[L. & M. 2,000-5-4-95.]

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1006 M

DATED 24th June 1895

[Despatch Abstract.]

Petition.

Informing Kandaswami Pillai of Periyakulam that his request to prosecute the late Chairman of the Municipal Council, Periyakulam, cannot be complied with.

BACK PAPERS.

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

FURTHER PAPERS.

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

INDEXED.

Miscellaneous.

LOCAL AND MUNICIPAL DEPT.
G.O., DATED 24-6-95
No. 1006 M

When given for copying.

[Despatch Abstract.]

Petition.

Informing Kandasamam Pillai of Periyakulam that his request to prosecute the late Chairman of the Municipal Council Periyakulam cannot be complied with.

Read again Order of Government, dated
189 , No. , Miscellaneous.

Enclosures.

Current No.

Statement with ditto.

Order of Government

Statement with ditto.

Papers not filed up, being meant for despatch in original (not paged).

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

Back Paper, No. of 189 .

Further Paper, No. of 189 .

Copied by

Examined by

Local & Municipal Dept.

DEPARTMENT

CURRENT

From

The Collector, of

Madura

Reference on Current No. 1581 of 1895

No. Genl

Enclosures. Nil

Dated 21 }
Received 23 MAY. 95 } May 1895.

No.

Subject.

Submitting report called for in Govt: Endorsement No. 478 dated 25 March 1895, on the petition of one Kandasamy Pillai of Periyakulam praying that sanction may be granted for the prosecution of Saiyad Alauddin Sahib, late Chairman, Municipal Council, Periyakulam

to be referred to
40. 2395 2787
1896 R. 274

Cnos 797 + 1701 m

order 24-6-95 No

The Petitioners request cannot be complied with. He should establish his claim to the land in question by a civil suit.

18/6/95 Cpl 19.VI 20/6/95.

There is certainly no case for a Criminal prosecution

20/6.

The Petitioner
Chairman mc Periyakulam
this the Collr of Madura
Collr Madura
(with enclosures returned)
Dept. 28/6/95

refused, and he (petitioner) be referred to Civil Court to establish his claims, if any, to the piece of land in question.

Madura Collector's office
Camp Tirumaladur
21st May 1895

Acting Collector

formation of a conspiracy of which the petitioner seems to be a catch-paw playing in the hands of some wire pullers who are behind the screen and whose object seems to be to simply annoy and disgrace the late chairman.

13. The records connected with the subject are herewith submitted as per list attached.

14. The documents numbered 4, 5, 7, 9 and 10 may be returned when no longer required.

E. C. No: 654/Collr of 95.

Forwarded to the Collector of Madura with reference to his R.O.C. no. 1581/Genl dated 28-3-95 herewith returned with enclosures.

2. The facts are set forth in the Chairman's letter.

signed J. H. Batten
Ag Subcollector

Refer. Current No. 1581/G of 1895 (True copy)

Local & Municipal Dept. 23.4.95
CURRENT No. 711/M

Submitted, with enclosures, to the Chief Secretary to Government, Local and Municipal Department, with reference to Government Endorsement no. 478 dated 25-3-95 (herewith returned)

2. The facts of the case are fully set forth in the Chairman's letter and under the circumstances reported therein, I think that the application of the petitioner for sanction to prosecute the late Chairman, Sayid Alla-uddin Sahib, should be refused

steps it was necessary to adopt for preferring a complaint to the Magistrate, if in fact, the petitioner's allegations in the petition are true and what prevented the petitioner from complaining to the Magistrate immediately if the land in question was unlawfully entered and walls demolished. That the Chairman could not have possibly foreseen what the petitioner is contemplating in his own mind regarding the matter who has done in so open a manner, and the meeting was convened not suddenly as represented but during the ordinary meeting of the Council and the subject was brought among many others for consideration.

10. The provisions of the Act do not seem to have been contravened by the act of the Chairman in taking possession of the land inas much as he thought it to be a municipal property.

11. The reason why no measures were taken to acquire the land as per resolution of the Council has been sufficiently explained in the foregoing paragraphs and needs no further comment.

12. That the Chairman has throughout his proceedings in this matter evidently seems to have acted to the best of his ability, understanding and judgment and the petitioner, if really aggrieved and dispossessed of the land can have redress in the Civil Court; but the present attempt by the petitioner, to prosecute the Chairman criminally betrays the recent formation

He never appeared again to claim the land.

6. The allegation therefore in the petition that 10 months ago the Council resolved to purchase the land is false; because the resolution is dated August 1893, and besides the allegation that it resolved to purchase it from the petitioner is also false - the resolution being only to the effect that "the land in question be acquired".

