

MADRAS RECORD OFFICE.

**Government of Madras.**

DEPARTMENT.

Press  
~~Mis.~~

51 + 53

13/14

**Not to be folded or roughly handled**

*Proceedings of the Madras Government, Judicial Department,  
6th December 1862.*

Read the following papers:—

No. 51. Proceedings of the High Court of Judicature at Madras, dated 8th November 1862, No. 26.

Read the following letter from the Acting Judge of the Court of Small Causes at Madura, dated 27th October 1862.

1. "I have the honor to request the Chief Justice and Judges of the High Court to be good enough to obtain sanction from Government to relieve me of the Magisterial powers with which the Judge of the Small Cause Court here was invested by the order of Government, No. 1,450, dated the 5th ultimo, as I find that my time is fully occupied with the duties of the Small Cause Court."

2. "Upwards of 1,200 suits have been filed in the Small Cause Court, of which between 800 and 900 only have been disposed of, and when the file here is cleared it will be necessary for the Court to remove to the out-stations. The Chief Justice and Judges are aware that when the Court was organized, no provision whatever was made for the discharge of Criminal work, and no Goomastah even is therefore available for the duty, the staff being barely sufficient to carry on the Civil duties of the Court efficiently, so that if I am to continue to exercise Magisterial powers it will be necessary to increase the Subordinate Establishment considerably and to sacrifice the interests of the Small Cause Court, which would I think be a very great pity. I find that Criminal cases are committed to this Court for disposal not only from different Taluks, but even from the town of Madura, notwithstanding that the Magistrate of the District and a Deputy Collector with full Magisterial powers, have their head quarters here, the latter being permanently stationed here: so that in fact the Small Cause Court is gradually drifting into a Subordinate Court, minus the requisite establishment. It was my predecessor T. Rangasawmy's intention to have brought the matter to the notice of the Chief Justice and Judges, but he preferred allowing the duty to devolve on me. Two Criminal cases have been committed to me for trial since I assumed charge a few days ago; but as my hands were and are full of Civil work, I have required the witnesses to enter into recognizances to appear at a future date, and have requested the Magistrate to instruct his Subordinate Magistrates to discontinue forwarding cases to me for trial pending the present reference, a step which I trust will not be disapproved of."

3. "I cannot think that it was the intention of Government when passing the order on the 5th September that the working of the Small Cause Court should be seriously interfered with, but it cannot be otherwise if I have to regulate my work to meet the contingency of Criminal cases unexpectedly arriving, and rather than that the interests of the Court should be sacrificed, I would suggest either that an Assistant Collector and Magistrate with full powers, or an Additional Deputy Collector be appointed, should it still be deemed unnecessary to establish a Principal Sudder Ameen's Court here; the latter would however be the better arrangement I think."

1. The Chief Justice and Judges resolve to forward the above communication for the consideration and orders of Government.

2. They remark that in para. 7 of the letter of the late Sudder Court, dated 20th February last, it was suggested that, on the establishment of the Court of Small Causes at Madura, the Magistracy should be required to hear and dispose of all Criminal cases, except those triable exclusively by the Court of Session; and it was thought that a Principal Sudder Ameen's Court would thus be unnecessary, as the Civil suits on the files of the Civil and Subordinate Courts would not be more than the Civil Judge could decide.

3. The Government, however, resolved to invest the Session Judge, by a Notification dated 13th June, with the powers of a Criminal Judge. The Civil and Session Judge afterwards complained that the work of his Court was excessive, and requested that a Principal Sudder Ameen might be appointed; but the Sudder Court in a letter dated 17th July expressed the opinion that no such appointment would be necessary if the Session Judge were relieved of the additional duties imposed upon him by the said notification.

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4. In the Proceedings of Government dated 5th September, held on receipt of the above communication, no allusion was made to the Session Judge being relieved of the powers of a Criminal Judge, but the full powers of a Magistrate were conferred on the Judge of the Court of Small Causes, to be exercised within the limits of the Zillah.

5. The Judges of the late Sudder Court were not consulted as to the advisability of this arrangement, which seems to have been made with a view to afford relief to the Magistracy.

6. It does not appear to the Chief Justice and Judges that this relief has been shown to be indispensable. They are clearly of opinion that the effect of investing the Judge of a Court of Small Causes with Criminal powers, when his civil file is sufficient to occupy his whole time, must be to defeat the main object aimed at in creating this class of Courts, viz., to ensure the speedy determination of personal actions within certain limits.

