

Bengal Act III of 1913

(The Bengal Public Demands Recovery Act, 1913.)¹

REPEALED IN PART	For Ben. Act I of 1939. | — Ben. Act XVI of 1946. "Ben. Act I of 1918. Ben. Act III of 1934. Ben. Act V of 1938. Ben. Act III of 1939. Ben. Act III of 1940. Ben. Act I of 1942. West Ben. Act VIII of 1947. West Ben. Act XIII of 1953. West Ben. Act XVIII of 1953. West Ben. Act XV of 1955. West Ben. Act XV or 1957. West Ben. Act XIX of 1960. West Ben. Act III of 1962. West Ben. Act I of 1966. West Ben. Act XIV of 1972. West Ben. Act XXVIII of 1973. West Ben. Act III of 1975. West Ben. Act XX of 1985. The Government of India (Ad- aptation of Indian Laws) Order, 1937. The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, ¹ 1948. The Adaptation of Laws Order, _ 1950.
AMENDED	
ADAPTED	

(The 30th April, 1913.)

An Act to consolidate and amend the law relating to the recovery of public demands in Bengal.

WHEREAS it is expedient to consolidate and amend the law relating to the recovery of public demands in Bengal ;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1913, Pt. IV, pages 40-41 ; for Report of Select Committee, see *ibid.* Pt. IV, pages 67 to 72 ; (or Proceedings in Council, see *ibid.* Pt. IVA, pages 15, 26, 399, 123 W 446.

LOCAL EXTENT, — This Act extends to the whole of West Bengal, see section 1 (3).

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 :ô

PART I Preliminary.

1. (J) 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 '[West Bengal],
- Shon tide, commencement and extent.
2. [Repeal.]—Rep. by s. 3 and the Second Sell, of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939.)

Definitions, 3. In this Act, unless there is anything repugnant in the subject or context,ô
"Calcutta" means the area comprised within the local limits for the time being of the ordinary original civil jurisdiction of the High Court at Calcutta ;
(1) "certificate-debtor" means the person 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 been filed under this Act, and

¹*i.e.*, the 1st July 1913, *see* notification No. 985T.R., dated the 22nd May, 1913, published in the *Calcutta Gazette* of 1913, Part I, page 789.

²The words "Provincial Government" were originally substituted for the words "Local Government in Council" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by paragraph A(1) of the Adaptation of Indian Laws Order, 1950.

³These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴These words were substituted for the word "Bengal" by article 3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵Clause (3) was inserted with retrospective effect by section 2 of the Bengal Public Demands Recovery (Amendment) Act, 1962 (West Ben. Act III of 1962).

⁶These words were substituted for the words "Secretary of State for India in Council or other person" by paragraph 3 of, and Schedule IV to, the Government of India (Adaptation of Indian Laws) Order, 1937.

~~Part 13.~~ *filing, service and effect of certificates, and hearing of objections thereto.—Sections 4, S.J*
The Bengal Public Demands Recovery Act, 1913. **411**

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;

(3a) "Collector" means the chief officer in charge of the revenue administration of a district and includes an additional District Magistrate appointed under sub-section (2) of section 10 of the Code of Criminal Procedure, 1898 ;

Act v of
1898

⁷Explanation. For the purposes of this Act, the district of 24- Parganas shall be deemed to include Calcutta ;

(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 interest which may, by law, 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. When the Certificate-officer is satisfied that any 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,

Filing of
certificate
for public
demand
payable to
Collector.

5. (J) When any public demand payable to any person other than the Collector is due, such person may send to the Certificate-officer a written requisition in the prescribed form :

Requisition
for
certificate
in other
cases.

^Provided that no action shall be taken under this Act on a requisition made by a land mortgage bank registered or deemed to be

Clause (3a) was inserted by s. 2 of the Bengal Public Demands Recovery (Amendment) Act, 1953 (West Ben. Act X J J) or 1953).

This *Kxplmiiiri/in* is added with retrospective effect by s 2(H) of the Bengal Public Demands Recovery (Amendment) Act, 1962 (West Ben. Act III of 1962).

