

18. THE CANTONMENT PROPERTY RULES, 1925

[A.D. No. 936, dated 26th June, 1925]

In exercise of the powers conferred by section 111 of the Cantonments Act, 1924 (II of 1924), the Governor-General in Council is pleased to make the following rules—

Rules

1. SHORT TITLE

- (1) These Rules may be called 'the Cantonment Property Rules, 1925.
- (2) They extend to all cantonments in India.]

[S.R.O. 298 dated 4-7-1953]

2. DEFINITIONS

In these rules, unless there is anything repugnant in the subject or context—

- (a) "the Act" means the Cantonments Act, 1924 ;
- (b) "Immovable property" includes land, benefits to arise out of land and things attached to the earth or permanently fastened to things attached to the earth; but does not include standing timber, growing crops or grass;
- (c) "movable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, bark, lac and property of every other description except immovable property.

3. REGISTER OF CANTONMENT PROPERTY

Registers of immovable property, which vest in and belong to the Cantonment Board shall be, maintained by the Cantonment Board in the forms prescribed by Rules 70 and 71 of the Cantonment Account Code, 1924 and all additions to or alterations in the holdings of the Cantonment Board shall be recorded therein.

4. PURCHASE OR LEASE OF LAND OTHER THAN LAND VESTED IN HIS MAJESTY FOR THE PURPOSE OF THE CENTRAL GOVERNMENT

Subject to the provisions of section 109 and section 110 of the Act, the Cantonment Board may purchase or take on lease any immovable property, other than property, which is vested in His Majesty for the purposes of the Central Government, that may be required for an immediate and definite purpose connected with the administration of the cantonment : Provided that the Cantonment Board shall not acquire any interest in any such

property within the limits of the cantonment except with the sanction of the Officer-Commanding-in-Chief, the Command.

5. APPLICATION FOR ACQUISITION OF LAND UNDER THE LAND ACQUISITION ACT, 1894

In making an application to the Central Government under section 110 of the Act for the acquisition of land, the Cantonment Board shall state clearly the necessity for the acquisition and shall submit an estimate of the compensation to be paid and of the revenue, if any, to be remitted. The Cantonment Board shall also certify that acquisition by private contract has been found impracticable or is, for special reasons, undesirable.

6. TRANSFER TO CANTONMENT BOARD OF LAND VESTED IN HIS MAJESTY FOR THE PURPOSES OF THE CENTRAL GOVERNMENT

When any land in the cantonment which is vested in His Majesty for the purposes of the Central Government is required by the Cantonment Board for a purpose connected with the administration of the cantonment, the Cantonment Board may apply to the Central Government for the grant of the land stating the reasons why it is required and the purpose to which it will be applied. If the Central Government consider that the application should be accepted they may transfer the land to the Cantonment Board on such conditions, if any, as they may think fit:

Provided that—

- (a) If the land applied for is already occupied for any other purpose, its transfer to the Cantonment Board shall be governed by the provisions of rule 9 of the Cantonment Land Administration Rules, 1925;
- (b) If the land is required for an object from which the Cantonment Board will derive income of any description, it may be transferred to the Cantonment Board [only on such payment made in such manner] as the Central Government may consider equitable in each case; *[No. 1300 dated 8-10-1926]*
- (c) If at any time the land is not used for the object for which it was granted to the Cantonment Board, or if there has been, in the opinion of the Central Government, any other breach of the conditions on which it was transferred to the Cantonment Board, or if the land is required for a general public purpose, the Central Government may resume possession of the land and for any land so resumed by the Central Government the amount of compensation payable to the Cantonment Board shall be decided by the Central Government in each case, and

shall in no circumstances exceed the amount, if any, paid to the Central Government by the Cantonment Board for the transfer of the land together with the initial cost or the present value, whichever is less, of buildings, if any, erected thereupon.

7. TRANSFER BY CANTONMENT BOARD OF IMMOVABLE PROPERTY

Immovable property which vests in and belongs to the Cantonment Board shall not be transferred to any person by the Cantonment Board by way of sale, mortgage or exchange, or otherwise than by lease without a premium, except with the previous sanction of the Central Government and in such manner and on such terms and conditions as the Central Government may, approve:

[Provided that if the immovable property is situated beyond the limits of the Cantonment, the views of the State Government which will be ascertained by the Officer Commanding-in-Chief, the Command, shall be taken into consideration by the Central Government before according such sanction]

[No. 706 dated 2-7-1938]

8. LEASE BY CANTONMENT BOARD

Subject to the provisions of section 200 of the Act regarding public markets and slaughter-houses, immovable property which vests in and belongs to the Cantonment Board may be leased by the Cantonment Board without a premium on the following conditions, namely-

- (1) that a reasonable rent is reserved and made payable during the whole term of the lease;
- (2) that the lease, or the agreement for the lease, is not made for any term without the previous sanction of the Cantonment Board by resolution at a general meeting; or for any term exceeding five and not exceeding thirty years without the sanction of the Officer Commanding-in-Chief, the Command; or for any term exceeding thirty years without the sanction of the Central Government.]

