

Government of Madras.

EDUCATIONAL DEPARTMENT.

Recd.

Regd.

} 1915.

Enclosures

Spare copies

G.O. No. 1312, 1st December 1915.

Land Acquisition Act.

Approving, with remarks, the proposal that the land required for the construction of a school and choultry in connection with the charities endowed by the late M.R.Ry. Malladi Satyalingam Nayakar Avargal, may be acquired under the —.

Government of Madras.

EDUCATIONAL DEPARTMENT.

Recd.

Rego.

} 1915.

Enclosures

Spare copies

G.O. No. 1312, 1st December 1915.

Land Acquisition Act.

Approving, with remarks, the proposal that the land required for the construction of a school and choultry in connection with the charities endowed by the late M.R.Ry. Malladi Satyalingam Nayakar Avargal, may be acquired under the —.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—the following papers :—

I

Letter—from T. E. MOIR, Esq., I.C.S., Acting Collector of Gōdāvari.
To—the Secretary to Government, Educational Department.
Dated—Cocanada, the 20th July 1915.
No.—D. Dis. 2538/Rev.

I have the honour to submit the following case for the orders of the Government.

2. One Mr. Malladi Satyalingam Nayakar, a former resident of Jagannadhapuram who had latterly settled in Rangoon has by his last will and testament, a printed copy of which is enclosed, left a sum of eight lakhs of rupees, of which a sum of one lakh is to be utilized for the construction of a free primary school building with spacious play-grounds, etc., a choultry adjacent thereto for the free feeding of the poor and of poor scholars attending the school at Jagannadhapuram, and also a temple and the remaining seven lakhs are to form the capital primarily for the maintenance and upkeep of the above institutions.

2. The school is for the education of boys and girls up to the primary standard. It is to be open to all classes of people irrespective of caste or creed and instruction in industrial subjects, such as carpentry, weaving, pottery and kindred subjects is also to be given. The trust, I should imagine, constitutes perhaps the most important educational bequest yet made in this Presidency and the fact that M.R.Ry. Diwan Bahadur D. Seshagiri Rao Pantulu Garu of Cocanada, the Vice-President of the District Board, is the principal trustee can in itself be taken as a sufficient guarantee that the trust will be administered in the most scrupulous and satisfactory manner.

3. A large plot of ground is required for the construction of the school with its play-grounds, etc., and for the choultry and the trustees have selected 29.15 acres of land covered by S. Nos. 127, 128, 129 measuring acres 9.68, 8.32 and 11.15 respectively of Turangi village, lying within the limits of the Cocanada municipality. I have personally inspected the land and regard it as most suitable for the intended purpose.

4. The land forms part of a zamindari village and with a view to secure an indefeasible title to the land and avoid the possibility of subsequent claims or litigation to which a trust known to be so wealthy would be peculiarly subject, the trustees request that the Government would be pleased to acquire it under the Land Acquisition Act and hand it over to the trust for the construction of a school and a choultry. A copy of their application is submitted. For acquisition under the Act it is essential (1) that the purpose for which the land is required should be a public purpose, and (2) that the cost should be borne by public revenues or some fund controlled or managed by a public body.

5. As regards the second essential I have no doubt that the District Board and municipality would be willing in such a case to make a contribution so as to bring the acquisition within the purview of the Act, and as regards the purpose a free educational and charitable bequest certainly seems to me to serve a public purpose and it is to the public interests that such a trust should hold unassailable title-deeds.

6. I can find no exact precedent for such an application of the Act and the interpretation of the Act is a matter on which lawyers differ. I therefore submit the matter for the orders of Government.

7. The sketch of the land is submitted. I request that it may be returned.

ENCLOSURE.

Copy of the petition presented by the Trustees of Malladi Satyalingam Nayakar Charities, dated 23rd June 1915.

1. That the late Mr. M. Satyalingam left by his will one lakh of rupees for the construction of a school, choultry, and a temple, and seven lakhs for the support of the institutions. A copy of the will is herewith presented.

2. That the school is a free primary school open to all classes, and the will also provides for the teaching of handicrafts, as carpentry, weaving, pottery and other industries.

