

## MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

|          |                |                         |
|----------|----------------|-------------------------|
| G.O. No. | 7              | Press<br><del>Mis</del> |
|          | 16-17          |                         |
| Dated    | 24 — 1 — 1860. |                         |

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,  
for the month of January 1860.*

No. 16. Read the following letter from W. WATERFIELD, Esq., Acting Superintendent of Stamps; to T. PYCROFT, Esq., Chief Secretary to Government, dated 21st December 1859, No. 223.

I have the honor to request that you will lay before Government the accompanying correspondence between my predecessor and the Register of the Sadr Court on the subject of stamp refund certificates.

Mr. Lushington requested that the Court would direct all judicial officers in filling up the certificates for audit to specify 1st, the nature of the suit; 2d, the exact stage of the proceedings at which it was dismissed.

The Court decline to issue any such instructions considering 1st, that it is inconsistent with public interests, that the time of judicial officers should be occupied with unnecessary details; 2d, that there is no necessity for furnishing the additional information as it is not prescribed by the law or the form of certificate sanctioned by Government; 3d, that the stage of proceedings is a point to be decided by the Courts and not by the Superintendent of Stamps.

As to the first objection we only desire that the word 'regular' or 'summary' should be entered opposite the No. of the suit: and that for 'before' or 'after close of proceedings,' should be substituted such notes as 'after answer was filed,' 'after the suit was declared exparte,' 'after points were recorded, &c.' The additional labour thereby entailed on the officer who has disposed of the case is so insignificant that I do not think further rejoinder is needed. Indeed in only 3 zillahs was there any demur to our proposal.

With regard to the rest, it is no doubt true that the law\* only contemplates the distinction of 'before and after close of proceedings:' and that the Courts have the best opportunities of determining the question: but I observe that the certificates are granted either under such a misapprehension of the meaning of the terms or with such inattention to the circumstances of the case, that refunds in full are granted when none at all is due, and within 6 months we found 131 certificates had been incorrectly granted.

If Government approve of the view taken by the Sadr Court, I respectfully request that this office may be relieved of the audit of refunds, and the Accountant General be desired to accept the certificates passed by some judicial authority as sufficient vouchers. With the final responsibility thrown upon them, the lower Courts may perhaps become more careful and discriminating: but with the experience before me I do not see how I can conscientiously certify to the correctness of my audit, unless supplied with complete information.

No. 17. ORDER THEREON, 4th January 1860, No. 7.

It appears that the certificates as now given by the Courts run in the terms of the Act, viz. they certify that the suit was withdrawn before or after the close of the pleadings. It does not appear to Government that the additional particulars asked for by the acting Civil Auditor are essential to the audit; but they will be prepared to give further consideration to the subject, if he will give instances of fraud caused by the absence of those particulars, or show how that absence is likely to lead to fraud.

(Signed) J. D. BOURDILLON,  
Secretary to Government.

Madras 7<sup>th</sup> November 1859.

From,

G. F. Fullerton Esquire

Off<sup>ce</sup> Register to the Court of  
Sudder Dewan.

To, J. L. Lushington Esquire  
Superintendent of Stamps.

Sir,

1. In reply to your letter  
of the 20<sup>th</sup> ultimo, I have the honor  
by direction of the Judges of the Sudder  
Dewan to inform you that they  
regret that they cannot consistently  
with the public interests which  
require that the time of judicial  
officers should not be occupied  
with unnecessary details, modify  
their opinion expressed to you in  
their letter of the 8<sup>th</sup> ultimo on the sub-  
ject of the filling up of Refund Certi-  
ficates.

2.

The Judges have reviewed

LL  
8/11.

the correspondence which has lately passed but see no reason to believe that they are called on to require the Judicatories in the provinces to supply more information in the certificates than that which the law prescribes, and they would further observe that such seems to have been the impression of the Government who lately approved the form of Certificate now in force, showing only whether a suit has been adjusted before or after ~~the~~.

3 With reference to para 2 of your letter, I have to state that the Civil Auditor's office was by a clerical error referred to in my letter of the 8<sup>th</sup> inst, instead of that of the Superintendent of Stamps.

Sudder Udulat, { I have the honor to  
Register's Office, {  
7 November 1859. {  
Your most Obedt. servant

*[Signature]*  
Off<sup>ce</sup> S. Registrar

*[Signature]*  
S. Registrar

Madras 8<sup>th</sup> October 1859

From,

G. F. Fullerton Esq<sup>r</sup>.

Off<sup>ce</sup> Register to the Court of

Sudder Udulat.

To, J. L. Lushington Esq<sup>r</sup>.

Superintendent of Stamps.

