

Revenue (1898) Department.

PRESS SERIES.

G.O., No. 23

Dated 11th January

[Despatch Abstract.]

Requesting the Hon. the Advocate-General
to frame a bill enabling Govt. to place an estate
under the Court of Wards on the application of a
guardian.

[illegible]

GO.	No.	Department.	Date.

Regulation V of 1804 as it stands at present enables the Court of Wards to take charge of only those estates the proprietors of which are incapacitated by minority sex or natural infirmity. It is, therefore, unable to intervene in the case of encumbered estates even though the proprietors themselves may seek its intervention, so long as they are not incapacitated by any of the disabilities mentioned above.

The Govt has had ^{the question} under its consideration and has arrived at the conclusion that where the proprietors

of an estate makes
an application to
the local Govt to
have his estate placed
under the supervi-
sion of the Court
of wards and the
local Govt is satis-
fied that it is ex-
pedient in the
public interests
that such estate
should be managed
by the Court, it should
have the power to
direct the Court to
assume the manage-
ment in such case
also ~~and~~ that the pro-
prietor ~~may~~ there-
upon becoming a
ward of the Court
and his property be-
coming subject to its
control, but not
his person.

As this power of
interference will
ordinarily be exercised
only in the case of

Provisions being however
modified with reference
to para. 11 of the Act of 1891
(see extract from which
is appended),

at

P

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page 907
file I

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modified with reference
to para. 11 of the Act of 1891
(see extract from which
is appended),

encumbered estates
and as considerable
difficulty is ex-
perienced in getting
the creditors to
such estates to fur-
nish true and
correct accounts
of their claims
within any reasonable
time, powers similar
to those contained
in chapter IV of
the new Court of
wards Bill for
the D. W. P. and
should, the
Govt considers,
be also conferred
on the Court, these

The Honble the
Advocate General
is requested to frame
a short bill for in-
troduction into
the Local Legislative
Council as early
as possible in the
current Session
containing the

necessary provisions
with a statement of objects & Reasons.

2. A copy of the
Bill for N.W. Pro-
vince referred to
is forwarded for
perusal and
return.

8/2
11/1/81

From orders

To the Hon-ble Adv. General.

through the Govt. Solicitor

with N.W. Province Bill

+ with extra

G.O. letter no 893 dated 4.9.97

Dated 12.1.98

25/2

No. 893/217-8.

From

Denzil Ibbotson Esq. C.S.I., C.S.,

Secretary to the Government of India.

To

The Secretary to the Government of the
North-Western Provinces and Oudh.

Dept. of Revenue & Agriculture.

Land Revenue.

Simla, the 24th April 1897.

Sir,

X

X

X

X

11. Chapter IV, section 17.- The provision that the Notification shall be published and enquiry made by the Collector of the district in which the greater part of the Ward's property is situated seems open to objection, as likely to lead to uncertainty in a matter in which certainty is above all things requisite. And the same remark will apply with almost equal force to the similar provisions of sections 33, 51, 52, 53 and 54. The Government of India would suggest that there should be one Collector definitely put in charge of the estate (and, if necessary, which it seldom would be, another in charge of the person of the Ward) who should be specified in the Order and Notification of assumption of control that all these proceedings should rest in the first instance with him or them. The powers under Chapter IV might (as in section 33) be exercisable by "any other Collector whom the Court of Wards may appoint in this behalf," and those under section 52 (3), 53, 54 (2) might be delegable by general or special order of the Court to the Collector in whose district the property in dispute is situated. The second clause of section 7 does not appear to cover the case, as the powers to be delegated are given by the Act to Collectors, not to the Court. Further it might be well that the local Government should be empowered to invest any person at any stage of the proceedings with the powers of a Collector for the purposes

Chapter 17. In the case of a large and heavily encumbered estate, it would often be impossible for the Collector himself to do the work; or, at any rate to make the necessary control. Section 19; and a special officer would be appointed, as in the case of encumbered estates.

The following are further suggestions for the Honourable's consideration on minor points of detail in the Bill:-
(i) Section 19.- The words "in whole or in part" should be added after "disallowed".
(ii) Section 20.- The expression "barrat" does not seem sufficiently explicit. The wording of section 14 of the Encumbered Estates Act (XX of 1896) might be followed with a proviso being made (as in that Act) for the revival of the estate if the Court should decide not to continue the arrangement.

I have the honour to be,
Sir,
Your most obedient servant
(sd) Denzil Ibbetson,
Secretary to the Govt of India

Government (1898) of Madras. REVENUE.

Recd.

Enclosures

Regd.

1898.

Spare copies

G.O., No. 23, 11th January 1898.

JANUARY.

Requesting the Honourable the Advocate-General to frame a Bill enabling Government to place an estate under the Court of Wards on the application of a proprietor.

No. 23, REVENUE, 11TH JANUARY 1898.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

ORDER—No. 23, Revenue, dated 11th January 1898.

Miscellaneous.

Regulation V of 1804 as it stands at present enables the Court of Wards to take charge of only those estates the proprietors of which are incapacitated by minority, sex or natural infirmity. It is, therefore, unable to intervene in the case of encumbered estates even though the proprietors thereof may seek its intervention, so long as they are not incapacitated by any of the disabilities mentioned above.