3. That it is provided by the will that the choultry should be built adjacent to the school so that some of the pupils may be fed in the choultry, which is open alike to all classes of the poor.

4. That the will provides that at least 100 people should be fed every day.

5. That as the school is a free school, it will attract a large number of pupils and further, large play-grounds and up-to-date gymnasiums are also to be provided for.

6. That these institutions require a large area, as it is proposed that several industries should be taught on a large scale.

7. That no such site is available for a private sale in Jagannaickpur, where the institutions are to be located according to the terms of the will.

8. That the trustees have to spend about Rs. 80,000 on the school and the choultry, and they are anxious to secure a site which has no defect of title.

9. That there is a big field as per plan herewith presented which will be sufficient for the requirements of these institutions which will be conducted solely for the benefit of the public.

As it is required for a public purpose, the petitioners pray that Government be pleased to acquire it under the Land Acquisition Act, and grant the same to them and they are prepared to pay such amount as may be fixed by Government.

D. SESHAGIRI RAO,
Trustee.

II

Memorandum No. 2591-3, Educational, dated 6th September 1915.

With reference to his letter read above, the Collector of Gōdāvari is furnished with a copy of G.O. No. 599, Educational, dated the 27th June 1913, laying down the general principles governing cases of acquisition of land by Government for schools under private management, and is informed that the mere fact that the land to be purchased is in a zamindari does not seem to be a sufficient ground for the application of the Land Acquisition Act. He is therefore requested to report fully why he considers the application of the Act necessary and what possible difficulties he foresees in the way of getting a good title to the land by means of a private purchase. He will also ascertain and report whether the trustees are prepared to incorporate themselves into a company so as to admit of the application of Part VII of the Land Acquisition Act.

(By Order.)

E. A. HARVEY,
Under Secretary to Government.

To the Collector of Godavari

III

Letter—from T. E. MOIR, Esq., I.C.S., Acting Collector of Gōdāvari.
To—the Secretary to Government, Educational Department.
Dated—Cocanada, the 26th September 1915.
No.—Dis. 3512-Rev.

With reference to Government Memorandum No. 2591-3, Educational, dated 6th September 1915, I have the honour to state that M.R.Ry. Diwan Bahadur D. Seshagiri Rao Pantulu Garu on behalf of the trustees of the charities in question reports that the land which it is proposed to acquire was inherited by the mother and widow of the last male holder and as under Hindu Law, women have only a life interest in properties so inherited, any sale by them will not bind the reversioners and consequently the purchasers cannot secure an indefeasible title to the property.

2. As regards the trustees forming into a company, Mr. D. Seshagiri Rao reports that the trust-deed does not provide for such a course, but that they are nevertheless willing to form themselves into a company, if necessary. It is feared however that such a step will tend to delay, as one of the trustees is residing in Rangoon.

Order—1312, Educational, dated 1st December 1915.

The Government approve the proposal that the land required for the construction of a school and choultry in connection with the charities endowed by the late M.R. Ry Malladi Satyalingam Nayakar Avargal, may be acquired under the Land Acquisition Act. In order to bring the acquisition under Part II of the Act, the Collector will be requested to move the District Board or the municipality to make a contribution for the purpose and then to submit a draft notification for the acquisition of the lands.

(True Extract.)

C. G. TODHUNTER,
Acting Secretary to Government.

To the Collector of Godavari (with sketch returned).
" Revenue Department
" Public Department
" Local and Municipal Department } with a copy of notes.

EDUCATIONAL DEPARTMENT.

**NOTES CONNECTED WITH G.O. No. 1312, EDUCATIONAL, DATED
1ST DECEMBER 1915.**

[SUBJECT.—Acquisition under the Land Acquisition Act of land for purposes of a school, and a choultry at Cocanada in connection with the Malladi Satyalingam Nayakar Charities.]

Previous papers :			
G.O. 1266, Revenue,	1st May 1911.	G.O. 1787 L.,	21st October 1913.
42 L.,	11th January 1912.	166, Educational,	10th February 1914.
" 112, Public,	29th " "	310 " "	20th March "
" 2197, Revenue,	22nd July "	684 " "	10th June "
3391 " "	11th November "	869 " "	24th July "
" 1857 " "	23rd June 1913.	937, Public,	10th August "
" 599, Educational,	27th " "	1390, Educational,	7th December "
" 1447 L.,	8th September "	476 " "	3rd May 1915.

