

(1) Number of pages _____

(2) Date of repair _____

(3) Initials of the Referencer _____

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Rev. DEPARTMENT

G.O. No. B.P. No.	2602	Press. Mis.
Dated	30. 7. 1877	197

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

30th July 1877, No. 2,402.

Read the following papers :—

No. 554. Proceedings of the Board of Revenue, dated 1st June 1877, No. 2,541.

Read the following letter from W. S. FOSTER, Esq., Collector of the Godavery District, to H. E. STOKES, Esq., Secretary to the Board of Revenue, dated Cocanada, 16th May 1877, No. 137 :—

In forwarding herewith copy of a letter from the Assistant Collector in charge of the Head Assistant Collector's Division, No. 121, dated the 3rd instant, reporting on the Suit No. 49 of 1876 filed by one Sitayya Apparao Bahadur, Zemindari of Tangellamudi, in the District Munsif's Court of Ellore against me and the individuals noted in the margin, together with a plan and translations of the plaint and the answer already filed by the first defendant, I have the honor to submit, for the Board's approval, a draft answer proposed to be filed in the suit. The date of the hearing of the suit is the 15th proximo.

1. C. J. Peters, Esq., Officer in charge of No. 6 Range, Kistna District.
 2. Damarazu Seahachellam.
 3. Koduri Viranna.
 4. Chelasani Venkanna.
 5. Jasti Papayya.
 6. Koduri Pullayya.
- Ryots of Jalipudi village, Ellore Taluq.

2. It seems that the plaintiff wanted a sluice in the canal, and she was permitted by Mr. Peters to build one herself; there seems only to have been one condition attached to this permission, viz., that the sluice was to be approved by the Department of Public Works. The sluice was required to irrigate 350 acres, but one was built capable of irrigating a very much larger extent of land. It was, however, approved by Mr. Peters.

3. In Fasli 1282 another sluice used for irrigating a Government village was washed away, and since then this village has been irrigated by means of the sluice in dispute. Now, however, the plaintiff objects to the joint use of the sluice, and has brought a suit to establish her exclusive right to it. I have been made a defendant in the suit by the Court as Government interests are concerned.

4. It would never do to give this exclusive right to the sluice to the plaintiff; it would be equivalent to giving her the control over it and leaving us without the power of regulating the supply of water to her fields.

5. It seems that the Superintending Engineer of the Kistna District asked the plaintiff to withdraw the suit, and offered to repay to her the cost she incurred in building the sluice, and to build another for the Government village. This, I think, was reasonable. The plaintiff, however, has taken no notice of this proposal.

6. I do not think that Mr. Peters could have given the plaintiff the exclusive right to the sluice; but as she was allowed to build it at her own expense, it would seem that she would be entitled to some further privilege than the right of getting water on payment of the same amount that other people had to pay; still this could not extend to the exclusive right to, and control over, the sluice. The sluice has hitherto always been under the control of the Government officers.

7. I therefore think we should deny the right of the plaintiff to the exclusive use of the sluice, and assert the right of Government to regulate and control the distribution of water. I also think we should offer to do what the Superintending Engineer proposed, viz., to pay the expenses of building, and to build another sluice for the Government village; but I must say I am rather doubtful whether the Court might not consider this an admission of some right on the part of the

plaintiff; I do not think it ought to be considered an admission of any right to the control over the sluice. She was allowed to build it at her own expense, and it will be for the Court to decide what privilege it was reasonable for her to expect in return for this expenditure; but if this privilege interferes with the interests of Government (and the exclusive right to the sluice would), I suppose Government could not be bound to give it, but there would be a claim for damages against the first defendant. Government, however, have no right to use the sluice until they have paid for it.

8. I request the Board will sanction the defence of the suit at the expense of Government.

ENCLOSURE No. 1.

From W. J. TATE, Esq., Assistant Collector in charge of Head Assistant's Division, to W. S. FOSTER, Esq., Collector of the Godavery District, dated Vadapally, 3rd May 1877, No. 121.

