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ocal & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1386 M

DATED 24th August 1895

[Despatch Abstract.]

Tax.

Passing orders regarding the assessment of land in the Ootacamund Municipality.

BACK PAPERS.

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

FURTHER PAPERS.

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

Ootacamund Municipality.

No. 4499, *dated* 15*th March* 1895.

NOTIFICATIONS.

I.

RATES AND TAXES.

Under Sections 50, 53, 63, 75, 77 and 85 of Act IV of 1884, it is hereby notified for general information that the following taxes will continue to be levied in the Ootacamund Municipality during the official year 1895-96, viz., from 1st April 1895 to the 31st March 1896.

Tax on Arts, Professions, Trades and callings, at the rates specified in Schedule A.

Tax on buildings at 7½ per cent. on the rent value.

Tax on lands whether cultivated or not at Rs. 1-8-0 per acre per annum.

Tax on animals and vehicles at the rates specified in Schedule B.

Tax on Carts at Rs. 2 per cart half-yearly.

Water tax at (1) per cent. on the rent value as explained below.

"That water rate of one (1) per cent. on the rental value be charged upon all buildings in the Municipality and all lands to which water is supplied within

வரிகள் எப்படி விதிப்பதென்பதைப்பற்றி.

1884-௵ 4-வது ஆக்டு 50, 53, 63, 75, 77, 85, பிரிவுகளின்படி இதனால் சகலமான பேருக்கும் தெரிவிப்ப தென்னவென்றால் 1895-௵ ஏப்பிரல் ௴ 1-ம் தேதி முதல் 1896-௵ மார்சு மாதம் 31-தேதி வரையில் ஆன அபீஷியல் வருஷத்தில் கீழ்ச்சொல்லியிருக்கும்வரிகள் ஒத்தகைமந்து முனிசிபாலிடியில் முன்மாதிரியாகவே வசூல்செய்யப்படும்.

கைவினை தொழில், வர்த்தகம், வேலை, இவைகளின் பேரில் A ஷிடியூலில் கண்ட விதம்.

கட்டடங்களின் பேரில் வருஷவாரி வாடகையில் 100-க்கு 7½ மேரை.

பயிரிட்ட அல்லது பயிரிடாத பூமிகளின் பேரில் ஏக்ரா 1-க்கு ரூபாய் 1-8-0 மேரை.

மிருகங்களுக்கும், விலவுள்ள வண்டிகளுக்கும் B ஷிடியூலில் கண்டிருக்கும் ரேட் பிரகாரம்.

கட்டைவண்டிகளுக்கு 6 மாதத்துக்கு 2-ரூபாய் மேரை.

தண்ணீர் வரி பின் வருமாறு வாடகையின் பேரில் 100-க்கு ஒன்று விதம்.

"முனிசிபல் எல்லைக்குட்பட்ட எல்லாக்கட்டடங்களின் பேரிலும், சட்டத்தின் படியும் அதின்படி செய்யப்பட்ட ரூல்ஸ் படியும் தண்ணீர் சப்ளை செய்யப்படுகிற பூமிகளின்

Under Section 180 a fee of Rs. 2 on every application in writing for a license to erect a building (*building* Section 3 (IX) means " any house, hut, shed or roofed enclosure, whether used for the purpose of a human habitation or otherwise, and also any wall.")

Under Section 242 a fee of one rupee for every license taken out by grave diggers and other attendants at a burial or burning ground, and any person acting as such without such license will be liable to a fine not exceeding Rs. 5.

Section 229. For removing sand or earth from land or stream within Municipal limits.

One cart load	...0	2	0
One bullock load	...0	0	3

For removing granite stones or blue metal from land or stream within Municipal limits.

One cart load eight annas.

180-வது பிரிவின்படி கட்டடம் கட்ட லைசென்சுக்காக எழுத்துமூலமாய்வரும் ஒவ்வொரு விண்ணப்பத்திற்கும் இரண்டுரூபாய் மேனை பீசுவாங்கப்படும் என்றும் கட்டடம் என்ருல் 3 (IX) பிரிவின்படி மனிதர்வாசஞ் செய்வதற்காகவாவது மற்றெதற்காகவாவது உபயோகிக்கப்பட்ட யாதொருவீடு குடிசை பந்தல் அல்லது மேற்கூரையிட்ட அடைப்பு என்று அர்த்தமாவதுமல்லாமல் யாதொரு சுவர் என்றும் அர்த்தமாகும்.

242-வது பிரிவின்படி புதைப்பதற்காகவாவது சுடுவதற்காகவாவது ஏற்பட்ட பொதுவானமசானத்தில் ப்ரேதக்குழி தோண்டுகிறவர்களும் மற்றதுணையாள்களும் வாங்கும் ஒவ்வொருலைசென்சுக்கும் ஒரு ரூபாய்விதம் பீசுவாங்கப்படும் என்றும், அப்படிலைசென்சுஇல்லாமல் நடந்துகொள்பவர் 5 ரூபாய்க்கு அதிகப்படாமல் அபராதத்திர்க்குள்ளாவார்.

229-பது பிரிவு. முனிசிபல் எல்லைக்குட்பட்ட பூமி அல்லது சிற்ருறுகளினின்று மண் அல்லது மணல் எடுப்பதற்கு :—

வண்டி ஒன்றுக்கு	...0	2	0
எருது சுமை ஒன்றுக்கு	0	0	3

முனிசிபல் எல்லைக்குட்பட்ட பூமி அல்லது சிற்ருறுகளினின்று கருங்கல்எடுப்பதற்காக.

வண்டி ஒன்றுக்கு எட்டு அணு.

V.

UNDER SECTION 188 OF ACT IV OF 1884.

Offensive and dangerous trades.

Under Section 188 (1) of Madras Act No. IV of 1884, the Ootacamund Municipal Council resolves to direct, notify and proclaim by beat of tom-tom that from and after the first day of April 1895, all owners and occupiers of the places hereunder specified and described shall apply to the Chairman for a license within the first month of every official year, or in the case of a place about to be opened for any such purposes, thirty days prior to such opening, viz. :—

(i) The owner or occupier of every place used for any of the following purposes, viz., for depositing or washing soiled clothes, or for boiling paddy or for melting tallow or sulphur, or for boiling or storing offal, blood, bones or rags, or for washing or drying wool or hair, or as a soap house, dyeing house or yard, camphor or oil-boiling house, oil-mill or press, tannery, brick pottery or lime kiln, sago manufactory, distillery or other manufactory, or place for storing hides, fish, horns, skins, from which either offensive or unwholesome smells arise, gunpowder manufactory, manufactory of fireworks, place of storing explosive or combustible materials, or of any place which is used for any purposes which are calculated to be dangerous to life, health or property.

(ii) The owner or occupier of any of the following places, viz., livery or hack stables, horse-lines, veterinary infirmary, public halting place, cartstand, cattle shed, or yard in which 20 sheep or goats or 10 head or cattle or 10 pigs are kept or allowed to be together.

(iii) Every occupier of every separate place or portion of any place for the sale or for the storage of wood, firewood, thatching materials, hay, grass, straw, or coal, and,

(iv) Every owner of a bakehouse.

1884 ௵ 4-வது ஆக்ட் 188-ம் பிரிவின்படி

நாற்றமுள்ளதும் அபாயமுள்ளதுமான வியாபாரங்கள்.

1884-ம் வருஷத்திய மதராஸ் 4-வது ஆக்டு 1881 பிரிவின்படி ஒத்தகமந்து முனிசிபல் சங்கத்தார் 1895-ம் ௵ எப்ரல் ௴ முதல் தேதி முதல் ஒவ்வொரு சர்க்கார் வருஷத்திலும முதல்மாதத்திற்குள் பின்னேகுறித்து விளக்கி இருக்கும் இடங்களுக்கு சொந்தக்காரரும் அனுபோகதாரரும் அப்படிப்பட்ட காரியங்களுக்கு புதிதாய ஏற்படுத்தும் இடங்களுக்கு ஏற்படுத்தும் தேதிக்கு 30 நாளைக்கு முன்னதாக அப்படிப்பட்ட சொந்தக்காரரும் அனுபோகதாரரும் சேர்மனிடமிருந்து லைசென்சு பெற்றுக்கொள்ளவேண்டியதென்று தண்டோரா மூலியமாயும் பத்திரிகை மூலியமாயும் பிரசுரப்படுத்தத் தீர்மானிக்கிருர்கள், அவையாவன :—

(i) அழுக்குத்துணிகளை வைத்துவைக்கிறது அல்லது தோய்க்கிறதுகொழுப்பு அல்லது கந்தகம காயச்சுகிறது குடல்முதலிய கழிவுபண்டம், ரத்தம், எலும்பு அல்லது கந்தையைக் காய்ச்சுகிறது அல்லது சேர்த்துவைக்கிறது, ஆட்டுமயிர் முதலான மயிரைக் கழுவுகிறது அல்லது உலர்த்துகிறது, சப்பு காய்ச்சுகிறது, சாயந் தோய்க்கிறது, கற்பூரம் காய்ச்சுகிறது, எண்ணெய் காய்ச்சுகிறது, செக்காடுகிறது, தோல் பதம்பண்ணுகிறது, செங்கல்லாவது பானைசட்டியாவது சுண்ணாம்பாவது சூளைபோடுகிறது, சவ்வரிசி பண்ணுகிறது, சாராய முதலியவை காய்ச்சுகிறது துர்க்கந்தமான அல்லது சுகக்கேடான நாற்றமுண்டாகிற ஆடு மாடு முதலியவற்றின் தோல், மீன், மிருககொம்புகள் போட்டுவைப்பது, வெடிமருந்து செய்கிறது, பாணங்கள் செய்கிறது, வெடிக்கத்தக்க அல்லது பற்றிக்கொள்ளத்தக்க வஸ்துக்களைப் போட்டுவைப்பது, பிராணனுக்காவது சுகத்துக்காவது சொத்துக்காவது கெடுதி உண்டுபண்ணுவதாய் எண்ணப்பட்ட வேலைகளைச் செய்வது ஆகிய இந்த வேலைகள் எதையாவது செய்வதற்காக உபயோகிக்கப்பட்ட அந்தந்த இடத்தின் சொந்தக்காரன் அல்லது கையாளுகிறவனும்—

