M.R.O. 1—77,006—8-6-31.

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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	817	Press / Mis.
114—115		
Dated	12—5—	1874.

7/8

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
12th May 1874.

No. 114. Read the following Proceedings of the Board of Revenue, dated 17th March 1874, No. 609 :—

Read the following letter from the Hon. D. ARBUTHNOTT, President of the Local Fund Board, Tanjore Circle, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Vallam, 2nd December 1873, No. 426 :—

With reference to the Orders of Government, dated 6th June 1873, No. 800, I have the honour to report that I have been desired by the Local Fund Board of the Tanjore Circle respectfully to request the Board of Revenue to move Government for a reconsideration of their ruling therein communicated.

2. In that ruling Government have declared that "the Governor in Council is not prepared to admit that the Local Fund Board inherited, by transfer, any powers from the Board of Revenue to sell portions of the landed endowments of institutions made over to their management and superintendence."

3. With reference to this the Local Fund Board submit that Section 11 of the Local Funds Act lays down "that it shall be competent to the Board of Revenue, with the written consent of Government and of the Local Fund Board, to make over the management and superintendence of any such endowments, and thereupon all powers and duties which attach to the Board of Revenue in respect thereof shall attach to the Local Fund Board as if such Local Fund Board had been specifically named in the said Regulation," and that, therefore, they have inherited by transfer all the powers possessed by the Board of Revenue in regard to charitable institutions, whatever doubts may exist as to the power of the latter body to alienate the landed property of such institutions.

4. There is nothing in Regulation VII. of 1817 regarding the power of the Board of Revenue to change or alienate charitable property; but, under the general principles of law and in the absence of express statutory provision to the contrary, alienations made by trustees of charitable property are valid if made for the benefit of the charity to which it belongs, although when such alienations are disputed the burden of proving the good faith of the transaction will lie on the purchaser. The law on this subject has been explained by Mr. Handley, the Government Pleader, in his letter to the Board of Revenue, dated 25th May 1871, No. 85, printed in Board's Proceedings under date the 21st July 1871, No. 3051.

5. Independently of this, in the case of the Local Fund Boards, under Section 14 of the Local Funds Act they have power to sell *any* land which has vested in them.

6. In the case of the lands of Sraisi Chuttrum, their sale will, as stated in the original Resolution of the Local Fund Board, be manifestly to the advantage of the chuttrum. They consist of detached pieces, small in extent and irregularly spread over a large area. In most cases they are occupied by traders and others, who have constructed shops and such like buildings and pay a small annual rent on account of the site. The collection of these rents is a matter of great difficulty as it has to be got from a large number of persons, and a special establishment has to be entertained for the purpose. The lands have to be leased out annually in some cases, quinquennially in others, and the work entailed on the Local Fund Board is very great. The present occupiers would be glad to purchase the lands outright, and, being situated mostly in the thickly populated part of the town of

Tanjore, there is a great demand for them. The proposal of the Local Fund Board is to offer to the occupiers such of the lands as are occupied at twenty-five years' purchase, and, in the case of unoccupied lands or lands the occupiers of which may be unwilling to purchase on the terms offered, it is proposed to put them up to sale by public auction. The experiment was tried two years ago in the case of similar lands belonging to the estate of His Highness the late Rajah of Tanjore under my management as Receiver and was found to be eminently successful. The sale-proceeds will be invested in Government paper, which to all intents and purposes is as permanent a form of property as land itself. The sale-proceeds are estimated at Rupees 28,200, and the amount of interest payable thereon will be rather more than the present income derived from the rents.

7. The Local Fund Board after the receipt of the orders of Government would not have again mooted the subject but for the fact that the matter is of some importance, and it is desirable that the question of their right to dispose of lands belonging to charitable institutions committed to their care should once for all be authoritatively settled.

8. The Local Fund Board respectfully request that, if necessary, a reference may be made to the Advocate General on the subject.

