M.R.O. 1—29,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 11 Press ~~Mis.~~

Dated 7—1— ~~11~~ 1861

Not to be folded or roughly handled

X 1

Proceedings of the Madras Government, Political Department, 7th January 1861.

No. 19. Read the following letter from Messrs. BOYSON and MILLER, Solicitors, Madras, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 24th December 1860.

1. As Solicitors for Azeezood Dowlah Bahadoor, we have the honor to request that you will be pleased to bring the following circumstances under the consideration of Government with a view to the expression of an opinion as to whether the Receiver of the Carnatic Property is or is not a "Public Officer in a public capacity" within the meaning of the general exemption at foot of Schedule A. to the Stamp Act No. XXXVI of 1860, the words of which exemption are as follows "Deeds, instruments and writings of any kind in which Government, or any Board, "Commission, Court or Public Officer may, in a public capacity, be a party, do not require "Stamps."

2. Azeezood Dowlah Bahadoor was the purchaser of Lots 1, 2, 4, 5, 7, 14, 15 and 31, forming part of certain property at Arcot belonging to the Estate of the late Nabob of the Carnatic and sold by the Receiver of the Carnatic Property.

3. We contend on behalf of Azeezood Dowlah Bahadoor, that the conveyances from the Receiver of the Carnatic Property to Azeezood Dowlah Bahadoor are exempted from Stamp duty. The Receiver on the other hand requires that they shall be stamped before he executes them.

4. We would respectfully submit that, in as much as the Receiver of the Carnatic Property was appointed by Government under the authority given to it by an Act of the Local Legislature of an essentially public nature (seeing that it charges the Public Revenue with the payment of the Nabob's debts and deals with the whole question upon public grounds) and is moreover removeable by Government, he is a "Public Officer in a public capacity" and Deeds to which he is a party are exempted from the payment of Stamp duty.

———

Referred to the Advocate General for his opinion.

FORT SAINT GEORGE,
26th December 1860.

Signed) T. PYCROFT,
Chief Secretary.

———

No. 20. From J. R. BOYSON, Esq., Government Solicitor, Madras, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 29th December 1860, No. 2,117.

By desire of the Advocate General, I have the honor to return herewith the Order of Government, dated 26th instant, and endorsed on Messrs. Boyson and Miller's letter to your address of the 24th idem, together with a copy of his opinion on the subject to which that Order relates.

———

COPY—OPINION.

1. The office of "Receiver of the Carnatic Property" is created by Act 30 of 1858, and his duties, independent of the Supreme Court, are defined in Sections I to V inclusive, and Sections XXV, VI and VIII of that Act.

2. Unless either immoveable property is sold by the Receiver with the sanction of the Court, or a suit is instituted for the administration of the Nabob's Estate, the Supreme Court has nothing whatever to say to the Receiver.

3. The Governor in Council has appointed the Officer who is now "Receiver" under the provisions of Section I of this Act and may suspend or remove him—Sections 3 and 4.

4. As therefore the office has been created by a special Legislative Act for the carrying out of duties defined by the Act itself, of a purely public and very important character, and as the Officer has been under the provisions of that Act, appointed by the Governor in Council to carry out those duties and may be suspended or removed by the same authority and is responsible to no one else, no administration suit having as yet been instituted, I am clearly of opinion that the

-tions in Schedule A act XXXVI-1860

Proceedings of the Madras Government, Political Department,
7th January 1861.

Receiver is in every sense of the word a "Public Officer in a Public capacity" and that Deeds, &c., executed by him in his capacity of "Receiver of the Carnatic Property" come within the exemptions in Schedule A. of Act XXXVI of 1860.

28*th December* 1860.

(Signed) T. S. SMYTH,
Advocate General.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

No. 21. ORDER THEREON, 7th January 1861, No. 11.

Resolved that a copy of the opinion received with the above letter be communicated to Messrs. Boyson and Miller in reference to their letter under date the 24th ultimo, and also to the Receiver of the Carnatic Property. Under this opinion Deeds to be executed by Mr. Dale in his capacity of Receiver of the Carnatic Property must be held to fall within the exemptions in Schedule A, Act XXXVI, 1860.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Rec'd 29th Dec 1860

From
The Government of Fort St. George
To The Chief Secy to Govt

dated 29th December 1860
Received 31st ——— 1860
Copy
Mssrs Boyson & Miller
Solicitors
Fort St. George
No. 880

Letter by desire of the Advocate General, the order of Government on Mssrs Boyson & Miller's letter of the 24th ult. together with his opinion as to whether deeds to be executed by the Receiver of the Carnatic Property is a party thereto should be stamped.

Written on Paper

Read letter from Mssrs. Boyson & Miller dated 24 Dec 1860.

Order thereon 7th January 1861. No. 11.

Resolved that a copy of the opinion received with the above letter be communicated to Mssrs Boyson & Miller in reference to their letter under date the 24th ultimo — & also to the Receiver of the Carnatic property — Under this opinion deeds to be executed by Mr J.P. Dale in his capacity of Receiver of the Carnatic Property must be held to fall within the exemptions in Schedule A act XXXVI — 1860