M.R.O. 1—77,006—8-6-37.

(1) Number of pages 16

(2) Date of repair 5.6.39

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 1612 Press / ~~Mis.~~

Dated 3.12 for ue C. 1872.

Original

Bdle-no- 35-37

means at pages 10 to 14 of this G.O. for clearances.

15/16

14.6

Not to be folded or rou... ...ghly handled

Proceedings of the Madras Government, Financial Department,
3rd Dceember 1872.

Read the following papers:—

No. 35. Proceedings of the Board of Revenue, dated 12th September 1872, No. 6214 (Miscellaneous).

Read the following letter from the Acting Collector of Madura, to the Secretary to the Board of Revenue, dated Madura, 27th August 1872, No. 258:—

I have the honour to submit, for the favourable consideration of Government, copy of a resolution passed by the Municipal Commissioners for the Town of Dindigul on the 20th August last.

2. The Commissioners wish to take charge of the old parade ground and the open ground in the lower fort, and to render these open spaces more useful than they now are, both for public recreation and for the grazing of cattle. To do this it will be necessary that the ramparts of the lower fort, which have for years been in a partially dismantled state, be levelled, and the ditches, which are now extensively used as latrines and are frequently very offensive, be filled up.

3. If the transfer is sanctioned the municipal funds will gain, and the Government will lose, the grazing rents, which amount to about Rupees 150 per annum; but, on the other hand, the Commissioners must incur the expense of levelling the ramparts and filling the ditches.

Extract from the Minutes of the Proceedings of the Dindigul Municipal Commissioners passed at a Meeting held on the 20th August 1872.

* * * *

V. Resolved that Government be requested to make over the parade ground and open ground in the lower fort to the Commissioners, who propose to keep both open, as at present, for grazing and the public recreation.

* * * *

(True Extract.)

(Signed) H. W. BLISS,
Vice-President.

Submitted for the orders of Government.

(True Copy and Extract.)

(Signed) J. GROSE,
Secretary.

No. 1238.

The Collector will forward a sketch of the ground showing its surroundings and a note of the area.

(Signed) C. A. GALTON,
17th September 1872. *Acting Under Secy. to Govt.*

Proceedings of the Madras Government, Financial Department.

3rd December 1872.

No. 36. From the Acting Collector of Madura, to the Officiating Chief Secretary to Government, Fort St. George, dated Madura, 11th November 1872, No. 2149.

As directed in the Order of Government, dated 17th September last, No. 1238, I have the honour to forward, herewith, a sketch of the old parade ground at Dindigul required by the Municipal Commissioners. Its area is 00 770 acres.

60.770 acres

No. 37. ORDER THEREON, 3rd December 1872, No. 1612.

The Government sanction the transfer requested, on the understanding that the ground is to be permanently appropriated for the purposes of public recreation and grazing.

(True Extract.)

Chief Secretary.

To the Board of Revenue.
" Collector of Madura, with sketch returned.
" Military Department.

Exd. J. H. Burns.

Govt. of {1872} Madras.

FINANCIAL.

To

THE BOARD OF REVENUE,
&c., &c., &c.

Dated December, 3rd.

Encl.

Read.

G. O., 3rd December 1872, No. 1612.

DECEMBER.
Nos. 35—37.

Sanctioning the transfer to the Municipal Commissioners of Dindigul of the old parade ground and the open ground in the lower fort, on the understanding that the ground is to be permanently appropriated for the purposes of public recreation and grazing.

Miscellaneous N°6214) Revenue Department.

(5)

Proceedings of the Board of Revenue
dated 12th September 1872.

Read the following

N°. 258

From.

M. Dr. Luhas Esqr.
Ag. Collector of Madura

To

J. Grove Esqr.
Secretary to the Board of Revenue
Madras.

Sir,

I have the honor to submit for the favorable consideration of Government copy of a resolution passed by the Municipal Commissioners for the town of Dindigul on the 20th August last.

2. The Commissioners wish to take charge of the old Parade ground and the open grounds in the lower fort and to render these open spaces more useful than they now are both for public recreation and for the grazing

Proceedings on Resolution of the Board of Revenue dated 12 September 1872 to the Collector of Madura

Read 12 Sept 72 N°258-272

Copy of Collector's letter to the Secretary to the Board of Revenue Madras

Forwarding for the sanction of Government a copy of a resolution passed by the Municipal Commissioners of Dindigul on the 20 August 1872.

