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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial . DEPARTMENT

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S.G.N.

Not to be folded or roughly handled

56

Proceedings of the Madras Government, Judicial Department,

24th March 1868.

Proceedings of the Board of Revenue, dated 28th February 1868, No. 1420, No. 241. Read the following Proceedings of the Madras Government, dated 31st January 1868, No. 156, Judicial Department.

ABSTRACT.—Communicating a letter from the Collector of Ganjam on the subject of Board's Proceedings, dated 7th August 1867, in which Act No. V. of 1861 has been described as applicable to unclaimed property in the Madras Presidency.

The Board observe that the mistake to which the Government allude was brought to their notice by the Acting Collector of Nellore, and corrected in Board's Proceedings, dated 23rd January 1868, No. 513.

2. In his letter of the 28th May 1867, No. 158, Mr. Boswell referred to articles of which the value was most trifling, such as a few cloths, or an ornament or two.

3. The provisions of Clause 7, Section 16, Regulation No. III. of 1802, require that when the Judge of a Civil Court has received information that a person has died intestate, leaving personal property, and that no claimant to the property has appeared, he is to take the requisite measures for the safe keeping of the property and advertise for an heir; and if no heir appears within twelve months he is to make an inventory of the property, and transmit it, together with a statement of the circumstances of the case, to the Governor in Council for his orders.

4. The Board consider that this elaborate procedure is not applicable to the case of property of the description referred to by Mr. Boswell. It is a matter of every-day occurrence for it to be reported to the administrative authorities that the corpses of travellers or others have been discovered; that they cannot be recognised, and that property worth in the majority of cases only a few Annas has been found upon them. The Board believe that, as a matter of fact, reports of this kind are not sent on to the Judges, and, unless of course the property is valuable, that the time of Government is not taken up with the consideration of the circumstances of such cases, twelve months after they have occurred.

5. They have accordingly expressed an opinion that the Collector may receive and dispose of such property on behalf of Government, though not authorized to do so by any special enactment.

(A true Extract).

(Signed) J. GROSE,
Sub-Secretary.

Proceedings of the Board of Revenue, dated 7th August 1867, No. 5056. Read the following letter from J. A. C. BOSWELL, Esq., Acting Collector of Nellore, to the Secretary to the Board of Revenue; dated 28th May 1867, No. 158.

I find in several of the Sub-Magistrate's offices accumulations of unclaimed property, which are said to have been there for many years, and regarding which in some cases nothing is ascertainable. There are no records to show under what circumstances the property was taken charge of by the authorities. As the property occupies room unnecessarily, and by long keeping deteriorates in value, I request the Board's sanction to have the same sold by public auction, and the proceeds credited to Government.

2. To prevent similar accumulations, I propose to publish a Circular in the *District Gazette*, but before doing so forward two copies for the information and approval of the Board.

3. As regards treasure trove, the law is clearly laid down in Regulation XI. of 1832; but as regards articles of trifling value, which the finder brings to the Sub-Magistrate, the custom hitherto has generally been to detain the same in the Quasherry or sell them for the benefit of Government. I do not see why, with regard to such property, the principal of treasure trove should not be

*Proceedings of the Madras Government, Judicial Department,
24th March 1863.*

followed, and, after due notice, if no claimant appear, I would propose that the property be made over to the finder.

4. As regards the property of deceased persons dying intestate, in the case of whom the Civil Court refuse to appoint an administrator because the property will not bear the expense, I propose to adopt the course followed by Mr. G. L. Morris, Collector of Tanjore, in a Circular lately issued by him in the *Tanjore District Gazette* of 4th May 1857, page 15, and direct that all reports should be dealt with as an escheat under Section 6, Regulation VII of 1817. I would also direct the Board's instructions as to whether every case, when the property may be of the most trifling amount, is to be specially reported to the Board for their orders, or whether a monthly return may be made of the same, or whether the Board would see fit to authorize Collectors to pass orders on escheats up to a certain amount. Travellers often die and leave nothing but a few cloths, and, perhaps, a gold or silver ornament or two. It entails much trouble in each case, first to report the circumstance to the Civil Court, and then to the Board of Revenue, and Section 6 of Regulation VII of 1817, provides further for a reference for the orders of Government in each case.

5. Perhaps the Board of Revenue may think it desirable to issue a Circular thereon, on the subject of unclaimed property.

ENCLOSURES Nos. 1 and 2.—Notices.

Mr. Boswell is referred to Sections 25, 26, and 27, Act V. of 1861, where the disposal of unclaimed property of small value is fully provided for.

(A true Copy and Extract.)

(Signed) J. R. COCKERELL,

Sub-Secretary.

Proceedings of the Board of Revenue, dated 23rd January 1863, No. 513.
Read the following letter from J. A. C. BOSWELL, Esq., Acting Collector of Nellore, to the Secretary to the Board of Revenue, dated 23rd October 1862, No. 1197.

