blic Works

8503 9333
9249 9359

~~Marine~~ (1896) Department.

G.O., No. 3005 W

DATED 23" October 1896

[Despatch Abstract.]

Suit: Re defence of the — brought against Government by Contractor I. V. Subbiah chetty of Nellore, sanctioned.

[M. 6.
1,000—13-10-96.]

T.C.
23/10

24/10

BACK PAPERS.

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

FURTHER PAPERS.

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

Public Works ( ) Department.

H/6
B/

8303
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9333
9334

URRENT No. 8503

No. 3005 W. d 23" October 1896.

Order A.SH 21.10.96

The defence of the suit is sanctioned.

21/10/96

From The Supdg: Engineer
II circle.

No. 381 N.L.

Dated 19.9.96
Received 22.9.96
Enclosures 2
Spare copies .

Issue at once

R.S. 22/10

SUBJECT.

Civil suit brought against Govt by D. V. Subbia Chetty, Contractor: Requesting sanction for the defence of the ——.

S.E. II circle
Gov Pla

Despd 28/10

0 L.S 667

BACK PAPERS.

G.O.	No.	Department.	Date.
	1044W	PW	23/4/96
	2649C	〃	19-2-96
	3449W	〃	17-12-92 ✓
	5325C	〃	15-12-92 ✓
	1670W	〃	2-6-92 ✓
	2131W	〃	8-8-91 ✓
	1765W	〃	30-6-91 ✓
	336W	〃	13-2-85 ✓

FURTHER PAPERS.

G.O.	No.	Department.	Date.
2 W	9249	/ 96	

In the District Munsiff's court, Nellore.

Original suit No. 180 of 1896.

Plaintiff. Defendant.

Arasala Venkatasubbiah (versus) The Secretary of state in Council

Written statement under section 110 Civil Procedure Code.

The defendant above named states as follows:-

1. The plaintiff applied on the 2nd September, 1891, to the Executive Engineer, Nellore Division to be permitted to undertake the construction of the head Assistant Collector's cutcherry at Gudur and a piece-work agreement was taken from the plaintiff in or about December, 1891.

2. Owing to certain deviations from the sanctioned subheads, the agreement of 1891 was by consent of parties given up, and a fresh agreement was entered into with the Plaintiff on the 30th May, 1893. The said agreement is herewith filed.

3. After the agreement was entered into, the contractor did not promptly carry on the work, and on 12-1-94,

stopped work altogether and demanded rates higher than what he was entitled to, under the agreement.

4. The Ex. Engr., Vellore, was dissatisfied with the Plaintiff's execution of work and in accordance with the terms of the agreement empowering him so to do, cancelled the Plaintiff's agreement on 18-1-94 and intimated the fact to the Plaintiff through the overseer of Gudur on or about the 25th January '94.

5. Plaintiff was offered Rs675-14-2 in full satisfaction of all his demands and he refused to receive the same. Plaintiff is not entitled to any further amount in connection with the work done by him and his allegations in paras 5 & 7 of the plaint to the effect that all the work done by him was not measured and that the D.P.W. officers used some of the materials collected by him are not true. This defendant puts plaintiff to proof of the allegation.

6. The schedule annexed to the plaint is incorrect. A correct schedule showing the amount due to the Plaintiff and under what heads is herewith put in.

7. The defendant denies all allegations in the plaint except such as are herein admitted and puts plaintiff to proof of the same.

8. The plaintiff having refused to accept the amount offered to him, the defendant is not responsible for any costs incurred by the Plaintiff.

9. The defendant prays that plaintiff may get a decree for Rs675-14-2 and that he is directed to bear all costs of the defendant.

I, the defendant abovenamed do hereby state that what is stated above is true to my knowledge except as to matters stated on information and belief and as to those matters

I believe it to be true

(True copy)

Mo. Appathor manager.

Supg Engrs office,

[illegible]

In the court of the District

Munsiff, Nellore.

Original Suit No. 180 of 1896.

Plaintiff

Irasala. Venkatasubbiah chitty

Father's name.

Komati Trade.

Inhabitant of Nellore.

Defendant

The Secretary of state for India in Council.

The plaintiff under section 50 of the Civil Procedure Code hereby informs that:-

1. The P. W. authorities had taken him as a contractor for the construction of the Head Assistant Collector's office, Gudur, and he was ordered to collect the necessary materials from on or about December, 1892.

2. After the plaintiff accordingly collected the materials and commenced some work, the Ex. Engr, Nellore Division had taken the piece-work agreement signed by him on 30-5-93.

