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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Public Works

DEPARTMENT

G.O. No.	1592	W	Press.
B.P. No.			Mis.
Dated	6.6.1983		198

Not to be folded or roughly handled.

27/8/87

1592
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GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

General
Establishment.

READ—the following letter from J. C. JOHNSTON, Esq., Executive Engineer, Madura Division, to the Superintending Engineer, Sixth Circle, dated Madura, 19th May 1883, No. 368:—

With reference to your endorsement, No. 568 M.D., in G.O., No. 3435 W., of 27th December 1882, I have the honor to forward, herewith, for orders, a copy of judgment and decree passed by the Sub-judge of the Court of Madura, East, in the suit instituted against me by Contractor Moothuswamy Naik for the recovery of Rs. 39-3-6, said to be due for work done to the Telegraph Office at Pámban.

2. Mr. J. L. Pole, Barrister-at-Law, defended the suit on behalf of Government. He adduced all the documentary evidence available, explaining to the Judge, as well as he could, the system of accounts and payments as practised in this department. From these accounts I found that taking it for granted that the contract had been fully worked out by the plaintiff, no more than Rs. 16 or so were due. The Sub-judge alludes to a letter I wrote to Colonel Beatty soon after I joined the district, and in which I recommended the payment of the claim, because there being a balance of that amount, it appeared probable that something was due. Colonel Beatty, however, called my attention to Mr. Grimes' notification, of which I had not been aware at the time I wrote the letter alluded to above, and refused to consider the claim at all.

3. I should like to be informed whether notifications, such as Mr. Grimes' in the Gazette, do legally limit the bringing forward of claims by contractors at dates long after those fixed in those notifications.

No. 110 M.D.

Forwarded to the Chief Engineer, Public Works Department, with copies of judgment and decree, for information, with reference to G.O., No. ^{3435 W.}_A of 27th December 1882.

2. Orders are solicited on the point raised by the Executive Engineer in paragraph 3. Different Courts have taken different views on this point; the undersigned believes that a notice of this sort has no real legal weight.

3. Sanction is requested to pay the amount into Court, and it is thought that the judgment must be accepted.

TRICHINOPOLY,
28th May 1883.

(Signed)

H. R. MEAD, Lieut.-Colonel, R.E.,
Superintending Engineer, Sixth Circle.

6TH JUNE 1883, No. 1592 W., PUBLIC WORKS.

ORDER—dated 6th June 1883, No. 1592 W., Public Works.

The Superintending Engineer is authorised to pay the amount of the decree.

2. The point raised in paragraph 3 of the Executive Engineer's letter will be referred to the Judicial Department for consideration.

(True Extract.)

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

To the Superintending Engineer, Sixth Circle.
" Examiner, Public Works Accounts.
" Judicial Department.

Exd. A. F. Goodall.
Spare Copies

1592
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2

GENERAL.
ESTABLISHMENT.

Govt. of (1883) Madras.

PUBLIC WORKS.

Dated June, 6th.

Recd.

Encl.

G.O., 6th June 1883, No. 1592 W.

JUNE.

Suit brought against the Executive Engineer, Madura Division

Sanctioning the payment of the amount of a decree in favor of the plaintiff in a —

1583
In the Subordinate Court of Madras (East)
The 27th day of February 1883.
Present

S. Ganapathy Aiyar Subordinate Judge
Small Cause Suit No. 654 of 1882

Muthusami Naikun Plaintiff
J. J. Johnston Esquire, Executive Engineer
Madura } Defendant

This Suit coming on for hearing the Court passed the following Judgment. The Plaintiff complains that the Defendant, the Executive Engineer of Madras, for the recovery of Rupees 39-3-6 balance due for work done and Rupees 13-10-6 the interest thereon. The total claim is Rupees 52-14-0.

The Plaintiff worked out an Estimate for Rupees 300 to repair the Telegraph office at Panambur. From the amount of the Estimate, Rupees 15-12-6 was deducted on account of sundries and Superintendence, leaving a balance

153/6

of Rupees 284-3-6 in his favor. Sed.
Rupees 200 admitted to have been
to him. Sednak also Rupees 45 due
ing to the Plaintiff, to the D.P. for
of materials taken by him. The balance
is Rupees 39-3-6 and this claimed
interest.

The Suit came on for hearing
on the 11th January last and the Defendant
Counsel obtained an adjournment
to the 10th Instant. On the 10th the following
defence was stated.

