Public Works (1899.) Department.

G.O., No. 2984 W

DATED 13 Nov **1899.**

[Despatch Abstract.]

Suit—

~~Tirupati water works, North Arcot Dt.~~

Directing the S.E. IV Circle to take the necessary steps to defend the — to be filed against Govt. by certain contractors ~~[illegible]~~ for the recovery of a certain sum of money spent by them in connection with the Tirupati water works, North Arcot Dt, and to report the result of the suit.

Indexed. 11/11

[P. W. 2. / 500—27-10-99.]

BACK PAPERS.

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

FURTHER PAPERS.

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

B

Urgent

P. W. DEPARTMENT.

READ the following :—

Letter from L. V. Srinivasa charlu, Pleader, District Court N. Arcot d/ 9.8.99

" " the Supt. Engr., IV Circle, No. 469/W d/ 24.8.99

" " " Supt. Engr., IV Circle, No. 502/W d/ 7.9.99

" " " Govt. Pleader, No. 1137 d/ 1.11.99

Circulated to H.E. the Governor

ORDER.

No. 2984 W, 13.11.99

The Supt. Engineer, IV Circle, will take the necessary steps to defend the suit when filed and report the result.

Or.

HL
7/11/99
S.W.

To
The Supt. Engr., IV Circle ✓ with copy of Govt. Pleader's letter & opinion 11/11/99
letter & 2 enclos. retd.
" Examiner, P.W. Accts. ✓

abstracts of all letters granted &

D 13/11/99

Note – K. Abbulu Naidu & S. Munisami chetti, contractors, residing at Tirupati, N. Arcot, give notice under section 424 of the Civil Procedure Code of their intention to file a suit against Govt. for the recovery of Rs 5670-5-4 being the money spent by them in the execution of work & the

damages

[P. W. 4.
1,000—18-7-99.]

E. 7/11 R. 11/4

damages sustained by them wing to the cancelment of their contract in connection with the Tirupati water works.

. The facts of the case are s follows. K. Abbulu's tender for the construction of a filter ell & trench in connection with the Tirupati water works was ccepted on 21.7.96. Under the terms of the contract he was bound to complete the work ithin 3 months of notification of acceptance of tender. On 1.7.96 the Contractor was also iven detailed written instructions egarding the number & dimensions of the well bricks required for the wells, with orders to start the manufacture of well bricks t once. The total quantity of well bricks required was 50,000. On 21.4.97 or 8 months after the order only 13,000 bricks had been manufactured. On 2.8.96 the contractor wrote to the Sanitary Engineer requesting that the contract time of 3 months be extended but not stating what extension was required on account of the rainy weather. No notice was taken of this application by the Sanitary Engineer.

3. On 12.11.96 the contractor was informed that he would enter on the site of the proposed wells & trench as the land had been made over by the Collector. On 21.4.97, or over 5 months after the site was made over, when the work was taken over from the contractor all the work done was 3,600 bricks brought to site & the staining of one well built to a height of 12 feet of which 7 feet was sunk below ground level.

4. There was heavy rain in Nov. 96 at Tirupati, but this

was the only month of the 8 months during which the work was in the Contractor's hands in which there was any rain which could have interfered with its progress.

5. On Mr. Harman inspecting the work on 4.4.97 & finding that the contractor had absolutely done no work at all during the previous months, he informed the Contractor then & there that his contract would be cancelled & that he was to stop work. In fact he could not do any work without a powerful pump & after 8 months he brought no pump of any sort to the site. On 14.4.97 formal notice was sent to him that his contract was cancelled.

× Hay ly

6. The contractor appealed against the action of the Supdg. Engineer & requested to be re-employed but his request was rejected by the Chief Engineer — Memo No. 3738C × dated 3.9.97.

