

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 630

Press

~~Mis.~~

372.373

Dated

21 - 3 - 1865.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
21st March 1865.*

No. 372. Read the following Proceedings of the Madras Government in the Judicial
Department :—

Directing the Registrar General of Assurances }
to consider and submit to Government some }
plan for filling the posts of District Registrar } (Here enter 8th March 1865, No. 366.)
in Chingleput and other Districts by some }
other than the Covenanted Revenue Officers }
of those Districts.

No. 373. ORDER THEREON, 21st March 1865, No. 630.

Miscellaneous.

Communicated to the Board of Revenue.

(True Extract.)

(Signed) J. GROSE,
Acting Under Secretary to Government.

To the Board of Revenue, with Proceedings Judicial Department, No. 366.

Exd. S. T. Augustin.

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*Proceedings of the Madras Government, Judicial Department,
8th March 1865.*

No. 32. Read the following letter from Major R. M. MACDONALD, Registrar General of Assurances, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 21st January 1865, No. 27.

The District Registrar of Chingleput recently addressed me a letter inquiring whether absence on his Annual Jummabundy tours was to be considered absence of the nature contemplated in Section 10 of Act XVI of 1864. In reply I stated that I thought it was, and referred to paragraph 5 of the Government Order, No. 1608 of the 7th November 1864, in which the absence of Collectors on similar duties was viewed as coming under this Section.

2. The District Registrar of Tellicherry in the annexed letter, No. 7 of the 16th instant, inquires whether, when absent for a day or two on Magisterial or Revenue business, he is to make over formal charge to the Civil Judge, or whether he is to take his office with him. He considers that, independently of his other duties, he will have to travel for the purpose of supervising the Proceedings of the Deputy Registrars, and inquires whether he is to draw travelling allowance for himself and his establishment, and how he is to carry his books out of the Contingent Allowance sanctioned.

3. It would be very advantageous if the District Registrars could from time to time visit the offices of the Deputy Registrars, but from the fact of Deputy Collectors in charge of Treasuries having been appointed to most of the District Registrarships, I infer that it was not intended that these officers should travel. If this view is correct, it will not be necessary to make provision for the contingencies adverted to by Mr. Garstin. Nevertheless I deem it right to submit the question for the decision of Government.

4. In cases of such very short periods of absence as one or two days, it does not seem necessary that the Registration office should be formally handed over to the Civil Judge.

From J. H. GARSTIN, Esq., District Registrar, Tellicherry, to Major R. M. MACDONALD, Registrar General, Madras; dated Tellicherry, 16th January 1865, No. 7.

When I go on Jummabundy, or out into the District, on Magisterial or Revenue business for a day or two, am I, on every such occasion, to give over formal charge of the Registers in my charge to the Civil Judge; or am I to take my Registry office with me on circuit.

2. I shall have to supervise the proceedings of my subordinates from time to time, and must leave head quarters to do so. Am I to draw my travelling allowance when on circuit as District Registrar?

3. I may mention that my District, as District Registrar, exceeds the limits of the Revenue Sub-Division under my charge as Sub-Collector; for instance, the Deputy Registrar of Manantoddy is under my orders though Manantoddy is not in the Sub-Division; and I must visit that place to inspect his books. It will cost a great deal more than the four Rupees per mensem, allowed for contingencies to carry my books about with me on such a tour. How is this charge to be met?

4. Is the District Registry office establishment to have travelling batta?

5. If you will refer these points for the consideration of Government (unless they have been already decided, when I request you will inform me of the same) I shall feel obliged.

(True Copy).

(Signed) R. M. MACDONALD, Major.
Registrar General.

No. 33. From A. W. SULLIVAN, Esq., Civil Judge of Tellicherry; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Tellicherry, 26th January 1865, No. 14.

I have the honor to bring the following circumstances to the notice of the Honorable the Governor in Council, and to request early instructions in the matter.

