Archives 1—10,000—6-10-78.

(1) Number of pages 62

(2) Date of repair 28.4.86 To 30.4.86

(3) Initials of the Referencer bul

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

P.W.D. DEPARTMENT

G.O. No. / B.P. No. 3 ~~W.~~ Press. / 5.6 Mis.

Dated 2.1.1878 197 .

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

2nd January 1878, No. 3 W.

General.

Establishment.

Read the following paper :—

No. 5. From W. S. HARINGTON, Esq., District Engineer, Madura, to the Secretary to Government, Public Works Department, dated Madura, 22nd December 1877, No. 268.

WITH reference to your No. 3,627, dated 30th October, I have the honor to state that, as directed in G.O., No. 2,792, dated 17th October 1876, I submitted copy of the judgment of the Court for the information and orders of Government.

1 Judgment with its translation.
1 Decree.
1 Copy of a letter from the Divisional Range Officer, to the District Engineer, No. 2,015, dated 10th October 1877.
1 Copy of statement of receipts and expenditure.
1 Copy of correspondence between Divisional Range Officer and Messrs. Hicky and Hickry.
1 Copy of notice.
1 Copy of docket from the Divisional Range Officer to the District Engineer, No. 2,823, dated 18th December 1877.

2. But, as I am desired to give the facts of the case clearly, I have the honor to report as follows :—

From Lieutenant Boddy's letter, printed with G.O., No. 2,792, dated 17th October 1876, it appears sufficiently evident that a sum of Rupees 756-9-5 was due by Contractor "Soobramania Pillay" after a final measurement of the whole of the work done by him. I venture to express an opinion that Lieutenant Boddy should at once have proceeded against him on these grounds, instead of which he allowed the Contractor to take the initiative and to bring the present suit which is for the payment of a separate sum of Rs. 600, being the value of certain stones brought since a payment of Rupees 4,500-11-6 was made; this is admitted by the defendant, and this being so I do not see that the Munsif could do otherwise than he did, viz., give judgment in favor of the plaintiff, without paying any heed to the counter claim of the defendant for Rupees 756-9-5, which appears to have been improperly brought forward at that particular time; it should, I imagine, have formed altogether a distinct claim and have been urged long ago and prior to the institution of the present suit. I am no lawyer and do not of course presume to urge the matter from a legal point of view; I merely state these facts for the information of Government and request to be permitted to pay into Court the sum stated by the Munsif to be due, viz., Rupees 720-6-9, as per notice received with Mr. Paynter's No. 2,823 of the 18th instant, as also Rupees 25-8-6, being the amount claimed by the Vakeels engaged to conduct the suit for the defendant.

3. I beg your attention to the expression of the Munsif's opinion that a fresh suit should be filed against Contractor "Soobramania Pillay," Mr. Overseer Williams who overmeasured the work and prepared the bills, and Mr. Hawksworth who paid the Contractor the 25 per cent. withheld by Lieutenant Greer. It is not for me to decide whether such a suit should or should not be filed, but I fear that if instituted it might not be successful, both Mr. Hawksworth and Mr. Williams having died since. "Mooroogasa Moodelly," the present Taluq Overseer of Dindigul, might however be cited as a witness and perhaps a material one.

4. I may mention in conclusion that "V. Soobramania Iyer," the Government Pleader at Madura, whose opinion I asked regarding the case hinted at "collusion," but on whose part he would not state.

No. 6. ORDER THEREON, 2nd January 1878, No. 3 W.

THE District Engineer will pay into Court the sum of Rupees 720-6-9.

2. It is very plain that the counter claim against the plaintiff should have been made *before* the present case arose, and in its not being made Lieutenant Boddy showed want of judgment.

(True Extract.)

Colonel, R.E.
Secretary to Government, P.W.D.

To the District Engineer, Madura.
„ Superintending Engineer, Kistna.
„ Examiner of Public Works Accounts.

Exd. E. C. Shunker.
Spare Copies

Original Suit No. 399 of 1877

Judgment 2

Soobrammea Pillay — Plaintiff
Boddy Esquire Defendant

While the Plaintiff was conducting work on contract in the third Division on the Road No. 5 leading to Checkanoorney in the Dindigul Range, he was directed on the 16th March 1876 by Overseer Chinnasawmy Pillay to stop all work except that of Spreading stones. The sum viz Rs. 832 sued for by the Plaintiff includes the amount retrenched on his Bill till that date and the amounts to which he is entitled as the value of the work done in the processes of levelling & tamping and of stone breaking according to the work under which last measurement has been taken by the Defendant including the value of gravel heaps and earth work measured by the Overseer. After the contract was cancelled the Overseer appropriated the unbroken stones that remained on the work and the Plaintiff claiming Rs. 285-4-0 from the report submitted by the Plaintiff. he was directed in an order dated 21st December 1875 to appear personally before the Defendant at Dindigul. He accordingly made his appearance on the 13th & 14th February 1876 but was told to draw the money from the Periacolum sub Division officer to whom, he was informed, that an order would be sent, but nothing of the kind happened and the payment of the amount due to him was being evaded by the Defendant. Consequently the Plaintiff claims Rs 832 minus 232 (which he has no desire for) the Plaintiff stating that the price of Stones above stated will be sued for in another suit.

