

Law (1921) Department.

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Provisional SERIES.

G.O. No. 1780

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[Despatch Abstract.]

Tanjore Maharaja Sarafuji's Saraswathi Mahal Library -
authorisation - Honorary Secretary - grant of certified
copies - declined.

No.	Department.	Date.	G.O.

FURTHER PA

No.	Department.	Date.	G.O.

செப்பனூபவர் பெயர்
14/10/1916

செப்பனூபவருக்காக எடுத்துக்
கொள்ளப்பட்ட நாள்
10/10/1916

செப்பனூபு முடிந்த நாள்

சாப்பாடுக்கு
முகத். பா. எ.
இதேபடி



1248/1916

13/10/1916

303520 (J)
10-1-19

14/10/1916



R. C. No. 175 //1921-22. Tanjore. 23rd Nov. 1921.

Enc. Two.
From

M. R. Ry. T. SAMBAMURTHI ROW AM., B.A., B.L.,
Honorary Secretary to the Tanjore Maharaja Serfoji's
Saraswathi Mahal Library Committee, Tanjore.

To

The Secretary to the Government of Madras,
Law (Education) Department, Fort St. George,
Madras

Sir,

I have the honour to request you will be so
good as to obtain the sanction of the Government at an
early date for the authorisation sought by the Admini-
strative Committee of this library in their resolution,
copy of which is enclosed. Vide Enclosure No.1.

2

In July last I received a summons from the
Subordinate Judge of Chingleput issued at the instance
of the Respondent in E.P. 4 of 20 / C.S.2 of 16 for
the production of two Sanskrit Manuscripts of one of
which alone there is a single copy in this library.
As the Rules of this library forbid the removal of any
book or manuscript from it, I wrote to the Sub-Judge
to say that I had no power to produce the manuscript
and at the same time suggested to him that he might
direct the party requiring its production to apply to
me and obtain a copy of the manuscript. A copy of my
reply to the Subordinate Judge is enclosed herein.
Vide enclosure No.2. In the meanwhile I sought the
advice of the Curator of the Government Oriental Manu-
script Library, Madras and I understand from him that



(G)

already

he

he has been duly authorised by the Government to issue authenticated copies of manuscripts in similar cases.

I have the honour to be,

Sir,

Your most obedient servant,

D. Sambamurthi

Hony. Secretary,
T.M.S.S.L. Library Committee.

3

(3)

Enclosure No.1.

Proceedings of the meeting of the Administrative Committee of the Tanjore Maharaja Sarfoji's Saraswathi Mahal Library, Tanjore, held on Saturday the 19th November 1921.

Present.

1. E. Pakenham Walsh Esq., J.C.S., Dt. Judge.
2. M.R. Py., P.R. Natesa Ayyar Avl., P.A., P.L.,
3. D. Sambamurthi Pow, Avl., P.A., P.L.,

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XXXX

XXXX

4. Resolved that in view of the fact, that there are numerous manuscripts in this library in Sanskrit and other languages, of many of which there is only a single copy and that a complete catalogue of all the manuscripts and books herein is yet pending preparation, the Government be requested to authorise the Honorary Secretary of the Administrative Committee of this library to grant authenticated copies of manuscripts to parties desiring to produce them as evidence in Courts of law, provided that all the charges incidental thereto are met by the party applying for the copies. The committee is of opinion that the authorisation sought is necessary in the interests of the reading public and scholars in general and of this library in particular, as such authorisation would avoid the obvious risk of losing the manuscripts when produced in Courts where they will have to remain for long periods pending trial in the original and appellate courts. The committee understand that the Curator of the Government Oriental Manuscripts Library at Madras has been granted similar authorisation.

Vii Vide G.O. No. 1248, Home (Education) dated 24th November 1916.

(G)

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(True Copy) Sd. E. Pakenham Walsh,
Chairman.

D. Sambamurthi
Hony. Secretary.

4 4 / 4
Enclosure. No.2.

Copy of my reply to the Subordinate Judge, Chengleput
Recd 18/11/21 dated 2nd August 1921.

I have the honour to state that I am in receipt of your summons in original Suit 2 of 1916, E.P. 4/20 asking me to produce on behalf of the respondent two manuscripts mentioned below from the Tanjore Maharaja Sarfoji's Sarasvathi Mahal Library.

1. Padma Sankhita.
2. Jayakhya Sankhita.

The former is available in this library but the latter is not.

