Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1105

Dated 23rd May 1895

INDEXED.

[Despatch Abstract.]

TEMPLE DISPUTE, LALGUDI, TRICHINOPOLY DISTRICT.

Declining to interfere with the orders passed by the Deputy Magistrate and confirmed by the District Magistrate regarding the dispute in connection with the management of the Lalgudi temple in Trichinopoly.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[G / 9]
2,000—23-1-95.

Current No. 231/

Judicial Department.

Telegram,

From Doraisamy Iyer
old Trustee, Kalyadi Temple,
Trichinopoly.

No. -

Dated 8th } May 1895
Received 8th }

Enclosures "

SUBJECT.

Praying not to pass orders
exparte if any motion be made
regarding the conversion
by the new trustees of the temple
which is not a mohanni temple,

MR
No 3 11/5

643

Rec'd 8th 1895 3 P.M.

Code / Class P

INDIAN TELEGRAPHS. Monthly Number.

To (Office)	From (Office)
Ootacamund	Trichinopoly Fort.

Words	Day.	Hour.	Minute.	Official Instructions.
119.8	8	10	40	

To (Person)
1st Councillor to govt.

From (Person)
Dewasamy
Sgt. old
Trustee Lalgudi
Temple

Lalgudy Temple not mohunt Temple
we are in possession now
and for last several years Tulsi
Kyst attempted to be put up to
show possession in ~~the~~ new
trustees if any motion is made
for new Trustees pray do not
pass orders exparte such exparte
orders obtained by them on false
pretexts before deputy and district
magistrates and high court were
not our appearance set
aside we will appear through counsel
on any short notice all cyurts

64 Word Form. F. C 2.

Recd. from LN, At Hrs. Mts. by

Sent to LN, At Hrs. Mts. by

OOTACAMUND 8

Telegraph Master.

3 C. G. P.—No. 228 T—17-8-93—20,00,000.

Ord

Code / Class

INDIAN TELEGRAPHS.

Monthly Number.

To (Office)				From (Office)
Words.	Day.	Hour.	Minute.	Official Instructions.

To (Person)	(2)	From (Person)

found favourable for us till now

64 Word Form.

F. C 2.

Recd. from	LN.	Sent to	LN.	
At Hrs.	Mts. by	Hrs.	Mts. by	Telegraph Master.

C. G. P.—No. 228 T—17-8-03—20,000,000.

Copy of Jud. C. No. 2311/1895.

Note
This was found in Box No 5 refd. by Hon Mr. [illegible] with other papers.
[illegible] 9/5

CURRENT NO. 2311

623

Code Class. } P

INDIAN TELEGRAPHS. Monthly Number. }

To (Office) Ootacamund	From (Office) Trichinopoly

Words.	Day.	Hour.	Minute.	Official Instructions.
119/8	8	10	40	

To (Person)	From (Person) Doresamy Iyer old trustee Lalgudi Temple

CHIEF SECRETARY 8 MAY. 1895 GOVERNMENT OF MADRAS

Lalgudy temple or [illegible] temple we are possession now and for last several years false keys attempted to be put up to show possession in new trustees if any motion is made for new trustees pray do not pass orders exparte such exparte orders obtained by them on false pretexts before deputy and district magistrates and high court were on our appeal set aside we will appear through counsel on any short notice all court.

64 Word Form.

F. C. 2.

Recd. from	LN.	Sent to	LN.	
At Hrs. Mts. by		OOTACAMUND 8 5 95 Hrs. Mts. by		Telegraph Master.

C. G. P. —No. 228 T.—17-8-93—20,00,000

C. No 2394/95 [illegible]

Please see C. No. 2390 [illegible] herewith.

1/5/95

(Ous)

[G / 9]
2,000—23-1-95.

Current No. 2368

Judicial Department.

Telegram

From The Lalgudi Temple
old Trustees,
Trichy Fort.

No. -

Dated 10th } 1 May 1895
Received 10th Rep 11th }
Enclosures 1 Lr. gum ch.

SUBJECT.

Stating that the Trichy Taluq devastanam Committee is moving Govt. in Lalgudi temple affair and praying not to pass orders ex parte on false representations of the Committee -

Mr 311/5

C.No. 2311 & 2368/95.

For orders.

Perhaps the telegrams may be transferred to the Dist.? — practically They are practically eligible & liable to para V (1) of Rlth Rules. as well as para II C. but the latter seems the better disposal

Pesh

Para II C. Rlth Rules

D
4-5-95

The pet. in C. 2311 dt.
The pet. in C. 2368 dt.

Ans

Please see
C.No. 2374/95
Please see 1915
C.No. 2374 & 75
herewith.
M
1/5

CURRENT NO.

INDIAN TELEGRAPHS

Code Class. P

Monthly Number. 835

10 MAY. 1895

GOVERNMENT OF MADRAS * CHIEF SECRETARY *

To (Office) Ootacamund

From (Office) Kunnoly Fort

Words.	Day.	Hour.	Minute.	Official Instructions.
125/8	10	11	33	

To (Person)

From (Person) Lalgudi Temple old Trustees

Trichy taluq devastanam committee moving Government in Lalgudi temple affair laid by nataraja aiyer member who has done all mischief till now on pure private grudge against us having created clique in committee temple jewels already robbed by Committee men when in charge enquiry going on pray pass no orders on false representations of Committee ex parte possession with us only and poojah performed

64 Word Form.

Recd. from ... Sent to ...

At ... Hrs. ... Mts. by ... Telegraph Master.

OOTACAMUND 10-5-95

C. G.P. —No. 228 T.—17-8-93—20,00,000

W1575 R

Trustees

INDIAN TELEGRAPHS.

Code Class. P

Monthly Number. 835

To (Office) Ootacamund

From (Office) Secretary to Govt

Words. 125/8 | Date. 10 | Hour. 11 | Minutes. 38 | Official Instructions.

10 MAY 1895

To (Person)

From (Person) Lalgudi Temple old Trustees

Trichy taluq devastanam committee moving Government in Lalgudi temple affair said by nataraja aiyer member who has done all mischief till now on pure private grudge against us having created clique in committee temple jewel already robbed by Committee men when in charge enquiry going on pray pass no orders on false representations of Committee exparte possession with us only and poojah performed

64 Word Form.

Recd. from ... Hrs. Sent to ... Hrs. Mts. by OOTACAMUND 10 5-95 Telegraph Master.

C. G.P. —No. 228 T.—17-8-93—20,00,000

W 1575 R

Inspector

INDIAN TELEGRAPHS. Monthly Number. 835

Code Class. | From (Office)

To (Office) | Words. | Day. | Hour. | Minute. | Official Instructions.

To (Person) 2 | From (Person)

by us in civil suit
against us injunction
asked for was refused
by sub & Judge Keys
falsely put up by
them district and deputy
magistrates know committee
fraud

64 Word Form.

Recd. from LN. Sent to LN.

At Hrs. Mts. by OOTACAMUND 10-5-25 Mrs. Mts. by Telegraph Master.

C. G.P. —No. 228 T.—17-8-93—20,00,000

F. C 2.

W 1575 R

Code Class. P

INDIAN TELEGRAPHS. Monthly Number. 835

To (Office) Ootacamund

From (Office) Trichinopoly Fort

Words.	Day.	Hour.	Minute.	Official Instructions.
	10	11	33	

To (Person)

From (Person) Calendi Temple old Trustees

1. MAY. 1895

CHIEF SECRETARY GOVERNMENT OF MADRAS

Trichy taluq dvastanam committee moving Government in Calendi temple affair laid by nataraja ayyer member who has done full mischief till now on pure private grudge against us having created clique in committee temple jewels already robbed by Committee men when on charge enquiry going on pray pass no orders on false representations of committee ex parte possession with us only and poojah performed

64 Word Form.

Recd. from EN. Sent to EN.

At Hrs. Mts. by

OOTACAMUND 10-5-95

Telegraph Master.

