

3671/2376

A-815

Revenue and Forests Department,
Sachivalaya, Bombay
Date: OCT 19 1971

Subject: Lands: Bombay Suburban District
S.No. 107 A of Chakola,
Grant of to M/S Parle Bottling Private Limited
for construction of Road 33' wide..

MEMORANDUM :

The undersigned presents compliments to the Additional
Collector, Bombay Suburban District and with reference to his
letter No. C/LRD/L/MS/1679, dated the 16th April, 1971 on the
subject mentioned above, is directed to state that Government

is pleased to grant Government land measuring 1915 square yards
out of S.No 107-A and 41 square yards from S.No. 20 of Chakala to

M/S Parle Bottling Company Private Limited for constructing an
access road of 33' width for the traffic leading to the factory
on payments of strategic value that will be fixed by Government
in due course. The grant of land is subject to the conditions
mentioned in Government Resolution, Revenue Department

NO.1970/45, dated 17th October 1947 as modified and amplified from
time to time and also following conditions..

(i) M/S. Parle Bottling Private Company Limited should
agree to use the land for access to their factory without
any obligations by the adjoining survey numbers and for no
other purpose.

(ii) The maintainance of this road will be done by the
Parle Bottling Company at its own cost.

2. The Additional Collector should direct the District
Inspector of Land Records to carry out actual measurement of
the land to be granted to M/S. Parle Bottling Company Limited
for the access road and then hand over possession of the land
as stated in para - 1 above. Before handing over possession
of the land Collector should obtain an undertaking from the
Company to the effect that the Company is prepared to pay the

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COLLECTOR BOMBAY
SUBURBAN DISTRICT
13 OCT 1971



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the valuation of the land that will be fixed by Government together with the interest at $6\frac{1}{2}\%$ thereon from the date of possession till the date of payment of the value of the land.

3. The Collector is also requested to get the valuation of the land done through the Assistant Director of Town Planning attached to the office and submit to Government his report for final orders.

4. The case papers are returned herewith.

By order and in the name of the Governor of Maharashtra,

Under Secretary to the Government of Maharashtra,
Revenue and Forests Department.

Copy to :-

The Commissioner Bombay Division, Bombay.

The Settlement Commissioner and Director of Land Records, Poona,

The Director of Land Records, Bombay.

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Ho. C/L&R-IL-25-479.
Addl. Collector's Office, S.S.D.
Old Custom House Yard, Fort,
Bombay-1, Dt. *Ind* Sec. 1971.

READ :-

Govt. letter in Revenue and Forests Department's No. 2671/23751-RI dated 7-10-1971.

ORDER:

Government land measuring 1915 sq.yds. out of S.No. 107-a and 41 sq.yds from S.No. 20 of Chakala Village, Taluka Andheri is hereby granted to M/s. Parle Bottling Company Pvt. Ltd. for constructing an access road of 15' width for traffic leading to the factory on payments of strategic value that will be fixed by Government in due course. The said land is granted subject to the following conditions and such other conditions that will be laid down by Government letters, *Lateron*.

- 1) M/s. Parle Bottling Pvt. Co. Ltd. (grantee) should agree to use the land for access to their factory without any obligations by the adjoining survey numbers and for no other purpose.
- 2) That the land once granted shall pay the M.A. Assessment that will be fixed by Collector.
- 3) That the land can not be sub-divided and such sub-divisions cannot be disposed of without the permissions of Government.
- 4) That if the Government have reason to believe that, any misrepresentation or concealment is made in regard to sale price, the sale or transfer will be declared void at the discretion of Government.
- 5) That Government will be entitled to half the unearned increment in the event of sale or transfer whether outright or as a result of an unpaid unrefused mortgage and that the land so sold or transferred should be used for a purpose approved by Government if it is to be used for a purpose other than traffic purpose.
- 6) That if the grantee contravenes any of the conditions in this order, subject to which the land is sold, the Collector may without prejudice to any other penalty to which the grantee may be liable under the provisions of the Maharashtra Land Revenue Code and rules thereunder or Government deem fit, continue the said land in grantee's occupation on payment such fine and M.A. Assessment as he may direct.
- 7) That the fine leviable under the foregoing conditions should be up to forty times the M.A. Assessment in respect of the land.
- 8) That grantee undertake to shift the road, as decided by Govt. whenever directed.
- 9) Failure to comply with any of the above conditions of grant or with any provisions of the Land Revenue Code or Rules thereunder shall render this grant liable to cancellation by the Collector, who may thereupon resume the land and summarily evict the grantee without notice and without paying any compensation.