9. Copies of the Resolutions bearing on this subject are forwarded for the information of the Board of Revenue.

ENCLOSURES Nos. 1 to 3.—Extracts from Proceedings of the Local Fund Board.

Submitted for the orders of Government.

2. The Tanjore Local Fund Board having proposed to sell certain pieces of land belonging to the Sraisi Chuttrum which is under their management, the Revenue Board submitted the proposal to Government pointing out that the sale-proceeds should be invested on behalf of the chuttrum in Government paper and that a rule should be inserted amongst the Local Fund Rules prohibiting Local Fund Boards from selling endowed property without the consent of Government or the Board.

3. In their Order of the 6th June 1873, No. 800, Government declared that they were "not prepared to admit that the Local Fund Board inherited, by transfer, any powers from the Board of Revenue to sell portions of the landed endowments of institutions" made over to them. The sale proposed by the Local Fund Board was thus disallowed.

4. The Local Fund Board now ask that the Order may be reconsidered.

5. The detached pieces of land in question are occupied by shops and huts, and the collection of the rents is a difficult matter. It would be to the advantage of the endowment to sell them and invest the proceeds in Government paper. Under such circumstances the Board of Revenue would certainly have felt justified in effecting the sale and investment under Regulation VII. of 1817, though no cases can be traced in which such a power was actually exercised. If the Board of Revenue had such a power—and they believe they had—it is now vested in the Local Fund Board under Section 11 of the Local Fund Act. Even if the Board of

Proceedings of the Madras Government, Financial Department,
12*th May* 1874.

Revenue had no such power the Local Fund Board would seem to have it under Section 14 of the same Act.

6. The Board think that Local Fund Boards ought to be allowed to alter the investments of endowed institutions with the sanction of Government and that the alteration proposed in the case of the Sraisi Chuttrum should be allowed.

(A true Copy and Extract.)

(Signed) J. GROSE,
Secretary.

No. 115. ORDER THEREON, 12th May 1874, No. 817.

The proposed sale of land belonging to the Sraisi Chuttrum is sanctioned, and the arrangement by which they will be offered to the occupiers at twenty-five years' purchase is approved. When the quit-rent is unduly low, however, a sounder basis of valuation should be adopted.

(True Extract.)

Acting Chief Secretary.

To the Board of Revenue, with three enclosures returned.

Exd. A. S. Rodgers.

Govt. of [illegible] Madras.

FINANCIAL.

To

THE BOARD OF REVENUE.

Dated May, 12th.

Read.

G. O., 12th May 1874, No. 817.

MAY.

Nos. 114 & 15.

Tanjore Circle.—The proposed sale of land belonging to the Sraisi Chuttrum, sanctioned; and the arrangement by which they will be offered to the occupiers at twenty-five years' purchase, approved.

No. 609.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 17th March 1874.

Read the following letter from the Hon. D. ARBUTHNOTT, President of the Local Fund Board, Tanjore Circle, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Vallam, 2nd December 1873, No. 426 :—

WITH reference to the Orders of Government, dated 6th June 1873, No. 800, I have the honour to report that I have been desired by the Local Fund Board of the Tanjore Circle, respectfully to request the Board of Revenue to move Government for a re-consideration of their ruling therein communicated.

2. In that ruling, Government have declared that, "the Governor in Council is not prepared to admit that the Local Fund Board inherited, by transfer, any powers from the Board of Revenue to sell portions of the landed endowments of institutions made over to their management and superintendence."

3. With reference to this, the Local Fund Board submit that Section 11 of the Local Funds Act lays down, "that it shall be competent to the Board of Revenue, with the written consent of Government and of the Local Fund Board to make over the management and superintendence of any such endowments; and thereupon all powers and duties which attach to the Board of Revenue in respect thereof shall attach to the Local Fund Board, as if such Local Fund Board had been specifically named in the said Regulation;" and that, therefore, they have inherited by transfer all the powers possessed by the Board of Revenue in regard to charitable institutions, whatever doubts may exist as to the power of the latter body to alienate the landed property of such institutions.

