

Local & Munl. (1896) Department.

MISCELLANEOUS.

G.O., No. 1001 M

DATED 15<sup>th</sup> June 1896

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[Despatch Abstract.]

Land.

Stating, with remarks, that the application of the Ootacamund Gymkhana Club for a piece of ground to erect a building will be considered in the Revenue Department.

INDEXED.

Miscellaneous.

LOCAL AND MUNICIPAL DEPT.

G.O., DATED 15-6-96.

No. 1001 M

When given for copying.

[Despatch Abstract.]

Land.

Statue, with remarks,  
that the application of  
the Cotacamund Sanyuktana  
Club for a piece of ground  
to erect a building, will  
be considered in the  
Revenue Department.

M.S.

2nd signed 17/6

CHIEF SECRETARY

Ootacamund,

of 189

READ AGAIN ORDER OF GOVERNMENT  
189, No.

OFFICE NOTE.

From

THE CHIEF SECRETARY,

To the Sec. Secretary.

~~has the honour to request~~  
it the necessary action  
without delay  
be taken on the papers  
forwarded into S.O. No 1001/M. No.  
87 15-6-96.  
that when they have been  
disposed of they may be  
forwarded to the Private  
Secretary as H.S. the Governor  
to the ~~the~~ has desired

WHD  
12.6.96

Shan. Sec. also  
D. M. P.

Examined by

319 Revenue  
8-7-96  
32118 Revenue  
26-8-96

No 550  
12.5.96.

thus + +

+vide G.O. dated 7th  
Sept 1887 or 89 2  
M. L. + M.

The boundaries as recognized are marked  
in blue pencil on the plan herewith returned.

As far as the chairman has  
been able to trace from the records in the Municipal  
office the boundaries of the "Stobart Park" on the  
South and North, were, after the completion of the  
race course in the year 1887, extended to the stone  
drain, shown in blue on plan, built along the  
race-course road on the south, and to the main  
stream and lower hazaar road on the north.

2. The land applied for by the  
Gymkhana Club is part of the waste land in  
the "immediate vicinity" of the race course  
road, and shown in the Survey and settle-  
ment Register of 1884 as  $\frac{8}{425}$  and  $\frac{8}{426}$  as  
"Government Waste" etc. These are clearly two  
of the waste plots "placed in Municipal cus-  
tody for conservancy purposes only" as per G.O.  
dated the 9th January 1882. No 46. This order, the  
chairman has only seen this day for the first  
time.

3. The race-course, and road (formed  
in the year 1887) were carried over portions of  
 $\frac{8}{425}$  and  $\frac{8}{426}$  which then extended to the margin  
of the lake, but since separated by the course  
and the road.

4. In 1884 the then Chairman wrote to the Chief Secretary that :-

+ letter no 480 of 17<sup>th</sup> Dec 1884 paras 2 & 3

2. "The Commissioners have prepared

+ letter no 600 of 17<sup>th</sup> Dec 1884 paras 2 & 3 not forthcoming

"a plan which I now beg to submit, for the improvement of the Hobart Park (1) by adding the ground recovered from Toppa Mudaly's lines, and for this purpose lowering the level of the crossroad, and the bridge. (2) by taking in a considerable strip of ground along the South-Side of the Park by diverting the road to the limit of the Bombay House property + + + (3) by taking in a portion of the land now occupied by the A.B.C. Club, and (4) by diverting the water course which crosses the park near the A.B.C. ground."

note. This also was not done. see Chairman's letter reversed in Encls. of the L.O. no 892 dated 7 Sept 1887

3. "The effect of these works is shown,

"on the plans. The park will be much enlarged, and will admit of Polo, Cricket and Gymkhana meetings being held upon it. Considerably adding to the attraction of the station, and a Sanatorium. The present area of the park is 7 1/4 acres, enlarged as proposed by the Commission-ers, it will be 16 3/4 acres. Full particulars, are given in the Municipal Engineer's report + attached to the plans."

note. not forthcoming

5. The right to let any portions of the park, (in the absence of instructions to the contrary) is based on the order of the Government dated 15<sup>th</sup> August 1892 & this viz.

