

17038-2
29

Home (1918) Department.
Education

Ordinary SERIES.

G.O. No. 148

DATED 8-2-18

INDEXED

[Despatch Abstract.]

Hostile Mission.

Informing the Director of Public Instruction that the defects pointed out in the title of the property in the Tanjore district of the L. E. L. Mission cannot be waived and that a mortgage in respect of thereof from the Church of Sweden Mission cannot be accepted.

Home (Education)

DEPARTMENT.

Received



Registered 191

Subject.

Requesting sanction in regard to the payment of building grants to certain E.L.M. schools.

ENCLOSURES

No.

Spare copies

Ref. on Cur No. 6368/16

Station M A D R A S, Dated the 19th December 1917.

From (Name) The Hon Mr. J. H. Stone, M.A., F.R.H.S., C.I.E.,
(Designation) Director of Public Instruction

To The Secretary to the Government of Madras,
Home (Education) Department.

Sir,

In.G.O. No. 564 Public, dated 7th May 1917, the Govt. authorized the Church of Sweden Mission to mortgage to Government such of the property of the late Leipzig Evangelical Lutheran Mission as might be necessary in connection with the payment to them of certain buildings grants due to the two Lutheran Mission schools at Tanjore and Shiyali. The Government Solicitor who examined the title deeds relating to the properties proposed to be mortgaged, advises that the properties are not vested either in the Leipzig Evangelical Lutheran Mission or the Church of Sweden Mission. He therefore considers that the Church of Sweden Mission cannot legally mortgage the properties, Vide his letter No. 1605 dated 6th December

1917 (copy enclosed). In these circumstances, I have the honour to enquire whether the defects in the title may be waived and a mortgage accepted.

I have the honour to be,

Sir,

Your most obedient servant,

R. A. Arine

for Director of Public Instruction.

S.V/18-12.

M
18.12.17.

Letter from the Government Solicitor, Madras, No. 1605, dated 6th December 1917 to the Director of Public Instruction, Madras

I have the honour to acknowledge receipt of your letter No. 6368 of 1916 dated 1st December 1917 with enclosures which I have read and return herewith.

2. The order of Government No. 564 Pub dated 7-5-17 only authorizes the Church of Sweden Mission to mortgage to Government such property of the late Leipzig Evangelical Lutheran Mission as may be necessary etc. The title to the properties proposed to be mortgaged does not show that the properties are vested in either the Leipzig Evangelical Lutheran Mission or the Church of Sweden Mission and if you will kindly refer to my letter No. 637 dated 9th May 1917 you will find that with reference to the piece of land in Tanjore it is vested in the Rev. Pamperrien and it has not been conveyed to the Evangelical Lutheran Mission, the release by the Rev. K. Pamperrien being in favour of the Rev. E. Human and not in favour of the Church of Sweden Mission so that the church of Sweden Mission is not legally in a position to mortgage the property.

3. With reference to the Shiyali property the title deeds show that the property is vested in Pakkiam Pillay and you will find in my letter above mentioned paragraph 4 that I point out that there is no conveyance or assignment to the Evangelical Lutheran Mission from Pakkiam Pillay.

4. That is the position of the title and in the circumstances I can only advise that the Church of Sweden Mission cannot legally mortgage the properties as they are not vested in it. Perhaps you may be ready to waive the defects in the title and accept a mortgage notwithstanding these defects.

(True Copy)

R. A. Arine

for Director of Public Instruction

M
18.12.17.

NOTES.

Page 1

Home (Edn) Department

Subject - mortgage of properties belonging to the L. E. L. mission.

[No. 1683 B]. From the S.P.D., Re No. 6368/16-8, the 19. 12. 17.

(D)

(C)

(B)

Please see Go No. 369 Pubd, the 28. 2. 16 and 1147 Pubd, the 14. 6. 16, ^{in which the Govt} authorized the transfer of property belonging to the L. E. L. mission to the Church of Sweden Mission. The latter was specially authorized to mortgage the property to Govt. as security for the building grants sanctioned by them - Go. No.

