& M.
-12-9-23.

ocal & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 2001/M

DATED 28-11-98

INDEXED.

[Despatch Abstract.]

Petition.

Informing M. V. Hanumanta Rao of Guntur that Govt. cannot interfere in the manner requested by him regarding certain land in the Guntur Muny.

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. (189) Department

CURRENT No. 2714 M

COLLECTOR'S OFFICE
RECEIVED
07 OCT. 1898
MASULIPATAM

TO BE RETURNED
WITH REPLY.

From Mandapati Venkata Hanumanta Rao of Guntur, Kistna District

No 1125/ 4-10-98
~~Order~~

Referred to the Collector of Kistna for remarks.

(By order)
A Edgington
Ag Assistant Secretary

KR
28/7/98

No.

Dated 11-8-98

Received

Registered

Enclosures 4

Spare copies.

To
The Collector of Kistna.

~~For orders~~

[P. T. O]

SUBJECT.

Petition of — appealing against the proceedings of the ~~meeting of the~~ Munl. Council of Guntur ~~held~~ of the 6th July 98 and praying that an appeal may be preferred to the High Court against the decree of the Dt Munsiff of Guntur establishing the right of Nidumukkala Vekata Narasayya of Guntur ~~to a piece of land~~ as against the municipality to a piece of land situated in the Town ~~of Guntur~~, or that the land in question may be resumed to the Govt for public welfare under the Land Resuming Act.

25/8

KR 27/7 19/9

Nos. 2714 M and 3386 M of '98.

G.O.	No.	Department.	Date.
fo	8	ln	6-1-98

his.

Order. No. 2001 Mun Dt 28/11/98

The Government cannot interfere in the manner requested by the Petitioner.

2. He will, however, be informed that the remedy for any objectionable use to which the land in question might be put, lies in moving the Municipal Council to take action under Section 186 of the District Municipalities Act.

V.R
23/11/98

24/11/98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To

The Petitioner, with 4 enclosures returned
" Chairman, M.C., Guntur
through the Collector of Kistna.

1st Lg

desp 30/11/98

---

2 Rs TWO RUPEES

LOCAL & MUNICIPAL DEPT.
INT. No. 2714 M

SECRETARY TO GOVERNMENT
15 - AUG. - 1898
LOCAL & MUNICIPAL DEPARTMENT

His Excellency the Right Honorable Sir Arthur Elibank Havelock, Kt., G.C.M.G., G.C.I.E., Governor in Council, Fort St. George, Madras.

May it please your Excellency.

The humble petition of Mandapati Venkata Hanumanta Rao, inhabitant of Guntur, Kristna District.

Respectfully showeth that the petitioner begs to submit this as an appeal against the proceedings of the Chairman and the Councillors of the Municipality of Guntur town at a meeting held on the 6th July 1898.

A public copy of the proceedings of the Municipal meeting is herewith furnished.

In the almost forlorn hope, that even at this late hour, some attention and consideration may be given to this unfortunate case, I humbly beg to lay a short history of

of ...
before Your Excellency pray ...
may be excused for the intrusion.

The origin of the Case with their respective dates and numbers are as follows.

