

The Bengal Public Demands Recovery Act, 1913

ASSAM

India

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Act 3 of 1913

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The Bengal Public Demands Recovery Act, 1913(Bengal Act No. 3 of 1913)Last Updated 10th February, 2020(As amended upto Act 10 of 2006)Application of this Act to Nagaland. This Act is in force in Kohima and Mokokchung Districts vide Notification No. 10-R, dated 3.1.1920; and also in force in Tuensang District vide Regulation 4 of 1955.Preamble. - Whereas it is expedient to consolidate and amend the law relating to the recovery of public demands in Bengal;And whereas the previous sanction of the Governor-General has been obtained under Section 5 of the Indian Councils Act, 1892, to the passing of this Act;It is hereby enacted as follows :

Part I – Preliminary

1. Short title commencement and extent.

(1)This Act may be called the Bengal Public Demands Recovery Act, 1913.(2)It shall come into force on such date as the State Government may appoint by notification in the Official Gazette; and(3)It extends to the whole of Assam.

2. Repeals.

- The following enactments are hereby repealed namely :(a)The public Demands Recovery Act, 1895 (Bengal Act 1 of 1895); and(b)The Bengal Public Demands Recovery (Amendment) Act, 1897 (Bengal Act 1 of 1897).

3. Definitions.

- In this Act, unless there is anything repugnant in the subject of context-(1)"certificate debtor" means the persons named as debtor in a certificate filed under this Act, and includes any person whose name is substituted or added as debtor by the Certificate Officer;(2)"certificate holder" means the Government or person in whose favour a certificate has benefited under this Act, and includes

any person whose name is substituted or added as creditor by the Certificate Officer;(3)"Certificate Officer" means a Collector a Sub-Divisional Officer, and any officer appointed by a Collector, with the sanction of the Commissioner, to perform the functions of a Certificate Officer under this Act;(4)"movable property" includes growing crops;(5)"prescribed" means prescribed by rules : (6)"public demand" means any arrear or money mentioned or referred to in Schedule I and includes any amount due to a Bank or financial institution including any interest which may, by law and or under a written agreement be chargeable thereon up to the date on which a certificate is signed under Part II; and(7)"rules" means rules and forms contained in Schedule II or made under Section 39.

Part II – Filing Service and Effect of Certificates and Hearing of Objections thereto

4. Filing of certificate for public demand payable to Collector.

- When the Certificate Officer is satisfied that the public demand payable to the Collector is due, he may sign a certificate in the prescribed Form stating that the demand is due and shall cause the certificate to be filed in his office.

5. Requisition for certificate in other cases.

(1)When any public demand payable to any person other than Collector is due, such person may send to the Certificate Office a written requisition in the prescribed Form :Provided that no action shall be taken under this Act on a requisition made by a liquidator in pursuance of an order under Clause (b) or Clause (d) of sub-section (2) of Section 42 of the Co-operative Societies Act, 1912, unless the requisition be countersigned by the Registrar of Co-operative Societies, Bengal.(2)Every such requisition shall be signed and verified in the prescribed manner, and, except in such cases as may be prescribed, shall be chargeable with the fee of the amount which would be payable under the Court Fees Act, 1870 (VII of 1870) in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

6. Filing of certificate on requisition.

- On receipt of any such requisition the Certificate Officer, if he is satisfied, that the demand is recoverable and that recovery by suit is not barred by law, may sign a certificate, in the prescribed form, stating that the demand is due; and shall include in the certificate the fee (if any) paid under Section 5, sub-section (2) and shall cause the certificate to be filed in his office.

7. Service of notice and copy of certificate on certificate debtor.

- When a certificate has been filed in the office of a Certificate Officer under Section 4 or Section 6, he shall cause to be served upon the certificate debtor, in prescribed manner, a notice in the

prescribed form and copy of the certificate.

8. Effect of service of notice of certificate.

- From and after the service of notice of any certificate under Section 7 upon a certificate debtor-(a)any private transfer or delivery of any of his immovable property situated in the district in which the certificate is filed or of any interest in any such property, shall be void against any claim enforceable in execution of the certificate; and(b)the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate debtor, wherever situated to which every other charge created subsequently to the service of the said notice shall be postponed.

9. Filing of petition denying liability.

(1)The certificate debtor may, within thirty days from the service of the notice required by Section 7, or, where the notice has not been duly served then within thirty days from the execution of any process for enforcing the certificate, present to the Certificate Officer in whose office the certificate is filed, or to the Certificate Officer who is executing the certificate a petition, in the prescribed form, signed and certified in the prescribed manner, denying his liability, in the whole or in part.(2)If any such petition is presented to a Certificate Officer other than the Certificate Officer in whose office the original certificate is filed, it shall be sent to the latter officer for disposal.

10. Hearing and determining of such petition.

- The Certificate Officer in whose office the original certificate is filed shall hear the petition, take evidence (if necessary) and determine whether the certificate debtor is liable for the whole or any part of the amount for which the certificate was signed; and may set aside, modify or vary the certificate accordingly :Provided that if the Certificate Officer, is not the Collector and considers that the petition involves a bona fide, claim of right to property he shall refer the petition to the Collector for orders; and the Collector if he is satisfied that a bona fide claim of right of property is involved, shall make an order cancelling the certificate.

Part III – Execution of Certificates

11. Who may execute certificate.

- A certificate filed under Section 4 or Section 6 may be executed by-(a)the Certificate officer in whose office the original certificate is filed, or(b)the Certificate Officer to whom a copy of the certificate is sent for execution under Section 12, sub-section (1).

12. Transmission of certificate to another Certificate Officer for execution.

(1) A Certificate Officer in whose office a certificate is filed, may send a copy thereof, for execution to any other Certificate Officer in the same district or to the Collector of any other district. (2) When a copy of a certificate is sent to any such officer, he shall cause it to be filed in his office, and thereupon the provisions of Section 8 with respect to certificate filed in the office of a Certificate Officer apply as if such copy were an original certificate: Provided that it shall not be necessary to serve a second notice and copy under Section 7.

13. When certificate may be executed.

- No step in execution of a certificate shall be taken until the period of thirty days has elapsed since the date of the service of the notice required by Section 7, or when a petition has been duly filed under Section 9, until such petition has been heard and determined: Provided that if the Certificate Officer in whose office a certificate is filed is satisfied that the certificate debtor is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a Civil Court, and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing an attachment of the whole or any part of such movable property.

14. Modes of execution.

- Subject to such conditions and limitations as may be prescribed, a Certificate Officer may order execution of a certificate-(a) by attachment and sale, or by sale (without previous attachment), of any property or (b) by attachment of any decree, or (c) by arresting the certificate debtor and detaining him in the civil prison; or (d) by any of the methods mentioned in Clauses (a), (b) and (c). Explanation to Clause (d). - The Certificate Officer may, in his discretion refer execution at the same time against the person and property of the certificate debtor.

15. Certain sales by whom to be held.

- Where a revenue paying estate or therein is liable to sale in execution of a certificate, such sale may be (a) by the Certificate Officer exercising jurisdiction in the district to the revenue-roll of which the estate or share appertains; or (b) by the Certificate Officer exercising jurisdiction in the district in which such estate or share is situated.

16. Interest, costs and charges recoverable.

- There shall be recoverable in the proceedings in execution of every certificate filed under this Act-(a) interest upon the public demand to which the certificate relates, at the rate of six and a quarter per centum per annum from the date of the signing of the certificate up to the date of realisation; (b) such cost as are directed to be paid under Section 45; and (c) all charges incurred in respect of-(i) the service of notice under Section 7 and of warrants and other processes; and (ii) all

other proceedings taken for realising the demand. AttachmentAttachment

17. Attachment of property.

- Property liable to attachment and sale in execution of a decree of Civil Court may be attached and sold in execution of a certificate under this Act.

18. Payment of moneys, contrary to attachment to be void.

- Where an attachment has been made in execution of a certificate any payment to the certificate debtor of any debt, dividend or other moneys, contrary to such attachment, shall be void as against all claims enforceable under the attachment.

19. Attachment of decree.

(1)The attachment of a Civil Court decree for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issues to the Civil Court of a notice requesting the Civil Court to stay the execution of the decree unless and until-(i)the Certificate Officer cancels notice; or(ii)the certificate holder or the certificate debtor applies to the Court receiving such notice to execute the decree.(2)Where a Civil Court receives an application under Clause (ii) of sub-section (1), it shall on the application of the certificate holder or the certificate debtor, and subject to the provisions of the Code of Civil Procedure, 1908, proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate.(3)The certificate holder shall be deemed to be the representative of the holder of attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.Sale

20. Purchaser's title.

(1)Where property is sold in execution of a certificate there shall vest in purchaser merely the right, title and interest of the certificate debtor at the time of the sale, even though the property itself be specified.(2)Where immovable property is sold in execution of certificate, and such sale has become absolute, the purchaser's right title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.(3)Notwithstanding anything contained in sub-section (1), in areas in which Chapter XIV of the Bengal Tenancy Act, 1885 (VII of 1885) is in force, where a tenure or holding is sold in execution of a certificate for arrears of rent due in respect thereof, the tenure or holding shall, subject to the provisions of Section 22 of the Act, pass to the purchaser subject to the interests defined in that Chapter as "protected interests" but with power to annul the interests defined in the Chapter as incumbrances :Provided as follows :(i)a registered and notified incumbrance within the meaning of that Chapter shall not be so annulled except in the case prescribed; and(ii)the power to annul shall be exercisable only in the manner prescribed.(4)Where the certificate holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of sub-section (3) shall not apply.

21. Suit against purchaser not maintainable on ground of purchase being on behalf of plaintiff.

(1) No suit shall be maintained against any person claiming title under a purchase certificate certified by the Certificate Officer in such manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims. (2) Nothing in this section shall bar a suit to obtain a declaration that the name of the any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person or proceed against that property though ostensibly sold to the certified purchaser on the ground that it is liable to satisfy a claim of such third person against the real owner. Setting aside sale

22. Application to set aside sale of immovable property on deposit.

(1) Where immovable property has been sold in execution of a certificate the certificate debtor, or any person whose interests are affected by the sale may at any time within thirty days from the date of the sale, apply to the Certificate Officer to set aside the sale, on his depositing—(a) for payment to the certificate holder, the amount specified in the proclamation of a sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of twelve and a half per centum per annum calculated from the date of the certificate to the date when the deposit is made; (b) for payment to the purchaser as penalty a sum equal to five per cent of the purchase money, but not less than one rupee; and (c) for payment to the Collector (where the certificate is for a public demand payable to the Collector), such outstanding charges due to the Government under any law for the time being in force as the Collector certifies to be payable by the certificate debtor. (2) Where a person makes an application under Section 23 for setting aside the sale of his immovable property, he shall not unless he withdraws that application, be entitled to make or prosecute an application under this section.

23. Application to set aside sale of immovable property on ground of non-service of notice or irregularity.

(1) Where immovable property has been sold in execution of a certificate, the certificate holder, the certificate debtor, or any person whose interests are affected by the sale may, at any time within sixty days from the date of sale, apply to the Certificate Officer to set aside the sale on the ground of a material irregularity in the certificate proceeding or conducting the sale : Provided as follows : (a) no sale shall be set aside on any such ground unless the Certificate Officer is satisfied that the application has sustained substantial injury by reason of the non-service or irregularity; and (b) an application made by a certificate debtor under this section shall be disallowed unless the applicant either deposits the amount recoverable from him in execution of the certificate or satisfies the Certificate Officer that he is not liable to pay such amount. (2) Notwithstanding anything contained in sub-section (1), the Certificate Officer may entertain an application made after the expiry of sixty days from the date of the sale if he is satisfied that there are reasonable grounds for so doing.

