M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 10

(2) Date of repair 3.6.66.

(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	136	Press
B.P. No.		~~Mis.~~
Dated	30. 1	1974.

Not to be folded or roughly handled

1c

Proceedings of the Madras Government, Revenue Department,
30th January 1874.

No. 265. Read the following letter from E. BARCLAY, Esq., Acting Government Solicitor, Madras, to D. F. CARMICHAEL, Esq., Secretary to Government, Revenue Department, Fort St. George, dated 21st January 1874, No. 40:—

I HAVE the honour to acknowledge receipt of the order of Government, dated 16th January 1874, No. 70, Revenue Department, requesting the Advocate-General's opinion as to the proper amount of Stamp-duty in summary suits payable under Section 18 of Rent Recovery (Madras) Act No. VIII. of 1865.

2. I submitted the matter for the consideration of the Advocate-General, and I now forward herewith a copy of his opinion.

OPINION.

THERE is in this case no doubt as to the intention of the legislature. Section 75 of Act VIII. of 1865 (Madras) provides that summary suits, such as those referred to in Section 18, shall be exempt from stamp. This Section, however, was repealed by the Court Fees Act, 1870, and, though the object of that measure was apparently nothing more than to re-produce the existing law in a more convenient form, and a large number of cases are accordingly specially provided for, the case of summary suits under Madras Act VIII. of 1865 appears to have been overlooked. It is, I think, impossible to treat the "Plaint" referred to in Sections 50 and 53 of the Act as "an application or petition to a Revenue Court," inasmuch as both in Section 19 and in the Schedule numerous plaints are specially provided for, some of which have quite as good a right to be treated as petitions to a Revenue Court as the one in question; for instance, plaints in suits before Collectors under Madras Regulation XII. of 1816. Moreover, Section 53 sets out all the ordinary requirements of a regular plaint, and even provides for the recovery of damages. It must, therefore, in my opinion, be regarded as a "Plaint," and as I cannot find that special provision is made for it in Article 17 of the 2nd Schedule, or in Section 19, or elsewhere in the Act or the Schedule, it must, in my opinion, be regarded as falling under Article 1 of Schedule 1.

2. As this is obviously an oversight, the simplest course would be to apply to the Government of India for a remission of the stamp by Notification under Section 35.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

20th January 1874.

No. 266. ORDER THEREON, 30th January 1874, No. 136.

Separate Revenue, No. 18.
Stamps.

COMMUNICATED to Board of Revenue. Application will be made to the Government of India for a remission of this Stamp-duty, as suggested by the Advocate-General.

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

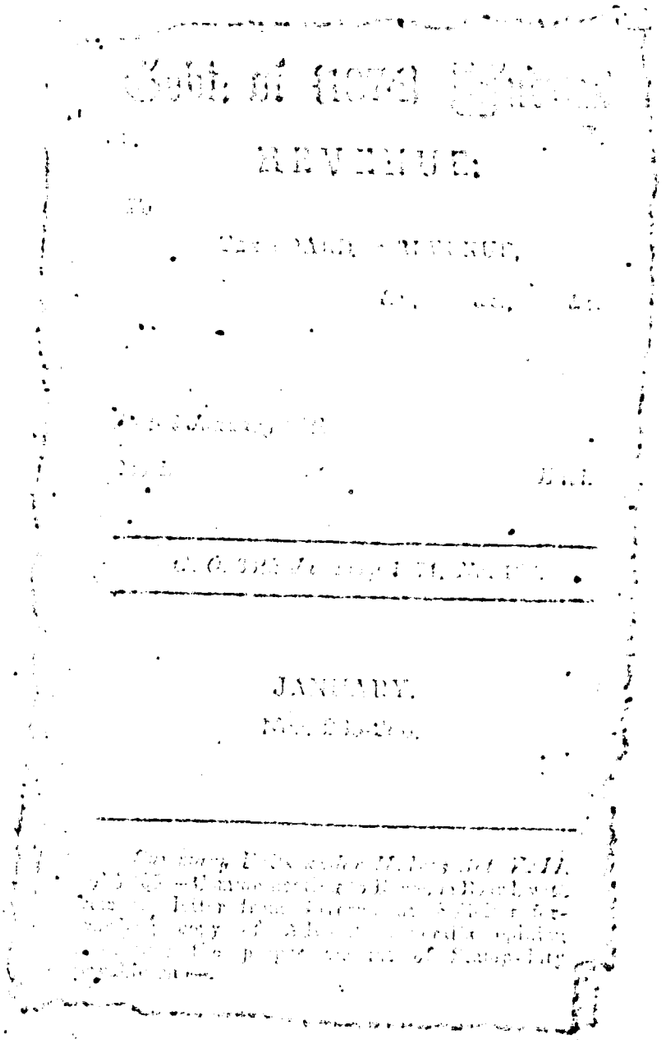
To the Board of Revenue.
,, the Government Solicitor.

