M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 173 — Press ~~Mis.~~

1416

Dated 1—2— ~~19~~ 1864

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 1st February 1864.

No. 14. Read the following letters :—

From R. E. MASTER, Esq., Officiating Director of Revenue Settlement, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 8th December 1863, No. 1,502/83.

SIR,

1. I have the honor to forward an original letter with enclosures (to be returned) from the Deputy Director of Revenue Settlement, Trichinopoly, and to request that the opinion of the Government Law Officers may be obtained on the question raised by the Magistrate of Tinnevelly.

4th December 1863, No. 122.

2. It appears that the Assistant Director of Revenue Settlement in Tinnevelly imposed fines on certain Ryots, and in default of payment sentenced them to imprisonment under Section IV, Act XXVIII of 1860. Mr. Silver considers that as Act II of 1839, which is quoted at the end of the Section abovenamed, has been repealed by Act XVII of 1862 imprisonment can no longer be awarded under that Section, and is of opinion that the sentence should have been passed under Section 67 of the Indian Penal Code.

3. I do not myself see how the repeal of Act II of 1839 can affect Section IV, Act XXVIII of 1860. The former enactment is quoted merely to define the mode in which the fine is to be commuted. The authority for awarding the imprisonment is derived, not from it, but from Section IV, Act XXVIII of 1860. As far as I am able to judge, Section 67 of the Penal Code is applicable only to fines imposed under the provisions of that Code by a Magistrate or Criminal Court. In the present instance, the fines are imposed by an Officer who is not a Magistrate, under the authority of a special law. As however the question has been raised, it is desirable that it should be authoritatively settled.

4. Even should it be decided that I am correct in supposing, that notwithstanding the repeal of Act II of 1839, imprisonment may still be awarded under Section IV, Act XXVIII of 1860 in commutation of a fine imposed under the same Section, it will nevertheless I think be advisable in the contemplated amendment of the Act, so far to modify Section IV as to avoid in it any allusion to the repealed Act II of 1839.

No. 15. From CLEMENT DALE, Esq., Government Pleader, Madras, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 31st December 1863, No. 171.

SIR,

12th December 1863, No. 2,272, Revenue Department.

1. I have the honor to acknowledge the receipt of the Proceedings of Government under the date and number noted in the margin.

2. In Dwarris' Treatise on Statutes, it is stated "Relative words in an Act of Parliament "(words of reference in a subsequent statute) will make a thing pass as well as if it had been "particularly expressed in the Act itself; *verba illata inesse videntur*. Clauses of reference, "incorporating provisions of former statutes, take effect as fully as if they had been repeated, "and re-enacted in the body of the latter Act with relation thereto." I cannot find there has been any decision arising in a case where, as in the matter referred to me, the former statute containing the words referred to has been repealed, probably because a doubt as to the effect of such repeal upon the subsequent statute has not been raised. I am of opinion, notwithstanding the repeal of Act No. II of 1839, that under Section 4 of Act No. XXVIII of 1860 the same powers now exist, as though the words of Act No. II of 1839 referred to, had been repeated and re-enacted in Act No. XXVIII of 1860.

3. I do not think however that in any proceedings, Act No. II of 1839 should be named; I am of opinion that the proper mode would be to refer to Act No. XXVIII of 1860.

4. I return the original papers forwarded to me.

Proceedings of the Madras Government, Revenue Department,
1st February 1861.

No. 16. ORDER THEREON, 1st February 1861, No. 173.

Communicated to the Acting Director of Revenue Settlement with reference to his letter of 8th December last, No. 1,502/83. Copies of the correspondence will also be sent to the Revenue Board.

(True Extract.)

(Signed) C. G. MASTER,
Deputy Secretary to Government.

To the Director of Revenue Settlement, with enclosures returned.
„ Board of Revenue.

Exd. S. T. Augustin.

in commutation of a fine imposed under the same Section, it will nevertheless I think be advisable in the contemplated amendment of the Act, so far to modify Section IV, as to avoid in it any Revision to the repealed Act II of 1839.

I have the honor to be,
Sir,
Your Most obedient Servant

Officiating Director of Revenue Settlement

J. Lisi Esqre,
Secretary to Government,
Revenue Department
Fort St George

12-12-63

From The Offg. Director of Rev. Settlement
No 28-9-6 C. No 301

No. 14.

The Officiating Director of Revenue Settlement

&

The Secretary to Government Revenue Department Fort St. George

Dated 8th December 1863
Recd 9th
C-S- No. 1502

83-

Forwarding a letter from the Deputy Director of Revenue Settlement Trichinopoly and requesting that the opinion of the Government Law Officers may be obtained on the question raised by the Magistrate of Tinnevelly as to whether imprisonment can be awarded under Sec: IV Act XXVIII of 1860 in consequence of the repeal of Act II of 1839.

Abstract 173-1 Foly

G.

Reader for his opinion

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