Supr. Court Series - Vol I

Appeals & Court Trans. & Court Decisions

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General No.

4-87

year 1779

To the Honble Thomas Rumbold Esquire

President and Governor &c. Council of Fort St. George

In the Court of Appeals

Between Gideon Firth Complainant and Pelecheloe Savamy Defendant.

The Humble Petition of the said Complainant

Sheweth

That your Petitioner did Sometime on or about the 5th day of August which was in the Year of our Lord One thousand Seven Hundred and Seventy Six Exhibit a Bill of Complaint in the Honble the Mayors Court against the said Pelechelore Savamy for the Sum of three thousand Nine Hundred and Eight Pagodas Current Money of Madras Charging the same to have arisen upon a Bond or obligation bearing date the first day of August in the aforesaid Year Payable on demand which said Bond your Petitioner at the same time shewed was in your Petitioners Possession and ready to be produced to the said Honble the Mayors Court when required and your Petitioner having at the time of filing the said Bill Made Oath to the justness of the demand and that he had Reason to believe the said Defendant would depart from the Jurisdiction of the said Honble the Mayors Court upon hearing the said Bill was filed against him a Summons Returnable immediately and a Warrant of Arrest did Issue by Vertue whereof the Sheriff did arrest the Person of the said Defendant who put in Special Bail to the said action and was there upon Released from the Custody of the said Sheriff and your Petitioner Sheweth that the Usual Rules were prayed in Course for the said Defendant to answer your Petitioners said Bill of Complaint And your Petitioner Sheweth that at the expiration

of

of the said Rules for the Defendant to put in an Answer which was on the third day of September One Thousand Seven Hundred and Seventy Six and your Petitioners Attorney sending that no answer was filed your Petitioners said attorney did produce a Certificate under the Hand of the Register Setting forth that the Usual Rules had passed for the said Defendant to Answer and that he had Neglected doing the same, your Petitioners said attorney did therefore according to the Course and Practice of the Court pray a Decree, But your Petitioner sheweth that the Defendants attorney did object thereto and prayed a further time of one Week, the said Defendants attorney alleging for reason that he had just Received Notice from his Client the Defendant that he was preparing Materials for an answer, and the said Humble the Mayors Court taking the same into Consideration were pleased to indulge the Defendant with a further time of one Week But ordered that in default of an Answer Judgement would be given for the Complainant as by the attested Extract from the Minutes of the said Humble Court may Appear your Petitioner furthermore sheweth that on the following Court day being the tenth of the said month of September your Petitioners Attorney sending Notwithstanding the indulgence granted the said Defendant after the expiration of the peremptory Rule to deliver in an Answer that no answer was filed your Petitioners said Attorney did therefore produce a Second Certificate under the Hand of the Register Setting forth the same and did at the same time accordingly pray a Decree. When your Petitioner sheweth the said Defendant did present a Petition to the said Humble the Mayors Court complaining that his Attorney had Refused to make out his Answer to the Complainants Bill and praying that the Court would be pleased to order one of the Attorneys of the Court to act for him: your Petitioner sheweth that the Court taking the same into Consideration did appoint Mr Dupuy to Act for him in Support of his Complaint against his attorney and deferred taking into Consideration the prayer made by your Petitioners attorney for a Decree till the following Court day on which day being the Seventeenth of the aforesaid month of September the said Mr Henry Dupuy in Consequence of his Nomination by the Court to act on behalf of the aforesaid Petition did call upon the said Mr Charles Bromley the attorney for the Defendant

Defendant to Answer the Defendants Petition, your Petitioner sheweth that the said Mr Bromley did inform the Court by Virtue of his Oath as an attorney of the said Court, that it appeared to him from the Tenor of the Defendants Instructions that he had no Real Cause for a Defence and from the Words of his the Defendants Interpreter it appeared that the Bond in dispute was for the Ballance of an Account owing on another Bond by him executed, and that he did not dispute the Validity of those Accounts, but that the Defendant did allege that he was ready to make Oath to any Answer that his attorney meaning the said Charles Bromley chose to draw out as he said he Wanted time and was a poor Man the said attorney further Reminded the Court that the Defendant had in their Presence last Court day acknowledged to have Signed the first Bond by the Consent of his Father and that he at the same time confessed to have Signed the Bond on which he was Sued the Court having taken the same into Consideration and the attorney for the Petitioner declaring that he had Received no instructions from his Client the Defendant in Support of his Petition the Court were of Opinion that the reasons assigned by Mr Bromley for having Refused to put in an Answer to the Complainants Bill were Sufficient, and therefore Ordered the Defendants Petition to be dismissed with Costs In Consequence whereof Your Petitioner Sheweth that his said attorney did acquaint the Court that two Weeks ago the usual Rules expired for the said Defendant to answer your Petitioners Bill of Complaint and as he had Neglected doing the same he therefore prayed that a Decree might then pass And Your Petitioner sheweth that the said Mayors Court having taken the same into Consideration the said Court did accordingly order and Decree that the Defendant should pay unto Your Petitioner the full and just Sum of three thousand Nine hundred and Eight Pagodas together with all such Interest as then was or should there after become due thereon until full payment was made also all Costs of the said Suit

And

And your Petitioner further sheweth that notwithstanding the repeated Indulgences granted the said Defendant to deliver in an answer to your Petitioners Bill, the many evasive and unfair means used by the Defendant to delay and put off the Payment of your Petitioners just demand, and the further endeavour of the said Defendant to impose upon the Court in his Petition aforementioned against his Attorney, which was evident from the Defendant declining and Neglecting to furnish the Attorney nominated by the Court on his behalf with any instructions in Support of the said Petition Yet your Petitioner sheweth that Nevertheless the said Defendant did on the thirtieth day of the aforesaid Month of September one thousand seven hundred and Seventy Six Appeal from the said Decree of the Mayors Court, as Groniously and that he was greatly aggrieved hereby the Defendant alledging for Reason that instead of his aforesaid Petition being thrown out with Costs the Mayors Court ought to have directed the said Charles Bromley to have put in his Answer to the said Petition in Writing together with Number of other Matters foreign to the Cause in question and which tend evidently to shew that the Defendants sole object is to keep your Petitioner out of the Receipt of his said just Demand as long as he should be enable to do so without once shewing any Cause why your Petitioners demand is not just or that a Decree should not pass thereon which it is Natural to Suppose the Defendant would not have omitted if he had any just or legal objection to make thereto

Your Petitioner further sheweth that on the Fifteenth of the Month of October in the aforesaid Year of our Lord he filed his Answer in this Honble Court to the said Petition of Appeal and some time afterwards To Wit on the thirteenth day of February One thousand Seven Hundred and Seventy Seven the aforesaid Cause coming on to be heard in this Honble Court, this Honble Court upon due Consideration taken of the Matters therein contained and of the Pleadings and Arguments used by the Attorneys

Attorneys on both sides, this Honble Court did think fit to Order and Decree and did accordingly order and Decree that the said Decree of the Honble the Mayors Court given in the said Cause should stand Confirmed with Costs

Yet your Petitioner further sheweth that the Defendant still continuing and pursuing his aforesaid Litigious design of detaining your Petitioners property in his hands the said Defendant in order thereto did on the Twenty Sixth of the said Month of February in the said Year of our Lord file a Petition of Appeal in this Honble Court to his most Excellent Majesty in Council, which said Petition of Appeal your Petitioner did in Course except the Defendant would have prosecuted to Europe, and Your Petitioner sheweth that in order that he might be prepared in every thing to answer the said Appeal your Petitioner did furnish himself with Copies of all the Necessary Papers for that Purpose and your Petitioner sheweth that he waited in Expectation of the said Defendant sending the said Proceedings to Europe untill the expiration of one Year and upwards when your Petitioner sheweth that he gave formal Notice to the Defendants Attorney Mr. Daniel Shaw of your Petitioners Intentions of sending the same to Europe himself as he found the Defendant had no intention of so doing, your Petitioner having been advised that it had been adjudged in a Case where the Appellants from one of his Majesties Courts in the Plantations in the West Indies had Neglected to Prosecute his Appeal to Europe for a Year and Upwards and upon the same being done about that time by the Respondent to the Appeal, the Appellants said Appeal was dismissed, and Your Petitioner sheweth that in Order to obtain the like Redress he went to the Office of the Clerk of this Honble Court, whereupon making enquiries in Respect of the Matters in question your Petitioner to his great Surprize found that no Security had been given by the Defendant at the time of filing his said Petition of Appeal to his Majesty in Council, to Pay Interest and the Costs of the said Appeal in Case the aforesaid Decree should be affirmed which

Security

Security Your Petitioner Sheweth it is the Custom and practice of this Honble Court to demand and take at the time any Petition is filed to His Majesty in Council, which practice your Petitioner also Sheweth is founded upon the express and declared Words of His Majesties Royal Charter wherein it is laid down as a Rule and Condition of the admitting and receiving of Petitions of Appeals to His Majesty in Council as may more particularly and fully appeared upon Reference to the said Charter.

Your Petitioner therefore humbly Sheweth that he conceives that the aforesaid Appeal to his Majesty in Council has not been entered according to the practice and form usual and Necessary to the admission of Appeals in such Cases and that as the Defendant has omitted conforming to the Conditions upon which Appeals to His Majesty in Council are authorized that the said appeal cannot consistent with the intent and meaning of the said Charter be held Valid, your Petitioner further Sheweth that he did inform the Defendants attorney Master Daniel Shaw thereof and likewise of your Petitioner intention to move and Petition this Honble Court to dismiss the said Appeal by Reason that the said Appeal could not go before his Majesty in Council as the Defendant had not conformed in such his Appeal to the conditions prescribed and laid down in his Majesty's Charter, by giving Security to Pay Interest and the Costs of such Appeal in case the Decree of this Honble Court should be affirmed, When your Petitioner Sheweth the said Daniel Shaw declared your Petitioner that he knew nothing of the matter and that he was not furnished with any Instructions from his Client (the Defendant) to prosecute the said Appeal.

For all which Matters and things and for as much as the Defendant hath not only Neglected to give the aforesaid Security, but also to furnish his attorney with Instructions Necessary for the Prosecution of the said Appeal for Europe, and the Defendant having Moreover been absent from the Jurisdiction of this Honble Court during the greatest part of the time Since the determination of this Honble Court upon his aforesaid Appeal your Petitioner humbly Prays that the said Petition may be dismissed and declared Null and Void by this Honble Court and also that the Defendant may be Decreed to pay All additional Costs Since the hearing of the aforesaid appeal by this Honble Court and also of this Petition

(Signed)
Henry Dupree
Att.y for the Petitioner

To the Honble Thomas Rumbold Esqr
President and Governor &c Council of Fort St George

In the Court of Appeals

Between Gidion Firth Respondent
and Pellichelore Savmy Appellant

The Humble Petition and Representation of
the said Gedion Firth

Sheweth

That Your Petitioner did on the Sixteenth day of March in this present Year of Our Lord One thousand Seven hundred and Seventy Eight present a Petition to this Honble Court Setting forth the State and Merits of a certain Cause and Appeal before this Honble Court wherein the said Pellichelore Savmy was Appellant and Your Petitioner Respondent and especially certain Matters Relating to an Appeal from the Decree of this Honble Court passed the Seventeenth day of February One thousand Seven hundred and Seventy Seven to his Majesty in Council, which said Appeal notwithstanding the same was filed on the Twenty Sixth day of the said Month of February, the Appellant had failed to Prosecute to Europe as he should have done; Your Petitioner did also Set forth in his said Petition that the Appellant in filing his said Petition of Appeal to his Majesty in Council had not conformed to the Rules and Conditions laid down and prescribed in his Majesty's Royal Charter by giving at the Same time security to pay the Interest and Costs of such Appeal in case the Sentence judgement or Decree Appealed from should be affirmed, and that therefore the said Appeal could not consistent with the intent and Meaning of the said Charter be held valid. your Petition did further shew that he did inform the Appellants Attorney Mr Daniel Shaw thereof and likewise of your Petitioners Intention to Move and Petition this Honble Court to dismiss the said Appeal

Appeal, by Reason that the said Appeal could not go before his Majesty in Council, the Appellant not having conformed in his said Appeal to the Conditions aforementioned in the said Charter expressed, and that the said Daniel Shaw gave your Petitioner for Answer that he knew Nothing of the Matter, and that he was not furnished with any Instructions from his Client (Meaning the said Appellant) to Prosecute the said Appeal. For all which Matters and things before Set forth in your Petitioners said Petition and other Matters therein Contained your Petitioner did Pray that the said Petition might be dismissed and declared Null and Void, and also that the Appellant might be Ordered to Pay all additional Costs Since the Hearing of the aforesaid Appeal by this Honble Court and also of the said Petition and your Petitioner further humbly Prays leave to Set forth unto this Honble Court that his aforesaid Petition was Set down to be heard on the Twenty first day of May in this present Year of Our Lord and at different other times but the hearing thereof hath been adjourned, and your Petitioner further Sheweth that the Appellant is and hath been absent from the Jurisdiction of this Honble Court for two Years and upwards, and that your Petitioner in Case of the Death of the said Appellant or of his Bail in the Honble the Mayors Court before the determination of the said Petition would as he is advised lose his just demand Decreed him by the Honble the Mayor's Court and Confirmed by this Honble Court

Your Petitioner therefore most humbly Prays in Tender Consideration of the aforegoing premises that this Honble Court will be pleased to Appoint a day for the determination of the said Petition aforementioned

(Signed) W.y Dupuy
Attorney for the Petitioner

Court of Appeals
at
Madraspatnam

Saturday 26 April 1779

Between Gideon Firth Appellant
and Pelicheloe Savury Respondent

This Cause coming on this Day to be heard and debated before this Court upon hearing the Petition and Answer, and upon due consideration had of the Matters thereon severally contained, this Court doth think fit to Order and Decree, that the Appellants Petition to the King and Council be dismissed, the Security not being filed within the Limitted time conformable to the Charter.

Clear

(Signed) Stephen Sulivan
Clerk of Appeals

26 April 1779

To the Honorable the Court of Appeals at Madraspatnam

Between George Mowbray of Fort Saint George Merchant Complainant and George Mackay Lieutenant in the Service of the Honble the United Company of Merchants of England Trading to the East Indies Defendant

The Humble Petition and Appeals of the said George Mackay

Sheweth

That the above named George Mowbray did on the Twenty eight day of April which was in the Year of Our Lord One thousand Seven hundred and Seventy Eight Exhibit a Bill of Complaint in the Honble the Mayors Court at Madraspatnam against your Petitioner for the Sum of Two Thousand Seven hundred and Sixty Pagodas Eleven fanams and forty Cash Current Money of Madras which he pretended your Petr was Indebted unto him on the Ballance of an Account Current of which he said a Copy was Annexed to the said Bill of Complaint

To which said Bill of Complaint your Petitioner put in an answer setting forth that he your Petitioner could not consider himself by any means as Indebted unto the said George Mowbray in the sum of Two Thousand Seven hundred and Sixteen Pagodas Eleven fanams and forty Cash in the manner Set forth and Stated by the said Complainant in his said Bill of Complaint or in any other Sum or Sums of Money whatever your Petitioner did further in his said Answer say that true it is the said Complainant has in his Possession an Interest Bond Signed & Sealed by your Petitioner for the Sum of three thousand three hundred and Eighty eight Pagodas and under date the Tenth day of June which was in the Year of Our Lord One thousand Seven hundred and Seventy Seven as Set forth and Stated by him the said Complainant

Filed in my Office Feb 14 1779
Stephen Sulivan
Clerk of Appls

Complainant in the Account Current annexed to his said Bill of Com-
plaint but Your Petitioner absolutely denied to have received from the
said Complainant or from any Person or Persons for or on his Account
the said Sum of three thousand three hundred and Eighty eight Pagodas
as mentioned in the said Bill to have been received by Your Petitr or
any other Sum of Money whatever, Wherefore Your Petitioner humbly
Conceived that he was not bound to pay to the said Complainant his said
Pretended Demand and that the action Commenced by him in Un-
generous and Unjust, Your Petitioner did in his said answer further
Say that it is also true that the said Complainant did on or about
the fifth day of February last Receive from Your Petitioner the sum
of One thousand Pagodas as mentioned in the said Account Current
but your Petitioner could not allow the same to be Carried as a Credit
to the said Complainants Pretended Account Current for your Petitioner
said he did Insist and would Maintain that the Payment of the said
Sum of One thousand Pagodas was an Act of favor conferred upon
the said Complainant and not an Act of obligation on the part of your
Petitioner and your Petitioner did Lastly in his said answer
humbly Pray the said Honble the Mayors Court to Order and Direct the
said Complainant to shew how and in what Manner he had paid your
Petitioner the whole or any and what part of the Sum he has Debited
Your Petitioner within his said Account Current and that in every
Copliest Manner as Your Petitioner was and is an entire Stranger
thereto, To which said Answer the said George Maubray put in a
Replication still Pretending that Your Petitioner does Justly and
truly stand Indebted unto him in the Sum of Two thousand Seven
hundred and Sixteen Pagodas Eleven fanams and Ten Cash
as Stated and Setforth in the said Account Current Annexed to his
said Bill of Complaint and that the same is true in Manner and
form therein Expressed and Shewn and tho your Petitioner denies
receiving the Consideration or Amount of the said Bond yet he

the

the said George Maubray Pretends one is Implied, he also says he is in
Possession of com. Letters of your Petitioner in answer to Applications
Made for Payment and Lastly in his said Replication says that
there is no Manner of Occasion to Setforth how the Debt on the Bond
arose, Saying it is Sufficient to shew that the Bond was duly Executed
by your Petitioner and by him delivered as his Act and Deed, and this
being established in Evidence, as he Says all that is Requisite of the
Obligee and as to any Objection thereto the same he says Must be
Represented and Supported by the Obligor as it is not the Business
of an Obligee to invalidate a Bond duly Executed

