

(1) Number of pages 20

(2) Date of repair 18-2-44

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Finance DEPARTMENT.

G.O. No.	<u>277</u>	Press Mis.
Dated	<u>10-2-</u>	<u>1890.</u>

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper :—

From M.R.Ry. S. SRINIVASA RAGHAVAIYANGAR, Avergal, Dewan Bahadur, Inspector-General of Registration, Madras, to the Chief Secretary to Government, dated Madras, 14th January 1890, No. 215-G.

With reference to paragraphs 6—8 of the accompanying copy of a letter from the Registrar of the North Arcot district, I have the honor to request that you will be pleased to refer, for the opinion of the Honorable the Advocate-General, the following question :—

Clause 3 of section 84 of the Registration Act, 1877, declares that "a registrar shall, but a sub-registrar shall not, as such, be deemed a court within the meaning of sections 435 and 436 of the Code of Criminal Procedure," i.e., for the purpose of taking cognizance of offences committed before him. Section 483 of the Criminal Procedure Code, 1882, on the other hand, lays down that "when the local Government so directs, any registrar or sub-registrar appointed under the Registration Act, 1877, shall be deemed to be a Civil Court within the meaning of sections 480 and 482," which correspond to sections 435 and 436 above referred to of the old Procedure Code. Is the power *expressly* conferred by section 84 of the Registration Act to be regarded as having been *impliedly* taken away by section 483 of the Code of Criminal Procedure?

2. If the question is answered in the affirmative, I beg to recommend that Government may be pleased to declare under section 483 of the Code of Criminal Procedure that district registrars shall be deemed to be Civil Courts within the meaning of sections 480 and 482. Registrars of districts, who exercise judicial functions under sections 72 and 74 of the Registration Act, are officers of considerable standing in the service, and they require to be protected against intentional insults while discharging their duties in the same manner as Subordinate Magistrates and District Munsifs. I do not consider it necessary however, at present, that sub-registrars should be authorized to take cognizance of, and personally deal with, offences of this kind.

3. I have informed the District Registrar, North Arcot, that in the particular case brought to notice by him, there were hardly sufficient grounds for taking serious notice of the conduct of the person who spoke to him excitedly when he found that there was delay in registering the document presented by him.

ENCLOSURE.

Letter from M.R.Ry. M. NATARAJA AIYAR, Registrar of North Arcot, to the Inspector-General of Registration, dated 10th December 1889, No. 2675.

I have the honor to bring to your notice that a certain party named Rasan Chetti, Narayanasami Nayudu of Chittoor, behaved and talked in a manner in the course of the registration of a document presented by him, amounting to an intentional insult and interruption to a public servant in the course of a judicial proceeding as defined in section 228 of the Indian Penal Code.

2. At about half past 2 yesterday two documents were presented for registration. The party named above was the writer of one of them and claimant of the other. The former being in Tamil, I took and registered it as soon as it was brought; and the latter which was in Telugu, was given to the clerks for examination. After the first document was registered, the second was

taken up and the clerk saying that it contained some unintelligible references with regard to certain former documents, read the document to me in the presence of the party who was asked to explain them. At this stage, some drafts of memoranda which were of an urgent nature were brought to me by the peon for approval. I went through them and initialled them and had to write a fresh one of the memoranda, which I commenced to do as it would not occupy me much time, keeping the document by, as I had not fully understood the unintelligible portion. For about five or six minutes while I was writing the memorandum, the party was standing quiet and then broke out in the following words:—

"நான் பென்னை வுக்கண்டுகாடு எத்தனை நாட்கள் காத்திருக்கின்றேன். உங்களுக்கு எப்போது தகவல் கொண்டு வருவது என்று நீங்கள் சொல்லுங்கள். சிவில் ரெஜிஸ்ட்ரார் அலுவலகத்தில் உங்களுக்கு எப்போது இல்லாவிட்டால் திருப்பிக் கொடுத்திருக்கிறேன். உங்களுக்கு ஒரு தபால் உங்களுக்கு என்ன தகவல் கொடுக்க வேண்டும் என்று நீங்கள் சொல்லுங்கள். தான் பென்னை தந்திருக்கிற அனானிஸ் பீட்டர்ஸ் பெருமையுடன் சொல்லுகிறார்." "

He uttered these words in an insolent and insulting tone in the public office and in the presence of the witnesses and other parties to the second document. I was quite taken up by surprise, as I have known this man who has appeared before me several times and whose documents I never returned unless there were mistakes and without convincing him of those mistakes.

