

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No.	318	Press Mic
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Not to be folded or roughly handled

*Proceedings of the Madras Government, Political Department,
for the month of May 1860.*

No. 32. Read the following letter from J. R. BOYSON, Esq., Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George, dated 10th May 1860, No. 489.

1. I have the honor to forward for the information of Government a copy of the Judgment delivered by the Supreme Court in the matter of Salar-ool-Moolk's claim against the estate of the late Nabob of the Carnatic, under Act XXX of 1858.
2. The copy Judgment, of which the enclosure is a transcript, was furnished to me by the Judge's Clerk in accordance with a request made by Counsel at the time it was delivered, and
3. I believe it to be in all respects accurate.

CLAIM OF SALAR-OOOL-MOOLK BAHADOOR, UNDER ACT XXX OF 1858.

Salar-ool-Moolk's claim under Act 30 of 1858 embraces 8 items, of which the last is not only the largest in amount but by far the most important with reference to the investigation which has taken place before us.

That is an item of 1 lac and 90,000 Rupees claimed as the balance due to Salar-ool-Moolk upon 2 Istafa Cutcherry Bonds for 1 lac each, bearing date 2nd December 1854; and the statement of the claimant is that, between 4th August 1843 and 31st March 1853, he actually lent to the Nabob at various times and in various sums of money the total amount of 2 lacs.

We are to say whether the evidence which he has adduced in support of that claim satisfies us that he did in truth lend that money to the Nabob. He was in the position of a trusted courier and confidential servant of the Nabob, but the existence of that relation ought not, certainly, to induce the Court to require from him any less cogent and satisfactory degree of proof that it might reasonably require in the case of a Soucar or any other person outside the palace.

Its effect perhaps ought rather to be in the opposite direction, on account of the facilities which such a relation affords for the fabrication of evidence in support of an unfounded claim.

Notwithstanding the extraordinary length of the investigation before us, the substance of this matter lies really within a very narrow compass.

The only witnesses who speak to the fact that this debt was contracted by the Nabob, are the claimant himself and Shurfood Dowlah his brother-in-law. The latter, indeed, says he was not aware of the various transactions as they occurred, but he did know of the last loan of 3,500 Rupees, and he swears to the recognition of the whole debt by the Nabob in March 1853.

Down to that time these various loans are said to have been a secret between the Nabob and the claimant. They were entered in none of the duffers of the Circar, they were unknown to the Dewan as well as to Shurfood Dowlah.

But according to the evidence of the claimant and Shurfood Dowlah an account was at that time sent into the Nabob, furnishing him with a "detail" of the money paid into the Dustikhas of H. H. by Salar-ool-Moolk, which has not as yet been entered on any record.

That account was called for by the claimant and produced by the Government as well as the letter or petition of Salar-ool-Moolk which was said to have accompanied it, and we have heard nothing to lead us to believe that there was any thing in the place where they were found to attach any suspicion to, those documents are marked P. P. and Q. Q. and nothing can be more distinct and explicit than they are.

They completely support the claimant's case. And if they stood alone they might be considered conclusive.

But on the other hand, they are the only documents which do fully support the claimant's case.

The other documents which he has put in and upon which he relies, require the help of extrinsic parole evidence to give them the application which he desires.

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The evidence of the claimant and of Shurfood Dowlah is required to show that the "one" item of 2 lacs in R. R., has reference to the sum of 2 lacs due to Salar-ool-Moolk, the details of which are given in Q. Q., and that the name of Shurfood Dowlah was inserted by the Nabob in his letter to the Istafa Cutcherry (T. T.) instead of that of Salar ool Moolk, in consequence of the request of the latter.

Thus much, however, in the claimant's favour appears to be clear: That in April 1853 when the Nabob was about to send in to Government a statement of his debts, and when an account was prepared and submitted to him for that purpose, he directed that a sum of 2 lacs should be added to that account, stating that *that* amount was payable to some person.

