

- (1) பத்தங்கலின் சின்னிக்கை 6-12
 (2) புதுக்கித் திருப்பிள நான்
 (3) ஆதாரம் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

மேலது தலை

அரசாணை எண். மு. கோப்புத் தாள் எண்.	5/118	அச்சகம் பலவகை
தாள் : 7-1-1890		1989.

மடிக்கவோ துண்டியடி கையாளவோ கூடாது.

* * * * *

செப்பனியல் பெயர்

செப்பனிலுள் நுகாத எடுத்துக்
கொள்ளப்பட்ட நாள் 12/07

செப்பண்டு மாதம் நாள் 1/08

சுரபார்க்குவி
மு. நி. பா. ஏ.

மு. நி. பா. ஏ.

யாளர்
கையொப்பம் * *

ORDINARY, MS.

Public DEPARTMENT.
G.O., DATED 7. 1. 90
No. 5

20.208

17.08
28-7-10
28-11-10

5/2

When given for copying

[Despatch Abstract.]

Appeal Petition in re
High Court Judgment in the
case of...

Back Paper, No.

FURTHER PAPER, No. 1889

191 349
10-5-
13-3-1889

N. ORDER OF GOVERNMENT, DATED
1889, No. , MISCELLANEOUS.

(Ditto.

ENMENT

A A

in copy

LED UP, BEING MEANT FOR DISPATCH
ORIGINAL (not paged).

A = Copy in full.
B = Not to be copied.
F = Copy abstract only.
Q = Copy heading only.

Opinion

5/3

1. Under the instructions contained in para 2 of the
of Government, dated the 26th November 1889, No. 959, I ⁱⁿ bounds of
approval of Government a draft of the additional P. am Iyer and
settled by the Government Pleader, Mr S. Subramani. Appeal can be
consultation - This additional memorandum
on the re-opening of the Court. Instructions contained in

2. In compliance with the ^{the} opinion of the Government
of the said order, I obtained the ^{the} am Iyer has seen and initial
on the case, which Mr S. Subramani. copy of that opinion is h
token, I presume, of con
annexed. the judgment of the High Court is appeal

3. I think of computation of the compensation awarded
cause the ^{the} grounds of appeal practically contain the real
wrong. Tanion.

my op.

(Signed) J.H. Spring Branson

Advocate of

Madras 21st December 1889.

(True copy)

James Branson
Government Solicitor.

1. I think the case is one in which an appeal to the Privy Council ought to be made - To begin with, the learned Judges are - not agreed as to the principle on which the compensation ought to be assessed - Mr Justice Wilkinson awards as damages sustained by the persons interested in the stone quarries by reason of the acquisition injuriously affecting their earnings, Rs 2100 calculated at 15 years purchase of a 5 years lease granted by the Zemindar in 1879.

2. He also awards under the same head as damages to the stone cutters or quarrymen Rs 46000 calculated at 10 times the annual loss they are said to incur by reason of the acquisition injuriously affecting their earnings, though they did not appeal against the compensation allowed by the Lower Court.

3. He further awards Rs 124-15-5 as the market value of the land.

4. Mr Justice Shephard's opinion is that the market value of the land is the only item on which compensation can be assessed - In ascertaining the market value, he thinks that the aggregate of the profits or earnings derived from the lands must be capitalized at so many years purchase. He does not say at how many years purchase - Now if the aggregate of the profits as found by Shephard J. be taken and capitalized, it would give a term of years quite different from that allowed by Wilkinson J. Moreover the market value is distinctly ascertained and has been allowed by Wilkinson J. as - Rs 124-15-5.

5. I think both Judges are wrong in taking into consideration the earnings in addition to the market value. The market value depends on the earnings and is based upon the earnings. The market value represents the earnings. If I have a piece of land that pro-

duces a certain amount of paddy the market value is based on amount of paddy it produces - So paying for the market value as well as for the paddy it produces is paying twice over for it.