[Notification No. 103 dated 28-1-1927]

- (3) "that a lease for any purpose to which the Cantonment Board itself could not, under section 109 of the Act, apply the property shall require the previous sanction of, the Central Government;
- (4) that every lease shall specify in clear terms the purpose or purposes to which the leased property may be put by the lessee, and shall contain a clause empowering the Cantonment Board to abrogate the lease in the event of the property being used for any other purpose without the consent of the Cantonment Board;

- (5) that the Cantonment Board shall not give its consent in pursuance of clause (4) without the previous sanction of the Central Government if such consent is sought for use of the leased property for a purpose to which the Cantonment Board could not itself apply the property under section 109 of the Act.
- (6) that where the lessee, in contravention of the terms of the lease and without the consent of the Cantonment Board, uses the leased property for any purpose to which the Cantonment Board could not itself apply the property under section 109 of the Act, the Cantonment Board shall forthwith report the fact of such use to the Central Government, and shall, if so required by the Central Government, exercise its power under the lease of abrogating the same;
- (7) that a lease of immovable property which is, or includes, a part of a street shall require the previous sanction of the Central Government. *[Notification No. 863. dt. 16.5.1942]*

NOTES

Lease of Cantonment owned Shops.

Shops belonging to Cantonment Boards are sometime disposed of in such a way that their occupants have no security of tenure or guarantee against constant increase of rent. Boards are advised to grant regular leases under Rule 8 of the C.P. Rules, 1925 for the occupation of their shops. The lease should be granted for definite periods and under definite conditions as to payment of rent, purpose for which the shop is to be used and so on. Lessees should then not be liable to adjustment except for breach of the conditions of the lease.

The previous sanction of the GOC-in-C the command or the Director is required under proviso to Section 200 of the Cantt. Act, 1924 to the disposal of the lease of a shop in a Cantt. by private treaty.

(ii) Lease for wooden table or platform over drains in bazars and for platform of uniform pattern

Section 191 of Cantt Act, 1924 or rule 8 of C.P. Rules, 1925, should not be used to permit shopkeepers in Bazars to display their goods on wooden tables or wooden platforms erected over the drains. Such a practice is bound to obstruct the public highway and should cease.

(iii) Temporary occupation of any street in a Cantt.

The following principles should be strictly observed by the Cantt Board in giving premises for the temporary occupation of any street in a cantt *u/s* 191 of the Cantt Act 1924—

- (i) The Section so far as it applies to streets is primarily intended for use in emergencies or in circumstances of a public nature e.g. where a

building in course of construction requires protection by a hoarding. It is not intended to cover the grant of leases or licences, whether renewable or not, whereby the lessee or licensee is entitled to narrow the street for his own personal benefit to the inconvenience of the public.

- (ii) The Section only permits the grant of a licence with or without fee which may be revoked at the discretion of the Cantt. Board; it does not justify a lease for a fixed period on rent and the automatic renewal of licence so granted, so as in effect to authorise permanent occupation, would be an abuse of the section.
- (iii) A Cantt Board using the section as a pretext for raising revenue in the form of rents to the inconvenience of the public which it is supposed to protect, would not only be open to the charge of bad administration but would also be liable to a suit for injunction by any member of the public whose movements are inconvenienced by reason of these leases.

[Page 263 & 264 of Military Lands Manual 1945]

COMMENTS

(1) Power to lease property belonging to Municipal Council—Govt. cannot direct council to lease property in favour of anyone of the choice of Govt. *[AIR 1986 Kant 205]*

(2) Agreement by Corporation for displaying advertising Boards on electric poles—Bye-laws as framed do not authorise corporation to realize such tax—Electric poles are property of Electricity Board. *[AIR 1988 ME 46]*

9. POWER TO TRANSFER IMMOVABLE PROPERTY TO HIS MAJESTY

Notwithstanding anything contained in these Rules, the Cantonment Board may with the consent of the Central Government transfer to His Majesty any immovable property which vests in and belongs to it under section 108 of the Act, but not so as to affect any trusts or public rights subject to which the property is held.

10. POWER TO ACQUIRE AND TRANSFER MOVABLE PROPERTY

Subject to the provisions of section 109 of the Act, the Cantonment Board may acquire any movable property that may be required for the purposes of the Act, and may transfer any movable property which vests in and belongs to the Cantonment Board in any way and on any terms that it may, by resolution at a general meeting, determine to be expedient and reasonable.

11. SAVING OF PROVISIONS OF LOCAL AUTHORITIES LOANS ACT, 1914

Nothing in these rules shall affect the provisions of the Local Authorities Loans Act, 1914, under which, except as provided thereby and by the rules made thereunder, no Cantonment Board may for any purpose borrow money upon, or otherwise charge, its funds.

12. ENTRY, INSPECTION BY MILITARY ESTATES OFFICER

The Military Estates Officer appointed under clause (c) of rule 2 of the Cantonment Land Administration Rules, 1925, or any person authorised by him by general or special order may, with or without assistants or workmen, enter into or upon any building or land vesting in the Cantonment Board under section 108 of the Cantonments Act, 1924, for the purpose of making any enquiry, inspection, measurement, valuation or survey, which such officer or person may consider necessary, or of examining or inspecting any works which have been, are being, or are to be executed in or on such building or land.

In the performance of the above duties, such officer or person shall observe the same procedure for the purposes of entry and inspection as is laid down in Chapter XV of the Act. *[Notification No. 842 dated 12.12.1936]*

13. REPEAL

Any rules corresponding to these rules in force in any part of India are hereby rescinded: Provided that anything done or any action taken under such rules shall be deemed to have been done or taken under the corresponding provisions of these rules. *[S.R.O. 298 dated 4. 7. 1953]*