29-10-08 ✓

13·8·35 B III

[L. & M. 5,000—5-1-99.]

Local & Munl. (1899) Department.

MISCELLANEOUS.

G.O., No. 530 M

DATED 24-4-99

INDEXED. DESPATCHED

[Despatch Abstract.]

Lands — Recording the correspondence regarding the acquisition of — for the Madras municipality

BACK PAPERS.

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

FURTHER PAPERS.

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

Cur No 1047 M -

Cur 1047 M.

Misc
No. 530 M Inis & 24/4/99 order

48 (2) of the Land Acquisition Act.

V.R
27/3/99

In reply to the reference made to the Municipal Commissioners, the Presidt. states that the Standing Committee have on a reconsideration of the matter determined to acquire Survey numbers 3926 & 3927 also and the Collector requests that in the Circumstances stated by the President, no action need be taken on his previous letter. It is therefore Submitted that the whole Correspondence may now be "Recorded".

V.R
15/4/99

Yr. W
21 IV 99

To
The Collector of Madras
with Enclosures returned
" Presidt Municipal Comm^rs, Madras.
Dispd 26/4/99

189 .

Again G.O., No. , dated

Current No. of 189 , dated

Current No. 839 m of 1899, dated 15th March 99 from the Collector of Madras.

+ Cnos 1047 & 1048 m/99

SUBJECT.

Acquisition of lands for the Madras Municipality

FOR ORDERS.

K.M. A

In March 1898, the President of the Municipal Commission, Madras, requested the Collector of Madras to acquire under the provisions of the Land Requisition Act, certain plots of land in Peters road Royapettah, required for the extension of the Royapettah hospital buildings. The lands required were delineated yellow in a plan which accompanied the President's letter, and bore Survey Nos. 3926, 3927 and 3928, and the President requested that they should be taken up together with the buildings standing thereon, but omitting the portion marked A, measuring 30 by 25 in S. No. 3928, which was used as a burial ground. Accordingly the preliminaries prescribed by the Land Requisition Act were gone through by

the Deputy Collector and the usual
of the probable cost of acquisition
~~amount~~ Statement was sent by him to B
the President, who returned it Counter-
-signed adding a footnote to the
following effect:—

"Only the plot occupied by the
burial ground to be acquired."

The President also forwarded a Copy C
of the Proceedings of the Standing Committee
which stated "burial ground to be acquired."

2. The Deputy Collector then
pointed out, that while according to D
the President's letter of the 23rd March
the portion of land in S.No. 3928 used
as a burial ground, was asked to be
excluded from the land to be acquired
~~it~~ in the extract from the Standing
Committee's proceedings and in the note
of the probable cost of acquisition
to the ~~Annexed~~ Statement, it was stated
that it was the burial ground that
was to be acquired, and as he consi-
-dered that there was some mistake
about the matter, he requested the
President to make the necessary
Correction in the extract of the Standing
Committee's proceedings and in the ~~Annexed~~
Statement above referred to.

3. The President, however,
stated in reply, that the plot marked A

E

Vide G.O. 1679 M 3-10-98 F

in S.No. 3925 should be excluded
and that the remaining portion of
the burial ground should be acquired,
but he did not say anything about S.No.
3926 and 3927. He however forwarded
a fresh plan in which all the three
Survey numbers above referred to were
marked yellow. Thereupon a notifi-
-cation for the acquisition of these
three Survey numbers, excluding the
plot marked A, was accordingly
published in the Fort Saint George
Gazette, notices under Sections 9 and 10
of the ~~Act~~ Land Acquisition Act were
issued to the owners of the lands by the
Dy Collector, and Awards were made
and Communicated to them and to the municipality on the
5th December 1898 under Sec. 12 (2) of
the Act.

G

4. On the 7th December 1898, the
Municipal Engineer wrote to the Deputy
Collector stating that the Standing
Committee resolved to acquire only
Survey No. 3928, omitting the portion
marked A in the plan forwarded to him
and on the latter enquiring whether
H
further proceedings with regard to
the acquisition of
S. Nos. 3926 and 3927 should be
stopped, the President expressed

the his regret that the ~~pass~~ resolution
of the Standing Committee already
forwarded to the Deputy Collector
was not more explicit and stated
that what was intended was that the
acquisition of S No 3926 and 3927 (that only)
should be stopped and S No 3928 ex-
clusive of the plot marked A, was
to be taken up. He therefore re-
quested that action might be taken
to stop further proceedings as regards
S No 3926 and 3927.

