No. 175 G.

GOVERNMENT OF INDIA.

PUBLIC WORKS DEPARTMENT.

P.W.C. No. 556

Govt. of {1887} Madras.

REVENUE.

Communicated to officers of the P.W. dept in continuation of G.O. No. 1538 W. dy 2d July 1885

Issued

Recd. 26.1.87 Encl.

G.O., 11th January 1887, No. 12.

JANUARY.

Ch. Engr for Irrign
Consg. Engr for Rys
Supdg. Engrs
Consg. Archt. to Govt
Exr. P.W. Acds
Supdg. Engr T.M. Scheme
Engr in-chief M.S. Ry
Surveys.

Deeds of Conveyance

for lands taken up for public purposes.—Concurring in the views expressed by the Board of Revenue, on a reference from the Collector of Godávari inquiring whether — should be taken from the date when the Transfer of Property Act came into force or from the date of the instructions issued on the subject.

2 copies to each with order

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—the following Proceedings of the Board of Revenue, dated 14th October 1886, No. 2233 :—

Read—the following letter from J. THOMSON, Esq., Acting Collector of the Godávari District, to the Secretary to the Board of Revenue, dated Cocanada, 21st September 1886, No. 408 :—

I have the honor to request you will be so good as to instruct me whether deeds of conveyance for lands taken up for public purposes should be taken from 1st July 1882, the date from which the Transfer of Property Act has come into force or from the date of Board's Proceedings, dated 7th July 1885, No. 1996.

2. Documents are being taken from the latter date, and if they are required for the former period also the work will, it is feared, be very troublesome.

Resolution—dated 14th October 1886, No. 2233.

Submitted for the orders of Government, with reference to G.O., No. 675, dated 6th June 1885.

2. Looking to the distinct terms of section 54 of the Transfer of Property Act IV of 1882, the Board are of opinion that in respect of lands of the value of Rs. 100 and upwards, deeds of conveyance should be taken from the date on which the Act came into force.

3. With regard to lands of less value than Rs. 100, deeds are not absolutely necessary under the Act, and they may, the Board think, be dispensed with in the case of transactions which took place prior to the issue of the instructions referred to by the Collector.

(A true Copy and Extract.)

(Signed) M. HAMMICK,
Acting Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Collector of the Godávari District.

ORDER—dated 11th January 1887, No. 12, Revenue.

Miscellaneous.

Government concur in the views of the Board.

(True Extract.)

Ag. Secretary to Government.

To the Board of Revenue.
,, Public Works Department.

Exd. J. Henricus.

65 Copies.

Communicated to officers of the P.W. Dept in continuation of G.O. No. 1538 W. dated 2nd July 1885.

(Sd) G.O.H.
W.

Ch. Engr for Irrign
Consg. Engr for Rys
Supdg. Engrs
C.A. to Govt
Exr. P.W. Accts.
S.E. I. in. Scheme
Engr-in-ch. in. S. Ry Surveys

Govt. of {1887} Madras.

REVENUE.

Issued

Recd. *Encl.*

G.O., 11th January 1887, No. 12.

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Copy to the Collector of the Godávari District.

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(True Extract.)

(Signed) J. F. PRICE,
Ag. Secretary to Government.

To the Board of Revenue.
,, Public Works Department.

Exd. J. Henricus.

65 Copies.

No 3001 May 6th Decr 1884

Communicated to officers of the Public Works Deptt.

(Signed) J F

The Ch. Engr. for Irrign
- Consg. Engr. for Rys
- Supdg. Engineers
- Consg. Arct. to Govt.
- Supt. N. W. Works
- Exr P. W. Accts
- Supt. of W. Tank Rs.
- Engrs-in-Chief State Rys.

P. W. D.

Govt. of {1884} Madras.

REVENUE.

Issued

Recd. *Encl.*

G.O., 25th November 1884, No. 1299.

No 3001 May 6th Decr 1884

NOVEMBER.

Lands

taken up under Act X of 1870.—Considering that there should be, in respect of —, some record of transfer having been made; and requesting the Board to submit their views after obtaining the opinion of the Government Pleader whether the award referred to in Section 16 cannot be registered under the Registration Act III of 1877, Section 18, Clause (*f*), or in cases of reference to a Court, or of assumption of possession in case of urgency, some similar document cannot be made and registered.

Withdrawn

25th November 1884, No. 1299, Revenue.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—the following letter from Lieut.-Colonel H. R. MEAD, R.E., Superintending Engineer, VI Circle, to the Chief Engineer, Public Works Department, dated Kodaikánal, 17th September 1884, No. 935 T.J. :—

In paragraph 1216A, Standing Order No. 252, of the Public Works Code, it is directed that for houses and lands purchased for public purposes title-deeds duly registered and legally valid are necessary, and the Executive Engineers are directed to obtain them and send them to the Examiner.

