J/53]
00—25-7-90

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 544.

~~DATED~~ 11th Mar: 1895.

INDEXED.

[Despatch Abstract.]

MANAGEMENT OF FORFEITED ESTATES.

Communicating, with remarks, to the Collector and District Magistrate of Tanjore the Advocate-General's opinion regarding execution of the warrants of the Sessions Court, Tanjore, for the management of certain forfeited estates.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C	4 4812.		1895				
	3451	Report	1896.	1290 18-8-96 ✓			
	3673.		1896.	1613 28-8-96 ✓			
	4549.		1896.	1731 3-11-96 (Nayanathanjee)			

Judicial Dept
6924

1239 - 23 - 5 94
1249 . 23 . 5 94
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From

The Ag Collector and
District Magistrate
Tanjore

1249/94
2450/94

To

The Chief Secretary
to Govt Judicial Deptt
Madras

GOVERNMENT OF MADRAS CHIEF SECRETARIAT

24th December 1894

DESPATCHED
30 DEC 94

Ref: on C. No. 519 & 520 / Magl

Enclos: 4 & one file as per list

Subject

ubmitting for the orders of
overnment papers relating
the attachment of the
roperties of the 3rd and 4th
isoners in C. C. No 1 of 1894
the file of the Sessions Court
iore and requesting detailed
tructions as to form of
agement of the Estates

For orders

R/

D

Pl. [illegible] G.O.
1832 d/ 25-7-94.

Tanjore District Magistrate's Office
11th April 1894

Ref on cur No. 519 & 520
Magl

From,

H. M. Winterbotham Esquire
District Magistrate of
Tanjore

To,

The Sub Divisional Magistrate
Kumbakonam

Sir,

In forwarding herewith for execution and report two warrants issued by the Sessions Court Tanjore dated 10th April 1894 No. 220 and 221, I have the honor to request you will be good enough to attach the moveable and the immoveable estates of Naganada Iyen alias Iswaraiyan alias Iswarappaiyan and of Venkatramier 3rd and 4th prisoners respectively in Sessions Case No. 1 of 1894 that may be situated within your Division and report what arrangements are necessary for the management thereof during that period

2 Please submit an inventory of the properties so attached together with your recommendations as to what (if any) provision should be allowed to his family and his dependents so that the orders of Government may be obtained thereon

3 To avoid delay copies of the warrants have been forwarded to the Head Assistant Magistrate with a request that he will promptly attach such of the properties as are situated within his Division

4 If the prisoners have any properties in the Tanjore Division, please report the fact at once

I have etc
(Signed) H M Winterbotham
District Magistrate

(Incl copy)

28/12

Sn

Collr &
Ag. District Magistrate

Tanjore District Magistrate's office
11th April 1894

Ref on cur. nos 519 & 520 / Magl.

From,
H. M. Winterbotham Esquire
District Magistrate of
Tanjore

To,
The Head Assistant Magistrate
Negapatam

Sir,

In forwarding herewith copies of two warrants issued by the Sessions Court Tanjore dated 10th April 1894. Nos 220 and 221, I have the honor to request you will be goodenough to attach the moveable and the immoveable estates of Naganada Iyen, alias, Iswaraiyen alias Iswarappaiyan and of Venkatraimier, 3rd and 4th prisoners respectively in Sessions Case No 1 of 1894, that may be situated within your Division and report what arrangements are necessary for the management thereof during that period

2. Please submit an inventory of the properties so attached together with your recommendations as to what (if any) provision should be allowed to his family and his dependents so that the orders of Government may be obtained thereon.

3. The original warrants have been forwarded to the ~~[illegible]~~ Joint Magistrate for execution and report

(Signed) H. M. Winterbotham
District Magistrate

(True copy)

Collr
Ag. District Magistrate

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No 220

Court of Session of Tanjore

To.
The District Magistrate of
Tanjore

Whereas Naganatha Iyen alias Iswaraiyan alias Iswarappaiyan, son of Krishnasamy Iyen residing at Rendankatalai, Kumbakonam Taluk, 3rd prisoner in Sessions case No 1 of 1894 was on the 10th day of April 1894 convicted before me of the offences of Abetment of Forgery of a record of a Court of justice and abetment of fabricating false evidence for the purpose of being used in a judicial proceeding under sections 466 and 193, and 109 and 114 respectively of the

Indian Penal Code and was sentenced to undergo rigorous imprisonment for (7) seven years and to forfeit to Government the rents and profits of all his moveable and immoveable estate during the said period of (7) seven years, subject to such provision for his family and dependents as the Government may think fit to allow during such period

This is to authorise and require you to take possession of all the moveable and immoveable estate of the said Naganatha Iyen alias Iswaraiyan alias Iswarappaiyan and carry out the latter part of the sentence of this Court, returning this warrant with an endorsement certifying

certifying what you have done under it immediately upon its execution

Given under my hand and the seal of the Court this 10th day of April 1894

(Signed) J H A Tremenheere
Ag. Sessions Judge

(True copy)

Ag. Collr & District Magistrate

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No 221

Court of Session of Tanjore

To,

The District Magistrate of
Tanjore

Whereas Venkatarama Iyer, son of Krishna Iyer, residing at Keeranur, Nannilam Taluk, 4th prisoner in Sessions Case No 1 of 1894 was on the 10th day of April 1894 convicted before me of the offences of Abetment of Forgery of a record of a Court of Justice and Abetment of fabricating false evidence for the purpose of being used in a Judicial proceeding under sections 466, and 193 and 109 and 114 respectively of the Indian Penal Code and was sentenced to undergo rigorous imprison-ment for (7) seven years and to forfeit to Government the rents and profits of all his moveable and immoveable estate during the said period of (7) seven years, subject to such provision for his family and dependents as the Government may think fit to allow during such period.