3. when the plaintiff was

working

working satisfactorily, the original plan of the building was changed, and he was asked by the P.W.D to execute the work in a new fashion on English Bond. As there was an increase of work, he had applied to the Sub Divisional officer on 11-12-'93 and to the Executive Engineer on 12-1-'94 for an increase of the agreement rates for certain works. In reply to them, the Sub Dl. officer had sent two endorsements through the overseer Gudur. The one dated 15-1-'94 was to the effect that the rates could not be increased and the other dated 25-1-'94 that the work should be stopped and that he would be paid for the work done up to that time and for the materials collected, and not for the work done and the materials collected after that time.

4. When the plaintiff received the two endorsements stated above, he went and asked the overseer why he was ordered to put a stop

to

to the work in addition to the refusal of giving higher rates. The overseer told him that the Ex. Engineer ordered that the work should be finished very soon & so the work must be undertaken by Departmental agency.

5. The plaintiff says that the correct measurements were not taken for the work done and materials collected in contravention to agreement conditions & to the orders issued by the P.W.D authorities. The P.W.D authorities told him that he would not be paid for the materials collected & that he should remove them. To the plaintiff had sent in a bill dated 19-2-'94 for Rs 3561-6-9 for the work done by him, for the materials collected, and for the loss he had sustained by putting a stop to his contract.

6. On this, the Ex. Engineer issued an order dated 12-3-'94 to the effect that he would be paid and that

he

he should be present before him. On 20-3-1894 another order was sent to the effect, that the materials would be removed from the spot if he does not consent to take the money at reduced rates for certain materials.

7. When the plaintiff requested that if the materials wrought from a a distance in obedience to the orders of the P. W. D. and with the objecting of completing the work very soon, were not used & were removed, he would sustain a great loss, but the P. W. D. did not consent for it. But after this, the P. W. D. had used some of the materials collected by the Plaintiff.

8. Because the payment was not made, the Plaintiff had calculated only the amounts for the work done and for the materials collected for which no payment is made and deducted the loss he had claimed previously and prepared a detailed account and sent a bill for Rs 2420/8/8 and a registered notice dated 19-11-94

to the District Collector, Nellore, under Section 424 Civil Procedure Code, that if the money was not paid a suit would be filed in the court for the amount. The plaintiff had received the acknowledgement of the papers from the Collector.

9. The plaintiff received no payment, but the Executive Engineer had sent him an order on the 11th June, 1895, stating that Rs 675-14-2 would be paid to him if he could attend the Division office. The plaintiff replied that as he had to receive a larger sum than this, he would accept it as a part payment; and so the plaintiff did not receive even this amount. The plaintiff had filed all the papers he had with him in favor of this case. The other records in connection with the case are in the possession of the defendant.

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10. Cause of suit arose on the day of despatch of the registered notice (19-11-'94) to the District Collector, Nellore.

11. He asks for a decree of the following amounts.

The amount to be got by the Plaintiff in accordance with the schedule filed in the court —— Rs 2420-8-8.

The costs of the case and the interest previous to that date.

Dated May 1896.

Sd Irasala Venkatasubbiah.

I sware that the entries made in the plaint are correct to the best of my knowledge and belief.

Sd I. Venkatasubbiah

By order of the court
Sd Gopal Sing
Head clerk.

(True copy)

Mo. Upshon Manager,
Subg Engr's office,
II Circle.

O.W.r.1
8503/86

Letter from the Executive Engr., Nellore Division, to the Superintending Engineer, 2nd Circle, No. 176 S.E. dated 9-9-'96.

—

I have the honour to forward herewith the undermentioned papers in connection with a civil suit brought against Government by one Ivasala Vinkata Subbiah chitty of Nellore, contractor of Head Assistant Collector's cutcherry at Gudur and to request you will be good enough to obtain the sanction of Government for the defence of the suit at an early date.

