M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 137 Press ~~Mis.~~

272-273

Dated 19 6 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 19th January 1861.

No. 272. Read the following Proceedings of the Board of Revenue, dated 10th January 1861, No. 173 :—

Read the following letter from B. CUNLIFFE, Esq., Collector of Madras, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, Fort Saint George, dated Karangali, 9th January 1861, No. 4.

SIR,

1. In forwarding the enclosed translations of an original plaint and a supplemental plaint filed at the District Munsiff's Court of Conjeveram, under dates the 17th September and 2nd August last, by the Plaintiffs in Suit No. 574 of 1859, against me as Collector, for the proposed excavation of a new supply channel through the limits of their village contrary to Mámúl, I have the honor to state that the whole of the circumstances connected with this subject having been fully detailed in the enclosures which accompanied my letter of the 30th November last, No. 472, it only remains for me to request the sanction of the Board for my putting in the enclosed statement for defending the Suit. The time fixed for the hearing of the case was the 29th November last. As I had to obtain copies of the Plaints, a further extension of two months was supplied for and granted, which expires on the 28th instant.

2. The District Engineer first proposed the channel and obtained the late Collector's sanction to its excavation; but Mr. Shubrick stopped the work on the 14th September 1859, after the completion of a very small portion of it, upon the representations of the Plaintiff and others.

3. The Plaintiff has therefore received no injury, and complains against an alleged one, contingent on circumstances hidden in the uncertain future, and I think that the defence should simply take that line of argument.

4. We might also urge, though I do not see the necessity of doing so, that this tank is entered in the accounts as holding three months' supply of water, which will not be interfered with, inasmuch as a sluice in the proposed new channel will ensure to him the receipt of the usual quantity.

5. The Sub-Collector and District Engineer have, I think, fully met the objections of the Plaintiff, in the statement accompanying my letter of the 30th November last.

6. Nothing however has yet been done, and it will be time enough for the Plaintiff to move when a cause of action arises.

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1. Ordered to be submitted to Government with the Board's recommendation that the defence of the Suit at the public cost, and the filing of the proposed answer, with the verbal alteration proposed by the Board be authorized. The time for putting in the defence expires on 28th instant.

2. The particulars of the case are fully detailed in the correspondence submitted with the Board's Proceedings, dated 8th January 1861, asking leave to take the land needed for the channel under Act VI of 1857.

(A true Extract and Copy.)

(Signed) W. HUDLESTON, *Acting Secretary.*

No. 273. ORDER THEREON, 19th January 1861, No. 137.

1. The Honorable the Governor in Council grants authority for the defence at the public expense of the Original Suit No. 574 of 1859, instituted in the District Munsiff's Court of Conjeveram against the Collector of Madras and others.

2. The Government having just determined to continue the channel which is the subject of the present suit, and to take the land required for it under Act VI of 1857, if necessary, a corresponding change must be made in the draft answer to be filed by the Collector. The answer should be to the effect that the excavation of the channel does no injury to the Plaintiffs and that it is one which it is competent to Government to construct.

3. In paragraph 1 of the Collector's letter forwarded by the Board, the Government observe the word "Mámúl," a native term quite unnecessary to express Mr. Cunliffe's meaning, and which therefore ought not to have been employed.

(Signed) J. D. BOURDILLON,
Secretary to Government.

No. 173.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 10th January 1861.

Read the following letter from B. CUNLIFFE, Esq., Collector of Madras, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, Fort Saint George, dated Karanguli, 9th January 1861, No. 4:—

1. In forwarding the enclosed translates of an original Plaint, and a supplemental Plaint filed at the District Munsiff's Court of Kanjivaram, under dates the 17th September and 2d August last, by the Plaintiffs in Suit No. 574 of 1859, against me, as Collector, for the proposed excavation of a new supply channel through the limits of their village contrary to mamul, I have the honor to state that the whole of the circumstances connected with this subject having been fully detailed in the enclosures which accompanied my letter of the 30th November last, No. 472, it only remains for me to request the sanction of the Board for my putting in the enclosed statement for defending the Suit. The time fixed for the hearing of the case was the 29th November last. As I had to obtain copies of the plaints, a further extension of two months was applied for and granted, which expires on the 28th instant.