2. The Defendant states in his defence that nothing is due to the Plaintiff for the work executed by the latter on contract and that Plaintiff has overdrawn Rs 756-9-5 under the following circumstances. As shown in exhibit No I the Plaintiff has drawn on several occasions Rs 4500-11-6 for stones measuring $3600\frac{65}{96}$ yds which the Plaintiff states to have been used

on the road. When however the measurement was taken for the last time it appeared that the Plaintiff had collected only 2477 c yds. of stones and that those having not been broken and spread over the road according to the estimate, the real cost amounted only to Rs 3118-7-9 leaving an excess amount of Rs 1382-3-9 which had been paid to the Plaintiff. The sum due to the Plaintiff for having conducted work after the last occasion he drew money is Rs 551-1-4 and this together with Rs 74-9-" which was outstanding on the last bill of the Plaintiff comes to Rs 625-10-4. Deducting this amount from the excess amount already drawn by the Plaintiff a balance of Rs 756 9.5 is left still due by the Plaintiff as above set forth. The Defendant further states that the Overseer did not take away any stones from the Plaintiff after the cancelment of the contract and that in consequence of the Plaintiff not having broken the stones and spread them over the road as per terms of contract, this work has been conducted by the Government

3. Exhibits produced by the Plaintiff

(A) The contract measurement account No 2. of 26th May 1873 of the road mentioned in the Plai

(b) The contract measurement account D/26th June /73
of the road mentioned in the Plaint

(C) Do — Do No 7 D/31st March 1874 — Do — Do
(d) Do Do No 8 D/3rd September 1874 — Do — Do
(e) Do Do No: 9 D/ 10th December 1874 — Do Do
(F) Do Do No: 10 D/21st March 1875 — Do Do

(G) The Bill No: I D/1st May 1873 of measuring
the work executed by the Plaintiff

(H) Do — Do No: 2 D/28th May 1873 — Do — Do
(I) Do — Do No: 3 D/26th June 1873 — Do — Do
(J) Do — Do No: 4 D/21st August 1873 — Do Do
(K) Do — Do No: 5 D/30th October 1873 — Do — Do
(L) Do Do No: 6 D/13th November 1873 — Do — Do
(M) Do Do No: 7 D/31st March 1874 — Do — Do
(N) Do Do No: 8 D/4th September 1874 — Do — Do
(O) Do Do No 10 D/21st March 1875 Do — Do

(P) The petition submitted to the Engineer
dated 9th April 1875 requesting to pay at least
moiety of the sum due to him to execute
the remaining work on the road.

(Q) The petition submitted to the Engineer
dated 2nd August 1875 requesting to pay
the sum due to him

(R) Do to Defendant D/14th February 1876 for Do
(S) Do to District Engineer D/29th April 1876 for Do

(T) An order to the Plaintiff D/16th March 1876
by the Overseer Chinnasawmy Pillay to stop
all work except that of spreading stones

(U) The Memo dated 21st December 1875
to the Plaintiff by the Defendant to
appear in person and settle his accounts
for the work he had executed on the road

4 The exhibits produced by the Defendant

(I). The contract certificate dated 10th December
1874 measuring the work on the road upto 6th
December 1874 and the statement shewing the
payment of the sum to the Plaintiff

(II) The statements containing contract
certificates measurement accounts D/9th June 1875
measuring stones collected by the Plaintiff in the
3rd Division on the road.

(III) The statement shewing the expenditure
of Rs 826-10-5 in that Division to execute the work,
given by the Overseer Ramasawmy Naidoo D/
21st December 1876.

5 No witnesses were examined on the
side of the Plaintiff.

The vakeel of the Defendant has
stated in his deposition that if the Court
were to decide that the Defendant

might receive the counter-debt due to him according to Law he is ready to bring forth all evidence he could on his behalf and that in the event of the Court decreeing that the counter-debt could not be paid by the Plaintiff Judgment may be given with reference to the records of the case.

(6) May the court decide the nature of the 5, 6, & 7 accounts marked K. L. M respectively, namely, if they are false or wrongly drawn up.? and may the amount shown in them be set off against the sum claimed in the Plaint? These are the only two points which can be taken into consideration.

