M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	969	Press ~~Mis.~~
	129.130	
Dated	11-6-	1860.

Not to be folded or roughly handled

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Proceedings of the Madras Government, Revenue Department, 11th June 1860.

No. 129. Read the following letter from Lieutenant-Colonel W. H. HORSLEY, Chief Engineer, to J. D. BOURDILLON, Esq., Secretary to Government, dated Chepauk, 31st May 1860, No. 1,123:—

1. With reference to the Orders of Government in the Revenue Department, dated 17th May 1860, No. 800, I have the honor to state in submitting the accompanying correspondence that the existence of any dispute about the repairs to the Chittatúr Tank Bund was only known to this office from the Orders* of Government of the 7th March last, which was communicated† to my predecessor by the Board of Revenue, with a request that he would inform them what measures he proposed adopting for the defence of the suit in question, so far as his Department was concerned. The Board's Proceedings, with the plaint and the Collector's draft answer received with it, were immediately forwarded to the District Engineer of Chingleput for his report and explanation thereon, which was furnished in his letter of the 13th March, No. 1,896, and contains the following:

1 *Proceedings of Board of Revenue, No.* 1,223, *dated 9th March* 1860, *with* 3 *enclosures.*
1 *Proceedings of Board of Revenue, No.* 1,722, *dated 5th April* 1860, *with* 6 *enclosures.*
1 *Copy of Board's letter to Govt., dated 12th May* 1860, *No.* 2,324.
1 *Letter to Board of Revenue, No.* 12,279, *dated 14th April* 1860.
1 *Letter from District Engineer, Chingleput, No.* 1,896, *dated 13th March* 1860, *with* 4 *enclosures.*
1 *Letter from District Engineer, Chingleput, No.* 1,982, *dated 31st March* 1860.
1 *Letter from District Engineer, Chingleput, No.* 75, *dated 12th May* 1860.
1 *Letter from District Engineer, Chingleput, No.* 153, *dated 28th May* 1860, *with* 1 *Sketch.*
1 *Chief Engineer's Proceedings to District Engineer, Chingleput, No.* 11,232, *dated 10th March* 1860.
1 *Letter to District Engineer, Chingleput, No.* 11,831, *dated 15th March* 1860.
1 *Chief Engineer's Proceedings to District Engineer, Chingleput, No.* 648, *dated 18th May* 1860.

* *Revenue Department, No.* 362.
† *9th March* 1860, *No.* 1,223.
10th March 1860, *No.* 11,232.

2. In the month of June 1856, an Estimate amounting to Rupees 274-13-10‡ was prepared by Supervisor Goodcahp for repairing and raising the Chittatúr Tank Bund. This Estimate was submitted to the District Engineer of Chingleput, who obtained the sanction of the Collector to the same on the 1st August 1856, in which month Mr. Goodchap received orders from the District Engineer to carry on the work; and he immediately commenced to collect materials for the under sluice. In October 1856, the earth work was commenced, when the village people of Viraragavapúram objected to the bund at the south end being raised, as provided for in the sanctioned Estimate. The work was, therefore, immediately stopped, and on the 28th October 1856, No. 179, Mr. Goodchap wrote to the Tahsíldár of Peddapoliem to ascertain the correctness of the claim of the Viraragavapúram villagers to that portion of the bund, which they stated did not belong to the Chittatúr Tank, but to them, and requested that Officer, if the portion of the bund did properly belong to the Chittatúr Tank, to issue immediate orders for the repairs being proceeded with. The Tahsíldár in replying to Mr. Goodchap on the 11th November 1856, stated that on that morning he inspected the spot in dispute in the presence of the villagers on both sides, and obtained an agreement signed by them allowing the work to be proceeded with, on condition that a kalingal with two upright stones was constructed at the south end of the tank, which he considered to be necessary for regulating the water in the tank, and that if this was not done at the same time that the repairs were being executed, the objection to the latter would

