

(1) பக்கங்களின் எண்ணிக்கை

30

(2) புதுக்கித் திருப்பிய நாள்

8-23

(3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

30

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Judicial துறை

அரசாணை எண்.

மு. கோப்புத் தாள் எண்.

114 C207-2019 அச்சகம்
பலவகை

நாள் :

25-1-1869

199

மடிக்கவோ கண்டபடி கையாளவோ கூடாது.

ஆவண: கா. 1-18,006-6-9-90.

Read the following papers:—

No. 207. From the Acting Registrar General of Assurances, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 6th January 1869, No. 2.

In forwarding, for submission to Government, the annexed copy of a letter from the Registrar of Madura, giving cover to an extract from the Proceedings of the Civil Court of that district, I have the honor to request the favor of your obtaining the opinion of the Law Officers of Government on the construction to be placed on the last clause but one of Section 84 of Act XX. of 1866.

2. As I read the clause, a Registrar is bound to register a document presented to him for registration under an order of Court, without any reference to any limit of time. The thirty days mentioned in the parenthetical clause does not appear to me to refer to the *act* of registration. The registration is to have a particular effect where the document is presented within thirty days after the date of the Court's order, and, I presume, it is not to have that effect where that limit of time is exceeded; but, as far as the mere registering goes, the document is absolutely registerable whether presented within or after that time. If this view is correct, it is difficult to see how, as the Civil Judge thinks, Section 24 applies. That section prescribes a penalty where a document is not presented for registration, in the first instance, within the period required by law. But in cases such as that now in question, the document having been presented within the appointed time, and having been refused registration by the Registering Officer, is taken to the established Courts under the procedure laid down in that behalf, and is re-presented under an order of Court. The Legislature appear to me very properly to regard such a document as having been already duly presented, and to require its registration accordingly. Section 24, therefore, seems to me to be wholly inapplicable; but as the Civil Court of Madura have judicially declared otherwise, and it is necessary to secure uniformity of practice in the Department, I beg to be favored with instructions on the point. 114

From the Registrar of Madura, to the Acting Registrar General of Assurances, Madras; dated Madura, 14th December 1868, No. 54.

In submitting copy of the Civil Court's Proceedings, dated the 11th November 1868, I have the honor to bring to your notice that one Ramasami Pillai presented a petition on the 19th October 1868, together with a document and an authenticated copy of the Civil Court's Proceedings, dated 25th August 1868, requesting me to order the registration of the document in question, as directed in the Proceedings of the said Court of the 25th August 1868.

2. I rejected the prayer of the petitioner on the ground that the document was not presented to me within thirty days from the date of the Court's Proceedings above referred to, as provided in the last clause but one of the 84th Section of the Indian Registration Act.

3. Thereupon the petitioner appealed to the Civil Court against my order, and the Court ordered the registration of the document on payment of the penalty prescribed in Section 24. I have, accordingly, directed the Sub-Registrar of Dindigul to register the instrument with reference to the Proceedings of the 11th November 1868.

4. I now beg to know whether I can, in future, adopt the course pointed out in the Proceedings of the 11th November 1868, in case of instruments presented to me for registration with Court's order after the expiration of thirty days.

*Proceedings of the Madras Government, Judicial Department,
25th January 1869.*

Proceedings of the Civil Court of Madura, dated 11th November 1868.

Read M. P., No. 703 of 1868, presented on the 7th November 1868, by Ramasami Pillai, Petitioner in M. P., No. 136 of 1868, on the file of the Civil Court stating that the Registrar refused to register his deed (the registration of which was ordered by the late Judge) on the ground that more than a month elapsed from the date of the said order, and praying that the registration may be directed.

Order.—I am of opinion that the Registrar was not right in refusing the registration of the bond in question. The last clause but one of the 84th Section gives him no discretion, but declares that the bond shall be registered, if presented in time, that is within thirty days; the registration shall take effect from the time of its first presentation. If presented after that time the Registrar must still register it on payment of the penalty prescribed in Section 24. Applicants must, also, have allowed them the delay occasioned by the Court in granting copies, which must be, in future, endorsed on the back of the copy, as is the custom in all regular Civil matters. In this instance, the delay was occasioned by petitioner, who only put in papers for a copy of Court's order on the 22nd September, nearly a month after the Court's order was issued. The document should, however, be registered on payment of the penalty.

(True Extract).

