M.R.O. 1—29,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 931 Press ~~Mis.~~

(157-158)

157-158

Dated 24-7- 19 1860.

26/27

Not to be folded or roughly handled

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JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from C. F. CHAMIER, Esq., Registrar to the Sudder Court, to T. PYCROFT. Esq., Chief Se ernment, Fort Saint George, dated 13th July 1860, No. 64.

With reference to the Order of Government dated the 4th ultimo, No. 704, I am directed by the Judges of the Sudder Court to submit, for the purpose of being laid before the Governor in Council, the accompanying amended Rules for the guidance of the Governor's Agents in Ganjam and Vizagapatam under Act XXIV of 1839.

ORDER THEREON, 24th July 1860, No. 931.

His Excellency the Governor in Council observes that the revised Rules for the guidance of the Governor's Agents in Ganjam and Vizagapatam under Act XXIV, 1839, submitted by the Sudder Court with the above letter, have been prepared carefully according to the instructions conveyed by Government in their Proceedings of the 4th June last, No. 704. These Rules are, therefore, approved and confirmed, and will be communicated to the Agents for observance by themselves and by their Subordinates in supersession of the Rules passed on the 27th April 1840.

(True Extract.)

(Sd.) T Pycroft
Chief Secretary

To the Sudder Adálat.
" Government Agent, Ganjam.
" Government Agent, Vizagapatam.
" Revenue Department.
" Board of Revenue.

Exd. F. Cartledge.

Judicial 1860 Dept.

No. 931.

Proceedings of the Madras Government

Dated 24th July 1860

Read a letter from the Secretary and Compiler to the Revenue Boards forwarding for the sanction of the Government a Code of Rules framed by the Board for the guidance of the Governor's Agents in Ganjam and Vizagapatam under Act XXIV of 1839 and communicating the opinion of the Agents thereon.

REVISED RULES FRAMED BY GOVERNMENT, FOR THE GUIDANCE OF THE GOVERNOR'S AGENTS, IN GANJAM AND VIZAGAPATAM RESPECTIVELY, UNDER ACT NO. XXIV OF 1839.

Criminal Justice.

RULE I., *Clause* 1.—In the administration of Criminal Justice, the Governor's Agent shall exercise the powers of Magistrate, Subordinate and Session Judges, respectively, according to the Madras Code of Regulations, and the Acts of the Supreme Government applicable to that Presidency; subject to the modifications hereunder specified.

Clause 2.—In cases in which, according to the said Code and Acts, the Magistrate, or Subordinate Judge is competent to pass sentence the Agent may pass sentence, to the extent prescribed by the said Code and Acts, without reference to any authority; subject, however, to the ultimate revision of his proceedings, in such cases, by the Foujdary Adawlat, as hereinafter provided.

Clause 3.—The Agent shall not be required to take a *Futwa*. But where the crime is not punishable under the said Code or Acts, he shall be guided, in the punishment thereof, by the Mahomedan Law, [illegible] by the Court of Foujdary Adawlat, to whom, in cases of doubt, he is to refer by letter for instructions.

Clause 4.—In c[illegible] according to the said Co[illegible] the crimes are punishable by no authority [illegible] Zillah Court [illegible] he shall release the [illegible] unless h[illegible] But if he convicts, he [illegible]led in the two

Clause 5.—If the offe[illegible] to the said Code and Acts, [illegible] trial not referrible by a Sessions Judge to the Court of Foujdary Adawlat, the Agent shall pass sentence on the prisoner to the extent prescribed in the said Code and Acts, submitting to the Foujdary Adawlat, after the close of each trial, a Calendar of the case in the form prescribed for Session Judges.

Clause 6.—If, according to the said Code and Acts the offence is such as would render the trial referrible by a Session Judge to the Court of Foujdary Adawlat, the Agent shall proceed as a Session Judge is thereby directed, in order that the Foujdary Adawlat may dispose of the trial, under Section V, Act XXIV of 1839.

Clause 7.—In the trial of all such offences as are punishable under the said Code and Acts by no authority inferior to the Zillah Courts of Sessions, the Agent is empowered, if he see fit, to call in the aid of one or more Native Assessors.

RULE II., *Clause* 1.—In trials held before the Agent or his subordinates, the examination shall be conducted, in the following manner.

Clause 2.—The *depositions* from the witnesses are to be taken in the manner prescribed by the Regulations in all cases referrible to the Foujdary Adawlat, and in any other trials when the Agent may consider that the ends of justice require the measure.

Clause 3.—In all other cases depositions are not to be taken, but *notes* of the evidence given by each witness are to be recorded, in the hand-writing of the Agent, or Assistant Agent, who conducts the trial.

Clause 4.—Notes of the evidence are not ordinarily to be written in the form of question and answer, but in that of a narrative; and when completed, are to be read over to the witness, amended if necessary, and then signed by the Agent, or Assistant Agent.

Clause 5.—It shall be in the discretion of the Agent, or Assistant Agent, to take down any particular question and answer, if there shall appear any special reason for doing so.

Clause 6.—The language used is to be as succinct as possible, consistently with clearness, in order that no more time than is absolutely necessary may be consumed in the process of noting down the evidence.

