(1) பக்கங்களின் எண்ணிக்கை 108

(2) புதுக்கித் திருப்பிய நாள் பிப் 1991

(3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

பொதுப்பணித் துறை

அரசாணை எண். 708 W
மு. கோப்புத் தாள் எண்.

அச்சகம்
பலவகை

நாள் : 14-3-1823 198 .

கவோ கண்டபடி கையாளவோ கூடாது

கா-1—18,006—15-6-87.

1/708

[illegible] 6280 [illegible]

[illegible] T. Sabapathy Modely.

[illegible]

[illegible]

[illegible] T. Kuppusamy Modely

[illegible] Velala

[illegible] Sivanite

[illegible] Overseer

[illegible] 32

[illegible] Gudur (for the present)

I am Overseer in Charge of Gudur Taluq—
n 1886. I was in Charge of the Special work
trusted to Plaintiff. It was improving—
Nellore Tank Supply Channel and removing
rickly pear in Connection with the Channel
rk. I kept a Diary which is produced.
was in Charge of the works from 2d May
to the beginning of September of the same
ar. I was then 9 years old as overseer
cluding my service in the Local Fund —
partment. In the first part of the Charge
was taking orders of Mr. Pears. Assistant
ngineer. He keep a measurement book for
ing payments. (The book is marked C.)

17th Octr Continued What

FOR COPIES ONLY

TWO ANNAS

[illegible] 2097/91

2097

27-5-91

[illegible]

[illegible]

[illegible]

2/708

On the 5 June 1886 I took down rough measurements of the work done by Plaintiff and preparing a bill for the same, submitted it to the Assistant Engineer. The total measurement is given in the book as 474.147 Cubic feet. I remarked in the bill that my predecessor had measured a portion included in my measurement. My object was to warn the paying officer of what had already been paid to Plaintiff so that the Plaintiff ought be paid for the remainder alone under my bill. We do this often when the same pits are successively measured in the progress of the work. I did not value the work in my bill for payment.

Note. (The bill is not filed but Defendants pleader admits that Mr. Pears valued Plaintiffs work at Rs 1362-15-0 and made the two payments admitted by Plaintiff. The first payment in May 1886 of Rs 416-2-2, was made in advance when Plaintiffs work had not been measured. The 2d payment was made on the 7 June)

The first payment should have been made

18 [illegible]   [illegible]   when

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25-6-91

3/708

on the measurement submitted by my predecessor. I measured the Channel work alone, not the prickly pear work. The latter was under my supervision. I dont remember why; I left out the prickly pear work. I was not called upon by the Assistant or Executive Engineer to explain anything in connection with the figures I put down in my account of measurement. I do not know (officially) ~~openly~~ whether my measurements were accepted or not paid. The Assistant Engineer accepted my measurements and made part payment. This is my private information given by Plaintiff.

The Assistant Engineer was not with me when I measured. So far as I know the Assistant Engineer did not measure Plaintiffs works. I was present when Captain Henderson measured the works. He measured all the works done by Plaintiff, leaving out some tabs as incomplete. I can't say how many tabs were so passed over, or their contents. That officer did not communicate to me that day or on any subsequent day whether my measurements agreed with ~~His~~ his or differed

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INDIA

TWO ANNAS

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[illegible]

STAMP DEPARTMENT

MAY 9 91

4/708

Generally Overseers are asked to explain
serious discrepancies between ~~that of~~ their
account and that of a Superior officer who
subsequently checks the measurements. But in
this Case the Executive Engineer did not do
so, and I Cannot say he was wrong in
omitting to do so. I do not Know
officially whether my measurements were
found fault with in any part and reversed
In our Department, the measurements of a
Superior Officer should prevail against those
of a Subordinate officer when they dif
It is the duty of the Overseers to submit
measurements. The higher officer do not interfere
generally with the Overseer's measurements when
bills are submitted in the Course of the work
but when final measurements are to be
made, the higher officer Checks the
measurements personally. I did not make
to the best of my recollection, in the
mistake in the unit of my measurements
I did not Compound yards with feet
It is true under the present rule we
are to express our measurements in feet
what

170 [illegible] [illegible]

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25-6-91

[illegible]

STAMP DEPARTMENT
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7/208

and not in yards as formerly. I put down the figures in yards and then turned them into feet. I believe I was Correct in my measurements.

My Diary shows that the Plaintiff proceeded with the work even on the 16 June and but 7th June. It will be shown from the Diary of the Executive Engineer under date 22nd July that some cuts were incomplete and unfit for measurement. I cant say how much was done subsequent to 5th June. I do not refer in my bill to the section of the work so it must have been ~~made~~ done. When section is not done, we generally withheld 8 annas per 1000 Cubic feet as its Cost.

Note The deductions made in this Case is 6 annas & 2.

xx Mine was only a rough measurement.

I dont remember when the Channel became unfit for work. When the Executive Engineer went on measuring, I and Mr Salisbury were with him. I measured no work after the 3rd June.

Heard the deposition and it is [illegible]

[illegible]

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TWO ANNAS

2249

25-6-91

[illegible]

[illegible]

STAMP DEPARTMENT NELLORE
MAY 9
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6/708

Correct

17-4-90 (Signed) T. Sabapathy Modely

Read over to the witness and acknowledged by him as Correct

(Signed) B. Veerasamiah
District Munsiff

(A true Copy)

Copied by [illegible]

Read by [illegible]

Examined by

Corrections made

21 [illegible]

[illegible]	22-6
St[illegible]	24-6
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SUPERINTENDENT

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STAMP DEPARTMENT MAY 6 91

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25 6 91

A. S. No 26 of 1890

Case heard & closed 30/11/92

7/208

1887 [illegible] 628 [illegible]

[illegible] Mr. Varadarajulu Naidu

[illegible]

[illegible]

[illegible] Veeraswami Nayudu

[illegible] Balija

[illegible] Vyshnavite

[illegible] Pensioner

[illegible] 52

[illegible] Madras

In 1886, I was Supervisor in Charge of the Supply Channel. ~~when~~ the Plaintiff commenced work under me. I now and then inspected the works. The Plaintiff did not get on with the work well. He did not act up to my orders. I reported against him on two occasions in writing and on others verbally. The two reports shown me are the same. The Plaintiff did not do the sloping work in some places and where he did, the work was very bad. He did not employ sufficient number of Coolies.

