

9447

Public Works (1896) Department.

G.O., No. 895 J

DATED 29th October 1896

[Despatch Abstract.]

Contribution: sanction accorded for recovering from the Inamdar such amount as the Collector may fix as - for the repair of Ura tank of Petta Godapalli Agraharam, Vizagapatam & to the balance of the pendency in current being debited to the current year's grant under Minor Irrigation Works, Revenue Dept.

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G.O., No. 895 I., 29th October 1896.

OCTOBER.

Contribution

Sanction accorded for recovering from the inamdars such amount as the Collector may fix as — for the repair of Ura tank of Pettagodapalli agraharam, Vizagapatam district, the balance of the expenditure incurred being debited to the current year's grant for the district under Minor Irrigation Works—Revenue Department.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Irrigation.

Read—the following paper :—

Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), dated 16th September 1896, Mis. No. 4522.

Read—again the following Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), dated 12th June 1896, Mis. No. 2873 :—

Read—the following letter from the Collector of Vizagapatam, dated 26th April 1896, No. 646 R. C. :—

Referring to Board's Proceedings, Mis. No. 943, dated 24th February last (Settlement Department), communicating G.O., No. 69 I., dated 20th January 1896, sanctioning the execution by the Public Works Department of the work of restoring the Ura tank of Pettagodapalli agharam affecting the East Coast Railway at a cost of Rs. 1,942 including percentage charges, I have the honour to report that the agharamdars, on being called on to pay the sum of Rs. 1,942, have presented to me a petition stating that Rs. 500 are ample to put the tank in a safe condition and protesting against the expenditure of Rs. 1,942, nearly five years' rental of the tank ayacut (Rs. 420). They also complain that the proposed repairs will cause submersion of their lands in the bed of the tank and deny that they ever gave consent to the tank being repaired by Government at such a cost. It is true, as reported in Mr. Miller's letter quoted in the Board's Proceedings read above, that three of the agharamdars appeared before the Tahsildar and requested that the repairs to the tank might be made on the supposition that the cost would amount to about Rs. 300, as estimated by the Tahsildar. The Public Works Department has raised the estimate to Rs. 1,942, to which the consent of the agharamdars has not been obtained. Their objections are not at all unreasonable. The cost of the repairs executed by the Public Works Department amounts to a considerable portion of the capital value of the tank and I have no doubt that if we go to the Civil Court, as we shall have to, under the Act, of section 15 of Act IV of 1886; and the decision of the Madras High Court in Regular Appeal No. 108 of 1870 reported at page 180 of the Madras High Court Reports, Volume VI, supports my view. Rs. 500 offered by the agharamdars are, in my opinion, a sufficient share of the repair expenses to demand from them. The Executive Engineer, on receipt of G.O., No. 69 I., dated 20th January 1896, considering the work emergent, put it in hand at once and has by now probably spent the whole of the estimated amount. I therefore request instructions as to whether, as ordered in another case in Board's Proceedings, No. 1416, dated 24th March 1896, whether, under section 12 of the Act, I may fix the proportion of the expenditure which should properly be charged to the inamdars, the balance being defrayed by Government.

Resolution—dated 12th June 1896, Mis. No. 2873.

Forwarded to the Chief Engineer for Irrigation for favour of remarks.

2. In section 15 of the Railway Protection Act, it is stated that a land-holder "shall not, in any suit, be held liable in an amount exceeding that which he, in the exercise of a due and proper care, as a land-holder, would have expended on the maintenance of the works." The inamdars object to pay more than Rs. 500, and the Collector thinks that this is a sufficient share of the repair expenses to demand from them. If the full amount of the estimate framed by the Public Works Department, viz., Rs. 1,942, which amounts to nearly five years' revenue under the tank, is to be collected from the inamdars, it will be necessary to file a civil suit against them and it will then be necessary to prove that the repairs carried out by the Public Works Department fall within provisions of the section quoted above. If the Public Works officers are prepared to establish this point, the Collector will be instructed to file a suit for the collection of the actual cost of repairs executed by the Public Works Department.

Government would probably be disposed to give up its claim for supervision, &c., charges.

(True Copy and Extract.)

(Signed) P. RAJARATNA MUDALIAR,
Secretary.

Read—also the following letter from the Chief Engineer for Irrigation, dated 17th July 1896, No. 304 M. :—

With reference to Proceedings, Board of Revenue, Mis. No. 2873, dated 12th June 1896, I have the honour to inform you that it cannot be said that the estimate sanctioned in G.O., No. 69 I., dated 20th January 1896, makes provision for unnecessary work, but it is very difficult to establish in a Court of Law that the repairs estimated for fall within the provisions of Act IV of 1886, or to produce sufficient evidence to disprove the statements of the inamdars.