Clause 7.—Particulars of time, place, and value, where these are essential or required for the due understanding of the case, and names of persons, under similar conditions, are to be clearly set out.

Clause 8.—The Agent or Assistant Agent is to record such remarks as he may think material respecting the demeanour of any witness whilst under examination; and to advert to any prevarications or exaggerations apparent in his testimony.

Clause 9.—Where the evidence of a witness corresponds exactly with that of one already examined, the fact may be briefly noted, without taking down such evidence in detail a second time.

Clause 10.—Where the evidence of one witness may correspond with that of another, in some particulars but not in all, it may shortly be stated, that as to such and such points the witness corroborates the testimony of the other, and the rest of his evidence is to be noted down like that of any other witness.

Clause 11.—Where one witness contradicts another on any material point, the circumstance should be noticed at the time of recording that part of his evidence.

Clause 12.—Immediately after the trial is closed, a fair copy is to be made of the notes of the evidence, and signed by the Agent, or Assistant Agent; and both the original and fair copy are to form part of the record of the case.

RULE III.—The A[illegible]petent to delegate [illegible] Assistants, the whole, [illegible] Subordinate [illegible] that Pres[illegible] y, as defined in the [illegible]risdiction as he may [illegible] y shall be competent to [illegible]ith or without complaint, may, at [illegible]iscretion, in all cases, to the confirm, modify, or annul their sentences; liable however, to the established periodical revision of his and their proceedings by the Foujdary Adawlat, as hereinafter provided.

RULE IV.—Tahsildars, ex-officio, and such other persons as the Agent may appoint, shall be competent to exercise, under the special control of the Agent, and his Assistants, the same Police powers, and Judicial authority, as are vested in Tahsildars, or their Subordinates, under the said Code and Acts; and in the exercise of their duties, as Police Officers, they shall conform to the rules therein contained.

RULE V.—In petty offences, such as abusive language, slight trespass, and inconsiderable assaults, the Agent and his Assistants are authorized, at their discretion, to refer such charges for investigation by a Punchayet, so far only as regards the guilt or innocence of the accused, and the crime of which they are guilty. In cases of conviction, by the verdict of the Punchayet, the punishment to which the offender may be liable, under the said Code and Acts, or the Mahomedan Law, shall be awarded against him, by the Officer making such reference.

RULE VI.—The Court of Foujdary Adawlat shall prescribe the forms, and fix the periods for the transmission of such reports, Calendars, or other statements, as they may deem necessary to be made by the Agent as regards the Criminal proceedings held by himself, and his Subordinates; and he shall comply therewith. But the Court of Foujdary Adawlat shall restrict their number and extent, as much as may be consistent with a general but efficient supervision. All orders passed on these returns by the Court of Foujdary Adawlat, shall be carried into effect by the Agent.

Civil Justice.

RULE VII.—The laws contained in the Madras Code, and in the Acts applicable to that Presidency, respecting Stamps and Institution fees, shall continue in operation, in the Agent's jurisdiction.

RULE VIII.—Estates of minors and other incapacitated persons, will be managed by the Agent, with the sanction of Government, under the orders of the Board of Revenue, without Regulation V of 1804 being made specially applicable to the Agent's jurisdiction.

RULE IX, *Clause* 1.—The Agent is empowered to appoint, any of his Principal Native Officers, or, with the sanction of Government, any other duly qualified persons, to exercise, in such places, and within such portion of the jurisdiction assigned to the Agent as he may consider proper, the Judicial, and other powers vested in District Moonsiffs by the Madras Code, and the Acts applicable to that Presidency; subject to the modifications contained in these rules.

Clause 2.—Such Moonsiffs shall not, for the present, have cognizance of any suits for real or personal property, exceeding in value 300 Rupees; or for land paying revenue, the annual produce of which exceeds 300 Rupees; or, exempted from revenue, of which the annual produce exceeds Rupees 30; nor shall they, at any time, have cognizance of any suit, in which any Zemindar or Bessoye, or other Feudal Hill Chief, may be concerned; nor of suits, in *formâ pauperis*, except such in *formâ pauperis* as the Agent, or his Assistants may specially refer for decision, to them.

RULE X., *Clause* 1.—With the single exception of the particular suits specified in the preceding rule, which are cognizable by such District Moonsiffs, as are there described, all Civil suits, of whatever description or value, in which the real property sued for may be situated; or, in other cases, in which either the cause of action h[illegible] have arisen, or the defendant may at the time, be a fixed inhabitant within the Agent's jurisdiction, shall be instituted, *in the first instance*, in the Court of the Agent alone; and the Agent, and (solely upon reference by him of suits to them) his Assistants, are hereby vested with the same powers to try and determine such suits, as are vested, by the Madras Code, and the Acts applicable to that Presidency, in the Civil, Subordinate, and Principal Sudder Ameens' Courts; or in Collectors, respectively; subject to the modifications in these rules contained.