7. The Supdg. Engr., IV Circle, reports that in July 97 the Ex: Engineer, N. Arcot division, informed the contractor that a bill for Rs 1106 was ready for payment to him, & that the Contractor only replied in July 99 to this letter. The Supdg. Engineer considers that the contractor's delay seems to point to a very weak case. The Ex: Engineer, Mr Pears, states that there is no reason for doubting the correctness of the final bill

&

& gathers from what he learnt from Mr. Assistant Engineer S. Kristnamachari who was in charge of the Tirupati water works, that the bill errs rather on the side of liberality & that the contractor would have no case whatever in a Court of law.

8. A further reference was made to the Supdg. Engineer for report as to whether the fact that the site was only made over on 12.11.96 made it impossible for the contractor to complete his contract within the due date. He was also asked to state how the proposed payment of Rs 1101 is made up & to give details of the contractor's claims as far as it is possible to do so.

9. The Supdg. Engineer replies that

that the contract was not cancelled in consequence of the inability of the contractor to complete the contract within the time specified but because of the wretched progress made up to April 97, eight months after he had received orders to start work, & five months after the land had been handed over. The fact that the land was not handed over before should not have prevented the contractor from making his bricks & well curbs.

10. The Supdg. Engr. reports that the bill for Rs 1101-13-5 made by the Asst. Engineer has been reduced by Mr. Lambert to Rs 1081-13-5, & the only claims made by the contractor

contractor are to be found in the petition flagged 7 in which the facts stated are incorrect, as only 7¼ feet of the well were sunk as shown in the final bill.
10.

10. The papers were sent to the Govt: Pleader for opinion as to whether there is any probability of the contractors' claims being upheld in a court of law.

11 The Govt: Pleader is of opinion that if the facts of the case are correctly stated the contractor has no cause of action against Govt: except

(1) For payment of a pro=portionate part for the work he has actually done

& (2) For payment to him for materials which he says

he

he had collected on the spot & which were alleged to have been utilized by the P.W.D. in completing the work. The Govt: Pleader thinks it is quite clear "that the contractor failed "to complete the contract "within the time stipulated "or within the further time "allowed to him, And the "Executive Engineer was justi=fied in cancelling the "contract"

12. Judging from the opinions expressed & the facts of the case, it is submitted that there ~~is~~ seems to be no probability of the contractor making good his claims in a Court of law. It is also unlikely that he will attempt

to

to do so. The Supdg. Engr. may be instructed to take the necessary steps to defend the suit when filed, & report the result.

Run.

HL
7/10/99

Initd
A.E.H.

Public Works (1899) Department.

Eu 6

CURRENT No. ~~7030~~
8962/99

Order

From The Suptg. Engineer
4th Circle

No. 469/W.

Dated 24th August 1899.
Received } 29-8-99
Registered }
Enclosures 2 Plans - nil } Total
Others - 3 } 3
Spare copies. -

SUBJECT.

Filter well & trench in Connection with the Tirupati Water works.

Reports regarding the Cancellation of the Contract and of the payment to the Contractor for work done towards the Construction of —

1 GW

0L5457R6/99
0L5.543

BACK PAPERS.

No.	Date.
3738C	3-9-99
3533C	18-8-99
3157C	15-7-99
548D	30-6-98
363D	17-5-98
2253C	25-4-98
2252C	25-4-98
809W	24-3-98
808W	24-3-98
1086C	22-2-98
477C	25-1-98
4987C	23-11-97
	+ file
3997C	3-10-99
3713C	6-9-99
3533C	18-8-99
3157C	15-7-99
3738C	3-9-99
548 D	30-6-98
+ file	

FURTHER PAPERS.

No.	Date.

SUPG. ENGINEER'S OFFICE, F. W. D. No. 9804 21 AUG. 99 Enclo FOURTH CIRCLE.

O. 6

~~Judicial~~ (1899) Department.

C. S.

Paper Nos. 107 & 108

CURRENT No. ~~3364~~ C.J. ~~6786~~

8962/99

From M.R.Ry T.V. Srinivasa Charlu
avl.
Dist. Court Pleader,
North Arcot,
Chittoor

No.

