

Local & Munl. (189) Department

MISCELLANEOUS.

G.O., No. 1435-A. M.

DATED 15/8/98

INDEXED.

[Despatch Abstract.]

Water Supply - Stating that the result of the correspondence between the Executive Engineer of the Nilgiris & the Asst. Jagirdars' Solicitor regarding the water-channel passing through Woodlands in Oota Canna should be reported to Government.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C.O. 725/99							

Local & Munl. (189) Department.

CURRENT No.

1763M

TO BE RETURNED
WITH REPLY.

From

A. S. Lowry
Solicitor, O.

Secy

Order

6729 4-6-98

Referred to the
municipal council, Cotacacumb.
for early remarks, which should
be submitted through the Collector.

No.

Dated 13th May 1898

Received 17th May 1898

Registered

Enclosures

Spare copies.

[Signature]
Secretary to Govt.

V. A.
24/5/98

SUBJECT.

Forwarding a copy of
a letter which he
addressed to the
Sanitary Engineer,
Cotacacumb for
behalf of the Justice
of Peace.

To The Chairman. M. C. Cotacacumb.

21/5 P.T.O.

BACK PAPERS.

Current No 1703M + 2473M

Misc Order No. 1435- Am mis
15th Aug/98

The result of the cor-

respondence between the Executive
Engineer and the Jaghirdar's Solicitor
referred to in paragraph 3 of the Collector's
endorsement, should be reported to
Government.

1/8
12/8/98

AT
13 8 28

Ex-
Give the amt recd the
15th communicate number
to Ch: K. M.
30th
22/9/98

G.O.	No.	Department.	Date.
	2156	in	2-10-97
	344	hh	9-2-98
3. M. E. E. is a Commissioner of the Jaghirdar's Solicitor and there is a prospect of satisfactory settlement being arrived at.			

FURTHER PAPERS.

G.O.	No.	Department.	Date.

TELEGRAPHIC ADDRESS:-
"COWDELL, OOTACAMUND."

FROM

ARTHUR SELLON COWDELL,
SOLICITOR.

TO

J. H. A. Tremenhare Esqre,

Ag Revenue Secretary to Government,

Stonehouse.

re Woodlands Water Channel.

I have the honor to enclose copy of a letter, which
on behalf of the Jaghirdar of Arnee. I have addressed to the Sanitary
Engineer. Mr Somers Eve.

In order that the Government may have the earliest
intimation of the matter, I think it desirable therefore to give you
notice of the intended proceedings on behalf of the Secretary of
State for India; at the same time I shall be glad to see you on the
subject, if you think an interview desirable.

I have the honor to be,

Sir,

your most obedient Servant.

Copy of letter.

ENC:

To
The Chairman. M. C. Ootacamund.
Collector of the Nilgiris
A. S. Cowdell. Esq, Ootacamund. ✓

Drop 15/8/98

(Copy)

OOTACAMUND,

12 MAY 98.

To

J. Somers Esqre,

Sanitary Engineer,

Ootacamund.

Sir,

re Woodlands Water Channel.

It is represented to me by H. H. the Jagnirdar of Arni that you have for some time past been excavating a small reservoir in the Forest Reserve, adjoining the Kotagiri Road, at a short distance above the Jagnirdar's property known as Woodlands with a view to supplying Kelso & other houses in that direction.

I am also informed that in the execution of this work you have seriously interfered with, interrupted the flow of, and ~~fonted~~ ^{fonted} the stream of water flowing from the forest reserve to the Jagnirdar's property.

At the time of the Forest Settlement the Jagnirdar, to secure the permanent and uninterrupted flow of this water, applied to and obtained a confirmation of his right to the uninterrupted flow of the whole of the water from the Forest Settlement Officer. A copy of the Petition then submitted, and the order of the Forest Settlement Officer thereon, acknowledging the Jagnirdar's right is enclosed.

The Jagnirdar's right to a small supply of water from an old Channel taken off from the same stream at a point considerably above the new reservoir has also been proved and confirmed in a

(Copy) Drop 15/5/98

recent suit, and if exercised would seriously diminish the flow of water to the new Reservoir.

Your recent action has resulted in inconvenience and danger to the health of the occupants of Woodlands.