(ii) கொடைக்கூலி வண்டி அல்லது குதிரைலாயம், குதிரைப்பந்திகள், பிணிமாடு குதிரைகளின் வைத்தியசாலை, பொதுவாய் வண்டிகள் வந்து நிற்குமிடம் கட்டைவண்டித்தொட்டி, ஆட்டு மாட்டுக் கொட்டாய், 20 செம்மறியாடு அல்லது வெள்ளாடாகிலும், பத்து கன்றுகாலியாகிலும், பத்து பன்றியாகிலும், வைத்துக்கொண்டிருக்கப்பட்ட அல்லது ஒன்ருய் வந்து சேருவதற்காக ஏற்படுத்தப்பட்டதொட்டி ஆகிய இவற்றில் எதையாவது சொந்தமாகவாகிலும் தன் அனுபோகத்திலாகிலும் வைத்திருப்பவனும்—

(iii) மரத்தையாவது கட்டையையாவது வீடு வேயும் சாமானையாவது உலர்ந்த புல்லையாவது பச்சைப்புல்லையாவது வைக்கோலையாவது, நிலக்கரியையாவது விற்பதற்காகவாகிலும் போர்போடுவதற்காகிலும் பிரத்தியேகமான அந்தந்த இடத்தையாவது யாதோரிடத்தின் பாகத்தையாவது கையாளுகிற பிரதி நம்பரும்—

(iv) ரொட்டிமுதலியது சுடும்கிடங்குக்கு சொந்தக்காரன் ஒவ்வொருவனும்.

Section 189.

Whoever without such license, or after a license has been refused cancelled or suspended, uses or permits to be used any places for any of the said purposes, or infringes any of the conditions under which such license is granted, shall be liable to a fine not exceeding Rs. 100, and to a further fine not exceeding Rs. 10 for every day after conviction during which the offence is continued.

189-வது பிரிவு.

அப்படிப்பட்ட லைசென்சு பெற்றுக்கொள்ளாமலாவது, லைசென்சு கொடாமல் அக்கிராசனாதிபதி நிராதரித்தபின்பாவது ரத்து செய்தபின்பாவது நிறுத்திவைத்த பின்பாவது எவனாகிலும் மேற்கண்ட காரியங்களில் எதற்காகவாவது யாதோரிடத்தைக் கையாடினாலும் கையாட வொட்டினாலும், என்ன திட்டங்களின்பேரில் அந்த லைசென்சு கொடுக்கப்பட்டதோ அந்த திட்டத்தி லெதையாவது மீறிநடந்தாலும், அப்படிப்பட்டவன் 100 ரூபாயக்கு அதிகப்படாமல் அபராதத்திற்குள்ளாவதுமன்றி, அந்தக்குற்றம் ஸ்தாபனையானபின்பு அது நடந்துகொண்டிருக்கிறவரையிலே நாள் ஒன்றுக்கு பத்து ரூபாய்க்கு அதிகப்படாமல் பின்னும் அபராதத்திற்குள்ளாவான்—

The rates of fees prescribed for licenses under Section 267 of Madras Act No. IV of 1884 with the approval of the Governor in Council are as follows :—

1. Places used permanently for buring bricks or tiles annually Rs. 25-0-0.
2. Places used for burning bricks or tiles for any period in excess of 24 hours Rs. 5-0-0.
3. Pottery kilns annually Rs. 5-0-0.
4. Lime kilns annually Rs. 5-0-0.
5. Distilleries and other manufactories such as breweries, etc., annually Rs. 10-0-0.
6. Fire-work factories annually Rs. 5-0-0.
7. Places for storing explosive or combustible materials annually Rs. 5-0-0.
8. Every place for depositing or washing soiled clothes, for boiling paddy, for melting tallow or sulphur, for boiling or storing offal, blood, bones or rags, for washing or drying wool or hair, every soap house, dyeing house or yard, camphor or oil-boiling house, oil mill or press tannery, sago factory, and every place for storing hides, fish, horns, or skins, annually Rs. 5-0-0.

பின்வரும் லைசென்சுவரிகள் 1884-ம் வருஷம் 4-வது ஆக்ட்டு 267-வது பிரிவின்படி கவர்ன்மெண்டார் அனுமதியின்பேரில் நிர்ணயிக்கப்பட்டிருக்கின்றன.

1. ஸ்திரமாய் செங்கல் ஓடுசுடும் இடங்களுக்கு வருஷவாரி ரூபாய் 25.
2. (24) மணிநேரத்திற்குமேல்செங்கல் ஓடுசுடும் இடங்களுக்கு ரூபாய் 5.
3. பானை சூளைகளுக்கு வருஷவாரி ரூபாய் 5.
4. சுண்ணாம்பு காளவாய்களுக்கு வருஷவாரி ரூபாய் 5.
5. சாராயம் காஞ்சி முதலானவைகள் காயச்சும் இடங்களுக்கு வருஷவாரி ரூபாய் 10.
6. பாணங்கள் செய்யும் இடங்களுக்கு வருஷவாரி ரூபாய 5.
7. வெடிக்கும் அல்லது தீப்பற்றும் சாமான்களைச்சேர்த்து வைக்கும் இடங்களுக்கு வருஷவாரி ரூபாய் 5.
8. அழுக்குத்துணிகளை சேர்த்துவைக்கும் அல்லது தோயக்கும் ஒவ்வொரு இடத்திற்கும், நெல்வேகவைக்கும் இடத்திற்கும், கொழுப்பு அல்லது கந்தகம் காய்ச்சுமிடத்திற்கும், குடல்முதலிய கழிவுபண்டம், ரத்தம், எலும்பு கந்தை முதலானவைகள் காய்ச்சும் அல்லது சேர்த்துவைக்கும் இடங்களுக்கும் ஆட்டுமயிர்முதலான ரோமங்கள் கழுவும் அல்லது உலர்த்தும் இடங்களுக்கும், சப்புகாய்ச்சுமிடங்களுக்கும் சாயம் தோய்க்கும் இடங்களுக்கும், கற்பூரம் எண்ணெய் இவைகள்காய்ச்சும் இடங்களுக்கும், செக்காடுமிடங்களுக்கும், தோல் பதம்செய்யுமிடங்களுக்கும், சப்பரிசிசெய்யுமிடங்களுக்கும் தோல், மீன், கொம்பு முதலானவைகள்சேர்த்துவைக்கும் இடங்களுக்கும்வருஷவாரி ரூபாய் 5.

9. Livery or hack stables or veterinary infirmary annually Rs. 10-0-0.
10. Public cart stands and halting grounds annually Rs. 5-0-0.
11. Cattle sheds or yards in which 20 sheep or goats or 10 head of cattle or 10 pigs are kept or allowed to be together annually Rs. 2-8-0.
12. Every separate place or portion of any place used for the sale or for the storage of wood, firewood, thatching materials, hay, grass, straw, or coal, for every 100 superficial feet annually 4 annas.
13. Bakehouse annually Rs. 5-0-0.
14. Slaughter house (Section 191) (2) annually Rs. 50-0-0.
15. Temporary erections for every 20 feet square or part thereof per diem annas 2.

9. குதிரைப்பந்தி அல்லது வாடகைக் குதிரைக் கொட்டாய், பிணிமாடு குதிரைகளின் வைதிய சாலை இவைகளுக்கு வருஷவாரி ரூபாய் 10.
10. பொதுவாக வண்டிகள் தங்குமிடங்களுக்கும், வண்டிப்பேட்டைகளுக்கும் வருஷவாரி ரூபாய் 5.
11. ஆட்டு மாட்டுக்கொட்டாய் 20 வெள்ளாடு அல்லது செம்மறியாடு அல்லது 10 மாடு அல்லது 10 பன்றிவைக்கும் அல்லது சேர்ந்திருப்பதற்காகக்கட்டிய கொட்டாய் அல்லது தொட்டிகளுக்கு வருஷவாரி ரூபாய் 2-8.
12. விறகு, மரம், வீடுகள் வேயும் சாமான் உலர்ந்த புல், பச்சை புல், வைக்கோல் நிலக்கரி இவைகள் விற்கும் அல்லது சேர்த்து வைக்கும்ஒவ்வொரு இடத்திற்கும், இடத்தின் பாகத்திற்கும், ஒவ்வொரு 100 சதுர அடிக்கும் வருஷவாரி அணா 4.
13. ரொட்டி முதலானவைகள் செய்யும் கிடங்குகளுக்கு வருஷவாரி ரூபாய் 5.
14. ஆடுமாடுகள் கொல்லும் இடங்களுக்கு (191 (2) பிரிவு) வருஷவாரி ரூபாய் 50.
15. பந்தல் முதலான ஸ்திரமில்லாத கட்டடங்களுக்கு 20 அடி சதுரம் அல்லது அதின்பாகத்திற்கு நாள் ஒன்றுக்கு அணா 2.

VI.

Conservancy—Private Scavenging.

Under Section 219 of Madras Act No. IV of 1884, the Ootacamund Municipal Council hereby requires all occupiers of buildings within the Municipality or any part thereof who do not employ Municipal Agency to provide within one month from and after the 15th November 1892, suitable covered zinc or iron buckets, well painted with tar, of the dimensions given in the accompanying drawings for the temporary deposit in their buildings of night soil or other offensive matter, which they may desire to have removed from their premises.