Your Petitioner further Sheweth that being Sensible of the Illegality
and Injustice of the said Demand and of the Necessity there was for the
said George Maubray to Shew how and in what Manner he paid your
Petitioner the Amount of the said Bond and he the said George Maubray
having Evaded it in and by his said Replication and not Setforth
the same tho Particularly Required so to do, well knowing if he did
so that it would Invalidate his Claim as such Discovery would have
Shewn the Illegality thereof your Petitioner was therefore dissatis-
fied with the said Replication and deeming it for the reasons before-
mentioned Insufficient he your Petitioner did Except to the said
Replication to the following Effect, that is to say, For that the said
George Maubray hath not Setforth and discovered Nor has he Shewn
how and in what Manner he paid your Petitioner the whole or any
and what part of the Sum he has Debited him your Petitioner with in
his Account Current annexed to his said Bill of Complaint and which
the said George Maubray is Required by your Petitioner in his said
Answer to do in every Copliest Manner as your Petitioner was and is
still an entire Stranger thereto your Petitioner did therefore Except
to the said George Maubray's Replication as Imperfect Evasive &
Insufficient and therefore Prays that the said George Maubray

might

answer

Might put in a better and more Sufficient Replication to the said Answer To which said Exceptions the said George Maubray put in an Answer still Evading the said Matters under Various Pretences which your Petitioner doubly no Means Conceive to be Sufficient to Justify the Dilatory and Proceedings of him the said George Maubray in to Support his said Unjust action

Your Petitioner Further Sheweth unto this Honorable Court that the said Exceptions and Answer were Set down to be Argued and coming on to be Argued and Determined by and before the said Honble the Mayors Court on Tuesday the Seventy Sixth Day of January in the present Year of our Lord One Thousand Seven hundred and Seventy Nine the said Court were pleased to Order Your Petitioners said Exceptions to be thereon out with Double Costs and Ordered Your Petitioner to put in a Rejoinder to the said Replication by the fifth Day of this Present Month of February in default of which this Cause was to be heard on the Proceedings already had as will more fully and at Large Appear by an Extract from the Minutes of the Court on the said Occasion which comes herewith for the Inspection of this Honorable Court — From which said Order or Determination of the said Mayors Court your Petitioner doth Appeal to this Honorable Court as he Conceives the same to be Erroneous and that he your Petitioner is Aggrieved thereby

First Because the said Mayors Court Instead of Ordering and Directing the said George Maubray to shew how and in what Manner he has paid Your Petr the whole or any and what part of the —— Sum he has Debited your Petitioner with in his said account Current Annexed to his said Bill of Complaint in every Explicit Manner Agreable to the Prayer of your Petitioner in his said Answer and the said Exceptions founded thereon the said Court hath Overruled your Petitioners said Exceptions and Ordered your Petitioner to deliver in a Rejoinder to the said Imperfect Insufficient Replication thereby denying your Petitioner the Justice to which he conceives himself Intitled and which would have Shewn the Illegality of the said Demand and action

Secondly Because the said Mayors Court Instead of Making the said Order as by your Petitioner Prayed for and on account of which the said Exceptions were Exhibited as aforesaid Whereby the said George Maubray would have been liable to Pay and your Petitioner entitled to Costs, Have Sacred your Petitioner with Double Costs For which your Petitioner doth by no Means Conceive there was any good Cause or Reason and therefore that he your Petitioner is Particularly Aggrieved For Notwithstanding what the said George Maubray Pretends as a reason why he hath not Complyed with your Petitioners said Prayer Viz.t That the Bond of itself implies a Consideration and that nothing can Annull an Act and Deed so Apparently fair and Open but a Deceit or a Forgery Yet your Petitioner Craveth Leave to Shew unto this Honble Court that the Law Speaking of Bonds Seip obligations and Conditions are Void if they are unLawfull and your Petitioner Conceives Nothing can more Shew that the Bond in Question is Unlawfull or such as he your Petitioner ought not to Pay than what is Setforth in this Defendants said Answer and the said George Maubray refuses to shew how and in what Manner he paid your Petitioner the whole or even any part of the Sum he has Charged your Petitioner with, which if Just and Legal he might easily have done and which your Petitioner Conceives he would have done had he not been Conscious that the same would have Invalidated his Demand and Shewn the same and his said action to be Illegal, and it became the more Necessary and a Duty Incumbent on the said George Maubray to shew the said Matters because your Petitioner hath in his said Answer on Oath denyed his having received the Principal Sum

acquire

Sum mentioned in the said Bond and Account or any other Sum whatsoever on Account of the said Bond and that he conceived himself not bound to Pay the said Pretended Demand those Circumstances do as Your Petr Conceives shew that great Cause your Petitioner had to Except to and not admit of the Validity of the said Replication and to Pray that the said George Maubray might be Ordered to Shew the Nature of his said Demand in Order that the said Mayors Court and any other Court before whom the said Matters might come or to which any Appeal in the Cause might be made, might be enabled to Judge of the Legality or Illegality of the said Demand and Action

All which Matters and things Your Petitioner Submits to the Judgement of this Honble Court and humbly Prays that the said Order of the said Mayors Court may be Reversed and Set aside, that the said George Maubray may be Ordered to Comply with the Prayer of your Petitioner in the said Answer and Exceptions and that the said George Maubray may be Taxed with such Costs as the Nature of the Case requires Your Petitioner doth also Pray such further and other General Relief in all and Singular the Premises as to this Honorable Court shall Seem Meet And Your Petitioner as in Duty bound — Shall Ever Pray.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 26th day of January Anno Domini 1779

Present

George Proctor Esquire Mayor

Edward John Holland & Benjn Kelsick

Aldermen

George Maubray

vers

George Mackay

Affidavit of Paramandoom of Service of Notice on the Defendants Exceptions to the Complainants Replication coming on to be Argued this day Sworn to in Court Read and filed

Bill with an Account Current Annexed Read

Amended Answer Read

Replication with three Letters Annexed Read

The Defendants Exceptions to the Complainants Replication Read

The Complainants Answer thereto Read

The Defendants Exceptions to the Complainants Replication and the Complainants Answer thereto coming on to be Argued this Day in Presence of the Attorneys on both Sides on Reading the Complainants Bill with an Account Current Annexed — the Defendants Amended Answer — the Replication with three Letters Annexed the Defendants Exceptions to the Complainants Replication, the Complainants Answer thereto — on Hearing the Pleadings and Arguments Made use of by the Attorneys and on due Consideration had thereon the Court are of Opinion that the Defendants Exceptions to the Complainants Replication

deficient

Replication are Litigious Insufficient and irregular This Court doth therefore think fit to Order and doth accordingly Order that the Defendants Exceptions be thereon set with Double Costs and that the Defendant do deliver in a Rejoinder by Next Court day

Day is given the Defendant till the 2d February Next to Rejoin or in default of which the Cause will be heard on the Proceedings already had

A true Extract

(Signd) Gideon Firth
Dep.t Reg.r

In the Court of Appeals

Between George Maubay of Fort St George Merchant Complainant
And George Mackay Lieutenant in the Service of the Honble the United Company of Merchants of England Trading to the East Indies Defendant

The Answer of George Maubay to the Petition and appeal of the said George Mackaye

The said Respondent not Confessing or acknowledging all or any of the Matters or things to be true as in and by the said Petition and appeal are Mentioned and set forth for Answer thereunto says that such order as is Complained of was made by the Honble the Mayors Court as in the said Petition and appeal is Mentioned and set forth Craves leave to Refer thereunto when the same shall be produced And the said Respondent humbly Conceives and is advised that the said Order is agreeable to Equity and Justice Because in the first place as the Cause of action arises on a Bond under the hand and Seal of the Appellant and Complete in every form and shape according to Law, the Consideration for which the same was Given ought to have been shewn by the Appellant himself and in Case of any irregularity or any undue means had or done to obtain the said Bond the same ought to have by the Appellant in his Answer been specially set forth and pleaded in avoidance of the same, which the Appellant has not done, The said Respondent further says, that he is advised that according to Law and Equity and so it has been adjudged that every Bond implies a Consideration for which it was given whether it was for Cash Lent or as a Security or given on Account of affection, Gratitude or otherways, and in Support of this Argument

Filed in my office the 13 February 1779
(Signd) Stephen Sullivan Clerk of Appls

deposive

argument the said Respondent by Leave of this Honble Court prays to
receite the following authority as Extracted from the General abridg-
ment of Cases in Equity Vol. 1. Page 81. "If a Man enters Voluntarily
into a Bond though there was no Consideration, yet if there was no
fraud used in obtaining it the Bond shall not be relieved against
in Equity." – And further the Respondent begs Leave to receite another
Authority in Point from the 2. Vol. of the same abridgement Page 186
Titles Bonds or obligations "Where a Weak Man gives a Bond if there
"be no fraud or Breach of Trust in the obtaining it, Equity will not set
"aside the Bond only for the Weakness of the obligor." The said Res-
pondent further says that the Consideration for which the Bond in
Question is not only implied but expressed and therefore the Appella-
nt praying in his Answer which he put in to the said Respondents
Bill of Complaint in the Honble the Mayors Court praying that the
Respondent might set forth the Consideration for which the Bond was
given was very irregular and improper it being the Business of the
Appellant to set forth Specially the Consideration for which the Bond
in Question was given and pleaded the same in Barr had such
Consideration been illegal or that the Bond had been obtained by
unfair means, but on the Contrary the Respondent says, that the
Appellant by denying the Debt and Ceasing himself from the
performance is in the Eye of the Law admitting of the Debt and the
Non performance of the Condition, as it has already been adjudged
"that in a Debt on an obligation the Defendant Cannot plead Nihil
Debit, but Must deny by pleading Non Est factum for the Seal of
the party continuing it Must be disposed by a Cutting of an high
Nature" in the present instance now before this Honble Court of
Appeals the Appellant in his Answer to the Bill of Complaint
Acknowledges the Bond in Question to be his act and Deed, so per
ought Judgment to have been given in favor of the Respondent
and

and the Plea that the Appellant in his said Answer Makes Use of
that he received no Consideration is no Plea at all nor can such a Plea
stand in Competition with the Demand because a Voluntary Bond in
Course of payment may be enforced and the want of an express
Consideration cannot be pleaded in Avoidance to the Bond which
of itself implies a Consideration as has been here before shewn
and Set forth. The said Respondent further says that the Appellant
in his said Answer says that he absolutely denies to have receive
from the Respondent or from any other Person or Persons for or on
account of the said Respondent the Sum of three thousand three hundred
and Eighty Eight Pounds as Mentioned in the Bond in Question,
– the Question now Arises with Submission to this Honble Court
what Consideration induced the said Appellant to Sign Seal and Deliver
the said Bond unto the said Respondent, some Consideration was
certainly the Cause, as is Evident from the Express tenor of the
obligation, then the first Question Arises, who is to Set forth the
Consideration, and if it were Necessary for such Consideration to be Set forth
the Obligor or the Obligee, the Answer, with leave of this Honble Court
is the Obligor because the Act and Deed of the Party Subscribing shall
be taken Most Strongly against him that made it, and no Defect in the
Party executing it, shall avoid the same, unless it be especially pleaded,
the Book of Reports Says "that if an Infant Seal a Bond and he be
"sued thereupon he is not to plead Non Est factum but Must avoid
"the Bond by Special pleading" The said Respondent further says that
the Duty of shewing what was the Consideration for which the Bond
was given does not lay with him but with the Appellant as appear
from the following report of Cases in Chancery
Vol. 1. Page 483. "Where a Bill was to be relieved against a Bond and
"Judgment the Bill reciting that the Money therein Mentioned was
"lent and paid whereas in truth it never was paid but given for a new
"particular purpose, the Court of Chancery would not relieve against this

deceipt

"this Bond because it appeared to be a free and Voluntary Gift without
"any thing of fraud or Conviv[ance] — The said Respondent further Says that
having so far on his part Specially set forth his Arguments and recited
his Authorities in Support of the Validity of the Bond and now begs
leave to refer this Honble Court to the answer of the Appellant wherein
there is no Charge of any undue Considering or any illegal Act in the
obtaining of the said Bond it will Naturally shew that the Appellant
stands Debtor upon the face of the Writing unless it is shewn by the
Appellant to the Contrary, The Respondent further begs leave to observe
that the Appellant has in his Answer to the Bill of Complaint charged
the Respondent to be Ungenerous and unjust by the said Respondent
Commencing his Action against him, but no Reason is Assigned or
Matter Set forth why the Respondent is to labour under such an
imputation or that the Assertion should be made use of, in the Answer
which goes Neither to the Appellants plea or his Answer — The said
Respondent further Says that the appellant in his said answer does
acknowledge that he paid the Sum of One thousand Pagodas to the Respondt
but will not allow that the same shall be carried to the Credit of his
Account upon the Bond, though the appellant acknowledges that
the Sum of One thousand Pagodas was paid to the Respondent as an
Act of favor and not an Act of Obligation on his the said appellants
part, in answer to which the Respondent says, that in his Replica-
tion he specially set forth that he had no other Transactions with the
appellant, but the Bond in Question, that this Money was absolutely
paid on Account of the said Bond, that the Payment of the said Sum
was Proof of the Validity of the Bond and as to the Matter of favor
which the appellant in his answer says he conferred on the Respondent
by the said Payment, no Reason or Consideration is by the Appellant
shewn why such Sum as One thousand Pagodas should be paid
to the Respondent, had this Sum being Conferred on the Respondent
as a Matter of favor, the Appellant would Naturally call it a
donation

a donation, instead of a Payment, because the Word Payment implies a
duty on account of Some Debt, Promise, or undertaking, whereas a Donation
implies a Voluntary impulse without a duty, a self Created motion
arising from no Compulsory Act or deed there being a free Agency in the
Gift — The said Respondent further Says that the Appellant in his
said Answer prays the Honble the Mayors Court that the Respondt
might shew how and in what Manner he paid the Appellant the
whole or any and what part of the Sum the Respondent Debited
the Appellant with in his Account Current Annexed to his Bill of
Complaint — as prayed the Respondent says so very inconsistent
with the Establish practice of every Court of Judicature under the
Crown of England, that he did not Comply with it for the reasons
alledged in his Replication to the Appellants Answer and more
particularly as as Blackstone in his Commentaries Vol. 3. Page 447.
Speaking of Answer he says, 'an Answer Must be Signed by Counsel and
Must either deny or Confess all the Material parts of the Bill or it
may Confess or avoid, that is Justify or Palliate the facts, if one of these
is not done, the Answer may be excepted to for insufficiency and the
Defendant be Compelled to put in a More sufficient Answer, a Defendant
cannot pray any thing in this his Answer but to be dismissed the Court,
if he has any Relief to pray against the Plaintiff, he Must do it by an
Original Bill of his own, which is called a Cross Bill, by which
Authority the Respondent says he is of Opinion that the Prayer of the
Appellant in his Answer was entirely improper and inconvenient
and also out of Place, such a prayer being an Error in the Appellants
proceedings by which he Means and endeavours to benefit himself to the
answer of the Appellant the Respondent just in his Reply Specially relying
on both the Justice and Equity of his Case and introducing sundry Correspon-
dences between the Appellant and the Respondent on the Subject in Order
to Refute the Allegations of the Appellant in his said Answer — this
Reply the Respondent says brought the Suit to a more speedy and
decisive

decisions Issue thereof suited the Appellant and in Order to delay time and ward off the final Decree on the same the Appellant under the pretence of the Respondent not Answering his prayers in his answer deserved, files an Exception to the Reply, contrary to the Practice of all Courts of Judicature where an Exception does not lye with a Defendant, but is an Instrument of the Complainant, as it is the Business of the Defendant to Demurr and the Complainant to Except, so that in fact the said Respondent says the Exceptions should have been thrown out of Court without entring into the Merits of the Exception and the Appellant Ordered to Reject, this irregularity so very apparent did not take up the whole attention of the Mayors Court as it was supposed it would do but the said Honble Court entred fairly and Minutely into the Merits of the Exception and threw the same out with Double Costs as a Punishment for the delay in the Original Proceedings occasioned by such irregularity and litiguousness as appeared on the face of the Interlocutory Orders on the side of the appellant, The said Respondent further says that he is advised and humbly Conceives that there never was an instance in any of the Courts of Law or Equity that a Defendant Excepted to a Replication for its insufficiency in not Complying with the prayer of the answer and therefore such an Exception is fairly out of Court nor could any appeal be lodged with propriety from an Order to dismiss the Exception because the Appellant had Mistaken his Course of Pleading and still persists in this irregularity by appealing from the Order in the same, had the appellant appealed from an Order upon a Demurrer and Joinder Argued there he would have stood in his right Place as Defendant but as the Matter Now is, he stand as if he was Complainant in the Original Suit to the Confusion of the whole process which is a sufficient Bar to his proceeding any further

