

[ 5 ]  
1,000—55-7-96

# Judicial (1895) Department.

ORDINARY MS.

G.O., No. 570.

DATED 14<sup>th</sup> Mar. 1895.

INDEXED.

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[Despatch Abstract.]

DISPUTED PROPERTY UNDER ATTACHMENT.

-- Answering in the affirmative the questions from the District Magistrate of South Arcot whether a receiver can be appointed for the management of attached lands, the cost being met from their proceeds and whether the varamdars can be referred to the Civil Court.

*True*



Ref. no. M. C. 14/94

16<sup>th</sup> January 1896

From

A. R. Lanning Esquire  
of Head Assistant Magistrate of  
South Arcot

To

The District Magistrate  
South Arcot.

Sir,

In forwarding herewith a copy  
of my Proceedings in Criminal Miscellaneous  
Case No. 14/94 and Behidambaram Tahsil  
dar's arzi No. 76 of 8-1-95, I have the honour  
to state that in a case instituted under  
Chapter XII (Possession) of Criminal Pro-  
cedure Code, as from the evidence adduced  
and the enquiry made by me, I was unable  
to decide what party was in possession  
of certain lands in dispute, I had to attach  
them under Section 146 C.P.C. I ordered  
the Tahsildar and Tahsil Magistrate of  
Behidambaram to take possession of and  
manage the lands attached.

The Tahsildar now recommends the  
appointment of a receiver on Rs 1.5 a  
month to manage the property under his  
supervision and to be paid out of the  
proceeds of the lands.

I request to be informed if the appoint-  
ment can be made. The Criminal Procedure  
Code is silent as to the management of  
property.

property attached. I think, however, that on the analogy of the provisions laid down in Cases of attachment under the Revenue Recovery Act and the Civil Procedure Code, the appointment might be made and strongly recommended that Course as the Tahsildar cannot spare the time to manage the property.

Certain persons claiming to be lessees under one or other of the parties have put in petitions praying that they may be allowed to have their varan of the crops when they are harvested. As I was not able to decide if they were bona fide lessees of one of the parties or not or had cultivated the lands in question, I request the favour of early instructions as to whether they should be ordered to establish their claims in a Civil Court before getting their varan and the crops meanwhile collected by the receiver, sold at the market value and the money held in deposit or whether as ~~the~~ one of the parties request, the varan should be delivered to the individuals in question.

I have &c

Signed / A. R. Lunnery  
as Hd. Asst. Magistrate.

True Copy /

Munich

South Arcot

District Magistrate's Office  
Madurai, 11<sup>th</sup> February 1895

No.

From

A. E. Eastlethwaite Esquire  
of District Magistrate of  
South Arcot

To

The Chief Secretary to Government  
Judicial Department

Sir,

I have the honour to submit a Copy of the Head Assistant Magistrate's letter Ref on H.C. 14 of 1894 dated 16-1-95 and to request the orders of Government on the two points raised therein viz,

(1) Whether a receiver on Rs 15 per mensem can be appointed for the management of the attached lands, the cost being met from their proceeds.

and (2) Whether the varan can be referred to the Civil Court.

2. I have just ascertained from the Head Assistant Magistrate that the extent of the attached lands is 23.75 acres assessed at Rs 140 in Kila Thirukalipalai and 67.21 acres assessed at Rs 261-2-4 in Kila Perambai and that the villages are 2 miles apart. The lands are sufficiently extensive to require the services of a manager and it is to their interest that one should be appointed.

As regards the 2<sup>nd</sup> question, I have, in view of the recent suit in the Vridhachalam taluq, the papers regarding which are now before Government, thought it is desirable to apply to Government for its orders. My own opinion is that no other course is possible than to refer the rasmundass to the Civil Court, inasmuch as the Head Assistant Magistrate was unable to decide if they were bona fide lessees of one of the parties or had, at least, cultivated the lands in question.

I have the honour to be

Sir

Your most obedient servant

M. S. S. S. S.  
for ag. St. Magistrate.

CT-NO 504

with the C.

This is the case in which explanations were called for from Messrs. J. S. S. R.

Learning: 20. 4. 95.

25. 4. 95.

4. 3. 95.

250-12-12-93.

No. 7/16

Dist. Magistrate of South Arcot.

From

Dated 11 February 1895.

FOR ORDERS.

The Dist. Magistrate asks the sanction of Govt. for appointing a receiver in respect of certain lands attached by an order under S. 145 of the Cr. P. C. (b) to directing the rasmundass to apply to the Civil Courts to establish their rights.

The only ruling which I can find directly bearing on the case is one quoted in Vol. IV of Woodman's Digest. page. Column. 450-5. Item 93 which declares that a Magistrate has power to lease land attached under the corresponding section of the Code of 1861. - If he has power to lease, I suppose he can delegate the power to him. - As regards the other question, the Magistrate being unable to decide whether the claimants are bona fide rasmundass, the obvious course appears to be to refer them to the Civil Courts as proposed by the Dist. Magistrate.

I should answer both questions in the affirmative. I don't know whether this is legal or not, but as alternative course suggests itself

MS

9/3/95

Order 16 March 1895 No 570  
The District Magistrate two questions will be answered in the affirmative. No alternative suggests itself

Copied 14/3/95  
The Dist. Magistrate

9. 3. 95

14/3/95

10/3

4. 3. 95  
8/3/95

proceeds attached 144

Disputed property under attachment

H. M.  
Y. M. order

When given for copying \_\_\_\_\_  
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When examined \_\_\_\_\_  
When signed \_\_\_\_\_

READ AGAIN G.O., No.  
189 ,

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BRING WANT FOR DETATCH  
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