The evidence of the Dewan to this effect is strongly corroborated by the appearance of the account itself (marked 4), and by the subsequent letter to the Istafa Cutcherry, in which the Nabob himself says: Previous to this, in time of dispatching the account of the Circar's creditors to Government, a sum of 2 lacs of Rupees which was received on account of the Dustikhas or private expense has been entered in it without mentioning the name of any individual, whereas the above mentioned sum is payable to Shurfood Dowlah Bahadoor, you should therefore, according to the rules of this Cutcherry, give bond for it to the above mentioned Bahadoor.

There appears, therefore, to be the admission of the Nabob himself, on the 26th February 1854, that he had received 2 lacs of Rupees and that it was at that time still payable; so that if the matter rested there, though the Nabob says that the money was payable to Shurfood Dowlah, it might perhaps not unreasonably be considered that Shurfood Dowlah's disclaimer and evidence were sufficient to remove that difficulty. The bonds are, in fact, payable to bearer though Ghoolam Mahomed's name is mentioned in them and Salar-ool-Moolk is the holder of them; but the mere possession of the bonds can in this case have but little if any weight, we must now see what there is in the evidence to throw doubt upon the claimant's case, and to weaken the reliance to be placed on the evidence of himself or Shurfood Dowlah.

In the 1st place we are met with the fact that when in July 1856 the claimant was distinctly called upon by the Dewan to give an explanation respecting the two bonds in question, he did not then make the claim which he now makes; but in answer to a distinct question whether those bonds had relation to the holy ladder, was content with evasively answering that in those documents no mention is made of the holy ladder and perhaps that transaction may depend upon some other source.

Salar-ool-Moolk's evidence on this point is this: I don't know whether the Dewan knew that I had lent 2 lacs to the Nabob. I did not mention it; on the contrary, I concealed it from the Dewan. Because I doubted whether he would be pleased at knowing that his step-mother had given the money to me. The money would have gone to him on her death, and she gave it to me without his knowledge. The bonds k k and y y are my property. The Dewan was a member of the Istafa Cutcherry; when they were issued I did not inform the Dewan that they were mine; after the death of the Nabob the Dewan asked me, and then also I did not give him a clear answer but I wrote a letter; "by not giving a clear answer I mean that I did not tell him they were my property but the property of that person to whom they belonged. It was advisable for me not to tell him for several reasons, private reasons which I cannot mention." (The witness however mentioned the reasons afterwards upon re-examination.)

He was then asked, do you know that the Dewan in 1856, and before you wrote to him as you have mentioned, expressed doubts about the propriety of letting more payments be made on those bonds?

The answer was, why should he have any doubts, he was not going to pay his own money; he expressed no doubts to me.

The witness then said this (No. 8) is the first of my letters to the Dewan (read 8).

His attention being called to this language, the witness says, I wrote so because from the beginning I was concealing this matter from the Dewan, and when the account was sent to Government in that account also this debt is mentioned as an item.

This (No. 9) is signed by me. It is my second letter to the Dewan.

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The Dewan did not write to me before I wrote 8 and 9, but he sent a verbal message by his son.

The first time he asked whose money it was and on what account, to which I sent him an answer in writing.

On the second occasion he again asked me whether the money was my own or on account of the ladder, for which I told him the transaction of the ladder is a different one and this was quite a different transaction.

Letter 9 was my answer to the question whether the money was my own or on account of the ladder.

Letter No. 8 is my answer in writing to the 1st question now, when we read (No. 9) it certainly is not a statement that the transaction of the ladder was a different one. (Read 9.)

That is clearly not an answer to the distinct question which he admits to have been put to him, but an evasion of the question.

