M.R.O. 1—89,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1048 Press Mis.

201-202

Dated 26.7.1865 19

5/16

Not to be folded or roughly handled

No. 201. Read the following letter from H. E. SULLIVAN, Esq., Acting Civil Judge of Salem, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Salem, 10th July 1865, No. 7.

Adverting to the Proceedings of Government under date the 28th ultimo, the Order thereon, No. 914, and the Notification which appeared in the *Fort Saint George Gazette* of the 4th instant, I have the honor to point out that since the 1st March 1864 the Principal Sudder Ameen has not exercised any *exclusive* special jurisdiction in his capacity of Judge of a Court of Small Causes. He has merely special jurisdiction in cases where the value of the property in litigation is between Rupees 50 and Rupees 500. The Notification, therefore, leaves him exactly where he was with reference to the rest of the District, and is open to the construction that he is henceforward to excise *exclusive* special powers in the town and Taluq of Salem. If it is the intention of Government that he should in future exercise in the town and Taluq of Salem only the *same* powers which, since the 1st March 1864, he has exercised throughout the District, the word *exclusive* must be omitted.

2. This would have the effect of removing the whole District, with the exception of the Cusbah town and Taluq, from the operation of Act XI of 1865, and the inhabitants of the Taluqs in the neighbourhood of the Zillah station, or within easy distance of it by rail, will be excluded from the benefits of an expeditious and inexpensive mode of procedure, simply on the representation of a minority of the population residing in a remote corner of the District, without their wishes on the matter being in any way consulted. I have not seen the petition from the inhabitants of Ossoor which has led to the recent order of Government; but it would appear from paragraph 2 of Mr. Hutchins' letter to your address, dated 7th April 1865, No. 34, that a "greater part of the Memorial is devoted to showing that the summary proceedings of the Principal Sudder Ameens are hardly more expeditious, "and involve for more expense and inconvenience to suitors, than regular suits before the Moonsiffs." With regard to the comparative time occupied in the disposal of suits under the regular system and the Small Cause Act, the best refutation to this assertion of the Memorialists will be found at paragraph 20 of the Administration Report of the High Court, published in the Proceedings of Government, dated 16th June 1865, where it appears that the average duration of ordinary suits before the District Moonsiffs is eight months and nine days, and of Small Cause suits before the Principal Sudder Ameens is 23* *days*. If a suit which extends over a period of upwards of eight months, and is afterwards appealable, is less expensive and more convenient to suitors as a general rule than one which is disposed of in one-tenth of the time, the Memorialists should, I respectfully submit, be called on to prove their assertion, before the final adoption of a measure affecting the interests of a large majority of the inhabitants of the District, who have not had an opportunity of expressing their views on the matter.

* NOTE.—Exactly the same duration as before the Small Cause Judges. Before the Moonsiffs the duration of Small Cause Suits amounts to two months and eight days.

3. Under these circumstances, I venture to suggest, for the consideration of Government, whether it would not be advisable either to remove Ossoor Taluq only from the Special Small Cause Jurisdiction of the Principal Sudder Ameen, or, as proposed by Mr. Cherry, that, with a view to the convenience of the

inhabitants of that Taluq, he should hold occasionally sittings at Kistnagherry. This proposition was, however, objected to by the High Court at the time, on the ground that it would be inexpedient to keep on the move an officer with so much work on his file. This objection would have additional weight now, owing to the work having increased to a considerable extent, as will be seen below.

During 12 months in 1863, the work on the file of the Principal Sudder Ameen, inclusive of criminal cases, but exclusive of miscellaneous petitions, amounted to 336 suits and cases; for the same period in 1864, to 834 suits and cases; for the past six months in 1865 (during two months of which the Court was adjourned), to 591 suits and cases, so that probably by the end of the year the file will exhibit a total exceeding 1000.

Under these circumstances, it would perhaps be inexpedient that the Court of the Principal Sudder Ameen should be otherwise than stationary, and if the inhabitants of Oossoor do not appreciate the advantages of the Small Cause system of procedure, the Taluq might be exempted from the operation of the Act. As stated above, I have not seen the Memorial, but I suppose steps were taken to ascertain that it really represented the views of the people. If this precaution was omitted, the chances are that it originated with the Vakeels and Goomastahs of the Oossoor Moonsiff's Court, where the number of regular suits filed has been steadily decreasing of late, and who possibly thought that their Court might share the fate of those recently abolished in the District.

4. In his letter to Government, dated 29th January 1864, my predecessor, Mr. Cherry, entered so fully into the subject, and in the concluding paragraphs so clearly demonstrated by figures that the small cause system of procedure was peculiarly suited to this Zillah, that I will here confine myself to the expression of my entire concurrence in his opinion, and I would, therefore, solicit the Government to re-consider their recent order limiting the special jurisdiction of the Principal Sudder Ameen in his capacity of Small Cause Court Judge to the town and Taluq of Salem. The expense of litigation throughout the rest of the Zillah will be considerably enhanced, and the appeal file of this Court proportionately increased, if this course is adopted.

5. If a regular Small Cause Court is established here, and the jurisdiction extended to Rupees 1000, the asssistance of a Principal Sudder Ameen would not, I think, be necessary, especially if, as in Chittoor and Tanjore, the Judge was empowered to dispose of appeals transferred to him from the file of the Civil Court. The nature of the suits filed in this District, as shown in Mr. Cherry's letter referred to above, would seem to warrant the establishment of such a tribunal. The Court might hold sittings at Kistnagherry and any other locality that might be fixed on, to meet the convenience of the inhabitants of this somewhat straggling Zillah. Provision would then have to be made for the criminal work devoling at present on the Principal Sudder Ameen; and it is this kind of work which renders it inexpedient for his Court to move about the District.

Note.—The monthly average number of Small Cause suits instituted up to the end of June before the Principal Sudder Ameen is 68;—average duration of suit, 29 days.

6. Should the Government determine on restricting the operation of the Small Cause Act to the town and Taluq of Salem, I request that the Notification

Proceedings of the Madras Government, Judicial Department,
26th July 1865.

in the Gazette may be amended. As it reads at present, the Principal Sudder Ameen has still the special* jurisdiction throughout the Zillah with which he was invested on the 1st March 1864, and exclusive† special jurisdiction in Salem and its neighbourhood.

* Above Rupees 50 and within Rupees 500.

† Within Rupees 50.

No. 202. ORDER THEREON, 26th July 1865, No. 1048.

The insertion of the word "exclusive" in the last paragraph of the Proceedings of Government, under date the 28th ultimo, and in the Notification therein referred to, was a clerical error. It will be corrected by an erratum in the *Fort Saint George Gazette.*

2. The Governor in Council is not prepared to entertain the proposals made by the Acting Civil Judge, either for empowering the Principal Sudder Ameen to hold sittings at Kistnagherry, or for the establishment of a Court of Small Causes at Salem, under Act XI of 1865.

(True Extract).

Chief Secretary.

To the Acting Civil Judge of Salem.
" Honorable the Judges of the High Court.

Exd. J. H. Burns.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Acting Civil Judge of Salem:
Fort Saint George 10th July 1865
No. 71

Order thereon 26th July 1865 No. 1048.

The insertion of the word exclusive in last para of the Proceedings of Government under date the 20th Ultimo, and in the Notification thereon referred to was a clerical error. It will be corrected by an erratum in the Fort Saint George Gazette.

2. The Governor in Council

Greece (1865. Department.

No. 1048.

PROCEEDINGS OF GOVERNMENT.

Feb. 1771.

Dated 26 July 1865.

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