

MADRAS RECORD OFFICE.

Government of Madras.

Political **DEPARTMENT.**

G.O. No.	415	Press ~~Mis.~~
Dated	29-8-1887	

Not to be folded or roughly handled

~~18/4/20~~

Fort Saint George, Political Consultation, 2nd June 1857.

No. 13. Read the following letter from CLEMENT DALE, Esq., Government Pleader, Sudr Udalut; to EDWARD MALTBY, Esq., Acting Chief Secretary to Government, dated 26th May 1857, No. 52.

SIR,

Para : 1. I have the honor to acknowledge receipt of Extract from the Minutes of Consultation noted in the margin; and to submit for the consideration of the Right Honorable the Governor in Council, as my opinion that the Replication, of which Mr. Phillips enclosed a Translation, is irregularly prepared, and should never have been received by the Subordinate Court, it being framed in contravention of the Regulations, and of the Rules passed by the Court of Sudr Udalut under date the 1st July 1855.

2. The Regulations are very explicit and clear, and are prepared with the view of keeping the pleadings within a concise compass; those Regulations have not been complied with by the Suitors, and the Courts have neglected to enforce their observance, until the evil has reached such a height, that the prolixity of the Pleadings have become burdensome to the Suitor, and have much increased the labor of the Judges; indeed, the despatch of business must have been most seriously interfered with for many years. It was with the view of remedying this grievous evil, that the Sudr Udalut passed their rules. I regret to observe that they have had little or no effect at present; but I consider, on every occasion, the wholesome practice thereby enjoined should be enforced; and the more especially in all Cases prosecuted or defended by Government.

3. It is with that view that I have prepared the accompanying Draft of a motion, which I recommend should be made to the Subordinate Court of Combaconum, in the Suit instituted against Mr. Cherry and others.

4. In the Rules of the Sudr Udalut, Para : 14, it is directed that "all applications relative to the conduct of the Suit should be made orally, and recorded in the Diary." I apprehend that the application recommended by me, would come within the purview of that rule, and would be so held by the Sudr Udalut, but I doubt whether the Mofussil Courts would not prefer the old practice; so that I would recommend that a Translation of the accompanying motion be filed, and, if objected to on the ground that the application should be made orally, the Vakeel can move accordingly, and the enclosed will serve him as a guide for the grounds on which he should move.

5. I observe the time for rejoining does not expire till the 22nd June; all objections of this description should be taken promptly, so I advise that the motion should be made as early as practicable; and if that be done, there would be time to inform me of the result, and to consult with me before the time for rejoining expires.

6. If the Subordinate Court should order this Replication to be taken off the file, the Judge will doubtless allow the Plaintiff to reply *de novo*; and the Defendants should be allowed time to rejoin to such new Replication.

7. I however enclose a form of Rejoinder; which, if time should press, may be translated and filed.

(Signed) C. DALE,
Government Pleader.

To the Judge of the Subordinate Court of Combaconum.

In O. S. No. 29 of 1856.

The Motion of Pleader on behalf John William Cherry, Esq., Chockalinga Pillay, Dyavanayaga Iyengar and Ramanooengiengar the Defendants in the Suit.

SHEWETH,

I. That the Replication filed in this Suit by the Plaintiff is not framed in accordance with the Regulations and Rules by which the procedure of the Courts in this Presidency is governed.

Fort Saint George, Political Consultation, 2nd June 1857.

II. The Defendants beg respectfully to refer to Regulation III. of 1802, Section 5, wherein it is enacted that the Plaintiff shall not introduce in his reply any matter not contained in his complaint; he shall either acknowledge the answer of the Defendant to be true, or simply and shortly deny the truth of such of the facts in answer as he intends to dispute; or simply deny the truth of all the facts, contained in it or the competency of the answer.

III. These Defendants submit to your Honorable Court that the Replication contains arguments which the Plaintiff will be at liberty to adduce at the hearing; if he should consider they will assist his case; but which under the Regulations now in force, and the rules passed by the Court of Sudr Udalt, "should have no place in the Proceedings."

IV. These Defendants submit that if this Replication be permitted to remain on the files of your Honorable Court, these Defendants will be placed under the necessity of likewise transgressing the Regulations and Rules, or they will be placed in an unfair position.

These Defendants therefore respectfully pray that your Honorable Court will be pleased to Order that the said Replication be taken off the files of your Honorable Court. Or that your Honorable Court will be pleased to make such further or other order for the relief of these Defendants in the Premises as to your Honorable Court shall seem meet.

And these Defendants will ever pray, &c.

Combaconum, }
May, 1857. }

In the Dewanny Udawlut of the Zillah of Combaconum before the Subordinate Judge.

In O. S. No. 29 of 1856, wherein

Ramakristnien, son of Ramasamien, an
alleged Merassidar of Madookaray
in the Myaveram Talook,

And

1st. J. W. Cherry, Esq., late Acting Collector of Tanjore
2nd. Chocklinga Pillay, Tahsildar of Myaveram
3d. Dyavanayaga Iyengar, Peshcar of Paukasaly
4th. Ramanoojiengar, Curnum of Keel-yore, are the Defendants.

is the Plaintiff.

The rejoinder of the 4 Defendants above named to the Replication of the said Plaintiff.

These Defendants saving and reserving to themselves all benefit and advantage of exception to the uncertainty and insufficiency of the said Replication for rejoinder thereto, say they deny the truth thereof, and that they will aver and prove their answer to be true, certain, and sufficient in the law. And the Defendants submit to this Honorable Court that there is no other matter or thing whatsoever in the said Replication contained, material or effectual in the law, to be rejoined unto, confessed and avoided, traversed or denied, and these Defendants pray as in and by their said answer they have already prayed.

No. 14. ORDER THEREON, No 415; dated 29th May 1857.

Resolved that the letter of the Government Pleader and its accompaniments be sent to the Commissioner of Tanjore for his information and guidance, in reference to his letter of the 16th Instant, No. 177.

(Signed) E. MALTBY,
Acting Chief Secretary.

Exd. J. A. Wilson.

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11-8-57
Resolved that the letter of the Govt
Pleader and its accompaniments be
sent to the Commissioner of Tanjore for
his information and guidance in
reference to his letter of the 16th instant

To Mr. G. S. G. G.
29th May, 1857

Copies to the Com. of Tanjore - with
copy of the letter of the 16th instant
do - to Mr. G. S. G. G.