C. G.P. —No. 228 T.—17-8-93—20,00,000

W 1575 R

Please put up telegram of 5th of 1895

Enclosure

INDIAN TELEGRAPHS.

Code (Cipher.) | Monthly Number. 835

To (Office) | From (Office)

Words. | Day. | Hour. | Minute. | Official Instructions.

To (Person) | From (Person)

2

by us in Civil Suit against us injunction asked for was refused by sub Judge Keys falsely put up by them district and depu magistrates know Committees fraud

64 Word Form. F.C 2.

Recd. from LN. | Sent to LN.

At Hrs. Mts. by | Hrs. Mts. | Telegraph Master.

OOTACAMUND 10-5-25

C. G.P. —No. 228 T.—17-8-23—20,00,000.

W1575 R

Indus

C.t No. 2368 + 2394/95.

[G/9]
2,000—23-1-95.

Current No. 2394

Judicial Department.

From H.G. Wedderburn Esqr.
Counsel for Petitioners
S. Nataraju Aiyar & 3 others
devastanam Committee members.

No. –

Dated 10th } may 1895
Received 11th }

Enclosures 2

SUBJECT.

Requesting to pass orders directing the District Magte to forbid the dismissed trustee of the Lalgudi temple from interfering in the temple management until their rights should be determined in a civil court.

W 1575 R

Proceedings of the Deputy Magistrate of Trichinopoly Division dated 31st March 1895.

Read the following:—

1. Petition presented by Annasawmi Aiyar and 2 others, trustees of Lalgudi Sri Saptharishieswaraswami's temple received with the District Magistrate's endorsement No. 188 dated 22—3—95, requesting to bind over the counter petitioners—Ramasawmi Iyer; Dorasawmi Aiyar and Venkatarama Aiyar who are the dismissed trustees, as they apprehend that they will prevent them from carrying on the Panguni festival and cause breach of the peace.

2. Petition of Dorasawmi Aiyar one of the dismissed trustees of the temple, requesting to bind over the newly appointed trustees (Annasawmi Aiyar, Palanyappa Chettiyar and Kandasawmi Aiyar) as they interfere with the management of the temple by unlawfully entering into the temple and beating the temple servants.

3. Arzi No. 166, dated the 28th Instant from the Sub-Magistrate of Lalgudi, stating that, on information given by Dorasawmi Aiyar, one of the dismissed trustees, that the newly appointed trustees cause disturbance in the premises of the temple, he went to the temple, found the door of Dwajastamban shut, and the newly appointed trustees standing inside with their men, and one of the servants of the old trustees rolling, saying he was beaten, and that each party claims the right of performing the daily pooja to the temple and that he will take necessary steps to prevent a breach of the peace.

4. Report of the Station House Officer of Lalgudi received with the Sub-Magistrate's endorsement No. 171 dated 28-3-95, stating that no proper arrangements were made by both, the parties for the performance of daily pooja, and that as there is a likelihood of a breach of the peace in this connection, he has made arrangements for Police bundobust.

5. Arzi No. 173 dated 29-3-95 from the Sub-Magistrate of Lalgudi stating that the matters require a very urgent remedy by the application of the provisions of Section 144 C. P. C. or by binding over the parties to keep the peace.

6. Petition presented by Krishna Aiyan Meikoval of the temple complaining that the new trustees came with a member of hired men, forcibly entered into the temple, beat him and dispossessed him of the keys of the temple in his charge.

T. S. J.

7. Proceedings of this Court, dated 2nd February 1895, in connection with the inspection of temple jewels by the Committee members.

8. Report of the Sub-Magistrate of Lalgudi Extra No. 1 ——— upon the visit of the Committee members for the purpose 5—2—95 of inspecting the jewels.

9. Papers filed by the dismissed trustees relating to the dispute about the management and possession of the temple and its property.

10. Heard Vakil Mr. Kuppuswami Aiyangar for the dismissed trustees and Mr. Kuppusamy Sarma for the newly appointed trustees.

ORDER.

In the year 1892 or thereabouts, the majority of the Devastanam Committee, Trichinopoly dismissed from office Doraiswami Aiyar, Ramaswami Aiyar and Venkatarama Aiyar, trustees of Sri Saptharisheeswaraswami temple, and appointed, in their stead, 2 persons—Annaswami Aiyar and Palaniyappa Chettiyar. The order of dismissal was not obeyed and the dismissed men continued to manage the temple and its endowment, contending that the dismissal was improper and malicious. The Committee were entitled to maintain a suit to enforce their order and eject the dismissed men. They did not, however, choose to do this and seem to have left the battle to be fought by the rival trustees only watching the interest of the new trustees and the latter began to work towards their object either stealthily or by force. In January 1893 we find them making 2 such attempts at getting into the temple [vide Lalgudi Sub-Magistrate's report No. 18 dated 2—2—93] and having failed, they appear to have put in a petition to the then Deputy Magistrate, stating that the dismissed trustees and their party interfered with their men performing the service of the temple and requesting that they might be restrained under Section 144 Civil Procedure Code. The Magistrate, after taking evidence and receiving a report from the Sub Magistrate (Mr. Viswasami Pillai)—which goes to shew that the dismissed men still continue to manage the temple, and the allegation that petitioner's men were doing service and were interfered with, was a myth, declined to pass the order prayed for. This was in February 1893, and for 4 months afterwards, there seems to have been peace.

2. In June 1893 Dorasawmi Aiyar, one of the dismissed trustees complained to the Sub Magistrate that his newly appointed rivals interfered with the cultivation of certain lands be-

longing to the temple and that he apprehended a breach of the peace. The Sub Magistrate—now, a different officer—Mr. Kovil pillai held that, though dismissed, the old trustees were not legally dispossessed of the lands and continued to hold them and the office and passed orders under Section 144 C. P. C. restraining the newly appointed men from interfering with the lands except by having recourse to a Court of law. This was in June 1893.

3. There seems to have been no trouble for nearly a year afterwards. In March 1894 the Committee appointed one more trustee, one Kandaswami Aiyar, a step-brother of Doraswami Aiyar, and very soon afterwards Doraswami Aiyar complained that this Kandaswami Aiyar and the other new trustees were interfering with his possession and management of the lands and causing breach of the peace and begged that they should be restrained from interfering. This petition was subsequently withdrawn, as the Sub-Magistrate reported that Kandaswami Aiyar did not mean to interfere, and no breach of the peace was likely.

4. The Proceedings stated above having failed to bear fruit, the next attempt of the newly appointed men was to prosecute the dismissed men for misappropriating temple property and for other offences. Even this failed, the charges being held to be utterly groundless, and the accused discharged.

5. In January 1895 the Committee wrote to me that they were going to inspect the temple jewels and as they apprehended obstruction on the part of the dismissed men who had charge of them, they requested that the Sub Magistrate may be ordered to help them. I complied with their request and immediately, afterwards, the dismissed men put in a petition saying that the application of the Committee was not bonafide and that, in the name of inspection, they had planned to seize the jewels and deliver them to the newly appointed men. I did not, however, alter the order observing that it permitted only assistance towards inspection and not transfer of possession. The dismissed men wanted some safe guards and, owing to some disagreement or other, the Committee were unable to carry out their purpose whatever it was. A month later the new trustees put in a petition No. 1 stating that, as the old trustees were likely to offer obstruction to their celebrating the Panguni festival, they may be bound over to keep the peace. When this petition was pending hearing, a disturbance bigger and more organized than any of its predecessors and referred to in the papers Nos. 2, 3, 4, 5 and 6 read above. I shall not repeat the purport of each paper but what is said to have transpired is briefly this. Most of the old trustees are turned out, the Amman's gate closed and its pooja

stopped, one of the temple servants beaten and some keys he had, seized. The Sub-Magistrate reports that, both parties trying to enforce their right, a breach of the peace is imminent and urgent orders under Section 144 are called for.

6. A perusal of the above papers leaves no doubt in my mind that public peace has been broken and is likely to be broken and that action under Section 144 is absolutely necessary. The only question to be considered is to whom should the order be applied—to the newly appointed men or to both parties as suggested by the Vakil for the newly appointed men.