2. The covered buckets must be in readiness daily between the hours of six

1884-ம் வருஷம் 4-வது ஆகட்டு 219-ம் பிரிவின்படி ஒத்தகமந்து முனிசிபல் சங்கத்தார் இதனால் முனிசிபல் வேலைக்காரர்களை வைத்துக்கொள்ளாத முனிசிபாலிட்டிக்குள்ளாவது அல்லது முனிசிபாலிட்டியின் எந்த பாகத்திற்குள்ளாவது உள்ளவீடுகளில் குடியிருப்பவர்கள் எல்லோரும் 1892-௵ நவம்பர்மாதம் 15-தேதிக்கப்புறம்ஒருமாதத்திற்குள் தங்கள் வீட்டின் எல்லைக்கப்புறம் கொண்டு போகப்படவேண்டும் என்றுசோறுகிற மலம் முதலாகியதுர்க்கந்த வஸ்துக்களை தங்கள் வீடுகளில் கொஞ்சம்நேரம் சேர்த்து வைப்பதற்காக இதனோடு அனுப்பப்படும் டிராயிங்களில் சொல்லிய அளவுள்ள தாரடித்து முடிப்போட்டு துத்தநாகம அல்லது இரும்புத்தொட்டிகள் வைக்கவேண்டும் என்று ஆக்கியாபிக்கிறார்கள்.

2. அந்த மூடிப்போடப்பட்ட தொட்டிகள் குடியிருப்பவர்கள் வீடுகளின் பக்கமாய் செ

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Note showing the circumstances which led to the adoption of the uniform rate of Rs1-8- per acre on all lands whether cultivated or not.

G.O. No 188 M, L + M dated 22nd February 1888.

In the year 1888 the Government in their order cited in the margin "saw reason to doubt whether the district Municipalities Act as it now stands authorizes the levy of a tax on the annual value of lands under Section 47(ii) at a rate different from that levied on the annual value of buildings" and intimated "that it would be better in the coming year to tax all lands unappropriated to buildings according to area under Section 63(ii) fixing the rate so as to bring in about the same sum as the present 2 per cent tax on the annual value".

2. Mr. C. F. Mac Cartie, Collector and Chairman in his letter dated the 21st December 1889 No. 1214 explained to the Government that—

G.O. 199 L&M / 4-2-90

"All lands adjoining dwellings are taxed, the actual site occupied by the building being alone exempted."

" That the various kinds of cultivation within the Municipal limits were assessed at 5 per cent on the estimated rental value," and that

"The assumed annual valuations at 5 per cent gave the following rates".

Potato per acre Rs 2 per annum
Garden " Rs 2 "
Tea " Rs 3 "
Bluegum + acacia " Rs 2 "
Shola " Rs 1 "
Cinchona " Rs 2 "
Peat " Rs 5 "
Grasslands " Ans 4 "

3. In 1891-92 the tax on lands and buildings having been raised to 7½ per cent the following rates were enforced viz:—

Potato per acre Rs 3 — —
Garden — Rs 3 —
Tea — Rs 4-8 —
Bluegum & acacia Rs 3 — —
Shola — Rs 1-8 —
Cinchona — Rs 3 — —
Peat — Rs 7-8 —
Grasslands — Rs – 6 —

4. Mrs Bliss, Generals Clementson and Baker and Messrs Cowdell and Winterton, on behalf of themselves and their constituents, appeals against the assessment on lands cultivated with bluegum and cinchona.

5. The Municipal Council therefore appointed a Sub-Committee+ on the 22nd October 1891 to consider these appeals, and the Sub Committee in its report dated the 12th November 1891 was of opinion that "the existing estimated annual value of land cultivated with bluegum or cinchona

+ J. T. Murray Esqre
D. Edulji Esqre
Aboo Mahomed Sait Sahib
Maj. Genl. C. J. Jennings
G. Oakes Esqre

cinchona - Rs. Forty Rupees per acre is reasonable and by no means excessive."

At the meeting held on the 19th November 1891 the Council by a large majority accepted the report of the Sub Committee adding:

"The Sub Committee was composed of practical men many of whom are as personally interested in bluegum and Cinchona cultivation and the figures and facts on which the report is based amply prove that the rent value adopted for valuation is below the profit actually derived".

6. Generals Clementson and Baker and Messrs Cowdell and Winterton however declined to accept the conclusions arrived at by the Council, and the Council again resolved on the 17th December 1891 to refer these letters to the Sub Committee for consideration; appointing Mr. P. Marathāchella Mudaliar

to

to succeed Mr. Oakes, who had resigned his seat in the Council.

7. The Sub Committee after considering the appeals above referred to resolved on the 20th January 1892 as follows:-

"The Sub Committee finds that the total area of the Municipality comprises 5699 acres of which 184 acres are appropriated to buildings and are unassessed. Of the 5515 acres assessed 3,547 acres are assessed at grassland rates and 1968 acres at cultivation rates. The Sub Committee recommends that the suggestion of Government contained in para 2 of G.O. No. 188 M. Local and Municipal dated 22nd February 1888 should be adopted from the 1st April 1892, and that lands within the Municipality shall be assessed at the following rates under Section 63 (2) of Act IV of 1884, viz. 6.35 pies per 80 square yards for cultivated lands, and 2.38 pies per 80 square yards for grasslands. These rates represent an assessment of Rs 2 per acre for cultivated lands and annas 12 per acre for grasslands, and their adoption will involve a decrease in the land revenue of Rs 203/12.

"The Sub Committee is doubtful whether if taxation proceeds under section 63 (2) of Act IV of 1884 different rates may be levied on cultivated and grasslands, and recommends that this question be submitted for the orders of Government."

8. This report was duly circulated and considered by the Municipal Council at the meeting held on Thursday the 3rd March 92 when the following resolution was passed

" Resolved that the Council is of opinion that the assessment was a reasonable one, and that the appellants namely Major-General C. S. Clementson, Major General R. J. Baker, Messrs Cowdell and Winterton and Mrs Bliss be informed that the Council is unanimously of opinion that the present appeals cannot be entertained".

Present
The Chairman
J. D. Rees Esqr. C.I.E.
Maj: Genl. C. J. Jennings
A. M. Jones Esqr
J. T. Murray Esqr
R. L. Bragg Esqr
D. Eduljee Esqr
Surg: Maj: J. Maitland
A. R. H. Fakir Mahomed
Sait Khan Sahib

"Resolved after due consideration that the tax on all lands unappropriated to buildings be imposed according to area under Section 63 (2), and that it be fixed for the year 1892-93 at Rupee 1-8- per acre or 4.76 pies per 80 sq. yards."

9. This resolution of the Council was forwarded to the Government on the 7th March 1892, and the Government in their order dated the 4th April 1892 No. 646 M. Mis. sanctioned the levy of a rate of Rs 1-8-, per acre, on all lands unappropriated to buildings, whether cultivated or not, for the year 1892-93.

Thereupon the following Municipal Notification No. 183

dated 9th April 1892 was published in the Nilgiri District Gazette and the South-Indian Observer Newspaper and circulated to all residents.

"Under Section 50 of Madras Act No IV of 1884, the Ootacamund Municipal Council resolves, with the approval of the Governor in Council, to notify and proclaim by beat of drum that under Section 63 (2) the tax on all lands unappropriated to buildings, whether cultivated or not within Municipal limits, will be at the rate of Rs 1-8- per acre for the year 1892-93, commencing from the 1st April 1892 to the 31st March 1893"

(Sd) George Hammett
Chairman
8.7.95

(True Copy)
G. Hammett
Chairman

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Note

Showing the circumstances which led to the adoption of the uniform rate of Rs 1-8- per acre on all lands whether cultivated or not.

MATTERS MUNICIPAL.

TO THE EDITOR OF THE NILGIRI NEWS.

Dear Sir,

Enclosed I send for publication in the *Nilgiri News* copy of a letter I addressed to the Chairman O. M. C. on the subject of the alterations proposed by the Municipal Act Amendment Bill now before Government.

C. AKILANDAIYA.

Tudor Hall, 28th May, 1895.

To the Chairman,
O. M. C.

Dear Sir,

With reference to the proposed amendment of clause 2 Sec. 63 of the District Municipalities Act, as embodied in Bill Sec. 42 of the Draft Bill published in *Fort St. George Gazette* of 2nd April 1895, I think it desirable that the Council should, by a resolution passed in a meeting, call the attention of Government to the hardship which the proposed law would work on many proprietors in Ootacamund.

(1.) The recent decision of the Madras High Court in the Bishopsdown case has clearly shown what interpretation clause 2 Sec. 63 ought properly to bear. That clause for Porumboke unoccupied lands and Sec. 47 for occupied and rental bearing lands would seem to be quite sufficient for all practical purposes of Municipal taxation without there arising any necessity for straining the clause and investing it in a new and ill-fitting garb. But as it is now deliberately proposed that this should be done, it may as well be pointed out before it is too late what serious consequences would follow should the proposed alterations become law.

(*a*) There are many properties within the Municipal limits of Ootacamund which have extensive acreages attached to each of them, such as Woodlands, Bishopsdown, Woodside, Elk Hill House, Shedden Hall, Cedars, Fern Hill, Tudor Hall, Craigmore, Walthamstow, Harrington Lodge, Gayton Park, and many other private properties. A few acres only in each of the above could be considered as "appurtenant to the building or attached thereto for use therewith as a garden or pleasure ground, &c." Are then all the remaining lands which in some of the above properties cover an area of over one hundred acres to be left to the tender mercies of the Municipal Council and rendered liable to be taxed at its sweet will —without even a reference to Government, to the extent of

497 = 497 — 582-83 = 486

Reply C. Akilandyer's letter to the Editor of the Nilgiri News re. levy of land tax under Section 63(2).

