

1) Number of pages :- 12

2) Date of Repair :- 20.5.88

3) Materials of the Ref :- b/w

TAMIL NADU ARCHIVES

GOVT OF TAMIL NADU

JUDICIAL DEPT

G.O. NO :- 683. (27-28)

DATE :- 1-5-1873

25

*Proceedings of the Madras Government, Judicial Department,
1st May 1873.*

No. 27. Read the following letter from A. C. LYALL, Esq., Secretary to the Government of India, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Fort William, 10th April 1873, No. 684 :—

With reference to your letter, No. 123, dated the 30th January last, I am directed to forward the accom-
No. 159, dated 7th ultimo, to the address of the office memorandum from the Legislative
Financial Department, and to request that, after
a consideration of the alterations therein proposed, revised rules may be prepared
and submitted for approval where changes appear necessary.

Office Memorandum, dated Fort William, 7th March 1873, No. 159.

With reference to the revised set of Rules under Sections 20, 22, and 23 of the Court Fees' Act, 1870, framed by the High Court and Board of Revenue, respectively, and submitted by the Government of Madras with letter, No. 123, dated 30th January last, addressed to the Secretary to the Government of India, Home Department, the undersigned is directed to make the following observations.

2. The Rules under Section 20 should be headed as follows :—

"Rules made by the High Court of Judicature at Madras pursuant to the Court Fees' Act, Section 20, confirmed by the Governor of Fort St. George in Council and sanctioned by the Governor-General in Council."

3. In Rule 1 the words "by adhesive stamps" should be omitted.

4. Rule 2 is wrongly worded. It starts by saying that "no fees, except those provided in the Schedules, shall be levied. Therefore what follows is not a fee. And the High Court have no authority to make any rule about it. The rule should go on the contrary tack. It should say that, besides the ordinary fee, the party should pay a further fee equal in amount to the ferry charge, &c.

5. The latter half of Rule 3 and the whole of Rule 4 should be struck out. The result of retaining them would be that, apparently, perhaps really no alteration could be made in these matters without invoking the Local Government and the Governor-General in Council to sanction an alteration of the rules. This principle was set forth in paragraph 4 of the communication from this Department noted in the margin. A

Office Memorandum to Home Department, No. 405, dated 23th August 1872.

* No. 1826-J, dated 30th September 1872.

different and (in the opinion of this Department) a wrong principle is asserted in paragraph 3 of the letter * from the Home Department to the Government of Madras. The application of that principle to Rule 4 is doubtful. It would be more accurate to leave it out and say in Rule 5 that, when an Amin is employed as process-server, his salary shall be, &c. A similar alteration should be made in Rule 3.

6. The Rules under Section 22 should be headed thus :—

"Rules made by the High Court of Judicature at Madras in exercise of the power conferred by the Court Fees' Act, Section 22, approved by the Governor of Fort St. George in Council and the Governor-General in Council."

7. Rule 7 should apparently come under Section 20 as the rule relates to fees.

8. Rule 11, Section 22, of the Act says nothing about Amins. It is, therefore, better to keep within the phraseology of the Act.

9. The same observation applies to Rule 12 and the revenue rule.

10. In schedule a, clause (4), before "also" the words "the process for" are wanted.

*Proceedings of the Madras Government, Judicial Department,
1st May 1873.*

11. The rule made by the Board of Revenue under Section 23 should be headed as follows :—
"Rule framed by the Board of Revenue in exercise of the power conferred by the Court Fees' Act, Section 23, and approved by the Local Government and the Governor-General in Council."
12. Subject to the foregoing observations, the rules are approved by this Department.
13. The papers received in original are herewith returned.

(Signed) WHITLEY STOKES,
Secy. to the Govt. of India, Leg. Dept.

To the Financial Department.

No. 28. ORDER THEREON, 1st May 1873, No. 683.

The above letter will be communicated to the Honourable the Judges of the High Court and to the Board of Revenue, with a view to the revision of the rules with reference to the observations contained in the Office Memorandum from the Legislative Department of the Government of India, dated 7th March 1873, No. 159.

(True Extract.)

*Acting Under Secretary,
for Chief Secretary.*

To the Honourable the Judges of the High Court.

.. Board of Revenue.

.. Revenue Department, for information.

From a P. O. 1

A. C. Lyall
To Secy to the Govt of India
The Chief Secy to the Govt of
Madras.

Sir, Fort William the 10 April 1873

With reference to your letter
No. 123, dated the 30 January last,
I am directed to forward the ac-
companying Office Memorandum
from the Legislative Department,
to the address of the Secy to the Govt of India,
the Enclosure - sideration of the alterations therein
proposed revised rules may be pre-
pared and submitted for approval
where changes appear necessary.

