

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	681	Press Mis.
219-50- Dated	16-3-	1868.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
16th March 1868.*

No. 249. Read the following Proceedings of the Board of Revenue:—

Recommending to Government that the services of Honorable Mr. Norton or those of any other Barrister be engaged to appear on behalf of Government for final hearing of O. S. Nos. 3 and 4 of 1867 in Civil Court of Guntur, Kistna District, forwarding to Government Pleader letter and telegram received from Collector regarding those suits, and requesting latter to report when it is probable that final hearings of the suits will take place.

(Here enter 3rd March 1868, No. 1,510.)

No. 250. ORDER THEREON, 16th March 1868, No. 681.

Miscellaneous.

1. The Government are of opinion that as the Government Pleader is acquainted with the case, he had better take charge of it himself.
2. If no objection exists to this arrangement, on which point the Board after consulting Mr. Brockman will report, the Government desire that it be carried out, and in this case the Government Pleader will state what, if any, special authority he requires to appear and plead.

(True Extract.)

(Signed) W. HUDLESTON,

Secretary to Government.

To the Board of Revenue.
,, the Government Pleader.

Ed. S. T. Augustin.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 3rd March 1868.

Read the following papers:—

From H. J. BROCKMAN, Esq., Officiating Government Pleader, to the Secretary to the Board of Revenue, dated High Court House, Madras, 22nd February 1868, No. 23.

1. With reference to the Proceedings of the Board, under date the 20th instant, passed upon a telegram from the Collector of Kistna District, dated the 19th February instant, and requesting me to inform the Board whether, in my opinion, the claims of the Government in Original Suit No. 3 of 1867, and Original Suit No. 4 of 1867, in the Civil Court of Guntoor, are sufficiently clear to enable them to dispense with the services of a Barrister, I have the honour to state that, as far as I can gather, there is very little dispute as to the main facts upon which the Government claims are based. The questions in the two suits will, therefore, probably be found to resolve themselves into the following points of Law, namely, whether, on the Vasseretty Zemindar becoming possessed of the decree in Original Suit No. 50 of 1861, it became liable to the payment of the sums ordered to be paid by him to the Government by the decree of the Privy Council; and whether M. A. Lutchmianarsu Puntulu, having had notice of the claim of the Government previously to the transfer to him of the decree in Original Suit No. 50 of 1861, by the Vasseretty Zemindar, he took the transfer subject to that claim and all liabilities arising therefrom.

2. It appears to me that these are points which (although of great importance) might easily be argued by the Government Pleader at Guntoor, if he is a person of ordinary legal knowledge and ability. The result of the hearing in the Civil Court will, of course, depend greatly upon the mode in which the case on behalf of the Government is handled, and the interest involved in the suits, so far as the Government are concerned, is considerable. Although, therefore, I do not myself see any very great difficulty in the matter of the claim of the Government, I would advise, if there is any doubt whatever of the capacity or ability of the Government Pleader at Guntoor to deal with the cases, that the services of some one, better qualified than himself, should be retained on behalf of the Government for the hearing. It is true that an appeal will lie to the High Court from the decree of the Civil Court of Guntoor, if such decree should be adverse to the Government. The success of such appeal will, however, again greatly depend upon the way in which the case on behalf of the Government has been presented to the Civil Court.

3. It appears to me unnecessary, however, to secure such services for any hearing but the final hearing of the suits. If the hearings respectively mentioned in the Collector's telegram as fixed for the 24th and 28th instant respectively, are only the first hearings for the settlement of issues in the suits, I would suggest that no additional legal services than those of the Government Pleader be made available on behalf of the Government for such first hearings; but that notice be given to the Board of the date fixed for the final hearing of both the Suits, or at any rate of Original Suit No. 3 of 1867, to enable the Board to decide whether counsel should be retained for such final hearing.

From G. THORNHILL, Esq., Collector of the Kistna District, to the Secretary to the Board of Revenue, dated Repalli, 20th February 1868, No. 64.

1. With reference to Board's Proceedings noted in the margin, and my telegram of the 18th instant, I have the honour to inform you that it is said that the hearing in No. 3 of 1867 is fixed for 28th February. Further time of one month had already been applied for to put in an answer in No. 4 of 1867, when on the receipt of Board's Proceedings, No. 1,049, I applied, as reported by telegram, * that both suits might be posted for hearing on the 10th March, in order that, if it should be decided to send up a Barrister on behalf of Government, he might come to Masulipatam by the Steamer which usually leaves Madras on the 4th of each month. The Orders of the Court upon this application will be communicated to the Board without delay.