"Value of materials to Rupees
64-8-0" has to be deducted from the claim.
This will reduce the claim to Rupees 10
odd. A miscellaneous expenditure
of 15 Annas and 6 pice has also to be deducted.
The Defendant believes the balance of claim
has also been satisfied."

After two other adjournments
at the instance of the Defendant, the Suit
came on again this day and the Counsel
for Defendant raised a further defence
as follows.

"The Plaintiff's Contract

1583/7

"with the old D.P.W. and the then in
"Engineer published a notice in the
"Gazette on the 13th February 1880 that a
"Contractors who had any claims on
"Department should substantiate them
"before the 15th March following and
"after that date all the moneys were
"carried to the credit of government
"Plaintiff did not come forward to
"substantiate his claim and his name
"is not to be found in the list of assets
"liabilities forwarded by the Executive Eng.
"to the Richmond Division. The present
"D.P.W. is a new one and has not taken
"either the assets or the liabilities of the
"Division and therefore not liable."

The Plaintiff's pleader
observed that the above defence was
too late, that the Plaintiff was at perfect
liberty to sue for his rights, notwithstanding
and that he was not aware of the
notification.

Before going into the defence
on merits, the defence asked notice and
be disposed of. Granting that the Plaintiff
was aware of the notification.

1513
8

however no evidence that he had a
ledge of it the question is whether
forfeited his legal remedy. I think
his not having come forward to
his claim within the time given in
notification cannot now debar him
from making it. Much less can it be
to a waiver. This very defendant, espe-
cially as March 1882, characterized the claim
as a bona fide one and requires
his superior officer's permission to pay
Held Exhibit C. I fail to realize the concern
about the old and new D.P.s and that
we are taking the assets and liabilities
of the other. For all this the government
of the country is all the same.

At the argument today
the defendant's Counsel urged that the
claim for interest was not good.

The points for disposal are
what sum, if any, is due to the Plaintiff
and whether the claim for interest is good.

The defendant has not suc-
ceeded in showing that nothing is due
Plaintiff. Therefore.

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/9

him or any sum less than that
to him. An account of value of
the Defendant says Rupees 67-8-0
deducted but the Plaintiff says
that only Rupees 45 was due on the
account and the sum has been d.
from his claim. The Plaintiff says
that he obtained from the D.P.W. on
bundles of palm leaves and he
given a receipt for it but the rec
is not forthcoming and there is
evidence that he had obtained it.
The Plaintiff says that he could not
make use of the whole of the leaf
because of their damaged condition
and ever since he began to petition
officers of the D.P.W. for a payment of
balance due to him, he has been urged
that only 405 bundles were fit for use.
Vide B, dated in June 1880. The miscell.
items of 15 annas and 6 pice has
also been proved. Therefore it
Rupees 39-3-1

claim interest from the date of the
notice to Defendant, on the 5 September
1882, Exhibit D. 159/10

Judgment for Plaintiff
for Rupees 39-5-6 and interest there
at Six per cent per annum from 5th
September 1882 up to this date with an
proportionate thereon. The decree
amount will carry interest at the
same rate from this date to date of
payment.

6 Sheet.

(Signed) J. Ganapathy
Subordinate Judge

(True Copy)

P. Lobbey
Head Clerk

1/27/88

L.S.

C. W. 1
45571

15724

Subordinate Court
Madura (East)
Small Cause Suit
No 654 of 1882
Copy of Judgments

Decree

In the Subordinate Court of Madurai

Small Cause Suit No 654 of 1882

Present. S. Ganapathy Ayyar Subordinate Judge

Mathusami Nakkon son of - - - Plaintiff

Mathunakkon, of Madurai

J. C. Johnston Esquire Executive Engineer Madurai Division.

Defendant

living in Madurai

Claim for Rs 52-14

This suit coming on for final hearing. Upon hearing the evidence and the arguments of Plaintiffs Vakil O. Sreenivasalingar and the Defendants Counsel Mr J. L. Cole and perusing the material papers, this Court doth order and decree that the Defendant do pay Plaintiff Rs 40-5-7 as well as Rs 15-7- for the costs of this suit and that this Decree do carry interest from this date to the date of payment at 6 per cent per annum.

