

(1) Number of pages 28

(2) Date of repair _____

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 3771

Press
~~Mis.~~

281-283A

Dated 14-12-

1865.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
14th December 1865.*

Read the following letters:—

No. 281. From the Government Pleader, Madras, to the Secretary to Government, Public Works Department, dated Madras, 6th December 1865, No. 177.

1. In continuation of the letter I had the honor of address to you under the date and number noted in the margin, I have the honor to inform you that I have received from the Registrar of the High Court on the Appellate side, copies of all the evidence adduced by the Plaintiff, as also that I have since perused the papers, and drawn objections to the return made by the Civil Judge.

2. I send herewith the whole of the evidence, made up into nine packets.

3. Four of the exhibits put in by the Plaintiff are Government accounts. It is usual for Courts to mark all exhibits produced in evidence by parties to a Suit, for the purpose of distinguishing them, and for more easy reference. Those produced by Plaintiffs are usually marked with letters; while those produced by Defendants are marked with numbers. I understand the Civil Judge of Trichinopoly has not followed the practice in this Suit, I see the numbers 66, 77, 78 and 82 on the four Government accounts; these I apprehend are what is termed "the record number," they will suffice to distinguish those different papers in this correspondence.

4. No. 66 appears to be a book belonging to the Trichinopoly District, and is called "the Village Adangal Account," I believe it is made out and kept by the subordinates of the Collector's Department.

5. I wish to be informed of the purposes for which Adangal accounts are prepared; and whether, in this particular account, any information is afforded regarding the question in issue in this Suit. If information is afforded I should wish the part or parts to be marked with red or blue pencil, and that I should be referred to the pages, and the nature of the information which each portion marked affords, or the object for which it is surmised the document was put in by the Plaintiff.

6. No. 77 is stated to be "Register account of land, Arur village," for 1859-60. It does not appear by what department this Register was prepared or kept. I wish to have similar information afforded me regarding this Register as I ask for in paragraph 5.

7. No. 78 is stated to be the Paimash Register of the village of Arur. I presume this is prepared and kept by the subordinates of the Collector's Department. Similar information should be afforded to me regarding this Register to that asked for in paragraph 5.

8. No. 82 is styled Account of Registry of the lands of the village of Andapuram; whether this has been prepared and kept in the Collector's Department or in the Revenue Survey Department, I have not been informed. I request that as regards this account I may be furnished with similar information to that solicited in paragraph 5.

9. There is another document put in, it was produced by the third witness for the Plaintiff, I observe it purports to have been made out by the Curnum and

Proposed to be drawn

Mahajanums of the Circular in the year 1796. I should wish to be informed in what sense "Mahajanums" is used in this document, and that similar information be afforded me regarding this document as I have asked for in paragraph 5. This document bears a No. 81.

10. In page 3 of letters from the Collectors, &c., is copy of a letter from the late Captain Gahagan to Mr. D. Arbuthnot, in which Captain Gahagan refers to the ruined anicut of Karapottanar; I infer that Karapottanar is another village, and that it is not in any manner connected with this Suit. If it is, I should wish to be informed on the subject, as also in what manner this letter affects the question raised in this Suit, at present I fail to see the object for which the letter was filed.

11. In page 7 of the same bundle is set out a copy of a letter from the Tahsildar of Moosery, I should wish to be informed whether the village of Valavelaputoor is in the Trichinopoly District.

12. The Plaintiff has filed two depositions taken on 2nd September 1864, before the Tahsildar of Moosery. Copies are set out in one of the bundles; I should wish to be informed on whose behalf the witnesses were examined; whether they were examined on affirmation; whether they were then examined as witnesses in this Suit; and if so, under what authority the Tahsildar examined them; whether under a commission issued from the Civil Court. I also wish to be informed whether any portion of the channel has been cut, or whether the Defendants were not restrained by the injunction before the works were commenced; also what plan the witnesses refer to; what Valavelaputoor has to do with this Suit; and what is meant by the last sentence in the deposition of Spobah Charee page 1; also whether the witnesses are now alive, and could have been produced before the Civil Court as witnesses in this Suit.

13. A copy of the plan to which the witnesses refer should be sent to me; or if it be a large plan, a copy of the portion shewing the spot where the channel was to be commenced; the tank belonging to Murunga Kalatur; the Plaintiffs' channel and village, and the commencement of the Districts of Salem and Trichinopoly spoken of by the witnesses.

14. I am informed by the Deputy Registrar of the High Court that the plan which accompanies was put in by the Plaintiffs; I should wish to be informed as to this, also whether it is accurate; or what objections to it exist, and by whom made. I do not see it has been proved.

15. There is some confusion regarding the witnesses: Kumarasawmi, page 1, and Thandavaroya Pillay, page 3, are both styled "first witness" for the third Plaintiff.

16. The former produces a copy of a Register; where is the original? From his evidence it would appear this witness had the original in his keeping. Is this the man whose deposition is referred to in paragraph 12? His evidence appears entirely in favor of the Defendant's case.

17. Thandavaroya Pillay also produces a copy of a Register and plan; where is the original? I suppose the questions in page 4, were put with the object of inducing the Court to believe that the whole of the bed of the river formed part of the village of Arur. What is meant by a place being "ATTACHED" to a village?

