DEPARTMENT.

Paper taken out of the Records from the charge of the Reference.

Press
Miscellaneous — No. 12 & 6 dated 2 — 12 — 1864

Routine

Date taken out.	For what purpose. Department.	C. No.	Year.	Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
22-3-67	Judl	Dist 9	67		21-3-67	
25-3-67	Judl	Dist 9	67		27-3-67	
11-10-67	Judl	Dist 9	67		21-12-67	

C.F. 73.

M.R. O. 1—88,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1727 Press / Mis.

17-18
Dated 3 - 12 - 19 1864

5/6

Not to be folded or roughly handled

No. 17. Read the following letter from the President and Mooktyar of the inhabitants of the Taluq of Oossoor, Salem District; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated 19th November 1864.

We, the undersigned inhabitants of the Taluq of Oossoor, District of Salem, beg most respectfully to call your honor's attention to our enclosed Mahazurnamah, which we humbly solicit your honor will be kindly pleased to bring to the prominent notice of His Excellency the Governor in Council, and procure us an order favorable to our request. From a perusal of our petition, your honor will perceive that we are suffering the greatest difficulties and distresses from the Small Cause Court being situated at Salem, and that our distresses would be entirely obviated by empowering the Moonsiff of the Oossoor Taluq to adjudicate all cases falling under his jurisdiction under Act VIII of 1859, so that we will not be under the necessity of proceeding all the way to Salem for the recovery of our debts.

2. In submitting our prayer, we beg to state that the matter concerns thousands and thousands of the inhabitants of the Taluq of Oossoor, who humbly look up to your honor for relief, and who they firmly and sincerely believe will graciously intercede on their behalf, and obtain from Government a compliance with their prayer.

To His Excellency the Honorable the Governor in Council,
Fort Saint George.

The humble Petition of the undersigned inhabitants of the Taluq of Oossoor in the District of Salem.

Respectfully Sheweth.

That it is a duty incumbent on a gracious and paternal Government, as is that of the British rule, to attend to the welfare, comfort, and happiness of their subjects, and it is by presuming on that fundamental principle of a righteous Government that petitioners humbly take the liberty of soliciting the attention of your Excellency in Council to a just and favorable consideration of the subject herein-under submitted, involving as it does a matter of vital importance, by which the interests of the whole of the inhabitants of the Taluq of Oossoor are deeply affected.

2. It need not be stated that the object of the Supreme Government in establishing Courts of Small Causes was to facilitate the recovery of debts in as inexpensive a manner as possible. This intention, however, petitioners would humbly submit, has been entirely overlooked and defeated by the Taluq of Oossoor being placed under the jurisdiction of the Small Cause Court of the Principal Sudder Ameen at Salem.

3. The causes are obvious:—The Principal Sudder Ameen's Court is about 100 miles distant from Oossoor, and the trouble, hardship, inconvenience, and loss which will unavoidably be experienced by suitors from the Oossoor Taluq will be inconceivable, in having to travel so long a distance.

4. Besides the discomforts arising from leaving homes, perhaps at important periods, besides the loss incurred from having to desert labor or business at critical times, there is the additional expense incurred in travelling 100 miles, and the expense of serving processes over all that distance is very great.

5. In fact, the cost of procuring and serving processes is just 13 times as much now as it was when like cases were heard and disposed of by the Moonsiff Court at Oossoor, and inquiry will clearly establish the truth of this statement. Formerly, the cost of serving a Subpœna on a single witness from the Moonsiff Court at Oossoor was but 5½ Annas, whereas the present cost of serving a single Subpœna from the Salem Small Cause Court on any witness in the Taluq of Oossoor is nothing less than Rupees 6-4-0. These heavy and preposterous charges have to be met by

in the first instance, and by still more indigent debtors after judgment is passed. The hardship of the case need not be expatiated upon; the enormous difference in the charges of the two Courts is too apparent to need further mention.

6. Moreover, the witnesses, who have the misfortune to be subpœnaed have not only to leave their homes and families, and their respective callings, which they can little afford to do, but they also have to trudge the whole length of 100 miles to and fro, incur expenses to which they would not otherwise be subjected, and in consequence of all these contending causes suffer no little loss and privations.

7. It is true that the Principal Sudder Ameen will hold his Court, once a year, for three months in the adjoining Taluq of Kistnagherry; but this temporary removal of the Small Cause Court from Salem to Kistnagherry will not, in any perceptible degree, give relief to petitioners, the inhabitants of Oossoor Taluq. Kistnagherry itself is somewhere about 50 miles from Oossoor Taluq, and the travelling of that distance will not lessen in any considerable measure the trouble, loss, and inconvenience at present experienced by petitioners. Further, it is not likely that all the suits filed at Kistnagherry during the Court's temporary stay there will be finally disposed of, and as a matter of course the balance of suits undisposed of will be taken on to Salem, where the suitors and witnesses must attend, and suffer losses and discomforts as shown above. Thus the relief which this arrangement is supposed to afford is only imaginary, for nine out of 12 months in the year the Principal Sudder Ameen's Court will remain stationary at Salem, and the objections submitted by petitioners will in no wise be obviated, nor will their grievances, as herein set forth, be redressed. During this long period the causes tending to aggravate the grievances of the parties are not few. The long distance at which the Court is stationed will afford defendants facilities not only to evade the law, but also to abscond and to conceal property, which might otherwise be liable to attachment in satisfaction of claims. In addition to these, there is the danger of suits being thrown out, on the ground of lapse of time with reference to the Statute of Limitation, a circumstance which the inhabitants of this far distant Taluq will not unfrequently be liable to, by the tribunal being placed beyond their ordinary reach.

