

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 874 M

DATED 22nd May 1895

[Despatch Abstract.]

Electric Tramways, Madras.

Requesting Messrs. Arbuthnot and Co. to state whether the original of the deed relating to the mortgage of the Madras Electric Tramway Co.'s property have been endorsed as required in G.O., dated 6th April 1893, No. 668 M. and if not, to have this done.

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. 260.

Madras. 26th April 1895.

From,

Ernest Barclay,

Government Solicitor,

Madras.

Local & Municipal Dept.

CURRENT No. 1480h

To,

The Chief Secretary to Government,

Ootacamund.

Sir,

1. I beg to acknowledge receipt of the Order of Government - dated 9th instant No. 637 Local and Municipal, with instructions to advise whether there is anything in the Debenture Trust Deed of 23rd October 1894 entered into by the Madras Electric Tramways Company Ltd. with Sir D Cooper and another, as Trustees for the Debenture holders, which so affects Government as to call for action on its part.

2. By the Notification set out in the Order of Government dated 6th April 1892 No. 688 Local and Municipal (Clause 4) it was provided that Messrs Hutchinson & Co, by whom a Joint Stock Company was about to be incorporated and registered in England, and such Company when incorporated and registered, should be the promoters for the purposes of the order and, by clause 5, it was provided that the promoters might, by agreement, from time to time, purchase, take on lease or otherwise acquire such lands as they might require for the purpose of the undertaking and might, from time to time, sell or dispose of any such lands which might not be necessary for such purpose. In pursuance of this power, the Madras Electric Tramways Company Limited, the promoters, acquired their premises at Egmore which are comprised in the Debenture Trust Deed and form part of the security thereby created.

3. Clause 36 of the Notification or Order expressly provides that nothing therein contained shall prevent the promoters borrowing money on security of mortgages of the undertaking or any part thereof, or shall make the consent or approval of the Local Government necessary to the validity or effect of any such mortgage, provided, that every mortgage of the undertaking shall be deemed to comprise the

right

right to receive all purchase money which may be paid to the promoters in the event of a compulsory sale of the undertaking or any part thereof to the local authority under ^{Section} 22 of the Indian Tramways Act 1886, and that any mortgage granted by the promoters shall not be a charge upon the undertaking or any part thereof in the event of the undertaking or such part thereof being purchased by the local authority under the above Section, and that every mortgage deed granted by the promoters shall be endorsed with notice to that effect.

4. Again, Clause 38 of the Order provides that the promoters may at ^{any} time sell, assign or transfer the rights powers and authorities conferred by the order subject to the obligations and liabilities imposed thereby and that, upon completion of such sale, assignment or transfer and notice thereof in writing being given to the Local Government and to the Municipal Commissioners respectively (which notice has, in this case, been given) all such rights, powers, authorities, obligations and liabilities or such of them respectively as shall then be subsisting & capable of taking effect, shall respectively be deemed to be transferred to, and vested in and may be exercised by and shall attach to the purchaser or purchasers or assignee or assignees transferee or transferees, as the case may be, of the promoters.

5. By the Deed of 23rd October 1894 the Madras Electric Tramways Company Limited conveyed to the Trustees, Sir D Cooper and Mr J W Barclay, the premises specified in the first Schedule to the deed, viz. the premises at Egmore, and assigned to the Trustees the Concession specified in the 2nd Schedule to the Deed, viz. the Concession granted by the Order of 6th April 1892 for the construction and maintenance of the Tramways, the things specified in the 3rd Schedule, viz. the tram lines fixed or unfixed, tramcars, machinery, boilers, dynamos, motors, electrical and other fixed plant, fixtures and fittings of the Company in England, British India or elsewhere and the amount uncalled upon the shares of the Company at any time thereafter issued, all sums of money payable under any Policies of Assurance effected by the Company against fire or any loss or damage and all sums of money, damages and costs then or at any time thereafter owing to or recoverable by the Company in respect of any breach of contract, breach of trust, misfeasance or tort. It may therefore

be

3
be said that the Company practically transferred to the Trustees the whole of its undertaking.

6. That such transfer was by way of mortgage is shewn by the trusts of the deed which, put shortly, are that the Trustees should hold the mortgaged premises as security for debentures issued by the Company and amounting to £ 25000, and so that the principal moneys and interest owing in respect of such debentures should be a fixed and not a floating charge so far as related to the mortgaged premises, except the uncalled capital of the Company but, so that, the Company should not create any mortgage or charge upon the mortgaged premises or any part thereof ranking pari passu or in priority to the principal money and interest secured by the Debentures.

7. There seems to be one omission with reference to this deed and that is, that, so far as the copy shows the deed is not endorsed as required by para 36 of the Order. I do not think that this invalidates the deed in any way, but I think that such endorsement should be required and made. The Trustees, as mortgagees, of course, take the mortgaged premises subject to provisions of clause 36 with regard to the purchase of the undertaking by the local authority.

8. Except that Government should require the endorsement mentioned in clause 36 of the order I do not think that the Debenture Trust Deed affects Government so as to call for any action on its part.

9. I return the papers sent me &

I have the honor to be,

Sir,

Your Obedient Servant,

Ernest Barclay

Government Solicitor.

Local & Municipal Dept.

CURRENT No. 1480 M

From

The Government Solicitor
Madras

No. 260

Dated 26.4.95

Received 3-5-95

Enclosures 250 41909 M. etc.

SUBJECT.

Forwarding with remarks the Debiture Trust
Deed of the Madras Electric Tramways
Company.G.O. 637 M. of 95
1943 M. of 94
668 M. of 92Read again S.D. of 9 April 1895 N. 637-M
& CN. 1480-MMun.
misc

order

11.22.5.95 M. 874 M.

BO
20/5/95

Messrs Arbuthnot & Co.

will be requested to state whether the
original of the deed has been endorsed
as required in the latter portion of para
36 of the order issued in S.D. of
6 April 1892 N. 668-M, and if not
to have this done as soon as possible.P.D. 21/5/95
12.4.

17/5/95.

AGAIN ORDER OF GOVERNMENT, DATED
189 , No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL (not paged).

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P — Copy abstract only.
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BACK PAPER, No.

OF 189

FURTHER PAPER, No.

OF 189

To

Messrs Arbuthnot & Co.
The President, M.C. Madras.
Dated 29/5/95Hand note on this point was transcribed
in original to the Public Works Dept. with
Messrs Arbuthnot & Co.

with orders

Copied by

Examined by

Miscellaneous.

LOCAL AND MUNICIPAL DEPT.
G.O., DATED 22-5-95
No. 874 M

When given for copying.

[Despatch Abstract.]

Electric Tramways, Madras

Requesting Messrs
Arbutnot & Co. to state
whether the original of
the deed relating to the
mortgage of the Madras
Electric Tramway Co's
property has been en-
dorsed as required in
G.O. 6-4-92 No. 668 M, and
if not, to have this
done.

When given for copying
When copied
When examined
When signed

189.

AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

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