This proviso was substituted for the former proviso by s. 2 of the Bengal Public Demands Recovery (West Bengal Amendment) Act, 1947 (West Ben. Act VIII of 1947).

[Ben. Act III

(Part II.— Filing, service and effect of certificates, at id hearing of objections th
e re to. —Sections 6—9.)

registered under the Bengal Co-operative Societies Act, 1940, or an assignee of
such bank, unless the requisition be countersigned by the Registrar of Co-
operative Societies, West Bengal.

Ben.
Act
XXI of
1940.

(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, in respect of a plaint, for the recovery of a sum of money equal to that
stated in the requisition as being due.

VII of
1870.

Filing of
certificate
on requisi-
tion.

6. 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.

Service of
notice and
copy of
certificate
on certi-
ficate-
debtor.

7. 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 the prescribed manner, a notice in the prescribed form and a copy of
the certificate. - (Part I. Filing, service and effect of certificates, and
hearing of objections thereto.—Sections 10, 10A.—Part III.—Execution of
Certificates.—Sections 11, 12.)

Effect of
service of
notice of
certificate.

(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. 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 to property is involved, shall make an order cancelling
the certificate.

Filing of
petition
denying
liability.

¹10A. Subject to the provisions of the Limitation Act, 1963, and upon
application made to him by the certificate-holder, the Certificate- officer may,
at any time, amend a certificate by the addition, omission or substitution of the
name of any Certificate-holder or certificate- debtor, or by the alteration of the
amount claimed therein :

Provided that when any such amendment is made a fresh notice and copy
of the amended certificate shall be served upon the certificate- debtor as
provided in section 7.

of 1913.]

PART III Execution of Certificates.

11. 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. (1) A Certificate-officer in whose office a certificate is filed may send a copy thereof, for execution, to any other Certificate-officer * * * *

Hearing and determining of such application.

Section 10A with its proviso was added by s. 2 of (the Bengal Public Demands Recovery (Amendment) Act, 1972 (West Ben. Act XIV of 1972).

"Til": words "in this same district or to the Collector of any other district" were inserted by s. 2 of the Bengal Public Demands Recovery (Amendment) Act, 1934 (Ren. Act 111 of 1934),

36 of 1963.

Power to amend certificate by addition, omission or substitution of parties.

Who may execute certificate.

Transmission of certificate to another Certificate-officer for execution.

(Part III.—Execution of Certificates.—Sections 13—15.)

(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 5 with respect to certificates filed in the office of a Certificate-officer shall 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.

When certificate may be executed.

13. 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 :

Provided further that if the certificate-debtor whose movable property has been so attached furnishes security to the satisfaction of the Certificate-officer, such attachment shall be cancelled from the date on which such security is accepted by the Certificate-officer,

Modes of execution.

14. 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
- (e1) by any two or all of the methods mentioned in clauses (a), (b) and (c).

Explanation to clause (c). The Certificate-officer may, in his discretion, refuse execution at the same time against the person and property of the certificate-debtor.

Certain sales by whom to be held.

15. Where a revenue-paying estate or any share therein is liable to sale in execution of a certificate, such sale may be held either -

- (a) by the Certificate-officer exercising jurisdiction in the district to the revenue-roll of which the estate or share appertains, or

This proviso was added by s. 2 of the Bengal Public Demands Recovery (Amendment) Act, 1942 (Ben. Act 1 of 1942).

(b) by the Certificate-officer exercising jurisdiction in the district in which such estate or share is situated,

16. There shall be recoverable, in the proceedings in execution of every certificate filed under this Act

(a) interest [calculated in such manner as may be prescribed] 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 realization :

Provided that

(i) no interest shall be charged if the amount of public demand is less than twenty-five rupees or if the period from the date of signing the certificate up to the date of realization does not exceed three months ;

(ii) no interest shall be charged for the period during which the execution proceedings are stayed under an order passed by the Certificate-officer at the instance of the certificate-holder; and .

(iii) no interest shall be charged for the period during which the execution proceedings are stayed under an order passed in an appeal or in revision or by a Court at the instance of the certificate-holder or any person other than the certificate-debtor,

(b) such costs 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.

Attachment.

