

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	258	Press Mis.
16-17		
Dated	2-3-	19/8.60

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
for the month of March 1860.*

No. 16. Read the following Memorandum :—

MEMORANDUM.

The Registrar of the Sudder Court has the honor to forward 3 copies of the Circular of the Judges under date the 25th February 1860, on the subject of Act VIII of 1859, as desired by the Proceedings of Government, dated 5th October 1859, No. 1354.

SUDDER COURT, }
28th February 1860. }

(Signed) C. F. CHAMIER,

Registrar.

To the Chief Secretary to Government.

No. 17. To the Secretary to the Government of India; dated Fort Saint George, 2nd March 1860, No. 258.

In continuation of my letter, 2nd ultimo, No. 134, I am directed to transmit to you the accompanying copy of a Circular, issued by the Sadar
Pros. of Sudder Court, 25th Feby. 1860. Adalat in respect to Act VIII, 1859.

(Signed) T. PYCROFT,

Chief Secretary.

CIRCULAR.

Extract from the Proceedings of the Sudder Court, under date the 25th February 1860.

CONSTRUCTIONS OF ACT VIII, OF 1859.

Question. The Act VIII of 1859, authorizes District Moonsiffs to forward directly Notices to be served on parties residing in other districts, Warrants of commission for the examination of witnesses, and the papers required for the execution of decrees by Moonsiffs in other Zillahs. The postal rules prohibit the franking by Moonsiffs of covers directed to other Districts. Are the Moonsiffs in such cases to send their covers to the Zillah Judge for his frank, or to forward them stamped, after collecting the postage from the parties? In the latter case is the postage for replies to be also collected at the same time?

Q. The provisions of Section 198 of the Act provide (Vide Circular Proceedings of Sudder Udalt 17th January 1860), for the granting by Moonsiffs of certified copies of decrees on unstamped paper. The records of suits disposed of by Moonsiffs in each month are forwarded to the Zillah Court at the close of the month and therefore applications for such copies whether before or after the time for appeal, would lie to the Zillah Courts. Is the Civil Judge in such cases bound to grant certified copies on stamped or unstamped paper? If the former, what should be the value of the paper used, and if the latter, at what rate is the copyist's hire to be reckoned?

Q. Are copyists to be employed for preparing copies of decrees granted by Moonsiffs under column 5, of the proceedings of the Sudder Udalt of the 17th January 1860, or how?

Q. Are the Courts to wait six weeks before striking off a suit for non-payment of process batta under Section 23; or at what time should this be done?

Answer. All processes requiring to be executed within another jurisdiction, should be forwarded by post at the expense of the parties on whose motion they are issued. This course should be pursued whether the officer presiding over the Court issuing the process, is or is not authorized by law to frank letters. No such process is to be issued until the party provides the requisite postage stamps both for the transmission of the process and its return. (Vide Section 23).

A. There is no law in force requiring the decrees of the District Moonsiffs to be copied on stamps. Such copies must therefore be always made on plain paper, whether certified or not, and whether granted by the Civil Judge or the District Moonsiff. The copying charge, however, for a *certified* copy, will be the same as if it were made upon a stamp.

A. The Court authorize the employment of copyists by the District Moonsiffs, under the same rules as those prescribed for the superior local Courts, copies or translations of which rules should be furnished to the Moonsiffs for their guidance.

A. It cannot be intended to allow the plaintiff to keep his suit on the file for an indefinite period, without taking any proceedings therein. The Court are therefore of opinion that, if on the day fixed for the appearance of the parties, the defendant shall not be in attendance, owing to the neglect of the plaintiff to pay into Court the batta requisite for the service of the summons, the suit may be dismissed for default of prosecution.

Q. Does the provision in Section 130 apply in all its bearings to deeds and instruments written on unstamped materials?

Q. In claims for land under Clause fourth, Section 26, is the estimated value, or the annual produce of the land, to be considered as regulating the jurisdiction of the Courts?

Q. Is the application made by a person for his discharge from confinement, under Section 280, to be made to the Zillah Court, or to the Court which has cognizance of the jail, or to that which passed the decree; and, if to the latter, is such application to pass through the Court which has cognizance of the jail, or to be made direct to the Court which passed the decree; and in the latter case how is it to be conveyed?

Q. Does the mode prescribed under chapter XI, for review of judgment, apply also to orders passed on miscellaneous petitions; and if not, how should applications for the review of such orders be dealt with?

A. The Court are of opinion that the provision in question is not applicable to exhibits written on unstamped materials. Such exhibits should be dealt with according to the provisions of Section III, Regulation II of 1825.

A. The Act does not affect the present stamp regulation, No. XIII of 1816, under which the valuation of a suit for land is made according to the rules laid down in Section III, Regulation III of 1802.

A. The application should be prepared to the address of the Court under whose orders the person may be in confinement in execution of the decree; and should be received and forwarded to such Court, post free, by the judicial officer in charge of the jail.

A. No provision is made in the Act for review of an order. Written applications of this kind should therefore be refused. But it will be in the discretion of the Court, on the verbal motion of one of the parties, to amend any material error in its order: provided, that if such amendment would prejudice any other party interested in the matter, a notice should first be issued to such party to appear and show cause why the order should not be amended.

(True Extract.)

C. F. CHAMIER,

Registrar.

To

The Civil Judge
of

Recd. 5th Feb. 1860.

No. 258.

List.

The Secretary to the Govt. of India.

Sir - In continuation of my letter, 2nd Ult. No. 134 - I am directed to transmit to you the accompanying copy of a Circular, issued by the Sadar Adalat in respect to Act VIII - 1859.

Proceedings of the Sadar Court, 25th February 1860.

For Mr. Meade, 2nd March 1860.

JF

Ind. 1/10/01
No. 20332

Indicial 1860 Department.

From
L. F. Channer Esq

Registrar to
the Court of Poor Admrs.

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 25 - 1800
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Forwards 3 copies of
the circular of the Judges
under date the 25th Feb^y 1860
on the subject of Act VIII
of 1859.

With a Letter.

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