I am aware that after complaint made, a supply of water has been allowed to flow to Woodlands, by a diversion made above the reservoir under construction by which the inconvenience has been lessened and which is, of course, accepted under protest.

The Municipality and especially the Chairman are well aware of the facts regarding the natural stream, the Forest Settlement Order and the Jagirdar's rights generally, Mr Hamnett having recently given ~~some~~ evidence on that subject with a view to reducing, ~~depriving~~ the Jagirdar's right to half the water, and leaving the rest for Kodappamund.

In the time of Mr Wolfe-Murray, moreover, a Sub-Committee, including the Collector and General Beresford Lovett and Mr Hamnett sat to consider this question. An enquiry was held on the spot in my presence, and the minutes of the members must ~~be~~ among the Municipal records.

The present action has been taken by the Municipality through your Department without any arrangement, or even notice to the Jagirdar, though it must have been known that the work in question would seriously interfere with the water supply of Woodlands, and this just at the time that the Jagirdar, his family and retainers would be occupying the premises.

The Jaghirdar is given to understand that the Municipality consider that the Government have thrown their aegis over this act of theirs, by reason of the scheme having been approved, and funds allotted, but the Jaghirdar cannot believe that the Government intended the Chairman to ignore private rights or to disregard the Settlement made by Mr Benson.

With regard to this Settlement, Section 20 of the Forest Revenue Code is as follows:-

"20. The District Forest-officer may, from time to time with the previous sanction of the Government, stop any public or private way or water course in a reserved Forest: provided that a reasonably convenient substitute for the way or water-course so stopped already exists, or has been provided or constructed in lieu thereof."

This makes it clear that your action in dealing with this Forest stream, and ignoring the Jaghirdar's recognised right without previous arrangement, or a substituted supply, is an illegal act, for which no doubt compensation would be awarded and an injunction granted to prevent further interference.

I am informed that it is intended to draw off a considerable portion of the stream by means of a bund and pipe, and to allow the residue to flow to the Jaghirdar's property, which would be a permanent injury to Woodlands.

(4)

Under a recent Judgment of the local Court (now under appeal) the Jaghirdar has been ordered to allow half of the water to flow to the Koudappamund Village. The remaining half of the water, which alone now reaches the Jaghirdar's property, is only sufficient for the requirement of the property during the dry season.

A very early reply is requested as, in case of a continuance of the work, the Jaghirdar will reluctantly be compelled to seek the assistance of the Court at an early date.

Please accept this as a formal notice of suit in case no reparation is made or compensation awarded.

I have the honor to be,

Sir,

your most obedient Servant,

True Copy

(50 / *M. M. M.*)

M. M. M.

SUBJECT

Local & Munl. (1898) Department.

CURRENT No. 2493



Confidential

From

The Chairman,
Municipal Council,
Ootacamund

Order

No. 1488.

Dated 25th June 1898.

Received 22nd July 1898

Registered do

Enclosures 346 to 1703

Spare copies

SUBJECT.

Submitting copy of a resolution
of the Municipal Council with
copy of its Council's report on
the correspondence relating to
the interrupted water supply
at Woodlands.

BACK PAPERS.

G.O.	No.	Department.	Date.
10	2156	h	2-10-97
	344	h	9-2-98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No.

Extract from the Proceedings of a Meeting of the Ootacamund Municipal Council held on Saturday the 25 June 1898.

Subject No. Present.

RESOLUTION:

The Chairman
 D. W. G. Cowie Esq.
 Surgeon Major C. M. Thompson M.B.
 D. Eduljee Esq.
 Col. H. F. Stevenson
 W. E. Smith Esq.
 J. Browne Esq.
 Col. J. F. Garwood R.E.
 Abdul Elghman Hajee
 Fakir Mahomed Saib Sahib
 H. M. Gool Mahomed Saib Sahib

Subject No. III

Read endorsement no. 672.

dated 4 June 98 of the Madras Government (L & M. Department) referring for remarks, the letter from A. S. Cowdell Esq. dated 13 May 98, enclosing copy of his letter to the Executive Engineer on Special duty, Ootacamund, sent on behalf of the Jagirdar of Arnee, on the subject of the interrupted water supply to Woodlands caused by the construction of a new reservoir in the Forest reserve adjoining Kotagiri road.

"
 The Council sees no reason for receding from the resolution passed by it on the 20 April 1893. The Government will be informed accordingly."

