

Gazette

Law (1921) Department.
(Education)

Ordinary SERIES.

G.O. No. 1832

DATED 19-12-1921

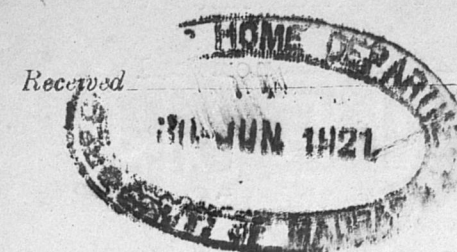
18

[Despatch Abstract.]

Acquisition of Land.

Mary Maharani Elementary School--Naducavvery--notification
withdrawn-nominal award under the Act-illegality-discussed.

DEPARTMENT.



Received

192

Registered

192

Subject.

1-7-21.

Sur 1996 B

San 3024

Mary Maharani Elementary school Nadukkaveri--
cancellation of the award, and permit passing fresh award
for land acquired for the--soliciting orders regarding--

ENCLOSURES.	
No.	one
Spare copies	

N.R.O.C.No. 1365 G & B of 19

Sathon Tanjore, dated the 28th June 21 19

From (Name) P.C. Dutt Esquire, B.A., I.C.S.,
(Designation) Collector of Tanjore.

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

Sir,

With reference to G.O. No.711 dated 19th June 1920
I have the honor to state that a nominal compensation of 1
anna was awarded by the Land Acquisition Officer (Revenue
Divisional Officer Tanjore) for each of the survey fields
involved in the acquisition as the owners agreed to part
with their lands free of cost. The total compensation
awarded amounted to Rs.32-7-2. One half of the amount viz.
Rs.16-3-7 was deposited by the Secretary to the Mary Maharani
school, the Accountant General having sanctioned payment of
the other half.

Meanwhile, the Government solicitor was addressed

to prepare a conveyance deed. The solicitor informed me that he referred the question of the validity of the award for a nominal compensation of one anna to the Advocate general and that he agreed with him in stating that such an award would vitiate the proceedings. A copy of the Advocate General's opinion is enclosed.

The Divisional Officer was at once asked to defer payment of the amount to the parties. The land has not been taken possession of. The Divisional Officer informs me that the correspondent and Secretary of the school has stated that if the present award is cancelled and a fresh award is passed, the authorities of the school are willing to pay half the cost of acquisition.

In view of the fact that the acquisition proceedings are not yet completed, in as much as the land has not yet been taken possession of, I request that Government will be pleased to cancel the award already passed and permit a fresh award in the case.

I have the honor to be,

Sir,

Your most obedient servant,

Shrinivas
29.6.21

For Collector.

R.C. 29-6-21

No. 57

Opinion.

Reference: Memorandum from the Government Solicitor dated 3rd February 21 regarding acquisition of land.

The scheme of the Land Acquisition Act 1894 (which, in the matters referred to in this opinion, is not different from that of the previous Act of 1870) is as follows:

After a preliminary notification and declaration of intended acquisition, the Collector under section 11 is to enquire inter alia into the value of the land and the respective interests of the persons claiming compensation; and it will be observed that under the terms of section 12 the award is final and conclusive evidence of the true area and value of the land and the apportionment of the compensation among the persons interested.

In view to these sections and to the decision cited by the Government Solicitor in 17 I.A.90, I am clearly of opinion that the suggested procedure of a nominal compensation of one anna for the acquisition of the land would vitiate the proceedings. As rightly observed by the Government Solicitor, it is quite open to the parties (if they are so minded) to receive the compensation amount and make a present of it to the institution in question.

In view to the existence of minor coparceners adverted to in the memorandum and to the fact that the courts may take the line that the proceedings are a fraud upon the statute, I am further of opinion that if the Government proceeds on the basis of an award of a nominal amount as compensation, the Government's title to the land would be defective.

C.P. Ramaswami ayyar
Advocate General.

(True Copy)

Shrinivas
29.6.21

R.C. 29-6-21

For Collector.

[1996B]

4

Law (En) Dept.

