

(1) Number of pages _____

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(3) Initials of the Referencer _____

MADRAS RECORD OFFICE

Government of Madras

Public Works DEPARTMENT

G.O. No.	2821	Press	<i>Original</i>
B.P. No.		Mis.	
Dated	23-10-1876	195-	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
23rd October 1876. No. 2,821.*

No. 330. Read the following letter from Major H. L. PRENDERGAST, R.E., District Engineer, North Arcot, to Major-General G. W. WALKER, R.E., Secretary to Government, Public Works Department, dated Vellore, 12th October 1876, No. 2,227 :—

With reference to G.O., No. 1,898, dated 26th July 1876, I have the honor to report that the appeal case has been dismissed by the District Court with costs in favor of the Overseer.

1 Judgment.
1 Decree.

I enclose copies of the judgment and decree of the Court.

2. The Vakeels having applied for the payment of their fees, &c., the Government Vakeel at Chittoor has been requested to put in a motion for the recovery of the costs of the case, viz., Rupees 291-12-4, from the Appellant.

No. 331. ORDER THEREON, 23rd October 1876, No. 2,821.

ESTABLISHMENT, No. 24-A.

RECORDED, with reference to G.O.,
26th July 1876, No. 1,898.

(True Extract.)

Major-General, R.E.,
Secretary to Government.

To the District Engineer, North Arcot.
" Examiner of Public Works Accounts.
" Chief Engineer for Irrigation.

Exd. E. C. Shunker.
Spare Copies

... ..

judgment

In the District Court of North Carolina
Present.

D. G. Plummer Esq. District Judge

Appeal Suit No 61 of 1876.

C. recovers. Pupils 2494

in the matter of execution.

to the Department of Public Works

Plaint states that on 28th Dec

Oversee Nationalism Nazism Jewry

plaintiff the contract, certain

Ten pounds per hundred

In August following, B.

valley, agreed with Overseer Moore.

brother, who succeeded him

Magister) to take in 1 Plaintiff

The Contract as heretofore Plainly

capable of doing the work himself

As frequently these two plants

Eight hundred and thirty
dollars and no cents that they
judgment

In the District Court of North Carolina
Present.

C. G. Plummer Esq. District Judge
Appeal Suit No 61 of 1876

Plaintiff recovers Rupees 2497-7-1/2 due
in the matter of a contract made
with the Department of Public Works.

Plaintiff states that on 28th Chy.
Overseeer Radanum Nagam gave 2^d
Plaintiff the contract of certain
work to be done to the Chola
Tank pond for Rupees 4000.

On August following 2^d Plaintiff
orally agreed with Overseer Moosava
Mudali (who succeeded Radanum
Nagam) to take in 1st Plaintiff in
the contract as he 2^d Plaintiff was
unable to do the work himself.
Subsequently these two Plaintiffs
connected

Consented to the earth work
on South bound of the Tank (Cost
Rupees 500) being given to others
for execution. Plaintiffs did the
masonry and earth work and
portion of the sloping and received
Rupees 682-9-0 for the same and were
going on with sloping, while 1st & 2nd Def^{ts}
the Overseers in collusion with 1st Def^t
who was only a partner for 1/6 share
under 1st Plaintiff paid to 1st Def^t
Rupees 1127 out of the balance Rupees
2497-7-0 due to Plaintiffs for work
executed for by them. Plaintiffs in
consequence delayed the turfing
& 2nd Def^t went thereupon and
away that work also (cost Rs 300)
to be done by others. Hence deduct
to Rupees 2497-7-0 as shown below
Contract Amount Rupees 4000-0-0
Deduct
Earthwork given to others Rs 500-0-0
Cost of Turfing " 300-0-0
Relinquished to Plaintiffs " 20-0-0
Received by Plaintiffs " 682-9-0
Balance Rs 2497-7-0

1st Defendant inherited
the suit and that they
made 2nd Defendant state that
they did not show that the work
was given on contract or to
1st Plaintiff on 28th July 1878
Overseers are not authorized
on two sides on contract that
contract was given to Plaintiffs
Plaintiffs right to have executed
agreements and paid the requisite
deposits that there is no thing to
show that this was done. That 2nd Def^t
is informed that the Overseers who
had been in charge before him gave
the work to 1st Plaintiff and Plaintiff
declining to undertake it. That 2nd
Plaintiff and 1st Defendant carried
on the work and Plaintiff afterwards
was allowed to join them. That on
account of their mispractices
the work was taken from them
& given to others and that they
were paid for what they did.
After

After 2^d Defendant took
Charge of the Sailing, he likewise
gave part of the work to 2^d Def^d
that Plaintiffs took no objection
to it. that Plaintiffs never did
any work completely and that
what they did was done imper-
fectly. that the works & the tank
were done by several others and
their dues paid. that Plaintiffs
also did certain works and that they
are 300 and odd is due to them
and that Plaintiffs alone are to
blame for not receiving it and
that Defendant is not bound
to pay the amount claimed.