8. The well known object of the establishment of Small Cause Courts, as understood by the people, is to facilitate the easy and speedy recovery of debts within a certain amount; if this be so, as it assuredly is, the object will never be effectually attained, unless a Small Cause Court is established in every large town and city in which extensive money transactions transpire, and where traffic on a large scale is carried on. How then can a single Court be sufficient for the purpose for so extensive a District as Salem, consisting of a population, a litigious population too, of 1,500,000 souls, and covering an area of 7617 square miles?

9. The truth is that, were the spirit and tenor of the Act for the establishment of Courts of Small Causes taken into right consideration in connection with the wants of Her Most Gracious Majesty's loyal and dutiful subjects, a Small Cause Court would be established at Oossoor for the sole benefit of the inhabitants of the Taluq itself. It is to be remembered that the Taluq of Oossoor once formed one of the principal Divisions of the Mysore territory; has several important Polliums within its boundaries, its population consisting of 200,000 souls, and its area of 1370 square miles. Surely, the allotment of a Small Cause Court for so large a population and so extensive a Taluq cannot but be admitted as absolutely and positively necessary.

10. And this is a thing which can be easily effected without any extra expenditure to the State. The Small Cause Court Act, and Act VIII of 1859 are precisely the same, save in respect of a few points, and if the District Moonsiff is only strictly enjoined to carry out the principles of that Act (VIII of 1859) all the benefits of the Small Cause Court Act would be thereby fully realized, without the disadvantages at present attending from having only one Court of Small Causes, and that 100 miles away.

11. The slightest consideration will convince your Excellency in Council that the labor imposed on a single Court, for the adjustment of suits among so large a population as 1,500,000, is immeasurably heavy, and that a single Court is altogether inadequate for the object for which

Proceedings of the Madras Government, Judicial Department,
3rd December 1864.

Small Cause Courts are established. It is impossible for a single Judge to get through the whole number brought on his files in any reasonable period, and the consequence will be, great delay in disposing of cases and long continual attendance of suitors, complainants, defendants and witnesses, to their insufferable loss.

12. To give an instance as to how Act VIII of 1859 can be considered sufficient for all the purposes contemplated by the Small Cause Court Act, when it is strictly administered, petitioners would beg to submit, that from the year 1860 in which the said Act (VIII of 1859) was introduced to the end of the year 1863, four years inclusive, the number of suits filed in the Moonsiff's Court at Oossoor was 6125. Previous to the year 1860, there remained a balance of 683, making a total of 6808 cases in all on the file. During the four years above-mentioned the then Moonsiff disposed of 6718 cases, leaving a balance of only 90 suits undisposed of. The average time in *finally* disposing of each of the above large number of cases was about 2 months and 14 days.

13. It is to be observed, however, that the above-mentioned number of cases consisted of suits not only of those which fell under the Small Cause Act, but also those suits which fell under the Moonsiff's immediate jurisdiction for amounts not more than 1000 Rupees.

14. Were the average period of disposing of Small Cause actions be inquired into, it will be found that it took no more than from five to six weeks, *i. e.*, from the first commencement of the action to its final disposal.

15. Your petitioners need scarcely point out to your Excellency in Council that it is impossible that the summary disposal of cases falling within the Small Cause Act will always be attended with justice. The reason thereof is obvious; there can be no denying that cases of this description, and involving the consideration of intricate points, as cases of debt generally do, require lengthened inquiry, as otherwise the true facts of each case will not be arrived at or ascertained, more especially as there is no appeal allowed from the decisions of Judges of the Small Cause Courts.

16. Previous to the establishment of Small Cause Courts, the workings and operations of the Moonsiffs' Courts were not only beneficial to the community in general but also to the public. For instance, from the first introduction of Act VIII of 1859 in 1860 to 1863 the amount collected in the Moonsiff's Court of Oossoor, agreeably to the Stamp Act, was on an average Rupees 5353 per annum. The charges for the entire establishment of the said Court amounted to Rupees 3125 per annum, which left a balance of Rupees 2128 for the Government Treasury.

17. Under the operation of the Small Cause Court Act no such profit will be realized.

18. In conclusion, petitioners would beg to submit that, whilst they were about to solicit Government, that the powers of the District Moonsiff might be extended to suits of more than 1000 Rupees, they are grieved to find that they should have to go to Salem, 100 miles distant, for the recovery of far smaller sums.

