

Public Works (1899) Department.

✓ G.O., No. 3311 W

DATED 19 Dec 1899.

[Despatch Abstract.]

Fee
Suit. Sanctioning the payment of the
pleader's fee of Rs 26, for the defence, on
behalf of Soot, of the suit, brought by the
representatives of Contractor K. Venkiah of
the Gadavani Estate &c, for certain sums
alleged to be due by the P.W.D.

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 (1897) Department.

CURRENT No. 9809

From the Rep. Engrs. No. 13311 W.B. 19.12.99
Order

Payment of the pleaders fee, viz: Rs 26, is sanctioned.

No. 2450

Dated 28/30/99
Received 4.12.99
Registered
Enclosures
Spare copies

Note - In G.O. No 1572 W dated 23rd June 1898 Govt. sanctioned the defence of a suit brought against Pitt. by the legal representatives of one Karri Venkiah for the recovery of Rs 634-4-2 alleged to be due to the deceased piece works for silt clearing in Samulcottah Canal. The plaintiffs claimed to be paid according to pit measurements originally taken. These measurements were however held

SUBJECT.

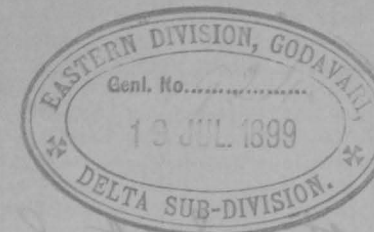
Enclosed a copy of the judgment delivered in the suit brought by Karri Venkiah & others plaintiffs against Govt. sanctioning the payment of the pleaders fee of Rs 26 paid by the Govt.

To The Secy. Engrs. 28/12/99. Gammon, P. W. D.

BACK PAPERS.

FURTHER PAPERS.

No.	Date.	No.	Date.
held by the Supt. Engr, I Circle, to be incorrect & measurements of the spoil was ordered to be taken. The amount due to the plaintiffs according to the latter measurements was Rs 182-9-3 but this they declined to receive. There was also a claim for in- terest, but the plaintiffs were not considered entitled to any as the Executive Engineer was pre- pared to pay the amount due, & the delay in discharging the claim was entirely owing to the plaintiffs' unwillingness to re- ceive the amount.		15724 4338	23-6-98 12-6-99
The judgment of the District Munsif, Cocanada, who tried the case, is now forwarded. It will be seen that the suit was dis- missed with costs. The Collector has been requested by the Supt. Engineer to recover the costs decreed in favour of Govt. The pleaders' fee was fixed at Rs 26, & for the payment of this amount the sanction of Govt. is requested.			



In the Court of the District Munsiff at Cocanada.

Tuesday, the 14th day of March 1899.

Present :—M. R. Ry. M. RAMAYYA PANTULU GARU,
District Munsiff.

ORIGINAL SUIT No. 188 of 1898.

1. Karri Chendramma, minor by next friend Medapati
Ramamma
2. Karri Ammireddy
3. Do. Sooriah—minors by mother and next friend
Karri Bhamamma of Gollalamamidada

Plaintiffs.

Versus.

1. The Executive Engineer, Godavari Delta, Eastern
Division, Dhaweleswaram
2. Collector, Godavari District, Cocanada on behalf of
the Secretary of State for India in Council,
Cocanada

Defendants.

Claim for Rs. 521-10-11, being the balance of the amount due for silt clearing.

Plaint avers that the 1st plaintiff is the widow, and 2nd and 3rd plaintiffs are brother's sons, of the late Karri Venkiah; that in or about April 1895, the 1st defendant on behalf of the Government, had given a contract on the tender system to the late Venkiah, the silt clearing business relating to the navigation-canals between Kovvoor and Thossipoodu Locks on the one hand, and between Cocanada and Samallacotta Double Lock, on the other; that the 1st defendant further gave contract to the late Venkiah, the masonry repairs due to irrigation channels that lie through the embankments of the said canals; that the late Venkiah accordingly cleared silt to the extent of 2,49,000 Cft. in the canal between Venkata Krishna-rayapuram and Samallacotta Double Locks, and also executed the masonry repairs, for which the defendants are bound to pay the late Venkiah or his representatives, the plaintiffs; that the defendants are further bound to refund to plaintiffs the amounts withheld for the due execution of the said contracts; that the defendants made a part payment towards the claim, and withheld the rest without any manner of right; and that the defendants refused to pay the amount in spite of plaintiffs' demand.

2. 2nd defendant, in his written statement urges that the silt cleared from the canal, measured only 1,48,995 Cft. but not 2,49,000 Cft; that the amount due to plaintiffs is Rs. 182-9-3; that no interest is allowable as plaintiffs did not apply to him for payment until November 1896, in spite of the several calls of the Sub-Divisional Officer, and of the publication of a notice in District Gazette for August 1896; that the defendant has all along been willing to pay the amount mentioned; and that the rest of the claim be dismissed with costs.

1st defendant is stated to have no separate defence to make.

