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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	565	Press
B.P. No.		Mis.
Dated	7-5-	1874 196

Not to be folded or roughly handled

565

*Proceedings of the Madras Government, Revenue Department,
7th May 1874.*

No. 97. Read the following Proceedings of the Board of Revenue, dated 20th April 1874, No. 923:—

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 25th March 1874, No. 32:—

WITH reference to the Board's Proceedings noted in the margin, I have the honour to report the final disposal of the Special Appeal (No. 500 of 1873) in the Palur Water Case. The case was first heard on 15th December 1873, and remitted to the District Court for a further judgment, especially upon the question whether there was, as alleged by the plaintiffs, a contract on the part of Government in 1848, when the anicut at the head of the disputed channel was constructed to allow a prior supply of water to the plaintiffs' villages, in consideration of increased revenue to be derived from them. The District Judge recorded a further judgment, adhering to his former decision, and finding in effect that there was nothing to bind the Government to allow any priority to the plaintiffs in the use of the water, though, as a matter of fact, their wants had always been considered first.

2. A copy (to be returned) of this second judgment is enclosed for the Board's information. Upon this the High Court, on the 23rd instant, dismissed the appeal with costs.

3. I shall forward copy of the decree and judgment of the High Court when obtained.

ENCLOSURE No. 1.—Copy of Judgment.

SUBMITTED for the information of Government with reference to their Order, dated 27th August 1873, No. 918.

2. The Government Pleader reports the dismissal with costs of the Special Appeal preferred by plaintiffs against the decision of the District Judge of South Arcot in the Palur Water Dispute of which a full history is given in the Board's Proceedings recorded in the G. O. above quoted.

3. The Collector and certain officers of Public Works Department were defendants in the case. The question involved was the right of Government to regulate the distribution of the water of the Trivady anicut. The decision is in favour of Government.

No. 98. ORDER THEREON, 7th May 1874, No. 565.

Miscellaneous.

RECORDED. Steps should be taken to recover the costs incurred in the suit on behalf of Government as soon as possible.

(True Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

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

Exd. F. R. Bantleman.

No. 928.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 20th April 1874.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 25th March 1874, No. 32:—

With reference to the Board's Proceedings noted in the margin, I have the honour to report the final disposal of the Special Appeal (No. 500 of 1873) in the

Dated 22nd November 1873, No. 2,400. Palur Water Case. The case was first heard on 15th December 1873, and remitted to the District Court for a further judgment, especially upon the question whether there was, as alleged by the plaintiffs, a contract on the part of Government in 1848, when the anicut at the head of the disputed channel was constructed to allow a prior supply of water to the plaintiffs' villages, in consideration of increased revenue to be derived from them. The District Judge recorded a further judgment, adhering to his former decision, and finding in effect that there was nothing to bind the Government to allow any priority to the plaintiffs in the use of the water, though, as a matter of fact, their wants had always been considered first.

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3. The Collector and certain officers of Public Works Department were defendants in the case. The question involved was the right of Government to regulate the distribution of the water of the Trivady anicut. The decision is in favour of Government.

(A true Copy and Extract.)

J. Grose
Secretary.

To the Acting Secretary to Government, Revenue Department,
with one Enclosure to be returned.

Copy to the Collector of South Arcot,
to the Government Pleader, with enclosure returned.

Exd. G. A. Turton.

1st sheet

1874 No. 13

1874 No. 13

REVENUE

REVENUE

REVENUE

REVENUE

REVENUE

REVENUE



In the High Court of Judicature at Madras.
Monday, the twenty-third
Day of March, One thousand
eight hundred and
seventy-four.

Present:-
The Honorable Sir Walter Morgan, Knight,
Chief Justice.
And
The Honorable Mr. Justice Kindersley.
Special Appeal No. 500 of 1873
(C. M. Pet. No. 340 of 1873)

L-S

Latchumana Reddi
and 20 others.
Special Appellants.
(Plaintiffs.)
W. B. Harrington
Engineer, & 9 others.
Special Respondents
{ 1st to 3rd & 5th Depts, 6th Depts
referred 10th to 12th, 14th & 15th Depts. }

Special Appeal against the Decrees of the
District Court of Buddalore in Regular Appeals
Nos 31 & 39 of 1872, reversing the Decree of the
Judge of the Court of Small Causes at Bud-
dalore (on the P. S. Amin's side) in Original
Suit No. 43 of 1866.

Decree:- This Special Appeal coming on
for final hearing after the return of the finding
of the Lower Appellate Court with reference
to the order of this Court dated the 2nd January 1874,
Upon perusing the grounds of Special Appeal, the
Judgments and Decrees of the Lower Appellate
Court and Court of First Instance, the finding
of
1st sheet

27 August 1874 to 23-238

No 1395
Revenue 1874. Repts

Board of Revenue,
MADRAS.

PROCEEDINGS, 20TH APRIL 1874, No. 928.

Aug 27 1874

Encl. 1

Received 28 April 74.

APRIL
No. 928.

