

- (1) Number of pages 4
(2) Date of repair 20.12.1969
(3) Initials of the Referencer _____

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

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

1480

Press
Mis.—

Dated 26.6.1876

196

Not to be folded or roughly handled

Sh

No. 128. Read the following Proceedings of the Board of Revenue, dated 4th May 1876, No. 1,179:—

Read the following letter from J. D. B. GRBBLE, Esq., Acting Collector of Cuddapah, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Madanapully, 25th April 1876, No. 98.

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 repair, and danger is anticipated, because the waterway of the calingulah 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 Korlacuntla tank. It has been decided that that bund should be built, and the effect of it will be to prevent water flowing from the Shrotriem to the Government tank. The whole of the water which comes into the Shrotriem tank will, therefore, have to find an escape over the Shrotriem calingulah, whereas formerly a great portion went over the calingulah of the Government tank, which tank is on a lower level than the Shrotriem 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 Shrotriemdars, but also on the Public Works Department 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 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 well being unfenced, but it does not seem to contemplate repairs to the bund and calingulah of a tank of this kind. I may be wrong in this opinion, which I venture with diffidence, 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.

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

THE question of the liability of the Shrotriemdars is undoubtedly complicated by the separating bund between the Jillalamadaka and Korlacuntla 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 thirty-five 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 mention hitherto of the fact that formerly a great portion of the surplus water from the Shrotriend tank passed over the calingulah 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 Shrotriendars.

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 cannot issue instructions. A copy of the Advocate-General's opinion on the general question will now 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. 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 precautions requisite is impossible, and the Collector and District Engineer 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. 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 Shrotriendars.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

No. 129.

ORDER THEREON, 7th June 1876, No. 1,423.

IRRIGATION, No. 9.

COMMUNICATED to the District Engineer, Cuddapah, in continuation of G.O., 4th May 1876, No. 1,102. It is observed

with reference to paragraph 1 of the Board's Proceedings that the facts of the case, so far as ascertainable from levels or demonstrable from the circumstances, should be fully inquired into and settled.

2. His Grace the Governor in Council also considers that, with reference to the papers printed in Proceedings, Madras Government, No. 1,102, of the 4th May last, the Consulting Engineer for Railways should ascertain whether the 30 feet waterway

on the railway is sufficient to pass the drainage of 10 square miles, the flood discharge from which is estimated by the District Engineer at 2,611 cubic feet a second.

(True Extract.)

W. H. H. H. Colonel,
Offg. Under Secy. to Govt., P.W.D.

To the District Engineer, Cuddapah.
" Consulting Engineer for Railways.
" Chief Engineer for Irrigation.
" Revenue Department.

Exd. E. C. Shunker.

20 Spare Copies

sent to ...

10 12 October 175 - 21
 6 Nov - 2
 10 May 176 - 103
 10 do - 1082
 30 do - 1253 hrs
 14 June 176 - 119-150
 4 May 176 - 40-41 P10 B

No 2507
 Revenue 1670 & 1671
 Govt. of 1876 Madras.
 PUBLIC WORKS.

To
 THE DISTRICT ENGINEER,
 CUDDAPAH,
 &c. &c. &c.

Dated June 7th.

Issued

Recd. - 22

Encl.

G. O., 7th June 1876, No. 1,423.

JUNE
 No. 128-129.

Jilalamadaka Tank, Cuddapah District—
 Passing orders on Proceedings of the Board
 of Revenue issuing instructions to the Col-
 lector as to the steps to be taken by him to
 have the necessary repairs to the - executed.

No 1430
 Commenced at 10th of June

16626

26 June 1876

MADRAS RECORD OFFICE