M.R.O. 1—77,000—8-6-31.

(1) Number of pages 24

(2) Date of repair 25 - 5 - 40.

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 767 Press / Mis.

37-39.

Dated 4 - 5 - 1874.

13/14

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department, 4th May 1874.

Read the following papers :—

No. 37. From J. McIVER, Esq., Secretary and Treasurer, Bank of Madras, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort. St. George, dated Madras, 11th April 1874, No. 99.

I have the honour to forward, herewith, copy of a letter addressed to this Department by Mr. Walter Joyes, under date the 27th February last, and its annexures, and to request that you will be good enough to cause the opinion of the Advocate-General to be obtained as to whether the interest due on the Government Promissory Note in question from 1st November 1853 can, under the circumstances set forth in the letter referred to, be now passed for payment to Mr. Walter Joyes, *on his producing Letters of Administration by the High Court in his favour in the estate of the late Mrs. Mary Fell*, and, if so, whether any and what proof should be supplied to this Department before such payment can be made.

From W. JOYES, Esq., to J. McIVER, Esq., Secretary and Treasurer, Bank of Madras, dated Madras, 27th February 1874.

I beg to forward the Government Promissory Note described in the margin, standing in the name of Mrs. Mary Fell, for payment of interest due thereon from 1st November 1853.

No. 2564, of 1st May 1832, for Sicca Rupees 3,000.

2. I am about to apply for probates to administer to the estates of the late Mr. J. M. Wilson and Mrs. Mary Fell, the former of whom was the executor appointed by the Will of the latter; and, as the issue of these documents by the High Court will occupy some time, I enclose herewith copy of the Will of the late Mr. Wilson, as also copy of three paragraphs of that of Mrs. Fell, to satisfy you of my title to make this application. I have further to state that I address you at this early stage of the case to enable you to take such preliminary steps as you may deem desirable prior to passing for payment the interest due on this security, so as to admit of my being placed in a position to carry on the management of Mrs. Fell's estate as soon as I am put in possession of the probate, this estate having not sufficient assets other than from the proceeds of the Note to defray even funeral expenses and the cost of obtaining Letters of Administration. I am prepared to hand for your inspection the original Wills referred to above, to satisfy you of the correctness of the copies submitted.

3. The circumstances of the case are as follows :—

The Note was last renewed in the name of Miss Mary Wilson, who, through her Attorney, Mr. J. M. Wilson, her brother, drew interest on it in Madras from 1st May 1850 to 30th April 1852, when she married one Mr. R. B Fell; and interest from 1st May 1852 to 30th October 1853, that is, for three half-years, was drawn in Calcutta, the first half-yearly instalment on the joint receipt of Mrs. and Mr. Fell, and the remaining two on the receipt of Mr. Fell alone. No interest was subsequently drawn, as it appears from Mrs. Fell's Will that the marriage was discovered to be unlawful, by its having become known that Mr. Fell's wife was alive in England, when she, Miss Wilson, went through the form of marriage with him.

4. You will observe from Mrs. Fell's Will that this security is declared by her to be her property, and that she bequeaths a portion of its money value to Mr. Fell, who I may state has not been heard of, to the best of my knowledge, for some seventeen years. Mrs. Fell had no children.

Referred to the Advocate-General for his opinion.

OOTACAMUND,
14*th April* 1874.

(Signed) D. F. CARMICHAEL,
Acting Chief Secretary.

Proceedings of the Madras Government, Financial Department,
4th May 1874.

No. 38. From H. G. PRICHARD, Esq., Government Solicitor, Madras, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Madras, 24th April 1874, No. 235, forwarding the following copy of the opinion of the Advocate-General:—

OPINION.

The interest due on the Government Promissory Note mentioned in Mrs. Fell's Will may safely be paid to Mr. Walter Joyes "*on his producing Letters of Administration in his favour*" *in that lady's estate*; but this is not what I understand him to ask. He states in his letter of February 27th that he is about to apply for probate of both Mrs. Fell's and Mr. Wilson's estates, and he apparently considers himself entitled to act as executor *de bonis non* of the estate of Mrs. Fell, on the strength of his appointment as executor of Mr. Wilson.

