

(1) Number of pages 34
(2) Date of repair 6. 11. 86.
(3) Initials of the Referencer lmg

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Public works. DEPARTMENT

G.O. No.	1650 W	Press.
B.P. No.		Mis.
Dated	19. 6. 1879	<i>[Signature]</i>

LC

Not to be folded or roughly handled

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(17)
GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

19th June 1879, No. 1,650 W.

General.
Establishment.

Read the following paper :—

No. 99. From G. T. WALCH, Esq., Acting Superintending Engineer, First Circle, to the Chief Engineer, Buildings and Roads, dated Dowlaishvaram, 20th May 1879, No. 405 G.D.

With reference to G.O., No. 2,026 W, dated 8th December 1877, I have the honor to submit, herewith, copies of judgment and decree of the District Court, Godavari, on the appeal against the judgment of the Subordinate Court of Cocanada in the suit instituted by P. Mulliah, the Contractor who supplied materials for the Vakalapudi Light-house.

2. It will be observed from the above documents that the decree passed by the Subordinate Judge of Cocanada in favor of plaintiff (Mulliah) was reversed with costs, and judgment passed in favor of Government.

3. I shall be obliged by your obtaining the sanction of Government for the payment of the Pleader's fee amounting to Rupees 54-13-0.

No. 100. ORDER THEREON, 19th June 1879, No. 1,650 W.

The payment of the Pleader's fee, amounting to Rupees 54-13-0, is sanctioned.

(True Extract.)

Major, R.E.,
Ag. Under Secy. to Govt., P.W.D.

To the Superintending Engineer, First Circle.
" Examiner of Public Works Accounts.

Exd. E. C. Shunker.
Spare Copies

GENERAL
ESTABLISHMENT.

Govt. of [1879] Madras.
PUBLIC WORKS

To

THE SUPERINTENDING ENGINEER,
FIRST CIRCLE,
&c., &c., &c.

Dated June 18th.

From

Recd.

Encl.

G. O., 18th June 1879, No. 1,650 W.

JUNK

Nos. 99-100.

Suit.—Sanctions the payment of the
Plender's fee for defending the — brought
by P. Malliah, Contractor for the Vakar-
pudi Light-house.

Stamp-

20th 3. 1879.

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K. Ramakrishnayya

Master Clerk.

In the District Court of Godavari
Appeal Suit No. 372 of 1877.

Appellants. Versus Respondent

J. C. Larmine Esquire

Range officer Samalcotta
is on furlough to England
and represented by

2. P. Malliah Esquire
Aided Supervisor and
in charge of Ditto.

Polisetto
Mallayya.

Appeal from the Decree of the
Subordinate Court of Coconada,
dated 17th day of October 1877 in
original Suit No. 4 of 1877.

Polisetto Mallayya. Plaintiff
Versus.

J. C. Larmine Esquire Range officer
Samalcotta is on furlough to England
and represented by

2 Parakoti Subbaya Naion } Defendants
Supervisor in charge of Datto. } 1650
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Judgment.

This was a suit for damages on account of loss sustained by the Plaintiff in consequence of the 1st Defendant who was a Range officer in the Department of Public Works having withdrawn from him a contract for the construction of a Light House at Takalapudi.

The Lower Court decreed in favor of the Plaintiff to the amount of Rupees (529-12-0) That Court heard a large number of witnesses to prove loss in consequence of the materials having been supplied but not used in consequence of the Plaintiff's discontinuance from the Contract.

Those witnesses however were for the most part employees of the Plaintiff who would perhaps come forward in a case like this in
reputation

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reputation of obtaining a share in
the sum awarded to the Plaintiff.

The Lower Court was alive to the
irreliability of the evidence,
thus that it was remarked in paragraph
25. "It is not safe to place any
reliance upon the account books of
the Plaintiff." "The Plaintiff, C. D. C. and J."
"For the oral evidence given by the Plaintiff
1st & 3rd witnesses to the correctness
of the accounts is not satisfactory."
"They were never examined by the
Plaintiff in the course of the
business. Further the 2nd witness
stated in his cross examination
that he paid half a Rupee per
one cubic yard of stone supplied
to the Light House and entered the
same in the account book D,
but when this witness was asked
by the Defendants Pleader to show
such an entry in the account
book the book into his hands, read

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"The items for some time in certain
"pages and said at last that he
"could not find any such item in it."

