(1) பக்கங்களின் எண்ணிக்கை 46

(2) புதுக்கித் திருப்பிய நாள் 12/90

(3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

P W D துறை

அரசாணை எண். 1127	அச்சகம்
மு. கோப்புத் தாள் எண்.	பலவகை

நாள் : 24.4.1993 198 .

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

ஆவண. கா-1—18,006—15-6-87.

No 93
6-4-93

Kistna Eastern
Division Office, Bezwada.
Dated 6th April 1893.

From

The Executive Engineer
Eastern Division, Kistna.

Encl 3
(Copy of letter
No. Summons
& complaint

To

The Superintending Engineer
Circle.

1129/1

Sir,

I have the honor to forward herewith a Summons and plaint in the District Munsiff's Court Bezwada claiming damages against me for certain acts performed in my official capacity.

2. Under para 21 Chapter IV Volume I of Irrig Code I have the honor to submit the following reply to the plaint and request that you will obtain the sanction of the Government to the defence of the suit.

3. The plaintiff was a successful bidder in the public auction for the right to pluck mango fruits from the trees in a portion of the Machilipatam Canal.

4. The sale was held on the 10th March 1892 but owing to a delay in the Executive Engineer's Office the patta confirming the sales and conferring the right

of enjoying the fruits on the purchaser and laying down the conditions was not delivered to him until the 17th May.

5. One of the conditions was that the purchaser should supply 12 00 mangoes for seeds for planting fresh trees.

6. This condition is one that has always appeared in the pattas issued since such sales were made and is generally known as one of the conditions and has never as yet been in any way questioned by any of the bidders or purchasers.

7. On receipt of his patta the plaintiff wrote his letter dated 28th May in which he denied knowledge of the condition above noted and refused to comply with it.

8. As the Executive Engineer was of opinion that the plaintiff was well aware, just as all the other bidders at the auction were aware, of the conditions and as he steadfastly refused to comply with it on demand of the P. W. D. Subordinates he was convinced that the plaintiff was merely taking the opportunity of the delay in handing him the patta in order to evade the condition.

9. As the plaintiffs action appeared unfair, the Executive Engineer wrote his letter No 968/7-6-92 to the plaintiff and supplied a copy of the same to the plaintiffs partner K Venkataratnam who is also his father-in-law. He also instructed his Subordinates to have no departmental dealings with the plaintiff.

10. This is the cause of the action. 1129/V

11. It should be observed that, the plaintiff strictly speaking had no right to make Subsales or to enjoy any of the fruits until the patta was assigned to him. He should therefore have insisted on getting his patta or knowing the conditions or of having his money returned. He did not do so but from the first proceeded to enjoy the fruits. From this fact it is clear that the plaintiff knew the conditions fully as well as did all the other renters who complied with the condition without any question, although they also were not supplied with pattas until the same date. Moreover although the patta was not issued until the 17th May the plaintiff could easily even then have complied with the condition. His conduct was therefore considered unfair and unreasonable.

12. In these circumstances the Executive Engineer's action in writing the letter complained of was bonafide in the interests of Government and not with any motive or improper feeling against the plaintiff.

13. The Executive Engineer's order no 968 of 7-6-92 one which the action is brought was addressed and communicated only to the plaintiff and his partner and no one else. There is nothing in it which shews that it was written in an improper or malicious spirit and therefore no successful action can be taken by the plaintiff.

14. The Executive Engineer's orders to his Subordinates were merly to the effect that the plaintiff was not to be employed or dealt with by them in their official capacity, no reference being made to the cause of the order being issued. This also proves that there was no improper or malicious intention in the Executive Engineer's action but that it was bonafide in the interests of Government.

I have the honor to be,

Sir,

Your most obedient Servant

W. Joppe

Executive Engineer

Eastern Dn Kistna.

94/3492/93

In the Court of the District Munsiff at Bezwada.

Original Suit No 71 of 1893.

Sotaa Bramhayya Naidu of Bezwada. Plaintiff.

W. Joppe Esquire, Executive Engineer, Defendant.

Eastern Dn Kistna.