2. I am therefore of opinion that the Collector's suggestion may be adopted.

Resolution—dated 16th September 1896, Mis. No. 4522.

Submitted for the orders of Government.

2. In its Order, No. 69 I., dated 20th January 1896, communicated with G.O., No. 398 R., dated 15th February 1896, Government sanctioned the execution, by the Public Works Department, of the work of restoring the Ura tank, Pettagodapalli agharam, in the Vizagapatam district, at an estimated cost of Rs. 1,560, or Rs. 1,942 including the percentage charges for establishment and tools and plant, and directed that the outlay on the work should be recovered from the agharamdars, as proposed by the Collector. In his letter on the subject, printed in the Government Order quoted above, the Collector had reported that only three out of the twelve agharamdars, who owned the tank and who had been called upon to repair it, appeared before the Tahsildar of Survasiddhi and requested that, as the tank was the joint property of twelve persons and as it would be impossible for all of them to join in the work and execute it expeditiously, the necessary repairs might be done by Government and the cost recovered from them. At the time of the Tahsildar's inquiry, the repairs were estimated to cost only about Rs. 300. That estimate was, however, rejected by the Public Works Department as having been prepared on insufficient data and in lieu thereof it prepared an estimate for Rs. 1,942, which was sanctioned in the Government Order referred to above. On being called upon to pay this amount, the agharamdars presented a petition to the Collector stating that Rs. 500 should be ample to put the tank in a safe condition, protesting therefore against the expenditure of Rs. 1,942 and denying that they ever gave their consent to the tank being repaired by Government at such a cost. In reporting this circumstance to the Board, the Collector observed that the objection of the agharamdars was not unreasonable, that having regard to the provisions of section 15 of Act IV of 1886, there was little chance of recovering by

suit the large amount expended by Government, and that in his opinion the sum of Rs. 500 offered by the agharamdars was a sufficient share of the repair expenses to demand from them. The Collector, in concluding his letter, asked instructions as to whether he should claim the whole amount leaving it to the court to reduce it or whether, under section 12 of Act IV of 1886, he might fix the proportion of the expenditure, which should properly be charged to the inamdars, the balance being defrayed by Government. The Board, in its Proceedings read again above, referred the question for the remarks of the Chief Engineer for Irrigation, pointing out that if the full cost of the repairs, which amounted to nearly five years' revenue under the tank, was to be collected from the inamdars, it would be necessary to file a civil suit against them and that it would then be necessary to prove that the repairs carried out by the Public Works Department fell within the provisions of section 15 of the Railway Protection Act (Madras Act IV of 1886) and that if the Public Works Department were prepared to establish that point, the Collector would be instructed to file a suit for the collection of the actual charges incurred. The Chief Engineer in reply states that though the estimate did not make provision for unnecessary work, it would be very difficult to establish in a Court of Law that the repairs estimated for fall within the provisions of Act IV of 1886 or to produce sufficient evidence to disprove the statements of the inamdars. He is therefore of opinion that the Collector's suggestion may be adopted. In these circumstances, and having regard to the doubt expressed by Government in paragraph 4 of G.O., No. 501 W., dated 10th February 1896, as to whether the provisions of Madras Act IV of 1886 can be rendered operative as against the owners of private tanks, who neglect to take the requisite precautions to keep their tanks in a proper state of repair, the Board requests that sanction may be accorded for recovering from the inamdars such amount as the Collector may fix and for debiting the balance to the Minor Irrigation grant of the district for the current year.

(True Copy and Extract.)

(Signed) R. V. SRINIVASIAH,
Secretary.

Endorsement, Mis. No. 3944.

Transferred to the Public Works Department (Irrigation Branch).

OOTACAMUND,
2nd October 1896.

(Signed) G. STOKES,
Ag. Secretary to Government.

ORDER—No. 895 I., dated 29th October 1896.

Sanction is accorded for recovering from the inamdars such amount as the Collector may fix, the balance of the expenditure incurred being debited to the current year's grant for the district under Minor Irrigation Works—Revenue Department.

(True Extract.)

Under Secretary to Government,
Irrigation Branch.

To the Chief Engineer for Irrigation.
" Superintending Engineer, I Circle.
" Examiner, Public Works Accounts.
" Revenue Department.

Ed. A. F. Eccleston.

Public Works
Revenue (1896) Department.

CURRENT No. 9447



From
The Board of Revenue
Rev: Ltt. Land Records & Agri.
Madras.

No. 4522 Dms.

Transferred to the
Public Works Dept. (Irrig. Branch).

Dated 16th September 1896.

Received 18.9.96 20.10.96

Registered 21.9.96

Enclosures 1

Spare copies

SUBJECT

Tank affecting railway line
in the Vizagapatam District.

