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MADRAS RECORD OFFICE.

Government of Madras.

Public works DEPARTMENT.

G.O. No.	7	Press
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13-14		
Dated	4-1-	18 65.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
4th January 1865.*

No. 13. Read the following letter from Captain J. BEAN, R. E., Officiating Superintending Engineer, 6th Division, to Colonel C. A. ORR, R. E, Secretary to Government, Department Public Works, dated Tanjore, 31st December 1864, No. 2,293 :—

SIR,

1. I have the honor to report, for the information of Government, that Supervisor C. Seton and Tálug Overseer Tiyyagaraja Pillay, both of the 5th or Manargudi Range, Tanjore District, have been summoned to appear before the High Court, Madras, on the 9th of January next, as Respondents in an Appeal Suit preferred by one Muttusawmy Naiken, the only Appellant, from the Decree of the Officiating Principal Sudder Ameen of Tanjore in Appeal Suit No. 173 of 1864.

1 Enclosure

2. The suit refers to the erection of the Malaga tidal dam, in the Manargudi Tálug, and though the Supervisor's absence from his duty is inconvenient at this period, I have directed him, after I had had a personal communication with him on the subject, to appear in person before the Court; but I have instructed the Overseer to remain at his work because he has no evidence to offer which cannot better be afforded by Mr. Seton, and the interests of Government will not suffer by my taking this course. I have directed Mr. Seton to obey the Summons, because I was of opinion that the notice of appeal had reached* me too late to allow of the Govern-

* 24th December 1864.

ment Pleader giving his attention to the matter, should Government have decided upon his conducting the defence, but if my proceeding is disapproved of, there is still time for you to communicate with me by Telegram or letter, so as to enable me to detain Mr. Seton, and the documents required by the Pleader and connected with the original Suit will be found with Colonel Foord's letter† read in Proceedings of Government No. 3,263, dated 10th November 1863, which authorized the provisional defence of the suit at public cost. The Decree of the District Munsiff on the Original, and of the Principal Sudder Ameen on the Appeal Suit, were both furnished to me on payment of the fees, and I send the latter copy which I beg may be returned for Mr. Seton's use should he proceed to Madras.

† Dated 27th October 1863, No. 1,032

3. The particulars of the Malaga tidal dam dispute will be found in the papers embodied with the above order. The result of the decree‡ was reported in my letter No. 970 of the 3rd August 1864, and I stated that the suit would be again heard on appeal. On the 5th of October I learnt from the Range Officer that the appeal decree was again in favor of Government, and I directed him on the 8th idem to recover the costs. Subsequently, I understood a second appeal had been preferred to the High Court, and I then directed that a copy of the Sudder Ameen's decree should be obtained, which is the one enclosed. The notice of such an appeal was only communicated to me on the 24th instant, through the summons which Supervisor Seton had received two days earlier, though it was dated in Madras on the 6th idem.

‡ Dated 10th February 1864

4. I trust that in taking this opportunity of making a few remarks on the nature and results of these Civil Suits, my observations may not be considered by Government irrelevant or out of place, especially as they relate to, what appears to me, the defective law existing as regards the rights and interests of Government in their own land. At present it seems that any Mirasidar in the two Districts of my Division has the power of bringing a suit into the lower Courts against Government, whereby the cutting of any channel, the construction or even re-construction of an irrigation work, though not situated in Plaintiff's land, may be put a stop to and indefinitely postponed, even though it is known beyond all question that the work is of a remunerative character and beneficial to all parties concerned. The right of taking water even from the main rivers of the Division seems to be disputed, and the love of litigation is so strong that the Mirasidars will bring suits into Court, in which Government servants are Defendants, to serve their own private ends and animosities, the party-feeling in some cases having nothing to do with

Proceedings of the Madras Government, Public Works Department,
4th January 1865.

the work under dispute. The delays, vexations, and annoyances, to Departmental servants thereby caused are well known, and the interests of Government suffer.