And the motive which he assigns for giving so evasive an answer at that time, is his desire of keeping the transaction concealed from the Dewan, because he (Salar-ool-Moolk) was a member of the Istafa Cutcherry; because the money would have gone to the Dewan after the grand-mother's death; and finally, because he was afraid that if the Dewan knew of his being rich he would report to the Government and get his pension reduced; but if the facts be as they are now represented, it seems singular that this concealment from the Dewan after the Nabob's death should have been attempted. In the documents (P. P. and Q. Q.) upon which the claimant now so much relies there is no attempt at, or request of, concealment, and if he knew or believed that those documents were at that very time (when he was replying to the pointed questions of the Dewan) amongst the dufters of the Circar, he could hardly have thought that his chance of keeping the matter secret was very hopeful. And it is obvious, at all events, that his chance of getting his debt paid depended at that time upon its disclosure to the Dewan, not to say any thing of the improbability of his being deterred upon making his claim then and adducing the evidence of it, by any apprehension that the Dewan his father-in-law would on that account get his pension reduced.

At all events the fact remains that he did so answer the Dewan, and that answer has an important bearing upon other evidence in the case.

This brings us therefore to the other evidence to which our attention has been called by the Advocate General, as the ground upon which he founds the suggestion of the Government, that these bonds for 2 lacs were in fact issued on account of the holy ladder.

There seems no doubt that the despatch of the holy ladder to Mecca was an object which the Nabob had much at heart, nor any that the costs of dispatching it in a manner which would have been thought suitably, would have been very considerable. The Nabob's letter (No. 20) contains a strong expression of his anxiety on the subject, but Shurfood Dowlah says that the Nabob gave him the order to borrow 2 lacs for that purpose only in the November or December previous, and he swears positively that the two bonds for 2 lacs, dated 2nd December 1854, (x x y y), had no connection with the Nabob's purpose of dispatching the ladder to Mecca.

The document (21), however, which he says was sent into the Nabob on 17th January 1855, and which is in his own hand-writing, contains this singular entry: "The additional 2 lacs of Rupees on account of the holy ladder, &c., the creditor of which is no other person than His Highness," and if that document be compared with R. R., which is the statement of debts furnished by the Nabob to Government in April 1853 and with No. 4, from which R. R. was prepared, it would certainly appear as if the additional 2 lacs so described in No. 21 was the very same sum of 2 lacs mentioned in R. R. simply as one item, Rupees 2 lacs for it (21) is headed as a detail of the former debts down to the 24th May 1853, corresponding therefore in round numbers, as total amount, 37 lacs, with the account sent into Government in April 1853. And it contains also in round numbers the two items of Dustikhas expenditure corresponding with that account, viz., 3 lacs ready cash, &c., and "one item of 2 lacs" as well as an account of the 32 lacs making the total of 37. Shurfood Dowlah's explanation, however, of that entry is this:—

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He says that the Nabob in November or December 1854 told him that as 2 of the 37 lacs mentioned in R. R. had then been liquidated, he was to borrow 2 lacs more in lieu of the 2 lacs already liquidated, for the purpose of despatching the holy ladder, and the matter was to be so contrived as to keep the fresh borrowing concealed from Government; that it was in consequence of that order and for that purpose that he wrote the entry in the document (21) above mentioned, and so as to make it falsely appear as if the item of 2 lacs was for the holy ladder, and he appeals to his letter of the 19th. January 1855 (marked 19) as showing that the explanation which he now gives coincides with what he then wrote. Indeed, this letter was pressed upon as being almost conclusive in favor of the claimant's case, because destructive (as was said) of the suggestion that the 2 lacs mentioned in R. R. were on account of the holy ladder.

After compliment, it proceeds thus: It is represented to your Highness that previous to this, your Highness fixed the sum amounting to 2 lacs of Rupees to meet the expenses for dispatching the holy ladder and gave an order that 2 lacs of Rupees be added to the duly payable debts of 37 lacs, respecting which report is already made to Government previous to this; now, Shurfood Dowlah in his evidence says that the order there referred to was given in November 1854; but the letter itself is not equally explicit as to the time when that order was given and every thing depends upon that, because if the letter refers to an order given prior to the presumption fixed by H. H. to meet the expenses for dispatching the holy ladder, as mentioned in this letter.

It is said, however, that the 2 lacs mentioned in this letter must necessarily be a sum *extra* the 37 lacs in R. R., because the order is to add it "to the duly payable debts of 37 lacs," and that therefore the order referred to cannot be the order in consequence of which 2 lacs were added in R. R.

