

Edl (1915) Department.

his SERIES.

G.O. No. 7/3

DATED 1-7-15

✓

13

[Despatch Abstract.]

Passing orders in regard to the recovery of a portion of the advance rent paid to Copper House which was taken on lease for purposes of the Madras College for Women.

Papers of the department to which the current belongs.

Number.	Date.	Original (=O) or spare copy (= S.C.).	Remarks. (In this column such of the papers as have been removed for copying, printing, etc., should be marked with a cross.)	Initials of Referencer with date in token of return to Reference department

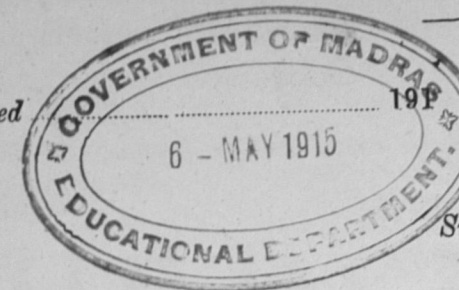
Papers of other departments.

Department.	Number	Date.	Original (= O.) or spare copy (= S. C.).	Initials with date of (1) Referencer acknowledging returns of the paper concerned or (2) Despatcher to denote the return of the papers to the department concerned.

EDUCATIONAL

DEPARTMENT.

Received



Registered 7 5 1915

Subject.

Submitting for the information of Government a copy of
letter from Messrs. Short Bewes and Co., Madras, regarding
the recovery of rent paid in advance for the Capper House.

ENCLOSURES

No.

Ref on Cur No. 8814 / 14.

Spare copies

Station Madras, Dated the 5th May 1915.

*Lie over pending
the receipt of the
Govt. Solicitor's
reply promised by
the S.P.S.*

*119
10.5.15*

*E.M.
18.5.15*

From (Name) The Hon'ble Mr. H.S. Duncan, M.A.,
(Designation) Ag. Director of Public Instruction.

To The Secretary to the Government of Madras,
EDUCATIONAL Department.

Sir,

With reference to G.Os. No. 740 Mis., dated 23rd
June 1914 and No. 1464 Educational, dated 21st December 1914,
I have the honour to submit herewith for the information of
Government a copy of the letter dated 28th April 1915 from
Messrs. Short Bewes & Co., the Solicitors representing the
proprietor of the Capper House, contending that the balance
of advance due, viz., Rs. 440-5-2 lapses with the termination
of the lease and to state that I have addressed the Government
Solicitor on the validity of the contention and shall submit

his

Elu

his repl on receipt.

3

I have the honour to be,

S i r,

Your most obedient servant,

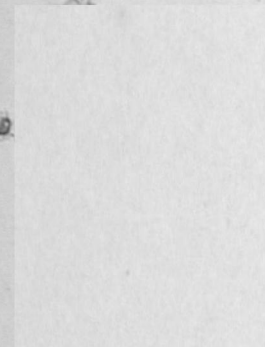
G. W. Lusk

for Director of Public Instruction.

Ed

M. S. S.

his repl on receipt



Copy of letter from Messrs. Short, Bewes & Co., dated
28th April 1915 to the Director of Public Instruction, Madras.

----- 4

With reference to your letter No. 8804, dated 23rd April regarding the adjustment of the balance of advance paid for repairs to Capper House premises, we are instructed to point out that by your letter dated ^{16th} 26th June 1914 the advance of Rs. 1,500/- was made for the purpose of executing repairs to the buildings upon the distinct understanding that repayment was to be made by deductions from the rent, payable in 15 monthly instalments of Rs. 100/- each and that the lease was expressly limited to 15 months. This was apparently for the purpose of recovering the advance by the deductions. Now that your Department has acquired the property it has also thereby put an end to your liability to pay rent, and there is no further rent from which the deductions can be made.

2 As the deductions have become impossible by the act of Government in converting the nature of its holding, from that of tenants to absolute owners, by exercise of statutory powers and not by any act on the part of our clients, our clients repudiate personal liability to repay such uncovered advance. They contend that no charge has been created over the property in respect of the uncovered advance.

3 We are also instructed to demand from you the rent due up to the 23rd ⁺ March subject only to a deduction of Rs. 100/- due for that month.

(True Copy)

[Signature]
for Director of Public Instruction.

M. S. S. *[Signature]*

*vide pms
1404 2d
21-12-14*

*+ This is probably
the date on which
the property was
formally acquired
under the A. Act
1892*

Received



191

Registered

1915

Subject.

Submitting a copy of the letter from the Government Solicitor and requesting the favour of orders re the recovery of the advance of rent paid for the Capper house.

ENCLOSURES

No.

one

Spare copies

Ref. on Current No. 8814/14.

Station M A D R A S , Dated the 31st MAY 1915.

From (Name) The Honourable Mr. H. S. Duncan, M. A.,

(Designation) Ag. Director of Public Instruction.

To The Secretary to the Government of Madras,
Educational Department.

Sir,

pages 142 out

In continuation of my letter R. C. No. 8814/14, dated

5th May 1915, I have the honour to submit herewith a copy

of the letter from the Government Solicitor, Madras, No.

page 6 in

574, dated 3rd May 1915 and to request the favour of orders

as to whether, in accordance with the Solicitor's suggestion

the rent due for the first twenty three days in March, which

is yet unpaid, may be appropriated towards the balance of

5 6
advance and the result awaited.

I have the honour to be,

Sir,

Your most obedient servant,

W. J. H. ...

For Director of Public Instruction.

S.V.