5. I will only mention briefly the particulars of the three recent suits in illustration of my remarks. In the "Carai" case, as it is called in Trichinopoly, the final hearing on Appeal did not take place until three years after the Original Suit was filed, and the Judgment of the High Court, a copy of which was forwarded to me with Order No 1,630, dated 3rd June 1864, was as follows:— "This case the Counsel for Defendants very properly declined to argue. The contention of the original Plaintiff and Appellant is for a right to determine how a channel is for ever to run in land which is not his. This appeal is dismissed with costs." In the Andapuram Dam Suit, lately reported on to you, the Plaintiffs caused a decree to be passed, also confirmed on appeal, that a channel cut from a river common to many villages for the feeding of a Government tank

Letter No 1,775, dated 25th October 1864

was to be closed up, though it was known that they (the Plaintiffs) could not suffer from the work.

6. In the third instance now under reference, an old calingulah which had long been in use was ordered to be rebuilt on the authority of the Collector and District Engineer to take the place of a temporary dam, and a Mirassidar has the power by an injunction from the Munsiff to stop the work, and to bring three suits into Court against Government servants, whereby I have been obliged to authorize the absence of the Range Officer and Overseer from their duties and charges, on three occasions. In this case, the injunction having been removed after many months' delay, I was threatened by the Plaintiff with an action for completing the work, the estimate for which only amounted to 59 Rupees.

7. These are not the only instances that could be brought forward, and if the second suit referred to above is decided in the High Court against Government, encouragement will be given to the Mirassidars to persevere in a similar course of litigation, and, at least, to threaten servants of this Department with Civil actions when simply carrying on the ordinary duties of their office, in executing works sanctioned by the head Revenue and Public Works Officers of the District, who ought to be, and are, quite competent to judge of the necessity for such works.

No 11.

ORDER THEREON, 4th January 1865, No 7

1. The Government Pleader will be requested to defend the Appeal Suit referred to in this letter.
2. The Superintending Engineer, 6th Division, has been instructed (by Telegram) to furnish the Government Pleader direct with the papers returned in Proceedings No 3,263, dated 10th November 1863, and to direct the attendance at the High Court, on the 9th instant, of the two Subordinates mentioned in paragraph 1

(True Extract)

(Signed) CHARLES A ORR, Colonel, R E,
Secretary to Government.

To the Government Pleader, with four enclosures
,, Superintending Engineer, 6th Division.

Exd. S T. Augustin.

No 2293-

Supg Engineer's Office 6th Div
Tanjore 31st December 1864

From

Captain J. Brann R.E.

Offg Supg Engineer 6th Div

To

Colonel C A Orr R.E.

Secretary to Government P.W.D.

Enclosure 1-

I have the honor to report, for the information of Government, that Supervisor C Selow and Taluk Overseer Vijayaraja Pillay, both of the 5th or Manargudi Range Tanjore District, have been summoned to appear before the High Court Madras on the 9th of January next as respondents to an appeal suit preferred by one Mullu Saunay Naiken, the only appellant, from the Decree of the officiating Principal Sudder Ameen of Tanjore in Appeal Suit No 173 of 1864 -

2. The suit refers to the erection of the Malagatidal Dam in the Manargudi Taluk, and though the Supervisor's absence from his duty is inconvenient at this period, I have directed him, after I had had a personal communication with

with him on the subject, to appear in person before the Court, but I have instructed the ~~attorney~~ to remain at his work because he has no evidence to offer which cannot better be afforded by Mr. Seton, and the interests of Government will not suffer by my taking this course. I have directed Mr. Seton to obey the summons, because I was of opinion that the notice of appeal had reached me too late to allow of the Government Pleader giving his attention to the matter, should Government have decided upon his conducting the defence, but if my proceedings are disapproved of, there is still time for you to communicate with me by telegram or letter, so as to enable me to detain Mr. Seton, and the documents required by the Pleader and connected with the original suit will be found with Colonel Ford's letter read in Proceedings of Government No 3263 dated 10th November 1863, which authorized the provisional defence of the suit at public cost. The decree of the District Munsiff on the original, and of the Principal Sudder Ameen on the appeal suit, were both furnished to me

24th Decr 1864

Dated 27th Decr 1863, No 1032.

on payment of the fees, and I send the latter copy which I beg may be returned for Mr. Seton's use should he proceed to Madras.

