

Public (1899) Department.

ORDINARY MS.

G.O., No. 540

Dated 10-5-99

W2
12-5-99

INDEXED.

[Despatch Abstract.]

Stating that the Govt is
glad to learn that the management
of the Bangalore Pensioners' widows &
Orphan Fund has been vested in
Trustees under Section 539 of the Civil Procedure
Code, and considering that no grant-
in aid is required for the present

T
12/5/99

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Public (1899) Department.

CURRENT No.

*Advised receipt of
further information from
the Resident.*

On 18/2/99 *M. 19/3/99*

Order

From The Resident in
Mysore.

No. 1095
236-98.

Dated 14. 3. 99

Received }
Registered } 17. 3. 99

Enclosures -

Spare copies -

SUBJECT.

Bangalore Pensioners' Widows' and
Orphans' Fund.

Stating that the Coll. of civil and
Military Station was asked to exercise
the function of the Advocate Genl under
Sec. 539 of the Civil Pro. Code & to take
the necessary steps for the appointment
of a Trustee or Trustees for settling a
Scheme for the management of the
and securing such other relief as
the nature of the case may require

BACK PAPERS.

G.O.	No.	Department.	Date.
	2645	Pub. & Recs	4.3.99

FURTHER PAPERS.

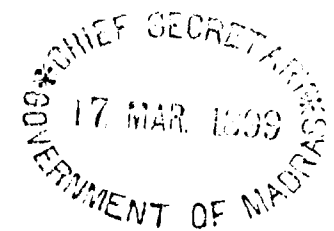
G.O.	No.	Department.	Date.

No. 1095

236-98

FROM

THE RESIDENT IN MYSORE.



TO

The Chief Secretary to the Government
of Madras.

Dated Bangalore, 11th March 1899.

SIR,

With reference to your letter in the Public Department, no. 265, dated the 4th Instant, regarding the Bangalore Pensioners' Widows and Orphans' Fund, I have the honour to state that on the 15th September last, the Collector of the Civil and military Station of Bangalore was asked to exercise the functions of the Advocate General under Section 539 of the Civil Procedure Code, and to take the necessary steps for the appointment of a trustee or trustees, for settling a scheme for

the management of the Fund, and
for securing such other relief, as the
nature of the case may require.

2. The collector is now being asked
to report how the matter stands, and
a further communication will be made
on receipt of his reply.

I have the honour to be,
Sir,

Your Most Obedient servant,

K. S. Tennine
For Resident.

c 16.5.99
Public (1899) Department.

CURRENT No.

Bangalore Pensioners'
Widows & Orphan Fund

From

From

The Resident
in Mysore

For
Orders, with reference to
the notes at D, whether
a grant-in-aid may
now be sanctioned,
and, if so, to what
extent.

No. 1700

Cy 17.
3.5.99 4/5/99

Dated 17 April 99

Received 30 "

Registered 1 May "

Enclosures 2.

Spare copies. -

I do not see why Govt. should
make any grant. If the
est. of management were reduced
with effect from the income that
suffice to pay the charges, and
there is a large capital which
will become free, when the
beneficiaries, whom all old, etc.

SUBJECT.

For forwarding for information
copy of judgment & decree passed
in a suit instituted by the
Collector of the Civil & Military
Station of Bangalore for the
appointment of Trustees to the
Pensioners' Widows & Orphan Fund.

I cannot see why any grant should be made now or hereafter. The existing capital appears to be amply sufficient to meet all the claims that can possibly fall on the fund. We need not however anticipate the future. For the present there is no ground for any grant.

At 8.5.59.

W. H. S. S.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

In the Court of the District Judge
Civil and Military Station of Bangalore

Before P. S. Krishna Rao, Esquire, B.A., B.L.,
District Judge

Original Suit no: 115 of 1899.

Plaintiff
Mr. A. M. Elight
Collector of the Civil
and Military Station
of Bangalore

Defendant
The Reverend C. H. L.
Wright, M. A., Chaplain
of St. John's Church
Bangalore and Honorary

President of the Bangalore

Pensioners' Widows' and Orphans' Fund

Suit under Section 539 of the Code of Civil
Procedure.

(1) For the Appointment of Trustees to administer
the Charitable Fund known as the Bangalore
Pensioners' Widows' and Orphans' Fund,

(2) For settling a scheme for the management
of the said Fund;

(3) For giving such other proper directions as
to the Court may seem fit and proper in

regard

regard to the administration of the said Fund.

