

Public Works (1899) Department.

G.O., No.

2761

W

DATED 19 Oct 1899.

[Despatch Abstract.]

Bapatla Taluk Cutcherry.

Ordered that the East Pleader, Madras,
be requested to prefer an appeal
to the High Court against the decision
of the S^d Judge, Kistna, in the
suit relating to the ———

BACK PAPERS.

[illegible]

FURTHER PAPERS.

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

DEPARTMENT.

READ the following:—

Letter from the Collector of District N^o 6063 of 29 of 3. Oct. 21.

Ascents

Bapatla Taluk

April Case

Circulated to

~~H.E. The Evening~~

ORDER

ms 27614 of 19-10-99

7.2.4.
13.10.90

The Court Pleader Madras will be requested to prefer an appeal to the High Court against the decision of the D^c Judge Kistna in the Suit against Government brought by Annamalapudi Srivaramulu of Chelvole, the late Contractor of the Bapatla Taluk Office. The Collector of Kistna and the Subtg. Engineer II will take steps to instruct the Court Pleader, Madras in the matter of the appeal.

2. Mr W. C. Lewis, Esq. Engineer, Retired, the 1st Defendant in the case has been requested in separate Pro-

Stu

~~Paul~~

13. wgs 13. w. 99

Sent to the editor
for issue

...should be checked
 do so, to empower the Govt
 Pleader, Krishna to act for
 him, in the event of an ap-
 peal against the Jt Judge's
 decision, being decided on
 by Government. The Govt
 Pleader Madras will take
 steps so that the appeal
 may come off for hearing
 after the action which Mr
 Lewis decides on, becomes
 known. It is observed
 that the date of expiry
 of the period for appeal
 is 21. December 1899.

W. C. Lewis
 13.10.99

To the Govt Pleader
 with 2 Encls.
 1 Copy of L.O. on CN-8014.

Collector of Krishna
 Supts. Engrs. & Arch.
 W. C. Lewis Esq. with Copy of
 Ex. Engr. Report through the
 District Officer

2/19/10

Note. The Suit for damages
 for illegal cancellation of
 the Contract, brought by the late
 Contractor of the Bapatla
 Taluk Office, has already reported

*In CN-8014.
 Sent to Madras for issue of
 the order thereon

been decided against
 Government. The Collector
 now forwards the Judg-
 ment of the District Court
 from which it is seen
 that it is held

2leg P - Judgment

(1) That the Cancell-
 ment of the Contract
 was wrong

2leg J - Judgment

(2) That the Contractor
 should get value of work
 done and of materials
 used for the building after
 the Contract was cancelled
 at rates somewhat higher
 than those settled by the
 Officers of the P.W.D.

2leg L - Judgment

(3) That the Contractor
 was entitled to damages
 for the improper cancell-
 ment of the Contract.
 As regards point (1), the
 Collector considers the Judge's
 decision to be right. As
 regards (2), under the terms
 of the Contract, the Ex. Engr.
 was the final authority
 in valuing materials as
 well as in measuring work.

The Judge was not justified,
 the collector says, in dis-
 regarding this stipulation.
 As for (3), there was, it
 would seem, absolutely
 no evidence that the
 plaintiff sustained loss
 to any extent, in the absence
 of such evidence, plaintiff's
 statement was not
 entitled to the weight
 given to it. The collector & the Govt Pleader
 also say that the Judge
 should not have awarded
 full costs to the Plaintiff
 when a portion of his claim
 was rejected. On these
 grounds the Govt Pleader
 Kistner and the collector
 recommend an appeal to
 the High Court. It is pro-
 posed to give effect to
 the recommendation.

13.10.99

13.10.99

W

8623797
 71879797
 8289

Please put up
 a precedent:

SAW
 325/13
 2180W
 2297W
 9.10.99

Here with
 vide Memo No. 4002 C 99
 for 2297W of 99

Verdict
 10/10/99

Not the precedent that
 is wanted is an order
 sanctioning an appeal
 to the High Court against
 a decision of the D E
 Court. A Col- 8289 contains
 a decision of the D E Court
 who has to be appealed
 against - Kindly put
 up such an order at
 once & send - I have
 kept the current - this
 file is returned to the
 records -

Cel
 10/10/99

decision and decree in
 no 15 of 1897.
 8/10/99

8289/89

~~CH~~ - 8014/89

Subject

Letter from SEH circle
Submits further report
about Bapertu Laluk
Culcherry case

The above was sent to Daw
on - 2-10-89.

