

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 970	Press ~~Mis.~~
82-83	
Dated	5-6-19-1863

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
5th June 1863.*

No. 82. Read the following Proceedings of the Board of Revenue, dated 19th March 1863, No. 1,648:—

Read again letter from the Collector of the Godavery District, dated 22nd November 1862, No. 233.

(In Cons. 1st December 1862, No. 7,603.)

Read also the following letter from the same Officer, dated 21st January 1863, No. 11:—

1. With reference to the Proceedings of the Board of Revenue of the 15th ultimo, I have the honor to submit copy of a letter received from the Civil Judge at Rajahmundry, of the 21st November 1862, No. 301, which furnishes an explanation of the circumstances rendering a change in the former practice of moving the Zillah Court through the Government Vakeel necessary. I request the Board will be pleased to sanction the arrangement suggested in my letter of the 22nd November last, No. 233.

2. If this arrangement is sanctioned the question will arise whether orders may be issued to the Vakeel of the District Moonsiff's Court, who may be selected to perform the duty, in the same manner as has hitherto been usual in regard to the Government Vakeel of the Civil Court, and as provided in Clause 3rd, Section 37, Regulation XIV of 1816, or whether a Vakalatnama on the prescribed Stamp paper will be necessary in every case.

ENCLOSURE No. 1.

From L. C. INNES, Esq., Civil Judge, Rajahmundry, to A. PURVIS, Esq., Collector of the Godavery District, dated 21st November 1862, No. 301.

1. Adverting to the rule of practice of the late Sudder Court of the 16th April 1860, below given, I have the honor to request that all claims that may be preferred by you to land advertised for sale in the Moonsiffs' Courts of this District may be made direct in each case through one of the Vakeels of the Court by which the land is put up for sale. If required, lists of the Vakeels will be prepared and sent to you.

2. The proper course under the new procedure is for you to take notice of the proclamation, which under Section 249 of the Civil Procedure Code (Act VIII of 1859) should in such cases be sent to you, and without any further reference to you by the Court advertising the sale, to put forward any claim you may have to the property.

"If property be attached by order of a District Moonsiff, any claim or objection which the Collector may have to make in respect of such property may be preferred through one of the Pleaders practising in the Court of such District Moonsiff." (Sudder Proceedings, 16th April 1860.)

(A true Copy.)

(Signed) A. PURVIS, Collector.

1. The Board resolve to solicit the sanction of Government for the necessary expenditure on account of Vakeel's fees to be incurred on the occasion of lands on which Government has claims being attached by any Moonsiff's Court in execution of a Decree.

2. The rate is stated to be Annas 4 per motion under Regulation XIV of 1816. On paragraph 2 of the Collector's letter the Board observe that Schedule B, Act X of 1862, makes no exemption in the case of Government having to appear in the Courts, nor does it contain any provision corresponding with the general exemption in Schedule A, but the Board are doubtful whether any such Vakalatnama as is contemplated by Article 8 of Schedule B would be necessary on such occasions as those under consideration, for the motion to be made can scarcely be deemed "the conduct of suits or proceedings of any kind pending before the Courts of Justice" as expressed in the note to Articles 43 and 44 Schedule A. If a power of Attorney under Schedule A would suffice, no stamp will be needed.

*To the Collector of the
Court under whose*

*Proceedings of the Madras Government, Revenue Department,
5th June 1863.*

3. Some authority for the Vakeel will certainly be necessary. The Board will leave it to Government to decide what its nature shall be.

(True Copies and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 83. ORDER THEREON, 5th June 1863, No. 970.

1. In their Proceedings above recorded the Board of Revenue solicit the sanction of Government for the necessary expenditure on account of Vakeel's fees to be incurred on the occasion of lands on which Government has claims being attached by any District Moonsiff's Court in execution of a Decree.

2. This reference has been made consequent on a requisition from the Civil Judge of Rajahmundry desiring the Collector of the Godavery District to employ one of the Pleaders practising in the District Moonsiffs' Courts to represent the claims of Government on lands attached under the orders of the said Courts in execution of their Judgments.

If property be attached by order of a District Moonsiff any claim or objection which the Collector may have to make in respect of such property may be preferred though one of the Pleaders practising in the Court of such District Moonsiff.

3. This requisition was based on the ruling issued by the late Court of Sudder Udalt on the 16th April 1860 to the effect noted in the margin.

