

- (1) பக்கங்களின் எண்ணிக்கை 36
(2) புதுக்கித் திருப்பிய நாள் 5/1996
(3) ஆதாரப் குறிப்பவர் சுருக்கொப்பம் _____

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

JUDICIAL இலா

அரசாணை எண். மு. கோப்புத் தாள் எண்.	309	அச்சகம் பலவகை
(46-49)		
நாள் :	8 2 1881	199

மடிக்கவோ சுண்டியடி கையாளவோ கூடாது.

1131

ஆவண. கா. 1-18,006-6-9-90.

4. ராஜகோன்
செப்பிடுபவர் பெயர்
5/1996
செப்பிடுவதற்காக எடுத்த
ஒகா எளிப்பட்ட நாளி
6/1996
செப்பிட்டு முடித்த நாளி
சரீபார் சகை
மு. பா. ராஜகோன்
கையொப்பம்
கையொப்பம்

Govt. of 1881 Madras
JUDICIAL.

To
THE DISTRICT JUDGE,
South Canara,
&c., &c., &c.

Dated February, 8th.

Issued

Recd.

Encl.

G.O., 8th February 1881, No. 309.

FEBRUARY.
Nos. 46-49.

Houses for Officers.—The Collector of South Canara authorized to negotiate for the purchase of a right of way to the Court-houses through the compound of the District Judge's residence; and President of Municipality to report as to practicability of restoring an old road leading to the Court-houses.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

8th February 1881, No. 309.

Houses for Officers.

Read the following papers:—

No. 46. From J. W. BEST, Esq., District Judge of South Canara, to the Chief Secretary to Government, dated Mangalore, 18th January 1881, No. 1.

ABSTRACT.—Reporting, with reference to G.O., No. 2964, dated 24th December 1880, that negotiations for purchase of the house tenanted by him as a residence for all future Judges have failed, and that the property cannot be acquired except by having recourse to the Act.

No. 47. From the Rev. N. PAGANI, S.J., Pro-Vicar Apostolic, Canara and North Malabar, to the Chief Secretary to Government, dated Mangalore, 20th January 1881.

ABSTRACT.—Submitting, for consideration, certain remarks regarding the property proposed to be purchased as a residence for the District Judge, Mangalore.

No. 48. Telegram from the Rev. N. PAGANI, Pro-Vicar Apostolic, Mangalore, to the Chief Secretary to Government, dated 21st January 1881.

I, owner of Lobo's bungalow by deed of settlement, protest against Judge's proceedings. Letter follows.

No. 49. ORDER THEREON, 8th February 1881, No. 309.

The Government have nothing to do with the question of the ownership of the site in question; all they desire is that there may be ready and fairly easy access to the Court-houses by wheeled carriages in the monsoon.

2. The survey plan sent up by Mr. Best shows an "old carriage road not now used." The President of the Municipality will be requested to report whether it is practicable to restore this road, giving a rough estimate of the cost.

3. The carriage road through Mr. Best's compound appears to be the only driving road, safe and convenient for vehicles at all seasons, and it was chiefly to secure the use of this road that Government contemplated the purchase of the property. They are not prepared to put the Act in operation merely to acquire a residence for the Judge. Possibly the owners would sell a right of way to the Court-houses. The Collector will ascertain whether they are willing to do so and upon what terms.

4. The Government observe that Mr. Pagani comments on letters of the District Judge, recorded in Proceedings, dated 24th December 1880, No. 2964, which, it is presumed, have not been officially communicated to him, and which, therefore, it does not appear he can have obtained by legitimate means.

(True Extract.)

R. DAVIDSON,
Chief Secretary.

To the District Judge, South Canara.
" Collector of South Canara, with plan, to be returned.
" Pro-Vicar Apostolic, Mangalore.

Exd. T. O'Connor.

Govt. of (1881) Madras.
JUDICIAL.

To
THE DISTRICT JUDGE,
South Canara,
&c., &c., &c.

Dated February, 8th.

Issued

Recd.

Encl.

G.O., 8th February 1881, No. 309.

FEBRUARY.
Nos. 46-49.