Rec'd 8-12-72 Ans 11-12.

Mr Rice 1/2
N2 17888.

4/

of cattle. To do this, it will be necessary that the pamparts of the lower fort, which have, for years, been in a partially dismantled state, be levelled and the ditches, which are now extensively used as latrines and are frequently very offensive, be filled up.

3 If the transfer is sanctioned, the Municipal funds will gain and the Government will lose the grazing rents, which amount to about Rs 150 per annum; but on the other hand, the Commissioners must incur the expence of levelling the pamparts and filling the ditches.

Collector's Office
Madura
1875

I have &c.
(signed) W. Wm Dunbar
Ag. Collector

Submitted for the orders
of Government.

(True Copy & Extract),

F. Price
Secretary.

To
The Chief Secretary to Government
Revenue Department
with one enclosure.

No 2149

Collector's Office
Madura
11th November 1872.

From,

W. McLuckie Esquire
Acting Collector of
Madura.

To

W. Huddleston Esquire
Acting Chief Secretary to
Govt. Revenue Department
Fort St George.

Sir,

As directed in the order of Government dated 17th September last No 1238, I have the honor to forward herewith a Sketch of the old parade ground at Dindigul required by the Municipal Commissioners. It area is 60.776 acres.

I have the honor to be
Sir
Your Most Obed. Servt

W. McLuckie
Ag Collector

Read Proc. of the Board of Revenue 2/12 Septr. 1872 No 62 14.
Read also Letter from the Actg. Collr. of Madura 7/11 Nov. 72 No 2149.

Order 3d Decr. 72 No 1612 4

Sanction

The Government agree to the transfer requested, on the understanding that the ground is permanently appropriated for the purpose of grazing and public recreation.

Board of Revenue 111
Collr. of Madura with Sketch 2nd
Military Departt 11

Recd 17th Septr 72 Nos 63-64

1872 Fort Departt
From
The Actg Collr of
Madura
To
The Actg Chief Secy
to Govt
Revl Departt
No 2324 Madura
Dated 11th & 2 hours pr
Recd 15th
Nos 2149
Revl
46 1/2 ours pr 35 37
Forwarding herewith
a sketch of the old
parade ground at
Dindigal requisitioned
by the Municipal
Commissioners.

With order

21-7-91
10-3-93
27-3-93
16-7-95
28-9-14 B III
5-11-20
27-4-28 B II
19/9/28 II
28/2/39 II

Govt. of {1872} Madras.

Financial

The Board of Revenue.

Dec. 3

Dec.

G.O. 3 Dec 12 1872, No. 1612.

Nos. 35-37.

...sanctioning the transfer to the Dindigul Munic. Commrs. of the old parade ground & the open ground in the lower portion under standing that the ground is to be permanently appropriated for the purposes of public recreation

REVENUE DEPARTMENT.

Subject:

LAND - (Mathurai) - Dindigul Taluk and Town - parade ground poramboke - Leasing by Municipality for cinema shows etc. and collection of rent Resumption - proposals.

Ref.A.4897-49-2 Station: M a d r a s. Dated 25th February 1950.

LOCAL ADMINISTRATION DEPARTMENT 8816 28 FEB 1950 MP 1/3 SECRETARIAT, MADRAS

Sri A.F. Mascarenhas, Secretary, Board of Revenue.

Sri W.R.S. Sattianathan, ICS., Commissioner of Land Revenue.

...

Report from the Collector, Mathurai Ref.7503 G.49 dt.17-7-49.
Board's Ref.A.4897/49-1 dt.17-10-49.
From the Collector, Mathurai Ref.7503-G.49-A.8 dt.30-12-49.

...

