Block
Rack No.
Shelf No.
Serial No. 29
General No. 1810

To the Kings most Excellent Majesty in Council

Between Sir John Menzies Baronet Complainant and Anne Hodges Executrix of the last will and Testament of James Hodges heretofore of Masulipatam Esquire deceased Defendant

The answer of the abovenamed complainant Sir John Menzies Baronet to the Petition and Appeal of the abovenamed Appellant

The said Respondent for Answer to the said Petition and Appeal or unto as much thereof as this Respondent is advised to be material for him to make answer unto answereth and saith that he admits as stated by the appellant in her said Petition and Appeal that he this Respondent some time on or about the Sixteenth day of august which was in the year of our Lord one thousand seven hundred and Eighty Eight, did Exhibit and file his Bill of Complaint in the Mayors Court of Madraspatnam against the Testator of the said appellant the abovenamed James Hodges and did therein and thereby set forth that

Filed in my Office
the 18th May 1796
J. Webbe Clk

that the Appellants said Testator did stand indebtid unto this Respondent in the full and just Sum of Star Pagodas seven thousand three hundred and four Eight fanams and Sixty Cash making in Sterling money of Great Britain at the Rate of Eight Shillings for every Pagoda the Sum of two thousand nine hundred and twenty one Pounds thirteen Shillings and nine Pence, or thereabouts and for the particulars did refer to an account Current marked A to the said Bill annexed and also to a Copy of the said Bill of Exchange the Original of which this Respondent did State to be in his possession and ready to be produced whensoever the same might be required and that this Respondent in and by his said bill did alledge and charge the several matters and things as in the said Petition and Appeal is particularly recited and this Respondent further admits that he did in his said Bill of Complaint pray that the Petitioners said Testator might be decreed to pay to this Respondent the said sum of Star Pagodas Seven thousand three hundred and four Eight fanams and Sixty Cash together with all Interest and Costs of the said Suit

And this Respondent doth admit that the Petitioners

Petitioners said Testator did file his answer to the said Bill of Complaint in the said Mayors Court and did deny to stand indebted unto this Respondent in the Sum of Star Pagodas seven thousand three hundred and four Eight fanams and Sixty Cash or any other Sum whatever as the same was as he pretended unjustly Charged in the said Bill of Complaint and by the said Exhibits thereto annexed and did in his said Answer pretend that the Action was irregularly brought asagainst him The said Testator and did further in his said Answer pretend that this Respondent had Confederated with the Drawer and acceptor of the said Bill in Order to defraud him the said Testator but which this Respondent hath altogether denied and humbly submits that the bare surmises and unfounded suspecions with which the said Answer and Petition of Appeal are replete can have no weight whatever with your most Excellent Majesty in Council and this Respondent further admits the several matters Regarding the said Covenants of Condraigula Juggernaut Row and the prior debt of Apparow to the said Testator to have been setforth in the said Answer as the same are recited in

the

the Petitioners said Petition of Appeal and this Respondent doth admit that the said Testator did further alledge in his said answer that he was not in the Agency Business and that he Transacted business for this Respondent merely from motives of personal Regard and that he received the Bill of Exchange Disinterestedly and with a view of doing his atmost to recive the amount thereof from the Acceptor and that had the Bill been transmitted to him by any other person he would certainly have declined the trouble for the obvious cause of his having demands on the Acceptor on his own private account but that as both transactions were of a simple nature he did not apprehend that any event could follow his compliance with this Respondents desires so contrary to the union and confidence that then seemingly subsisted between them and this Respondent further submits that the falsity of the several matters as stated in the said Petition and Appeal are almost too glaring to need being further noticed for this Respondent begs to shew to your most Excellent majesty in Council that the said Testator by the admission of the account under which he was credited for Commission proves that he was in the Commission Business

business and of Course at the same time the falsity of his own answer and though he urges his view of Doing his utmost to Receive the amount of the Bill it is sufficiently proved by the Testators own pleadings and the witnesses he has brought forward to Support them that his intention was to have applied the amount to the discharge of his pretended Claim and this Respondent further submits that if the circumstance of the Testator having Demands on the person on whom the Bill was drawn could have operated with him so as to have rejected the negociation for a stranger surely had the intentions of the Testator towards this Respondent been fair and honest he would have allowed the same circumstance to have influenced him regarding this Respondents Interest or would at least have apprised him of his having private demands on the said Londraigula Juggernaut Raw and this Respondent submits that the answer of the said Testator as recited in the said Petition of Appeal is the strongest proof of the decided partiality of the said Testator towards himself to the intire exclusion of every Idea of regard towards the Interest of this Respondent

and

and this Respondent humbly begs further to submit to your most Excellent Majesty in Council that as the Petitioners Testator did Achnowledge the Receipt of the sum of Eight thousand Pagodas from the acceptor of the Bill on the day the same became due the bare circumstance of his saying that he did take the amount of his own pretended claim from the said sum without shewing by what authority he did take it must additionally prove the want of truth in the several matters advanced by the said Testator in his said answer and this Respondent in further answer to the said Petition of Appeal doth admit that the said Testator did say that this Respondent was fully and entirely acquainted of the nature of the several transactions relating to the payment of three thousand four hundred and seventy one Pagodas Twenty seven fanams and forty bash made by Juggapah to him the said Testator and that no further sum than the said four thousand five hundred and twenty eight Madras Pagodas eighteen fanams and forty bash had been paid on account of the Bill and that the same appeared by the shewing of this Respondent but which this Respondent did and doth most solemnly Deny and doth further deny that he ever Received from the Petitioners said Testator any intimation whatever either of the private claim of the said Testator upon the said Condraigula Juggernaut Row or that he the said Testator had received from Juggapah on the twenty eighth of August one thousand seven hundred and eighty Six, any further or other sum of Money than he the said Testator had endorsed on the back of the said Bill and though the Petitioners said Testator had urged that Veerapermaul Pillah / in his said answer mentioned / had been fully informed by this Respondent of the payment made by Juggapah on the twenty Eighth of august One thousand Seven hundred and Eighty Six, yet this Respondent submits that it was not in his power to give the said Veerapermaul Pillah any further information of the payment so as aforesaid made on the said twenty eighth Day of august than he this Respondent had received from the Petitioners said Testator to wit that he the said Testator had received from Juggapah the sum of four thousand five hundred and twenty eight Madras Pagodas

Pagodas eighteen fanams and forty bash. And in answer to that part of the said Petition and Appeal and the Answer of the Petitioners said Testator wherein the several Letters written by this Respondent to the said Testator are particularly noticed and from which Letters Conclusions are attempted to be drawn unfavorable to this Respondents Case this Respondent most humbly submits to your most Excellent majesty in Council that they tend to prove that / so long as the Petitioners said Testator had been silent as to the Receipt of any greater Sum than that endorsed on the back of the Bill and was constantly sending information to this Respondent that Juggapah and not paid any further Sum / this Respondent was altogether unwilling to believe any thing injurious to the Character of the Petitioners said Testator and further tend to evence a Continued and unshaken but erronious and Mispleased Confidence in the Petitioners said Testator and this Respondent begs further to submit that the several pretended Arguments as to the Confederacy of this Respondent with the said Veerapermaul Pillay and Condraigulas Juggernaut Row are fallacious and untrue, and this Respondent also submits to your most Excellent

majesty

Majesty in Council that the Complaint alleged by Juggapah against the Petitioners said Testator before the Chief and Council at Masulipatam when he found that the Bill of Exchange was actually to be returned and that his Credit would thereby be prejudiced is further concurrent Testimony of his Juggapahs actual intention to apply the whole of the Money towards the discharge of the Bill and as to the pretence of the said appellants Testator that the said Condraigula Juggernaut was urged to make this Complaint by evil Disposed Persons this Respondent submits that such pretence is equally inconsistent and unsupported by any Testimony whatever and this Respondent further begs to state to your most Excellent majesty in Council that it was under the impression aforesaid that the Petitioners said Testator had fairly and fully Represented the Circumstances to this Respondent that he this Respondent wrote for the return of the said Bill and not as the Petitioners said Testator did idly and falsely endeavour to insinuate with a view of concerting Measures with Veerapermaul Pillay and Condraigula Juggernaut

Row

Row to fasten the Responsibility upon the Petitioners said Testator resting upon the Evidence of the said Condraigula Juggiernaut Row and this Respondent saith that such insinuations are equally idle as they are untrue for this Respondent requiring the Return of the Bill of Exchange or allowing it to remain in the hands of the said Testator could neither alter expedite or in any way facilitate such views of this Respondent had he even ever intertained them but it was necessary the said Testator no Doubt thought that what he could not substantiate by proof he should endeavour to impress by constant and repeated aspersions on the Character of this Respondent the said Veerapermaul Pillay and Condraigula Juggernaut Row and this Respondent begs to Observe to your most Excellent Majesty in Council that thought the Petitioners said Testator in his said answer thought it proper and convenient for his purpose to say that the said Condraigula Juggernaut Row had become a bankrupt between the time of his acceptance of the said Bill and the time of the return of the said Bill to this Respondent and

and that he the said Juggapah was in the Month of July One thousand Seven hundred and eighty eight at Madras to answer charges of a very heavy and grievous nature in respect to his arrears of the farms he rented from the Honorable Company in the Masulipatam District and on account whereof he had been Removed from the said Farms this Respondent submits that the said aspersions are without any proof thereof attempted to be given by the Petitioners said Testator to support them and if taken as true and the truth whereof as far as goes to the removal of the said Condraigula Juggernaut Row from the said farms on account of arrear of Rent this Respondent does not Dispute the circumstances are greatly favorable to this Respondents case and correspond in several points with the Depositions on the part of this Respondent namely that the said Condraigula Juggernaut Row in his situation as renter of Chaharmahal in the Masulipatam District was directly under the orders and controul of the Honorable East India Company that he Juggapah was in arrears to the said Company on account of his Rent that the particular funds appropriated for

for the Payment of the Petitioners said Testators Demand as a Creditor of Apparow were the Rents and Issues of the said farms in the said District of Masulipatam that the said Company had Deprived the said Juggapah of the said farms on account of his being in arrear and Consequently Deprived him of the means of Satisfying the private Creditors of Apparow that all these Circumstances must have been and absolutely were within the knowledge of the Petitioners said Testator that it was the peculiar duty of the Petitioners said Testator to have co-operated with the Chief and others the Members of Council at Masulipatam aforesaid in the prevention of any part of the Rents and Issues of the said farms being applied towards the Liquidation of private Claims until the arrears due to the said Company should have been fully Discharged and that Consequently either the Demand of the Petitioners said Testator on account of the said private debt of Apparow and more particularly considering their Relative Situations and the appropriations of the money Received on the twenty eighth of August one thousand Seven hundred and eighty Six, were in direct violation of every principle of Justice or Commun

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Common honisty And this Respondent doth admit that the Petitioners said Testator in his said Answer did further say that he believed the Copy of the said Original Bill of Exchange annexed to this Respondents Bill of Complaint was a true Copy of the said original Bill of Exchange as aforesaid transmitted to the said Petitioners Testator for the purpose of obtaining the payment thereof from the said Condraigula Juggernaut Row And this Respondent doth admit that to the answer of the Petitioners said Testator he did file his Replication and therein did say that the Petitioners said Testator was duly indebted unto this Respondent as charged in his said Bill of Complaint and did further say that his said Bill of Complaint had been regularly brought as against the Petitioners said Testator and did Deny to have Confederated with the said Condraigula Juggernaut Row or Chincalapoody Setteramiah as the Drawer of the said Bill and that he this Respondent had never Entertained any view or design as was unjustly stated in the Petitioners said Testators answer as aforesaid of Defrauding the Petitioners Testator in the premises nor had he stated any fact

fact or charged any matter or thing against the Petitioners said Testator otherwise than as the conduct of the Petitioners said Testator appeared to Merit from the Knowledge and information which this Respondent had Received thereof at the time he filed his said Bill of Complaint and which he believed he would be able fully to prove to the satisfaction of the said Mayors Court in the Course of the Proceedings in the said Cause — and this Respondent doth admit that in his replication he did further state and insist that the Petitioners said Testator did act as the attorney or agent of this Respondent in the premises and did receive his commission as agent therein as well as in other matters/ for that the account Current annexed to this Respondents Bill of Complaint did state the Credit given by this Respondent in his account Current with the Petitioners said Testator under Date the thirty first day of December which was in the year of our Lord One thousand Seven hundred and Eighty Six, of the sum of Twenty Nine Pagodas Thirty fanams and twenty two Cash as being the commission of one per Cent on the Sum of madras Pagodas Four thousand

five

Five hundred and twenty eight, Eighteen fanams and forty Cash or Star Pagodas four thousand nine hundred and Eighty - one, and twelve fanams being the same which this Respondent at that time considered as all that the Petitioners said Testator had Received for account of this Respondent in part of the said Bill of Exchange and which part of this Respondents said Replication the said appellant hath omitted to recite —

And this Respondent begs to shew to your most Excellent Majesty in Council that he did in his said Replication further state / and which the said Petitioner hath also omitted to recite in her said Petition and Appeal / that the said Petitioners Testators annual Instalment or Claim of three thousand four hundred and Seventy one Pagodas twenty Seven fanams and forty Cash on the said Condraigula Juggernaut Row had been Due since the Tenth day of April then preceding and although both parties that is to say the Petitioners said Testator and the said Condraigula Juggernaut Row had Avowedly been Ab- Masulipatam from the said Month of April until the

twenty

twenty fifth day of July the said Condraigula Juggernaut now had not extinguished any part of the said Claim and as the Petitioners said Testator allowed that when he presented the Bill for acceptance he remainded the said Condraigula Juggernaut Row of his promise of payment and again as he said Demanded Payment thereof Whereupon the Said Condraigula Juggernaut Row did repeat his promise of Payment and did assure the Testator of the Petitioner that the Payment of the Bill should be no impediment thereto for that he would punctually pay them both That after Condraigula Juggernaut Row had accepted the said Bill and between that time and the day of Payment the Testator of the said Ptitioner did repeat his said Demand and particularly in or about the twenty third or twenty fourth day of the said month of august when the Ptitioners said Testator pretended that the said Condraigula Juggernaut Row promised to pay the amount of his Demand the following day and a part of the said Bill at the same time That the said Condraigula Juggernaut Row did on the twenty Eighth day of august Send the Sum of Seven thousand

thousand Six hundred Madras Pagodas out of which the appellants Testator did take the Sum of three thousand four hundred and Seventy one Pagodas twenty Seven fanams and forty bash in Discharge of the aforesaid annual payment Due on the aforesaid tenth day of april and did endorse the said Bill of Exchange with the receipt of the sum of four thousand five hundred and twenty-Eight Pagodas Eighteen fanams and forty bash as being so much received on account thereof which the Petitioners said Testator pretended to have been Regular and according to his aforesaid promise and in preformance of his aforesaid Covenants and that he informed Condraigula Juggernaut Row thereof which the said Testator said was in consequence and in course approved by him and that he afterwards stated the receipt of the further sum of four hundred Madras Pagodas Received on the same or next day in part of the said Bill which he endorsed on the back thereof and Acquainted this Respondent with his having received the said sums on account thereof making together as he said the said sum of four thousand

five

Five hundred and twenty eight Pagodas eighteen fanams and forty cash, and that after the said twenty eighth of august he did constantly apply to the said Condraigula Juggernaut Row and Demanded Payment of the Remaining Sum of Five thousand four hundred and Seventy one Madras Pagodas twenty seven fanams and forty cash who did repeatedly promise to pay the same and did not pretend that a larger sum than four thousand five hundred and twenty eight Pagodas eighteen fanams and forty cash, endorsed or received on the said Bill had been paid on account thereof as he well knew as the Testator of the Appellant did say that he could not in his Conscience say he had paid any further sum on that account which state of facts the said Testator had referred to the said Mayors Court in reply to which this Respondent did in his said Replication pray to Observe as the same is set forth and stated in the said Petition and Appeal

This Respondent humbly craves to point out to your most Excellent Majesty that he did in his said Replication also notice the following Circumstance Viz^t

That

That the Testator of the Petitioner having acknowledged that he took the sum of three thousand four hundred and Seventy one Pagodas twenty seven fanams and forty cash, in discharge of the annual Payment as aforesaid and endorsed the remainder of the Seven thousand Six hundred Pagodas To Wit the sum of four thousand one hundred and twenty eight Pagodas Eighteen fanams and Sixty cash, on the Bill of Exchange was that confession of the fact charged by this Respondent which when combined with the other circumstances as charged in this Respondents Bill of Complaint and thereafter in his said Replication more fully explained would he hoped give him this Respondent full claim to the sum for which he this Respondent had brought his suit against the said Petitioners Testator And this Respondent also shweth to your most Excellent Majesty in Council that the said Petitioner hath not thought proper but hath wilfully omitted to recite the aforegoing part of this Respondents Replication in her said Petition and appeal

And this Respondent Submits to your most Excellent Majesty in Council that the said Petitioner

in

In further prosecution of her unjust designs hath moreover failed to recite in her said Petition of Appeal a very Material Part of this Respondents said Replication the tenor and purport of which is as follows To wit, That Anthenna Puntalu the man who then acted as Cash keeper to the said Condraigula Juggernaut Row / had most solemnly Declared that he paid unto Bandy tha Venoatanarsoo / then the Cash keeper to the said Testator of the Petitioner / the sum of Eight thousand Madras Pagodas in part and on account of the said Bill of Exchange of ten thousand Madras Pagodas Drawn on the said Condraigula Juggernaut Row by the said Chincalapoody Settaramiah as his Vaheel and for no other use intent or purpose whatsoever

And this Respondent doth further admit that in his said Replication he did say that he had thanked the Petitioners said Testator for his trouble under the impression that he the said Petitioners Testator was acting with a friendly Zeal for the interest of this Respondent and not harbouring the least Suspicion that under the mask of such a character he / the Testator of the said Petitioner was converting this Respondents property to his / the said Testators own purposes

And this Respondent begs further to shew to your most Excellent Majesty in Council that in addition to that part of the said Replication recited by the said Appellant wherein this Respondent did state the unmerited insinuation regarding the allowance of Commission made by this Respondent in the account Current closed with the said Testator on the thirty first day of December one thousand seven hundred and Eighty Six, to be unfounded this Respondent did further beg to observe that the Petitioners said Testator was regularly credited for every other sum Received for account of this Respondent as well as for the sum of four thousand five hundred and twenty eight Pagodas eighteen fanams and forty Cash so Received by the Petitioners said Testator / and as he pretended as all he had received / in part payment of the said Bill of Exchange and this Respondent did in his said Replication add that he submitted the several matters therein stated to the Consideration of the said mayors Court as a detailed explanation of his Conduct in the premises and

and to Supported his Claim against the said Petitioners
Testator and to clear himself from the several harsh and
unwarrantable charges of litigiousness vexation and
iniquity as setforth against this Respondent in the
answer of the Petitioners said Testator

And this Respondent in further answer to
the said Petition of appeal sayeth he admits the Petit:
oners said Testator did to the said Replication file a
Rejoinder and which Rejoinder this Respondent humbly submits to your
Most Excellent Majesty in Council is a mere repetition
of the false and scandalous allegations and fallacious
and desultory arguments with which his said answer
is crouded and this Respondent sheweth to your most
Excellent Majesty in Council that the said appellant aware
of the weakness and in consitence of the contents of the said
Rejoinder hath omitted to recite several parts thereof and in
answer to that part of the Rejoinder wherein the admission
of Juggapah being actually indebted to the Petitioners said
Testator at the time the said Bill of Exchange came to
the hands of the said Testator is attempted to be fastened upon

this

this Respondent this Respondent begs to Observe
that as it was a matter not within his Knowledge whe:
ther Juggapah was or was not indebted to the said
Testator he this Respondent not being so bold in what
he hath advanced as the said Testator doth appear to
have been did not take upon himself to say that Juggapah
was not indebted to him and this Respondent begs to
Observe that that is all the admission the said Testator
could in fact have boasted and even if this Respondent
had positively admitted the said matter this Respon:
dent submits it could argue nothing in favor of the
appellants case for the Ground on which this Respon:
dent commenced his action was that the money to wit
Eight thousand Pagodas paid to the said Testator on
the twenty eight Day of august was wholly paid on
Account of the said Bill and not in discharge of any
private Claim which the Testator ever might have had
But this Respondent submits to your most Excellent
Majesty in Council that it being now proved that at
the time the Bill came to the hands of the said Testator
and

and long before / he the said Testator had no right to Demand the amount of his said pretended Claim or to appropriate any part of the said Eight thousand Pagodas towards the liquidation thereof but that on the contrary the conduct of the said Testator amounted on his part to an absolute extortion and was directly in opposition to every principle of Public and private Duty

And this Respondent sheweth to your most Excellent Majesty in Council that that part of the rejoinder is omitted wherein the said Testator had said it was ridiculous and contrary to reason to pretend that / because the Testators "Demand had lain Dormant from the tenth day of april to the "twenty eighth day of august and because the sum paid was "paid on the day the Bill became due / the said sum of eight "thousand Pagodas was paid on account of the Bill" - whereas this Respondent submits to your most Excellent Majesty in Council that the circumstances alluded to are incontestible proofs of the intention of Juggapah in applying the whole amount towards the discharge of the Bill and to no other purpose whatever for the non payment of the

the said Testators Demand on the day he pretends it ought to have been paid or at any intermediate time between that and the day when Payment of the Bill became due unquestionably Demonstrates that he was desirous of discharging the amount due upon the Bill and that he was not desirous of paying the Testators pretended claim

And this Respondent in further answer to the said Appellants Petition and appeal saith that he admits / as shewn by the said Petition and appeal / that the Appellants said Testator in aid of the said answer to this Respondents said Bill of Complaint did file and exhibit his Cross Bill of Complaint against this Respondent in the said Mayors Court and that he did / amongst other things / set forth that he was then Defendant in the said Mayors Court at the suit of this Respondent and that having great trust and confidence in the fidelity and punctuality of this Respondent he the said Defendant did employ this Respondent some time in the year one thousand seven hundred and eighty Six, as a Merchant to transact his business at Fort St George consisting

Consisting entirely of the receipts of money and in payments thereof to a very considerable amount and that this Respondent had accasionally Requested the said Defendant to undertake the management of his business at Masulipatam and did in his said Cross Bill further state that he the said Testator did not Regard that he acted on such occasions and did Declare unto this Respondent that not being in the agency business he undertook the Management thereof on his this Respondents account merely from motives of serving him this Respondent and therefore declined charging any commission thereon and whereupon the said Testator had agood expectation and hope that this Respondent would pay a particular attention to the more important concerns that he the said Testator had entrusted to his this Respondents management at Fort Saint George and the said Testator of the appellant did in and by such his Cross Bill as aforesaid pretend that among other of the concerns wherewith this Respondent did Request of the said Testator to undertake the

the Management was the sending of a Bill of Exchange to him at Masulipatam aforesaid some time in the Month of July one thousand seven hundred and eighty Six, said to have been drawn by Chincalapoody Settaramiah at Madras upon Condraigula Juggernaut Row at Masulipatam for the sum of Ten thousand Madras Pagodas and made payable to this Respondent or order thirty days sight Requesting of the said Testator to do what was necessary Respecting the said Bill and further that when due to pass the same to the credit of Frances Moracin Esquire, that being willing to serve this Respondent as the said Testator pretended in the Receipt of the amount of the said bill upon the said Condraigula Juggernaut Row and which this Respondent submits is altogether a Shameful and wicked pretence for the purpose of Deceiving the said Mayors Court, for this Respondent submits that the fair enference from the wards if any honest intention can be admitted to have entered the mind of the Petitioners Testator that he was willing to serve this Respondent must be

that

that his own claim on Juggapah if any he had should
not in any way be allowed to prevent or retard the said
Juggapah from discharging the amount of this Respon:
dents Bill of Exchange and his the said Testators
entire silence towards this Respondent regarding his
claim upon Juggapah is as this Respondent humbly
submits additional proof of his fraudulent intention / altho
the said Condraigula Juggernaut Row was / as the Said
Petitioners said Testator Did pretend / at that time very
considerably indebted unto him the said Testator, to wit
in the
Sum of three thousand four hundred and seventy one madras
Pagodas twenty seven fanams and forty cash arising upon
certain Covenants executed by him unto the said Testator
under date the tenth day of april one thousand Seven
hundred and eighty three reciting that in Consideration
of the said Condraigula Juggernaut Row having possessed
himself of the Estate and Effects / under
Vencatarayaloo and of the said
Vencatarayaloo being at the time of his death under
engagements to pay unto the said Testator the sum of
three thousand four hundred and Seventy one Madras
Pagodas

Pagodas twenty Seven fanams and forty cash annually for
the term of eight years on account of Chahar mahal and
of apparows Debt due to the said Testator that the said
Condraigula Juggernaut Row had become bound to pay unto
him the said Testator the like sum of three thousand four
hundred and Seventy one Madras Pagodas twenty Seven
fanams and forty cash annually for the like term of Eight
years and the said Testator did in his bross Bill further
state that the said Condraigula Juggernaut Row did duly
Pay unto him the said sum of three thousand four hundred
and Seventy one Madras Pagodas twenty seven fanams
and forty cash annually on or about the year one thousand
Seven hundred and Eighty four and one thousand Seven
hundred and Eighty five and that there was due on the
tenth of April one thousand Seven hundred and Eighty
Six, the like sum of three thousand four hundred and
Seventy one Madras Pagodas twenty seven fanams and
forty Cash at which Period the said Condraigula Jugger:
naut Row did not pay the same nor any part there of and
the whole thereof was actually due as the Petitioners said
Testator

Testator did pretend at the time the said Testator received the said Bill of Exchange and long afterwards untit the same was paid by the said Bondraigula Juggernaut Row as the said Testator Did pretend in manner hereafter shewn That both the said Demands on the said Bondraigula Juggernaut having been of a simple nature the said Testator did not apprehend at that time that any event would follow his compliance with this Respondents desires so contrary to the union and confidence that then seemingly subsisted between the Different parties and did therefore say that when he the said Testator presented the said Bill for acceptance he reminded the said Bondraigula Juggernaut Row of his aforesaid Debt due to him the said Testator / which this Respondent submits was not very friendly / and of his frequent promises to pay the same that the said Bondraigula Juggernaut Row did thereupon Repeat his promises of payment and did assure the said Testator that the payment of the said Bill should be no impediment thereto and that he would punctually pay both Demands that after the said Bondraigula Bondraigula Juggernaut Row had accepted the said Bill and between that day and the Day of payment he the said Testator did frequently repeat his said Demand and particularly on or about the twenty third or twenty fourth day of the said Month of august in the aforesaid year / and which this Respondent submits was not at all evincive of any motives of personal Regard towards this Respondent but only tended to perplex, and embarrass the said Bondraigula Juggernaut Row in his Endeavours to discharge this Respondents Bill / the day before / exclusive of three days grace the said Bill became due according to acceptance; - that the said Bondraigula Juggernaut Row did thereupon assure the said Testator that he would pay him the amount of his said Demand the following day that the said Bondraigula Juggernaut Row did again break his said Promise and did not until on or about the twenty eighth day of the said month of august / the very day this Respondents Bill became due / send any money at which time the said Bondraigula Juggernaut Row did send unto the said Testator the sum of Seven thousand

thousand and Six hundred Madras Pagodas on account/
as the said Testator did pretend/ of his Demand upon him
and also in Part payment of the said Bill of Exchange
that the said Testator did accordingly take the aforesaid
sum of three thousand four hundred and Seventy one
Madras Pagodas thirty Seven fanams and forty cash
in discharge of the aforesaid annual arrears of payment
due on the tenth day of april one thousand Seven hundred
and Eighty Six, and did endorse the said Bill with
the receipt of the Sum of four thousand one hundred
and twenty eight Madras Pagodas Eighteen fanams and
forty cash as being so much Received on account thereof
that the said Condraigula Juggernaut Row did well
Knew and approve thereof and that the said Condraigula
Juggernaut Row did on the same or the following day
Pay unto the said Testator a further Sum of four hundred
Madras Pagodas in part of the said Bill which was
also endorsed on the backs thereof and the said Testator
did in his said cross Bill further allege that he did
inform this Respondent of his having Received the
Sum

Sum of four thousand five hundred and Seventy eight Madras
Pagodas eighteen fanams and forty cash/ but did not pretend
that he had given this Respondent information of the receipt
of any greater Sum on any account whatever/ and that he did
constantly apply to the said Condraigula Juggernaut Row
for payment of the Remaining sum of five thousand four
hundred and Seventy one Madras Pagodas twenty Seven
fanams and forty cash Due on the said Bill who constantly
promised to pay the same and did not pretend that he had
paid a larger Sum than four thousand five hundred and
twenty eight Madras Pagodas eighteen fanams and forty
cash as he well Knew he could not in his consicence say
that he had paid any further Sum on that account That the
said Testator did at the time of his Demanding
payment of the said Remaining sum due on the Said
Bill of Exchange engage to deliver up the same in full
discharge thereof and the said Testator did say that he had
frequent Corrispondence with this Respondent respecting
the said Bill of Exchange and the money Received
thereon from the twenty eighth day of august one thousand
Seven

Seven hundred and Eighty Six, until the twelfth day of October in the same year and that on the last mentioned day this Respondent did write a letter to the said Testator an Extract of which was to his said Cross bill annexed and which hath been herein before frequently Recited and did in his said Cross bill pretend that that this Respondent was well informed of and consequently acquiescent to the matters respecting the said Bill of Exchange during the time it was in the said Testators Possession both from the said Condraigula Juggernaut Row and Veerapermaul and that this Respondent was also well informed by the said Persons of the said Condraigula Juggernaut having paid unto the said Testator and his having received the aforesaid sum of three thousand four hundred and Seventy one Madras Pagodas twenty seven fanams and forty cash on the Account aforesaid and which the said Testator did pretend this Respondent knew was justly due and owing that this Respondent having been thus fully informed of the aforegoing circumstances by

By the said Veerapermaul and Condraigula Juggernaut Row, he sent for the said Bill in Consequence of an adjustment having taken place respecting the payment of the sum of five thousand four hundred and Seventy one Madras Pagodas twenty Seven fanams and forty cash then due thereon and that the said Veerapermaul even before the said twelfth day of October well Knowing thereof had actually indemnified this Respondent for the same that the said Testator did on or about the Nineteenth day of the said Month of October return back the said Bill to this Respondent and that in Consequence he the said Testator was discharged from all Responsibility Respecting the same or the sum of Money Due thereon Notwithstanding which the said Testator did pretend this Respondent having Combined and confederated with divers ill disposed Persons in order to Defraud the said Testator did same time on or about the Sixteenth day of august one thousand Seven hundred and Eighty eight exhibit a Bill of

Complaint

complaint against him under pretence that the said Testator was indebted unto him this Respondent in the sum of seven Thousand three hundred and four Star Pagodas Eight fanams and Sixty bash, and which this Respondent undertook to make Oath on or about the Second day of September in the same year that he considered the said Testator to be indebted unto him upon the Ground of the voluntary affidavit of the said Condraigula Juggernaut Row this Respondent therein pretending the said Petitioners said Testator did say as in this Respondents said Bill of Complaint is stated and charged.

And this Respondent saith that the Testator of the said appellant did in and by his said Cross Bill further and set forth pretend and alledge that he had heard and had reason to believe the Bill in question was not the property of this Respondent but that the same was drawn Payable to him as a Means only of the said Veirapermaul Pillay receiving from the said Condraigula Juggernaut Row the amount on an account that induced him to relinquish the offices of this

this Respondent when he found they were not effectual to his purpose and also that the aforesaid Letter of the twelfth of October was written in Terms to conceal the Reality of such Transaction and that it was not a delivery to Veirapermaul Pillay upon Condition of his indemnifying this Respondent and Settle the Balance but that the Bill was to be returned to the said Veirapermaul Pillay who had undertaken to manage his interest therein himself and not that the said Veirapermaul Pillay was to use his Exertions to recover the Balance at Madras on the account of this Respondent all which false and unsupported suggestions this Respondent humbly submits must operate as greatly prejudicial to the Defence set up by the Petitioners said Testator And this Respondent in further answer to the said Petitioners Petition and appeal humbly Sheweth unto your most Excellent Majesty in Council that the Petitioners Said Testator did also in his said Cross Bill charge but which the said Petitioner had omitted to Recite that the said Bill had been Returned to this Respondent and delivered

Delivered to the said Veeraperniaul Pillay some time on or about the twenty fourth or twenty fifth of October one thousand Seven hundred and Eighty Six, at which time the said Condraigula Juggernaut Row had not made / as the Petitioners said Testator did say / any of the false pretences alledged by this Respondent in his original Bill of Complaint nor for a considerable time afterwards which last mentioned allegation of the Petitioners said Testator this Respondent submits to your most Excellent Majesty in Council he hath himself falsified by admitting the Compliant lodged by Juggapah before the Chief in Council at Masulipatam in the same Month of October and which was so soon as the said Condraigula Juggernaut Row was informed of the circumstance of the Bill being Returned or about to be Returned and of Course apprehensive of the Injury his Credit might Receive thereby That there was not any Difference between the Testator and the said Condraigula Juggernaut Row until he had been moved thereto by this Respondent That he the said Testator was constant in his information to this

Respondent

Respondent of the Delay of Payment of the said Condraigula Juggernaut Row even so early as the Second of September one thousand Seven hundred and Eighty Six, by letter wherein he wrote this Respondent that he had not Received any more Money on account of the Bill for Ten thousand Madras Pagodas and that again on the fifteenth of the same Month following the said Testator wrote to this Respondent in the Words "I cannot get any more Money from Juggapah he is prefsed "on all sides and is making use of every Shift to put off this "as other Demands that he possibly can you must therefore "let me Know what Steps I am to take" That on the twelfth of October following the said Testator did write to this Respondent as followeth "I have not yet Received any "Money on account of the large Bill" wherefrom and other Circumstances on the same subject from the said Testator / he did pretend / this Respondent was fully informed of the Sum that had really been paid on account of the said Bill as well as of the Causes that the whole or a Large Sum on account thereof had not been paid and did Charge that there was not any Concealment on his

the

the said Testators part and that it was evident that the transaction between the said Testator and Condraugula Juggernaut Row did not require any concealment But of which concealment this Respondent humbly submits there needs no further proof— than the Petitioners Testators said Cross Bill wherein he— states only the receipt of the sum of four thousand one hundred and twenty eight Madras Pagodas eighteen fanams and forty cash and also on the same or the following day a further Sum in part of the said Bill which was also endorsed on the back thereof and that he did accordingly inform this Respondent of his having received the Sum of four thousand five hundred and twenty eight Madras Pagodas eighteen fanams and forty cash all which this Respondent humbly submits amount not only to a Suppressio veri, but this suggestio falsi.— And the said Testator did further charge that from such Knowledge— thereof, and from a full conviction of his having done all that he was in Law Equity or Reason bound to do for the Interest of this Respondent or any other Person concerned in the— Bill of Exchange he this Respondent at the time that he wrote the Letter aforesaid to return the said Bill To wit, six weeks after the first payment thereof did thank the said— Testator in strong terms for the trouble he had been at respecting it Notwithstanding what as was set forth in the said Cross Bill this Respondent and his Confiderates did then falsely pretend that he made the said Achnowledgements under a Wrong impression and without any— information of the said Testator having received money on his own account from the said Condragula Juggernaut Row since the receipt of the Bill of Exchange from this— Respondent yet the said Testator did charge that this Respondent was so informed for that this Respondent in a letter under Date the twenty first of September in the year aforesaid addressed to the said Testator wrote as follows— "my writer omitted to send you Juggapahs Vaheels answer "to the letter I wrote in consequence of your letter of the "fifteenth Instant I fear all is not right with Juggapah "when he and his man are using evasive expedients to "Deceive me" and the said Testator did charge that this Respondents did again on the twenty Sixth Day of the same Month write to him in the following words "I am Really

"really vexed at the trouble I have given you about the
"large Bill" and did also charge that on the Eighteenth
of October following this Respondent did write as follows
"my respects of the twelfth will ease you of any further
"trouble with Juggapah; Iam sorry for what you have
"already had" and did further more charge that on the
twenty fourth of the said Month of October this Respondent
wrote to him the said Testator as follows "Iam favoured
"with your letters of the Seventeenth and nineteenth instant
"the last brings me the Bill on Juggapah for Ten thousand
"Madras Pagodas which I hope soon to see an end of and
"am Obliged to you for the trouble in the business" the
said Testator prayed to Observe from the aforegoing that
there was an interval of twelve Days between the last
letter of the twenty fourth of October and this Respondents
letter of the twelfth of that Month whereby he informed
the said Testator that he had got Veerapermaul to take
the Bill off his hands who was to endemnify him and
settle the Balance and the Achnowledgement of the
return of the Bill was also accompanied with assurances of

Soon

Soon seeing an end of the matter which matters / the said
Testator did alledge / were totally suppressed in this Res-
pondents Bill of Complaint But which said Letters this
Respondent again submits instead of strengthening the
Petitioners said Testators Defence Militate considerably
against it in as much as it proves that so long as he
the said Testator had been silent as to any greator Sum
than four thousand five hundred and twenty eight Madras
Pagodas eighteen fanams and forty bash having been paid
into his hands on the said twenty eighth Day of aiguist
this Respondent Disbelieved any account that woold tend
to the injury of the said Testators Character and this Res-
pondent doth further humbly submit to your most
Excellent Majesty in Council that the several assertions
and pretended arguments in the said Cross Bill are
altogether unjust and fallacious and doth Pray to observe
that the said Testator did from the receipt of the said
Bill of Exchange shelter himself under the Mistaken
confidence which this Respondent placed in him and did
use the same to his own advantage and to the loss and

injury

Injury of this Respondent by the suppression and Misrepresentation of facts and this Respondent Sheweth the said Testator did thereafter in his said Cross Bill interrogate this Respondent in the manner and to the effect as in the said Cross Bill is setforth and this Respondent Saith that the Testator of the said appellant did in his said Cross Bill Pray that this Respondents said Bill of Complaint might be Dismissed and his the said Testators Cross Bill be taken and omitted as part of his answer thereto and that he might be further or otherwise relieved in all and Singular the premises as in the nature and Circumstance of the case should require and as to the said Mayors Court should seem meet and that this Respondent might be further Decreed to pay all Costs

And this Respondent in further answer saith that he admits that he did appear to the said Cross Bill by his attorney in Court and did thereafter by his constituted attorney Thomas Cockburn of Fort Saint George Esquire exhibit and file his Cross answer and did therein and thereby invoke and support of the matters and things in this

this Respondents said Original Bill and Replication setforth admit Divers facts stated in the said Original Bill and Replication and which the said appellant has setforth in her Petition of appeal to be some of the Material points on which the said Defendant her Testator did Ground his Defence / but which this Respondent doth deny and which this Respondent hath herein before fully and he trusts satisfactorily explained / for this Respondent in answer to that Part of the said Petition of appeal doth say that such facts even if the same were admitted by this Respondent are not only Material to the better Defence of the said Defendant but that the facts themselves speak strongly in corroboration of all and Singular the matters and things charged by this Respondent in his Original Bill for this Respondent Sheweth to your most Excellent Majesty in Council that he did in his said Cross answer admit that he was employed by the said Defendant at Madras and that the Defendant was employed at Masulipatam by this Respondent and that the said Defendant was his agent and did receive a Commission for the same as did appear by the account

account current and the said Defendants letter approving of the same copies Whereof were annexed to the said Cross answer and that this Respondent did remit the said Bill of Exchange and that although it might be true that the said Condraigula Juggernaut Row might be indebted to the Petitioners said Testator at the time he received the said Bill of Exchange / but whether he actually was or was not indebted to the Petitioners said Testator was a matter at that time not within the Knowledge of this Respondent and which therefore this Respondent could not as he has herein before stated take upon himself to deny / yet this Respondent did in his said Cross answer submit that the same having been sent for acceptance by the said Defendant and having been Accepted in consequence by the said Condraigula Juggernaut Row whilst under the care and management of the Orginal Defendant and Cross complainant as agent for this Respondent the said Defendant should not have applied, nor had he any right to apply towards the Discharge of his own Claim any part of the sum

which

which the said Condraigula Juggernaut Row paid on account and in part of the said Bill of Exchange and this Respondent in further answer saith that he did in his said Cross answer also admit that the said Condraigula Juggernaut Row might have assured the said Cross Complainant that the Payment of the Bill of Exchange should be no impediment to the Payment of the said Cross Complainants Claim on him the said Condraigula Juggernaut Row but this Respondent therein and thereby doth deny the inference therefrom Drawn by the said Cross Complainant to wit that such an assurance was a proof that the Claim of the said Cross Complainant should be preferred in point of payment for this Respondent did say that such assurance as far as it event did certainly according to the plain construction of the words imply that the Bill of Exchange was to be Discharged in the first instance otherwise this Respondent did say the word "impediment" would not apply to the case in question and in further elucidation of the fact this Respondent did say that the said Cross Complainants Demands

having

having by his own shewing lain Dormant from april
tenth to august twenty eighth being the day the said
Bill of Exchange became due and he having so suffered
it to Remain undischarged for four Months he could
not pretend that a Sum of Money paid by the acceptor
thereof on the very day it became due could be
diverted to any other purpose than as a part payment
of the same and this Respondent admits as stated in
the said Petition and appeal that he did in his said
Cross answer admit that he did Deliver up the said
Bill of Exchange in question to Veerapermaul pillay
but says that the said Petitioner has in accurately
stated his words and by omitting one part and
varying the sinse of another has endeavoured to force
a construction on the whole of his said answer which
this Respondent cannot by any means admit it to bear
for this Respondent in his said Cross answer did say
that he only Delivered the Bill to the said Veerapers
maul Pillah under the impression he had before
stated and that the same was Returned to him
when

when the Cross Complainants Conduct was made known
to wit that the Cross Complainants had Converted Money
to his own use which was expresely intended to have been
paid and actually was paid on account of the Bill of
Exchange and this Respondent did deny ever having
moved the said Condraugula Juggernaut Row to any
Difference with the said Cross Complainant for that on
the Contrary when the said Condraugula Juggernaut
Row stated matters to this Respondent reflecting on the
said Cross Complainant he refused to give Credit thereto
until the same was Offered to be alledged on Oath and
did not by any means Confide therein until the said
Condraugula Juggernaut Row and his Cash Keeper the said
authenna Buntaloo had verified the same by their
solemn affidavits before the Mayor of Madras and this
Respondent did further say and assert that there was
concealment on the part of the said Cross Complainants
and that such Concealment was to the purpose set forth
in the said Cross answer as also in his Bill of Complaint
and Replication in the Original Suit and that the latter

this

this Respondent wrote to the said Cross Complainant on the twenty first Day of September One thousand Seven hundred and eighty Six, was written under the like impressions and that if as this Respondent had before stated he / this Respondent / was informed of the real Transactions on the twelfth day of October one thousand Seven hundred and Eighty Six. he was so of course in the preceding September and that this Respondents letters of the eighteenth and twenty fourth of October were also written under the like impressions namely that the said Cross Complainant had acted fairly and honestly towards this Respondent and not that he had / as was afterwards insisted on by the said Condraigula Juggernaut Row and now proved by the several Depositions on this Respondents part / applied to the discharge of his own debt what was bonâ fide paid towards the discharge of this Respondents bill and this Respondent did deny to have made any accommodation with the said Veerapermaul Pillay but did say that his letter of the twenty ninth of March wherein he says he shall sue the said Condraigula Juggernaut

Juggernaut Row only manifested that this Respondent thought the Conduct of the said Cross Complainant could not have been so bad as the same was Represented to be by the said Condraigula Juggernaut Row and that he / this Respondent / was still determined to look on the said Condraigula Juggernaut Row or Veerapermaul Pillay for his reimbursement and this Respondent in answer to the said Cross Complainants charge of Combination and delay did refer to the very Cause of that delay To wit a Conviction in this Respondents mind that the Conduct of the Cross Complainant had not been so improper as he afterwards had Reason to believe and of the full extent of which he was not apprized till he received the letter from the said Condraigula Juggernaut Rows Attorney at Law - and this Respondent denies he have said "that a years Correspondence had elapsed between them / Meaning this Respondent and the said Cross Complainant / as asserted in the said Petition and appeal for this Respondent Sheweth to your most Excellent Majesty in Council that he did in his said Cross answer

Say

Say that being informed by Council that the said Cross Complainant was liable for the amount due on the said Bill he prepared an Account Current thereof as soon as he was conclusively convinced of the Misconduct of the said Cross Complainant in the premises and on receiving the letter under date the fifth June one thousand seven hundred and Eighty Eight from the Cross Complainant he required an Explanation from the said Condraigula Juggernaut Row who Still maintained he had paid Eight thousand Pagodas on account of the said Bill and Offered and did make Oath to the same and that the said Oath was Dated on the twenty seventh June and that of his Cash keeper on the seventeenth and that this Respondents account Current was dated July the fifteenth and the Bill of Complaint filed on the Sixteenth august so that no time was lost by him in pursuing his remedy after his conviction of the misconduct of the said Cross Complainant and as to the previous delays so unjustly misconstrived by the Petitioners said Testator this Respondent submitted to the

the Cross Complainants said letter which was annexed to the Cross answer and wherein he meaning the said Cross Complainant acknowledged that a years Correspondence had elapsed between them on the subject all which originated from this Respondents delicacy towards the said Cross Complainant while there was a Shadow of hope he had not acted as was asserted by the said Condraigula Juggernaut Row and did therefore say that the only Point for the Determination of the said Mayors Court was whether the assertions of the said Condraigula Juggernaut Row were founded or not because if founded he trusted that his Claim against the said Cross Complainant would be equally so and if not founded then that this Respondent could not presume to expect the Judgement of the said Mayors Court in his favor and this Respondent also admits that in his said Cross answer he did reply to certain Interrogatories in the said Cross Bill exhibited in the manner and from Stated in the said Petition and Appeal

And this Respondent in further Answer to the said

Said Petition and appeal admits that to this Respondents said Cross answer the said Cross Complainant did exhibit and file his Cross Replication and did therein and thereby by the Divers arguments and evasions stated in the said Appellants said Petition and appeal endeavour to support his said Cross Bill and his said Original answer and to Repute the said Cross answer of this Respondent but which this Respondent saith he has utterly failed to do

And this Respondent further answering to the said Petition and appeal admits that to the said Cross Replication of the Testator of the Appellant he this Respondent did Exhibit and file his Cross Rejoineder and therein amongst other things did say as stated in the said Petition and Appeal but this Respondent in further answer setforth to your most Excellent Majesty in Council that the said appellant in pursuance of her intentions to mislead and deceive your most Excellent Majesty in Council has neglected and omitted to state a great part of this Respondents Cross Rejoinder for this

Respondent

Respondent sheweth to your most Excellent Majesty in Council that he did therein setforth declare and insist on his former construction on the assurance given by Condraigula Juggernaut Row that the payment of the Bill of Exchange should be no impediment to the payment of this Respondents Demand namely that such assurance implied that the Bill of Exchange was first to be paid and did say that the Contrary would imply an absurdity as there would not then exist a subject to which the word "impediment" could apply and that it was Contrary to the usage in the like cases to suppose that the said Condraigula Juggernaut Row tendered any fractional part of the specie in which the Bill in question was drawn and that therefore the presumption on that Ground alone was gainst the Cross Complainant but still more so when the sum misapplied by the said Cross Complainant and which would complete the payment to the Integral Sums corresponds exactly with the amount of the Claims which the Cross Complainant pretended to have on the said Condraigula Juggernaut

Row

Now And this Respondent sheweth to your most Excellent Majesty in Council that he did also say that the very letter of which the Cross Complainant had annexed an extract to his Cross Replication was an argument against himself And this Respondent did further say that if he this Respondent could prove that instead of the said Candraigala Juggernaut Row being Obliged yearly to pay a certain Sum to the Cross Complainant there was a public interdiction of the Government of which the Petitioners Testator was a Servant against it and that in consequence thereof one years Instalment had been actually paid into the Treasury at Masulipatam as a deposet that then the whole pretence of the Cross Complainant would be proved to be ill founded and equally a contempt of the orders of the Company and a fraud against this Respondent

And this Respondent doth admit that upon the Proceedings so as aforesaid had in the said suit and Cross Suit issue did join and rules for the Examination of witnesses did pass and that witnesses were

Were examined as well on the part of the Petitioners said Testator as on the part of this Respondent and this Respondent doth admit that Andrew Scott Esquire a Senior Merchant in the Service of the united Company of Merchants of England Trading to the East Indies under their Presidency of Fort Saint George was examined on the part and behalf of this Respondent and did Depose to the first Interrogatory that he had very little Knowledge of this Respondent and that he had Known the Petitioners Testator Twenty years and this Respondent doth admit that the said Andrew Scott did depose to the Second Interrogatory as is stated in the said Petition of appeak and so as to the third and Fourth Interrogatories and from which said Deposition to the fourth Interrogatory these Material points are to be collected for and on the behalf of this Respondent namely that the Management of the collections of the Chahar Mahal was intrusted to Juggapah by Government that the first condition of his bawle was that he should Pay the companys rent being twenty seven thousand eight hundred and fifteen

fifteen Pagodas two fanams and twenty cash annuitty
and that Juggapah only held his said situation until
the further orders of the said Government and consequently
this Respondent humbly submits to your most Excellent
Majesty in Council that it is fair to infer that the
said Government at whose will the said Juggapah held
his said Situation would take care to see themselves first
paid and would /as by the said answer of the Petitioners
said Testator is admitted to have been the case/ remove
the said Juggapah from his Situation when they found
that he was no longer able to pay his rents And this Re=
spondent doth admit that the said andrew Scott did depose
unto the fifth Interrogatory as the Appellant hath recited
and so as to the Sixth Interrogatory whereinto the said
andrew Scott did depose that he considered the said —
bondraugula Juggernaut Row as Renter of Chatharmaball
country was at all times subject to the orders of the
said Government of Fort Saint George and this Respondent
humbly begs leave further to Observe to your most —
Excellent Majesty in Council that in the Account
alluded

alluded to in the Deposition of the said andrew Scott
to the Sixth Interrogatory the last payment made
by Juggapah to the Creditors of apparow was in march
one thousand Seven hundred and Eighty four that no
Payments were made to the best of Deponents Knowledge
by Juggapah to apparows Creditors in one thousand
Seven hundred and Eighty five and the reason why
Deponent supposes no such payment was made in
the year one thousand Seven hundred and Eighty five
is that the then Chief in Council at Masulipatam anthony
Sadbir Esquire Demanded and received the deveded
payable to the said Creditors on account of that year
and deposited the same in the Company's Treasury but
which this Respondent submits to your most Excellent
Majesty in Council would not of Course be carried
to Juggapahs Credit as so much paid to the private
Creditors of apparow because the same would be —
carried to the account of the arrears due to the said
Company and which this Respondent also submits to
your most Excellent Majesty in Council as conclusive
proof

proof of the very dishonest part the Petitioners said Testator who though one of the members of Council at Masulipatam was actually endeavouring to extort from Juggapah a sum of Money which it was the peculiar duty of the said Testator of the appellant to have assisted the said Chief in placing into the Treasury of that Government under which the Petitioners Testator was vested with an important trust and this Respondent humbly submits to your most Excellent Majesty in Council that the man who could be capable of deceiving those under whom he was employed would feel very little Repugnance in acting in the manner he has done towards thes Respondents and the said Condraigula Juggernaut Row and this Respondent further submits to your most Excellent Majesty in Council that the said Petitioners said Testator could have ventured so to have done under no other hope or expectation than that Condraigula Juggernaut Row knowing the intention of the said Testator and the consequent power and influence he possessed would not have dared to complain however atrocious and unjust the conduct of the

the said Testator might be and that the violent and threatening words made use of by the said Testator in his Letter to this Respondent annexed to the Cross answer wherein he warns Juggapah not to irritate him more are sufficient and conclusive proofs of the most vendictive unjust and oppressive disposition and this Respondent admits the Deposition of the said andrew Scott to the Eighth Interrogatory to be as the said appellant hath recited the same and which is a confirmation of the foregoing depositions and a further proof of the unwarrantable Misapplication on the part of the Petitioners said Testator and of the complaint lodged by the said Condraigula Juggernaut Row against the Petitioners said Testator before the Chief and Council at Masulipatam And this Respondent admits the Deposition of the said andrew Scott to the ninth Interrogatory is as stated in the appellants said Petition and which this Respondent submits is further proof of the Misconduct of the Petitioners said Testator in as much as it thereby appears that the said Chief in Council at Masulipatam when he Demanded and Received from Juggapah the Account of the Devident to the

the private Creditors of Opparow for the year One thousand Seven hundered and Eighty four, was acting under the influence of the orders of the Government of Fort Saint George by which letter or order bearing date on or about the twenty fifth of November one thousand Seven hundred and Eighty four, it would appear that the said Government of Fort Saint George did derect or signify to their Chief in Council at Masulipatam their disapprobation of any part of the Revenue being appropriated towards the payment of debts due by opparow to his private Creditors while the said opparow was so much indebted to the Company and this Respondent craves leave to Observe to your most Excellent Majesty in Council that in the recital of the Deposition of the said Andrew Scott to the Tenth Interrogatory the Petitioner hath omitted to state that the appointment of her said Testator to a seat in Council at Masulipatam was in the year One thousand Seven hundred and Seventy five, and hath further omitted to add that during the absence of the Chief at Rajah Mundry in the year One thousand Seven hundred and Eighty five, to the Petitioners

Said

Said Testator presided at the Council Board as being the Senior Member upon the Spot - And this Respondent doth admit that the said appellant hath in her said Petition recited the Deposition of the said Andrew Scott to the Eleventh Interrogatory as in the said Deposition is setforth and so as to the depositions of the said andrew Scott to the twelfth and thirteenth Interrogatories and by which it appears that Juggapah / or rather that the Chahar Mahal Country / was liable to the annual Payment of Eight thousand Pagodas to the private Creditors of Opparow so long as it appeared that opparow had any just Demands on the Chahar Mahal Country and no longer and whereby it further appears that the said Government through the Medium of their Board of revenue not only directed the discontinuance of any further Payments to the Creditors of opparow from the Chahar Mahal but did actually remove the said Vendraigula Juggernaut Row from his Situation a Considerable time before the expiration of his Cowle and because of the large arrears due by him to the said Company and which is a further Confirmation of the Sentiments of Government regarding the impropriety

impropriety of their Council at Masulipatam allowing any part of the Rents being applied to the Satisfaction of private Claims so long as their was any arrear to the said Company and of which Sentiments and of the Conduct of the Chief in Council at Masulipatam in the year one thousand Seven hundred and Eighty five Under the influence of those Sentiments it appears to the said Petitioners said Testator must have Known and this Respondent further Sheweth to your most Excellent Majesty in Council that part of the Deposition of the said Andrew Scott to the fifteenth Interrogatory is omitted in the Petition of appeal wherein he says he doth not remember that the said Petitioners said Testator was absent from Masulipatam at any time between the Months of June one thousand Seven hundred and Eighty Six, and February One thousand Seven hundred and Ninety and that he likewise believed Condraigula Juggernaut Raw to have been at Masulipatam from June one thousand Seven hundred and Eighty Six, until September one thousand Seven hundred and Eighty Seven and this Respondent doth

doth admit the Deposition of the said Andrew Scott to the Sixteenth Interrogatory to have been as the same is stated in the Petition of appeal and which is additional proof in favor of this Respondent Case And this Respondent doth further admit that the deposition of the said the said Andrew Scott to the Seventeenth Interrogatory is as stated in the said Petition except that that part of the deposition which mentions certain Papers having been enclosed to him /the Petitioners said Testator/ in a letter bearing date the Sixteenth day of December one thousand Seven hundred and eighty Six, also mentions that the said Letter of the said Sixteenth day of December in which the said Papers were inclosed was officially written by the Deponent "Andrew Scott as the security to the said Council at "Masulipatam"

And this Respondent in further answer to the said Petition and appeal doth admit that he this Respondent did file and Exhibit certain Interrogatories to Condraigula Juggernaut Raw and to Veerapermaul Pillay to Edward Garrow and to Vencataroyaloo and Depositions were taken thereon

thereon and the said Petitioners Testator did except thereto and this Respondent doth admit that he did file his answer to the said Exceptions and did as in the said Petition is stated say that the reasons offered by the Petitioners said Testator were insufficient to invalidate or impeach the Testimony of his this Respondents said witness and this Respondent doth submit to your most Excellent Majesty in bouncil that it was incumbent on the Petitioners said Testator to have put the said Mayors bourt as well as this Respondent in possession of the particular grounds on which he was induced to except to the Evidence of bondraigula Juggernaut Row in order that this Respondent might be prepared and enabled to answer such objections and further that the said Mayors bourt might have been enabled to judge how far such objections were or were not valid and well founded and this Respondent begs to add that the Petitioners said Testator not doing so is proof that he had no sufficient Reason to offer that he would venture to submit to be canvassed and the Decision of the said

Mayors

Mayors bourt is conclusive proof that there was no reason offered at the hearing of the bause that would indue the said Mayors bourt to be of Opinion with the Petitioners said Testator as to the inadmissibility of the said Deposition of the said bondraigula Juggernaut Row and this Respondent submits to your most Excellent Majesty in bouncil that the very objection made by the Petitioners said Testator must arise from the bonviction of the Misapplication of the Money paid on Account of this Respondents said Bill: for of either claim was equally just and recoverable then there could no interested Motive on the part of bondraigula Juggernaut for he was in such case equally liable to the Demands of either and if the said Testators said blaim was not upon a footing with that of this Respondent then all is granted for which the Respondent bontends and this Respondent further submits to your most Excellent Majesty in bouncil that the Deposition of bondraigula Juggernaut Row is Decidedly the best Evidence of his own intention and of that intention this Respondent also submits to your most Excellent

Majesty

Majesty in Council he had as Decidedly a right to depose and that the same is altogether ligal and admissible Evidence this Respondent further submits to your most Excellent Majesty in Council that there is a wide difference between a Debtor swearing to the payment of a sum of money to his Creditor which the Creditor denies to have received and a man swearing to the intention with which he paid a Sum of Money the Receipt of which is acknowledged. for in the first Instance it might be said he was swearing away his own Debt in the latter as the Law admits of the election to exist in the person Paying it would be absurd to deny him the means of Manifesting and Demonstrating that election —

And this Respondent begs to shew that the said Condraigula Juggernaut Row to the Second Interrogatory did depose that he the Deponent was at Masulipatam in the Month of July one thousand Seven hundred and Eighty Six, and that he had at that time a Vakeel at Madras by name Chencalapoody Setteramiah and did further depose that the said Vakeel did in the

Said

Said Month of July Draw a Bill of Exchange on the Said Deponent payable to the order of this Respondent and did depose that the said Bill was for Ten thousand Madras Pagodas but did not Recollect at what date or sight It was made payable — and did further depose that the said Bill was presented to him the Deponent for acceptance and payment by the Dubash of the Petitioners said Testator in the said Month of July and that in the same Month he did accept the said Bill and that when the same became due but did not Recollect when he did pay unto Bandytha Vencatanarsoo the Cash Keeper of the petitioners said Testator the Sum of Eight thousand Madras Pagodas and that such sum was paid by Deponents said Cash Keeper anthenna Puntaloo and the said Deponent did say that he had instructed the said anthenna Puntaloo to pay the said Sum of Eight thousand Madras Pagodas to the Petitioners said Testator on account of the Bill for Ten thousand Pagodas and did Desire him to take a receipt on the back of the said Bill for the same and that the said anthenna Puntaloo told the Deponent

that

that the Petitioners said Testator Refused to grant a receipt for the said sum of Eight thousand Madras Pagodas and would only grant a receipt for four thousand five hundred Pagodas and which said circumstance this Respondent submits when compared with the Depositions of the Petitioners Testators own witnesses amounts to complete proof of the Conversion made by the Petitioners said Testator of this Respondents Money to his own purposes and this Respondent further sheweth that the said Deponent to the said third Interrogatory did further depose that he did some time in the Month of September then following but did not recollect on what day Tender unto the said Petitioners Testator through his Cash keeper the further sum of two thousand Madras Pagodas and that such tender was made by the Deponent to the Petitioners Testators Cash keeper who brought the Bill to Deponent and on condition that the said Bill should be delivered up to Deponent to be cancelled but which the Deponent said was refused and the said deponent did further say that he afterwards

Sent

Sent to the Petitioners said Testator for the said Bill of Exchange who refused to deliver it up unless Deponent would pay five thousand five hundred Madras Pagodas alledging that he had only received four thousand five hundred Pagodas in part Payment of the said Bill and Deponent did say the said Petitioners Testator had applied a part of the said Eight thousand Madras Pagodas on another account and that he so applied it to the Payment of a Debt due to him by Apparow and as received from Deponent in part of Rent of the Chahar Mahal Districts which were Rented by Deponent and without the Consent or approbation of Deponent and Deponent did further say that such application of the said Money did interfere with the Petitioners Testators duty as a Covenanted Servant of the united Company of Merchants of England Trading to the East Indies and as a Member of their Council at Masulipatam because he applied it to the Payment of a debt due to him by Apparow when their was an order from the Government of Fort Saint George that the whole of the Rents of the said Chahar mahal Districts should be paid in to the Companys Treasury and that no part should go to the

Payment

Payment of opparows Creditors. which said Deposition of the said Condraigula Juggernaut Row this Respondent submits to your most Excellent Majesty in bouncil appears to be incontrovertible Testimony of the intention of the said Condraigula Juggernaut Row in the application of the said sum of Eight thousand Pagodas —

And this Respondent further submits to your Most Excellent Majesty in bouncil that the said Mayors bourt ought not to have suppressed the Interrogatories exhibited to Edward Garrow Esquire and the affidavit therewith also exhibited and the Deposition of the said Edward Garrow — thereon for that though the affidavit of the said authennapuntalo might not of itself be considered as full proof of the facts therein sworn to yet this Respondent submits to your most Excellent Majesty in bouncil that the same should have been allowed to be read in confirmation of other Evidence and this Respondent further submits that the said Mayors bourt should not have suppressed the Deposition of Vencataroyaloo for the same reason which this Respondent hath offered — Regarding the Deposition of the said Edward Garrow and this

Respondent

Respondent submits to your most Excellent Majesty in bouncil that in no sort were the said Mayors bourt authorized or warranted in suppressing such part of the Deposition of the said Vencataroyaloo as did not relate to the affidavit in question and this Respondent further begs leave to shew to your most Excellent Majesty that the Exception to the Deposition of Veerapermaul Pillay is as this Respondent Also submits to your most Excellent Majesty in bouncil altogether groundless But this Respondent Submits to your most Excellent — Majesty in bouncil that where the said Veerapermaul — Pillay hath sworn only to his belief it is to such matters as he could not with correctness take upon himself to depose to in terms less qualified But this Respondent submits to your most Excellent Majesty in bouncil that the — Deposition of the said Veerapermaul Pillay to the fifth Interrogatory is altogether fair and admissible Evidence and having sworn in direct and unqualified terms that he had no property in the said Bill that he was not interested therein further than for the welfare of this Respondent and that he did not grant any indemnification to this Respondent

on

an Account of the said Bill of Exchange the several false-
allegations of the Petitioners said Testator throughout his-
pleadings are completely done away and this Respondent-
sheweth to your most Excellent Majesty in Council that the
character of the said Veerapermaul Pillay known and-
established as it is at Madras is of itself a Refutation of the
reiterated aspersions in the pleadings of the Petitioners
said Testator-

And this Respondent doth admit that the-
Petitioners said Testator did also Examine witnesses and that
Vencatanarsoo Puntaloo was one of the two witnesses examined
on the part and behalf of the Petitioners said Testator and doth
admit that the said Vencatanarsoo Puntaloo did depose to the
first Interrogatory that he had known the Petitioners Testator
for fifteen years but that he did not know Sir John Menzies
and that he the witness never saw him Sir John Menzies this
Respondent begs leave further to shew to your most Excellent
Majesty in Council that the Petitioners said Testators witness
Vencatanarsoo Puntaloo deposed to the Second Interrogatory
that he knew Vencataroyaloo and that he Vencataroyaloo was
uncle

uncle to Condraigula Juggernaut now who succeeded to his uncles
Estate and Station as head of the family and to the third-
Interrogatory that he had heard that Vencataroy also Rented
the Chahar mahal Country and that he was to pay an
account of apparows four Creditors the Sum of Eight thousand
Madras Pagodas yearly for Eight years namely to Master-
James Hodges Master Alexander Principle Captain arthur
Lysaught and Lieutenant Stiphen Towns and the said-
Deponent further said that he had heard but did not see
it that Vencataroyaloo did inter into a written engagement
to pay to Master James Hodges yearly the Sum of three
thousand four hundred and Seventy one Madras Pagodas
twenty Seven fanams and forty cash as his Share of the
beforementioned Eight thousand Madras Pagodas annually
to be paid by Vencataroyaloo on account of apparows-
creditors all which this Respondent submits to your most
Excellent Majesty in Council is more by hearsay and that he the
Deponent might as well have heard these circumstances from
the Petitioners said Testator as from any one else and this
Respondent sheweth to your most Excellent Majesty in Council
that

that the said Deponent Vencatanarsoo Puntaloo to the third Interro-
gatory of within deposed but without setting forth the Reasons of
such his Knowledge that apparow upon Settling his accounts with
Master Hodges before the term that vencataroyaloo agreed to pay
that yearly instalment of three thousand four hundred and
Seventy one Madras Pagodas seven fanams and forty Cash
owed him the sum of fifty seven thousand Madras Pagodas
odd money which he the Deponent did not exactly recollect
besides which apparow himself assigned over in the year one
thousand Seven hundred and Eighty or one thousand Seven
hundred and Eighty one half the Purgunnah of weiyoore in
the nozeed Zemindary amounting to two or three thousand
Pagodas yearly for the payment of his remaining balance until
the whole of the Debt should be discharged and this Respon-
dent submits to your most Excellent Majesty in Council that
such the Deposition of the said Vencatanarsoo Puntaloo to the
third Interrogatory is not any proof of the several facts to
which he was interrogated and if it was the same are altogether
irrelevant to the subject in question whether the Eight
thousand Pagodas were or were not paid with the intention of
being

being applied towards the Discharge of this Respondents claim
on account of the said Bill of Exchange — and this Respondent
further sheweth to your most Excellent Majesty in Council that
the said Vencatanarsoo Puntaloo did further Depose to the fourth
Interrogatory that he had seen Juggapahs agreement with Mr.
James Hodges to pay him Pagodas three thousand four hundred
and Seventy one Twenty seven fanams and forty Cash being his
share upon his uncle Vencataroyaloos agreement of Eight
thousand Pagodas yearly for Eight or ten years out of the
produce of Chahar mahal Country which sum was then
due for Six or Eight years two being elapsed and paid before
Vencataroyaloos death which said Deposition of the said
Vencatanarsoo Puntaloo to the said fourth Interrogatory even
if he were desirous of deposing to the truth and free from
the influence which the Petitioners said Testator has asserted
every Servant is under from his Master evences that he was
swearing with a very imperfect Recollection of the facts to
which he the said Vencatanarsoo Puntaloo had undertaken
to depose to and for which he hath omitted to assign the
Reasons of his Knowledge or recollection and this Respondent
further