When the documentary evidence
is untrustworthy, perhaps forged
for the purposes of the suit. I
am of opinion that the oral evidence
being chiefly as ^{has} been already
remarked, that of the employees
of the Plaintiff is entitled to little
Credit.

And this was a remarkable feature
of the case. The Plaintiff sought to fix
the liability of the 1st Defendant upon
him personally and not as a servant
of the Government. This action was
therefore intended to serve the double
purposes of indemnifying the Plaintiff
for alleged loss and at the same time
of punishing the 1st Defendant for
being dissatisfied with him.

A suit of this kind should therefore
be regarded with the ^{greatest} suspicion.

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Officers in the Department of Public Works have from time to time in the due discharge of their duty to reject inferior materials fraudulently supplied by Contractors. It would be disastrous if they could be made to bear from their own purse the risk of such acts except upon the clearest proof that there was no valid reason for incurring such risk.

In the present case it is unnecessary to go into the merits of this Consideration in as much as another defence has been made to the suit vizt a discharge of all claims due to the Plaintiff by the 1st Defendant. This defence is evidenced by exhibit A. I. It is an acquittance in full signed by the Plaintiff in respect of all claims due up to the date on which it was granted.

The Plaintiff however replied to this defence by saying that

he did not know the meaning of ¹⁶⁵⁰ the document when he signed it ⁷ as it was in the English language which he appeared to say he did not understand.

This is a defence which cannot be accepted. It was possible for the Plaintiff to have had the receipt translated before he signed it, or he need not have signed it. Moreover the receipt was in a printed form with a number at the head. It is not unreasonable to presume that the Plaintiff during his business as a contractor had seen such forms before and knew their meaning. I am of opinion that this receipt contains a complete defence to the suit.

The Decree of the Lower Court will therefore be reversed with cost

Given under my hand this
19th day of December 1878- $\frac{1650}{8}$

(Signed) John Wallace
Acting District Judge

(True Copy)

7th & last pay.

(Signed) H. Rana Kristappa
Head Clerk

(Signed) M. B. Paupich
Sheriff

Copy applied for 20th January 1879

Ready for delivery 20th March 1879

(Copy of True Copy)

(Signed) M. B. Paupich

Manager

Super. Engineer's Office P. Circle

Copy



20th 3-1879

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Stamp - ~~1879~~ Ramakrishna

Read Order.

In the District Court of Godavery.
Appeal Suit No. 372 of 1877.

Appellants Versus Respondents

- 1 J. C. Larminie Esquire
Range officer Samalcotha
is on furlough to England
and represented by
- 2 Parakoti Subbaya Naidu
Supervisor and incharge of
Ditto.

Potisetla Mallayya

Appeal from the Decree of the
Subordinate Court of Coconada
dated 17th day of October 1877 in
original Suit No. 4 of 1877

Potisetla Mallayya Plaintiff

- 1 J. C. Larminie Esquire, Range
officer Samalcotha is on furlough
to England and represented by.

2 Parakoti Subbaya chaidu } 1650
Superior in charge of Ditto } 11
Depts. dants

The 2nd Defendant above named to the District Court of Goswary against Dure of the Subordinate Court of Coconada in the above suit dated 17th day of October 1877 for the following reasons.

I That the Decree of the Subordinate Judge is based on presumptions and is contrary to law and record.

II That the lower Court placed a wrong construction upon receipt St. I, by which the Plaintiff is clearly prevented from bringing the suit.

III That the Plaintiff having admitted the receipt of the amount mentioned in receipt St. I and his signature thereto affixed, excuses himself by saying that he did not understand its contents as it was written in English, but that the evidence adduced on behalf of the Defence, proved that the Pla

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did not understand the meaning of
the receipt.

IV. That the whole transaction belongs
to Government as the 1st Defendant
who was in the employ of Government
carried on the work on behalf of the
Government: but that the lower Court
exonerously passed a Decree making the
judgment debt person against the 1st
Defendant.