REFERRING to your letter, No. 52, dated the 20th February 1877, I have the honor to report on the Suit No. 49 of 1876 filed in the Ellore District Munsif's Court by Sitayya Apparao Bahadur, Zemindar of Tangellamudi, against (1) C. J. Peters, Esq., Officer in charge No. 6 Range, Bezvada, and (2) Damarazu Seshachellam, (3) Koduri Viranna, (4) Chelasani Venkanna, (5) Jasti Papayya, and (6) Koduri Pullayya of Jalipudi in Ellore Taluq.

2. The suit was filed on 6th January 1876, and after it had gone to a certain stage the District Munsif was of opinion that the Collector should be included as a supplemental defendant to represent Government interests, and issued the summons received with your letter under reply.

3. The date of the hearing of the suit is 15th June 1877.

4. A copy of the plan of locality in dispute sent to me by the Government Pleader is enclosed for your information.

5. The following is a brief history of the circumstances which gave rise to this suit. On 6th January 1864 plaintiff procured, on formal application, the permission of the first defendant to build, at her own expense, the masonry sluice marked A in the plan to irrigate her lands in Kamadavolu (colored green in the plan) lying under the Kistna Canal. This permission was accorded on condition that the sluice should be built in such a way as to meet the approval of the professional department. The sluice, after its completion, was inspected and approved by the first defendant. The area of plaintiff's land to be irrigated by the sluice is only 350 acres, and the sluice was pronounced to be capable of irrigating about 2,000 acres. It was taken charge of by the Department of Public Works, and water sufficient to irrigate plaintiff's land was being given through this sluice till Fasli 1282, when a square wooden sluice at the point C marked in the plan, which had been supplying water to the Government village of Jalipudi (colored yellow in the plan), was washed away by the unusually heavy freshes of the Tammeleru in that year. Jalipudi is a village paying Rupees 5,333 and has an irrigable area of 1,365 acres, which could very conveniently be watered by the sluice in dispute. The first defendant in Fasli 1282 therefore allowed the ryots of Jalipudi to use in lieu of the washed away sluice the sluice in question jointly with plaintiff, inasmuch as it was in his opinion sufficient for the water-supply required in both the villages of Komadavolu and Jalipudi, and for the last five years had been in practice found sufficient.

6. Plaintiff alleges in the plaint that the joint use of the sluice creates constant quarrels and inconvenience between herself and the ryots of Jalipudi, and that the channel B and the ground at the point D was deepened so as to cause diminution of the supply of water to her lands, and seeks to establish her exclusive right to the sluice and the channel B.

7. Immediately after the institution, the District Engineer of the Kistna District wrote to the plaintiff to say that the Jalipudi ryots would be provided with a separate sluice; that the cost of the original building of the sluice would be repaid to plaintiff and water continued to be supplied as usual, and asked her to withdraw the suit from the Court. As no reply to this requisition was received, a draft answer, which forms part of the record which accompanies this letter, was filed by the Range Officer. The first defendant stated therein that the channel B and the ground D were never deepened.

8. The sluice in dispute would have been built by Department of Public Works of their own accord if the plaintiff had waited till the usual course of their business permitted them to do so. She was impatient and offered to build it at her own expense, and the acceptance of this offer should, I think, not have been considered by the plaintiff as an act conferring on her any right or title to the sluice. It should, on the other hand, be regarded as an act of grace towards the plaintiff. The site on which the sluice was built and part of the channel B into which the water of the sluice is discharged form part of the Government land attached to the town of Ellore. The sluice ever since its construction has been in the sole charge of Department of Public Works. Its shutters, which have been made at the cost of Government, are closed when necessary by subordinate Department of Public Works Officers, and, in fact, all that is needed to ensure a proper supply

of water both to plaintiff and the village of Jalipudi through this sluice is done by Department of Public Works. Repairs to a small extent have also been made to the sluice by Government in 1875. These things plainly show that the entire control over the sluice and the distribution of water discharged by it have been exercised by Government officers both prior and subsequent to Fasli 1282, and beyond having obtained from the Department of Public Works a statement to the effect that they would bear the cost of the sluice, the plaintiff has exercised no ownership at any time over this sluice or the water flowing through it, and I do not think that an offer to bear the cost of the sluice can be construed into an admission that the sluice is the plaintiff's own. It is merely an assertion that the sluice really belongs to Government, and that Government are therefore willing to pay for it. In these circumstances, I think plaintiff's claim is unfounded.

