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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 3455

Press
Mis.

44-45

Dated 2-12-1864.

Not to be folded or roughly handled

J.S. ✓

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*Proceedings of the Madras Government, Public Works Department,
2nd December 1864.*

No. 44. 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, Public Works Department, dated Tanjore, 25th October 1864, No. 1,775 :—

SIR,

I have the honor to forward, for the information of Government, copy of the Decree

1. 1 Decree of the Principal Sudder Ameen's Court of Salem.
2. 1 Judgment of do do
3. 1 Extract from the Proceedings of Chief Engineer, Public Works Department.
4. 3 Proceedings of the Board of Revenue
5. 1 Notice of the Sub-Court of Salem.
6. 1 Letter from the Collector of Trichinopoly.
7. 1 Do. from the Executive Engineer, Trichinopoly.
8. 1 Statement
9. 1 Survey.

passed by the Civil Judge of Trichinopoly, on Appeal Suit No. 253 of 1861, together with documents as per margin, and as a period of three months from the 14th September 1864, has been allotted for the special appeal, I beg most respectfully to urge that the Suit may be referred to, and defended, on appeal, in the High Court.

2. The Suit was brought by the Mihrasidars of Andapuram in the Salem District in the Zillah Sub-Court, against the authorities of the Salem and Trichinopoly Districts, on account of the cutting of a new head for the Murunga Kolathur tank supply channel, above the Andapuram Dam in the Kuravattar river, whereby, they alleged, that the water was drawn off for the latter tank at the cost of the usual, and full, supply in the Andapuram tank.

3. When the Original Suit No. 3 of 1857, in the Principal Sudder Ameen's Court of Salem was heard, so convinced were the Board of Revenue of the injustice of the Decree, that they requested Government to sanction the appeal, to which approval was accorded in Government Order, No. 1,873, dated 27th September 1861, Revenue Department.

4. The Dam was originally constructed for the use of the Andapuram Ryots, the Murunga Kolathur Ryots having one of their own erected 300 yards lower down the river, but in 1855 when the former was re-built, through the agency of the Mihrasidars interested, the crown was raised some 6 inches higher than it was originally, and the revenue from the Kolathur tank then

* No. 10.

1271. I may also mention that since the date of the Original Suit, a Dam was built across the head of the new Murunga Kolathur channel with its floor above the bed of the Andapuram channel, so that every precaution was taken to avoid a failure of water in the tank supplied by the

Dated 21st October 1864, No. 969

† To Collector of Trichinopoly, dated 25th November 1861.

‡ To Collector of Salem, dated 25th November 1861.

latter. I have only to refer to the enclosed reports of the Executive Engineer, Trichinopoly, and of the Collectors† and late Executive Engineer,‡

Salem, who would naturally consult the interests of their own District, to show that the Andapuram tank received a full, and more than a full share of water, and that the cultivation had not fallen off. Indeed, the latter Officer distinctly states that the anicut is at least a foot too high.

5. The Decree now passed by the Session Judge casts the fourth defendant (the District Engineer, Trichinopoly,) who is mulcted the costs, and if carried out will cause the shutting up of the present new head of the Murunga Kolathur channel, which by the removal of the injunction passed in the Court of the Original Suit has ever since been left open. This will cause a loss to Government yearly, as the Executive Engineer reports, of not less than 1,000 Rupees. Mr. Harris in his Decree allows that the Dam "was raised a few inches," but this is sufficient to effect very materially the relative supply; and in paragraph 7 he further says that, "the new channel having been cut above the old anicut it follows, as a matter of course, that the water which originally found its way thereto, is nearly all lost," but such a deduction from his premises, I submit, does not follow, and the revenue results will show this to be the case, as well as the reports of the District Officers concerned.

*Proceedings of the Madras Government, Public Works Department,
2nd December 1864.*

Referred, with the enclosures and the previous correspondence, to the Government Pleader for his opinion.
CHEPAUK,
31st October 1864.

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

No. 45. From CLEMENT DALE, Esq., Government Pleader, Madras, to Colonel C. A. ORR, R. E., Secretary to Government, Public Works Department, dated Madras, 30th November 1864, No. 231.

Sir,
I have the honor to acknowledge the receipt of the Proceedings of Government under the date and number noted in the margin, and to advise that an Appeal should be preferred against the Decree of the Civil Judge of Trichinopoly there referred to.

31st October 1864, No. Public Works Department.

