M.R.O. 14—12,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1578-2579 Press
~~Mis.~~

416-418

Dated 21st October 1865

Not to be folded or roughly handled

No. 416. Read the following letter from the Government Pleader, Madras, to the Acting Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 11th October 1865, No. 144 :—

1. I do myself the honor of acknowledging the receipt of the Proceedings of Government, of the date and number noted in the margin.

22nd June 1865, No. 1,397, Rev. Dept.

2. I regret to observe that in penning my letter of the 2nd November 1863, No. 131, I referred to a copy of the Regulations which I now find was not at the time fully noted up : hence I overlooked Act X. of 1861, which does repeal the 39th Section of Regulation VI. of 1816, and consequently I was in error in stating a Vakalutnama filed in a Moonsiff's Court need not be on stamp.

3. Probably it may be competent to Government to constitute all Collectors of Districts, or Tahsildars of Talooks, their recognized Agents for the purpose referred to in the Proceedings ; the point, however, is not free from doubt, whether a general appointment in the manner proposed by Government would satisfy the provision of the Civil Procedure Code ; but if it should be held that the Collectors or Tahsildars were such recognized Agents as are contemplated by the 16th and 17th Sections of the Code, the Collectors or Tahsildars must appear and apply in person ; the Code does not provide for the appointment of a Pleader by a recognized Agent, the last sentence in the 10th Section clearly, in my opinion, referring to the appointment of a Pleader on behalf of the principal, and it has been held by the High Court that a Mooktear cannot now sign a Vakalutnama for a suitor. If therefore it be wished that the applications referred to should be made by a Vakil, I retain my opinion that such Vakil should be appointed by a Vakalutnama executed in the manner pointed out in the 3rd paragraph of my letter to the Board of Revenue, dated the 2nd November 1863, No. 131.

4. In my opinion it is competent to the Civil Courts to include in the Proclamation required by the 249th Section of the Procedure Code, " the amount of arrears due to Government for the land" intended to be sold in execution of a Decree.

No. 417. ORDER THEREON, 21st October 1865, No. 2,578.

Land Revenue.

1. It appears from the above letter that, in the Government Pleader's opinion, Collectors or Tahsildars appointed as the recognized Agents of Government to make applications to Courts in behalf of Government, could not appoint Vakils to appear for them in Moonsiffs' Courts, to assert the Government claim for arrears of revenue on land about to be sold for a judgment debt.

2. Under these circumstances, and as it is out of the question that the course held to be necessary by the Government Pleader in paragraph 3 of his letter, dated 2nd November 1863, should be adopted, viz., that in every such case a Vakalutnama, signed by a Secretary to Government, under an Order of the Governor in Council, should be furnished to the Vakil employed in the District Moonsiff's Court, the Government resolve to request the High Court to instruct all Mofussil Courts to include a statement of the amount of arrears due to Government on the land in the Notification of the intended sale required to be issued under Section 249 of the Civil Procedure Code.

3. All Collectors will notify in their District Gazettes that sales of land, under Decrees of Court, in no way bar the right of Government to realize all outstanding revenue claims on such land by summary attachment and sale, without reference to the change of ownership, unless such claims are otherwise satisfied.

(True Extract.)

(Signed) W. HUDLESTON,

Acting Secretary to Government.

To the Government Pleader.
,, the Board of Revenue.

Exd. S. T. Augustin.

REVENUE DEPARTMENT.
FORT SAINT GEORGE,
21*st October* 1865.

No. 418. No. 2,579.

To

THE HONORABLE SIR COLLEY HARMAN SCOTLAND, KT.,
CHIEF JUSTICE OF THE HIGH COURT OF JUDICATURE, MADRAS.

HONORABLE SIR,

Land Revenue.

1. I am directed, in forwarding to you the accompanying Extract Proceedings of Government in the Revenue Department, to request that if considered unobjectionable the Judges of the Courts in the Mofussil may be instructed to include a statement of Government arrears due on land to be sold under a Decree of Court in the Notification of sale, as one of "the other particulars" contemplated by Section 249 of the Civil Procedure Code.

2. The information can be obtained from the Revenue authorities, to whom application must be made to ascertain the amount of the "Revenue assessed upon the Estate," which is required by the above Section to be stated in the Notification of sale.

I have the honor to be,
Sir,
Your most obedient servant,
(Signed) W. HUDLESTON,
Acting Secretary to Government.

Exd. S. T. Augustin.

of Govt. on the land in the writ of ejectment under sec. 249. of the Civil Procedure Code.

Whether with the consent of the Govt. that subsequent under decree of Court in no way bar the 2nd & 3rd Govt. to realize all outstanding claims on such land by summary attachment & sale without appl. & the change of mortgagee subsequent claims are

Statistical Cases filed

Plaintiff Paul Bleeder Defendant

The Hon'ble Chief Justice
& the Hon'ble Puisne Judges of the Supreme Court

21st October 1865

3/
4/

Revenue Department

No. 2579.

2/10/65

To

The Hon'ble Sir Colley Harman Scotland, Kt.,
Chief Justice of the High Court of Judicature,
Madras

Honble Sir,

I am directed in forwarding to you the accompanying Extract Proceedings, to request that if considered necessary, the Judges of the High Court may be consulted as to whether the Government of Fort St. George is entitled to claim from the Government of India the amount of Stamp Duties due on Lands sold under or decree of Court in the Mofussil, in the event of the other Provinces" contemplated by Sec: 249 of the Civil Proc: Code.

I am, Sir,
Your most obedient Servant,
[illegible]
Secretary to Government.

Pro 22nd June/65 No. 469
C 469

Rev. Dept. 1865 Oct. 11
Proc. Govt. for Oct. 28th
No. 2874.
From Government Pleader
To Acting Secretary to Govt.

Dated 11 October 1865
Read 11th.
No. 2578 - 21st October

No. 144

With Order

offers his opinion with reference to G.O. No. 1397 of 22nd June last, explaining his views about preferring claims on account of Govt. arrears due on lands attached by a Moonsiff's Court in execution of a decree and about the conduct of applications in such cases to the Moonsiffs' Courts.

No. 2578.

It appears from the letter that in the Pleaders opinion, [illegible] appointed by the Govt. requiring applications for Govt. could not appoint vakils to appear for them in the Govt. claim [illegible] land &c. &c. in cases for [illegible] dept. Under these circumstances it is not the question that the [illegible] the necessary by the Govt. [illegible] 3. of his letter of 2 Nov 63 [illegible] adopted. viz: that the Govt. [illegible] vakils to appear in cases [illegible] the Govt. Council &c. to furnish [illegible] vakil employed in the Govt. [illegible] & Govt. Counsel & request [illegible] instruct the Moonsiffs [illegible] attachments of the amt. [illegible]

Revenue 1865. Separate
No: of Govt for October.

No 2579

To
The Honorable Sir
Colley Farman Scotland
Kt
Chief Justice of the
High Court of Judicature
at
Kandy.

Dy 25th October 1865.

From the Registrar of the
High Court of Judicature 22nd
Novr 1865 No 3376

Requesting that if
considered unobjectionable
the Judges of the Courts in
the Mofussil may be in-
structed to include a state-
ment of Government ar-
rears due on Land to be sold
under a Decree of Court in the
Notification of Sale.

No 218