(1) பக்கங்களின் எண்ணிக்கை 8

(2) புதுக்கித் திருப்பிய நாள் 10.10.90

(3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

பொதுப்பணித் துறை

அரசாணை எண்.		அச்சகம்
மு. கோப்புத் தாள் எண்.	2794	பலவகை

நாள் : 21-10-1890 198 .

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

ஆவண, கா-1—18,008—15-8-87.

P. W. D.

Office of the Consulting Architect to Govt.,
Chepauk, Madras,
2nd October 1890.

No. 2172

2794

From

Henry Irwin, Esq., C.I.E.,
Consulting Architect
to the Government of Madras,

To

The Chief Engineer
P. W. Department
Madras

Sir,

Enclosures.

A Contractor by the name of Mahamed Yusoof paid offered to Captain Ellis R.E. Sub-Divisional officer a bribe of Rupees 100/- . The matter was at once put into the hands of the Host Solicitor Madras in accordance with G.O. No. 745 D dated 5th September 1890, and the whole matter terminated in the Contractor being sentenced to three months rigorous imprisonment.

As clause 18 of the Contractors agreement (Form M 175) executed by the Contractor states that "the Contractor further agrees not to pay or give or offer to give any bribe or gratuity or reward to any subordinate, clerk or other person employed in the P. W. Department under penalty of forfeiture of his security and all

moneys

money due on account of this Contract".
I have the honor to inquire as to whether
the clause in question can be fully enforced
in the present Case and also as to what should
be done with the Currency Note of Rs 100/-
sent to me by Capt: Ellis R.E, being the amount
offered to him as bribe and the materials
supplied to the work by the late Contractor
Mahamed Yusoof Saib. The work done by
the Contractor is now being measured up.

3. Pending Settlement of the matter
the amount (i.e) Rs 100 has been credited in the
Cash book to "Deposits" and Sub-Divisional officer
has been directed to complete the work by other
means.

I have the honor to be,
Sir,
Your most obedient Servant
Henry Irwin
Executive Engineer to Govt

Pub Cons 9585

Public Works Department.

From

THE CONSULTING ARCHITECT

TO THE GOVERNMENT OF MADRAS,

To

THE Chief Engineer
B. & Dpt.
Madras

No. 2072

Dated 2 } October 1890.
Received 2 }

No. OF ENCLOSURES.

Rc 4036 dt 9 Oct 90

Referred to the Government Solicitor for favour of opinion.

Colonel R.E.
Cons. Arch.

7.10.90

Subject.

Requesting to be informed whether the clause in contract agreement regarding forfeiture of Security and all sums due to Contractor, for bribes should be enforced in the case of Mahamed Yusoof and what is to be done with the Currency note offered as bribe to Capt. Ellis R.E. and with the materials supplied to the work by the Contractor

No. 493

Madras 11th October 1890

From,

Ernest Barclay,

Government Solicitor,

Madras.

2794
3

To,

The Secretary to Government,

Public Works Department,

Madras.

Sir,

1 I beg to acknowledge receipt of your doc.at dated 9th instant No 4036, made on a letter dated 2nd instant No 2072 from the Consulting Architect to Government, which I return herewith.

2 Under Section 74 of the Indian Contract, when a contract has been broken, if a sum is named in the Contract as the amount to be paid in case of such breach, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named.

3 In case therefore Mahomed Yusoof were to sue Government for recovery of the security deposited by him it would be for the Court to decide what compensation Government is entitled to from Mahomed Yusoof for the breach of contract he committed in offering Captain Ellis the bribe of Rs 100. In deciding this point the Court would, I think, take into consideration the fact that Mahomed Yusoof has been sentenced to three months rigorous imprisonment for the offence of attempting to bribe a public officer, and it is quite possible that the Court would hold that Mahomed Yusoof ought not to be punished twice for the same offence; and, as Government could, of course, prove no actual damage from the breach of Contract, I think it very likely that the Court would hold that no part of the -

security ought to be forfeited. On the whole therefore I think would not be advissable to claim a forfeiture of the security Mahomed Yusoof should claim its return.

4 The note for Rs 100 should, I am of opinion, be retained by Government. It is fairly forfeited and I do not think Mahomed Yusoof would be allowed to take advantage of his own wrong in handing the note to Captain Ellis, and recover the amount.

5 The materials supplied by the Contractor should be paid for if used, otherwise they should be returned to him.

I have the honor to be,

Sir,

Your Obedient Servant,

Ernest Bandy

Government Solicitor.

No 745 D d/5.9.90

PUBLIC WORKS DEPARTMENT.

2794/4

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

Letter from the Consulting Architect to Govt No: 2072 d/ 2nd October 1890

Letter from the Government Solicitor, Madras No: 498 d/ 11th October 1890

The Govt Solicitor's letter will be communicated to the Consulting Architect.

2 The Security deposited of Contractor Mahomed Yusuff will be refunded if claimed by him, but the sum of Rs 100 offered as guarantee to Capt. Ellis will be credited to Govt.

3 The suggestion in para 5 of the Govt Solicitor's letter is approved.

19/10/90

Consulting Architect to Govt.

Examiner, P.W. Accts.

Ts-10.90