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Proceedings of the Madras Government, Revenue Department,
23rd January 1873.

No. 175. Read the following Proceedings of the Court of Wards, dated 20th December 1872, No. 2,435:—

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to the Secretary to the Court of Wards, dated Madras, 9th December 1872, No. 156:—

WITH reference to the Proceedings of the Court of Wards noted in the margin, I have the honour to report that an appeal to the Privy Council has been filed against the decision of the High Court in the case (Regular Appeal No. 80 of 1869) therein referred to. No official notice of the admission of the appeal has been given either to the Collector or to me, the reason for this omission being that the appeal was not admitted on Petition to the High Court in the usual course, but, after the time for appealing had expired, application was made to the Privy Council for special leave to appeal, which was granted. If the practice in such cases is not to give notice to the other side either of the application to the Privy Council for special leave or of the admission of the appeal, it certainly requires amendment, since in this way it might well happen that an appeal might be decided entirely behind the back and without the knowledge of one of the parties.

23rd June 1870, No. 4,345.

2. I do not know what is the usual course pursued by the Court of Wards in the case of appeals to the Privy Council in which their Wards are parties. In the case of appeals to which Government is a party, I communicate with the Secretary of State for India who, thereupon, gives the necessary instructions to the Solicitors to the India Office, but this course cannot, I suppose, be pursued in private suits in which the Collectors are parties only as Agents to the Court of Wards. The proper course in such cases would seem to be for the Court of Wards, either through the Government Solicitor or myself, to instruct competent Solicitors in England to conduct the case before the Privy Council.

3. The record in this appeal has been transmitted to England some months ago, but in the present state of the business before the Judicial Committee, it must be a long time before it can come to a hearing, so that there is ample time to make the necessary arrangements for its defence.

4. The Appellant of course relies upon the decision of the High Court in the Marungapuri case, over-ruling the previous decisions of that Court and the Sadr Court, as to the hereditary character of unsettled Zemindaries and Poliyams. Government has appealed against that decision, but it is possible that the question may not be decided in that apppeal, in consequence of the ultimate result of the suit here having been in favour of their nominee the present Zemindar. If this should be so, the present case will afford a good opportunity for obtaining the decision of the Highest Court of appeal upon the same question.

THIS letter will be submitted for the orders of Government.

2. The Court of Wards is closely connected with Government and is entitled to the assistance and support of the Government in England as well as in

India. The Court think that the procedure in the defence of suits before the Privy Council in which their wards are interested should be the same as in suits in which Government are parties, all expenses being, of course charged to the Estates concerned. They beg therefore that the Government Pleader be authorized to communicate with the Secretary of State in view to the services of the Law Officers of the India Office being secured in the present case.

3. The Court also beg to call the attention of Government to the irregular way in which, according to Mr. Handley appeals are admitted by the Privy Council, without notice to the opposite parties; and suggest that the Secretary of State be requested to take the necessary steps to insure notice of all appeals being given to the authorities in this country who may be interested.

No. 176. ORDER THEREON, 23rd January 1873, No. 88.

Miscellaneous.

THE Government Pleader is authorized to make the communication suggested in paragraph 2 of the Proceedings of the Court of Wards.

2. The Government will address the Secretary of State with reference to paragraph 3.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

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

Exd. F. R. Bantleman.

Returned to the Secretary
to State 28 January 1873
Ans 2 Nos

Govt. of Madras.

REVENUE.

To

THE GOVERNMENT PLEADER,

&c., &c., &c.

Dated January 23rd.

Recd.

Encl.

G. O., 23rd January 1873, No. 88.

JANUARY.

Nos. 175-176.

Gantamanikanoor Estate in Madura District—Proceedings Court of Wards submitting report of Government Pleader regarding appeal to the Privy Council from the decision of the High Court in R. A. No. 80 of 1869, with orders thereon.

Revenue Department.

Proceedings of the Court of Wards
dated 20th December 1872.

Read the following.

No. 156.

From J. F. Handley Esqr.
Government Pleader
Madras

To J. Grose Esqr.
Secretary to the Board of Revenue.