‡ *Under Sluice, Rupees* 207-8-10
Earth work, „ 67-5-0
Rupees 274-13-10

be again raised. The villagers then consented to the repairs being carried out on the promise made by Mr. Goodchap to forward an Estimate to the District Engineer for the kalingal above referred to. But in consequence of the restriction on Public Works expenditure, Mr. Goodchap states that the Estimate was not submitted. The value of work performed, as since reported,* was Rupees 275-10-8, of which Rupees 211-9-0 was for a sluice, and Rupees 64-1-8 for earth work for the portion of the bund in dispute. In forwarding a sketch showing the position of the Chittatúr Tank and the adjoining lands, Captain Moberly states (28th May 1860), that the portion of the bund marked A.B. was added to allow of more water being retained in the tank, and that in consequence of this bund, the land marked C, is under water when the tank has a full supply, but he cannot see how the Viraragavapúram lands are rendered unfit for cultivation by water standing in them for a short time, for the cultivation of the Chittatúr fields would drain off the water after a while.

* *28th May* 1860, *No.* 153.

3. Captain Moberly states (13th March 1860), that he knew nothing of the dispute in question till November last, when Mr. Goodchap informed him of having received a summons from the Principal Sadr Amin's Court at Chingleput, and that in the month of February he himself also received a summons as supplemental defendant in the suit. He also observes that on his speaking to the Collector at that time on the subject, that gentleman informed him that it would be sufficient if he obtained the sanction of Government to defend the suit, and that he (Captain Moberly), need not send up the papers.

4. In paragraph 4 of that letter Captain Moberly states that the work would not have been done if the Tahsíldár had not sent the reply and agreement to Mr. Goodchap, but I would observe that the simultaneous construction of a kalingal was the condition on which the repairs were allowed to be carried out by the plaintiffs in the suit.

5. From the above report it appeared to this office that the omission to construct the kalingal agreed upon by Mr. Goodchap was the sole cause of the dispute, and that it was a mistake to have supposed that the restriction on Public Works expenditure could have been intended to stop a work which formed an essential part of the repairs. This was pointed out to the District Engineer, and he was requested to report in communication with the Collector, whether the immediate construction of the kalingal would put a stop to the suit.

15th March 1860, *No.* 11,381.

6. In reply to the above, the District Engineer forwarded copy of a letter he received from the Officiating Collector, in which that Officer reported that the villagers of Viraragavapúram were not prepared to stop the suit, unless the sluice or kalingal was constructed, to enable them to cultivate other lands in lieu of those thrown out of cultivation by the additions to the tank bund, and the Chittatúr villagers agreed to a portion of the water from the tank being used for that purpose, and that both parties seemed disposed to submit to his arbitration, when he reached their Táluq on Jammabandi, the result of which he promised to communicate to the District Engineer.

31st March 1860, *No.* 1,982.

7. In their Proceedings of the 5th April last, No. 1,722, the Board of Revenue again called upon the Chief Engineer for his views as to the course to be adopted by his Department in the matter, but nothing could have been decided upon till the result of the arbitration above referred to was known to this office. A copy of the Officiating Collector's letter† to the Secretary to the Board of Revenue, making known the results of his endeavours to settle the matter in dispute, was forwarded by the District Engineer of Chingleput, and reached this office on the 14th instant, while, on the following day, I received copy of the Board's final communication to Government, noticing the Officiating

† *Dated 5th May* 1860. *12th May* 1860, *No.* 75.

Collector's letter, dated 5th May (copy of which was furnished to this office by Captain Moberly as above stated), and recommending that nothing further should be done than that Mr. Ellis should be allowed to proceed with the suit, offering to pay any loss which the Court, after investigation, may adjudge to have occurred by the extension of the bund, or to remedy the evil by the construction of a sluice to let off the surplus water in the tank.

No. 130. ORDER THEREON, 11th June 1860, No. 969.

1. In their letter of the 12th May 1860, the Board of Revenue recommended the defence of a Suit* instituted by the Shrotriamdárs of Viraragavapúram against the Collector and District Engineer of Chingleput and others, for damages consequent on the extension of the Chittatúr tank bund; but before passing Orders on this letter, the Government called† upon the Chief Engineer for a full report of the case.

* *O. S. No.* 4 *of* 1859 *in the Principal Sadr Amins Court of Chingleput.*

† *Proceedings of Government,* 17*th May* 1860, *No.* 800.