The Respondent in Answer to the Objections made by the Appellant in his Petition and Appeal to this Honble Court as a Cause for his so Appealing, To the first Exception the Respondent says that from the irregularity

irregularity of the appellant by Excepting when he ought to have Demurred was sufficient of itself to obtain such an Order as Prayed on the Occasion there was not a possibility of any other kind of Order to pass than that, that did pass the Appellant had put himself by this Exception in the place of the Complainant and was Changing the Order of things whether by ignorance or Design the Respondent Cannot say but as the Exception was out of Order and Contrary to all Practice the same was with great propriety thrown out and as it appeared to the said Honble the Mayors Court that the whole Exception was litiguous insufficient and irregular they directed Double Costs to be paid to the Respondent as a Compensation for the Damage he had Sustained by the Delay which Order of Court the Respondent says is Agreable to Equity and good Conviences, the said Respondent further says to the Second objection of the Appellant as a Reason for why he appeals to this Honble Court of Appeals that there Certainly was not only good Cause to Fine the Appellant with Double Costs but also with treble Costs because the Appellant had Excepted Contrary to Law and in that Exception set forth his Reason for such Exception, which he of himself must know or be advised was for a Compliance to a Prayer in his Answer made contrary to Law and Deliberate the Awarding of Double Cost arose from the glaring litiguousness and apparent Delay in the Appellants, further the Respondent begs Leave to observe in Reply to the Mutilated quotation of the Appellant wherein he says, "Obligations and Conditions are void if they are unlawfull", and which the Appellant says, "he conceives nothing can more "shew that the Bond in question is unlawfull than what he has set forth in his answer" in Reply thereto the Respondent Says, that it does not in any part of the Answer appear nor does the Appellant charge that the said Bond was illegal but on the Contrary, that he Signed Sealed and delivered the same as his Act and Deed, if by the Appellants own Confession in the Execution and no Complaint of Duress Imposition &c the Bond must be deemed and taken as a Deed freely and Voluntarily entred into and given and further in Reply to the quotation respecting Obligations and Conditions being Void for their illegality, the Respondent Says as he is advised, that all

Deeds

Deeds and Writings are good till the Contrary are shewn and in case of any illegality in the framing of the same the party injured must shew the same which plainly speaks out that it was the Business of the appellt to plead the illegality of the Bond as the want of Consideration in hand cannot defeat the Condition of the same because the appellant has a right of action for such a Consideration if due to him, the said Respondt further Says that he humbly Conceives and is of opinion that it is not his Business to defeat the act and Deed of the appellant in the Signing Sealing and Delivery of the Bond in Question, if he had it in his power, it is the Business of the appellant to shew the Cause why he should not discharge the said Bond, nor is there an Instance that a man should be both Plaintiff and Defendant in his own suit, The Respondent further says that he is humbly of opinion that Notwithstanding the appellant Swears in his Answer that he never received the Consideration for which the said Bond was given, then it becomes a Duty on the appellant to set forth the Consideration which induced him to Sign Seal and Deliver such act and Deed and plead the same) if any benefit can arise therefrom) in avoidance thereof, The said Respondent further says that no good Cause has by the appellant been shewn in any of his Proceedings for his irregular Exception to the Replication of the said Respondent Neither does it remain with him to shew the Nature of his Demand further than the Bond in Question, which implies and expresses a Consideration, and in case of the party denying it to be his act and Deed then the Law of Evidence is to prove the hand Writing of the Person who Signed and Sealed such Bond or obligation and when the due Execution of such Bond is so proved the Merits are properly Cognizable for the Courts final Decree, The said Respondent further Says that if the appellant knew the Consideration for which the Bond in Question was given to be illegal, he should have taken the advantage of it by Pleading, and not left it to be shewn by the Respondt the appellant not pleading properly carries with it a strong Presumption of the Consideration being legal fair and Justifiable as Nothing is shewn to the Contrary by the appellant

for

for all which Matters and things the Respondent humbly hopes that the Order of the said Honble the Mayors Court of the twenty Sixth day of January last past be affirmed and that the said Petition be dismissed this Honble Court with Exemplary Costs.

Charles Bromley
Atty Respondent

Court of Appeals
at
Madraspatnam } ss. Thursday the 26th August 1779

Between George Mackay Appellant
and George Moubray Respondent

This Cause Coming on this day to be heard and Debated before this Court by the attorneys on both sides upon hearing the Petition of appeal and Answer and the several Exhibits of the Honble the Mayors Court to gether with a Decree of the said Court given in this Cause on Tuesday the 26 day of January Anno Domini 1779 and upon due Consideration had of the matters Severally Contained and of the Pleadings and arguments used by the attorneys on both sides This Court doth think fit to order and Decree and Doth accordingly order and Decree that the Decree of the Honble the Mayors Court given in this Cause do stand Confirmed and that the Appellants Petition be hence Dismissed with double Costs in this Court

Test
Stephen Sullivan
Clk of Appeals

To the Honble the Court of Appeals at Madrasapatnam

Sett Aviet
vrsr
Rangamah

Between William Hornsby of Madras
Inhabitant, Petitioner, and Sett Aviet of the
same place Merchant, Respondent

The Humble Petition and Appeal of the said
William Hornsby

Sheweth

That the above named Sett Aviet did on or about the
Twenty Seventh day of October, which was in the Year of our Lord One
Thousand Seven Hundred and Seventy Seven, Exhibit a Bill of Complaint
in the Honble the Mayors Court at Madrasapatnam, against the above named
Rangamah and Thereon Praying the said Mayors Court to put him in
Possession of a Certain Piece or Parcel of Ground which the said Sett Aviet
alledged he had Purchased from the said Rangamah and the Usual Order
having Issued for the said Rangamah to Answer the said Bill of Complaint
the neglected doing so whereupon the said Mayors Court were pleased, on the
Sixteenth day of December in the said Year One thousand Seven hundred
and Seventy Seven to order and Decree the said Rangamah to put the said
Sett Aviet into Possession of the said Piece or Parcel of Ground and the usual
time of Fourteen days after Granting the said Decree having Expired and
the said Rangamah not having Complied with the Tenor of the said Decree
a warrant of Execution Issued and the Sheriff did Seize or Sequester the
said Piece or Parcel of Ground

Filed in my Office March 15. 1779.
Stephen Sullivan Clerk of Appts

And Your Petitioner further Sheweth unto this Honble
Court that having by Virtue of a Mortgage Bond on which a Decree had
been obtained a Claim on the said Piece of Ground Pretended by the said
Sett Aviet to have been sold to him by the said Rangamah he Your
Petitioner

Petitioner did on or about the Nineteenth day of may which was in the Year of our Lord One Thousand Seven hundred and Seventy Eight File a Petition in the said Mayors Court and therein amongst other things Prayed that the said Seizure or Sequestration might be superseded and Set aside and that an Order might Issue to the Sheriff for to Sell the said Premises Mortgaged to Your Petr as aforesaid and the Produce thereof be applied towards the Discharge of Your Petitioners said Demand

To which said Petition the said Sett Aviet did on or about the Twenty first day of July in the said Year one Thousand Seven Hundred and Seventy Eight put in an Answer and afterwards Issue was Joined and Rules Passed for to Examine Witnesses and the said Sett Aviet Examined Several Witnesses and on the Twenty Third day of February in this present Year of our Lord one Thousand Seven Hundred and Seventy nine and before Your Petitioner could Examine his Witnesses as he has many to Examine of the said Mayors Court were pleased to pass Publication in the said matter in Dispute between Your Petitioner and the said Sett Aviet

And Your Petitioner further Sheweth unto this Honble Court that he did on the Second day of this Present Month of March File a Petition with Two affidavits thereunto annexed in the said Mayors Court and therein setting forth that by Reason of the Illness of Your Petitioners attorney he had not been able to Examine his Witnesses as tho he has several very Material Witnesses to Examine and that the Interrogatories for Examining them were Ready to be Lodged with the Examiner if the said mayors Court would be pleased to permit the same to be done And That in Regard Your Petitioner had no Intention to Postpone the setting down the said Cause for hearing he therefore

Prayed

Prayed the said Court that Publication might be Enlarged for Three Weeks, but the said Mayors Court, Instead of Granting Your Petitioners said Prayer which in Justice and Equity they ought to have done they the said Mayors Court were pleased to order Your Petitioners said Petition to be Thrown out with Costs as will more fully and at large appear by an Extract which comes herewith Annexed for the Inspection of this Honble Court

From which said order of the said Mayors Court Your Petitioner doth appeal to this Honble Court as he conceives the same is Erroneous and that he is much aggrieved thereby — Because Your Petitioner is humbly of Opinion that from the Reasons set forth by him in his said Petition the said Mayors Court ought to have Enlarged Publication and ought to have Given Your Petitioner the Time Required for Examining his Witnesses

Your Petitioner therefore most humbly Submits all the said matter and things to the Judgment of this Honble Court and humbly Prays that the said order of the said Mayors Court may be Reversed and Set aside and that Publication may be Enlarged by this Honble Court in the aforementioned Cause and Your Petitioner further prays that the said Sett Aviet may be appointed a Short day to Answer all and Singular the matters and things herein Contained before this Honble Court — and Your Petitioner doth also pray such further and other General Relief in all and Singular the Premises as to this Honble Court shall Seem Meet

Danl Shaw
Attorney for the Appellant

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 2. Day of March Anno Domini 1779.

Present
George Proctor Esqr Mayor
James Call and Colton Bowerbank Dept
Aldermen

Sett Aviet
vers
Rangamah

Petition of William Horne by with two affidavits annexed Read and filed Praying that Publication may be enlarged for three Weeks in the matter in Dispute between the Petitioner and the Respondent to which the attorney for the Respondent objects, and Prays that this Court will Confirm the order made last Court Day — The Court having taken the same into Consideration, and as it appears that Sufficient time has already been granted for the Examination of Witnesses in this matter, the Court are of Opinion that Publication ought not to be enlarged it is therefore ordered that the Petition be thrown out with Costs

A true Extract
James Taylor
Regr

To the Honble Thomas Rumbold Esqr
President and Governor &c Council of Fort Saint George
In the Court of Appeals

The answer of Sebastian of Madras Merchant Respondent to the Petition of Appeal of William Hornsby of the same place Inhabitant Appellant

This Respondent doth admit that he did sometime on or about the Twenty Seventh day of October which was in the Year of our Lord one thousand Seven hundred and Seventy Seven Exhibit a Bill of Complaint in the Honble the Mayors Court at Madras against one Ranganah in the said Appellants Petition mentioned Setting forth that he this Respondent had on or about the Twelfth day of August in the aforesaid Year bargained and agreed to and with the said Ranganah who was then Defendant to the said Bill to purchase of him a certain Piece of Ground situated in the Armenian Street in Madras aforesaid and to the northward of his this Respondents House also situated in the said Street for the Sum of Three Hundred Pagodas, and that in Confirmation of the said bargain and sale he had on the Twelfth day of the said month of August given and paid unto the said Defendant by way of earnest and in part payment of the said Sum of three hundred Pagodas the Sum of one Pagoda which he this said Defendant did freely and Voluntarely receive and upon the said Condition and Consideration the said Defendant did at the same time promise and undertake to put him this Respondent in possession of the said Ground and deliver the Title deeds thereof at which time the remaining purchase money was to be paid &c praying the relief of the Honble the Mayors Court and that the said Ranganah the Defendant might be decreed to put this Respondent in possession of the said Ground upon payment of the remaining purchase the Sum of Two hundred and ninety nine Pagodas which he alledged to have been always ready and willing to do This Respondent doth also admit that the said Bill was filed 3 June for the Defendant to answer the said Bill and upon their expiration she having neglected to do so, the Honble the Mayors Court did on the Sixteenth day of December in the said Year of our Lord grant a Decree according to the prayer of this Respondent in his Bill of Complaint This Respondent further saith that process did issue from the said Mayors Court to put this Respondent in possession of the said premises so decreed him but at the time when this Respondent was taking measures to procure possession thereof according to the said Decree which was on or about the Nineteenth day of May four months after the said Decree the Appellant did file a Petition in the Honble the Mayors Court setting forth that the premises in question were his property the same having been mortgaged to him by the said Defendant and one Coety unto which said Petition this Respondent did sometime on or about the Month of July in the Year our Lord one thousand Seven hundred and Seventy Eight denying The Validity of the said Appellants Claim therein & craving the same to be ill founded and calculated with a design to injure and defraud this Respondent of his just property and possession awarded and Decreed him by the Honble the Mayors Court in the said Decree

This Respondent did also put the Appellant upon the proof of the said Mortgage And by alledging that he had been informed and had Reason to believe that the same was not signed and executed by the said Defendant Ranganah nor

ner by the said Cootyar that the said Rungamah had ever
Received from the Petitioner any Consideration thereof the sum
Five Hundred Pagodas and did also deny that after the
Expiration of Fourteen days after the said Decree by the
Honble the Mayor's Court a warrant of Execution did
issue against the said Defendant because such process
was necessary while the Defendant was or she always
had been willing to submit and perform the Conditions
of the said Decree by putting this Respondent in possession
of the said premises and would also have delivered
over unto this Respondent a Bill of sale thereof if she had
not been by the fraud of the appellant and others aiding
and abetting him therein

This Respondent did admit in his said
Answer that the appellant did file a Bill of Complaint
against the said Defendant for the sum of Five hundred and
Seventy Pagodas as said for the Amount Principal and Interest
upon the said mortgage Bond and that Mr John Sykes one
of the Attornies of the Honble the Mayor's Court might as
attorney to the said Rangamah and Cooty have appeared &
acknowledged the said Debt Soon afterwards a
Decree did pass for them to pay the [illegible] but this Respondent
in his said Answer did set forth that he [illegible] not to
had great reason to believe that the said Rangamah did never
give her Consent thereto nor to any of the Attornies of the said
Court to acknowledge the said debt and that the order and
Instructions thereto were given by or by the means of the
Defendant Cooty and one Vellapah a Dubash This Respondt
did also further in his said Answer set forth in order more
fully to enable the Honble the Mayor's Court to understand

the Nature and truth of the said Matter that for these Ten
Years last past and upwards one Rungamah a Common Woman
maintained by the said Vellapah lived in the house of the
premises in dispute during which time the said Rungamah
and the said Rungamah contracted a great intimacy so
much that the said Rungamah being very old and infirm did
deposit with the said Rungamah the Bill of sale of the premises
in question and also some Jewels to take care of for her the said
Rungamah That the said Rungamah sometime lately finding
herself in need of money did offer to sell and did accordingly sell to
this Respondent the ground upon which the said House stood for
the aforesaid Sum of three hundred Pagodas and thereupon the
said Rungamah went in Company with some of this Respondents
Servants to her House and informed the said Rungamah of the
sale she had made of the said Ground and desired her to return
her the Bill of sale she had trusted to her care upon which the
said Rungamah Appeared displeased and used many Arguments
to induce the said Rungamah to retract from her said bargain
which she finding had no Effect upon the said Rungamah
pretended that the Title deeds were in pledge to her for Twenty
five Pagodas and refused to deliver them unless payment
thereof was made upon which this respondent's Servants
came away in order to acquaint this Respondent of the same
after which this Respondent did hear that the said Rungamah
did use her utmost to persuade and prevail upon the said
Rungamah to retract from the said sale of the said Ground
telling her among other things that the Ground was worth more
and that she might have Five hundred Pagodas for it, but the
said Rungamah seeing she could not prevail in her designs
and

and apprehensive that this Respondent would insist upon
his purchase found means by several acts and execution to
evade the delivery of the said Bill of Sale and also to get the
said Rungamah removed to another House where she kept
her confined — and this Respondent further setforth that
after the said Mungamah heard that a Decree had passed
against the said Rungamah on behalf of this Respondent
to be put in possession of the said Ground the said Mungamah
took the said Rungamah to the House of the said Vellapah
where a paper writing was already drawn out in the English
Language said to be a Mortgage Bond of the said House and
Ground for the sum of Five hundred Pagodas to which they
the said Vellapah and Mungamah prest the Defendant —
Rungamah to put her hand and Seal they the said Vellapah
of the said Bond save her from all the Consequences that might
happen to her by reason of her retracting from the said bargain
of the sale of the said Ground to this Respondent but would
also really pay her the Five hundred Pagodas mentioned
in the said Mortgage Bond, but this Respondent did shew
that the said Rungamah absolutely refused to sign the same
and that the mark of Rungamah set and subscribed as such
to the said Mortgage Bond was and is in Course a forgery and
also the seal affixed as her seal be false and the said Bond
antidated, because all the aforesaid matter had happened since
the passing of the aforesaid Decree in favor of this Respondent
this Respondent did also take notice respecting to the said
Choultry per Coty, and Comaraspah Chitty who had set and
subscribed their Names as Witnesses to the said Bond this
Respondent