When I recently brought the matter of the disposal of unclaimed property to the notice of the Board, in their Proceedings, No. 5056, dated 7th August, the Board referred me to Sections 25, 26, and 27, Act No. V. of 1861, when they stated that the disposal of unclaimed property of small value is fully provided for.

2. It apparently escaped the notice of the Board that Act No. V. of 1861 has never been brought into force in this Presidency, and there are no similar provisions for the disposal of unclaimed property in the Madras Police Act No. XXIV. of 1859.

3. Section 131 of the Code of Criminal Procedure Act No. XXV. of 1861, provides for the disposal of property seized under *suspicious circumstances*, but I am not aware of any enactment in force in this Presidency which provides for the disposal of simply unclaimed property. I recommended that the law of Treasure Trove, Regulation No. XI. of 1832, should be held applicable to such cases, and the property be delivered to the finder.

The Proceedings referred to were, as the Collector supposed, passed through an oversight.

2. The *moveable* property of a deceased person dying intestate, in the case of whom the Civil Court refuse to appoint an administrator because the property will not bear the expense, and Government, and the Collector can receive the property and dispose of it on behalf of Government, though not authorized to do so by any special enactment.

3. The Collector's proposal that articles of trifling value should be returned to the finders if no claimant appears is approved; but the Board think that three months' notice should be given in such cases.

(A true Copy and Extract.)

(Signed) J. COCKE,

Sub-Secretary.

No. 212.

ORDER THEREON, 21st March 1863, No. 505.

To be recorded.

(True Extract.)

R. S. ELLIS,

Chief Secretary.

21. J. T. T. T.

No. 5,056.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 7th August 1867.

Read the following letter from J. A. C. BOSWELL, Esq., Acting Collector of Nellore, to the Secretary to the Board of Revenue, dated 28th May 1867, No. 158:—

1. I find in several of the Sub-Magistrate's offices accumulations of unclaimed property, which are said to have been there for many years, and regarding which in some cases nothing is ascertainable. There are no records to show under what circumstances the property was taken charge of by the authorities. As the property occupies room unnecessarily, and by long keeping deteriorates in value, I request the Board's sanction to have the same sold by public auction, and the proceeds credited to Government.

2. To prevent similar accumulations, I propose to publish a Circular in the District Gazette, but before doing so forward two copies for the information and approval of the Board.

3. As regards treasure trove, the Law is clearly laid down in Regulation XI. of 1832; but as regards articles of trifling value, which the finder brings to the Sub-Magistrate, the custom hitherto has generally been to detain the same in the Catcherry or sell them for the benefit of Government; I do not see why, with regard to such property, the principal of treasure trove should not be followed, and, after due notice, if no claimant appear, I would propose that the property be made over to the finder.

4. As regards the property of deceased persons dying intestate in the case of whom the Civil Court refuse to appoint an administrator because the property will not bear the expense, I propose to adopt the course followed by Mr. G. L. Morris, Collector of Tanjore, in a Circular lately issued in the *Tanjore District Gazette* of 4th May 1857, page 15, and direct that all reports should be dealt with as an escheat under Section 6, Regulation VII of 1817. I would also direct the Board's instructions as to whether every case, when the property may be of the most trifling amount, is to be specially reported to the Board for their orders, or whether a monthly return may be made of the same, or whether the Board would see fit to authorize Collectors to pass orders on escheats up to a certain amount. Travellers often die and leave nothing but a few cloths, and, perhaps, a gold or silver ornament or two. It entails much trouble in each case, first to report the circumstance to the Civil Court, and then to the Board of Revenue, and Section 6 of Regulation VII. of 1817, provides further for a reference for the orders of Government in each case.

5. Perhaps the Board of Revenue may think it desirable to issue a Circular thereon, on the subject of unclaimed property.

ENCLOSURES Nos. 1 and 2.—Notices.

Mr. Boswell is referred to Sections 25, 26, and 27, Act V. of 1861, where the disposal of unclaimed property of small value is fully provided for.

(A true Copy and Extract.)

(Signed) J. R. COCKERELL,

Sub-Secretary.

To the Acting Collector of Nellore.

526/3

No. 543.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 23rd January 1863.

Read the following letter from J. A. C. BOSWELL, Esq., Acting Collector of Nellore, to the Secretary to the Board of Revenue, dated 23rd October 1867, No. 1,149:—

1. When I recently brought the matter of the disposal of unclaimed property to the notice of the Board, in their Proceedings, No. 3,056, dated 7th August, the Board referred me to Sections 25, 26 and 27, Act No. V. of 1861, when they stated that the disposal of unclaimed property of small value is fully provided for.

2. It apparently escaped the notice of the Board that Act No. V. of 1861 has never been brought into force in this Presidency, and there are no similar provisions for the disposal of unclaimed property in the Madras Police Act No. XXIV. of 1859.