29.5.15.

Copy of letter from the Government Solicitor, Madras, No. 574, dated 3rd May 1915.

I have the honour to acknowledge the receipt of your letter Ref. on C. No. 8814/14, dated the 30th ultimo with enclosures.

2. I understand that the money advanced was spent on the property and that being so, presumably, the landlord got the benefit of the improved condition of the property ~~in~~ the amount awarded to him. In these circumstances it would manifestly be inequitable that the landlord should retain the increased amount of the award and also not discharge his obligation under the arrangement to submit to a deduction from the rent.

3. Messrs Barclay and Morgan in C.R.P.244 of 1889 got a decision of the Sub Judge at Ootacamund, dismissing a suit for repayment of a loan ^{or} payable out of a fund which by the borrowers' default never came into existence, reversed by the High Court. The only distinction in the present case is that the fund has not come into existence owing to the action of Government instead of the borrower. I do not think this distinction is a good ground for depriving Government of the right to recover the money and would suggest your appropriating any unpaid rent towards such refund and if the landlord ~~then~~ sues for it, a counter claim for the balance might be filed. If the landlord does not file a suit it can be further considered whether Government should ^{sue} ~~use~~ for the unpaid balance.

(True Copy)

W. S. S. S.

For Director of Public Instruction.

W. S. S. S.
29.5.15

S.V.

OFFICE NOTE.

Encl. Sept. 6

SUBJECT.

Recovery of the advances sent
paid for the Clapper House.From the D.P.S. R.O.C. No. 8814 d/ the 5th Nov '15
do do. d/ the 31st May '15

Register No. 16204 1929 Edl.

(J)

In L.C. No. 740 Edl. d/ the 23rd June 1914, the Govt. approved the proposal of the D.P.S. to take on lease the 'Clapper House' on a monthly rent of Rs 350/- for the temporary location of the Madras College for Women and directed the A.G. to ~~place~~ ^{place} at the Director's disposal a sum of Rs 1500/- to be paid ~~in~~ as advances to the proprietors of the building. The amount being deducted from the ~~rent~~ ^X payable in 15 monthly instalments of Rs 100/- each. The lease was also limited to 15 months.

2. The building came to be occupied by the College apparently on the 1st July 1914 and before the expiry of the full period of lease the property ^{permanent} was acquired by the Govt. for the location of

If the date on wh. the College was estd
Go. 614 Edl. (C)
27.5.14

Go. 1464 Edl. (A)
21.12.14

R (Rs 350)

^{hereafter} no recovery was made of the College and ~~it became impossible~~ on account of the advance, no rent having become ~~to make the monthly deduction of 10/-~~ payable. ~~In favor of the advance of 10/- already paid to the Govt.~~

Page 1 of C.F.

3 The Director now reports that of the advances amount a sum of Rs 440.5-2- is still due to Govt. from the proprietors, ^{but} the Solicitors representing the ^{latter} ~~where~~ content that, as the deductions have become impossible by an act of Govt. in consenting the nature of their holding from that of tenants to absolute owners by exercise of Statutory powers and not by any act on the part of their clients, ~~no~~ ^{their clients} ~~charge the latter~~ repudiate personal liability to repay such uncovered advances and that no charge has been created ~~over~~ the property in respect of ~~such~~ ^{the} advances. The Solicitors go further and put forward a counter claim for rent on the building, ^{for 13 days in} ~~for 13 days in~~ ~~the~~ ^{to the twenty third} ~~first 13 days of~~ March 1915, the lease having presumably terminated on ~~that day~~ ^{the 23rd} of that month.

Letter from
Para 2 of Report
Short. Buss. 100 and
page 3 of C.F.

Para 3. closed

4 The Director who had consulted the Govt. Solicitor on the validity of the above contention forwards a copy of that officer's letter which will be found on page 6 of C.F. The Govt. Solicitor is of opinion that there is not good

good ground for depriving the Govt. of the right to recover the money and suggests the appropriation of any unpaid rent towards the refund of the advance due. He adds that, if the proprietors sue for the rent, a claim for the balance of the advance might be filed but that, if they do not sue, the question can be further considered ^{whether} the Govt. should sue for the unpaid balance.

5 The Director enquired whether these suggestions may be adopted. Submitted that there appears to be no objection to acting in accordance with the suggestions of the Govt. Solicitor. A draft order is accordingly submitted for approval. Financial may perhaps see the papers before the order issued.

Page 6 CF.



21.6

Col no 1929-1

21.6.15



17.6.15

[Signature]

[Signature]

CURRENT NO. 3840 FINANCIAL

Regd 21.6.15

Submitted that the case may be returned to Educational after perusal.

6.5.16

22.6.15

[Signature]

[Signature]

If we adopt this plan we lose R440-233 or 207 roughly. But it is worth that to keep out of a Court. May be accepted.

WMS
25/6

WMS

70 Encl up

File no 3840-1
25-6-15



Educational Dept:

Submitted that the draft

order may now issue.

WMS
28-6-15

WMS
28/6

WMS
25/6

READ ALSO:—

" " 1929 " " " " " " Mar 31st May 1915.

..... 191 .

ORDER.

No. 713, dated 1. 7. 1915.

Ms.

The Govt: have
no objection to the D. P. J.
acting in accordance
with the suggestions contain-
ed in the Govt: Solicitor's
letter No: 574, d/ the 3rd May
1918. The Director should
report in due course any
legal steps that may be
taken by the former
proprietors of the Loapen
House.

OW 129
17-6-08 18615

For the D.P.G. (940)