25,000-8-5-32.

Block 7

Rack No.

Shelf No.

Serial No. 14

General No. 1207

Supreme Court Series I-1

Appeals against Mayor's Court decisions

Vol 14

21
14
1874

116

Saturday 16th December 1786

Court of Appeals

Present

The Honble Sir Archibald Campbell K.B

Alexander Davidson James H. Casamajor

To the Honble the Court of appeals at Madraspatnam.

The humble Petition of James Grierson

One of the attornies of this Honble Court

Sheweth

That your Petitioners private Business and Affairs requiring his presence in Europe for a few Months he proposes with the permission of this Honble Court to Embark on the Honble Company's Ship the Phania and as he means to return to India as soon as possible He humbly prays that this Honble Court will be pleased to indulge him with leave of absence for Eighteen Months — and that they will be further pleased to permit Mr. Edward Ellis one of the Attornies of this

Honble

Hon'ble Court to manage and Conduct his Business during his Absence for such Clients as may wish to continue with and Employ your Petitioner he being ready And Willing to deliver up the papers to all those who may wish to employ any other Attorney upon payment of his Bills of Costs—

And your Petitioner Shall Ever Pray

16th December 1786

(Signed) James Grierson—

Court

Court of Appeals at Madraspatnam } ss. the 16th December 1786

Resolved that Mr. Grierson have leave to proceed to Europe agreeably to his request and that Mr. Edward Ellis be permitted to take upon him the conduct in this Court of any business in which Mr. Grierson has been employed

A true Copy

(Signed) Chas. N. White Clk

Court

4.

Court of Appeals
at
Madraspatnam } ss.

Saturday the 16th December
Anno Domini 1786

Between Jacob Moseh and Raphael Franco of London Merchants by their attorneys John Maxwell Stone and James Hodges of Fort Saint George Esqrs Appellants and Francis Jourdan of the Same place Esquire Respondent

The attorney for the appellants having moved for Leave to Withdraw their Appeal on payment of Costs to the King in Council from a Decree of this Court Dated the 27th day of May Anno Domini 1784. And the attorney for the Respondent having Consented thereto—

Ordered accordingly

Hon /Signed/ Chas N. White
Ch.t

To the Right Honble George Lord Macartney K.B.
President & Governor &ca &ca Council of Fort Saint George.

In the Court of Appeals

Between Joaquim Gregorio of Madras Inhabitant Administrator of Francisca De Moura deceased Complainant and Francesco Joze of Madras Inhabitant Defendant

The humble Petition and appeal of the above named Francisco Joze

Sheweth, That the above named Complainant as Administrator as aforesaid did on or about the Twenty Seventh day of October which was in the year of our Lord one thousand Seven hundred and Eighty four Exhibit a Bill of Complaint in the Honble the Mayors Court at Madras patnam against your Petitioner for the recovery of the Sum of four hundred and Ninety one Pagodas and Seventeen fanams pretended by the Complainant to be the Amount and Value of Certain Bonds Notes Slaves &ca Valued and Estimated by the Complainant himself as stated in a List Copy where of was annexed by the said Complainant to his said Bill of Complaint and the said

Filed in my Office
the 28th March 1785
Charles Freeman Clk

Complainant

Complainant did further set forth that after the decease of the Said Francesco demoura and before the Complainant Could Obtain Letters of Administration from the Mayorscourt that your Petitioner possessed himself of the several Articles Specified in the List annexed in the said Bill of Complaint and Which the Complainant pretended to be the property of and belonging unto the Estate of the said Francesco de moura deceased And which the Complainant hath falsely And Maliciously Charged Your Petitioner to have been detained converted And appropriated to your Petitioners own private use To Which said Bill of Complaint Your Petitioner Appeared by his Attorney and did on or about the Sixteenth day of December Which was in the Year of our Lord One thousand Seven hundred And Eighty three file his Plea And Answer wherein Your Petitioner Stated that the said Francesco Demoura before and at the time of her decease was a Feme Coverte being then the wife of Patricio de Valverde an Officer in the Service of the Rajah of Vencatagerry under and by Virtue of a marriage before that time with the premission of God Lawfully Solemnized between the said Patricio de Valverde And Francesco de moura According to the Rites of their Religion and the Established forms of their Church and that the said Patricio de Valverde was then and Still is Living



living and your Petitioner further Pleaded that under such Coverture she the said Francisca de Moura could not have been possessed of any personal property whereunto the right could after her decease vest in any other person save and except the said Patrecio de Valverde her Husband who Survived her and to whom the Right of Administration if any was thought necessary descended by Law in like manner as the Title to all her personal property and therefore your Petitioner did plead the said coverture of the said Francisca de Moura at the time of her decease as in Bar to the Complainants Right to Call your Petitioner in question for any actings and doings of the said Patrecio de Valverde and prayed the Judgment of the said Mayors Court that your Petitioner might not be Obliged to put in any further or other Answer but that he be discharged by the said Mayors Court with all his Costs and Charges in that behalf most wrongfully Sustained and Your Petitioner by way of Answer to the Residue of the said Bill did amongst other things setforth that after the death of the said Francisca de Moura and on the fourteenth day of January which was in the year of our Lord One thousand Seven hundred and Eighty three the said Patrecio de Valverde by Stephen Popham acting as Proctor for Daniel Shaw did apply to the Mayors Court for Letters of Administration of the Estate and Effects of the said Francisca de Moura deceased as her Husband and the usual Advertizements were on the same day Ordered by the Honble the Mayors Court to be affixed and that on the Twenty

Eighth

Eighth day of the said Month of January a Caveat was filed in the said Mayors Court by Thomas Jones acting as Proctor for the Interest of the Complainant and afterwards the said Daniel Shaw filed Allegations on the Part of the said Patrecio de Valverde which were answered by the said Complainant after which the said Patrecio de Valverde was obliged to depart from the Jurisdiction of this Honble Court in order to attend to the Duties of his Military Station with the Rajah of Vencatagherry, and the said Daniel Shaw to whom the said business had been intrusted fell Sick and soon afterwards died and the said Allegation and Answer were heard without the said Patrecio de Valverde having had an opportunity of Supporting his Allegation by such Testimony as he could have adduced to the Satisfaction of the Mayors Court and therefore for want thereof the said Mayors Court were pleased to grant and did grant on the Twenty Sixth day of August in the said year One Thousand Seven hundred and Eighty three Letters of Administration in favour of the said Complainant and your Petitioner did further setforth that the said Francisca de Moura resided at Madras during most part of the time in which her Husband was Obliged to attend to his duty with the said Rajah of Vengatagherry and that on her falling Sick she went to Policot for the benefit of her health and there died and the Funeral rites were performed upon her as the lawful Wife of the said Patrecio de Valverde who paid the



the Expensis thereof after which the Complainant under false Representations made by him to George Smith Esquire then and now Commandant of Polycatt got posession of the House of the said Patrecio de Valverde whereupon the said Patrecio de Valverde came to Madras and procured a Representation of his case as Husband and heir to the said Francisca de Moura to be made to the said George Smith Esquire in Consequence of which the said Patrecio de Valverde was repossessed of his House nor did your Petitioner ever interfere either Respecting the said House or any other the matters and things of the said Francisca de Moura or Patrecio de Valverde and for the further Satisfaction of this Honble Court your Petitioner sheweth that upon the said Francisca de Moura left Madras in her way to Polycatt she left a Box in the House of one Antonio Ferreira which Box the said Daniel Shaw at the Request of the said Patrecio de Valverde the Husband of the said Francisca de Moura Ordered his Writer Manoel warner to go and Demand from the said Antonio Ferira and to bring to his House that he might take a List of the several things therein contained and accordingly Manoel warner went to Demand the said Box the said Patrecio de Valverde and your Petitioner at his Request Accompanying him and your Petitioner sheweth that the said Box was brought to the House of the said Daniel Shaw and the said Manoel Warner at the instance of the said Daniel Shaw took a List of the Contents thereof and afterwards delivered the same to the said Patrecio de Valverde then living in the

House

House of your Petitioner which List your Petitioner doth not pretend to recollect not having been interested therein but your Petitioner doth affirm that the said List annexed to the complainants Bill cannot be the same Because there was no valuation affexed to the several Articles in the List taken by the said Daniel Shaw nor could the said Daniel Shaw have put down the names of the Two Slaves Antonio and Flora as part of the Goods which were in the Chest or Box altho the same is so described by the complainant in the Account annexed by him to his Bill of complaint and your Petitioner did further set forth that the said Patrecio de Valverde having afterwards Occasion to return to his service took the said Chest with him and all the several things which were therein for the pretended value whereof your Petitioner hath been so unjustly and falsly sued by the Complainant in manner aforesaid and your Petitioner solemnly declareth that he had nothing to do with or was any wise interested in the said Chest or the Contents thereof except as aforesaid and that he neither received the said Chest from or delivered the same to the said Patrecio de Valverde nor had he authority to stop the same or the contents thereof nor did he otherwise entermiddle therein except by — Suffering the same to be received into his House and taken away again by the said Patrecio de Valverde and your Pet.r did further set forth that the complainant was then and Still is resident at Madras and was well informed of all and

Singular

Singular the Premises and therefore the said Complainant should then have Stopped the Effects of the said Francisca de Moura and not have permitted the same to have been carried away by the said Patrecio de Valverde without making at that time some Claim for the same and your Petitioner did further state that with respect to the Three Slaves charged by the Complainant to have been part of the contents of the said Chest and to have been therein taken away and detained by your Petitioner the said charge was cleared away by your Petitioner in the following manner namely that the said Patrecio de Valverde in return for the friendly Civilities Shewn by your Petitioner to the said Patrecio de Valverde presented your Petitioner with a Slave Girl named Flora which he purchased at Bengal for Sixty Rupees and the said Flora had two Sons One by a Coffree man whose name was Pedro which Boy your Petitioner bought from the said Patrecio de Valverde for Twenty Pagodas and the said Floras other Son was named Antonio and the said Flora after your Petitioner had purchased the said Son Pedro requested of the said Patrecio de Valverde to leave her other Son Antonio with her to which he consented and the said Two Sons as well as the said Flora have ever since lived and Still do live with your Petitioner and your Petitioner hath in his posseſsion the Original Bills of Sale of the said Flora and Pedro Copies of the Translations whereof as annexed to your Petitioners — Rejoinder reference being thereunto respectively had may more fully

appear

appear and your Petitioner sheweth that the said Bill of Sale of Flora is in the name of Patrecio de Valverde and therefore proves his former property therein and is prior in date to the time at which your Petitioner is charged with the taking of the said Box and your Petitioner Solemnly avers that the Complainant hath no manner of claim or demand — whatsoever on this Defendant neither as the pretended — Administrator of the said Francisca de Moura or otherwise howsoever for your Petitioner Sheweth that he never had any dealings or Connection with the one or the other thereof or with the Reputed property of the One or the other save as aforesaid in giving unto the said Patrecio de Valverde Permission to place in your Petitioners House the said Chest and afterwards to take the same away together with such other Effects as — appeared to be his property to which said Plea and Answer the said Complainant filed a Replication Charging as in and by his said Bill of Complaint he had already Charged and your Petitioner Rejoined thereto and upon the above mentioned Proceedings issue was Joined and witnesses Examined thereon after which Publication passed and the said Cause was set down for hearing and the same came on to be heard on Tuesday the fifteenth day of this Instant March by and before the said Mayors Court who were pleased to order and Decree that your Petitioner should pay unto the said Complainant as Administrator as aforesaid the aforesaid Sum of four hundred

and



and Ninety One Pagodas and Seventeen fanams together with all such Interest and Costs of Suit as by the said Several — Proceedings so thereon had in the said Mayors Court and the said Decree herewith lodged for the Inspection of this Honble Court of Appeals and Prayed by your Petitioner to be taken as part of this his Petition and appeal reference being thereunto respectively had may more fully and at large appear your Petitioner humbly Craving as full and ample benefit from them and each of them as if they respectively had been herein before at full length Set forth —

From which said Decree of the said Mayors Court your Petitioner doth appeal to the Honble Court as he Conceives the same to be Erronious and that your Petitioner is much — aggrieved thereby for the following among other Reasons —

First..... Because it appears in proof that the said Patrecio de Valverde was Married to the said Francisca de Moura and that they were Reputed as man and wife and Cohabited together as such to the time of her death except when his Military duty under the Rajah of Vencalagherry called him from her and that therefore the Coverture gave an absolute right to the said Patrecio de Valverde over all and every the Effects of the said Francisca de Moura nor was such title at all impeached by any letters of Administration granted to the said Complainant of the Estate and Effects of the said Francisca de Moura especially as the same were got by Cover in the absence of Patrecio de Valverde

and

and after the death of his attorney or proctor whereby he had not an opportunity of supporting the allegations and his Title as husband to such administration in preference to the said Complainant— it also appears in proof that among the Portuguese the Custom is for the Women to retain their own name after their Intermarriage so that the said Francisca de Moura retained lawfully that name to her death notwithstanding her Coverture and it appears in proof that Patrecio de Valverde paid the Expense of her Funeral Rites at Polycat after which he came to Madras to Claim her Effects and among the rest the Box of Sundries found in the House of Antonio de Terceira where she had lodged which Box your Petitioner never had any Concern or Interest in and only received the same into his house and permitted the same to pass from his house at the instance and Request of the said Patrecio de Valverde who lodged in your Petitioners house—

Secondley Because that even suppose the Marriage of Patrecio de Valverde with Francisca de Moura not proved and that therefore the said Patrecio de Valverde had not any right to entermiddle with the affairs of the said deceased Francisca de Moura but that the right to interfere therein rested with the Complainant under his Letters of Administration in such case the said Patrecio de Valverde who took away the said things and not your Petitioner should be Answerable to the Complainant as your Petitioner neither directly or indirectly did



did intermiddle therein or was in any respect aiding or abetting to the said Patrecio de Valverde in such the taking away of the said Box, which taking away your Petitioner did Conceive at the time and still doth Conceive to have been right as your Petitioner knoweth that the said Patrecio de Valverde was the lawful Husband of the said Francisca de Moura and that no Letters of Administration had then passed or were even applied for to the Honble the Mayors Court respecting the Estate of the said Francisca de Moura—

Thirdly Because that even on the Supposition that Patrecio de Valverde had not been the lawful Representative, as Husband, of the deceased Francisca de Moura, and suppose that under the Letters of Administration the Complainant had a right to all the Effects, and among the rest to the Box in question with the goods therein of the said Francisca de Moura and also suppose that your Petitioner and not the said Patrecio de Valverde had taken away the said Box and that therefore he was responsible to the Administrator for the Contents thereof yet it appears of the Complainants own shewing by his Bill of Complaint and the Account or List thereunto annexed that the decree of the Mayors Court is Erronious for the first Article of the said List is a Certificate of Maria Vaz for One hundred and fifty Pagodas and Ten years Interest thereon the Amount whereof your Petitioner hath not any right whatever to recover from the said Maria Vaz nor can any other person except the Complainant

as

as Administrator of Francisca de Moura so that the Decree should have been for the Delivery of the Original Certificate from your Petitioner to the Complainant and not for the Amount Specified therein and it should in like manner have Decreed the delivery of the Certificates or Bills of Sale of the Slaves and of the Slaves also and in default thereof then such Sum as had been proved to be the Value of them —

Fourthly Because that the said List which is the Complainants Title if he has any, to a Decree expresses matters Physically impossible namely that the said Box Contained Five Slaves namely Joana Gomes, Redolpho Pessanha, Panchced, Mathe of John Peter and One Coffree Boy which Slaves must have been locked up in the Box for some time for the Evidence of Manoel Warner proves that the Box was locked up when brought by him at the instance of his Master Daniel Shan to the House of Daniel Shan so that the five Slaves must, if the Complainants Bill of complaint be true have lived in the said Box for some time locked up therein and without air or food —

Fifthly. Because that the said Manoel Warner who is one of the Complainants witnesses hath proved that the Box was taken from the House of Antonio Ferura by the Order of Daniel Shan the Attorney of the said Patrecio de Valverde and not by the Order of your Petitioner and the same witness has proved that the Value affixed to each Article was done by the Complainant who after the said Manoel Warner had refused to Value them professing



professing he was not a Merchant or Judge whereupon the Complainant desired Manoel Warner to affix such figures opposite each Article as the Complainant should Direct which he did Accordingly so that on the Supposition that the Complainants Title to the things in Question had been proved and that it had also appeared that your Petitioner had so far intermiddled therein as to become answerable for their Amount the Complainant ought not to Recover of your Petitioner as he hath not Proved the Value of any one Article therein and it Evidently appears by the Testimony of Manoel Warner That the List which the Complainant holds up as his Title is not proved to be the True List or a Copy of the List taken by Manoel Warner and it also appears that any Value set on the Article in Question must be Arbitrary as the Box in Question and its Contents were not at the time of such Valuation on the Spot or in the Complainants Possession or ever had been in his possession, but are proved to have been Removed from Antonio Ferreras House to Daniel Shaws, from his House to your Petitioners and from your Petitioners to Boliacatt and Vincatagherry at the same time that the said Patrecio de Valverde Moved therefrom —

For all which Reasons and Such others as may be offered at the Hearing your Petitioner Prays that the said Decree of the Honble the Mayors Court be reversed with Costs —

/Signed/ Stephen Popham
Attorney for Appellant

Mayors

Mayors court at Madraspatnam } { Tuesday the 15th day of March Anno Domini 1785

Present

Philip Stowey Esquire Mayor
John Menzies & Robert Ewing

Aldermen

Between Joaquim Gregorio of Madras Inhabitant Administrator of Francisca de Moura Deceased Complainant and Francisco Joze of the same place Inhabitant Defendant

Mayors Court

This cause coming on to be Heard and Debated this day in the Presence of the Attorneys on both Sides on Reading the Complainants Bill with an Account annexed, Warrant to Prosecute, Affidavit of the Complainant, The Defendants Plea and Answer with one Exhibit annexed, The Replication The Rejoinder with Copies of the Translations of four different Papers Marked Letters A B C & D annexed The Interrogatories and Depositions on the part of the Complainant with one Exhibit annexed, The Interrogatories and Depositions on the part of the Defendant



Defendant with three Exhibits marked A B & C annexed On Hearing the Pleadings Made use of by the Attornies and on due Consideration had thereon This Court doth think fit to Order and Decree and doth Accordingly Order and Decree that the Defendant do pay unto the Complainant the full and Just Sum of Four Hundred and Ninety One Pagodas and Seventeen fanams /Pagodas 491. 17./ together with such Interest as now is or shall hereafter become due thereon untill full Payment is Made also all Costs of this Suit—

Fleur

(Signed) James Taylor
Regr

To

To the Right Honble George Lord Macartney K. B.
President and Governor &c.a Council of
Fort Saint George

In the Court of Appeals

Between Joaquim Gregorio of Madras Inhabitant Administrator of Francisca de Moura Deceased Complainant and Francisco Joze of Madras Inhabitant Defendant

The Answer of the above named Joaquim Gregorio to the Petition and Appeal of the above named Francisco Joze

This Respondent by way of Answer to the said Petition and Appeal or unto so much thereof as concerns this Respondent to make answer unto saith he Admits it to be true that he did as Administrator as aforesaid on or about the Twenty Seventh Day of October which was in the year of our Lord One Thousand Seven hundred and Eighty three and not eighty four as the said Appellant hath asserted Exhibit a Bill of Complaint in the Honble the Mayors Court at Madraspatnam against the said Appellant for the Recovery of the Sum of Four Hundred and Ninety one Pagodas and Seventeen fanams being the Amount of certain Jewells wearing Apparels Bonds and Slaves &c.a possessed by the Appellant after the Death of the said Francisca de Moura Deceased and which hath been detained

