

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 6659	<u>Press</u> <u>Mis.</u>
47	"
Dated 5. 8. 1862	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department
5th August 1862.

Read again letter from the Government Pleader, dated 10th and recorded in Proceedings 17th April 1862, No. 864:—

No. 47. ORDER THEREON, 5th August 1862, No. 1,659.

1. In the foregoing letter Mr. Dale reports on a Memorial dated 13th February last, and presented by the Respondent in the Suit Collector of Masulipatam, Appellant, *vs.* Cavally Vencata Narrainapah. This Memorial enclosed a copy of a Petition dated 21st September 1860, representing the Respondent's readiness to acquiesce in any amicable arrangement that may be made regarding the Zamindári of Vissannapet in pursuance of the suggestion made by the Judicial Committee of the Privy Council in their Decree dated 30th July 1860.

2. When the case came up for hearing in October 1860, the Government Pleader explained to the Sudder Court that a reference had been made to the Collector for the purpose of ascertaining what was really due to the Respondent on account of advances actually made by him, and he represented that the Government were disposed to deal with his claims in the most liberal spirit. He was however interrupted by the opposing Counsel, who declined to entertain any further communication with the Government, alleging that their client had already addressed the Government but had not received a reply.

3. The former Petition dated 21st September 1860 never reached the Government, but even if it had been received its terms are clearly inadmissible, being simply to the effect that the Petitioner is willing to stay further litigation *provided he obtains the entire amount of his claim*, viz., either the Zamindári itself, or the full sum which he considers to be due to him with interest up to date. Now, no proof of this debt has yet been adduced, and although the Petitioner urges the extreme difficulty of his proving his claims at this distance of time, yet, bearing in mind the remarks made by Mr. Dale in paragraphs 24 and 30 of the foregoing letter, the Government cannot consent to dispense with proper evidence.

4. On the whole, however, His Excellency in Council is willing to adopt the course recommended by his legal adviser, and accordingly authorizes Mr. Dale to offer a compromise of the Suit on the terms proposed by him in paragraph 41. Some reliable evidence must of course be produced, but full legal evidence need not be required. The Government will be satisfied with such proof as would bring home moral conviction to the mind of an arbitrator.

5. This offer will at least show that the Government are even now willing to settle the matter equitably and in the most liberal spirit. In the event of its rejection by the Respondent the case must be left for the disposal of the Sudder Court.

6. Cavally Vencata Narrainapah will be informed by an Endorsement on his Memorial that the Government have instructed their legal adviser to offer terms which they consider equitable.

(Signed) T. PYCROFT,
Chief Secretary.

The last male holder
of the Vissanopette
Jemin'dang died in
1820, leaving a widow
but no heirs natural
or adopted.

The widow suc-
ceeded and died
on the 1st Sept 1849.
Whereupon the probate
claimed the estate
as an ischeat.

From the time of the
Jemin'dang death in
1820 to 1830, nothing
particular occurred
but in the latter year
the widow applied to
the C.M. to register a
deed transferring the
estate from herself
to her brother's son
Pell's Father.

The C.M. dyet

on the ground that
she had only a life
interest in the estate
and could not, any
law, transfer it from
her husband's line
into her own. The Judge
upheld this objection.

5 In the deed of
transfer, no mention
was made of any
debt being due by the
widow. & Peter's Father.

6 Nothing for this
was done until 1838
when Peter's day, there
was an adjournment
of account between
him & the widow, being
the latter in debt
& him in the sum
of Rs. 486 1/4 - for which
he, as alleged, mortgaged
to him 12 of the 14

This is of no moment
I have in my opinion
been unfaithful, has
settled by Mr. Dale - as
well as the remainder
the record when
before me in the
There was a receipt
from - of the Debtor
& widow both being
well

villages forming the
estate. retaining
the other two for her
own support. The
debt was to be paid
by instalments & on
default of payment
of any instalment,
the whole was to be
received.

