

(1) Number of pages 8(2) Date of repair 15.7.1963(3) Initials of the Referencer W

MADRAS RECORD OFFICE

Government of Madras

~~Board of~~ Judicial DEPARTMENT

G.O. No. 1039-A.

~~B.P. No.~~

Press S.C.

Mis.

Dated

5.5.1879

195

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

5th May 1879, No. 1039-A.

Bhadrachalam and Rakapilli and Rampa Country.

Read the following paper:—

No. 86. *From W. S. FOSTER, Esq., Collector and Magistrate of the Godavari District, to the Acting Chief Secretary to Government, dated Cocanada, 11th February 1879, No. 7.*

As directed in paragraph 5 of G.O., dated 5th ultimo, No. 33, I have the honor to forward herewith the draft Notifications to be issued in the case of the Bhadrachalam and Rakapilli Taluks and the Rampa country, inserting in Column 3 of the Schedules the particular officers who should be directed to exercise and perform the jurisdiction, powers and duties incident to the operation of each of the enactments therein specified. Under this, the Collector of the District will exercise the powers of the Sessions Judge, District Magistrate and District Collector in both the Bhadrachalam and Rakapilli Taluks and Rampa country. The Tahsildar of Bhadrachalam shall exercise the powers of a 2nd-class Magistrate and a Taluk Revenue Officer, and the Naib Tahsildar those of a 3rd-class Magistrate in Bhadrachalam and Rakapilli Taluks. In Rampa country, the Sub-Collector will exercise the powers of a 1st-class Magistrate in charge of a Division and of the Sub-Collector; and the Deputy Tahsildar of Kottapalle, those of a 2nd-class Magistrate and of the Tahsildar.

2. In the Schedules referred to, Act XXIV of 1859 (Police Act), has been omitted by Government. This Act is now in force in those taluks and the provisions of Section 48 were extended by a special notification to Bhadrachalam and Dummagudem. Government have included Acts V of 1865 and I of 1872, and as these are merely subsidiary to Act XXIV of 1859, I cannot understand why the latter has been omitted. I request that the Government will be pleased to include that Act in the first Schedule. The powers of a Magistrate under that Act will be exercised by the Collector as District Magistrate and the 2nd and 3rd class Magistrates of Bhadrachalam in the Bhadrachalam and Rakapilli Taluks, and the 1st-class (Joint) Magistrate and 2nd-class Magistrate of Kottapalle in Rampa country. The management of the Police in the Bhadrachalam and Rakapilli Taluks was transferred to the Police Superintendent of this District while I was away from the district and the Government are aware that I was opposed to this arrangement. I should like the Police Inspector to work under the Tahsildar who should have the powers of the District Superintendent of Police, those of the Inspector-General being vested in the District Magistrate. But I am not at present inclined to propose a change. My experience fully goes to show that the present arrangement is not a good one, but I am opposed to making frequent alterations. I would rather keep a bad arrangement and make the best of it than let it appear that we cannot make up our minds what to do.

3. As directed in paragraph 8 of the Government Order under report, I beg to forward a draft of the rules for the guidance of officers in scheduled tracts revised in accordance with the instructions given in paragraph 7. Throughout the rules, the term "Civil Judge" should be altered into "District Judge." Under Clause 2, Rule 1, the Munsifs are precluded from taking cognizance of suits in which a superior or inferior proprietor is concerned, but as these rules extend also to Rampa country, where there are no inferior proprietors, I have added "Munsubdar or Muttadar." The rule as it stands precludes the Munsifs from entertaining any suit of whatever nature in which a superior proprietor, &c., is concerned, and consequently all such suits have to be instituted before the Collector as District Judge. This would prove of great inconvenience both to the people and proprietors. I do not think it was intended that every suit, for whatever trifling amount of money, should be instituted before the Collector *alone*. I think it was intended to apply to suits in which the landed possession of such proprietors is concerned, and I have therefore introduced the phrase

* Rule II, Clause 2.