7. I have given my careful consideration to the matter and consider that it should issue against one of then, viz the new trustees.

8. To restrain both would, besides being open to the objection of causing cessation of the daily pooja and the impending Panguni festival-which would be a hardship to worshippers and resented by them, be, on its face unjust and in equitable. It would also by securing to the new trustees the advantage which they have been manœuring for so long and in so many ways avoiding the legal course, hold out a peremium for lawlessness.

9. It is abundantly clear from the papers read above that the dismissed men continue to hold office and manage the temple and its endowments. This is seen from the report received from Sub Magistrate so lately as February 1895. That these people should defy the authority of their superiors in this way, is to say the least very unfortunate but it is merely as unfortunate that redress given by law should not be sought for and means verging on lawlessness and calculated to disturb public tranquillity and in a District like Trichinopoly calculated also to operate as a dangerous precedent should be adopted in their stead much to the inconvenience of the public and public servants. It would be clearly unfair and improper to tell the dismissed men who continue to manage the temple and its endowents not to interfere with them, because their rival do not choose to go to Court and would interfere and break the peace.

10. In these circumstances I resolve to issue an order under Section 144 C. P. C. directing the newly appointed men not to interfere with the temple or its management. There was no time to serve notices on the new trustees, I have, however, heard what their Vakil was able to say.

(Signed) KHADIRKNAVAZKHAN,
1st Class Magsitrate.

31—3—95.

T. S. J.

Duplicate.

PROCEEDINGS OF THE DISTRICT MAGISTRATE OF TRICHINOPOLY.

Dated 15th April 1895.

Miscellaneous Case No. 2 *of* 1895.

Read the following.—

(1). Copy of proceedings of the Deputy Magistrate, Trichinopoly, dated the 31st March 1895, passed under Section 144 C. C. P. restraining the newly appointed trustees of the Sapthareshiswara Swami temple at Lalgudi from interfering with the management of the temple.

(2). Petition dated 6th April 95, of Annasami Aiyar and 2 others, the newly appointed trustees of the said temple, requesting that the above order may be rescinded as being opposed to certain High Court rulings.

(3). Petition, dated 6th April 95 of the said trustees, praying that Dorasawmi Aiyar and 2 others, the dismissed trustees of the temple, may be bound over to keep the peace.

(4). Petition; dated 6th April 95, of the said trustees, stating that the temple is locked up; and requesting that the dismissed managers may be ordered not to interfere with the worship of the temple.

(5). This office proceedings dated 6th April 95, restraining the dismissed trustees from interfering in the management of the temple and ordering the temple Committee of the Trichinopoly Taluk, to make arrangements to carry on the business of the temple by persons other than the present disputants, pending the disposal of the petition.

(6). This office letter current No. $\frac{412}{M}$ dated 9th instant to the Deputy Magistrate Trichinopoly, requesting to forward the records connected with the case.

(7). Records received with Deputy Magistrate's letter No. $\frac{416}{11—4—95}$.

Heard the arguments of Mr. Wedderburn, Counsel for petitioner and of Mr. Grant, Counsel for counter petitioners Doraiswami Aiyar and 2 others.

T. S. J.

ORDER.

The History of this case is fully set out in the Deputy Magistrate's order of the 31st March 95; and it is not necessary to recapitulate it here.

2. It is not disputed that there was a likelihood of a breach of the peace, and no objection is taken to the Deputy Magistrate's order on the ground that it was unnecessary. The ground on which the petition is based, is that the Dy. Magistrate issued his prohibitory order to the wrong parties i. e., to the newly appointed trustees instead of to the dismissed trustees. Pending the hearing of this petition I have passed a temporary order, the effect of which is to prohibit both sets of trustees from interferring with the worship in the temple, and ordering the Committee to have the worship carried on by some person unconnected with the disputing parties.

3. The grounds on which the petition is based are, four in number, as follows—

(1). That the Deputy Magistrate had no jurisdiction and that he should have proceeded under Section 145 of the C. P. C.

(2). That the Deputy Magistrate has acted in contravention of various rulings of the High Court.

(3). That *prima-facie* the Deputy Magistrate was bound to presume that the Committee had acted rightly in dismissing the old trustees.

(4). That the Deputy Magistrate had ignored the orders of Government to the effect that only those trustees should be recognized as are recognized by the Committee.

4. The first ground is not pressed, and it is conceded that theDeputy Magistrate having reason to believe that a breach of the peace was imminent, had full power to proceed under Section 144 of the C. P. C.

5. The remaining three grounds can be conveniently discussed together. The argument for petitioners is that the Committee had full power to dismiss the old trustees (counter petitioners) , that *prima-facie* their action must be considered right; that it is the duty of the Magistracy, therefore, to support them; that the petitioner being in possession of the keys, must be considered to be the persons in possession; and that, under the orders of Government, the Magistracy who act under Section 144 in an execu-

T. S. J.

CURRENT NO. 2394

tive capacity are only authorised to recognise as trustees those persons who are recognized as such by the Committee.

6. That the Commitee did dismiss the old trustees, is not disputed. That they had a right to do so (for good and sufficient cause is plain from the case of *Chinna Renga Aiyangar versus Subbaraya Mudali* (III, Madras High Court reports 334). But it is also clear from this case, though not stated in so manys words that the burden of proving good and sufficient cause for removal, lies on the Committee. If "the power of dismissal can only be exercised on good and sufficient grounds" it necessarily follows that the burden of proof of such good and sufficient grounds lies on the persons who assert them and this being so, it follows that there can be no such presumption in favour of the Committee's decision, as the petitioners would have me make. And it is noticeable in this connection that one of the main grounds of the dismissal of the counter petitioners viz., that they had misappropriated the temple property, was made the subject of a criminal complaint against them, but that the complaint was found to be groundless and was dismissed. And the case of *Siva Sankara versus Vadagiri* [Indian Law Report XIII, Madras 6)shows that a trustee should not be removed except for very grave causes indeed.

7. I have not, however, to deal with the question as to whether the old trustees were rightly or wrongly dismissed except in so far as is necessary to meet the contention of petitioners that it should be presumed that the dismissal of the old trustees by the Committee was right and proper. I do not think that, for the reasons above given, that any such presumption can be drawn.

8. As to the argument that the petitioners are really in possession of the temple, the history of the case shows that this is not so. It is true that the Committee passed orders in 1893 dismissing the counter petitioners, but,beyond certain futile efforts in the Magistrate's Courts, they have taken no steps at all to enforce the order. They did, indeed, apply once for permission to file a suit, but subsequently withdrew it. Their proper course, if the dismissed trustees disregarded their order of dismissal and refused to vacate, was obviously to have filed suit against them to recover possession. That such a suit lies is clear from the case of *Virasami Nayadu versus Subba Row* (I. L. R. 6 Madras 54). It is argued that the Committee cannot be expected to bring suits every time a trustee who has been dismissed, is recalcitrant and refuses to deliver up possession ; but I do not think the argument is very cogent, nor can I see why a temple Committee should be put in a different position from any one else who seeks to recover possession of property wrongfully held by nother.

T. S. J.

9. That no serious steps have ever been taken by the Committee to recover possession of the temple from the dismissed trustees, is plain from the records. It is stated that the petitioners are now in possession of some of the keys, but it is alleged on the other side that they got possession of them by force, a few days before the Deputy Magistrate's order was passed. This matter is now the subject of a criminal complaint as yet undisposed of. I cannot therefore say whether the allegation that petitioners obtained the keys by force is true or not ; but I observe that petitioner's Counsel has not been able to suggest that the keys were got possession of in any other way or at any other time than that suggested by the counter-petitioners. Nor has he been able to show that, at any time prior to this, the petitioners have been in any possession of the temple at all.