1. Collectors No. $\frac{3905}{\text{ver}}$ of 29th November, 1894, with two enclosures.

1. Do — Do — No. $\frac{2661}{\text{ver}}$ of 12-7-'96 with two enclosures & translation of plaint.

1 Application of contractor for work dated 2-9-'91.

1. Agreement (revised) d/ 30-5-'93.

1. Application of contractor for higher rates dated 12-1-'94.

1 This office No. 2372w, d/ 11-6-'95 promising to pay Rs 675-14-2.

1 Petition from contractor refusing to receive payment.

1 Memo of points on which defence may be drawn.

1. Bill for work done for Rs 4636-11-5.

1 Explanation by overseer Mr Sydenham why certain items claimed could not be paid.

1 Defence drawn up by Government Vakil at Nellore.

2. You will see from the above that Rs 514-14-2 are entered on the 4th page of the bill, as having been credited to deposits, but to this, if you add Rs 161-0-0 first deducted for extra lift for upper part of wall and allowed afterwards it will give a total of Rs 675-14-2 which has since been credited to Provincial Revenue.

3. The suit stands adjourned to 30th September, 1896, but a further adjournment will be applied for.

No. 381 NL / 19.9.96

Forwarded to the Chief Engineer, P. W. Department for favor of obtaining the sanction of Govt. to the defence of the suit at the expense of Government.

Enclosures 2

2. Copies of the plaint & draft defence are forwarded, the remaining papers forming the enclosures to the Executive Engineer's letter being retained in this office.

W W Baddeley Major R.E.

Superintending Engineer, II Circle.

G. 3005
23.10.96

From the S. E. II Circle (Current Nos 9333 & 9359) stating that the written statement must be filed before 31st Inst. + the order originally drafted might now perhaps go on to A.S.

C.
20/10/96.

+ Flagged A.

P. W. D.

M

Se SE II No. 381 of 2/9/96

No. 1498 D. of 5th Oct 96

The undersigned

that he cannot forward the
for the consideration of Govt.
their present incomplete
The matter is one involving
Rs 2000 but the papers are
warded by the Superinten
Engineer without any opin
given by him. This is not
should be and the Su
Engineer should have gi
opinion on each of the p
raised by the contracto
then have stated genera
whether he thought Govt.
had a sufficiently stron
to put into Court.

5/10/96

E. S.

SE II Circle 20/10 5/10 96

5/10/96

No. 1498 D

W.

It is so impossible to tell from these papers whether the Government have a strong case or otherwise: and the Supdg. Engineer expresses no opinion. I would suggest that he be asked to express his opinion in detail after consultation with the Executive Engineer

C.R.S.
3/11/96.

Public Works (1896) Department.

CURRENT No. 9249

Order

From Major W.L.C. Baddeley R.E.
Supg: Engr. II circle

No. 417 M

Dated 12 October 1896
Received 14.10.96
Enclosures –
Spare copies

SUBJECT.

Suit brought by ~~Govt~~ Itasala Venkata Subbiah Chetty of Nellore – Forwarding S.E.'s opinion regarding the defence of the — at Govt expense

1498 D

O.L.S. 500

Memo:

The undersigned regrets that he cannot form [illegible] the [illegible] for the consideration of Govt in their present incomplete state. The matter is one wholly on [illegible] but the papers be forwarded of the [illegible] [illegible] [illegible] opinion being one of his. This is not as is there to an the [illegible] [illegible] [illegible] his opinion on each of the points raised of the Collector & there have stated generally whether he thought [illegible] have a [illegible] [illegible] [illegible] at [illegible] [illegible] Court.

3/10/96

Public Works (1896) Department.

CURRENT No. 9249

Order

From Major W. L. C. Baddeley R.E. Supg: Engr. ii circle

No. 417 M

Dated 12 October 1896
Received 14-10-96
Enclosures –
Spare copies

SUBJECT.

Suit brought by ~~Govt~~ Itasala Venkata-Subbiah Chetty of Nellore – Forwarding S.E.'s opinion regarding the defence of the — at Govt expense

11(98)

o.L.S. 500

Public Works (1896) Department.

CURRENT No. 9249

Order

From Major W. L. C. Baddeley R.E.
Supg: Engr. II circle

No. 417 M

Dated 12 October 1896
Received 14.10.96
Enclosures –
Spare copies

SUBJECT.

Suit brought by ~~Govt.~~ G. Hasala Venkata Subbiah Chetty of Nellore – Forwarding S.G.'s opinion regarding the defence of the — at Govt. expense

11(98)

o.L.S. 500

BACK PAPERS.

G.O.	No.	Department.	Date.
1498	D	P.W.	5-10-96.
1044	D	P.W.	23-4-96
2649	C.	P.W.	18-7-93
3449	W.	Do.	17-12-92
5325	C.	Do	15-12-92
1670	W Copy	Do.	2-6-92
2131	W [illegible]	Do.	8-8-91
1265	W. O.I		30-6-91
336	W Copy	Do.	13-2-85

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Superintending Engineer's Office,
Bezwada

No. 417 M

II CIRCLE,

Dated 12 October 1896.