2. The District Engineer first proposed the channel and obtained the late Collector's sanction to its excavation; but Mr. Shubrick stopped the work on the 14th September 1859, after the completion of a very small portion of it, upon the representations of the Plaintiff and others.

3. The Plaintiff has, therefore, received no injury, and complains against an alleged one, contingent on circumstances hidden in the uncertain future, and I think that the defence should simply take that line of argument.

4. We might also urge, though I do not see the necessity of doing so, that this tank is entered in the accounts as holding three months' supply of water, which will not be interfered with, inasmuch as a sluice in the proposed new channel will ensure to him the receipt of the usual quantity.

5. The Sub-Collector and District Engineer, have, I think, fully met the objections of the Plaintiff, in the statement accompanying my letter of the 30th November last.

6. Nothing, however, has yet been done, and it will be time enough for the Plaintiff to move when a cause of action arises.

ENCLOSURE No. 1.

To T. VAKULABARANA Pillai, Taluk Munsiff at Kanjivaram, Chingleput District.

The Plaint filed by the Court Vakeel Chinniah Mudali, on behalf of Gomatam Runga Chariar, son of Rungamannaru Auyangar, living by agriculture, and residing at Chinna Kanjivaram in Sunnadi street... 1

Natta Kistnamah Chariar, son of Appan Iengar 2

Ichambadee Ananda Chariar, son of Strinivassa Varada Chariar, residing in the northern street of Kanjivaram..... 3

Sundara Chariar, son of Ichambadee Vira Chariar, residing in do.... 4

Ramanja Chariar, son of Kistnamah Chariar 5

Latchmamall, wife of Ramanjah Mudali, residing in the Tirucholai street of Kanjivaram..... 6

versus

Jagannada Mudali, son of Subbroya Mudali, living by trade and agriculture, and residing at Tumbavanum in Kanjivaram Taluk 1

And Gumastahs of do. viz., Arnachella Mudali. 2

And Venkatasami Naiken. 3

Latchmana Pillai, residing at Konirikuppam in Kanjivaram Taluk 4

Vinu Mudali *alias* Vida Chella Mudali (father's name not known), residing at Natta Petta in the above Taluk 5

Appasawmi Mudali, son of Tirumalaiappah Mudali 6

Paria Appah Mudali (father's name not known).... 7
Nagappah Mudali.
Vellayappah Mudali. 8
Chinniah Mudali. 9
Chinniah Subraya Mudali 10
Rajarathna Mudali, son of Virasami Mudali 11
Vodda Govindan, residing near Rungasami Gunta at Chinna Kanjivaram 12
And Rungam... 13
... ... 14

praying that the freshes, which from time immemorial, proceed to the tank of Tiruvidipollam (the village of the Plaintiffs in Kanjivaram Taluk) through the supply channel called Munganeerkalvai, estimated at Rupees 100, may be allowed to pass as usual without the interference of the Defendants ; that the proposed excavation of a new channel 300 yards long in the spot marked out, at a cost of Rupees 50, to the north of the above channel, may be stopped ; and that the part already excavated, about 07 yards long, 2 yards wide and 1 yard deep, at the middle of the proposed new channel, may be filled up. The whole Plaint is for 150 Rupees.

The Plaintiffs are the Mirassidars of the said Tiruvidipallam. The 1st Defendant is a Mirassidar of Uppakolum, and the Defendants from 5 to 12 are the Mirassidars of Nattapettah, villages of Kanjivaram Taluk.

2nd. The surplus water of Putteri and Salabogum, villages of the same Taluk, proceeding through the Manjaneer supply channel first falls into the Uppiri *alias* Ubukkeri, are auxiliary to the tank of Tiruvidipallam, and then proceeds to the latter through a sluice built for the purpose. After these two tanks are filled, the surplus water empties itself into the Nattapettah tank. The water, which rests in the Uppiri tank, does eventually proceed to the Tiruvidipallam tank, when the water in the latter begins to abate. This has been the custom heretofore.

3rd. The Defendants from 1 to 12, with the view of preventing the usual course of the freshes, and carrying them direct to Nettapettah tank, began about a month ago to excavate a new channel to the north of the Uppiri from the east of the Reddipetta pond to the Paracheeri pond of Tiruvidipallam, being about 300 yards long from east to west. The Plaintiffs knowing this, took exception to its excavation and stopped the work. But the Defendants from 1 to 12 with the instrumentality of the 13th and 14th Defendants, &c., fraudulently excavated during the night time a channel 70 yards long, 2 yards wide and 1 yard deep.