24. Application to set aside sale on ground that certificate debtor had no saleable interest or that property did not exist.

- The purchaser at any sale of immovable property in execution of a certificate may, at any time within sixty days from the date of sale, apply to the Certificate Officer to set aside the sale on the ground that the certificate debtor had no saleable interest in the property sold or that the property did not exist at the time of the sale.

25. Sale when a to become absolute or be set aside.

(1)Where no application is made under Sections 22, 23 or 24 where such an application is made and disallowed, the Certificate Officer shall make an order confirming the sale, and thereupon the sale shall become absolute.(2)Where such an application is made and allowed, and where, in the case of an application under Section 22 the deposit required by that section is made within thirty days from the date of the sale, the Certificate Officer shall make an order setting aside the sale :Provided that no order shall be made unless notice of the application has been given to all persons affected thereby.Disposal of proceeds or execution

26. Disposal of proceeds of execution.

(1)Whenever assets are realised, by sale or otherwise in execution of a certificate, they shall be disposed of in the following manner:(a)there shall first be paid to the certificate holder the costs incurred by him;(b)there shall, in the next place, be paid to the certificate holder the amount due to him under the certificate in execution of which the assets were realised.(c)if there remains a balance after these sums have been paid, there shall be paid to the certificate holder therefrom any other amount recoverable under the procedure provided by this Act which may be due to him upon the date on which the assets were realised; and(d)the balance (if any) remaining after the payment of the amount (if any) referred to in Clause (c) shall be paid to the certificate debtor.(2)If the certificate debtor disputes any claim made by the certificate holder to receive any amount referred to in Clause (c) the Certificate Officer shall determine the dispute.Resistance to purchaser after sale

27. Application by purchaser resisted or obstructed in obtaining possession of immovable property.

(1)If the purchaser of any immovable property sold in execution of a certificate is resisted or obstructed by any person in obtaining possession of the property, he may apply to the Certificate Officer.(2)The Certificate Officer shall fix a day for investigating the matter, and shall summon the party against whom the application is made to appear and answer the same.

28. Procedure on such application.

(1)If the Certificate Officer is satisfied that the resistance or obstruction was occasioned without any just cause by certificate debtor or by some person on his behalf, he shall direct that the applicant be

put into possession of the property; and if the applicant is still resisted or obstructed in obtaining possession, the Certificate Officer may also, at the instance of the applicant, order the certificate debtor or such other person to be detained in the civil prison for a term which may extend to thirty days.(2)If the Certificate Officer is satisfied that the resistance or obstruction was occasioned by any person (other than the certificate debtor) claiming in good faith to be in possession of the property on his own account or on account of some person other than the certificate debtor, the Certificate Officer shall make an order dismissing the application.Arrest detention and release

29. Power of arrest and detention.

- A certificate debtor may be arrested in execution of a certificate at any hour and on any day, except as provided in Section 47, and when so arrested, shall as soon as practicable, be brought before the Certificate Officer; and his detention may be in the civil prison of the district in which the Certificate Officer ordering the detention exercise jurisdiction, or, where such civil prison does not afford suitable accommodation, in any other place which the State Government may appoint for the detention of persons ordered by the Civil Courts of such district to be detained :Provided that, if the certificate debtor pays the amount entered in the warrant of arrest as due under the certificate, and the cost of the arrest, to the officer arresting him, such officer shall at once release him.

30. Release from arrest and re-arrest.

(1)The Collector may order the release of a certificate debtor who has been arrested in execution of a certificate upon being satisfied that he has disclosed whole of his property and has placed it at the disposal of the Certificate Officer and that he has not committed any act of bad faith.(2)If the Certificate Officer has ground for believing the disclosure made by a certificate debtor under sub-section (1) to have been untrue, he may order the re-arrest of the certificate debtor in execution of the certificate but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by Section 31, sub-section (1).

31. Detention in and release from prison.

(1)Every person detained in the civil prison in execution of a certificate may be so detained-(a)where the certificate is for a demand of an amount exceeding fifty rupees, for a period of six months, and(b)in any other case, for a period of six weeks :Provided that he shall be released from such detention-(i)on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or(ii)on the certificate being otherwise fully satisfied, or cancelled, or(iii)on the request of the person (if any) on whose requisition the certificate was filed or of the Collector; or(iv)on the omission by the person (if any) on whose requisition the certificate was filed to pay the subsistence allowance fixed by the Certificate Officer:Provided also that he shall not be released from such detention under Clause (ii) or Clause (iii) without the order of the Certificate Officer.(2)A certificate debtor released from detention under this section shall not, merely by reason of his release, be discharged from his debt; but he shall not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison.

32. Release on ground of illness.

(1)At any time after a warrant for the arrest of a certificate debtor has been issued, the Certificate Officer may cancel it on the ground of his serious illness.(2)Where a certificate debtor has been arrested the Certificate Officer may release him, if, in the opinion of the Certificate Officer, he is not in a fit state of health to be detained in the civil prison.(3)Where a certificate debtor has been committed to the civil prison, he may be released therefrom-(a)by the Collector, on the ground of the existence of any infectious or contagious disease, or(b)by the Certificate Officer, or the Collector on the ground of his suffering from any serious illness.(4)A certificate debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by Section 31, sub-section (1).Prohibition of arrest or detention of women, minors and persons of unsound mind

33. Under disability.

- Notwithstanding anything in this Act, Certificate Officer shall not order the arrest or detention in the civil prison of-(a)a woman; or(b)any person who, in his opinion, is a minor or of unsound mind.

Part IV – Reference to Civil Court

34. Suit in Civil Court to have certificate cancelled or modified.

- The certificate debtor may, at any time within six months-(1)from the service upon him of the notice required by Section 7; or(2)if he lies, in accordance with Section 9, a petition denying liability from the date of the determination of the petition; or(3)if he appeals, in accordance with Section 51, from an order passed under Section 13 from the date of decision of such appeal, bring a suit in a Civil Court to have the certificate cancelled or modified and for any further consequential relief to which he may be entitled "Provided that no such suit shall be entertained-(a)in any case, if the certificate debtor has omitted to file, in accordance with Section 9, a petition denying liability or to state in his petition denying liability, the ground upon which he claims to have the certificate cancelled or modified and cannot satisfy the Court that there was good reason for the omission; or(b)in the case of a certificate for a demand mentioned in Article 1 or 2 of Schedule I, if the certificate debtor has not paid the amount due under the certificate to the Certificate Officer-(i)within thirty days from the service of the notice required by Section 7; or(ii)if he has filed, in accordance with Section 2, a petition denying liability - then within thirty days from the date of the determination of the petition; or(iii)if he has appealed in accordance with Section 51 - then within thirty days from the decision of the appeal :Provided also that no sale in execution of a certificate shall be set aside in such a suit unless the purchaser has been made a party to the suit and until a direction is made for the refund of the amount of the purchase money, with such interest (if any) as the Court may allow.

35. Grounds for cancellation or modification of certificate by Civil Court.

(1) No certificate duly filed under this Act shall be cancelled by a Civil Court, except on one of the following grounds, namely : (a) that the amount stated in the certificate was actually paid or discharged before the signing of the certificate; (b) that no part of the amount stated in the certificate was due by the certificate debtor to the certificate holder; or (c) that, in case of fines imposed, or costs, charges, expenses damages, duties or fees adjudged, by a Collector or a public officer under any law or any rule having the force of law, the proceedings of such Collector or public officer were not in substantial conformity with the provisions of such law or rule, and that in consequence the certificate debtor suffered substantial injury from some error, defect or irregularity in such proceedings. (2) No certificate duly filed under this Act shall be modified by a Civil Court, except on one of the following grounds, namely : (i) that a portion of the alleged debts was not due; or (ii) that the certificate debtor has not received credit for any person which he has paid. (3) Nothing contained in this section shall interfere with the ordinary original jurisdiction of the High Court of Assam or with the jurisdiction of the Calcutta of Small Causes.

36. Suit to recover possession of, or to set aside sale of immovable property, where notice of certificate not served.

- Notwithstanding anything hereinbefore contained a sale of immovable property in execution of a certificate shall not be held to be void on the ground that the notice required by Section 7 has not been served; but a suit may be brought in a Civil Court to recover possession, of such property or to set aside such sale on the ground that such notice has not been served, and that the plaintiff has sustained substantial injury by reason of the irregularity : Provided that no such suit shall be entertained - (a) if instituted more than one year from the date on which possession of the property was delivered to the purchaser, or (b) if the certificate debtor has made appearance in the certificate proceeding or has applied to the Certificate Officer under Section 22 or Section 23 to set aside the sale.

37. General bar to jurisdiction of Civil Courts save where fraud alleged.

- Except as otherwise expressly provided in this Act, every question between the certificate holder and the certificate debtor, or their representatives, relating to the making execution discharge or certification of a certificate duly filed under this Act, or relating to the confirmation of setting aside by an order under this act, of a sale held in execution of such certificate, shall be determined not by a suit, but by order to the Certificate Officer before whom such question arises or of such other Certificate Officer as he may determine : Provided that a suit may be brought in Civil Court in respect of any such question upon the ground of fraud.

Part V – Rules

38. Effect of rules in Schedule II.

- The rules in Schedule II shall have effect as if enacted in the body of this Act, until altered or annulled in accordance with the provisions of this Part.

39. Power of Board of Revenue to make rules as to procedure.

(1)The Commissioner may, after previous publication and with the previous sanction of the State Government, make rules regulating the procedure to be followed by person making requisitions under Section 5 and by Collector and Certificates Officer acting under this Act, and may by such rules, alter add, to or annul any of the rules in Schedule II.(2)Such rules shall not be inconsistent with the provisions in the body of this Act, subject thereto, may in particular and without prejudice to the generality of the power conferred by sub-section (1) provide for all or any of the following matters, namely:(a)the signature and verification or requisitions made under Section 5;(b)the Certificate Officers to whom such requisitions should be addressed;(c)the case in which such requisitions shall not be chargeable with a fee;(d)the service of notices issued under Section 7, the service of other notices or processes issued under this Act, and the manner in which service may be proved;(e)the signing and verification of petitions under Section 9 deriving liability;(f)the transfer of such petitions to other officers for disposal;(g)the scale of charges to be recovered under Section 16, Clause (c);(h)the maintenance and custody while under attachment of live stock and other movable property, the fees to be charged for such maintenance and custody, the sale of such live-stock and property, and the disposal of the proceeds of such sale;(i)the registers, books and accounts to be kept by Certificate Officers and the inspection thereof by the public;(j)the fees to be charged for the inspection of the register of certificates maintained under Rule 59 in Schedule II;(k)the recovery of expenditure on the certificate establishment by the levy of costs under Section 16, Clause (b) and Section 45;(l)the recovery of poundage fees; and(m)the forms to be used under this Act.

Part VI – Supplemental Provisions

40. Publication and effect of rules made under Section 39.

(1)Rules made and sanctioned under Section 39 shall be published in the Official Gazette and shall, from the date of publication or from such other date as may be specified have the same force and effect as if they had been contained in Schedule II.(2)All references in this Act to the said Schedule II shall be construed as referring to that Schedule as for the time being amended by such rules.