	Dates	Numbers	Purport of Documents
A.	16-11-'69		Date of application of D. V. Hanumanta Rao on a stamp paper valued 0-$\overset{as}{8}$-0 to C. H. Sharkey Esq. the then Tahsildar of Guntur to grant a piece of land 4 by 16 yards for building a house.
B.	8-12-'69	814	Urzee of Guntur Tahsildar to the Subcollector with a plan and Kyffyet of the village authorities recommending to grant him the above site.
C.	21-12-'69	836	Subcollector's order to Guntur Tahsildar directing to send a Kabela for his signature.
D.	5-1-70.	2	Tahsildar's Urzee to the SubCollector Stating that the Kabela was prepared and sent for signature.
E.	8-1-70		Order of the Subcollector to the Guntur Tahsildar directing him to hand over the Kabela to the applicant Dhimalrao Venkata Hanumantarao as well as the site 4 by 16 yards.
F.	1872		The applicant died without fulfilling the Conditions of the Kabela (viz) to build a house within 6 months under S.C of the Board of Revenue No 37.
G.	5-2-'80		One Seenayya (brother of the original grantee) sold the above site for Rs 16 to one Kamalabayamma (the wife of Juluri Apparao) executing a sale deed wherein he forged that the piece of land is 5 by 16 yards whilst in reality it is 4 by 16 yards and kept the document unregistered to cover up his fault.
H.	7-3-'88		The above said Kamalabayamma sold again the site to the present occupier Nidumukkala Venkata Narasiah for Rs 80 and registered the sale deed.
I.	1890.		The above said N.V. Narasiah applied to the Municipal Chairman of Guntoor for permission to raise the walls on three sides of the site and got Sanction to use the site for latrines and was ever since using it for that purpose. From 1870 in which the kabela was given, till 1890, it was in nobody's possession but was left vacant.
J.	11-2-'90		I purchased a piece of land about 225 square yards lying to the north of the site in question and adjoining to it. Before

I began

G.O.	No.	Department.	Date.

K 4/98. pal fac

ate Number Purport of Documents

I began to raise the walls in my site in January 1893, the said Narasiah encroached upon $\frac{1}{2}$ yard by 16 yards from my site in the north and $\frac{1}{2}$ yd by 16 yards from the Municipal road site in the South and raised his walls.

K. 1-9-'93 When I knew that my neighbour, the Said Narasiah, had encroached upon my land and upon the Municipal road site, I presented a registered petition to the Subcollector for enquiry. He referred it to the Municipal Chairman

Municipal chairman's report. 2-2-'94 511 who enquired into the case and reported to the Subcollector certifying the encroachment

L. 19-2-'94. 1312 The Subcollector again sent an order to the Guntur Tahsildar for enquiry.

M. 17-5-'94. The Tahsildar wrote an Urgee to the Subcollector certifying the fact of the encroachment upon the Municipal land and that it would be very objectionable on Sanitary points to allow Latrines in it, and that it is against the Conditions of the original Kabela granted.

N. Nov. 1894. Then the Collector sent an order to the Municipal Chairman, cancelling

Purport of Documents.

the original Kabela and that the site should be resumed into the Municipa

O. 4-2-'95. Instead of giving effect to the Collect above order, the Municipal Counsellor passed a resolution that the site of the original grantee 4 by 16 yards may rem in Narasiah's possession and as for the p of the encroachment of $\frac{1}{2}$ a yard by 16 ya it makes over to him on a payment of Rs and sent the resolution to the Governmen for their sanction.

P. 2-6-'95 and 19-8-'95 I presented two petitions to the Governmen about the above irregularities which I believe were referred to the Collector for enquiry a he referred them to the Sub Collector.

Q. 27-9-'95. The Subcollector's enquiry on the spot and report recommending the resumption of the site.

R. 14-12-'95 The Collector Submitted the Subcollector's above recommendation to the Government with all the records connected with it.

S. 12-5-'96 J. N. Atkinson Esqr. the then Collector, sent a proceedings to the Sub Collector for the resumption of the site on the following grounds.

G.O.	No.	Department	Date.

(1) "The [illegible] fac[illegible]

on a public road within the Municipal Town of Guntur is being put to a most insanitary use in that a latrine has been built on it. Its use as a privy is an annoyance to persons in the neighbourhood and a source of danger to the public health on account of its nearness to Nimmatabhavi (a well much frequented by the adjacent residents.)

(2) "Further, the conditions of the original grant have been set at nought in as much as, according to the Kabela granted to the original grantee in 1870.

(1) The site has not been built upon by anyone of the successive holders but put to the misuse referred to the para (1) supra, and (2) that it has been alienated.

