

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1052	Press Mis. →
43-45	
Dated 17-7-	1862 19.

6/7

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,

4th July 1862.

No. 43. Read the following letter from W. HOLLOWAY, Esq., Civil Judge of Tellicherry; to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to Government, Fort Saint George, dated Tellicherry, 21st June 1862, No. 161.

I have the honor to inform you that there is no Government building at Tellicherry for the accommodation of the newly established Court of Small Causes.

2. The building in which the Civil Court and that of the Principal and Mufti Sudr Amins is located is quite insufficient now for the proper transaction of Judicial business.

3. A house amply sufficient for the purpose of the new Court although not by any means pleasantly situated in the large bazaar, is procurable at a rent of Rupees 40.

4. I have to request the instructions of Government as to hiring this building.

5. At Manantoddy ample public accommodation is available.

6. I have the honor also to submit an estimate for the furniture needed. It is furnished for the Court at Tellicherry only. It is advisable in my opinion to leave it to the Judge of the new Court to determine whether for the few cases which are likely to arise at Manantoddy, it will be necessary to supply separate furniture. The furniture is procurable at Calicut. I am unable to judge whether it could or could not be more cheaply supplied from Madras.

7. I beg to call the attention of Government to the provisions of Act XLII of 1860. Section II requires that the territorial jurisdiction should be fixed by the Executive Government. The letter of the Sudr Court dated 28th February, proposes a radius of 30 miles from the central station. The radius should certainly be no more. I submit a draft of a Proclamation which will I think, if Government concur with the Sudr, meet the requirement of the case, and I beg to suggest that a Proclamation fixing the jurisdiction be published in the Fort Saint George Gazette, from which it will be copied into the District Gazette.

8. The Government will observe that as to the transfer of suits, I have slightly altered the language of paragraph 5 of the Proceedings which might lead the parties to imagine that they had an option of either retaining the suit in the Court originally filed, or of transferring it.

9. It is quite clear that there is no such option. The Act is one regulating procedure only, and in a considered judgment of the Court of Exchequer in Wright and Hale (VI H. and No. 227) it was distinctly determined that where an enactment deals with procedure only unless the contrary is expressed, it applies to all actions whether commenced before or after the passing of the Act.

No. 44. From W. HOLLOWAY, Esq., Civil Judge of Tellicherry; to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to Government, dated Tellicherry, 24th June 1862, No. 175.

1. I regret that I have overlooked Act XII of 1861, amending Act XLII of 1860.

2. By Section X it is provided that all cases pending at the time of the constitution of a Court of Small Causes shall be heard and determined as if such Court had not been constituted.

3. The observations therefore which I took the liberty of submitting to Government upon the construction of Section VI of Act No. XLII of 1860, are wholly irrelevant.

4. It will however remain for Government to consider whether the true construction of the Section of the amending Act is that the Suits must be determined in the Court which originally filed them or whether the words are merely permissive. If the latter, a Proclamation following Section V of their Proceedings will meet the necessities of the case. If the true construction is otherwise, Government will no doubt modify their Proclamation accordingly.

No. 45. ORDER THEREON, 4th July 1862, No. 1,052.

The Governor in Council authorizes the Judge of the Small Cause Court at Tellicherry to hire the house referred to in paragraph 3 of the Civil Judge's letter above recorded.

2. The Judge is also authorized to procure the furniture specified in the Estimate at a cost not exceeding Rupees 290. The Estimate does not provide for a Judge's Bench. This omission should be supplied.

W. Holloway
Arbuthnot

Proceedings of the Madras Government, Judicial Department,
4th July 1862.

3. A Notification has been this day issued to the effect that the territorial jurisdiction of the Judges of the Small Cause Courts is to be coincident with the limits of the Zillas in which they are employed. The Judges of the Sudder Court will at once determine in communication with the Judges of the several Small Cause Courts, who will address the Sudder Court on the subject immediately on the receipt of these proceedings, at which of the places named for the sittings of the Small Cause Courts in each Zilla the inhabitants of the several Taluqs included in the Zilla are to file their Suits. This is a matter for the Sudder to arrange, under Section VIII, Act XLII of 1850. The jurisdiction of the Judge of the Small Cause Court will embrace the entire Zilla, but as each Court is to be held at more places than one, it will be for the Sudder, or in the words of the Act, for the Judge subject to the control of the Sudder Court, to decide how the territorial jurisdiction shall be sub-divided.

