

17-2281
CONFIDENTIAL.

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 4473

2 4474
Confidential 1068

Dated 16th Nov 1898

also Sir Arthur Wilson to
letter of 13. 5. 98

[Despatch Abstract.]

Forwarding with Reminders to the Solicitor
India Office certain papers re: the
Pittapur Puiry Council Appeal and re-
questing the Court of wards to remit
the cost of the telegram on the subject
to the Secy to Govt R.D.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

$\frac{0}{18}$ 2,000-30-3-08.

Revenue (1898) Department.

S.O. CURRENT No. 180

Order

From Sir Arthur Wilson
K.C.J.S.
Legal adviser and
Solicitor to the Secy of
State

No.

Dated 13th Oct
Received } 3rd Nov } 1898
Registered }
Enclosures 6
Spare copies

SUBJECT.

Explaining the circum-
stances under which the
case ~~of~~ ^{for} the Appellants in the
Pittapur Privy Council appeal
was not sent ^{later} to the legal
adviser of the respondents in
India.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

INDIA OFFICE,
WHITEHALL, S.W.

13th October 1898

Dear Sir,

Shaper appeal
NOV 1898
RECEIVED
INDIA OFFICE

I duly received your letters of the 19th Sept^r the 14th September with enclosures, and the notes of argument.

In the enclosure to your letter of the 19th, it is said that it is usual for the Solicitor in London to send copies of the appellants Case to the Legal Advisers of the party in India with a view to the benefit of his advice in preparing Respondents Case. This

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPER

G.O.	No.	Department.	D

Take place during the second
fortnight in November.

Yours sincerely

Abilou

Legal adviser & Solicitor
to the Secretary of State

G. P. Forbes Esq
Secretary to Govt
Colacannon

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

I would point out to each in accordance with the practice. The Respondent Case has to be prepared and lodged before he is allowed to see the appellant Case.

3 In this appeal the appellants Case was lodged in July last and I was requested to postpone ~~the~~ lodging that of the Respondents until I had an opportunity of considering the Notes on the Defendants Case which were then

being prepared.

4 I waited for these notes, which arrived in August last, and it was only in September that I was in a position to lodge the Respondents Case and to receive in exchange copies of the appellants Case. Two copies of each of the Cases are herewith.

I may here remark that had the Respondents Case been longer delayed, the appeal would have been set down for hearing separately.

The hearing will in all probability

D.O. No. 180.

From Sir Arthur Wilson K.C. J.E.
Legal Adviser & Solicitor to the Secretary of State
Dated 13 October 1898.

FOR ORDERS.

To the Under Secretary.

With reference to D.O. No. 117
of 19 September '98 (in f.p. No. 3786
of 19 September '98) Sir Arthur
Wilson explains in the D.O.
read above the circumstances
under which the case of the
Appellant in the Pattapur Privy
Council Appeal was not sent
earlier to the legal advisers of the
Respondents in India. Sir Arthur
also forwards two copies each of
the cases of the parties concerned.
It is submitted that a copy
of the present communication
as well as with copies of the
cases may be sent to the Comptroller
of Works d.o..
2. A draft D.O. is submitted
below.

There are not three copies
of each case received?

8/2

only two copies of each case (appellant &
First Respondent & Second Respondent) in
copies on all have been received.
(Dona 4. of Sir A's do.)

C.A.
4/11/98. Send one

C.A.
3/11/98

Leu
4/11/98
G.A. 11/8

FOR ORDERS.

PAID IN FULL
88 11 28

D.O. no 149
8. 11. 98

Despd 5/11/98

Rev. Dept

My Dear Davidson.

With ref. to G.O. No 3786^h
of 19 September 1898 I am to enclose
for the information of the Court
of Wards a copy of Sir Arthur
Wilson's D.O. of the 13th ultimo
expt (with ^{each of the cases} enclosures) explaining
the circumstances under which
the case for the Appellant was
not sent earlier to the legal
adviser in the Pittapur Prison
appeal was not sent earlier
to the legal advisers of the
Respondents in India.

M. L. S.
4/11/98

2/11/98

CONFIDENTIAL.

REVENUE
Judicial

(1898) Department.