But it must be observed that in no sense which can be put upon the sentence will the language be strictly accurate, for assuming the order to have been given in November 1854 it is clear that at that time the 2 lacs could not be added to the account of 37 lacs which had been already sent in, and if it was to be added to some fresh account the fresh account would be one of 35 lacs and not 37, because 2 of the 37 had been paid off.

We are not disposed to place reliance upon verbal criticism, but it does not seem to us a strained construction of the expression referred, to treat it as descriptive of the list of 37 lacs sent into Government. But the letter proceeds thus: "and during the last year, in part payment of the same, an equal sum of 2 lacs of Rupees has been liquidated from the Istafa Cutcherry, and that a fresh debt of the equal amount be borrowed from Sahoo cars, in order that the arrangement of the remaining other expenses respecting the holy ladder may become easy, and that the Government may not suspect of contracting any fresh debt."

Does not this language import that the "part payment of the same" which is spoken of as having taken place "during the last year" was an occurrence subsequent in point of time to the order previously mentioned?

Would not any one reading this letter suppose that the fixing of 2 lacs to meet the expenses of dispatching the holy ladder and the order to add that sum to the duly payable debt of 37 lacs, had taken place before the part payment of the same during the past year?

But if so the letter does not tally with Shurfood Dowlah's present explanation of the entry in 21.

If the item of 2 lacs in R. R. had been entered for the purpose of meeting the expenses of dispatching the holy ladder, and in fact 2 lacs had been in the mean time paid off, the Nabob might very well have said to his servants, *now* this is the time for availing ourselves of that entry of 2 lacs and borrowing 2 lacs more for the ladder without any disclosure to Government; but if the entry of 2 lacs in R. R. represented a really existing debt it is very difficult to understand how the purpose of concealing the fresh loan from Government was to be accomplished by any such contrivance as that which Shurfood Dowlah suggests as his reason for writing the entry in document 21 (as we do from the document A. A. A., especially when we know that the liquidation of the 2 lacs was a fact to be communicated to the Government.

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The letter (19) concludes with the excuses of the writer for not having arranged the matter on account of the difficulty of obtaining money without security.

(Read the remainder of the letter and the Nabob's answer, No. 20.)

It is not very clear whether the expression "on the security of the additional sum of money which is known to us" is to be taken as the language of the Nabob or of Shurfood Dowlah; but in either case it is an expression which is at least as consistent with the supposition that an item of 2 lacs was added in R. R. to give the Nabob the opportunity of borrowing 2 lacs thereafter, as it is with the explanation given by Shurfood Dowlah.

Further, is the tone of the letter that of a man who recently before had directed his confidential servant to contrive some means whereby he might raise a sum of 2 lacs for the holy ladder without disclosing it to the Government, and who had only two days before (*viz.*, on 17th January) received from that confidential servant in the account (21) one suggestion (not a very successful one certainly) for that purpose?

It is true that the Istafa Cutcherry bonds which were issued on the 2nd December 1854, are not mentioned in the letters 19 or 20; but it is pretty clear that Shurfood Dowlah was alluding to some *security* of more substantial kind than Istafa Cutcherry bonds, when he spoke of the difficulty of raising money from the soucars and that the Nabob so understood him when he gave him permission to mortgage property for the purpose; and it is observable also that if they were referring to the item of 2 lacs in R. R. as the sum which is known to us and which was fixed for the ladder, they were alluding to a time when the item of 2 lacs had not assumed the form of Istafa Cutcherry bonds. For though the Nabob's letter to the Istafa Cutcherry, directing the issue of bonds to Shurfood Dowlah, is dated on the 26th February 1854, the matter does not appear to have been submitted to the members of the Istafa Cutcherry until the 16th March, the resolution to issue them is a month later, *viz.*, 15th April, and the bonds themselves are not in fact issued till December.

