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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.	876	Press
B.P. No.		Mis.
Dated	1. 3. 1877	197

Not to be folded or roughly handled

No. 12. Read the following Proceedings of the Board of Revenue, dated 26th February 1877, No. 899:—
Read the following letter from C. T. LANGLEY, Esq., Collector of Salem, to H. E. STOKES, Esq., Secretary to the Board of Revenue, dated 14th February 1877, No. 105:—

I HAVE the honor to enclose copy of a complaint and the draft of written statement which I propose to file in Suit No. 8 of 1876 on the file of the District Court of Salem.

2. Mrs. Foulkes, the Zemindarni of Salem, owns a coffee estate (block No. 72) on the Sherveroy Hills, through which a road passes connecting two other important roads, AB in accompanying plan. In May 1876 I found this road obstructed by a hedge running from C to D which, in the interests of the public and of the owners of adjoining estates, I ordered to be removed, and warned Mr. D'Santos, Mrs. Foulkes' agent, not to put the fence again. In defiance Mr. D'Santos having again put a stone wall at the point where the hedge was removed, the Deputy Tahsildar brought the same to my notice. As my previous warning failed to produce any effect, I, as Magistrate of the District, ordered the Deputy Tahsildar, Mr. Dawes, to prosecute Mr. D'Santos, and referred the case to the Head Assistant Magistrate, who found the road to be a public path and fined Mr. D'Santos in a sum of Rupees 20 for the offence of wrongful restraint under Section 341, Indian Penal Code. Mr. D'Santos appealed to the High Court, but the decision of the Head Assistant Magistrate was upheld.

3. Mrs. Foulkes has now instituted the present suit against me for the recovery of supposed damages to the extent of Rupees 2,510 for removing the obstruction put up by her agent, and for a declaratory decree entitling her to the disputed road and to such use and enjoyment of it "as to her might seem meet," in effect, to close it up again.

4. That the disputed road is a right of way is fully borne out by oral and documentary evidence, of which full details are given in Mr. LeFanu's judgment, copy of which is enclosed for the Board's information. The hearing of the suit is fixed for 19th March 1877. The principle involved in the suit is one of great importance, as, if Mrs. Foulkes is allowed the liberty to close up a public road simply because it goes on her estate, other planters, through whose estates similar roads run, will take advantage of this precedent. I am informed that Mrs. Foulkes has engaged Mr. Miller of the High Court to conduct the case before the District Court. I beg the Board will be pleased to allow me to entertain Mr. Pritchard, Barrister-at-Law, who is now at Salem, to plead in defence.

ENCLOSURE No. 1.—Copy of Complaint.

ENCLOSURE No. 2.—Draft Answer.

ENCLOSURE No. 3.—Copy of Head Assistant Magistrate's Judgment.

ENCLOSURE No. 4.—Map.

*Proceedings of the Madras Government, Revenue Department,
1st March 1877.*

SUBMITTED for the orders of Government.

2. Mrs. Foulkes owns a coffee estate on the Sherveroy Hills through which a public road runs. Her agent having obstructed the right of way, the Collector directed the removal of the obstruction and warned the agent against a repetition of the offence. Notwithstanding this the latter substituted a stone wall for the fence which had been previously removed. Criminal proceedings were, therefore, taken against him, and he was convicted and punished under Section 341, Indian Penal Code, which conviction has been upheld by the High Court.

3. Mrs. Foulkes has now filed a suit against the Collector to establish her claim to the road as forming part of her estate and to recover Rupees 2,510 as damages for trespass, &c. It appears from the decision in the criminal case that there is ample evidence to prove that the road in question is a public one, and that it has been used as such for more than 5 years. The Board, therefore, recommend that the defence of the suit be sanctioned. As the Collector has heard that Mr. Miller is to appear for the plaintiff he suggests that Mr. Pritchard, a Barrister at Salem, be engaged for the defence. The case is very simple, but it is advisable that a Barrister should be employed on behalf of Government, and the Board think the Government Pleader should be sent down.

A true Copy and Extract.)

(Signed) H. E. STOKES,

Secretary.

No. 13.

ORDER THEREON,

1st March 1877, No. 876.

Miscellaneous.

The defence of the suit is sanctioned.

2. The Government Pleader should be instructed to appear on behalf of Government.

(True Extract.)

(Signed)

D. F. CARMICHAEL,

Secretary to Government.