"for real property" between "any suit" and "in which." As* there is nothing

resembling feudal tenures in these tracts, I have struck out "Hill Zemindaries or other landed possessions held on feudatory tenures," and substituted "the estates of superior and inferior proprietors," and "Munsubdar and Muttadars." I think it unnecessary to be reporting cases amongst the inferior proprietors and Muttadars, as their estates are of no importance, and propose to alter Clause 2: "In the case of suits for the succession to the estates of the superior proprietor in Bhadrachalam and Rakapilli Taluks, or to the estate of the Munsubdar in Rampa," the Collector shall, through the Board of Revenue—

Rule VI.—The provisions as to the time for presentation and admission of appeals after the expiration of the time of appeal have been struck off, since these are contained in the Law of Limitation (Act XV of 1877) which the Government intend to declare as being in force in these tracts. Under this Act, the time for the presentation of appeal is only one month, but Mr. Hope seems to have proposed that it should be two months, as the Bhadrachalam Taluk is about 150 miles from Cocanada. In criminal cases the time for appeal is only one month. I do not see the necessity for an increase of time in Civil cases. The time taken up for obtaining copies is excluded from calculation. If, however, there are just and reasonable grounds, provision is made in the Act for admission of appeals after the time. I have always allowed appellants to file their appeals before the Tahsildar who sends them on to me, so there is no reason why they should require more time.

Rule XI.—The provision regarding the time of Appeal to High Court is also omitted for the above reasons.

Rule XII.—The words "Superior or Inferior Proprietor or Munsubdar and Muttadar" are substituted for "Zemindar, Bessoie or other feudal Hill Chief" for reasons specified in paragraph 5 of Mr. Hope's letter to Government, dated 29th January 1876, No. 22.

Rule XVI, Clause 1.—As the Sub-Collector at Rajahmundry has charge of the Rampa country, I have added the words "and subordinate" in paragraph 2.

Paragraph 4 of the clause is struck out, as the District Panchayets have been abolished, as the Board say, by the repeal of Regulation VII of 1816. In their Proceedings, dated 11th August 1873, No. 1540, the Board saw no reason to regret the fact, as they said the District Panchayets were never popular or useful and were only resorted to in a spasmodic way to save the trouble of investigating questions found to be intricate, and in their Proceedings, dated 29th September 1873, No. 1967, the Board said they saw no ground for further action. But I am certainly in favor of District Panchayets. The following has been substituted for paragraph 4 of Clause 1:—

"The Collector as District Judge or his Assistant shall name one of the Panchayetdars to act as their foreman. At the request of the Panchayetdars, the Collector as District Judge or his Assistant shall secure the attendance of all parties required for the trial of the suit. If the

Panchayetdars are divided in opinion, the opinion of the majority shall be the award of the Panchayet. Any of the Panchayetdars may, if he chooses, record his reasons of dissent separately and transmit the same to the Collector as District Judge or to his Assistant."

Rule XVIII.—This rule is expunged as unnecessary. The old Rules, Nos. XIX, XX, XXI, and XXII, have respectively been altered into XVIII, XIX, XX and XXI.

Rule XIX, (formerly XX).—As the Code of Criminal Procedure will be included in the enactments in force, this rule has been slightly amended so as to apply to civil processes alone.

4. Referring to the Madras Act VIII of 1865, I think it will be advisable to invest the Tahsildar of Bhadrachalam with the powers of a Collector, so as to leave the Collector with the powers of an Appellate Court only; otherwise, it will result in there being no appeal from the Collector's decision. The necessary entries have accordingly been made in the schedule.

No. 87. ORDER THEREON, 5th May 1879, No. 1039-A.

His Grace the Governor in Council approves the subjoined draft Notification and Rules relating to the enactments to be declared in force, in the taluks of Bhadrachalam and Rakapilli and in the country of Rampa in the Godavari District; and resolves to forward the said Notification and Rules for the approval of the Government of India, with reference to their Secretary's letter, dated 11th September 1877, No. 1391, and to the Proceedings of this Government noted in the margin. His Grace in Council further observes that nothing in the "Laws Local

G.O., dated 18th October 1877, No. 2433. 33. Exent Act, 1874," affects the operation of any Act or Regulation theretofore extended to or declared to be in force in any of the scheduled districts, or of any enactment not mentioned in the schedules annexed to it; and that all officers appointed previous to the coming in force of the "Scheduled Districts Act, 1874," to administer Civil, Criminal and Revenue duties in any such district are deemed to have been appointed under the said Act. The list appended to the previous Draft Notification was a somewhat exhaustive one, such acts of general application as the Penal Code being inserted, agreeably to the suggestion of the Advocate-General; but in deference to the opinion of the Government of India that it is neither necessary nor desirable to notify enactments to be in force "which clearly must be in force," the present list includes those only regarding which some doubts might exist with reference to the fact that while Rampa was part of a Regulation District till scheduled under Act XIV, 1874, Bhadrachalam and Rakapilli formed portions of a Non-Regulation District till transferred to this Presidency a few months before the passing of that enactment.

DRAFT NOTIFICATION.