~~Order~~ Endorsement. No. 2071 D/15-8-99.

Transferred to the Public Works Department.

Chief Secretary

Dated 15th Aug 1899.

Received at Ootacamund 16-8-99

Registered 18th Aug 1899 at Madras 18-8-99

Enclosures ~~one~~ {Plans & others 2} total 2

Spare copies

Cm/14-9-99

Urgent

C.E. 128.99 C No. 3533C D/18 August/99

Referred to the Supt'g Engineer, IV circle, for early remarks.

Chief Engineer P.W.D.

To Rd.

~~The Public Works Department~~

To The Supt'g Engineer, IV circle, with papers in original to be returned.

SUBJECT.

Notice under Section 424 of the Code of Civil Procedure stating that a suit will be filed against the Secretary of State for India after two months for the recovery of a certain sum of money spent by his clients.

B 73.

C. S.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No	Department.	Date.

Rn E1
7030/95

INDIA COURT FEE INDIA
½ R.
7. 8. 99
EIGHT ANNAS

SUPG. ENGINEER P.W.D. FOURTH CIRCLE.
No. 780 W.
21 AUG 99
Encd

మ-రా-రా-శ్రీ, సార్తార్కాడు డిస్ట్రిక్టుకోర్టు ప్లీడరు సి. వి. శ్రీనివాసాచార్యుల వారికి.

డిస్ట్రిక్టు కోర్టు

189 సంవత్సరం వ్యాజ్యంనంబరు.

~~[illegible]~~ [illegible] ప్రతివాది.

పైకనిన [illegible]

వ్రాయించియిచ్చిన వకాలత్తునామా

~~ఉభయులున్నూ~~ [illegible] కు గాను తాము ~~ఈ కోర్టులో యున్న~~ [illegible] మొదలైన నకళ్లు ~~దాఖలు చేసి~~ కావలసిన యావత్తు వ్యవహారములు జరిపించుటకున్ను, ~~కోర్టువారివల్ల యివ్వబడే తీర్పులకు ఉత్తర్వుల నెరవేర్చుటకు కావలసినవన్ని జరిగించుటకున్ను, ఈ పేర ఆసిన షైకమున్ను వాసనయొ్య ఖర్చులున్ను దస్తావేజులున్ను కోర్టువారికియిచ్చి ఈ గాను కోర్టులోనుంచి పుచ్చుకొనుటకున్ను~~, అవశ్యమయినప్పుడు పుత్రదాపిటివర్క లేక రాజీనామాదాఖలుచేయుటకున్ను మిమ్ములనువక్కీలుగా నియమించుకొన్నా [illegible] గనుక యీవిషయమై మీరుగాని మీవల్లనియమింపబడే యితరప్లీడర్ గాని జరిగించగల వాచాలిఖిత మూలములైన యావత్తుకార్యములున్ను వద్దనుండి స్వయముగా జరిపించునట్టు వొప్పుకొంటూన్నా [illegible] ఇటని [illegible] రాజీనవ్రాయించి యిచ్చిన వకాలత్తునామా.

× [illegible]
× [illegible]

ఇందుకు సాక్షులు.

189 సం॥ [illegible] నెల 7 తేది [illegible] [illegible] గ్రామమునసబు అయిన వారియెదుట యీవకాలత్తునామాలో పై [illegible] యడమైనది.

[illegible]

గ్రామమునసబు. [illegible]

Accepted.

Pleader for

Date.

~~In the District Court of~~
~~North Arcot.~~

~~Suit No. of 189~~

Vakalathnama

on behalf of Peti

Amended

Pleader.
9.8.99

Endt to C 3361 ...

6788/99

SUPG. ENGINEER'S OFFICE, P.W.D.
No. 980 W
21 AUG. 99
Encld 2
FOURTH C.

CURRENT No. 3361

Chittur
9th August 1899

To,

The Chief Secretary to the Government of
Fort Saint George
Madras.