(7) The Plaintiff states that out of Rs 832 due to him for having conducted work on contract from 10th December 1874 to 16th March 1876 he has no desire for Rs 232 and that the balance Rs 600 should be paid to him.

(8) The defence put in by the Defendant is this. Rs 4500 had been paid to the Plaintiff on several occasions before the 10th December 1874 and Rs 551-1-4 the price of the work turned out by the Plaintiff after that date together with Rs 74-9-0 being the balance left unpaid on the Plaintiff's last bill amounting in all to Rs 626-10-4 is still due to the Plaintiff. But deducting this latter sum from the amount drawn in excess by the Plaintiff (on bills Ns 5, 6, & 7 which are either false or wrongly drawn up) the amount which should be paid by the Plaintiff to Defendant comes to Rs 756.

9 Accounts up to 10th December 1874 had been settled between the parties. If the Defendant was of opinion that the account was either false or wrongly prepared, the persons who drew up the accounts after examining and putting to rights the work executed on contract after that date and those who supervised such work together with the Plaintiff who has drawn certain excess amount should be sued for in a separate suit and it is not proper to say that such excess amount should be set off against the value of the work done after the above date. The Plaintiff is not the only person liable to such suit and Sections 121 & 195 of Act VIII of 1859 have no bearing on the present case. After all, this suit is not

one claiming any debt (vide Decision given in No. 214 of 1864 reported in page 296 of 2nd Volume of Hight Court Report).

Under these circumstances I am of opinion that the setting off claimed by Defendant should not be enforced and consequently the two points above raised are decided in Plaintiff's favor.

10 As the Suit is solely composed of the above issue (setting off) the merits or otherwise of the exhibits produced on both sides have not been spoken of.

It is therefore decreed that the Defendant do pay to the Plaintiff Rs 600 the amount of the Suit together with the Plaintiff's cost

The Defendant shall bear his own cost.

(Signed in Parsee)
Syed Mahomed Musthapa Sahib
Moonsiff

29th Sept. 1877

True copy

W. Starrington
District Engineer

COURT FEE
GOVERNMENT
EIGHT ANNAS

Venkatammah
2nd Dec

6

[illegible]

1876 ௵ நெ. 399.

[illegible]

1. [illegible] 1875 [illegible] 16 [illegible] 832 [illegible]

Venkatammah
H. Yogoonastah

1st Sheet. Correction – nil
Interlineation – nil

ரூ 285—4—ம் தனக்குக் கொடுக்கவே
ண்டுமென்று பிரதிவாதியவர்களுக்கு வாதி
யவர்கள் [illegible] கொண்டதில்
அது விசாரிக்கப்பட்டு [illegible]
[illegible] 1875 ம் டிசம்பர் மாதம் 2உ
வாதிக்கு விரோதமாய் பிரதிவாதியவர்களுக்கு அனுகூலமா
க உத்தரவுபட்டது 1876 ம் ஜனவரி மாதம் 13உ
[illegible] 14உ [illegible] வாதி [illegible]
டுக் கோர்ட்டில் [illegible]
[illegible] தனக்கு [illegible]
[illegible] பிரதிவாதியவர்
கள் [illegible]
[illegible] தனக்கு [illegible]
[illegible]
[illegible] வைத்ததும்.

[illegible] ரூ 832ல் [illegible]
[illegible] ரூ 232 [illegible] ரூ 600ம்
வாதிக்கு [illegible]
[illegible]
[illegible]
[illegible] வாதியால் [illegible]
[illegible].

2. வாதி [illegible]
[illegible]
[illegible] ரூ 756—9—5
[illegible] வாதி [illegible]
[illegible]
[illegible] வாதியால் [illegible]
[illegible] 3600 $\frac{59}{96}$ [illegible]
[illegible]

Venkatsammule
Hogoomastah

2d Zeit

Correction = "
Substitution = "

கின் ரூ 4500—11—6 கொடுபடச் [illegible]
தீர்ப்பும் கடாசியாக [illegible]
[illegible] 2917 [illegible]
[illegible] வாதியால் [illegible]
[illegible]
[illegible]
II வது [illegible]
யும் ரூ 3118—7—9 [illegible]
யில் ரூ 1382—3—9 வாதிக்கு [illegible]
கொடுக்கப்பட [illegible] தீர்ப்பும் வாதிக்
[illegible]
[illegible] வாதிக்கு [illegible]
[illegible] ரூ 557—1—4 வாதிக்
[illegible]
[illegible] ரூ 74—ஆ 9 [illegible] ரூ 625—10—4
[illegible] ரூ 756—ஆ 9—[illegible] வா
தியால் பிரதிவாதியவர்களுக்குக் கொடுக்க.
[illegible] தீர்ப்பும் [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
தீர்ப்பும் பிரதிவாதியவர்கள் [illegible]
[illegible] கிறார்கள்.