Memo: No. 1996B 28.6.21

Acquisition of land - Mang

Maharani Elementary School,

Nadukkaveri, Tanjore Dt. - Collector's

Letter M.P.O. No. 1365 L.P.B. of 19 27

28.6.21.

Ht ref

(U) The Collector of Tanjore is informed that the notification for the acquisition of land published under G.O. No. 711, Law (En), of 19.6.20, should be withdrawn. He is accordingly requested to submit a draft notification ^{withdrawing} from the acquisition.

2. In the case of such of the survey fields involved in the acquisition ~~which~~ the owners are willing to part with free of cost, gift deeds should be obtained and registered, provided that there is no doubt as to their ownership of the fields and that the owners are sui juris and capable of disposing of the beneficial ownership.

ownership at their pleasure.
In cases in which it is
not possible to get the ~~parties~~
parties to sign gift deeds
or where the ownership of the
land is doubtful, fresh
acquisition proceedings should
be taken and the necessary
draft notification submitted
to Govt.

28/10/21

31.10.21

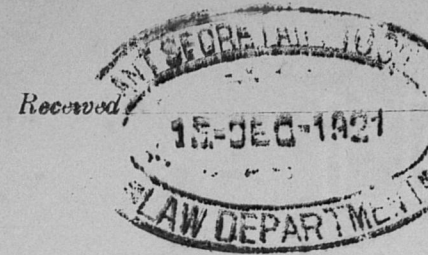
Copy to
2-11-21
To the Collector of Tanjore.

DESPATCHED

Reminded
13.12.21

Remind again
CR

HOME (EDUCATION) DEPARTMENT.



192

Registered

Subject.

ENCLOSURES.

No.

Spare copies

R.C. No. 1365/ G & B of 19.

Sation Tanjore, dated the 12th December 1921. 19

From (Name) H.G. Gharpurey Esq., M.A., I.C.S.,
(Designation) Collector of Tanjore.

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

Sir,

Government Order No. 1996--B--2 dated 31st October
1921. Land Acquisition-Mary Maharani Elementary School
at Naducauveri, Tanjore Taluk.

I submit a withdrawal notification, as directed
in para 1 of the Government Order quoted above.

FOR COLLECTOR.

NOTIFICATION.

Under Sub section 1 of section 48 of Land Acquisition Act I of 1894, the Governor in council hereby withdraws from the acquisition of 0.1450 acres of land in S.Nos.292-A-1, A-2, A-3 & ~~A~~⁴ of Nadukaveri village, Tanjore Taluk, Tanjore District, specified in the notification published at page 425 of the Fort St. George Gazette Part I-B, dated 2-6-1920, for the construction of building for the Mary Maharani Elementary School, Nadukaveri and for a play ground for the School.

Tanjore Collector's Office

Dated 12th December 1921.

M.S.S./12-12-1921.

For Collector.

On 12/12/21



C.F. 88-85,046-4-4-21.

Law Department.

(Education) Branch.

REMINDER.

To

The collector of
Tanjore.

The undersigned ~~has the honour to invite~~
is directed to invite
~~invites~~

attention to the communication noted in the

Memorandum No. 1996, dated 31-10-21
B-2

margin and to

request that

this reminder may be returned at once with

information as to—

- (1) the stage at which the matter now is, and
- (2) the date by which a reply may be expected, and
- (3) the circumstances which have caused the delay.

2. It is requested that the reply to this
reminder may be sent not later than

Office Law Dept.

Station Fort St. George

Dated

Signature.

Ag. Under Secretary

Designation.

9-12-21

SUBJECT.

Acquisition of land — Mary Maharani
Elementary School, Nadukkaveri,
Tanjore Dt. —

REPLY.

Re. 1365 GMS/24.

THE Secretary to Government.
Law Department (Education Branch).
Madras.

Resubmitted.

A withdrawal notification
was submitted in this office
Re. 1365 GMS/24 dated 12-12-21.
(despatched on 14-12-21)

By K. N. S. 17/12
For Collector

15/12/21
17/12/21



Law
(Interstate)

Secretary of
Treasury

June 1944
B-1

Can

Law Dept.