The library is in the sole charge of a Committee appointed by Government consisting of the Collector, the District Judge and three others including myself as the Secretary.

I have no authority to produce any manuscript without the special orders of the Committee as per Rules published in

Go. 327 (A) 15-1-22
Notification No.5 dated 10th January 1919 published at page 15 of Part I-B of the Fort St. George Gazette dated 14th

Go. 327 (A) 15-3-22
January 1919 and in notification No.58 dated 15th March 1920 published at pages 189 and 190 of Part I B of the said Gazette dated 15th March 1920.

I may be permitted to suggest that the party who has called for the production of the manuscripts might be directed to apply to me for a copy of the available manuscript and that the production of the original manuscript may be dispensed with.

(True copy)

J. Sambanthir
dy

(5) D
Law (Edu) Dept

M/400-C No. 3557 B. From the Honorary Secretary
T.M. S.S. M. Library R.C. No. 175/1921-22
D. 21-11-22

Subject: Production of certain M.S.s. -
Courts

(5)

US Government Library
(para 2 of)
G.O. 1245 Home (Edu) D. 20-11-18,
The Govt. permitted the Curator of G.O.
M.S. Library, to grant to courts auth-
enticated copies of the records in the
library provided that the charges
incidental thereto are met by the
parties concerned. In the circumstances
stated by the Secretary Tanjore Library
in para 2 of his letter, similar per-
mission may ^{also} be granted to him
if this is approved. A draft order is
submitted. It may be noted that the
con currence of Law (G.O.) Dept.

PICF

The Tanjore library is not
a Govt. institution. ~~It is~~
It is a public library under
a committee. The control of
foot. over it is derived from
the scheme sanctioned & published.
Does this factor affect the question

LD
25/11/21

LD
15-11-21

authorisation proposed? Please
Examine further.

OK
16.11.11

The Tanjore Palace Library is
vested in the Treasurer of Charitable
Endowments. The administration of
the movable property is vested in a
committee of five members, viz,

- (a) The Collr of Tanjore for the time being,
- (b) The Dist Sessions Judge Tanjore for the time being,
- (c) An adult member of the Royal family
to be nominated by the Govt of Madras,
- (d) A non-official Hindu Resident of the Tanjore
dt. to be nominated by the Govt of Madras
who is the Secretary to the Committee, and
- (e) a non-official Hindu Resident of the Tanjore
dt. nominated by (c).

The nominations (c) (d) (e) ^{above} ~~are~~
published by the Govt in the Fort St
George Gazette under clause (f) of the
scheme for the administration of
the property.

From the above it will appear
that ^{though} the library is not a Govt
institution, its administration
is conducted mostly by officers
of Govt and persons nominated

p. 15 of G.O. 1306
5.10.18
(K)

Notified at (J) in
G.O. No. 3520n -
10.1.19.

cf. G.O. 1501 E (F)
26.4.18

by the Govt. The Committee can make
rules not inconsistent with any of
the provisions of the scheme, but
these rules cannot come into force
until they are published by the Govt
in the Fort St George Gazette.
Thus nothing can be done by the
Committee without the cognizance
of the Govt.

2. The library contains a large
collection of old books and ^{rare} manuscripts
and is open to the public for
reference. Of course the sanction
of Govt ^{may} not ^{be} strictly speaking ~~be~~
necessary for the grant of ^{authenticated} copies of
the records in the library, but since the
Secretary to the Committee has not been specifically
empowered under the scheme or
under the rules framed thereunder
by the Committee, it would seem
desirable that to accord sanction
Govt to ~~the~~ grant of authenticated
copies to the Secretary in order to avoid
the obvious risks of losing rare MSS
when produced in Courts where they will
be badly handled and will have to remain
for long periods.

TH The above misses my point.
29.11.11

of the Indian Evidence Act). Documents which cannot be removed without great public inconvenience are within the meaning of "not easily moveable"-(vide p.157 of Cunningham's Evidence Act, 9th edition). But such copies have not the value of certified copies assigned in section 77 and their accuracy must be proved by other satisfactory proof as by calling the person or persons who made the copy. I see no objection to the Honorary Secretary being permitted to give 'examined copies' of manuscripts in his custody.

Muhammad Zafar
Assistant Secretary
Law (Legislative) Department
3rd December 1921.