7. The Chief Justice and Judges are of opinion that the Session Judge should continue to take cognizance of cases which arise at the Zillah station, in his capacity of Subordinate Judge, as provided by the orders of the late Sudder Court, under date 26th April last; but would suggest that the Magistracy be required to determine all other cases not committable to the Court of Session under Section 226 of the Code of Criminal Procedure; and if after a period of six or nine months it be found that the work is more than they can perform, that either some addition be made to their number, or that a Principal Sudder Ameen's Court be established. In disposing of this question the state of the Civil Court file would be taken into consideration.

(True Extract.)

(Signed) C. F. CHAMIER,

Registrar.

To the Chief Secretary to Government.

No. 52. From R. R. COTTON, Esq., Civil Judge of Madura; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Madura, 15th November 1862, No. 234.

1. I have the honor to submit for the favorable consideration and orders of Government, copies of two letters addressed by me to the Registrar of the High Court, on the consequences of the abolition of both the Principal Sudder Ameen's and Moofly Sudder Ameen's Courts at this station; and showing the actual effect thereof in three months, and the utter impossibility of any single individual conducting, in addition to the duties of the Civil Court of Madura, those of the abolished Courts.

2. The former of these letters is referred to in para. 4 of my letter to you of the 18th June last, and in reply I was informed\* that the Governor in Council would await the report of the Judges by whose recommendation the Sub-Court, Principal Sudder Ameen, had been abolished.

3. From the Proceedings of Government, I find that the Sudder reported that, if I was relieved of the extra Criminal work imposed on me by the Government Notification, dated 13th June last, they did not consider a Principal Sudder Ameen's Court required at Madura; and that on this the Government were pleased to relieve me of the extra Criminal work.

4. Since then I have been further burdened with the Sudder Ameen's Civil duties, and in my second appeal to the High Court against the unfairness and impolicy of heaping upon me the accumulated business of three Courts, the work of which hitherto has been more than three Judges were equal to (witness the accumulation of suits on their files and a Principal Sudder Ameen being required to be sent to work off arrears), I pointed out that the relief they had suggested to the Government, with regard to my first letter, was not the relief required, and in fact no relief at all, as by the orders of the High Court, my Criminal Jurisdiction as Subordinate Judge or rather Magistrate with full powers, was restricted to offences committed in the town of Madura, probably two or three cases in the year.

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5. The Judges in reply to this second appeal, while admitting that I have clearly shown the necessity of a Principal Sudder Ameen being appointed ere long, decline to forward my letter to Government with their recommendation that my solicitation for assistance be complied with.

6. Under ordinary circumstances I should not have considered myself justified in pressing the matter further, but the question is one, that, I opine, affects the character of the Government, inasmuch as I conceive the administration of Justice, is a subject second to none in importance, and that a Government which neglects to provide properly for it, cannot but suffer in public estimation.

7. The specific duties of the Sudder Ameen Moofly, and Sub-Judge have, as I have before stated, been for years past more than could be performed by them. I make this assertion on the fact, which cannot for a moment be disputed, that till very lately suitors have had to wait months, and years, for decisions owing to heavy arrears. I would also submit that the state of things in the Civil Court was in no degree better; on my taking charge, I found original suits of four and five years' standing, and some hundreds of appeals, many of which had been filed two and three years.

8. I would further note (and the fact I would beg to impress on the Government) that the actual trial of cases and deciding them, is but a portion, and small portion, of the duties of a Civil Judge of whatever class. A large number of suits are brought fraudulently between both parties, and no decisions are passed on merits; another large portion fraudulently by one party, that is, he knowingly sues one member of an undivided family, and by paying him to admit his claim obtains a decree which affects the whole family, another large number of suits are filed, merely out of form, and for security, that is, A agrees to lend B so many Rupees, for which he receives his bond, but the money is not paid, until A has filed a suit against B on the bond, and B has acknowledged it, and agreed that the money if not repaid in such a time may be collected by Court process; here again, there is no decree no merits.

9. The execution of these decrees and Razeenamahs, of which there are hundreds, give rise to innumerable disputes regarding property attached, and are more troublesome, and occupy more time, than the trial and disposal of many suits, for after spreading over many years, the particulars of them are frequently only to be discovered by wading through the records of the like period, and may be of different Courts.

10. Besides these there are other off shoots of fictitious and fraudulent suits involving most difficult questions in respect to rights and titles of land in the Zemindaries, which are constantly being attached, prior to being put up to auction. Against the sale of which, the Government and others on various pleas protest.

11. The disposal of such cases has always been the most difficult part of a Judge's duty, and at the same time the most unprofitable; for the time and labor expended on them are seldom, if ever, allowed to be taken into account.