"The Municipal Council is itself competent to levy rents for the occupation or

"or use of Municipal lands without reference to Government"

6. The Hobart Park and the Waste lands adjoining it having been placed under the Municipality for purposes of recreation and conservancy the Municipal Council saw no objection to the leasing of some portions of the park and waste lands to the Gymkhana Club (which kept up the park at its own expense) to enable it to levy small fees from those who used the Race-Course and galloping track for training horses, and from those who entered the enclosed stand on the waste plots of land on the occasion of Gymkhanas, and Races.

Cestacamm }  
W May 1896 } (2d) Geo. Hammett  
Chairman

To The Collector of Kilgiris with plan.

(True copy)

copy  
copy

J. B. R.?  
Collector.

0 07 17 50  
2 + 3

177 100

3

7

Municipal office  
22<sup>nd</sup> May 1896.

My dear Mr Rees.

Having perused the draft  
of your reply to Government regarding the Hobart  
Park and waste lands adjoining it, I may  
mention that I agree generally in the  
conclusions at which you have arrived.

yours sincerely  
(M) Geo. Stummett

(True copy)

J. Rees  
Collector.

epid by  
copy by

"Competent to levy rents for the occupation or"

Kilgiri Collector's Office  
Cotacamund 21<sup>st</sup> May 1896.

From

The Honorable J. D. Rees. C. I. S.

Collector of Kilgiris

To

The Chief Secretary to Government  
Local and Municipal Depart.

Sir,

I have the honor to reply to  
Official memorandum without number dated  
5<sup>th</sup> May 1896 regarding the Hobart Park.

2. In 1874 the Government Waste  
Land lying around the Upper Lake between the  
Lower Bazaar Road and Lake Road was entrusted  
by Government Order 1<sup>st</sup> September Financial Depart-  
ment no 1458 to the Municipality to enable it to  
plant, to improve, and enclose, the Government  
reserving to itself the right to resume possession  
at any time free of any claim for Compensation.  
This area included the Tennis Courts, and the  
Archery grounds, of the A. B. C Club, which was

in existence before the issue of the order of 1874.

3. In 1882 by Government Order dated 23<sup>rd</sup> December no. 2023. the Government declared that it never intended that the Municipality should own or control the ABC club, the members of which were tenants-at-will under the Government. It was subsequently found, however, upon the opinion of the Advocate-General that the ABC club were holders of an irrevocable license, but prior to this finding, the ABC club had voluntarily and by arrangement with the Polo and Gymkhana clubs relinquished a portion of the lands within its enclosure, subsequently to which relinquishment, matters have remained, as regards the ABC enclosure and Hobart Park, upon the previously existing footing.

4. By the order of 7<sup>th</sup> of September 1887-1892 no. 1, the Government laid it down, as regards Hobart Park, that the Municipality were only tenants-at-will, and responsible to the Government for the use made of the land.

5. By the order of 23<sup>rd</sup> September 1890 the Government expressed the opinion that the Municipality should, in the public interests, be custodians of the Hobart Park and that

they should raise funds from the various bodies which use it viz the Cricket, Gymkhana and Polo clubs etc.

6. Subsequently to this, the cricket, Gymkhana, Race, and Polo clubs have been formed into one club and it is presumed that this club is the inheritor of the rights of the Amalgamated ABC club in the ABC enclosure, and that the Municipality is the custodian of the Hobart Park.

7. But this helps but little to settle the question "what are the precise boundaries of Hobart Park?" and so far as can be discovered from the files there is no proof what these boundaries are. The expression "Hobart Park" to my knowledge only came into general use about the year 1887; and it was then used, and has since been used, to describe all the waste land at the <sup>or Bazaar</sup> upper end of the lake, exclusive of such portion as was in the occupation of the ABC club.

