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GOVERNMENT OF MADRAS

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Not to be folded or roughly hand

Proceedings of the Madras Government, Judicial Department,
1st August 1873.

No. 3. Read the following letter from T. J. C. PLOWDEN, Esq., Officiating Under Secretary to the Government of India, Home Department (Judicial), to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Simla, 21st July 1873, No. 1281:—

In reply to your letter, No. 1000, dated 27th ultimo, I am directed to convey the sanction of His Excellency the Viceroy and Governor-General in Council to the revised Rules under Sections 20, 22, and 23 of the Court Fees' Act (No. VII. of 1870).

No. 4. ORDER THEREON, 1st August 1873, No. 1210.

Communicated to the Honourable the Judges of the High Court and to the Board of Revenue.

2. The Rules will be published in the *Fort St. George Gazette*, and will come into operation on and after the 16th August 1873.

(True Extract.)

Chief Secretary.

To the Honourable the Judges of the High Court.
,, Board of Revenue.
,, Revenue Department.
To all District Judges.
,, Magistrates.

The following Rules made by the High Court of Judicature at Madras pursuant to the Court Fees' Act, Section 20, confirmed by the Governor of Fort St. George in Council and sanctioned by the Governor-General in Council, are hereby notified for general information:—

1. On and after the 16th August 1873 all payments for the service of processes issued by the High Court in its ordinary appellate jurisdiction, and by the Civil and Revenue Courts subordinate to the High Court, and by Criminal Courts, in the case of offences other than offences for which the Police may arrest without warrant, shall be collected according to the rates fixed in the annexed Schedules A and B.

2. In addition to the fees payable under Schedules A and B, where ferry charges have to be incurred, or where special expedition is required in the service of any process, the party at whose instance the process is issued shall pay a further fee equivalent to the actual cost of the ferry charge, or the actual cost of travelling by rail, boat, cart, &c., as the case may be.

3. Where any process has to be served in another district than that in which it is issued, no extra charge shall be made for postage.

4. When an Amin is employed as process server in the Court of a District Munsif, or in a Revenue Court subordinate to that of a Collector, his salary shall be 12 Rupees per mensem. In every other Court his salary shall be 14 Rupees per mensem. Provided that in exceptional cases, and with the previous sanction of the High Court, batta may be given in addition to the salary so fixed.

5. When a Peon is employed as process server in the Court of a District Munsif, or in any Revenue Court subordinate to that of a Collector, or in any Criminal Court, his salary shall be 6 Rupees per mensem. In every other Court his salary shall be 7 Rupees per mensem. Provided that in exceptional cases, and with the previous sanction of the High Court, batta may be given in addition to the salary so fixed.

6. The receipts on account of processes must be sufficient to defray the cost of the Process Service Establishments and the postage on account of correspondence relating to processes.

(By order of the Right Honourable the Governor in Council.)

(Signed) W. HUDLESTON,
Chief Secretary.

SCHEDULE A.—(CIVIL AND REVENUE COURTS.)

No.		In a District Munsif's or subordinate Revenue Court.	In every other Civil or Revenue Court.
		RS. A. P.	RS. A. P.
1	Summons or Notice to Defendant or Respondent	0 8 0	1 0 0
	And for every additional Defendant or Respondent if applied for at the same time, and if defendant resides in the same neighbourhood	0 4 0 0 8 0	0 8 0 1 0 0
2	Summons to a witness		
	And for every additional witness if applied for at the same time, and if witness resides in the same neighbourhood ...	0 4 0 1 0 0	0 8 0 2 0 0
3	Warrant of arrest	0 8 0	1 0 0
4	Proclamation of attachment or the process for sale		
5	Warrant of attachment of moveable or immoveable property according to the value of the suit, if applied for before judgment, or the amount decreed if applied for in execution of decree—		
	If the value or amount does not exceed 50 Rupees ...	0 8 0	2 0 0
	Exceeds 50 Rs., but does not exceed 100 ,, ...	1 0 0	3 0 0
	,, 100 ,, ,, 500 ,, ...	2 0 0	4 0 0
	,, 500 ,, ,, 1,000 ,, ...	3 0 0	5 0 0
	,, 1,000 ,, ,, 5,000 ,, ...	... ...	6 0 0
	,, 5,000 ,, ,, 10,000 ,, ...	... ...	7 0 0
	,, 10,000 ,, ...	... ...	
6	Warrant of delivery of possession of property (moveable or immoveable)—	The fee for attachment of said property.	
	If no attachment has taken place.		1 0 0
	If attachment has taken place—	0 8 0	2 0 0
	For moveable property	1 0 0	
	For immoveable property		0 8 0
7	Warrant of sale of moveable property—	0 4 0	1 0 0
	If conducted at the Court-house	0 8 0	
	If not conducted at the Court-house		1 0 0
8	Warrant of sale of immoveable property—	0 8 0	2 0 0
	If conducted at the Court-house	1 0 0	1 0 0
	If not conducted at the Court-house	0 8 0	... ...
9	Injunction, Order, or Notice not otherwise provided for ...	0 4 0	
10	Any process in execution of a decree of a Village Munsif ...		