REFERENCE:

In G.O. No.1612, Finance, Dated 3rd December 1872, the Government sanctioned the transfer to the Dindigul Municipality of the old parade ground in Dindigul town measuring 60.776 acres on the understanding that the ground was to be permanently appropriated for the purposes of public recreation and grazing. S.Nos.2,3,4 and 6 covering about 8 acres now registered in the accounts as parade ground poramboke are included in this extent. Except for two small bits which are used as a park and a play-ground by the Municipality, the other portions/for recreational or grazing purposes during all these 77 years. Instead, the Municipality has been leasing out portions of the site to travelling cinemas and circus companies. In 1940 the question was considered by the Board and it ordered that ground rent should be collected on the extent leased out. The Municipality has however been realising large amounts by way of rent against which only a negligible amount is paid to the Government as ground rent. The revenue realised by the Municipality and the ground rent paid to Government for the last two years are:-

/have not been put to use by the Municipality either /

1947-48	Rs.540/-	Rs.9 12 0
1948-49	2875/-	4 4 3

Point I

2 The Collector has raised the question, whether the Municipality has got the right to lease the land for large amounts for purposes which do not come within the scope of the original grant and whether it should not be asked to credit rents so collected to the Provincial funds. The Board examined this question and observed that the Municipality has been leasing the land in contravention of the conditions subject to which it became vested in the Municipal Council without the sanction of the Collector as laid down in rule 5(a) of the rules appended to the G.O.No.4039 L.A. dated 17-10-1939. The Municipal Council has not even followed the formalities prescribed in rule 7 of the rules in the same G.O. The Municipality, which was asked to explain its failure to follow the rules relating to leases, has assumed that leasing the ground for a cinema is a recreational purpose within the meaning of the original grant and that as the period of lease did in no case exceed 12 months, the prior sanction of the Collector was not obtained.

3 The Government Pleader, Mathurai, who was consulted in the matter is of opinion that, though failure to follow the instructions in the G.O. referred to above may constitute sufficient ground for resuming the land, it will not given any right to the Government to the rents realised by the Municipality and that the Government would be entitled only to the ground rent. Copies of the letters of the Municipal Commissioner and the Government Pleader are enclosed. The Board considers that in view of the Government Pleader's opinion the question of claiming the lease amounts collected by the Municipality in the past may be dropped.

4 In the G.O.No.1612, Finance dated 3-12-1872, by which the land was alienated to the Municipality, the word 'alienation' was not used nor

P.T.O.

is there a condition in it stating that the land is liable to be resumed for breach of the conditions of the grant. Though in 1872 there was no Board Standing Orders and the term 'alienation' was not in use, it is clear that the land was given to the Municipality for permanent appropriation for the purposes of public recreation and grazing. The Municipality is not using the land for these purposes except for the portions used as park and playground. The Board feels that there is a case for resumption. It, therefore, recommends that the original grant may be resumed and the particular portions used for park and play-ground may be realienated to the Municipality subject to the conditions now in force.

for SECRETARY.

To

The Secretary to Government, Local Administration Department.
with copies of letters.

PLG/25/2.

...

Copy of L.No.1061/13-11-1949 of the Government Pleader, Mathurai.

...

In G.O.No.1612, Revenue, dated 3-12-1872 Government sanctioned the transfer of the land to the Dindigul Municipality on the understanding that the ground was to be permanently appropriated for the purpose of public recreation and grazing. Leasing the ground to a Cinema is certainly a contravention of the condition.

2. But in their resolution Mis.No.2316 dated 30-8-40 the Board of Revenue observed that the land is liable to be charged with ground rent under B.S.O.21-A and the Collector was requested to collect the ground rent, not only for the past years when the ground was leased by the Municipality, but also in future. Some directions have been given in that B.P. regarding future leases and reference has been made to G.O.No.4039 L.A. dated 17-10-39. This means that Government have permitted the Municipality to lease the land under certain conditions and terms.

3. It is clear that in leasing the land, the Municipality did not act according to that G.O. This may constitute a sufficient ground for resuming the land; but till such resumption is made, Government cannot claim any rent that the Municipality has realised. The B.P. referred to above clearly says that the land is liable to be charged with ground rent and if the Municipality had acted according to the rules in G.O.No.4039 Development dated 17-10-39, Government would be entitled only to the ground rent. The Municipality's default in not observing the rules cannot make the land ipso facto Government property and Government would be entitled to the full rent only if the land becomes theirs after resumption.

