

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 822

Press
~~Mis.~~

207 208

Dated

12-11

1862

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
12th April 1862.*

No. 207. Read the following letter from CLEMENT DALE, Esq., Government Pleader, Sudder Adalat, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 3rd April 1862, No. 53:—

SIR,

1. I have the honor to acknowledge the receipt of the Proceedings of Government, under the date and number noted in the margin, and to report to the Honorable the Governor in Council as my opinion that the effect of the Court's order is not necessarily to eject Appa Row, "a

Receiver being appointed by the Court to receive the rents, issues and profits of the lands, or "other property in question in a cause where it does not seem reasonable to the Court that either party should do it;" he in fact is an Officer appointed by the Court to manage under its own directions the property pending litigation, with the view of protecting it and the rents, &c., for the party that shall ultimately be pronounced to be the lawful owner. The order does in no way prejudice the rights of the parties.

2. On general principles, therefore, I do not advise that the Collector should decline to act upon the order.

3. The section of the new civil procedure Act under which the Court has power to appoint a Receiver is the 92nd under which the Government have the power by a General Order to prohibit the appointment of Collectors as Receivers; or Government may in any particular case prohibit the appointment of a Collector to be the Receiver.

4. So far as I am informed Government have not issued a General Order for the purpose, and whether in this particular case the Government should issue a prohibition, I cannot form an opinion as I have not sufficient data before me.

5. Probably on general principles it may be objectionable that servants of Government should, *as such*, be appointed Receivers of estates belonging to private individuals; and as regards Collectors being selected for the office, it appears to me that their duties are already sufficiently onerous, and that it cannot be reasonably expected that Collectors could devote to the management of such estates any personal superintendence, consequently the management of Estates committed to their care as Receivers must necessarily devolve on subordinates. In Her Majesty's Courts private individuals are *generally* appointed, but in *all cases* the party appointed has to give to the Court security for the due fulfilment of his office. Moreover a Receiver is bound once a year to submit his accounts to the scrutiny of the Court, who thereupon fixes a day before which the balance in hand is to be paid into Court, to be there secured for the benefit of the parties then entitled, or who may be ultimately pronounced to be entitled to the Estate in litigation. In my opinion this course is preferable to appointing a public Officer, and that opinion is strengthened where it is apparent that such public Officer cannot give his own personal care to the management of the Estate. In this country, however, I imagine a difficulty may arise in the Mufassal Courts not being able to obtain the services of competent persons who can give the required security. At the Presidency as a rule this difficulty does not exist.

6. As the practice in the Mufassal Courts is a new one, I have deemed it my duty thus briefly to comment on the subject, in order that should His Excellency in Council deem it desirable to take action in the matter such inquiries may be made and information sought, as will enable His Excellency to form a satisfactory judgment as to the proper course to be pursued.

No. 208. ORDER THEREON, 12th April 1862, No. 822.

1. The Board will instruct the Collector to act as advised by the Government Pleader. The Government have no objection to the Collector being Receiver in this case if his doing so and taking charge of the Polium in no way affects their right to decide the succession to the estate as an unsettled Polium.

2. Paragraphs 3 to 6 will be communicated to the Judicial Department for disposal.

(Signed) C. G. MASTER,

Deputy Secretary to Government.

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I have the honor to be
Sir

Your most Obedient Servant

W. H. K. L.

Govt. Secy to Govt.

Prochle creek / 62 mi.
66-67-
copy in a letter to Wm.
875 - March 1864. 87-16

2180 - 1860
copy of your letter of 12th 1860.
Original kept at Wm. 87-16

to the Secretary of State

Date 3d April 1861
Rec'd 4th

2180

Of opinion that the
Effect of the Creek Order
(in a subsequent edit)
is not necessarily to be
of the same force

2207-2208

1860 - 12 18th
with an order

2208 Pt. 872

The Board will instruct the

Waller to act as administrator

the Government Pleader. The

Government have no objection to the

Waller doing business in

this case if this doing also

and taking charge of the

Business in any way applicable to their

rights to secure the necessary

to the estate as an independent

System

James 2d & wife. The

Commissioner called to the funeral

of the late James 2d & wife. The

2208 Pt. 872
12 18th 1860
with an order