2. It appears from Colonel Horsley's present letter that an Estimate of Rupees 275 for improvements to the tank was sanctioned by the Collector in August 1856. The contemplated improvements consisted in a Calingulah to cost Rupees 208, and the extension and raising of one end of the bank, to cost Rupees 67. On the commencement of the latter work in October of that year the people of the Viraragavapúram village objected to it; but they subsequently gave their consent on condition that a Calingulah with two upright stones should be built at the spot for the purpose of regulating the height of the water in the Tank, and also, as it appears, of supplying water to some land belonging to Viraragavapúram. The agreement to this effect was sent to Supervisor Goodchap who had charge of the work, and he promised to send up an Estimate for the Calingulah; but he omitted to do so in consequence, as he states, of the restriction on expenditure; and the Calingulah was not built.

3. The late Acting Collector Mr. Ellis inspected the locality, and was of opinion that the Shrotriamdárs had grossly exaggerated their loss by the extension of the bund; and failing to effect an arbitration in the matter, he proposed to file an answer denying the correctness of their allegations, and offering to pay any loss which the Court might adjudge to have occurred, or to construct a sluice to let off the surplus water. This course was recommended by the Board in their letter of 12th May before quoted.

4. The District Engineer stated‡ that he failed to see how the Viraragavapúram lands were rendered unfit for cultivation by the new bund, as the water on those lands would after a while be drawn off for the cultivation of the Chittatúr fields. Mr. Ellis also wrote that much of the flooded land had been cultivated; still it cannot be denied that land is injured when thus flooded. Captain Moberly also noticed§ that the bund would not have been raised if the Tahsíldár had not sent the agreement above referred to; but the Chief Engineer correctly remarks that the simultaneous construction of a Calingulah was the condition on which the repairs were agreed to by the Shrotriamdárs, and that this condition was broken.

‡ *Letter dated 28th May* 1860.

§ *Letter* 13*th March* 1860.

5. It is clear from the foregoing review of the case, that the extension of the bund caused the Tank to swamp some of the Viraragavapúram cultivated land. It further appears that the new part of the bund was within the limits of that village. For both these reasons the work ought not to have been undertaken without first obtaining the consent of the people of that village; and the whole of the facts ought to have been explained, in sending the Estimate to the Collector. Again, after an arrangement had been made by the Tahsíldár with the objecting party, it was highly improper to proceed with the work, but to omit the measures

on provision of which the consent of the Viraragavapúram people had been obtained. The excuse pleaded, viz. the restriction on expenditure is wholly unsuitable in such a case.

6. The Government servants being clearly in the wrong, the Governor in Council does not consider it just to defend the suit. The wrong should be redressed. Immediate measures should therefore be taken for building the Calingulah stipulated in the agreement, provided the people of both villages now agree to that mode of terminating the dispute. If they do not so agree, the addition to the bund, which, from the small cost, must be very trifling, should be forthwith removed, and the bund placed as nearly as possible in the condition in which it was before the extension took place. The Government desire that no time may be lost in carrying this Order into effect; and a report should be made to Government as to the alternative adopted, and of the completion of the work.

7. The Board will take the proper means for making the necessary communication to this effect to the Court at Chingleput; and any costs incurred by the Plaintiffs will be paid, their amount being reported to Government for sanction.

(Signed) J. D. BOURDILLON,
Secretary to Government.

Rev: Dep^t.

№ 969.

Proceedings of the Madras Government

Under date the 11th June 1860.

Read the following letter from the Chief Engineer

With reference to orders 17th May 1860 № 800, submits correspondence regarding the objections raised by the Viraragavapuram Villagers to the extension of the Chittatúr Tank bund in Chingleput.

(Here enter 31st May 1860 № 1123)

1. In their letter of the 12th May 1860, the Board of Revenue recommended the defence of a suit instituted by the Shrotriamdárs of Viraragavapuram against the Collector and District Engineer of Chingleput and others, for damages consequent on the extension of the Chittatúr tank bund, but before passing orders on this letter, the Government called upon the Chief Engineer for a full report of

† C. S. № 4 of 1859 in the Prin^l Sadr Amins' Court of Chingleput.

* Pro: of Gov^t 17th May 1860 № 800.

of the case.