CURRENT No. 7750

Confidential No 90

From

Court of Wards

Order

No. 1291 Visc.
Conf. No. 22

Dated 12th November 1898

Received 15th

Registered 15th

Enclosures 6

Spare copies

SUBJECT.

Requesting Government to order the transmission at once to the --- Solicitor, India Office, London, of a telegram at the cost of the Pittapur Estate on certain cases connected with the Pittapur P. W. Council appeal as well as the despatch of certain papers to the Solicitor by the next English Mail.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CONFIDENTIAL.

Proceedings of the Court of Wards
No.1291 Miscellaneous/Conf1.No.22
Dated 12th November 1898.

Read again Court's Proceedings, No.1273 Misc., dated 8th November 1898, forwarding to the Hon'ble Mr.V.Phashyam Aiyangar, copies of the case for the appellant and for the 1st. & 2nd. Respondents in the Pittapur Privy Council appeal.

Read also letter from M.R.Py.P.Subramania Aiyar -
Avalgal, dated 9th November 1898.

* Copy attached

Resolution

In his letter read above, Mr.P.Subramania Aiyar -- suggests that the particular attention of Counsel in England should be drawn to the undermentioned three points in connection with the "cases" filed on behalf of the appellant and the Respondents in the Pittapur Appeal now pending before the Privy Council, the necessary papers being sent to them;

(1) that the statement contained in Reason No.6 of the 1st. Respondent's "case", viz., that the observations and comments of the District Judge upon the conduct of the Court of Wards &c. printed in extenso at pages 3 to 6 of the same "case" were irrelevant and unwarranted, is substantiated by an affidavit sworn to by Mr.Carr in 1897 and - filed in the High Court and by Government Orders No.2286, dated 12th June 1896 and No.2675, dated 8th July 1896;

(2) that the appellant has recently moved the High Court to accept, in lieu of Exhibit D.C. printed at page 44 of Vol.I of the printed record, the translation of the agreement filed in the appeal to the Privy Council dealt with in the decision reported in P.L.R.XIII -- I.A. page 97 but that the application was rejected by the High Court, and

(3) that with reference to the remark in lines 32 to 34 at page 6 of the case for the second Respondent, a strenuous effort should be

made

made to serve secure that the Privy Council itself shall decide the --
 question of the Pittapur Ward's sonship, in the event of the questions
 of law involved in the case being decided against the second Respondent.
 This course is desirable in view to avoid unnecessary expense, to --
 cut short the litigation which has already been unduly protracted and
 to prevent the possibility of a change in the management of the Estate
 pending the final settlement of the matters in issue. As Mr. P. Subramania
 Aiyar points out, the appellant's case apparently contemplates the final
 settlement of the appeal by the Privy Council, for reference is made at
 page 9, lines 27 and 28, to steps which have been taken with a view to --
 limiting the appeal "in the first instance" to the questions of law --
 decided by the High Court. Should it be necessary to go into the facts
 of the case, the necessary supplemental transcript of records can, it is
 said, be printed in about two months' time.

2. The Court of Wards accept Mr. P. Subramania Aiyar's suggestions
 and resolves to request that His Excellency the Governor-in-Council --
 will be so good as to order the transmission at once to the Solicitor,
 India Office, London, of a telegram to the following (or like) effect at
 the cost of the Pittapur Estate:-

"Your letter 15th ultimo re Pittapur Privy Council appeal x
 Paragraphs 132 to 135 District Court judgment were quotation of Coun--
 sel's argument not expression Judge's views. Affidavit and Government
 Orders sent by Mail of nineteenth prove this and substantiate reason --
 six first Respondent's case

"Last sentence paragraph 16 second Respondent's case re-----
 quires amendment. Court earnestly desires final settlement by Privy ---
 Council without remand to High Court which would involve extra expense
 and delay. Supplemental transcript of records can if necessary be pre--
 pared in two months".

3. The Court would propose that the following papers ^{be} sent by the
 next English Mail:-

- (i) Copy of Mr. P. Subramania Aiyar's letter
- (ii) Copy of these Proceedings and the Government Order thereon.
- (iii) Mr. Carr's affidavit, dated 26th January 1897.
- (iv) Authenticated copies of G.Os. No. 2286 Rev., dated 12th June
 1896 including paragraphs 1, 5-8, & 10 of Court's Proceedings
 No. 313 Misc., dated 3rd March 1896 and No. 2675 Revenue -----
 Confid. No. 12

dated 8th July 1896.