3. வாதியின் தஸ்தாவேசுகள்.

A வாதிக்கு [illegible]
1873 ம் [illegible] 26 [illegible] பிரதிவாதி
[illegible] 2 [illegible]

B. 1873 ம் [illegible] 26 [illegible]
3 [illegible]

Adgomastah

C. 1874௵ மார்ச்சு௴ 31௳யுள்ள ரசீது 7 நெம்பர் ரசீது.

D 1874௵ ஜெனுவரி௴ 3௳யுள்ள ரசீது 8 நெம்பர் ரசீது.

E. 1874௵ பிப்ருவரி௴ 10௳யுள்ள ரசீது 9 நெம்பர் ரசீது.

F. 1875௵ மார்ச்சு௴ 21௳யுள்ள ரசீது 10 நெம்பர் ரசீது.

G. [illegible] 1873௵ ஜூலை௴ 1௳யுள்ள 1 நெம்பர் பில்.

H. 1873௵ ஜூலை௴ 28௳யுள்ள ரசீது 2 நெம்பர் பில்

I. 1873௵ ஆகஸ்டு௴ 26௳யுள்ள ரசீது 3 நெம்பர் பில்

J. 1873௵ ஆகஸ்டு௴ 21௳யுள்ள ரசீது 4 நெம்பரில்

K. 1873௵ அக்டோபர௴ 30௳யுள்ள ரசீது 5 நெம்பரில்

L. 1873௵ நவம்பர௴ 13௳யுள்ள ரசீது 6 நெம்பரில்

M 1874௵ மார்ச்சு௴ 31௳யுள்ள ரசீது 7 நெம்பரில்

N 1874௵ செப்டம்பர௴ 4௳யுள்ள ரசீது 8 நெம்பரில்

O. 1875௵ மார்ச்சு௴ 21௳யுள்ள ரசீது 10 நெம்பரில்

P [illegible] 1875௵ ஜனுவரி௴ 9௳ வரை [illegible].

Q [illegible] 1875௵ ஆகஸ்டு௴ 2௳ [illegible].

R [illegible] 1876௵ டிஸம்பர௴ 14௳ [illegible]

10

S. [illegible]
[illegible] 1876 [illegible]
[illegible] 29 [illegible]

I [illegible]
[illegible]
[illegible]
[illegible]
1875 [illegible] 16 [illegible]
[illegible]
[illegible]

U. [illegible]
[illegible]
[illegible] 1875
[illegible]
[illegible] 21 [illegible]
[illegible]

4. [illegible]

I [illegible] 1874 [illegible]
[illegible]
[illegible]
[illegible] 10 [illegible]
[illegible]
[illegible]

II [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] 1876 [illegible]

Venkatrammah
Hogonnaatchi

யுள்ள [illegible] கணக்கு [illegible]
[illegible]
வேண்டும் [illegible] கணக்கு [illegible]-
III [illegible]
[illegible]
[illegible] 826-10-5 [illegible]
[illegible] கொடுக்கப்பட்ட [illegible]
[illegible] 1876 ரு [illegible] 21 உ
யுள்ள [illegible].

5. [illegible]
[illegible] கொடுக்கப்படவில்லை.

[illegible]

6. 5-6-7 [illegible] K I M [illegible]
[illegible]

Venkataramunlu
Hd goomastah

12

7. 74ம் பசலி வருஷம் 10வது முதல் 75ம் பசலி
வருஷம் 16வது வரை வாங்கின காண்ட்ரா
க்கட்டு வேலைக்காக வாங்கின ரூ 832-
செல்ல வேணும் என்றும் அதில் செலவு
இல்லாத ரூ 232 போக ரூ 600 கிடைக்
க வேணும் என்றும் வாதிவாதம் செய்
கிறார்.