Houses for Officers.—The Collector of South Canara authorized to negotiate for the purchase of a right of way to the Court-houses through the compound of the District Judge's residence; and President of Municipality to report as to practicability of restoring an old road leading to the Court-houses.



1881.
3
From J. W. Best Esq.
District Judge of
South Canara

To The Honorable R. Davidson
Chief Secretary to Government
Fort St. George

Sir,
With reference to G. O. 24
December 1880 No 2964 (Jud. Dept.)
I have the honor to report that
there is no prospect of acquiring this
house & site unless by proceedings
taken under Act X of 1870. for in
answer to my enquiry if the owner is
willing to sell the property for the
sum sanctioned by Government he
has sent me a letter which is no
doubt "inspired" and which is further
proof (if such were required) of the
powerlessness of the old man to resist
the

the
nature of the case is as follows.

tradition to all that he had told me before, he now states that the gift of the property was made by him of his "own free will"! He is however careful to add that under the terms of the gift, the bungalow and site must revert to himself in case of the College not being built upon this site; and after stating that the property is worth more than double

Rs 10000 (which is perfectly absurd)

concludes by saying that he is not willing to sell the same, but that in case it is decided that the site

shall not be used for the proposed College he is "willing to enter into an agreement to continue to rent the bungalow to future District

at the same rent as hitherto."

As the owner is unwilling to sell the same he has no power

There is evidence on the records of the Stamp Department that the owner and the donees themselves valued the property at Rs 10000 only.

negotiation for the purchase of the question and, as already stated, the property can only be acquired under the Act (X of 1870.)

3. I take this opportunity of explaining that I never for a moment imagined that it was obligatory on Government to provide residences for Judges - but in G.O. dated 10th July 1874 No 1266 (Jud. Dept.) Government "recognized the principle of providing quarters on payment of a suitable rent for Officers in stations where it is difficult to obtain house accommodation" and this is certainly one of such stations; for, failing this house, a new Judge on his arrival, and for some time after, would be very liable to find himself homeless.

I have the honor to be,
Sir,
Your most obedient servant

W. Bert
District Judge

From

R.D.
JAN 31

The Pro-Vicar Apostolic

Canara and North-Malabar

To

The Chief Secretary to Government

Madras

Mangalore, 20th January 1881.

Sir,

By an order issued 24th December 1880 you were led "under the circumstances stated" by Mr. Best, district judge of Canara, to authorize that gentleman to negotiate for the purchase on behalf of Government of a bungalow on Edyiah hill in Mangalore now tenanted by him, and which is my legal property.

With reference to that order I have the honour for the information of His Excellency the Governor to report, that almost all the circumstances as stated by Mr. Best, are inaccurate not ^{to} say misleading, and to pray that the order issued be cancelled.

2. Mr. Best, addressed you officially in two letters, the one Mangalore N. 92, dated 16th September 1880, the other N. 93 dated Mangalore 3^d December 1880. I have the honour to point out the misrepresentations contained in both of them.

3. & 4 in letter N. 92, implies that undue pressure was used to bring about the deed of sale, and that no time for consideration was allowed Mr. Lobo before signing the deed. The circumstances of the case are as follows:

No. 10172-26-1-80

1881. Dec 11
Chief Secretary
to Government

From Mr. B. C. Singh

to Mr. Chief Secretary
to Government

1881. Dec 22
Mangalore

No. 10172-26-1-80

Report with reference
to order issued with
reference to the same
to Mr. Chief Secretary
to Government

1881. Dec 22
Mangalore

gallow, when requested to by the people, in September 1844, when I had entirely abandoned all idea of ever securing the site, that gentleman to the surprise of all, made overtures to his parish priest to make over the bungalow to me on very acceptable conditions. One of the conditions was that the college was to be built on that site. I only heard of the affair through the parish priest. Mr. Lobo had thus full time for consideration. He likewise lately declared to the judge in writing that the transfer was made of his own free will.

The remarks of Mr. Best as if the transaction was not completed can only have the effect either to invite litigation, or to prejudge a case.

4. It is inaccurate, what Mr. Best states in § 5 that the road leading through his grounds, is the only one to approach the Courts for Europeans. There are two other roads constructed at the public expense for that very purpose of affording access to the Courts. One of these leads to the Court from the West. This road is indeed at this moment blocked up for all but passengers. But the Municipality I hear, is negotiating to acquire an adjacent private property, through which to run a road to the Courts.