4. The course hitherto followed by Collectors when lands encumbered with arrears of revenue due to Government were attached under the orders of a District Moonsiff, is that indicated in the Circular Order of the late Sudder Udalt, No. 110A, dated 15th February 1847. The fact of the attachment being made was notified to the Collector, through the Government Vakeel attached to the Civil Court, and the objections to the measure which the interests of Government might suggest were communicated through the same channel to the Court issuing the order of attachment and disposed of under the general Regulations.

5. The recent ruling* of the late Sudder Udalt above quoted does not absolutely require that a separate Vakeel should be employed in each District Moonsiff's Court for the said purpose. The claims of Government in the generality of cases refer merely to arrears of revenue due on lands sold in execution of Decrees of Courts, and the amount thereof may in each instance be communicated by means of a Memorandum signed by the Government Vakeel of the Civil Court without causing much inconvenience to the Court ordering the sale, as nothing more is sought than the payment in the first instance of the amount due to Government from the sale proceeds of the attached lands.

6. The sale of landed property in satisfaction of Judgment Debts is of very frequent occurrence in the Provinces, and if it be indispensable that in each case a separate Pleader should be employed to make known the claims of Government much needless expense and trouble will be caused to Government. The remuneration allowed by the Regulations for presenting a motion is 4 Annas, but no competent men could be found to undertake the work for so trifling a consideration. Should a higher sum be paid in order to secure the services of a duly qualified person so much of it only as equals the rate specified in the Regulations will be recovered by the Courts, and the difference must be borne by Government. At present a Government Vakeel is only employed in the Civil Courts, and the pay is 21 Rupees monthly. No Government Vakeel could be appointed to a District Moonsiff's Court on less pay than 10 Rupees a month, and as there are 126 such Courts the measure will involve an annual expenditure of 15,000 Rupees.

7. Under the above circumstances His Excellency the Governor in Council resolves to refer, through the Judicial Department, the correspondence connected with this subject, to the Honorable Judges of the High Court, in view to its being considered whether it would not be advisable to allow the course pointed out by Circular Order, Sudder Udalt, No. 110A, 15th February 1847, to be followed in such cases. If no objection exists to this arrangement they will be requested to issue orders accordingly to the Subordinate Courts.

*Proceedings of the Madras Government, Revenue Department,
5th June 1863.*

8. Cases however may arise involving questions of tenure, &c., in which it may be desirable to make use of the services of a Pleader attached to the Court issuing the order of attachment, but these will be very few, and there will exist no objection to the employment of a Vakeel of the Court in such special cases, suitable remuneration being granted for his trouble with reference to the nature of the claims urged.

9. Adverting to the question raised by the Collector of the Godavery District, as to whether a Vakalutnamah on the prescribed Stamp paper will be necessary in every case in which a separate Vakeel is engaged, the Government observe that Section 37, Regulation XIV of 1816, which declares that the order of the Collector shall be filed as the authority of a Pleader for appearing on behalf of Government has not been rescinded by any subsequent enactment.

(Signed) J. D. SIM,

Secretary to Government.

*To the Collector by the
Court under whose*

Memorandum
 To the Hon. Secy. of the
 Govt. of India
 From the Hon. Secy. of the
 Govt. of Madras
 Subject: Lands on which arrears
 of Revenue are due to Govt.
 and are attached in execution
 of Decrees of Courts
 of Justice is that indi-
 cated in the Circular
 Order of the late Comr.
 of S. M. District No. 104
 dated 15th February 1947.

The course follow-
 ed by Collectors when
 lands on which arrears
 of Revenue are due to Govt.
 are attached in execu-
 tion of Decrees of Courts
 of Justice is that indi-
 cated in the Circular
 Order of the late Comr.
 of S. M. District No. 104
 dated 15th February 1947.
 The fact of the attachment
 being made is notified
 through the post to the
 Collector by the
 Court under whose

I am in this case taken
 by the Secy. to the
 Govt. of Madras

Mr. [unclear]
 Mr. [unclear]
 Mr. [unclear]

orders & it was effected,
and the objections to
the measure which the
interests of foot may sug-
gest are communicated
to the said Court thro'
the same channels and
disposed of under the
General Regulations.