For the Dept. of Justice
and
p. 12-21

Department of Land and Natural Resources
Bureau of Land Management
Treasury of

9

Subject Land Acquisition - Mary Maharani
 Elementary School, Madukavai
 [C. no 19963] from the Collector of Tanjore, no
 1365 of 28-6-21.

In view of the decision on pp 90-97 of
 (Put up) Vol x VII of Indian Appeals and in the cir-
 cumstances explained on p. 3 CP, the proposal
 to cancel the award already passed may be
 accepted. The question then ^(for consideration) is whether the Govt
 are competent to direct the Collector to revise
 the award. Unless a reference is made to
 the Court under part III of the Land Acq. Act
 the award already passed is, under Section 12
 of the Act, final and conclusive evidence of
 the value of the lands between the Collector
 and the persons interested. Attention is
 solicited to the commentary on pp 30-31 of
 (Put up) the Land Acq. Acts by H. Beverley and to
 the standing order no. 90 (17) & (18) on p. 214 of
 Vol I of the B. S. O. ~~The only course open~~
~~to Govt. seems to be~~ As the Collector is the
 administrative officer acting on behalf of
 the Govt, the award is binding on them also.
 There seems to be no provision in the Act
 under which the Govt. can direct the revision
 of the award. The only course open to Govt
 appears to be to publish a notification
 withdrawing

Vide Beverley's Com-
 mentary - put up.

To us.

Submitted.

The portion marked in pencil on
§ 94 of Indian Appeals Vol. VI would
seem to support the Advocate General's
View. As General order will have
to issue in this case the ^{remarks of the} Board of
Revenue may, it is submitted, be
invited to D.

Yes. The question is important

18.7.21
20.7.21

2274
B. R. Rev. Dept



2790

18.7.21
26.7.21

Rev. no. 3885
25-7-21

Office of the Board of Rev.,
(Land Revenue)
Madras, dated 13th August '21

The Board held so far back as 1896 (B.P.
No. 268, Press, Land Revenue, dated the 21st July
1896) that there was no objection to the grant of
nominal compensation on the ground that, when the
owner of a land agreed to make a free gift of it,
the Collector was at liberty to award a nominal
compensation in compliance with Section 11 (ii) of
the Land Acquisition Act and that there was no
reason why the compensation so awarded should
represent the true value of the land; but it
ordered at the same time that the award should

in file 3281 (S)
15-8-1926
in linked file

8885

*The portion marked in pencil on
 p 4 of Division Appraisement
 seems to support the Division's
 view. The Division's view
 is that the value of the land
 is not as high as the Board
 has estimated. It is suggested
 that the value be fixed at
 Rs. 1000/-*

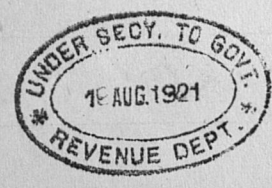
oprs

*Abstract N.C.
 (Land Acquisition - Tanjore
 Tanjore taluk & town -
 mistake - order passed -)*

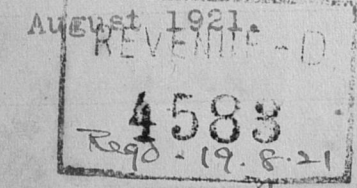
contain a finding on the true value and explain
 the reason why nominal compensation had been -
 granted. In 1920 (B.P. No. 1006 Mis., dated the
 18th August 1920) the Board instructed Collectors
 that compensation for lands owned by religious or
 charitable institutions should not be for anything
 short of the prevailing market value and that the
 amount awarded, even if small, should be deposited
 in the Court as the trustees are not competent to
 alienate the land. It seems to the Board that
 while the Act does not expressly forbid the award
 of nominal compensation it would be inadvisable to
 use the Act in cases where the owner is willing to
 accept such compensation, as other persons interest
 -ed in the land may question the transaction on the
 (arguing that the bargain is unconscionable)
 ground of want of adequate consideration. For
 the same reason purchase by private bargain also
 is inadvisable. It considers, therefore, that
 the safest course is a registered deed of gift.