I have the honor to be
Sir,

Your most Obedt Servt

A. C. Lyall

Secy to the Govt of India.

Colt. of 1873 20th Nov.

JUDICIAL.

THE HON. THE JUDGE OF THE

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With reference to the revised set of Rules under Sections 20, 22, and 23 of the Court Fees' Act, 1870, framed by the High Court and Board of Revenue, respectively, and submitted by the Government of Madras with letter No. 123, dated 30th January last, addressed to the Secretary to the Government of India, Home Department, the undersigned is directed to make the following observations.

2. The Rules under Section 20 should be headed as follows:
"Rules made by the High Court of Judicature at Madras pursuant to the Court Fees' Act, Section 20, confirmed by the Governor of Fort St. George in Council and sanctioned by the Governor General in Council."
3. In Rule 1 the words "by adhesive stamps" should be omitted.
4. Rule 2 is wrongly worded. It starts by saying that "no fees, except those provided in the Schedules, shall be levied. Therefore what follows is not a fee. And the High Court have no authority to make any rule about it. The rule should go on the contrary tack. It should say that, besides the ordinary fee, the party should pay a further fee equal in amount to the ferry charge, &c.
5. The latter half of Rule 3 and the whole of Rule 4 should be struck out. The result of retaining them would be that, apparently, perhaps really no alteration could be made in these matters without invoking the Local Government and the Governor General in Council to sanction an alteration of the rules. This principle was set forth in paragraph 4 of the communication from this Department noted in the margin.* A different and (in the opinion of this Department) a wrong principle is asserted in paragraph 3 of the letter† from the Home Department, to the Government of Madras. The application of that principle to Rule 4 is doubtful. It would be more accurate to leave it out and say in Rule 5 that when an Ameen is employed as process-server, his salary shall be, &c. A similar alteration should be made in Rule 6.
6. The Rules under Section 22 should be headed thus—
"Rules made by the High Court of Judicature at Madras in exercise of the power conferred by the Court Fees Act, Section 22, approved by the Governor of Fort St. George in Council and the Governor General in Council."
7. Rule 7 should apparently come under Section 20 as the rule relates to fees.
8. Rule 11, Section 22, of the Act says nothing about Ameens. It is, therefore, better to keep within the phraseology of the Act.
9. The same observation applies to Rule 12 and the revenue rule.
10. In schedule *a*, clause (4), before "sale" the words "the process for" are wanted.
11. The rule made by the Board of Revenue under Section 23 should be headed as follows:
"Rule framed by the Board of Revenue in exercise of the power conferred by the Court Fees Act, Section 23, and approved by the Local Government and the Governor General in Council."
12. Subject to the foregoing observations, the rules are approved by this Department.
13. The papers received in original are herewith returned.

WHITLEY STOKES,
Sery. to the Govt. of India, Leg. Dept.

To the Financial Department.

in post No. 8260/73

9th May/73 No 683

3

Order of Government, 1st May
1873. No. 683.

The above letter will be commu-
-nicated to the Honble the Judges
of the High Court & to the Sd.
of Revenue, with a view to the
revision of the Rules with
reference to the observations
contained in the Office Memo.

From the Secy. Dept of the Govt
of India 2/7 March 1873. N. 159.

LB

The Honble the Judges of the
High Court
The Sd. of Revenue
The Secy. Dept of the Govt of India

The Honble Mr. Halliday,
Chief Justice of the High Court
of Judicature at Madras,
Madras.

I am directed to transmit copy of the
Proc. of Govt. dated 11.2, on the subject
of the Rules framed by the High Court under
Section 20 & 22 of the Court Fees Act, and
to request that, after a consideration of
the observations contained in the Office
Memo. from the Legal Dept. of the Govt.
of India, which is enclosed herewith, revised
rules may be prepared & submitted for
approval where changes appear necessary.

CLP

Recd No. 30th April 1873
 6th April 1872 Oct 566
 11th April 1873-74
 11th April 1873-74

1873.
Indl Depart.

From

The Secretary to the
Govt. of India

Dated 10th
 Recd 15th April 1873
 1874.

No 226

Recd No. 24th April 1873 Oct 566-117

Requests that after
 a consideration of the
 alterations proposed in
 the accompanying Office
 Memorandum revised
 Rules may be prepared
 and submitted for approval

With Order

C 29/4 21/5

Indicate

the bridge of the
High Road.

May 1.

11/18/83 653

25-27

To the Judge of the Court of Sessions
at the City of New York

from the Committee
in view of the revision
of the United States
the Constitution in
reference to the admission
of new States contained
in the Constitution, from
a Constitution right of
the Board of Education.