But as section 247
of the Civil Procedure
Act No VIII of 1859 pre-
scribes that the claim
or objection should
be made to the Court
which directed the attach-
ment, the instructions
of the late Sudr Court
were applied for in April
1860 as to how claims
or objections on the part
of the Collr, should, in
cases of lands attached
under the orders of a

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to his notice, no foot
naked being attached
to his Court. - The Sudr
Adalat ruled that any
one of the pleaders
practising in the Puff
Court may be employ-
ed for the purpose:
and with reference to
his ruling the Sewil ^{informed} ~~the~~
Paganandry ^{informed} requested
the collector of the Joda
nari District that
whenever lands in which
foot have any claims
are attached by a Puff
Court in execution of
a decree a bachelor of
that Court should be
employed to represent
the claimer to the said
Court. - Mr Purvis

submits the whole of the
correspondence on the
subject to the Board
of Revenue with a request
that he may be permitted
to employ a pleader
in each of the Muffi Courts
in Rajamundry for the
purpose.

The Board of Revenue
solicit the sanction of
Govt for the above
arrangement and for the
expenditure which
it will entail upon
an account of the Takase
fees and further re-
quest the decision of
Govt whether a Takase
nama should be
furnished to the
said Takase when
appearing on behalf
of Govt.

From the wording of the
order of the late Court of
Sudr Mahab, on which the
requisition of the Civil
Judge of Rajamundry
is based, it does not
appear to be absolutely
necessary that a sepa-
rate Takase should be
employed in each Court
for the said purpose.
The claims of Govt in the
generalty of cases refer-
merely to arrears of
Revenue due on lands or-
dered to be sold in exe-
cution of decrees and
the amount thereof may

in each instance be
communicated to the
means of a Memo
signed by the Govt Takase
of the Civil Court
without causing much
inconvenience to the
Sudr Mahab.

incommencement to the
Court ordering the
sale, as nothing more
is sought than the pay-
ment in the first in-
stance of the amount
due to Govt from the
sale proceeds of the
lands. The sale
of landed property
in satisfaction of
Judgment debts is
of very frequent oc-
currence in the Pro-
vinces, and if it be
indispensable that
in each case a
separate pleader should
be employed to re-
present the claims
of Govt, much un-
necessary expense

A Pleader of the
Court should be
employed to represent
the Govt in such cases
as a matter of course
it is not necessary
to employ a pleader
of the Court in every
case of this kind.

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will be caused to Govt.
The remuneration
allowed to a barrister
by the Regulations for
presenting a Motion
is 4 annas, but no
competent person
could be found to
undertake the work
for so trifling a con-
sideration. Should
a higher sum be paid
to secure the service
of competent men,
so much of it only as
equals the rate spe-
cified in the Regs
will be recovered
by the Courts and the
difference ^{must} be
borne by Govt.

Under these circum-
stances it will not be
advisable to disturb
the existing practice.
Cases however may
arise involving questions
of time & cost, in
which it may be
desirable to make use
of the services of a
pleader attached to
the Court issuing the
order of attachment:
but these cases will
be very few and there
will be no objection
to the employment
of a vakil of the
Court in such spe-
cial cases, suitable
muneration being granted
for his trouble with reference
to the nature of the
claims sought.

Clause 3rd Section 37

Regⁿ ~~XIV~~ of 1016 which
declares that the order
of the Collector shall
be filed as the autho-
rity of a pleader for
appearing on behalf
of a party has not been
rescinded by any sub-
sequent enactment.

He now has
a post vakil & only
in the Civil Court
& the pay is 21 Rs
monthly - We could
not find a vakil
in a District Munsiff's
Court less than 10 Rs
and as there are
126 such Courts
this would entail
an expense of

No 15,000 per
annum!

S. D.

W-970.
Proc. of the Madras Govt. 15th June 1863

Read the follow-
ing Proc. of the Bd. of
Revenue

/Resolves Board Res:
19th March 1863 No 1648

In their Proc. above re-
corded the Board of Rev.
solicit the sanction of
Govt for the necessary
expenditure on account
of the fees to be in-
curred on the occasion
of land in which Govt has
claims being attached
by any District
Mys Court in ex-
ecution of a decree.

This reference has
been made consequent

an a requisition from
the Civil Judge of Ray
mundry directing the
Collector of the Godavari
District to em-
ploy one of the Pleaders
practising in the District
Moff Court to repre-
sent the claims of poor
on lands attached
under the order of
the said Court in
execution of their judg-
ments.

This requisition was based
on the Ruling issued
by the late Court of
Sudr Adalat on the
16th April 1860 to the
effect noted in the
margin.

