

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 2100	Press
230-231	~~Mis.~~
Dated 23.12.1862. 49	

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
23rd December 1862.*

Read the following petition:—

No. 230. To His EXCELLENCY THE RIGHT HONORABLE THE GOVERNOR IN COUNCIL,
Fort Saint George.

The humble Petition of DOORESETTY VEN-
CAT ROW, Abkarry Renter in the Zillah of
Vizagapatam, Respondent in Summary Case
No. 65 of 1862, before the Governor's Agent,
Vizagapatam.

SHEWETH,

1. That dissatisfied with the decision of the Governor's Agent, dated 2nd September 1862, in the above case, your Petitioner appeals therefrom under No. XXXI of the Revised Agency Rules.

2. The Plaintiffs (Appellants) in the above case, sub-renters under your Petitioner, complained that your Petitioner had demanded unauthorized payments from them under the denomination of "costs and roosooms."

3. Owing to unavoidable causes your Petitioner and his co-renters were unable to attend within time when the case first came on for hearing before the Senior Assistant Agent.

4. In the absence of any defence, the Senior Assistant Agent was induced to credit the statements of the Plaintiffs, and was led to believe that the cowles and cuddapahs did not correspond, and that entries were made in the cowles which were not entered in the cuddapahs given by the Plaintiffs, and on this supposition naturally concluded that a fraud had been practised on the Plaintiffs, for which reason he ordered that the "costs and roosooms" inserted in the cowles should not be collected by your Petitioner and his co-renters.

Vide Enclosure A.

5. Your Petitioner subsequently attended before the Senior Assistant Agent, and having satisfied him, that the cowles and cuddapahs are strictly counterpart documents, and that the cuddapahs provide for the payment of "the costs and roosooms," according to mamool, the Senior Assistant Agent was pleased to cancel his decision, and to order that the Plaintiffs, should abide by their cuddapahs, namely, the written engagements they executed, and to decline assisting them to evade the liabilities they incurred by the said cuddapahs or engagements.

Vide Enclosure B.

6. Your Petitioner need not observe that this order of the Senior Assistant Agent refusing to lend his assistance to enable the Plaintiffs to evade engagements voluntarily entered into is perfectly legal.

7. The Plaintiffs appealed to the Agent who set aside the second decision of the Senior Assistant, and upheld the 1st, on the ground that your Petitioner by default, had lost his right to be heard; and that the agreement to pay "costs and roosooms," though entered in the cowles and cuddapahs, was irregular.

Vide Enclosure C.

8. Your Petitioner submits that this decision cannot stand.

1st. Because default is in law excusable.

2ndly. Because the Revenue Laws do not attach the same penalty to default as the Civil Procedure Law, and no Revenue enactment supports this ruling of the Agent.

3rdly. Because parties are bound by their engagements, and the Agent had not power, on a summary inquiry, to relieve the Plaintiffs of conditions to which they voluntarily and of their own free will and accord consented, as being in accordance with an established mamool.

4thly. Because when bidding for the Abkarry rent, your Petitioner and partners, included these "costs and roosooms" in their estimation of the assets of the Farm, and it is a violation of good faith on the part of the Agent in his Revenue capacity, to interfere with the collection of any portion of the assets upon which the bidding was regulated.

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- 5thly. Because if such interference be permitted, your Petitioner is entitled to ask Government to make a corresponding reduction in the amount he agreed to pay.
- 6thly. Because the payment has been agreed to by all the sub-renters, and with the exception of these 5 Plaintiffs paid by all without demur; and Revenue officials have no authority to interfere in the private engagements between renter and sub-renter.
- 7thly. Because the decision of the Agent will be taken advantage of by an immense number of persons who never dreamt of questioning their engagements, or declining to conform to them, and will be the cause of great loss to your Petitioner.
- 8thly. Because the Plaintiffs, if aggrieved, had their remedy by application to the Civil Court, the only authority empowered to grant equitable relief to persons seeking to cancel engagements of their own creation.
9. For these reasons your Petitioner prays that your Excellency in Council will be pleased to cancel the proceedings of the Agent and to confirm those of the Senior Assistant.
10. Your Petitioner further begs that he may be heard through Council.
- For which as in duty bound, &c.

For Petitioner.
(Signed) W. SLOAN,
Pleader of the High Court of
Judicature.

MADRAS, 5th December 1862.

No. 231. ORDER THEREON, 23rd December 1862, No. 2,100.

Resolved that this petition be referred under Section XXXI of the Revised Agency Rules, to the High Court to be disposed of in such manner as they may deem proper.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 2100 23rd Decr 1862

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be referred under Section XXXI
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*The Honble the Judges of the High Court
Mr. W. Sloan - in the Encls. returned } dep^d 23*