The Plaintiff did remove most part of the prickly pear included in his Contract in

[illegible] when

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NELLORE

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25-6-91

[illegible]

8/708

my time: but he did the work very slowly. He did not bury them sufficiently deep according to the terms of the Contract, did not cover up the pits of prickly pear with sufficient quantity of earth, that is, 3 feet of earth and used to tell me that some parts of the bushes left untouched were not included in the Contract.

I see the prickly pear bill shown me. It was I that submitted it for Rs 222-14-3. It was the quantity of work alone that I submitted and it was valued in the Assistant Engineer's office. As far as I remember, the Plaintiff did the whole work in my time. No other was employed on that work. The noxious bushes are not measured after the plants are removed but before removal. It was I that submitted the bushes to be removed. My account was accepted by Mr. Pears. The account is put in. Mr. Henderson's note paper shows that he marked out ~~those~~ three localities for clearance and I marked out the fourth. In my time about 7833 square feet

What

185 [illegible] [illegible]

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9/78

of ground Covered by prickly pear was not Completely Cleared. It will be seen from the work book that the above quantity of prickly pear stood unremoved on the 2d November 1886 So the Plaintiff could not have removed it in Mr Sabapathi Moodly's time. The Measurement sheet shown me Contains prickly pear work laid out by me to be executed. In November 1886 I went to measure under the Special order of the Executive Engineer.

Note The Government pleader refers the Court to an item of 26182 Square feet of unremoved prickly pear as found by Mr. Salisbury in his evidence

xx I was a temporary Supervisor. I was relieved by Mr Sabapathy. I measured in November what was left undone out of the bushes laid out for execution. The bushes stood along Course of the Channel. I marked out the defects in the work, & assigned to Plaintiff only and Mr Salisbury may have done the same in the work laid out by him. My station should be understood to refer to that portion of the

180 words Commission 3 sheet

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INDIA

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TWO ANNAS

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25-6 91

[illegible]

[illegible]

10/708

prickly pear bushes which I laid out for Clearance by (~~place~~) [illegible]

Heard the deposition read out and I find it to be Correct. (9-4-90) (Signed) A. M. Varatharajulu Naid

Read over to the witness and acknowledged by him as Correct

(Signed) B. Veerasamial
District Munsiff

(A true Copy)

Copied by [illegible]

Read by [illegible]

Examined by CR

Corrections [illegible]

45 [illegible]

22-6
24-6
26-6
6-7
91

[illegible] SUPERINTENDENT

When

FOR COPIES ONLY 570-4

TWO ANNAS

[illegible]
2242
25-6-91
[illegible]

1/708

1897 [illegible] 628 [illegible] 5 [illegible]

[illegible] Nandyala Veerasamy (Plaintiff)

[illegible]

[illegible]

[illegible] Maseppa

[illegible] Vaddi

[illegible] Perpendicular mark

[illegible] Contractor and Cultivator

[illegible] 28

[illegible] Kovur.

I am the Plaintiff It was I that did all the work of removing prickly pear No other did any portion of it. Mr Pears it was that measured the work as stated in the measurement book. The measurement was taken down 3 or 4 times. The first time Mr Varadarajulu Naidu Supervisor and the other times by Mr Pears

On the 3rd June Mr Sabapathy measured my earth work in my presence. He took down short measurements. Mr Pears paid me Rs 500 and said that he had no Credit in the treasury to pay the remainder. He told me to wait. I Continued to do work till the 23rd July. I put in my account book. I made

175 [illegible] [illegible]

Then

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22 41

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12/708

the entries. When I fell out with Mr Henderson I went on noting down in my /wor/ book the measurements of work done subsequent to 5th June. The Gentleman went on with his own measurements. I don't remember the date I think it was some days after the Executive Engineer inspected the works. Referring to my ~~book~~ book, I see I did so on the 13th August. From the 14th August I ceased to go to the Channel. I objected to the measurement of Mr Henderson at the outset and went away leaving him to do as he pleased. He passed over a pit I asked him to measure it, he refused. so I went away

Mr Henderson left out some pits. He did so on the 23rd July. My account contains my works done subsequent to 5th June. I cannot say whether or not Mr Henderson measured the pit. What are passed ~~on~~ it in my account. It is true I claimed a higher rate in the course of the work by petition dated 22nd June 1886. The higher rate was refused with a direction that I should do the work in

198 Dr Corrections [illegible] [illegible]

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[illegible]

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[illegible]

[illegible]

[illegible]

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10 days ~~in~~ [illegible] of the work being transfered to an another for default.

On the 4th July. I sent another petition to Mr. Henderson declining to work any further and asking payment for the work done. 30th July I sent another petition

[illegible]

19-4-90 [illegible]

[illegible]

Read over to the witness in Telugu and acknowledged by him as Correct

(signed) B Veerasamiah.
District Munsif

(A true Copy)

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Examined by CR
Comparisons [illegible]
73 [illegible]

[illegible]	22-6
Stamp paper called for	24-6
Stamp paper deposited	26-6
Copy [illegible]	6-7
[illegible] delivered	[illegible]

91

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2239

25-6-91

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14/708

1887 [illegible] 628 [illegible] 4 [illegible]

[illegible] Yama Yellugadu

[illegible]

[illegible]

[illegible] Kolladu

[illegible] Vadde

[illegible] Horizontal mark

[illegible] Cooly

[illegible] 50 years

[illegible] Kovur

I worked under Plaintiff on the flood embankment. I was present when Mr Sabapathy measured the works We continued to work for 10 weeks after. We were 150 men altogether. We were paid 3, 4 or 5 annas each. In some places the sloping work was completed and in other places left ~~unpurished~~ / unfinished.

XX I and Plaintiff are of the same caste but belong to different families.