The other affords approach to the Court from the North. It is a broad carriage road, at all seasons safe, and built expressly for the convenience of a former judge, Mr. Chotfield, I believe. This road is in daily use. The judge could scarcely have ignored the fact.

The other European officials of the place, such as the two assistant Collectors the Superintendent of Police, the military officers would have to make a detour to reach the Court by the judge's road. It is convenient to two only, the Collector and the judge, or rather, to the judge alone, the Collector having his court in another locality away from the Civil Courts.

5. Again it is quite inaccurate, what Mr. Best states in § 7 that since Mr. Vaughan's time the bungalow was the private property of successive judges till 1871.

The following is the list of gentlemen whose private property the bungalow was:

1. Bensby Anderson, District Judge
2. Patrick Grant, do in 1834

3. J. C. Jennett, do in 1844.
4. T. Hultby, Collector in 1845.
5. Blane, Collector in 1846.
6. J. K. Hultby, Collector in 1850.
7. Fisher, Collector (year not known to me).

6. It is ridiculous to see it stated by the judge in § 10 as an undoubted fact, that the site of the future college is not the most suitable one for the pupils, "for such pupils will have to come far and climb a hill."

Such a statement, and that statement made officially, must surprise any one connected with Bangalore. The bulk of the catholic population of Bangalore lies at the foot of the hill in the three villages Godialboil, Fulneer and Khadri. The distance from those villages to the plateau averages 7 to 10 minutes' walk over ground traversed by four-wheeled vehicles. This Mr. Best calls far and climbing a hill.

From Bolur and Bigie, two other catholic villages though far less peopled, the plateau may be reached in about a mile.

Again in a general meeting of the Catholic community of Bangalore largely attended, this very site was pointed out as the most suitable for the purpose of a college. A special deputation of its members was sent to Mr. Lobo to purchase the site. It failed then, but it only proves the sense of the community as to the healthiness of the spot. That some hangers on of the community, knowing the bias of the judge, told him what they knew would please him, is but natural.

7. I now come to the 2^d letter of Mr. Best N. 93, dated 3^d December 1880. It is surprisingly inaccurate to say that "in the whole of Bangalore there are only two good houses viz: that occupied by the Collector, "and this one, which is known as the judge's residence," or that "the total number of houses of all kinds fit for the residence of Europeans being less than the number of persons requiring them" as reported by Mr. Best in §§ 4 and 5.

I cannot of course surmise, what the notions of Mr. Best are as to houses fit for Europeans to live in, but venture to think that houses in which resided Collectors, District judges, Colonels commanding the station, and field-officers, were by those gentlemen not considered to be inferior houses not fit to live in. Now

Three more houses, ten situated on the hill, which I will designate A, B, and C. In A (here known as the P. M. master's house situated on a spur of the same hill as the judge's residence, there have resided the following, European gentlemen:

1. James Silver, Sub-Collector and acting, Collector.
2. James Fraser, Collector 1861-65.
3. A. Hodgson, Collector 1865-66.
4. H. J. Thomas, Collector now member of the Revenue Board, Madras.
5. Colonel Shoby, with his family.
6. Major Warlowe, Superin.^t of Police.
7. Hindersley, District judge, now a judge of the High-Court, Madras.

In B.

known here as Mrs. Curran's bungalow there have resided:

1. H. J. Thomas, with his family, when Head-Ass^t. Collector.
2. Mr. Lawford District Engineer, with his family.
3. Colonel Marsack Commanding the station.
4. Mr. Pringle Ass^t. Engineer together with Mr. Cherry Superin.^t - Forrest Depart^t.
5. J. Mc. C. Webster, when Head Ass^t. Collector.

In C.

In the third bungalow, known as Mrs. Coello's, said to be more roomy than the judge's residence, there resided till lately (July) Colonel Marsack, Commanding the station.

To show again how reliable the official report of Mr. Best is, I need only add, that at this moment there are three bungalows in Mangalore waiting for tenants of such as had been inhabited by European gentlemen. Three other bungalows A, B, C., former residences of Collectors, Ass^t. Collectors and Colon have only lately been engaged (C. only temporarily for change of air) after having been vacant some of them for more than a year.