4. There is nothing in Regulation VII. of 1817 regarding the power of the Board of Revenue to change or alienate charitable property, but under the general principles of law and in the absence of express statutory provision to the contrary, alienations made by Trustees of charitable property are valid, if made for the benefit of the charity to which it belongs; although when such alienations are disputed, the burden of proving the good faith of the transaction will lie on the purchaser. The law on this subject has been explained by Mr. Handley, the Government Pleader, in his letter to the Board of Revenue, dated 25th May 1871, No. 85, printed in Board's Proceedings, under date the 21st July 1871, No. 3,051.

5. Independently of this, in the case of the Local Fund Boards, under Section 14 of the Local Funds Act, they have power to sell *any* land which has vested in them.

6. In the case of the lands of Sraisi Chuttrum, their sale will, as stated in the original resolution of the Local Fund Board, be manifestly to the advantage of the Chuttrum. They consist of detached pieces, small in extent, and irregularly spread over a large area. In most cases they are occupied by traders and others, who have constructed shops and such like buildings, and pay a small annual rent on account of the site. The collection of these rents is a matter of great difficulty, as it has to be got from a large number of persons, and a special establishment has to be entertained for the purpose. The lands have to be leased out annually in some cases, quinquennially in others, and the work entailed on the Local Fund Board is very great. The present occupiers would be glad to purchase the lands outright, and, being situated mostly in the thickly populated part of the Town of Tanjore, there is a great demand for them. The proposal of the Local Fund Board is to offer to the occupiers such of the lands as are occupied at twenty-five years' purchase, and in the case of unoccupied lands or lands the occupiers of which may be unwilling to purchase on the terms offered, it is proposed to put them up to sale by public auction. The experiment was tried two years ago in the case of similar lands belonging to the Estate of His Highness the late Rajah of Tanjore, under my management as Receiver, and was found to be eminently successful. The sale proceeds will be invested in Government paper, which to all intents and purposes is as permanent a form of property as land itself. The sale proceeds are estimated at Rupees 28,200, and the amount of interest payable thereon will be rather more than the present income derived from the rents.

7. The Local Fund Board, after the receipt of the orders of Government, would not have again mooted the subject but for the fact that the matter is of some importance; and it is desirable that the question of their right to dispose of lands belonging to charitable institutions committed to their care, should once for all be authoritatively settled.

8. The Local Fund Board respectfully request that, if necessary, a reference may be made to the Advocate General on the subject.

9. Copies of the resolutions bearing on this subject are forwarded for the information of the Board of Revenue.

ENCLOSURES Nos. 1 to 3.—Extracts from Proceedings of the Local Fund Board.

SUBMITTED for the orders of Government.

2. The Tanjore Local Fund Board having proposed to sell certain pieces of land belonging to the Sraisi Chuttrum which is under their management, the Revenue Board submitted the proposal to Government pointing out that the sale proceeds should be invested on behalf of the Chuttrum in Government paper, and that a Rule should be inserted amongst the Local Fund Rules prohibiting Local Fund Boards from selling endowed property without the consent of Government or the Board.

3. In their Order of the 6th June 1873, No. 800, Government declared that they were "not prepared to admit that the Local Fund Board inherited by transfer any powers from the Board of Revenue to sell portions of the landed endowments of institutions" made over to them. The sale proposed by the Local Fund Board was thus disallowed.

4. The Local Fund Board now ask that the order may be re-considered.

5. The detached pieces of land in question are occupied by shops and huts, and the collection of the rents is a difficult matter. It would be to the advantage of the endowment to sell them and invest the proceeds in Government paper. Under such circumstances the Board of Revenue would certainly have felt justified in effecting the sale and investment under Regulation VII. of 1817, though no cases can be traced in which such a power was actually exercised. If the Board of Revenue had such a power, and they believe they had, it is now vested in the Local Fund Board under Section 11 of the Local Fund Act. Even if the Board of Revenue had no such power, the Local Fund Board would seem to have it under Section 14 of the same Act.

