

*Proceedings of the Madras Government, Revenue Department,
25th August 1871.*

No. 271. Read the following Proceedings of the Board of Revenue, dated 18th August 1871 :—

Read the following letters :—

From the Collector of South Arcot, to the Acting Secretary to the Board of Revenue, Madras, dated Cuddalore, 2nd August 1871, No. 249.

WITH reference to the Board's Proceedings of the 1st April 1870, No. 2,193, I have the honour to forward herewith copy of the issues (received only to-day) settled by the Civil Judge in the Podupulyoor Suit.

2. The hearing is fixed for the 25th instant.

3. The Board will observe that the third issue is a most important one, involving the question of the right of Government officers to regulate the supply of water for purposes of irrigation from a public tank.

4. It may be as well to have a Lawyer from Madras to undertake the defence of the suit and the argument of the said issue, and if the Board consider an adjournment necessary, I will apply for one on receiving orders to that effect.

—

From the same officer, dated Cuddalore, 7th August 1871, No. 253.

I HAVE the honour to forward a copy of the issues settled by the Principal Sadr Amin in Original Suit No. 43 of 1866, commonly called the Palur Suit. *Vide* Board's Proceedings dated 17th June 1869, No. 4,371.

2. The Board will see that no separate issue has been framed to try the question of the right of the Government officers to control the water of tidal rivers for irrigation purposes. The Pleader employed by me moved the Court to frame such an issue, but the Judge did not consider it necessary.

3. No date has been fixed for the hearing of the case, but as soon as one is settled I will report the matter to the Board.

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BOTH of these cases involve the right of Government to construct or regulate irrigation-works which distribute Government water.

2. The facts of the Palur case are detailed in the papers recorded with G. O., 1st September 1868, No. 2,307, which sanctioned the engagement of the Honourable Mr. Norton to represent Government in an appeal from the Principal Sadr Amin to the Civil Judge.

3. The appeal was heard accordingly on the 26th October, when Mr. Norton appeared on behalf of Government, and the Court reserved judgment. G. O., 18th December 1868, No. 3,155.

4. On the 31st March 1869 judgment was delivered. The Civil Judge remanded the suit to the Lower Court "for the framing of issues, investigation of the merits of the case, and judgment *de novo*."

5. The Principal Sadr Amin has now framed the issues. The first runs as follows :—"Whether the plaintiffs are entitled to the whole supply as claimed." The third is as to whether the "plaintiffs are entitled to a full supply of water for their lands before any can be diverted to the villages of the 4 to 8 defendants. These issues seem to the Board to involve the question whether Government has any power over the distribution of its water."

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6. No date has yet been fixed for the hearing.
7. The other case is the Podupulyoor Suit, the defence of which was sanctioned in G. O., 5th March 1870, No. 317. The answer to the plaint filed on behalf of Government is contained in Board's Proceedings, 1st April 1870, No. 2,193, a copy of which is herewith submitted.
8. The Civil Judge has now framed issues, and fixed the 25th instant as the date of hearing.
9. The third issue is "whether the 1st and 2nd defendants, as agents of Government, are vested with any authority, and, if so, to what extent to regulate the supply of water for purposes of irrigation."
10. The question to be decided is whether it is worthwhile to engage the Government Pleader or other Counsel to represent Government. On the whole the Board think it is *not*, although it might be possible to arrange for both the cases to be heard about the same time, so that Government might be represented by the same Counsel in both. The question of law being raised in the Original Court can be fully argued on appeal if necessary. Moreover, the point is raised in a case now pending in the High Court which will probably be decided immediately after the vacation.
11. Pending instructions from Government the Collector should apply for an adjournment.

No. 272. ORDER THEREON, 25th August 1871, No. 1,457.

Miscellaneous.

THE Government concur in opinion with the Board that, as the question of the right of Government to regulate the distribution of water for irrigation is raised in the issues framed by the Court of First Instance, and can, if necessary, be argued on behalf of Government in appeal, it is unnecessary to depute Counsel from Madras to defend the interests of Government in the first hearing.

2. It would, however, be well that the Government Pleader should be consulted as to the statement to be put in, in the Palur Suit, as appears to have been done in the Paliyur case.

(True Extract.)

(Signed) W. HUDLESTON,

Secretary to Government.

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

Exd. F. R. Bantleman.

N^o 249

From,
J. H. Garstin Esquire
Collector of South Arcot

To,
James Grose Esquire
As Secretary to the Board of Revenue
Madras

Sir,

With reference to the Board's Proceedings
of the 1st April 1870 N^o 2193, I have the honor to for-
ward herewith copy of the issues settled by the
Civil Judge in the Padrapuliyer suit.

2. The hearing is fixed for the 25th Instant.

3. The Board will observe that the 3rd issue
is a most important one - involving the question of
the right of Government Officers to regulate the supply
of water for purposes of irrigation from a public tank.

4. It may be as well to have a lawyer from
Madras to undertake the defence of the suit and the
argument of the said issue; and if the Board con-
sider an adjournment necessary I will apply for one
on receiving orders to that effect.

I have &c
South Arcot Collector's Office }
Cuddalore 2nd August 1871 }
(Signed) J. H. Garstin
Collector

| True copy |

J. Grose

Revenue Department

Proceedings of the Board of Revenue
dated 18th August 1871

Read letters from the

Collector of South Arcot dated 2nd
and 7th August 1871, Nos 249 and 253

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construct or regulate irrigation works
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Court reserved judgment.

G.O. 18th Dec. / 68
No. 3, 155

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with any authority, and if so,
to what extent to regulate the
supply

supply of water for purposes of irrigation."

The question to be decided is whether it is worth while to engage the Government Pleader or other Counsel to represent Government. On the whole the Board think it is not, although it might be possible to arrange for both the cases to be heard about the same time, so that Government might be represented by the same Counsel in both. The question of law being raised in the original Court can be fully argued on appeal if necessary. Moreover the point is raised in a case now pending in the High Court which will probably be decided immediately after the vacation.

Pending instructions from Government the Collector should

should apply for an adjournment
(True Extract).

G. Mole
Secretary

To
The Secretary to Government
Revenue Department.
with copies of Collector's letter
and a copy of Board's Proceedings
No. 2193 of 1870.

Wm. May, Secy
P. O. No. 2, 873
Proceedings of the
Board of Directors

Date 18 Aug 1871
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Submittung, Remarks
Regarding Patents &
Patent Law of Swiss -

Ms. A. 9.2. 25. 11. 1871

Nov-272

Ms. 1457

Wm. C. C. C.

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