Clause 2.—The Agent himself shall, alone, be competent, to try and determine suits for real or personal property exceeding 5,000 Rupees, or for lands paying revenue, of which the annual produce exceeds Rupees 5,000, or exempted from it, of which the annual produce exceeds Rupees 500. But he shall have the power of either deciding himself, or referring for decision to his Assistants, all suits for a less value; excepting, however, cases of succession to Hill Zemindaries, or other landed possessions on feudatory tenures, respecting which he shall observe the following rules.

Clause 3.—On the death of any proprietor, the Agent shall personally investigate all claims to the succession to Hill Zemindaries, or other landed possessions held on feudatory tenures; and shall, through the Board of Revenue, submit the result of his inquiry, for the orders of Government, who, should there be more than one claimant, will exercise their inherent right to select, as successor, the one among them, most acceptable to the people, and best qualified to fulfil the duties of the situation. But this shall not affect the succession to estates, held under the Sunnud-i-Milkent Istimrar.

RULE XI., *Clause* 1.—The Agents are authorized, at their discretion, to employ such a number of Pleaders to their Courts, as may from time to time appear to them necessary.

Clause 2.—Zemindars within the Agency tracts, are however at liberty to conduct their business in the Courts, either in person, or by their own special Mo[illegible]tiars: and suits for the remuneration of such Mooktiars, shall not be received or filed in any [illegible]rt.

RULE XII., *Clause* 1.—Except where otherwise provided in the following rules, the trial of Civil suits shall be conducted by the Agent and his subordinates in the manner at present observed.

Clause 2.—The parties or their pleaders may tender at the first hearing of the suit, written statements of their respective cases on stamp paper prescribed for petitions to the Court, when a stamp is requisite for petitions, but no written statement shall be received after the first hearing of the suit, unless called for by the Court.

Clause 3.—The Agent or his subordinates may, at any time before final judgment, call for a written statement, or an additional written statement from any of the parties on plain paper.

Clause 4.—Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom, or on whose behalf it is made, believes to be material to the case, and which he believes he will be able to prove, if called upon by the Court.

Clause 5.—The Court may reject a written statement which may appear to be argumentative, or unnecessarily prolix, or containing matter irrelevant to the suit, and the party whose written statement is rejected, for any of these causes, shall not be permitted to present another written statement, unless it shall be expressly called for or allowed by the Court.

Clause 6.—If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

Clause 7.—When the parties are at issue on some question of law or fact, if the Court shall be satisfied that no further argument or evidence, than such as the parties or their pleaders can at once supply, is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly; otherwise the Court shall postpone the further hearing of the suit and shall fix a day for the production of such further evidence or for such further argument as the case may require: Provided that if either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

RULE XIII.—The Rules prescribed for the examination of witnesses in Criminal cases not referrible, will apply to all Civil trials held before the Agent and his subordinate.

RULE XIV.—As soon as judgment is declared in simple suits for recovery of money, the accompanying form will be filled up, describing the suit and judgment, and shall be delivered to the successful party.

RULE XV., *Clause* 1.—Parties by mutual consent shall be at liberty at any stage of the proceedings, to settle all suits by Razeenamah, upon both parties making it a record, in the Court where the suit is filed.

Clause 2.—In all suits settled by Razeenamah, the Plaintiff shall be entitled to receive back half the amount of stamp duty paid on the plaint, if the Razeenamah shall have been presented before any hearing of the suit had been held.

Vide G. O., 13th October 1862, No. 1,690.

RULE XVI.—From decrees in all original suits, an appeal shall lie, from the Courts of the Moonsiffs, and from the Courts of the Assistants, to that of the Agent; provided the petition of appeal be preferred to him within six weeks after the date of passing the decree; or the appellant can show just and reasonable cause, to his satisfaction, for not having preferred it within that period.

RULE XVII.—The Agent is authorized to refer to his Assistants, for decision, all appeals to him from the decisions of the District Moonsiffs; and the decree of the Assistant in such appeals shall be final; excepting in cases where, for reasons to be recorded, the Agent shall think the ends of justice require the admission of a special appeal.

RULE XVIII.—When an appeal shall be preferred from the Moonsiff's or the Assistant's decisions, it shall not be necessary to summon the Respondent, in the first instance; but, forthwith, the original record of the proceedings in the case shall be called for; and if, after the perusal of the record of the original suit and petition of appeal, the Officer hearing the appeal shall see no reason to alter the decision appealed from, it shall be competent to him to dismiss the same, with an endorsement on the petition of appeal, that it has been so dismissed. Should the Officer hearing the appeal, on the contrary, see cause not to adopt such proceeding, he will cause a notice to be issued to the Respondent, and proceed therein, as directed by the Madras Code and Acts applicable to that Presidency, prior to the enactment of Act VIII of 1859.

RULE XIX.—The Agent, or Assistant, as the case may be, is empowered to call for further evidence in any case appealed, or to refer the suit back to the Officer who originally decided it for further evidence and for a decree *de novo*. The Agent is likewise empowered, on the application of any party, in a suit decided by a Moonsiff or an Assistant, but not appealed, to direct a review of judgment; provided sufficient cause be shown, and the application be preferred within six weeks, or satisfactory cause given why that period has been exceeded; and the Agent is further competent to authorize a Moonsiff or an Assistant to review his own judgment on sufficient ground assigned; and also to remove to his own, or any other Court in the jurisdiction, by precept under his official seal and signature, any suit which may be depending in a lower Court, recording his reasons for so doing.