In exercise of the power conferred by Section 3 of the Scheduled District Act, 1874, His Grace the Governor of Fort St. George in Council is pleased, with the sanction of the Governor-General in Council, to declare that so much of each enactment mentioned in the list hereto annexed, as is in force in those parts of the Presidency of Fort St. George which are not included in any scheduled district, is in force likewise in the Taluks of Bhadrachalam and Rakapilli and the country of Rampa in the Godavari District.

2. His Grace the Governor of Fort St. George in Council is further pleased, in exercise of the power conferred by Section 6 of the said Act, to direct that the jurisdiction, powers, and duties incident to the operation of the said enactments, so far as such jurisdiction, powers, and duties are referred to in the third column of the said schedule, shall be exercised and performed by the authorities mentioned in that column.

List.

Number and Year of Enactment.	Subject.	Jurisdiction how to be Exercised.
1	2	3
Madras Regulation III, 1802, (Sections I, II, part of Section 16 only).	Procedure of Civil Courts ..	Government Agent.
Madras Regulation V, 1804 ..	Court of Wards ..	Board of Revenue.
Do. II, 1806, (parts of Sections 1 and 7).	Collectors and Karnams ..	Government Agent.
Madras Regulation IV, 1816 ..	Village Munsifs ..	Heads of Villages.
Do. V, 1816 ..	Village Panchayets ..	Do.
Do. XI, 1816, Sections 8, 9, 10, Section 11, Clause 1, Sections 13, 14 and 47.	Duties of Heads of Villages—Maintenance of Peace by Magistrates.	Heads of Villages and Government Agent.
Madras Regulation XII, 1816.	Reference of claims to land and produce to Panchayets.	Government Agent and his Assistants.
Do. VII, 1817.	Maintenance of Bridges, Choultrys, &c.,—Escheats.	Board of Revenue and Government Agent.
Do. II, 1819.	State Prisoners ..	Governor in Council.
Do. IV, 1821, (Section 4).	Petty Thefts ..	Heads of Villages.
Do. VII, 1828, (Sections 1 and 3).	Powers of Sub and Assistant Collectors; Control of Collector.	Government Agent and his Assistants.
Do. VI, 1831..	Hereditary Village Offices ..	Do.
Do. X, 1831..	Prohibition of sale of Minors' Estates, for arrears of Revenue.	Do.
Madras Act II, 1804 ..	Recovery of arrears of Revenue. (Amending Act XXIV, 1859).	Do.
Do. V, 1805 ..	Official Seals ..	Governor in Council.
Do. VI, " ..	Recovery of Rent ..	Government Agent and Assistants.
Do. VIII, " ..	Cattle Disease..	Government Agent and all Magistrates.
Do. II, 1806 ..	Empowering Revenue Officers to summon witnesses.	Government Agent and Assistants; Tahsildars and Deputy Tahsildars.
Do. III, 1809 ..	Canal Tolls and Ferries ..	Government Agent.
Do. I, 1870 ..	Explaining Madras Act VIII, 1865, Section 11, Clause 4.	
Do. II, 1871 ..	Police; to amend Section 48, Act XXIV of 1859.	
Do. I, 1872 ..	To amend Madras Act I of 1870.	
Do. IV, 1878 ..	Curators in case of Succession. Protection of Judicial Officers.	Government Agent.
Imperial Act XIX, 1841 ..	Lunatic Asylums ..	
Do. XVIII, 1850 ..	Suits to recover possession of land.	Government Agent and Assistants, and District Munsifs.
Do. XXXVI, 1853 ..	Collection of debts on Successions.	Government Agent.
Do. XIV, 1859, Section 15.	Minors, custody of ..	Do.
Do. XXVII, 1860 ..	Evidence of Prisoners.	
Do. IX, 1861 ..		
Do. XV, 1869 ..		

RULES FOR THE GUIDANCE OF THE COLLECTOR AND MAGISTRATE OF THE DISTRICT, GODAVARI, WITHIN THE SCHEDULED DISTRICTS OF BHADRA-CHALAM TALUK, RAKAPILLI TALUK, AND THE RAMPA COUNTRY.

CIVIL JUSTICE.

Rule I, Clause 1. The said Collector and District Magistrate shall, under the designation of GOVERNMENT AGENT, be the Collector, District Magistrate, District Judge and Session Judge, within the said scheduled districts. His Sub-Collector and Assistant Collectors and any other persons whom the Governor in Council may appoint shall be designated Assistant Government Agents.

Clause 2. The Government Agent is empowered to appoint any of his principal native officers, or, with the sanction of Government, any other duly qualified persons to exercise, in such places and within such portion of the scheduled districts as he may consider proper, the jurisdiction vested in the District Munsifs of the Madras Presidency subject to the modifications contained in these Rules.