Filed in my Office
the 15th April 1785
Charles Freeman Esqr



detained converted and Appropriated by the Appellant to his own use to which said Bill this Respondent also Admits that the said Appellant appeared by his Attorney and did on or about the Seventeenth Day of December which was in the Year of our Lord One Thousand Seven hundred and Eighty three file his Plea and Answer as stated and set forth in the said Appellant Petition to which said Plea and Answer this Respondent by way of Replication thereto did among other things set forth that the Plea Setup by the said Appellant in and by his said Plea and Answer it did not appear Necessary unto this Respondent to make any other Reply whatsoever because the purport and tendency of such Plea did impeach the Powers and Authority of the Honble the Mayors Court under which this Respondent Acts the Support and Vendication of which this Respondent left to the Honble the Mayors Court it being Sufficient for this Respondent to Shew that he Acted under Letters of Administration duly granted and fairly Obtained out of and from the said Honble the Mayors Court and that all acts done by this Respondent in his Capacity as Administrator untill such Letters of Administration were formally repeated by the said Honble the Mayors Court were legal and valed. This Respondent further Stated that so far from having imposed upon the Honble the Mayors Court and Obtained Letters of Administration of the Estate and Effects of Francisca De Moura Deceased under false pretences and by covin as this said

said Appellant thought proper to Advance in his said Plea. that the Contrary appeared by the answer of the said Appellant wherein he hath flatly contradicted the Tenor of his Plea/ altho he the said Appellant had Sworn to both his Plea and Answer/ and Stated the Circumstances relative to the Proceedings in the Cause in the Ordinary of the Honble the Mayors Court nearly as they arose but this Respondent by his said Replication positively denied that the Cause Asigned by the said Appellant for the failure of Patrecio de Valverde in his Attempt to obtain Letters of Administration of the Estate and Effects of Francisca de Moura Deceased was founded on truth for this Respondent said that the said Patrecio de Valverde was Resident at Pulicat during the whole of the time that the Contest between this Respondent and the said Patrecio de Valverde was before the said Honble the Mayors Court and he was duly informed by the Appellant of every Transaction carried on in the Honble the Mayors Court, and that the Inability of the said Patrecio de Valverde to Support by Evidence his Declarations Contained in his Allegations before the Honble the Mayors Court was the true Reason for his the said Patrecio de Valverde deserting his Cause and removing out of the Jurisdiction of this Honble Court, which he the said Patrecio de Valverde did not do untill he was informed that this Respondent had Obtained Letters of Administration of the Estate and Effects of the said Francisca de Moura Deceased when the said Patrecio de Valverde thro apprehension of being called



called to an Account by this Respondent for the things which he had embezzled and made away with belonging to the Estate and Effects of the said Francisca de Moura Deceased, absconded from Pulicat and went to Vencalaguiry, this Respondent by his said Replication further Stated that pending the Litigation between this Respondent and the said Patrecio de Valverde, the said Appellant forcibly possessed himself of the Several Articles Charged in the Account Annexed to this Respondents Bill of Complaint filed in the Honble the Mayors Court, which he the said Appellant took out of the House of Antonio Ferreira promising at the same time that whenever any Demand should be made for the delivery thereof that he the said Appellant would be Answerable for producing the same which Promise and Undertaking of him the said Appellant this Respondent did most pointedly prove to the Satisfaction of the Honble the Mayors Court by the uncontroverted Evidences of Joanna Ferreira Miss Joanna Ferreira and Roza the wife Daughter and Servant of Antonio Ferreira, in whose House the said Francisca de Moura left the before said Chest, to which said Replication the said Appellant rejoined and this Respondent Admits that upon the above Proceedings Issue was Joined and Witnesses Examined thereon and after which that Publication passed and the said Cause was set down for hearing and came on to be heard on Tuesday the Fifteenth day of this Instant March by and before the said Mayors Court who were Pleased to Order and Decree that the said Appellant meaning the

said

said Francisco Joze should pay unto this Respondent as Administrator as aforesaid the aforesaid Sum of Four Hundred and Ninety one Pagodas and Seventeen fanams together with all such Interest and Costs of Suit as by the said Order as well as by the Several Proceedings so thereon had in the said Mayors Court and now of record in this Honble Court reference being thereunto had may more fully appear to which this Respondent prays leave to refer and to have as full and Ample Benefit therefrom as if the same were therein fully setforth from which said Decree of the said Mayors Court the said Appellant Appealed to this Honble Court pretending the said Order and Decree to be Erroneous for reasons Setforth and stated by the said Appellant in this Petition and appeal but this Respondent saith that the said Decree is Just and consonant to every lawfull and equitable Principal and in Answer to the Several Exceptions Set up by the said Appellant this Respondent begs leave to remark that —

First it doth not appear in any part of the Appellants Evidence that the said Francisca de Moura Deceased was ever Married to the said Patrecio de Valverde Neither that they Cohabited and lived together as Man. and wife to the time of the Death — of the said Francisca de Moura but on the contrary it is clearly proved that the said Patrecio de Valverde did not Cohabite and live with the said Francisca de Moura Deceased for Several years neither offorded her any Means of Subsistance. and was even absent from her at the time of her Death and it also appears that



~~that~~ the Letters of Administration granted to this Respondent to the Estate and Effects of the said Francisca de Moura Deceased was duly granted and fairly Obtained after the same had been prayed for and disputed upwards of Fourteen Months between this Respondent and the said Patrecio de Valverde the pretended Husband of the said Francisca de Moura Deceased it also appears that the Expences of the funeral Rits paid at Pulicat by the said Patrecio de Valverde was out of the Property of the said Francisca de Moura Deceased which he the said Patrecio de Valverde had forcibly taken posession of previous to Letters of Administration being granted to this Respondent and during the contest thereof and this — Respondent begs leave to observe that the said Appellant is making a Question where in fact none exists and that how much soever the said Patrecio de Valverde may appears to the said Appellant to have a preferable right to Letters of Administration he does not appear very confident of it himself by not having reasserted at some subsequent Period his claim and becoming a competitor for the same and that consequently by not having so done this Honble Court cannot be supposed to know any thing of his Pretensions to such Letters of Administration or pay any regard thereto but will naturally from his Omission conclude that he had not Sufficient Grounds to support them —

Secondly It appears by the Evidence of Joanna Fereira Miss Joanna — Fereira and Roza Witnesses produced on the part of this —

Respondent

Respondent that the Chest which was left in the House of Antonio Ferreira was taken away by the Appellant with promises of returning the same to such Person or Persons as should be Authorized by the Honble the Mayors Court to receive the same after the Contest then pending between this Respondent and the said Patrecio de Valverde respecting the Letters of Administration to the Estate and Effects of Francisca de Moura Deceased was at an End and likewise by the Evidence of Pascoal Ferreira a Witness produced on the part of the Appellant

Thirdly It Appears by the fourth Exceptions of the Appellants Petition that five Slaves Namely Joanna Gomes Rodolpho Pessanha Panchud Mother of John Peter and one Coffry Boy are Slaves whereas in the List Delivered in by this Respondent into the Honble the Mayors Court it Appears that these are only three Slaves Named Antonio Flora and a Coffree Boy the other Two are Persons indebted to the Estate of the said Francisca de Moura Deceased this Respondent readily admits the impossibility which the Appellant hath so clearly pointed out with respect to the said Slaves being in the said Chest altho ever reduced in Number but insists upon the physical possibility of the Slave Bills of Sale of the said Antonio Flora and the Coffry Boy being in the Cheast and also that the same was actually proved upon the hearing of the Cause

Fourthly



Fourthly This Respondent Saith that altho Manuel Warner has denyed that the Sum Sett against each of the Articles being valued by him; yet he has Certified at the Bottom or foot of the List Delivered in by this Respondent into the Honble the Mayors Court that the Contents of the said List has been by him Valued and the Valuation thereof Set against each of the Articles in his own Hand which this Respondent hopes will not pass unnoticed by this Honble Court

Fifthly That Admitting the said Patrecio de Valverde was Married to the said Francisca de Moura / which this Respondent does not Admit to be the Case / yet the said Patrecio de Valverde cannot avail himself of the said pretended Marriage because it appears in proof by the Evidence produced on the part of the Petitioner that a Divorce had taken place between the said Patrecio de Valverde and the said Francisca de Moura by the Bishop of Saint Thome who is Authorized by the Laws and Custom of the Roman Catholick Religion to make such Divorce

For which Reasons and such others as may be offered at the hearing of this Cause this Respondent humbly hopes that the said Decree of the Honble the Mayors Court of the Fifteenth day of March last be Affirmed and the Appeal of the Appellant be dismissed with exemplary Costs

/Signed/ Charles Baker
Attorney for Respondent

Court

Court of Appeals at Madraspatnam } Saturday the 16th December & Anno Domini 1786

Between. Francisco Joze of Madras Inhabitant appellant and Joaquim Gregorio of the same place Inhabitant Administrator of Francisca de Moura Deceased Respondents

This Cause coming on this day to be heard and Debated before this court by the attornies on both sides upon hearing the Petition of Appeal and Answer and the Several Exhibits of the Honble the Mayors Court together with the Order of the said court given in this Cause on Tuesday the 15th day of March Anno Domini 1785 upon due Consideration had of the Matters therein 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 said Order of the Honble the Mayors court do Stand affirmed and that the Appellants Petition be hence dismissed with costs

By Cur

/Signed/ Chas. N. White Cler

To



To the Right Honble George Lord Macartney K. B.

President and Governor &c. Council of Fort Saint George

In the Court of Appeals

In the Cause of Peter Massey Cassin of Madras Merchant Administrator of the Estate and Effects of the Reverend William Bainbrigge deceased Complainant and John Leatham and Angus Mackintosh of Fort Saint George Merchants and Copartners Defendants

The Humble Petition and Appeal of Peter Massey Cassin the abovenamed Complainant

Sheweth

That your Petitioner in Consequence of a long and intimate friendship with the said William Bainbrigge lived in his house in Fort Saint George in the Month of May which was in the year of our Lord One Thousand Seven hundred and Eighty Three at which time the said William Bainbrigge was Possession of a Ring Watch which he had some time before purchased of the above named Defendants for the Sum of One hundred and Sixty Star Pagodas thro the means of Charles Casimere of Madras Apothecary That the said Watch being out of Repair in the said Month of May the said William Bainbrigge

Filed in my Office the 11th April 1785 Charles Freeman

Bainbrigge desired your Petitioner to carry it to some Artist to Repair it and your Petitioner having every confidence in the Integrity as well as the Abilities of Samuel Cranford Watch maker deposited the Watch with him and went soon afterwards to the Northward whence he returned on the fifth of August in the said year One Thousand Seven hundred and Eighty Three when the said William Bainbrigge desired your Petitioner to get back the Watch and your Petitioner called on the said Samuel Cranford who said he had not yet Repaired the Watch and that he dreaded the Undertaking because that in the Event of breaking any principal part of the Machenary in so nice a Peice of Mechanism he was Apprehensive he could not Replace it in this Country whereupon your Petitioner Received the Watch from Samuel Cranford and delivered it to the said William Bainbrigge - your Petitioner sheweth that the said Watch was afterwards as your Petitioner supposes delivered to the Defendants by the said William Bainbrigge to be Repaired and that they undertook the Repair thereof Accordingly as the same was in their posession at and after the death of the said William Bainbrigge That the said William Bainbrigge died on the fifth day of September in the said year of our Lord One Thousand Seven hundred and Eighty three which was Just one Month after your Petitioner had returned from the Northward that your Petitioner having Obtained Letters of Administration of the Estate and Effects Rights and Credits of the said William



Bainbrigge as his friend possessed himself of the same and in Virtue of his title as Administrator demanded the said Watch from the Defendants who accordingly sent the same some time in the month of February which was in the year of our Lord One thousand Seven hundred and Eighty four about Eleven o'clock in the forenoon of the day on which it was sent - your Petitioner sheweth that the said Watch kept time from Eleven to Two in the afternoon of the same day when it Stopt at tho neither your Petitioner no any one in his house touched the said Watch - That John Leatham one of the Defendants a few days afterwards called on your Petitioner when he informed him of the above and John Leatham observed that there might have been an Omission in Winding it up and setting it to the proper hour at the time of delivery but that if it was sent again it should be Rectified and he also desired to know when it would be exposed to Publick Sale as he intended to bid as far as Twenty five Pagodas for it, which declaration of the said John Leatham produced the following expostulation from your Petitioner "Are you not a pretty fellow" to offer "Twenty five Pagodas for a Ring you have charged "thirty five Pagodas for Repairing and for which you "received One hundred and Sixty Pagodas some time ago" your Petitioner Sheweth that notwithstanding the above conversation he sent the watch to the defendants in full confidence that for their own credit they would have

Repaired

repaired it properly especially as they knew the intention of your Petitioner to expose it to Publick Sale and that its Value would depend on the Repair in which it could be warranted at the time your Petitioner sheweth that he expected the Watch for the purpose of Selling it among other Effects of the deceased at Public Outcry on the first of March when on being disappointed at not receiving it there he wrote as follows — "Mr. Casins — Compliments" to Messrs. Leathem & Co. and wishes to be informed of the cause" of the detention of the watch — Ving belonging to the Estate" of the late Mr. Bainbrigge from the Public Sale of the "Effects to day — Stringer Street, 1st March 1784" — to which your Petitioner received the following Answer — "Dear Sir,

"The reason of the detention of the watch was that" it was not in as good Order as we wished it to be and hope "the Sale will continue tomorrow when if sent for at nine" o'clock it shall be in proper Order" "We are,

"Dear Sir,

"your Obedient Servants

"Leathem & Machintosh"

your Petitioner Sheweth that between that day and the Eleventh of the said Month of March the Peon of the Defendants called twice on your Petitioner with a Bill for thirty five Pagodas for the Repairs of the said watch which money your Petitioner was about



about to pay the first time but the Peon had not the Watch with him whereupon your Petitioner told him to bring the Watch and he should be paid notwithstanding which the Peon was sent to your Petitioner a Second time with the Bill to demand payment but he had not the watch to deliver — your Petitioner Sheweth, that in Consequence of this Repeated Requisition of Payment of the Bill without delivering the Watch and after their former delivery of the Watch without payment or demanding payment for the Repairs your Petitioner Suspected that the watch was not in that Order he had a right to expect it and altho he had before acted with plain and implicit confidence in the Defendants as Merchants and Artists yet he owed it to the deceased to Conduct himself on this Occasion with peculiar Caution Respecting his property — he therefore wrote the Chit of which the following is a Copy on the Eleventh of March being the day fixed for a further Sale of the Effects of the deceased at his house in North Gate Street Fort Saint George — "Mr. Casin Requests Messrs. Leathem & Co. will" send the watch Ring and if Repaired, &c. will pay their "Charge for the same — North Gate March 11th 1784"

but the Defendants Refused to deliver the Watch whereupon your Petitioner wrote another Chit as follows —

"Mr. Casin Requests Messrs. Leathem & Co. will consider" the Consequence of detaining the watch Ring when the

payment

"payment for the Repairs is promised when delivered— If the Ring
"is Repaired the Charge will be immediately paid, but if it should
appear otherwise I presumes Messrs L. & Co cannot expect in
Justice to be paid for a Business they have not effected,"

"North Gate St."
"11th March 1784"

your Petitioner Sheweth that the Defendants having still refused to deliver the watch your Petitioner applied to Robert Maunsell Esquire then Justice of the Month by whose Advise your Petitioner made his third Application to the defendants in the following Terms—

"To Messrs Leathem & Co"
"Sirs "I once more repeat my demand of the watch— Ring and desire that you will send it to me with your "Charge against it, which, if Repaired, shall be immediately "paid, or deposited in the hands of a proper person, until "it can be known whether the Ring be Repaired or not "I ment now request yr definitive Answer which will "determine me in what manner to act" I am
Sirs
"yrs &c
"Peter Massey Casperi"

Stranger St 11th March 1784

on presenting which by your Petitioners Servant John Leathem one of the defendants threatened to beat him and refused to give your Petitioner



Petitioner any Answer whatever whereupon your Petitioner in dispair of Obtaining the watch from the defendants by any friendly or Amicable Terms and finding that it lay not within the Province of a Justice of Peace to give Redress in Matters of property except where a Complaint was made of force being used your Petitioner did on the Sixteenth day of March in the said year of our Lord One thousand Seven hundred and Eighty four file his Bill of Complaint in the Honble the Mayors Court stating Generally the several matters and things above setforth and praying that the said defendants might be Decreed to pay your Petitioner the Sum of One hundred and Sixty Pagodas being the very Sum for which they had thro' the means of the said Charles Casimire Sold the said watch to the deceased— to which Bill of Complaint the Defendants put in their Answer and the same was Sworn to by the said John Leathem and the said John Leathem Swears therein that some months before the death of the said William Bainbrigge he brought a diamond Ring watch to them which had been broke and abused in many parts to Repair whereas your Petitioner saith that on the fifth day of August the watch was in the hands of Samuel Cranford and on the fifth day of September in the same year the said William Bainbrigge died so that it must have been less than one Month— your Petitioner sheweth that in another part of the

Answer

Answer the said John Leathem saith as follows– "That when the diamand Ring watch was sent "to the present Complainant as Administrator to the "said Reverend William Bainbrigge that it was in good "repair and went Correctly keeping Exact time and "egular in "all its Motions but from the ignorance of the Com= =plainant "or some other person in opening and handling the same or "over winding it up the works were Stopped and Strained "&c.a &c.a" whereas your Petitioner hath already shewn that by their own Letter to your Petitioner they Acknowledge the watch not to be in as a good Order as they wished to be but that if your Petitioner should send by nine the next Morning they hoped it would be in proper Order nor do they make any mention of your Petitioner having touched or hurt the watch– And in another part of the Answer the said John Leathem Swears as follows– "or did these Defendants ever Value the said Watch "at Twenty five Pagodas as is falsely stated and Charged in "and by the said Complainants Bill of Complaint much "less were any expostulations entred upon as is pretended between these Defendants and the Complainant upon "the unreasonableness and Injustice of such Overture no "such Conversation having ever passed between the "Complainant and these Defendants the first time these "Defendants ever heard any thing of the matter or charge "was on reading over the Complainants said Bill of "Complaint and which

which assertions of the Complainant "are beyond the Comprehen= =sion of these Defendants and entirely false groundless and Malicious "notwithstanding which your Petitioner sheweth that the said Charles Casimere in his Deposition saith that he was present at the House of your Petitioner when a Conversation passed between your Petitioner and John Leathem and that John Leathem said he would bid Twenty five Pagodas for the said watch Ring, and your Petitioners Peon Vencatachillum in his Deposition saith that he carried at two different times certain Letters relative to the Diamond watch Ring, at the first time that John Leathem asked him if he had any money and on the Second time that he thereatened him with a flogging if he ever returned on the same business your Petitioner Sheweth that the said Defendants by their said Answer say that they had a right to Thirty five Pagodas as the repair of such watch, and they pretend that they were always since the Ring watch was repaired ready and willing to deliver the same to your Petitioner upon receipt of the Sum due for repairing the same and they Prayed that your Petitioners Bill be dismissed with Costs &.c your Petitioner Sheweth that he filed a Replication to the said Answer and thereby insisted on such matters as he had before stated in his Bill of Complaint and he therein stated also the Letters above

setforth

setforth and prayed as by his Bill he had already Prayed and the Defendants filed their Rejoinder therein insisting on such matters as they had stated in their Answer and also insinuating several Charges against your Petitioner as an Individual and as Administrator to the said William Bainbrigge which had no foundation whatever in truth nor were they at all relevant to the Cause in Question but like the rest of the Conduct of the Defendants and in particular of the said John Leathem since your Petitioner presumed to rebuke him for offering to bid Twenty five Pagodas for what he had taken One hundred and Sixty Pagodas and for the Repair of which he had demanded Thirty five Pagodas appeared to be a Matter of Pique against your Petitioner or an intent to Receive from your Petitioner the Sum of Thirty five Pagodas to the prejudice of the Estate of the deceased for a Repair to which it is to be presumed the Defendants were not Competent, for else your Petitioner Solemnly declareth he knows no Reason Why the Defendants should have Refused to give the Watch if properly Repaired on the money being offered as aforesaid or even if your Petitioner had not tendered the money Charged for such Repairs previous to the delivery thereof your Petitioner not having by his dealings in Trade generally done any thing to prejudice his Credit in the interim nor did he do any act to them in particular except the Rebuke as above Setforth which could have Justified a discontinuance of that Courtesy which is universal in this



this Presidency between Shopkeepers and their Customers, namely to deliver the Goods first and send in the Bill afterwards and your Petitioner Solemnly saith that so far from doing any act to forfeit a Claim to such Courtesy from the defendants that he had more than once before the Transaction above Stated taken their paper in the Course of Trade without hesitation and in all Respects as a Merchant behaved with punctuality and general Civility to all with whom he dealt — your Petitioner sheweth that after issue was Joined in the above Cause and witnesses examined and Publication Passed the said Cause was set down for hearing and the Same Coming on to be heard on the Twenty ninth day of March last past the Honble the Mayors Court were pleased to Order and Decree and did Accordingly Order and Decree that the Defendants do deliver up to your Petitioner the Diamond Watch Ring in Question upon your Petitioner paying unto the Defendants the Sum of Thirty five Pagodas for Repairing the Same and they were also pleased to Order and decree that each party do pay their own Costs and that your Petitioner should pay his costs out of his own Pocket as by the said Decree herewith left for the Inspection of this Honble Court may appear your Petitioner praying every benefit and Advantage from the said Decree and the other Proceedings in the above Cause as if the Same were herein before fully stated and Setforth and your

Petitioner

Petitioner Sheweth that he appealeth from the said Decree as considering himself aggrieved thereby for the following — amongother Reasons —

First... Because that the Answer of the Defendants John Leathem differs materially from the Relation of matters as above setforth and the Evidence of Charles Casimere and Vencatachillum thereon as well as from the Letter of the Defendants to your Petitioner and the Rejoinder is Replete with Charges against your Petitioner which have no foundation in truth or have the least Connection with the Merits of the present Suit —

Secondly. Because that under those circumstances as above stated First the delivery of the Watch without any demand of Payment at the time — Secondly the Watch Stopping in three hours after such delivery Thirdly the taking the Watch away and promising as by their Letter of the first of March to have it in Order by the next Sale and — Fourthly their Servant calling thrice with the Bill previous to such Sale without having the Watch to deliver your Petitioner had every Reason to suspect some thing unfair was intended and he therefore made as full a Tender of Payment as he could precedently have done namely if the Watch was repaired and Subject to such Restriction your Petitioner offered either to pay the Amount demanded for Repairs or deposit the same in the hands of any Person till it should be known if



if the Ring- Watch was repaired or not —

Thirdly... Because your Petitioner as appears by the Letters above quoted never hesitated at the Quantum of the Demand of the Defendants for the Repairs but for the Benefit of the Estate of the Deceased used the same caution as he should have used had the Ring- Watch been his own Property

Fourthly... Because by the Conduct of the Defendants in the Premises your Petitioner is deprived of the Advantage of Selling the said Watch and if as your Petitioner conceives he hath done all he could have done in prudence to get the Ring- Watch for Sale and hath in no respect disputed the Defendants Charges but hath been uniformly ready to pay the same he therefore is entitled to the Sum for Account of the Estate of William Bainbrigge which the said William Bainbrigge in his Life time had given for the Watch —

For all which Reasons and Such others as may be offered at the Hearing of this Cause your Petitioner prays that the said Decree of the Honble the Mayors Court may be reversed And that your Petitioner as Administrator of the said William Bainbrigge may be decreed to receive from the Defendants the said Sum of One hundred and Sixty — Pagodas also all Interest and Costs of this Suit —

[Signed]

Stephen Popham
Attorney for Appellant

Mayors

Mayors Court at Madraspatnam — Tuesday the 29th day of March Anno Domini 1785

Present

Philip Stowey Esquire Mayor
James Call & George Savage
Aldermen.