12. I would therefore ask, how it is possible that, beside my own duties of Civil Judge, which hitherto have been more than any Judge has been able to perform efficiently, I can be expected to discharge those of two other Courts, the work of which a Sub-Judge and Sudder Ameen have hitherto been unable to keep down? I cannot do it, nor risk my health again in attempting the impossible task; as the senior Judicial Officer in the District, and as such, in some measure, responsible to Government for the administration of Justice, I cannot permit the present state of things to go on, without making an earnest, but I wish a most respectful appeal to it, to prevent the Chief Courts of Justice in Madura, just as they were becoming efficient, relapsing into their old and disgraceful state of inefficiency, and the re-opening of all the old avenues to corruption, extortion, false evidence, forgery, and tampering with records.

13. Previous to the abolition of the Sub (Principal Sudder Ameen's) Court, I had by incessant labor and aid of an additional Principal Sudder Ameen, brought my Court into such a state, that I could point to it with pride—cases were then taken up and disposed of as soon as it was possible so that fraudulent suitors had no time allowed them to get up false evidence, and tamper with records, &c., an appeal was decided in from 3 to 10 days after filing, and an Original Suit in a month; now those filed to-day must remain 18 months before they can be taken up for

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disposal, for it is a rule, and a very proper one, that every suit shall be so as near as possible in the order of the file.

14. Act VIII of 1859 passed for simplifying the Procedure of the Civil Courts lays down (in Section 41) that when a suit has been filed (which is to be done as soon after presentation as is practicable (the Court is to issue notice to the Defendant, to appear and answer the claim on a certain day to be therein SPECIFIED; this is altogether impracticable in the Madura Courts, and the order like a great part of the act is a dead letter, and must continue so, while the Courts are kept burdened as they now are with more work than it is possible for them to perform how is it possible for the District Moonsiffs, with between 2 and 3,000 suits on their files to fix a date of hearing in their notices to Defendants? It is true, they might do so, but what a mockery it would be, the date would be necessary some period in 1864 or 1865, and this is only the commencement or first hearing of the suit!!

On a previous occasion,\* when I applied to the Sudder Court for assistance, I received a similar refusal to recommend its being granted but on my personally making the facts known to His Excellency the Governor (Sir Charles Trevelyan) he at once acknowledged the justness of my appeal, and the necessity for an additional Principal Sudder Ameen, who was at once appointed. It is this fact also that has emboldened me again to apply direct to the Government, notwithstanding the different view of the matter taken by the Judges of the High Court; and I trust the peculiar position in which I am now placed, and the importance of the question at issue, may be accepted as my excuse for so bringing them to the notice of His Excellency the Governor, who, I cannot believe, will consider my appeal unsustainable, seeing that the people of Madura have always been willing to pay, and do pay, most handsomely towards the administration of Justice, and so have, if possible, a special claim on the Government in this respect, for years past, the value of stamps used in the Courts has nearly amounted to the whole cost of the Judicial Establishments of the District, and I am satisfied that now it will exceed it, including the Principal Sudder Ameen's Court.

16. I would also impress on the notice of Government, another fact which seems to have been almost, if not entirely, lost sight of, namely, the vast increase of miscellaneous duties, that have by degrees, but steadily, been added to those of the present Civil and Session Judges, their legitimate duties are the same as those formerly conducted by Zillah Judge and Judges of Circuit, but both these Officers had Registrars under them, to whom were entrusted multifarious duties, which are now demanded of Civil and Session Judges.

17. The charge of the Jail and its accounts, the working, &c., of the Convicts, signing all processes, registering deeds, examining witnesses, giving copies of records, granting certificates of heirship, &c., &c., all these and many more such as franking letters for the Medical Officer, and Judge of the Small Cause Court, making returns to myself of all prisoners released, signing all orders for the receipt of Civil debtors into Jail, and their release from it, signing and returning by frank all Magistrate's warrants on expiration of sentence, receiving application for copies of records; not those of my own Court only, but those of all the Courts in the District, late Sub-Court and Sudder Ameen's Court included; all these duties which were formerly entrusted to Registrars and Sub-Judges, and which might be now safely entrusted to a Principal Sudder Ameen or Registrar are now imposed on me, and take up a very large portion of time, which I can ill spare from that required for the more legitimate duties of my office.

18. Another fact I would likewise notice is, that since the appointment of Deputy (Collector) Magistrates, and extended powers have been vested in Sub-Magistrates (Tahsildars) by the Penal Code, and Code of Criminal Procedure, the work on the Session side of the Court has been more than doubled.

19. The Government wisely ruled that no Covenanted European Civilians should be vested with any Magisterial power until he had passed a certain examination, while the extended powers were only given to him on his passing a second, and severe standard; these Civilians being gentleman who had received a liberal education, it seldom happened that they misunderstood the law, and their proceedings but rarely called for observation from the Court, but with

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the Deputy Magistrate it is very different: reviewing their cases and proceedings, and disposing of appeals, takes up much of my time; these Officers have never been called on to pass any examination whatever prior to their being vested even with the full powers of a Magistrate, and their experience in Judicial matters is confined to that gained when they were Tahsildars with power to imprison for 10 days in the village Choultry.