3^d Defendant states that his
brother 1st Defendant in the end of
1872 received his share in the family
property and lived separately
that neither this 3^d Defendant
nor 4th & 5th Defendant, who are

under his protection inherited
any of his property. and that they
are therefore not liable to suit.

4th The 6th Defendant widow of 1st
Defendant says that her husband
was entitled to $\frac{1}{3}$ share in the
profits and not to $\frac{1}{6}$ share.

As Plaintiffs gave no satis-
faction the work was taken away
from them. so 1st Defendant left
the Plaintiffs and separately
applied for certain works and
was paid the amount as stated
in plaint. that Plaintiffs never
paid anything to 1st Defendant for
works done by 1st Defendant &
Plaintiffs jointly.

The Mooniffet these issues.

Whether the entire work
in question was given to Plaintiff
in August 1872 for Rupees 4000
on task work or contract.

2. Whether Plaintiffs did
work

Case 1. Rupes 3800/1990

Defendant was by virtue of his office empowered to get the works or any portion thereof done by others and if so under what circumstances.

4. If Plaintiff did work for Rupees 900 alone who dist. the rest and under whose order.

5. Whether 2nd Defendant was wrong in paying Rupees 1127 to 1st Def.

6. Whether Defendants 3 & 4 are liable to 1st Defendant's debt.

The Munsiff found upon all the issues. On the last he held that the partnership between Pffs 1 & 2 Defs was dissolved by 1st Def's death and that he had no jurisdiction under the Contract Act to grant the relief sought for by Plaintiff and dismissed the suit.

1st Plaintiff appeals on the ground

9
found that the Munsiff's judgment is against the weight of evidence and probabilities of the case.

Vaikel Narayan has appeared for the 1st Plaintiff (Appellant).

Vaikel Sundarappa for 2nd Def. & Respondent.

Vaikel Subramanian for 3rd & 4th Defendant (Respondents).

The 3rd Defendant appeared in person.

I am of opinion that the judgment of the District Munsiff should be affirmed.

2. The Plaintiff is a mercantile house & it is very difficult to ascertain what is the precise form of the action but whether it be considered as a suit to recover damages for breach of contract or to recover balance due for work done, as against the 2nd Defendant the Plaintiff must clearly fail.

3. It is quite clear that there is no privity of contract between the

behalf of himself and the Plffs
but the 2^d Defendant had no thing
to do with any private arrangement
entered into by Plaintiffs and 1st
Defendant. He paid the main (1st Defd.)
by whom the work was substantially per-
formed.

9. There can be no doubt of the
correctness of the District Munsiff's
judgment in dismissing Plaintiffs
suit as against 2^d Defendant.

10. I am of opinion that the Dist
Munsiff was equally right in dis-
missing the suit as against the 1st
Defendant's Representatives Defen-
dants 3 & 4.

11. The partnership between
Plaintiffs and 1st Defendant have
been dissolved by Defendant's
death. If the Plaintiffs wish to have
the affairs of the firm wound up in
Court and the assets of the firm
distributed, petitioned under the
Contract Act apply to the Dist
Court under Section 265 of the
Contract Act.

12. In the present suit the
District Munsiff had clearly no
jurisdiction to determine whether
on account of the firm any amount
was due from 1st Defendant's heirs
to the Plaintiffs.

I affirm the judgment of the
District Munsiff and dismiss the
appeal with costs.

Pronounced in open Court
this 12th day of September 1876.

Sept C. S. Plummer
District Judge.

(True copy)

V. V. Daghery Pillai
Head Writer.

Sept Pereira
Apprentice

(True copy)

Chetwender & Major R. L.
District Engineer North Arcot

cont.

Deeds

In the District Court of North District
Pratt.

L. J. Phemes Esquire District Judge
Before the District Court of North District
Original Suit No. 154 of 1875.

Before the District Court of North District
Appeal Suit No. 61 of 1876.

Under Act VIII of 1859.

In the Court of First Instance in the appellate
Court.

Garudareddy of Anelala } 1st Off. Appellant by
in Chendrapurthy Saling } Vakill.
Narasimha Rao.

