

20-11-1881
J. W. (1881 Dept.)

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

24th December 1880, No. 2964.

Houses for Officers.

Read the following papers:—

No. 92. *From J. W. BEST, Esq., District Judge of South Canara, to the Chief Secretary to Government, dated Mangalore, 16th September 1880.*

In G.O., dated 10th July 1874, No. 1266, Judicial Department, it was directed that steps should be taken for the acquisition by Government of the proprietorship of all houses generally occupied by Judicial and Revenue Covenanted Officers.

2. With a view to the acquisition of the house in which I now live, on receipt of the above Government Proceedings, Mr. Logan, the then Judge of this district, submitted to Government a return in the prescribed form with the remark that the best house in the place theretofore occupied by the Collector was then being occupied by the landlord himself, a native Roman Catholic, and that *the Judge may in like manner be at any moment turned out.*

3. Nothing further appears to have been done in the matter, and I was in fact ignorant of the above correspondence till now, when it has been brought to my notice in consequence of the Jesuits, who have recently come into this district, having obtained from the owner (a native Roman Catholic) a document by which this house and its site are to be assigned to these Priests as a free gift for the purpose of erecting a College.

4. On my questioning the owner as to the truth of the alleged transfer, he has informed me that he only executed the document after much pressure and annoyance, such as being publicly preached against in church, &c., and without being allowed even time for consideration before signing the document. It is therefore possible that the old man or his sons, who are strongly opposed to the gift, may sue with success to have it set aside. But be this as it may, I think these recent proceedings have clearly shown the necessity for steps being taken, without further delay, for the acquisition of the property by Government for the residence of the Judges of this district for the time being.

5. It appears that the property has been given to these Jesuits on the distinct understanding that so long as I remain in this district my possession of the house as tenant is not to be disturbed, and a letter to this effect from the head of the Jesuits has been given to me by the landlord. Though, therefore, as far as I am personally concerned, any such step as that now recommended by me may be unnecessary, I do not think that I should be justified in selfishly disregarding the convenience of my successors in office, and there can be no doubt that they will be put to very great inconvenience unless this house is secured for them.

6. The position of this house is such that it would be the very greatest mistake not to secure it for the Judge's residence. It is situated on the spur of a hill; the only other buildings on which are the three local Courts,* all of which are Government property. These Courts are situated at the extremity of the ridge, and their site is separated from the rest of the ridge by the compound of this house. Thus it will be seen that the Courts and this house are contiguous, and, in fact, the approach to the Courts from the houses in which the Europeans reside is *through this compound alone.*

*District Judge's, Subordinate Judge's, and District Munsif's.

7. The house was originally built by a Judge, Mr. Vaughan, and was the private property of successive Judges till 1871, when Mr. Walhouse, who succeeded Mr. J. G. Thompson, being unwilling to purchase it, the latter gentleman sold it to the present owner. But ever since then it has always been occupied by the Judges of this district up to the present time. Thus the Judges have a kind of prescriptive right to the occupancy of this house.

8. The price given by the present owner to Mr. Thompson for the house and all the ground attached to it was Rs. 12,000. Its real present market-value may be somewhat higher, say Rs. 15,000. Some ten or twelve acres of garden land, situated on the south-eastern slope of the hill, are not required for the purpose of the Judge's residence; all that is required for this purpose is the plateau on the top of the hill and the northern portion of the eastern slope in which are situated the stables and the well from which we obtain our supply of water.

9. A fair proportionate price for the above will be Rs. 10,000, and as the rent I pay is Rs. 125 per mensem, which is at the rate of 15 per cent. per annum on the above sum, it will be seen that the investment will be a profitable one for the Government.

10. As it is possible that Government may hesitate to take action as now suggested by me under the impression that they would thereby be obstructing a good work, I beg to state that even native Roman Catholics have expressed it as their opinion that this site, although it may be suitable as a healthy residence for the *Priests themselves*, is not the most suitable one for the pupils who are to attend the future college; and this is no doubt the fact, for such pupils will have to come far and climb a hill.