This is to authorise and require you to take possession of all the moveable and immoveable estate of the said Venkatarama Iyer and carry out the latter part of the Sentence of this Court, returning this warrant with an endorsement certifying what you have done under it immediately upon its execution.

Given under my hand and the seal of the Court this 10th day of April 1894.

(Signed) J. H. A. Tremenheere
Ag. Sessions Judge

(True Copy)

[illegible] Iyer
Ag. Collector and
District Magistrate

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No. 11/Tour

Endorsement on Petition dated 13th April 1894

from Mukky K. Anantarama Iyer Vakil for Krishna-Samy Iyer on his behalf and as guardian of Rajappier and Anantasurianarayana Iyer, minors all sons of Venkatarama Iyer 4th accused in C.C No. 1 of 1894 on the file of the Sessions Court Tanjore, bringing to notice that the said accused has no property of his own but is only one of the members of a joint Hindu family of which himself and the petitioners are Coparceners, and that the property cannot be liable to attachment under the orders of the Sessions Court in the said case No. 1 of 1894 and requesting not to molest petitioners' rights in the Estate

---

If the convicts property be ancestral, his sons have, I presume, a right to sue for partition.

Meanwhile I shall exercise all the powers that the convict himself, as managing member of the family, was exercising up to the date of his arrest.

An inventory will be made of all the property moveable and immoveable in which the convict has a joint or separate interest.

Provision will be made for its safe custody, and it will be considered what rents and profits can be derived from it. The orders of Government will then be solicited as to what should be done regarding the claims of the co-sharers.

Vakil informed in person

(Signed) H. M. Winterbotham
District Magistrate

13th April 1894

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(True copy)

Court
District Magistrate

No. 145

Proceedings of the District Magistrate Tanjore

Dated 12th June 1894

Read petition from M.R.Ry. Natesa Aiyar Avargal B.A. B.L. High Court Vakil, on behalf of Krishnasawmy Iyer on his behalf and as guardian of his minor brothers Rajappier alias Sivasubramania Iyer and Anantasuriyanarayana Iyer urging the following points in connection with the attachment of the properties of Venkataramaniyar, the 4th accused in C.C. No. 1 of 1894 on the file of the Sessions Court made in execution of the Sessions Judge's warrant, and soliciting redress.

(1) Referring to the notes of Mr Whitley Stokes in his Anglo Indian Code Volume 1, pages 21 and 22 under section 62, Indian Penal Code

as regards the operation of an order of forfeiture passed on the father of a Hindu undivided family and requesting a reconsideration of this office order No. $\frac{11}{\text{Tour}}$, 425 dated 13th April 1894 in re the attachment of the properties of Venkataramaiyar made in execution of the warrant of the Sessions Court Tanjore (paras 1 to 5 of the petition)

(2) The cultivation of the attached lands not having been commenced as yet, a serious loss is threatened to petitioners whose undivided shares have also been attached in execution of the warrant. (1st portion of para 6)

(3) Objects to the attachment and sale of the grain required for seed for arrears of revenue (para 6)

(4) objects to the attachment of about one Veli and odd which the accused Venkataramaiyar has been managing as a trustee of some temple at Kiranur and stating that the Puja of the temple was stopped in consequence of such attachment. (last portion of para 6)

Order

As regards point (1) the Vakil has been informed that the District Magistrate adheres to this office order No. 425 dated 13th April 1894 already communicated to him

As regards point (2) - The District Magistrate had hoped that the appeal against the conviction would ere now have been decided; but as the hearing of the appeal is postponed till July, orders will be at once issued for the leasing out of the two-crop lands land

As regards point (3) the Head Assistant Magistrate will be instructed to issue orders to the Tahsildar to realize the arrears of revenue by attachment and sale of a sufficient portion of the land.

Sufficient seed grain will be retained for cultivation purposes

As regards point (4) the allegation regarding the temple is referred to the Head Assistant Magistrate for disposal.

(Signed) H M Winterbotham
District Magistrate

(True Copy)

Acting Collr & District Magistrate

Jud C 4/6
6924

No 147

Proceedings of the District Magistrate Tanjore

Dated 13th June 1894

Read letter from the Head Assistant Magistrate dated 8th May 1894 submitting the first report of the Nannilam Sub Magistrate in the matter of the attachment of the properties of Venkatramyer, 4th accused in C.C No 1 of 1894 on the file of the Sessions Court Tanjore, requesting certain instructions in the matter

Read letter Reference No 790/Magl dated 16th May 1894 forwarding 4 lists of the properties moveable and immoveable belonging to convict Venkatramyer attached under the warrant of the Sessions Court and soliciting orders regarding the management of the lands under attachment'

Read letter from the Head Assistant Magistrate dated 23rd May 1894 requesting that the criminal attachment of some paddy attached for arrears of revenue may be withdrawn

Read letter Reference on No. 790/Magl dated 30th May 1894 from the Head Assistant Magistrate Negapatam submitting the further report from the Stationary 2nd class Magistrate Nannilam in re the attachment of the properties of the 4th Convict Venkatarama Iyer and soliciting early orders regarding their management as the cultivation season is fast approaching.

Read also endorsement No. 1137/Magl dated 31st May 1894 on Nannilam Tahsildar's arzi requesting early orders in the matter of the said attachment.