20. All cases committed formerly to the Session Court were so, through the Sub-Judge, who performed the functions of a grand jury, and thus the Session Court was relieved from the necessity of trying cases, in which there could be no question, what the result would be, namely, acquittal; now every Sub-Magistrate (Tahsildar) who feels unwilling to accept the responsibility of acquitting a prisoner, commits him to Court, and the Court is bound to put the prisoner on his trial.

| * Tried.          | Cases. | Convictions. | Acquittals. |
|-------------------|--------|--------------|-------------|
| 1859.....         | 34     | 21           | 13          |
| 1860.....         | 32     | 32           | 10          |
| 1861.....         | 58     | 39           | 19          |
| 1862 10 months 86 | .....  | 43           | 43          |

21. The number of cases,\* on the Session Court Calendar to the present time is 86, being about double that of the average of the preceding 3 years, while the acquittals have this year equalled the convictions, showing most clearly that the judicial knowledge of

the Sub and Deputy Magistrates requires to be tested, and I would submit that while District Moonsiffs (not to mention educated European gentlemen) are required to pass examinations before being entrusted with power, Deputy Collectors before being vested with Magistrate power, should likewise be called upon to show that they are qualified to exercise it.

P. S.—There were on 1st October pending before the

|                 |           |                              |
|-----------------|-----------|------------------------------|
| Civil Court     | 73 suits. | —This does not include 80    |
| Madura Moonsiff | 2,521     | subsequently transferred to  |
| Shevagungah do. | 3,172     | its file from Sudder Ameen's |
| Paramagoody do. | 323       | Court.                       |
| Dindigul do.    | 1,782     |                              |
| Sudder Ameen    | 460       |                              |

The average duration of the suits disposed of in 9 months ending 1st October was

|                 |          |
|-----------------|----------|
| Civil Court     | 47 days. |
| Sudder Ameen    | 331 „    |
| Madura Moonsiff | 550 „    |
| Shevagungah do. | 580 „    |
| Paramagoody do. | 121 „    |
| Dindigul do.    | 350 „    |

R. R. C.

From R. R. COTTON, Esq., Civil Judge of Madura; to C. F. CHAMIER, Esq., Registrar of the Sudder Court, Madras, dated Madura, 18th June 1862, No. 109.

1. With reference to the Proceedings of the Sudder Court, dated 30th April last, calling upon me to report upon the character and qualifications of the Sudder Ameen (Moofly), and to state whether his services can be dispensed with, without detriment to the public service, I have the honor to state, that I entertain a high opinion of my Sudder Ameen, Syed Mustafa Sahib, as a Judicial Officer, he holds a character for integrity amongst the Natives, and though from his not knowing English, he may not be so well read in law as some others, yet I believe his judgment to be sound, and that his decisions generally give satisfaction.

2. I am of opinion that his services at Madura cannot be dispensed with, the Judges are aware of the immense number of suits pending in the Madura District Moonsiff's Court, eased as it is by the Moofly having co-ordinate jurisdiction in the town, and that I have applied for extra Moonsiffs, to clear the arrears of suits.

3. The Sudder Ameen Moofly too, has during the last six years, had an average of between 70 and 80 original suits, that is for value exceeding 1,000 Rupees,—these, if his Court was abolished, would have to be filed in the Civil Court which (as the Sub-Court has been abolished) has already more work than it can possibly do, for in addition to the whole of the Appeals from

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all the Courts in the District, it is further now burdened with all the Sub-Court *original suits*, averaging about 40 yearly—in fact I consider that the Government in abolishing the Sub-Judge's Court, without giving me a Principal Sudder Ameen to take his original suits, and a share of the appeals, has inflicted on me extra work, equivalent to that of another *Civil Court*, the Civil work in the Sub-Court at Madura, being in my opinion, on a par with that of many of the Civil Courts of the Presidency.

4. I have by incessant hard work for the past 4½ years succeeded in reducing the state of the Civil Court file, and with a Principal Sudder Ameen in lieu of a Sub-Judge, believe that I should have been able to keep my work well in hand, but I utterly despair of ever being able to do the Madura Sub-Court Civil work in addition to my own, and I feel that all my past labor is lost, and that a few months will find the Civil Court from the clogged state of its files, in as unsatisfactory a state as it ever was, and if the Sudder Ameen's Court is also abolished, and its work transferred to the Civil Court, it will be worse still.

