M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 306 Press ~~Mis.~~

205-206

Dated 24-2 ~~19~~ 1862

5/5

Not to be folded or roughly handled

2/6/30

No. 205. Read the following letter from E. B. THOMAS, Esq., Collector of Coimbatore; to the Honorable T. PYCROFT, Chief Secretary to Government, Fort Saint George dated 14th February 1862, No. 19.

With reference to the enclosed correspondence, I would beg to ask, when the constituted Judicial authorities decline to give any opinion on a judicial point, how I am to solve the doubt referred to me by my Subordinate, the Tahsildar of Bowany? perhaps the Advocate General would give an opinion for guidance.

From E. B. THOMAS, Esq., Collector of Coimbatore; to C. F. CHAMIER, Esq., Registrar to the Court of Sudr Udalut, dated 31st January 1862, No. 24.

1. I have the honor to forward copy of my letter to the Civil Judge of Coimbatore, dated 23rd instant, No. 15, and to request the orders of the Sudr on the subject therein alluded to.

2. The Civil Judge declining to pass an opinion or order in the matter, or to refer it to the Sudr as will appear from the accompanying copy of his letter, dated 28th, No. 13, I am obliged to submit it direct to you for orders.

From E. B. THOMAS, Esq., Collector of Coimbatore; to S. N. WARD, Esq., Civil Judge of Coimbatore, dated 23rd January 1862, No. 15.

1. I have the honor to forward copy of yadast with its enclosures from my Deputy Collector in charge of the Treasury, dated 9th instant, No. 1, and to request your opinion thereon.

2. You will observe that the District Moonsiff of Bowany requests the Tahsildar of that Taluq to remit to him monthly Rupees 3 from the pay of a Peon named Sheik Tippoo in satisfaction of a decree passed against him in favor of one Ramasamy Chetty, and in support of this requisition the Moonsiff quotes Sections 236 and 237 of Act No. VIII of 1859, a perusal of these provisions shows, I think, that the Moonsiff is in error, inasmuch as they refer only to debts not being negotiable instruments, and shares in any Railway, Banking or other Public Company, or Corporation, as well as to money, or any security, in deposit in any Court of Justice or in the hands of any Officer of Government, which is or may become payable to the defendant or in his behalf, and not to public salary payable for service rendered to Government as in the present instance. Moreover in Section 205 of the above Act, wherein a list of the several description of properties liable to attachment in satisfaction of decrees, is given, public salary is not included.

3. Further a reference to the Rules of Practice for the Courts in the Madras Presidency circulated by the Sudr Udalut under date the 18th November 1861, shows
See page 23.
that in two instances, viz., a Sepoy's pay and a money allowance paid to a Polygar in lieu of land resumed by the Government, the Sudr have ruled that these payments are not liable to attachment in execution of the Decrees of the Court. I think the same rules should apply to public salary payable for service rendered to Government in the Revenue Department.

4. Under these circumstances I am of opinion that the Moonsiff of Bowany is not correct in his proceedings, and request you will be good enough to order him to withdraw his requisition to the Tahsildar, or that you will refer the matter to the Sudr for their orders.

From S. N. WARD, Esq., Civil Judge of Coimbatore; to E. B. THOMAS, Esq., Collector of Coimbatore, dated 28th January 1862, No. 13.

With reference to your letter of the 23rd instant, pointing out that the Bhowany Moonsiff is in error in requesting the Tahsildar of that Taluq to remit monthly 3 Rupees from the salary of a Peon on his Establishment, in satisfaction of a Decree passed against him by the Moonsiff, I have the honor to inform you that I cannot issue any orders on the subject, as it is possible that the case may come judicially before me, nor for a similar reason can I refer the matter to the Sudr Court for their orders.

Proceedings of the Madras Government, Judicial Department,
24th February 1862.

Proceedings of the Sudr Court, 11th February 1862.

Read letter dated the 31st ultimo, from the Collector of Coimbatore, forwarding copies of letters to and from the Civil Judge of Coimbatore on the subject of a requisition from the District Moonsiff of Bowany to the Tahsildar requiring him to remit a portion of a Peon's pay to the District Moonsiff in liquidation of a judgment debt, and questioning the legality of such requisition.

The Judges consider that the Civil Judge acted rightly in declining to give any opinion on a question which might come judicially before him, and for the same reason the Judges must decline giving expression to their views.

(True Extract.)

(Signed) C. F. CHAMIER,
Registrar.

To the Collector of Coimbatore.

(True Copies.)

(Signed) B. COOPPU RAU,
Deputy Collector.

No. 206. ORDER THEREON, 24th February 1862, No. 306.

Mr. Thomas will inform the Tahsildar of Bhowany that the Peon, Sheik Tippoo, is the party, who should appeal in the case. The Government cannot interfere in the matter.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

-2

My dear Lovekind

This is just
like Thomas.

How can we
advise him when
he Sudr won't.

His plan I should
say, was to take
Thamildar to appeal

My dear P-

I've written to
a friend in Texas - no one
can help them, & I
feel quite sick myself
Thousands are
going & it is
no

List

No. 306 - 24 Feby 1862

Mr. Thomas will inform the Tahsildar of Bhowany that the peon, Sheik Zippoo, is the party, who should appeal in the case. The Govt cannot interfere in the matter

JP

The Collector of Coimbatore. } dated 25th