Further sheweth to your most Excellent Majesty inbouncil that the said Vencatanarsoo Puntalo to the Fifth Interrogatory did depose/ thought by reference to the said Interrogatories it doth not appear that any such Interrogatory was or was intended by the Petitioners Testator to have been exhibited to the said Vencatanarsoo Puntaloo on the bountrary it would appear that one Wullore Coormunnah was the Person to whom the Petitioners Testator looked for proof of the several facts interrogated to by the said fifth Interrogatory/ and this Respondent humbly submits to your most Excellent Majesty inbouncil that the circumstances of the intended witness holding back and the other volunturing his Evidence would seem to warrant conclusions greatly unfavourable to the honesty of the said Petitioners Testators cause/ that he knew Master James Hodges Received a Bill upon Juggapah from Sir John menzies for Ten thousand Madras Pagodas in the year one thousand seven hundred and Eighty Six, but that he did not recollect the Month that Juggapah accepted the said Bill and which when due Master James Hodges sent his Servant Pagonaichloo for the amount of and this Respondent further sheweth to your most Excellent Majesty in Council that the said Deponent did further

Say

Say that the said Pagonaichloo At the time that he went to Demand the amount of the Bill also Demanded /his/ the Petitioners said Testators/ yearly share of Eight thousand Pagodas being three thousand four hundred and Seventy one Pagodas twenty Seven fanams and forty bash out of the Chahar mahal agreement and this Respondent shews to your most Excellent Majesty inbouncil that the said Deponent goes on to Depose that he also Knew/ without assigning any reason for such his Knowledge/ that on the same day/ without Saying what day/ Juggapah sent his Shroff/ without mentioning the name of the Shroff/ one time with Seven thousand Six hundred Pagodas and afterwards with four hundred Pagodas more that this Master Hodges directed him the said Deponent as his Cash keeper without saying that any direction was given by the said Shroff as to the application of the Seven thousand Six hundred Pagodas and four hundred Pagodas /to credit in his the Petitioners Said Testators accounts as follows three thousand four hundred and Seventy one Pagodas twenty Seven fanams and forty bash an account of his share of the Chahar mahal agreement and the Remaining Balance of the Eight thousand Pagodas in

part

part of Sir John Menzies Bill upon Juggapah for Ten thousand
Pagodas and the Deponent further to the said Fifth Interrogatory
deposed that this order Mr. James Hodges gave him the deponent
before the Shroff and Peons of Juggapah but did depose that he
was not certain they heard it by the means of a Table Dubash
as he himself the Deponent did not understand English which
this Respondent humbly submits to your most Excellent Majesty
in Council from the qualified manner in which the Deponent
hath taken upon himself to swear is further corroborative
proof of the Misapplication of the money paid on account of
the Bill towards the extinction of the Petitioners Said
Testators pretended claim — and this Respondent Sheweth to
your most Excellent Majesty in Council that the said deponent
to the fifth Interrogatory goes on further to say that he was
once present without specifying the time when Paganaichloo
Demanded the three thousand four hundred and Seventy one
Pagodas Twenty Seven fanams and forty bash which Juggapah
had promised to pay in one Month and which was then
expired and without Specifying when the promise was made
and in the mean time of which particular time this

Respondent

Respondent can form no Idea from the said Deposition of the said
Vencatanarsoo Puntaloo / he the Deponent said this Bill arrived
and this Respondent sheweth to your most Excellent Majesty in
Council that the said Vencatanarsoo Puntaloo further said
that Juggapah promised to pay them both and further depd
that Juggapah paid Mr. Hodges Share of the Eight thousand
Pagodas regularly for three years from the death of Vencata-
royaloo to the year One thousand Seven hundred and eighty
Six, but does not depose that he knew that the Petitioners
said Testator was obliged to refund or pay back again into
the Treasury of the Honorable Company the proportion for
the year one thousand Seven hundred and Eighty five as
Deposed by andrew Scott one of thes Respondents witnesses
and this Respondent humbly submits to your most Excellent
Majesty in Council that as the Cash keeper of the Petitioners
said Testator if he really was so he the said Deponent
might as well have known of the one circumstance as
the other this Respondent begs further to shew to your most
Excellent Majesty in Council that the said Deponent to the
said Fifth Interrogatory further deposed that he did not

Know

know any thing with respect to the Share of the other Creditors and that he never afterwards was directed to Credit Sir John Menzies for any further sum in his Masters / the Petitioners said Testators / accounts but this Respondent submits to your most Excellent Majesty in Council that as it was a matter within the Knowledge of the Petitioners said Testators private Servants who were the other Creditors of apparow it would have been easy and proper that he the Petitioners said Testator should have brought forward in Evidence that they the said other private Creditors had a right to receive and Actually did Receive their Devedends for the same year which he the said Petitioners said Testator hath thought proper to advance that he had a right to claim his Devidend he would then at least have proved that he the said Petitioners Testator had as good a right to his Devidend as the other private Creditors and not having done so he hath admitted this conclusion that under the influence which he possessed as a member of Council at Masulipatam and taking an advantage of the confidence Reposed in him / the Petitioners said Testator / by this Respondent he was alike indeavouring to defraud the Company his Public Employers

Employers and this Respondent his private Constituent in Contradiction to every principle of Duty For this Respondent submits to your most Excellent Majesty in Council that the Predominant Duty of an Agent / whether the matter intrusted to him be of a Public or Private nature / is to Discharge with integrity deligence and punctuality and with a marked attention to the interests of his Employers the Commission with which he is intrusted and that the rule by which he ought to try his Conduct towards his principals is by considering in each particular instance whither he has acted in such a Manner as he might Reasonably have expected an agent of his own to have acted for him in a Similar Busineſs and this Respondent submits to your most Excellent Majesty in Council that the Duty and the rule are so obvious that it is needleſs to dwell upon either of them and this Respondent therefore trusts your most Excellent Majesty in Council will Consider how far the Petitioners said Testators aſsertions wherein he advances that he Received the said Bill of Exchange with disinterested motives with an intent to do his utmost to obtain payment thereof

thereof for the benifit of this Respondent and that he under took the business from Motives of personal regards towards this Respondent are consistent with diligence punctuality intigrity or truth —

And this Respondent admits that the Petitioners said Testator did also examine another witness namely one Ragonaichloo who this Respondent submits to your most Excellent Majesty in Bouncil hath Deposed in the same loose and vague manner as to render his Deposition equally — undeserving of credit as that of the former witness Venkata narsoo — and this Respondent begs leave particularly to point out to your most Excellent Majesty in Bouncil that part of the said Deposition wherein the said Raganaichloo after deposing that the Petitioners said Testator deducted from the amount his Devidend of the Chahar Mahal Money as agreed upon amounting to three thousand four hundred four hundred and Seventy one Madras Pagodas Twenty Seven fanams and forty cash and that for the Balance that remained he — say that the Petitioners said Testator then sent a message first by

by the Person who brought the Money and by the Deponent the next day to Condraigula Juggernaut Row acquainting him that whatever cash / he meaning the said Condraigula Juggernaut Row / sent in future he / meaning the Petitioners said Testator / would give a receipt for the same as before on the back of the Bill on account of Sir John Menzies and which said Deposition this Respondent submits to your most Excellent Majesty in Bouncil fully proves that the money was applied by the Petitioners said Testator to the extinction of the Chahar Mahal Claim without the Knowledge approbation or Consent of the said Condraigula for if Condraigula Juggernaut Row Juggernaut Row knew it was to be applied no information was necessary If it was a thing agreed upon and — approved no such anxiety to inform Juggapah was necessary first by the Person who brought the Money and then by the Deponent the next day If it was agreed upon between — Juggapah and the said Testator that he the said Testator should apply so much of the Money Paid on the twenty eighth day of august to the extinction of the Chahar — mahal Claim in preference to this Respondents Bill and

and which of Course could not have been so agreed upon by the Petitioners said Testator had he had this Respondents interest at heart or in any Degree acted from motives of personal regard towards this Respondent, or with any common degree of impartiality) he the Petitioners Testator would have offered and Juggapaho Cash Keeper would no doubt have taken a receipt or achnowledgement signifying that so much was actually paid and received expressly on account and towards the further extinction of the Chabar Mahal Claim —

And this Respondent doth admit that publication did pass in the said Cause and Cross Cause and that they were set down for hearing and that before the same could come on to be heard the Petitioners said Testator had Departed this Life having first duly made and published in writing his last will and Testament and thereby appointed the said Petitioner his sole Executrix, and doth admit that the Petitioner may have proved the said will of her said Testator and may have taken upon herself the burden of Execution and that thereby she hath become

become the legal representative of the said Deceased James Rodges her said Testator and doth further admit that the said Petitioner did Consent to the said Causes standing revived and that the same were accordingly revived by Mutual consent on the Grounds of the affidavit of George Taylor the register of the said Mayors Court and the constituted attorney of the said Petitioner and of the Power of attorney by him the said attorney by his attorney at Law Master James Stuart Hall deposited in Court as by the proceedings of the fifteenth day of September now last past and which were annexed to this Respondents answer to the Petitioners Petition of appeal to the President in Council of Fort Saint George would fully appear and this Respondent doth further admit that the said Causes did come on to be heard and were accordingly heard on the Twentieth day of November last past and this Respondent admits that the said Mayors Court did first determine on the several exceptions as is stated in the Petitioners said Petition and Appeal and this Respondent doth further admit that the said Mayors Court did further think fit and proper to order and

and Decree and did accordingly order and Decree that the said Petitioner should pay out of the Estate and Effects of her said Testator the full and just Sum of Seven thousand three hundred and four Star Pagodas Eight fanams and Sixty cash together with all such Interest as them was or thereafter should become due thereon until full Payment was made also all costs of the original suit and did further order and Decree that the Cross suit should stand Dismissed with costs as by copy of the said Decree of the said Mayors Court to the said appellants Petition of appeal annexed / as she did say / for the inspection of your most Excellent Majesty in Council to which the said Petitioner humbly begged leave to refer and prayed that the same might be taken as part of her said Petition and appeal might appear —

And this Respondent doth admit that from such the said order and Decree of the said Mayors Court the said Petitioner did appeal to the Court of appeals at Madras but this Respondent doth deny that the said Petitioner was or is in any wise aggrieved thereby or

that

that she had any manner of cause or reason of appeal there from to the said Court of appeals —

And this Respondent admits that to the said Petitioners said Petition of appeal he this Respondent did Exhibit and file his answer wherein after in part reciting the Pleadings in the cause herein before recited and setforth to your most Excellent Majesty in Council and in answer to the reasons by the said Petitioner setforth in her said Petition of appeal against the said decree of the said Mayors Court this Respondent in and by his said answer did amongst other reasons setforth as recited by the said Petitioner in her said Petition But this Respondent humbly sheweth to your most Excellent Majesty in Council that the said Petitioner has omitted and willfully neglected to recite several very material facts Reasonings and Conclusions as setforth by this Respondent in his said answer for this Respondent humbly sheweth to your most Excellent Majesty in Council that this Respondent did say in answer to the first reason of appeal given by the said appellant that he this respondent

was

was advised that the said Condraigula Juggernaut Row having on the very day the said Bill of Exchange became due paid a great part thereof namely the sum of Eight thousand Madras Pagodas and Expressly in satisfaction of the said Bill as appeared from the depositions had in this Cause and herein before recited and having also tendered the remaining Balance being two thousand Madras Pagodas a few days after and the Petitioners said Testator as the Factor or agent of this Respondent having / as was in this Respondent said answer before recited / misapplied apart of the said sum To wit, the Sum of three thousand four hundred and Seventy one Madras Pagodas Twenty seven fanams and forty bash and appropriated the same to his own use and to the extinction of a pretended Debt and having also studiously concealed the same from this Respondent his principal and having with that view advised and informed this Respondent that apart only had been paid by the said Condraigula Juggernaut Row and having / as was therein before shewn / neglected and refused to receive the

the remaining balance when tendered to him by the said Condraigula Juggernaut Row he this Respondent did say that the said Petitioners Testator had neglected his Duty and injured this Respondent in that amount and that it was therefrom evident that he was liable to the balance now due on the said Bill unreceived by this Respondent and that this Respondent had a well founded Ground of action against him for the same and against no other Person and which the said Appellant hath omitted to recite and this Respondent sheweth unto your most Excellent Majesty in Council that he did / in further answer to the appellants said Petition of appeal to the Court of appeals and in a part of his answer to the Second reason by the said Petitioner adduced / enter into legal arguments and quoted precedents and Extracts from authorities and which the said Petitioner had evaded reciting by saying that the same did not apply but on the contrary was foreign to the matter in question but which this Respondent doth humbly submit to your most Excellent Majesty in Council were altogether pertinent and in point

Point for this Respondent sheweth unto your most Excellent Majesty in Council that he did in his said answer set forth and state that he was advised the payer had a right to direct the application of the Money paid in the manner he thought proper and that if the will of the Person paying and that of the person receiving differ the will of the Payer shall prevail and the Money be appropriated accordingly for that he who paid the Money had a right to direct to what purpose it should be applied And this Respondent did pray to observe that this Doctrine was established and confirmed by every adjudged case on the subject and more fully and particularly in the case of Timber verius Gardiner in Easter Term in the thirteenth year of Quin anne in the Court of Quins Bench where perburiam it was agreed that "If the Defendant gave "it /meaning Money/ with one intention and the Plaintiff "accepted it with another the intention of the Donor must prevail" So in an anonymous case reported in Crokes Elizabeth page the Sixty Eighth "Defendant was indebted in money on a "Bond and also for wares sold and at the day of Payment he "tendered the Money in the Bond the Plaintiff took the

money

"Money and said he would apply it to the Payment of "what was due for the wares but Defendant said he paid "it on account of the Bond Plaintiff afterwards brought "debt on the Bond and it was adjudged against him for "the payment is to be according to the manner the Defendant "would pay it not as the Plaintiff would receive it" and that in a case reported in the Second volume of Peere Williams report Page three hundred and Eight "where the "Point turned on Payment of earnest on which Plaintiff "relied and Defendant had pleaded that he did not accept "or receive it as earnest the Plea was over Ruled for that "it was not material how Defendant received but how "the Plaintiff Paid it – And this Respondent further "sheweth unto your most Excellent majesty in bouncil that the said appellant hath neglected and omitted to recite in her said Petition of appeal to your most Excellent Majesty in bouncil that part of this Respondents answer to the Second Reason of appeal given by the said appellant to the Court of appeals at Madras patam wherein this Respondent did say that the Deponent

Andrew

Andrew Scott in his answer to the Seventeenth Interrogatory exhibited to him on the part of this Respondent did depose "that whilst the said Condraigula Juggernaut Row "was at Rajah Mundry with Master Sadlier in the year "one thousand Seven hundred and Eighty five" / it being "a full year before the Bill of Exchange was drawn "Master "Hodges compelled his meanings the said Condraigula "Juggernaut Raws / agent Coorla Venkee Vencatachellum "to Pay him / Master Hodges / three thousand five hundred "Pagodas on account of his Share of the assignment to "Apparows Creditors But that Master Sadlier upon being "informed of this transaction interposed in consequence "of which interposition the said Sum was afterwards paid "by Master Hodges into the Companys Treasury" and this Respondent did submit that this being a Transaction of public notority and in which the appellants said Testator as a public Servant bore so large apart twelve Months before the Bill was drawn the pretence of the said Testator and the claim attempted to be set up of his right to the said sum so paid as aforesaid on account of the Bill of Exchange was not

not merely a suppression or dereliction of the Truth but was that direct suggestion and averment of falshood which called loudly for the interference and punishment of a Court of Justice on the very face and appearance of it and that on the contrary it was sufficiently evident that the said Condraigula Juggernaut Row was right in his Statement since he appealed to the very Persons who were the Principal actors in the Transactions he complained of and who to his indelible disgrace had he been wrong could and must Instantly have confuted him and this Respondent in part answer to the said Second Reason of appeal assigned by the said appellant did state that even supposing the said Condraigula Juggernaut Row in his Petition and Complaint made to the Chief and Council at Masulipatam against the Petitioners said Testator had misstated the said Bill of Exchange this Respondent did say it would not have been material to the point at issue which was whither the Petitioners said Testator had or had not discharged with integrity deligence and punctuality the commission with

with which he was intrusted and this Respondent did say that the Conduct of the said Petitioner in selecting such parts as she thought might be of Service and omitting such as even unfavorable to the Defence set up against this Respondents Claim he this Respondent did submit to the said Court of appeals was not only greatly reprehensible but was precisely treading in the Steps and pursuing the Example of her Testator—

And this Respondent admits that the said Petitioners said Petition of appeal with this Respondents answer thereto came on to be heard and determined by and before the said Court of appeals on the Thirteenth day of February and present year of our Lord One thousand Seven hundred and ninety Six; and that the Said Court of appeals were pleased to order and Decree and did Accordingly order and Decree that the said Decree of the said Mayors Court should stand affirmed and that the said Petitioners said Petition of appeal should be dismissed with Costs as by the said order and Decree of the said Court of appeals annexed to her said Petition for the inspection of your most Excellent

Excellent Majesty in Council the Said Petitioner did Say might appear—

But this Respondent doth not admit that by the said Order and Decree of the said Court of appeals the said Petitioner is in any wise aggrieved—

And for answer to the first reason given by the appellant for appealing from the Decree of the said Court of appeals wherein it is alledged that the same is Contrary to Law because the said appellant had shewn that this Respondent had mistaken his Ground of action this Respondent humbly sheweth to your most Excellent Majesty in Council that the same had before been urged and stated by the appellant in her former Petition and appeal from the Decree of the Mayors Court and that the same was as this Respondent humbly Submits fully and compleatly refuted by the answer of this Respondent to the said Petition of the appellant and herein before recited and exhibited to your most Excellent Majesty in Council for this Respondent sheweth to your most Excellent Majesty in Council that in this

Respondents

Respondents said answer to the appellants first Reason for appealing from the Decree of the said Mayors Court to the said Court of appeals and to which the appellant has referred this Respondent did say that his action was rightly laid against the appellants said Testator and did Submit to the said Court (as he doth now humbly Submit to your most Excellent Majesty inCouncil) whether on view of the Pleadings therein and herein before recited and the Reasons Arguments and Proofs therein brought the same did and doth not appear and this Respondent Sheweth to your most Excellent Majesty inCouncil that it was therein proved that her said Testator had been for many years in the habit of transacting business for this Respondent at Masulipatam as his Factor or agent and this Respondent further submits that it is therein also proved that the said Testator was in the habit of transacting business as a general Factor or Agent and that the same appears by his own Shewing and in the Letters or extracts of Letters which himself hath exhibited And this Respondent Submits to your most Excellent

Excellent Majesty inCouncil that Notwithstanding the appellant hath averred in her said First Reason of appeal that whether her said Testator was or was not the Factor of this Respondent was not connected with the point of Law urged yet this Respondent saith that the same is untrue and the inference therefrom drawn to tally in Conclusive and nugatory for this Respondent sheweth to your most Excellent Majesty in Council that the Ground or point of Law on which this Respondent founds his hopes of redress is the bad faith and evil craft of the Petitioners said Testator whilst he acted as Factor or Agent for this Respondent and his contrivance to circumvent this Respondent all which this Respondent sheweth to your most Excellent Majesty inCouncil his is Advised your Majestys Courts of Law and Equity have ever held in the utmost abhorence and that they have constantly Relieved against all such practices and this Respondent sheweth to your most Excellent Majesty in Council that the taking of the said sum of Three thousand four hundred and Seventy one Madras Pagodas Twenty Seven fanams and forty bash by the Petitioners Said Testator

Testator and converting the same to his own use (as admitted by the said Testator himself in his answer to this Respondents Original Bill of Complaint and further stated and allowed in the said Testator Mrofs Bill) at a time when his Affairs situation (as proved by the Evidence of Andrew Scott one of the witnesses examined on the part of this Respondent) was suffecient notice to him that Bondraigula Juggernaut Raw was not to pay any other or further Sums of Money to the private Creditors of Apparow was as this Respondent is advised such an evil Contrivance and fraudulent practice to circumvent this Respondent as to entitle this Respondent to be relieved therefrom and to give him a legal right of Action — And this Respondent sheweth to your most Excellent Majesty in Council that the assertion of the said appellant in her said first Reason or Cause of appeal contained "that it was clearly Shewn that her said Testator did not "receive a Commission as the Agent of this Respondent" is wholly untrue for that the contrary appears by the appellants said Testators own Admission and Confession and also by the Account Current annexed to this respondents

Replication

Replication in the Original Cause — and this Respondent humbly Submits that the pretence of the said Testator set up in one of his Letters that he would not take or charge Commission upon goods that were not the property of this Respondent can be of no avail and only tends to prove the falsity of his own assertions and to shew incontestibly that he was in the Commission Bussiness — and as to the further pretence that he acted merely as the Friend of this Respondent and with disinterested views towards the the Intereste of this Respondent and that therefore he did not charge this Respondent with any Commission on account of business done for this Respondent at Masulipatam and that consequently there was no consideration given by this Respondent or received by the said Testator whereon to ground a right of Action as against him the Testator is equally untrue and fallacious for even considering the statement as given by the Testator in his pleadings namely that he did not charge this Respondent for Commission in hopes this Respondent would pay a greater attention to the more important Concerns of the said Testator at Madras is as this Respondent humbly

humbly Submits to your most Excellent Majesty in Council that Consideration which ought to have bound the said Testator to a more honest and impartial discharge of his duty in the management of the Concerns Confided in him by this Respondent – and this Respondent sheweth to your most Excellent Majesty in Council that it hath been adjudged that when an account Current between Merchants hath not been Disapproved of for four or five Ports only it shall be held as good and the account allowed whereas the admission and receipt of the said account Current hath not been even denied by the appellants said Testator in any part of the pleadings and therefore the assertion of the said appellant "that the said Court "of appeals in affirming the said Decree of the said Mayors "Court did deprive him the said appellant of that Justice "she was entitled to" falls to the Ground – for this Respon dent most humbly Submits to your most Excellent Majesty in Council that the said Decree of the said Mayors Court having been confirmed by the said Court of appeals after a full discussion of its merits is the Surest

Surest proof of its Justice – And in answer to that part of the appellants First reason of appeal which refers to this Respondent having sent for and received the said Bill of Exchange back from her said Testator and which states that he did and still does continue to keep the same in his posfession and that this Respondent on determining to proceed against her said Testator ought to have Delivered up the said Bill of Exchange to her said Testator that he her said Testator might have pursued his right against the said Condraigula Juggernaut Row this Respondent sheweth unto your most Excellent Majesty in Council that he hath already in and by his Replication in the Original Cause fully accounted for the simple fact of Sending for the Bill back from the appellants said Testator and this Respondent further sheweth to your most Excellent Majesty in Council that in his answer to the appellants third Reason of appeal to the Court of appeals at Madrafpatam it was shewn that the same was done "and his Conduct wholly influenced by "strong impresfions his mind had received in favour of the appellants

"appellants Testator whom he could by no means persuade
"himself to believe capable of so fraudulent a proceeding
"or so flagrant a breach of the trust reposed in him"
And in answer to that part of the appellants first reason
of appeal which states the detention of the said Bill
of Exchange by this Respondent and that when this
Respondent had Determined to proceed against the
appellants said Testator the same ought to have been
delivered up to her said Testator this Respondent humbly
Sheweth to your most Excellent Majesty in Council
that he was at all times ready to have delivered
up the said Bill of Exchange to the Testator of the said
appellant on payment of the sum actually received
by the said Testator on account thereof from the said
Condraigula Juggernaut Row and that such detention
for a while of the said Bill was and is wholly
immaterial in this Cause nor could the appellants
said Testator have been thereby put in a higher or better
situation or have been the rather enabled to pursue
any right of Suit or action against the said Condraigula

Juggernaut Row.

Juggernaut Row prior to a final decision on the present
Suit for should that be determined in favour of her said
Testator she could have no Claim whatever upon the
said Condraigula Juggernaut Row and this Respondent
humbly submits to your most Excellent Majesty in Council
that nothing can more forcibly exhibit the deceitful and
unwarrantable practices of the appellant and her said
Testator than such a barefaced attempt to insinuate
that this Respondent had endeavoured to oust her of her
right of Action by a detention of the said Bill for this
Respondent most humbly sheweth to your most Excellent
Majesty in Council that so far from the said Bill
being in this Respondents possession or detained by
him to the prejudice of the said appellant or her
right the same was by the mutual Consent of the
parties deposited in the Registry of the said Mayors Court
there to await the final decision of the Cause at issue
And this Respondent in further proof thereof submits
that the same appears by the said appellants own
shewing in the Extracts from the Minutes of the Said

Mayors Court

Mayors Court by her Affixed to her said Petition of appeal to your most Excellent Majesty in Council - And this Respondent in answer to the last past of the appellants said first reason of appeal and which arraigns the Judgment of the said Mayors Court as having been founded on the Evidence of the said Vondraigula Juggernaut Row submits to your most Excellent Majesty in Council that the Evidence of the said Vondraigula Juggernaut Row admitted by the said Mayors Court was legal and admissible Evidence in the Cause as well for the reasons assigned in this Respondents answer to the Exceptions taken thereto by the appellants said Testator as for the Reasons further assigned in this Respondents answer to the Petition and appeal made by the appellant from the Decree of the said Mayors Court to the Court of Appeals at Madraspatnam as herein before recited and to which this Respondent humbly craves leave to refer - and this Respondent humbly submits that the best Evidence of the intention of Vondraigula Juggernaut Row and the Directions he gave is the testimony of Vondraigula Juggernaut Row

Juggernaut Row himself and that those directions were attended to by Anthenna Puntaloo there is the strongest presumptive Evidence that Vondraigula Juggernaut Row directions to Anthenna Puntaloo were express his deposition fully proves - and it is not reasonable to suppose that Anthenna Puntaloo would there after have paid away the Cash intrusted to him without expressly Saying on what account his Master had directed him to pay it - and the silence of the Testators witnesses as to any directions given by Anthenna Puntaloo gives ample Room to presume that any Disclosure as to that point would have been prejudicial to their masters Cause - And if the Testator thought it proper to make or notify the receipt of any Sum of Money on account of the Bill this Respondent submits that it was incumbent on the Testator to have observed the like mode of Conduct with regard to the sum he pretended to have been paid on account of Juggapas private account - and this he might have done either by marking notifying or writing on the Covenants or Security he held for

Vondraigul

Condraigula Juggernaut Row the amount he so took on that account or have sent by anthenna Puntaloo a seperate receipt for that account - And this Respondent further submits that the evidence of Condraigula Juggernaut Row even had it been unsupported by any concurrent Testimoney would have been good and sufficient grounds for the said Mayors Court on which to have made their Decree in this Respondents favour for the said Condraigula Juggernaut Row deposes that anthenna Puntaloo informed him of the Testators impropriety of Conduct in endeavouring to apply to the extinction of one debt money that was expressly paid on account of another debt: and as to the admissibility of the Evidence of Condraigula Juggernaut Row this Respondent humbly submits that any arguments which can be Offered to weaken the Testimony of Condraigula Juggernaut Row on the score of Interest must at the same time weaken the Petitioners case and strong then that of this Respondent by shewing that it was more consistent with his Interest to have paid the Amount due on account of

the

the Bill than to have discharged the Testators pretended claim and must tend to place the base and treacherous partiality of the Testator in a Still Stronger point of view for if they were each and both of them debts that Condraigula Juggernaut Row was equally and legally bound to pay then cannot as this Respondent Submits the testimoney of Condraigula Juggernaut Row be impeached on the score of Interest and if there was a preference in favor of this Respondents blaim then ought the Testator in duty to have made that preference in favor of this Respondent more especially if no express directions were given by the said anthenna Puntaloo at the time of payment - and if any express directions were given at the time of payment which would have favored the Testators case this Respondent humbly Submits the Testator would have called upon the said Vencatanarsoo and Raganaichloo his two witnesses who were present at the time of payment to have proved the same and this Respondent further begs to shew that it appears to have been adjudged in the case of heyward versus Lomax reported in the first Volume of Vernons Reports Page the

Twenty fo

Twenty fourth, "that if a man owes another Money on a "Security bearing Interest and on another bearing none (as by "mortgage and on Simple Contract) and makes a general "payment without mentioning whether it is to be applied "to one Demand or the other that it shall be taken to be "paid in discharge of the Mortgage for it is natural to "elect rather to pay off Money bearing Interest than that "which carried none" so that either the right of preference of this Respondents Claim must be allowed and the consequent partiality of the Testator established or the exception to the testimoney of Condraigula Juggernaut Row must altogether vanish. And for allall which reasons and others to be hereafter stated this Respondent Submits to your most Excellent Majesty in Council that the said Decree of the said Mayors Court was not (as it is asserted by the said appellant to be) unfounded nor was the same contrary to the Law of Merchants and that the Decree of the said Court of appeals affirming the same was founded in the strictest Justice and perfectly consonant with the soundest Principles and rules of Law and

Andequity, and that the whole of the said first reason or cause of appeal urged by the said appellant is vague unfounded and contradictory; vague as not tending to the point at issue unfounded as sheun by this Respondent in his answer thereto and contradictory to other and divers parts of her own Petition and appeal to yourmost Excellent Majesty in Council—

And in Answer to the Second Reason or cause of appeal stated by the said Petitioner this Respondent Saith that it is altogether immaterial whether or not the said Condraigula Juggernaut Row did make any such promise or promises as stated by the Testator and of which there is no proof whatever (for this Respondent submits that no credit can be given to the assertions of the said Testator or the depositions of his two Witnesses the same being altogether inconsistent repugnant and contradictory not only in themselves and each other but to the Evidence adduced on the part of this Respondent which this Respondent submits to your most Excellent Majesty in Council are throughout consistent with Reason and probability

and

and which establish certain facts: which facts this Respondent submits are entirely and incontistibly supported by such circumstances as usually and necessarily must and do attend such facts and even if any such promises were made there can be nodoubt of their having been extorted by the said Testator contrary to every principle of Honesty and to the infinite and unwarrantable prejudice of this Respondent whose Interest was confided to the mercy and protection of the said Testator/ since it appears on Oath that he the appellants said Testator/ had been obliged to refund a former Payment of the same sum and on the same account and well knew that Orders had been given to prohibit any further Payment - for this Respondent sheweth that the point at issue is whether or not the appellants Testator did or not fulfill his engagements with this Respondent or act up to his duty as an agent or Factor or rather whether the appellants Testator did or not misapply to his own use and purposes a Sum of Money which was intended to have been paid on Account of this Respondents Bill and and actually was paid

moreover this Respondent humbly sheweth to your most Excellent

Excellent Majesty in Bouncil that the only attempt made to establish the fact of the said Sum having been paid on account of the appellants said Testator is by the Evidence of Vencatanarsoo the said Testators Cash keeper and wholly at the Command of his Master and under his influence and direction although his Evidence goes only to say that his Master the appellants Testator said in English he would so Receive it and yet the same Evidence says he does not understand English and this Respondent submits to your most Excellent Majesty in Bouncil that the same hath been positively denied by the Oath of the said Condraigula Juggernaut Row whose Evidence this Respondent hath already shewn was Just valid and Sufficient in the Law in this Cause and ought not in this stage of the affair to be impeached or enquired into -

And this Respondent in answer to the third Reason or cause of appeal setforth by the said Appellant humbly craves leave to suggest to your most Excellent Bouncil that the whole of the same turning on a pretended

Pretended combination confiderac[illegible] and collusion between this Respondent and the said Veerapermaul Pillah and Condraigula Juggernaut Raw and Chincallapoody Setteramiah it was incumbent on the appellant to have proved the same in Evidence and this Respondent humbly submits to your most Excellent Majesty in bouncil that the said appellant not having even offered the shadow of a proof of the same or even examined a Single witness to that point he is precluded from now going into the same and it resting on the bare assertion of the appellant. and not appearing in Evidence the same must as this Respondent is advised be presumed and considered as not existing in fact and this Respondent doth utterly deny such Combination to have at any time existed—

And this Respondent in answer to the fourth reason or cause of appeal Stated by the said appellant craves leave to Observe to your most Excellent Majesty in bouncil that the same is extremely loose idle and contradictory for this Respondent sheweth to your most Excellent Majesty in bouncil that the said appellant

Arguing

Arguing on the validity of her said Testators answer to this Respondents Original Bill of Complaint expressly states that although the same was received by the said Mayors court without an Oath yet that having been so received it became of the same Validity as if upon Oath never the less in the very next paragraph the said appellant denier the validity of this Respondents answer to the Cross Bill and that because it was not on Oath as though the principles of Law and Equity were mutable at her pleasure and that that should be held as valid when in her favor which should not be so when against her a proceeding this Respondent humbly submits to your most Excellent Majesty in bouncil so devoid of every Particle of Justice and so teeming with absurdity as to render any reply thereto on the part of this Respondent wholly innecessary - and this Respondent further submits to your most Excellent Majesty in bounal that the said appellant is now too late to Object to the irregularity or want of Suffeciency in the said Cross answer of this Respondent, - for had the same appeared as sufficient her

her said Testator he ought According to the regular and established practice of the said Mayors Court to have filed exceptions thereto and which having neglected to do he admitted the suffeciency and validity thereof - And this Respondent craves leave to Setforth to your most Excellent Majesty inCouncil that he did as he humbly submits in his answer to the appellants fourth reason of appeal to the said Court of appeals fully answer and refute the appellants reasoning and which then turned upon the same points - And did prove that the said Mayors Court was Justified in receiving the said answer upon the strictest grounds if Law and equity as was herein before recited - And this Respondent again prays to urge that if the said Bros complainant had cause to Consider the said Bros answer as insuffecient the only way to impeach the same was according to the practice of the Court as aforesaid by way of exception thereto - for this Respondent submits to your most Excellent Majesty in council that although perhaps the said Bros answer may not be so prefect and complete by reason of the absence in England of this Respondent and its being only Sworn to by this Respondents Constituted attorney as it might by the Residence on the spot of this Respondent have been rendered yet that it Supports the pleadings in the

the Orginal cause in all and every the material parts thereof and that the said appellant ought if she objected to the same have brought forward substantial proof thereof and have pointed out the particular polsages in which case this Respondent Saith he doubts not but he should have been able to have refuted the same to the Satisfaction of your most Excellent Majesty inCouncil but the said appellant having rested on bare and general afsertions must be contented with a general answer and

And in answer to that part of the fifth reason afsigned by the said appellant for appealing to your most Excellent Majesty in Council which afserts the Cause of appeal to be because the said Mayors Court had decreed that the Estate of the appellants said Testator should pay not only the Amount pretended to have been recived forand on Account of the Bill of Exchange but also the Sum of Two thousand Pagodas which it is admitted never was received together with Interest thereon this Respondent Sheweth to your most Excellent Majesty inCouncil that the said Two thousand Pagodas were provied to have been tendered to the appellants said Testator and to have been refused to be received by him and this Respondent

Sheweth

Sheweth to your most Excellent Majesty in bouncil that he is advised that the appellants said Testator being his agent or Factor and receiving a certain bommifsion or percentage for transacting his Businefs was bound to perform the same to the utmost of his Power and the said sum of Two thousand Pagodas having been lost to this Respondent by the neglect and misconduct of the said Testator his Estates is liable and must be held accountable to this Respondent for it - And this Respondent further sheweth to your most Excellent Majesty in bouncil that in his answer to the fifth reason for appeal to the said bourt of appeals by the said Appellant he did shew that the Refusal of the appellants said Testator to be accountable for the said sum of Two thousand Pagodas was expressly contrary to the bustom of Merchants and the Law of the land and did quote the adjudged case of Heath versus Turner and did adduce diverš other authorities and arguments to Supporti and prove the same to which this Respondent prays reference and in further answer this Respondent saith that he hath already shewn to your most Excellent Majesty in council the fallacy of the appellants arguments respecting the detention of the said Bill of Exchange And this Respondent in answer to that part of the said fifth Reason of appeal

appeal which Objects to the Sufficiency and admifsibility of this Respondents witnefses the said Condraigula Juggernaut Row and the said Verapermaul Pillay this Respondent sheweth to your most Excellent Majesty in bouncil that he is adviseđ that the appellant is irregular in Noticing the same in this Stage of the bause for that it hath been adjudged in the case Callaghan versus Reachfort reported in the third Volume of athyns Reports Page Six hundred and eight - "that the Competency or bredit of a witnefs shall not be enquired into after Publication" never the lefs this Respondent Sheweth to your most Excellent Majesty in bouncil that this Respondent did in his answer to the said fifth Reason of the appellant to the said bourt of Appeals prove the same to be regular and admifsible Evidence in as much as the said Condraigula Juggernaut Row and the said Verapermaul Pillay were by no means precluded from giving their Evidence in the said bause - And this Respondent humbly prays Reference to the said answer as a Complete refutation of the reasoning of the said appellant - and this Respondent further humbly Submits that the Mayors bourt were irregular in Setting aside the depositions of Edward Garrow Esquire and Vencataroyaloo and this

Respondent

Respondent lastly submits to your most Excellent Majesty in Council that it Manifestly appears from the Grounds herein before gone into from the practice of the Court and from the Variety of Judicial determinations quoted by this Respondent that the said Mayors Court was authorized by every principle of Equity in passing the said Decree and that the said Court of appeals in confirming the same are supported by the Reason the spirit and the letter of the Law

For all which reasons and such others as may be offered at the Hearing this Respondent most humbly prays your most Excellent Majesty in Council will be pleased to affirm the said Orders and Decrees of the said Mayors Court and Court of appeals and that the said appellants Petition of appeal may be dismissed with exemplary costs for his litigious Conduct

/ Signed / Robert Williams
Solicitor for Respondents

Friday

Friday the 19th Day of February 1796

Present

The Right Honourable Lord Hobart

Edward Saunders and C. W. Pollofield

To the Right Honble Lord Hobart

President in Council Fort Saint George

In the Honourable the Court of Appeals at Madraspatnam

Between Petty Timbee Naicken of Madraspatnam Dubash Administrator of all and every the Goods and Chattles Rights and Credits of Paucala Ramasawmy Naicken late of Madraspatnam aforesaid Dubash Deceased Complainant and Francis Lind a Senior Merchant in the Civil Service of the Honble the united Company of Merchants of England trading to the East Indies under their President of Fort St George Defendant

Filed in my Office
the 10th August 1795
I Webbe Clerk

The humble Petition and Appeal of the Above named Complainant

Sheweth

That your Petitioner died on the Twenty fifth day of February

February in the year of Our Lord One Thousand Seven hundred and Ninety one Exhibit his Bill of Complaint in the Honourable the Mayors Court at Madraspatnam against the said Defendant Francis Lind thereby setting forth that the said Defendant being in or About the year of Our Lord One Thousand Seven hundred and Eighty three in very narrow Circumstances and he the said Defendant being anxious and Desirous to acquire an Estate and fortune and well knowing that your Petitioners said Intestate the said Paucala Ramasawmy Naicka was not only a Person Conversant and well skilled in Trade and Merchandize but was also enabled from his own fortune and Credit and from the large and extensive property of his Father family and &c. Friends and from other Credible Connections that Attached to him in Consiquence thereof to make such Loans and Advances to the said Defendant as were necessary as well for the then support and Maintainance of the said Defendant as to enable him to launch out and engage in Different branches of Trade and Commence he the said Defendant did some time in or About the year of Our Lord one Thousand Seven

hundred and Eighty three Apply to and solicit the said Paucala Ramasawmy Naicka to become his the said Defendants Head Dubash to which Requisition of the said Defendants the said Paucala Ramasawmy Naicka did after much entreaty on the part of the said Defendant Consent and Agree and Accordingly from thence forth became and was the Head Dubash of the said Defendant in which station the said Paucala Ramasawmy Naicka Continued until the time of his Death which happened on or about the Seventh Day of April which was in the year of Our Lord one Thousand Seven hundred and Ninety your Petitioner further sheweth unto this Honourable Court that he did in and by his said Bill of Complaint further Charge that the said Paucala Ramasawmy Naicka from time to time whilst he so Continued the Dubash of the said Defendant as aforesaid actually lent and advanced to the said Defendant very Considerable Sums of Money not only to Defray the said Defendants domestick Expences but also to enable

enable the said Defendant to Carry on and enter into various mercantile businesses and Speculations untill at length the Estate and fortune of the said Defendant was by the great Care skill industry and attention of the said Paucala Ramasawmy Naick in and about the busines of the said Defen- dant and by the pecuniary aids with which the said Paucala Ramasawmy Naick furnished and provided the said Defendant exceedingly increased your Petitioner further sheweth unto this Honourable Court that he did in and by his said Bill of Complaint further Charge that the station or Employ- ment of Military Store keeper at Fort Saint George for the providing and furnishing the said Honourable Company and their armies with Military Stores Tents Gun Carriages and other Conveyances for the said Stores having on or about the Tenth Day of august which was in the year of our Lord one Thousand Seven hundred and Eighty Nine become vacant by the Death of George Savage Esquire who had for some time previous thereto held the said Employment the said Defendant did Represent to the said Paucala Ramasawmy Naick

Naick that if he the said Defendant could so manage matters as to prevail upon John Holland Esquire the then President and Governor of Fort Saint George and upon Edward John Holland then one of the Members of the said Government of Fort Saint George to nominate and appoint him the said Defendant to the said Employment or Office of Military Store keeper which had so become vacant by the Death of the said George Savage that his the said Defendants fortune would be ultimately made at the same time intimating to the said Paucala Ramasawmy Naick that he the said Defendant had been given to understand that previous to the said John Holland and Edward John Holland nomi- nating the said Defendant to the said appointment of Military store keeper he the said Defendant would actually advance and pay down to them the said John Holland and Edward John Holland or to one of them a Sum of Twenty Thousand Pagodas or thereabouts and that the said Defen- dant did shortly afterwards inform the said Paucala Ramasawmy Naick that they the said John

Holland

Holland and Edward John Holland or one of them had actually Consented and agreed to nominate and Appoint him the said Defendant to the said office of Military Storekeeper upon his the said Defendants ... previously paying to them the said John Hollond and Edward John Hollond or to one of them a sum of Twenty Thousand Pagodas and to which terms he the said Defendant had as he informed the said Paucala Ramasawmy Naick acceded and that matters having been so Concluded the only obstitute which then prevented the said Defendant intering into the immediate possession and enjoyment of the said Office of Military Store keeper was the non payment of the said Sum of Twenty Thousand Pagodas to obviate which he the said Defendant did interest and implore the said Paucala Ramasawmy Naick not only to lend him the said Defendant such part of the said sum of Twenty Thousand Pagodas as he the said Paucala Ramasawmy Naick could then Conveniently Command but also to procure and obtain on the Credit of the said Defendant such part of the

said

said Twenty Thousand Pagodas as he the said Paucala Ramasawmy Naick might be unable to advance and your Petitioner did by his said Bill of Complaint further Charge that he the said Paucala Ramasawmy Naick from an anxiety and Desire further to ... aggrandize and promote the fortune of the said Defendant did in his the said Paucala Ramasawmy Naicks life time to wit on or about the Eleventh Day of August which was in the year of our Lord one Thousand Seven hundred and Eighty Nine at the special Instance and request of the said Defendant and for his use and upon his account actually pay and advance to Avadanum Paupiah Brahmin then head Dubash to the said John Holland and Edward John Holland the Sum of five Thousand Pagodas whereby the said Defendant became and was indebted to the said Paucala Ramasawmy Naick in his Life time in the said Sum of Five Thousand Pagodas and that being so Indebted he the said Defendant in Consideration thereof faithfully promised the said Paucala Ramasawmy Naick in his Life time to pay to the said Paucala Ramasawmy Naick

the

the said Sum of five Thousand Pagodas when he the said Defendant should be thereunto afterwards required but that the said Defendant Contriving and intending to Deceive and Defraud the said Paucala Ramasawmy Naick in his life time and your Petitioner sence his Death in this behalf did not pay the said Five Thousand Pagodas or any part thereof to the said Paucala Ramasawmy Naick in his Life time nor had he since the death of the said Paucala Ramasawmy Naick paid the same or any part thereof to your Petitioner Although often requested so to do and that the said Paucala Ramasawmy Naick having borrowed and procured for the said Defendant the sum of fifteen Thousand Pagodas being the residue of the said Principal Sum of Twenty Thousand Pagodas he the said Defendant was actually nominated and Appointed to the said Station or Office of Military Store keeper and on the Eleventh Day of August which was in the year of our Lord one Thousand and Eighty Nine entered into the Receipt of the Issues and profits thereof and your Petetioner further sheweth unto this

this Honourable Court that he did in and by his said Bill of Complaint further Charge that the said Defendant being indebted to Rudrapah Moodelly and Eyah Pillay of Madras Inhabitants upon a Settlement of accounts with them the said Roodrapah Moodelly and Eyah Pillay in the Sum of thirteen hundred Pagodas and the said Defendant being pressed by them the said Roodrapah Moodelly and Eya Pillay for the payment of the said Sum of thirteen hundred Pagodas and it not being Convenient to the said Defendant at that particular period to pay off the same he the said Defendant did apply to the said Paucala Ramasawmy Naick in his life time to wit some time on or about the beginning of the month of February in the year of our Lord one Thousand Seven hundred and Ninety to pay off and Discharge the said Sum of Thirteen hundred Pagodas or otherwise to satisfy the same so as that the said Defendant should not be further pressed by them the said

Roodrapah

Roodrapah Moodelly and Eyah Pillay for the payment of the said Thirteen hundred Pagodas and that the said Paucala Ramasawmy Naicka due Accordingly in his life time to wit on or about the fourteenth Day of February which was in the Year of our Lord One Thousand Seven hundred and Ninety at the special Instance and request of the said Defendant and for his use and upon his Account pay off Discharge and satisfy to them the said Roodrapa Moodelly and Eyah Pillay the said Sum of Thirteen hundred Pagodas by annuities and Executing unto them the said Roodrapah Moodelly and Eyah Pillay on the fourteenth Day of February in the said year of our Lord One Thousand Seven hundred and Ninety his the said Paucala Ramasawmy Naicka Bond or written Obligation Conditioned for the true payment by him the said Paucala Ramasawmy Naick to them the said Roodrapah Moodelly and Eyah Pillay of the said Thirteen hundred Pagodas on or about the fourteenth Day of May in the year of our Lord one Thousand Seven hundred

and

and and Ninety whereby the said Defendant became and was indebted unto the said Paucala Ramasawmy Naicka in the said Sum of Thirteen hundred Pagodas and that being so indebted he the said Defendant did faithfully promise the said Paucala Ramasawmy Naicka in his Life time that he the said Defendant would well and truly pay unto the said Paucala Ramasawmy Naicka in his life time the Said Sum of Thirteen hundred Pagodas when he the said Defendant should be thereunto Required but that the said Defendant Altho often Required so to do, not paid unto the said Paucala Rama: sawmy Naicka in his Life time or to your Petr since the Decease of the said Paucala Rama: sawmy Naicka the said Sum of Thirteen hundred Pagodas or any part thereof but that the said sum of Thirteen hundred Pagodas together with the Intirest was and is still due and owing from the said Defendant to your Petitioner as administrator of the said Paucala Rama: sawmy Naicka as aforesaid and your Petitioner further Sheweth unto this Honourable Court

that

that he did in and. by his said Bill of Complaint
also Charge that the said Defendant upon entering
into the said Employment of Military Store keeper
In Consideration that the said Paucala Rama-
sawmy Naick would as the head Dubash of the
said Defendant Conduct and manage the
said Business and Office of Military Store
keeper agree with and promise the said Paucala
Ramasawmy Naick in his Life time to pay and
allow him the said Paucala Ramasawmy
Naick for his Deligence work and labour in
and about the Business of the said Defendant
as Military Store keeper as aforesaid the sum
of fifteen Pagodas for Every one hundred Pagodas
that should arise to the said Defendant and
be produced from the neat or Clear profits of the
said Office of Military Store keeper and
that the said Paucala Ramasawmy Naick
Confiding in the said promises and undertaking
of the said Defendant did in his Life time at
the special Instance and request of the said
Defendant to wit from the first Day of September
which

which was in the year of our Lord one Thousand
Seven hundred and Eighty Nine until the Thirteenth
Day of March which was in the year of our Lord
One Thousand Seven hundred and Ninety
Carefully and Deligently superintend Conduct
and manage the said Business Office and
Employment of the said Defendant as his
the said Defendants head Dubash and under
his Direction and your Petitioner did by his
said Bill of Complaint further set forth that the
said Defendant Absolutely Received by the Clear
and neat profits of his said Employment of
Military Storekeeper from the said first Day of
September One Thousand Seven hundred and
Eighty Nine until the said Thirteenth Day
of March one Thousand Seven hundred and
Ninety the Sum of Thirty Nine Thousand Six
hundred and Ninety three Pagodas Eight fanams
and Seventy one Cash or thereabouts and that
by means thereof the said Defendant on
the said Thirteenth Day of March in the said
year one Thousand Seven hundred and Ninety

became

became liable to pay and ought to have paid unto the said Paucala Ramasawmy Naick in his Life time the Sum of Five Thousand Nine hundred and fifty three Pagodas forty three fanams and sixty Cash according to his said agreement and his said Promise and undertaking so made as aforesaid but that the said Defendant Craftily intending to Deceive the said Paucala Ramasawmy Naick in his Life time and your Petitioner since his Decease in this behalf did not pay the said Five Thousand Nine hundred and fifty three Pagodas forty three fanams and sixty Cash or any part thereof to the said Paucala Ramasawmy Naick in his Lifetime nor had he since the Death of the said Paucala Ramasawmy Naick paid the same or any part thereof to your Petitioner although often Requested so to do your Petitioner further sheweth unto this Honourable Court that he did in and by his said Bill of Complaint further Charge that the said Defendant had also been indebted to the said Paucala Ramasawmy Naick in his Life time and still was indebted to your

Petitioner

Petitioner as his Administrator in Various other Sums of Money by the said Paucala Ramasawmy Naick in his Life time laid out expended and paid for the said Defendant and at his special Instance and request amounting together to the Sum of Pagodas Sixteen thousand Nine hundred and fifty five Twenty fanams and Sixty Cash or thereabouts the particular Items of which and the Respective times when the said Monies were so paid laid out and Expended by the said Paucala Ramasawmy Naick were particularly setforth and mentioned in an Account Current annexed to your Petitioners said Bill of Complaint and which your Peto prayed might be taken and Received as part of his said Bill of Complaint as True Copy of which Account your Petitioner hath Also annexed to this his Petition of Appeal which he prays may be taken and Received as part hereof and to which he humbly craves Leave to Refer and that the said Defendant under and by virtue of the several matters and

things

things in your Petitioners said Bill of Complaint and herein before particularly sett forth and mentioned became and was indebted to the said Paucala Ramasawmy Naick in the principal Sum of Ten Thousand one hundred and Ninety Seven Pagodas Twenty Six fanams and fifty four Cash being the Balance of the said Annexed Account Current and making in Sterling money of Great Britain at the rate of Eight Shillings for every Pagoda the sum of Four thousand and Seventy Eight Pounds Seventeen Shillings and three Pence and that being so Indebted he the said Defendant in Consideration thereof undertook and faithfully promised the said Paucala Ramasawmy Naick in his Life time to pay him the said Several Sums of Money as by him the said Defendant due and owing to the said Paucala Ramasawmy Naick when he the said Defendant should be thereunto afterwards required and that your Petitioner had frequently in an Amicable manner as administrator of the said Paucala Ramasawmy Naick Applied and Requested

requested payment from the said Defendant of the said Sum of Ten Thousand one hundred and Ninety Seven Pagodas Twenty Six fanams and forty four Cash But that so it was that the said Defendant Combining and Confederating with divers persons unknown to your Petitioner how to injure and Defraud your Petitioner in this behalf not only Refused to pay your Petitioner the said Sum of Ten thousand One hundred and Ninety Seven Pagodas Twenty Six fanams and fifty four Cash or to make your Petitioner any manner of Satisfaction touching the Premises but actually gave out and pretended that your Petitioner as administrator of the said Paucala Ramasawmy Naick was considerably indebted to him the said Defendant in as much as the said Paucala Ramasawmy Naick did in his life time and in the Capacity of head Dubash to the said Defendant Receive Considerable Sums of money from the agents of the said Honourable the united Company on Account of the said Defendant as Military Store keeper whereas your Petr

by

by his said Bill of Complaint Expressly charged
that the said Paucala Ramasawmy Naick did
in his Life time faithfully lay out and Disburse all
such monies as he so Received on the said Defendants
Account and that your Petitioner had accordingly
in the Credit side of the said Annexed Account Current
given the said Defendant Just Credits and allowan-
ces for all such Sums of Money as the said Paucala
Ramasawmy Naick so received on Account of the
said Defendant and that the said Defendant
at other times gave out and pretended that as his
Military Storekeeper was an uncertain event he the
said Defendant was not therefore bound to pay
unto your Petitioner as administrator of the said
Paucala Ramasawmy Naick the said Sum of
Five Thousand Pagodas which the said Paucala
Ramasawmy Naick so paid and advanced for
the use at the Instance and upon Account of the
said Defendant as herein before is particularly
setforth and mentioned Whereas the said Defendant
well knows as the fact is that the said Paucala

Ramasawmy

Ramasawmy Naick so paid and Advanced
the said Five Thousand Pagodas upon his
the said Defendants Account at his special Instance
and Request and solely to promote his the said
Defendants fortune and views and that the said
Paucala Ramasawmy Naicks being Repaid
the said Sum of Five Thousand Pagodas did
not Depend upon the said Defendants being
Continued in or Removed from the said office
of Military Store keeper or upon any Other
event Contingency or Condition whatever and
that the said Defendant Also Refused to pay
your Petitioner the said Sum of one Thousand
and three hundred Pagodas and as an excuse
for his so Doing gave out and Alledged that
he the said Defendant never had any
Dealings or Transactions with the said
Roodrapah Moodelly and Eyah Pillay or
with either of them Whereas the said Defendant
well know the truth to be that he the said
Defendant had Considerable money Transactions
with the said Roodrapah Moodelly and

Eyah

Eyah Pillay and that the said Defendant being indebted to them in the said Sum of one Thousand and Three hundred Pagodas and prefsed for the payment thereof Actually applied to the said Paucala Ramasawmy Naick and Requested of him to Discharge the said one Thousand and Three hundred Pagodas and that the said Paucala Ramasawmy Naick Accordingly Complied with the said Request of the said Defendant and actually prefsed his Bond for the said Debt of the said Defendant as therein and hereinbefore is mentioned and that the said Defendants further to Deceive and Defraud your Petitioner as the administrator of the said Paucala Ramasawmy Naick Denied that he the said Defendant was indebted to the said Paucalas Ramasawmy Naick in his Life time in the said Sum of Five Thousand Nine hundred and fifty three Pagodas forty three fanams and Sixty Cash notwithstanding that he the said Defendant admitted the agreement which he entered into with the said Paucala Ramasawmy Naick as in your Petitioners said

Bill

Bill of Complaint and herein before is mentioned but then the said Defendant in order to evade the payment of the said Sum of Five Thousand Nine hundred and fifty three Pagodas forty three fanams and Sixty Cash pretended and Alledged that the profits which accrued to the said Defendant in his said office of Military Store keeper during the period which the said Paucala Ramasawmy Naick so served as his head Dubash was very Considerable Whereas your Peter Expressly Charged that the said Profits from the said first Day of September in the said year one Thousand Seven hundred and Eighty Nine to the said Thirteenth Day of March in the said year one Thousand Seven hundred and Ninety amounted to a Clear Sum of Thirty Nine Thousand Six hundred and Ninety three Pagodas Eight fanams and Seventy one Cash and that the said Defendant under various other frivolous Excuses Refused to pay your Peter

the

the residew of the said Monies which make up the said Principal Sum of Two Thousand one hundred and Ninety Seven Pagodas Twenty six fanams and fifty four Cash being the balance of the said annexed Account Current and pretended and gave out that your Petitioner was not administrator to the said Paucala Ramasawmy Naick Whereas your Petitioner particularly shewed that administration of all and singular the Goods Chatties and Credits which were of the said Paucala Ramasawmy Naick at the time of his Death were by the said Honourable the Mayors Court of Madraspatnam in its Capacity of Kings Ordinary on the Sixth Day of May in the year of our Lord one Thousand Seven Hundred and Ninety to wit at Madraspatnam aforesaid in due form of Law to your Petitioner granted and were ready to be produced whenever the said Honourable the Mayors Court should require the same And your Petitioner did

did in and by his said Bill of Complaint pray that the said Defendant might upon his Corporal Oath full true and perfect answer make to all singular the Premises and that the said Defendant might set forth whether he did not at the time in your Petitioners said Bill of Complaint and herein before Mentioned or at any other time and when particularly Apply to and Solicit the said Paucala Ramasawmy Naick to become his the said Defendants head Dubash and whether the said Paucala Ramasawmy Naick did not Accordingly become his the said Defendants head Dubash and whether the said Paucala Ramasawmy Naick did not in his Lifetime lend and advance the said Defendant Considerable Sums of Mony upon various Occasions and whether the said Paucala Ramasawmy Naick did not as his the said Defendants head Dubash Conduct manage and Superintend

superintend his the said Defendant's
private and Public Concerns and busings
And particularly that the said Defendant
might set forth whether the said Paucala o"
Ramasawmy Naick did not in his life
time at the time and upon the occasion herein
before mentioned and at his the said
Defendants special Instance and request
and upon his the said Defendants account
advance and pay to Avadanum Paupiah
Braming as the Dubash of the said
John Holland and Edward John Holland
or how otherwise the said sum of Five thou-
sand Pagodas or any other and what sum
of Money and whether the said Sum of
Five Thousand Pagodas or any and what
part thereof was not Due and owing by
the said Defendant to your Petitioner
as administrator of the said Paucala Rama
sawmy Naick and that the said Defendant
might also set forth whether he the said
Defendant was not at the time hereinbefore
Mentioned

Mentioned or at any other time and when
particularly pressed by Roodrapah moodelly
and Eyah Pillay herein before Mentioned
for the payment of the Sum of Thirteen
hundred Pagodas or of any other and
what sum of Money and whether the said
Defendant did not in Consequence thereof
or how otherwise Apply to and request
of the said Paucala Ramasawmy Naick
to Discharge and satisfy the said Sum
of Thirteen hundred Pagodas and whether
the said Sum of Thirteen hundred o"
Pagodas was not in pursuance of such
the Request of the said Defendant and
upon his Account Discharged and satisfied
by the said Paucala Ramasawmy Naick
or how otherwise and whether the said Sum
of Thirteen hundred Pagodas was not due
and owing by the said Defendant to your
Petitioner as administrator of the said Paucala
Ramasawmy Naick and whether the
said Defendant did not Refuse to pay
the

the same and why he is Refused And that the said Defendant might also setforth whether he was not at the time hereinbefore and in your Petitioners said Bill of Complaint mentioned or at any other time and when Appointed to the said office or Employment of Military Storekeeper and whether the said Defendant did not upon his entering into the said office of Military Storekeeper or when also promise and agree to allow the said Paucala Ramasawmy Naicks for his the said Paucala Ramasawmy Naicks Deligence work and labour in and about the busines and Office of the said Defendant as Military Store keeper as aforesaid the sum of fifteen Pagodas or any other and what sum of Money for every one hundred Pagodas that should arise to the said Defendant from the Clear profits of the said office of Military Storekeeper or what other Consideration did the said Defendant promise or agree to allow the said Paucala Ramasawmy Naick in that Respect and whether the said Paucala Ramasawmy Naicks did not in his life time and During the period herein before and in your Petitioners said Bill of Complaint mentioned or for any other and what Length of time act as the Head Dubash of the said Defendant or how otherwise superintend Conduct and manage his the said Defendants business in and about the said office of Military Storekeeper and whether the Clear and neat profits arising to him the said Defendant from the said office of Military Store keeper did not amount from the said first Day of September in the said year of our Lord One Thousand Seven hundred and Eighty Nine to the said thirteenth Day of March in the year One Thousand Seven hundred and Ninety to the sum of Thirty Nine Thousand Six hundred and Ninety three Pagodas Eight fanams and Twenty one Cash or to any other and what particular sum of Money and whether the said Francis Pind did not

not Refuse to Allow your Petitioner the said Sum of Fifteen Pagodas per Cent upon the said Sum of Thirty Nine Thousand Six hundred and Ninety three Pagodas Eight fanams and Twenty one Cash and why did he so refuse and whether the said Francis Lindi was not also indebted to your Petitioner as Administrator of the late Pavalar Ramasawmy Naick in the Several Sums of Money in your Petitioners said Bill of Complaint and herein before and in the said account particularly mentioned to be due and owing by him the said Defendant to your Petitioner as administrator as aforesaid or in any and which of them and whether the said Defendant did not refuse to pay the same or any or either and which of them and why he so refused your Petitioner did therefore by his said Bill of Complaint further pray that the said Defendant might be Decreed by the said Honourable the Mayors Court to pay unto your Petitioner the said Sum of Ten Thousand one hundred and Ninety seven Pagodas Twenty seven fanams and fifty four Cash being the Balance of the said annexed Account Current and which is so due and owing from him the said Defendant to your Petitioner together with all such Costs and Expences as your Petitioner should sustain and be put to in the Recovery thereof which with process of Summons to Appear and answer and General Relief was the scope of your Petitioners said Bill of Complaint your Petitioner further sheweth unto this Honble Court that the said Defendant having been duly served with process to Appear to and answer your Petitioners said Bill of Complaint he the said Defendant did on the Twenty first Day of March in the year of our Lord One Thousand Seven hundred and Ninety one by his Attorney at Law appear and Plead to your Petitioners said Bill of Complaint and for Plea thereunto the said Defendant in and by his said Plea set forth and said that heretofore and before your Petitioner Exhibited his said Bill in the Honourable

the

the Mayors Court against the said Defendant
to wit on the Eighteenth Day of February in
the said year of our Lord one Thousand Seven
hundred and Ninety one the said Defendant
then Complainant did Exhibit his Bill of
Complaint in the said Honourable the Mayors
Court to which Bill of Complaint your Petit
did appear but to which said Bill your Petitioner
had not put in his answer and that the said
Bill was Depending in the said Honourable the
Mayors Court and undetermined and the said
Petitioner for further Plea said that if your
Petitioner ever had any Cause of suit against
him the said Defendant your Petitioner ought
to have pleaded the same by way of set off
for that by a Statute or act of Parliament made
in the Twenty Ninth year of the reign of king
George the Second intitled an act of the
Relief of Debtors with respect to the imprison
ment of their Persons it is amongst other
things enacted "That where there are mutual
Debts between the Plaintiff and Defendant

or

or if either Party sue or be sued as Executor
or Administrator where there are mutual
Debts between the Testator or Intestate and
either party one Debt may be set off against
the other and such matters may be given
in Evidence at the General Issue or Pleaded
in Bar as by the said act might as the said
Defendant alledged appear and the said
Defendant did therefore Plead the said act of
Parliament and pray the benefit thereof all
which matters and things the said Defendant
did aver and Plead in Bar to your Petitioners
said Bill and of your Petitioners said demands
and prayed the Judgment of the said
Honourable the Mayors Court whether he should
be Compelled to make any further or other answer
thereunto and prayed to be thence dismissed
with his Costs and Charges in that behalf
sustained your Petitioner further Sheweth unto
this Honourable Court that the said Plea
of the said Defendant to your Petitioners
said Bill of Complaint was on the Eighth

Day

Day of March in the said year One Thousand Seven hundred and Ninety one set down to be argued and that the said Plea came on to be Argued accordingly in the said Honourable the Mayors Court on Tuesday the Twenty Second Day of the said Month of March when a majority of the members of the said Hon'ble the Mayors Court were pleased to Declare themselves to be of Opinion that the said Defendants said Plea was good and sufficient and the said Mayors Court did therefore think fit to Order and did accordingly order that your Petitioners said Bill of Complaint should stand Dismissed with Costs — From which order of the said Mayors Court your Petitioner having been advised that the same was erroneous He your Petitioner did Appeal unto this Honourable Court by Petition filed the fourth Day of April one Thousand Seven hundred and Ninety one thereby for various Reasons in and by his said Petition assigned and setforth praying amongst other things that the said order might be reversed

and

and that this Honourable Court would be pleased to Order that the said Bill of Complaint might be retained in the said Honourable the Mayors Court and that the said Defendant might be ordered and Directed to put in his Answer thereto and also that he might pay all Costs and that this Honourable Court would grant to your Petitioner such further relief as to them should seem meet and your Petitioner sheweth unto this Honourable Court that the said Defendant did put in his Answer to such your Petitioners Petition of Appeal and the said matter having Come on to be heard before this Honourable Court on the Twenty fourth Day of December in the said year One Thousand Seven hundred and Ninety one This Honourable Court were pleased to Order and Decree that the said Order of the Honourable the Mayors Court should be Reversed and that the said Defendant should put in his Answer to your Petitioners Bill of Complaint

in

in the said Mayors Court on or before the Twenty fourth Day of January then next insuing and also that the said Defendant should pay the costs in both Courts and your Petitioner further sheweth unto this Honourable Court that on the Thirty first Day of January in the year one Thousand Seven hundred and Ninety Two the said Defendant did file his answer to your Petitioners said Bill of Complaint and for answer did setforth his having on the said first Day of March one Thousand Seven hundred and Ninety one filed his Plea to your Petitioners said Bill and also the Tenor of his said Plea the order of the Honourable the Mayors Court thereon and the reversal of such Order by the Decree of this Honourable Court to the Like purport and Effect as the same are herein before setforth and shewn to this Honourable Court and the said Defendant further answering did say he was advised that such his Plea was good and Sufficient in Law to Bar your Petitioners Right of action against him the Defendant

and

and that your Petitioner infiling his said Bill of Complaint instead of answering the Bill filed by the Defendant had proceeded Contrary to the Course and practice of the said Honourable the Mayors Court for the said Defendant did say he was advised that when a Bill of Complaint was filed in the said Honourable the Mayors Court the invariable practice thereof was that the Defendant therein named if he were not advised to Plead or Demur should answer thereunto and if he had any thing to urge by way of setoff that he should state the same and further that if such setoff were more than the Amount sued for and Charged to be due in and by the Complainants said Bill of Complaint that then and in that Case it was as he the said Defendant was advised the practise of the said Honourable the Mayors Court for such Defendant to Deny to stand indebted

unto

unto the Complainant in the Sum Sued for or in any other Sum or Sums of Money whatever and to state that on the Contrary the Complainant stood indebted unto him the Defendant and thereupon and for the recovery thereof to Exhibit and file a Crofs Bill which Crofs Bill as the said Defendant pretended to have been advised was According to the practice of the said Honourable the Mayors Court frequently special and to intents and purposes a Bill of Discovery and afforded to the Crofs Complainant the same Relief as he could obtain by an original Bill and thereupon the said Defendant pretended to be Advised that he ought to insist and he did Accordingly Insist upon his said Plea and the matters and things therein Contained and further the said Defendant pretended to be advised that your Petitioner having Refused to Conform to such pretended Practice of the said Honourable the Mayors Court

