

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 2269

DATED 5th May

[Despatch Abstract.]

Referring to the Advocate General for opinion B.P. expressing its views on the question of acquiring under the act land previously occupied with the consent of the owner.

BACK PAPERS.

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

FURTHER PAPERS.

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Revenue (1897) Department.

CURRENT No.



*From the Board of Revenue
(Land Revenue).*

Order

No. 1135 *dis*.

Dated 25 March 1897.

Received

Registered

Enclosures

Spare copies

SUBJECT.

*Returning to Government papers
regarding the proposed acquisition
under Act I of 1894 of the land occu-
-pied by the diversion of the Khan Sahib
canal in the South Street St. with
remarks regarding the general ques-
-tion of acquiring under the Act
previously occupied with the canal
of the owner.*

*Registered
31 3 97*

BACK PAPERS. 81

G.O.	No.	Department.	Date.
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FURTHER PAPERS.

G.O.	No.	Department.	Date.

D
4 1,000-11-6-96.

REVENUE DEPARTMENT.

C No. 2806 of 1897.

From the Board of Revenue L.R.

The Hon. Mr. G. S. S.

The Hon. Mr. S. S. S.

Dated

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FOR ORDERS.

The patta land of one Kundaswami Pillai in C Kothangudi villap, Chidambaram taluk, were with his consent taken up in 1893 by the Public Works Dept for the diversion of the Khan Sahib canal within the limits of that villap. The patta was further proposed to make the diversion at his own cost provided the portion of the channel to be replaced by the diversion was given to him. The proposal was accepted by the Executive Engineer and sanctioned by

Drift: asking the opinion of the Provincial Eng?

3/4/97

2/4/97
2/4/97

FOR ORDERS.

by Govt (P.W.D.), when the work was executed, Kandaswami Pillai applied to the Executive Engineer for the abandoned bed of the channel. That officer forwarded the application to the Collyer of South Arcot and recommended the assignment. But as the acquisition of the patta land referred to was irregular, the assignment recommended could not be sanctioned by the Collyer under Sec ³¹⁽⁴⁾ ~~31(4)~~ of the Land Acq. Act. The Collyer accordingly submitted to the P.W.D. for publication, a draft notification for the formal acquisition of the lands. ^{At the same time} ~~At the same time~~ he expressed a doubt ~~whether~~ whether such a course was legal and quoted in support of his view G.O. No. 7752 dt 3-5-95

2. In the case disposed of in that order, a piece of main land in the Godavari district was taken up in 1889 for a Local Fund road by private negotiation and a draft declaration under Sec 6 of the Act submitted in 1895. The order passed thereon in the Local and Municipal Dept was as follows:-

"The Govt does not consider that a notification under Act I of 1894 can have retrospective effect so as to validate the irregular procedure of acquiring the land before any such notification issued. Nor would it be right to insert in this notice the name of the original owner of the land who has already parted with his rights and

as being ^{still} in possession of such lands. The proposed notification cannot therefore be published."

3. The Board of Revenue to which the present correspondence was referred for remarks reports "that there is no objection to the acquⁿ of the land under act I of 1894 or to compensation being given in the shape of other land under section 31(4) of that act. It would be highly inconvenient if every occupation of land in anticipation of proceedings under the act were treated as an irregular acquisition and brought under the ruling in E. O.

No. 775 & 43-5-95. Govt officers have often to enter on land with the permission of the owner

XV. 1892 (2200)

and on the understanding that it is to be eventually acquired under the act. Such an occupation does not amount to acquisition of the land but is merely an occupation by license, falling under the provisions as to licenses contained in the Easements act. In accordance with section 62 of that act, a license is terminated either by the will of the grantor or by the operation of law. The passing of an award under section 11 of act I of 1894 and the taking of possession under section 16 are legal acts, the effect of which is to merge the license in the absolute ownership acquired by the State. It would thus appear that proceedings under the act are a legitimate

Sequel of the occupa-
tion of land by license
of the owner when it
is understood from
the beginning that
the land is required
for the State."

In the present case, it
appears that the lands
are still included
in Kandaswami Pillai
patta.

4. It is submitted
that the Govt may
express concurrence
in the Board's view
for which there are
precedents in this
office. (vide G.O. 237
d. 18-1-96 and 2188 d. 5-6-96)
The following draft
is suggested: -

G.O. no.

The Pros read above
will be transferred
to the P.W.D. (2) with an
expression of concurrence
in the remarks of the
Board of Revenue.

I think the Board is right

It seems to me that a distinction
must be drawn between the case disposed of by
the L. & M. order of 1895 & that of the
P.D. in of land being entered on title
the understanding that it is to be eventually
acquired under the Act. In the
former case, an interval of 6 years
had been allowed to elapse. However
this may be, the wording of S. 6(1) of Act
I of 1894 seems to me clearly to point to
the future. "whenever it appears to the Local
Authority that any particular land is needed."
A legal point of importance being involved
the opinion of the Adv. Genl.
should, I think, be obtained

28/4/97

29/4/97

To the P.W.D.
Copy to the L. & M. Dept

(S. 20 April 97)

+ It seems to me the only
doubt will be that Govt will
acquire its own interest. This
though very desirable sometimes.

It is to be noted that the above
proposed rule in effect overrides
the G.O. in the L. & M. Dept. in
775. The distinction is between
the case where a good title had
passed. I do not myself think Govt
title had not passed or where
the title was faulty. In V. Govt
nothing about any one's being
in possession. The notice issued
is to all persons interested in
the land. The proceedings under
the Act will not have retrospective
effect: it validates what has
gone before. Govt from the
date of their completion they
will have no effect. Govt all
their interests in the land.

23/4/97

Read again E.P. ⁴⁹²
10-5-97
- also cor. 2806 of 97
E.O. mis. no. 2269 of 5th May 97.

The papers
read above will
be forwarded to
the Honble the ad-
vocate General
for favor of opinion
as to whether the
Board's view is cor-
rect and whether,
in the case referred
to by the collector of
South Arcot in his
letter dt 27-1-97,
the publication of
a notification under
section 6 of Act I
of 1894 for the formal
acquisition of the
lands therein men-
tioned, would be
legal.

[Signature]
1/5/97.

To the Hon the Advocate Genl.
tho' the Govt. Solicitor.
with papers

16.5.97
20.8.97
From orders.

[Signature]
3 May 97

When given for copying _____
 When copied _____
 When examined _____
 When signed _____

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READ AGAIN G.O., No _____
 189 _____

CURRENT No. _____

ENCLOSURES TO O. No. _____

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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