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THE BISHOPSDOWN APPEAL.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Friday, the nineteenth day of April, one thousand eight hundred and ninety-five.

Present:—The Honourable Sir Arthur J. H. Collins, Kt. Chief Justice, and the Honourable Mr. Justice Best.

SECOND APPEAL No. 1738 OF 1894.

Edward Clarke ... ... Appellant (Defendant).
The Ootacamund Municipal Council by its Chairman ... ... Respondent (Plaintiff).

Second Appeal against the Decree of the District Court of Coimbatore in Appeal Suit No. 33 of 1894, reversing the Decree of the Court of the Subordinate Judge of Ootacamund in Original Suit No. 67 of 1893.

This Second Appeal coming on for hearing on Monday and Tuesday, the 1st and 2nd Instant, and having stood over for consideration till this day; the Court delivered tbe following

JUDGMENTS.

The Chief Justice.—This is an appeal from a decree passed by the District Judge of Coimbatore reversing a decree of the Acting Subordinate Judge (Mr. Elliot) of Ootacamund.

This suit was brought by the Chairman of the Municipal Council of Ootacamund against Mr. Edward Clarke, the owner of certain lands within the Municipal limits, called Bishopsdown and Belmont, for certain taxes levied under the authoirty of the Madras Act IV of 1884.

The Municipal Council on the 3rd of March 1892 resolved that a tax on all lands unappropriated to buildings be imposed according to area under Section 63, Clause 2, of the above Act and that it be fixed for 1892-93 at Rs. 1-8-0 per acre or 4·76 pies per 80 square yards. The Council allege that about 248·83 acres of the Defendant's holding comes within the definition of land unappropriated to any building and therefore becomes subject to the tax of Rs. 1-8-0 per acre.

Two questions arise;—(1) Has the Municipal Council power to levy a tax on any land exceeding 7½ per cent. on the annual value of such land? (2) Is the Defendant's 248·83 acres unappropriated land within the meaning of Section 63, Clause 2?

The 1st question depends upon the construction of Sections 47 and 63 Clause 2 of Act IV of 1884.

Chapter III is headed "Taxes and Tolls and mode of realizing them," and Section 47 enacts that "the taxes and toll to be levied for the purposes of this Act shall be as follows":—Clause 2. "A yearly tax on lands and buildings not exceeding 7½ per centum on the annual value of such lands and buildings." Section 48 authorizes the Council to raise funds with the approval of the Governor in Council from any of the sources mentioned in Section 47 at a *rate or rates not exceeding those specified in Section* 47.

Section 50 enacts that when the Municipal Council shall have determined with the approval of the Governor in Council to levy any tax or tolls it shall be notified in a particular manner and such tax or tolls shall be levied in the *manner* hereinafter provided. Section 63 is the section declaring how such tax or tolls shall be levied; it enacts that if the Municipal Council notify under Section 50 that an annual tax shall be levied on buildings and lands the Chairman shall impose such tax at the *rate specified* in such notification on all buildings and lands with certain exceptions immaterial to this case.

Clause 2 states that "in the case of any lands unappropriated to any building or occupied by native huts the Chairman may, subject to the approval of the Municipal Council, impose such tax at an annual rate not exceeding annas four for every 80 square yards of such lands in lieu of the rate specified in the said notification."

It is contended by the Plaintiff that Clause 2 authorizes the Chairman to impose a tax of annas four for every 80 square yards amounting, it is said, to over Rs. 15 per acre on all lands unappropriated to any building or occupied by native huts even though the sum levied be far in excess of the sum to be levied under the authority of Section 47 *Clause* 2.

I think this contention cannot be supported. Section 47 limits the yearly tax on lands and buildings to 7½ per centum on the annual value of such lands and buildings. No land therefore can be taxed beyond 7½ per centum on the annual value of such land.

In Section 63 [1] the tax is to be levied on buildings and lands (the words used in Section 47 are lands and buildings) and such tax shall be imposed at the rate specified in the notification under *Section* 50.

Sub-Section 2 deals with lands unappropriated to any building or occupied by native huts but the words in Section 47 are large enough to include all land in the Municipality. It may be that Sub-Section 2 was drafted for the purpose of enabling the Municipality to deal with the waste land in the Municipality in the occupation of persons not being owners thereof, and the words "or occupied by native huts" lend some color to the suggestion; it is to be observed, that Section 64 enacts that the tax imposed under Section 63 shall be payable by the owners of such "buildings and lands" using the words in Section 63 (1) and omitting the description in [2].

It would be unreasonable to hold that it was the intention of the Legislature, after enacting that a tax should be levied on lands and buildings not exceeding 7½ per centum on their annual value, to allow the Chairman of the Municipality to tax lands at a rate greatly exceeding the amount provided for in Section 47. If the Chairman taxes what is termed "lands unappropriated to any building or occupied by native huts" he is controlled by Section 47 and in whatever sum he assesses the amount of the tax, such tax must not exceed the amount specified in Section 47.

It was stated at the Bar that Clause (2) of Section 63 remained a dead letter as far as the Ootacamund Municipality was concerned for many years and it would seem that former Chairmen exercised a wise discretion in forbearing to put in force a Section which undoubtedly is very difficult to construe consistently with the plain intention of the Legislature as evidenced by Section 47.

I am of opinion that the action of the Municipality in taxing the lands of the Defendant in the manner described in the plaint was *ultra vires.*

This finding is sufficient to dispose of the Appeal and renders it unnecessary to consider the 2nd ground, but I must not be taken to agree with the District Judge in his construction of the words "lands unappropriated to any building."

This Appeal must be allowed and the decree of the District Judge set aside and that of the Subordinate Judge restored and the Respondent must pay the Appellant his costs in this and the Lower Appellate Court.

Best J:—The question for decision in this Appeal is whether the District Judge of Coimbatore is right in holding the lands in question to be "unappropriated to any building" and consequently liable to be taxed under Clause 2 of Section 63 of the District Municipalities Act No. IV of 1884 [Madras].

Section 47 of the Act states what "the taxes and tolls to be levied for the purposes of this Act shall be" and among them is [Clause II] "a yearly tax on lands and buildings not exceeding 7½ per centum on the annual value of such lands and buildings." Section 48 authorizes the Municipal Council "with the approval of the Governor in Council" to raise funds for the purposes of the Act from all or any one or more of the sources before mentioned at a rate or rates not exceeding those specified in the last preceding Section. Section 50 provides for notification of the rates at which such taxes or tolls are to be levied, and also directs that they "shall be levied in the manner hereinafter provided" *i. e.* in Section 63 which is as follows :—"If the Municipal Council notify under Section 50 that an annual tax shall be levied on buildings and lands in the Municipality the Chairman shall impose such tax at the rate specified in such notification, on all buildings and lands excepting lighthouses, public piers, wharfs, jetties" and certain other buildings and places set apart for charitable or religious purposes with which the present appeal is in no way concerned.

Clause 2 of the same Section is as follows :—"In the case of any lands *unappropriated to any building or occupied by native huts* the Chairman may, subject to the approval of the Municipal Council, impose such tax at an annual rate not exceeding annas four for every eighty square yards of such lands in lieu of the rate specified in such notification."

No doubt, as observed by the Judge, the tax to be imposed under this last clause is directed to be in lieu of the rate to be specified in the notification issued under Section 50, but that circumstance does not warrant the conclusion that it may be in excess of the 7½ *per centum* on the annual value which is the maximum fixed by Clause 2 of Section 47.

Clause 2 of Section 63 appears to have been intended for *mitigation* of the tax on small holdings. It gives power to the Chairman, with the approval of the Municipal Council, to impose on lands "unappropriated to any building *or occupied by native huts*" a tax at a rate different from that sanctioned by Government as the ordinary rate to be charged on lands and buildings within the Municipal limits. In this connection it is to be remarked that the remaining Clause (3) of the same Section directs that the Chairman "shall *exempt from tax* under this Section any building or land, the annual value whereof is less than Rupees 6 if it be the owner's sole property liable to tax under this Act."

It is unreasonable to suppose that it was intended to confer on the Chairman and Councillors without the sanction of Government, (such sanction not being provided for in Clause 2 of Section 63) the power of assessing lands *at a higher rate* than that sanctioned by the Governor in Council under Section 48 which happens in the case of the Ootacamund Municipality, the Respondent in the present case, to be the *maximum* rate chargable under the Act, namely, 7½ per cent.

If the above view of Clause 2 of Section 63 is correct, as I think it is, it is not very material for the purposes of taxation under the Act whether the plaint lands are held to be, or not to be, "appropriated" to the houses to which they respectively belong; for, under Clause 1 of the same Section, both buildings *and lands* are chargeable with the tax at the rate notified under Section 50, which, as already observed, is in this particular Municipality the highest possible under the Act. But in my opinion, the land which forms the compound of a house and is let with the house when the house is let, is appropriated to that house, and the mere fact of the owner obtaining profit therefrom by selling laterite and granite quarried from such land or the milk of cattle grazed thereon, or firewood obtained from trees grown on the land, does not render the land unappropriated to the buildings; nor will the fact of a portion of the land being planted with tea necessarily make it land unappropriated to the house. In the present case, however, it is admitted that 15 acres of the Belmont property, which is cultivated with tea are reserved when the house is let; and of the Bishopsdown property, some 5 acres are admittedly leased to tenants separately. These portions may be held to be no longer appropriated to the buildings called respectively 'Belmont' and 'Bishopsdown,' but the other lands cannot be so considered merely because, instead of using them as pleasure grounds, the owner utilizes them for the purpose of grazing cattle, &c., with a view to pecuniary profit. If, in consequence of the profit thus derived, the annual value of the lands is enhanched, it is open to the Municipality to assess the land at such enhanced value, but that is no reason for taxing it under Clause 2 of Section 63 at a rate higher than is permissible under the Act.