8. The request contained in § 7 of Mr. Best's letter was quite unnecessary, Mr. Best himself is aware, that a gentleman offered to build a bungalow for his use on one of the most desirable heights, conveniently situated for his attendance at Court by a carriage road (the Northern) which is neither blocked up, nor liable to landslips.

9. In § 8 there is another inaccuracy, which had been pointed

out to Mr. Best as ... was indeed made over conditionally, but being ... old quarry, it had to be abandoned.

10. The analysis as above made of Mr. Best's two official documents will I think excuse me from the imputation of presumption if I call the two letters a tissue of inaccuracies, which, had Mr. Best willed it so, as he should have done in an official report, could easily have been avoided. The attitude of Mr. Best in this affair has throughout been very unseemly in a judge, and he, a representative of H. M. Government.

His acts throughout have been to obstruct the accomplishment of a public good considered by the Catholics to be of vital importance for the future good of the College, and for which they have worked and toiled so long. Not only the Catholic community, which is very large both in Mangalore and the province, but others too (for his two letters known here are the common talk of the people) now know what Mr. Best, also in official reports can do, and it will now be for Government to consider, whether the confidence of the community in Mr. Best as judge must not be greatly shaken.

11. I likewise desire to direct the attention of Government to the style, Mr. Best uses, when speaking of the Catholic clergy. He, a representative of H. M. British Government publicly holds up to scorn the priests, whom the people obtain and respectfully attached, calling them "newly imported priests," "these priests," as if not the least consideration was due to the leaders of a community, numbering over 60,000 souls in Canara and North-Malabar, all under my jurisdiction.

12. Another cause for complaint I have is this. In all transactions concerning this bungalow, Mr. Best though stating, that the deed of transfer was duly signed and registered, studiously ignores my right of ownership, and pretends to negotiate with Mr. Lobo, the late owner. What Mr. Best's motives may be for thus acting, I do not attempt to say. But if Mr. Lobo were the man, whom he takes him to be (§ 12 of Mr. Best's first letter) the proceedings would just be such as to lay snares for prevarication, and for litigation in its train. I doubt whether Government would countenance the

13. Mr. Lobo in a letter to me publicly declared, that he made the gift without the advice of any one, and in a letter to the judge, that he did it of his own free will, and yet Mr. Lobo a septuagenarian, is, I hear still worried with suggestions, that he, Mr. Lobo, was still the proper person to carry on negotiations with Mr. Pest, as if the bungalow was still his.

14. In conclusion I would direct the attention of Government to the fact, that if I were forced to relinquish the property, not only would a public good be obstructed, but no compensation for the loss could be obtained, as the condition attached to the deed is, that if the college were not built on the site given, the property itself was to revert to the owner.

I have the honour to be

Sir

Your most obedient servant

M. Paganini

Pro-Vicar Apostolic of Canara
and North Malabar.

P.S. I hear from reliable authority, that Mr. Lobo pressed in this transaction, added an additional paragraph to his former letter to the judge authorising him to propose to Government, that if Government guaranteed to Mr. Lobo the rent, paid at present

for the use of the bungalow, to enter into an agreement with Government to that effect. This was by him done, the supposition, that Government would enforce the expropriation of the property. For in S. 1 of the first letter he still declares to the judge, that the transfer of the property to me, was made of his own free will. The telegram was sent to you to prevent misrepresentations.

M. P.

Judicial (1881) DEPARTMENT.
(House for Officer) 9

From The Pro. Vicar Apostolic
Canara & N. Malabar 20

Dated 20th January 1881
Recd. 27th January 1881
No. 295

11.309/11

SUBJECT.

Submitting for con-
sideration certain remarks
regarding the property pro-
posed to be purchased
as a residence for the
Dist. Judge. Mangalore.