Sir,

23rd June 1870
No. 4345.

With reference to the Proceedings of the Court of Wards noted in the margin, I have the honor to report that an Appeal to the Privy Council has been filed against the decision of the High Court in the case (Regular Appeal No. 80 of 1869) therein referred to. No official notice of the admission of the appeal has been given either to the Collector or to me, the reason for this omission being that the Appeal was not admitted on petition to the

High

High Court in the usual course, but, after the time for appealing had expired, application was made to the Privy Council for special leave to appeal, which was granted. If the practice in such cases is not to give notice to the other side, either of the application to the Privy Council for special leave, or of the admission of the appeal, it certainly requires amendment, since in this way it might well happen that an appeal might be decided entirely behind the back, and without the knowledge of one of the parties.

2. I do not know what is the usual course pursued by the Court of Wards in the case of appeals to the Privy Council in which their wards are parties. In the case of appeals to which Government is a party, I communicate with the Secretary of State for India, who thereupon gives the necessary instructions to the Solicitors to the India Office, but this course cannot,

cannot, I suppose, be pursued in private suits in which the Collectors are parties only as Agents to the Court of Wards. The proper course in such cases would seem to be for the Court of Wards, either through the Government Solicitor or myself, to instruct competent solicitors in England to conduct the case before the Privy Council.

3. The record in this appeal has been transmitted to England some months ago, but in the present state of the business before the Judicial Committee, it must be a long time before it can come to a hearing, so that there is ample time to make the necessary arrangements for its defence.

4. The Appellant of course relies upon the decision of the High Court in the Marungapuri case, over-ruling the previous decisions of that Court and the Sudder Court, as to the hereditary character of unsettled Zemmdaries and

and pollums. Government has appeal-
ed against that decision, but it is
possible that the question may not
be decided in that appeal, in con-
sequence of the ultimate result of the
Suit there having been in favor of their
nominee, the present Zemmdar. If
this should be so, the present case
will afford a good opportunity for
obtaining the decision of the highest
Court of Appeal upon the same question.

I have &c.

Madras.
9th December 1872.

(signed) J. W. Handley
Government Pleader.

This letter will be submitted
for the orders of Government.

2. The Court of Wards is closely
connected with Government, and is entitled
to the assistance and support of the
Government in England as well as in
India. The Court think that the
procedure

procedure in the defence of Suits before
the Privy Council in which their Wards
are interested should be the same as
in Suits in which Government are
parties, all expenses being, of course,
charged to the Estates concerned. They
beg therefore that the Government
Pleader be authorized to communicate
with the Secretary of State in view to
the services of the Law Officers of the
India Office being secured in the present
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attention of Government to the irregular
way in which, according to Mr. Handley,
Appeals are admitted by the Privy Council,
without notice to the opposite parties;
and suggest that the Secretary of State
be requested to take the necessary
steps to insure notice of all appeals
being given to the authorities in this
country

country who may be interested.

(True Copy & Extract)

H. E. Stokes

Ag: Sub- Secretary.

To

The Secretary to Government,

Revenue Department.

Le Hunfshire

Mailer

Revenue 1872 Dept

No. 4060,

Proceedings of the

Court of Wards.

Nos. 175-176

dated 20th }
despd. 20th } December 1872.
recd. 21 }

No. 88 - 23d January 1873

Appeal - to Privy Council from decision of High Court in R.A. No. 80 of 1869 regarding Gemtamanaickanoor Estate in Madura Dt., now under charge of Court of Wards, - Report of Govt. Pleader of filing of - submitted to Govt. - Their attention drawn to reported irregular way in which Appeals are admitted by Privy Council and authority requested for Govt. Pleader communicating with Secty. of State in view to services of the Law officers of India Office being secured in the present case in the same way as in Govt. Suits -

No. 88.

The Govt. Pleader is authorised to make the communication suggested in Para 2 of the Proceedings of the Ct. of Wards.

2. The Govt. will address the Secy. of State with reference to Para 3.

3 To the Revenue Board Pleader, Accountant General

14. The Board of Rev.

23d Jany 1873.

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