M.R.O. 1—30,000—16-10-89.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1144 Press
~~Misc.~~

67-68

Dated 12.9.1861 ~~19~~ .

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Not to be folded or roughly handled

No. 67. Read the following letter from H. FORBES, Esq., Member of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, 19th August 1861.

The Bill to amend Act VIII of 1859, to which your letter of the 9th of February last, No. 170, and its enclosure referred, having been passed by the Legislative Council, I have the honor to address you upon the suggestions made for the amendment of the Bill by the Sudder Court of Adawlut.

From Registrar Sudder Court, 2nd February 1861, No. 7, paragraph 2.

2. The Judges first observe that they presume that an Appellant will be heard in support of his petition of appeal under Section V, and they recommend that this should be distinctly stated in the law. The Select Committee did not adopt this suggestion, because it appeared to them that it might unnecessarily throw doubt upon a party's right to be heard in appealing from an order on any other matter than that to which Section V refers when no such right is in words admitted in the law. The Committee were of opinion that the presumption of the Judges was so manifestly correct, and that the practice of hearing parties who wish to be heard in support of petitions was so universal, that it was not necessary to make the proposed amendment, at the risk by implication, of leaving the question in doubt as regards the right in other case.

3. The amendment suggested in paragraph 3 of the Court's letter has been made.

From Registrar Sudder Court, paragraph 4.

4. After full consideration of the suggested amendment in Section V, the Select Committee decided not to recommend it to the Council. It appeared to them, that if a person, not a party to a Suit, laid claims to property attached in execution of a decree and failed to establish his claim on a summary enquiry, it was right that he should be referred to a regular Suit, and should not be allowed an appeal from the order passed on the summary enquiry.

From Registrar Sudder Court, paragraph 5.

5. The Select Committee were also unable to recommend to the Council the suggestion of the Judges, that a Ministerial Officer of the Court should have authority to reject applications for admission of special appeals when the rejection arose from insufficiency of stamp or informality in drawing up the application. The Committee were of opinion that nice questions of law not unfrequently arise on the mode of valuing the subject matter in dispute before a Court, and that a wholesome check on corrupt practices is exercised by requiring that applications shall be rejectd only by a Judicial Officer. A list of applications for admission of special appeals, with grounds of admission or rejection, shown weekly to a single Judge by the Sheristadar of the Court would not, the Committee believe, tend to impede the business of the Court to the extent which the Judges at present appear to fear would be the case.

No. 68. ORDER THEREON, 12th September 1861, No. 1,144.

Communicated to the Judges of the Sudder Court.

(Signed) J. D. SIM,
Secretary to Government.

Exd. S. T. Augustin.

No. 1144 — 12th Septr. 1861.

Communicated by

the Subaltern Judges.

of the Sudder Court.

The Subaltern Court. 159