M.R.O. 1—32,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 274	Press ~~Mis.~~
Dated 5 . 6 . ~~19~~ 1861	

Not to be folded or roughly handled

Proceedings of the Madras Government, Political Department, 5th June 1861.

No. 3. Read the following letter from J. R. BOYSON, Esq., Government Solicitor; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 28th May 1861, No. 506.

1. I have the honor to forward, for the consideration of Government, the papers noted in the margin, relating to a claim submitted to me by Abdool Wahab, on behalf and as the next friend of Mahomed Abdool Kaulik Saib, his brother (a lunatic), against the Estate of the late Nabob of the Carnatic, which, under the circumstances hereinafter stated, was not preferred under Act XXX of 1858.

Copy. Letter from Abdool Wahab to Government Solicitor, dated 7th May 1861.
Copy. Decree of the Supreme Court in Mahomed Abdool Kaulik Saib versus *Fakeer Saib, dated 18th February* 1861.

2. The following I believe to be the facts of the case:—Mahomed Abdool Kaulik was a creditor of Ghoolam Moortooza Khan Bahadoor for 10,000 Rupees, and his name was inserted as a creditor, No. 40, in Ghoolam Moortooza Khan's Insolvent Schedule as follows:—

40. Abdool Kaulik residing near the small Mosque at Triplicane within the local limits of Madras.	10,000	Admitted.	This creditor is one of my nephews, and this sum is due to him for arrears of allowance granted to him out of my pension.

When the late Nabob undertook to pay Ghoolam Moortooza Khan's liabilities to the extent of 7 lacks of Rupees, the agency of Fakeer Saib was employed on behalf of Mahomed Abdool Kaulik for obtaining the issue of Istafa Cutcherry Bonds in respect of Mahomed Abdool Kaulik's claim against Goolam Moortooza Khan. A Bond, No. 23, was in the first instance issued from the Istafa Cutcherry for Rupees 10,000 in the name of Mahomed Abdool Kaulik. Such Bond was afterwards exchanged by Fakeer Saib with the Istafa Cutcherry for two fresh Istafa Cutcherry Bonds, one of them in favor of Mahomed Abdool Kaulik for 8,000 Rupees, and the other in favor of himself (Fakeer Saib) for 2,000 Rupees. Subsequently Fakeer Saib exchanged the two last-mentioned Bonds with the Istafa Cutcherry for two other Istafa Cutcherry Bonds for the same amounts, both of such Bonds being made payable to himself and numbered 9 and 21, respectively. Fakeer Saib, instead of handing these Bonds (Nos. 9 and 21) to Mahomed Abdool Kaulik, as he ought to have done, retained them in his own possession, and subsequently filed them as belonging to himself, in support of his own claim under Act XXX of 1858, against the Nabob's Estate, and in his particulars set forth and alleged that the consideration for these (amongst other) Bonds was money advanced by himself to Goolam Moortooza Khan and on his account. Fakeer Saib filed Istafa Cutcherry Bonds (*now* deposited in the Registry of the Supreme Court) in support of his claim for sums amounting in the aggregate to Rupees 88,404-13-2, but the order made by the Supreme Court with the Advocate General's consent on behalf of Government, on the hearing of his claim (with the instalments paid from the Istafa Cutcherry during the Nabob's life-time, and a sum of Rupees 11,330 paid to Mr. G. G. K. Richardson under the Order of Government, Political Department, dated 5th January 1861, and numbered 7) covered *only* consideration for Rupees 35,102-0-3, thus leaving Istafa Cutcherry Bonds for an aggregate amount of Rupees 53,302-12-11, in respect of the consideration whereof no payment has ever been made either by the Nabob in his life-time, or by the Government under the provisions of the Carnatic Act, since his death.

3. Some time since, however, a suit was instituted in the Supreme Court against Fakeer Saib for establishing Mahomed Abdool Kaulik's right to the two Istafa Cutcherry Bonds Nos. 9 and 21, for the respective sums of 2,000 Rupees, and 8,000 Rupees (whereon the present claim on behalf of Mahomed Abdool Kaulik against the Nabob's Estate is based), and that suit has resulted in the Decree whereof a copy is herewith sent, and whereby Mahomed Abdool Kaulik was declared to be entitled to the two Bonds and the proceeds thereof.