Between Peter Massey Cassin of Madras Merchant Administrator to all and Singular the Goods & Chattles Rights and Credits of the Reverend William Bainbrigge late Chaplin of Fort St. George Deceased Complainant. and John Leathem and Angus Mackintosh of Fort St. George Dealers & Chapman Defendants

This Cause Coming on to be Heard and Debated this day in the Presence of the Attornies on both Sides on Reading the Complainants Bill. The Defendants Joint and Separate Answer. The Replication. The Rejoinder, The Interrogatories and Depositions on the part of the Complainant The Interrogatories and Depositions on the part of the Defendant on Hearing the Pleadings Made Use of by the Attornies and on due Consideration had thereon This Court doth think fit to Order and Decree and doth Accordingly Order and Decree that the Defendants do deliver up to the Complainant the Diamond Watch Ring in question upon the Complainants paying unto the Defendants the Sum of Thirty five Pagodas for Repairing the same, and its further Ordered and Decreed that each party do pay their own Costs, and that the Complainant do pay his Costs out of his own Pocket.

A True
[Signed] James Taylor
Regr.

To the Right Honble George Lord Macartney K. B. &c.
Governor and President &c. Council of Fort Saint George

In the Court of appeals
at Madraspatnam

In the cause wherein Peter Massey Cassin of Madraspatnam Administrator of all and Singular the Estate and Effects, Rights and Credits of the Reverend William Bainbrigge late one of the Chaplains of Fort Saint George deceased is Complainant — And John Leatham and Angus Mackintosh of Fort Saint George Merchants and Copartners are

are the Defendants—

The answer of the above named Defendants to the Petition and Appeal of the aforenamed Complainant—

These Respondents admit that on or about the Sixteenth day of March which was in the year of Our Lord One Thousand seven hundred and Eighty four the Appellant Exhibited and filed his Bill of Complaint in the Honble the Mayor's Court at Madraspatnam as stated in his Petition and Appeal against these Respondents, without giving them these Respondents any previous Notice of such his intentions, which Mode of Proceedings against Inhabitants and House keepers is not only uncivil but unwarrantable, and Shews the malicious Dispositions of the Complainant towards these Respondents, in which said Bill of Complaint he the said Complainant as Administrator of all and Singular the Goods and Chattels Rights and Credits of the Reverend William Bainbrigge late Chaplain of Fort Saint George deceased, charge these Defendants with being indebted to him as Administrator as afore said in the full and Just Sum of One hundred and Sixty Pagodas Current Money of Madras, as the Amount and Value of a Diamond Ring Watch belonging to or the property of the Estate of the said Reverend William Bainbrigge deceased, and by them these Respondents detained which Charge these Defendants conceive to be not only unjust but as Extraordinary as ever was made or Exhibited in

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the 30th April 1785
Charles Freeman Clk

in or before any Court of Record in the British Dominions, specially under the very Circumstances stated and shewn by the Complainant himself— who in and by his said Bill of Complaint shews the necessity of applying to these Defendants as the only Artists in this Settlem.t Capable of repairing the Watch Ring in question— and admits their having Entrusted the said Watch Ring once to his Care and possession without making any demand for payment that after the said Watch Ring was repaired a second time they these Defendants insisted upon payment for their Work Skill and Labour before they delivered the Watch Ring again which they these Respondents conceived they had a right to do, And the more so because they had reason to suspect the Complainant his Intentions towards them— These Respondents further say, that having appeared in the Honble the Mayors Court they filed their Joint and Separate Answer to the Complainants said Bill of Complaint, wherein they denied the several Charges against them in the said Bill alledged, or that they these Respondents or either of them were indebted unto the Complainant either as Administrator of the said Reverend William Bainbrigge deceased or otherwise in the Sum of One hundred and Sixty Pagodas Current Money of Madras unjustly charged in the said Bill of Complaint or in any other Sum of Money whatsoever— And these Respondents further stated in their said Answer that the several Charges Exhibited against them in the said Bill of Complaint relative to the Diamond Ring Watch were falsely and

maliciously

maliciously stated and alledged – that when the Diamond Ring Watch was brought to them by the Reverend Mr. Bainbrigge in his Life time, they upon Examination found that it had been much abused broke and roughly handled that it was in so very bad plight and Condition that they these Respondents almost despaired of being able to repair it in a proper manner, But at the Earnest Request of the said William Bainbrigge and from a desire to oblige him, they these Respondents undertook to repair the said Diamond Ring Watch in the best Manner posible, and for that purpose employed one of their best Artists many days in reducing a main Spring and fitting it for so small a Watch, also in assisting John Leatham one of these Respondents in mending and properly repairing the said Diamond Ring Watch who took uncommon pains and devoted much of his time and Labour to Effect or Compleat the repairs of the said Watch Ring – and these Respondents in their said Answer further setforth and stated that the reverend William Bainbrigge was so very sensible of the Extreme trouble and pains they these Respondents had taken in endeavouring to put the said Ring Watch into Compleat repair – that he would readily have paid them these Respondents the Thirty five Star Pagodas for their Work Skill and Labour in repairing the said Watch had the same

same been fit to be taken away from the Artists Care before the said Reverend William Bainbrigge departed this life – And when the great difficulty of repairing such small and nice pieces of Mechanism was Considered, the pains taken by these Respondents and the Conduct of the Complainant they these Defendants doubted not but the Honble the Mayors Court would adjudge them to be paid for their Work and Labour, and that the Complainant should be directed to pay their demand and receive the Diamond Ring Watch on Account of the Estate, they tendering or offering to produce and give up the said Watch Ring – in which Manner these Defendants rested their said Answer and Submitted to the Judgement of the Honble the Mayors Court, and expressed their Wish to abide thereby, but the Complainant from a desire of aggrieving and harrassing these Defendants more than of attending to the Interest of the Estate for which he is Acting in the Capacity or Station of Administrator caused to be filed a long Replication replete with invective and repetitions of Matters foreign to the Subject Matter in dispute or pretended Cause of Action more tending to Calumniate these Respondents and injure them in their Characters and reputation than to Establish his Claim or support the Charges in the Bill contained, in open violation of the Laws of England the Rules of Society or even decency – to which said Replication these Respo

filed their Rejoinder and therein supported their Joint and Separate Answer to the Complainants said Bill of Complaint, pertinently pursuing the ground of their Defence refuting the unfair Charges and Accusations of the Complainant in his said Replication contained, all which will more fully and Clearly appear by reference to the said Rejoinder and proceedings in the Mayors Court which being now before this Honble Court of Appeals, these Respondents pray the Benefit and Advantage of them if need be, in as full and ample a manner as if the same and every part thereof were herein recited and Specially pleaded or Setforth — after which Proceedings these — Respondents admit that Issue Joined and Witnesses were Examined on the part and behalf of these Defendants, and also of the Complainant — But these Defendants deny that the Charges alledged and Exhibited against them by the Complainant were in any wise proved or Supported, on the Contrary the pains and labour taken by these Defendants in repairing the Watch Ring in Question was fully and Clearly Established and proved from which it was Evident that the Suit Established by the Complainant as Administrator of the late Reverend William Bainbrigge deceased was groundless Malicious and such as ought to be dismissed — These Respondents for further Answer to the Appellants said Petition and appeal



appeal, say that they Admit that the Appellant lived in the House of the Reverend William Bainbrigge in the Month of May which was in the year of Our Lord One Thousand Seven Hundred and Eighty three — And for some time — afterwards, which these Respondents believe he did for Convenience to himself, and not in Consequence of the long Intimacy and Friendship as is pretended to have existed between the said Complainant and the late Reverend William Bainbrigge in his Life time — These Respondents further say, that the Diamond Ring Watch in Question was not purchased of them by Charles Casimire for the Reverend William — Bainbrigge as is stated in the Appellants said Petition, he having only requested a Credit of these Respondents for the said Watch Ring for some Months — which was — afterwards purchased from these Respondents by the — Reverend William Bainbrigge in his own proper person who gave these Respondents his promissary Note of hand for the Payment of the Purchase Money — with which purchase he the said Reverend William Bainbrigge was well satisfied being certain that the Diamond Ring Watch was well work the Sum of One hundred and Sixty — Pagodas Current Money of Madras the price agreed upon — nor was any blame attributed or alledged by the Purchaser against these Defendants when the Watch Ring was broke and so much injured in its works that rendered the

Abilities

abilities of Samuel Cranford unequal to the task of repairing it— although the Appellant appears to have so high an Estimation of his Integrity and Abilities— yet it seems he dreaded the undertaking and expressed his Apprehensions in terms which ought to have made the Appellant Sensible that Thirty five Star Pagodas was no Exorbitant or unreasonable price or Charge for the Work Skill and Labour of these Defendants and their best Artist to repair the said Diamond Ring Watch as is before stated— and surely it would have been more adviseable in the Appellant to pay these Defendants the said Sum of Thirty five Star Pagodas for such their Work Skill and Labour than involve them and the Estate of the late Reverend William Bambrigge in an Expinsive Litigation which can upon no Ground or Principle whatsoever be Justified or even excused— These Respondents having intrusted the said Diamond Ring Watch to the Appellant once without demanding Payment for the repairs— and he the said Appellant neglecting to pay them or even to offer them payment, they these Respondents were certainly Justified in requiring Payment for their Work Skill and Labour before they gave the Diamond Ring Watch a second time out of their Possession— These Respondents further Answering the Petition and Appeal of the said Complainant, say, that the Assertion introduced in the said Petition of Appeal charging the said John Leatham one of these Respondents with endeavouring to purchase the said Diamond Ring Watch for twenty five Pagodas is very illiberal unjust and too redicculous to merit a Serious Attention— but as it is introduced with an intent to impress this Honble Court with an unfavorable Opinion of the Conduct of him the said Respondent on the premisses— it is incumbent for him this Respondent to state the Matter as it really occurred— The Appellant after some trifling Conversation upon different Subjects resumed the Matter of the repairs of the Watch and asked the said Respondent how much he would bid for the said Diamond Ring Watch if it was put up to Publick Sale (in a previous Conversation the said Respondent had observed that the said Watch Ring was as good now as when he sold it— and would fetch nearly as much as the Original price) under the Circumstances of the Case He the said Respondent thought it an unfair Question in the Appellant— and in a light Jocular manner asked when it would be put up, as he would bid twenty five Pagodas— which Conversation neither produced the Expostulation from the Appellant as is pretended and stated in the Petition and Appeal— or could be taken as Serious from this Respondent— it would argue a folly and Weakness in this Respondent to have used such an Expression — seriously— which he hopes no one who knows him will impute to him or suppose him Capable of— Especially as he had before declared his readiness to give within a

trifling

trifling Sum of what the Diamond Ring Watch originally cost— from which it will, as these Respondents doubt not Appear, that the Charge and Asertion of the said Complainant is unfair and maliciously introduced without Ground or Just Cause— These Respondents further answering the Appellants said Petition and Appeal, say, that having expressed their readiness to deliver the Watch Ring in Question to the Complainant or any person he sent for it upon Receipt of the said Sum of Thirty five Pagodas Current Money of Madras he the said Complainant might have prevented himself the trouble of repeated Applications as pretended and stated in the said Petition and Appeal by sending the Money he would have received the Diamond Ring Watch and if he found it not repaired, then he might have taken his remedy accordingly against these Respondents who aver and Solemnly declare, that they were always and now are ready and willing to deliver the said Diamond Ring Watch, that is to say, at any time from the first day of March which was in the year of our Lord One Thousand Seven hundred and Eighty four, to this present hour, to the said Complainant upon receipt of their Just Demand for their Work and Labour done— These Respondents further answering the said Petition and Appeal of the Complainant, say, that the Evident Intention and desire of the said Appellant being to bring their Names in

Question



Question before these Honble Court unjustly and Litigiously, they these Respondents hope that such Conduct in an Administrator especially will meet with that Censure such Conduct Merits— for these Defendants beg leave to observe, that the Right of Action being in these Defendants against the Complainant for Recovery of what was due from him as Administrator as aforesaid for their Work Skill and Labour, their forbearance is but ill requited by the unjustifiable Measures of the Appellant in the premisses, who in Aggravation of his Conduct towards these Respondents, have appealed from a Decree of the Honble the Mayors Court of Madraspatnam to this Honble Court of Appeals under pretence of being thereby aggrieved when in fact the Contrary must appear— the Situation of Administrator In which the Appellant appears, having, as these Respondents conceive induced the Judges of the said Honble the Mayors Court to Extend their Lenity and favor the Complainant— who being Convicted before the said Court of having brought these Respondents in Question before them unjustly, they were pleased to order and decree, and did accordingly Order and decree that the said Complainant should pay unto these Defendants the said Sum of Thirty five Star Pagodas for repairing of the said Diamond Watch ring in Question which Decree or Judgement of the said Honble the Mayors Court as these Respondents are advised entitled these Respondents to

all

all Costs and Charges in the Law agreeable to the Laws of the Realm of England in such Cases made and provided Yet nevertheless these Respondents would not have troubled this Honble Court of Appeals on their part, but would readily have submitted to the Decree and Judgement of the said Honble the Mayors Court made and passed in this Cause on Tuesday the Twenty ninth day of March last past and which was in this present year of Our Lord One Thousand seven Hundred and Eighty five— But as these Respondents are brought in Question and their Conduct impeached before this Honble Court by the said Complainant it is by the said Act and Deed of the Appellant made incumbent on them these Respondents to answer the many groundless Charges and false Litigious Suggestions in the Appellants said Petition and Appeal contained in a full clear and unequivocal manner— therefore these Respondents further proceed to Answer the Several pretended Causes stated by the Appellant as Administrator of the late Reverend William Bainbrigge deceased in Support or as reasons for such his Appeal And in Answer to the first Cause or reason for the Appellants said Appeal— These Respondents Answering say that the Joint and Separate Answer of these Respondents filed in the Honble the Mayors Court to the Bill of Complaint of the Appellant as Administrator to the Estate and Effects of the said Reverend William Bainbrigge



Bainbrigge deceased contains a Just honest and fair defence against the said Charges exhibited by the Complainant and in his said Bill of Complaint alledged— nor have these Respondents any thing to do with the Evidence of Charles Casimere or Vencatachellum opposed thereto although they say that neither the Evidence of One or the other or both, can invalidate or destroy the force and Effect of the plain honest plea made use of in the said Answer of these Defendants, in which the Letter mentioned is Accounted for— And the Cause stated for the Alteration of the Conduct of these Respondents towards the Complainant— who by his Actions towards them had for feited all Right or title to these Respondents future Confidence— nor Can these Respondents admit that the Rejoinder of these Defendants is replete with Charges without foundation as is alledged in the said Appeal the Rejoinder of these Defendants is regular pertinent to the matter in dispute and contains full and Clear refutations of the many Scurrilous and unsupported Charges alledged in the Complainants Replication against these Defendants to which these Defendants crave reference if need be—

In Answer to the Second Cause or reason assigned by the said Appellant these Respondents Answering say that they had reason to suppose the Confidence they had placed in the Complainant— was wrong— and had formed a resolution to avoid further Connections or dealings with him,

and

and as every person has an undoubted right to form Rules for their own Conduct these Respondents do not Consider themselves Accountable to the Appellant for taking such Resolutions. In Answer to the Charge of the Watch Stopping in three hours after the Complainant recieved it these Respondents have reason to believe it must have been occasioned by some abuse or Strain – for the Watch had gone regular before for a Considerable space of time whilst under their Care – and Surely these Respondents readiness to rectify any defect cannot be imputed to them as an Offence – but ought to have been considered as a particular mark of Civility or Attention and a desire of doing Justice to the Complainant, or rather to the Estate for which he the Complainant was And is Acting as Administrator of Course the Suspicions expressed against these Respondents are ungenerous and could only arise from an illiberal Mind, as such are unworthy the further notice of these Respondents – It would have been much more prudent in the Complainant to have paid the Just demands of these Respondents and Sold the Diamond Ring Watch for the good of the Estate than to persevere in so litigious and unjustifiable a Suit as he hath done, and thereby prevented the heavy Expences in the Law which must arise upon such proceedings as the Appellant hath Instituted –

In Answer to the third Cause or Reason assigned by the said Appellant for preferring his said Petition and



and Appeal before this Honble Court these Respondents say that had the Complainant Considered the Benefit of the Estate as he pretends he would have acted in a different manner – to what he hath done in the Premises – as he acknowledges he never hesitated at the Quantum of the Demand from these Defendants for repairing the said Diamond Watch Ring he must be convinced in his own Mind of the Justness of such demand – and it is to be lamented that he refused payment or adopted a Line of Conduct so very opposite to that which would have done him Credit as an Administrator, and proved beneficial to the Estate of the deceased and those Interested therein –

In Answer to the fourth Cause or Reason assigned by the said Appellant for his Conduct in the premisses these Respondents positively deny that the Appellant as Administrator of the late Reverend William Bambrigge deceased hath been prevented selling of the said Diamond Watch Ring for the Benefit of the Estate by any Act or deed of these Defendants or that the Appellant did all he could or ought to do, it was no more than an Act of Common Justice to pay these Defendants for their Work Skill and Labour, Especially as he the Appellant declares he never disputed the Charges made by these Respondents, it therefore follow that they were Considered and Admitted to be fair and Just such as he the Appellant as Administrator

was

was bound in duty and Conscience to have paid off and Satisfied and not have suffered a litigious Disposition to have overcome his reason and mislead him so far as Evidently Appears from the face of the proceedings, that declared and Uniform readiness in the Appellant to pay these Defendants surely must Appear very Extraordinary indeed — because had he expressed any such Intention, these Defendants would have been content — instead of which a prosecution was entered against these Defendants without any previous Notice and pursued with unremitting Rigour to Compel these Defendants to pay One — Hundred and Sixty Pagodas Current Money of Madras, when he the said Complainant as Administrator of the said Reverend — William Bainbrigge deceased, was well and truely Indebted unto these Respondents for their Work Skill and Labour as before is stated and Shewn, —

For all which Reasons and for such others as may be offered at the Hearing of this Cause, these Respondents pray that the said Decree of the Honble the Mayors Court may stand and be affirmed, and that the Petition of the said Appellant be hence dismissed with Exemplary Costs to be paid to these Respondents by the said Appellant — These Respondents lastly pray such other and further Relief in the premises as to this Honble Court shall appear agreable to Equity, Justice and good Conscience —

/Signed/ Edward Ellis
Solicitor for the Respondents



Court of Appeals at Madraspatnam } Saturday the 16th December Anno Domini 1786 —

Between Peter Massey Casson of Madras Merchant Administrator of the Estate and Effects of the Reverend William Bainbrigge deceased Appellant and John Leatham and angus — Mackintosh of Fort Saint George Merchants Respondents —

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 — Exhabits of the Honble the Mayors Court together with the Order of the said Court given in this Cause on Tuesday the 29th day of March Anno Domini 1785 upon due Consideration had of the Matters therein severally Contained and of the Pleadings and arguements Used by the attornies on both sides This Court doth think fit to Order and decree and doth Accordingly order and decree that the said Order of the Honble the Mayors Court do stand affirmed that each party do pay their own Costs in this Court and that the appellant do pay his Costs out of his own Pocket — It is further ordered that the diamond Watch Ring be delivered to the Appellant in good Order —

J Cur

/Signed/ Chas N. White Clk
Saturday

Saturday 30th December 1786

Present

Court of Appeals } The Honble Sir Archibald Campbell K. B.
Alexander Davidson Sam.l Hy. Casamajor

To the Right Honorable George Lord Macartney K. B.
President and Governor &c. Council of Fort Saint George —

In the Court of Appeals

Between Michael Lascelles of Salisbury Street in the Parish of St. Martin in the County of Middlesex in the Kingdom of Great Britain Wine Merchant by his Attornies Rowland Lascelles and Patrick Allen Complainant and Thomas Higginbotham Alexander Cuthbert Robert Ewing and Josias Du Pre Porcher of Madras Gentlemen Nicholas Scottowe of London and Mrs Wood of Coleraine and Mrs Wood of London Executors and Executrixes named in the last Will and Testament of Robert Wood Esqr. a Captain of Infantry in the Service of the Honble the United English East India Company under their Establishment of Fort St. George on the Coast of Coromandel — Defendants —

Filed in my Office the 6th June 1785
Charles Freeman Jr.