41. Persons under disability.

- Where the Certificate Officer is satisfied that the certificate debtor is a minor or of unsound mind, he shall in any proceeding under this Act, permit him to be represented by any suitable person.

42. Continuance of certificates.

- No certificate shall cease to be in force by reason of-(a)the property to which the demand relates ceasing to be under the charge of management of the Court of Wards of the revenue-authorities;(b)the death of the certificate holder.

43. Procedure on the death of certificate holder.

- Where a certificate debtor dies before the certificate has been fully satisfied, the Certificate Officer may, after serving upon the legal representative of the deceased a notice in the prescribed form, proceed to execute the certificate against such legal representative; and the provisions of this Act shall apply as if such legal representative were the certificate debtor and as if such notice were a notice under Section 7 :Provided that where the certificate is executed against such legal representative, he shall be liable only to the extent of the property of (lie deceased which has come to his hands and has not duly disposed of; and for the F24purpose of ascertaining such liability, the Certificate Officer executing the certificate, may, of his own motion or on the application of the certificate holder, compel, such legal representative to produce such accounts as the Certificate Officer thinks fit.

44. Cancellation of certificates.

(1)The Certificate Officer shall cancel any certificate at the request of the certificate holder.(2)The Certificate Officer may cancel any certificate filed under Section 6 if the certificate holder is not reasonably diligent.

45. Costs.

- Subject to such limitations as may be prescribed, the award of any costs of and incidental to any proceeding under this Act shall be in the discretion of the officer presiding, and he shall have full power to direct by whom and to what extent such costs shall be paid.

46. Compensation.

- If the Certificate Officer is satisfied that any requisition under Section 5 was made without reasonable cause, he may award to the certificate debtor such compensation as the Certificate officer thinks fit; and the amount so awarded shall be recoverable from the certificate holder under the procedure provided by this Act for the recovery of costs.

47. Entry into dwelling house.

(1)No person executing any warrant of arrest issued under this Act directing or authorising the attachment of movable property shall enter any dwelling-house after sunset or before sunrise.(2)No outer door of a dwelling house shall be broken open unless dwelling-house or a portion thereof is in

the occupancy of the certificate debtor and he or any other occupant of the house refuses or in any way prevents access thereto; but when the person executing any such warrant or other process has duly gained access to any dwelling house, he may break open the door of any room and enter, if he has reason to believe that entering into the room is necessary in order to enable him to execute the process.(3)Where a room in a dwelling-house is in the actual occupancy of a woman who according to the customs of the country, does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw, and after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of executing the process ; and if the process be for the attachment of property, he may at the same time use every precaution, consistent with this section, to prevent its clandestine removal.

48. Application of Act XVIII of 1850.

- Every Collector, Certificate Officer, Assistant Collector or Deputy Collector acting under this Act, and every servant of the Government making a requisition under Section 5, shall, in the discharge of his functions under this Act, be deemed to be acting judicially within the meaning of the Judicial Officer's Protection Act, 1850.

49. Officers to have powers of Civil Court for certain purposes.

- Every Collector, Certificate Officer, Assistant Collector or Deputy Collector acting under this Act shall have the powers of a Civil Court for purposes of receiving evidence, administering oaths, enforcing the attendance or witnesses and compelling the production of documents.

50. Control over officers.

- All Certificate Officers (not being Collectors), Assistant Collectors and Deputy Collectors shall in the performance of their duties under this Act, be subject to the general supervision and control of the Collector.

51. Appeal.

(1)An appeal from any original order made under this Act shall lie-(a)if the order was made by an Assistant Collector or a Deputy Collector or by a Certificate Officer not being the Collector-to the Collector ; or(b)if the order was made by the Collector-to the Commissioner: Provided that no appeal shall lie from any order made under Section 22.(2)Every such appeal must be presented, in case (a) within fifteen days, or in case (b), within thirty days, from the date of the order.(3)The Collector may, by order, with the previous sanction of the Commissioner, authorise-(i)any Sub-Divisional Officer; or(ii)any officer appointed under Clause (3) of Section 3 ;to perform the functions of a Certificate Officer to exercise the appellate powers of the Collector under sub-section (1).(4)When any officer has been so authorised, the Collector may transfer to him for hearing any appeal referred to in Clause (a) of sub-section (1), unless the order appealed against was not made by such officer.(5)Pending the decision of any appeal, execution may be stayed if the appellate

authority so directs, but not otherwise.

52. Bar to second appeals.

- No appeal shall lie from an order of a Collector, or any officer authorised under Section 51, sub-section (3), then passed on appeal.

53. Revisions.

- The Collector may revise any order by a Certificate Officer, Assistant Collector or Deputy Collector under this Act. The Commissioner may revise any order passed by a Collector under this Act. And the State Government may revise any order passed by a Commissioner under this Act.

54. Review.

- Any order passed under this Act may, after notice to all persons interested, be reviewed by the officer who made the order or by his successor in office, on account of mistake or error either in the making of the certificate or in the course of any proceeding under this Act.

55. Saving of other Acts.

- The powers given by this Act shall be deemed to be in addition to and not in derogation of any powers conferred by any other Act now in force for the recovery any due, debt or demand to which the provisions of this Act are applicable ; and, except where expressly so provided, no legal remedy shall be affected by this Act.

56. Application of the [Indian Limitation Act, 1908 (IX of 1908)] [See now Limitation Act, 1963.].

(1) Sections 6 to 9 of the [Indian Limitation Act, 1908] [See now Limitation Act, 1963.], shall not apply to suits, appeals or applications under this Act. (2) Except as declared in sub-section (1), the provisions of the [Indian Limitation Act, 1908] [See now Limitation Act, 1963.], shall apply to the proceedings under this Act as if a certificate filed hereunder were a decree of a Civil Court.

57. Certificate Officer deemed to be a Court.

- A Certificate Officer shall be deemed to be a Court, and any proceeding before him shall be deemed to be a civil proceeding within the meaning of Section 14 of the [Indian Limitation Act, 1908 (IX of 1908)] [See now Limitation Act, 1963.].

58. Penalties.

- Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in execution of a certificate, shall be deemed to have committed an offence punishable under Section 206 of the Indian Penal Code (XLV of 1860).

59. Signature of documents by ministerial officers.

(1) Any Certificate Officer may, by written order, authorise any ministerial officer to sign, on behalf of the Certificate Officer, any copy, issued by the Certificate Officer under this Act, of any document referred to therein. (2) The State Government may, by notification in the official Gazette empower Certificate Officers to authorise ministerial officers, by written order, to sign on behalf of Certificate Officers any classes of original notices, summons or proclamations issued by Certificate Officers, under this Act which are specified in such notification.

I

[See Sections 3(6) and 34(b)] Public Demands

1. Any arrears of revenue which remains due in the following circumstances, namely:

When under the provisions of the Bengal Land Revenue Sales Act, 1859 (XI of 1859) or the Bengal Land Revenue Sales Act, 1868, (VII of 1868) or any other law for the time being in force, an estate or tenure, or any share of an estate or tenure, which has been sold for the recovery of arrears of revenue due thereupon, and, after deducting the expenses of such sale, the balance of sale proceeds remaining is insufficient to liquidate the arrears of revenue in discharge of which such sale proceeds may, under the said provisions, be applied.

2. Any arrear of revenue which is due from a farmer on account of an estate held by him in farm and is not paid on the last day of payment fixed under Section 3 of the said Bengal Land Revenue Sales Act, 1859 (XI of 1859).

3. Any money which is declared by any law for the time being in force to be recoverable or reasonable as an arrear of revenue or land revenue, or by the process authorised for the recovery of arrears of revenue or of the public revenue or of Government revenue.

4. Any money which is declared by any enactment for the time being in force-

(i) to be a demand or a public demand ; or (ii) to be recoverable as arrears of a demand or public demand, or as a demand or public demand ; or (iii) to be recoverable under the Bengal Land Revenue Sales Act, 1868 (VII of 1868).

5. Any money due from the sureties of a farmer in respect of the revenue of the estate formed by him.

6. Any money awarded as fees or costs by a revenue authority under any law or any rule having the force of law.

7. Any demand payable to the Collector by a person holding any interest in land, pasturage, forest-rights, fisheries or the like, whether such interest is or is not transferable, when such demand is a condition for use and enjoyment of such land, pasturage, forest-rights, fisheries or other thing.

8. In the case of property which, under the provisions of any law for the time being in force, is under the charge of, or is managed by the Court of Wards, or the revenue authorities on behalf of a private individual any arrear of rent or any demand which is recoverable as rent, whether such arrears became due before or after the management devolved upon such Court or such authorities.

9. Any money payable to an officer of the Government or any Local authority, in respect of which the person liable to pay the same has agreed, by a written instrument, duly registered, that it shall be recoverable as a public demand.

9.

-A. Any money payable to the Government or to an officer to the Government in payment of a loan in cash or in kind, in respect of which money, the person to whom the loan in cash or in kind was advanced, has agreed by written instrument that such money shall be recoverable as a public demand.

9.

-B. Any money due to a bank or financial institution from any person in respect of any amount advanced or granted under any scheme, shall, apart from any other mode of recovery, be recoverable as a "public demand".

10. Any stamp duly payable by a petitioner in respect of a paper of partition prepared under the Estates Partition Act, 1897 (Bengal Act V of 1897).

11. In the case of a person to whom the collection of tolls has been formed under Section 8 of the Canals Act, 1864 (Bengal Act V of 1864), or of the sureties of such person any money due in respect of such firm.

12. Any money awarded as compensation under Section 2 of the Bengal Land Revenue Sales Act, 1868 (Bengal Act VII of 1868).

12.

-A. Any sum ordered by a liquidator appointed under sub-section (1) of Section 42 of the Co-operative Societies Act, 1912 (II of 1912) to be recovered as a construction to the assets of a Society or as the cost of liquidation.

13. Any money due from a purchaser at a sale held in execution of a certificate under this Act, whether the sale is subsisting or not.

II

[See Section 38]Signature and verification of requisitions for verification

1. Signature and verification or requisition for certificates. - (1) Every requisition made under Section 5 shall be signed and verified at the foot by the person making it.

(2)The verification shall state that the person signing the requisition has been satisfied by inquiry that the amount stated in the requisition is actually due.(3)The verification shall be signed by the person making it, and shall state the date in which it is signed.Service of Notices

2. Mode of service. - Service of a notice issued under Section 7 or under any other provision of this Act, shall be made by delivering or tendering a copy thereof, signed by the Certificate Officer or such ministerial officer as he authorises in this behalf and sealed with the seal of the Certificate Officer.

3. Service on certificate debtor or his agent. - Whenever it is practicable, service shall be made on the certificate debtor in person, unless he has an agent empowered to accept service in which case service on such agent shall be sufficient.

4. Service on adult male member of certificate debtor's family. - Where the certificate debtor cannot be found, and has not agent empowered to accept service of the notice on his behalf, service may be made on any adult male member of the family of the certificate debtor who is residing with him.

Explanation. - A servant is not a member of the family within the meaning of this rule.

5. Person served to sign acknowledgement. - Where the serving officer delivers or tenders a copy of the notice to the certificate debtor personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original notice.