Read letter from the Joint Magistrate Kumbakonam submitting lists of properties attached in execution of the warrants of the Sessions Court Tanjore against Eswarappien and Venkataramyen requesting early orders as regards the management of the attached properties of the former and suggesting that the Tahsildar of Nannilam may be called upon to submit proposals for the management of the attached estate of the latter.

Order

As the conviction and sentence are under appeal it is obviously desirable that no irrevocable steps should be taken in the matter of leasing the lands, except in so far as such steps may be indispensable to avert pecuniarly loss.

2. I am not aware how much of the attached land is double-crop, or whether it is possible to distinguish the two-crop land from the rest, so that the two-crop land and single-crop land may be dealt with separately. It is only as regards the two-crop land that immediate measures are required for its cultivation

3 As regards Venkataramaiyar's estate the Head Assistant Magistrate (to avoid hindrance to Jamabundi) had better depute the Stationary Sub Magistrate of Nannilam to arrange for the cultivation of so much of the land as is now cultivable both in the Nannilam and

Mayavaram

Mayavaram Taluks. The cooperation of the convict's son should be invited and due regard should be paid to his wishes. If the cultivation has been hitherto in the hands of Purakkudis, lease for one year may be given to them on the usual terms with the usual advances of seed-grain. The plan of management hitherto followed by the Proprietor should be adhered to as far as possible.

4 My present view is that the estate should be managed as if it were under the Court of Wards, and that three-fourths of the income (if the lands are found to be ancestral property) will be payable to the three sons, while one fourth will be at the disposal of Government. The adult son

may be informed accordingly. If he co-operates with the Sub-Magistrate it will be for the benifit of himself and his brothers.

5. A temporary establishment may be entertained to help the Stationary Sub-Magistrate at a cost not exceedings Rs 40 a month.

6 It appears that the grain in stock has been attached for arrears of revenue. The attachment should be released in respect of as much grain as is likely to be wanted for seed, and as will further realise Rs 1000 for working expenses and the maintenance of the family.

If the balance is insufficient to pay the assessment the Tahsildar must attach and sell as much of the land as is

necessary

necessary

7. As regards Eswarappier's estate the Sub-Collector will please follow the suggestions above given. The Deputy Tahsildar of Kumbakonam may be deputed to lease out the lands now fit for cultivation, with a temporary establishment not exceedings Rs 40 a month, and the necessary provision of grain. It may be made from the grain in hand

8 Orders on other matters will be passed as soon as the appeal is decided

(Signed) H. M. Winterbotham

District Magistrate

(True Copy)

28/7/94

Acting Coll'r & District Magistrate

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No 168

Proceedings of the District Magistrate Tanjore
Dated 9th July 1894

Read again the District Magistrate's Proceedings No 147 dated 13th June 1894 passing orders regarding the management of the property of Keeranur Venkataramaiyar attached under the warrant of the Tanjore Sessions Court in C. C No. 1 of 1894.

Read letter from the Head Assistant Magistrate No. 790 dated 7th July 1894 forwarding for confirmation the lease deeds for the double-crop lands of the Venkataramaiyar aforesaid in Kuthanoor, Keeranur and Perambur villages and soliciting orders for the leasing of the single-crop lands in the said villages.

Order

(1) The leases are hereby confirmed as

the registration is optional under section 18(c) of the Registration Act. I do not think that leases need be registered.
The report promised in para 3 is awaited

2 The remaining lands of the estate may be leased out at once as proposed. I note that this is the wish of the convicts son

(Signed) H. M. Winterbotham
Collr & Dist Magistrate

(True copy)

Ag Collr & Dist magistrate

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No 186

Proceedings of the District Magistrate of Tanjore

Dated 27th July 1894

Read letter from the Stationary 2nd class Magistrate Mayavaram dated 11th June 1894, No 206, reporting on the claim petition put in by Rajappaiyan agent of Subbammal claiming a sum of Rupees 657 which forms portion of the property attached in execution of the warrant issued by the Court of Session Tanjore against Keeranur Venkataramaiyar 4th accused in C.C No 1 of 1894 on its file

Order

The Assistant Magistrate will please proceed to the District jail Tanjore and examine the convict Keeranur Venkataramaiyar regarding the sum of money found in the iron chest in the convict's house at Mayavaram

Can he say:-

(1) What sum was in the chest

(2) When was it placed in the chest

(3) Under what circumstances

(4) To whom does it belong

It should be ascertained from the Superintendent of the Jail whether the convict has had any communication with his family since the beginning of April

2 The Superintendent of the Jail will please permit the Assistant Magistrate to examine the prisoner

(Signed) A. M. Whiteboham
District Magistrate

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(True copy)
Ag Coll & Dist. Magistrate

No 188

Proceedings of the District Magistrate Tanjore.

Dated 30th July 1894.

Read again the District Magistrate's Proceedings No 168 dated 9th July 1894 passing orders regarding the leasing out of the single crop lands of the convict Keeranur Venkataramaiyan

Read letter from the Head Assistant Magistrate Reference on No 790/Magl dated 26th July 1894 submitting for confirmation four lease deeds taken in respect of the single crop lands of Keeranur Venkataramaiyar in the villages of Keeranur, Kuthanur, Perambur and Manganallur Ekkadai and recommending that Nannilam Stationary Sub Magistrate's action in respect of the leases aforesaid may be approved.

