Public Works (1896) Department.

G.O., No. 281I

DATED 24-3-96

[Despatch Abstract.]

__Suit__. The defence of the suit instituted by the ryots of Karedu village, Nellore Dt., to establish their & right to the Karedu tank and spring water authorised at the public expense and the result, ordered to be duly reported.

[P.W. 25.
1,000—23-10-95.]

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

No. 281 I., 24th March 1896.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Irrigation.
Establishment.

Read—the following paper :—

From the Executive Engineer, Nellore Division, to the Superintending Engineer, II Circle, dated 29th February 1896, No. 480 S.E.

In forwarding herewith the summons with a copy of the plaint in a civil suit brought by the Karedu ryots against the Secretary of State, the Kandukur sub-division officer and several others, I have the honour to invite your attention to this office No. 162 S.E., dated 20th June 1895, and the subsequent correspondence on the subject, and to request that you will obtain the sanction of Government for defending the suit at Government cost. I forward, herewith, a copy of my No. 1062 M., dated 29th February 1896, to the Collector of Nellore which gives a brief outline of the lines on which the case is to be defended. Opinion of the Government legal officers may be obtained on the subject.

No. 649 N.L.

Forwarded to the Chief Engineer for Irrigation with a request that the sanction of Government may be obtained for the defence of the suit.

2. The undersigned does not consider that Mr. Hollingsworth was to blame for ordering a sluice to be put into the bund thrown up by the villagers ; he appears to have acted entirely in the interests of Government.

8th March 1896.

(Signed) W. L. C. BADDELEY, Major, R.E.,
Superintending Engineer, II Circle.

Order—No. 281 I., dated 24th March 1896.

The defence of the suit is authorized at the public expense and the result should be duly reported.

(True Extract.)

Under Secy. to Govt., P.W.D.,
Irrigation Branch.

To the Superintending Engineer, II Circle, with four enclosures.
„ Chief Engineer for Irrigation.
„ Examiner, Public Works Accounts.
„ Revenue Department.

Exd. T. K. Narayana Aiyangar.
Spare Copies

IRRIGATION.
ESTABLISHMENT.

Govt. of {1896} Madras.

PUBLIC WORKS.

From the Supdg. Engineer, Second Circle (H.E. No. 649- M. dated 8.3.96)

Dated March, 24th.

Recd. *Encl.*

The defence of the suit is authorized at the public expense and the result should be duly reported.

G.O. No. 281 I., 24th Mar. 1896.

MARCH.

To The Supdg. Engineer, Second Circle with 4 enclos.
" Chief Engineer for Irrigation
" Examiner, P.W. Accts.
" Revenue Dept.

Suit

The defence of the suit instituted by the ryots of Karedu village, Nellore district, to establish their right to the Karedu tank and spring water, authorized at the public expense and the result ordered to be duly reported.

PUBLIC WORKS DEPARTMENT,
No. 281. I d/ 24th March/96. IRRIGATION BRANCH.

58

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the

Draft Gen. Establt.

READ the following

From the Supdg. Engineer, Second Circle (H.E. No. 649- M. dated 8.3.96)

Part with G.O. letter

38

The defence of the suit is authorized at the public expense and the result should be duly reported.

A.S.H. 21.3.96

13/3

15/3

To

The Supdg. Engineer, Second Circle with 4 enclos.
" Chief Engineer for Irrigation.
" Examiner, P.W. Accts.
" Revenue Dept.

DESPATCHED
1 APR 96

12/3

His Excellency the Governor

Kareon Spring water Suit.
~~Defence of~~ Nellore Distt

Rul 8th

E. I. Form No 1—1,000—27-11-95.

R
23 3 96

H.E. 20/3 R 23/3.

SUPG. ENGINEER'S OFFICE
No. 5/0/92
MAR 96
P. W. D.

Copy of letter No 1062 M dated 29 2 96 / 3 - 3 - 96 from the Executive Engineer Nellore Division to the Collector of Nellore

Ref: No $\frac{740}{V46}$ of 16-2-96.

With reference to the above, I have the honor to report as follows.

(1) The facts of the case are clearly detailed in paras 1 to 3 of my No 263 M dated 20th June 1895, which was an answer to the notice of Civil suit sent by the ryots and in my No 1007 M. of 17th February 1896. For your information, I give below a brief summary of the facts connected with the case.