Does it form a portion of the village? that is the question. What is "Karypottanum" mentioned in page 5, of the oral evidence? I do not see it has been previously mentioned by this witness. What is meant by the first answer on page 5.

18. Referring to the second question, and the answer to it on page 8 of the oral evidence, I should wish to be informed whether the whole of the bed of the river opposite to the village of Andipuram was measured and included as forming part of that village.

19. The oral evidence will be useful in assisting Colonel Greenaway to give information regarding the accounts, &c., put in by the Plaintiff.

20. I have carefully examined the lithographed copy of the map of Arur, and I am at a loss to conjecture which piece of land is spoken of by the witnesses as the piece of waste land on the north side of the river attached to Arur, except it be the small triangular piece included in the lines opposite to No. 288; if this be the case, I observe there is no number put on that piece, from which I infer that the Surveyors did not include that small portion in the village of Arur. I would advise that the Revenue Survey Department be applied to for information on the point. In that map the name of the village on the east side of the river is put as "Murunghai Kalatur," but on putting that map with the map of Murungai Kalatur I cannot make the two fit; and, moreover, in the latter map, the village of Arur is not mentioned as one of its boundaries. It appears to me to be important to obtain information on the point.

21. In endeavoring to identify the spot where the channel in question was to be commenced from a comparison of the four maps in my possession (three lithographed copies and the plan referred to in paragraph 14, and herewith sent) I observe that in the plan herewith sent, it is stated opposite the letter A "Nunjah lands, &c., of the Mettupatti village in the Nunmakal Taluq, Zillah Salem;" and again under the word North is the following "boundary of Mettupatti village in the Namakkal Taluq, Zillah Salem." These lands are on the east side of the river, and up to the present time from the instructions laid before me I have been under the impression that the river divided the two Districts of Salem and Trichinopoly, and that no part of the Salem District lay to the east or left side of the river.

22. I presume that the map mentioned in the 5th paragraph of my letter to you of the 4th instant, No. 170, is a correct map of the country surrounding the *locus in quo*; if so, it is very desirable I should have before me a copy of that map, or of such part of it as will enable me to follow the evidence and judge how far the boundaries, &c., mentioned by the witnesses are in accordance with the truth.

23. On the 15th instant I should be prepared to put in the objections. I enclose a fair draft with the view of enabling Colonel Greenaway to offer any observations he may think desirable? I will defer the engrossment of these until the morning of the 15th, under the hope that Colonel Greenaway will be enabled in the interim to peruse them, and furnish me with any suggestions he may consider desirable.

24. The case is not likely to be heard till after the holidays; the information sought for in this letter will therefore, I apprehend, be in sufficient time if furnished to me at the opening of the offices.

proposed to be drawn up

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14th December 1865.

25. The papers which accompany I shall require to be returned to me with the information here sought for.

1. Referred to the Executive Engineer at Trichinopoly, in continuation of G. O. No. 3,693, dated 5th instant, and with a request that he will furnish the plans applied for in paragraphs 13 and 22, and submit full information on the several points noticed by the Government Pleader.

2. Lieutenant-Colonel Greenaway's particular attention is drawn to paragraphs 23 and 24, and he is requested to communicate with the Superintendent of Revenue Survey upon the subject referred to in paragraph 20.

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

FORT SAINT GEORGE,
9th December 1865.

No. 282. From the Executive Engineer, Trichinopoly, to the Secretary to Government, Public Works Department, dated Trichinopoly, 11th December 1865, No. 1,182.

1. I have the honor agreeably to Order No. 3,693 of 5th instant, communicating letter from C. Dale, Esq., Government Pleader, to your address, to submit the reply therein called for, with full information upon paragraph 12 to the best of my knowledge.

2. The map was put in by the Plaintiff, and was a lithographed copy of the map made by the Revenue Survey of the village of Aroor, Namakul Taluq, Salem District.

3. The Register prepared by the Revenue Settlement Department being a Government document cannot, I presume, be objected to as evidence; but I submit that the following objections might be raised against the inference proposed to be drawn from it. The inference being that whereas for purposes of the Revenue Settlement, the Register includes a certain portion of the earth's surface bearing a given number in the Survey map of Aroor village in the nominal area of the said village, therefore the said portion belongs entirely to all intents and purposes to the said village. The objections are, first, that the Register and Map bearing date 1860, are no authority as to transactions dating previously; and second, that as it is impossible to construct boundary marks in the bed of a river, they are necessarily placed on one or other bank, so that thus for convenience of survey, the lines would include portions of the river (usually so marked "river" in the margin of the Register) without hinderance to the said river being public or Government property, and without giving any right to the township within whose nominal limits it was thus included to assume exclusive control over it. I am prepared to prove that in the case of the boundaries in question, the pillars have been constructed upon the banks of the river, or channel, subsequent to the construction of the said banks, some on the west some on the east bank, and although it is true that the line drawn from G. to H., as indicated in the accompanying sketch, does cut off the head of the new Moorunga Kollatur Channel, (upon which fact alone the claim to jurisdiction for Salem is based,) it cuts off nothing else but river and river bank, which, I submit, are public property. I submit that it is a mere quibble to asser-

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that this survey line, which just skirts the rivers bank, because it was inconvenient to put it any where else, should convey to Aroor a right to possession of the said bank in defiance of the previously recognized fact that the river itself constituted the boundary.