4. I have investigated this claim most fully and have arrived at the conclusion that the debt in respect whereof it is preferred was due from Ghoolam Moortooza Khan to Mahomed Abdool Kaulik; that valuable consideration for the granting of the Bonds in question (now deposited in the Registry of the Supreme Court) passed from Mahomed Abdool Kaulik to Ghoolam Moortooza Khan and that, if this claim had been preferred under Act XXX of 1858 by or on behalf of Mahomed Abdool Kaulik, and reference had been made to the two Bonds in question as the basis of it, and the same amount of information and evidence that was adduced in Mahomed Abdool Kaulik's Equity suit against Fakeer Saib had then been available to the law Officers of Government, they would have consented to an order for payment to Mahomed Abdool Kaulik under Section 21 of the Act, of Rupees 8,006-0-3, being the principal amount of the two Bonds less the aggregate amount of the instalments paid upon them from the Istafa Cutcherry.

5. I have inspected and satisfied myself as to the genuineness of the two Bonds now claimed on.

6. It is now too late for Mahomed Abdool Kaulik by himself or those representing him to prefer any claim for summary investigation under Act XXX of 1858; but bearing in mind (as stated in my previous communications on similar matters) that it is especially desirable to avoid as far as practicable all possible excuse for the institution of a suit under Act XXX of 1858, for the administration of the Nabob's Estate, involving as it would do very great delay, trouble, and expense, and considering (as I do) that the debt in question was justly due from Ghoolam Moortooza Khan to Mahomed Abdool Kaulik and formed a part of those liabilities of Ghoolam Moortooza Khan which the Nabob elected to pay by the issue of Istafa Cutcherry Bonds, I beg to suggest that the Sub-Treasurer be authorized to disburse to the Receiver in the suit by Mahomed Abdool Kaulik against Fakeer Saib when such Receiver shall have been duly appointed, the sum of Rupees 8,006-3-0 in liquidation of the claim in question on the Receiver's executing the Release which I will prepare, and to debit the amount to public expenditure.

From ABDOOL WAHAB; to J. R. BOYSON Esq., Government Solicitor, dated 7th May 1861.

As the next friend of my brother Abdool Kaulik, a person of weak mind, I beg leave to forward to you herewith a copy of a Decree made on the 18th day of February last in a suit on the Equity side of the Supreme Court of Madras, wherein my brother Abdool Kaulik by me as his next friend was Plaintiff, and Fakeer Saib was Defendant.

I beg leave to point out to you that by this Decree the Court has determined that the Defendant Fakeer Saib is a Trustee for my brother in respect of two Istafa Cutcherry Bonds, *viz.*, one for Rupees 8,000 dated 1st September 1851, and numbered 20, and the other for Rupees 2,000 also dated the 1st September 1851 and numbered 9, together amounting to Rupees 10,000. These Bonds which have been filed in the Registrar's Office in support of Fakeer Saib's claim against the Government under the Nabob's Act are ordered by the Decree to be transferred by the Defendant to the Receiver to be appointed in the suit on behalf of my brother.

I beg leave to refer you to the particulars and further particulars of the demand of the Defendant Fakeer Saib filed in the matter of his claim under the Nabob's Act, from which you will perceive that he has included these very two Bonds, Nos. 9 and 20, as constituting part of his claim against the Nabob's Estate. From the particulars and further particulars you will likewise perceive that he has admitted the receipt by him from time to time of various sums of money on account of these Bonds, Nos. 9 and 20, among certain other Bonds. From the endorsements on the Bonds themselves, and from the evidence of Teerazeesh Khan taken on the hearing of the cause, it appears that the sums received by Fakeer Saib on the Bonds Nos. 9 and 20, amount to Rupees 1,595-0-10.

The Decree directs payment to the Receiver to be appointed in the cause of all sums so received by the Defendant.

I lay these statements before you, and have to beg you to be good enough to submit them to Government, with a view of obtaining payment to, or on behalf of my brother, of the balance still due upon the Bonds Nos. 9 and 20 together with interest thereon at Rupees 6 per cent. from the 22nd February 1855, the last date of payment on account of the Bonds.

Proceedings of the Madras Government, Political Department, 5th June 1861.

No. 955 of 1861.

IN THE SUPREME COURT OF JUDICATURE AT MADRAS.

In Equity. First Term. One thousand eight hundred and sixty-one.

Present.

THE HONORABLE SIR ADAM BITTLESTON, Knight, Officiating Chief Justice.

Monday the eighteenth day of February one thousand eight hundred and sixty-one, and in the twenty-fourth year of the reign of Her Majesty Queen Victoria.

Between MAHOMED ABDOOL KAULEK SAIB, a person of weak mind and incapable of attending to, or conducting his own affairs, by ABDOOL WAHAB, his brother and next friend, Plaintiff,

and

FAKEER SAIB, a Mahomedan gentleman, Defendant.