Suit, Special Appeal—No. 500 of 1873,
on file of High Court, regarding Palar Water
Dispute, in South Arcot District, in which
question of right of Government to regulate
distribution of water of Triady anicut was
involved.—Government Pleader's letter report-
ing decision of—in favour of Government,
submitted to them.

16565-7 May 74

27th

No 505.

Recorded. Also should be taken

to recover the costs incurred in the suit.

on behalf of Govt. as am a defendant.

gllc

7 May 74

14 To Messrs. R. S. & Co. 15 May 74

6. Receipt —



In the High Court of Judicature at Madras.
Monday, the twenty-third
Day of March, One thou-
sand eight hundred and
seventy-four.

Present:-
The Honorable Sir Walter Morgan, Knight,
Chief Justice.
And
The Honorable Mr. Justice Hindersley.
Special Appeal No. 500 of 1873
(C. M. Pet. No. 340 of 1873)

Latchumana Reddi
and 20 others.

Special Appellants.
(Plaintiffs.)

W. B. Harrington
Engineer, & 9 others.

Special Respondents
{ 1st to 3rd & 5th Depts, 6th Dept.
replies 10th to 12th, 14th & 15th Depts. }

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of the Lower Appellate Court with reference
to the order of this Court dated the 2nd January 1874;
Upon perusing the grounds of Special Appeal, the
judgments, and Decrees of the Lower Appellate
Court and Court of First Instance, the finding

Mm.

1st sheet

27 August 1873 to 237-238

No 1395

Revenue 1874. Appeal

Board of Revenue,

MADRAS.

PROCEEDINGS, 20TH APRIL 1874, No. 928.

Dep't 27 Oct 1874

Encl. 1

Received 28 April 1874.

APRIL
No. 928.

Suit, Special Appeal—No. 500 of 1873,
on file of High Court, regarding Palar Water
Dispute, in South Arcot District, in which
question of right of Government to regulate
distribution of water of Trivandy ancient was
involved.—Government Pleader's letter report-
ing decision of — in favour of Government,
submitted to them.

No 505-7 May 1874

With an order

No 505.

Recorded. Also should be taken

to recover the costs incurred in the suit.

on behalf of Govt. as soon as possible.

CLC

7 May 1874

147 To Mr. J. C. R. and Mr. J. C. R. 1874

6. Court sent — 1874

of the Lower Appellate Court and the Memorandum of objections to the said finding; and upon hearing the arguments of Mr. Muller and Mr. Shaw, Counsel for the Special Appellants and of Mr. Government Pleader for the 1st, 2nd, 3rd, 9th and 10th and R. Balaji Row, Vakils for the 4th & 8th Special Respondents, the other Special Respondents not appearing in person or by Counsel, this Court doth order and decree that the decrees of the Lower Appellate Court be, and the same hereby are, confirmed, and this Appeal dismissed; and this Court doth further order and decree that the Special Appellants do pay Rs 30-8-0 to the 1st, 2nd, 3rd, 9th & 10th Special Respondents and Rs 22-0-0 to the 4th and 8th Special Respondents for their costs in opposing this Special Appeal.

(Signed) W. Morgan.
Chief Justice.
" " J. R. Henderson.
Judge.

Memorandum of Costs.

1 st , 2 nd , 3 rd , 9 th & 10 th Special Respondents' (1 st , 2 nd , 3 rd , 9 th & 10 th Defendants) Costs			
Government Pleaders' fee	Rs - 20 - 0 - 0	P. - 20 - 0 - 0	P. - 20 - 0 - 0
One printed copy purchased	10 - 8 - 0		30 - 8 - 0
4 th & 8 th Special Respondents' (5 th & 12 th Defrs) Costs.			
Stamp for Vakalatnamah	2 - 0 - 0		
Vakils' fee as above	20 - 0 - 0		22 - 0 - 0
To be paid by the Special Appellants (Plffs) }			52 - 8 - 0

(Signed) T. Wain
Reg. Registrar
App. Secy.

234 last check (True copy)

W. Morgan
Deputy Registrar
Appellate

Esq.

In the District Court of Southbrook

85/1

Wednesday, the twenty-fifth day of

February, one thousand eight hundred

and seven years.

Present

Robert B. Swinton Esquire,

Acting District Judge.

Appeal suit No 31 of 1872.

The Collector of Southbrook

Appellant.

(vs Defendant)

Latchmana Reddi and others.

Respondents.

(Plaintiffs)

Revised Judgment.

This appeal having been remanded
for a further judgment after a
consideration of the whole evidence both
oral and documentary, Mr. O. Shaw,
Barrister at Law, was heard again for
the

In P.D. No 1505/74

1505

Mr. O. Shaw 30/4/74

the special Appellants Latchman
Reddi and others, and Mr. C. Subba Rao
for the special Respondents. I have perused
the oral evidence taken by the Lower
Court, and have given special attention
to the parts of the documentary evidence
pounded out by the Counsel for the
Special Appellants. No cases were cited
by either side and no remarks made upon
the Law to be applied. The Counsel
for the Special Appellants confined
himself to pointing out the probability
of the existence of a contract between
the Collector for the time being on the
part of Government, and the represen-
tatives of the 18 Villages to the exclusion

3
55/6 X
of the two Villages, that if they would
pay Rs. 5,000 annually by way of
Government dues on increased cultivation,
the Government would build a masonry
dike. It was also urged that there
was no evidence to show that the Defendants
ever had a $\frac{1}{5}$ th share of the water, but
that only by contending for it they got
surplus water. I did not consider it
improbable, before, that a paper called
a *Murchik* had been taken upon the
occasion of the new dike being projected.

