

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2270

Press
~~Mis.~~

430.431

Dated 20.9.1865.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
20th September 1865.*

No. 430. Read the following Proceedings of the Madras Government in the
Public Works Department;—

Concurring in the opinion of the Consulting
Engineer, that the Railway Company should
settle the claim advanced by the villagers of
Vemapuram, in North Arcot, for the damage
sustained by them by the inundation in
November last. (Here enter 16th September 1865, No. 2,733.)

No. 431. ORDER THEREON, 20th September 1865, No. 2,270.

Miscellaneous.

Communicated to the Revenue Board.

(True Extract.)

(Signed) J. GROSE,
Acting Under Secretary to Government.

To the Board of Revenue, with Proceedings Public Works Department, No. 2,733.

Ed. S. T. Augustin.

*Proceedings of the Madras Government, Public Works Department,
16th September 1865.*

No. 386. Read the following Endorsement of the Consulting Engineer for Railways, dated Madras, 2nd August 1865, No. 376:—

Read the following letter from J. D. ROBINSON, Esq., Collector of North Arcot, to the Consulting Engineer for Railways, Madras, dated Palamanair, 17th May 1865, No. 19.

SIR,

1. In returning the petition enclosed with your letter dated 30th January last, No. 40, I have the honor to state that the version of the matter therein given is substantially correct. In order further to test the correctness of the estimate made by the Sub-Magistrate, I had a Panchayat of respectable and disinterested persons convened, and these have, after a close scrutiny into the particulars of the claims advanced by the sufferers, estimated the loss at Rupees 744-9-6, which I recommend may be disbursed to petitioner.

2. I further request that instructions may be sent to the Resident Engineer, regarding the construction of a bridge at that point in lieu of the culvert for the purpose of providing against the recurrence of such accidents.

From R. B. ELWIN, Esq., Agent and Manager, Madras Railway Company, to Lieutenant-Colonel J. C. ANDERSON, R. E., Consulting Engineer for Railways, dated Madras, 19th July 1865, No. 516.

SIR,

1. Adverting to your letter of the 4th instant, No. 459, and the Proceedings of Government, No. 1,477, dated the 29th ultimo, enclosing copy of a report from the Collector of North Arcot, on the damage sustained by the villagers of Vemapuram, from an inundation in November last, I have the honor to submit the following observations,* which have been received from the Chief Engineer, bearing on the subject:—

Letter No. 319, 18th July.

"If you will refer to Captain Lindsay's report to Colonel O'Connell, a copy of which was communicated to you in the Consulting Engineer's letter No. 992 of 1864, you will see that the primary cause of the inundation was the breaching of a bund about two miles from the line of Railway to the north. The persons with whom it rested to keep this bund and the neighbouring tanks in order, whether the Zemindar of Cauvetnugger or the villagers of Tiroomundum, are therefore the persons from whom damages should be recovered. In the 9th paragraph of Captain Lindsay's report, you will also observe that he says the stream over-flowed its banks long before it reached this point, i. e., the embankment formed to lead the water through the 30 feet arch; so that in point of fact the village of Vemapuram and adjacent fields would have been flooded if the Railway had not existed."

2. As Mr. Smart clearly establishes the fact that the village of Vemapuram would have been flooded, even if the Railway had not existed, I shall be prepared to defend in a Court of Law any action which may be brought against this Company for the recovery of damages.

1. The above correspondence is submitted to Government for orders with reference to G. O. Nos. 185 and 1,477, dated the 27th January and 29th June last.

2. I am unable to see how the Railway Company can escape payment for the damage done to the village at the 78th mile.

3. It will be observed that this inundation was occasioned by the breaking of a bund across a natural channel, and not by the breaching of a tank. The cases are very different. If a tank gives way the fresh of the accumulated water would always be much more destructive than the action of the drainage water in its natural

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state. In the case under consideration a bund across a stream was breached, and the action of the water must have been much the same, as it would have been, had the bund not been in existence.

4. It is true that the bund had been constructed for diverting the supply of the stream into a tank, but it would be difficult for the Railway authorities to show that if an individual draws off a supply in this manner for one, two, or ten years, he is bound to do it for ever; they might with equal justice protest against the construction of a sluice at the head of the channel leading to the tank. It is very evident that the owner would have a perfect right to construct such a sluice; and if this be admitted, it is equally evident that the closing of the sluice would have the effect of causing all the water to flow along its natural channel, and the result would practically be the same, or nearly the same, as if there were no sluice, and the regulating bund across the channel were breached.

5. On the above grounds, it is therefore clear that the owner of the bund was not responsible for the damage that occurred to the village. The question remains as to whether the village would have been inundated and destroyed by the breaching of the bund only; or whether the obstruction offered by the Railway embankment to the passage of the water did not raise the surface and throw it back on the village.

6. It would appear, as the Chief Engineer remarks, that the stream over-flowed its banks before reaching the Railway, and it possibly might have entered the village had the Railway not been in existence; but on the other hand, the report of Captain Lindsay shows that a breach about 40 feet wide was formed in the Railway embankment, while the only passage for the water was a culvert 2 feet wide. The Railway embankment acted like a tank bund, until the culvert gave way, and for this to have occurred, and a breach to have been formed 40 feet in width, the water must have been held up to a considerable extent, I believe at least 3 feet, and this would be quite sufficient to destroy native huts of the ordinary construction. While therefore it may have been possible that the village would have been flooded to a certain extent, had the Railway not been there, there can be no doubt that the obstruction which it actually offered caused the level of the inundation to be so materially raised as to account, in a very great measure, for the damage that occurred.

7. Under these circumstances, I think that it would be inexpedient for the Railway Company, as proposed by the Agent and Manager, "to defend in a Court of Law any action which may be brought against them for the recovery of damages."

(Signed) J. C. ANDERSON, Lieut-Colonel, R. E.,
Consulting Engineer for Railways.

No. 387.

ORDER THEREON, 16th September 1865, No. 2,733.

RAILWAY, No. 50.

1. The Governor in Council concurs in the opinion of the Consulting Engineer, that the Railway Company should settle the claim which has been advanced by the villagers of Vemapuram for the damage

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sustained by them owing to the inundation in November last, and which seems clearly attributable to the insufficiency of water-way provided for the stream in question.

2. Provision should be made for increased water-way if this has not been done already.

(True Extract.)

Major, R. E.,
Under Secretary to Government.

Revenue Department

To the Consulting Engineer for Railways.
Revenue Department.

20th Sept 1865
To the Board of Revenue, P. O. 100/101, 1865
8th Sept

Exd. S. T. Augustin.

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