10) The maintenance of this road will be done by the Faric
Bottling Company at its own cost.

[Signature]
Additional Collector,
Bombay Suburban District.

To

The Manager,
Faric Bottling Co. Pvt. Ltd.,
Western Express Highway,
Chhatra, Andheri, Bombay-49 A.S.

2. The Company is requested to give an undertaking (1) that
the Company is prepared to pay the valuation of the land that will
be fixed by Government together with interest at 6% thereon from
the date of possession till the date of payment of the value of the
land. (2) That Company will shift present road as decided by Govern-
ment wherever directed. The possession of this road is a gov-
ernment one.
provisional

Copy forwarded to the Dist. Inspector of Land Records, B.S.D.

2. He should please be handed over possession of the land after
obtaining an undertaking as stated above from the said Company and
submit the copies of patta plan and possession receipt.

Copy forwarded to the Tahsildar Andheri for information and
necessary action.

Copy forwarded to the Sub Divisional Officer, B.S.D. for
information.

He should fix the H.A. Assessment leviable on the land.

[Signature]
Additional Collector,
Bombay Suburban District.

Received

Miraj Amin

2/12/71

Recd. 2/12/71
[Signature]
ADIC
2/12/71

No. ~~2671/23761-38~~

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No. LND 2671/23761-38.
Revenue and Forests Department,
Sachivalaya, Bombay-32,
Dated: September 1976.

243

Dated: 2 SEP 1976

Subject: Lands : B. S. D.
Survey No. 107-A of Chakala,
Grant of - to-M/s. Parle
Bottling Pvt. Ltd. for
construction of Road 88.

MEMORANDUM : CORRIGENDUM:

The under signed presents compliments to the Additional Collector, Bombay Suburban District, and with reference to the 19.8.71 correspondence ending with his letter No. C.LND-II-WS-1679 dated the 19.8.71 on the subject mentioned above, and is directed to state that for the following words and figures occurring in para 1 of Government Memorandum, Revenue and Forests Department, No. LND 2671/23761-AI dated the 7.10.71, the words and figures shown against them below should be substituted :-

Existing words and figures occurring in para . 1 of G.M. Revenue & Forests Department, No. LND 2671/23761-AI dated the 7.10.1971.

Words and figures which should now be substituted in para -1 of Government Memorandum, Revenue and Forests Department. No. LND 2671/23761-AI dated the 7.10.1971, in lieu of those mentioned in column. - 1.

(1)

(2)

Govt. is pleased to grant Govt. land measuring 1915 sq. yards out of S.No. 107-A and 41 Sq. yards from S.No. 20 of Chakala.

Govt. is pleased to grant Govt. land measuring 1310 Sq. yards out of S.No. 107 part of Chakala only.

2. For the reasons mentioned in his letter NO. C. LND-II-WS-1679 dated the 21.10.1972, Collr.'s. action in handing over possession to the grantee of land measuring 1310 Sq. yards from S.No. 107 part of Chakala instead of the total area measuring 1956 Sq. yards granted under, Government Memorandum, Revenue and Forests Department, No. LND 2671/23761-AI dated the 7.10.71 is approved. The Collr. is requested to see that occupancy price of the land handed over to the Company along with interest chargeable thereon is recovered immediately from the Company.

3. These orders issue with the concurrence of the Finance Department (vide its un official reference No. 482/EXP-10/76 dated the 8th September 1976).

By order & in the name of the Governor of Maharashtra,

COLLECTOR SUBURBAN DISTRICT BOMBAY
DATE 28 SEP 1976

M. H. A. SHAIKH
(M. H. A. SHAIKH)
Desk Officer, '68' Desk,
Revenue & Forests Department.

To

✓ The Additional Collector, Bombay Suburban District,
BOMBAY.

