M.R.O. 1—23,000—18-10-27.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 533 Press Mis.

46-48 Dated 5-4- 1865

5/2

Not to be folded or roughly handled

Jud.
533

Proceedings of the Madras Government, Judicial Department,
5th April 1865.

Read the following papers:—

No. 46. From Major R. M. MACDONALD, Registrar General of Assurances, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 23rd March 1865, No. 116.

I have the honor with reference to the Government Order No. 117, of the 19th January, to submit a Return showing the amount of registration fees collected, and also the number of Instruments registered in each District in the month of January. The delay in the submission of this Return has been owing to the returns from Bellary not having reached me until to-day.

2. The books of the District Registrars were despatched from the Government Press on the 24th and 26th December, but those of the Deputy Registrars ily sent late in January. Many of these Officers did not therefore receive their books until the beginning or middle of February. Owing to this cause there was no registration in the Ganjam, Godavery, Tanjore and Trichinopoly Districts; while in the other Districts the total number of registrations was only 331, and the amount of fees collected Rupees 393.

3. This number includes Memoranda of Decrees and Orders of Court received under Section 45 and entered in Register No. 3 (*c*) on which no fees are levied.

4. Both from this Return and from the Returns which are now coming in for February, I see reason to suppose that many of the Courts are not complying with the provisions of Section 45. In a great many Districts no Memoranda of Decrees relating to immoveable property have been received at all. Even the High Court has apparently not forwarded any such Memoranda, although I understand that that Court has passed several decrees affecting immovable property since the beginning of the year.

5. It will be seen from the accompanying correspondence that one of the Civil Judges is under the impression that Section 45 applies only to Decrees affecting registered Instruments. As it is possible that this misapprehension may prevail in other quarters, and as it is of great importance that there should be no doubt on a point of this kind, I beg to suggest that the Advocate General's opinion be circulated for the information of the Civil Judges and for communication to the Courts subordinate to them.

From A. W. SULLIVAN, Esq., District Registrar, Tellicherry, to R. M. MACDONALD, Esq., Registrar General, Madras; dated Tellicherry, 22nd February 1865, No. 2[illegible]

I have the honor to bring to your notice that many of the Courts in this Zillah which are subordinate to me as Civil Judge, have been sending *indiscriminately*, Memoranda of Decrees and Orders of their Courts affecting immovable property, and that they have been copied into Book C in this office.

2. It appears to me that the sending of such Memoranda of Decrees and Orders, as do not affect registered Instruments, is wholly unnecessary.

3. It is probable that the practice has arisen from a misapprehension of Section 45 of the Registration Act, which taken by itself might easily lead to such an error; but you will observe that that Section comes under the heading "Decrees affecting registered Instruments," at the head of Section 43, and affecting all the Sections from 43 to 45 inclusive.

4. I think that the view I take of it is a common sense and rational one; as I would ask, of what possible good can it be to register Memoranda of Decrees and Orders although affecting immoveable property where no registered Instrument was concerned in the suit.

(True Copy).

(Signed) R. M. MACDONALD,
Registrar General.

[illegible] from Major R. M. [illegible] ce, to the Government Solici-
tor, Madra[illegible]
I have the honor to [illegible] instant, from the District Registrar
of [illegible] tating that i[illegible] nion the [illegible] ction 45 of Act
X[illegible] [illegible] Memoranda of Decrees and Orders af[illegible] rict
and D[illegible] gistrars unless they rel[illegible]
appears to me that Mr. [illegible] s. It is
true that the heading "Decrees affecting [illegible] bove Sections 43,
44 and [illegible] ting
to imm[illegible] rder
shall be sent to the office in which the In[illegible] red, and that
a transcript of the Memorandum shall be made [illegible] the part of the book in which
there is any [illegible] of the I[illegible] um. As the Ins[illegible] will
be either i[illegible] r No. 1 [illegible] made in the marg[illegible] e or
other of these books. Book No. 3 is a [illegible] crees and Orders
of Court, and in it all Memoranda received under Section 45 are to be entered. These Memo-
randa cannot rel[illegible] nts already [illegible] the book [illegible]
nothing but M[illegible] ees and Order[illegible] [illegible]. It [illegible]
possible that these Memoranda could relate to In[illegible] s book, it is
but [illegible] ble to suppose that they would like the other Memoranda have been required to be
en[illegible] the margin of the p[illegible]
by the Decree or Order. I[illegible]
reasonable to suppose that, as in the prev[illegible] r would
be [illegible] of it to the office in which the Instrument affected was
re[illegible] because there is no such [illegible] t these words are omitted in t[illegible] ion,
and the Court is, instead, required to send [illegible] uty
Registrars within the local limits of whose ju[illegible] uated.