We must not omit to notice the statement of the claim that he got the Nabob's letter to the Istafa Cutcherry, T. T., in exchange for the Enayetnamahs containing the Nabob's acknowledgment of each loan as it was lent, and that the message requiring him to give up those Enayetnamahs was delivered to him by Hazim Jung, because Hazim Jung is not called and no explanation is given of his absence except a suggestion that probably if he had been called he would not have recollected the occurrence. It would certainly have been more satisfactory (as regards so important a point in the case) if he had been examined even if he had stated only the want of recollection, but it is fair to the claimant on the other hand to say that this is a difficulty of his own creation, as he might easily have avoided mentioning the name of the messenger. And though the Enayetnamahs are not produced when called for, and we have no doubt that if they were in the possession of the Government they would have been produced, yet we certainly have not evidence that any strict search for them has been made, and there is left, as was remarked by Mr. Norton, a possibility at all events that those Enayetnamahs are at the present moment in existence in some corner of the numerous departments of the establishment of the Nabob.

There appears certainly to have been no disposition to destroy old papers in that establishment, for not only old satisfied notes are still found there, but even the account No. 21 is forthcoming when wanted, though that is said to have been written for the private information of the Nabob only, when he and Shurfood Dowlah were trying to contrive a method whereby the fact of borrowing a fresh debt of 2 lacs might be concealed from the Government, and as it was never acted upon, one might have supposed that it would have been destroyed.

In the observations which we have made on the documents 19, 20 and 21, we have not intended to express any positive opinion as to the correct inference to be drawn from them, only that the difficulty created by the statement in 21 under Shurfood Dowlah's own hand is palpable and obvious, and the explanation which he gives is not by any means equally so, at all events these documents and that explanation must have this effect, we must take it that the Nabob was capable of entering into arrangements with Shurfood Dowlah for the purpose of deceiving the Government as to his debts, and that effect cannot be otherwise than prejudicial to the claimant's case.

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The evidence to which we have hitherto adverted has special reference to the 8th item in the particulars, but there are some portions of the evidence adduced in support of the 4th item which also have some bearing upon the 8th. The claimant admits that if he fails to establish the 8th item he cannot succeed upon the 4th; but he says, and says with reason, that the evidence given as to the 4th item, so far as it goes to establish the fact that he dealt with the bonds as his own and that his so dealing with them was communicated to the Nabob, must help his case upon the 8th item.

The mere fact of his dealing with them as his own is not perhaps very material, unless it be shown also that his so dealing was with the knowledge of the Nabob.

Let us assume (for instance) that the claimant's transaction with Luckput was substantially as Luckput has described it, and that of the money so raised 10,000 Rupees was applied by Salar-ool-Moolk to his own purposes and 10,000 Rupees paid to the Circar (according to the entry in dufter T.), it would not necessarily follow that the bonds were in fact the property of Salar-ool-Moolk, or that the Nabob was aware that they had in that transaction been so represented. All that appears in T. (the dufter for February) is that on 11th February 10,000 Rupees was paid to Luckput in part payment of the Circar note for 20,000, and that a sum of 10,000 was received through (or from, for it is not material to dwell upon the distinction) Salar-ool-Moolk.

In order to show any communication of the transaction to the Nabob, the claimant must rely upon the documents K., 1, 76 and G. G. and S. in addition to the parole testimony.

But here again K., 1, 76 standing above and unexplained, does not support the claimant's case. On the contrary, it is directly opposed to it, because its effect is to represent the two bonds pledged with Luckput as Circar Bonds.

The explanation given is that that item is in fact a description of the transaction between Luckput Roy and Salar-ool-Moolk on his own account, but inserted in the list of debts due by the Nabob to Soucars under the name of Luckput Roy, in order that the Nabob should have to pay the interest on the 10,000 Rupees which remained due instead of Salar-ool-Moolk, and that the real transaction between Luckput and the Nabob was omitted in consequence of haste, but that that omission was forthwith supplied by the document G. G.

