

(1) Number of Pages.....8

(2) Date of repair 23-6-67

(3) Initials of the Referencer *22.1.68*

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

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

62

Press
Mis.

Dated

6-7-1874

196

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Not to be folded or roughly handled



62

In the High Court of Judicature at Madras.
Friday, the twenty fourth
day of April, One thousand
eight hundred and seventy four.

Present.
The Honorable Sir Walter Morgan-Knight,
Chief Justice.
The Honorable Mr. Justice James.
Regular Appeals No. 20 of 1874.
Major R. Hunter.
Appellant.
(Defendant)

L. J.

The Secretary of State for
India in Council by Colonel
Edward Archibald
Wood, Superintending
Engineer, 5th Division.
Respondent
(Plaintiff)

Regular Appeal against the
Decree of the District Court of Salem in Original
Suit No. 1 of 1873.

Grounds of Appeal.

- I.st The Lower Court used is not framing issued
as required by Section 129 of Act VIII of 1859.
- II.nd The Lower Court used in giving a decree for a
larger amount than was originally claimed by
Plaintiff.
- III.rd The Plaintiff was not "ex-officio" or otherwise
authorized to act for Government in respect of
any suit or judicial proceeding under Section
17 of Act VIII of 1859.
- IV.th The Lower Court used in allowing the Rs. 750,
the estimate of the upkeep of the roads in dispute.

J.M.
1st Sheet.

at Rs. 250 per annum for three years.

V. " At the time of the Sale of the Lands in dispute to the Defendants, it was expressly stated that such lands were sold without any reservation.

Decree: This Regular Appeal coming on for hearing. Upon perusing the grounds of Appeal, the judgment and Decree of the Lower Court and the material papers in the Suit, and upon hearing the arguments of Mr. J. H. S. Branson, Counsel for the Appellant, and of Mr. Government Pleader for the Respondent, this Court doth order and decree that the Decree of the Lower Court be, and the same hereby is modified by reducing the amount of damages to Rs. 2500 and in other respects Confirmed; and this Court doth further order and decree that each party do bear his own Costs of this Regular Appeal.

(Signed) W. Morgan.

Chief Justice.

(Signed) L. C. Jones.

Judge.

(True Copy)

W. Morgan
Deputy Registrar,
Appellate Side



6/3

In the High Court of Judicature at Madras
Friday, the twenty-fourth day
of April, One thousand eight
hundred and seventy-four.

Present.

The Honorable Sir Walter Morgan, Knight,
Chief Justice.

The Honorable Mr. Justice James.

Regular Appeal No. 20 of 1874.

Major R. Hunter.

Appellant

(Defendant)

The Secretary of State for India in
Council by Colonel Edward
Archibald Ford, Superintending
Engineer, 5th Division.

Respondent

(Plaintiff)

Regular Appeal against the Decree of the
District Court of Salem in Original Suit No. 10 of 1873.

This Regular Appeal coming on for hearing,
the Court delivered the following

Judgment:— We are of opinion that there is no ground
for interfering with the District Judge's decision in
this case, except on the question of damages, the
amount of which seems to have been arrived at in
a somewhat arbitrary manner, in respect of the sum of
750 Rupees described as the estimated cost of "up. keep"
of the road. The damages should be reduced to
Rupees 2500 — " —

We shall order accordingly. Each party must
bear his own costs of this appeal.

(True copy)

(Signed) J. Wiv.

Acting Registrar,

Appellate Side.

(True copy)

W. Morgan

Deputy Registrar,

Appellate Side.

Filed

Recd: No. 6276/74

Recd: No. 371/74

Recd: 21/8/74

62/4
No. 1,527.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 22nd June 1874.

Read the following letter from W. M. SCHARLIEB, Esq., Acting Government Pleader, Madras, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 21st May 1874, No. 87:—

In continuation of Mr. Handley's letter, dated 27th April last, No. 58, I have the honour to forward certified copy of N.B.—Enclosures forwarded with the Proceedings of the Board of Revenue, dated 25th March 1874, No. 677, are returned herewith. the judgment and decree of the High Court in Regular Appeal No. 20 of 1874, preferred by Major Hunter against the decree of the Court of Salem in favour of the Superintending Engineer of the 5th Division on behalf of Government.

2. I observe that Mr. Handley reported that the damages were reduced to Rupees 2,250 by disallowing the sum of Rupees 750 for the up-keep of the roads. The decree and judgment, however, make the damages Rupees 2,500. I referred to the decree of the District Court as set out in the printed paper, and I found that Rupees 2,900 was the sum allowed by that Court. If Rupees 750 be deducted from Rupees 2,900, the amount of damages payable by Major Hunter would be Rupees 2,150 and not Rupees 2,250 as reported by Mr. Handley, nor Rupees 2,500 as stated in the decree of the High Court. I saw the Registrar of the Court personally on the subject, and he explained that he took a note of the reduced damages as it was stated by the Court at the time the case was disposed of. If we look at the wording of the judgment, we find that the High Court say that the amount of the damages "seem to have been arrived at in a somewhat arbitrary manner in respect of the sum of Rupees 750 described as the estimated cost of the up-keep of the roads;" and then they add "the damages should be reduced to Rupees 2,500." It may be that the Judges did not mean to disallow the entire sum of 750 Rupees, and that, in round numbers, they thought the damages may well be laid at 2,500 Rupees. Anyhow, it is for Major Hunter to dispute the decree if he is so disposed.

ENCLOSURES Nos. 1 and 2.—Copies of Judgment and Decree.

SUBMITTED to Government in continuation of Board's Proceedings, dated 23th May 1874, No. 1,284.

(A true Copy and Extract.)

J. Grose
Secretary.

To the Acting Secretary to Government, Revenue Department, with two original Enclosures.
Copy to the Collector of Salem, with copies of Judgment and Decree.
to the Government Pleader.

Ed. F. R. Bantleman.

Recd 21/8/74
Ld. M. to 30/8/74
is 106227/74

4-09 100/74 1883-84

No 2178
J. 10 1874

Revenue 1874. Department
Board of Revenue,
MADRAS.

PROCEEDINGS, 22ND JUNE 1874, No. 1,527.

2002299 June 174.

Incl. 2

Received 30 June 1874.

JUNE.
No. 1,527.

Suit, Regular Appeal—No. 20 of 1874,
preferred to High Court by Major R. Hunter
against decree of Salem District Court in Suit
No. 1 of 1873, regarding certain disputed roads.
—Letter from Acting Government Pleader for-
warding with remarks certified copies of judg-
ment and decree in—, submitted to Govern-
ment.

Filed on 10th
1874

No 12.

Communicated to the P. M. S. 1874
in continuation of P. O. 99 June 1874
the new number of 1874 99 June 1874.

No 709.

1 July 1874

CLL

2/7/74

2 June 1874 10-7-74