If property be attach-
ed by order of a District
Court any claim or objection
which the Collector may
have to make in re-
spect of such property
may be preferred thro'
one of the Pleaders
practising in the Court
of such District Judge.

The course hitherto fol-
lowed by Collectors when
lands encumbered with
arrears of Revenue due to
poor were attached
under the order of a
District Judge is that
indicated in the Cir-
cular order of the Sudr
Adalat No 110A Dated
15th Feb 1847. The
fact of the attachment
being made was notified
to the Collector through
the post parcel attach-
ed to the Civil Court
and the objections to the
measure which the in-
terests of poor might have
been communicated
to the Court through the
same channel to the

Court issuing the order
of attachment and dis-
posed of under the ge-
neral Regulations. —

The recent ruling of the
late Sudder Board of Appeal
does not abso-
lutely require that a se-
parate Dabir should
be employed in each
Moff Court for the
said purpose. The claims
of debt in the generality
of cases refer merely to
the arrears of Court dues
on lands sold in exe-
cution of decrees of Courts
and the amounts thereof
may in each instance
be communicated by
~~separate means~~
a Memo signed by the
Dabir of the said
Court without causing

+ Dated 16 April 1860

much inconvenience
to the Court ordering
the sale, as nothing more
is sought than the pay-
ment in the first instance
of the amount due to
from the sale proceeds
of the attached lands. —

The sale of landed
property in the Province
in satisfaction of judgment
debts is of very fre-
quent occurrence in the
provinces and if it be
indispensable that in
each case a separate
Dabir should be em-
ployed to make known
the claims of debt much
needless expense and
trouble will be caused
— The remunera-

allowed by the Regro
for presenting a mo-
tion is 4 annas: but
no competent men
could be found to un-
dertake the work for
so trifling a considera-
tion. Should a higher a-
sum be paid monthly
to secure ~~the~~ ~~services~~ the
services of a duly qua-
lified person so much
yet only as equals
the rate specified in
the Regro will be re-
covered by the Courts
and the difference
must be borne by ^{Govt}
at present a foot
patrol is only employ-
ed in the Civil Courts
and the pay is 2 Rs
monthly. No foot-patrol

could be appointed
to a District Muff
Court on less pay
than 10 Rs a month:
and as there are 126
such Courts the mea-
sure will involve
an annual expendi-
ture of 15000 Rs.

Under the above cir-
cumstances His Excellency
the Govt in Council has
resolved to refer ^{his the proposal} the corre-
spondence connect-
ed with this subject
to the Hon'ble Judges
of the High Court ~~with~~
~~the above~~ ~~in~~
~~order~~ ~~in~~ ~~view~~ ~~to~~ ~~order~~
being in view to its being
considered whether it
will not be advisable
to allow the Courts

pointed out by Mr.

C. O. S. R. No 110 A 15th

February 1947. to be
followed in such cases.

If no objection exists
to this arrangement,
they will be requested
to issue a notice
according to the Subordinate
Courts. —

Cases however may
arise involving ques-
tions of tenure & c. in
which it may be de-
sirable to make use
of the services of a
pleader attached to
the Court issuing the
order of attachment.
but these will be very
few and there will
exist no objection

to the employment of
Vakil of the Court
in such special cases,
suitable remuneration
being granted for his
trouble with reference
to the nature of the
claims urged. —

~~With~~ Adverting to
the question raised by
the Collection of the
Cadastric & as to
whether a vakalat
namah on the pre-
scribed stamp paper
will be necessary in
every case in which
a separate vakil
is engaged, the Govt
opine that Sec 37
of XIV of P.D. 1916 which
declares that the order
the Collector shall

he filed as the author
of a Plea for ap-
pearing on behalf
of foot has not been
rescinded by any sub-
sequent enactment.

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12 Copies Little Dixie. Sept 28th
5 - Little Dixie
with an orig. Encl.

12-11-1863
10-12-1863
12-1-1864

Revenue 1863 Deptt.
Pro: of Govt for Amer.

N. 970.

Proc: of the Madras Govt.
Dated 5th June 1863.

From the Registrar of High Court of
9 July 1863 No 1660 (revenue & property of the
in 1858 Augt. 107/8.
- Further No 3063 1/2 in b. 5-22 June
- 1397

Respecting the Calce-
les to be incurred on the
occasion of lands on which
Govt. has claims being
attached by any Court
or otherwise Court in execu-
tion of a Decree with orders
thereon.

N. 82 & 83.