From the Collector of Godavari, dated 20th July 1915, No. 2538.

The Collector of Godavari raises the question whether the Land Acquisition Act can be applied for the acquisition of land for the construction of a school and a choultry at Cocanada under the Malladi Satyalingam Nayakar Charities. This department is concerned only with the acquisition for a school house.

2. The general principles governing the cases in which the Government undertake to acquire land under the Act for schools under private management are laid down in G.O. No. 599, Educational, dated the 27th June 1913. In the present case the Collector states that the land forms part of a zamindari and that it is to the public interests that the trust should hold unassailable title-deeds. He adds that the district board and municipality would be willing to make a contribution to bring the acquisition within the purview of the Act. In these circumstances the application of the Act so far as it relates to the school seems unobjectionable and may be approved with the concurrence of Revenue.

3. The question of acquisition for the choultry will have to be dealt with in Public to whom the file may be forwarded.

S.A.—29-7-15.

C.R.—29-7-15.

I see no objection to the application of the Act subject to the conditions suggested by the Collector.

C. G. TODHUNTER—30-7-15.

To the Public Department.

PUBLIC DEPARTMENT.

Submitted that the question of acquisition of land for the choultry in the present case is one properly for consideration in Local and Municipal which deals with choultries. The file has been sent to this department, apparently as questions relating to Charitable Endowments are dealt with here.

Cf. G.O. 42 L., 11th January 1912.
Cf. section 95 (iii) of Madras Local Boards Act V of 1884.

2. The following remarks are however submitted. The Collector states that the municipality and the district board would be willing to contribute something towards the cost of acquisition of land required, with reference to the proviso to section 6 (1) of the Land Acquisition Act, in order to enable the Government to make a declaration that the land is required for a public purpose. Attention is in this connection invited to Sir John Atkinson's notes and Sir Murray Hammick's notes at pages 31—34 of notes to G.O. No. 112, Public, dated 29th January 1912, on a case of acquisition of land required for the extension of the Mary Taber Schell Hospital, Vellore. It was held therein that it would be a device to get round the law to contribute some funds from Government and then to acquire the land for the hospital under the Land Acquisition Act. This decision was however subsequently reconsidered in 1914 in the notes to G.O. No. 937, Public, dated 10th August 1914, on the grounds that lands were in some cases acquired by Government and that a large portion of the cost of construction of the hospital was decided to be borne by Government.

3. A private choultry stands more or less on the same footing as a Mission hospital or a school under private management. In the circumstances it may perhaps be held that a contribution in the present case from the municipality and the district board will be sufficient to enable the land to be acquired under the Land Acquisition Act.

4. With these remarks the file may be returned to Educational through Local and Municipal.

T.R.N.N.—9-8-15.

C.P.K.—9-8-15.

E. A. HARVEY—11-8-15.

To the Local and Municipal }
" Educational } Department.

LOCAL AND MUNICIPAL DEPARTMENT.

It seems to me that, if this is to be regarded as a public purpose, the proper course is that the trust should be vested in the Treasurer for Charitable Endowments, who can then allow the present committee to continue to manage it. The trust may be well managed now, but how can Government guarantee, without some new procedure as that suggested above, that it will be properly managed in the future?

I am not in favour of getting over the plain meaning of the Land Acquisition Act by means of contribution from public bodies for the acquisition. Such a procedure seems to me obviously either wrong or superfluous. Moreover, I do not think that municipalities or district boards should spend their funds in contributing to institutions over which they do not intend to exercise any control.

If the committee included a Government or Local Fund or Municipal servant ex-officio, the matter would stand on a different footing.

J. P. BEDFORD—13-8-15.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

For orders whether the views of the Revenue Department on the question of the application of the Land Acquisition Act to the present case may now be invited.

S.A.—14-8-15.

C.R.—14-8-15.

Will Revenue please advise?

C. G. TODHUNTER—16-8-15.

To the Revenue Department.

REVENUE DEPARTMENT.

The question for consideration in this file is whether lands required for the construction of a school and choultry at the cost of a private trust can be legally acquired under the Land Acquisition Act.

