

(1) Number of pages 1

(2) Date of repair

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Public works DEPARTMENT.

G.O. No. <i>1106</i>	Press ~~Mis.~~
<i>436-437</i>	
Dated <i>25-4-</i>	<i>1865.</i>

Not to be folded or roughly handled

[Signature]

*Proceedings of the Madras Government, Public Works Department,
25th April 1865.*

No. 436. 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, 19th April 1865; No. 72:—

SIR,

2nd December 1864, No. 3,455, Public Works Department.

1. With reference to the Order of Government under the date and number noted in the margin, I do myself the honor of reporting, for the information of the Honorable the Governor in Council, that the Special Appeal Suit numbered 469 of 1864, on the file of the High Court, came on for hearing on the 13th March 1865, when their Lordships the presiding Judges reserved their judgment; I have since obtained a copy of their order requesting the Civil Judge of Trichinopoly to decide the several issues shown therein, a copy whereof accompanies.

2. Great care should be taken on the part of Government to get up and adduce before the Court all the available evidence on the issues now raised; and the Government Vakeel should be specially instructed to object to the reception of any improper evidence which may be tendered on behalf of the Plaintiffs. If the Civil Judge should admit such evidence, notwithstanding the Vakeel's objection, he should request the Judge to make a note of his objection.

In the High Court of Judicature at Madras, Monday the thirteenth day of March, One thousand eight hundred and sixty-five.

PRESENT

The Honorable Mr. Justice FRERE, and

The Honorable Mr. Justice HOLLOWAY.

Special Appeal, No. 469 of 1864.

J. G. RYVES, Special Appellant, (4th Defendant), and Appavaiyan, and 10 others, Special Respondents (Plaintiffs).

Special Appeal against the Decree of the Civil Court of Trichinopoly in Regular Appeal No. 253 of 1861, confirming the Decree of the Principal Sudder Ameen's Court of Salem in Original Suit No. 3 of 1857.

This special appeal coming on for hearing, the Court delivered the following judgment:—

Judgment.—In this case both in the Original Suit and in the Appeal the only substantial defendant pleaded that the Principal Sudder Ameen's Court of Salem had no jurisdiction, and on the ground that all the acts which the Suit impeaches, were really done within the jurisdiction of the Court at Trichinopoly.

2. As all the Defendants except the 4th were clearly improperly joined, and as he is not a resident of Salem and has not been asserted to have been so, no question arises upon the residence of the Defendants.

3. Now, it is clear that if all the acts from which the damage and injury were apprehended were done within the District of Trichinopoly, although the supposed effects were afterwards to develop themselves in Salem, there would be no jurisdiction.

4. It is impossible to understand why the Civil Judge has not determined this point. He will do so, and distinctly set out the evidence and facts upon which he finds it.

5. Should he find that the Principal Sudder Ameen of Salem had jurisdiction, he will then distinctly determine the following points essential to the correct determination of the question:—

I. What change the anicut of the Plaintiffs has received; he will distinctly find how much it was elevated, setting forth also the evidence upon which he finds the fact.

*Proceedings of the Madras Government, Public Works Department,
25th April 1865.*

II. He will also distinctly determine, setting forth as before, the evidence and grounds upon which he finds it; whether the alteration of the anicut of the Plaintiffs has sensibly diminished the flow of water to the tank of the Kolattur village.

III. How long previously to the alteration the Audapuram anicut, if altered, remained at the elevation at which it was when the alteration was made.

6. We are sorry to have so to direct the Civil Judge to do what he is clearly bound to do without any direction of ours, but this case has been so unsatisfactorily dealt with, and is of so great and general importance that we are reluctantly compelled to give these specific directions.

7. It is accordingly hereby ordered that the finding of the Civil Court on the foregoing issues be returned, together with the evidence within two months from the date of receiving this order.

(By the Court.)

(Signed) P. P. HUTCHINS, Registrar,
Appellate Side.

No. 437.

ORDER THEREON, 25th April 1865, No. 1,106.

MISCELLANEOUS, No. 18.

Communicated to the Superintending Engineer, 6th Division, for information and guidance, with reference to G. O. No. 3,455, dated 2nd December 1864. The attention of that Officer is specially requested to paragraph 2 of Mr. Dale's letter.

(True Extract.)

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

To the Superintending Engineer, 6th Division,
Judicial Department.