[illegible] 19-4 90 [illegible]

[illegible]

Read over to the witness in Telugu and acknowledged by him as correct. (Signed) B Veerasamiah
District Munsiff

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Correction [illegible] [illegible]

FOR COPIES ONLY 15

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[illegible]	24-6
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1887 [illegible] 628 [illegible]

[illegible] Nalle Pultadu

[illegible]

[illegible] Venkatapathigadu

[illegible] Vadde

[illegible] Roundwork

[illegible] Cooly

[illegible] 60

[illegible] Isana Kanalipalem

I was one of the men employed by Plaintiff for execution of a Channel work. Mr Sabapathy roughly measured the works. After that we worked 2 months or 2½ months. We were 100 or 150 men. Each was paid 3, 4 or 5 annas a day. Portions of the embankment were furnished by sloping the earth work. Some other portions were left incomplete. We did not Complete the sloping work. The work was Completed in some parts, nor in others. Even in the work done there were imperfections. XX No work was done after the big Engineer measured the works. We went on then simply adjusting what ~~he~~ had been done. About 7 or 8 days after the big Engineer had measured the that

180 [illegible] Corrections

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[illegible]

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works. If we let in water into the Channel

Note. Plaintiffs pleader says that the Plaintiffs stopped ~~the~~ work with 23rd July as ordered

[illegible]

19-4 [illegible]

[illegible]

Read over to the witness in Telugu and acknowledged by him as correct

(Signed) B Veerasameah

District Munsiff

(A true Copy)

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Application made 22-6 18

Stamp papers called for 24-6 18

Stamp papers supplied 26-6 18

Copy ready 6-7 18

Copy delivered 18

91

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No 2.6
2077/53

17/708

1887 [illegible] 628 [illegible] 2nd [illegible]

[illegible] Dalavoyi Paparu

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[illegible]

[illegible] Gurandu

[illegible] Vadde

[illegible] Round mark

[illegible] Cooly

[illegible] 30

[illegible] Vovur

Know the Plaintiff. The Overseer Mr Sabapathy Moodly was in Charge of Plaintiffs works. He measured the works. After that, the Plaintiff Continued with his works. I was one of the men employed by the Plaintiff. After the Overseer's measurements we worked on for 2 months and 15 days. The gang was 150 men. Their wages were from 3 to 4 annas a day. We sloped the Channel embankment. I was present when the big Engineer measured the works. Other Voddars were there. The Plaintiff too was there.

X X. The Plaintiff is not related to me. We belong to the same Caste. It was 10 days after the big Engineer measured the works, water was let

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into the Channel

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Read over to the witness in Telugu and acknowledged by him as Correct.

(signed) B. Narasamiah
District Munsiff

(A true Copy)

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Read by
Examined by
Compared by

35 [illegible]

Application made	22-6	18	91
Stamps and papers called for	24-6	18	
Stamps and papers deposited	26-6	18	
Copy ready	6-7	18	
do. delivered	6-7	18	

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[illegible]

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[illegible]

[illegible] 1887 [illegible] 628 [illegible]

[illegible] } వాది

[illegible]

The Secretary of State for India ~~[illegible]~~ in Council [illegible]

1886 [illegible] Piece work Agreement [illegible]

[illegible] 1033-0-9 [illegible]

[illegible] 166-14-6 [illegible] 1199-15-3 [illegible]

[illegible]

[illegible]

[illegible]

[illegible] 46-8-9 [illegible]

[illegible]

[illegible] 3006 [illegible]

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1-0-0 [illegible]

2-0-0 [illegible]

85-0-0 [illegible]

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Corrections 142 [illegible] 1 sheet

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24 – 0 – 0 [illegible]
60 – 0 – 0 [illegible]
187 – 6 – 0 [illegible]

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1 – 0 – 0 [illegible]
2 – 0 – 0 [illegible]
10 – 12 – 0 [illegible]
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1 – 0 – 0 [illegible]
3 – 12 – 0 [illegible]
4 – 8 – 0 [illegible]
39 – 7 – 0 [illegible]
37 – 5 – 0 [illegible]
60 – 0 – 0 [illegible]
160 – 4 – 0 [illegible]

Given under my hand & the seal of the court this 30th day of June 1890 (Signed) B. Veerasawmiah
District Munsiff

Signed on 4 – 8 – 90

(Munsiff)

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Corrections	12	8	90

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EX. ENGINEER'S OFFICE
16 APR. 91
P.W.D.
NELLORE DIVISION

2/709

A S No 246 of 90

In the Court of the District Munsiff at Nellore
This 20th day of June 1890
Present: B. Veeraswamaiah Garu — District Munsiff

Original Suit No 628 of 1887

Nemthala Veerasami Vaddi + Contractor and resident of Kovur Nellore Taluq } Plaintiff

Versus

The Secretary of state for India in Council — Defendant

Suit for piece of work done under a contract

This suit coming on for final hearing the Court delivered the following judgment

1 The plaint alleges that the Plff undertook to do piece work by an agreement dated 9th February 1886, entered into with the assistant Engineer Mr S. D. Pears, that he is entitled to have his work charged and paid at the rates specified in the agreement; that the agreement allows for removing prickly pear 1 Rupee per 1000 square feet but Mr Pears verbally promised to raise the rate to Rs 1-4-0 that for the earth work done up to 5th June 1886, Mr Pears prepared a bill for Rs 1400 on the information furnished by the overseer in charge of the works and that he has been

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paid Rs 816-2-2 and has to get the remainder; that after the 5th June and up to the 13th August, the Plff did 191002 cubic feet of earth work valued at Rs 549-2-11 as entered in his note-book; that altogether the money due for earth work alone comes to Rs 1033-0-9; that an area of 221680 square feet was cleared of prickly pear for which the Plff is entitled to get Rs 278-5-7 of which Rs 111-7-1 has been paid and the remainder is still due; that when Plff claimed these moneys, he was informed by the executive Engineer, that Rs 46-8-9 only was due and nothing more and he therefore seeks to recover Rs 1199-15-3

It is further alleged that the Plaintiff has given notice of this claim to the collector in reference to section 424 C.P.C and yet the money has not been paid

2 The defence put in by the government is as follows; that the executive engineer may put an end to the agreement

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[illegible]