3. Of course I left my writing the memorandum, and after clearing the doubts I had about certain portion of the document, I registered it and sent the party away.

4. But at the same time I told him that the manner in which he talked was not at all becoming and it might amount to an intentional insult to a public servant and that, if he had represented to me that he wanted to go away finishing the registration of the document soon without delay, I would have done so, and that he need not have talked in such an insulting tone. He continued to be out of temper notwithstanding what I told him, and went away saying that he would send up a petition against me, not anonymous, but signed, and that I might do anything I liked if I thought that the manner in which he talked was wrong.

5. I need hardly submit that I am the last man to make any party wait unnecessarily or to talk to them roughly. It cannot be expected that I should be ever ready to attend to the registration of documents while I am engaged in any other business for a few minutes or while I am engaged in the examination of a witness in an appeal case; nor can I be expected to abstain from attending to other work, correspondence work, &c., which would require my attention only for a few minutes while I am engaged in registering documents. And I beg to submit that, unless any party who intentionally or wantonly talks to me in an insulting manner as described above for the little delay that might unavoidably take place in the registration of his document is punished, it would be difficult to get through the work smoothly.

6. During the course of ten years I have been registrar, I had not any occasion to notice the conduct of any party appearing before me and take cognizance of it as a contempt of court. I request instructions for my future guidance if such cases occur again, as to whether registrars are competent to take cognizance of a contempt of court committed in their presence.

7. Under section 84 of the Indian Registration Act, a registrar is a court for the purposes of sections 435 and 436 of the old Code of Criminal Procedure corresponding to sections 480 and 482 of the present (Act X of 1882), relating to contempts of court. Section 1 of Act X of 1882 saves the provisions of all special and local laws in so far as they are not inconsistent with its provisions, and section 483 enacts that, unless the local Government so directs, no registrar or sub-registrar is a court within the meaning of sections 480 and 482. Reading together section 84 of the Registration Act and sections 1 and 483 of the Criminal Procedure Code (Act X of 1882), I am led to infer that section 483 impliedly repeals section 84 of the Registration Act, a special law, as the two sections are inconsistent with each other; and that the net result is that a registrar is not a court within the meaning of sections 480 and 482 (aforesaid), unless declared to be such by the local Government. But the 2nd paragraph of section 2 of the same Code (Act X of 1882) provides that the powers conferred (upon public servants) under any enactment thereby repealed, shall be deemed to have been conferred under its provisions, that is to say, shall not be affected by the new Code, but shall continue in force as usual. The combined effect of sections 1, 2 and 483 of the Criminal Procedure Code (Act X of 1882) therefore appears to be as regards registrars, that those who had power to take cognizance of a contempt of court under the Registration Act, section 84 (which has undergone a repeal by implication under section 1 aforesaid), continue to have the power under the new Criminal Procedure Code, and those who had not, should be invested with the same under section 483 (aforesaid) by the local Government.

