

1269

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*Proceedings of the Madras Government, Revenue Department,
31st August 1872.*

No. 247. Read the following Proceedings of the Board of Revenue, dated 21st August 1872, No. 1,651 :—

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to the Secretary to the Board of Revenue, dated Madras, 8th August 1872, No. 101 :—

I HAVE the honour to acknowledge receipt of the Board's Proceedings, noted in the margin, requesting me to state whether there are any rules or precedents which settle the question raised by the Acting Collector of the Godavery District as to the recovery of Stamp duty in Pauper Suits.

2. As far as I can ascertain, there are no such rules or precedents. There appears to be no practice of communicating the result of Pauper Suits and Appeals to the Revenue authorities, and I suspect the cases in which any steps are taken to recover the Stamp duty on behalf of Government are very few. Of course, when the decision is against the pauper, it would generally be useless to take any such steps, but when the pauper succeeds and the opposite party is solvent, the case is different, and it certainly seems desirable that some practice should be adopted by the Courts for giving notice of the results of pauper suits to Government.

3. I think the Collector is in error in supposing that Stamp duty is recoverable by Government when pauper suits are disposed of "by withdrawal, admission or compromise." Section 309 of the Civil Procedure Code is the only provision for such recovery, and that comes into operation only on the *decision* of the suit and decree made, which would probably include dismissal for default.

4. I would suggest, as the most convenient method for securing the interests of Government in this respect, that the High Court should be requested to issue an order that copies of the decrees in all Pauper Suits and Appeals be sent to the Collector of the District in which the Court which will execute the decree lies. The decrees of the High Court in Pauper Appeals (and I presume the Mofussil Courts follow the same practice,) mention the amount of Stamp duty, and state that it is to be paid to Government. Then on receipt of the decrees, the Collectors would instruct the Government Vakils to recover the amounts by petition in the usual way, if the person to pay were worth proceeding against.

THIS correspondence will be submitted to Government in view to the High Court being requested to issue the Circular Order suggested by the Government Pleader.

2. The law requires the Judge, on the decision of a Pauper Suit, to "calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue in *forma pauperis*" and it is enacted that "such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable." But a subsidiary rule is necessary to provide for information in such cases being promptly communicated to Collectors of Districts, on behalf of the Government.

*Proceedings of the Madras Government, Revenue Department,
31st August 1872.*

No. 248.

ORDER THEREON, 31st August 1872, No. 1,269.

Separate Revenue, No. 18.

Stamps.

REFERENCE will be made as desired
to the High Court in the Judicial
Department.

(True Extract.)

(Signed)

W. HUDLESTON,

Secretary to Government.

To the Board of Revenue.
,, the Judicial Department.

14 Board of Revenue & District
5. Judicial Dept.

No. 2879
Rev. 1872. Sept.
**Board of Revenue,
MADRAS.**

PROCEEDINGS, 21ST AUGUST 1872, No. 1,651.

Sept 26 Aug 1/72

Encl. 1

Secy to
Jud. Dep.

Received

31st August/72

AUGUST.

No. 1,651.

Stamp duty in Suits—filed in form pau-
peris.—Certain correspondence regarding
recovery of—submitted to Government, in view
to High Court being requested to issue a Circu-
lar Order that copies of Decrees in all Pauper
Suits and Appeals should be sent to Collectors
concerned.

no 1209
Ref. to the Madras
District & the High Court in
the Judicial Dept.
31 Aug 72

No. 267-248

Original
Govt. of 1872 Madras.
REVENUE.

To
THE BOARD OF REVENUE,
&c., &c., &c.

Dated August 31st.

Encl.

Recd.

G. O., 31st August 1872, No. 1,269.

AUGUST.
Nos. 247-248.

Pauper Suits.—Reference to be made to the High Court, through the Judicial Department, for the issue of a Circular for the submission of copies of decrees to Collectors in view to the recovery of Stamp-duty.