Respondent had been informed that they were persons dependant
on and connected with the said Vellapah and Mungamah
and that they must either have been imposed upon and
deceived and by the said Vellapah or must have been parties
knowing and Assisting in the said forgery — this Respondent
did further Setforth that the said Coty named in the said
Bond and introduced and Defendant in the suit of the Petitioner
was an Imposition of a piece with the other fraudulent acts
practised by the said Vellapah as if the said Coty acknowledg-
ging the Justness of the Petitioners demand would be sufficient
to secure the design of depriving the Defendant Rungamah of
her property in the said premises and wrong this Respondent
of his just and fair purchase, for that the said Coty never had
any Right to mortgage or any way to propose or dispose of the —
premises in question as appeared by a copy of the Bill of sale
annexed to the Petitioners Bill of Complaint and also by the
known Laws and Customs of this Coast because the said
Coty who is since Deceased was only the Husband of one
Gurvery Daughter to one Vencatturrumal the Daughter
of the said defendant for which Reason the said Coty —
taking upon himself to execute the said Mortgage Bond shew
that he was likewise in the scheme of wronging the said
Defendant with the said Vellapah and Mungamah who were
and now are the acting parties not only in the procuring the
said Mortgage Bond to be drawn out in the name of William
Hornsby the ostensible tho' in fact the concealed Petitioner, as
all the matter in Respect to the said Suit and the present
Petition have been contrived and directed by the said Vellapah
who as this Respondent had been informed acted as a Dubash
to the said William Hornsby —

All

All which matter and things this Respondent did
Set forth he humbly hoped to be able in due time to prove to
the satisfaction of this Hon'ble the said Mayor's Court and
did also pray that as the tendency and design of the Petition
is to wrong and defraud the said Rungarnah of her property
under Colour of a forged Bond also to deprive this Respondent
of the right he hath in the said premisses by reason of the
said just and fair purchase authorized and Confirmed by the
Decree of the said Hon'ble Court that they would be pleased to
Dismiss the said Petition and to tax the petitioner with exemplary
Costs for his fraudulent and litigious proceedings upon
which said Petition and answer Issue did join and Rules
did pass for the Examination of Witnesses on the Eighteenth
day of August which was in the Year of our Lord one thousand
seven hundred and seventy eight and this Respondent sheweth
that in order to prove to the Hon'ble the Mayor's Court the sundry
matters incumbent on him, this Respondent did Examine
sundry Witnesses of which he from time to time by his Attorney
in Court according to practice did give notice unto the appellants
attorney and this Respondent sheweth that all his Witnesses
were examined on or about the ninth Day of February on which
day the Examiner did give notice to the Mayor's Court and this
Respondent did also give notice to the said Attorney thereof tho
not thereto by any practice obliged, as the said Attorney had
knowledge of all proceedings in the said Court by the Rules
issuing out of the Register's office, but this Respondent's Attorney
finding that no Interrogatories were filed by the said appellant
this Respondent attorney did on the sixteenth day of February
last past pray that a Rule might issue for the attorney for the
the appellant on or before the Twenty third day of February to shew
Cause why publication should not pass in the present matter
upon which day the attorney for the appellant not shewing
any Cause to the contrary the Hon'ble the Mayor's Court did
order that publication should pass. This Respondent further
sheweth that he doth admit that the second day of the month
of March the appellant by his attorney did file a Petition
with two affidavits annexed pretending therein that by reason
of the illness of the said appellant's attorney he had not been
able to Examine Witnesses and that he had several material
Witnesses to examine and did pray for that purpose that
Publication might be enlarged for three Weeks, and this
Respondent doth also admit that the said Mayor's Court
having taken the same into Consideration and it appearing
to them that sufficient time had been already granted for the
Examination of Witnesses in the said matter, the said Hon'ble
Court were of opinion that publication ought not to be
enlarged and did therefore order that the said Petition should be
thrown out with Costs.

Which said order confirming a former order for the
passing of publication in the said matter was just and is
not any way erroneous nor can the appellant be any way
aggrieved thereby, Because considering the nature of the
petition in itself it tended originally to suspend and delay
the Judgement and Decree of the Court in favor of this Respon-
dent and the Duty of praying the matter thereon rested
did especially depend upon the appellant, as every Charge of right
to the premisses in dispute was denied by this Respondent and
in such a manner as to expect would make the appellant to the
for

for wardin producing his Witneses if he had any in support of it
than by such repeated delays and default in the observance of the
Rules of the Mayor Court to bring a reflection upon his whole
proceedings in general, for it is not to be supposed but if the
Appellant had the Right he pretended that he would have
lost no time, nor suffered any opportunity to escape in endeav-
-ring to establish it in opposition to an Opponent who was already
armed with so strong a Title as a Decree of Court, which is certain
-ly strong Evidence against his Claim of Justice, for at the expira
-tion of six months and upwards when all this Respondent
Witneses had been examined it appears by the Appellants
own Shewing that he not at that time examined a single
Witness nor sent any Interrogatories for that purpose to the
Examiners Office, but by way of excuse only Sets forth therein
indisposition of his Attorney, without shewing that he had
offered to retain another Attorney or that he could get no other
Attorney to do his Business and it was certainly the Duty of
the Appellant when he found his Attorney was so sick as to be
unable to do his Business to employ another, particularly if
it was on that account that he could not get his Witneses
Examined and if the Appellant or his attorney have neglected to
take any Steps necessary to the prosecuting of his Claim it is a
hardship that the Law not, no indulgence in the practice of it
will admit any Relief to accrue by the negligence of his opponent
because it would be impossible for the Justice of a Court to be
procured if such excuses were to obtain in Use

For all which Matters and Things this Respon
-dt is humbly of Opinion that the Order of the Mayors Court is
consonant and in strict Conformity to Justice and Equity and

R

Respondent prays that the same may be confirmed by this Honble
Court and the Appellants Petition may be Dismissed with Costs

H Dupuy
Atty Respondent

Court of Appeals
at
Madraspatnam } ss. Thursday the 2 September 1779

Between William Hornsby Appellt
& Seth Avice ——— Respondt

This Cause coming on this day to be heard
and Debated before this Court by the Attorneys on both sides
upon hearing the Petition of Appeal and Answer and the several
Exhibits of the Honble the Mayors Court together with a Decree
of the said Court given in this Cause on Tuesday the 2 Day
of March Anno Domini 1779 and upon due Consider
-tion had of the matters severally contained and of the Pleadings
and Arguments used by the Attorneys on both sides This Court
doth think fit to order and Decree and Doth accordingly order
and Decree that the Decree of the Honble the Mayors Court
given in this Cause do stand Confirmed and that the
Appellants Petition be hence Dismissed with Costs in this
Court

H Curs

To the Honble the Court of Appeals at Madraspatnam

Between John Macculester a Captain in the Service of his Highness the Nabob of Arcot, by his Attorney Alex.r Brodie of Madras Merchant, Complainant and Kistnah Dos Verjeedos of Madras aforesaid Merchant, otherwise called Kistnah Dos and Verjeedos Defendant

The Humble Petition and Appeal of the said Kistnah Dos Verjeedos

Sheweth

That the abovenamed John Macculester by his said attorney did on or about the Second day of December which was in the Year of our Lord one Thousand Seven Hundred and Seventy Six, Exhibit an amended Bill of Complaint in the Honble this mayors Court at Madraspatnam against Your Petitioner, for the sum of Five Thousand one Hundred and Fourteen Pagodas and Twenty four Fanams, Current Money of Madras, and thereunto was annexed an account Current which the said John Macculester prayed might be admitted as part of his said Bill of Complaint. To which said Bill of Complaint Your Petitioner did, on or about the Fourth day of March which was in the Year of our Lord One Thousand Seven Hundred and Seventy Seven, put in an amended answer and therein Denied to stand Indebted unto the said John Macculester in the said sum of Five Thousand one hundred and Fourteen Pagodas and Twenty Four fanams as was unjustly set forth and stated by him in his said Bill of Complaint and the account Current thereunto annexed

Filed in my Office this 12 March 1778
Tho Lewin Clerk Appls

annexed but acknowledged to stand Indebted unto him the said John Macculester in the sum of Three Thousand Eight Hundred and Sixty nine Pagodas and Thirty One Fanams only as would more fully and at Large appear by an account Current to the said Answer annexed for the Inspection of the said Mayors Court to which Your Petitioner most humbly Referred and Prayed that the same might be admitted as part of his said Answer and that he was Ready and willing to Pay unto the said John Macculester the said Sum of Three Thousand Eight Hundred and Sixty nine Pagodas and Thirty one Fanams. and Your Petitioner in his said Answer did further set forth that the Bond mentioned by the said John Macculester in the account Current annexed to his said Bill of Complaint was not given and Granted to him by Two Persons named Kistnah Dos and Verjeedos but that the same was Given and Granted by Your Petitioner alone for the Consideration therein mentioned, that Your Petitioner thereunto Signed his name Kistnah Dos Verjeedos in the Guzarat Language and Character and that being Unacquainted with the English Language he therefore did not know at the time of his so Signing his name that the said Bond was wrote in the Plural number.

To which said Answer the said John Macculester by his said attorney did on or about the Twenty fourth Day of the said month of march in the said Year one Thousand Seven hundred & Seventy Seven, put in a Replication and therein Insisted that Your Petitioner was Indebted unto him in the said Sum of Five Thousand one hundred and fourteen Pagodas and Twenty four Fanams, as set forth in the said Bill and the account Current thereunto annexed — and also denied to have Received the Two first Sums Charged on the Debit side of Your Petitioners Account Current

annexed

annexed to his said Answer to wit the Sum of Seven hundred Pag.s and the Sum of Five hundred Pagodas, that he the said John Macculester had Received no other Sums on account of the said Bond than those for which he had given Your Petitioner Credit in the account Current annexed to the said Bill of Complaint that the said Charge was merely Inserted in Your Petitioners Account Current under Pretence of a Disagreement between him the said John Macculester and Your Petitioner and that, notwithstanding the said Charges alledged in the abduction of his the said John Macculesters Demand, Your Petitioner had nevertheless frequently acknowledged to his said Attorney, the said Master Alexander Brodie and his People and Servants that the said John Macculesters Demand was Just and did also Frequently Offer to the said Alex.r Brodie to Renew the said Bond and importuned him to that Purpose, without mentioning the Charge of the aforesaid Sums of Seven hundred Pagodas and five hundred Pagodas, and further that Your Petitioner as an inducement to the Acceptance of his said Offer had offered to make him the said Alexander Brodie a Pecuniary Consideration and from all which matters he the said John Macculester hoped it would appear unto the said Mayors Court that the only object of Your Petitioner in Delivering in his said Answer was to keep him out of his money and to prevent as much as in Your Petitioner lay the Justice of the said Mayors Court, by having first delivered in a General answer after the Expiration of the full Rules and an Amended one after the said John Macculester had Replied unto the said General Answer and when Issue should have Joined in the said Cause and the said John Macculester in his said Replication did further set forth that Your Petitioner having appeared to the said suit it was no matter he conceived, whether the Names of Kistnah Dass Virjeedass was or ought to be in the Plural or Singular Number Particularly as it was True and Admitted by Your Petitioner that he Transacted his Business and was called by the Name of Kistnah Dass and Virjeedass.

To which said Replication Your Petitioner did, on or about the Twenty Ninth day of April in the said Year one Thousand Seven hundred and Seventy Seven, put in an Amended Rejoinder and therein averred that all the matters and things alledged and Set forth by him in his said Answer were True in the manner and form as were therein alledged and Expressed and that the said Replication of the said John Macculester was Imperfect and Insufficient in the Law to be Rejoined unto by Your Petitioner and Your Petitioner again Denied to Stand Indebted unto the said John Macculester in the said Sum of Five Thousand One hundred and fourteen Pag.s and Twenty Four Fanams, as was most unjustly Set forth and Stated in the said Bill of Complaint and the account Current thereunto Annexed and Likewise in the said Replication, but admitted to be Indebted unto the said John Macculester in the said Sum of Three Thousand Eight hundred and Sixty Nine Pag.s and Thirty one Fanams only, as already mentioned by Your Petitioner in his said answer and the account Current thereunto annexed and Your Petitioner in his said Rejoinder did further Insist that the said John Macculester had been paid the first and Second Sums Charged on the debit side of the account Current annexed to Your Petitioners said Answer to wit the Sums of Seven hundred Pagodas and the Sum of Five hundred Pagodas by the means of one Kistnah Row and Your Petitioner further denied to have ever acknowledged, either before the said Master Alexander Brodie, or his People or Servants, that the said John Macculesters

Maculister's Demand was Just, but that on the Contrary, the said Alexander Brodies Servant having Demanded the amount Principal and Interest of the said Bond Your Petitioner then mentioned to him that the said John Macculester had been paid the said Sums of Seven hundred and Five hundred Pagodas in part of the said Bond - and Your Petitioner did further Set forth that True it was he did frequently offer to the said Alexander Brodie to Renew the said Bond, but not without first deducting the before Recited Sum which had been paid to the said John Macculester on account of Your Petitioner - and Your Petitioner absolutely denied to have ever offered a Pecuniary Consideration to the said Alex.r Brodie or to any of his Servants, as an Inducement to Renew the said Bond or on any other account, but that on the Contrary, a Servant of the said Alexander Brodie had often Importuned Your Petitioner to make a Pecuniary Consideration to his Master and that he would Persuade his Master to take a Fresh Bond for the Balance mentioned to be due to the said John Macculester in Your Petitioners said Answer but That Your Petitioner well knowing that the Mentioned Importunities were so made by the Servant of the said Alexander Brodie without the Knowledge or approbation of his Master he, Your Petitioner, Treated the same with the Contempt it Justly deserved - and Your Petitioner did further Set forth that the only object he had in View in Delivering in his said Amended Answer was to Evince, to the said Mayor's Court, that the said Bill of Complaint was Erronious and that Your Petitioner was unjustly Sued for a Sum Considerably more than what he really owed the said John Macculester - and that with Regard to any other matter or thing Set forth or alledged by the said John Macculester in his said Replication to which Your Petitioner had not Particularly Rejoined the same were Vague and Erronious and immaterial for Your Petitioner

Petitioner to make any further Rejoinder thereunto -

and Your Petitioner further Sheweth unto this Honble Court that after the putting in of the said Rejoinder Issue was Joined - Witnesses were Examined on the part of the said John Macculester and also on the part of Your Petitioner - Publication Passed and the Cause was set down for hearing - and on the Twenty Seventh day of the months of February in the present Year of our Lord one Thousand Seven hundred and Twenty Eight the said Cause came on to be heard and Determined before the said Mayor's Court, when the said Mayor's Court were pleased to order and Decree, and did accordingly order and Decree, that Your Petitioner should Pay unto the said John Macculester the said Sum of Five Thousand one hundred and fourteen Pagodas and Twenty four Fanams with all such Interest as then was or should thenceafter become due thereon until full Payment be made and that Your Petitioner should also Pay all Costs of Suit as will more fully and at large appear on Reference to the Decree of the said Mayor's Court which Comes herewith annexed for the Inspection of this Honble Court -

From which said Decree your Petitioner doth appeal to this Honble Court as he Conceives the same is Erronious and that he is much aggrieved thereby - Because, your Petitioner is humbly of opinion that from the matter and things alledged, Set forth and Stated by him in his said Answer and Averred in his said Rejoinder and also from the number of Witnesses produced on the part of your Petitioner, who have fully Proved the Payment of the said Sums of Seven hundred Pagodas and five hundred Pagodas to the said John Macculester, the said Mayor's Court ought not to have Given a Decree against Your Petitioner for the said Sum of five Thousand one hundred and fourteen Pagodas and Twenty four fanams with Interest and Costs of Suit, but on the Contrary, Your Petitioner is humbly of opinion and hopes that this Honble Court will be of the same, that as your Petitioner has Clearly Proved the Payment of the said Sums of Seven hundred Pagodas and five hundred Pagodas making together

together the Sum of Twelve hundred Pagodas unto the said John Macculester the said Mayors Court ought to have Decreed your Pet.r to Pay unto the said John Macculester no more than the said Sum of Three Thousand Eight hundred and Sixty nine Pagodas and Thirty one Fanams being the Sum admitted by Your Petitioner in his said Answer and Rejoinder to be due from him to the said John Macculester and as Your Petitioner hath in his said Answer Declared that he was Ready and willing to Pay unto the said John Macculester the said Sum of Three Thousand Eight hundred and Sixty nine Pagodas and Thirty one Fanams Your Petitioner is further humbly of Opinion that the said Mayors Court ought to have Decreed the said John Macculester to Pay all Costs of the said Suit Unjustly commenced against Your Petitioner

Your Petitioner therefore most humbly submits all the said matters and things to the Judgment of this Honble Court and humbly prays that the said Decree may be Reversed and Set aside. That Your Petitioner may be Decreed to Pay unto the said John macculester the said Sum of Three Thousand Eight hundred and Sixty nine Pagodas and Thirty one Fanams only without Interest or Costs and that the said John macculester may be appointed a short day to Answer all and Singular the matters and things herein Contained before this Honble Court and Your Petitioner does also pray such further and other Genral Relief in all and Singular the Premises as to this Honble Court shall Seem Meet.