(2). The Kareon Tank breached in the year 1882 and a deep scour ~~hole~~ hole between 15 and 20 ft deep was found at the eastern extremity of the southern bund. As it was dangerous to take the bund across this scour hole in which there was a spring, a ring bund was formed in that year. This ring bund was being strengthened from year to year and last year, it was still further strengthened. Near this breach, there is an old spring called a sona or doruvu which had to be left outside the tank when the ring bund was formed. As this spring water was of no use to the ryots under the tank, it was being utilised by the ryots of the Kandriga close by. Nobody authorized them to so use it. Last year the ryots of Karedu, with an intention of doing damage to the crops in the Khandriga formed a small ring bund across the scour hole. As the Khandriga ryots complained to the Sub Division officer, he allowed them to put in a pot sluice in this bund. This was removed by the Karadu ryots who were consequently prosecuted. The case was dismissed by the Submagistrate. The action of the Sub Division Officer in interfering with the supply was condemned in my Nos. 510 M. dated 27th August 1895 and 1007 M. dated 17th February 1896

2. Having detailed the facts connected with the case, I now come to the points on which the suit is based and which we have to refute. The plaintiffs want to establish the following.

I Their sole right to the use of the tank and Sona water.

II Their right to have the scour hole filled up and the bund restored along the old line.

III Their right to have the ring bund removed.

IV Their right to prohibit the owner of the Khandriga from using the water of the Sona.

3. As regards the first point, I think the right to distribute the water from the tank vests in Government and no body can claim a sole right to the use of water from a particular source. As a matter of fact, a somewhat ~~not~~-notable ~~able~~ decision in Madura confirmed by the Privy Council vests the right to the water in a natural stream and as a consequence in the affluent from a tank which is a natural stream bunded across, in Government. The ryots may have their lands cultivated by the tank water but they cannot claim the sole right to its use.

4. As regards the 2d. and 3d. points, it is certainly prejudicial to the safety of the tank to form a bund across such a deep scour hole, as the presence of the spring would lead to a breach. The soil that could be procured in the vicinity is pure sand which if thrown across the scour cannot prevent the leakage. From an Engineering point of view, we cannot ~~make~~ make up the bund across the scour hole and cannot therefore remove the ring bund.

5. As regards the fourth and last point, I cannot say that the Khandrigadar has a right to the use of the water from the Sona. But it being a natural spring, I believe the Government has a right to use it to the best advantage. As the Sona is of no use to the Ryots under the tank, it may be utilised by the Khandrigadar whose lands are classed wet and whose source of irrigation is put down as the tank. I do not press this point as it is one that affects the parties and may be settled by the Court on its own merits.

6. I am sorry I cannot put the defence

in legal language and I request that the papers may be sent to the Government Pleader and his opinion obtained.

7. The summons and the copy of the plaint received with the above quoted reference are herewith returned.

8. I forward herewith for your perusal and return at an early date all correspondence connected with this case.

(True copy)

2819

P.S. The cause of action is said to have arisen on 28.12.94. This is wrong. It arose, if at all, in 1882, when the tank bund breached & a ring bund was put

P. A. Srinivasa Aiyangar
29.2.96
Executive Engineer
Nellore Dn.

Ours
29.2.96
A.E. Comp'd
26/2/96

Q43-1
2772/96

CHIEF ENGINEER
FOR IRRIGATION.
10 MAR. 96
No. 1742

Letter from the Executive Engineer, Nellore Dn., to the Supg. Engineer, 2nd Circle, d/ 29-2-96, No. 480 S.E.

In forwarding herewith the Summons with a copy of the plaint in a civil suit brought by the Karedu ryots against the Secy. of State, the Kandukur Sub Dn. Officer and several others, I have the honour to invite your attention to this Office No 1625 S.E. d/ 20.6.1895, and the subsequent correspondence on the subject and to request that you will obtain the sanction of Government for defending the suit at Govt. cost. I forward herewith a copy of my No. 1062 M d/ 29.2.96 to the Collector of Nellore which gives a brief outline of the lines on which the case is to be defended. Opinion of the Government legal officers may be obtained on the subject.

Enclos: 5

No. 649 M / 8.3.96

Forwarded to the Chief Engineer for Irrign: with a a request that the Sanction of Government may be obtained for the defence of the suit.

2. The undersigned does not consider that Mr Hollingsworth was to blame for ordering a sluice to be put into the bund thrown up by the villagers he appears to have acted entirely in the interests of Government.

W Baddeley

Major R.E.

Supg Engr. II Circle.

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W.C. Baddeley

Major R.E.

Supdg Engr. II Circle.

M.

FOR IRRIGATION
10 MAR. 96
No. 1742

P. W. CURR 2772

From

The Supg Engr

II Circle.

To

The Chief Engr

for Irrign:

Madras.

Encls 5

Ans: 18.3.96

No. 649 NL
8.3.96

Encl 5

Karedu Spring water Case – Requests Govt Sanction to the defence of the — brought by certain ryots.