Revenue Department

Minutes of Consultations

8th September 1857

Back Numbers 63 - 64

Order No 911 dated 8th Sept 1857

Sanction

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர் P.T. விஜயதிலகர்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 11/06.

செப்பனிட்டு முடித்த நாள் 1/07

சரிபார்க்கும் முதல் மு.நி.பா.எ கையொப்பம்.

சரிபார்க்கும் 2ம்.பா.எ. கையொப்பம்.

ஆராய்ச்சி உதவியாளர் கையொப்பம்

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Fort Saint George, Revenue Consultation of 8th September 1857.

No. 63. Read the following letter from CLEMENT DALE, Esq., Government Pleader Sudr Udalut; to HENRY FORBES, Esq., Acting Secretary to Government; dated Madras, 27th August 1857, No. 90.

Sir,

Para. 1. In continuation of the letter I had the honor to address to you under the date and number noted in the margin; I have now the honor to enclose
22nd August 1857, *No.* 86. a copy of the Decree passed by the Court of Sudr Udalut in the appeal Suit No. 43 of 1857.

2. In drawing the attention of the Right Honorable the Governor in Council to the concluding portion of the 6th para., I have the honor to state, that nothing was said by the Court in passing its judgment regarding the allowance of interest; I have not therefore had an opportunity of being heard on that subject; I feel confident however, that the Court of Sudr Udalut would not entertain a Petition for review of judgment on that point; I therefore advise that no application be made to the Court for such a purpose.

Decree of the Court of Sudder Udalut.

Before the Civil Court of Masulipatam Original Suit No. 10 of 1855, Court of Sudder Udalut Appeal Suit No. 43 of 1857.

Appellant.		*Respondent.*
HOOGGEEHELLA RAMA ROW.	*Versus.*	T. D. LUSHINGTON, Esquire. *Collector of Masulipatam.*
Pleader.		*Pleader.*
E. SALMON, Esquire, *Barrister at Law.*		C. DALE, Esquire, *Government Pleader.*

1. Plaintiff sued to recover from the Defendant certain sums partly as compensation for loss of interest and premium occasioned by the acts of the Defendant, and partly as a refund of money which the Defendant had illegally levied from him in the shape of a fine.

2. The Defendant pleaded that the Plaintiff was amenable to his jurisdiction under Regulation IX. of 1822, as being obliged to perform any duties, whether Revenue or Magisterial, that might be imposed upon him, though the designation of his office was "Magistrates, Peshkar;" and further that having acted in good faith under the conviction that he Defendant had jurisdiction, he was entitled to the protection afforded by Act No. XVIII. of 1850.

3. The Civil Judge gave judgment for the Defendant and dismissed the Suit.

4. From this decision Plaintiff appeals, urging that Regulation IX. of 1822 was enacted exclusively for the punishment of malversation in revenue affairs; that if Act No. XVIII. of 1850 were applicable to the present case property seized by a public officer acting in good faith, need never be returned, although in fact he had no jurisdiction.

5. The respondent answers that the Appeal petition is not prepared in legal and regular form, as to the tenor of its contents, and should be struck off the file, and contends that, if admitted, it has failed to show that the Original Decree is opposed to law or justice.

Judgment.

6. The Sudder Udalut are of opinion that Regulation IX. of 1822 relates solely to cases of malversation in revenue affairs and that it has been erroneously applied to the case now under consideration where the Plaintiff was a Police Officer charged with bribery "in a Magisterial case." As Rupees 50 of the fine of Rupees 250 is admitted to have been returned since the institution of the suit, the Court of Sudder Udalut decree that the Defendant shall repay to the Plaintiff the sum of Rupees 200, (if that amount has not already been returned to him as is alleged by the Defendant's Vakeel) and pay all costs Original and Appeal for the amount allowed, viz. 250 Rupees together with interest on the same amount at 12 per cent. per annum from the date of the institution of the suit to that of the sums being repaid to the Plaintiff.

7. The Sudder Udalut resolve to dismiss the rest of the Plaintiff's claim with all costs as the Plaintiff has failed to establish that the acts which he (Plaintiff) alleges caused his losses, arose on account of or through the above case; on the contrary, it would appear that they resulted from Proceedings in other cases. No decision is passed on the other claims now dismissed.

(True Copy.)

(Signed) CLEMENT DALE,
Government Pleader.

No. 64. ORDER THEREON, No. 911; dated 8th September 1857.

Ordered that the foregoing letter be recorded.