8. ஆம் பசலி வருஷம் 10வது முன் பல
ஊத 74ம் பசலி வருஷம் வாங்கின ரூ 4500 பொ
துடணைகளில் வாங்கி [illegible] அதற்கு யாதொரு வாங்கி
செலவு வேலைகளுக்கு வாங்கின ரூ 55-1-4
ம் வாங்கடாகியாய் பெருக்கொண்ட
மில் இன் பாக்கி வகையில் ரூ 74-9
ஆக 626-10-4 மின் கண்ட ஆக்கட்டு
வேலை வகையில் வாங்கின செல்ல வே
ணும் என்றும் அதில் ஊத பசலி வருஷ
ம் [illegible] 5-6-7
10வது [illegible] ஒப்பந்த [illegible] மாசத்தில் அதிக
பொடதல் [illegible] வேதுகள் [illegible]
பிசகாய் [illegible] வகையில்
ஊத II போடதல் [illegible] வேதுபட்டக்கு
வாங்கி [illegible] வகையால் [illegible]
ஊத ரூ 625-10-4 யும் கழித்து பாக்கி
ரூ 756- வாங்கியால் [illegible] வர்களு
க்கு கிடைக்க வேணும் என்றும் [illegible]
யவர்கள் எதிர்வாதம் செய்கிறார்.

9. ஊத 74ம் பசலி வருஷம் 10வது வரை உடைய
வாங்கினதுக்கு [illegible] பொய்யாக
[illegible] அந்த [illegible] பொசுடி அதிக
மில் செலவு என்று [illegible] யவர்கள் [illegible]
[illegible]

Venkataramiah
[illegible]

[illegible] செய்து கொண்டு [illegible]
[illegible] அந்த [illegible]
[illegible] அநியாய[illegible]
[illegible] கொண்டு [illegible]
[illegible]
[illegible] செய்து [illegible]
[illegible]
[illegible] கொடுக்கவேண்டு[illegible]
[illegible]
[illegible] என்று சொல்லுவது [illegible]
[illegible]
[illegible]
[illegible] 121-195 [illegible]
[illegible]
[illegible]
[illegible]
[illegible] பக்கம் 296. 64 [illegible]
[illegible] 214ல் [illegible]
[illegible]
[illegible] சொல்லு[illegible]
[illegible]
[illegible] 2-
[illegible]
படுகிறது.

10. [illegible] மேல் கண்ட [illegible]
[illegible]
[illegible]
[illegible].

Venkatramulu

[illegible]

௹ 600 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

77ம் [illegible] 29உ

[illegible]

[illegible]

[illegible]

[illegible]

(True Copy)

[illegible]

Venkataramah
Head Goomastah.

Encls: 1 in a letter from the Dist: Engineer, to the Secy: to Govt. P.W. D. No: 268 da 21st October 1877-
22nd December 1877.

1876 O.S. No. 399.

[illegible] Copy Decree

Copy applied for 1st Oct 1877
Stamp papers 2nd Do received
Copy ready 4th Do
for delivery
[illegible]

Dindigul Munsiff's Court dated 29 Septr
In the presence of Syed Mahomed Musthaba
Munsiff. 18

No. 399 of 1876

Contractor Soobramania Pillay son of Arna Pillay residing in South Arna Street Madura } Plaintiff

Lieut. O. V. Bosley R.E. Asst. Engineer, Dindigul Range } Deft.

The Plaintiff claims Rs. 600 from the Defendant for work executed on Road No. 5 leading to Checkanoorny.

Decree

On hearing the pleadings and evidence adduc in this case by the Plaintiff's Vakeels Sivasoobramania Pillay and Seshier and on further hearing the arguments of the Defendant's Vakeels Messrs. Hickey and Hickey the Court decrees that the Defendant should pay the Plaintiff, the sum of Rs. 600 mentioned in the Plaint and his cost viz: Rs. 110 and that the former should bear his own cost.

Amount claimed Rs. 600 – 0 – 0

Particulars of cost to be paid to the Plaintiff by the Defdt. }

Vakalut — Rs. 0 – 8 – 0

Stamp for the Plaint	Rs	45 — 8 —
Batta for Summons Deft	Rs	1 — 8 —
Four applications	Rs	2 — 0 —
Batta for Summons to the witnesses	Rupees	30 — 0 —
Vakeel fees	Rs	30 — 0 —
Total Rupees		110

Particulars of the cost to be forfeited by the Deft.

Vakalat	Rs	0 — 8
Stamps for copy of statement	Rs	0 — 8 —
Stamps for petition	Rs	0 — 8 —
Batta for summons to the witnesses	Rs	0 — 8 —
Vakeel fees	Rs	30 — 0 —
Total Rupees		32 — 0 —

The time for appeal 28th October 1877.