6. Procedure where certificate debtor refuses to accept service or cannot be found. - Where the certificate debtor or his agent or such other person as aforesaid, refuses to sign acknowledgement, or where the serving officer after using all due and reasonable diligence, cannot find the certificate debtor, and there is no agent empowered to accept service of the notice on his behalf, nor any other person on whom service can be made, the serving officer shall-

(a)affix a copy of the notice on the outer door or some other conspicuous part of the house in which the certificate debtor ordinarily resides or carries on business or personally works for gain;(b)if there be land affected by the notice, affix a copy of the notice on some conspicuous place in the officer of the Certificate Officer and also on some conspicuous part of the land; and shall then return the original to the Certificate Officer by whom it was issued, with a report endorsed thereon or annexed there to stating that he has so affixed the copy, the circumstances under which he did so and the name and address of the person (if any) by whom the house or land was identified and in whose presence the copy was affixed.

7. Endorsement of time and manner of service. - The serving officer, shall in all cases in which the notice has been served under Rule 5, endorse or annex or cause to be endorsed or annexed, on or to the original notice, a return stating the time when and the person (if any) identifying the person and witnessing the delivery or tender of the notice.

8. Examination of serving officer. - Where a notice is returned under Rule 6, the Certificate Officer shall, if the return under that rule has not been verified by the affidavit of the serving officer, and may, if it has been so verified

examine the serving officer on oath, or cause him to be so examined by another Certified Officer, or subject to any general order of the Collector, by an Assistant Collector, Deputy Collector Sub-Deputy Collector touching his proceedings and may make such further inquiry in the manner as he thinks fit; and shall declare that the notice has been duly served or order such service as he thinks fit.

9. Service by post. - Notwithstanding anything hereinbefore contained, the notice may, if the Certificate Officer so directs, be served by post.

Petition under Section 9 denying liability

10. Signature and verification of petition denying liability. - (1) Every petition filed under Section 9 denying liability, shall be signed and verified at the foot by the certificate debtor or by some other person on his behalf who is proved to the satisfaction of the Certificate Officer to be acquainted with the facts of the case.

(2)The verification shall be signed by the person making it and shall state the date on which it is signed.

11. Transfer of such petition. - (1) The Certificate Officer may, subject to any general or special order of the Collector, transfer to any Assistant Collector or Deputy Collector subordinate to the Collector, any petition filed under Section 9; and such Assistant Collector or Deputy Collector shall hear and determine such petition accordingly :

Provided that the Collector may re-transfer any petition so transferred, and order that it be heard and determined by the Certificate Officer.(2)The provisions of Section 10 shall be applicable to any Assistant Collector or Deputy Collector to whom any such petition has been transferred under sub-rule (1).Execution of certificate

12. Execution in another district. - Where a copy of a certificate is sent for execution to the Collector of another district under Section 12, sub-section (1), the certificate may be executed by him or may be transferred by him to any Certificate Officer in his district.

Attachment on movable property, etc.

13. Application for attachment of movable property in the possession of the certificate debtor. - At the time of making an application for the attachment of movable property in the possession of the certificate debtor the certificate holder shall declare whether the property is above or below Rs. 20 in value. If the property is declared to be above Rs. 20 in value, the certificate holder shall pay the cost of issuing proclamation of sale. If, however, the value of the property having been declared to be Rs. 20 or under should be found as determined by Rs. 14 to exceed Rs. 20 the certificate holder shall pay the costs of issuing the proclamation of sale immediately on receipt of notice of attachment.

14. Procedure for the attachment of movable property when its value is up to Rs. 20 or above. - When the attaching officer believes that the property attached does not exceed Rs. 20 in value, he shall inform the debtor or in his absence, any present adult member of his family, that it will be sold by public auction at once without the issue of any proclamation. In case the certificate holder or the certificate debtor, or any person on his behalf objects to this, the attaching officer shall convoke a panchayat of not less than three respectable adult male inhabitants of neighbourhood, of whom ordinarily the headman of the village should be one, and shall require them to assess the value of the property. If they determine that it exceeds Rs. 20 in value, he shall deal with it according to the rules for the sale of movable property exceeding Rs. 20 in value, otherwise he shall forthwith proceed to sell it by auction after giving such reasonable notice as the circumstances of the case admit of to intending purchaser.

15. Attachment of movable property (other than agricultural produce) in possession of certificate debtor. - Where the property to be attached is movable property (other than agricultural produce) in the possession of the certificate debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Provided that, when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

16. Attachment of agricultural produce. - Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment-

(a)where such produce is growing crop-on the land on which such crop has grown; or(b)where such produce has been cut or gathered-on the threshing floor or place for treading out grain or the like, or fooder-stack on or in which it is deposited,and another copy on the outer door or on some other conspicuous part of the house in which the certificate debtor ordinarily resides, or with the leave of the Certificate Officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain; and the produce shall thereupon be deemed to have passed into the possession of the Certificate Officer.

17. Provisions as to agricultural produce under attachment. - (1) Where agricultural produce is attached the Certificate Officer shall make such arrangements for the custody thereof as he may deem sufficient, and, when the produce is a growing crop, shall have regard to the time at which it is likely to be fit to be cut or gathered.

(2)Subject to such conditions as may be imposed by Certificate Officer in this behalf either in the order of attachment or in any subsequent order, the certificate debtor may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it, and if, the certificate debtor fails to do all or any of such acts, the certificate holder may, with the permission of the Certificate Officer and subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf and the costs incurred by the certificate holder shall be recoverable from the certificate debtor as if they were included in the certificate.(3)Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.(4)Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered the Certificate Officer may suspend the execution of the order for such time as he thinks fit, and may in his discretion make a further order prohibiting the removal of the crop pending the execution of the order of attachment.(5)A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

18. Attachment of debt, share and other movable property not in possession of certificate debtor. - (1) In the case of-

(a)a debt not secured by a negotiable instrument; or(b)a share in the capital of a corporation; or(c)other movable property not in the possession of the certificate debtor, except property deposited in, or in the custody of any Court;the attachment shall be made by a written order prohibiting-(i)in the case of the debt - the creditor from recovering the debt and the debtor from making payment thereof until further order of the Certificate Officer;(ii)in the case of the share - the

person in whose name the share may be standing from transferring the same or receiving any dividend thereon;(iii)in the case of the other movable property (except as aforesaid) - the person in possession of the same from giving it over to the certificate debtor.(2)A copy of such order shall be affixed on some conspicuous part of the office of the Certificate Officer, and another copy shall be sent in the case of the debt, to the debtor in the case of the share to the proper officer of the corporation, and in the case of the other movable property (except as aforesaid) to the person in possession of the same.(3)A debtor prohibited under Clause (i) of sub-rule (1) may pay the amount of debt to the Certificate Officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

19. Attachment in share of movables. - Where the property to be attached consists of the share of interest of the certificate debtor in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the certificate debtor prohibiting him from transferring the share or interest or charging it in any way.

20. Attachment of salary or allowances of public officer or servants of railway company or local authority. - (1) Where the property to be attached is the salary or allowances of a public officer or of a servant of a Railway Company or Local Authority, the Certificate Officer, whether the certificate debtor or the disbursing officer is or is not within the local limits of Certificate Officer's jurisdiction, may order that the amount shall be withheld from such salary or allowance, either in one payment or by monthly, instalments as the Certificate Officer may direct; and upon such notice of the order to such officer as the State Government may, by notification in the Official Gazette appoint in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Certificate Officer the amount due under the order, or the monthly instalments as the case may be.

(2)Where the attachable portion of such salary or allowance is already being withheld and remitted to a Certificate Officer or to a Civil Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by the State Government in this behalf shall forthwith return the subsequent order to the Certificate Officer issuing it, with a bill statement of all the particulars of the existing attachment.(3)Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2) shall, without further notice or other process, bind the Government or the Railway Company or Local Authority, as the case may be; and the Government or the Railway Company or Local Authority as the case may be, shall be liable for any sum paid in contravention of this rule.

21. Attachment of negotiable instruments. - Where the property is a negotiable instrument not deposited in a Court nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought before the Certificate Officer and held subject to his orders.

22. Attachment of property in custody of Court or public officer. - Where property to be attached is in the custody of any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Certificate Officer by whom the notice is issued :

Provided that, where such property is in the custody of Court any question of title or priority arising between the certificate holder and any other person, not being the certificate debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

23. Attachment of immovable property. - Where the property is immovable, no attachment need be made before sale.

24. Removal of attachment on satisfaction or cancellation of certificate. - Where-

(a) the amount due with costs and all charges and expenses resulting from the attachment of any property incurred in order to a sale, are paid to the Certificate Officer, or (b) the certificate is cancelled, the attachment shall be deemed to be withdrawn and, in the case of immovable property, the withdrawal, shall if the certificate debtor so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner prescribed by Rule 47, sub-rule (1). Maintenance and custody while under attachment of live-stock and movable property

25. Custody of property under attachment. - Under Rule 15, the property seized will remain in the custody of the attaching officer or of one of his subordinates on his responsibility.

26. Removal of property to Court. - If no suitable place can be found in the village for the safe custody of the attached property, the attaching officer shall remove the property to the Court at the certificate holder's expense. In the event of the certificate holder failing to provide the necessary funds, the attachment shall be withdrawn.

27. List of the property under attachment. - Whenever attached property is kept at the place where it is attached the officer shall forthwith report the fact to the Certificate Officer, and with his report shall forward an accurate list of the property, so that the Certificate Officer may thereon at once issue the proclamation of sale.

28. Debtor's consent to the sale of the property under attachment. - If the debtor shall give his consent in writing to the sale of the property without awaiting the expiry of the prescribed term, the officer shall receive the same and forward it without delay to the Certificate Officer for orders.

29. Custody of property under attachment while in Court. - When the property is removed to the Court, it shall be kept by the Nazir on his own sole responsibility in such place as may be approved by the Certificate Officer. If the property cannot, from its nature or bulk be conveniently kept in the Court premises, or in the personal custody of the Nazir, he may, subject to the approval by the Certificate Officer, make such arrangements for its safe custody under his own supervision as may be most convenient and economical and the Certificate Officer may fix the remuneration to be allowed to the persons not being officers of the Court in whose custody the property is kept.

30. Claim of any person other than the certificate debtor to be the property under attachment. - When property remains at the place where it is attached in the custody of the attaching officer, any person other than the certificate debtor shall claim the same, or any part of it, the officer shall nevertheless, unless the certificate holder desires to withdraw the attachment of the property so claimed remain in possession, and shall direct the claimant to prefer his claim to the Certificate Officer.

31. Withdrawal of attachment. - If the certificate holder shall withdraw an attachment, or if it be withdrawn under Rule 26 or Rule 33, the attaching officer shall inform the debtor, or in his absence, an adult member of his family that the property is at his disposal.

In the absence of any person to take charge of it, or in case the officer shall have had notice of claim by a person other than the certificate debtor, the officer shall, if the property has been moved from the premises in which it was seized, replace it where it was found at the time of seizure.

32. Feeding and tending of live-stock under attachment. - Whenever live-stock is kept at the place where it has been attached, the certificate debtor shall be at liberty to undertake the due feeding and tending of it, under the supervision of the attaching officer : but the latter shall, if required by the certificate holder, and on his paying for the same, at a rate to be fixed by the Certificate Officer, engage the services of as many persons as may be necessary for the safe custody of it.