2. The Land Acquisition Act can be put into operation when land is to be acquired

(1) at the cost of (partially or wholly) Government or some recognised local fund for a public purpose (Part II of the Act) or

(2) at the cost of a company as defined in section 3 (e) of the Act for the construction of some works of public utility (Part VII of the Act). The Collector (Mr. Moir) requests that the land in the present case may be acquired under clause (1) above.

3. There are many precedents in which lands have been acquired for private schools (vide Government Orders in the margin) and the general principles governing such cases have been laid down in G.O. No. 599, Educational, dated 27th June 1913. As regards choultries, they have generally been taken in the Revenue Department to fulfil a public purpose and lands required for their construction have accordingly been alienated in favour of private parties free of charge for the occupancy right and free of assessment.

G.O. 476, Educational, 3rd May 1915.
" 1390, " 7th December 1914.
" 869, " 24th July "
" 684, " 10th June "

G.O. 1266, Revenue, 1st May 1911.
" 2197, " 22nd July 1912.
" 1857, " 23rd June 1913.

the determination of what is a "public purpose" is therefore at the absolute discretion of the local Government. It is submitted that there seems to be no objection to applying in the present case the provisions of Part II of the Act, as proposed by the Collector, provided Government or some local fund is willing to contribute something towards the cost of acquisition—vide proviso to section 6 (1) of the Act.

No objection, I think, if Government or a local fund is willing to contribute a considerable proportion.

A.H.A.T.—25-8-15.

4. If however Government or any local fund * cannot contribute anything, an alternative method of acquiring the land would be under Part VII of the Act (clause 2 in paragraph 2 ante).

* The Local and Municipal Secretary does not like local funds contributing to institutions over which they have no control—page 2 *supra*.
As the land is required for the construction of a school and choultry, which are really works of public utility, the provisions of Part VII of the Act can be put into force, provided the trustees can incorporate themselves under the Indian Companies Act, so as to bring themselves within the definition of a "company" in section 3 (e) of the Act. It is however doubtful whether under the terms of the will, the trustees can get themselves so incorporated.

R.V.—23-8-15.

M.R.N.—23-8-15.

I doubt the possibility of using Part VII. Contribution by Government or a local fund seems the only way by which the Act can be invoked. Where lands have been acquired for the building of schools, Government have given a substantial grant-in-aid, and there has been no question of nominal compensation to get round the Act. Government would, I submit, hardly be justified in giving largely in aid of so rich a trust as this appears to be.

A. H. A. TODD—25-8-15.

I think that all that it is necessary for Revenue to say is that some portion of the cost of acquisition must be paid from Government or local funds if Part II of the Act is to be applied. Cases quoted show that the Act has been liberally applied in connection with educational institutions.

2. It seems also possible to utilize Part VII of the Act as suggested in the office-note, if the trustees are prepared to form a company.

3. But it is perhaps open to doubt whether the application of the Act is necessary. The mere fact that the land is in a zamindari village does not preclude the possibility of getting a good title by private purchase.

4. Will Educational please circulate, if necessary, to Honourable Member (Revenue)?

F. B. EVANS—27-8-15.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

Please see paragraph 3 of Mr. Evans's note above. The Collector has given no other reason but its situation in zamindari land for the application of the Land Acquisition Act. For orders whether the Act may be applied.

2. If this is decided in the affirmative, the next question for consideration is whether action should be taken under Part II or Part VII of the Act. The circumstances under which the two parts can be availed of are described in paragraphs 1 and 2 of Mr. Evans's note. The Secretary, Local and Municipal, is not in favour of the local bodies contributing towards the objects so as to bring the acquisition under Part II, as according to the present scheme the local bodies have no control over the institutions. Orders are solicited whether a further reference should be made to the Collector as to why he considers the application of the Act necessary and what possible difficulties he foresees in the way of private purchase. He may also be asked to state whether the executors of the trust will be prepared to incorporate themselves into a company.

S.A.—30-8-15.

C.R.—30-8-15.

Make the reference, sending copy of G.O. No. 599, Educational, dated 27th June 1913.

C. G. TODHUNTER—31-8-15.

A draft memorandum is submitted for approval.

