M.R.O. 1—30,0G— 19-10-59.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 109 Press ~~Mis.~~

195-196

Dated 27---1---~~19~~ 1866

6/9

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
27th January 1866.

No. 195. Read the following Proceedings of Government in the Revenue Department.

Communicating remarks of the Government Pleader, as to the inefficiency of the Government Vakeel of the Civil Court of Guntoor, and his suggestion to procure the services of properly qualified men for such employment in the Mofussil Courts generally. (Dated 8th December 1865, No. 2995.)

No. 196. ORDER THEREON, 27th January 1866, No. 109.

Adverting to the opinion expressed by the Government Pleader, in the 5th paragraph of his letter of the 16th November last, that steps should be taken to procure the services of better qualified men for the Office of Government Vakeel in the Zillah Courts, the Governor in Council resolves to request that the Judicial Officers named in the margin will favor Government with their opinion as to whether it is the fact that the best of the Pleaders in the Mofussil Courts are, as a general rule, not disposed to accept the Office of Government Pleader, on account of the smallness of the salary, and of the office shutting out the holders from lucrative practice.

Mr. E. W. Bird, Judge of Tanjore.
" C. Collett, Judge of Vizagapatam.
" J. R. Kindersley, Judge of Bellary.
" C. R. Pelly, Judge of Nellore.

2. The Officers named will also be good enough to submit any suggestions that may occur to them for making better provision for the interests of the Government being efficiently represented in the Mofussil Courts.

(True Extract).

Chief Secretary.

To E. W. Bird, Esq.
" C. Collett, Esq.
" J. R. Kindersley, Esq.
" C. R. Pelly, Esq.

Exd. J. H. Burns.

No. 33. Read the following Proceedings of the Board of Revenue, dated 28th November 1865, No. 7,585.

Read the following letters:—

From the Government Pleader, to the Acting Secretary to the Board of Revenue, dated Madras, 2nd November 1865, No. 154.

1. I do myself the honor of reporting, for the information of the Board, that the Vissannapett Suits, Regular Appeal Suits, Nos. 103 and 137 of 1857, on the file of the late Court of Sudder Adalat, came on for hearing on the 30th of October and 1st November before the High Court, on the return made by the late Civil Judge of Guntoor, Mr. William Elliot, to the Order of the High Court, dated 2nd May 1863; their Lordships the Judges have reserved their Judgment; when procured I will do myself the honor of forwarding a copy.

2. The Memorandum prepared by the Head Accountant of the Board, and handed to me, was very carefully prepared, and proved of very great assistance to me. If corresponding care and ability had been evinced in the office of the Collector, and by the Government Vakeel at Guntoor, I have little doubt I should have been enabled to have presented the case before the Court in a much more advantageous manner than the record as now prepared enabled me to do. The Head Accountant, Jeyram Chettyar, and Durmaroya Moodlyar, attended me in Court, and it affords me great pleasure to state that they were of great service to me, and shewed they had intelligently made themselves acquainted with the accounts filed in the Court and their contents.

From the same Officer, dated Madras, 16th November 1865, No. 166.

1. With reference to the Orders of Government under the dates and numbers noted in the margin, I do myself the honor of reporting, for the information of the Board, that the Regular Appeal Suits, Nos. 58 and 61 of 1864, on the file of the High Court, came on for hearing this morning, when their Lordships the presiding Judges were pleased to reverse the Decree of the Civil Court of Guntoor, and pronounced Judgment for the Defendant with costs.

11th August 1864, No. 1,441, Revenue Dept.
7th Dec. ,, ,, 2,211, do. do.

2. I will do myself the honor of forwarding a copy of the Decree when procured.

3. I regret extremely to feel myself under the necessity of drawing to the attention of the Board, the manner in which this case has been conducted in the Civil Court. I consider myself the more bound to do so, as I have lately had to support an Appeal from the same Court, in which it is possible the interests of Government may be materially damnified by the mode in which it was conducted in the Civil Court; and judging from the records of the two cases, I have formed an extremely low estimate of the capacity of the Government Vakeel in the Civil Court of Guntoor.

