

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.

89

Press

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Dated

25-1-

1918

Not to be folded or roughly handled

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

No. 9. Read the following Memorandum from C. F. HAMILL Esq., Register Sadar Adalat; to the Chief Secretary to Government, dated 23rd January 1860.

The Register of the Sadar Adalat has the honor to forward 3 copies of the Circular of the Judges under date the 17th January 1860, on the subject of Act VIII of 1859, as desired by the Proceedings of Government, dated 5th October 1859, No. 1354.

No. 10. To the Secretary to the Government of India; dated Fort Saint George, 25th January 1860, No. 89.

With reference to your letter, 16th September last No. 4856, I am directed to transmit to you the accompanying copy of a Circular issued by the Sadar Adalat in respect to Act VIII, 1859.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

CIRCULAR.

Extract from the Proceedings of the Sadar Adalat, under date the

17th January 1860.

Read letter from the Session Judge of Calicut, under date 21st ultimo, submitting for the opinion of the Court of Sadar Adalat, certain questions on which he entertains doubts, with reference to the construction of Act No. VIII of 1859.

Questions.

Answers.

1. Should not a Government Pleader be appointed in each of the District Moonsiffs' Courts; and if so, what allowance from Government would he be entitled to?

I. Adverting to the comparative rarity of suits instituted against Government, and to the powers with which the District Court is invested by Section VI of the Act, the Court of Sadar Adalat see no sufficient grounds for the appointment of Government Pleaders generally in the Courts of the District Moonsiffs. When necessary, summons may be served on the Government Pleader of the Civil Court.

2. Will Section 119, in so far as it refers to an application for setting aside a judgment against the plaintiff by default, apply to the dismissal of a suit under Section 110?

II. This question must clearly be answered in the negative. Section 119 has reference to judgments by default against plaintiffs under Section 114, not to dismissals under Section 110, which provides a separate and distinct remedy for the case of a plaintiff, who may, after dismissal of his claim, account satisfactorily for his non-appearance.

3. Can a deed, instrument, or writing executed prior to 1st January 1860, be rejected under Section 130?

III. The Court of Sadar Adalat are of opinion that in the case of a deed to which the provisions of this Section may be applicable as respects the description of the document, the date of the deed does not affect the question of its liability to rejection, provided it is offered in evidence after the 1st January 1860.

4. Whether it is intended by Section 154, that the serving officer should have as many copies of the summons delivered to him as there may be names inserted in the original according to Section 149?

IV. The serving officer must obviously be provided with a separate copy for each of the witnesses summoned, unless two or more of the latter should be members of the same family residing together.

5. When certified copies of the decree and judgment are furnished upon unstamped paper, under Section 198, is the paper to be provided by the Court, or by the party applying for the copies? And supposing that more

V. The Court of Sadar Adalat observe that it is only certified copies of decrees of district moonsiffs which can be furnished on unstamped paper. The Court are of opinion that the parties may be required to provide

than one plaintiff and one defendant should apply for such copies, is the District Moonsiff bound to furnish them, or as many copies as may be applied for separately by the parties to the decree, whether it affects the applicant or not?

6. Must the claim and application, which are required by Sections 229 and 230 to be numbered and registered as suits, be written on the stamp prescribed for plaints?

7. Should there not be copyists appointed in the Courts of District Moonsiffs to prepare the copies which are required by Sections 136 and 343 to be made at the expense of the parties?

8. If, under Section 349, the Appellate Court should refuse to re-admit an appeal which was dismissed for default of prosecution, can the appellant appeal from the order of refusal, or specially from the judgment by default?

paper and copyist's hire for such copies. Separate copies must obviously be furnished to all such defendants as may apply for them.

VI. It is provided by Sections 229 and 230 that the claims entertained under these Sections are to be investigated in the manner of a regular suit; but the Court of Sadar Adalat are unable to construe these Sections as requiring the payment of Institution stamps in such cases. It could not have been the intention of the framers of the Act that a decree-holder prosecuting a claim under Section 229 should be called upon to pay such stamps repeatedly for the same property.

VII. The provisions of Sections 136 and 343 as respects the grant of copies of exhibits in certain cases, are not applicable to the Courts of District Moonsiffs, whose records are deposited in the Appellate Court.

VIII. It is to be concluded that the civil judge intended here to refer to Section 347. There is no provision in the Act for appeal or special appeal in such cases.

(True Extract).

C. F. CHAMIER,
Registrar.

Copy 27th
with 2 copies of this letter

N^o. 89.

The Secretary to the
Govt. of India.

Sir.

With reference to your letter, dated 16th Septem^r. last N^o. 1856, I am directed to transmit to you the accompanying copy of a Circular Extract Proceeding issued by the Sadar Adalat in respect to Act

VIII-1856.
25 January 1860.

attd to order

28/1/60
28/1/60

Proc of Court 31 January
Judicial - 1860 - Reports

Memo:
The Register to the
Sadr Adalat.

Adalat.
 -vi-
 With reference to the
 No. 2, 1881. The
 the copy of the
 dated 23rd 1881
 Recd. 25th January 1881.
 No. 110
 1881

Forwarded 3 Copies of
the Circular of the Judges
of the Sadr Adalat on the
subject of Act VIII 1859.

With a letter.

9840

Dec 1881