1129/27

To

The Defendant dwelling at Bezwada.

Whereas Plaintiff has instituted a suit against you for Rs 10-00 damages as per plaint, You are hereby Summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed and able to answer all material questions relating to the Suit, or who shall be accompanied by some other person able to answer all such questions, on Tuesday the 20th day of June 1893 at 10 o'clock in the forenoon, to answer the above-named Plaintiff and You are hereby required to take notice that, in default of Your appearance on the day before-mentioned, the issues will be settled in your absence and You will bring with You (or Send by your pleader or agent) which the plaintiff desires to inspect and any documents on which you intend to rely in Support of your defence.

Given under my hand and Seal of the Court this 20th day of March 1893.

(Signed) P. Narayana Row

Addl Clerk

Notice. Should You apprehend your witnesses will not attend of their own accord, You can have Summons from this Court to Compel the attendance of any witness or

the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence money.

2. If You admit the demand, You should pay the money into Court with the costs of the suit to avoid the Summary execution of the decree, which may be against Your person or property, or both, if necessary.

/True Copy/

W. Jopp
Asst

Asst to
Superintendent

Original Suit No. 71
93

To

The District Munsiff's Court.

Bezwada

Plaintiff—
Caste. Genta
Profession Contract wo
Sola Bramhayya Naidu
inhabitant of Bezwada.

Defendant—
European
Executive Engineer in charge
of Eastern Division,
Kistna.
W. Jopp Esqr
inhabitant of Bezwada

Under Sections 49 & 50 of the Civil Pro. Code, the plaintiff represents that:—

1. The plaintiff has been leading a prosperful and honest life being a Contractor & has been (for sometime) in the D.P.W. in the Abkari department; in the Municipale department; in the Railway department; and in some other departments. He performed & managed his works and things well. His behaviour is good.

2. The plaintiff pays Rs 12 per annum to the Bezwada Municipality, as profession tax and he and his father-in-law Kancherla Venkataratnam Naidu garu jointly pay Rs 68-0-0 and odd per annum to Govt on account of income tax.

3. The plaintiff purchased (in auction being the highest bidder) the right of cutting mango fruit of the trees on the banks of Bundar Canal from Bezwada to

Panamalur for Rs 171 on the 10th March 1892. The purchase was confirmed by the defendant on the very day and the sale proceeds were immediately received from the plaintiff. At the same time the plaintiff rented some of these trees to others.

4. The defendant sent to the plaintiff a patta No 6870 of 17.5.92 authorizing the cutting of the said mango fruit which reached the plaintiff on the 25.5.92. In this patta there was a remark stating that for the seeds required for Govt 1200 good mango fruits must be delivered over at the Ancient Supdts office before the end of May and that in case of failure to do so the value for the fruit will be recovered from the plaintiff.

5. On the 28.5.92 the plaintiff wrote a letter to the defendant informing that he was not at the time of auction informed of the condition that he should deliver 1200 fruits over to the Ancient Supdt for seeds, nor was he aware of the existence of such condition; that there is no tree amongst those leased to him which yields fruits fit for seeds; that some of these trees were rented by him to others and that he could not supply fruits for seeds; and requesting that he may be excused.

6. The defendant annoyed at this and issued a Memo No 968/7.6.92 to the plaintiff who received it on the 10.6.92. In this the defendant showing his authority, spoke contemptuously of the plaintiff and more especially in para 3 of the Memo, he said that "The condition is one which will give too much trouble and annoyance to enforce by law. But as he has shewn himself to be of such an unfair and unreasonable disposition, the Ex: Engineer has recorded A. Bramhayya's name in this Division Office and sent out Similar orders to Subordinates that he is not under any circumstances whatever to be employed or dealt with in the P.W.D. either directly or as an agent. 1127/5

7. Further the defendant did not Satisfy in Sending the Memo to the plaintiff himself but also communicated its copies to his (defendants) subordinates and to the father-in-law of the plaintiff.