2. I entertain no doubt that the decisions in both Courts are wrong. To correct those errors there ought to be a remedy, but in framing the Code of Civil Procedure the Legislature has thought fit to curtail the grounds on which Special Appeals can be admitted, that I am unable to advise with any great confidence as to the chance of succeeding on the Appeal; and I have consequently experienced considerable difficulty in arriving at a conclusion as to the course which ought to be pursued. I have now, however, determined in advising an Appeal, for if it should not be successful, I think this would be a strong case whereon to go to the Legislature for a modification of the law governing Special Appeals.

3. If the Honorable the Governor in Council should adopt my advice, I have the honor to solicit your attention to the 70th Section of Act VIII of 1839, and to request that you will obtain and forward to me an order from Government (in duplicate) authorizing me to appeal against the Decree passed by the Civil Judge of Trichinopoly in Appeal Suit No. 253 of 1861.

4. I have the honor to request that you will ascertain and inform me the amount or value of the property claimed in the Appeal, to enable me to form an opinion as to the stamp on which the Memorandum of Special Appeal to the High Court should be engrossed; I solicit your attention to the 11th Clause of Schedule B of Act No. X of 1862.

5. I return Captain Bean's original letter with the Order of Government thereon; the other papers I retain for the present.

6. The time for lodging the Special Appeal will expire on Monday the 12th instant.

No. 46. ORDER THEREON, 2nd December 1864, No. 3,455.

1. The Governor in Council authorizes Mr. Dale to appeal against the Decree passed by the Civil Judge of Trichinopoly in Appeal Suit No. 253 of 1861.

2. The Superintending Engineer, 6th Division, will be requested to furnish, by return of post, the information required in paragraph 4 of the foregoing letter.

(True Extract.)

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

To the Superintending Engineer, 6th Division.
Government Pleader.

Exd. T. O'Connor.

No. 231
From Clement Dale Esquire Government Pleader Madras.
To Colonel A. Orr R. E. Secretary to Government Public Works Department

Madras 30th November 1864

Sir

Para 1. I have the honor to acknowledge the receipt of the Proceedings of Government under the date and number noted in the margin, and to advise that

31st October 1864, No. Public Works Department.

an appeal should be preferred against the decree of the Civil Judge of Trichinopoly there referred to.

2. I entertain no doubt that the decisions in both Courts are wrong. To correct those errors there ought to be a remedy, but in framing the Code of Civil procedure the Legislature has thought fit to curtail the grounds on which Special Appeals can be admitted, that I am unable to advise with any great confidence as to the chance of succeeding on the Appeal; and I have consequently experienced considerable difficulty in arriving at a conclusion as to the course which ought to be pursued. I have now however determined in advising an Appeal, for if it should not be successful, I think this would be a strong case whereon to go to the Legislature for a modification of the law governing Special Appeals.

3 If the Honorable the Governor in Council should adopt my advice, I have the honor to solicit your attention to the 70th Section of Act 8 of 1859, and to request that you will obtain and forward to me an Order from Government (in Duplicate) Authorizing me to Appeal against the Decree passed by the Civil Judge of Trichinopoly in Appeal Suit No 253 of 1861

4 I have the honor to request that you will ascertain and inform me the Amount or Value of the property claimed in the Appeal, to enable me to form an opinion as to the Stamp on which the the Memorandum of Special Appeal to the High Court should be expressed. I solicit your attention to the 11th Clause of Schedule B of Act No X of 1862.

5 I return Captain Beau's Original letter with the Order of Government thereon; the other papers I retain for the present.

6 The time for lodging the Special

3^d
Special Appeal will expire on Monday the 12th Instant

I have the honor to be

Sir

Your Most Obedt Serv^t

Wm. D. Allen

Sol^r Pleader

Madras

10th Section of Act 8 of 1859

Order from Government

1861

Amount or Value of the property

claimed in the Appeal

to enable me to form an opinion

as to the Stamp

on which the the Memorandum of Special Appeal

to the High Court should be expressed

I solicit your attention to the 11th Clause of Schedule B of Act No X of 1862.

I return Captain Beau's Original letter with the Order of Government thereon; the other papers I retain for the present.

The time for lodging the Special

CD. 14/10/64
No. 1445-

Sups. Engin Office 6th D^o
Tanjore 25th October 1864

From,

Captain J. Bean R.E.
Offs: Sups: Engineer 6th D^o

To,
Colonel C. A. Orr R.E.
Secretary to Government
P. T. D.

Sir,

I have the honor to forward
for the information of Government copy
Encl-13- of the decree passed by the Civil Judge
of Trichinopoly on appeal
suit No. 253 of 1861, together
with documents as per
margin, and as a period
of 3 months from the
14th September 1864 has
been allotted for the special
appeal, I beg most respectfully
to urge that the suit may be referred
to, and defended, on appeal, in the
High Court.