"Therefore the Collector resolves to order the resumption of the site. The present holder should be ordered to vacate it together with the encroachment of the Municipal site within thirty days from the receipt of the order and the sum of Rs 8- paid to the Municipality for the permission granted to occupy the encroachment

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how &t [illegible]"

And the Collector sent another Copy of the above order to the Municipal Chairman on 12th May '96 for execution.

On 15-7-'96 the Sub Collector H. W. Gilman Esqr., sent an order to the Tahsildar of Guntur that as the occupiers of the site have disobeyed the notice issued to them by the Sub Collector to vacate the site within a month, the Tahsildar of Guntur is directed to remove within 48 hours the [illegible] by 16 yards of the occupation site granted by the Revenue authorities on Kabela.

On 16-7-96 the Tahsildar sent an arzee to the Sub Collector, that the order of the Sub Collector was brought into force and that the site was taken into the possession of the Government.

.T.
G.O. No. 8 of 6-1-96.

The Government sent an order to the Municipal Chairman, disallowing the Municipal Councillors' proposal to sell the part encroached to N.V. Narasiah and that the executive will take necessary steps. Whereupon the Municipal Chairman gave a notice to Narasiah to remove the walls wan

G.O.	No.	Department	Date.

the Municipal [illegible] ac

Narasiah, for disobeying his notice, before the Stationary Magistrate of Guntur, who fined the Defendants Rs 25-

And the procedure afterwards is as follows.

1. N. V. Narasiah filed a civil suit in the District Munsiff's Court against the Chairman and his Councillors to establish his right to the encroached land ½ yard by 16 yards and got an injunction order from the Court to the Municipality.

2. The District Munsiff gave a Judgment on the 5th February 1898 in favour of N.V. Narasiah confirming the suit site of the encroached land in his possession and that the suit costs should be borne by the Municipality.

A printed copy of the Judgement is herewith attached. O.S. No. 584 of 1896

3. In the 1st issue of the Judgment, the District Munsiff says that since the original Kabela is not forth coming the extent of the land given is 5 by 16 yards. The original Kabela is with D. Seenayya the Plaintiff's 1st witness. He changed the figures 4 by 16 yards (i.e) 64 sq. yards into 5 by 16 (i.e) 80 yards. When he has committed forgery and alienated the land by a sale deed

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how c the Court expect one to bring light his own fault? This was the reason why he did not produce the forged original Kabela. When the Kabela is not produced there are other documents more important to prove that the site is 4 by 16 yards only. They are

i. The recommendation Arzee of the Tahsildar no. 814 of 8-12-69. {B referred to, above.}
ii. The Sub Collector's order. no. 836 of 21-12-69.
iii. Tahsildar's Kabela report no. 2 of 5-1-70.
iv. The Sub Collector's order ~~wit~~ dated 8-1-70.
{ii, iii, iv are C, D, E referred to, above.}

These are still to be found in the Records of the Tahsildar and the Sub Collector. I took public copies of these orders and submitted them to the Collector for reference. I applied for them again but I was told that the whole record was sent to the District Collector. The Government pleader whose duty it is to produce them in the court, did not do so simply because the Plaintiff's Soninlaw is his co-pleader and he wants to see that the site is granted to him somehow or other.

The endorsement of the Sub Collector no. 875/9-8-98 is herewith attached.

So, the District Munsiff, without knowing what the truth of the case is, as the papers were not

G.O.	No.	Departmen	Date.

forged [illegible] ac

the unregistered sale deed. Also the burden of proof is on the Municipal Cha

he could have very easily secured the original correspondence from the Tahsildar and the Sub collector and produced it in the court. He failed to do it because his own personal interests are not in any way touched. This is more important (as it is a public cause) than his personal interests. Even after spending about 125 Rs from the Municipal funds (the people's money) he kept quiet without claiming for an appeal to the Zillah Court. So both the Government pleader and the Municipal Chairman kept quiet without producing proper evidence in the Court. The Municipal Chairman, the Government pleader, and the Plaintiff's Son-in-law were for some time teachers in the Mission College and were friends. They did this with the presumption that the matter will not go into the notice of the higher Authorities. They perhaps saw that their own interests are not at stake, but their public functions are different from personal interests.