4. The site pointed out by Plaintiff on his map as the site of the channel head, but which said head his map (the Revenue Survey Lithographed map of Aroor) does not show, was stated by one of Plaintiff's Witnesses (I think the Curnum of Andapooram) to be a piece of Porumboke or waste land. The actual portion of land cut off by the boundary line from G. to K., as per enclosed sketch, includes nothing but river and channel banks and water, and the said line does actually cut off not only the new but the old head also of the Moorunga Kollatur Channel, so that if this line be accepted as the true boundary the old head as well as the new one complained of must have been nominally in Aroor land.

5. The Vakeel informed me that the map in question being a Government document, and bearing the signature of a Government Officer, it was not considered necessary to further prove it, the same holds good of the maps produced by me, viz., two maps of the District and one of Moosery Taluq, all of them, however, I can prove if requisite.

There are many dams or anicuts on this river, but the two referred to in the case now under dispute are briefly explained as follows with reference to the enclosed sketch:—

A. is the Kurputtanar anicut, an ancient work, from which the village of Moorunga Kollatur was originally supplied with water through the old head C. This anicut is supposed to be the most ancient on the river, from its bearing the name of the river, whereas all the others are called after the villages they supply.

B. is the Andapooram anicut, also an ancient work, originally four feet high, but raised in or about 1850 to six feet, whereby the supply of water in low freshes was entirely cut off from Moorunga Kollatur channel, and even in high freshes very much reduced.

In order to afford a remedy to the Moorunga Kollatur people, the new head E. was cut from above the Andapooram anicut, furnished with a rough stone regulating vent D., and the said anicut itself was again extended, raised and otherwise improved in 1861-62, stone being taken from the anicut A. for the purpose, as it was plain that the said anicut A. could be no longer of any use, and that the supply for both channels must be taken off from the upper anicut B., to which arrangement the authorities on both sides appear to have consented.

F. is the Andapooram supply channel, an open channel capable of drawing off from the river a much larger quantity of water than channel E.

G. H. I. J. K. are boundary pillars, and the red dotted line between them the boundary line between Aroor (Salem) and Velevalpootur and Moorunga Kollatur, Trichinopoly, according to the new Revenue Survey. It will be noticed that the said line takes in nothing on the east side of the river except river channel and banks, upon which said banks (public property) the pillars were placed for convenience of survey.

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There is no question of building any new dams, or cutting any more channels, the case is simply that the supply rightfully due to Moorunga Kollatur having been cut off by raising the old dam B. immediately above their own dam, a new head was cut for them from above the said dam B., to give them an equivalent to what they had been deprived of, which it has but barely done, their supply being still much inferior to that of Andapooram, though their requirements are nearly double; the whole drift of the Plaintiff's claim is that Government had no right to take off from an anicut bearing the name of their village, though constructed and kept in repair by Government itself, a supply of water for any other village but their own, even although the said supply were only an equivalent for the supply due by ancient right, of which that other village had been deprived by measures undertaken for said Plaintiff's benefit.

6. The plan signed by Captain Palmer was produced by Defendant, *vide* reply to paragraph 5.

7. Defendant had no opportunity of producing new evidence, only having known of the hearing being appointed on the very day it took place.

8. The Witnesses referred to were present on behalf of Defendant on dates as under, their attendance (being Government servants) was applied for to the Collector, who directed them to be in attendance at the time specified, they were always present at those times.

The hearings were—

5th July. Judge ruled jurisdiction to Trichinopoly remanded for further investigation, *vide* Proceedings Madras Government, No. 445, 18th August 1865.

16th September. Case postponed, Plaintiffs not ready.

27th do. Case postponed for Plaintiff to produce further evidence, date to which postponed being not specified.

25th October. Date of the hearing.

Defendant's Witnesses were present on all of these occasions, except the last hearing on the 25th October as aforesaid.

9. The Government Vakeel informs me that he himself was only informed by the Serishtadar that there would be a hearing on the 25th October on the morning of that same day. He informed me as soon as he knew it himself. I mentioned to the Judge at that hearing that the said Witnesses were absent, and that I had certain objections to raise as to the map; and I was certainly under the impression when I left the Court that it was the Judge's intention to send an Ameen to verify the map, and that another opportunity would be given to produce evidence as to the validity of the inference drawn from the map.

10. The application having been made by word of mouth, the Vakeel says, there would be no entry of it in the books of the Court; as he knew this, he ought, I think, to have submitted it in writing or told me so, but the Collector Mr. McDonell was present at the time, and heard it made.

11. I produced two maps of the District, the property of Government, and one of Moosery Taluq, belonging to the Revenue Settlement Department, they are admitted to have been produced per paragraph 4 of Judge's opinion, dated 27th October.