The Plaintiff is as follows:—

(1) That the plaintiff is the Collector of the Civil and Military Station of Bangalore and has been empowered by the Local Government of the said Station to exercise for the purposes of this case all the powers of the advocate in General conferred on that Office by Section 539 of the Code of Civil Procedure Act IV of 1882.

(2) That the defendant is the Chaplain of St. John's Bangalore and has as such become the Honorary President of a Charitable Fund known as the Bangalore Pensioners' Widows' and Orphans' Fund under the circumstances hereafter set forth.

(3) That the said Bangalore Pensioners' Widows' and Orphans' Fund was established in or about January 1854 but the earliest record extant regarding the said Fund is dated the 22nd September 1855.

(4) That the object of the said Fund is to

to provide for the support of the widows and legitimate Orphan Children of pensioners from the British Forces in the Madras Presidency residing in Bangalore and who subscribed to the said Fund.

(5) That the Rules of the said Fund were framed and added to from time as appears from the record of the Proceedings of the Meetings of the Members recorded in a Book dating from the 22nd September 1855 and known as the "Order Book".

(6) That it does not appear at what particular place or places in Bangalore the first three General Meetings of the said Fund as recorded in the said Order Book were held but it does appear that the first General Meeting recorded in the said Book was held on Saturday the 22nd September 1855 at which "The Patriarch" acted the part of the "President" and the first set of Rules in the said book is signed by "B. S. Clarke

Chaplain

Chaplain St. Marks". The Second General Meeting recorded in the said book was held on the 14th January 1856 and the proceedings were signed "B. S. Clarke Chaplain St. Marks", and the Third General Meeting was held on the 25th January 1856 and the proceedings are signed "A. J. Rogers M. A. Chaplain of Trinity".

(9) That on the 16th September 1857 the Court of Directors of the Honourable the East India Company authorized the Government of Madras to make to the ^{said} Fund "an Annual subscription of Rs. (300) three hundred rupees provided an equal sum is realized by private subscriptions or donations to be continued as long as you may consider the Charity to be worthy of Government support" and the Government of Madras thereupon directed that "to enable the Government to judge of the propriety of continuing the grant from year to year the 'Committee' will be so good as to furnish them Annually with a full report of the Charity." Accordingly the Committee has

has up to date, furnished the said Annual report and the said grant of Rs. 300 has been made on with held according to circumstances.

(10) That at the General Meeting held on the 6th February 1857 it was resolved that the future meetings of the Fund be held at the Reading Room, Moorocherry (in St. John's Hall Bangalore) and this plan was then adopted as the meeting Room, the Committee after this being signed up to and including those of the meeting of the 20th April 1858 by "J. healthy joint-Chaplain of Bangalore and up to and including the meeting of the 2nd of January 1860 by J. Vivian Bull, M. A. joint Chaplain of Bangalore.

(11) That at the meeting of the members of the said Fund held on the 15th of March 1860 the proceedings of which are signed "J. Vivian Bull, M. A. Chaplain" a

Set of Rules for the management of the said
Fund as recorded in the said Order Book
was read duly weighed and approved and
by Rule 33 therein it was directed that "every
Chaplain of St. John's Church Bangalore shall
be written to requesting him to become Pre-
sident of the Fund."

(10) That the said Reverend J. Virgin Hall,
M.A. was appointed Chaplain of St. John's Church
in 1860 and from the meeting of the 19th
January 1860 up to date the proceedings
have been signed by the Chaplain for
the time being of St. John's Church as Pre-
sident of the said Fund except on one
or two occasions.

(11) That at a meeting held on the 15th
February 1888 the proceedings of which are
signed "Henry Pope Chaplain of St. John's
Honorary President" it was resolved that 100
copies of the Rules of the Fund "be printed
and circulated" and this appears to have been

5841-100/1 1888

(12) That the accompanying copy of the
Rules is one of the said printed copies so
"printed and circulated" in 1888.

(13) That the number of subscriptions to
the fund has gradually decreased owing to
resignations and deaths among them and since
January 1894 there is only one subscriber left
namely James Hornsfield of Bangalore.

