

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 126

Press
~~Mis.~~

Dated 26. 2. 1918/

Not to be folded or roughly handled

10/31

*Proceedings of the Madras Government, Political Department,
26th February 1861.*

No. 88. Read the following letter from W. M. CADELL, Esq., Government Agent at Tanjúr, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Vallam, 13th February 1861, No. 74.

With reference to the Proceedings of Government, marginally noted, 26th December 1860. I have the honor to report that, as directed by the latter Order, I issued instructions to the Government Vakeel to watch the proceedings before the Court in the appeal suit therein referred to, and communicate to me what transpired, and at the same time intimated to the Respondent (the Sirkele) that it was optional with him to defend or not to defend the suit. The Sirkele, however, at once withdrew, and this was communicated to the Court on the 3rd ultimo when the case was set down for hearing.

2. The Court on the 15th idem delivered Judgment reversing the Decree of the late Raja's Court, with costs in both original and appeal suits. A copy of the Decree is herewith enclosed for the information of Government.

3. From the Judgment now pronounced it will be seen, that while, by reason of the halves of the two Bank Notes which formed the subject of the suit, having been now and for some time past impounded in the Supreme Court, it would seem questionable whether any claim could lie against the appellant for the recovery thereof, an action for damages caused by the previous detention by him of the said half Notes, can fairly be sustained. That these Notes are the property of His late Highness the Raja of Tanjore; that they were delivered to Kistnaji Kesava Pandit in his capacity as Sirkele or Minister to that Prince in the year 1836, and that they were unlawfully retained by him in his possession till the year 1849, when they were brought forward with a view to obtain payment thereon; are facts, which, as the Government are aware from the correspondence which has passed on the subject, have been fully established. Had the appellant not so detained these Notes but made them over to the Raja's Treasury (as he unquestionably ought to have done) it is only reasonable to suppose, that the full value of the Notes could have been recovered on behalf of the Raja, on production of the half Notes at the Bank of Madras, together with the prescribed Bond of Indemnity in respect of the missing halves. Such being the case, it would seem, I submit, that Kistnaji Kesava Pandit is clearly and personally responsible for the loss sustained by his late Highness in consequence of his having so detained these Notes.

4. Under these circumstances, and should the view of the matter I have taken be considered correct, I beg to request that I may be furnished with instructions as to taking further proceedings for the recovery of the damages on behalf of Government who have now in due course succeeded to the Estates of the late Raj. The amount of interest, which with reference to the

Sections II & IV, Regulation XXXIV of 1802. were detained can be charged according to the Law, equals the amount of the principal, viz., Rupees 4,000, and the suit will thus have to be instituted in the Subordinate Court of the Zilla.

5. I would take this opportunity also of recommending that the Government Solicitor may be instructed to take measures for recovering on behalf of Government (in whom the Estates of the late Raja are now vested) the half Notes which are now "impounded" in the Supreme Court for the party or parties rightfully entitled to them.

6. I would take leave also to solicit the sanction of Government for disbursing the amount of costs, viz., Rupees 519-6-0 awarded to the appellant by the Decree of the Civil Court as specified in the subjoined Memorandum, and also the sum of Rupees 8-6-0 advanced by the Sirkele under my orders in connection with the appeal. The original suit in this case, having, as I have already stated, been instituted under the orders of the then Resident, I conceive that the Sirkele cannot justly be held personally responsible therefor. The last mentioned charge was incurred in giving the prescribed Vakalatnama to a Vakil of the Civil Court in the name of the Sirkele for applying for an extension of time, as also for obtaining copies of the pleadings. This measure was unavoidably necessary, when the state of the proceedings was not even known, and the course to be definitely adopted on the part of Government, could not be determined on.

Proceedings of the Madras Government, Political Department,
26th February 1861.

MEMORANDUM OF COSTS.

Amount adjudged to be paid to the Appellant by the
Plaintiff in the original suit.

	RS.	A.	P.
Value of stamped paper on which the appeal petition was drawn, &c.	206	15	0
Vakil's Fee.....	310	0	0
Peon's Batta.....	2	7	0
	519	6	0
Charge incurred by the Sirkele in connection with the appeal.			
Value of stamp paper for Vakalatnama given to his Vakil.....	1	0	0
Copyist's hire for making copies of the Proceedings...	7	6	0
	8	6	0
Total...	527	12	0

(Signed) W. M. CADELL,
Government Agent.