Copy forwarded with compliments to:-

The Commissioner Bombay Division, Konkan Bhavan, Vashi, New Bombay,

The Accountant General, Maharashtra, Bombay,

The Accountant General, Maharashtra, Nagpur,

The Finance Department, (CG-P-10)

Copy submitted to Secy. G.A.D. (GENERAL)

IN THE COURT OF SHRI T.K.KAMBLE, ADDITIONAL COMMISSIONER,
KONKAN DIVISION, BOMBAY.

.....

No. Appeal Desk/BD/REV/89.

M/s. Parale (Exports) Pvt. Ltd.)
Western Express Highway,)
Andheri East, Bombay-400 099.) ... Appellants.

v/o

1. Additional Collector,)
B.S.D., Bombay.)
2. Tahsildar, Andheri, Bombay.) ... Respondents.

Heard Shri L.C. Shah, Advocate
for the appellant.

(Appeal under section 247 of the
Maharashtra Land Revenue Code, 1956.)

ORDER :

The appellant has filed this appeal under Section 247 of the Maharashtra Land Revenue Code, 1956 against the order of the Additional Collector, B.S.D., Bombay vide letter No. I/C/Desk-III/LND-II-B/CR/90 , dated 18-9-1981 and even Number dated 25-11-1981. The appellant has also mentioned that the appeal is against the notice dated 10-12-1982 for payment of Rs. 124475/- from Tahsildar, Andheri.

2. The facts in brief in this case are as under:
The appellant had applied to Government for grant of land of survey No. 107/A at Chakla between Govt. land No. 107 and the land owned by the appellant Company for purposes of approach road. Government had granted the possession of the land some time in 1971 subject to conditions that the price will be determined later on. Thereafter, the market value was determined and communicated to the appellant who paid the full market value after getting concession of instalments. Hereafter,



the Additional Collector, B.S.D. had issued a notice for payment of interest to the extent of Rs.1,24,475 and the Tahsildar, Andheri has given a notice to the appellant. Being aggrieved with this order of payment of interest on the said value of land, the appellant has preferred this appeal in my Court.

3. I have gone through the record of the lower Court and considered the arguments on behalf of the appellant. The main contention of the appellant is that Government granted plot in 1971 and fixed the price in 1976. He, therefore, contended that market value of 1971 would have been charged on the said plot of land. He further pointed out and contended that there was a discussion regarding the instalments of the occupancy price to be paid by the appellant on 5-9-1981 with the Revenue Authorities but at that time, it was not told to the appellant that the appellant has also to pay the interest. The learned Advocate further pointed out that the terms and conditions on which the land was granted does not speak of interest and therefore, interest may not be charged. Alternatively, he contended that since all other Societies are using the said road and they have another road, it would be a very harsh on the appellant to pay such a huge amount of interest with retrospective effect. He, therefore, contended and prayed that interest ~~may~~ may be waived.



4. I have gone through the record of the lower Court and I find that the Additional Collector, B.S.D., Bombay has fixed the price after approval of Government. He has also demanded interest as per instructions of Government and the undertaking ^{given} by the Appellant at the time of taking

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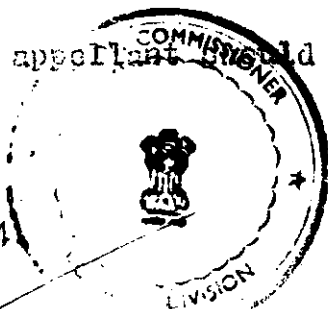
over possession of the said land. The undertaking dated 3-12-1971 is at page 183 of Lower Court's case papers. In view of this, the appellant is bound to pay the interest as demanded by the Additional Collector and I cannot help in waiving the interest as contended by the appellant. In view of this, I find no substance in the arguments and come to the conclusion that the appeal may be rejected by upholding the orders of the Additional Collector imposing the interest. I, therefore, pass the following order:

: O R D E R :

5. The appeal is rejected and the order of the lower Court including the notices of Tahsildar, Andheri for the recovery of interest is confirmed.

6. The appellant should be informed accordingly.

Bombay,
30th June, 1984



Sd/-
(T.K.KAMBLE)
Additional Commissioner,
Konkan Division.

Copy with case papers in one file (pages 1 to - 371) forwarded with compliments to the Additional Collector, B.S.D., Bombay for information and necessary action.