I find the oral evidence is respectable,
it is that of old men, and too much
is not sought to be remembered. Rs. 5,000
may have been set down in it as the
probable increased amount of revenue. I
conclude

look upon it as only a rough estimate
what the Anikat might be expected to
procure could the Collector have sued
these ryots jointly or severally for about 5,000,
upon the consideration of Government having
built the Anikat. The Parties were just
where they were before, the Collector
and his successors having to use the
ordinary law of distraint for arrears; on
the other hand would the signatories
have sued the Government for the special
performance of their contracts to build
an Anikat.

2. Exhibit H. H. was again
referred to, as corroborative evidence
of the Muckhika. This is an extract
from the Minutes of Consultation of
September

September 1846. In Paragraph 5, there
is the statement quoted from a report
of the Collector of South Arcot that
1397 Kanas of waste land could be
made productive if an anikat was
constructed. C. in answer by the Collector
to a Tahildar of May 1846 was supposed
to apply to the preparations for this work
by clearing the channels; according to that,
the villagers had very little choice what
they were to do. As also corroborative
of the fact of an agreement having
been come to about the building of the
Anikat, Captain Cotton's report, the
part at page 22 below the plan is
instanced as showing that the Muttadars
of Panamadura wanted to agree
for

for an Amkat paying for it
by monthly instalments.

3. The rest of the documentary
evidence has been connected on with
a view to show that the Palar people
never had a share of the water.

4. The order of the Collector
of 19th January 1854, finds fault with
the Palar people for not repairing
their own mud dam, and refers to
two orders of the 14th and 15th of that
month prescribing how the Palar lands
were to be irrigated. These are I. and M.

from which it appears that the Tahildar
was directed to spare some water from
the Private Amkat Channel to the
channel

95/12
Channel B. going to Plaintiffs' villages,
but only under considerable restrictions.

5. The heading of the Notice
A has been altered to as describing the
Plaintiffs as "the 18 Villagers who have
the irrigation of Private Amkat Channel."

6. The translation I of the Collector's
order of 5th April 1862 was compared
with exhibit M N (not printed) in
the beginning of the former the Collector
stated that in company with the Engineer
he considered there was enough water for
the two villages, as well as the 18, and
removed the earthen erection over the dam
in the channel (raised by the Plaintiffs)
having regard at the same time that the
18 Villagers should not be hurt. The
order

over asserts the Collector's authority,
to allow water in hard times to Palar,
but also admits that the 18 Villages have
a priority of right. In **MM** of June
1864, in reply to a petition of the Plaintiffs,
the Collector wrote in allusion to what took
place in 1862, that he had directed the water
permanently to be turned off contrary to
Mamul, but that it was evinced that
he was right in so doing.

7. Prior to this in 1854, the
opening terms of an order **CC** of November
1854, to the Tahildar, were referred to.
The English is contradictory. "When
I ordered to allow water from the
main channel of the Anikot for the
irrigation

irrigation to Palar and Palamaraya
- namely wet lands, it was not in-
- tended to allow water to the above
two Villages." The Tamil seems to
mean that any law in allowing water
to Palar, the same cultivation of the
18 Villages in February and March
was not to be injured. In **V** of
April 1859 Mr. Rattliff finds
fault with a Tahildar for obeying
the Engineer and letting water down
to Palar, and in March 1860, (**II**)
Mr. Wood referring to a former order
of Mr. Hall of March 1856, directs
that no water should go after February
and fined the Tahildar for letting
it go on to the 8th March.

8. Of the later documents,

CC

17
Q Q is a letter from the S^d Plaintiff
Singari Muttusamy Mudaliyar,
dated 2^d January 1865 declining to
submit the matter to the Collector's arbi-
-tration, and PP is a memo in reply
by the Collector (Mr. Pease) explain-
-ing what he meant to do.

9 The evidence shows that
the different Collectors have always
asserted the right of Government
to regulate the supply of water that
should be allowed to the defendants
Village, though the Plaintiffs' supply
has been first considered; that they
are going still to use this discretion
by measuring shutters fixed in a
sluice

35/5
sluice does not give the Plaintiffs
any cause of action. I am of
opinion that the decree of the Lower
Court is binding to restrain the
action of the Government, should
be reversed with costs.

(signed) R. Swinton.

District Judge.

(True copy)

(signed) F. Weir

Ag. Registrar

Appellate side.

(True copy)

J. J. Moore
Secretary

C. J. Murphy

W. B. B. B.
C.

