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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	1588	Press
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Dated	29. 7-1875	196 .

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
2nd July 1875.*

Courts—Subordinate Revenue.

Read the following papers:—

No. 17. From A. KISTNAMA CHARI, a resident of Chittore, to the Hon. D. F. CARMICHAEL, Officiating Chief Secretary to Government, Fort St. George, dated Chittore, 6th May 1875.

At the suggestion of Government certain rates were fixed by the Judges of the High Court for serving processes in the Civil, Magistrate and Revenue Courts, and were approved of by Government in their Proceedings, dated 1st August 1873, No. 1210, Judicial Department. In those Proceedings it is laid down 8 Annas to be collected for every defendant or witness, and 4 Annas for every additional defendant or witness in a District Munsif or Subordinate Revenue Court. It is also clear from that order that the Sub, Head Assistant and Assistant Collector's Courts do fall under the category of Subordinate Revenue Court. Ever since the system of collecting process fees were introduced these Courts were considered as Subordinate Revenue Courts, and process fees were realized at 8 Annas for defendant or witness, and 4 Annas for every additional defendant or witness. The Acting Head Assistant Collector, Mr. Cox, now insists on me and others to pay what is required to pay in Superior Revenue Court, *viz.*, 1 Rupee for first defendant or witness, and 8 Annas for every additional defendant or witness, on the ground that he was instructed by the Collector to suppose his Court as Superior Revenue Court, and I think the Collector is entirely mistaken in his view. From the Regulation VII. of 1828 it is clear that these Courts are subordinate to that of the Collector. If the Sub-Collector's Court, Head Assistant Collector's Court, and Assistant Collector's Court are considered as Superior Courts, I have no doubt parties like myself will be put to great loss. In most cases the process fee alone will exceed the fees of the Vakil. The High Court would not have meant the Tahsildar's Court as one as Subordinate Revenue Court, because not in one single case the Tahsildar has power to exercise judicial function for final disposal of any matter himself.

2. Under these circumstances, I humbly beg that your honor will be pleased to issue instructions to the Collector that he is wrong in his view, if Government should so suppose.

Referred to the Government Pleader for his opinion with the Government Order quoted.

(By Order),

(Signed) D. F. CARMICHAEL,
Officiating Chief Secretary.

12th May 1875.

No. 17-A. From H. H. SHEPHARD, Esq., Officiating Government Pleader, to the Hon. D. F. CARMICHAEL, Officiating Chief Secretary to Government, Fort St. George, dated Madras, 24th June 1875, No. 46.

In reply to the question submitted to me in a letter of reference, dated 12th May 1875, I have the honor to state that, in my opinion, the Collector of Chittore is wrong in his construction of the Rules framed under the Court Fees Act.

*Proceedings of the Madras Government, Judicial Department,
2nd July 1875.*

2. The question, as I understand it, is whether the term "Subordinate Revenue Court" is intended to include the Court of the Head Assistant Collector. Although the decisions of a Head Assistant Collector are not in every case subject to appeal or revision in the Collector's Court, yet he may not inaptly be termed a Subordinate Officer, inasmuch as a Collector generally exercises powers of superintendence and control over his proceedings. (See Regulation VII. of 1828, and Criminal Procedure Code, Sections 37, &c.)

3.rd That the phrase "Subordinate" was intended by the framers of the Rules to apply to the Head Assistant is, moreover, strongly indicated by the language used in Rules 4 and 5. There the same classification is adopted but by the addition of the words "to that of a Collector" after the word "Subordinate," it is clearly shown that the Collector only was to be considered a Superior Revenue Officer.

4. If in the construction of these two Rules the Court of the Head Assistant is dealt with as a Subordinate Court, I think it must come under the same category when the application of the schedule has to be considered.

5. Under these circumstances, I am of opinion that the Court of a Head Assistant Collector must be held to be a Subordinate Revenue Court within the meaning of the Rules in question.

6. I return all the papers forwarded to me.

No. 18. ORDER THEREON, 2nd July 1875, No. 1481.

Communicated to all Collectors for information and guidance.

(True Extract.)


Officiating Chief Secretary.

To all Collectors.

.. the Board of Revenue.

.. the Revenue Department. ✓

Ed. T. O'Connor.

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Rev: 1875: Dept
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Govt. of 1875 Madras.

JUDICIAL.

To
ALL COLLECTORS,
&c., &c., &c.

Dated July, 3rd.

Issued

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Recd.

19th

G.O., 2nd July 1875, No. 1481.

JULY.

Nos. 17-18.

Courts, Subordinate Revenue.—Letter from the Government Pleader giving it as his opinion that the Head Assistants' Courts come under the term "Subordinate Revenue Courts" as used in the Rules framed under the Court Fees Act, communicated to all Collectors for information and guidance.

N 1588
Sd/-
29th Aug 75