

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2098

Dated 10th Oct. 1895

INDEXED.

[Despatch Abstract.]

SUIT.

Furnishing to the District Magistrate of North Arcot for communication to the local Government Pleader, Proceedings, Revenue Department, on Board's Proceedings submitting the explanation of the Collector and the Government Pleader in connection with the mismanagement of a certain forest-----on the file of the Sholingur District Munsif.

BACK PAPERS.

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

FURTHER PAPERS.

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

Judicial Dept
 F 21-5,000-4-3-1893.
 CURRENT NO 4537
 Govt. of 1893 Madras.
 REVENUE.

To

The Judicial Dept

Dated

Recd.

Encl. 2

Recd 30.9.95.

CHIEF SECRETARY
 26 SEP 1895
 GOVERNMENT OF MADRAS

Mis. G.O., 30. Aug. 1895 No. 354
 R.

SUBJECT.

Passing orders on B. P. Subramitting
 the Explanation of the follr & the
 Govt Pleader in connection with
 the mismanagement of a certain
 forest land on the file of the
 Sholinger St. Munsiff in the h.
 area of St.

under 8 10th October 1895, No. 2098.
 This

A copy of the foregoing order
 will be furnished to the
 L. Diapir of St. Arad
 for communication to the
 local land pleaser.

3.10.95
 9/10/95

Not. 3/10/95
 To the L. Diapir, St. Arad
 (copying Acc. order
 & this)

Pl see Subramitting paper
 the paper were hand off
 in right to Rev. Dept.
 minor cases for the
 papers subd. 11/10
 14/10

Proceedings of the Board of Revenue.
(Land Revenue)

Dated 10 July 1895.

Forest No. 979 Miscellaneous

Read the following letter from S. H.
Wynne Esq^r, Collector of North
Arcot, dated 20 June 1895 Ref. No. ¹⁴⁰⁹_{Rev.}

With reference to Board's
Proceedings No. 296 Ins, dated 10 April
1895, I have the honor to call attention
to the earlier part of the Government
Pleader's letter, a copy of which is for-
warded with my letter of this date,
Ref. No. C. Rev. No. 1409. It seems to me
very doubtful if the application to
set aside the ex parte order is advis-
able and before risking further costs
I request orders on this point.

Read also the following letter from S.

H. Wynne Esq^r, Collector of North
Arcot, dated 20 June 1895 Ref
No. ¹⁴⁰⁹_{Rev.}

With reference to the Proc.
of the Board of Revenue No. 607 Ins, dated
6 May 1895, I have the honor to submit
herewith copy of the Local Govern-
ment Pleader's letter No. 81, dated
20 May 1895, in which he explains

his failure to apply to the District
Munsiff of Sholinghur for an
adjournment of the Kurumeda suits
for a month from the 16th March 1894
as desired by the collector in this
office letter No. 1131 dated 24th Feb'y
1894. It is explained that the
collector and the District Forest
officer had themselves applied
to District Munsiff for adjournments
both before and after the 16th March
1894, and that the sanction of Govern-
ment was not obtained for the
defence of the suits and that he
had no vakalat is a mere evasion.
He received direct orders to apply. If
he wanted a vakalat, he had only
to ask for it.

2- With reference to para 3 of the
Board's Proceedings, I have to state
that the order declaring the collector
ex parte was never communicated to
him. The collector was evidently un-
aware of the ex parte order until the
3rd July 1894 (the suits were decreed on
the 30 June 1894) when in reply to the
collector's telegram, dated 28th June 1894,
asking for an adjournment of the suits,
the District Munsiff's letter No. 208, dated
20th June 1894 was received stating that
the

the collector and the District Forest
officer were declared ex parte on the
16th March 1894 and that no notice would
be taken of the collector's request
unless and until the ex parte order
was set aside.

3- The District Forest officer
also was not furnished with a
copy of the ex parte order, but he was
informed of it by the District Munsiff
in his letter No. 150, dated 1st May 1894,
where the former applied to the
District Munsiff on the 27th April 1894
for an adjournment of the suits to
the 20th May 1894.

4- The reason why a copy of
the ex parte order was not furnished
either to the District Forest officer
or to the collector presumably is
that neither of them asked for it,
the suits being left to look after
themselves. I do not think that the
court is desired to send copies of
ex parte orders to parties.

5- I am unable to report the
reason why the District Forest
officer failed to bring to the collector's
notice the ex parte order as soon as
it was known, which as stated
above was by means of the District

Memorandum letter of 2nd May 1894, as the District Forest officer Mr. McArthur is on leave, I think this omission and to a great extent the mistakes which have been made in the progress of this matter may be put down as one of the indirect results of the isolation of the Forest office from that of the Collector. In all District Forest officers being frequently a young inexperienced officer and always one who is quite ignorant of matters of law and general administration, while his head clerk is a lone paid over-worked official. The danger is greatly enhanced when the Forest office is, as here, located at a distant station and personal communication between the District Forest officer and the Collector is proportionately less frequent.

