

Judicial (1895) Department.

ORDINARY PRINTED.

G.O., Nos. 259-260.

Dated 7th Feb. 1895.

INDEXED.

[Despatch Abstract.]

INDIAN SUCCESSION ACT AND ADMINISTRATOR-GENERAL'S ACT, 1874.

Passing orders on letter from the Administrator-General bringing to the notice of Government, certain illegal decrees passed against the estates of intestates by some Judges regardless of the provision of section 190 of the Indian Succession Act, the neglect of the provision of section 64 of the Administrator-General's Act in Bangalore and Coorg and the failure of Revenue officers to report as directed the deaths of persons liable to that Act, and forwarding, with remarks, a copy of the proceedings to the Resident in Mysore and Chief Commissioner of Coorg.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	537		27-2-94.				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
80	715.		4-4-95				
C	4950	R.D.	1895				
Cuo	15/98						

Gobt. of {1895} Madras. JUDICIAL.

Issued

Recd.

Encl.

G.O., 7th February 1895, No. 259.

FEBRUARY.

Indian Succession Act and Administrator-General's Act, 1874.

Passing orders on letter from the Administrator-General bringing to notice illegal decrees passed against the estates of intestates by some Judges regardless of the provisions of section 190 of the Indian Succession Act, the neglect of the provisions of section 64 of the Administrator-General's Act in Bangalore and Coorg, and the failure of Revenue officers to report as directed the deaths of persons liable to that Act.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following paper :—

G.O., dated 28th February 1894, No. 507, Judicial.

ABSTRACT.—Requesting the issue in the Revenue Department of instructions to all Collectors directing them to notify to District Judges, through the Local Government Pleader, the death of all persons liable to the Administrator-General's Act, 1874, leaving assets valued at Rs. 1,000 and over.

READ—also the following paper :—

From H. G. WEDDERBURN, Esq., Administrator-General, to the Chief Secretary to Government, dated Madras, 18th December 1894.

Section 190, Succession Act.—With reference to paragraph 2 of my letter of 19th February 1892, printed in G.O. of 13th April 1893, No. 764, Judicial, and paragraph 9 of the order thereon, I have again to bring to notice that section 190 of the Succession Act is still ignored by some Judges who should know better. The expense and trouble caused by illegal decrees and execution against a dead man's estate is very great and causes irreparable loss to creditors and next-of-kin of poor Christians. The litigation in Anthony Chinniah's estate, occasioned by the illegal action of the District Munsif of Vizagapatam in 1888, is not yet over.

In G. F. Meppen's Estate.—The Additional District Munsif of Calicut passed an illegal decree against the widow and daughter (a minor) of the deceased in Small Cause Suit 669 of 1893 on 20th June 1893. Meppen died on 21st May 1893.

In Taylor's Estate.—The Sub-Judge of Ellore in Small Cause Court 446 of 1894, not only passed an illegal decree against the widow and three minor children of the deceased, but also attached moneys in the hands of the Administrator-General by order dated 23rd August 1894. If I have to set aside this attachment at the expense of the estate, the widow and children, who have little enough to live on, must suffer, and it is impossible to recover the expense incurred in a Mofussil Court which can't grant costs except *ad valorem*.

In the same estate in S. C. C. No. 852 of 1894, the same Judge passed another illegal decree against the widow and children.

Section 64, Act II of 1874.—With reference to the order of Government on this matter, I am a glad to be able to submit that the number of reports from the District Judge of Canara as to applications for probate and administration have multiplied exceedingly. It might be instructive to ascertain how much duty has been paid on a yearly average before and after the action taken by Government.

I think however that it is clear that Revenue officers do not yet report cases regularly :—

(1) I ascertained accidentally that one Rhenius Pillay, late a Tahsildar in Chingleput, died. No report of this has been sent by the District Judge.

(2) The District Judge of Madura was not informed at once of the death of Mr. Johnson, Port Officer, Pámban, or of a Native Christian in Madura leaving an estate of 10,000 rupees as I am informed.

(3) In Bangalore the law is systematically ignored by the District Court. In Catherine Scott's Estate, I had to litigate for several years before I could compel payment of duty.

In Owen's Estate.—A quarrel between mother-in-law and daughter-in-law a year after the deceased's son's death enabled me to pay the duty.