Sir,

I have the honor to acknowledge the receipt of your letter of the 29<sup>th</sup> September, stating, for the information of the Judges of the Sudder Udulat, that the particulars, which you would desire to be entered by the Judges of the lower Courts in the Stamp refund Certificates, are first - the exact stage of the proceedings at which the suit was dismissed; and second - whether the suit is a regular suit or one of the nature referred to in Sudder Udulat Circular Order No. 132.

In reply, I am directed by the Judges of the Sudder Udulat to inform

LL  
10/10

inform you that they do not consider it necessary to issue instructions for the insertion of these particulars.

3. Under any circumstances the Judges would be unwilling to entail on the lower Courts the necessity of entering further information than is required by the new form of Certificate, which was prepared especially with the view to contain all the information essentially necessary for the purpose required; but, as regards the entry of the exact stage of the proceedings at which the suit was dismissed, in order to enable the Civil Auditor to judge whether the Court was correct in determining whether it was before, or after pleadings were closed, the Judges are clearly of opinion that this is quite unnecessary, as that is a question to be decided by the Courts and not by the Civil Auditor.

As

4

As regards the entry of the description of the suit, the Judges do not see any necessity for such information being furnished to the Civil Auditor.

Sudder Udahet,

Registers' Office,

8<sup>th</sup> October 1859.

Eight Certificates  
are herewith returned

I have the honor to be,

Sir,

Your most obedient servant,

Wm. Arthur  
Offg. Register.

E. J. P.

E. J. P. H. A. C.

18  
New York of July 1869.

From:

J. L. Sushington Esq<sup>r</sup>  
Supt<sup>r</sup> of Stamps.

To:

G. F. Fullerton Esq<sup>r</sup>  
Offy Register to the Court  
of Sudr Adawlat.

Sir,

1. In acknowledging the receipt of your letter of the 23<sup>rd</sup> Instant, I have the honor to state for the information of the Judges of the Sudder Adawlat, that the new Form of Certificate now in use does not provide for entering in it, the Stage of Proceedings at which any suit may be withdrawn or dismissed.

2. In the Certificates granted by the Courts in some of the Districts, the above particular is given by a Note at the foot of the Certificate as there is no space for entering

the

Recd 1839. 20th

1. 26th of 1839

From  
The Offy Register  
to the Courts of  
Sudder Adawlat

Recd 1839. 20th

1839

States that the  
Judges do not consider  
it necessary to force  
any suit for the  
insertion of certificate  
therein in the above  
reference certificate.

To be returned

1839

1839

1839

the same in the body of the Certificate but in the Certificates received from most of the districts it is only stated thus "Before or After closing of pleading

3. I beg to remark that in Auditing these Certificates it is very desirable that the Department should be placed in a position to judge of the Correctness or otherwise of the refund of Stamp duty allowed in each Suit. In several instances where no particulars were given in the Certificates the information was called and the amounts improperly refunded were retrenched as it was found that full refund had been paid while from the stage of proceedings at which the Suit was dismissed, the party was entitled to receive only half refund as will be seen from the accompanying Certificates.

4. Under these circumstances I request you will after obtaining

48 Certificates  
406 returned

the sanction of the Judges direct the Judicial Officers in the several Districts when filling up Certificates granted by them under Act No 17 of 1848 invariably to insert as briefly as possible the exact stage of proceedings at which the Suit referred to therein may have been dismissed or withdrawn whether it is a regular Suit or of the nature alluded to in the Circular order of the Sudder Adawlut No 132 D dated 22<sup>nd</sup> July 1854.

To the Hon. Mr. George  
Genl. Stamp Office  
29<sup>th</sup> September 1854

I have the honor  
to be, Sir,  
Yours faithfully,  
J. L. Livingston  
Supt. of Stamps

N<sup>o</sup> 136 of July 1869.

From

J. L. Lushington Esq<sup>r</sup>  
Sup<sup>t</sup> of Stamps.

To

G. F. Fullerton Esq<sup>r</sup>

Off<sup>r</sup> Register to the Court  
of Sudder Adalat.

Sir,

1. With reference to your letter of the 8<sup>th</sup> Instant, I have the honor to request, that you will have the goodness to lay the following Circumstances before the Judges of the Sudder Adalat, in view to their reconsidering their reply to my letter of the 29<sup>th</sup> ultimo.

2. In the first place I would observe that the Judges are in error in supposing that the Civil Auditor scrutinises or has any thing to do with the refunds of stamps. This duty is performed

performed by the Superintendent of Stamps and to enable him to effectually to check the refunds it is necessary that he should possess full information on all points connected therewith.