4. In my letter to the Board on the 24th of October 1863, No. 122, I pointed out the nature of the evidence which should be adduced for the Defendant on the

hearing of the Original Suit No. 30 of 1863. In the first instance, I can do no more than advise in general terms the nature of the evidence which should be adduced. I have, however, re-perused my letter since I have acquired a more accurate knowledge of the case from a perusal of the record; and it does not occur to me that I could have done more for the guidance of the Vakeel in the Guntoor Court than I did in that letter, and I have no hesitation in saying that had the Vakeel possessed ordinary intelligence, and even an elementary knowledge of the profession in which he professes to practice, the case would have been presented to the Courts in a very different form to that in which it came up from the Civil Court.

5. The interests involved in most of the Government suits which come up in Appeal are of great magnitude, either in respect of the value of the property, or the questions raised. I submit, therefore, that it is a question worthy of consideration whether the interests of Government would not be studied by endeavoring to obtain the services of properly (or fairly) qualified men as their Vakeels in the Mofussil Courts. If a man holding that office conscientiously does his duty to Government, he is necessarily shut from all cases in which the interests of Government may even by possibility be involved; and those are generally the cases in which a clever practitioner would be most handsomely paid. A retaining fee in the shape of a small monthly salary, with the fee allowed by regulation in cases where Government or its officers are parties, is not, as a general rule, sufficient to induce efficient men to forego the more profitable species of business.

6. In the case on which I am now reporting, the Board have done their utmost to assist me in arriving at an understanding of the accounts put in. With what success their endeavors have met, they are as well acquainted as myself: I was obliged to inform the Court I could not make any use of some of those accounts from a want of instructions how they were applicable, and the parts which were applicable. This difficulty need not have arisen had the Collector reported to the Board such information, and furnished translations of the portions he relied upon; together with such other portions, (if any,) which he might think could be relied upon by the opposite party. I may mention, that as regards the document which was marked as Exhibit No. VII., I have been totally unable *even to surmise* a reason why it was filed. As at present advised, it appears to me to have very unnecessarily encumbered the record, and caused needless trouble in translating, &c.

7. I have fortunately been enabled to glean from the evidence, sufficient to convince the Court that the Decree in the Original Suit should be reversed, but I was so enabled principally from the evidence adduced by the Plaintiff himself. This may not be the case in other suits, and if a similar lack of acumen and energy be displayed in other cases, Government may find their interests very materially damnified.

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1. The foregoing letters will be submitted for the consideration of Government with reference to the Government Pleader's remarks in paragraph 5 of his letter, dated 16th November 1865. They will also be forwarded to the Acting Collector of the Kistna District, whose attention will be called to Mr. Dale's remarks as to the want of intelligence shown in conducting the cases in Court, and the

Proceedings of the Madras Government, Revenue Department,
8th December 1865.

gross carelessness evinced in the Collector's office in submitting a mass of documents without a proper explanation of their contents. The accounts connected with the Vissanapettah Suit were most voluminous, but probably a simple abstract might have been prepared in the Collector's office, which would have been of the greatest service to Mr. Dale. In the Lunka case, too, the accounts comprised a variety of matters, and explanation should certainly have been submitted as to what parts of them were specially relevant to the case. Mr. Chase will be good enough to submit any explanation which it may be in his power to offer at an early date.

2. The Board are glad to receive so favorable a testimony from Mr. Dale to the services rendered by their Head Sheristadar, and by Deputy Collector Durmarayen Mudali, who was doing duty in the Board's Office when the case referred to came on for hearing.

No. 34. ORDER THEREON, 8th December 1865, No. 2,995.

Miscellaneous.

The remarks of the Government Pleader as to the inefficiency of the Government Vakeel in the Civil Court of Guntoor, and his suggestion to procure the services of properly qualified men for such employment in the Mofussil Courts generally, will be communicated to the Judicial Department.

(True Extract.)

Secretary to Government.

To the Judicial Department.
" the Board of Revenue.

Exd. S. T. Augustin.

