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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.

1081

B.P. No.

Press

Mis.

Dated

10-5-1876

196

Not to be folded or roughly handled

Proceedings of the Board of Revenue
Dated 4th May 1876
Read the following-

No. 98

From J. D. B. Gribble Esquire
Acting Collector of
Muddapalle
To L. A. Gallon Esquire
Acting Secretary to the
Board of Revenue
Madras

Sir,

With reference to Board's
Proceedings No- dated 21st
Instant, I have the honor
to state that I do not think
that action under Chapter ~~XXX~~
of the Criminal Procedure
Code, is advisable in this
case for the following rea-
sons.

2. The tank bund is re-
ported to require repairs
and danger is anticipated
because

because the waterway of the
Kalingula is insufficient
but whatever danger there
may be, is actually increased
by the Government authorities
by the construction of the
separating bund between
the Jallalamadaka tank
and the Government Korla-
cunka tank. It has been
decided that that bund
should be built, and the
effect of it will be to pre-
vent water flowing from
the Shrotriens to the
Government tank. The
whole of the water which
comes into the Shrotriens
tank will, therefore have
to find an escape over the
Shrotriens Kalingula,
whereas formerly a great
portion went over the
Kalingula of the Government
tank

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tank, which tank is on a low-
er level than the Shrotriens
one. As regards action under
Chapter XXXIX, therefore, it
seems to me that it would
be necessary to serve a
notice not only on the
Shrotriens, but also
on the D. P. W. Officers.

B. I have not seen the
Advocate General's opinion,
but it seems to me clear
that a Magistrate could
not take action under
Section 518, because the
danger is not imminent
(vide explanation) the
tank being at present
empty, nor can it now be
said when danger will
occur, because it is
impossible to foretell
when the tank may re-
ceive a supply. The other
section under which action
could

could be taken, is 521, but I feel considerable doubt whether an order to repair the tank under this section might not be upset on appeal or reference to the High Court. The section provides what is to be done in the case of a building being dangerous from a state of weakness or from a tank or wall being injured, but it does not seem to contemplate repairs to the band and Calingula of a tank of this kind. I may be wrong in this opinion which I venture with deference, and therefore if the Board of Revenue think I am in error and direct me to do so I will take action under the Chapter.

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4. I have requested the District Engineer to prepare at once an estimate of the approximate cost of the necessary repairs and have also requested him to give his opinion regarding imminency of the danger.

5. My own opinion is that we should take the matter into our own hands and execute the repairs, leaving the amount to be recovered hereafter by suit. At the same time I feel bound to say that owing to the peculiar circumstances of the case by the construction of the separating band, it is in my opinion, very possible that, in a suit the Government would be cast.

Andrapah
Coll's office
in circuit at
Madras
25 April 1876

I have &c.
Sd/- J. D. B. Gribble
Ag Collector

The question of liability of
the

the Shrotrindars is un-
-doubtedly complicated by
the separating bund bet-
-ween the Jitalamadaka
and Korlakunta Tanks,
but the Board understood
from the enclosures to the
Collector's letter of the 11th
April, which have been
forwarded to Government
and are not available for
reference, that the bund
was of long standing and
had recently been rebuilt,
but not newly constructed.
A division between the two
tanks is clearly shown on
the Trigonometrical Survey
Map published nearly
35 years ago, from which
it is to be inferred that a
bund was in existence at
the time of the Survey. The
Board do not, however, recollect
any

any mention hitherto of
the fact that formerly a
great portion of the Surplus
water from the Shrotrind
Tank passed over the Bahi-
-gula of the Government
Tank, the latter being on
a lower level than the
former. If there is good
ground for supposing this
to have been the case, there
will be difficulty in fixing
responsibility on the Shro-
-trindars.

2. The question whether Mr.
Gribble would be justified
under the circumstances
in taking action under
Chapter ~~XXXIX~~ of the Code of
Criminal Procedure is one
on which the Board can-
-not issue instructions.
A copy of the Advocate
General's opinion on the
general

general question with how
he furnished for his in-
formation, and he must
decide for himself whether
the circumstances war-
rant interference in
his Magisterial capacity.

As regards the imminence
of the danger, however,
the Board remark that
the rainfall during the
storms which frequently
occur at this time of the
year, would suffice to
fill the tank in a few
hours; and to breach it,
should no sufficient es-
cape be provided.

3. The Board consider
that immediate steps
should be taken to render
the tank safe and if
Mr

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Mr. Gribble is not satisfied
of his power to act as a
Magistrate in this case,
he must take action as
Collector in consultation
with the District Engineer;
and he will be instructed
to this effect by telegram.
The Court being closed,
an application for an
injunction to compel the
Shrotriendars to take the
precaution requisite
is impossible; and the
Collector and District En-
gineer must decide what
is the best mode of ensuring
the safety of the tank and
Railway line. It should
be considered whether there
is any objection to
breaching the dividing
bund

und. The outlay must be
defrayed by Government for
the present; it will be con-
sidered hereafter on re-
ceipt of fuller information
whether a suit should be
instituted to recover the
amount from the Shro-
trividars.

/ True Copy & Extract
/ Sd/ C. A. Galloway
Ag Secretary.

To The Collector of Cuddapah
/ True Copy /

[Signature]
Ag Secretary

To The Secretary to
Government Revenue
Department

[Signature]
Sd/ W. S. S. S.

By Law

1. To the Board Dec. Dec 15 May
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No 1816
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Proceedings of the
Board of Revenue

Banked 4th May 1816
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