2. Section 10, of Act XVI of 1864, prescribes, that in case of the absence of any District Registrar or of a vacancy occurring in the office of any District Registrar, the Judge of the principal Court of Original Civil jurisdiction of the District shall, during such absence or vacancy, be the District Registrar.

3. The Government are aware that Mr. J. H. Garstin, the Acting Sub-Collector of Malabar, stands appointed as the District Registrar of the Zillah of Tellicherry; his revenue charge, with the exception of North Wynaad, being conterminous with the Zillah.

4. Independent of the necessity of a prolonged absence of from two to three months for the annual settlement of his Division, he has constantly occasion to absent himself on other matters connected with his administration for a few days at a time, occasionally for a longer period.

5. In their Proceedings of the 7th November last, No. 1608, Judicial Department, the Government in considering finally the question of the employment of Collectors as District Registrars, were of opinion that one serious objection to such an arrangement was the fact that for nearly half the year the Office of District Registrar would be practically held by the Judge, on whom it would devolve under Section 10 of the Registration Act.

6. I respectfully submit that by the appointments recently made to the Office of District Registrar in the Zillahs marginally noted, the very result, as regards the Judges of those Zillahs, which it was the evident wish of the Government to avoid, has been brought about, as, looking to the respective Revenue charges of the officers appointed, there is the same necessity for their constant absence in their Divisions as for the absence of a Collector of a District.

7. I can speak from my own observation for the last two years that, with the exception of the monsoon months, say from June to September inclusive, the Sub-Collector is *constantly* on the move in his Division.

8. The consequence is, that I find myself under the above circumstances, and under the provisions of Section 10 of the Registration Act, likely to be burdened with the duties of District Registrar for the best part of the year.

9. Such a contingency appears to me not to have been contemplated by Government, and indeed to be at variance with the express opinion implied in their Proceedings referred to at paragraph 5 of this letter.

10. By Section 15 of the Registration Act, it is provided that if a District or Deputy Registrar should refuse to register an instrument falling within Section 13 (*i. e.*, an instrument regarding immovable property) any person interested may lodge a regular suit in order to have established his right to register such instrument.

11. Such a suit could only be lodged in the Court having jurisdiction over the property which might either be the principal Court of Original Civil jurisdiction in the District itself, or one of the Courts subordinate to it.

12. It is clear that if the refusal to register the document had emanated from the Civil Judge as District Registrar, he might, when on the bench, be placed in the anomalous position of sitting in judgment on an appeal against his own decision as a District Registrar, or again, of being ordered, as a District Registrar, by a Court subordinate to himself as Civil Judge, to register a document under Section 15; these are anomalous positions in which, I submit, no Judge ought to be placed either in his Original or Appellate jurisdiction.

13. Independent, however, of the above reason against a protracted tenor of the office of District Registrar by a Judge, there are others which I would urge on the consideration of Government.

14. It appears to me that the provisions of Section 10 of the Registration Act were only intended to meet emergencies, and that it could never have been intended that for the greater portion of the year, the Civil Judge of a Zillah should be conducting the duties of a District Registrar, especially in a Zillah where there is a Small Cause Court Judge and a Principal Sudder Ameen, the latter, up to the introduction of the present Act, having conducted all the duties of Registration under Acts previously in force.

15. In answer to any objections which might be urged against the employment of the Principal Sudder Ameen as District Registrar, I would observe that the only Sections under which he would have to register would be Sections 23, 24, 25 and 49, to which latter Section 15 does not appear to me to apply; as regards Sections 23 and 24 the application would be very indirect; and as regards Section 25 of very rare occurrence.

16. At Rule 5 of the Government Notification of 6th December 1864, it is laid down that no person shall be permitted to remove any of the books from the office in which they are deposited, &c.; now the Sub-Collector's office and the Court over which I preside are about a mile apart.

17. The Registration Books are very bulky, and in the absence of the Fire Proof boxes prescribed by Section 55 (concerning which the C. O. of the Registrar General announces that "there is no probability of their arriving for some months") they have to be kept in an almirah or other secure place in the Sub-Collector's office, and their constantly being moved from the Sub-Collector's office to my Court and back again would be attended with risk to the books themselves, to the safe custody of their contents, and with expense.

