

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.

BACK PAPERS.

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

FURTHER PAPERS.

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

No. 197

MUNICIPAL OFFICE,

Cocanada 13th May 1895.

From Mr R. H. Seshachalapathi
 Chairman,
 Municipal Council,
 Cocanada.

Local & Municipal Dept

CURRENT No. 2049

To The Chief Secretary to Government,
 Local and Municipal Departments
 through the Head Quarters Deputy Collector

Sir, and Collector
 Godavari District
 Cocanada.

In accordance with the resolution of
 the Council at its meeting held on 13th April 95,
 I have the honour to solicit the opinion of the
 Government on the following subject, as cases of
 the kind are of frequent occurrence.
 2. The tax due on house No 557 for the Second
 half of the year 1891-92 being in arrear, a warrant
 of distress was issued on 15-2-95 in the ordinary course. The
 present occupant of the house, who became its owner
 and occupied the house since June 1892, objected to
 his liability to pay the arrear, and the Council's
 power to distrain his property therefor. He latterly
 paid the tax under protest and gave notice that
 he

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. They urged ^{that} under the
general law, the Seller of the house is liable
to pay all public Charges, up to the date
of

x No. vide

Permanently

Revenue Municipal

Council page

467 vol XLV

Madras

Queen Empress

Shree Ibrahim

Madras III

page 5-18

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
incumbrances, 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, con-
sidered 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 payment 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.

I have the honor to be

Sir

Your most Obedient Servant

To
18/5/95

Orsonaalapato

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Chairman

Municipal Council

Cocacoda

[Faint, mostly illegible handwritten text on the right page, possibly bleed-through from the reverse side.]

through the 1st 2nd 3rd by Collectors and
Collector, Godavari District

From
THE CHAIRMAN
MUNICIPAL COUNCIL
COCANADA,
2049M
The Chief Secretary to Government
Local and Municipal Department

Dated 13th May 95 Madras.

Despatched 14th May 95

Received 28 JUN 95
DEPUTY COLLECTOR'S OFFICE
22 MAY 95
COCANADA
No 197 Enclosures

SUBJECT

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

Dis on Cus no: 1552
Cubani the. 22-5-95

2. I don't quite
agree with the
whimmon.

3. I find no clear
provision in the
Act for the levy of
the arrears of the
kind from the
subsequent owners
of the house. In this
case the proper
defaulter was the
original owner

763 sub no 95 1846
145th no 95 8992 1846

And the consequence
to levy the arrears
was that laid down
in Sec 103 of the
Act. If it cannot
be levied, I think
it must be treated
as irrecoverable.

KK Rintam
By Dy Col
22-5-95

Dis on Cus no 840 485
Eng 224.6-25
Recd 24.6-25
Forwarded.

Under Sec 110 of the Act, the
occupier would be liable
to pay the arrears if it
had accrued due within one
year. In the present case
the arrears which pertained
to 1891-92 was demanded
from the occupier in Feb.
ruary 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 page
469).
Decision
C.

Local & Municipal Dept.

CURRENT No. 2049M.

From

The Chairman, M.C.,
Cocanada.

C.S.
misc.

order 25/7/95 189 1156

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

V.N. 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.

C.S.
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 of taxes

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

(with an order)

Recd. 31/7/95

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When signed

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READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTERS OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

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