SAW

NR W. J. Galt
The precedent that
is wanted is an order
sanctioning an appeal
to the High Court - against
a decision of the D.E.
Court. A Col- 8289 contains
a decision of the D.E. Court
who has to be appealed
against - Kindly put
up such an order at
once & send - I have
kept the current - mis
file is returned to the
records -

Cel
10/10/89

8289

HC
0
Returned to
me 10-10-99

On 2. 10. 99 CR.
8044 on the Babatha
Zabute Dir case was
sent to D.W. by J.B.W.
with a draft order.
(for circulation. From
memory, I have referred
to the terms of the
draft order in the
accompanying dispo. para 2. Will you
kindly have it checked
before submitting
it to D.W. Copies
of the Co on CR
8044 may be sent
down for dispatch.
The file may be
put up with this
Current and Submitted.

Cil

10/10/99

Recd 12-8-99

Sent to Madras with a Border
on the 10-8-99

Recd 12/10/99

12-8-99
12/10/99

8288

HC
0

On 2. 10. 99 CR.
8044 on the Babatha
Zabute Dir case was
sent to D.W. by J.B.W.
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of the Co on CR
8044 may be sent
down for dispatch.
The file may be
put up with this
Current and Submitted.

12/10/99

1858

[Faint, mostly illegible handwritten text, possibly bleed-through from the reverse side.]

be done - as tomorrow will
be mail day

4
18/5/91

SAW
— now seems no
harm in having a
copy of the instrument
made in Min - Mr
Lewis should be able
to devise just as well
on it as on any other

all
18/5/91

Yes, have
copy made
Rm

18/5/91

Public Works (1899) Department.

CURRENT No. 8289

From The Collector
Kistna.

Order

DESPATCHED

No. 4063
8/8/99

Dated 3rd October 99.

Received } 9-10-99

Registered }
Enclosures (4) Plans. 333

Spare copies

SUBJECT.

Recommending that the Government may be pleased to instruct the Government Pleader at Madras to prefer an appeal in the High Court against the District Judge's decision and decree in O.S.

no 15 of 1897.

11/6/10
02590

8014/189
2132/189
7914

SAW
SW

BACK PAPERS.

FURTHER PAPERS.

No. ——— of 189

OFFICE

OF THE

COLLECTOR & MAGISTRATE,

MASULIPATAM,

KISTNA DISTRICT.

31 October

1899.

FROM,

A. Morris Esquire.

Collector, Kistna District.

TO,

The

Secretary to Government,

Public Works Department,

Fort St. George.

SIR,

Madras.

With reference to the Correspondence

G.O. no 2240 W noted in the margin regarding the sink brought by

my letter no 4063 the late Contractor of the Papasha Talay Kachuri

94.9.88 building against Mr. Lewis, Executive Engineer

Ref. no 2555 W 29.9.88. (now on leave) & the Secretary of State I

+ put up with have the honour to enclose copies of

CN 8014/88 Sent to Dis. (1) the judgment

draft order. (2) the decree of the District Court Kistna.

on 2/10/89 (3) the Government Pleasur's letter urging the

necessity for an appeal.

2. The sink has, as already reported, been

decided against the Defendants, the judge

holding that

21st P 1/11/89 collation of the Contract was un-
 10

(2) the Contractor should get value of work done and of materials used for the building after the contract was cancelled at rates somewhat higher than those settled by the officers of the S.P.W. in regard to certain items

(3) the Contractor was entitled to damages for the improper cancellation of the contract.

3. On the first point nothing need be said; it seems to me that the judge is right.

4. As regards (2) under the terms of ^{the} contract the Executive Engineer was the final authority in valuing materials as well as ~~the~~ in measuring the work. The judge was not justified in disregarding this stipulation and in ascertaining the value of the work done.

5. On the third point, there was absolutely no evidence (except the bare statement of the Plaintiff) that he sustained loss to any extent. In the absence of corroborative evidence

adduced, the Plaintiff's statement was not entitled to the weight given to it. From the judgment it does not appear that any evidence was adduced in behalf of the defendant to show that the Plaintiff had been, during the course of contract, working at a loss.

6. As the Government Pleader points out, the Judge should not have awarded full costs to the Plaintiff when a portion of his claim was rejected.

7. On these grounds, I recommend that the Government be pleased to instruct the Government Pleader at Madras to prefer an appeal in the High Court against the District Judge's decision & decree.

8. I am instructing the Government Pleader here to intimate to Mr. Lewis the result of the suit, that he might if he chooses to

to prefer an appeal, send a Vakalat or
power of attorney to some one in Madras.

9. The usual memo in form B accompanies
this.

I have the honor to be

Sir,
Your most obedient servant.

Pillai
for Collector.

R

20/1/22

to prefer an appeal, send a Vakalat or
power of attorney to some one in Madras.

9. The usual memo in form B accompanies
this.

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

Pillai
for Collector.

R

20/1/22