1880 No 1248

23/708

at his option at any time, rejecting bad work and material and charging the value against the Plff; that Mr S. B. Pears prepared the bill, not Rs 1400, but for Rs 1362-15-0 on the rough and erroneous measurements furnished to him by the overseer, that at the final measurement of the works on 23rd July 1886 by the executive engineer C. B Henderson Esquire R.E., he found the earth work come to 337228 cubic feet, which he valued at the reduced rate of Rs 2-7-10 per 1000 Cubic feet, instead of at Rs 2-14-0 as none of the earth had been Sectioned and the work was incomplete and the result was that the amount due to Plff came to Rs 839-8-11; that as he had already been paid Rs 916-2-2 under the head, there was an overpayment of Rs 76-9-3, that the reduction in the rate made by the executive engineer is reasonable to provide for Sectioning and finishing off, for removing the spoil washed down and making good damages owing

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to the incomplete nature of the work. It is further alleged that the Plaintiff did no work after the final inspection of the executive engineer on the 23rd July 1886, as water was admitted into the channel on the 26th July 1886 and so his claim for Rs 549-2-11 on that ground is false and unsustainable. It is further alleged that as found by the executive engineer the prickly pear work done by Plff was 34015 square feet less than the quantity stated by him and was so entitled, to Rs 234-9-1 and not to Rs 278-5-7 and as he has been paid Rs 111-7-1 according to his own admission on account of this work, he is to get Rs 123-2-0 more; and that deducting from this, the overpayment of Rs 76-9-3, there is left in his favour Rs 46-8-9 which he refused to take when offered

3 The following issues are settled

I What amount of work was done by Plff as to item No 1 in Schedule I?

II Was this work left

175 [illegible]

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incomplete and was none of the earth sectioned and to what rate is Plff entitled?

III. As to the item no 4 of Schedule I was the work done by Plff under the order of a duly authorized officer or under the terms of his agreement and when was it done?

IV What was the amount of work done as to this item and to what amount is Plff entitled?

V As to prickly pear what was the amount of work done by Plff and to what is Plff entitled?

4 The following documents are filed for the Plff:—

A / 9-2-86 The piece-work agreement executed by Plff to the Government on which the suit is based.

B / 24-3-87 Memorandum (no 1062 N.L) answering Plff's petition dated 13th August 1886 issued by the Superintending Engineer 2d circle

C — Measurement book prepared by the overseer T. Sabhapati Mudali

D:— Plff's own note book purporting to show the measurement of work done by him subsequent to the 5th June 1886 till the executive Engineer's final measurement

175 KK Corrections

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[illegible]

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[illegible]

[illegible]

[illegible]

26/708

E: Measurement Book prepared by the Assistant Engineer Mr S. D. Pears

F: Extract from the account of petty contracts for the month of June 1886 relating to the work in suit showing the amount of work done, the payments made and the balance due till the end of June 1886

G{
G1. Progress report of works in charge S. D. Pears Esquire assistant Engineer Nellore from 1st to 10th February 1886
G2. Do — Do — from 11th to 20th February 1886
G3. do — do — from 21st to 28th February 1886
G4 Do — do — from 1st to 10th March 1886
G5 Do — do — from 11th to 20th March 1886
G6 Do Do — from 21st to 31st March 1886
G7 Do Do — from 1st to 10th April 1886
G8 Do Do — from 11th to 20th April 1886
G9 Do — Do — from 21st to 30th April 1886
G10 Do — Do — from 1st to 10th May 1886
G11 Do — Do — from 11th to 20th May 1886
G12 Do — do — from 21st to 31st May 1886
G13 Do — Do — from 1st to 10th June 1886

— — — — — — — — —

175 KK Corrections

FOR COPIES ONLY

TWO ANNAS

1608

25/3/91 [illegible]

[illegible]

27/708

H
- H¹ journal of the occupation and duties of S. D Pears Assistant Engineer 1st grade, Nellore for the month of February 1886
- H² do — do — for march 1886
- H³ do — do — for April 1886
- H⁴ do — do — for may 1886
- H⁵ do — do — for june 1886

J
- J¹ Progress report of works in charge of A. M Varadarajulu Naidu Supervisor from 1st to 10th February 1886
- J² Progress report of works in charge of A. M Varadarajulu Naidu Supervisor from 11th to 20th February 1886
- J³ do — do — from 21st to 28th February 1886
- J⁴ do — do — from 1st to 10th March 1886
- J⁵ do — do — from 11th to 20th March do
- J⁶ do — do — from 21st to 31st do —
- J⁷ do — do — from 1st to 10th April 1886
- J⁸ do — do — from 10th to 20th do —
- J⁹ do — do — from 21st to 31st do —
- J¹⁰ do — do — from 1st to 10th May 1886
- J¹¹ do — do — from 11th to 20th do —
- J¹² do — do — from 21st to 31st May 1886

185 KK Corrections 7

FOR COPIES ONLY

TWO ANNAS

[illegible]

1607

25/3/91 [illegible]

[illegible]

28/708

J1 Progress report of works in charge of overseer T. Sabhapaty Mudaliar from 21st to 28th February 1886

J2 Do Do from 1st to 10th March 1886

J3 Do Do from 11th to 20th March 1886

J4 Do Do from 21st to 31st March 1886

J5 Do Do from 1st to 10th April 1886

J J6 Do Do from 11th 20th Do

J7 Do Do from 21st to 30th Do

J8 Do Do from 1st to 10th May 1886

J9 Do Do from 11th to 20th May 1886

J10 Do Do from 21st to 31st May 1886

J11 Do Do from 1st to 10th June 1886

J12 Do Do from 11th to 20th June 1886

K1 Progress report of works in charge of Supervisor, Mr R. A Salisbury Nellore Taluk from 11th to 20th June 1886

K K2 Progress report of works in charge of Supervisor Mr R. A Salisbury Nellore Taluk from 21st to 30th June 1886

K3 Do Do from 1st to 10th July 1886

1/1 KK Corrections 8

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TWO ANNAS

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[illegible]
[illegible]

29/708

K^4 Do Do — from 11th to 20th July 1886
K^5 Do Do — from 21st to 31st Do —
K^6 Do Do — from 1st to 10th August 1886
K^7 Do Do — from 11th to 20th Do —
K^8 Do Do — from 21st to 31st Do —

L { L^1 Journal of the occupation and duties of Captain C. B. Henderson R. E. Executive Engineer Nellore for the month of July 1886
L^2 Do Do for the month of August 1886

