stated in the Plaint, that the Defts wife who is
related to the Plff. having fell in a severe illness shortly
after the birth of her son, placed him in the care of
the Plff. as is customary among the mahomedans with
the consent of the Deft. like an adoption; that a year
after, the Deft. took back the young boy & returned
him

him to the Plff within a short time; & that from that
period the latter spent the aforesaid amount for the main-
-tenance of the boy, who being subsequently delivered to the Deft
by the Commanding officer, this suit has been instituted.

3. In the answer, the Deft rejects the Plffs claims, & states that
the latter is the sister of the young boy's mother, that her hus-
-band took him forcibly from the Deft that he will himself
get him educated, & that in consequence his possession
was resumed as was verbally agreed to on that occasion.

4. The points given to the parties to be proved are as follows.

To the Plaintiff-

1- That the Deft gave to him the young boy.
2- And that he protected the boy for a period of 6 years
spending for him the amount sued for.

To the Deft.

1- To disprove the points above mentioned.

5- The Plff mentioned 14 witnesses, of whom the 5th, 7th &
13th witnesses, & the following were examined.

1- Gemanjee-
2- Shaikkareem, a sepoy 6th Compy 14 Native Infantry-
3- Shaik Davood, a sepoy 7th Compy, Do
4- Ramaswamy of Salem - Do
6- N. Ramaswamy - Do
7- Eyed Hassaradeen, a sepoy 6th Compy Do

9- C- Seethyah, a sepoy of the 7th Compy Do
10- Achunnah, Do Do
11- C- Appoodoo Do Do
12- Ramaswamy Do Do
14- Yerrapoodoo Do Do

The witnesses 1-2-3- proved the 1st point & the rest-

the 2d point.

6. The Deft mentioned 9 witnesses, of whom the 5th with-
-drew & the following were examined.

1- Eyed Hassaradeen, a sepoy of the 7th Compy in the
14th Native Infantry.
2- Shaik Bunoul, a Police Peon attached to Do
3- Ramiah a sepoy of the 7th Compy, Do
4- Appiah Do Do
6- Mahomma Esaboo, naick of the 8th Compy Do
7- Eyed Mahommed, a sepoy of the Eight Compy. Do
8- Hakeer mahommed, Havildar of the 7th Compy Do
9- Mahammed Esaboo, Lookadar of the 7th Compy Do

The Deft proved the point given him.

Decree-

7- It appears that the mother of the young boy referred to-
a little before her death with the consent of her
husband

husband & the Defts, gave her son to the Offr, her elder sister
& told her as follows

The 1st witness of the Offrs side, says that he was present
at the time when the Offr spoke to her sister a little before
her death that I have placed my child in your lap,
which you must protect & be its mother in every respect.
This circumstance is stated to have happened at a
camp on the way to Halagee from Banglore.
The 2d & 3d witnesses who are in a tent near that of the
patient with whom they were well acquainted, having
been attracted by the cries at the mentioned, went to
the spot, where they heard from the mouth of the
child's mother nearly the very words attested by
the 1st witness. The other witnesses of this side
have proved that the Offr protected the child
till before 1 or 2 years, while some of them said
that her husband did the same). These witnesses
seem to know well of this subject as they lived
near the house of the Offr at Bellary & at Halagee,
& were employed in the same Company with the latter.
The evidence of the 1st, 2d & 3d witnesses of the Offrs side,
is such as to prove to the satisfaction of the Court beyond
all doubt the delivery of the child in question to the Offr

8. & the close relationship that exists between them
claims against any objection to the contrary effect.
The other witnesses have also proved satisfactorily that
the child was protected by the Offr & her husband in
their house, & they from different reasons seem to
have been acquainted with the particulars of this case.

9. The 4th witness of the Defts, who has said that the
child was under his protection has been brought
by himself; and the 6th & 9th witnesses of this side
have stated that the Defts lived together & ate
with them for some time when he paid them once
a certain additional charge for the supply of food
to the young boy under his care. Notwithstanding
these preferences should be given to the evidence
of the witnesses of the Offrs side, as they are greater
in number & for reasons abovementioned.
the Defts taking possession of the young boy
through his Commanding Officer, is in itself
a proof that it was not the case before he
had recourse to that measure. Moreover the
Defts assertion that the child was forcibly
taken

taken from him by the Offr's husband, is not to be believed as fact- It appears to the Court that the charge made by the Offr about the maintenance of the young boy, is rather at a high rate, & that as there is no proof of the actual expence for the same, the Court have reduced it at the rate of 2 Rs. p. mensem & have passed decree for the amount of 1144 Rs.

Dated 20th November 1856-

Costs-	Rs	A.	C.
Institution fee	16	"	"
Offr's Sakeel's fee	10	12	9
Defts do do	10	12	9-
Proces Buttah paid by the Offr	"	3	"
	37	12	6-
Borne by the Defts	10	12	9-
do by the Offr	12	9	6-
Payable to the Offr by the Defts	14	6	3-

Dates-
Plaint 23d June-
Pleadings 24th July-
First trial do
Subsequent trials on 21st & 22d August,
& 8th November-
Decree- 20th November 1856-

Execution of this decree will not be effected 12 years after the date, unless the motion filed for that purpose

purpose proves that the delay is founded on one of the causes specified in Clause 4th Section 18. Reg. XII of 1802-

Dated 25th November 56-

Under my hand & seal of the Court-

(signed) H. L. Platcher
District Moonsiff-

(A true translation)

T. Srigalacharyalu
Translator-

Judicial.

Proceedings of the Madras Govt.

Read letter from the
Govt. Pleader ——— Enter 20 June 1859 No. 76.

Order thereon 2d July 1859 No 909.

The above letter will be communicated to the Adjutant General in reference to his letter, 6 ~~June~~ Ultimo ~~Instant~~, No. 566.

Under the circumstances stated by Mr. Dale, there seem to be no grounds for the interference of Govt.

The Adjutant General. Sent Dr.

Pon of Govt 8 July.
Judicial 1859 Depart.

№ 909.

Proceedings of Government.

Dated 2nd July 1859.

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