

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1328	Press Mis.
389-90 Dated	26-8-1870	IX

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
26th August 1870.*

No. 389. Read the following letter from the Accountant-General, Madras, to the Secretary to Government, Revenue Department, Ootacamund, dated 23rd July 1870, No. 121 :—

In forwarding the accompanying Proceedings of the Board of Revenue, No. 4,822, dated the 11th instant, I have the honour to state that the sum of Rupees 3,500 therein referred to may, if sanctioned, be debited against the assignment of Rupees 78,000 for miscellaneous and unforeseen charges under "Grant 26, Miscellaneous."

ENCLOSURE No. 1.

Proceedings of the Board of Revenue, dated 11th July 1870, No. 4,822.

Read again Board's Proceedings, dated 7th June 1870, No. 3,897.

Read also, the following letter from the Acting Collector of North Arcot, to the Acting Secretary to the Board of Revenue, dated Bireddipalli, 23rd June 1870, No. 261.

I HAVE the honour, with reference to the Proceedings of the Board, dated 7th instant, No. 3,897, to state that beyond the fact that Mr. Robinson entered the charge in question with his own hand in the Supplemental District Road Fund Budget, there is no information in this Office to show why the charge should be met from the District Road Fund. My own opinion is that the item is one which should properly be debited to Imperial Revenue.

SUBMITTED to Government, with reference to G. O., 18th December 1869, No. 3,210.

2. The contractors of stone-quarries, whose lease was cancelled, have agreed to take the sum offered by Government (Rupees 3,500) in full satisfaction of all claims. Sanction for the payment is accordingly requested.

3. These Proceedings will be forwarded to Government, through the Accountant-General, who will be requested to state from what source the expenditure can be defrayed.

No. 390. ORDER THEREON, 26th August 1870, No. 1,328.

Miscellaneous.

THE charge of Rupees 3,500 for the payment of compensation to the lessees of the stone-quarries at Banavaram in the

North Arcot District, is sanctioned. As proposed by the Accountant-General the outlay should be debited to "Miscellaneous".

(True Extract.)

(Signed) H. E. STOKES,

Under-Secretary to Government.

To the Board of Revenue.
.. the Accountant-General.

Exd. F. R. Bantleman.

No. 3,897.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 7th June 1870.

Read the following letter from J. D. ROBINSON, Esq., Collector of North Arcot, to the Acting Secretary to the Board of Revenue, dated Chittoor, 4th May 1870, No. 165:—

ADVERTING to the orders of Government, dated 18th December last, No. 3,210, Revenue Department, communicated with Board's Proceedings, dated 21st idem, I have the honour to submit a Kyfeit taken by Mr. Wilkinson from the Contractors of Stone Quarries at Banavaram. From this the Board will learn that these Contractors have accepted Rupees 3,500 offered by Government *in full satisfaction of all claims* arising out of the cancelment of the leases granted them.

2. This charge against Local Fund has been provided in the Supplemental District Road Fund Budget for the current official year; when this has received sanction the amount will be disbursed to the Contractors.

ENCLOSURE No. 1.—Kyfeit taken by Mr. Wilkinson from the Contractors of Stone Quarries.

The Board are completely at a loss to understand why this charge should be paid by the Road Fund. Further explanation should be given on this point.

(A true Copy and Extract.)

(Signed) J. GROSE,
Acting Secretary.

To the Collector of North Arcot.

Exd. T. Cartledge.

N^o. 386

Madras
13th December 1869

To Mr. J. W. Sandley Esq^r
Government Pleader
Madras
To R. A. Dalryll Esq^r
Acting Sec^y to Government
Revenue Department.

Sir,

I have the honor to acknowledge receipt
of the Order of Government Revenue
Department, noted in the margin forwarding
certain papers to me for report on the claims
arising out of the cancellation of a lease
of stone quarries in North Arcot. I
have carefully considered these papers & submit
the following remarks thereon.
1 Assuming that the granting of the original
lease by the then Head Assistant Collector
& its renewal by the collector after the 1st Can-
cellation, were within the ordinary powers of
these

1870.

Board of Revenue
MADRAS.

PROCEEDINGS, 7TH JUNE 1870, No. 3,897.