CHIEF SECRETARY
12 AUG. 1899
GOVERNMENT OF MADRAS

Sir,

Notice under section 424 of the Code of Civil Procedure.

On behalf of my clients K. Abbulu Naidu and Sakka Munisami Chetti Contractors, residing at Tirupati, North Arcot District, I beg to give you notice that on the expiration of two months from this day they intend to file a suit against the Secretary of State for India in Council to recover money spent by them in the execution of certain works and damages consequent on the cancelling of the contract given to them for the doing of the same under the following circumstances.

2. In August 1896, my clients contracted with the Sanitary Engineer to the Government of Madras to construct a filter well and trench in connection with the Tirupati water works, according to the specification &c given by him and at certain scheduled rates. On the 5th

September 96, my clients received a letter No 2732 dated 4th Idem from the Assistant Sanitary Engineer Madras, informing them that he would be at Tirupati on the 7th Idem for marking out the site for the well. That officer accordingly came over to Tirupati but on his proceeding to select the site, some disputes arose between him and the owner of the site and my clients were thereon ordered to wait until further orders. There occurred some delay in the settlement of this dispute; and ultimately on the 14th November 96 my clients received from the Sanitary Engineer a letter No 3241 of the 12th Idem informing them that they can enter on the site of the proposed well and trench and commence the work.

3 Owing however to heavy rains in November and December 96, my clients were for sometime unable to cart the necessary materials to the spot and they then and there reported the matter to the Sanitary Engineer. They began work on the 15th January 97. On the following day the Assistant Engineer came to the place and left one Mr Delgay Supervisor, to supervise the work. My clients continued to do work under the supervision of this officer till the 27th February 97 and on the following day Mr Delgay handed over his charge to Mr Slaney, Sub-Divisional officer of the D.P.W. After taking over charge Mr Slaney informed my clients, that the execution of the Tirupati water works, having been handed over to the D.P.W., orders would be sent to them for the further carrying out of their contract. Accordingly they waited till the 15th March 97 for further orders. Not receiving any, my clients on that day addressed the Executive Engineer, Vellore soliciting orders in the matter; my clients received no reply; but subsequently on the 16th April 97 they received a letter from the Executive Engineer, No 432 M dated 14th April 97, in which it was stated that owing to the non completion of the work within the contracted time the contract was cancelled.

4 My clients contend that this cancellation of their contract was illegal, irregular and opposed to the conditions of the contract. They have owing to this illegal act of the Executive Engineer suffered a great loss. There was no delay by them in the execution of the work, and the delay, if any, was due to the officers of Government not marking out the site in time and ~~fo~~ to the change in the supervision from the Sanitary Engineer's department to the D.P.W. and to the absence of proper officers to give necessary instructions while carrying out the work. Up to the date of the cancellation of the contract, they had executed work to the amount of Rs 2147-5-8 and there were collected on the spot materials and tools of the value of Rs 423-0-1. These materials the D.P.W. have utilized for the work without my clients' consent or permission.

(5) My clients therefore intend to file a suit to recover the sum of Rs 3070-5-9 together with the sum of Rupees 500-0-0 being the amount deposited by them for the due execution of their Contract, ~~with~~ and damages which they estimate at Rs 1500-0-0. Their whole claim is therefore to recover Rs 5070-5-9 with interest at 12 per cent per annum.

I beg to Remain
Sir,
Your most obedient Servant
L B S[illegible]
Pleader District Court
North Arcot

SUPG. ENGINEER'S OFFICE P.W.D.
No. 980 W
21 AUG. 99
ENCID

2
6786/99

Pa E3
7030/99
8962

No. 469/W

Office of the Superintending Engineer,
FOURTH CIRCLE.
~~Coimbatore~~ 24th Aug 1899.
Camp Dimpatur

From
A. H. Garrett Esq.
Superintending Engineer,
Fourth Circle, Coimbatore.

To
The Chief Engineer
Public Works Department.

