[L. & M. 2,000-8-94.]

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 22L.

DATED 9 January 1895.

[Despatch Abstract.]

Encroachment.

Confirming, with remarks, the order of the Collector of Chingleput cancelling the resolution of the Saidapet Taluk Board regarding an ------- on street poramboke, and ordering that steps should be taken to at once remove the-----.

BACK PAPERS.

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

FURTHER PAPERS.

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

Cancellation of a resolution of the Sattapet Taluk Board

3434 & 3859 L

FOR ORDERS.

Ch.
Order 10

The Govt agrees with the Coll.
in considering that the resolution of
the Taluk Board referred to was
in excess of the powers conferred
by law upon that body. The
Collector's order dated Nov 15th 94 cancelling
it under sec 37 (1) of Act V of 82
is accordingly confirmed under
sec. 37 (3) and steps should be taken
at once
to remove the encroachment
with which it dealt

W Irvine (from orders)
22/12/94

To The Collector of Chingleput
with Ltr — enclosures returned

P to C
Dup. 1/1

Read 1-15 pm
20/12

LOCAL AND MUNICIPAL DEPARTMENT.

Current Nos 3434 L and 3650 L

From the Collector of Chingleput.

FOR ORDERS.

As stated by the Collector, all public roads and streets in this District vest in the District Board under Section 49 of the Local Boards Act, no notification under Section 52(1) having been published, as in the Tinnevelly district transferring them to the Taluk Boards concerned. The Saidapet Taluk Board had therefore no authority to alienate any portion of a road or street. The resolution of this Board dt 4th October 1909 sanctioned only renting out of the encroached land and appears to have been based on G. O dt 16th January 1899 No 105 L but the Board had no power to lease out land which was not vested in it. It

also been held in the orders noted in the margin that the permanent lease of lands in cases like the present, is virtually an alienation which requires the sanction of Government. The resolution of the Taluk Board in question was therefore in excess of the powers conferred upon it by law and the Collector's order dt 15th November 1894 Cancelling it under Section 37(1) of the Local Board's Act may be Confirmed under Section 37(3).

V.R. 15/11/94

A perusal of the Saidapet Taluk Board Presidents' letter dated 30th July 94 addressed to understand how it is that the streets of Saidapet have become a bye word for encroachments.

W.R. 18.12.94 [illegible] 19/12/94

G.O dt 1-5-94 No 562 Mn
" 10-12-94 No 1907 Mn

Steps should be taken to have the encroachment removed at once.

[illegible] 21/12/94

Local & Municipal Dept.
PRESENT No. 3434

300—28-9-92.

From

The Collector of
Chingleput District.

To

The Secy. to Govt.,
L.S. Municipal Dept.,
Madras.

Dated 15 November 1894.
Received

Reference on No. 157 Municipal
No.

Enclosure One

RECORDED
17 NOV. 94

SUBJECT.

Forwarding for approval of Government copy of his proceedings cancelling the resolution of the Saidapet Taluk Board in regard to an encroachment in the street poramboke at Saidapet.

UNDER SECRETARY
18 NOV.
PUBLIC (Local & Mun.) DEPTT.

Ref 1365 dt 28/11/94

The Collector is requested to forward the records connected with the case which are read in his Proceedings.

V.R. 23/11/94 [illegible]

(With Ref)

To The Collector of Chingleput.

Despd 28/11

22/11 [illegible]

Enclosure No. 1

In a letter

FROM

THE COLLECTOR OF CHINGLEPUT,

TO Chief Secy
THE ~~THE COMMISSIONERS~~ SECY. TO OF,
Local & Municipal
Deptt Madras

Dated 17 Nov 1894.

Refer No. 15th 794

Subject.

Copy of Rec: Book
of 15-11-94

Proceedings of the Collector of Chingle-
-put dated 15th November 1894, No. 4

Read the following papers:-

1. Resolution of the Saidapet Taluk Board No. IX dated 4th October 1893, assigning certain poramboke land to one Chinniah Mudali on payment of an annual rental.

2. Agreement executed between the Taluk Board President and one Chinniah Mudali dated 14th February 1894, purporting to assign the Street poramboke on payment of an annual rental.

3. The letter of the President, District Board, to the President, Taluk Board, Saidapet, Ref. on No. 898/P. dated 13th April 1894, inquiring as to the circumstances of the encroachment.

4. Letter to the President, District Board from the President, Taluk Board, Saidapet Ref. on No. 649/T.B. dated 30th May 1894, explain-

-ing

ing that the land was assigned by the Ta-
luk Board as above.

5. Letter from the President, Taluk Board, Saidapet, dated 30th July 1894, to the Presi-
dent, District Board, explaining how the Taluk Board came to assign the land.