33. Cost for feeding live-stock and expenses attending its removal to Court. - In the event of the certificate debtor failing to feed attached live-stock, the officer shall call upon the certificate holder either to pay for feeding it on the spot or for the expenses attending its removal to the Court. If the certificate holder shall fail to provide for either, the officer shall report the matter without delay to the Certificate Officer who may thereupon withdraw the attachment.

34. Responsibility of the Nazir for safe custody and proper feeding. - When attaching live-stock is brought to Court the Nazir shall be responsible for the safe custody and proper feeding of it so long as the attachment continues.

35. Custody of live-stock in Government pounds. - If there be a Government pound in or near the place where the Court is held, the Nazir shall be at liberty to place in such attached live stock as can be property kept there, in which case the point keeper will be responsible for the property to the Nazir, and shall receive the same rates for accommodation and maintenance thereof as are paid in respect of impounded cattle of the same description.

36. Responsibility of the Nazir for the custody of live-stock. - If there be no pound available, or if, in the opinion of the Certificate Officer, it be inconvenient to lodge the attached live stock in the pound, the Nazir may keep it in his own premises, or he may entrust it to any person selected by himself and approved by the certificate officer. The Nazir will in all cases remain responsible for the custody of the property.

37. Rates or be allowed for the custody and maintenance of various description of live-stock. - The Certificate Officer shall, from time to time, fix the rates to be allowed for the custody and maintenance of the various description of live-stock with reference to seasons and local circumstances.

The Collector may make any alterations he deems fit in the rates so prescribed.

38. Fees to be charged where process of attachment of movable property is by actual seizure. - (1) Where process of attachment of movable property by actual seizure is issued, fees at the following rates shall be charged, and the officer deputed to attach such property shall be furnished with a certificate stating the period for which the fees in accordance with this rule have been paid :

(i)	When the amount under the certificate exceeds Rs. 1,000-	Rs.	a. p.
(a)		for the seizure under the order of attachment	2 0 0
(b)		for each man necessary to ensure custody of property so attached when such man is actually in possession per diem	0 6 0
(ii)	When the amount under certificate is Rs. 1,000 or under but above Rs. 50-		
(a)		for the seizure under the order of attachment	1 0 0
(b)		for each man necessary to ensure the safe custody of property so attached, when such man is actually in possession, per diem.	0 4 0
(iii)	When the amount under certificate is Rs. 50 or under-		
(a)		for the seizure under the order of attachment	0 8 0
(b)		for each man necessary to ensure the safe custody of property so attached, when such man is actually in possession, per diem	0 4 0

(2) When process of attachment is issued in a number of cases relating to the same or neighbouring villages, the fee (a) referred to above must be paid in each case; and the daily fee (b) only for the men actually employed. The daily fee (b) is to be paid at the time of obtaining the process for so many days as the Certificate Officer shall order, not being ordinarily less than fifteen days, and the number of days required for the coming and going of the attaching officer; but where that officer is not to be left in possession, the daily fee is to be paid only for the time to be occupied by the officer going effecting the attachment and returning. When the inventory filed by the certificate holder shows the property to be of such small value, that the expenses of keeping it in custody may probably exceed the value, the Certificate Officer shall fix the daily fee with reference to the provisions of Rule 15 : Provided that, if it appears that for any reason the number of days fixed by the Certificate Officer under this rule and in respect of which fees have been paid, is likely to be exceeded and the certificate holder desires to maintain the attachment, the certificate holder shall

apply to the Certificate Officer to fix such further number of days as may be necessary and the additional fees in respect thereof shall be paid in the manner provided in sub-rule (3). If such additional fees is not paid within the period originally fixed and in respect of which fees have been paid, the settlement shall cease on the expiry of that period.(3)The fees prescribed by this rule shall be payable in advance at the time when the petition for service or exaction is presented, and shall be paid by means of Court-fee stamps affixed to the petition in addition to the stamps necessary for its own validity.

39. Investigation by Certificate Officer. - (1) Where any claim is preferred, or any objection is made to the attachment or sale of any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Certificate Officer shall proceed to investigate the claim or objection :

Provided that no such investigation shall be made where the Certificate Officer considers that the claim or objection was designedly or unnecessarily delayed.(2)Where the property to which the claim or objection applies has been advertised for sale, the Certificate Officer ordering the sale may postpone it pending the investigation of the claim or objection.

40. Evidence to be adduced. - The claimant or objector must adduce evidence to show that-

(a)(in the case of immovable property) at the date of the notice under Section 7, or(b)(in the case of movable property) at the date of the attachment, he has some interest in or was possessed of, the property attached.

41. Release of property from attachment or sale. - Where upon the said investigation the Certificate Officer is satisfied that, for the reasons stated in the claim or objection, such property was not-

(a)(in the case of immovable property) at the date of the service of the notice under Section 7, or(b)(in the case of movable property) at the date of the attachment, in the possession of the certificate debtor or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that being in the possession of the certificate debtor at the said date, it was so in his possession, nor of his own property, but on account, or in trust for some other person, or partly on his own account and partly on account of some other person, the Certificate Officer shall make an order releasing the property, wholly or to such extent as he thinks fit from attachment or sale.

42. Disallowance of claim to property attached. - Where the Certificate Officer is satisfied that the property was at the said date, in the possession of the certificate debtor as his own property and not on account of any other person or was in the possession of some other person in trust for him or in the occupancy of a tenant or other person paying rent to him, the Certificate Officer shall disallow the claim.

43. Saving of suits to establish right to attached property. - Where a claim or an objection is preferred the party against whom an order is made may institute a suit in a Civil Court to establish the right which he claims to the property in dispute; but subject to the result of such suit (if any), the order shall be conclusive.

Sale generally

44. Power to order sale of attached property. - Any Certificate Officer executing a certificate may order that any property liable to sale, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

45. Sale of movable property falling under Rule 15 or of value not exceeding Rs. 40 or of greater value. - Sales of property under the proviso to Rule 15 and of movable property not exceeding Rs. 40 in value shall be held on the spot. Such sales will necessarily be conducted by peons when they are the attaching officers. Sales of movable property of greater value can, under Rule 46 take place only after the issue of a proclamation but they may be held on the spot or at the sadar or sub-divisional headquarters, as may seem convenient and conducive to the securing of good prices : provided that the place and time of sale are notified in the proclamation. For such sales, officers of higher rank than peon should always be deputed when the value of the property is estimated to exceed Rs. 50; and proclamation should be issued. When the value is between Rs. 40 and Rs. 50, the Collector or Certificate Officer may, by a special order, depute a peon if he considers it desirable to do so.

46. Proclamation of sale by public auction. - (1) Where any immovable property or any movable property exceeding twenty rupees in value, is ordered to be sold by public auction the Certificate Officer shall cause a proclamation of the intended sale to be made in the language of the Courts of the district.

(2) Such proclamation shall be drawn up after notice to the certificate-debtor, and shall state the time and place of sale and shall specify, as fairly and accurately as possible- (a) the property to be sold; (b) (where the property to be sold is an estate or a part of an estate paying revenue to the Government) the revenue assessed upon the estate or part of the estate; (c) the amount for the recovery of which the sale is ordered; and (d) any other thing which the Certificate Officer considers it material for a purchaser to know in order to judge of the nature and value of the property. (3) Where a tenure, or raiyati holding at fixed rates, situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885 (VIII of 1885) is in force is to be sold in execution of a certificate for arrears of rent due in respect thereof the said proclamation shall also state that the tenure or holding will first be put up to auction subject to the registered and notified encumbrances and will be sold subject to these incumbrances if the sum bid is sufficient to liquidate the amount specified in the certificate and costs, and that otherwise, it will, if the certificate holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances. (4) Where an occupancy holding situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885 (VIII of 1885) is in force, is to be sold in execution of a certificate for arrears of rent due in respect thereof, the said proclamation shall also state that the holding will be sold with power to annul all incumbrances. (5) Where the certificate holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of sub-rule (3) and (4), shall not apply. (6) For the purpose of ascertaining the matters to be specified in the proclamation, the Certificate Officer may summon, and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto.

47. Mode of making proclamation. - (1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the officer of the Certificate Officer.

(2) Where the Certificate Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper or in both; and the cost of such publication shall be deemed to be costs of the sale. (3) If a tenure, a raiyati holding at fixed rates or an occupancy holding situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885 (VIII of 1885) is in force, is to be sold in execution of a certificate for arrears of rent due in respect thereof, the proclamation shall also be published in the Malkachari or rent officer of the estate and at the local thana. (4) Where property is divided into lots for the purpose of being sold separately it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot in the opinion of the Certificate

Officer otherwise be given.

48. Time of sale. - Save in the case of property of the kind described in the proviso to Rule 15, no sale hereunder shall without the consent in writing of the certificate debtor, take place until after the expiration of at least fifteen days in the case of movable property exceeding twenty rupees in value, calculated from the date on which a copy of a sale proclamation has been affixed in a conspicuous part of the office of the Certificate Officer :

Provided that if a tenure, raiyati holding at fixed rates or an occupancy holding situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885 (VIII of 1885), is in force, is to be, sold in execution of a certificate for arrears of rent due in respect thereof, the sale shall not without the consent in writing of the certificate debtor, take place until after the expiration of at least thirty days, calculated from-(a)the date on which a copy of the sale proclamation has been affixed in a conspicuous part of the office of the Certificate Officer, or(b)the date on which the sale proclamation has been published in the Malkachari or rent office of the estate and at the local thana, whichever is later.

49. Purchase of property by the certificate holder. - (1) No holder of a certificate in execution of which property is sold shall, without the express permission of the Certificate Officer, bid for or purchase the property.

(2)Where a certificate holder purchases with such permission, the purchase money and the amount due on the certificate, may be set off against one another and the Certificate Officer executing the certificate shall enter up satisfaction of the certificate in whole or in part accordingly.(3)Where a certificate holder purchases, by himself or through another person, without such permission, the Certificate Officer may, if he thinks fit, on the application of the certificate holder, or any other person whose interests are affected by the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale and all expenses attending it, shall be paid by the certificate holder.(4)This rule shall not apply when the certificate holder is the Central Government or State Government.

50. Adjournment or stoppage of sale. - (1) The Certificate Officer may; in his discretion adjourn any sale hereunder to a specific day and hour; and the officer conducting any such sale may in his discretion adjourn the sale recording his reasons for such adjournment:

Provided that, where the sale is made in or within the precincts of the office of the Certificate Officer no such adjournment shall be made without the leave of the Certificate Officer.(2)Every sale shall be stopped if, before the lot is knocked down the debt and costs (including the costs of the sale) are tendered to the Officer conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid to the Certificate Officer who ordered the sale.

51. Defaulting purchaser answerable for loss on re-sale. - Any deficiency of price which may happen on a re-sale by reason of the purchaser's default, and all expenses attending such re-sale shall be certified to the Certificate Officer by the Officer or other person holding the sale and shall at the instance of either the certificate holder or the certificate debtor, be recoverable from the defaulting purchaser under the procedure provided by this Act.

52. Restriction on bidding or purchase by officers. - No officer or other person having any duty to perform in connection with any sale shall, either directly or indirectly bid for acquire or attempt to acquire any interest in the property sold.