I would therefore allow this appeal and, setting aside the decree of the Lower Appellate Court, restore that of the Court of First Instance and direct the Plaintiff to pay Defendant's costs throughout.

By the Court.

(Signed) A. T. FORBES.

Dy. Registrar,

Appellate Side.

Exd. A. Ramasawmy
Aiyar.

Judgment of the
Chief Justice in
Bishopsdown's appeal

Extract from the Proceedings of a Special Meeting of the Ootacamund Municipal Council dated 16th July 1895

Present.

The Chairman.
H. A. Sim Esquire, I.C.S., Collector
A. M. Jones Esquire.
M. R. Ry. P. Maruthachella Mudalier avergal.
M. R. Ry. M. Saukara Menon avergal.
Abdul Rhyman Hajee Jakir Mahomed Sait Sahib.
M. R. Ry. C. Rajagopaul Naidu Garu.
Sithie Bin Meeanji Sait Sahib.
J. Browne Esquire.

I Read report of the Sub Committee regarding the taxation of lands within the Municipality:-

The recommendations of the Sub-Committee are accepted.

In regard to the Bishopsdown and other cases the procedure of Section 63(i) will accordingly be adopted, instead of Section 63(ii). For the sake of convenience in these cases "the Gross annual rent" referred to in Section 65(i) will be taken at a uniform rate of Rs 20 per acre per annum; the 7½ per cent on which will amount to Rs. 1-8-0. Individual cases in which it is contended that this rate is excessive, should be brought before the Council, on appeal under Section 97 et seq of the act and will then be dealt with on their merits.

In regard to lands appropriated to buildings, that is to say, lands included in the Compound of a house and let with it however extensive, and for whatever purpose utilized, the rent, for which the house and Compound together is let, shall usually be taken as the "Gross annual rent". Individual cases in which this rent is considered too small will be disposed of, after due enquiry, as may seem proper.

In regard to the new draft bill, the recommendations of the Sub Committee will be submitted for the consideration of Government.

"Carried unanimously."

(True Extract)

W. Hammett
Chairman
O.M.C

16-7-95

1/2347 M of 95

Note re: Bishopsdown and other Similar cases.

1. The High Court have held that both Section 63(i) and Section 63(ii) are controlled by Section 47, ii, i.e., are both subject to the 7½ per cent limitation.

This seems to be so, and may be accepted: Section 47, ii, being the general, and Section 63(i) and (ii), the specific section, and the contrast being not between Section 47. ii and 63. ii, but between 63, i, and 63. ii. — This seems borne out by the previous act III of 1871 [the first act in which any special mention of unappropriated lands or huts is made] where both the present Section 63(i) and 63. ii. together form only one section, § 41.

? Sec. 41. of Act III of 1871 seems to contemplate two rates, one with a maximum of 7½ per cent. on annual lettable value, the other a rate not exceeding Rs. 4 per 80 sq. yards.

2. The High Court has held, also, that lands situated in the compound of a house, however extensive, and let with that house, are appropriated to that house, and therefore come under Section 63, i, and not Section 63, ii,

This also seems correct and may be accepted.

3. The cases of Bishopsdown and

Similar

buildings, and lands": in the 2nd Act, it is the same: in the third, it becomes "buildings and lands"; and in the new draft, it is "buildings or lands or both".

It does seem, therefore, as if the importation of Section 63.ii, and its various developments have been partly due to the desire to make it clear, that huts were taxable as "houses"; and that waste or cultivated lands or porambokes, not included in the usual "compound" were taxable as "lands". 6.

7. If however, that was the original idea, it has certainly developed since then, and the main idea in the new act is clearly one of convenience, viz, the convenience of being able to tax certain lands by area, instead of by value: the idea seems to be, that houses and their compounds have an easily ascertainable rent value, which may be taken as the basis of taxation: but that ordinary arable lands have no such easily ascertainable value, and that, therefore, in their case, — to avoid troublesome enquiries into income and profits — a rough ~~average~~ acreage rate may be taken.

8. We can see no other reason for it: for surely Section 63.i, as amended to include "all buildings or lands or both" will catch anything and everything in its net. The suggestion is certainly made that porambokes and municipal land would not come under it, and that a subsection is needed, empowering the Council to tax squatters on such lands, or to lease them out, but this will be noticed later.

9. Looking at the matter from the point of view both of the Council and of the ratepayers, we consider that it would be a convenience to both parties, in doubtful cases, to tax by area rather than by value, as proposed. The only thing is, that in that case some safeguard is needed that the rate levied shall be approximate to the 10 per cent which is all that is leviable in the case of taxation on the basis of rental value; that, indeed, is the cause of the Bishopsdown dispute, for Mr Clarke naturally objects to paying 1-8-0 on a grass crop, which a committee has already valued at only 6 annas.

10. In the new draft bill, however, this safeguard is very deliberately removed: for the 10 per cent limitation is carefully shifted from the *general* Section 47.ii, and is put into the

specific section 63.i, so that section 63.iii, is, *ipso facto*, released from the operation of it — Nor is any sanction other than that of the Municipal Council itself needed, for the imposition of this tax a possible Rs 15-4-„ per acre — in the act of 1871, it was sixteen times as much — and we are all agreed that though such a rate might be suitable for a bazaar or a parcherry [probably its first intention] it is much too high for arable lands.

11. While we think, therefore, that for convenience' sake, the power ~~of~~ to charge by area, instead of by rent value, might be retained, we certainly think that the rate leviable, should require the special sanction of the Governor in Council, and that it should vary accordingly to the conditions of each case, eg. a bazaar might pay a higher rate than arable lands, and arable lands of rich soil might pay a higher rate than ~~arable~~ such lands of poor soil; in other words, a rough approximation to a fair percentage on the rental value might be made. This, however, is exactly what the new Section 63.A. of the draft bill proposes: if that section be enlarged by adding after "buildings", the words "or lands", it meets all requirements, and Sections 63.A. and 63.B. may be erased from the bill altogether.

63 (3) ?

12. In regard to the view, that porambokes and Municipal lands should be specially provided for, in a special sub section, we note that the new section 63.i, would include porambokes, that section 268 would meet the case of squatters without permission on Municipal lands, and that squatters with permission on such lands would presumably pay an agreed on rent to the Municipality, in spite of the exception from taxation of Municipal lands or buildings contained in section 63.i. Clause. C.

(Signed) H. A. Sim
(Signed) C. Akilandaiya
(Signed) L. W. Schmidt.
(Signed) A. R. Hajee Zakir Mahomed Sait

(True Copy)

W. Bennett
Chairman.

2
2347 M of 95

No. 1367

Ootacamund Municipal Office,
17th July 1895.

Urgent

Local & Municipal Dept.
CURRENT No. 2347 M

FROM
THE CHAIRMAN,
MUNICIPAL COUNCIL,
OOTACAMUND,

To
The Honorable J. F. Price C.S.I.
Chief Secretary to the Government
Stone House Hill

Enclosures Six

(Through the Collector of Nilgiris)

Sir,

I have the honor to submit for the consideration and approval of His Excellency the Governor in Council copy of a resolution passed by the Ootacamund Municipal Council at a special meeting held on the 16th July instant, adopting, for reasons set forth in the report (copy enclosed) of a Sub Committee appointed on the 15th June 1895 to consider certain papers relating to the taxation of lands in Bishopsdowns, — the suggestion of the Committee that lands within Municipal limits shall be assessed for the year 1895-96 under section 63 i, of Madras Act IV of 1884, that the "gross annual value" under section 65 i, be taken at Rs 20/ per acre per annum, and at 7½ per cent, the rate per acre be fixed at Rs 1-8-„.

Further that lands included in the compound of a house and let with it shall be included in the "Gross annual rent" of the house.

2. These changes involve a loss of about 5,300 in the estimated receipts of the Municipality for 1895-96.

G. O. No 465 M.
L. and M dated
18th March 1895

3. In the budget estimate for that year already sanctioned by the Government, the tax on Lands, including arrears of Rs 300 was fixed at Rs 7800. Deducting the probable loss of Rs 5,300 the balance likely to be realized will be Rs 2,500 - which with the closing balance in the estimate of Rs 710 amounts to Rs 3,210. This falls short of the estimated expenditure by Rs 4,590.

Rs 129,250
Deduct 5,300 loss.
123,950
Add 710 Closing balance
124,660
Rs 4,590 Difference.

4. The Council has not yet considered how this amount is to be met, but as soon as the orders of the Government are received on the Council's resolution, the Council will be moved to take the matter into consideration, as well as to provide funds for payment of the costs of the suit in the case of Mr Clarke - Bishopsdowns versus the Municipality and the refund of the amount Rs 556-5-- paid by Mr Clarke under the judgment of the District Court of Coimbatore.

G. O. Dated 27th February
1894 Mis No 180 M Local and
Municipal and 14th June 1894
No 751 M. Mis.

5. I may mention that the judgment of the High Court in Mr Clarke's case has not been received by the Municipal Council, although Mr A. R. Winterton the Counsel has been repeatedly asked for it. The judgment has however been published in a local newspaper which the Council does not take in.

I have the honor to be,
Sir,
Your most obedient Servant,
Chairman
O.M.C.

Ref on Cur No 1045/95 Dated 18-7-95

Submitted to Govt.

2 The Chairman, however will be requested to report more in detail, on what he bases his figure of Rs. 5,300, in para 2.

3 The figure of Rs recommended by the Committee, is the same as that applied now; & it is not understood that there will be many exceptions to it expected.