As regards the case in question, the
 Board is of opinion that a notification withdraw-
 ing from the acquisition may issue as the land has
 not yet come into the possession of Government.

*L.H. Andt.
 17/8/21.
 Secretary.*



LAND REVENUE U.O. NO.
 C 2790, dated the 13th



K.C.K. 16/8. *12/8/21 17/8*

- To the Secretary to Government, Revenue Department
 with (i) current file,
 (ii) Note file (XXXXXX)
 (iii) G.O. No. 711 (Home - Education) d/ 19-6-20
 (iv) " " 1490 Home (Education) dated 20
 3-12-19.

Revenue Dept

To Under Secy

Submitted for

orders.

PK.
6.9.21

In the Privy Council Case their Lordships were primarily concerned with the right of the proprietor to consent to part with wards property for nominal compensation and this was negatived. According to the established principle of law the decision is only an authority on the particular facts of the case and there is nothing in it to establish that the ~~owner's~~ acquisition of property for nominal compensation with the consent of the owner who not being a minor is illegal. There is a reference to minor Copera in the Advocates General's opinion to the extent of minor coparceners. It is not clear whether in the present case any part of any property of the minor was acquired for nominal compensation. If so the proceeding would be illegal otherwise they seem to be valid.

S
1/12
9.9.21

[The delay in submitting this file is due to Vol. XVII of Indian Appeals referred not being available in this office. The copy, which has been obtained from the Board's office for this current was received by me only today.]

PK
1/9/21

A large number of small pieces of land have been acquired for the May Maharani school Taigra. A nominal sum of one anna was awarded for each field on the basis consented to part with their land free of cost. The Advocate General holds that an award of this sort will not give a legal title to the Government. It does not appear what course is now open. It is doubtful if it would be legal to cancel the award & make a fresh one. (Provision has not been taken). It would not be practicable to get a large number of deeds of gift & C.M. do originally reported that purchase by private negotiation would be in public way to absence of more facts. It is not clear what time to give the illegality is doubtful legality & present or in the past. The practice of awarding a nominal sum has been followed very often & there have been many disputes follow. Perhaps C3 would advise.

C2
C3
Sub
7/9

Will my Honble Colleague C3 kindly advise.

Box No.	2
Page	
Circulated	10.9.21
File No.	17.9.21

The opinion of the Gov. journal seems to
under such proceedings, legally in operation, although
I am aware as pointed out by the Secretary
that such awards have often been passed
& Govt are now in undisturbed possession.
I am not sure whether the proposal to
seize lands in cases of this description
by means of deeds of gift are, in any
way, preferable.

14921

I am afraid the procedure adopted is illegal. If
persons who are the sole & real owners of land desire
to make a gift, they should do so by an ordinary conveyance;
in that case any other person who may claim an
interest in the land will have an opportunity to
object to the gift & the title passed by the conveyance
cannot be absolute. The land acquisition proceeds are
intended to distinguish all rights in the land & vest
the property in the state on condition that a
proper compensation is made of the land; this is
a right of eminent domain. Under color of the act
the state cannot obtain an absolute title, & cannot
wade other laws which they may be bound
I have not examined the provisions of the I.P. Act,
the Registration Act & the Stamp Act & determine
whether gift is bound & then act. Suppose

Box	No.	17
Box	No.	21-9-21
Box	No.	26-9-21

there is a claimant other than the consent
party. If the land acquisition proceeds are legal,
he can have no claim to the land; he can
only claim the whole or part of the compensation
paid, & this from the part of the ^{land} not sold & paid
a part the person to whom it has been paid
but he cannot claim more than the amount
paid. This shows that the vesting under 216 cannot
take place in such a case, nor can there be a
vesting under 217 unless due compensation is
made. In cases where there is no doubt as to the
ownership of land, & if the owner is the grantor &
acceptor, & disposing of the beneficial ownership
at their pleasure, it is possible to contend that
the amount of compensation claimed should be
the nominal value of the land, & this
too dangerous to adopt the procedure, the land
acquisition act. The only course open in these
cases is to let the parties to sign a deed of gift
& register the same. If you cannot get all the
the parties - as is suggested in one of the papers -
the present acquisition proceeds should be
withdrawn & fresh proceeds taken from the
treasury. The very fact that there are several
parties is enough to vitiate the whole, these
proceeds.