1. Govindareddy Reddy } 1st 2 to 6 Respondents
(deceased) residing in } 1st 2 to 6
Chendrapurthy Saling } by Vakill Sundar.
2. Mr. Barigah Avaran } 5th 6th 7th 8th 9th
of Chendrapurthy Saling } Vakill Subramanyam
3rd 4th in person.

1st 2nd 3rd 4th 5th 6th 7th 8th 9th
3. Narraimanna Reddy } 1st 2 to 6 Respondents
his younger brother } 1st 2 to 6
4. Ramaswamy Reddy } by Vakill Sundar.
his younger brother } 5th 6th 7th 8th 9th
5. Chinnaiah } Vakill Subramanyam
1st 2nd 3rd 4th 5th 6th 7th 8th 9th
6. Shulassamma } 3rd 4th in person.
in Chendrapurthy.

The aforesaid Appellant (1st Plaintiff) appeals to the District Court of North Arcot against the Decree of the District Munsiff of Sriperiy dated the 29th April 1876 on the following ground.

The Munsiff's judgment is against the weight of evidence and probabilities of the case.

This Court doth order and decree that the judgment of the Court below be, and the same hereby is, affirmed and this appeal dismissed with costs.

Memorandum of Costs

Costs incurred by the Appellant.

Stamp for appeal memo — Rs.	150 — 0 — 0
Do. for copy of Decree —	1 — 0 — 0
Batta for serving notice on the Respondents —	3 — 8 — 0
Stamp for Vakalat —	0 — 8 — 0
Fees of Vakul —	124 — 13 — 7
	<u>279 — 13 — 7</u>

Costs incurred by the 1st Respondent.

Stamp for memo —	1 — 0 — 0
Do. for Vakalat —	0 — 8 — 0
Fees of Vakul —	124 — 13 — 7
	<u>125 — 6 — 7</u>

Costs incurred by the 5th Respondent.

1. Stamp for memo —	0 — 1 — 0
Do. for Vakalat —	0 — 8 — 0
Fees of Vakul —	124 — 13 — 7
	<u>125 — 6 — 7</u>

It is hereby notified that no process for execution shall be issued to enforce this Decree unless some proceeding shall have been taken to keep the same in force within three years next preceding the application for such execution.

Date of Appeal 26th May 1876

Date of hearing 10th September 1876

Date of decree 12th September 1876

Given under my hand and the seal of the Court this 12th day of September 1876.

(Sd) C. J. Plumer
District Judge.

(True Copy)

J. Vadasery Pillai
Read witness

J. Pereira

(Sd) M. S. Srinivasan

"True Copy"
Ch. S. Srinivasan
District Engineer & Archt.

No. 2227

North Arcot,
DISTRICT ENGINEER'S OFFICE,

Yellow 12th October 1876.

From

The DISTRICT ENGINEER,
NORTH ARCOT.

To

The Secretary to Government
Public Works Department
Madras.

Sir,

Enclosures. 2.

1. Judgment

1. Decree.

2

With reference to G. O. No. 1898 dated 26th July 1876, I have the honor to report that the appeal case has been dismissed by the District Court with costs in favour of the Decees.

I enclose copies of the judgment, and decree of the court.

2. The Vakils having applied for the payment of their fees &c., the Government Vakil at Chittoor has been requested to put in a motion for the recovery of the costs of the case, viz. Rs. 291-12-4, from the Appellant.

I have the honor to be,

Sir,

Your most obedient Servant,

Herbert Hendyast Major D.E.

District Engineer, North Arcot.

487-1-76 to 38
- 26-7-78 - 1899.

P.W.D.
1300T76
No. 7320

Case Against Breeder
Henderson -
Reports that the
appeal - has been
dismissed with costs
in favour of -

Subject.

Enclosure 2.5.

No. 2227

Dated 12th October 1876.
Received 13th 11/15

To

The District Engineer,
North Arcot.

From

The Secretary to the
District Engineer,
North Arcot.

No 2821 dt 23rd Oct 1876

Recorded with file
No. 2821 dt 23rd Oct 1876

11/15
16/10

330/31

L. C. Holtby
Secy. M. R.
Chief Insp. for Immigration

Drawn - 3-11-76

Govt. of 1876 Madras.
PUBLIC WORKS.

To the N. B. Galbreath

Issued

Encl.

G. O., *23rd Oct* 1876, No. 2821

Nos. 230 - 331.

Appeal suit Letter
from the Dr. Inge & West
the dismissal of
reporting ~~that~~ the
brought against Mr
Oversee brought by a
Contractor, reversal of

~~Conf no 122~~
~~h-11476~~