

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	247	Press
		Mis.
121-122		
Dated	19.2.1863	10

Not to be folded or roughly handled

13

Proceedings of the Madras Government, Judicial Department,
19th February 1863.

No. 121. Read the following Proceedings of Government in the Revenue Department, dated 10th February 1863, No. 298.

Communicating Proceedings of the Board of Revenue, in view to steps being adopted for the selection of a more fitting person as Government Vakeel in the Kurnool Court in the room of Ragoonada Row, whom the Government do not consider proper to continue to employ under the circumstances represented.

(Vide Proceedings Revenue Department, dated 10th February 1863, Nos. 152 and 153.)

No. 122. ORDER THEREON, 17th February 1863, No. 247.

The Civil Judge will recall and cancel Ragoonada Row's Sunnud as Government Vakeel in the Nundial Court, and he is requested to submit, in communication with the Collector of the District, the name of the Vakeel who may be considered best qualified for the appointment of Government Vakeel.

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

Exd. T. O'Connor.

A

Proceedings of the Civil Court of Appeal dated 20 November 1862

- 1 Read again miscellaneous Petition No 722 presented by V. Soobarrow Pleader on behalf of the Acting Collector of Mymoor as the representative of Government praying for the release under Section 246 of two houses attached in execution of decree in Original Suit 28 of 1858 on the file of his Court.
- 2 Read notes of statements given by Plaintiff pleader of Nagarathra Poon in answer to the above motion.
- 3 The petition recites that the two houses in question are the property of Government.
- 4 This the above Plaintiff denies.
- 5 In support of his statements that the houses are Government property and as such not liable to attachment in execution of the decree in question, Petitioner has filed two Exhibits A and B the one B being an Extract from Minutes of Consultation dated 6th December 1842 in which the Government declare all buildings resumed from the late Nawab of Mymoor to be the property of Government, and the other Exhibit A an Extract from a list of such buildings in which the two houses in dispute are mentioned.
- 6 The above Plaintiff urges that these two Exhibits cannot be taken in connection with one another as the Exhibit A is dated several months subsequent to the Exhibit B.

7 This the Civil Judge does not consider a valid objection as the order of Government Exhibit B is of a general nature regarding all the property resumed from the Nawab whereas the Exhibit A is an Extract from a list subsequently prepared a copy of which is on the records of this Court.

8 The said Plaintiff proceeds to urge that the Exhibit B has become a dead letter by a subsequent order of Government dated 4 April 1862 A. 754 by which quit rent is ordered to be levied on all houses in the Pargana of Purnea under which order quit rent should have been demanded on the houses in dispute.

9 The Civil Judge observes that it is not within the province of this Court to enquire why quit rent has not been demanded on the houses in dispute; it is sufficient that it has not as admitted by Plaintiff.

10 The Civil Judge further observes that it is admitted by Plaintiff that Simmath Chaturma Sahiba the occupant of one of the houses in dispute died on the 2^d April 1862 and Mohdeen Chaturma Sahiba the occupant of the other on the 10th May 1862 the former before the order of Government cited in Para 8 and the latter within such a short period of its promulgation as to render the application of it urged scarcely possible in the ordinary routine of business.

11 The next point of any importance urged by the Plaintiff

Plaintiff in support of his claim is the outlay of the deceased ladies on the houses in dispute by which they have been brought into their present condition it is hardly necessary to observe that this of itself would not constitute any right to the houses.

12 The Plaintiff next proceeds to admit that he applied to the then collector of Purnea for permission to attach the houses in question and that he received a reply to his request to the effect that the houses being Government property it could not be complied with.

13 He then proceeds to give his reasons for making this request namely that having thought an injunction of this Court recovered from the then collector a sum of Rs 320-4 pence due to one of the ladies in question (Simmath Chaturma Sahiba) on her decease in execution of the same decree in original suit 28 of 1858 and having been subsequently intimidated by that officer into refunding the same he thought it proper to obtain his leave before attaching the houses now in dispute.

14 The Civil Judge observes that it is not within the province of the Court to enquire into the circumstances under which the refund noted in the preceding Para was made; it is sufficient for the Court that the Plaintiff made the refund and that by the application regarding the houses he tacitly recognized the collector's authority over them.