10 Certain of the cases quoted in the petition do not seem to have any reference to the present case, *e.g. Muthiyalu Chetti v. Bapu Sahib* [I. L. R. II, Madras, 140), in which the Magistrate's order was held to be ultra vires on the ground that it went beyond the necessity of the case which is not contended here, and *Sundaram Chetty versus the Queen* (I. L. R. 6 Madras 203) which—sic with an entirely different set of facts from those in the present case.

11. Reliance is placed by petitioners on the orders of Government as contained in para. 2 of the Board Standing Order No. 140, to the effect that Government can only recognise "those persons as servants or trustees of the pagoda who are recognised as such by the Committee." This order, however, merely refers to the payment of allowances for temple services, and is clearly not intended to apply to questions arising under Section 144 of the Civil Procedure Code.

12. To sum up rightly or wrongly the counter petitioners were dismissed. Rightly or wrongly they have remained in possession and no serious steps have been taken by the Committee or by the petitioners to recover possession from them. The Committee have no power to dismiss the counter petitioners except for good and sufficient cause, the burden of proving which lies on them. No presumption can be made, therefore, that the dismissal of the counter petitioners was legal and right or that their retention of possession is wrong.

13. This being so, it is clearly good policy to continue matters as they have always been; and to restrain the petitioners from interference with the undoubted *defacto* possession of the counter petitioners.

T. S. J.

14. I hold, therefore, that the order of the Deputy Magistrate was right and I decline to interfere with it and dismiss the petition My *ad interim* order is discharged.

15. Two other petition were presented by the same petitioners at the same time as the one now disposed of. These petitions have not been pressed and are dismissed.

(Signed) E. C. RAWSON.
Ag. District. Magistrate.

15—4—95.

(True copy)

T. S. J.

PRINTED BY G, C. AND CO., SCOTTISH PRESS, MADRAS.

Book II.

HIGH COURT.

CRIMINAL REVISION CASE

No. 177 of 1895.

TRICHINOPOLY DISTRICT.

Proceedings of the Deputy Magistrate of Trichinopoly, dated 31st March 1895,

and

Proceedings of the District Magistrate of Trichinopoly, dated 15th April 1895.

Applied for by Mr. R. F. Grant.

Memo No. 6238.

To be heard on

1895
Jud Dept
Enclos. No 2
To
C. No 2394

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IN THE COURT OF THE DEPUTY MAGISTRATE OF TRICHINOPOLY.

Miscellaneous Case No. 2 of 1895.

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3	Do. No. 182 of do., dated 4—4—95	3
4	Copy of Lalgudi Sub-Magistrate's letter No. 3 to the Police Inspector, dated 4—4—95	4
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ORDER.

Copy of the proceedings is herewith sent. The Sub-Magistra te will direct the Police to open the doors locked by the Police and see that the order is carried. As for those locked by the new trustees he will explain to them the impropriety of their resistance to law and if they still persist the old trustees will be allowed to open them of course on their own responsibility.

(Signed) ——— ———,
Deputy Magistrate.

1—4—95.

10 No. A.

Submitted to the District Magistrate as this is part of the record connected with the Lalgudi dispute to be heard to day.

13—4—95. (Signed) ——— ———,
Deputy Magistrate.

———

No. 179.

4—45 P. M. 2—4—1895.

20 From LALGUDI.

S. KOVIL PILLAI,
2nd Class Magistrate,
Lalgudi.

To

THE HEAD QUARTER,
Deputy Magistrate,
Trichinopoly.

SIR,

30 I beg to submit respectfully herewith the report of the Station House Officer of Lalgudi based on the instructions received by him from the Inspector of Police, Srirangam Division. I sen d herewith also a copy of the order sent by me this morning at about 7 A. M., to the Station House Officer.

2. When I sent for some of the trustees on both sides, the old trustees Venkatrama Aiyar and Doraisami Aiyar state that they will

hold themselves responsible for opening all the doors shut by the new managers. The Police contend that they did not shut some of the doors as serted by me but that the new managers closed them in their presence under the orders of the Police Inspector. The new Trustee Kandasami Aiyar says that he will prevent anybody breaking open the door unless an order is issued to him and his party from interfering with the lock. It has been admitted by the Station House Officer that he went inside the premises of the temple last night in connection with a case.

3. The Police Constables 15 in number and the two Head Constables stationed here on bundobast duty are apparently ready only to act up the orders of the Police Inspector. The mere presence of a local Subordinate Magistrate at the time of the enforcement of the order as regards the lock is not sufficient therefore under the present state of circumstances. I request therefore that you will be pleased to address the District Superintendent of Police to be present during the occasion and issue necessary orders to his Inspector and Subordinates.

4. I have personally instructed the Police to disperse unlawful assemblies near and about the temple and in the village and directed both parties and their men not to loiter about the temple so as to cause any disturbance.

5. It may not be out of place here for me if I take the liberty of requesting you to be personally present with the Police Inspector and direct the execution of order in the absence of the Superintendent of Police. The presence of a superior officer of Police and Magistracy appears essential in grave cases of this kind. It will then be known how long the presence of the extra Police is necessary even after the execution of the order with a view to prevent a future breach of the peace.

I beg to remain,
Sir,
Yours obedient servant.
[Signed] ——— ———
2nd Class Magistrate.
2—4—95.

W. L, DM

7—30 P. M. No. 182. 4—4—95.

Lalgudi.

From

S. KOVIL PILLAI,

2nd Class Magistrate, Lalgudi.

To

THE HEAD QUARTER DEPUTY MAGISTRATE

Trichinopoly.

Sir,

I beg respectfully to report that the Police Inspector arrived here this evening in connection with the disturbance of Saptarishwaraswami's temple at Lalgudi and informed me that he was not furnished with a copy of the order of the Deputy Magistrate as regards the opening of the doors immediately gave him a copy with a covering letter. He says that he has received information about the collection of large number of men on both sides and that he apprehends a riot in case the order is carried out and that he is accordingly intending to apply for extra Police. He tells me further that he desires to apply for further instructions as your order about the opening of the doors is not clear so that he may not take the responsibility of allowing the old trustees to open in the presence of the Police.

I beg to remain,
Sir,
Your most obedient servant,
(Signed) S. KOVIL PILLAI,
2nd Class Magistrate.

W L DM

5—30 p. m.

From,

4—4—95,
Lalgudi.

S. KOVIL PILLAI,
2nd Class Magistrate, Lalgudi,

To

THE INSPECTOR OF POLICE,
Srirangam Division.

Sir,

I have the honor to forward herewith a copy of the order passed by the Deputy Magistrate on my Arzi about the opening of certain doors of the Saptarishwaraswami's temple. The Station House Officer informs me that the Police did not lock up some doors but that the new trustees did so in their presence. The old trustees will have therefore to open all the doors locked by the new trustees upon their own responsibility according to the spirit of the aforesaid order. I request therefore that you will be good enough to carry out the order without any further delay.

S. KOVIL PILLAI,
2nd Class Magistrate.

(True copy).

(Signed) S KOVIL PILLAI,
2nd Class Magistrate.

To

THE DISTRICT SUPERINTENDENT OF POLICE,
Trichinopoly District

Respected Sir,

I arrived at Lalgudi this morning. The doors of Saptharishwaraswami temple are locked and I learn that more than 10 doors have been locked by the new trustees and the locks of all the doors should be broken open. The proceeding of the Deputy Magistrate directs the newly appointed trustees not to interfere with the temple or its management and nothing beyond that is stated in the proceeding. There is an order to the Sub-Magistrate, copy of which I have herein submitted that the old trustees could open the doors under their own responsibility. The Sub-Magistrate refuses to be present if doors are broken open by the old trusteesunless the Deputy Magistrate

W. L. DM

sends him a written order to that effect but he wants the Police to be present when the old trustees break open the locks of so many doors and that too without a clear written order. I don't know how the Police could do it. Both parties are strong with men and when the old trustees break open the doors the new trustees would cause disturbance. Then I will have to take severe measures against them. This means that I help the old trustees in breaking open the door and I do not know under what section of the law I could do it. I therefore request that the Deputy Magistrate should be asked to give me a clear written order to help the old trustees in breaking open the locks of the door by arresting the other parties if they cause obstruction or the Deputy Magistrate should direct the new trustees to open the doors and if they do not obey to prosecute them under Section 188 I. P. C. I am here seeing that no breach of the peace occurs. If the Deputy Magistrate passes an order directing me to help the old trustees in breaking open the locks of the doors as both parties are strong and a disturbance is anticipated. I request that 15 more men with carbines should be sent to me from reserve with the order of the Magistrate.