The Humble Petition and appeal of Alexander Cuthbert of Fort St George Esqr. the Acting Executor to the last Will and Testament of the abovesaid Robert Wood Esqr. Deceased —

Sheweth

That on or about the 20th day of September, in the Year of our Lord One Thousand Seven hundred and Eighty four, that the above said Michael Lascelles by means of his Attornies Rowley Lascelles and Patrick Allen, did prefer his Bill of Complaint in the Honble the Mayors Court at Madraspatnam against the abovesaid Persons, as Executors and Executrixes named in the said last Will of the said Robert Wood, and Particularly against your Petitioner as the Acting Executors to the said last Will and Testament and as the only Executors in India in possession of any Assets of the said Deceased, which said Bill of Complaint did State and Setforth, that the said Petitioner and Thomas Higginbotham another Executor with a Probate, ded as Executors aforenamed Stand Indebted unto the said Michael Lascelles in the Sum of Pagodas 2659. 42. 4. or £ 1063. 19. 7. or thereabouts being the Amount Ballance of an Account Current annexed to the said

said Michael Lascelles Bill of Complaint, To which said Bill was also annexed a Copy of a Power of Attorney made by him to Rowley Lascelles and Patrick Allen, To this Bill of Complaint your Petitioner Alexander Cuthbert only appeared and put in his Answer and thereon Setting forth, that the said Robert Wood died some time in the Month of June in the Year of Our Lord 1781, leaving a Will and appointed the Above named Persons as Executors and Executrixes thereto, and that your Petitioner did by himself Obtain a Probate thereof as some of the Executors in India declined Acting, and did not at any time interfere in the Business of the said Executorship, That by Virtue of the said Probate Your Petitioner did Possess himself of all and Singular the Goods, Chattles Rights and Credits of the said Deceased, that were to be found in India, that in pursuance of his said Power he did Sell and Dispose of the Sundry Effects of the said Deceased, Save and Except a Small Box of Jewells appearing to be the Property of Mrs Mary Wood the Wife of the Deceased and a part of her Pharaphanalia, and which had been Deposited by the said Robert Wood in his lifetime, in your Petitioners Hands for the better Safety of the Same, that your Petitioner received Sundry Sums of Money from Sundry Persons Debtors to the Estate of the said Robert Wood, but was not able to Collect in the whole of what was due to the said Estate by reason of the troubles existing on this Coast of Coromandell, and the Inabilities of the parties to Pay, your Petitioner

further Setforth, in his said Answer that he made a true and perfect Inventory of the Estate and Effects as found and Came to the knowledge of your Petitioner in India, for your Petitioner Shewed, that the said Robert Wood had in his lifetime remitted £10,000 or thereabouts to his Attornies in London, where the Same remained in their Hands or disposed of for the said Robert Woods Account, your Petitioner further Stating that he had Delivered into the Kings Ordinary of the said Honble the Mayors Court the Inventory and the Account Current Copies of which had been Delivered to Sundry Persons Interested under the Will of the said Robert Wood, That by the Account Current there Appeared a Ballance in your Petitioners hands in favor of the said Estate to the Amount of 788 Pagodas 19 fanams and 24 Cash, which Sum your Petitioner Shewed he retained in his hands to make good such Charges and Expences as he was unavoidably obliged to be at, to Riemburse himself for the Sundry Fees incident to his Duty as an Executor, That it was some considerable time before Thomas Higginbotham took out a Probate of the Will of the said Deceased, but what he did in the said Estate your Petitioner Could not Setforth, as he never held any Correspondence with him on the Same, your Petitioner in his Answer proceeded to Answer such parts of the said Michael Lascells Bill of Complaint, as were Charges against the Estate of the said Deceased, That the Several Charges contained in the Account Current annexed to the Bill of Complaint were Examined by your Petitioner with Books of Account belonging to the said

said deceased, and found right, but your Petitioner remarked that Rowley Lascells as Attorney to Michael Lascells did Apply unto your Petitioners Proctor for Payment of the Ballance of his Account Current, who Shewed him the Inventory and the Account of the said Robert Woods Estate, when a Consultation was held and deemed Advisable, that the Demand should be made on the Executors and Executrixes than in England as the said Michael Lascelles the Complainant was there himself more Especially as the Account Current was made up of Compound Interest, which the said Rowley Lascelles on the part of the Complainant agreed to, and having thus made his Election, he transmitted the whole of this Transaction to the said Michael Lascelles in London, That the said Michael Lascelles had written back in Answer to his said Attorney Rowley Lascelles informing him, that he could get no Satisfaction from the Executors and Executrixes in England, but how this happened your Petitioner could not account for, but Supposed some Material Error was found out by the Executors and Executrixes, in which the parties could not Agree, That your Petitioner was Surprized that a Bill in Chancery was not filed by the said Michael Lascelles, to Compell the Executors and Executrixes to Account and Payment, Especially as the said Michael Lascelles was in Possession of the Original Vouchers, That after the death of the said Robert Wood Your Petitioner in his said Answer Shewed, that Sundry Persons having Demands on the said Estate, did by their Attornies Apply to your Petitioners Proctor for Payment of their Respective Demands and were referred to the Executors and Executrixes in England in the same manner, as the said Rowley Lascelles, and no Opposition or Demurr thereto, had come to the knowledge of your Petitioner or his Proctor, which induced your Petitioner to believe, that Some material Objection had been made by the Executors and Executrixes in England to the Demand of the said Michael Lascelles, that being the Case, your Petitioner in his said Answer Setforth, that it was his Opinion that the said Michael Lascelles had no Right of Action against the Executors in India, your Petitioner Sheweth, that this is the brief State of your Petitioners answer, such the original Answer being the Most proper and safest mode of Pleading your Petitioner being an Entire Stranger to the Transaction between the said Michael Lascelles and the aforenamed Executors and Executrixes in England, to this Answer your Petitioner Sheweth, the said Michael Lascelles by his said Attornies did Reply, and therein did Specially Setforth and insist, that your Petitioner as Executor aforenamed stood indebted unto him in the Sum Sued for, and Stated in the Account Current annexed to the Bill of Complaint, and Admits of the Accounts being Examined and found right, but that the said Rowley Lascelles

was

was referred to London for Payment, That in Consequence of this
reference, and in pursuance of Advice received from his said
Attornies, he the said Michael Lascelles did apply unto
the Representatives of the said Robert Wood in England
for the Discharge of the said Demand, but that the said
Representatives answered, that they had not received any
Books of Accounts, Will, or Letters from the Executors in
India, and therefore knew nothing of the affairs of the
said Robert Wood, nor did they Acknowledge the Receipt
of any Money, as remitted to them which the said Rowley
Lascelles said induced him to Appoint Attornies to —
Prosecute the Estate in India, so as to Enable him to
Recover his Demand on the Estate which as the Petitioner
had in his Answer admitted the Debt of the said Michael
Lascelles, he Prayed Judgment for the Same, your Petitioner Sheweth,
that the said Michael Lascelles entered Particularly into the
merits of the Box of Jewells and discanted on the Tenor of the
Same being Mrs Wood Pharaphanalia, to the Prejudice of
real Creditors, the said Michael Lascelles Stating an —
adjudged Case in Support of his Argument, To this Replication
your Petitioner did Rejoin and therein, did insist of the
Election as made by Rowley Lascelles to hold good, as to
the said Michael Lascelles, and that thereby he ought to
Apply to the Executors and Executrixes in London for
Payment, your Petitioner further in his Rejoinder Stated
that



that Mrs Mary Wood had frequently enquired, after her Jewells
and that the preserved and kept the Jewells upon a through
conviction of the Same being the Property of the said Mary Wood,
and well knowing that there was no necessity to Sell or Dispose
of this Pharaphanalia, when there were other Apsets more
than Sufficient to pay the Several Creditors your Petitioner
in his Rejoinder denyed the Position of the Law as layed
down by the said Michael Lascelles in his Replication, as the
same did not hold good in the Present instance because of
there being Apsets Sufficient to Pay all Demands without
the Jewells in Question being Sold or disposed of, your —
Petitioner further Sheweth, that there being no further
Proceedings as to Evidence or Exhibits, this Cause was set down
for hearing, and the same came on and was Determined on
Tuesday the 24th of May in the present year of our Lord 1735,
and a Decree made in manner and form and to the Effect
as Setforth and Expressed in the Copy of the Original Decree
of the Honorable the Mayors Court hereto annexed for the
Inspection of this Honble Court, and to which your —
Petitioner humbly Prays Reference — From which said
Decree of the Honorable the Mayors Court your Petitioner
most humbly Prays leave to appeal to this Honorable
Court of Appeals as your Petitioner humbly conceives the
said Judgment Sentence and Decree of the Honorable the
Mayors Court, as Erroneous, and Contrary to the Law of

Executors

Executors and Administrators Because, as your Petitioner, is Advised, that whenever a Special matter is pleaded by an Executor or Administrator the Same ought to be a part and Parcell of Such Judgment, Sentence, or Decree of the said Court, as your Petitioner is humbly of Opinion, that without such Saving Clause, he as an Executor with Afsets Sufficient is not Safe, and Subject to the litigation of every Creditor who may Chuse to be Oppresive and give Trouble and vexation to an Executor or Administrator, your Petitioner therefore Appeals to this Honorable Court for the following Causes, First Because your Petitioner conceives that were there are Debts due to an Estate, more than Sufficient to Discharge the Demands, that are made thereon, the Pharaphanalia of the Wife, the household Furniture, and other Apparell belonging to the Decease should not be Sold at the Whim or pleasure of a Creditor, but that such Creditor should be paid out of the Personal Estate of the Deceased, that is to say, out of such Monies as the Executor and Administrator Collects from the Several Persons Debtors to the Estate, if there is Sufficient, your Petitioner is advised that it is not Elective in any of the Creditors out of what Feond, they Choose to be paid, Secondly, Because as your Petitioner Shewed in his Answer and Admitted of Afsets Sufficient to Pay every Demand, the said Complainant Michael Lascelles should have been Decreed Specially to have

received



received his Money out of the Pecuniary Afsets, and in failure of a Sufficiency thereof, than to have resorted to such other Afsets as were more personal than the Pharaphanalia of the Widow, Thirdly, that the Decree with all Submission should be for a fair and Equitable Statement of the Accounts, the Original Vouchers to be produced, because it might so happen that Some of the money, which was Borrowed in England, carrys no more than the legal Interest of the Country, where the Same was Borrowed, Fourthly and lastly, That as the said Rowley Lascelles the Attorney for Michael Lascelles had made his Election where the Payment, which Suit, his Interest, should be paid, your Petitioner is humbly of Opinion that the Executors and Executrixes in London with Afsets Sufficient in their hands, should be the proper parties against whom a Bill of Chancery should be filed, as your Petitioner deems himself, in right of a Trustee only for Mrs. Mary Wood the Widow of the said Deceased Robert Wood, whose Duty your Petitioner, as to the Preservation of the Jewells for the Use of the said Widow, Appears to be as Essential for her Interest, as the Charge of an Executor or Administrator in that of the Case of a Deceased's Estate, and under this India, does your Petitioner deem it Necessary and indispensible for to Oppose any Attempts that may be made to Sieze Property, that of right belongs to the Wife, and which your Petitioner deems himself a

Trustee

Trustee, Because your Petitioner did not Come into Posession of the Jewells by Virtue of his Executorship but by a Deposit made with him in the lifetime of the Deceased Robert Wood as a greater Security in time of War, your Petitioner having this Setforth this Circumstance in his Answer to the Bill of Complaint in the Mayors Court, your Petitioner is of Opinion, that the same should have been taken Notice of in the Decree of the said Honorable the Mayors Court, whereby an Equitable Settlement of all the Accounts would have taken Place— For all Which reasons and for as many more as may be Urged at the hearing of this Petition and Appeal before this Honorable Court of Appeals your Petitioner Prays that the said Decree of the Honorable the Mayors Court may be reversed and Set a Side as Erroneous and that such Decree may be made according to Law, with Costs to be paid by the said Michael Lascelles

/ Signed/

Charles Bromley

Attorney for Appellant.

Mayors



Mayors Court at Madraspatnam } { Tuesday the 24th day of May Anno Domini 1785

Present

Philip Stowey Esquire Mayor

Edward Garrow and John Menzies

Aldermen

Between Michael Lascells of Salisbury Street in the parish of Saint Martin in the Fields and County of Middlesex in the Kingdom of Great Britain Wine Merchant by his Attornies Rowland Lascelles and Patrick Allen Complainants and Thomas Higginbotham Alexander Cuthbert, Robert Ewing, Josias DuPre Porcher Nicholas Shottowe, Mrs Wood of Coleraine and Mrs Wood of London Executors and Executrixes named in the last Will and Testament of Robert Wood Deceased Defendants

This Cause Coming on to be Heard and Debated this Day in the Presence of the Attornies on both Sides on Reading the Complainants Bill with Copies of an Account Current and a Power of Attorney annexed The Defendant Alexander Cuthberts Answer, The Replication, The Rejoinder, On Hearing the Pleadings made Use of by the Attornies

and

and on due Consideration had thereon This Court doth think fit to Order and Decree, and doth Accordingly Order and Decree that the Defendants do Pay unto the Complainant out of the Estate and Effects of Robert Wood Deceased, the full and Just Sum of Two thousand Six hundred and fifty Nine Pagodas Forty Two fanams and Forty Cash / Pagodas 2659. 42. 40. together with such Interest as non is or shall hereafter become due thereon untill full Payment is made also all Costs of this Suit

Flur

/ Signed /

James Taylor

Regr

Filed in my Office
the 28th June 1735
Charles Freeman Clk

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In the Court of Appeals

Between Michail Lascelles of Salisbury Street in the Parish of St Martin in the County of Middlesex in the Kingdom of Great Britain Wine Merchant by his Attornies Rowland Lascelles And Patrick Allen Complainant and Thomas Biggenbotham Alexander Cuthbert Robert Ewing and Josias Dupre Porches of Madras Gentlemen Nicholas Scollowe of London and Mrs Wood of Colraine And Mrs Wood of London Executors And Executrixes Named in the last Will and Testament of Robert wood Esquire a Captain of Infantry in the Service of the Honble the United English East Indies Company under their Establishment of Fort Saint George on the Coast of Coromandel Defendants

The Answer of the above Named Michail Lascelles by his Attornies Rowland Lascelles and Patrick Allen to the Petition And Appeal of Alexander Cuthbert

This Respondent Says that he Admits to have by the Means

of

of his said Attornies Preferred a Bill of Compl[a]int in the Fomble the Mayors Court at Madras patnam on the Twentieth day of September which was in the year of Our Lord One Thous= =and Sevenhundred And Eighty Four against the Above said Persons as Executors And Executrixes Named in the Said Will of the Said Robert wood for the Recovery of the Sum of Two Thousand Six hundred And fifty Nine Pagodas Forty Two Fanams and Forty Cash being the Amount Balance of an Account Current Annexed to this Respondents Said Bill of Complaint To which Said Bill of Complaint the above Named Alexander Cuthbert Appeared And put in his Answer and therein Set forth that the Said Robert Wood died Some time in the Month of June in the year of Our Lord One thousand Seven hundred and Eighty One leaving a will and Appointed the Above named persons as Execu =tors And Executrixes there to And that the Said Appellant did by him Self obtain a Probate there of as Some of the Executors in India declined Acting and did not at any time interfere in the Busines of the Said Executorship that by Vertue of the Said Probate the Said Appellant did Possess him Self of all and Singular the goods and Chat tles Rights and Credits of the Said deceased that were to be found in India — That in Consequence of Such his Rights as Executors he did Sell and dispose of the Sundry goods And Chattles of the Said Robert Wood Save and



And expect a Small Case Containing Sundry Jewels Appearing to be the Property of Mrs. Mary Wood the Wife of the Deceased And a Part of her Paraphernalia And which had been deposited by the Said Deceased in his life time in the hands of the Said Appellant for the better safety of the Same and that the Appellant Received Sundry Sums of Money from Sundry Persons Debtors to the Estate of the said Robert Wood but was not able to Collect in the Whole of what was due to the Said Estate by Reason of the Troubles existing on this Coast of Coromandel and the inabilities of the Parties to pay and did further Setforth in his said Answer that he made a true And perfect Inventory of the Estate And Effects which Came to his Knowledge And that the said Robert Wood had in his life time remitted Twenty five Thousand Pagodas or Ten thousand Pounds to his Attornies in London where the Same Remained till his Death And hath Since been made Over to the Said Executors in London and that he had delivered in to the Kings Ordinary of the Said Mayors Court the Inventory And the Account Current by which there Appeared a Balance in the hands of the Appellant in favor of the Said Estate to the Amount of Seven hundred and Eighty Eight Pagodas Nineteen fanams And Twenty four Cash The said Appellant did further Amongst other things Setforth that the Several Charges Contained in the Account Current Annexed to this Respondents Bill of Complaint were Examined

by the Appellant with the Books of Account belonging to the said Deceased And found right And that Rowley Lascelles one of this Respondents Attornies have Applied un to the Appellants Proctor for payment of the Balance of an Account Current between the Said Deceased And this Respondent who Shewed him the Inventory And the Accounts of the Said Robert Woods Estate whereupon a Consultation was held by the Said Persons when it was thought advisable that the Demand Should be made on the Executors And Executrixes in London as this Respondent was in London And that the Said Rowly Lascelles having transmitted the whole of this Transaction to this Respondent in London And that this Respondent had Written to the Said Rowley Lascelles that he Cangt no Satisfaction from the Executors And Executrixes in England And the said Appellant did further in his Answer Set forth that Certain persons in England Creditors of the said Deceased did by power of Attorney Apply to the Appellants Proctor for payment of their Respective Demands who were Referred to the Executors And Executrixes in England in the Same manner as the said Rowley Lascelles And that no opposition or Dimurr thereto has come to the Knowledge of the Appellant or his said Proctor which induced the Appellant to believe that Some material objection had been made by the Executors And Executrixes in England to

to the Demand of this Respondent.

To which said answer this Respondent by his said Attornies did Reply And therein did Specially Set forth and insist that the Appellant as Executor as aforesaid stood indebted un to this Respondent in the sum sued for and stated in the Account Current Annexed to the Bill of Complaint and that Rowland Lascelles Applied un to the said Appellant for the payment of the Debt due by the Estate of the said Rowbert Wood un to this Respondent And produced the said Account Current which Account Current was by the said Appellant Compared with the Books of the said Deceased and found right. And that the appellant Acquainted the said Rowland Lascelles that he had neither money or Effects to pay off the said Demand And Referred to the Executors and Heirs of the Said Robert Wood in England saying that their were Ten thousand Pounds Remitted to them during the Life time of the Said Robert wood And that the said Rowland Lascelles hath very often Applied un to the said Appellant for a general Statement of the said Rowbert Woods Effects which the Appellant had put off from day to day. This Respondent did further Set forth in his said Replication that he was advised by his said Attorney Rowland Lascelles of all that Passed between him And the Appellant and that in Consequence there of this Respondent Applied un to the Representatives of the said Robert Wood in England

for the Discharge of his said demand but the said
Representatives Answered that they had not receivd any
Books of Accounts will or Letters from the Executors in India
And therefore they knew nothing of the affairs of the said
Robert Wood nor did they Acknowledge the Reaipt of any
Money as Remitted to them as mentioned by the Appellant
And that therefore this Respondent Appointed the said
Rowland Lascelles and Patrick Allen as his Attornies
with Strict Injunction to recover the Amount of his said
Claim on the said Robert wood from the Person or Persons
in India who had taken charge of the same and on that
Account therefore that this Respondent hath by his said
Attornies Commenced his Action against the said
Estate in this Country And that as the Propriety of the
Charges was Acknowledged by the Appellant after a
Comparison of the Items with the Books of the Deceased
this Respondent by his said Attornies hoped for judge
ment for the Amount there of and that as for the Box of
Jewels which the Appellant said did appear to be the
Particular property of Mary Wood the Wife of the Deceased
and a part of her Paraphernalia And which had been
Deposited by the said Robert wood in his lifetime in the
hands of the said Appellant for the better Safety of the
Same This Respondent said that the said Box of
Jewels was given in to the Charge of the Appellant by the
said.

