M.R.O. 1—39,000—16-10-28.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1560 Press Mis.

257-258

Dated 28—11 19 1868

214

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
28th November 1860.

No. 257. Read the following Proceedings of Government in the Revenue Department, dated 20th November 1860, No. 2,186.

Communicating the Order passed on Proceedings of the Board of Revenue, relative to the remissness of the Government Vakil of the Civil Court of Guntoor in the performance of his duties. (Vide Proceedings Revenue Department, dated 20th November 1860, Nos. 340 and 341.)

No. 258. ORDER THEREON, 28th November 1860, No. 1,560.

Communicated to the Civil Judge of Guntoor.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following Proceedings of the Board of Revenue, dated 24th October 1860, No. 4,879 :—

Read letter from the Collector of Kistna District, dated 29th September 1860, No. 213.

(In Cons., 4th October 1860, No. 4,991.)

In Cons., 7th August 1860, *No.* 3,861.

1. Resolved that the letter above recorded be submitted for the information of Government with reference to their Order, dated 6th August 1860, No. 1,309, Revenue Department.

Original Suit No. 2 of 1859, *on the Civil Court's file.*

In Cons., 2nd July 1860, *No. A.* 3,195.

2. The explanation offered by the Government Vakíl of the Civil Court of Guntoor, to the strictures passed on his proceedings by Mr. Dale in his letter, dated 30th June 1860, No. 91, appears to the Board satisfactory as far as paragraphs 3 and 4 are concerned, but not with reference to the charge in paragraph 9.

3. The two principal points animadverted upon by Mr. Dale were, first, that the Vakíl did not plead the statute of limitation in bar to the Suit brought by Mutani Venkata Chárlu, the Plaintiff; and second, that he did not object to the Plaintiff's right to sue. As regards the first point the Vakíl explains that at the first hearing of the case he did plead the statute, and that the Court overruled his objections : and with regard to the second point he alleges that there is but one "worshipper" or rather officiating (అర్చకుడు) Priest. The Civil Judge in paragraph 9 of the Decree calls him the "*Inámdar*, or worshipper of the Pagoda," and it is evident from paragraph 11, that there were certain documents, whether genuine or not, in support of his claim to the Inám land in dispute, so that he had a *locus standi* in the Suit in respect of them.

4. It may be remarked, however, that all objections to a plaint must be taken in the *answer*, and not at a hearing of the case. In reply to this, the Vakíl states that he was on sick leave at the time of filing the answer, and that the document was prepared in the Collector's Office. Under these circumstances the Board would acquit him on the first two points.

5. In paragraph 9 of Mr. Dale's letter, and also in paragraph 10 of the Decree, it is shown that the Vakíl put in eight documents, but failed to authenticate them. The Vakíl's explanation tends to show that he filed these documents in pursuance of the Collector's orders ; and that they were not proved because no witnesses had been summone dby the Collector. This explanation, however, is not satisfactory. It is the Vakíl's primary duty to attend to all the formalities required by law, and to point out to the Collector their importance and the manner in which they are to be observed, and he should on no account have filed documents which could not be proved. The Board consider the Vakíl to have evinced ignorance of his professionel duties, and remissness in the discharge of them, and are of opinion that his place should be supplied by a person better acquainted with the procedure of the Courts, and capable of acting in reliance upon his own judgment instead of leaving the professional management of Public Suits to the Collector or his Office.

(A true Extract.)

(Signed) J. D. SIM, *Secretary*.

ORDER THEREON, 20th November 1860, No. 2,186.

The Governor in Council concurs with the Board in considering the Vakíl's conduct censurable but thinks it sufficient, on the present occasion to direct that he be warned of the consequences of any future remissness in the performance of his duties.

(True Extract.)

Acting Secretary to Government.

To Law Judicial Dept. for info.

To the Board of Revenue.

Exd. S. T. Augustin.

Pros: 28th Nov.
Judicial 1860 Dept.

Pros: of Govt in the
Prov: Sec. 2186.

R. 20th
Rf. 22nd } Govt Sec.

3 Memoranda.

No: 1945.

Copy the order passed
on Pros: of the Board of
Revenue relative to
the Remissness of the Govt
Pleader of the Civil Court of
Cuttack in the Performance
of his Duties:

No: 1860 — 28th November 1860.

Communicated to the
Civil Judge of Cuttack.

The Civil Judge of