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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial DEPARTMENT

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Not to be folded or roughly handled

To
THE HONORABLE SIR C. H. SCOTLAND, Kt.,
*Chief Justice of the High Court of Judicature,
Madras.*

HONORABLE SIR,

I am directed by the Governor in Council to send, for the information of the Honorable the Judges of the High Court, the enclosed papers.

2. From these it will be observed that the Supervisor of the Government Press returned to the Acting Civil Judge of Chingleput a Notice, respecting certificates under Act XXVII of 1860, which had been sent by that Officer for publication in the *Fort Saint George Gazette*, with a remark that it has not been customary to publish such Notices in the Government Gazette. Upon receipt of the Official Memorandum from the Supervisor of the Government Press, the Acting Civil Judge of Chingleput recorded Judicial Proceedings, and issued an Order of Court returning the notice to the Supervisor of the Government Press for publication in the *Fort Saint George Gazette*.

3. I am to observe that the Governor in Council considers that Mr. Whiteside has completely misapprehended his position with reference to the Supervisor of the Government Press, in thus directing that Officer by Judicial Proceeding and Order to insert a Notification in the Government Gazette, and to request that the Judges of the High Court will issue such instructions to the Acting Civil Judge of Chingleput as may be necessary to prevent that Officer from adopting a similar course in his future communications with the Supervisor of the Government Press.

I have the honor to be,

Sir,

Your most obedient Servant,

FORT SAINT GEORGE,
19th February 1868.

Chief Secretary.

From the Supervisor, Government Press, to the Chief Secretary to Government, Fort Saint George; dated Madras, 3rd February 1868.

I have the honor herewith to forward, for the information of Government, a communication* addressed to me by the Civil Judge of Chingleput.

* A.

2. On the 18th instant, the Superintendent of the Press brought me a Notification signed by the Civil Judge and endorsed "for publication in the *Fort Saint George Gazette*," which forms one of the enclosures† of my letter. I examined the Act under which it was issued, and found that no publication in the Government Gazette was prescribed. The Notice was evidently local and concerned local interests, and I accordingly returned it with a Memorandum, copy of which I enclose.‡

† B.

‡ E.

3. The envelope of the Civil Judge's present communication was, very improperly, opened in the Press, and in some way, quite inexplicable, the notice was taken out and printed in the Gazette.

4. With reference to the communication, I beg to submit that its form is wholly objectionable. A Civil Judge is to me, as Supervisor, the head of an office—not a Judge—and his "orders" and "precepts" in such matters are quite out of place. Had the Civil Judge written to me giving his reasons for wishing the insertion, and requesting a reference to Government if I still objected, of course I should have carried out his wishes.

5. I was incorrect in my assertion that no such document had been published before. One had*, from the same Civil Judge, in May last. It was received during the absence of the Superintendent on four days' leave, and was passed neither by him nor by the Supervisor. In fact, it got into the Gazette in much the same way as the present notice. The Superintendent never knew it had been inserted, and denied that it had until the Gazette containing it was produced; hence, my assertion, if hasty, was not unconsidered. The publication or not in other Gazettes is only so far relevant as showing what is the practice in other parts of India, where the same law is in force, and the same information has to be made public. No such notices are published elsewhere, and no other Judge in the Madras Presidency than the Civil Judge of Chingleput has asked for such publication.

6. As to the usefulness of the publication the Government are much better qualified than I to judge; I have only to remark that the circulation of the Gazette in Madras, excluding official copies, is 135.

7. But I apprehend that Government will hold me out in asserting my position as responsible head of the Government Press. The Superintendent is Sub-Editor, I am Editor, of the Gazette, to all intents and purposes. Very few weeks pass without the exclusion of unsuitable matter (e.g. a former notice of the Civil Judge, enclosed†), and I am quite aware of being called to account for the admission of improper matter. In all cases of doubt I have, of course, made immediate reference to Government.

8. I should in any case have referred this matter to Government, since the concluding paragraph of the Civil Judge's communication, coupled with the words "declining to comply with the Court's requisition," and "order" immediately following, imply an assumption of authority which I apprehend no Judge in the country possesses over me in my official capacity.