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said Robert Wood for the better Security there of in the time
of the late troubles during the War and when the Duties
of his Station had Called him to the field but the Deceased
did not leave any Instructions with the Appellant that
in Case any Accident Should happen to him to give the
said Jewels to his Wife nor did it Appear that the said
Mary Wood Considered them to be her Property as she
never made any Application for them Altho she had been
in India A Considerable time After the Death of her Husband
And that it further Appeared that the Appellant could
not have been throughly persuaded of the Property
to the said Jewels being in the said Mary Wood else the
Appellant never would have kept them so long in his
own Posession And this Respondent by his said Attornies
did further Set forth that had the said Mary Wood received
from the said Deceased Such an Exclusive Title to the
said Jewels as might warrant the Detention there of
in the hands of the Appellant for her Account it would
have ban more Natural that the Deposit of them would
have been made by the said Mary wood individually
And not by the Husband And therefore the Presumption
is that the Deceased Supported his Title to the Property
there of by his mode of behaving in the Delivery there of
by himself to the Appellant But this Respondent
did by his Attornies state that the Law respecting

Para

Paraphernalia which is the Term Acknowledged by the
Appellant to apply to the Jewels in Question will decide
the Right of this Respondent to leave the same sold for the
discharge of his Claim on the Estate of Robert Wood for
Judge Black stone writing on that Subject saith as follows

"Neither can the Husband devise by his Will Such
"Ornaments And Jewels of his Wife Though during his
life perhaps he hath the power if unkindly inclined
to exert it) to sell them or Give them away But if she
Continues in the Use of them till his Death she shall
"Afterwards retain them Against his Executors and
"Administrators And all other Persons except Creditors
"where there is a Deficiency of Asets And her Necessary
"Apparel is Protected even against the Claim of Creditors"

This Respondent did by his Attornies state
that he therefore not only hath a Right over the said
Jewels for Account of the Deficiency of Asets but by the
Very Conduct of the Husband respecting the same who seems
to have exerted in his life time the Very power he hath
by law over the same —

To Which said Replication this Respondent
admits that the Appellant did Rejoin and that there
being no further Proceedings as to Evidence or Exhibits
this Cause was Sett down for hearing and the same Came on
to be heard And Determined on Tuesday the Twenty fourth
Day of May last when the said Mayors Court were Pleased
to Order and Decree, that the Executors do Pay unto this
Respondent out of the Estate And Effects of Robert Wood
Deceased the full and Just Sum of two thousand Six hundred
and fifty Nine Pagodas Forty two fanams and Forty Cash
together with such Interest as there was or shall there after
become due thereon untill full Payment is made also
All Costs of this Suit —

From which said Decree of the said Mayors Court the
Appellant did Appeal to this Honble Court of Appeals
Pretending the said Decree of the said Mayors Court
was Erroneous And Contrary to the Law of Executors
And Administrators And Urging By his First and
Second Reasons in Support there of to make a Destinction
Between Paraphernalia and other Personal Estate
which destinction is not admissible where there is a
Deficiency of Asets for Creditors and by his third Reason
that the Decree Should be on a Statement of accounts and of
Production of Vouchers at the the answer Acknowledges that
the Items in this Respondents Account as Annexed to his
Bill of Complaint had been Compared and found to agree
with the Books of the Deceased and Pretending that the
Demand should be made by this Respondent in England
when it hath appeared by the Proceedings in the Cause that this
Respondent had Applied to the Executors in England in

Consequence

Consequence of the first reference to them by the Executors here and had afterwards recourse here because he could not obtain payment in England And as to any objection to the Rate of Interest this Respondent saith that the Debt was in the Books of the Deceased in this Country that both the deceased meant to pay and this Respondent Expected to receive his money by the hands of his attornies in this Country that the Indulgence of time for Payment was to Suit the Convenience of the deceased and that therefore the Interest Accruing on the said Debt should be According to the Legal Interest of this Country

For all which Reasons and such Others as may be offered at the hearing of this Cause this Respondent by his said Attornies humbly hopes that the said Decree of the Honble the Mayors Court be affirmed and that the Appellants Petition be Dismissed with Costs

/Signed/

Stephen Popham

Solicitor for Respondent



Court of Appeals
at
Madraspatnam

Saturday the 30th December
Anno Domini 1786

Between Thomas Higgenbotham
Alexander Cuthbert Robert Ewing
Josias Du Pre Porcher Nicholas
Short owe Mrs Wood of Calcrine
And Mrs Wood of London Executors
And Executrixes named in the last
will and Testament of Robert Wood
Deceased Appellants and Michael
Lascells of Salisbury Street in the
Parish of St Martin in the County of
Middlesex in the Kingdom of Great
Bretain wine Merchant by his attornies
Rowley Lascelles and Patrick Allen
Respondents

This Cause coming on this day to be heard and Debated before this Court by the Attornies on both Sides upon hearing the Petition of Appeal and Answer and the several Exhibits of the Honble the Mayors Court together with the Decree of the said Court given in this Cause on Tuesday the 21st day of May Anno Domini 1785 upon due Consideration had of the Matters therein severally Contained and of the

Pleadings

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 said Decree of the Honble the Majors Court do Stand Affirmed and that the Appellants Petition be hence Dismissed With Costs

Per Cur

/Signed/ Chas N. White
Clk

To



To the Honble Alexander Davidson Esquire
President and Governor &c.
Council of
Fort Saint Geore

In the Court of Appeals

Between John Loyd of Madras
Inhabitant Complainant and
Pancala Narrain of the same
Place Inhabitant Defendant

The humble Petition and Appeal
of the above Named Pancala Narrain

Sheweth

That the said John Loyd did on or about the
Twenty Seventh day of July which was in the year of our
Lord one Thousand Seven hundred And Eighty five file
a Bill of Complaint in the Honble the Mayors Court
at Madras patnam against your Petitioner for the Recovery
of the Sum of five hundred and fifty nine Pagodas four fan
and thirty two Cash being the Ballance of an Account
Current Annexed to the Said Bill of Complaint and which
arose upon a Note of hand for Six hundred Pagodas
Passed by your Petitioner to the said John Loyd on the
Nineteenth day of June in the said year of our Lords one
Thousand Seven hundred and Eighty four To which
Bill of Complaint your Petitioner did file his An
where by he denied being indebted in to the Said Jo

Filed in my Office
the 12th Sept. 1785
Charles N White
acting Clk of Appeals

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 said Decree of the Honble the Majors Court do Stand Affirmed And that the Appellants Petition be hence Dismissed With Costs

Per Cur

[Signed] Chas N. White Clk

To



To the Honble Alexander Davidson Esquire

President and Governor &c.

Council of

Fort Saint George

In the Court of Appeals

Between John Loyd of Madras Inhabitant Complainant and Pancala Narrain of the Same Place Inhabitant Defendant

The humble Petition and Appeal of the above Named Pancala Narrain

Sheweth

That the said John Loyd did on or about the Twenty Seventh day of July which was in the year of our Lord one Thousand Seven hundred and Eighty five file a Bill of Complaint in the Honble the Mayors Court at Madras patnam against your Petitioner for the Recovery of the Sum of five hundred and fifty nine Pagodas four fs and thirty two Cash being the Ballance of an Account Current Annexed to the Said Bill of Complaint and which arose upon a Note of hand for Six hundred Pagodas Passed by your Petitioner to the said John Loyd on the Nineteenth day of June in the said year of our Lord one Thousand Seven hundred and Eighty four To which said Bill of Complaint your Petitioner did file his Answer where by he denied being indebted un to the Said John Loyd the

Filed in my Office the 12th Sept. 1785
Charles N White
acting Clk of Appeals

the Afore said Sum of Five hundred and fifty Nine Pagodas four fanams and thirty Two Cash but admits that he Owed the Sum of Two hundred and Forty eight Pagodas thirty fanams And Seventy two Cash as by the Account Current Annexed to your Petitioners said Answer will more fully Appear and your Petitioner Sheweth that by Comparing the said Account Current annexed to your Petitioners said Answer with that Subjoined to the Complainants said Bill of Complaint it will appear that the said Complainant has totally omitted to Credit your Petitioner with the Sum of Three hundred and Two Pagodas thirty three fanams being the Amount Principal and Interest of a Certain Promisary Note of hand of Lieutenant Edward Pollard Passed by him to one Sawmy and by Sawmy indorsed to the Complainant and also the further Sum of five Pagodas and thirty Six fanams being the Amount of Servants Wages and the Hire of a Cott Table for the Use of the Complainant and your Petitioner by way of Explaining the Reason of his having passed the said Promisary note of the said Edward Pollard did further set forth in his said Answer that the Complainant on the beginning of July in the said year of Our Lord One thousand Seven hundred and Eighty four being



in Need of Cash Applyed to your Petitioner for some money in Part & payment of your Petitioners said Note of hand for Six hundred Pagodas. And your Petitioner being then also in a Condition unable to Relieve the Distress of the said Complainant other wise then by tendering to him the said Promisary note of hand of the said Edward Pollard in favor of the said Sawmy the Complainant readily agreed to receive the same Provided your Petitioner Could get the said Sawmy to indorse the same over to the Complainant which your Petitioner willingly offered to do and Accordingly got the Complainant himself to draw the Endorsement on the back of the said Note and your Petitioner got the said Sawmy to Sign And Execute the same which your Petitioner delivered to the Complainant and which the Complainant had due by And Voluntarily Accept in Part payment of your Petrs said Promisary Note of hand for Six hundred Pagodas And therefore After such due and Lawfull Acceptance of the Complainant he had no Right to Omit giving your Petitioner Credit for the Same And therefore your Petitioner Vibiled the Complainant for the Amount thereof in the Account Current Annexed to his said Answer and your Petitioner further Sheweth that the Considered the Matter as so fully Settled by the said Endorsement that he granted an Interest Bond or

c obligation to the Said Sawmy for the Amount of the Said
indorsed Promisary note of hand and your Petitioner did
further set forth that the Complainant Proceeded to Europe
without having paid the Wages of some of his Servants and
the Rent of a Cott and Table which your Petitioner was
Obliged to discharge on Account of the Complainant to the
Said Amount of five Pagodas and Thirty Six fanams
for which Also the Complainant had declined to Credit
your Petitioner in the Account Current Annexed to his said
Bill of Complaint for which also your Petitioner had
therefore debited the Said Complainant And your Petitioner
did further set forth that he therefore Owed the Complainant
the Said Ballance of Two hundred And forty Eight Pags
Thirty fanams and Seventy two Cash And no more which
your Petitioner was than and Still is ready and willing
to pay to the Complainant To which said Answer the
Said Complainant filed a Replication and did Amongst
other things Set forth that your Petitioner offered a Note
of hand of Lieutenant Edward Pollard for two hundred
And Eighty Eight Pagodas Seventy two fanams and
forty Cash under date the fourth day of February One
thousand Seven hundred And Eighty four Payable with
Interest After the rate of Twelve per Cent per Annum unto
Sawmy Dubash and the Complainant took the Note indorsed
by the Said Sawmy under date the Seventh day of July
One thousand Seven hundred And Eighty four And that the
Complainant did not mean nor was it the intention of the
Parties at the time that this Note so Endorsed should be
Accepted in Part Payment of the demand the Complainant
had on your Petitioner the Experiment was to be tryed whether
Any money Could be got on the Said Note if so then So
much of the Produce was to be Carried to your Petitioners
Credit But your Petitioner Sheweth that if it was not
the intention of the Parties that this Note should be
Accepted in Part Payment of the Complainants Demand
And if the Complainant did not Agree there to your Petitioner
would not have indorsed the Said note to the Complainant
nor would he have executed An Interest Bond to the Said
Sawmy for the Amount Principal and Interest due on
the Said Note and the said Replication further States
that the Said note of hand was tendered by the Complainant
to the Said Lieutenant Edward Pollard who Pleaded
his Inability to Pay the Complainant and that at the
Desire and Request of your Petitioner the Complainant
Applied to Several Gentlemen Attornies of the Mayors
Court who Demanded Payment but with as Little Success
And that as the Promisary Note of hand was not Payable
to Sawmy or his Order it was found that the Endorsement
gave no Power or Authority for the Complainant as Indorsee
to Sue or Prosecute the Said Edward Pollard and that it
was

Was Necessary to have a Power of Attorney for this Purpose
But your Petitioner Sheweth that had the Complainant
Applied to your Petitioner for a Power of Attorney the said
Sawmy would have Readily drawn one out and have given
it to the Complainant And your Petitioner further Sheweth
that the Said was duly and Properly Negociable even tho'
the words order had not been endorsed thereon as Appears
by the Letter of the Said Edward Pollard in Answer to the
Application made to him on behalf of the Complainant
for the Said Edward Pollard by no means denies the
Right of the Complainant to Receive the Money from him
his Only Excuse for not paying is the want of funds
for that Purpose And your Petitioner Sheweth that
having Rejoined to the Above Replication Issue was
Joined And before any Witnesses were Examined on the
Part of your Petitioner Publication passed and the
Cause was set down for hearing and the Same Came on
to be heard by and before the said Mayors Court on Tuesday
the thirteenth day of August last when the said Mayors
Court did think proper to Order and Decree and did
Accordingly Order and Decree that your Petitioner should
Pay into the Said Complainant the Aforesaid Sum of five
hundred and fifty nine Pagodas four fanams And fifty two Cash together with All Such
Interest as then was or Should there After become due thereon
Also All Costs of this Suit as by the said Several

Proceedings



Proceedings so thereon had in the said Mayors Court and
the said Decree herewith lodged for the Inspection of this
Honble Court of Appeals And Prayed by your Petitioner
to be taken as part of this his Petition And Appeal
Reference being thereunto Respectively had may more
fully And at large Appear Your Petitioner humbly
Craving as full and Ample benefit from them And
Each of them as if they Respectively had been herein
before at full length Set forth

From which said Decree of the said Mayors Court
your Petitioner doth Appeal to this Honble Court as he
Conceives the same Erroneous and that your Petitioner is much
Aggrieved thereby for the following Among other Reasons

First Because the Complainant as Appears of his own
Shewing by his Said Replication did endorse the said
Note of the said Edward Pollard in his own hand writing
And the Said Sawmy Signed the said Endorsement by
which act of the Complainant he did Actually and
bona fide Receive Such Note of the said Edward Pollard
in Part payment of his Demand and Ought to have
given Credit to your Petitioner for the Same or Returned
it to your Petitioner under a Protest in due form of Law
And in Order to Shew that your Petitioner Considered the
Same as a Set off in his favour he hath as he hath Sworn
in his Answer Passed his Bond to the Said Sawmy

for

for the Amount there of

Secondly Because the said Complainant as appears by his own Shewing did by him Self or his Attorney Apply frequently to the said Edward Pollard for payment thereof as being due to the Complainant nor did he ever or does he pretend to say he did ever Communicate to the Defendant any Answer he Received to such Applications or Commands with the Defendant thereon or Return the said note did or to the said Sawmy

Thirdly Because the Original Reason of your Petitioner Procuring the said Note and Passing it to the Defendant was because he had not any other means of Satisfying the Complainant And the Complainant Accepted of such Transferred Security as in Part payment of his Just Claim on your Petitioner

For which Reasons and Such Others as may be offered at the hearing your Petitioner most humbly Prays that the said Decree of the said Mayors Court may be Reversed with Costs to be paid by the Complainant

/Signed/ Stephen Popham
Solicitor for Appellant

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Mayors Court at Madraspatnam

Tuesday the 30th day of August Anno Domini 1785

Present

Philip Howey Esquire Mayor
James Call & John Menzies
Aldermen

Between John Loyd of Madras Inhabitant Complainant and Paucala Narrain of the same place Inhabitant Defendant

This Cause Coming on to be Heard and Debated this Day in the Presence of the Attornies on both Sides on Reading the Complainants Bill with an Account Current and Copy of a Promisary Note of hand Annexed The Defendants Answer with Copy of an Account Current annexed the Replication The Rejoinder Five Exhibits on the Part of the Complainant On Hearing the Pleadings Made Useof by the Attornies And on due Consideration had thereon This Court doth think fit to Order and Decree and doth Accordingly Order And Decree that the Defendant do pay unto the Complainant the full And Just Sum of Five hundred And fifty Nine Pagodas four fanams and Thirty two Cash / Pagodas 559. 4. 32 /

Together with Such Interest As now is or Shall hereafter

became

become due thereon untill full Payment is made also
All Costs of this Suit.

V. Cur

/Signed/ James Taylor
Regr.

In the Court of Appeals

Between John Loyd of
Madras Inhabitant Complainant
And Paucala Narrain of the
same place Inhabitant Defendant

The answer of John Loyd late of Madras
Inhabitant but at present Chief Mate of the Middlesex
Indiaman to the Petition and Appeal of Paucla Narrain
of Madras Dubash

The said Respondent Says that true it is
he did file a Bill of Complaint in the Honble the Mayors
Court against the abovesaid Appellant on the Day and year
as is mentioned and Set forth by the Appellant in his Petn
And Appeal to this Honoble Court of Appeals for to Recover
of and from the said Appellant the Sum of five hundred and
fifty

Filed in my Office
the 29th Sept. 1785
Charles N White
acting Clerk

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fifty Nine Pagodas four fanams And thirty two Cash as the
Ballance of an Account Current Annexed by the Respondent
to his said Bill of Complaint which Account Current the
Respondent did Shew And Set forth arose on a Promisary
Note of Hand given by the said Appellant unto the
Respondent which said Promisary Note of hand the Respondent
Shewed was so given by the Appellant as an Acknowledgement
of his being Indebted unto the Respondent in the Ballance
of Such their said Accounts a Copy of which Note as also
the Account Current the Respondent Exhibited And
Annexed to his said Bill of Complaint The Respondent
further Says that a Summons having Issued and the
Appellant Appearing in Consequence thereof he the said
Appellant did put in his Answer And therein denied to be
Indebted unto the Respondent in the Said Sum of Five
hundred And fifty Nine Pagodas four fanams And thirty
two Cash but Admitted to be Indebted to the Respondent
in the Sum of Two hundred And forty Eight Pagodas thirty
fanams And Seventy two Cash Only which he the Appellant
Alledged would Appear by a Reference being had to his
Account Current Annexed to his said Answer The said
Respondent further Says that the Appellant in his said Answer
Proceeded to Shew by Comparing of the two Accounts Current
that the Respondent had Omitted to give the Appellant

