

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	324	Press Mis.
252-254A Dated	25-2-	10/8/55

7/8

Not to be folded or roughly handled

*Proceedings of Madras Government, Judicial Department,
5th February 1865.*

Read the following

W. DONALD, Registrar General of Assurances,
Honorable A. J. ARBUTHNOT, Chief Secretary to
Government, Fort George, dated Madras, 7th February 1865, No. 84.

I have the honor to submit a letter, No. 17, of the 3rd instant, from the District Registrar of Tellicherry, urging me to apply to Government to have orders issued at once regarding the old registers, on the ground that the Principal Sudder Ameen of Tellicherry refuses to give certificates and copies of deeds registered in his Court, alleging that he has ceased to be Registrar of Deeds, and has no power to do so.

Mr. Garstin addressed me on this subject on the 13th ultimo. I stated, in reply, that I saw no advantage in District Registrars taking charge of these old registers, and as no provision is made for such an arrangement in Act XVI of 1864, I did not deem it necessary to bring the question before Government.

3. In Section 1 of Act XVI of 1864, it is stated that all the former Regulations and Acts relating to the registration of Assurances are repealed, "except as regards Instruments duly registered under them." Under this Clause, it does not seem to me by any means clear that the functions of the Principal Sudder Ameen with regard to these Instruments have ceased; but as it is desirable that the question should be authoritatively settled, I beg now to submit it for the consideration of Government.

From J. H. GARSTIN, Esq., Acting District Registrar of the Zillah of Tellicherry; to the Registrar General, Madras, dated Tellicherry, 3rd February 1865, No. 17.

I have the honor to apply to Government to have orders issued at once regarding the old registers.

I have made application to the Principal Sudder Ameen at this place, who was Registrar up to the end of 1864, for certificates and copies of deeds, all which he refuses, on the ground that he no longer power to give such copies, as he has ceased to be Registrar.

The inconvenience arising from this state of things is very great.

I beg to refer the matter to the opinion of the Advocate General.

FORT SAINT GEORGE,
16th February 1865

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

No. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 21st February 1865, No. 87.

I have the honor to acknowledge the order of Government noted in the margin, (with its enclosure), requesting the Advocate General's opinion as to the keeping and disposal of Registers of Deeds registered before Act XVI of 1864 came into operation.

*Proceedings of the Madras Government, Judicial Department,
25th February 1865.*

2. I submitted the matter for the consideration of the Advocate General, with whom I have also conferred; and,

3. I now forward a copy of his opinion, and return the order and enclosure above noted.

COPY—OPINION.

I think the effect of Section 1 of Act XVI of 1864 is to leave the old law just as it stood before the Act came into operation, with respect to Instruments already registered under the former and preceding Regulations and Acts.

No provision is made in Act XVI for the future safe custody of previously registered Instruments, or for searches respecting them, or for certificates or copies of them, or for the payment of fees in respect of searches, copies, or certificates.

3. Had the legislature not intended that the old law was to remain in force as to Instruments registered before Act XVI came into operation, I think it must have provided for all these matters in the present Act.

4. There can, of course, be no fresh registration under any Regulation or Act prior to Act XVI of 1864; but as to the custody, &c., of the old registrations, the old law remains in *statu quo*.

5. I think that the Government should direct the former Registrars under the old law, and such officers as may hereafter succeed them in their respective offices, to continue to act under the old law, to take care of the old registers, to permit searches, to give copies and certificates, and to charge fees, just as though Act XVI of 1864 had not passed.

6. At the same, I think that considerable inconvenience is likely to arise to the public from this divided custody of registers. Persons searching for title will have to search in two places, and the more convenient plan would have been to have placed the old records in the custody of the new Registrars.

7. But this can only be effected by fresh legislation. No fees are provided in Act XVI of 1864 for fees for searches of old registers, copies, or certificates. It would be hard to cast this additional responsibility and labor on Registrars appointed under Act XVI of 1864 without remuneration: and the absence of any such power appears to me to be another strong argument to show that it never was intended; in other words, that matters, so far as they concern Instruments registered prior to Act XVI of 1864, are to remain in *statu quo*.

(Signed) J. B. NORTON,
Advocate General.

18th February 1865.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

No. 254. ORDER THEREON, 25th February 1865, No. 323.

The Governor in Council directs that the foregoing opinion of the Advocate General be communicated to the Registrar General of Assurances, and to the several Civil Judges and Principal Sudder Ameen, who have the custody of registers made under the law in force previous to the enactment of Act XVI of 1864.

2. The Governor in Council at the same time resolves to forward the correspondence to Mr. G. N. Taylor, and to suggest that a section be inserted in the Bill which he is about to introduce into the Council of the Governor General, to amend Act XVI of 1864, prescribing that the old registers shall be transferred to the custody of the District Registrars appointed under Act XVI of 1864, and that they be authorized to charge fees for searches, copies, &c., at the rates allowed in the tables of fees under the recent Act.

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

*Proceedings of the Madras Government, Judicial Department,
25th February 1865.*

No. 254 A. To the Honorable G. N. TAYLOR, Calcutta, dated Fort Saint George, 25th February 1865, No. 324.

I am directed to send you the annexed copy of a correspondence, which has taken place with reference to the control and custody of registers of deeds registered before Act XVI of 1864 came into operation, and to suggest that a Clause be inserted in the Bill which you are about to introduce into the Council of the Governor General, to amend Act XVI of 1864, prescribing that the old registers shall be transferred to the custody of the District Registrars appointed under Act XVI of 1864, and that they be authorized to charge fees for searches, copies, &c., at the rates allowed in the Tables of Fees issued under the recent Act.

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

Edw. J. H. Burns.

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following papers

From the Registrar General of Assurances — Here enter 7th February 1865 N^o 54.

— " Government Solicitor — " — 21st February 1865 N^o 87

Order thereon 25 February 1865 N^o 323. ^{IX}

The Governor in Council

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2 The Governor in Council at the same time resolves to forward the correspondence to Mr. G. N. Taylor,

and

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Dated 25 July 1885

PROCEEDINGS OF GOVERNMENT.

No. 323

1865. Department.

Deputed to
by...

Judicial Department...

No. 324

To

The Secretary to the Government
of India.

Mr. S. H. ...
Sir,

I am directed to submit for
the consideration of His Excellency
the Governor General in Council
and you
the annexed copy of a correspondence
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WRH

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Act.

Fort St. George
23 February 1865

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1872.

To Mr. Went. 1. day for

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No. 724

Oct 25 February 1881