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14th December 1865.*

12. It appears from paragraph 5 of Mr. Dale's letter, the latter part of it particularly, that the real gist of the case in point has not been quite clearly set forth; this must, I presume, have been the fault of the Vakeel, who had the management of the Original Suit, and I have endeavoured to explain it fully in reply to said paragraph in this letter. I have had very little experience of Native Pleaders, but it certainly struck me that the Vakeel employed here might have managed his side of the case better; the lack of notice of the last hearing seems, however, to have been no fault of his. The failure to produce evidence on the three other points on the merits referred by the High Court was owing to the Judge having limited his enquiry to the question of jurisdiction; I applied officially to know when the said evidence would be heard, stating that I had it to bring forward, and was informed by letter that it would be taken hereafter if required. It is, I consider, absolutely necessary.

13. Reply to Mr. Dale's further communication, No. 177 of 6th instant, will be forwarded directly the information required can be collected, but I have forwarded this without delay as it explains most of the points required for clear comprehension, and so as to be in time for the 15th instant.

No. 283. From the Executive Engineer, Trichinopoly, to the Secretary to Government, Department Public Works, dated Trichinopoly, 11th December 1865, No. 1,187:—

1. I have the honor, in continuation of my letter No. 1,182 of this day's date, to submit replies to so much of Mr. Dale's letter No. 177 of 6th instant, as I can answer without reference to other Departments or authorities.

Paragraph 5. An Adungal account is the general register of cultivation for the year, it contains each field waste or cultivated, and shows different species of crops, furnishes all particulars required for annual examination of crops and settlement of all accounts connected with each field. In what particular way the one specified may refer to the suit can only be determined after seeing it, and probably after reference to the Salem Revenue authorities.

Paragraph 7. Pymash Register is a register of fields as per survey, or as per Mamool account. It is an important document of a permanent nature; shows extent of each village and of each field contained in it; shows also all changes of a permanent nature in tenure, kind, class, or irrigation, and copy is kept by the village Curnums, one in the Taluq; the accounts as far as regards area or acreage cannot, however, be trusted for strict correctness prior to the late Revenue Survey.

Paragraph 10. "Karapootanaur" is the name of the river itself, and the anicut so called is the anicut sometimes called by the name of Moorunga Kollatur as it supplied that village with water, from this and from my previous letter the object of citing Captain Gahagan's letter will be evident.

Paragraph 13. I do not yet know precisely to what plan the Witness may have referred, but I enclose the survey taken by Mr. Martin, signed by Captain Palmer, and verified by myself as correct on the spot by careful personal inspection.

Paragraph 18. According to the Revenue Survey Map the whole of the river bed opposite the village of Andapooram is shown as included in the boundary of

proposed to be drawn

*Proceedings of the Madras Government, Public Works Department,
14th December 1865.*

that village, but this forms no question in the present case, as no part of the disputed channel is even alleged to be in Andapooram limits.

Paragraph 20. The piece of land spoken of is the small triangular piece included in No. 288. There is one palpable error in the lithographed village map of Aroor, as it is bounded on the east, northward of the apex of the said triangle by Valevelapootoor and not by Moorunga Kolatur, as shown in the said map. The eastern boundary of Aroor only marches with Moorunga Kolatur from the said apex southward, to a point 25 chains south of the Karapootanaur anicut.

Paragraph 21. The map said to have been sent has not yet reached me, but I can say for certain that there is no Nunjah land whatever on the east bank of the river belonging to the Salem Zillah existing or even claimed within the limits concerned in the suit now pending. We maintain that within those said limits the eastern bank has always belonged solely to the Trichinopoly District.

Paragraph 22. The map I have sent is a correct map of the localities, vide reply to paragraph 13.

2. I am in communication with the Superintendent Revenue Survey, Collectors, and other authorities for information on the other points referred.

3. I have the honor to return the rough draft of objections.

No. 383A. ORDER THEREON, 14th December 1865, No. 3,771.

CIVIL WORKS, No. 48.

Ordered that copies of the foregoing letters from the Executive Engineer at Trichinopoly be communicated to the Government Pleader.

(True Extract.)

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

To the Government Pleader, with two Plans and Draft of Objections,

„ Executive Engineer at Trichinopoly.

„ Superintending Engineer, 6th Division.

Exd. S. T. Augustin.

N^o 1182

1865/6

Trichinopoly Executive Engineer Office

11th December 1865

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From

Lieutenant Colonel F Greenaway
Executive Engineer

To

Colonel C A Orr R. E.
Secretary to Government,
Public Works Dept.

Sir,

I have the honor agreeably to order No 3693 of 5th Instant Communicating letter from C Dale Esquire Government Pleader to your address, to submit the reply therein called for with full information upon para 12 to the best of my knowledge.

2 The map was put in by the Plaintiff and was a lithographed copy of the map made by the Revenue Survey of the Village of Aroor named Paul Talay Salem District.