RULE XX.—All decrees passed by the Agent, on appeals from decrees of his subordinates, shall be final. The Sudder Court having the power, on special grounds, to require him to review his judgment, as directed by them.

RULE XXI.—From all decrees, upon original suits, passed by the Agent (with the single exception specified in the next following rule), an appeal shall lie to the Sudder Court to be disposed of as provided in Section VI Act XXIV of 1839: Provided such appeal is preferred to the Agent or the Sudder Court, within 3 months, after the Agent's decision; or after that period, if sufficient cause can be assigned to the Sudder Court for any delay which may have occurred, by petition, on the prescribed stamp, and subject to the other rules required, in other appeals to the Sudder Court, as provided in the Madras Code and Acts applicable to that Presidency.

RULE XXII.—From decrees of the Agent in suits wherein the landed possession of a Zemindar, Bessoye, or other Feudal Hill Chief, may have formed the subject of litigation, an appeal will lie to the Governor in Council alone, who may refer any such appeal for the decision of the Sudder Court, provided that the decree of the latter Court shall not be carried into execution without the permission of the Governor in Council.

RULE XXIII.—In cases in which a witness may reside at a considerable distance, or may be unable from sickness, or other cause, to attend the Court, his deposition may be taken by the nearest Assistant Moonsiff (or other person entrusted with the powers of Moonsiff) on written interrogatories to be transmitted by the Court.

RULE XXIV.—All Civil process of the Courts situated within the Agent's jurisdiction, shall be served through the head man of the Village, or Estate, where the defendant may reside; or through the Jamadar of the Court, by whom it shall be returnable, on a fixed day, with an endorsement certifying the manner in which it may have been served.

RULE XXV.—As a general rule, a party in whose favor a decree is passed in suits for money claims, may obtain execution thereof by the production of the document referred to in Rule XIV and without any formal petition; but the Agents are at liberty, when they deem it advisable, to have execution applied for in the manner at present observed.

RULE XXVI, *Clause* 1.—With the exception of the Court of the Agent, which shall be at liberty in the execution of decrees to employ an Assistant or Moonsiff, all decrees of other Courts, within his jurisdiction, shall be carried into effect, by the Court by which the suit may have been decided.

Clause 2.—Decrees shall be executed by an order addressed to an Officer of the Court, or the head man of the village in which the debtor may usually reside, or where the property may be situated. If the decree be for personal property, or a sum of money, by causing the specific thing to be delivered, or the value of it, or the sum of money decreed, to be levied by the public sale by auction of a sufficient portion, or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all effects, either real or personal, belonging to the party against whom the judgment may have been given, or by the attachment of his person, or, where it may be necessary, both by the sale of his property and effects, and the attachment of his person. But no sale of any *landed* property, attached in execution of a decree, shall be legal, unless the authority of the Governor's Agent, for such sale, shall have been previously obtained.

Clause 3.—Decrees against such Rajahs and other Chiefs, as the Agent may except from the ordinary process, shall be executed, under such rules as may be specially provided, with the sanction of Government.

Rule XXVII., *Clause* 1.—The Agent and his Assistants are authorized, at their discretion to refer any suit, or special questions in a suit, for examination and judgment by a Punchayet, to consist of three or five persons, to be selected by the Agent or Assistant, after the plaintiff and defendant have had notice, and the witnesses have been assembled. The plaintiff and defendant, or their pleaders or Mooktiars, shall each be permitted to challenge any members of the Punchayet, and on giving sufficient reason for the challenge, another person or persons shall be selected, to supply his or their place. Punchayets assembled under these rules shall be guided by the enactments for District Punchayets, contained in the Madras Code of Regulations and Acts applicable to that Presidency; except as they are modified by these rules. When a Punchayet has been nominated, the Agent, or his Assistant, shall immediately direct a Goomastah to proceed [illegible] shall [illegible] under the direction of the Punchayet, to record with to some [illegible] Assistant shall then direct them to proceed forthwith, to investigate the matter at issue. When the pleadings shall have been closed and evidence taken, the Punchayet shall direct the Goomastah and parties to retire; and shall consult and decide on their award; and, when they have come to a decision, they shall re-call the Goomastah to record the award, which (award), having been duly attested with their signature, they shall deliver to the Officer appointing the Punchayet; by whom, if approved, a decree, in conformity therewith, shall be passed, which decree, in cases where the Punchayet has been assembled by a subordinate, shall, previous to its execution, be submitted to the Agent, who shall either confirm, modify, or reverse the award, or remand the case for further investigation, or re-investigation by a Punchayet, or otherwise as might to him seem expedient.

Rule XXVIII.—The Agent will submit to the Sudder Court half-yearly statements of the number of causes filed, and disposed of by himself and his Assistants, and by the Moonsiffs; prepared in such form as may be by them prescribed.

Revenue Rules.