Credit

Credit for the Sum of Three hundred And Two Pagodas
And thirty three fanams And five Pagodas And thirty Six
fanams And the Said Appellant Proceeded in his Said Answer
to Shew how these Said two last Mentioned Sums Arose in favor
of the Appellant first the Appellant Says that in the beginning of the
Month of July 1784. the Respondent as the Appellant pretends to
Assert being in distress for Cash / which the Said Respondent Says
was by no means the fact / he Applied to the Appellant for money
in part payment of the Appellants Said Promisary note of hand
for Six hundred Pagodas And as the Appellant was than also not
in a Condition to Relieve the Distress of the Respondent other
than by tendering to him the Respondent a Promisary Note of
hand from One Lieutenant Edward Pollard in favor of One
Sawmy which the Respondent the Appellant Alledges readily
Agreed to take And Receive the Same Provided the said
Sawmy would Endorse the Same Over to him the Respondent
which the Appellant Says he got the Said Sawmy to do which
note he the Appellant Says he gave to the Said Respondent
And that he the Said Respondent duly Received without any
force or Violence as in part payment of the Said Appellants
Promisary Note of hand for Six hundred Pagodas the Appellant
in his said Answer Alledged that after this Acceptance the
Said Respondent Ought to have given him the Appellant
Credit for the Same in the Account Current more Especially

as

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As he the Said Appellant had given his Interest Bond to the
Said Sawmy for the Amount of the Said Lieutenant Edward
Pollards note of hand The Appellant further in his Answer
States that the Respondent went to Europe without paying
the Wages of Some of his Servants And the Rent of a Coss and
Table which the Appellant Says he was Obliged to pay And
that the Same Amounted to five Pagodas And thirty Six fanams
And that as to the Ballance being Two hundred And forty
Eight Pagodas fourteen fanams And thirty two Cash
due to the Respondent he the Said Appellant Says he
was Always Ready to pay And that he was willing to pay the
Same to the Respondent to his Answer the Respondent
was under the Necessity of Replying Specially as the
Appellant had Asserted in his Said Answer what was
not Really true the Respondent in his Said Replication
Alledged that the Appellant Stood Indebted unto him in
the Said Sum of five hundred And fifty nine Pagodas
four fanams And thirty two Cash As Set forth in the Account
Current Annexed to the Bill of Complaint but denied the
truth of the Allegations As in Certed by the Appellant in his
Answer for the following reasons first that the Account Current
Annexed by the Appellant to his Answer he was an Entire
Stranger to untill the Same was Exhibited by the Appellant
As annexed to his Answer that during the time the Respondent

was at

Was at Madras no Demand was by the Appellant or any one for him made for the Amount of the Several Charges as in cred by the Appellant in his said Account Current The Respondent in his said Replication Proceeded to Estate that the said Appellant was his Dubash or Head Servant for the Management of the Respondents Concerns in India the Respondent being Chief mate of the Fortitude Indiaman Gregory Commander which Ship was Some time in the year 1782. taken by the French And the Respondent taken Prisoner with Sundry Other Persons And delivered Over by the French unto Hyder Ally by whom the Respondent was Confined for a Considerable time during all which or the greatest part of the time the Appellant was in Posession of Cash and Property to the Amount of Three thousand And five hundred Pagodas And upwards The Respondent further Alledged that after his Releasement from Prison and on the 4th day of June 1784 the Appellant and the Respondent Settled all their Accounts when a Ballance was found in favor of the Respondent to the Amount of Sixhundred And Eighty five Pagodas thirty fanams And fifty Cash and that on the 19th of the said month of June a Promissary Note of hand for Sixhundred Pagodas was given to the Respondent by the Appellant in the following words Seven Days After date I Promise to pay to Mr John Lloyd or order Sixhundred Pagodas for Value Received with Lawful Interest Signed Paucala Narrain dated June 19th 1784 Witness Annath Sawmy the said Respondent further Says that the Ballance of the said Account being Eighty five Pagodas thirty fanams And fifty Cash was not at the time of Signing the Note Required or thought of the Respondent further in his Replication Observed on the Charge Alledged against him of Omitting to give the Appellant Credit for the Respective Sums of three hundred And two Pagodas and thirty three fanams And five Pagodas And thirty Six fanams that he the Respondent being Appointed Chief mate one of the India Ship called the middle sex than in the road of madras and bound to China he Demanded payment of the said Appellant pursuant to his note of hand which he the Appellant then at that time Evaded But offered a Note of hand of One Lieutenant Edward Pollard for two hundred And Eighty Eight Pagodas twenty two fanams And forty Cash under date the 4th of February 1784 made Payable to one Sawmy a Dubash and who was an Entire Stranger to the Respondent telling the Respondent that as the said Sawmy and himself had not Influence Sufficient to get the Amount from the said Lieutenant Edward Pollard there was a Possibility of the Respondent prevailing on him to pay which if done might be Carried to the Account of the said Appellants Note of hand for Sixhundred Pagodas the Respondent Set forth that he was induced to take this

Note

Note of hand for the Purposes intended but the Respondent Observes
And Alledges in his Replication that he never meant or that
it was the intention of the Parties that this note of Lieutenant
Edward Pollards Should be Accepted in part payment
of the Demands the Respondent had on the Appellant It was only
on Experiement to be tryed in order to aid and Assist the
Appellant and the afore mentioned Sawmy in the Recovery
of this money And that in Case of the Receipt of all or any
Part of the said note the Same was to be by the Respondent
Carried to the Credit of the said Appellant The Respondt
further Set forth that he Applied to the Said Lieutenant
Edward Pollard for Payment without Success he also by the
means of Several of the Attornies of the Honble the Mayors
Court Applied to him for payment but with as little Success
And as the Endorsement gave no Power or Authority to
the Respondt to Sue or Prosecute the Said Lieutendt
Edward Pollard all Ideas of any further Reference to the
Said Lieutenant Edward Pollard dropped The Respon-
dent further in his Replication Observed that as he was
Advised he was not Any ways Obliged to give the Appellant
or the Said Sawmy Chitty Credit for the Note of hand until
the Amount there of was Received And as the Drawer
had Refused to pay the Respondent had a right
to Resort to the Appellant pursuant to his Promissory

Note of hand



Note of hand of the 19th of June 1784 especially as he the Respondent
was Ready to deliver up the Said Lieutenant Edwards Pollards
Note of hand unto the Said Appellant The Respondent further
in his Said Replication made Some Observations as to the
Account Current made up by the Appellant which the Appellant
Says he never was furnished with or Ever Saw or knew the Contents
there of until the filing of the Appellants Answer The Respondt
further Alledged that he was a great Sufferer by being kept out
of his Money and there by debarred the use thereof in Trade
Pursuant to his Priviledge as Chief Mate of the Ship
middlesex then bound to China and the Port of London
the Respondent in his Said Replication Accuses the said
Appellant of using every Artifice and Evasion to delay
Payment until the Respondent was under the Necessity
of proceeding on his Voyage to China The Respondent
further in his Replication proceeded to Shew that it
never was the meaning or intention of the Parties that the
said Note of hand of the Said Lieutenant Edward Pollard
Should go in part payment of the Said Appellants
Promisary note of hand that at the time of the Appellants
Paying unto the Respondent the Sum of Forty eight
Pagod as under date the 7th of July 1784 and for which
Credit is given the Appellant in the Account Current
Annexed to the Bill of Complaint that Care was taken

by

By the Appellant to See the said Sum Endorsed off the back of the Promisary note of the said Appellant in the following words Recd of Paucla Narrain forty Eight Pagodas on Account of the within Bill July 7th 1784 as by his Receipt John Loyd here the Respondent observed that in Case the said note of hand of the said Lieutenant Edward Pollard was taken by the Respondent as Peremptory and unconditional why was not the Amount Carried and Endorsed off the back of the Appellants Promisary note of hand The Respondent in his Replication further Asserts that the Appellant could not in Any one Article Shew the least Shadow of an intention on the Part of the Respondt to Receive the Said Lieutenant Edward Pollards Note of hand as in part payment neither Expression or Implication Warrants Such an Idea as paper Could be of no Service at this time to the Respondent who was Bound on a Voyage to China The Respondent lastly observed he had no other Affairs or Concerns in India but what the Appellant his Dubash had in his Hands And which the Respondent Alledged he was very Apprehensive of loosing more Especially as the Appellant waided making the legal tender in Court of what he pretended was due to the Respondent To this Replication of the Respondent the Appellant on the 24th day of November 1784 filed this Rejoinder as therein denied to be Indebted unto the Respondent in the Sum Set forth And Expressed in the Bill of Complaint but admitted of his being Indebted unto the Respondent in the Sum of Two hundred And forty eight Pagodas thirty fanams and Seventy two Cash The Appellant in this his Rejoinder admits of the Respondent And himself having Settled All Accounts and that there Appeared a Ballance of Six hundred And Eighty five Pagodas thirty fanams And fifty Cash due to the Respondent and that he the Appellant did on the 10th of June 1784 gave the Respondent a Note of hand for Six hundred Pagodas the Appellant Also Admits of the Said Respondents calling upon him for the payment there of but being them at that time enabled to pay he the Appellant transferred over a Note of hand of Lieutenant Edward Pollard to one Sawmy a Dubash for two hundred and twenty eight Pagodas twenty two fanams And forty Cash which the Appellant Asserts was meant by all parties to be Accepted of in part payment of the Appellants note of hand for Six hundred Pagodas which the Appellant Says he will make Appear that no Agreement or Any Contract was made or Entred in to Regarding the Acceptance of the said Lieutenant Edward Pollards note of Hand The Appellant further

The Respondent further Says that After much delay on the Part of the appellant in the Honble the Mayors Court he the Respondent with much difficulty got a Rule to pass Publication And at the Same time he the Respondent produced five Original Exhibits which Proved the Debt and the Several Circumstances attending the Same and also the Nonpayment of the Said Lieutenant Edward Pollards note of hand The Respondent further Says that every impediment was thrown in the way of this Cause by the Appellant from the Same being Set down for hearing but the Cause was at last Set down for Hearing and the Same Came on and was Determined the 30th day of August 1785 in manner and form as Set forth And Expressed in the Copy of the Decree of the Honble the Mayors Court as Annexed to the Petition and Appeal of the Appellant to this Honble Court of Appeals from which Said Decree of the Honble the Mayors Court the Said Appellant has thought proper to Appeal to this Honble Court of Appeals as Conceiving such Decree Erroneous And that he the Appellant was much Aggrieved thereby for Certain Reasons by him Assigned in his Said Petition And Appeal And first Because the Complainant / meaning the Respondent had Endorsed the Said note of the Said Lieutenant Edward Pollard that Sawny Signed the Said Endorsement By which the Appellant Alledges the Said Respondent actually and bona fide Received Such note of the Said

Lieutenant

for the Purposes intended but the Respondent Observed

further in his said Rejoinder Observed that notwithstanding the Said note was not payable to Sawny or Order yet the Endorsement gave Sufficient Authority to the Respondent to Sue and Prosecute the Said Lieutenant Edward Pollard for the Amount of the said Bill or Note of hand The Appellant further in his Said Rejoinder Observed that when once the Transferrer had Accepted of the Said note of hand in part Payment of his Debt It was unreasonable for Such Transferrer to Resort back on the Transferr which the Appellant has Very Erroneously State in his Rejoinder by Saying it is Contrary to the Express words And meaning of the Statute made and Provided but what that Statute is the Appellant has not Set forth or Shewn The Appellant further Says that he the Respondent was Obliged to give him Credit for the Amount of the Said note of hand the Appellant further in his Rejoinder did Endeavour by very fallacious Argu-ments to Support his Answer in every Respect but as such Arguements did not Arise upon the Custom of Merchants or upon the Law respecting Bills of Exchange and Notes of hand the Same was looked upon by the Honble the Mayors Court as Nugatory And therefore the Respondent Joined issue And Witnesses were produced by the Appellant on his behalf but who Refused when brought to the Test, to give any Deposetion in Support of the Appel-

Lieutenant Edward Pollard unconditionally in part payment of the Respondents demand on the Said Appellant and that he the Respondent ought to have given Credit for the Same or Returned it to the Appellant under a Protest in due form of Law And in Order to Shew to this Honble Court of Appeals that he Considered the Same as a Set off in his favor he Passed his Bond in favor to the Said Sawny for the Amount thereof In Answer there to the Said Respondent Says that as the Promisary note of hand of Lieutenant Edward Pollard to Sawny was no more than a Simple note of Hand no Protest is Requisite or Necessary like unto a foreign Bill of Exchange or an Inland Bill It was quite Sufficient that the Respondent made his demand both by himself And the Attornies at law on the Said Lieutenant Edward Pollard for payment And Received his Refusal in Writing And the Same Communicated to the Appellant The Respondent Says that the Appellant was not Entitled to any Credit being given him for the Said note of hand until the Amount in Cash was Received by the Respondent unless there had been a Receipt or Some other writing by way of Contract or Agreement under the Hand of the Said Respondent Acknowledging the Receipt of the said Lieutenant Edward Pollards Note in part payment The Respondent further Says that it has been Adjudged in the Court of Kings Bench "that where A. gives B. a Bill

of



of Exchange on C. in payment of a former Debt this will not be Allowed in Evidence on Non Assumpsit unless paid though B. kept it in his hands long After payment was Expired for a Bill Shall never go in payment of a precedent Debt unless it be part of the Contract that it Shall be So." Salkeld 124. Cr Before Holt Chief Justice at Guild hall The said Respondent further Says that the said Sawny having Endorsed Over the Said Lieutenant Edward Pollards note of hand to the Respondent or his Order and the Acceptance there of by the Respondent that the Same was a part payment to the Respondent And that Credit ought to be given to the Appellant for the Same Inanswer there to the Respondent Says that he has herein before fully Set forth why the Granting a Bill for a Prior Debt Cannot be Allowed if in payment until the Produce there of is Actually Received therefore the Respondent is under no Necessity of making any further Answer to the Same but as to the said Lieutenant Edward Pollards Promisary note to the Said Sawny Such note was no ways Negotiable as being made payable to Sawny Only And not to his Order so that the Respondent had Only a bare Posibility of Receiving the Amount by Order of the Said Sawny but the Respondent Derived no Authority from the said Endorsement to Prosecute the Said Lieutenant Edward Pollard And in deed it was out of the Power of the said Respondent So to do as he was bound

to

to China And the Port of London To the Second Cause Assigned by the Appellant for his Appealing from the Decree of the Hon^ble the Mayors Court to this Honble Court of Appeals .. wherein he the Appellant Says that he the Respondent did by him self or his Attorney Apply to the Said Lieutenant Edward Pollard for payment And that he the Respondent never informed the Appellant or the said Sawmy of his the Said Lieutenant Edward Pollards Refusal In Answer there to the Respondent Says that in this proceedings before the Honble the Mayors Court he there Set forth the Reason of the said Sawmys Endorsing the said Promissary note of the Said Lieutenant Edward Pollard it being a favor done to the Said Sawmy and the said Appellant that he the Said Respondent undertook to Apply unto the Said Lieutenant Edward Pollard for payment of his said Promisary Note of hand. as the Said Sawmy deemed himself of Weight not Sufficient to Compell the Said Lieutenant Edward Pollard to pay but the Respondent Says it does not Appear that in any part of the Proceedings before the Said Honble the Mayors Court that the Said Respondent did Consent or Agree to Accept of Such Said note in part Payment of his Demand on the Appellant no Writing in the Nature of an Agreement or in the Nature of a Receipt Can be by the Appellant or the Said



Said Sawmy produced The Respondent further Says that every notice of Refusal was given to the Appellant and Demand made on him for the full payment of his note of hand for Six hundred Pagodas given by him the Respondent which note of hand was given as an Acknowledgement of a Certain Ballance due on an Account Current between the Said Appellant And him the Respondent To the Third and Last Cause Assigned by the Appellant for his Appealing to this Honble Court of Appeals wherein he the Appellant Says the Original Reason of the Appellant Procuring the Said note and Passing it to the Respondent was because he had not Any other means of Satisfying the Respondent And that the Respondent adopted of Such Transfer Business As in part payment of his first Claim on the Appellant .. In Answer there to the Respondent Says that to whatever reason the Appellant might have for Passing the Said Lieutenant Edward Pollards note to the Respondent yet that does not hold Good with the Respondent as it is a matter which Concerns the Appellant himself who was a Suiting his own Convenience in the payment of what he owed the Respondent: which in fact was no Payment at all. as heretofore has ban Shewn as it was the Cash the Respondent looked to. and not to paper Writing especially as he was in possession of the Appellants Promisary note of hand for the Ballance of this Account Current Settled the Appellant being

being the Dubash or Head Servant of the Respondent who at the time of Such final Settlement ought to have paid the Respondent the Ballance without giving Any note of hand for the Same the Appellant Says he had no other means of Satisfying the Respondent than this note of Lieutenant Edward Pollards how then comes it for the Appellant to Say and Assert in his Answer to the Respondents Bill of Complaint that he was Ready and Always willing to pay the Ballance of his Account Current Annexed to his Answer when to this very day the Said Ballance is not tendered or payed into Court The Respondent further Says that from his Situation of Life And from the then Situation of his at the time of his Applying to Lieutenant Edward Pollards he could not have Entred in to Any Legal Discussion with the Said Lieutenant Edward Pollard About the payment of his aforementioned Promisary Note of hand as he the Respondent was bound on a Voyage to his Nature Country with a probability of his never Returning to India Therefore it Could not be Supposed that the Respondent did receive the Said Lieutenant Edward Pollards note as an Actual payment of so much due on the said Appellants Promisary Note of hand as the Entring in to Such fresh Engagement would have been contrary to the Avowed plan on which the said Respondent had Entred it being impossible for the Respondent to have traded with Paper to China or to England

The Respondent further Says that it is impossible for the Appellant to bring or Urge any one good Reason why the Said Respondent Should Receive the Said Lieutenant Edward Pollards Promisary note unconditionally As answered no purpose of the Said Respondent to Receive this Promisary note it was the Cash only from whom the Respondent was to Derive Any Benefit from But this Respondent Says that this giving of the Said Lieutenant Edward Pollards note of hand by the Appellant And the Said Sawmy to the Respondent is only made use of as a pretext to Serve as an Excuse for the Non payment of the Said Appellants note of hand to the Respondent and if Possible to Cut the Respondent off from ever getting paid the Amount of what is due from the Appellant who ought in every Sense of the word to pay the Respondent what is due to him Considering how long the Appellant was in possession of the Respondents Effects during the whole of his Confinement with Hyder Ally Sorall which Matters And things the Respondent humbly prays this Honble Court of Appeals that the Petition and Appeal of the Said Appellant be Dismissed with Exemplary Costs and the Decree of the Honble the Mayors Court be Confirmed /Signed/ Charles Bromley

Attorney for Respondent

Court

Court of Appeals
at
Madraspatnam

Saturday the 30th December
Anno Domini 1786

Between Paucala Narrain of Madras
Inhabitant Appellant and John Loyd
of the Same place Inhabitant Respondent

This Cause Coming on this day to be heard and
Debated before this Court by the Attornies on both sides upon
hearing the Petition of Appeal and Answer And the
Several Exhibits of the Honble the Mayors Court together with
the Decree of the Said Court given in this Cause on Tuesday the
30th day of August Anno Domini 1785 upon due consideration
had of the Matters therein 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 said Decree
of the Honble the Mayors Court do Stand Affirmed and
that the Appellants Petition be hence Dismissed with
Costs.

A Copy

/Signed/ Chas N. White
Clk

To

To the Honble Alexander Davidson Esquire
President and Governor &c. Council of
Fort Saint George

In the Honble the Court of
Appeals at Madraspatnam

Between Maudeyoor
Mooddoraum Moodelliar by his
attorney Emanuel Luis anderson
of Madras Inhabitant Complainant
and Taunjee Aunauda Chingulroy
Moodelliar of the Same place
Inhabelant Defendant

The Humble Petition and Appeal of the above=
named Taunjee Aunauda Chingulroy Moodelliar
Defendant.