Enclosures. 2

1 Chief Engrs P.
No 3533 C of 18th
August 1899
with 2 enclos:

Sir,

With reference to your No: 3533 C of 18th Inst, I have the honour to inform you that the action of my predecessor in cancelling the Contract seems to have been approved in Chief Engrs memo no: 37380 of 3rd September 1897, after the receipt of my predecessor's report no: 457 of 19. 8. 1897.

2/ With regard to the claims made for work done I find that in July 1897, the Executive Engineer in his no: 693 of the 6th July 1897 informed the Contractor that a bill for Rs 1101 was ready for payment to him

Last

Last month after waiting two years the Contractor replied to this letter and his petition was sent to me for orders.

3. I informed the Executive Engineer that the Contractor might, as requested, be furnished with details showing how the amount of his bills was arrived at, and have been waiting to hear whether any settlement had been come to.

4. I will, as a matter of form, ask the Executive Engineer to report whether he considers that there is any reason for doubting the correctness of the final bill though the Contractor's delay of two years in replying to the Executive Engineer on this point seems to point to a very weak case, and assuming that there were good reasons for cancelling the Contract, there is no probability of the Contractor making good his claims in a Court of law and it is unlikely that he will attempt to do so.

I have the honour to be
Sir
Your Most obedt Servt.

[illegible]
Supdg Engineer
Fourth Circle

Z.O. of 109

Public Works (1899) Department.

Ecc10

CURRENT No. ~~7411~~ 8962/99

From The Supdg. Engineer 4th Circle.

Order

No. 502/W

Dated 7th September 1899

Received } 9-9-99
Registered }

Enclosures ✓

Spare copies. ✓

Await reply to Memo No. 3713 C dated 6th Septr. 99

All 14/9
DW.

SUBJECT.

Tirupati water works.

Submits for information copy of letter from the Ex: Engr. North Arcot Dn. reportg. the Correctness of the final bill for work done by Contractor &c.

Dw. 02.8.489 11/9

02.5.543

BACK PAPERS.

No.	Date.
3713 C	6·9·99
3738 C	3·9·97
3533 C	18·8·99
548 D	30·6·98
425 D	6·6·98
303 D	17·5·98
2253 C	25·4·98
2252 C	25·4·98
809 W	24·3·98
808 W	24·3·98
108 C	22·2·98
477 C	25·1·98
5537 C	17·12·97
4987 C	23·11·97
4604 C	8·11·97
4307 C	23·10·97
2027 W	27·7·97
3285 C	4·7·97
574 W	2·3·97
1943 C	8·4·97
1444 C	12·3·97
1409 C	11·3·97
1372 C	10·3·97
1371 C	10·3·97
574 W	2·3·97
508	26·3·96
445	19·3·96
408	17·3·96
378	7·3·96

FURTHER PAPERS.

No.	Date.

Letter from S. D. Pears Esq, Executive Engineer North Arcot Division to the Supg Engineer 4th circle No $\frac{531}{SE}$ dated 1st September 1899.

In reply to your No $\frac{469}{W}$ of 24th August 1899, I have the honor to inform you that I have no reason for doubting the correctness of the final bill.

2 The work was finished before I joined this Division, but from what I have learned from Assistant Engineer Mr. S. Kristnamacharri who was in charge at the time, I gather that the bill errs rather on the side of liberality and that the contractor would have no case whatever in a court of law.

No. $\frac{502}{W}$ dated 7th September 1899

Copy. Submitted to the Chief Engr P.W.D for information with reference to the concluding para of this office letter No. 469.W. of 24th ultimo.

Supg Engineer 4th Circle

3713C
6-9-99

AP 6.9.99

Public Works (1899) Department.

CURRENT No. 8962

From

The Govt Pleader
Madras

No. 1137

Order

Dated 1-11-99

Received & *Registered* } 3-11-99

Enclosures returned Plans } others 11 }

Spare copies Total 11

SUBJECT.

Submitting his opinion ~~in~~ re the claims of the contractor for the Tirupati water works.