9. I beg that Government will pronounce on the Civil Judge's action and on my status with reference to the editing of the Gazette.

A.

Proceedings of the Civil Court of Chingleput, 21st January 1868, No. 2.

Read Notification issued by this Court, dated 21st December 1867, cancelling, under the provisions of Article 2, Schedule B, Act XXVI of 1867, and Article 3, Schedule B, Act X of 1862, divers certificates of heirship granted by this Court to various inhabitants of the District of Madras under the provisions of Act XXVII of 1860.

Read also "Memorandum*" addressed to this Court by the Supervisor of the Government Press returning the copy of the above named notice forwarded for publication in the *Fort Saint George Gazette*, and declining to comply with the Court's requisition.

* Dated 18th January 1868.

Order.

The Notice which has been returned with the "Memorandum" under consideration informs a number of individuals (many of them inhabitants of the town of Madras and its suburbs) that the certificates of heirship previously granted to them by this Court under Act XXVII of 1860 have been cancelled; inhibits them from collecting debts under the terms of the certificates so cancelled; and also warns all parties owing moneys to the estates on account of such debts to parties who may hereafter attempt to make use of the certificates no longer valid.

2. The Supervisor of the Press remarks that such a Notification has never been published before in the Gazette of this or any other Presidency, and returns the notice without publishing it, as he is unable to see what useful end would be gained by its publication in the *Fort Saint George Gazette*.

3. It would have been better that the Supervisor of the Press, before acting thus hastily, should have assured himself that he was correct in the assertion he has put forward, that no Notification of this kind has ever been published before in the *Fort Saint George Gazette* (what may or may not have been done in other Presidencies being irrelevant); for, had he done so, he would have observed that, so recently as the 21st May 1867, a Notification calling upon all holders of certificates of heirship issued by this Court to furnish certain statements under the provisions of the enactments quoted at the heading of these Proceedings, and warning them that disobedience to that notice would result in the cancellation of the certificates, was published by the Superintendent of the Government Press in the *Fort Saint George Gazette*, at page 1181. The present Notice is the sequent of the former, and informs those certificate holders who have disobeyed the former notice that their certificates are now cancelled. Granting that the publication of the Notice in the District Gazette might have been useful as suggested by the Supervisor, it is evident that it will be infinitely more useful when it appears in the *Fort Saint George Gazette*, as a warning to the large number of debtors to the various estates in question, many of whom, residing in Madras and other parts of the Presidency, never see the District Gazette, and are entirely ignorant of its contents, but who do very probably see the Government Gazette constantly.

4. Even supposing that the Supervisor had been correct in his statement as to no such Notice having ever appeared before in the *Fort Saint George Gazette*, it by no means follows that, therefore, no such Notice shall ever be published hereafter. If the Supervisor had read the Notification in question, he would have perceived that, under the provisions of Acts passed in 1862, this Court was revising the certificates issued from the passing of those Acts up to the present time, and he would have been satisfied that it was an unusual and important notification.

5. The Supervisor of the Press is not, so far as this Court is aware, empowered by any orders of Government to exercise supervision over the Proceedings of the various Civil Judges, or to refuse to comply with requisitions made by them from time to time for the publication in the Gazette of important notices of this description, simply because the useful end of such notices does not happen to be apprehended at first sight by him; and for this reason this Court did not deem it necessary, when forwarding the Notification to the Superintendent, to offer any explanation as to its usefulness.

6. The Notice will be now returned to the Supervisor of the Government Press, for publication in the *Fort Saint George Gazette*.

(True Extract).

(Signed) W. S. WHITESIDE,
Acting Civil Judge.

To the Supervisor, Government Press, with the Notice referred to.

E.

MEMORANDUM.

The Supervisor, Government Press, has the honor, in returning to the Judge of Chingleput his Notice respecting certificates under Act XXVII of 1860, dated the 21st December, and endorsed "for publication in the Gazette," to remark that it has not been the custom to publish such papers in the Government Gazettes of this or any Presidency, and that, while the publication of this Notice in the District Gazette may be most useful, he is unable to see what useful end would be gained by publication in the *Fort Saint George Gazette*.

FORT SAINT GEORGE,
18th January 1868.

