M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 33-34	326	Press Mis.
Dated	16-3-	19 1860

Not to be folded or roughly handled

9n8

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

No. 33. 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 13th instant, on the subject of Act VIII of 1859, as desired by the Proceedings of Government, dated 5th October 1859, No. 1354.

SUDDER COURT,
14th March 1860.

(Signed) C. F. CHAMIER,
Registrar.

To the Chief Secretary to Government.

No. 34. To the Secretary to the Government of India, dated Fort Saint George, 16th March 1860, No. 326.

In continuation of my letter, 5th instant, No. 272, I am directed to forward, for submission to the Government of India, the accompanying copy of a Circular issued by the Sadr Adálat in respect to Act VIII, 1859.

Proceedings of the Sadr Court, 13th March 1860.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

CIRCULAR.

Extract from the Proceedings of the Sudder Court, under date the 13th March 1860.

CONSTRUCTIONS OF ACT VIII OF 1859.

The Court have further considered their ruling of the 2nd February last, regarding the construction of Section 98; and are of opinion that it must be amended. The said ruling (which declared that Section to be applicable to Appeals, as well as original suits), was based upon Section 358, which confers upon the Appellate Court the like powers with the original Court. The provisions of Section 98, however, are in their nature such as cannot be made applicable to appeals. The conditions on which the refund of stamp-duty is authorized can only be fulfilled in the course of the suit while pending in the court of original jurisdiction. At the stage at which the matter comes before the appellate Court, the issues must necessarily have been settled, and the *witnesses examined*; and indeed the whole case fully investigated. The proceedings in the court of appeal are merely a continuation of the same suit; and it is too late, when the whole machinery of the Courts has thus been set in motion, for any party to obtain a refund of stamp-duty, on the ground that the suit has been privately adjusted.

(True Extract).

C. F. CHAMIER,
Registrar.

To

The

Sept. 19th

Lieut.

No. 376.

The Secretary to the Govt. of India.

Sir-

In continuation of my letter, 5th Instant No. 272, I am directed to forward, for submission to the Govt. of India, the accompanying copy of a Circular issued by the Sadar Dewanny Adawlut in respect to Act VIII - 1859.

Proceedings of the Sadar Court, 13th March, 1860.

Fort St George,
16th March, 1860.

Pro: 21st Octr 1859 No 2.

Fd. 23 Nov. / 6

20 March
Judicial 1860 Dept

From

The Registrar of
the Sudder Court.

D/ 14
of 15 } March 1860.

3 Copies of
Circulars.

No 41

Forwards three copies of
the Circular of the Judges under
date the 13th Instant on the
subject of Act VIII of 1859.

With a Letter

33734