(Signed) Syed Mahomed Mustaba Saib
Munsiff

(True Copy)

W. Farrington
District Engineer,
Madura

16

Venkatramiah
2 Oct /77

[illegible]
1877 [illegible] 29
[illegible]
[illegible] 1877 [illegible] 399
[illegible]
[illegible] 5 [illegible]
[illegible] 600 [illegible]
[illegible] 110 [illegible]
600 [illegible]
[illegible]

Venkatramiah

17

கொக்கொணுடு மட்டக்கும் ஜீராயத்து
இது ய ம வாணிக்கு -
தாவாத்து னகரூ — 600 — " — "

இலவு வியாம்
வாதிக்கு பாதிவாதியவர்கள் கொடுக்கவேண்டியது
வக்கீலத்து — " — 8 — "
முத்திரைபட்டாய 45 — " — "
பதிவணம்பட்டு 1 — " — "
மூணுக்கள் 4/ 2 — " — "
தாகலணம்பட்டு 1 — 8 — "
தாக்கீதுபட்டு 30 — " — "
ரூ — 600 வக்கீல் சம்ப - 30 — " — "
110 — " — "

பிரதிவாதியவர்கள் இலவு
இதுக்கு கொடுக்கவேண்டியது.
— " — 8 — "
வக்காலத்து - " — 8 — "
வியாயபத்திரம் - " — 8 — "
" — 8 — "
தாக்கீது பணம்பட்டு " — 8 — "
வக்கீல சம்ப -30 — " — "
32 — " — "

1877ம் டிசம்பர் மீ 24௳ இந்தயவில் வாதி
அக்கலந்து அவர்கள் அவர்கள்
வாக்கியமாய் காணப்படுகிற
கொடாட்டு அந்த பட்டது
ரூ க்கீழது
இதில் கண்டது ரூ ஸ்டாம்பு
இருக்குது
கா ம ம

Venkasammy

Enclo: 2 in a letter from
the Dist: Engineer, Madura
to the Secy: to Govt P. W. D.
No: 180 dated 21st Oct/77
268, 2nd December/877

திண்டுக்கல் டிஸ்டி
ரிக்ட் முன்சீப்
கோர்ட்டு
1876 ௵ ஒ. ஸூ. நெ 399

டிக்கிரி நகல்

Copy applied for } 1st Oct/77
Stamp paper produced } 2nd Do.
Copy ready for delivery } 4th Do.

Venkataramah

No: 2015

Dindigul Division Office
Palamadura 10th October 1877

18

From

The Executive Engineer
Dindigul Division

To

The District Engineer
Madura

Enclo: 4.
1 copy of letter
1 Judgment (copy)
1 Decree
1 Statement of costs.

Sir,

Letter No 140 of 29-9-77 from Messrs Hickey & Hickey
Letter No 1886 of 29/9/77 from Messrs Hickey & Hickey
Do No 147 of 6-10-77 from Messrs Hickey & Hickey

I have the honor to forward the accompanying copy of correspondence noted in the margin stating that judgment against Government has been passed in Original Suit No: 399 of 1876 on the file of the Dindigul Moonsiff's Court. The authenticated copy of the Judgment and of the Decree that accompanied Messrs Hickey & Hickey's letter No: 147 is also forwarded.

I request that you will be so good as to inform me if an appeal should be put in, and also if I should pay Messrs Hickey & Hickey the costs - Rs 25-8-6 - they claim.

I

I have &c

(Signed) L. W. Paynter
Executive Engineer
Dindigul Division

(True copy)

W. Skarington
District Engineer

Encls: 3 in a letter from the
Dist: Engr: Madura to the
Secy: to Govt. P.W. Dept: 268/180
22nd December, 1877
dated 25th October 1877.

Enclosure to Letter No.

Statement of Receipts and Expenditure.
In connection with Original Suit No. 399 of 1876.
Dindigul District Munsiff's Court.
Soobramania Pillay "Versus" The Dindigul Range Officer.

1876 & 1877		O. S. No. 399 of 1876	Received Rs	a	p	Expended Rs	a	p
Septr	21st	To Court Fee stamp on Vakalutnamah	..	..	..	..	8	..
..	..	Do. Do. on written statement	..	..	..	..	8	..
Febry	26th	By Cheque on the Treasury	10	..	..	..	..	..
June	30	To Court Fee stamp on petition citing plaintiff as witness	..	..	..	..	8	..
July	2nd	Do. Do. on witness process service fees.	..	..	..	..	8	..
Octr	1st	Do. Do. on petition applying for authenticated copy of judgement & Decree	..	..	..	1	..	
..	2nd	Do. Do. on authenticated copy of Judgment	..	..	..	..	8	..
..	..	Do. Do. on Do. Do. of Decree	..	..	..	1	..	..
..	5th	Copyist Fees for Do. of judgement & decree	..	..	..	1	15	6
..	..	Pleaders Fees as allowed by the Court @ 5 per cent on Rs 600				30	..	..
		Total Rupees	10	..	..	35	8	6
		Amount due to Messrs. Hickey & Hickey	25	8	6	..	..	..
		Grand Total Rupees	35	8	6	35	8	6

Dindigul
6th October 1877

(Signed) Hickey & Hickey
Pleaders.