Transferred to Law (Evidence)

Law (Evidence) Dept

The draft as amended is for appl.

5/12/21

Please refer to Cunningham's Evidence Act quoted above. It is necessary that Govt. should empower or permit him to give a library to provide

cf. page 29 note with fo 1248 (1) 24/11/16

Apart from the question of expediency, the point is whether the authorization is legal. Section 74 of the Evidence Act enumerates what are public documents. The old MSS. in the Govt. Manuscript Library have been considered to be public documents on account of their being in the custody of a "public officer" under S. 74(1)(iii) of the Act. The Librarian of the Tanjore Library cannot be considered to be a public officer within the meaning of the Act and cannot grant certified copies under S. 76. A formal authorization of Govt. will therefore be of no avail. With A.S. (Leg) kindly say if the above view is correct?

A
29.11.21

Law (Legislative) Department

The manuscripts in the Tanjore Library are not public documents within the meaning of the expression as defined in section 74 of the Indian Evidence Act and no certified copies as defined in section 76 of the Act of such documents can legally be given. But secondary evidence by means inter alia of true copies ordinarily called 'examined copies' may be given of private documents when the original is of such a nature as not to be easily moveable. -(section 65(d))

Examined copies

6/2/21

Cum gratia Evidence Act put up.
No permission of the
Govt is legally necessary
to put Examined Copies. The
Hon Secy of the Library may
be informed that it is
open to him to put "Examined
Copies". (Best on Evidence p 403-404
9th edn)

Sey

27 6/2/21

Is his expression "examined copy"
known to our code first hand of
Evidence?

6/2/21

The expression is foreign to the
Indian Law of Evidence. Indian
Evidence Act such Copies are
designated "Copies made
from or compared with
the original" [please see 63 (3)]

Sey

27 7/1/21

I am to be told that the Library
is not to be asked for
these

78

Law (Legislative) Department

Yes, I asked him
his point might
be examined
S

I understand that I have been
asked to consider if manuscripts
in the Oriental Manuscripts Library
are public documents and if certi-
fied copies thereof can legally be
granted. The said manuscripts are
not public documents as defined in
section 74 of the Indian Evidence
Act and no certified copies of such
documents can be granted under sec-
tion 76 of the Act. But as I have
already remarked in connection with
the Tanjore Palace Library there is
no objection to copies made from or
compared with the original of such
manuscripts being given.

Sey

27 7/1/21
8.12.21

This is all what
the Secy of the
Library asks for
will not help
him much
no permission
no evidence required
for these
S

We may tell the Secy of the
Tanjore Library that as
the MSS in his custody
are not public documents
as defined in sec 74 of
the Indian Evidence Act the
authorities asked for

6

~~advised to forward~~ ~~the~~
~~above mentioned~~
~~if the go you the subject~~
~~of Cudwin, but I should~~
~~be obliged to you~~
~~to send me~~
~~the~~
 8/24

with the original but copies
 can be made from the original
 ordinary copies
 The Encl is not necessary
 8/24

M3
 8/24

The draft has been
 allowed as indicated
 alone of the 5.

Revised draft submitted

Ld
 9/12/21
 A
 10/2/21



7 ⑨

I should tell him that the MSS in
 his custody can not be considered to
 be public documents - as they are
 in his custody of a public officer

When received for Fair-copying.

When copied ..

When examined ..

When signed ..

When despatched ..

Date. Initials.

Law (Govt) DEPART.

Tanjore Maharaja Sarafog's Saraswathi Mahal Library - authentication -
Hony Secy - grant of certified copies - declined.

READ AGAIN G.O. No. , dated 192 .

READ ALSO:-

C. No. 355 JB From the Secy. T.M.S.M. Library No. 175, dated 24-11-1921.
1924-22

" " " " " " " " 192 .

" " " " " " " " 192 .

ORDER.

No. 1780 , dated 10.12.1921.

Mis

The Hony. Secy, Tanjore Mahara, Sarafog's Saraswathi Mahal Library, Tanjore is informed that as the manuscripts in the Library are not public documents as defined in section 74 of the Indian Evidence Act, the authorisation asked for, presumably for the grant of certified copies, cannot be granted and that authorisation by Govt is not necessary for the grant of ordinary copies.

DESPATCHED
JODES 1921

Peri
10/12/21

To the Hony. Secy, T.M.S.M. Library, Tanjore.

CD
10/12/21



11