3. The following issues were framed :—

- What is the amount of work turned out by the late Karri Venkiah.
- Whether any money was deposited by plaintiffs with the defendants.
- Whether any and what interest is payable to plaintiffs.
- What relief are plaintiffs entitled to?

JUDGMENT.

4. The main question for determination in the case is, whether the late contractor, Karri Venkiah, was to be paid for the work executed by him in the canal between Cocanada and Samallacotta Double Lock, according to the pit

measurements or according to the spoil measurements. From the evidence reported on both sides, it is clear that Venkiah was entitled to payment according to the spoil measurements. Mr. King, plaintiffs' 1st witness, having taken the measurements of pits at first, the Sub-Divisional officer disapproved such measurements, and directed him to take the measurements of the spoil on the ground that a correct figure could not be arrived at by pit measurements, the canal being slushy. The Supervisor, Mr. King, accordingly made measurements of the spoil. The evidence of the Sub-Divisional Officer, (defence witness) and that of the plaintiffs' 1st and 2nd witnesses, the Supervisor and the Delta Superintendent, who attended to the silt clearance work done by the contractor, satisfactorily shew that the only correct method of determining the work turned out by a contractor in the matter of silt clearance, when the soil is slushy, is by measuring the spoil dug out and collected on the bank. Plaintiffs' claim for payment according to an incorrect measurement in the absence of any specific agreement that payment should be made according to a particular measurement, is inequitable. I am therefore, of opinion that plaintiffs are entitled to payment only according to the measurement of the spoil.

5. *1st Issue* :—There is no dispute as to the figures set up by both parties. The work turned out by the contractor must be taken to be 1,48,995 Cft., which was arrived at by the measurement of the spoil, a correct method. The measurement of pits which came up to 2,49,000 Cft. according to which plaintiffs' claim payment, not being correct for the reasons stated above, the correct figure which should guide the payment is 1,48,995 Cft.

6. *3rd Issue* :—No interest is payable since it is the fault of the plaintiffs in not taking payment of what was actually due to them, in spite of the repeated calls on them by the Sub-Divisional Officer and the notification in the District Gazette.

7. *2nd and 4th Issues* :—The amount actually due to plaintiffs was Rs. 182-9-3 as particularized below :—

Value of 1,48,995 Cft. of Earth-work at Rs. 4-12-0	...	...	707-11-7
Deduct amount advanced	...	...	637-11-7
			70- 0-0
Amount withheld for sanctioning	...	...	112- 9-3
			182- 9-3

The said amount was deposited in Court and taken by plaintiffs. So, nothing more is due to them.

8. The apparent laches on the part of the plaintiffs in not settling their claim with the defendants, though they offered to settle, cannot give them any right to costs, nor are they justified in filing the present suit.

9. In the result, I decree the dismissal of the suit with costs, defendants' costs being borne by plaintiffs. I fix defendants' pleader's fee at Rs. 26-0-0.

District Munsiff.

Witnesses examined by
Plaintiffs

- | | |
|---|--|
| 1. Serjeant Peter King Esquire of
Coanada. | 3. Sabbella Sooriah of Gollalama-
midada, |
| 2. Chopperla Atchutaramiah of
Draksharama. | |

Defendants.

1. J. M. Parker Esquire of Dhaweleswaram.

List of exhibits filed in O.S.188 of 98.

- A. Measurement book 2-3-91.
- I. Agreement dated 29-3-95.
- II. Letter dated 19-5-95.
- III. Measurement book 9-7-95.
- IV. Do. Do.
- V. Do. 10-10-95.
- VI. Letter dated 2-8-95.
- VI-a Amount of coolies' wages.

(Sd.) M. RAMAYYA,
District Munsiff.

No. 2456 G E

FROM

W. B. De Morgan Esq., M. I. C. E.
THE SUPERINTENDING ENGINEER

FIRST CIRCLE,

TO

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT

WALTAIR, 28 November 1899.
Camp, 30.

Enclosures.

SIR,

Referring to G. O. No. 1572 W dated 23 June 1898, sanctioning the defence of the suit brought by Hari Chandraamma and two other plaintiffs, I have the honor to enclose a copy of the judgment delivered in the case and to request that sanction of Government be obtained to the payment of the pleader's fee of Rs 26 fixed by the Court.

The collector has been requested to instruct the pleader to recover the amount from the parties as per the decree.

I have the honor to be
Sir,

Your most obedient Servant,
Ashwinae Chittu

Assistant Engineer,
28.11.99. Fort Supg Engineer, 1st Circle

OS 11. 1887/1898
Judgment.

Recd. 9809/99

Wm. Lloyd Garrison

Dear Sir

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the proposed publication of a new edition of the "Liberator." I am very glad to hear that you are undertaking this work, and I am sure it will be a most successful one. I have no objection to your using the name of the "Liberator" in connection with the new edition, and I am sure that the public will be greatly benefited by the publication of such a work.

Yours very truly,
Wm. Lloyd Garrison