

Scott. II-27-53,001-27-10-47.

E.C.F.H.

(194 8) Department.

SERIES.

G.O. NO. 1819 Edn.

1819

Dated 21st July 1948.



[Despatch Abstract.]

- Madras Aided Institutions (Prohibition of Transfer of Property) Act 1948
Amendment to section 7 - Papers recorded.

Back Papers.

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

Further Papers.

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

Unrecorded

(2)

SRI A.V.AYYAR: Mr. Speaker, Supposing a manager has sold certain properties of an institution and the money has gone to the institution itself or spent for the benefit of the institution, then, it is but proper that the property of the institution shd. be pursued; but, supposing it has not gone to the institution or spent for the benefit of the institution and the manager has pocketed the money and runs away, it would be wrong to pursue the institution instead of the trustee. I would therefore suggest that in line 5, after the word "institution" the follg. might be inserted:

"Where it has obtained the benefit from the sale"

and before the word "manager" in the same line, insert the word "defaulting" and the words "as the case may be" ^{may} to be put in after the word "thereof".

THE HON'BLE T.S.A.CHETTIAR: Mr. Speaker, I am sorry I have not received ~~any~~ the note which Mr. V. Ayyar says he has sent. Further I do not think that it is a verbal amendment. I am in perfect sympathy with the idea suggested by my hon. friend but it requires little more care and I am sorry I am unable to accept the amendt. Govt. have no time to consider the amendts. and we ~~we~~ will consider the point raised. This much assurance I can give to the hon.member. We will see that the manager is not pursued when the money goes to the institution ^{itself} and more than that I am unable to say now.

SRI A.V.AYYAR: Mr. Speaker, As a matter of fact this is a personal assurance but under the law Govt. may proceed against the institution. I would plead ^{with} ~~that~~ the Hon.Minister to add the follg. words in the clause, namely: "or where the consideration has not reached the institution then from the defaulting trustee".

MR. SPEAKER: This is not the way of moving amendts. If the hon.member wants to move any amendt. he must write them down and give me so that they might be taken into consideration. This could not be considered as verbal amendts.

M.A.MUHD.IBRAHIM SAHIB BAHADUR: Mr. Speaker, this clause envisages another procedure of recovery of certain amounts in addition

to that provided under the ~~and~~ ordinary law of the land. That necessarily implies that the Govt. shd. frame rules for recovery of moneys due. In framing the rules they may instruct the officers to recover the money, first to recover from the person who is ultimately responsible for the loss to the Govt. if the institution has got the benefit of it, from the institution if the institution has not benefited from it, from the person who has got the benefit. If the Hon. Minister can give ^{an} assurance to this effect, there will be no need for any amendt. and it may go as it is.

THE HON. T.S.A. CHETTIAR: I always can give the assurance that the Bill will be used for the purpose for which it is intended.

SRI A.V. AYYAR: Mr. Speaker, my idea is that if the defaulting manager walks away, the helpless manager coming after him shd. not be pursued. I suggest for the words "from the manager thereof" the words "defaulting manager thereof" might be substituted and after these ^{the} words ~~add~~ "as the case may be". This will enable proper order to be passed.

M. MOHD. ISMAIL SAHIB BAHADUR: Mr. Speaker, ^(are it asked) ~~after~~ ^{if} the words "defaulting manager" may I know whether it is defined anywhere in the Act and what the meaning of the words is and in what respect he is held to be defaulting?

THE HON. T.S.A. CHETTIAR: Mr. Speaker, I am afraid Sir as at present situated, the clause may be left as it is. The Govt. is not accepting the amendt. and they will try to give consideration to the matter at the Council stage and do what is necessary. I would like to have some time.

MR. SPEAKER: I presume that the Hon. Member is not pressing the amendt. I do not know what his amendt. is. So far as I could see, ~~these~~ they are not verbal and I would suggest to him in view of what the Hon. Minister has stated, not to press the amendt. The hon. member could have given me previous notice. I do not consider ~~it~~ ^{them} to be verbal amendments.

SRI A.V. AYYAR: Mr. Speaker, it is verbal in the sense that it is not the intention of Govt. to pursue the man who has pocketed the amount not the person who had spent the money for the benefit of the institution

or where the money has gone to the benefit of the institution. It is in that sense I say this is a formal amendment.

MOHD. ISMAIL BAHADUR: There is really great force in what Mr. V. Ayyar says. The institution manager shd. not be victimised and shd. not be made to pay for what he is not really liable. If you simply add the word "defaulting" it will not save the manager; it has to be stated clearly in what manner he has defaulted and the mere insertion of the word will not save him from the predicament in which he is placed by this provision. But if he could not be saved by any other amendt. I am quite willing to second it myself.

SRI K.R. KARANTH: Would Mr. V. Ayyar or the Hon. Minister explain the point in more detail. It is nearly 40'clock and the other item may be taken up and there will be enough time to table amendts. and consider them.

THE HON. T.S.A. CHETTIAR: Mr. Speaker, I am in very great sympathy with what has been stated by Mr. V. Ayyar but I would not like to do anything in a hurry and so I suggest Sir that the clause may be passed as it is and it will be considered at the Council stage.

MR. SPEAKER: I do not consider the amendment of Mr. V. Ayyar as verbal and I am not going to put it to the vote of the House. Clause 7 was put and carried and formed part of the Bill.

(4)

Madras Aided Institutions (Prohibition of Transfers) Bill.

Should an amendment be moved to clause 7 of the Bill, to give effect to Sri A. Vaidyanathaier's point viz that a manager of an instⁿ should not be proceeded against, unless he had misappropriated the moneys of the institution etc? - See the proceedings in (6).

If an amendment is moved, as H.M. is aware, the Bill will have to come back to the Assembly.

If, on the other hand, a separate Bill is promoted, it will help us to place the present Bill in the statute book sooner. Any amendment moved by the separate Bill may well be given retrospective effect. It is very unlikely that any question of recovery from a manager will arise before the separate Bill becomes law. H.M. (E.S.) may have advised H.M. (Agn) as to the course to be adopted.

X.M. Rajesopalan
22/4/48

He has not given me any instructions in this H.M. (Agn)
So the suggestion at above
may be done

X.M.

22/4/48

Secy, E.P.H. for perusal. X.M. 22/4/48

Secy & Velupillai
22/4/48

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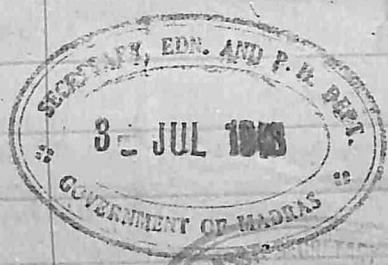
and so I suggest Sir that the clause as it is and it will be considered at the Council stage.
MR. SPEAKER: I do not consider the amendment of Mr. V. V. Aiyar as valid and I am not going to put it to the vote of the House. Clause 7 was put and carried and formed part of the Bill.

instruction 32(2) will be put up.

24/6/48
24/6/48

DM
25/6/48

1/6 (Cm.)



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26/6

not necessary now.

SA
2.7.48

These papers may be recorded after perusal by Legal.

5/7/48
5/7/48

DM
6/7/48 Legal

Edn. no. 29585 c. 1/83
6.7.48

Legal Dept

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Seen in Legal

7/7/48

E. J. H.

Edn. H (C.)



The papers may be recorded.

Legal U. O. No. 8291/48-1
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Order 189 Edn. 4-7-48
MS

Act - Hindu
Aided Institutions
(Prohibition of
Transfer of Property)
Act 1948 -
Amendment to
Section 7 - Papers
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