4. Mr. Holloway in his letter of the 24th ultimo, paragraph 2, raises the question whether the Notification ordered in paragraph 5 of the Proceedings of Government of the 10th idem is not opposed to Section X, Act XII of 1861. The Governor in Council entertains no doubt as to the legality of the proposed course of procedure. The notice which the Civil Judges have been instructed to issue is merely intended to inform parties having suits in the District Mooniffs' Courts that if they think fit to withdraw them and to file them anew in the Small Cause Courts, the Government will not require them to purchase fresh Stamp Paper for the latter purpose.

(Signed) A. J. ARBUTHNOT,
Acting Chief Secretary.

Estimate of Stationery for the Court of
Small Causes at Tellicherry.

Penney Paper	Reams 30
Kings Arms ditto	25
Troiscaf ditto	15
French Troiscaf ditto	80
Blue Royal ditto	1/2
Plotting ditto	1
Quills	No 1000
Pencils { Red	6
Blacklead	18
Inkstands. Ebony	12
Rulers { Round	4
Flat	1
Penknives	6
Ink powder { Black	Reams 24
Red	4
Horns	No 1
Shops	1
Back Book	1
Ledgers	1
Cloth for Table	Yards 18
Belts	No 6.

Dr money
Lml Jdce

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters
from the Civil Judge of
Tillichery-

(Was under 21st & 22nd June 1862
Nos. 164 & 175.)

Order thereon 4th July 1862 No. 1052

The Governor in Council authorizes the Judge of the Small Cause Court at Tillichery to hire the house referred to in para: 3 of the Civil Judge's letter above recorded -

W M

2. The Judge is also authorized to procure the furniture specified in the estimate at a cost not exceeding Rs. 290. The estimate does not provide for a Judges Bench

Enclosure 3

In a letter from the Civil Judge of Tillichery to the Secy of Govt. dated 21st June 1862, No. 175.

Estimate for Stationary for the Small Cause Court.
No. 1052
1862

Bench. This omission
should be supplied.

3. A Notification has
been this day issued to
the effect that the ter-
ritorial jurisdiction of
the Judges of the small
fause courts is to be
coincident with the
limits of the Zilla in
which they are em-
ployed. The Judges of
the Sudder Court will at
once determine in com-
munication with the
Judges of the several
small fause courts, who
will address the Sudder
Court on the subject
immediately on the
receipt of these proceed-
ings at which of the
places named for the
sittings of the small
fause courts in each
Zilla the inhabitants
of the several Taluqs
included in the Zilla
are to file their suits.
This is a matter for
the Sudder to arrange
under

under Section VIII. Act
XIII. of 1860. The jurisdic-
tion of the Judge of the
small fause court will
embrace the Zilla, but
as each court is
to be held at more places
than one it will be in
the Sudder, or in the
words of the Act, for
the Judge to yield to
the Court of the Sudder
Court to decide how the
territorial jurisdiction
shall be subdivided.

4. Mr. Halliday in
his letter of the 20th
Ultimo para 2 raises
the question whether
the Notification issued
in para 5 of the pro-
ceedings of Govt of the
10th Decr is not opposed
to Section X. Act XX. of 1860.
The Governor in Council
entertains no doubt
as to the legality of the
proposed course of pro-
cedure. The notice which
the Civil Judges have
been instructed to
issue

issue is merely intended
to inform parties having
any suits in the Dis-
trict Munsiff's Courts
that if they think fit
to withdraw them, and to
file them anew in the
small cause courts the
Govt. will not require
them to purchase fresh
stamp paper for the
latter purpose.

Yr

To the Civil Judge of Tellicherry, with the District Deputy Magistrate
" Judges of the small cause courts at Chittoor, Coimbatore, & District
" Judges of the small cause courts at Madras, Tellicherry, Negapatam, & Tanjore } Deputy
District Magistrate } Deputy
District Magistrate } Deputy

Chief Clerk.
India 1862. Department.

No. 1652.

PROCEEDINGS OF GOVERNMENT.

Dated 4 July 1862.
No. 1582.

Authorizing the Civil Judge
of Bellary to issue the house
apportionment notice after the
and to procure some furniture for
the use of the small Court but
not exceeding Rs 290.-
~~having~~ ~~to~~ ~~the~~ ~~small~~ ~~Court~~ for the purpose
of the limit of jurisdiction
of the small Court
Judge.

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