

BACK PAPERS.

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

FURTHER PAPERS.

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

[5]
700-0-4-96.

Papers to be read in Proceedings:—

Again G.O., dated

189 , No.

Current No. 278 of 1896, dated 3 October 1896 from the Chairman, M.C., further.

Current No. of 189 , dated from the

Order. No 1926 in writ of 12-11-96

The Chairman will be informed that the Government orders referred to in para. 2 of his letter correctly ^{indicate} ~~express~~ the law on the point and require no modification. Section 23 of Act IV of 1884, applied only to land which is a "public street" and not to the sites in question which are not such lands.

S. H. 10.10.6
(from orders).

V. A.
11/11/96

To The Chairman, M.C., further ✓

Supd 14/11/96

Local & Munl. (1896)) Department.

CURRENT No. 27/18th

From

The Chairman Delegate
Municipal Council,
Quintana.

H. M.

For Order

No. 502

The first order of Government
in which it was held that Municipal
Councils are entitled under Section 23
of Act IV of 1884, only to lands
which are actually used as road way
is S.O. no 939 m dated 5th June 1895

Dated 3rd October 1896

Received 8 OCT. 96

Registered "

Enclosures /

Spare copies

V.R. K. K. K. K. K.
27/10/96

By Sec 23 of the Munl.

Act as public street vest in
Municipalities. "Public street" are
defined in Sec 3 and also
"Streets". The former ^{def} does not appear
to affect the question which is
whether or not road side sites
situated in the public street do
vest in Municipalities. The
and 'street' accd. to the definition

SUBJECT.

Soliciting the orders of Government
on the question ~~as to~~ whether or not
road side sites situated in the
public streets do vest in and
belong to, Municipalities.

14/10. 2/28.10.96/

declined

L. & M.
200-8-8-96

NOTE FOR FILE

mediate space between the actual roadway and the house is a space over which "the public have a right of way". Suppose a man acquires a site on the govt. Poramboke some distance back from the road & builds a house on it, the unacquired portion of the poramboke between the house & the road does not become "street" ^{vested in the Mty.} but remains govt. land. Cases of this sort came to notice in Coimbatore. The point is of some importance in this way that encroachments if ~~on~~ ^{the} govt. land is govt. land cannot be disputed up to 60 pors, while if the land ~~was~~ "street" ^{vested} in the Mty. the limitation is the short term of 12 years.

G.O. no 351.7.1.96 is quite clear: so is no 265 d 3-3.96 quoted by the Chairman. I would reply that these G.O.s express the law correct

includes "the land (not being private property), whether covered or not by any pavement, veranda or other erection, which lies between the roadway & the main wall of any house adjacent thereto". It seems to follow therefore that roadside sites (not being private property) do vest in municipalities when a street is a public one. It has been ruled, however, in several cases that municipalities are not entitled to more than the actual roadway. Please see Pags (A, B & C). The latter two (B & C) refer to the cases of which the

Junior Ch^a is now complaining. In case D, however, it seems as though an opposite view had been taken.

The definition of street in the Act is not altogether a satisfactory one & it is probably to be amended in the new Manl. Act. (copy put up.) Perhaps the Ch^a might be informed that Govt is not prepared to lay down a hard & fast rule in regard to his Query.

A.L.H.
2/1/50

There is an important qualification in the defn of street which the above note rather overlooks, viz. that the inter-

BACK PAPERS.

G.O.	No.	Department.	Date.
for	1432	mail	26-8-96
for	363	mail	3-3-96
for	35	mail	7-1-96
for	1975	mail	26-11-95
for	939	mail	5-6-95

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Put up a spare copy of the existing Act

2/11/6
Put up.

S.2(vii) of the Act.

declined

require no modification.
Section 23 applies only to land
which is "public street" while
the sites in question are
not.

S. R. 3/4/6

AD
57 11/96

...to 502 with Municipal Office, ...
...dated 3rd October 1896 ...
...Loc... 1st ...

...From ...
...Chairman ...
...at ...
...Government ...
...and ...
...I have the honor to ...

...on the question as to whether ...
...situated in the public streets ...
...and ...
...this question appears to be all ...