9. If the suit is not properly defended by the defendants in the plaint, the right of the plaintiff to the sluice would be established by the Court, and the establishment of this right carries with it a right to the distribution of water discharged by the sluice, the result being that the right of regulating and controlling the distribution of water hitherto vested in the officers of Government would in effect be hereafter transferred to plaintiff, a course which endangers not only the safety of the bund in which the sluice in dispute exists, but is also likely to affect the safety of other irrigation works in the vicinity in charge of Department of Public Works. The lands of Jalipudi would also suffer by the giving up of the sluice to the plaintiff, and loss of revenue to Government would result unless another suitable sluice be provided in proper time. I therefore recommend that the suit be defended on behalf of Government, and propose to file the following draft answer:—

“(1.) The right of regulating and controlling the distribution of water from public sources of irrigation vests in the Revenue authorities.

(2.) The Collector denies the right of the plaintiff either to the sluice A in dispute or channel B. The sluice A according to professional opinion is quite out of proportion to the irrigated area of the land belonging to the plaintiff lying under the sluice, and is sufficient to irrigate the lands of Jalipudi also. It has always been under the charge of Department of Public Works officers, who have power to use it in the best way they can. The site on which the sluice is built belongs to Government, and the permission given by the first defendant to build a sluice does not give the plaintiff any right or title to take water through it beyond such quantity as is sufficient to irrigate her own lands, or distribute such water at pleasure. She never exercised any acts of ownership over the sluice beyond bearing the cost of the sluice.

(3.) The level of the channel B and the ground D was never altered, and this can be proved by oral evidence.

(4.) The Collector prays for costs.”

10. All the papers bearing on the subject are enclosed for your information.

ENCLOSURE No. 2.—Translation of Plaint.

ENCLOSURE No. 3.—Copy of Plan filed by Plaintiff.

ENCLOSURE No. 4.—Copy of Statement filed by first Defendant.

ENCLOSURE No. 5.—Draft Answer.

THE Board observe that the subject of this letter has been disposed of by G.O., dated 20th April 1877, No. 1,350, Public Works Department, communicated to the Collector of Kistna by Board's Proceedings, dated 14th May 1877, Miscellaneous No. 7,042. Copy will now be sent to the Collector of Godavery, who has been made a supplemental defendant, and that officer will arrange, in communication with the Collector of Kistna, for an answer being put in on his part in the terms of that filed by the Superintending Engineer for the Range Officer Mr. Peters.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Secretary.

No. 554-A. Proceedings of the Board of Revenue, dated 21st July 1877.
Read the following letter from W. S. FOSTER, Esq., Collector of the Godavery District, to H. E. STOKES, Esq., Secretary to the Board of Revenue, dated Cocanada, 7th July 1877, No. 177.

WITH reference to G.O., No. 1,350, dated 20th April 1877, Public Works Department, communicated with Board's Proceedings, No. 2,541, of 1st ultimo, I have the honor to state that I have obtained from the Superintending Engineer, Kistna District, copy of the draft answer filed on behalf of Mr. Peters in the District Munsif's Court of Ellore (copy of which is herein enclosed). It would appear therefrom that the object and intent of that answer are nearly the same as those of mine forwarded with my letter of the 16th May 1877, No. 137.

2. In the order above quoted Government decided that the suit cannot be defended at the cost of the State. I request, therefore, the Board's instructions how I am to act in the matter. I have applied the Court for a further extension of time till the end of this month.

ENCLOSURE No. 1.

Translation of Telugu Statement by 6th Divisional Officer.

Replies from C. J. PETERS, Esq., 6th Divisional Officer, to Munsif's Court, Ellore.

WITH regard to the establishment of the right to sluice A and channel B, I have not said that the sluice is not built by the complainant, nor that water should be supplied through that channel and sluice to his lands.