8. The point is not quite clear however. I consider that the question whether registrars appointed before the new Criminal Procedure Code came into force, i.e., before the 1st January 1883, have the power to take cognizance of a contempt of court committed before them, or whether, irrespective of the date of his appointment, no registrar can exercise the power unless empowered by the local Government, requires an authoritative opinion one way or the other and therefore submit the same for your decision. If you consider that no registrar can exercise

the power unless invested therewith by the local Government, I beg leave to suggest the desirability of moving the Government to invest registrars at least with such a power. In this connection I may be permitted to bring to your notice that the examination of a witness in a contested appeal, takes up sometimes two or three hours, and I cannot but make the parties resorting to the registration of their documents wait for a long time in such cases. If then I should have to tire the patience of an easily irritable man like the one who has given rise to this correspondence, and should be insulted daringly in the public office, that I should be in a most awkward predicament not to punish him myself, but should have recourse to a regular prosecution to the detriment of my duties and to the expense of summoning witnesses, &c., will surely be a great hindrance to the discharge of my duties. As the existence of a power to punish a contempt of court, in a registrar, will greatly operate as a preventive against insults from parties resorting to the registration of their documents, as well as from witnesses and others in appeal cases, I consider that registrars at least should have such a power.

ORDER—dated 10th February 1890, No. 229, Judicial.

Under section 483 of the Code of Criminal Procedure, 1882, His Excellency the Governor in Council is pleased to direct that every District Registrar appointed under the Indian Registration Act, 1877, shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code.

2. In view of this direction, no reference to the Advocate-General is necessary.

(True Extract).

Ag. Chief Secretary.

To the Inspector-General of Registration.
Copy to Chief Justice, High Court, with C.L.
" all District Magistrates.

Exd. W. H. French.

Gobt. of {1890} Madras.
JUDICIAL.

Issued

Recd.

Encl.

G.O., 10th February 1890, No. 229.

FEBRUARY.

Registration.

Directing that every District Registrar appointed under the Indian — Act, 1877, shall be deemed to be a Civil Court within the meaning of the sections of the Criminal Procedure Code quoted.

Letter from the Registrar of the District to the District General of Registration, dated 10th December 1889. No. 2678.

Sir, I have the honor to bring to your notice that a certain party named Rasan chetti of Arayanasami Nayudu of Chittoor behaved and talked in a manner in the course of the registration of a document presented by him, amounting to an intentional insult and interruption to a public servant in the course of a judicial proceeding as defined in Section 228 of the Indian Penal Code. 2. At about half past two yesterday two documents were presented for registration. The party named above was the writer of one of them and claimant of the other. The former being in Tamil, I took and registered it as soon as it was brought, and the latter which was in Telugu, was given to the clerk for examination. After the first document was registered the second was taken up and the clerk saying that it contained some unintelligible references with regard to certain former documents, read the document to me in the presence of the party who was asked to explain them. At this stage, some drafts of memos which were of an urgent nature were brought to me by the pleader for approval. I went through them and initiated them and had to write a fresh one of the memos which I commenced to do as it would not occupy much time, keeping the document by, as I had not fully understood the unintelligible portion. For about five or six minutes while I was writing the memos, the party was standing quiet and then broke out in the following words:

"*Arayanasami Nayudu Chittoor District Registrar Office*
Arayanasami Nayudu Chittoor District Registrar Office
Arayanasami Nayudu Chittoor District Registrar Office

with each other; and that the net result is that a Registrar is not a court within the meaning of Section 480 and 482 (afore said), unless declared otherwise by the local government.

But the 2nd para of Section 2 of the same code (Act 10 of 1882) provides that the powers conferred upon public servants) under any enactment thereby repealed, shall be deemed to have been conferred under its provisions, that is to say, shall not be affected by the new Code but shall continue in force as usual. The combined effect of Sections 1, 2 and 483 of the Criminal Procedure Code (Act 10 of 1882) therefore appears to be, as regards Registrars that those who had power to take cognizance of a contempt of Court under the Registration Act Section 84 (which has undergone a repeal by implication under Section 1 afore said) continue to have the power under the new Criminal Procedure Code and those who had not, should be invested with the same under Section 483 (afore said), by the local government.