Rule XXIX., *Clause* 1.—In conducting their Local duties in the Revenue Department, the Agents of the Governor will be guided by the Rules hitherto in force, and exercise the same powers as are vested by Regulation in the Collectors of land revenue, both as regards the realization of the public revenue, and the trial of the public servants charged with malversation and corruption.

Clause 2.—The Agents and their Assistants, will continue in their Revenue capacity subject to the control and orders of the Board of Revenue.

Clause 3.—It shall not, however, be incumbent on the Board of Revenue, to interfere, except in matters referred to them by the Agent, unless a strong necessity for such interference should appear, and in cases of the nature described in Regulation IX of 1822, tried by the Agents, a record of the proceedings is dispensed with, and a full explanation by letter only will be required.

General Rules.

Rule XXX.—All process, Civil or Criminal, issued at the instance of any authority situated beyond the Agent's jurisdiction, to, or against any person subject thereto, or situated therein, shall be forwarded, by letter, to the Agent, who shall execute the same, as if it were his own process, returning the said process, by letter, to the authority from whom it issued, duly endorsed by his proper Officer, shewing what had been done thereon.

Rule XXXI.—All petitions against the proceedings of the Agent must, in the first instance, be submitted to Government; and will be referred, when necessary, either to the Court of Sudder and Foujdary Adawlat, or the Board of Revenue, as the case may be.

Rule XXXII.—Reference will be made by the Agent to Government, in all cases not provided for by the rules; and whenever it may be expedient, the opinion of the Sudder and Foujdary Adawlat, or of the Board of Revenue, as the case may be, will be required.

Form referred to in Rule XIV.

In the Court of the Agent to the Governor of Fort Saint George in
Original Suit No, of 18

——————————————— Plaintiff.

versus.

——————————————— Defendant.

Judgment for (Plaintiff or Defendant as the case may be.)

Debt.....Co.'s Rupees.....	——	—	—
Costs.....Co.'s Rupees.....	——	—	—
Total Co.'s Rupees.....	——	—	—
Company's Rupees.....	——	—	—

Given under my hand and the Seal of the Court this day of 18

Agent.

(Signed) THOMAS WILKINS,
Acting Deputy Registrar.

Exd. T. O'Connor.

Revised Rules for the guidance of the Governor's agents in Ganjam and Vizagapatam.

Revised Rules framed by Government, for the guidance of the Governor's Agents, in Ganjam and Vizagapatam respectively, under Act No. XXIV of 1839.

Criminal Justice.

Rule 1st. Clause 1st. In the administration of Criminal Justice, the Governor's Agent shall exercise the powers of a Magistrate, Subordinate and Sessions Judges, respectively, according to the Madras Code of Regulations, and the Acts of the Supreme Government applicable to that Presidency; subject to the modifications hereunder specified.

Clause 2nd. In cases in which, according to the said Code and Acts

Name not present

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Clause 6th. If, according to the said Code and Acts the offence is such as would render the trial referrible by a Sessions Judge to the Court of Foujdarry Adawlat, the Agent shall proceed as a Session Judge is thereby directed, in order that the Foujdarry Adawlat may dispose of the trial, under Section V Act XXIV of 1839.-

Clause 7th. In the trial of all such offences as are punishable under the said Code and Acts by no authority inferior to the Zillah Courts of Sessions, the Agent is empowered, if he see fit, to call in the aid of one or more native assessors.-

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demeanour of any witness whilst under examination, and to advert to any prevarications or exaggerations apparent in his testimony.

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confirm, modify, or annul their sentences; liable however, to the established periodical revision of his and their proceedings by the Foujdarry Adawlat, as hereinafter provided.

Rule IV.- Tahsildars, ex-officio, and such other persons as the Agent may appoint, shall be competent to exercise, under the special control of the Agent, and his Assistants, the same police powers, and Judicial authority, as are vested in Tahsildars, or their subordinates, under the said Code and Acts; and in the exercise of their duties, as Police Officers, they shall conform to the rules therein contained.

Rule V.- In petty offences, such as abusive language, slight trespass, and inconsiderable assaults, the Agent and his Assistants are authorized

authorized, at their discretion, to refer such charges for investigation by a Punchayet, so far only as regards the guilt, or innocence of the accused; and the crime of which they are guilty. In cases of conviction, by the verdict of the Punchayet, the punishment to which the offender may be liable, under the said Code and Acts, or the Mahomedan Law, shall be awarded against him, by the officer making such reference.

Rule VI. — The Court of Foujdarry Adawlat shall prescribe the forms, and fix the periods, for the transmission of such reports, Calendars, or other statements, as they may deem necessary to be made by the Agent as regards the Criminal proceedings held by himself, and his subordinates; and he shall comply therewith. But the Court of

of Foujdarry Adawlat, shall restrict their number and extent, as much as may be consistent with a general but efficient supervision. All orders passed on these returns by the Court of Foujdarry Adawlat, shall be carried into effect by the Agent.

Civil Justice.

Rule VII. — The laws contained in the Madras Code, and in the Acts applicable to that Presidency, respecting stamps and institution fees, shall continue in operation in the Agent's jurisdiction.