18. It is quite clear that the books ought never to be out of the District Registrar's sight, and it is equally clear that he cannot be in charge of the District Registrar's office daily between the hours of 11 A. M. and 5 P. M., and attending as a Zillah Judge to his onerous duties on the bench, more especially during the period of the monthly Criminal Sessions.

19. The office of District Registrar, if the Act is not to be an empty letter, is unquestionably one of great responsibility, and which, until the Act has got into thorough good working, will require an amount of attention which I should find it quite impossible to give consistently with the due performance of my judicial duties.

20. I would moreover observe, that efficient supervision over the keeping of the books cannot be exercised where such supervision is subject to constant changes, and such efficient supervision in the earlier stages of the working of the Act is, in my opinion, of paramount importance.

21. Mr. Garstin quite concurs with me in the opinion that, if the supervision over his Deputy Registrars, contemplated in Section 61 of the Act, is to be efficient, it will be necessary that he should, from time to time, visit their stations and inspect their books to see that they are kept in accordance with the Act and the Rules framed from time to time by the local Government.

22. Again, a question suggests itself as to who is to draw the stipend and fees fixed by the Government for the office of District Registrar during the absence of the permanent incumbent?

23. I may mention that Mr. Garstin is cognizant of the contents of this communication, and concurs with me in all that I have said.

24. I trust that the Government will not consider that I have been presumptuous in writing as plainly as I have on the subject of this communication. I have done so in what I consider to be in the interests of the public, and I trust that they will relieve me from an anomalous position, and one requiring of me the performance of two distinct and most responsible duties, as I feel it to be impossible to perform both properly and efficiently.

No. 34. From F. S. CHILD, Esq., Session Judge of Cuddapah, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Cuddapah, 9th February 1865, No. 95.

I have the honor to enclose a copy of a letter from the District Registrar. If I am to have charge of the office of District Registrar whenever the Head Assistant is absent from the Head Quarters, and in the District, it appears to me that it will be necessary to make other arrangements for the office of District Registrar; for the Head Assistant must naturally be often away from Head Quarters, and often for a considerable time together.

2. At present, he is officiating for the Sub-Collector and is in the Sub-Division, and after that has his Jummabundy to finish; if there is any work at all attached to the office, it will materially interfere with my present duties, which are even now more than I can get through.

From E. F. WEBSTER, Esq., District Registrar of Cuddapah, to F. S. CHILD, Esq., Session Judge of Cuddapah; dated Camp Royachoty, 7th February 1865, No. 1.

In letter No. 73, dated 2nd February 1865, the Registrar General of Assurances has directed me to hand over my office to the Session Judge during my absence on duty from Head Quarters.

2. I have therefore the honor to inform you that I have to-day directed my Registry Clerk to appear before you with the Registry books and to await your orders.

(True Copy).

(Signed) F. S. CHILD,
Session Judge.

No. 35. From Major R. M. MACDONALD, Registrar General of Assurances, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 18th February 1865, No. 69.

I have the honor with reference to the annexed letter No. 8, of the 15th instant, from the District Registrar of Cuddapah, to recommend that that officer be allowed to hold his office at Muddenpully during the months of May and June.

From E. F. WEBSTER, Esq., District Registrar of Cuddapah, to Major R. M. MACDONALD, Registrar General, Madras, dated Muddenpully, 15th February 1865, No. 8.

I have the honor to request you will be good enough to inform me whether Government will grant me permission to hold my Registry Office at Muddenpully in the Sub-Division of Cuddapah during the months of May and June, as Cuddapah is then so fearfully hot and unhealthy that Revenue officers have always been allowed to proceed to Muddenpully for the hot season. It is impossible for me to procure house accommodation in Cuddapah, and I am anxious to avoid if possible exposure to the intense heat of May and June.