Particulars of Costs

- | | |
|----------------------------------|-----|
| 1. Stamp for plaint on Rs 40-5-7 | 3-6 |
| 2. Do for Vakalat and petition | 1 |
| 3. Do for Exhibits | |
| 4. Pleaders fee | 5 |
| 5. Subsistence for witnesses | 2-1 |
| 6. Commissioner's fee | |
| 7. Service of process | 1 |

Total Rs-15-7

1583/4

Given under my hand and the seal
of the Court this 27th day of February
A D 1883

(Signed) J. G. [unclear]
Subordinate Judge

Note. The parties should apply as soon
as possible for the return of all exhibits
which they may wish to preserve, as the
record will be liable to be destroyed after
three years from this date.

(True copy)

P. S. [unclear]
Head clerk

2/176/83

11/11/82
4557/8

No 568

Executive Engineer's Office
Madras, 19th May 1883
Recd 22nd

From

1593

The Executive Engineer
Madras Division

To

The Superintending Engineer
to the
Lucknow.

Sir

With reference to your communication No 568 in D in L C No 3435 of 27th December 1882, I have the honor to forward herewith for orders a copy of Judgment & Decree passed by the Sub Judge of the Court of Madras East, in the suit instituted against me by Contractor Muthuswamy Nair for the recovery of Rupees 39-3-6 said to be due for work done to the Telegraph Office at Pambour.

2 Mr. J. G. P. Barrister at Law defended the suit on behalf of Court. He adduced all the documentary evidence available, explaining to the Judge as well as he could the system of Accounts

Recd to 2
1 Copy of Judgment
1 Copy of Decree

2/354/83
Subordinate Court
Madras East
Small Causes Court
No 154 of 1882
Copy of Decree

and payments as practiced in this Department. From these Accounts I found that taking it for granted that the Contract had been fully worked out by the Plaintiff no more than Sixpence 16 or so were due. The Sub Judge alludes to a letter I wrote to Colonel Beatty soon after I joined the District, and in which I recommended the payment of the claim, because there being a balance of that amount, it appeared probable that something was due. Colonel Beatty, however, called my attention to Mr. Grimes' notification of which I had not been aware at the time I wrote the letter alluded to above, & refused to consider the claim at all.

3 - I should like to be informed whether notifications such as Mr. Grimes' in the Gazette do legally limit the bringing forward of claims by Contractors at dates long after those fixed in those notifications.

I have &c
(Signed) J. C. Johnston
Lieut. Engineer, Madras
(True Copy)

No. 110 m. 17

1593
12

enclos 2.

Forwarded to the Chief Engineer P.W.D. with copies of Judgment & decree for information with reference to G.O. No. 3435 of 27th December 1882.

2 - Orders are solicited on the point raised by the Executive Engineer in para 3. Different Courts have taken different views on this point; the undersigned believes that a notice of this sort has no real legal weight.

3 - Sanction is requested to pay the amount into Cash; and it is thought that the Judgment must be accepted.

M. M. S. Leath Coll. 1883
Supp. Engr. 6th Circle

Supp. Engr. Office, 6th Circle
Trichinopoly
28 - May 1883 -

12

Am. 3435 - 27/12/82

Genl
Estab
A No 1592 - 28 June/83

The Supr Engr
is authorized to pay
the amount of the
decree.

2. The point raised
in para 3 of the Engr's
letter will be
referred to the Judicial
Dept for consideration

C. H. Wren
1/6

M.H.
1/6

S. E. Sixth Circle ✓ 5
Engr. M. A. 11
Jud. Dept ✓ 7

only 1/6 left 1/3

P.W.C. No 4551

From.
The Supr Engineer
6. Circle

To, The Chief Engr
P. W. D.

No 110 M. D.

Dated 28 May 1883
Recd 31

Encl 2

suit brought by a
contractor against
the Supr Engineer
Madras Division,
the defence of which
was sanctioned in
G.O. No 3435 W of
27 December 1882

Reports that the
case has been settled
in favor of the plaintiff &
requests sanction to the
payment of the amount
decreed with order.

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Govt. of (1883) Madras.

PUBLIC WORKS.

Dated

Reco.

Encl.

G. O. to Secy 1883, No. 15924

Nos.

Suit brought against the
Ex. Eng. Madras Division

Costs of defence —
Sum of the payment of the
Amount of decree in favor
of the plaintiff in a —

10/11

10/11

Entered in Receipt Register