Proceedings of the Madras Government, Judicial Department,
1st August 1873.

N.B.—(1.) If a process is to be served or executed within a radius of six miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.

(2.) When it is found necessary to employ more than one Amin or Peon (as, for instance, where property is situated in different places), double rates are to be charged.

(3.) When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the Officer of the Court.

(4.) If the processes for attachment and sale are issued simultaneously, the proper fee for the former process only is to be charged.

(5.) Under Section 8, Act XXIII. of 1861, the lowest rate for serving a process shall be deemed to be as heretofore 4 Annas per diem. A week's batta is to be deposited in advance and renewed at like intervals.

SCHEDULE B.—(CRIMINAL COURTS.)

		RS. A. P.
1.	Summons to Defendant...	0 8 0
	And for every additional Defendant if applied for at the same time, and if resident in the same neighbourhood	0 4 0
2.	Summons to a witness	0 8 0
	And for every additional witness if applied for at the same time, and if witness resides in the same neighbourhood	0 4 0
3.	Warrant of arrest	0 12 0
4.	Notice, Order, Injunction, or Warrant not otherwise provided for.	0 8 0

N.B.—(1.) If a process is to be served or executed within a radius of six miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.

(2.) When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the Officer of the Court.

The following Rules made by the High Court of Judicature at Madras in exercise of the power conferred by the Court Fees' Act, Section 22, approved by the Governor of Fort St. George in Council and the Governor-General in Council, are hereby notified for general information :—

1. The establishment of each Court must suffice for the service and execution of all processes transmitted from other Courts as well as of processes issued from the Court to which the establishment belongs.

2. A separate establishment for the service of criminal processes shall only be entertained in the Courts of the Magistrates of the second and third classes. All processes issued by Magistrates of the first class shall be transmitted to the Magistrate of the second or third class within whose jurisdiction they are to be served.

3. No separate establishment shall be entertained in the Courts of the Village Munsifs, but processes issued by Village Munsifs shall ordinarily be served or

executed by the Village Peon or Taliar. Processes issued by District Munsifs in execution of the decrees of Village Munsifs shall be served or executed by the Peons of the District Munsif's Court.

4. Subject to the above rules, the District Judge shall fix the number of process servers necessary to be employed for the service and execution of civil processes issued by his Court and the Court subordinate thereto, and the Magistrate of the District shall fix the number of peons necessary to be employed for the service and execution of criminal processes issued by his Court and the Courts subordinate thereto.

5. In the case of Civil Courts, the number of process servers at first fixed shall not, without the previous sanction of the High Court, exceed the number employed on 31st March 1873, nor shall the total cost of the establishment exceed the average disbursements made on account of processes for the three years ending 31st March 1873.

6. In the case of Criminal Courts, the number of peons at first fixed shall not, without the previous sanction of the High Court, exceed the rate of one peon for every 300 processes that have been annually served or executed by the Police on the average of the three years ending 31st March 1873 in cases other than those in which the Police are authorized to arrest without warrant.

7. The establishments fixed shall be reported to the High Court for sanction. No increase shall afterwards be made without the sanction of the High Court, but transfers may be made from one Court to another at the discretion of the District Judge or Magistrate of the District, and permanent reductions when feasible should be made and reported to the High Court.

(By order of the Right Honourable the Governor in Council.)

(Signed) W. HUDLESTON,
Chief Secretary.

The following Rule framed by the Board of Revenue in exercise of the power conferred by the Court Fees' Act, Section 23, and approved by the Governor of Fort St. George in Council and the Governor-General in Council, is notified for general information :—

The number of process servers fixed by the District Collector for his own office and the offices subordinate to him shall be so fixed that the cost of the establishment may be at least covered by the amount of fees levied on the processes served and executed by them. It shall be reported to the Board of Revenue in the first instance for confirmation, and shall be altered from time to time as they may direct, and it shall not be increased without their sanction; but the Collector shall have power to transfer process servers from one office to another within his jurisdiction as experience may dictate, and, when convenience requires that processes issued by one officer shall be served by the process servers attached to another, they may be served accordingly.

(By order of the Right Honourable the Governor in Council.)

(Signed) W. HUDLESTON,
Chief Secretary.

Exd. J. Wright.

No 2406
Revenue Dept-

Govt. of {1873} Madras.

JUDICIAL.

To

THE HON. THE JUDGES OF THE
HIGH COURT,
&c., &c., &c.

Mis

Dated August, 1st.

Recd. ~ 9th *Encl.*

G. O., 1st August 1873, No. 1210.

Gen Misc

AUGUST.
Nos. 3-4.

Court Fees' Act. (VII. of 1870.)—Sanction of the Government of India to the revised Rules under Sections 20, 22, and 23 of the Act, communicated to the Judges of the High Court and to the Board of Revenue.

No 84
Revenue
11 Aug 73