M { M^1 Journal of the occupation and duties of Supervisor Mr R. A. Salisbury Nellore for the month of July 1886
M^2 Do — Do — for August 1886

N: Progress Report of works in charge of Mr T. D. Enright Sub-Divisional officer Gudur from 11th to 20th February 1886

O: Inspection notes Book of Executive Engineer Nellore Division from September 1885 to 15th March 1887

P. Measurement Book of Supervisor A. M. Varadarajulu Naidu

5 The following documents are filed for the Defts

166 KK corrections 9

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TWO ANNAS

MAR 6 1891

1670

25-3-91 [illegible]

[illegible]

[illegible]

82/708

I 9-2-86	The duplicate of the piece work agreement on the basis of which the Plff sues
II 22-11-86	The notice given to the Plff by the executive Engineer offering to pay him the amount due to him under the suit contract
III 4-4-86	Report against the Plff submitted to the Assistant Engineer - Nellore, by A. M. Veeradarajulu Naidu regarding the prickly pear removing work that was being done by the Plff
IV 25-4-86	Do Do Do
V 9-3-86	Prickly pear measurement account prepared by A. M. Veeradarajulu Naidu
VI 22-6-86	Petition presented by the Plff to Captain C. B. Henderson Esquire Executive Engineer praying that he may be allowed an increased rate of charge for the prickly pear removing work
VII 4-7-86	Do Do declining to work any further and asking payment for the work done
VIII 30-7-86	A reminder of Plff's application dated 26th July 1886 (not produced) addressed to the executive Engineer praying to settle the accounts of his prickly pear work
IX 4-10-86	Copy of the docket addressed —

175-KK

Corrections

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TWO ANNAS

STAMP DEPARTMENT
MAR 6
1891

1669

25-3-91

to the executive Engineer, Nellore by the Supervisor R. A. Salisbury remarking upon the measurements taken by Mr Pears of prickly pear removing work

X / 17-8-88 Another docket sent by R. A. Salisbury forwarding exhibit IX to the executive Engineer on his requisition

6 Pltff examined the following witnesses

1 T. Sabhapati Mudaliar 2 Dulavayi Papadu

3 Malle Pulladu 4 Zamazella Gadu 5 Nandyala Veerasamy

7 The following witnesses for the Deft were examined on commission

1 Captain C. B. Henderson R. E. in Madras Small Cause Court

2 Mr. R. A. Salisbury in Ongole Munsiff's Court

And the following witness was examined in this Court: — 3 A. M. Varadarajulu Naidu

8 Suit against Government by a contractor of piece work to recover Rs 1199-15-0 as money improperly withheld by the Public works Department

9 By an agreement (Ex. A) dated the 9th February 1886 the Pltff had undertaken to execute certain repairs to the supply channel to the Nellore Taluk by way of (1) clearing out the prickly pear

172

corrections 11

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TWO ANNAS

STAMP DEPARTMENT
MAR 6
1891

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[illegible]

[illegible]

32/708

and brush wood besetting it on either side and (2) by filling up the breaches or otherwise strengthening the bank of the channel with fresh earth to be dug out for the purpose

10 Accordingly he proceeded with the earth-work up to 5th June 1886 when the overseer Sabhapati Mudaliar in charge of the works took down rough measurements and valued the works at Rs 1362-15-0 for which he submitted a bill to the assistant Engineer Mr J. D. Pears for sanction. On that bill the Pltff received two payments in May and June 1886 amounting to Rs 916-2-2 and the remainder Rs 483-13-10 stood over

11 Subsequently, it is alleged by Pltff that he continued the works up to 13th August 86 which he values at Rs 549-2-11. Adding this to the outstanding amount under the bill, he makes out a claim for Rs 1033-0-9 for Earth-works alone

12. Besides this, under the head of prickly pear work, he demands Rs 166-14-6 estimating clearing operations at Rs 278-5-7 and deducting

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TWO ANNAS

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MAR 6
1891

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therefrom Rs 111-7-1 as payment made. These two sums viz 166-14-6 and Rs 1033-0-9 go to make up the amount claimed

13 The government defence is that the late executive engineer C. B. Henderson Esquire R.E discovered by his personal measurement on the 23d July 1886 that the work set out in the bill had been overvalued and reduced the amount to Rs 839-8-11 allowing only Rs 2-7-10 per 1000 cubic feet instead of Rs 2-14-0 the contract rate; that he did this partly for incomplete execution and partly for the earth-work not sectioned; that this reduction showed an overpayment of Rs 76-9-3 to Plff under this head; that the Plff never did any work subsequent to 23d July 1886 and is not entitled to Rs 549-2-1 and that for removing prickly pear, he was found entitled to Rs 234-9-1 and not to 270-5-7 and deducting therefrom Rs 111-7-1 already paid he was entitled to get Rs 123-2-0 and that setting off against this amount Rs 76-9-3, the overpayment, the sum properly due to Plff

177 RK .. corrections 13

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TWO ANNAS

MAR 3 1891

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[illegible]

came to Rs 46-8-9 and this he refused to take when tendered

14. The first two issues relate to the earth work that went into the bill. The executive Engineer in his deposition clearly accounts for the reduction he made. He measured all the works as they existed on the 23rd July in the presence of the Pltff and the overseer Sabhapati Mudali. Some of the pits were incomplete so as to defy measurement, the earth of the embankment had not been sectioned and instead of short measurements which experienced officers take for making payments in the course of the work, he found the overseer had been over liberal in his calculations. This evidence is materially corroborated by that of the Supervisor, Mr R. A. Salisbury who also maintains that the overseer had gone wrong confounding feet for yards and committing other blunders. There is nothing on the part of the Pltff to say that what these officers maintain is erroneous. Even Mr Sabhapaty his 1st witness cannot

168 KK

Corrections

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TWO ANNAS

Rs 5007

16/8/91 [illegible]

