

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	985	Press
		~~Mis.~~
Dated	19-6-1918	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
19th June 1867.*

No. 180. Read the following Proceedings of Government in the Revenue Department, dated 28th May 1867, No. 1206.

Communicating observations on the subject of appeal petitions to the High Court, being stamped under Article 11 of Schedule B to Act XXVI of 1867. (Vide Proceedings, Revenue Department, dated 28th May 1867, Nos. 447 and 448).

No. 181. ORDER THEREON, 19th June 1867, No. 985.
To be recorded.

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

Exd. J. Tulloch.

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*Proceedings of the Madras Government, Revenue Department,
28th May 1867.*

No. 447. Read the following letter from the Officiating Government Pleader, to the Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 21st May 1867, No. 88 :—

1. I have the honour to forward herewith, for the information of Government, a copy of Memorandum under this day's date, and just received from the Deputy Registrar of the High Court, intimating that it is the desire of the Chief Justice and two other Judges of the High Court, sitting on Wednesday the 29th instant, to hear me on behalf of Government as to the necessity of Petitions of Appeal to the High Court being stamped under Article 11 of Schedule B. to Act No. XXVI of 1867.

2. I shall be very much obliged by any observations which Government may be pleased to favour me with on the subject, and which may tend to assist me in protecting its interests.

No. 448. ORDER THEREON, 28th May 1867, No. 1,206.

Separate Revenue, No. 22.
Stamps.

1. The Government understand that Stamp duty on Petitions of Appeal to the Sudder and High Courts have hitherto been levied in accordance with Article 11, Schedule B. of Act X of 1862, and with the provisions of Act XX of 1862 (continued by Act XXXII of 1863), which provided that on the Appellate side of the High Court of Calcutta, Stamp duty should be levied on all documents "of a value not less than that indicated by the Schedule B. annexed to the said Act X of 1862, as the proper Stamp for similar instruments and writings in the said Sudder Court," viz., the Sudder Court of Bengal, and further provided that the Act should apply "*mutatis mutandis*" to the High Court of Madras whenever such High Court should be established.

2. It is to be observed that the preamble of the Act declares it to be expedient that Stamp duty shall be levied on the Appellate side of the High Court "in the same manner as such Stamp duties were levied in the late Court of Sudder Dewanny and Nizamut Adawlut," and that the Sudder Court was situated and the Appellate side of the Calcutta High Court still sits, at Alipore, which is not within the local limits of the original jurisdiction of the old Supreme Court and present High Court of Calcutta.

3. Thus there can be no doubt as to the intention and effect of Act XX of 1862 in regard to the Appellate side of the Calcutta High Court. The terms of Article 11, Schedule B., Act X of 1862, which provided for Stamp duties in cases of "Petitions of Plaint or Appeal in suits and appeals not otherwise provided for, instituted in any Civil Court not within the local limits of the jurisdiction of the Courts established by Royal Charter," included appeals to the Sudder Court and to the Appellate side of the High Court sitting at Alipore, and the terms of Article 11 of the new Schedule provided in Act XXVI of 1867 will equally apply to such appeals.

4. It is equally impossible to doubt that the Legislature intended to render appeals to all the amalgamated High Courts liable to the same Stamp duties as had been levied in the old Sudder Courts, and it is the fact that Stamp duty was levied on appeals in the old Sudder Court of Madras, and on the Appellate side

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of the Madras High Court in accordance with Article 11, Schedule B, Act X of 1862, until Act XXVI of 1867 was enacted; but objection is now raised on the ground, apparently, that the building in which the old Sudder Court used to sit and that in which the High Court on its Appellate side now sits are situated *within* "the local limits of the ordinary original Civil jurisdiction" of the High Court.

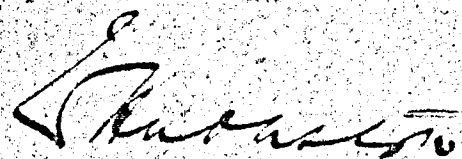
5. The Government consider that this objection should not be allowed to override the manifest intention of the Legislature, and the reasonable interpretation of Act XX of 1862, which has hitherto obtained, as shewn by the unimpeached practice up to the present time.

6. Technically the old Sudder Court had no existence *as a Court* within the local limits of the ordinary original Civil jurisdiction of the Supreme or High Court. The whole of its jurisdiction lay beyond those limits, and no order passed by it had any validity within those limits.

7. The same may be said as to the Appellate side of the amalgamated High Court, and a simple change in its place of sitting would at once bring it unquestionably within the letter of the new Stamp Act.

8. The Government request the Officiating Government Pleader to press these considerations on the notice of the Judges of the High Court, and to inform Government with as little delay as possible of the decision at which the Court may arrive, in order that any necessary steps may be taken to protect the revenue.

(True Extract.)



Secretary to Government.

To the Officiating Government Pleader.
,, the Board of Revenue.
,, the Judicial Department.

hist of 25 June

examined 1887 Sept

1885 June 19: Sept 3

from April: New Sept 4
to 1206

1920 May
1913 June

to 1917

Examining observations on the
subject of special relations to
the Westland, being always
made under 11 of 1862
1886 127 of 1867
19 June 1867 184985

1870-187