5. I certainly had hoped, and I think not without reason, that I should have been permitted to reap the benefit of my labors, and to have had for the future, the satisfaction of seeing my Court efficient, and giving satisfaction to the public; instead of which, it appears\* that the result of my labor (the low file) has been made a plea for heaping upon me an amount of work, which, I have no hesitation in saying no single man can do, with any satisfaction to himself or the public, however talented or hard-working he may be.

6. The Judges know from the records what the Madura Civil Courts are, and the nature of the suits that come before them, I trust therefore that allowance may be made for me, if I have expressed myself strongly, and that they will not "work to death the willing horse," but recommend the Government to appoint a Principal Sudder Ameen to assist me, which if granted the Sudder Ameenship might be abolished, and the Sudder Ameen Moofy appointed as one of the extra Moonsiffs required to work off the arrears.

8. The amount realized by stamp, &c., in a Principal Sudder Ameen's Court at Madura, if established as above recommended, would clear the whole cost of the Establishment.

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

P. S.—A Principal Sudder Ameen is also required for the Criminal work, there being no Covenanted Assistant or Head Assistant Magistrate in the District.

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

*Rough Memo of Civil Suits filed since 1st January 1862.*

|                                               |     |     |     |
|-----------------------------------------------|-----|-----|-----|
| Appeals...                                    | ... | 112 |     |
| Original suits, Civil Court...                | ... | 7   |     |
| Do. Sub-Court...                              | ... | 23  | 142 |
| Do: over 1,000 Rupees Sudder Ameen's Court... | ... | 46  | 46  |
| Total in 5 months.                            | ... | 188 |     |

*Memo. of suits now pending, i.e., 18th June.*

|                               |     |     |     |
|-------------------------------|-----|-----|-----|
| Civil Court Original Suit...  | ... | 1   |     |
| Sub-Court do.                 | ... | 15  |     |
| Appeals...                    | ... | 45  | 61  |
| Sudder Ameen's Original Suit. | ... | 102 | 102 |
|                               |     |     | 163 |

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The number of Civil Suits filed in the Sub and Civil Courts may be calculated as follows:—

|                                                                          |     |     |     |
|--------------------------------------------------------------------------|-----|-----|-----|
| Original suits, Civil Courts...                                          | ... | 6   |     |
| Do. Sub-Court...                                                         | ... | 40  |     |
| Appeals...                                                               | ... | 300 | 346 |
| A Civil Judge disposes of 12 suits on merits per mensem, for 10½ months. |     |     | 126 |
| Allow 10 per cent. for Rauzee and withdrawal.                            | ... | 34  | 160 |
| Leaving a balance at the end of the year of more than a year's work...   |     |     | 186 |

If the Sudder Ameen's Court be abolished, and a Principal Sudder Ameen one established, the case would be somewhat as follows:—

|                                                |     |     |     |
|------------------------------------------------|-----|-----|-----|
| Original Suit Civil Court                      | ... | 6   |     |
| Do. Principal Sudder Ameen and Sudder Ameen... | ... | 120 |     |
| Appeals say...                                 | ... | 300 | 426 |
| Deduct for Rauzee, &c., say...                 | ... |     | 42  |
| leaving to be decided on merits...             | ... |     | 384 |
| Civil Judge at 12 per mensem...                | ... | 126 |     |
| Principal Sudder Ameen at 24 mensem            | 252 |     | 378 |
| Balance say...                                 |     | 6   |     |

|                                                                                                                                  |        |    |   |
|----------------------------------------------------------------------------------------------------------------------------------|--------|----|---|
| The amount realized by stamps, penalties and fines during the last 3½ years (1859 to June 1862) in the Sudder Ameen's Court..... | 31,769 | 3  | 0 |
| Sub-Court...                                                                                                                     | 30,346 | 12 | 5 |
| Total Rupees...                                                                                                                  | 62,115 | 15 | 5 |

|                                   |        |                 |
|-----------------------------------|--------|-----------------|
| Average per annum                 | ...    | 17,750 Rupees.  |
| Sub-Court Establishment           | ...    | 562             |
| Principal Sudder Ameen's Salary.. | 500    |                 |
|                                   | 1,062  |                 |
|                                   | 12     |                 |
| Rupees.....                       | 12,744 | 12,744          |
|                                   |        | Rupees... 5,000 |

|                                                                                                 |       |         |
|-------------------------------------------------------------------------------------------------|-------|---------|
| Moofy Sudder Ameen's salary and Establishment retained as extra Moonsiff to work off arrears... | 3,240 | 3,240   |
| Balance in favor of Government...                                                               | 1,766 | Rupees. |
| E. E. per                                                                                       |       |         |

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

(True Copy.)

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

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From R. R. COTTON, Esq., Civil Judge of Madura; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Madura, 21st October 1862, No. 208.