This cause coming on the fifteenth day of February instant, to be heard and debated before the Supreme Court of Judicature at Madras in the presence of Counsel learned on both sides. Upon opening the bill of complaint exhibited by the above-named Plaintiff, and the answer of the said Defendant thereto, and upon hearing read as evidence for the said Plaintiff the following passages in the answer of the said Defendant, that is to say, from the words "I believe that" in the beginning of paragraph one to the words "ten thousand Rupees," in the same paragraph, from the words "I admit that" in the beginning of paragraph two to the words "debtors at Madras" at the end of such paragraph, from the words "I admit that" in the beginning of paragraph three to the words "ten thousand Rupees" at the end of such paragraph, from the words "I admit that" in the beginning of paragraph four to the words "under the said account" at the end of such paragraph, from the words "I admit that" in the beginning of paragraph five to the words "the same for sale" in the same paragraph, from the words "I have heard" in the beginning of paragraph six to the words "of the said Insolvent" at the end of such paragraph, from the words "I admit that" in the beginning of paragraph seven to the words "Ghoolam Moorthoozah Khan Bahadoor" in the same paragraph, from the words "I believe it to be true" in paragraph eight to the words "by the said Insolvent Court" in the same paragraph, from the words "I admit that" in paragraph nine to the words "said Ghoolam Moorthoozah Khan Bahadoor" at the end of such paragraph, from the words "I deny that" in paragraph eleven to the words "assignment thereof to myself" in the same paragraph, and from the words "I admit that" in the beginning of paragraph fourteen to the words "this Honorable Court" at the end of such paragraph, and upon hearing the examination and cross-examination *vivâ voce* of the following witnesses, that is to say, Terashish Khan, Benjamin Brooks, Esq., G. Dustighire Mohideen Sheriff, Budda Meah, Mr. George Gilbert Keble Richardson, and Abdool Wahab, severally produced, sworn and examined on behalf of the said Plaintiff, and upon hearing read as evidence for the said Plaintiff the exhibits marked respectively with the letters C, D, E, F, G, and the endorsements of payments on the exhibits marked H and I, and the signature of the said Defendant to the letter of thirtieth August one thousand eight hundred and fifty-one marked with the letter J. Whereupon and upon debate

(Signed) A. BITTLESTON.

L. S.

of the matter and hearing what was alleged by Counsel on both sides, and the same having stood over for Judgment until this day. Now upon mature consideration had thereon, this Court doth declare that the Defendant is a Trustee for the Plaintiff in respect of the Istafa Cutcherry Bond for Company's Rupees eight thousand (8,000), dated the first day of September one thousand eight hundred and fifty-one and numbered 20, and also in respect of the Istafa Cutcherry Bond for Company's Rupees two thousand (2,000), dated the first day of September one thousand eight hundred and fifty-one and numbered 9, together making up and representing the Istafa Cutcherry Bond for Company's Rupees ten thousand (10,000) in the bill mentioned. And this Court doth Order and Decree that it be referred to the Master of this Honorable Court to take an account of the sums of money which have been received by the Defendant or any person or persons on his behalf since the date of the said two several Bonds by way of dividends or otherwise thereon, and for the better taking of the said account and discovery of the matters aforesaid, the parties are to produce before the said Master upon oath all deeds, books, papers, cadjans, and writings in their custody or power relating thereto, and are to be examined *vivâ voce*, or on interrogatories, as the said Master shall direct, who, in taking the said account, is to make unto the parties all just allowances. And this Court doth order that an injunction be awarded restraining the said Defendant, his servants and Agents, and each and every of them from receiving any further dividends upon or in respect of the said two Istafa Cutcherry Bonds for Company's Rupees eight thousand (8,000) and Company's Rupees two thousand (2,000), and from negociating either of them. And this Court doth order that it be referred to the said Master to appoint a proper person to be Receiver of the said two Istafa Cutcherry Bonds for the said Defendant, and all dividends and other monies due thereon or in the hands of the said Defendant, and all future dividends and sums of money payable in respect of the said Bonds, and that the said Master do allow such Receiver a proper salary or Commission for his care and pains therein, the person so to be appointed Receiver first giving security to be approved of by the said Master, duly to account for and pay what he shall so receive as hereinafter directed, or as the Court shall direct. And this Court doth further order that the said Defendant do transfer by endorsement thereon the said two Istafa Cutcherry Bonds for Company's Rupees eight thousand (8,000), dated the said first day of September one thousand eight hundred and fifty-one, and numbered 20, and for Company's Rupees two thousand (2,000), dated the said first day of September one thousand eight hundred and fifty-one and numbered 9, and pay to the said Receiver what shall be found to have been received by him in respect of dividends or otherwise on such Bonds aforesaid. And this Court doth further order that the person so to be appointed Receiver as aforesaid shall from time to time pass his accounts before the said Master and pay the balances that shall be reported due from him into the Treasury of Fort Saint George, with the privity of the Accountant General of this Honorable Court, to the credit of this cause subject to the further order of this Honorable Court. And this Court doth order that the Sub-Treasurer of Fort Saint George, with the privity of the said Accountant General, do from time to time invest the amount of such balances so to be paid in by such Receiver as aforesaid in one or more security or securities of the Government of India, and carry such security or securities to the credit of this cause there to abide the further order of this Honorable Court. And this Court doth order that it be also referred to the said Master to approve of and appoint a proper person to be the guardian of the said Plaintiff during his imbecility, to take care of and manage the Plaintiff's person and Estate, with liberty to the said Master if he thinks fit and proper to appoint the person so to be appointed Receiver in this cause as such guardian, as aforesaid. And this Court doth further order that the said Master do inquire and state what will be a proper sum to be allowed for the maintenance of the said Plaintiff from and out of such dividends aforesaid during such his imbecility and from what past period such allowance should commence. And this Court doth further order that the said Master do make his report on the matters above referred to him within three months from the date of the service of this Decree on him with power to the said Master for special cause to enlarge the time so specified as aforesaid. And this Court doth order that it be referred to the said Master to tax the costs of the said Plaintiff of, and incident, and up to the hearing of this suit, and that such costs when so taxed as aforesaid be paid by the said Defendant to the said Plaintiff or to Mr. John Miller his Solicitor. And this Court

