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25.3.37

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <u>323</u>	Press <u>Original</u>
Dated <u>8th February 1933</u>	

Not to be folded or roughly handled

8TH FEBRUARY 1883, No. 323, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper :—

From the Hon. P. O'SULLIVAN, Advocate-General, to the Chief Secretary to Government, dated Madras, 31st January 1883.

I have the honor to submit the following for the consideration of the Government.

2. Section 539 of Act XIV of 1882, the Code of Civil Procedure, provides that the powers therein conferred upon the Advocate-General may, outside the Presidency towns, be, with the previous sanction of the Local Government, exercised also by the Collector, or by such officer as the Local Government may appoint in this behalf. Act X of 1877, as amended by Act XII of 1879, provided that the powers conferred by the section might also be exercised by the Collector, or by such officer as the Local Government might appoint. The result is that, since Act XIV of 1882 was passed, the Collector has no powers under Section 539 unless the previous sanction of the Government has been given.

3. While Act XII of 1879 was in force, my practice was to refer applicants for permission to sue to the Collector of the District who had means of knowledge which I had not as to the *bona fides* of the applicants; but since the last Code came into force I have given permission to sue whenever the plaint showed, on the face of it, an interest in the trust by the parties suing, and a case apparently falling within the section. This is, I think, the right course to adopt generally, but cases may occur where there is no substantial grievance and the suit is brought for purposes of oppression, annoyance, or wrongful gain. For want of local knowledge, I am not in a position to exercise any useful discretion in cases within Section 539 when they arise in the Mofussil; and I think it would be advisable that sanction should be given to all Collectors to exercise the powers given in Section 539 within their districts.

8th February 1883, No. 323, Judicial.

Section 539, Act XIV of 1882 (the Civil Procedure Code), His Excellency by sanctions the exercise of the powers conferred by the above section, excepting the Collector of Madras, within their several districts.

(True Extract.)

C. G. MASTER,
Chief Secretary.

To the
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Ed. J.

former paper
Gov. 20 9 1883 20 1 43

Sanctioning the exercise by all Collectors (excepting the Collector of Malabar) within their several districts, of the powers conferred on the Advocate-General by Section 539 of the Civil Procedure Code.

Section 539 of Act XIV of 1882, the Code of Civil Procedure, provides that the powers therein conferred upon the Adversary, in general may, outside the Presidency Magistrate's Court, with the previous sanction of the District Court, be exercised by any Magistrate of the first class.

suche ich nach *ich suche*

The above is the balance to credit of 1871
 by Act 11th of 1871. provided
 that the same be applied to the same.

might also be exercised by the collector,
or by such officer as the Local Government
might appoint. The result is that since
Act XIV of 1882 was passed the collector
has no powers under section 539 unless the
previous sanction of the Government has
been given.

While Act XII of 1871 was in force
my practice was to refer applicants for
permission to sue to the collector of the
District who had means of knowledge which
I had not as to the bona fides of the
applicants; but since the East India Code came
into force I have given permission to sue
whenever the plaintiff showed, on the face
of it, an interest in the trust by the
plaintiff, and a case apparently

under the section. This is I think

the best generally, but

may be

and the result is a great number

of applications, many of which are

for want of local knowledge and for want

of position to receive any benefit

in cases within section 539 when they
arise in the Mofussil; and I think it
would be advisable that sanction should
be given to all collectors to exercise the
powers given in section 539 within their
districts.

I have the honour to be

Sir

Your most obedient servant

W. Sullivan
Advocate General

Judicial (1883) Department

From

The Honorable the
Advocate General
Madras

To

The Chief Secretary
to Government

Madras
GOVERNMENT NO. 368

Dated 31st January, 1883.

Received 31st — L.

Subject

Submitting for consideration of Govt: the working of sections 539 of Act XIV of 1882 (the Civil Procedure Code) and suggesting the advisability, of Government according sanction to all Collectors exercise powers given in that Act within their districts.

21/1/83

AW

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Order 8th Feb/83, No. 323.

Under S. 539 Act XIV of 1882 (The Civil Procedure Code) His Council, hereby sanctions the exercise, of the powers conferred by the above Section, by all Collectors, excepting the Collector of Madras, within their several Districts.

MD

21/1/83

Govt. No. 323

21/1/83

21/1/83

per 10/1/83

21/1/83

Order of Government, dated
No. Miscellaneous.

1072

323.

Collector of

District Magistrate of

President-Municipal-Com-
mission of

Do. L. F. Board of

Anantapur

North Arcot, Chittoor.

South Arcot, Cuddalore.

Bellary.

South Canara, Mangalore.

Chingleput, Saidápet.

Coimbatore.

Cuddapah.

Ganjam, Chitrapur.

Godávari, Cocanada.

Kistna, Masulipatam.

Kurnool.

Madura.

Malabar, Calicut.

Nilgiris, Octacamund.

Nellore.

Salem.

Tanjore.

Tinnevelly.

Trichinopoly.

Vizagapatam.

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OK PAPER, No.

of 1882.

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

ENCLOSURES.

CURRENT No.

358

STATEMENT WITH DITTO.

ORDER, &c. OF GOVERNMENT—A.

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PRESS.

DEPARTMENT.
 G.O. DATED 8th Feb'y, '13
 No. 323.

First copy sent to Press. 8/2/13.

Returned for signature.

Despatched in print.

Orders relating to Public Charities
[Despatch Abstract.]
~~Sanctioning~~ Sanctioning
 the exercise, by all Collectors
 (excepting the Collr of Madras)
 within their several Dts, of the
 powers conferred by Section
 of the Civil Procedure Code