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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue. DEPARTMENT

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Not to be folded or roughly handled

1/561 Revenue Department

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

No 98

From J. D. B. Gribble Esquire
Acting Collector of
Cuddapah

To C. A. Galton 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 XXXIX of the Criminal Procedure Code, is advisable in this case for the following reasons.

2. The tank bund is reported to require repairs and danger is anticipated because

because the waterway of the Caligula is insufficient but whatever danger there may be is actually increased by the Government authorities by the construction of the separating bund between the Jillalamadaka tank and the Government Karla-cunta tank. It has been decided that that bund should be built, and the effect of it will be to prevent waterflowing from the Chrotrium to the Government tank. The whole of the water which comes into the Chrotrium tank will therefore have to find an escape over the Chrotrium Caligula; whereas formerly a great portion went over the Caligula of the Government tank

tank, which tank is on a lower level than the Chrotrium 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 Chrotrium dar, but also on the S. P. W. officers.

3. 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 1) 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 receive a supply. The other section under which action could

could be taken, in 521 but I feel considerable doubt whether an order to repair the tanks under this section might not be open to 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 well hanging over-hanging, but it does not seem to contemplate repairs to the bund 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.

I

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

5. In my own opinion it 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 bund, it is in my opinion, very possible that in a suit the Government would be cast.

I have &c

Cuddapah Collr's office on Circuit at Madanapully 25th April 1876

(Sig'd) J. D. B. Gribble
Ag Collector.

The question of liability of the

the Shrotriemdars is undoubtedly complicated by the separating bund between the Jillalamadaka and Kodakunda Tanks, but the Board understand 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 Shrotriem Tank passed over the Valivgula 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 Shrotriemdars.

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

general question will how be furnished for his information and he must decide for himself whether the circumstances warrant 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 escape be provided.

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

Mr

5/1081

Mr Gribble is not satisfied of his power to act as a Magistrate in this case, he must take action as he must take action as Collector in Consultation with the District Engineer and he will be instructed to this effect by telegram.

The Board having closed an application for an injunction to compel the Municipal authorities to take the precautions requisite if impossible and the Collector and District Engineer must decide what is the best mode of insuring the safety of the tank and Railway line. It should be considered whether there is any objection to breaching the dividing bund

hund. The outlay must be defrayed by Government for the present; it will be considered hereafter on receipt of fuller information whether a suit should be instituted to recover the amount from the Contractors.

I have &c
(Sd) H. A. Galton
Ag. Secretary.

To The Collector of Cuddapah
(True copy)

Ag. Secretary

To The Secretary to
Government Revenue
Department

E. Thompson
Sd. H. Chambers

No 1816

Revenue 1876 Default
Proceedings after
Board of Revenue

Dated 4th May 1876
Despd 5 " "
Recd do

Jillalamadaka Tank.
Unsuccessful Dist.
Issuing instructions
to Collector as to steps
to be taken to have
the necessary re-
-pairs to — Jillaka-
No 1081 Received. It is
presumed that copy
of the Proceedings has been
furnished to Sohini Rev.
Dept.

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