(14) That there is no Vice-President or
Secretary or Treasurer or Committee and the
management of the Fund including the
manner of investments of its money is solely
in the hands of the Chaplain for the time
being of St. John's Church.

(15) That the said Fund has not been
registered under any Act of Government so
as to give it a corporate status.

(16) That on the 31st September 1895 the
assets of the said Fund were as follows:

(a) Invested in loans Rupees 8,06-0-0

(b) Cash in hand 3,894-4-8

Total Rupees 12,456-10-8

And the following twelve Widows receive pensions from the said Fund at the rate of six rupees per mensem, namely,

1. March E, born 1832 Admitted 1869.
2. Repworth E, born 1820 Admitted 1869.
3. Glendinning C, born 1829 Admitted 1871.
4. Leonard C, born 1830 Admitted 1871.
5. Long M, born 1821 Admitted 1873.
6. Baker S, born 1821 Admitted 1877.
7. Clark R, born 1823 Admitted 1877.
8. Holt M, born 1845 Admitted 1882.
9. Perkins A, born 1837 Admitted 1885.
10. Gascogne J, born 1840 Admitted 1885.
11. Brien S, born 1846 Admitted 1889.
12. Band M, born 1833 Admitted 1893.

(17) That the wife of the only subscriber now alive referred to in para 13 above will also be entitled to a pension should she survive her husband and excepting this the number of pensioners cannot be increased and the calls the Fund will be gradually decreased till there

there are no pensioners left.

(18) That the present mode of investing the moneys of the said Fund in sundry ~~is~~ is not safe and has resulted in losses to the said Fund in some cases and further the recovery of the outstandings has been found to be tedious and expensive.

(19) That it is impossible and unsafe and certainly inexpedient to allow the said ~~Fund~~ to be managed as heretofore and the Local Government of the Civil and Military Station of Bangalore with the consent of the Government of Madras has authorized the plaintiff to pray this Court to formulate and settle a scheme for the future management of the said Fund.

(20) The plaintiff therefore prays that the following persons may be appointed joint-Trustees of the Bangalore Pensioners' Widows and Orphans' Fund, namely, —

1. The Chaplain for the time be

20 of St. John's Church, Mangalore.
2. The two lay Trustees for the time
being of the said Church.

3. Another male resident of Mangalore
who must be in all other respects qualified for
the office of Trustee to be selected for the Office
by any two of the other Trustees.

(21) The plaintiff further prays that -
all the moneys belonging to the said Fund of
all kinds whatsoever and howsoever acquired
present and prospective be vested in the said
Trustees for the said Fund and that the said
Trustees be empowered to manage the said Fund
and to receive subscriptions thereto and to call
in and collect all the outstandings of the said
Fund and be directed not to lend out the
said moneys as has heretofore been done.

(22) The plaintiff further prays that the
following scheme for the management of the
said Fund be settled and confirmed -
namely

(I) That all the moneys of the said
Fund

shall be collected and from time to time
invested in any of the methods laid down in
Clauses (a) (b) (c) and (d) of section 20 of the Indian
Trusts Act II of 1882 as may be considered most
advantageous by the majority of the Trustees the
Chaplain to have the casting vote in case of a
difference of opinion always preserving in hand
a cash balance sufficient to meet current ex-
penditure.

2. That from the interest accruing to the
Fund in any way whatsoever and from the
Capital stock when necessary the following
twelve widows and the wife of the said
James Hornsfield on her becoming a widow
be each paid a pension of Rs 100 per annum
as prescribed by Rule 10 of the Rules referred to
in paragraph 12 of this plaint namely -
(I) Pepworth E, aged 74 years
(II) Baker S, aged 77 years
(III) Glendenning C, aged 69 years
(IV) Leonard, C, aged 68 years

(V)

- (V) Irving M, aged 67 years.
- (VI) Clarke R, aged 66 years.
- (VII) Band M, aged 65 years.
- (VIII) Marsh E, aged 65 years.
- (IX) Perkins A, aged 61 years.
- (X) Gaseigne, J, aged 58 years.
- (XI) Holt M, aged 54 years.
- (XII) Brien S, aged 54 years.
- (XIII) Mrs. J. Hornsfield on her becoming a widow.

3. That the death or removal from the fund of each and every one of the said widows be reported as it may occur to this Court and that on the death or removal from the fund of the last surviving widow the Trustees in Office at the time do obtain the further direction of this Court as to the future management and disposal of any of the assets of the fund that may at that time be left in their hands in trust.