7 The first instal-
ment was not paid,
Peter's Father brought
a suit, and the
widow not appearing,
got a decree, ex parte,
on the 20th March 1839.
& on execution being
issued, the Collector's
letter, advised the
widow & made some
arrangement with
Peter's Father & save
her estate - and
accordingly, on the
5 April 1841, Peter's

(his father having
died) got a Ragnan-
mah or agreement
from the Widow, whereby
the 12 villages were to
continue as security
for the debt (now swollen
by interest to 67,444
Rs/-) the debt was to
be paid in 8 instal-
ments commencing
on the 15 Decr 1841 &
ending 15 Oct 1848 -
in default the whole
debt was recoverable
with 12 percent interest
not, as usually by
a sale of the property
but by a transfer of
the mortgaged villages -
For then the two remain-
ing villages were on
the Widow's death to
pass to Pelt who was
then to have the whole

4
estate in perpetuity -
Default was made
again in the first
instalment - execu-
tion of the decree; this
led to the Ragnan-
mah was suspended
by the Sudr. Mr Pelt
did not apply for
a receiver - and on
the 1st Sept 1849 the
Widow died -

9 Hereupon the Sudr
attached the estate
as an escheat, Mr
the Sudr ordered Mr
to be placed in pos-
session under the
Ragnanmah.

10 This was done
& got immediately
filed a suit to
revoke Mr.

11 The litigation
which ensued need

not here be recapitulated. The Privy Council has in effect decided that the Estate is an escheat subject only to such charges as the Widow could legally have incurred here & it with (Supposing her husband had left heirs) the act of the Court noticed in para 6 of this Memo. is declared not to affect bind the decree noticed in para 7 is also declared not binding on them. The Privy may also impeach both. The Sudder are ordered to enquire whether the Rajamah, mentioned in para 8. absolutely

defeats the right of the Privy to ascertain what advances Peter & others really made & how much thereof is legally chargeable against the Estate. & whether the Widow had, when the advances were made other property of her husband available for the purposes for which she borrowed the money.

Peter urges the extreme difficulty or impossibility of his now proving his claims & offers to compromise - either keeping the estate on being paid the whole amount due with interest up to date.

Mr Dale suggests
(para 4) that Mr
be allowed to bring
his evidence before
the Com. & that on
the Com. report & his
own revision for SD
decide what they
will pay.

Seeing that
Pete's account has
never been scruti-
nized - that the Pro-
vincial Court gave
it as its opinion,
that the decree of March 14th
cause the Ragsmaning 55 - I presume his
was collusion - & that indeed Mr. H. let
the great bulk of the tea appear to the
Widow was to secure
the estate to the
Pete's father - I presume where necessity of
the fact will be found by the case - wherever
by their pleader's
advice - ~~the~~ Mr Dale's letter will
2 list of alms & by

Founded on these
attempts - used
against the Dept -
Will

The most telling
point of Pete's case
seem to me to be the
following -

I. The act of the Com.
in 1841 - in suggesting
or a finding a com-
promise - Pete says
that fact are morally
just legally bound
by this act of their
own Officer. The Privy
Council have decided
that the act is not
binding on fact and
fact cannot at a point
be yielded so important
a point as their non-
liability for the acts
of an Officer acting
without their authority
before his own power
II - The failure of fact
when they first brought
their action, to impeach
the bona fides of the

loans & the widow
Pete states that this
course was advisedly
adopted by J.P. on
the advice of their
Plea der that they
ought not to require
proof of circum-
stances which had
occurred so long
before & which had
passed unperceived
by their own Clerk.

The above was very
much Mr Norton's view - not so strong in
~~fact as he put it -~~
~~his decided opinion~~
~~the impeachment~~
~~was omitted because~~
~~connected to the~~
~~above then stated.~~

Mr Dale however says
that Mr Norton "did
raise the issue & put
it to proof of it"
and the Privy Council
have decided that
the Crown is not bound

fact as he put it -
he ultimately regrets
that proof of the sub-
-poena fraud in the
Decree of 1839 might be
laid before him &
J.P. decided that it
was undesirable to
impeach its proof
in the action at
law brought.
vide pocket.