I consider that the water discharged through that sluice is sufficient for about 2,000 acres; he has only 350 acres of wet cultivation under it. The shutter of that sluice is Government property. The sluice is being fully opened, and the water, which is Government property, is let out for the supply of both the plaintiff's and Government lands. It has been going on for last five years. The sufficient or loss of crops. Since the construction of the sluice the duties of opening and closing the sluice, repairing and watching, have been done by Government; it is going on in the same way now; therefore the plaintiff has no cause of complaint against me. Of the land under the channel B part of it is the property of Government. With regard to the right of the sluice and channel, the plaintiff has sustained no loss; therefore the suit may be dismissed at once.

2. Requesting the payment of Rs. 60, expenses for deepening channel B, I gave no orders to deepen the channel B. Water can flow to plaintiff's fields by that channel without difficulty; therefore there is no cause of complaint concerning this.

3. Reply to the request to prevent water flowing to the fields of Jalipudi by the sluice A and channel B, that it is fair that any surplus water after the plaintiff's fields have been supplied should be used to Jalipudi and other Government lands.

The plaintiff has right only to the sluice he built, but he has no right to prevent the surplus water going to Government lands. The control of water through the sluice has always been under the officers of Government.

4. The Government are ready to pay the value of sluice if the plaintiff accepts this; it will make no difference in the supply of water to his fields.

5. The plaintiff has, without reason, brought this suit against me; therefore the Court is requested to dismiss the case and order the payments of defendant's expenses by the plaintiff.

(Signed) C. J. PETERS,
Executive Engineer.

No. 95.

COMMUNICATED the Collector of Godavery District with reference to his No. 87, dated 18th instant.

MASULIPATAM,
26th June 1877.

(Signed) J. HASTED, Major, R.E.,
Superintending Engineer, Kistna District.

In their Order, * dated 20th April 1877, No. 1,350, Public Works Department,

Government expressed the opinion that the suit cannot be defended, and directed that Rs. 60, damages claimed by plaintiff,

should be paid into Court, and that her right to the exclusive use of the sluice and the water drawn from it should be admitted with the understanding that this admission implies only a right to an adequate supply of water for the lands for which the sluice was constructed and no more.

2. Considering the terms of the answer, copy of which has now been submitted by the Collector, it seems clear that it was filed previous to the issue of G.O., dated 20th April 1877. The Collector should address the Superintending Engineer on the subject, and arrange for a statement being put in on his own behalf and for the Range Officer in the terms of the Government Order above quoted in substitution of the answer previously filed by Mr. Peters.

(True Copies and Extract.)

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

No. 55.

ORDER THEREON, 30th July 1877, No. 2,402.

Irrigation, No. 4.

COMMUNICATED to the Public Works
Department.

(True Extract.)

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

To the Public Works Department.
the Board of Revenue.

Exd. A. F. Goodall.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 1st June 1877.

Read the following letter from W. S. FOSTER, Esq., Collector of the Godavery District, to H. E. STOKES, Esq., Secretary to the Board of Revenue, dated Cocanada, 16th May 1877, No. 137 :—

In forwarding herewith copy of a letter from the Assistant Collector, in charge of the Head Assistant Collector's Division, No. 121, dated the 3rd instans, reporting on the Suit No. 49 of 1876 filed by one Sitayya Apparao Bahadur, Zemindarni

1. C. J. Peters, Esq., Officer in charge of No. 6 Range, Kistna District.
2. Damarazu Seshachellam.
3. Koduri Viranna.
4. Chelmasani Venkanna.
5. Jasti Papayya.
6. Koduri Pullayya.

of Tangellamudi, in the District Munsif's Court of Ellore against me and the individuals noted in the margin, together with a plan and translations of the plaint and the answer already filed by the 1st defendant, I have the honor to submit, for the Board's approval, a draft answer proposed to be filed in the suit. The date of the hearing of the suit is the 15th proximo.