APPEAL SUIT, No. 668 OF 1858.

Judgment.

This suit arose out of the following circumstances:

2. The halves of 16 Notes of the Madras Government Bank, were remitted by His Highness the late Raja of Tanjore to a party at Jaulna by post on the 29th July 1834, and reached their destination. The other halves were posted on the following day, but on the cover being opened at Jaulna, the halves of 2 Notes for 3,000 and 1,000 Rupees respectively, were missing. On the 9th July 1836, the halves of the two Notes which had been first posted and had reached Jaulna, were returned and lodged with the defendant, who then held the office of Sirkele, and were by him, in fraud it is alleged of His Highness the late Raja, transferred to a 3rd party, whose representatives filed a Bill against the East India Company to recover the amount of the said Notes in the Supreme Court. This Bill was dismissed with costs on the 22nd October 1856, and on the 20th November 1856, the present suit was filed to recover 8,000 Rupees, the principal, and equal interest of the said Notes.

3. The Tanjore Court gave judgment for the plaintiff.

4. At the hearing, the respondent's Vakeel stated that he had been instructed to withdraw from the suit.

5. I consider that, though an action might have been maintained for the recovery of the halves of the Notes (if such a step were necessary, which as they were before the Supreme Court and, there is reason to suppose, were there impounded, is more than doubtful) or for damages caused by the retention of them or for both; the claim in its present form is not sustainable and consequently reverse the Decree of the Mudrasabai with costs in both Courts.

15th January 1861.

Special appeal time expires on the 14th April 1861.

(Signed) G. T. BEAUCHAMP,
Civil Judge.

(True Copy.)

(Signed) W. M. CADELL,
Government Agent.

No. 89.

ORDER THEREON, 26th February 1861, No. 126.

As solicited by the Agent in paragraph 6 of his letter, the Government sanction the payment of Rupees (519-6-0) five hundred and nineteen, and Annas six, being the amount of costs awarded to the appellant by the Decree of the Civil Court, as also the sum of Rupees (8-6-0) eight and Annas six, advanced by the Sirkele in connection with the appeal.

2. The Agent is informed that Government do not deem it expedient to take any proceedings in the matter of the half Notes which formed the subject of the suit.

Exd. F. Cartledge.

(Signed) T. PYCROFT,
Chief Secretary.

Handwritten note:
The Sirkele was induced
to bring this suit at the
suggestion of the defendant
Mr. Chetty in order to
compel the Government to
pay the costs.
I submit that it
would be very improper
to allow that the first half
of the action in the
matter of these half
notes - in the first

plan altho there can be
little more doubt that
the notes on the Register's
property in that Kingdom
cannot come over fairly
by them, this has not as
far as I know been
preparatory come out in
principally proved - and
if it could be got we are
now Mr Cadell seems
to think the Register is
right - but does his estate
legally over in them
They have in the past

in the British Cape
city & other Social
affairs & with us in
don't know, cannot
be made - but they have
no better it would be a
Court - and could not
make good the right
of appearance either
in the Court of Session
Court or in the Supreme
Court when it is
now in process -
On every point I

especially in the present
state of uncertainty as
to what order may be
ultimately passed by
the Govt. in the matter
of the Tanjore
matter it is recommended
that the full
amount of the
business should be
settled at once
and the balance
of the account
should be paid
at once.

Political Department

Proceedings of the Madras Government.

Read the following letter
from the Govt. Agent at
Tanjore.

(Dated 13th Feb^y 1861. N^o 74)

Order thereon 26th February, 1861. N^o 126.

W. L.
W. L.

As solicited by the
Agent in para 6 of his letter,
the Govt. sanction the pay-
ment of Rupees (519-6-0)
Five hundred & nineteen &
Annas six, being the amount
of costs awarded to the
Appellant by the decree of
the Civil Court, as also
the sum of Rupees (8-6-0)
Eight & Annas six, advanced
by the District in connection
with the Appeal.

2 The Agent is inform-
ed that Govt. do not deem
it

Ordnance 1861 Departs

No 121.

Proceedings of Lord

8/28 February 1861 -

6402 No. 76-77

26/11/60

78

28/11/60

34-35

4/11/55

88489