We find it difficult to understand how, through haste, the real Circar transaction should have been omitted from K. 1, when Salar-ool-Moolk's transaction with Luckput was entered under the guise of Circar transaction; K. 1. being properly confined to Circar transactions with Soucars and having reference to the other evidence in the case, we are much more inclined to place reliance on the document K. 1. than on its supplement, G. G.

We cannot say that this entry in K. 1. and the correction of it by G. G. are satisfactorily explained, considering how entirely at that time the management of the Nabob's private expenditure was left in the hands of the claimant and Shurfood Dowlah; and we do not forget the careful recital in S., when we say that we do not, upon the whole, consider the evidence directly bearing on the 8th item materially strengthened by that offered as more particularly applicable to the 4th item.

We have not as yet adverted to the evidence of Salar-ool-Moolk's means of lending the Nabob so large a sum as 2 lacs, which is of course a necessary step in the establishment of his case. The evidence on that subject might fall short of satisfactory proof, and yet the fact of the loan might be established beyond doubt; on the other hand, the mere possession of the means (however well proved) would not help any deficiency of proof as to the fact; all that we need say that on this point also the evidence of Salar-ool-Moolk is unsatisfactory to our minds.

His own account of the 70,000 Rupees brought in boxes from Hyderabad and kept in his own possession until he had occasion to use the money from time to time, and of the 50,000 Rupees given to him by his grand-mother, requires some confirmation and has received none.

The Dewan's evidence cannot be treated as amounting to more than this, that Salar-ool-Moolk might have had as much as he himself represents though he (the Dewan) was not aware of it.

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And as to the 50,000, it is to be observed that no mention was made by Salar-ool-Moolk of the gift of that sum by his grand-mother on the 1st day when he was cross-examined as to his means. He merely stated by way of explaining his expression "straightened circumstances, empty handed" in the document N. N., his Petition to the Nabob in 1847, that wishing the Nabob to believe that he was a poor man he had represented to him that the money which he advanced was the money of his grand-mother.

It was several days afterwards and when he was being cross-examined as to his having told the Nabob a lie that he added that it was not false, for that his grand-mother had given him 50,000 Rupees, though he admits that he knew the object of the cross-examination on the previous day to have him to ascertain the full extent of his memory.

In Mr. Norton's reply on behalf of the document, it was strongly urged upon us that the case of the Government rested entirely upon hypothesis and suggestion, upon imputations of fraud and perjury and conspiracy, not supported by any evidence, and that the Court would not act upon such suggestions in opposition to the direct and positive testimony given in support of the claim. But it must be borne in mind that the burthen of proof is upon the claimant and not upon the Government, and that the claimant does not necessarily establish his case when he succeeded in upsetting a suggestion made by the Government; neither in this nor in any other case ought we, by our judgment, to impute fraud to a claimant, except upon very clear and satisfactory evidence; nor ought we, on the other hand, to issue an order in the claimant's favor, unless we are convinced by the evidence that his claim is well founded. We are not called upon to balance nicely different hypothesis, to choose between the holy ladder hypothesis and the claimant's case, it is enough for us to say that our minds are left in doubt for that doubt is fatal to the claim; we do not say that the claim is false, but that it is not established clearly enough to justify us in acting upon it as true.

These observations dispose of the two items the 8th and the 4th, which were the principal items in dispute.

As to two others (the 3rd and 7th), it was agreed during the hearing that as to the 3rd the claimant could only recover the sum of 3,705 Rupees, and as to the 7th there must be a deduction on account of rent from February 19th, 1859, to the date of the order. The items which remain are the 1st, 2nd, 5th and 6th, and with respect to them it was not disputed that the sums claimed were due to somebody; but it was contended that upon the claimant's own showing he was not the person entitled to them, as he admitted part of those sums to be due to others, and he could not say how much. But looking at the whole of his evidence and at his statement that he was the head of the department to which these sums are due and that he employed the people under him, and considering also that the Government made to him a tender in respect of these very items (as was admitted by the Advocate General), we think that the proper conclusion to be drawn is that those sums are due to him from the Nabob's Estate, other parties may have their remedy against him, but they could have no remedy against the Government.