(Signed) J. D. GOLDINGHAM,
Acting Civil Judge.

(True Copy).

(Signed) T. RAM ROW,
Registrar.

Referred to the Advocate General for his opinion.

FORT SAINT GEORGE,
8th January 1869.

(Signed) R. S. ELLIS,
Chief Secretary.

No. 208. From the Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 12th January 1869, No. 12.

I have the honor to acknowledge the Order of Government, noted in the margin, requesting the Advocate General's opinion as to the construction of the last clause but one of Section 84 of the Indian Registration Act.

Dated 8th January 1869, and made on letter from Acting Registrar General of Assurances to Government of 6th idem, No. 2.

2. I submitted the matter for the consideration of the Advocate General, with whom I have also conferred on the subject; and

3. I now forward a copy of his opinion, and return the order above noted.

OPINION.

I am of opinion that, under the last clause but one of Section 84 of the Registration Act XX. of 1866, the Registrar is bound to register the document which the Court has ordered him to register, without reference to the time at which it is presented for registration. The effect of a registration later than thirty days from the Court's order is a matter with which he is not to concern himself. That effect may, at some future time, come under the consideration of the Courts; but the Registrar's duty is simply to obey the order of the Court deciding registration.

2. I am further of opinion that Section 24 does not apply to such a case as this. Section 24 applies to documents in the ordinary course of registration. Here the party has made his

*Proceedings of the Madras Government, Judicial Department,
25th January 1869.*

application for registration within the time allowed by law. He has been prevented from registration solely by what a Court of competent jurisdiction has declared to be an error on the part of the Registering Officer. It would be very hard to visit the consequences of the Registering Officer's mistake, a penalty of twenty times the proper amount of registration fee, upon the applicant. I think, therefore, that the effect of an order of the Court for registration puts the party in the same position as he was when he first made the application for registration; and, therefore, that no penalty is leviable, when, as in the present case, such application is made within four months from the date of its execution.

(Signed) J. B. NORTON,
Advocate General.

11th January 1869.

(True Copy).

(Signed) H. J. BROCKMAN,
Government Solicitor.

No. 209. ORDER THEREON, 25th January 1869, No. 114.

Ordered that the opinion of the Advocate General be communicated to the Acting Registrar General of Assurances.

(True Extract).

Chief Secretary.

To the Acting Registrar General of Assurances.
" Government Solicitor.

Mad. J. Wright.

*Proceedings of the Madras Government, Judicial Department,
25th January 1869.*

Read the following papers:—

No. 207. From the Acting Registrar General of Assurances, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 6th January 1869, No. 2.

In forwarding, for submission to Government, the annexed copy of a letter from the Registrar of Madura, giving cover to an extract from the Proceedings of the Civil Court of that district, I have the honor to request the favor of your obtaining the opinion of the Law Officers of Government on the construction to be placed on the last clause but one of Section 84 of Act XX. of 1866.

2. As I read the clause, a Registrar is bound to register a document presented to him for registration under an order of Court, without any reference to any limit of time. The thirty days mentioned in the parenthetical clause does not appear to me to refer to the *act* of registration. The registration is to have a particular effect where the document is presented within thirty days after the date of the Court's order, and, I presume, it is not to have that effect where that limit of time is exceeded; but, as far as the mere registering goes, the document is absolutely registerable whether presented within or after that time. If this view is correct, it is difficult to see how, as the Civil Judge thinks, Section 24 applies. That section prescribes a penalty where a document is not presented for registration, in the first instance, within the period required by law. But in cases such as that now in question, the document having been presented within the appointed time, and having been registered by the Registering Officer, is taken to the established Courts under the procedure laid down in that behalf, and is re-presented under an order of Court. The Legislature appear to me very properly to regard such a document as having been already duly presented, and to require its registration accordingly. Section 24, therefore, seems to me to be wholly inapplicable; but as the Civil Court of Madura have judicially declared otherwise, and it is necessary to secure uniformity of practice in the Department, I beg to be favored with instructions on the point.

From the Registrar of Madura, to the Acting Registrar General of Assurances, Madras; dated Madura, 14th December 1868, No. 54.

In submitting copy of the Civil Court's Proceedings, dated the 11th November 1868, I have the honor to bring to your notice that one Ramasami Pillai presented a petition on the 19th October 1868, together with a document and an authenticated copy of the Civil Court's Proceedings, dated 25th August 1868, requesting me to order the registration of the document in question, as directed in the Proceedings of the said Court of the 25th August 1868.

