

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. *668*

Press
~~Mis.~~

25-26

Dated

22-5-1958

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 25th May 1858.

No. 25. Read the following letter from J. R. BOYSON, Esq., Honorable Company's Solicitor to the Chief Secretary to Government, Madras, dated 10th May 1858, No. 237.

SIR,

Minutes Consultation, dated
20th January 1858, No. 108,
Judicial Department.

1. I have the honor to report for the information of Government that the orders conveyed to me in the Extract Minutes of Consultation noted in the margin, had my immediate attention and have since been kept carefully in view.

2. When these orders reached me, Mr. Allardice, the Madras Agent for the Agra and United Service Bank, then and still occupying the Ameer Bagh, was not disposed to entertain any proposition for his vacating those premises, or to afford me any information regarding the terms upon which the Bank held them; and it was not until March last that I was informed by Mr. Allardice's Solicitor (Mr. Shaw) that he was *then* instructed by Mr. Allardice to offer me every facility towards Government's becoming the purchasers of the Ameer Bagh and at the same time afforded me all the particulars he at the time had relative to the terms upon which the Agra Bank held the premises. In March last Mr. Allardice made communications to the same effect to the Honorable Mr. Morehead and the Registrar of the Sudr Court, which were in due course sent on to me.

3. I was less disappointed by Mr. Allardice's refusal (in January last) to treat with me for the transfer of the premises to Government than I should have been in the absence of two very serious objections to Government's *then* taking possession of the premises (even if such possession could be obtained) which at once occurred to me.

4. These objections were *first* the inexpediency for the reasons after mentioned of Government's taking possession of the premises until they could obtain the absolute ownership of them, and *secondly* the difficulty under the then and still existing circumstances of obtaining such a conveyance of the premises as Government could safely and properly accept.

5. Knowing as I did the extent of accommodation in the Ameer Bagh and that required for the use of the Sudr Court, its establishment, Records, &c., I felt satisfied that the Ameer Bagh would need very considerable alteration, and additions, involving large outlay, to render the premises eligible for the Sudder, and it seemed to me very inexpedient that this outlay should be made until the premises had in fact become the absolute property of Government.

6. The premises were and are held by the Agra Bank under an agreement dated the 23rd July 1853, between Mr. Geddes the then Agent for the Agra Bank and Madarool Omrah Bahauder, the Dewan of the late Nabob, acting on the Nabob's behalf, copy whereof I herewith send.

7. Subsequent to the date of this agreement the premises were conveyed by the late Nabob to Ghoolam Mahomed Saib by a formal Deed purporting on the face of it to be executed for a valuable consideration, but in truth wholly without consideration and only for the purpose of Ghoolam Mahomed Saib's raising money for the use of the Nabob by mortgage of them.

8. Ghoolam Mahomed Saib by Deed dated 12th January 1855, mortgaged the premises to the late Mr. W. H. Ross of Madras, for securing the repayment of Rupees 17,500 with interest at 12 per cent. This mortgage and the Title Deeds of the premises are now in the possession of Mr. G. H. Ross, son and Administrator (under Letters from the Supreme Court) of his father's estate and there is a balance due under the mortgage of upwards of Rupees 22,000.

9. In order to an effectual conveyance of mortgaged property it is necessary that the mortgagee who usually has and ought to have the *legal* estate in the mortgaged premises vested in him by his mortgagee as well as the mortgager who has an equitable Estate or as it is termed the *Equity of redemption*, or right to redeem the mortgaged premises, vested in him, should be parties to such conveyance, the mortgagee receiving so much of the purchase money as may be required to discharge the amount due to him for principal and interest and the mortgager receiving the balance of such purchase money as the consideration for his equity of redemption.

10. The legal estate in the Ameer Bagh is now vested in Mr. G. H. Ross, as the Administrator of his father's Estate and the Equitable Estate or Equity of redemption in those premises is now ostensibly and in point of law and fact vested in Ghoolam Mahomed Saib, but it is beyond question that he is merely a name lender in the transaction, has no beneficial interest in the premises and is a Trustee for the heirs of the late Nabob whoever they may be.

11. In order to Government's becoming the purchasers of the premises *absolutely* it would have been necessary to arrange as to the value and the amount of purchase money &c. and it appeared to me that it would be impossible for Government to deal or treat with Ghoolam Mahomed Saib as the beneficial owner of the premises (subject to the claims of the Agra Bank and Mr. Ross' Administrator) and that it would be in the highest degree impolitic to recognize any member or members of the late Nabob's family as competent to intervene or as having any interest by representation or otherwise in the matter, as such a step might raise questions which it was especially desirable to avoid.

