

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1203	Press ~~Mis~~
105106	
Dated	6-7-191863

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
6th July 1863.*

No. 105. Read the following Proceedings of the Board of Revenue, dated 19th June 1863,
No. 3,640:—

Read the following letter from G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLE-
STON, Esq., Secretary to the Board of Revenue, dated Calicut, 1st June 1863,
No. 105.

SIR,

To Board, dated 14th July 1856, No. 75.
From do. do. 22nd August 1856, No. 2,677, Re-
venue Department.
To do. do. 17th December 1857, No. 202.
From do. do. 9th January 1858, No. 108, forward-
ing Extract from Minutes of Consultation, dated 17th
January 1858, No. 21, Revenue Department.
From do. do. 20th January 1858, No. 212, forwarding
Extract from Minutes of Consultation, dated 18th January
1858, No. 63, Revenue Department.
To do. do. 6th January 1860, No. 7.
From do. do. 21th do. do. 410, communi-
cating Proceedings of Government, dated 19th January
1860, No. 100, Revenue Department.

* The late Police Ameen of Calicut, Mangalavittil Cannara.

† Munerapad, or third Rajah of Calicut.

Special Appeal had been decided previous to the Civil Procedure Code coming into operation, the decision would in all probability have been one reversing the Appeal Decree, and assessing the Plaintiff with costs; as the Sudder Court in a precisely similar case, which came before

NOTE.—The case was that in which the Zamorin of Calicut was the Plaintiff, and the then Calicut Tahsildar (Ondan Ambu) the Defendant. The cause of action was the use of the term "Rajah" instead of "Tambaran" in reference to the Zamorin in an official communication sent by the Tahsildar.

them in Appeal No. 180 of 1858, prior to the introduction of the Code, revoked the original decision given by the Civil Judge of Calicut, and adjudged all costs against the Plaintiff. In recording their Judgment they made the following remarks:—"The Civil Judge having acquitted the Defendant of libel, the Court led to suppose that his having decreed that the costs should be paid by him must be owing to his having considered him guilty of breach of privilege, and to his having taken this view of the nature of the plaint, they also attribute his having permitted the maintenance of the suit by the Plaintiff's successor on his demise. The Court are unable to agree with the Civil Judge that an action is maintainable on the premises set forth. The mere circumstance that the act of one person is hurtful to the feelings of another, gives no right of action, and the use of term of address however contrary to usage does not, in their opinion, amount to a breach of privilege calling for remedy by a judicial tribunal. The Court resolve, therefore, to reverse the Decree of the Civil Judge, and to dismiss the suit with costs."

3. The principal enunciated by the Sudder Court in this decision would seem to apply with all its force to the case under reference, and I can only attribute the confirmation of the Appeal Decree to the circumstance that the provisions of the Civil Procedure Code did not permit of its reversal.

4. As the Appeal Decree has been thus left undisturbed, the Plaintiff has moved the Principal Sudder Ameen's Court of Calicut for its enforcement, and the Defendant has been served with a notice requiring him to pay the Plaintiff's costs.

5. The Defendant has laid the matter before me with a request that the sanction of Govern-
ment for their payment may be obtained.

1. With reference to the correspondence noted, I have the honor to bring to the notice of the Board that the Special Appeal preferred before the late Sudder Court against the Decree of the Civil Court of Calicut in Appeal Suit No. 93 of 1858, under the sanction of Government dated 19th January 1860, resulted in the confirmation of the Appeal Decree, as no grounds calling for its reversal under the Civil Procedure Code, were discovered.

2. The Appeal Decree, as the Board are aware, saddled the Defendant* with the whole costs of the suit, while the original Decree adjudged each party to bear his own costs.

The damages claimed by the Plaintiff† for alleged defamation were not, however, allowed in either of the Decrees, and if the

*Proceedings of the Madras Government, Revenue Department,
6th July 1863.*

6. I find that the suit, both Original and Appeal, was conducted at the public expense. It is true that the Special Appeal was not proceeded with on the part of Government after its

* Proceedings of Government, dated 14th May 1860, No. 775, Revenue Department.

	Rs.	A.	P.
† Plaintiff's costs in the Original Suit.	142	4	0
Interest on the above from 29th September 1857 to 19th June 1863... ..	97	10	11
Plaintiff's costs in the Appeal Suit No. 22 of 1858 Do. do. do. No. 93 of 1858	20	13	7
Interest on the above sums from 29th June 1859 to 19th June 1863... ..	6	4	0
Plaintiff's costs in Special Appeal Suit	12	14	9
Interests on do. from 5th November 1860 to 19th June 1863	9	1	8
Miscellaneous Petitions and Vakalatnamas, &c.	2	13	11
	2	8	0
Total...	294	6	19

admission, but in the same order* in which this course was enjoined, Government remarked that if any further legal proceedings take place, they must be at the cost of the Officers concerned, and not of Government. Hence I infer that the cost of the legal proceedings already taken, and of which the sum now asked for is a portion, is to be borne by Government. Under this view of the case I solicit sanction to meet the costs† at the public expense.