3. [illegible] it is us[illegible] a register of Decrees and Ord[illegible]
immov[illegible] connection with [illegible] regist[illegible]
passing the Decree or Order. But it [illegible] ious th[illegible]
may be of the greatest value, as for insta[illegible] ser of re[illegible]
the eve of p[illegible] e or an estate from B; the ti[illegible] have ne[illegible] stered;
but a Decr[illegible] declaring C. to be [illegible]; with[illegible] formation[illegible] re him
A. would refuse to deal with B; without it he migi[illegible] ived.

4. As Mr. Sullivan is the Civil Judge of Tellicherry, [illegible] bable that he will act on the
construction which he has pl[illegible] [illegible] er Civil Judges may
entertain similar views, in wi[illegible] [illegible] e, and will therefore
be unable to record, the information which it appears to me [illegible] No. 3 should contain.
As it is of g[illegible] nce that there should be no doubt of any kind on this point, I shall be
obliged by y[illegible] ing the question for the op[illegible] [illegible] able me
to adopt such measures as may be necessary for [illegible] ions of
Section 45.

(Tr[illegible]
(Sig[illegible] R. M. MACDONALD, Major,
Registrar General.

COPY—OPINION.

In reply to the Registrar General's letter of 28th February 1865, (by a clerical error 1864) No. 79, I have to state that in my opinion it is incumbent on Judges to forward for registration a Memorandum of every Decree or Order which they may pass "creating, &c., any" right &c., of any person in any immovable property.

2. The words of Section 45 are imperative, and I think the object of the Legislature is clear. It is to enable persons contracting with reference to immovable property to ascertain by search whether there is any Judicial decree affecting it.

3. It is very true that Sections 43, 44, 45, all come under the heading Decrees affecting registered Instruments. This is probably an oversight, as only Sections 43 and 44 have any reference to registered Instruments. The words of Section 45 are far wider, and whether the heading was intended to apply to this Section or not, I am of opinion that it cannot contract or narrow the signification of the plain and express language of the Section itself.

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

4th March 1865.

(True Copy.)

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

(True Copy.)

(Signed) R. M. MACDONALD, Major,
Registrar General.

No. 47. From Major R. M. MACDONALD, Registrar General of Assurances, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 28th March 1865, No. 124.

I have the honor with reference to my letter No. 116, of the 23rd instant, to state that I have since received an Extract from the Proceedings of the High Court of Judicature, dated 24th instant, taking the same view as the Advocate General of the question referred to by me. As the Proceedings in question have been already sent to all the Civil Judges, it will be unnecessary to circulate the Advocate General's opinion.

Proceedings of the High Court of Judicature at Madras, 24th March 1865.

Read letter dated the 23rd ultimo, from the Civil Judge of Tellicherry, soliciting the opinion of the High Court whether it is necessary to send Memoranda of all Decrees affecting immovable property to the District Registrar for registration.

1. The question raised in this letter by the Civil Judge, who is performing the duties of a District Registrar of Assurances under Section 10 of the Act, is, whether the Memoranda of Decrees and Orders required by Section 45 to be sent to the Registration offices, are such as affect any immovable property without exception, or merely such as affect registered Instruments.

2. The Civil Judge is of opinion that the Section only applies to Decrees or Orders affecting registered Instruments, and in support of this view he refers to the heading immediately above Section 43, viz., "Decrees affecting registered Instruments."

3. The words of Section 45 however are express, and the whole question of registered instruments being directly affected has been dealt with by Sections 43 and 44. A decree binding real property may and will materially affect Instruments, or rather the value of them, to be subsequently registered.

4. The High Court are therefore of opinion that all Decrees and Orders without exception, which affect immovable property, must be communicated to the Registration officers.

(True Extract.)

(Signed) P. P. HUTCHINS,
Acting Registrar, Appellate Side.

To the Registrar General of Assurances, Madras.

(True Copy.)