OFFICE OF THE
ADDITIONAL COLLECTOR
BOMBAY SURBURBAN DIST
Date: 12 SEP 1984

Additional Commissioner,
Konkan Division, Bombay.

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BY REGISTERED POST A.D.

No.S.30/1166/84/G,9/
CR.298/86/(A&R)

Revenue and Forests Department
Industrial Assurance Building
1st Floor, Janshedji Tata Road
Opp. Churchgate Station
Bombay-400 020 (Tel: 221856)
Date: 4th March 1987

To

- (1) M/s Parle (Exports) Pvt. Ltd.
Western Express Highway
Andheri (East)
Bombay-400 099
- (2) The Additional Collector
Bombay Suburban District
Old Custom House
Bombay.
- (3) The Additional Commissioner
Bombay and Konkan Division
New Bombay
Vashi
- (4) The Tahsildar
Andheri
Bombay.

Sir/Sirs,

I am forwarding herewith the order passed by
Shri John Innocent, Officer on Special Duty (Appeals and
Revisions), Revenue and Forests Department, Government of
Maharashtra, Bombay, for your information.

Yours faithfully,

(Signature)
(D.P. Malankar)
Desk Officer
Revenue and Forests Department

Encl:- Order

OFFICE OF THE
ADDITIONAL COLLECTOR
BOMBAY SUBURBAN DIST.
Date.....

Submitted
Transferred to the
LND Branch (Shri)

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No. C (Desk III) LND II. B. CR. 49
Date 14/8

Copy forwarded to the SDO/Tah. And for
information. The Tah. Andheri is requested
to recover the interest amount from the
above-mentioned parties.



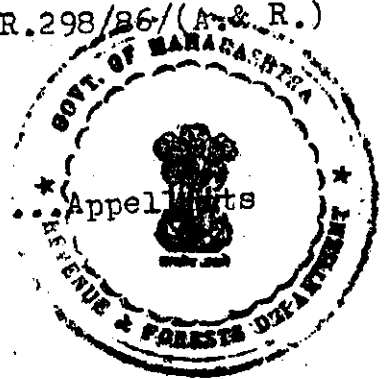
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Before Shri John Innocent, Officer on Special
Duty (Appeals and Revisions), Revenue and Forests
Department, Government of Maharashtra, Bombay.

Rev. Revision No.S.30/1166/84/9-9/CR.298/86/(A.& R.)

M/s Parle(Exports) Pvt. Ltd.
Western Express Highway
Andheri (East)
Bombay-400 099



V/s

- 1) Additional Collector
Bombay Suburban District
Bombay.
- 2) Tahsildar, Andheri, Bombay.

...Respondents

Second Appeal under section 248 of the
Maharashtra Land Revenue Code, 1966(hereafter referred
to as the Code).

Heard on 27.2.1987. Shri M.C.Shah, Advocate
for the appellant. Shri M.A.Panchania, Legal Manager
of the appellant present. K.B. Jangam Bill Collector
of Andheri Taluka also present.

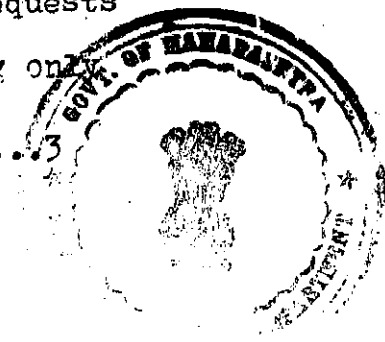
ORDER

In pursuance of directions from Government
conveyed in Government letter, Revenue and Forests
Department No. 2671/ 23761-AI, dated 7.10.1971, Government
land measuring 1915 sq. yds. out of S.No.107-A
41 sq. yds. from S.No.20 of Chakala village, Taluka
Andheri was granted to the applicant under Order No.C/
LND-II-WS.1679 dated 2nd December 1971 of the
Additional Collector, Bombay Suburban District. The
grant was for a access road of 33' width for traffic
leading to the factory of the applicant on payment of
market value to be fixed by Government in due course.
One of the conditions of the grant was that the
applicant should pay the N.A.Assessment that would be
fixed by the Collector.