4 Presumably, therefore, the loss comes from being under the exemption of "compounds" as being included in "buildings": this, of course, was a necessity under the High Court ruling; but it is not understood that there are so very many cases, that [illegible]

895·96.

Urgent.

Local & Municipal Dept.
CURRENT No. 1347 M

From

The Chairman

Municipal Council

Ootacamund.

To

The Chief Secretary to Government

Local and Municipal Department

Stone House Hill.

No. 1367

Dated 17th
Despatched 17th } July 1895
Received 22 JUL 95

Enclosures: ~~56~~ 7

Subject

Land Tax.

Transmitting for Sanction of Government the resolution of the Municipal Council Ootacamund dated the 16th July 1895 in re levy of ______ for 95·96 with connected papers.

465 L 18-3-95
1244 L 11-9-94
751 L 14-6-94
190 L 17-2-94
363 L 17-3-93
280 L 1-3-93
684 L 8-4-92
646 L 4-4-92

315 L 6-3-91
932 L 18-6-90
204 L 5-2-90
199 L 4-2-90
1594 L 22-11-89
188 L 22-2-88
634 L 4-7-87

No. 1410

Ootacamund Municipal Office
22nd July 1895.

Urgent

From The Chairman
Municipal Council
Ootacamund

To J. D. Rees Esquire C. I. E.
Collector of Nilgiris
Ootacamund.

Sir, Referring to your No. $\frac{745}{95}$ dated the 20th instant on Copy of Mr. Sim's Endorsement on my letter to the Chief Secretary, I have the honor to state that a perusal of the Municipal Council's resolution will show that it has been decided not to levy any tax on lands appropriated to buildings and the assessment on such lands amounts approximately to Rs 5300.

2. The Sum of Rs 2500 mentioned in para 3 of my letter to the Chief Secretary, was arrived at by taking the assessment at Rs 1-8-0 per acre

on Forest and other Government lands unappropriated to buildings at Rs 1995-13-6 and the Assessment on private lands of a similar – description at about Rs 504-2-6.

I have &c
(Signed) G. Hamnett
Chairman.

Dak No 1483

(True copy)

Local & Municipal Dept.
CURRENT No. 2484 M.

Forwarded to the Chief Secretary to Government Local & Municipal Department for information in Continuation of ~~this Office~~ Mr Sim's Indorsement Reference on Current No 1045 – dated 18a July 1895.

J. D. Rees
Collector

Cuo 2347 L/95

Lo[illegible] Municipal Dept.
CURRENT No. 2484 M

From

The Collector of Nilgiris

To

The Chief Secretary
to Government
Local & Municipal Deptt
Madras

Dated 2nd } August 1895
Despd 2nd }

-6 AUG 95

No. D 1483
Enc. nil

Municipal Land Tax

Forwarding Copy of the letter from the Chairman Ootacamund Municipal Council regarding the —

not needed by [illegible] - PR. 7/8/95

7/8. a 7/8/95

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Friday, the nineteenth day of April,
One thousand eight hundred and ninety-five.

PRESENT :—

THE HONOURABLE SIR ARTHUR J. H. COLLINS, KT., *Chief Justice,*

AND

THE HONOURABLE MR. JUSTICE BEST.

SECOND APPEAL NO. 1738 OF 1894.

Edward Clarke	*Appellant (Defendant).*
The Ootacamund Municipal Council by its Chairman ...	*Respondent (Plaintiff).*

Second Appeal against the Decree of the District Court of Coimbatore in Appeal Suit No. 33 of 1894, reversing the Decree of the Court of the Subordinate Judge of Ootacamund in Original Suit No. 67 of 1893.

This Second Appeal coming on for hearing on Monday and Tuesday, the 1st and 2nd Instant, and having stood over for consideration till this day; the Court delivered the following

JUDGMENTS.

The Chief Justice :—This is an appeal from a decree passed by the District Judge of Coimbatore reversing a decree of the Acting Subordinate Judge (Mr. Elliot) of Ootacamund.

The suit was brought by the Chairman of the Municipal Council of Ootacamund against Mr. Edward Clarke, the owner of certain lands within the Municipal limits, called Bishopsdown and Belmont, for certain taxes levied under the authority of the Madras Act IV of 1884.

The Municipal Council on the 3rd of March 1892 resolved that a tax on all lands unappropriated to buildings be imposed according to area under Section 63 Clause 2 of the above Act and that it be fixed for 1892-93 at 1-8-0 per acre or 4·76 pies per 80 square yards. The Council allege that about 248·83 acres of the Defendant's holding comes within the definition of land unappropriated to any building and therefore becomes subject to the tax of Rupees 1—8—0 per acre.

Two questions arise:—(1) Has the Municipal Council power to levy a tax on any land exceeding 7½ per cent on the annual value of such land ? (2) Is the Defendant's 248·83 acres unappropriated land within the meaning of Section 63 Clause 2 ?

The 1st question depends upon the construction of Sections 47 and 63 Clause 2 of Act IV of 1884.

Chapter III is headed "Taxes and Tolls and mode of realising them," and Section 47 enacts that "the taxes and tolls to be levied for the purposes of this Act shall be as follows.":—Clause 2. "A yearly tax on lands and buildings not exceeding 7½ per centum on the annual value of such lands and buildings." Section 48 authorizes the Council to raise funds with the approval of the Governor in Council from any of the sources mentioned in Section 47 at a *rate or rates not exceeding those specified in Section 47.*

Section 50 enacts that when the Municipal Council shall have determined with the approval of the Governor in Council to levy any tax or tolls it shall be notified in a particular manner and such tax or tolls shall be levied in the *manner* hereinafter provided. Section 63 is the section declaring how such tax or tolls shall be levied ; it enacts that if the Municipal Council notify under Section 50 that an annual tax shall be levied on buildings and lands the Chairman shall impose such tax at the *rate specified* in such notification on all buildings and lands with certain exceptions immaterial to this case.

Clause 2 states that "in the case of any lands unappropriated to any building occupied by native huts the Chairman may, subject to the approval of the Municipal Council, impose such tax at an annual rate not exceeding annas four for every 80 square yards of such lands in lieu of the rate specified in the said notification".

It is contended by the Plaintiff that Clause 2 authorizes the Chairman to impose a tax of annas four for every 80 square yards amounting, it is said, to over Rupees 15 per acre on all lands unappropriated to any building or occupied by native huts even though the sum levied be far in excess of the sum to be levied under the authority of Section 47 *Clause* 2.

I think this contention cannot be supported. Section 47 limits the yearly tax on lands and buildings to 7½ per centum on the annual value of such lands and buildings. No land therefore can be taxed beyond 7½ per centum on the annual value of such land.

In Section 63 [1] the tax is to be levied on buildings and lands (the words used in Section 47 are lands and buildings) and such tax shall be imposed at the rate specified in the notification under *Section* 50.

Sub-Section 2 deals with lands unappropriated to any building or occupied by native huts but the words in Section 47 are large enough to include all land in the Municipality. It may be that Sub-Section 2 was drafted for the purpose of enabling the Municipality to deal with the waste land in the Municipality in the occupation of persons not being owners thereof, and the words "or occupied by native huts" lend some color to the suggestion ; it is to be observed, that Section 64 enacts that the tax imposed under Section 63 shall be payable by the owners of such "buildings and lands" using the words in Section 63 (1) and omitting the description in [2].

It would be unreasonable to hold that it was the intention of the Legislature, after enacting that a tax should be levied on lands and buildings not exceeding 7½ per centum on their annual value, to allow the Chairman of the Municipality to tax lands at a rate greatly exceeding the amount provided for in Section 47. If the Chairman taxes what is termed "lands unappropriated to any building or occupied by native huts" he is controlled by Section 47 and in whatever sum he assesses the amount of the tax such tax must not exceed the amount specified in Section 47.

It was stated at the Bar that Clause (2) of Section 63 remained a dead letter as far as the Ootacamund Municipality was concerned for many years and it would seem that former Chairmen exercised a wise discretion in forbearing to put in force a Section which undoubtedly is very difficult to construe consistently with the plain intention of the Legislature as evidenced by Section 47.

I am of opinion that the action of the Municipality in taxing the lands of the Defendant in the manner described in the plaint was *ultra vires*.

This finding is sufficient to dispose of the Appeal and renders it unnecessary to consider the 2nd ground, but I must not be taken to agree with the District Judge in his construction of the words "lands unappropriated to any building".

This Appeal must be allowed and the decree of the District Judge set aside and that of the Subordinate Judge restored and the Respondent must pay the Appellant his costs in this and the Lower Appellate Court.

Best J:— The question for decision in this Appeal is whether the District Judge of Coimbatore is right in holding the lands in question to be "unappropriated to any building" and consequently liable to be taxed under Clause 2 of Section 63 of the District Municipalities Act No. IV of 1884 [Madras].

Section 47 of the Act states what "the taxes and tolls to be levied for the purposes of this Act shall be" and among them is [Clause II] "a yearly tax on lands and buildings not exceeding 7½ per centum on the annual value of such lands and buildings". Section 48 authorizes the Municipal Council "with the approval of the Governor in Council" to raise funds for the purposes of the Act from all or any one or more of the sources before mentioned at a rate or rates not exceeding those specified in the last preceeding Section. Section 50 provides for notification of the rates at which such taxes or tolls are to be levied, and also directs that they "shall be levied in the manner hereinafter provided" *i. e.* in Section 63 which is as follows:—"If the Municipal Council notify under Section 50 that an annual tax shall be levied on buildings and lands in the Municipality the Chairman shall impose such tax at the rate specified in such notification, on all buildings and lands excepting lighthouses, public piers, wharfs, jetties" and certain other buildings and places set apart for charitable or religious purposes with which the present appeal is in no way concerned.

