Revenue (1898) Department.

PRESS SERIES.

G.O., No. 212

Dated 19th April

[Despatch Abstract.]

Coming to the Hon. the Judges of the High Court, the Advocate-General and the Bd. of Rev., for favour of opinion, letter from the Govt. of India enquiring whether the Code of Civil Procedure should be amended so as to declare that standing crops shall be deemed to be moveable property for the purposes of attachment or sale in execution of a decree or order of a Court, and that the crops of an agriculturist shall not be liable to attachment before Judgment.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[J. 62 2,000 —5-3-97]

Renewed

Judicial (1898) Department.

CURRENT No. 2478. ~~2519~~

28/3/98

(No) 21 W E

From The C. of I., Home Dept.

Order Endorsement No. 786. dy 25th March 1898.

Transferred to the Revd. Departt.

A. Rodgers.

by Under Secy.

Dated 15th march 1898

Received 28/3 } 21st " " "
Registered 29/3.

Enclosures –

Spare copies 7.

No. 297.

SUBJECT.

Re: the Bill to provide for relief of the agricultural classes circulated with Home Dept. letter no. 23 Judl 1891-1900 of 31st oct '95; & dealing with the question of the attachment and sale of standing crops.

Rev 28/3/98

KB 28/3/98

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G O.	No.	Department.	Date.

CURR[illegible] No. 1319.

No. 297

FROM

J. P. HEWETT, Esq., C.I.E.,
Secretary to the Government of India,

CHIEF SECRETARY'S DEPARTMENT OF MADRAS
21 MAR 1898

To

The Chief Secy to the Govt. of Madras.

Home Department.
Judicial.

Calcutta, the 12th *March 1898.*

SIR,

I AM directed to invite attention to clause 24 (1) of the Bill to provide for the relief of the agricultural classes circulated with Home Department letter No. $\frac{24-\text{Judicial}}{\text{1891}-1600}$, dated the 31st October 1895, which deals with the question of the attachment and sale of standing crops. That clause was devised to enact that, for the purposes of attachment and sale in execution of a decree or order of a Court, standing crops should be deemed to be moveable property; provided that not more than one-half of the standing crop of an agriculturalist should be attached or sold in execution, subject, however, always to the prior lien of the Government or of the landlord for the proportion of the revenue or rent due on account of the land on which such crop has been grown. An alternative proviso was suggested in the margin of the Bill, *viz.*, that the Court or, when the decree is executed by the Revenue authorities, the Collector, should by order except from attachment and sale so much of the standing crop of an agriculturalist as it or he might determine to be required for seed grain and for the subsistence until the harvest next following of the agriculturalist, his family and his cattle. In the memorandum attached to the Bill the opinions of the Local Governments and Administrations were invited as to which of the provisos was considered preferable.

2. The proposal to declare standing crops to be moveable property for the purpose of sale and attachment has not been objected to, but both the provisos above mentioned have been opposed by most of the authorities consulted, and, in view of the character of the opposition to them, it seems to the Government of India that their further consideration must be dropped for the present. The Governor General in Council is, however, reluctant to abandon the attempt to obviate the hardships which exist under the present law in respect of the attachment and sale of standing crops. His Excellency in Council is advised that a simple declaration that standing crops are moveable property for the purposes in question will not effect completely the object in view. His Honour the Lieutenant-Governor and Chief Commissioner of the North-Western Provinces and Oudh has suggested as an additional measure necessary in the interests of the agricultural community that the attachment before judgment of crops, whether standing or on the threshing floor, should be prohibited.

3. It has been urged that an alteration of the law in this direction is urgent and that it could be effected by amendments in Chapters XIX and XXXIV of the Code of Civil Procedure.

4. I am to request that the Government of India may be favoured with the opinions of the Governor in Council

and of such authorities as it may be considered necessary to consult whether the Code of Civil Procedure should be amended so as to declare that standing crops shall be deemed to be moveable property for the purposes of attachment or sale in execution of a decree or order of a Court, and that the crops of an agriculturalist, whether standing or on the threshing floor, shall not be liable to attachment before judgment.

5. I am to ask for an early reply to this reference.

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hewett.