Proceedings of the Madras Government, Political Department,
5th June 1861.

doth reserve the consideration of all further directions and of the subsequent costs of this suit until after the said Master shall have made his report, and any of the parties are to be at liberty to apply to this Court as occasion shall require.

(Signed) BOYSON and MILLER,
Plaintiff's Solicitor.

By the Court,
(Signed) B. BROOKS,
Registrar.

(True Copy.)

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

No. 4. ORDER THEREON, 5th June 1861, No. 274.

Under the opinion expressed by the Government Solicitor in favor of the claim preferred by Abdool Wahab on behalf and as the next friend of Mahomed Abdool Kaulik Saib, his brother (a lunatic), against the Estate of the late Nabob of the Carnatic, and at his suggestion, it is resolved that the Sub-Treasurer be authorized to disburse to the Receiver in the Suit by Mahomed Abdool Kaulik against Fakeer Saib, when such Receiver shall have been duly appointed, the sum of Rupees (8,006-3-0) eight thousand and six and Annas three in liquidation of the claim in question on the Receiver's executing a Release (which the Government Solicitor will prepare) debiting the amount to public expenditure.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. Wright.

9 4H

Political Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Govt Solicitor, Madras.

Recd 28th May 1861 No 606.
Order thereon, 5th June 1861. No 774.

Under the opinion expressed by the Government Solicitor in favor of the claim preferred by Abdool Wahab on behalf and as the next friend of Mahomed Abdool Kaulik Saib, his brother, (a lunatic) against the Estate of the late Nabob of the Carnatic, and at his suggestion, it is resolved that the Sub Treasurer be authorized to disburse to the Receiver in the Suit by Mahomed Abdool Kaulik against Takeer Saib, when such Receiver shall have been duly appointed

appointed, the sum of Rs.(6,906.3.) Eight thousand and Six and Annas three on liquidation of the claim in question on the Receiver's executing a Release (which the Govt. Solicitor will prepare,) debiting the amount to public expenditure.

JP

To the Govt. Solicitor
" Sub Treasurer
" Acct. General

Desp. 5/6/61.

15

£ 940

Political 186/. Department.

No. 274

PROCEEDINGS of the MADRAS GOVERNMENT.

Fd. 1st 321.

Dated 5th June 1861.

Authorizing the Sub Treasurer to disburse to the Receiver in the Suit by Mahomed abdool Kaulik against Fatteh Saib when such Receiver shall have been duly appointed the sum of Rs. 8000-3 in liquidation of the claim preferred by Abdool wahab on behalf and as the next friend of Mahomed abdool Kaulik Saib his Brother against the Nabobs Estate.

3829] Madras—Printed at the Government Press

Gen. 12413
57/61
- 67-68
(57)/(61)

374