

[& M.]
[2,000-5-4-94.]
Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1196/n

DATED 25th July 1895

[Despatch Abstract.]

Taxes.

Concurring in, and communicating to the Chairman, Municipal Council, Cocanada, the remarks of the Divisional officer and the Collector of Godavari regarding the realization by distress of arrears of-----in the municipality.

he would file a Suit, if the warrant be not —
cancelled and the amount refunded to him. His
objection is that he was not the occupant of the
house, during the period for which the tax was
allowed to fall in arrear and that I have no power
to demand the amount from him, or to distrain
his property under Section 110 of Act IV of 1884 (Madras),
in as much as the arrear has been due for more
than a year. The former owner and occupant of the
house left the place, and there is no moveable —
property of his in the house, unless the doors of the
house can be taken as such. The act does not expressly
constitute the tax a charge upon the house, and it
no doubt imposes a limit on the liability of the occupier.
Some of the Councillors held that there was much
force in the contention that the defaulter within
the meaning of Section 103, was the former owner
and not the present owner and occupant, and
that the latter should not be rendered liable
to pay the arrear for the period, when he had
no interest in the house either as owner or
occupier, or otherwise. ^{Not} They urged, under the
general law, the Seller of the house is liable
to pay all public charges, up to the date
of

x No. vide

Parliamentary
Bill, Municipal
Council, page
467 vol XLV
Queen Empress
Shankar Doss
page 518

of Sale (vide Section 55 of the transfer of property Act)
and that there is no provision in the Act, transferring
the liability to the Subsequent purchaser, but I
do not think that private sales are free from prior
encumbrances, of which the arrear of tax was one,
virtually. The Council was divided in its opinion and
I thought and I am still inclined to think, that in
as much as the present occupant is not a mere
occupier but its owner, the concession allowed by
the Act exempting the occupier from liability to
payment of more than a year's arrear cannot be
extended to the owner of the house, though he latterly
acquired his title thereto, and that he should be, consi-
dered as the defaulter or the person from whom the tax
is due within the meaning of Section 103 of the Act,
Moreover cases of inheritance constantly arise and
the heir in possession may resort to means for
evading payments of the tax. Of course there will be
no difficulty if the amount due could promptly
be realized, but instances are not wanting where
the tax could not be so levied from some causes
or other.

Through the Dy. Collector and
Collector, Godavari District
From
THE CHAIRMAN
MUNICIPAL COUNCIL,
GODAVARI,
COCAVADA,
4-11-95
2049M
The Chief Secretary to Government
Local and Municipal Department
Date 13th May 95 Madras.
Despatched 14th May 95
Received 28 JUN 95
No. 197 Enclosures
GODAVARI

SUBJECT
Soliciting orders of Government
for realization of arrears of taxes
by distress.

Dis on an no: 1552
Cubunithu. 22-5-95

2. I don't quite
agree with the
whim.
3. I find no clear
provision in the
Act for the levy of
the arrears of the
kind from the
subsequent owner
of the house. In this
case the proper
defaulter was the
original owner

145th to 149th 1892-1895-96
and the consequence
to levy the amount
was that laid down
in Sec 103 of the
Act. If it cannot
be levied, I think
it must be treated
as irrecoverable.

R. K. Srinivasan
By Dy. Secy
22-5-95

Dis on Cur no 840 of 95
Eng 24.6.95
Recd 24.6.95
Forwarded.

Under sec 110 of the Act, the
occupier would be liable
to pay the arrear if it
had accrued due within one
year. In the present case
the arrear which pertained
to 1891-92 was demanded
from the occupier in Feb.
uary last, or nearly 3 years
after it was due, & the de-
mand seems therefore to
be illegal.

Doors of houses cannot be
attached under the Act.
(vide ~~the~~ I.L.R. 14 Madras pag
469).
Venkataswami
C.

Local & Municipal Dept.

CURRENT No. 2049M

From

The Chairman, M.C.,
Cocanada.

C.S.
misc.

order 25/7/95

The remarks of the Divisional officer and the Collector, in which the Government concurs, will be communicated to the Chairman.

N.B. 2. As the latter remarks at the close of para 2 of his letter there would be no difficulty in the matter if the tax were promptly realized and Government sees no reason why it should not be.

CS
16-VII.

23/7/95

No. 197.

Dated 13.5.95.

Received 28.6.95

Enclosures -

SUBJECT

Requesting orders for realization, by distress, of certain arrears taxes

(with an order)

To, The Chairman, M.C., Cocanada
thru' the Collector of Gádáuni.

Refd. 31/7/95

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When signed

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

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