6. Letter from the President, District Board to the President, Taluk Board, dated 3rd August 1894, requesting him to move the Taluk Board to rescind their resolution and to cancel the rental agreement.

7. Resolution of the Saidapet Taluk Board No. 5 dated 1st September 1894, declining to reconsider their resolution.

8. Resolution of the District Board, dated 10th November 1894, resolving that they are unable to take cognizance of the matter.

From the papers read above, it appears that one Chinniah Mudali residing in Pillayar Covil Street, Sai-
dapet, in a petition dated 18th August 1893 gave intimation to the President of the Taluk board of Saidapet of his having purchased a house in that street and of his intention to remove the foundation and repair the building. On inquiry it was reported that Chinniah Mudali had encroached on (10½ x 43) 451½ Sq. feet of road poramboke, that the value of this piece of land would be about Rs. 12 according to the local value of building sites.

by erecting a building entirely.

2. The attention of the Collector of the District was drawn to the encroachment in April last (1894) and a correspondence ensued on the subject which resulted in the President of the District Board requesting the taluk board to cancel their resolution of the 4th October 1893. Ultimately the matter was placed before the District Board in order that the resolution of the taluk board might be reviewed, when by a resolution dated 10th November 1894, it decided that it was unable to take cognizance of the matter. This resolution was passed in

vie-

view of section 37 of the Act which vests only in the Government and in the Collector of the district the power of cancelling a resolution of the taluk board.

3. On the facts of the case as they were before the taluk board, it is clear that the land in question was public street poramboke. This appears from the result of the enquiry made by the taluk board and from the admission of Chinniah Mudali by the "rental agreement". Under section 49 of the Local Boards' Act V of 1884, the property in public streets vests in the District Board and has not been transferred to the taluk boards under section 52. The agreement with Chinniah Mudali was in effect a permanent alienation of the land from the public. It was not a mere temporary transfer of the use of the land. The land could be alienated only by the Board in which it vested, that is, the District Board, and further such alienation required

This cannot amount to an admission

In this connection please see the orders & orders in G.O. 2598 L 23-10-91

The Taluk Bd has apparently acted under G.O. 105 L 16-1-89

required the sanction of Government. Nor has section 98 any application: that section requires the written permission of the President of the Taluk Board before anything is erected; but it does not dispense with the necessity for the obtaining of a due and legal assignment of the ground on which the erection is placed where the erection is permanent.

4. In these circumstances, under the authority conferred upon the Collector by section 37 of Act V of 1884 (M.) I hereby cancel as ultra vires and illegal the resolution and order of the Taluk Board of Saidapet No. 9 dated the 4th October 1893 and declare it to be null and void.

Collector.

Chingleput District Collector's Office,

No. Saidapet, 15th November 1894.

Reference on No. 157 of 1894

From

G. S. Forbes, Esquire, C.S.,
Collector of the

Chingleput District,

To

The Chief Secretary to Government,
Local and Municipal Department,
Madras.

DESPATCHED
17 NOV. 94

LOCAL & MUNICIPAL DEPT.
CURRENT No. 3434

SIR,

I have the honour to forward for the approval of His Excellency the Governor in Council a copy of the proceedings No. 4 dated 15th November 1894 passed by me in virtue of the power vested in the Collector by section 37 of the Local Boards Act. The proceedings cancel the resolution of the Saidapet taluk board which purports to permit one Chinniah Mudali to occupy a portion of street poramboke in the village of Saidapet on payment of an annual rent. The circumstances of the case

Under sec 37(3) of the Act -

are

1/3434/94

are set forth in the proceedings. The encroachment was observed by Mr. Thomson, when Collector, who described it as an "iniquity". Steps were subsequently taken to move the taluk Board to cancel their illegal order. But that Board declined to do so. The matter was therefore upon placed before the District Board, who, having regard to section 37 of the Act, found they were unable to take cognizance of the matter. The action of the taluk Board was in effect to make a permanent alienation of the land. How this is illegal and ultra vires is explained in the proceedings under submission and I have accordingly cancelled the resolution as being "in excess of the power "conferred by law" upon the taluk Board.

I have the honour to be,
Sir,
Your most obedient Servant,

Collector.

Extract from the Proceedings of
Taluq Board dated 4th October 1893.

IX Read petition from Chinniah Mudali dated 18th August 1893 requesting to have the foundation of his house in the Pillier-covil street, Saidapet, which is under construction, inspected and the Revenue Inspector's remarks thereon.

The Board permits the petitioner to occupy the encroached portion of about one cent on payment of an annual ground rent of 10 annas

× × ×

(Sd) T. N. Ramachandra Aiyar
President.