Having

15 Having arrived at this conclusion, the request falls to the ground, as far as the Court is concerned, when urged as a reason for asking the Collector's permission for the attachment of the houses in dispute especially when considered in connection with the Collector's refusal and the application to the Court notwithstanding for the attachment.

16 The Plaintiff has moved the Court for the examination of a number of witnesses and documents which the Court considers it unnecessary to go into in a summary inquiry of the present nature.

17 If the Plaintiff considers that he can establish a claim to the houses in question his proper course is evidently by a regular Suit.

18 Under the above circumstances the Civil Judge resolves to direct the release of the houses in dispute from attachment.

19 The Civil Judge must observe that Petitioner's pleader V. Venkata Subbarao has infringed the rule under the head of "Pleadings" at Page 40 Para 2 of the Rules of Practice for Civil Courts in indulging in terms of reproach against the other party.

/ True Extract /

Signed / A. M. Sullivan
Civil Judge

(True Copy)

Signed / A. M. Sullivan
Civil Judge

/ True Copy /

James Hugh Minchin
Collector

for the Plaintiff

Proceedings of the Civil Court of Madras
Dated 3 December 1862.

Read Order No. 177 presented on the 2nd Instant by D. Seshagiri Rao as Pleader on behalf of Collector of Kurnool applying for copies of Proceedings and Statement given by Plaintiff's Pleader C. Pughanatha Rao in Miscellaneous Petition No. 122 of 1862.

1. A Copy of the Court's Proceedings on Miscellaneous Petition No. 122 of 1862 under date 20 November 1862 can of course be given.

2. Miscellaneous Petition No. 122 of 1862 was presented under section 246 of the Code of Civil Procedure, judgments under which are not subject to appeal. No written statement was therefore taken from C. Pughanatha Rao Plaintiff's Pleader in Original Suit 28 of 1858: there are consequently only the Civil Judge's notes, copies of which cannot under any circumstance be given.

given whether the party applying is
for the same be affected thereby or not.

Turnool }
3 December }
1862 }

H. W. Sullivan
Civil Judge

(True Copy)

James, James, James
Collector

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1862
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on a letter from the
of Turnool to the
to the Board of Revenue
and the Board of Revenue
18 December 1862

Dec-14-1863

Dec-14-1863

Dec-14-1863

Dec-14-1863

Dec-14-1863

Dec-14-1863

No. 29 B
Turnool
Collectors Office
3 July 1862

To
Maiden Khan Bahadur.
By the evil advice of your Eakeel,
Ragoomadha Row, you obtained an order
from the Civil Court for the attachment of
the Pension due to the late Simmat Khatoon
on account of an unsatisfied ^{which} you hold
against her heirs. —

2. Owing to my absence at the time
from Turnool, and mistake of procedure
committed in my office, the steps which I
took to prevent the appropriation of the late
Simmat Khatoon's pension have failed,
and solely through that mistake in procedure
the money has been paid to you. —

3. You must be as well aware as
myself, and as every other honest man in
Turnool, that until the small debts, and
wages due to the servants of the late Simmat
Khatoon are paid in full, you are not
entitled to any of her property, as none
could come to the heirs from whom you have

have seized it, until the debts of the deceased, were settled. —

4. If therefore you value your good name before the Public of Karnool, and wish to preserve the place which you have hitherto held in my good opinion, you will return to me the amount of Pension, which was improperly attached on the motion of your Vakool Ragomadh Row, to enable me to settle the just debts, and pay the Establishment of the deceased. —

5. In this case I will of course return to you any balance that may remain over after making a full settlement of Kimmahkatom's affairs. —

(Signed) James Ames Michie
(True Copy) Collector

James Ames Michie
Collector —

Wm. M. M. M.
and Clerk

1862
Department
Enclosure B

in a letter from the Collector
of Karnool to the Secretary
to the Board of Revenue
Fort St. George dated
18 December 1862 No 152

Rev: 1248/63.