To the Judge of Chingleput.

Exd. J. H. Burns.

(Signed) C. G. WALKER,
Supervisor, Government Press.

Sept 27/2/88
with India B.C.D.

India 289/1
Memo to

No 283.

To The Honorable Sir C. H. Scott, M.
Chief Justice of the High Court of
Judicature.

Honble Sir,

I am directed by the
Governor in Council to
send for the information
of the Honorable the Judges
of the High Court the
enclosed papers.

2. From these it will
be observed that the Super-
visor of the Government
Press returned to the Acting
Civil Judge of Chingleput
a notice respecting Certificate
under Act 27 of 1860 which
had been sent by that
Officer.

W. H. M.
W. H. M.
W. H. M.

officer for publication in
the Fort Saint George Gazette
with a remark that it has
not been customary to
publish such notices in
the Government Gazette.
Upon receipt of the Official
News from the Supervisor
of the Government Press, the
Acting Civil Judge of Chingle-
put recorded ^{judicial} proceedings
and issued an order of
Court returning the notice
to the Supervisor of the Govern-
ment Press for publication
in the Fort St. George Gazette.

3. I am to observe that
the Governor in Council
considers that Mr. Whiteside
has completely misapprehended
his position with reference
to the Supervisor of the
Government

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Government Press in thus
directing that officer by
judicial proceedings and
order to insert a Notifica-
tion in the Government Gazette,
and to request that the
Judges of the High Court
will issue such instructions
to the Acting Civil Judge
of Chingleput as may be
necessary to prevent that
officer from adopting a
similar course in his
future communications
with the Supervisor of the
Government Press.

Fort St. George,
19th February 1868.

White

Copd to the Supervisor for his disposal/2.

241.242

Feb 19 1868

Feb 29

The Honorable
The Chief Justice of the
High Court of Madras

No 223

Enclined 1868 St George

Government Press, Madras,
February 3 1868

28/3

From The Supervisor
Government Press
To The Chief Secretary to Government
Fort St. George.

Sir,
I have the honor herewith to forward for the information of Government a communication addressed to me by the Civil Judge of Chingleput.
2. On the 18th Instant the Superintendent of the Press brought me a notification signed by the Civil Judge and endorsed "for publication in the Fort St. George Gazette" which forms one of the enclosures of my letter. I examined the Act under which it was issued and found that no publication in the Government Gazette was prescribed. The Notice was evidently local and concerned local interests, and I accordingly returned it with a Memorandum, copy of which I enclose.
3. The envelope of the Civil Judges present communication was, very improperly, opened in the press - and in some way quite inexplicable, the Notice was taken out and printed in the Gazette.
4. With reference to the communication I beg to submit that its form is wholly objectionable. A Civil Judge is to me, as Supervisor, the head of an Officer - not a judge - and his orders and precepts in such matters are quite out

A

B

E

of place. Had the ^{Civil Judge} written to me giving his reasons for wishing the insertion, and requesting a reference to Government if I still objected, of course I should have carried out his wishes.

5. I was incorrect in my assertion that no such document had been published before. One had, from the same Civil Judge - in May last. It was received during his absence of the Superintendent on 4 days' leave - and was passed neither by him nor the Supervisor. In fact it got into the Gazette in much the same way as the present Notice. The Superintendent never knew it had been inserted, and denied that it had until the Gazette containing it was produced. Hence my assertion, if hasty, was not unconsidered. The publication or not in other Gazettes is only so far relevant as showing what is the practice in other parts of India, where the same law is in force, and the same information has to be made public. No such notices are published elsewhere - and no other Judge in the Madras Presidency than the Civil Judge of Chingleput has asked for such.

6. As to the usefulness of the publications the Government are much better qualified than I to judge. I have only to remark that the circulation of the Gazette in Madras, including Official copies, is 135.

7. But I apprehend that Government will hold me out in asserting my position as responsible head of the Government Press. The Superintendent is Sub-Editor, I am Editor, of the Gazette to all intents and

purposes. Very few weeks pass without the exclusion of unsuitable matter (eg. a former Notice of the Civil Judge, enclosed) and I am quite aware of being called to account for the admission of improper matter. In all cases of doubt I have of course made immediate reference to Government.