4th. If the excavation of the new channel is completed, and the freshes allowed to pass through it, the Tiruvidipallam tank and Upperi its auxiliary would receive no supply, and such a course would entail much loss to the Plaintiff.

5th. Therefore the Plaintiffs file this Plaint, and request that the Court will pass decision to the effect that the freshes may be allowed to proceed as usual to the Tiruvidipallam tank through the aforesaid supply channel estimated at Rupees 100, without the interference of the Defendants ; that the new channel, 300 yards long, proposed to be excavated at a cost of Rupees 50, may be stopped, and that the part already excavated in the middle of the proposed new channel, 70 yards long, 2 yards wide, and 1 yard deep may be filled up.

(Signed) P. CHINNIAH MUDALI,
Court Vakeel.

14th September 1859,
2d Parattasi of
the year Siddadri.

No. 574 of 1859, filed 17th September 1859.
(Signed) T. VAKULABARANA,
Taluk Munsiff.

(True Copy.)

(True Translation.)

(Signed) B. CUNLIFFE, *Collector.*

ENCLOSURE No. 2.

To T. VAKULABARANA Pillai, Taluk Munsiff at Kanjivaram, Chingleput District.

The Supplemental Plaint filed by the Court Vakeel Chinniah Mudali under Section 73, Act VIII of 1859, in behalf of the Plaintiffs in Suit No. 574 of 1859, viz.

Runga Chariar..... 1
Nathu Kistnamah Chariar..... 2
Ananda Chariar..... 3
Sundara Chariar..... 4
Ramanujah Chariar..... 5 and
Latchmamal..... 6

1st. On the 29th July 1860, the Court directed that the Engineer and the Collector of this District be included among the Defendants in the above Suit.

2. As the Collector and the District Engineer are getting improperly excavated by the instigation of the Defendants in the above Suit, a new supply channel in the Plaintiffs' village, contrary to mamul, as represented in their plaint, the Plaintiffs request that B. Cunliffe, Esq., Collector of this District, residing at Palaveram in Saidapet Taluk, and Captain A. S. Moberly, the District Engineer, may be included as supplemental Defendants in that Suit, as directed by the Court, and the inquiry conducted.

31st July 1860. (Signed) P. CHINNIAH, Mudali, *Vakeel.*

Filed on the 2d August 1860.

(Signed) T. VAKULABARANA, Pillai, *Taluk Munsiff.*

(True Copy.)

(True Translation.)

(Signed) B. CUNLIFFE, *Collector.*

ENCLOSURE No. 3.

The statement of the 1st Supplemental Defendant.

The 1st Supplemental Defendant begs to state that the channel in question, which it was proposed to excavate without the limits of Petitioner's village, and through the lands of other parties, was proceeded with to a very short distance, and the work then stopped by the orders of the late Collector on the 14th September 1859. Redress being thus sought for only a contingent, and not for an existing grievance, and no cause of action having yet arisen, the 1st Supplemental Defendant prays that the Suit may be dismissed with costs.

Karanguli, 9th January 1861. (Signed) B. CUNLIFFE, *Collector.*

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1. Ordered to be submitted to Government, with the Board's recommendation that the defence of the Suit at the public cost, and the filing of the proposed answer with the verbal alteration proposed by the Board, be authorised. The time for putting in the defence expires on 28th instant.

2. The particulars of the case are fully detailed in the correspondence submitted with the Board's Proceedings, dated 8th January 1861, asking leave to take the land needed for the Channel under Act VI of 1857.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Acting Secretary.

To J. D. Sim, Esq., Acting Secretary to Government, R. D.

Copy to B. Cunliffe, Esq., Collector of Madras, with revised draft Answer.

Exd. J. Wright.

the usual quantity.—

5. The Sub Collector and District Engineer have, I think, fully met the objections of the Plaintiff, in the Statement accompanying my letter of the 30th November last.—

6. Nothing however has yet been done, and it will be time enough for the Plaintiff to move when a cause of action arises.—

Madras Coll's Office
On Circuit
Karanguli 9th January 1861

I have &c.
/Signed/ B. Cunliffe
Collector

Ordered to be submitted to Government with the Board's recommendation that the defence of the Suit at the public cost, and the filing of the proposed answer, with the verbal alteration proposed by the Board be authorised. The time for putting in the defence expires on 28th Instant.