5. In January 1899 however,
the mortgagee of the property in
question, wrote to the Deputy Collec-
tor, saying that he (mortgagee) would
be put to serious inconvenience and
loss if further proceedings were stopped
and pressed for the payment of the
full amount of Compensation
awarded, while the owner of the
lands gave notice of intention to
sue Govt for the specific performance
of the Contract or for damages for
its breach by government. The Collector
who was of opinion that all this
difficulty was caused by the ambiguous
manner in which the municipal
requisitions were made, pointed out

to the President that as possession
of the land had not then been taken
the Govt could under Sec 48 of the
Land Acquisition Act, withdraw from
the acquisition; that the owner of
the land would still have to be paid
Compensation for damages suffered
and Costs incurred in the proceedings
and that the expenses would have to
be borne by the Municipality and
he desired to be informed, before ad-
dressing the Government on the subject,
whether the President preferred to Complete
the acquisition or pay the damages.

6. In reply the President stated
that his letter of the 25th August
1898, made it clear that only Survey
No 3928, exclusive of the plot marked
A was to be acquired, that the ac-
quisition of S. No 3926 and 3927
had been abandoned by the ~~the~~
footnote to the Award Statement and
by the resolution of the Standing Com-
mittee, that whatever ambiguity
there might have been as to S.No 3926
and the burial ground, plot A, there
could have been none regarding
S No 3926 and 3927 and that if
the

...e award was not Communicated ...
...s the parties until after the receipt ...
...f the award Statement and the letter ...
...of the 25th August 1898, it was not ...
...possible that any arrangements ...
...made by the parties before the award ...
...ould entitle them to any Compen...
...sation. He also enquired when the ...
...ward was Communicated to the parties. ...
...e being informed that the award N
...as made on the 3rd December 1898, ...
...nd Communicated on the 5th idem ...
...e President in his letter to the Collector ...
...dated 1st March 1899, States that in O
...the footnote to the award Statement ...
...dated 15th August 98, it was distinctly ...
...stated that only 1/4th plot occupied by the ...
...burial ground was to be acquired, that ...
...the Statement showed the burial ground ...
...to be in S. No. 3928, that Surely if ...
...only S. No. 3928 was to be acquired ...
...it was unnecessary to say, that S. Nos ...
3926 and 3927 were not to be acquired, ...
...and that whatever ambiguity there ...
...might have been before the 15th August ...
98, it was fully cleared up on that date. ...
...he President therefore declined to ...
...accept the responsibility for any ...
...unnecessary expenditure and requested ...

7

that the matter must be referred ...
...Government.

7. The Collector now points ...
out that the Municipality did not ...
distinctly state that it had abandoned ...
the idea of acquiring S. Nos 3926 and ...
3927; that as the notification ...
regarding the acquisition was ...
published on the 4th October 1898 ...
and the award was made on ...
3rd December or two months after ...
the Municipality had ample time ...
to Correct the mistake if it ...
found that the notification was ...
not in accordance with the requisite ...
and that the Municipality failed ...
to do this, but brought about it out ...
on the 7th December or two days after ...
the award was Communicated to ...
the parties Concerned. He however ...
possession of the land has not yet ...
been taken, the Collector States that ...
the Government Can withdraw from ...
the acquisition under Sec. 48 of the ...
Land Acquisition Act, but that as ...
the owner of the land will still ...
have to be paid Compensation for ...
damages Suffered and Costs incurred ...
any damages and Costs to which the ...
parties

parties may be legally entitled should be recovered from the Municipality rather than from Government. He also requests the issue of a notification Cancelling ~~the notification~~ one already published for acquiring S. Nos 3926 and 3927.

8. As requested by the Collector, a notification withdrawing from the acquisition of S Nos 3926 and 3927 may be issued under Sec. 48 of the Land Acquisition Act. As regards the President's intention that the municipality is not liable to the damages claimed by the owner and the mortgagee of these lands, it is observed that the Collector has made out that the mistake was caused by the ~~ambiguous~~ Careless and indistinct manner in which the requisitions were made by the Municipal authorities. Moreover, although the municipality had an opportunity of Correcting the mistake when the draft declaration was published, it failed to do so, until after the award was made and Communicated to the parties. In these Circumstances, it is clear that the municipality is liable to the damages which may be decided upon by the Collector under Sections 48(2)

see below
MA.

yes. and make sure that S. Nos. 3926 + 3927 are not required.
MA
28.3.99.

For 1, 8 pp first let us hear what it has to say on a formal ref:
HT
25 3 99

Local & Municipal

~~Public~~ (1899) Department.

CONFIDENTIAL.

CURRENT No. 839m

SECRETARIAT GOVERNMENT
17 MAR 1899
LOCAL & MUNICIPAL DEPARTMENT

TO BE RETURNED WITH REPLY.

From The Collector of Madras

Ref No. 70

No. 3847 5-4-99
~~Order~~

Dated 15 March 1899

Received

Registered

Enclosures 22

Spare copies

SUBJECT.

