

Judicial ¹⁸⁸⁶ (~~193~~) Department.

SERIES.

G.O. No. 2324

Dated 28.8.1886

[Despatch Abstract]

Bills - Legislative -

Requesting the Honorable the
Judges of the High Court and certain
officers to favor the Government with
their opinions on the provisions of the
Bill relating to the mode of valuing certain
suits for the purpose of determine the
time to respect these

[illegible][illegible]

No. 1542

To

THE CHIEF SECRETARY TO THE GOVERNMENT OF

Madras

Dated Simla, the 18th August, 1886.

SIR,

I AM directed to forward herewith *forty* copies of the papers noted on the margin, and to request that His Excellency the Governor in Council will favour the Government of India in this Department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Hon'ble the Judges of the High Court and of such selected officers and other persons as His Excellency in Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement, may be published in the *South Sea* Gazette in English, and in such other languages as His Excellency in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 1st November next.

I have the honour to be,

SIR,

Your obedient Servant,

A. B. C.
Off. Secretary to the Government of India.

Judicial
CURRENT NO.

From

The Govt. of India
Legislative Deptt.
No. 1549.

5718-8-86

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Sec. 2.

Form: forty copies
of a Bill to prescribe the mode of
valuing certain suits for the
purpose of determining the
jurisdiction of courts with respect
thereto, with State of subjects: reasons

BILL

TO

Prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

1. (1) This Act may be called the Suits Valuation Act, 1886; and

Short title, local extent and commencement.

(2) It shall extend to such local areas, and come into force therein on such dates, as the Governor General in Council, by notification in the Gazette of India, from time to time directs.

2. (1) The Local Government may from time to time, with the previous sanction of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, VII of 1870, and paragraph x, clause (d).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of the local area in which this Act is in force in the territories under the administration of the Local Government, and the value so determined may vary from place to place within the local area or part thereof to which the rules apply.

3. Where a suit mentioned in paragraph iv of section 7, or in article 17 of Schedule II, of the Court-fees Act, 1870, relates to land or an interest in land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest to which the suit relates as determined by the rules made under the last foregoing section.

4. Where in suits other than those referred to in sections 2 and 3 court-fees are payable *ad valorem* under the court-fees Act, 1870, VII of 1870, the value as determinable for the computation of court-fees shall be the value for purposes of jurisdiction.

[Act XII of 1881, s. 206.] 5. (1) The objection that a suit was not properly valued for purposes of jurisdiction shall not be entertained by an appellate Court unless the objection was taken in the Court of first instance.

(2) If the objection was taken in the Court of first instance but the appellate Court has before it the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the proper Court. [Act XII of 1881, s. 207.]

(3) If the appellate Court has not those materials before it, it shall proceed under the rules applicable to it with respect to the hearing of appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken, it may direct its order either to the Court prescribed in that behalf in those rules or to any Court competent, in its opinion, to entertain the suit; and the objection that the order of the appellate Court was directed to a Court which was not competent to entertain the suit shall not be taken on further appeal. [Act XII of 1881, s. 208.]

(4) Nothing in this section shall be construed to affect the provisions of section 23 of the Court-fees Act, 1870.

6. On and from the date on which rules under Repeal of section 14 of the Madras Civil Courts Act, 1873. this Act take effect in any part of the territories under the administration of the Governor of Port Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part.

Provided that the repeal of that section shall not affect the jurisdiction of any Court with respect to any suit instituted in that part before the rules take effect therein.

7. (1) Rules may be made under this Act at any time and procedure any time after the passing thereof for making rules.

(2) A Local Government shall, before making rules under this Act, consult the High Court with respect thereto and publish a draft of the proposed rules in the official Gazette.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect before the Act has come into force in the local area for which the rule has been made or till the expiration of one month after the rule has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been made as required by this section.

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

A
BILL

TO

Prescribe the mode of valuing certain
suits for the purpose of determining
the jurisdiction of Courts with respect
thereto.

(Mr. Ilbert.)

STATEMENT OF OBJECTS AND REASONS.

The principal object of this Bill is to prescribe a simple mode of valuing suits relating to land for the purpose of determining the jurisdiction of the Courts with respect to them. Most of those suits are of course cognizable exclusively by Civil Courts, but some of them, as for instance, suits in the Punjab under section 9 of the Specific Relief Act, may be tried by Revenue Courts.

2. It has been brought to the notice of the Government that, while the Civil Courts Acts of the several Provinces, with the exception of that in force in the Presidency of Madras, prescribe no special rules for fixing the value for jurisdiction of the subject-matter of land-suits, but simply define the limit of the jurisdiction of each grade of Court by the money-value of the subject-matter in suit, thus leaving the market-value to be the strictly legal criterion, a practice has sprung up, generally in the inferior Courts, of accepting, in the absence of any express provision of law to the contrary, the court-fee valuation as laid down in section 7, paragraph v, of Act VII of 1870, for purposes of jurisdiction also.

3. The generally admitted result is that land-suits are undervalued and disposed of by Courts not strictly competent to try them. In order to remedy this state of things the present Bill has been prepared. It empowers (section 2) the Local Government to frame rules, subject to the sanction of the Governor General in Council, for determining the value of land in the territories under its administration for purposes of jurisdiction in the suits mentioned in section 7, paragraphs v and vi, and paragraph x, clause (d), of the Court-fees Act, 1870, namely, suits for possession of land, to enforce a right of pre-emption, and for specific performance of an award relating to land. These rules are to be made after consultation with the High Court; and the Bill provides (section 7) a procedure for the publication of proposed rules, so that the Courts and the public may have an opportunity of preferring any objections which they may have to them before the rules are made. The Bill further declares (section 3) that where a suit mentioned in paragraph iv of section 7, or article 17 of Schedule II, of the Court-fees Act, relates to land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land to which the suit relates as determined by the rules under the Act.