(True Copy)

W. S. Harington
District Engineer,
Madura

10827/77
4

Encls: 4 in a letter from the
Dist: Engineer, Madura
to the Secy: to Govt. P.W.D.
268 22nd December 1877
No: 180 d/ 21st Decr/77.

No 140
1877

To
The Executive Engineer,
Dindigul Range,
Dindigul.

Sir,

In Re: Original Suit No 399 of 1876.
We have the honor to inform you that our Plea of Set off in the above suit not being allowed by the Court judgment has been passed against Government. Judgment for Plaintiff with Costs. Pronounced this day.

You will be good enough to inform us whether you require a copy of the judgment and of the decree in the said suit.

Awaiting instructions,

Dindigul,
29th Septr 1877

We have &c
(Signed) Hickey & Hickey
Pleaders.

No 1886

Dindigul Division Office
Dindigul 29th September 1877

From
The Executive Engineer
Dindigul Division

To
Messrs Hickey & Hickey,
Pleaders, Dindigul

Gentlemen,

In reply to your letter No 140 of

District Engineer

this date, I have the honor to state ~~that~~ I do require a copy of the Judgment and Decree in Original Suit No 379 of 1877, and request that you will be so good as to obtain and forward it to me.

I should also be obliged by your informing me if you would recommend us to appeal.

I have &c
(Signed) L. H. [illegible]
Executive Engineer
Dindigul Division

No 147/1877

To
The Executive Engineer
Dindigul Division
Dindigul

Sir,

As requested in your letter No 1886 dated 27-9-77 we have the honor of forwarding enclosed an authenticated copy of the Judgment and of the Decree in O. S. No 379 of 1876; and beg to state that we are of opinion ~~that~~ the Court should have allowed the Plea of set off and not have driven the Defendant to a cross action. For the right of "set off" exists where there are cross demands arising out of one and the same transaction, or when they are so connected in their nature and circumstances as to make it inequitable that the Plaintiff should recover and the Defendant be driven to a cross suit. Also

in a suit to recover money due under a contract it was held that the Defendants were entitled to "set off" the amount of damages they [illegible]; that they had sustained by reason of the Plaintiffs' breach of the Contract. It would be well to try an appeal.

The Government Pleader had better be consulted before taking any steps in the matter: If you intend appealing you will have to put in your appeal on or before the end of this month.

We beg to enclose also a Statement of Receipts and Expenditure in connection with this suit. (O.S. No 379 of 1876) from which you will perceive ~~that~~ a sum of Rs 25-8-6 is due to us. An early remittance of this sum will oblige

We have &c

Dindigul,
6th October 1877

(Signed) Hickey & Hickey
Pleaders.

True copy
L. H. [illegible]
Exe Engr

District Munsi

Enclo: 5 in a letter from the Dist. Ranger, Madura to the Secy. to Govt. P.W.D.
28th 22nd Decemr 1877
No. 180 dated 21st Octr /77

In the District Moonsiffs Court
Dindigul In O. S. No. 399 of 1877.

Subramonia Pillay Contractor - Plaintiff

Assistant Engineer Dindigul Range } Defendant

To

The Defendant

Whereas an application has been made by the Plaintiff to this Court for execution of decree passed in the case you are hereby requested to pay the said decree amount together with Costs specified hereunder, to this Court or to show cause why the execution of decree should not be issued.

Amount decreed	600	"	"
Costs	110	"	"
Costs in execution	9	14	9
Notice Battah	"	8	"
Total	720	6	9

December } 1877 }

(Signed) in Hindoostani
Moostafa Saib
District Moonsiff

(True Copy)

W. Sevinston
District Engineer
Madura

Encl: 6. in a letter from the Dist
Engr. Madura to the Secy to Go
No. 268 d/22 Dec/77.

P. W. 12334/77

Copy of notice.

---

the amount with costs of the decree passed against this department, or show cause why the execution of the decree should not be issued.

Kindly let me know soon what I am to do.

I have &c

(Signed) L. W. Paynter
Executive Engineer
Dindigal Division

(True Copy)

W. Sharrington
District Engineer
Madura

P. W. D.

Dindigal Division Office
camp Dindigal
18th December 1877

No. 2,823

From

The Executive Officer
Dindigal Dn
Madura District

To The District Engineer
Enclosure 1 Madura

Sir

I have the honor in continuation of my No. 2015 dated 10th October last to forward for orders the accompanying notice from the District Moonsif of Dindigal, calling upon me to either pay Rs 720-6-9,

Enclo: 7. in a letter from
the Dist Engr Madura
to the Secy to Govt D.P.W.
No 268 d/ 22 Der /77.