For the reasons reported by the Head Assistant Magistrate in his report quoted above, the leases are hereby confirmed and the Sub. Magistrate's action in the matter is approved

(Signed) H. M. Winterbotham

District Magistrate

(True copy)

Collr & Acting District Magistrate

2nd C 4/10
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No. 208

Proceedings of the District Magistrate Tanjore

Dated 19th August 1894

Read petition dated 28th May 1894 from Rajappian authorised agent of Subbammal, sister of Keeranur Venkataramaiyar 4th accused in C.C No. 1 of 1894 on the file of the Sessions Court Tanjore claiming as hers the sum of Rs 657-„-„ included in the list of moveable properties attached in execution of the warrant issued against Keeranur Venkataramaiyar aforesaid.

Read letter from the Stationary Sub Magistrate Mayavaram No. 206 dated 11th June 1894, reporting that there is no sufficient evidence to support Subbammal's claim to the sum of Rs 657 aforesaid

Read District Magistrate's Proceedings No 186 dated 27th July 1894 directing the Assistant Magistrate Tanjore to examine the convict Keeranur Venkataramaiyar regarding the sum of money found in the iron chest in the house at Mayavaram

Read statement of Keeranur Venkataramaiyar made before the Assistant Magistrate Tanjore on 28th July 1894 stating that he does not remember his sister Subbammal telling him that she had set aside any specified sum of money for any particular purpose and had kept it for security in the iron box

Read also the Assistant Magistrate's letter dated 28th July 1894 reporting the result of the examination.

Order

The records of inquiry disclose that there is no proof of Subbammal's averment that the said sum of Rs 657 belongs to her and that it was put in the iron chest for safe custody.

Her claim is accordingly rejected

(Signed) J. Thomson
Ag. District Magistrate

(True Copy)

Thomson
28th
Ag Collr & Dist Magistrate

[illegible] M. Hewell [illegible]

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No 249

Proceedings of the District Magistrate of Tanjore.

Dated 17th September 1894

Read petition dated 13th June 1894 from Krishnasami aiyar Son of Kiranur Venkatarama aiyar 4th Convict in calendar case No 1 of 1894 on the file of the Sessions Judge Tanjore, objecting to the attachment of the Sridhanam properties in brass and silver vessels (in all 27) of himself and his brother Sivasubramania aiyar bearing definite and specific marks thereon to wit க.வெ.கி.க.வெ.சி. and requesting to release them from attachment.

Read this office Reference dated 27th July 1894 calling on the Probationary Deputy Magistrate Tanjore to inquire and report as to the ownership of the properties referred to by petitioners.

Read also report of the Probationary Deputy Magistrate dated 22nd August 1894 reporting on the above.

The brass vessels which bear distinguishing marks of petitioner and his brother will be given up to them. They have not proved their property in the silver vessels and their application in respect of them is rejected

(Signed) J. Thomson

Ag District Magistrate

(True Copy)

Thomson 28 Nov 94

Ag Collr & District Magistrate

2nd C 4/12

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Number 276.

Proceedings of the District Magistrate Tanjore dated 12th October 1894.

Read.- 1. Again the District Magistrate's Proceedings No. 168. dated 9th July 94 passing orders regarding the leasing out of the lands &c of the Convict Keranur Venkataramyer.

2. Letter from the Temporary Deputy Magistrate in charge of Negapatam Sub Division Reference on No 790/Magisterial dated 5th October 94 submitting for confirmation three lease deeds taken in respect of certain dry lands and trees of Keranur Venkataramyer in the villages of Keranur, Kuthanoor, and Perambur, and recommending that Nannilum Stationary Sub Magistrate's action in permitting occupation and enjoyment under the leases aforesaid may be approved.

For the reasons reported by the Sub Divisional Magistrate in his report quoted above viz full value obtained and necessary immediate entry the leases are hereby confirmed and the Sub Magistrate's action in the matter approved

(Signed) J Thomson

Acting District Magistrate

(True

[illegible] Mr Hewell [illegible] 3

(True Copy)

Acting Collector and District Magistrate

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Proceedings of the District Magistrate Tanjore dated 25th October 94.

Read letter Reference on No $\frac{1941}{\text{Magisterial}}$ dated 17th October 94 from the Temporary Deputy Magistrate in charge of the Head Assistant's Division Negapatam submitting for confirmation the sale lists received from the Stationary Sub Magistrate Nannilum of the moveable property belonging to Keranur Estate; and recommending that the sales may be confirmed.

The sale amount is reported to be fair and the sales are hereby confirmed as recommended by the Deputy Magistrate.

From para 2 of the letter read above it appears that the Head Assistant Magistrate has issued an order No $\frac{790}{\text{Magisterial}}$ dated 10th August 94 by which he directed that three fourths of certain Cocoanut produce should be given to the 3 sons of the Convict Venkataramyer. Para 4 of the District Magistrate's Proceedings No $\frac{147}{13^{th}\text{ June }94}$ conveys only an opinion and not an order

The Advocate General's opinion embodied in G.O. No 1832 dated 25th July 94 leaves the sons of the Convict to take such steps as they may be advised to h-their interests declared and their shares secured by civil action.

The Head Assistant Magistrate's order on this point is accordingly cancelled.

(Signed) J. Thomson

Acting District Magistrate.

(True Copy)

As Collector & Dist Magistrate

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No 366

Proceedings of the District Magistrate of Tanjore dated 22d December 94.

Read letter from the Joint Magistrate Reference No $\frac{2716}{\text{Magisterial}}$ dated 20th August 94 Submitting for approval and confirmation the lease deeds for Fasli 1304 taken in respect of the lands belonging to the Estate of Iswarappien of Rendânkattalai attached under the warrant of the Sessions Court, Tanjore, in C.C. No 1 of 94.

