M.R.O. 1—30,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 701 Press ~~His~~

284-285

Dated 30-4-1862 #

9/10

Not to be folded or roughly handled

9/11

701

Proceedings of the Madras Government, Judicial Department, 30th April 1862.

No. 284. Read the following letter from B. CUNLIFFE, Esq., Magistrate of Madras District; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 17th April 1862, No. 21.

In forwarding the enclosed correspondence between the Board of Revenue and this Office, I have the honor to seek the sanction of Government for the defence of the suit at the public cost and to put in the answer proposed.

From B. CUNLIFFE, Esq., Collector of Madras; to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 3rd April 1862, No. 101.

I have the honor to forward draft of an answer which it is proposed to make on behalf of Ranga Row, Sub-Magistrate of the town of Chingleput, who is the 5th defendant in a Suit No. 735 of 1861, on the file of the Chingleput Station Munsiff's Court, and brought against this defendant and others by Ramasami and Muttusami Naik for the removal of a piall and roof.

2. The Joint Magistrate directed the removal of the piall, if on enquiry it was found to obstruct an old and usual thoroughfare.

3. It appears, however, that the piall had existed for a long time, and could not be said to interfere with a lane on the side of which it has been constructed. I believe however that the Sub-Magistrate acted in good faith and understood the Joint Magistrate's orders to direct the removal, and, therefore, I have pleaded that the removal was the act of the 1st plaintiff, as may be seen from the accompanying copy of his statement before the Sub-Magistrate.

4. The period for filing the answer expires on the 15th instant, and an extension of one month has been requested.

Proceedings of the Board of Revenue dated 16th April 1862, No. 2,521.

Read letter from the Collector of Madras, dated 3rd April 1862, No. 101.

(In Cons., 7th April 1862, No. 2,039.)

The piall in question having been removed by the Sub-Magistrate of Chingleput under the orders of the Sub-Collector in his *Magisterial* capacity, the subject does not fall within the province of the Board of Revenue, and the requisite permission to defend the Suit should be sought by the Collector direct from Government.

Vide note at page 71 of B. C. Order, Vol. I.

(A true Extract.)

(Signed) R. A. DALYELL,
Sub-Secretary.

To B. Cunliffe, Esq., Collector of Madras.

(Signed) B. CUNLIFFE,
Magistrate.

No. 285. ORDER THEREON, 30th April 1862, No. 701.

The Government are not prepared to allow the defence of the action referred to in the above letter, being conducted at the public expense,

2. It is stated by the Collector in his letter to the Board of Revenue, that the Sub-Magistrate was ordered by the Joint Magistrate to remove the piall, "if on enquiry it was found to obstruct an old and usual thoroughfare." This however did not prove to be the case. "It appears" says Mr. Cunliffe in the same letter, "that the piall had existed for a long time, and could not be said to interfere with a lane on the side of which it had been constructed." Under such circumstances the order of the Joint Magistrate gave no authority to the Sub-Magistrate to act as he did, and the Government would not be justified in adopting his proceedings. He must be left to defend the action on his own account.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

The Deposition given before Ranga Row the Sub Magestrate of the Town of Chingal put by Ramasamie Taiko son of Venkata Chella Taiko residing at Chinna Tattam

The Sub Collector having consider ed that the existence of the pial situated on both sides of the Western gate of my house obstructs a thorough fare, and objected to the construction of a pial there, I withheld from re pairing it and erecting a Shed on it, and left it in the State in which it then was. Now as you have informed me that the Sub Collector had sent an order No. 26 directing that no pial should remain there & that it should be removed, I shall remove it before this evening. If I fail to do this, I hereby agree to undergo what is said in the above mentioned order.

Sheard the above read, it is Correct.

Chingleput 30th November 1860

Question What more do you say

Answer During the former enquiry conduc ted by the Sub Collector, my younger

brother Ramisami Saib appeared in consequence of my absence. As I am now present, his presence is not necessary. As I am the owner I am responsible for it.

Witnesses /Signed/ Ramasami Saib
Sig'd/ Muttusami Setti
Sig'd/ Gopala Pillai

/Sig'd/ Ranga Row
Sub Magistrate
(True Translation)
/Sig'd/ R. Cunliffe
Collr.

True Copy

Magistrate

Rec'd Rep. per Cheyar 2d Mar.

To

The District Munsiff

Chingleput

37

The Answer of Ranga Row, Sub Magistrate of Chingleput-town, and 5th Defendt. in Suit No. 735 of 1861 on the Courts file.

The Joint Magistrate inspected the spot, and ordered me by Tatied on the 26th November 1860 to remove the pial, if the land on which it was constructed was on a Thoroughfare. I proceeded to carry orders, and on informing the 1st Pltf what the Joint Magistrate had ordered, he agreed to remove the pial, and did so, and in proof of this assertion, I submit his original deposition given before me on the 30th November 1860. I submit therefore that the removal was his own act, and that I should not be held responsible for it.

/Signed/ R. Cunliffe
Collector

True Copy

Rec'd Rep. per Cheyar 2d Mar.

In a letter from the Regr. of Pudr. dd. 27th Feby. to the Chief Secretary to Govt. No. 21 of 1862.