I have the honor to request you will bring to the notice of the Chief Justice, and through him, the Government the following circumstances, with a view to some assistance being given me to preserve the efficiency and character of the Court over which I preside.

2. In my letter dated 18th June last, I endeavored to illustrate what the effect of abolishing the Sub and Moofy Sudder Ameen's Courts at this station would be; and expressed my opinion, that the extra duties heaped on me in consequence of such abolition could not possibly be performed by a single individual, and that in a few months, the Court files would be so clogged that decrees in many suits could not be looked for under a year or two after filing them. I also attempted to show that the Civil work of the Madura Court was sufficient to employ both a Civil Judge and a Principal Sudder Ameen for some time, and lastly that the expense of the latter and his establishment would be covered by the sale of stamps.

3. When the Courts were closed at the adjournment,\* I had on my file as Civil Judge 1 original suit, and 17 appeals, the former having been filed about one month, the latter only a very few days. I was, up to this period, greatly to the satisfaction of suitors and myself disposing of cases as soon as they were ready for hearing.

4. On the opening of the Courts after the adjournment, I had consequent on the abolition of the Sub (*i.e.*, Principal Sudder Ameen's) Court, to transfer to my file from it 15 original suits and 8 appeals.

5. I was perfectly aware, as I stated in my letter above referred to, that this extra work was more than I could single handed perform, for, in addition to having so many extra suits to dispose of, I had to execute all the old decrees of the Sub-Court, as well as to attend to the duties of the Jail, working of the Convicts, &c. Hoping however that the late Sudder Court would respond to my appeal for assistance I did not relax my endeavours to reduce the file, and between the 18th June and 18th July, when I left on leave, notwithstanding the very heavy Sessions which succeeded the adjournment of the Court, disposed of 1 original suit and 26 appeals; leaving on the file for the Acting Judge 18 original suits and 25 appeals, about three months' work.

6. On resuming charge of the Court yesterday,† I find the state of my Civil file as per margin, the Acting Judge in the three months having been able only to dispose of 24 cases.

7. The Chief Justice and Government will now, I doubt not, perceive the truth of what I urged in my former letter "that a few months would find the Civil Court from the clogged state of its files in as unsatisfactory a state as it ever was."

8. The late Sudder Court ruled that the minimum number of decrees on merits expected from a Civil Judge was twelve monthly. I, as you must be well aware, never restricted myself to this number, my object and ambition being to reduce my file and bring my Court into an efficient state and to raise it in the estimation of the public; which I have the satisfaction of knowing I have, in some measure, succeeded in doing, though at no small sacrifice to myself.

\* Judicial Department, 5th September 1862, No. 1,450.

9. I learn from the Proceedings‡ of Government that the Judges of the late Sudder Court have reported to Government, with reference to my protest against being deprived of a Sub-Judge and Sudder Ameen, that they are of opinion, that "no Sub or Principal Sudder Ameen's Court is required at Madura if I be relieved of the additional Criminal work imposed on me by the Notification dated 13th June last, investing me with the powers of a Sub-Judge." And on this, the Government were pleased to invest the Judge of the Small Cause Court here with the full powers of a Magistrate, *i.e.*, Sub-Judge.

10. I would, however, very respectfully point out, that this has been no relief to me whatever. The only Criminal cases which under the ruling of the late Sudder Court, dated 26th

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April 1862, could have been committed to me for trial being very few, indeed, I do not know of above one case having been so committed, while I am still encumbered with the charge of the Jail.

11. The relief, however, that I asked, and still most earnestly plead for, and that on strictly public grounds, is, that a Principal Sudder Ameen or some Officer competent to try Civil actions for money from 1,000 to 5,000 Rupees, and appeals from the decisions of District Moonsiffs may be appointed to assist me in keeping down the Civil Court files, the necessity for which I think I have plainly shown, unless the Chief Justice and Government are content to allow the Court to relapse into its former state, and compel suitors to wait from 1 to 5 years for decision in their cases.

12. Admitting that working office hours, I am able, in addition to my other duties, to pass 12 decrees on merits per mensem. (The Acting Judge could only do 24 in three months), I have now on my file 164 suits, which will at least take me at the above rate till January 1864 to dispose of; when the accumulation of suits original and appeal will probably amount to between 3 and 400 (three years' more work), and this accumulation must continue to increase daily, so long as the aid now solicited is withheld; I know, as must every one acquainted with the District, that it is utterly hopeless my endeavouring single handed to perform the extra work now put on me, which has hitherto fully employed a Sub-Judge and Sudder Ameen, and I submit that after a service of 25 years it cannot be expected of me that I should continue to sacrifice my comfort and health in attempting to do so.