Read this office reference thereon No $\frac{519}{\text{Magisterial}}$ dated 8th September 94. Calling for further information as regards the leases aforesaid.

Read also Joint Magistrate's letter Reference No $\frac{2716}{\text{Magisterial}}$ dated 1st December 94. Submitting revised leases of the Estate and requesting confirmation thereof.

Order.

The lease deeds as received with the letter of the Joint Magistrate Reference No $\frac{2716}{\text{Magisterial}}$ dated 1st December 94 are approved and the leases hereby confirmed.

2. He will please make early arrangements for leasing out the remaining extent and explain the decrease of 241 Kalams and 9 Marakals in the quantity of the Mel-varam paddy of Rendânkattalai and Mudalkattalai villages of the Estate as noted in the below: —

	Quantity of Melwaram paddy				Decrease	
	As per original lease		as per revised lease			
	Kl.	m	Kl.		Kl.	m
Rendankattalai	1664	„	1518	„	146	„
Mudal Kattalai	1374*	9	1279	„	95	9

* This was also pointed out in para 4 of this office Reference on No $\frac{519}{\text{Magisterial}}$ dated 8th September 1894.

(Signed) J. Thomson.
Acting District Magistrate

(True Copy)

Acting Collector and District Magistrate.

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№ 369

Proceedings of the District Magistrate of Tanjore
Dated 24th December 1894

Read letter dated 8th December 1894 No 3074 from the Stationary Second Class Magistrate Nannilam bringing to notice that 681 kalams and 3 markals of Kuruvai paddy of Kizanur Estate was sold to the highest bidder for Rs 738-„-4 at R1-1-4 per kalam and requesting confirmation of the same.

Read the Sub Divisional Magistrate's Reference on current No $\frac{2141}{\text{Magl}}$ dated 19th December 1894 recommending that the sale may be confirmed.

The sale of Kuruvai paddy is hereby confirmed as recommended.

(Signed) J. Thomson
Acting District Magistrate

(True Copy)

Collr & Acting District Magistrate

Jud C 4/16

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List of papers referred to in para 4 of the Tanjore District Magistrate's letter to Government dated 24th December 1894, Ref. on cur. Nos. 519 & 520/Magl

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By Mr. Winterbotham

1. District Magistrate's letter to the Sub Divisional Magistrates of Kumbakonam and Negapatam - Reference on Nos. 519 & 520/Magl dated 11th April 1894.

2. District Magistrate's endorsement No. 11/Tour dated 13th April 1894

3. District Magistrate's Proceedings No. 147 dated 13th June 1894 to the Sub Divisional Magistrates of Kumbakonam and Negapatam

4. District Magistrate's Proceedings No. 145 dated 12th June 1894.

5 Do No. 168 dated 9th July 1894

6. Do No. 188 dated 30th July 1894

7. District Magistrate's Proceedings No. 186 dated 27th July 1894

By Mr. Thomson

8 District Magistrate's Proceedings No. 208 dated 19th August 1894

9. Do ... No. 249 dated 17th September 1894

10 Do. No. 276 dated 12th October 1894

11. Do. No. 291 dated 25th October 1894

12. Do. No. 366 dated 22nd December 1894

13 Do. No. 369 dated 24th December 1894

For Ag. District Magistrate
26-12-94

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7. Enclos: (one file)

In a letter

8 From

The Ag Collector &

9 Dist Magistrate

Tanjore

To

The Chief Secretary

to Govt. J.D. Madras.

D/ 24th Decr 1894

Ref on C. No. 519 & 520 / Magl.

List of papers referred to in para 4 of the Tanjore District Magistrate's letter to Government dated 24th Decr 1894 Ref. on C. No. 519 & 520 / Magl.

No 3243 Judl.

Proceedings of the High Court of Judicature at Madras dated 4th December 1894

Read letter from the Acting District Magistrate of Tanjore dated 27th September 1894, Reference on C. No 519 and 520 / Magisterial submitting for the orders of the High Court whether he is acting legally in executing the warrants of the Sessions Court, Tanjore, for the management of the forfeited estates of convicts Nos 3 and 4 in Calendar case No 1 of 1894 on its file.

There is no express provision in the Code of Criminal Procedure for the execution of a sentence of forfeiture under Section 62 of the Indian Penal Code. The High Court inclines to the view that the proper way of executing the sentence is by a warrant addressed to the Collector as representing the Government and in this view the warrants issued in the case under reference are good except for being addressed to the District Magistrate instead of to the Collector. As, however, the question may be raised for judicial determination the High Court (in accordance with its rule in such cases) must decline to express here a decided opinion.

2 Mr. Thomson states that he finds himself in possession of the forfeited properties "as Collector," and it is open to him to move Government to consult their Law officers as to the regularity of his position and to take such steps as may seem advisable to bring the matter before the High Court in the regular way.

2. Mr. Thomson complains of the tone of the reply to his communication questioning the Sessions Judge's authority to issue the warrants, but the High Court cannot say the position taken up by Mr. Sewell was unreasonable and though his letter is abrupt there is no ground for supposing any discourtesy was intended.

(True Extract)

(Signed) H. W. Foster
Registrar
Appellate Side.

To
The Ag District Magistrate
of Tanjore.

(True Copy).

Acting Collector and District Magistrate

AR.

