

COPY OF:

GOVERNMENT OF TAMIL NADU
ABSTRACT

Lease of Municipalities and Township Committees - Lease of Municipal Properties - Inclusion of certain conditions in existing lease form - Orders - Issued

MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT

G.O.Ms. No. 537

Dated: 20.12.1934

Read :

1. From the D.M.A., D.O. Lr. No. 18890/78/A4 dt. 30.3.78.
2. G.Svt. Lr. No. 41551A/M7/78-1 RD&LA, dt. 13.4.78.
3. From the Examiner of L.F. Accounts, Madras Lr. No. 24820/78/C4 dt. 7.6.78.
4. From the Examiner of L.F. Accounts, Lr. No. 115660/82/S4 dt. 11.1.83.
5. From the Examiner of L.F. Accounts, Lr. No. 43014/83/C4 dt. 10.5.83.

ORDER:

The Director of Municipal Administration has brought to the notice of Government that on expiry of the existing lease period the lessees neither vacate their shops on their own nor give written consent letters agreeing to pay the amount as fixed by the Municipal Council for the renewal of lease for a further period. The tendency of the businessmen is to drag on the issue by making repeated representations for reduction of lease amount and to refrain from committing themselves by giving any written representation either agreeing to pay the prescribed lease amount or categorically refusing to accept the same. This only leads to litigation in the Court which takes an unduly long time for a settlement and results in heavy loss to the Municipal Council. The question as to how to avoid such exigency has been engaging the attention of the Government for sometime past.

2. The Examiner of Local Fund Accounts who has been consulted in the matter has in his letter third read above stated that the general defects in leasing out municipal properties is the failure on the part of the Executive Authorities to obtain the lease deed in proper form before allowing the lessee to exercise his right as lessee and he has therefore suggested the inclusion of suitable conditions in the lease deed to overcome the difficulties pointed out by the Director of Municipal Administration. The Examiner of Local Fund Accounts has also submitted draft conditions for incorporation in the form of lease deed for approval by Government. Notwithstanding the incorporation of the proposed conditions in the lease deed executed between the Municipalities and the lessees, the tenants, who continue to be in occupation of the premises after expiry of the period of lease by paying the

lease amount or rent to the lessor i.e. as tenants by holding over, can be evicted or vacated by enforcing the conditions in the lease deed only in accordance with Law by filing Civil suit etc. In view of this position the Examiner of Local Fund Accounts has made a further suggestion in his letter fourth read above for the adoption of the instructions in Government Memo No. 31255/M3/63-11, RD&LA., dated 18.3.64 under which market collections had to be given as licences instead of as lease for a period so that the amount payable for market stalls etc. can be treated as fees and not as rent and the holder of stall termed as licensee and not as tenant enabling the Municipal Council to revoke the licence at its discretion on any delay during the financial year.

3. The Government have examined the suggestions made by the Examiner of Local Fund Accounts referred to above. The orders of the Government referred to by the Examiner in his letter fourth read above would relate to the contract for the collection of fees levied for the use of the Municipal markets, cart stands and slaughter houses etc. where the users of the premises are different from the licensee under the contract. The terms of the above contract are quite different from the lease of the Municipal premises such as stall etc. where the contract is between the Municipal Council and the actual users of the premises as tenants. It is therefore observed that the instructions with reference to the licences cannot be followed in this case.

4. The Government after careful consideration have decided to accept the suggestion of the Examiner of Local Fund Accounts contained in his letter third read above and accordingly direct that the conditions as annexed to this order be incorporated as clauses 5 and 6 in the existing lease deed form contained at pages 102-103 in Municipal Manual Volume-I, so that the existence of the express provisions as approved above in the lease deed ~~and the express~~ would enable the Municipal Councils to take effective legal action to evict the tenants on the expiry of the lease period in the face of non-fulfilment of the conditions for the renewal of leases.

5. The Director of Municipal Administration is requested to send necessary draft amendment to Municipal Manual Volume-I.

(BY ORDER OF THE GOVERNOR)

J. R. RAMANATHAN
COMMISSIONER & SECRETARY TO GOVT.

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