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MADRAS RECORD OFFICE

Government of Madras

Revenue . DEPARTMENT

G.O. No.
B.P. No.

2.

Press—
Mis.

Dated

4.1 -1872 195.

Not to be folded or roughly handled

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No. 4,973.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 9th December 1871.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 24th November 1871, No. 162 :—

With reference to the Board's Proceedings, noted in the margin, I have the honour to report that the appeal to the High Court, in the Chittoor Water Dispute case, (Regular Appeal 126 of 1870,) was finally disposed of this day by Mr. Justice Holloway and Mr. Justice Innes, the Chief Justice, having transferred the case to the former Judge, being unable to decide it himself before his departure.

2. The Court held that, a right of the nature claimed by the plaintiffs, viz, to retain the surface water, not flowing in any defined channel upon the defendant's land, could not be acquired as an easement, and upon this ground alone reversed the decree of the lower Court, with costs.

3. Thus the question as to the rights and powers of Government in the control of irrigation works has not after all been decided in this case. Mr. Holloway, in the course of the argument, expressed an opinion adverse to such unlimited powers as are claimed for Government in the Collector's written statement. In another case, (Regular Appeal 26 of 1871,) argued the other day before Innes and Kernan, J. J. and in which judgment has been reserved, the Court seemed inclined to favor my contention, that the only right which can be acquired by Government ryots, in Government irrigation works, is (if any) one by implied contract, to a sufficient supply of water for the kind of cultivation on which assessment is levied.

4. I return herewith the enclosures forwarded to me, with the Proceedings of the Board, dated 1st August 1871, No. 3,213 ; as also the original judgment of the Civil Court.

SUBMITTED for the information of Government with reference to their Order No. 1,886, dated 30th November 1870.

2. The Board's Proceedings embodied in that order give a clear account of the subject in dispute, and it will be observed that although the main object the Government had in view in directing that an appeal should be made, (viz., to get an authoritative decision as to their right to regulate the supply of water,) has not been attained, yet the adverse decision of the Civil Judge has been set aside, and the arrangements made by the Local officers practically affirmed.

(A true Copy and Extract.)

J. H. Remington
Sub-Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Collector of North Arcot.

„ to the Government Pleader.

Ed. G. A. Turton.

Revenue
1871. Disputes
Board of Revenue,
MADRAS. *No. 1034*

PROCEEDINGS, 9TH DECEMBER 1871, No. 4,978.

Copy 18 Dec 1871

Received.

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Encl.

DECEMBER.

No. 4,978.

Regular Appeal No. 126 of 1870.—Filed by Government in High Court from Decree of Chittoor Civil Court in North Arcot District in suit No 26 of 1868 in said Court regarding a water-dispute.—Letter from Government Pleader reporting that Decree has been passed in favor of Government, in but last question as to rights of Government, to the control of Irrigation works has not been decided, submitted to Government.

The Pleader in the case of the Government has been instructed to file a copy of the decree in the case of the Government.

*File No. 233/72. From the
 & Co. 07/19/72
 15/12
 13/11/72.*

1 File No. 233/72.

9/14/72