In I. Smith of Ulsoor's Estate.—The clergyman telegraphed the death on the 14th November 1894, and I requested him to report to the District Judge, Bangalore, and I have since received report from the District Court on the 24th idem.

In Hower's Estate.—The Commissioner of Coorg reported the death of Dr. Hower and I referred him to section 64 of Act II of 1874.

The District Magistrate of Coorg was ordered to take possession, nevertheless the whole estate has been realised and sent to England without payment of duty.

The District Magistrate is apparently responsible for this result.

ORDER—dated 7th February 1895, No. 259, Judicial.

The Administrator-General's letter will be communicated to the Honorable the Judges of the High Court for such action as they may deem expedient. His remarks on the subject of section 64 of the Administrator-General's Act, 1874, will also be brought to the notice of the Resident in Mysore and Chief Commissioner of Coorg.

2. With regard to Mr. Wedderburn's observation "it might be instructive to ascertain how much duty has been paid on a yearly average before and after the action taken by Government" [in G.O., dated 28th February 1894, No. 507, Judicial], the Board of Revenue will be requested to see that the matter is briefly noticed in future Stamp Administration Reports.

3. The Administrator-General will be requested, with reference to his remark touching the neglect of Revenue officers, to bring to notice, from time to time, specific instances where the Revenue authorities have failed to report the deaths of persons to whom section 64 of the Administrator-General's Act, 1874, is applicable.

4. The special attention of the Collector of Chingleput will be drawn in the Revenue Department to the case of Rhenius Pillai and that of the Collector of Madura to the cases of Mr. Johnson and the Native Christian belonging to that district.

(True Extract.)

Chief Secretary.

To the Administrator-General.
 „ Honorable the Chief Justice, with C.L.
 „ Revenue Department.

Exd. W. J. Lewis.

JUDICIAL DEPARTMENT.

LETTER -- to

THE RESIDENT IN MYSORE AND CHIEF COMMISSIONER
 OF COORG.

SIR,

I am directed to forward a copy of the Proceedings of Government of this date, No. 259, Judicial, passed upon a letter from the Administrator-General, Madras, and to invite your attention to the remarks of that officer relative to the neglect of the provisions of section 64 of the Administrator-General's Act, 1874, in Bangalore and Coorg.

I have the honour to be,

Sir,

Your most obedient servant,

FORT ST. GEORGE,
 7th February 1895.

Chief Secretary.

Exd. W. J. Lewis.

Gobt. of {1895} Madras.
JUDICIAL.

Issued

Recd.

Encl.

Letter, 7th Feb. 1895, No. 260.

FEBRUARY.

Indian Succession Act and Adminis-
trator-General's Act, 1874.

Forwarding to the Resident in Mysore and Chief Commissioner of Coorg copy of Proceedings of this Government on letter from the Administrator-General bringing to notice cases of contra-vention and neglect of the provisions of the —, and inviting attention to the reported non-observance of the provisions of the Administrator-General's Act in Bangalore and Coorg.



Just

CURRENT NO.

6774

Just Sept

From ^{Asst of govt app} ~~complete the file~~

The Administrator-
General,
Madras

Indian Succession
Act —
Administrator Genl — re

For orders

Dated 18/12 }
Recd 19/12 } 1894
Recd 19/12 }

Subject

Stating, that Sec 120 of the
Succession Act is still
ignored by many Judges,
with quotations of instances
to support the statement,
& pointing out some of the
irregularities in ^{their} dealing
with Estates of the deceased

26/12

From
W. G. Wedderburn
Administrator-General
To.
The Chief Secretary
to Government
Fort Saint George

Sir,
Section 190 Succession Act

With reference to para 2 of my letter of 19th February 1892 printed in Government Order of 13th April 1893 No. 764, Judicial, and para 9 of the order thereon I have again to bring to notice that Section 190 of the Succession Act is still ignored by some Judges who should know better. The expense and trouble caused by illegal decrees and execution against a dead man's Estate is very great and causes irreparable loss to Creditors and next of kin of poor Christians. The litigation in Anthony Chinniah's Estate occasioned by

by the illegal action of the District
Munsiff of Vizagapatam in 1888 is
not yet over

In G. F. Meppien's Estate

The additional District Munsiff
of Calicut passed an illegal decree
against the widow and daughter
(a minor) of the deceased in S. C.
Sint 669 of 1893 on 20 June 1893.
Meppien died on 21st May 1893.