...that the Municipal Council ...
...of the Municipal Act of 1884 ...
...with regard to public ...
...recommended for ...
...plots of grounds on ...
...other purposes but ...
...all instances have ...
...declined

...
...
...

declined to record their approval on the ground
that these sites do not rest in the Municipal Council.

Under section 23 of the District Municipalities Act,
it is ruled that "All public streets in any
Municipality, and the pavements, stones, and other
materials thereof, and also all erections, materials,
implements, and other things provided for such
streets, shall rest in, and belong to, the Municipal
Council, and sub section VII of section 23 of the same
Act defines street as any road, street, square,
Court, alley or passage, whether a thoroughfare or not,
over which the public have a right of way, together
with the land (not being private property), whether
covered or not by any pavement, verandah or other
erection which lies between the roadway and the
main wall of any house adjacent thereto. Viewing,
therefore, road side sites in the light of the above
definition, it is at once evident that all sites falling
within section 23 form the property of the Municipal Council
but which as per recent orders of Government have
not been pleased to acknowledge.

3. In the above circumstances a definite interpretation
of the section 23 of the Act appears to be desirable
and necessary and therefore request the same for
the future guidance of the Council.

20/10/35 M. L. 11/32 7-17
363 M. L. 11/32 3-39
11/32 M. L. 11/32 26-89

I herewith enclose a copy of the resolution
of the Municipal Council bearing on the above subject
passed at a meeting held on the 26th September 1896.

I have the honor to be,
Sir,
Your most obedient servant
B. R. and
Chairman, Delegates
4/10

Not been pleased to acknowledge
of the section 23 of the Act appears to be desirable
and necessary and therefore request the same for
the future guidance of the Council.

intended to record their approval on the ground
that the sites do not rest in the Municipal Council.
The Council of the District Municipality of
it is ruled that "All public streets and highways
and the pavements, stones, and other
materials thereof, and also all materials,
implements, and things provided for such
streets, shall rest in, and belong to, the Municipal
Council, and the Council of the District Municipality
shall not be concerned in any road, street, square,
passage, alley, or passage, whether a thoroughfare or not,
in which the public have a right of way, together
with the land (not being private property) whether
owned or not by any government, corporation or other
person, which lies between the roadway and the
main wall of any house adjacent thereto. Viewing
therefore, and also taking into the light of the above
provisions, it is not now intended that all sites falling
within section 23 form the property of the Municipal Council
but which, as per recent orders of Government have
not been pleased to acknowledge.

In the above circumstances, a definite interpretation
of the section 23 of the Municipal Act appears to be desirable
and I therefore request the same for
the Council.

Extract from the Proceedings of the
Municipal Council, Quinter at a meeting held
on the 26th September 1896

Present

A P Fernandez Esquire, Chairman Delegate

A R. Cumming Esquire C.S.

D. E. Reid Esquire

M R R. A. M. Sundarasia Auergal B.A

" M. Subbarao Pantulu gam B.A

" P. Venkatakrishnaiah Maidu gam B.A

" T. Mallikharjanaras Pantulu gam

" T. Gummadhani gam

" Ch. Subbarayudu gam

" Chowdagar Mohamed Ibrahim sahibgar

" Meer Mahaboballi sahib gam

Read letter from M R R. A. M. Subbarao Pantulu
gam Municipal Councillor requesting to represent
to the Government that road side places in public
streets rest in the Municipality.

Resolved that the Government be addressed
on the subject of road side sites

(Ed) A P Fernandez

Chairman Delegate
(True Extract)

A. P. Fernandez

718

(John P. [unclear])
([unclear] A. P. [unclear])
[unclear] [unclear] [unclear]

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

[L. & M.
28.]

10,000-15-10-03.

Paper taken out of the Records from the charge of the Referencer.

Press
Ordinary No. 19264 dated 12-11-96 190
Routine

Date taken out.	FOR WHAT PURPOSE.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			
11-12-01	h	2573	1901	<i>[Signature]</i>	28/1/02	<i>[Signature]</i>
22-3-02	h	814	1902		16/4/02	<i>[Signature]</i>
7/10/02	h	2628	1902			
23/6/0	h	1869	190	<i>[Signature]</i>	9/7/03	<i>[Signature]</i>
28/10/03	hy	1744	1903	<i>[Signature]</i>	5/6/05	<i>[Signature]</i>