3 The particulars of the Malagatidal Dam dispute will be found in the papers embodied with the above order. The result of the decree was reported in my letter No 970 of the 3rd August 1864, and I stated that the suit would be again heard on appeal. On the 5th of October I learnt from the Range Officer that the appeal decree was again in favour of Government, and I directed him on the 8th to recover the costs. Subsequently I understood a second appeal had been preferred to the High Court, and I then directed that a copy of the Sudder Ameen's decree should be obtained which is the one enclosed. The notice of such an appeal was only communicated to me on the 24th Instant through the summons which Supervisor Seton had received two days earlier, though it was dated in Madras on the 6th Idem.

4 I trust that in taking this opportunity of making a few remarks on the nature and results of these

Civil

Civil Suits, my observations may not be
considered by Government irrelevant
or out of place, especially as they relate
to what appears to me, the defective law
existing as regards the rights and inter-
ests of Government in their own land.

It is possible that any Mirasid-
dar in the two Districts of my Division
has the power of bringing a Suit into
the lower Courts against Government
to hereby the cutting of any Channel,
the construction or even reconstruction
of an irrigation work, though not situated
in plaintiff's land, may be put a stop to
and indefinitely postponed, even though
it is known beyond all question that
the work is of a remunerative charac-
ter and beneficial to all parties con-
cerned - The right of taking water
even from the Meam Rivers of the Dis-
trict seems to be disputed, and the
love of litigation is so strong that
the Mirasidars will bring Suits into
Court, in which Government servants
are defendants, to serve their own
private ends and animosities, the
party-feeling in some cases having
nothing to do with the work under
dispute.

dispute - The delays, vexations, and
annoyances, to Departmental servants
thereby caused, are well known, and the
interests of Government suffer -

5 I will only mention briefly the
particulars of the three recent Suits in
illustration of my remarks. In the
"Carai" Case as it is called in Trichin-
opoly, the final hearing on appeal did
not take place until three years after
the original Suit was filed, and the
Judgment of the High Court, a copy
of which was forwarded to me with
Order No 1630 dated 3rd June 1864, was
as follows "This Case the Council of
Defendants very properly declined to
argue. The Continuation of the original
Plaintiff and Appellant is for a right
to determine how a Channel is for
ever to run in land which is not his."
"This appeal is dismissed with Costs."
In the Andapuram Dam Suit, lately
reported on to you, the Plaintiffs caused
a decree to be passed, also confirmed
on appeal, that a Channel cut from
a River common to many villages
for the feeding of a Government Tank
was to be closed up, though it was
known that they (the Plaintiffs) could not

Letter
No 1775
dated 25th Feb
1864.

not suffer from the work -

6 In the third instance now under reference, an old Calingulak which had long been in use was ordered to be rebuilt on the authority of the Collector and District Engineer to take the place of a temporary Dam, and a Mirasdar has the power by an injunction from the Munsiff to stop the work, and to bring three Suits into Court against Government servants, whereby I have been obliged to authorize the absence of the (Range) Officer and Surveyor from their duties and charges, on three occasions - In this case, the injunction having been removed after many months delay, I was threatened by the Plaintiff with an action for completing the work, the estimate for which only amounted to 59 Rupees.

7 These are not the only instances that could be brought forward, and of the second Suit referred to above is decided in the High Court against Government, encouragement will be given to the Mirasdars to persevere in a similar course of litigation, and

and, at least, to threaten servants of the Department with civil actions when simply carrying on the ordinary duties of their office, in executing works sanctioned by the head Revenue and Public Works Officers of the District, who ought to be, and are, quite competent to judge of the necessity for such works -

I have the honor to be,

Sir

Your most obedient servant,

Henry Captain R.E.
Offg. Engineer of B.

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 1865-24th
 (From your office)
 the city clerk's office

to
 the Secretary of State

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