8. The point is not quite clear however. I consider that the question whether Registrars appointed before the new Criminal Procedure Code came into force, i.e. before the 1st January 1883, have the power to take cognizance of a contempt of Court committed before them or whether, irrespective of the date of his appointment, no Registrar can exercise the power unless empowered by the local government, requires an authoritative opinion one way or the other, and therefore submit the same for your decision. If you consider that no Registrar can exercise the power unless invested therewith by the local government, I shall leave to suggest the desirability of moving the Government to invest Registrars at least with such a power. In this connection may be permitted to bring to your notice

55
that the examination of a witness in a contested appeal, takes up sometimes two or three hours and I cannot but make the parties resorting to the registration of their documents, wait for a long time in such cases. If then I should have to fire the patience of an easily irritable man like the one who has given rise to this correspondence and should be insulted daringly in the public office, that I should be in a most awkward predicament not to punish him myself but should have recourse to a regular prosecution to the detriment of my duties and to the expense of summoning witnesses &c, will surely be a great hindrance to the discharge of my duties. As the existence of a power to punish a contempt of Court, in a Registrar, will greatly operate as a preventive against insults from parties resorting to the registration of their documents as well as from witnesses and others in appeal cases, I consider that Registrars, at least, should have such a power.

I have &c.

/Signed/ Mr. Natarajasingh
Registrar.

/ True copy /

Sub
Mr. Natarajasingh
Imp. Secy of Regn.

06/10/1890

Original No. 176 of 1890

C. N. 176
Registration Department.
G. No. 215.

From,
M. R. S. Srinivasa Raghavayanga
Arungal
Durau Bahadur
Inspector General of Registration
Madras

To,
The Honorable J. G. G. G.
Acting Chief Secretary
Government
Fort St George
Madras, 14 January 1890

Sir,
With reference to Nos. 6-8-
of the accompanying copy of a letter
from the Registrar of the North Arcot
District, I have the honor to request
that you will be pleased to refer for the
opinion of the Honorable the Advocate
General the following question:-

Clause 3 of Section 84 of the Registration
Act 1877, declares that "a registrar
shall, but a sub registrar shall not,
as such, be deemed a Court within
the meaning of Sections 435 and 436
of the Code of Criminal Procedure",
i.e. for the purpose of taking cognizance
of offences committed before him

tion 483 of the Criminal Procedure Code 1882, on the other hand, lays down that when the local government directs, any Registrar or sub-registrar appointed under the Registration act 1877, shall be deemed to be a civil Court within the meaning of Sections 480 and 482 which correspond to Sections 435 and 436 above referred to of the old Procedure Code. Is the power expressly conferred by Section 84 of the Registration act to be regarded as having been impliedly taken away by Section 483 of the Code of Criminal Procedure?

2. If the question is answered in the affirmative, I beg to recommend that Government may be pleased to declare under Section 483 of the Code of Criminal Procedure that district ~~Court~~ Registrars shall be deemed to be Civil Courts within the meaning of Sections 480 and 482. Registrars of districts who exercise judicial functions under Sections 72 and 74 of the Registration act are officers of considerable standing in the service, and they require to be protected against intentional insults while discharging their duties in the same manner

22
as subordinate magistrates and district munsiffs. I do not consider it necessary however at present that sub-registrars should be authorized to take cognizance of and personally deal with offences of this kind.

3. I have informed the district Registrar, North Arcot that in the particular case brought to notice by him there were hardly sufficient grounds for taking serious notice of the conduct of the person who spoke to him excitedly when he found that there was delay in registering the document presented by him.

I have the honor to be,
Sir,

Your most obedient servant,

Srinivasa Sanyal

Super. Genl. of Regn.

And
me

20 14-5-78:1001-2
13-10-84:2614
17-6-84:1511
2-5-84:1087

L. N. 176

Go 14-5-78:1001-2
13-10-84:2614
17-6-84:1511
2-5-84:1087

For Orders.

is submitted that no reference to the Adv. is needed. Sec. 483 of the Crim. P.C. clearly facts the repeal of the last clause of sec. 84 of the Reg. Act 1877. That this view is held in the Legal Dept. of the Govt of India is shown by the footnote to the latter section.