MUNICIPAL OFFICE,

OOTACAMUND, 26 June 1898.

To

(True Extract)

H. Ramiah
 Chairman.

Extract from the Proceedings of a Meeting of the Ootacamund Municipal Council held on ^{Thurs} Saturday the 23rd March 1893.

Subject No.

Present.

1. The Chairman
2. Col. Beresford Lovett C.B., C.S.I., R.E.
3. Dr. J. Maitland
4. J. T. Murray Esq.
5. D. Eduljee Esq.
6. A. M. Jones Esq.
7. Abdul Rhyman Hajee Fakir
Mahomed Sait^{Khau} Sahib

Subject No. VII.

Read letter from the Collector of Nilgiris dated 23rd February '93 No. 158. Mis. Communicating Copy of a memo sent to the agent of the Jaghvidar of Arnee, directing him to desist from interfering with the water supply at Kodakamund with connected papers.

Subject No. VIII.

Read letter from Messrs Cowdell and Winterton dated 27th February 1893 forwarding Copy of the proceedings of the Forest settlement officer dated 6th December 84, admitting the right of the Jaghvidar of Arni in respect of the water Channel at Woodlands, together with a letter from the Collector of Nilgiris No. 185 Mis. dated 10th March '93 forwarding copy

RESOLUTION:

Resolved that Mr. Wolfe - Murray, Col. Beresford Lovett and the Chairman be asked to consider this matter in communication with Messrs. Cowdell and Winterton and favour the Council with their views

24/9/93

of a letter to Messrs. Cowdell and Winterton, condemning the sole right of the Jaghiridar of Arni to the use of water in the stream passing by ^{Woodlands} ~~Woods~~ with previous papers.

Extract from the Proceedings of a meeting of the Ootacamund Municipal Council held on Thursday the 20th April '93.

- Present.
1. The Chairman
 2. W. Parkinson Esq.
 3. Abos Mahomed Sait, Khan Sahib
 4. M. K. Manthachekka Medakur ^{Arni} ~~Low~~ Sahib
 5. J. Browne Esq.
 6. Abdool Rhyman Haji Fakir Mahomed Sait, Khan Sahib
 7. A. Drew Esq.
 8. Pithie Bin Meayje Sait Khan Sahib

Subject No. II.

Read report of the Sub Committee appointed under Resolution Nos VII and VIII dated 23rd March '93 to consider the rights of the Jaghiridar of Arni in respect of the water channel passing through Woodlands together with all correspondence relating thereto.

MUNICIPAL OFFICE,
OOTACAMUND, 26 June 1898
To

Resolution.

"The Council is of opinion that such right as the Jaghiridar of Arni and the people of Kodappamund may have in the natural stream, should be respected."

(True Extract)
W. Hammett
Chairman.

No. 1341
14-6-98

Ootacamund
12th June 98

To
Messrs Winterton & Edge
Solicitors.

Sirs,

With reference to the enclosed reference from the Government to the Municipal Council for remarks, I have the honor to inform you that the papers connected with the Arni Jaghiridar's claim to the stream of water on the Kodagiri Road above Kodappamund were sent to you when the gardeners of that village contested the claim in the Court here, and have not been returned up to date.

2 If the papers are still in Court will you kindly furnish the Municipal Council with a brief note indicating the points on which the claim was contested, and the conclusion arrived at by the Court.

I have to
(Sd.) Geo Hammett

W. Hammett

Ostacamund

17 June 1898.

The Chairman

Municipal Council

Ostacamund

Sir,

Kodapamund Water

We have the honor to acknowledge the receipt of your letter dated the 12th instant, and to return the papers sent therewith.

The papers furnished by you as evidence in the Suits between the Kodapamund Villagers as Plaintiffs and the Jagirdar of Arni as Defendants, on notices to produce, are still in the High Court as Exhibits in the Suits on the ^{Second} appeals by the Jagirdar, and cannot be returned until the appeals are disposed of.