The only remaining question we feel to be one of considerable difficulty—the question of costs.

Under Act 16 of 1859 we are empowered to give costs to the Government, and we have now only to consider whether this is a proper case in which to exercise that power.

The Government have been successful in resisting the claim, the amount is reduced below that which the Government tendered, and we acknowledge the general expediency of adhering to the rule that the costs should follow the event.

If we had arrived at a clear conclusion, not merely that the claimant had failed to establish his case, but that the claim was altogether a fraudulent one, we should of course have applied that general rule.

But as we are not prepared to go that length, though the case was so presented on the part of the Government, and as we think that the claimant has been subjected to a heavier burthen in the shape of costs than was absolutely necessary for the investigation, we believe that the justice of the case will be met by not awarding costs.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

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No. 33.

ORDER THEREON, 18th May 1860, No. 318.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

My dear Sir Charles

Will you allow me to ask the benefit of your judgment and experience on one or two points connected with the late decision in the case of Salas Colbrook's claim against the Government. They are points not free from expediency and of public policy — they also touch the expediency of appealing to the Privy Council against the late decision, with reference to circumstances which I proceed to mention.

A paper presented perhaps more was attempted than this claim of Salas Colbrook as regards the two lakhs of rupees. It has not succeeded, but as far as the Supreme Court is concerned, it remains undisturbed and wholly unpunished. As the history expressed it, "Well, Salas Colbrook is no longer before — he took a shot at the Privy Council — that's all." The fact is, the Government have obviously refused now to recognize that 1859 — the Act respecting which they used such

strong and unusual language against the Legislature -
so far as they can avoid doing so. It permits them
to give costs to Govt., but does not direct them to do so,
and it is plain they never will. The Kerafemall
Pillay's claim, one half of it, viz a claim on a Part
of the habb for Rs 5000, was rejected by Sir Adam
Pitt Rivers as fraudulent. & he even said "he had
not a word to say for Kerafemall Pillay" - still he
refused to allow him pay any costs. The present
case is proper still. Both together they amount
to an advertisement that any rogue may have
a shot at Govt. rates, with the certainty of having
no costs to pay, however completely Govt. may
disprove his claim.

This seems some "pessimi exempli" and a
direct encouragement to fraud.

There is one way in which, as it strikes me,
the Govt. might fairly interfere in this case, to teach
those who are experiencing its bounty & liberality
that they at least shall not do such things for
of such.

Salah al-Murad was in the receipt of a (nominal &
ill-paid) salary of Rs 600 a month from the habb when
he died. This had been very recently conferred on
him, & the amount of this, former salary being
amounted to above Rs 7000 when the habb died.
This, with great liberality, gave him a pension
of Rs 1000 a month for the rest of his life.

dis trust which the habb's late letters show he had
begun to feel for Salah al-Murad. His brother & son
Elham had died (also Sheriff al-Murad) it seems
extremely likely that if the habb had lived a
month or two longer, he could have dismissed
Salah al-Murad from his service altogether. Besides
it must be remembered, that he himself admits
he received presents to an enormous amount from
the habb, under false pretences of poverty too!

Now, considering these things, it strikes me
that Govt. might now fairly either stop his pension
altogether, or, at least, deduct from the costs
he has occasioned by his fraudulent claim.

This is rather a digression from the original
object of my letter, but the subject seems to me
well worth the consideration of Govt. Are they to
let such frauds go wholly unpunished, when they have
the power & power is their own hands? - Nay, let to
punish, let wisely to withhold a bounty & reward,
which is the expediency of appearing, the power

the expediency of appearing, the power
& one of the matter seem to me as follows

Salah al-Murad's claim consisted of eight items.
Two of these amounting to Two Lakhs of Rupees have been
disallowed - the other six allowed, amounting to
Rs 175,000. Of these six, two, amounting
to Rs 100,000, have been perfectly allowed. The other
four, amounting to Rs 75,000, have, in my
opinion, been imperfectly allowed. This however is
a question, been imperfectly allowed. This however is