53. Levy of pundage fees. - (1) Pundage fees shall be leviable in Court-fee stamps in all cases of sale under the Bengal Public Demands Recovery Act, 1913, at the rate of two per cent on the gross amount realised by the sale up to Rs. 1,000 and at the rate of one per cent on all excess of gross proceeds beyond Rs. 1,000 :

Provided that, where a sale of immovable property is set aside under Section 25, sub-section (2) of the Act, any poundage or other fee charged for selling the property shall, on application, be refunded.(2)The percentage leviable shall be calculated on multiples of Rs. 25, that is to say, a pundage fee of 8 annas shall be levied for every Rs. 25 or part of Rs. 25, realised by the sale up to Rs. 1,000 and in the case of the proceeds of the sale exceeding Rs. 1,000 a fee of 4 annas for every Rs. 25 or part thereof the excess proceeds above Rs. 1,000 shall be levied.(3)In case in which several properties are sold in satisfaction on one certificate, only one poundage fee, calculated on the gross sale proceeds up to Rs. 1,000 and one per cent on the cases over Rs. 1,000 of such proceeds.(4)The proceeds of a sale effected in execution of any certificate may, be paid out of Court only on an application made for that purpose in writing and the pundage fee for selling the property must be paid by stamps affixed to the first of such application whether it be, or be not made by the person who obtained the order for sale, or whether it does or does not extend the whole of the proceeds. No fee shall be chargeable upon any such application subsequent to the first.(5)In case in which the certificate holder applies for leave to purchase under Rule 49, sub-rule (1), no order to set off the purchase-money against the amount of certificate shall be made upon the application for leave to purchase. Such order shall be made upon a petition presented after the property has been knocked down to the certificate holder at the auction sale, and such petition shall be stamped with stamp of the value of the pundage fee due for selling the property.

54. Addition of costs etc. to certificate and payment by certificate holder of purchase money in excess of the amount of certificate. - Upon the hearing of the petition referred to in Rule 53, sub-rule (5), the costs of execution, including the amount of the stamps attached to the petition shall be ascertained and shall be added to the certificate; and in cases in which the amount of the purchaser-money exceeds the amount of the certificate and of such costs, the certificate holder who has so purchased the property shall pay to the Certificate Officer the sum of twenty five per cent upon the balance of the purchase money after deducting the amount of the certificate and of such costs, and shall pay the balance or before the fifteenth day from the sale in accordance with Rule 69.

Sale of movable property

55. Sale of agricultural produce. - (1) Where the property to be sold is agricultural produce, the sale shall be held-

(a)if such produce is a growing crop-on or near the land on which such crop has grown; or(b)if such produce has been cut or gathered-at or near the threshing floor or place for trading out grain or the like or fodder stack, on or in which it is deposited :Provided that the Certificate Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.(2)Where, on the produce being put for sale-(a)a fair price, in the estimation of the person holding the sale, is not offered for it, and(b)the owner of the produce, or a person authorised to act on his behalf applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day, the sale shall be postponed accordingly, and shall be then completed whatever price may be offered for the produce.

56. Special provisions relating to growing crops. - (1) Where the property to be sold is a growing crop, and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

(2)Where the crop from its nature does not admit of being stored, it may be sold before it is cut, and gathered; and the purchaser shall not be entitled to enter on the land, and to do all that is necessary for the purpose of tending and cutting or gathering the crop.

57. Sale by public auction. - (1) Where movable property is sold by public auction the price of each lot shall be paid at the time of sale or as soon after the officer or other person holding the sale directs, and in default of payment the property shall forthwith be re-sold.

(2) On payment of the purchase money, the officer or other person holding the sale shall grant a receipt for the same, and the law shall become absolute. (3) Where the movable property to be sold is a share in goods belonging to the certificate debtor and a co-owner and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

58. Irregularity not to vitiate sale, but any person injured may sue. - No irregularity in publishing or conducting the sale of movable property shall vitiate the sale; but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a Civil Court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

59. Delivery of movable property debts and shares. - (1) Where the property sold is movable property of which actual seizure has been made, it shall be delivered to the purchaser.

(2) Where the property sold is movable property in the possession of some person other than the certificate debtor the delivery thereof to the purchaser shall be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except to the purchaser. (3) Where the property sold is a debt not secured by a negotiable instrument or is a share in a corporation, the delivery thereof shall be made by a written order of the Certificate Officer prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer or the share to any person except the purchaser or receiving payment of any dividend or interest thereon and the manager, secretary or other proper officer of the corporation from permitting any such transfer or making any such payment to any person except the purchaser.

60. Transfer of negotiable instruments and shares. - (1) Where the execution of a document, or the endorsement of the party in whose name a negotiable instrument or a share in a corporation is standing is required to transfer such negotiable instrument or share, the Collector or such officer as he may appoint in this behalf, may execute such document or make such

endorsement as may be necessary; and such execution or endorsement shall have the same effect as an execution or endorsement by the party.

(2) Such execution or endorsement may be in the following form, namely : "AB by CD Collector of the district of in a proceeding under the Bengal Public Demands Recovery Act, 1913 against AB." (3) Until transfer of such negotiable instrument or share, the Certificate Officer may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself.

61. Vesting order in case of other property. - In the case of any movable property not here-in-before provided for, the Certificate Officer may make an order vesting such property in the purchaser as he may direct and such property shall vest accordingly.

Sale of immovable property

62. Sale of tenure or holding at affixed rates, subject to registered and notified incumbrances. - (1) When a tenure or a holding at fixed rates situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885 (VIII of 1885) is in force, has been advertised under Rule 46 for sale in execution of a certificate for arrears of rent due in respect thereof, it shall be put up to auction subject to registered and notified incumbrances; and if the binding reaches a sum sufficient to liquidate the amount of the certificate and the costs of the sale, the tenure or holding shall be sold subject to such incumbrances.

(2) The purchaser at such sale may, in manner provided by Section 167 of the Bengal Tenancy Act, 1885 (VIII of 1885) and not otherwise annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

63. Sale of tenure or holding at fixed rate, with power to avoid all incumbrances. - (1) If the bidding for a holding at fixed rates, put up to auction under Rule 62, does not reach a sum sufficient to liquidate the amount of the certificate and costs as aforesaid, and if the certificate holder thereupon desires that tenure or holding be sold with power to avoid all incumbrances; the person holding sale shall adjourn the sale and make a fresh proclamation under Rule 46 announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances, upon a

future day specified therein, and not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

(2)The purchaser at a sale under this rule may in manner provided by Section 167 of the Bengal Tenancy Act, 1885 (VIII of 1885), and not otherwise, annul any incumbrance on there tenure of holding.

64. Sale of occupancy holding with power to avoid all incumbrances. - (1) When an occupancy holding situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885 (VIII of 1885) is in force, has been advertised under Rule 46 for sale in execution of a certificate for arrears of rent due in respect thereof, it shall be put up to auction and sold with power to avoid all incumbrances.

(2)The purchaser at a sale under this rule may, in manner provided by Section 167 of the Bengal Tenancy Act, 1885 (VIII of 1885), not otherwise annul any incumbrance on the holding.

65. Rules 62 to 64 not to apply in certain cases to certificate holders who are co-sharer landlords. - Where the certificate holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of Rules 62, 63 and 64 shall not apply.

66. Postponement of sale to enable certificate debtor or raise amount due under certificates. - (1) When an order for the sale of immovable property has been made, if the certificate debtor can satisfy the Certificate Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale or such property, or some part thereof or any other immovable property of the certificate debtor, the Certificate Officer may, on his application postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper to enable him to raise the amount.

(2)In such case the Certificate Officer shall grant a certificate to the certificate debtor, authorising him, within a period to be mentioned therein, and notwithstanding anything contained in Section 8 or Section 18, to make the proposed mortgage, lease or sale :Provided that all moneys payable under such mortgage, lease or sale shall be paid not to the certificate debtor, but to the Certificate Officer;Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Certificate Officer.

67. Prohibition of purchaser of tenure or holding by certificate debtor. - (1)
When a tenure or holding situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885 (VIII of 1885) is in force, is put up for sale in execution of a certificate for arrears of rent due in respect thereof the certificate debtor shall not bid for or purchase the tenure or holding.

(2) If a certificate debtor purchases, by himself or through another person a tenure or holding so sold, the Certificate Officer may, if he thinks fit on the application of the certificate holder or any other person interested in the sale, by order set aside the sale; and the costs of the application and order and any deficiency of price which may happen on the re-sale and all expenses attending it, shall be paid by the certificate debtor.

68. Deposit by purchaser and re-sale in default. - On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent on the amount of his purchase money to the Officer or other person conducting the sale; and in default of such deposit, forthwith be re-sold.

69. Time for payment of purchase money in full. - The full amount of purchase money payable shall be paid by the purchaser to the Certificate Officer on or before the fifteenth day from the sale of the property.

70. Procedure in default of payment. - In default of payment within the period mentioned in Rule 69, the deposit money may, if the Certificate Officer thinks fit after defraying the expenses of the sale, be forfeited to the Government, and the property shall be re-sold and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

71. Notification on re-sale. - Every re-sale of immovable property, in default of payment of the purchase money within the period allowed, for such payment shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

72. Bid of co-sharer to have preference. - Where the property sold is the share of undivided immovable property, and two more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot the bid shall be deemed to be the bid of the co-sharer.

73. Return of purchase money in certain cases. - Where a sale of immovable property is set aside any amount paid or deposited by the purchaser on account of the purchase together with the penalty (if any) referred to in Clause (b) of Section 22, and such interests as the Certificate Officer may allow shall be paid to the purchaser.

74. Certificate to purchaser. - (1) Where a sale of immovable property has become absolute, the Certificate Officer shall grant a certificate specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser.

(2) Such certificate shall bear date, the day on which the sale become absolute.

75. Delivery of property in occupancy of tenant or other debtor. - Where the immovable property sold is in the occupancy of the certificate debtor, or of some person on his behalf, or some person claiming under a title created by the certificate debtor subsequently to the service of the notice issued under Section 7, and a certificate in respect thereof has been granted under Rule 74, the Certificate Officer shall, on the application of the purchaser, order delivery to be made by putting such purchaser, or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

76. Delivery of property in occupancy of tenant or other person. - Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under Rule 74, the Certificate Officer shall, on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to be the occupant by beat of drum or other customary mode, at some convenient place that the interest of the certificate debtor has been transferred to the purchaser.

Arrest and detention

77. Discretionary power to permit certificate debtor to show cause against detention in prison. - (1) The Certificate Officer may, before issuing a warrant for the arrest of the certificate debtor, issue a notice calling upon him to appear before the Certificate Officer, on a day to be specified in the notice

and snow cause why he should not be committed to the civil prison.

(2)Where appearance is not made in obedience to the notice, the Certificate Officer may issue a warrant for the arrest of the certificate debtor.

78. Subsistence allowance. - (1) When a certificate has been signed either in accordance with the provisions of Section 4, or on a requisition made under Section 5, no certificate debtor shall be arrested in execution of the certificate unless and until the certificate holder pays into Court such sum as the certificate holder thinks sufficient for the subsistence of the certificate debtor from the time of his arrest until he can be brought before the Certificate Officer.

