

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1434

Dated 9th July 1895

INDEXED.

[Despatch Abstract.]

INTESTATE PROPERTY.

Recording Proceedings of the Board of Revenue (Land Revenue) issuing instructions to the Collector of Ganjam in the matter of disposal of cases of --- worth Rs. 50 and under, by the District Magistrate.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

CURRENT NO. 3094

BOARD OF REVENUE (LAND REVENUE), 5TH JUNE 1895, No. 181.

PROCEEDINGS OF THE BOARD OF REVENUE (LAND REVENUE).

READ—the following letter from R. H. SHIPLEY, Esq., Acting District Magistrate of Ganjam, to the Secretary to the Commissioners of Land Revenue, dated Chatrapur, 23rd May 1895, Ref. on C. No. 294-Mag. :—

I have the honour to request information on the following point.

2. Regulation III. of 1802 prescribes the manner in which all intestate property should be dealt with. Under it the authority to dispose of it vests solely in the District Judge.

3. Standing Order No. 279, paragraph 2, issued in obedience to a Government Order transfers the power of disposing of intestate property of the value of Rs. 50 or under to the District Magistrate.

4. A Regulation has the force of law. A Government Order has not, and it appears to me that the Standing Order in question is *ultra vires*.

5. Up to last March this addition to the Standing Order has either been unnoticed or disregarded, but in that month Mr. Fiddian, the District Judge, awoke to its existence and referred a number of such cases to the District Magistrate for disposal. They are still pending owing to this doubt as to the legality of any orders passed by the District Magistrate.

RESOLUTION—dated 5th June 1895, No. 181.

The question raised by the Collector in his letter read above was fully considered in Board's Proceedings, dated 28th February 1868, No. 1420, and 11th January 1871, No. 123, copies of which will be forwarded to him.

2. The Board found that a strict observance of the elaborate procedure prescribed in clause 7, section 16 of Regulation III. of 1802, led to great accumulations of unclaimed property of small value to the inconvenience of the authorities and to the detriment of the property itself. Collectors were accordingly authorized to receive such property and dispose of it on behalf of Government (paragraph 3 of Circular Order VI. of 1869 in Board's Proceedings, dated 4th February 1869, No. 771). The substance of this circular order was communicated to all Civil Courts and District Magistrates with some modifications in Government Order, dated 15th March 1872, No. 365, Judicial; on this order paragraph 2 of Standing Order No. 279 is based.

3. The Board does not consider that these orders are *ultra vires* as urged by the Collector. As stated in paragraph 2 of Board's Proceedings, dated 11th January 1871, No. 123, if the Civil Court wishes to take charge of unclaimed property it should be allowed to do so. If, however, it does not undertake the duty imposed on it by the Regulation, the District Magistrate must interfere.

4. In the present case, as the District Judge has himself forwarded the cases for disposal by the District Magistrate, there can be no possible objection to the latter proceeding to deal with them under the Standing Order.

(True Copy and Extract.)

Acting Secretary.

To the Collector of Ganjam, with copies of Board's Proceedings,
dated 28th February 1868, No. 1420, and 11th January 1871, No. 123.
„ all other Collectors.

Copy to the Chief Secretary to Government, Judicial Department. ✓

APPENDIX No. 1.

Proceedings of the Board of Revenue, dated 28th February 1868, No. 1420.

Read—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. 543.

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 7th, 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.

To the Secretary to Government, Public Department,
with copies of Board's Proceedings, dated 7th August 1867,
No. 5056, and 23rd January 1868, No. 543.

APPENDIX No. 2.

Proceedings of the Board of Revenue, dated 11th January 1871, No. 123.

Read—the following letter from C. G. MASTER, Esq., Collector of Cuddapah, to the Acting Secretary to the Board of Revenue, dated 29th November 1870, No. 217:—

In their Standing Order 7-1, dated 4th February 1869, the Board have laid down the procedure to be followed by the Revenue authorities in the disposal of moveable property of trifling value, belonging to persons dying intestate and without heirs.

2. In a recent case of this kind, the Acting Head Assistant Collector issued a notice (*vide* page 935 of the *Cuddapah Gazette* of the 26th instant) calling on claimants to appear within three months with reference to certain articles found on the high road belonging to an individual "without heirs."

3. The Principal Sudder Ameen at this station has written (28th November 1870, No. 124) requesting me to instruct the Tahsildar to forward to his Court the unclaimed property in question, "as the power of taking charge of such property under clause 7, section 16, Regulation III of 1802, is vested" in him.

4. As the procedure followed is strictly in accordance with the Board's order quoted above, I beg instructions in regard to this request, and as to the course to be hereafter pursued in matters of this kind.

5. If the Principal Sudder Ameen is correct, and I presume he is, then it follows that the action prescribed by the Board is, so to speak, illegal, and that the Revenue authorities have been acting in these cases beyond their powers.

6. Should it be necessary that unclaimed property of this kind should invariably be forwarded to the Civil Court, perhaps the Board may see fit to issue a modified Circular Order.

The Collector will find on referring to Board's Proceedings, dated 28th February 1868, No. 1420, that the Board were aware of the difficulty now brought to notice when issuing their Circular Order on the subject.

2. If the Principal Sudder Ameen wishes to take charge of the property he should certainly be allowed to do so. It is only when the Courts do not choose to undertake the duty that the Revenue Department need discharge it.

(A true Copy and Extract.)

(Signed) J. GROSE,
Acting Secretary.

To the Collector of Cuddapah.

Jud. Dept.
CURRENT No. 3094

JUDICIAL DEPARTMENT.

1895.

Board of Revenue

(Land Revenue),

MADRAS.

10365: 15.3.72 p.d. Sc.
156: 31 Jan 68 p.d. Sc.
B.S. (ad. Rev.)

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Recorded.

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Printed June 11.

Recd 28th June } 1895
Rep 1st July }
E. W. M.

Proceedings, 5th June 1895, No. 181.

CHIEF SECRETARY
28 JUN. 1895
GOVERNMENT OF MADRAS

Issuing certain instructions to the Collector of Ganjam in the matter of disposal of cases of intestate movable property worth Rs. 50 and under by the District Magistrate.

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2. The Board found that a strict observance of the elaborate procedure prescribed in clause 7, section 16 of Regulation III. of 1802, led to great accumulations of unclaimed property of small value to the inconvenience of the authorities and to the detriment of the property itself. Collectors were accordingly authorized to receive such property and dispose of it on behalf of Government (paragraph 3 of Circular Order VI. of 1869 in Board's Proceedings, dated 4th February 1869, No. 771). The substance of this circular order was communicated to all Civil Courts and District Magistrates with some modifications in Government Order, dated 15th March 1872, No. 365, Judicial; on this order paragraph 2 of Standing Order No. 279 is based.

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(True Copy and Extract.)

(Signed) R. C. C. CARR,
Acting Secretary.

(True Copy.)

(Signed) S. ANNASWAMY,
Second Assistant.

To the Collector of Ganjam, with copies of Board's Proceedings,
dated 28th February 1868, No. 1420, and 11th January 1871, No. 123.
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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.

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(Signed) J. GROSE,
Sub-Secretary.

Ext. S. J. Pereira

JUDICIAL DEPARTMENT.

1895.

Board of Revenue

(Land Revenue),

MADRAS.

Printed June 27th.

Proceedings, 5th June 1895, No. 181.

Issuing certain instructions to the Collector of Ganjam in the matter of disposal of cases of intestate movable property worth Rs. 50 and under by the District Magistrate.

When given for copying _____
When copied _____ 189 .
When examined _____
When signed _____

READ AGAIN G.O., No.
189 .

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

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LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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