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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.G.O. No. 571-2Press-
Mis.

Dated

6. 3.18 38.Not to be folded or roughly handled

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Draft rules framed under
Section 5(2), Madras Act I of 1887.

In suits tried under Act I of 1887, the following persons between the ages of 21, and 60 shall be liable to serve as assessors for the purpose of estimating the compensation to be awarded; provided they reside within the limits of the jurisdiction of the court in which the suit is tried.

(a) Retired public servants in receipt of a pension exceeding Rs. 20 per mensem.

(b) All other persons paying annually to Government, Rs. 100, whether as land revenue, or income tax.

Provided that Takils, Village officials and persons in the service of Government or of a Railway Company, shall be ineligible to serve as assessors.

2. Each District Munsif shall,

communication with the nearest
Revenue official of the rank of a
Tahsildar, drawn up in the middle
of January in each year, a list of
persons eligible to serve as assessors.
The list shall contain the name, place
of abode, and business if any, of each
person.

3. Copies of such list shall be stuck
up in the Court of the District Judge,
in the Court of the District Munsif,
and in the office of the Tahsildar
with a notice stating that objec-
tions to the list will be heard and
determined by the District Munsif
at a time to be mentioned in the
notice. The decision of the District
Munsif as to the retention or re-
moval of the name of any person
from the list shall be final.

4. Assessors shall only be ap-
pointed in cases in which the
amount of compensation tendered
is claimed exceeds Rs. 250.

In such cases the Court shall
select

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select by lot from the list two (2)
assessors for the purpose of aiding
the Court in determining the amount
of compensation.

6. Objection may be taken orally
or by petition by either of the parties
to the suit, to the assessors so chosen,
but the decision of the District Munsif
-sif which shall be recorded in writing
shall be final.

7. Every summons to an assessor
shall be in writing and shall re-
quire his attendance at a time
and place to be therein specified.

8. Any person summoned to
attend as an assessor who with-
out lawful excuse fails to attend,
or as required by the summons, or
who, having attended, departs with-
out having obtained the permis-
sion of the Court, shall be liable,
by order of the Court, to a fine not
exceeding Rs. 50. Such fine shall be
levied

levied by attachment and sale of any moveable property belonging to such assessor within the local limits of the Court making the order.

9. On the day fixed for the attendance of the assessors, the Judge and the assessors shall proceed to hear the parties, or their pleaders and the evidence tendered, and to determine the amount of the compensation.

10. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Judge.

11. In case the Judge and one or both the assessors agree as to the amount of compensation, their decision thereon shall be final.

12. In case of difference of opinion between the Judge and both of the assessors, as to the amount of compensation, the decision

of the Judge shall prevail, subject to appeal to the District Court.

13. Every assessor appointed under these rules shall receive a fee of Rs. 5 for each day that he may be away from his home.

14. In cases in which the amount awarded as compensation does not exceed that tendered by the landlord, the whole of the costs of the assessors shall be borne by the tenant. In other cases, the Court shall determine which party is to bear such costs.

15. Whenever the Court thinks that the assessors should view the improvement for which compensation is claimed, the Court shall make an order to that effect and the assessors shall be conducted to the site of the improvement under the care of an officer of the

Enclosure to High
Court letter dated
10th February/88, No. 377.

From Mr. J. Ross Esquire,
Registrar of the High Court
of Judicature, at Madras.

Rel 164 of 88

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No 377. High Court of Judicature,
Madras, 10th February 1888.

CURR. NO. 164

From

H. J. Ross Esquire,
Registrar of the High Court
of Judicature, at Madras.

To

The Honorable H. E. Stokes,
Chief Secretary to Government,
Fort Saint George.

Sir,

Adverting to my letter, dated
the 2nd August 1887, & 1968, I am
directed to submit herewith, Draft
Rules proposed under Section 5(2)
of Madras Act I of 1887 "The Mala-
bar compensation for Tenants'
Improvements Act, 1886", and to
state that before framing tables
under Section 6(2) of the Act, the
High Court has resolved to call
on the District Munsifs of North
and South Malabar to submit
tables

tailed in consultation with
of the leading articles of their respec-
tive Courts and the Sanhedrin
of the Saluk.

I have the honor to be,
Sir,
Your most obedient servant,

[Signature]
Registrar,
Mysore District.

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might be published in the
Melabar as well as the
Fort St. George Gazette.

Mr
Paper submitted to the Hon
Mr. Hutchins. Attention has
been the course taken up to the
passing of the Act. The present
papers of future papers of the
same kind should be in just
Dept. I think.

Mr
21/2
Certainly it is judicial.
The rules do not at all satisfy
me but in preference to the
course which I before indicated
I ask the H.C. to consider
the points which I have noted in
blue pencil.
The rules shall go to the Adv.
Genl. for revision & to the Col.
for remarks (the latter's attention
being specially drawn to the
qualifications) - each of them
shall have a copy of the letter to be
sent to the Chief Justice - confidentially
of course
P.H.
23 Feb

judicial copy.
C. 22/2
R. 24/2

Pub. Ch. 322/1881. *Legis.*
 Pub. Ch. 10. 5-87.
 Act I of 87.
 Leg. Ch. 194-10. 5-87.
 Pub. Ch. 090/1881. 9-87.
 M. 398-25-8-87.
 Leg. Ch. 194-10-5-87.
 M. 105-12-2-87.