7. That the allegation contained in para 2 of the petition is equally false. The land in question was included in the municipal compound in may 1894, nearly a year ago and all rubbish removed therefrom and a compound wall erected at the southern end of it to keep off all street rubbish and night soil being deposited therein, as being close to the Municipal Office and all its borders planted with trees &c, which line to-day as a sure and silent witness to disprove the statement of the petitioner that the Chairman came into possession of the land only during January last - while the age of the plants grown thereon is more than 6 months old.

8. That the late Chairman who is not a native of the District and who is since transferred to another Taluk could not be said to have acted in this matter with any motive. The private feeling alluded to in the petition between the petitioner and the Chairman is anything but true.

9. That it is impossible to conceive what steps petitioner was wrong and that the Council's resolution on the proposition of the then Chairman - Delegate Mr. N. Alamelu Chettier to acquire the land in question was due to want of proper information before the Council, and he therefore with due regard to the interest of the municipality and in conscientious discharge of his duties as Chairman, struck the petitioner's name from the Register, when he found out the mistake and treated the property as municipal property; and before doing anything on the land he caused a notice under his seal and signature to be issued to be proclaimed in the town by beat of tomtom, stating the result of his enquiry and inviting claimants, if any, for the land to come forward to prove their claims within a month before the Council. This notice is dated 22nd February 1894. From this day up to April 1894 no claimant forthcoming, the Chairman after the lapse of 2 months raised the Compound wall including the land in question with the municipal premises and planted it with trees. From the date of the issue of the proclamation up to date the petitioner has not taken any steps whatever either before the Council or any authorities either in the way of putting forward his claims to the land or questioning the action of the municipal Chairman in enclosing it with walls etc.

5. Only one person by name Palaniyandi put forward his claims to a portion of the land in dispute - that is dated 7th August 1894. He was asked to substantiate his allegations.

He

choultry and handed over to the Local Fund Board. The Local Fund Board remained in possession for a few years and eventually transferred the same to the Municipality — under the orders of Government, Local and Municipal $\frac{2395}{6-12-87}$. The present municipal office with the land surrounding it forms a portion of the premises of the said choultry. The question is how this piece of ground which forms a portion of the premises of the late — Taluq Cutchery was detached from it and how the petitioner became owner of the same. The survey plan of the Tenkarai village in the custody of the Taluq Office shows that the piece in question forms the portion of the late Taluq cutchery premises. Again another — sketch taken by the late Local Fund Overseer before the introduction of the municipality shows that the piece of ground was Local Fund land available for 5 houses. The late Chairman M R Ry. Saiyid Alauddin Sahib after a very careful search of the — old records in the municipal office seems — to have come to the conclusion that the — disputed ground was originally the property of the Local Fund Board which, by virtue of Government Order, was assigned to the Municipality for its use and enjoyment and that the action of the municipal maistry in entering the land in the name of the — petitioner

the disputed piece of ground was entered in the name of the petitioner and others. But for some reason or other, no steps seem to have been taken by the Chairman to collect any assessment on this land from the petitioner during 1892-93 and 1893-94. Vide Land Tax Register; — and in the year 1894 the entry in the Land Tax Register in the petitioner's name of the disputed piece of land has been struck off by the Chairman under his initials and the tax for — 1892-93 and 1893-94 for the land in question was remitted in January 1895 by the municipal Council in its resolution dated 28th January 1895. no. 271.

4. It is thus obvious that the petitioner's allegation that he is the owner and occupier — of the land in question is absolutely false. Beyond a mere entry of the petitioner's name in the Land Tax Register prepared by the municipal maistry, there is no document of any kind by which the petitioner could reasonably lay claims to the land in question, but the non — payment of any assessment by petitioner for the land in question coupled with the fact that the municipal Chairman did not take action for collecting the amount and eventually struck off his name from the register, go to show that the Chairman entertained serious doubts about the petitioner's ownership to the disputed piece of land. On the other hand the land claimed by the petitioner is said to form a portion of the ground occupied by the old Taluq Cutchery. After a new Taluk Cutchery was built, the building together with its premises was converted into a

choultry

Copy of communication no. 30 dated 13-4-95 from M. R. Ry. I. R. Muthuswami aiyar avargal, Chairman Delegate, municipal council, Periyakulam to the Sub-Collector of Madura.

I have the honor to submit the report called for in your endorsement R. C. no. $\frac{654}{31.3.95}$ on the petition of Kandasami Pillai of Periyakulam.

2. The petitioner is alleged to be the owner and occupier of a piece of ground measuring 90 by 51 feet lying to the south of the Municipal office. Ever since the introduction of the municipality into this town. Viz. 1st April 1886 up to 1892 for nearly 6 years, the land in question remained vacant being used by the Municipality for deposit of street rubbish and the municipal records further show that a dust-bin was erected and remained on the land at the cost of the municipality. Vide payment Voucher no. 256 dated 3rd February 1892. About the middle of 1892, the municipal office building was erected in its present site and the land in question was being used by the Municipal office building contractor for storage of materials etc. After the location of the office in the present building, the dust bin was closed, the land remaining unoccupied ever since being used by the municipal distrained carts for ingress and egress.