Clause 2 of the same Section is as follows :—"In the case of any lands *unappropriated to any building or occupied by native huts* the Chairman may, subject to the approval of the Municipal Council, impose such tax at an annual rate not exceeding annas four for every eighty square yards of such lands in lieu of the rate specified in such notification."

No doubt, as observed by the Judge, the tax to be imposed under this last clause is directed to be in lieu of the rate to be specified in the notification issued under Section 50, but that circumstance does not warrant the conclusion that it may be in excess of the 7½ *per centum* on the annual value which is the maximum fixed by Clause 2 of Section 47.

Clause 2 of Section 63 appears to have been intended for *mitigation* of the tax on small holdings. It gives power to the Chairman, with the approval of the Municipal Council, to impose on lands "unappropriated to any building *or occupied by native huts*" a tax at a rate different from that sanctioned by Government as the ordinary rate to be charged on lands and buildings within the Municipal limits. In this connection it is to be remarked that the remaining Clause (3) of the same Section directs that the Chairman "shall *exempt from tax* under this Section any building or land, the annual value whereof is less than Rupees 6 if it be the owner's sole property liable to tax under this Act."

It is unreasonable to suppose that it was intended to confer on the Chairman and Councillors without the sanction of Government, (such sanction not being provided for in Clause 2 of Section 63) the power of assessing lands *at a higher rate* than that sanctioned by the Governor in Council under Section 48 which happens in the case of the Ootacamund Municipality, the Respondent in the present case, to be the *maximum* rate chargeable under the Act, namely, 7½ per cent.

If the above view of Clause 2 of Section 63 is correct, as I think it is, it is not very material for the purposes of taxation under the Act whether the plaint lands are held to be, or not to be, "appropriated" to the houses to which they respectively belong ; for, under Clause 1 of the same Section, both buildings *and lands* are chargeable with the tax at the rate notified under Section 50, which, as already observed, is in this particular Municipality the highest possible under the Act. But in my opinion, the land which forms the compound of a house and is let with the house when the house is let, is appropriated to that house, and the mere fact of the owner obtaining profit therefrom by selling laterite and granite quarried from such land or the milk of cattle grazed thereon, or firewood obtained from trees grown on the land, does not render the land unappropriated to the buildings ; nor will the fact of a portion of the land being planted with tea necessarily make it land unappropriated to the house. In the present case, however, it is admitted that 15 acres of the Belmont property, which is cultivated with tea are reserved when the house is let ; and of the Bishopsdown property, some 5 acres are admittedly leased to tenants separately. These portions may be held to be no longer appropriated to the buildings called respectively 'Belmont' and 'Bishopsdown', but the other lands cannot be so considered merely because, instead of using them as pleasure grounds, the owner utilizes them for the purpose of grazing cattle &c. with a view to pecuniary profit. If, in consequence of the profit thus derived, the annual value of the lands is enhanced, it is open to the Municipality to assess the land at such enhanced value, but that is no reason for taxing it under Clause 2 of Section 63 at a rate higher than is permissible under the Act.

I would therefore allow this appeal and, setting aside the decree of the Lower Appellate Court, restore that of the Court of First Instance and direct the Plaintiff to pay Defendant's costs throughout.

By the Court.

(Signed) A.T. Forbes,
Dy. Registrar,
Appellate Side.

Exd. A. Ramaswami Aiyar.

(True copy)

A.T. Forbes.

Dy: Registrar
Appellate Side.

PRINTED BY G. C. AND CO., SCOTTISH PRESS, MADRAS.

Chairman

HIGH COURT OF JUDICATURE
AT
MADRAS.

JUDGMENTS
IN
SECOND APPEAL No. 1738 *of* 1894,
(From Appeal Suit No. 33 *of* 1894,
District Court of Coimbatore).

Dated 19th *April* 1895.

Sent

HIGH COURT, APPELLATE SIDE.
C. D. No. 124/95

Application made 20. 6. – 1895
Stamp papers called for.......189....
Do. deposited.......189....
Copy ready.......189....
Do. delivered 11. 7. 1895

SUPERINTENDENT.

1
2534 M of 95

Enclosures

ALFRED R. WINTERTON,
SOLICITOR.
Telegraphic Code Address:
“C SPELLO.”

Ootacamund, 26th July 1895.

The Chairman
Municipal Council
Ootacamund

Dear Sir,

O. M. C Versus Clarke

I beg to enclose a print of the judgment of the High Court received from Madras. You will observe

(1) That the High Court Judges do not agree upon the construction of Section 62 (2) +63 under which the rate was imposed, and that the position now is that of four Judges who have adjudicated upon the matter, no two agree.

(2) That while the Chief Justice, in ruling that the action of the Council under that section was "ultra vires", practically rules that section out of the act, and does not notice that the rate under that section is in lieu of the tax under Section 47, Mr. Justice Best rules that section 63 (2) can be put into force to the extent of 7½ per cent of the annual value, thus ruling in opposition to the words of Section 63 (2) itself.

(3) That the question as to whether any lands of Mr. Clarke subjected to the rate under 63 (2) are "unappropriated" is dealt with only by Mr. Justice Best,

1

I have the hono

Sir,

Your Most Obedient Servant

Chairman.

The Chairman Mul Comte
ALFRED R. WINTERTON,
SOLICITOR.
Telegraphic Code Address:
"CISPELLO."
Ootacamund,
26th July 1895.

but that his finding is that 15 acres of Belmont and 5 acres of Bishopsdown are certainly "unappropriated".

(4) That on the rulings in the Judgment, the High Court should have sent for trial by the District Court an issue as to whether the rate of Rs. 1/8 per acre imposed on the 15 acres and 5 acres respectively, "unappropriated", is in excess of 7½ per cent of the annual value. Instead of doing so, the High Court has, presumably, assumed without any evidence whatever that the rate is in excess.

(5) That the result, so far, is apparently that the rate under section 63 (2) may in other cases be imposed to the extent of 7½ per cent of the annual value.

I enclose my bill of costs including those of Messrs. Barclay Morgan and Orr and Counsel, and amounting to Rs. 186. 11. 4, and shall be obliged by a cheque for the amount.

I am, Dear Sir
Yours faithfully,
A. R. Winterton.

2

I have the honour
Sir,
Your most Obedient Servant

Chairman.

2/2534 M of 95

No. 1594.
Urgent

Ootacamund Municipal Office,
5th August 1895.

Local & Municipal Dept.
CURRENT No. 2534 M

From
THE CHAIRMAN,
MUNICIPAL COUNCIL,
OOTACAMUND,

To
The Honorable J. F. Price Esqre C.S.I.
Chief Secretary to the Government
Stone House Hill.

Through
The Collector of Nilgiris.

Enclosures Two

Sir,

In continuation of my letter No. 1367 dated the 17th July 1895, para 5, I have the honor to transmit, in original, Mr. Winterton's letter dated the 26th July 95, enclosing a printed copy of the High Court Judgment in the case of Mr Clarke versus the Ootacamund Municipality.

C 2347 M of 95

2. The papers were circulated to the Members of the Council for perusal and returned for transmission to the Government this day.

I have the honor to be,
Sir,
Your Most Obedient Servant

Chairman.

✓

Cur 2347+/95

1895.

Local & Urgent Municipal Dept
CURRENT No. 2534 M

From
The Chairman,
Municipal Council,
Ootacamund,

To The Chief Secretary to Government
Local and Municipal Department
Stone House Hill

No. 1594

Dated 5th August 1895.
Despatched 6th August 1895.
Received

CHIEF SECRETARIAT 13 AUG 95

Enclosure. Two

Subject.

Land Tax.

Transmitting in original Mr. Winterton's letter dated 26th July 1895, enclosing Copy of judgment in the Case of Mr. Clarke versus the Ootacamund Municipality.

N: Refer C. S. 1045

Forwarded.
J. D. Rees
Ootacamund.
6/8/95.

C. Master

R/8 a.m. 18.

[G / 25] 23-7-95,

L & M. Department.

C. No. 2347. + 2484.

FOR ORDERS.

Mr. Clarke of Ooty, filed a suit in the Court of the Sub-Judge, Nilgiris, against the Ootacamund Mun. Council, pleading that its assessment of his properties of Belmont & Bishopsdown was improper. The Council had allowed 88 cents of the former property and 1 acre 45 cents of the latter to be considered as curtilage for the houses, and assessed all the rest of them (their extent being 200 or 300 acres) as lands "unappropriated to any building" under sec 63 (ii) of the act, at a rate of 4.76 pies per 80 square yards, or Rs 1.8. per acre, — a rate approved by Govt. in G.O. 646 M. 4.4.92.

Mr. Clarke pleaded (i) that the lands thus assessed were appropriated to the buildings or residences on the estate, & so were not taxable under 63 (ii) and (ii) that in any case sec. 63 (ii) was governed by sec 47(ii) of the Act, which says that the tax on lands must not exceed 7½ per cent. of their annual value, ~~of the~~ & that a rate of Rs 1.8. per acre was far in excess of such a percentage.

2. The Nilgiris Sub Judge decreed in his favour.

3. The Council appealed to the Coimbatore District Court, which upset the Sub Judge's decree, & held

(i) that the lands were not appropriated to the buildings, and

(ii) that sec 47(ii) did not govern sec 63(ii), & that the only limit to taxation under this latter section was that which Govt. (in exercise of its general powers of control) & the Council, (under the wording of the section) saw fit to impose. (Vide paras. 13. 16. & 24. of Court's judgment in G.O. No. $\frac{80}{20.6.94}$ Legislative).