I further beg to report that one Mr. Gurusami Mudaliar an Inspector of Salem who was once an Inspector of this division and now on furlough has appeared here as a private agent for one of the factions, the old trustees He threatens the Constables saying he was here that he is expected to be posted here and I am sent to Coimbatore. If an Inspector of Police on furlough does this I think I would be unable to suppress the row if anything takes place. I therefore request that the I. G. or D. I. G. hould be wired to call him at once from siding one of the factions under the pretence of their private agent or vakil specially one who was an Inspector of this Division.

I beg to remain,
Sir.
Your most obedient servant.

4—4—95
C. LALGUDI,

Inspector of Police,

W. L. D'M

P. No. 739.

OFFICE OF THE SUPERINTENDENT OF POLICE,
TRICHINOPOLY DISTRICT,
5th April 1895.

No. 605.

FROM,

A. C. T. WEST ESQUIRE,
Ag. Superintendent of Police,
Trichinopoly District.

To

THE DEPUTY MAGISTRATE, TRICHINOPOLY.

Sir,

I have the honor to enclose a report from Inspector Sambasiva Iyer and telgram received by me to-day, you will see that no locks have been placed on the Temple doors by the Police and that the new trustees are the only persons who have locked the temple doors. The Police of course cannot assist the old trustees in breaking open the locks. Their duty is only to prevent a breach of the peace. If the old trustees attempt to break open the locks there is almost certain to be a row I think. If you consider the Police should assist the old trustees in making a forcible entry into the temple, I request you will issue such orders in writing as I decline to help them without a written order from a Magistrate authorising the Police to assist the old Trustees.

I have the honor to be,
Sir,
Your most obedient Servant,
A. C. T WEST,
Ag. Superintendent of Police.

IN THE COURT OF THE DISTRICT MAGISTRATE AT TRICHINOPOLY.

Petition under Section 144 C. P. C.

1. Annasami Aiyar.
2. Palaniappa Chettyar.
3. Kanthasamy Aiyar.

Managers appointed under Act XX of 1863 by the Temple Committee for the Trichinopoly Taluk of the Saptharishwara Swami Temple at Lalgudy.

Petitioners pray :—

That the order of the Deputy Magistrate, dated 31st March 1895, may be rescinded for the following reasons :—

1. The Magistrate has no jurisdiction and should have proceeded under Section 145.

W. L. D'M

2. The Magistrate has acted in direct contravention of the High Court's Rulings laid down in Indian Law Reports 2 Madras 140. Indian Law Reports 6 Madras 203. Wier Page 737-and has ignored the decision reported in Weir page 772 and the decisions of High Court as to the powers of the Temple Committee in 3 Madras High Court Reports 334 and Indian Law Reports 6 Madras page 57.

3. The legal possession of this Temple is with the Temple Committee and the so-called Trustees are their Managers only and *prima facie* the Magistrate was bound to preserve that the Committee had acted rightly in dismissing Ramaswamy Aiyar, Doraswamy Aiyar and Venkatrama Aiyer.

4. The Magistrate has also ignored the orders of the Government of Madras, dated 16th May 1865, to the effect that Government can only recognize those persons as managers or trustees of a pagoda who are recognized as such by the Committee and that it is only when the Committee has no control that the parties should be referred to a Civil Court.

(Signed) T. RANGACHARI,
Vakil for Petitioners.

6—4—1895.

H. G. WEDDERBURN,
Counsel for Petitioners.

Notice to the dismissed trustees to show cause on Saturday the 13th Instant why the Deputy Magistrate's order should not be rescinded or altered. Notice also to shew to me and will refrain from interfering in the management of the temple under Section 144 C. P. C.

Notice to the Committee informing them that they should make arrangements pending the disposal of this matter to carry on the business of the temple by persons other than the present disputants.

(Initialled)

6—4—94.

Copies to Deputy Magistrate, Sub-Magistrate and Station House Officer.

6—4—95. [Initialled]

W. L. D'M

IN THE COURT OF THE DISTRICT MAGISTRATE AT TRICHINOPOLY.

Petition under Sections 145 and 107 C. P. C.

1. Annasawmy Aiyar.
2. Palaniyappa Chettiar.
3. Kanthasawmy Aiyar. } *Pettitioners.*

Versus

1. Dorasawmy Aiyar.
2. Ramasawmy Aiyar.
3. Vencataram Aiyar. } *Respondents.*

Petitioners pray for an enquiry under Section 145 and for an order declaring petitioners are in possession of the temple of Saptharesh is waraswami at Laulgoody and for bidding disturbance of such possession by the respondents on the ground that respondents created a disturbance on the 28th March 1895 and the Magistrate has found that a dispute likely to cause a breach of the peace exists.

Petitioners also pray that the respondents may be bound over to keep the peace as their wrongful acts may occasion a breach of the peace.

6—4—95.

P. RANGACHARI,
Vakil for the Petitioners.

H. G. WEDDERBURN,
Counsel for the Petitioners.

IN THE COURT OF THE DISTRICT MAGISTRATE AT TRICHINOPOLY.

Petition under Section 144 C. P. C.

1. Annasawmy Aiyar.
2. Palaniyappa Chettiar.
3. Kanthasamy Aiyar. } Managers appointed under Act XX of 1863 by the Temple Committee for the Trichinopoly Taluk of the Saptharis his waraswami Temple at Laulgoody.

1. The petitioners are in possession of the said temple and hold the keys thereof.

2. The temple was locked up by petitioners on the 28th March 1895 in consequence of a disturbance caused by Dorasawmy Aiyar

W. L. D'M

formerly a manager of the temple Committee on the 25th February 1893, but has refused to obey orders or to vacate office.

3. The said Dorasawmy Aiyer brought the Sub-Magistrate to the temple on the 28th March and pretended that petitioners ha taken possession of the temple by force and had beaten one of his servants and the Sub-Magistrate ordered both parties not to interfere with the management of the temple pending orders from the Deputy Magistrate. Upon this, petitioner locked up the temple and it has not been opened since.

4. The Deputy Magistrate has by an *exparte* order dated 31st March 1895 without an enquiry purporting to be passed under Section 144 Civil Procedure Code directed petitioners not to interfere.

5. Petitioners are thus unable to carry on the worship of the temple and if the said order remains in force no worship can be carried on for 2 months and more to the great inconvenience and annoyance of the public who worship daily at the temple.

6. Petitioners have this day lodged a petition praying for the reversal of the Deputy Magistrate's order dated 31st March 1895 and also petitions for an enquiry under Section 145 Civil Procedure Code and for an order under Section 107 Civil Procedure Code to bind over the dismissed managers Doraswamy Aiyar, Ramasamy Aiyar and Venkata Rama Aiyar to keep the peace.

7. Petitioners pray for an order directed to the public and to the dismissed managers restraining interference with the performance of public worship to be carried on by petitioners.

6—4—95.

(Signed) T. RANGACHARI,
Vakil for the Petitioners.

H. G. WEDDERBURN,
Counsel for Petitioners.

W. L. D'M,

Crl. A. 177—3

No. 195. 8—4—95.

LALGUDI.

From

S. KOVIL PILLAI,

2nd Class Magistrate, Lalgudi.

To

THE DISTRICT MAGISTRATE,

Trichinopoly.

SIR,

With reference to your proceedings on Miscellaneous Case No. 2 [6—4—95], I beg respectfully to submit herewith the enclosed report of the Station House Officer wherefrom it will be seen that the pujah in the Saptarishwaraswami's temple at Lalgudi has been performed last night without a disturbance that the Additional Police Constables have been withdrawn under the order of the Police Inspector and that the Station House Officer apprehends no breach of peace.