17. Property liable to attachment and sale in execution of a decree of a Civil Court [under section 60 of the Code of Civil Procedure, 1908] may be attached and sold in execution of a certificate under this Act.

The Bengal Public Demands Recovery Act, 1913.

Interest,
costs and
charges
recoverable.

of 1913.]

Civil
Code
of 1908.

416

[Ben. Act 111

(Part III.—Execution of Certificates.—Sections 15
—20.)

18. 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. (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 issue 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 the 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 the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

Sale.

Attach-
ment of
property.

20. (1) Where property is sold in execution of a certificate, there shall vest in the 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 a 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, 1885¹, is in force, where a tenure or holding is sold in execution of a certificate for arrears of rent due in respect [hereof, the tenure or holding shall, subject to the provisions of section 22 of that 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 that 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.

¹This Act has been repealed by the West Bengal Land Reforms Act, 1955 (West Bun. Act X of 1956).

Payment of money contrary to attachment to be void.

Attachment of decree.

Act V of 1905.

Purchaser's title.

Act of 1885.

The Bengal Public Demands Recovery Act, 1913.

(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. (7) No suit shall be maintained, against any person claiming title under a purchase 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.

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

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of 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 to 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. (I) 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 sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of [six and a quarter] *per centum per annum*, calculated from the date of the proclamation of sale 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 the³ [Government] under any law for the

Application to set aside sale or immovable property on deposit.

[Ben. Act III

(Part III.—Execution of Certificates.—Sections 23—25.)

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. (I) 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 the sale, apply to the Certificate-officer to set aside the sale on the ground that notice was not served under section 7 or on the ground of a material irregularity in the certificate proceedings or in publishing 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 applicant 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.

Application
to set aside
sale on
ground that
certificate-
debtor had
no saleable
interest or
Application
in respect
of property
sold, which
did not exist
at the time
of
sale of
immovable
property.

24. The purchaser at any sale of immovable property in execution of a certificate may, at any time within sixty days from the date of the 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. (1) Where no application is made under section 22, section 23 or section 24, or 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.

{Part III.—Execution of Certificates.—Sections 26—28.}

(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 of execution.

26. (1) Whenever assets are realized, 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 realized ;
- (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 upon which the assets were realized; 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.

Disposal of proceeds of execution.

(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. (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. (1) If the Certificate-officer is satisfied that the resistance or obstruction was occasioned without any just cause by the 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.

Application by purchaser resisted or obstructed in obtaining possession of immovable property. Procedure on such application.

(Part III.—Execution of Certificates.—Section 29.)

(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. (1) No order for the arrest and detention in civil prison of a certificate-debtor or in execution of a certificate shall be made unless [the Certificate-officer has issued and served a notice upon the certificate-debtor calling upon him to appear before him on a day to be specified in the notice and to show cause why he should not be committed to civil prison, and unless] the Certificate-officer, for reasons recorded in writing, is satisfied,

- (a) that the certificate-debtor, with the object or effect of obstructing or delaying the execution of the certificate,^δ
 J * it if *
- (i) has, after the filing of the certificate in the office of Certificate-officer, dishonestly transferred, concealed, or removed any part of his property, or
- (b) that the certificate-debtor has or has had since the date of the filing of the certificate, the means to pay the amount for which the certificate has been issued, or some substantial part of such amount and refuses or neglects or has refused or neglected to pay the same.

Explanation.—^δ In the calculation of the means of the certificate-debtor for the purpose of this clause there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the certificate.

ⁱ (i a) Notwithstanding anything contained in sub-section (1), a warrant for the arrest of the certificate-debtor may be issued by the

^δ Section 29 was substituted for the original section by s. 4 of the Bengal Public Demands Recovery (Amendment) Act, 1942 (Ben. Act I of 1942).

ⁱ These words were substituted for the words "after giving the certificate-debtor an opportunity of showing cause why he should not be committed to civil prison," by s. 3 (a) (i) of the Bengal Public Demands Recovery (Amendment) Act, 1953 (West. Ben. Act XIII of 1953).

ⁱ Sub-clause (i) was omitted by s. 3(a) (ii). *ibid.*

ⁱ Sub-sections (i) (b) and (ii) were inserted by s. 3 (b). *ibid.*

of 1913.]