6. The other objections are expressed fully in the grounds of appeal.

Additional grounds of Appeal

5/5

1. The High Court appears to have lost sight of the fact that the Appellants (Respondents herein) were - only three out of many claimants, for it has awarded compensation as if all the original claimants had appealed against the award of the District Judge - The original claimants, who did not appeal from the said award, are not entitled to have the compensation enhanced.

2. The High Court failed to ascertain the title, if any, of the Appellants (respondents herein) to the said property, and to notice that the Zamindar's claim to the said property was denied by the other claimants, and that the alleged title of the respective claimants was not proved.

3. The High Court erred in taking the lease for five years granted by the Zamindar in 1879 into consideration in determining the amount of compensation, and in allowing 15 years purchase on the total rent then agreed to be paid by the stone cutters.

4. The High Court erred in taking into consideration the alleged earnings of the quarry men when assessing the compensation payable.

into consideration alleged

earnings of quarry men or workmen -
when assessing the said compensation.

6. The High Court erred in taking
into consideration the profits alleged
to have been made by the Mirasidars
of Mahahalipuram when assessing
the said compensation.

7. The High Court erred in holding
that "the amount of profits, of which
the claimant would annually be deprived,
may be set down at Rs 4600". There
was no evidence to warrant a finding
that any claimant would be deprived
of any profits.

8. The High Court erred in holding
that the Appellants (respondents herein)
or the other claimants who did
not appeal would sustain any damage
by reason of the acquisition injuriously
affecting any property belonging
to, or any earnings made by, them.

9. The High Court erred in taking
the aggregate profits or earnings -
derived from the land by the quarrymen
and Mirasidars as well as by the
Appellants (respondents herein) and
in capitalising the whole at ten -
years purchase, when ascertaining the
compensation to be awarded.

10. The so called quarries have no

5/10
market value as such - There is only
a small, fluctuating and dull market
for the stone quarried therefrom, the
supply of which must necessarily decrease.
Mahahalipuram is a long way -
from Madras and is not connected there
with by rail, 15 years purchase is -
therefore excessive.

11. The High Court erred in awarding
as compensation a sum which will give
an annual income from the date of -
such award far in excess of even that
alleged to have been derived by the
claimants from the said quarries.

12. The High Court erred in overlooking
the fact that the sculptures -
were public property and that no -
rights of quarrying could be exercised
within such area as would injure
such public property.

13. The burden of proving their
right to any compensation and the
amount of such compensation was upon
the appellants (respondents herein)
and the other claimants who failed -
to prove their title or their alleged
profits or any damage or injury -
sustained by them by reason of the -
acquisition in question.

(Signed) J.H. Spring Branson

12th Decr 1889

(Signed) E.

12th Dec

(Signed) S. Subramaniam

19th Decr 1889.

(True copy)

Government Solicitor.

5/11/89

Handwritten text in Tamil script, likely a signature or official stamp.

Handwritten text in Tamil script, possibly a date or reference number.

United
Tal.

Handwritten text in Tamil script.

Handwritten signature in Tamil script.

Handwritten text in Tamil script, appearing to be a formal statement or declaration.

Handwritten text in Tamil script.

The Government of India
Home

N^o 14
12/11/89

dated 29/11/89
and 6/12/89
7.5.8.

Subject

Requesting instructions
of the Secretary to the Government of India
in relation to the
in India with
the Kingdom and those in
the Colonies are irregular
all pass through the proper
channels

120

DEPARTMENT

Government of India.

ND ADMINISTRATIONS,
EXCEPT MADRAS AND BOMBAY.

Calcutta, the 29 November 1889.

Secretary of State for India, having recently
in Government offices in India have
to (1) officials in the United Kingdom,
(2) officials in the Colonies, and directed

of Departments and Divisional and
that such direct
references to the persons mentioned
of the Government of India and Her

I have the honour to be,

SIR,

Your most obedient Servant,

C. J. LYALL,

Secretary to the Government of India.

56/66

of the Government of India for inform-
to this Office for information and

67

of Madras and Bombay for inform-

By order,

J. P. B. B. B.

Secretary to the Government of India.

of Madras.