8. I should in any case have referred this matter to Government since the concluding paragraph of the Civil Judge's communication - coupled with the words "declining to comply with the Court's requisition" and "Order" immediately following - imply an assumption of authority which I apprehend no Judge in the Country possesses over me in my official capacity.

9. I beg that Government will pronounce on the Civil Judge's action, and on my stance with reference to the editing of the Gazette.

I have the honor to be,

Sir,

Your obedt. servant,

W. Walker

Superior Government Press.

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Proceedings of the Civil Court of Singapore.

21st January 1868.

Read notification issued by this Court dated 21st December 1867 cancelling, under the provisions of Article 2 Schedule B. Act XXVI of 1867 and Article 3 Schedule B. Act X of 1867, divers certificates of Birth, granted by this Court to various inhabitants of the District of Madras under the provisions of Act XXVII of 1860.

^x
Dated 18th Jan^y 1868.

^x
Read also "Memo" addressed to this Court by the Supervisor of the Government Press returning the copy of the above named notice forwarded for publication in the Fort St George Gazette, and declining to comply with the Court's requisition.

Order

The notice which has been returned with the "Memo" under consideration, informs a number of individuals (many of them inhabitants of the Town of Madras & its suburbs) that the

From 13th Dec. separate
from Supervisor Govt. Press
To
Chief Secretary to Govt.

Feb. 27

Entry 5th July 1868. to 26th

4th Dec.

In the subject of the communication from the Civil Judge of Singapore, relating to a notification sent by that Officer for publication in the Gazette.

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certificates of Kinship previously granted to them by this Court under Act XXII of 1860 have been cancelled. Inhibits them from collecting debts under the terms of the certificates so cancelled. And also warns all parties owing monies to the Estates on account of which the certificates were originally granted to abstain from making payments on account of such debts to parties who may hereafter attempt to make use of the certificates no longer valid.

2. The Supervisor of the Press remarks that such a Notification has never been published before in the Gazette of this or any other Presidency and returns the notice without publishing it as he is unable to see what useful end would be gained by its publication in the East St George Gazette.

3. It would have been better that the Supervisor of the Press before acting thus hastily should have assured himself

6.
that he was correct in the assertion he has put forward that no Notification of this kind has ever been published before in the East St George Gazette (what may, or may not, have been done in other Presidencies being irrelevant) for had he done so he would have observed that so recently as the 21st May 1867 a Notification calling upon all holders of certificates of Kinship issued by this Court to furnish certain statements under the provisions of the enactments quoted at the heading of these Proceedings and warning them that disobedience to that notice would result in the cancellation of the certificates - was published by the Superintendent of the Government Press in the East St George Gazette at Page 1181 - The present notice is the sequent of the former & informs these certificate holders who have disobeyed the former notice that their certificates are now cancelled. Granting that the publication of the notice

in the District Gazette might have been useful
as suggested by the Supervisor, it is
evident that it will be infinitely more
useful when it appears in the East St
George Gazette as a warning to the large
number of Debtors to the various Estates
in question many of whom residing in
Madras and other parts of the Presidency
never see the District Gazette & are entirely
ignorant of its contents, but who do very
probably see the Government Gazette
constantly.

4. Even supposing that the Supervisor
had been correct in his statement as to
no such notice having ever appeared
before in the East St George Gazette it by
no means follows that therefore no such
notice shall ever be published hereafter.
If the Supervisor had read the notification
in question he would have perceived that
under the provisions of Act passed in 1842

67
this Court was revising the certificates issued from
the passing of those acts up to the present time
and he would have been satisfied that it
was an unusual and important notification.

5. The Supervisor of the Press is not, so
far as this Court is aware, empowered by any
orders of Government to exercise supervision
over the Proceedings of the various Civil Judges
or to refuse to comply with requisitions made
by them from time to time for the publication
in the Gazette of important notices of this description
simply because the useful end of such notices
does not happen to be apprehended at first sight
by him and for this reason this Court did not
deem it necessary when forwarding the notification
to the Superintendent to offer any explanation as to
its usefulness.

6. The Notice will be now returned to the
Supervisor of the Government Press for publication
in the East St George Gazette.