26.9.21

(in one's own right)

~~The Board of all proceedings~~
~~take place in the Dept of Education~~
~~not be cancelled.~~ ←

2. Committee should in future

a. to put every case in such cases
as to find it possible.

b. to not fresh proceedings ~~with fresh~~
~~fresh proceedings~~ in other cases
and the value of the land.

4. General inspection necessary for
proceedings in the future - that
the only means by which the
acquisition can be introduced
and is found.

25/9/21

Approved with most cases

all Committee handling at this point
was cancelled by Adv. Secy. G. & C. 3

Plan for it proposed

25/9/21

To Under Secy

Recd. Secy

Extra Copy of the C.F. &

N.F. have been taken and a general
order on the lines suggested is submitted

pt II

in the linked file. This file may
be returned to Law (Edn) Dept
for issuing a notification withdrawing
from ^{the} acquisition proceedings in
respect of the case dealt with in this
file.

Rev. no 3885 1/11-2
18-10-21

18/10/21

P.K.
8-10-21
15-10-21

18-10-21

Law (Edn.) No

Can 3735 B
79 x. 21



Law (Edn) Dept.

A draft ~~memo~~ calling for the
necessary notifications from the Collector
is submitted for approval.

22/10/21

24-10-21

What about suggestion (1) in page
8 of the note? Why should not the C. be
asked to get gift deeds first?

24/10/21

* 2325 Rev in the Press.
24-10-21

The Revenue Dept. is issuing a general
order to all collectors with reference to (1) and (2)
of C's (now Cu) note on page 8 ante - vide
Revenue Secy's note on page 9 ante. As it will

Gift deeds should be drawn up only after the notification with drawing from the acquisition is ~~for~~ published. The Collector may be asked to submit this notification in advance.

2 Revised draft memo is submitted for approval.

22
27.000
27.000

OK
28/10/21

31. 5. 21

Agave monstrosa

[Mater.: 5 к. см. в. Танжар, к. 1996 Б-2
д 31.10.21]

127.4-5 CF

[C. 3849 B] From " " , R.E. No. 1365 g. 4B/19
 8/12.12.21

pp. 6-7 ef

A draft order directing the

publication of the notifn. is submitted.
(The New Deptt has already accepted the withdrawal
of the notifn. p. 10 ante) .

Curv
15.12.21

$$\begin{array}{r} \text{Tel.} - \\ \hline 1512.21 \end{array}$$

17.12.21

9/2/21

Go to the store
in the fall back
to the 3rd
of 00

Mary Maharani Elementary School,
Naducanvery - Notign. withdrawn
- Nominal award under the Act -
Illegality - Discussed.

READ AGAIN G.O. No. 711, dated 19-6-1920

" " " " " "

五

READ ALSO:-
C. No. 1996 B From the cmr n Tanjore, No. 1365, dated 28-6-1921.
N.R.O.C.
94B.

Memo : to .. do.. 1996 D-2 31-10-1921

3849B From TV .. do .. RC. 1365 12-12-1921
87B.

ORDER.

min

No. 1832, dated 19-12-1921.

The draft notification submitted by the collector of Tanjore with his letter last read above will be published in the Fort St. George Gazette.

DEPATCHED

21 DEC. 1946

CVU
15.12.21

$\frac{Ca}{17.12.21}$

I.

The collector of Tanjore (q to)

$\therefore \text{D.P.II} (q \cap I, a \cap \text{rest } I)$

.. S. G. P (for publication of notices
in gazette) - with copy of
notice.

Gazette on 3/1/22

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.