2. It seems that the plaintiff wanted a sluice in the canal, and she was permitted by Mr. Peters to build one herself; there seems only to have been one condition attached to this permission, viz., that the sluice was to be approved by the Department of Public Works. The sluice was required to irrigate 350 acres, but one was built capable of irrigating a very much larger extent of land. It was however approved by Mr. Peters.

3. In Fasli 1282 another sluice used for irrigating a Government village was washed away, and since then this village has been irrigated by means of the sluice in dispute. Now however the plaintiff objects to the joint use of it and has brought a suit to establish her exclusive right to it. I have been defendant in the suit by the Court as Government interests are concerned.

4. It would never do to give this exclusive right to the sluice; it would be equivalent to giving her the control over it and leaving her the power of regulating the supply of water to her fields.

5. It seems that the Superintending Engineer of the Kistna District offered the plaintiff to withdraw the suit, and offered to repay to her the cost of building the sluice, and to build another for the Government. I think, was reasonable. The plaintiff however has taken no notice of this proposal.

6. I do not think that Mr. Peters could have given the plaintiff the exclusive right to the sluice; but as she was allowed to build it at her own expense, it would seem that she would be entitled to some further privilege than the right of getting water on payment of the same amount that other people had to pay; still this could not extend to the exclusive right to, and control over, the sluice. The sluice has hitherto always been under the control of the Government officers.

7. I therefore think we should deny the right of the plaintiff to the exclusive use of the sluice, and assert the right of Government to regulate and control the distribution of water. I also think we should offer to do what the Superintending Engineer proposed, viz., to pay the expenses of building, and to build another sluice for the Government village; but I must say I am rather doubtful whether the Court might not consider this an admission of some right on the part of the plaintiff; I do not think it ought to be considered an admission of any right to the control over the sluice. She was allowed to build it at her own expense, and it will be for the Court to decide what privilege it was reasonable for her to expect in return for this expenditure; but if this privilege interferes with the interests of Government (and the exclusive right to the sluice would), I suppose Government could not be bound to give it, but there would be a claim for damages against the 1st defendant. Government however have no right to use the sluice until they have paid for it.

8. I request the Board will sanction the defence of the suit at the expense of Government.

REVENUE.

PUBLIC WORKS DEPARTMENT.

Cc. Cc. Cc.

Encl.

G.O. 30th July 1877, No. 2402

JULY.
Nos. 551-555.

Suit against Mr. Peters in the Ellore District Munsif's Court in connection with a sluice and canal. — Communicated to the Public Works Department. Proceedings of the Board of Revenue submitting copy of the draft answer filed in —

ENCLOSURE No. 1.

From W. J. TATE, Esq., Assistant Collector, in charge of Head Assistant's Division, to W. S. FOSTER, Esq., Collector of the Godavery District, dated Vadapally, 3rd May 1877, No. 121.

Referring to your letter, No. 52, dated the 20th February 1877, I have the honor to report on the Suit No. 49 of 1876 filed in the Ellore District Munsif's Court by Sitayya Apparao Bahadur, Zamindar of Tangellamudi, against (1) C. J. Peters, Esq., Officer in charge No. 6 Range, Bezvada, and (2) Damarazu Seshachellam, (3) Koduri Viranna, (4) Chelasani Venkanna, (5) Jasti Papayya, and (6) Koduri Pullayya of Jalipudi in Ellore Taluq.

2. The suit was filed on 6th January 1876, and after it had gone to a certain stage the District Munsif was of opinion that the Collector should be included as a supplemental defendant to represent Government interests, and issued the summons received with your letter under reply.