It does seem to
be a most un-
reasonable ex-
pectation - the cases
shows otherwise
perhaps as
1838 - Well

Not all the while
to Dept -

by the Decree and may
now impeach the
widow's acts - In truth
however J.P. seek no
more than reasonable
proof of which is fully
due by them - and it
is to be supposed
that in a matter where
the litigation began the
moment the decree
was passed has been
so circumstantial, some
such evidence is
forthcoming -

III. The delay in pro-
curing execution of
the decree & Rafeena-
mah - This was cer-
tainly most extra-
-ordinary; but as far
as I can find it was
consequent on the
claims of other lit-
-igants & not of the
J.P. The conduct of
the various judges & courts

is perfectly inexplicable - but as against the fact it should not be forgotten that Pell never beyond what his claim required & that the Rajeemamah provided, not for the sale but for the transfer of the Jerrindang - part at once & part after the Widows death which as he well knew, was an encroachment on the right of the State by escheat. As he thus endeavored to defraud the State, his claim to consideration is somewhat questionable. Mr. Dale

IV. His offer to compromise when the first decree of the Privy Council was received.

The Privy Council in their first decree

he did not - in fact the Judge found that it was not an escheat matter

adds that he might have applied for the appointment of a receiver of the 12 village mortgages for his loan & that his omission to do so is suspicious. I have known all the source of this

found being based on the decision of the Judge - which the question therefore was that the estate of the late Mr. Murphy was that of a Brahmin could be reversed - cheat to the Crown - committed the case for the enforcement of the suggestion for the consideration of the parties that some arrangement for the surrender of the Jerrindang to the State upon payment of what is due to the respondent for the advances actually made would probably meet the real justice if the case & save the parties from protracted litigation - Pell says that he addressed a letter to Mr. Meritt to compromise - the Pell cannot be traced but he gives a copy of it - from which it will be seen that his

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He was either to
retain the fund
or he paid the debt
due on the Estate
with principal & in-
terest up to date. The
Jt. could not have
accepted such
terms and Mr Dale
says that, when at the
hearing in the Lords,
he explained that
Jt. had referred to
the Jt. regarding a
compromise, & that Jt.
here disposed to act
on the suggestion of
the Privy Council
in a liberal spirit,
and asked for time
for the necessary ^{enquiry}. But
Council declined to
enter into any further
communication with
Jt. or to receive any-
thing but the Estate.
This plan therefore

See in particular
letter marked B.

does not stand. But in
much stead.

Mr Dale evidently
considers the whole
transaction a fraud.
He has a threat to
define part of the
Estate - but however
pinious may differ
on this point. Jt.
may fairly claim
a reasonable ad-
vance of the bona
fide character of
the alleged transac-
tions - and an ac-
count of Peter Ma.
may well since 1855.

It seems scarcely
possible that Peter
will accede to Mr
Dale's proposal, but
it is difficult to
suppose any other, if

the Privy Council
decree be followed
thence the Lords
must decide

1. What advances
were really made
2. How far these
were legitimate
charges on the Estate
under Hindu Law
3. What the widow
had then property
if her husband's
available when she
married.

The first night
I should think after
I have by the decision
in these points of a
single referee, to be
named by them - but
the safest course must
be is to follow
Mr Dale's advice

I.D.S.

disposed - in accordance
with the instructions -
in the Decree of the Privy
Council -

The proposal of
Mr Dale - is one
which will
be accepted to
the Dept - The
case had been
left to the
Privy Council to