4. The Special Committee to amend Act IV of '84 sat shortly after this judgment was pronounced, and (after, it is believed considerable discussion, & consultation with the Adv. General) declared in its report on the Amending Bill (page 6. of the Gazette Supplement put up & marked) that the Coimbatore

FOR ORDERS.

is intended

Draft bill … it

limitation from sec 47(…

expressly declared that this limitation did not apply to the subsection of sec. 63. which refers to the acreage rate on lands unappropriated to any building, & elaborated that subsection so as to make the expression "unappropriated to any building" more clear.

5. Mr. Clarke, however, appealed to the High Court a… the Coimbatore Dist. Court's j… & has now obtained a judg… by the C.J. & Best. J., (… which is in the current),

(i) that sec. 47(ii) does … sec. 63(ii), and

(ii) that land let with … or building is appropri… building.

6. If the Dra… amend Act IV of 1884 without alteration … probably be no d… in the matter …

governed

under the existing
law as interpreted by the High
Court.

7. The Council's resolution on
the point is in the current. It
has decided in the first place to
cease to tax any land under
sec. 63(ii) as this has, under the
H. Ct's ruling, no advantages over
sec. 63(i).

It next decides to take the
"annual value" referred to in
47(ii) & 50 of the Act at
uniform rate of Rs. 20. per
annum, & to assess
63(i), on this rate,* all
which are not let with
leaving the ~~owners~~ in
properties in which this
considered excessive to
Council.

submitted that this is
inadmissible. (vide also
(a 1.). It seems
Council to avoid
each case under
Bill
put up

also seems inequitable

* that is at 7½ per cent. of Rs 20.
or Rs 1.8. per acre per ann.

Of course not. It is not "reasonable" to expect that all land will let at the same rate — I don't know in the least what the annual letting value of tea may be per acre — But an acre of land covered with bluegums or cinchona wouldn't let for an anna, I should say — less would open grassland let for more than a few annas per acre — Potato & garden land would on the other hand, let for a good round sum, I believe

HS

individual
for a ... action (3) is intended
that it
let for consideration ... and

8. The decision to tax all
land under sec. 63(i) may therefore
be approved, & the necessity for a
detailed assessment pointed out.

HS

9. The Council's resolution as
to the method to be followed in
future in taxing compounds, i.e.
land let with residences, is very
vague. It says that in those
cases "the rent for which
house & compound together
shall usually be taken as
"gross annual rent". Indt
cases in which this rent
sidered too low will be se
after due enquiry as m
proper."

10. Under instru
C.S. the attached
written to the Chai
him to explain
intentions. He
office today, & al
Council intended

This is a queer doctrine — It comes to confiscation at the will of Mr. Hammett

HS

governed ... (...)
under ...
which has hitherto been taxed
as "lands unappropriated to buildings",
but which must now, under the
High Court's ruling, be held to be
appropriated to the buildings with
which they are let. It is for
this reason that a loss of Rs. 5300
under land tax is expected.
The same explanation is also
in the Chairman's letter
No. / 7.95 to the Collector, written
to Mr. Sim's endt. on the
current, ~~copy of which~~
~~nett gave me~~. (Current 2484.)
It is submitted that in
this course the Council
unnecessarily throwing
great deal of revenue.
old rates fixed accor-
kind of crop on
compounds often
Rs 1.8. per
charged Rs. 4.8.
Rs. 3. per acre.
Bib compounds
putay

This wd. seem to be the only legal course
BS

But if the lands have value & go with the house, the owner gets more rent & is taxed accordingly. I don't see that the Cl. can claim more
BS

subsection (3) is intended
of 4.76 pies per that it
or Rs 1.8. per acre, was
fixed. The Council now proposes to tax them nothing at all for these lands.

In many cases, it is believed, plantations of acacia & blue gum exist in the compounds of residences are nominally "let with" them, though× the owners do not allow the lessees to cut the trees down. It seems equitable to tax the owners of such lands un sec. 63 (i). The High Court d not say that land let with a house is not to be taxed from the house under se but only that it may not taxed as "land unappropriated building" under sec. 63 (ii).

Land round a house is merely used as garde probably not be taxable rent of a house depends size etc. of the garden, garden is curtilage &

× This may be so but the owners unless there is special provision in the lease cannot cut a single tree without the tenant's permission and the tenants, as in my case at "Southwick", has the right of grazing his cattle & horses in the plantation. The landlord gets nothing out of it and if it were not for the size of the compound the rents would be less than it is
Sd

Quite so. If the owner lets the plantation with the house but doesn't allow the trees to be cut, all he gets is the additional rent paid for the house on acct. of the superior amenity involved in the existence of the larger compound; & on that addl. rent he is taxed
BS

~~This~~ Its taxable value is included in the rent of the house with which it goes
BS

[illegible] under

[illegible] tillage – but [illegible]

there are many other instances in which lands let with houses might fairly pay tax separately from the houses.

I cant see it
BS

12. It is submitted therefore that the Council may be told that its resolution is too sweeping, & unnecessarily resigns a great [illegible] of revenue, & that here [illegible] an assessment under sec. 65. should be [illegible] of all lands let with houses. [illegible] The Council is very [illegible] in want of more money.

Yes, — see above
BS

No
BS

Mr Rees has been speaking to me about this and I have told him that, as we cannot allow the sanitation or the roads of this sanitarium to go to wrack & ruin, I shall be prepared to recommend the grant of some aid from Provl. funds, if, when the whole matter has been gone into, it appears that the Cl. cannot pay its way.
BS

13. With his letter forwarding [illegible] Council's proposals, the Chairman [illegible] the report of the Sub-Com[illegible] which recommended them. [illegible] Government suggests that the [illegible] in sec 63. of the Act, [illegible] by the amending [illegible] which removes the percentage [illegible] the subsection [illegible] acreage rates is [illegible] expresses doubt as [illegible] of lands to which [illegible]

this subsection (3) is intended to apply, & proposes that it be removed, & the words "and lands" added after "buildings" in sec. 63. A. in the amending Bill so that taxation of lands in such cases may be subject not only to the 10 per cent. limit but to the approval of Govt.

Orders are solicited as to whether any ~~remarks~~ comment should be passed upon these suggestions before they are referred to the Legislative Dept.

W 8.8.95

I dont think so
BS
15/8/95

As far as I am aware the Council has hitherto taxed houses on the same system as was followed in the case of "Bishopsdowne" that is that the area upon which the buildings in any particular compound stood were not assessed to land tax and that the remainder whether garden grass or plantation was all assessed irrespective of the fact that in most cases the owner did not obtain an anna of profit, and was never likely to, from the compound [illegible] rent which he got for [illegible]

Should the amending bill become law the effect will as far as I understand it be pretty much the same as that of the action which the Council now proposes to take for under it gardens lawns land used to graze cattle or horses of the owner or occupier of any property or for I presume raising food for them would be exempt from taxation. This is the condition of certainly 3/4 of the houses in Ooty and whichever way the law in future stands the Municipality is bound to lose a considerable amount of the revenue which it has hitherto made by taxing compounds apart from houses.

12/8/95

Assessment of lands in Ooty Municipality.

H.M. /

(for orders)

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decide [illegible] individual

[G./24.]
500—21-5-95.

Law DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. 2347/M of 189 , dated from
" " 2484 M " 189 , " ,
" " 2534 M " 189 , " ,

ORDER. 24/8/95 No. 1386 Muni

The resolution of the Council to tax land within the Municipality which is not let with any residence under section 63 (i) of the Act, instead of under sec. 63 (ii), is approved.

2. The proposal, however, that the gross annual rent of all such land should be assessed at a uniform rate of Rs. 20. per annum, owners of properties who consider this excessive in their cases being left to appeal under the Act, is neither equitable nor in accordance with law. Land within the Municipality ~~is of varying~~ differs in value, & should in equity be taxed at ~~varying~~ different rates, & moreover the wording of section 65 (i) of the Act necessarily requires that for purposes of assessment the gross annual rent of each property should be ascertained by a detailed enquiry into

the circumstances of each case. The

3. This portion of the Council's resolution will accordingly be cancelled under sec 35. of the Act as being in excess of the powers conferred upon it by law, & it sh^d. at once proceed to undertake ~~such an~~ the enquiry referred to, & should assess the land-tax in accordance with the results thereof.

4. The proposal of the Council that in the case of land included in the compound of a house & let with it, the rent for which the house & compound together are let should for purposes of assessment be taken as the gross annual rent appears to be the only course legally permissible under the recent ruling of the High Court, & is approved.

5. Such land will not escape taxation by the adoption of this method of assessment, inasmuch as its taxable value is in each case included in the rent of the house with which it is let, which rent is already assessed to the tax on buildings, & the Council do not therefore appear to be legally able to claim to assess it again under the land-tax: The clause, therefore, in the resolution which "decides that individual cases in which the rent is considered too small will be disposed of after such enquiry as may seem proper" is in the opinion of G. in conflict with the provisions of the Act, & as in excess the powers conferred by law upon the Council. It will accordingly be also cancelled under section 35.

6. The suggestions of the Sub-committee of the Council with regd to the Bill to amend Act of '84 will be referred to the Legislative Department.

(from orders)

1195

JL
20/8/95

P.O.

T.M.C. Ootacamund (thro' Collector of Nilgiris)
Legislative Department } to

copies with sub committee's report & Council's resol.

Desp^d. 29/8/95

Assessment of land in
Ooty Municipality -

2347 - 2484 - 2534 M

CS.
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(from orders)

1386 M

Issue orders. I have [illegible] shall
utilised most of the file
here for passing orders
on another current.

Before
S. [illegible] 24/8/95

When given for copying ________
When copied ________ } 189 .
When examined ________
When signed ________

With again G.O., No. ________ Dated
189 ,

Current No.

Enclosures to C. No.

Order of Government .. .. .. A A A A A A A

Letter of Government.

Statement with ditto.

Papers not filed up, being meant for despatch in original.

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.