S.A.—1-9-15.

C.R.—2-9-15.

Issue.

E. A. HARVEY—4-9-15.

[Memorandum No. 2591-3, Educational, dated the 6th September 1915.]

From the Collector of Gōdāvari, dated the 26th September 1915, No. 3512.

The Collector states that according to the report of M.R.Ry. Diwan Bahadur D. Seshagiri Rao (one of the trustees), the land proposed for acquisition was inherited by the mother and widow of the last male holder, and as under Hindu law women have only a life interest in properties so inherited, any sale by them cannot secure an indefeasible title to the property. For orders whether in these circumstances the application of the Land Acquisition Act may be approved with the concurrence of Revenue.

2. The trustees are stated to be willing to form themselves into a company, so as to enable the application of Part VII of the Act, though the trust-deed does not provide for such a course. The Collector observes that it is feared however that such a step will tend to delay, as one of the trustees is residing in Rangoon. For orders whether notwithstanding this delay, the Collector may be asked to direct the trustees to form themselves into a company and then apply to him for the acquisition. This will obviate the necessity for a nominal contribution from a local body to bring the transaction within the purview of the Act; and this has not been considered to be a straight course.

S.A.—2-10-15.

C.R.—3-10-15.

In view of Mr. Bedford's objections on page 2 of the notes to the application of Part II of the Act, the course proposed above may be adopted.

C. G. TODHUNTER—4-10-15.

P[ENTLAND]—5-10-15.

In applying the Land Acquisition Act we should endeavour to follow precedents and not the opinions of individuals which vary with the particular officer. There are plenty of precedents for acquiring under the Act land required for schools which are not to be under State control and also for giving a grant from State funds in order to comply with the provisions of the Act. However, if Educational Department are satisfied with the proposal to ask the trustees to form a company, I have no objection.

A. G. C[ARDEW]—10-10-15.

Resubmitted to His Excellency the Governor.

Since the Honourable Member (Revenue) approves the application of Part II of the Act, we may accept the Collector's original proposals.

C.G.T.—11-10-15.

I agree.

P[ENTLAND]—12-10-15.

A draft order is submitted for approval.

S.A.—22-10-15.

C.R.—23-10-15.

Draft for acceptance.

C.G.T.—24-10-15.

*To the Revenue
Local and Municipal } Department.*

REVENUE DEPARTMENT.

The draft may, it is submitted, be accepted in this department, and the file passed on to Local and Municipal.

R.V.—27-10-15.

M.R.N.—27-10-15.

A. H. A. TODD—28-10-15.

Accepted in Revenue.

L. DAVIDSON—29-10-15.

To the Local and Municipal Department.

6

Accepted in Local and Municipal, but I should be obliged if Honourable Member (Local and Municipal) might see before issue.

To the Educational Department.

For orders as to circulation.

Submitted to the Hon'ble Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., through His Excellency the Governor under rule 7 (c) of the Council Rules.

P[ENTLAND]—9-11-15.

P. S. S[IVASWAMI AYYAR]—27-11-15.

[G.O. No. 1312, Educational, dated 1st December 1915.]

~~20~~ 20 Educational DEPARTMENT.

191

READ ALSO:—

READ ALSO:-
C. No. 2591 Sol, From the Collr. of Godavari, No. 2538, dated 20-7-1918.

" " 3384 " " " " 3512 " " 26-9 1916.

191

ORDER.
P.S.

No. 13125A, dated 1-12-1915

The Govt. approve the proposal
with the condition that the
land required for the construction
of a school and choultry in connection
with the charities endowed by the late
Mr. R. V. Malladi Sahyalingam
Nayakar a/c, may be acquired
under the Land Acquisition Act
and that in order to bring the
acquisition under Part II of the Act
the ^{Collector} will be requested to ~~as~~ move
the St. Bd. or the municipality
to make a contribution for the purpose
and then to submit a draft notice in the
form of an acquisition of the lands.

Spizella b. collr.
30711

Order in his locusts
as
2/2/5

Notes in
CB
7.11.15

Lip
Lip + Spaul
advises
27/12/15

To the Collector of ^{Lodavan (Dore)} ~~with sketch referred~~
Revenue Department } ^{with a}

3