The period allowed for their payment expires on the 19th instant.

1. Ordered to be submitted for the consideration and early orders of Government, with reference to the correspondence noted in the margin.

From Board to Government, 15th August 1856, No. 2,350.
From Government, 20th August 1856, No. 620.
Board's Proceedings, 24th December 1857, No. 4,699.
Government do. 7th January 1858, No. 24.
Board's do. 9th do. do. " 104.
Government do. 18th do. do. " 69.
Board's do. 18th do. 1860, " 282.
Government do. 19th do. do. " 100.

2. The Collector's letter reports the result of the Special Appeal preferred to the late Sudder Court on behalf of the Police Ameen of Calicut against the Appeal Decree of the Civil Court at that station, the parties in litigation being the Police Ameen, and the third Rajah of Calicut.

The circumstances of the litigation are fully recorded in the correspondence quoted above, and are briefly these. The third Rajah brought his action originally in the Mooftee Sudder Ameen's

No. 20 of 1856.

Court for alleged defamation, such defamation having consisted in the employment of the following words by the Police Ameen in the course of his duty, in allusion to the late Rajah's death:—"The Rajah has met with an accident," instead of "my lord has fallen into fire," which it is averred was the proper expression for a Tier to use in speaking of that occurrence. The Rajah sued for 1,500 Rupees as damages. The Sudder Ameen dismissed the claim, but assessed the

No. 93 of 1858.

Defendant with his own costs. Against this part of the Decree, an appeal was carried to the Civil Court under the sanction of Government conveyed in their Proceedings of the 7th January 1858, No. 24; and the Plaintiff also appealed. The Civil Judge confirmed the original decision, but saddled the Defendant (the Police Ameen) with all the costs in both suits. The case was exactly parallel with that of the Zamorin and the Tahsildar of Calicut, referred to in the Proceedings of Government dated 14th May 1860, No. 775, in which the Sudder Udalt had reversed the original decision in favor of the Zamorin, on the ground that the mere act of hurting another's feelings was no ground of action, and that the use of terms of address, however, contrary to usage, did not call for remedy by a Judicial tribunal. The Board therefore recommended, and the Government sanctioned,‡

† Proceedings 19th January 1860, No. 100.

a Special Appeal to the Sudder Udalt, at the public expense.

3. From Mr. Ballard's letter, it appears that under the provisions of the Civil Procedure Code, now in force, the Appeal Decree of the Civil Court of Calicut must stand, for it does not admit of reversal. The Plaintiff has applied for its enforcement, and the Defendant has been called upon to pay the costs, which amount altogether to Rupees 291-6-10 as shown in the margin of paragraph 6 of Mr. Ballard's letter. The Board beg to recommend that the payment of this amount be sanctioned from the Government Treasury.

*Proceedings of the Madras Government, Revenue Department,
6th July 1863.*

4. In paragraph 7 of their Proceedings, 14th May 1860, above referred to, after reviewing the circumstances of the dispute between the Zamorin of Calicut and the Tahsildar, and alluding to the case under notice, Government remarked that if any further legal proceedings took place they must be at the cost of the Officers concerned;‡ but this, it is evident, referred to future breaches of established etiquette, and not to legal proceedings already held with the sanction of Government.

5. The charge can be met from the provision in the District Budget for Law expenses.
(A true Copy and Extract.)

(Signed.) W. HUDLESTON, Secretary.

No. 106.

ORDER THEREON, 6th July 1863, No. 1,203.
Sanctioned as recommended by the Board of Revenue.

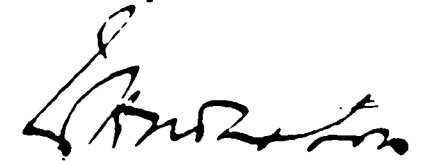
(Signed) J. D. SIM,
Secretary to Government.

called upon to pay the costs, which amount altogether to Rupees 294-6-10 as shown in the margin of paragraph 6 of Mr. Ballard's letter. The Board beg to recommend that the payment of this amount be sanctioned from the Government Treasury.

4. In paragraph 7 of their Proceedings, 14th May 1860, above referred to, after reviewing the circumstances of the dispute between the Zamorin of Calicut and the Tahsildar, and alluding to the case under notice, Government remarked that if any further legal proceedings took place they must be at the cost of the Officers concerned; but this, it is evident, referred to *future* breaches of established etiquette, and not to legal proceedings already held with the sanction of Government.

5. The charge can be met from the provision in the District Budget for Law expenses.

(A true Copy and Extract.)



Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.

