

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 696

Press
~~Mis.~~

188189

Dated 24-4-1863

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
21st April 1863.*

No. 183. Read the following Proceedings of the Board of Revenue, dated 18th April 1863 :—
Read the following letter from R. E. MASTER, Esq., Officiating Director of Revenue Settlement, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 14th April 1863, No. 432/38.

SIR,

1. Referring to Government Order dated 9th December 1852, No. 2,553, I have the honor to report that two Suits, Nos. 70 and 71 of 1863, Bapatla District Moonsiffs' file have been brought by one Mudduna Subbana and others, and by one Tella Chilaka, respectively, Ryots of the village of Palapurru in the Bapatla Talook of the Kistna District, against Mr. F. W. Morris, Deputy Director of Revenue Settlement, and others, praying for the removal of a donka or road way which the Deputy Director caused to be opened through the village in question, and which Plaintiffs allege, causes great injury to their crops.

2. It appears that at the time of the demarcation of Palapurru, several of the villagers applied to have the donka in question laid out, as being necessary for the convenience of the community, and as their request appeared reasonable it was complied with, and the donka marked

"38 In marking the boundaries, care should be taken to leave
"sufficient width for the Talook and village roads passing
"through the lands, and also for cattle paths and roads
"leading to the different pastures or watering places. Every
"effort should be made to secure ample communications of
"the above nature, as they are essential for the convenience
"of the people, and the sacrifice of a few yards of cultivated
"ground, which may be required in places to enlarge the
"paths, is no more than is fairly demanded for the interests
"of the community. Provision must be made for the requi-
"site communications between all adjacent villages where
"they do not exist."

out with a breadth of six yards in accordance with Section 38 of the demarcation rules, which, for convenience of reference, is annexed in the margin. Plaintiffs afterwards petitioned the Deputy Director requesting the removal of the donka, and their Petition was referred to the Tahsildar who after personal inspection and enquiry, reported that the donka was absolutely necessary for the welfare

of the people, that it in no way injured the Plaintiffs, and moreover that a foot path formerly existed on its very site. The Plaintiffs' Petition was therefore rejected; afterwards on a further representation from them, the width of the donka was reduced to three yards, but the villagers having again petitioned the Deputy Director, and the ground having been inspected and reported upon by an Assistant Director deputed to the spot, the original width of six yards was restored, and the donka marked out accordingly.

3. The donka as now laid out runs through a field jointly held by the 1st and 2nd Plaintiffs in Suit No. 70, but does not trench upon the fields of the other Plaintiffs in that Suit. It also runs through the field, which the Plaintiff in Suit No. 71 cultivates as a sub-tenant of the actual Puttadar, the ground taken up being in the one case 60 cents. and in the other 48 cents. of an Acre. The loss of land would have formed a valid ground for the demand of compensation by the 1st and 2nd Plaintiffs in Suit No. 70, and by the Puttadar of the fields cultivated by the Plaintiff in Suit No. 71, but it is worthy of remark that no claim of the kind is made in either plaint, nor is any demand made for damages. The Plaintiffs' in both Suits pray merely that the donka may be abolished on the ground that their crops are injured by its proximity, meaning thereby it may be presumed, that they are liable to be nibbled by passing cattle, &c.

4. As it is undoubtedly competent to the Government and to its Officers acting under its orders to lay out new roads wherever they may be required, I propose to plead this right as a defence in both Suits. The Plaintiffs' have no valid ground on which to object; their interests must yield to the general wants of the community. As well might the owners of fields through which a railroad or navigable Canal is constructed, demand its removal on account of the injury sustained by their crops.

5. I enclose copies and translations of the plaints, and of the proposed answers in both Suits. I request permission to file the answers and to defend the Suits at the public expense. The time for filing the answers will expire on the 30th instant, and early orders are therefore requested.

1. As a question of principle is involved in the Suit the board resolve to submit the papers to Government with their recommendation that the Officiating Director be authorized to defend the action and to file the proposed answer, with the slight addition made by the Board.

*Proceedings of the Madras Government, Revenue Department,
21st April 1863.*

2. The Board observe that the provisions of the law for taking private land for public purposes were not observed in the formation of the road, and that the unauthorized act of the Defendants in occupying land belonging to private parties was illegal, but the Suit does not proceed on this ground, nor is compensation sought for the land, and on the grounds set forth in the plaint, the Board consider that the action can and ought to be defended, assuming always that the Defendant took due precautions to guard from damage the crops of the parties through whose lands they carried the road. Those of the Plaintiffs, whose lands were not invaded, but adjoin the public ground through which the road was carried for the benefit of the community, should fence their cultivation at their own expense, and have no right to expect this work to be performed for them at the public cost.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, Secretary.

No. 189.

ORDER THEREON, 21st April 1863, No. 696.

The act complained of cannot be defended. Reasonable compensation should be offered to the Plaintiffs for the land taken up, and if this is refused the Board will decide whether the road should not be closed until measures can be adopted for legally acquiring the land.

(Signed) J. D. SIM,

Secretary to Government.

21) No. 696. ✓
The Bd. are requested to
take the advice of the
Jt. Pleader on this case.
So far as the Jt. can judge
from the report submitted
the act ~~of the~~ complained
of cannot be defended -
Reasonable compensation
should be offered to the
Plaintiffs for the land
taken up and if this
is refused the Bd. will
decide, ~~on the receiving the~~
~~Jt. Pleader's opinion~~, whether
the road should not be

always that the Government took due precautions to guard from damage the crops of the parties through whose lands they carried the road. Those of the Plaintiffs whose lands were not invaded, but acquire the public ground through which the road was carried for the benefit of the community, should fence their culture, leave at their own expense, and have no right to expect the work to be performed for them at the public cost.

Admrs Copy & Extract.

Sheweth

Sheweth

To J. S. Davis Esq
Secretary to Government

Macmillan Department
with 4 Enclosures

From St. George
12th Apr
1863.

J. S.

closed mental
measures can
be adopted for
legally acquiring
the land.

4 Copies To Mr B of Revue
with 4 Enclosures

Sheweth

Rev. 1863 April
Pro. of Govt for No. 928.
Proceedings of the Board
of Revenue.

Dated 18th
Sept. 18 } April 1863.
No. 21st.
E. 400. R. D.

Proc. of the Board of Revenue
No. 21st. Oct. 1863. No. 2429.

Forwarding papers connected
with 2 suits filed against
the Deputy Director of Revenue
settlement Nistna District
for the removal of a road way
opened by that Officer and
recommending that the Offg.
Director be authorized to de-
fer the action.

No. 188 + 189.

No. 896-21 April

With an order