Court had acted in his own wrong and for as much as no man could take advantage of his own wrong the said Defendant did insist that thereby and by reason thereof your Petitioner had forfeited all right if he ever had had such right of Calling the said Defendant in question before the said Honourable the Mayors Court and the said Defendant further answering did say he admitted that your Petitioners Intestate did at the time for that purpose in your Petitioners said Bill setforth became his the said Defendants bad Debash but he the said Defendant did not admit that your Petitioners said Intestate had lent and advanced to him the said Defendant any Sum or Sums of money on the Contrary the said Defendant did say that upon the several Balances of Account stricken between the said Defendant and your Petitioners said Intestate relative to the matters in question before the said Honourable the Mayors Court he your Petitioners said Intestate had

appeared

Appeared to be and had Constantly been indebted
unto the said Defendant and the said
Defendant did say he did not admit the assertion
in your Petitioners said Bill of Complaint Contained
that your Petitioners said Intestate was enabled from
his own fortune and Credit and from the large
and extensive property of his father family and
friends and from other Creditable Connections
that attached to him in Consequence thereof to make
any loans and advances to the said Defendant
if the said Defendant had been necessitated to
Require such aid from your Petitioners said
Intestate and the said Defendant did say he
did not admit that the father of your Petitioners
said Intestate possessed any Large and Extensive
or any property of Consequence so as to have
enabled him to assist your Petitioners said
Intestate had he been so inclined with any
large Sums of Money and the said Defendant
for further answer did say he admitted that your
Petitioners said Intestate had as head Dubash as
aforesaid managed and Superintended the said

Defendant

Defendants Public and private Concerns and
business in the same manner as was usual
and Customary for head Dubashes to do and
perform but the said Defendant did
deny that the your Petitioners said Intestate
had at the time in your Petitioners said
Bill setforth or at any other time at this the
said Defendants special Instance and
request or upon his account advanced and paid
unto Avadanum Pauliah Bramany as the
Dubash of John Holland and Eduard John
Holland in your Petitioners said Bill
named the Sum of Five Thousand Pagodas
or any other sum of Money whatever and
the said Defendant did say that he
never either Directly or indirectly had acknow-
ledged or Required your Petitioners said
Intestate to pay any such sum or any part thereof
to the said Avadanum Pauliah Bramany
for the purposes in your Petitioners said
Bill setforth nor for any other purpose and

the

the said Defendant did say that he your
Petitioners said Intestate on his Life time never he
hinted to him the said Defendant that he had
paid any sum of Money to the said Avadanam
Pauliah Bramany on account of the said Defend
and although there had been Divers settlemen
of Accounts between your Petitioners said Intestate
and the said Defendant he had not in any such
accounts brought forward any such Sum nor h
he therein mentioned the Name of the said
Avadanum Pauliah Bramany which the said
Defendant did say would have been a thing
of Course and of necessity had the fact been
as your Petitioner had stated it and further
the said Defendant pretended to be advised
that as no such mention had been made in
said Accounts either Public or private by y
Petitioners said Intestate Delivered in from
time to time to the said Defendant as aforesaid
that that alone was sufficient to vitiate the
pretended Claim and Defeat the pretended
inequitous purposes of your Petitioner in an

of

of the said Sum of Five thousand Pagodas so
Charged to have been paid to the said Avadanum
Pauliah Bramany and thereupon the said
Defendant did deny that the said sum of Five
thousand Pagodas or any part thereof was due
and owing from the said Defendant to your
Petitioner as administrator as aforesaid or otherwise
howsoever and the said Defendant further did
say that the assertions and insinuations in your
Petitioners said Bill of Complaint Contained
relative to the representations pretended to have
been made by the said Defendant to and the
Conversations held with your Petitioners said Intestate
on the Subject of the vacant office of Military
Storekeeper and the said Defendants hopes o..
prospects and Expectations of succeedings thereto
were for so the said Defendant pretended to be
advised altogether irrelevant and impertinent
and that the said Defendant ought not to
make any answer thereunto or take any notice
thereof then to pray as he there did pray that

the

the same might be Expunged from the Record
and the said Defendant further answering
did say that as to the Sum of the Thirteen hundred
Pagodas in your Petitioners said Bill of Com-
plaint Charged to be due and owing from the
said Defendant on Account of a Bond said
to have been Executed by your Petitioners said
Intestate at the Instance and for and on account
of the said Defendant he the said Defendant
did say that the Transaction if it ever in reality
had taken place so far from having been at the
instance had been without his knowledge
that he had ever heard thereof from your
Petitioners said Intestate during his Life time
and that the first Intimation he had received
on the subject was some time on or about the
Month of August one Thousand Seven hundred
and Ninety when Rudrapah Moodelly in
your Petitioners Bill named had Demanded
from him the said Defendant payment
of the Amount of the said Bond so granted
by your Petitioners said Intestate and then
informed

informed the said Defendant how and in what
manner he had became possessed thereof The said
Defendant further did say that he never had seen
the Bond nor did he know in what manner or for
what Consideration the same had been granted by
your Petitioners said Intestate further than as
he had been informed by the said Rudrapah
and as the same was Charged and setforth in
and by your Petitioners said Bill of Complaint
and lastly that he the said Defendant never
had authorized your Petitioners said Intestate
to Execute any such Bond if it ever had been
Executed and further the said Defendant did
say that it had not been Discharged and satisfied
at the request of the said Defendant or as
he had therein before setforth with his knowledge
and that therefore and by reason thereof he
was not indebted unto your Petitioner as adminis-
trator or otherwise in the said Sum of Thirteen
hundred Pagodas or any part thereof and the
said Defendant did say that so in fact it did

Appear

appear upon the face of your Petitioners account
Current to his Bill of Complaint annexed
for that on the Credit side thereof he did admit
a Balance infavor of the said Defendant
under date the first Day of March one Thousand
Seven hundred and Ninety and accordingly cre-
:dited the same to the Credit of the said Defen-
:dant that is to say The sum of Seven hundred
and Eighty two Pagodas and Thirty Six Cash
and the said Bond was said to have been
Executed in the preceding Month of February
and that of Course if it ever had existed it
must have been Embraced in the accounts of
that Month and involved in the Balance
due to the said Defendant on the first of the
following month To wit the said first Day
of March and the said Defendant further
answering did say he did admit to have
been Appointed to the office of Military Store
keeper at the time in your Petitioners said
Bill for that purpose set forth but did deny
that he ever had at any time promised to Allow

to your Petitioners said Intestate the Sum of
Fifteen Pagodas for every one hundred Pagodas
that should arise to him the Defendant from
the Profits of the said Office or otherwise nor
has such Sum upon such Account ever been
Demanded by your Petitioners said Intestate
in his life time from the said Defendant nor
Carried nor ever Attempted to be Carried
to his your Petitioners said Intestates Credit
in any settlement with the said Defendant
and that although the said Defendant did
admit that your Petitioners said Intestate had
as the Debash of the said Defendant superin-
:tended and managed his the said Defendants
business yet the said Defendant did say that
he was not by reason thereof Entitled to the
Commission as aforesaid but that he had been
amply and abundantly Compensated for and on
Account of any service that he might or could
have rendered unto the said Defendant by
Certain perquisites or fees Called Dubashes custom

which

which were some times one and sometimes Two
fanams upon every Pagodas Disbursed and which
in large Concerns such as those in which the said
Defendant had been engaged must have amounted
to a very large Sum of Money The said Defendant
further did say that had your Petitioners said Intestate
advanced any money and thereby run any risque on
account of the said Defendant in his said
Employ as military Storekeeper he might have
had some Colour of Claim to a Compensation in
proportion to such Resque but the said Defen-
dant did say that he your Petitioners said
Intestate never did advance any Money on
Account of the said Defendant in his said
Employ as Military storekeeper and that Con-
sequently he could not have run any risques
and therefore was not Entitled to any Extraordi-
nary Compensation on Account thereof for the
said Defendant did say that the Cash
advanced for and on account of his the Defendants
said Employ as Military storekeeper as aforesaid

had

had been Advanced by the Defendant and
that your Petitioners said Intestate upon the
Arrangement of Accounts between him and
the said Defendant had Constantly been
indebted to the said Defendant or Rather
that the said Defendant had been upon
such arrangement always in advance to your
Petitioners said Intestate and which the said
Defendant did say might appear by reference
had to the Account Currant to your Petitioners
said Bill annexed and the said Defendant
did say that he had heard and did verily
believe the fact so to be that no such Commission
as that set up by your Petitioner as administrator
as aforesaid ever was allowed by the said
Defendants predecessors or Succesor in Office and
therefore the said Defendant did say that
such Demand so set up by your Petitioner as
administrator as aforesaid was unfounded and unjust
and Lastly the said Defendant did say
that he did not stand indebted unto the Complainant

as

as administrator as aforesaid in the Sum of Five Thousand Nine hundred and fifty three Pagodas forty three fanams and sixty Cash and the said Defendant did say that in the office or Employ of Military store keeper at the time he held the same there were several Departments to wit the Carpenters yard the Powder manufactary and Military Stores in General and the said Defendant did say that on the first Day of January One Thousand seven hundred and Ninety he was Convened that the advantages Derived as aforesaid by your Petitioners said Intestate were equal to and an ample Compensation for any services he might or could under unto the said Defendant as his Debash as aforesaid yet to the said Defendant did admit that he had from more motives of tenderness and Compassion towards your Petitioners said Intestate and his family and in order to Encourage him to be Carefull Deligint and attentive promised to him your Petitioners said Intestate an Allowance of Ten per Cent upon the profits of the Carpenters yard only from

from the said first Day of January and the said Defendant did say that such unasked and unexputed indulgence had been greatfully Recived by your Petitioners said Intestate who had appeared to be and so had Expressed of himself only thankfull to the said Defendant for such indulgence and the said Defendant further answering did say that the Items in the Account Current to your Petitioners said Bill of Complaint annexed under Date the Eighth day of March one Thousand Seven hundred and Ninety and setforth as follows To wit To Cash advanced to Cashevah for the purpose of Stores 5000 Pagodas was erroneous in as much as the Sum advanced by your Petitioners said Intestate to the said Cashevah was Three Thousand Pagodas and no more and the said Defendant further answering did say that he did not stand indebted unto your Petitioner as administrator as aforesaid in the said Sum of Ten Thousand one hundred and Ninety

Seven

Seven Pagodas Twenty Six fanams and fifty four
Cash or any part thereof and that your Petitioner
had no right whatever to Call the said Defendant
in Question before the said Honourable the Mayors Court and
the said Defendant did pretend that he did verily believe
that in Commencing the said Suit against him the said
Defendant that your Petitioner had proceeded upon the o[ut]
inequitous and fraudulent design of intermedating him the
said Defendant by reason of a Certain transaction between
the said Defendant and John Halland and Edward
John Hallands in [illegible] your Petitioners said Bill named
and thereupon to force him the said Defendant unto a
Compliance with his your Petitioners pretended unjust
demand which he the said Defendant did further pretend
were Contrary to equity and good Conscience and to the
great wrong and injury of him the said Defendant But
your Petitioner sheweth unto this Honourable Court that
such the answer of the Defendant was never Sworn to
by him the said Defendant—

And your Petitioner further sheweth
unto this Honourable Court that on the Sixth Day of
March

March in the said year One thousand Seven hundred
and Ninety two He your Petitioner did file a general Replication
to the answer of the said Defendant and on the Seventeenth day
of June One thousand Seven hundred and Ninety four the
said Defendant did file a general Rejainder to such general
Replication That thereupon issued did Join on the Seventy fourth
day of the said Month of June one thousand Seven hundred
and Ninety four and rules did pass for the Examination of
Witnesses— And your Petitioner sheweth unto this Honourable
Court that several Witnesses were adduced on the part of him
your Petitioner before the Examiner of the said Honourable
the Mayors Court for Examination but that by reason of the
neglect or underprocrastination of the said Examiner two only of
the said Witnesses to wit Caumapillay and Venkatastrustnah Moodelly
were Examined when publication passed whereby your Petitioner
was Deprived of the Benefit of strong and Conclusive Evidence
in Support of his Claim upon the said Defendant—

And your Petitioner sheweth that no interrogatories
were Exhibited nor any witnesses Examined or adduced on the part
of the said Defendant—

And your Petitioner sheweth that publication having
passed

passed the said Defendant did Except to Sundry of the interrogatories Exhibitted on the part of your Petitioner and to the Depositions of the said Caumah pillah and Venkatahistnah Moodelly thereunto to which Exceptions your Petitioner did put in answer in support of the said Interrogatories and Depositions But the said Exception were at the hearing of the Cause by the said Honourable Court held good whereby your Petitioner was further deprived of Evidence highly material to his said Cause —

And your Petitioner Sheweth unto this Honourable Court that unto the remaining Interrogatories Exhibitted to the said Caumapillah he the said Caumapillah did depose that he knew your Petitioner and that he had so known him Six or Seven years and that he knew the said Defendant and had so known him Eleven years and that he had known the deceased Pawala Ramasawmy Naich about six years that he had Served the said Pawala Ramasawmy Naich deceased in the Capacity of a Conicoply and had Entered into his Service in the Month of august one thousand Seven hundred and Eighty Six and Continued

Thereon

Thereon until he died which had happened in the year One thousand Seven hundred and Ninety That he knew the state of Accounts between the said Defendant and the said Pawala Ramasawmy Naich and that there was a Balance of upwards of Tenthousand Pagodas one by the said Francis Lind to the said Pawala Ramasawmy Naich and that the same had never been Settled in his life time and unto the remaining Interrogatories Exhibited to the said Venkatahistnah he the said Venkatahistna did Depose that he knew your Petitioner and had so known him Twenty Years and that he knew the Defendant and had so known him Fifteen years or thereabout that he knew that Accounts had Existed between the said Francis Lind and Rudrapah Moodelly and Eyah Pillah of Monies Advanced in the Month of February One thousand Seven hundred and Ninety to the said Francis Lind who was Scavenger at that time and that a Settlement of the same had taken place between them when there Appeared a Balance of One thousand three hundred Pagodas infavor of them that he did not know of any Application having been made to the said

Francis

Francis Lind for payment of such Balance but he did know that the Deceased Paucala Ramasawmy Naick had Executed his Bond to the said Rudrapah Moodelly and Eyah Pillay on Account of his Master the said Francis Lind That there had not been to the knowledge of him the said Deponent any Compensation made to the said Paucala Ramay Sawmy Naick for the same That the said Rudrapah Moodelly and Eyah Pillah had gone to the House of the said Defendant after the Death of the said Paucala Ramasawmy Naick and Required him to Discharge the amount of the said Bond which the said Defendant promised to Discharge That he had been in the Service of the said Paucala Ramasawmy Naick in his Lifetime as a writer and that he had entered into his Employ at the time when the Defendant was appointed Military Store keeper of Fort Saint George and had Continued therein until the time of his decease and was in Consequence well acquainted with the affairs and Concerns of the said Paucala Ramasawmy naick deceased. That he knew the State of Accounts between the Defendant and the deceased Paucala Ramasawmy naick in his lifetime and that the Balance of the same was Ten Thousand Pagodas and upwards in favor of the said Paucala Ramasawmy Naick and that the same

same had not in any manner been Settled in the Life time of the said Paucala Ramasawmy Naick but did then Continue unsettled —

And your Petitioner further sheweth unto this Honble Court that the said Cause did Come on to be heard before the said Honourable the Mayors Court on the Twenty Eighth day of July now last past when the said Court were pleased to order and Decree and did Accordingly Order and Decree that your Petitioners Bill should stand dismissed and that your Petitioner should pay the Costs of this Suit out of his own Packet a Copy of which Decree is hereunto annexed for the Inspection of this Honourable Court to which your Petitioner Craves leave to Refer praying that the same may be taken as apart of this his Petition and appeal —

By which said Order and decree of the said Mayors Court your Petitioner doth Conceive himself much aggrieved and doth therefore Appeal therefrom to this Honble Court for the following amongst other reasons —

First :- Because by the admission of the said Exception to the interrogatories and Depositions on the part of your Petitioner he your Petitioner is precluded from the Benefit of Evidence highly material to his said Suit —

Secondly

Secondly Because the Honourable the Mayors Court in this said Decree have decided Contrary to Evidence for your Petitioner is advised that the answer of the said Defendant not being upon Oath hath no force or Evidence whatsoever as to the matter of Fact Contained therein and that the Defendant Can have no benefit of the plea Contained in his said answer the same having been previously over ruled by adecision of this Honourable Court and therefore and forasmuch as the Defendant hath not attempted to Defeat the Charges Contained in your Petitioners Bill of Complaint by any this Evidence your Petitioner is advised that the said Bill of Complaint Lies and doth to all intents Stand Confessed —

Thirdly Because the said Bill of Complaint in several particulars especially in as far as regards the Transactions with Rudrapah Moodelly and Eyah Pillah is supported by the Deposition of Veneatachurnah and as to the general State of Accounts between your Petitioners intestate and the Defendant and the amount of the Debt due from the latter is Established by the Testimony the said Cauma pillah and Veneatachurnah and as hath been Already shewn by your Petitioner the same is not Combated by any manner of Evidence on the other part and therefore the said Mayors Court hath herein again decreed Contrary to Evidence —

Fourthly Because the said Defendant in his said Answer hath in part admitted Some of the Charges Contained in your Petitioners Bill of Complaint particularly that the said Defendant had regard to allow your Petitioners intestate Ten per Cent on the profits of the Carpenters yard and that your Petitioners said intestate had on the Eighth day of March one thousand Seven hundred and ninety advanced to Cashawah Moodelly for account of him the Defendant the Sum of three thousand Pagodas instead of Five thousand as Charged in the Account Current annexed to your Petitioners said Bill of Complaint to the benefit of which admissions your Petitioner is advised he was and his at all events entitled and to a Decree for the same under the Prayer Contained in his said Bill of Complaint for general Relief —

Fifthly Because your Petitioner being in another right and merely as a Trustee is not in Law liable to Costs out of his own pocket but the sum if at all awarded against your Petitioner —

Petitioner as Complainant in the said suit ought to have been so awarded against him as administrator to his said intestate and even thus your Petitioner doth conceive and advised that he is not liable but that the Costs ought of right to have followed the Decree to which by his fourth reason your Petitioner hath shewn that he is intitled against the Defendant

For all which reasons and such others as may be offered at the hearing your Petitioner prays that this Honourable Court will be pleased to over rule the said Exceptions so that your Petitioner may have the full benefit of his Evidence in the premisses and that this Honourable Court will be pleased to reverse the said Decree of the Honourable the Mayors Court and grant unto your Petitioner such further and other relief in the Premisses as to the wisdom of this Honourable Court shall seem Meet—

(Signed) John Wilkinson
Solicitor for Appellant—

Mayors

Mayors Court at
Madraspatnam

Tuesday the 28th Day of July
Anno Domini 1795

Present

Benjamin Roebuck Esqr Mayor

James Call — William Webb
Andrew Ross — John Metfort
James Daly — William Abbott
Alexr Cockburn — & Jos. Greenhill —
Aldermen

Between Petty Tomby Naich of Madraspatnam Dubash Administrator to the Estate and Effects of Paucala Ramasaumy Naich Deceased Complainant and Francis Lind of the same place now or late as Senior Merchant in the Civil Service of the Honorable United Company of Merchants of England Trading to the East Indies under their Presidency of Fort St George 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 Copy of an Account Current Annexed the Defendants Answer the General Replication the General Rejoinder 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 Complainants Bill do stand Dismissed and that the Complainant do pay the Costs of this suit out of his own Pocket—

Pl Curr

(Signed) George Taylor Regr

A true Copy

(Signed) John Wilkinson
Solicitor for Appellant—

Dr ---- Francis Lind Esqr in Account Current with Petty

1789					
August	11	To Cash paid to Avadanum Caupah Brahmin Head Dubash to John Halland Esqr late Governor of Madras and to Edward John Halland one of the Members of Council		5000	
1790					
May	4	To Principal of a Bond executed to Pendrapah and Eyah Pillay by the deceased for a debt by you to them owing and in your Account executed the 14 of February and due this Day		1200	
March	1	To Cash sent you at the Garden House			
	8	To Dr paid Colonel Moorhouse as per your Order	100		
	8	To Dr on Account of Mr Vaughn	1012		
		To Dr Advanced Cashavah for the Purchase of Stones as per your Order	92	26	
	9	To Dr paid Mr Case on Account of Wax Candles as per Bill	5000		
		To Dr Dr Cashavah on Account of Colonel Moorhouse	535	35	
	10	To Dr Dr Miguel Johannis on Account of Timber as per Bills	998	31	
		To Dr Dr Colonel Moorhouse for the Purchase of Gum Sarnagee as per Bills in Cashavas Possession	85	41 20	
	11	To Dr paid Mr Robert Clarke on Account of Outcry Bills	969	21	
	18	To Dr Mr Chas H White on Account of a Bill of Bills of Exchange for London	25	18	
	23	To Dr Dr Colonel Moorhouse as per your Order	6500		
	29	To Dr Dr You	500		
		To Dr Dr Singanah for the use of Carpenter Yard Expences as per 45 fanams per Pag. Tab 25200	200		
		To Dr Dr Mootoo on Account of Iron as per Bills	360		
		To Dr Dr Cashavah for military Charges Tab 36000 at 36 fan per Pagoda	1000		
	30	To Dr Dr for the purchase of Stores	8	5 40	
		To Dr Dr Mootoo pannier in full as per his Bill	50		
		To Dr Dr Sundry Charges as per account particular	19	14 20	
		To Dr Dr Sundry Charges as Mr Lind's Order from August 89 to March 90 as per Account particular	52	3 60	
		To Commyssion on Pags 39693.8 71 being the Emoluments from the purchase of Stones Carpenter yards and Gun Powder as per Account particular from 1 Sept 89 to 30 March 1790	48	5	
					16955 20
1790					
June	11	To Interest on Pags 5000 from 1 Sept 89 to this day as per Account at 12 per Cent per Annum			5953 4
		To Interest on Pags 1200 from 14 Feby 1790 to this day as per Account at 12 per Cent per Annum	48 15		
			50 31 40		519 1
		Pagodas			29209 19
					29728 21

Attrue Copy
[illegible]

Petty Tamboo Naich Administrator to the Estate of Poucala Ramasawmy Naich Deceased

1790					
March	1st	By Ballance of an Account furnished by the Writer of the deceased in which has not included the Debit of 5000 Pags as per contra the sum being omitted expenditure an Account of the said Francis Lind and therefore not brought into the office Account of the deceased with the said Francis Lind			782 -- 26
	2	By Cash Recvd from Captain Durand on Account of Mr Craig about Mr Gilles Estate			194 -- --
	6	By Dr Dr from the Companys Treasury Gold	10000		
		in fanams 36000 at 36 fs per Pags	1000		
		Dr 45000 at 45 Dr Dr	1000	12,000	
		By Dr Dr from Cutch pay Master General House Rent for Jany and Febry	50		
		Dist Money for Dr Dr	16 46	66 46	
	10	By Dr Dr from Mr Cockburn for a Draft on them M Pags 100 or star Pagodas		109	
	16	By Dr Dr from Mr Chase on Account of Mr Hamilton for Mr William Dobbyns Bond Dated 4th Feby 89		660	
	17	By Dr Dr Borrowed from Cutchery	300	3900	
	20	By Dr Dr Recvd from Rajah of Calastry		1000	
	30	By Dr Dr Colonel Malcocks House Rent		24	
		By Dr Dr for piece Goods Sold		320 42 70	
		By Sundries debitted in your last Months Account by the deceased and now Credit you for not Discharging the same Vizt			
		Charcoal Contractor	80		
		Yard Rent for February	50		
		Mr Breathaughtes Bill	200		
		Sawmy Naichs Customs for Timber	33 40 10	363 40 10	
		By Cash Recvd for 530 sheathings Boards Sold		110	
					18748 39
					19530 39 26
		By Balance			10197 26 54
					Pagodas 29728 21

Madras 12th June 1790
Errors Excepted Pr / Signed / Petty Tamboo Naich administrator of Poucala Ramasawmy Naich Deceased

To

To the Right Honourable Lord Hobart
President in Council.
Fort St George

In the Honourable
Court of Appeals.

Between Petty Tomboo Naick
of Madraspatnam Debash administrator of
Paucala Ramasaumy Naick late of Madraspatnam
aforesaid Debash appellant and Francis Lind a
Senior Merchant in the Civil Service of the Honble
Company of Merchants of England trading to the East
Indies under their Presidency of Fort St George
Respondent

The Answer of the above named Respondent to the
Petition and Appeal of the above named Appellant

This Respondent admits that the Appellant
did on the Twenty fifth Day of February and year of our Lord
one thousand Seven hundred and ninety one Exhibit and
file a Bill of Complaint in the Mayors Court against this
Respondent and that the said Bill of Complaint may have
set forth the several Matters and things in the appellants
said Petition of appeal for that purpose set forth and
this Respondent also admits that the appellant did to the
said Bill of Complaint annex a paper Writing by him
called an account Current and thereon did stroke a balance
against this Respondent and set forth the same in his said
Bill

Filed in my Office
the 24th September 1795
I Webbe Clerk

Bill of Complaint amounting to the Sum of Ten thousand
one hundred and Ninety Seven Pagodas Twenty Six fanams
and fifty four Cash and this Respondent admits that the
Appellant did in and by his said Bill of Complaint pray that
this Respondent might be Decreed to pay unto them the appellant
the said sum of ten thousand one hundred and ninety Seven
Pagodas Twenty Six fanams and fifty four Cash together with
such Costs and Expences as he the Appellant might sustain and be
put to in the recovery thereof and this Respondent admits that the
Appellant did in and by his said Bill of Complaint further pray
that a Summons might issue against this Respondent to appear
before the said Mayors Court and this Respondent admits that
he was Duly served with the said Summons and that he did
thereupon Appear before the said Mayors Court and Exhibit
and file a plea to the appellants said Bill of Complaint in
Substance as the same is set forth by the appellant in and by his
said Petition of appeal and the said Plea afterwards coming
on to be heard before the said Mayors Court the same was
held good by a Decree of the said Mayors Court and the
Appellants said Bill of Complaint was thereupon Dismissed
with Costs and this Respondents admits that from the said
Decree of the said Mayors Court the Appellant did appeal
to this Honourable Court that to such appeal this Respondent
did Exhibit and file his answer and that the said Appeal
and answer did Come on to be heard before this Honourable Court
on the Twenty fourth Day of December in the year above
Mentioned

Mentioned when this Honourable Court was pleased to Reverse the said Decretal Order of the said Mayors Court and Direct that this Respondent should answer the appellants said Bill of Complaint and this Respondent admits that thereupon he did on the Thirty first Day of January following Exhibit and file his answer to the Bill of Complaint of the appellants and this Respondent admits that the matters and things in his said answer Contained are true and by the appellants said Petition of Appeal truly recited and this Respondent admits that to this said answer the appellant did file a Generall Repleication and that thereunto this Respondent did Ayorn Generally and this Respondent admits that Thereupon Issue did Join and rules did pass for the Examination of Witnesses and that Witnesses were accordingly Examined on the part of the Appellant but this Respondent doth not admit that any other Witnesses were produced before the Examination of the said Mayors Court on the part of the Appellant than whose depositions now appear before this Honourable Court and this Respondent submits to this Honourable Court that if the said Examiner of the said Mayors Court had been guilty of any manner of Neglect touching the Examination of Witnesses produced before him he the appellant should at the time such Neglect had been Observed have Complain thereof unto the said Mayors Court and not have brought forward the matter at this time before this Honourable Court but

but this Respondent further submits to this Honourable Court that Issue did Join in the above Cause Early in the year of our Lord One thousand Seven hundred and Ninety four and that publication did not pass until the fourth Day of November in the said year of our Lord one thousand Seven hundred and ninety four and therefore if the appellant had had any other Witnesses to Examine than those who have been Examined he had Sufficient time for that purpose Over and above the usual Rules Allowed by the said Mayors Court that is to say over and above the time of Six Weeks from the time of passing publication and this Respondent says that the appellant did obtain very Extraordinary indulgence from the said Mayors Court to Enable him to Examine his Witnesses which this Respondent will if necessary prove to the Satisfaction of this Honourable Court at the hearing and humbly prays that Liberty may be allowed him so to do and this Respondent says that it is the Duty of the party or his attorney to attend with his witnesses at the Office of the Examination in order to get them Examined and that if he neglects such Duty he is not to take advantage of his own Wrongs but this Respondent says that the fact is that the appellant did Appear to have Abandoned his Cause for although this Respondent did file his answer in the said Mayors Court to the appellants said

Bill

Bill of Complaint in the Month of January one thousand Seven hundred and Ninety two and prefs Several Rules for the appellant to Reply thereto yet he Did not file his Replication untill the Month of June One thousand Seven hundred and Ninety four and then only a general Replication and at the prefing Instance of this Respondent which this Respondent humbly prays he may be at Liberty to shew to this Honourable Court at the Hearing and therefore this Respondent humbly submits to this Honourable Court that the Assertions in the appellants said Petition of Appeal Contained is not founded in truth and that he was not by means of the Examiner of the said Mayors Court Deprived of the benefit and strong and Conclusive or of any Evidence in support of his Claim against this Respondent and this Respondent humbly submits to this Honourable Court that if the said Assertions of the Appellant should Appear to be new or impertinent Matter the same ought to be Expunged This Respondent further answering says he admitts that Interrogatories were not Exhibited and Consequently Witnesses were not Examined on his part and this Respondent also admits that upon Publication passing he Did Except

to

to sundry Interrogatories Exhibited on the part of the Appellant and to the Depositions of Camapillah and Veneata Kistnah Moodelly taken thereon and this Respondent admits that the appellant did file an Answer to the said Exceptions and that at the hearing of the Cause this Respondents said Exceptions were by the said Mayors Court held good and this Respondent admits that the Depositions allowed of by the said Mayors Court may have been in substance as the Appellant has stated the fact to be in and by his said Petition of Appeal—

And this Respondent further answering says he admits that the said Cause did Come on to be heard before the said Mayors Court on the Twenty Eighth Day of July now last past and that the said Mayors Court were then pleased to Order and Decree and did Accordingly Order and Decree that the appellants said Bill of Complaint should be Dismissed and that the appellant should pay all Costs of Suit out of his own pocket But this Respondent doth not admit that the Appellant is in any wise aggrieved by the said Decree of the said Mayors Court or that he hath any Cause for Appealing therefrom to this Honourable Court and this Respondent in answer to

the

the Reasons Setforth in the Appellants said Petition of
Appeal says —

To the first Reasons that the admission of this Respondents
Exceptions was as this Respondent is advised founded
upon the practice of the Court of Chancery as well as that
of the said Mayors Court inasmuch as the said Exceptions
did point out that the Interrogatories Exhibited by the
appellant were so Extremely leading that they did not
leave the Witnesses to the Exercise of their own knowledge
and Recollection so that they might be left to Depose
the truth but did actually put Words into their Mouths
and this Respondent therefore submits to this Honourable
Court that if the Appellant be as he says he is by the
admission of the said Exceptions precluded from the
benefit of Evidence highly material to this suit but
which this Respondent doth not by any means admit
to be the Case he the Appellant ought not to have Exhibited
Interrogatories that were upon the face of them unfair —

To the Second Reason this Respondent says that the
said Mayors Court have not Decided Contrary to Evidence
inasmuch as this Respondents is advised that there
was not any Evidence on the part of the Appellant before
the

the said Mayors Court Even if this Respondents Exceptions
had been Over Ruled to support the several Matters
and things setforth in his the Appellants said Bill of
Complaint and as to the answer of this Respondent
having been filed without Oath this Respondent says
that it was so filed to meet the Convenience of the appellant
for that this Respondent having long before the said answer
was filed Departed for England his Attornies in the said
Mayors Court did pray a Commission to Swear him
thereto and that thereupon the Appellant did agree
to receive the said answer without an Oath and having
so agreed this Respondent humbly submits to this Honble
Court that the Appellant Cannot at this time take an
unfair advantage of his own acts to the Prejudice of this
Respondent and this Respondent further humbly submits
to this Honourable Court that this Respondents answer
having been Received as aforesaid by the appellant is
of Evidence as to the Matters of fact Contained therein
and Carries with it the same force and Validity in
that Respect as if it had been Delivered upon Oath
and this Respondent says he is advised that although
his Plea was over Ruled by this Honourable Court
yet

yet that he was at Liberty to set forth the same in his answer to the appellants said Bill of Complaint and to have the benefit thereof at the hearing and this Respondent says that he hath not only attempted to Defeat but has as he is advised actually defeated the Charges Contained in the appellants said Bill of Complaint and therefore he submits to this Honourable Court that the appellant is Wrongly advised in saying that his said Bill of Complaint did and doth to all intents stand Confessed for this Respondent says he is advised that in order that a Bill may be taken pro confesso the party Defendant must either Appear thereto and not put in any answer or not Appear thereto - in the present instance this Respondent did appear to the appellants said Bill of Complaint and did put in his answer thereto that to such answer the appellant did Reply and that Issue did afterwards Join and the Cause came regularly down to hearing so that if the answer of this Respondent had been Originally defective but which this Respondent has shewn was not the case the appellant by Replying thereto did as this Respondent is advised cure that Defect and this Respondent submits to this Honourable Court that where an answer to a Bill of

of Complaint is in any wise insufficient the Complainant in the Court below may as this Respondent is advised take Exceptions thereto and oblige the Defendant to put in a further and sufficient answer but that such Exceptions must be filed before Replication or Even before the Rules for Replication have issued -

To the third Reason this Respondent says that the appellants said Bill of Complaint is not as he this Respondent is advised supported by the Testimony of Vencatathistnath either Regarding the Transactions with Rudrapah Moodeliar and Jah Pillah or in any other essential particular nor is the amount of the Debt pretended to be due from this Respondent to the appellant Established by the Testimony of Cauma Pillah and Vincata Kristnah and this Respondent says that if all the persons had been Examined whose names appear in the Interrogatories Exhibited on the part of the appellant and no Exceptions had been taken on the part of this Respondent Even under those Circumstances the appellant would not have supported his Case so as to have Entitled himself to a Decree against this Respondent for this Respondent says that the said Interrogatories are Entirely silent Regarding one of the two points upon which the Cause of the appellant does hinge and forms the gist thereof and no

no one has proved the other and as the Owners prabandie
Rested with the Appellant who made the Charge it was
for him to have adduced proof in support thereof insemuch
as this Respondent Could only deny facts it was not pafsible
for him to prove a negative and in order to illustrate the
points hereinabove alluded to this Respondent prays leave
to say that the appellant has in and by his said Bill of
Complaint Charged that this Respondent upon Entering
upon the Employment of military Storekeeper promised to
allow fifteen per Cent upon his this Respondents profits
unto his the appellants Intestate and the appellant has
also Charged in and by his said Bill of Complaint that
those profits did amount to the sum of thirty Nine
thousand Six hundred and Ninety three Pagodas Eight
fanams and Seventy one Cash and this Respondent submits
to this Honourable Court that having made such Charges
the appellants ought to have Examined Witnesses thereto
for unless the profits of this Respondent as Military Storekeeper
were Established the said pretended promise of Fifteen
per Cent thereon Even if such promise had been proved
as insisted on by the appellant he the appellant could
not as administrator or Otherwise have availed himself
thereof

thereof or Derived any manner of benefit therefrom and
upon these Considerations this Respondent humbly submits to
this Honourable Court that the said Mayors Court in Dismissing
the Appellants said Bill of Complaint were warranted
in so doing by the matters before them and that they Could
not have done otherwise without a manifest Departure
from Every principle of Equity and Justice and this
Respondent thereupon further submits to this Honble
Court that the Assertion in the appellants said third
Reason Contained that the said Mayors Court had
Decreed Contrary to Evidence is without any foundation -

To the Appellants fourth Reasons this Respondent submits
to this Honourable Court that he hath not in and by
his said answer to the appellants said Bill of Complaint
admitted any of the Charges in the appellants said Bill
of Complaint Contained as insisted on by the Appellant
in and by his said Petition of Appeal for this Respondent
says that the appellant did in and by his said Bill of
Complaint charge that this Respondents did upon
Entering into the Employ of military Storekeeper
promise to allow unto his the Appellants Intestate
fifteen per Cent upon his this Respondents net profits

that

that were to arise from the said Office and the appellant has shewn that this Respondent did Enter upon the said Office of military Store keeper some time in the year of our Lord One Thousand Seven hundred and Eighty nine and this Respondent in and by his said answer to the Appellants said Bill of Complaint did positively Deny that he had Ever promised to allow to the appellants Intestate fifteen pertent out of the net profits that should arise out of his this Respondent said office of military Storekeeper and did say that he the appellants Intestate had been amply and ... abundantly Rewarded for and on Account of any Service that he might or could have Rendered unto this Respondent by certain perquisites or fees Called Debashi Custom which was sometimes one and sometimes two fanams upon Every Pagoda Disbursed and which in large Concerns such as those in which this Respon: dent had been Engaged must have amounted to a very large Sum of Money and therefore that the admission in his this ... Respondents said answer Contained that he this Respondent nearly two Years subsequent to his Appointment of military Store keeper that is to say on the first day of January one Thousand Seven hundred and Ninety did from mere Motives of tenderness and Compassion towards the appellants Intestate and his family promise to allow him a Commission of ten

per Cent

per Cent and no more and that upon the Carpenters yard only Cannot be Construed as an admission in part of some of the Charges in the appellants said Bill of Complaint contain: ned and the more particularly as the appellant in and by his said Bill of Complaint has shewn that about three Months after this Respondent did promise to allow the said Commission often per Cent upon the said Carpenters yard that is to say on the Seventh Day of February in the said year One Thousand Seven hundred and Ninety his the appellants Intestate did Depart this Life and this Respondent thereupon further submits to this Honourable Court that by Reason thereof the appellant in bringing forward such the admission on the part of this Respondent in Order to give some support to the said Charge in his the appellants said Bill of Complaint Contained has shewn that his said Charge is without any manner of foundation and this Respondent also Submits to this Honourable Court that an Answer of a Defendant Cannot be taken in part but if Referred to at all it must be taken in the whole and thereupon this Respon: dent says that in and by his said answer and subsequent to the said admission he has Declared that he did not stand indebted unto the appellant as Administrator as

aforesaid

aforesaid in the sum of ten thousand one hundred and Ninety Seven Pagodas Twenty Six fanams and fifty four Cash the sum sued for or any part thereof and as to the other pretended admission said to be contained in this Respondents said answer and as such brought forward by the appellant in his said fourth Reason in order to shew as he therein states that this Respondent has in part admitted some other of the Charges in his the appellants said Bill of Complaint contained that is to say this Respondent in and by his said Answer had said that the appellants Intestate had advanced to Cashevah Moodelly on his this Respondents Account the Sum of three thousand Pagodas instead of the sum of Five thousand Pagodas as charged by the appellant in and by his said Bill of Complaint this Respondent humbly submits to this Honourable Court that the same doth Evidently tend to Destroy and not to support such Charge for this Respondent says that the appellant in and by his said Bill of Complaint doth Charge that his Intestate did on the Eighth day of March one thousand Seven hundred and ninety advance to Cashevah moodelly on Account of this Respondent the sum of five thousand Pagodas and the appellant in and by his said fourth

Reason

Reason doth say that this Respondent hath said that his the appellants Intestate did instead of five thousand advance to the said Cashevah the sum of three thousand Pagodas and upon those two several points that is to say upon the admission of this Respondent that he did promise to the Appellants Intestate three Months before his death a Commission of two per Cent upon the Carpenters Yard and upon the assertion of this Respondent that the appellant in one item in the Account to his said Bill of Complaint annexed had made an over Charge in the Amount of two thousand Pagodas the Appellant says he is advised that he has and is at all Events Entitled to the benefit of such admission and to a Decree for the same which Conduct on the part of the appellant this Respondent submits to this Honourable Court must appear very Extraordinary when it is considered that the Appellant in Order to hold this Respondent to Bail did on filing his said Bill of Complaint Exhibit and file an affidavit wherein he did swear positively that this Respondent did stand indebted unto his the appellants Intestate in the full amount sued for that is to say the Sum of ten thousand one hundred and ninety Seven Pagodas Twenty Six fanams and forty four Cash

and

and that in Consequence thereof this Respondent was obliged to give Bail to that amount But to Demonstrate that the appellant has no manner of right to any sum of Money whatever upon or by reason of the said suit by him instituted in the said Mayors Court against this Respondent or otherwise and that the same is altogether unfounded this Respondent begs leave to shew to this Honourable Court first that the appellant has abandoned as hereinabove particularized one material part of his Case and has utterly failed in the necessary proof to Establish another and Secondly that he has not proved any one of the Items in the Account Current Annexed to this said Bill of Complaint upon which the said Bill of Complaint is founded and this Respondent in his said answer thereto to the Appellants said Bill of Complaint speaking to the said Account Current did say that the first Item on the Debit side thereof that is to say the sum of five Thousand Pagodas was unfounded for this Respondent did deny that the appellants Intestate did at any time at the special Instance and Request or upon the Account of this Respondent advance to Avadanum Paupiah Brauny as Charged in the Appellants said Bill of Complaint the said Sum of Five thousand Pagodas and as the appellant has

has not proved nor Attempted to prove the Contrary in Order to Establish the same this Respondent humbly submits to this Honourable Court that the said Sum of Five thousand Pagodas must be Considered as admitted by the Appellant to be an Over Charge and this Respondent did in and by his said Answer say that the Second Item in the said Account Current Contained that is to say the Sum of One thousand three hundred Pagodas was also unfounded and that the Transactions thereby alluded to was Entirely without his this Respondents knowledge that he never heard thereof until sometime after the Death of the appellants Intestate that he did not know in what manner nor for what Consideration the same had been granted that he had never Authorised the Appellants Intestate to Execute the Bond if it Really was Ever Executed out of which the said sum of one thousand three hundred Pagodas is said to have arisen and that the same had not been Discharged and satisfied at his this Respondents Request and this Respondent did also shew in and by his said answer that it was Evident upon the face of the Account Current that the said Item of one thousand three hundred Pagodas was unfounded and the Appellant has himself Left it without proof and this Respondent did in and

by

by his said answer say that the Item of five thousand nine hundred and fifty five Pagodas forty three fanams and sixty Cash in the Appellants said Account Current Contained was also unfounded for this Respondent did Deny as hereinabove shewn that he did Ever agree to Allow the sum of Fifteen per Cent by way of Commission to the appellants Intestate and as the Appellant has not shewn the Contrary by Evidence the said Item of five thousand Nine hundred and fifty five Pagodas forty three fanams and Sixty Cash as Depending thereon falls to the Ground and this Respondent did in and by his said answer say that the Sixth Item in the said Account Current Contained was unfounded for that instead of the sum of five thousand Pagodas as therein setforth to have been advanced by the Appellants Intestate on Account of this Respondent unto Cashevah therein named he the Appellants Intestate did Advance the sum of three thousand Pagodas and no more and that therefore the appellant had in and by his said Account made an over Charge in the said Item to the Amount of two thousand Pagodas and which the appellant in and by his said Petition of Appeal as hereinbefore shewn has admitted the fact so to be and this Respondent humbly submits to this Honourable Court

Court that as the appellant has admitted the said answer of this Respondent to be good Evidence as to the particular parts thereof which he Conceived might tend to benefit himself he is bound to admit as Evidence such parts thereof as may tend to the benefit of this Respondent quicquid pro alterne facit pro seu and thereupon this Respondent says that instead of being indebted unto the appellant as administrator as aforesaid in the said sum of ten thousand One hundred and ninety Seven Pagodas Twenty five fanams and fifty four Cash the appellant does stand indebted unto this Respon-dent in the sum of four thousand Pagodas and upwards—

To the appellants fifth Reason this Respondent says that it is true that the Appellant has brought his suit against this Respon-dent under Color of Office as administrator of the said Paucala Ramasawmy Naick and this Respondent says that under such Color he the appellant has harrassed and oppressed him this Respondent by a long litigation and during the same during a period of nearly four years this Respondent has been in a state of imprisonment as hereinabove shewn and therefore and to prevent Administrators from Abusing the trust reposed in them in bringing suits that are unfounded whereby the Estates of Deceased persons might be greatly injured and the subject ruined and oppressed the said Mayors Court did

did order and Decree that the appellantshould pay out of his
own pockett the Cost incurred by the present suit and this
Respondent humbly submits to this Honourable Court in so
doing the said Mayors Court did act upon the principle of Equity
and Justice and this Respondent says he is advised that it is
an Established Rule of practice of this Honourable Court
that an appellant should annex to his Petition of Appeal the order
or Decree of the Court below upon which he states agrievance
and upon which he prays Relief and that without such Order
or Decree being so annexed the said Petition of appeal is upon
motion thereof Dismissed and thereupon this Respondent
submits to this Honourable Court that that part of the prayer
of the appellant in the Words following that is to say "your Petitioner
"prays that this Honourable Court will be pleased to over rule
"the said Exceptions so that your Petitioner may have the full
"benefit of his Evidence in the premises" ought to be Expunged from
the Record inasmuch as the Appellant has not annexed to his
said Petition of Appeal the Order of the said Mayors Court
touching the said Exceptions and as by reason
thereof this Honourable Court has not before them
any matter of Record whereupon to form their Judgment—

For all which Reasons and such

Others

Others as may be offended at the hearing
this Respondent most humbly prays
that this Honourable Court will be
pleased to affirm the said Decree of
the said Mayors Court and to Dismiss
the appellants said Petition of appeal
with Costs—

(Signd) J Stuart Hall
Solicitor for Respondent

Court

Court of Appeals
Madraspatnam ss

Saturday the 16th day of January
Anno Domini 1796

Between Petty Tomboo Naicken of Madras Inhabitant administrator of Paucala Ramasaumy Naicken Deceased Appellant and Francis Lind a Senior Merchant in the Civil Service of the united Company of Merchants of England trading to the East Indies under the Presidency of Fort St George 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 Honourable the Mayors Court together with the Decree of the said Court given in this Cause on Tuesday the 25th day of November Anno Domini 1794 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 Honourable the Mayors Court do stand affirmed and that the Appellants Petition be hence Dismissed with Costs—

By Cur /Signed/ J. Webbe clk

To the Right Honorable Robert Hobart Commonly Called Lord Hobart
President in Council &c &c
Fort St George

In the Honorable
Court of Appeals

Between Woodindeapah Moodeliar Administrator with the Will annexed of Canjeveram Rudrapah and Punamaroo Iyah Pillah by their attorney and Assignee Madrapauhum Verdarajah Moodaliar Complainants and Petty Tomby Naicken administrator of Paucala Ramasaumy naicken Deceased and Paucala Thistnamah Naicken Defendants—

The Seperate Petition and Appeal of Paucala Thistnamah Naicken one of the abovenamed Defendants

Humbly Sheweth

That sometime on or about the Second Day of October which was in the year of Christ One thousand Seven hundred and Ninety four the abovenamed Complainants by their said pretended attorney and Assignee Madrapauhum Verdarajah Moodaliar did file and Exhibit their Bill of Complaint in the Honourable the Mayors Court at Madraspatnam against your Petitioner and the abovenamed Petty Tomby Naicken

Filed in my Office the 24th December 1795
J. Webbe clk

Naick as administrator of Paucala Ramasawmy Naick Deceased the other Defendant in the said Bill named and your Petitioner further sheweth that in the said Bill of Complaint the said Complainants did state allege and recite that some time in the year of Christ one thousand seven hundred and Ninety Two they the said Complainants by their said Pretended attorney and Asignee did file and Exhibit their Bill of Complaint in the said Mayors Court against the said Petty Tomby Naick administrator of Paucala Ramasawmy Naick Deceased for the recovery of the Sum of one thousand six hundred and sixty four Pagodas Current Money of Madras being a balance alleged to be due upon a Bond or obligation Charged to have been duly Executed by the said Paucala Ramasawmy Naick in his lifetime unto the said Conjevaram Rudrapah in his Life time and to the said Iyah Pillah Jointly Bearing date the Tenth Day of February which was in the year of Christ One thousand seven hundred and ninety and Conditioned for the Payment of one thousand and three hundred Pagodas to run at Interest at the rate of Twelve per Cent per Annum and Payable in three Months and stating that the said Bond or Obligation together with the Balance due thereon the said Complainants did Asign over to their said pretended attorney Madapaheem Verdarajoo Moodaliar and the said Complainants by their said

said pretended attorney and Asignee did state unto the said Mayors Court in the said Bill that the said Paucala Ramasawmy Naick did Depart this Life Intestate some time on or about the Month of April which was in the year of Christ One thousand Seven hundred and Ninety without having performed as they also alleged the Condition of the said Bond or Obligation or any part thereof and the said Complainants did by their said pretended attorney and Asignee also Shew unto the said Mayors Court that the said Petty Tomby Naick also of Madras Inhabitant had obtained from the said Mayors Court in its Ecclesiastical Capacity Letters of administration of all and Singular the Goods Chatties Rights and Credits that were of the said Paucala Ramasawmy Naick and thereby and by means thereof had Possessed himself of the Estate of the said Paucala Ramasawmy Naick to a Considerable amount and the said Complainants by their said pretended attorney did in and by their said Bill of Complaint Charge that the said Petty Tomby Naick as administrator as aforesaid did stand Justly and truly Indebted unto them the said Complainants by their said pretended attorney in the Sum of One thousand and three hundred Pagodas the amount principal of the said Bond or Obligation Executed by his the said Petty Tomby Naick Intestate

Intestate as aforesaid together with the sum of three hundred and Sixty four Pagodas being the Intirest due thereon and making together the Sum of One thousand Six hundred and Sixty four Pagodas Current Money of Madras or in Sterling Money of Great Britain at the rate of Eight Shillings for every Pagoda the Sum of Six hundred and Sixty five Pounds and Twelve Shillings or thereabouts and the said Complainants by their said pretended Attorney did further state unto the said Mayors Court that they had frequently and in an amicable manner Applied to the said Petty Tomby Naick as administrator as aforesaid and had Requested that he would pay and satisfy unto the said Complainants the said sum of One thousand Six hundred and Sixty four Pagodas but that he did obstinately Refuse so to do or to give the said Complainants any Manner of Satisfaction in the Premisses and the said Complainants by their said pretended attorney did shew unto the said Mayors Court that to the Complainants said Bill of Complaint last mentioned the said Petty Tomby Naick did on the fourteenth Day of August in the year of Christ one thousand Seven hundred and Ninety Two Exhibit and file his Plea and answer in the said Mayors Court and in and by his said Plea did State that there were certain informalities in the Complainants said

said Bill of Complaint and did Plea the same in bar thereto and by way of answer did say that he Admitted that he was the Administrator of Paucala Ramasawmy Naick and that he believed his said Intestate did Execute the said Bond set forth in the Complainants said Bill of Complaint but did say that he was not in Possession of the whole of the Estate of the said Paucala Ramasawmy Naick or possessed of Property in houses Lands Goods or Money belonging to such Estate to any Considerable Amount or at all so as to enable him to Pay off the said Bond and that for the reasons in his said Plea set forth he did not Conceive himself bound to pay unto them the said Complainants or either of them the said Bond Debt had he the said Petty Tomby Naick assets which he did say he had not and the said Complainants by their said pretended attorney did shew unto the said Mayors Court that to the Plea and answer of the said Petty Tomby Naick the said Complainants by their said pretended attorney did file their Repli-cation to which the said Petty Tomby Naick did file a General Rejoinder and that thereupon issue did Join and Rules past for the Examination of Witnesses and that Witnesses were accordingly Examined on the part of the said Complainants and the said Complainants by their said pretended attorney and Assignee did further state that Colliah Pillay a Witness produced

and

and Examined on the part of the said Complainants in the said Suit between the said Complainants and the said Petty Tomby Naicken as aforesaid while Deposing to the third Interrogatory did say that the said Paucala Ramasawmy Naicken his the said Petty Tomby Naicken Intestate did die Possessed of Property Consisting of money Jewells and Sundry Goods and merchandizes and a Balance due from one Francis Lind Esquire and that the said Petty Tomby naicken as administrator as aforesaid did possess himself of a part thereof and that he the said Petty Tomby Naicken had received Sundry Sums of Money belonging to the Estate of his Intestate to the sum of one thousand and three hundred Pagodas and upwards and that the said Colliah Pillah did further say that your Petitioner one of the Defendants above named did possess himself of Property belonging to the Estate of the said Paucala Ramasawmy Naicken amounting to the Sum of Four thousand and three hundred Pagodas and upwards and that your Petitioner did then hold the Possession thereof and that the said Colliah Pillay did further say that the said Petty Tomby Naicken did still continue to collect in the Balance due to the Estate of the said Paucala Ramasawmy naicken his said Intestate and the said Complainants by their said pretended

pretended Attorney did further Allege that Yagapah Moodelly and Allegapah Moodally Witnesses also said to have been Examined on the part of the said Complainants in the said last mentioned Suit did Corroborate and further elucidate the Testimony of the said Colliah Pillay and the said Complainants by their said pretended Attorney did also allege that they did prove the Execution of the said Bond by the Depositions of the Subscribing Witnesses thereto and that Publication did thereafter pass and that the Cause was set down for hearing and did Accordingly come on to be heard by and before the said Mayors Court on the Sixteenth Day of July which was in the year of Christ one thousand Seven hundred and Ninety three and that the said Mayors Court did order and Decree that the said Petty Tomby Naicken should pay unto the said Complainants out of the Estate and Effects of the said Paucala Ramasawmy Naicken the full and Just Sum of one thousand Six hundred and Sixty four Pagodas together with all such Interest as there was or which should thereafter should become due thereon and also all Costs of suit and the said Complainants by their said pretended Attorney did further state unto the said Mayors Court that the usual time having Expired for Appealing from the said Decree of the said Mayors Court to the Honourable Court and no Appeal having been Lodged by the said Petty Tomby Naicken as administrator

as

as aforesaid the said Complainants did attain a Warrant of Execution from the said Mayors Court Directed to the Sheriff of Fort St George Town of Madraspatnam and the Districts thereof to levy of the Goods and Chattles belonging to the Estate of the said Paucala Ramasaumy Naicks and the said Complainants by their said pretended Attorney did further allege that they had frequently Applied to the said Petty Tomby Naicks for Payment and satisfaction of the said Decree and that he did refuse so to do and did allege as they did state in the said Bill that your Petitioner did withholds from him the said Petty Tomby Naicks property belonging to the Estate of the said Paucala Ramasaumy naicks his the said Petty Tomby Naicks said Intestate and did Refuse to Deliver the same and the said Complainants by their said pretended Attorney did further allege that the said Petty Tomby Naicks did add that he had used his utmost Endeavours to measure from your Petitioner the Property belonging as he the said Petty Tomby Naicks said to the said Paucala Ramasaumy Naicks his the said Petty Tomby Naicks Intestate and that he had for that purpose on the Twenty Third Day of November which was in the year of Christ one thousand seven hundred and ninety one filed a Bill of Complaint in the said Mayors Court against your Petitioner and did thereby Charge that your Petitioner was Indebted unto him the said Petty Tomby Naicks as administrator of the Estate of the said Paucala Ramasaumy Naicks in the Sumaz Four thousand three hundred and ninety one Pagodas and four fanams on Account of Certain Goods belonging to the said Estate and which he also charged that your Petitioner had taken possession of and held and Detained from him the said Petty Tomby Naicks and your Petitioner further Sheweth that the said Complainants in their said Bill by their said pretended Attorney as aforesaid did refer to a Copy of a Schedule marked with the Letter A which was annexed to their said Bill of Complaint as taken from the Bill of Complaint filed by the said Petty Tomby Naicks against your Petitioner as aforesaid and which they informed to be a Schedule of the Goods Alleged to have been taken by your Petitioner from the Estate of the said Paucala Ramasaumy Naicks and prayed that it might be taken in aid of their Bill against your Petitioner and the said Petty Tomby Naicks as aforesaid and your Petitioner further Sheweth that the said Complainants in their said Bill against the said Petty Tomby Naicks and your Petitioner did state and allege that your Petitioner did file his answer thereto and did therein so far from admitting himself to be Indebted to the Estate of the said Paucala Ramasaumy Naicks Charge

him

him the said Petty Tomby Naick as administrator as aforesaid to be
Indebted to your Petitioner in the sum of three thousand four hundred
and Sixty Pagodas Seventeen fanams and Two Cash and that your
Petitioner for the Recovery whereof did on the third Day of July
which was in the year one thousand Seven hundred and ninety two
file his Cross Bill of Complaint against the said Petty Tomby
Naick and the said Complainants by their said pretended
attorney did further state that in Order to ascertain the truth of
these Suggestions so made by the said Petty Tomby Naick as aforesaid
they did refer to the Records of the said Mayors Court whereby
it did appear as they said that such proceedings were had as had
been before mentioned by the said Complainants in their said
Bill and the said Complainants further stated that since the
filing of the said Cross Bills of Complaint no further proceedings
had taken place in the said suit Between the said Petty
Tomby Naick and your Petitioner and which the said Complainants
did Contend to be a strong proof that the said Petty Tomby Naick
and your Petitioner had Confederated together in Order by Collusive
means to Defraud the said Complainants and to prevent the
Decree of the said Mayors Court in favor of the said Complainants
from being Carried into Execution and the said Complainants
as aforesaid did Charge that by reason of the Premises the said

Petty

Petty Tomby Naick and your Petitioner did stand Justly and
truely Indebted in the full and Just Sum of Two thousand three
hundred and nine Pagodas and thirty three fanams Current
Money of Madras making in Sterling money of Great Britain
at the rate of Eight Shillings for every Pagoda the Sum of nine
hundred and Twenty three Pounds and Seventeen Shillings
or thereabouts and which they said would more fully and at
large appear by an account Current or Copy whereof marked B
was also annexed to the said Bill and to which Reference was
Prayed and the said Complainants as aforesaid did further
allege that being so Indebted the said Complainants did Except
the said Petty Tombee Naick and your Petitioner would
have Discharged the same as in Justice and Equity they
averred the said Petty Tomby Naick and your Petitioner
ought to have done But the said Complainants in their
said Bill Charged that the said Petty Tomby Naick
and your Petitioner Combining and Confederating
themselves together and to and with Divers other persons
at that time unknown to the said Complainants whose
names when discovered the said Complainants did Pray
might be made parties to the said Bill how to defeat
and Defraud the said Complainants in the Premises the

said

said Petty Tomby Naick and your Petitioner did Obstinately and wilfully Refuse to pay the said Sum of Two thousand three hundred and nine Pagodas and thirty three fanams or to give the said Complainants any manner of Satisfaction touching the Premises and that the said Petty Tomby Naick did pretend that he had neither Assetts nor other property in his possession belonging to the Estate of the said Paucala Ramasawmy Naick to Satisfy the Decree Obtained by the said Complainants But that your Petitioner had obtained possession of the Property and that your Petitioner should satisfy the said Complainants for the same But the said Complainants Charged and so they Contended the truth was that the said Petty Tomby Naick had received various Sums of Money on Account of the said Estate and that instead of applying them to the Liquidation of the Complainants Claim as Judgment Creditors he had wasted and mismanaged and otherwise applied the said Estate illegally and unjustifiably and had thereby Committed a Devastavit and by reason thereof had became Answerable for the amount sued for by the said Complainants out of his own Goods Chattles and Effects and the said Complainants by their said pretended Attorney did further state that your Petitioner had admitted having possessed himself of Property belonging to the said Paucala Ramasawmy Naick but that your Petitioner had

had given out and pretended that the said Paucala Ramasawmy Naick at the time of his Death stood Indebted to your Petitioner in a Considerable Sum of Money on Account of Various Dealings which Existed between your Petitioner and the said Paucala Ramasawmy Naick in his Lifetime and that the Property which your Petitioner had gained Possession of was only Sufficient to Liquidate a small part thereof and that your Petitioner had Accordingly Converted the same to his own use and that your Petitioner had further pretended that in all his transactions with the said Estate he had acted fairly and Openly But the said Complainants by their said pretended Attorney Charged and so they Contended the truth was that your Petitioner had no right to withhold or detain any Assetts or other property of the said Paucala Ramasawmy Naick said that your Petitioner in the premises had acted in a fraudulent and Collusive manner and that your Petitioners object as it was also Charged in permitting the said Petty Tomby Naick to administer to the Estate of Paucala Ramasawmy Naick who was the son of your Petitioners was in order the better to Conceal those Sinister views which your Petitioner was stated to have had upon the property or Estate of the said Paucala Ramasawmy Naick and which the said Complainants did say was evinced in and by a Certain agreement in

Writing

Writing Executed by your Petitioner Subsequent to the Letters of
administration being Granted to the said Petty Tomby Naicker
to the Estate and Effects of the said Paucala Ramasawmy Naicker
a Copy of the Translation whereof marked **C** the said Complai-
-nants did annex to their said Bill and did Pray the benefit
thereof in aid of the same and the said Complainants by
their said pretended Attorney did further Charge that the said
Petty Tomby Naicker and your Petitioner did Continue to Act together
in the said Estate of the said Paucala Ramasawmy Naicker in a
fraudulent and Collusive Manner to benefit themselves by the
said Estate and Defraud the Creditors thereof—

All which supposed Actings and Doings of the said Petty
Tomby Naicker and your Petitioner the said Complainants did
say were Contrary to Equity and good Conscience and did
tend to the manifest wrong and Injury of the said Com-
-plainants and the said Complainants did Conclude
and Pray that the said Petty Tomby Naicker and your Petitioner
might Respectively full true Direct and perfect answer
make to all and Singular the supposed matters and Charges
aforesaid and more particularly that the said Petty Tomby
Naicker amongst other things might setforth and Discover
a particular account of the Estate Goods and Effects of which
the said Paucala Ramasawmy Naicker died possessed
or Entitled unto and the Particulars whereof and that your
Petitioner might setforth and say whether he had or had not
possessed himself of Property belonging to the Estate of the said
Paucala Ramasawmy Naicker to some Considerable and what
particular amount and whether your Petitioner did not still
hold possession thereof or had or had not Converted the same
to his own use and whether the said Petty Tomby Naicker as
administrator of the said Paucala Ramasawmy Naicker did not
Sometime ago and when Exhibit and file a Bill of Complaint
against your Petitioner in the said Mayors Court for the recovery
of the amount of the said Property and whether the Goods mentio-
-ned in the schedule marked A and Annexed to the said
Bill were not the Property which the said Petty Tomby Naicker
Charged your Petitioner to hold and that your Petitioner
might further Setforth whether the said Goods were not in
his Possession and if not what your Petitioner had done
with them and that your Petitioner might Setforth what
proceedings had been had in the said suit and whether
the same did not then lie Dormant and how longed
had so lain Dormant and that the said Petty Tomby
Naicker and your Petitioner might Setforth and say
whether

whether they knew that the said Complainants by the
said pretended Attorney did Exhibit and file a Bill
of Complaint in the said Mayors Court Against the
said Petty Tomby Naicks as administrator of the said
Paucala Ramasawmy Naicks as in the said Bill was
particularly Setforth and whether the Several proceedings
were had thereon as in the said Bill was stated and
whether the said Mayors Court did not Decree thereon in
favor of the said Complainants whether the said Decree
had ever been Satisfied Either infull or in any part thereof
and whether Execution issuing out of the Mayors Court
upon such Decree was not then in the hands of the Sheriff
for the Town of Madraspatnam and the Districts
thereof and that the said Petty Tomby Naicks and your
Petitioner might setforth and say whether they did not
and when enter into an agreement Regarding the said
Estate of the said Paucala Ramasawmy Naicks as setforth
in the said Exhibit C to the said Bill annexed and
whether the said Exhibit was not a true Copy of a Translate of the said Original agreement by them so entered
into And lastly that the said Petty Tomby Naicks and
your Petitioner might be Decreed to Pay unto the said
Complainants the aforesaid Sum of Two Thousand three hundred
and nine Pagodas and thirty three fanams with all such
Interest as there was or might thereafter become due thereon
also all Costs of Suit.