A prin
Judgm
attac
O.S.

Munsiff judgment, the plaintiff's in 1890 to the Municipality to allow him to raise the walls to the site is a proof that the rep had no adverse possession of the site till then, because therein N. Narasiah states ~~that~~ nothing about the old walls.

5. When such are the facts the District Munsiff in his judgment says that I am the cause of this suit. When N. ~~V.~~ Narasiah sold a part of the site for latrines I was the first sufferer. The Plaintiff N.V. Narasiah encroached upon ½ yard by 16 yards from my site lying north of it. In this also, I am the loser. Then how can it be considered to be an act of malice or revenge if I should complain of my grievances and try to get back my land? To whom should I complain? Surely, to the benign Government that governs us all and doles out peace and justice and comforts with an even hand. The District Munsiff in his judgment no. 584 of 1896 para. 16, states that I can adduce no proofs to certify that the site originally granted is 4 by 16 yards. He neither asked me to produce any such evidence, nor had I any opportunity to produce them in the Court, because

the Municipal
because

answer only the questions then arose the District Munsiff might have forgotten that I am not a party in the suit. It was only in 1893, when I wanted to raise walls to my site next to it, that I came to know of the encroachment of my land, as well as of that of the Municipality. Before that I had neither the necessity, nor the opportunity to know it. But the District Munsiff assumes that I knew it before 1893.

6 On the order passed by J. N. Atkinson Esq., the Coll.r, to resume the site, N. V. Narasiah brought a civil suit against the Collector on 2-9-97. in the District Court of Guntur. Before this case came to trial the very same Government pleader whom the Municipality engaged wrote to the Collector that it is better to compromise and sell the suit site to the Plaintiff N. V. Narasiah, for a small sum of Rs 16 on condition he pays the Government expenses which is a trifling sum of Rs 3-4-0 and got the consent of the Collector. The Government pleader knowing all the previous correspondence and the objections for giving him the site as quoted by H. W. Gilman Esq., wants to

O.S. 491/1897

A printed judgment attached. O.S. No. 5 18

eager for a compromise. He wa

to anyhow lose the case. If the Coll

had seen the previous records as the rep

of J. N. Atkinson Esq., to the Government to resume the site he would not have thus compromised. The Collector, R. Morris Esq., is new to the District and it is the duty of the Revenue Clerk to put the previous record before him. When the District Officers do not take care of their subjects' health to whom are we to complain? There will be no end to our troubles. The site is being used for latrines (as N. V. Narasiah sol a part of it 5 by 5 yards to another Mallavarapu Somayajulu for latrine), and is within three yards from Nimmalabh (a well much frequented for drinking water). This year Cholera broke out in our neighbourhood on account of the people drinking the water of the said well (Nimmalabhavi). The chief essentia for the life of man are air and water and when both of them are corrupted it is impossible for us to live here.

G.O.	No.	Department.	Date.

Local

the Municipal Chairman

considering the unsanitary

it is put and the annoyance caused to us and danger to the public health, on account of its being within 3 yards from a drinking well as J. N. Atkinson Esqr. has recorded, Your Excellency after perusing the above records will kindly refer to the High Court for re-enquiry into the case and direct the Collector to produce all the previous records connected with it as per list given in the beginning, or resume the land into the Government for the welfare and benefit of the Public under the Land Resuming act. Unless the Government takes this into notice we cannot reside in this quarter. We must sell our house and go elsewhere for this strip of land being put into misuse.

I beg to apologise for the length and the earnest tone of this petition.

of kindness me, ever prays.