Dis No 4950/93 (True Extract)

Communicated to the chairman, Saidapet Union, and to the petitioner for information and guidance.

2. The former is requested to take a rental agreement from the latter and collect the rents year after year.

(Sd) D. B. Venkatasubba Rau
Vice President
7-12-93
Hon President.

(True copy)

No. VIII of 1896.

Proceedings of the Chingleput District Board passed at its meeting held at Saidapet on Saturday 10th November 1894.

Present.

G.S. Forbes, Esquire, C.S., Chairman.

Members.

1. B. M. D'Cruz, Esquire, Treasury Deputy Collector and Vice-President.
2. N. S. Brodie, Esquire, C.S., Sub-Collector
3. M.R.Ry. Srinivasa Rao Avargal, Deputy Collector, Sriwallur division
4. " V. Raghavacharyar Avargal First assistant, Local and Municipal Department, Chief Secretariat, Madras.
5 " V. Damodara Mudaliyar Avargal Tahsildar, Conjeeveram.
6 " M. Ramanujacharyar Avargal, Government Pleader.
7 The Hon'ble P. Rangayya Nayudu Garu

8. The Rev. Fowdie.
9. M.R.Ry. S. Edayalvar Vayyapuri garu
10 " S. Gnanamuthu Pillai avargal
11 J. Mahomed ali Sahib khan Bahadur
12 M.R.Ry D. Bashiyakaruhu Vayyapuri garu
13 " A. Vallappa mudaliyar avargal
14 " D. Ramanuja Chariyar "
15 " Parthasarathi Vayyapuri garu
16 " Ayyapuravi Vayyapuri "
&17 " M. Venkataraghavulu Reddi garu.

VI Read papers regarding the encroachment made by one Chinniah mudali in Pillayar Koil Street, Periapeh, Saidapeh.

Read also resolution of the Saidapeh Taluk Board, No V dated 1st September 1894, stating that they do not see sufficient reason for reconsidering their former resolution and cancelling the rental agreement.

The District Board is unable to take any cognizance of the matter.

(Signed) J.S. Forbes,
President.

(True Copy)
(Endrach)

For Acting Collector

A.R.

8
3650 1894

List of records accompanying this Office
letter No 669/M dated 4 December 1894.

1. Saidapet Taluk Board resolution No IX dated 4th October 1893

2. Agreement executed by Chinniya Mudali in favour of the President, Taluk Board, Saidapet.

3. Letter from the President, District Board, Ref. on No 898/L dated 13th April 1894, to the President, Taluk Board, Saidapet.

4. Letter from the President, Taluk Board, Saidapet, to the President, District Board, Ref. on No 649/T.B. dated 30th May 1894.

5. Letter to the President, District Board, dated 30th July 1894 from M.R.Ry. T. N. Ramachandra Ayyar Avargal, late President, Taluk Board, Saidapet.

6. Letter from the President, District Board, to the President, Taluk Board, Saidapet. Ref. on No 2097 L. dated 3rd August 1894

7. Extract from the proceedings of the

Saidapet

Saidapet Taluk Board, No. 9 dated 1st Septem-
-ber 1894.
+8. Resolution of the District Board dated
10th November 1894, No. VI.

Chingleput District Collector's Office,
Saidapet, 4th December 1894 } G. Forbes
Acting Collector.

No. 1694 / 94
Reference on No. Dr. Saidapet, 4th December 1894
Old 5 D

DISTRICT COLLECTOR'S OFFICE,

From

G. S. Forbes, Esquire,
Acting Collector of the
Chingleput District.

To

The Chief Secretary to Government,
Local and Municipal Department,
Madras.

Sir,

Adverting to the Assistant Secretary's memorandum No. 1355 of 28th ulti-mo, I have the honour to forward herewith, as per separate list, the records connected with the case of the encroachment of Chinnia mudali on Sheik poramboke in Saidapet.

I have the honour to be,
Sir,
Your most obedient Servant,

G. Forbes
Acting Collector.

V.R.

Local [illegible] Dept.

From CURR[illegible]

The Collector of
Chingleput District.

To Chief
The Secy. to Govt.,
Local and Municipal Dept.,
Madras.

GOVERNMENT OF MADRAS * CHIEF SECRETARY * 5 DEC 1894

Dated 4th December 1894.
Received

Reference [illegible] No. 169

Enclosures 9.

SUBJECT.

Forwarding records connected with the case of encroachment on street poramboke in Saidapet referred to in his letter of 15th November 1894 No. 157 Mis.

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

READ AGAIN G.O., No. DATED
189 ,

CURRENT No.

ENCLOSURES TO G. 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.