M.R. O. 1—32,000—18-12-40.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 245 Press

136-137

Dated 22.2.1861

415

Not to be folded or roughly handled

No. 136. Read the following letter from CUNDASAMY CHETTI, residing in the Pardepanallúr Village of Pardepanallúr Taluq, Madura, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 5th February 1861.

The humble Petition of CUNDASAMY CHITTY, the Petitioner in Government Office No 3,829 of 1860, residing in the Village of Pardepanallúr attached to the Zillah of Madura.

MOST RESPECTFULLY SHOWETH,

I request your honor will be pleased to obtain the sanction of the Governor in Council, and transmit the herein enclosed three Memorials to Her Majesty in Privy Council.

TO HER MOST GRACIOUS MAJESTY THE QUEEN IN COUNCIL.

The humble Petition of CUNDASAMY CHITTY, the first Defendant in O. S. No. 1 of 1857 on the file of the Zillah Court of Madura attached to the Presidency of Madras.

MOST RESPECTFULLY SHOWETH,

1st. The copy of the Order furnished to me by the Civil Court of Madura dismissing the above Suit instituted by me and others for the recovery of real and personal property to the amount of Rupees 49,909 is contrary to Sections 235 and 236 of Strange's Manual Hindoo Law, to the form annexed to A, Act No. 8 of 1859, to Sections 148, 189 and 333 of the said Act, to the Circular Order of the Sudder Court, dated 12th April of 1860, to the custom, and to the merits of the Suit.

2nd. The doing this incurred a loss to the Circar of Rupees 750 the value of the primary Stamp in the regular Appeal, and to me and others Rupees 50,000 odd being the amount of the Suit.

3rd. The petition on the matter to the Sudder Court was returned, and the appeal therefrom to the Government on the subject was by an endorsement not admitted.

4th. The want of legislative enactment either to the Sudder or to the Government to determine the illegal orders passed by the original tribunal or distribute justice to me or put me in the way how to obtain justice, is great loss both to the Government and Ryots.

I therefore humbly solicit that this may be taken into consideration and an equitable order passed on the subject.

5th February of 1861. (Signed) [illegible].

Original Suit No. 1 of 1857.

At a preliminary hearing of the Vakeels on the 15th August 1859 the defendant's Vakeel objected to the entertainment of the Suit, as the plaintiffs were not competent to bring it. They having brothers who as equally entitled with them to the property, should have also joined them, in making this claim if just and legal.

The plaintiffs admit that they have brothers equally entitled with themselves to the property they alone claim.

The Court under these circumstances gave notice that the whole of the brothers should be entered as plaintiffs.

Plaintiffs' Vakeel asked time to consult his clients.

The Court having given due notice, the case was again called up for preliminary hearing on the 7th September, this day.

The plaintiffs' Vakeel having admitted that there are others who have equal claim with them plaintiffs' he is (under Section 73) directed in one week to amend this plaint including them as

plaintiffs' obtaining their signatures to his plaint, with the verification ordered by Act VIII of 1859, failing to do which his Suit will be dismissed—the plaintiffs declaring they are an undivided family.

(Signed) R. R. COTTON,
Civil Judge.

9th September 1860.

DIARY ORDER.

The plaintiffs having neglected to obey the Court's orders in reference to making the other brothers plaintiffs, and being incompetent as an undivided family to bring this Suit for the whole property, the Court resolves to strike the Suit off the File—plaintiffs paying all costs.

(Signed) R. R. COTTON.
Civil Judge.

28th September 1860.

MEMORANDUM OF CIVIL PETITION.

Appellant.	*Respondents.*
Cundasamy Chitti, a Merchant of Zillah Madura.	Pechayee and others of the same profession and Zillah.

Appeal Suit No. 1 *of* 1857, *on the file of Civil Court of Madura.*

Cundasamy Chitti, Appellant aforesaid begs to present this petition to the Sudder Court at Madras from the order of the Civil Court of Madura in the aforesaid appeal passed on the 28th September 1860, on the following grounds;—

1st. The said order is contrary to the practice and to the list annexed to Act No. 8 of 1859, inasmuch as it does not specify the authority by whom it was passed.

2nd. A judgment in the Suit cannot affect the right of brothers whose titles have been recognized by both parties as shown in the said order—hence, no objecting petition was presented by them. The statement that an order was previously passed dismissing my Suit which is cognizable under Sections 235 and 236 of the Manual of the Hindu Law will be rejected, is contrary to the said Sections of this Hindu Law and to the whole of the Act No. 8.