2. I have called on the Executive Engineers to carry out this order for all lands, &c., acquired since November 1883 (the date of the Standing Order No. 252), but from the replies I have received, I fear there is but little hope of their being able to carry out this order because to date it has not been usual for Collectors, by whom all purchases of land are made, to obtain proper title-deeds.

3. The Collectors concerned have been written to; the Collector of Tanjore states his opinion that in the case of land taken up under the Act no title-deeds are necessary.

4. I request to be informed if this ruling is correct, and if in all cases when land is taken up under the Act, no voucher of the sale is necessary for record in the Government office.

No. 1737-D

Referred to the Revenue Department for favor of opinion.

(By Order.)

(Signed) C. BOWEN, Major, R.E.,
Under Secy. to Govt., P.W.D.

Chepauk,
26th September 1884.

Order—dated 25th November 1884, No. 1299, Revenue.

Miscellaneous.

The ruling in the Public Works Code can be held to be applicable only to lands acquired by private negotiation.

2. The Government, however, think that there should be, in cases in which lands have been compulsorily taken up under Act X of 1870, some record of the transfer having been made. It is the fact of taking possession by the Collector that operates the transfer to Government. The Board of Revenue should submit their views after obtaining the opinion of the Government Pleader whether the award referred to in Section 16 cannot be registered on behalf of Government under the provisions of the Registration Act III of 1877, Section 18, clause (*f*), or in cases of reference to a Court, or of assumption of possession in case of urgency, some similar document could not be made and registered. It is presumed that care is always taken that the registry in the village accounts is altered when land is taken up for public purposes.

(True Extract.)

(Signed) H. E. STOKES,
Secretary to Government.

To the Board of Revenue.
„ the Public Works Department.

Exd. W. H. French.

60 Copies.

Order thereon no: 1538 W a/2.7.85

Comes to officers of the P.W.D. in continuation of G.O. no: 3001 W a/6th December 1884

Govt. of {1885} Madras.

REVENUE

W 205 C 5627/85.

Issued

Recd.

Encl.

G.O., 6th June 1885, No. 675.

B no: 1538 W a/2.7.85

JUNE.

To.

The chief Engr for Irrigation
Coms Engr for Roads
Supt Engineers
Coms Archto Surv
Supt Mr St Works
& P.W. atts
Supt of works St. G.
Engrs in Chief. Stn & Survey

Lands taken up for public purposes.

Board of Revenue desired to issue instructions for Collectors' awards or Courts' orders under the Land Acquisition Act being registered under the Registration Act in future.

expression "all other documents" used in Section 18 (*f*) can hardly, in my opinion, receive an unrestricted interpretation, but should rather be extended only to documents of the same class with those mentioned in Section 17. A mere certificate may well be said not to belong to that class.

The following form of conveyance will, I think, be sufficient in ordinary cases :—

"In consideration of Rs. this day received, I (here enter name and description) hereby transfer to the Secretary of State for India in Council, all my right and interest in the lands known as ( ) lying within the undermentioned boundaries."

For the case of lands under Rs. 100 in value, the following form which may, if convenient, be endorsed on the putta will in my opinion suffice :—

"I hereby acknowledge that in pursuance of a contract of sale made between me, the undersigned, and the Secretary of State for India in Council, represented by I have this day delivered over to the said acting on behalf of the Secretary of, &c., possession of the lands comprised in this putta.

(Signed) ,

I hereby certify that I have taken possession of the said lands.

(Signed) ,

Resolution—dated 16th April 1885, Mis. No. 3462.

Submitted for the orders of Government, in continuation of Board's Proceedings, dated 20th December 1884, No. 4384.

2. The Government Pleader considers that a certificate of assumption of possession in the case of land acquired under Act X of 1870 may be registered under the Registration Act, although it is doubtful whether a registering officer is legally bound to register such a document. The Board consider that the registration, if feasible, should be made, and suggest that the Inspector-General of Registration may be addressed on the subject. The Board have already instructed Collectors to see that in all cases in which lands are taken up under Act X of 1870, the necessary alterations are made in the revenue accounts as soon as possible after they are taken possession of by Government.

3. The Board are of opinion that the forms of conveyance proposed by the Government Pleader for lands acquired by private negotiation are suitable and may be circulated for general adoption.

(True Copies and Extract.)

(Signed) E. GIBSON,
Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Government Pleader.

Order—dated 6th June 1885, No. 675, Revenue.

Miscellaneous.

The Government see no reason to doubt that an award by the Collector or an order by the Court under the Land Acquisition Act (X of 1870) can be registered under Act III of 1877, and they consider it highly desirable for the protection of third parties from fraud that it should be registered.