8. But in 1890 the question assumed a somewhat new phase, and it was then proposed to remove the barriers of the ABC enclosure, and to throw the whole ground open to the public. Subsequently this proposal fell through, because as noted above it was found that the ABC club

had an irrevocable license, and then an endeavour was made by amalgamation to give to every club a common interest, and the position now is, that this amalgamated club desires to acquire portions of Settlement Nos. E. 425 and E. 426 which are registered as "Government waste", for the erection of a clubhouse, which will be for the joint benefit of the clubs which have been using Hobart Park as Recreation ground, and for the clubs which use ABC Enclosure as a recreation ground, such clubs being now amalgamated.

9. The question, therefore, is what rights has Municipality over Settlement Nos. E. 425 and E. 426? and it appears from the records, that these are waste spots which were placed in Municipal custody "for Conservancy purposes only," by Government Order No 44 Financial Department dated 9-1-82 of 1882. That order merely sets out, that certain waste lands in the immediate vicinity of main roads of Antaeamund are entrusted to the Municipal custody for conservancy purposes only.

10. It seems quite clear that these two plots, the interest of the Municipality in

which dates from 1882 are on quite a different footing to the Hobart Park, the connection of the Municipality with which dates from 1874, that the position in respect of the Park and the waste is quite different is clearly shown from the action which has been taken in regard to Hobart Park. All orders in respect of the latter have been passed in communication with the Municipality and no direct action, I think, has been taken by Government. But in regard to the plots E. 425 and E. 426, the lower road alongside the race course and the margin of the lake was formed by Government right through them and made over to the Municipality for up keep. No records can be traced <sup>in this office</sup> in regard to the making of this road. I speak from memory here but records exist in the Government office, and I have myself as Assistant and Under Secretary and as Private Secretary to H. E. The Governor had an acquaintance extending over many years with this subject. It is also observed in support of this view that in 1884 the Chairman wrote making certain proposals for extending Hobart Park, which were not accepted (see Government Order 7 September 1887 or 892), and the Government observed that 1,000 Rs allotted

for the improvement of Stobart Park had been diverted for a race course project, which should never have been put in hand without the sanction of Government. This seems to prove that the race course, i.e. that portion of the waste land in this locality which extends beyond the ABC Pavilion on the South and the bridge across the drain on the north side i.e. the horse shoe prolongation running up to the Willow Bund, was not a portion of the Stobart Park Proper. In paragraph 4 of the order, the Government also said "that the Stobart Park and the waste land adjoining, is the absolute property of Government who reserve the right of resuming it without compensation, and that the Municipality themselves are only tenants-at-will and are responsible to Government for the use made of the lands. It will be observed that here also the Stobart Park is distinguished from the waste land adjoining it.

11 I, therefore, do not think that there is any proof that the boundaries of the Park are, as marked by the Chairman in the plan received by Government and now

returned, and it seems to me that as the land which the club requires for the club-house has been made over for purposes of conservancy only, it is not competent to the Municipal Council to raise any objection to the use to which it is proposed to put it. It would only appear that under the Government order of 9<sup>th</sup> January 1882, the Council is responsible for the conservancy of the land, whether it be waste or road as now, or whether it be occupied by a clubhouse or any other building whatsoever.

12 If this land is not a portion of Stobart Park, as I contend, probably the other question asked by Government whether the Council has any right to rent the Park or any portion thereof, need not be answered, but the Chairman bases his right to let portions of Stobart Park on Government Order dated 15<sup>th</sup> August 1892, 1335 Mis, which states that the Council is competent to levy rents for the occupation or use of Municipal lands without reference to Government. It will also be observed, as regards the Park, that by the order of 3<sup>rd</sup> September 1898 no 1411 para 6, the Council was authorized to raise

