

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1206	Press ~~Mis.~~
166-65		
Dated	10-8-1870	12

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
10th August 1870.*

No. 144. Read the following letter from the Government Solicitor, Madras, to the Acting Secretary to Government, Revenue Department, Ootacamund, dated 2nd August 1870, No. 426 :—

With reference to the Order of Government noted in the margin, I have the honour to forward herewith a copy of the joint opinion of the Advocate-General and the Government Pleader, relative to the Marangapoory Appeal Suit.

Dated 25th July 1870, No. 1,118, Revenue Department.

2. I have marked on Mr. Advocate-General's Brief the usual fee of 140 Rupees, payable to him in such cases, and have therefore to request that you will obtain the sanction of Government for the disbursement by me of that sum out of the funds in my hands.

OPINION.

We have conferred with the Revenue Board, as requested, as to the course to be pursued by the Government on the hearing of the Marangapoory Appeal.

2. Mr. Mayne applied for a full Bench, and had his request been conceded to, we think that the Government ought to have appeared beyond all question. The point at issue is one of such grave importance as to render the question of costs a very subordinate one.

3. We have ascertained that the case will be heard on the 12th August before the Chief Justice and Mr. Justice Innes. No full Bench will assemble. Had Mr. Mayne's request been granted, it could have been only fair to assume that the Chief Justice felt some doubts as to the soundness of the cases already decided as to the nature of a Poligar's estate. We may fairly assume from the fact that the case is to be heard by an ordinary Court that no doubts are felt, and that it will be left to the appellant to seek his remedy, if so advised, before the Privy Council.

4. Still it is open to an ordinary Court to reverse the decisions of former Courts, improbable as such a contingency may be.

5. But whatever the result here, the possibility of an ultimate resort to the Privy Council must be kept steadily in mind.

6. It may be that the Advocate-General, who represents the respondent, will of necessity have to advance every argument in support of the power of Government to nominate, which could be urged by the Government Pleader; but in event of an appeal, the present respondent need not be represented in the Privy Council; and it is a matter of doubt, which ought not to be left open, whether the Privy Council would admit the Government as a party, either appellant or respondent as the case might be, if it appeared that the option had been given to the Government to appear in the Madras Court, although on terms, and that the Government had declined or neglected to take advantage of the offer.

7. It is true that if the Government does not appear, it will not be bound by any decree passed in a Suit to which it is no party, the appellant not having chosen to include the Collector as a respondent. But it appears to us that no

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opportunity will be so good as the present for finally determining the point. And we therefore advise, the Revenue Board coinciding in this opinion, that on the whole, it will be most for the interests of Government to appear on the terms imposed by the Court.

(Signed) JOHN BRUCE NORTON,
Advocate-General.

30th July 1870.

(Signed) J. W. HANDLEY,
Government Pleader.

No. 145. ORDER THEREON, 10th August 1870, No. 1,206.

Miscellaneous.

RECORDED, with reference to the
G. O. dated 1st August 1870, No. 1,136.

(True Extract.)

(Signed) H. E. STOKES,
Under-Secretary to Government.

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

No 1206

Recorded with reference
to the G. O. dated 1st
August 1870 No 1136.

[Signature]
10 Aug 70

[Signature]

- 4 Govt Solicitor Dept. 16
- 14 Bd of Revenue
- 3 Govt Pleader

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Govt. of Mysore.

REVENUE.

THE GOVERNMENT SOLICITOR.

Kc, dc, &c.

Dated August, 10th.

Recd. *[Signature]*

G. O., 10th August 1870, No. 1,206.

AUGUST.
Nos. 144-145.

Mangalore Appeal Suit on file of High
Court.—Letter from Government Solicitor forward-
ing copy of joint opinion of the Advocate-General
and Government Pleader relative to this Suit,
recorded.