3. The date of the hearing of the suit is 15th June 1877.

4. A copy of the plan of locality in dispute sent to me by the Government Pleader is enclosed for your information.

5. The following is a brief history of the circumstances which gave rise to this suit. On 6th January 1864, plaintiff procured, on formal application, the permission of the 1st defendant to build, at her own expense, the masonry sluice marked A in the plan to irrigate her lands in Kama-davolu (colored green in the plan) lying under the Kistna Canal. This permission was accorded on a condition that the sluice should be built in such a way as to meet the approval of the professional department. The sluice, after its completion, was inspected and approved of by the 1st defendant. The area of plaintiff's land to be irrigated by the sluice is only 350 acres, and the sluice was pronounced to be capable of irrigating about 2,000 acres. It was taken charge of by the Department of Public Works, and water sufficient to irrigate plaintiff's land was being given through this sluice till Fasli 1282 when a square wooden sluice at the point C marked in the plan, which had been supplying water to the Government village of Jalipudi (colored yellow in the plan), was washed away by the unusually heavy freshes of the Tammeleru in that year. Jalipudi is a village paying Rupees 5,333 and has an irrigable area of 1,365 acres which could very conveniently be watered by the sluice in dispute. The 1st defendant in Fasli 1282 therefore allowed the ryots of Jalipudi to use in lieu of the washed away sluice the sluice in question jointly with plaintiff, inasmuch as it was in his opinion sufficient for the water supply required in both the villages of Kama-davolu and Jalipudi, and for the last five years had been in practice found sufficient.

6. Plaintiff alleges in the plaint that the joint use of the sluice creates constant quarrels and that the ryots of Jalipudi, and that the channel B and the ground at the point D, which is the right to the sluice and the channel B.

7. After the institution, the District Engineer of the Kistna District wrote to the 1st defendant that the Jalipudi ryots would be provided with a separate sluice; that the cost of building of the sluice would be repaid to plaintiff and water continued to be supplied to her lands, and asked her to withdraw the suit from the Court. As no reply to this requisition was received, a draft answer, which forms part of the record which accompanies this letter, was filed by the Range Officer. The 1st defendant stated therein that the channel B and the ground D were never deepened.

8. The sluice in dispute would have been built by Department of Public Works of their own accord if the plaintiff had waited till the usual course of their business permitted them to do so. She was impatient and offered to build it at her own expense, and the acceptance of this offer should, I think, not have been considered by the plaintiff as an act conferring on her any right or title to the sluice. It should, on the other hand, be regarded as an act of grace towards the plaintiff. The site on which the sluice was built and part of the channel B into which the water of the sluice is discharged form part of the Government land attached to the town of Ellore. The sluice ever since its construction has been in the sole charge of Department of Public Works. Its shutters, which have been made at the cost of Government, are closed when necessary by subordinate Department of Public Works officers, and in fact all that is needed to ensure a proper supply of water both to plaintiff and the village of Jalipudi through this sluice is done by Department of Public Works. Repairs to a small extent have also been made to the sluice by Government in 1875. These things clearly show that the entire control of the sluice and the distribution of water discharged by it have been exercised by Government officers both prior and subsequent to Fasli 1282, and beyond having obtained from the Department of Public Works a statement to the effect that they would bear the cost of the sluice, the plaintiff has exercised no ownership at any time over this sluice or the water flowing through it, and I do not think that an offer to bear the cost of the sluice can be construed into an admission that the sluice is the plaintiff's own. It is merely an assertion that the sluice really belongs to Government and that Government are therefore willing to pay for it. In these circumstances, I think plaintiff's claim is unfounded.

9. If the suit is not properly defended by the defendants in the plaint, the right of the plaintiff to the sluice would be established by the Court, and the establishment of this right carries with it a right to the distribution of water discharged by the sluice, the result being that the

right of regulating and controlling the distribution of water hitherto vested in the officers of Government would in effect be hereafter transferred to plaintiff, a course which endangers not only the safety of the bund in which the sluice in dispute exists, but is also likely to affect the safety of other irrigation works in the vicinity in charge of Department of Public Works. The lands of Jalipudi would also suffer by the giving up of the sluice to the plaintiff, and loss of revenue to Government would result unless another suitable sluice be provided in proper time. I therefore recommend that the suit be defended on behalf of Government, and propose to file the following draft answer:—