The Government has had the question under its consideration and has arrived at the conclusion that where the proprietor of an estate makes an application to the Local Government to have his estate placed under the supervision of the Court of Wards and the Local Government is satisfied that it is expedient in the public interests that such estate should be managed by the Court, it should have the power to direct the Court to assume the management in such case also; the proprietor thereupon becoming a ward of the Court and his property but not his person becoming subject to its control.

As this power of interference will ordinarily be exercised only in the case of encumbered estates and as considerable difficulty is experienced in getting the creditors to such estates to furnish true and correct account of their claims within any reasonable time, powers similar to those contained in chapter IV of the new Court of Wards Bill for the North-West Provinces and Oudh should, the Government considers, be also conferred on the Court, these provisions being however modified with reference to paragraphs 11 and 19 of the Government of India letter (an extract from which is appended).

The Honourable the Advocate-General is requested to frame a short Bill for introduction into the Local Legislative Council as early as possible in the current session, containing the necessary provisions, with a statement of objects and reasons.

2. A copy of the Bill for North-West Provinces and Oudh referred to is forwarded for perusal and return.

(True Extract.)

(Signed) G. S. FORBES,
Ag. Secretary to Government.

To the Advocate-General (through the
Government Solicitor).

Erd. A. F. Eccleston.

50 Copies.

Returned for signature.

Despatched in print.

READ AGAIN G.O. No.
197

SECRET No.

ENCLOSURE TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DUTY

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IN ORIGINAL

N.B.—

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Government {1898} of Madras.
REVENUE.

Recd.

Regd.

1898.

Enclosures

Spare copies

G.O., No. 23, 11th January 1898.

JANUARY.

to be stitched with the
original G.O. 23
11-1-98

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To the Advocate-General (through the
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Exd. A. F. Eccleston.

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IV of A

Confidential

My dear Sir

Will you see the Advocate

General? & if so what

time will be convenient

to you? Dear Sir,

S. J. Forbes

19/1/98

Received

Yesterday afternoon your D.O. of the 14th Inst, on which day the G.O. dated 11th Idem about the draft of the Bill to relieve Proprietors reached me. If Government approve of it I wish to have an interview on the subject of the proposed Bill with one or more members of Government before drafting the Bill. A short Bill like the one contemplated in the G.O. corresponding to Chapter I.

In a dural
18th January
1898

IV of the N. W. P. and Oudh
Bill with the modifications
suggested by the Government
of India can be easily pre-
pared in a few days; but
I am afraid such a measure
will be found utterly in-
adequate to meet the case
of Karvathinagar to which
I presume it is the intention
of Government to apply the
provisions of the Bill as soon
as it is passed into Law. I
am fully acquainted with
the particulars of that un-
fortunate Zamindary, but
most of the Creditors have
actually obtained decrees
of Court, and have taken
active

That ...
active steps to bring the Zamindary to Sale, a few villages having already been brought to Sale. Sections 18, 19, 20, & 21 of the N. W. P. Bill relate only to Creditors who have not obtained decrees or who have not brought suits which are pending. I know two of the principal creditors of the Zamindar who are mortgagees in possession, and have not yet brought suits. If the Zamindar, on his own application, be declared disqualified, and made a ward of the Court of wards, I am not sure that

Suspending the provisions

that any considerable por-
tion of the Estate will ac-
tually come under the ef-
fective management of
the Court of Wards. Be
this as it may, how is the
action of the District Court
& of the High Court in
ordering Sales in execution
of decrees to be stayed?
Even a provision corres-
ponding to Section 60 A
of Act IV of 1892 (An Act
to amend the Bengal
Court of Wards Act 1879)
will be quite inadequate.
Unless some drastic
measure existing or
suspending

suspending the jurisdiction
and action of the Civil
Courts be passed, I am
afraid it may not be
possible to save the ~
Karvat waggas and three
or four other Zaminda-
ries in this Presidency to
which alone the proposed
measure is likely to be
applied at the outset.

But can such a measure
be introduced without the
previous sanction of the
Government of India.

The only chance of saving
these Estates will be that
English Capitalists are
more likely to lend on the
the

able to ascertain
the Security of the Estates
if the Court of Wards as-
sume management of
them. But even then the
Court of Wards should
be empowered to suspend
the action of the Civil
Courts for a limited time
until it is able to raise
a loan to discharge their
embarrassments.

I expect to
return to Madrid on Thurs-
day; and if an interview
can be arranged some
time on Saturday, or
Sunday next with one
or more members of
Government, I shall be
able

able to ascertain the exact
lines on which I am to
draft the Bill. Even
if the Bill be ready be-
fore the 1st of February
it cannot under the rules
be introduced at the
meeting of the Council
on that day. But if it
be resolved to introduce
the Bill in the current
Session without submitting
the same to the Govern-
ment of India for its
previous sanction, leave
to introduce it may be
applied for and obtain-
ed at the meeting of
the 1st February; and
it

1st per, K.D.

which he actually intro-
duced at a second meet-
ing to be held in that month.
The Bill need not of
course be ready when per-
mission to introduce it
is applied for at the next
meeting. If leave be not
obtained the Bill when
ready can, no doubt, be
published under the di-
rections of His Excellency
the Governor under Rule
34, and without obtaining
leave be introduced into
Council, but not before
the expiration of 15 days
from the date of publi-
cation in the Gazette.

But I do not know
whether this procedure is
ever

ever adopted during the
Session of the Legislative
Council.

Yours Sincerely
W. Shashygar Sengar

To

The Hon^{ble} G. S. Forbes J. C. &
As Secretary to Govt. R. D.

Rotten

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