

Revenue Department

Minutes of consultations

8th September 1857

Back Numbers 61-62

Order no 910 dated 8th Sept 1857

Examination

செப்பனிபுவர் பெயர் **மா.சிவசுந்தரன்**
செப்பனிபுவதற்காக எடுத்தக் **11/06**
கொள்பப்பட்ட நாள்
செப்பனிக்கு முடித்த நாள் **11/07**
சுரபார்க்கும் **மா.சிவசுந்தரன்**
முதல் ம. நி. பா. எ **2ம். பா. எ.**
கையொப்பம். **கையொப்பம்.**

(Signed) H. FORBES,
Acting Secretary to Government.

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No. 86

From Clement Dale Esquire Government Pleader Sudr Udalat
To Henry Forbes Esquire Acting Secretary to Government

Madras 22nd August 1857

Sir
Pam -

Mem^o 22nd June 1857 No. 632.
27th June 1857 No. 661
Revenue Department

With reference to the extracts from the Minutes of Consultation noted in the margin, I have the honor to report for the information of the Right Honorable the Governor in Council, that the Appeal Suet No. 43 of 1857 came on for hearing this morning before the Court of Sudr Udalat when after hearing Mr. Salmon for the Appellant, the Court stopped me from entering on the several claims made by the Plaintiff, beyond the one item of Rupees 250, which the Appellants Counsel stated he claimed to be returned to him "as amount of fine improperly imposed by Mr. E. W. Bird the late Special Assistant under Regulation 9 of 1822." The Judges subsequently further confined the argument to the question, whether (assuming that the Rupees 250 was the amount of such fine, and conceding that under the Regulation the collector had power to investigate charges preferred against his servants, whether they were employed in Revenue Duties, or Magisterial functions; and whether such servants were exercising purely ministerial functions, or otherwise) the collector could under that Regulation investigate charges of receiving bribes in a Magisterial case; or whether it must not be confined to charges of receiving bribes in a case connected with the Revenue.

2. In the preceding Para I have said assuming that the Rupees 250 was the amount of such fine; I should explain that the plaint was so vague and inexplicit, that unaided by the Answer put in on behalf of the Defendant, and Counsel's verbal explanations, it was impossible to gather with precision from the Pleadings or Evidence, under what pretext the Rupees 250 was claimed. So vague and indefinite was the Claim and Evidence, that in any Court of Her Majesty, the Plaintiff would have been nonsuited, or a Decree passed against him, without calling on the Defendant to go into the merits. The Court of Lord Eldon however assumed (and I doubt not correctly) that the sum of Rupees 250 was the amount of fine imposed on the Plaintiff by Mr. Bird.

3. From the course pursued by the Court, the Plaintiff had disallowed to him on his own Statement Rupees 315 - 12 - 10; and the question was at once reduced to the dry question of law and primarily what was the proper construction of the Regulation 9 of 1822; this was argued at some length.

4. The Court however determined to reverse so much of the Decree in the Original Suit N. 10 of 1855, as decreed, "that the Revenue Authority (the Collector) to wit the Defendant had the power to proceed against, and to punish the Plaintiff, under the provisions of Regulation 9 of 1822 for the reasons given" - being decidedly of opinion, that no cases of this nature can be tried by the Collector, the Regulation giving him jurisdiction only in cases relating purely to revenue matters; and that with regard to the fine of Rupees 250, that was to be returned to the Plaintiff, and the Defendant was to pay all

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Costs in respect of such Rupees 250. The Court further decreed that the Plaintiff had not established a case of any loss; It was not sufficiently shewn; therefore the loss claimed was disallowed; and the Appellant (Plaintiff) was decreed to pay the Costs in respect of the amount so disallowed. I shewed to the Court, that by the Pleadings it was admitted that all had been repaid by the Collector to the Plaintiff, except Rupees 200, and the Court amended their Decree accordingly. The Appellant then claimed to be nonsuited as to the portion disallowed; this I resisted, and successfully, as I foresaw that although it could not be maintained, such an irregular and improper course might lead to future litigation.

I have the honor to be
Sir
Your most Obedient Servant

Wm. R. R. R.

Gov^r Pleader

52 I order this to be done 19/10, 1855
left 1/11

Enclosed to the Hon^{ble} Secy, P. & A. S. D.

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June 30th June 27th A. 40346.
June 23rd June 16th - 67.68.

Revenue 1857 Report
June 28th 1857

No 966

From the Court of Appeals
in the Court of 1857

Noted 22nd Aug 5th 1857

Recd 26th Aug 1857

From 23rd Aug 1857 to 1st Nov 1857

The Report of the

Circuit Court, No 43, of

1857, came on for hearing
on the 22nd Aug 1857 before

the Court of Justices.

But the Court decided

thereon.

No 910

Revenue 1857 Report
June 28th 1857