V. That the 2^d Defendant requests
the Court to reverse the decree of the
Lower Court and to dismiss the
Plaintiffs Claim with Costs.

This Appeal coming on for hearing
on 19th day of December 1878 before
John Wallace Esquire Acting Dist.
Judge in the presence of Mr J E
Anderson Takil for the Appelle
and of K Ramalingasastri Tak
for the Respondent it is ordered that
the Decree of the Lower Court be a

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the same hereby is reversed with Costs.
The Costs of this appeal amounting
to Rupees (69-11-0) sixty nine and annas
four only are to be paid by the Plaintiff
to the Defendants. The Costs of the
original suit are to be paid by the
Plaintiff to the Defendants.

Given under my hand this 19th day
of December 1878.

/ Signed / John Wallaw
Acting District Judge

(True Copy)
u.s. 46 page

/ Signed / K. Ramakrishna / Signed /
Deputy Clerk - Christian

Copy applied for 20th January
Ready for delivery 20th March
/ By / K. Ramakrishna
Deputy Clerk.

/ Copy of true copy /

W. D. D. Manager
Superintending Engineer
Office
Circular

Comp.
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the

NO. 405 ^{G.O.} Roads and Buildings. 1650
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FROM,

THE OFFG. SUPERINTENDING ENGINEER
1st Circle
GODAVERY DISTRICT.

TO,

THE CHIEF ENGINEER

FOR ROADS AND BUILDINGS.

Encls. 2

1 Copy of
Judgment
100 decree on

SIR,

CAMP DOWLAISHWERAM, 20th May 1879
Despd 27th

With reference to G.O. No. 2026 dt. dated
8th December 1874, I have the honor to submit
herewith, copies of Judgment and decree of
the District Court Godavari on the appeal
against the Judgment of the Subordinate
Court of Ceamada in the suit instituted
by P. Mulliah the Contractor who supplied
materials for the Takalapudi Light House.

It will be observed from the above
documents that the decree passed by the
Subordinate Judge of Ceamada in favor
of plaintiff (Mulliah) was reversed with
costs, and Judgment passed in favor of
Government.

I shall be obliged by your obtaining
the

the sanction of Govern-
ment for the payment of
the Pleader's fee amounting
to Rupees 54-13-0-

I have the honor to be,

Sir,

Your most obedient Servt

P. N. S. S. S.

As Sup^r Eng^r 1st Circle.

Roads and Buildings.

FROM

As
THE OFFG. SUPERINTENDING ENGINEER

1st Circle
GODAVERY DISTRICT.

TO,

THE CHIEF ENGINEER

FOR ROADS AND BUILDINGS,

DATED 20th
RECEIVED

May 1879.

No. 405 G.D.

ENCLOSURE 2.

Malliah P. Contractor for the
Vakalapudy Light-house -
Suit brought by - against
Government. Forwards copies
of Decree and judgment passed
by the District Court in the
appeal - and requests to obtain
sanction of Government for
paying fee &c.

Ms. No. 2026 N. 3-12-77

No 717-6-77 & 1651/77

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Kaf

No. 2026 N. 3-12-77. Dtd 17.6.79.

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Loy

Go No 1650 W
19/6/79

Enclosure in a letter
No 405 G.D. dated 20th May/79
from the Supr. Engineer's Office
to the Chief Engineer for
Roads & Buildings.

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1650 N^o Public Works Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Under date the 19th June 1879

Read the following:—

From
The Supp. Eng. First Circle } (No. N^o 405 G. D. 20th May 1879)

The payment
of the pleaders fee,
amounting to Rs 54-13-0
is sanctioned.

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9/6/79

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A. W.

Am in 13 No 97 9 19-6-79

2nd Communications phase
19/6
S. E. First Cuck
Hammer & W. C.
Depd. 27-6-79

Cir 9-6-79. Det 17-6-79
to Det 4-6-

C. 420
G.O. No. 1879 of (1879) Madras.
PUBLIC WORKS.

To

Dated

Issued

Recd.

Encl.

G. O., 19 June 1879, No. 1630 W

Nos. 99-100

Sanction the
payment of the Pleader's
fee for defending the
sue by P. Malliah,
Contractor for the Pakhal
pudy light house.