Submitting for the orders of
Government papers regarding the
recovery of contribution from
certain Agharamdars for the
repair of a — and requesting
that sanction may be accorded
for recovering such amount as
the Collector may fix and debiting
the balance to the Minor Irrigation
grant of the District for the current
official year.

2nd October 1896
Ootacamund
No. 895 I. of 29th October 1896
Order thereon: 25.10.96
30/9/96 Sanction is accorded
List for recovering from the
Inamdars such amount
as the Collector may fix, the
balance of the expenditure
incurred being debited to
the current year's grant for the
dist. under Minor Irrigation works
Rev. Dept. 13/10
To the Chief Eng. for Irrig.
" Superintending Engineer, I Circle
" Examiner, P.W. Accounts
" Revenue Department 13/10
H. E. 22/10. 27/10

BACK PAPERS.

G.O.	No.	Department.	Date.
Bd	943	Rs	24-2-96
pu	69		20-1-96
Ad IV	393	Rur	15-2-96
mad 4	R VI VI		24-3-96
mr	1416		8-2-96
so	501W		22-2-96
	799	Revenue	

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Proceedings of the Board of Revenue.

(Revenue Settlement, Land Records and Agriculture)

Dated 16th September 1896. No. 4522 Mis.

Read again Boards Proceedings, dated 12th June 1896 No. 2875 Mis:

Read also the following letter from the Chief Engineer for Irrigation dated 17th July 1896 No. 304 M. :-

With reference to Proceedings, Board of Revenue No. 2875 Mis. dated 12th June 1896, I have the honour to inform you that it cannot be said that the estimate sanctioned in G. O. No. 69 I dated 20th January 1896 makes provision for unnecessary work but it is very difficult to establish in a Court of Law that the repairs estimated for, fall within the provisions of Act iv of 1886, or to produce sufficient evidence to disprove the statements of the Inamdars.

2. I am therefore of opinion that the Collector's suggestion may be adopted.

Resolution. Dated 16 Sept 1896. No. 4522

Submitted for the orders of Government.

2. In its Order No. 69 I, dated 20th January 1896, communicated with G. O. No. 398 R., dated 15th February 1896, Government sanctioned the execution by the Public Works Department, of the work of restoring the Ura tank Pettagodapalli Agraharam in the Vizagapatam district at an estimated cost of Rs 1560 or Rs 1942 including the percentage charges for establishment and tools and plant and directed that the outlay on the work should be recovered from the Agraharamdars, as proposed by the Collector. In his letter on the subject, printed in the G. O. quoted above, the Collector had reported that only 3 out of the 12 Agraharamdars, who owned the tank & who had been called upon to repair it, appeared before the Tahsildar of Sarvasidhi and requested that, as the tank was the joint property of 12 persons and it would be impossible for all of them to join in the work and execute it expeditiously, the necessary repairs might be done by Government and the cost recovered from them. At the time of the Tahsildar's inquiry, the repairs were estimated to cost only about Rs 500. That estimate was however rejected by the Public works Department,

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Proceedings of the Board of Revenue
(Revenue Settlement, Land Records and Agriculture)

Dated 12" June 1896 No. 2873 Mis.—

Read the following letter from the Collector of Vizagapatam,
dated 26" April 1896 No. 646 Re. C:—

Referring to Board's Proceedings No. 943 Mis: dated 24"
February last (Settlement Department) communicating G. O.
No. 69 I. dated 20" January 1896 sanctioning the execution by
the Public Works Department of the work of restoring the Ura
tank of Pattagadapalli Agra haram affecting the East Coast
Railway at a cost of Rs 1942 including percentage charges, I
havethe honour to report that the Agharamdars, on being
called on to pay the sum of Rs 1942, have presented to me a
petition stating that Rs 500 are ample to put the tank
in a safe condition and protesting against the expenditure
of Rs 1942, nearly 5 years rental of the tank ayacut (Rs 420).
They also complain that the proposed repairs will cause sub-
~~mission~~ ^{mission} of their lands in the bed of the tank and deny that
~~that~~ they ever gave consent to the tank being repaired by Govt.
-ernment at such a cost. It is true, as reported in Mr. ^{Miller's} ~~Middle~~
~~miss~~ letter quoted in the Board's Proceedings read above
that three of the Agharamdars appeared before the Tahsildar
and requested that the repairs to the tank might be executed
by Government and the cost recovered from them, but this
request was made on the supposition that the cost would
amount to about Rs300, as estimated by the Tahsildar. The
Public Works Department has raised the estimated to Rs1942, to
which the consent of the Agharamdars has not been obtained.
Their objections are not at all unreasonable. The cost of
the repairs executed by the P. w. D. amounts to a consider-
able portion of the capital value of the tank and I have no
doubt that if we go to the Civil Court as we shall have to,
under the Act, there will be little chance of recovering this
sum, having regard to the provisions of section 15 of Act ^{IV} ~~the~~
of 1886; and the decision of the Madras High Court in Regu-
lar Appeal No. 108-93

1896
REVENUE DEPARTMENT

Enclosure No.