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

Decree of the Court of Sudder Udalut

Before the Civil Court of Masulipatam Original Suit No. 10 of 1855
Court of Sudder Udalut — Appeal Suit No. 43 of 1857

Appellant

Hoggehella Raina Row

Versus

Respondent.

T. D. Pushington Esquire
Collector of Masulipatam

Pleader

D. Salmon Esquire
Barrister at Law

Pleader

C. Dale Esquire
Government Pleader

1. Plaintiff sued to recover from the Defendant certain sums partly as Compensation for loss of interest and premium occasioned by the Acts of the Defendant, and partly as a refund of Money which the Defendant had illegally levied from him in the shape of a fine.

2. The Defendant pleaded that the Plaintiff was amenable to his jurisdiction under Regulation IX of 1822, as being obliged to perform any duties, whether Revenue or Magisterial, that might be imposed upon him, though the designation of his office was "magistrates Peish Kar;" and further that having acted in good faith under the conviction that he defendant had jurisdiction, he was entitled to the protection afforded by Act No. XVIII of 1850

3. The Civil Judge gave Judgment for the Defendant and dismissed the suit.

4 From this decision Plaintiff appeals, urging that Regulation IX of 1822 was enacted exclusively for the punishment of Malversation in Revenue affairs; that if Act No. XVIII of 1850 were applicable to the present case property suffi

by a public officer acting in good faith, need never be returned, although in fact he had no jurisdiction

5. The Respondent answers that the Appeal petition is not prepared in legal and regular form, as to the tenor of its contents, and should be struck off the file; and contends that, if admitted, it has failed to show that the original decree is opposed to law or justice.

Judgment.

6. The Sudder Udalut are of opinion that Regulation IX of 1822 relates solely to cases of Malversation in Revenue affairs and that it has been Erroneously applied to the case now under consideration where the Plaintiff was a Police Officer Charged with bribery "in a Magisterial case" As Rupees 50 of the fine of Rupees 250 is admitted to have been returned since the institution of the suit the Court of Sudder Udalut Decree that the Defendant shall Repay to the Plaintiff the Sum of Rupees 200, (if that amount has not already been returned to him as is alleged by the Defendants Vakeel) and pay all costs Original and Appeal for the Amount allowed Viz.t 250 Rupees together with interest on the same Amount at 12 per cent per Annum from the date of the institution of the suit to that of the sums being repaid to the Plaintiff

7. The Sudder Udalut resolve to dismiss the rest of the Plaintiffs Claim with all Costs as the Plaintiff has failed to Establish that the Acts which he (Plaintiff) alleges Caused his losses, arose on account of or through the above Case; on the Contrary it would appear that they resulted from Proceedings in other Cases. No decision is passed on the other Claims now dismissed.

(True Copy)

Govt. Pleader

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No. 90

From Clement Dale Esquire Government Pleader Sudr Udalut

To. Henry Forbes Esquire Acting Secretary to Government

Madras 27th August 1857

Sir,

Para 1. In continuation of the letter I had the honor to address to you under the date and number noted in the margin; I have now the honor to Enclose a Copy of the Decree passed by the Court of Sudr Udalut in the Appeal Suit No. 443 of 1857

22d. August 1857 No. 86.

2. In drawing the attention of the Right Honorable The Governor in Council to the concluding portion of the 6th Para, I have the honor to state that nothing was said by the Court in passing its Judgment regarding the allowance of interest; I have not therefore had an opportunity of being heard on that subject; I feel confident however, that the Court of Sudr Udalut would not entertain a Petition for Review of Judgment on that point; I therefore advise that no application be made to the Court for such a purpose

I have the honor to be

Sir

Your most Obedient Servant

Govt. Pleader

From Govt. Pleader in the Court of Sudr Udalut 22 Augt 1857 No 908

Revenue 1857 Septr
Covr. 8th Septr.

No 1001

From the Govt. Pleader
to the Court of Sudr
Udalut.

Dated 27th Augt 1857
Recd 29th
1 Encl. wd

Enclosing a copy of the decree passed by the Court of Sudr Udalut, in the Appeal suit No 43 of 1857, stating that nothing was said by the Court in passing the Judgment regarding the allowance of interest, & requesting this court that the Court of Sudr Udalut would not entertain a Petition for Review of Judgment on that account.

Recorded

No 911

Recorded

For Sr. Geo.
8th Septr 1857

No 63 & 64

2 Sepr 57