Enclosure No. 4

In a letter

From

The Ag. Coll. & Dist. Magte

Tanjore

To

The Chief Secretary

to Govt. J.D. Madras

D/ 24. Decr 1894

Ref on C. Nos. $\frac{519 + 520}{\text{magl}}$

Copy of Proceedings of the

High Court No. 3243

Judicial D/ 4.12.94

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Ref. on Cur. Nos. $\frac{519 \text{ and } 520}{\text{Magl.}}$

Tanjore District Magistrate
Office. 27th September 1894.

From

J. Thomson Esquire,
Acting District Magistrate
Tanjore

To

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

Sir,

I have the honour to submit for the consideration and orders of the High Court the correspondence, copies of which accompany.

2. In dealing with certain questions arising out of attachments made under the Sessions Judge's warrants issued on his sentence in Calendar No. 1 of 1894 it occurred to me they were questions suitable for disposal by a District Judge and

Pan. Ht. ent. Mr. Hewell

and I was led to question whether my position and action were covered by the Law's provisions. I could not find in the Criminal Procedure Code any power in the Sessions Judge on which to found the warrants, and therefore addressed to him the request which he refuses to answer.

3. I have no wish in this matter except to be certain that I am acting legally. As I do not know of any authority in the Judge and have none in myself outside his warrant, I seem to have a valid claim to be informed. My subordination as District Magistrate to the Sessions Judge is defined in Section 17 Criminal Procedure Code, and lies within very narrow limits. As Collector I find myself in charge of the forfeited estates in succession to my predecessor. In either capacity I consider myself entitled to more courtesy from a brother officer of the Government than the reply to my communication exhibits.

4. I request that the Honourable the Judges will favour me with the desired information and will instruct me if I am acting legally in holding charge of these forfeited properties.

I have the honour to be,
Sir
Your most obedient Servant

(Signed) J. Thomson
Ag. District Magistrate

(True Copy)

Thomson
28 10 9

Acting Collector and District Magistrate

SR

and I was led to question whether my position and action were covered by the Law's provisions. I could not find in the Criminal Procedure Code any power in the Sessions Judge on which to found the warrants, and therefore addressed to him the request which he refuses to answer.

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Sir
Your most obedient Servant
(Signed) J. Thomson
Ag. District Magistrate

(True Copy)

Thomson
28/10/57
Acting Collector and District Magistrate

JR

[illegible] Mr. Hewett [illegible] 3

Enclosure No. 3
In a letter

From
The Acg Collr & Dist. Magte
Tanjore

To
The Chief Secretary
to Govt. J.D. Madras

D/24. December 1894
Ref on C. No. 519+520/Magl

Copy of letter to the High
Court dated 26-9-94
Ref on C No. 519+520/Magl.

4
Ind 6
19
69/24.

No. 574.

Sessions Court
Tanjore 14th September 1894

From
E. J. Sewell Esquire,
Acting Sessions Judge,
Tanjore.

To
The District Magistrate of
Tanjore.

Sir

I have the honour to reply to your letters Ref on Cur. Nos 519 and 520/Magl of 1894, dated 9th Instant, and to state that I am of opinion that you are not entitled to put the question contained in it.

I have the honour to be
Sir
your most obedient servant
(Signed) E. J. Sewell
Ag. Sessions Judge

(True Copy)

28 Nov
Acting Collector and District Magistrate

dR

[illegible] Mr. Sewell C.H.

Enclosure No. 2

In a letter

From

The ag Dist. Magistrate
Tanjore

To

The Chief Secretary to Govt.
J.D. Madras

D/ 24. Decr 1894

Ref on C. Nos. 519 & 520
Magl.

Copy of Sessions Judge's letter No. 574 D/ 14.9.94

2nd C 4
20
69/24

Enclosure No. 1.

In a letter

From

The ag Dist. Magistrate
Tanjore

To

The Chief Secretary
to Govt. J.D. Madras

D/ 24. Decr 1894

Ref on C. Nos. 519 & 520
Magl.

Copy of letter to the Sessions Judge Tanjore D/ 9. Septr 1894 Ref on C. Nos. 519 & 520
Magl.

2nd C 4
21
69/24

[illegible] Mr. Hewell l.tt. 3

Tanjore District Magistrate's

Ref on Cur Nos $\frac{519 \text{ and } 520}{\text{Magl}}$ of 1894. Office. 9th September 1894.

From

J. Thomson Esquire.
Acting District Magistrate
Tanjore

To

The Sessions Judge
Tanjore

Sir

Referring to the warrants Nos. 220 and 221 dated 10th April 1894 issued by your Court requiring the District Magistrate, Tanjore, to carry out the sentence passed on Naganadien alias Iswarappien of Rendânkattalai and Venkatrama Aiyan of Kiranûr, 3rd and 4th accused respectively in Sessions case No. 1 of 1894, so far as it relates to forfeiture, I have the honour to request you will please let me know the provision of law or other authority, under which the warrants aforesaid were directed to the District Magistrate for execution.

I have the honour to be
Sir
Your most obedient Servant
(Signed) J. Thomson
Ag. District Magistrate

(True Copy).

Thomson 28

Acting Collector and District Magistrate

Tanjore Collector and District
Magistrate's office, Decr 1894

Ref on: No 519 + 520 / Magl

From,

J. Thomson Esqre
Ag Collector and District Magistrate
Tanjore.

To,

The Honourable Mr J. F. Price,
Chief Secretary to Government,
Judicial Dept,
Madras.