To the Supervisor - Government
Press with the notice
referred to.

Edw. M. H. Adams

True Extract
W. S. Whitfield
A. Civil Judge

8.

Reif? 23-1-68.
A. S. 267/523.

Notification 9/6/0

The undermentioned Vakils, now on the list of the Pleaders in the Civil & Session Court of Chingleput, having discontinued practicing in the Court and absented themselves altogether from their duties for more than two years, without notice given of such absence, or permission obtained, their names are struck off the said list of Pleaders.

1. Mahomed Jaharudien Sahib.
2. Anthamkussain Sahib
3. Puducottai Saivayyer
4. Sundara Sastri
5. Devasahayam Pillai.

Chingleput
Civil & Session
Court
17th December
1867.

W. S. Whitney
J. Civil & Session Judge

To The Suptt of the
South Arcot District
Chingleput

983
11

Memo for orders.

A question has arisen as to whether a certain Notice issued by the Civil Judge of the District Court of the nature of that marked (B) should be published in the Fort St George Gazette. Only four of the persons concerned have residences in Madras, and there are only likely to take in the Fort St George Gazette. It is not required ^{by law} that this Notice should appear in the Fort St George Gazette. The publication in the District Gazette of the Notice would have better secured the object aimed at.

Is any other B. Notice
for the District?

Dec 18-12-67
1/2 on order no 267/68.

Dec 18-12-67

D

The main question raised is
whether the Judge should
have communicated with
the Supervisor of the Govt
Press, by Proceedings.
I assume that the proper
course would have been
for the Civil Judge to have
addressed the Supervisor
as the head of the Printing
Office by letter, or the
Chief Secretary as the head
of the Dept. in which
the Govt Press is included.

We cannot presume as
Judge make any requisition
or order as regards the
Govt Press.

R.S.

The Acting Civil Judge of
Chingleput has, I assume, ^{mis-}
mistaken his position and
attempted to misuse his
judicial authority. Certainly,
the Superintendent of a Govt
printing establishment is not
bound to insert in the columns
of the official Gazette any
communication a Judge in the District
may choose to send for publi-
cation; and I cannot, I should
say, order its insertion where
objection is raised by the
Superintendent. I would
transmit the papers to the
High Court and let them
determine whether a Civil Judge
is in order when holding proceedings
such as those recorded by
Whitehead on the 21 Jan'y 68.

At the same time it wd
have been better, I think, if
the Press Superintendent

Judicial Department.

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PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the
Supervisor Government Press.

(Here enter 3rd February 1868)

Order thereon.

From the papers recorded
above it appears that the Super-
visor of the Government Press re-
turned to the Acting Civil Judge of
Chingleput, a Notice, respecting cer-
tificates under Act 27 of 1860,
which had been sent by that
officer for publication in the
Fort Saint Gazette, with a remark
that it has not been customary
to publish such notices in the
Government Gazette. Upon receipt
of the Official Memo. from the
Supervisor of the Government Press,
the

W.O.

I wd like to know
what course
will be taken
in regard to
this matter.

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The Acting Civil Judge of Chingleput recorded Proceedings and issued an order of Court returning the notice to the Supervisor of the Government Press for publication in the Fort Saint George Gazette.

2. The Governor in Council considers that Mr. Whiteside has completely misapprehended his position with reference to the Supervisor of the Government Press, in thus directing that Officer by Judicial proceeding and Order, to insert a notification in the Government Gazette.

3. The papers above recorded and a copy of these proceedings will be sent to the High Court, with a request that they will issue such instructions to the Acting Civil Judge of Chingleput as may be necessary to prevent his adopting a similar course in future.

The papers above recorded will be sent with the following letter to the Judges of the High Court.

To the Superior Court
Honble the Judges of the High Court

I had simply intimated to Mr. C. Judge that he did not feel at liberty to insert in the official public the Notification sent to him.

I must have said that the pros: 2 are High Court and ask them to prohibit Mr. Whiteside from adopting a similar course in future. As this is a case altogether misapprehended in position with reference to the Supervisor of Govt. Press.

by [signature]
Paper

2. 24.

Auth.
H. D. Phelps

21 Feb.
1810.