2. But, under Sections 229 and 230 of the Indian Succession Act, the mere fact of his being Mr. Wilson's executor will give him no claim to administer Mrs. Fell's estate, and a separate administration of the latter estate will have to be taken out.

3. Under these circumstances, the interest due on the Promissory Note cannot with propriety be paid to Mr. Joyes.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

24th April 1874.

No. 39. ORDER THEREON, 4th May 1874, No. 767.

The opinion of the Advocate-General will be communicated to the Secretary and Treasurer of the Bank of Madras.

(True Extract.)

Acting Chief Secretary.

To the Secretary and Treasurer of the Bank of Madras.
,, Accountant-General.

Exd. J. H. Burns.

Madras 27th Febmary 1874

To

The Secretary & Treasurer
Bank of Madras

Sir,

No 2564 of 1st May 1832 for Sicca Rupees 3000.

I beg to forward the Government Promissory Note described in the margin, standing in the name of Mrs Mary Fell, for payment of Interest due thereon from 1st November 1853.

I am about to apply for Probates to administer to the Estates of the late Mr J. M. Wilson and Mrs Mary Fell, the former of whom was the Executor appointed by the Will of the latter, and, as the issue of these documents by the High Court will occupy some time, I enclose herewith copy of the Will of the late Mr Wilson as also copy of three paras of that of Mrs Fell, to satisfy you of my title to make this application. I have further to state, that I address you at this early stage of the case, to enable you to take such preliminary steps as you may deem desirable prior to passing for payment the Interest due on this Security, so as to admit of my being placed in a position to carry on the management of Mrs Fell's Estate as

Govt. of Madras.

FINANCIAL.

To THE SECRETARY AND TREASURER OF THE BANK OF MADRAS, &c., &c., &c.

Dated May 4th.

Read.

G. O., 4th May 1874, *No.* 767.

MAY.
Nos. 37—39.

Estates.—The Advocate-General's opinion on the question whether Mr. Walter Joyes could receive payment of interest due on the Promissory Note mentioned in Mrs. Fell's Will communicated to the Secretary and Treasurer of the Bank of Madras.

as soon as I am put in possession of the Probate, this Estate having not sufficient Assets other than from the Proceeds of the Note, to defray even funeral expenses and the cost of obtaining Letters of Administration. I am prepared to hand for your inspection the original Wills referred to above, to satisfy you of the correctness of the copies submitted.

The circumstances of the case are as follows.

The Note was last renewed in the name of Miss Mary Wilson, who through her Attorney Mr. D. M. Wilson her brother, drew Interest on it in Madras from 1st May 1850 to 30th April 1852, when she married one Mr. R. B. Fell, and Interest from 1st May 1852 to 31st October 1853, that is for three half years, was drawn in Calcutta, the first half yearly instalment on the joint receipt of Mr. and Mrs. Fell, and the remaining two on the receipt of Mr. Fell alone. No Interest was subsequently drawn, as it appears from Mrs. Fell's Will that the marriage was discovered to be unlawful, by its having become known that Mr. Fell's wife was alive in England, when she, Miss Wilson, went through the form of marriage with him.

You will observe from Mrs. Fell's Will

Will that this Security is declared by her to be her property, and that she bequeathes a portion of its money-value to Mr. Fell, who I may state has not been heard of to the best of my knowledge for some seventeen years. Mrs. Fell had no children:-

I am, Sir,
Very Faithfully Yours
/signed/ Walter Joyes.

16, Rundall Road,
Vepery.