2. I rejected the prayer of the petitioner on the ground that the document was not presented to me within thirty days from the date of the Court's Proceedings above referred to, as provided in the last clause but one of the 84th Section of the Indian Registration Act.

3. Thereupon the petitioner appealed to the Civil Court against my order, and the Court ordered the registration of the document on payment of the penalty prescribed in Section 24. I have, accordingly, directed the Sub-Registrar of Dindigul to register the instrument with reference to the Proceedings of the 11th November 1868.

4. I now beg to know whether I can, in future, adopt the course pointed out in the Proceedings of the 11th November 1868, in case of instruments presented to me for registration with Court's order after the expiration of thirty days.

COMMUNICATIONS

JUDICIAL.

THE ACTING REGISTRAR

GENERAL OF ASSURANCES

&c. &c.

Dated January 25th

Recd.

By

O. D. 25th January 1869, No. 113

JANUARY.

Nos. 207-222.

Communicating the opinion of the Attorney General in regard to the construction to be placed on the last clause but one of Section 84 of Indian Registration Act.

*Proceedings of the Madras Government, Judicial Department,
25th January 1869.*

Proceedings of the Civil Court of Madura, dated 11th November 1868.

Read M. P., No. 703 of 1868, presented on the 7th November 1868, by Ramasami Pillai, Petitioner in M. P., No. 136 of 1868, on the file of the Civil Court stating that the Registrar refused to register his deed (the registration of which was ordered by the late Judge) on the ground that more than a month elapsed from the date of the said order, and praying that the registration may be directed.

Order.—I am of opinion that the Registrar was not right in refusing the registration of the bond in question. The last clause but one of the 84th Section gives him no discretion, but declares that the bond shall be registered, if presented in time, that is within thirty days; the registration shall take effect from the time of its first presentation. If presented after that time the Registrar must still register it on payment of the penalty prescribed in Section 24. Applicants in future, endorsed on the back of the copy, as is the custom in all regular Civil matters. In this instance, the delay was occasioned by petitioner, who only put in papers for a copy of Court's order on the 22nd September, nearly a month after the Court's order was issued. The document should, however, be registered on payment of the penalty.

(True Extract).

(Signed) J. D. GOLDINGHAM,

Acting Civil Judge.

(True Copy).

(Signed) T. RAM ROW,

Registrar.

25th January 1869.

Chief Secy

No. 203. From the Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 12th January 1869, No. 12.

I have the honor to acknowledge the Order of Government, noted in the margin, requesting the Advocate General's opinion as to the construction of the last clause but one of Section 84 of the Indian Registration Act.

2. I submitted the matter for the consideration of the Advocate General, with whom I have also conferred on the subject; and

3. I now forward a copy of his opinion, and return the order above noted.

OPINION.

I am of opinion that, under the last clause but one of Section 84 of the Registration Act of 1866, the Registrar is bound to register the document which the Court has ordered him to register, without reference to the time at which it is presented for registration. The effect of a registration later than thirty days from the Court's order is a matter with which he is not to concern himself. That effect may, at some future time, come under the consideration of the Courts; but the Registrar's duty is simply to obey the order of the Court deciding registration.

2. I am further of opinion that Section 24 does not apply to such a case as this. Section 24 applies to documents in the ordinary course of registration. Here the party has made his

*Proceedings of the Madras Government, Judicial Department,
25th January 1869.*

application for registration within the time allowed by law. He has been prevented from registration solely by what a Court of competent jurisdiction has declared to be an error on the part of the Registering Officer. It would be very hard to visit the consequences of the Registering Officer's mistake, a penalty of twenty times the proper amount of registration fee, upon the applicant. I think, therefore, that the effect of an order of the Court for registration puts the party in the same position as he was when he first made the application for registration; and, therefore, that no penalty is leviable, when, as in the present case, such application is made within four months from the date of its execution.

(Signed) J. B. NORTON,

Advocate General.

11th January 1869.

(True Copy).

(Signed) H. J. BROCKMAN,

Government Solicitor.

No. 209.

ORDER THEREON, 25th January 1869, No. 114.

Ordered that the opinion of the Advocate General be communicated to the Acting Registrar General of Assurances.

(True Extract).

Chief Secretary.

