M.R.O. 1—80,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Political **DEPARTMENT.**

G.O. No. 550 Press ~~Mis.~~

Dated 16 - 7 — ~~10~~ 1857

Not to be folded or roughly handled



No. 7. From CLEMENT DALE, Esq., Government Pleader, Sudder Udalut; to EDWARD MALTBY, Esq., Acting Chief Secretary to Government, dated Madras, 10th July 1857, No. 72.

Sir,

Minutes of Consultation, 7th July 1857, *No.* 526, *Political Department.*

Para: 1. I have the honor to acknowledge the receipt of Extract from the Minutes of Consultation, noted in the margin.

2. The Subordinate Court has not the power to decline accepting any Motion, or Application, which is regularly presented to it; and I do myself the honor of suggesting, for the consideration of the Right Honorable the Governor in Council, that the Motion should be again presented to the Subordinate Court; and that an Order thereon should be called for.

3. If the Subordinate Judge persists in his refusal to receive the Motion, or should refuse to pass an Order on it, and does not allege as his reason that the Application should be made orally, I would advise that a Motion be presented to the Civil Court, stating the circumstances clearly, and praying for the interference of that Court, to compel the Subordinate Judge to receive that Motion, and pass an Order on it.

4. I do not anticipate, that the Civil Judge will refuse to pass an Order as prayed; but should he do so, I would advise an Appeal to the Sudr Udalut.

5. If the Subordinate Judge should persist in his refusal to receive the Motion, and should allege as his reason that the Application should have been made orally, I would recommend that the course pointed out in my letter to your address, dated the 26th May 1857, No. 52, para: 4, should be adopted.

6. If the Subordinate Judge receives the Motion, as now prepared or orally, and passes an Order adverse to the prayer, I would advise that such Order be Appealed against to the Civil Court; and if necessary to the Sudr Udalut.

7. Having in my letter of the 26th May last, No. 52, (para: 2 and 3), stated the reasons for making the Application, I deem it unnecessary to enlarge on the subject again.

8. With reference to the pencil note quoted by the Commissioner, where the Subordinate Judge criticises on the mode in which the answer has been prepared, I would refer His Lordship in Council to the letter, I had the honor to address as noted in the margin, Government is aware, that the answer in the Suit by Kamatchee Boye, was originally prepared by Mr. Advocate General Ritchie; His reputation as a sound Lawyer and good Pleader, is sufficient guarantee that the Answer was not prepared in dereliction of the Rules of pleading; moreover that Answer, as finally settled here, as been Filed in the Supreme Court, and no exception made on behalf of Kamachee Boye, and it is very certain, that if exception could have been taken, by which that part of the defence could have been expunged from the Answer, Kamatchee Boye's advisers would have gladly availed themselves of the opportunity. It may therefore be fairly inferred, that the Answer is not open to the strictures made upon it by the Subordinate Judge; from what cause his observation has arisen it is not in my province to suggest.

Letter from Government Pleader to Chief Secretary, 8th April 1857, *No.* 39, *para: 2.*

(Signed) CLEMENT DALE,
Government Pleader.

No. 8 Order thereon, No. 550; dated 16th July 1857.

Resolved that the Acting Collector of Tanjore be directed to follow the course pointed out by the Government Pleader in this letter.

Exd. J. A. Wilson.

№ 550.

Resolved that the Acting Collector
of Tanjore be directed to follow
the course pointed out by the Govt
Reader in this letter —

For Govt. 8
16th July 1857. 3

To the Acting Collr of Tanjore 2 Desp 20th