

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.

1784

Press

~~Mis.~~

262-263

Dated

29.10.1862

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
29th October 1862.*

No. 262. Read the following letter from C. F. CHAMIER, Esq., Tamil Translator to Government; to the Honorable T. PYCROFT, Chief Secretary to Government, Fort Saint George, dated 10th October 1862, No. 65.

1. I have the honor to enclose for the consideration of Government a Circular* sent for my "information and guidance" by the Board of Revenue, containing "interpretations of certain doubtful passages in Act X of 1862, raised by the Malayalam Translator to Government."

* Dated 23th July 1862, No. 4,885.

2. This being the first instance in which I have received instructions of the kind, I request that you will inform me whether it is the wish of Government that I should be guided by such interpretations in making translations of the Acts of the Legislature.

3. I have never felt that I had any other duty to perform than to give the literal rendering of a passage; and the establishment of any other principle will, I think, prove a source of confusion and perhaps of error.

4. I have examined the Act with a view to ascertain whether any power has been vested in the Board of Revenue to decide any questions that might arise upon the interpretation of the Act, but do not find that any provision to that effect has been made in the Act.

5. On the other hand, the opinion given by the Board upon the meaning of Schedule B, Section 11, note (b) seems directly opposed to Section XXXII of the Act, which provides that the decision of questions relating to the valuation of claims shall rest with the Court in which the claim is preferred, subject to appeal.

6. If I rightly understand the Board's opinion on that point, it is inconsistent with the ruling of the late Sudder Court published at page 50 of the Rules of Practice (Civil) under the head of "Stamps," para. 1; and, if so, would lead to a considerable loss of Stamp revenue, if adopted by District Moonsiffs and others using Vernacular translations of the Act.

7. The Tamil translation made in this Office, and published before receipt of the Board's communication, appears to be capable of bearing the construction put upon the Act by the Board in all the instances except the one above noticed; and I have the honor to request instructions as to whether I should issue a revised rendering of that passage, so worded to convey the Board's interpretation. The present translation conveys the literal meaning of the original.

No. 263. ORDER THEREON, 29th October 1862, No. 1,784.

The Government observe that the Board of Revenue have no power to give an authoritative interpretation of Act X of 1862, more than of any other Act.

2. The Translators must be left to do their work, which is to render a true translation. In making their translations, they must judge for themselves as to the meaning and force of the passages to be translated. The Translators should submit doubtful cases to the Government—and it will be for the Government, pending the authoritative decision of a Court of Law, or of the High Court in appeal, to refer such questions for the opinion of their Law Officers.

3. The Government do not think that Section XXXII of the Act, quoted by Mr. Chamier, applies to the present case. What has to be determined is not the value of any particular claim, but the principle on which one of the provisions, or exemptions, of the Act, has to be constructed. It is a general question applicable to all suits for land paying revenue to Government instituted in the Civil Courts.

4. The Government doubt whether the interpretation put upon Schedule B, Section 11, note (b) by the Board of Revenue, be correct. That clause runs thus:—

"Within the Presidency of Madras, in suits for land paying Revenue to Government, the value of the property shall be assumed at the amount of the annual aggregate produce of the land computed as payable by the dependent Talookdars, Under-Farmers, and Ryots on account of the year in which the suit may be preferred."

5. The amount payable by the Ryots in Ryotwarry Districts may be the public assessment, but dependent Talookdars (see Section 10, Regulation XXVII, 1802) and Under-Farmers are clearly under-tenants, and what is payable by them is the rent, which they pay to the actual proprietor of the land.

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

Exd. F. Cartledge.

CIRCULAR.

STANDING.

No. 4,885.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 28th July 1862.

Read the following letter from G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated Calicut, 18th July 1862, No. 147:—

I have the honor to forward a Memorandum received from Mr. Thompson, Malayalam Translator to Government, pointing out certain passages in Act X of 1862, in which he considers the meaning obscure, and requests authoritative explanation, to enable him to proceed with his translations.

Ordered that the following interpretations of the doubtful points raised, be forwarded to the Collector for transmission to the Malayalam Translator.

(A true Copy and Extract.)

(Signed) W. HUDLESTON.

Secretary.

(True Copy.)

W. Sharlieb.

First Assistant.

To G. A. Ballard, Esq., Collector of Malabar.

Copy to All Collectors.

„	to Telugu Translator to Government.		
„	to Tamil	do.	do.
„	to Persian	do.	do.
„	to Canarese	do.	do.

} for information and guidance.

Exd. J. Wright.

Circulating for information interpretations of certain doubtful passages in Act X of 1862 raised by the Malayalam Translator to Government.

No. 4,885.

*Dated 28th July 1862.
Received*

To All Collectors, &c.

PROCEEDINGS OF THE BOARD OF REVENUE.

STANDING.

CIRCULAR

Memorandum of passages in Act X of 1862 referred for explanation.