From,
Major W. L. C. Baddeley, R.E. ~~Esquire~~,
Superintending Engineer,
II Circle.

To,
The Chief Engineer,
Public works department.

P. 1498 D.
5-10-96.

Sir,

In reference to your No. 1498 D of 5th October, 1896, I have the honour to observe that the draft defence, a copy of which was sent to you with the other papers under my endorsement No. 381 W/19-9-'96, contains my proposed reply, & therefore opinion, on the points raised by the contractor.

2. I regret that I should have omitted to state, that in my opinion, the Government has a sufficiently strong case to put into Court.

I

I have the honour to be
Sir,
Your most obdt Servt,

W.C. Barkley Major R.E.
Superintending Engr.
II Circle.

W.1

From,
The Superintending Engineer,
II Circle.

To,
The

Dated }
Received } 18

Enclosures.
NO.

SUBJECT.

Public Works (1896) Department.

CURRENT No. 9333

Order

Telegram

From
The Supdg: Engineer
II Circle.

No.

Dated 16. 10. 96
Received 17. 10. 96
Enclosures.
Spare copies.

SUBJECT.

Suit brought by one Venkata Subbiah Chetty of Nellore: stating that the ——— is adjourned to 31st October 1896.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

08895

INDIAN TELEGRAPHS.

Monthly Number.

Code Class D S

To (Office) Madras Triplicane

From (Office) Bezwada

Words 32/8. Day 16 Hour 17 Minute 20 Official Instruction Lfd

To (Person) Madras Works Chepak

From (Person) S. E. 2nd Circle

This office no 417 l twelfth instant n Suit adjourned to 31 instant written statement must be filed before that date

× No 9249.

84 Word Form.

F. C. 2.

Recd. from L.N. At Hrs. Mts. by

Sent to L.N. At Hrs. Mts. by

Telegraph Master:

MADRAS 16 10 96

C G P—N. 4 T—25 3 95—24,00,000.

that the — was adjourned to 31 10/96 and that the writte
Statement must be put i

PER

Date.

Public Works (1896) Department.

CURRENT No. 9359

Order

From
Major W. L. C. Baddeley R.E.
Supg Engineer
II Circle

No. 421 N.E.

Dated 16 October 1896

Received 19. 10. 96

Enclosures

Spare copies

SUBJECT.

Civil Suit filed against Government by Irasala Venkatasubbiah, Nellore. Forwards letter from the Ex Engr: Nellore, stating that the — was adjourned to 31 10/96 and that the written Statement must be put in.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Letter No. 112 dated 1st October 18
from M.R.Ry. T. V. Venkatarama Iyer, Government Pleader, Nellore, to the Executive Engineer, Nellore Division,

With reference to your letter No. 516 M d/ 23rd September 1896, I have the honor to inform you that O. S. No. 180 of 1896 (Irasala Venkata Subbiah. Versus, the Secretary of State for India in Council) has been on my application adjourned to the 31st October 1896, by which time the written statement in the case must be put in.

I may also inform you that the Munsiff is not likely to grant any further adjournment in case the written statement is not put in on the date above mentioned.

No. 202 S.E.
13-10-96.

Copy forwarded to the Supg: Engineer, II Circle, for information with reference to this Office No. 176 S. E. d/ 9th September 1896.

(sd/) R. N. H. Reid
Executive Engineer
Nellore Dn.

No.

No. 421 N.L.
16. 10. 96

Forwarded to the Chief Engineer, P. W. Department in continuation of No. 417 N. L. d/ 12. 10. 96. Cu 9749

The proposed answer to be filed was forwarded with letter No. 381 N. L. dated. 19th Septr 1896. Cu 8503

W C Baddeley

Major R.E.

Supg Engineer, II Circle

C. [illegible] 939

No. [illegible]

The Supg Engineer 2 [illegible] Circle states that [illegible] defence co[illegible] opinion and that he considers that the Govt has a sufficiently strong case to put into Court. It was, however, intended that he should submit an analysis of the case, demonstrating, step by step, the fact — if it be a fact — that the defence is stronger than the prosecution. This he has not done, having given no more than a bare expression of opinion.

Cu 7811
21. 10. 96

The S. E.'s explanation is very unsatisfactory but as the case stands for 31st Oct & no further adjournment can be allowed, the decision must go on to H. E. at once.

J L
21/10/96