

(1) Number of pages 12

(2) Date of repair 12-12-12

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE.

Government of Madras.

Public works DEPARTMENT.

G.O. No. <u>3542</u>	Press <u>MIS.</u>
<u>218-219.</u>	
Dated <u>12-12-1864.</u>	

Not to be folded or roughly handled

10

*Proceedings of the Madras Government, Public Works Department,
12th December 1864.*

No. 218. Read the following letter from C. DALE, Esq., Government Pleader, Madras, to Colonel C. A. ORR, R. E., Secretary to Government, Public Works Department, dated Madras, 10th December 1864, No. 236:—

SIR,

1. I have the honor to acknowledge the receipt of the Proceedings of Government under the date and number noted in the margin, 3rd December 1864, No. 3,456A, Public Works Department. and in reply to state that in my opinion it would have been extremely desirable that evidence to the effect of that now forwarded by Captain Bean should have been adduced on the hearing of the original suit. The Takeed of itself would not have been sufficient, but evidence of its issue, its receipt, and what was done under it would have been required.

2. The Sections of the Code of Civil Procedure applicable to the admission of additional evidence by Appellate Courts, are 355, 356 and 357. I may however remark, for the information of the Honorable the Governor in Council, that, as a general rule, Courts will not admit further evidence after hearing, unless it be shown that the evidence sought to be put in was not within the cognizance of the party previous to the hearing, or unless some other strong and substantial cause or excuse can be shown to the Court why it was not adduced at the hearing. As at present advised I cannot imagine that any sufficiently cogent reason can be adduced now to admit this evidence, for it must be borne in mind that the defence is in reality the defence of Government, and the parties who wrote the Takeed, and who received and acted upon it are all the servants of Government, and I can scarcely surmise that those servants were utterly and entirely ignorant of the existence and object of the suit, while it is apparent that the local subordinates of the Defendant were not ignorant of what had been done by the Salem authorities, inasmuch as the Takeed is addressed to "The Moonsiff and Puttadars of Muroonga-kalatur;" under such circumstances I have no hesitation in saying that any application to admit the evidence ought to be refused. If however I am mistaken as to the facts, and it can be *satisfactorily proved* on oath or affirmation that this evidence has been newly discovered since the hearing, I shall be prepared to move the Court on being furnished with the necessary information and evidence; the evidence however must fully and most satisfactorily account for its not having been forthcoming at the hearing. If the servants of Government will not exercise ordinary care and vigilance, the interests of Government must suffer; Courts cannot travel out of the ordinary rules by which they are guided to make up for the supineness of the servants whose duty it is to protect the interests of Government. The manner in which this case has been conducted in the lower Court, is not creditable to the Vakeel.

3. I return the two enclosures which accompanied the Proceedings noted above.

No. 219. ORDER THEREON, 12th December 1864, No. 3,542.

Communicated to the Superintending Engineer, 6th Division, who will be requested to furnish the evidence required to account fully and satisfactorily for the non-production, at the hearing of the suit, of the Tamil document submitted with his letter, No. 2,052, dated 30th November 1864.

(True Extract.)

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

To the Superintending Engineer, 6th Division.

Exd. T. O'Connor.

457

[The page contains dense handwritten Tamil script, which appears to be bleed-through from the reverse side of the leaf.]

[illegible]

No 457

A

No 457
A
Pugrover Paul & Co of Hindlip
The Messrs and Partners of
Neurogaculation
On reporting the Collection of such
insoluble that the stones from the side of
Cut of Neurogaculation crosses the
Carpenterman river, had been removed
by the Village of Andapoom with the
permission of Sub Engineer Perasam
Pillay for the repairs of the Andapoom
damment belonging to the Salem District
An Order No 249 was issued by
the Collector stating that reference
and the subject having been made
to the Collector of the Salem District

... ..

who stated that as the old Amine
of Mooringacatun had now become
useless, water was to be passed by
the Andapoom Amine both to
the Mooringacatun and Andapoom
Villages. Consequently the stones of
the old Amine of Mooringacatun
were ordered to be removed by the
Sub Engineer with the permission of
the Salem District Engineer for the
repairing of the Andapoom Amine.
Therefore the removal of stones from
the old Amine of Mooringacatun
for the repairs of Andapoom Amine

is not to be objected to - ✓

Signed / Vengooen
Inspector of
Translation)

3/18/1866

De Kalmer, Asst
Supt

Enclosure in a letter
from the Supr. Eng.
Jth Dec. 2052
dated 30th Jan 1864

77 ~~57~~ 84/64
5325/64

No 35429

Communicated to the Supr. Eng.
6th Dec., who will be requested to fur-
nish the evidence required to account
fully and satisfactorily for the non-
production, at the hearing of the
suit, of the Taml document

submitted, with his letter, No 2052
dated 30th November 1864-

2052 dated 15th Dec 1864

To The Supr. Eng. 6th Dec 15
Chepauk }
12th Decr/64 } Sent 12th December
P.O. 15th

11
PW 1864 kept
No 5325
From Governor of the State
To Secretary of the Government
Public Works Department

Date 10 December 1864
Recd

No 236
(With 2 Enclosures)
Government I should be of
opinion it would have been
Extremely desirable to have
adduced evidence to the effect
of that ~~statement~~ ^{now} brought
to notice by Captain Bean
and as to applying for admission
of further evidence.

No 2187 219

No 354 2-12th Decr 1864