Requesting to publish an Erratum in the Fort St George Gazette cancelling a portion of the Land Acquisition Notification in respect of the Extension of the Royapet Hospital and directing the Municipality to defray the incidental damages

Referred to the Municipal Commissioners of Madras for very early remarks.

2. It should be clearly stated — whether Survey Nos 3926 and 3927 are not required at present.

(By order)

A Elgington
Ag Assistant Secretary.

V.R
5/4/99

SC
15
11-4

The President, Municipal Commission, Madras.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

24
1048

Ref No. 70 CONFIDENTIAL. MADRAS COLLECTOR'S OFFICE, 15 March 1899.

From Herbert Bradley Esqr
COLLECTOR OF MADRAS.

LOCAL & MUNICIPAL DEPT.
RECEIVED 839m

To

Enclosures. 22

The SECRETARY TO GOVERNMENT,
Local & municipal DEPARTMENT,
MADRAS.

SIR,

Adverting to the correspondence ending with the G. O. No. 167, Mr. Mis dated 3rd October 1898 and the notification published at page 284 of Part I A of the Fort St George Gazette dated the 4th idem. regarding the acquisition of lands comprised in S. Nos 3926, & 3927 and part of S. No 3928 of the Mailapur Division, required for the extension of the Royapet Hospital buildings, I have the honor to state that notices under Sections 9 & 10 were issued to the owners of the lands by the Deputy Collector, and awards made and communicated to them and the municipality on the 5th December 1898 under Section 12(2) of the Act

act I of 1894. On the 7th idem, the
municipal Engineer wrote to the
Deputy Collector that the Standing
Committee had resolved to acquire
only S. No. 3928, omitting the portion marked
A in the plan previously sent by the
Municipality. The Deputy Collector then
enquired whether for the proceedings
about the acquisition of S. Nos 3926 and
3927 might be stopped, and the Municipal
President answered the query in the
affirmative

2. Subsequently, T. Rajagopal Row, the mortgagee
of the property in question wrote to the
Deputy Collector that the necessary agreement
as regards the acquisition and the claims of
the owner and the mortgagee having already
been made prior to the date of the Deputy
Collector's award, he would be put to
serious inconvenience and loss if further
proceedings in the matter were to be
stopped, and he therefore pressed for the
payment of the full amount of compensation
awarded. Mr. S. Biligiri Iyengar appeared,
Attorney-at-Law on behalf of the owner, also
sent in a notice intimating his intention

to

to file a suit against Government either
for enforcing specific performance
of the contract or for damages for its
breach by Government in respect of
the acquisition of S. Nos 3926 and 3927.
All this was brought about by the
ambiguous manner in which the
municipal requisitions for the lands
were made, as will be seen below: —

3. In his original application D. W. No.
1358 dated 23rd March 1898, the President
distinctly asked for the acquisition of
S. Nos 3926 & 3927 and also S. No. 3928
exclusive of the portion of it occupied
by a Burial ground and marked A
on the plan therewith sent. To obviate
any misapprehension, the plots,
which the President wanted to be acquired,
were all coloured yellow in the plan.
Accordingly, the prescribed preliminaries
under the act were gone through by the
Deputy Collector and the usual Statement
of the probable cost of acquisition was
prepared & sent to the President, who
returned it Countersigned, adding a
footnote "only the plot occupied by
the

the Burial Ground to be acquired" and forwarding with it an extract from the Proceedings of the Standing Committee, which after reading the above Statement of valuation amounting to Rs 7039-10-2 ordered "Burial Ground to be acquired." As this was the portion, which was not to be acquired according to the original requisition and plan, it was clear that a mistake had been made and a reference was therefore made by the Dy Collector to the President, who replied that the portion marked A in S. No 3928 should be excluded as the remaining portion of the Burial Ground acquired. Nothing distinct was stated in this letter about the acquisition of S. Nos 3926 & 3927. On the other hand, a fresh plan was forwarded with it, in which all the three Survey Nos 3926, 3927 & 3928 were colored yellow, as was done in the original plan indicating thereby that all these three numbers should be acquired, exclusive of course, of plot A which was specially mentioned in the covering letter. Accordingly steps

steps were taken to acquire all the three numbers minus plot A and the prescribed draft notification and the connected correspondence and plans were submitted to Government in the usual course. So far the Municipality had, had not distinctly stated that it had abandoned the idea of acquiring S. Nos 3926 & 3927 The Government sanctioned the acquisition in the G. O quoted at the beginning of para 1 supra and the notification was published, as stated above in the Fort St George Gazette of the 4th October last. The award was made only on the 3d December 1898 or two months after, so that the Municipality had ample time to correct the mistake, if it found that the notification was not in accordance with the requisition This however, it did not do, but wrote about it only on the 7th Idem or two days after the award had been communicated to the parties Concerned.

