

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	30	Press
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Not to be folded or roughly handled

No. 57. Read the following letter from the Registrar General of Assurances, to the Chief Secretary to Government, Fort Saint George; dated Madras, 17th December 1866, No. 328.

I have the honor to request that the Government will be pleased to sanction the payment of a fee of Rupees 35 to the Government Vakeel in the Zillah Court of Calicut, under the following circumstances.

2. While absent from the Presidency, on inspection duty, a petition was forwarded to me, for disposal, from one Narainah Putter, complaining that the Registrar of Calicut had refused to order the registration of a document originally presented by him to the Sub-Registrar of Kolongode. From the Registrar's order, it appeared that the eleven persons by whom the instrument purported to have been executed, had been summoned by the Sub-Registrar, and that an Agent had appeared on behalf of ten of them, and denied the execution of the instrument. Under Section 36 of Act XX of 1866, the only case in which a Registering Officer can register an instrument, when an Agent, Assign, or Representative refuses to admit the fact of execution, is when the executing party is dead. As the executing parties were alive, the Registrar considered that registration must be refused, and passed an order accordingly.

3. If Narainah Putter considered that he could establish his right to have this instrument registered, he should, under Section 84, have petitioned the District Court. I have no appellate jurisdiction in such cases as this. The only circumstance under which an appeal lies to me, is when the order of refusal has been passed by the Registrar as Sub-Registrar. In that case (vide Section 83), either a formal order must be issued directing the registration of the instrument, or the reasons for refusing to issue such an order must be recorded in Book No. 2 (Record of reasons for refusal to register); and if the party is desirous of taking further action, he is entitled to an extract from this book. In the present case, as I had no authority to receive an appeal, and as, on the petitioner's own showing, it was not competent to the Sub-Registrar to register the document under the circumstances described by him, no order was issued or entry made in Book No. 2, but the petition was returned, with an endorsement to the following effect—"the Registrar General is of opinion that the Registrar had no alternative but to pass the order in question"—which was merely intended to intimate to the petitioner that I did not feel called on to take any action with reference to his complaint. It is hardly necessary for me to state that petitions are, from time to time, received, complaining of various irregularities in the offices of the Sub-Registrars, and that due notice is taken in my office of all such complaints, without any reference to the fact whether the party has or has not any other legal remedy. In some instances, the complaint is found to be groundless, and to arise from some mis-apprehension of the Registration Act. Sometimes it admits of immediate redress, as in the case of an over-charge under the table of fees. In other cases, an irregularity which is past cannot be remedied, but it can be prevented in future. In a few instances, these complaints have led, as the Government are aware, to the removal of certain Officers from their posts. Copies of the endorsements on these petitions are entered in a book called the Miscellaneous Petition Book, which is in no way recognized by the Act, and which is merely kept

*Proceedings of the Madras Government, Judicial Department,
4th January 1867.*

in the office for the purposes of reference. No extracts from it have ever been given by me to any one. In this case, however, the petitioner, who had allowed the prescribed time for appeal to expire, applied to the Deputy Registrar General for a certified copy of the endorsement on his petition, and Mr. Ferrand, who was not aware of the exact purpose to which he proposed applying it, gave it to him, on his producing the necessary stamp. The headings of the Miscellaneous Petition Book, which are entirely different from the form prescribed for Book 2, were, it appears, not inserted in this copy, and Narainah Putter presented a petition to the Civil Court of Calicut, under Section 84 of Act XX of 1866, stating that the Sub-Registrar of Kolongode had made an order of refusal to register; that the Registrar of Calicut had also made a similar order; and that, on appeal, I had also made an order of refusal to direct registration, and had given the petitioner the above copy of the reasons for such order, which was thus passed off in the Court as an extract from Book 2, of the nature contemplated in Section 83.

4. On reaching Cuddapah, on the night of Saturday the 27th October, I found, among other papers, a notice from the Civil Court of Calicut, dated the 16th October, informing me that an appeal had been preferred from the above order, and that the 31st October was fixed for hearing the appeal, which would be heard and decided *ex parte* if I did not appear on that date in person, or by a Pleader of the Court.

5. On the 29th October, I telegraphed to the Registrar of Calicut to instruct the Government Vakeel to apply for a week's adjournment, and having returned to my Office on the 31st October, I ascertained what had taken place during my absence, and went on the same day to consult Mr. Dale on the subject. He was, however, engaged, and I was not able to see him until the next day. Mr. Dale seemed to think it doubtful whether there would be time to obtain orders from Government and to communicate the necessary instructions to the Government Vakeel at Calicut through him. I, therefore, forwarded a Power of Attorney, and a statement of the facts, direct to Calicut, and, on the 10th November, the Civil Judge passed a final order on Narainah Putter's petition. As the latter never obtained a formal order of refusal to register from the Sub-Registrar of Kolongode, he has been directed to present the document again, obtain the order, and, if dissatisfied, appeal in regular form.

6. The Government Vakeel having applied for a fee, and stated his willingness to take any sum which might be given him, Mr. Ferrand, during my absence on leave, referred to the Registrar of Calicut as to what would be a proper remuneration for him. As there was some delay in obtaining a reply, Mr. Ferrand addressed himself to Mr. Dale, who named Rupees 35 as a suitable sum. A letter has since been received from the Registrar, suggesting 20, on the ground that the Government Vakeel had very little to do in the matter.

No. 58.

ORDER THEREON, 4th January 1867, No. 30.

Under the circumstances stated, the payment of a fee of twenty (20) Rupees is sanctioned.

*Proceedings of the Madras Government, Judicial Department,
4th January 1867.*

2. When the Registrar General received Narainah Putter's petition, he should have referred him to the District Court, with reference to the provisions of Sections 83 and 84 of the Act.

(True Extract).

Chief Secretary.

To the Registrar General of Assurances.
„ Accountant General.

Exd. J. H. Burns.

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Under the circumstances
stated, the payment of a fee
of 20 Rupees is sanctioned.

When the Registrar
General received Mr. Karama
Butter's Petition he should have
referred him to the ^{district} ~~Court~~ ^{Commissioner} ~~Commissioner~~
with reference to the provisions
of sections 83 and 84 of the Act.

W.D.M.

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To the Reg^y Gen^l of Assurance. — 3
— Accountant General. — 3 } *sent P^{er} 11/12*