Clause 3. Such Munsifs shall not have cognizance of any suits for real or personal property exceeding in value 300 rupees, nor shall they at any time have cognizance of any suit in which any Zemindar or any Munsabdar or Muttadar or other feudal Hill Chief may be concerned, nor of suits in *forma pauperis* except such suits in *forma pauperis* as the Government Agent may specially refer for decision to them.

Clause 4. The valuation of a suit will be made according to the provisions of Section 7 of the Court Fees Act. Suits of the amount cognizable by the District Munsifs shall be instituted in the Courts of those Munsifs alone: provided, however, that the Government Agent shall be at liberty at his discretion to transfer to his own Court or to that of an Assistant any suit cognizable by a District Munsif.

Rule II, Clause 1. With the single exception of the particular suits specified in the preceding Rule, which are cognizable by such District Munsifs as are there described, all Civil suits of whatever description or value arising within the scheduled districts shall be instituted, in the first instance, in the Court of the Government Agent; and the Government Agent and his Assistants are hereby vested with the same powers to try and determine such suits as are vested in the District and Subordinate Courts, or in the Collectors' Courts of the Madras Presidency, respectively, subject to the modifications in these Rules contained.

Clause 2. The Government Agent shall alone be competent to try and determine suits for real or personal property exceeding 5,000 rupees, or for lands paying revenue, of which the annual produce exceeds Rupees 500. But he shall have the power of either deciding himself or referring for decision to his Assistants all suits for a less value: provided, however, that claims of succession to or any interest in the estates of any feudal Hill Chief shall not be entertained in any Civil Court; but in all such cases the Government Agent shall, through the Board of Revenue, submit the result of his inquiry for the orders of Government who shall determine the point at issue.

Rule III, Clause 1. The Civil Courts of each grade shall receive, try, and determine suits hereby declared to be cognizable by those Courts, if, in the case of suits for land or other immovable property, such land and property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of commencement of the suit shall dwell or personally work for gain within such limits. In no case will the Courts have jurisdiction to adjudicate upon property not within the jurisdiction of the Government Agent.

Clause 2. The Government Agent is authorized at his discretion to employ such number of Pleaders in his own Court or in the Courts of his Assistants and the District Munsifs as may from time to time appear to him necessary.

Clause 3. The Pleaders will be entitled to receive a fee according to the provisions of Regulation XIV of 1816 of the Madras Code. The Government Agent shall be competent to punish any misconduct of a Pleader by fine not exceeding 50 rupees, leviable as an arrear of land-revenue, or by cancellation of his Sanad or both.

Clause 4. Any of the land-holders described in Rule I, Clause 3 may, however, be permitted to conduct his business in the Courts by his own special Mooktiar, but suits for the remuneration of such Mooktiar shall not be received or filed in any Court.

Rule IV. From decrees in all original suits an appeal shall lie from the Courts of Munsifs and from the Courts of the Assistants to that of the Government Agent.

Rule V. The Government Agent is authorized to refer to his Assistants for decision all appeals to him from the decisions of the District Munsifs, and the decree of the Assistant in such appeals shall be final, excepting in cases where, for reasons to be recorded, the Government Agent shall admit a Special Appeal, to be heard and determined in his own Court.

Rule VI. When an appeal shall be preferred from any Munsif's or Assistant's decision, it shall not be necessary to summon the respondent in the first instance, but forthwith the original record of the proceedings in the case shall be called for; and if, after the perusal of the record of the original suit and petition of appeal, the officer hearing the appeal shall see no reason to alter the decision appealed from, it shall be competent to him to dismiss the same with an endorsement on the petition of appeal that it has been so dismissed.

Rule VII. The Government Agent or his Assistant, as the case may be, is empowered to call for further evidence in any case appealed, or to refer the suit back to the officer who originally decided it for further evidence and for a decree *de novo*. The Government Agent is likewise empowered, on the application of any party, in a suit decided by a Munsif or an Assistant, but not appealed, to direct a review of judgment, and is further competent to authorize a Munsif or an Assistant to review his own judgment on sufficient ground assigned; and also to remove to his own or any other Court within his jurisdiction, by precept under his official seal and signature, any suit, original or appellate, which may be pending in a lower Court, recording his reasons for so doing.

Rule VIII. All decrees passed by the Government Agent on appeals from decrees of his subordinates shall be final, the High Court having the power, on special grounds, to require him to review his judgment as may be directed by them.

Rule IX. From all decrees upon original suits passed by the Government Agent, an appeal shall lie to the High Court.