4. That the Trustees be empowered to

to frame a set of bye-laws for their own guidance not inconsistent with the Rules already framed and referred to in paragraph 12 of this plaint.

5. That the Court will give all the proper directions in the premises as to it may seem fit and proper.

6. And that the Court will direct the payment of the costs of this suit from out of the said fund.

2. The defendant files the following written Statement:-

(1) That he has carefully read and considered the plaint filed in this matter.

(2) That the allegations and the facts set out in the plaint regarding the Bangalore Pensioners' Widows' and Orphans' Fund are so far as the defendant is informed correct and true.

(3) That it is absolutely necessary that the relief proposed by the plaintiff should be

be granted and as speedily as possible.

(4) That there is no objection to this Court passing a decree in the terms suggested by the plaintiff in paras 20 (1) (2) (3) 21 and 22 (1) (2) (3) (4) (5) and 6 of the plaint.

(5) The defendant ~~prays that~~ this Honourable Court will be pleased to pass a decree in the aforesaid terms to enable the Trustees to regulate the future management of the said Fund according to Law.

3. The following Judgment was delivered:—

I have carefully considered the nature of this suit and the Authorities cited by Mr. Lawrence, and am of opinion that the suit is one which falls under Section 539 Civil Procedure Code and that this Court has jurisdiction to pass a decree in the terms suggested by plaintiff. The defendant has no objection to such a decree being passed. A decree will therefore be passed.

passed as prayed for. The Cause of the suit will be paid by the Fund. I fix Advocates' fee at Rs: 160/- for Mr. Lawrence and that Rs: 16/- for Mr. Parthasarathy Iyengar.

Exhibits A and B are returned to plaintiff.

Signed P. S. Krishnamoorthy,
District Judge.
1st day of March 1899.

copy
H. Clarke
Registrar

Decree

Section 206

C.P. Code

Form No. 13

Civil.

In the Court of the District Judge
of the Civil & Military Station,
Bangalore

Suit No. 115 of 1899.

Mrs. A. M. Slight

the collector of the

Civil and Military

Station of Bangalore

(Plaintiff)

The Reverend C. H. L. Wright

The Chaplain of St. John's

Bangalore. (Defendant)

Claim: - Suit under Section 539 of the Code of Civil Procedure.

(1) For the appointment of Trustees to administer the charitable Fund known as the Bangalore Pensioners' widows and Orphans' Fund.

(2) For settling a scheme for the management of the said Fund.

(3) For giving such other proper directions as to the Court may seem fit and proper, in regard to the administration of the said Fund.

On the passing of Judgment in the suit in the presence of Mr. John C. S. Lawrie Advocate for the Plaintiff and of Mr. P.

Order No. 1 to Plt.
C.P. 1318 of 98

Parthasarddy Iyengar advocate for the
Defendants it is ordered and decreed as follows

That the following persons be appointed
Joint Trustees of the Bangalore Pensioners Widows
and Orphans Fund, viz.

The Chaplain for the time being of St. John's
Church Bangalore

(2) The two Lay Trustees for the time being of
the said Church.

(3) Another male resident of Bangalore who must
be in all other respects qualified for the office of
Trustee to be selected for the office by any two of
the other Trustees.

That all the moneys belonging to the
said Fund of all kinds whatsoever and howso-
ever acquired present and prospective be vested
in the said Trustees for the said Fund.

III. That the Trustees be empowered (1) to
manage the said Fund (2) to receive
subscriptions thereto (3) to call in and collect
all the outstandings of the said Fund (4) to
invest the said moneys from time to time
in any of the methods laid down in clause
10 of Section 22 of the Indian
Contract Act of 1872, for the purpose of the said Fund.

most advantageous by the Majority of the
said Trustees, the Chaplain to have the casting
vote in case of a difference of opinion always
reserving in hand a cash balance sufficient
to meet current expenditure (5) that from
the interest accruing to the Fund and from
the Capital stock when necessary the following
twelve widows and the wife of Mr. James
Honnorsfield referred to in the plaint on her
becoming a widow be each paid a pension
of six rupees per annum as prescribed by
Rule 10 of the Rules of the Fund dated 1883 and
referred to in the plaint namely:

- (1) Pepworth E aged 79 years
- (2) Baker S, aged 77 years
- (3) Blendon C, aged 69 years
- (4) Leonard C, aged 68 years
- (5) Dring B, aged 67 years
- (6) Clarke R, aged 66 years
- (7) Board A, aged 65 years
- (8) Ashurst S, aged 65 years
- (9) Perkins, aged 61 years
- (10) Gascogne J, aged 58 years
- (11) Holt A, aged 54 years
- (12) Brien S, aged 54 years and
- (13) Mrs. J. Honnorsfield on her becoming a

6) that the death or removal from the Fund of each and every one of the said widows be reported as it may occur to this Court.

