M.R. O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1801	Press ~~Mis.~~
160-162 Dated	14-12-	19 1864

5/6

Not to be folded or roughly handled

Read the following papers:—

No. 160. From Mr. H. FOSTER, Law Agent; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, Madras, dated 17th October 1864.

I beg to request the favor of your kindly laying the enclosed petition before His Excellency the Governor in Council, and the Honorable Members thereof at the earliest opportunity; and that you will also kindly return me my Sunnud, &c., enclosed in the petition, after done with.

N. B.—Please address at No. 20, Davidson's street, Black Town.

To

THE RIGHT HONORABLE SIR WILLIAM THOMAS DENISON, K. C. B., Governor,
AND THE HONORABLE MEMBERS IN COUNCIL,
Fort Saint George:

The Petition of HENRY FOSTER, Law Agent, and late a Pleader of the Madras Court of Small Causes.

RESPECTFULLY SHEWETH,

That your petitioner, holding a Sunnud or certificate of competency from the Commissioner in Scinde (herewith forwarded) to practice as a Pleader was admitted as such, after arrival at Madras, in the Court of Small Causes, and after a practice of three years and upwards was debarred by the present Senior Judge, L. U. Steele, Esq., in a most arbitrary manner, and from cause quite unknown to your petitioner.

2. That by prohibiting the practice of parties in your petitioner's position, consequent on their not being Solicitors-at-Law, the whole (except one alone) has been debarred, the poor thus have not only been unable to procure for themselves any professional assistance whatever so invariably found necessary to the advancement of their suits, but they have also been compelled, in consequence, to appear either in person or seek assistance from the High Court Solicitors, whose charges are so very high as to preclude the possibility of poor clients engaging their services. Mr. Steele, the Senior Judge, has therefore, by prohibiting the appearance in his Court of your petitioner, and others of his position, not only deprived the poor of *cheap agencies* and honest men of a livelihood, but he would also appear to have acted quite at variance with the conditions of Clause 1 of the Rules of Practice observed in the Madras Court of Small Causes, founded on Act No. IX of 1850, which clearly provides that suitors, either plaintiffs or defendants, may engage the services, *as Agent*, of any party in whom they have trust and confidence.

3. Moreover, the Madras Court of Small Causes is to all intents and purposes a Court of Equity and good conscience more than a Court of Law, and the suits filed therein do not, most unquestionably, involve any important legal knowledge in conducting either prosecution or defence.

4. Your petitioner had, ever since his admittance in the Madras Court of Small Causes, acquired a livelihood by acting as Agent to the better portion of the Mercantile and Trading Firms within the Presidency, but owing to the grievance complained of in the foregoing paragraphs, he is now literally thrown out of employment. The trade also suffer largely, inasmuch as they find their business, if not more efficiently at least more speedily performed by respectable and trustworthy Law Agents than by Solicitors-at-Law, who, owing to their various and extensive practice, naturally can afford but little attention to the small claims of tradesmen.

5. In conclusion, therefore, your petitioner respectfully solicits that his case be favorably entertained, and that he be allowed to resume his duties, not as a Pleader, Advocate, or Attorney-at-Law, but merely as Agent for recovery of claims placed in his hands, agreeably to the provisions contained in the Act quoted in paragraph 2nd of this petition, for which act of consideration and justice your petitioner, as in duty bound, will ever pray.

(Signed) H. FOSTER.

MADRAS, *17th October* 1864.

Foster — with 2 Encls. returned. dest[illegible]

Steele Esqre 20 dest[illegible]

Referred to the First Judge of the Madras Court of Small Causes for report

FORT SAINT GEORGE,
30th November 1864.

(Signed) C. G. WALKER,
Under Secretary.

No. 161. From L. U. STEELE, Esq., First Judge of the Madras Court of Small Causes, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 2nd December 1864, No. 66.

In reference to the petition* of Henry Foster presented to Government, and which was forwarded to me for report, I have the honor to state as follows.

* Herewith returned

2 The petitioner states that he was debarred from practicing as a Pleader in the Court of Small Causes, Madras, by me in a most arbitrary manner and "from cause" quite unknown to him.

3. The statement that I debarred him from practicing is true, but the cause was well known to him.

4. I removed the petitioner on the ground of marked incompetency and his utter inability to perform the duties of a Pleader.

5. It is over a year since I removed the petitioner, the circumstances that led to his removal being these:—He appeared for a Roman Catholic Clergyman in a case and evinced such a want of capacity and knowledge that I resolved that, so far as I was concerned, he should not be allowed to hold himself out as a person possessing the requisite qualifications. This resolution and the reason of it were communicated to him by Mr. Shaw, the Chief Clerk of the Court; and an application for permission to practice before the other Judges was refused at their instance. This determination and the reasons of it were also communicated to him.

6. About two months ago Messrs. Oakes & Co., of Madras, made a charge against a Pleader of the Court of the name of Carlos in which the petitioner was involved. The charge arose out of proceedings in the Court instituted by Messrs. Oakes, and was nothing more nor less than that of *Forgery*. I investigated he case and came to the conclusion that a forgery had been committed by either Carlos or the petitioner, the two having acted conjointly in reference to the affair. I thereupon dismissed Carlos from practice as a Pleader, and if the petitioner had not been previously dismissed, I should have felt it to be my duty to summarily remove him also for his conduct in the transaction.

7 I know nothing of the petitioner's antecedents in any way, though I have inquired. I did not know that he had been a Pleader in Scinde. All I know of him is that I found him a Pleader of the Madras Small Cause Court, when I became connected with it.

8. The petitioner says that under one of the Rules of the Court he has a right to practice. This is a misconception. Neither he nor any one else has a right to appear, except with the leave of the Judges. The permission to appear is in the discretion of the Court, and in the exercise of that discretion I refused to permit the petitioner to appear.

9 The petitioner states that it is desirable that a class of men like him should be allowed to appear for poor suitors, as the charges of the legal profession are so high. The answer to this is, that even supposing the possession of character and

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14th December 1864.

ability by such men, I have found that their charges in some cases were in excess of those of respectable Attorneys. In cases which came to my knowledge, it turned out that the petitioner had obtained over four times the fee allowed by the Court to regularly qualified Attorneys.

10. My experience leads me to the conclusion, that the interests of suitors are not promoted by investing men possessing no qualifications, and with little guarantee as to character, with the powers and privileges of being Pleaders in the Court.

No. 162. ORDER THEREON, 14th December 1864, No. 1801.

Under the circumstances stated by the First Judge, the Governor in Council declines to interfere with the exercise of his discretion in excluding Mr. Foster from practice in his Court.

2. It appears that Mr. Foster was, at the time of the exclusion, made acquainted with the causes which influenced the First Judge.

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

To Mr. H. Foster with 2 Inclos. returned. dd 17/12

" L. U. Steele Esq^re dd 17/12

Judicial Department,

PROCEEDINGS of the **MADRAS GOVERNMENT.**

Read the following letters.

From Mr. Henry Foster } — Rec'd 17 October 1864 f°
Law Agent, Madras }

" The First Judge of the } f° — 2? Dec'r 1864 N° 66/
Madras Court of Small Causes }

Order thereon. 14 December 1864 N° 1801.

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To Mr. H. Foster — & Secretary informed. dispatch

: the Upshur
Sketch Circuit
the in dec. Judicial
shd be communicated
to the Leach, the C. Judge
C.W.

Judicial 1864 Department.

No. 807.

PROCEEDINGS *of* GOVERNMENT.

Dated 14 Dec 1864

160 & 162