And your Petitioner further sheweth to this Honble
Court that to the said Bill of the said Complainants he
did file and Exhibit his Seperate Plea and answer in the
said Mayors Court wherein and whereby he did first for
Plea say that According to the Shewing of the said Complainants
in their said Bill it did appear that administration of the
Goods Chattles Rights and Credits of Paucala Ramasawmy
Naicks Deceased in the said Bill mentioned had been granted
by the said Mayors Court in its Ecclesiastical Capacity unto
Petty Tomby Naicks the other Defendant to the said Bill
and that the said Petty Tomby Naicks as administrator of
the said Paucala Ramasawmy Naicks Deceased therefore
and before the said Complainants Exhibited their said
Bill of Complaint in the said Mayors Court to wit
on the Twenty third Day of November which was in the
year of Christ one thousand Seven hundred and ninety
one did Exhibit his Bill of Complaint in the said Mayors
Court against your Petitioner for the same matters and to
the

the same Effect and for the like Relief and purpose as against your Petitioner as the said Complainants by their said pretended Attorney did by their present Bill Setforth to which said first Bill your Petitioner did put in his answer and did thereafter file his Cross Bill against the said Petty Tombee Naick Administrator as aforesaid and that the said former Bill and Cross Bill were still Depending in the said Mayors Court and the said Cause was undetermined and that therefore your Petitioner did plead the said former Bill Answer and Proceedings against the said Complainants present Bill and your Petitioner for further Plea did say that by a Royal Charter granted to the united Company of Merchants of England trading to the East Indies by his late Majesty and bearing Date the 24th Day of January in the year of Christ One thousand Seven hundred and fifty two it is amongst other things given and granted by his said Majesty to the said united Company and their Successors in the words following to wit "We do hereby Ordain direct and Appoint That the Mayor and Alderman for the time being of Madraspatnam aforesaid shall for ever hereafter be and they are hereby Constituted a Court of Record by the name of the Mayors Court at Madraspatnam and that they or any three or more of them whereof the Mayor or the Senior Alderman for the time being shall Presiding there to be one may and they are hereby Authorized to try hear and Determine all Civil Suits actions and Pleas between party and Party that shall or may arise or happen or that have already arisen or happened within the said Town of Madraspatnam or within any of the Factories Subject or Subordinate unto Fort St George aforesaid or to the said Governor or President and the Council of Fort St George aforesaid Except such suits or Actions shall be between the Indian Natives of Madraspatnam only In which Case we Will that the same be Determined among themselves unless both parties shall by Consent submit the same to the Determination of the said Mayors Court and your Petitioner Sheweth to this Honourable Court That the said Charter and particularly the said Clause therein and hereinbefore mentioned your Petitioner did plead as advised in bar to the said Complainants Suit and your Petitioner did further state that the said Complai: nants did not Suggest in and by their said Bill of Com: plaint that your Petitioner who is an Indian native of Madraspatnam did by Consent submit the said suit to the Determination of the said Mayors Court Namely the said Mayors Court in the said Charter mentioned and Described and that your Petitioner did not by Consent

Submit

Submit the same to the Determination of the said Mayors Court and the said Complainants your Petitioner did aver to be also Indian Natives of Madraspatnam and under the Exception of the said Charter not Entitled to hold Plea or suit as against your Petitioner and therefore your Petitioner did likewise plead the said Charter in bar of the Discovery and relief Prayed by the said Bill and humbly Claimed the benefit thereof—

And your Petitioner sheweth to this Honorable Court that for Answer he did say that he Denied himself to be Indebted to the Estate of the Intestate of the said Complainant Woodendeapah Moodaliar or to the other Complainant Ramaswamy Iyah Pillah either in the sum of Two thousand three hundred and nine Pagodas and thirty three fanams as the same was stated and setforth in the Complainants said Bill of Complaint and the Account Current thereunto annexed and charged in the same to be due and owing from your Petitioner and one Petty Tombee Naich administrator of Paucala Ramasawmy Naich or in any other Sum or Sums of Money whatsoever and your Petitioner did further state for the Satisfaction of the said Mayors Court in the Premisis and to shew that he your Petitioner could not be Chargeable Either in Law or Equity with the Demand of the said Complainants that he your Petitioner had

had various Dealings and Transactions with Paucala Ramasawmy Naich Deceased in the Bill Mentioned in his the said Paucala Ramasawmy Naichs Life time and your Petitioner did further say that he had at Different times Lent to the said Paucala Ramasawmy Naich Divers and Several Sums of money upon Bond notes and other Securities as also on Open Account and your Petitioner did further state that some time in the year of Christ one thousand Seven hundred and Ninety the said Paucala Ramasawmy Naich Deceased being then Indebted on a Bond or written Obligation in the Penal Sum of Two thousand star Pagodas Conditioned for the Payment of one thousand Star Pagodas unto one Rama Naich of Madras Inhabitant the Obligee in the said writing Obligatory named and the said Paucala Rama-sawmy Naich Deceased being urged and prefsed by the said Ramah Naich for the satisfaction and Discharge of the said Sum of One thousand Star Pagodas Conditioned in the said Bond and it not being then in the power of the said Paucala Ramasawmy Naich to Satisfy and liquidate the same he the said Paucala Ramasawmy Naich did require and intreat of your Petitioner to Pay unto the said Ramah Naich the Sum of one thousand

Pagodas

Pagodas Conditioned in the said Bond and the Interest
that had grown due thereon and procure an Assignment
from the said Ramah Naick of the said Bond or
Writing obligatory and your Petitioner did further state
at the requisition of the said Paucala Ramasawmy Naick
Deceased he your Petitioner did pay unto the said Ramah
Naick the aforesaid one thousand Star Pagodas the Principal
Sum Conditioned in and by the said Writing obligatory together
with as Lawfull Interest of Eighty four star Pagodas and
your Petitioner did further state that the said Bond of
the said Paucala Ramasawmy Naick passed to the
said Ramah Naick with an Indorsement thereon written
Assigning the sum Conditioned in the same to your
Petitioner was at that time in the Possession and Custody
of your Petitioner and ready to be produced if required and
your Petitioner did further state that for a further security
to your Petitioner of the said Sum Conditioned in the said
Bond so Assigned to your Petitioner he the said Paucala
Ramasawmy naick did set over Pledge and Deposit to and
with your Petitioner Certain Goods and Property belonging
to him the said Paucala Ramasawmy Naick Consisting
of muslins Long Cloth and Punjam Cloths of various kinds

Amounting

amounting at a gross Estimation to the Value of one thousand
Six hundred Star Pagodas or thereabouts to be kept and holden
as a Collateral Security by your Petitioner untill the said
Sum of One thousand Star Pagodas and Lawfull Interest
thereon should be duly paid and Discharged and your
Petitioner did further state that sometime in the said year of
Christ and Shortly after the Deposit of the said articles in
the hands and Possession of your Petitioner had taken
Place the said Paucala Ramasawmy Naick Departed
this life and administration of the Goods and Chattles Estate
and Effects of the said Paucala Ramasawmy naick
was granted by this Honourable Court in its Ecclesiastical
Capacity unto the said Petty Tomboo Naick in the said
Bill named and your Petitioner did further state that
in and by virtue of the said Letters of administration to
the said Petty Tombo naick granted he did Demand
of your Petitioner on Account of all the Goods and
Chattles and Property of and belonging to the Estate of
the said Paucala Ramasawmy naick which had
Come into your Petitioners Possession previous or subsequent
to the Decease of the said Petty Tombo Naicks Intestate
and your Petitioner did further say that he did Deliver

unto

unto the said Petty Tomboo Naicker on account or Schedule of all such Property as had come into the hands of your Petitioner of and belonging to the Estate and Effects of the said Deceased and did acquaint and advise the said Petty Tomboo Naicker administrator as aforesaid of the Circumstance of the said assignment to your Petitioner of the said Bond or writing Obligatory Originally proposed by the said Paucala Ramasawmy Naicker Deceased unto the said Ramah Naicker for the said Sum of One thousand Star Pagodas and of the Deposit of the said Muslin Longcloth and Punjam Cloth as a further Security for the Payment of the same and your Petitioner did further state that the said Petty Tomboo Naicker did take an Inventory of the Effects holden by your Petitioner of and belonging to the Estate of the said Intestate Paucala Ramasawmy Naicker and did set and write against the several articles in the said Inventory Contained the Apparent value and Price thereof and which said Inventory of part of the said Effects of the said Paucala Ramasawmy Naicker Deceased as holden by your Petitioner together with the Valuation of the said articles in the said Inventory Setforth the said Petty Tomboo Naicker did afterwards file and Exhibit in the said Mayors Court a Copy of which Inventory so taken by the said Petty Tomboo Naicker and the said Petty Tomboo Naickers Valuation of the said

said Articles in the said Inventory Contained which then were in the Possession of your Petitioner he your Petitioner did annex to his said answer for the Inspection of the said Mayors Court and your Petitioner did further say that several of the said Jewels in the Schedule marked A to the Complainants said Bill of Complaint annexed namely one Ditto of Gold Jeolasoloo or Chain One Ditto of Gold Emerald Jewells and Gold Mooroogoo or Earing Set with Emerald Stones one Ditto Cundasaram of Siam Pettu and one Ditto Mullathadoo or Waist Bond Although the same were pretended to have belonged to the Estate of the said Paucala Ramasawmy Naicker Deceased were truly and bonafide the Property of your Petitioner and so your Petitioner Claimed and averred them to be at the time when the said Petty Tomby Naicker made and wrote the said Inventory and Schedule of the Estate of the said Deceased and your Petitioner did further say that the said Petty Tomby Naicker did Acknowledge at the time of making the said Inventory the said Several Jewells in the said Inventory to be his your Petitioners Property and did Accordingly Exclude the same from the said Inventory filed by the said Petty Tomboo Naicker as administrator of the said Paucala Ramasawmy naicker in the said Mayors Court to wit on the Twenty Second Day of March in

in the year of Christ One thousand Seven hundred and Ninety one although the said Petty Tomboo Naick did thereafter thinke proper to charge the same against your Petitioner in the Schedule marked A annexed to the said Petty Tombo Naiche Bill filed against your Petitioner on the Twenty third Day of November in the year of Christ one thousand Seven hundred and Ninety one and your Petitioner did submit to the Consideration of the said Mayors Court with how much Right the said Petty Tombo Naick did so charge the said Jewels against your Petitioner after having filed the said Inventory on the Twenty Second Day of March in the year one thousand Seven hundred and Ninety one and your Petitioner did further say that a short time after your Petitioner had Delivered unto the said Petty Tombo Naick the written Account of the Goods and Property of the said Paucala Ramasaumy Naick Deceased he the said Petty Tombo Naick did borrow and receive of your Petitioner the sum of Two hundred and Twenty six Pagodas and did Confirm the Pledge holden by your Petitioner on the said Goods and articles Namely. Two hundred and forty four Pieces of Muslin Cloth Seventeen other Pieces also of Muslin Cloth nine Pieces of fine Long Cloth and Two hundred and fifty Two Pieces of Course

Long

Long Cloth Deposited by the said Paucala Ramasaumy Naick for securing the said one thousand Star Pagodas as above Setforth and shewn and did moreover give and Grant unto your Petitioner a further lien on Several other articles at that time in the Possession of your Petitioner belonging to the said Intestates Estate for the Additional Sum Received by the said Petty Tombo Naick administrator as aforesaid of Five hundred and Twenty Six Pagodas Namely one Gold Chendrahaaram of Seven Pettes one Pair of Gold Cadauaulos or hand Ring one Ditto Ring with Several other articles Specified in your Petitioners said and your Petitioner did further say Notwithstanding the Premises the said Petty Tombo Naick in the year one thousand Seven hundred and ninety one did file and Exhibit a Bill of Complaint against your Petitioner for the Recovery of the articles Specified and Particularized in the Schedule marked A annexed to the Complainants Bill and of three hundred and Eight Pagodas pretended to have been lent to your Petitioner by the said Petty Tombo Naick although the said sum of three hundred and Eight star Pagodas were paid to and received by your Petitioner by and from the said Petty Tombo Naick on Account of the Premises and whereas the said Petty Tombo Naick did know the

said

said Estate of the said Paucala Ramasawmy Naick to be greatly
Indebted unto your Petitioner and more Especially in the Principal
Sums above Setforth of one thousand five hundred and Twenty six
Pagodas with Current Interest thereupon and your Petitioner did
further say that to the said Bill of Complaint your Petitioner did
file his answer and did thereafter Exhibit his Crofs Bill against
the said Petty Tomboo Naick for the amount due and owing to your
Petitioner from the Estate of the said Paucala Ramasawmy naick
and which said Original and Crofs suit were Depending in the
said Mayors Court and your Petitioner did further say that he
had still in his Poffeffion the articles mentioned in the said Schedule
annexed to his said Answer and which said Schedule was Drawn
by the said Petty Tomboo Naick as a true and Perfect Schedule of
such Property as had Come to the hands of your Petitioner with
the Reservation of the Jewels under the Circumstances declared
by your Petitioner in his said answer and your Petitioner
did further say that with the Preservation of the said Jewels
he was and had always been ready to Deliver the said
articles in the said schedule Contained unto the said Petty
Tomboo Naick administrator as aforesaid or to any other Person
or Persons legally authorised to Receive the same on the Payment
of the said sum of One thousand star Pagodas and of the

further

further sum of Five hundred and Twenty Six Pagodas with Interest
thereupon for which the said articles did stand Hypothecated
or Pledged to your Petitioner and your Petitioner did deny the
Suggestion of the said Complainants that he your Petitioner had
acted in a fraudulent and Colluseve manner in the Premises or that
he had Converted the Estate or any part thereof of the said Intestate
to his own use and purposes but that the truth was as he had
before Setforth and Declared in his said answer that he your
Petitioner Came by the Poffeffion of the said articles included in
the said Inventory and Schedule Copy of which was annexed
to his said answer by and with the Consent of the said
Paucala Ramasawmy Naick in his Lifetime and of the said
Petty Tomboo Naick as administrator of the said Paucala Ramasaw-
my Naick Deceased in the way and manner mentioned in his
said answer and your Petitioner did further say that the said
Deceased was the Son of your Petitioner but he did deny that
he had any object in view in prevailing on the said Petty
Tomboo Naick to Administer the Estate of the said Deceased
further than the same might be duly and fairly administered
to all who had Interest or Concern therein and the Burthen
of the administration whereof your Petitioner would have
taken on himself with the Permiffion of the said Mayors Court

but

but from the Deranged state of your Petitioner mind at that season from the recent loss of so near a Branch of his family and your Petitioner did also deny that he had any sinister view in Executing the said written agreement to the Complai: nants said Bill of Complaint annexed or that the said agreement did bear on the face of it or Authorise by Construc: tion any unfair or unjustifiable Conclusion against your Petitioner it being the foremost provision in the said agreement to satisfy the Demands of the Creditors to the said Intestates Estate and your Petitioner humbly Sheweth to this Honourable Court that to the Severals Points in the said Bill of Complaint Particularly Interrogated unto he your Petitioner did answer and say that he was Possessed of Certain Property belonging to the Estate of the said Paucala Ramasawmy Naick Deceased to the amount as your Petitioner verily believed of Two thousand Five hundred and Ninety four Pagodas thirty three fanams or thereabouts being the value so near as your Petitioner was able to Compute and estimate it of the several articles Specified in the Schedule marked A annexed to your Petitioners answer and which said articles as your Petitioner had before Explained were subject and liable to the aforesaid sum of one thousand star Pagodas on the assignment of a written obligation from the said Ramah

Naick

Naick and Subject further to the additional Sum of Five hundred and Twenty Six Pagodas borrowed and received for the use and benefit of the Estate of the said Intestate by the said Petty Tomboo Naick and your Petitioner did further say that the said articles Subject to the said Sum of One thousand five hundred and Twenty six Pagodas with Interest thereupon were still in your Petitioners Possession and had not in the whole or in part been Converted to your Petitioners use but were and had been always ready to be Delivered over to any Person or Persons legally authorised to receive the same on Payment of the Sums for which the said several articles did stand Pledged to your Petitioner and your Petitioner did further say that the said Petty Tomboo Naick as administrator of the said Paucala Ramasawmy naick did some time in the year of Christ one thousand seven hundred and ninety one file and Exhibit against your Petitioner a Bill of Complaint in this Honourable Court for the recovery of the amount of the said Property but which said amount he the said Petty Tomboo Naick in his said Bill and in the Account Current thereunto Annexed did much over rate and charge and that the Goods mentioned in the schedule marked A annexed to the Complainants Bill did appear to him to Compose the Property which the said Petty Tomboo

Naick

Naicks had Charged against your Petitioner in his said Bill filed in the said year of Christ one thousand Seven hundred and Ninety one and that the whole of the said articles in the said Schedule Contained and mentioned were in the Possession of your Petitioner but your Petitioner did deny that the whole of the said articles were the prosperty of the said Estate as the third article in the said Schedule Described namely one Gold Golasaslee or Chain the fourth article one Ditto of Gold Emerald Jewels the fifth article one Gold Moorugoo or Ear Ring set with Emerald Stone the Sixth article one Ditto Cudasanum of Seven Pettas and the seventh article one Ditto Mullaithaudoo or west Bond were as acknowledged by the said Petty Tomboo naicks at the time of his taking the original Inventory of the Effects of the said Intestate the Prosperty of your Petitioner and that the said articles were Excluded and not to be found in the original Inventory of the Estates and Effects of the said Paucala Ramasawmy naicks filed by the said Petty Tombee Naicks as administrator thereof in the said Mayors Court on the Twenty Second Day of March in the year of Christ one thousand Seven hundred and ninety one and your Petitioner did further say that he did not recollect Exactly to what Extent the Proceedings in the said Suit preferred by the said Petty Tombee Naicks against your Petitioner were Carried and borne but that the said Proceedings were matters of Record in the said Mayors Court and therefore the said Complainants might have better information therefrom than from the said answer of your Petitioner and your Petitioner did say that the said suit had lain Dormant for sometime past and to the best of your Petitioners Recollection for the space of Two years or thereabouts and that your Petitioner had Suffered the said suit on his part and behalf to lay Dormant to avoid Expence which the Confused state of the said Estate held out little Promise for the Reimbursement of in the Event of your Petitioner being able to obtain a Decree against the administrator thereof and which he said that he had no Doubt of obtaining had he Prosecuted it to its natural Conclusion and your Petitioner said that he was more induced to suffer the said suit to lay Dormant from the said Petty Tombee Naicks Ceasing to trouble and harrass your Petitioner in the Prosecution of the Original suit and your Petitioner did further say that he had heard that the said Complainants by their said pretended attorney had filed and Exhibited

a

a Bill in the said Mayors Court against the said Petty Tomboo Naicken as administrator of the said Paucala Ramasawmy Naicken as in the said Bill of Complaint was Charged and alleged and that he had heard that the said Mayors Court did pass a Decree in favor of the said Complainants but he did not know whether the said Decree had been satisfied either in full or in part and that he had further heard that an Execution did issue out of the said Mayors Court upon such Decree and that the same was in the hands of the Sheriff for the Town of Madraspatnam and the District thereof at and after the time of the said Complainants filing and Exhibiting their said Bill against your Petitioner to wit until the Seventh Day of October then last past when the said sheriff as your Petitioner said he was informed and did verily believe did return the said Warrant of Execution into the said Mayors Court with an Indorsement on the same of "No Goods" which said Circumstance your Petitioner did humbly Submit to the said Mayors Court did mark and Denote the Character and Credit of the suit as well as the Disposition of the said Complainants towards your Petitioner who at the time of an active Execution obtained by them against another Party for the same Grounds of action did file and Exhibit their said Bill against your Petitioner wholly

wholly a Stranger to the suit and that in the Account Current to the said Bill of Complaint annexed the said Complainants had actually added the amount of the Bill of Costs incurred in the Prosecution of the said suit pending at the time of Filing the said Bill against your Petitioner as an Item of Charge alleged to be due and owing from your Petitioner and the said Petty Tomboo Naicken and your Petitioner did further say that he did enter into an agreement with the said Petty Tomboo Naicken Respecting the Estate of the said Paucala Ramasawmy Naicken deceased of the said Nature with the agreement set forth in the Exhibit C to the Complainants said Bill annexed and Lastly your Petitioner sheweth unto this Honourable Court he did deny all unlawfull Confideracy and Combination with the said Petty Tomboo Naicken administrator of Paucala Ramasawmy naicken as Charged against your Petitioner by the said Complainants in their said Bill and your Petitioner further sheweth unto this Honourable Court that to the said several Plea and answer of your Petitioner the said Complainants by their said Pretended attorney did file and Exhibit their Replication wherein and whereby they did state and allege and in Replication to the first

Plea

Plea of your Petitioner they the said Complainants did say that the said Plea pleaded by your Petitioner to the action of the said Complainants to wit a former Suit Depending that they did admit that the other Defendant in their said Bill named to wit Petty Tomby Naick as administrator of Paucala Ramasaumy Naick did Exhibit and file his Bill of Complaint against your Petitioner for the Recovery of the sum of Four Thousand three hundred and ninety one Pagodas and four fanams the Estimated value which the said Petty Tomby Naick placed on Certain Goods wares and Merchandize the alleged Property of the said Estate of the said Paucala Ramasaumy Naick and Charged by him to be illegally held and Detained by your Petitioner and the said Complainants by their said pretended attorney in the said Replication did also admit that the suit which had been instituted by them against your Petitioner was so far Similar to that which the said Petty Tomby Naick had brought against your Petitioner as aforesaid that they the said Complainants had held your Petitioner answerable for the amount or value of the Goods which your Petitioner was so Charged to hold and Detain in his Possession in like manner as the said Petty Tombee Naick had done But the said Complainants in their said Replication did say that they did not by any means admit or allow that the said Suit so brought by the said Petty Tomby Naick with the Several Pleadings had thereon could or ought to Operate as a Bar to the action which the said Complainants had instituted against your Petitioner as it appeared as they said from your Petitioners own Shewing that your Petitioners object and the object of the other Defendant the said Petty Tomby Naick was to avoid bringing the said suit to a hearing the same having lain Dormant nearly two years and which fact the said Complainants did humbly Submit to the said Mayors Court did Sufficiently substantiate the Charge of Collusion between your Petitioner as Set forth in the Complainants said Bill of Complaint with the view of Defrauding the Bonafide Creditors of the said Paucala Ramasaumy Naick and that were the said plea set up by your Petitioner to operate against the Bill of Complaint of the said Complainants it would be in the power of evil minded and dishonest persons to Defraud the Creditors of a Deceased person and the said Complainants in their said Replication did further say that when a former suit Depending is pleaded it must be shewn to be between the same parties Complainant and Defendant which was not the

the Case in the present Instance and the said Complainants did therefore Contend that the said Plea was altogether irregular and improper and Contrary to Law and the said Complainants in further Replication to the Second Plea set up by your Petitioner did Reply that they did admit that by the Charter by your Petitioner pleaded the natives of Madraspatnam were precluded from suing each other in the said Mayors Court unless by mutual Consent yet as the said Charter did authorise the said Mayors Court in its Eclesiastical Capacity to Grant Probates of the Wills of Natives and Letters of administration to the Estate of such as die intestate it did therefore virtually Except Executors and administrators from the General Restriction and that they were therefore intitled to Commence actions or Suits for the Recovery of the amount of Debts due to the Estate of their Testator or Intestate and to pursue the effects belonging thereto wherever they might be as the Complainants further said would appear by an Extract from a Letter from the Court of Directors In the words and figures following to the first our Council are of Opinion that the said Mayors Court may grant and might so Grant Probate of a Will or Letters of administration to a native Indian being Named Executor or being intitled according to the Law of England to such administration in order to enable him to follow and recover the Effects of the Testator or Intestate against Persons Resident within the Jurisdiction and Possessing or retaining such effects within the Local limits of the settlement and the said Complainants did say that it was a matter of Course that those who had a right to sue could also be sued and such had been the Practice of the said Mayors Court for some time past and as your Petitioner as the said Complainants alleged had acted in Collusion with the other Defendant Petty Somby Naicken and did thereby and by means thereof hold and illegally Detain apart of the effects belonging to the said Estate of the said Poocala Ramasawmy naicken for the purpose of Defrauding the bonafide Creditors thereof and that such alleged interference of your Petitioner did make your Petitioner an Executor in his own wrong and that they did Contend therefrom that the said Second Plea was altogether irregular and improper and your Petitioner further sheweth unto this Honourable Court that in Reply to the answer of your Petitioner the said Complainants by their said pretended Attorney did say that as your Petitioner had admitted in his answer to have and Detain in his Possession property belonging to the Estate of the

the said Paucala Ramasawmy naick more than Sufficient to Pay off and Discharge the amount due to the said Complainants your Petitioner was bound to satisfy the same as having by his interference in the said Estate of the said Paucala Ramasawmy Naick become as they Charged an Executor in his own wrong and thereupon the said Repliants did say that your Petitioner did stand Indebted unto them in the sum of Two thousand three hundred and nine Pagodas and thirty three fanams as Charged by the said Bill of Complaint And the said Complainants for further Replication did say that the assertion in your said answer Contained respecting your Petitioners Dealings with the said Paucala Ramasawmy Naick and of your Petitioners having lent him at Different times Divers Sums of Money upon Bonds notes and other Securities were Altogether irrelevant and impertinent for that they the said Complainants had by their said Attorney and Assignee obtained a Judgment against the Estate of the said Paucala Ramasawmy Naick and had therefore a prior Right to the satisfaction of their Claim on the said Estate and the said Complainants did further say that they were fully Persuaded that such the assertion of your Petitioner had no foundation in truth and the said Complainants by their said Attorney did further say that upon inspecting the Bond granted by Paucala Ramasawmy Naick to Rama Naick Delivered unto the said Mayors Court it appeared that a Bond of the Honourable Company for the sum of Two thousand Pagodas was mortgaged by way of Collateral Security for the Payment thereof and therefore If your Petitioner did actually Pay off and Discharge the said Bond as he pretended he had done the said Companys Bond must have been Delivered to your Petitioner and therefore your Petitioner had rendered himself Accountable for the same and the said Complainants by their said pretended Attorney did deny that the said Paucala Ramasawmy naick did as a further Security for the Money which your Petitioner had paid on Account of the said Bond set over Pledge and Deposit certain Goods Consisting of muslins Long Cloth and Punjum Cloths as had been alleged by your Petitioner in his said answer neither did the said Complainants as they alleged believe that your Petitioner did inform the said Petty Tamby Naick after Letters of administration had been granted him of the Estate of the said

Paucala

Paucala Ramasawmy naicks of such Deposit being made nor did the said Petty Tomby Naick to the belief of the said Complainants at any Subsequent time Confirm the Pledge and grant a further lien upon other Goods and articles the property of the Estate of the said Paucalee Ramasawmy Naick as had been asserted in and by the said answer of your Petitioner on the Contrary the said Complainants did verily believe that your Petitioner did illegally and unjustly and partly by force and Violence Possess himself of the said articles which he had said were mortgaged to him and that in support of what had been in that behalf asserted by the said Complainants by their said Attorney they did Pray leave to advert to the Suit and Cross suit pending in the said Mayors Court between your Petitioner and the said Petty Tombee Naick But more particularly to the answer of your Petitioner in the original Cause which militated as they alleged in a very Strong Degree against the assertions Contained in the answer of your Petitioner to the Bill of Complaint of the said Complainants by their said Attorney and the said Complainants did further say that in and by the said Bill of Complaint your Petitioner was Charged by the said Petty Tomby Naick with having taken from Godowns Sundry Goods belonging to the Estate of the said Paucala Ramasawmy Naick which including the sum of three hundred and Eight Pagodas and forty four fanams lent him from the Effects of the Estate of Paucala Ramasawmy naick amount upon the Estimated Value placed on them to the sum of Four thousand three hundred and ninety one Pagodas and four fanams and were particularly described and setforth in a Schedule to the said Bill of Complaint annexed and they did further say as your Petitioner was Charged by the said Complainants in the like manner as the Defendant Petty Tomby Naick had Charged in and by his said Bill of Complaint that was with illegally Detaining the Property of the said Paucala Ramasawmy Naick that the Circumstance which guided your Petitioner in the Defence which he set up to one Bill ought to have Ruled him in his Defence to the other But that on the Contrary your Petitioner had taken not the Smallest notice in his said answer to the said Bill of Complaint of the said Defendant Petty Tomby Naick

of

of Rama Naicks Bond neither had your Petitioner attempted to say that the several Goods and articles Charged to be in his Possession were pledged to him as a Collateral Security for the Payment of his Claim on the Estate of the said Paucala Ramasawmy Naick but that your Petitioner had barely said that he did take the articles from the Godowns and the said Complainants did further say If it were true that the said articles were pledged to your Petitioner that was the stage of the suit and most favorable period of time to state it and that having failed to do so the said Complainants did submit to the said Mayors Court that the only Conclusion that could be Drawn was that what the Petitioner had stated in his answer to the Complainants said Bill of Complaint respecting the said Goods was altogether untrue and more Particularly as your Petitioner had not produced any written Documents to prove the allegid fact and the said Complainants by their said attorny did Pray leave further to Observe that your Petitioner in the Account made up and annexed to the Rejoinder in the Original suit Instituted against him by the other Defendant Petty Tomby Naick had Charged a Balance of three thousand four

four hundred and sixty one Pagodas Seventeen fanams and Ten Cash to be due to your Petitioner from the Estate of the said Paucala Ramasawmy Naick as by the said account annexed to the said Replication would appear whereas in his answer to the said Complainants Bill of Complaint your Petitioner had said that the articles held and Detained by him were ready to be Delivered up on Payment of the sum of one thousand five hundred and Twenty Six Pagodas which was all your Petitioner had pretended to be due to him from the Estate of the said Paucala Ramasawmy Naick and which Circumstance they did Contend was another proof of the inconsistency of your Petitioners Conduct and shewed that your Petitioner had no Claim whatever and the said Complainants by their said attorny did say that as the merits of the said suit and Cross suit pending in the said Mayors Court between your Petitioner and the said Petty Tomby Naick were Closely blended with the action of the said Complainants they did Crave leave to Refer thereunto and Pray that they might have the benefit of the several pleadings had thereon and the said Complainants did further say in their said Replication that the reason adduced by your Petitioner in his said answer for allowing the said suit and Cross suit to lay

Dormant

Dormant were Extremely fulfill and Justify the Charge which had been imputed to your Petitioner and the other Defendant Petty Tomby Naich of acting Collusively together with the view of withholding from the bonafide Creditors of the Estate of the said Paucala Ramasawmy Naich the property which ought long ago to have been applyed towards the Liquidation of their Respective Claims and the said Complainants did say that having obtained a Decree in the said Mayors Court against the Estate of the said Paucala Ramasawmy Naich and as the said Decree was the only one that had been obtained against the said Estate of the said Paucala Ramasawmy Naich the said Complainants as the only Judgment Creditors had a Preference to all others and by the Rules of Law must be first satisfied and the said Complainants by the said attorney did further say that as your Petitioner had under the pretence of Satisfying an alleged Claim possessed himself of and Detained Property in his Possession belonging to the Estate of the said Paucala Ramasawmy Naich more than Sufficient to Discharge the Decree obtained by the said Complainants that he was personally answerable for the amount because from the Circumstance of his having intermeddled with the said Estate of the said Paucala Ramasawmy naich he was as the said Complainants had before said and Executor in his own wrong—

And your Petitioner further sheweth unto this Honourable Court that to the said Replication your Petitioner did file his seperate Rejoinder wherein and whereby he did set forth and allege that his said first Plea was regular and Consonant to Practice and well founded in Law and ought to operate against the action brought by the said Complainants by their said pretended Attorney and your Petitioner did further say that it was not necessary or requisite to Shew in a Plea of a former suit Depending that the said former suit is Between the same Complainants and Defendant to wit the Complainants and Defendants that are Parties to the Subsequent suit if that the Party or Parties so pleading the former suit shew that the suit pleaded be for the same matter or things which are the objects of the Second or Ulterior suit and your Petitioner did further say that the said Complainants by their said pretended attorney had admitted that the suit which been instituted by the said Complainants against your Petitioner and the said Petty Tomby Naich was so Similar to that which the other Defendant to the Bill of the said Complainants

Namely

Namely Petty Tombaa naick had previously brought against your Petitioner that they Confessed they had held your Petitioner on that Account responsible for the Amount sought to be Recovered by the said Petty Tomby naick by means of the said former Bill and your Petitioner did further say that he did in his said first Plea aver that the said former suit was preferred by the said Petty Tombaa naick as administrator Lawfully Constituted of the Estate and Effects of Paucala Ramasawmy Naick Deceased on Account of whose Estate and Effects the Second Suit was instituted by the said Complainants and your Petitioner did therefore maintain that his said first Plea was sufficient as it not only shewed that the former suit Depending was for the same matters and things with the suit brought by the said Complainants but that the said Complainants in their said Replication had acknowledged the said Fact so Charged and averred in the said Plea of your Petitioner and further as your Petitioners said first Plea shewed that the former suit was instituted by a Person holding a Right to prefer the same by virtue and by reason of the administration granted to him of the said Estate and your Petitioner sheweth unto this Honorable Honourable Court that he did allege in his said Rejoinder that the said Second Plea of your Petitioner so far from being irregular and improper as stated by the said Complainants in their said Replication was according to Law and the Direction of the said Charter pleaded in the said Plea and your Petitioner did say that he did admit that the said Charter so pleaded by your Petitioner did authorize the said Mayors Court in its Ecclesiastical Capacity to grant Probates of Wills or Letters of administration to a Native Indian under Certain Limitations but your Petitioner did deny the inference Drawn by the said Complainants in their said Replication from the said authority so Conveyed in the said Charter to the said Mayors Court Namely That it did virtually take Executors and administrators from out the General Restriction in the said Charter to exist of their being Excepted from holding and maintaining suits in the said Mayors Court unless as was therein Directed by Consent of Parties and that although in the said Extract from the said Letter of the Court of Directors inserted by the said Complainants in their said Replication it was stated that the Mayors Court meaning the said Mayors Court might grant and might so grant Probate of a will or Letters

Letters of administration to a Native Indian being named Executor or being intitled according to the Laws of England to such administration in order to enable him to follow and recover the assetts of his Testator or Intestate against Persons resident within the Jurisdiction or Retaining such assets within the Local Limits of the Settlement your Petitioner did deny that the said Extract did Convey or Communicate any Right to such native Executor or administrator as might be confirmed or Constituted by the said Mayors Court under the Power of the said Clause in the said Charter Contained Respecting the Granting of Probates and Letters of administration and Explained and Declared by the said Extract Set forth in the said Replication Contrary and repugnant to the Letter and spirit of the former Clause in the said Charter which did Except Indian Natives in Personal suits with and against each other from the Jurisdiction of the said Mayors Court and your Petitioner did further say that the said Charter must be taken and Considered together and not in parcels and that it would then clearly appear that the said Charter had it in Contemplation to Exclude Indian Natives from the Jurisdiction of the said Mayors Court and that it had done so in Express terms in

in the Clause of the said Charter pleaded by your Petitioner in his second Plea and that although the said Charter had been Considered by the Council of the said Court of Directors to bear a Construction that the said Mayors Court might grant Probate of a Will or Letters of administration to a Native Indian yet the opinion of the said Council would by no means bear an Interpretation that the Executor or administrator Confirmed or Appointed by the said Court could prosecute an Indian native for the Recovery of any assetts belonging to the Deceased Persons whom he or they might Represent For that if the Charter meant to give a Right to Executors or Administrators so Considered distinctly from their Natural situations as natives Indians It would have allowed a Right to them in one instance and withheld it in another arbitrarily without any Policy or wisdom and it was to be Considered to have been framed with both and that it would moreover be transferring to the representative a Right which the Deceased person Represented never Enjoyed in his lifetime But your Petitioner did maintain that Neither the said Charter nor the said Opinion of the said Council inserted in the said Replication in the said Extract

from

from the said Letter of the Court of Directors intended or Declared that native Executors or administrators should have Right in such relation or Capacity to sue other Persons being Indian natives for the Words in the said opinion of Persons resident within the said Jurisdiction &c would particularly refer to Europeans and against whom the said Provision of the said Charter would seem to give a Remedy or by the Provision in the said Charter Contained the Estate of Indian Natives Deceased would be &c without means of Recovery of the effects which might be respectively due to them at the time of the Death of such natives and which might have tended in its operation to the Discouragement &c of mercantile Transactions and Dealings between English and other European Residents within the Jurisdiction and the native &c Inhabitants of the Place your Petitioner did therefore humbly Contend that Notwithstanding the Suggestions of the Complainants to the Contrary that the said Second Plea of your Petitioner was good and Sufficient in Law to bar the said Complainants of the Discovery and relief prayed by the said Complainants in their said Bill of Complaint and your Petitioner sheweth unto this Honourable Court that for further Rejoinder he did say that although he had admitted in his said answer that he had

and

and did Detain in his Possession certain Property of and belonging to the Estate of Paucala Ramasawmy Naick Deceased more than sufficient to Pay off the alleged Claim of the said Complainants yet did he deny that he was bound therefore to satisfy the said amount so alleged to be due to the Complainants from the said Estate your Petitioner having obtained Possession of the Major part of the said Property in the Lifetime of the said Paucala Ramasawmy naick Deceased by the Bonafide Delivery of the same by the said Deceased unto your Petitioner as a Pledge or Security for Certain monies particularised and setforth in your Petitioners said answer advanced and lent unto the said Deceased by your Petitioner and he your Petitioner having obtained Possession of the residue of the said Property belonging to the Estate of the said Paucalee Ramasawmy Naick Deceased under the Delivery of the Lawfull administrator of the Estate and Effects of the said Estate he the said administrator having Pledged the same with your Petitioner for and on account of Certain monies borrowed and received of your Petitr by the said administrator and for and on account of the Estate of the said Deceased as setforth and shewn in your Petitioners said answer and your Petitioner did therefore under the said Circumstances Contend that he came

legally

legally into the Possession of the said Property and that he had not so interfered in the Estate of the said Deceased as to make himself an Executor in his own Wrong and to render himself thereby liable to the action of the said Complainants and the Consequences which may thereon result and your Petitioner did for further Rejoinder say notwithstanding what the said Complainants by their Attorney had asserted in their said Replication that he had frequent dealings with the said Paucala Ramasawmy Naick in his Lifetime and that he had lent him at Different times Divers sums of money upon Bonds notes and other Securities as he would in due time shew to the satisfaction of the said Mayors Court and he did deny that any Judgement which might have been obtained against the Estate of the said Paucala Ramasawmy Naick Deceased by the said Complainants could give to them the said Complainants a Right to the Satisfaction of their Claims prior to your Petitioners as far as regarded the Property of the said Estate in the Possession of your Petitioner so Delivered and Pledged to your Petitioner by the said Paucala Ramasawmy Naick Deceased and by the said Petty Tombo Naick the administrator of the Estate and Effects of the said Deceased your Petitioner having

having Obtained thereby a Just equitable and lawful Lien on the said Property which could not in its nature be affected by a posterm Judgement in any suit between parties indifferent and uninterested to and in the said Lien and your Petitioner for further Rejoinder did say that he did admit that a Bond of the united Company of Merchants of England trading to the East Indies for the sum of Two thousand star Pagodas was mortgaged to Rama Naick by the said Paucala Ramasawmy Naick Deceased as a Collateral Security for the Payment of the sum Mentioned in the said Bond or obligation Executed to the said Rama Naick and which your Petitioner had theretofore Delivered into the said Mayors Court but your Petitioner did aver and Pledged himself thereafter to prove to the satisfaction of the said Mayors Court that the said Bond of the said united Company so pledged with the said Rama Naick by the said Paucala Ramasawmy Naick Deceased as a Collateral security was the Property of your Petitioner and not of the said Deceased and therefore that he your Petitioner was not Chargeable to the Estate for the amount of the same and your Petitioner for further Rejoinder did say that it was true that your Petitioner did

mean

Receive back the said Bond of the said United Company on Paying the said Ramah Naick the sum together with a lawfull Interest Conditioned in the said Bond or Obligation from the said Paucala Ramasawmy naick Deceased Delivered into the said Mayors Court at the requisition and on the Prayer of the said Complainants previous to the receipt of the same from the said Ramah naick and that the said Estate of the said Paucala Ramasawmy Naick Deceased was therefore truly and Justly Indebted unto your Petitioner in the said amount so paid by your Petitioner on Account of the same and your Petitioner for further Rejoinder did say that the said Paucala Ramasawmy naick Deceased did Set over Pledge and Depose Certain and such Goods namely muslins Long Cloths and Punjam Cloths as were alleged and particularised by your Petitioner in his said answer to the Bill of the said Complainants as a further Security for the money so paid to the said Ramah Naick in satisfaction of the said Bond so Executed to the said Ramah naick by the said Deceased and that your Petitioner did also acquaint the said Petty Tamby naick after he had lawfully taken upon himself the administration of the Estate of the said Deceased of the Circumstance of the said Goods being so pledged to your

your Petitioner as aforesaid and your Petitioner for further Rejoinder did say that the said Petty Tomboo Naick Administrator of the Estate of the said Deceased did Confirm the said Pledge and did grant to your Petitioner a further lien in the said Goods so pledged for and in Consideration of the further Sum of Money paid to the said Petty Tomboo Naick administrator as aforesaid as is setforth and shewn in your Petitioners said answer and your Petitioner did utterly disclaim and deny that any part of the said Property was obtained by your Petitioner by force or violence as was afferted by the said Complainants by their said attorney and your Petitioner for further Rejoinder did say that he did not think it Necessary or incumbent on him to rejoin to any argument or Inference Deduced or Drawn by the said Complainants in their said Replication from a suit and Cross suit then and now Depending and undetermined in the said Mayors Court between your Petitioner and Petty Tomby Naick administrator of the said Paucala Ramasawmy Naick deceased your Petitioner being adviced that the same would be impertinent and altogether irrelevant to the suit brought against your Petitioner by the said Complainants and your Petitioner for further Rejoinder did say that he was adviced that the said suit and Cross suit then pending between the said Petty Tombo Naick and your Petitioner in the said Mayors Court

though

though the said Complainants had referred to the same in their said Replication and had insisted thereon were altogether inadmissible in Point of Evidence in the suit preferred against your Petitioner by the said Complainants and that the said Complainants were not intitled to any Supposed benefit or advantage from the Pleadings in the same

And your Petitioner further Sheweth unto this Honourable Court that on the Pleadings had and herein before recited and setforth issue did Join Between the said Complainants by their said pretended Attorney and your Petitioner and that the usual Rules did pass for the Examination of Witnesses and that Several Witnesses were accordingly Examined on the part and behalf of the said Complainants and your Petitioner and your Petitioner further Sheweth unto this Honourable Court that one Cundapah Moodilly was also produced as a Witness in the Cause on the part of the said Complainants who amongst other things did Depose and say that he did serve the said Paucalee Ramasawmy Naick Deceased in the Capacity of a Comicopoly for the space of Two years and that he was Entrusted with the keys of the Godowns and Warehouse of the said Deceased and the several Goods and articles therein Contained and that after the Decease

of

of the said Paucala Ramasawmy Naick he was Employed in the same Capacity as Comicopoly to the said Defendant Petty Tomboo Naick and your Petitioner sheweth unto this Honourable Court that the said Cundapah did further Depose that a List or Inventory of the Effects of the said Paucala Ramasawmy Naick which Remained in the Possession of the said Cundapah was taken soon after his Death to wit the Death of the said Paucalee Ramasawmy Naick by the Defendants meaning and intending thereby the said Petty Tombee Naick and your Petitioner and that the said articles meaning thereby the said Effects Last mentioned Consisted of Long Cloths muslins and Punjam Cloths wearing apparel and other Effects and that the same were placed in the Custody and Possession of him the said Cundapah after the List had been so taken as stated by the said Cundapah and your Petitioner sheweth unto this Honourable Court that the said Witness in Deposing to the third Interrogatory did say that the Paper Writing produced and Shewn to him at the time of his Examination marked with the Letter A and which your Petitioner hath hereinbefore stated was annexed to the Bill of Complaint of the said Complainants purporting to be a Schedule of the Effects of the said Paucalee Ramasawmy naick Deceased and the Contents whereof he did also say that he

he had will Examined did Correspand with the Liest which was taken or Caused to be taken by the said Petty Tomboo naick and your Petitioner at the time mentioned in the Second Interro-gatory and the said Witness did further say that the said articles before mentioned by the said Witness did remain afterwards in the Possession of the said Witness for the space of three months when the keys of the said Godown as Deposed to by the said Witness were forcibly taken away by your Petitioner from him the said Witness and your Petitioner further sheweth unto this Honourable Court that the said Cundapah did lastly Depose that your Petitioner did possess himself of the third Fourth Fifth Sixth and Seventh Articles Mentioned in the said Schedule marked A as aforesaid and that he did possess himself thereof by taking them from the Body of the said Deceased when it was Conveyed to the Burrying Grounds and that the said articles so averred to have been taken by your Petitioner were the property of the said Deceased and your Petitioner further sheweth unto this Honourable Court that one Catty Pillay Comicoply and one Narrain Moodelly Comicoply were also produced as witness in the said Cause on the part of the said Complainants who did Depose and say and almost in the same words

that

that the said Paucala Ramasaumy Naick did Die Possessed of a Considerable Property and to the Amount of about Sixteen thousand Pagodas and the said Catty Pillay and Narrain Moodelly did say that they were present when the Liest of the Effects of the said Deceased was taken as Deposed to by the said Cundapah Moodelly and that the said Effects were placed by the said Petty Tombo Naick in the Custody of the said Cundapah and the said Catty Pillay and narrain Moodelly did further say that to the knowledge of them the said Catty Pillah and narrain Moodelly your Petitioner did not at that time meaning at the time of taking the said Liest Claim any of the said articles as your Petitioners Property or allege that the same or any of them had been mortgaged to your Petitioner by the said Paucala Ramasaumy naick in his life time and the said Catty Pillay and Narrain Moodelly did further say that your Petitioner did take by force the key of the Godown in which the said Goods or Effects were said to have been placed from the said Cundapah and did remove the said Goods or Effects to another Godown belonging to your Petitioner and the said Catty Pillay and narrain Moodelly did lastly say in Answer to the Concluding general Interrogatory that

the

the said Jewels being the third fourth fifth Sixth and Seventh Articles mentioned in the said Schedule marked A were taken away by your Petitioner from the Body of the said Paucala Ramasawmy Naick Deceased at the Burrying Ground and your Petitioner further Sheweth unto this Honourable Court that Arroonachella Pillay Sawmy Pillay Yeagapah Moodelly and Velloyoodoo Moodelly were also produced as Witnesses in the said Cause on the part of the said Complainants who amongst other things did say that the Deceased Paucala Ramasawmy naick did Die Possessed of Considerable property as Deposed to by the said Witnesses as aforesaid and the said Four Witnesses did severally say that no List or Inventory of the Effects of the said Deceased was taken by your Petitioner and the said Petty Tamboo naick and that the said Effects were afterwards left in the Care and Custody of the said Cundapah Moodelly and that the said Effects were forcibly taken from the Possession of the said Cundapah by your Petitioner and your Petitr sheweth unto this Honourable Court that one of the said Witnesses to wit Sawmy Pillay did say that the said Effects were taken from the said Cundapah about two or three Months after the Decease of the said Paucala Ramasawmy naick and that two of the said Witnesses to

to wit yeagapah Moodelly and Velloyoodoo Moodelly did say that the said Effects were so taken by your Petitioner about three Months after the decease of the said Paucala Ramasawmy Naick and another of the said Witnesses to wit arroonachella Pillay did generally say that the said Effects were forcibly taken by your Petitioner from the said Cundapah but did not mention any time when the said Effects so alleged to have been taken by your Petitioner were removed from out of the Custody and Possession of the said Cundapah and your Petitioner further Sheweth unto this Honourable Court that the said Four Witnesses did also say that none of the Effects of the said Paucala Ramasawmy Naick were in the Lifetime of the said Paucala Ramasawmy Naick Mortgaged to your Petitioner and that if such had been the Case it would have Come to the Knowledge of the said four Witnesses in Consequence of the said four Witnesses having been Comissaries to the said Paucala Raumasawmy Naick and your Petitioner further Sheweth unto this Honourable Court that the said four Witnesses did further say that the List or Inventory of the Effects of the said Paucala Ramasawmy Naick Deceased said to have been taken by the said Petty Tamboo Naick as administrator of the said Paucala Ramasawmy

Naick

Naich and your Petitioner was an Exact Copy of a former
Sirit made in the lifetime of the said Pawalia Ramasawmy
Naich and that after the making of the said Inventary by
your Petitioner and the said Petty Tomboo Naich the Effects
of the said Deceased were Delivered to the Care of the said
Cundapah Except the said third fourth fifth Sixth and
Seventh articles Deposed to by the said and Several Witnesses
as aforesaid which were not at that time amongst the
Effects of the said Deceased and your Petitioner further
sheweth unto this Honourable Court that three of the said
four Witnesses to wit Arrunachella Pillay Saumy Pillay and
yeagapah Moodelly did say that your Petitioner did ac-
knowledge the said five articles to be in his Possession at the
time of making the said Inventory and that he did
take them from the Body of the Deceased as Deposed
to by the Witnesses as aforesaid and moreover that your Petitioner
did Promise to Deliver the same to Petty Tomboo Naich
whereas another of the said Witnesses to wit Velayoodan
Moodelly did say that at the time of your Petitioners
Acknowledging the said five articles to be in the Possession
of your Petitioner he did Promise to Deliver the same unto
the said Cundapah Moodelly and your Petitioner further
sheweth unto this Honourable Court that one Chenganah
Naich

Naich was produced as a Witness in the said Cause on
the part of your Petitioner who did Amongst other
things Depose that he was entertained for Ten years
in the service of the said Pawala Ramasawmy Deceased
in the Capacity of Galla Peon that he did recollect
to have heard the Deceased request as a Loan of your
Petitioner the sum of One thousand Pagodas and that
your Petitioner did Comply with the request of the
said Pawalar Ramasawmy Naich Deceased by lending
him a Bond of the united Company of Merchants
of England trading to the East Indies for the sum of
Five thousand Pagodas and that a Loan of One
thousand Pagodas was afterwards Effected in favor of the
said Pawala Ramasawmy Naich by the pledging of
the said Companys Bond as a Collateral Security for
the repayment of the said sum with one Ramah Naich
who did thereupon furnish the said Sum of One
thousand Pagodas to the said Pawala Ramasawmy
Naich and the said Chenganah Naich did also
depose that the said Ramah Naich did afterwards
press the said Pawala Ramasawmy Naich for the
repayment of the said sum of one thousand Pagodas
when the said Pawala Ramasawmy Naich did request

of

of your Petitioner to Discharge the same but which your Petitioner did Refuse to do unless the said Pavcala Ramasawmy Naick would Deposit with your Petitioner a security for the said Sum and that in Consequence the said Pavcala Ramasaw-my Naick did mortgage to your Petitioner a Quantity of Long Cloth Punjum Cloth and muslins and the said Chenganah Naick did further Depose that the said Defendant Petty Tomboo Naick administrator as aforesaid did Deposit with your Petitioner Certain Gold Joys Silver things and other articles and did borrow thereon the sum of Five hundred Pagodas and upwards and your Petitioner further sheweth unto this Honourable Court that one Teagaroy Moodelly a Dubash was produced as a Witness in the said Cause on the part of your Petitioner who amongst other things did Depose that the said Pavcala Ramasawmy Naick did borrow the said sum of one thousand Pagodas from Ramah naick and that he pledged with the said Ramah Naick as a Collateral security a Compangs Bond and that the said Pavcala Ramasawmy Naick was afterwards Requested by the said Ramah Naick to Discharge the said sum and that your Petitioner did pay off on behalf of the said Pavcala Ramasawmy Naick the said sum of one thousand Pagodas to the said Ramah Naick and the said Teagaroy did further Depose that in Consideration that your Petitioner had pledged a Compangs Bond to the said Ramah naick on Account of the said Pavcala Ramasawmy Naick he the said Pavcala Rama-sawmy Naick did Deposit with your Petitioner Certain Long Cloth Punjum Cloth and muslins and that the said Pavcala Ramasawmy Naick had told the said Teagaroy that the value of the Goods Deposited with your Petitioner amounted to the sum of Twelve or Sixteen hundred Pagodas and the said Teagaroy did lastly Depose that your Petitioner did frequently Desire the said Pavcala Ramasawmy Naick to repay your Petitioner the said amount paid to Ramah naick to which the said Pavcala Ramasawmy Naick did answer that he would settle soon and your Petitioner further sheweth unto this Honourable Court that sawmy Moodaliar and Padmanambiah were produced as Witnesses in the said Cause on the part of your Petitioner who did Depose in Concurrance with the Testimony of the said Chinganah Naick and Teagaroy Moodaliar to the Circumstance of the Loan of the said Compangs Bond to be pledged with the said Ramah naick and the Discharge of the said sum of

one

one thousand Pagodas on the account of the said Paucala Ramasawmy Naick by your Petitioner and to the mantgage of the said Long Cloth Dunjam Cloth and Muslins to your Petitioner as a Security for the Repayment of the said Sum so Discharged by your Petitioner unto the said Ramah Naick and the said Sawmy Moodaliar and Padmanaubiah did further Depose that on your Petitioner urging the said Paucala Ramasawmy Naick to Discharge to your Petitioner the said sum of one thousand Pagodas so paid as aforesaid on the account of the said Paucala Ramasawmy Naick Deceased the said Paucala Ramasawmy Naick did assure your Petitioner that he would pay the same as soon as he got money and that if he did not get Money very soon that he would sell off the said Articles so Deposited with your Petitioner and your Petitioner further sheweth unto this Honourable Court that Amaiambala Sawmy Naick was produced as a Witness on the part of your Petitioner who amongst other things did Depose to the Delivery of the third fourth fifth Sixth and Seventh articles in the Schedule marked A by the said Petty Tomboo Naick to your Petitioner in the presence of him the said Amaiambala Sawmy naick and that Sakkiriah naick also produced as a Witness on the behalf of your Petitioner did also

Depose

Depose that the said Petty Tomboo Naick did Deliver unto your Petitioner the said five Articles in the said Schedule mentioned and the said Sakkiriah did further Depose that the said five articles were originally made at the Cost and Charge of your Petitioner and your Petitioner further sheweth unto this Honourable Court that one Ramah Naick was produced as a Witness in the said Cause on the part of your Petitioner who amongst other things did Depose that on the fourth Day of March One thousand Seven hundred and Eighty nine he did lend unto the said Paucala Ramasawmy Naick Deceased the sum of one thousand Star Pagodas and that the said Paucala Ramasawmy Naick did Execute his Bond for the same and that a Bond of the said United Company was Deposited with him as a Security for the Repayment of the said Sum and that the said Bond was made over to your Petitioner and the said Ramah Naick did further Depose that he did at Several times Demand the repayment of the said Sum of One thousand Pagodas of the said Paucala Ramasawmy Naick but that he did not pay off or Discharge the same and that the said sum together with an Interest was at Length paid off to wit on the Tenth Day of November one thousand Seven hundred and Eighty nine by your Petitioner to whom he the said Ramah Naick did Deliver up the said Bond of the said

said Paucala Ramasawmy Naick as also the said Companys Bond and further the said Ramah Naick did Depose that the Exhibit shewn to him at the time of his Examination was the Bond Executed by the said Paucala Ramasawmy Naick unto him the said Ramah Naick for and in Consideration of the said Loan and your Petetioner further Sheweth unto this Honourable Court that the said Ramah Naick who was Examined on Engs Interrogatories on the part of the said Complainant did Depose in like manner and Substance in favor of your Petitioner and your Petitioner further sheweth unto this Honorable Court that Tremelay and Annachella Chitty were also produced as Witnesses in the said Cause on the part of your Petitioner who amongst other things did Depose and first the said Tremelay did Depose to the purchase of Two Company Bonds by your Petitioner of Mgr. Pocher Redhead and Company bearing Date the Eighth Day of August one thousand Seven hundred and Eighty Six and secondly the said Annachella Chitty Company Sheroff did Depose that he paid to your Petitioner one Interest of Three hundred and Twenty Pagodas per Annum on the said Bonds and that the same were finally paid off on the Twentieth Day of June one thousand Seven hundred and Ninety three and

and that the Receipt or the Discharge of the said Bonds was written in the hands writing of and by your Petitioner and your Petitioner further sheweth unto this Honourable Court that after the Examination of the Several Witnesses as aforesaid Publication did pass and that the Interrogatories Exhibited to the said Several Witnesses and the Depositions taken thereon as well on the part of your Petitioner as of the said Complainants were Accordingly Published and made known and your Petitioner further sheweth unto this Honourable Court that to the Interrogatories and the Additional Interrogatories Exhibited on the part of the said Complainants to Cundapah Moodelly Callaty Pillah Nannin Moodelly and Vellayadoo Moodelly and to the Depositions taken and made thereto on the behalf and at the Instance of the said Complainants your Petitioner did take Exceptions and your Petitioner sheweth unto this Honourable Court that he did first Except to the latter part of the Second Interrogatory Exhibited on the part of the said Complainants and to the Depositions taken and made thereto by the said Cundapah Moodelly because as your Petitioner did allege the said Latter part of the said Interrogatory was leading and Directing from and

after

after the words Was or was not a List or Inventory of the Effects of the said Pancala Ramasawmy Naick which Remained in your Possession taken soon after his Death by Petty Tombee Naick and Pancala Kistnamah Naick in the Title of the said Interrogatories Named unto the End or Conclusion of the said Second Interrogatory and your Petitioner sheweth unto this Honourable Court that Secondly he did Except to the whole of the third Interrogatory Exhibited on the part of the said Complainants and to the Deposition taken and made thereto by the said Cundapah moodelly in so much as your Petitioner did also allege as the first part of the said Interrogatory did proceed on a Supposed affirmative answer of the said Cundapah Moodelly to the leading Questions put to him in and by the said Second Interrogatory before Excepted to by your Petitioner and that it was intimately Connected with the said leading and directory Questions in the said Second Interrogatory Excepted to as aforesaid and further as the Concluding Questions in the said third Interrogatory from and after the words How long did the said articles remain afterwards in your Possession to the End of the said Interrogatory were particularly and pointedly guiding and your Petitioner sheweth unto this Honourable Court that

that thirdly he did Except to the whole of the fourth Interrogatory Exhibited on the part of the said Complainants and to the Depositions taken and made thereto by the said Cundapah Moodally in as much as the same appeared to your Petitioner to be Directly leading and more particularly from the words and figures Do you know or have you heard whether the said Pancala Kistnama Naick meaning and intending thereby your Petitioner possessed himself of the third fourth fifth sixth and seventh articles in the said Schedule mentioned to the End of the said fourth Interrogatory and your Petitioner further sheweth unto this Honourable Court that he did fourthly Except to the latter part of the fifth Interrogatory Exhibited on the part of the said Complainants and to the Depositions taken and made thereto by the said Collaty Pillah and Narrain Moodally because your Petitioner did say that the latter part of the said Interrogatory from and after the Words "Do you know or have you heard that a List or Inventory to the End of the said Interrogatory was also altogether leading and lastly your Petitioner sheweth unto this Honourable Court that he did Except to the Second additional Interrogatory Exhibited on the part of the said Complainants and to the Depositions taken and made thereto by the said Arranachilla Pillay Sawmy Pillah yeagapah Moodally and Valoyudas Moodelly because as your Petitioner did say that the said Second Interrogatory was not

only

only Leading but was in Substance the same with the fifth Interrogatory Exhibited on the part of the said Complainants and your Petitioner did therefore say was improper as it tended to Create an unnecessary Expense and your Petitioner sheweth unto this Honourable Court that he did Except to the said Interrogatories and the Depositions excepted to as aforesaid that the same might be Suppressed and not be allowed to be read as Evidence at the hearing of the said Cause between the said Complainants and your Petitioner and your Petitioner further sheweth unto this Honourable Court that to the said Exceptions taken by your Petitioner the said Complainants by their said pretended Attorney did file their answer and in answer to the said Exceptions did say that neither the latter or any other part of the said Second Interrogatory was leading or Directory as charged by your Petitioner but on the Contrary that it did contain fair and proper Questions respecting the matters in Issue and the facts to be established in the Cause between the said Complainants and your Petitioner giving the Witness as they did allege an opportunity to affirm deny or Explain the matters required of him without any attempt design or intention whatsoever to put words in his mouth Wherefore the said Complainants did humbly submit that the said Second

Second Interrogatory and the Deposition taken thereon ought not to be Suppressed But that the Exception of your Petitioner thereto should be over ruled with Costs as frivolous and unfounded and your Petitioner sheweth unto this Honourable Court that in answer to the second Exception the said Complainants did say that the third Interrogatory Exhibited to the said Cundapah Moodelly was not leading or Directing the object of the said Question being as they did allege to disprove Certain assertions made by your Petitioner in the Course of the Pleadings respecting the articles mentioned in the said Schedule and also to shew that your Petitioner took away by force and Violence from the Witness the key of the Godown where the said articles were Deposited and the said Complainants did further say that so far from the said Questions being leading that they did require in general terms the Witness to set forth and Declare the manner in which the said key was taken away without any attempt to lead him Wherefore the said Complainants did say that the said third Interrogatory with the Deposition of Cundapah taken thereon ought not to be set aside But that the said Exception should be over ruled with Costs and your Petitioner further sheweth unto this Honourable Court that the said Complainants for answer to the third Exception did deny the latter or any part of the fourth Interrogatory to be leading For the Witness was asked

asked thereby whether he knows or heard that your Petitioner
possessed himself of the third fourth fifth Sixth and Seventh
articles in the said Schedule mentioned which did give them
as the said Complainants did allege an Opportunity of speaking
the truth that was of Answering in the negative or affirmative
If the latter he was then desired to Setforth in general terms
and not by leading Questions as the Complainants did also state
the manner in which your Petitioner did Possess himself of the
said articles Whereupon the said Complainants did Pray that
the said Exceptions might be over ruled as being Altogether
frivolous and unfounded and your Petitioner sheweth unto this
Honourable Court that the said Complainants for answer
to the fourth and fifth Exceptions did say that they were also
unfounded and they did lastly allege that the Object of your
Petitioner in making the said Several Exceptions was to Depive
them the said Complainants of that fair Testimony which
while it Clearly supported their Cause of action equally
proved your Petitioner to be an Executor in his own wrong
and that he had made himself liable for the several
articles in the said Inventory or Shedule Contained and
your Petitioner further sheweth unto this Honourable Court
that the said Complainants by their Attorney at Law did
thereafter Pray that the original Suit and the Proceedings had
thereon

thereon instituted by the said Petty Tomboo Naicker as administra-
tor of the said Pavala Ramasaumy naicker Deceased against
your Petitioner in the said Mayors Court together with the
Cross Bill Exhibited also in the said Mayors Court by your
Petitioner against the said Petty Tomboo Naicker as Administrator
as aforesaid and the Proceedings had thereon might form a part
of the said Complainants suit and be read at the final
hearing of the Cause and your Petitioner sheweth unto this
Honourable Court that the Prayer of the said Attorney of
the said Complainants was accordingly granted by the
said Mayors Court But your Petitioner Sheweth
unto this Honourable Court that the Proceedings in
the said Original suit and Cross suit now pending
and undetermined in the said Mayors Court having
no sort of Connection or relation in the opinion of
your Petitioner to or with the suit between the said Com-
plainants and your Petitioner he hath not setforth the
same and your Petitioner further sheweth unto this Honble
Court that on the Proceedings had the said Cause was set
down for hearing and did accordingly Come on to be heard
before the said Mayors Court on the Eleventh Day of Decem
now last past when the said Mayors Court did think
fit to order and did accordingly Order that the Exception

of

of your Petitioner taken to the said Interrogatories Exhibited to the said and several Witnesses Examined in the said Cause on the part of the said Complainants and to the Depositions thereto taken should be over ruled and the same were over ruled Accordingly as will morefully and at large appear by a Copy of an Extract of the minutes of the said Mayors Court hereunto annexed and to which your Petitioner Craves Reference the Original being in the Possession of your Petitioner and ready to be produced if required and the said Mayors Court did moreover think fit to Order and Decree and did accordingly Order and Decree that the said Defendant Petty Tomboo Naick and your Petitioner do pay unto the Complainants out of the Estate and Effects of Pauala Ramasawmy Naick the sum of Two thousand three hundred and nine Pagodas and thirty three fanams together with all such Interest as now is or shall hereafter become due thereon untill full Payment is made also all Costs of suit and in Default of effects that they do pay the amount Decreed out of their own Estate with Costs of suit as will manfully and at large appear by the annexed Copy of the said Decree for the Inspection of this Honourable Court and to which your Petitioner Craves leave to refer the Oreginal being in the Possession of your Petitioner and ready to be produced if Required —

By which Order and Decree of the said Mayors Court your Petitioner doth think himself much Aggrieved and doth therefore appeal therefrom unto this Honourable Court for the following amongst other Reasons —

First... Because the said Decree of the said Mayors Court appears to have been made under a misconception of the Law or without due Consideration of the several matters as impleaded by your Petitioner For your Petitioner is advised that the Plea pleaded by your Petitioner of a former Suit Depending in the said Mayors Court between the said Petty Tombo Naick as administrator of Pauala Ramasawmy Naick Deceased and your Petitioner touching and regarding the same matters and things as are the Object of the said suit instituted by the said Complainants against your Petitioner is a Plea founded in Law and ought to have had a weight and Influence with the said Mayors Court in making the said Decree

and your Petitioner sheweth unto this Honorable Court that your Petitioner setforth in his said Plea that the suit of the said Complainants was for the same matters

and

and things as the suit of the said Petty Tomboo Naick then Depending in the said Mayors Court and undetermined and the said fact was afterwards admitted by the said Complainants in their said Replication and that it was admitted also by the Bill of the said Complainants that the said Petty Tomboo Naick was and is the lawful administrator of the Estate and Effects of the said Vaeala Ramasaumy Naick Deceased and further that the matters at Issue belonged and related to the Estate of the said Vaeala Ramasaumy Naick Deceased your Petitioner doth therefore humbly Contend that the said Admissions of the said Complainants in their said Pleadings are Sufficient to Support and Establish the said Plea of your Petitioner In as much as the Property sued for is allowed to be the Property of the said Estate In as much as the Person prosecuting that Property and who is allowed to have prosecuted that Property in the former suit has a legal Right in the same as administrator of the said Estate and if the said Petty Tomboo Naick the Administrator of the said Estate had and has a legal Right to Prosecute for that Property it follows as your Petitioner is advised as a Consequence that the said Complainants can have no Right pending the said Suit so instituted by the said administrator or other. wise this absurdity would ensue that two seperate and Distinct Persons

Persons would have two Seperate Entire and equal Rights in one and the same thing and at the same time which Cannot be for there Cannot it is humbly presumed be two Different and Distinct Rights in Different and distinct Persons Coequal and Coexistent —

