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MADRAS RECORD OFFICE.

Government of Madras.

Public works DEPARTMENT.

G.O. No. 386 Press ~~Mis.~~
~~806~~ 807

Dated 31—1— 18~~46~~.

Not to be folded or roughly handled

ST.

Proceedings of the Madras Government, Public Works Department,
31st January 1866.

No. 806. Read the following letter from the Government Pleader, to the Secretary to Government, Public Works Department, dated Madras, 25th January 1866, No. 14:—

6 h January 1866, No. 4.
8th ,, ,, ,, 5.

In continuation of my letters of the dates and numbers noted in the margin, I do myself the honor of forwarding a copy of the Precept issued by the High Court to the Civil Judge of Trichinopoly, and of that gentleman's return thereto.

In the High Court of Judicature at Madras, Saturday the Sixth day of January, One Thousand Eight Hundred and Sixty-six.

PRESENT.

The Honorable Mr. Justice FREERE,

and

The Honorable Mr. Justice HOLLOWAY.

Special Appeal No. 469 *of* 1864.

Joseph George Ryves, Esq., District Engineer, Special Appellant, (4th Defendant).

and

Appavaiyan and ten 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 Sudr Ameen's Court of Salem in Original Suit No. 3 of 1857.

ORDER.—The Special Appeal coming on for re-hearing—Upon perusing the grounds of Special Appeal, the Judgment and Decrees of the Lower Appellate Court and Court of First Instance, the finding submitted by the Civil Court on the issues referred by this Court and the Memorandum of objections to the said finding, and upon hearing the arguments of Mr. Government Pleader for the Special Appellant, and of Mr. G. E. Branson, Vakeel for the special Respondents, it is hereby ordered with reference to the objection set out in the margin, that the Civil Judge do report within six days from the receipt of this order whether the 4th Defendant had reasonable, and, if so, what notice of the adjournment of the case to the day on which it was finally heard; and if not whether application was made by the said 4th Defendant for time to cause the attendance of his Witnesses and was refused.

"10th. Because the Civil Judge has not afforded to the 4th Defendant a sufficient opportunity of adducing evidence as to the place of arising of the cause of action, inasmuch as though Witnesses on behalf of the 4th Defendant for the purpose of giving evidence on the point were in attendance at the Civil Court on the 16th day of September 1865, the day named for the hearing of the said Appeal Suit, as also of the 27th day of September 1865, to which day the Civil Judge had postponed the hearing of the Suit, yet without giving sufficient notice of the day which ultimately he fixed for hearing the Suit, the Civil Judge heard the Suit on the 25th day of October last and would not allow time for warning the said Witnesses to attend."

By the Court,

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

To the Civil Judge of Trichinopoly, with record and printed paper.

L. S.

1. The Civil Judge has the honor to acknowledge the receipt of the Proceedings of the High Court under date the 6th instant, in the Suit noted in the margin,* directing him to report whether the 4th Defendant had reasonable, and, if so, what notice of the adjournment of the case to the day on which it was finally heard, and if not

* Special Appeal No. 469 of 1864.

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and simply disputed the correctness of the maps produced at the

whether application was made by the 4th Defendant for time to cause the attendance of his Witnesses and was refused.

2. In reply the Civil Judge begs to state that the Proceedings of the High Court in the said Suit, under date 7th August 1865, giving him two months' time, were received by him on the 16th idem, the papers of Interrogatories were transmitted to Salem for the examination of the Witnesses residing there, but they were not returned until the 24th October, as mentioned in this Court's return dated 27th October, the two months time allowed by the High Court having thus been exceeded by nine days, the Civil Judge gave notice to the 4th Defendant that the Suit would be finally heard on the 25th; the 4th Defendant accordingly made his appearance on that day, and simply disputed the correctness of the maps produced at the hearing, but did not apply for time to cause the attendance of any Witness.

3. The Civil Judge has however to observe that before receiving back the Interrogatory papers from Salem, the Tahsildar of Musiri submitted an Urzi to this Court, reporting that he had sent seven Witnesses agreeably to the instructions of the Collector, but they were not examined as the Tahsildar was no party to the Suit.

4. The material papers which accompanied the above Proceedings are herewith returned.

Given under my hand and the Seal of the Civil Court of Trichinopoly this 17th day of January 1866.