11. The question then is, is the mere convenience of these Priests to be allowed to over-ride that not only of the district officials, but also of the public? I submit that the district officials alone are entitled to at least as much consideration as these newly imported Priests. But the acquisition of this property by Government is also necessary on public grounds, for residing contiguous to, and on the same level with, the Court, the Judge is able to attend to his duties daily even during the long rainy season of this place; whereas, if he lived elsewhere, *unless permitted by the occupants of this property to drive daily through their compound*, there would be nothing for it but to make use of a steep road which is liable to landslips and is frequently closed for weeks together to all except travellers on foot. Under these circumstances, I imagine, any European Judge would be justified in absenting himself from Court. He could hardly be expected to walk up the hill at 11 A.M. as natives often have to do.

12. In conclusion, I beg to add that these Jesuits are not entitled to any considerations of generosity as being poor and uninfluential men, struggling against difficulties in a good cause. During the period of about twenty months that they have been here they have been actively acquiring property in every direction. They have actually imposed taxes on all the members of their community, and organized committees for the collection of the same, and their influence is such that none dare refuse to pay these taxes (amounting, I am told, to two months' income from each person); and if further proof of their all-powerful influence were wanting it is found in the fact of their having succeeded in obtaining the deed of gift from the owner of this house (a man well known to be most reluctant to part with even a single rupee), notwithstanding his long resistance and the still continued opposition of his family.

13. Under these circumstances, I have the honor to urge upon Government the necessity of steps being taken at once for the acquisition of this property for the residence of the District Judge, proceedings being taken, if necessary, under Act X of 1870.

14. The present Senior Member of Council has served in this district, and may possibly remember this house and its position and that of the local Courts. Other officials who have more recently served in this district and may be easily consulted on the subject are Messrs. Sturrock, Edward Gibson, and Gabriel Stokes.

No. 93. *From J. W. BEST, Esq., District Judge of South Canara, to the Chief Secretary to Government, dated Mangalore, 3rd December 1880, No. 21.*

In reply to your official memorandum, dated 6th October 1880, No. 1952, Judicial Department, I have the honor to enclose a plan of the locality of the Courts and the approaches thereto, and to state that the road leading to the Courts through the compound of the house occupied by me is strictly private, so much so that it is only with permission obtained from me that the Superintendent of Police or others having to attend the Court make use of this way. The road has always been repaired at the expense of the Judge for the time being. Such being the case, no right of way through the compound could be claimed.

2. Since last addressing you on the subject, I have ascertained that the land on which this house is built was granted for the purpose to the then Judge, Mr. Vaughan, in 1832, on a lease for a term (ninety-nine years I am told) on certain conditions, which there is reason to believe have been neglected, so that the lease may be voidable at the option of Government, of course on compensation being paid to the present holder of the land for the buildings and other improvements existing thereon.

3. It is only subsequent to this grant to Mr. Vaughan that the Courts were erected *at the extremity of the hill* where they now stand, manifestly under the impression that this house would always be the residence of the Judge.

4. If the house and its site are allowed to pass into the possession of strangers, though no right of way can be claimed, it will, I imagine, be found necessary to have a public way opened to the Courts from this side, the land for such limited purpose, at all events, being acquired under Act X of 1870. Rather than that the property should be thus cut up (the scale on which the plan is made is, it is to be observed, only 100 feet to the inch) it would, I venture again to submit, be much better that the house and site should be acquired as suggested in my former letter; especially, as in case of this house being lost to my successors, another would have to be built for them, there being in the whole of Mangalore only *two* good houses, viz., that occupied by the Collector, and this one which is known as the Judge's residence.

5. Not only are *good* houses so few here, but it not unfrequently happens that new comers are unable to get even an inferior house to live in, the total number of houses of all kinds fit for the residence of Europeans being less than the number of persons requiring houses, and I need not dilate upon the awkward position in which a Judge or Collector (for it is quite conceivable that on a change of Collectors the Judge on the spot may step into the present Collector's house, and then it will be the new Collector that will be houseless), will find himself when his only choice lies between the Travellers' bungalow and the hospitality of one of the fortunate householders; and it may as well be noticed here that such competition between the Collector and Judge for the only good house in the place may lead to misunderstandings likely to be destructive to the amicable relations that should exist between the principal revenue and Judicial officers of a district.