I beg to remain,

Your Excellency's Most humble Servt

J. N. V. Hanumantah
inhabitant of Guntoor
Krishna Dt.

11th. August 1898
Guntoor.

Local & Munl. (1898) Departmen

CURRENT No. 3386

NOV 98

From

The Collector,

Kistna District.

Order

Dis No. 6066
General(?) Est

Dated 29th October 1898.

Received

Registered

Enclosures 3. + C. N. 2714 M of 98.

Spare copies

SUBJECT.

Reporting on the petition of Mandapati Venkata Hanumanta Rau of Guntur about the site of Nidumukkala Venkatanarayya of Guntur.

1.11.98

W/11 11/11

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Copy of letter from the Collector of Kistna, to the Secretary to the Commissioner of Land Revenue, Madras, Ref. on C. No.1564/gl. of '97, dated 10th December 1897:-

I have the honour to submit herewith an English translation of the plaint filed in O.S. No.491/1897 on the file of the District Munsif's Court, Guntur and A form Memo.

2. The plaintiff seeks to recover 64 square yards of vacant village site in Guntur.

3. On 8th January 1870 4x16=64 square yards of village site was granted by the Sub-Collector to one D.V. HanumantaRau (who is now dead) on the following conditions:-

(1) that he should build a house on it.

(2) that it should revert to Government when it is vacated

(3) that it should not be alienated to others by sale, gift, &c.

4. ~~(4)~~ It does not appear that it was ever built upon.

5. The site has changed hands several times. The last occupants were the plaintiff and Gavaravarapu Timmayamma. The portion occupied by the latter was used as a private latrine, while the rest as a back yard.

6. One M.V. HanumantaRau, who owned a neighbouring site presented petitions to the Chairman, Municipal Council, to the Collector and the Government complaining of encroachment on Government site, which was reported to be 3/4x16 yards.

Municipal Council proposed to se~~l~~ll the site to the plaintiff for Rs.8/- but the Government vetoed the proposal and declared that the site encroached upon did not belong to the Council.vide G.O., No.35 M, Mis., dated 7thJanuary 1896, copy enclosed.

7. On the appeal presented by M.V. HanumantaRau to Government, the Sub-Collector reported that the site encroached upon was put to a very objectionable use and that the grant might be cancelled and the Collector Mr. Atkinson cancelled the grant and ordered the site to be vacated in a month. The latter order not having been obeyed, the Sub-Collector issued a notice to the plaintiff and the other occupant to remove the walls. This notice also being disregarded, the Tahsildar was ordered to have the encroachment removed in 48 hours. The village officers carried out the order. In passing I may observe that the Sub-Collector's order to the Tahsildar to remove the encroachment was not strictly legal. He had only power to penalize the occupation.

8. The plaintiff now says that:-

(1) there is no proof that the site was granted on condition of building a house thereon.

(2) the plaintiff or former occupants did not know it.

(3) Government has no power to interfere with the site which is within the limits of the Municipality.

(4) the site has been in the enjoyment of the original grantee and his successors for more than 12 years.

(5) the Government should not have dispossesed him of the site without giving a

9. As regards the 1st--The Sub-Collector's order to the Tahsildar [illegible] ur granting the site to D.V. Hanumanta Rau and a cop[illegible] the original Title deed kept in the Sub-Collector's o[illegible]ce are now available and will be produced in the Court. They will prove the facts set forth in paragraph 3 supr

10. It was the duty of the plaintiff or his vendor to scrutinize the title of the person who sold the site to him before he purchased it. If he failed to do so, he must bear the consequences.

11. The site has been declared by Government not to have vested in the Municipal Council.

12. The allegation that the site was in the possession of the original grantee and his successors for more than 12 years is literally ~~time.~~ true. The Court will decide whether this will ~~op~~ operate against ~~Governmentd~~ Defendant.

13. The alienation being itself a violation of the terms of the grant, the Government was not bound to give the plaintiff- a trespasser- an opportunity to conform to the terms of the grant.