3. In the year 1892 all vacant house sites in the municipality was ordered by Government to be assessed. Thereupon, a list of all such sites was prepared by the Municipality and in this list, the

LOCAL AND MUNICIPAL DEPARTMENT.

Current No. 15[illegible] of 189[illegible]
Date [illegible]

Local & Municipal Dept.
CURRENT No. 797 m

TO BE RETURNED WITH REPLY.

Petition From
Kandaswami Pillai
Periyakulam
Madura Dt.

No. 478

Referred to the Collector of Madura for report.

(By Order)
[illegible]
Ag: Assistant Secretary

Fort Saint George,
25th March 1895

COLLECTOR'S OFFICE
27 MAR 95
MADURA

No.

Dated 5th March 1895
Received 8th do.
Enclosures 2.

SUBJECT.

Praying that, under the circumstances stated, he may be granted sanction to prosecute the Chairman, Municipal Council, Periyakulam, for Criminal trespass and mischief, and that a resolution of the Council regarding his right to a certain piece of land may be cancelled.

To

The Collector of Madura.

(visa) an

ENCLOSURE No. I.

IN THE COURT OF THE DISTRICT MAGISTRATE OF,

MADURA

Petition presented by Kandasami Pillai of Periyakulam.

RESPECTFULLY SHEWETH :—

I. That the petitioner has herewith presented a complaint of trespass and mischief against the Chairman of the Municipal Council of Periyakulam and some others for their having illegally entered upon and taken possession of a vacant piece of ground near the Municipal Office compound belonging to the petitioner.

II. That a resolution of this Council passed a few months ago about purchasing the said ground for extending the office compound was not given effect to as it was subsequently considered unnecessary.

III. That the Defendant's (Chairman's) present entry upon the ground was thoroughly unlawful as there was nothing done to show that the Chairman has acted agreeably to the provisions of the District Municipalities Act in taking possession of the land.

IV. That although he (the Chairman) in the first instance acted or entered on the land and caused damages as a private individual yet the petitioner learns that he on learning of the petitioner's taking steps against him has long afterwards illegally and irregularly contrived to have made in a Municipal records some entry in the Municipal meeting in order to show that in respect of this affair he has only acted as a public servant and thus preclude the petitioner's proceeding criminally against him without the sanction of the Government.

V. That the action of the Chairman being thus illegal and high handed the petitioner submits that your honor will be gracious enough to provide the petitioner with the sanction required to proceed criminally against the Chirman and thus render him justice.

VI. And that the petitioner further submits that Your honor will in virtue of Your powers under the Act as the Head of the District will also be pleased to set aside the proceedings as null and void or recommend the setting aside thereof as such and thus grant him the redress sought for.

For which act of Justice the petitioner shall as in duty bound ever pray.

Endorsement thereon.

The sanction of Government is necessary before the charge can be entertained.

4—2—95.

(Signed) TWIG.

5th March 95.

Local & Municipal Dept.
CURRENT No. 797 M
CHIEF SECRETARY
-8 MAR. 1895
GOVERNMENT OF MADRAS

TO

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT ST. GEORGE
MADRAS.

The humble Memorial of Kandasami Pillai a resident of the town of Periyakulam in the District of Madura.

MOST RESPECTFULLY SHEWETH :—

I. That the Memorialist is the owner and occupier of a piece of land adjoining the Municipal Office compound in the town of Periakulam.

II. That in the month of January last Syed Allawoodin Sahib (the Sub-Registrar and the Municipal Chairman of Periyakulam) has unlawfully entered upon the said land and demolished the compound walls raised by this Memorialist and has further caused it to be planted with vegetables such as brinjals &c.

III. That as the said Syed Allawoodin Sahib has not in taking possession of the said land shown to have acted as the Chairman of the Municipal Council or as any other public officer as servant and that as he had in a high-handed manner acted thus illegally on account of a private illfeeling the Memorialist was attempting to proceed against him in a Criminal Court of justice.

IV. That on learning of the steps this Memorialist was arranging to adopt the said Syed Allawoodin Sahib had suddenly convened a meeting of the town Municipal Council and recorded a resolution to the effect that the said land has all along been the property of the Municipal Council.

V. That this action on the part of the said Syed Allawoodin Sahib as Chairman is again illegal and unjustifiable as he has not complied with the provisions of the Act in taking possession of the land but only intended to prevent this Memorialist from proceeding against him without the sanction of Government.

VI. That his action is improper and malacious will further be found from the fact that about ten months ago the Municipal Council resolved to purchase the said land from the Memorialist with a view to extend the Municipal Office compound and that this resolution was not carried into effect as the extention was afterwards considered unnecessary.