4 Copies sent

whether it is the fact that

Judicial 1805 – No. [illegible]

Proceedings of Govt in the Revenue Dept. No. 29. [illegible]

Dated 8th Decr /05

No 2667

Communicating a letter from the Govt Pleader complaining of the incompetency of the Govt Vakeel of the Civil Court of [illegible] & the suggestion for obtaining properly qualified men for such posts in the Mofussil Courts.

Fol: 264 - 285 - 294 - 554

Judicial

No. 2667.

Proceedings of Government in the Rev. Dept. d/8th Decr. 1805

For Orders.

The question as to the competency of the particular officer is one which can be easily settled, but the fact of the incompetency of a Vakeel in one court suggests a doubt as to the character generally of the men employed in that capacity who receive a fixed pay of 20 Rs per Month (I believe), and who can hardly be supposed to be qualified to deal with the important cases which are more frequently than ever brought before the Zillah Courts. — It has been suggested that the class of Vakeels should be abolished & that the Collector should be empowered to procure the services of the most competent pleader at the usual price paid by private Individuals. — I do not feel myself competent to express an opinion as to the relative economy of the two modes of securing the services of a pleader without more data as to the number of cases in which their services would be required. [illegible] Perhaps it might be tried in one or two districts as an experiment.

W.H.

I applaud that in order handily do
without town or Disagreed first taken
in Civil Court — Ir Scot: 52 — CP Cork.
I do not see what can be done now and
obtaining a bill the close of sum be first
taken — At present all Court taken by
an Appeal to Jury an appeal with
which I presume is still not enough —
The first taken is appealed subject
to the Judge's communication with
the Collector and it is to be in court
of both Officers to get the best man
that they can — Till the first taken
the best sum will not accrue to the
post because the salary is to low
and it keeps them out of practice
the Jury might be raised but I have
not heard that subject is the case —
We might not too a Bill of our best

Judges what they think of the matter
I should ask the few Judges both on the
Prosp: expedition upon — We must have a
bad verdict and bear that to another trial:
but 21 £ a month does not pay him when
a bad fat case turns up and the bad is
opposed by a rich Jewmaster or agent of merchant:
Should the Prosp: Secretary be empowered
also to propose a special fee for any
Civil case in wh: bad is concerned, after the jury
has been paid, such fee to be independent
of the monthly 21 £ wh: is a general retainer —
a fee calculated according to the
unrepealed provisions of Reg 14 of 1876 —
wh: all the payment but under all the
circumstances is an infrequent fragment
of sum ordinary income —
We might make the position better worth
having by raising the amount wh: is given for
the conduct of each case through all the monthly
criminal Reports —
The case how the Dale observations appear
has been a most difficult one throughout &
the influence of the opponent of the Poor
has undoubtedly been at work to prevent it

th Dfficulty: Some few Collectors have handled it and I dare say more than that number of Dists Ostensibly have had some share in the management—
22 Dists.

b/r

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read Proceedings of Govt in the Revenue Department

3d Decr 1865 No 2995

Order thereon 27 January 1866 No 109.

Adverting to the opinion expressed by the Govt Pleader in the 3 paragraph of his letter of the 16 Novr last, that steps should be taken to procure the services of better qualified men for the office of Govt Vakeel in the Zillah Courts, the Governor in Council resolves to request that the Judicial officers named in the margin will favor Govt with their opinion as to whether it is the fact that

Mr E.W. Bird - Judge of Tanjore
Mr C. Collett - Judge of Vizagapatam
Mr I.R. Kindersley - Judge of Bellary
Mr C.R. Pelly - Judge of Nellore.

that the best of the Pleaders in the Mofussil Courts are as a general rule not disposed to accept the office of Govt. Pleader on account of the smallness of the salary and of the office shutting out the holders from lucrative practice.

2. The officers named will also be good enough to submit any suggestions that may occur to them for making better provision for the interests of the Govt. being efficiently represented in the Mofussil Courts.

E. W. Bird Esq
C. Collett Esq
J. R. Kindersley Esq
C. R. Pelly Esq

Judicial 1866. Department.

No. 109.

PROCEEDINGS OF GOVERNMENT.

Feb 284-285-294-554.

Dated 27th January 1865.

195-196.