And your Petitioner is advised that the Second Plea pleaded by your Petitioner to the Disability of the said Complainants by reason of the Operation of the Charter Granted by his late Majesty on the Persons of the said Complainants as particularly Setforth in your Petitioners said Plea is Consonant and Conformable to Law and should have been regarded by the said Mayors Court in the said Decree which it doth not appear to have been For your Petitioner Sheweth unto this Honourable Court that in his said Plea he did Setforth and which your Petitioner has recited in this his Petition and Appeal to this Honourable Court that by an Exception in the said Charter Indian Natives are exempted generally from holding suits against each other unless by mutual Consent and your Petitioner did further allege in his said Plea that the said Complainants and your Petitioner were Indian Natives and that your Petitioner did not Submit the said suit to the Determination of the said Mayors Court your Petitioner doth therefore humbly Contend that as he did not Consent to submit the said suit

suit to the Determination of the said Mayors Court that the said Mayors Court had no Jurisdiction over the same for the said Court are restricted by the said Charter pleaded by your Petitioner in entertaining suits between Indian Natives to such alone as are Submitted to their Determination by mutual Consent and your Petitioner humbly Contends that the act of the said Complainants to out of Submitting their Cause of action to the said Mayors Court Cannot in any wise bind or Affect your Petitioner and your Petitioner is advised that the arguments used by the said Complainants in their said Replication to the said Plea of your Petitioner in Respect to the Competency of native Indians being Executors or administrators to such suit in the said Mayors Court against Debtors to the respective Estates of their Testators or Intestates are founded on false Premises and Contrary to the Letter and spirit of the said Charter For your Petitioner humbly sheweth unto this Honourable Court that the Exception in the said Charter Contained is general save in the single Instance where both Parties shall Consent to submit the Cause of action between them to the Judgement and Controul of the said Mayors Court and your Petitioner is advised that the taking on himself or themselves the burthen of Executorship

Or

or administration by a native Indian or Indians is a mere voluntary act of the Party or Parties so taking on himself or themselves the said Respective Burthens But your Petitioner hath indeavoured to shew to this Honourable Court that the act of one Party Cannot Oblige or bind another Party who hath no Will or Part therein and therefore your Petitioner Concludes that a Native Indian although possessed of Probate or Letters of administration stands in respect to a Native Indian in the Contemplation of and from the Construction of the said Charter precisely in the same plight as he did before he obtained the said Probate or the said Letters from the said Mayors Court and if so your Petitioner humbly Contends that the Conclusion must be in favor of your Petitioners said Plea—

Secondly... Because at the time of the said Complainants Exhibiting their said Bill in the said Mayors Court against the said Petty Tomboo Naick as administrator of the said Pavala Ramasseamy Naick Deceased and your Petitioner they the said Complainants as appears by their own Shewing in their said Bill had an actual and active Execution in the hands of the Sheriff of Madrasspatnam against the said Petty Tomboo Naick in his said relative Capacity of administrator to the Estate of the said Pavala Ramasseamy Naick Deceased and for the same Cause of action and your Petitioner humbly Contends that while the said Execution remained in the hands of the said sheriff unreturned that

that the said Complainants even in the case as made out for themselves in their said Bill had not and could not have had any Cause of action as against your Petitioner for the said Complainants having brought their action against the administrator of the said Estate and for an alleged Debt said to be due to them from the said Estate could not have had a right of action of the nature with the said Cause prosecuted against your Petitioner and the said Petty Tomboo Naicken until after the return of the said Writ of Execution with an Indorsement of no Goods thereon or an Indorsement of like purport for until such Return there would be a legal Presumption that effects did Exist in the hands of the said Petty Tombo Naicken of and belonging to the said Estate Sufficient for the Discharge of the Demands of the said Complainants and your Petitioner Humbly Contends Not withstanding the said Writ of Execution had been returned with the Indorsement of no Goods after the filing or Exhibiting the said Bill by the said Complainants that it Could not thence Supplied the substantial original Defect Namely the want of Right at the Commencement of the suit and your Petitioner Sheweth unto this Honorable Court that your Petitioner did Set forth the said fact of the said Execution being in the hands of the said Sheriff at the time of the filing of the said Bill by the said Complainants against your Petitioner and the said Petty Tombo Naicken in the said Several Plea and answer of your Petitioner to the said Complainants Bill and he was therefore as your Petitioner Conceives and is advised Entitled to every benefit Derivable and to be derived from that Circumstance

Thirdly Because the action of the said Complainants is for a Supposed Trespass and so far as it regards your Petitioner in the nature of an Action of Traver and Conversion the Bill of the said Complainants being filed for the recovery of the value of certain Effects suggested to have been Converted by your Petitioner to his own use and your Petitioner is advised that an action of that nature Can only be brought and maintained by those who had a Right in and the Possession of the Property Converted at the time of the Conversion of the same Except in Special Cases such as of Administrators and assignees and your Petitioner Sheweth unto this Honourable Court that the whole Body of the Evidence of the said Complainants was introduced to shew that the Effects of the Estate of Paucala Ramasawmy naicken Deceased the value of which is Sued for by the said Complainants in their said Bill Came after the death of the said Paucala Ramasawmy Naicken into the hands of the said Petty Tombo Naicken the administrator of the said Estate and therefore not only the Right in the said Effects but the Possession of the same according to the

Statement

statement of the said Complainants themselves was at the time of the Conversion if the Conversion had been established by the said Complainants in the said Petty Tambee Naich the Lawfull administrator and your Petr humbly Contends if it be true that in an Action of Trover and Conversion that an absolute or Special Right in and Possession of the Property sued for should be in the Person of the Complainant or Complainants in such Action that the administrator alone here was and is entitled to bring action if he had or has any Cause of Action touching the matters in Question and your Petitioner hath &c endeavoured to Shew in his first Cause or reason that two Seperate Entire and Distinct Persons Cannot have two Seperate and Distinct Rights in one and the same thing at the same time —

Fourthly ... Because the said Decree of the said Mayors Court or so much of the said Decree which Orders that in default of Assets that they do pay meaning your Petitioner and the said Petty Tambee Naich the amount Decreed out of their own Pockets with Costs of suit is Contrary and Repugnant to Law for it is prescribed by Law that an Executor de son tort as well as a Rightful Executor and administrator shall be so far Chargeable only

only as Effects shall have been proven to have come to his hands but the said Decree requires a satisfaction of the whole of the Demand of the said Complainants with Interest and Costs of Suit whither your Petitioner should have Effects or Otherwise —

Fifthly ... Because the said Decree of the said Mayors Court is as contrary to Equity as it appears to be Opposite to Law Inasmuch as your Petitioner would not only be twice harrassed and vexed on the same Grounds but might be twice subjected to Damages on the same Account if the said Decree were to have Effect For your Petitioner hath shewn unto this Honourable Court that there is a suit pending against your Petitioner in the said Mayors Court by the Lawful administrator of the Estate of the said Paucala Ramasawmy Naich for the same matters and things as are sued for by the said Complainants in their said Bill and it is a Maxim of Equity that no Person shall be twice troubled for one Cause Besides the said Decree of the said Mayors Court would tend to fix a Prejudice on the said suit and Cross suit pending in the said Mayors Court before any Evidence had been received thereto and before matters were ripe for the Decision of the said Mayors Court which would be unjust

unjust in principle and highly Detrimintal to the Rights of your Petr

Sixthly ... Because the said Mayors Court in their said Decree do not appear to have given that Credit to the Evidence produced on the part of your Petitioner to which it is entitled For your Petitioner sheweth unto this Honourable Court that it was in proof before the said Mayors Court from the Testimony of Ramah naick that your Petitioner Discharged on Account of the said Paucala Ramasaumy naick the Amount of the Bond Executed by the said Paucala Ramasaumy naick Deceased unto the said Ramah naick and did procure an Assignment thereof as Appeared also in the face of the Bond so Assigned which was Exhibited in the said Mayors Court and produced in the said Cause and which Circumstance was also Corroborated by the Concurrent Testimony of several Witnesses on the part of your Petitioner That it also was in proof by the Testimony of Chenganah Tragaroy Sawmy Moodilly and others that the said Paucala Ramasaumy Naick in his Lifetime did set over Mortgage and pledge to your Petitioner the several articles mentioned in your Petitioners answer and Particularised in the Schedule filed therewith That it was further in proof by the Evidence of Tragaroy and others that after the Mortgage of the said Articles to your Petitioner the said Paucala Ramasaumy naick did Promise to your Petitioner to pay off the amount of which they stood pledged That it was also in proof by the Testimony of Chenganah and others that the several Articles as stated in your Petitioners said Answer were pledged to your Petitioner by the said Petty Tombee Naick and to the amount or thereabouts as Charged by your Petitioner and your Petitioner therefore humbly Contends that the Case of your Petitioner was Clearly and Satisfactorily made out by your Petitioner and supported by a Body of unquestionable Evidence and although the said Complainants did produce Evidence with an attempt to shew that the said Goods or Articles so proved by your Petitioner to have been mortgaged as aforesaid were taken by your Petitioner from out the Possession of one Cundapah Moodally by force your Petitioner humbly Contends that the Evidence produced by the said Complainants to that End is altogether Deficient and inconclusive for none of the Witnesses though all are particularly Questioned to Specify the manner in which the said Articles suggested to have been forcibly taken from the Custody of the said Cundapah were forcibly taken by your Petitioner do say in what way the said Goods or Articles were removed as pretended from out the Custody of the said Cundapah and the said Cundapah who is Interrogated to the same point altogether

altogether Silent as to the violence and force alleged to have attended the said Pretended Removal of the said Articles your Petitioner therefore humbly Contends that the weight and Preponderance of the Evidence produced in the said Cause was on the side of your Petitioner —

Seventhly Because the said Exceptions taken by your Petitioner to the Several Interrogatories and the Depositions taken thereto on the part of the said Complainants and for the reasons assigned by your Petitioner in the said Exceptions and others which may be offered on the part of your Petitioner were well founded in Law as your Petitioner is advised and ought to have prevailed with the said Mayors Court to the Suppression of the Depositions in Question your Petitioner doth therefore Appeal to this Honble Court from the said Order of the said Mayors Court which over rules the said Exceptions of your Petitioner with Costs —

Lastly Because the said Mayors Court had not any thing before them at the time of making the said Decree which should have induced them to Decree as it Appears by the Copy of the said Decree Annexed that they have Decreed as against your Petitioner For your Petitioner sheweth unto This Honourable Court That the said Complainants had not established any matter in the said Cause which entitled them to any Relief or Redress as against your

Petitioner

Petitioner personally or in a pretended relative as Executor de son tort. for the said Complainants have not proved any Demand either against your Petitioner personally or even against the said Estate of the said Paucala Ramasawmy Naick and although the said Complainants might have proved a Demand or Debt against the Estate of the said Paucala Ramasawmy Naick in the former suit against the said Petty Tamboo Naick as Administrator thereof such proof Cannot affect your Petitioner who was not a Party to that suit and who had not therefore an Opportunity either to Cross question the Witnesses in the former Suit or to Dispute the said Claim whatever it might have been of the said Complainants and your Petitioner humbly Sheweth unto this Honourable Court that if a Party should be bound by the admission or may be the Collusion of a second Party in a former suit it would be impossible that Property should be Secure and your Petitioner humbly Contends that the said Complainants not having urged the said Petty Tamboo Naick to answer the said Bill of the said Complainants in the said Cause is a strong Prima facie proof of Collusion Between the said Complainants and the said Petty Tamboo Naick to affect the Right Credit and Interest of your Petitioner —

For

For all which reasons and such others as may be offered at the hearing your Petitioner most humbly Prays this Honourable Court will be pleased to Reverse the said Orders and Decree of the said Mayors Court and grant your Petitioner such relief in the Premises as in their Wisdom shall seem Meet—

/Signed/ Emanuel Samuel
Solicitor for the Appellant

Extract

Extract from the Minutes of a Court held at the Town Hall on Friday the 11th Day of December Anno Domini 1795

Present

Benjamin Roebuck Esqr Mayor
William Webb Andrew Ross Jr
Richard Chase Aldermen

Woodendiapah Moodeliar Administrator with the Will annexed of the Estate and Effects of Conjeveram Rudrapah Moodeliar deceased and Commaroo Iyah Pillah by their Attorney and Assignee Madapaukam Verdarajah Moodeliar

Petty Tambee Naich Administrator of Paucala Ramasaumy Naich Deceased and Paukala Kistnamah Naich—

Bill with Copies of three Exhibits marked A B & C annexed read
Several Plea and Answer of Paucala Kistnamah Naich read
Replication with Copy of an Account Current Annexed read
Seperate amended Rejoinder Read
Exceptions of the Defendant Paukala Kistnamah naich to the Interrogatories and Additional Interrogatories Exhibited on the part of the Complainant to Cundapah Moodelly Kallaty Pillah Narmin Moodelly Arunachellah Pillah Saumy Pillah Yerapah Moodelly and Vellay dos Moodelly and the Depositions taken thereto read—
Answer thereto Read

The

The Exceptions and the Answers thereto Coming on to be argued and Determined in the Presence of the Attornies on both sides on Hearing the arguments used by the attornies and on due Consideration had thereon The Court are of Opinion that the Exceptions are insufficient It is therefore Ordered that the Exceptions be over ruled with Costs Interrogatories on the part of the Complainant with one Exhibit annexed read —

Four Depositions taken thereto Read —

Additional Interrogatories on the part of the Complainant Read

Four Depositions taken thereunto Read

Interrogatories on the part of the Defendant Pavala Thirumah Naick with an Exhibit annexed Read —

Nine Depositions taken thereto Read

Extract from the Minutes of Court of the 22d Sept. last Read

Proceedings in the Cause Petty Tamby Naick administrator of the Estate and Effects of Pavala Ramasawmy Naick Deceased vers Pavala Thirumah Naick Et C Contra Read —

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 three Exhibits marked A B and C annexed The sworn Plea and answer the Replication with Copy of an Account Current annexed The Separate amended Rejoinder The Interrogatories and Depositions on

on the part of the Complainant with one Exhibit annexed the Interrogatories and Depositions on the part of the Defendant with one Exhibit annexed the Extract from the Minutes of Court of the 22d September last The Proceedings in the Cause Petty Tomboo Naick administrator of Pavala Ramasawmy Naick Deceased vers Pavala Thirumah Naick Et C Contra on Hearing the Pleadings made use of by the attornies and it appearing that an attachment hath issued against the Defendant Petty Tomboo Naick for neglecting to answer the Complainants Bill, This Court doth think fit to Order and Decree and doth accordingly order and Decree that the Defendants Petty Tombee Naick and Pavala Thirumah Naick do pay unto the Complainant out of the Estate and Effects of Pavala Ramasawmy Naick Deceased the full and Just sum of Two thousand three hundred and nine Pagodas and thirty three fanams Pgs. 2309 33 — together with all such Interest as now is or shall hereafter become due thereon until full Payment is made also all Costs of this suit and in default of assets that they do pay the amount Decreed out of their own Estate with Costs of suit —

81.

A True Extract

/ Signed / J. E. Ashin
Dy Regr.

A true Copy

/ Signed / Emanuel Samuel
Solicitor for appellant

Mayors

Mayors Court at Madrás patnam

Friday the 11th Day of December Anno Domini 1795

Present

Benjamin Roebuck Esqr Mayor
William Webb Andrew Ross Esqr
Richard Chase Aldermen

Between Woodenchapah Moodaliar Administrator with the Will annexed of Tongy Veeram Rudrapah and Canmaw Jyah Pillay their Attorney and Assignee Made Defendants to the Complt Moodaliar of Madrás Inhabitant Complainant and Petty Tumby Naich Administrator of Paucala Ramasawmy Naich Deceased and Paucala Kistnamah Naich Defendants—

This Cause Coming on to be heard and Debated this day in the presence of the Attorneys on both sides on regarding the Complainants Bille with Copies of three Exhibits marked A B and C annexed The Several Pleas and Answers of the Defendant Paucala Kistnamah Naich The Replication with Copy of an Extract annexed The separate Amended Rejoinder The Interrogatories and Depositions on the part of the Complainant with one Exhibit annexed The Interrogatories and Depositions on the part of the Defendant with one Exhibit annexed The Extract from the Minutes of Court of the 22d September last The Proceedings in the Cause Petty Tomboo Naich administrator of Paucala Ramasawmy Naich Deceased vers Paucala Kistnamah naich Et Ekontra

On Hearing the Pleadings made use of by the Attorneys and It appearing that an Attachment hath issued against the Defendant Petty Tomboo Naich for Neglecting to Answer the Complainants Bill This Court doth think fit for to Order and Decree and doth accordingly Order and Decree that the Defendant Petty Tomboo Naich and Paucala Kistnamah Naich do Pay unto the Complainant out of the Estate and Effects of Paucala Ramasawmy Naich Deceased the Sum of Two thousand three hundred and Nine Pagodas and thirty three fanams Pags 2309.. 33 together with all such Interest as now is or shall hereafter become due thereon untill full Payment is made also all Costs of this suit and indefault of assetts that they do pay the amount Decreed out of their own Pockets with Costs of Suit—

Pr Cur / Signed / G. E. Asthin Sworp

A True Copy:
/ Signed / Emanuel Samuel
Solicitor for appellant

To

To the Right Honorable Robert Hobart
President in Council &c &c
For St George

In the Honourable the Court
of Appeals at Madras.

Between Woodendiapah Moodelliar
Administrator with the will annexed of Conjeveram
Radrapah and Punnarao Iyapapilla by their
Attorney and Afsignee Madapauhum Verdarayah
Moodelly Comptte and Petty Tomboo Naicken
Administrator of Paucala Ramasawmy Naicken
deceased and Paucala Kistnama Naicken Defendts

The Answer of the abovenamed Complainants to the seperate
Petition and Appeal of Paucala Kistnamah Naicken one of the
above named Defendants—

These Respondents by their said Attorney
and Afsignee for answer to the said Petition of Appeal or unto so much
thereof as is necessary for them to make Answer unto Answer and
say that they admit to have on or about the second day of October
which was in the year of Christ one thousand seven hundred
and ninety four by their said Attorney Exhibited a Bill of Complaint
in the Honourable the Mayors Court of Madraspatnam against
the said appellant and also against Petty Tomboo Naicken Administrator
of Paucala Ramasawmy Naicken the other Defendant in the said Bill
named

Filed in my Office
the 15th January 1796
J. Webbe Clk

named and these Respondents by their Attorney further admit
that they did in their said Bill of Complaint Charge the said
Defendant with acting Collusively together In order to Defraud the
Bonafide Creditors of the Estate of the said Paucala Ramasawmy
Naicken and that being in possession of property more than sufficient
to Discharge the Judgment Claim obtained by these Respondents
by their said Afsignee and Attorney they did thereupon pray
that the said appellant and the said Petty Tombo Naicken
might be decreed to pay the same amounting to the Sum of
Two thousand three hundred and nine Pagodas and thirty
three fanams with Costs as by the said Bill of Complaint setforth
and recited in and by the said Petition and Appeal
relation being thereunto had will more fully Appear And these
Respondents by their said Attorney and Afsignee further
Answering say that upon the said Bill of Complaint process did
issue requiring and Commanding the said appellant and the said
Petty Tombo Naicken to be and appear before the said Mayors Court
by a Certain day therein prefixed in pursuance whereof they did
appear by seperate Attornies and the Rules prescribed by the said
Court having expired for the said Defendants to Answer which
the said Petty Tombo naicken having neglected doing a Warrant of
Attachment to Compel a Discovery from him did thereupon issue

and

and these Respondents by their said assignee and Attorney
admit that the said Appellant to the said Bill of Complaint
did file his separate Plea and Answer to which these Respondents
did Reply and the said appellant having Rejoined issue
did thereupon Join and Rule passed for the Examination
of Witnesses as by the said Replication and Rejoinder set forth
and Recited by the said Appellant in his said Petition
and Appeal relation being thereunto had will more fully appear
And these Respondents further Admit that Cundapah Moodelly
Calletty Pillay Narrain Moodelly and various other Witnesses
were produced and Examined on the part of these Respondents
by their said Attorney and Assignee which said Witnesses while
they have Clearly and incontrovertable proved that the said
appellant did by force and violence possess himself of the
Effects belonging to the Estate of Paucala Ramasawmy Naick
deceased do at the same time shew that he had no Claim or
Lien whatever upon the said Effects as by him in his said Plead-
dings is untruly asserted And these Respondents by their said
Attorney also Admit that various Witnesses were Examined on
the part of the appellant Paucala Kistnama Naick with the
view of shewing that the Goods which he had taken by force
were specifically Mortgaged to him to secure the payment of a
sum of Money pretended to be advanced to the said Paucala Ramasawmy
Naick

Naick in his lifetime But that the Depositions given are so
Contradictory of the Pleadings particularly of the appellants answer
upon Oath and are so much at variance with each other that no
faith can be placed in or Credit given to their Testimonies And
these Respondents further admit that Publication having passed
and the Depositions being opened the Appellant did file
Exceptions to the Evidence on the part of these Respondents
by their said Attorney to which an Answer was given as set forth
and recited in and by the said Petition and Appeal and
these Respondents by their said Attorney and Assignee
further admit that they did thereafter pray that the Original
suit and the proceedings had thereon instituted by the said
Petty Tomboo Naick as Administrator of the Estate of Paucala
Ramasawmy Naick against the appellant together with the
Cross suit might form a part of the present Action and
be read at the hearing which prayer was accordingly
granted and the papers ordered to be sent round Accordingly
and these Respondents by their Attorney submit to this
Honourable Court the Extraordinary Assertion in the
said appellants Petition Contained to Wit that the proceedings
in the Suit and Cross Suit have no relation nor Connection
with the present Cause of Action when infact it is the ground

Work

Worth of his first Plea upon which he prays a dismission of the Bill to wit aformer Suit depending for the same things These Respondents by their said Attorney say that without the aid of evidence the Pleadings made use of by the said Paucala Thistnama Naick in the said suit do Completely invalidate the defence setup to the present Action inasmuch as the object of that Defence is to shew that the appellant has alien on the goods as security for the Repayment of the sum of Fifteen hundred and odd Pagodas which is all he claims being ready as he has setforth and sworn in his said Answer to Deliver up the Goods in his possession on payment of the said Sum Whereas in his answer to the Bill in the original suit brought by Petty Tombo Naick he does not insinuate even in the most Distant manner that the said Goods were Mortgaged to him or that he had any lien thereon but in his answer and Rejoinder Charges the Estate of Paucala Ramasawmy Naick to be indebted to him in the Sum of Three thousand four hundred and sixty one Pagodas and Seventeen fanams for which he afterwards filed his Cross Bill And these Respondents further say that as the appellant with the view of Concealing as much as possible the real Circumstances of the Case has omitted to setforth the

The Pleadings in the said Suit These Respondents by their said Attorney Consider it to be incumbent on them to do so in this their Answer as the said Papers were read at the hearing and infact form part and parcell of the present Suit and these Respondents by their said Attorney further say that by the Record and Pleadings it doth appear that on the Twenty third Day of November which was in the year one thousand Seven hundred and ninety one The said Petty Tombo Naick did file and exhibit his Bill of Complaint in the Mayors Court setting forth that sometime in or about the Month of april which was in the year one thousand Seven hundred and Ninety two the said Petty Tombo Naick applied to the said Court for administration to the Estate of the said Paucala Ramasawmy naick as Fatherinlaw to the said deceased and duly obtained the Letters of Administration so applied for under the seal of the said Court on or about the Twenty seventh day of the said Month of april with the priority Knowledge and Consent and by the Express Direction of Paucala Thistnama naick who was the Father of the said deceased and further setting forth that on obtaining out of the said Court such Letters of administration to the Estate of the said Paucala Ramasawmy Naick He the said Petty Tombo Naick so far as

Came

came to his knowledge and in Conformity to the trust
reposed in him by the said Court possessed himself of the
Estate and Effects of the said deceased and particularly
of such parts of the same as were Contained in a Godown
belonging to the said Estate consisting in house hold furniture
Jewells of Gold and silver and various Articles of Mer-
chandize besides ready Money to the value in the Whole
of Four thousand three hundred and ninety one Pagodas
or thereabouts as by the various particulars thereof setforth
in a Schedule to the said Bill annexed would morefully
appear and which Schedule he prayed might be deemed
and taken as part of his said Bill and further setting
forth that being so possessed of the said several parts of the
Estate of the said deceased Paucala Ramasaumy Naick
besides several sums of Money belonging thereto He the
said Petty Tomboo Naicken was applied to by the said Paucala
Thistnamah Naicken to lend him a sum of three hundred and
eight Pagodas and forty four fanams part of the same for his
the said Paucala Thistnama Naickens then present occasions and
which he promised to repay the said Petty Tomboo Naicken as
administrator aforesaid and further setting forth that the said
Paucala Thistnama Naicken did sometime after go to the Godown
in

in which were Contained the several Effects in the said Schedule
mentioned and did there take from his the said Petty Tombo Naickens
Servant attending at the said Godown the key thereof and did
possess himself of the said Several effects and Estate of the deceased
therein as aforesaid Deposited and the said Petty Tombo naicken
did in his said Bill further Charge and setforth that he had
frequently and in an Amicable manner requested of the
said Paucala Thistnama Naicken to deliver to him the said
Several Articles mentioned in the said Schedule and to repay him
the said Sum of Three hundred and eight Pagodas and forty four
fanams lent him as aforesaid but that the said Paucala Thistnama
naicken obstinately and wilfully refused to Deliver to him the
said Several articles mentioned in the said Schedule or to repay
him the said Sum of Three hundred and eight Pagodas and
forty four fanams or to give him the said Petty Tombo Naicken
any manner of satisfaction touching the premises the said
Petty Tombo Naicken did therefore pray that the said Paucala
Thistnamah Naicken might be decreed to Deliver to him the
aforesaid several Articles mentioned in the said schedule
and to repay unto him the said sum of Three hundred and
eight Pagodas and forty four fanams with all such Interest
as there was or should thereafter become due thereon also all

Costs

costs of suit – To which Bill of Complaint the said Appellant Pauhala Kistnamah Naicken did appear and duly filed his answer setting forth that sometime in or about the Month of April which was in the year of Christ one thousand Seven hundred and ninety the said Petty Tombo Naicken might have applied to the said Court for Letters of administration to the Estate of the said Paucala Ramasaumy Naicken as Father -inlaw to the said deceased and that the obtained the same under the seal of the said Court on or about the time in the Complainants said Bill setforth and further setting forth and admitting that he did so obtain them with the Knowledge of him the Defendant for that at the time the said Petty Tombo Naicken did so pray for and obtain the said Letters of administration he the Defendant was in a state of distracted grief for the loss of his son the Intestate the said Paucala Ramasaumy Naicken and further settingforth that the Complainant the said Petty Tombo Naicken did apparently in Compassion to such the Distress of mind of him the Defendant Desire that he might assist him with his name in administering to the Estate of his son for the benefit and advantage of the Estate untill he the Defendant should be enabled to Act therein himself and further setting forth that he the Defendt readily

readily acceded to such the Persuation of the said Petty Tombo Naicken and it was thereupon Agreed that he should Accordingly take out Letters of Administration to the Estate of his said son and further setting forth that it was agreed upon and Clearly understood Between him the Defendant and the said Petty Tombo Naicken that he the said Petty Tombo Naicken should retain the Letters of administration only during his the said Paucala Kistnamah Naickens inability to act in the affairs of the said Estate on Account of his the Defendants distress of mind as aforesaid And that so soon as he the Defendant Paucala Kistnamah Naicken should Recover therefrom and be able to act in the affairs of the said Estate that he the Complainant should then Relinquish his administratorship to them the Defendant and further setting forth that in pursuance of such agreement and in proof of his the Defendants assertion the Letters of Administration when Obtained were taken out by him the Defendant and were then in his the Defendants Custody and possession and further setting forth that he the said Paucala Kistnama Naicken did Defray all the Expences attending the Gaining the taking out the

same

same that the Complainant instead of giving up the manage-
ment of the said Estate when the Defendant found himself
Capable of taking upon himself the burthen did Contrive how
to injure and Distress him and did to that end file the pres-
sent unjust Bill against him and further setting forth
that the said Petty Tombo Naick must have premeditated
fraud and injury upon and against him the Defendant
Paucala Kistnamah Naick For that he had discovered
that the Complainant had in his prayer for Letters of
administration asserted a right thereto founded in relationship
pretending that he was Father in law to the said deceased and which
was a falsehood for that the Complainant the said Petty Tombo
Naick was not in any way related to the deceased either
as Father in law or otherwise and the said Paucala Kistnamah
Naick did in his said answer further setforth and admit
that the said Petty Tombo Naick might have possessed
himself for ought he knew to the Contrary of a part of the
Estate and Effects of the said deceased but denied that he
did possess himself of such part of the deceaseds Effects
as were Contained in a Godown belonging to the said Deceased
Consisting of Household Furniture Jewels Gold and silver
and various articles of merchandizes besides ready money
to the value in the whole of Four Thousand three hundred

and

and ninety one Pagodas or thereabouts as the same were
described in a Schedule annexed to the Complainants
said Bill of Complaint And further setting forth that the
said Articles so described in the said Schedule were not
nor Could they be According to the shewing of the Complai-
nant of the Value thereon particularly setforth For that
in and by the Inventory given in by the Complainant
into the said Court in its ecclesiastical Capacity the amount
was about Seventeen hundred Pagodas and which the
Defendant said he Conceived to be the real value thereof
wherefore he insisted that the suit instituted by the Complaint
Petty Tombo Naick against him was inequitous in its principles
and highly injurious towards towards him and the
Defendant declared that he verily believed the Complt
had no other object in view than that of harrassing him
and Defrauding the Estate of the deceased for that the
item of Three hundred and eight Pagodas and forty four
fanams by the Complainant Charged to have been lent
unto the Defendant was equally false and unjust for that
he the Defendant never borrowed the said Sum of Three 6-
hundred and eighty Pagodas forty fanams from the Complt
and Consequently he never did promise to repay the same

but

but that the Complainants Intestate did owe unto the Defendant a very large sum of Money which he the Complainant well knew to be the fact and therefore and in Consequence thereof the Complainant did from and out of a sum of Money which he had received as part of the Assetts of his said Intestate being a Sum of Money to the Defendant and offer it to him in part payment of the debt so due to him as aforesaid but the Defendant Cannot therein setforth the particular sum so due to him from the Estate of the said Complainants Intestate by reason of the unfair and unjustifiable Conduct of the Complainants who Combining and Confederating with his the Defendant Concisely who formerly had the management of the Defendants private Accounts had Deprived him of all his Vouchers and Documents necessary to establish his Claim on the said Estate and unlawfully and unjustly held and Detained the same from the Defendant and which Circumstance prevented him the Defendant from setting forth those matters and things which he otherwise would have been enabled to do and which would better have shewn that the several

several Charges Exhibitted in the Complainants said Bill were totally without foundation in truth and further that he had no manner of Cause to Call him the Defendant in question before the said Mayors Court and the said Pauvala Krishnanah Naicko in his said answer did further setforth that he never did either Directly of himself or indirectly by any other person take the Key of the said Godown mentioned in the said Complainants said Bill from Petty Tombo Naicko Servant and he further Denied that the Complainant ever did deposit as he had in his said Bill most unjustly and untruly Asserted in the Godown in his said Bill described or in any other place the said Several articles mentioned in the Schedule to his said Bill annexed or any part thereof

To which said Answer the said Petty Tombo Naicko did on the eighth day of May which was in the year of Christ one thousand seven hundred and ninety two file and exhibit his Repliation wherein he denied the truth of the many allegations setforth by the said Pauvala Krishnama Naicko respecting the said

Letters

Letters of administration all which asertions the said Petty Tombo Naick in his Replication said were false and would appear to be so from a Written Instrument Drawn up by the said Defendants express Directions and by him Executed to the Repliant in the following Words "I Paukala Kistnama Naicker do give this agreement to Petty Tombo Naicker Whereas I have Desired you to obtain administration in the Mayors Court to Recover what is due to any deceased Son Rama Saumy and to pay to those to whomsoe is indebted and you have obtained it Accordingly so that on recovering what is due to him from Mr Lind &c &c and deducting therefrom it amount of the Wages of the Servants Employed in his Business as well as your Commission should there remain any out of which the Creditors are to be paid and the remainder is to be Disposed as we four persons should think proper to wit I Mootiah Moodaliar and Vanaiga Moodalliar and as soon as the Cause against Mr Lind and Casava Moodeliar should be settled you are to settle the Accounts agreeably to what is above written and make over to me the administration which you have obtained Thus

I have given this Agreement with my free will and Consent witness Mungaloo Nelapah Moodelliar and Vadgeree Moodelliar by their Knowledge this agreement was Drawn by Vencattarayan Signed Paukala Kistnamah Witness Nellapen Vadagery and the said Petty Tomboo Naicks in further Reply to the Defendant Paucala Kistnamah Naicks Charge or Proof as he termed it that he did himself take out the Letters of administration from the said Court and did pay the Expences of taking out the same of his own private Monies and that he was in possession of the same said he admitted that the Difendant was in possession of the said Letters of administration but did not thence grant the other premisses intended to be inferred that he therefore paid for the same or took them out from the Court on the Contrary the Repliant said as he would in due time prove that he the Repliant did himself take out the Letters of Administration and did pay for the same of his own Monies and that the Charge of so taking out the said Letters of administration form a debit in his the Repliants Account with

with the said Estate and the Repliant further said that he was possessed of the said Letters of administration and did keep the same locked up in a Bureau in a Godown which Contained the various Articles taken by the Defendant the prosperity of the Estate of the deceased and the object of the suit of the Repliant against the said Defendant from which Beaureau the said Defendant did take the said Letters together with the other Effects of the Estate of the Deceased in manner as setforth in the Bill of Compleint and the Repliant by way of further reply to the Defendants charge that the Repliant was no ways related to the Deceased and that he premeditated a fraud in so stating himself in his Application to the said Court for Letters of Administration to the said Estate and that he would in due time prove to the said Court that he was by nine Branches out of Eleven of the family called and Considered as the uncle of the deceased Paulala Rama. saumy Naicken and by the other two Branches the fatherinlaw Therefore whether he stated himself as of the one or other of the said two degrees of relationship to the Deceased he was warranted in so doing by the Custom of the natives of India in general and of

his and the Deceaseds family in particular and the Repliant did Continue to insist that he did posses himself of the various monies Effects and merchandizis therein stated and which were kept in a Godown and that the Defendant Paucala Kistnamah Naicken did posses himself of such Effects in manner as in the said Bill was setforth and the Repliant said that when he filed his Inventory of the said Estate in the said Honourable Court he valued the articles Composing the same According to the Invoices of the Merchandize found with them and therefore the Difference between the prices then estimated and of the same Articles again in the Bill arose from the selling or Marketts prices of Similar Goods And the Repliant said that the five articles of Gold Joys Charged to have been taken by the Defendant in the said Account annexed to the Bill at a sum of Six hundred Pagodas were joys which at the time of filing such Inventory the Repliant knew nothing of such knowledge having since that time been Communicated to the Repliant and the Repliant further said that he did lend the Defendant the said sum of Pagodas Three hundred and eight and forty fanams and that

the

the Defendant did promise to repay the same and he further said that he never heard nor did he believe the the Defendant was in any manner a Creditor of the Estate of the deceased Pacaka Ramasawmy Naicker or that any Connection or intercourse ever subsisted between the Defendant and the deceased who from an Infant lived seperate from the Defendant nor Considered him as a Protector or Father nor ever received benefit or support from him but was brought up and educated by others thro whose means he made his own seperate fortune and Estate and with whom he lived till the day of his death holding no Connection or intercourse with the Defendant either in health and sickness and that the deceased did on the Contrary in his last illness and about three days previous to his death send for the Repliant and did then in the presence of many Credible persons implore of the Repliant as his dying request to undertake the Administration of his Estate which was much Embarrassed and to watch his Widow and Children declaring that he made such election of the Repliant in preference to a father because he had no faith or Confidence in him and as he had always been to him as a Stranger and therefore the Repliant submitted that he was well warranted in asserting that he did not believe that the Defendant was a Creditor or in any manner under the various Circumstances of this Case Entitled to administer the Estate of such a Stranger to him on the Contrary that the Repliant was by the dying Declaration of the deceased as aforesaid best or perhaps only entitled to administer the same at all events not the Defendants as the deceased left a Widow whose Claim was preferable to his and who the Repliant well knew would on no Account suffer the Defendant to enter or meddle therein should the Repliant throw off the future burden of administering the same and the Repliant therefore further submitted to the said Court the injustice of the Defendant Charge against him That the Repliants views in preserving to administer to the Estate of the said deceased and in having instituted the present Suit against the Defendant arose from principles inquitous oppressive and injurious having no other object or tendency as he the Defendant pretended to believe than that of harrassing him the Defendant and defrauding the Estate of the deceased Whereas the Repliant humbly insisted that such principles where no

no where to be traced in his Conduct on the Contrary that he was only Discharging the Duty devolved on him by the deceased and this Honourable Court in calling the Defendant to an Account for his actions as ungenerous as they would in the end be Discovered unjustifiable for the Repliant — said that it never was his wish to intermeddle with the Estate of the deceased having more than sufficient to do to manage well his own private Concerns which had in Consequence fallen greatly into disorder from the various Litigations the Administration of the same had already Embarked and still was likely further to involve him and the Repliant in his said Replication lastly denied that he never tendered the Defendant any money as a Creditor of the deceased Estate or that he had ever in any manner Confederated with the Defendants Comissioly or any other person to get possession of his Vouchers or Documents of any kind private or public on the Estate of the said deceased or otherwise or that he then or at any other time theretofore ever held any such Vouchers or Documents or any other vouchers or Documents belonging or any way Relating to the Defendant or his Concerns But the Repliant would in due time prove that the Defendant did produce himself of the Key of a Godown in which Godown were kept the various Articles and other particulars set down in the account annexed to the Repliants said Bill and as therein Charged to have been positively taken by the Defendant the recovery of which or their market value were the objects of the Repliants suit against him as administrator to the Estate of the said deceased Paukala Ramasawmy Naick —

That to this Replication the said Paucala Thistnamah Naick did file a General Rejoinder and afterwards an amended paper wherein he setforth that the Repliant notwithstanding any thing to the Contrary in his said Replication Contained did under the mask of Friendship Desire to give his Assistance to him the said Paucala Thistnama Naick in administering to the Estate of the said Paucala Ramasawmy as in the Defendants said Answer the same was more particularly setforth untill he the Defendant should be enabled of himself to act therein and the Defendant said notwithstanding the Assertion to the Contrary in the Repliants said Replication Contained That he the Defendant listening to such the Apparent friendly proposals of the Repliant and confiding in his integrity did accede thereto that thereupon it was agreed that the Repliant should take out Letters of Administration and it was understood meant and

intended

intended by and between the Repliant and the
Defendant that the Repliant should retain the said
Letters of administration untill such time only as the
Defendant should have Recovered from his then Distress
of mind and be inabled to take upon himself the burden
of the administration of the said Estate of the said Paucala
Rama Sawmy naick at which time he the Repliant
was to Relinquish his said administratorship and give
up the Letters of Administration obtained in his name
and further setting forth that the Repliant in order to
invalidate such the Assertions of this Defendant had
introduced in his said Replication the Copy of a Chatty writing
by him Called a written Instrument drawn up as he
averred at this the Defendants Express requisition and
by him Executed to the Repliant whereupon the
Defendant sayd he denied that the said paper was drawn
up at his Request and further sayd that it was drawn
up not in his the Defendants presence nor did he know
any thing thereof untill the same was produced to him
for his Signature thereto which he at first refused but
did afterwards sign the same because the Defendant
sayd that the Repliant did menance and threaten
the Defendant that if he would not execute the said Paper
writing

writing he the Repliant would ruin the said Estate of the
said Paucala Ramasawmy Naick and the Defendant
further sayd that the Repliant was persuaded by some
persons present to Desist from such Conduct and told
that he ought to give a writing Relative to the said Estate
of the said Paucala Ramasawmy Naick and not demand
one of them from the Defendant but sayed that the Repliant
still persisting and repeating his threats of Ruining the
said Estate of the said Paucala Ramasawmy Naick
if he the Defendant Refused to Comply with such
his the Repliants illegal arbitrary and unjustifiable
Demands he the Defendant did at length sign said
Paper writing and the said Paucala Vestranaik Naick
in his said Rejoinder further insisted that he did take
out the said Letters of Administration and did defray
the Charges thereof from and out of his own proper Monies
and that the Repliant never had the said Letters in his
hands Custody or possession and he further submitted in
his said Rejoinder the inconsistency of the mode by which
the Repliant pretended to have payd the Charges of taking
out the said Letters and Denied the Scandalous and
Malicious assertions in the Repliants said Replication

Contained

Contained That he the Defendant did possess himself of the said Letters by taking the same from Bureau in which they had been Deposited by the Repliant and the said Paucala Thistnama Naick further denied that he did possess himself of any other property belonging to the said Estate at any time before previously possessed by the Repliant and says that the statement and Charge relative thereto as in the Repliants Bill of Complaint were setforth and Contained and referred to in and by his said Replication accordingly and the Defendant in his said Rejoinder humbly insisted thereon that the Repliant was not anywise related to the Deceased Paucala Ramasaumy Naick either by Consanguinity or Marriage and thereupon Continued to aver that the said Petty Ambo Naick had premeditated a fraud in stating himself in his Application to the said Court in its Ecclesiastical Capacity for Letters of Administration to the Estate of the said Paucala Ramasaumy Naick the Fatherinlaw of the said Deceased and the Defendant further submitted to the said Court the very Extraordinary manner in which the Repliant had attempted to support the said fraud by asserting that he was by seven branches of the Family of the deceased said Paucala Ramasaumy Naick called and Considered as the uncle of the said Deceased and by the other two

branches

branches as the Fatherinlaw and that therefore whether he stated himself as of the one or other of these two degrees of relationship to the deceased he was warranted in so doing by the Custom of the natives of India in general and of the said deceaseds family in particular And the Defendant sayd in further Contradiction of the Repliant Assertions That he the Repliant was not related to the Defendant nor was he related to the deceased in the most distant manner and the said Paucala Thistnama Naick in his said Rejoinder Continued to deny that he the Repliant did possess himself of Certain property in his said Replication stated to have been kept in a Godown or that he did possess himself thereof and sayd that the Charge thereon first in the Repliant said Bill of Complaint Contained and afterwards referred to in and by his said Replication was without any foundation in truth and the said Defendant Paukala Thistnamah Naick in his said Rejoinder submitted to the said Court the strange manner in which the Repliant attempted to reconcile a Contradiction Between the Inventory by him Delivered into the said Court in its ecclesiastical Capacity and the Schedule to his said Bill of Complaint annexed and sayd as in and by his said

Answer

answer he had already and now sayd that the said Schedule was erroneous and that the suit instituted by the Repliant against him the Defendant was iniquitous in its principles and highly oppressive and injurious towards the Defendant and that the object of the Repliant in instituting the said suit was to harrass and distress the Defendant from motives of pique and resentment and to benefit himself at the Expence of the Estate of the said Paucala Ramasawmy Naick and his Heirs And the Defendant Paucala Krishnama Naick further denied the Charge of having purloined any part of the Estate of the said Paucala Ramasawmy Naick and submitted to the Court whether such Language was decient And for further Rejoinder he sayd as in and by his said answer he had asserted the fact to be that he never did borrow the sum of Three hundred and eighty Pagodas and Sixteen fanams or any part thereof from the Repliant and in Consequence that he never did promise to repay the same and the Defendant sayd notwithstanding the pretended ignorance of the Repliant that he well knew that the said Paucala Ramasawmy Naick in his lifetime did owe very large sum of money to the Defendant that he did not pay off and Discharge the same

same previous to his decease and that the Defendant then was a principle Creditor of the said Estate of the said Paucala Ramasawmy Naick to the amount of Three thousand four hundred and sixty one Pagodas seventeen fanams and ten Cash as by the Copy of an Account Current annexed would appear and the Defendant sayd that for the Recovery of the said sum of Three thousand four hundred and sixty one Pagodas Seventeen fanams and ten Cash he the Defendant was about to bring his Cross Bill in the said Court and the Defendant in his said Repliants Replication further sayd he denied the assertion in the said Repliants Replication Contained that the said Paucala Ramasawmy Naick did from his infancy live seperate and apart from the Defendant or that he never Considered him the Defendant as a protector or Father or that he never received support from him or that he was brought up and educated by others thro whose means he made his own seperate Fortune and with whom he lived to the day of his death holding no Commerce or intercourse with the Defendant either in health or in sickness for that such the assertions of the Repliant and every part thereof were totally void of truth and the Defendant in his said Rejoinder further Denied that the said Paucala Ramasawmy

Naick

Naick died in his last illness send for the Repliant and intreat him as his the said Paucala Ramasawmy Naicks dying Request to undertake the Administration of his Estate and watch over his widow and Children or that he did Declare that he made such election of the Repliant in preference to appather because he had no faith and Confidence in him as he had always been to him as a Stranger For that such the assertions of the Repliant and every part thereof were totally without any kinds of Foundation in truth and for further Rejoinder he observed that if the said Paucala Ramasawmy Naick had so lost all Confidence in him the said Paucala Thistnamah Naick and was so alarmed that he would no doubt have made his will and by appointing Executors thereto have prevented interference of the Defendant in his affairs after his decease And the Defendant in his said Rejoinder further denied that the Repliant had any title to administer to the Estate of Paucala Ramasawmy Naick other than as he Derived the same from the Defendants permission as before mentioned and said as he had before said that in his the Repliants application to obtain the said Administration he asserted as a fact that which was Contrary to the truth And the Defendant said that he knew not what might be the

sentiments

sentiments intertained of him by the widow of the said Paucala Ramasawmy Naick because that she was under the influence and Directions of the Repliant and the Defendant in his Rejoinder further said he was a stranger to those private Concerns of the Repliant spoken of in his said Replication which he pretended were of themselves more than he could sufficiently manage and which he further pretended had fallen into great disorder in Consequence of his being engaged in the administration of the Estate of the said Paucala Ramasawmy Naick but the Defendant said it appeared Extraordinary that the Repliant in order that he might manage the affairs of the Estate of the said Paucala Ramasawmy Naick should suffer his own private affairs to be ruined And the Defendant further said that the Repliant had Confederated with his Concisply and had thereby Deprived him the Defendant of a variety of Documents and accounts relating to this the Defendants Claim upon the Estate of the said Paucala Ramasawmy Naick and humbly insisted thereon as in and by his said Answer he had already insisted —

And these Respondents for further Answer shew unto this Honourable Court the said Paucala Thistnamah

Thistnamah Naicken did soon afterwards file and exhibit his Crofs Bill setting forth that the said Petty Tombo Naicken as administrator as aforesaid stood Justly and truly indebted unto him in the full and Just Sum of Three thousand four hundred and sixty one Pagodas seventeen fanams and ten Cash Current money of Madras making in sterling money of Great Britain at the rate of eight & Shillings for every Pagoda the sum of One thousand three hundred and eighty four pounds and Eleven Shillings or thereabouts as would morefully and at Large appear by the Copy of an Account Current annexed to his the said Paucala Thistnama Naickes Rejoinder in the original Cause wherein the said Petty Tombo Naick as administrator as aforesaid was Complainant and the said Paucala Thistnama Naick Defendant to which said account Current and to his said answer and Rejoinder in the said Original Cause he the said Paucala Thistnama Naick begged leave to refer and prayed that the same and every part thereof might be taken as part of his Crofs Bill of Complaint—

To which said Crofs Bill the said Petty Tombo Naick put in his answer wherein he denied to stand indebted unto the said Complainant as administrator aforesaid or otherwise in the sum of Three thousand four hundred and sixty one Pagodas Seventeen fanams and ten Cash as in his the said Complainants said Crofs Bill was Charged and as particularly thereby said to be setforth in an Account Current annexed to his the said Complainants Rejoinder in the original Cause Between the Defendant and the said Complainant depending in the said Mayors Court And the Crofs Defendant said that even if the said Complainant ever had a Just right to the Credits he had taken by the Account Current annexed to his said Rejoinder which the Defendant by no means admitted but absolutely Denied That even then and in such Case he the said Crofs Complainant would still remain as Debtor to the Estate of the Defendant Intestate Paucala Ramasawmy Naick of Nine hundred Pagodas and upwards and therefore the Defendant said it was totally unnecessary and litigious in the said Complainant to bring his present Crofs Bill against him the Defendant as if he the said Paucala Thistnama Naick could maintain his Title to such Credits in the Original Cause in the said Court the Deductions might have been set off in the said Original Cause and allowed from his debit to the said Estate But the Defendant said he had already setforth that he the Defendant did not know

nor

nor did Believe that the said deceased Paucala Rama-
-sawmy Naicken at all stood indebted to the said Cross
Complainant in his lifetime nor that there were any
Dealings Accounts or Money transactions between them
on the Contrary that the deceased Paucala Ramasawmy
Naicken from an Infant lived seperate from the Cross Com-
-plainant nor at all looked upto him as a parent and
Protector by reason that he the Deceased was brought and
educated in another Family thro' whose means he the deceased
made his seperate fortune and Estate and with whom he
lived to the day of his Death holding no intercourse with
the said Cross Complainant whether in health or in
Sickness And the Cross Defendant Petty Tombo Naicken
in his said Cross Answer further said that he the Defendant
never did tender to the Cross Complainant any Money
as being a Creditor to the Estate of the Defendants Intestate
the said Paucala Ramasawmy Naicken But said he did
lend the said Cross Complainant in manner as in his
the Defendants original Bill was setforth a sum of
Three hundred and eight Pagodas and forty four fanams
which money the Defendant did so lend to the said Cross
Complainant at his very earnest and pressing Request
not Demanding it as a Creditor to the said Deceased's

Estate

Estate but intimating it as a loan therefrom with a promise
of a speedy Repayment which the Defendant submitted
would not have been the Case had the Complainant
really been as he termed himself a Bonafide Creditor of
the said deceased And the Defendant lastly said that
he the Defendant never did Confederate or at all Combine
with the Complainants Comicasly or any other person whatever
as Charged in the said Cross Complainants Rejoinder
in the said Original Cause to get possession of Vouchers or
Documents of any kind belonging to the said Cross Complai-
-nant either of a Private or Public Nature or any way relating
to the Estate of the said deceased Paucala Ramasawmy Naicken
or that he the Defendant at any time theretofore or then
held either by himself or by any other person or means any
papers belonging to the said Cross Complainant which could
entitle him to any Claim on the said Estate but that the
Cross Complainant did possess himself of a Godown in
which was Deposited many Vouchers and papers Relative
to the Estate of the said Paucala Ramasawmy Naicken present
whereof the Defendant was then greatly impeded And this
Respondent for further Answer admits that on the above
proceedings the said Cause was set down for Hearing and
did accordingly Come onto be heard before the said Mayors

Court

Court on the Eleventh Day of December now last past when the said Mayors Court did think fit to Order and did Accordingly Order that the Exceptions of the appellant taken to the said Interrogatories Exhibited to the said witnesses Examined in the said Cause on the part of these Respondents and to the Depositions thereto taken should be overruled and the same were overruled accordingly and which these Respondents by their said attorney admit will morefully and at large Appear by a Copy of an Extract of the minutes of the said Mayors Court to the said Petition and appeal annexed And these Respondents further Admit that the said Mayors Court did moreover think fit to Order and Decree and did Accordingly order and Decree that the said Defendant Petty Tombo Naick and the appellant should pay unto these Respondents by their said assignee out of the Estate and Effects of Pancala Ramasawmy Naick the sum of Two Thousand three hundred and nine Pagodas and thirty three fanams together with all such Interest as there was or should thereafter became due thereon until full payment was made also all Costs of suit and in Default of effects that they should pay the amount decreed out of their own Pockets with Costs of suit as by the said Decree Copy whereof is to the appellants Petition of appeal annexed

Annexed Relation Being thereunto had will morefully and at large Appear And these Respondents by their said attorney Deny that the appellant is aggrieved by the Decree of the said Mayors Court or that he has any Just Cause or reason for Appealing therefrom—

And to the first reason adduced by the appellant as Cause of Appeal from the Decree of the said Mayors Court these Respondents by their said attorney for answer thereunto Deny that the said Decree has been made under a misconception of the Law or without a due Consideration of the Several matters as impleaded by the Appellant On the Contrary these Respondents humbly Contend that the said Decree is founded on law as well as in reason and Justice And these Respondents by their said attorney pray leave to observe that the appellant in order to entitle himself to the benefit of his first Plea To wit "former Suit Depending for the same matters ought to have shewn that his Defence thereto was grounded on fair principles That there was no fraud on his part and that it was free from Collusion For if he Could have done so these Respondents by their said attorney are Ready to admit that neither the rules of Law or Equity will permit a Party acting thus Basely to be harrassed with a Double

Action

Action but the Contrary is the Case with the appellant Fraud Collusion and unfair Dealing being manifest throughout the whole of the Pleadings and these Respts by their said Attorney pray leave shortly to Observe thereon That the Bill of Complaint in the suit pleaded by the Defendant was filed on the Twenty third Day of November which was in the year one thousand seven hundred and ninety one wherein the said Petty Tombo Naick Charged him with having possessed himself by force of a variety of Goods belonging to the Estate of his Intestate amounting altogether to the Sum of Four thousand three hundred and ninety one Pagodas and four fanams which he prayd might be Delivered up to him In answer to which the Appellant Denied having taken the Goods in question. and said that so far from being indebted to the Estate of his Intestate the said Pavala Ramasawmy Naick That the Estate was largely indebted to him and which in his Rejoin: der he Charges to be no less a sum than Three thousand four hundred and sixty one Pagodas for the recovery of which he filed a Cross Bill That an Answer was put in thereto since which period the said suit and Cross suit have laid Dormant and these Respondents by their said Attorney pray Leave to observe that it appears from the Pleadings

Pleadings brought into this Honourable Court by Appeal that they are the only Judgment Creditors of the Estate of Pavala Ramasawmy Naick of Course that they are by Law first entitled to have satisfaction from the Effects That the Execution which issued on their Decree Remained a Considerable time in the Sheriffs hands who was unable to levy any thing thereon The administrator pretending that the Appellant had possessed himself of the whole of the property for which he had Brought his action Thus situated these Respondents submit to this Honourable Court that there was no other alternative Left them then instituting the suit upon which the present Appeals brought For at the time of filing the Bill the said Suit pleaded by the appellant had already lain Dormant two years a fact which the Appellant has in his answer admitted in the words and figures following to wit "This Defendant saith that the said suit has been Dormant for some time past and to the best of his the Defendants Recollection for the space of two years or thereabouts And these Respondents by their said attorney further say that since that period no Attempt has been made either by the appellant or the said Petty Tombo Naick to Bring the said suit or Cross suit to a hearing so that if the appellants

Plea

Plea were to hold The Decree which these Respondents by their said attorney have obtained against the Estate of the said Paucala Ramasawmy naicks must in all likelihood Remain for ever unsatisfied The Reason therefore which the said appellant has introduced to Support his Plea Cannot as these Respondents humbly trust be for a Moment Regarded Inasmuch as it would Distroy the due Operation of the Law and lend to Subvert every principle of Justice And with respect to the Second Plea pleaded by the appellant these Respondents pray leave to Observe that the Clause in the said Charter Contained Respecting the suits of Indian natives is in the nature of a priveledge Conferred which priveledge Indian natives may at all times Claim by adhering to a Certain rule of Conduct on the other hand they may either Directly or Indirectly waive their priveledge That is to say an Indian native may in writing give Express permission to another to whom he owes a sum of Money to sue him in the said Mayors Court in case of his failing to make payment and so an Indian native may also indirectly waive his priveledge by Joining in a Bond or any other Chose in action with a person liable to the Jurisdiction of the said Court and upon these Principles these Respondents Conceive that when an Indian native applies to the said Mayors Court for Letters of administration the Voluntarily waives his priveledge and Subjects himself to the suit of every person who has Claims on his Intestate The Bond which he Executes and the oath which he takes for the due performance of the trust reposed in him amounting to a Solemn Renunciation thereof and these Respondents by their said attorney humbly submit that if an administrator who has by due and legal means Obtained Letters of administration becomes Subject to the Suit of a Creditor In an equal degree must he become liable who unduly possess himself of the Effects of a dead person and by such illegal acts becomes an Executor in his wrong and these Respondents by their said attorney for further answer say that the interference of the said Paucala Thistnama Naick Respecting the Estate of the said Paucala Ramasawmy naick is first shewn by the agreement marked C. copy whereof is to these Respondents said Bill annexed and which agreement the said Appellant Paukala Thistnama Naick admits in his answer to have Executed whereby it is Settled and fully understood by and Between the said parties that after performing Certain acts The Letters of administration were to be made over to him and these Respondents by their said attorney pray leave to Observe that this interference is

is further Shewn in and by his answer to the Bill of Complaint filed against him by Petty Tomby Naick wherein it appears by the appellants own Statement that the letters of administration were never in the possession of the said Petty Tomby Naick for that although they were applied for by him yet they were taken out by the said Appellant who defrayed all the Charges and that they were then in his possession the words of his answer being as follows To wit That the Letters of Administration were taken out by this Defendant and are now in this Defendants Custody and possession and this Defendant did defray all Expences attending the same

And these Respondents by their said attorney further say that the Subsequent acts of the appellant Respecting the Estate of the said Paucala Ramasawmy naick are of a highly Criminal nature For in his said answer he has admitted that all the Different articles Contained in the Schedule upon which the present action is founded are now in his possession and it is Clearly established in evidence that he did possess himself of the articles by force and violence Excepting the fourth fifth Sixth and seventh articles in the said Schedule Contained which he purloined from the Body of his Son the said Paucala Ramasawmy Naick at the burial place and these Respondents by their said attorney further say that the said Appellant Paucala Thistnamah Naick in Respect to the Estate of his Son has acted with peculiar indecency and from his Conduct and interference therein has waved the priveledge which he possessed under the said Charter and has Subjected himself to the suits of the Creditor of the said Paucala Ramasawmy Naick

And for answer to the Second reason adduced by the appellant these Respondents by their said attorney admits that at the time of Exhibiting their Bill of Complaint which was on the fourth day of October one thousand seven hundred and Ninety four the Execution which they had obtained in their former Decree was in the Sheriffs hand But then it was Returned on the Seventh of the same Month being the day prescribed for the appearance of the appellant and the said Petty Tombe Naick a fact which the appellant has in his said answer admitted in the words and figures following To wit until the Seventh day of October now last past when the said Sheriff as the Appellant said he was informed and verily believed did Return the said warrant of Execution into the said Court with an Indorsement on the same of no Goods and these Respondents by their said attorney submit to this Honourable

Honourable Court that the fact being admitted as to no Goods having been levied upon the said Execution that it is a Circumstance very immaterial whether the said Execution was Returned before the Institution of the said suit or at the period Mentioned in his said answer only a few days having intervened And these Respondents by their said attorney say that if the Appellant has or could have suffered any injury by such Return he ought to have pointed it out and not in loose and declamatory words Craved Relief and benefit from a Circumstance from which he has suffered no wrong —

To the third Reason adduced by the appellants Cause of Appeal These Respondents by their said attorney say that a person who illegally possesses himself of the property of a deceased person becomes liable to the suit of a Creditor If the rightful Executor or administrator Neglects to prosecute him to Judgment and these Respondents by their said attorney further say that if the Defendant Petty Tomboo Naicken had followed up the suit which he has instituted against the appellant there would have been no necessity for bringing the present action because the only object which these Respondents have in view is the satisfaction of that Judgment which they had Obtained against the Estate of Pancala Krishnamah. Naicken But it is evident from the whole of the proceedings that the said Petty Tomboo Naicken and the Appellant have Confederated together to Defraud the Creditors of the said Pancala Ramasawmy Naicken and that the said Suit and Brass suit is one of the Collusive arrangements which they have made in order more Effectually to keep the property of the Estate in the possession of one or both of them —

And these Respondents by their said attorney for answer to the Fourth Reason adduced by the Appellant as Cause of Appeal deny that the said Decree which in default of assets directs that the Appellant and the said Petty Tombo Naicken shall satisfy the amount out of their own pocket is repugnant to law on the Contrary these Respondents By their said attorney Contend that it is a fair Just and equitable Decree For although the Appellant has alleged in his answer to the present Bill of Complaint as well as to that filed by Petty Tombo Naicken that the articles therein Mentioned are overvalued yet it appears from the prices which he has affixed himself in the Schedule annexed to his answer added to the Sum of Three hundred and eight Pagodas admitted to have been received by him that he has more than

which

than Sufficient property of the Estate of Paucala Ramasawmy Naick to Discharge the amount of the Decree Obtained by these Respondents which so far from being oppressive is extremely mild and liment under the Circumstance of the Case Inasmuch as the said appellant and the said Petty Tomboo Naick are directed to pay the amount from the Estate and Effects of Paucala Ramasawmy Naick in the first Instance and only out of their own Pockets indefault of assetts which Can be no hardship when assetts are admitted And these Respondents by their said attorney Submit to this Honourable Court that any other Decree would howe been altogether Nugatory and would have put them in no better plight and Condition than under the first Decree obtained against the Estate of the said Paucala Ramasawmy Naick the Execution on which the Sheriff was obliged to Return as before has been shewn and admitted Endorsed no Goods And these Respondents by their said attorney pray leave to Observe that the matter Contained in the Fifth Reason as Cause of Appeal are futile and inconsistent and have already been Replied to and observed upon

To the Sixth Reason adduced by the appellant Charging the Mayors Court with not having given that Credit to the Evidence produced by him which It was entitled to and Contending that his Case was Clearly made out and Supported by a body of unquestionable evidence These Respondents by their said attorney for answer thereunto say that the Appellant so far from having made out a Clear Case appears throughout the whole of the pleadings in the suits Read at the hearing to be at Continual varience with himself and the evidence so far from being unquestionable as the appellant has alledged is loose and Contradictory and first with respect to the Case of the Appellant which he alledges to be so Clear These Respondents by their said attorney pray leave to observe That as the Ground work of the present Suit is the same as that on which the action brought against the appellant by Petty Tombo Naick is founded that the Defence setup to each Bill ought to have been equally so if the appellant had afair and Just defence to make but they are totally opposite that the one only Serves to invalidate the other To the present Action the appellant has admitted that the property Specified in the Schedule to the Bill annexed is in his possession and that he is ready to Deliver it upon receiving payment of the Sums for which they stand hypothecated and these

Respondents

Respondents by their said attorney pray Leave to submit the
Exact words of his answer as Contained in the ninth page
thereof which as it Constitutes a grass and flagrant perjury
in the appellant may Demand more peculiar attention
from this Honourable Court This Defendant further saith
that he has still in his profession the articles in the said
Schedule mentioned which he is and has always been ready
to Deliver unto the said Petty Tombo Naick administrator as
aforesaid or to any other person or persons legally authorized
to Receive the same on payment of the Sum of one thousand
Star Pagodas and of the further sum of five hundred and
Twenty six Star Pagodas for which the said articles stand
Hypothecated or pledged and in Order to Shew more Clearly
the perjury of the said appellant these Respondents pray Leave
to Call the attention of this Honourable Court to the Bill of
Petty Tombo Naick which after Charging the said Paucala
Kistnama Naick with having taken possession by force of
the articles in the said Schedule Thus Concludes And that
he the said Paucala Kistnama Naick may be Decreed
to Deliver to your orator the aforesaid Several articles in the
said Schedule mentioned And these Respondents by their
said attorney further say that is far from having been always
ready

ready to Deliver up the said articles to the said Petty Tombo
Naick as he has Sworn to That in his answer to the said Bill
he evades the question and says that the deceased Paucala Rama-
:sawmy Naick his son Stood Largely indebted to them But the
particular sum he Could not set forth by reason of the unjus-
:tifiable Conduct of Petty Tombo Naick who in Conjunction
with his Comicaply had Deprived him the appellant of the
Several Vouchers which he had in support thereof That Notwith-
:standing this pretended loss of Vouchers and without any
attempt on the part of the appellant to account for their recovery
The sum in his Rejoinder is ascertained to be three thousand
four hundred and sixty one Pagodas Seventeen fanams and
ten Cash For which he afterwards filed his Cross Bill against
the said Petty Tombo Naick as administrator as aforesaid and
these Respondents by their said Attorney beg leave further
to Observe that while the perjury is fully Detected and
Clearly Shewn by this Contrasting the papers in the said
Suits by the same means the mortgage which the appellant
pretends to have on the said Goods is also done away For
these Respondents Submit to this Honourable Court that
if the Articles were Mortgaged to the Appellant by Paucala
Ramasawmy Naick in his life time as he now alledges

Surely

Surely was the proper stage and most Seasonable period of time to state the Circumstance when he was sued for them by the administrator Pelly Tombao Nauck no Circumstance Could have operated to Alter the nature of his Claim If any he ever had on the Estate of the said Paucala Ramasaumy Nauck yet in the one Suit we find him Charging three thousand four hundred and Sixty one Pagodas without making any Allowance for the articles which he pretends were mortgaged and in the other that he was ready to Deliver up the Goods and the articles in the said Schedule Setforth on Payment of the Sum of one thousand five hundred and forty six Pags for which they stood Specifically pledged and these Respondents by their said Attorney Deny that the Evidence produced by them is Deficient and inconclusive as is untruly alledged by the Appellant in his said Petition of Appeal for the Circumstance of the said Goods having been taken away by violence has been fully and Clearly proved by the Testimony of Several Witnesses who Consistently Depose to the transaction a fact which indeed Required not the said of evidence being fully established by the Appellant himself in the manner aforementioned —

And these Respondents further say that although Chinganah Seagaray Saumy Moodilly and Padmanabiah

Witnesses

Witnesses produced on the part of the appellant Swear boldly as to the Circumstance of the Goods being Mortgaged to the appellant and the Cause thereof yet when it is Considered that their Testimony tends to Contradict what the Appellant has himself Sworn to and that they are at variance with each Other little Credit can be given to such Testimony If it were true that the Goods were Set over Mortgaged and pledged in the formal manner in which the Witnesses have Sworn to It is to be presumed that some Memorandum in writing would have been given to Confirm a transaction of this nature and in Order to point out the inconsistency of the Appellant and to shew the real Complexion of his Case with the means which he has had Recourse to Support it These Respondents have selected from the groupe of Evidence The Deposition of one Witness which they beg to submit to the particular attention of this Honourable Court This Witness by name Padmanabiah like many others is brought forwards to Support the Defence to the present action namely That the Goods in question were Mortgaged to the appellant to Secure the repayment of the Several sums of one thousand Pagodas and five hundred and forty six Pagodas advanced by him to the deceased Paucala Ramasaumy Nauck in his life time and to that end the said

Padmanabiah

Padmanabiah deposes that he was a friend of Paucala Rama-
saumy Naich and well acquainted with his affairs That
the said Paucala Ramasaumy Naich borrowed in his life time
from one Ramah Naich the Sum of one thousand Pagodas
for which he Executed his Bond and as a Collateral Security
for the payment thereof he mortgaged a Bond of the Company
which Bond the Witness Swears was procured from the appellant
who Required his son the said Paucala Ramasaumy Naich
to lodge and Deposit Certain Securities being part of the
Goods now the Object of Contention and this the Witness
says was done in Consideration that he the appellant had
pledged the said Companys Bond to Ramah Naich as a
Security for and on account of his Son the said Pauchala Ra-
masaumy Naich Such is the account given by this Witness
of the manner in which the Goods came to be Mortgaged
and which these Respondents pray leave to Contrast
with the Statement of the Transaction given by the appellant
himself upon oath In his answer to the Bill He says that
Paucala Ramasaumy Naich being indebted "to Ramah
"Naich on Bond in the Sum of one thousand Pagodas
"which he was unable to Discharge Applied to him to
"pay it off and to procure an Assignment thereof That in
Compliance

Compliance with this Requisition The Appellant did
Discharge the said Bond and received an Assignment
thereof from the said Ramah Naich and as a further
Security to him for the said Bond so Assigned The said
Paucala Ramasaumy Naich did set over pledge and
Deposite Certain Goods and Property Consisting of muslins
Long Cloths and Punjam Cloths Thus it appears by the
Appellants Statement of the Case that these Goods
were Mortgaged after the Bond was discharged by
him and assigned by Ramah Naich whereas by the Witness
Padmanabiahs account of the Transaction the Goods were
mortgaged to the Appellant at the time this Bond to Ramah
Naich was Executed and not when it was paid off in
Consequence of his Supplying him with a Company's Bond
This pretended Mortgage is therefore so Differently accoun-
ted for that on the face of their Respective Statements It is
evident that they have both Sworn falsely The said
Padmanabiah has also Sworn that the Money for which
the Bond is granted was borrowed from the Appellant
about five or Six years before his death whereas by
Reference to the Bond which is an Exhibit in this Cause
It appear to have been granted in the year one thousand

Seven

Seven hundred and eighty Nine and upon the face of the proceedings It appears that Paucala Ramasaumy Naicken died in the beginning of the year One thousand Seven hundred and ninety so that instead of five or Six years one had not elapsed And these Respondents by their said attorney further say that from the Account Current annexed to the Rejoinder in the suit pleaded by the appellant it appears that the said Bond was not an existing debt at the time of the said Paucala Ramasaumy Naickens decease But that it was liquidated therein as will appear by reference to the said Account which these Respondents pray may be taken as part and parcel of their answer and these Respondents by their said Attorney further say that from this Circumstance they feel themselves warranted in Supposing the appellant to have got possession of the said Bond by Surreptitious means—

And for answer to the Seventh Reason adduced by the appellant these Respondents say that the Exceptions by him filed to the Interrogatories on the part of these Respondents being futile in their nature were Consequently Disregarded by the said Mayors Court and thrown out with Costs—

And

And for answer to the last reason adduced on the part of the appellant wherein the said appellant has alledged that there was nothing before the said Mayors Court to induce them to grant a Decree Inasmuch as no demand had been proved either against the appellant or the Estate of the said Paucala Ramasaumy Naicken These Respondents by their said attorney for answer thereunto say that the appellant has himself admitted that these Respondents are Judgment Creditors of the Estate of the said Paucala Ramasaumy Naicken and that Execution had issued thereon which was Returned endorsed no Goods and as it was also in proof that the appellant had by force and violence possessed himself of Considerable property belonging to the Estate These Respondents by their attorney were Consequently entitled to a personal Decree against him the Appellant as well as the said Petty Tomboo Naicken who by his Conduct has Committed a Duvastavit and thereby rendered himself personally answerable and with respect to the last observation made by the Appellant namely that the said Petty Tomboo Naicken not having been urged to answer that it was strong Prima facie Evidence of Collusion Between the Respondents and him These Respondents for Answer thereunto have only to Observe that the Decree of the said Mayors

Mayors Court doth on the face of it Contradict this very false assertion It appearing from the said Decree that an attachment had issued against the Defendant Petty Tomboo Naicken for Neglecting to Answer these Respondents Bill which Circumstance is in itself the highest proof of every exertion having been made by these Respondents to Compell the said Petty Tamboo Naicken to answer by Causing Process of attachment to issue against him instead of Moving the Court for a Decree which upon the expiration of the usual rules for answering these Respondents by their said Attorney were intitled to Claim —

For all which matters and things and such others as may be adduced at the hearing these Respondents by their said Attorney humbly pray that the Decree of the said Mayors Court may be affirmed with Exemplary Costs to be paid by the appellant for his unjust and Litigious Conduct

(Signed) George Chalmer
Solicitor for Respondent —

To the Kings Most Exellent Majesty in Council

Between Woodendiapah Moodiliar Administrator with the Will annexed of Canjeveram Roodrapah and Punamaroo Iyah Pillay by their Attorney and assignee Madapaukum Vurdarajah Moodiliar Complainants and Petty Tomby Naicke Administrator of Paucala Ramasaumey deceased and Paucala Kistnamah Naick Defendants.