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2. On December 3, 1971 the Operations Manager of the applicant wrote to the Additional Collector enclosing a cheque for Rs. 5000/- " to be appropriated for the value of the land that may be fixed by Government." The letter was by way of an undertaking that " we are prepared to pay the valuation of the land that will be fixed by Government together with interest @ 6½% from the date of possession till the date of payment of the value of the land ". The District Inspector of Land Records ,Bombay Suburban District, Bombay reported to the Additional Collector by his letter dated 17.12.1971 of handing over possession of 1310 sq. yds.(1095 sq. metres) of land to the applicant after carrying out measurement of the land. Government by a memorandum dated 8.8.1972 approved the value at Rs.150/- per sq. yds. as proposed by the Additional Collector. By another memorandum: Corrigendum Govt. finally specified the land as 1310 sq. yds. out of S.No.107 part of village Chakala.

3. In a letter dated 18.2.1977 to Government ,M.E. Jasdaxwalla, Director of the applicant took the stand that the need for access was only temporary, the applicant was not the sole users of the access road but it was virtually a public road, and at the time of granting permission verbal indication was given to the applicant that the price would not exceed Rs. 15,000/- and hence payment of Rs. 5000/- on account. The letter also contained the suggestion that since it was virtually a public road it should be handed over to the Municipality for maintenance. To the correspondence that followed Govt. gave a reply by letter dated 21.7.1980 that the requests for the reduction of occupancy price or charging only



a nominal rent for the land could not be granted. The municipal Corporation of Greater Bombay (BMC) by a letter dated 24.11.1978 had already informed the Additional Collector that the access road was a private road and could not be taken over by B.M.C. for maintenance.

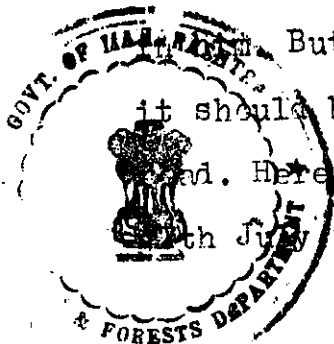
4. By his letter dated 18th September 1981 which was after hearing Shri M.C.Shah, Advocate, applicant was requested by the Additional Collector to pay the occupancy price of Rs. 1,91,500 in four instalments. But by his letter of 22.12.1981 to the Additional Collector, Shri M.C.Shah, Advocate informed him of the payment of the entire amount of Rs. 1,91,500/- as the purchase price of land allotted to the applicant.

5. The Tahsildar issued a notice dated 10.12.1982 to the applicant for payment of Rs. 1,24,475/- towards interest. The applicant filed an appeal against this to the Additional Commissioner, Konkan Division under section 247 of the Code (No. Appeal Desk/BD/REV/89). By his order dated 30.6.1984 the Additional Commissioner rejected the appeal and confirmed the notice for recovery of interest issued by the Tahsildar Andheri.

6. The arguments advanced by the appellant during hearing and my conclusions thereon are-

(1) When the applicant was charged occupancy price Government should have passed orders vesting it in the applicant as a private road with full ownership rights

But since it is to-day as good a public road, it should have been handed over to BMC as a public road. Here it needs to be noted that in his letter of 14th July 1970 the Executive Engineer (Development Plan)



of BMC made it clear that BMC had no objection to grant of land for access road to the applicant provided the party agreed to allow the use of the road for the adjoining burial ground whenever required by the BMC. Evidently the applicant was aware of this and hence this plea is not tenable. Later the B.M.C. took the stand that the access road was a private road and hence could not be taken over by BMC for maintenance.

(2) Additional Collector's letter of 18.9.1981 to the applicant did not raise the question of payment of interest while settling payment of occupancy price. I find this stand on no firm ground because in his letter of 6.6.1981 to the applicant the Additional Collector had made it very clear that the applicant had to pay occupancy price along with interest. Only after the occupancy price was paid could interest be calculated and demand made. The applicant paid by cheque the entire amount in December 1981 and the Tahsildar raised the demand for interest in December 1982.

7. In the result I find that the steps taken by the Additional Collector under orders of Government proper and just. The appeal therefore stands dismissed.



Date 27.2.1987.

Sd/-

(John Innocent)
Officer on Special Duty,
(Appeals and Revisions)

TRUE COPY


Desk Officer
Revenue and Forests Department