M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1844 Press ~~Mis.~~

600101

Dated 8-10-~~19~~1867

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 8th October 1863.

No. 100. Read the following letter from CLEMENT DALE, Esq., Government Pleader, Madras, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 11th September 1863, No. 108 :—

SIR,

1. With reference to the Original Suits and Order of Government noted in the margin, I have the honor to report for the information of the Honorable the Governor in Council that the Original Suits No. 3 of 1856 and 1 of 1860 came on for hearing before the Civil Judge of Madura on the 1st instant; that the hearing thereof was continued on the 2nd, 3rd and 4th, and that after hearing the evidence and arguments on all sides, his Honor found the issue in favor of the alleged adoption.

IN THE CIVIL COURT OF MADURA.
O. S. No. 3 of 1856.
O. S. No. 1 of 1860.
O. S. No. 6 of 1861.
O. S. No. 4 of 1863.
Order of Government, 13th August 1863, No. 1,493, Revenue Department.

2. Previously to my leaving Madura, I desired the Government Vakeel there to obtain for me a copy of Mr. Cotton's judgment; so soon as it is received I will do myself the honor of forwarding a copy of it for the information of His Excellency in Council.

3. The Civil Judge's finding on the issue will be forwarded by him to the High Court, when the two Suits will have to be heard on their merits.

4. As regards the Original Suit No. 4 of 1863, I have the honor to report that on the 3rd instant Mr. Norton withdrew that Suit, which was instituted by the alleged adopted son.

5 The Original Suit No. 6 of 1861, instituted by the Rani's Nephew, Poonoosawmy Taver, Mr. Norton also on the 4th instant withdrew.

6. Those two Suits have therefore been finally disposed of.

7. Adverting to the Proceedings of Government noted in the margin, I remark His Excellency in Council "thinks it very doubtful whether the power of a Collector "to refuse to register, without being liable to give valid reasons for his refusal, would be upheld."

Proceedings of Government 26th August 1863, No. 1,569.

In my letter to the Board of Revenue, also marginally noted, I have shown that my opinion was founded (amongst other things) on former decisions of the Sudder Court. In paragraph 7 of that letter I mentioned that I had found two of the decisions referred to in the Circular Order of the 17th September 1832, when my further search was stopped by the issue of the Order dated the 13th of June 1863. As I understand from the passage I have quoted His Excellency in Council has adopted an opinion at variance with that expressed by me, on the subject of the proper construction to be put on the 8th Section of Regulation 25 of 1802, I do myself the honor of enclosing for the consideration of His Honor in Council, extracts from the two decisions of the Sudder to which I have referred, and which were passed by Judges who deservedly held a very high reputation. I regret His Excellency in Council should have formed an opinion on purely legal grounds adverse to that expressed by myself, I however trust I may be allowed respectfully to state that, after re-considering the point, I see no reason for changing the opinion I expressed in my letter to the Board noted above.

Letter from Government Pleader to Board, 18th July 1863, No. 81.

No. 54 of 1826.

19th October 1826.
F. A. GRANT.
J. COCHRANE.
W. OLIVER.

Petition from Currah Camatchy Amma, Plaintiff in O. S. No. 16 of 1826, in the Northern Provincial Court.

Paragraph 5. It is not in the power of any Court of Justice under the Regulations to interfere with the registry of lands. Collectors are responsible that no new registry is made without sufficient proof of a *bonâ fide* transfer. The first Petitioner (Currah Camatchy Amma) is mistaken in supposing that registry of the villages in other names would prevent her recovering them if adjudged to her by a Decree of Court.

Proceedings of the Madras Government, Revenue Department,
8th October 1863.

19th April 1827.

Petition by Cakerlapoody Jugganadha Rauze, the Plaintiff in O. S. No. 13 of 1817, on file of Northern Provincial Court.

5. Finally, this Court has not power to issue a precept, as requested in the last paragraph of the same petition, directing the Collector to register the Talook of Cotah in the Petitioner's name while still under attachment. No Court can interfere with the registry of landed property. Collectors alone have authority to perform it in the manner and under the circumstances set forth in the Regulations.

No. 101.

ORDER THEREON, 8th October 1863, No. 1,844.

The Government are still of opinion that the interests of the State do not require that an appeal should be made from the judgment of the High Court to Her Majesty in Council. Mr. Dale is under a misapprehension in supposing that that conclusion was based on purely legal grounds and therefore impugned the correctness of his advice.

(True Extract.)

Secretary to Government.

To the Board of Revenue.
" Government Pleader.

Exd. S. T. Augustin.

For Orders.

The first 4 paras need no orders, they and those already passed for the disposal of the two first suits.

As to the last No of 61 Suit we must now decide whether they will appeal from the judgment of the High Court as to the validity of transfers or not - The Suit having been withdrawn so far then no action can be taken on it, but the judgment of the High Court stands & is affected as recommended by Mr Dale & the Revd Bd.

The matter is pretty well set forth in the enclosed Memo: and I can only say that I still think

that at the prnes of suspending
Legislature without assignment
of reason or amenability to the
Courts is not one which first
should seek to retain, if it
possesses it — or to acquire if it
does not. The Rule is mistaken
in supposing that the Co of 26
Augt 63 was founded on legal
grounds or even pretends the merits of
this legal advice — the Co was based
on grounds of general Expediency —
that Govt did not need & should
not seek the power in question.

Mr Maltby's bill might
include a clause barring the Court
expressly for meddling with the appoint-
ment of asst Govr on January 1st this
in my view removes all risk

I do.

3

I commend address to the favourable
consideration of the Council respectfully to state that, as Governor
of this Province, I see no reason for changing the
opinion I expressed in my letter to the Board noted above.

I have the honor to be
Sir
Your Most Obedt Servant
Governor & Captain General
Madras

13 August 63 No 121-122
26 — " — 273-274
Reported to England
27th March 1865 No 21
Mis

Rec'd 18 13 Departt
Sec'y to Govt No 2174 October
From Government Pleader
To Secretary to Government
Dated 11 September 1863
Rec'd 12 —

No 108
(with 1 Enclosure)

Reporting the result
of the hearing after Original
Suits No 3 of 1856 - 1 of 1860
6 of 1861 and 1 of 1863 in the
Civil Court of Madura &c

S.O No 1844 & Cor

No 100.

C 30 September Dd 30 Rec'd 3 Oct 1863

Revenue Department

No 1844

Proceedings of the Madras Government
Under date the 8 October 1863.

Read the following
letter from the Govt Pleader

Reporting the result of the hearing of the Original Suits Nos 3 of 1856 - 1 of 1860. 6 of 1861 and 4 of 1863 in the Civil Court of Madura. } (Here enter 11th Sept 1863 No 108)

The Government are still of opinion that the interests of the State do not require that an appeal should be made from the judgment of the High Court to Her Majesty in Council - Mr Dale is under a misapprehension in supposing that that conclusion was based

based on purely legal grounds and therefore impugned the correctness of his advices.-

L. Dod.

11 Copies Letter B. of Rev Gen P. Gloss
3 — Govt Pleaders

Reported to England
29th March 1865 N. 21
Mis

Revenue 1863 Dept.
Pro: of Govt. for Octr.

N: 1844.

Pro: of the Madras Govt
Dated 8 October 1863

Form B. Num. 2 Oct/63
Cr 2421

Letter from the Govt.
Pleader reporting the
result of the hearing
of certain suits in the
Civil Court of Madura,
with order thereon.

No 1084/101.