(2)When a certificate debtor is committed to the civil prison in execution of a certificate the Certificate Officer shall fix for his subsistence such monthly allowance as he may be entitled to according to the scale fixed by the State Government for the subsistence of arrested judgement debtors, or where no such scale has been fixed, as the Certificate Officer considers sufficient with reference to the class to which the certificate debtor belongs.(3)The monthly allowance fixed, by the Certificate Officer shall be supplied by the person upon whose requisition the certificate was signed by monthly payments in advance before the first day of each month.(4)The first payment shall be made to the Certificate Officer for such portion of the current month as remains unexpired before the certificate debtor is committed to the civil prison; and the subsequent payments (if any) shall be made to the officer-in-charge of the civil prison.(5)Sums disbursed by the certificate holder for the subsistence of the certificate debtor in the civil prison shall be deemed to be costs in the proceedings:Provided that the certificate debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed.Supplemental

79. Register of certificate. - (1) Every Certificate Officer shall cause to be kept in his office a register of certificates filed in his office under this Act, and shall cause particulars of all such certificates to be entered in such register.

(2)Such register shall be open during office hours, for not less than two hours daily, and at such time as may be fixed by the Collector, for inspection by any person who desires to inspect the same, and a fee of one anna shall be chargeable for every such inspection.

80. Payment by instalment. - (1) Payment of the amount due under any certificate may be made by instalment if the Certificate Officer in whose office the certificate is filed so directs.

(2)The payment of every instalment shall be entered in the register referred to in Rule 79.

81. Remittance to Certificate Officer of sums received under a certificate transferred for execution. - When a copy of a certificate has been sent to another officer under Section 12, sub-section (1), all sums, except Government demands, received by such officer under such certificate shall be remitted by him to the Certificate Officer in whose office the original certificate is filed.

82. Entry of satisfaction. - When the whole or any portion of the amount due under a certificate has been realised, the Certificate Officer in whose office the original certificate is filed shall cause an entry of the fact to be made upon the certificate and in the register referred to in Rule 79.

83. Communication of satisfaction to other persons. - When a copy of a certificate has been sent to another officer under Section 12, sub-section (1), or when a certificate has been signed upon a requisition, any satisfaction of the certificate, whether in whole or in part, shall be certified to such officer, or to the sender of such requisition as the case may be.

83.

-A. Exemption of requisitions from a liquidator of co-operative societies from ad valorem fee. - Requisitions from a liquidator of Co-operative Societies appointed under Section 42 (1) of the Co-operative Societies Act, 1912 (II of 1912), countersigned by the Registrar of Co-operative Societies under the proviso to Section 5 (1) of the Bengal Public Demands Recovery Act, 1913, should be treated as applications from a Government Officer and accordingly be exempted from ad valorem fee.

84. Forms in Appendix. - The Forms set forth in the Appendix shall be used, with such variations as circumstances may require.

Form No. 1[See Sections 4 and 6][To be filed in the office of the Certificate Officer of.....(name of district)]

No. of certificate	Name and address of certificate holder	Name and address of certificate debtor	Amount of public demand [including interest if any, and including the fee paid under Section 5, sub-section (2) if any] for which this certificate is signed and period for which such demand is due	Further particulars of the public demand for which this certificate is signed.
1	2	3	4	5

I hereby certify that the above mentioned sum of Rs..... is due to the above named..... for the above named.....(If the certificate is signed on requisition and sent under Section 5 and.....).I further certify that the above-mentioned sum of Rs..... is justly recoverable and that its recovery by suit is not barred by law.Dated this.....day of..... 19....A.B., Certificate Officer of.....Form No. 2Requisition of a Certificate[See Section 5][To the Certificate Officer of the district of.....]

Name of certificate debtor	Address of certificate debtor	Amount of public demand for which this requisition is made	Name of the public demand and for which therequisition is made
1	2	3	4

I request you to recover the above-mentioned sum of Rs. which I am satisfied after inquiry is due from the said.....in respect of.....Verified by me on the day of 19.....A.B., (Designation)Form No. 3Notice to certificate debtor[See Section 7]To(Name of certificate debtor)You are hereby informed that a certificate against you for Rs..... due from you on account of..... , has this day been filed in my office, under section.....of the Bengal Public Demands Recovery Act, 1913;If you deny your liability to pay the said sum of Rs..... you may, within thirty days from the service, of this notice, file in my office a petition denying liability, in whole or in part;If within the said thirty days you fail to file such petition, or if you fail to show cause, or do not show sufficient cause, why such certificate should not be executed; it will be executed under the provisions of the said Act, unless you pay Rs..... (Rs..... on account of the demand and Rs..... on account of costs of realisation) into my office. Until the said amount is so paid you are hereby prohibited from alienating your immovable property, or any part of it, by sale gift, mortgage or otherwise;If you, in the meantime conceal, remove or dispose of any part of your movable property, the certificate would be executed would be executed immediately.A copy of the certificate above mentioned is hereto annexed.You may remit the amount by money order quoting the No. and year of the certificate.Dated this day of 19...A.B. Certificate Officer of.....Form No. 4Petition denying liability[See Section 9]ToThe Certificate Officer of.....The humbler petition of.....(name of petitioner) of (address)Sheweth-That a certificate No. of (year), for the sum of Rs. has been filed against your petitioner in your office under Sections of the Bengal Public Demands Recovery Act, 1913;That your petitioner respectfully denise his liability to pay the said sum of Rs.....(or where the liability of part is admitted, denies his liability to pay more than Rs.....), and this is for the following reasons :That the facts above stated are true to the best of your petitioner's knowledge and belief.Your petitioner therefore, respectfully prays that the said certificate may be set aside (or modified or varied).A.B. PetitionerForm No. 5Notice to show cause why sale should not be set aside[See Proviso to Section 25(2)]ToWhereas the under-mentioned property was sold on the day of 19...., in execution of Certificate No..... , dated the 19 and whereas the certificate holder (or certificate debtor) has applied to me to set aside the sale of the said property on the ground that.....Take notice that if you have any cause to show why the said application should not be granted you should appear with your proofs in this office on the day of 19..... when the said application will be heard and determined.Given under the seal of the Court, this.....day of 19.....Description of Property :Certificate OfficerForm No. 6Summons to appear and answer charge of obstructing execution of

certificate[See Section 27(2)]Certificate No. of 19.....ToWhereas, the certificate holder in the above certificate has complained to this Court that you have resisted (or obstructed) the officer charged with the execution of the warrant for possession;You are hereby summoned to appear in this Court on the..... day of..... 19..... at.....a.m., to answer the said complaint.Given under the seal of the Court, this.....day of.....19....Certificate Officer.Form No. 7Warrant of committal[See Section 23]ToThe Officer-in-charge of the Civil Prison at.....Whereas, the under mentioned property has been sold to the purchaser at auction sale in execution of certificate case No. dated..... 19..... and whereas the Court is satisfied that without any just cause resisted (or obstructed) and is still resisting (or obstructing) the said..... in obtaining possession of the property, and whereas the said..... has made application to this Court that the said be committed to the civil prison;You are, hereby commanded and required to take and receive the said.....into the civil prison and to keep him imprisoned therein for the period of.....days.Given under the seal of the Court, this.....day of.....19.....Certificate OfficerForm No. 8Warrant of arrest[See Section 29]ToWhereas a certificate No. was filed in this office on the 19 under Section of Bengal Public Demands Recovery Act, 1913 against certificate debtor, and the sum of Rs as noted below is due from him in respect of the said certificate :Rs. a. p.Original demandInterestCost of ExecutionTotalAnd, whereas the said sum of Rs..... has not been paid to the certificate holder in satisfaction of the said certificate;These are to command you to arrest the said certificate debtor and unless the said certificate debtor shall pay to you the said sum of Rs..... together with Rs..... for the costs of execution this process, to bring him before the Court with all convenient speed;You are further commanded to return this warrant on or before the day of..... 19...., with an endorsement certifying the day on which and the manner in which it has been executed, or the reason why it has not been executed.Dated this day of 19.....Certificate OfficerForm No. 9Order committing certificate debtor to the civil prison[See Section 29]ToThe Officer-in-charge of the Civil Prison at.....Whereas....., who has been brought before me this..... day of 19..... under a warrant in execution of certificate No..... filed in this office on the 19..., under Section of the Bengal Public Demand Recovery Act, 1913; and by which certificate it was ordered that the said should pay and whereas the said.....has not paid the said sum nor satisfied me that he is entitled to be discharged from custody;You are hereby commanded and required to take and receive the said into the civil prison and keep him imprisoned therein for a period not exceeding.....or until the said certificate shall be fully satisfied, or the said.....shall be otherwise entitled to be released according to the terms and provisions of Section 31 or Section 32 of the said Act;And I hereby fix.....annas per diem as the rate of the monthly allowance for the subsistence of the said during his confinement under this order of committal.Dated this day of.....19.....Certificate OfficerForm No. 10Order for the release of person imprisoned in execution of a certificate[See Sections 31 and 32]District.....Certificate No. of 19..ToThe officer-in-charge of the Civil Prison at.....Under orders passed this day, you are hereby directed to set free.....certificate debtor, now in your custody.....Dated this day of 19...Certificate Officer.Form No. 11Notice to legal representative of certificate debtor[See Section 29]To(Name of legal representative)You are, hereby informed that a certificate against..... deceased for Rs.....due from him on account of..... was filed in this office on the 19 under section of the Bengal Public Demands Recovery Act, 1913 and that a demand of Rs., in respect of the said certificate proceeding is due from you as the legal representative of the said..... deceased. If you deny your liability to pay the sum of Rs.,

you may, within thirty days from the service of this notice, file in my office a petition denying liability, in whole or in part. If within the said thirty days, you fail to file such a petition, or if you fail to show cause, or do not show sufficient cause, why such certificate should not be executed, it will be executed, under the provisions of the said Act, unless you pay Rs.....(Rs..... on account of the demand and Rs..... on account of costs of realisation) into my office. Until the said amount is so paid, you are hereby prohibited from alienating your immovable property, or any part of it, by sale, gift mortgage or otherwise. If you, in the meantime conceal remove or dispose of any part of your movable property, the certificate will be executed immediately. A copy of the certificate above-mentioned is hereto annexed. You may remit the amount by money-order quoting the No. and year of the certificate. Dated this day of 19... A.B. Certificate Officer of..... Form No. 11-A Warrant of attachment of movable property [See Sections 13 and 14] To Whereas a certificate No..... was filed in this office on 19 ... under Section of the Bengal Public Demands Recovery Act, 1913 against certificate debtor and the sum of Rs.... as noted below, is due from him in respect of the said certificate; Rs. a. p. Original Demand Interest Cost Execution Total and whereas the said sum of Rs..... has not been paid to the certificate holder in satisfaction of the said certificate; These are to command you to attach the movable property of the said certificate debtor and unless the said certificate debtor shall pay to you the said sum of Rs. .. with Rs. ... for the costs of executing the process to hold the same until further order from the Court; You are further commanded to return this warrant on or before the day of 19.... with an endorsement certifying the day on which and the manner in which it has been executed, or thereon why it has not been executed. Dated this day of 19.. Certificate Officer Form No. 12 Attachment in Execution Prohibitory order, where the property consists of debts not being negotiable instruments, or of movable property not in the possession of certificate debtor [See Rule 18(l)(a) and (c)] To Whereas.... has failed to satisfy certificate No..... of.... 19 for Rs...., it is ordered that defendant be and is hereby prohibited and restrained until further order of this Court, from receiving from you *..... to the said certificate debtor namely.....; and that you, the said be, and your are hereby prohibited and restrained, until the further order of this Court from †..... to any person whomsoever or otherwise than into this Court. Given under the seal of the Court, this day of 19-Certificate Officer of.... * "A certain debt alleged now to be due from you" or "certain movable property in your possession but a alleged to belong", † "Making payment of the said debt" or giving delivery of the said movable property." Form No. 13 Attachment in Execution Prohibitory order where the property consists of shares in the capital of a corporation [See Rule 18 (1) (b)] To The certificate debtor and to the Secretary of Corporation. Whereas.... has failed to satisfy certificate No. of 19 for Rs... it is ordered that you the defendant be and you are hereby prohibited and restrained, until further order of this Court from making any transfer of..... share in the aforesaid corporation namely or from receiving payment of any dividends thereon; and you the Secretary of the said corporation, are hereby prohibited and restrained from permitting any such transfer or making any such payment. Given under the seal of the Court, this day of 19... Certificate Officer of..... Form No. 14 Attachment in Execution Prohibitory order, where the property to be attached consists of movable property, to which the certificate debtor is entitled subject to a lien of right of some other person to the immediate possession thereof [See Rule 18 (l)(c)] To Whereas... has failed to satisfy certificate No.... of 19... for Rs. it is ordered that the certificate debtor, be, and is hereby prohibited and restrained until further order of this Court, from receiving from..... the following property in the