Copy of Dindigul R.O.
letter.

District Engineer's Office,
Madura 22nd December 1877.

No. 268

From,

W. S. Harington Esqre.
District Engineer, Madura.

To,

Colonel C. A. Foord R.E.
Secretary to Government. D.P.W.
Madras.

Sir,

With reference to your No. 3627 dated 30th October I have the honor to state that as directed in G. O. No. 2792 dated 17th October/76, submitted copy of the judgment of the Court for the information and orders of Government.

2. But as I am desired to give the facts of the case clearly I have the honor to report as follows.

From Lieutenant Boddy's letter printed with G. O. No. 2792 dated 17th October 1876 it appears sufficiently evident that a sum of Rs. (756-9-5) seven hundred and fifty six annas nine & pies five was due by Contractor "Soobramania Pillay" after a final measurement of the whole of the work done by him. I venture to express an opinion that Lieutenant Boddy should at once have proceeded against him on these grounds, instead of which he

Enclosures: 7.

1. Judgment with its translation
1 decree
1. Copy of a letter from the D.R.O. to the Distt Engr No 2015 d/ 10th Octo/77.
1. Copy of Statt of receipts & expendre.
1. Copy of Correspondence between D.R.O. & Messrs Hickey & Hickey
1 Copy of Notice
1 Do of docket from the D.R.O. to the Dist Engr No 2823 d/ 18 Decr/77.

allowed the Contractor to take the initiative and to bring the present suit which is for the payment of a separate sum of Rs (600) Six hundred being the value of certain stores brought since a payment of Rs (4500-11-6) four thousand and five hundred annas eleven & pies six was made, this is admitted by the Defendant, and this being so, I do not see that the Moonsiff could do otherwise than he did viz: give judgment in favor of the Plaintiff without paying any heed to the counterclaim of the Defendant for Rs (756-9-5) seven hundred and fifty six annas nine & pies five which appears to have been improperly brought forward at that particular time. it should I imagine have formed altogether a distinct claim and have been urged long ago and prior to the institution of the present suit. I am no lawyer and do not of course presume to urge the matter from a legal point of view; I merely state these facts for the information of Government and request to be permitted to pay into Court the sum stated by the Moonsiff to be due viz: Rs (720-6-9) seven hundred and twenty annas six & pies nine as per notice received with Mr Paynter's No 2823 of the

18th Instant as also Rs (25-8-6) twenty five annas eight & pies six being the amount claimed by the Vakeels engaged to conduct the suit for the Defendant.

3. I beg your attention to the expression of the Moonsiff's opinion that a fresh suit should be filed against Contractor "Soobramania Pillay" Mr Overseer Williams who overmeasured the work and prepared the Bills and Mr Hawksworth who paid the Contractor the 25 per cent withheld by Lieut Greer. It is not for me to decide whether such a suit should or should not be filed, but I fear that if instituted it might not be successful both Mr Hawksworth & Mr Williams having died since. "Moorogesa Moodely" the present Taluq Overseer of Dindigul might however be cited as a witness and perhaps a material one.

4. I may mention in conclusion that "V. Soobramania Iyer" the Government Pleader at Madura whose opinion I asked regarding the case hinted at "collusion" but on whose part he would not state.

I have the honor to be,
Sir,
Your most obedt servt
J. Scarington
District Engineer

From,

The District Engineer,
Madura

To,

The Secretary to Govt.
D.P.W.
Madras.

No. 268.

Dated 22d December /77.
Recd.

Encl: 7.

GO-2792-17 Octr/76
CE memo 3627 d/ 30th Octr/77 -

Contractor Soobrania Pillay reports regarding the suit filed by the -

Cir - 28-12-77

No 3 W

Genl 88108

Public Works Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT. 39

Under date the 2nd January 1878

Read the following :—

Letter
From D. Engr Madura (W.D.) No 268 of 22nd Decr 1877.

The District Engineer will pay into Court the sum of Rs 720- 6- 9.

It is very plain that the Counter claim against the plaintiff should have been made before the present case arose, and in its not being made Lt Boddy showed want of judgment.

EAT 27/12

D.E. Madura. 7
S.E. Kistna. 6
Ex. P.W.A. 5

17

Despd 9-1-78

Villay Hint

C/o 3335

Govt. of {1877} Madras.

PUBLIC WORKS.

Recd. 5-1-78

To the D. E. Madura

Dated

Issued

Recd. Encl.

G. O., 2 Jany 1878 No. 36

Nos.

mit sanctions with

ms to the payment

t. Court the sum of Rs

720-6-9 in connection with

the brought against

Boddy Esq Contractor

olramma Pillay of the

adura Dt.

Entd in Regr