564 Pubd, the 7. 5. 17. It is not clear how then came the properties to be held by individual missionaries.

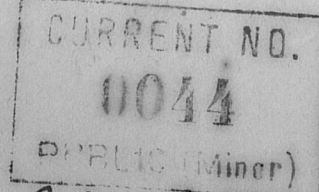
2. As far as this department is concerned, the position is this. Under art. 53 (ii) of the Grant-in-aid Code a mortgage of the property may be required before any grant is paid. Though it was optional for the S.P.D. to demand a mortgage, he has demanded it in the case of the L. E. L. mission; and having demanded it, it appears essential that the mortgage should be free from all defects. Instead, therefore, of the S.P.D. accepting a defective mortgage, it appears ~~still~~ more appropriate that he should decline to pay the grant until the Church of Sweden Mission rectifies the defects in the title ^(to the property) and

executes a valid mortgage of the property. ^{It is not stated whether the defects noticed are intangible. If not, the remarks of the Public (War) Dept. may be obtained u.s. before a decision is come to in the matter.}

Vide p. 2 C.F.



Conc. 1683 B-1
H.



Recd. 5/1/18

22. 12. 17
J. S. S. S.

2. 1. 18
Public (War)

4/1/18

NOTES.

Page 2

PUBLIC DEPARTMENT.

Page 2 CF.

The question put by the D.P.I. in this case is whether he can accept a deed of mortgage executed by the Church of Sweden Mission in respect of property over which, in the opinion of the Govt. Solicitor, the Mission possesses only a defective title of ownership. The possible replies are :-

(1) The defects in the title may be waived and a mortgage accepted notwithstanding the defects;

(2) The Mission may be asked to have the defects in the title rectified before the mortgage deed is executed;

(3) The execution of a mortgage ^(deed may be dispensed with) deed of acceptance being substituted in its stead. ~~by dispensing~~ - please see in this connection Art. 53 (ii) of the Grant-in-Aid Code. Submitted that the answer to be given to the D.P.I.'s enquiry seems to be a matter for Home (Education) to decide, and so far as this Dept. is concerned, it does not appear that any objection should be raised to the course which that dept. may decide to adopt.

2. Bearing of the present question to the general question of the treatment of property of hostile missions and missionaries.- With his letter dated 20th November 1915, the Reverend Messrs. Th. Meyner and D. Bexell forwarded to Govt. a copy of an agreement between the Collegium of Evangelical Lutheran Mission in Leipzig and the Church of Sweden Mission Board at Stockholm by which the former transferred ~~and~~ its (Tamil Mission's) property moveable and immoveable to the latter. This transfer has been ratified by the Govt. by a license issued under clause 3 of the Hostile Foreigner's Repatriation Order dated 14-10-15

The point does not concern Public (War) I think. 18.7.15

Pages 12-13 of No. 1461 281 24.12.15

No. 2584 27.4.15

D - *vide* G.O. 369 Pub. dated 28-2-16 as modified by G.O. 581 Public dated 28-3-16 and G.O. 1147 Pub. dated 14-6-16. *EP*
It is submitted that it has not been thought necessary for Govt. to investigate whether, in respect of each item of property transferred, the Leipzig Mission had a defectless title, nor does it seem necessary for the purposes of the Govt. to make any such investigation now. The authorities of the Church of Sweden Mission will no doubt themselves take care to see that they are not placed in adverse possession of property by any defect in title.

Further, the Govt. of India have separately under consideration the question of Vesting in the Custodian of Enemy Property the property originally owned by the Leipzig Evangelical Lutheran Mission as well as other hostile Missions. As a preliminary step to taking such action, they called for copies of the documents relating to the transfer ^{of property} made by the hostile missions to ~~the~~ non-hostile missions since the commencement of the war, and these have been furnished. Final orders have not yet been passed by the Govt. of India. If and when it is decided to vest in the Custodian the property of the hostile Mission, draft vesting orders specifying clearly the items of property in question will be prepared by the Collectors concerned. Every item of property owned by the missions will then come under examination, and it is submitted that no action in the matter is necessary in connection with this file.

cf. page 1 of the file in
no. 947-48 Pub A
24-7-17

Letter 948 Pub A
24-7-17

Public No 44 W-1
19-1-18

CM
17-1-18

To Home (RD) no



Home (Eon) Department

Please see the foregoing note of the Public (War) Dept.
It is for consideration whether the D.P.D. may be
informed that the building grant should not be paid
till the Church of Sweden Mission remedies the defects
in its title to the property and executes a valid
mortgage deed. The D.P.D. may perhaps be requested
u-o. to state whether he finds any practical
difficulties in adopting the course suggested above.