Class. *P.D.*
 To *Mount Road*
 (Station) *Mangalore*
 Words *22* Day *21* Hour *18* Minute *25*
 To (Person) *Chief Secretary to Govt*
St. Ignace Prospects
Epistolic
of
by
Settlement
judgments
follows
 RECD. FROM *ROAD 21/181*
 AT *6:00* Hrs. *11* L.N.
 Sent to *Atthasamettai*
 At *11* Hrs. *11* L.N.
 Telegrams *21/181*

Judicial (1881) DEPARTMENT.
(House for Office) 10A

From H. Paganini
R. C. Mission
Mangalore.
Telegram

19/6/01
Dated 21st January '01
Received 22nd January '01

No. 221

I owner of Lotri
bungalow by deed
of Settlement protect
against judgments
proceedings. Letter
follows.

No. 220. 221 & 275.

POST DEPARTMENT.

From the Hon. Judge S. Cannon of 15 Jan'y 1887. (w:1.)

~~Dated~~ Reporting that negotiation with the
owners of the house has failed

FOR ORDERS.

and suggesting that

the property be acquired
under the Act of 1870.

A telegram and letter
from the Secy of the W.C.
Mission, many alone,
protesting against the
contemptible purchase,
are put up.

P.F. Brown
25/11

The for the 25th
I do with the question
of ownership. All
that we desire is that
there may be ready
& fairly easy access
to the houses by
barrelled carriages
in the house.

The survey plan
sent up by Mr. Frost

25/11-

show me "old
carriage road" & how
used". The
impression is that
it is ^{not} practicable
for vehicles. The other
approach from the
town is I think only
practicable on foot.
or horse back I believe
& thus the carriage
road thro' W. Bats
compound is the

12
only driving road.
It has to secure
the use of this road
chiefly that I thought
we might purchase
the property & make
it the residence
I think it ought
to question to put the
action operation to
secure the property for
a residence.

Presumably the owner
of the right of
way to the houses
This might be correct
& the friend of the

James L. Smith
Wm. L. Smith

M. Fajani commurates
on letters S. have not
imagined him officially
comm. to him & S.
therefore he can not
have obt. by legitimate
means.

I do hereby disprove
notice this -

H. A. Hamilton
 New York

80 (100) 309/01

ccs/
R 31/1

Henry J. Davis

Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

From the Dist. Judge of Canada d. 18 Jan 81 101
Telegram from the Pro. Vicar A.C. Mission d 24 Jan 81
Letter - - - - - 26 Jan 81

Order hereon of Feb 81, no 309

The Govt. have nothing to do with the question of the ownership of the site in question; all they desire is that there may be ready & fairly easy access to the Court-Houses by wheeled carriages in the Monsoon.

The Survey Plans
sent up by Mr. West

shows an old carriage
road not now used.
The President of the
Municipality will be
requested to report
whether it is practicable
to restore this road,
giving a rough estimate
of the cost.

The carriage road
through Mr. Best's com-
pounds appears to be
the only driving road,
safe & convenient for
vehicles at all seasons. and
It was ^{chiefly} to secure the use
of this road ^{chiefly} that
Govt. contemplated the
purchase of the property.
To put the act in operation

There are not sufficient

merely to ~~acquire the site~~^{acquire the site}
for a residence. It appears to
the Govt. inexpedient &
unnecessary. Possibly
the owners would sell a
right of way to the
Court Houses. The Col-
lector will ascertain
whether they are willing
to do so upon what
terms.

The Govt. further ob-
serve that Mr. Pagani
comments on letters of
the Dist. Judge recorded
in No. 24 Dec 88 No 3784
which it is presumed
have not been officially
communicated to him

and which therefore he
cannot have obtained
by legitimate means

f.f. (From order)

for 2nd

Judge House, Madras.
Govt. of 188 } Madras.

To

Mr. St. John. S. Canara &

a Collector - to - with plan to be
as per order: Bangalore 3

Dated

188 , No.

Recd.

Sept 12/2

Nos.

(From order)

How to be done

Des. as correct by How W.H.
f.f. 1884

Case 15
by

Memorandum
Sect. of 1834 Madras.

Just

R.O. 8 ^{to} Feb. 1881, No. 309
 Nos. 46-49

Houses for Officers - The
Collector of S. Canara au-
thorized to ~~with the~~ ^{compound} negotiate for
the purchase of a right
of way to the Court House
through the residence of
~~the District Judge~~ & Presd.
of Municipality to report
as to practicability of
restoring an old road to
the Court House -

12/4/72

Des. as in

8/1/11