

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <i>936</i>	Press ~~Mis.~~
<i>138-139</i>	
Dated <i>13 - 6 -</i>	<i>1863</i>

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(9702) 7705

*Proceedings of the Madras Government, Judicial Department,
13th June 1863.*

No. 138. Read the following Proceedings of Government in the Revenue Department, dated 5th June 1863, No. 970.

Referring to the Honorable the Judges of the High Court, certain correspondence relative to the fees of Vakeels on the occasion of lands, on which Government has claims, being attached by any District Moonsiff's Court in execution of a Decree in view to its being considered whether it would not be advisable to allow the course pointed out by Circular Order, Sudder Udalt, No. 110A, 15th February 1847, to be followed in such cases; and requesting them, if no objection exist to the arrangement, to issue orders accordingly to the Sub-Courts

(Vide Proceedings Revenue Department, dated 5th June 1863, Nos. 82 and 83.)

No. 139.

ORDER THEREON, 13th June 1863, No. 936.

Ordered to be communicated to the Honorable the Judges of the High Court, in reference to paragraph 7 of the Proceedings in the Revenue Department.

(Signed) J. D. SIM,
Secretary to Government.

*Proceedings of the Madras Government, Revenue Department,
5th June 1863.*

No. 82. Read the following Proceedings of the Board of Revenue, dated 19th March 1863, No. 1,648:—

Read again letter from the Collector of the Godavery District, dated 22nd November 1862, No. 233.

(In Cons. 1st December 1862, No. 7,603.)

Read also the following letter from the same Officer, dated 21st January 1863, No. 11:—

1. With reference to the Proceedings of the Board of Revenue of the 15th ultimo, I have the honor to submit copy of a letter received from the Civil Judge at Rajahmundry, of the 21st November 1862, No. 301, which furnishes an explanation of the circumstances rendering a change in the former practice of moving the Zillah Court through the Government Vakeel necessary. I request the Board will be pleased to sanction the arrangement suggested in my letter of the 22nd November last, No. 233.

2. If this arrangement is sanctioned the question will arise whether orders may be issued to the Vakeel of the District Moonsiff's Court, who may be selected to perform the duty, in the same manner as has hitherto been usual in regard to the Government Vakeel of the Civil Court, and as provided in Clause 3rd, Section 37, Regulation XIV of 1816, or whether a Vakalatnama on the prescribed Stamp paper will be necessary in every case.

ENCLOSURE No. 1.

From L. C. INNES, Esq., Civil Judge, Rajahmundry, to A. PURVIS, Esq., Collector of the Godavery District, dated 21st November 1862, No. 301.

1. Adverting to the rule of practice of the late Sudder Court of the 16th April 1860, below given, I have the honor to request that all claims that may be preferred by you to land advertised for sale in the Moonsiffs' Courts of this District may be made direct in each case through one of the Vakeels of the Court by which the land is put up for sale. If required, lists of the Vakeels will be prepared and sent to you.

2. The proper course under the new procedure is for you to take notice of the proclamation, which under Section 249 of the Civil Procedure Code (Act VIII of 1859) should in such cases be sent to you, and without any further reference to you by the Court advertising the sale, to put forward any claim you may have to the property.

"If property be attached by order of a District Moonsiff, any claim or objection which the Collector may have to make in respect of such property may be preferred through one of the Pleaders practising in the Court of such District Moonsiff." (Sudder Proceedings, 16th April 1860.)

(A true Copy.)

(Signed) A. PURVIS, Collector.

1. The Board resolve to solicit the sanction of Government for the necessary expenditure on account of Vakeel's fees to be incurred on the occasion of lands on which Government has claims being attached by any Moonsiff's Court in execution of a Decree.

2. The rate is stated to be Annas 4 per motion under Regulation XIV of 1816. On paragraph 2 of the Collector's letter the Board observe that Schedule B, Act X of 1862, makes no exemption in the case of Government having to appear in the Courts, nor does it contain any provision corresponding with the general exemption in Schedule A, but the Board are doubtful whether any such Vakalatnama as is contemplated by Article 8 of Schedule B would be necessary on such occasions as those under consideration, for the motion to be made can scarcely be deemed "the conduct of suits or proceedings of any kind pending before the Courts of Justice" as expressed in the note to Articles 43 and 44 Schedule A. If a power of Attorney under Schedule A would suffice, no stamp will be needed.

*Communicated to the Secretary
of the District Court at Rajahmundry
for the purpose of forwarding
to the fees of Vakeels on
the occasion of lands
on which Govt. has claim*

*Proceedings of the
Madras Government
dated 15th June 1863*

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*Proceedings of the Madras Government, Revenue Department,
5th June 1863.*

3. Some authority for the Vakeel will certainly be necessary. The Board will leave it to Government to decide what its nature shall be.