In Taylo's Estate

The Sub Judge of
Mere in S. C. C. 446 of 1894 not only
passed an illegal decree against
the widow and three minor children
of the deceased but also attached
monies in the hands of the
Administrator-General by order
dated 23rd August 1894. If I have
to set aside this attachment at the
expense of the Estate the widow and
children who have little enough
to live on must suffer & it is impossible
to recover the expense incurred in
a Mofussil Court which can
grant costs except ad valorem.

In

In the same Estate in S. C. C.
852 of 1894 the same Judge passed
another illegal decree against the
widow and children.

Section 64 Act II of 1874

With reference to the order
of Government on this matter I am
glad to be able to submit that the
number of reports from the District
Judge of Canara as to applications
for Probate and administration
have multiplied exceedingly.
It might be instructive to
ascertain how much duty has
been paid on an yearly average
before and after the action taken
by Government.

I think however that it is
clear that Revenue Officers do
not yet report cases regularly.

(1) I ascertained accidentally that
one Rhenius Pillay late a
Tahsildar in Chingleput died.
His report of this has been sent
by the District Judge.

(2) The District Judge of
Madara was not informed at
once

It doesn't matter
whether they are required
by law to report or
not. They have been
advised to do so
and have to obey
orders. *MS*
28/1/95

once of the death of Mr Johnson.

Port Officer Paumban is of a native Christian in Madras leaving an Estate of 10,000 Rupees as I am informed.

3. In Bangalore the law is systematically ignored by the District Court. In Catherine Scott's Estate I had to litigate for several years before I could compel payment of duty.

In Owen's Estate a quarrel between Mother-in-law and daughter-in-law a year after the deceased's son's death enabled me to pay the duty.

In J. Smith of Ulsoo's Estate

The Clergyman telegraphed the death on the 14 Nov 1894 and I reported him to report to the Dykes Judge Bangalore and I have received report from the District Court on the 24th idem.

In Frewer's Estate

The Commissioner of Coorg reported the death of Dr. Frewer and I referred him to Section 64 of Act II of 1874 -

The

^{Majistrate}
The District Judge of Coorg was ordered to take possession nevertheless the whole Estate has been realised and sent to England without payment of duty.

^{Majistrate}
The District Judge is apparently responsible for this result.

I have the honor to be
Sir
Your Obedient Servant.

Muradun
Administrator-General
of Madras.

No. 6774

From

the Adm^l. - General,

Dated 18 Dec 1894,

FOR ORDERS.

Note

This is marked for C.S. only as H.M. says he does not want to be troubled with papers for a few days.

Yes - But I wd also write to the Res^t & Chf. Com^r. - It would appear that in Hower's case the Dist. Mag^{tr} of Coorg shd. be made to pay the loss occasioned by his neglect.

~~The~~ Recoveries of this kind fall under "Stamps", don't they? If so, the D^r might be told to enter the matter in its annual Stamp Admⁿ. Report

1 The remarks of the A. G. regarding sec. 190 of the Succession Act, 1865, can be com^d to the High Court for such notice as it thinks necessary.

2 His remarks regarding sec. 64 of the Administrator General's Act, 1874, should also, apparently, be communicated to the same authority; for, under sec. 1 & 3 of the said Act, Mysore & Coorg form part of the Presidency of Madras, & it is the duty of the Madras High Court to see that the judicial officers in Mysore & Coorg comply with the provisions of sec. 64.

3 Orders are solicited with regard to Mr. Wedderburn's remark "It might be instructive to ascertain how much duty has been paid on a yearly average before & after the action taken by Gov^t." [The Gov^t has taken the action taken by]

Yes 11/17

Govt. ", Mr. Widdarburn
probably refers to the
orders (in G.O. of 28 Feb 1874,
No. 507, Indl.) directing
all Collectors to report
deaths to the St. Judge.
If so, it seems premature
to call now for a report
as to the result of the
issue of those orders.

~~It is suggested that the~~
~~Revenue Officers should be~~
~~informed of the orders~~
~~and that they should be~~
~~requested to report the~~
~~deaths to the St. Judge~~
~~as soon as they are~~
~~able to do so.~~

Mr. Widdarburn further observes
that Revenue Officers
do not yet seem to report
cases regularly.