No. 1,019, dated 12th February 1868.
 " 1,075, dated 16th do. do.

* Copy herewith sent.

1867, were strongly opposed to those of Government, and that he would probably avail himself of any means to effect a friendly compromise with the representative of Ananda Row, the second defendant in Original Suit No. 2 of 1861, and the Zemindar of Devaracottah, the third defendant in that suit; "so that the interests of Government will be equally imperilled either by a compromise of, or decree in, Original Suit No. 4 of 1867, as it now stands, or by any compromise entered into between Lutchminarsu Puntulu, the transfer plaintiff of the decree in Original Suit No. 2 of 1861, and the other parties to that suit."

6. In accordance with the above instructions, a subsequent attempt* of Lutchminarsu Puntulu to have the Collector excluded from Suit No. 3 of 1867 was opposed and defeated by the Government Vakeel at Guntoor, but the twenty-fourth, twenty-fifth, and twenty-sixth defendants were struck out on the plaintiff's application.

* Vide Board's Proc., 9th January 1868, No. 140

7. On a motion† of their Vakeel, Government were also admitted as supplemental defendant in Original Suit No. 4 of 1867.

8. In communicating the above fact, the Acting Collector stated that the Government Vakeel informed him that the representatives of the Potturi family (the twenty-fourth, twenty-fifth, and twenty-sixth defendants) were procuring the services of a Barrister from Madras, and suggested that if it were thought desirable, Government should be similarly represented. The hearing, it was stated, was fixed for 24th February 1868, and a statement was promised to be furnished to the Board as soon as the papers had reached the Collector.

9. The Government Pleader, to whom the Collector's letter was referred, remarked:—"The defendants who are about to secure Counsel on their behalf, are the three representatives of the late Ananda Row, who were the only original defendants in Original Suit No. 4 of 1867, and who were also the twenty-fourth, twenty-fifth, and twenty-sixth defendants in Original Suit No. 3 of 1867, but have since been struck out from the list of defendants in the latter suit. The principal object in causing the Government to be added as parties to Original Suit No. 4 of 1867, was to prevent a collusive arrangement between the plaintiffs and defendants in that suit, the effect of which would be to defeat in some measure the interest of Government. If, in fact, the three original defendants are securing the services of a Barrister for the hearing of that suit, there does not seem to be much probability of such a result. The Government may, therefore, I think safely leave the three original defendants in Original Suit No. 4 of 1867, to battle by their Counsel with the plaintiff in that suit."

10. Mr. Brockman, however, ascertained that the Honourable Mr. Norton's fee for attending in that suit would be Rupees 5,000 plus travelling expenses. He also suggested that in the event of a Barrister being engaged, application should be made for an adjournment of the suit for ten days and for the hearing of both Suits (Nos. 3 and 4 of 1867) together, as it was more important, under the circumstances, that Government should be represented by a Barrister in the former than in the latter suit.

11. The Board in forwarding Mr. Brockman's letter to the Collector observed, that if the presumption referred to in paragraph 10 above were correct, it would be unnecessary to employ a Barrister, but that if the case were otherwise, and both suits could be heard at the same time, the Collector should at once communicate with the Board by telegraph.

12. A telegram, dated 19th February 1868, was accordingly received from the Collector, stating that the presumption referred to in paragraph 10 above was correct, and there was no fear of collusion; that Suit No. 3 of 1867 was by far the more important, and that he had applied for the postponement of both cases until the 10th March 1868, in order that Mr. Norton may avail himself of the Steamer that will leave Madras early in that month.

Can Mr. Norton act for Govt.
here, that he can Counsel in
the High Court for the Govt.
that is the main purpose

C. 126/67

As in this case the Govt
is not liable for the loss

16 March 1947

Recommending to Government that the services of Honourable Mr Norton or those of any other Barrister be engaged to appear on behalf of Government for final hearing of O. S. Nos 3 and 4 of 1867 in Civil Court of Ganboor Kristna district, forwarding to Government Pleader letter and Telegram received from Collector regarding those Suits, and requesting letter to report when it is probable that final hearings of the Suits will take place.

1885-1886