J. No 8124 of 1862

Pro. 14 Feb. / 63 Oct 247

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No 313

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Reply #38 from S. D. Minchin Esquire Collector
of Imrool to the letter of Modern Khan Bahadur.

With reference to your letter of the 23rd July last
stating that the houses occupied by Modern Khatoon
Masaiha (deceased) are vacant and also mention-
ed and requesting that if the houses were
kindly given to you, you will cause the same
to be sold by auction in execution of the decree
passed against Modern Khatoon Masaiha & recover
the amount of the decree, you are hereby informed
that the said houses are the property of Govern-
ment and that they cannot be given to you
in execution of the abovementioned decree.

Imrool (Signed) S. D. Minchin
25th July 1862. Collector
True Translation/

James James Minchin
Collector

W. M. M. M.
and Co.

Memorandum

The Government Pleader of the Zillah Court of Kumool begs to state with reference to the Memo^{re} of the Acting Collector of Kumool N^o 7. that ^{he being} the Pleader of Goolam Mohadeem Khan Bahadur (Plaintiff in Original Suit No 28 of 1858) is unable to move the Civil Court of Kumool for the release of the two houses referred to as long as his services may be retained by him (the said Party).

His reasons for this, are that he has been a Pleader on behalf of Goolam Mohadeem Khan Bahadur in this suit since 23rd August 1858 which date is prior to his appointment as Government Pleader in April 1861, & that the Sudder Court ruled in their Proceedings of the 2nd June 1826 (vide Page 26 of the rules of practice for the Courts of the Madras Presidency) that "If a pleader employed by the Plaintiff in a suit against the Government be appointed Government Pleader, his services may nevertheless be retained by such Plaintiff, but if he be relinquished he may appear for the Government."

1862
Enclosure
D

in a letter from the Collector
of Kumool to the Secretary
to the Board of Revenue
at Serampore dated 19th
September 1858 at 102 —

Dec 11/58

1861
1862

Henry M. G. G. G.

1861
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By the latter part of Section ~~XXII~~ Regulation XIV of 1816 and the construction put upon it by the Sudder Court in their Circular Order dated 5th November 1829 A, a Pleader is precluded from being employed in the same cause against the party, who may have retained him.

The Petition for attachment was filed on the 4th Instant and the two houses were attached on the 13th Idem.

/ Signed / C. Raghomadha Row
Government Pleader

/ True Copy /

Jamun dunn Minchin
Collector

Adm. M. S. M. S.
Secy. to Govt.

Received
in a letter from the Collector
of Kurnool to the Secretary
to the Board of Revenue
at Secunderabad dated
18th December 1862 at 1862
J. M. S. M. S.
Secy. to Govt.
1863
1863

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following Proceedings of the Board of Revenue:—

Submitting with the Board's remarks a letter from the Collector of Kurnool, forwarding a copy of the Proceedings of the Civil Court directing the release of the Government property attached in execution of a Decree on the motion of a Political Pensioner in the District. (Here enter 14th January 1863, No. 207.)

ORDER THEREON, 10th February 1863, No. 298.

1. In the case referred to in these Proceedings Moideen Khan Bahadoor, a Political Pensioner in Kurnool, evidently endeavoured through his Vakeel, the Government Pleader C. Ragoonada Row, to obtain possession of property which he knew well enough belonged to Government. The Government regret that a person of Moideen Khan's position should be guilty of such unworthy conduct, and they desire that an intimation to this effect may be made to him.
2. Clause 4, Section XXXVII of Regulation XIV of 1816, shows very clearly what the duties of a Government Vakeel are; and even admitting Ragoonada Row's excuse of having been retained by Moideen Khan in the Original Suit in the matter, the Government do not consider that they can trust or properly continue to employ a person who holds it to be his duty to his employer to endeavor to appropriate for him property which he well knows belongs to others. The Governor in Council therefore directs that steps be adopted for the selection of a more fitting person as the Vakeel of the Government in the Kurnool Court. The papers will be communicated to the Judicial Department in view to effect being given to this Order.

(True Extract.)

[Signature]

Secretary to Government.

To the Board of Revenue.
Judicial Department.

Exd. S. T. Augustid.

to the Administration.
1860