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venture to say so. He admits that he as well as the Plff should bow to the opinion of the executive engineer based on his own personal inspection. It may be that the overseer could have explained away some of the objections taken to his measurement if he had been questioned on that point; but it cannot be said that the results of inspection conducted by the head of the department is open to suspicion on that ground. It would have been very wise on Plff's part to request the executive engineer to take proper explanations from the overseer for the discrepancies in the account. this he has not done. The terms of the contract signed by Plff are very strict placing him entirely at the disposal of the executive Engineer. He is the officer to check works for final payments to object to bad work or to material or to reduce the rate. This he carried out and I cannot question his authority not doubt the correctness of the measurement made by him. The 1st and 2d issues are therefore found against the Plff

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TWO ANNAS

NELLORE

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[illegible]

15 The work supposed to have been done by Plff after the 5th ~~gone~~ June and before the final inspection is involved in the third issue. No public servant or public account bear him out in regard to this work. The final inspection took place on the 23rd July and the Plff could not have worked further in August the executive engineer makes a positive assertion that he saw nothing done by Plff after his final inspection and what had been done before 23rd July had been taken notice of by him. Plaintiffs' account book cannot be accepted and acted upon in preference to the evidence of a District officer. His workmen witnesses 2, 3 & 4 speak to nothing definite

16 The 3rd issue also goes against the Plff. Nothing is allowed to Plff under the fourth issue in consequence of the adverse finding under the 3rd issue

17 Regarding the item of prickly-pear, the evidence of the [illegible] overseer Varadarajul Naidu is very full and clear. He says that being

172 ~~lk~~ Corrections

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TWO ANNAS

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deputed to examine the spots where Plff had removed prickly-pear, he found in November 1886, 7833 square feet of ground still overgrown with the noxious weed. So he seriously questions the correctness of Plff's statement. The Supervisor also is against the Plff. Under these circumstances I cannot allow Plff more than what has been admitted in defence. There is the letter Exhibit II to show that the executive Engineer called upon the Plff to take payment of the sum admitted in defence but he has not done so.

18 The suit is therefore decreed in Plff's favour for Rs 46-8-9 without costs and he is ordered to pay the Deft the full costs on the suit amount with further interest at 6 per cent per annum from this date

Note:— Written at my dictation for pressure of work

Pronounced in open Court this 30th day of June 189[illegible]

(Signed) B. Veeraswamiah
District Munsiff

153 KK
Copied by KK
Read ES
Examined ES

(A true copy)

Corrections

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TWO ANNAS

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Application made ———— 20-3
Stamp papers called for ———— 24-3
Stamp papers deposited ———— 30-3
Copy ready ———— 6-4
[illegible]

91

SUPERINTENDENT

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TWO ANNAS

38/708

In the District Court of Nellore
Tuesday of the twenty ninth day of November
One thousand eight hundred and ninety two
Present. C. Ramachandrier Esquire District Judge
Appeal Suit No 246 of 1890

Neuthala Veeraswami Contractor and a resident of Kovur Nellore Taluq } Appellant Plff

Versus

The Secretary of State for India in Council — Respt Deft

Appeal against the decree of the District Munsif's Court of Nellore in Original Suit no 628 of 1887 dated 30th June 1890.

This regular appeal coming on for hearing on this 29th day of November 1892, the Court delivered the following

Judgment. 1 The plaintiff claimed rupees 1033-0-9 for earth work and made up the amount as particularized below—

Amount due under a bill dated 5th of June 1886 Rs 1362-15-0 ———— Rs 1362-15-0

Deduct amount paid to plaintiff
in May 1886 —— Rs 416-2-2 Rs
7th June 1886 Rs 500-0-0 ———— 916-2-2
Total— Balance 446-12-10

Value of earth work done from 5 June 1886 to 13th August 1886 ———— 549-2-11

Total Rs 995-15-9

[illegible] 188 [illegible] Court

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2. It is not denied that a bill was prepared by the ~~Assistant~~ Executive Engineer Mr. S. D Pears for rupees 1362 and that the said two payments were made by him to the plaintiff. Mr Pears left the District in the middle of June 1886. The defendant would not produce the bill, the Assistant Engineer had prepared and would not even call him as a witness to swear that he had prepared the Bill relying on the measurements given him by the Overseer and without himself taking Check measurement of the earth work executed by a Contractor.

3. Captain C. B. Henderson in his deposition affirms "This measurement had not already been measured by Mr Pears. To the best of my belief Mr Pears never measured the work. A bill was prepared by Mr Pears on the measurements made by the Overseer. I saw the Overseers' measurement in the book, but I was not present at his measurements. Mr Pears left the District in the middle of June

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" I did not ask Mr Pears for a written explanation
" as to why the bill was larger than the actual
" measurements, because he had been removed
" from my division. I did not think it is
" necessary to ask him for any information for
" I knew the wrong measurements were due
" to Mr Pears negligence
" The measurement made by the Overseer was a rough
" measurement. In rough measurements by men of
" experience, there is a tendency always to under-
" measure." The executive Engineer admits that it is a part of the duties of the Assistant Engineer to measure the work from time to time. I do not see any evidence that Mr Pears had not taken Check measurements of the plaintiffs works. A measurement book kept by Mr Pears has been produced which contains entries of other works in his division and the absence of any entry regarding the work of the plaintiff is no evidence against the plaintiff. Captain Henderson himself has entered his Check measurement of the plaintiffs' earthwork in a separate book which he had entered none of other work

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1892
NELLORE

in a different book. Mr Pears ought to have been called to swear to what he had done. The original Bills which will show whether Check measurements had been taken or not have not been produced. The entries in the inspection book (O) show that the executive Engineer remarked on the 22d July as follows.

" Measured up work done in Nellore tank Channel
" The Contractor who was present evidently intends to
" give ~~troubly~~ trouble so I measured up all ~~it~~ he has
" done including what was measured and
" paid for by the Assistant Engineer."

This shows that Mr Pears had measured the work up to 6th June the date of the Bill and had left some memo of it to enable his successor to know how much of the work he had checked. Such writing is not forthcoming and the Executive Engineer Captain Henderson does not explain what from he had ascertained that Mr Pears had measured the work. The entry contradicts Captain Henderson's assertion that Mr Pears had not checked the measurements and that the wrong measurements were due to Mr Pears's negligence.

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The Overseer Sabhapathy Modaly has been as such for 9 years and if Mr Pears had adopted his measurements as correct, he is only accountable to Government for his conduct and I do not see how it would affect the plaintiffs claim.