The Humble Petition and Appeal of the above named Woodendiapah Moodiliar Administrator with the Will annexed of Canjeveram Roodrapah and Punamaroo Iyah Pillay by their Attorney and assignee Madapaukum Vurdarajah

Humbly Shew unto your most Exellent Majesty in Council

That

Entering Office 5 March 1776
J. Webbe Clk

That some time on or about the second day of October Which was in the year of Christ One thousand seven hundred and Ninety four, your Petitioners by their said Attorney and assignee Madapaukum Vurdarajah Moodeliar did file and Exhibit their Bill of Complaint in the Honble the Mayors Court at Madraspatnam, against the above named Defendants Petty Tomby Naick — Administrator of Paucala Ramasawmy Naick deceased and Paucala Kistnama Naick, And your Petitioners further Shew, that in the said Bill of Complaint your Petitioners by their said Attorney did state alledge and recite: That some time in the year of Christ One thousand seven hundred and Ninety two they did file and Exhibit their Bill of Complaint in the said Mayors Court against the said Petty Tomby Administrator of Paucala Ramasawmy Naick deceased for the Recovery of the Sum of One thousand six hundred and Sixty four Pagodas, current money of Madras being a ballance due upon a Bond

or

or Obligation which was duly Executed by the said Paucala Ramasawmy Naick in his life time, unto the said Canjeveram Roodrapah — in his life time, and to the said Iyah Pillay, Jointly bearing date the Tenth day of February Which was in the year of Christ One thousand seven hundred and Ninety, and conditioned for the payment of one thousand Three hundred Pagodas, to run at Interest at the rate of Twelve per Cent per annum, and payable in Three months, and further stating that the said Bond or — Obligation together with the Ballance due thereon your Petitioners did assign over to their said — Attorney Madapaukum Vurdaroja Moodeliar. And your Petitioners by their said Attorney and assignee did state unto the said Mayors Court in their said Bill that the said Paucala Ramasawmy Naick did depart this life Intestate, some time on or about the month of April Which was in the year of Christ One thousan

thousand seven hundred and Ninety without having performed the Condition of the said Bond or Obligation, or any part thereof, and your Petitioners did by their said Attorney and afsignee also Shew unto the said Mayors Court that the said Petty Tomby Naick also of Madras Inhabitant had obtained from the said Mayors Court in its Ecclesiastical Capacity letters of Administration of all and singular the Goods, Chattles, Nights and Credits that were of the said Paucala Ramasawmy Naick, and thereby, and by means thereof had posfesed himself of the Estate of the said Paucala Ramasawmy Naick to a considerable Amount; And your Petitioners by their said Attorney did in and by their said Bill of Complaint charge, that the said Petty Tomby Naick as Administrator as aforesaid did stand justly and truly indebted unto them by their said Attorney in the Sum of One thousand and Three hundred Pagodas the amount principal of the said Bond or Obligation Executed by his the said Petty Tomby Naicks Intestate as aforesaid, together with the Sum of Three hundred and Sixty four Pagodas being the Interest due thereon, and making together the Sum of One thousand six hundred and sixty four Pagodas Current money of Madras, or in Sterling money of Great Britain, at the rate of Eight Shillings for every Pagoda, the Sum of Six hundred and Sixty five Pounds and Twelve Shilling or thereabouts And your Petitioners by their said Attorney and afsignee did further state unto the said Mayors Court that they had frequently, and in an amicable manner applied to the said Petty Tomby Naick as Administrator as aforesaid, and had Requested that he would pay unto your Petitioners the said Sum of One thousand six hundred and Sixty four Pagodas, but that he did obstinately refuse so to do, or to give your Petitioners any manner of satisfaction in the premisses; And your Petitioners by their said

said Attorney did shew unto the said Mayors Court that to thier said Bill of Complaint last mentioned, the said Defendant Petty Tomby Naick did on the fourteenth day of August in the year of Christ One thousand Seven hundred and Ninety two Exhibit and file his Plea and Answer in the said Mayors Court and in and by his said Plea did state that there were certain informalities in your Petitioners said Bill of Complaint and did Plead the same in Bar thereto and by way of answer did say he admitted that he was the Administrator of Paucala Ramaswamey Naick, and that he believed his said Intestate did Execute the said Bond setforth in your Petitioners said Bill of Complaint but did say that he was not in posession of the whole of the Estate of the said Paucala Ramaswamey Naick, or posessed of property in Houses, Lands, Goods, or Money belonging to such Estate, to any considerable Amount or at all, so as to enable him to pay off the said Bond, and that for the reasons in his said Plea setforth he did not conceive himself bound to Pay unto your Petitioners by their said Attorney, and asignee, or either of them, the said Bond Debt had he the said Defendant Petty Tomby Naick asserts, which he did say he did not; And your Petitioners by their said Attorney, and asignee did shew unto the said Mayors Court that to the Plea and answer of the said Petty Tomby Naick your Petitioners by their said Attorney and asignee did file their Replication, to which the said Defendant Petty Tomby Naick did file a Genral Rejoinder, and that thereupon issue did Join and Rules pass for the Examination of Witnesses, and that Witnesses were accordingly Examined on the part of your Petitioners; And your Petitioners by their said Attorney and asignee did further state, that Coltiah Pillay a Witness produced and Examined on the part of

your Petitioners while deposing to the third Interrogatory did say that the said Paucala Ramasaurney Naick, his the said Defendant Petty Tomby Naicks Intestate, did die possessed of property consisting of money, Jewels and Sundry Goods and Merchandizes and a Ballance due from one Francis Lind Esquire and that the said Deft Petty Tomby Naick as Administrator as aforesaid did possess himself of a part thereof and that he the said Defendant Petty Tomby Naick had recovered sundry Sums of Money belonging to the Estate of his Intestate amounting to the Sum of One thousand and Three hundred Pagodas and upwards and that the said Coltiah Pillay did further say that Paucala Kistnama Naick the other Defendant above named did possess himself of property belonging to the Estate of the said Paucala Ramasaurney Naick amounting to the Sum of Four thousand and

and Three hundred Pagodas and upwards, and that the said Defendant Paucala Kistnama Naick did then hold the possession thereof; and that the said Coltiah Pillay did further say, that the said Defendant Petty Tomby Naick did still continue to collect in the ballances due to the Estate of the said Paucala Ramasaurney Naick his said Intestate; And your Petitioners by their said Attorney and Assignee did further allege, that Yagapa Moodelly and Allegapah Moodelly Witnesses were Examined on the part of your Petitioners in the said last mentioned Suit, who did Corroborate, and further elucidate the Testimony of the said Coltiah Pillay; and your Petitioners by their said Attorney and Assignee did also allege, that they did prove the Execution of the said Bond by the Deponents of the Subscribing Witnesses thereto, and that Publication did thereafter pass and that the Cause was set down for hearing, and did accordingly come

come on to be heard by and before the said Mayors Court on the Sixteenth day of July, which was in the year of Christ One thousand seven hundred and Ninety three and that the said Mayors Court did Order and Decree that the said Defendant Petty Tomby Naick should pay unto your Petitioners by their said Attorney, out of the Estate and Effects of the said Paucala Ramaswamey Naick, the full and just Sum of One thousand six hundred and sixty four Pagodas together with all such Interest as then was or which thereafter should become due thereon, and also all Costs of Suit; And your Petitioners by their said Attorney did further state unto the said Mayors Court that the usual time having expired for Appealing from the said Decree of the said Mayors Court to the Court of Appeals, and no Appeal having been lodged by the said Defendant Petty Tomby Naick as Administrator as aforesaid your Petitioners did Obtain a Warrant of Execution from the said Mayors Court directed to the Sheriff of Fort Saint George Town of Madraspatnam and the Districts thereof, to levy off the Goods and Chattles belonging to the Estate of the said Paucala Ramasawmey Naick and your Petitioners by their said Attorney and Asignee did further alledge that they had frequently applied to the said Defendant Petty Tomby Naick for payment and satisfaction of the said Decree and that he did refuse so to do and did alledge that the said Defendant Paucala Kistnama Naick did withhold from him the said Petty Tomby Naick, property belonging to the Estate of the said Paucala Ramaswamy Naick, his the said Petty Tomby Naicks said Intestate, and did refuse to deliver the same and your Petitioners by their said Attorney did further alledge, that the said Petty Tomby Naick did add that he had used his utmost Endeavours to recover from the said Defendant Paucala Kistnama Naick the property belonging as aforesaid to the said Petty Tomby Naick said to the said Paucala

Paucala Ramasawmy Naick, his the said Petty Tomby Naicks Intestate, and that he had for that purpose on the Twenty third day of November which was in the year of Christ One thousand seven hundred and Ninety one filed a Bill of Complaint in the said Mayors Court against the said Paucala Kistnama Naick and did thereby charge that the said Defendant Paucala Kistnama Naick was indebted unto him the said Petty Tomby as Administrator of the Estate of the said Paucala Ramaswamy Naick, in the Sum of Four thousand Three hundred and Ninety one Pagodas and four fanams, on account of certain Goods belonging to the said Estate, and which he also charged that the said Paucala Kistnama Naick had taken possession of, and held and detained from him the said Petty Tomby Naick; And your Petitioners in their said Bill, by their said Attorney as aforesaid did refer to a Copy of a schedule markid with the letter A, which was annexed to their said

Bill

Bill of Complaint, as taken from the Bill of Complaint filed by the said Petty Tomby Naick agt the said Paucala Kistnama Naick as aforesaid and which he charged to be a Schedule of the Goods alledged to have been taken by the said Defendant Paucala Kistnama Naick from the Estate of the said Paucala Ramaswamy Naick and prayed that it might be taken in aid of their Bill against the said Paucala Kistnama Naick and the said Petty Tomby Naick as aforesaid; And your Petitioners further Shew that in their said Bill against the said Petty Tomby Naick and the said Paucala Kistnama Naick they did state and alledged, that the said Paucala Kistnama Naick did file his answer thereto, and did therein so far from admitting himself to be indebted to the Estate of the said Paucala Ramaswamy Naick, charge him the said Petty Tomby Naick as Administrator as aforesaid to be indebted to him the said Paucala Kistnama Naick in the Sum of Three thousand four hundred and

Sixty

sixty Pagodas Seventeen fanams and Ten cash
and that the said Paucala Kistnama Naick
for the recovery thereof did on the third day of
July, which was in the year One thousand seven
hundred and Ninety two, file his Cross Bill
of Complaint against the said Petty Tomby Naick
And your Petitioners by their said attorney and
assignee did further state, that in order to as-
certain the truth of these suggestions so made
by the said Petty Tomby Naick as aforesaid they
did refer to the Records of the said Mayors Court
whereby it did appear that such procedings
were had as herein before is mentioned And your
Petitioners further stated, that since the filing
of the said Cross Bill of Complaint no further
procedings had taken place in the said suit
between the said Petty Tomby Naick and the said
Paucala Kistnama Naick, and which your
Petitioners did contend to be a strong proof that
the said Petty Tomby Naick and the said
Paucala Kistnama Naick had Conspirated
together

together in order by collusive means to defraud
your Petitioners and to prevent the Decree of the
said Mayors Court in favor of your Petitioners
from being carried into Execution, And your
Petitioners as aforesaid did charge that by reason
of the premises the said Petty Tomby Naick and
Paucala Kistnama Naick did stand justly
and truly indebted to them in the full and just
Sum of Two thousand Three hundred and Nine
Pagodas and thirty three fanams Current money
of Madras making in sterling money of Great
Britain at the rate of Eight Shillings for every
Pagoda the Sum of Nine hundred and Twenty
Three Pounds and Seventeen Shillings or thereabouts
and which they said would more fully and at
large appear by an account Current, Copy whereof
marked **B**, was also annexed to the said Bill,
and to which your Petitioners prayed a referena
and your Petitioners as aforesaid did further
alledge, that being so Indebted your Petitioners
did expect the said Petty Tomby Naick and the
said

said Paucala Kistnamah Naick would have discharged the same as in Justice and Equity the said Petty Tomby Naick and the said Paucala Kistnama Naick ought to have done, but your Petitioners in their said Bill charged, that the said Petty Tomby Naick and the said Paucala Kistnama Naick combining, and confederating themselves together and to and with divers other Persons at that time unknown to your Petitioners whose names when discovered your Petitioners did pray might be made parties to the said Bill how to defeat and defraud your Petitioners in the premises, the said Petty Tomby Naick and the said Paucala Kistnama Naick did obstinately and wilfully refuse to pay the said Sum of Two thousand Three hundred and Nine Pagodas and thirty three fanams or to give your Petitioners any manner of satisfaction touching the premises, and that the said Petty Tomby Naick did pretend that he had neither assets nor other property in his possession belonging to the Estate of the said Paucala Ramaswamy Naick to satisfy the Decree obtained by your Petitioners by their said Attorney and Assignee but that the said Paucala Kistnama Naick had obtained possession of the property, and that the said Paucala Kistnama Naick should satisfy your Petitioners for the same, but your Petitioners charged and so the truth was, that the said Petty Tomby Naick had received various Sums of money on account of the said Estate, and that instead of applying them to the liquidation of your Petitioners Claim as Creditors Judgment, he had wasted and mismanaged and otherwise applied the said Estate illegally and unjustifiably and had thereby committed a Devastavit, and by reason thereof had became answerable for the Amount sued for by your Petitioners, out of his own Goods, Chattles and Effects, and your Petitioners by their said Attorney and Assignee did further state, that the said Paucala Kistnama Naick had admitted having possessed himself of property belonging to

to the said Paucala Ramaswamy Naick, but that the said Paucala Kistnama Naick had given out and pretended that the said Paucala Ramaswamy Naick at the time of his Death stood indebted to the said Paucala Kistnama Naick in a considerable Sum of Money on account of various dealings which existed between the said Paucala Kistnama Naick and the said Paucala Ramaswamy Naick in his life time, And that the property which the said Paucala Kistnama Naick had gained possesion of was only sufficient to liquidate a small part thereof, and that the said Paucala Kistnama Naick had accordingly converted the same to his own use; and that the said Paucala Kistnama Naick had further pretended that in all his Transactions with the said Estate he had acted fairly and openly; but your Petitioners by their said Attorney and Assignee charged and so the truth was, that the said Paucala Kistnama Naick had no right to withhold or detain any Assets, or

other property of the said Paucala Ramasawmy Naick, and that the said Paucala Kistnama Naick in the premises, had acted in a fraudulent and collusive manner, and that the said Paucala Kistnamah Naicker object in permitting the said Petty Tomby Naick to Administer to the Estate of Paucala Ramasawmy Naick, who was the Son of the said Paucala Kistnama Naick, was in Order the better to conceal those Sinister views which the said Paucala Kistnama Naick had upon the property or Estate of the said Paucala Ramaswamy Naick, and which your Petitioners did say was evinced in and by a certain Agreement in writing Executed by the said Paucala Kistnama Naick subsequent to the letters of Administration being granted to the said Petty Tomby Naick to the Estate and Effects of the said Paucala Ramaswamy Naick, a Copy of the Transaction whereof marked C your Petitioners did annex to their said Bill, and did pray the benefit thereof in aid of the same, and your

Petitioners

Petitioners by their said Attorney did further charge, that the said Petty Tomby Naick and the said Paucala Kistnama Naick did continue to act together in the said Estate of the said Paucala Ramaswamy Naick in a fraudulent and collusive manner to benefit themselves by the said Estate and defraud the Creditors thereof all which actings and doings of the said Petty Tomby Naick and the said Paucala Kistnama Naick your Petitioners did say were contrary to Equity and good Conscience and did tend to the manifest wrong and injury of your Petitioners and your Petitioners did conclude and pray That the said Petty Tomby Naick, and the said Paucala Kistnama Naig might respectively full true direct and perfect answer make to all and singular the matters and Charges aforesaid; and more particularly that the said Petty Tomby Naick amongst other things might setforth and discover a particular account of the Estate Goods and Effects of which the said Paucala Ramaswamy Naick

Naick died possessed or Entitled unto, and the particulars thereof; and that the said Paucala Kistnama Naick might setforth and say whether he had or had not possessed himself of property belonging to the Estate of the said Paucala Ramaswamy Naick, to some considerable, and what particular Amount, and whether the said Paucala Kistnama Naick did not still hold possession thereof; or had or had not converted the same to his own use, and whether the said Petty Tomby Naick as Administrator of the said Paucala Ramaswamy Naick did not some time ago, and when Exhibit and file a Bill of Complaint against the said Paucala Kistnama Naick in the said Mayors Court for the recovery of the Amount of the said property, and whether the Goods mentioned in the Schedule marked A and annexed to the said Bill, were not the property which the said Petty Tomby Naick Charged the said Paucala Kistnama Naick to hold; And that the said Paucala Kistnama

Naick

Naick might further setforth whether the said Goods were not in his posession, and if not, what the said Paucala Kistnama Naick had done with them; and that the said Paucala Kistnama Naick might setforth what proceedings had been had in the said suit, and whether the same did not then lie dormant, and how long it had so lain Dormant; and that the said Petty Tomby Naick and the said Paucala Kistnama Naick might setforth and say, whether they knew that your Petitioners by thier said Attorney and Asignee did Exhibit and file a Bill of Complaint in the said Mayors Court against the said Petty Tomby Naick as Administrator of the said Paucala Ramaswamy as in the said Bill was particularly setforth, and whether the several proceedings were had thereon, as in the said Bill was stated; and whether the said Mayors Court did not Decree thereon in favor of your Petitioners, whether the said Decree had ever been satisfied either in full or in any part thereof and whether Execution issuing out of the

A

the said Mayors Court upon such Decree was not then in the hands of the Sheriff for the Town of Madraspatnam and the Districts thereof; and that the said Petty Tomby Naick and the said Paucala Kistnama Naick might setforth and say whether they did not and when enter into an Agreement regarding the said Estate of the said Paucala Ramasawmy Naick as setforth in the said Exhibit C. to the said Bill annexed, and whether the said Exhibit was not a true Copy of a Translate of the said Original Agreement by them so entered into, And Lastly that the said Petty Tomby Naick and the said Paucala Kistnama Naick might be Decreed to pay unto your Petitioners by their said Attorney and Asignee the aforesaid Sum of Two thousand Three hundred and Nine Pagodas and Thirty three fanams, with all such Interest as then was, or might thereafter become due thereon, as also all Costs of Suit - And your Petitioners by their said Attorney and Asignee further Shew, that the said Defendants Petty

Tomby

Tomby Naick and Paucala Kistnama Naick being served with process appeared by separate Attornies, and the usual Rules prescribed by the said Mayors Court for the Defendants to answer the said Bill having expired, which the said Petty Tomby Naick negtected doing a Warrant of Attachment did thereupon issue against him That to the said Bill the said Paucala Kistnama Naick did file and Exhibit his Plea and answer wherein and whereby he did first for Plea say, That according to the shewing of your Petitioners by their said Attorney and Asignee in their said Bill it did appear that Administration of the Goods Chattles Rights and Credits of Paucala Ramaswamey Naick deceased in the said Bill mentioned had been granted by the said Mayors Court in its ecclesiastical Capacity unto Petty Tomby Naick, the other Defendant to the said Bill, and That the said Petty Tomby Naick as Administrator of the said Paucala Ramaswamy Naick Deceas'd Heretofore, and before the said Complainants

Exhibited

Exhibited their said Bill of Complaint in the said Mayors Court, to wit, on the Twenty third day of November, which was in the year of Christ One thousand seven hundred and Ninety one did Exhibit his Bill of Complaint in the said Mayors Court against the said Paucala Kistnama Naick as he alledged for the same matter and to the same Effect, and for the like relief and purpose as against the said Paucala Kistnama Naick, as your Petitioners by their said Attorney did by their present Bill, set forth, to which said first Bill he the said Paucala Kistnama Naick did put in his answer, and did thereafter file his Cross Bill against the said Petty Tomby Naick Administrator as aforesaid, and that the said former Bill and Cross Bill were still depending in the said Mayors Court and that said Cause was undetermined, and that therefore the said Paucala Kistnama Naick did plead the said former suit in bar; And the said Paucala Kistnama Naick for further Plea did

did Contend and alledge that by a Royal Charter, granted to the United Company of Merchants of England, Trading to the East Indies by his late Majesty, and bearing date the sixth day of January in the year of Christ One Thousand seven hundred and fifty two, It was amongst other things given and granted by his said Majesty to the said United Company and their Successors in the words following, to wit.

"We do hereby ordain, direct and Appoint that the "Mayor and Aldermen for the time being, of Madras- "-patnam aforesaid, shall forever hereafter be and "they are hereby constituted a Court of Record by the "name of the Mayors Court at Madraspatnam, "and that they, or any Three or more of them "(whereof the Mayor or the Senior Alderman for "the time being, then Residing there to be one) "may, and they are hereby Authorized to try, "hear and Determine all Civil suits, Actions "and Pleas between party and party that shall "or may arise or happen or that have already arisen or happened within the said Town of "Madraspatnam, or within any of the Factories "subject or Subordinate unto Fort St. George aforesaid "or to the said Governor or President and Council "of Fort Saint George aforesaid (Except such suits "or Actions shall be between the Indian Natives "of Madraspatnam only, in which case we "will that the same be Determined among "themselves unless both parties shall by consent, "submit the same to the Determination of the "said Mayors Court;" And the said Paucala Kistnama Naick further said, that your Petitioners by their said Attorney and Assignee did not suggest in and by their said Bill of Complaint that the said Paucala Kistnama Naick who is an Indian Native of Madras-patnam did by consent submit the said suit to the Determination of the said Mayors Court And that the said Paucala Kistnama Naick did not by consent submit the same to the Determination of the said Mayors Court, and your

your Petitioners, the said Paucala Kistnama Naick did say, did aver, to be also Indian Natives of Madraspatnam and under the Exception of the said Charter not entitled to hold Plea or suit as against him the said Paucala Kistnama Naick, and therefore the said Paucala Kistnama Naick did Plead the said Charter in bar of the discovery and Relief prayed by your Petitioners said Bill, and Claimed the benefit thereof; And your Petitioners by their said Attorney and Asignee shew, That by way of answer to your Petitioners said Bill the said Paucala Kistnama Naick did setforth and alledge, That he denied himself to be indebted to the Estate of the Intestate of your Petitioner Woodendiapah Moodiliar, or to the other Petitioners Punamaroo Iyah Pillay, either in the Sum of Two thousand Three hundred and Nine Pagodas and thirty three fanams, as was stated and setforth in your Petitioners said Bill of Complaint, and the Account Current thereunto annexed, and charged in the same to be due and owing from the said Paucala Kistnama Naick, and one Petty Tomby Naick Administrator of Paucala Ramaswamy Naick; or in any other Sum or Sums of Money whatsoever; and the said Paucala Kistnama Naick did further say that he could not be chargeable either in Law or Equity with the demand of your Petitioners, alledging That he the said Paucala Kistnama Naick had various Dealings and Transactions with Paucala Ramaswamy Naick Deceased, in your Petitioners Bill mentioned in his the said Paucala Ramaswamy Naick's lifetime; And the said Paucala Kistnama Naick did further say, that he had at different times lent to the said Paucala Ramaswamy Naick divers and several Sums of money upon Bond Notes and other Securities as also upon open account, and did further state that some time in the year of Christ One thousand seven hundred and Ninety, the said Paucala Ramaswamy

Ramaswamy Naick Deceased being then indebted on a Bond or written Obligation in the penal Sum of Two thousand Star Pagodas conditioned for the payment of One thousand Star Pagodas unto one Ramah Naick of Madras Inhabitant, the Obligee in the said Writing Obligatory named, and the said Paucala Ramaswamy being, as the Paucala Kistnama Naick alledged, prefsed by the said Ramah Naick for the satisfaction and discharge of said Sum of One thousand Star Pagodas, conditioned in the said Bond; and it not being then in the power of the said Paucala Ramaswamy Naick to satisfy and liquidate the same; he the said Paucala Ramaswamy Naick did require him the said Paucala Kistnama Naick to pay unto the said Ramah Naick the Sum of One thousand Pagodas conditioned in the said Bond, and the Interest that had grown due thereon and procure an Assignment from the said Ramah Naick of the said Bond or

Writing

Writing Obligatory, and the said Paucala Kistnama Naick did further alledge that at the requisition of the said Paucala Ramaswamy Naick Deceased, he the said Paucala Kistnama did pay unto the said Ramah Naick the aforesaid One thousand star Pagodas, the alledged principal Sum Conditioned in and by the said Writing Obligatory; together with a lawful Interest of Eighty four Star Pagodas and the said Paucala Kistnama Naick, in his said Answer did further state that the said Bond of the said Paucala Ramaswamy Naick) passed to the said Ramah Naick, with an Indorsement thereon assigning the Sum conditioned in the same to the said Paucala Kistnamah Naick who alledged to have been at that time in the possesion and Custody of the said Paucala Kistnama Naick and as he stated ready to be produced if required And the said Paucala Kistnama Naick by his said answer did further state that for a further security to him the said Paucala Kistnama

Naick

Naick of the said Sum conditioned in the said Bond, so alledged to have been assigned to the said Paucala Kistnama Naick, he the said Paucala Ramaswamy Naick did set over Pledge and Deposit, to and with him the said Paucala Kistnama Naick, certain Goods and property belonging to him the said Paucala Ramaswamy Naicks, consisting of Muslins Long Cloth and Punjum Cloth of various kinds amounting at a gross estimation to the value of One thousand six hundred Star Pagodas or thereabouts to be as he the said Paucala Kistnama Naick gave out, kept and holden as a Collateral Security by him the said Paucala Kistnama Naick until the said Sum of One thousand Star Pagodas and lawful Interest thereon should be duly paid off and discharged, And the said Paucala Kistnama Naick did further state that some time in the said year of Christ, and Shortly after the Deposit of the said Articles in the hands and posession of the said Paucala Kistnama

Kistnama Naick, had taken place, the said Paucala Ramaswamy Naick departed this life and Administration of the Goods and Chattles Estate and Effects of the said Paucala Ramaswamy Naick was granted by the said Mayors Court in its Ecclesiastical Capacity, unto the said Petty Tomby Naick, in your Petitioners said Bill named, And the said Paucala Kistnama Naick did further state that in and by virtue of the said letters of Administration to the said Petty Tomby Naick granted, he did demand of him the said Paucala Kistnama Naick, an Account of all the Goods and Chattles and property of and belonging to the Estate of the said Paucala Ramaswamy Naick which had come into his the said Paucala Kistnama Naicks posession previous or subsequent to the Decease of the said Petty Tomby Naick's Intestate; and the said Paucala Kistnama Naick did further say, that he did deliver unto the said Petty Tomby Naick an account or Schedule of all such property as had come

come into the hands of him the said Paucala Kistnama Naick of and belonging to the Estate and Effects of the said Deceased, and did acquaint and advise the said Petty Tomby Naick, Administrator as aforesaid, of the Circumstance of the said assign= =ment to him the said Paucala Kistnama Naick of the said Bond or Writing Obligatory, passed by the said Paucala Ramasawmy Naick deceased unto the said Ramah Naick, for the said Sum of One thousand star Pagodas, and of the Deposit of the said Muslin, Long Cloth and Punjam Cloth as a further Security for the payment of the same; And the said Paucala Kistnama Naick did further state, that the said Petty Tomby Naick did take an Inventory of the Effects holden by him the said Paucala Kistnama Naick of and belonging to the Estate of the said Intestate Paucala Ramasa= =swamy Naick and did set up and write against the several Articles in the said Inventory contained, the apparent Value and price thereof; and which said Intentory of part of the said Effects of the said

said Paucala Ramasawmy Naick deceased, as holden by him the said Paucala Kistnama Naick together with the Valuation of said Articles in the said Inventory set forth, the said Petty Tomby Naick did afterwards file and exhibit in the said Mayors Court, a Copy of which Inventory so taken by the said Petty Tomby Naick, and the said Petty Tomby Naicks valuation of the said Articles in the said Inven= =tory contained, which then were in the posession of him the said Paucala Kistnama Naick, he the said Paucala Kistnama Naick did annex to his said answer for the inspection of the said Mayors Court; and the said Paucala Kistnama Naick did further say that several of the said Jewels in the Schedule marked A; to your Petitioners said Bill annexed; namely one Ditto of Gold Golasooloo or Chain, one Ditto of Gold Emerald Jewels, one Gold Mooroogoo or Earing set with Emerald Stones, one Ditto Condasaram of seven Putta, and one Ditto Multhadoo or waist Band

Band, although the same were supposed to have belongid to the Estate of the said Paucala Ramasuamy Naick deceased, were truly, and bonafide the property of the said Paucala Kistnama Naick and so he the said Paucala Kistnama Naick claimed same to be when the said Petty Tomby Naick made and wrote the said Inventory and Schedule of the Estate of the said Deceased; And the said Paucala Kistnama Naick by his said Answer did further say, that the said Petty Tomby Naick did Acknowledge at the time of making the said Inventory, the said sveral Jewels in the said Inventory to be his the said Paucala Kistnama Naicks Property, and did accordingly exclude the same from the said Inventory filed by the said A Petty Tomby Naick as administrator of the said Paucala Ramaswamy Naick in the said Mayors Court, to wit on the Twenty second day of March in the year of Christ One thousand seven hundred and Ninety one, altho the said Petty Tomby Naick did thereafter think proper to charge the same against him the said Paucala Kistnama Naick in the Schedule marked A, annexed to the said Petty Tomby Naicks Bill filed against him the said Paucala Kistnama Naick on the Twenty third day of November in the year of Christ One thousand seven hundred and Ninety one; And he the said Paucala Kistnama Naick did submit to the Consideration of the said Mayors Court with howmuch right the said Petty Tomby Naick did so charge the said Jewels against him the said Paucala Kistnama Naick, after having filed the said Inventory on the Twenty second day of March in the year One thousand seven hundred and Ninety one; And the said Paucala Kistnama Naick did further say that a short time after he had delivered unto the said Petty Tomby Naick the written account of the Goods and property of the said Paucala Ramaswamy Naick deceased, he the said Petty Tomby Naick did Borrow and Receive of him the said Paucala Kistnama Naick the Sum of Five hundred

hundred and Twenty six Pagodas, and did confirm the Pledge holden by your Petitioners on the said Goods and Articles, namely, Two hundred and forty four pieces of Muslin Cloth, Seventeen other pieces also of Muslin Cloth, Nine pieces of fine long Cloth, and Two hundred and fifty two pieces of coarse long Cloth, deposited by the said Paucala Ramaswamy Naick for securing the said one Thousand Star Pagodas as above setforth, and did moreover give and grant unto him the said Paucala Kistnama Naick a further lien on several other Articles, at that time in the posession of him the said Paucala Kistnama Naick belonging to the said Intestates Estate for the Additional Sum Received by the said Petty Tomby Naick Administrator as aforesaid of Five hundred and Twenty six Pagodas namely, one Gold Chundraharam of Seven Pitta, one pair of Gold Cadayaloo or hand Ring one Ditto Ring, with several other Articles specified in his the said Paucala Kistnamah Naicks said Answer,

And

And the said Paucala Kistnama Naick did further say, notwithstanding the premises, the said Petty Tomby Naick in the year One thousand seven hundred and Ninety one did file and exhibit a Bill of Complaint against him the said Paucala Kistnama Naick, for the recovery of the Articles specified and particularized in the Schedule marked **A**, annexed to your Petitioners Bill, and of Three hundred and Eight Pagodas lent to him the said Paucala Kistnama Naick by the said Petty Tomby Naick, at this the said Sum of Three hundred and Eight star Pagodas were paid to and received by the said Paucala Kistnama Naick by and from the said Petty Tomby Naick on account of the premises. And Whereas the said Petty Tomby Naick did know the said Estate of the said Paucala Ramaswamy Naick to be greatly indebted unto him the said Paucala Kistnama Naick, and more espicially in the principal Sums above setforth of One thousand five hundred and Twenty

six

six Pagodas with Current Interest thereupon,
the said Paucala Kistnama Naick did furth
say, that to the said Bill of Complaint he the
Paucala Kistnama Naick did file his answer,
and did thereafter exhibit his Cross Bill again
the said Petty Tomby Naick for the Amount du
and owing to him the said Paucala Kistnama
Naick, from the Estate of the said Paucala Ram
=swamy Naick, and which said Original and
Cross suit were depending in the said Mayors C
And the said Paucala Kistnama Naick did
further say that he had still in his posession th
Articles mentioned in the said Schedule annexed
to his said answer; and which said Schedule was
drawn by the said Petty Tomby Naick as a true
perfect Schedule of such property as had come to
hands of him the said Paucala Kistnama Nai
with the reservation of the Jewels under the circum
=stances declared by the said Paucala Kistna
Naick in his said answer and the said Paucal
Kistnama Naick by his said answer did fur
say

say that with the Reservation of the said Jewels
he was, and had always been ready to deliver the
said Articles in the said Schedule contained unto
the said Petty Tomby Naick Administrator as
aforesaid, or to any other person or Persons legally
Authorized to receive the same, on the payment
of the said Sum of One thousand Star Pagodas
and of the further Sum of Five hundred and
Twenty six Pagodas with Interest thereupon, for
which the said Articles did stand hypothecated
or pledged to him the said Paucala Kistnama
Naick) and the said Paucala Kistnama Naick
in his said answer did deny the Suggestion of Your
Petitioners, that he the said Paucala Kistnama
Naick had acted in a fraudulent and collusive
manner in the premises or that he had converted
the Estate, or any part thereof, of the said Intestate
to his own use and purposes; but that the truth
was, as he had before setforth in his said answer,
That he the said Paucala Kistnama Naick
came by the posession of the said Articles
includ

included in the said Inventory and Schedule,
Copy of which was annexed to his said Answer
by and with the Consent of the said Paucala
Ramaswamy Naick in his life time, and of the
said Petty Tomby Naick as Administrator of the
said Paucala Ramaswamy Naick deceased, in
the way or manner mentioned in his said answer
And the said Paucala Kistnama Naick did
by way of further answer to your Petitioners
said Bill say that the said deceased was the Son
of him the said Paucala Kistnama Naick but
denied that he had any object in view in —
prevailing on the said Petty Tomby Naick to —
Administer the Estate of the said deceased, further
than that the same might be duly and fairly
Administered to all who had Interest or concern
therein; and the burden of the Administration
whereof, he the said Paucala Kistnama Naick
would have taken on himself with the permission
of the said Mayors Court, but from the —
deranged state of his the said Paucala —

Kistnama

Kistnama Naicks mind at that Season from
the Recent loss of so near a branch of his Family
and the said Paucala Kistnama Naick did
also further deny, that he had any Sinister view
in Executing the said written Agreement to your
Petitioners said Bill of Complaint annexed, or
that the said Agreement did bear on the face
of it, or Authorise by construction, any unfair
or unjustifiable conclusion against him the
said Paucala Kistnama Naick, It being the
foremost provision in the said Agreement to satisfy
the demands of the Creditors to the said Intestate
Estate And your Petitioners by their said Attorney
and Assignee further Shew unto your most —
Excellent Majesty in Council, that to some few
of the points in the said Bill of Complaint —
particularly interrogated unto, he the said Paucala
Kistnama Naick did partly answer, by saying
that he was possessed of certain property belonging
to the Estate of the said Paucala Ramaswamy

Naick

Naick Deceased, to the amount as he the said Paucala Kistnama Naick verily believed, of Two thousand five hundred and Ninety four Pagodas Thirty three fanams or thereabouts being the value so near as he was able to Compute and Estimate it of the several articles specified in the Schedule marked A, annexed to his the said Paucala Kistnama Naicks Answer and which said Articles as he the said Paucala Kistnama sayed, he had before explained, were subject and liable to the aforesaid Sum of One thousand Star Pagodas on the assignment of a written obligation from the said Ramah Naick and Subject further to the Additional Sum of Five hundred and Twenty six Pagodas, borrowed and Received for the use and benefit of the Estate of the said Intestate by the said Petty Tomby Naick, and the said Paucala Kistnama Naick did further say, that the said Articles subject to the said Sum of One thousand five hundred and Twenty six Pagodas with Interest thereupon were still in his possession, and had not in the whole

or in part been converted to his use, but were, and had been always ready to be delivered over to any Person or Persons legally authorized to receive the same, on payment of the Sums for which the said several Articles did stand pledged to him, And the said Paucala Kistnama Naick did further say that the said Petty Tomby Naick as Administrator of the said Paucala Ramasawmy Naick did sometime in the year of Christ One thousand seven hundred and Ninety one, file and Exhibit against him the said Paucala Kistnama Naick a Bill of Complaint in the said Honble Mayors Court, for the recovery of the amount of the said property, but in which said amount he the said Petty Tomby Naick in his said Bill, and in the Account Current thereunto annexed, did much over rate and charge, and that the Goods mentioned in the Schedule marked A annexed to your Petitioners said Bill did appear to him to compose the property which the said Petty Tomby Naick had charged against the said Paucala

Kistnama

Kistnama Naick in his said Bill filed in the said year of Christ One thousand seven hundred and Ninety one, and that the whole of the said Articles in the said Schedule Contained and mentioned were in the possession of the said Paucala Kistnama Naick, but the said Paucala Kistnama Naick did deny that the whole of the said Articles were the property of the said Estate as the Third Article in the said Schedule described namely, one Gold Golasoloo or Chain, the fourth Article one Ditto of Gold Emerald Jewels, the fifth Article one Gold Moorroogoo or Ear ring set with Emerald Stone - The Sixth Articles one Ditto Cundasarum of seven Pettahs and the Seventh Article one Ditto one Mullathaidoo or Waist-band, were, as Acknowledged by the said Petty Tomby Naick at the time of his taking the Original Inventory of the Effects of the said Intestate the property of him the said Paucala Kistnama Naick and that the said Articles were

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were excluded, and not to be found in the Original Inventory of the Estate and Effects of the said Paucala Ramasawmy Naick filed by the said Petty Tomby Naick as Administrator thereof in the said Mayors Court on the Twenty second day of March in the year of Christ One thousand seven hundred and Ninety one And the said Paucala Kistnama Naick. by his said answer to your Petitioners said Bill did further say, that he did not recollect Exactly to what extent the proceedings in the said suit, preferred by the said Petty Tomby Naick against the said Paucala Kistnama Naick were carried and borne but that the said Proceedings were matters of record in the said Mayors Court And therefore that your Petitioners might have better information therefrom than from the said Answer of him the said Paucala Kistnama Naick And the said Paucala Kistnama Naick did further say, that the said suit had lain Dormant for some time past, and to the best of his the said

said Paucala Kistnama Naicks recollection
for the space of two years or thereabouts, and that
he the said Paucala Kistnama Naick had
suffered the said suit on his part and behalf to
lay dormant, to avoid expence, which the confused
state of the said Estate, heldout little promise
for the reimbursement of, in the event of his the
said Paucala Kistnama Naick being able to
obtain a Decree against the Administrator thereof,
and which he said that he had no doubt of
obtaining, had he prosecuted it to its natural
conclusion; And the said Paucala Kistnama
Naick said, that he was more induced to suffer
the said suit to lay dormant from the said Petty
Tomby Naicks ceasing to trouble and harrass
him the said Paucala Kistnama Naick in the
prosecution of the Original suit; and he the said
Paucala Kistnama Naick did say, that he had
heard that your Petitioners by their said Attorney
and assignee had filed and Exhibited a Bill
in

in the said Mayors Court against the said
Petty Tomby Naick as Administrator of the said
Paucala Ramasawmey Naick as in the said
Bill of Complaint was charged and alledged,
and that he had heard the said Mayors Court
did pass a Decree in favor of your Petitioners,
but he did not know whether the said Decree
had been satisfied either in full or in part, And
that he had further heard that an Execution
did issue out of the said Mayors Court upon
such Decree and that the same was in the
hands of the Sheriff for the Town of Madras =
patnam and the Districts thereof at and
after the time of your Petitioners Fyling and
Exhibiting their said Bill against him the said
Paucala Kistnama Naick to wit, untill the
seventh day of October then last past, when the
said Sheriff as the said Paucala Kistnama
Naick said he was informed, and did verily
believe, did return the said Warrant of Execution
into

into the said Mayors Court, with an Indorsement on the same of "No Goods" which said circumstance the said Paucala Kistnama Naick did submit to the said Mayors Court did mark and denote the Character and Credit of the suit as well as the Disposition of your Petitioners towards him, who at the time of an Active Execution obtained by your Petitioners against another party, for the same ground of action, did file and Exhibit their said Bill against him the said Paucala Kistnama Naick alledged and pretended, was wholly a stranger to the said, and that in the account Current to the said Bill of Complaint annexed, your Petitioners had added the amount of the Bill of Costs incurred in the prosecution of the said suit, pending, at the time of filing the said Bill against him the said Paucala Kistnama Naick, as an Item of charge due and owing from him, and the said Petty Tomby Naick; and the said Paucala Kistnama Naick further says

That

That he did enter into an Agreement with the said Petty Tomby Naick respecting the Estate of the said Paucala Ramasawmey Naick Deceased of the same nature with the Agreement setforth in the Exhibit C, to your Petitioners said Bill annexed; And Lastly he the said Paucala Kistnama Naick did deny all unlawful Confederacy and Combination with the said Petty Tomby Naick Administrator of Paucala Ramasawmey Naick as charged against him by your Petitioners in their said Bill; And your Petitioners further shew That to the said several Plea and answer of the said Paucala Kistnama Naick, your Petitioners by their said attorney and assignee did file and Exhibit their Replication wherein they did admit by way of Reply to the first Plea pleaded by the said Paucala Kistnama Naick, To wit, a Former suit Depending, That the other Defendant in your Petitioners said Bill named, to wit Petty Tomby Naick as Administrator of Paucala Ramasawmey Naick did Exhibit and file

file his Bill of Complaint against the said Paucala Kistnama Naick for the recovery of the Sum of Four thousand Three hundred and Ninety one Pagodas and four fanams, the estimated value which the said Petty Tomby Naick placed on certain Goods Wares and Merchandizes, the property of the said Estate of the said Paucala Ramasawmey Naick, and charged by him to be illegally held and Detained by the said Paucala Kistnama Naick and your Petitioners by their said Attorney and asignee, in their said Replication did also admit, that the suit which had been instituted by your Petitioners against the said Paucala Kistnama Naick was so far similar to that which the said Petty Tomby Naick had brought against the said Paucala Kistnama Naick as aforesaid, That your Petitioners had held the said Paucala Kistnama Naick answerable for the amount or value of the Goods which the said Paucala Kistnama Naick was so charged to hold and Detain in his posession in like manner as the said Petty Tomby Naick had done, but your Petitioners in their said Replication did say that they did not by any means admit or allow that the said suit so brought by the said Petty Tomby Naick, with the several Pleadings had thereon, could or ought to operate as a Bar to the action which your Petitioners had instituted against him the said Paucala Kistnama Naick, as it appeared from the said Paucala Kistnama Naick's own shewing, That he the said Paucala Kistnama Naicks object, and the other Defendant the said Petty Tomby Naick, was to avoid bringing the said suit to a hearing the same having lain Dormant nearly two years; And which fact, your Petitioners did humbly submit to the said Mayors Court, did sufficiently substantiate the charge of Collusion between the said Paucala Kistnama Naick as set forth in your Petitioners said Bill of Complaint with the view of defrauding the bonafide Creditors of the said Paucala Ramasawmey Naick; and that

That were the said Plea set up by the said Paucala Kistnama Naick to operate against your Petitioners said Bill, it would be in the power of evil minded and dishonest Persons to defraud the Creditors of a Deceased Person; And your Petitioners in their said Replication did further say, that when a former suit depending is pleaded it must be shewn to be between the same parties Complainant and Defendant, which was not the case in the present instance; And your Petitioners did therefore Contend that the said Plea was altogether irregular and improper and contrary to law; And your Petitioners in further Replication to the said Plea set up by the said Paucala Kistnama Naick pleaded, the Natives of Madraspatnam were precluded from suing each other in the said Mayors Court unless by Mutual consent, yet, as the said Charter did Authorize the said Mayors Court in its ecclesi-astical capacity to grant Probates of the Wills of Natives, and letters Administration to the Estate of

of such as die Intestate it did therefore virtually except Executors & Administrators from the general Restriction, and that they were therefore entitled to Commence actions or suits for the recovery of the Amount of Debts due to the Estate of their Testator, or Intestate, and to pursue the effects belonging thereto wherever they might be, as your Petitioners further said, would appear by an Extract from a letter from the Court of Directors in the words and figures following, "To the first "our Council are of opinion that the said Mayors "Court may grant, and might so grant Probate of "a Will or Letters of Administration to a Native "Indian being named Executor, or being entitled "according to the Law of England to such Admi-"-nistration, in order to enable him to follow "and recover the effects of the Testator or Intestate "against Persons Resident within the Jurisdiction "and possessing or retaining such effects within "the local limits of the Settlement" And your

Petitioners

Petitioners did say that it was a matter of course that those who had a right to sue, could also be sued, and such had been the practice of the said Mayors Court for some time past. and as the said Paucala Kistnama Naick, as your Petitioners alledged, had acted in Collusion with the other Defendant Petty Tomby Naick, and did thereby and by means thereof hold, and illegally detain a part of the afsetts belonging to the said Estate of the said Paucala Ramasawmey Naick for the purpose of defrauding the bonafide Creditors thereof; and that such the Interference of the said Paucala Kistnama Naick, did make him the said Paucala Kistnama Naick an Executor in his own wrong, And that your Petitioners did Contend therefrom that the said Second Plea was altogether irregular and improper, And your Petitioners by their said Attorney and afsignee further Shew unto your most Excellent Majesty in Council, That in Reply to the Answer

Answer of the said Paucala Kistnama Naick your Petitioners by their said Attorney did say That as the said Paucala Kistnama Naick had admitted in his answer to have in his posfesion property belonging to the Estate of the said Paucala Ramasawmey Naick more than sufficient to pay off and discharge the Amount due to your Petitioners, he the said Paucala Kistnama Naick was bound to satisfy the same, as having by his interference in the said Estate of the said Paucala Ramasawmey Naick become an Executor in his own wrong. and thereupon your Petitioners did say that the said Paucala Kistnama Naick did stand indebted unto your Petitioners in the Sum of Two thousand Three hundred and Nine Pagodas and thirty Three fanams as charged by the said Bill of Complaint. And your Petitioners for further Replication did say, That the afsertion in the said Paucala Kistnama Naicks said Answer contained, respecting the said

said Paucala Kistnama Naicks Dealings with the said Paucala Ramasawmey Naick, and of the said Paucala Kistnarria Naicks having lent him at different times Divers Sums of money upon Bonds, Notes and other Securities, were altogether irrevelent and impertinent for that your Petitioners had by their said Attorney and Assignee obtained a Judgment against the Estate of the said Paucala Ramasawmey Naick and had therefore a prior right to the satisfaction of their Claim on the said Estate; And your Petitioners did further say, That they were fully persuaded that such the assertion of the said Paucala Kistnama Naick had no foundation in truth; And your Petitioners by their said Attorney and Assignee did further say That upon inspecting the Bond granted of Paucala Ramaswamey, to Ramah Naick, delivered into the said Mayors Court, it Appeared that a Bond of the Honorable Company for the Sum of Two thousand Pagodas was mortgaged by way of Collateral security for the payment thereof and therefore if the said Paucala Kistnama Naick did actually pay off and discharge the said Bond as he pretended he had done, the said Companys Bond must have been delivered to him the said Paucala Kistnama Naick, and therefore the said Paucala Kistnama Naick had rendered himself accountable for the same, And your Petitioners by their said Attorney and Assignee did deny, that the said Paucala Ramaswamey Naick did as a further security for the money which the said Paucala Kistnama Naick pretended he had paid on account of the said Bond, set over and Pledge and Deposit certain Goods, consisting of Muslins, Long Cloth and Punjum Cloths, as had been alledged by the said Paucala Kistnama Naick in his said answer, neither did your Petitioners believe That the said Paucala Kistnama Naick did inform the said Petty Tomby Naick after letters of Administration had been granted him of the Estate of the said Paucala Ramasawmey Naick, of such Deposit

Deposit being made, nor did the said Petty Tomby Naick to the belief of your Petitioners at any subsequent time confirm the Pledge and grant a further lien upon other Goods and Articles the property of the Estate of the said Paucala Ramasawmey Naick as had been asserted in and by the said Answer of the said Paucala Kistnama Naick, on the contrary y.r Petitioners did say that they verily believed the said Paucala Kistnama Naick did illegally and unjustly and partly by force and violence, posess himself of the said Articles which he had said were mortgaged to him, and that in suppo of what had been in that behalf asserted by ya Petitioners by their said Attorney and assignee, they did pray leave to advert to the suit and Cross suit pending in the said Mayors Court between the said Paucala Kistnama Naick a the said Petty Tomby Naick, but more particula to the answer of the Answer of the said Paucala Kistnama Naick in the Original Cause,

Which

which mitigated in a very strong degree against the assertions contained in the answer of him the said Paucala Kistnama Naick, to the Bill of Complaint of your Petitioners by their said Attorney: And your Petitioners did further say that in and by their said Bill of Complaint the said Paucala Kistnama Naick was charged by the said Petty Tomby Naick with having taken from the Godowns, sundry Goods, belonging to the Estate of the said Paucala Ramasawmey Naick, which including the Sum of Three hundred and eighty Pagodas and forty four fanams lent him from the Assetts of the Estate of the said Paucala Ramaswamy Naick, amount, upon the estimated value placed on them, to the Sum of Four thousand Three hundred and Ninety one Pagodas and four fanams, and were particularly described and set forth in a Schedule to the said Bill of Comptaint annexed and they did further say, as the said Paucala Kistnama Naick was charged by your Petitioners in the like manner as the Defendant Petty Tomby

Tomby Naick had charged in and by his said Bill of Complaint, that was, with illegally Detaining the property of the said Paucala Ramasaumey Naick, that the Circumstance which guided the said Paucala Kistnama Naick in the defence which he set up to one Bill, ought to have ruled him in his defence to the other, but that on the contrary, the said Paucala Kistnama Naick had taken not the smallest Notice, in his said answer to the said Bill of Complaint of the said Defendant Petty Tomby Naick, of Rama Naicks Bond, neither had the said Paucala Kistnama Naick attempted to say that the several Goods and Articles charged to be in his possession were pledged to him as a Collateral Security for the payment of his claim on the Estate of the said Paucala Ramasawmey Naick, but that the said Paucala Kistnama Naig had barely said, that he did take the articles from the Godowns and your Petitioners did further say if it were true that the said Articles were pledged to the said Paucala Kistnama Naick, that was the

the stage of the suit, and most favorable period of time, to state it and that having failed to do so, your Petitioners did submit to the said Mayors Court that the only conclusion that could be drawn was that what the said Paucala Kistnama Naick had stated in his answer to your Petitioners said Bill of Complaint respecting the said Goods, was altogether untrue and more particularly as the said Paucala Kistnama Naick had not produced any written Documents to prove the alledged fact. And your Petitioners by their said Attorney, and assignee did pray leave further to observe that the said Paucala Kistnama Naick in the account made up and annexed to the Rejoinder in the Original suit instituted against him by the said other Defendant Petty Tomby Naick had charged a ballance of Three thousand four hundred and Sixty one Pagodas Seventeen fanams and Ten cash to be due to the said Paucala Kistnama Naick from the Estate of the said Paucala Ramaswamey Naick, as by the said account Current annexed to the said Replication

would

would appear, Whereupon his answer to your Petitioners said Bill of Compliant, the said Paucala Kistnama Naick had said that the Articles held and Detained by him were ready to be delivered up on payment of the Sum of One thousand five hundred and Twenty six Pagodas; which was all that the said Paucala Kistnama Naick had pretended to be due to him from the Estate of the said Paucala Rama=saumey Naick, and which Circumstance they did contend was another proof of the inconsistency of the said Paucala Kistnama Naicks conduct, and shewed that the said Paucala Kistnama Naick had no Claim whatever. And your Petitioners by their said Attorney and Assignee did say, that as the merits of the said suit and Cross suit pending in the said Mayors Court between the said Paucala Kistnama Naick and the said Petty Tomby Naick were closely blended with the action of your Petitioners they did crave leave to refer thereunto and Pray that they might have the benefit of the several Pleadings had thereon and your

Petitioners

did further say in their said Replication that the Reason adduced by the said Paucala Kistnama Naick in his said answer for allowing the said Suit and Cross suit to lay dormant, were extremely futile, and justified the charge which had been imputed to the said Paucala Kistnama Naick and the other Defendant Petty Tomby Naick of acting collusively together, with the view of with holding from the bonafide Creditors of the Estate of the said Paucala Ramaswamey Naick the property which ought long ago to have been applied towards the liquidation of their respective Claims; And your Petitioners did say that having obtained a Decree in the said Mayors Court against the said Estate of the said Paucala Ramaswamey Naick, and as the said Decree was the only one that been obtained against the said Estate of the said Paucala Ramaswamey Naick, your Petitioners as the only Judgment Creditors, had a preference to all others, and by the Rules of Law must be first satisfied, and your

your Petitioners by their said Attorney and assignee did further say, that as the said Paucala Kistnama Naick had under the pretence of satisfying an alledged Claim possessed himself of and Detained property in his possession belonging to the Estate of the said Paucala Ramaswamy Naick more than sufficient to discharge the Decree obtained by your Petitioners that he was personally answerable for the amount, because from the Circumstance of his having intermeddled with the said Estate of the said Paucala Ramaswamy Naick, he was as your Petitioners had before said an Executor in his own wrong: And your Petitioners by their said Attorney and assignee further Shew unto your most Excellent Majesty in Council that to the said Replication, the said Paucala Kistnama Naick did file his seperate Rejoinder, wherein and whereby he did set forth and allege that his said first Plea was regular and Consonant to practice and well founded in Law and ought to operate against the action brought by your Petitioners by

by their said Attorney and assignee; And the said Paucala Kistnama Naick did further say that it was not necessary or requisite to Shew in a Plea of a former suit depending, that the said former suit is between the same Complainant and Defendant, to wit, The Complainants and Defendants that are parties to the subsequent suit, if that the party, or Parties so pleading the former suit, shew, that the suit Pleaded, be for the same matter or things which are the objects of the second or ulterior suit; And the said Paucala Kistnama Naick did further say, That your Petitioners by their said Attorney had admitted that the suit which had been instituted by your Petitioners against the said Paucala Kistnama Naick, and the said Petty Tomby Naick, was so similar to that which the other Defendant to the Bill of your Petitioners, namely, Petty Tomby Naick had previously brought against the said Paucala Kistnama, That they confessed they had held the said Paucala Kistnama Naick on that Account Responsible for the amount sought to be

recovered

recovered by the said Petty Tomby Naick by means of the said former Bill, and the said Paucala Kistnama Naick did further say that he did in his said first Plea aver that the said former suit was preferred by the said Petty Tomby as Administrator Lawfully constituted, of the Estate and Effects of Paucala Ramaswamy Naick deceased on account of whose Estate and Effects the second suit was instituted by your Petitioners, And the said Paucala Kistnama Naick did therefore alledge that his said first Plea was sufficient, as it not only shewed that the former suit depending, was for the same matters and things with the suit brought by your Petitioners, but that your Petitioners in their said Replication had acknowledged the said fact, so charged and averred in the said Plea of the said Paucala Kistnama Naick and the said Paucala Kistnama Naick did say, that his said first Plea shewed that the former suit was instituted by a Person holding a right to prefer the same by virtue and by reason of the Administration granted to him of the said Estate; And your Petitioners by their said Attorney and Assigns shew, that the said Paucala Kistnama Naick did further alledge in his said Rejoinder, that the said second Plea of the said Paucala Kistnama Naig, so far from being irregular and improper as stated by your Petitioners in their said Replication, was according to Law and the direction of the said Charter Pleaded in the said Plea; and the said Paucala Kistnama Naick did say that he did admit, that the said Charter, so pleaded by him the said Paucala Kistnama Naick, did authorize the said Mayors Court in its Ecclesiastical Capacity to grant probates of Wills or Letters of Administration to a Native Indian under certain limitations, but he denied the inference drawn, by your Petitioners in their said Replication from the said Authority so conveyed in the said Charter to the said Mayors Court, namely, That it did virtually take Executors and Administrators from out the General restriction in the said Charter, towit

of

"of their being excepted from holding and maintaining
"suits in the said Mayors Court unless as was
"therein directed by consent of parties." And that
"altho in the said Extract from the said Letter of
the Court of Directors inserted by your Petitioners
in their said Replication, it was stated, That
"the Mayors Court might grant, and might
"so grant probate of a Will, or Letters of Administration
"to a Native Indian being named Executor or
"being entitled according to the Laws of England
"to such Administration, in order to enable him
"to follow and recover the assetts of his Testator or
"Intestate against Persons Resident within the
"Jurisdiction, or Retaining such assetts within
"the local limits of the Settlement." The said
Paucala Kistnama Naick by his said Rejoinder
did deny that the said Extract did convey or
Communicate any right to such Native Executor
or Administrator as might be confirmed or
Constituted by the said Mayors Court, under the
Power of the said Clause in the said Charter
contained, respecting the granting of Probates
and Letters of Administration, and explained
and Declared by the said Extract set forth in the
said Replication, contrary and repugnant to
the Letter and Spirit of the former Clause in the
said Charter, which did except Indian Natives
in personal suits, with and against each other
from the Jurisdiction of the said Mayors
Court; And the said Paucala Kistnama Naick
did further say that the said Charter was to be
taken and considered together and not in parcels,
and that it would then clearly appear that the
said Charter had it in contemplation to exclude
Indian Natives from the Jurisdiction of the
said Mayors Court, and that it had done
so in express terms, in the Clause of the said
Charter pleaded by the said Paucala Kistnama
Naick in his said second Plea; and that altho
the said Charter had been considered by the
Council of the said Court of Directors to bear a
Construction that the said Mayors Court might
grant

grant Probate of a Will or Letters of Administration to a Native Indian, yet the opinion of the said Council, would by no means bear an interpretation that the Executor or Administrator, confirmed or appointed by the said Court, could prosecute an Indian Native for the Recovery of any effects &c belonging to the deceased persons whom he or they might represent, for that if the Charter meant to give a right to Executors or Administrators so considered distinctly from their Natural situations as Native Indians, it would have allowed a right to them in one Instance, and with held it in another arbitrarily, without any Policy or Wisdom and it was to be considered to have been framed with both and that it would moreover be Transferring to the Representative a right which the Deceased Person represented, never enjoyed in his life time but the said Paucala Kistnama Naick did maintain that neither the said Charter, nor the said opinion of the said Council, inserted in the said Replication in the said Extract from the said Letter of the Court of Directors, intended or Declared that Native Executors or Administrators should have right in such relation or capacity to sue other persons being Native Indians for the words in the said opinion "of Persons Resident within the said Jurisdiction &c" would particularly refer to Europeans, and against whom the said provision of the said Charter &c would seem to give a remedy for by the provision in the said Charter contained, The Estate of Indian Natives deceased would be without means of recovery of the effects, which might be respectively due to them at the time of the Death of such Natives, and &c which might have tended in its operation to the discouragement of Mercantile Transactions and Dealings betwixt English, and other European &c Residents within the Jurisdiction, and the Native Inhabitants of the place; The said Paucala Kistnama Naick did therefore contend that Notwithstanding the suggestions of your Petitioners to the Contrary, That the said second Plea of the said Paucala Kistnama Naick was good and sufficient

sufficient in Law to bar your Petitioners of the discovery and relief prayed by your Petitioners in their said Bill of Comptaint; and the said Paucala Kistnama Naick by way of further Rejoinder did say, That altho he had admitted in his said Answer, that he had, and did Detain in his posession, certain property of and belonging to the Estate of Paucala Ramasaumey Naick Deceased, more than sufficient to pay off the alledged claim of your Petitioners, yet, did he deny, that he was bound therefore to satisfy the said Amount so alledged to be due to your Petitioners from the said Estate; The said Paucala Kistnama Naick having as he alledged obtained posession of the Major part of the said property in the life time of the said Paucala Ramaswamy Naick deceased, by the bonafide delivery of the same by the said Deceased, unto him the said Paucala Kistnama Naick as a pledge or Security for certain moneys particularized and setforth in his said Answer advanced and lent unto the said Deceased by him the said Paucala Kistnama Naick; And he the said Paucala Kistnama Naick having obtained posession of the Residue of the said property belonging to the Estate of the said Paucala Ramaswamey Naick deceased, under the delivery of the Lawful Administrator of the Estate and Effects of the said Estate; he the Administrator having pledged the same with the said Paucala Kistnama Naick, for and on account of certain monies Borrowed and Received of him the said Paucala Kistnama Naick by the said Administrator, and for and on account of the Estate of the said Deceased as setforth in his said Answer, And the said Paucala Kistnama Naick did therefore contend that he came legally into the posession of the said property and that he had not so interfered in the said Estate of the said Deceased as to make himself an Executor in his own wrong, and to render himself thereby liable to the action of your Petitioners, and the consequence which may thereon result, And the said Paucala Kistnama Naick did for further