Edw S. T. Augustin.

In the High Court of Judicature at Madras.

Monday the thirteenth day of
March One thousand eight
hundred and sixty five.
Present.

The Honorable Mr. Justice Trevelyan.

and.

The Honorable Mr. Justice Holloway.

Special appeal No. 469 of 1864.

J. G. Pyne Special Appellant
(4th Defendant)

and.

Affanaiyan and
10 others. } Special Respondents
(Plaintiffs)

Special appeal against the Decree of the
Civil Court of Trichinopoly in Regular Appeal
No. 253 of 1861, Confirming the Decree of the Principal
Sudder Ameer's Court of Salem in Original Suit
No. 3 of 1857.

This Special appeal coming on for hearing, the
Court delivered the following Judgment.

Judgment: In this Case both in the Original Suit
and in the appeal the only substantial defendant
pleaded that the Principal Sudder Ameer's Court
of Salem had no jurisdiction and on the ground
that all the Acts in which the suit impeaches were
really done within the jurisdiction of the Court at
Trichinopoly.

Trichinopoly.

2. As all the Defendants except the 4th were clearly improperly joined and as he is not a resident of Salem and has not been asserted to have been so, no question arises upon the residence of the Defendants.

3. Now it is clear that if all the acts from which the damage and injury were apprehended were done within the District of Trichinopoly, although the supposed effects were afterwards to develop themselves in Salem, there would be no jurisdiction.

4. It is impossible to understand why the Civil Judge has not determined this point. He will do so and distinctly set out the evidence and facts upon which he finds it.

5. Should he find that the Principal Sudder Ameen of Salem had jurisdiction he will then distinctly determine the following points essential to the correct determination of the question.

I. What change the ^{Andam} Anicut of the Plaintiffs has received, he will distinctly find how much it was elevated, setting forth also the evidence upon which he finds the fact.

II. He will also distinctly determine, setting forth as before the evidence and grounds upon which he finds it, whether the alteration

5K
of the Anicut of the Plaintiffs has sensibly diminished the flow of water to the Tank of the Kolattur Village.

III. How long previously to the alteration the Andapuram Anicut, if altered, remained at the elevation at which it was when the alteration was made.

6. We are sorry to have to direct the Civil Judge to do what he is clearly bound to do without any direction of ours, but this Case has been so unsatisfactorily dealt with and is of so great and general importance that ~~we~~ we are reluctantly compelled to give these specific directions.

7. It is accordingly hereby ordered that the finding of the Civil Court on the foregoing issues be returned together with the evidence within two months from the date of receiving this Order.

By the Court

/Signed/ P. P. Kuchins

Registrar
Aptt. Sec.

N^o 72

74

From Clement Dale Esquire Government Pleader Madras.
To. Col. G. C. A. Orr R. E. Secretary to Government P. W. Department

Madras 19th April 1865.

Sir

Para 1. With reference to the Order of Government
under the date and number noted in the
margin I do myself the honor of reporting
for the information of the Honorable the Governor in
Council that the Special Appeal with N^o 469 of
1864, on the file of the High Court came on for
hearing on the 13th March 1865 when their Lordships
the presiding Judges reserved their Judgments;
I have since obtained a copy of their Order
requesting the Civil Judges of Trichinopoly
to decide the several issues shown therein
a copy whereof accompanies.

2. Great care should be taken on the
part of Government to get up and adduce
before the Court all the available evidence
on the issues now raised; and the Government
Counsel should be specially instructed to object
to

Received by Mr. Orr 1865

1865

Dec 2 2 Dec 1846

27
 3
 Nov 27 1864
 714 S. P. M.
 To Indl. Dept.
 with 2 notes of
 Gov. Pro. 31 Dec 64
 as I understand the case
 of the fall of Salem
 has been in confidence
 and a person - misarison
 got their dam raised -
 in fact now seem
 to be raising

Salun

22nd April 1866

P. W. 1865 Department

Proc: of Court for April

A^o 1106.

Proc: of the Madras Court

D 25 April 1865

Letter from the Court Master
reporting that the Andapuran
Choultry Suit came on for hearing
on the 13th March last; and for "
"warding Copy of the Order of the
Presiding Judge requesting the
Civil Judge of Trichinopoly
to decide several issues shown
therein. Communicated to the
Supg Engr. 6th Dec.

A 436-437.