18.1.18.
22.1.18.
22.1.18.

After the consultations
with the foot. solicitor this
opinion, we cannot well
waive the defects pointed out by
him & accept the mortgage. In
the circumstances of the case
a mortgage, which the D.P.D.
presumably considers essential,
should be demanded. The only
course left is to ask the mission
to rectify the defects pointed out
& execute a deed - a valid one.

The question of the appointment of
a "Custodian", if it comes immediately
may solve the difficulty by disposing
with mortgages &c altogether. But
the matter is now under consideration
of the Secy of State. & there is no
knowing, being an international
question, when any final

def decision will be arrived at. There is therefore no use in awaiting it in this case.

CR
24.1.18

I should certainly say that the defects brought to notice cannot be waived and a mortgage for the Church of Sweden must be accepted.

The DPD may however act under 53(ii) as pointed out above.

Under the DPD of the proposed appointment of a Custodian & leave it to him to wait or not till the vesting order is passed

25/1/18

A draft order is submitted for approval. It may be sent to Public (War) for acceptance of para. 2.

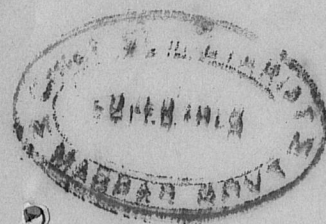
CR
25.1.18

CR
28.1.18

Public (War) no.

Public (War) sept.

There is already ~~in the process of~~ a Custodian of Enemy property in this Presidency; it is therefore subd. that the reference in para: 2 of the draft to the appointment of a Custodian may ~~be~~



Corpus 1683B-2
C-2-18

CURRENT NO.
418
WAC
Regd 2.2.18

perhaps be omitted. The draft may, it is held, be otherwise accepted in Pub(way).

CM
2.2.18 Please let me see the Grant-in-Aid Code.

A copy of the Grant-in-aid Code is held.

CM
4.2.18 para 2. had better run

"2. It is possible that the property of the Mission may ultimately be taken over by a custodian appointed under the Enemy Trading Act, but the Govt. are not in a position to say whether and if so when such a change in the situation is likely to take place.

LD
5.2.18

Pubs no: H18-1
5.2.18

Home (Gen) Dep't



Home (Gen) Dep't

Para. 2 of the draft order has been modified as suggested by the Chief Secretary. For orders whether the draft order as modified may issue.

CR
6.2.18
6.2.18

CR
7.2.18
Done
WJW 2/2/18

Informing the D.D. that the defects pointed out in the title of the property ^{in the range of} the late A.H. mission cannot be waived and that a mortgage in respect thereof from the Ch. of Sweden mission cannot be accepted.

"	"	"	"	1147 ..	"	14 - 6 -	191 6
				564 ..	"	7 - 5 -	17

C. No. 16820, From the MPD, No. 6368/16, dated 19-12-1917.

” ” ” ” ” ” 191

” ” ” ” ” ” 191

No. 148, dated 8. 2. 1918.

Mi's

The S.P.D. is informed that the defects in the title of the property of the late L. E. L. mission brought to notice cannot be waived and that a mortgage from the Church of Sweden Mission in respect thereof cannot be accepted. It is, however, open to the Director to act under art. 53 (ii) of the Grant-in-aid Code and obtain a deed of acceptance instead of a mortgage deed.

2. It is possible that the property of the Mission may ultimately be taken over by a custodian appointed under the Enemy Trading Act, but the Govt are not in a position to say whether and if so when such a change in the situation is likely to take place.

it is not known when a decision is likely to be arrived at on that question. In the circumstances it is left to the S.P.G. to wait or not till the vesting order is passed].

28.1.18
G.R.
28.1.18

31.1.18
Mm
172710

Dispo with
encls
CO
12.2.18

To, The S.P.G. (980)
Public (War) Dept
(Lto)
~~Rev Dept~~

Copied
OK
3.2.18

When given for copying
When copied
When examined
When signed

191

REAP AGAIN G.O. No.
191

DATED

CURRENT No.

ENCLOSURES to C. No.

ORDER OF GOVERNMENT ... A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—
A = Copy in full.
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