Rejoinder

Rejoinder say Notwithstanding what your Petitioners by their Attorney had asserted in their said Replication, That he had frequent dealings with the said Paucala Ramasawmey Naick in his life time, and that he had lent him at different times divers Sums of money upon Bonds, Notes and other Securities as he would in due time shew to the satisfaction of the said Mayors Court, and he did deny that any Judgment which might have been obtained against the Estate of the said Paucala Ramasawmey Naick deceased by your Petitioners could give to your Petitioners a right to the satisfaction of their Claims prior to him the said Paucala Kistnama Naick, as far as regarded the property of the said Estate in the possession of the said Paucala Kistnama Naick so pretended to have been delivered and pledged to him by the said Paucala Ramaswamy Naick deceased, and by the said Petty Tomby Naick the Administrator of the Estate and Effects of the said Deceased, he the said Paucala Kistnama Naick having, as he alledged, obtained thereby a just equitable and lawful lien on the said property which could not in its nature be affected by a Posterior Judgment in any suit between parties indifferent and uninterested to and in the said lien. And the said Paucala Kistnama Naick for further Rejoinder did say, That he did admit that a Bond of the United Company of Merchants of England Trading to the East Indies, for the sum of Two thousand Star Pagodas, was Mortgaged to Rama Naick by the said Paucala Ramaswamy Naick deceased as a Collateral Security for the payment of the Sum Conditioned in the said Bond or Obligation Executed to the said Rama Naick, and which he the said Paucala Kistnama Naick had theretofore delivered into the said Mayors Court, but the said Paucala Kistnama Naick did say, he would prove to the satisfaction of the said Court, That the said Bond of the United Company, was the property of the said Paucala Kistnama Naick, and not of the said Deceased and that therefore he was not chargeable to the Estate

by your Petitioners in their said Replication fo
a Suit and Croſs suit then and now Pending and
undetermined in the said Majors Court between
the said Paucala Kistnama Naick and Petty Tomb
Naick Administrator of the said Paucala Rama
=swamey Naick deceased; The said Paucala Kistn
being as he alledged, advised that the same would
be impertinent and altogether irrelevant to the suit
brought against him by your Petitioners; And t
said Paucala Kistnama Naick for further Rej
did say that he was advised that the said Suit
Croſs suit, Then pending between the said Petty
Tomby Naick and the said Paucala Kistnama
Naick, in the said Majors Court, Though your
Petitioners had referred to the same in their said
Replication and had insisted thereon, were
altogether inadmiſsable in point of Evidence in
the Suit prefered against him the said Paucal
Kistnama Naick by your Petitioners, and alledg
that your Petitioners were not entitled to any
benefit or advantage from the Pleadings in th
same

same And your Petitioners by their said Attorney
further Shew, That on the pleadings had and herein before
recited and setforth issue did join in the said Cause
and that the usual Rules did pass for the Examination
of Witneſses, and that several Witneſses were accordingly
Examined on the part and behalf of your Petitioners
and the said Paucala Kistnama Naick. And
your Petitioners by their said Attorney further shew,
That one Cundapah Moodelly was produced as a
Witneſs in the Cause on the part of your Petitioners
who amongst other things, did depose and say that
he did serve the said Paucala Ramaswamey Naick
Deceased in the capacity of a Conicopoly for two
years, and that he was entrusted with the Key's
of the Godowns and Warehouse of the said Deceased,
and the several Goods and Articles therein Contained
and that after the decease of the said Paucala
Ramasawmey Naick, he was employed in the
same Capacity as Conicoply to the said Defendant
Petty Tomby Naick - and the said Witneſs further

Deposed

Deposed that a List or Inventory of the Effects of the said Paucala Ramaswamey Naick which remained in his posession, was taken, soon after the Death of the said Paucala Ramaswamey Naick, by the Defendants Petty Tomby Naick and the said Paucala Kistnama Naick, and that the said Effects principally consisted of Long Cloths, Muslins and Panjum Cloths, and that the same were placed in his the Witnesses Custody, and so remained for the space of Three Months, when the Keys of the said Godowns were forciably taken away by the said Paucala Kistnama Naick: and your Petitioners further shew that the said Cundapa did lastly depose, that the said Paucala Kistnama Naick did posess himself of the third fourth fifth Sixth and Seventh articles mentioned in the Schedule or Exhibit marked A and that he did posess himself thereof by taking them from the body of the said Deceased when it was conveyed to the burying Ground; And your Petitioners by their said Attorney further Shew unto your most Excellent

Excellent Majesty in Council, That various other Witnesses were produced and Examined on the part of your Petitioner who clearly proved the facts wherewith the said Paucala Kistnama Naick stood charged, to wit, That he had by the most illegal and undue means posesed himself of considerable property of the Estate of the said Paucala Ramaswamy Naick, and had thereby subjected himself to the suit of Creditors; And your Petitioners by their said Attorney and assignee further Shew That on the part of the said Paucala Kistnama Naick, many Witnesses were also produced and Examined whose Depositions were not only at Variance with each other, but did absolutely contradict the defence set up by the said Paucala Kistnama Naick to the Bill of your Petitioners by their said Attorney. And your Petitioners by their said Attorney and assignee further Shew, That after the Examination of the several Witnesses as aforesaid, Publication did pass, and that the Interrogatories Exhibited to the said several Witnesses, and the Depositions

Depositions taken thereon as well on the part of your Petitioner, as of the said Paucala Kistnama Naick were accordingly published and made known - That to the Interrogatories and additional Interrogatories exhibited on the part of your Petitioners to Cundapah Moodelly, Callety Pillay, Narain Moodelly and Vellayedoo Moodelly, and to the Depositions taken and made thereto on the behalf and at the instance of your Petitioners, the said Paucala Kistnama Naick did file Exceptions, as being leading and directing and thereupon prayed that the same might be suppressed and not allowed to be lead as Evidence at the hearing. And your Petitioners by their said Attorney and Assignee further Shew, that to the said Exceptions taken by the said Paucala Kistnama Naick, your Petitioners by their said Attorney and Assignee did file their answer And in answer to the said Exceptions did say, That the said Interrogatories were not leading or directing as was falsely charged by the said Paucala Kistnama Naick

Naick but on the contrary that they did contain fair and proper questions respecting the matters in issue and the facts to be established in the Cause between your Petitioners and the said Paucala Kistnama Naick, giving the Witnesses an opportunity to affirm deny or explain the matters so required of them, without any attempt, design or intention whatever to put words into their mouth wherefore your Petitioners by their said Attorney did pray that the said Exceptions might be overruled with Costs, as frivilous and unfounded Inasmuch as the object of the said Paucala Kistnama Naick in making the said several Exceptions was to deprive your Petitioners of that fair Testimony, which, while it clearly supported their Cause of Action, equally proved the said Paucala Kistnama Naick to be an Executor in his own wrong, And that he had made himself liable for the several Articles in the said Inventory or Schedule contained; And your Petitioners by their said Attorney and Assignee further Shew, that by their Attorney at Law they did

thereafter

thereafter pray that the original suit and the proceedings had thereon, instituted by the said Petty Tomby Naick as Administrator of the said Paucala Ramaswamey Naick deceased against the said Paucala Kistnama Naick in the said Mayors Court together with the Cross Bill exhibited also in the said Mayors Court by the said Paucala Kistnama Naick against the said Petty Tomby Naick as Administrator as aforesaid; and the Proceedings had thereon, might form a part of the said suit and be read at the final hearing of the Cause, which prayer was accordingly granted by the said Mayors Court, And your Petitioners by their said Attorney and assignee further shew unto your most Excellent Majesty in Council, That on the proceedings aforesaid, the said Cause was set down for hearing and did accordingly come on to be heard by and before the said Mayors Court on the Eleventh day of December now last past, when the said Mayors Court did think fit to Order and Decree and did accordingly Order and Decree That the

the Exceptions of the said Paucala Kistnama Naick taken to the said Interrogatories exhibited to the said several Witnesses Examined in the said Cause on the part of your Petitioner, and to the Depositions thereto taken, should be over ruled and the same were over ruled accordingly and the said Mayors Court did moreover think fit to Order and Decree And did accordingly Order and Decree That the said Defendants Petty Tomby Naick and the said Paucala Kistnama Naick should pay unto your Petitioners by their said Attorney out of the Estate and Effects of Paucala Ramaswamey Naick, the Sum of Two thousand Three hundred and Nine Pagodas and Thirty three fanams together with all such Interest as then was or should thereafter become due thereon, untill full payment was made, also all Costs of Suit, And in default of assetts, the said Court did further Order the Amount Decreed to be paid out of their own pockets with Costs of Suit, as by the said Decree Copy whereof is hereunto annexed Relation being thereunto had will more fully

fully and at large appear; By which Order and Decree of the said Mayors Court the said Paucala Kistnama Naick did alledge that he was aggrava and did thereupon lodge an Appeal from the said Decree, to the Governor and Council of Fort St. George as the Members Constituting the Court of appeals at Madras; in which appeal the said Paucala Kistnama Naick did recite, state and setforth the several procedings which were had in the said suit, but as respected the Suit and Cross Suit betwixt him the said Paucala Kistnama and the said Petty Tomby Naick, he the said Paucala Kistnama Naick did alledge pretend and say That they had no sort of connection with, or relation to the suit brought by your Petitioners through their said Attorney and Assignee and Therefore he had passed them over unnoticed; The falsity of which, is clearly shewn by the said Paucala Kistnama Naick's own acts, the said Suit and Cross Suit, which he now pretends to say has no Connection with the present Cause of action, having

having been pleaded by him in bar thereto, in Consequence whereof it formed part of the procedings on which the Mayors Court were to give their Judgment and was Accordingly read at the hearing and your Petitioners further Shew unto your most Excellent Majesty in Council, that the said Paucala Kistnama Naick having recapitulated the several pleadings in the said suit, together with the Evidence adduced on both sides, but for obvious Reasons avoiding every remark on the said suit and Cross suit, proceeded to give his special Reasons for appealing from the said Decree, And first, the said Paucala Kistnama Naick did alledge and say, that the said Decree of the said Mayors Court appeared to be made under a misconception of the Law, or without a due consideration of the several matters so impleaded by him the said Paucala Kistnama Naick; for as much as he was advised that the Plea by him Pleaded; of a former Suit depending in the said Mayors Court between the said Petty Tomby Naick as Administrator

of

of Paucala Ramaswamey Naick Deceased, and him the said Paucala Kistnama Naick, touching and regarding the same matters and things as were the objects of the said suit instituted by your Petitioners by their said Attorney and assignee against the said Paucala Kistnama Naick, was a Plea founded in Law; and ought to have had a weight and influence with the said Mayors Court in making the said Decree. That he the said Paucala Kistnama Naick had set forth in his said Plea that the suit of your Petitioners by their said Attorney and assignee was for the same matters and things as the suit of the said Petty Tomby Naick then depending in the said Mayors Court and undetermined - and that the said fact, was afterwards admitted by your Petitioners in their said Replication, and that it was admitted also by your Petitioners That the said Petty Tomby Naick was the lawful Administrator of the Estate and Effects of the said Paucala Ramaswamy Naick Deceased, and further,

That

That the matters at issue belonged, and related to the Estate of the said Paucala Ramaswamey Naick deceased; The said Paucala Kistnama Naick did therefore contend That the said admissions of your Petitioners in their said Pleadings, were sufficient to support and establish the said Plea of him the said Paucala Kistnama Naick; In as much as the property sued for was allowed to be the property of the said estate; & In as much as the person prosecuting that property, and who is allowed to have prosecuted that property in the former suit, had a legal right in the same as Administrator of the said Estate, and if the said Petty Tomby Naick the Administrator of the said Estate had, and has a legal right to prosecute for that property, it followd, as the said Paucala Kistnama Naick said he was advised, as a consequence that your Petitioners by their said Attorney and assignee could have no right pending the said suit, so instituted by, the said Administrator; otherwise this absurdity would

would ensue, That two seperate and distinct persons would have two seperate entire and equal rights in one and the same thing, and at the same time which could not be, for there could not be two different and distinct rights in different and distinct Persons Coequal and Coexistent, as the said Paucala Kistnama Naick alledged, exist; And the said Paucala Paucala Kistnama Naick did further say, he was advised that the second Plea pleaded by him the said Paucala Kistnama Naick to the disability of your Petitioners by reason of the operation of the Charter granted by his late Majesty on the persons of your Petitioners by their said Attorney and Asignee as particularly setforth in his the said Paucala Kistnama Naicks said Plea, was Consonant and Conformable to Law, and should have been regarded by the said Mayors Court in the said Decree, and which it did not appear to have been, for that in his said Plea he did setforth, That by an Exception in the said Charter, Indian Natives are excepted generally from holding suits against each

each other, unless by mutual consent, and the said Paucala Kistnama Naick did further alledge in his said Plea, that your Petitioners and himself were Indian Natives and that as the said Paucala Kistnama Naick did not submit the said suit to the Determination of the said Mayors Court, he did therefore contend the said Mayors Court had no Jurisdiction over the same, for that the said Court was restricted by the said Charter pleaded by your Petitioner in entertaining suits between Indian Natives to such alone as were submitted to their Deter= =mination by mutual consent; And that the act of your Petitioners by their Attorney in submitting their Cause of action to the said Mayors Court, could not in any wise bind or affect him the said Paucala Kistnama Naick, and that he was advised, that the Arguments used by your Petitioners in their said Replication by their said Attorney To the said Plea, in respect to the Competency

Competency of Native Indians being Executors or
Administrators to hold suit in the said Mayors
Court against Debtors to the respective Estates of their
Testators or Intestates, were founded on false premiss
and contrary to the letter and spirit of the said
Charter for that the exceptions in the said Charter
contained, were general save in the single instance
where both parties should consent to submit the
Cause of Action betwixt them to the Judgment and
controul of the said Mayors Court, and the said
Paucala Kistnama Naick said he was advised
That the taking on himself or themselves he-
burthen of Executorship or Administration to a
Native Indian or Indians, was a mere Voluntary
act of the party or parties so taking on himself or
themselves the said respective burthens; but the said
Paucala Kistnama Naick said he he had --
endeavoured to Shew to the said Court that the
act of one party could not oblige or bind another
party who had no Will or part therein, And
therefore the said Paucala Kistnama Naick --
concluded

concluded That a Native Indian altho possessed
of probate or Letters of Administration stood in
respect to a Native Indian, in the Contemplation
of, and from the Construction of the said Charter
precisely in the same plights as he was before he
obtained the said probate, or the said Letters from
the said Mayors Court, and if so, the said Paucala
Kistnama Naick humbly contended that the --
conclusion was in favor of his the said Paucala
Kistnama Naicks said Plea- Secondly-Because
at the time that your Petitioners by their said --
Attorney and assignee did exhibit their said Bill
in the said Mayors Court against the said Petty
Tomby Naick as Administrator of the said Paucala
Ramaswamey Naick deceased and the said Paucala
Kistnama Naick your Petitioners by their own
shewing, in their said Bill, had an actual and
active Execution in the hands of the Sheriff of
Madraspatnam against the said Petty Tomby --
Naick in his said relative capacity of Administrator
to the Estate of the said Paucala Ramaswamey
Naick

Naick deceased, and for the same Cause of Action
And the said Paucala Kistnama Naick humbly
contended, That while the said Execution remained
in the hands of the said Sheriff unreturned, that your
Petitioners even on the case as made out for themselves
in their said Bill had not, and could not have
had any cause of action as against the said Paucala
Kistnama Naick, for that your Petitioners by their
said Attorney and Asignee having brought their
action against the Administrator of the said Estate
and for an alledged Debt, said to be due from the
said Estate, could not have had a right of action
of the nature with the said Cause prosecuted against
the said Paucala Kistnama Naick, and the said
Petty Tomby Naick until after the return of the
said Writ of Execution with an Indorsement of no
Goods thereon or an Indorsement of a like
import; for until such return there would be a
legal presumption that effects did exist in the
hands of the said Petty Tomby Naick, for and
belonging

belonging to the said Estate, sufficient for the
discharge of the demand of your Petitioners; And
the said Paucala Kistnama Naick humbly contends
notwithstanding the said writ of Execution had
been returned with the Indorsement of "no Goods"
after the filing or Exhibiting the said Bill by your
Petitioners, That it could not have supplied the
substantial Original defect, namely, the want of
right at the Commencement of the suit And the
said Paucala Kistnama Naick further said that
he had setforth the said fact of the said Execution
being in the hands of the said Sheriff, at the time
of filing the said Bill by your Petitioners by their
said Attorney, against him the said Paucala
Kistnama Naick and the said Petty Tomby Naick,
in the said several plea and Answer to your
Petitioners Bill, and he was therefore as he conceived
and was advised entitled to every benefit derivable,
and to be derived from that Circumstance Thirdly
Because that the action of your Petitioners by
their

their said Attorney and asignee was for a supposid
treſpaſs and ſo far as it regarded the ſaid Paucala
Kiſtnama Naick, was in the Nature of an action
of Trover and Converſion, The Bill having been filed
for the recovery of the value of certain Effects, suggeſted
to have been converted by the ſaid Paucala Kiſtnama
Naick to his own use) And the Appellant sayd
he was adviſed that an action of that nature could
only be brought and maintained by thoſe who had
a right in and to the poſſeſsion of the property
converted at the time of the Converſion of the ſame
except in ſpecial caſes, ſuch as of Adminiſtrators and
aſsignee; And the ſaid Paucala Kiſtnama Naick
further attempted to Shew that the whole body of the
Evidence was introduced to ſhew, That the effects of the
Eſtate of Paucala Ramaſwamey Naick deceaſed
(the value of which was ſued for by your Petitioners
in their ſaid Bill) came after the death of the ſaid
Paucala Ramaſwamey Naick into the hands of
the ſaid Petty Tomby Naick, the Adminiſtrator of
the ſaid Eſtate, and therefore that not only the right in
in the ſaid Effects, but the poſſeſsion of the ſame
according to the ſtatement of your Petitioners, was at
the time of the converſion, if the converſion had been
eſtabliſhed by your Petitioners in the ſaid Petty Tomby
Naick the lawful Adminiſtrator And the ſaid
Paucala Kiſtnama Naick did therefore in his ſaid
third reaſon contend, That if it was true that in an
Action of Trover and Converſion, an Abſolute or
ſpecial right in, and poſſeſsion of the property ſued
for, ſhould be in the perſon of the Complainants in
ſuch action, That the Adminiſtrator alone here, was
and is entitled to bring action if he had any
Cauſe of Action touching the matters in queſtion
And the ſaid Paucala Kiſtnama Naick further endeavoured
to Shew in his firſt cauſe or reaſon, That two Seperate
entire and Diſtinct Perſons could not have two
ſeperate and diſtinct rights in one and the
ſame thing, at the ſame time - Fourthly Becauſe
that the ſaid Decree of the ſaid Majors Court
or ſomuch of the ſaid Decree which Ordered that
in default

"indefault of afsetts that the said Paucala Kistna
"Naick and the said Letty Tomby Naick should
"pay the amount Decreed out of their own pockets
"Costs of Suit" was contrary and repugnant to La
in as much as it was prescribed by Law that an
Executor, de son tort, as well as a rightful Executor
Administrator, should only be so far chargeable
Effects should have been proven to have come to
hands, but the said Decree required a satisfactio
of the whole of the demand of the said Complain
with Interest and Costs of Suit whether the said
Paucala Kistnama Naick should have afsets
otherwise - Fifthly - Because the said Decre
of the said Mayors Court was as Contrary
Equity as it appears to be opposite to Law in a
much as he the said Paucala Kistnama Na
would not only be twice harrafsed and vexed
the same Grounds, but might be twice Subject
to Damages on the same account if the said
Decree were to have effect, for he had shewn tha
there

there was a suit pending against him in the said Mayors Court by the lawful Administrator of the Estate of the said Paucala Ramaswamy Naick for the same matters and things, as were said for by the said Complainants in their said Bill, and it was a maxim of equity that no person should be twice troubled for one Cause, besides that the said Decree of the said Mayors Court would tend to fix a prejudice on the said suit and Cross suit pending in the said Mayors Court before any evidence had been received thereto, and before matters were ripe for the decision of the said Mayors Court which would be unjust in principle, and highly Detrimental to the rights of him the said Paucala Kistnama Naick - Sixthly - Because that the said Mayors Court in their said Decree, did not appear to have given that Credit to the Evidence produced on the part of the said Paucala Kistnama Naick to which it was entitled, for that it was in proof before the said Mayors Court from the Testimony of Ramah Naick, That he the said

Paucala

Paucala Kistnama Naick, discharged on account of the said Paucala Ramaswamey Naick, the amount of the Bond executed by the said Paucala Ramaswamey Naick deceased unto the said Ramas Naick, and did procure an assignment thereof as appeared also in the face of the Bond so assigned, which was exhibited in the said Mayors Court and proved in the said Cause and which Circumstance was also corroborated by the concurrent Testimony of several Witnesses on the part of him the said Paucala Kistnama Naick That it also was in proof by the Testimony of Chinganah Teagaroy Swamey Moodelly and others, That the said Paucala Ramaswamey Naick in his life time did set over Mortgage and pledge to the said Paucala Kistnama Naick the several articles mentioned in his the said Paucala Kistnama Naicks Answer, and particularized in the Schedule filed therewith. That it was further in proof by the evidence of Teagaroy and others. That after

after the Mortgage of the said articles to him the said Paucala Kistnama Naick, the said Paucala Ramaswamey Naick did promise to pay off the amount for which they stood pledged; That it was also in proof by the Testimony of Chinganah and others that the several articles as stated in the said Paucala Kistnamah Naicks said answer were pledged to him by the said Petty Tomby Naick and to the amount or thereabouts as charged by him and therefore the said Paucala Kistnama Naick humbly contended that his case was clearly and satisfactorily made out and supported by a body of unquestionable evidence, And altho that your Petitioners by their said Attorney had produced evidence with an attempt to Shew that the said Goods or articles so proved by the said Paucala Kistnama Naick to have been Mortgaged as aforesaid were taken by him the said Paucala Kistnama Naick from out the possession of one Condapah Moodelly by force, he still contended that the evidence produced by the said

said Paucala Kistnama Naick to that end, was altogether deficient and inconclusive, for none of the Witnesses, though all were particularly questioned to specify the manner in which the said Articles suggested to have been forcibly taken from the custody of the said Condapah / were forceably taken by the said Paucala Kistnama Naick, do say in what way the said Goods or Articles were removed as pretended from out the Custody of the said Condapah - and the said Condapah who was Interrogated to the same point is altogether Silent as to the violence and force alledged to have attended the said pretended removal of the said articles - The said Paucala Kistnama Naick therefore contended, That the weight and Preponderance of the evidence produced in the said Cause was on the side of him the said Paucala Kistnama Naick - Seventhly - Because the said Exceptions taken by him to the several Interogatories and the Depositions taken thereto, on the part of your Petitioners and for the reasons assigned by him in the said Exceptions and others which might

might be offered of the part of the said Paucala Kistnama Naick, were well founded in Law, as the said Paucala Kistnama Naick said he was advised, and ought to have prevailed with the said Mayors Court to the suppression of the Depositions in question - The said Paucala Kistnama Naick did therefore appeal to the said Court from the said Order of the said Mayors Court which overrules the said Exceptions - Lastly Because that the said Mayors Court had not any thing before them at the time of making the said Decree which should have induced them to Decree (as it appeared by the Copy of the said Decree annexed that they had Decreed as against the said Paucala Kistnama Naick, for that your Petitioners had not established any matter in the said Cause which entitled them to any relief or redress as against the said Paucala Kistnama Naick personally, or in a pretended relation, as an Executor de Son tort; for your said Petitioners had not proved any Demand either against the said Paucala Kistnama Naick personally, or even

even against the said Estate of the said Paicala
Ramaswamey Naick and altho that your Petitioners
by their said Attorney and assignee might have
proved a Demand or Debt against the Estate of
the said Paicala Ramaswamey Naick in the
former suit against the said Petty Tomby Naick
as Administrator thereof, such proof could not affect
yr. said Paicala Kistnama Naick who was not a
party to that suit and who had not therefore an
Opportunity either to Cross question the Witnesses
in the former suit, or to dispute the said Claim or
whatever it might have been of your Petitioners,
And the said Paicala Kistnama Naick thereupon
submitted that if a party should be bound by the
Admission, or may be, the Collusion of a second
party in a former suit, it would be impossible that
property should be secure, and therefore he concluded
that your Petitioners not having urged the said
Petty Tomby Naick to answer the said Bill
of the said Complainant in the said Cause
was a strong Prima facie proof of collusion between
your

your Petitioners and him to affect the right Credit
and Interest of the said Paicala Kistnama
Naick. For all which Reasons and such
others as might be offered at the hearing the
said Paicala Kistnama Naick prayed said Court
would be pleased to reverse the said Orders and
Decree of the said Mayors Court and grant unto
him such relief in the premises as in their
Wisdom should seem Meet - And your Petitioners
by their said Attorney and assignee further Shew
unto your most Excellent Majesty in Council
That they did by their said Attorney put in their
Answer to the said Appeal and to the first special
reason assigned by the said Paicala Kistnama
Naick as Cause of Appeal, your Petitioners by their
said Attorney and assignee did deny that the said
Decree had been made under a misconception
of the Law or without a due consideration of the
several matters as impleaded by the said Paicala
Kistnama Naick, on the contrary your Petitioner
by their said Attorney did contend that the said
Decree

Decree was founded on Law as well as in Reason and Justice, And your Petitioners by their said Attorney for further answer prayed leave to observe, That the said Paucala Kistnama Naick in Order to entitle himself to the benefit of his first Plea "To wit" a former Suit depending for the same matters, ought to have shewn that his defence thereto was grounded on fair Principles, That there was no fraud on his part, and that it was free from Collusion, for if he could have done so your Petitioners by their said Attorney said they were ready to admit. That neither the Rules of Law or Equity would permit a party acting thus fairly to be harrassed with a double action, but the contrary was the case, with the said Paucala Kistnama Naick, fraud Collusion and unfair Dealing being manifest through out the whole of the Pleadings And your Petitioners by their said Attorney for further answer to the said first reason prayed leave shortly to observe thereon that the Bill of Complaint in the Suit Pleaded by the said Paucala

Paucala Kistnama Naick was filed on the Twenty third day of November which was in the year One thousand seven hundred and Ninety one wherein the said Petty Tomby Naick charged the said Paucala Kistnama Naick with having possessed himself, by force, a variety of Goods belonging to the Estate of his Intestate, amounting altogether to the Sum of Four thousand Three hundred and Ninety one Pagodas four Fanams, which property he prayed might be delivered up to him, in answer to which the said Paucala Kistnama Naick denied having taken the goods in question, and said that so far from being indebted to the Estate of his Intestate, the said Paucala Ramaswamey Naick That the Estate was largely indebted to him, and which in his Rejoinder he charged to be no less a Sum than Three thousand four hundred and Sixty one Pagodas for the recovery of which he filed a Cross Bill. That an Answer was put in thereto, since which period the said suit and Cross Suit had lain Dormant and your Petitioners by their

their said Attorney prayd leave to observe, That it
Appeared from the Pleadings that they were the only
Judgment Creditors of the Estate of Paucala
Ramaswamey Naick, of course that they were by
Law first entitled to have satisfaction from the assets
That the Execution which issued on their Decree
remained a considerable time in the Sheriffs hands
who was unable to levy any thing thereon, The
Administrator pretending that the said Paucala
Kistnama Naick had possessed himself of the whole
of the property for which he had brought his action
and that being so situated there was no other alternative
left them, then instituting the suit upon which
the present action is brought, for at the time of filing
the Bill the said suit pleaded by the Appellant had
already lain dormant two years, a fact which the
said Paucala Kistnama Naick had in his
answer admitted in the words and figures
following, Towit. "This Defendant saith that the said
Suit has lain dormant for some time past, and to
the best of his the Defendants recollection for the space
of

of two years, or thereabouts And your Petitioners
by their said Attorney further say, That since
that period no attempt has been made either by
the Appellant or the said Petty Tomby Naick to
bring the said suit or Cross suit to a hearing, so
that if the said Paucala Kistnama Naick were
to hold, The Decree which your Petitioners by
their said Attorney had obtained against the
Estate of the said Paucala Ramaswamey Naick
must in all likelihood remain forever unsatisfied -
The reason therefore which the said Paucala Kistnama
Naick had introduced to support his Plea, could
not as your Petitioners humbly trusted, be for a
moment regarded, in as much as it would destroy
the due operation of the Law and subvert every
principle of Justice, and in respect to the second
Plea pleaded by the Appellant, your Petitioners
prayed leave to observe that the Clause in the said
Charter contained respecting the Suits of Indian
Natives was in the nature of a privilege conferred
which privilege Indian Natives might at all
times

times Claim by adhering to a certain Rule of conduct on the other hand they might either directly or indirectly waive their priviledge, That is to say, an Indian Native might in writing give expres &c permission to another to whom he owed a Sum of money to sue him in the said Mayors Court in case of his failing to make payment - And so an Indian Native might also indirectly, wave his priviledge by joining in a Bond or any other Chose in action with a person liable to the Jurisdiction of the said Court And upon these principles your Petitioners by their said Attorney conceived that when an Indian Native applied to the said &c Mayors Court for Letters of Administration he Voluntarily waved his priviledge and subjected himself to the suit of every person who had Claims on his Intestate the Bond which he Executed and the oath which he took for the due performance of the trust reposed in him amounting to a Solemn Renunciation thereof And your Petitioners by their said Attorney and Assignee submitted, that if an

Administrator

Administrator who had by due and legal means obtained Letters of Administration becomes subject to the suit of a Creditor; in an equal Degree must he become become liable who &c unduly posseses himself of the effects of a dead person and by such illegal acts becomes an &c Executor in his own wrong - And your Petitioners by their said Attorney for further Answer said that the interference of the said Paucala &c Kistnama Naick respecting the Estate of the said Paucala Ramaswamey Naick was first Shewn by the Agreement marked C, Copy whereof was to your Petitioners said Bill annexed; and which agreement the said Appellant Paucala Kistnama Naick admitted in his answer to have been executed whereby it was settled, and fully understood by and between the said Parties that after performing certain acts, The Letters of Administration were to be made over to him - That this interference was further Shewn in and by the said Paucala Kistnama

Naicks

Naicks answer to the Bill of Complaint filed against him by the Petty Tomby naick wherein it appeared by his own Statement that the Letters of administration were never in the posfession of the said Petty Tomby naick for that altho they were applied for by him yet that they were taken out by the said Paucala Kistnama naick who defrayed all the Charges and that they were then in his posfession The words of his answer being as follows, To wit "That the Letters of administration were "taken out by this Defendant and are now in this Defendants "Custody and posfession and this Defendant did defray all expences "attending the Same" And your Petitioners by their said attorney further observed that the Subsequent acts of the appellant respecting the Estate of the said Paucala Ramasawmy Naick was of a highly Criminal nature For in his said answer he had admitted that all the different articles contained in the Schedule upon which the present action was found were now in his posfession and it was clearly Established in Evidence that he did posfess himself of the articles by force and violence excepting the fourth fifth Sixth and Seventh articles in the said Schedule contained which he purloined from the Body of his son the said Paucala Ramasawmy naick

Naick at the burial place And your Petitioners by their said Attorney further said that the said Paucala Kistnama naick in respect to the Estate of his son had acted with peculiar indecency and from his Conduct and interference therein had waived the priviledge which he posfesfed under the Charter and had Subjected himself to the Suits of the Creditors of the said Paucala Ramasawmy naick and for answer to the Second Reason adduced by the said ~~by the said~~ Paucala Kistnamah Naick, your Petitioners by their said attorney did admit That at the time of exhibiting their Bill of Complaint which was on the fourth day of October One thousand Seven hundred and ninety four the Execution which they had obtained in their former Decree was in the Sherriffs hands But then it was returned on the Seventh of the same month being the day prescribed for the appearance of the said Paucala Kistnamah Naick and the said Petty Tomby Naick a fact which the said Paucala Kistnama Naick in his said answer admitted in the words and figures following To wit. until the Seventh "day of October now last past when the said Sheriffs as the "appellant Said he was informed and verily believed did

Return

Return the said warrant of Execution into the said Court with an Indorsement on the same of "no Goods" And your Petitioner by their said attorney Submitted to the said Hon^ble mayors Court that the fact being admitted as to no Goods having been levied upon the said Execution that it was a circumstance very immaterial whether the said Execution was returned before the Institution of the Suit or at the period mentioned in his said answer only a few days having intervened But that if the said Paucala Kistnama naick had or could have suffered any injury by such return to ought to have pointed it out and not in loose and declamatory words craved relief and benefit from a circumstance from which he had suffered no wrong - To the third Reason adduced by the appellant as cause of appeal your Petitioners by their said attorney did say That a person who illegally possessed himself of the property of a deceased person or became liable to the Suit of a Creditor If the rightful Executor or admr neglected to prosecute him to judgment That on the present occasion if the Defendant Petty Tomby naick had followed up the Suit which he had instituted against the said Paucala Kistnama naick there would have been no necessity for bringing the present action because that the only object which your Petitioners had

had in view was the satisfaction of that Judgment which they had obtained against the Estate of Paucala Ramasawmy naick But it was evident from the whole of the proceedings That the said Petty Tomby Naick and the said Paucala Kistnama naick had confederated together to defraud the Creditors of the said Paucala Ramasawmy naick and that the said suit and Cross Suit is one of the Collusive arrangements which they had made in order more effectually to keep the property of the Estate in the Possession of one or both of them and your Petitioners by their said attorney and assignee for answer to the Fourth Reason adduced by the appellant as cause of appeal denyed that the said Decree which in default of assetts directed that the appellant and the said Petty Tomby naick should satisfy the amout out of their own Pockets was repugnant to Law on the contrary your Petitioners by their said attorney contended That it was a fair just and Equitable Decree For that altho the said Paucala Kistnama Naick had alledged in his answer to the present Bill of Complaint as well as that filed by Petty Tomby naick that the Articles therein mentioned were over valued yet it appeared from the Prices which he had affixed himself in the Schedule annexed to his answer added to the Sum of Three hundred and

Eight

Eight Pagodas admitted to have been received by him That he had more than sufficient property of the Estate of Paucala Ramasawmy Naick to discharge the amount of the Decree obtained by your Petitioners thro their said attorney which so far from being oppressive was extremely mild and lenient under the circumstances of the Case inasmuch as the said Paucala Kistnama naick and the said Petty Tomby naick were directed to pay the amount from the Estate and Effects of Paucala Ramasawmy naick in the first Instance and only out of their own Pockets in default of assetts which could be no hardship when assetts were admitted, And your Petitioners by their said attorney did submit to the said Court that any other Decree would have been nugatory and would have put them in no better plight and condition than under the first Decree obtained against the Estate of the said Paucala Ramasamy naick The Execution on which the Sheriff was obliged to return as before has been shewn and admitted Endorsed "No Goods" And your Petitioners by their said attorney prayed leave to observe that the matter contained in the Fifth Reason or Cause of appeal was futile and inconsistent and had already been replied to and observed upon To the Sixth Reason adduced by

by the said Paucala Kistnama naick charging the mayors Court with not having given that Credit to the Evidence produced by him which it was entitled to and contending that his Case was clearly made out and supported by a body of unquestionable Evidence, your Petitioners by their said attorney and assignee for answer thereunto said that the said Paucala Kistnama Naick so far from having made out a clear case appeared through out the whole of the Pleadings in the Suits read at the hearing to be at Continual Variance with himself and the Evidence so far from being unquestionable as the said Paucala Kistnama Naick had alledged was loose and contradictory and first with respect to the Case of the said Paucala Kistnama Naick which he alledged to be so clear your Petitioners by their said attorney prayed leave to observe That as the Ground work of the present Suit as the same as that on which the action brought against the said Petty Tomby Naick was founded That the Defence set up to each Bill ought to have been equally so if the said Paucala Kistnama Naick had a just and fair Defence to make but they were totally opposite that the one only served to invalidate the other your Petitioners by their said attorney observed that to the present action The said Paucala Kistnama naick had admitted that the

Property

property specified in the Schedule to the Bill annexed was in
his posfesion and that he was ready to deliver it upon receiv
payment of the Sums for which they stood Hypothecated and
Petitioners by their said attorney prayed leave to Submit the
Exact words of his answer as contained in the ninth page thereof whi
as it constituted a Gross and flagrant Perjury in the said Paucala
Kistnama Naick demanded more peculiar Attention from the
Court "This Defendant saith that he has still in his posfesion the
" articles in the said Schedule mentioned which he is and has
" always been ready to deliver unto the said Petty Tomby naick adm
" as aforesaid or to any other person or persons legally authorized to
" receive the Same on payment of the Sum of one thousand Star
" Pagodas and of the further Sum of Five hundred and Twenty six
" Star Pagodas for which the said articles stand hypothecated or
" Pledged" And your Petitioners by their said Attorney further
Shew unto your most Excellent majesty in Council that in
order to establish more clearly the perjury of the said Paucala
Kistnama naick they prayed leave to call the attention of the
said Court of Appeals to the Bill of Petty Tomby naick which
after charging the said Paucala Kistnama naick with having
taken posfesion by force of the articles in the said Schedule Thus concluded
and that he the said Paucala Kistnama naick might be Decreed
to deliver to your orator the aforesaid Several articles in the said "
Schedule mentioned" And your Petitioners by their said attorney
thereupon observed that so far from having been always ready to deliver
up the said Articles to the said Petty Tomby naick as he has "
Sworn to That in his answer to the said Bill he Evaded the "
question and alleged that the deceased Paucala Ramasawmy naicks
his son stood largely indebted to him but the particular Sum
he could not setforth by reason of the unjustifiable Conduct of "
Petty Tomby Naick who in Conjunction with his Coniccply had
deprived him the said Paucala Kistnama naick of the Several
Vouchers which he had in support thereof That notwithstanding
the pretended loss of Vouchers or without any attempt on the "
part of him the said Paucala Kistnama naick to account for
their recovery, The Sum in his rejoinder is ascertained to be three
thousand four hundred and Sixty one Pagodas Seventeen fanams
and ten Cash for which he afterwards filed his Cross Bill "
against the said Petty Tomby naick as administrator as
aforesaid. And your Petitioners by their said attorney and "
assignee

assignee beg. leave further to observe That while the Perjury was fully detected and clearly Shewn by this contrasting the Papers in the said Suits by the same means the mortgage which the said Paucala Kistnama naick pretended to have on the said Goods was also done away. For your Petitioners submitted to the said Court That if the articles were mortgaged to the said Paucala Ramasawmy naick in his life time as he then alledged that Surely was the proper Stage and most Seasonable period for time to State the fact when he was sued for them by the administrator Petty Tomby naick no circumstance could have operated to alter the nature of his Claim If any he ever had on the Estate of the said Paucala Ramasawmy naick yet in the one Suit he is found Charging Three thousand Four hundred and Sixty one Pagodas without making any allowance for the articles which he pretended were mortgaged and on the other that he was ready to deliver up the Goods or the articles in the said schedule on payment of the sum of One thousand five hundred and forty Six Pagodas for which they stood specifically pledged. And your Petitioners by their said attorney denied that the Evidence produced by them was deficient

deficient and inconclusive as was untruly alledged by the said Paucala Kistnama naick in his said Petition of Appeal for the circumstance of the said Goods having been taken away by violence had been fully and clearly proved by the testimony of Several witnesses who consistently deposed to the transaction a fact which indeed required not the aid of Evidence being fully established by the said Paucala Kistnama naick himself in the manner aforementioned - And your Petitioners by their said Attorney further observed that although Chinganah Teagerey Sawmy Moodiliar and Padmanabiah Witnesses produced on the part of the said Paucala Kistnama naick Swore Strongly as to the circumstance of the Goods being mortgaged to the said Paucala Kistnama naick and the cause thereof yet when it was considered that their Testimony tended to contradict what the appellant had himself Sworn to and that they were at variance with each other little credit be given to such testimony. If it were true that the Goods were but ever mortgaged and pledged in the formal manner in which the Witnesses had Sworn to It was to be presumed that some memorandum in writing would have been given to confirm a Transaction of that nature, and in

Order

Order to point out the inconsistency of the said Paucala Kistnama Naich and to Shew the real complexion of his Case with the Means which he had recourse to support it your Petitioners by ot their said attorney did Select from the Groupes of Evidence the Deposition of one witness which they begged to submit to the particular attention of the said Court of appeals This witness by name Padmanabiah your Petitioner by their said attorney observed like many others was brought forward to support the Defence to the present action namely That the Goods in Question were mortgaged to the said Paucala Kistnama Naich to secure the repayment of the Several Sums of one thousand Pagodas and five hundred and forty Six Pagodas advanced by him to the ot deceased Paucala Ramasawmy naich in his life time and to that End he the said Padonanabiah deposed that he was a friend of Paucala Ramasawmy naichs deceased and well acquainted with his affairs That the said Paucala Ramasawmy naich borrowed in his life time from one Ramah naich the sum of one thousand Pagodas for which he executed his Bond and as a Collateral Security for the Payment thereof he mortgaged a Bond of the Company which Bond the witness Swore was procured from the said Paucala

Kistnama

Kistnama naich who required his son the said Paucala Ramasawmy naich to Ladge and Deposit certain Securities being part of the Goods now the object of Contention and this the witness sayd was done in Consideration that he the Appellant had pledged the said Companys Bond to Ramah Naich as a Security for and on account of his son the said Paucala Ramasawmy naich Such was the account given by the witness of the manner in which the Goods came to be mortgaged and which your Petitioners by their said Attorney prayed leave to Contrast with the ot Statement of the transaction given by the appellant ot himself upon Oath In his Answer to the Bill he sets out with stating that Paucala Ramasawmy naich being indebted to Ramah Naich on Bond in the Sum of One thousand Pagodas which he was unable to Discharge applied to him to pay it off and to procure an assignment thereof That in Compliance with this requisition the said Paucala Kistnama naich did discharge the said Bond and received an assignment thereof from the said Ramah naich And as a further Security to him for the said Bond so assigned The said Paucala Ramasawmy Naich did set over Pledge and deposit certain Goods and

property

property Consisting of Muslins Long cloths and Punjum cloths
Thus it appeared by the said Paucala Kistnama naichs own
Statement of the case that these Goods were mortgaged
after the Bond was discharged by him and assigned by the
said Rama Naich Whereas by the Witness Padmanabiahs
account of the transaction The Goods were mortgaged to the
said Paucala Kistnamah Naich at the time this Bond to o^r
Ramah naich was executed and not when it was paid off in
consequence of his supplying him with Companys Bonds This
pretended Mortgage Your Petitioners therefore observed was so
differently accounted for That on the face of their respective o^r
Statements It was evident that they had both Sworn falsely
The said Padmanabiah had also Sworn that the money for which
the Bond was granted was borrowed from the said Paucala o^r
Kistnamah naich about five or Six years before his death
Whereas by reference to the Bond which was an Exhibit in
the cause It was granted in the year One thousand Seven
hundred and Eighty nine and upon the face of the proceedings
It appeared that Paucala Ramasawmy naich died in the begining
of the Year One thousand Seven hundred and ninety so

that

that instead of five or Six years one had not elapsed And your
Petitioners by their said attorney further observed that from the
account Current annexed to their Rejainder in the suit pleaded
by the said Paucala Kistnama naich it would appear that the
said Bond was not an existing Debt at the time of the said
Paucala Ramasawmy naichs decease but that it was liquidated
therein as would appear by reference to the said account which
your Petitioners by their said attorney prayed might be taken
as part and parcell of their answer and your Petitioners by their
said attorney further said that from this circumstance they felt o^r
themselves warranted in supposing the said Paucala Kistnama
Naich to have got posession of the said Bond by Surreptitious
means- And for answer to the Seventh reason adduced by the
said Paucala Kistnama naich your Petitioners by their said attorney
.....
said that the Exception by him filed to the Interrogatories on the
part of your Petitioners being futile in their nature were conse
quently dis regarded by the said Mayors Court and thrown out
with Costs And for answer to the last reason adduced
on the part of the said Paucala Kistnama Naich wherein
the said Appellant had alledged that there was nothing o^r

before

before the said mayors Court to induce them to grant a Decree for as much as no demand had been proved either against the said Paucala Kistnama naick or the Estate of the said Paucala Ramasawmy naick your Petitioners by their said attorney for answer thereunto said that the said Paucala Kistnama naick had himself admitted that your Petitioner were judgment Creditors of the Estate of the said Paucala Ramasawmy naick and that an Execution had issued thereon which was returned Endorsed No Goods And as it was also in proof that the said Paucala Kistnama naick had by force and Violence possessed himself of Considerable property belonging to the Estate your Petitioners by their said attorney were consequently entitled to a personal Decree against him the said Paucala Kistna naick as well as the said Petty Tomby naick ~~as well as the said Petty Tomby naick~~ who by his Conduct had committed a Devastavit and thereby rendered himself personally answerable and with respect to the last Observation made by the said Paucala Kistnama naick namely that the said Petty Tomby naick not having been urged to answer that it was strong Prima facie Evidence of Collusion between your Petitioners and him your Petitioners by their said attorney for answer thereunto observed that the Decree of the said Mayors Court did not on the face of it contradict the very false assertion It appearing from the said Decree that an attachment had issued against the Defendant Petty Tomby naick for neglecting to answer the Bill of Complaint which circumstance was in itself the highest proof of every exertion having been made by your Petitioners thro their said attorney to compel the said Petty Tomby naick to answer by causing Process of attachment to issue against him instead of moving the Court for a Decree which upon the Expiration of the usual rules for answering your Petitioners by their said attorney would have been entitled to claim

And your Petitioners by their said attorney and assignee humbly shew unto your most Excellent majesty in Council that the Defendants said Petition and appeal and your Petitioners said answer came on to be heard before the said Court of appeals on the days February in the present year of Christ one thousand Seven hundred and ninety six, when the said Court of appeals instead of entering into the merits of the said suit and allowing the same to be fairly argued Did think fit to order & Decree That the said Decree of the Honble the Mayors Court dated

dated the Eleventh day of December in the year of Christ one thousand Seven hundred & ninety five should be reversed and that each party should pay their own Costs in both Courts Giving as their reason for so doing That the matter was between Natives who were (by the Charter restricted from) suing each other and that Letters of administration granted to a native of the Estate of a Native did in no wise alter the case as by the said Decree copy whereof is hereunto annexed relation being thereunto had will more fully and at large appear

By which said Decree of the said Court of Appeals your Petitioners humbly conceive they are much aggrieved and do therefore appeal therefrom to your most Excellent majesty in Council for the following amongst other reasons—

First..... Because The said Court in reversing the Decree of the said Mayors Court do seem to have acted under a misconstruction of the Charter or so much thereof as applies to the case of your Petitioners For although the said Charter does preclude Indian Natives Generally from bringing and maintaining Suit against others being native Indians yet there are certain cases excepted out of the said Charter as your Petitioners have shewn in their answer to the appeal of the said Paucala Kistnama naick from the Decree of the said Mayors Court And your Petitioners by their said attorney and assignee humbly submit to your most Excellent Majesty in Council That if the said Court of appeals had allowed the merits of the suit to be entered into and the subject matter to be fairly discussed instead of resting upon the Plea set up by the said Paucala Kistnama naick It would have clearly appeared that the said Paucala Kistnama naick ~~has wrongfully clearly appeared that the said Paucala Kistnama naick~~ had by his own acts subjected himself to the Jurisdiction of the said Court Inasmuch as your Petitioners by their said attorney & assignee conceive that the clause in the said Charter contained is in the Nature of a Privilege conferred which an Indian native may either directly or Indirectly waive and upon these principles your Petitioners by their said attorney submit to your most Excellent majesty in Council That if a native comes Voluntarely forward and applies to the said mayors Court in its ecclesiastical Capacity for Letters of Administration to the Estate of another native or for Probate of a Will under which he is named an Executor He assumes on another Character altogether For at his own prayer and particular instance a most Solemn duty is committed to him by the said Court and that under a most Sacred Oath that he will pay debts as far as the Estate will extend and the Law oblige him

By

By such act therefore it cannot but be understood that he gives an authority to the native creditors of his Intestate or Testator to sue him Inasmuch as it is Evident that this Exemption in favor of Natives at the time of framing the Charter could only be intended by the framers as a mark of regard to their own particular Laws and Customs by which it was supposed their grievances could be best decided But your Petitioners most humbly submit to your most Excellent majesty in Council whether it is reasonable to suppose that when a native to answer his own purposes Voluntarily abandons the rights which are so granted him and obtains peculiar priviledges from the British Laws That he shall not in such case be equally subject to their Coercion your Petitioners are therefore advised that the true construction to be placed on the said Clause Is that this exemption can no longer so operate than when their transactions are confined to themselves and that they do no act which can be considered as a Submission to the said Court and which submission or Consent of your Petitioners humbly conceive may either be direct or by implication as the Charter doth not say it that it shall be in writing.

Secondly. Because if a right is recognized in a native creditor to maintain an action for the recovery of his Debt against another native who applies for and obtains either Probate or Letters of administration from the said mayors Court and which in the principles aforesaid your Petitioners conceive to be the case In an equal degree must he become subject to the suit of a creditor who by undue means possesses himself of the property of the Estate and thereby becomes an Executor in his own wrong and herein your Petitioners by their said attorney humbly pray Leave to refer to the proceedings of this Suit in the Mayors Court and also in the proceedings of the Suit and Cross Suit brought by the said Petty Tomby naick and Paucala Kistnama naick as set forth stated and recited in your Petitioners answer to the appeal of the said Paucala Kistnama naick from the Decree of the said mayors Court and wherein it will appear that the said Paucala Kistnama naick has by the most unjustifiable means possessed himself of Considerable property belonging to the Estate of his deceased Son the said Paucala Ramasawmy naick which he now illegally withholds and detains and for a further illustration to the Subject your Petitioners by their said attorney humbly pray Leave to refer to their answer to the first Reason adduced by the said Paucala Kistnama naick as cause for appealing from the Decree of the said Mayors Court and wherein your Petitioners by their said attorney have

have in a narrow Compass brought together the Several facts which tend to shew that the said Paucala Kistnama naick has subjected himself to the coercion of the said Mayors Court and to the suit of your Petitioners by their said attorney and assignee in manner and form as the same is brought against him and your Petitioners by their said attorney humbly observe that to the suit instituted by Petty Tomby naick against the said Paucala Kistnama naick, and pleaded by him as being for the same matter upon which the present Suit is founded, that he does not attempt to plead the Clause in the said Charter respecting the right of the said Court to Hold Cognizance of Suits Between Indian natives But readily meets the action afterwards files a Cross Bill and then lays it dormant That he may plead them in bar to any Suit brought by a Creditor Thus it appears that the said Paucala Kistnama naick is ready to recognize the Jurisdiction of the said Mayors Court when it affords him the means of protecting him in his improper designs But when he is called to account by Creditors he sets up the Plea of want of Consent and alledges that he has by no act of his authorized the said Mayors Court to hold cognizance of the suit of your Petitioners your Petitioners therefore humbly Submit to your most Excellent Majesty in Council that the Arguments on that behalf adduced by the said Paucala Kistnama naick particularly in his first reason for appealing from the Decree of the said Mayors Court are inconsistent and unjust For where a person possesses himself by force and violence of property not his own as the said Paucala Kistnama naick has done that belonging to the Estate of his Son the said Paucala Ramasawmy naick It is not to be expected that he will ever give his Consent to be sued The question therefore is how far his acts have implicated him and under all the circumstances of the present Case your Petitioners by their said attorney and assignee humbly submit upon the Several reasons herein before setforth That the said Paucala Kistnama naick has clearly subjected himself to the Jurisdiction of the said mayors Court and to the particular Suit of your Petitioners by their said attorney and assignee as Judgment Creditors of the Estate of the said Paucala Ramasawmy naick.

Thirdly---Because the said Court of appeals have at all times considered the said mayors Court as having a right to grant Probates of wills and Letters of administration to the Estate of deceased natives and the said Court of appeals did receive appeals from the Decrees or decisions of the said Mayors Court in their ecclesiastical Capacity and did even

even acquiesce with or permit appeals to be made from the Decrees or Decisions which as a Court of appeals they pronounced thereon to your most Excellent majesty in Council Till within these few years past when it was taken into consideration by the said Mayors Court in its ecclesiastical Capacity whether under the Charter any appeal did regularly lay from Decrees or Decisions given in that capacity to that Court which was constituted as a Court of appeals merely in Decrees or Decisions passed by the Mayors Court in its Temporal Capacity and after such consideration being duly had did agree that such appeal did not lay either to the said Court of appeals nor to the Jurisdiction of your most Excellent majesty in Council To which opinion or decision of the said mayors Court in its ecclesiastical capacity the said Court of appeals did give a positive assent and acquiesence and in confirmation thereof did actually refuse to receive a Petition of appeal which was made to the said Court of appeals from a Decree or Decision of the said mayors Court in its ecclesiastical capacity since which period the said Court of appeals in ecclesiastical matters have not exercised any appellant Jurisdiction And your Petitioners by

by their said attorney and assignee thereupon humbly submit to your most Excellent majesty in Council That as the said Court of appeals do and always have recognized a right in the said mayors Court by the Charter to grant Letters of administration to the Estates of Natives administrators That it Seems extraordinary and highly inconsistent in the said Court of appeals determining that the said mayors Court shall not hold cognizance of the Suits of Creditors against such Administrators

Fourthly— Because the Decree of the said Court of appeals is further erroneous Inasmuch as in all Pleas to the Jurisdiction of a Court your Petitioners are advised the party pleading should setforth and mention some other competent Jurisdiction which the said Paucala Kistnama naick has not done for while he pleads that the said mayors Court are by the Charter precluded from taking Cognizance of Suits between Indian natives unless by mutual consent yet he has not averred or setforth that he has been ready to submit the matters in dispute to be tried by the Laws of the natives which he ought to have done And therefore your Petitioners by their

their said attorney and assignee Humbly submit That upon these principles the Plea of the said Paucala Kistnama naick is bad and ought to be over ruled And your Petitioners &c further Submit unto your most Excellent majesty in Council that if the said Paucala Kistnama naick could have derived any advantages under or by the said Plea That he did willingly and of his own accord forego them by answering fully and at large to all and every the allegations contained in your Petitioners said Bill of Complaint which said act your Petitioners are advised was a direct direleotion of the said Plea For at the same time that he the said &c Paucala Kistnama naick did deny that the said mayors Court had any authority or Jurisdiction over the matters &c setforth and contained in the Bill He the said Paucala Kistnama naick as Defendant did answer thereto and did join in a compete issue thereon—

Lastly — Because it appears from the Pleadings accompanying this appeal to your most Excellent Majesty in Council and to which your Petitioners by their said attorney and assignee Humbly pray a reference may be had That the said Paucala Kistnama naick has no lien upon the property &c of his son the said Paucala Ramasawmy naick as is untruly alledged but that he took possession thereof by force and violence and that in his attempts to establish a legal right to the said property he has evidently perjured himself and subborned others to do so And your Petitioners therefore &c Humbly Submit to your most Excellent Majesty in Council That the said Mayors Court in Decreeing the said Petty Tomby naick and the said Paucala Kistnama Naick should pay the amount for which your Petitioners had already obtained a Judgment out of their own &c Cockets in default of assetts were governed by principles of Strict Justice and Equity nor would any other Decree have answered the purposes of Justice as the Execution which issued on the Judgment obtained by your Petitioners &c against the Estate of the said Paucala Ramasawmy naick was returned Indorsed No Goods or Chattles to be found—

For all which reasons and such others as may be offered at the hearing your Petitioners by their said &c attorney

attorney and assignee most Humbly Pray That your most Excellent Majesty in Council will be Pleased to reverse the Decree of the said Court of appeals and affirm that Granted by the said Mayors Court in favr of your Petitioner with Costs and grant such other relief in the Premises as to your Most Excellent Majesty shall seem meet

[Signed] George Chalmers
Solicitor for appellant

Mayors

Mayors Court at Madraspatnam

Friday the 11th day of December Anno Domini 1795

Present

Benjamin Roebuck Esqre Mayor
William Webb Andrew Ross and
Richard Chase Aldermen

LS

Mayors Court

Between woodendeapulsi Moodelliar administrator with the will annexed of Conjeveram Rudrapah & Punamara Iyah Pillah by their attorney and assignee Madapaukum Vondarajah Moodelliar of Madras Inhabitant Complainant and Petty Tomby naick administrator of Paucala Ramasawmy Naick Deceased and Paucala Rastna Naick Defendants

This Cause coming on to be heard and debated this day in the presence of the attornies on both sides on reading the

the Complainants Bill with Copies of three Several Exhibits marked
A B and **C** annexed The Several Plea and answer of the Defen-
-dant Paucala Kistnama Naich The Replication with Copy of
an Account Current annexed the Seperate amended Rejoinder
The Interrogatories and Depositions on the part of the Complai-
-nant with one Exhibit annexed The Interrogatories and Deposi-
-tions on the part of the Defendant with one Exhibit annexed
The Extract from the minutes of Court of the 22d September
last The Proceedings in the Cause Petty Tomby Naich admini-
-strator of Paucala Ramasawmy Naich deceased &c&c Paucala
Kistnamah Naich &c &c contra **On Hearing** the Plead-
-dings made use of by the attornies and it appearing that
an attachment hath issued against the Defendant Petty
Tomby Naich for neglecting to answer the Complainants
Bill **This Court** doth think fit to order and Decree and
Doth accordingly order and Decree That the Defendants
Petty Tomby naich and Paucala Kistnamah naich
do pay unto the Complainant out of the Estate and Ef-
-fects of Paucala Ramasawmy naich deceased the full

and

and just Sum of Two thousand three hundred and nine Pags
and thirty three fanams (Pags 2309.33.) together with all such
Interest as now is, or shall hereafter become due thereon untill full
payment is made also all Costs of this Suit And in default
of assetts That they do pay the Amount Decreed out of their
own Pockets with Costs of Suit

Hour (Signed) G. E. Alston
Dy Jge

A True Copy
(Signed) George Chalmer
Sol for Appellant

Court

Court of Appeals at Madraspatnam } Friday the 19th of February Anno Domini 1796

Between Paucala Ristnama Naick one of the administrators of Paucala Ramasawmy Naick deceased — appellant

and Wordendiapah Moodelliar administrator with the will annexed of Conjeveram Roodrapah & Punamara Iyah Pillay by their attorney and afsignee Madapaukum Verdarajah Moodelliar of Madras Inhabitant Respondent —

This cause coming on this day to be heard and debated before this Court and the Court being of opinion that the matter is as Between two natives who are by the Charter restricted from Suing each other and that Letters of administration granted to a Native of the Estate of a Native does in no wise alter the case Doth think fit to order and Decree and doth accordingly order and Decree That the said Decree of the said Hon^ble the Mayors Court dated the 11th day of December Anno Domini 1795 be reversed and that each Party do pay their own costs in both Suits —

Thur /Signed/ J Webbe clk

True Copy
/Signed/ George Chalmer
Solicitor for appellant

To

To the Kings most Excellent Majesty in Council

Between Woodendeapah Moodeliar Administrator with the Will Annexed of the Estate and Effects of Conjeveram Rudrapah Moodeliar Deceased and Punamaroo Iyah Pillay by their attorney and Afsignee Madapakum Verdarayah Moodeliar Complainants and Petty Tomby Naick Administrator of Paukala Ristnama Naick Defendant

The answer of Paukala Ristnama Naicks one of the Defendants abovenamed to the Petition and Appeal of the abovenamed Complainants —

This Respondent admits that some time on or about the Second day of October which was in the year of Christ One thousand Seven hundred and ninety four the Petitioners by their said attorney and afsignee Madapakum Verdarajah Moodeliar did file and Exhibit their Bill of Complaint in this Honorable the Mayors Court at Madraspatnam against this Respondent

Filed in my Office the 13th April 1796
J Webbe clk

Respondent and Petty Tomby naick Administrator of Paucala Ramasaumy naick Deceasid: and this Respondent Admits that in the said Bill of Complaint the Petitioners by their said Attorney did amongst other things recite. That some time in the year of Christ one thousand Seven hundred and Ninety two they did file and exhibit their Bill of Complaint in the said Mayors Court against the said Petty Tomby naick Administrator of Paukala Ramasaumy naick Deceasid for the recovery of the Sum of One thousand Six hundred and sixty four Pagodas Current money of Madras being a Balance due upon a Bond or obligation which was duly Executed by the said Paukala Ramasaumy naick in his life time unto the said Conjeveram Roodrapah in his life time and to the said Iyah Pillay Jointly bearing date the tenth day of February which was in the year of Christ One thousand Seven hundred and ninety and conditioned for the Payment of One thousand three hundred Pagodas to run at Interest at the rate of Twelve per Cent per Annum and payable in three months that the said Bond or obligation together with the balance due thereon the Petitioners did assign over to their said

Attorney

Attorney Madapaukum Verdarajah Moodeliar and that the said Paukala Ramasaumy naick did depart this life Intestate some time on or about the Month of April which was in the year of Christ One thousand Seven hundred and ninety without having performed the condition of the said Bond or obligation or any part thereof that the said Petty Tomby naick also of Madras Inhabitant had obtained from the said Mayors Court in its Ecclesiastical Capacity Letters of Administration of all and Singular the Goods Chattles rights and Credits that were of the said Paucala Ramasaumy naick and thereby and by means thereof had possessed himself of the Estate of the said Paukala Ramasaumy naick to a considerable Amount and the Petitioners by their said Attorney did in and by their said Bill of Complaint charge that the said Petty Tomby naick as Administrator as aforesaid did stand Justly and truely Indebted unto them by their said Attorney in the Sum of One thousand and three hundred Pagodas the Amount Principal of the said Bond or Obligation executed

by

by his the said Petty Tomby naiks. Intestate as aforesaid together with the Sum of three hundred and sixty four Pagodas being the Interest due thereon that they had frequently and in an amicable manner applied to the said Petty Tomby Naick as Administrator as aforesaid and had requested that he would pay unto the Petitioners the said Sum of One thousand six hundred and sixty four Pagodas but that he did refuse to give to the Petitioners any manner of Satisfaction in the premisses and that to their said Bill of Complaint last mentioned the defendant Petty Tomby Naick did on the fourteenth Day of August in the year of Christ One thousand Seven hundred and ninety two Exhibit and file his Plea and Answer in the said Mayors Court and in and by his said Plea did state that there were certain informalities in the Petitioners said Bill of Complaint and did Plead the same in Bar thereto and by way of Answer did say he admitted that he was the Administrator of Paucala Ramasaumy Naick and that he believed his said Intestate did Execute the said Bond setforth in the Petitioners said Bill of Complaint but did by that

that he was not in possession of the whole of the Estate of the said Paukala Ramasaumy Naick or possessed of property in Houses Lands Goods or money belonging to such Estate to any considerable amount or at all so as to enable him to pay off the said Bond and that for the reasons in his said Plea setforth he did not conceive himself bound to pay unto the Petitioners by their said Attorney and Assignee or either of them the said Bond Debt had he the said Defendant Petty Tomby naick assetts which he did say he had not and this Respondent admits that the Petitioners by their said Attorney and Assignee did shew unto the said Mayors Court that to the Plea and Answer of the said Petty Tomby naick the Petitioners by their said Attorney and Assignee did file their Replication to which the said Defendant Petty Tomby naick did file a Genral Rejoinder and that thereupon issue did Join and Rules did pass for the Examination of Witnesses and that Witnesses were accordingly Examined on the part of the Petitioners and this Respondent admits the said Witnesses might have deposed in manner and form as is recited

recited and setforth by the Petitioner and this Respondent admits that Publication did thereafter pass and that the Cause was setdown for hearing and did accordingly come on to be heard by and before the said Mayors Court on the Sixteenth day of July which was in the year of Christ One thousand Seven hundred and ninety three and that the said Mayors Court might have Decreed in manner and form as is recited and Setforth by the Petitioners That no appeal having been lodged by the said Defendant Petty Tomby naick as Administrator as aforesaid the Petitioners might have obtained a Warrant of Execution from the said Mayors Court directed to the sheriff of Fort St. George Town of Madraspatnam and the Districts thereof to levy Payment from the Goods and Chattles belonging to the Estate of the said Paucala Ramasawmy naick that the said Petty Tomby naick administrator to the Estate and Effects of the said Paucala Ramasawmy naick might have pretended that this Respondent was in posfession of property belonging to the said Paucala Ramasawmy naick and that he had for that purpose filed a Bill of Complaint in the said Mayors Court against the Petitioner for the Sum of Four thousand three

three hundred and ninety one Pagodas and four fanams for and on Account of certain Goods pretended to belong to the said Estate and that this Respondent did file his Answer thereto and did therein so far from admitting himself to be indebted to the Estate of the said Paucala Ramasawmy naick charge him the said Petty Tomby naick as Administrator as aforesaid to be Indebted to him this Respondent Kistnamah naick in the Sum of three thousand four hundred and sixty Pagodas Seventeen fanams and Ten Cash and that this Respondent for the Recovery thereof did file his Cross Bill of Complaint against the said Petty Tomby naick and that the Petitioners might have pretended that the said Petty Tomby naick and this Respondent had confederated together in Order by collusive means to defraud the Petitioners and to prevent the Decree of the said Mayors Court in favor of the Petitioner from being Carried into Execution and that thereupon the Petitioners after Exhibiting the various Charges and Interrogatories as recited and setforth in and by the Petitioners said Petition and appeal might have

Prayed

Prayed that the said Petty Tomby Naick and this Respondent might be Decreed to pay unto the Petitioners by their said Attorney and Assignee the said Sum of Two thousand three hundred and nine Pagodas and thirty three fanams with all such Interest as then was or might thereafter become due thereon as also all Costs of Suit and this Respondent further answering admits that being Served with Process this Respondent and the said Petty Tomby Naick did appear by Seperate attornies and that the usual Rules prescribed by the said Mayors Court to answer the said Bill having Expired which the said Petty Tomby Naick neglected doing a warrant of Attachment did thereupon issue against him the said Petty Tomby Naick that this Respondent did file and Exhibit his Plea and Answer to the Petitioners said Bill and did therein and thereby first for Plea say that according to the shewing of the Petitioners by their said Attorney and assignee in their said Bill it did appear that administration of the Estate of Paucala Raimasawmy Naick Deceased in the said Bill mentioned had been granted by the said Mayors Court in its Ecclesiastical Capacity unto Petty Tomby Naick the other Defendant to the said

