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# MADRAS RECORD OFFICE

Government of Madras

Judicial. DEPARTMENT

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| G.O. No.            | 2870        | Press                |
| <del>B.P. No.</del> |             | <del>Mis.</del> S. e |
| Dated               | 7. 11. 1879 | 195                  |

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

7th November 1879, No. 2870.

Agency Tracts.

Read the following paper :—

No. 32. From J. LEE-WARNER, Esq., Acting Agent to the Governor of Fort St. George in Vizagapatam, to the Acting Chief Secretary to Government, dated Vizagapatam, 31st May 1879, No. 224.

I have the honor to submit herewith copy of a letter addressed to me by Mr. Thompson, the Acting Senior Assistant Agent of this district, of date the 19th instant, No. 172, and of my reply thereto, dated 31st instant, No. 221, on the subject of bringing into operation certain Acts of general applicability in the Agency Tracts of this district, and to request that I may be favored with definite orders in the matter.

2. In accordance with the principles laid down in G.O., No. 950, dated 28th April 1879, it is quite clear that all the Acts framed subsequent to the passing of the Laws Local Extent Act of 1874, and which are declared to extend to the whole of British India, are not to be held to be *prima facie* inoperative in the Agency Tracts; but I am still doubtful whether this rule could be made, or it would be politic to make it, so applicable in respect of Act I of 1879, the new General Stamp Act, and Act VII of 1870, the Court Fees Act, while Act XV of 1839 and the rules framed thereunder stand unrepealed.

3. As regards the Court Fees Act VII of 1870 especially I beg to refer you to G.O., 28th October 1873, No. 1717, wherein Government declared that "the Agency Tracts are exempted from the operation of general laws, unless expressly extended to them, and that the Court Fees Act is applicable to the Agency Tracts as it is not so extended."

4. I also am doubtful of the expediency of extension of the Rent Recovery Act VII of 1865 to the Agency Tracts. It is true that it is not scheduled in Act XV of 1874, but none of the Madras Acts are, and perhaps their being Madras Acts was the ground of their exception.

ENCLOSURE No. 1.

From A. THOMPSON, Esq., Acting Senior Assistant Agent, to the Agent to the Governor of Fort St. George in Vizagapatam, dated Rayaghat, 19th May 1879, No. 172.

With reference to G.O., No. 950, dated 28th April 1879, treating of the enactments in force in the Agency Tracts, I have the honor to ask the following questions.

2. The first paragraph of that order lays down the rule that when an Act is declared to extend to the whole of British India, it must be held to be applicable to the Agency Tracts. The new General Stamp Act I of 1879 is declared (Section 1) to extend to the "whole of British India." Therefore, according to the Government order, it is in force in the Agency Tracts. Can this be intended?

3. The third paragraph of the same order lays down the second rule that when an Act is not scheduled in Act XV of 1874 "there is no ground for assuming that it is even *prima facie* inoperative in the Vizagapatam Agency." The Court Fees Act VII of 1870 is not so scheduled; must it, therefore, be considered as operative in the Agency?

4. Again no Act passed by the Madras Legislative Council under 24 and 25 Victoria, Cap. 67, Sections 29 to 43 is scheduled in Act XV of 1874. It follows, therefore, from the rule laid down by Government that all such Acts, including Act VIII of 1865, are in force in the Agency Tracts.

5. The application of the two rules contained in the order in question will completely revolutionise the system of administration hitherto followed in this part of the Agency.

6. The enforcement of Act VIII of 1865 alone would probably cause a rising of the hill-men.

ENCLOSURE No. 2.

From J. LEE-WARNER, Esq., Acting Agent to the Governor of Fort St. George in Vizagapatam, to the Senior Assistant Agent, Parvatipur, dated Vizagapatam, 30th May 1879, No. 221.

In reply to your letter No. 172, dated 19th instant, I have the honor to state that the order of Government, dated April 28th, 1879, appears to me also to leave the question of the operation of some Acts of general applicability in considerable doubt; but I will answer the points raised by you seriatim.

2. It seems to me that Act XXI of 1839 being still in force, and the revised Agency Rules framed under it being also still in force, the Stamp Act which applies to Vizagapatam Agency Tracts is Stamp Act XIII of 1816, which had not been repealed in 1862, the year in which the Agency Rules were revised. For it is declared in Section VII of the rules that all the laws contained in the Madras Regulations shall be in force in the Agency Tracts; and as the new Stamp Act I of 1879 was passed subsequent to the rules, and these rules have not been expressly mentioned in it, I am of opinion that so far as Agency Tracts go this Act (XIII of 1816) is still in operation. I will, however, refer the point.

3. The second point raised in your letter was settled in G.O., dated 28th October 1873, No. 1717. I am in doubt whether the present Order of Government, No. 950, 28th April 1879, may not be supposed to be a sufficient express extension of the new Court Fees Act to the Agency Tracts; and, therefore, I will refer this point also, bringing to the notice of Government the seeming incongruity of the two orders.

4. As regards the Madras Act, I do not think they were scheduled in the Laws Local Extent Act (XV of 1874), because they are Madras Acts. The applicability of them to the Agency Tracts is a question in each case to be settled by the Madras Local Government; and till they are expressly extended thereto, I think that you should take the revised Agency Rules and the existing practice of the Agency Courts as your guide.

No. 33. ORDER THEREON, 7th November 1879, No. 2870.

No such principle as that suggested in paragraph 2 has been laid down by Government in the Proceedings quoted. On the contrary it was stated that, where, subsequently to Acts XIV and XV of 1872, any Act of the Governor-General's Council was declared to extend to the *whole of British India*, without the addition of the qualifying words "except the scheduled Districts," it was not optional to the Executive Government to declare of such enactment that it is not in force in any such district. The late Stamp Act (No. I of 1879) is accordingly in force throughout British India without any exception; and must be observed by all persons in the Vizagapatam Agency who are sufficiently civilised to execute instruments in their dealings with one another.

2. In regard to paragraph 3, while the soundness of the declaration cited may be doubted at the present time, it may be accepted as a fact that the Court Fees Act of 1870—which the legislation of 1874 does not declare to be applicable to the whole of British India (much less to an *individual district* scheduled in 1874)—is not actually in force in the Vizagapatam Agency. No notification however to this effect is necessary, as there is no doubt of the fact.

3. Paragraph 4.—No question can properly arise as to the Madras Rent Recovery Act, 1865, being in force in the Agency Tracts. It is a plain and practical consolidation of the old Regulations providing for the settlement of disputes between landlords and tenants. It is true doubts have arisen as to its affording sufficient

protection to the ryot; these it is proposed to shortly set at rest by legislation; and meanwhile it is not understood that the Maharaja of Jeypore or the other great landlords under the Agency are oppressing their tenantry.

(True Ex. act.)

C. G. MASTER,  
Acting Chief Secretary.

To the Agent to the Governor of Fort St. George in Vizagapatam.  
" Revenue Department.

Exd. T. D. Ryan.

Govt. of (1870) 20th Nov.

JUDICIAL.

To

THE AGENT TO THE  
GOVERNOR OF FORT ST. GEORGE  
IN VIZAGAPATNAM  
No. 10, No. 11, No. 12

Dated November 1870.

1870

G.O. 7th November 1870, No. 2570.

NOVEMBER  
1870, 22-23.

Under Orders, passed on 21st Nov.