(Signed) R. M. MACDONALD, Major,
Registrar General.

Proceedings of the Madras Government, Judicial Department, 5th April 1865.

No. 48. ORDER THEREON, 5th April 1865, No. 533.

The High Court having circulated to the several Civil Judges their opinion that under Section 45 of the Registration Act XVI of 1864, all Decrees and Orders without exception, which affect immovable property, must be communicated to the Registration Officers, the Governor in Council does not deem it necessary to circulate the opinion of the Advocate General.

2. The Government hope to receive the Registration Returns for February and March at an early date.

(True Extract).

Chief Secretary.

To the Registrar General of Assurances.

I.

RETURN of Registration in the ~~District of~~ Madras Presidency in the month of January 1865.

Districts and Sub-Districts.	Number of instruments registered.						Value of stamps on instruments.				Number of instruments registered under Sec. 15.	Number of instruments registered under Sec. 62.	Number of instruments registered under Sec. 13.	Number of sealed covers.			Amount of fees.		Number of appeals preferred under Section 62.	Number of orders revised or altered.	Remarks.	
	In Book A.	In Book B.	In Book C.	In Book D.	Total.	Specially registered under Section 51 and 52.	In Book A.	In Book B.	In Book D.	Total.			Deposited.	Withdrawn.	Opened.	Collected.	Remitted to the Treasury.			Remarks from Treasury	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
~~District Registrar of~~ General Registrar's Office																						Re registration.
~~Deputy Registrars~~ Districts																						Do.
1 Ganjam																	1 4	1 4				Do.
2 Vizagapatam				3	3	1			7	7												
3 Godavery																	2 -	2 -				
4 Kristnah	4	1			5		10	1		11			5				2 4	1 10				
Nellore							4	3	3	8							1 12	5 14				
							9	4	2	15	6						16 8	6 2				
7 Kurnool	12	5	2	14	33	1	29	5	8	13	6 47	14			14		7 12	5 10				
8 Bellary	8	3		8	19	4	31	7	7	4	45 4				9		9 9	8 -				
9 Madras	18	24		19	61		174	84	12	96	2 352	14			37		4 4	4 -				
10 Chinglepat	7			2	9	2	27			12	27	12			5		4 4	4 4			3	3
11 North Arcot	3	5		2	9		10	5	2	4	17	4			5		9 4	6 10				Do.
12 South Arcot	10	2		4	16	2	29	6	24	59					7							
13 Tanjore																	3 12					
14 Tranquebar				3	3	3			26	8	26	8					8 -	8 -				
15 Tinnevelly	1				1		8			8					1		16 4	10 4				Do.
16 Madura				20	20				84	8	84	8										
17 Trichinopoly																	7 8	6 8			2	12
18 Salem	7			3	10		9		9	18			8				35 -	35 -				
19 Coimbatore	7	16		7	30	2	30	131	50	211			23				110 4	101 8				
20 South Canara	2	8		8	18																	
21 Tellicherry	14	9	9	21	53		113 2	102 8	99	12	315 6		26				49 4	23 8	10 -			
22 Calicut	13	7		6	26	1	97	62 8	17	4	176 12		20				20 12	10 6				
Total	110	83	11	127	331	16	660	2 488	12 458	10	22 8		172				30 -	23 10	0 10	-	-	-

N. B.—Column 2, 3, 4 and 5 will contain the total number of Registrations in each book; but some of those will appear a second time in columns 7, 12, 13, and 14.

Madras. 3rd March 1865.

R. M. Bradshaw
Registrar General

Judicial Department.

PROCEEDINGS of the **MADRAS GOVERNMENT.**

Read the following letters from the Registrar General of Assurances.

(Here enter 23d & 28th March 1865 Nos 116 & 124

Order thereon 5th April 1865. No 533

The High Court having circulated to the several Civil Judges their opinion that, under section 45 of the Registration Act XVI of 1864, all decrees and orders without exception, which affect immoveable property, must be communicated to the Registration Officers; the Governor in Council does not deem it necessary to circulate the opinion of the Advocate General.

2. The Govt hope to receive the Registration returns for February and March at an early date.

By the Registrar Genl of Assurances Dep 8/4/65.

Sect 186. *Department.*

No. 533

PROCEEDINGS OF GOVERNMENT.

Z. No. 921.
Dated 5th April 1865.

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