4. Captain Anderson had not called on the overseer to explain his conduct. The overseer declares that Mr Henderson did not take measurements of the tanks which were incomplete and he could not guess at the quantity of work so omitted but the overseer swears that his measurements were correct and that he did not know that his measurements were at any time found incorrect or found fault with in the work done by the plaintiff. The defendants vakil did not cross examine the overseer on his statement that some pits which were incomplete were not measured. This man is still in service and I do not see any ground to discredit his testimony. Captain Henderson himself admits that the pits, besides were incomplete and therefore difficult to measure. He says that he measured the work in 2 or 3 hours and

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that the plaintiff objected to the mode of measurement and went away Mr Salisbury declares that "Captain Henderson's measurements were neither pit nor bank measurements. It is widening of the Channel what we call cutting" Captain Henderson did not take pit measurements according to Mr Salisburys evidence. Such incomplete pits were (probably) dug after the 6th June and there is evidence that plaintiff was doing work after 6th June till Captain Henderson inspected the work on the 23rd July 1891. Plaintiff is a petty Contractor and his Contract had no reference to any particular work. My fining is that the plaintiff is entitled to recover Rs 466-12-10

5. The Overseer says "I donot refer in my Bill to the sectioning of the work so it must have been done. When sectioning is not done we generally withhold 8 annas per 1000 Cubic feet as its Cost". This means that if sectioning had not been done he should have made a note to that effect in the Bills, but the Bills have not been produced. The defendant has no evidence

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DEC 1 1892

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to show that any deductions had been made in the Bill for Sectioning and the plaintiff affirms that on the date of the Bill as there were only 500/- to the credit of the work in the Treasury, Mr Pears paid him that sum and told him to wait for some time.

6. As to the item of Rs 549-2-11, I do not see any reliable evidence of the plaintiff. His own memo of measurements and the oral evidence adduced by him in the absence of the daily account showing the progress of work and vouchers for payment of wages after the 7th June are not sufficient to warrant a decision in his favor, though the evidence shows that he had continued his work even after 7th till the 20th. I disallow the plaintiffs claim to Rs 549-2-11.

7. The plaintiff affirmed he had removed prickly pears over 221680 square feet and claimed rupees 278-5-7 as the value of the work. The defendant admitted the claim to the extent of Rs 234-9-1 and claim deduction of Rs 43-12-6

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for the short measurement found by one Varadarajulu Naidu and after him Nellore Supervisor, Mr Pears assistant Engineer in Charge had ascertained 139062 square feet of ground cleared valued at Rs 173-13-3 and Varadarajulu Naidu had measured 82618 square feet to the value of Rs 103-8-2. The total of the said items 221680 has been admitted by Captain Henderson in his Takeed dated 22d November 1886; but he makes two deductions 7833 square feet short measurement found by Varadarajulu and 26187 found by the Nellore Supervisor. Captain Henderson had not himself measured the work and he could there speak only from hearsay. The defendant has got no paper to show how Varadarajulu subsequently short measurement in the quantity of work which he had once measured and ascertained. He could not have found any short measurement in the quantity ascertained by Mr Pears and certified by him in his note book (E). Varadarajulu Naidu's bill Exhibit V proves clearly that the plaintiff had cleared 82613 square feet of ground—

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for rupees 103-4-6 and he could have found no short measurement therein subsequently. His evidence is not consistent with the bill. The defendant has not named the Nellore Supervisor who was again deputed to measure the prickly pear ground cleared by the plaintiff or explained the necessity for it. The defendant has not examined Mr Salisbury on the point. The short measurement of 26182 is not therefore proved. The plaintiff is entitled to rupees 166-14-6.

8. I modify the Lower Courts decision as under. I award to plaintiff against the defendant rupees 446-12-10 with interest at 5 percent per annum from the 7th June 1886 until payment for earthwork, Rs 166-14-6 with interest at 5 per cent from the 27th July 1886 the date of Varadarajulu's Bill for prickly pear removed until payment. The costs in both the Courts will be apportioned on the claims allowed and disallowed. I dismiss the plaintiffs' claim for Rs 549-2-11

Pronounced in open court this 29th day of November 1892

(Signed) C Ramachandraiyer
District Judge

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N. B. Exhibit G filed by the appellants's pleader Mr. T. T. Ward on 29°-11-92 in this Court during the hearing of the appeal The original of it is already on the record

(Signed) C. Ramachendrier
District Judge

Signed 9-12-92

Copied by [illegible]
Read by [illegible]
Examined by [illegible]
1624 words
Corrections [illegible]

COPYISTS' O[illegible] NELLORE.

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11-1- 93
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Dt. Delivered 20-1- 1893

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DEC 1 1892 NELLORE

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The Seal of the District Court of Nellore

48/708

No 176

Decree in appeal Suit no 246 of 1890

Section 579 of the Code of civil procedure

In the Court of the District Judge of Nellore

Munthala Verasami Contractor and a resident of Kovur in Nellore Taluq } Appellant Plaintiff

Versus

The secretary of ~~State for India in Council~~ State for India in Council } Respondent Defendant

Appeal from the original Suit no 628 of 1887 of the Court of the District Munsif of Nellore dated 30th day June 1890.

Memorandum of appeal

N. Veraswami —— Plaintiff.

The Secretary of State for India in Council — Defendant

Plaintiff above named appeals to the District Court of Nellore against the Decree of the District Munsiffs Court of Nellore in the above suit dated 30th day of June 1890 for the following reasons namely:—

1. The decision of the lower Court is against law and the weight of evidence.
2. It has been proved that plaintiff did the earth work for which he claims payment.
3. The executive Engineer was not justified in making any deduction in the quantity

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of earth work done or in the rate agreed upon

4. It has been proved that plaintiff removed the quantity of prickly pear for which he claims payment and that he is entitled to the full sum claimed under that head.

5. The principal on which deductions were made in the quantity of prickly pear removed is incorrect and the executive Engineer was not justified in making ~~up~~ any deduction.

This appeal coming on for hearing and upon hearing the arguments of Mr T. J. Ward vakil for appellant and Mr T. V. Venkatrama Iyer B.A. B.L. vakil for Respondent the Court decreed as under.

