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M.R.O. 1-32,000-16-10-29.

# MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|          |       |                 |
|----------|-------|-----------------|
| G.O. No. | 69    | Press           |
|          | 55-56 | <del>Mis.</del> |
| Dated    | 6-1-  | 1918            |

Not to be folded or roughly handled

*Fort St. George, Judicial Consultation, 8th January 1858.*

No. 55. Read the following letter from the Judges of the Madras Court of Small Causes ; to the Chief Secretary to Government of Fort Saint George, dated 24th December 1857, No. 86.

SIR,

1. In reply to the Minutes of Consultation under date the 10th day of December 1857, we have the honor to submit the following remarks for the consideration of the Right Honorable the Governor in Council.

2. The case mentioned by Mr. Cunliffe, was an action of ejectment, a class of cases which the County Courts of England from the intricate nature of the questions of title arising therein are forbidden from entertaining. By an anomaly however which we are at a loss to explain, the Madras Court of Small Causes is empowered to try these complex cases to the extent of 5,000 Rupees in value, whilst it is restricted from adjudicating upon simple contract debts to a higher extent than 500 Rupees.

3. In the great majority of these suits, the small value of the premises in question precludes the parties from going to the expense of professional assistance, in what is technically called getting up their cases, and the suits are brought before the Court without the necessary previous enquiries having been made, and the Court is thus unavoidably exposed to great difficulties, and frequent delays in solving the different questions of the Hindoo, Mahomedan and English laws of real property, which come before it, indeed it may be safely asserted that greater difficulties attend the adjudication of claims to real property of small than those of large amount, as in the latter case, the parties are sure to be prepared with some sort of documentary, and reliable evidence, whilst in the former, all is vague and uncertain.

4. It appears that the value of the premises in the case alluded to by Mr. Cunliffe was 70 Rupees and that it was adjourned once, because the summons was not served upon three of the Defendants. Three times at the request of the parties themselves, neither of them being ready for trial, once at the request of the Defendant, who was then put upon the terms of paying the costs of the day of the Plaintiff, if he the Plaintiff finally succeeded, and once owing to the absence of the Defendant's Attorney.

5. We are at all times most anxious to hinder the public service from suffering, by the attendance of its Officers at the Court of Small Causes, and in cases when they are engaged as principals give them pre-audience.

6. "Under the XLVIII Section of Act 9 of 1850, parties are entitled to subpoena whosoever they please as witnesses, nor do we know who are subpoenaed as witnesses, until they are called up to be examined, but we think that the inconvenience complained of by Mr. Cunliffe, may be to a great extent removed, if he will order his Subordinates when subpoenaed to come forward and state the fact to the Court, who will then use its best endeavours to take their evidence, so as not to trouble them to come to the Court a second time, and this we think may be generally done although the case may not then be finally disposed of.

7. With regard to the case mentioned by Mr. Cochrane we can offer no explanation, as it was tried in the Supreme Court in the Small Cause side, sitting under Act 9 of 1850.

8. Finally we take this opportunity of calling the attention of the Right Honorable the Governor in Council to the extremely unsatisfactory nature of the means for substantiating titles to real property in Madras, and to submit that a comprehensive and stringent registration Act would be a very great boon to the Madras community.

(Signed) RICHARD BURGASS.

( „ ) J. Y. FULLERTON.

( „ ) W. H. ROSE.

No. 56.

ORDER THEREON, No. 19; dated 6th January 1858,

Ordered to be communicated to the Collector of Madras whose attention will be drawn to the suggestion of the Judges of the Court of Small Causes contained in para. 6 of their letter.

(Signed) T. PYCROFT,

*Chief Secretary.*

Exd. F. Cartledge.

S. 19

Ordered to be communicated  
 to the Collector of Madras whose at-  
 tention will be drawn to the sug-  
 -gestion of the Judges of the Court of  
 small Causes contained in para 6  
 of their letter.

W. C. George  
 Secretary, 1258-3

To the Secy. Madras - Dtd 13<sup>th</sup>