3rd. The dismissal of the Suit merely on account of the resistance of the Court's order as stated in the said order, is contrary to Section 148 of Act 8 of 1859 and defective of inquiry.

4th. The omission in the said order the names of both parties and the amount of cost, is contrary to Section 189 of Act No. 8 of 1859 and defective inquiry.

5th. The manner in which the copy of the said order was furnished, is contrary to Section 333 of Act 8 of 1859, and to the Circular order of the Sudder Court, dated 12th April of 1860.

For the foregoing reasons I solicit that the aforesaid order may be reversed and my Suit directed to be placed on the file and investigate.

24th November 1860. Drafted by Ammaya Moodelly.

TO THE HONORABLE THE GOVERNOR IN COUNCIL OF FORT SAINT GEORGE.

Petition respectfully presented by CUNDASAMY CHITTI, residing in the Village of Pardepanallore of the same Taluq in the Zillah of Madura.

1. The Civil Court of Madura passed an order on the 20th September 1860, in the original Suit instituted by me in No. 1 of 1857 on the file of the Civil Court of Madura on a stamp of the value of Rupees 1,000 for the recovery of real and personal property to the value of Rupees 49,909, to which myself and others are entitled, contrary to paras. 235 and 236 of Mr. Strange's Manual of the Hindoo Law, to Section 148, 189, 333 of Act No. VIII of 1859, to the statements annexed thereto, to the Circular order of the Sudder Court, dated 12th April 1860, and to the

merits of the Suit, and furnished me a copy thereof without mentioning therein the names and the place of the parties.

2. *The Petition dated 24th November 1860, presented to the Sudder Court on the above order of the Civil Judge, was returned to me with a remark written in pencil thereon to the effect* that "I entertain doubt in admitting this Appeal" without mentioning thereon the dates of presentation and return of the Petition.

3. The deviation from the paths of justice committed by the original authority, incurred a loss of stamp duty about Rupees 750 to Government, Rupees 50,000 and odd to me, and constrained me to put in a Petition to the Sudder, on a stamp of the value of Rupees 2, and the Sudder Court to doubt whether they have jurisdiction to admit the said Appeal. I am therefore constrained to put in this Petition to your Honorable Government on this plain paper giving cover to the said two Documents.

For the foregoing reasons I solicit your Honorable Government to inquire this matter and render me justice, or point out the proper authority to dispose of suit of this nature.

21st December 1860.

No. 137. ORDER THEREON, 22nd February 1861, No. 245.

Resolved that the Memorialist be informed that the Government must decline to transmit his Memorial to the Secretary of State, for the same reasons which precluded the admission of his Petition No. 3,829 of 1860, viz., those contained in paragraph 7* of the revised Rules respecting Petitions, published in page 653 of the Fort Saint George Gazette, 1st April 1859.

2. The enclosures in his letter will be returned to him.

(Signed) T. PYCROFT,
Chief Secretary.

* 7. *Petitions will not be received by Government, regarding any matter which forms the subject of Judicial proceedings in a Court, or which properly falls within the Jurisdiction of the Courts, or containing complaints relating to the administration of Civil and Criminal Justice, in cases in which another mode of obtaining redress is open to the complainant under the Regulations, and in which by the Regulations a Subordinate authority is competent to pass a final decision.*

Exd. T. O'Connor.

Judicial. 3.

Proceedings of the Madras Govt.

Read letter from Cundasamy Chetter — Inter 5th Feb. '61.

Order — 22d Februry 1861. No 245.

Resolved that the Memorialist be informed that the Govt. must decline to transmit his Memorial to the Secretary of State, for the same reasons which precluded the admission of his Petition No. 3829 of 1860, viz. those contained in para. 7* of the Revised Rules respecting Petitions, published in page 653 of the Fort St. George Gazette, 1st April 1859.

2. The Enclosures in his letter will be returned to him.

To Cundasamy Chetti — Witt Enclos. returned. 3d Feby 1-8-61

* 7. Petitions will not be received by Govt. regarding any matter which forms the subject of Judicial proceedings in a Court, or which properly falls within the jurisdiction of the Courts, or containing complaints relating to the administration of Civil & Criminal Justice, in cases in which another mode of obtaining redress is open to the Complainant under the Regulations, & in which by the Regulations a Subordinate authority is competent to pass a final decision.

1867

Judicial 1867 Depart.

No 25.

Proceedings of Govt

of 22d February 1867

Informing Cinda
Sawney Chittie that the
Government must decline
to transmit his Memo-
rial regarding his Case
in the Madura Zillah
Court to the Secretary
of State.

136—137.