Sir,

I have the honour to lay the marginally noted papers before Government for its orders. They concern the legality of my acts as in charge of

1. Letter to the Sessions Judge, Tanjore, dated 9th September 1894 Ref: on C. Nos 519 & 520 / Magl.
2. Sessions Judge's letter, No 574, dated 14. Septr 1894.
3. Letter to the High Court, dated 26th Septr 1894, Ref on C. No 519 + 520 / Magl.
4. Proceedings of the High Court, No 3243, Judicial, dated 4th Decr 1894.

the Estates of the 3rd and 4th prisoners in case No. 1 of 1894 on the file of the Sessions Court of Tanjore – the Pillur Judgment forgery case – The order of forfeiture has been confirmed on appeal by the High Court.

2. In my view there is no legal authority for the Sessions Judge to issue those warrants to the District Magistrate and the District Magistrate is consequently not justified in accepting and acting as directed, if he entertains that view.

3. The defect, if so, can evidently be cured by an order of Government in whose favour forfeiture runs, and the mandate to the local authority ought, in my opinion, to issue from it. The Collector is the local agent of Government but the Sessions Judge cannot issue the necessary orders or warrant to him.

4. It is advisable also that I receive some detailed instructions as to the form of management, whether in the manner that Estates under the Court of Wards are dealt with or as in Sec: 88 C.P.C or otherwise. Copies of all orders issued hitherto are submitted.

In stating that I found myself in possession of the Estates "as Collector" I should have added "and District Magistrate". The direct administration of them hitherto is by Deputy Tahsildars – Stationary Sub Magistrates, and more properly, it is work for the Taluk Tahsildars.

5. Referring to the second para of the High Court's reply to my reference, I must ask leave to observe that I did not, in words, "question the Sessions Judge's authority to issue the warrants" but honestly with the desire to keep myself within the law asked for information; and I regret that I must continue of opinion that my application was not answered as it ought to have been.

I have the honour to be,

Sir,

Your most obedient Servant,

Thomson 28 Dec

En [illegible] Acting Collector & District Magistrate.

Judl. DEPARTMENT.

No. 6924

From the Collr. & Dist. Magte of Tanjore

Dated 24 December 1894.

FOR ORDERS.

Mr. Thomson raises the question whether the Sessions Judge was legally entitled to issue to the ~~Dist. Magte~~ warrants directing the attachment of the property declared forfeited to Govt. in the Tanjore Forgery Case. He considers that the warrant is legally defective but that the defect "can be cured by "an order of Govt. in whose favour "forfeiture runs." The contention further is that though the Collector is the local agent of Govt., the Sessions Court cannot issue orders to him to carry out the attachment, it being necessary that such orders should issue from Govt.

2. In this case the warrant was addressed to the Dist. Magte, who is not, like the Collector, the local agent of Govt. & is therefore the more open to question.

3. The High Court on being addressed by Mr. Thomson replied that it "inclined to "the view that the proper way of executing "the sentence was by a warrant addressed "to the Collector as representing the "Govt. and [that] in that view the warrants "issued in the case were good except for "being addressed to the Dist. Magte "instead of to the Collector." The High Court however declined to express a decided opinion as it was possible that the question might be raised for judicial determination and further recommended Mr. Thomson

C.S.

Order. 30th Jany 1895 R No. 117

The papers will be referred to the Hon'ble the Advocate General for the favour of his opinion & advice with regard to the matter generally.

(from orders)

[illegible] 28/1/95 D 28-1

The ~~Advocate General~~ Govt. Solicitor with Current 6924, & enclosures in original

Note I suppose there is no harm in letting all the papers go to him - i.e. including those which relate to the disagreement between Mr. Thomson & Mr. Sewell

D 28-1

[illegible] Mr. Sewell [illegible]

to move Govt. to consult its law officers as to the regularity of his position & to take steps to bring the question before the High Court in the regular way.

3. F.O. dy 25 July 1894 No 1832 contains an opinion of the Advocate General relating to this case, but not bearing directly on the points now in issue. Perhaps it would be as well to consult him instead of leaving it to the convict or his relations to raise the question as they not improbably will do.

4. Mr Thomson complains, &, it is submitted, with reason of the tone of Mr Sewell's letter refusing to answer his ~~further~~ question as to the authority under which the warrant of attachment was issued. The High Court has refused to censure Mr Sewell on the ground that "though his letter ~~was~~ is abrupt there is "no ground for supposing any discourtesy "was intended" The abruptness of the letter is exactly what constitutes its discourtesy, & whether discourtesy was intended or not, an apology appears due, for the letter is on the face of it a rude one.

5. Mr Thomson then asks for orders as to the manner in which the estate attached should be managed, whether as an estate under the Court of Wards or in the manner prescribed in S 88 of the Cr P.C. No detailed instructions are given in the Cr. P.C. except as relates to the case of the appointment of a receiver whose powers, duties &c. are they defined in [illegible] Civil Procedure Code. Detailed rules are given in the Court of Wards Regulation though these of course do not apply to [illegible] case of a forfeited estate, the Collector might well be directed to be guided by [illegible] same principles. This is apparently [illegible] hitherto adopted.

DEPARTMENT.

No.

From

Dated 189 .

FOR ORDERS.

Para 4 of the Dist. Magte's (Mr Winterbottom) proceedings d/13 June 1894 runs:-

"My ~~own~~ present view is that the "estate should be managed as if it "were under the Court of Wards "and that three fourths of the income "(if the lands are found to be "ancestral property) will be payable to "the three sons while one fourth will be "at the disposal of Govt."

