M.R.O. 14—10,000—21-4-22

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue **DEPARTMENT.**

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| G.O. No. 1152 | Press ~~Mis.~~ |
| 57-52 | |
| Dated 5-6-1861. | |

***Not to be folded or roughly handled***

## *Proceedings of the Madras Government, Revenue Department, 5th June* 1861.

No. 51. Read the following Proceedings of the Board of Revenue, dated 27th May 1861, No. 2,643 :—

Read the following letter from CLEMENT DALE, Esq., Government Pleader, Sudder Adálat, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 16th May 1861, No. 99.

SIR,

I have the honor to acknowledge the receipt of the Proceedings of the Board of Revenue, under the date and number noted in the margin, and to suggest that a fresh order of Government authorizing me to appeal should be passed, and in which reference might be made to the various proceedings (without entering into detail), so as to show that since the 18th of December last, letters and proceedings have been passing, having the subject of the appeals in view, which may in some degree account for the very great delay which has arisen in presenting the appeals. If the Order of the 26th March 1861, be filed by me, the Court may very naturally ask why, when the Government had authorized appeals they were not presented ; and I may have some difficulty in getting the Court to look at the subsequent acts of the Board, and the delay of the Collector, since March, as affording sufficient reason for the delay.

14th May 1861, No. 2,447.

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1. Submitted for the orders of the Honorable the Governor in Council.

2. The Board recommend that a fresh order (as requested by Mr. Dale) be passed, authorizing him to appeal against the decision of the Civil Judge of Chicacole in Suits Nos. 4 and 5 of 1859.

3. The order for appealing passed on 26th March 1861, No. 707, was with reference to Section 348 of Act VIII of 1859, but the Plaintiff's appeal having been rejected by the Sudder Court that order was not acted upon ; and since that time the Board have been in correspondence with Mr. Dale with the view of ascertaining whether the Civil Judge could not be set right in his view of the law by any other means than a formal appeal, which Mr. Dale considers he cannot be.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

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No. 52. ORDER THEREON, 5th June 1861, No. 1,152.

1. Under all the circumstances of the case the Government are of opinion that further litigation is undesirable in this case.

2. The only question of importance involved in the suit, is the liability or otherwise of a Collector for his predecessor's act. His non-liability is clearly declared in Section 28 Regulation XXVII of 1802, and is further established by the Decree of the Sudder Adálat in No. 204 of 1859. No decision of the Judge of Chicacole can affect this point, and therefore the Government resolve, as originally intended, to acquiesce in the decision, erroneous though it is in this respect.

(Signed) J. D. SIM,

*Secretary to Government.*

Rec^d. N^o. 1263.

I have drafted an order in accordance with the recommendation of the B^d. of Rec^s. for the first Pleader. But my own opinion is that the case should be dropped.

The Pl^ff: sued the Cl^k. & some others for the recovery of certain lands which during his minority, his guardian had transferred to the latter i.e the other Def^ts. He pleaded that the transfer was temporary - the def^ts maintained the contrary, and the Cl^k. was included because his predecessor 11 years before, had paid the other

my opinion

the Pltf. a Pattah.

The judge decided in favor of Plaintiff and saddled the Colr. with costs.

This decision was wrong in 2 ways - 1st, the Colr. was not answerable for his predecessor's act - giving the pattah - 2d he could not dispossess that act after 11 years possession - The judge ought to have struck the Colrs name off the list of Defts and decided the case, as between the other parties -

The Colr. strongly recommended an appeal, urging the public inconvenience which would follow if the judge's erroneous ruling of a Colrs liability for his predecessor's act - The Pltf. sued to have this application set aside as the costs were small & move the judge to reconsider his judgment - and, if this proved unsuccessful, & drop the case, rather than push the other parties, residents of Ganjam, to the Expence & of an appeal in Madras.