7) that on the death or removal from the Fund of the last surviving widow the Trustees in office at the time do obtain the further direction of this Court as to the future management and disposal of any of the assets of the Fund that may at that time be left in their hands in trust and

(8) that the trustees be empowered to frame a set of the bye laws for their own guidance not inconsistent with the Rules already framed dated 1883 and referred to in the plaint. and it is further ordered and decreed the costs of this Court suit as per memorandum annexed be paid by the said Fund.

Given under my hand and the Seal of the Court this First day of the month of March 1899.

(Signed) P. S. Krishna Rao

District Judge.

Civil & Military Station of Bangalore.

Memorandum of costs incurred in this suit.

By

By plaintiff

Court fee on plaint Rs 1/-

Power of Attorney 8/-

Advocate's fee 160/-

Total Rs 170-8-

By defendant

Power of Attorney Rs 8-8-

Advocate's fee 16/-

Total.. 16-8-

Amount payable by the Fund Rs 187/- as above

(Signed) P. S. Krishna Rao,

District Judge

Civil & Military Station

Bangalore.

(Signed) J. C. S. Lawrance,

Advocate,

for Plaintiff.

(Signed) P. Parthasarthy Iyengar

Advocate for Defendant.

Copy

A. Clarke

Registrar

CURRENT NO.

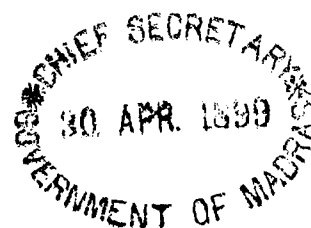
No. 1700 with En

FROM

LIEUT.-COLONEL DONALD ROBERTSON, C. S. I., C. S. J.
RESIDENT IN MYSORE.

TO

The Chief Secretary to the Government
of Madras.



Dated Bangalore, 17th April 1899.

SIR,

In continuation of my letter no. 1095,
dated the 14th ultimo, I have the honour
to state that in exercise of the functions
of the Advocate General under Section
539 of the Civil Procedure Code vested
in the collector of the civil and
military station of Bangalore, a
suit was instituted by him in the
District Court on the 10th February
last, and a decree was passed
on the 1st ultimo by which the
Chaplain for the time being of
St. John's Church, and three other

Gentlemen

Encl. 7: 2 to Put: C. 7.

13/5/99.

Gentlemen have been duly appointed to be joint trustees of the said fund with all other reliefs, asked for in the plaint which are required for the proper management of the fund in future.

2. Copies of the decree, and of the judgment, are enclosed for the information of the Madras Government.

I have the honour to be,

Sir,

Your Most Obedient Servant,

K. S. Krishna

for Resident.

By

[$\frac{G}{24}$]

1,000-25-3-99

Public DEPARTMENT.

Read again

Cy 372. from the Hon. President, Bangalore Pensioners' Union, dated - January 1899

G.O. no. 264 Public D 4-3-99.

C. No. 860. From the Resident in Mysore, No. 1095, dated 14.3.1899.

1318, 1700, 17.4.1899.

189

189

Order No 540 dated 10.5.99.

Recorded.

2. The Govt. is glad to learn that by a decree of the District Court of Bangalore, the management of the fund has been vested in Trustees under Sec. 539 of the Civil Procedure Code.

3. The Govt. considers that no grant-in-aid is required for the present.

(from order)

[Signature]

To the Chaplain of St. Philip's Church Bangalore, Joint Trustee of the

Qing Dept (A43)-1745

4-1745

When given for copying 12/5
 When copied }
 When examined } 13/5 } 1899
 When signed }

*Copy to for
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 10. and 15/1/19*

READ AGAIN G.O., No. , DATED
 189 .

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

N.B.—

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