

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT

G.O. No. 281

Press

~~M.D.~~

Dated 27.4.1938

Not to be folded or roughly handled

Fort Saint George, Political Consultation, 27th April 1858.

No. 34. From Surgeon E. G. BALFOUR, Government Agent at Chepauk; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 23rd April 1858, No. 798 of G. A.

Sir,

I have the honor to enclose a communication from Mr. Wilkins, connected with the position of His Highness Prince Azem Jah Bahadoor, and the subject of his exemption.

From J. H. WILKINS, Esq. ; to E. G. BALFOUR, Esq., Government Agent at Chepauk, dated 22nd April 1858.

Sir,

I am requested by His Highness Prince Azem Jah Bahadoor to bring to your notice for the information of Government the measures he has adopted for taking the opinion of the Judicial Committee of Her Majesty's Privy Council regarding his exemption from the Jurisdiction of the Supreme Court at Madras.

Prior to the passing of the Act, No. 18 of 1857, only one Action had been brought against His Highness. This was an Action brought by Mahomed Ghouse of Madras, Merchant, against His Highness for the recovery (as appears by the particulars annexed to the Plaint) of the sum of 8,985 Rupees as the amount alleged to be due on an Instrument in writing executed by His Highness, dated the 17th of September 1854, for the payment of the sum of Rupees 8,685.

In that Action a Summons having issued and not having been served a Writ of Sequestration issued against Her Highness's property under an order of the Court obtained for that purpose.

His Highness applied in that Action through me for an order that the Writ of Sequestration which had so issued should be set aside on the ground that His Highness under Act No. 1 of 1844, was exempt from the Jurisdiction of Her Majesty's Supreme Court.

The motion came on to be heard before Mr. Justice Davison sitting alone in the Supreme Court and was refused on the ground that the operation of the Act No. 1 of 1844 had ceased on the death of the late Nabob of the Carnatic.

I should here mention that a decision had been previously given by the full Court on an application made by one of the retinue of His Highness the late Nabob of the Carnatic that the operation of the Act had ceased as regards them and the decision of Mr. Justice Davison, merely supported the decision formerly given.

It was therefore considered useless to bring the subject again to the notice of the full Court and there remained no other course for his Highness to pursue than to appeal to Her Majesty in Council.

In the meantime and while His Highness was considering on future Proceedings the Act, No. 18 of 1857, passed. His Highness was not at first aware of the object of that Act and some delay occurred in consequence but finally His Highness determined to appeal to Her Majesty in Council against the Decision of the Court pronounced by Mr. Justice Davison.

Unfortunately it was found when the application for leave to appeal was made to the Court that the Six months allowed by its Charter for the preferring of an Appeal had expired and the application was therefore refused. But there were two other objections both of which I believe would have proved sufficient, *viz.* That the decision appealed against was not one of the full Court and that the sum sought to be recovered in the Action was under 10,000 Rupees, the amount under which no Appeal is allowable.

The intention of His Highness to follow the directions of Government and to carry out the intentions of Act 18 of 1857, having been thus frustrated, His Highness became perplexed as to the course he should adopt. In the meantime three other Actions had been brought against His Highness as Administrator of the Estate and Effects of His Mother Her Highness Syed Oonissa Begum, which had been commenced by Summons subsequently to the passing of the Act No. 18 of 1857, and had proceeded to Judgment, but in respect of which the Court had directed Execution should not issue without further order.

Fort Saint George, Political Consultation, 27th April 1858.

It occurred to His Highness' legal advisers that an Appeal might lie from a decision in one of these Suits which was of appealable amount, accordingly an application was made to the Supreme Court to set aside the Summons in that action on the ground that it had issued without the consent of the Governor in Council as required both by Acts Nos. 1 of 1844 and 18 of 1857, but the application was refused on the ground that a mere Summons is not such a Writ against the person of His Highness as contemplated by those Acts. In consequence of this decision which did not effect the question of exemption and there being no other action now pending against His Highness he has been wholly unable to Appeal to Her Majesty in Council and thus carry out the object of Act 18 of 1857. That Act has now nearly expired and unless some measure of relief is afforded he will be subject to that annoyance and inconvenience from which he ventures to hope it was the object of the Act to relieve him. With respect to the actions against him as Administrator of Her Highness Syed Oonissa Begum, he has already made arrangements as Government are doubtless aware for the Prosecution of the claims arising thereon against him which will prevent the parties claimant from loss or damage but with regard to other liabilities to which he is subject he has only to rely on the favorable consideration and assistance of Government.

No. 35. From T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George; to C. BEADON, Esq., Secretary to the Government of India, dated Fort Saint George, the 27th April 1858, No. 281.

SIR,

In continuation of Mr. Acting Secretary Forbes' letter of the 30th March last, No. 228, I am directed by the Right Honorable the Governor in Council to forward, for submission to the Government of India, copy of a communication from the Government Agent at Chepauk enclosing one from one Mr. Wilkins, Solicitor, bringing to notice, by desire of His Highness the Prince Azeem Jah Bahadoor, the endeavors that have been made for taking the opinion of the Judicial Committee of H. M. Privy Council regarding his exemption from the Jurisdiction of the Supreme Court at Madras.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. A. Wilson.

Political Department
No. 281
The C. Beadon Esq.
Secy to the Govt of India
Sir,
In continuation of
Mr. Acting Secy Forbes
letter of the 30th March
last. No. 228, I am directed
by the Right Hon. the Governor
in Council to forward
for submission
to the Govt of India copy
of a communication from
the Govt Agent at Chepauk
enclosing one from
Mr. Wilkins, Solicitor,
bringing to notice, by desire
of His Highness the Prince
Azeem Jah Bahadoor, the
endeavors that have been
made for taking the opinion
of the Judicial Committee
of H. M. Privy Council
regarding his exemption
from the Jurisdiction of
the Supreme Court at
Madras.

The Supreme Court at
Harris.

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Fort St George
27 April 1858

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to Comd of
Fort St George

(JP)

to be kept in the fort

at Fort St George