3 The Register prepared by the Revenue Settlement Department being a Government Document cannot I presume be objected to, as evidence, but I submit that the following objections might be raised against the inference proposed to be drawn from it, The inference

being that whereas for purposes of the Revenue Settlement, the Register includes a certain portion of the Earths Surface bearing a given number in the Survey Map of Aroor Village in the nominal area of the said Village; therefore the said portion belongs entirely to all intents & purposes to the said Village. The objections are first that the Register and map bearing date 1860 are no authority as to transactions dating previously and secondly that as it is impossible to Construct boundary marks in the beds of a river they are necessarily placed on one or other bank, so that thus for Convenience of Survey, the lines would include portions of the river (usually so marked "river" in the margin of the Register) without hindrance to the said river being public or Government property and without giving any right to the township within whose nominal limits it was thus included to assume exclusive Control over it, I am prepared to prove that in the Case of the boundaries in question the Pillars have been Constructed upon the banks of the river or Channel subsequent to the Construction of the

2
said banks some on the west some on the East bank, and although it is true that the line drawn from G. to H as indicated in the accompanying sketch does cut off the heads of the new Mooroonga Kollatur Channel (upon which fact alone the claim to jurisdiction for Salmy is based) it cuts off nothing else but river and river bank which I submit are public property. I submit that it is more grievable to assert that this Survey line which just skirts the rivers bank because it was inconvenient to put it anywhere else should convey to Aroor a right to possession of the said bank in defiance of the previously recognized fact that the river itself constituted the boundary.

4 The site pointed out by Plaintiff on his map as the site of the Channel heads but which said heads his map (the Revenue Survey lithographed map of Aroor) does not show, was stated by one of Plaintiffs witnesses (I think the Currier of Chidapooram) to be a piece of Poomboke or waste land. The actual portion of land cut off by the boundary line from

G to K. as per enclosed sketch includes nothing but river channel banks and water and the said line does actually cut off not only the new but the old head also of the Mooringa Kollator Channel, so that if this line be accepted as the true boundary the old head as well as the new one complained of must have been nominally in Mooringa lands.

5 The Vakeel informed me that the map in question being a Government document and bearing the signature of a Government Officer, it was not considered necessary to further prove it; the same holds good of the maps produced by me, viz two maps of the District and one of Mooringa taking all of them however I can prove if requisite.

There are many dams or annicuts on this river, but the two referred to in the Case now under dispute are briefly explained as follows with reference to the enclosed sketch.

A is the Kuspattanar Annicut an ancient work, from which the Village of Mooringa Kollatur

Kollatur was originally supplied with water thro the old head C. This Annicut is supposed to be the most ancient on the river from its bearing the name of the river, whereas all the others are called after the Villages they supply.

B is the Andapooram Annicut, also an ancient work originally 4' high but raised in or about 1850 to 6' whereby the supply of water in low freshes was entirely cut off from Mooringa Kollatur Channel and even in high freshes very much reduced.

In order to afford a remedy to the Mooringa Kollatur people, the new head E. was cut from above the Andapooram Annicut furnished with a rough stone regulating vent D. and the said Annicut itself was again detoured & raised and otherwise improved in 1861/62 stone being taken from the Annicut A. for the purpose, as it was plain that the said Annicut A. could be no longer of any use and that the supply for both Channels must be taken off from the upper Annicut B. to which arrangement

the Authorities on both sides appear to have consented.

F. is the Andapooram supply Channel, an open Channel capable of drawing off from the river a much larger quantity of water than Channel E.

G. H. I. J. K. are boundary Pillars and the red dotted line between them the boundary line between Moor/Salem) and Velvalpothar and Mooronga Kollatur Tuckniopoly accord.

ing to the new Revenue Survey it will be agreed that the said line takes in nothing on the East side of the river except river Channel and banks upon which said banks (Public property) the Pillars were placed for Commencement of Survey.

There is no question of building any new dams or cutting any more Channels the Case is simply that the supply rightfully due to Mooronga Kollatur having been cut off by raising the old dam B. immediately above their own dam a new head was cut for them from above the said dam B to give them an equivalent to what they had been deprived of which it has

but barely done their supply being still much inferior to that of Andapooram though their requirements are nearly double, the whole drift of the Plaintiffs claim is that Government had no right to take off from an Ancient bearing the name of their Village though Constructed and kept in repair by Government, itself a supply of water for any other Village but their own even although the said supply were only an equivalent for the supply due by Ancient right of which that other Village had been deprived by measures undertaken for said Plaintiffs benefit.

6 The Plan signed by Captain Palmer was produced by Defendant, vide reply to p. 5.

7 Defendant had no opportunity of producing new evidence, only having known of the hearing being appointed on the very day it took place.

8 The Witnesses referred to were present in behalf of Defendant on dates as under their attendance (being Government servants) was

applied for to the Collector who directed them
be in attendance at the time specified, they
were always present at those times.

The hearings were

5th July Judge ruled jurisdiction to Trichinopoly
remanded for further investigation Vide P.M.G.
Ct. 445 - 18th August 1865

16th September Case postponed Plaintiffs not ready

27th " Case postponed for Plaintiff to
produce further evidence, date to which postponed
being not specified.

25th October Date of the last hearing.

Defendants witnesses were present on
all of these occasions except the last hearing
on the 25th October as aforesaid.