(Pari III.—Execution of Certificates.—Section 29.)

Certificate-officer if the Certificate-officer is satisfied, by affidavit, or ... otherwise, that, with the object or effect of delaying the execution of the certificate, the certificate-debtor is likely to abscond or leave the local limits of the jurisdiction of the Certificate-officer.

¹(1b) Where appearance is not made in obedience to a notice, issued and served under sub-section (I), the Certificate-officer may issue a warrant for the arrest of the certificate-debtor.

¹(1c) Every person arrested in pursuance of a warrant of arrest issued under sub-section (1a) or sub-section (1b), shall be brought before the Certificate-officer as soon as practicable and in any event within twenty-four hours of his arrest (exclusive of the time required for journey):

Provided that, if the certificate-debtor pays the amount entered in the warrant of arrest as due under the certificate, and the costs of the arrest, to the officer arresting him, such officer shall at once release him.

(2) When a certificate-debtor appears before the Certificate-officer in obedience to a notice to show cause—[or is brought before the Certificate-officer under sub-section (1c)], the Certificate-officer shall proceed to hear the certificate-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the certificate-debtor an opportunity of showing cause why he should not be committed to the civil prison.

(3) Pending the conclusion of the inquiry under sub-section (2), the Certificate-officer may, in his discretion, order the certificate-debtor to be detained in the custody of such officer as the Certificate-officer may think fit or release him on his furnishing security to the satisfaction of the Certificate-officer for his appearance when required.

(4) Upon the conclusion of the inquiry—[under sub-section (2)], the Certificate-officer may subject to the provision of section 31 make an order for the detention of the certificate-debtor in the civil prison and shall in that event cause him to be arrested²[if he is not already under arrest]:

¹See foic-noic 4 on page 420. *erne*.

³These words were inserted by s. 2(c) of the Bengal Public Demands Recovery (Amendment) Act, 1953 (West Ben. Act XIII of 1953).

These words, figure and brackets were substituted for the words, figure and brackets "under sub-section (J)" by s. 3(d)(i), *ibid*.

These words were added by s. 3(1)(ii), *ibid*.

CPars III.—Execution of Certificates.—Sections 30, 31.

Provided that in order to give the certificate-debtor an opportunity of satisfying the certificate debt, the Certificate-officer may before making the order of detention leave the certificate-debtor in the custody of the officer arresting him or of any other officer for a specified period not exceeding fifteen days or release him on his furnishing security to the satisfaction of the Certificate-officer for his appearance at the expiration of the specified period if the certificate debt be not sooner satisfied.

When the Certificate-officer does not make an order of detention under sub-section (4), he shall, if the certificate-debtor is under arrest, direct his release.

Release from
arrest and
re-arrest.

30. (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 the 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 the civil prison shall not in the aggregate exceed that authorised by section 31, sub-section (1).

31. (1) Every person detained in the civil prison in execution of a certificate may be so detained,

Detention in,
and release
from prison.

(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.

Sub-section (5) was added by s. 14 of the Bengal Public Demands Recovery

of 1913,1

(Part III.—Execution of Certificates.—Sections 32, 33. Part IV.—Reference to Civil Court.—Section 34.)

(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. (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.

Release on ground of illness.

(4) A certificate-debtor released under this section may be rearrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by section 31, sub-section (1).

33. Notwithstanding anything in this Act, the 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 [V Reference to Civil Court.

34. 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 files, 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 10— from the date of the decision of such appeal,

bring a suit in the Civil Court to have the certificate cancelled or modified, and for any further consequential relief to which he may be entitled :

Prohibition of arrest or detention of women and persons under disability.

Suit in Civil Court to have certificate cancelled or modified.

(Part IV.—Reference to Civil Court.—Section 35.)

7; 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 Article 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 9, 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 [not exceeding six and a quarter

- per centum per annum.]*
35. f J) 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 the 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.
- Grounds for cancellation or modification of certificate by Civil Court.

¹These provisions were added by s. 5 of the Bengal Public Demands Recovery Act, 1913. A...

of 1913.]

