M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1777	Press ~~Mis.~~ →
62-63	
Dated 6-9-1861.	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 6th September 1861.

No. 62. Read the following letter from Captain H. R. MORGAN, Officiating Conservator of Forests to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Ootacamund, 21st August 1861, No. 597 :—

SIR

1. I have the honor to forward copy of a letter received from the Assistant Conservator, Neilgherries, requesting that in the event of his being prosecuted by Mr. J. McIvor, he be defended by Government.

2. The case is a simple one, Mr. J. McIvor's lease specially provides for his *felling* trees with the permission of the Collector. The Collector gave permission *to fell*, and Mr. J. McIvor felled trees, the Collector withdrew his permission, still Mr. J. McIvor felled and sold trees, upon which the Assistant Conservator in the execution of his duty, stopt Mr. J. McIvor felling and *selling* trees, by obtaining an injunction from the Civil Court. This injunction must now be removed, as Government will not allow Major Babington to prosecute. It appears to me that as Major Babington has not exceeded his authority in any way, but simply performed his duty, that he is entitled to the support of Government, and I would recommend his case for the favorable consideration of Government.

No. 63. ORDER THEREON, 6th September 1861, No. 1,777.

1. Captain Morgan is quite mistaken in supposing that his Assistant had authority to institute a suit on behalf of Government without their previous sanction. Nothing was said in Captain Morgan's letter of the 12th July 1861 of a suit having been instituted, or of an injunction having been obtained to restrain Mr. McIvor from felling timber on the lands leased by him from Government, on the contrary Captain Morgan sought permission to sue, and the natural inference was that no proceedings had been taken.

2. The Government decline now to undertake Major Babington's defence. If he is prosecuted by Mr. McIvor he can report the matter.

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

For Damages to Government woo...

N°. 66.

Ootacamund 17th. August 1861.

To, The Conservator of Forests
Ootacamund.

Sir,

1. I have the honor to acknowledge the receipt this day of the Proceedings of Government N°. 1541 of the 3d. August 1861, in which it seems Government are averse to Mr. McIvor being prosecuted for damage to a Government wood.

2. The above reply throws upon me a legal responsibility, which I conceive was never thought of by Government, and I humbly beg that the Government will relieve me in this matter, where I have acted entirely for its interests, and delay would have been very dangerous.

3. I before showed you that I was informed the only way in which I could prevent the sale of timber by Mr. I. McIvor, was, in filing a suit for damages to Government wood,

which was done, pending a reference to Government, and in order to stop his selling wood during the investigation of the case, an Injunction was obtained. Today in Court he applied for the withdrawal of the injunction by reason of Government having declined to prosecute him.

4. I beg to bring to notice that the instant the injunction is removed, the probability is Mr. McIvor will fell every tree on the land leased by him, and throw this wood into the market being able to undersell the firewood Contractor (who pays Rs.325 per mensem for this privilege) which would be a manifest injustice to the said Contractor.

5. I am threatened by Mr. McIvor with a suit for damages in having so long prevented him from selling wood, and trust the Government will take upon itself my defence, should this threat be carried out.

6. In conclusion I solicit instructions as to what course you would have me adopt in this matter.

I have the honor to be,
Sir,
Your most Obedt. Servant.
(signed) J. A. Babington Major.
Asstt. Conservator of Forests

True Copy

W. Morgan Capt.
Offg. Conservator of Forests

1871

Capt Morgan is quite
mistaken in supposing
that his Ass[n] had any
authority to institute a suit
on behalf of Govt. in their
name previous sanction - Nor
was any such sanction
Morgan's letter of the 12 July
1871 of a suit having been
instituted - or of an injunction
having been obtained to
restrain Mr McIvor from
felling timber on the land
leased by him from Govt -
On the contrary Capt Morgan
was told to permission to use -
and the natural inference would
that no proceedings had been taken
by the Govt

4 Copies. Conservators South. Cpy's &
13 " Board of Works "

Fort St George
6th Sept 1861

The Government decline now
~~to bring a Suit on this ac~~
to undertake Major Babington's defence -
~~count - vide paras 18 to 25 of~~
if he is prosecuted by Mr McIvor
~~his letter of 7 March in~~
he can report the matter.
~~Govt. pro: 28 March 1861 &~~
~~his letter of 3 April last -~~
~~They cannot therefore be~~
~~drawn into legal proceedings~~
~~to shield Major Babington~~
~~from the consequences of~~
~~his impetuosity - All that~~
~~can be done - if Govt. think~~
~~even so much merited - is~~
~~to tell him to defend him-~~
~~self, & claim indemnity~~
~~afterwards. It would scarcely~~
~~be safe however to pass even~~
~~this order without consulting Mr~~ +

+ ~~[illegible]~~ J. D. S.

II. 3d August 1861 No. 27-28

Rec'd 1861 Sept.
Pro: of Govt for September
No 2062

From
The Insp: Genl of Forests
To The Secy to Govt
Revenue Department
Fort St. George

Dated 21st
Recd. 28th } August 1861

No. 577.

Encls: Rec.

No

Requesting that in the event of the Assistant Conservator of Forests Trichinopoly being promoted by H.E. the Governor he may be provided by Govt for the reasons assigned within

No. 62 & 63.

C. 30 Augt

No 1777. Dr. Sept 1861 L