To the Board of Revenue.
„ the Accountant-General.
„ the Government Pleader.

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Aug. The Muller will be Revenue Department
cont. West of ...

Proceedings of the Board of Revenue
Dated 27 February 1877

Read the following

No. 105
From

The Collector of Salem

To

The Secretary to the Board of Revenue

Madras

Sir

I have the honor to enclose copy

of a Complaint and the draft of written state-

ment which I propose to file, in suit

No. 8 of 1876 on the file of the District

Court of Salem.

2 Mrs. Faulkes, the Zamindar of

Salem, owns a coffee estate (block No. 72)

on the Shevroy Hills through which a

road passes connecting two other

important roads A. B. in accompanying

map. In May 1876 I found

this

THE BOARD OF REVENUE,
Salem.
To
The Secretary to the Board of Revenue,
Madras.
Dated 27 Feb. 1877.
No. 105.

Cont. of (1877) ...

MARCH.
Nos. 12-13.

But No. 8 of 1876 on file of District Court at
Salem. — Satisfactory defence of ... and observing
that Government Pleader should be instructed to
appear on behalf of Government.

this road obstructed by a hedge running
from C to D which in the interests of
the public and of the owners of adjoining
estates, I ordered to be removed and
warned Mr D'Santos, Mrs Faulkes's agent
not to put the fence again, in defiance
Mr D'Santos having again put a stone
wall at the point where the hedge
was removed, the Deputy Tasildar
brought the same to my notice. As my
previous warning failed to produce
any effect, I as Magistrate of the
District, ordered the Deputy Tasildar,
Mr Damer to prosecute D'Santos, and
referred the case to the Head Assistant
Magistrate who found the road to be
a public path and fined Mr D'Santos
in a sum of Rs 20 for the offence
of

of wrongful restraint under section
341 Indian Penal Code. Mr D'Santos
appealed to the High Court, but the
decision of the Head Assistant Magistrate
was upheld.

3 Mrs Faulkes has now instituted
the present suit against me for the
recovery of supposed damages to the
extent of Rs 25/0 for removing the obstruc-
tion put up by her agent and for a
declaratory decree entitling her to the
disputed road and to such use and
enjoyment of it "as to her might seem
meet," in effect, to close it up again.

4 That the disputed road is a right
of way is fully borne out by oral and
documentary evidence of which full
details are given in Mr Le Fanu's
judgment

Judgment, copy of which is enclosed
for the Board's information. The
hearing of the suit is fixed for 19th
March 1877. The principle involved
in the suit is one of great importance,
as, if Mrs Faulkes is allowed the
liberty to close up a public road
simply because it goes on her estate,
other Planters through whose estates
similar roads run will take advantage
of this precedent. I am informed
that Mrs Faulkes has engaged Mr
Miller of the High Court to conduct
the case before the District Court. I
trust the Board will be pleased to allow
me to retain Mr Pritchard
Barriater at Law who is now at Salem
to plead in defence.

Salem Collector's Office } I have &c
Salem 14th Feb'y 1877 } J. C. T. Langley
Collector

876
Submitted for the orders of Govt.
Mrs Faulkes owns a coffee estate
on the Shevargy Hills through which a
public road runs. Her agent having
obstructed the right of way the collector
directed the removal of the obstruction
and warned the agent against a
repetition of the offence. Notwithstanding
this the latter substituted a stone wall
for the fence which had been previously
removed. Criminal Proceedings were
therefore taken against him and he
was convicted and punished under
Section 841 Indian Penal Code which
Conviction has been upheld by
the High Court.

Mrs Faulkes has now filed a
suit

suit against the Collector to establish
her claim to the road as forming
part of her estate and to recover
Rupees 25/10 as damages for trespass.

It appears from the decision in the
Criminal case that there is ample
evidence to prove that the road in
question is a public one and that
it has been used as such for more
than 35 years. The Board therefore
recommend that the defence of
the suit be sanctioned. As the
Collector has heard that Mr Miller
is to appear for the plaintiff
he suggests that Mr Critchard as
Barrister at Salem be engaged for
the defence. The case is very simple
but

but it is advisable that a barrister
should be employed on behalf of
Government and the Board think
the Government Pleader should be
sent down.

876
(True Copy & Contract)

W. H. M.
Secretary

To

The Secretary to Government
Revenue Department

with 1 Original enclosed to be returned

