M.R. O. 1—82,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1844. Press Min.

341-42
Dated 23-11-1870 No

Not to be folded or roughly handled

No. 341. Read the following letter from the Government Pleader, Madras, to the Secretary to Government, Revenue Department, Fort Saint George, dated 15th November 1870, No. 139:—

With reference to the Proceedings of Government, Revenue Department, noted in the margin, I have the honour to report that the Appeal (R. A. No. 46 of 1870), filed by me on behalf of Government against the decision of the Civil Court of Rajahmundry in a Suit concerning certain land at Cocanada taken for public purposes, came on for hearing yesterday before Mr. Justice Holloway and Mr. Justice Innes, together with a Cross Appeal (R. A. No. 55 of 1870), filed on behalf of the plaintiff, Mr. Gandolphe, against that part of the same decision relating to costs. I appeared, as instructed on behalf of the Collector as representing Government, and the Advocate-General appeared for him in his capacity of President of the Municipal Commission. Mr. Sloan appeared for Mr. Gandolphe.

28th March 1870, G. O., No. 396.
21st April ,, ,, ,, 550.
22nd ,, ,, ,, ,, 556.
5th May ,, ,, ,, 646.

2. The Court held that the Suit ought to have been dismissed on three grounds, first, that the alleged agreement by the Collector to take other land of the plaintiff's had nothing to do with the validity of an award under Act VI. of 1857, settling the compensation for lands actually taken for public purposes under that Act; secondly, that the Suit, so far as it sought to set aside the award, was undoubtedly brought against the Collector as representing Government, in which capacity he had no power to contract for more land than that ordered by Government to be taken under the Act, and, therefore, even if he had so contracted, Government could not be bound. But the Suit, so far as it sought specific performance of this alleged contract, must have failed, even if properly framed, for the evidence showed that there was, in fact, no contract, but, at the utmost, nothing more than an offer which the plaintiff refused. Lastly, no such misconduct on the part of the arbitrators had been shown as to justify the Court in setting aside the award. The decree of the Lower Court was, therefore, reversed, and the plaintiff's Suit dismissed, but without costs in either Court. The reason given by the Court for not allowing the defendant's costs in either Court was, that they considered that much of the misapprehension on the part of the plaintiff as to his rights, and the consequent litigation, was due to the fact that the land, which was actually taken, and which therefore formed the basis of the award, was considerably more than the quantity ordered by Government to be taken. I shall forward copy of the Decree and Judgment of the Court as soon as possible, for the information of Government.

3. I return the enclosures forwarded to me with the first of the above Proceedings.

No. 342. Order thereon, 23rd November 1870, No. 1,844.

Miscellaneous.

Communicated to the Board of Revenue for information.

(True Extract.)

(Signed) H. WELLESLEY,
Acting Under-Secretary to Government.

To the Board of Revenue.
,, the Government Pleader.

Exd. F. R. Bantleman.

Sir

Your most obedient Servant

M Ramelly

Government Pleader

Dated 18th Nov 1870

Recd.

Communicated to the Board of Rev. for information

14 Feb 1871 Mr. Ramelly writes & sheds Light on 23rd Nov. Proc.

3 — Govt. Pleader

Govt. of [1870] Madras.

REVENUE.

To

THE BOARD OF REVENUE,

&c. &c. &c.

Dated Nov. 18th

Recd.

G.O. 22nd Nov. 1870, No. 1,214.

MOVEMENT.

Nos. 341-342

Mr. Garbett's Suit against the Collector of Godavery.—Letter from Government Pleader reporting the decision of the High Court in connection with it communicated to Board of Revenue for information.

Revenue 1870 Oct^r
No. 3565.
Fm
The Govt pleader
Madras

To The Secy to Govt
Rev. Dept.

Sir
I have the honor
to forward herewith
No 139
of 1876 - 28 Nov.
with enclosures
8 - 7 - 0
a Civil
appeal (R.A. No 46
of 1870) preferred on
behalf of Government
to the High Court against
decision of Rajamundry
Civil Court in the
matter of land at
Coconada taken from
one Mr Gundolfe for public
purposes — A portion result of

I have &c
Sd/ [illegible]

Rec^d 28 March 1870 No 197-98
21 April — 242-44
22 do — 265-56
5 May — 54-55

C 19 Despatched