Dan.l Shaw.

Attorney for the Appellant

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Mayors Court at Madraspatnam } Friday the 27.th Day of February Anno Domini 1778

Present

James Call Esquire Mayor
George Smith — John Turing
George Proctor — Benj.a Robuck
George Taswell — and Cotton Bowerbank Dent
Aldermen

Between John Macculester a Captain in the Service of his Highness the Nabob of Arcott by his attorney Alexander Brodie of Madras Merchant Complainant and Rustna Dos and Verjeedos of the same place Merchants Defendants

This Cause coming on to be heard and Debated this Day in the Presence of the Attorneys on both sides on Reading the Complainants Amended Bill with an Account Current annexed The Defendants Amended Answer The Replication The Amended Rejoinder The Interrogatories and Depositions on the part of the Complainant The Interrogatories and Depositions on the part of the Defendants On Hearing the Pleadings made use of by the attorneys and on due Consideration had thereon This Court doth think fit to order and Decree and doth accordingly order and Decree that the Defendants shall pay unto the Complainant the full and Just Sum of Five Thousand one hundred and fourteen Pagodas and Twenty four Fanams Pagodas 5114.24 / together with all such Interest as now is or shall hereafter become Due thereon until full Payment is made also all Costs of this Suit

Wm James Taylor Esqr

To the Honble the Court of Appeal at Madraspatnam

Between John Macculloch a Captain in the Service of this Righings the Nabob of Arcot by his attorney Alexander Brodie of Madras Merchant Complainant and Kistnadas & Virjis Dass of Madras aforesaid merchant Defendant

The Answer of the said John Macculloch to the Petition of Appeal of the said Defendant

This Respondent doth admit that he did on or about the second day of December which was in the Year of our Lord one Thousand Seven hundred and Seventy Six exhibit an amended Bill of Complaint in the Honble the Mayors Court at Madras-patnam against the said Petitioner for the Sum of Five Thousand and one hundred and fourteen Pagodas and Twenty four fanams Current money of Madras this Respondent doth also admit that the said Petitioner did on or about the fourth day of March which was in the Year of our Lord one Thousand Seven hundred and Seventy Seven put in an amended Answer and that the said Petitioner did therein deny to stand indebted unto this Respondent in the said Sum of five Thousand one hundred and fourteen Pagodas and twenty four fanams as this Respondt had justly Set forth the same in his said Bill of Complaint but instead thereof this Respondent saith that the said Petitioner did only acknowledge to be indebted unto this Respondent in the Sum of three thousand Eight hundred and sixty nine Pagodas and thirty one fanams as the Petitioner said would more fully appear by an account Current annexed unto the said answer for the Inspection of the said Honble the Mayors Court &c unto which said answer this Respondent did file a Replication as set forth by the Petitioner insisting that the said

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Tho Sevier Clerk

said Petitioner was justly indebted to him in the Sum of five Thousand one hundred and fourteen Pagodas and Twenty four Fanams as the same was set forth in the said Bill of Complaint and in the Account Current thereunto annexed therein absolutely denying to have received the two first Sums charged on the debit side of the Petitioners said account Current annexed unto his said answer To wit the Sum of Seven hundred and five hundred Pagodas &c

Unto which said Replication the said Petitioner did put in a Rejoinder as is set forth by the Petitioner

This Respondent doth further admit that after filing the said Rejoinder that Issue did join in this Cause and Witnesses were examined on the part of this Respondent as also on the part of the Petitioner and that Publication did pass in the said Cause and the same was set down for hearing and coming on to be heard on the Twenty Seventh day of February in this present Year of our Lord the Honble the Mayors Court were pleased to order and Decree and did accordingly order and Decree that the Petitioner should pay unto this Respondent the aforesaid Sum of Five Thousand one hundred and fourteen Pagodas and Twenty four fanams together with all such Interest as there was or should thereafter become due thereon untill full Payment should be made also all Costs of the said Suit

Which said Decree of the Honble the Mayors Court this Respondent doth aver and maintain to be just and equitable and that the Petitioner is not nor can he be aggrieved or prejudiced thereby notwithstanding what he the Petitioner hath to the contrary in his said Petition of appeal set forth of his having paid the Sums of Seven hundred and five hundred Pagodas to this Respondent on account of the Bond in question which this Respondent doth absolutely deny the Petitioner has in any wise proved for this Respondent prayeth leave to set forth by way of further Answer to the said Petition of appeal that the Evidence produced on the part of the Petitioner in support of his said unjust attempt to make the said Payments to appear to have been made by him are very far from doing so either consistently with the Petitioners

answer

answer or with the nature of truth or of probability. Because in order to establish the Testimony of the said Evidence this Respondent saith that the same should be conformable to the Answer which is the Epine and foundation of the Petitioners Defence and any evidence inconsistent with or not conformable to the Circumstances of the Answer Cannot in Course be admitted as Evidence of the truth of that Answer. and this Respondent in order more clearly to set forth the incoherency of the said Evidence with the Answer which the said Evidence ought to support prays to observe that the Petitioner saith that the aforesaid two Sums of money were paid at different days and dates. To wit the Sum of Seven hundred Pagodas on the Sixth day of June One thousand Seven hundred and Seventy six and the other Sum of Five hundred Pagodas on the ninth day of June the same month Circumstances in themselves improbable when it is Considered how few days before the Petitioner had given the Bond in question and rendered still more improbable when not withstanding these Circumstances and the Petitioner being a Soucar and well versed in the Customs of receiving and paying money that the same should have been paid without any Receipts. But this Respondent saith that every Idea of the reality of the said Payments must be effaced upon the View of the Depositions produced by the said Petitioner to prove the same and this only to demonstrate what this Respondent hath in the proceedings in the aforesaid Cause set forth that the only object of the Petitioner in defending the said Suit was to keep this Respondent out of his money and to prevent as much as in him lay the Justice of the said Honble the Mayors Court & for it appears by the depositions of the said Evidence that they are not only for wide of the dates upon which the Petitioner hath charged and sworn in his Answer that he paid the said Sums of money, but they all depose except Tony to the Payment of the said Sums on account of the said Bond even before the day of the date of giving the said Bond which was on the first day of June. For all which matters and Reasons and upon a Reference to the said Evidence this Respondent is humbly of opinion that this Honble Court will find no Cause or reason to Reverse

Reverse the said Decree of this Honble the Mayors Court but on the Contrary that this Honble Court will be pleased to Confirm the same and further to Decree that the Petitioner may pay all additional Costs on this Appeal.

Wm Dupuy
Att'y Respondent.

To the Honble Thomas Rumbold Esq^r
President and Governor & Council of Fort St George
In the Court of Appeals.

Between John Macculester by his attorney Alex^r Brodie Respondent and Ristnadoss Virjedoss Appellant.

The Petition of Appeal of the said John Macculester the Respondent in the said Appeal.

Sheweth That your Petitioner did on or about the Second day of December which was in the year of our Lord one thousand Seven hundred and Seventy Six exhibit a Bill of Complaint in the Honble the Mayors Court of Madraspatnam against the said appellant for the Sum of Five thousand one hundred and fourteen Pagodas and twenty four fanams Current money of Madras being the Ballance due upon a Bond or obligation under the hand and Seal of the said Appellant as appeared by an account Current thereto annexed which your Petitioner prayed might be admitted as part of his said Bill of Complaint and your Petitioner shewth that the said appellant did file an amended answer to the said Bill sometime on or about the fourth day of march which was in the year of our Lord one thousand Seven hundred and Seventy Seven therein denying to stand indebted unto your Petitioner in the said Sum of Five thousand one hundred and fourteen Pagodas and twenty four fanams but acknowledging to stand indebted in the Sum of Three Thousand Eight

Eight hundred and Sixty nine Pagodas and thirty one fanams
according to an Account Current exhibited by him in his said Answer
To which said Answer your Petitioner did Reply and the appellant did
Rejoin after which Issue did Join and Rules did pass for the
Examination of Witnesses and Witnesses were examined by your
Petitioner and by the said Appellant and publication passed
and the said Cause was set down for hearing and did come on
to be heard on the twenty Seventh day of the month of February
which was in the Year of our Lord one Thousand Seven hun-
dred and Seventy Eight when the said Honble the Mayors Court
being of opinion that your Petitioner had proved the justness of
his demand did order and Decree that the said Appellant
should pay unto your Petitioner the aforesaid Sum of Five
Thousand one hundred and fourteen Pagodas and twenty four
Fanams together with such Interest as then was or should
thereafter become due thereon until full Payment should
be made also all Costs of the said Suit

But your Petitioner sheweth that the said
appellant instead of complying and fulfilling the said Decree
of the said Honble the Mayors Court as in duty he ought to have
done and in order to vex and injure your Petitioner further by keeping
him out of the payment of his just and legal demand did on the
twelth day of March which was in the Year of our Lord one thousand
Seven hundred and Seventy Eight file a Petition of Appeal in this
Honble Court from the Decree of the said Honble the Mayors Court
as if he the said Appellant had been really aggrieved by the said
Decree unto which said Petition of Appeal your Petitioner did put
in an Answer maintaining the justness and truth of his demand
and shewing the litigiousness and vexation of the said Petition
of Appeal praying also that this Honble Court would be pleased
to confirm the said Decree of the Honble the Mayors Court and that
the appellants Petition might be dismissed with all Costs

Your Petitioner further Sheweth that this Honble
Court did on the twenty first day of May in the aforesaid Year
of our Lord one thousand Seven hundred and Seventy Eight appoint
a day for the said Petition of Appeal and the Answer thereto to be argued
but the hearing thereof was deferred until Several other days and remains
undetermined to this day

Your Petitioner most humbly prays leave to Shew unto
this Honble Court that he has sustained a considerable Loss by the
litigiousness and dishonesty of the Appellant in disputing his said
just demand and doth continue to be a great Loser by the means
thereof and by the said Petition and Answer remaining undetermined
by this Honble Court

Your Petitioner therefore further prays
humbly to implore the aid and assistance
of this Honble Court in the premises
and that this Honble Court will be
pleased to order a short day for the
arguing of the said Petition and Answer

H J Dupuy
Att[y] Petitioner

Court of Appeals at Madraspatnam } ss Thursday the 26 August 1779

Between Ristnadoss Vergudoss Appellant and
John Macculloch by Alex[r] Brodie Respondent

This Cause coming on this day to be heard and debated
before this Court by the attorneys on both sides upon hearing the Petition
of Appeal, and answer and the several Exhibits of the Honble the
Mayors Court together with a Decree of the said Court given in this
Cause on Friday the 27th Day of Febry Anno Domini 1778 and
upon due Consideration had of the matters severally Contained
and of the Pleadings and Arguments used by the attornies on both
sides This Court doth think fit to order and Decree and Doth
accordingly order and Decree that the Decree of the Honble the
Mayors Court given in this Cause be reversed and that the appellt
do pay unto the Respondent the amount of the Ballance
acknowledged

acknowledged by him to be due to the Respondent together with such Interest thereon as is or may hereafter become due and further that the Respondent do pay the Costs in both Courts.

J Lud

To the Honble the Court of Appeals at Madraspatnam

Between James Strange of Fort Saint George, Merchant Complainant and Patnah Gruah otherwise called Carettie Gruahroo of Madras Dubash Defendant

The Humble Petition and Appeal of the said Patnah Gruah otherwise Called Caretie Gruahroo.

Sheweth,

That the above named James Strange Did on or about the Eighth day of march in this present Year of our Lord One thousand Seven hundred and Seventy three, Exhibit a Bill of Complaint in the Honble the mayors Court at Madraspatnam, against Your Petitioner and therein setting forth and alledging that on or about the Tenth day of april in the Year of our Lord One thousand Seven hundred and Seventy Eight he the said James Strange did advance and Lend unto one Roidourgum Venkataram of Gungapatam Bulderoo Inhabitant the Sum of one Thousand and five hundred Star Pagodas and for the Payment whereof to the said James Strange the said Roidourgum Venkataram did enter into a Bond or obligation bearing Date the Tenth day of April in the said year one thousand Seven hundred and Seventy Eight and Given by him to the said James Strange whereby the said James Strang says that the said Roidourgum Venkataram did bind himself his Heirs, administrators and assigns unto him the said James Strange in the Penal Sum of three Thousand Star Pagodas conditioned for the payment of the said Principal Sum of one thousand and five hundred Pagodas and Interest after the Rate of Twelve per Cent for Six months from the Date of the said Bond or obligation and that at the Expiration of the said Term of Six months and frequently afterwards he the said James Strange did apply by himself and others for payment of the said principal Sum of one Thousand and five hundred Pagodas and the Interest thereon then due and the said James Strange does further in his said Bill of Complaint set forth that not being Particularly Acquainted with the said Roidourgum Venkataram he did at First Refuse to Lend and advance him the said Sum of One Thousand and Five hundred Pagodas but on his the said Roidourgum Venkataram offering to Procure and give a Security for the payment of the same according to the Condition of the said Bond then Intended to be Given he the said Roidourgum Venkataram offered Your Petitioner as his Security for the True Performance of the Condition on the part of the said Roidourgum Venkataram to which he the said James Strange, agreed and accepted of the same and that thereupon Your Petitioner did enter into an agreement with him the said James Strange and that the same was Reduced into writing and given by Your Petitioner unto the said James Strange and the said James Strange does further in the said Bill of Complaint set forth that not being able to Procure Payment of the Principal and Interest due on the aforementioned Bond of the said Tenth day of April from the said Roidourgum Venkataram at the Expiration of the Time Limitted for payment he the said James Strange did apply unto Your Petitioner for Payment Pursuant as he Pretends to Your Petitioners Promise and undertaking so by Your Petitioner entered into and given and that upon Repeated applications made Your Petitioner has often Promised payment which Your Petitioner absolutely denies and further that he the said James Strange has frequently and in an amicable manner Demanded Payment of

Filed in my Office
Aug.t 9. 1779
Hyth Sullivan
Clerk of Appls

of Your Petitioner for Payment of the said Principal and Interest being as is pretended, the Sum of One Thousand Six hundred and Sixty Pagodas and Eighteen Fanams Current Money of Madras making in Sterling money of Great Britain after the Rate of Eight Shillings for every Pagoda the Sum of Six hundred and Sixty four Pounds and four Shillings due on the said Roidourgurra Venkataramis Bond or Obligation as aforesaid

To which said Bill of Complaint Your Petitioner did on or about the Twenty fourth day of may in the said Year one Thousand Seven hundred and Seventy nine put in an amended Answer and therein, amongst other things, answered and said that he absolutely Refused the said James Strange the Payment of the Sum of one thousand and five hundred Pagodas in the said Bill of Complaint mentioned and that it appears by the said James Strange his own shewing that the said action does arise upon a Debt which Your Petitioners Friend Roidourgurra Venkataram owes the said James Strange being the said Sum of One thousand and Five hundred Pagodas and which Debt the said James Strange says Your Petitioner undertook and Promised to pay but which your Pet. in his said Answer absolutely denies And Your Petitioner in his said answer did further by way of Answer say that for the aforementioned Reason he again Refuses payment and because the said Roidourgurra Venkataram is now living and able to pay the said James Strange and that the said James Strange ought to have commenced his action against the said Roidourgurra Venkataram and not against Your Pet. and in case of non payment then, and not otherwise Your Petitioner would become Liable to pay the same