2 The suit was brought by
the Miharaidars of Andapuram in
the Salem District in the Zillah Sub
Court

1. 1 Decree of the Principal Sadar
Amiens Court of Salem
2. 1 Judgment of D^o
3. 1 Extract from the Pro: of
Chief Engineer P. T. D.
4. 3 Proceedings of the Board
of Revenue
5. 1 Notice of the Sub Court
of Salem
6. 1 Letter from the Collector
of Trichinopoly
7. 1 D^o from the Ch: Engineer
Trichinopoly
8. 1 Statement
9. 1 Survey

Received by the Principal
Sadar Court of Salem
from the Chief Engineer
Trichinopoly
To Secretary to Govt
P. T. D.
Dated 30th Nov-1864
Recd 2 Dec
No. 231
(with 1 Enclosure)

Noting that an
affidavit should be
prepared as per the
decree of the Civil
Judge of Trichinopoly
in C.A. No. 253 of 1861

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Court, against the authorities of the Salem and Trichinopoly Districts, on account of the cutting of a new head for the Murunga Kolathur Tank supply channel, above the Andapuram Dam in the Kuravattar River, whereby, they alleged, that the water was drawn off for the latter Tank at the cost of the usual, and full, supply in the Andapuram Tank.

3 When the original suit No. 3 of 1857 in the Principal Sudder Ameen's Court of Salem was heard, so convinced were the Board of Revenue of the injustice of the Decree, that they requested Government to sanction the appeal, to which approval was accorded in Government Order No. 1873 dated 27th September 1864

Proceedings
No. 5139 dated
23rd September
1864
G.O. No. 1875
dated 9th
October 1864

Revenue Department.

4 The Dam was originally constructed for the use of the Andapuram ryots, the Murunga Kolathur ryots having one of their own erected 300 yards lower down the River, but in 1855 when the former was rebuilt, through

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through the agency of the Mithrasidans interested, the crown was raised some 6 inches higher than it was originally, and the revenue from the Kolathur Tank then fell off yearly, as may be seen from the enclosed statement giving the remissions up to Fugly 127. I may also mention that since the date of the original suit, a dam was built across the head of the new Murunga Kolathur Channel with its floor above the bed of the Andapuram Channel, so that every precaution was taken to avoid a failure of water in the Tank supplied by the latter. I have only to refer to the enclosed reports of the Executive Engineer Trichinopoly, and of the Collectors and late Executive Engineer Salem, who would naturally consult the interests of their own District, to show that the Andapuram Tank received a full, and more than a full, share of water, and that the cultivation had not fallen off. Indeed, the latter officer distinctly states that

dated 21st
October 1864
No. 969
To Collector of
Trichinopoly dated
28th November 1864
To Collector of
Salem dated
25th November 1864

that the ancient is at least a foot.
too high.

5 The Decree now passed by
the Session Judge casts the fourth
defendant (the District Engineer Trichinopoly
who is impleaded the costs, and if
carried out will cause the shutting
up of the present new head of the
Murunga Cholathur channel, which
by the removal of the injunction
passed in the Court of the original
suit has ever since been left open.

This will cause a loss to Government,
yearly, as the Executive Engineer
reports, of not less than 1000 Rupees.

Mr Harris in his Decree allows
that the Dam "was raised a few
inches" but this is sufficient to affect
very materially the relative supply,
and in para 7 he further says that
"the new channel having been cut"
"above the old ancient it follows"
"as a matter of course that the"
"water which originally found its way"
"thereto is nearly all lost", but such
a deduction from his premises I

submit.

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submit, does not follow, and the
revenue results will show this to
be the case, as well as the reports
of the District Officers concerned.

Have the honour to be
Sir,

Your most obedient servant

Heau Capt R E

Offs: Supt: Engineer 6th Div

The Governor in
Council authorizes
Mr. Dale to appeal
against the Decree
passed by the Civil
Judge of Trincomalee
in Appeal Suit No. 253
of 1861.

2. The Superintendent
will be requested to fur-
nish, by return of post,

Agreed with the
executives and the Treasurer
consequently to the spirit
pleader for his opinion
Wm. A. B. C. D. E.
Secretary - Treasurer

ALPH. LEONARD
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The information required in the
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To
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27th 1864 Dept
Maryland

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Wm. H. H. H. H.



Without regard
to the good pleasure to
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the Administrator of
the estate of the
deceased against
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estate of the deceased
and the executor of the
estate of the deceased
for the damages on
the estate of the deceased.

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