4. In addition to the foregoing provisions, which relate exclusively to land-suits, section 4 provides that in other suits in which court-fees are payable *ad valorem*, the value for purposes of jurisdiction shall be estimated in accordance with the rules which regulate the value for court-fee purposes.

5. Section 5 of the Bill is taken from sections 206-208 of the North-Western Provinces Rent Act, 1881, and has been inserted at the suggestion of Sir Charles Turner, late Chief Justice of Madras. It lays down a special procedure for cases in which the objection that a suit was not properly valued for purposes of jurisdiction is taken in an appellate Court, an objection which the Bill declares may not be entertained unless it was taken in the Court of first instance.

6. Lastly, the Bill (section 6) repeals section 14 of the Madras Civil Courts Act, 1873, which enacts the rule of valuation which it is the object of this Bill to abolish, namely, the valuation for jurisdiction in the case of land-suits shall be in accordance with the court-fee valuation prescribed by section 7, paragraph v, of the Court-fees Act, 1870. In order, however, to prevent hardship or inconvenience to suitors, it is provided that this repeal shall not affect any suit instituted before the rules under the proposed Act take effect.

C. P. ILBERT.

The 11th August, 1886.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Bill to prescribe the mode of valuing
certain suits for the purpose of deter-
mining the jurisdiction of Courts with
respect thereto.

(Statement of Objects and Reasons.)

Post. Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

*From the Govt. of Madras
dated 18th Aug. 1886.
No. 1529.*

*Order 28th Aug. 1886, No. 2324
Ordered that copies of
the bill with state: of
Objects and Reasons,
received with the fore-
going letter, be for-
warded to the Hon. the
Judges of the H. Court,
the Adv. Genl, and
the gentlemen named
in the margin, and
that they be requested
to favor the Govt. with
their opinions on the
provisions of the Bill
by the 1st of October.*

CC 27/8

*X Selected Judges
Hon. Judge of Coimbatore (H. J. Stokes)
" " Godavari (Lister)
" " Malabar (Williamson)
" " Salem (Mather)*

*See enclosure
for further*

*25/10/86
T. J. 10/11/86*

Govt. of (1886) Madras.

JUDICIAL.

Issued

Recd.

Encl.

G.O., 28th August 1886, No. 2324.

AUGUST.

Bills—Legislative.

Requesting the Honorable the Judges of the High Court and certain officers to favor the Government with their opinions on the provisions of the Bill relating to the mode of valuing certain suits for the purpose of determining the jurisdiction of courts with respect thereto.

[Despatch.]

READ AGAIN Order of Government, dated
188 , No. Miscellaneous.

No.

OF 188 .

SR, No.

OF 188 .

ENCLOSURES.

CURRENT No.

3202—Q

STATEMENT WITH DITTO.

ORDER, &c. OF GOVERNMENT—A.

PAPERS KEPT OUT OF FILE FOR DESPATCH IN ORIGINAL.
(not paged.)

Order — *BZ 8*
Letter
Collection

N.B.—

A = Print in full.

B = Not to be printed.

P = Print abstract only.

Q = Print heading only.

R = Print, but not for monthly volume.

The Bill and
Statute will be published

in the Fort St. George
Gazette and
in the English and
Tamil languages.

Bill to be published in the
mode of valuing
Cotton Goods.

Bill to be published in the
mode of valuing
Cotton Goods.

Bill to be published in the
mode of valuing
Cotton Goods.

The Hon. the Judges of the High Court - 6
Fort St. George - 3
District Judge of Coimbatore - 3
A. L. Lister Esq. - Godavari 3
F. H. Wilkinson Esq. - South Malabar 5
C. W. W. Martin Esq. - Salem 3
Desp 9/9

25/8
11/27/8

28TH AUGUST 1886, No. 2324, JUDICIAL.

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

READ—the following paper:—

From S. HARVEY JAMES, Esq., Officiating Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Simla, 18th August 1886, No. 1549.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that His Excellency the Governor in Council will favor the Government of India in this department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Honorable the Judges of the High Court and of such selected officers and other persons as His Excellency in Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement may be published in the Fort St. George Gazette in English, and in such other languages as His Excellency in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 1st November next.

ORDER—dated 28th August 1886, No. 2324, Judicial.

Ordered that copies of the Bill, with statement of objects and reasons, received with the foregoing letter, be forwarded to the Honorable the Judges of the High Court, the Advocate-General, and the gentlemen named on the margin, and that they be requested to favor the Government with their opinions on the provisions of the Bill by the 1st of October.

2. The Bill and Statement will be published in the Fort St. George Gazette in English.

(True Extract.)

Chief Secretary.

To the Honorable the Judges of the High Court, with C.L.,
" the Government Solicitor,
" H. J. Stokes, Esq., District Judge, Coimbatore,
" A. L. Lister, Esq., " Godavari,
" F. H. Wilkinson, Esq., " South Malabar,
" C. W. W. Martin, Esq., " Salem,
with Bill, &c.

Exd. A. Raitt.

13-1073 ✓
17/6/22 BIV
25-140V
[1]
PRESS.

Judicial DEPARTMENT.
G.O. DATED 28th Aug 1886
No. ~~2323~~
2324

First copy sent to Press.

Returned for signature. 3/9

Despatched in print. 9/9

[Despatch Abstract.]

Bills — Legislative.

Requesting the Hon:-
the Judges of the High Court
& certain Officers to favour
the Govt with their opinions
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relating to the mode of valuing
certain suits for the purpose
of determining the juris-
diction of Courts with respect
thereto —