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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 3693

122-123.

Press

Mis.

Dated

5-12-1865.

Not to be folded or roughly handled

No. 122. Read the following letter from the Government Pleader, Madras, to the Secretary to Government, Public Works Department, dated Madras, 4th December 1865, No. 171 :—

1. I have the honor to acknowledge the receipt of the Proceedings of Government of the date and number noted in the margin; and to report, for the information of His Excellency the Governor in Council, that on the 16th ultimo, I made an application to the High Court, asking to be allowed for filing objections to the finding of the Civil Judge fifteen days from the time copies of the full record are furnished to me. The Court granted my application.

2. Referring to the letter from Colonel Greenaway, recorded in the Proceedings now under acknowledgment, paragraph 2, I infer "the map" there referred to was put in by the Plaintiff, and I do myself the honor of requesting (if my inference be correct) that I may be informed whether such "map" was the original, or a mere lithographed copy of a map which had been made by the Revenue authorities; as also the date on which the map (original) was made. I have not as yet been furnished with copy of the evidence, I am therefore not in a position to judge of the effect of the evidence given by the Curum of Auroor, to which Colonel Greenaway alludes.

3. Referring to paragraph 3 of that letter, I should wish to know whether objection can be offered to the reception as evidence of the Register prepared by the Revenue Settlement Department; I have not yet obtained a translate copy of the Register, and am therefore unacquainted with its contents. From Colonel Greenaway's letter I however gather, it was produced from the records of a Government Office; assuming such to be the case, and further assuming that it was duly proved, I should fear no objection can now be taken to its contents however erroneous the statements may be. If the contents are erroneous, evidence at Trichinopoly might have been adduced to prove the correct state of the case. It would appear, however, that such has not been done. If the High Court should send the suit back to the Civil Court, Colonel Greenaway should take care to be prepared with evidence.

4. Without having the evidence before me I am unable to understand precisely the effect of Colonel Greenaway's observation in paragraph 4, where he says, "The site shown as where the head of the channel in dispute *'is said to exist,'*" &c. I should wish to be informed whether any evidence was given on the point; and if so whether it was of the doubtful kind alluded to in that paragraph, or whether the latter portion of the 4th paragraph is merely intended to convey information that the alleged site is a small piece of waste land lying on the east of the river.

5. I observed that with the record there is a map, colored, and signed by Captain Palmer, and which appeared to me to be one of the maps that were returned by me in my letter dated 7th August 1865, No. 128. I should wish to know if that plan was proved in the manner advised by me. I observed that on that plan some dams in the river are shown, and if my memory serves me right one is opposite to

*Proceedings of the Madras Government, Public Works Department,
5th December 1865.*

the spot on which it was proposed to open the new channel; I believe I am correct in my supposition that opposite to that spot a dam has not been erected, or even commenced. If I am correct in this supposition, the map I am referring to cannot be a correct map of the locality; and the circumstance of showing a dam which has no existence may confuse and possibly mislead the Court. I am under the impression that it was not proposed to erect a dam on that spot. If however it was proposed to do so, and to run it across the stream from bank to bank, the High Court may hold that the proposed act of building a dam partly on the Salem side of the river, would give to the Salem Court jurisdiction in the case; I should therefore wish to be specifically instructed, firstly, whether it was proposed to erect a dam in the river on that spot; secondly, if so whether the dam was to run across the stream from bank to bank, or whether only a part of the way, and if so whether beyond the centre of the stream, or whether it was to be confined to the Trichinopoly half of the stream; and thirdly, if it was proposed to build a dam, whether the same has been commenced. If a dam has not been commenced, and the Civil Court is directed to take further evidence a fresh plan should be put in and proved, and the EXISTENCE of a dam as shown in the present plan should be expressly negatived by evidence, and if it was not intended to place a dam there, evidence to that effect should also be given. The above is written on the supposition that in the plan now with the record, and to which I have alluded as signed by Captain Palmer, a dam is shown at that spot.

6. I should state that that plan is not marked by the Court as produced by the Defendant; and as far as I can learn at present it has not been proved in the manner recommended by me.

7. The Civil Judge in the 2nd paragraph of his finding states that the 4th Defendant has not produced any new evidence.

8. In paragraph 5 of Colonel Greenaway's letter that gentleman says, "The Mooronga Kallatur Village authorities had been summoned, but owing to repeated postponement, were not present at the last hearing, of which I only had notice on the morning on which it took place." I should wish to be informed on whose behalf they were summoned, I conclude on behalf of the Defendant. I should also wish to be informed, whether they were summoned by Summonses issued by the Civil Court, or in what other manner they were summoned. If they were summoned by Summonses issued by the Civil Court I wish to be informed of the date on which the Summonses were applied for, the date on which they were issued, the date on which they were placed in the hands of the Nazir, the date on which the Summonses were served on the witnesses, as also the date on which the Summonses were returnable; likewise whether the witnesses were in attendance at the Civil Court on the day when the Summonses were returnable; also the several days on which postponements of the trial were made, and the days to which such postponements were made, with the reasons for making such postponements, and I wish to be informed whether there were cogent reasons for each of such postponements; for instance whether emergent business which the Judge could not put off arose between the intervals of such postponements; I likewise wish to be informed on which of the days to which postponements were made, the several witnesses for the Defendant were present at the Court.