8. Thereby damage occurred to the respectability & honor &c. of the plaintiff and it also caused grief, bad reputation, trouble and loss of money to the plaintiff being prevented from obtaining work in the Eastern Dn either directly or as an agent of a Contractor.

9. The Memo No 968 referred to was improperly written by the defendant with bad intention of putting the plaintiff to inconveniences so that he might sustain loss and bad reputation but there was no any proper & just cause for his action. The plaintiff did no irregularity as stated in that Memo.

10. The plaintiff issued a notice to defendant on the 4.7.92, stating that a Suit would be brought against the defendant, in accordance with the Section

424 of C. P. Codes for having issued the Memo No 968 which reached the defendant on the 6.7.92.

11. The cause for the Suit happened on the 7.6.92 at Bezwada.

12. Loss of respect to the plaintiffs by the issue of Memo or order No 968 by the defendant Rs 500

Pecuniary loss
about Rs 500
1000 Rs for this

Amount Court fees were paid.

Under these circumstances the plaintiff Solicits the Court to declare that the Memo. No 968 of 7.6.92 issued by the defendant is unlawful and to decree the amount specified above with subsequent costs and interest and for such other remedies as the Court may deem proper.

/True Translation/

W Jopp
Exec Engr & DC

Sub Engr 4/4/93.

Memo No 968
7.6.92

11 29
6

Dated 28th May 1892

With reference to his petition dated 28th May 1892 Contractor T. Bramhayya is informed that the undersigned does not believe in his statement that he did not know that certain mango fruits had to be given to Govt for Seeds, as it is known to me & all that such a practice has been in existence for years.

2. Even assuming that he had not known of such a practice, he had no authority to pluck a single mango without first applying for the patta and getting it in time for the undersigned and agreeing to its conditions.

3. The condition is one which will give too much trouble and annoyance to enforce by law, but as he has shewn himself to be of such an unfair and unreasonable disposition that the Ex: Engineer has recorded T. Bramhayya's name in this Division Office and sent out similar orders to the subordinates that he is not under any circumstances what ever to be employed or dealt with in the public Works department.

/Signed/ W. Jopp
Ex: Engr E Dn

/True Copy/

W. Jopp
Exec

Sub Engr - 4/4/93.

P. W. CURRENT No. 2492

SUPDT. P.W.D. DEPTT. No. 864 6 APR 93 P.W.D. SECOND CIRCLE

From

W. Copp Esqre

Executive Engineer

Kistna Eastern Dn

To The Supg. Engineer

II Circle

Dated 6th April/93

Recd 12/4/93

No. 93

Encls 3 & 4

X. Bramhayya & Sons

Requests to obtain sanction of Government to the defence of the suit brought by ~~the~~ peruta Contractor of the Mangoe sluices.

Write an Endorsement on the Revenue Dn No 90 KS 10-4-93

Encls. 3.

No 90 KS / 10-4-93

Submitted to the Chief Engineer, Public Works Department, Madras for favour of obtaining the necessary sanction of Government, to the defence.

Allen C Chaplin S.E.

Offg. Supg Engr II Circle

8/4/93.

For orders.

Dy. No. 1129 17/4/93

W.

The usual sanction for the defence in the first instance may be given. I do not think there being any cause of action.

22.4.93

Under 18 as per

Memo No. 46-4 dt. 7-4-93 from the Secretary to Govt. Public Works Department

Dy. No. 1129 19/4/93

To The S. E. II Circle

Ex. PW Accounts

R.S.

B

Thro' Madras

No 1129 Md/2 dt April 1893

PUBLIC WORKS DEPARTMENT.

1129/93

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

Endorsement of the Supdg. Engineer II Circle on letter from the Ex. Engr Kistna Eastern Dn No. 93 dt. 6 April 1893. (H.E. No. 90 KS. dt. 10 IV 93)

The suit may be defended at the public expense in the first instance

Dy. No. 1129 19/4/93

To

The S. E. II Circle

Ex. PW Accounts

R.S.

To be filed with Memo 26 of
Feb 12-1-97.

No 112 9. W dft 24 April 1893

Oct 3 C. 25/4

9.d.10/5