13. I am perfectly aware that it has been urged, that the introduction of Courts of Small Causes will greatly reduce the appeals from the District Moonsiffs' Courts, which they certainly will, when the suits now pending in those Courts have been disposed of; but, as there are some thousands\* of suits still pending in the District Moonsiffs' Courts, no reduction in the appeals can be counted upon for two or three years to come; then, if the 1st class Moonsiffs be vested with the powers of the late Sudder Ameen (*i.e.*, to try suits up to 5,000 Rupees)

|                      |     |     |       |
|----------------------|-----|-----|-------|
| * Pending 30th June. |     |     |       |
| Moofy as Moonsiff... | ... | ... | 542   |
| Madura Moonsiff...   | ... | ... | 3,460 |
| Shevaganah...        | ... | ... | 3,263 |
| Paramagoody...       | ... | ... | 540   |
| Dindigul...          | ... | ... | 2,078 |
|                      |     |     | 9,883 |

and there can be no doubt that the 1st class Moonsiffs of the present day are an equal if not a superior class of men to the old Moofys and Sudder Ameen. The Civil Judge might, in most Zillahs, if not all, be able to dispose of all original suits above 5,000 Rupees, and all appeals from the lower Courts, but till the effect of the Courts of Small Causes can be felt, and seen, which is not the case as yet in Madura, the abolition of the Sub-Court (Principal Sudder Ameen) here, I would venture to observe has been premature, and cannot but very seriously affect the administration of Justice in the District, for instance, the Court which four months ago was efficiently working is now in a measure paralyzed.

Feeling satisfied that neither the Chief Justice nor Government can fail to perceive the justice of, and necessity for, my present reiterated appeal for relief, I confidently leave the matter for their favorable consideration, trusting that the relief solicited may be speedily granted.

No. 53. ORDER THEREON, 6th December 1862, No. 1,981.

On the establishment of the Court of Small Causes at Madura in July last, the Court of the Subordinate Judge was abolished and the Civil and Session Judge was invested with the powers of a Subordinate Judge, Civil and Criminal. Mr. Cotton having represented the heavy addition to his work which was entailed by this arrangement, the Government on the 5th September last on the recommendation of the Sudder Court that the Session Judge should be relieved of the duties of a Subordinate Judge, invested the Judge of the Small Cause Court with the full powers of a Magistrate under Section II, Act XII of 1861.

The Judge of the Small Cause Court now represents that it is impossible for him to try Criminal cases without neglecting his proper duties, there being 1,200 suits on his file. The Honorable the Judges of the High Court recommend that he be relieved of all criminal work, and that the Magistracy be required to try all Criminal cases within their competency, except those arising at the Zillah station which they propose should be disposed of by the Session Judge.

Nov. 10<sup>th</sup> March 1862 at 78 to 81.  
 " 13<sup>th</sup> June " at 87.  
 " 5<sup>th</sup> Sept " at 85 & 86.

dit 1799 Dec

Judicial 1862 Departe  
Pro. Sec. No. 6

Proceedings of the High  
Court of Judicature  
at Madras.

Dated 8<sup>th</sup> November 186.  
Recd. 10<sup>th</sup>

No 26.

No. 2265

Feb 7/63.

Forwarding for the  
orders of Government, copy  
of a letter from the Judge  
of the Court of Small  
at Madras,  
Clauses, requesting to  
obtain sanction from  
Government, relieving  
from the Magisterial  
powers. —

57.

Feb 7  
2<sup>d</sup> Sunday/62

My dear Graft

If you approve  
of the suggestion made  
in this memorandum,  
it seems hardly necessary  
that it should go in  
circulation & the former  
& hardly before calling  
for the opinion of the  
High Court. - No - it  
may as well be very truly  
referred  
to the High Court  
at once / and with one

9  
Judicial Department

Memorandum for Orders

Proceedings of the High Court (Here dated 8<sup>th</sup> Nov<sup>r</sup> 1862 N<sup>o</sup> 26)  
From the Civil Judge of Madras. (Here dated 15<sup>th</sup> Nov<sup>r</sup> 1862 N<sup>o</sup> 234)

On the re-establishment  
of the Court of Small Causes  
at Madras in July last, the  
Court of the Subordinate Judge  
was abolished, and the Civil  
and Session Judge was in-  
vested with the powers of a  
Subordinate Judge, Civil and  
Criminal. Mr. Cotton having  
represented the heavy additions  
to his work which was en-  
tailed by this arrangement,  
the Government on the 5<sup>th</sup>  
September last on the re-  
commendation of the Sudder  
Court that the Session  
Judge should be relieved of  
the duties of a Subordinate  
Judge

Judge invested the Judge of the Small Cause Court with the full powers of a Magistrate, under Sec II Act XX of 1861.