I beg to remain,

Sir,

Your most obedient servant,

[Signed] S. KOVIL PILLAI,

2nd Class Magistrate.

PROCEEDINGS OF THE DISTRICT MAGISTRATE OF TRICHINOPOLY.

Dated 6—4—95.

Miscellaneous Case No. 2 of 1895.

Read the following:—

1. Copy of Proceedings of the Deputy Magistrate, Trichinopoly, dated the 31st March 1895, passed under Section 144 C. C. P., restraining the newly appointed trustees of the Sapatharashiswaraswami temple at Lalgudi from interfering with the management of the temple.

2. Petition dated 6—4—95 of Annasami Aiyar and 2 others the newly appointed trustees of the said temple requesting that the above order may be rescinded as being opposed to certain High Court rulings.

3. Petition dated 6—4—95 of the said trustees praying that Dorasami Aiyar and 2 others the dismissed trustees of the temple, may be bound over to keep the peace,

W. L, D'M.

4. Petition dated 6—4—95 of the said trustees stating that the temple is locked up and requesting that the dismissed managers may be ordered not to interfere with the worship of the temple.

Heard Messrs Wedderburn and Rangachariar for the petitioners.

ORDER.

A notice will issue to the dismissed trustees Dorasami Aiyar, Ramasami Aiyar and Vencataram Aiyar to appear and show cause on Saturday the 13th Instant why the Deputy Magistrate's order should not be rescinded or altered. A notice will also be issued to them under Section 144 C. C. P. to refrain meanwhile from interfering in the management of the temple.

2. The Temple Committee, Trichinopoly Taluk will be informed by a notice that they should make arrangements pending the disposal of the matter to carry on the business of the temple by persons other than the present disputants.

(Signed) ———,

District Magistrate.

6—4.

I, Naik Sami Aiyengar, Manager, Temple Committee's Office, Trichinopoly Taluk do solemnly affirm and say as follows:—

1. That the Saptharishiswarasami's Temple at Lalgudi is one of the Temples under the control of the Trichinopoly Taluk Temple Committee.

2. On the 21st June 1890 Ramasami Iyer and Dorasami Iyer were appointed as managers of the abovesaid Temple by the Temple Committee.

Muchilikas having been taken from Ramasami Iyer for the due performance of his duties under the orders of the Temple Committee.

3. That in 1891 Ramsami Iyer resigned and in his place Palaniappa Chetti and Annasami Iyer were appointed to act with Dorasami Iyer and the said three were managing the affairs of the Temple together.

4. That on the 1st April 1892 Dorasami Iyer was suspended pending enquiry into various charges of embezzlemen

W. L. D'M.

and in May 92 on the application of Ramaaami Iyer and Dorasami Iyer, Venkatarama Iyer, Ramasami Iyer, Dorasami Iyer were appointed as Managers with Palaniappa Chetti and Annasami Iyer and the 5 continued in the management together till 29th December 92.

5. On the 9th December 92 the Temple Committee suspended Ramasami Iyer and Dorasami Iyer on various charges of embezzlement, falsification of accounts, misfeasons and malfeasons brought against them by several people.

6. That in January 93 Ramasami Iyer and Dorasami Iyer petitioned the Temple Committee to allow them to continue in office.

7. That the Temple Committee refused to allow them to continue in office and fixed a day for enquiry into the various charges and due notice was given them.

8. Ramasami Iyer and Dorasami Iyer assisted by Venkatrama Iyer refused to obey the orders of the Committee and on the 25th February 93 Ramasami Iyer and Dorasami Iyer and Vencatrama Iyer were dismissed by the Temple Committee after due enquiry and their dismissal was published in the District Gazette.

9. Ramasami Iyer, Dorasami Iyer and Vencatarama Iyer however refused to vacate office continually interfering in the management by Annasami Iyer and Palaniappa Chettyar.

10. That in the complaint of Annasami Iyer and Palaniappa Chettyar of their inability to carry on the work against the interference of the three dismissed trustees.

Candasami Iyer was appointed on the 13th March 94.

11. That on the 20th March 95 the Sub Magistrate of Lalgudi came to the Temple on the complaint of Dorasami Iyer that the keys of Temple were forcibly taken away from him by the 3 recognized trustees and found the three trustees inside the temple and ordered to the parties not to interfere with the management of the Temple pending orders from the Dy. Magistrate. Thereupon the 3 recognized trustees locked up the Temple the daily pooja had to be stopped.

12. That on the 31st March Deputy Magistrate passed proceedings under Section 144 directing the three recognized trustees not to interfere with the management of the Temple.

W. L. D'M,

13. That the Temple remained closed and the Deputy Magistrate, I am informed and believe the same to be true, directed the Police to open the doors of the Temple but the Police however refused to open the Temple which had been closed by the recognized trustees and with whom the keys of the Temple remained.

14. That on the 6th April on the application of 3 recognized trustees the District Magistrate directed both parties not to interfere in the management of the Temple and informed the Temple Committee that they should make arrangements pending the disposal of the matter to carry on the business of the Temple by persons other than the disputants.

15. That on the same day the Temple Committee ordered me to proceed to Lalgudi and carry on the worship in the Temple.

16. That on the 7th April I proceeded to Lalgudi and found the Temple shut. Thereupon I called upon the recognized trustees to produce the keys which they did on my giving them a receipt for the same.

17. That thus the worship in the Temple was from the 7th April 95 to 15th April 95 carried on by me without any disturbance whatever keys being returned every night to the recognized trustees and taken back in the morning.

18. That on the 16th April 95 the recognized trustees refused to hand over the keys as the District Magistrate comfirmed the order of the Deputy Magistrate.

19. That the temple remains closed and the keys are with the recognized trustees and the dismissed trustees are threatening to break the doors open.

(Signed) Naik Samiengar.
Manager,
Temple Committee,
Trichinopoly.

Sworn before me.

A. T. FORBES.

17—4—95.

W. L. D. M.

MEMORANDUM OF CRIMINAL REVISION PETITION.

Before the Deputy Magistrate of Trichinopoly,
Proceeding dated 31—3—95.

Before the District Magistrate of Trichinopoly,
Miscellaneous Case No. 2 *of* 1895.

Before the High Court of Madras,

Criminal Revision Case No. 177 *of* 1895.

Palaniappa Chetty,
Annasami Iyer,
Candasami Iyer. } *Recognized trustees.* } *Petitioners.*

The petitioners abovenamed present this petition to the High Court of Madras against the orders of the Deputy and District Magistrates of Trichinopoly, dated 31st and 15th April 1895, for the following reasons:—

1. Because the Magistrates had no jurisdiction to pass an order under Section 144 in the circumstances of the case.

2. Because the Magistrates have ignored the fact that the possession of the temple is now with the recognized trustees.

3. Because there has been no enquiry at all as to present possession.

4. Because the procedure adopted by the District Magistrate is illegal.

5. Because the Police and Magisterial reports show that the present possession is with the recognized trustees.

6. Because the order is infructuous and his likely to endanger the public peace.

7. Because the Magistrates are bound to maintain the present possession however obtained.

8. Because the order of dismissal is prima facie right.

9. Because the District Magistate ought to have examined the witnesses tendered by petitioners.

10. Because the Magistrate ought to have proceeded under Sections 107 and 145 Criminal Procedure Code.

H. G. WEDDERBURN,
Counsel for Petitioners.

18—4—95.

W. L. D. M

PRINTED BY G. C. AND CO., SCOTTISH PRESS, MADRAS.

Book I.

HIGH COURT.

CRIMINAL REVISION CASE

No. 177 of 1895.

TRICHINOPOLY DISTRICT.

Select Documents applied for

By Mr. H. G. Wedderburn

Memo. No. 6135.

To be heard on

1895
Judl Dept
Enclos. No 1
To
C. No 2394

CURRENT NO. 2394

To

His Excellency

The Governor of Fort St. George,

in Council.