2. It appears from Colr Horsley's present letter that an estimate of Rs 275 for improvements to the tank was sanctioned by the Collector in August 1856. The contemplated improvements consisted in a Calingulah to cost Rs 208, and the extension and raising of one end of the bank, to cost Rs 67. On the commencement of the latter work in October of that year the people of the Viraraga-vapuram village objected to it; but they subsequently gave their consent on condition that a Calingulah with two upright stones should be built at the spot for the purpose of regulating the height of the water in the tank, and the agreement to this effect was sent to Supervisor Goodchap who had

also, as it appears, of supplying water to some land belonging to Viraragavapuram.

had charge of the work, and he promised to send up an estimate for the Calingulah; but he omitted to do so in consequence, as he states, of the restriction on expenditure; and the Calingulah was not built. ~~The parties to accept the award, is the sole ground of the present proceedings.~~

3 The late acting Collector Mr Ellis inspected the locality, and was of opinion that the Shrotriamdars had grossly exaggerated their loss by the extension of the bund; and failing to effect an arbitration in the matter, he proposed to file an answer denying the correctness of their allegations, and offering to pay any loss which the Court might adjudge

adjudge to have occurred, or to construct a sluice to let off the surplus water. This course was recommended by the Board in their letter of 12th May before quoted.

4. The District Engineer stated that he failed to see how the Viraragavapuram lands were rendered unfit for cultivation by the new bund, as the water on those lands would after a while be drawn off for the cultivation of the Chittatur fields. Mr Ellis also wrote that much of the flooded land had been cultivated; still it cannot be denied that land is injured when thus flooded. Capt Moberly also noticed that the bund would not have been raised if the Tahsildar had not sent the

+ Letter dated 20th May 1860

+ Letter 13th March 1860

the Agreement above referred to; but the Chief Engineer correctly remarks that the simultaneous construction of a Kalingulah was the condition on which the repairs were agreed to by the Shrotriamdars, and that this condition was broken.

5. It is clear from the foregoing review of the case, that the extension of the bund caused the tank to swamp some of the Viraragavapuram cultivated land. It further appears that the new part of the bund was ~~placed~~ within the limits of that village. For both these reasons the work ought not to have been undertaken without first obtaining the consent of the people of that village; and the whole of the facts ought to have been explained

explained, in sending the Estimate to the Collector.

Again, after an arrangement had been made by the Tahsildar with the objecting party, it was highly improper to proceed with the work, but to omit the measures on provision of which the consent of the Viraraghavapuram people had been obtained. The excuse pleaded, viz. the restriction on expenditure is wholly unsuitable in such a case.

6. The Government servants being clearly in the wrong, the Governor in Council does not consider it just to defend the suit. The wrong should be redressed. ~~The Government direct therefore that~~ the addition to the bund, which, from the small cost, must be very

Immediate measures should therefore be taken for building the Calingala stipulated in the agreement, provided the people of both villages now agree to that mode of terminating the dispute. If they do not agree,

decide that no time may be lost in carrying this order into effect; and a report should be made to Govt as to the alternative adopted, & of the completion of the work.

very trifling, should be forthwith removed, and the bund placed as nearly as possible in the condition in which it was before the extension took place. The Govt.

7. The Board will take the proper means for making the necessary communication to this effect ~~should be made~~ to the Court at Chingleput; and any costs incurred by the Plaintiffs will be paid, their amount being reported to Government for sanction.

10 Copies Chief Engineer Cgfc 11 10
11 " Board of Revenue 5

101-102
20-5-60

73-74
10-3-60

Revenue 1860 Departt.
Proc: of Govt for June.

No. 969.

Proc: of the Madras Govt.
Dy 11th June 1860.

Rect of the Bd. of Rev. Cy. 9 Augt 1860
Ors. 1868 in Pro. 20 Augt No 1296
From the Chief Engr Cy. 21 Augt 60
C. Dt. 1762

Rm of the Bd of Rev 30 Nov 1860
C No 2083 (with reference to Lr)
From Chief Engr 12th Sept/60 C No 898. (reply to Para 6 of the Order)

Considering it not just to defend the Suit No 4 of 1859 in the Chingleput Principal Sadr Amins Court, and to direct that the wrong on the part of the Govt servants in the case, be redressed.

Nos 129 & 130.

Para 2 to