NO. 1624
 JUDICIAL DEPARTMENT

Judicial { 1838 } Department.

No.

FROM

THE REGISTRAR OF THE HIGH COURT
 OF JUDICATURE AT MADRAS,
 APPELLATE SIDE.

Dated 10 February 1838.
 Received 11

No. 377
 Enc. one.

Submitting Draft Rules
 proposed under Madras Act
 I of 1887 "The Malabar compen-
 sation for Tenants' Improve-
 ments Act, 1886" and stating
 that the District Munsifs
 of North and South Malabar
 have been called upon to
 submit tables under section
 6(2) of the Act.

For order.
 If the Hon. Members
 have no wish to alter
 the High Court's draft,
 or do not desire the rules
 to stand over until the
 tables under 6(2) have
 been prepared, the pro-
 posed rules might be
 provisionally published
 to invite criticism
 in the *Madras Gazette*.

See Mr. Hon. Mr. Hutchins' in-
 struction in his paper in G.O.
 10 May 1887 No 19 & Leg. Ch. 194
 which he followed apparently.
 I have no remarks to offer
 on the Rules.

But I think it is dealt
 with in the Judicial Dept.
 15/2.
 The subject has been taken in
 the Coll. Dept. since 1884, & a
 change will, it is submitted, lead
 to the same confusion. If the
 Hon. Mr. Hutchins appears
 of the rules as drafted,
 it is submitted that

[25]

Confidential



Jud. Department. 17
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PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read again L.O. 10 May 87. No 364. Pol.
 READ the following paper
 From the Regt. High Ct. No 377. dated 10 Feb/88.

Order. 6/3/88, No. 571

Ordered that the following
 Rules be referred to the
 C.J.

The draft rules will be referred back
 to the High Ct. for reconsideration of
 certain particulars.
 2. The rules will also be referred to
 the Collector of Malabar & to the Adv.
 for revision & to the C.J. of Malabar
 General for remarks, the attention of
 the *Collector* being specially drawn to
 the qualifications prescribed for assessors
 in Rule 1. A copy of the letter ad-
 dressed to the Honble the Chief
 Justice will be furnished confidentially
 to each.

From orders.

A.P.
 29 Feb.

(This order not to be
 sent to the C.J.)

His

Sent Solicitor } with copy of
 Collr of Malabar } letter to C.J. } Dated 6/3

Rules under the Compensation for
Improvements Act 1886.

Draft Order & Letter to the C.J.
From orders.

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To the Honble the Chief Justice
of the High Court.

Honble Sir,

I am directed to acknowledge
the receipt of Mr. Ross' letter, no. 377,
dated 10th February 1888, submitting
a draft of Rules proposed to be made
under clause (2) section 5 of the Malabar
Compensation for Tenants' Improve-
ments Act 1886, and stating that
before framing tables of rates under
clause (2) of section 6 of the Act the
High Court had called on the S^t.
Munsifs of N^o. 1. Malabar to
submit tables.

2. In reply, I am to say that before
publishing the draft rules submitted
by the High Court, H^e the Gov^t in Council
desires to draw the attention of the
Honble the Judges to the several
points indicated below, and to request
that they will consider whether, in the
light of the remarks now made, it
would not be desirable to modify
certain of the draft Rules.

3. Rule i - (b) In Malabar many persons,
closely connected with the land & holding
considerable estates, pay neither land
revenue nor income tax. This qualifi-
cation, therefore, seems to require re-
consideration, & it m^t be also considered
whether Rs. 100 p.a. is not a rather
high sum to fix as a minimum qualifi-
cation. Rule b. It would seem desirable to
insert some provision requiring the
objection to be made before the

in order to avoid the possibility of vexatious objection to procure delay

Rule 8. It seems questionable whether the Act gives power to frame such a rule as this, & it might be considered whether sec 174 S.P.C. ^{would} ~~might~~ not cover the case.

Rule 11. It is doubtful whether this rule would ^{not} be ultra vires if issued by this Court, as the Code of Civil Procedure confers a right of appeal.

Rule 15. After the words "shall make an order to that effect and" the words "such order may provide that" should, it is thought, be introduced, and with regard to the concluding words of the rule, it not be considered whether the rank of the officer should not be determined. It might be inconvenient and undignified to send assessors in charge of a process server.

Rule 17. This Rule appears to go beyond the provisions of the Act, and to be unnecessary.

In conclusion, I am to suggest the addition of a rule applying the Rule *mutatis mutandis* to the Courts of Sub Judges & to District Courts. If this were adopted, these courts might select their assessors from the lists prepared by the District Magistrates ~~separately~~ at their respective stations.

Have the honor to

Yr. Obedt. Servant
17 Feb.

V. N. S. 17

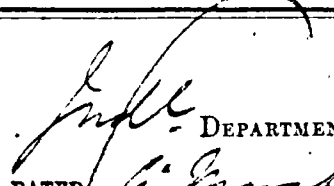
Letter to the Chief Justice

Sept 17/80

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ORDINARY, MS.

	
DEPARTMENT.	
G.O., DATED	6 March 1898
No.	71-2

When given for copying

[Despatch Abstract.]

*Rules under the Malabar
Compensation for Tenants'
Improvements Act*

18.8.27