Enclosed (v) Authenticated copy of Civil Mis. Petition No. 910 of 1898 and
 the High Court's order thereon.

/True Extract/

Lonel Shroff
 Ag. Secretary.

To

The Secretary to Government, Revenue Department, with

6 enclosures.

M. R. Ry. P. Subramania Aiyar Avargal.

C.B.

Dear Sir,

Re. Pittapur Appeal.

On looking over the case filed on behalf of the respondents we find that a separate case has been lodged for the Court of Wards. Of this fact we were not aware before. We apprehend that any instructions we may now desire to send may not reach the India Office in time. As under the orders of the Privy Council the printed records for transmission to the Privy Council was to relate only to the questions dealt with by the High Court and as the High Court did not consider and deal with the question as to the liability of the Court of Wards as such, we did not include in the record the evidence of the Manager and certain exhibits bearing on this point part of the case. No doubt, the liability of the Court of Wards to be sued as such apart from its Ward may be argued and dealt with as an abstract question of law independently of the reflections cast upon the Court of Wards in the conduct of the suit; but as in the first instance Respondent's case the ^{portion} ~~recitation~~ of the District Judge's judgment relating to this matter is set forth fully, and as it is by no means clear from the judgment whether the remarks are simply the statements in the judgment of the arguments of counsel or whether they are intended to be the expression of the Judge's opinion, we consider it desirable that our counsel should be put in possession of certain facts which negative the imputations and inferences made and suggested in the extract from the District Judge's judgment. At the time when the appeal was about to come on before the High Court, an affidavit ^{*} was sworn to by the then Secretary setting forth fully the circumstances bearing on the point in view to the same being used before the High Court; but as the High Court did not go into those questions the affidavit was not filed in the High Court and the same was returned to the Court of Wards with all its enclosures. It will be well now to forward the same to the Solicitor, India Office, for his information.

I send you enclosed authenticated copies of a petition recently presented by the appellant's vakil to the High Court to

amend

* This affidavit cannot be traced but Mr. L. Subramaniam says he has since pointed out that it will suffice to send in such an affidavit sworn to by Mr. Carr on 26 January 1897

D. J. Carr

There is one other matter on which we think it necessary to call the Court's attention. At page 9 of the appellant's case it is --- stated that "with a view of limiting the appeal in the first instance to the questions of law decided by the High Court, certain admissions --- were made pending the preparation of the record and with the view of --- saving the expense in preparing and printing the same". In the "case" of the 2nd Respondent, however, on page 6 it is stated that the question of the sonship of the deceased was understood "not to be decided upon the present appeal". We are afraid there is some mistake misapprehen--- sion in the matter. We consider that every effort should be made to --- have the questions argued and disposed of by the Privy Council should the Privy Council be against the Respondents on the question of Law. No

- 1 13th October last = Ostrei
- 2 Privy Council appeal = Tussitur
- (3) Sent by mail of = Fridebam
- (4) (requires amendment)
must be amended — = Genetuum
- (5) Privy Council = Mustelam
- (6) High Court of Judicature in Madras = Edacitās
- (7) (which would involve extra expense and delay)
to avoid delay and (any) additional charges
= Aeramini and Rhopalon
- (8) If necessary = Epulonis
- (9) be prepared = Salutare
- (10) Two months = Dedomata

But
in consultation
with the Rep.

Code
Class.

INDIAN  TELEGRAPHS. Monthly
Number.

To
(Office)

From
(Office)

Words.

Day.

Hour.

Minute.

Official
Instructions.

To
(Person)

From
(Person)

64 Word Form.

F.C.2.

I am not certain about the authenticity of the affidavit. The handwriting appears to be that of a person who is not a solicitor and I am not in a position to authenticate it. I have, however, the concluding paragraph of the affidavit which is signed by the Solicitor. I am not in a position to authenticate it. I have, however, the concluding paragraph of the affidavit which is signed by the Solicitor. I am not in a position to authenticate it. I have, however, the concluding paragraph of the affidavit which is signed by the Solicitor.

