

Proceedings of the Madras Government, Revenue Department,
8th January 1872.

No. 69. Read the following letter from the Government Pleader, Madras, to the Secretary to Government, Revenue Department, Fort St. George, dated Madras, 11th December 1871, No. 172:—

WITH reference to the Proceedings of Government noted in the margin, I have the honour to report that the High Court has this day, on my application, granted leave to appeal to Her Majesty in Council against the judgment in the Marangapoory case (R. A. No. 129 of 1869), deciding against the right of Government to regulate the succession to unsettled Zemindaries and Polliems.

2. Some little difficulty presents itself in prosecuting this appeal as follows. After the judgment of the High Court on the preliminary question of jurisdiction, the case was remanded to the Civil Court for trial on the merits. That Court decided against the plaintiff, confirming the title of the present Zemindar, and that decision has now been confirmed on appeal by the High Court. The difficulty, therefore, is that Government are, in fact, appealing in a case in which the decree is in their favour, and all they object to is one step in the process by which that conclusion was arrived at. I suggested to the Court that unless an appeal were preferred in this case the matter would be *res judicata*, and could never be raised by Government in another case; but Mr. Justice Holloway intimated a strong opinion that the principles of *res judicata* would not apply to such a case. However, as Government are party to the suit, and this part of the decision is adverse to their interests, I do not see why an appeal should not be preferred and a final judgment upon this important question be obtained; but I think it right to point out the above difficulty which may possibly, in the opinion of the Privy Council, be insuperable.

3. If it is determined to proceed with the appeal, security for costs, in the shape of Government Promissory Notes to the value of Rs. 4,000 and Rs. 400 cash for the expense of preparing the record should be placed at my disposal for deposit with the Registrar.

No. 70. ORDER THEREON, 8th January 1872, No. 36.

Miscellaneous.

THE Accountant-General will place the Government Pleader in a position to make the necessary deposit

for the Marangapoory appeal to the Privy Council.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Accountant-General.
„ the Government Pleader.
„ the Board of Revenue.

Exd. F. R. Bantleman.

No 172



Madras

11th Decemr 1871

From J. W. Handley Esqre
Government Pleader
Madras

To W. Haden Esqre
Secy to Government
Revenue Department

Sir

C.O. 25th With reference to the Proceedings
August 1871 of Government noted in the margin
No. 1,456

I have the honor to report that the
High Court has this day, on my
application, granted leave to appeal
to Her Majesty in Council against
the judgment in the Marangasooray
Case (P. 4129 of 1869) deciding
against the right of Government
to regulate the succession to un-
settled Zamindaries & Polliams.

2 Some little difficulty presents itself in
presenting this appeal as follows.

After the judgment of the High Court on the

preliminary question of jurisdiction, the
Case was remanded to the Civil Court
for trial on the merits. That Court decided
against the plaintiff, Confirming the title
of the present Zamindar & that decision
has now been confirmed on appeal by the
High Court. The difficulty therefore is
that Government are in fact appealing
in a case in which the Decree is in their
favor & all they object to is one step in
the process by which that Conclusion was
arrived at. I suggested to the Court that
unless an appeal were preferred in this case
the matter would be *res judicata* & could
never be raised by Government in another
Case, but Mr Justice Holloway intimates
a strong opinion that the principles of
res judicata would not apply to such a
Case. However as Government are party
to the suit, & this part of the decision is
adverse to their interests, I do not see why
an appeal should not be preferred and
a final judgment upon this important
question be obtained, but I think it
right to point out the above difficulty
which may possibly in the opinion of the
Privy Council be insuperable.

3 If it is determined to proceed with

the appeal, Security for Costs in the shape
of Government promissory notes to the value
of Rs 1000 & Rs 1000 Cash for the expense
of preparing the record should be placed
at my disposal for deposit with the
Registrar.

I have the honor to be
Your most obedient servant

J. M. Handley
Government pleader

The Accountant General:
Circular: Please
the High Court
1865 No 116 and
July 1866 No 103/-
In these cases however
no cash advance was
made.

Perman 1871 Oct 1st

7:39 63.

Don
the first all over

Madras

To the 123 & 1st
Rev. Sept.

dated 11th December
1872

No 26 - 8. January 1872

Marriage party case
(Oct 11 1871 1872)

Referring leave to
attend to the Court
as granted by the High
Court -
11th 1872

6 25 August 1871 No 26 - 76.

Referring to the 11th of 1872

King's Council

is a person in a position to be necessary
to the King's Council
No 69 - 70