VII. That the complaint preferred by this Memorialist before the local Magistrate accusing the Syed Allawoodin (the Chairman) and others of criminal trespass and mischief was returned for the reason that prosecution of Syed Allawoodin Sahib as Chairman was not sanctioned by the Government and that Memorialist's application to the District Magistrate to provide him with the necessary sanction was also returned with an endorsement that " the sanction of the Government is necessary before the charge can be entertained (Vide enclosure I.)

VIII. That in addition to what might be apparent from the records in the Periakulam Municipal Office the Memorialist submits that he is fully prepared to substantiate all the allegations he has made in the foregoing paragraphs.

IX. That the Memorialist most humbly begs to request that your Excellency in Council will graciously be pleased to direct the granting of sanction of Government to this Memorialist to prosecute the said Syed Allawoodin Sahib the Chairman of the Municipal Council of Periakulam and at present the Sub-Registrar of Thirumangalam in the same District and to set aside the resolution of the Municipal Council regarding the right to the land and thus render him justice.

For which act of charity and benevolence
the Memorialist shall as in duty bound
ever pray.

7th March 95
Periakulam

G. R. PRESS, DINDIGUL2—1895.

against the Chairman and thus render him liable.

V. And that the petitioner further Submits that your honor will in virtue of your powers under the Act as the head of the District will also be pleased to set aside the proceedings as null & void or recommend the setting aside thereof as such and thus grant him the redress sought for.

For which act of justice the petitioner shall as in duty bound ever pray.

4-2-95

Petitioner

thoroughly unlawful as there was nothing done to show that the Chairman has acted agreeably to the provisions of the District Municipalities Act in taking possession of the land.

IV. That although he (the Chairman) in the first instance acted or entered on the land and caused damages as a private individual yet the petitioner learns that he on learning of the steps petitioner is taking steps against him has long afterwards illegally and irregularly contrived to have made in the Municipal records some entry in a Municipal Meeting in order to show that in respect of this affair he has only acted as a public Servant and thus preclude the petitioners proceeding criminally against him without the Sanction of Government.

V. That the action of the Chairman being thus illegal and high handed the petitioner Submits that your honor will be gracious enough to provide the petitioner with the Sanction required to proceed criminally

The Sanction is [illegible]

x In the Court of the District Magistrate Madura

Local & Municipal Dept. CURRENT No. 797 M

Petition presented by Kandasami Pillai of Periyakulam

Respectfully Sheweth

I That the petitioner has herewith presented a Complaint of trespass and mischief against the Chairman of the Municipal Council of Periyakulam and some others for their having illegally entered upon and taken possession of a certain vacant piece of ground near the municipal office Compound belonging to the petitioner

II That a resolution of this Council passed a few months ago about purchasing the said ground for extending the office Compound was not given effect to as it was subsequently considered unnecessary

III That the defendants (Chairman's) present entry upon the ground was thoroughly)

[6]

LOCAL AND MUNICIPAL DEPARTMENT

Local & Municipal Dept

CURRENT No. 797 M

Petition
From

Kandaswami Pillai,
Periyakulam,
Madura District.

No. —

Dated 5th March /95.

Received 8th — do. —

Enclosures 2

SUBJECT.

Praying that, under the circumstances stated, he may be granted sanction to prosecute the Chairman, Municipal Council, Periyakulam, for criminal trespass and mischief, and that a Resolution of the Council regarding his right to a certain piece of land may be cancelled.

(Written [illegible])

N 478 / 25/3/95

Referred to the Collr. of Madura for report

[initials] 22.3.95

(from orders by C.S.)

No:

Copy on first docket & desp: [initials] 25/3

Referred to the Collector of Madura for report.

By order

Ag Assistant Secretary

V.R. 16/3/95

Fort Saint George
March 1895

Note. This is clearly a case of civil dispute as to the ownership of the land. This question cannot be decided by a criminal Court, so that the Collector's report & subsequent sanction or refusal to sanction would not advance matters. The Petr. ought to sue the Chairman & Council if he feels aggrieved. The following order is suggested:-

"It is clear from the papers that the question in dispute is the ownership of the land alluded to in the petition. A Criminal Court has no power to decide such a question. The sanction for prosecution applied for will therefore be refused, & the Petr. will be referred to the civil remedy open to him."

To The Collector of Madura

[initials] Desp. 25/3/95

13/3 A/ 15/3

[initials] 8.3.95

[G/75]

Ans

NOTE FOR THE UNDER SECRETARY.

I think we may as well know what has occurred. It will enable a Minute Secretary to

HD
21/8/95

…en given for copying ____
…en copied ____
…en examined ____ } 189
…en signed ____

…AD AGAIN G.O., No. 189 , DATED

…URRENT 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.								

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