*Proceedings of the Madras Government, Public Works Department,
5th December 1865.*

9. It may save time if Colonel Greenaway, in addition to the information I have asked for in the preceding paragraph, were to state with whom the blame lies for his receiving notice of the day fixed for the last hearing only on the morning of that day.

10. In paragraph 6 Colonel Greenaway says he requested that evidence might be taken, I presume the request was made to the Civil Judge through the Government Vakcel; I wish to be informed whether there is any entry in the books of the Court showing that such application had been made, and the result. If there is, I should be furnished with a certified copy of the entry; but if there is not, I wish to be informed in what manner the fact of the application having been made and refused can be proved to the High Court.

11. In paragraph 7 Colonel Greenaway says, "The MAPS produced by me were made," &c. He speaks of *maps*, whereas only the one map mentioned in paragraphs 5 and 6 has been forwarded to the High Court, with the exception of the three lithographed copies mentioned in paragraph 2 of my letter of the 14th November 1865, No. 163, which were put in by the Plaintiff. I wish to be more fully informed what MAPS Colonel Greenaway refers to.

12. It is quite evident to me that some miscarriage has taken place in the conduct of these proceedings, with whom the blame rests it is impossible without further information to decide, as far as I am able to judge, Colonel Greenaway appears to have put the matter in proper train, but I do myself the honor of suggesting, for the consideration of His Excellency the Governor in Council, that Colonel Greenaway should be called upon to explain the cause of the miscarriage, and how it has arisen. This is the more important as there is another suit pending in the Trichinopoly Court, which it will require considerable care and some ability to conduct properly.

No. 123.

ORDER THEREON, 5th December 1865, No. 3,693.

CIVIL WORKS, No. 21.

1. Communicated to the Executive Engineer at Trichinopoly, with a request that he will reply categorically to the several questions which are put by the Government Pleader, and furnish full explanation on the subject adverted to in paragraph 12.

2. Lieutenant-Colonel Greenaway's reply should be submitted to Government at an early date, a copy being furnished to the Superintending Engineer.

(True Extract.)

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

To the Executive Engineer, Trichinopoly.
" Superintending Engineer, 6th Division.
" Government Pleader.

Exd. S. T. Augustin.

N^o 171

From Clement Dale Esquire Government Pleader Madras
To Colonel C. A. Orr R. E. Secretary to Government S. M. D.

Madras 4 December 1865

Sir,

Para 1 I have the honor to acknowledge the receipt of the Proceedings of Government of the date and number

15 November 1865 N^o 3441 P. M. D.

noted in the margin; and to report for the information of His Excellency The Governor in Council that on the 15th Ultimo I made an application to the High Court, asking to be allowed for filing objections to the finding of the Civil Judge 15 days from the time copies of the full Record are furnished to me; The Court granted my application.

2 Referring to the letter from Colonel Greenway recorded in the Proceedings now under acknowledgment, para 2, under "the Map" there referred to was put in by the Plaintiff, and I do myself the honor of requesting (if my inference be correct) that I may be informed whether such "Map" was the original, or a mere lithographed copy of a Map which had been made by the Revenue Authorities; as also

the date on which the Map (original) was made; I have not as yet been furnished with copy of the Evidence; I am therefore not in a position to judge of the Effect of the Evidence given by the Curum of Auroor to which Col. Greenway alludes.

3. Referring to para 3 of that letter, I should wish to know whether objection can be offered to the reception as evidence of the Register prepared by the Revenue Settlement Department; I have not yet obtained a translated copy of the Register and am therefore unacquainted with its contents; From Colonel Greenway's letter I however gather it was produced from the records of a Government Office, assuming such to be the case, and further assuming that it was duly proved, I should fear no objection can now be taken to its contents however erroneous the statements may be; - If the contents are erroneous evidence at Trichinopoly might have been adduced to prove the correct state of the case; It would appear however that such has not been done. - If the High Court should send the ^{Suit} back to the Civil Court Colonel Greenway should take care to be prepared with evidence.

4. Without having the Evidence before me I am unable to understand precisely the effect of Colonel Greenway's observation in para 4 where he says, The site shown as where the Head of the Channel in dispute "is said to exist"; I should wish to be informed whether any Evidence was given on the point; and if so whether it was of the doubtful kind alluded to in that para, or whether the latter portion of the 4 para is merely intended to convey information that the alleged site is a small piece of waste land lying on the East of the River.

5. I observed that with the record there is a Map, Colored, and signed by Captain Palmer, and which appeared to me to be one of the Maps that were returned by me in my letter dated 7 August 1865 No 128; I should wish to know if that plan was proved in the manner advised by me; I observed that on that plan some Dams in the River are shown, and if my memory serves me right one is ^{opposite} to the spot on which it was proposed to open the new Channel.

