M.R.O. 1—10,000—16-10-40.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 986 Press ~~Mis.~~

40-41

Dated 5. 8. 1861 ~~19~~ .

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Not to be folded or roughly handled

No. 40. Read the following :—

MEMORANDUM.

The Registrar of the Sudder Court has the honor to forward three copies of the Rulings of the Sudder Court on the subject of Act VIII of 1859, as desired by the Proceedings of Government dated 5th October 1859, No. 1,354.

(Signed) C. F. CHAMIER,
Registrar.

SUDDER COURT,
REGISTRAR'S OFFICE,
30th July 1861.

To the Secretary to Government, Fort Saint George.

No. 41. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 5th August 1861, No. 986.

In continuation of my letter, 30th January last, No. 117, I am directed to forward, for submission to the Government of India, a copy of a Circular containing sixteen Rulings of the Sudder at Madras on Act VIII, 1859.

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

Exd. F. Cartledge.

Rulings of the Sudder Court at Madras on Act VIII of 1859.

Section 98. If an appeal be privately adjusted, the deed of adjustment must be put in by the parties in the Court in which such appeal is pending. (Pro. S. C. 1st May 1861).

Section 137, Act VIII of 1859. A District Moonsiff is competent under this Section to return an original document to the party by whom it was produced, upon his providing the expense of making an authenticated copy of the same for deposit with the record of the suit. (Pro. S. C. 5th February 1861).

Section 183. The Judgment is not to be pronounced in open Court until it has been written in due form by the Judge and is ready to be placed on record. A mere note of the decision is not sufficient. (Pro. S. C. 11th June 1861).

Section 183. If after a judge has left the Court, it be found that in any suit brought to a final hearing no written judgment has been placed on record by him, his successor must hear and decide the suit, notwithstanding that such absent Judge may have pronounced judgment in the case and made a brief note of his decision. (Pro. S. C. 11th June 1861).

Section 208. If a decree-holder die, the decree is transferred by operation of law to his legal representative, but it cannot be executed in favor of such representative, until he has obtained a certificate from the District Court, under Act XXVII of 1860. (Pro. S. C. 17th May 1861).

Section 225. Salt pans do not come under the designation of Estates paying revenue to Government; and decrees for the separate possession of shares of Salt pans should therefore be executed by the Courts and not by the Collector of the District. (Pro. S. C. 9th April 1861).

Section 237. A Sepoy's pay is not liable to attachment in execution of a decree for maintenance. (Pro. S. C. 1st March 1861).

Section 284. Decrees of the Courts can be executed within the jurisdiction of the Supreme Court only under the provisions of Act XXXVIII of 1852; and the rules laid down in Act XXIII of 1840, and the Circular Order of the Sudder Court dated 14th June 1841, should be observed in such cases. (Pro. S. C. 14th February 1861).

Section 362. A Civil Judge has no power to execute, or take any steps towards the execution, of any decree which under the provisions of this Section ought to be executed by a District Moonsiff or other subordinate judicial officer, notwithstanding that such officer may be absent, and the property decreed may be in course of alienation. (Pro. S. C. 1st March 1861).

Section 364. An order passed by a District Moonsiff directing execution of a decree in favor of the heir of a deceased decree-holder is not subject to appeal, though such heir may not have obtained a certificate. (Pro. S. C. 17th May 1861).

Section 364. If a lower Court exceed its jurisdiction, when passing an order in execution, from which no appeal lies, the Appellate Court is competent to point out that the order cannot stand, but it cannot enter upon the merits of the case. (Pro. S. C. 24th April 1861).

Section 376. A judge having once passed an order on an application for execution, has no authority to re-investigate the case and pass a second order directly opposed to the one first made. (Pro. S. C. 24th April 1861).

The ruling of the Sudder Court on this Section, contained in the Circular of the 1st October 1860, merely provides for the correction of errors or omissions arising from inadvertence or an oversight; no order can be *reversed* by the judge by whom it was passed. (Pro. S. C. 24th April 1861).

Section 378. A Civil Judge is precluded from taking any cognizance of an appeal from the order of a District Moonsiff declining to review his judgment, such order being final. (Pro. S. C. 21st January 1861).

Section 378. Where an order of a lower Court is final under the Act, any proceedings held in the Appellate Court on the application of any of the parties are void ab initio, and the order of such Court cannot therefore be binding upon the lower Court. (Pro. S. C. 20th March 1861).

Section 387. If a plaint presented before Act VIII of 1859 came into operation, be rejected after that date, without the merits of the case being entered upon, the plaintiff is entitled to prefer a summary appeal from the order under the provisions of the old law. (Pro. S. C. 16th March 1861).

(True Extract).

C. F. CHAMIER,

Registrar.

Sud 1861 Oct
From
The Registrar
Sudr Court
Dated 30th July
Rec 31st July
№ 1245
Forwards Copies
of the Rulings of the
Sudr Court on the subject
of Act VIII of 1859.
Witto a Letter.

No. 986.

The Secretary to the Govt. of India,
Home Dept.

Sir,

In continuation of my letter, 30. Jany. last No. 117, I am directed to forward, for submission to the Govt. of India, a copy of a Circular containing 16 Rulings of the Sudder at Madras on Act VIII - '59.

Fort Saint George,
5th August 1861.