- (1.) The right of regulating and controlling the distribution of water from public sources of irrigation vests in the Revenue authorities.
- (2.) The Collector denies the right of the plaintiff either to the sluice A in dispute or channel B. The sluice A according to professional opinion is quite out of proportion to the irrigated area of the land belonging to the plaintiff lying under the sluice, and is sufficient to irrigate the lands of Jalipudi also. It has always been under the charge of Department of Public Works officers who have power to use it in the best way they can. The site on which the sluice is built belongs to Government, and the permission given by the 1st defendant to build a sluice does not give the plaintiff any right or title to take water through it beyond such quantity as is sufficient to irrigate her own lands, or distribute such water at pleasure. She never exercised any acts of ownership over the sluice beyond bearing the cost of the building.
- (3.) The level of the channel B and the ground D was never altered, and this can be proved by oral evidence.
- (4.) The Collector prays for costs."

10. All the papers bearing on the subject are enclosed for your information.

(True Copy.)

(Signed) W. S. FOSTER,
Collector.

ENCLOSURE No. 2.—Translation of Plaint.

No. 2. Case of the Plaintiff.

ENCLOSURE No. 4.—Copy of Statement filed by 1st Defendant.

ENCLOSURE No. 5.—Draft Answer.

The Board observe that the subject of this letter has been disposed of by G.O., dated 20th April 1877, No. 1,350, Public Works Department, communicated to the Collector of Kistna by Board's Proceedings, dated 14th May 1877, Miscellaneous No. 7,042. Copy will now be sent to the Collector of Godavery who has been made a supplemental defendant, and that officer will arrange, in communication with the Collector of Kistna, for an answer being put in on his part in the terms of that filed by the Superintending Engineer for the Range Officer Mr. Peters.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Secretary.

To the Collector of the Godavery District, with Plan returned,
and copy of Board's Proceedings, 14th May 1877, M.S. No. 7,042.

Copy to the Collector of the Kistna District.

Exd. W. J. Lewis.

Col. M. has told me
 that no change is made
 - that the dis. in. of the
 water & control of the
 sluice has always been
 in the hands of the P.W.D.
 - that the Zemi-dar has
 done some of the work
 - but that the whole
 thing will shortly have
 been constructed - owing
 to a change in the P.W.D. staff
 (29/1)

1877.
 Board of Revenue,
 MADRAS.

PROCEEDINGS, 1st JUNE 1877, No. 2,541.

Encl.

Received
 No. 3355/1
 8000-7-7-2402
 JUNE.
 No. 2,541.

Suit—No. 49 of 1876 filed in District Munsif's Court at Ellore in Godavery District by Commisarni of Tangellamudi to establish her exclusive right to certain sluice constructed by her.—Communicating to Collector Government Order on subject of —, and requesting him to arrange, in communication with Collector of Kistna, for an answer being put on his part in the terms of that filed by Superintending Engineer for the Range Officer.

appears requisite
of as stated for more
water than is required
for the Landwarders land
is being all drawn for
the Mac canal

24/7 1867

Shropshire Mullins & Co
proprietors of the
Shropshire Waterworks
and of the
Shropshire Canal

25-7-77

RR

This matter
seems to have been
settled in the Ph. Sec
and I have no recollection
of seeing it before.

Therefore I think
that the papers were
sent to Mr. Butler in post.

If necessary please
write to the applicant for
some address.

Revenue Department.

No. 3421.

Proceedings of the Board of Revenue

Dated 21st July 1877.

Read the following.

No. 177

From

W. S. Foster Esquire

Collector

To

A. C. Stokes Esquire,

Secretary to the Board of Revenue
Madras.

Sir,

With reference to G.O. No. 1350 dated
20th April 1877 Public Works Department,
Communicated with Board's Proceedings
No. 2541 of 1st Ultimo, I have the honor
to state that I have obtained from
the Superintending Engineer Rietna
District copy of the draft answer
filed on behalf of Mr. Peters in
the

the District Munsiff's Court of Ellore;
(Copy of which is herein enclosed).

It would appear therefrom that the
object and intent of that answer
are nearly the same as those of mine
forwarded with my letter of the 16th May
1877 No 137.

2. In the order above quoted
Government decided that the suit
cannot be defended and the cost of
the state. I request therefore the
Board's instructions how I am to act
in the matter. I have applied the Court
for a further extension of time till
the end of this month.