To the Acting Registrar General of Assurances.
,, Government Solicitor.

Ed. J. Wright.

No. 2.

General Registry Office
Madras 6th January 1869.

From

The Acting Registrar General
of Assurances
Madras.

To, The Chief Secretary to Government
Fort St. George
Sir,

In forwarding for submission
to Government the annexed copy
of a letter from the Registrar of
Madras giving cover to an ex-
tract from the Proceedings of
the Civil Court of that Dis-
trict, I have the honor to request
the favor of your obtaining the
opinion of the Law Officers of
Government on the construction
to be placed on the last clause
of Section 84 of Act xx of 1866.

2.

As I read the clause,

It is bound to register

CONFIDENTIAL

JUDICIAL.

THE ACTING REGISTRAR

GENERAL OF ASSURANCES

Esq. &c. &c.

Dated January, 20th.

Recd.

2nd

G. H. 25th January 1869, No. 114.

JANUARY.

NOS. 207-212.

Comments: The opinion of the A. & S. Registrar
General is required to be forwarded to the
on the last clause but one of Section 84 of the
Insurance Registration Act.

a document presented to him for registration under an order of court, without any reference to any limit of time. The thirty days mentioned in the parenthetical clause does not appear to me to refer to the act of registration. The registration is to have a particular effect where the document is presented within thirty days after the date of the Court's Order, and I presume it is not to have that effect where that limit of time is exceeded; but as far as the mere registering goes, the document is absolutely registrable whether presented within or after that time.

^{15/2}
If this view is correct, it is difficult to see how, as the Civil Judge thinks, Section 24 applies. That section prescribes a penalty where a document is not presented for registration in the first instance within the period required by Law. But in cases such as that ^{now} in question, the document having been presented within the appointed time, and having been refused registration by the registering Officer is taken to the established Courts under the procedure laid down in that behalf, and is presented under an order of court. The Legislature appear to me very properly to regard such a

document as having been already
duly presented and to require
its registration accordingly. Section
24 therefore seems to me to be
wholly inapplicable; but as
the Civil Court of Madras
have judicially declared other-
wise, and it is necessary
to secure uniformity of prac-
tice in the Department, I
beg to be favored with in-
structions on the point.

I have the honor to be
Sir
Your most obedient servant
G. Ramenayyar
Ag. Registrar General

No. 54 107
Madras
14th December 1868

From
The Registrar of
Madras
To,
The Ag. Registrar General
of Assurances
Madras.

Sir,
In submitting copy of the
Civil Court's Proceedings dated
the 11th November 1868, I have the
honor to bring to your notice that
one Ramasami Pillai presented
a Petition on the 19th October 1868
together with a document and
an authenticated copy of the
Civil Court's Proceedings dated
25th August 1868 requesting me
to order the registration of the
document in question as directed
in the Proceedings of the said
Court of the 25th August '68.
I rejected the prayer of

the petitioner on the ground that the document was not presented to me within 30 days from the date of the Court's proceedings above referred to as provided in the last clause but one of the 84th Section of the Indian Registrations Act.

3. Thereupon the Petitioner appealed to the Civil Court against my order and the Court ordered the registration of the document on payment of the penalty prescribed in Section 24. I have accordingly directed the Sub Registrar of Dindigul to register the Instrument with reference to the Proceedings of the 11th November 1868.

4. I now beg to know whether

^{11/11}
I can in future adopt the course pointed out in the Proceedings of the 11th November 1868 in case Instruments presented to me for registration with Court's Order after the expiration of 30 days.

I have the honor &c.
(Signed) J. Ram Row
Registrar.

(True Copy)

E. Ramenija
Ag. Registrar General

5-
Proceedings^{114/} of the Civil Court²
of Madras dated the 11th November 1868.

Read M. P. N. 703 of 1868,
presented on the 7th November 1868,
by Ramasami Pillai, Petitioner in
M. P. N. 136 of 1868 on the file of
the Civil Court stating that
the Registrar refused to register
his deed (the registration of which
was ordered by the late Judge)
on the ground that more than
a month had elapsed from the
date of the said order and
praying that the registration
may be directed.