6. The Board think that Local Fund Boards ought to be allowed to alter the investments of endowed institutions with the sanction of Government, and that the alteration proposed in the case of the Sraisi Chuttrum should be allowed.

(A true Copy and Extract.)

J Grole
Secretary.

To the Acting Chief Secretary to Government, Financial Department,
with three original enclosures.
,, the President of the Local Fund Boards, Tanjore District.

Exd. G. A. Turton.

Rec'd 1874. Sept
BOARD OF REVENUE,
MADRAS.

PROCEEDINGS, 17TH MARCH 1874, No. 609.

Dep 20 Encls 3

Received 21 March 74

20 684

MARCH.
No. 609.

Sraisi Chuttrum—in Tanjore District.—Proposal of Tanjore Local Fund Board to sell certain pieces of land forming endowment of—which has been negatived by Government, re-submitted to them for sanction, with certain remarks.—Recommendation made that Local Fund Boards should be allowed to alter investments of endowed institutions with sanction of Government.

For Order

71

Financial DEPARTMENT.

No. 684.

From Bd of the Board of Revenue.

Dated 17 March 1874.

FOR ORDERS.

I think there can be no doubt that the Local Board has power to do this: and I see no reason why it should not be exercised—calling attention to the basis of valuation, as suggested by Colonel Lee Warner

Grant the Petn of the Board of 17 May 73 and leave no doubt as to the law—viz that it is competent to the Local Fund Board to sell the endowment—subject to the condition—first—that it be sold by auction—and 2nd—that the Collector accept the principle of valuation—viz 25 yrs purchase of the present rent now paid—but power is reserved to the Local Fund to enhance the rent on a similar basis of valuation—

must be adopted in the interest of the Church
12/a 1861

I am unwilling in doubt as to whether, in the interest of the charity, all the lots should not be sold to the highest bidder - so far as the tenants are

Sir Seth on the occupiers - the principle followed in such cases has been to allow the person principally interested - the occupiers no doubt - the right of pre-emption of the next reasonable terms
Ex: Q. Malahon to lease

96

Concerned, they have no right to select them selves as their landlords and the barristers rule of course they only the right of the Lent Court Clerk

Sir

I do not encourage a departure from the public bodies - It is a hard measure to tell the head of old settlers reasonable tenants highest bidder.

30/2 1861

I cd. agree to suspend after dead [illegible] of the occupiers, & the remainder after decease of the occupiers, & further

Sole 105 5

817

For Orders

Recirculated with reference
to the points raised by
the Bench Mrs Lein.- Unless
the quit rents is unduly low
it is doubtful whether the
years purchase would be
realised at public auction &
the tenants would buy them
agents at a lower price. The
upset price however ought
to be fixed at 25 years purchase

Lord Ripon

Colonial Office 12th May 1894

The Secretary of State for the
Colonies presents his compliments to
the Board of Trade, and with reference
to their Minute of the 10th instant
has the honour to transmit to them
herewith a draft Order in Council
which he would be glad to submit
to Her Majesty in Council for
approval.

The Secretary of State would
be glad to receive the observations of
the Board of Trade upon the
draft Order at their earliest
convenience.

Rt Hon. Board of Trade &c &c &c

Ans 7/5 R 11/5

Govt. of {1874} Madras.

Financial.

To
The Board of Revenue.

Duty pursuant to Order
29-5-74

G.O. May 12, 1874, No. 817.

Nos. 14 . 15 .

Tanjore Circle. The proposed sale of land belonging to the Trichi Chuttrums Sanctd. & the arrangement by wh. they will be offered to the occupiers at 25 years purchase approved.