(True Copies and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 83.

ORDER THEREON, 5th June 1863, No. 970.

1. In their Proceedings above recorded the Board of Revenue solicit the sanction of Government for the necessary expenditure on account of Vakeel's fees to be incurred on the occasion of lands on which Government has claims being attached by any District Moonsiff's Court in execution of a Decree.

2. This reference has been made consequent on a requisition from the Civil Judge of Rajahmundry desiring the Collector of the Godavery District to employ one of the Pleaders practising in the District Moonsiffs' Courts to represent the claims of Government on lands attached under the orders of the said Courts in execution of their Judgments.

3. This requisition was based on the ruling issued by the late Court of Sudder Udalt on the 16th April 1860 to the effect noted in the margin.

If property be attached by order of a District Moonsiff any claim or objection which the Collector may have to make in respect of such property may be preferred through one of the Pleaders practising in the Court of such District Moonsiff.

4. The course hitherto followed by Collectors when lands encumbered with arrears of revenue due to Government were attached under the orders of a District Moonsiff, is that indicated in the Circular Order of the late Sudder Udalt, No. 110A, dated 15th February 1847. The fact of the attachment being made was notified to the Collector, through the Government Vakeel attached to the Civil Court, and the objections to the measure which the interests of Government might suggest were communicated through the same channel to the Court issuing the order of attachment and disposed of under the general Regulations.

5. The recent ruling* of the late Sudder Udalt above quoted does not absolutely require that a separate Vakeel should be employed in each District Moonsiff's Court for the said purpose. The claims of Government in the generality of cases refer merely to arrears of revenue due on lands sold in execution of Decrees of Courts, and the amount thereof may in each instance be communicated by means of a Memorandum signed by the Government Vakeel of the Civil Court without causing much inconvenience to the Court ordering the sale, as nothing more is sought than the payment in the first instance of the amount due to Government from the sale proceeds of the attached lands.

6. The sale of landed property in satisfaction of Judgment Debts is of very frequent occurrence in the Provinces, and if it be indispensable that in each case a separate Pleader should be employed to make known the claims of Government much needless expense and trouble will be caused to Government. The remuneration allowed by the Regulations for presenting a motion is 4 Annas, but no competent men could be found to undertake the work for so trifling a consideration. Should a higher sum be paid in order to secure the services of a duly qualified person so much of it only as equals the rate specified in the Regulations will be recovered by the Courts, and the difference must be borne by Government. At present a Government Vakeel is only employed in the Civil Courts, and the pay is 21 Rupees monthly. No Government Vakeel could be appointed to a District Moonsiff's Court on less pay than 10 Rupees a month, and as there are 126 such Courts the measure will involve an annual expenditure of 15,000 Rupees.

7. Under the above circumstances His Excellency the Governor in Council resolves to refer, through the Judicial Department, the correspondence connected with this subject, to the Honorable Judges of the High Court, in view to its being considered whether it would not be advisable to allow the course pointed out by Circular Order, Sudder Udalt, No. 110A, 15th February 1847, to be followed in such cases. If no objection exists to this arrangement they will be requested to issue orders accordingly to the Subordinate Courts.

*Proceedings of the Madras Government, Revenue Department,
5th June 1863.*

8. Cases however may arise involving questions of tenure, &c., in which it may be desirable to make use of the services of a Pleader attached to the Court issuing the order of attachment, but these will be very few, and there will exist no objection to the employment of a Vakeel of the Court in such special cases, suitable remuneration being granted for his trouble with reference to the nature of the claims urged.

9. Adverting to the question raised by the Collector of the Godavery District, as to whether a Vakalatnamah on the prescribed Stamp paper will be necessary in every case in which a separate Vakeel is engaged, the Government observe that Section 37, Regulation XIV of 1816, which declares that the order of the Collector shall be filed as the authority of a Pleader for appearing on behalf of Government has not been rescinded by any subsequent enactment.

(Signed) J. D. SIM,

Secretary to Government.

Order 13 June 1863 No 936.

Ordered to be communicated to the Honorable the Judges of the High Court in reference to para 7 of the Proceedings in the Revenue Department.

W. M.

To the Honorable the Judges
of the High Court.
with a copy of the
Rev. Hoar's Pro. No 8154 of 1862

dupd. 17

Revenue 1863 No 936
K. 970
Proceedings of the
Honorable Judges
dated 13 June 1863