

G.O., No. 1216

DATED 11-1-96

[Despatch Abstract.]

Appeal: Letter from the Supdt of Works
Periyar Project, forwarding copy of judgment
delivered by the D. C. Judge, Madurai, on
the — against the decision of the Sub-
Judge in the Periyar liquor seller's case,
recorded, and a copy of the judgment
to be forwarded to Mr. DeWinton.

No 121 W of 11^a January 1896
PROCEEDINGS OF THE MADRAS GOVERNMENT.

From the Supt. of Works No. I Periyar Dn, No. 164 C.E., d/14th December 95.

6 Jan

will be forwarded to Mr.deWinton for information.

Cut my
12/25

The Supt. of Works, No. I Periyar Dn.

W. B. deWinton Esq. with
copy of judgment.

(40-4,000-2-11-95.)

H.B.

Judgment on appeal
in the Periyar Division
cellar case

No 121 W of 11th Jan'y 1896

In the District Court of Madras

The 4th day of November 1895.

Present. J. W. F. Dumergue Esq. District Judge
Appeal Suit No. 282 of 1895

1. W. B. deSinton, late Superintendent
of Works No. I Division Periar
 2. T. D. Pears, Superintendent of Works
No. I Periyar Division
- Appellants
(Deft's)

Gowri moorthos Pillai — Respondent (Plff)

Appeal from the Decree of the Subordinate
Judge of Madras (West.) in original suit
No. 30 of 1893, dated 5th March 1895.

This appeal coming on for hearing on
the 1st day of November 1895 and having
stood over for consideration till this day,
the Court delivered the following
Judgment: — This was a suit for damages
and the following are the facts of the case so
far as they are necessary for the purposes
of

INDEXED
2.1896

of this judgment. The Plaintiff was a subcontractor under the Travancore Government for the sale of country liquor and the two Defendants, officers in the Department of Public Works, Madras, were the successive Superintendents of the Periyar Project Irrigation works, executed by the British Government. The Periyar Project Camp was situated on land leased by Travancore to the British Government and the Plaintiff carried on trade in a shop within the limits of the Camp. On the 18th April 1892, the Plaintiff was, for reasons which need not be specified now, expelled from his shop and from the Camp by a subordinate officer in the works acting under the orders of the Superintendent and, according to the allegations made in the plaint, was not allowed to resume his business until the 7th July 1892. He thereupon sued in the Subordinate Court of Madras (West) to recover from the Defendants with costs Rs 4500 as damages

damages for the interruption caused to his trade and has obtained a decree for Rs 300 with proportionate costs and without being directed to pay the Defendants their costs on the amount disallowed. The Defendants appeal.

2. It is now admitted that the place where the cause of action arose and where the Defendants actually resided at the time of the commencement of the suit is foreign territory over which the British Government exercises no civil jurisdiction, although limited jurisdiction in criminal matters has been conceded to it by the Travancore Durbar. British Courts, therefore, had no inherent jurisdiction over the subject-matter of the suit and the omission on the part of the Defendants to raise an objection on the point cannot convert the proceedings into a judicial process (Ledgard Versus Bull L.R. 13. J. A. 144. Munachi Versus Subramonia L.R. 14. J. A. 160). The Subordinate Court of

of Madura (West) was consequently incompetent to entertain the suit.

3. With regard to the question of costs, it is urged on behalf of the Plaintiff that the parties should at least be made to bear their own costs since the Defendants did not object to the jurisdiction of the lower court. But it appears to me that the Plaintiff wilfully misstated facts by asserting in the plaint that Periyar is in the Taluk of Periakulam in the District of Madura because, as a subcontractor under the Travancore Government for the sale of liquor at Periyar, he must have known this allegation to be incorrect. In any case he ought to have exercised due care and ought not to have dragged the Defendants into a court which had no jurisdiction. Moreover, seeing that, whereas he claimed Rs 4500, Rs 300 only were awarded to him and that he ought to have been directed to pay costs on the amount disallowed, the decision was

Substantially in favour of the Defendants. For these reasons, I think the Defendants are justly entitled to their costs and the result is that, the decree of the lower court being reversed, the plaint may be returned to the Plaintiff, who will pay the Defendants their costs and bear his own throughout.

(Sd) W. Dumergue
District Judge.

True copy

A. Kowbucki Reeling
Superintendent of works
No. 1 Periyar Division
Dy 13/12

PUBLIC WORKS DEPARTMENT.

No. 1646-S.

Office of the Superintendent of Works,
No. 1, Periyar Division.

Station

Periyar

dated

14th December 1895.

From,

A. Sroubridge Kaling Esquire,
Superintendent of Works,

No. 1, PERIYAR DIVISION,

PERIYAR.

To,

THE Chief Engineer
Public Works Department
Madras

ENCLOSURES.

one file

Sir,

I have the honor to forward herewith
a copy of the judgment delivered by
the District Judge on the appeal sanctioned
in W. G. O. dated 18th April 1895.

with 7 & 2
1-5-95
in conf. of almirah

S.B.

18-12-95

I would draw your attention to para
2 of the judgment. The recovery of
the costs allowed us will be effected
if possible.

I have the honor to be
Sir,
Your most obedient servant.

A. Sroubridge Kaling

Supt of Works
No. 1 Periyar Div.

M

13/12

From

The Superintendent of Works
 vs. 1 Periyar Division

Recd: 17-12-95

To

The Chief Engineer
 Public Works Dept.
 Madras

No. 3309 W of 2-12-92 ✓

" 2086 C " 18-5-93 ✓

" 3883 C " 18-11-93 ✓

" 1267 C " 19-3-94 ✓

" 1311 C " 21-3-94 ✓

" 1346 C " 26-3-94 ✓

" 1809 C " 1-5-94 ✓

" 2221 C " 16-6-94 ✓

" 902 D " 30-8-94 ✓

" 1058 D " 17-9-94 ✓

" 4174 C " 21-12-94 ✓

" 135 C " 16-1-95 ✓

" 9 D " 18-4-95 ✓

" 10 D " 18-4-95 ✓

" 78 D " 1-5-95 ✓

Station. Periyar

Dated 14 December 1955

Encl. 1 file

No. 164 T. S.

Judgment on appeal

in Periyar Diquer settling

case: — Forwarding

a copy of — and requesting

to effect the recovery of costs awarded.