2. The Civil and Sessions and Principal Sudder Ameen's Courts are closed during these months, and I should therefore be unable to hand over my office, in case of absence from Head Quarters on duty, to the Judge, as required by Section 10 of Act XVI of 1864. I trust, under these circumstances, Government will be pleased to extend to me the indulgence given to the other Revenue officers of this District.

(True Copy.)

(Signed) R. M. MACDONALD, Major,
Registrar General

No. 36. From F. S. CHILD, Esq., Civil Judge of Cuddapah, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated Cuddapah, 1st March 1865, No. 138.

I think it right to bring to your notice the fact that, in consequence of the appointment of Mr. Webster to Bellary, there is now no District Registrar in this District. I have already had to do the duties of the office ever since it was first instituted much to the hindrance of my other and more important duties, and should no one be appointed in the place of Mr. Webster (as Mr. Webster's acting appointment is for three months and he will not return till long after the Court has adjourned) the District will be left without any District Registrar at all.

No. 37. ORDER THEREON, 8th March 1865, No. 366.

In the first of the letters above recorded, the Registrar General has referred for the Orders of Government, a letter from the District Registrar of Tellicherry, inquiring whether he is to make over charge of his office to the Judge when absent on his Revenue or Magisterial duties for a day or two at a time; whether he and his establishment are to draw travelling allowance when absent on tours of inspection to the Deputy Registrars' offices; and how the cost of carrying about the Registry books is to be met.

2. The Civil Judge of Tellicherry has also addressed Government, and has requested that arrangements may be made by which the necessity of making over charge to him may be obviated. A similar request is made by the Civil Judge of Cuddapah, who further points out that during the adjournment of the Court, unless the District Registrar, who is also the Sub-Collector, be on the spot, there will be no one to have

8th March 1865.

charge of the office. Both Mr. Child and Mr. Sullivan represent, that they cannot undertake the Registration work without prejudice to their proper duties.

3. The Governor in Council considers that there is much force in these representations, and that the present arrangement, under which the office of District Registrar at Tellicherry and Cuddapah is held by Covenanted Revenue Officers, must be abandoned and other arrangements made, and he accordingly directs that the Registrar General, in communication with the respective Collectors of those Districts and the Civil Judges, will consider and submit to Government some other plan for filling the post which will not be open to the objections raised. A similar difficulty will no doubt arise in the Ganjam, Guntoor and Chingleput Registries, and arrangements should, if possible, be made there also for relieving the Covenanted Revenue Officers.

4. The Registrar General will make similar inquiries in the case of those Districts, although, as the necessity is not so pressing, the Government will not insist on an immediate alteration, unless it can be carried out without difficulty.

5. With reference to the questions put by Mr. Garstin, the Governor in Council is of opinion, that whenever the District Registrar is compelled to leave his station for more than three days, he should make over the office to the Civil Judge. It is not intended that the District Registrars should make tours of inspection to the offices of the Deputy Registrars. The intention of the Act clearly is, that these officers should be stationary. It is very desirable, however, that there should be an efficient and practical check on the proceedings of the Deputy Registrars, and that with this view, the services of the Covenanted Revenue Officers should be taken advantage of to inspect the offices of the Deputy Registrars and report to the District Registrar, or Registrar General, any irregularities that may come under their notice.

(True Extract).

A. J. ARBUTHNOT,
Chief Secretary.

To the Registrar General of Assurances.

„ Civil Judge of

„ Revenue Department. ✓

Exd. R. H. Lee.

10/10/65

Revenue 1885. Oct
no of 30th Sept 1881.

Proceedings of the
Machab's Court in
the Judicial Office

Noted 80. 3 March
Rec'd 2003 1885.
H. 366.

H. 630.

Communicated

to the Board of Revenue.

From H. 630. 1885.
21st March 1885.

The 13th of Dec. 1885. 1885. 1885. 1885. 1885.

directing the
Registrar of the
Revenue to consider
and submit to the Board
of Revenue for their
approval the Registrar
in the Registrar's
office of the Registrar
of the Registrar's
office of the Registrar

Ms 2724373.

Ms 630. 21st March

With an entry