Sheweth That some time on or about the third day of September
last past and which was in this present year of our Lord one
thousand Seven hundred And Eighty five, the above named
Complainant Maudeyoor Mooddaraum Moodeliar by his
Attorney Emanuel Luis Anderson filed and caused to be
Filed in my Office Exhibited a certain Bill of Complaint in the Honble the
the 19th December 1785 Mayors Court at Madras patnam against your Petitioner
Charles N. White Charging your Petitioner with being Indebted unto him the said
Complainant by his said Attorney in the full and just Sum of
Eight hundred Star Pagodas Current money of Madras
Pretending that the Same was due and owing upon a Certain
Bond or Written obligation Copy of Translate whereof the
Complainant

addition of Maudeyoor Mooddaraum Moodiliar as the only Person who could Demand or Claim payment of the Principal Money in the Said Bond or Paper Writing mentioned or Expressed which being expressly Limitted without power of Assigning over to his Attornies or Other person whatsoever the want of Such Insertion of Power in the said Bond or Paperwriting deprived the Oblige of making or Executing any Legal Conveyance or Assignment much less could any Assignment or Power of Attorney be deemed good and Sufficient for the Purposes of Enabling the Assignee to Recover when a different Name was Affixed and Subscribed to the Assignment than the one named and Appointed in the Original Bond or Paperwriting And that Limitted to one Certain person without granting him the Power to Transfer or Assign Over the Same your Petitioner further Sheweth unto this Honble Court that from a Conviction the Demand was in the first place unjust and Secondly the Proceedings Being very Erroneous and irregular this Defendant was Resolved to Estate the whole Transactions and Submit the merits of his Case by Plea and Answer to the Honble the Mayors Court as the Only means of Procuring Effectual Relief in the Premisses for which purpose he furnished his Attorney at Law with full and particular Instructions to draw up the Same According to the Regular forms of

Practice

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Practice your Petitioner further Sheweth unto this Honble Court that before the Plea and Answer of your Petitioner was drawn and Translated so as your Petitioner could Sign the Same and Swear to the Truth there of your Petitioner Received an express Order from Richard Dighton Esquire to Repair without delay to Conjeveram to the following purport and Effect To Aunanda Chinglerey moodeliar Renter of the District of Carangoly I have Business to talk with you you will there fore immediately on Receipt of this order Come to me Observe this as a Strict Order - Conjeveram 22d November 1785 which order being Signed in the proper Hand writing of the Said Richard Dighton, Is Ready to be produced before this Honble Court when Required your Petitioner further Sheweth unto this Honble Court that being a Renter under the Honble Company he Considered it his Duty immediately to attend to and obey the Orders of their Resident in the Neighbourhood that the Interests of the Honble Company might not through him your Petitioner be injured or Delayed nor Could the Complainant have any Just Cause or Ground to be dissatisfied thereby because your Petitioner had putin good and Sufficient Bail Residentors of Madras your Petitioner further Sheweth unto this Honble Court that expecting to Return to Madras he your Petitioner Requested his Attorney at Law to Apply to the Honble the Mayors Court for time for him to Swear to his Plea And Answer which your Petitioner had been informed And Really Expected would have

been

Ban allowed him the your Petitioner Rested assured that
such delay for a few Weeks would not have proved injurious
to him or his Cause your Petitioner further Sheweth unto
this Honble Court that having been detained by Business
of Real Consequence to him And his Family longer than
he expected or intended your Petitioners Attorney offered
to file the Plea and Answer And prayed leave to
have the Same Sworn to when your Petitioner Returned
to Madras or that he might be allowed to put on the
Same by his Attorney But your Petitioner Sheweth unto
this Honble Court that on Tuesday the Sixth day of this
Present Month of December and in this Present year
of Our Lord One Thousand Seven hundred And Eighty
five the Honble the Mayors Court at the Instance or
Motion of the Attorney for the Complainant were
Pleased to Pass and Grant a Decree in favor of the said
Complainant Against your Petitioner for want of an
Answer as by the said Decree Herewith Sent for the
Inspection of this Honble Court may appear by which said
Decree of the said Honble the Mayors Court your Petitioner
doth Consider himself Aggrieved And therefore Appeals
there from to the Judgement of this Honble Court of
Appeals for the following Among other Reasons

First ..... Your Petitioner having given Special
Bail



Bail was Entitled to the usual Indulgences granted by all
Courts of Law or Equity to Defendants when delays Are not
Occasioned by their Wilful neglect or Contumacy your Petitioner
having by his Attorney Represented to the Honble the Mayors Court
that his Absence was in Consequence of Business of Importance
And the Order he had Received from the said Richard Sightlon
Esquire Resident for the Honble Company in the Sagshire and
that the Plea and Answer of this Defendant was prepared
And Ready except the Signature and Oath of your
Petitioner which he was Willing to make good by Commission
or upon his Return to Madras as the Honble Court Should
please to Order and Direct the time prayed by or on
Behalf of your Petitioner ought to have been Allowed for
him to Compleat and file his Plea and Answer upon Oath

Secondly The Reasonable Request of your Petitioner
by his said Attorney at Law ought to have been Granted
by the Honble the Mayors Court Because it would have tended
to the furtherance of Justice by Investigating And Convicting
the Parties of Certain fraudulent practices by your Petitioner
Discovered and would Also have proved the means of
Correcting many Errors in the Proceedings before the said
Court under which your Petitioner is Advised And humbly
Conceives no Judgement or Execution ought in Law Justice
or Equity to the Issue against your Petitioner his Effects or Bail

Issue

For which Reasons And for Such others As may be offered on the part of your Petitioner at the Hearing of this Cause your Petitioner humbly prays that the Decree of the Honble the Mayors Court so passed in this Cause on the Said Sixth day of this Present month of December in the year of Our Lord One Thousand Seven hundred and Eighty five may be Reversed and Set aside and that your Petitioner may be granted and have a Reasonable time Allowed him to file his Plea and Answer upon Oath your Petitioner further prays Such other and General Relief in All and Singular the Premisses as Shall Appear to this Honble Court Agreeable to Reason Justice and Equity and your Petitioner will as in Duty Bound Ever Pray &c.a

/ Signed /
Edward Ellis
Peter Walker
Sollicitors for the Appellant



Mayors Court at Madraspatnam — Tuesday the 6th Day of December Anno Domini 1785.

Present

Philip Stowey Esquire Mayor
James Call and John Mengies
Aldermen

Between Mauderyar Moodaliar Moodaliar by his Attorney Emanuel Luis anderson of Madras Inhabitant Complainant and Tauvgee Annavida Chengalaroy Moodely also of the same place Inhabitant Defendant

It Appearing by the Records of this Court that the Usual Rules have ipsued for the Defendant to Answer the Complainants Bill which he has neglected doing this Court doth therefore think fit to Order and Decree and doth Accordingly Order and Decree that the Defendant Shall pay unto the Complainant the full and Just Sum of Eight Hundred Pagodas / Pagodas 800.... / together with Such Interest as now is or Shall hereafter become due thereon untill full. Payment is made Also All Costs of this Suit

By Cur
/ Signed / James Taylor
Regr

To the Honble Alexander Davidson Esquire
President and Governor &c. Council
of Fort Saint George

In the Honble the Court of
Appeals at Madraspatnam

Between Mauderyoor moodoram
Moodiliar by his Attorney Emanuel
Luis Anderson of Madras Inhabitant
Complainant and Taungee Aunanda
Chengellaray moodiliar of the Same
place Inhabitant Defendant

The answer of the said Mauderyoor Moodoram Moodiliar by his
attorney Emanuel Luis Anderson to the Petition and Appeal
of the Above named Taungee Aunada Chengelroy Moodiliar

This Respondent by his Said Attorney
by way of Answer to the Said Petition and Appeal or unto
So much there of as Concerns this Respondent by his Said
Attorney to make Answer unto Saith that he admits to be
true that this Respondent by his Said Attorney did on or
about the third day of September which was in the year
of our Lord One thousand Seven hundred And Eighty
five Exhibit a Bill of Complaint in the Honble the
Mayors Court at Madraspatnam Against the Petitioner
for the Recovery of the Sum of Eight hundred Star Pagodas

Due

Filed in my Office
the 4th January 1786
Charles R White Esqr

Due and Owing to this Respondent upon a Certain Bond or
writtin obligation Copy of the Translation where of is Annexed
to this Respondents said Bill of Complaint bearing date the
Eighth day of October which was in the year of Our Lord One thousand
Seven hundred and Eighty three which said Bond this Respondent
hath in due form of Law Assigned over unto the said Emanuel
Luis Anderson for a Valuable Consideration to him paid by the said
Emanuel Luis Anderson and the said Bond or Obligation and
the Condition there of is of that tenor and purport which may
be Assigned over and the said Assignment is expressed in
those terms and Contains such Convenants Provisoes as are
usual in Such cases as by a Copy of the said Assignment which is
Annexed to the said Bill of Complaint Reference being there
unto had may appear to which said Bill of Complaint
this Respondent also admits that under And by Vertue of the
said Assignment the said Emanuel Luis Anderson did on the
Sixth day of the same month of September in the said year of
Our Lord one thousand Seven hundred and Eighty five make
Oath to the Justness of the said Demand where from Bail
was prayed against the Appellant and Accordingly Bail
was given and entered by and on Behalf of the Appellant
this Respondent Actually denies that after Oyer was prayed
of the Original Bond by and on behalf of the Petitioner any
Considerable time elapsed before the same was produced and

that the

that the Proceedings in the Said Cause were for Some time delayed by the Lapse or Neglect of this Respondent for the fact is that the Bond in Question was delivered in to the Said Mayors Court According to the usual time without the Least delay on the part of this Respondent as by the Accompanying Extracts of the Proceedings from the said Mayors Court may Appear this Respondent Also denies that the Said Bond was Obtained under false pretences on the Contrary it was a Loan to the Appellant when he was in want of Cash And Applied to this Respondent for the Said Sum of Eight hundred Pagodas which Sum this Respondent Lent Accordingly and the Said Appellant executed the said Bond in the Presence of Witnesses of his own free will for the Security of this Respondent and this Respondent further saith that although in the Bond the Name of Maudeyoor Moodoram Moodiliar is written and in the Assignment only Moodaraum nevertheless the Appellant ought not to Attempt to derive any advantage there from as he must know it is Usual among many of the Natives to Sign only one of their names without those additional Designations which express their family and that as their full Designations do in general consist of three And often of four Names and their usual Transactions are Carried on by some one of those Names it might be in their Power was Such an evasion countenance to elude the Payment to of any Money they owed or the performance of any other Contract in to which they might have entered And as to the Pretences of the Appellant Respecting his want of time to Answer this Respondents Bill it Seems that there is a little reason for Objecting to the Decree on that Score as on any other for from the day that a Defendant Appears to the day on which a Decree is prayed the Usual time which intervenes is five Weeks to Wit a Rule to Answer in one week from the Day of Appearance another Rule to Answer in Two weeks and a third or Peremptory Rule to Answer in Three weeks which Peremptory Rule is of Two weeks And in default of Answering it is usual to pray for a Decree or Judgment for want of an Answer And this Respondent saith that in the Present Case the first Rule for the Appellant to answer is dated on the Twenty Seventh day of September the Second Rule on the fourth day of October And the third or Peremptory Rule to Answer on the Eleventh day of October and if expired on the Twenty fifth day of October on which day this Respondent Prayed for a Decree According to the Tenor of the said Rule but the Appellant on that day Prayed Oyer of the Bond and the Court were pleased to indulge him therewith And this Respondent did by his Attorney deliver the Bond in to Court on the Fifteenth day of November following

following And on the Same day this Respondent by his
Attorney Prayed a further Rule of one Week to Answer
and on the Twenty Second of November Another Rule to
Answer to wit a Peremptory Rule of one week which
Rule expired on the Twenty Ninth day of November
And this Respondent was on that day intitled to Judgement
but it so happened that at the Instance of the Appellants
Attorney Praying for another Week in order that the
Appellant might have an Apportunity to file his Answer
which he Pretended was not then ready the Court were
pleased to grant Another Weeks time to Answer which
Rule expired on the Said Sixth day of December last past
being the day on which the Court were pleased to grant
a Decree All which Several Rules and Orders are in
this Respondents Passession And Ready to be Produced
at the hearing of this Cause This Respondent saith
that Notwithstanding what the Appellant hath
Presumed to advance in his Petition And Appeal there doth
not Appear any Special Minute on the Records in this Cause
by way of Objection to the Decree passing nor doth the Name of
Richard Dighton Appear in the Cause and therefore
the Introduction of Such new Circumstances is irregular
in it Self and Ought not to be admitted in this
Honble Court

For

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For all which Reasons And Such Others which may be offered
at the Hearing of this Cause this Respondent humbly hopes
that the Said Decree of the Honble the Mayors Court of the
Sixth day of December last past be Affirmed and that
the Appeal of the Appellant be dismissed with Exemplary
Costs for his Litigious And Vexatious Appeal in this Cause
evidently made with the View of evading the Payment
of a Just Debt

/Signed/

Stephen Popham

Solicitor for Respondent

Court

Court of Appeals
at Madraspatnam } ss.

Saturday the 30th December
Anno Domini 1786

Between Tauzjee Aunanda Chetty &
coy. Moodelyar of Madras Inhabitant
Appellant and Maudeyar moodooram
Moodiliar by his Attorney Emanuel Luis
Anderson of the same Place Inhabitant
Respondents

This Cause coming on this Day to be heard and
Debated before this Court by the Attornies on both sides
upon hearing the Petition of Appeal and Answer and
the Several Exhibits of the Honble the Mayors Court together
with the Decree of the said Court given in this Cause on Tuesday
the 6th day of December Anno Domini 1785 upon
due Consideration had of the Matters therein 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 said Decree of the Honble the Mayors
do Stand Affirmed and that the Appellant's Petition
be hence Dismissed With Double Costs in this Court

Per Curr
/Signed/ Chas N. White
Clk

To



To the Honble Sir Archibald Campbell K. B. &c.
President and Governor &c. Council of Fort saint George

In the Honble the Court of
Appeals at Madraspatnam }

Between Joseph
Moorhouse a Lieutenant Colonel in
the Honble Company's Service James
Anderson Esquire and Tredway Clarke
a Lieutenant of Artillery in the
Honble Company's Service at Fort saint
George as Successors to John Sykes
Joseph Smith and John Leatham
Master and Wardens or Trustees for the
Ancient Society of free And Accepted
Yorke Masons belonging to the Lodge
No 152 Complainants And Cottrell
Barrett of Madras Inhabitant Defendant

The Humble Petition and Appeal of
the above named Defendant

Sheweth

That Some time on or about the Sixteenth day of July
which was in the year of our Lord One thousand Seven hundred
And Eighty five the Above Named Complainants Exhibited
and filed a Bill of Complaint in the Honble the Mayors Court

Filed in my Office
the 10th April 1786
Charles N. White

at

at Madras patnam against your Petitioner under pretence
that your Petitioner was well And Truly Indebted
unto them the Said Complainants As Succesors to
John Sykes Joseph Smith And John Leathom Trustees
for the Ancient Society of free and Accepted York Masons
belonging to the Lodege No. 152 in the full and just
Sum of Two hundred And Ninety three Star Pagodas
And thirty three fanams Current Money of Madras upon
a Bond or Writtin Obligation Copy of which Bond
bearing date on the fourth day of November which was
in the year of Our Lord one thousand Seven hundred and
Seventy nine was Annexed to the Complainants Bill of
Complaint to which Said Bill of Complaint your Petitioner
Appeared by his Attorney when Special Bail being prayed
by the Attorney of the Complainants your Petitioner was under
the Necessity of Procuring good And Substantial Bail
for him to abide by the Ultimate Decree or Judgement of the
Said Court in this Cause — Your Petitioner further Sheweth
unto this Honble Court that the Usual Rules having
Issued for him to Answer the Complainants Bill of
Complaint he did on or About the Twentieth day of
September in the Said year of Our Lord one Thousand
Seven hundred and Eighty five, file his Answer to the
Complainants said Bill of Complaint in And by which

said



Said Answer your Petitioner as Defendant did Absolutely
deny being Indebted to the Complainants Joseph Moorhouse
James Anderson and Tredway Clarke either Jointly or
Separately or to either of them on their own Account or in
Any Station or Capacity whatsoever in the Sum of Two hundred
And Ninety three Star Pagodas And thirty three fanams
Current Money of Madras as is unjustly and Erroneously
Stated And Charged in the Said Bill of Complaint
or in Any other Sum or Sums of Money whatsoever and for
further Answer to the Several Charges in the Said Bill of
Complaint contained your Petitioner Set forth that he knew
not how the Bond Copy of which is Said to be Annexed to
the Bill of Complaint came in to the Complainants possession
for your Petitioner had been informed And Verily believed
that Joseph Moorhouse James Anderson And Tredway
Clarke were not the legal And proper Succesors to John
Sykes Joseph Smith And John Leathom as Master and
Wardens of the Society Called the Ancient Society of York
Masons Lodge No 152 nor have they the said Complai-
nants or either of them any Claim Right or Interest in or to
the said Bond or Writtin Obligation or to the Money due
if any there is due or Owing there upon which your Petitioner
Absolutely denies to be the Case nor have they the Said
Complainants Jointly or either of them Separately any

Just

Just Ground Cause or Reasonable Pretext wherefore to Call your Petitioner in Question before that Honble Court or before any other Court of Law or Equity touching or Regarding the Several Matters Charged in the said Bill of Complaint And by way of Explaining the same to the Satisfaction of the Said Honble Court your Petitioner further States that Some time in the year of our Lord one thousand Seven hundred And Sixty Eight he your Petitioner was Admitted a member of the Lodge No. 152 of the Society of free and Accepted Ancient york Masons that in the year of Our Lord one Thousand Seven hundred and Seventy Two, your Petitioner was Chosen Junior warden which is one of the Principal offices there of about which time Edward Rylance of Madras Inhabitant who was the Secretary of the Said Lodge was Indebted thereunto as Secretary in a Certain Sum of Money And having Considered him Self at that time Illused by the Lodge he Absented himself there from an account of which the Said Society Demanded money out of his Hands And on his Refusing to Comply therewith the Said Society Requested of your Petitioner to use his Endeavours to Recover the Money from the Said Edward Rylance your Petitioner being Particularly Acquainted and on friendly Terms with him the said Edward Rylance your Petitioner Accordingly Promised



Promised to use his Influence in that Behalf. your Petitioner further Set forth in his said Answer that on Several of the Members of the Lodge Repeating their Wishes that the money Paid your Petitioner Assured them there was not Any Ground for Apprehension on which some of the Members said that as your Petitioner was so certain of its being Safe he might Appear to take it on himself in Order to Recover it for the Lodge which your Petitioner Refused doing at first but upon John Patterson of Madras Inhabitant the then Master of the said Lodge Declaring that if your Petitioner gave his Bond it might be the means of Enforcing the Payment from the said Edward Rylance And that it Should be no Prejudice or Loss to your Petitioner as it Should be Minuted in the Proceedings of the Lodge for what purpose And on what Account the Bond was given which being Assented to by the other members present your Petitioner agreed to execute And did Accordingly Execute a Bond for the Same in Order to induce the said Edward Rylance to exert himself to Discharge what he Owed to the Lodge which Bond hath from time to time been Renewed by your Petitioner without the Least Suspicion of any Attempt being Used to enforce Payment from him or any improper Use being made there of your Petitioner then further Prayed leave to Refer that Honble Court to the Original Minutes of the Proceedings of the Said Lodge the full Benefit

where of

Where of your Petitioner as Defendant Craved from which it
would Appear as before is Stated and your Petitioner Positively
denied that he ever Received any Value whatever for the Bond
now in Suit your Petitioner in his said Answer further Said
that he Always Considerate by the Constitution of the Said
Lodge that the Matters there of were Secret and Confiden
=tial and in no wise ought to be Reveal'd - your
Petitioner therefore could not reveal Any further
Circumstances touching the matters But absolutely
denied being Indebted to the Complainants or to either
of them nor did he your Petitioner Consider them even
if they were to Prove themselves / which your Petitioner
doubts the Master and Wardens of the Said Lodge
to have any Right to hold him your Petitioner
Personally liable for Acting as a Trustee or Friend
to the Society and Relying upon the Promise of the
then Master And other Members of the Said Lodge
Present as Entered in the minutes of the Transactions
of the Said Society in manner and form and for the
Purposes as before is Set forth And Stated without
Receiving or Expecting to Receive Any Pecuniary reward
advantage or Satisfaction for the Same Which said
Answer of your Petitioner being filed in due form and
received upon the Corporal Oath of your Petitioner Entitles

your



Your Petitioner as he humbly Conceives to the Benefit therein
prayed for and the Books or Extracts there from as prayed for
by your Petitioner should have been produced before this said
Court for your Petitioners Inspection and Advantage your
Petitioner further Sheweth unto this Honble Court that on
or about the Twenty fifth day of October in the Said year
of Our Lord One thousand Seven hundred And Eighty five
An Affidavit was made and filed by Joseph Moorhouse
And Tredway Clarke two of the Complainants in the Said
Bill named setting forth that they had not or to the best
of their Knowledge Remembrance or Belief ever had alter
Any of the Minutes of the Proceedings of the Said Lodge of
Antient york Masons No. 152 as prayed for in and by the
Defendants Answer And further Set forth that they the
Defendants did not know where the said Minutes or any
of them were unless they were in the Custody or Power of John
Leathom of Madras Inhabitant Against whom a Bill was
filed at the Instance of the Said Complainants for Recovery
of Certain Minutes of Proceedings or Paper writings belonging to and the
Property of the Said Society of Antient And Honble York
Masons Lodge No. 152. your Petitioner further Sheweth unto
this Honble Court that notwithstanding the Prayer of your
Petitioner was frequently repeated and the necessity of the said
Books or Proceedings being produced before the Court was on the

Part

Part and Behalf of your Petitioner Stated to the Said Honble the
Mayors Court yet Nevertheless your Petitioner Sheweth that a
Replication was Allowed to be filed on the Part of the
Complainants where in they the said Complainants endeavoured
by every Possible insinuation And Suggestion to Support
their said Bill of Complaint and the Several matters and
Charges therein contained as if true Just and Valid
Against your Petitioner to which said Replication of the
Said Complainants your Petitioner was According to the
Rules And Practice of the Said Honble the Mayors Court
obliged to file his Rejoinder where in your Petitioner
Supported his Answer put in to the Complainants Bill of
Complaint And urged the Necessity of a Reference to the
Minutes And Proceedings of the Said Lodge which your
Petitioner had Reason to believe were in the Hands Power
or Posession of the Complainants if they Are properly and
fully the Master and Wardens or Trustees of the Said
Society or Lodge of Ancient free masons as Set forth And
Alledged in And by their said Bill of Complaint And
Proceedings thereon — your Petitioner further begs leave
to Represent unto this Honble Court that on Tuesday
the Twenty Eighth. day of March last past And in this
present year of Our Lord one thousand Seven hundred
And Eighty Six the Attornies for the Complainant without any

Previous



Previous Notice of Such intended motion moved the Honble the
Mayors Court for Issue to Join in this Cause and for Rules to pass
for the Examination of Witnesses to which said Motion your
Petitioner by his Attornies at Law in open Court objected and
Prayed that Issue might not be Joined until Certain Books
and Papers belonging to the said Lodge were produced as
Prayed for by your Petitioner in and by his Answer And
Rejoinder Yet nevertheless the said Honble the Mayors Court
were pleased to Order and Direct that Issue be Joined in
the aforenamed Cause and that day be given the parties
to Examine Witnesses as will more fully Appear by an Attested
order here with Sent for the Inspection of this Honble Court by
which said Order of the Honble the Mayors Court at
Madraspatnam Your Petitioner Sheweth he is much Aggrieved
And therefore Appeals from the Order of the said Mayors
Court so made And passed in this Cause on the twenty
Eighth day of March last past to the Judgement of this
Honble Court of Appeals for the following Among other Reasons