Rule VIII. — Estates of minors and other incapacitated persons, will be managed by the Agent, with the sanction of Government, under the orders of the Board of Revenue, without Regulation V of 1804 being made specially applicable

applicable to the Agent's jurisdiction.

Rule IX. Clause 1st. The Agent is empowered to appoint, any of his Principal Native Officers, or, with the sanction of Government, any other duly qualified persons, to exercise, in such places, and within such portion of the jurisdiction assigned to the Agent as he may consider proper, the Judicial, and other powers vested in District Moonsiffs by the Madras Code, and the Acts applicable to that Presidency; subject to the modifications contained in these rules.-

Clause 2d. Such Moonsiffs shall not, for the present, have cognizance of any suits for real or personal property, exceeding in value 300 Rupees; or for land paying revenue, the annual produce

produce of which exceeds 300 Rupees; or, exempted from revenue, of which the annual produce exceeds Rupees 30; nor shall they, at any time, have cognizance of any suit in which any Zemindar, or Begsoye, or other Feudal Hillchief, may be concerned; nor of suits, in forma pauperis, except such in forma pauperis as the Agent, or his Assistants, may specially refer for decision, to them.-

Rule X. Clause 1st. With the single exception of the particular suits specified in the preceding rule, which are cognizable by such District Moonsiffs as are there described, all civil suits, of whatever description or value, in which the real property sued for may be situated, or, in other cases, in which either the cause

of

of action shall have arisen, or the defendant may at the time, be a fixed inhabitant within the Agent's jurisdiction, shall be instituted, in the first instance in the Court of the Agent alone; and the Agent, and (solely upon reference by him of suits to them) his Assistants, are hereby vested with the same powers to try and determine such suits, as are vested, by the Madras Code, and the Acts applicable to that Presidency, in the Civil, Subordinate, and Principal Sudder Ameen's Courts; or in Collectors, respectively; subject to the modifications in these rules contained.-

Clause 2d. The Agent himself shall, alone, be competent, to try and determine suits for real or personal property exceeding 5,000 Rupees, or for lands paying revenue, of

of which the annual produce exceeds Rupees 5,000, or exempted from it, of which the annual produce exceeds Rupees 500. But he shall have the power of either deciding himself, or referring for decision to his Assistants, all suits for a less value; excepting, however, Cases of succession to Hill Zemindaries, or other landed possessions on feudatory tenures, respecting which he shall observe the following rules.

Clause 3d. On the death of any proprietor, the Agent shall personally investigate all claims to the succession to Hill Zemindaries, or other landed possessions held on feudatory tenures; and shall, through the Board of Revenue, submit the result of his inquiry, for the orders of Government, who, should there be

be more than one claimant, will exercise their inherent right to select, as successor, the one among them, most acceptable to the people, and best qualified to fulfil the duties of the situation. But this shall not affect the succession to Estates, held under the Summud i Milkeut Istimrar.-

Rule XI. Clause 1st.- The Agents are authorized, at their discretion, to employ such a number of pleaders to their Courts as may from time to time appear to them necessary.-

Clause 2d.- Zemindars within the Agency tracts, are however at liberty to conduct their business in the Courts, either in person, or by their own special Mookteiars: and suits for the remuneration of such Mookteiars, as shall not be received or filed in any Court.-

Except

Rule XII. Clause 1st.- Except where otherwise provided in the following rules, the trial of civil suits shall be conducted by the Agent and his subordinates in the manner at present observed.-

Clause 2d.- The parties or their pleaders may tender at the first hearing of the suit, written statements of their respective cases on stamp paper prescribed for petitions to the Court, when a stamp is requisite for petitions, but no written statement shall be received after the first hearing of the suit, unless called for by the Court.-

Clause 3d.- The Agent or his subordinates may at any time before final judgement, call for a written statement, or an additional written statement from any of the parties on plain paper

Written

Clause 4th. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom, or on whose behalf it is made, believes to be material to the case, and which he believes he will be able to prove, if called upon by the Court.-

Clause 5th. The Court may reject a written statement which may appear to be argumentative, or unnecessarily prolix, or containing matter irrelevant to the suit, and the party whose written statement is rejected, for any of these causes, shall not be permitted to present another written statement, unless it shall be expressly called for or allowed

allowed by the Court.-

Clause 6th.- If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgement.-

Clause 7th.- When the parties are at issue on some question of law or fact, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgement accordingly; otherwise the Court shall postpone the further hearing

of

of the suit and shall fix a day for the production of such further evi-dence or for such further argu-ment as the case may require: Provided that if either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgement.-

Rule XIII.- The Rules prescribed for the examination of witnesses in criminal cases not referible, will apply to all civil trials held before the Agent and his subordi-nate.-

Rule XIV.- As soon as Judgement is declared in simple suits for recovery of money, the accompa-nying form will be filled up, describing the suit and judg-ment, and shall be delivered to the successful party.-

Rule XV. Clause 1st.- Parties by mutual consent shall be at liberty at any stage of the proceedings, to settle all suits by Razeenamah, upon both parties making it a record, in the Court where the suit is filed.-