funds for its maintenance from the various bodies using it, the cricket club, the Polo club, the Gymkhana Committee, the Race Committee, the Football club and other bodies. Again in the latter part of Paragraph 8 of the same Government Order, it is ordered that it will be for the Municipality to arrange with the members of clubs using the Park and other bodies and associations for the provision of funds for the construction of the new tennis courts, and for the raising of funds for satisfactorily carrying out the purposes for which the park is entrusted to them. It is doubtful however if these provisions [contained in paras 6 and 8 which unlike the earlier part of para 8 have not been cancelled by <sup>Government</sup> Standing Order 19<sup>th</sup> December <sup>1910</sup> 1976 n.m.] apply to settlement numbers 24 & 25 and 26, which perhaps may be held not to be municipal lands having been merely made over for purposes of conservancy only, and which have never been used by the public or by any of the clubs enumerated, for the purposes of recreation and sport or indeed by the public for any purpose.

whatsoever, until, subsequently to the issue of the order by which the Municipality has acquired an interest in Stobart Park, and in the said Settlement numbers, <sup>The</sup> ~~the~~ race and Gymkhana clubs have been in the habit of putting up tents there, and using them for a grand stand. The chairman says in paragraph 6 of his memorandum that the Stobart Park and the waste land adjoining it have been placed under the Municipality for purposes of recreation and conservancy. But I do not find any authority for the statement that the two settlement nos in question have been made over to the Municipality for purposes of recreation. The legality of enclosing or enforcing any exclusive right to any portion of these two settlement nos seems to me open to question, but that is not now the matter at issue.

13 The chairman of the Municipality who has seen this letter agrees generally in the conclusions it embodies, as will be seen from his letter of the 22<sup>nd</sup> May, <sup>copy of which is</sup> appended hereto.

DEPARTMENT.

FROM

THE COLLECTOR OF

NILGIRIS.

TO

THE Chief Secretary  
to Government Local  
and Municipal  
Department

Dated 2/5

Despatched 3

Received

June 1896.

Ref: on C.B. No. 284  
1896

ENCLOSURES. 3

SUBJECT.

Reporting on the boundaries  
of Hobart Park.

C. S.

The original has been received  
is put up (linked file) with a  
note for orders.

lowd  
u. 6. 96

Lodged.

md

8.6.96

24/6/96  
C. S. 15/6/96  
11/6/96

Cno 646, 10208 15298/96

order No 1001 mms of 15.6.96

The reference which was made  
made to the Municipal Council  
with regard to the piece of land  
applied for by the Ootacamund  
Gyphkhana Club arose from  
a regrettable misapprehension of  
the real state of the case.

2. From the inquiries now made  
it appears that this land at  
no time formed a portion of the  
Hobart Park but that it was  
a part of certain plots of land  
which were some years ago  
handed over to the <sup>care</sup> charge of  
the Council for conservancy pur-  
poses only.

3. Govt. therefore in dealing with  
it in such manner as it may  
deem fit, will be merely exercising  
the powers which belong to it and  
will not in the slightest degree  
be trenching upon the authority  
which has been assigned to the  
Council as regards the Hobart  
Park, or be in any way wounding  
in considerations for or courtesy  
towards that body.

4. The applications of the Ootacamund

Gyunkhama Club will be considered  
in the Revenue Dept.

LD  
11/6/96

910  
To Rev. Dept. (take papers in original)  
" Chairman, M.C., Ootacamund  
" Hon. Sec. Ooty Gyunkhama Club.  
Dated 18/6/96

Nilgiri Collector's Office,  
Ootacamund, 3. vi. 1896

CHIEF SECRETARY  
GOVERNMENT OF MADRAS  
3-JUN. 1896  
My dear Sir,  
I <sup>regard</sup> ~~am~~ <sup>as</sup> ~~the~~ <sup>the</sup> Gyunkhama  
question that it is in my office wanted  
urgent on 23<sup>rd</sup> May. On last night  
I had it was addressed to Govt at  
Madras, according to the order of Govt.  
My office says. To this I will see, but  
send you at once a copy. The  
plan of course is with the original  
letter, which apparently is being detained  
by your Madras office, which was a done  
post today if telegraphed to.