9 The Government Vakeel informs me
that he himself was only informed by the
Seristadar that there would be a hearing
on the 25th October in the morning of that same
day. He informed me as soon as he knew
it himself I mentioned to the Judge at
that hearing that the said witnesses were absent
and

And that I had certain objections to raise as
to the map and I was certainly under the
impression when I left the Court that it was
the Judges intention to send an Ameen to
verify the map and that another opportunity
would be given to produce evidence as to the
validity of the inference drawn from the map.

10 The Application having been made by
words of mouth, the Vakeel says there would
be no entry of it in the books of the Court,
as he knew this, he ought, I think to have
submitted it in writing or told me so but
the Collector Mr. McDonnell was present at the
time and heard it made.

11 I produced two maps of the District
the property of Government and one of Moosery
Laluz belonging to the Revenue Settlement
Department. they are admitted to have been
produced per para 4 of Judges opinion dated
27th October

12 It appears from para 5 of Mr. Dales

letter the latter part of it; particularly that the
real gist of the Case in point has not been
quite clearly set forth, this must I presume
have been the fault of the Vakeel who had
the management of the Original Suit and I
have endeavored to explain it fully in reply
to said para in this letter. I have had very
little experience of native Pleaders but it
certainly struck me that the Vakeel employed
here might have managed his side of the
Case better, the lack of notice of the last hearing
seems however to have been no fault of his, the
failure to produce evidence on the three other
points on the merits referred by the High Court
was owing to the Judge having limited his
enquiry to the question of Jurisdiction, I
applied officially to know when the said
evidence would be heard, stating that
I had it bring forwards & was informed
by letter that it would be taken hereafter
if required. It is I consider absolutely

necessary

13. Reply to Mr. Dales further Communication
No 177 of 6th Instant will be forwarded directly
the information required can be collected but
I have forwarded this without delay as it
explains most of the points required for clear
Comprehension and so as to be in time for
the 15th Instant.

I have the honor to be
Sir
Your most obedient Servant
Murray Lambton
Executive Engineer Richey

A:177

From Clement Price Esquire, Government Pleader, Madras
To Colonel L. A. Orr R. E. Secretary to Government P. W. D.

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Madras 6 December 1865

Sir,

From

14th December 1865 A:170

In continuation of the letter. Had the honor of addressing to you under the date and number noted in the margin; I have the honor to inform you that I have received from The Registrar of the High Court on the Appellate Side, copies of all the Evidence adduced by the Plaintiff, as also that I have since perused the papers and drawn objections to the return made by The Civil Judge...

2 I send herewith the whole of the Evidence, made up into nine packets.

3 Four of the Exhibits put in by the Plaintiff are Government accounts; It is usual for Courts to mark all Exhibits produced in Evidence by Parties to a suit, for the purpose of distinguishing them and for more easy reference; Those produced by Plaintiffs are usually marked with letters; while those produced by Defendants are marked with numbers. I understand the Civil Judge of Trichinopoly has not followed the practice in this suit; I see the numbers 66, 77, 78 and 82 on the

8922

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The Government of
Trichinopoly
To The Secretary to
Government
P.W.D.
Dated 11th December 1865
No 1182
Enclosure 1
Affords contain
objections & explanations
on the objection of the
Civil Judge in the
case of the Government of
Trichinopoly
No 3771 - 11th December 1865

four Government accounts, These I apprehend are what is termed "the record number"; They will suffice to distinguish these different papers in this correspondence.

4 N^o 66 appears to be a book belonging to the Trichinopoly District and is called "The Village Adangal Account," I believe it is made out and kept by the Subordinates of the Collectors Department.

5 I wish to be informed of the purposes for which Adangal Accounts are prepared; and whether in this particular account any information is afforded regarding the question in issue in this suit; If information is afforded I should wish the part or parts to be marked with red or blue pencil, and that it should be referred to the pages, and the nature of the information which each portion marked affords; or the object for which it is furnished the Document was put in by the Plaintiff.

6 N^o 77 is stated to be "Register Account of land Arur Village" for 1859/60. It does not appear by what Department this Register was prepared or kept. I wish to have similar information afforded me regarding this Register as I ask for in para 5.

7 N^o 78 is stated to be The Ponnash Register of the Village of Arur. I presume this is

prepared and kept by the Subordinates of the Collectors Department. Similar information should be afforded to me regarding this Register to that asked for in para 5.

8 N^o 83 is styled Account of Registry of the lands of the Village of Andapuram; whether this has been prepared and kept in the Collectors Department or in the Revenue Survey Department I have not been informed. I request that as regards this account I may be furnished with similar information to that solicited in para 5.

9 There is another Document put in; it was produced by the 3^d Witness for the Plaintiff, I believe it purports to have been made out by the Curum and Mahajannums of the Kiscar in the year 1796. I should wish to be informed in what sense "Mahajannums" is used in this Document, and that similar information be afforded me regarding this Document as I have asked for in para 5. This Document bears a N^o 81.

10 On page 3 of letters from The Collector is a copy of a letter from the late Captain Gabagan to C. W. D. Arbuthnot, in which Captain Gabagan refers to the ruined Aricut of Karapottanar; I infer that Karapottanar is another Village, and that it is not in any manner connected

with this suit; If it is, I should wish to be informed on the subject, as also in what manner this letter affects the question raised in this suit, at present I fail to see the object for which the letter was filed.

