

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1321	Press His.
152-153	
Dated 29.6.1861	10

3/4

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
29th October 1861.*

Read the following :—

No. 152.

MILITARY ESTATE DEPARTMENT.

No. 1,533 E.

MEMORANDUM.

In submitting the accompanying summary of a case which has recently occurred in the Military Estate Department, the Military Secretary to Government has the honor to submit that much difficulty and unnecessary correspondence are occasioned in rectifying cases of this description, consequent upon the Judicial authorities overlooking, not only the Rules relating to the disposal of Military Estates, but in the present case, the Rules prescribed for their own especial guidance. The interests of parties concerned also suffer, and the responsibility of the Military Secretary to Government is unnecessarily enhanced by the recurrence of such irregularities.

2. The Military Secretary to Government therefore, respectfully requests that Government may be pleased to issue such orders in the Judicial Department as may be deemed necessary for the future prevention of such irregularities in regard to Military Estates.

3. These proceedings will also be brought to the notice of the Provincial Commander-in-Chief.

FORT SAINT GEORGE,
4th October 1861.

(Signed) H. MARSHALL, Colonel,
Secretary to Government.

To the Judicial Department.

SUMMARY.

Conductor S. Whetton, of the Ordnance Department, proceeded to Negapatam on duty, and died there Intestate, on the 15th April 1861. He left a family at Madras, consisting of a widow and four children. No Government Officer, Military or Civil, took charge of the Effects left by the deceased, either in Madras, or at the station where he died; but the widow having taken possession, applied to the authorities in Madras, for the balance of pay, &c., due to the deceased; when she was referred to the Officer Commanding Trichinopoly, under whose orders the Committee of Adjustment, in terms of the Mutiny Act, should have been convened, and the accounts, &c., adjusted. She accordingly preferred her claim to that Officer, when application was made to this Department for instructions.

2. The Officer Commanding was accordingly directed to take charge of the property in the hands of the widow, and to dispose of the same, in terms of the Mutiny Act. He was at the same time informed that, if the widow took out Letters of Administration in the Supreme Court, she might be allowed to retain possession of the property, &c.; otherwise, that the Estate must be adjusted, as directed in G. O. G., No. 207, 4th May 1861, as per margin, the children's shares being invested as usual in the Government Savings Bank for their benefit.

3. The widow however was meanwhile furnished with a Certificate of Administration in terms of the Act XXVII of 1860, by the Judicial authorities at Trichinopoly, without any advertence to the inapplicability of the Act, (which refers solely to the Estates of *Hindoo*, *Mahomedans* and *others*, "not usually designated as British subjects") to the case in question; and the Officer Commanding the station with equal inadvertence, handed over the property, &c., to the widow, on production of the above document, reporting the circumstance to this Department.

4. Under these circumstances, there was no alternative but to direct that, unless Letters of Administration in the Supreme Court were taken out by the widow, the property made over, must be recovered from her, for disposal under the orders of this Department, and to inform the Commanding Officer that, failing this, he must be held personally responsible for the Estate to the extent of the assets.

5. The Officer Commanding subsequently forwarded a communication from the Administrator General, (copy annexed) and requested further instructions, representing at the same time, that the widow was very poor, "with four young children, &c.," when instructions were accord-

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29th October 1861.

ingly again issued for the disposal of the Estate in terms of the Mutiny Act, under the orders of this Department.

6. The course which was then adopted, and should have been so in the first instance, relieved the Estate from the law costs and commission, which would have been involved in its adjustment by the Administrator General; but the widow has nevertheless been subjected to a needless delay and expense, in the shape of Vakcel's fees, and other costs of the Civil Courts, and much unnecessary correspondence has been entailed on the Military Estate Department by these irregular proceedings, both on the part of the Sessions Judge, and of the Officer Commanding at Trichinopoly.

FORT SAINT GEORGE,
4th October 1861.

(Signed) H. MARSHALL, Colonel,
Secretary to Government.

No. 1,760.

MADRAS, ADMINISTRATOR GENERAL'S OFFICE, 3rd August 1861.

(Estate) Sub-Conductor S. Whetton.

I have to acknowledge the receipt of your letter of the 30th ultimo, relative to the above Estate, under the provisions of Act XXVI of 1860, I am enabled to take charge of Estates under Rupees 500, without Letters of Administration. But as the widow is desirous in this Estate to have possession of the effects, I have no objection to permit her to do so, provided she will forward to me an appraised list of the property, and a Memorandum of the names in full of herself and the deceased's four children with their ages, and a list of the liabilities of the deceased. Whereupon, I will determine whether I can grant a Certificate under Section 43 of Act VIII of 1855, in her favor. But as the Military Secretary considers it as a Military Estate which ought to be disposed according to the Mutiny Act, I do not feel justified in giving any contrary directions.

If the widow is desirous of taking out Letters of Administration in her name in the Supreme Court, at Madras, the costs attending it will nearly absorb the assets.

I am, &c.,

(Signed) C. M. TEED,
Administrator General.

To Major H. B. Sweet, 39th Regiment N. I., Trichinopoly.

(A true Copy.)

(Signed) H. B. SWEET, Brevet Major, 39th Regt. N. I.,
President of Committee of Adjustment of
Sub-Conductor Whetton's Estate.

(True Copy.)

(Signed) H. MARSHALL, Colonel,
Secretary to Government.

No. 153.

ORDER THEREON, 29th October 1861, No. 1,321.

The foregoing Memorandum will be forwarded to the Sudder Court for the issue to all Civil Judges of Circular instructions on the subject.

2. A copy of the Circular should be forwarded to the Military Secretary to Government for record in his Office.

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

Exd. F. Cartledge.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

*Read Memo. Military
Estate Dept. _____*

Inter 4 Oct: 61 N^o 15332.

Order — 29th October 1861 N^o 1321.

*The foregoing Memo.
will be forwarded
to the Sudder Court
for the issue to all
Civil Judges of cir-
cular instructions on
the subject.*

*2. A copy of the Circular
should be forwarded to the
Military Secy to Govt for record in*

*The Sudder Court: his Office —
" Secy Secy to Govt's Secy Dept. 29/10/61*

JDS

Dist of Mass

George Bates
Juvenile 1864. Department.

No. 1321.

PROCEEDINGS OF GOVERNMENT.

Dated 29th October 1864.
H. H. 1860.

Forwarding to the
Comptroller a letter from the
Secretary of the Government for the
purpose to all the Judges of the
Districts for the future, in
relation of such irregularities
in regard to election, &c. &c.
as are therein noticed.