Rule X, Clause 1. With the exception of the Court of the Government Agent, who shall be at liberty in the execution of decrees to employ an Assistant or Munsif, all decrees of other Courts within his jurisdiction shall be carried into effect by the Court by which the suit may have been decided.

Clause 2. Decrees shall be executed by an order addressed to the proper officer of the Court; but no landed property shall be attached in execution of a decree unless the authority of the Government Agent shall have been previously obtained.

Rule XI, Clause 1. The Government Agent is authorized at his discretion to refer any suit, or special questions in a suit, whether pending before himself, his Assistants or Munsifs, for examination and judgment by a Panchayet, to consist of three or five persons, to be selected by the Government Agent or by his Assistant, after the plaintiff and defendant have had notice and the witnesses have been assembled.

The Assistant Government Agents shall be competent to exercise a similar discretion in regard to suits pending before themselves under these Rules.

The plaintiff and defendant or their Pleaders or Mooktiars shall each be permitted to challenge any members of the Panchayet; and on sufficient reason being given for the challenge, another person or persons shall be selected to supply his or their place.

The officer referring the suit to a Panchayet shall name one of the Panchayetdars to act as the foreman, and at the request of the Panchayetdars shall secure the attendance of all parties required for the trial of the suit. If the Panchayetdars are divided in opinion, the opinion of the majority shall be the award of the Panchayet. Any of the Panchayetdars may, if he chooses, record his reasons of dissent separately, and the same shall form part of the record of the suit.

Clause 2. When a Panchayet has been nominated, the officer referring the suit shall immediately direct a gumastah or clerk to attend the Panchayet, whose duty it shall be, under the direction of the Panchayet, to record their proceedings and award; and the Panchayet shall assemble at some convenient place in his Cutcherry or Court or adjoining it, to investigate the matter at issue.

Clause 3. When the pleadings shall have been closed and evidence taken, the Panchayet shall direct the parties and gumastah or clerk to retire, and shall consult and decide on their award; and when they have come to a decision, they shall recall the gumastah or clerk to record the award, which (award) having been duly attested with their signature, they shall deliver to the officer appointing the Panchayet, by whom, if approved, a decree in conformity therewith shall be passed, which decree in cases where the Panchayet has been assembled by a subordinate shall, previous to its execution, be submitted to the Government Agent, who shall either confirm, modify, or reverse the award, or remand the case for further investigation or re-investigation by a Panchayet or otherwise as may to him seem expedient. When any such award shall be disapproved by the officer appointing the Panchayet, as illegal or defective on the face of it, he shall restore the suit and proceed to determine it, himself.

Rule XII. The Government Agent will submit to the High Court half-yearly statements of the number of causes filed and disposed of by himself or his Assistants, or by the Munsifs, prepared in such form as may be by them prescribed.

REVENUE RULES.

Rule XIII, Clause 1. In conducting their local duties in the Revenue Department the Government Agent and his Assistants will be guided by the Rules in force for the time being.

Clause 2. The Government Agent and his Assistants will continue in their revenue capacity, subject to the general control and orders of the Board of Revenue.

Clause 3. It shall not, however, be incumbent on the Board of Revenue to interfere, except in matters referred to them by the Government Agent unless a strong necessity for such interference shall appear.

GENERAL RULES.

Rule XIV. All Civil processes issued at the instance of any authority situated beyond the jurisdiction of the Government Agent, to or against any person subject thereto, or situated therein shall be forwarded by letter to the Government Agent, who shall execute the same as if it were his own process, returning the said process, by letter, to the authority from whom it issued, duly endorsed by his proper officer, showing what has been done thereon.

Rule XV. All petitions against the proceedings of the Government Agent must, in the first instance, be submitted to the Government, and will be referred, when necessary, either to the High Court or to the Board of Revenue, as the case may be.

Rule XVI. Reference will be made to the Government by the Government Agent in all cases not provided for by the Rules.

(True Extract.)

C. G. MASTER,
Acting Chief Secretary.

To the Collector and District Magistrate, Godavari.

- " Hon'ble the Judges of the High Court for information.
- " Board of Revenue.
- " Revenue Department.
- " Advocate-General.
- " Government Pleader.

Exd. T. O'Connor and F. R. Pantlemon.

66th of 1879

JUDICIAL.

To THE COLLECTOR AND DISTRICT
MAGISTRATE,

Secy. Ccy. Secy.

District Magistrate,

Revenue

Revenue

G.O., 5th May 1879, No. 103-A.

MAY.
No. 88-23.

Assam Country.—Draft Notification and Rules
relating to the contracts to be declared in force
in the hills of Imphal and Nagaland in
the country of Assam in the Golani District,
forwarded to the Government of India for
approval.