Whether the Local Govt. should confer the powers of a Civil Court on District Registrars is a matter for consideration.

The point suggested by the Reg. as to the effect of sec. 2 of the Code is curious. Whether a power conferred under a section which is repealed (by implication) can be held to have been conferred under the repealing section seems doubtful. But it is unnecessary to settle it, for if it is decided to give District Registrars the powers of a Court, the effect of sec. 2 is immaterial, & if it is decided not to give the powers, that decision should certainly prevent the Registrar from exercising them.

22/2.
1 Feb.

Submitted has Government might give these men the power of a Court

23/1

Section 2 does not affect the cancellation I think. There is no need to refer to the Civil Sec. Registrar since the Registrar is under sec. 483

6/2. 1/2/78 6/2

Under sec. 483 of the Code of Criminal Procedure 1882, H.E. the Govt. in Council is pleased to direct that all District Registrars appointed under the Ind. Reg. Act 1877 shall be deemed to be a Civil Court within the meaning of secs. 480 & 482 of the Code.

2. In view of this direction, no reference to the Adv. Gen. is necessary.

From orders

22/2 of Reg. 6
Copy to H. J. O. 6
+ all Dist. Mag. 17/2

Judicial (1890) Department

"Registration"

From

The Inspector General
of Registration
Madras

To The Acting Chief Secretary
Government
Fort St. George

Dated 14/2
Received 3 January 1890

Q. No. 215

Enclosure - one.
18 JAN 90
SECRETARY TO GOVT. OF MADRAS

Requesting that the opinion of the Inspector General may be obtained as to whether District Registrars are competent under the circumstances set forth, to take cognizance of offences committed before them under Section 483 of the Criminal Procedure Code and if not, that they be declared to be so.

For Order No. 229
of 10th February 1890

The Collectors of
The District Magistrates of

20 Districts.

Desp. 17/2/90.

Anantapur.	8
North Arcot, Chittoor.	8
South Arcot, Cuddalore.	8
Bellary.	2
South Canara, Mangalore.	8
Chingleput, Saidapet.	8
Coimbatore.	2
Cuddapah.	2
Ganjam, Chatrapur.	2
Godavari, Cocanada.	8
Kistna, Masulipatam.	2
Kurnool.	2
Madras (when necessary).	
Madura.	8
Malabar, Calicut.	20
Nilgiris, Ootacamund.	8 with L. Brail
Nellore.	8
Salem.	8
Tanjore.	9
Tinnevely.	8
Trichinopoly.	8
Vizagapatam.	8

P = Print abstract only.
Q = Print heading only.
R = Print, but not for monthly returns.

30 May 57

READ AGAIN ORDER OF GOVERNMENT, DATED
1957, No.

ENCLOSURE

ORDER NO.

176

STATEMENT WITH LINES

ORDER NO. OF GOVERNMENT - A.

PAID AND SENT OUT OF FILE FOR DEBATE IN ORIGINAL
(not paid).

NUMBER OF COPIES
ORDERED

Order complete. 279
Letter only.
Order complete with letter.

N.B. -

A = Print in full.
H = Not to be printed.
P = Print abstract only.
Q = Print heading only.
R = Print, but not for monthly volume.

Page No.

of 100

Page No.

of 100

19

From orders
copy to High Ct. 6
+ all st mag to 17/1/57
77/2

and of just that they be seen
blue co.

78

ORDINARY, PRINTED.

Journal
DATED 10.2.90
No. 229.

First copy sent to Press. 10/2

Second copy for signature. 15/2

Despatched in print.



For the Abstract.

Registration

Directly that every District
Registrar appointed under the
Indian — Act 1897 shall
be deemed to be a Civil Court
within the meaning of sections
of the Criminal P. Code quoted

19-11-90
5-5-10

10-4-77 B I

12-9-92

3-10-92