The humble petition of M. NATARAJA AIYAR *and others, Members of the Davastanam Committee under Act XX of* 1863 *of Trichinopoly Taluq.*

HUMBLY SHEWETH,

1. The Lalgudi Temple is under Petitioners' supervision.

2. That it has been held that Managers or Trustees can be dismissed for good cause by the Committee, see 3 M. H. C. R., p. 334.

3. That Petitioners dismissed 3 out of 5 Managers or Trustees in February 1893 for disobedience to orders and other misconduct and published the order in the local Gazette.

4. That the dismissed Trustees refused to vacate and have ever since interfered with the management of the Temple by the two remaining Trustees.

5. That the Committee have no power to sue the dismissed Trustees, see L. R. 17 Mad. 143.

6. That on the 22nd March, the recognised Trustees applied to the District Magistrate of Trichinopoly to bind over the dismissed Trustees to keep the peace as they threatened to interfere with the festival then approaching.

7. That their petition was referred to the Deputy Magistrate.

8. That on the 28th March the Sub-Magistrate of Lalgudi came to the Temple on the complaint of one of the dismissed Trustees that the keys of the temple had been taken by force by the recognised Trustees, ~~that~~ and the said Magistrate ordered neither party to interfere pending orders from the Deputy Magistrate.

9. That the recognised Trustees locked the doors of the temple and remained in possession of the keys.

10. That on the 31st March the Deputy Magistrate passed proceedings under sec. 144 exparte directing the recognised Trustees not to interfere in the management of the temple, Bk. 2, p. 1.

11. That on the 1st April the Deputy Magistrate ordered the 2nd Class Magistrate to open the doors with police aid, Bk. 1, p. 1.

12. That the Police declined eventually to break open the doors or to assist the dismissed Trustees, Bk. 1, p. 1—6.

Book I.

HIGH COURT.

CRIMINAL REVISION CASE

No. 177 of 1895.

TRICHINOPOLY DISTRICT.

Select Documents applied for

By Mr. H. G. Wedderburn

Memo. No. 6185.

To be heard on

1895
Jud Dept
Enclos. No 1
To
C. No 2394

CURRENT NO. 2394

To

His Excellency

The Governor of Sort St. George,

in Council.

The humble petition of M. NATARAJA AIYAR *and others, Members of the Davastanam Committee under Act XX of* 1863 *of Trichinopoly Taluq.*

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5. That the Committee have no power to sue the dismissed Trustees, see L. R. 17 Mad. 143.

6. That on the 22nd March, the recognised Trustees applied to the District Magistrate of Trichinopoly to bind over the dismissed Trustees to keep the peace as they threatened to interfere with the festival then approaching.

7. That their petition was referred to the Deputy Magistrate.

8. That on the 28th March the Sub-Magistrate of Lalgudi came to the Temple on the complaint of one of the dismissed Trustees that the keys of the temple had been taken by force by the recognised Trustees, ~~that~~ and the said Magistrate ordered neither party to interfere pending orders from the Deputy Magistrate.

9. That the recognised Trustees locked the doors of the temple and remained in possession of the keys.

10. That on the 31st March the Deputy Magistrate passed proceedings under sec. 144 exparte directing the recognised Trustees not to interfere in the management of the temple, Bk. 2, p. 1.

11. That on the 1st April the Deputy Magistrate ordered the 2nd Class Magistrate to open the doors with police aid, Bk. 1, p. 1.

12. That the Police declined eventually to break open the doors or to assist the dismissed Trustees, Bk. 1, p. 1—6.

13. That on the 8th April an application was made to the District Magistrate under sec. 144 to set aside the order of the Deputy Magistrate and to pass fresh orders, Bk. 1, p. 6—7.

14. That the District Magistrate passed an order allowing the Committee to carry on worship pending disposal of the petitions before him, Bk. 1, p. 7.

15. That on this, the Committee carried on the worship obtaining the keys from the recognised Trustees, Bk. 1, p. 10, 13.

16. That the District Magistrate on the 15th April confirmed the order of the Deputy Magistrate and withdrew the interim order, Bk. 2, p. 6.

17. That the temple has remained closed since the 16th April.

18. That on May 3rd the High Court refused to interfere on the ground that they had no jurisdiction, the order being an executive order under Sec. 144.

19. That it has been held that the remedy in such case is to appeal to Government, Weir Criminal Rulings, p. 753.

20. That the Committee are responsible to the Public and to Government for the due supervision of the temple management.

21. That the recognised Trustees have sent the keys of the Temple to the Committee and they are with Mr. Nataraja Aiyar.

22. That the Committee therefore appeal to Government to pass orders directing the District Magistrate to forbid the dismissed trustees from interfering in the temple management until their rights should be determined in a civil court.

23. That both the Deputy Magistrate and District Magistrate have clearly erred in saying—

(1) that the possession of the temple is with the dismissed trustees : (See Letter of Superintendent of Police, Bk. 1, p. 6.)

(2) that the recognised trustees are *new* trustees, they having been appointed in 1891, (whereas of the dismissed trustees 2 were re-appointed in 1892 and the other after that), and having been in joint possession with the dismissed Trustees up to February 1893 and subsequently. See Bk. 1, p. 11—13.

24. Petitioners submit that both the Magistrates have ignored rulings of the High Court,

(1) That their duty is to support those apparently enforcing legal rights (I. L. R., 2 Madras, 140. I. L. R., 6 Madras, 203. S. C. Weir, p. 753.)

(2) That the remedy of the dismissed trustees is to sue if they have been wronged. 3 M. H. C. R., p. 334.

(3) That a Magistrate has no right to deprive a person in possession of land of his possession. (Weir, pp. 772, 773,) by an order under Sec. 144 (Cp. 145 of the Cr. Proc. Code) and also have ignored or misconstrued the order of the Government of Madras, dated 16th May 1865 (Board's Standing Orders, No. 140, para. 2) to the effect that Government can only recognise those persons as Managers who are recognised as such by the Committee.

24. Petitioners submit that the fact that the dismissed trustees have been discharged by a Magistrate on a charge of criminal misappropriation cannot affect the question as to the dismissal for refusal to appear before the Committee and answer charges of misconduct. The Magistrate who discharged the dismissed trustees found that the accounts submitted to the Committee were false, that they were signed by the dismissed trustees but that the Karnam was to blame and not the trustees.

25. The Petitioners submit that had the Board of Revenue continued to manage as before 1863 the Magistrates would have supported the Board's nominees and that they are entitled to the same support from Government and its officers as the Board of Revenue received before 1863.

S. Nataraja Aiyar

Pote Ramasawmy chetty

T. Ristna for
Muthuswamy Sastri Ayyar

Committee members.

H. G. Reddenham
Counsel for Petrs.

May 10th. 1895.

Jud

CURRENT NO. 2425

Judicial (1895.) DEPARTMENT.

From

THE PRIVATE SECRETARY TO THE

RIGHT HONORABLE THE GOVERNOR,

To

THE CHIEF SECRETARY

TO GOVERNMENT,

DEPARTMENT.

Dated 12th } CHIEF SECRETARY 1895.
Received } 13 MAY 1895 GOVERNMENT OF MADRAS

Rgd 14-5-95.

ENCLOSURE. 11

Subject.

TRANSFERS a ~~petition~~ telegram from Doraisamy Iyer, old Trustee Lalgudi Temple, asking that ex parte orders may not be passed on any motion of the new Trustees.

NK 14/5.
WS 15/5

(Trades

NK 15/5

Telegram

Petition from Doresamy Iyer

Old Trustee Lalgudi Temple

DATED 8th May 1895.

TRANSFERRED to the Chief Secretary to Government for disposal.

(By Order.)

Private Secretary.

GOVERNMENT HOUSE,
12th May 1895.

CURRENT NO. 2425

643

Code / Class 8

INDIAN TELEGRAPHS. Monthly Number.