Saw

BACK PAPERS.

No.	Date.

FURTHER PAPERS.

No.	Date.

No. 535/W

Office of the Superintending Engineer,
FOURTH CIRCLE.
Coimbatore 20th September 1899.

From A. H. Garrett Esq/
Superintending Engineer,
Fourth Circle, Coimbatore.

To
The Chief Engineer
P. W. Department

Enclosures. 2
1 Copy of Bill
1 Petition from K. Abbul Naidoo. Contractor

Sir,

In reply to your No 3713/C dated 6th September 1899, I have the honor to state that it must I think be admitted from the papers that the contractor could not have completed his contract within the time specified in his contract.

2 His contract, however was not cancelled in consequence of this, but because of the wretched progress made up to April 1897, eight months after he had received orders to start work, and five months after the land had been handed over.

3 The fact that the land was not handed over before should not have prevented the contractor from making his bricks and well curbs.

4 The bill for Rs 1101-13-5 made by the Assistant Engineer was reduced by Mr. Lambert to Rs 1081-13-5. A copy of this reduced bill is enclosed.

5 The only claims made by the contractor are to be found in the accompanying petition in which the facts stated are incorrect, as only 7¼ feet of the well were sunk as shown in the final bill.

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

Supg Engineer IV Circle

P.W. Ex 3/8962/99

19.9.99

Public Works (1899) Department.

Ex 4

CURRENT No. ~~7792~~
8962/99

No. 3997 C d/ 3d October 99

Urgent

C/

GOVT. PLEADER'S [illegible]
5/10/99

~~Order~~

Referred to the Govt. Pleader for opinion as to whether there is any probability of the contractor's claims being upheld in a court of law.

Secretary to Govt., P.W.D.

Rr. H1

B/

From The Suptg. Engineer, 4th Circle

No. 535/W.

Dated 20th September 1899

Received } 21-9-99
Registered }

Enclosures 2. Plans - [illegible]
Others - 2 } 2

Spare copies. ✓

SUBJECT.

Tirupati water works.

Reports on the claims of the contractor for ——

To

The Govt. Pleader with C. No. 7030; 7411; & 7792 & Memo No 3738 C of 3.9.97 in original – to be returned 625.623 [illegible]

BACK PAPERS.

No.	Date.
3738 C	3-9-99
3533 C	18-8-99
3157 C	15-7-99
548 D	30-6-98
425 D	6-6-98
303 D	17-5-98
2253 C	25-4-98
2252 C	25-4-98
L. 809 W	24-3-98
808 W	24-3-98
+ file.	

FURTHER PAPERS.

No.	Date.

Opinion.

I have gone through the papers in connection with this case. I don't see amongst them the invitation for tenders, nor the original contract entered into by the contractor. But assuming the facts to be correctly stated by the Executive Engineer in his memorandum, I am of opinion that the Contractor have no cause of action against Government except

(First) For payment of a proportionate part for the work he has actually done.

(Second) For payment to him for materials which he says he had collected on the spot and which were alleged to have been utilized by the Public Works Department in completing the work.

2. It is quite clear to my mind that the contractor failed to complete the contract within the time stipulated or within the further time allowed to him. And the Executive Engineer was justified

Supdtg Engr.?

in

in cancelling the contract.

K. Subrahmanyam

For Ag: Government Pleader.

P.W. Ex 5
8762/99

No. 1137

Government Pleader's Office,
HIGH COURT,
Madras, 1st November 1899.

From

C. SANKARAN NAIR, Esq.,
ACTING GOVERNMENT PLEADER,
Madras,

To

THE Secretary to Government,
Public Works Department.

SIR,

Adverting to your Refce No 3997 C. of the 3rd instant, I have the honor to submit my opinion in re the claims of the Contractor for the Tirupati Water Works.

I have the honor to be,
Sir,
Your most obedt Servt,

S. Subrahmanyam
For Ag: Government Pleader.