To which said Answer the said James Strange did on or about the Thirtieth day of June in this present Year of our Lord one thousand Seven hundred and Seventy nine put in a Replication and therein, amongst other things, Replies that Your Petitioner does stand Indebted unto him the said James Strange in the Sum set forth in his Bill of Complaint notwithstanding any matter or thing alledged by Your Petitioner in his said Answer to the contrary and admits that the original Debt arose upon a Bond given by the said Roidourgurra Venkataram and that whether he was or is a Friend of Your Petitioner the said James Strange pretends he cannot say but that the Borrowing and Receiving of the Principal Sum was the Transaction of Your Petitioner and by Your Petitioner solely managed and who became Responsible to the said James Strange for the amount Principal and Interest that might be due on the said Bond the said James Strange alledging that he was Totally unacquainted with the said Roidourgurra Venkataram and that whether there is or ever was such a Person existing or not the said James Strange pretends to say that he does not know and that the money was advanced to Your Petitioner for the purpose of Lending it to the said Roidourgurra Venkataram at the Repeated Importunities of Your Pet. he, the said Roidourgurra Venkataram being the Person that was to have the money and that what is became of the said Roidourgurra Venkataram or whether he ever had the money the said James Strange says he cannot set forth as no such Person can be found as Roidourgurra Venkataram and that he, the said James Strange, had frequently applied to Your Petitioner for Information respecting the said Roidourgurra Venkataram who had after, as the said James Strange pretends, assured him that he was Expected this day and the other day at Madras all which matters and things so set forth and alledged by the said James Strange Your Petitioner absolutely denies and Your Petitioner further sheweth that the said James Strange did also in his said Replication set forth Several other matters and things which to Your Petitioner appears Vague and frivolous and not material for Your Petitioner to mention in this his Petition and appeal

And Your Petitioner further sheweth unto this Honble Court that after the putting in of the said Replication, that is to say on or about the Sixth day of July last a Rule passed for Your Petitioner to Rejoin and on the Twentieth day of the said month of July another Rule passed for Your Petitioner to Rejoin in one week and which said Rule Expires on the Twenty Seventh day

day of the said Month of July and Your Petitioner's Rejoinder would have been filed had not Indisposition Prevented Master Daniel Shaw Your Petitioner's attorney from attending the said Mayor's Court on the day the said Rule Expired and therefore Master John Sykes who Transacted the Current Business in Court for Your Petitioner said attorney objected to the Cause being set Down to be heard on the Proceedings already had as moved for by the attorney for the said James Strange and Prayed a further time of one Week to put in a Rejoinder but the said Mayor's Court not Considering the Indisposition of Your Petitioner's said attorney and the hardship Your Petitioner laboured under thereby were Pleased to over Rule the Prayer made on behalf of Your Petitioner and not only ordered this Cause be set Down to be heard on the Proceedings already had but that the same come on to be heard on the Tuesday following notwithstanding it is ordered and Established by his Majesties Royal Charter of Justice that if any Person or Persons shall think him, her or themselves Aggrieved by any Judgment, Sentence, or Decree of the said Mayor's that such Person or Persons shall or may within Fourteen days after such Judgment Sentence or Decree of the said Court shall be entered of Record appeal to the Governor or President and Council of Fort St George &c and Your Petitioner further Sheweth that the order of the said Mayor's Court is more fully and at Large appear on Reference to the Extract from the Minutes of the said Court which comes hereunto Annexed for the Inspection of this Hon^ble Court.

From which said Order Your Petitioner doth appeal to this Hon^ble Court as he conceives the same to be Erroneous and that he is much aggrieved thereby Because Your Petitioner is of Opinion and he humbly hopes that this Hon^ble Court will be of the same, that on account of the Indisposition of Your Petitioner's said attorney the said Mayor's Court ought to have allowed Your Petitioner a Further time of one week to put in a Rejoinder more Especially so as the time Prayed for could not be of any Detriment to the said James Strange but the over Ruling of Your Petitioner's said prayer must in the end prove Fatal to him as Your Petitioner is thereby Debarred the only means the Law has allowed him of Shewing to the said Mayor's Court the Illegality of the Demand made on him by the said James Strange and Because it manifestly Appears by the said Annexed Extract that the order made by the said Mayor's Court to hear this Cause on the Proceedings already had within the time Limitted by his said Majesties Charter for appealing was and is Premature and does Infer a Hasty and not well advised Judgment and which Judgment can only be Remedied by Your Petitioner's appealing to this Hon^ble Court

Your Petitioner therefore most Humbly Submits to all the said matter and things to the Judgment of this Hon^ble Court and humbly prays that the said order of the said Mayor's Court may be Reversed and Set aside with Costs of Suit and that the said Mayor's Court may be Directed to Recive Your Petitioner's Rejoinder to the Replication of the said James Strange within such time and in such a Day as this Hon^ble Court shall be pleased to order and Your Petitioner does also pray a General Relief in all and Singular the aforegoing Premises as to this Hon^ble Court shall Seem Meet

Dan^l Shaw
attorney for the Appellant

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 27^th^ Day of July Anno Domini 1779

Present
George Proctor Esquire Mayor
Edward John Holland and Benj^n Roebuck
Aldermen

James Strange
verr
Patna Goyer

The attorney for the Complainant acquaints the Court that the usual Rule for the Defendant to Rejoin is expired, and as the Defendant has not put in a Rejoinder He therefore prays that this Cause may be set down to be heard on the Proceedings already had to which Mr John Sykes for Mr Daniel Shaw he being indisposed and absent objects

objects, and prays a further time of one week to put in a Rejoinder.
The Court having taken the same into Consideration Ordered that this cause be set down to be heard on the Proceedings already had, and that the same do come on to be heard on Tuesday next.

A true Extract
James Taylor
Rr

In the Honble the Court of Appeals

The Answer of James Strange of Fort Saint George Merchant to the Petition of Appeal of Patmah Gnah otherwise Carvetty Gnah wife of Madras Dubash

Filed in my Office Aug^t 14. 1779
Stephen Sullivan
Clerk of App^s

The above said Respondent in Answer to the appellants Petition of Appeal, Says that he admits that on the day and year as set forth by the appellant in his Petition of Appeal, he did prefer in the Honble Mayors Court, a Bill of Complaint against the said appellant for a certain Sum of money as therein is mentioned pursuant to the promise and undertaking of him the said appellant, as is in the said Bill of Complaint Specially set forth and recited, the said Bill of Complaint further Specially setting forth the nature of the Demand and the reasons for bringing or preferring the Bill of Complaint against the said appellant which the said Respondent Says was both in Law and Equity well founded and warranted by the Custom of all Commercial People and People in Business of every denomination, the said Complaint being founded on a Writing obligatory of the said appellant, a Copy of which is hereunto annexed for the inspection of the Honble Court of Appeals whereby he undertook and promised not only to be Security for the payment of a certain Sum of money but also to pay the same being for Cash lent and advanced to a certain person, whose name is mentioned in the said Respondents Bill of Complaint by the means of the said appellant's reference being had by this said Honble Court of Appeals to the said Bill of Complaint the same will more fully and at large appear the said Respondent further Says to this Bill of Complaint the said appellant did on the day and year as by him is set forth in his Petition of Appeal appear by the means of his then attorney Mr^r John Sykes and did put in a General answer denying the Debt to which answer the said Respondent was under the necessity of Replying and moving the said Honble the Mayors Court for the appellant to Rejoin which he the said appellant did do by filing a General Rejoinder, the said Respondent further Says that hoping the said appellant would have rested Satisfyed with all these General Papers, as much time had been lost in the same, that he would have joined issue with the Respondent and left the Respondent to prove his Demand by Evidence if there had been any occasion, but to the great astonishment of the Respondent a motion was made by Mr^r Daniel Shaw retained in the place of the aforementioned Mr^r John Sykes, who declined carrying on any further Proceedings for the appellant from a Consciousness of the Equity of the Respondents Demand, for leave to Amend the appellants answer which was accordingly granted by the said Honble the Mayors Court, upon a Supposition that some Spiritual matter was by the appellant to be urged in his Defence, which upon a perusal of this Amended answer there appeared to be no more than what amounted to a General Issue, of the Debt, with an observation, that he the appellant was only a Security for the money and not the Principal in the Business and therefore proper for the Respondent to have first Resorted to the said Principal before the Respondent had preferred his Bill of Complaint against the appellant. the Respondent begs leave to intrude an observation, and that is the Changing of the attorneys or Solicitors in this Business, the attorney originally employed by the appellant declining to proceed on account of the appellant having no just Ground to make a defence, the said Respondent further Says that to this amended answer he was under the necessity of

of Spicially replying, in order to shew, how very defective this
amended answer of the appellants, was, and the End that the
appellant wish to attain by the means of the same. The said Res-
pondent further says, that it appearing to him, that this
Defence of the appellant was only calculated to procrastinate
the payment of the Respondents just Demand on him, thereupon
this Respondent did on the sixth day of July last move the
said Honble the mayors Court, for a Rule, a Copy of which is
hereunto annexed for the inspection of this Honble Court of Appls
to oblige the appellant to Rejoin, he having delayed to Rejoin and
which the Respondent says, the appellant would have delayed to
do to this Day, if the Respondent had not pushed him for the same
The said Respondent further says, that the time of fourteen Days
allowed the appellant to Rejoin being expired, a further time of
one week was prayed for by the appellants attorney to Rejoin,
and he was endulged, therein, a Copy of the Rule being hereunto
annexed for the inspection of this Honble Court of Appeals, and
notwithstanding such Indulgence, not the least attention was
paid to Rejoin, the appellant imagining he might further
impose on the Indulgence of the said Honble the mayors Court, by
praying a further time, the said Respondent further says, that at the
expiration of the last Rule to Rejoin, the Respondents attorney did
move, that as the appellant had delayed to Rejoin, that the Cause
might be Set down to be heard on the Proceedings then had, which
the said Honble the mayors Court, upon mature deliberation
and Consulting the Records of this said Court and Considering
of the unprecedented delays, that after having gone through a
whole process of Proceedings by answering, Replying and Rejoining,
that the whole should go over again at the frivolous instance of
the appellant, as if those Proceedings never had been, the said
Honble the mayors Court were Unanimously of opinion that
the said Cause should be Set down to be heard as prayed for by the
Respondents attorney, notwithstanding what had been urged by
the appellants delegates attorney, wherein, indisposition and
absence,

absence, were only pleaded as an Excuse, the propriety of this order
appearing in every respect, consistent with justice and Equity, for
it does appear upon a retrospect had to the Proceedings, that
great delay had been occasioned by the said appellant, as for
instance, to a Spicial Bill of Complaint filed against the
appellant a General answer is put in, a General Replay is made
by the Respondent and the appellant obliged by Rule of Court to
Rejoin, in order to bring the Cause to an issue, to prevent, which, the
appellant Amends his Answer, confesses the Debt and endeavours
to avoid the same, by a very puerile observation, being a matter of
opinion, to this Amended Answer the Respondent was under the
necessity of Spicially Replying, to refute the Arguments, that the
appellant brought or endeavoured to bring in Support of his Defence,
this said Replay being filed, the Respondent was under the necessity
of moving the Honble the mayors Court to oblige the appellant to Rejoin,
whereby as the said Respondent says he was under the necessity of
pursuing the same Track as before, whereby the appellant gained his
Ends in the procrastinating of the suit, he being sufficiently
acquainted with his want of Equity in making any defence the said
Respondent further says, that the injustice done to him by the appellt
in his making this Defence, appears very Evident and his endeavours
to procrastinate the bringing of this matter to a speedy issue, so glaring
by his wading to put in his Rejoinder, if any, he the appellant
had, of which the said Respondent, very much doubts, as will be
shewn in the Sequel of this Respondents Answer, the said Respondt
further says, this order for hearing the Cause, on the proceedings then
had being passed, the next Court Day the appellants attorney
did inform the said Honble the Mayors Court that the time
allowed for the hearing of the Proceedings, was too short, by reason
that fourteen Days were allowed to appeal from the order, sentence,
or Decree of the said Honble the mayors Court to this Honble Court
of appeals, he the appellant acquainting the said Honble the
mayors Court of his intentions to appeal to this Honble Court of
Appeals, which observation of the said Daniel Shaw ought to
have been made by Mr. John Sykes at the time the first order passed
for hearing, whereupon the time was enlarged by the said Honble the

the Mayors Court, during this motion of the said appellants attorney no prayer was by him made to over Rule the order passed by the said Honble the Mayors Court or any tender made of a Rejoinder, but only acquainted the said Court of his having Received Instructions from the appellant to make and file a Rejoinder instead of which the Respondent says, the appellant ought in strict Justice to have had already his Rejoinder in Court, in order to shew his readiness to Comply with the Rules of the said Honble the Mayors Court, but instead thereof, there appeared a wilful neglect to Comply with the Rules of the said Court, well knowing that by delaying to bring the matter to a Speedy issue his the appellants purpose was Served. The said Respondent further begs leave to observe that Supposing the said Honble the Mayors Court had granted a further time of a week to the appellant to put in his Rejoinder was he the said Appellant ready so to do? by no means, the Respondent says, because on the very day the said Mayors Court assembled to determine on the proceedings, he the appellants attorney declared then, that he had received Instructions to Rejoin, whereas if the Rule for a further time had been granted him his Rejoinder should on that day have been ready to be filed, so that in short, the said Respondent says there was not the least appearance of bringing matter to a Speedy issue on the part of the Appellant, but apparently nothing but delay in open defiance of all law and Justice and a violation of all decorum in a Court of Judicature the said Respondent further begs leave to observe, that much time had been given the appellant to Rejoin, to Answer what purpose and where was the necessity of requiring so much time and still to ask for a longer time? when the whole of the Defence amounted to a plain and direct Confession of the Debt and in order to give some Colour or Shadow to the Defence an Opinion of the appellant is given of the preference that the pleads should be made between him and the person, who he says originally borrowed the Money. the matter of fact as to the executing of the promissary Note by the appellant being admitted by the appellant himself in his answer, there remained no more than the opinion of the said Honble the mayors Court, whether he the said appellant should be

be Responsible for the same, which needed no Evidence on either side to be produced. Consequently the Rejoinder of the appellants could only be argumentative in Support of his Defence and of Course ought to be very short, as the Respondent says he has been advised that no authority can be found in Support of the appellants defence, possibly the Respondent says, some new Doctrine of the appellant might have been set forth but whether to the point or not must be left to futurity to find, but the Respondent says that the End and Scope of the appellants intention is evidently to delay bringing the matter to a final and Speedy determination, The said Respondent further begs leave to observe, that the appellant alledges in his Petition of appeal that his Rejoinder would at the expiration of the time he wanted, have been filed had he not been indisposed, the Respondent says, admitting of this the appellants attorneys indisposition which the Respondent can in no sort admit to be the Truth which hindered him from preparing and filing his Rejoinder on that day yet on the Next Court day the appellants attorney appeared and there was not ready to file his Rejoinder, nor did he offer or tender to the Honble the Mayors Court his Rejoinder, but only produced a paper which he called his Instructions for a Rejoinder, the said Respondent therefore Submits it to the Consideration of this Honble Court of Appeals, whether his the appellants attorney pretended indisposition on the day prescribed to file his Rejoinder is a sufficient plea for his not doing it the Court day after, and whether any and what Excuse can be given for not delivering a General Rejoinder, which requires no Study, the said Respondent further Says that there did not in the least appear on the behalf of the Respondent a desire of bringing this matter to a Speedy Decision, there was no other way of obliging the appellant to Comply with the Rules of the Court and doing this Respondent Justice, than by Setting down the Cause to be heard on the Proceedings then had, the said Respondent further begs leave to observe, that the appellant for the Causes herein aforementioned and Set forth hath no Right to Petition this

this Honble Court Because the order of the Honble the Mayors Court of the Twenty Seventh Day of July last past, a Copy of which is annexed to the appellants Petition of Appeal was at the instance of the appellants attorney on the next Court day being the third instant enlarged, in order that the same might in every shape agree with the Spirit and meaning of the Charter, a Copy of which order and the motion of the appellants attorney is hereunto annexed for the inspection of this Honble Court of appeals, from which said order of the third instant the appellant should have appealed, whereas by his appealing from the order of the Twenty Seventh of July last, is out of order and is in fact appealing from nothing, because the appellants attorney had by motion in Court in large & the time, so that the hardships complained of by the appellant in his said Petition of appeals and charging the said Honble the Mayors Court with a hasty and ill advised Judgement and that from such Judgement the said appellant could only have relief by appealing to this Honble Court of Appeals is entirely futile, Because such Judgement or Order of the Twenty Seventh of July last does not exist, the same having been enlarged at the instance of the appellants attorney of which circumstance the said appellant has been very careful to Conceal, the said Respondt further says he leaves it to the Consideration of this Honble Court of appeals whether the Prayer of the Petition of appeal can be Complied with, wherein the Prayer is "that the order of the Mayors Court, meaning the order of the Twenty Seventh of July last," of which a Copy is annexed to the appellants Petition of appeal, "might be reversed and Set aside with Costs of Suit" whereas as the said Respondt apprehends and is advised, the Prayer should have been to have Reversed the last Order of the Mayors Court of the third instant, that being the final order upon this Interlocutory matter Because as the Respondent is advised, the order from which the appellant appeals does no longer exist, it is the last order the said Respondent says from whence the Petition should have arose therein setting forth the Special Circumstances of the first order, and

and in order to shew the absurdity of the appealing from the first order the Respondent says supposing the prayer of the Petition to be complied with, Viz the last order holds good and Conclusive to the appellant and the Proceedings had thereon or in pursuance thereof, would have been as effectual in every shape, as if the present Petition of appeals had never been filed, the Respondent further says that he is advised that the establishing of this order of the Honble the Mayors Court of the Twenty Seventh of July last which had been over ruled at the instance of the appellants attorney would be equivalent to the making of a Law ex post facto - Therefore it is Submitted to the Consideration of this Honble Court of Appeals, whether the said Petition of appeals should not be thrown out as irregular, as the order from whence the said appellant appeals does not exist the same having been revised at the instance of the appellant and amended pursuant to the prayer of the said appellant, a Copy of which order under date the third instant is hereunto annexed, and from the original of which, the said Respondent apprehends the appellant would have been more regular in filing his Petition of appeal, as the Cause of Complaint which the appellant says existed in the order of the Twenty Seventh of July last, are removed at the instance of the appellants attorney as aforementioned.