/True Copy/

J. M. Sim
Secy & Treasurer
Bank of Madras.

In the name of God. Amen — I Mary Dell of Madras being of sound mind and memory and considering the uncertainty of life, do make this my last Will and Testament

* * * *

And I direct that the above be paid out of my Funds in Trust with Mr Hugh Fraser and my brother Mr James Inchelle Wilson, which Trust was formed wholly from my Personal Estate before my marriage with Mr Richard Powes Dell, and to which he has in no manner contributed, and which Trust is become void by my said marriage being unlawful from the discovery of his former wife being alive —

Notwithstanding bequeath to Mr Richard Powes Dell the sum of Rupees one thousand five hundred to be paid to him out of the proceeds of a Government Promissory Note No 2564 of 1832/33 dated Fort William the 1st May 1832 for Sicca Rupees 3000 bearing interest from 1st November 1832 at 6 per cent per annum, belonging to my Estate and now in my possession, which legacy I bequeath to him to enable him join his lawful wife in England, having separated myself from Mr Dell, I have not received any support from him for the last twelve years or more

I appoint my brother Mr James Inchelle Wilson Executor to this my Will, and residuary legatee to my Estate

In witness whereof I have hereunto set my Hand this Third day of August in the year of our Lord one thousand eight hundred and sixty five

(signed) Mary Dell

Signed and declared by Mrs Mary Dell of Madras as and for her last Will and Testament, in the presence of us who subscribed our names as Witnesses and in her presence and in the presence of each other

(signed) Anne Oakes
Jane Hood

(True Copy)
(signed) Walter Joyes.

(True Copy)

Asst Treasurer
Bank of Madras

The last Will and Testament of me James Melville Wilson, widower, residing at No 14 Rundalls Road, Vepery, in the town of Madras.

I hereby cancel all Wills and Testamentary documents that may have previously been made by me.

I give And bequeath all that I may die possessed of or be entitled to, whether real or personal, to my Step-son William Boardman Walter Joyes, in gift absolutely.

I appoint the said William Boardman Walter Joyes Sole Executor of this my Will.

In witness whereof I have hereunto set And Subscribed my hand this third day of December in the year of our Lord One thousand eight hundred And Seventy three.

(Signed) J. M. Wilson.

Signed and acknowledged by
the said James Melville
Wilson as and for his last
Will and Testament in our
presence who in his presence
and in the presence of one another
have hereunto set and subscribed
our names as Witnesses

(Signed) J.G. Ferrand.
C.W. Pearce.

/True Copy/
(Signed) Walter Joyes.

/True Copy/

J. W. Ind
Secretary & Treasurer
Bank of Madras.

Rec'd 14 Jobbins Joyes

Price 13

No. 99

Public Debt Office,
BANK OF MADRAS.

Madras, 11th April 1874.

To

37 The Chief Secretary
to the Government of Madras

Sir.

I have the honor to forward herewith copy of a letter addressed to this Department by Mr Walter Joyes under date the 27th February last and its annexures, and to request that you will be good enough to cause the opinion of the Advocate General to be obtained as to whether the interest due on the Government Promissory Note in question from 1st November 1853 can, under the circumstances set forth in the letter referred to be now passed for payment to Mr Walter Joyes, on his producing Letters of Administration by the High Court in his favor in the Estate of the late Mrs Mary Fell - and if so, whether any and what proof should be supplied to this Department before such payment can be made.

I have the honor to be
Sir,
Your Most Obed't Servant

Sec'y and Treasurer.

No 235. Pros 15

Madras 24th April 1874.

Read 30/4/74

From,

H. G. Prichard,
Government Solicitor,
Madras.

To,

The Honorable D. F. Carmichael,
Acting Chief Secretary to Govt.,
Ootacamund.

Sir,

I have the honor to acknowledge the receipt of the Order of Government dated 14th April instant (made on letter from the Secretary and Treasurer Bank of Madras to Government dated — 11th April instant No 99, together with its enclosures, requesting the Advocate General's opinion relative to the — application made by Messrs Walter Joyes to the Public Debt Office for payment of interest due on a Government Promissory Note for Sicca Rs 3000 standing in the name of the late Mrs Mary Fell.