First . BECAUSE your Petitioner having Entered into
And given the Original Bond in Question under the Promises
And Assurances of John Patterson at that time master of the said
Lodge and others the Wardens Officers and Members of the said
Society of Ancient York Masons belonging to the said Lodge
No 152. your Petitioner should not be held personally

liable

Liable to or Responcible for the Same And the Present Master and Wardens of the Said Lodge being the Succesors of the Said John Patterson And others as a foresaid ought And Are in Law in the Same Situation as to your Petitioner as their Predecessors in Office were when your Petitioner Signed the Bond now in dispute —

Secondly Because the Entries so made at a meeting of the said Society or Lodge of Ancient and free Masons on their Minutes being Essentially necessary to Shew the true or Real Circumstances under which this Business was Transacted And Accepted by of your Petitioner the Same ought Agreeable to the Rules of Law. Reason And Equity to have been Produced on the part of the Complainants before further Proceedings in the said Cause were admitted instead of which your Petitioner is under the order of the said Hon^ble the Mayors Court compelled to proceed And allow the Complainants every advantage of their own Minutes Papers or Writings belonging to the said Society at the time he is deprived of Making Good his Defence By their unjustly denying him Reference to the Minutes or Proceedings of the said Society or Lodge Although Entitled thereunto equally with the Complainants —

Thirdly — Because that as there is now a Suit in Court



Court brought by the present Complainants against John Leathom for the Recovery of Certain Minutes And Papers belonging to the Said Lodge which Suit Will eventually tend to a Discovery of the Minutes referred to by your Petitioner if they are Still in being which your Petitioner Verily beleives to be the Case the Present Complainants cannot Suffer any prejudice by your Petitioners prayer being granted except a little delay in the Cause whereas by Confirming the Order of the Mayors Court your Petitioner might possibly be Adjudged to pay a Sum of Money where of Proof may soon Appear by the said Minutes that he is not Subject in Law to pay to the truth where of your Petitioner hath positively Sworn in and by his Said Answer which positive Oath of your Petitioner he humbly conceives to be Sufficient to Warrant a Reversal of the Said Order of the said Mayors Court And to grant an Injunction in this Suit till the said other Cause be terminated —

For all which Reasons and for such others as may be Offered on the Part and Behalf of your Petitioner at the Hearing of this Cause your Petitioner humbly prayes that the Said Order of the Hon^ble the Mayors Court whereby I Joue is Joined in this Cause may be Reversed and Annulled And that the Complainants may be Compelled to Produce before the Hon^ble the Mayors Court the Original Books And paper Writings as prayed for by your Petitioner in And by his Answer

to the

To the Complainants Bill of Compliant before any other or further Proceedings be had Allowed or Prosecuted Against your Hr in this Cause Lastly your Petitioner Petitioner prays a General Relief in All and Singular the Premises of Such as to this Hoble Court shall Appear Agreeable to Equity And good Conscience And that the Complainants be Ordered to pay all Costs Attending this Petition And Appeal

/Signed/

Stephen Popham.
Edward Ellis.
Sollicitors for the Appellants

Extract

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 28th Day of March Anno Domini 1786

Present
Robert Ewing Esqr Mayor
James Dall and William Wells
Aldermen

Joseph Moorhouse and others
vers
Cottrill Barrett

Mr Pullen Spencer And Mr James Grierson the Attornies for the Complainants pray that Issue may Join in this Cause the Complainants having on the 25th October last filed An Affidavit Stating that they have not nor to the best of their Knowledge Remembrance or belief ever had Allor Any of the Minutes of the Proceedings of the Lodge of Antient And Hoble York Masons A752 as prayed for in And by the Defendants Answer nor do they know where the said Minutes or Any of them Are unless they be in the Custody or Power of John Leathem Against whom a Bill has been Exhibited for the Recovery of them And other Writings belonging to the Lodge Affidavit read to which Mr Stephen Popham And Mr Edward Ellis the Opposite Attornies object And pray that Issue may not be Joined untill Certain

Books

Books And Papers belonging to the said Lodge said to be in the Possession of John Leatham And for the Recovery of which a Suit is now before this Court be first produced — The Court having taken the same in to Consideration Ordered that Issue be Joined in this Cause —

Issue Joined —

Day is given the Parties till the 4th April next to Examine Witnesses —

A true Extract
/Signed/
James Taylor
Regr

To the Honble Sir Archibald Campbell K.B. &c
President and Governor &c Council of Fort St George

In the Honble the
Court of Appeals

Between Joseph Moorhouse Lieutenant Colonel in the Honble Company's Service James Anderson Esquire and Fredway Clarke Lieutenant of Artillery in the Honble Company's Service at Fort St George as Successors to John Sykes Joseph Smith And John Leatham Master And Wardens or Trustees for the Ancient Society of Free and Accepted York Masons belonging to the Lodge № 152 Complainants and Cottrell Barrett of Madras Defendant —

The answer of the Complainants Above named to the Petition And Appeal of the Above named Defendant — These Respondents Answering Say that the Appellant being Justly And Truly indebted unto these Respondents in their Capacity Aforesaid as the true And Legal Successors to the

Said

Filed in my Office
the 25. April 1778
Charles D'White Clk

Said John Sykes Joseph Smith And John Leatham formerly
masters And Wardens of the said Society of Free And Accepted
York masons Lodge No 152 by Bond did sometime on or
About the Sixteenth Day of July which was in the year of Our Lord
one Thousand Seven hundred And Eighty five exhibit and file
a Bill of Complaint in the Honble the Mayors Court at
Madras patnam Against the said Appellant not under pre-
tence as the said Appellant has untruely stated but because
He was bona fide indebted unto these Respondents in their
Capacities Aforesaid in the full And just Sum of two hundred
And ninety three Pagodas thirty three Fanams Current money
of Madras upon a Certain Bond or Obligation bearing date the
fourth day of November One Thousand Seven hundred And
Seventy Nine A true Copy where of is Annexed to the said Bill
of Complaint And these Respondents further Answer And
say that the Appellant being a Person of no fixed And settled
Habitation And fearing that he would Abscond should a
Decree go against him did pray good and Sufficient Bail
for his Appearance And the Same was Ordered to be put in
And was put in Accordingly And these Respondents Admitt
that the Said Appellant After the Usual Rules had
expired did file his Answer to the Aforesaid Bill of Complaint
At or About the twentieth Day of September in the year of Our
Lord one Thousand seven hundred And Eighty five and
that



that the said Appellant by his said Answer did most unjustly
And with a View to defraud these Respondents As the Legal
Representatives of the said Society of their Just Dues deny
that he was indebted unto them Jointly or to either of them
Seperately in Any Station or Capacity what soever in the
said Sum of Two hundred and ninety three Pagodas thirty
three Fanams Current money of Madras as Stated and
Charged in the said Bill of Complaint or in Any other Sum
or Sums of Money what soever And these Respondents
further admit that the said Appellant in And by His
said Answer did Set forth And say that he knew not
how the Bond a Copy where of is Annexed to the Bill of
Complaint come into the Possession of these Respondents
because He had been informed And verily believed that his
Respondents were not the Legal And proper Successors to
John Sykes Joseph Smith And John Leatham as masters
And Wardens of the said Ancient And Honble Society of
York masons Lodge No 152 nor had they the said
Respondents or either of them Any Right Claim or
Interest to the said Bond or Obligation or to the Money
due if any there was due or owing thereupon which the said
Appellant denied to be the Case nor had these Respondents
Jointly or either of them Seperately any just Cause Ground
or Reasonable Pretext to Call the Appellant in Question

before

Before that Hon^ble Court or before Any other Court of Law or Equity touching or Regarding the Several matters Charged in these Respondents said Bill of Complaint And by way of explaining the same as the said Appellant pretended to the Satisfaction of the Court below The said Appellant stated therein that sometime in the year of Our Lord one Thou^sand Seven hundred And Sixty Eight He was admitted a member of the said Lodge N^o 152 and was Afterwards to Wit in the year one Thousand Seven hundred And Seventy two Chosen Junior Warden which is one of the Principal offices there of About which time Edward Rylance of Madras Inhabitant who was Secretary to the said Lodge was indebted thereunto As Secretary in a Certain Sum of money And having considered Himself as He pretended at that Time ill used by the Lodge Absented Himself therefrom on Account of which the said Society demanded the money out of His Hands And on His refusing to Comply therewith the said Society requested of the Appellant to use his Endeavours to recover the Money from the said Edward Rylance as the said Appellant was Particularly Acquainted And on friendly Terms with Him the Edward Rylance which He Accordingly promised to do — and the said Appellant in And by his said Answer further Set forth And Pretended that upon some of the members of the said Lodge repeating their Wishes that the Money was paid He Assured them that there was not any ground for Apprehension And that thereupon some of the members Sayed that as the Appellant was so Certain of its being so he might Appear to take it upon Himself in order to Recover it for the Lodge which the Appellant refused doing at first but that upon John Patterson the then master of the Lodge declaring that if the Appellant gave his Bond it might be the means of enforcing the payment from the said Edward Rylance And that it should be no Prejudice or Loss to the Appellant as it should be minuted in the Proceedings of the Lodge for that Purpose and on what Account the Bond was given which being Assented to by the other members the Appellant Agreed to execute a Bond for the same in order as the Appellant Pretended to induce the said Edward Rylance to exert himself to Discharge what He owed to the Lodge which Bond had from time to Time been renewed by the Appellant without the least Suspicion of any Attempt being used to enforce Payment from him or any improper use being made there of And the said Appellant prayed leave to refer the Court below to the Original minutes of the said Lodge whereby he pretended the whole Transaction would fully Appear and craved the full Benefit there of And the said Appellant in his said Answer denied that he ever received any Value what ever for the Bond now

Now in Suit And further sayed that he always Considered by the Constitution of the said Lodge that the matters thereof were secret And confidential and in no wise ought to be revealed And the said Appellant therefore Pretended that he Could not reveal any further circumstances touching the matters but absolutely denied being indebted to these Respondents or to either of them nor did Hee consider them even if they were to prove themselves which he Pretended to doubt the Master And Wardens of the said Lodge to have any Right to hold the Appellant Personally liable for Acting as a Trustee or Friend to the said Society and relying upon the Promise of the then master and other members then Present as entered upon the Minutes of the Transactions of the said Society in manner And Form And for the purpose before set forth And stated without receiving or expecting to receive any pecuniary Reward Advantage or Satisfaction for the same and which said Answer of the Appellant was duly filed And received upon Oath But these Respondents deny that it entitled the Appellant in any Respect to the Benefit there in prayed for Because these Respondents say That the said Appellant not with standing He hath so Positively denied the said Debt hath several Times renewed the said Bond hath frequently paid the Interest there of and from time to time requested Requested Indulgences of a further Day of Payment from all which it is Evident that the said Appellant did really and Bona fide consider himself indebted to the said Lodge in manner And Form as these Respondents have Complained Against him And that the Defence set up by the said Defendant is fallacious and calculated solely for the Purpose of Delay and not from any Hope or Expectation of being relieved from the Payment of the said Debt — and these Respondents further Answering say that in full Conviction of the Truth Equity and Justice of the said Debt as well from the Due and fair Execution of the said Bond as from the said Appellant having from time to time paid the Interest there of without making any objection what ever or Attempting to impeach the Validity there of until After these Respondents had filed their said Bill previous to which the said Appellant had obtained Letters of Administration of the Estate And Effects of the said Edward Aylance And had possessed himself of Considerable Property belonging there to These Replians conceiving it their Duty to Prosecute the said Cause to Judgement did sometime on or about the twenty Second Day of November in the year of Our Lord one Thousand Seven hundred And Eighty five file a Replication in the Court below to the Answer of the said Appellant thereby

Telling

Setting forth And Stating that these Respondents were the true And proper Succesors of John Sykes Joseph Smith And John Leatham aforesaid masters And Wardens of a Society called the Ancient And Honble Society of York masons Lodge Nº 152. And in order to explain the same these Respondents did state in their said Replication that the said Society of Ancient And Honble yorkmasons had existed for a Considerable number of year as a Body Corporate had been protected in their Private Rules and Regulations by the Legislature And had been allowed to make and do such Acts And things as might tend to the Good of the said Society that the Society of Ancient and Honble Yorkmasons Lodge Nº 152 on the Coast of Coromandel of which these Respondents were then master and Wardens was held by Virtue of a Warrant granted by the Grand master of England to John Sykes Joseph Smith And John Leatham aforesaid and their Succesors And these Respondents did in their said Replication further say that in And by Virtue of the said Warrant And by certain Rules and Regulations sent by the said Grand master with the said Warrant it was ordered that a new master And Wardens of the said Society should be regularly chosen at the End of every Six months as election of Officers in Bodies Corporate so that the Succession was regularly And uniformerly



Uniformly preserved And the Master and Wardens so chosen were invested with the Same Authority And Power as those Particularly And originally named in the said Warrant And these Respondents did in their said Replication further say that they were regularly And duly chosen And Appointed master And Wardens of the said Society on the Twenty fourth Day of June in the year of Our Lord one Thousand Seven hundred And Eighty five the festival of St. John the Baptist and one of the Days appointed by the said Warrant for electing Matters and Wardens of the said Society, according to the Rules and Regulations thereof, that in Consequence of such Election, these Respondents proceeded to examine the Funds of the said Society and found that the Appellant stood indebted to the said Society in and by one Bond or Obligation in the Sum setforth in the said Bill of Complaint, that these Respondents did conceive themselves a Body Corporate and therefore intitled to all the Rights and Benefits of One, that they held their authority under a Dispensation from the Ancient Lodge at york assembled in the year of Our Lord Nine Hundred and Twenty Six, that the Succession has been uniformly and regularly maintained and the Power and Rights of these Respondents were in due Order and Succession derived from the above Power, and that they were the real proper and Just Succesors of John Sykes, Joseph Smith and John Leatham. And these

Respondents

Respondents in their said Replication, further say, that it did not appear by the Bond or Obligation annexed to their said Bill of Complaint, that this Appellant gave the said Bond or Obligation for, or on Account of the said afore named Edward Rylance or any other Person, that the said Bond declared that the said Money due and borrowed thereon was borrowed and received by this Appellant, and that the Name of Edward Rylance was not mentioned in the said Bond or Obligation that the Name of Cottrell Barrett subscribed to the said Bond or Obligation, was of the proper Hand writing of this Appellant, and was duly executed by the said Appellant before respectable Witnesses, and that Matters of such a nature were not in any Manner secret and confidential or that it was in any way contrary to the Rules of the said Society to seek Redress of Grievances in any Court of Law or Equity, to this Replication this Appellant did duly on the Seventh Day of February in the year of Our Lord One Thousand Seven Hundred and Eighty Six file his Rejoinder in the Court below, and the said Appellant did pray in and by his said Rejoinder, that the Court below would stop any further Proceedings till the Original Minutes by Him prayed should be produced, and these Respondents further say and admit that on or about the twenty fifth Day of October in the year of Our Lord One Thousand seven Hundred and Eighty five an affidavit was made and

filed by Joseph Moorhouse and Fredway Clarke two of the Complainants in the said Bill named, setting forth, that they had not or to the best of their Knowledge, Remembrance or Belief ever had all or any of the Minutes of the Proceedings of the said Lodge of Ancient york Masons N°152 as prayed for in and by the said Appellants Answer and further set forth, that these Respondents did not know where the said Minutes or any of them were, unless they were in the Costody or Power of John Leatham of Madras Inhabitant, against whom a Bill was filed at the Instance of the said Complainants for recovery of certain Minutes of Proceedings or Paper Writings belonging to and the Property of the said Society of Ancient and Honorable york Masons Lodge N°152 and these Respondents admit that on Tuesday the twenty Eighth Day of March last past and in the present year of Our Lord One Thousand Seven Hundred and Eighty Six, their Attornies moved the Honble the Mayors Court for Issue to Join in this Cause and for Rules to pass for the Examination of Witnesses, and that the Attornies for these Appellant did object to such Motion, until certain Books and Papers belonging to the said Lodge were produced as prayed for by the said Appellant, and that the Honble the Mayors Court, not conceiving such Objection to be of sufficient Weight to stay Proceedings upon a plain Money Bond, were pleased to Order and

and derict, that issue be Joined in the said Cause, and that a Day be given the Parties to Examine Witnesses, as is fully stated by an attested Order annexed to this Appellants Petition and Appeal but these Respondents do positively deny that such Motion was made, without any previous Notice given to this Appellants Attornies, as is untruely stated in this Appellants Petition and Appeal, because due and regular notice and Rules had been served upon them, according to the Practice of the Honorable the Mayors Court, and these Respondents deny that this Appellant is or can be aggrieved by the said Order of the said Mayors Court, or that He has any Just or legal Right to appeal to this Honble Court of appeals from the said Order, for the Reasons, setforth on this Appellants said Petition and appeal or for any Other Reason whatever, but the same are calculated solely for the Purpose of Delay and in Order to prevent the said Suit from being terminated and concluded, therefore in answer to the Reasons in the said Petition and Appeal alledged these Respondents say

First ... That the Appellant having admitted, that He entered into the Original Bond in Question admitted in the Most full and conclusive Manner, that He not only held Himself personally responsible for and liable to the same by renewing the said Bond from Time to Time and paying a part of the Interest due thereupon, but requested from



from the Master and Wardens of the said Lodge, whom he admits and allows to be the Succesors of the said John Paterson and others as aforesaid, a further Day of Payment and other Indulgences

Secondly ... That these Respondents having stated in their Affidavit herein inserted, that the Minutes of the Proceedings and Paper Writings prayed for by these Appellant, were not in their Posession, nor ever had been, nor did they know where the same were, unless they were in the Custody of John Leatham aforesaid, this Appellant might have applied for an Order of the Court below to oblige the said John Leathem to deliver up the said Minutes of Proceedings and Paper Writings, He stating upon Oath to the Satisfaction of the said Court, that the same were necessary to His Defence, He would have obtained the Benefit thereof, but having neglected doing so, it is evident, that the Petition and appeal of this Appellant is only to gain Time, and is not founded upon any real Injury done to Him by the said Order of the Court below, or upon any Just and legal Gounds Whatever

Thirdly ... With Respect to the Minutes of the said Lodge being in the Posession of the said John Leatham these Respondents conceive, they have fully explained it, in their Answer to the second Reason, but when the appellant asserts that this Honble Court by confirming the

the Order of the Court below might adjudge Him to pay a Sum of Money, whereof Proof might soon appear by the said Minutes, that his not subject by Law to pay, He is guilty of a Species of Sophistry which can only be equalled by the wanton Prostitution of His Oath, which He sets forth as a Reason, why this Honble Court should reverse the Order of the Court below and induce them to grant an Injunction to say the Proceedings in this Suit, until the Cause against John Leatham should be terminated which is in no respect connected with or dependent thereon, the said Appellant having, not only admitted the Justice of the said Bond by renewing the same and paying a part of the Interest due thereon, but also by requesting a further Time to discharge the Principal

For all which Reasons and for such others as may be offered at the hearing of this Cause on the Part of the Respondents, these Respondents humbly pray that the said Order of the Honble the Mayors Court, whereby issue is Joined, may stand confirmed and that the Appellant may be compelled to proceed to Examine Witnesses according to the said Order, and lastly your Respondents pray a General Relief, in all and singular the Premisses such as to this Honble Court, sall appear agreable to Equity and good



good Conscience, and that the Appellant may be taxed with exemplary Costs for His Litigiousness

(Signed) „ Cullen Spencer

„ James Grierson

„ attornies for Respondents

Court

Court of Appeals
Madras pat: cam 3ds.

Saturday the 30th December
Anno Domini 1786

Between Cottrell Barrett of Madras
Inhabitant Appellant and Joseph Moorhouse
James Anderson and Fredway Clarke as Master
and Wardens of a Society of Ancient and
Accepted Masons Lodge N. 152 Respondents

This Cause Coming on this Day to be heard and
Debated before this Court by the Attornies on both Sides upon
hearing the Petition of Appeal and Answer and the Several
Exhibits of the Honble the Mayors Court together with the
Order of the said Court given in this Cause on Tuesday the 28th
day of March Anno Domini 1786 upon due Consideration
had of the Matters thereon Severally Contained and of the
Pleadings and Arguments used by the Attornies on both
Sides This Court doth think fit to Order and doth accordingly
Order that the said Order of the Honble the Mayors Court do
Stand Affirmed and that the Appellants Petition be hence
dismissed with Double Costs in this Court

Flour

/Signed/ Chas N. White
Clk.