4. I am therefore of opinion that the acts of commission or omission on the part of the Municipality do not give any right to Government to the rents realised by the Municipality.

5. All the papers are returned.

R. Hariharan,
Govt.Pleader.

...

Copy of Ref.No.7503,49.A.8 dt.26-11-49 from the Collector, Mathurai to the Commissioner of Municipality, Dindigul.

...

Dindigul Taluk and town - Parade ground - lease by

The parade ground in Dindigul town was transferred to the Dindigul Municipality in G.O.1612 dated 3-12-1872 on the understanding that the ground should be permanently appropriated for public recreation and grazing. It is now seen that the municipality is leasing the ground to temporary cinemas and deriving large income. On leasing these land, it does not appear that the Municipality followed the rules relating to leases contained in G.O. 4039 L.A. dated 17-10-39.

2. Please let me know in two weeks why the Municipality failed to follow the rules relating to leases. If no reply is received within two weeks, the matter will be reported to the Board for necessary action.

Copy of D.Dis.16181/49 dt.15-12-49 from the Municipal Commissioner, Dindigul to the Collector of Mathurai through the Chairman, Municipal Council, Dindigul

...

Land - Dindigul Municipality - Lease by the Municipality.
Ref: Your letter C.No.7503/49-A.8 dt.26-11-1949.

...

In the Collector's reference cited above it is stated that the Parade ground land is being leased out by the Municipality without observing the procedure laid down in G.O. No.4039, L.A. dated 17-10-1939.

2. The Parade Ground was transferred in the name of the Council in the year 1872 as per G.O. No.1612, Finance, dated 3-12-1872 on condition that the land should be permanently appropriated for the purposes of public recreation and grazing. In the order itself it is stated that if the land is transferred to the Municipality, the Municipal funds will gain. From this it is seen that some income will acrue to the Municipality.

3. As per Rule 5 of the Rules issued in G.O.4039, L.A. dated 17-10-49, the following 2 conditions will have to be followed in leasing out an immovable property which is vested in the Council:-

i) the land should not be leased out for other purposes other than that for which it has been transferred.

ii) the land should be leased out for a period exceeding 12 months with the sanction of the Collector.

The land is being leased only for the purpose for which it was transferred. In no case the period of lease exceeded 12 months and hence the previous sanction of the Collector was not obtained.

I therefore bring to your notice that the procedure laid down in the Government Order is not violated and the land is being leased out for public recreation.

(sd) x x x
Commissioner.

Forwarded.

(sd) x x x
Chairman, Municipal Council, Dindigul.

...

/True copy/

for SECRETARY.

PLG/25/2.

L. A. Dept (A)

(Pt rec 'A' on p1 above & 'B' & 'C' on p2 above) Revenue Dept xxxx.

9/3/50

9.3.50

Rev. Dept.

O.M. No. 20652--A- 50- 1 dated 6.6--50.

Land - (Mathurai) - Dindigul taluk and town - Parade ground poromboke transferred to Municipality - Lease - Collection of rent and resumption.- proposals.

From the Board of Revenue - Refnce. A.4897--49- 2 dated 25--2--50.

....

In the circumstances reported by the Board of Rev. in para 3 of its reference read above, the Government agree with the Board that the question of claiming the lease amount collected by the Dindigul Municipality in the past may be dropped.

2. For the reasons stated in para 4 of its reference read above, the Board has recommended that the original grant in favour of the Municipality may be resumed and that the particular portions used for park and play-ground may be realienated to it. ~~The legal opinion in the matter is to the effect~~ It has been pointed out that in the absence of a specific provision in the grant deed that the land in question is liable to resumption, in case it is not used for the purpose for which it was granted, it is not possible for the Government to resume the land. In the present case, the Government did not impose any condition regading the resumption of the land in question, while sanctioning its transfer to the Dindigul Municipality in G.O. No. ~~187~~ 1612 Fin. dated 3--12--1872. Apart from and irrespective of this issue, it is doubtful whether the grant by the Municipality of portions of the land from time to time, temporarily on lease or licence, to cinemato-graph concerns or circus shows, the object of which is to provide amusement to the people, can be regarded as wholly outside the contemplation of the grant made to the Municipality by the Government in 1872. As such, the Municipality is entitled to be given the benefit of doubt in this case. In the circumstances, ~~the Govt.~~

P.T.O.

the Govt. do not
~~are not prepared to~~ accept the Board's recommendation contained in the concluding sentence ~~of para 4 of~~ its refnce. cited above.