For all which Causes and things and more particularly for the irregularity of the appellants in preferring his Petition of appeal from the Twenty Seventh of July last past, that the said Petition of appeal may be Dismissed with exemplary Costs to be paid by the appellant to the said Respondent such as to this Honble Court of appeals shall seem to them most meet and that the order of the Honble the Mayors Court of the aforementioned third of this instant August stand as peremptory against the said appellant

Chas Bromley
Atty Respondent

Copy-

Whereas James Strange Merchant of Madras, hath lent unto Roidourgum Venkataram of Gungapatam Builder the Sum of fifteen hundred Star Pagodas to Run at Interest at the Rate of 12 ½ p Ann: on his Bond bearing Date the 10th April 1778 at the

Expiration

Expiration of Six Months from the Date thereof in Case of non payment from the above Roidourguem Venkatram Hereby Agree to become accountable unto the said James Strange for the Principal and Interest as Witness my Hand in Fort St. George this Tenth of April 1778.

(Signed) Carrettee Gruahroo (L S)

Witnesses
Henry Hollier
John Pr: Burton

A true Copy
Chas. Bromley
Atty Respondt

James Strange
vers
Patnah Gruah otherwise Carettee Gruaroo

Day is given the Defendant tills the 20th Instant to Rejoin inde-fault of which this Cause will be heard on the Proceedings already had

Town Hall
6th July 1779

Hurt
(Signd) Gideon Firth
Depty Regr

A true Copy
Chas. Bromley
Atty Respondt

James Strange
vers
Patnah Gruah otherwise Carettee Gruaroo

Day is given the Defendant till the 27th Instant to Rejoin in default of which this Cause will be heard on the Proceedings already had

Hurt
(Signd) Gideon Firth
Depty Regr

Town Hall
20th July 1779

A true Copy
Chas. Bromley
Atty Respondt

Court of Appeals
at
Madraspatnam

Thursday the 26th August 1779

Between Patnah Gruah otherwise Carettee Gruahroo Appellt
and James Strange Respondent

This Cause coming on this day to be heard and Debated before this Court by the attorneys on both Sides upon hearing the Petition of Appeal and answer and the several Exhibits of the Honble the Mayors Court together with a Decree of the said Court given in this Cause on Tuesday the 27th Day of July Anno Domini 1779 and upon due Consideration had of the matters Severally contained and of the Pleadings and arguments used by the attorneys on both Sides This Court doth think fit to order & Decree and Doth accordingly order and Decree that the Decree of the Honble the Mayors Court given in this Cause do stand Confirmed and that the Appellant do pay unto the said James Strange the Respondent his Costs in this Suit

Hurt

To the Kings Most Excellent Majesty in Council

Between James Strange of Fort Saint George Merchant, Complainant and Patnah Gruah, otherwise called Carettie Gruahroo, of Madras Dubash, Defendant.

The Humble Petition and Appeal of the said Patnah Gruah otherwise called Carettie Gruahroo

Sheweth,

That the above Named James Strange did on, or about the Eight day of March, in this present Year of our Lord One Thousand Seven hundred and Seventy nine Exhibit a Bill of Complaint in the Honble the Mayors Court at Madras patnam, against Your Petr and therein Setting forth and alledging that on, or about the Tenth day of April, in the Year of our Lord one thousand Seven hundred and Seventy Eight, he the said James Strange, did advance and Lend unto One Roidourgum Venkataram of Gungapatnam Pouldiroo Inhabitant, the Sum of One thousand and Five hundred Star Pagodas and for the Payment whereof to the said James Strange, the said Roidourgum Venkataram did enter into a Bond or obligation, bearing date the Tenth day of April, in the said Year One thousand Seven hundred and Seventy Eight, and given by him to the said James Strange, whereby the said James Strange says that the said Roidourgum Venkataram did bind himself his Heirs, administrator and Assigns unto him, the said James Strange, in the Penal Sum of Three Thousand Star Pagodas Conditioned for the Payment of the said Principal Sum of One thousand and five hundred Pagodas, and Interest after the Rate of Twelve per Cent for six months from the Date of the said Bond or obligation, and that at the Expiration of the said Term of six Months and Frequently afterwards he the said James Strange, did apply by himself and others for Payment of the said Principal Sum of One thousand and five hundred Pagodas and the Interest thereon

Filed in my Office Aug.t 30. 1779 Stephen Sulivan Clerk of Appls

thereon then due and the said James Strange does further in his said Bill of Complaint set forth that not being Particularly acquainted with the said Roidourgum Venkataram he did at first Refuse to Lend and advance him the said Sum of One thousand and five hundred Pagodas but on his, the said Roidourgum Venkataram offering to Procure and give a Security for the Payment of the same according to the Condition of the said Bond then Intended to be Given he, the said Roidourgum Venkataram offered your Petitioner as his Security for the true Performance of the Condition on the part of the said Roidourgum Venkataram to which he the said James Strange Assented and accepted of the same and that thereupon your Petitioner did enter into an agreement with him, the said James Strange, and that the same was Reduced into writing and given by your Petitioner unto the said James Strange and the said James Strange does further in the said Bill of Complaint set forth that not being able to procure Payment of the Principal and Interest due on the aforementioned Bond of the said Tenth day of April from the said Roidourgum Venkataram, at the Expiration of the time limitted for Payment he, the said James Strange, did apply unto your Petitioner for Payment pursuant, as he pretends, to your Petitioners promise and undertaking so by your Petitioner entered into and given and that upon Repeated Applications made, your Petitioner has often promised Payment, which your Petitioner absolutely denies, and further that he, the said James Strange, has frequently and in an amicable manner demanded of your Petitioner the Payment of the said Principal and Interest, being as is pretended, the Sum of One thousand Six hundred and Sixty Pagodas and Eighteen Fanams Current Money of Madras, making in Sterling Money of Great Britain, after the Rate of Eight Shillings for every Pagoda, the Sum of Six hundred and Forty four Pounds and four Shillings due on the said Roidourgum Venkataramis Bond or obligation as aforesaid

To which said Bill of Complaint your Petr did on, or about the Twenty fourth day of May in the said Year one thousand Seven hundred and Seventy nine put in an amended answer and therein, amongst other things, Answered and said that he absolutely Refuses the said James Strange the Payment of the said Sum

Sum of one thousand five hundred Pagodas in the said Bill of Complaint mentioned and that it appears by the said James Strange his own Shewing that the said action does arise upon a Debt which Your Pet.rs Friend Roidourgum Venkataramanoo the said James Strange sing the said Sum of one thousand and five hundred Pagodas, and which Debt the said James Strange says Your Petitioner undertook and promised to Pay but which Your Petitioner in his said answer absolutely denies — and Your Petitioner in his said answer did further by way of answering say that for the aforementioned Reason he again Refuses Payment and because the said Roidourgum Venkataram is now Living and able to Pay the said James Strange and that the said James Strange ought to have commenced his action against the said Roidourgum Venkataram and not against Your Petitioner and in case of non Payment then, and not otherwise, Your Petitioner would become liable to Pay the same.

To which said answer the said James Strange did on or about the Thirtieth day of June, in this present Year of our Replication and therein amongst other things Replied that Your Petitioner does Stand Indebted unto him the said James Strange, in the Sum set forth in his Bill of Complaint notwithstanding any matter or thing alledged by Your Petitioner in his said answer to the Contrary and admits that the original Debt arose upon a Bond given by the said Roidourgum Venkataram and that whether he was or is a friend of Your Petitioner the said James Strange pretends he cannot say, but that the Borrowing and Receiving of the Principal Sum was the Transaction of Your Petitioner and by Your Petitioner solely managed and who became Responsible to the said James Strange for the amount Principal and Interest that might be due on the said Bond the said James Strange alledging that he was Totally unacquainted with the said Roidourgum Venkataram and that whether there is or ever was such a Person existing or not the said James Strange pretends to say that he does not know and that the money was advanced to Your Petitioner for the purpose of Lending it to the said Roidourgum Venkataram at the Repeated Importunities of Your Petitioner he the said

said Roidourgum Venkataram being a Person that was to have the money and that what is become of the said Roidourgum Venkataram or whether he ever had the money the said James Strange says he cannot set forth as no such Person can be found as Roidourgum Venkataram and that he the said James Strange had frequently applied to Your Petitioner for Information Respecting the said Roidourgum Venkataram who has often, as the said James Strange pretends assured him that he was Expected this day and the other day at Madras all which matter and things so set forth and alledged by the said James Strange Your Petitioner absolutely denies and Your Petitioner further Sheweth that the said James Strange did also in his said Replication set forth Several matters and things which to Your Petitioner appears Vague and Frivolous and not material for Your Petitioner to mention in this his Petition and Appeals

and Your Petitioner further Sheweth unto Your Most Excellent Majesty in Council that after the sixth day of July last, a Rule Issued for Your Petitioner to Rejoin and on the Twentieth day of the said months of July another Rule Issued for Your Petitioner to Rejoin in one Week and which said Rule Expired on the Twenty Seventh day of the said months of July and Your Petitioners Rejoinder would have been filed had not Indisposition Prevented Master Daniel Shaw, Your Petitioners Attorney from attending the said mayors Court on the day the said Rule Expired and therefore Master John Sykes, who Transacted the Current Business in Court for Your Petitioners said Attorney, objected to the Cause being set down to be heard on the Proceedings already had (as moved for by the Attorney for the said James Strange) and prayed a further time of one Week to put in a Rejoinder, but the said mayors Court (not considering the Indisposition of Your Petitioners said Attorney and the hardships Your Petitioner labored under thereby) were pleased to over-Rule the prayer made on Behalf of Your Petitioner and not only ordered that this Cause be set down to be heard on the Proceedings already had but that the same do come on to be heard on the Tues-

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following notwithstanding it is ordered and Established by Your Most Excellent Majesty's Charter of Justice that if any Person or Persons shall think him, her or themselves aggrieved by any Judgment, Sentence, or Decree of the said Mayor's Court that such Person or Persons shall or may, within fourteen days after such Judgment Sentence or Decree of the said Court shall be entered of Record, appeal to the Governor or President and Council of Fort Saint George and Your Petitioner further Sheweth that the order of the said Mayor's Court will more fully and at large appear by an Extract from the minutes of the said Mayor's Court annexed to Your Petitioner's Petition and appeal to the Honble the Court of appeals at Madraspatnam aforesaid to which Your Petitioner most humbly Refers and prays that the same may be admitted as part of this his Petition and appeal to Your most Excellent Majesty in Council—

From which said order of the said Mayor's Court Your Petitioner did appeal to the said Court of appeals as he conceived the same to be Erroneous and that he was much aggrieved thereby Because Your Petitioner was and is still of Opinion and Your Petitioner humbly hopes that Your most Excellent Majesty in Council will be of the same, that on account of the Indisposition of Your Petitioner's said attorney the said Mayor's Court ought to have allowed Your Petitioner a further time of one Week to put in a Rejoinder more Especially so as the time prayed for could not be of any Detriment to the said James Strange but the over Ruling of Your Petitioners said prayer must in the end prove Fatal to him, as Your Petitioner was and is thereby Debarred the only means that the Law has allowed him of Shewing to the said Mayor's Court the Illegality of the Demand made on him by the said James Strange and Because it manifestly appears by the said Extract annexed to the said Petition of appeal that the order made by the said Mayor's Court to hear this Cause on the Proceedings already had within the time limitted by Your Most Excellent Majesty's said Charter for appealing was and is Premature and does Infer a Hasty and not well advised Judgment and which Judgment could then only be Remedied by Your Petitioners appealing to the said Court of appeals— and Your Petitioner did further Submit all the said matters and things to the Judgment of the said Court of appeals and Prayed that the said order of the said Mayor's Court may be Reversed and set aside with Costs of Suit and that the said Mayor's Court may be Directed to Receive Your Petitioner's Rejoinder to the Replication of the said James Strange within such time and on such a Day as the said Court of Appeals should be pleased to order and Your Petitioner did also pray a General Relief in all and Singular the aforegoing Premises as to the said Court of appeals should Seem Meet—

and Your Petitioner further Sheweth unto Your most Excellent Majesty in Council That the said James Strange did put in an Answer to the said Petition and appeal and therein Endeavored to Support and Justify the said order of the said Mayor's Court and further in his said Answer did Set forth sundry matters and things that were quite new and Foreign to the matters in Question in this Cause and not mentioned in any of the Proceedings of the said Mayor's Court then before the said Court of appeals and which said matters and things so Irregularly set forth are in themselves False, Malicious, Scurrulous and Impertinent—

and Your Petitioner further Sheweth unto Your most Excellent Majesty in Council that on the Twenty Sixth day of this present Month of August and in this present Year of our Lord one thousand Seven hundred and Twenty Nine the said Petition and appeal came on to be heard and Determined before the said Court of appeals when the said Court were pleased to order and Decree and did accordingly order and Decree that the Decree or order of the said Mayor's Court given in this Cause do stand Confirmed and that Your Petitioners said Petition be thence Dismissed with Costs of Suit all which matters more fully and at large appear by the said order and Decree of the said Court of appeals hereunto annexed for the Inspection of Your most Excellent Majesty in Council to which Your Petitioner most humbly Refers and prays that the same may be admitted as part of this his Petition of appeal

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And From which said order and Decree of the said Court of Appeals Your Petitioner doth appeal to Your most Excellent Majesty in Council as he most humbly conceives that the same is Erroniow and that he is Greatly aggrived thereby — Because, that Instead of the said order and Decree, of the said Mayor's Court being Confirmed with Costs, Your Petitioner most humbly Conceives that the said Court of Appeals ought to have Reversed and set aside the said order of the said Mayor's Court with Costs and to have Directed the said Mayor's Court to Revive Your Petitioner's Amended Rejoinder to the Replication of the said James Strange within such time and on such a Day as the said Court of Appeals should be pleased to order and Your Pet.r ought to have such further and other Relief in and touching the Premises as in Equity and Justice he had a Right to Expect —

All which matters and things Your Petitioner most humbly Submits to the Judgment of Your most Excellent Majesty in Council and Prays that the said order of the said Mayor's Court and the said Court of Appeals may be Reversed and Set aside with Costs in the said Mayor's Court and the said Court of Appeals — that the said Mayor's Court may be Directed to Revive Your Petitioner's amended Rejoinder to the Replication of the said James Strange within such Time and on such a Day as Your Most Excellent Majesty in Council shall be pleased to order and Direct and that Your Petitioner may have such further and other General Relief in and Touching the said Premises as to Your most Excellent Majesty in Council shall Seem Meet —

And your Petitioner as in Duty Bound —

Shall Ever Pray

Dan.l Shaw

attorney for the Appellant

Court of Appeals at Madraspatnam } Thursday the 26.th August 1779

Between Patnah Gruah otherwise Carelee Gruahroo — Appellant & James Strange — Respondent

This Cause Coming on this day to be heard and Debated before this Court by the attorneys on both Sides upon hearing the Petition of appeal and answer and the Several Exhibits of the Honble the Mayor's Court together with a Decree of the said Court given in this Cause on Tuesday the 27.th Day of July Anno Domini 1779. and upon due Consideration had of the matters Severally Contained and of the Pleadings and arguments used by the attorneys on both sides This Court doth think fit to order and Decree and Doth accordingly order and Decree that the Decree of the Honble the mayor's Court given in this Cause do stand Confirmed and that the appellant's Petition be hence Dismissed with Costs in this Suit —

J Cuss S. C.