Resolution

The Board agrees with the Collector in thinking that the excuses put forward by the Government for failing to act in the matter are quite inadequate.

But

But it is unable to see how the District Forest officer's omission to bring the matter to the notice of the Collector can be attributed to the office being located at Vellore instead of at Chittoor. It is also unable to ^{reconcile} the statement in para 2 of the Collector's letter of the 28th March 1895 that the then District Forest officer, Mr. Marshall, was not in favor of the compromise with the statement in para 14 of the Collector's letter of the 5th May 1894, that the decision to compromise the case had been come to before Messrs. Le Fanu and Marshall left the district.

2. The Collector is requested to submit an explanation on this point and also to report whether the ex parte order was submitted to Mr. McArthur for orders by his Head Clerk who was hardly likely to be unaware of its import.

3. In the meantime steps must be taken to comply with the decree of the Court. It is clear that there is no ground for any application to set aside the ex parte order now.

True

with

(True Copies and Extracts)
(Signed) R. C. C. Can.
My Secretary



Proceedings of the Board of Revenue.
(Land Revenue)

Dated 15th August 1895.

Host. N^o. 1173 Miscellaneous.

* Copy attached.

Read again Board's Proceedings, dated 10th July 1895, Host. N^o. 979 Misc.

Read also the following letter from S.M. Wynne Esq^r, Collector of N. West dated 8th August 1895, Ref. No. 1409.

I have the honor in reply to Board's Proceedings N^o. 979 Misc., dated 10th July 1895, and to para 3(3) of Board's Pros. N^o. 607 Misc. dated 6th May 1895, to enclose an extract of an office note from the District Forest Officer.

2. The Collector's letter, dated 18th March 1895, was drafted in the correspondence Branch of this office, whereas the letter of 4th May 1894, was drafted in the Forest Branch. I consider the discrepancy is attributable to the two offices not being at the same station. I beg however to represent that in the latter part of the first sentence of the former of the Proceedings quoted above, the Board has misunderstood what I wrote.

Resolution.

Submitted to Government
with

with reference to G. O. 23^d April 1895,
N^o 1591 Ins.

2. In July 1890, the Forest Range officer of Wallajah, North Arcot District sold certain trees to three individuals for Rs. 68-12-0, estimating the trees at 55 cart loads for which he issued permits. In the following month the District Forest officer, suspecting fraud in the transaction, confiscated the trees which when sold by auction were found to contain 350 cart loads realizing Rs. 586-4-0. For this the Range officer was dismissed. The original purchasers however, objected to the action taken by the District Forest officer and the matter was under correspondence between them and the District Forest officer (Mr. Marshall) up to September 1893 when the former instituted suits in the District Munsiff's Court at Sholingur for the recovery of Rs. 680 for loss incurred by the latter's action.

3. Each of the original purchasers instituted a suit against the Collector and the District Forest officer. The hearing of one of the suits (N^o 612 of 1893) was at first fixed for 21st November 1893, but at the instance of the Collector, who had been advised by the Government

Pleader to settle the case out of court, this suit and the two other connected ones (N^{os} 635 and 636 of 1893) were adjourned to 21st December 1893, and the fact was intimated to the Collector. On the 20th December both the Collector and the District Forest officer moved the Court for another adjournment on the ground that negotiations for a compromise were not yet ripe and this was granted up to 16th January 1894. On the application of the Collector this was further adjourned to 16th March 1894, but as neither the Collector nor the District Forest officer appeared when the cases were called on, the suits were declared ex parte and adjourned for evidence to the 31st idem. Assuming this to be an ordinary adjournment for the trial of the suit, the Collector on the 29th idem applied for a further extension of time up to 30th April in order to obtain the sanction of the Board for compromising the suits, but the Court granted time up to 30 June 1894 thus giving ample opportunity for steps to be taken to have the ex parte order set aside under Section 108 of the Civil Procedure Code. No steps having been taken in this direction the suits were decreed on the last named date in favour of the Plaintiffs.

Plaintiffs. The Collector, however, had, on the 28th June 1894, telegraphed for a further adjournment, but was told in reply that no notice could be taken of his request unless and until the ex parte order was set aside. This reply does not appear to have reached him until after the judgment had been pronounced on 20th June 1894.

4. In the meanwhile on the 21st May 1894, i.e. nearly two months after the suit had been declared ex parte, the Collector had applied to the Board for sanction to compromise the suits by payment of Rs. 480 to the Plaintiffs. The Board called for further information, but even when obtained the Board could form no definite opinion on the facts before it except that no justification for the proposed compromise had been shown, and as there was hardly time for further reference, the Board was obliged to allow the Collector direction to deal with the matter (Board's Proceedings 27th June 1894 Forest N^o 849 Misc.). The result has been as stated in the concluding sentence of paragraph 3 *supra*.

