

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT

G.O. No.	1449	Press ~~Mis.~~
170-21 Dated	13-9-1820	~~19~~

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
13th September 1870.*

No. 170. Read the following Proceedings of the Board of Revenue, dated 10th August 1870, No. 5,248:—

Read the following letter from the Officiating Collector of Vizagapatam, to the Acting Secretary to the Board of Revenue, dated 6th July 1870, No. 525.

I HAVE the honour to request to be favoured with the opinion of the Board as to whether there is any provision of law whereby costs can be awarded to a successful plaintiff under Regulation VI. of 1831. There is nothing on the subject in the Act itself.

2. This has now become a subject of much importance. Suits under this Act must now be stamped in accordance with Clause C., Clause 5, Section 7 of the Court Fees' Act, the stamp being fifteen times the value of the net profits. If there be no provision to award costs, in which, of course, the cost of the stamp would be included, the expense of bringing such suits will cause many to forego their rights, in which case not only their rights but those of Government suffer.

IN 1862 the question was raised as to whether the Limitation Act (Act XIV. of 1859) was applicable to suits triable by a Collector under Regulation VI. of 1831.

2. By Section 1 of the Act, "no suit shall be maintained in any Court of Judicature * * unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature." Hence the question turned on the point whether a Collector acting under Regulation VI. of 1831 was "a Court of Judicature."

3. The Board consulted the Government Pleader, Mr. Dale, in their Proceedings, dated the 26th November 1862, No. 7,773, and he replied in his letter, dated the 4th December 1862, No. 147, that in his opinion the Limitation Act had no reference to cases adjudicable by Revenue Officers under Regulation VI. of 1831. He gave no reason for this opinion, but since then the Revenue Courts have acted on it.

4. A new difficulty has now arisen in consequence of the Court Fees' Act.

5. A heavy stamp duty has to be levied on all plaints under Regulation VI. of 1831, and there is no provision as to making the party who is in the wrong pay costs, unless it can be found in the Civil Procedure Code.

6. Under Section 388 of the Civil Procedure Code "the procedure of the Civil Courts * * shall be regulated by this Act, and, except as otherwise provided by this Act, by no other Law or Regulation," and the Courts of Collectors acting under Regulation VI. of 1831 are not amongst the exceptions enumerated in Sections 383 and 384.

7. The majority of the Board think it doubtful whether they have been right in holding that the Limitation Act and the Civil Procedure Code are not applicable to suits under Regulation VI. of 1831, and they resolve to address Government on the subject, and request that they will, if they see fit, take the advice of the Advocate-General.

8. The First Member is not a party to these Proceedings, and has recorded a Minute giving the reasons for his dissent.

*Proceedings of the Madras Government, Revenue Department,
13th September 1870.*

No. 171.

ORDER THEREON, 13th September 1870, No. 1,449.

Miscellaneous.

Resolved accordingly that the foregoing Proceedings be referred to the Advocate-General through the Government Solicitor with the request that he will give an opinion on the questions raised by the Board of Revenue.

(True Extract.)

(Signed) H. E. STOKES,

Under-Secretary to Government.

To the Government Solicitor,
the Board of Revenue.

Edw. A. S. Rodgers

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No. 1449

Resolved accordingly that the
 foregoing Prop be referred to
 the Advocate General through
 the post Solicitor with the request
 that he will give an opinion on
 the questions raised by the Board of

J. P.

Revenue

By the Post Solicitor
 14-10-70

RTA

13th Sept/70

GOV. OF INDIA

REVENUE

THE GOVERNMENT SECRETARY

Secy. Secy. Secy.

Dated 1 September 1970.

Head

Secy.

1. A. 1100 of 1969, GOVERNMENT OF INDIA.

SECRET

NO. 1100-111.

Note under Regulation No. 101 of 1961 -
 Advance of 10% to be given to the holder of
 Licence No. 1100 of 1969 and Civil Procedure
 Code No. 1100 are not applicable to them.

Dr. H. K. Jha
 126, High Street, 2971.