2. The Board will accordingly issue instructions for the award or order, as the case may be, being invariably registered in future in all cases in which land is taken up under the Act.

3. With regard to lands acquired by private negotiation, the Government consider that the simple form of conveyance furnished by the Government Pleader for lands of the value of Rs. 100 and upwards may be adopted in all ordinary cases irrespective of any limit of value. The Government have recently directed (G.O., dated 2nd May 1885, No. 511) that, when the title is uncertain or disputed, the provisions of the Land Acquisition Act should be invariably put in force. When there is no doubt or dispute as to title, but the value of the property is very considerable, or when the case presents any difficulty with respect to tenure or otherwise, a special form of conveyance prepared by the Government Solicitor with reference to the particular features of the case, should be adopted.

(True Extract.)

(Signed) W. WILSON,
Ag. Secretary to Government.

To the Board of Revenue.
„ the Public Works Department.
„ the Judicial Department.

Exd. W. H. French.

80 Copies.

Read—also the following Proceedings of the Board of Revenue, dated 16th April 1885, Mis. No. 3462 :—

Read—the following letter from H. H. SHEPHARD, Esq., Government Pleader, Madras, to the Secretary to the Board of Revenue, dated 26th February 1885, No. 56 :—

With reference to the Proceedings of the Board of Revenue noted in the margin, I have the honor to state that in the case of lands taken up under Act X of 1870, I do not think that any instrument coming within the terms of Section 17 of the Registration Act is necessary or proper, for it is on the Collector's taking possession that the property is vested in the Government by force of the Act. The circumstance of his so having taken possession may, of course, be recorded in writing, but I do not think it would gain any additional force by being registered.

Dated 20th December 1884, No. 4384.

2. In ordinary cases, I think that the combined effect of the Transfer of Property Act and the Registration Act is to make registration necessary whenever the property is transferred by a written instrument whether that property is or is not above Rs. 100 in value. When property of less value than Rs. 100 is transferred, the transfer can be effected by delivery of possession. Of that fact evidence may be recorded and preserved in writing, and it should include an admission signed by the person who has surrendered possession. For this purpose the form suggested in Section 3 of the Proceedings would not be appropriate, because that is in effect a consequence which accordingly would require registration, whereas all that is required is an acknowledgment that possession has been delivered to some servant of Government.

3. When property of the value of Rs. 100 and upwards is transferred, I see no objection to the suggested form except that I would insert the consideration received by the signatory. It must be remembered that it is not necessarily sufficient to obtain the puttadar's execution of this conveyance. Although for purpose of revenue he and he alone may be regarded as proprietor for the purpose of alienation, the concurrence of the persons really interested is necessary.

Reference thereon, dated 18th March 1885.

With reference to paragraph 1 of his letter, the Government Pleader is requested to be good enough to state whether there is any legal objection to registration of a certificate of the assumption of possession, reciting the circumstances under which the land was acquired under Act X of 1870 being made under Section 18 (*f*) of the Registration Act, even though the document may not be one of the instruments contemplated by Section 17. The object which the Government have in view in seeking to register such documents is not to secure their title to the land, which is perfect under the provisions of the Act, but to give notice to third parties of the rights of Government and to prevent their being defrauded.

2. Adverting to the concluding paragraph of Government Pleader's letter, he is requested to draw up and forward a simple form of conveyance for lands of value exceeding Rs. 100, and of certificate of taking possession in cases of lands below that value purchased by Government without resort to proceedings under Act X of 1870.

(Signed) E. GIBSON,
Secretary.

Read—also the following letter from E. B. POWELL, Esq., Acting Government Pleader, Madras, dated 25th March 1885, No. 89 :—

With reference to the Proceedings of the Board of Revenue noted in the margin, I have the honor to state that, although I see no objection to the registration of such a certificate as is described, I do not think it is clear that the registering officer is bound to register such a paper; for the

Reference on G.R. No. 1415 of 1885, dated 18th March 1885.

3. I am instructing the Tahsildar that, pending further orders, he need only take a title-deed when the value of the land is above Rs. 100, and that he must apply to you through me for the cost of registration.

4. It is, I suppose, useless to expostulate against the "simple form of conveyance" prepared by the Government Solicitor, which seems unnecessarily verbose, technical and complex; but with reference to the Proceedings of the Board of Revenue, dated 14th October 1884, Mis. No. 9699, I feel bound respectfully to inquire whether it is intended that the vendors, who are mostly ignorant Tamil rustics, should be called upon to execute such a conveyance in English unaccompanied by a translation?