12. I therefore considered that the more advisable course would be to defer all further proceedings with a view to obtaining the premises in question for public purposes until after the passing of the contemplated Act for the Administration of the Estate of the Nabob when the premises would be sold under its provisions and Government could, if still desirous of so doing, become the purchasers of them for their market value and obtain an indefeasible title to them without incurring any of the difficulties or raising any of the questions to which I have above adverted.

13. The premises will now be sold at a comparatively early date and previous to such sale I shall solicit further orders from Government as to my bidding for them on their behalf.

14. I have had frequent communications with their Honors the Judges of the Sudder Court and the Registrar of that Court and have with them inspected "Pater's gardens" "Moorat's gardens" and the premises formerly known as the Commander-in-Chief's house, but now occupied as the Royal Hotel with a view to ascertaining whether either of them would answer the desired purpose; but upon this I need not trouble Government beyond remarking that I believe the Judges of the Sudder have addressed Government again on the subject of their continuing in the premises in the Mowbray Road, which they *now* occupy.

Articles of agreement made and executed this twenty-third day of July one thousand eight hundred and fifty-three, between John Innes Geddes, Esq., now residing at Madaas, of the one part and Abdul Wanhub otherwise called Madaur Woolloomrah, Bahauder, the Dewan of His Highness the Nabob of the Carnatic, on behalf and by the authority of his said Highness of the other part, whereas his said Highness is possessed of and entitled to a certain house and garden and ground with the appurtenances called and known as the Ameer Baug and situated in the village of Wora-soonoor on the road leading to Saint Thomas Mount, which said garden and ground contains seventeen cawnies four grounds and one thousand three hundred and forty-five and a half square feet and is mentioned and described in a certain certificate No. 3216, dated twenty-sixth of July onethousand eight hundred and forty-two, under the hand and seal of Office of the Collector of Madras, and whereas his said Highness hath agreed to let to the said John Innes Geddes, and the said John Innes Geddes has agreed to rent the said house, garden and ground called the Ameer Baug, with all the appurtenances to the same belonging and comprised and being on the said piece of ground so containing seventeen cawnies four grounds and one thousand three hundred and forty-five and a half square feet with the exception of a portion thereof situated on the south-east corner thereof containing two cawnies and two grounds, and occupied as a Parcherry for the term or period of twenty years under the provisoes, stipulations and agreements hereinafter expressed and declared of and concerning the same, now therefore it is hereby witnessed that the said Abdul Wanhub, otherwise called Madaur Woolloomrah Bahauder, for and on behalf of his said Highness the Nabob of the Carnatic, his Heirs and Assigns and with his authority in consideration of the payments hereafter agreed to be made by the said John Innes Geddes and of the covenants, provisoes and agreements on the part and behalf of the said John Innes Geddes to be performed, doth hereby covenant, promise and agree to and with the said John Innes Geddes that the said house called the Ameer Bug, and the godowns, bungalows, out-houses, coach-houses, stables and other buildings standing on the said premises shall forthwith be put in a state of thorough repairs such repairs to include all necessary new chunaming, painting, glazing, washing and other repairs which are usually done to houses at Madras of a similar description when in the occupation of European gentlemen so as that to appearance the said house, godown bungalows, outhouses, coach houses, stabling and other buildings shall be as if the same had been respectively newly constructed, and built, such repairs to be made and concluded within the period of six