Order

I am of opinion that the
Registrar was not right in
refusing the registration of the
deed in question. The last clause
but one of the 84th section
gives him no discretion but

declares that the bond shall be registered, if presented in time, that is within 30 days. the registration shall take effect from the time of its first presentation. If presented after that time the Registrar must still register it on payment of the penalty prescribed in Section 24. Applicants must also have allowed them the delay occasioned by the Court in granting copies which must be in future endorsed on the back of the copy as the custom in all regular civil matters. In this instance, the delay was occasioned by Petitioner who only put in papers for a copy of Court's Order on the 22nd

September ^{11/4} nearly a month after the Court's Order was issued. The document should however be registered on payment of the penalty.

(True Extract)

(Signed) J. D. Goldingham
Ag. Civil Judge

(True Copy)

(Signed) J. Raine Row
Registrar

(True Copy)

J. Raine
Ag. Registrar General

No. 11.

Referred to the Advocate General
for his opinion -

Substantive
8 January 1869

R. S. Ellis
Chief Secretary

2. The Government Solicitor.
Recd 9th Dec 1868
H. P. B.
Govt. Secy.

From
The Dy. Registrar
of Assurances
Madras
Dated 6th 3 January 1869
Recd 7th 3 January 1869
J. P. B. 21.
Enclosure. Home.
Referred to the
Registering Officers of
the Law Office of
Government, on the con-
struction to be placed
on the last clause
of one of Section 84 of
the Indian Registration Act.

8

114/12

Madras, 12th January 1869.

From
H. S. Brockman
Government Solicitor, Madras.

To
The Honble R. S. Ellis C. B.,
Chief Secretary to Government
Madras

- Sir,
1. I have the honor to acknowledge the Order of Government, noted in the margin, requesting the Advocate General's opinion as to the construction of the last clause, but one, of Section 84 of the Indian Registration Act.
 2. I submitted the matter for the consideration of the Advocate General, with whom I have also conferred on the subject; and,
 3. I now forward a copy of his opinion, and return the Order, above noted.

Dated 8th Jan'y
1869, and made
on Letter from
Acting Registrar
General of C. S.
Assurances to Go-
vernment of 6th
idem No. 2.

I have the honor to be,
Sir,
Your Most Obedient Servant,
H. S. Brockman.
Government Solicitor

10
No 114 of 23 January 1869

Ordered that the opinion of the Advocate General be communicated to the Acting Registrar General of Assam.

W.D.

N.

258 1869

W. H. Acting Registrar General of Assam

Encl. and Encl. proper of the District Officer No 1179

Encl.

June 1869

From

The Govt. Solicitor

Legal Chief Secretary to Government, Assam

Dated 12th January 1869

Re 0014

27th 12

17th December

21st 12

Forwards Advocate General's Opinion on the construction of the East-India Act of 1817 of the Indian Registration Act.

With an order.

21/1

(20)

Construction of the last
Clause but one of Section
84 of the Indian Regis-
tration Act.

(Copy)

Advocate General's Opinion

Enclosure

In No. 12 from Fort Belknap

to Govt. of 14th Aug. 1869.

Commenced

July 13/69

2/1

Opinion

1. ¹¹⁴ I am of opinion that, under the last clause but one of Section 84 of the Registration Act of 1866, the Registrar is bound to register the document which the Court has ordered him to register, without reference to the time at which it is presented for registration. The effect of a registration later than thirty days from the Court's Order is a matter with which he is not to concern himself. That effect may at some future time, come under the consideration of the Courts; but the Registrar's duty is simply to obey the order of the Court deciding registration.

2. I am further of opinion that Section 24 does not apply to such a case as this. Sec. 24 applies to documents in the ordinary course of registration. Here the party has made his application for registration within the time allowed by law. He has been prevented from registration solely by what a Court of competent jurisdiction has declared to be an error on the part of the registering officer. It would be very hard to visit the consequences of the Registering Officer's mistake - a penalty of twenty times the proper amount of registration fee - upon the applicant. I think, therefore, that the effect of an order of the Court for registration puts the party in the same position as he was when he first made the application for

for registration, and therefore that no penalty
is leviable, when, as in the present case, such
application is made within four months from
the date of its execution.

(Signed) John Bruce Norton

Adv. Genl

11th January 3
1869 3

(True Copy)

A. M. Mochman

Govt Secy.

Vol 11869 Madras.

Just.

Recd, but of 1869
422.

25 Jan 114
15

25 Jan 1869 No 114

Nos. 207-209

ing the opinion of the
Court in regard to the
injection of the plant
the last clause but
one of the ~~provisions~~ Sec 84
of the Registration Act