Clause 2d.- In all suits settled by Razeenamah, the Plaintiff shall be entitled to receive back the full amount of stamp duty paid on the plaint, if the Razee-namah shall have been present-ed before any hearing of the suit has been held, or half the amount if presented at any subsequent time before any witness has been examined.-

Rule XVI.- From decrees in all original suits, an appeal shall lie, from the Courts of the Moon-siffs, and from the Courts of the Assistants, to that of the Agent, provided the petition of appeal

appeal be preferred to him within six weeks after the date of passing the decree; or the Appellant can show just and reasonable cause, to his satisfaction, for not having preferred it within that period.-

Rule XVII. The Agent is authorized to refer to his Assistants, for decision, all appeals to him from the decisions of the District Moonsiffs; and the decree of the Assistant in such appeals shall be final; excepting in cases where, for reasons to be recorded, the Agent shall think the ends of justice require the admission of a special appeal.-

Rule XVIII. When an appeal shall be preferred from the Moonsiff's or the Assistant's decisions, it shall not be necessary to summon the Respondent, in the first

first instance; but, forthwith, the original record of the proceedings in the case shall be called for; and if, after the perusal of the record of the original suit and petition of appeal, the officer hearing the appeal shall see no reason to alter the decision appealed from, it shall be competent to him to dismiss the same, with an endorsement on the petition of appeal, that it has been so dismissed. Should the officer hearing the appeal, on the contrary, see cause not to so adopt such proceeding, he will cause a notice to be issued to the Respondent, and proceed therein, as directed by the Madras Code and Acts applicable to that Presidency, prior to the enactment of Act VIII of 1859.-

Rule XIX. The Agent, or Assistant,

as

as the case may be, is empowered to call for further evidence in any case appealed, or to refer the suit back to the officer who originally decided it for further evidence and for a decree de novo. The Agent is likewise empowered, on the application of any party, in a suit decided by a Moonsiff or an Assistant, but not appealed, to direct a review of judgment, provided sufficient cause be shown, and the application be preferred within six weeks, or satisfactory cause given why that period has been exceeded; and the Agent is further competent to authorize a Moonsiff or an Assistant to review his own judgment on sufficient ground assigned; and also to remove to his own, or any other Court in the jurisdiction, by precept under his official

official seal and signature, any suit which may be depending in a lower Court, recording his reasons for so doing.

Rule XX. — All decrees passed by the Agent, on appeals from decrees of his subordinates, shall be final. The Sudder Court having the power, on special grounds, to require him to review his judgment, as directed by them.

Rule XXI. — From all decrees, upon original suits, passed by the Agent (with the single exception specified in the next following rule), an appeal shall lie to the Sudder Court to be disposed of as provided in Section VI Act XXIV of 1839: Provided such appeal is preferred either to the Agent or the Sudder Court, within 3 months, after the Agent's decision; or after that period, if sufficient

sufficient cause can be assigned to the Sudder Court for any delay which may have occurred, by a petition, on the prescribed stamp, and subject to the other rules required, in other appeals to the Sudder Court, as provided in the Madras Code and Acts applicable to that Presidency.-

Rule XXII.- From decrees of the Agent in suits wherein the landed profession of a Zemindar, Polygar, or other Feudall Hill Chief, may have formed the subject of litigation, an appeal will lie to the Governor in Council alone, who may refer any such appeal for the decision of the Sudder Court, provided that the decree of the latter Court shall not be carried into execution without the permission of the Governor in Council.-

In

Rule XXIII. In cases in which a witness may reside at a considerable distance, or may be unable from sickness, or other cause, to attend the Court, his deposition may be taken by the nearest Assistant Moonsiff (or other person invested with the powers of Moonsiff) on written interrogatories to be transmitted by the Court.-

Rule XXIV. All Civil process of the Courts situated within the Agents jurisdiction, shall be served through the Headman of the village, or Estate, where the defendant may reside; or through the Tanadar of the Court, by whom it shall be returnable, on a fixed day, with an endorsement certifying the manner in which it may have been served.-

Rule XXV. As a general rule, a party in whose favor a decree is

passed

posed in suits for money claims, may obtain execution thereof by the production of the document referred to in rule XIV and without any formal petition, but the Agents are at liberty when they deem it advisable, to have execution applied for in the manner at present observed.—

New

Rule XXVI. Clause 1st. With the exception of the Court of the Agent, which shall be at liberty in the execution of decrees to employ an Assistant or Moonsiff, all decrees of other Courts, within his jurisdiction, shall be carried into effect, by the Court by which the suit may have been decided.—

See Rule XVIII

Clause 2d. Decrees shall be executed by an order addressed to an officer of the Court, or the Head man of the village in which the debtor may usually reside, or where the property may be situated. If the decree be for personal property, or a sum of money, by causing the specific thing to be delivered, or the value of it, or the sum of money decreed, to be levied by the public sale by auction of a sufficient portion, or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all effects, either real or personal, belonging to the party against whom the judgement may have been given, or by the attachment of his person, or, where it may be necessary, both by the sale of his property and effects, and the attachment of his person. But no sale of any landed property, attached in execution of a decree, shall be legal, unless the authority of the Governor's Agent, for such sale, shall have been previously obtained.—

Decrees

Clause 3d. Decrees against such Rajahs and other chiefs, as the Agent may except from the ordi=nary process, shall be executed, under such rules as may be specially provided, with the sanction of Government.