Clerk of Appeals

Before the Kings Most Excellent Majesty in Council

Between James Strange of Fort St George Merchant Complainant and Patnah Gruah otherwise called Carrettie Gruahroo of Madras Dubash Defendant

The Humble appearance and Answer of the said James Strange to the Petition of Appeal of the above said Patnah Gruah otherwise Carrettie Gruahroo

Filed in my office Sept. 13. 1779 Stephen Sullivan Clerk of Appl.

The said Respondent Says, that he admits of his having preferred his Bill of Complaint in the Honble the Mayors Court at Madras patnam, on the day and Year, and against the said Patnah Gruah otherwise called Carrettie Gruahroo, for One thousand Six hundred and Sixty Star Pagodas and Eighteen fanams or Pounds Sterling at the rate of Eight Shillings for every Pagoda, Six hundred and Sixty four and Shillings four being Principal and Interest due on a Note of Hand from the said Patnah Gruah otherwise Carrettie Gruahroo to this said Respondent as is expressed and set forth by this said Respondent in his said Bill of Complaint and the account Current thereunto annexed to which the said Respondent most humbly Refers the Kings Most Excellent Majesty in Council, whereby the nature of the Demand is Spirially set forth and shewn and the Causes assigned for why the said Patnah Gruah otherwise Carrettie Gruahroo should pay to this Bill of Complaint the said Patnah Gruah otherwise Carrettie Gruahroo did appear, and soon after the usual Rules for him to answer were out the the said Patnah Gruah otherwise Carrettie Gruahroo did put in a General answer denying the Debt, which obliged the Respondent to file a General Reply and to oblige the said Patnah Gruah otherwise Carrettie Gruahroo to Rejoin thereto the said Respondent prayed a Rule to Rejoin and accordingly a

a General Rejoinder was filed, and as the Debt was only on a Promissary Note of Hand and a base denial of the Debt pleaded, the Respondent intended to have joined issue and to have prayed a Rule to Examine Witnesses, as the Respondent had only to prove it necessary the Hand writing of the said Patnah Gruah otherwise Carrettie Gruahroo by the Testimony of those who have seen and subscribed their names to the said Note as Witnesses to the Execution thereof the said Respondent further Says that being prevented by the unexpected motion of the said Patnah Gruah otherwise Carrettie Gruahroo for leave to amend his General Answer, by filing what the said Patnah Gruah otherwise Carrettie Gruahroo calls an ammended answer, the said Patnah Gruah otherwise Carrettie Gruahroo having on this occasion charged his attorney at Law, this ammended answer upon a perusal contains in substance, no more than this, that he refuses payment unto the said Respondent that the action did arise upon a Debt which the said Patnah Gruah otherwise Carrettie Gruahroo former[illegible] by the name Roidourgum Venkataram owed the said Respondent, that he the said Patnah Gruah otherwise Carrettie Gruahroo never undertook and promised to pay and therefore that he for that very reason refused to pay the said Debt unto the said Respondent, the said answer further stating that the said Roidourgum Venkataram was living and able to pay and therefore it was incumbent on the Respondent to have commenced his action against the said Roidourgum Venkataram and in case of his non payment to have resorted to the said Patnah Gruah otherwise Carrettie Gruahroo for the payment, as he says, he was then become liable to pay the same, the Respondent with humble Submission to the Kings Most Excellent Majesty in Council begs leave to observe, that by this latter part of the answer, that there is a Confession of the Debt, by reason of his alledging that he should be liable to the Debt in case of failure in the said Roidourgum Venkataram and therefore the said Promissary Note is conclusive

Conclusive to the said Patnah Gnah otherwise Carrettie Gnahroo thought the same note is upon the expres Condition that in case the said Roidourgum Venkatarain did not pay the Principal and Interest at the expiration of Six months from the date of the said note to be computed, being the Tenth day of April one thousand Seven hundred and Seventy Eight, which the said Roidourgum Venkatarain never did pay or discharge the Bond of the said Roidourgum Venkatarain under his Hand and Seal remains and still continues to Remain in the Hands of the said Respondent uncancelled. The said Respondent further by leave aforementioned observes that the said Patnah Gnah otherwise Carrettie Gnahroo in his Answer says "that he the said Roidourgum Venkatarain is living and able to pay," but does not say that he is within the Jurisdiction of the Honble the Mayors Court or where he is or then was at the time of filing the Respondents Bill of Complaint against the said Patnah Gnah otherwise Carrettie Gnahroo. The said Respondt further says to this Amended Answer he was under the necessity of filing a Spicial Replication, setting forth among other matters that by means of the said Patnah Gnah otherwise Carrettie Gnahroo, he the said Respondent did lend and advance the Principal Sum of one thousand and five hundred Pagodas to the said Roidourgum Venkatarain upon his Bond the said Respondent alledging that he was an utter Stranger to the said Roidourgum Venkatarain and did not know at the time of filing such his the said Respondents Replication of such a person existing, as every possible inquiry had been made after him the said Respondent setting forth that the Transaction of Borrowing and Lending was the act and Deed of the said Patnah Gnah otherwise Carrettie Gnahroo himself and the time being expired for payment and no such person as the said Roidourgum Venkatarain to be found the Respondent did apply to the said

said Patnah Gnah otherwise Carrettie Gnahroo who promised payment but delayed the same whereupon the said Respondent said he employed his Solicitor at Law to make a formal Demand for payment on the said Patnah Gnah otherwise Carrettie Gnahroo who promised and undertook to pay the Principal and what Interest might be due upon this expres Condition, that if the said Roidourgum Venkatarain did not within One Month come into the place (meaning Madras) and pay off the Principal and Interest due on his said Bond to the Respondent that he the said Patnah Gnah otherwise Carrettie Gnahroo would certainly pay the same This Respondent with all Submission to the Kings Most Excellent Majesty in Council begs leave to observe that this promise and undertaking to pay in One Month is a further instance and Proof of the legality of the Demand and makes the said Patnah Gnah otherwise Carrettie Gnahroo a Principal in the Business and the Person who is to pay and it become his indispensable duty so to do and according to the original intention and meaning of the parties at the time of his the said Patnah Gnah otherwise Carrettie Gnahroo giving his aforesaid Promissary Note, the said Respondent further in his said Replication alledged that the time of one Month was allowed the said Patnah Gnah otherwise Carrettie Gnahroo as he requested, at the expiration of which time the Bond remained undischarged either by the said Roidourgum Venkatarain or the said Patnah Gnah otherwise Carrettie Gnahroo or any person or persons on either of their accounts and when urged for Payment the said Patnah Gnah otherwise Carrettie Gnahroo evaded the same which induced the said Respondent to prefer his Bill of Complaint against him in the said Honble the Mayors Court not only upon his said Promissary Note of Hand but also on his

Promise

Promise and undertaking so Repeatedly made and given to this said
Respondent as aforementioned, the said Respondant further says
that his said Replication after having Setforth his allegations
did by Argument indeavour to Support his Bill of Complaint
and by the same means refuted every matter and thing
Contained in the said Patnah Gruah otherwise Carrettee
Gruahroo's Answer the said Respondent further Says that
having so Spirially replyed to the said amended answer he
was under the Nessity of moving for a Rule to oblige the said
Patnah Gruah otherwise Carrettee Gruahroo to rejoin which
on the Sixth Day of July was granted, and the time of fourteen
Days as prayed for by the said Patnah Gruah otherwise
Carrettee Gruahroo and apointed to by the Respondent being
expired and no Rejoinder filed or tendered to be filed, a further
motion was made to the Honble the said mayor's Court to
Compell the said Patnah Gruah otherwise Carrettee Gruah-
to bring in his Rejoinder, which said mayor's Court did allow
a further time of one week at the instance of the said Patnah
Gruah otherwise Carrettee Gruahroo, which Rule did expire the
Twenty Seventh of the said months of July and no Rejoinder filed or
tendered, by which almost a Month wanting three Days was gone,
and the Respondent delayed in his Prosecution for his Demand, on
this Twenty Seventh Day of July the Respondents attorney at Law,
then in Court, having previously searched the Office where the
Records of the Honble the said Mayor's Court are kept for the said
Rejoinder, none was to be found or any minute made of so tender thing
the said Respondents attorney did then move, that this the said
Respondents Cause might be set down to be heard on the Proceedings
then already had, being a Bill of Complaint, Answer and Replication,
to this motion Mr John Sykes one of the Attornies of the Honble the
said mayor's Court on account of the said Patnah Gruah otherwise
Carrettee Gruahroo's attorney Mr Daniel Shaw, who it was said, was
indisposed

indisposed, did object and prayed that the said motion might be over
Ruled on account of this indisposition of the said Mr Daniel Shaw
as he alledged, and that a further time of one week might be allowed
for the said Patnah Gruah otherwise Carrettee Gruahroo to put
in his Rejoinder, the said Honble the Mayor's Court having heard the
motions of both Sides, were pleased to order and direct, that the
Proceedings should be Set down as prayed for by the Respondents
Attorney and directed the Cause to come on to be heard at the next
Court day after, which was the third day of August next following
the said Month of July. It appearing to the Honble the said
mayor's Court, not only from the inspection of their Minutes but
from what had been alledged by the attornies on both Sides, that
much delay and Procrastination had been used by the said
Patnah Gruah otherwise Carrettee Gruahroo, to hinder this Cause
from coming to a Speedy decision the said Respondent further
Says, that on the third day of August, the Honble the said mayor's
Court being met and a motion being made for the Cause to
come on to be argued on the Proceedings then had, the Attorney
Daniel Shaw did object and informed the said Honble the
mayor's Court, that he had received Instructions from his Client
the said Patnah Gruah otherwise Carrettee Gruahroo, to
lodge an Appeal from the order made in the Cause of the last
Court day, being the Twenty Seventh day of July, the said Attorney
alledging, that as the Charter directs, that the Party who thinks
himself agrieved by any Judgment Sentence or Decree of the
Honble the said Mayor's Court should be allowed fourteen Days to
appeal to the President and Council, and therefore the said
Attorney prayed, that the hearing of the said Patnah Gruah
otherwise Carrettee Gruahroo's Cause might stand over till
next Court day, and the same was granted and the Cause ordered
to stand over accordingly the said Respondent further Says
that this Suggestion of the said Patnah Gruah otherwise Carrettee
Gruahroo

Gruahroo's attorney was wrong, because the Rule given the Sixth of July to the Twentieth of the same month ought to have been final and Conclusive and the further indulgence of one week to the Twenty Seventh of the same month, was no more than enlarging the time in the first Rule, Because the first Rule was peremptory as appears by the Rule it self. The said Respondent further Says that at the time of making the motion by the said Patnah Gruah otherwise Carrettee Gruahroo, no offer or tender was made to file a Rejoinder or any leave for further time for that purpose prayed for by the said Patnah Gruah otherwise Carrettee Gruahroo's attorney so that it appeared evident to the said Honble the mayor's Court that the said Patnah Gruah otherwise Carrettee Gruahroo had no other intention than to Procrastinate the Proceedings, the said Respondent further Says that the said Patnah Gruah otherwise Carrettee Gruahroo, did from the said order of the Twenty Seventh of July appeal by Petition to the Honble the President and Council of Fort Saint George, as a Court of appeals, therein Setting forth the Causes for his appealing and particularly for his attorney's indisposition / also as a further Cause for appealing, Because it appeared by the said order that the said Honble the mayor's Court, had been premature in such their order and which inferred as the said Patnah Gruah otherwise Carrettee Gruahroo alledges a hasty, and not well advised Judgement, and which Judgement could only be remidied by appealing to the Honble the said President and Council as a Court of Appeals and therefore the said Patnah Gruah otherwise Carrettee Gruahroo did pray of the said Honble the Court of Appeals, that the said order of the Twenty Seventh of July might be reversed and set aside with Costs, and that the said Honble the mayor's Court might be directed to Revive the said Patnah Gruah otherwise

Carrettee

Carrettee Gruahroo's Rejoinder to the Replication of the said Respondent

the said Respondent by leave of the Kings most Excellent Majesty in Council, humbly begs to observe, that at the instance of the said Patnah Gruah otherwise Carrettee Gruahroo the said order of the Twenty Seventh Day of July, from which the said Patnah Gruah otherwise Carrettee Gruahroo has appealled, was on the third day of August following enlarged to a further time of a week, pursuant to the prayer of the said Patnah Gruah otherwise Carrettee Gruahroo's attorney, so that the causes for the said Patnah Gruah otherwise Carrettee Gruahroo appealing, did not then nor do they now exist, but that the causes to be assigned for such appealing should have been Specially Set forth, why the said Patnah Gruah otherwise Carrettee Gruahroo, was aggrieved by his not being allowed to put in his amended Rejoinder, but as to the cause of only one week allowed between the Setting down of the Proceedings to be argued and the intended day of determining on the merits set forth in the Proceedings then had, that cause was removed at the instance of the said Patnah Gruah otherwise Carrettee Gruahroo's attorney, so that the matter complained of in the Petition of appeal did no longer exist, and therefore the causes assigned by the said Patnah Gruah otherwise Carrettee Gruahroo, as matter sufficient for an appeal are erroneous and insufficient, and with all Humble Submission, that the order of the twenty Seventh of July and the third of August may be supposed to be but as one order of the Twenty Seventh of July on account of the time therein limitted for the hearing of the Cause being enlarged till the tenth of August, making a time of fourteen Days agreable to the limitation expressed in the Charter all of which ought to have been shewn by the said Patnah Gruah otherwise Carrettee Gruahroo, in his Petition of appeal to the said Honble the President and Council whereas the said motion of the said third Day of august was

Granted

Concialed, which induced the Respondents in his answer to the said Petition of appeal to Spirially Recite this particular Circumstance, in order, that the said Honble the President and Council might have a fair investigation of the whole of the matter before the said Honble the Mayors Court, The said Respondent further says that to this Petition of appeal, he the Respondent did put in his answer by order of the said Honble Court of Appeals setting forth the several particulars, without Exaggeration and the same came on to be heard the Twenty Sixth Day of august in the present Year of our Lord one thousand Seven hundred and Seventy Nine when this said Honble the President and Council, as a Court of appeals, were pleased unanimously to Confirm the order of the said Honble the Mayors Court and dismissed the Petition of appeals with Costs, from which said Confirmation of the said Honble Court of appeals he, the said Patnah Gnah otherwise Carrettu Gnahroo, hath appealed to the Kings Most Excellent Majesty in Council without assigning any reason or alledging any Cause, for why such appeal should be made only a Gnneral Exception to the order of the said Honble the Mayors Court and to the Confirmation by the aforementioned Court of appeals is by him made, Wherefore, the said Respondent says, that he apprehends that some good & sufficient Cause for appealing should be shewn, and further shewing, that he is ready and does tender an amended Rejoinder, Whereas he the said Patnah Gnah otherwise Carrettu Gnahroo is totally Silent on the Subject, and what he the said Patnah Gnah otherwise Carrettu Gnahroo could have to say in his Rejoinder in support of his answer, the Respondent cannot say, as the said Patnah Gnah otherwise Carrettu Gnahroos attorney did not offer any particular matter to the said Honble the Mayors Court, as necessary for the good of his Client, the said Respondent further says, that there needed no Rejoinder as the Question was whether the said Patnah Gnah otherwise Carrettu

Carrettu Gnahroo should Comply with the Tenor of his Promissory note, notwithstanding it appeared to be a Security for another Person, in failure of payment by a certain time, which the said Respondent in his Bill of Complaint set forth and expressly charges that the Principal Person Roidourgum Venkataram was not to be found in any part of the Mayors Courts Jurisdiction, nor was the money paid either at the time originally agreed upon or at the time of the said Respondent preferring his Bill of Complaint against the said Patnah Gnah otherwise Carrettu Gnahroo in the said Honble the Mayors Court, but that the original Bond remained undischarged to that day against which Loss or failure of payment on the part of the said Roidourgum Venkataram was the note of hand given by the said Patnah Gnah otherwise Carrettu Gnahroo to the said Respondent, and therefore according to the Promise and undertaking in the said Note expressed the said Patnah Gnah otherwise Carrettu Gnahroo ought to pay the said Respondent, if the Kings Most Excellent Majesty in Council should signify the same

All which matter and things the said Respondent most humbly Submit to the Judgment of the Kings Most Excellent Majesty in Council and prays that the Order of the said Honble the mayors Court and the Confirmation of the Honble the President and Council as a Court of appeals thereon, may stand Confirmed with Exemplary Costs to be paid by the said Patnah Gnah otherwise Carrettu Gnahroo, and that the said Petition of appeal of the said Patnah Gnah otherwise Carrettu Gnahroo to the Kings Most Excellent Majesty in Council may in like manner be dismissed, and the said Respondent as in duty bound shall ever pray

Chas. Bromley
Atty Respondent