11 In page 7 of the same bundle is set out a copy of a letter from the Tahsildar of Moosery. I should wish to be informed whether the Village of Valavelaputoor is in the Trichinopoly District.

12 The Plaintiff has filed 2 Depositions taken on 2^d September 1864 before the Tahsildar of Moosery. Copies are set out in one of the bundles; I should wish to be informed on whose behalf the Witnesses were examined; whether they were examined on Affirmation; whether they were examined as Witnesses in this suit; and if so under what authority the Tahsildar examined them; whether under a Commission issued from the Civil Court; I also wish to be informed whether any portion of the Channel has been cut, or whether the Defendants were not restrained by the injunction before the Works were commenced; also what Plan the Witnesses refer to; what Valavelaputoor has to do with this suit; and what is meant by the last sentence in the Deposition of Soobah Chasser pages; Also whether the Witnesses are now alive, and could have been produced before

the Civil Court as Witnesses in this suit.
13 A Copy of the Plan to which the Witnesses refer should be sent to me; or if it be a large plan, a copy of the portion shewing the spot where the Channel was to be commenced, the Tank belonging to Murruga Kalatur; the Plaintiffs Channel and Villages; and the commencement of the Districts of Valam and Trichinopoly spoken of by the Witnesses.

14 I am informed by the Deputy Registrar of the High Court that the Plan which accompanied was put in by the Plaintiffs; I should wish to be informed as to this, also whether it is accurate, or what objections to it exist; and by whom made; & to not see it has been proved.

15 There is some confusion regarding the Witnesses; Kumaraswami page 1, and Thanda - wariya Pillay page 3, are both styled "1st Witness" for the 3^d Plaintiff.

16 The former produces a copy of a Register, where is the Original; from his Evidence it would appear this Witness had the Original in his keeping; Is this the man whose Deposition is referred to in para 12? His Evidence appears entirely in favor of the Defendants case.

17 Thundawaroyen Pillay also produces a copy of a Register and plan - where is the

Original? Suppose the questions in page 4 were put with the object of inducing the Court to believe that the whole of the bed of the River formed part of the Village of Arur. What is meant by a place being "attached" to a Village? Does it form a portion of the Village? that is the question - what is "Karyottanum" mentioned in page 5 of the Oral Evidence? I do not see it has been previously mentioned by this Witness. What is meant by the first answer on page 5.

18 Referring to the 2^d Question and the answer to it on page 8 of the Oral Evidence I should wish to be informed whether the whole of the bed of the River opposite to the Village of Andipuram was measured and included as forming part of that Village.

19 The Oral Evidence will be useful in assisting Colonel Greenway to give information regarding the accounts put in by the Plaintiff.

20 I have carefully examined the lithographed copy of the Map of Arur, and I am at a loss to conjecture which piece of land is spoken of by the Witnesses as the piece of waste land on the North side of the River attached to Arur, except it be the small triangular piece included in the lines opposite to p 288. If this be the case, I observe there is no

number put on that piece, from which I infer that the Surveyors did not include that small portion in the Village of Arur. I would advise that the Revenue Survey Department be applied to for information on the point. In that map the name of the Village on the East side of the River is put as "Murnughai Kalatur" but on putting that map with the map of Murnugai Kalattur I cannot make the two fit; and moreover in the latter Map, the Village of Arur is not mentioned as one of its boundaries. It appears to me to be important to obtain information on the point.

21 In endeavouring to identify the spot where the Channel in question was to be commenced from a comparison of the 4 Maps in my possession (3 lithographed copies and the plan referred to in para 14 and herewith sent) I observe that in the plan herewith sent It is stated opposite the letter A "Kunga" "Lands" of the Mettupatti Village in the "Kurnakhal Taluk, Zillah Salem" and again under the word North is the following "Boundary of Mettupatti Village in the "Kurnakhal Taluk, Zillah Salem" These lands are on the East side of the River,

and up to the present time from the instructions laid before me I have been under the impression that the River divided the two Districts of Salem and Trichinopoly, and that no part of the Salem District lay to the ^{or left side} East of the River.

22 I presume that the map mentioned in the 5th para of my letter to you of the 4th instant N^o 170 is a correct map of the Country surrounding the locus in quo, If so it is very desirable I should have before me a copy of that map, or of such part of it as will enable me to follow the evidence and judge how far the boundaries mentioned by the Witnesses are in accordance with the truth.

23 On the 15th instant I should be prepared to put in the objections; I enclose a fair Draft with the view of enabling Col^l Greenway to offer any observations he may think desirable? I will defer the engrossment of these until the morning of the 15th, under the hope that Col^l Greenway will be enabled in the interim to peruse them, and furnish me with any suggestions he may consider desirable.

24 The case is not likely to be heard

till after the Holidays; The information sought for in this letter will therefore I apprehend be in sufficient time if furnished to me at the opening of the offices.