6 The direct management of the estate is a matter that may it is submitted be left to the Collector's discretion. He should know best whether to leave the estate in the Dy. Tahr's hands, to transfer it to the Tahr., or to appoint a private paid manager. If the official staff can manage the estate, it appears however undesirable to appoint a paid manager, though that is the normal course in the case of an estate under the Court of Wards.

D
17 Jan.

The Advocate General's Opinion may I ~~[illegible]~~ submit be asked. The question raised is a puzzling one. The order of forfeiture passed by the Court is in Govt's favour but surely this order must be carried into effect by some judicial process; who is to [illegible] this [illegible]? Mr Sewell [illegible]

Endorse on [illegible] generally
HW
24.1.95

[illegible]

Management of Tanj
Forfg Estates

Judl DEPARTMENT
ORDER.
ROUTINE SERIES
No. 117
Date 30-1-1895

H.M.

For orders.

DEPARTMENT.

Re: execution of the warrants of the Sessions Court, Tanjore, for the management of certain forfeited estates

Opinion

1.—In the absence of all authority upon the question raised by the Acting District Magistrate, Tanjore, I think that he acted legally in executing the warrants of the Sessions Court.

2.—The sentence of forfeiture had to be carried out. The question is—by whom was it to be executed? I think that the warrant could not be sent to the Collector for execution, for it is no part of his duty as Collector to execute the sentences of the Session's Court. As the local Agent of Government, he could lawfully receive the property forfeited to his principal by that Court, but such property must be delivered up to him by some competent authority.

3.—Section 401 of the Code of Criminal Procedure confers upon Government, power to suspend or remit sentences, but execution of the sentence of a Court of Criminal Jurisdiction does not require the sanction of Government before it can be carried out. A sentence passed under Section 62 of the Indian Penal Code, no doubt runs in favor of Government, but it is not the less a sentence passed by a Court having Criminal Jurisdiction, requiring no mandate from Government to any local authority before it can be enforced. I therefore dissent from the view expressed by the Acting District Magistrate in paragraph of his letter dated the 24th December 1894.

4 The Sessions Court must either deliver the property to he Collector through its own Officers, or if it cannot do so, it ust direct some Subordinate Court to make the delivery. This the course laid down in Section 517 of the Code of Criminal Procedure for the disposal of property "regarding which any Offence appears to have been committed, or which has been used for the commission of any Offence", and it seems to be the only practical course where property forfeited under Section 62 of the Penal Code, has to be delivered to Government.

5. The Acting District Magistrate is in possession of the property as Collector on behalf of Government, to whom it has been forfeited by a competent Court. His possession is perfectly legal.

(Sd) J. H. Spring Branson
Advocate General

Madras
12th February 1895

True Copy.

Ernest Barclay

Government Solicitor

CURRENT No. 700

Jud (1895) Department

From

Ernest Barclay
Government Solicitor
Madras

To

The Chief Secretary
to Government
Madras

Dated 13 February 1895

Received 13 } 2
Regd 14 }

No. 84

CHIEF SECRETARIAT * 13 FEB. 1895 * GOVERNMENT OF MADRAS

Encs. No. 6924 recd

Forwarded with enclosures with reference to the order of Government dated 30 January 1895 R. No. 117. Judicial

Ernest Barclay
Government Solicitor

Eb
15/2

Subd
Eb
16/2/95

G.O. 117 R. 30 Jany 95 & papers

Forfeited Estates

H. M.

For orders.

I

The Advocate-General's opinion may presumably be communicated to the Dist. Magte.

It remains to be decided (a) whether Mr Sewell should be told that his× letter to Mr Thomson was "too curt" (vide H. M.'s remark on the last page of the note for orders within, and (b) how the estate will be ~~mana~~ -ed vide paras 5 & 6 of the note.

II

III

D.
23. 2. 95

It is for further consideration whether the point now raised should not be noted in connection with the revision of the Criminal Procedure Code.

IV

D 1/3/95

D. 28. 2

× Apparently He did not discuss that anything was to be said. The High Ct. has already dealt with the complaint regarding discourtesy.

1/3/95

I. Yes

II. No

III. The attachment being under the orders of a Crimt. Ct., I think the management should, as far as possible, be on the lines laid down in S. 88 of the Cr. P. C. — I suppose we had better have a brief annual report of the results of management.

IV. Yes —

2/3/95

C 2/3

Judicial DEPARTMENT.

[G./24]
10 12-94.

Papers to be read in Proceedings :—

Again G.O., dated 18 , No.
Again G.O., dated 18 , No.
Current No. 6924 of 1894, dated 24 Decr. from the Collector of Tanjore
Reference thereon
and
Current No. 700 of 1895, dated 13 Feby. from the Advocate-General.

Order. 11 March 1895 No. 546

The Advocate-General's opinion will be communicated to the Collector & Dist. Magte.

2. As the attachment of the property in question was made under the orders of a Criminal Court the Govt. consider that the management of it should, as far as possible, be regulated on the lines laid down in S. 88 of the Cr. P. C. Details may safely be left to the Dist. Collector who should submit a brief annual administration report to Govt.

(for orders)

D
5. 3. 95

9/3/95

The Collr. of Tanjore & Dist. Magt. despd 13/3/95

Office Note

Put up these papers when the question of the amendment of the Crim. Proc. Code comes up & also put up at the same time the G.O. (of 92) in which Govt. prescribed the procedure to be adop

when a lunatic who is
in the charge of his relatives
becomes sane & therefore
liable to trial.

Management of Forfeite
Estates

Cl.
(from orders)

When given for copy
When copied
When examined
When signed

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189 ,

CURRENT No.

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