(Signed) J. HARRIS, *Civil Judge.*

No. 807. ORDER THEREON, 31st January 1866, No. 386.

CIVIL WORKS, No. 121.

Communicated to the Executive Engineer at Trichinopoly.

(True Extract.)

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

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

Exd. S. T. Augustin.

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* S.A. No 469 of 1864.

The Civil Judge has the honor to acknowledge the receipt of the Proceedings of the High Court under date the 6th Instant, in the Suit noted in the margin, directing him to report whether the 4th Defendant had reasonable and if so what notice of the adjournment of the case to the day on which it was finally heard, and if not whether application was made by the 4th Defendant for time to cause the attendance of his witnesses and was refused.

2 In reply the Civil Judge begs to state that the Proceedings of the High Court in the said Suit, under date 7th August 1865, giving him two months time were received by him on the 16th idem, the Papers of Interrogatories were transmitted to Salem for the examination of the witnesses residing there but they were not returned until the 24th October, as mentioned in this Court's Return dated 27th October, the two months time allowed by the High Court having thus been exceeded by nine days, the Civil Judge gave notice to the 4th Defendant that the Suit would be finally heard on the 25th, the 4th Defendant accordingly made his appearance on that day, and simply disputed the correctness of the maps produced at the

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Tahsildar was no party to the Suit.
4 The material papers which
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are herewith returned.

Given under my Hand
and the Seal of the Civil Court of Trichinopoly
this 17th day of January 1866.

Signed J Harris
Civil Judge

Filed 6 Feb

V

In the High Court of Judicature at Madras

Saturday the Sixth day of January
One thousand eight hundred and
Sixty Six.

Present

The Honorable Mr. Justice Frere
and
The Honorable Mr. Justice Holloway

Special Appeal No 469 of 1864

Joseph George Pynes Esqr District Engineer	Special Appellant (4th Defendant)
and	
Appavayan & 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 Sudr Ameens Court of Salem in original Suit No 3 of 1857.

Order. The special appeal coming on for hearing - Upon perusing the grounds of Special Appeal the Judgment and Decrees of the Lower Appellate Court and Court of first Instance the finding submitted by the Civil Court on the issues referred by this Court and the Memorandum of objections to the said finding and upon hearing the Arguments of Mr. Government Pleader for the Special appellant and Mr. E. E. Branson Vakeel for the Special Respondents it is hereby ordered with reference to the objection set out in the margin that the Civil Judge do report within 6 days from the receipt of this order whether

"10" Because the Civil Judge	

whether the 4th Defendant had reasonable cause of so what nature of the adjournment of the Case to the day on which it was finally heard. and if not whether application was made by the said 4th Defendant for time to Cause the attendance of his witnesses and refused.

By the Court.
Signed J. J. Hutchins
Registrar
Appellate side.

Judge has not afforded to the 4th Defendant a Sufficient opportunity of adducing evidence of the place of arising of the Cause of action inasmuch as though witnesses on behalf of the 4th Defendant for the purpose of giving evidence on the point were in attendance at the Civil Court on the 16th day of Septr 1865 the day named for the hearing of the said appeal suit as also on the 27th day of September 1865 on which day the Civil Judge had postponed the hearing of the Suit. Yet without giving Sufficient notice of the day which ultimately he fixed for hearing the Suit. the Civil Judge heard the Suit on the 25 day of October last and would not allow time for warning the said witnesses to attend."

To
The Civil Judge
of Trichinopoly with record and pencilled paper.

F. S. 1866 Depts

Proceedings of Govt. [illegible] No. 37

From Government Pleader
Madras

To The Secretary to Govt.
Public W. Dept.

Dated 25th January 1866

Received 26 "
(with 2 Enclosures)

C. 14

Forwarding Copies of the Precept of the High Court to the Civil Judge of Trichinopoly and that Gentleman's Return thereto.

No. 386 - 31st Jany 1866.

Vide an order

No. 806. 807

No. 386

Communicated to the Inquiries of the Inchinapolly

to Ex. Engr. Inchinapolly
Supt. Engr. 6th Div.
Asst. Pt. the Capt. [illegible]
Fort St. George
31st Jany 1866