possession of the said that is to say,..... to which the certificate debtor is entitled, subject to any claim of the said and the said is hereby prohibited and restrained until the further order of this Court from delivering the said property to any person or persons whomsoever. Given under the seal of the Court this day of... 19 ...Certificate Officer of....Form No. 15Order to attach salary of Public Officer or servant of Railway Company or Local Authority[See Rule 20]ToWhereas... certificate debtor in certificate case No. of.... 19... is a [...] [Describe office of certificate debtor.] receiving his salary or allowance at your hands ; and whereas.... certificate holder in the said case, has applied in this Court for the attachment of the salary or allowances of the said.....to the extent of due to him under the certificate, you are hereby required to withhold the said sum of from the salary or allowances of the said in the monthly instalments of and to remit the said sum or monthly instalments to this Court. Given under the seal of the Court, this day of... 19....Certificate Officer.....Form No. 16Order of attachment of negotiable instrument[See Rule 21]ToThe Collectorate Nazir.....Whereas an order has been passed by this Court on the day of 19 for the attachment of you are hereby directed to seize the said and bring the same into Court. Give under the seal of the Court, this day of 19.Certificate OfficerForm No. 17AttachmentProhibitory order, where the property consists of money or any security in the custody of a Court of Justice or officer of Government[See Rule 22]Certificate case No..... of 19....ToSir, The certificate holder having applied under Rule 22 of Schedule II of the Bengal Public Demands Recovery Act, 1913 for an attachment of certain money now in your hands* ; I request that you will hold the said money subject to further order of this Court. I have the honour to beSir Your most obedient servant, Certificate Officer of.....Dated the.....day of.....19* Here state how the money is supposed to be in the hands of the person addressed, on what account, etc. Form No. 18Notice to certificate holder[See Rule 39]Whereas..... has made application to the Court for the removal of attachment on..... placed at your instance in execution of certificate No..... of 19....; this is to give your notice to appear before me on..... the day of 19..... either in person or by a pleader duly instructed to support your claim as attaching creditor. Given under the seal of the Court, this day of 19.....Certificate OfficerForm No. 19Warrant of sale of property[See Rule 44]ToThe.....These are to command you to sell by auction, after giving..... days' previous notice, by affixing the same in this office, and after making the proclamation, the under-mentioned, property attached in execution of of certificate No in favour of or so much of the said property as shall realise the sum of Rs. being the of the said certificate and costs still remaining unsatisfied; You are further commanded to return this warrant on or before the day of 19, with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed. Given under the seal of the Court, this day of 19...Specification of property.....Certificate OfficerForm No. 20Notice of the day fixed for setting a sale for proclamation[See Rule 46]To.....Whereas, in execution of certificate No.....of.....a sale is about to be held of your property mentioned below ; you are hereby informed that the.....day of.....19..., has been fixed for settling the terms of the proclamation of sale. The total amount due from you in respect of the certificate including costs and interests is Rs. Given under the seal of the Court, this day of... 19....Specification of property.....Certificate OfficerForm No. 21Proclamation of sale[See Rule 46]Certificate No..... of 19 under which is the certificate holder and is the certificate debtor.....Notice is hereby given that, under Section 44 in Schedule II to the Bengal Public Demands Recovery Act, 1913, an order has been passed by me for the sale of the property mentioned in annexed schedule, in satisfaction of the claim

of the certificate holder under the certificate mentioned in the margin amounting with costs and interest up to date of sale to the sum of Rs.....The sale will be by public auction, and the property will be paid up for sale in the lots specified in the Schedule. The sale will be of the property of the certificate debtor above named, as mentioned in the schedule below :In the absence of any order of postponement the sale will be held by at the monthly sale commencing at o'clock on the at..... In the event, however, of the debt above specified, and the cost of the sale being tendered or paid before the knocking down in any lot, the sale will be stopped.At the sale the public generally are invited to bid, either personally or by duly authorised agent. The following are the further conditions of sale :Conditions of sale

- 1. The particulars specified in the schedule below have been stated to the best of the information of the Certificate Officer : but the Certificate Officer will not be answerable for any error, mis-statement or omission in this proclamation.**
- 2. The amount by which the biddings are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising as to the amount bid or as to the bidder the lot shall at once be again put up to auction.**
- 3. The highest bidder shall be declare to the purchaser of any lot; provided always that he is legally qualified to bid ; and provided that it shall be in the discretion of the officer holding the sale to decline acceptance of the highest bid when the price offered appears so clearly inadequate as to made it advisable to do so.**
- 4. For reasons recorded it shall be in the discretion of the officer conducting the sale to adjourn it, subject always to the provisions of Rs. 50 in Schedule II to the Bengal Public Demands Recovery Act, 1913.**
- 5. In the case of movable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and in default of payment the property shall forthwith be again put up and re-sold.**
- 6. In the case of movable property, the person declared to be the purchaser shall pay immediately after such declaration a deposit of 25 per cent of the amount of his purchase money to the officer conducting the sale, and in default of such deposit the property shall forthwith be put up again and re-sold.**

7. The full amount of the purchase money shall be paid by the purchaser before the office of the Certificate Officer closes on the fifteenth day after the sale of the property, exclusive of such day, or, if the fifteenth day be a Sunday or other holidays, then on the first day after the fifteenth day.

8. In default of payment of the balance of purchase money within the period allowed, the property shall be re-sold after the issue of a fresh notification of sale, the deposit, after defraying the expenses of the sale, may, if the Certificate Officer thinks fit, be forfeited to the Government, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

Given under the seal of the Court, this day of 19.....Certificate Officer

of property

No.	Description of property to be sold, with the name of each owner where there are more certificate debtors than one	The revenue assessed upon the estate or part of the estate, of the property to be sold is an interest in an estate or a part of an estate paying revenue to the Government	Claims (if any) which have been put forward to the property and any, other known particulars bearing on its nature and value
1	2	3	4

Form No. 22 Order on the Nazir for causing publication of proclamation of sale [See Rule 47] To The Nazir of.....Whereas an order has been made for the sale of the property of the certificate debtor under certificate No. dated the.....19 which is specified in the schedule hereunder annexed ; and whereas the day of..... 19..., has been fixed for the sale of the said property ; Copies of the proclamation of sale are by this warrant made over to you, you are hereby ordered to have the proclamation published by beat of drum within reach of the properties specified in the said schedule, to affix a copy of the said proclamation on a conspicuous part of each of the said properties and afterwards on my office, and then to submit to me a report showing the dates on which and the manner in which the proclamation have been published. Dated the day of..... 19.....

Schedule 4

Certificate Officer Form No. 23 Certificate by Officer holding a sale of the deficiency of price on a re-sale of property by reason of the purchaser's default [See Rule 51] Certified that the re-sale of the property in execution of certificate No..... dated the..... 19....., in consequence of default on the part of purchaser, there was a deficiency in the price of the said property, amounting to Rs....., and that the expenses attending such re-sale amounted to Rs..... making a total of Rs. which sum is recoverable from the defaulter. Dated the.....day of.....19.....Officer Holding the Sale Form No. 24 Notice to person in possession of movable property sold in execution [See Rule

59(2)]To.....Whereas has become the purchaser at a public sale in execution of certificate No.....dated the.....19.....of now in your possession, you are hereby prohibited from delivering possession of the said to any person except the said....Given under the seal of the Court, this.....day of 19Certificate OfficerForm No. 25Prohibitory order against the transfer of shares sold in execution[See Rule 59(5)]ToAnd to....., Secretary of..... Corporation.Whereas has become the purchaser at a public sale in execution of certificate No dated....., 19....., of certain shares in the above Corporation, that is to say of standing in the name of you ;It is ordered that you be and you are hereby prohibited from making any transfer of the said shares to any person except the said the purchasers aforesaid ; or from receiving any dividends thereon ;And you Secretary of the said Corporation, from permitting any such transfer or making any such payment to any person except the said....., the purchaser aforesaid.Given under the seal of the Court, this..... day of.... 19.....Certificate OfficerForm No. 26Prohibitory order against payment of debts sold in execution to any other than the purchaser[See Rule 59(3)]ToAnd to.....Whereas..... has become the purchaser at a public sale in execution of Certificate No..... of 19, being debts due from you to you it is ordered that you be and you are hereby prohibited from receiving, and you from making payment of the said debt to any person or persons except the said....Given under the seal of the Court, this..... day of... 19Certificate OfficerForm No. 27Certificate to certificate debtor authorising him to mortgage, lease or sell property[See Rules 66]Whereas in execution of certificate No..... of.... 19....., an order was made on the..... day of..... 19, for the sale of the under-mentioned property of the certificate debtor, and whereas the Court has on the application of the said certificate debtor, postponed the said sale to enable him to raise the amount of the certificate by mortgage, lease, or private sale of the said property or of some part thereof;This is to certify that the Court doth hereby authorise the said certificate debtor to make the proposed mortgage, lease, or sale within a period of.... from the date of this certificate ;Provided that all money payable under such mortgage, lease, or sale shall be paid into this Court and not to the said certificate debtor.Given under the seal of the Court, this.....day of.... 19....Description of the PropertyCertificate OfficerForm No. 28Certificate of sale of land[See Rule 74]This is to certify that.....has been declared the purchaser at the sale by public auction on the.....day of....., 19, of in execution of certificate No....., dated the 19, and that the said sale has been duly confirmed by me.Given under the seal of the Court, this day of 19Certificate OfficerForm No. 29Order for delivery to certified purchaser of land at a sale in execution[See Rule 75]ToThe.....Whereas has become the certified purchaser of at a sale in execution of certificate No..... dated the, 19 .. you are hereby ordered to put the said, the certified purchaser, as aforesaid, into possession.....of the same.Given under the seal of the Court, this.....day of.... 19...Certificate OfficerForm No. 30Notice to show cause why warrant of arrest should not be issued[See Rule 77]To.....Whereas.....has made application to me for execution of certificate No. of 19...., by arrest and imprisonment of your person ; you are hereby required to appear before me on the day of, 19..... to show cause why you should not be committed to the civil prison in execution of the said certificate.Given under the seal of the Court, this day of 19.....Certificate Officer