Copy to G. A. Ballard, Esq., Collector of Malabar.

Ed. J. Wright.

Chambers & Co. 4th May 1863

1863 No 75.

Re: Chambers & Co. 4th May 1863

1863. Department
No. of 1st for 2nd

No. 11,93.
PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 15th June 1863.
Deposited 23rd
Received 21.0.

No. 3,640.

Submitting with remarks a letter from the
Collector of Malabar, reporting the result of the
special appeal preferred to the late Sudder
Court on behalf of the Police Amin of Calicut
against the Appeal Decree of the Civil Court
at that station.

Sanctioned as
decreed in the
by the 1st of Malabar
Sudder Court 1863

For Review.

When the first should
pay all costs incurred with
to the receipt of their order
of 14 May 1860 No 775. Any
costs incurred by the Police
Revenue, as far as directed
the Master in view of the Revenue
asked to be refunded, to pay
as they have incurred, when
of them to be discharged by the
Revenue being satisfied.

Would be for the 1860
Revenue - would be
the Board will
J. R. V.
27.

3

21/10/54/106.

23rd June 1863. R. 30

14 copies to the 13th June 1863. 7th May
1863. 1st of Malabar
Civil Sudder Court

Read the following.

1:36

To
W. Buddleston Esq.
Secretary to the Board of Revenue.
Calcutta.

10

General District
Clerk's Office & Co.
New York 7th March 1863.

Shane & Co.

Signed J. A. Perkins
Collector

Submitted to Government in continuation
of Board's Proceedings dated 14th March 1863 p. 1527.

Positive Copy & Extracts

To
J. (2) Sim Esq
Secretary to Government
Navy Department

E. Langhille
(comp.) M. Bala-kistram.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 14th March 1863.

Read the following letter from G. S. FORBES, Esq., Collector of Ganjam, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Chatterpore, 9th December 1862,
No. 303:—

1. I have the honor to state that a Petition has been addressed to me by the Sheristadar of the District regarding the purchase of waste lands by public servants at competitive sales under the recent orders of the Secretary of State.

2. The Sheristadar conceives that Section 11 of the Rules lately promulgated by the Board is not applicable to purchases of land under these orders, seeing that the objections which render it inexpedient that public Officers should purchase lands sold in satisfaction of Revenue default, and the like, cannot be urged against the purchase of waste lands which are brought to competitive sale simply because they are waste and not in satisfaction of any public or private interest. Under these circumstances the Sheristadar is anxious to know whether his application to purchase and reclaim 1,200 acres of swamp land must be withdrawn in consequence of the orders lately circulated by the Board.

3. As I do not consider the rules based on Section 29, Regulation XXVI of 1802, and Regulation VI of 1832, were intended to refer to the case in point, I beg to have the Board's instructions on the subject; it would I submit be carrying precautionary rules to a needless stretch of severity to give them such an effect, and public servants will feel keenly the implied

4. As the Supreme Government have some time since approved the plan proposed by the Government of Bengal for the sale of waste lands, I take this opportunity to request the permission of the Board and Government to proceed to the sale of such lands as I may be able to have surveyed.

1. Ordered to be submitted for the decision of Government.

2. The rules for the sale of unassessed waste land to some extent re-place the previously existing system of obtaining such land on Puttah, subject to an annual assessment which it was always hitherto competent to any Native Government servant to do, and the objections against the purchase by Government servants of lands sold in realization of public dues do not appear to the Board to apply to the purchase of unassessed waste under the new rules.

3. The wording of Regulation VI of 1832 is however so general that it seems desirable that Government should decide in the matter.

(A true Copy and Extract.)

Shirley

- Exegolary.

To J. D. Sim, Esq., Secretary to Government, R. D.
,, G. S. Forbes, Esq., Collector of Ganjam.

Exd. J. Wright.

Rev = 1863
 Pro. of Govt for Early
 Proceedings of the Board
 of Revenue.

dated 19th March 1863.
 Recd by
 Mar 20th

C. P.
 No. 1168. Early
 Submitting in continuation
 of B. P. No. 1168 dated 15th March/63
 No. 1527 letter from the Collector of
 Ganjam requesting early reply
 to his letter dated 9th Decr/62
 as to whether the M. P. System
 in the Revenue & Magistrate
 Dept. can be allowed
 the benefit of the Rules for
 the unimproved waste land.

No. 30.

Rev = 1863. Department
 Pro. of Govt for Early.

No. 648.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 14th March 1863.

De. patched
 Received 17th

C. P. No. 1168. Early
 No. 1,527.

Submitting a letter from the Collector of Gan
 jam forwarding a petition from the Sheristadar of
 the district enquiring whether his application to
 purchase and reclaim 1200 acres of swamp land
 must be withdrawn in consequence of the orders
 lately circulated by the Board.

No. 35.

35-37
 2-7-63