

28-5-96

L. & M.
[2,000-28-10-92]

Local & Munl. (1897). Department.

MISCELLANEOUS.

G.O., No. 2588 M

DATED 23-11-97

INDEXED *CR*

DESPATCHED

[Despatch Abstract.]

Petition

in favour of the Sultan Musa Ali Raja
of Coimbatore that ^{Govt.} requests its inability
to interfere with the action of the m. b.
Council in refusing to transfer the
taxes levied on him, to the names of his
tenants, in the manner requested by the Raja

BACK PAPERS.

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

FURTHER PAPERS.

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

Local & Munl. (1897) Department.

CURRENT No. 3828M

From The Resident
District Board
Malabar.

Order n^o 2588 in this of 25/11/97

The Government regrets
its inability to interfere in the manner
requested by the Raja.

12/11/97

8-10-11-75

End on No. 407 497
Dated 15 November 1897
Received 5-11-97
Registered 5-11-97

Enclosures

Spare copies

SUBJECT.

Submitting a letter from
the Sultan Ali Raja
of Cannanore, bringing
to notice the refusal of
the Municipal Council,
Cannanore, to transfer
the Municipal tax, levied
on him, to the hands of
his tenants, who have agreed
to pay the same and requesting
orders on the point.

Note The interpretation of the law
given in the Collector's endorse-
ment appears to be correct.
These matters must be
placed before the Raja
question 8/11/97

Sultan Musa Ali Raja of Cannanore.
thru the Coll of Malabar
Sheikh Arman M. Cannanore

2/13/11

25/11/97

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

N^o 353

Cannanore 13th October 1897.

3828M

To
The Secretary to Government
Local and Municipal Department
Madras.

Through the collector of Malabar.

Sir,

I have the honour to report the following matter for the orders of Government.

2. In Government Order N^o 121, Political Department, dated the 24th February last, the Government was pleased to pay the tax due by me to the Municipality at Cannanore out of my Island Surplus, and to inform me that I should make my own arrangements for future payments.

3. As most of my tenants had agreed in their registered leases to pay the Municipal tax due on the lands let to them in addition to the rent and as other tenants had expressed their willingness in writing to bear the tax, I requested the Chairman of the Cannanore Municipality on the 15th May and 10th June last to transfer the assessments to their names as agreed to by them. I may here add that my tenants have held lands uninterruptedly for generations, as evictions are almost conspicuous by their absence.

4. On the 7th July the Chairman intimated that orders had been issued to carry out the transfer as requested.

5. On the 17th July the present Chairman who had succeeded to the office in the interval informed me that the question of the transfer of assessment disposed of by his predecessor would be placed before the Municipal Council for their decision. This was not the result of any appeal or protest against the transfer from any of my tenants. It was the spontaneous action of the Chairman.

6. As it appeared that the Chairman was labouring under a misapprehension, he was informed on the 21st July that the question of the transfer of assessment had already been disposed of by his predecessor according to the power vested in him by law.

7. On the 22nd July the Chairman of his own motion laid the papers bearing on the case before the Municipal Council and had a Resolution passed cancelling his predecessor's order.

8. I submit the action of the Chairman and of the Council is ultra vires and illegal. Neither section 97 of the Municipal Act nor any other provision in it appears to justify the interference of the Municipal Council with the order for transfer legally passed by the former Chairman.

9. Upon this the matter was brought to the notice of the Collector who agreed with the Chairman that chiefly under section 64 of the Municipal Act, the tax should stand in the name of the "owner" which is interpreted to imply the proprietor or landlord exclusively.

10. But I beg to submit that to restrict the term "owner" to the proprietor is to ignore the wide and elastic definition given in the Municipal Act.

11. It is clear that definition is a device employed by the legislature to avoid the necessity for unauthorised interpretation and with this object, certain artificial meanings are attached to certain words or phrases often distinct from their grammatical signification. When a term is intended to express its literal or ordinary meaning, no statutory definition is even attempted, and for obvious reasons. To hold therefore that "owner" as used in the Municipal Act means proprietor is to render its definition supererogatory. No definition is I think needed to assign the word "owner" its unequivocal meaning.

12. The definition of "owner" given in the Act is not exhaustive as it includes the person for the time being receiving or entitled to receive the rent or profits of the property whether on his own account or as agent or trustee for another person.

13. The legislature appears to have made the definition designedly wide and elastic. The question appears to have been considered

considered as to who was the owner in the case of property that was either sold or mortgaged, and it was remarked that with regard to sale, the owner was the purchaser and with respect to mortgage the owner was the mortgagee. This I submit demolishes the theory that "owner" as used in the Act is neither more nor less than the landlord himself.

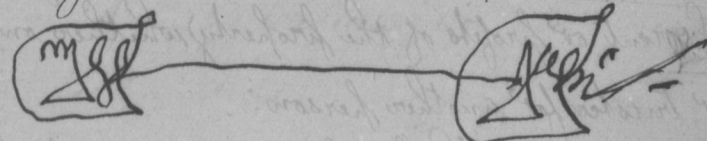
14. It will not I think be disputed that a tenant receives profit from the land in his possession. But the definition does not make the receipt of profit an absolute condition. It is enough if he is entitled to profit, though as a matter of fact he may not actually receive it. On the other hand it is notorious that tenants sublet their holdings and receive rent from under-tenants.

15. I beg also to observe that the Municipal tax is not a charge on the land, as land revenue, to make the landlord exclusively liable to it. The whole tenor of the definition indicates that what is aimed at is not to restrict the term "owner" to him who owns, but to extend it to others subordinate to the landlord. To hold otherwise would, I am afraid, lead to the anomaly that in the Eastern Districts where unlike Malabar the State is the landlord, the Municipal tax would be assessable on Government as the owner of the land.

16. I respectfully beg that Government may be pleased to invalidate the order of the Municipal Council Cannanore herein complained of, and to pass a ruling on the interpretation to be put on the term "owner" as used in the Municipal Act.

I have the honour to be
Sir

Your most obedient servant



Sultan Ali Rajah of Cannanore.

End on C No. 407
Submitted.

From

Sultan Ali Raja of Cannanore
Cannanore

To

The Secretary to Government
Local & Municipal
Department: Madras

Dated 13th

Recd

October 1897

N^o 353.

Encl: —

Municipal tax, — Brings
to notice the refusal of the
Municipal Council, Cannanore
to transfer the, to the names
of tenants as agreed to by
them and requests orders
on the point.

Cannop.
1st Nov. 97 }
Sd/-
Ceccefor

When given for copying
When copied 23/11/97
When examined 23/11/97
When signed 23/11/97

READ 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.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B. —

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