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Judicial (1895) Department.

ORDINARY MS.

G.O., No. 18, 19

DATED 8th Jan. 1895

INDEXED.

[Despatch Abstract.]

LEVY OF COURT-FEES

Directing that the letter from the Madras High Court forwarding copy of one from the District Judge of South Malabar regarding the Court-fee chargeable on appeals from orders under clause (C), section 244, Civil Procedure Code, be communicated with an expression of concurrence to the Government of India.

A

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	3442		96				

Judicial {1894} Department.

No.

FROM

The Registrar of the High Court
of Judicature, Appellate Side,
Madras.

Dated 28th November } 1894
Received 29/11
Recd 29/11



No. 3497
Enc. enc.

Submitting, for information,
a copy of a letter from the
Dist Judge of S. Malabar,
dated 3rd September last,
No. 1347, Civil, regarding
the Court fee charges on
appeals from orders
under clause (c), Section
244, Civil Procedure Code,
and bringing to notice the
observations of the District
Judge made therein.

W.

District Court of
South Malabar,

No. 1347
Civil Calicut, 3rd September 1894.

From

R. S. Benson Esquire, M.A.,
L.L.B., Barrister-at-law,
District Judge, South Malabar,
Calicut.

To

A. W. Foster Esquire,
Registrar of the High Court,
Appellate Side, Madras.

Sir,

Under the Notification of the
Government of India No. 4344, S.R.,
dated 6th October 1893, referred to in
the High Court Circular No. 3152,
dated 24th November 1893, Court Fee
chargeable on appeals from orders
under clause (c) of Section 244
of the Code of Civil Procedure is
limited to 8 annas, while appeals
from orders determining at execution

the

in 8-0 2344
14-11-93

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back ; and the abstract should state clearly the purport of the letter and not merely its title subject.

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O., 8th April 1893, No. 239, Public.)

the amount of mesne profits and interest under clauses (a) & (b) of the above section and coming within the definition of a "decree" are now charged with ad valorem Court fee under Article I, Schedule I, of the Court Fees Act.

2. In this District, in many cases, the Court has to ascertain at execution the amount to be allowed to a tenant as compensation for improvements made between the date of the decree and the date of execution, or the amount to be deducted from the decree amount on account of waste committed by the tenant subsequent to the ~~date of~~ date of the decree.

The

The order determining such amounts falls under ~~clause (c)~~ of the above section and an appeal from it is only chargeable with a Court fee of 8 annas under the above notification of the Government of India.

3. I see no reason on principle why in appeals relating to mesne profits and interest ascertained at execution ad valorem Court fees should be paid, while appeals from orders determining the

the amount, which is sometimes considerable, of waste or of compensation for improvements are chargeable only with a fixed Court fee of 8 annas irrespective of the amount in dispute between the parties in appeal.

4. The present rule seems to me to be anomalous and to involve an unnecessary sacrifice of Court fee revenue. I therefore bring the matter to the notice of the High Court for such steps as it may deem proper to take.

I have etc.,
(Signed) R.S. Benson
District Judge

(True Copy)

High Court of Judicature,
Appellate Side, Madras,

28th November 1894

U. Arlin

Registrar

Enclosure No. I to letter from the
High Court of Judicature, Appellate Side, Madras,
dated 28th November/94 No. 3497.

Copy of letter from the Dist
Judge, South Malabar,
regarding the Court fee
chargeable on appeals
from orders under clause
(C), Section 244, Civil
Procedure Code.

CUR High Court of Judicature,
Madras, 28th November 1894.
No. 3497.

From

A. W. Foster Esquire,
Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To

The Honorable J. H. Rice, C. S. I.,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

I am directed to submit, for
the information of the Government,
a copy of a letter from the District
Judge of South Malabar
dated 3rd September last No. 1347/
Civil, regarding the Court fee
chargeable on appeals from
orders under clause (C), Section
244, Civil Procedure Code.

2. Under the Government of India
Notification No. 3967, dated 22nd ^{19/12/79}
November 1879, in the Department
of Finance and Commerce,
all appeals from orders
under Section 244, Civil Pro-
cedure Code, were exempted
from any fee in excess of Rs. 2,
but after some correspondence
in 1892, that exemption was
revoked in respect of appeals
against orders under clauses
(a) & (b) of the Section by the

* See High Court's letter,
dated 3rd May 1892, No. 1422.

4. O. dated 23rd December 1891, No. 2587, Judicial.

Government of India Noti-
fication quoted by the District
Judge.
Notification No. 4344, S.R.,
dated 6th October
1893.

3. Mr. Benson expresses the
opinion

opinion that there is no reason
on principle to make a difference
between orders under those
clauses and orders under Clause (c),
and points out that in many
appeals against orders of the
latter class in his Court, the
question for determination
is substantially the same as
in appeals of the other classes,
viz., the amount of the sum
of money payable under
a decree, and as the distinc-
tion involves a considerable
sacrifice of revenue, he
has reported the matter.

Register.

In his letter to Mr. G. J. &
Mr. Charles M. D. Judge of Shattuck
brought to ~~the~~ notice, the fact that
Appeals from orders assessing the
amount of mesne profits under
Cl: a & b of sec: 244 C. P. b: ^{very} new.

Order 8th Jan'y/55 N^o 18
~~The Govt of India will be addressed~~
 a copy of the High Court's letter will
 be communicated to the Govt of India
 with an explanation of Conference
 with the Govt. and
 then to the Secretary of the S. P. J.
 Home Dep^t.
 both refer to the correspondence in
 Dyer's letter of 21 Sept 1853 No 20 just
 directed to forward the accompanying letter
 to the High Court
 to be forwarded to the Govt of India
 with a copy of the letter from the H.C. to the Govt
 of India
 to be forwarded to the Govt of India
 with a copy of the letter from the H.C. to the Govt
 of India

2. I am glad that the Govt.
agrees with the High Court in
concurring in the view taken by
the Dist. Judge of S. Malabar
Adverse

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

} 189.

READ AGAIN G.O., No. 189 , DATE

CURRENT No.

ENCLOSURES TO C. NO.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B. —

A = Copy in full.
B = Not to be copied
P = Copy abstract only.
Q = Copy heading only