calender months from the date of these presents and further that the said John Innes Geddes and his Assigns shall be at liberty to enter upon, use, occupy and enjoy the said house, garden and grounds and all other buildings as aforesaid with their several and respective appurtenances for the period or term of the fifteen years, to be computed from the date of the completion of such repairs as before mentioned, without let, suit, molestation or hinderance from or by his said Highness, his Heirs or Assigns. That the said house and other buildings and any other buildings to be erected on the said premises shall, during the said period of fifteen years, be continually kept in a state of thorough repair at the costs and charges of his said Highness, his heirs, and Assigns, such repairs to include a complete and thorough painting once in five years at the least with all necessary periodical washings and chunaming, and that all necessary repairs to the roof of the said house and other buildings shall be made annually. That in case default shall occur by or on the part of his Highness, his heirs or Assigns in the making of such repairs as aforesaid after a week's notice of the same being required, being given to him or them, it shall and may be lawful for the said John Innes Geddes to make such repairs and to deduct the amount expended in making the same from the rent of the said house, grounds and premises due or to become due. That all taxes, land charges and expenses to which the said house, garden, ground and premises shall be subject during the said period of fifteen years shall be paid and defrayed by or on behalf of his said Highness, his Heirs and Assigns as and when the same shall be due and payable and in default thereof the said John Innes Geddes shall be at liberty to pay and discharge such taxes, land charges and expenses and to deduct the amount thereof from the rent due or to become due for the said house, garden, ground and premises and whereas it hath been agreed that the said John Innes Geddes shall advance to his said Highness the sum of ten thousand eight hundred Rupees, in order to enable him to make the necessary repairs to the said house and other buildings as aforesaid, it is hereby further provided and agreed that the said John Innes Geddes shall be at liberty to charge interest on the said sum of ten thousand eight hundred Rupees so advanced at the rate of five per cent per annum from the date of these presents and to apply such sum and interest in discharge of the monthly rent payable for the said premises until the whole of the said sum of ten thousand eight hundred Rupees and interest shall have been absorbed, satisfied and discharged in and by the rent due for the said house and premises and that until such sum and interest and likewise all sums paid by the said John Innes Geddes for repairs, taxes, land charges and expenses as aforesaid shall have been so absorbed, satisfied and discharged, his said Highness his Heirs and Assigns shall not be entitled to demand or the said John Innes Geddes liable to pay such rent or any part thereof and in consideration of the premises and of the covenants and agreements herein before contained and on the part of his said Highness, his Heirs and Assigns to be done and performed, the said John Innes Geddes doth hereby covenant promise and agree to and with his said Highness, his Heirs and Assigns that John Innes Geddes shall and will immediately on the execution of these presents well and truly pay to his said Highness the sum of ten thousand eight hundred Rupees as aforesaid and that he shall and will from and after the period when the said sum of ten thousand eight hundred Rupees and interest shall have been absorbed satisfied and discharged as aforesaid and subject to such lawful deduction as aforesaid, pay the monthly sum of one hundred and seventy-five Rupees as or for the rent of the said house garden and premises to his said Highness, his Heirs and Assigns for, and during the remainder of the said period of fifteen years the period of such payment of rent to be computed from the time when the said John Innes Geddes shall be let into possession of the premises after the completion of the repairs first before mentioned and not previously, that at the end of the said term or period of fifteen years the said John Innes Geddes shall peaceably surrender and give up to his said Highness his Heirs and Assigns possession of the said house, buildings and premises, in witness whereof to one part hereof to remain with his said Highness, John Innes Geddes hath set his hand and seal and to one other part hereof to remain with the said John Innes Geddes the said Abdul Wanhub otherwise called Madaur Woolloomrah, Bahauder, the Dewan of and by the authority of his said Highness hath set his hand and seal the day and your first above written.

Signed, Sealed and delivered by the said John Innes Geddes in the presence of } (Signed) JOHN INNES GEDDES.

Signed, Sealed and delivered by the said Abdul Wanhub, otherwise called Madaur Woolloomrah, Bahauder, in the presence of }

Fort St. George, Judicial Consultation, 25th May 1858.

No. 26. ORDER THEREON, No. 668; dated 22nd May 1858.

The Government concur with the Honorable Company's Solicitor that it is unadvisable at present, under the circumstances represented, to treat for the purchase of the Ameer Baugh. They will await the receipt of the further communication referred to in para. 13 of the above letter.

(Signed) T. PYCROFT,
Chief Secretary.

No. 668.

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WM
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Fort St. George
22nd May 1858



Copy to Honorable Company's Solicitor - Despatch 20th

C 26 Jan 7 1858 A. 12 113.

Judicial Letter to Eng.

7th Sept^r A. 13 7 1858

Para 52

In L^r to Enr. 25 May
Judicial. 1858. Dept

11

From the Honorable
C^os Solicitor. 237

2/10
25/12 May 38.

1850

Recd.

With ref to B. M. C. 20 Jan^y
1858 No 108 requesting
him to communicate
with the parties in occu-
pation of the Ameer
Baugh in view to ascer-
taining what time and
on what terms they wd
be willing to make over
the premises for the use
of Govt. it submits certain
observations on the
subject.

With an order

25 Oct 26.

C 14 May
R 21 - 11