To (Office) Ootacamund | From (Office) Trichinopoly Fort.

Words	D.	Hour.	Minute.	Official Instructions.
119.8	8	10	40	

To (Person) His Excellency the Governor C. S. Dispatch

From (Person) Doresamy Iyer. old Trustee Lalgudi Temple

11 5

Lalgudy Temple not mohuni Temple we are in possession now and for last several years false Keys attempted to be put up to show possession in ~~once~~ new trustees if any motion is made for new Trustees pray do not pass orders exparte such exparte orders obtained by them on false pretexts before deputy and district magistrates and high court were on our appearance set aside we will appear through counsel on any short notice all courts

64 Word Form. F.C.2.

Recd. from LN. Sent to LN.

At Hrs. Mts. by Hrs. Mts. by

OOTACAMUND 8 5 5

Telegraph Master.

[C.]
600—7—95.

Judicial Department.

C. No.° 2311 (2368, 2394 & 2425/95.)

FOR ORDERS.

~~A telegram a report may be called~~
~~for from the district magistrate?~~
These currents relate to a dispute
regarding the management of the
Kalyanda temple in Trichinopoly
taluk. The question really in issue
~~is~~ is whether the temple should
be managed by three men named
1. Doraisami Aiyar 2. Rameswami
Aiyar & 3. Venkatarama Aiyar
~~or~~ by three others named 4 Sma
-sami Aiyar 5. Palaniyappa Chettiyar
& 6. Kanthasami Aiyar, all of whom
are or have been Dharmakartas
appointed by the temple Committee.
Instead of settling matters by a
civil suit, the parties as usual
had resort to the Criminal Courts
Matters gradually became more
serious until on the 31st March the
Deputy magte passed an order

VR 15.5.95

Desp 23/5

(2)

Penal Sanction for two Tel Pers

16 may

under S. 144 Cr.P.C. directing nos 4.5 & 6 not to interfere with the temple or its management. They appealed to the District Magistrate who suspended the order on the 6th April but confirmed it on the 15th idem. It has now been in force for one month and 10 days - & will be discharged by lapse of time on the 8th June, unless made permanent by the Local Govt. - The appeal to the Dist. Magte having failed, the High Court was asked to interfere but refused it on the ground that it had no jurisdiction, the order being an executive one.

The temple committee, or certain members thereof, who support the cause of numbers 4, 5 & 6 now petition Govt to rescind the order of the D.t Magte confirmed by the Dist. Magte.

This procedure is justified by a reference to the High Court Ruling in Criminal Pet.n 650 of 1879 (1 Weir p. 763 2nd edition) which runs

"This Court has no power to interfere under the Code of Criminal "Procedure as the order was not passed "in a judicial proceeding and in my judgment "it has no power to interfere under "s.15 of the Letters Patent. The proper "course for the petr to pursue, if "he is aggrieved by the order, is to "petition the Dist. Magte to recall the "order and if that fails to petition "the Govt."

This is a ruling of Sir Charles Turner's under the corresponding section in the Code of 1872 viz S. 515 (675 of 1882) which does not materially differ from S 144 of the Code of 1882

Lalgudi Temple management
Appeal against an order under S.144 Cr.P.C.

FOR ORDERS.

* no copy of the order has been submitted, & this statt is based on the petitions received.
3/5/95

I do not doubt the statement of Mr Wedderburn but the Mg Ch Cases have moved me.

× Thiruvenkayya & Co. & Others.

[G. 25.] 600—3-95.

DEPARTMENT.

C. No.

FOR ORDERS.

Current No. 2394 is the petition from the temple Committee, which appears merely to repeat the arguments which were addduced before the Dist. Magte. His order on appeal shews with sufficient clearness that their contents are not admissible.

Individuals nos. 1 & 2 & 3 were dismissed by the Committee, but in the end of 1892 or the beginning of 1893 had have remained in actual possession of the temple for two years since their dismissal. This has been found as a fact by both Courts, & the order under S 144 is based on this fact & the view that the proper course for nos. 4, 5 & 6, whether they were appointed prior or subsequent to the dismissal of nos. 1, 2 & 3, is to sue for possession of the

Despd 23/5

temple. The Committee however argues that it "has no power to sue the dismissed trustees, see I.L.R. ~~XVIII~~ XVII Bad. 143." - This is a ruling which states that the right to bring suits for the recovery of the property of a religious institution "is vested in" the trustee or manager of such institution unless he is precluded by any special law from exercising it. By the use of the expression "vested" the petrs apparently understand the High Court to mean that the temple trustee has the exclusive right to sue for recovery of possession of temple property; or, if this is not their view, they misunderstand the following remark of "the Lower Courts are in error in "supposing that the present suit is of "the nature of the suits which the "Committee are authorized to "bring by S 12 of Act XX of 1863" & wrongly interpret S. 12 as an exhaustive description of the suits which the temple committee can bring. S 12, however, cannot deprive temple committees of their common law rights, as is clearly shown by I.L.R. Madras VI. 54 which discusses a suit brought for the recovery of temple

FOR ORDERS.

[G. 25.]
600—8-3-95.

DEPARTMENT.

C. No.

FOR ORDERS.

property in which the plaintiffs were the Dharmakartas and the temple committee, the defendants being a dismissed Dharmakarta with whom were joined two dissentient members of the temple committee.

The petrs in C. 2394 are therefore clearly wrong in their contention that they cannot sue for recovery of possession. This being so, it is submitted that Govt. should not ~~cannot~~ reopen the question whether nos. 1 2 3 or nos. 4. 5. 6. were in fact in possession of the temple. - The order is temporary & prima facie correct; to reverse it or even call for a report would create a disagreeable precedent, besides which it appears sheer waste of time and labour for Govt. to enter into details as to

Moreover, the order under S 10 restrains the new trustees not the temple committee, and an appeal against should come from them, not from the temple committee

Desp 23/5

Tempe dispute,
Lalgudi

FOR ORDERS.

E

H.M.

rights of the parties or the fact of possession, merely to decide whether either order under S 144 shall remain in force for another 2 months. - The question of right must ultimately be settled by a Civil Court, & that of possession either by a Civil Court or by a Criminal Court acting under Chapter XII of the Criminal Procedure Code. - Interference by Govt with orders passed under S 144 is, I submit, a step which should only be taken in case of a gross miscarriage of justice; this is emphatically not such a case whether the order was wrong or right.

D
18.5.95.

The remaining papers are telegrams from the dismissed trustees 1 & 3, praying Govt not to pass an ex parte order on the petn. from the temple committee

D
18.5.95.

The ruling at p 763 of Weir I think applies to the existing: of 22, why the concluding portion of Section 144 C.C.P.

The question of whether the orders of the Local Officers are right or wrong seems to me to hinge upon the one point viz who was in possession?

[G. / 2] 600—8-95.

DEPARTMENT.

C. No.

FOR ORDERS.

The Sub D. Magistrate and the Dt. Magistrate both held that the pltrs were not and that the dismissed trustees were.

This conclusion was arrived at after enquiry. Possession of the keys alone does not prove possession of the temple & this endowment or the management of these.

I submit that there is no ground for interference and I agree with the G.S in the opinion that it would be very undesirable to call for any report

20/5/95

CS

18/5/95.

Order of 23rd May 1895 at No. 1105

The Govt sees no reason to interfere with the order passed by the Dt. Magte & confirmed on appeal by the Dist. Magte

(from orders)

D
20.5.95.

Note

It did not strike me before that Mr. Broadribb's pltr was liable to rejection under rule IV of C. Pltr Rules.

D
20.5

Despd 23/5

The Pltr in C. 2394
& Pltrs in Cs. 2311, 2368 & 2425

Q & O.

Despd 23/5

20/5/95

Temple dispute, Lalpuri

FOR ORDERS.

E

When given for copying ____
When copied ____
When examined ____ } 189 .
When signed ____

READ AGAIN G.O., No. DATED
189 ,

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
LETTER OF GOVERNMENT.								
STATEMENT WITH DITTO.								
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.