14. Notice of the intended su~~o~~it was served on the Collector on 2nd February 1897.

15. I propose to put in the enclosed draft ~~written~~ statement.

16.

defence of the suit and approve of the draft answer.

17. The suit stands posted to 14th January 1898.

(Signed) R. Morris

Ag. Collector.

True Copy

N. Srinivasan

for Collr.

1-11-98

Compd

M

31-10-98

31-10-98

3

3386/M/98

(5) the Government should not have dispossessed him of the site without

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Proceedings of the Board of Revenue.

(Land Revenue)

Dated 16th December 1897, No.4792 Mis.

Read letter from the Collector of Kistna, dated 10th December 1897, Ref. on C. No.1564/genl. of 1897.

RESOLUTION.

The defence of the suit is sanctioned and the draft written statement approved.

(True Extract)

(Signed) R. C. C. Carr,

Secretary.

(True Copy)

N. Srinivasan

for Collector. 1-11-98

Compd

M

31-10-98

31-10-98

2
3386/m/98

The site in dispute was granted in 1870 to D. V. Hanumanta Rau on two specified conditions, viz, that it should be enclosed and a house built thereon (2) and that the grantee has not right to alienate it privately by sale, gift, &c.

2. The conditions having been violated, the grant has been cancelled.

3. The use to which the site was put having been objectionable and the plaintiff having failed to remove the walls within a given time, they were removed by Government and the materials left on the spot.

4. The site does not form part of the actual road way and therefore does not vest in the Municipal Council under Section 23 of the District Municiplaities Act.

5. The defendant prays that the suit may be dismissed with costs.

(True copy)

for Collector.

Compd
31-10-98
31-10-98.

rtment. Date.

e of the suit and approv swer,

1
3386/M/98

COLLECTOR & MAG
MASULIPATAM,
KISTNA DISTRICT.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 3386 M

29th October 1898.

FROM,

R. Morris Esquire,

Acting COLLECTOR, KISTNA DISTRICT.

To,

THE Secretary ~~to~~ Government,

Local and Municipal Department,

Fort St. George,

SIR,

Adverting to Mr. Edgington's Endorsement No.1125, dated 4th October 1898, on the petition of Mandapati Venkata Hanumantha Rau of Guntur to the Government, I have the honour to submit herewith a copy of my letter Ref. on C. No.1564/gl of '97, dated 10th December 1897, to the Board requesting permission to defend O. S. No.491 of 1897 on the file of the District Munsif's Court, Guntur, filed by Nidamukkala Venkata Narasayya and of Board's Proceedings No.4792, dated 16th December 1897, sanctioning the defence of the suit. The written statement approved by the Board was filed in the Court . Subsequent to this, the Plaintiff offered to pay up the value of the suit-site if it was granted to him again and the Sub-Collector recommended the acceptance of the compromise on the condition of the Plaintiff paying the costs incurred by Government and the vlaue of the suit site at 4 annas per square

+ Returned herewith.

+ copy enclosed.

Date.

appear objectionable, I accepted the recommendation of the Sub-Collector and the suit was compromised.

2. The subject matter of the suit is a piece of village site available for building purposes and not a street. The complaint of the petitioner seems to be not against the grant of the site but against the objectionable use to which it might be put by the grantee. The remedy for any possible ~~nuisance~~ misuse lies in moving the Municipal Council to stop any such nuisance under Section 186 of the Municipal Act.

I have the honor to be,

Sir,

Your most obedient Servant,

for Collector.

[illegible]

Comps M 29-10-98

29.10.98

189

29/4

, DATED

No.

ERNMENT .. .. .. A A A A A A A

ERNMENT.

TH DITTO.

FILED UP, BEING MEANT FOR DESPATCH

ORIGINAL.

N.B.—

A = Copy in full.

B = Not to be copied.

P = Copy abstract only.

Q = Copy heading only.