2290 April 1891, acc. 24, 21 Aug

The safest plan seems to me to follow the course
recommended by our law adviser - The petition
of Cavell Kucata Karamapah is simply to
the effect that he is willing further litigation
should be stayed provided he obtains the entire
amount of his claim - viz the Estate, or the full
sum which he states to be due to him with interest
Now in proof of this debt no evidence has yet been
adduced & the remarks of Mr Dale, in P 24 and 30
and the parts of his report on the claimant's petition,
suggesting, on the plea of distance of time,
that such evidence
prevent any ~~reasonable~~ ^{satisfactory} ~~conviction~~
should be dispensed with - The Govt would not
however wish to be hard on the claimant, or require
full legal evidence - Proof sufficient to cause moral
conviction to an arbitrator should, I think, satisfy
the Govt, and the claimant might be offered
the course proposed by Mr Dale in P 41. - That Mr
Dale writes in P 14 holds out little hope that the
claimant will accept such an offer, but at all events
the offer will show the willingness of Govt to settle
the matter equitably, and if rejected the case must
be left to the Judge's Court - I.M.

I entirely object to the proposal of the Petitioner that he should
take the Estate or receive the amount of the alleged debt - before then
can he have proper proof of the debt or much more exhibited - without
impeaching the character or motives of the Petitioner I must say
that there are features in the case which strongly point to collusion
on the part of the widow & the Petitioner - I am not Mr Malley that
the course suggested by the Pleader is the safest & best as leading to
a fair & amicable & unexpensive settlement - if not acceded to the
case will go to the Judge's Court & decide. (M)

[illegible]

Read again letter from the Gov. & Pleader
and recorded in Proceedings 17th.
dated 10th April 1862, 80861.

~~vide Receipt Book 17th April 02~~
~~22854.~~ ✓

In the foregoing letter Mr. Dale reports on a memorial dated 13th February last, presented by the Respondent in the suit Collector of Enaculipatam, Appellant, v. Govdy Vencata Kerraingal. This memorial enclosed a copy of a Petⁿ dated 21st Sept^r 1860, representing the Respondent's readiness to acquiesce in any amicable arrangement that may be made regarding the Lamin dary of Vidsamipet in pursuance of the suggestion made by the J. & L. Committee of the

1. The Privy Council in their decree dated 30th July 1850.

2. When the case came up for hearing in October 1860, the Gov^t Pleader explained to the Sadr Court that a reference had been made to the Collector for the purpose of ascertaining what was ^{really} due to the Respondent on account of advances actually made to him, and he represented that the Gov^t were disposed to deal with his claims in the most liberal spirit. He was however interrupted by the opposing Counsel, who ~~repeatedly~~ declined to entertain any further communication with the Gov^t, alleging that their client had already addressed the Gov^t but had not received a reply.

3. The former petition dated 2nd Sept^r 1860 never reached

the Gov^t, but even if it had been received its terms are clearly inadmissible, being simply to the effect that the Petitioner is willing to stay further litigation provided he obtains the entire amount of his claim, viz. either the Laminary itself, or the full sum which he considers to be due to him with interest up to date.

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4. On the whole however,

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which I have
W.M.

His Excellency in Council is
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adviser, and accordingly
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the disposal of the Feder
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6. Cavalry Sepoy Narsingh
will be informed of an
endorsement on his

Memorial that the Gov^t
have instructed ~~by~~ their
legal adviser to offer
terms which they consider
equitable.

MM
24th July 1862

MA

This to the Gov^t Pleader Despt⁵
— B of Real & B?
Endorsement to
C. V. Narsingh
with 20th Sept¹⁸⁶²
— 2nd Mch¹⁸⁶² — S

Copy in a Letter to England
of 20th June 1862 of 1863

Vissunapetta State -

Revenue 1862 Deficit.
Pro: of Govt. for August

N: 1659.

Pro: of the Madras Govt.
Df 5th August 1862.

From Govt. Order No 2442

Proceedings of Govern-
ment on Mr. Dales report
on Cavally Venkata Narayana
patri. Memorial regarding
the Vissunapetta Government

N: 47.

31st July R 1st Aug

Govt. Order
No 2442