Gadawery District } I have recd
Collector's Office } Signed W. S. Foster
Cocanada, 7th July 1877. } Collector.

Enclosure

Translation of Telugu Statement
by 6th Divisional Officer.

To

Munsiff's Court Ellore

Replies from C. J. Peters Esquire

6th Division - Officer.

1. With regard to the establishment
of the right to sluice A and Channel B.
I have not said that the sluice
is not built by the complainant
nor that water should be supplied
through that Channel and sluice to
his lands.

I consider that the water
discharged through that sluice is
sufficient for about 2000 acres,
he has only 350 acres of wet cultivation
under it. The shutter of that sluice

is

is Government property. The sluice is being fully opened and the water which is Government property is let out for the supply of both the plaintiffs and Government lands.

It has been going on for last 5 years. The Plaintiff has up to this time made no complaint for re-
-mission in account of the water not being sufficient or loss of Crops.

Since the construction of the sluice the duties of opening and closing the sluice repairing and watching have been done by Government, it is going on in the same way now therefore the plaintiff has no cause of Complaint against me. Of the land under the

Channel B

Channel B part of it is the property of Government. With regard to the right of the sluice and Channel the plaintiff has sustained no loss therefore the suit may be dismissed at once.

2. Requesting the payment of Rs 60 expenses for deepening Channel B. I gave no orders to deepen the Channel B. water can flow to Plaintiffs' fields by that Channel without difficulty, therefore there is no cause of Complaint concerning this.

3. Reply to the request to prevent water flowing to the fields of Jalipudi by the sluice A and Channel B that it is fair that any surplus water after

after the Plaintiffs' fields have been supplied should be used to Jalipudi and other Government lands.

The Plaintiff has right only to the sluice he built but he has no right to prevent the surplus water going to Government lands. The control of water thro' the sluice has always been under the Officers of Government.

4. The Government are ready to pay the value of sluice, if the plaintiff accepts this, it will make no difference in the supply of water to his fields.

5. The plaintiff has without reason brought this suit against me, therefore the Court is requested to

to dismiss the Case and order the payments of Defendants expenses by the plaintiff.

Hof C. J. Peters
Executive Engr

N^o 95. (True Copy)

Communicated to the Collector of Godavery District with reference to this N^o 87 dated 18th instant.

S. Eng's Office
Kistna
Masulipatam
26th June 1877.

Hof J. Hast Major R.E.
Sub Engs R.D.

(True Copy)

(Signed) W. A. Foster
Collector.

Communicated by
L.O. 8th May 1877
N^o 2633 R.D.

In their order dated 20th April 1877 N^o 1350 P. N. D. Government expressed the opinion that the suit cannot be defended and directed that Rs 60 damages claimed by plaintiff should be paid into

into Court and that her right to the exclusive use of the sluice and the water drawn from it should be admitted with the understanding that this admission implies only a right to an adequate supply of water for the lands for which the sluice was constructed and no more.

Considering the terms of the answer copy of which has now been submitted by the Collector it seems clear that it was filed previous to the issue of G. O. dated 20th April 1877.

The Collector should address the Superintending Engineer on the subject and arrange for a statement being put in on his own behalf and for the Range officer in the terms

terms of the G. O. above quoted in substitution of the answer previously filed by Mr. Peters.

(True Copies & Extract
Signed) C. A. Galton
Ag. Secretary

To
The Collector of the Godavery District.

(True Copy)

C. A. Galton
Ag. Secretary

To

The Secretary to Government R.D.,
with Copy of Board's Proceedings
dated 18th June 1877 No. 2541,
with reference to G.O. dated 8th May 1877.
Misc. No. 2633.

C. A. Galton
Signed by Affirmation

Communicated to the Public
Works Department.

L. L. S. P. W. Sept. 22 1877

1852 Dec 18

403385

Proceedings of the

Board of Directors

Plato 21st?

Deck?

Dec 23rd

8:28

in letter from the College

the Economy of the person

only of the Draft answer

in the District Managers' Code.

With Cedar 450