3. In checking the Certificates for the refunds of stamp duty this Department is guided by the Circular order of the Sudder Adalat, dated 31<sup>st</sup> July 1855 N<sup>o</sup> 136 D and extract from their Proceedings dated 2<sup>nd</sup> October 1857 prescribing certain stages at which suits regular and summary if withdrawn entitles the party to a refund of the full or half amount of the stamp duty and by the Circular Order of the 30<sup>th</sup> July 1860 which points out the stamp duty leviable and the circumstances under which refunds are allowed to Plaintiffs for suits dismissed.

With

At No 201 of July 1869  
N<sup>o</sup> 136 of July 1869

4. With two or three exceptions the Judicial Officers in the districts have when required specified in the Certificate the exact stage of proceedings at which any suit has been withdrawn and with these particulars before this Office the stamp duty refunded is checked as directed by Government and such sums improperly paid retrieved and recovered.

It is doubtless true  
that the lower Courts are quite  
capable of determining the stage  
of proceedings at which a suit  
is withdrawn whether before or  
after close of pleadings if they  
would bestow sufficient care  
and attention upon the subject.  
I find that during the last  
6 months 131 Certificates have  
been objected to and the sums  
refunded thereon aggregating  
to Rupees 229-8-00 were returned  
by

by this Office and recovered from the parties, it is therefore evident that a more strict scrutiny is required than is exercised by the Judicial Officers.

so little additional labour or trouble  
on the lower courts, that it ought  
not to be allowed to stand in the  
way of the interests of Government.

The new form of Certificate  
may possess certain advantages but  
so far as this office is concerned the  
old forms were superior in as much  
as the new forms are printed upon so  
small a piece of paper that there  
is not sufficient room for the various  
endorsements without writing across the  
Certificate which renders the writings  
at times quite illegible, and thus  
causes much waste of time in trying  
to decipher what is written on the  
Certificates.

Yours R. George  
Chas. J. S. Lushington  
10<sup>th</sup> October 1859  
Supt. of Stamps.  
True Copies

Wm. J. S. Lushington  
Acting Supt. of Stamps.

Ms. No. 2080  
No. 186  
1859

Ms. No. 2080  
No. 186  
1859

Ms. No. 2080  
No. 186  
1859

Madras 23 September 1859.

From

G. F. Fullerton Esquire,  
Deputy Register to the Court of  
Sudder Adalat

To,

J. L. Lushington Esquire.  
Civil Auditor.

Sir,

With reference to your letter to  
the Civil Judge of Rajahmundry, dated  
the 18<sup>th</sup> of August last, I am directed  
by the Judges of the Sudder Adalat to  
enquire what the nature of the in-  
formation is, which you wish to be  
entered in the stamp Refund Certificates,  
the Form now in use having been approved  
by the Government, and been prepared  
in strict accordance with the require-  
ments of act XVII of 1848.

I have the honor to be.

Sir,

Your most obedt. Servt.

Wm. J. S. Lushington  
Deputy Register

Sudder Adalat,  
Register's Office,  
23 September 1859.

Ms. No. 2080  
No. 186  
1859

R. Cove: 22-74 Mendocino 73-74  
 — 15-74 Mendocino 22-23.  
 — 11-74 Jan 74 - 14-18.

March 1 1839 before me

No. 234 of 41269.

Know  
 all men by these presents  
 that the County of Adams

is to be

be held 23 Dec 24/18/39

Adams 24-23 before me  
 1839.

To be held 29<sup>th</sup> Dec. 39

With reference to the  
 of the said Jan 23-18/39.  
 , county of Adams Mendocino.  
 requires that the nature  
 of the information is not  
 shown as to be held in the  
 Mendocino and Mendocino.

Adams 23  
 No. 2080

To be returned -

of these provisions, likely to lead to fraud.

Fort St. George { 6 copies to the D. & A. Secy. Dept 6<sup>th</sup>  
11 Jan'y. 1860. { - - - - - Sup<sup>y</sup> of stamps 5<sup>th</sup> - - -

Thers the above informant  
of date Jan 24/19 January 190  
C No 135 in

Ms. B. 1. 6. 4. 17.

From, The Acting Superintendant  
of Stamps.  
To The Chief Secretary  
to Government.

Dated 2<sup>nd</sup> Decem<sup>r</sup> 1859  
 Received 225 4 Bells.  
 4. Bells. 1859. 12-1-60

Requests to try before

Government, the accompanying  
correspondence between has in  
particular and the Register of  
the District Court, on the  
subject of Stamp Papers &  
Certificates and observes that  
unless supplied with  
complete information he  
does not see how he can  
relate to the conduct  
of the Court in this  
Office. <sup>in</sup> January 1860.  
J. H. - 4  
With an order

to be returned -