4. All this was pointed out to the Municipal President, but in the correspondence ending with his letter No 1064 of the 7th Instant, he says that in the footnote to the Valuation Statement "or the Valuation Statement to the Assessor distinctly stated" only if it was "occupied by the Burial Ground the plot required," that the Statement to be a Burial Ground to be in shows that that surely, if 3928 was to S. No 3928, it was unnecessary he acquired it 3926 and 3927," that to say "and" unity there may have been whatever ambiguity there may have been excluded about the [illegible] raising [illegible] the Valuation for the Terrain. The Statement of the Dy Collector seems him to have been fully cleared p after its return and that under circumstances he cannot accept responsibility for any unnecessary expenditure, but that the matter had better be disposed of by Government

From the foregoing circumstances will be observed that the Municipal quisitions were not as clear as as desirable, and the Second plan sent by the municipality and inaction for two months after the publication of the notification aggravated the ambiguity; so that any damages to which the parties may be legally entitled appear to me to be recoverable from it rather than from Government. Possession of the land has, however, not been taken, and as matters stand at present, the Government can, under Section 48 of the Land Acquisition Act, withdraw from the acquisition but the owner of the land will still have to be paid Compensation for damages suffered and costs incurred so far, and these expenses should, I think, be borne by the municipality. I therefore solicit the favor of early orders on the subject. I further request that an erratum may be published in the Fort St George Gazette meeting the Sanction accorded for acquiring S. Nos 3926 & 3927 6. The connected papers are submitted for reference and return.

I have the honor to be,
Sir
Your most obedient Servant
Herbert Bradley
Collector

Local & Munl. (1899) Department.

CURRENT No. 1047M

REGISTRY BRANCH
16 APR. 1899
LOCAL MUNL AML & LEG DEPT

From The Collector of Madras

Order

Reg No. 489 F

Dated 15 April 1899

Received 17" ——

Registered "

Enclosures nil

Spare copies "

SUBJECT.

Requesting that under the circumstances stated therein no action may be taken on his letter regarding the acquisition of certain land at Royapettah Veeranam

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 1047 M

Municipality of Madras
General Department
Madras 11th April 1899

G No 31

From

The Honorable Lieut-Col. Sir George Moore, Kt, CS.I.
President, Municipal Commissioner

To

The Collector of Madras.

Sir

In Continuation of my letter P.W. No. 1064 dated 1st March 1899, I have the honor to inform you that the Standing Committee at their meeting held on 11th April 1899 on reconsideration have resolved to acquire Survey Nos. 3926 and 3927 and this removes the difficulty that arose in the matter.

Whoever is to blame may still remain a question.

I have the honor to be
Sir
Your most obedient Servant
(Signed) G. M. Moore Lt-Col
President, Municipal Commissioner

(True Copy)

Ref No 4689/8L

Submitted to Government in the Local and Municipal department in Continuation of this office letter Reference on No. 70 dated 9th March 1899, with the request that

Ref No 3848 & 5.4.99
in G No 1248 & 11.4.99

that under the circumstances stated by the President no action may be taken on that letter. It is requested that the original papers forwarded may be returned at a very early date.

Madras
Collector's Office
15th April 1899

Hartley Ruddle
Ag. Collector.

Local & Muni. (1899) Department.

CURRENT No.

16 APR 1899
LOCAL MUNI SOL & LIT SECY

From

THE PRESIDENT,
Municipal Commission,
Madras.

Order

G. No. 30.

Dated 14 April 1899

Received

Registered

Enclosures 24

Spare copies

SUBJECT.

Stating with reference to Endorsement No: 384 dt: 5 April 1899 on cursus No: 839 M. L. & M. Dept. that the Standing Committee have determined to acquire the two houses. Survey Nos: 3926 & 3927. required for extension of Royapetah Hospital buildings.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Genl. Dept.

MUNICIPALITY OF MADRAS,

General Department,

G. No. 30

Madras, 14th April 1899.

From

THE HON'BLE LIEUT.-COL. SIR GEORGE MOORE, KT., C. I. E.,

President, Municipal Commission.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 1048 M

To

The Secretary to Government,

Local and Municipal Department,

Fort St.George.

SIR,

Enclosure
22

With reference to your endorsement No.384 dated 5th April 1899 on Current No.839 M. (herewith returned) I have the honour to state that on a reconsideration of the matter the Standing Committee have determined to acquire the two houses Survey Nos.3926 & 3927.

I cannot admit however that the difficulty that arose was due to the Municipality.

I have the honour to be,

Sir,

Your most obedient servant,

Geo. Moore Lt.-Col.

President, Munl.Commn.

When given for copying ____
When copied ____ } 189
When examined ____
When signed 25/11

READ AGAIN G.O., No. , DATED
189 .

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.—
A = Copy in full.
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P = Copy abstract only.
Q = Copy heading only.