

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 295

Press
~~Mis.~~

Dated

12.5.1918

Not to be folded or roughly handled

295

1-

*Proceedings of the Madras Government, Political Department,
from 11th to 17th May 1859.*

No. 8. From THOMAS SYDNEY SMYTH, Esq., Advocate General; to the Chief Secretary to Government, Fort St. George, dated 10th May 1859.

I have the honor to report as follows for the information of the Honorable the Governor in Council, with reference to a class of claims preferred under Act 30 of 1858, which amount to above Twelve Lakhs of Rupees, with interest from various dates, all prior to the death of the late Nabob.

2. The claim of a Sahooکار named Vencatasa Cotidyah was decided this day, having begun yesterday week.

3. I had previously made a long and diligent personal investigation of every thing connected with this case at the Chepauk Cutcherry, with the assistance of the Government Solicitor, Dr. Balfour the Government Agent, and his Assistant Major Snow, and had examined every Document and entry bearing on the case, so that I was enabled thoroughly to sift the Claimant's case, and to cross examine himself and his witnesses as thoroughly as I can ever hope to do in any case—at least until the Judge shall think it necessary to oblige witnesses to give direct and prompt answers to questions put to them on cross examination.

4. I was also enabled to elicit from the Dewan some evidence which seemed materially to impeach the credit of his son Gholam Mahomed, the Chief Witness in support of all these claims.

5. I had also obtained from Misbah Oollah Khan (Alias Moottazin Jung) through Dr. Balfour, a letter of the Nabob shortly before his death; which, if I could get it admitted as evidence, would, I thought, materially damage the Dewan, Salar Ool Moolk, Gholam Mahomed, and his Dufters or accounts, by shewing that the Nabob in his life-time considered them all untrustworthy and as conspiring to defraud him. The Court however refused to receive this letter as evidence.

6. The Court heard the case very patiently and attentively, and gave a Decree in favor of the claimant for the full amount of his claim with the single exception of a sum of Rupees 300 which I succeeded in striking out.

7. The costs in this case the Court gave against the Government, though I urged this point with great earnestness. These Costs will be very considerable, though I acted in the case alone throughout.

8. I have now laid fully before the Court every piece of evidence, oral and documentary, which I have any hope or expectation of being able to bring to bear upon this class of cases, which are comprised in a List or Paper which Gholam Mahomed says he placed in the Nabob's hands on the 7th or 8th September 1855, amounting up to the 3rd September 1855, to Rupees 12,03,724-0-9, and I have also urged on the Court every argument that I could adduce after mature consideration.

9. I have therefore no hope of being able to induce the Court to come to a different decision respecting any of these cases, (about 79 in number according to Gholam Mahomed's list) which are borne out by testimony similar to that adduced by the Claimant in this case and believed by the Court; viz., the Claimant's own oath, entries in his own account books, corresponding entries in Gholam Mahomed's monthly accounts, and in the Document which he says he gave to the Nabob on the 7th or 8th September 1855, and the production of cancelled notes from the Records of the late Nabob.

10. Nor can I advise an appeal in any such case unless further evidence be forthcoming for the defence. It is a maxim of law that fraud must not be presumed, and I have no direct proof of it in any one case, though I have the most perfect conviction that many of these claims are fraudulent throughout, and that even those based in truth are greatly exaggerated.

11. Under these circumstances it appears to me that the only course now open to me is to examine the Dufters of Gholam Mahomed, and his Document of the 7th or 8th September, and the cancelled notes in the Nabob's Records, and, when these correspond with the particulars of the Claimant's claim, to make an offer accordingly, to the full extent of the particulars so corroborated.

*Proceedings of the Madras Government, Political Department,
from 11th to 17th May 1859.*

12. The Court Decree in Vencatasa Colidiah's case virtually decides all others similarly corroborated, and to contest them further would be to incur heavy costs for nothing.

13. Unless therefore I shall hear that the Honorable the Governor in Council sees reason to disapprove of this course of proceeding, I shall act upon it forthwith.

No. 9. MINUTE BY THE HONORABLE THE PRESIDENT, dated 11th May 1859.

I am not aware that any better course is open to us.

(Signed) C. E. TREVELYAN.

No. 10. ORDER THEREON, 12th May 1859, No. 295.

Under the circumstances represented by the Advocate General, the course which he proposes to follow, in respect to the claims against the Estate of the late Nawaub borne in Gholam Mahomed's List, seems to Government to be the best that is open to them, and they authorize its adoption.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. A. P. W. Begbie.

which I have any hope or expectation of being able to bring to bear upon this class of cases, which are comprised in a List or Paper which Gholam Mahomed says he placed in the Nabob's hands on the 7th or 8th September 1855, amounting up to the 3rd September 1855, to Rs. 12,03,724-0-9, and I have also urged on the Court every argument that should adduce after mature consideration.

9. I have therefore no hope of being able to induce the Court to come to a different decision respecting any of these cases, (about 79 in number according to Gholam Mahomed's list) which are borne out by testimony similar to that adduced by the Claimant in this case and believed by the Court; viz, the Claimant's own oath, entries in his own account books, corresponding entries in Gholam Mahomed's Monthly accounts, and in the Document which he says he gave to the Nabob on the 7th or 8th September 1855, and the production of cancelled notes from the records of the late Nabob.

10. Nor can I advise an appeal in any such case unless further evidence be forthcoming for the defence. It is a maxim of law that fraud must not be presumed, and I have no direct proof of it in any one case, though I have the most perfect conviction that many of these claims are fraudulent throughout, and that even those based in truth are greatly exaggerated.

11. Under these circumstances it appears

Read letter from the Advocate General - 10 May 1859.
" Minute by the Hon the President - 11 do

Order thereon - No 295

Under the circumstances repre-
sented by the Advocate General, the
course which he proposes to follow,
in respect to the claim against the
estate of the late Muhammad bin
Shorah Muhammad's list, seems to
be the best that is open to him,
and they authorize its adoption

W
J
W
Fort St George,
12 May 1859.

JP

Advocate Genl - Secy - 12 May 1859.

140-6

appears to me that the only course now open
to me is to examine the Defters of Gholam
Mahomed, and his Document of the 7th or 8th
September, and the cancelled notes in the Nabob's
records, and, when these correspond with the
particulars of the claimant's claim, to make an
offer accordingly, to the full extent of the parti-
culars so corroborated.

12. The Court's decree in Venetasa Co-
tidyah's case virtually decides all others
similarly corroborated, and to contest them
further would be to incur heavy costs for
nothing.

13. Unless therefore I shall hear
that the Honorable the Governor in Council
sees reason to disapprove of this course of
proceeding, I shall act upon it forthwith.

Fort St George
10th May 1859

I have the honor to be
Sir
Your most Obedt Servt
Henry Smith
Advocate General

I am not aware that any better
information is open to us
11 May
This course is adopted
read - the paper to be already paid is a

Official Letter to Cong 24/21 (June)
15/19/1839

Pres. of Genl. 17. May
1839. Depts
The Adjutant General

St. Andrew
21. 1839.

No 511.

Report for the
information of Genl. 17. May
1839. Depts
The Adjutant General
of 1838, against the State
of the State. The State of the
State, and the State of the
State.

With an note