30.5.50 30/5/50

To
The Board of Rev.
(L.R.)

9.6.50

3.6.50

L. A. Dept. (A)

Notes

(C. No. 8816/50) Subject :- Land - (Madurai) — Dindigul taluk and town - Parade ground poramboke transferred to Mcply - Lease — Collection of rent and resumption - Proposals.

From the Board of Revenue, Rc. A. 4897-49-2 dy 25/2/50.

In G.O. No. 1612 (Finance) dated 3/12/1872, Govt sanctioned the transfer to the Dindigul Mcply of the old parade ground in Dindigul town measuring 60.776 acres on the understanding that the ground was to be permanently appropriated for the purposes of public recreation and grazing. The Board of Revenue has reported that the Mcply has used two bits of the land as park and play-ground and it has been leasing out the remaining portions to travelling cinemas and circus companies and that in 1940 the Board has ordered collection of ground rent on the extent leased out.

2. The points for consideration in this case are :-

(i) whether the rent collected by the Mcply on leasing out certain sites in the land transferred to the Mcply for recreational purposes can be claimed by Govt ;

and (ii) whether there is a case ~~case~~ for resuming the land by Govt on the ground that the whole of the land has not been used for the purpose for which it was granted to the Mcply.

Point (i) above :- The area transferred to the Mcply was the open ground ~~at~~ in the lower fort at Dindigul which consisted of rampart and ditches, which had to be levelled and filled up at the expense of the Mcply. It was then anticipated that by the transfer of the land the mcl funds would gain. The Govt Pleader is of opinion that the Govt would be entitled only to the ground

P.T.

rent in respect of the sites in the land leased out by the Mcl. and not to the rents realised by the Council through the lessees. The Board considers that the question of claiming the lease-amounts collected by the Mcly. in the past may be dropped. The Board's view may be supported in this Dept. (Attention is in this connection solicited to the note of Legal Dept. on p 7 n.f. to Go.No. 2446-A/dy 3/3/50) in a similar case

Point (ii) on p 1 above :-

The Board considers that there is a case for resumption of the land as the Mcl. is not using it, except the portions used as park and playground, for the purposes of public recreation and grazing. The comm. of the Mcly. states that leasing the site for a cinema is a recreational purpose within the meaning of the order of transfer and such lease was being made in accordance with rule 5(a) of the rules relating acquisition & transfer of immovable property of mcl. cls. Even if the lease of the land for cinemas and circus shows is not a purpose for which the land was transferred to the Mcly., the recommendation of the Board that the land may be resumed by Govt. cannot be accepted as there is no provision in the order of transfer of the land for resuming it. vide note of Legal Dept. on p 14 n.f. to G.O.No. 1975(L.A) dy 23/9/49. in a similar case

3. With these remarks the case may be transferred to Revenue Dept. n.o. for further action.

MP
23/3/50 Ms 24.3.50

26.3.50
Sepy
Rev

f
29/3/50

Rev. dp 27/3/50

Lr. No. 8816/50-14

ADDITIONAL ASST. SECRETARY TO GOVERNMENT
29 MAR 1950
REVENUE DEPARTMENT

vide para 4 on p 2 c/f

with 'B' on p 1 c/f

(K) 26/3 A

vide para 4 on pp 1-2 c/f

copy of Comm's letter on p 3 c/f

p 6 of Book No 15 7A (Re lease of land vested in mcl cls)

vide D on p 29

26.3.50 fB

(G1) 29/3/50

R.D.

To A.S.

Please see the L.A. deptl. note on pp 1-2 above which deals with the two points raised by the Board of Rev. in its Proc. at pp 1-2 c/f. The L.A. deptl's view at 'A' and 'B' on p. 2 ante may be accepted in this deptl which is based on certain recent legal opinion.