I modify the Lower Courts decision by awarding to plaintiff against the defendant rupees 446-12-10 with interest at 5 per cent per annum from the 7th June 1886 until payment for earth work, Rs 166-14-6 with interest at 5 per cent from the 27th July 1886 the date of Varadarajulu's Bill for prickly pear removed until payment. The cost in both the Courts will be apportioned on the claims allowed

N/186 words Court

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2-8-11 [illegible]

[illegible]

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and disallowed. I dismiss the plaintiffs claim for Rs 549-2-11.

Memo of Costs

	Appellant	Respondent
Vakalut	0-8-0	1-0-0
Appeal Stamps	85-0-0	"
Notice Batta	1-0-0	"
Charges for copies	4-4-0	4-8-0
Vakils fees	57-10-3	57-10-3
	Rs 148-6-3	Rs 63-2-3
About Costs on the allowed relief.		
Appeal Stamps	42-12-0	"
Vakils fees	28-5-6	28-5-6
Other Costs	5-12-0	5-8-0
To be paid by the respondent	Rs 76-13-6	Rs 33-13-6 to be borne by him.
Costs on the disallowed relief.		
Appeal Stamps	42-4-0	0-0-0
Vakils fees	29-4-9	29-4-9
		29-4-9
To be borne by him	Rs 71-8-9	to be paid by the appellant.
About Costs in the Lower Court		
~~About~~ Costs on the allowed relief		
Plaint Stamps	46-8-0	"
Vakils fees	30-10-3	30-10-3
Other Costs	42-6-0	100-4-0
To be paid by the defendant	Rs 119-8-3	Rs 130-14-3 to be borne by him.

A 191 words Correct

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Costs on the disallowed relief

	Plaint Stamp	38-8-0	29-5-9
	Vakils fees	29-5-9	Rs 29-5-9 to be
to be borne by him (appellant) plff		Rs 67-13-9	paid by the plff

Given under my hand and the seal of the court this 29th day of November 1892

/Signed/ C Ramachendrier
District Judge

Signed 16-12-92

Note The parties should apply as soon as possible after the expiration of the appeal time 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

Copied by
Read by
Examined by
M Osmond
Clerk

COPYISTS' CENTRAL OFFICE, NELLORE
1-12-92
11-1-93
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19-1-93
Do. issued 20-1-93
SUPERINTENDENT.

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[illegible]

PW 41/2077/93

From H. H. O'Connell Esquire, Executive Engineer, Nellore Division to the Superintending Engineer, II Circle, dated 20th February 1893, No. 337.

54/703

G.O. No. 1005 W of 4th April 1887, bearing Supg: Engrs: No. 15 M of 10th April 1887.

With reference to your endorsement on the marginally noted G.O. I have the honor to submit herewith the Copies of the Judgment and decree obtained in appeal suit No. 246 of 1890 brought by Nanthiala Veeraswamy against the Secretary of state for India in Council, in the District Court of Nellore.

2. The suit in which the plaintiff claims the value of certain excesses of earthwork done by him to the Nellore Tank supply Channel in 1886, and objects to certain deductions in his bill for clearing prickly pear on account of the same, was originally launched by him in 1887 and was prolonged up to 30th June 1890, when the District Munsiff, Nellore decreed in favor of the Plaintiff for a sum of Rs 46·8·9 only without costs, and the Plaintiff was also directed to bear the costs of the Defendant (Government). Against this decision, the Plaintiff appealed and the appeal was disposed of by the District Judge on the 29th of November last

His

judgment and decree which are
losed, are to the effect that the
ndant (Government) should pay
intiff the following sums:—

For earthwork done		Rs 446·12·10
Interest on the same from 7th June 1886 to 31st March 1892 at 5 per cent per annum		152·5·5
For prickly pear removed		166·14·6
Interest on the same from 27th July 1886 to 31st March 1892 at 5 per cent per annum		55·11·6
Costs		
Appeal suit		
Costs to be paid to the appellant	Rs 76·13·6	
Deduct Costs to be paid by him	29·4·9	
		47·8·9
Original suit		
Costs to be paid to the Plaintiff	Rs 119·8·3	
Deduct costs to be paid by him	29·5·9	
		90·2·6
Total Rs		959·7·6

Major Henderson, who has since died,
the Executive Engineer of the Division when
ansaction with the Contractor took

As no fresh evidences can now be produced, nor are we in position to adduce further proofs of any kind, at this distance of time, there appears to be no further use in appealing and carrying the matter to higher Courts.

53/708

4. I, therefore, request that you will be good enough to obtain the orders of Government for the disbursement of the amount mentioned in para 2 supra. Of the amounts there in referred to, Rs 446·12·10 (Item 1) is now under "Deposit" account of this Division, and the balance Rs 512·10·8 should be charged to the Estimate of Rs 7,500 for special repairs to the Nellore Tank Supply Channel.

5. Orders are also solicited to the disbursement of Rs 59·15·3 being the amount of pleader's bill in the appeal suit, and sanction should also be accorded to another sum of Rs 168, costs already incurred in connection with the Original and Appeal suits, charged to Contingencies and passed provisionally by the Examiner, pending the result of this appeal suit.

Encls 10 documents

No. 716 N.L / 1·3·93 Submitted to the Chief Engineer, Public Works department, with reference to G. O. No. 1005 W of the 4th April 1887 for favor favour of orders for the disbursement of the sums referred to in the foregoing.

L. W. Martin
Superintending Engineer
II Circle

54/708

P. W. CURRENT No. 2077

From

The Supt. Engineer
II circle

To

The Chief Engineer
P.W.D.

dated 1st March/93
Recd. 6.3.93

No 716 M

Mar 6 [illegible]

Nunthela Veeraswamy
Contractor — Forwards
Copy of Judgment &c
in the appeal suit
filed by — for orders

No. 1005 W d/ 4-4-87.

C. 16/3

Pro No. 708 W d/ 14th Mar

W.S
9 Mar

The disbursement
of the sums mention
by the Executive Engin
is sanctioned.

[illegible] 8/3/9

OWB
7.3.93

Cc S.E. II circle
Exr. P.W. Accts.
15/3

Fen 8/3. R 10/3.