19. They, therefore, most humbly and respectfully beseech of your Excellency in Council to pass an order in consideration of the foregoing statements, investing the District Moonsiff of Oossoor with power, which he once held, to adjudge suits of Small Causes. In urging this prayer, petitioners would humbly submit that the object of the establishment of Courts of Small Causes is, from the reasons assigned by them, completely defeated, inasmuch as the costs of suitors are increased, the expenses for subpœning witnesses and serving processes are greatly enhanced, not to mention the excessive labor imposed on a single Judge, and the delay experienced in his disposal of the cases, innumerable as they are, the injustice realized from summarily disposing of such cases, as also the loss suffered by Government. For all these several reasons, petitioners solicit that their prayer may be complied with.

And petitioners, as in duty bound, shall ever pray.

19*th November* 1864. (Signed) B. LINGUNNAH and others.

Proceedings of the Madras Government, Judicial Department,
3rd December 1864.

No. 18. To the Honorable Sir C. H. SCOTLAND, Knight, Chief Justice of the High Court of Judicature at Madras, dated Fort Saint George, 3rd December 1864, No. 1727.

I am directed to request that you will be good enough to favor the Governor in Council with your own opinion and that of your Honorable Colleagues on the prayer of the petition received with the accompanying letter, purporting to be signed by certain inhabitants of the Taluq of Oossoor in Salem.

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

Exd. J. Tulloch.

12. To give an instance as to how Act VIII of 1859, can be considered sufficient for all the purposes contemplated by the Small Cause Court Act, when it is strictly administered, Petitioners would beg to submit, that from the year 1860 in which the said Act (VIII of 1859) was introduced to the end of the year 1863, 4 years inclusive, the number of Suits filed in the Munsiff's Court at Oosoor was 6,125. Previous to the year 1860, there remained a balance of 683, making a total of 6808 Cases in all on the file. During the 4 years above mentioned the then Munsiff disposed of 6,718 Cases, leaving a balance of only 90 Suits undisposed of. The average time in finally disposing of each of the above large number of cases was about 2 months and 14 days.

13. It is to be observed, however, that the abovementioned number of cases consisted of Suits not only of those which fell under the Small Cause Act, but also those Suits which fell under the Munsiff's immediate jurisdiction for amounts not more than 1,000 Rs.

14. Were the average period of disposing of Small Cause Actions be enquired into it will be found that it took no more than from 5 to 6 weeks; i e from the first commencement of the action to its final disposal.

15. Your Petitioners need scarcely point out to your Excellency in Council that it is impossible that the summary disposal of cases falling within the Small Cause Act will always be attended with justice. The reason thereof is obvious; there can be no denying that cases of this description and involving the consideration of intricate points, as cases of debt generally do, require lengthened enquiry, as otherwise the true facts of each case will not be arrived at or ascertained, more especially, as there is no appeal allowed from the decisions of Judges of the Small Cause Courts.

16. Previous to the establishment of Small Cause Courts, the workings and operations of the Munsiffs, Courts were not only beneficial to the community in general but also to the public:—for instance from the first introduction of Act VIII of 1859 in 1860 to 1863 the amount collected in the Munsiff Court of Oossoor, agreeably to the Stamp Act, was on an average Rupees 5, 353 per Annum. The charges for the entire establishment of the said Court amounted to Rs. 3125 per Annum, which left a balance of Rs. 2128 for the Government Treasury.

17. Under the operation of the Small Cause Court Act, no such profit will be realized.

18. In conclusion, Petitioners would beg to submit, that whilst they were about to solicit Government that the powers of the District Munsiff might be extended to Suits of more than 1000 Rs, they are grieved to find that they should have to go to Salem, 100 miles distant for the recovery of far smaller sums.

19. They therefore most humbly and respectfully beseech of your Excellency in Council to pass an order, in consideration of the foregoing statements investing the District Munsiff of Oosoor with power, which he once held, to adjudge Suits of Small Causes. In urging this prayer, Petitioners would humbly submit that the object of the establishment of Courts of Small Causes is, from the reasons assigned by them, completely defeated, in as much as the costs of Suitors are increased, the expences for subpaening witnesses and serving processes are greatly enhanced, not to, mention the excessive labour imposed on a single Judge and the delay experienced in his disposal of the cases, innumerable as they are, the injustice realized from summarily disposing of such cases, as also the loss suffered by Government. For all these several reasons, Petitioners solicit that their prayer may be complied with.

19th November 1864

And Petitioners as in duty bound
SHALL EVER PRAY.

Judicial. 4 D.

No. 1727

The Hon'ble Sir Colley Carmans Scotlands, Kt.
Chief Justice
Ft. Wm. High Court of Judicature.

Hon'ble Sir

I am directed to request that you will be good enough to favor the Governor in Council with your own opinion & that of your Hon'ble Colleagues on the prayer of the petition received with the accompanying letter to my address dated 7th Novr '64, purporting to be signed by the "Principal Inhabitants of the Taluq of Oofoor" in Salem.

I have &c.

Fort St George
3rd December 64

What is done in the Presidency Office

Judl. Consltn
No. 2401

