

No 7408 12-1-84

Mh. 2603 ✓

Govt. of (1884) Madras.
FINANCIAL.

No 827 W d/ Mch 27. 1884

Communicated
to the S.E.V. Circle.



S.S.C.

cu
21-3-84

22-3-84

Issued

Recd. 22/3/84

Encl.

G.O., 18th March 1884, No. 588.

No 827 W d/ Mch 27. 1884

MARCH.

Local Fund—Road.

Directing that certain cart road in the Mount cantonment be made over to the Cantonment committee and be kept in repair by the Public Works department in future.

2 Copies sent to tally

with order
with order

S.E.V. Circle

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Ex. P.W. Accts

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GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

READ—the following papers:—

Proceedings of the Board of Revenue, dated 27th November 1883, No. 3602.

Read—the following letter from J. F. PRICE, Esq., President of the Local Fund board, Chingleput district, to the Secretary to the Board of Revenue, dated Saidápet, 12th November 1883, No. 87:—

I have the honor to submit the following case for the orders of the Board of Revenue.

2. The link road for carts which passes through the Bengali bazaar in the Mount cantonment is one which was specially constructed from Civil funds for the purpose of preventing the ordinary cart traffic of the great southern trunk road passing through the main portion of the cantonment.

3. Along this road there grow sundry tamarind trees which form the avenue and which were also planted, it would appear, from the same funds as those spent for the construction of the road, which is the property of, and maintained by, the Local Fund board of this circle.

4. These trees with others on the same road, but outside cantonment limits, were rented out some two years ago by the Revenue officers, who then had charge of them. Subsequent to this, and without my knowledge, the Secretary to the Cantonment committee leased the trees inside the cantonment boundary to some other persons for Rs. 10 per annum. This first came to notice owing to our lessees asking that they might either enjoy the trees or be granted a remission of the Rs. 10.

5. Upon my asking the Cantonment Magistrate for explanation he laid the matter before the committee, and they claimed the right to the trees under clause 4, section 10, chapter II of the Cantonment rules, of which a copy is enclosed.

6. I consider the construction put upon the rules incorrect. Section 8 of the Local Fund Act is, it appears to me, sufficiently distinct. True, it does not mention trees, but it speaks of "other things provided for such roads," and it clearly gives the Local Fund board concerned a right to the whole of the ground within the boundaries of any public road, and this would, I conceive, include the trees growing upon it. It is not denied that the road is the sole property of the Local Fund board. What it is sought to argue is that, because the ground upon which the trees grow is public property, *i.e.*, a road, the Cantonment committee, though they have nothing else to do with it, have a right to the produce of the trees maintained by the Local Fund board. In a certain sense the road is public property, but I submit not in the sense contemplated by the Cantonment rules. Its legal status, I take it, is a right of way held in trust by a corporate body for the use of the public, and it is consequently not "public property" in the sense used in the rules which seem to point to what is Government property and that alone. The road is not Government property.

7. The amount involved is not large, and the matter can be settled without much difficulty as regards the contractors, but, as a question of principle is concerned, I deem it right to make this reference.

ENCLOSURE No. 1.

EXTRACT from the Cantonment rules.

Chapter II.—

Cantonment fund, how formed.

10. There will be formed in every cantonment a fund called the "Cantonment fund." This fund will be formed from the following sources :—

4th.—Any sums derived from the sale of grass, fruit, trees, wood, or other produce growing upon the parades, practice-grounds, and all other public ground within the limits of the cantonment, not being ground set apart by order of the Commander-in-Chief for other purposes, and any sums derived from the lease of the right of grazing upon such ground.

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3. In the present instance, however, the diversion road through the Bengali bazaar has been made and maintained, and the trees by its sides planted, from local funds. Clearly, therefore, the rents of these trees should go to local funds, if the existing arrangements are to continue, or else, if they are credited to the Cantonment fund, the Local Fund board should be relieved of all responsibility for the upkeep of the road which should be maintained from Imperial funds by the Public Works department.

(True Copies and Extract.)

(Signed) E. GIBSON,
Ag. Secretary.

To the Chief Secretary to Government, Financial department.

Copy to the President, Local Fund boards, Chingleput district.

No. 49.

Transferred to the Public Works department for favor of remarks.

(By order.)

10th January 1884.

(Signed) J. D. REES,
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No. 74-C.

The Public Works department are of opinion that the contention of the Board of Revenue is sound in principle. If the Cantonment committee claim the rents connected with the portion of the road in question, the Local Fund board should, it is considered, be relieved of all cost of maintenance. If may be well, however, to have the views of the local military authorities before the matter is finally decided.

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Chief Secretary.

28th January 1884.

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Referred to His Excellency the Commander-in-Chief.

(Signed) A. KENNEY-HERBERT, Lieut.-Col.,
Offg. Secy. to Govt., Mily. dept.

29th January 1884.

To the Quartermaster-General.

From Major D. J. S. McLEOD, Deputy Quartermaster-General, to the Officiating Secretary to Government, Military department, dated Fort St. George, 3rd March 1884, No. 1522.

In returning the papers received with your reference order, No. 459, dated 29th January 1884, regarding lease of avenue trees on the sides of roads within the cantonment limits of Saint Thomas' Mount, I am desired to forward the accompanying letter,* from the Brigadier-General Commanding Eastern District, and to state that

* No. G.71, dated 25th February 1884. His Excellency the Commander-in-Chief agrees with General Stewart in thinking that the correct solution of the difficulty would be to make over the road to the cantonment to be maintained by the Public Works department, letting the rent of the trees be taken by the Cantonment fund, as it has been for so many years past.

ENCLOSURE.

From Brigadier-General R. C. STEWART, C.B., Commanding Eastern District, to the Quartermaster-General, dated Fort St. George, 25th February 1884, No. 71.

I have the honor, in accordance with instructions conveyed in your endorsement to papers marginally noted, to report that I have called upon the Officer Commanding Saint Thomas' Mount for a report as to the action taken by the Cantonment committee, and his reasons for objecting to hand over the trees to the local fund.

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No. 1169.

The Quartermaster-General's letter, with its enclosure, forwarded to the Financial department, and the previous papers returned.

2. The Government in the Military department concur in the opinion expressed by His Excellency the Commander-in-Chief.

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8th March 1884. Offg. Secy. to Govt., Mily. dept.

To the Financial department.

ORDER—dated 18th March 1884, No. 588, Financial.

The road in question will now be made over to the Cantonment committee, and will for the future be kept in repair by the Public Works department.

(True Extract.)

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Chief Secretary.

To the Board of Revenue.

” Military department.

” Public Works department.

Exd. J. Wright.

P. W. D
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FINANCIAL.

no. 827 Raf. 27 March/84.

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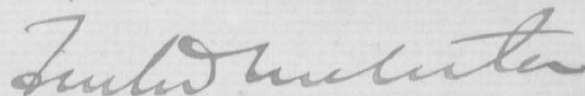
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