2. In Go. No. 1612 Financial of 3/12/1872 the Govt only sanctioned the transfer of the land in question to the Municipality on the understanding that the ground is to be permanently appropriated for the purposes of public recreation and grazing. From 'X' on p 1 c/f, it is seen that the Municipality is realising large amounts by way of rent by leasing out portions of the site to travelling cinemas and circus companies. The Board of Rev has now only recommended that the question of claiming the lease amounts collected by the Municipality in the past may be dropped. With a view to forego the loss of revenue to the Govt in future, it is for consideration whether an order may be issued to the effect that "any rents derived from leasing or licensing the land for purposes of exhibitions, circuses, and other amusements shall be credited to the Govt". It does not appear that there will be any legal objection to this course, as the transfer of the land for recreation purposes does not mean to the extent of leasing portions of it for cinemas and circuses.

3 Legal, L. A. & Fin may see for remarks.

A alone. I do not think

B on p 1 c/f

A
see below
22/4/50

DS
22/4/50 Ms 29.4.50

4

Accts

it will be legal for the Govt to impose any such condition or at all in addition. | Legal Ur 30.4.50

22/4/50 Ur 30.4.50

Legal

LA

Fin

Rev. Conf. No. 20652-A/50
30/4/50

Legal Department

Apart from and irrespective of the above, it is doubtful whether the grant by the municipality of portions of the land from time to time, temporarily on lease or licence, to cinematograph concerns and circus shows, the object of which is to provide amusement to the people can be regarded as wholly outside the contemplation of the grant made to the municipality by the Government in 1872. The municipality must be given the benefit of the doubt in a case like this. No action is therefore called for in this case.

ASSISTANT SECRETARY 6799 2-MAY 1950 LEGAL DEPARTMENT

K.M. 16/5/50

L.A. Dept

LAD

Legal No: 6799/50-1

LAD 16/5/50.

Seen. 17.5.50 Fin

A 17/5 AN 17/5

LOCAL ADMINISTRATION DEPARTMENT 17 MAY 1950 20585 SECRETARIAT, MADRAS

36830 Accts

Rev 20535-1A

17.5.50

1 MAY 1950 SECRETARY TO GOVERNMENT

2 pp 1 above

x pp 1-2 (E)

B m p 1 CF

D m p 2 CF

pp 1-2 above

page 4 above

A 3

33341 A SECRETARY TO GOVERNMENT

B 22.5.50 D 22.5.50 Ur 22.5.50

Rev No 36830 Accts 23/5/50

Finance (Accts.) Deptt.

The file deals with the question raised by the Collector of Madhurai whether the Dindigul Municipality has got the right to lease the old parade ground in Dindigul Town (measuring 60.776 acres) which was transferred to the Municipality by the Government in G.O.No.1612, Finance, dated 3-12-1872, for purposes of public recreation and whether it should not be asked to credit the rents so collected to the Government. Agreeing with the Government Pleader, Madhurai, the Board considers that the question of claiming the lease amounts collected by the Municipality in the past may be dropped and that there is a case for resumption, as the Municipality is not using the land for purposes for which the land was assigned to the Municipality.

2. L.A. and Revenue have examined the proposals in their notes on pp.1-4 above and they are of the view that the latter proposal of the Board cannot be accepted on legal grounds. The Legal Secretary considers that it is doubtful whether the grant by the Municipality of portions of the land from time to time, temporarily on lease, or licence, to cinemotograph and circus concerns, the object of which is to provide amusement to the people, can be regarded as wholly outside the contemplation of the grant made to the Municipality in 1872, by the Government and that the Municipality must be given the benefit of the doubt. This Deptt. may accept the views of the Legal Secretary.

B 22.5.50 $ 22/5/50

Rev

PTO.

Rev. Dept.

To A.S.

Please see notes from page 1 ante.

2. A draft memo is submitted for approval. The case may be circulated to HM(LR.)

3. After issue, the papers may be stitched with G.O. No. 1612 Fin. dated 3--12--1872.]

8/ 30.5.50

2/ 30.5.50

1/ 31/5/50

Dft 3.6.50

cir. 6.6.50

HM (LR)

DEPUTY SECRETARY TO GOVERNMENT 6 JUN 1950 REVENUE DEPARTMENT

SECRETARY TO GOVERNMENT 6 JUN 1950 REVENUE DEPARTMENT