Secretary to the Govt. of India.

Letter from the Govt of India Home
No 297 J) 15·3·98. (C. No 2478)

370

Q. O. No. 212 J/19th April 1898.

The letter read above with
be communicated to the the
Judges of the High Court, the
Advocate General and the Boa
of Revenue for favour of
opinion.
To favour of
early reply is requested.

KD
19/4/98

9/4/8

To

The Hon'ble the Chief Justice with C.
through the Judicial Sec
The Hon'ble the Advocate General
The Board of Revenue (& R.D.)

keep pd
19/4/98

5/5

Government {1898} of Madras.

REVENUE.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 212, 19th April 1898.

APRIL.

Communicating to the Honourable the Judges of the High Court, the Advocate-General and the Board of Revenue, for favour of opinion, letter from the Government of India enquiring whether the Code of Civil Procedure should be amended so as to declare that standing crops shall be deemed to be moveable property for the purposes of attachment or sale in execution of a decree or order of a court, and that the crops of an agriculturist shall not be liable to attachment before judgment.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—the following letter from J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Calcutta, 15th March 1898, No. 297 :—

I am directed to invite attention to clause 24 (1) of the Bill to provide for the relief of the agricultural classes circulated with Home Department letter, No. 23-Judicial—1591-1600, dated the 31st October 1895, which deals with the question of the attachment and sale of standing crops. That clause was devised to enact that, for the purposes of attachment and sale in execution of a decree or order of a Court, standing crops should be deemed to be moveable property; provided that not more than one-half of the standing crop of an agriculturalist should be attached or sold in execution, subject, however, always to the prior lien of the Government or of the landlord for the proportion of the revenue or rent due on account of the land on which such crop has been grown. An alternative proviso was suggested in the margin of the Bill, viz., that the Court or, when the decree is executed by the Revenue authorities, the Collector, should by order except from attachment and sale so much of the standing crop of an agriculturalist as it or he might determine to be required for seed grain and for the subsistence until the harvest next following of the agriculturalist, his family and his cattle. In the memorandum attached to the Bill the opinions of the Local Governments and Administrations were invited as to which of the provisos was considered preferable.

2. The proposal to declare standing crops to be moveable property for the purpose of sale and attachment has not been objected to, but both the provisos above mentioned have been opposed by most of the authorities consulted, and, in view of the character of the opposition to them, it seems to the Government of India that their further consideration must be dropped for the present. The Governor-General in Council is, however, reluctant to abandon the attempt to obviate the hardships which exist under the present law in respect of the attachment and sale of standing crops. His Excellency in Council is advised that a simple declaration that standing crops are moveable property for the purposes in question will not effect completely the object in view. His Honour the Lieutenant-Governor and Chief Commissioner of the North-Western Provinces and Oudh has suggested as an additional measure necessary in the interests of the agricultural community that the attachment before judgment of crops, whether standing or on the threshing floor, should be prohibited.

3. It has been urged that an alteration of the law in this direction is urgent and that it could be effected by amendments in Chapters XIX and XXXIV of the Code of Civil Procedure.

4. I am to request that the Government of India may be favoured with the opinions of the Governor in Council and of such authorities as it may be considered necessary to consult whether the Code of Civil Procedure should be amended so as to declare that standing crops shall be deemed to be moveable property for the purposes of attachment or sale in execution of a decree or order of a Court, and that the crops of an agriculturalist, whether standing or on the threshing floor, shall not be liable to attachment before judgment.

5. I am to ask for an early reply to this reference.

Endt. No. 786, Judicial.

Transferred to the Revenue Department.

(Signed) A. R. KNAPP,
Ag. Under Secretary.

25th March 1898.

Order—No. 212, Revenue, dated 19th April 1898.

Miscellaneous.

The letter read above will be communicated to the Hon'ble the Judges of the High Court, the Advocate-General and the Board of Revenue for favour of opinion.

2. The favour of an early reply is requested.

(True Extract.)

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

To the Hon'ble the Chief Justice,
through the Judicial Department.
" the Hon'ble the Advocate-General.
" the Board of Revenue (Land Revenue).

Exd. C. M. Thumbuswamy.

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