With reference to this observation
it seems expedient to tell
the Adm. General to bring
to notice from time to
time specific instances
where Revenue Officers have
failed to comply with
G.O. of 28 Feb 1874, No. 507, Indl.

But the cases of Revenue
Pillai, Mr. ~~Widdarburn~~
Johnson & the Native Christian
~~of the District~~ which Mr.
Widdarburn quotes can
be brought to the notice
of the Collectors of
Chingleput & Madura.

20 23 Jan
25/1/95

Estates and
Administration

CS

(273 order)

request

Yes The U.S. has marked this for
me but I hardly think that
it is a paper of which
I can dispose. I therefore
submit it to the
25/1/95

Yes - through R.D.
28/1/95

GO 259-260 Indl.
7-2-95

C28/1
A22/1

50

P. Again G.O., dated 28 Feb

1874, No. 507, Indl.

Again G.O., dated

18 , No.

A. Current No. 6774 of 1874, dated 18 Dec from the Adm. Gen.

Current No.

of 18 , dated

from Order of 7 Feb. 95, No. 259.

The Administrator General's
letter will be com. to the
Hon. the Judges of the High Court
for such action
as they may deem expedient.
His remarks on the subject
of sec. 64 of the Administra-
General's Act, 1874, will
also be brought to the notice
of the Rest in Mysore & the
Chief Court of Coorg.

2. With regard to Mr. Widdarburn's
observation — "It might
be instructive to ascertain
how much duty has been
paid on a yearly average
before & after the action
taken by Govt." [in G.O. of
28 Feb 1874, No. 507, Indl.], the
Board of Revenue will be
requested to see that the
matter is briefly noticed
in future Stamp Administration
Reports.

~~Under the provisions of the~~
~~Stamp Act of 1874, the~~
~~Board of Revenue will be~~
~~requested to see that the~~

3. The Administrator General,
will be requested, with reference
to his remark about the
neglect of Revenue Officers

to bring to notice, from time to time, specific instances where the Revenue authorities have failed to report the deaths of persons to whom sec. 64 of the Administrator-General's Act, 1874, is applicable.

4. The special attention of the Collector of Chingleput will be drawn to the case of Rhenius Pillai & of the Collector of Madura to the cases of Mr. Johnson & the Native Christian belonging to that District.

(Reminders)

To the Adm^r General 6 days
— from the C.D. in H.C. 15/2/95
— Rev. Dept. 7/2/95
Letter 8/2/95
To the Res^t in Mysore & C.C. of Coorg.
Let Br^m Des^t 15/2/95

Sir,
I am directed to forward to you ~~for your consideration~~ a copy of the Proceedings of Gov^t of this date, No. , dated, passed upon a letter from the Administrator-General, Madras, & to invite your attention to the remarks of that officer relative to the effect of the provisions of sec. 64 of the Adm^r-Gen^l Act, 1874, in Bangalore & Coorg.

Shave St
4/2/95
31 Lany

C
P.S. (Reminders)

To the Secy & P.D. R.D.
for forwarding counter-
initials

451

7TH FEBRUARY 1895, No. 259, JUDICIAL.

After an inspection
on ship & return

GOVERNMENT OF MADRAS.

12/2 JUDICIAL DEPARTMENT.

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(True Extract.)

Chief Secretary.

To the Administrator-General.
 „ Honorable the Chief Justice, with C.L.
 „ Revenue Department.

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JUDICIAL.

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101
101

7TH FEBRUARY 1895, No. 260, JUDICIAL.

JUDICIAL DEPARTMENT.

LETTER - to

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I have the honour to be,
Sir,

Your most obedient servant,

FORT ST. GEORGE,
7th February 1895.

Chief Secretary.

Ed. W. J. Lewis.

Govt. of {1895} Madras.
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Forwarding to the Resident in Mysore and
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vention and neglect of the provisions of the —,
and inviting attention to the reported non-observ-
ance of the provisions of the Administrator-
General's Act in Bangalore and Coorg.

First copy sent to Press.

Returned for signature.

Despatched in print.

READ AGAIN G.O. No.
139

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ENCLOSURES TO C. No.

ERNMENT

ERNMENT.

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