Rule XXVII. Clause 1st. The Agent and his Assistants are authorized, at their discretion, to refer any suit, or special questions in a suit, for examination and judgement by a Punchayet, to consist of three or five persons, to be select=ed by the Agent or Assistant, after the Plaintiff and Defend=ant, have had notice, and the witnesses have been assembled. The Plaintiff and Defendant, or their pleaders or Mooktiars, shall each be permitted to challenge=any Members of the Punchayet, and on giving sufficient reason for the challenge, another person or persons shall be selected, to supply his or their place. Pun=chayets assembled under these rules shall be guided by the enactments for District Punchayets contained in the Madras Code of Regulations and Acts applic=able to that Presidency; except as they are modified by these rules. When a Punchayet has been nomi=nated, the Agent, or his Assist=ant, shall immediately direct a Goomastah to attend the Punchayet, whose duty it shall be, under the direction of the Punchayet, to record their proceed=ings and award. The Agent or Assistant shall then direct them to proceed forthwith to some convenient place, in his Cutchery, or adjoining it, to investigate the matter at issue. When the pleadings

pleadings shall have been closed and evidence taken, the Punchayet shall direct the Goomastah and parties to retire; and shall consult and decide on their award; and, when they have come to a decision, they shall re-call the Goomastah to record the award, which (award), having been duly attested with their signature, they shall deliver to the officer appointing the Punchayet; by whom, if approved, a decree, in conformity therewith, shall be passed; which decree, in cases where the Punchayet has been assembled by a subordinate, shall, previous to its execution, be submitted to the Agent, who shall either confirm, modify, or reverse the award, or remand the case for further investigation

investigation, or re-investigation by a Punchayet, or otherwise as might to him seem expedient.-

Rule XXVIII. The Agent will submit to the Sudder Court half yearly statements of the number of causes filed, and disposed of by himself and his Assistants, and by the Moonsiffs; prepared in such form as may be by them prescribed.-

Revenue Rules.

Rule XXIX. Clause 1st. In conducting their local duties in the Revenue Department, the Agents of the Governor will be guided by the rules hitherto in force, and exercise the same powers as are vested by Regulation in the Collectors of land revenue, both as regards the realization of the public revenue, and the trial of the public servants charged with malversation and corruption.-

The

Clause 2d. The Agents and their Assistants, will continue in their revenue capacity subject to the control and orders of the Board of Revenue.—

Clause 3d. It shall not, however, be incumbent on the Board of Revenue, to interfere, except in matters referred to them by the Agent, unless a strong necessity for such interference should appear, and in cases of the nature described in Regulation IX of 1822, tried by the Agents, a record of the proceedings is dispensed with, and a full explanation by letter only will be required.—

General Rules.

Rule XXX. All process, civil or criminal, issued at the instance of any authority situated beyond the Agent's jurisdiction, to, or against

No 937 21st July 1860

1860

H. E. the Governor in Council observes that the revised rules for the guidance of the Governor's Agents in Ganjam and Vizagapatam under Act XXII - 1839, submitted by the Sudder Court with the above letter, have been prepared carefully according to the instructions conveyed by Govt. in their Proceed-

ings

157 - 58

Sept 11th 1840.
No. 98
To 1140.

Proceedings of the 4th Inst
last No. 704. These Rules
are, therefore, approved
& confirmed, & will be
communicated to the
Agents for observance
by themselves & by their
Subordinates in super-
session of the Rules pas-
sed on the 27th April 1840.

The Sudder Adalat.
" Govt. Agent, Ganjam.
" Govt. Agent, Vizagapatam.
" Rev. Dept.
Board of Revenue. Sr. L.

} Each with
two copies of
the Rules.
Sign'd 30th

5th August 1859 Oct 1046
7th September " Oct 1184 —
10th Jany 1860 Oct 01 — 530 54
16th Feby " Oct 126 — 29 & 30.
21st Jany " Oct 704 — 35 & 37

26/4/00

6-5-92 ✓ 26-7-07 ✓

Judicial Letter to England d/25th July No 114 of 1861

Resp. to — No 26 of 1861

27.5.26 II ✓

15/1/60 II ✓

1st Cent

12/2/01

19-2-00

10-10-92
6-2-93
16-3-93 ✓
10-11-93
26-9-94
12-7-95
26-11-96
22-11-97
22/9/98
19
20
7-2-10

25-11-0

5/1/15

8-12-10

30-6-13

14-5-15

26-8-23. Bill

157 & 158

Part of Letter

Jud. Dep. 1860

No 931

24-7-1860

From

The Registrar of the Sudder Court

To

The Chief Secretary to Government

Dated 13th July 1860.

Rec'd

No 64.

With one Enclosure

No 1140.

Submitting amended Rules for the guidance of the Governor's Agent in Sanjam and Vizagapatam under Act XXIV of 1839.

With an Order