3. Section 131 of the Code of Criminal Procedure Act No. XXV. of 1861, provides for the disposal of property seized under *suspicious circumstances*, but I am not aware of any enactment in force in this Presidency which provides for the disposal of simply unclaimed property. I recommended that the Law of Treasure Trove Regulation No. XI. of 1832, should be held applicable to such cases, and the property be delivered to the finder.

1. The Proceedings referred to were, as the Collector supposes, passed through an oversight.

2. The *moveable* property of a deceased person dying intestate is not an "escheat," and Regulation No. VII. of 1817 does not apply to it. As there are no heirs the ownership vests in Government, and the Collector can receive the property and dispose of it on behalf of Government though not authorized to do so by any special enactment.

3. The Collector's proposal that articles of trifling value should be returned to the finders if no claimant appears is approved; but the Board think that three months' notice should be given in such cases.

(A true Copy and Extract.)

(Signed) J. GROSE,
Sub-Secretary.

To the Acting Collector of Nellore.

Edw. J. Wright.

*in the case of property
of small value
the Board of Revenue
should be referred to
the Board of Revenue
for their consideration
and the property be
delivered to the finder*

1867.

Department

No.

PROCEEDINGS OF THE BOARD OF REVENUE

Dated 7th August 1867.

No. 5,056.

Referring Acting Collector of Nellore to Sections 25, 26, and 27, Act 5 of 1861, regarding the disposal of unclaimed property of small value.

*Ref. No. 5056
Dated 23rd Oct 1867*

506

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Memorandum
for order

I would submit that
the correct course is
simply to record this
paper. The proposal
of the Board is no
doubt a very reasonable
one, although it
may not be quite in
accordance with the law.
But it is only likely to be
followed in the case of a
trifling value. - On the
other hand it is perhaps
well that Govt. should
not explicitly authorize
the practice proposed
C.W.

Examine this copy of the Board's
proposal to the Board of Revenue
under 20 July 1868 1420.

1868. Department

No.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 23rd January 1868.

No. 613.

Informing Collector of Nellore that the ownership of moveable property of a deceased person dying intestate and without heirs rests in Government, and that Collector can receive the property and dispose of it on behalf of Government, and approving Collector's proposal that articles of trifling value should be returned to the finders if no claimant appear.

Approved: Charles F. D. D. 241

Re 9/10/68
11.03.68

Received 14 March 1868
Secretary of the Board

N^o 513.

Received 18.8.67

506
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No. 1,420.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 23rd February 1863.

Read the following Proceedings of the Madras Government, dated 31st January 1863, No. 153,
Judicial Department:—

ABSTRACT.—Communicating a letter from the Collector of Ganjam on the subject of Board's Proceedings, dated 7th August 1867, in which Act No. V. of 1861 has been described as applicable to unclaimed property in the Madras Presidency.

1. The Board observe that the mistake to which the Government allude was brought to their notice by the Acting Collector of Nellore, and corrected in Board's Proceedings, dated 23rd January 1863, No. 513.
2. In his letter of the 23rd May 1867, No. 158, Mr. Boswell referred to articles of which the value was most trifling, such as a few cloths, or an ornament or two.
3. The provisions of Clause 7th, Section 10, Regulation No. III. of 1862, require that when the Judge of a Civil Court has received information that a person has died intestate, leaving personal property, and that no claimant to the property has appeared, he is to take the requisite measures for the safe keeping of the property and advertise for an heir; and if no heir appears within twelve months he is to make an inventory of the property, and transmit it, together with a statement of the circumstances of the case, to the Governor in Council for his orders.
4. The Board consider that this elaborate procedure is not applicable to the case of property of the description referred to by Mr. Boswell. It is a matter of every day occurrence for it to be reported to the administrative authorities that the property of some persons who have been there for a few years; that they cannot be recognised; and that property worth in the majority of cases only a few annas has been found upon them. The Board believe that, as a matter of fact, reports of this kind are not sent on to the Judges, and, unless of course the property is valuable, that the time of Government is not taken up with the consideration of the circumstances of such cases, twelve months after they have occurred.
5. They have accordingly expressed an opinion that the Collector may receive and dispose of such property on behalf of Government, though not authorized to do so by any special enactment.

(A true Extract.)

J. Grote.
Sub-Secretary.

To the Secretary to Government, Public Department,
with copies of Board's Procs., dated 7th August 1867,
No. 5,056, and 23rd January 1863, No. 513.

Erd. J. Wright.

1867
1868

7-13
5/10/1867

1868. Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE.

1868. February 1868.

20/2/1868
20/2/1868
20/2/1868

No. 1,420.

20/2/1868

Informing Government that the mistake noticed by them in Board's Proceedings dated 7th August 1867, describing Act No V of 1867, as applicable to undivided property in Madras Presidency was corrected in Board's Proceedings dated 23rd January 1868, No. 613.

20/2/1868
20/2/1868
20/2/1868

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20/2/1868