The judge adhered to his decision - & the other Defts appealed and then first said the Colr. might appeal too -

The appeal of the other Defts was rejected on the score of lapse of time & the question now is whether first shall still appeal or acquiesce in the judgment, as at first determined.

My sections to an appeal

Mr Dale considers he cannot be -

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The judge adhered to his decision - & the other Defts appealed and then first said the Colr. might appeal too -

The appeal of the other Defts was rejected on the score of lapse of time & the question now is whether first shall still appeal or acquiesce in the judgment, as at first determined.

My sections to an appeal

d are.

I. That a Coll. can not be liable for
f his predecessor's act is clearly
l declared in Sect XXVIII Reg XXVII
of 1802 and is further established
by the decree of the Sudr in No 204 of 1859.
No decision of the Judge of Chicacole
can affect this point.

c II. That this plea has not been clearly
2 urged in the original defence & it
a is extremely doubtful whether it would
y now be allowed.

b III. That the sum at issue is not
d worth an appeal.

2 IV. That the Judge may not admit
the reasons for delay in pre-
n ferring an appeal.
p Sir the Collr ~~is~~ has little
f to gain by success & so many risks
of defeat I would ask the case of
t letter the Collr to look out for a better
opportunity of establishing the principle

I have &c.

Mr Dale considers he cannot be.— 9

(A true Copy & Extract.)

(sd) C. Sandilands
Secretary.

To
J. D. Sim Esqre
Secretary to Government.
Revenue Department.

R. Dept

No. 1152.

# Proceedings of the Madras Govt.

Under date the 5th June 1861

Read the following Report of the Board of Revenue

Submitting with recommendation a letter from the Govt Pleader Sudr Adalut suggesting that a fresh order may be passed authorizing him to appeal against the decision of the Civil judge of Chicacole in suit No. 485 of 1859

Here enter 27th May 1861 No. 2643

Under all the circumstances of the case the Govt are of opinion that further litigation is undesirable in this case.

2 The only question of importance involved in the suit, is the liability or otherwise of a Collector for his predecessor's act. His non liability is clearly declared in Sec XXVIII Regn XXVII of 1802, and it further

Rect 10th May 1861
Proc. 28th
No. 2643.

Submitting with recommendation a letter from the Govt Pleader Sudr Adalut suggesting that a fresh order may be passed authorizing him to appeal against the decision of the Civil judge of Chicacole in suit No. 485 of 1859

Board of Revenue

Rect 10th May 1861
Proc. 28th
No. 2643.

Submitting with recommendation a letter from the Govt Pleader Sudr Adalut suggesting that a fresh order may be passed authorizing him to appeal against the decision of the Civil judge of Chicacole in suit No. 485 of 1859

Board of Revenue

I think that the matter should be allowed to drop with the ground taken by Govt

4

into consideration the correspondence connected with this case

Govt Pleader to institute

Civil judge of Chicacole

Govt Pleader

appeal against the decree

Civil judge of Chicacole in suit No. 485 of 1859 on the file of that Court

the appeal at the

suit in the first instance, but the first will determine whether a second

the decree is submitted, whether the costs awarded against the

Civil, shall be borne by Govt

No. 851.

No. 1152. 5th June

Mr Mac Leod

Govt Pleader

Mr Pleader

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further established by the Decree of the Sup. Adalat in No. 204 of 1859. No decision of the Judge of this cacole can affect this point — and therefore the Govt. resolve, as originally intended, to acquiesce in the decision, erroneous though it is, in this respect.

H. Copies to the Board of Revenue,

Pers. 5

Appeal against the decision of the Civil Judge.

407-76
6-2-61

Revenue 1861 Departt
Proc: of Govt for June.

Nos 1152.

Proc: of the Madras
Government.

Dated 5th June 1861.

~~From the Board of Revenue~~

C. No 2903

Boards Proceedings submitting letter from Clement Dale Esqre requesting to be authorized to appeal against the decision of the Judge of Chicacole with orders thereon.

No. 51 to 52.