25 The papers which accompany I shall require to be returned to me with the information here sought for.

I have the honor to be
Sir,
Your Most Obedient Servant
Wm. S. M.
Government Pleader
Madras

No 1187
1865/6

Trichinopoly N. 1 Range Office
11th December 1865. 33

From Lieut Col. J. Greenaway
Executive Engineer
Trichinopoly
To Colonel C. A. O. B. C.
Secretary to Government
Fort St. George

Sir, I have the honor in continuation of my letter N. 1182 of this date to submit replies to much of Mr. Daks letter N. 177 of 6th instant. as I can answer without reference to other Departments or authorities.

Para 5. An Arungal account is the general register of cultivation for the year, it contains each field waste or cultivated and shows different species of crops, furnishes all particulars required for annual examination of crops and settlement of all accounts connected with each field, in what particular way the one specified may refer to the suit can only be determined after seeing it and probably after reference to the Salispleme authorities.

Para 7. Pymach register is a register of fields as per survey or as per Mamool account. It is an important document of a permanent nature, shows extent of each Village and of each field contained in it, shows also all changes of a permanent nature in tenure kind class or prigation, one copy is kept by the Village Curmums, one in the Taluk, the accounts as far as regards area or acreage cannot however be trusted for strict correctness prior to the late revenue survey. Harapostanour is the name of the

Para 10

Trichinopoly N. 1 Range Office
11th December 1865

From Government
Secretary to Government

S. H. D.

Letter to Government
13th December 1865

Field 9

With 13th December 1865

Showing the extent of cultivation in each field.

and the extent of cultivation in each field. The above is in accordance with the instructions from the Government and the instructions from the Government.

Referred to the Executive Engineer at Trichinopoly in continuation of N. 3693, dated 5th instant, and with a request that he will furnish the same as filed for in paras 13 and 22, and submit full information on the several points noticed by the Government.

2. The attention is drawn to paras 23 and 24, and he is requested to communicate with the Superintendent of Revenue survey upon the subject referred to in paras 20.

The subject referred to in paras 20.

13th December 1865

13th December 1865

13th December 1865

13th December 1865

13th December 1865

13th December 1865

13th December 1865

the River itself and the Ancient - so called is the
Ancient - sometimes called by the name of Morronga
Holator as it supplied that Village with water,
from this and from my previous letter the object of
citing Captain Gahagons letter will be evident

Para 13 I do not yet know precisely to what plan the witnesses may have referred but I enclose the Survey taken by Mr Martin, signed by Captain Palmer and verified by myself as correct on the spot by careful personal inspection.

Para 18 According to the Revenue Survey Map the whole of the pincer head opposite the Village of Andapuram is shown as included in the boundary of that Village, but this forms no question in the present case, as no part of the disputed Channel is even alleged to be in Andapuram limits.

Para 20. The piece of land spoken of is the small Triangular piece included in st. 288. There is one palpable error in the lithographed Village Map of Aroor as it is bounded on the East, Northward of the apex of the said Triangle by Valevelapootor & not by Mooringa Kolator as shown in the said Map. The Eastern boundary of Aroor only marches with Mooringa-Kolator from the said apex Southward to a point 25 Chains South of the Harapostanar Ament.

Para 21. The Map said to have been sent has not yet reached me, but I can say for certain that there is no Mumjah land whatever on the East bank of the river belonging to the Salem Zillah existing or even claimed within the limits concerned in the suit now pending. We maintain that within those said limits the Eastern bank has always belonged solely to the Trichinopoly District.

Para

4 Para 22. The map I have sent is a
correct map of the localities in reply to Para
13- 15

13- I am in communication with the
Sup. Rev. Survey, Collector and other authorities
for information on the other points referred.

Have the honor to return the rough
draft of objections.

I have fear

Spencer, Lusk & Co

Executioner Augustus
Friedrichs

Proceedings of the Madras Government.
 Under date the 14th Decr/65

From the Govt Pleader 6th Decr/65 No 177
 From the Executive Eng^r Trichinopoly 14th Decr/65 No 1182
 From - do - do 14th Decr/65 No 1184

Ordered that copies
 of the foregoing letters
 furnished by Engineer
 at Trichinopoly be
 communicated to the
 Govt Pleader.

1 To Govt Pleader
 with 2 plans &
 Draft of Objections Dec^r 14th Decr/65
 To Secy at Trichy 14th Decr/65
 To Secy at Madras 14th Decr/65

[Signature]

[Circular Stamp]

110371-14 Decr 1865

Mr. 1865 Dec 16
 Trichinopoly
 From No 4983
 The Exec. Eng^r Trichinopoly
 To the Secretary to Govt
 & Mr. Madras
 No 1187
 Dated 11th Decr/65
 Trichinopoly
 Dec 14th
 Under 2.
 To Mr. Govt Pleader
 at Trichinopoly
 and at Madras

110371

P. 10. 1865 Department
of Road
Proceedings for December
No 37.71

No. of the Ind. Government
D/14th December 1865.

[Faint handwritten notes and signatures, possibly including 'J. D. ...' and '16/12/65']

Andapuram Chaisel
Ind. Certain correspondence from
the Executive Engineer in charge
on the subject of - communicated
to the Road Pleader.

[Faint handwritten notes, possibly including 'Andapuram' and '16/12/65']