Bill

Bill and that the said Petty Tomby Naick as administrator of the said Paukala Ramasawmy Naick Deceased theretofore and before the said Complainants Exhibited their said Bill of Complaint in the said Mayors Court to wit on the Twenty third Day of november which was in the year of Christ One thousand Seven hundred and ninety one did Exhibit his Bill of Complaint in the said Mayors Court against this Respondent for the same matters and to the same Effect and for the like relief and purpose as against this Respondent the Petitioners by their said Attorney did by their present Bill set forth that to which said first Bill this Respondent did put in his Answer and did thereafter file his Cross Bill against the said Petty Tomby Naick Administrator as aforesaid and that the said former Bill and Cross Bill were still Depending in the said Mayors Court and that the said Cause was undetermined and that therefore this Respondent did plead the said former Suit in bar, and this Respondent admits that for further Plea he did Contend and allege that by a Royal Charter granted to the United Company of Merchants of England Trading to the East Indies by the

his late Majesty and bearing Date the Sixth day of January in the year of Christ One Thousand Seven hundred and fifty two It was amongst other things given and granted by his said Majesty to the said United Company and their Successors in the Words following that is to Say "We do "hereby ordain direct and appoint that the Mayor and "aldermen for the time being of Madraspatnam aforesaid "shall for ever hereafter be and they are hereby constituted a "Court of record by the name of the Mayors Court at Madras- "patnam and that they or any three or more of them "whereof the Mayor or the Senior Aldermen for the time "being then residing there to be one/ may and they are hereby "authorised to try hear and determine all Civil Suits "Actions and Pleas between party and party that shall "or may arise or happen or that have already arisen or "happened within the said Town of Madraspatnam or "within any of the Factories subject or subordinate unto "Fort St. George aforesaid or to the said Governor or President "and the Council of Fort St. George aforesaid/ except such "Suits or Actions shall be between the Indian natives of "Madraspatnam only in which Case we will that the same "same be Determined among themselves unless both "parties shall by Consent submit the same to the "Determination of the said Mayors Court" And this Respondent did state that the Petitioners by their said attorney and afsignee did not suggest in and by their said Bill of Complaint that this Respondent who was an Indian native of Madraspatnam did by consent submit the said Suit to the Determination of the said Mayors Court and that this Respondent did not by Consent Submit the same to the determination of the said Mayors Court and that the Petitioners were also Indian natives of Madraspatnam and under the exception of the said Charter not entitled to hold Plea or Suit as against him this Respondent and therefore this Respondent did Plead the said Charter in bar of the Discovery and relief Prayed by the Petitioners said Bill and Claimed the benefit thereof and this Respondent further Answering admits that by way of Answer to the residue of the Petitioners said Bill this Respondent did set forth and allege that he denied himself to be Indebted to the Estate of the Intestate of the Petitioners Woodendeapah Moodeliar to

to

to the other Petitioner Runnaroo Pyah Pillay either in the Sum of Two Thousand three hundred and nine Pagodas and thirty three fanams or in any other Sum or Sums of money whatsoever that he this Respondent could not be chargeable either in Law or Equity with the Demand of the Petitioners that this Respondent had Various Dealings and Transactions with Paukala Ramasawmy naick Deceased in his the said Paucala Ramasawmy naick's Lifetime that this Respondent had at different times lent to the said Paucala Ramasawmy naick divers and Several Sums of Money upon Bonds Notes and other Securities as also upon open Account and the said Paukala Ramasawmy naick Deceased being thus Indebted on a Bond or Written Obligation in the Penal Sum of two Thousand Star Pagodas conditioned for the Payment of One Thousand Star Pagodas unto one Ramanaick of Madras Inhabitant the obligu in the said Writing obligatory named and the said Paucala Ramasawmy naick being prefsed by the said Ramah naick for the satisfaction and Discharge of the said Sum of One Thousand Star Pagodas conditioned in the said Bond, and it not being then in the Power of the said Paucala Ramasawmy naick to Satisfy and liquidate the same he the said Paucala Ramasawmy

Ramasawmy naick did requise him this Respondent to Pay unto the said Ramanaick the Sum of One Thousand Star Pagodas conditioned in the said Bond and the Interest that had grown due thereon and procure an afsignment from the said Ramanaick of the said Bond or writing obligatory that at the requisition of the said Paukala Ramasawmy naick Deceased he this Respondent did pay unto the said Ramanaick the Sum of One Thousand Star Pagodas conditioned in and by the said Writing Obligatory together with Interest and the said Bond of the said Paucala Ramasawmy naick passed to this Respondent with an Indorsement thereon afsigning the Sum conditioned in the same to this Respondent and that for a further Security to him this Respondent the said Sum conditioned in the said Bond afsigned to this Respondent he the said Paucala Ramasawmy naick did set over Pledge and Deposit to and with this Respondent Certain Goods and Property belonging to him the said Paucala Ramasawmy naick consisting of the Articles and to the Value in the Petitioners said Petition of Appeal set forth

setforth and recited and this Respondent further Answering admits that he did in and by his said Answer state that shortly after the Deposit of the said Articles in the Hands and Posseſsion of this Respondent the said Paukala Ramasawmy Naick Departed this life and Administration of the Goods and Chattles Estate and Effects of the said Paucala Ramasawmy Naick was granted by the said Mayors Court in its Ecclesiastical Capacity unto the said Petty Tamby Naick in the Petitioners said Bill named that in and by Virtue of the said Letters of Administration to the said Petty Tamboo Naick granted he did Demand of him this Respondent an Account of all the Goods and Chattles and Property of and belonging to the Estate of the said Paucala Ramasawmy Naick which had come into his this Respondents Posseſsion previous or Subsequent to the Decease of the said Petty Tamby Naick's Intestate that this Respondent did Deliver unto the said Petty Tamby Naick an Account or Schedule of all such property as had come into the hands of him this Respondent of and belonging to the Estate and Effects of the said Deceased and did Acquaint the said Petty Tamby Naick Administrator as aforesaid of the Circumstance of the said Assignment to him this Respondent of the said Bond or Writing Obligatory passed by the said Paukala Ramasawmy Naick Deceased unto the said Ramanaick for the said Sum of One thousand Star Pagodas and of the Deposit of the said Articles of a Merchandize as a further security for the Payment of the same that the said Petty Tamboo Naick did take an Inventory of the Effects hold in by this Respondent of and belonging to the Estate of the said Intestate Paucala Ramasawmy Naick and did set up and write against the several Articles in the said Inventory contained the apparent Value and Price thereof and which said Inventory of part of the said Effects of the said Paucala Ramasawmy Naick Deceased as holden by him this Respondent together with the Valuation of the said Articles in the Inventory setforth the said Petty Tamby Naick did afterwards file and Exhibit in the said Mayors Court a Copy of which Inventory so taken by the said Petty Tamby Naick and the said Petty Tamboo Naicks Valuation of the said Articles in the said Inventory contained this Respondent did as asserted by the Petitioners annex to his said Answer and that this Respondent did in and

and by his said Answer further state that Several of the said Jewells in the said Schedule mentioned were truely and bonafide the property of this Respondent that the said Petty Tamboo naick did acknowledge at the time of making the said Inventory the said Several Jewells in the said Inventory to be his this Respondents Property and did Accordingly exclude the same from the said Inventory filed by the said Petty Tamboo naick as Administrator of the said Paukala Ramasawmy Naik in the said Mayors Court to wit on the twenty Second day of March in the year of Christ One thousand Seven hundred and ninety One altho the said Petty Tamby naick did thereafter think proper to charge the same against him this Respondent in the Schedule Marked -4 annexed to the said Petty Tamboo naicks Bill filed against him this Respondent on the Twenty third Day of November in the year of Christ One thousand Seven hundred and ninety One and he this Respondent did Submit to the Consideration of the said Mayors Court with how much right the said Petty Tamboo naick did so charge the said Jewells against him this Respondent after having filed the said Inventory on the twenty second day of november in

in the year one thousand Seven hundred and ninety one and this Respondent further answering admits that he did state that a short time after he had delivered unto the said Petty Tamboo naick the written account of the goods and property of the said Paucala Ramasawmy naick deceased he the said Petty Tamboo naick did borrow and receive of him this Respondent the Sum of five hundred and twenty six Pagodas and did confirm the Pledge holden by the Petitioner on the said Goods and Articles namely Two hundred and forty four pieces of Muslin Cloth Seventeen Course long Cloth and Two hundred and fifty Two pieces of Ramasawmy naick for securing the said one thousand Star Pagodas as above setforth and did moreover give and grant unto him this Respondent a further lien on Several other Articles at that time in the Possession of him this Respondent belonging to the Intestates Estate for the Additional Sum received by the said Petty Tamboo naick Administrator as aforesaid of Five hundred and Twenty six Pagodas and this Respondent admits he did

did Say notwithstanding the Premisses the said Petty Tomby naick in the year One Thousand Seven hundred and ninety one did file and Exhibit a Bill of Complaint against him this Respondent for the recovery of the Articles Specified and particularized in the Schedule Marked A. annexed to the Petitioners Bill and of three hundred and Eight Pagodas lent to him this Respondent by the said Petty Tomboo naick altho the said Sum of three hundred and eight Star Pagodas were paid to and received by this Respondent by and from the said Petty Tomboo naick on Account of the Premisses and altho the said Petty Tomboo naick did know the said Estate of the said Paucala Ramasawmy naick to be greatly Indebted unto him this Respondent and more Especially in the Principal Sums above Setforth of one thousand five hundred and Twenty six Pagodas with Current Interest thereupon that to the said Bill of Complaint this Respondent did as stated by the Petitioner file his Answer and did thereafter exhibit his Cross Bill against the said Petty Tomboo naick for the Amount due and owing to him this Respondent from the Estate of the said Paucala Ramasawmy naick and which said original and

and Cross Suit were depending in the said Mayors Court and that he this Respondent had still in his possession the Articles mentioned in the said Schedule annexed to his said Answer and which said Schedule was Drawn by the said Petty Tomby naick as a true and perfect Schedule of such Property as had come to the hands of him this Respondent with the reservation of the Jewells under the Circumstances Declared by this Respondent in his said Answer and this Respondent did further Say that with the reservation of the said Jewells he was and had always been ready to Deliver the said Articles in the said Schedule conditioned unto the said Petty Tomby naick Administrator as aforesaid or to any other Person or Persons legally Authorized to recive the same on the Payment of the said Sum of One Thousand Star Pagodas and of the further Sum of Five hundred and twenty six Pagodas with Interest thereupon for which the said Articles did Stand Hypothicated or Pledged to him this Respondent and this Respondent did deny the Suggestion of the Petitioner that he this Respondent had Acted

in

in a fraudulent and collusive manner in the Premisses or that he had Converted the Estate or any part thereof of the said Intestate to his own use and purposes but that the truth was as he had before setforth in his said Answer that he this Respondent Came by the Possession of the said Articles included in the said Inventory and Schedule Copy of which was annexed to this Respondents said Answer by and with the Consent of the said Paucala Ramasawmy na in his life time and of the said Petty Tomby naick as Administrator of the said Paucala Ramasawmy naick a Deceased in the way or manner mentioned in his said Answer and this Respondent admits that by way of further Answer to the Petitioners said Bill he did say that the said Deceased was the Son of him this Respondent but denies that he had any object in view in prevailing on the said Petty Tomby naick to administer the Estate of the said Deceased further than that the same might be duly and fairly Administered to all who had Interest or concern therein and the Burthen of the Administration whereof he this Respondent would have taken on himself with the permission of the said Mayors Court but from the deranged state of his this Respondents mind at that Season from the resent loss of so near a Branch of his family and this Respondent did further deny that he had any sinister view in Executing the said Written agreement to the Petitioners said Bill of Complaint annexed or that the said Agreement did bear on the face of it or authorise any construction unfair or unjustifiable conclusion against him this Respondent it being the formost provisions in the said Agreement to Satisfy the Demands of the Creditors to the said Intestates Estate and this Respondent further Answering denies the assertion of the Petitioners that he did partly answer the particular Interrogatories Exhibited by the Petitioners in and by their said Bill but on the contrary that this Respondent did as he was advised fully answer the same by stating that he was possessed of certain property belonging to the Estate of the said Paucala Ramasawmy naick Deceased to the amount as he this Respondent verily believed of Two thousand five hundred and ninety four Pagodas thirty three fanams or thereabouts being the value so near as he was able to compute and Estimate it of the several Articles Specified in the Schedule Marked A. Annexed to his this Respondents

Answer

answer and which said Articles this Respondent did say he had before explained were Subject and liable to the aforesaid Sum of One Thousand Star Pagodas on the Assignment of a written obligation from the said Ramah Naick and Subject further to the additional Sum of Five hundred and Twenty six Pagodas borrowed and received for the use and benefit of the Estate of the said Intestate by the said Petty Tomby naick and this Respondent did state that the said Articles Subject to the said Sum of one thousand five hundred and twenty Six Pagodas with Intirest thereupon were still in his Possession and had not in the whole or in part been converted to his use but were, and had been always ready to be delivered over to any person or persons legally authorised to receive the same on payment of the Sums for which the said Several articles did stand pledged to him and this Respondent admits he did further state that the said Petty Tomby Naick as administrator of the said Paucala Ramasawmy naick did some time in the year of Christ One Thousand Seven hundred and ninty one file and Exhibit against him this Respondent a Bill of Complaint in the said Mayors Court for

for the recovery of the Amount of the said Property but which said Amount he the said Petty Tomby naick in his said Bill and in the Account Current thereunto Annexed did much over rate and charge and that the goods mentioned in the Schedule Marked **A** annexed to the Petitioners said Bill did appear to him to compose the property which the said Petty Tomby naick had charged against this Respondent in his said Bill filed in the said year of Christ One Thousand Seven hundred and ninety one and that the whole of the said Articles in the said Schedule contained and mentioned were in the possession of this Respondent but this Respondent did deny that the whole of the said Articles were the property of the said Estate as the third Article in the said Schedule described namely one Gold Goolasoo or chain the fourth Article, one Ditto of Gold Emerald Jewels the fifth Article one Gold Moorooyoo or Earring Set with Emerald Stone the Sixth Article one Ditto Candasaram of Seven Puttu, and the Seven Article one Ditto one Mulhadoo or waist Band were as acknowledged by the said Petty Tomby naick at the time of his taking the Original Inventory of the Effects of the said Intestate the property of him this Respondent and

that

that the said Articles were excluded and not to be found in the Original Inventory of the Estate and Effects of the said Paucala Ramasawmy naick filed by the said Petty Tomby naick as Administrator thereof in the said Mayors Court on the Twenty Second Day of March in the year of Christ One Thousand Seven hundred and ninety one and this Respondent Admits that in his said answer to the Petitioners said Bill he did further say that he did not recollect Exactly to what extent the proceedings in the said Suit prefered by the said Petty Tomby naick against this Respondent were carried and borne but that the said Proceedings were matters of record in the said Mayors Court and therefore that the Petitioners might have better information therefrom than from the said Answer of him this Respondent that the said Suit had been Dormant for some time past and to the best of his this Respondents recollection for the Space of Two years or thereabouts and that he this Respondent had suffered the said Suit on his part and behalf to lay Dormant to avoid Expence which the Confused state of the said Estate held out little

Promise

Promise for the reimbursemint of in the event of his this Respondent being able to obtain a Decree against the Administrator thereof and which this Respondent said he had not Doubt of obtaining had he prosecuted it to its natural Conclusion and further that this Respondent was more induced to Suffer the said Suit to lay Dormant from the said Petty Tomby naicks Ceasing to trouble and harrass him in the prosecution of the Original Suit and this Respondent did further state that he had heard that the Petitioners by their said Attorney and afsignee had filed and Exhibited a Bill in the said Mayors Court against the said Petty Tomby naick as Administrator of the said Paucala Ramasawmy naick as in the said Bill of Complaint was Chargid and alleged and that he had heard the said Mayors Court did pafs a Decree in favor of the Petitioners but he did not know whether the said Decree had been satisfied either in full or in part and that he had further heard that an Execution did iffue out of the said Mayors Court upon such Decree and that the same was in the hands of the Sheriff for the Town of Madrafspatnam and the Districts thereof at and after the time of the Petitioners

Filing

Filing and Exhibiting their said Bill against him this Respon-
dent to wit untill the Seventh day of October then last past
when the said Sheriff did return the said Warrant of
Execution into the said Mayors Court with an Indorsement
on the same of "No Goods" which said Circumstances this
Respondent did Submit to the said Mayors Court did
mark and denote the character and credit of the Suit as
well as the disposition of the Petitioners towards him who
at the time of an active Execution obtained by the Petitioners
against another party for the same ground of Action did
file and Exhibit their said Bill against him this
Respondent who was wholly a Stranger to the Suit and
that in the Account Current to the said Bill of Complaint
annexed the Petitioners had added the Amount of the
Bill of Costs incurred in the prosecution of the third
Suit pending at the time of filing the said Bill against
him this Respondent as an Item of Charge due and owing
from him and the said Petty Tamby naick and this
Respondent did admit that he did enter into an Agreement
with the said Petty Tamby naick respecting the said
Estate of the said Paucala Ramasawmy naick Deceased

of

of the same Nature with the Agreement setforth in the
Exhibit C. to the Petitioners said Bill annexed and lastly
he this Respondent did deny all unlawfull Confideracy and
Combination with the said Petty Tamby naick Administrator
of Paucala Ramasawmy naick as charged against him by the
Petitioners in their said Bill and this Respondent admits
that to this Respondents said Plea and Answer the Petitioners
did Exhibit and file their Replication and therein and
thereby might have stated and setforth the Several matters
and things as have been recited and setforth by the
Petitioners in and by their said Petition of Appeal and that
to the Petitioners said Replication this Respondent did
Exhibit and file his Rejoinder and did therein and thereby
aver and state the Several matters and things as averred
and stated by this Respondent in and by his said Plea
and Answer and that the same might have been in
substance and form as the Petitioners have in and by their
said Petition of Appeal recited the same - and this
Respondent further answering Admits that upon the
aforesaid pleadings had issue did join in the said
Cause and Rules did pass for the Examination of Witnesses

and

and that Several Witnesses were Examined Accordingly on the part and behalf of the Petitioners and of this Respondent- and this Respondent admits that the Witnesses Examined on the part and behalf of the Petitioners and of this Respondent might severally have deposed in their respective behalf to the purport and in manner and form as setforth and recited by the Petitioners in and by their said Petition of Appeal- and this Respondent admits that after the Examination of the said Witnesses Publication did pass and that this Respondent did thereupon Exhibit and file Exceptions to the Interrogatories and additional Interrogatories Exhibited on the part of the Petitioners to Cundapah Moodelly Callaty Pillay Narrain Moodelly and Vellaydoo Moodelly and to the Depositions taken and made thereto on the behalf of the Petitioners as leading and Pray that the same might be suppressed and not allowed to be read as Evidence at the hearing - And this Respondent admits that to the said Exception the Petitioners did file their Answer and did therein pretend that the said Interrogatories were not leading or directing as was charged by this Respondent but that they did contain proper Questions respecting

respecting the matters in Issue and the facts to be established in the Caise between the Petitioners and this Respondent giving the Witnesses as the Petitioners did pretend an Opportunity to affirm deny or explain the matters required of them without any Attempt Design or intention to put words into their mouth and that thereupon the Petitioners might have Prayed that this Respondents said Exceptions might be Overruled with Costs - and this Respondent admits that the Petitioners by their Attorney at Law might have Prayed that the Original Suit and the Proceedings had thereon instituted by the said Petty Tomby Naick as Administrator of the said Paucala Ramasawmy Naick Deceased against this Respondent in the said Mayors Court together with the Cross Bill Exhibited also in the said Mayors Court by this Respondent against the said Petty Tomby Naick as Administrator as aforesaid and the Proceedings had thereon might form a part of the said Suit and be read at the final hearing of the Cause and that the said Prayer might accordingly have been granted by the said Mayors Court and this

Respondent

Respondent also admits that on this Proceedings aforesaid the said Cause was set down for hearing and the same did accordingly Came on to be heard by and before the said Mayors Court on the Eleventh day of December now last past and that the said Mayors Court did think fit to Order and Decree and did Accordingly Order and Decree that the Exceptions of this Respondent taken to the said Interrogatories Exhibited to the said Several Witnesses Examined in the said Cause on the part of the Petitioners and to the Depositions thereto taken should be over ruled and that the same were overruled Accordingly and that the said Mayors Court did moreover think fit to Order and Decree and did accordingly Order and Decree that the said Defendant Petty Tomby Naick and this Respondent should pay unto the Petitioners by their said Attorney out of the Estate and Effects of Paucala Ramasawmy Naick the Sum of Two thousand three hundred and nine Pagodas and thirty three fanams together with all such Interest as then was or should thereafter become due thereon untill full paymint was made also all Costs of Suit and indefault of Assets the said Court might have further Ordered the amount

Decreed

Decreed to be paid out of their own Pockets with Costs of Suit— And this Respondent further Answering admits that by which order and Decree of the said Mayors Court this Respondent conceiving himself greatly aggrieved he did lodge an Appeal therefrom to the Governor and Council of Fort St George and as Causes or reasons for appealing from the said Decree this Respondent admits he did state first that the said Decree of the said Mayors Court appeared to be made under a misconception of the Law or without a due Consideration of the Several matters impleaded by him this Respondent for as much as this Respondent was advised that the Plea by him pleaded of a former Suit Depending in the said Mayors Court between the said Petty Tomby Naick as Administrator of Paucala Ramasawmy Naick deceased and him this Respondent touching and regarding the same matters and things as were the objects of the said Suit instituted by the Petitioners by their said Attorney and Assignee against this Respondent was a plea founded in Law and ought to have had a weight and influence with the said

said Mayors Court in making the said Decree that he this Respondent had setforth in his said Plea that the Suit of the Petitioners by their said Attorney and Assignee of the said Petty Tomby naick was then Depending in the said Mayors Court and undetermined and that the said fact was afterwards admitted by the Petitioners in their said Replication and that it was admitted also by the Petitioners that the said Petty Tomby naick was the lawful Administrator of the Estate and Effects of the said Paucala Ramasawmy naick Deceased and further that the matters at issue belonged and related to the Estate of the said Paucala Ramasawmy naick Deceased this Respondent did therefore contend that the said Admissions of the Petitioners in their said Pleadings were sufficient to support and Establish the said Plea of this Respondent in as much as the property sued for was allowed to be the property of the said Estate and in as much as the persons prosecuting that property and who was allowed to have prosecuted that property in the former Suit had a legal right in the same as Administrator of the Estate and if the said Petty Tomby naick the Administrator of the said Estate had and has a legal right to Prosecute for that

property

property it followed as this Respondent was advised as a consequence that the Petitioners by their said Attorney and Assignee could have no right pending the said Suit so instituted by the said Administrator otherwise that absurdity would ensue that two Seperate and Distinct person would have two Seperate entire and equal rights in one and the same thing and at the same time, which could not be for there could not be two different and distinct Rights in different and distinct persons Co-equal and Co-existant as this Respondent alleged in his plea and this Respondent Admits he did further say he was advised that the Second plea pleaded by him this Respondent to the disability of the Petitioners by reason of the Operation of the Charter granted by his late Majesty in the persons of the Petitioners by this said Attorney and Assignee as particularly setforth in his this Respondents said Plea was Consonant and Conformable to Law and should have been regared by the said Mayors Court in the said Decree and which it did not appear to have been for that in his said

Plea

Plea he did set forth that by an Exception in the said Charter Indian natives were excepted generally from holding Suit against each other unless by mutual Consent and this Respondent did further allege in his said Plea that the Petitioner and himself were Indian natives and that as this Respondent did not submit the said Suit to the Determination of the said Mayors Court he did therefore contend the said Mayors Court had no Jurisdiction over the same for that the said Mayors Court was restricted by the said Charter pleaded by this Respondent in Entertaining Suits between Indian natives Except such as were Submitted to their Determination by mutual consent and that the act of the Petitioners by their Attorney in submitting their cause of Action to the said Mayors Court could not in any wise bind or affect him this Respondent and that he was advised that the Arguments used by the Petitioners in their said Replication by their said Attorney to the said Plea in respect to the Competency of native Indians being executors or Administrators to hold Suit in the said Mayors Court against Debtors to the respective Estates of their Testators or Intestates were founded on false premises and contrary to

to the letter and Spirit of the said Charter for that the Exceptions in their said charter contained were general Save in the Single instance where both parties should Consent to submit the Cause of action betwixt them to the Judgement and control of the said Mayors Court and that this Respondent was advised that the taking on himself or themselves the burthen of Executorship or Administration to a native Indian or Indians was a mere Voluntary act of the party or parties so taking on himself or themselves the said respective Burthens but this Respondent had Endeavoured to shew to the said Court that the act of one party could not oblige or bind another party who had no will or part therein and therefore this Respondent Contended that a native Indian although possessed of Probate or Letters of Administration stood in respect to a native Indian in the Contemplation of and from the Construction of the said Charter precisely in the same plight as he was before he obtained the said Probate or the said Letters from the said Mayors Court and if so this Respondent humbly Contended that the Conclusion was in favor of this Respondents said Plea Secondly this

Respondent

Respondent admits he did state that at the time that the Petitioners by their said Attorney and Assignee did Exhibit their said Bill in the said Mayors Court against the said Petty Tomby naick as administrator of the said Paucala Ramasawmy naick Deceased and this Respondent the Petitioners by their own Shewing in their said Bill had an actual and active Execution in the hands of the Sheriff of Madraspatnam against the said Petty Tomby naick in his said relative Capacity of Administrator to the Estate of the said Paucala Ramasawmy naick Deceased and for the same cause of action and this Respondent humably Contended that whilst the said Execution remained in the hands of the said Sheriff unreturned that the Petitioners on the case as made out for themselves in their said Bill had not and could not have had any Cause of action as against this Respondent for that the Petitioner having brought their action against the Administrator of the said Estate and for an Alleged Debt said to be due from the said Estate could not have had a right of Action of the nature with the said Cause prosecuted against this Respondent and the said Petty Tomby naick untill after the return of

of the said writ of Execution with an Indorsement of no goods therein or an Indorsement of a like purport for untill such return there would be a legal presumption that effects did exist in the hands of the said Petty Tomby naick of and belonging to the said Estate sufficient for the Discharge of the Demand of the Petitioners and this Respondent admits he humbly Contended notwithstanding the said Writ of Execution had been returned with the Indorsement of no goods after the filing or Exhibiting the said Bill by the Petitioners that it could not have supplied the substantial Original Defect namely the want of right at the commencement of the Suit and this Respondent did further state that he had set forth the said fact of the said Execution being in the hands of the said Sheriff at the time of filing the said Bill by the Petitioners by this said Attorney against him this Respondent and the said Petty Tomboo naick in the said several Plea and Answer to the Petitioners Bill and he was therefore entitled to every benefit derivable and to be derived from that Circumstance

Thirdly

Thirdly That the Action of the Petitioners by their said attorny and afsignee was for a Supposed treapafs and so far as it regardied this Respondent was in the nature of an Action of Traver and Anversion the Bill having been filed for the recovery of the Value of certain Effects Suggested to have been converted by this Respondent to his own use and this Respondent said he was advised That an Action of that nature could only be brought and maintained by thoas who had a right in and to the pofsefsion of the property Converted at the time of the Conversion of the same Except in Special Cases such as of Administrator and afsigns and this Respondent did further say that the whole body of the Evidence was introduced to shew that the Effects of the Estate of Paucala Ramasawmy naick Deceasid the Value of which was sued for by the Petitioners in their said Bill came after the Death of the said Paucala Ramasawmy naick into the hands of the said Petty Tomby naick the Administrator of the said Estate and therefore that not only right in the said Effects but the pofsefsion of the same according to the Statement of the Petitioners was at the time of the Conversion if the Conversion had been Established by the Petitioners in the

the said Petty Tomby naick the lawfull administrator and this Respondent did therefore in his said third reason contend that if it was true that in an action of Trover and conversion an absolute or Special right in and pofsefsion of the Property Sued for should be in the persons of the Complainants in such action that the Administrator alone here was and is entitled to bring Action if he had any cause of action touching the matters in Question and that this Respondent did further shew in his first Cause or reason that two seperate entire and distinct persons could not have two seperate and distinct rights in one and the same thing at the same time—

Fourthly because that the said Decree of the said Mayors Court or so much of the said Decree which Ordered that in default of afsetts that this Respondent and the said Petty Tomby naick should pay the Amount Decreed out of their own Pockets with Costs of Suit was contrary and repugnant to Law in as much as it was prescribed by Law that an Executor do Contest as well as a rightfull Executor and Administrator should only be so for Chargeable as Effects

should

shoulds have been proven to have come to his hands but the
said Decree required a Satisfaction of the whole of the demand
of the said Complainants with Interest and Costs of Suit
whether this Respondent should have assetts or otherwise
Fifthly because the said Decree of the said Mayors Court was
as contrary to equity as it appeared to be opposite to Law in
as much as this Respondent would not only be twice harrassed
and vexed on the same Ground but might be twice Subjected
to Damages on the same Account if the said Decree were
to have Effect for he had shewn that there was a Suit
pending against him in the said Mayors Court by the
lawfull Administrator of the Estate of the said Paucala
Ramasawmy naick for the same matters and things as
were sued for by the said Complainants in their said Bill
that it was a Maxim of Equity that no person should be
twice troubled for one Cause besides that the said Decree
of the said Mayors Court would tend to fix a prejudice in
the said Suit and Cross Suit pending in the said Mayors
Court before any evidence had been received thereto and
before matters were ripe for the decision of the said Mayors
Court which would be unjust in Principal and highly
detrimental

detrimental to the rights of him this Respondent Sixthly
this Respondent admits he did amongst other things
state that the said Mayors Court in their said Decree
did not appear to have given that Credit to the Evidence
produced on the part of this Respondent to which it was
entitled for that it was in proof before the said Mayors
Court from the Testimony of Ramah naick that he this
Respondent Discharged on Account of the said Paucala
Ramasawmy naick the Amount of the Bond by the
said Paucala Ramasawmy naick Deceased Executed
unto the said Ramah naick and did procure an assign-
ment thereof as appeared also in the face of the Bond so
assigned which was Exhibited in the said Mayors Court
and proved in the said Cause and which Circumstance
was also Corroborated by the Concurrent Testimony of the
several Witnesses on the part of him this Respondent that
it also was in proof by the Testimony of Chinganah Tegaroy
Sawmy moodelly and others that the said Paucala Ramasawmy
naick in his life time did set over Mortgage and pledge
to this Respondent the several Articles Mentioned in his
this Respondents Answer and Particularized in the
Schedule

Schedule filed therewith that it was further in proof by the Evidence of Teagaroy and others that after the mortgage of the said Articles to him this Respondent the said Poucala Ramasawmy naick did Promise to pay off the Amount for which they stood plidged - Seventhly Because that the said Exceptions taken by this Respondent to the Several Interrogatories and the Depositions taken thereto on the part of the Petitioners and for the reasons assigned by him in the said Exceptions were well founded in law and that ought to have prevailed with the said Mayors Court to the suppression of the Petitioners Evidence and that this Respondent did state he did appeal to the Court from the said Order of the said Mayors Court which over-ruled the said Exceptions - Lastly this Respondent admits amongst other thing he did state that the said Mayors Court had not any thing before them at the time of making the said Decree which should have induced them to Decree as it appeared by the Copy of the said Decree annexed that they had Decreed as against this Respondent for that the Petitioners had not established any matter in the said Cause which entitled them to any relief or redress as against this Respondent personally or in a pretended relation

relation as an Executor de Son tort and that he might have further stated in support thereof in manner and form as the Petitioners have in and by their Petition of Appeal Recited the same and this Respondent admits that thereupon For all which reasons and such others as might be offered at the Hearing this Respondent Prayed the said Court would be pleased to reverse the said Order and Decree of the said Mayors Court and grant unto him such relief in the Premisses as in their wisdom should seem meet - and this Respondent admits that to this Respondents said Petition of Appeal the Petitioners did put in their Answer and to the first reason assigned by this Respondent as cause of appeal the Petitioners did deny that the said Decree had been made under a misconception of the Law or without a due consideration of the several matters as unpleaded by this Respondent on the contrary the Petitioners by their said attorney did contend that the said Decree was founded in Law as well as in reason and Justice and the Petitioners by their said attorney for further Answer might have Prayed leave to observe that this Respondent in Order to entitle himself to the benefit of his first Plea To wit a former Suit depending for the same

same matters ought to have shewn that his Defence thereto was grounded on fair principles that there was no fraud in his part and that it was free from Collusion for if he could have done so the Petitioners by their said Attorney said they were ready to admit that neither the rules of Law or equity would permit a party acting thus fairly to be harrassed with a Double action but the contrary was the Case with this Respondent fraud Collusion and unfair dealing being manifest throughout the whole of the pleadings and the Petitioners by their said Attorney for further Answer might have stated that the Bill of Complaint in the Suit pleaded by the said Respondent was filed on the Twenty third day of November which was in the year One thousand Seven hundred and ninety one wherein the said Petty Tomby naick charged this Respondent with having possessed himself by force of a variety of Goods belonging to the Estate of his Intestate amounting altogether to the Sum of Four thousand three hundred and ninety one Pagodas four fanams which property he prayed might be Delivered up to him that in Answer to which this Respondent denied having taken the goods in Question and said that so far from

from being Indebted to the Estate of his Intestate that the Estate was largely Indebted to him and which in his Rejoinder he charged to be no less a Sum than three thousand four hundred and sixty one Pagodas for the recovery of which he filed a Cross Bill that an Answer was put in thereto since which period the said Suit and Cross Suit had been Dormant that it appeared from the Pleadings that the Petitioners were the only Judgement Creditors of the Estate of Poucala Ramasawmy naick of Course that they were by Law first entitled to have satisfaction from the assetts that the Execution which issued on their Decree remained a considerable time in the Sheriffs hands who was unable to levy any thing thereon the Administrator pretending that this Respondent had possessed himself of the whole of the property for which he had brought his Action and that being so situated there was no other alternative left them than instituting the Suit upon which the present Action is brought for at the time of filing the Bill the said Suit pleaded by this Respondent had already lain Dormant two years and the Petitioners by their said Attorney might have further said

said that since that period no attempt had been made either by this Respondent or the said Petty Tomby naick to bring the said Suit or Cross Suit to a hearing so that if this Respondents said Plea were to hold the Decree which the Petitioners by their said Attorny had obtained against the Estate of the said Paucala Ramasawmy Naick must in all likelehood remain for ever unsatisfied the reason therefore which this Respondent had introduced to support his Plea could not the Petitioners pretended be for a moment regarded in as much as it would Distroy the due operation of the Law subvert every principal of Justice and in respect to the second Plea this Respondent admits the Petitioners stated that the Clause in the said Charter contained respecting the Suits of Indian natives was in the nature of a previledge conferred which previledge Indian natives might at all times claim by adhering to a certain Rules of Conduct on the other hand they might either directly or indirectly waive this previledge that was to say an Indian Native might in writing give express permission to another to whom he owed a Sum of money to sue him in the said Mayors Court in case of his failing to make payment and so an Indian native might

might also indirectly waive is previledge by so doing in a Bond or any other chose in Action with a person liable to the Jurisdiction of the said Court and upon these Principles the Petitioners by their said Attorny conceived that when an Indian native applied to the said Mayors Court for Letters of Administration he voluntarily waved his previledge and Subjected himself to the Suit of every person who had claims on his Intestate the Bond which he Executed and the Oath which he took for the due performance of the trust reposed in him amounting to a Solemn renunciation thereof and the Petitioners by their said attorny and assignee submitted that if an Administrator who had by due and legal means obtained Letters of Administration becomes Subject to the Suit of a Creditor in an equal degree must he become liable who unduly possessed himself of the effects of a person and by such illigal Acts becomes an Executor in his own wrong and the Petitioners by their said Attorny for further Answer said that the interference of this Respondent respecting the Estate of the said Paucala Ramasawmy Naick was first shewn by the Agreement marked C copy whereof was to the Petitioners said

said Bill annexed whereby it was Settled and fully understood by and between the said parties that after performing certain Acts the Letters of Administration were to be made over to him. That this Interference was further Shewn in and by this Respondents Answer to the Bill of Complaint filed against him by Petty Tamboonaick wherein it appeared by his Answer that the Letters of Administration were never in the possession of the said Petty Tomby naick for that altho they were applied for by him yet that they were taken out by this Respondent who defrayed all the charges and that they were then in his possession and the Petitioners might further have pretended that the Subsequent acts of this Respondent respecting the Estate of the said Paucala Ramasawmy naick was of a highly Criminal nature and that this Respondent had acted with peculiar indecency and from his Conduct and interference therein had waved the previledge which he possessed under the charter and had Subjected himself to the Suits of the Creditors of the said Paucala Ramasawmy naick and for Answer to the second Reason adduced by this Respondent this

Respondent

Respondent admits the Petitioners did admit that at the time of Exhibiting their Bill of Complaint the Execution which they had obtained in their former Decree was in the Sheriffs hands. But that it was returned on the Seventh of the same month being the day prescribed for the appearance of this Respondent and the said Petty Tomby naick a fact which the Petitioner did pretend this Respondent had admitted and that the fact being admitted as to no good having been levied upon the said Execution that it was a Circumstance very immaterial whether the said Execution was returned before the Institution of the Suit or at the period mentioned in his said Answer only a few Days having intervened But that if this Respondent had or could have suffered any injury by such return he ought to have pointed it out and not in loose and Declamatory Words craved relief and benefit from a Circumstance from which he had suffered no wrong — To the third Reason adduced by this Respondent as Cause of Appeal this Respondent admits the Petitioners did Say that a person who illegally possessed himself of the Property of a Deceased person became liable to

the

the Suit of a Creditor if the rightful Executor or Administrator neglected to prosecute him to Judgement that on the present occasion if this Defendant Petty Tomby Naick had followed up the Suit which he had instituted against this Respondent there would have been no necessity for bringing the present Action because that the only object which the Petitioners had in view was the Satisfaction of that Judgement which they had obtained against the Estate of Paukala Ramasawmy Naick but it was evident from the whole of the proceedings that the said Petty Tomby Naick and this Respondent had as the Petitioners pretended confederated together to Defraud the Creditors of the said Paucala Ramasawmy Naick and that the said Suit and Cross Suit was one of the Collusive Arrangements which they had made in Order more effectually to keep the Property of the Estate in the possession of one or both of them and this Respondent admits that the Petitioners for Answer to the fourth reason adduced by this Respondent as Cause of Appeal might have denyed that the said Decree of Assetts directed that this Respondent and the said Petty Tomby Naick should satisfy the Amount out of their

their own Pockets was repugnant to Law on the contrary the Petitioners Contended that it was a fair just and equitable Decree for that altho this Respondent had alledged in his Answer to the present Bill of Complaint as well as that filed by Petty Tomby Naick that the Articles therein mentioned were over Valued yet it appeared from the Prices which he had affixed himself in the Schedule annexed to his Answer added to the Sum of three hundred and eight Pagodas admitted to have been received by him that he had more than sufficient property of the Estate of Paucala Ramasawmy Naick to discharge the Amount of the Decree obtained by the Petitioners thro' the said Attorney which so far from being oppressive was mild and lenient under the Circumstances of the Case in as much as this Respondent and the said Petty Tomby Naick were Directed to pay the Amount from the Estate and Effects of Paucala Ramasawmy Naick in the first Instance - and only out of their own Pockets in default of Assetts which could be no hardship when Assetts were as the Petitioners would insinuate - and this Respondent admits that the Petitioners in Answer to this Respondents fifth

reason

reason for Appeal did pretend the same was futile and that to this Respondents Sixth reason for Appeal the Petitioners might have amongst other things said that this Respondent so far from having made out a clear case apparant through out the whole of the Pleadings in the suits read at the hearing to be at continual Variance with himself and the Evidence so far from being unquestionable as this Respondent had averred was loose and Contradicting the Petitioners by their said Attorney might have stated that as the Ground work of the present Suit was the same as that on which the Action brought against the said Petitioners Tomby naick was founded that the defence set up to each Bill ought to have been equally so if this Respondent had a just and fair Defence to make but that they were so totally opposite that the one only Served to invalidate the other -

And this Respondent admits that this Respondents said Petition and Appeal and the Petitioners said Answer coming on to be heard before the said Court of Appeals on the nineteenth Day of February in the present year of Christ One thousand Seven hundred and ninety six the said Court of Appeals did think

think fit to Order and Decree that the said Decree of the said Mayors Court Dated the Eleventh day of December in the year One thousand Seven hundred and ninety five should be reversed and that each Party should pay their own Costs in both Courts - And this Respondent humbly Sheweth unto your Most Excellent Majesty in Council that the Decree of the said Court of Appeals is conformable to Law, and is Governed as appears on the face of the same by the Letter and Spirit of the Charter under which the said Court is constituted; and that the said Decree being so conformable to Law the said Petitioners has not as they have pretended been aggrieved thereby nor have they as they have also pretended any cause or reason to appeal therefrom to your most Excellent Majesty in Coinal -

And this Respondent in Answer to the first Cause or reason assigned by the said Petitioners in their said Petition and Appeal for appealing from the said Decree of the said Court of Appeals at Madras to your most Excellent Majesty in Council. Sixth - That he admits that the respective Clause in the said Charter to which the

Petitioners

Petitioners in their said first reason have referred in so much as it regards native Indians is qualified; but then this Respondent humbly submits to your most Excellent Majesty in Council, that it is qualified to a certain and known Extent: and that the Exception to the Genical restriction in the said Charter contained so far as it refers to native Indians as aforesaid, is single; operating only on the case where both parties shall by mutual Consent submit the Cause of Action to the Determination of the said Mayors Court at Madras-and this Respondent saith that there is nothing in the said first Cause or reason or in any of the Pleadings Exhibited in the said Cause contained to shew your most Excellent Majesty in Council that this Respondent had Submitted the said Cause of action if any did exist between the said Petitioners and this Respondent to the Jurisdiction and Determination of the said Mayors Court at Madras: but this Respondent humbly Sheweth unto your most Excellent Majesty in Council, that the said Plea of this Respondent to the Bill of Complaint of the said Petitioners doth Declare that this Respondent had not consented, and that he was unwilling to Consent that the said Cause of Action between the said Petitioners and this Respondent if any there were, should be submitted to the Determination of the said Mayors Court as aforesaid and therefore this Respondent humbly contends that by reason of the Premises the said Court of Appeals in reversing the said Decree of the said Mayors Court as argued by the said Petitioners do not seem to have acted under a misconstruction of the said Charter or so much thereof as applies to the case of the Petitioners but do appear in reversing the said Decree to have Consulted and to have been ruled by the true meaning intent and Spirit of the said Charter as it concerns and regards the said Petitioners and this Respondent in restraining the excess of Authority assumed by the said Mayors Court in attempting to hold Jurisdiction over the said Cause in contradiction to and disregard of the said restrective Clause in the said Charter contained;

And this Respondent humbly submits to your most Excellent Majesty in Council that the other reasoning contained in the said first Cause assigned, to wit, that the said clause in the said Charter was in the nature of a clause conferring a Privilege which the Person whom it was intended to benefit might renounce at

at will - and the Suppositions Cases first by the said Petitioners as illustrative of such his Potulate - tends to a point not disputed between the said Petitioners and this Respondent and from its Principle certainly not disputable - But although this Respondent is ready to admit that a privilege may voluntarily be waved by him for whose advantage it is introduced yet this Respondent humbly contends that it is equally as indisputable that such Privilege cannot be taken from the Person privileged but with his consent either expressly given or presumed by necessary implication. And this Respondent hath hereinbefore Shewn to your most Excellent Majesty in Council that if any thing in the nature of a Privilege had been conferred by the said Clause in the said Charter, that so far from this Respondent having Voluntarily Renounced the same that he had insisted on the said Clause as a good Plea and had impleaded the same to the said Bill of Complaint Exhibited in the said Mayors Court by the said Petitioners and had relied on the merits of his said Plea in his said Petition to the said Court of Appeals as aforesaid - and therefore this Respondent humbly Contends that the said other reasoning in the said first Cause or Reason Shewn doth not apply to the case of the said Petitioners as in relation to this Respondent -

This Respondent in Answer to the second cause or reason assigned by the said Petitioners for appealing from the said Court of Appeals as aforesaid to your most Excellent Majesty in Council Saith that the said Second Cause or Reason is raised for the most part on the Premises begged by the said Petitioners in the precedings Cause or reason which this Respondent in Answer to the said first Cause or reason hath Shewn to your most Excellent Majesty in Council to be altogether inapplicable to any matter at issue between this Respondent and the said Petitioners - and this Respondent Saith that should it be admitted Argumentatively, that a native Indian might maintain Action under the said Charter against another native Indian who under the Authority of the same had taken on himself the administration of the Estate of an Intestate; nothing as this Respondent is advised could be argued therefrom to Affect the case as Subsisting between this Respondent and the said Petitioners. For this Respondent humbly Sheweth unto your most Excellent Majesty in Council that he is not sued by the said Petitioners as Executor or Administrator of any Testate or Intestate Person Deceased. And this Respondent Saith that there is not

not any thing analagous in the Case of an Administrator lawfully constituted and an Executor in his own wrong as referable to Native Indians and as contended by the said Petitioners; and the Reasoning therefore of the said Petitioners from the supposed relation of the one to the other, is erroneous and fallacious. For this Respondent humbly Sheweth that a native Administrator if he be liable to the Action of a Native Indian becomes so liable by his own Act and Consent, to wit by his Application to the said Mayors Court for Letters of Administration and by his Oath that he will Administer the Estate committed to his Administration in such manner as the said Mayors Court prescribes to him at the time of granting him the said Letters of Administration, and which in all matters touching the said Estate so Committed to his hands by the said Court would seem to infer a Submission by him the said Administrator to the Jurisdiction of the said Court But an Executor in his own Wrong is a Trespasser ex mero motu, and does not become so by the creation or appointment of the said Mayors Court nor doth in any wise Submit himself by such tort to the Jurisdiction of the said Court so that though it should appear that a native Suitor might bring Suit and the said Mayors Court might entertain the same against a native Administrator duly appointed, the institution

institution of such Suit by such Native Suitor being a through Consent on his part to Submit his Cause of the Action to the Determination of the said Mayors Court and the said native administrator having submitted himself in so much as regards the Estate of his Testator or Intestate to the said Determination of the said Court by his Compact with the said Court to Administer the Estate committed to him in the manner and form prescribed - yet from the Premisses it would plainly result as an Executor hath not in any wise Submitted himself to the Determination of the said Court, that he could not be liable to the Suit of such native Suitor nor would the said Court have authority to exercise Jurisdiction over the same. The said Court having no Jurisdiction under the said Charter in respect to native Indians, as this Respondent is advised but in the sole Instance where the Cause of action is by mutual Consent Submitted to the Determination and Decision of the said Court - And this Respondent humbly Sheweth unto your most Excellent Majesty in Council that if there were any Analogy or Similitude in the two relation of Administrator and an Executor de son tort but which this Respondent denies yet it is no where apparent that this

Respondent

Respondent is an Executor of his own Wrong nor is he so in truth and in fact and so the same is humbly insisted on and shewn by this Respondent in the Pleadings Exhibited on his behalf in the progress of the said Cause and by the Evidence afterwards adduced to the Support and maintenance thereof –

And this Respondent humbly Submits to your most Excellent Majesty in Council that the further reasoning of the said Petitioners in their said Petition in the said second Cause or reason assigned Drawn from the said Suit instituted in the said Mayors Court against this Respondent by the said Petty Tomby naick is wholly foreign and impertinent to any matter as at Issue between this Respondent and the said Petitioners the said Petitioners not having shewn where a previleged Person hath in one instance waved his Privilege that he is in all Instances obliged to wave the same And this Respondent humbly contends that unless the said Petitioners had established clearly that the forgoing or waving a Privilege in a particular Case is a general forfeiture thereof that any reasoning deduced from the said Premisses of the said Suit so instituted by the said Petty Tomby naick cannot attach itself to the Cause in Question between the said

said Petitioners and this Respondent –

And this Respondent in Answer to the third Cause or Reason Assigned by the said Petitioners saith that although it should appear and by reason of the matters and things Setforth in the said third Cause or Reason assigned by the said Petitioners inconsistent in the said Court of Appeals to Determine if they have at any time so Determined that the said Mayors Court shall not hold Cognizance of the Suits of native Creditors as insisted on by the said Petitioners in their said Petition yet this Respondent humbly Submits that as he is not a Native Administrator and as he hath not been so charged that any Conclusions deduced from such Premisses cannot Intreat or Concern this Respondent to Answer unto other thing as aforesaid

And this Respondent in Answer to the fourth Cause or Reason Assigned by the said Petitioners, Saith, that the general Rule as referring to Pleas insisted on by the said Petitioners in the said fourth Cause or Reason so assigned by them is applicable merely to such Pleas as this Respondent is advised as are impleaded to Bills Exhibited in your Majesty's High Court of Chancery being one of the Superior Courts of General Jurisdiction and not to such Pleas as may be pleaded in a Court of a limited

limited and Local Jurisdiction as of said Mayors Court as aforesaid
But this Respondent humbly Sheweth to your most Excellent
Majesty in Council that the Plea so pleaded by this Respondent
in the said fourth Cause or Reason alluded to is to the
disability of the Persons of the said Petitioners the Complai=
nants in the said Mayors Court from the Operation of the
said Charter of his late Majesty and not to the Jurisdiction of
the said Court and therefore if the said Plea under the
Circumstances setforth by the said Petitioners in their said
last mentioned Cause or reason which this Respondent denies
had been unperfect and insufficient to the End and Effect
of a Plea to the Jurisdiction the same was and is good and
Sufficient to all and every legal Intent and purpose as to the
disability of the said Petitioners under the Exception of the said
Charter as recited and impleaded by this Respondent in his
said Plea. and this Respondent Saith that having pleaded the
said Clause of the said Charter of his late Majesty with certainty
and having Setforth the same he did not relinquish or abandon
his said Plea by having Answered to certain of the allegations
contained in the Petitioners said Bill as Contended for by the said
Petitioners inasmuch as this Respondent previous to Answering the
same

same did insist on the merits of the said Plea and did
Demand Judgement thereof and more especially as the said
Plea arose out of the said Charter under which the said
Court was Constituted and of which as this Respondent is advised
the said Mayors Court of necessity were bounden to take notice
even had this Respondent Omitted to plead the said matter
Specially and had ordinarily mentioned the same with the
other matters and things in the said Answer contained.-

And this Respondent in Answer to the
last Cause or reason assigned by the said Petitioners Saith that
so far from its appearing by the Pleadings in the said Cause
as contended by the said Petitioners that this Respondent
had and has not a lien on the property discribed in this Respondents
Answer to the said Petitioners Bill. that this Respondent
humbly contends that it will morefully and clearly appear
to your most Excellent Majesty in Council from a Perusal
of the said Pleadings that this Respondent hold and
has a good legal and bonafide Lien on the same and of
any Evidences adduced in the said Cause uncontradicted
and unquestionable if your most Excellent Majesty in
Council shall be pleased notwithstanding the said Pleas
of

of this Respondent to break and took into the merits of the said Cause and this Respondent of the Scandalous matter introduced by the said Petitioners in the said last Cause or Reason doth not deem it necessary to take further notice the purpose of the Introduction of the same being obvious then humbly to Suggest to your most Excellent Majesty in Council that the same may be Expunged with Costs –

For all which Reasons and such others as may be offered at the hearing this Respondent most humbly Prays that the said Petition and Appeal of the said Petitioners to your most Excellent Majesty in Council may stand Dismissed and that your most Excellent Majesty in Council will be pleased to Affirm the said Decree of the said Court of Appeals with Costs to be paid by the said Petitioners –

/ Signed / Emanuel Samuel
Solicitor for Respondent

To the Honorable Sir Charles Oakeley Baronet
President in Council
Fort St. George

In the Court of appeals
at Madraspatnam

Between Samuel Johnson and Richard Parks Executors of John Douglas deceased by their attorneys Josias Dupree Porcher Henry Readhead and Thomas Readhead Complainants and Vincentio Corbett and Hugh Boyd Defendant –

The Humble Petition and appeal of Vincentio Corbett one of the Defendants above named –

Sheweth

Filed in my Office the 13th March 1793 Charles N. White Clk

Your Petitioner Sheweth that Alexander Davidson late a Senior Merchant in the Service of the united Company of Merchants of England trading to the

the East Indies under their presidency of Fort Saint George aforesaid deceased did in his Life time that is to say &c on or about the ninth day of February which was in the year of our Lord One thousand Seven hundred and Ninety one as one of the Executors of the said John Douglas deceased by his attornies Thomas Chase Thomas Parry and Henry Swiel of Fort Saint George aforesaid &c Merchants Exhibit and file his Bill of Complaint in the Honourable the Mayors Court at Madraspatnam against your Petitioner and against Hugh Boyd also of Fort Saint George Merchant Thereby Settingforth &c That the said John Douglas did Depart this life some time in the year of our Lord one thousand Seven hundred and Eighty three having first duly made and published his last will and Testament and that he thereby nominated and appointed Charles Smith Richard Leatham Benjamin Wenthrop and the said Alexander Davidson Executors thereof that the said Charles Smith Richard Leatham and &c Benjamin Wenthrop not appearing to prove the said Will and take out probate thereof he the said Alexander Davidson did duly prove the same in the said Honourable Court in it capacity of Kings Ordinary and on the ninth day of December which was in the year of our Lord one thousand Seven hundred and Eighty three obtained probate and took upon himself the sole burthen of an Executor thereof and that he the said Alexander Davidson being obliged to leave Fort Saint George aforesaid did nominate Constitute and appoint your Petitioner and the said Hugh Boyd his attornies Jointly to act in the Management of the said Estate and further charging that your Petitioner and the said Hugh Boyd in Consequence of such the nomination and appointment of the said Alexander Davidson as &c aforesaid

aforesaid did enter upon the Management of the affairs of the said Estate of the said John Douglas deceased and did Recover and pay sundry sums of Money on account thereof and did do and perform other acts therein as the attornies of the said Alexander Davidson and further Charging that some time afterwards the said Alexander Davidson did revoke the powers to your Petitioner and the said Hugh Boyd Charged to be granted as aforesaid and in their place and stead did nominate Constitute and appoint the said Thomas Chase Thomas Parry and Henry Sewel his attornies for the management of the affairs of the said Estate of the said John Douglas Deceased and Charging that he the said Alexander Davidson did by his attornies The said Thomas Chase Thomas Parry and Henry Sewel Demand from your Petitioner and the said Hugh Boyd the property belonging to the said Estate of the said John Douglas deceased which had come into their Custody and possession as attornies aforesaid and

and to give an Account of all Receipts and Disbursements and how and in what manner the same had been made and Applied and what balance Remained in their hands and further Charging that your Petitioner and the said Hugh Boyd did thereupon Deliver unto the said Alexander Davidson said attornies the said Thomas Chase Thomas Parry and Henry Sewel an Account Current with the said Estate of the said John Douglas deceased Copy whereof he the said Alexander Davidson did as he alledged annex to his said Bill and that in and by the said alledged Account Current there Appeared as the said Complainant also Alledged a Balance of Cash in the hands of your Petitioner and the said Hugh Boyd Amounting to the Sum of Four thousand Nine hundred and thirty three Pagodas forty two fanams and Eight Cash and that the same being as the said Complainant alledged due with interest thereon from the thirtieth Day of the Month of October which was in the year of our Lord one thousand Seven hundred and Ninety the said Alexander Davidson did charge your petitioner and the said Hugh Boyd to stand indebted unto him as Executor aforesaid in the full and Just sum of Five thousand and Eighty one Pagodas Twenty two fanams

and

and fifty three Cash Current Money of Madras making in Sterling money of Great Britain the sum of Two Thousand and thirty two pounds fifteen shillings and five pence or thereabouts as appeared by the Copy of the said Alledged Account Current to his said Bill of Complaint Annexed and by him Referred to and your petitioner sheweth unto this Honourable Court that the said Alexander Davidson did in and by his said Bill further setforth that he had frequently and in a friendly manner applied to your Petitioner and the said Hugh Boyd to pay unto him the said Sum of Five thousand and Eighty one Pagodas Twenty two fanams and fifty three Cash and further and otherwise to Account with him for all and every such other Sum or sums of Money as they might have in their power Custody or possession and which might have so came to their power Custody or possession as the attornies of him the said Alexander Davidson and Also that your Petitioner and the said Hugh Boyd should deliver unto him all Bonds Notes Books and papers of every description and denomination as your Petitioner and the said Hugh Boyd might at any time have became possessed of as attornies aforesaid And your Petitioner sheweth unto this Honourable Court that the said Defendant Hugh Boyd did appear to the Complainants said

said Bill of Complaint and on or about the fifth day of april which was in the said year of our Lord one thousand Seven hundred and ninety one filed his separate answer thereto to which answer the said Alexander Davidson on or about the tenth day of May filed his Replication and the said Hugh Boyd having on or about the Seventh Day of June then following filed a Rejoinder Issue did Join thereon as by the said Several proceedings now of Record in the said Honourable the Mayors Court Reference Being thereunto had may morefully and at large Appear And your Petitioner sheweth unto this Honourable Court that afterwards to wit on or about the fourth day of September in the year of our Lord one thousand Seven hundred and Ninety two the said Samuel Johnson and Richard Parkes did as Executors of the last will of the said John Douglas Deceased by their attornies the said Josias Dupre Porcher Henry Readhead and Thomas Readhead exhibit and file their Bill of Complaint against your Petitioner and the said Defendant Hugh Boyd stating the several matters and things herein before setforth and that they the said Samuel Johnston and Richard Parkes the other Executors named in the last Will and Testament of the said John Douglas deceased by reason of their being in England as they alledged at the time of the

decease

decease of the said John Douglas and thereby them unable
to come in and appear with the said Alexander Davidson
and take out probate thereof did not act in Conjunction with
the said Alexander Davidson deceased or take upon
themselves the burthen and Execution of the will of the
said John Douglas deceased and that upon the proving
of the said Will of the said John Douglas deceasd
by the said Alexander Davidson as aforesaid he the said
Alexander Davidson did procure the said will to be
sent to the Complainants who did thereupon duly Exhibit
the same in the Prerogative Court of the archbishop of
Canterbury and on or about the Twenty first Day of March
in the present year of Our Lord one thousand Seven hundred
and Ninety two obtained an Exemplification thereof under
the seal of the said Court and further Charging that
thereby and by reason thereof the administration of all and
singular the Goods and Chattles of the said John Douglas
deceasd being Committed unto them they were by reason thereof
well and truly entitled to administer the same And that
by reason of the death of the said Alexander Davidson the
late acting Executor of their said Testator the said suit had
become abated as aforesaid And your Petitioner sheweth
that the said Complainant did by their said Bill of

Bruiser

5 7 3

Bruiser therefore pray that the said suit and all
proceedings thereon might stand and to recieved against
your Petitioner and the said Hugh Boyd and that the
same might be put in the like state and Condition
as the same were in at the time they so became abated
and that your petitioner might answer the premises
and your Petitioner sheweth unto this Honourable
Court that he accordingly by his Attorney at Law appeared
to the said Bill of Bruiser and that the said Mayors Court
did afterwards to wit on the fifth day of March in the
present year of our Lord one thousand Seven hundred
and ninety three Order and Decree That your Petitioner
should pay unto the Complainants the full sum of Five thousand
and Eighty one Pagodas forty two fanams and fifty three Cash
with all such Interest as there was or should thereafter become
due thereon until full payment should be made as also all
Costs of the said Suit and your Petitioner sheweth that the
said Suit as to the said Defendant Hugh Boyd is still
remaining and undetermined in the said Mayors Court
as by the Extracts of the Minutes of the said Mayors Court
at Madraspatnam duly attested by the proper officer and which
are hereunto annexed Relation being thereunto had will
more fully appear From which said Decree of the said

Mayors

Mayors Court your Petitioner appeals to this Honourable Court of Appeals as he conceives the same to be erroneous and that he is much aggrieved thereby for the following amongst other reasons

Because that the said Mayors Court should not have passed or given a Decree against your petitioner in the said Cause but should have Ordered the same to have stood over as against your petitioner until the said Cause should have Come on to be heard upon the pleadings and proofs against the said Defendant Hugh Boyd Whereas your Petitioner sheweth that the said Mayors Court have by their said Decree Subjected your Petitioner and his goods and Chattles to an Execution at the Suit of the said Complainants altho the said Complainants Bill of Complaint may upon the hearing thereof be dismissed upon the merits and your Petitioner sheweth unto this Honourable Court that the said Decree so granted by the said Mayors Court against your Petitioner is further irregular and illegal in as much as it is an Absolute Decree in the first Instance whereas if the said Court Could in that stage of the said Cause have passed any Decree against your Petr. it should have been a Decree to an Account—

For all which reasons and such others as may be offered at the hearing of this appeal your Petitioner pray that the said Decree of the Mayors Court may be reversed with Costs to be paid by the said Complainants— (Signed) John White Solr for the Petitioner—

Extract

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 27th day of September Anno Domini 1791

Present

Josias Du Pre Porcher Esqr Mayor

William Webb and Andrew Ross

Aldermen

Alexander Davidson Executor of John Duglas Deceased by his Attornies Thomas Chase Thomas Parry and Henry Sewell

vers

Vincentio Corbett and Hugh Boyd

The Attorney for the Complainant acquaints the Court that the Summons prayed for against the Defendant Vincentio Corbett did not issue and prays that it may now issue Ordered Accordingly Further Day is given the parties Complainant and the Defendant Hugh Boyd 'till the 4th October next to Examine Witnesses

A True Extract

(Signed) George Taylor Regr

Extract

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 5th day of March Anno Domini 1793

Present

John Mitford Esqr Mayor

Josias Dupre Porcher and James Daly

Aldermen

Mr Alderman Porcher being interested goes off the Bench and Mr Alderman Cockburn takes his Seat upon the Bench

Samuel Johnson and Richard Parks Executors of John Douglas Deceased by their Attornies Josias Dupre Porcher Henry Readhead & Thomas Readhead —

vers

Vincentio Corbett and Hugh Boyd

The Attorney for the Complainants produces to the Court a Certificate from the Register Setting forth that the usual Rules have issued for the Defendant Vincentio Corbett to Answer the Complainants Bill which he has Neglected Doing He therefore prays that a Decree may now pass Bill Read —

It Appearing by the Records of this Court that the usual Rules have issued for the Defendant Vincentio Corbett 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 Vincentio Corbett do pay unto the Complainants the full and Just Sum of Five thousand and Eighty one Pagodas Forty two fanams and fifty three Cash Pags 5081.42.53 together with all such Interest as now is or shall hereafter become due thereon untill full Payment is made also all Costs of this Suit —

A true Extract

[Signed] George Taylor Regr

To

To the Honourable Sir Charles Pakeley Baronet
President in Council Fort Saint George —

In the Honourable
the Court of Appeals

Between Samuel Johnson and Richard
Parks Executors of John Douglas deceased
by their Attorneis Josias Dupre Porcher
Henry Readhead and Thomas Readhead
Complainants and Vincentio Corbett
and Hugh Boyd Defendants —

The Answer of the above named Complainants
to the petition and Appeal of Vincentio Corbett one of
the Defendants above named —

This Respondents admit that
Alexander Davidson in the petitioners petition of appeal
named did in his life time and on or about the time in the
Petitioners petition of appeal setforth and in manner
and form therein mentioned Exhibit and file his Bill of
Complaint in the Mayors Court against the petitioner and against
the above named Hugh Boyd and amongst other things did
setforth the several matters and things recited in and by the
petitioners said petition of appeal and these Respondents
admit that the said Hugh Boyd did appear to the said Bill
of Complaint and that he did on or about

Filed in my office
the 8th April 1793
Chas N. White
Clk

The

the time by the petitioner in his said petition of appeal
for that purpose mentioned file his seperate Answer
thereto and that upon other proceedings had as in the petitioners
said petition of appeal mentioned issue did join and this
Respondent admits that afterwards and on or about the time
in the petitioners said petition of appeal for that purpose
setforth these Respondents did as Executors of the last Will
and Testament of the said John Douglas by their attorneis
the above named Josias Dupre Porcher Henry Readhead
and Thomas Readhead file a Bill of Review and not of
Complaint as Erroneously stated in the petitioners said
Petition of appeal against the petitioner and the said Hugh
Boyd to the intent and purpose as in the Petitioners said
petition of appeal the same is stated and these Respondents
admit that the Petitioners did on or about the time in the
Petitioners said Petition of appeal for that purpose setforth
appear to the said Bill of Review and say that the said cause
did thereupon stand revived and they admit that the said
Mayors Court did afterwards on the fifth day of March
in the present year of our Lord Decree as in and by
the Petitioners said petition of appeal the same is particu-
larly setforth But these Respondents do not admit that

thereby

thereby or by Reason thereof the Petitioner is thereby aggrieved or that he hath any Cause of Appeal therefrom and these Respondents say that the Reason offered by the Petitioner as the ground of their Appeal are altogether Vague and nugatory for these Respondents say that at the time the Bill of Complaint was filed in the said Mayors Court against the Petitioner and the said Hugh Boyd the Petitioner was not within the Jurisdiction of the said Mayors Court so as to be served with the process thereof to Appear to and answer the said Bill of Complaint and that afterwards on his Coming within the Jurisdiction of the said Mayors Court and being served with the process thereof he did appear to the said Bill of Complaint but that although the greatest indulgence was granted to them and several Rules for answering were given yet he did neglect to put in any answer to the said Bill of Complaint and therefore these Respondents did pray that he might be decreed and the said Mayors Court did accordingly decree as in the Petitioners said petition of appeal the same is particularly setforth and further these Respondents humbly submit to this Honourable Court that although the said Bill of Complaint as the petitioner suggests should be Dismissed at the hearing as to the said Hugh Boyd it could be so Dismissed only upon such matters and things as he the

he the said Hugh Boyd may bring forward and in that Case it could only stand dismissed as to the said Hugh Boyd and which could not nor can possibly Effect the petitioner against whom the Bill was read previous to the Decree awarded by the said Mayors Court as aforesaid —

And these Respondents also admit that it was not necessary for the said Mayors Court to Decree the petitioner to Account as he would insinuate in and by his said petition of appeal because these Respondents shew that the said Bill of Complaint is brought upon a stated Account made up by the said petitioner and the said Hugh Boyd and that the Decree of the said Mayors Court is Correspondent therewith and therefore and as the Petitioner did not make any manner of Objection to the said Decree at the time that the same was prayed by these Respondents and as he has not prayed for any time to put in his answer to the said Bill of Complaint and for other Reasons that may be offered at the hearing These Respondents pray that the Petitioners said Petition of appeal may be Dismissed with Costs and that the Decree of the said Mayors Court may stand affirmed —

/ Signed / James Stewart Hall
Solicitor for Respondents

Court

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Court of Appeals
Madraspatnam } Friday the 19th day of February
Anno Domini 1796

Between Vincentio Corbett of Fort St George Merchant Appellant and Samuel Johnson of Upper Hasley Street Cavendish Square in the Country of Middlesex and Richard Parks the only Acting Executors of the last will and Testament of John Douglas late of Fort St George Deceased by their attorneis Josias Du Pre Porcher Henry Readhead and Thomas Readhead of Fort St George Merchants Respondents

The Attorney for the Appellant moves for leave to with Draw his appeal on payment of Costs and the attorney for the Respondent having Consented thereto

Ordered Accordingly

By Cur
[Signed] J. Webbe
Clk