

## MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|          |        |                 |
|----------|--------|-----------------|
| G.O. No. | (514)  | Press           |
|          | 971    | <del>Mis.</del> |
|          | 21-6-  |                 |
| Dated    | (9-4-) | 19 1866         |

4/5

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,*

*21st June 1866.*

Read again the following letter from the Civil Judge of Calicut, to the Chief Secretary to Government, Fort Saint George; dated Calicut, 14th March 1866, No. 72.

With reference to Proceedings of Government, dated 5th instant, No. 333, recorded on review of this Court's general inventory of the intestate property, I have the honor to state that the Principal Sudder Ameen of Calicut has reported that the advertisement prescribed by Clause 7, Section 16, Regulation III of 1802, was published in due time, in each of the cases of the property forming Nos. 1, 2, 4, 5, 6 and 7, but that no notices, requiring creditors, if any, to appear, have been published by him, under the impression that such notices could only issue on the expiration of the period in the said advertisement, and under the orders of Government.

2. The rule hitherto observed in this Court and in the late Sub-Court, and even in the Principal Sudder Ameen's Court of Calicut, was to issue the Notice either simultaneously with, or on the expiry of, the period of the advertisement, and this rule appears, in no case, to have been objected to by Government; but the present Principal Sudder Ameen has now expressed a doubt whether he can issue the notice as has hitherto been done, without the special orders of Government.

3. I have the honor to request you, therefore, to obtain for me some definite instructions on the above point.

ORDER, 9th April 1866, No. 514.

It is observed that Clause 7, Section 16, Regulation III of 1802, requires the issue of but one advertisement, calling upon the heirs of the deceased, or other persons entitled to receive charge of his effects, to attend and substantiate their claims within 12 months. It is not clear, therefore, what the Judge means by an advertisement and a subsequent notice. He is requested to explain himself more fully, and to state what was the purport of the advertisements issued in the cases referred to.

(True Extract).

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

No. 188. Read also the following letter from the Civil Judge of Calicut, to the Acting Chief Secretary to Government, Fort Saint George; dated Calicut, 5th June 1866, No. 115.

I have the honor to acknowledge the receipt of Proceedings of Government, in the Judicial Department, dated 9th April 1866, No. 514. Government observe, with reference to Clause 7, Section 16, Regulation III of 1802, that that Clause requires the issue of but one advertisement, and that it is not, therefore, clear what is meant by an advertisement and subsequent notice.

2. I beg to explain that on taking charge of an intestate estate, the Court first issues the advertisement required by the above enactment, calling upon the heir or heirs of the deceased, or other persons entitled to receive charge of his effects, to attend and substantiate their claims within 12 months, and this was done by the Principal Sudder Ameen in the cases referred to.

Proceedings of the Madras Government, Judicial Department,  
21st June 1866.

3. After the expiration of the said 12 months, it has been the rule to issue a notice in these words that "all parties having claims against, and being indebted to the estate of the deceased, are hereby required to make the same known to the Court on or before such a date, after which no claims will be attended to."

4. This notice has always been issued on the authority of the Court in charge of the estate. The question is, is such a notice to follow the prescribed advertisement, if so, is the previous sanction of Government necessary to issue it?

No. 189. ORDER THEREON, 21st June 1866, No. 971.

Ordered that copies of the foregoing letter and of the G. O., 9th April 1866, No. 514, to which it is a reply, be communicated to the other Civil and Session Judges, with a request that they will report what the practice in their several Districts is in regard to the course pursued for the disposal of intestate property under Clause 7, Section 16, Regulation III of 1802.

(True Extract).

J. D. SIM,  
Acting Chief Secretary.

To the Civil and Session Judge of

Exd. J. Tulloch,

2  
Memo to the Honble Secy to Govt  
The Regulation does not  
require the issue of a notice  
such as that described  
in para 3 of Mr Cook's  
letter; & exception was  
taken by the public  
Comm. 25th/52 of such a notice when  
that course was proposed  
by Mr Cook in another  
case so far back as  
1851 when he was sub-  
ject of a suit. But  
in 1852, the late Sad  
Court gave it as their  
opinion that, at the  
expiration of one year  
from the date of the ad-  
vertisement required  
to be published by Cl 7  
of Reg. III of  
1802, the Court have  
the power to dispose of

To the Civil & Ses. Judge of Madras  
with Encl. No 514  
J. D. Sim 25/6/66

the case according to Justice  
"on a report of the circumstances  
"attending it being known that  
"for their orders." Acting  
on this ~~part~~ opinion, the  
Court in the case done.

Platoh Estate in Malabar  
directed, after the counsel

had done in the Reg.

had been gone there to

and no return was

forthcoming, the

the sale proceeds of the

deceased's assets should

be held in deposit

in the Collector's Treasury

for the period of one

year. Should any claim

be preferred within

that period the sub

judge was to "bring

them to the notice of the

otherwise if he was to

3  
"Report the matter for further  
"orders on the twelve months  
"expiring." This was a  
virtual sanction. Resolving  
the matter referred to  
by the Civil Judge of  
Calicut - but it ~~was~~ <sup>was</sup> in  
not ~~appear~~ <sup>appear</sup> what the  
practice in the Courts  
is -

Q  
Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Recd the following letter  
from the Civil Judge of Calicut.  
(Recd letter 5 June 1886 No 115)

Order thereon 21<sup>st</sup> June 1886 No 971-

Ordered that copies  
of the foregoing letter and  
of the L. O. 9<sup>th</sup> April 1886  
No 54, to which it is a  
reply, be communicated to  
the other Civil & Session  
Judges, with a request that  
they will report what the  
practice in their several  
Districts is in regard to the  
course pursued for the disposal  
of intestate property under  
Cl. 7. Sec. XVI, Regulation III  
of 1802.

WOW

To the Civil & Ses. Judge of all Districts  
with C.O. No 514

despd 25/6/86

JDS

2 Bcc all with names

*Indian & 1860. Department.*

No. 971.

PROCEEDINGS OF GOVERNMENT.

1865-1723 1674 1532.  
1638 1708 1719-1725-  
1726-1728-1735-1741  
1742 1743 1744 1745 1746 1747 1748 1749 1750 1751  
Dated 27<sup>th</sup> June 1860.

188-189.