To

The Collector
Trichy

True Copy

Regr. of Translations &c
Exposition

Exd/ W.D.
No. 845

No. 7

The Station Munsiff
of Chingleput

The Plaint filed by (1) Rama
sami Saiks and (2) Sulluswami Saiks,
sons of Venkatachella Saiks, living by
Merchandize and Service, and residing
at Chinna Nattam in Chingleput
Taluq, against (1) Pachayammal, wife
of Muniyappa Vedyan a Soldier,
(2) her son Munyan (3) Benguluran,
father's name not known (4) Sandan
Roya Vedyan, father's name not known,
all residing at the above place, and
(5) Rungarow, the Chingleput Town
Sub Magistrate,

Praying that Rs. 9, being the
loss consequent upon the removal by
the Defendants of the frial and roof
erected by the Plaintiffs, on their own
land about 30 feet long from North
to South and 12 feet broad from
East to West, situated at Chinna
Nattam, and valued at Rs. 9, may
be recovered to them, and permission
granted to them for re-erecting the

Also Letter from the
Magistrate of Chellapa
Putlur dated 17th
March 1862 No. 24.

No. 7

The Plaint Paper
to Suit
IV

Copy of the Order
Cadaver proposed.

Rs 29-8-0
Rs 84-7

pial. The whole Plaint is for Rupees 16.

1st The house, together with the ground under dispute situated at Chinnacha[illegible] tium, and bounded on the North by the house in which the first 4 Defendants reside, on the South by the Pillaiar Coil Street, on the East by Muttiah Saiba's house, and on the West by a Pillaiar Saiba's house, is Plaintiffs' ancestral property. The above land has been in the uninterrupted enjoyment of the Plaintiffs' family for the last 60 or 70 Years, and they built a pial and a shed on it for cattle and horse and were also using it as a cart Stand. They have however sold a portion of the above land. But the first 4 Defendants, taking advantage of the ground being vacant, endeavoured to usurp it, alleging that it forms a passage to their house, tho' there is a lane from East to West which is the manual passage to their house.

2d The above pial wanting repair, the Plaintiffs endeavoured to execute it and to erect a shed in May 1860. But the first 4 Defendants who have no claim whatever in the land improperly objected to it, and the 1st and 2d Defendants preferred a complaint in the same month to the Sub Collector Mr. Ellis.

upon which the 2d Plaintiff preferred a counter complaint in June following, stating that the above Defendants have no claim whatever upon the land. This was endorsed upon by Mr. Ellis and referred to Kistna Row, the Chinglepet Police Amin, for report after making the necessary enquiries.

3d This latter officer instituted no enquiry on the subject. In November following when the Sub Collector came to Chinglepet, the 1st and 2d Defendants again presented him an Urzi, whereupon he sent a Taked to the 5th Defendant, directing him to cause the pial to be removed by means of the 2d Plaintiff's Muttusamy Saiba, if it is proved that the ground in question has always formed a passage to the 1st 4th Defendants' house.

4th The 5th Defendant however favouring the other Defendants, conducted no enquiry as required by the Taked, but in the absence of the 2d Plaintiff, who has all along been engaged in the matter, threatened the 1st Plaintiff who is incapable of moving in such matters, and forcibly caused him to remove the said pial. The 2d Plaintiff twice complained against this to Mr. Elliott, the Joint Magistrate, who gave an Endorsement, stating that he cannot interfere in the matter, and permitting the Plaintiffs

to appeal to the higher authorities.
The Plaintiffs accordingly filed an appeal in the Sessions Court on the 17th May 1861, but as they in their diary of the 13th instant referred the Plaintiffs to the Civil Court, they beg to enclose as per accompanying list the Extracts of the Sakied and the Report, the Endorsements, and a plan of the land in dispute.

5th The 5th Defendant is included as such in this Suit, as he unjustly and deceitfully removed the fruit, as stated in para 4, in direct contradiction to the Sakied, and made a false report. The Plaintiffs therefore request that the land in question, together with Rupees / sixty / the loss incurred by them by the removal of the fruit, may be recovered to them from the Defendants.

We the Plaintiffs, do declare that what is stated in this Plaint is true to the best of our information and belief, as required in Section 27 Act VIII of 1859.

/signed/ C.C.T. Ramasamichetty
28th November 1861 /signed/ C.C.T. Muttusamichetty

(True Translation)
/signed/ B. Cunliffe
Collector

/True Copy/

Magistrate

old Jane Lane at the
time evidently one
Jack Jane Lease Rec
for years - & March
the Jacks Darling
it removed Jack
Jane Lease Replevied
to the Circuit Court -
and now Lands the
Jack Magistrate Order
Jack Magistrate Order
Mary Jane Lease Jack =

found on inquiry to obtain & thoroughfare from Kil & Sum that there is an old building and doing but obstruct the thoroughfare -

It would then rest with the Sub Mag. to ascertain all this before he ordered the removal of

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Magistrate of Madras.

Hereunder 17th April 1862 No. 21.

Order thereon 30th April 1862 No. 701

The Government are not prepared to allow the defence of the action referred to in the above letter, being conducted at the public expense.

2 It is stated by the Collector in his letter to the Board of Revenue, that the Sub Magistrate was ordered by the Joint Magistrate to remove the pial, "if on enquiry it was found to obstruct an old and usual

usual thoroughfare". This however did not prove to be the case. "It appears, says Mr. Cunliffe in the same letter, that the jail had existed for a long time, and could not be said to interfere with a lane on the side of which it had been constructed". Under such circumstances the order of the Joint Magistrate gave no authority to the Sub Magistrate to act as he did, and the Government would not be justified in adopting his proceedings. He must be left to defend the action on his own account.

J.P.

To The Magistrate of Madras Dated 1st May 62.

Camp
Rachapaul.

A. de Fontaine

Proc. 4 April

Jud. 1862. Department

No. 701

PROCEEDINGS of the MADRAS GOVERNMENT.

Dated 30 April 1862

Stating that the suit instituted against the Sub Magistrate of Shurgapet for having ordered the removal of a pial and a roof that did not obstruct a thoroughfare cannot be allowed to be conducted at the public expense.

8329] Madras—Printed at the Government Press.