I believe I am correct in my supposition that
opposite to that spot a Dam has not been
erected, or even commenced; If I am correct
in this supposition, the map I am referring
to cannot be a correct map of the locality;
and the circumstance of showing a Dam which
has no existence may confuse and possibly
mislead the Court; I am under the impression
that it was not proposed to erect a Dam on
that spot; if however it was proposed to do
so, and to run it across the stream from
bank to bank, the High Court may hold
that the proposed act of building a Dam
particularly on the Salem side of the River,
would give to the Salem Court jurisdiction
in the case, I should therefore wish to be
specifically instructed, 1st whether it was
proposed to erect a Dam in the River on
that spot; 2nd If so whether the Dam was
to run across the stream from bank to
bank, or whether only a part of the way, and
if so whether beyond the centre of the stream
or whether it was to be confined to the
right or left half of the stream; and 3rd
if it was proposed to build a Dam,
whether the same has been commenced.
If a Dam has not been commenced and
the Civil Court is directed to take further

evidence a fresh plan should be put in and
proved, and the existence of a Dam as shown
in the present plan should be expressly
negatived by evidence - and if it was not intended
to place a Dam there, evidence to that effect
should also be given. The above is written on
the supposition that in the plan now ^{in the} ~~with the~~ ^{then}
Record, and to which I have alluded as signed
by Captain Palmer, a Dam is shown at that
spot.

I should state that plan is not
marked by the Court as produced by the
Defendant; and as far as I am aware at present
it has not been proved in the manner recom-
mended by me.

The Civil Judge in the 2nd para of
his finding states that the 4th Defendant has
not produced any new evidence.

In para 5 of Colonel Greenway's letter,
that gentleman says "The Mooringa
Hallatur Village authorities had been
summoned but "owing to repeated postponement,
were not present at the last hearing, of
which I only had notice on the morning
on which it took place". I should wish to
be informed on whose behalf they were
summoned, I conclude on behalf of the Defendant; I should

also wish to be informed whether they were
summoned by summonses issued by the
Civil Court, or in what other manner they
were summoned; If they were summoned
by summonses issued by the Civil Court
I wish to be informed of the date on which
the summonses were applied for, the date
on which they were issued, the date on which
they were placed in the hands of the clerk,
the date on which the summonses were served
on the witnesses, as also the date on which
the summonses were returnable; likewise
whether the witnesses were in attendance at the
Civil Court on the day when the summonses
were returnable; also the several days on
which postponements of the trial were made,
and the days to which such postponements
were made, with the reasons for making
such postponements, and I wish to be
informed whether there were cogent reasons
for each of such postponements; for instance
whether emergent business which the judge
could not put off arose between the
intervals of such postponements, likewise
I wish to be informed on which of the days
to which postponements were made, the
several witnesses for the Defendant were
present at the Court.

9 It may save time if Colonel

Greenway, in addition to the information I
have asked for in the preceding para, were
to state with whom the blame lies for his
receiving notice of the day fixed for the last
hearing only on the morning of that day.

10 In para 6 Colonel Greenway says
he requested that evidence might be taken,
I presume the request was made to the Civil
Judge thro the Government Vakil, I wish to
be informed whether there is any entry in the
books of the Court shewing that such application
had been made, and the result; If there is,
I should be furnished with a certified copy
of the entry; but if there is not, I wish to be
informed in what manner the fact of the
application having been made and refused
can be proved to the High Court.

11 In para 7 Colonel Greenway says
"The claps produced by me were made" &c.
The speaker of maps, whereas only the one map
mentioned in paras 5 and 6 has been forwarded
to the High Court, with the exception of the
3 lithographed copies mentioned in para 2
of my letter of the 14 November 1855 & 163
which were put in by the Plaintiff; I wish to

be more fully informed what Major Colonel
Greenway refers to.

12 It is quite evident to me that some
misarrangement has taken place in the conduct
of these proceedings, with whom the blame
rests it is impossible without further information
to decide, as far as I am able to judge. Both
Greenway appears to have put the matter in
proper train, but I do myself the honor of
suggesting for the consideration of His Excellency
The Governor in Council, that Colonel Greenway
should be called upon to explain the cause
of the misarrangement and how it has arisen.
This is the more important as there is another
suit pending in the Trichinopoly Court, which
it will require considerable care and
some ability to conduct properly.

I have the honor to be
Sir,

Your Most Obedt Servt

Wm. B. Hall

Government Pleader

Madras

to W. 1845. Dated
for Dec 11/65
to the Secretary to Government
to W. 1845.

Dated 11 Dec 11/65
Recd of

1845

Requesting the
with certain information
in 1845. 12/11/65

With an order
1845. 12/11/65

1845. 12/11/65

1845

1845. 12/11/65

Communicated to the Executive
Engineer at Springfield, with a request that
he will reply categorically to the several
questions which are put by the Go.
Government to the Engineer, and furnish
full explanation on the subject ad-
verted to in para 12.

It is also necessary that
should be submitted to the
at an early date, a copy being
furnished to the Superintendent.

To the Engineer Springfield
1845. 12/11/65
1. Power of the
1845. 12/11/65