5. The question arises as to who

who was responsible for (a) allowing the suits to be declared ex parte on the 16th March 1894 and (b) for not taking any action to set aside the ex parte order between 16th March and 20th June 1894. This has formed the subject of correspondence between the Collector, the Board and Government ending with Board's Proceedings 10 July 1895, Forest N^o 979, Miscellaneous.

6. The letters read in the Board's Proceedings last quoted above contain the explanations of the Collector and the Government Pleader. It would appear that on the 24th July 1894 the Government Pleader was directed by Mr. Le Franc to apply for another adjournment for a month from 16th March 1894. The Government Pleader explains that previous adjournments were asked for by the Collector and the District Forest Officer themselves and that in an interview he had had with the latter officer between the 10th and 13th March he suggested that he (the District Forest Officer) should apply for an adjournment. Even accepting this to be the case, the Board does not consider that it affords a justification for

for the Government Pleader's conduct in failing to carry out the Collector's orders. In regard to the issue being subsequent to 1st March the Board assumes that the Collector was not aware of the exparte order until the 3rd July, while the District Forest Officer was ignorant of the effect of the said order as his explanation now furnished clearly indicates.

7. As it was clear that there were no grounds whatever for applying under Section 108 of the Civil Procedure Code for an order to set aside the exparte judgments in the cases under reference, the Board in its Proceedings dated 10th July 1895, No 979 directed that steps should ~~not~~ ^{be} taken to comply with the decree.

8. Referring to the allusion in the correspondence to mistakes having arisen in ^{consequence} of the District Forest Officer's office ~~is~~ not being at the Collector's head quarters, it is observed, that the transfer of the District Forest office from Vellore to Chittoor was recommended to Government in Board's Proceedings dated 9th March '94 For. No 329 mis, and the question of accommodation available

available in Chittoor has been recently reported upon in B.P. of 9th August 1895, Forest No 1162 mis. No doubt the risk of a miscarriage of the kind is lessened when the offices of the Collector and the District Forest Officer are at the same station, but the Board considers that the only safe course is to direct that all papers relating to litigation in connection with Forest matters should be disposed of in the same branch of the Collector's office as the other suits with which the Collector has to deal.

(True Copy and Extract)
Signed / La M. Wynne
Secretary

To.

The Secretary to Govt - P. D.
with five enclosures returned
and Govt - Pleader's letter &
D.F.O.'s note to be returned
and a copy of B.P. No 979 mis
27-8-95.

W.N.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

^{Extract from}
Read the following Proceedings of

the Board of Revenue (L.R.) of 15 August 1895 F. No 1173 his
submitting to Govt. with remarks & explanation of the collector
and the Govt. Pleader in connection with the Hariwar suit in
the Ch. Arcot District.

Resolution:

* * * * *

Referring to the allusion in the correspondence to mistakes
having arisen in consequence of the D^o Forest Officer's Office
not being at the collector's head quarters it is observed that the
transfer of the D^o Forest Office from Villore to Chittoor was
recommended to Government in B^ds Proceedings dated 9th March
1894, F. No 329 his: and the question of accommodation available
in Chittoor has been recently reported upon in B^ds Proceedings dated
9th August 1895 F. No 1142 his: No doubt the risk of a mis-
adventure of the kind is lessened when the Offices of the
collector and the D^o Forest Officer are at the same station, but
the Board considers that the only safe course is to direct
that all papers relating to litigation in connection with
Forest matters should be disposed of in the same branch of
the collector's Office as the other suits with which the collector
has to deal.

Order

Order thereon 30: August 1895 No 3541

The Board's action in directing compliance

with the decree is approved.

2. The Explanation of the Government Pleader (Mr. R. S. S. Narasinga Rao) for his omission to apply for an adjournment on March 16th in accordance with the Collector's instructions cannot be accepted as satisfactory. Unless he was absolutely certain that the D. Court Officer had written to the Court on the subject, it was his obvious duty to appear on the date fixed and carry out the Collector's directions, obtaining a *va kalat* beforehand, if necessary. Mr. R. S. Narasinga Rao cannot be said to have displayed that care for the interests confided to him, that Government has a right to expect from a Government Pleader.

3. The omission to apply for setting aside the *Ex parte* decree is more or less a consequence of the above omission, but Govt cannot refrain from expressing surprise that the D. Court Officer (Mr. McCarthy) should have been ignorant of the form and consequences of an *Ex parte* decree.

4. The suggestion in the last sentence of the Board's Proceedings appears sound; and general orders to that effect may be issued.

(True Extract)

H. H. H.
Secretary to Government.

The B^d of Rev. (L.R.) with 2 Encls:

" Judicial Deptt: with Encls: nos. ~~1111~~

HN. and a full copy of B.P. 473.
15.8.95

Then given for copying _____
Then copied _____ } 189
Then examined _____
Then signed _____

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. 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.

available