Exd. F. R. Bantleman.

Opinion.-

There is in this Case no doubt as to the intention of the Legislature - Section 75 of Act VIII of 1865 (M) - provides that summary suits such as those referred to in Section 18, shall be exempt from stamp. This section, however, was repealed by the Court Fees Act 1870 - and though the object of that measure was, apparently nothing more than to reproduce the existing law in a more convenient form, and a large number of Cases are accordingly specially provided for, the Case of summary suits under Madras Act VIII of 1865 appears to have been overlooked. It is, I think, impossible to treat the "plaint" referred to in Sections 50 and 53 of the Act as "an application or petition to a Revenue Court", inasmuch as both in Section 19 and in the Schedule numerous plaints are specially provided for, some of which have quite as good a right to be treated as petitions to a Revenue Court as the one in question, for instance Plaints in Suits before Collectors under Madras Regulation XII of 1816. Moreover Section 53 sets out all the ordinary requirements of a regular plaint and even provides for the recovery of damages. It must, therefore, in my opinion be regarded as a "plaint", and as I cannot find that special provision is made for it in Article 17 of the 2nd Schedule, or in Section 19, or elsewhere in the Act or the Schedule, it must, in my opinion be regarded as falling under Article 1 of Schedule 1.-

As



As this is obviously an oversight, the Counsel's fees should be paid by the Government of India on a remission of the Stamp by Notification under S. 35.-

[Signed] H. S. Cunningham.
Adv. Genl.
20-1-[illegible]

[True Copy]
Lucas Wardlaw
Actg. Government Solicitor.

Rec'd No 190/74

Enclosure in Letter
from the Acting Govern-
ment Solicitor, Madras,
to the Secretary to Govern-
ment, Revenue Depart-
ment, Fort St. George
dated 21st January
1874, No. 40.

Pl. J 30 Jany/74
Ch. Bl. 2/5

No. 40.-

Madras, 21st January 1874.

From

Ernest Barclay
Actg. Government Solicitor
Madras.

To

D. F. Carmichael Esqre
Secretary to Government,
Revenue Department,
Fort St. George,

Sir,

1. I have the honor to acknowledge receipt of the Order of Government dated 16th January 1874 No. 70, Revenue Department, requesting the Advocate General's Opinion as to the proper amount of stamp duty in Summary Suits payable under Section 18 of Rent recovery (Madras) Act No. VIII of 1865.-

2. I submitted the matter for the consideration of the Advocate General and I now forward herewith a copy of his opinion.-

I have the honor to be,
Sir,
Your most Obedient Servant,
Ernest Barclay
Actg. Government Solicitor.-

CO 16 January 1874 Nos 133-35

Revenue 1874 Depts.
No 190
Fiche
Fee & Government Solicitor
Jersey
Madeira
Sierra Leone Government
Revenue Establishment,
Fort St George.

Dated 21st January
Rec'd 22nd January

C.O. 40.
Castellano 1.

Forwards copy letter & Rec. from Colonial Secretary, as to the proper amount of Stamp duty on Summary Writs payable under Section 18 of Act for recovery (Madeira) Act No VIII of 1865.

No 136

Comm[rs] of Rev.
Application will be made to the Govt of India for a remission of this Stamp Duty as suggested by the Adv. Gen. £22/1
30 Jan 74.

14 & 15 Vict. c. 97 Sch. A Pt 3
4 Geo. 4 Sch. A Pt 3

265-266.

Rec'd Jan 74 R26