In Section XV, Clause I, from "on payment of the proper Stamp duty" "make up the same" the words as they stand, especially if the punctuation of the passage be taken into account, appear to assign no *penalty* in the case of a deed, &c., written on wholly unstamped paper, but the context and the analogy of the 2nd Clause point to a contrary interpretation; which is correct?

The penalty of double the amount of deficient duty is incurred in either case.

IN SCHEDULE A, Section 13.—The proviso in this Section appears inconsistent with the first Clause. If the word, "or" were omitted before "in any such way," the concluding words of the proviso would then qualify the word Bond and the apparent inconsistency be removed. But is the meaning so obtained, the meaning intended to be conveyed?

The objection is good. The meaning of the proviso is that the Bond must not be drawn in such form as to be capable of being made negotiable by endorsement.

Section 26.—Does the exemption in this Section extend to *all dealings in Government Securities*, or is the word "subscription" meant to refer only to the case of parties subscribing for a loan and transferring their interest to others before the allotment of the stock has been made?

The exemption includes all transfers of Government paper.

Section 30.—What is the force of the adjectives "Testamentary" and "Dative," and do they qualify the noun "confirmation?"

The epithets do qualify the noun "confirmation," the one by way of bequest after the death of Testator, the other by converting such bequest into a present deed of gift.

SCHEDULE B, Section 11, Note (b).—What is meant by the "annual aggregate produce of the land computed as payable, &c.," and is the payment spoken of that made to Government or to the landlord?

The reference is to the public revenue payable on the land, and not to the private rent.

Exd. J. Wright.

Judicial Department

Memorandum.

From the Tamil Translator
to do.

dated 10th October 1862, No 65.

unfairly
W.M.

With regard to the
general question here raised,
it seems to me that the
Board of Revenue have re-
ferred to an authority
of Act X
of 1862, more than of any
other Act. They may com-
municate their expositions
to the Local Assistant Trans-
lator for information
and consideration, but in
making his translations
he must judge for himself
as to the meaning and force
of the passages to be trans-
lated, referring to Govern-
ment in doubtful cases.

2 I do not think that
Section XXXII of the Act
applies

It seems to me
that even this
Point is very question-
able - it is more
likely to tend to
confusion than
lead to any use-
ful result -

Mr. Gale
ought to be
have referred
to the Board

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Tamil Translator to Government.

(Here enters 10th Decr 1862 N^o 1784.)

Order thereon 29th October 1862 N^o 1784.

The Govern-
ment observe that
the Board of Revenue
have

will

Proceedings of the
Judicial Department

N^o 1784.

Proceedings of Govt

29th October 1862

Observing that the Revenue Board have no power to give an authoritative interpretation of any Act, that the words they should be left to do their work, and that all cases being referred to Government.

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have no power to give
an authoritative inter-
pretation of Act 2 of 1862
more than of any
other Act.

2. The Transla-
tors must be left to
do their work, which
is to render a true
translation. In making
their translations, they
must judge for them-
selves as to the meaning
and force of the pas-
sages to be translated.

The Translators
should submit

doubtful

doubtful cases to
the Govt. - & it will
be for the Govt., ~~and~~
in giving the authorita-
tive decision of a Court
of Law, or of the High
Court in appeal, to
refer such questions
to their Law Offi-
cers.

The Govt. do not think
that § XXXII of the
Act, quoted by Mr.
Chamier, applies to
the present case. -
What has to be de-
termined is not the
value of any particu-
lar claim, but the
principle on which
one of the provisions
or exemptions, of the
Act, has to be con-
sidered

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continued. It is a
 general question ap-
 plicable to all suits
 for land instituted
 in the Civil Courts.

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4. The Court doubt whe-
 ther the interpretation
 put upon Schedule B
 Section 11 Note (b) by
 the Board of Revenue,
 be correct. That
 clause runs thus:-

"Within the Presi-
 dency of Madras, in
 suits for land pay-
 ing Revenue to Govt,
 the value of the pro-
 perty shall be assum-
 ed at the amount
 of the annual ag-
 gregate produce of
 the land computed
 as payable by the

dependent Talook-
 dars, Under-Farmers,
 & Ryots on acct. of the
 year in which the
 suit may be prefer-
 red."

5. The amount pay-
 able by the ryots in
 ryotwary districts
 may be the public
 assessment, but de-
 pendent Talookdars
 (see Section 10 Reg. XXV
 1802) & under-far-
 mers are clearly
 under-tenants, and
 what is payable by
 them is the rent, &
 which they pay to
 the actual proprie-
 tor of the land.

- The Board of Rev.
- " Rev. Dept.
- " Tamil Translator
- " Telugu do.
- " Canarese do.
- " Persian & Hindus-
tani do.
- " Malabar & Konkani

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1862 Department.

No. 1484.

PROCEEDINGS OF GOVERNMENT,

Dated 29 October 1882

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1. The first part of the document is a list of names and addresses, which appears to be a directory or a list of contacts. The names are written in a cursive script, and the addresses are listed below them.

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