Our Clients the Villagers, filed Suits against the Jagirdar alleging that they were entitled to the use of half the water of the natural stream in question and that the Jagirdar ~~had~~ had

had wrongfully raised the bunds at two places at which his two ^{channels} ~~Chemicals~~ bifurcated, and by that means had diverted the whole of the water to the Woodland Estate whereas he was entitled to divert only half of it; and they prayed for a ^{injunction} ~~mandate~~ against the Jagirdar to restore the bunds to their former state so as to allow them the Plaintiffs the use of half the water as theretofore, for a perpetual injunction ^{restoring} ~~restoring~~ Defendant from taking the half water in future and for damages and Costs. The Defendant claimed all the water. We regret that we have no copy of the judgment of the original Court to send to you; but the purpose of it was that all the relief asked for by way of injunction was granted as to the bund ^{just} below the forest Reserve, but that the Court found it not proved that the Jagirdar had interfered with the upper bund. The Jagirdar altered the lower bund.

bound as directed pending appeal
so as to leave half the water to
flow from that point to Kodapmund
and appeal to the District Court.
The District Court confirmed the
judgment of the lower court and
dismissed the appeals. The Jagirdar
has filed second appeals which
are pending in the High Court.

Mr Bowdell's letter of the
12th ultimo to Mr Somers-Eue
is by no means in accordance
with facts and is very misleading.

We have to
(Sd) Winterton & Edge.

(True Copies)

Mr. Hammett
Chairman O.M.C.

3
2193 mpp

No. 1488

Ootacamund Municipal Office,
25th June 1898.

FROM

THE CHAIRMAN,
MUNICIPAL COUNCIL,

LOCAL & MUNICIPAL DEPT.
CURRENT No. 2493
OOTACAMUND.

TO

Enclosures Four

The Secretary to the Government,
Local and Municipal Department,
Stone House Hill

Gl. Cur. Regr. No. 900 of 98

Through the Collector of the Nilgiris.

Sir,

Referring to your endorsement no. 672
dated the 4th June 1898, on a letter from Mr. A. S.
Bowdell / herewith returned / on behalf of the
Jagirdar of Arui, I have the honor to submit
an extract from the proceedings of a meeting of
the Municipal Council held on the 25 June
together with extracts from its proceedings dated
23rd March and 20 April 1893, and copies of letters
to and from its solicitors, Messrs. Winterton and
Edge, No. 1341 dated 14 June 98 and 17 June 98.

2. The file of papers connected with
this matter being now in the High Court, the
Council is unable to enter into any remarks
as required by the Government, but it adheres
to the resolution which it passed in 1893. viz. -

" The Council is of opinion that
such right as the Jagirdar of Arui and the
people

people of Kodappanand may have in the
Natural stream should be respected."

3. The Municipal Council's control over
all public water courses, and springs &c &c
as defined in section 143 (2) of the Municipal
Act, was kept in view, when passing the
aforesaid resolution.

I have the honor to be,

Sir,

Yours most obedient servant,

W. Ramaswami

Chairman O.M.C.

Confidential

N.D. Ex. 100
95

Submitted. The resolution of the Council in effect expresses no opinion as to the Taghirdar's claim.

2. A notice similar to the one received by the Secretary to Government had been sent to me; as also, another has been issued to Mr. Somers Esq. Executive Engineer on special duty, by the Taghirdar's solicitor, Mr. A.S. Cowdell, claiming damages for persistence in the interruption of water supply to woodlands.

3. The Executive Engineer is in correspondence with the Taghirdar's solicitor and there is a prospect of a satisfactory settlement being arrived at.

4. The following is an extract from the Register of Reserved Forests relating to the Taghirdar's claim.

" Reserved Forest. Dodaletta No. I.

" 3. The rights claimed by the Taghirdar

of Amri as shown below will be respected

"(a) The rights to the use of a Spring charged
"or natural water course which rises in D and
"passes through ¹²⁹ 369, across the Kotajiri Road, and
"to his land at D
143

"(b) The right to the use of a natural water course
"which rises in ¹²⁹ D and passes through his land
"at D
140

"(a) Supra refers to the stream with which
the present claim is concerned and it would
appear that the Jaghirdar's contention is well
Sustained.

5. A Suit between the Jaghirdar and the
Villagers of Kodappanur relating to the right to take the
water from the same stream at a point
lower down its course is now pending
(second appeal) in the High Court.

ag Collector
of the Nilgiris

200
18.7.98

When given for copying

When copied

When examined

When signed

189

READ AGAIN G.O. No.

189

, DATED

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.

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P = Copy abstract only.

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