The Judge of the Small Cause Court now represents that it is impossible for him to try Criminal cases without neglecting his proper duties there being 1200 suits on ~~the~~ file. The Judges of the High Court recommend that he be relieved of all criminal work and that the Magistracy be required to try all criminal cases within their competency, except those arising at the Gillah Station which they propose should be disposed of by the Session Judge.

The Civil and Session Judge urges the appointment of a Principal Sudder Ameen as the only mode of enabling him to keep pace with the business coming before the

10  
the Court, which is at present more than he can get through.

It is probable that a very considerable proportion of the causes on the file of the Small Cause Court are for sums below Rs 50 and which would be cognizable by the District Munsiff, if the Bill which is about to be introduced into the Local Legislature had become law. The Judge of the Small Cause Court might then be invested with the powers of a Principal Sudder Ameen and might exercise the powers of a Magistrate without hindrance to his other work, and by this arrangement the Session Judge would be relieved of the extra duties of which he complains. But some months must pass before the Bill in question can become law  
and

and in the meantime the  
arrears in the Civil and Ses-  
sion Court will accumulate.  
In these circumstances it  
appears to me that there  
is no alternative but to  
revive the Principal Sudder  
Amir's Court as a temporary  
measure, but perhaps it  
will be well before doing  
so to call for the opinion  
of the High Court on Mr  
Cotton's letter.

I would call on the  
High Court as  
proposed

JP.

LJA

11  
Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Papers  
Proceedings of the High Court. (Here enter 8<sup>th</sup> Nov<sup>r</sup>. 1862 No 26)  
in the Civil Judge of Madras (— 15<sup>th</sup> — — 234)

Order thereon 6<sup>th</sup> December 1862 No 1981

On the Establishment  
of the Court of Small Causes  
at Madras in July last, the  
Court of the Subordinate Judge  
was abolished and the Civil  
and Session Judge was invested  
with the powers of a Sub-  
ordinate Judge, Civil and  
Criminal. Mr Cotton having  
represented the heavy addition  
to his work which was in-  
tailed by this arrangement,  
the Government on the 5<sup>th</sup>  
September last on the recom-  
mendation of the Sudder  
Court

Court that the Session Judge should be relieved of the duties of a subordinate Judge, invested the Judge of the Small Cause Court with the full powers of a Magistrate under Sect II Act XII of 1861.

2. The Judge of the Small Cause Court now represents that it is impossible for him to try Criminal Cases without neglecting his proper duties there being 1200 suits on his file. The <sup>Honble</sup> Judges of the High Court recommended that he be relieved of all criminal work, and that the Magistracy be required to try all Criminal Cases within their competency, except those arising at the Zillah Station which they propose should be disposed of by the Session Judge.

3. The Civil and Session Judge urges the appointment of a Principal Sudder Ameen as the only mode of enabling him to keep pace with the business

12  
business coming before the Court, which is at present more than he can get through.  
4. It is probable that a very considerable proportion of the causes on the file of the Small Cause Court are for sums below Rs 50, and which would be recognizable by the District Moonsiffs if the Bill which is about to be introduced into the Local Legislature had become law. The Judge of the Small Cause Court might then be invested with the powers of a Principal Sudder Ameen, and might exercise the powers of a Magistrate without hindrance to his other work, and by this arrangement the Session Judge would be relieved of the extra duties of which he complains. But some months must pass before the Bill in question can become

become law, and in the mean-  
 time the arrears in the  
 Civil and Session Court will  
 accumulate. In these cir-  
 -cumstances it appears to  
 His Excellency the Governor  
 in Council that there is no  
 alternative but to revive the  
 Principal Sudder Ameen's  
 Court as a temporary mea-  
 -sure, but before passing  
~~any~~ orders to that effect,  
 he requests the Honble the  
 Judges of the High Court  
 to favor the Government  
 with their opinion on Mr.  
 Cotton's letter.

Y<sup>r</sup> Obedt<sup>l</sup> Servant

H. C. Govt. letter  
 compared  
 for

To the Honble the Judges of the High Court  
 with S.O. No. 1988 and a bill of dep. 8<sup>th</sup>  
 " " Civil Judge of Madurai referred in

F. P. K.

1981  
1981  
1981

Proceedings  
Judicial 1862. Department.

No. 1981.

PROCEEDINGS OF GOVERNMENT.

Dated 6<sup>th</sup> December 1862.

With reference to the letter  
from the Chief Justice of Madras  
of the 10<sup>th</sup> of the 10<sup>th</sup> Court stating  
that there is no objection but  
to receive the Principal Justice  
Chairman's Court as a temporary  
measure but that it will be  
well before going to be called  
for the opinion of the Chief  
Court in Mr. Justice's letter.