Current

as having been prepared on insufficient data and in lieu thereof it prepared an estimate for Rs 1942, which was sanctioned in the G. O. referred to above. On being called upon to pay this amount, the Agraharamdars presented a petition to the Collector stating that Rs 500 should be ample to put the tank in a safe condition, protesting therefore against the expenditure of Rs 1942 and denying that they ever gave their consent to the tank being repaired by Government at such a cost. In reporting to this circumstance to the Board, the Collector observed that the objection of the Agraharamdars was not unreasonable, that having regard to the provisions of Section 15 of ~~1886~~ ^{Act IV of 1886} there was little chance of recovering by suit the large amount expended by Government, and that in his opinion the sum of Rs-500 offered by the Agraharamdars was a sufficient share of the repair expenses to demand from them. The Collector, in concluding his letter, asked instructions as to whether he should claim the whole amount leaving it to the Court to reduce it or whether, under Section 12 of Act IV of 1886, he might fix the proportion of the expenditure, which should properly be charged to the inamdars, the balance being defrayed by Government. The Board in its Proceedings read again above, referred the question for the remarks of the Chief Engineer for Irrigation, pointing out that if the full cost of the repairs, which amounted to nearly five years' revenue under the tank was to be collected from the inamdars, it would be necessary to file a Civil Suit against them and that it would then be necessary to prove that the repairs carried out by the Public Works Department fell within the provisions of Section 15 of the Railway Protection Act (Madras Act IV of 1886) and that if the Public Works Department were prepared to establish that point, the Collector would be instructed to file a suit for the collection of the actual charges incurred. The Chief Engineer in reply states that though the estimate did not make provision for unnecessary work, it would be very difficult to establish in a Court of Law that the repairs estimated for, fall within the provisions of Act IV of 1886 or to produce sufficient evidence to disprove the statements of the Inamdars. He is therefore of opinion that the Collector's suggestion may be adopted. In these circumstances, and having regard to the doubt expressed by Government in para 4 of G.O. 501/10-2-96 as to whether the provisions of Madras Act ~~IV~~ ^{IV} of 1886 can be rendered operative against the owners of private tanks who neglect to take the requisite precautions

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to keep their tanks in a proper state of repair, the Board requests that sanction may be accorded for recovering from the inamdars, such amount as the Collector may fix and for debiting the balance to the Minor Irrigation grant of the District for the current year.

copy of
(True Extract)

R. B. Srinivasan
Secretary.

To.

The Secretary to Government, Revenue Department,
with copy of Board's Proceedings No. 2875 Mis, dated 12"
June 1896.

Copy to the Chief Engineer for Irrigation

Copy to the Collector of Vizagapatam with copy of Board's Proceedings No. 2875 dated 12" June 1896.

Encl

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15-2-96
-lar Appeal No. 108 of 1870 reported at page 180 of the Madras High Court Reports Volume vi, supports my view. Rs 500 offered by the Agraharamdars ^{are} in my opinion a sufficient share of the repair expenses to demand from them. The Executive Engineer, on receipt of G. O. No. 69 I dated 20th January 1896, considering the work emergent, put it in hand at once and has by now probably spent the whole of the estimated amount. I therefore request instructions as to whether, as ordered in another case in Board's Proceedings No. 1416 dated 24th March 1896 Land Revenue, I am to claim the whole amount and leave the Court to reduce it or whether under section 12 of the Act, I may fix the proportion of the expenditure which should properly be charged to the inamdars, the balance being defrayed by Government.

Resolution *Dated 12 June 1896, No. 2875*

Forwarded to the Chief Engineer for Irrigation for favour of remarks.

2. In section 15 of the Railway Protection Act, it is stated that a landholder "shall not, in any suit, be held liable in an amount exceeding that which he, in the exercise of a due and proper care, as a landholder, would have expended on the maintenance of the works". The inamdars object to pay more than Rs 500, and the Collector thinks that this is a sufficient share of the repair expenses to demand from them. If the full amount of the estimate framed by the P. W. D. viz, Rs 1942, which amounts to nearly five years' revenue under the tank, is to be collected from the inamdars it *will be necessary to file a civil suit against them and it will be necessary to prove that the repairs carried out by the P. W. D. fall within provisions of the section quoted above.* If the Public works officers are prepared to establish this point, the Collector will be instructed to file a suit for collection of the actual cost of repairs executed by the Public Works Department.

Government would probably be disposed to give up its claim for supervision &c charges.

(True copy & Extract)

(signed) P. Rajaratna Mudaliar
Secretary.

To. The Chief Engineer for Irrigation.
(True Copy)

P. V. M. M. M.
Secretary