Explanation. I consider the money was ~~improperly~~
adjudged to Salas & Moolk, because, as he said
himself, it was ~~due~~ to others employed in various
departments under him; but I am satisfied it was
fairly due to these others, and they must be paid
at all events. Govt. therefore would gain nothing by
reversing this part of the Court's judgment on Appeal.
And there is this fact against us, that I actually
included these sums in the amount which I offered
to Salas & Moolk on behalf of Govt. I did so as
a sort of salvo to his dignity - to let him have the
payment of these people, by which too he will probably
contrive to put something in his own pocket - and
in the hope that he might thus be induced to
accept the offer made him, & forego the fraudulent
part of his claim. This offer the Court upheld as
a part of their grounds for awarding these 4 items
to Salas & Moolk.

The sum itself, it will be observed, is wholly
inconsiderable - in fact below an appealable amount
if it stood alone - and the only object in appealing
about it would be to use it as a peg whereon
to hang an Appeal against the judgment appearing
in order to establish a precedent for costs in future
cases.

The cost however of an Appeal would be very
heavy, and in the event ~~there is~~ there is ~~no~~
that ~~is~~ ~~no~~ ~~chance~~ of recovering anything.

from Salas & Moolk.

On the other hand, there is the chance - the
a most remote, unlikely, and infinitely improbable
one in my opinion - that if Govt. shall appeal,
Salas & Moolk may do so too, & have the ~~Prin~~ ~~Prin~~ ~~Prin~~
awarded to him ^{of a successful Appeal} by the Prin Council, with costs.

The only advantage, ^{of a successful Appeal} would be the establishing
the principle that Govt. is entitled to costs in
such cases - and procuring Salas & Moolk by
presenting his demand for the Rs 17,567-6-3. awarded
to him (which he urgently needs to pay his lawyer's
bill, which will absorb it all) unless he can give
good security for refunding it in the event of the
Appeal being decided against him - which
security it is very improbable he could give.

These are the circumstances under which
I shall feel greatly obliged if you will ~~give me~~
the benefit of your opinion & judgment. Whether,
as a matter of expediency and public policy, it
is worth while, in this case, for the objects I have
mentioned, to run the risk & incur the
certain & heavy expense of an Appeal to the
Prin Council. I remain

Yours very truly
H. J. P. S.
Madras April 11th 1860

It ought to be mentioned that the value of a precedent
involving cost to costs would be of much less
value now than it would have been a year ago
as now there remain very few cases of
magnitude, or in which it is at all likely
that the costs will be considerable

thought proper. I heartily sympathise with
your detestation of his fraud. Sincerely yours
Signed / C. E. Trevelyan
Gndr Park.
12th April 1861

This is concerning
Sir Charles Trevelyan Bt. C. D.

Reply to the Above

My dear Mr. Sydney Smith,

I think we must under all the cir-
cumstances, content ourselves with the fact that
Salazar-ul-Mulk has "missed his shot," and has lost
all he got in paying his own costs. I would not
prosecute the appeal. As regards his cousin,
objections might be made to our taking the
law into our own hands by deducting our costs from
it - and the more so as we have contended with
him in Court, and ~~ought~~ do so again if he we
thought so.

This letter from the
Advocate General
with a copy of my
answer at the end,
is sent for information
and may be put
with the papers on
the case if there
are any

M
by the 12th of the 18th

On of 20 May
Political 1860 Sept
From
The Gov. Solicitor
To the Judge of the Court

Dated 10th May
Received 12th

N^o 482.

1. Enclosure.

N^o 369.

Towards for the
information of Government.
a transcript of the Copy
furnished by the Judges
Clerk of Judgment delivered
by the Supreme Court of
Madras on the matter
of the Claim of Salarood
Moolah against the Estate
of the late Estate of the
Camatic under Act xxx
of 1860 N^o 318-10 May 1860
To be recorded N^o

C 12 May
R 16 "