INDIAN  TELEGRAPHS. *Monthly Number.*

From
(Office)

Words.	Day.	Hour.	Minute.	Official Instructions.

From
(Person)

64 Word Form.

F. C. 2.

ord Farm.

Rev. Dept.

Read Pro. of the Court of Wards No 1291 Pro
Conf: No 22

Of 12 November 1898.

(C. No 7750 of 1898)

G.O. No. 4473 of 15th Nov. 1898.

The papers specified by
the Court of Wards

in para 2 of its Pro. read above
will as a result
be forwarded to the
Secretary of the S. & State for him also

2. The following telegram will be
despatched to the Right Honble the

Secretary of State for India:— Oct. last:

"Your Solicitor's letter 13th ultimus
Pittapur Privy Council appeal. Paragraphs

132 to 135 District Court Judgment
mere quotation (of) Counsel's argument

not expression Judge's views. Affidavit
(and) Government orders sent by mail

of nineteenth prove this and substantiate
reason six first Respondent's case.

Last sentence para 16 Second Respondent's
case must be amended. Court of

Wards earnestly desires final settlement
by Privy Council without remand (to)

of jurisdiction in Madras
the High Court, which would involve extra
expense and delay. Supplemental transfer

(of records can if necessary be prepared
in two months. Please issue instructions

accordingly."

Tels. despatched.
16/11/98

Issue. We are virtually
a post office in this
matter

S/S

As the

It is proposed to send the papers
to the Secretary of State for India
by the next mail

to avoid delay and
(any) additional
charges

3. The Comr of Wards is requested to remit to the Secretary to Government Revenue Dept. the cost of the above telegram viz Rs 213 (two hundred and thirteen only) only

4. The following letter will be despatched to the Legal Adviser & Solicitor to the Secretary of State, India Office.

WLL
15.11.98

SK 15/11/98

The Comr of Wards. sent 16/11/98

SK
15/11/98

No 4474
Dated 16 Nov 98.
Letter to the Legal Adviser &
Solicitor to the Secretary of State,
India Office.

Sir.

In continuation of the telegram from this Govt to the Right Honble the Secretary of State for India & his day I am directed to forward the following papers in connexion with the Pittapur appeal:-

- B (1) Copy of Mr. P. Subramania Aiyar's letter of 9th November 98
- C No 7750/98 (2) Copy of Pro. of the Court of Wards No 1291 of 12 November 98 & the Govt order thereon No 4473 of 16.11.98
- (3) Mr. Carr's affidavit of 26 Jan 97 with copy of Pro. of the Court of Wards No 3080 of 24 November 90
- (4) Authenticated copies of f.d.s No 2286 Rev of 12th June 96 & No 2675 Rev of 8th July 96
- F (5) Authenticated copy of Civil Miss. Petition No 910 of 1898 & the High Court's order thereon.

(D) including paras 1, 5 & 10
of Civil Miss. No 315 of 22-3-96
with f.d.s. No 2675 of 8-7-96

WLL
15.11.98

SK
15/11/98

SK
15/11/98

When given for copying _____
 When copied _____
 When examined _____
 When signed _____

189 .

READ AGAIN G.O., No. _____
 189 , DATED _____

RENT No. _____

ENCLOSURES TO O. No. _____

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 ORIGINAL.

A.B.—
 A = Copy in full.
 B = Not to be copied.
 P = Copy abstract only.
 Q = Copy heading only.

S.O. no 149
A. 11 28

Dec'd 5/11/58

Rev. Sept

My dear Davidson.

With ref. to G.O. No 3786^{he}
 of 19 September 1898 I am to enclose
 for the information of the Court
 of Wards a copy of Sir A. H. W.
 Wilson's D.O. of the 13th ultimo
~~with~~ ^{a copy of each of the cases}
~~(with enclosures)~~ ^{explaining}
~~the~~ ^{the} ~~circumstances~~ ⁱⁿ ~~under~~
 the case for the Appellant was
 not ~~sent~~ ^{sent} earlier to the legal
 adv. in the Pittapur Pringlamie
 appeal was not sent earlier
 to the legal advs of the
 Respondents in India.

Wm
H. Jones

4/14/8

point