If this question be answered in the negative, I would ask to be allowed to substitute the ordinary Tamil form of conveyance for the form prepared by the Government Solicitor.

Read—G.O., dated 25th November 1884, No. 1299, Revenue.

Resolution—dated 20th December 1884, No. 4384.

Along with G.O., No. 1299, dated 25th November 1884, the Board resolve to refer to the Government Pleader letter No. 651, dated 25th November 1884, from the Collector of Tinnevelly, which gives cover to the Sub-Collector's description of the practical difficulties experienced by district officers in this matter.

2. If the suggestion of Government that some document taken under Act X of 1870 may be registered cannot be acted upon, the Board would ask if some form of conveyance more simple than that framed by the Government Solicitor and printed in Board's Proceedings, No. 2961, dated 25th August 1884, cannot with safety be used. Perhaps to a person accustomed to English conveyancing this conveyance may appear simple, but it defies translation into Tamil, and the notion that the 4,000 ryots, who are giving up land for the Támbraparni flood banks, are to be persuaded into signing English forms of this conveyance, approaches the ludicrous.

3. The Board would be glad to be informed whether a transfer of ryotwari land held on putta could not be effected to the Secretary of State by the holder of the land by a simple endorsement on the putta to the following effect :—

I, A.B , above mentioned, hereby transfer to the Secretary of State for India all my right, title and interest in the land detailed in this putta.

4. All Collectors will note the concluding sentence of G.O., No. 1299, dated 25th November 1884, and will take care that the registry in the village accounts is altered in every case when land is taken up for public purposes.

(True Copies and Extract.)

(Signed) C. F. MacCARTIE,
Acting Sub-Secretary.

To all Collectors, with copy of Board's Proceedings, No. 2961, dated 25th August 1884.
,, the Government Pleader, with do.
,, the Secretary to Government, Revenue Department, with do.

Order—dated 14th February 1885, Mis. No. 774, Revenue.

The Government await report after the Government Pleader's opinion is received and considered by the Board.

(True Extract.)

(Signed) H. E. STOKES,
Secretary to Government.

To the Board of Revenue.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again G.O., dated 25th November 1884, No. 1299, Revenue.

ABSTRACT.—Considering that there should be, in respect of lands taken up under Act X of 1870, some record of transfer having been made; and requesting the Board to submit their views after obtaining the opinion of the Government Pleader whether the award referred to in Section 16 cannot be registered under the Registration Act III of 1877, Section 18, Clause (*f*), or in cases of reference to a court, or of assumption of possession in case of urgency, some similar document cannot be made and registered.

READ—again the following G.O., dated 14th February 1885, Mis. No. 774, Revenue :—

Read—the following Proceedings of the Board of Revenue, dated 20th December 1884, No. 4384 :—

Read—the following letter from J. LEE-WARNER, Esq., Collector of Tinnevelly, to the Secretary to the Board of Revenue, dated 25th November 1884, No. 651 :—

I have the honor to forward herewith, for the Board's orders, a letter which I have received from the Sub-Collector which shows the difficulties created, while the conflict between the Transfer of Property Act and the Registration Act is unadjusted. There are, I am informed on good authority, at least 4,000 cases in which documents have to be taken from vendors in connection with the lands to be acquired for the new flood banks of the Támbraparni.

2. Myself I am inclined to believe that registration is not necessary in cases where the value of the land is below Rs. 100, and I would be glad to be able to inform the Sub-Collector that he may use the ordinary Tamil form of conveyance in lieu of the cumbrous and untranslateable form sent by the Government Solicitor and embodied in Proceedings of the Board, No. 2961, dated 25th August 1884.

ENCLOSURE.

Letter from H. M. WINTERBOTHAM, Esq., Acting Sub-Collector, to the Acting Collector of Tinnevelly, dated Tuticorin, 18th November 1884, No. 454.

With reference to your office foot-note, dated 7th May 1884, No. 658, to letter from Executive Engineer, dated 19th March 1884, No. 977, I have the honor to inquire whether, in your opinion, it is necessary to obtain a title-deed in cases where the land acquired by Government is below Rs. 100 in value.

2. If any title is necessary, Section 54, Clause 3, of the Transfer of Property Act (IV of 1882) operates to render registration compulsory. The same clause recognizes delivery of the property as a legal transfer of ownership, and where Government are in actual occupation of the land, I think the precaution of taking a registered title-deed from the owner is quite unnecessary. If a title-deed is indispensable, no matter how small the value of the land, the Tenkarai Tahsildar has a Herculean task cut out for him; and, as the cost of registration must be entirely borne by Government, the cost will not be inconsiderable. A title-deed will, in that case, have to be taken from every individual to whom compensation has been paid, or is due, for land taken up for the Támbraparni flood banks.