Encl.

Received

JUNE.
No. 3,897.

Leases of Stone Quarries.—at Banavaram, in
North Arcot District.—Collector requested to
explain why Rupees 8,500 to be paid to lessees in
satisfaction of claims arising out of cancellation
of, by Government, should be met from Road
Fund.

a certain article in a specified time, it was held that the plaintiff could not recover the amount he had been compelled to pay as damages to a third party to whom he had contracted to deliver the same article. (Portman v. Middleton 27 Law Journal C. P. p. 231) And in that case the contract with the third party had been made previously to that which was the subject of the action, which makes the case much stronger than the present one. It never could be just to make one of the parties to a contract with a liability for all the penalties however rigorous to which the other may choose to make himself liable in his engagement with a third party: yet this is what must be contended for if the Stone Contractor's claim on this head is to be maintained. I think, therefore, that, even if the contract with Gajuraju Muddell & the loss arising from its breach, were undoubted facts, that loss could not be an element in estimating the damages to be paid by the Stone Contractor by Government.

5 On the same principles the damages claimed for loss alleged to have been sustained on contracts with Narraimasaamy Chetty and

2 3
and Condapah Chetty are too remote to be recovered in a Court of law, & this claim is more untenable than the other, because these contracts are only connected in the most indirect manner with the stone quarry leases.

6 The claims made in respect of Pakeel's fees, the printing of a Petition to Government & Conveyance & rail charges are equally, in my opinion, untenable in law as damages arising out of the breach of contract complained of.

7 I agree with the Collector & Head Assistant Collector in thinking that the claim for Rs 575 for stones alleged to have been quarried by the Claimants & carried away by others has neither law nor reason to support it.

8 What damages, then, are the Claimants entitled to for the breach of contract involved in the Cancellation of their lease? I think, that, applying the above principles, they are entitled to recover such of the advances made to gang maistries, Stone Cutters &c. as are shown to be recoverable; these losses may be said to arise naturally out of the breach of contract itself.

Besides

Beside this they are entitled to damages for the loss of their bargain & it seems to me that the proper measure of those damages is the profit, which, in the ordinary course of things, they would have made if the lease had not been cancelled. I have no means of estimating what this might amount to, but I should think these on the spot would have no difficulty in doing so. They rate at which they were quarrying stone during the time they had the monopoly, the price of stone & the cost of quarrying & delivering it, are facts easily ascertained & afford all the data required for estimating the probable profit. No doubt the amount claimed by the Contractors (Rs 5,000) on this head is much in excess of the real amount. If they brought a suit they would have to make out their damages in this way by strict proof, or if the matter is arranged amicably, this question, being one purely of fact, might well be submitted to arbitration. Either way, the result would probably be to reduce the amount considerably.

I think the Claimants are entitled

to interest on their deposit money. The invitations to them to come & receive it, doubt, as observed by the Board, amount to legal tenders, & besides at the time they were made the lease was not formally cancelled and even after it was, they were hardly in a position to apply for a return of their money until the final Order of Government cancelling the renewed lease granted by Mr Robinson, for until that time no doubt they were in hopes the lease would, after all, be given to them.

10 As I have remarked above, I have no means of estimating even approximately the amount of probable profit, which I consider to be the right measure of the Claimants' damages, but looking at their own estimate of it and at the other items which as above I think must be allowed to them, I should say that the sum named by the Collector (Rs 3500) would be a liberal satisfaction of all claims.

I have the honor to be
Sir
Your most obedient servant.
J. M. Handley
Government Pleader

1/1323

The charge of Rs 3500
for the payment of
compensation to the
Lessees of the Stone quarries
at Banarman in the
h. a. District is sanctioned
as proposed by the local
government, the outlay should
be debited to "Miscellaneous"

[Signature]

26th Nov 1869

6 To the Local Government Rs 3500
11. " " " " " " " " " " " "

[Signature]
[Signature]

Rs 14th December 1869 Rs 3500-00

Perman 1869

Rs 14th 1869

From the Govt of India

To the Secy of Govt

the Civil

Dated 13th Dec 1869

No 386

Home Department
North West. Dept.
on leaving assignment
of Government of India

21st Dec 1869