2. I submitted the matter for the consideration of the Advocate General and I now forward herewith a Copy of his opinion and return the enclosures which

Ootacamund
14th April 1874.

To
The Government Solicitor

Referred to the Advocate General for his opinion.

D Hamilton
Ag. Chief Secy

which accompanied the above Order of Government.

I have the honor to be,
Sir,
Your most Obedient St.
H. G. Richards
Government Solicitor

Case 17

8

Opinion

1. The interest due on the Government Promissory Note mentioned in Mrs. Fell's Will may safely be paid to Mr. Walter Joyes "on his producing Letters of Administration in his favor" in that Lady's estate: but this is not what I understand him to ask. He states in his letter of February 2nd. that he is about to apply for probate of both Mrs. Fell's and Mr. Wilson's estates, and he apparently considers himself entitled to act as executor de bonis non of the estate of Mrs. Fell on the strength of his appointment as executor of Mr. Wilson.

2. But under sections 229 and 230 of the Indian succession Act, the mere fact of his being Mr. Wilson's executor will give him no claim to administer Mrs. Fell's estate, and a separate administration of the latter estate will have to be taken out.

3. Under these circumstances the interest due on the Promissory Note cannot with propriety be paid to Mr. Joyes.

(Signed) W. S. Cunningham
A. G.
24/4/74

(True Copy)

H. G. Richard
Government Solicitor

Ootacamund 4th May 1874 No 767. Rec 9

No 104

The opinion of the Advocate General with his communication to the Secretary & Treasurer of the Bankruptcy Commission.

To The Secretary & Treasurer
The Bankruptcy Commission
Fort St George

Sir

I am directed by the Commissioners of Salem.

M. E. Richard
Esq Collector
&c &c &c

To
The Advocate
General
Madras

Sir

I am directed by the Commissioners of Salem to forward herewith a letter from the Collector of Salem dated 24th ultimo with enclosures and to request that you will favor them with your opinion as to the application made by Mr Joseph for leave to carry on business as a Sowcar under the Bankruptcy Act.

I have &c

Salem 29th April 1874.

No 235.

Commissioners

To
The Secretary to the Commissioners
for the Relief of Insolvent Debtors
Fort St George

Sir

I am directed by the Commissioners of Salem to forward herewith a letter from the Collector of Salem dated 24th ultimo with enclosures and to request that you will favor them with your opinion as to the application made by Mr Joseph for leave to carry on business as a Sowcar under the Bankruptcy Act.

I have &c

Salem 29th April 1874.

No 235.

Commissioners

To
The Advocate General
Madras

Sir

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I have &c

Salem 29th April 1874.

No 235.

Commissioners

To
The Secretary & Treasurer
The Bankruptcy Commission
Fort St George

Sir

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I have &c

Salem 29th April 1874.

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To
The Secretary & Treasurer
The Bankruptcy Commission
Fort St George

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I have &c

Salem 29th April 1874.

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Commissioners

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The Secretary & Treasurer
The Bankruptcy Commission
Fort St George

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I have &c

Salem 29th April 1874.

No 235.

Commissioners

To
The Secretary & Treasurer
The Bankruptcy Commission
Fort St George

Sir

I am directed by the Commissioners of Salem to forward herewith a letter from the Collector of Salem dated 24th ultimo with enclosures and to request that you will favor them with your opinion as to the application made by Mr Joseph for leave to carry on business as a Sowcar under the Bankruptcy Act.

I have &c

Salem 29th April 1874.

No 235.

Commissioners

Govt. of {1874} Madras.

Financial.

To
The Secy. & Treasurer of the
Bank of Madras

G.O. May. 4 , 1874. No. 767.

Nos. 37. 39.

Estates. The Advocate Genl's opinion on the question whether Mr. Waller Jones could receive payment of interest due on the Promissory Note mentioned in Mrs Fell's Will, Comd. to the Secy. & Treasury of the Bank of Madras.