2. The particulars of the case are fully detailed in the correspondence submitted with the Board's Proceedings dated 8th January 1861, asking leave to take the land needed for

for it under Act VI of

Rec. 1861
Proceedings of the
Board of Revenue

Dated 10th
Dec. 19th January 1861
Rec. 11th

No. 173.

Submitting Collr's letter forwarding the indictation of a Supplemental Plaint filed at the instance of the Municipal Court of Kanjeeveram by Plaintiff's in O. S. No. 514 of 1859 against the Collector and Secretary of State for the defence of the suit at the Public Cost be authorized.

for the Channel under Act VI of 1857.

/A true Extract and Copy/

S. Sudhakar
Acting Secretary

To

J. D. Sim Esq.
Asst Secretary to Government
Revenue Department

Note.

The answer in this case must depend to some extent on the decision at which Govt may arrive on the Memo from Mr. Ingram 8th inst. No. 62, as to taking the land required under the Public Works Act.

If Govt determine on so taking the land, this should be stated in the Answer & the Plaint respecting the Alignment of the channel now in the Answer should be omitted. As thereon Govt will be placed

in the Position of Plaintiffs clearing, in law & the fact, that the channel has been altered while all the time they intended to go on with it.

The Suit Stamp paid for Rs 150 is only for an injunction to restrain Govt. from making the channel - If this is the mode, the answer may simply be that Plff has suffered no damage -

S. D. S

I have recommended that authority should be given for taking land for the channel under the Act - If an order is issued to this effect, a corresponding change must be made in the draft answer - I am in favor of proceeding with the channel & instructing the Collr to plead that it does the Plffs no injury, & as one which it is expedient for the Govt to construct

Joglekar

for it under Act VI of

Rev.

137

No 137

Proceedings of the Government of Madras
Inter date 19th January 1861

Read the following Proceedings of the Board of Revenue

Recommending the defence at the public expense of a suit filed against the Collector of Madras in the District Moonsiff's court of Conjeveram

Rece enter 10th January 1861
No 173

The Hon: the Governor in Council grants authority for the defence at the public expense of the original suit No 574 of 1859 instituted in the District Moonsiff's court of Conjeveram against the Collector of Madras & others

2. The Government having just determined upon the purchase of the land for the to continue the Channel which is the subject of the present suit, & to take the land required for it under Act VI of

Wall.

Wall

P.W.C. No 62/61.

Recd 18th January 1861
Read 19th January
Proceedings of the
Board of Revenue

Dated 10th January 1861
Read 19th January 1861
Encl 2. Petitioner
Rs 193. 19th January
No 173.

From the Collector of Madras
reporting the institution of
suit against himself & Revenue
Officials by [illegible]
& requesting that the Collector
may be authorized to defend
the suit at the public
Govt. charges.

No 272.

16th Jany

1857 if necessary, a
corresponding change must
be made in the Draft
answer to be filed by the
Collector: ~~+ they desire that~~
~~Mr. Cundliffe be instructed~~
~~to file~~ the answer should be to the
effect that the excavation
of the channel does no in:
jury to the Plaintiffs + that
it is one which it is compe:
tent to Government to con:
struct.

3 In para: 1 of the Collec:
tor's letter forwarded by the
Board, the Government ob:
serve ~~that as to~~ the word "ma:
mul", a native term ~~the~~
~~use of which is forbidden~~
quite unnecessary to express
~~Mr. Cundliffe's attachment with~~
Mr. Cundliffe is meaning
~~be called to the same~~
and which therefore ought
not to have been employed

For initials

13 Copies
To the Board of Revenue with 2 Encl

19th January 1861 1-280-281

Suit against the Madras Collector in Dist. Moff's Court of Conjeveram

Revenue 1861 Deptt.
Pro: of Govt. for January.

No. 137.

Pro: of the Madras Govt.
Dy 19th January 1861.

282-69
30-8-186

Defence in O. Suit No. 574 of 1859 instituted in the District Moonsiffs Court of Conjeveram against the Collector of Madras and others, sanctioned.

No. 272+273.