6. That this apprehension of inconveniences likely to be experienced is not imaginary but well-founded will be apparent from the fact that Colonel Marsack (lately commanding the regiment at this station) on his arrival here could get no house, but had to stay with a friend for some time, and eventually to content himself with a bungalow with very limited accommodation (originally built for the residence of a native), which would have been altogether insufficient for a family in which there was even one child.

7. Such being the circumstances of this station, I trust that in case it should be decided that no steps be taken for acquiring this house, orders may be issued at an early date for the erection of another house for the residence of the Judge.

8. The only site available for the purpose that I can hear of is at a distance of between three and four miles from the Courts; whereas the Jesuits are already in possession of another site more suitable than this for the purpose of their contemplated college; and in fact it was by holding out to the owner of this house that the

college may be built on *that* site—in *which* case *his* gift of *this* site is to be considered to be cancelled—that he was induced to execute the deed of gift!

9. The donor declined to register the deed of gift till the donees gave him an agreement in writing that the rent payable by me as tenant of this house shall be continued to be paid to himself as hitherto; since then he has given me notice in writing that I am to continue to pay the rent to himself; it will be thus seen that the gift is still far from complete, and may, in fact, never be completed; but nevertheless, in order to avoid all risk of the house being lost to my successors, I would strongly advise measures being taken at once for its acquisition by Government.

P.S.—I may add that, living as I do so near the Court, it occasionally happens that I attend in the morning before breakfast to dispose of any emergent work which cannot be conveniently taken up in the regular Court hours in consequence of its being likely to interfere with some other work with which it is thought advisable to proceed without interruption. Of course, if the Judge is driven to live at a distance of some miles from his Court, these early morning sittings will be quite out of the question, and the result will be inconvenience to parties and witnesses who having come into Mangalore from a distance will have to return without having accomplished their business and to come in again for the purpose.

P.S. No. 2.—I have to add that last night I was requested by the District Engineer to allow the material for the repairs of the Munsif's Court to be carted by the road leading through this compound, as otherwise a revised estimate at higher rates would have to be prepared. Of course I have given the requisite sanction, and only mention the circumstance as an instance of the inconvenience that might be caused unless the site of this house is secured to the Government.

10th December 1880.

No. 94.

ORDER THEREON, 24th December 1880, No. 2964.

The Judge is apparently under a misapprehension in supposing that the Government recognize it as an obligation on them to provide residences for Judges; but, under the circumstances stated, the Government authorize him to negotiate for the purchase of the property at about the price stated, after which the Judge and all future Judges will be required to occupy it paying the rent fixed by Government.

(True Extract.)

R. DAVIDSON,
Chief Secretary.

To the District Judge of South Canara.
" Public Works Department.

Exd. T. O'Connor.

P.W. Cr. 26.

Govt. of 11801 ~~Madras~~

JUDICIAL.

To
THE DISTRICT JUDGE,
Ec., Ac., South Canara, Ec.

Dated December, 24th.

Issued

Recd.

Encl.

G.O., 24th December 1880, No. 2964.

DECEMBER.
Nos. 92-94.

Houses for Officers.—The purchase of the house occupied by the present District Judge at Mangalore as a residence for future Judges, sanctioned with the remark that it is not obligatory on Government to provide residences for Judges.

No 63w. d/11 January/81
Communicated to the
Supp Registrar 2nd
Circle
Smt H. J. P.

No 2nd Circle
Recd P.W. Acco

74.75

Colli. of 118801 ~~judicial~~

JUDICIAL.

To

THE DISTRICT JUDGE,
South Canara,
&c., &c., &c.

Dated December, 24th.

Leased

Reel.

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2^d Circle.

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Sd. 2^d Circle
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(True Extract.)

J. Davidson

Chief Secretary.

To the District Judge of South Canara.
" Public Works Department.

Exd. T. O'Connor.

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20-12-09

P. W. (1881) Dept.

C. No. 26.

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Cost. of 118801

JUDICIAL.

To

THE DISTRICT JUDGE,

&c.,

&c.,

South Canara,

&c.,

Dated December, 24th.

Issued

Recd.

G.O., 24th December 1880, No. 2364.

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B No 6364/11 Jan 1881

Communicated
to the Supg. Engineer
Second Circle.

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S.E. 2nd Circle ✓
Per. P. W. Dept. ✓

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