

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT

G.O. No.	165	Press
		~~Mis~~
Dated	8. 3.	19/8/88

Not to be folded or roughly handled

Fort Saint George, Political Consultation, 12th March 1858.

No. 16. From J. R. BOYSON, Esq., Honorable Company's Solicitor; to the Chief Secretary to Government, dated March 3rd, 1858, No. 124.

SIR,

I have the honor to acknowledge the order of Government noted in the margin and the papers which accompanied it.

Government Order dated 27th February 1858, No. 139, on letter from the Government Agent to the Chief Secretary to Government, dated 26th February 1858, No. 498.

I submitted same together with all such other papers and further information as were necessary for the consideration of the Advocate General and I have since communicated with him personally thereon.

I now forward for the information of Government a copy of his opinion.

Under instructions received from Madar Ool Omrah Bahauder my Partner has appeared for him in the action brought against him by Tota Veeraraghavapermall Chetty and I will take care that the course suggested by the Advocate General in the 2d para: of his opinion is followed as far as regards a tender of the balance admitted to be due for Principal and Interest.

Under these circumstances I beg to suggest that the reply of Government (through the Agent at Chempauk) to Madar Ool Omrah's application be confined to a mere statement that Government declines to instruct their Law Officers to defend the action in question on his behalf or to intervene in any way therein and that he must take such course as he may be advised, but that Government will give the matter further consideration after it has been finally disposed of as between himself and Tota Veeraraghavapermall Chetty.

Copy Opinion.

I can see no grounds upon which I can advise that this case should be officially defended by Government, but several why it should not be so. The principle upon which the Government have hitherto acted, in all cases so far as I know, has been to avoid identifying themselves with any of the transactions of the late Nabob, and I think it would be very inexpedient to depart from this principle. If Government were to defend this action, on the ground that the Dewan acted not in his individual capacity but as a servant of the late Nabob, and by his orders, and were to be cast, Government would clearly be bound to pay the whole amount, and to defend every similar action brought on similar instruments signed by any of the late Nabob's servants, and the papers mentioned in Extract Minutes of Consultation under date 9th June 1857, shew that not only the Dewan but Salavool Moolk, the Private Secretary and Treasurer, Gholam Mahomed Therogish Khan and others have been signing similar instruments by the (alleged) order of the late Nabob, moreover if once Government were to begin to pay on such instruments, it would operate I fear as a very strong inducement to their multiplication. Some of these claims may be *bond fide*; the present seems to be so the extent of at least Rupees 1750 and interest at 12 per cent according to the Dewan's statement now before me, and though I incline to the opinion that the Dewan has a good defence to this action on the ground that he acted merely and professedly as an Agent and Servant disclosing the name of his principal, yet I think it would be placing Government in an invidious position if they were to make and succeed in resistance to a *bond fide* claim on such a ground. I strongly suspect moreover that if the late Nabob's Officers are left to defend themselves against notions of this sort, they will find means to cut down the amount really due to its just total, which would not be equally available in aid of Government were it to be the Paymaster.

I certainly recommend that the Dewan be left to take such course as he may be advised for his defence to the present action if he wishes to defend it, as I think he has ground for doing, as not being personally liable; as however he seems to me to admit that Rupees 1750, and interest at 12 per cent on that sum and some part of the Rupees 2000 already paid, are *bond fide* due, I would suggest that he should be advised to make up the account with the Plaintiff on that basis.

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and tender him out of the monies in his hands the amount so found due, and the costs of the action up to the present time, intimating to him the Plaintiff at the same time, that if he refuses this offer, he may find himself compelled to take 6 per cent if he comes in with the general body of creditors; and moreover, that he the Dewan is advised he has a good defence, and is not personally liable to the Plaintiff's demand. Government can at any time repay the Dewan to any extent that under the circumstances they may deem proper.

(Signed) THOMAS SYDNEY SMYTH,
Advocate General.

1st March 1858.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

No. 17.

ORDER THEREON, No. 165; dated 8th March 1858.

The Government resolve, as suggested by the Company's Solicitor, to direct the Chepauk Agent to inform the Dewan Madar Ool Oomrah Bahadoor, in reply to his application of the 26th Ultimo, that they decline to instruct their Law Officers to defend on his behalf the Action brought against him by Tota Veeraraghava Permall Chetty, or to intervene in any way therein, and that he must take such course as he may be advised, but that Government will give the matter further consideration after it has been finally disposed of as between himself and the Plaintiff.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. A. Wilson.

Political. 1858. Sept. 2.

From the Honorable Co's
Solicitor 12th.

18th 19th 1858.
2/3rd
24th March 1858.

No 117
Trunk.

Acknowledges receipt of order
of Govt of 18th ult No 137 regarding
the suit of Tota Veeraraghava
Permall versus Madar Ool
Bahadoor. States that he had
consulted the Advocate General
on the subject copy of whose
opinion he forwards stating
what ought to be the reply
of Govt to Madar Ool Bahadoor's
application that the Govt
Law Officers be instructed
to defend the action.

Wm. Smith Esq.

12th

No 105

Sheet from the Minutes of Consultation
Under date 8th March 1858.

Read again letter from
the Govd Agent at Chapak
dated 20th February 1858. No 124
recorded in Cont. of the 2nd
March.

Read also letter from
the Honble Company's Soli-
citor.

(Dated 3rd March 1858. No 124)

The Govd determine that
as above, as suggested by
the Company's Solicitor,
to ~~instruct~~ ^{direct} the Chapak
Agent to inform the Sa-
wan Madarool Comrah
Bahadur in reply to his
application of the 20th Feb.
that they decide
to instruct their Law
Officers to defend their
Station against any
hostile

At
My
Wm

on his behalf the action
brought against him by
Hester Vennaraghava Permall
Jelly, or to intervene in
any way therein. and
that he must take such
course as he may be ad-
vised, but that God will
give the matter further
consideration after it has
been finally disposed of
as between himself and
the Plaintiff.

Jf

The God Agent at ^{Wash on this head} ~~Delaware~~ (without the papers read
at the head of these proceedings
Charles Compton Jackson - Displ. 10-11 Displ. 8-11
S. J. - who has been

14 March
1862

16 977.

October 1858 and 1859
1862
Black Maria of the
19th March 1858.
Feb 1864