(Pan IV.—Reference to Civil Court.—Sections 36, 37.—Pan V.—Rules.—Section 38.)

(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 debt was not due ; or
- (ii) that the certificate-debtor has not received credit for any portion which he has paid.

(3) Nothing contained in this section shall interfere with the ordinary original jurisdiction of [the High Court at Calcutta], or with the jurisdiction of the Calcutta Court of Small Causes.

36. 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 the plaintiff has sustained substantial injury by reason of irregularity :

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

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. Except as otherwise expressly provided in this Act, every question arising between the certificate-holder and the certificate-debtor, or their representatives, relating to the making, execution, discharge or satisfaction of a certificate duly filed under this Act, or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Certificate-officer before whom such question arises, or of such other Certificate-officer as he may determine:

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

Provided that a suit may be brought in a Civil Court in respect of any such question upon the ground of fraud.

PART V Rules.

38. 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.

These words were substituted for the words "the High Court at Fort William in Bengal" by paragraph 3 of the Schedule to the Adaptation of Laws Order, 1950.

Effect of rules in Schedule II.

[Ben. Act III

426 *The Bengal Public Demands Recovery Act, 19 J 3.*

(Pan V.—Rules.—See ion 39.)

Power of
Board of Re-
venue to
make rules as
to
procedure.

39. (1) The Board of Revenue may, after previous publication and with the previous sanction of the [State Government], make rules regulating the procedure to be followed by persons making requisitions under section 5 and by Collectors and Certificate-officers 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, but, 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 of requisitions made under section 5 ;
- (b) the Certificate-officer; to whom such requisitions should be addressed ;
- (c) the cases 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, denying liability ;
- (f) the transfer of certificates, proceedings in execution of certificates and petitions under section 9 denying liability from one Certificate-officer to another for disposal;
- (g) the manner of calculating interest referred to in section 16, clause (a);
- (h) the scale of charges to be recovered under section 16, clause (c) ;
- (i) 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 ;
- (j) the registers, books and accounts to be kept by Certificate-officers, and the inspection thereof by the public ;

¹See foot-note 2 on page 410, *nine*.

²Clause (f) was substituted for the original clause by s.3 of the Bengal Public Demands Recovery (Amendment) Act, 1960 (West Ben.Act XIX of 1960).

³Clause (j) was inserted by s.3 of the Bengal Public Demands Recovery (Amendment) Act, 1955 (West Ben.Act XV of 1955).

of 1913.]

(Part V. —Rules.—Section 40.—Part VI.—Supplemental Provisions.—Sections 41—43.)

- (j) the fee 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 ;
- (in) the forms to be used under this Act.

40. (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 the Schedule as for the time being amended by such rules.

PART VI Supplemental Provisions.

41. 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.

Publication and effect of rules made under section 39.

42. 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 or management of the Court of Wards or the Revenue-authorities ; or
- (b) the death of the certificate-holder.

43. 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 :

Persons under disability.

Continuance of certificates.

Provided that where the certificate is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of ; and, for the purpose 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.

Procedure on death of certificate-debtor.

'See foot-note 3 on page 410. *tin it-*

(Part VI.—Supplemental Provisions.—Sections 44—47.)

44. (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.

Cancellation of certificates,

45. Subject to such limitation as may be prescribed, the award of and cost 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.

Costs.

46. 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 recovery of costs.

Compensation.

Entry into house¹²

47. (1) No person executing any warrant of arrest issued under ^{Act} or any process issued under this Act directing or authorizing 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 the 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.

of 1913.]

(Part VI.—Supplemental Provisions.—Sections 48—51.)

48. Every Collector, Certificate-officer, Assistant Collector or Deputy Collector acting under this Act, and every [officer 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 Officers' Protection Act, 1850.

Application of Act XVIII of 1850,

XVIII of 1850,

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

50. 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.

Officers to have powers of Civil Court for certain purposes.

51. (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

Control over officers.

(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, authorize

(i) any Subdivisional 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).

The words "Officer of the Crown" were originally substituted for the words "Government Officer" by paragraph 3 of, and Section 1 V to, the Government of India [Adaptation of Indian Laws] Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4 of the Adaptation of Laws Order, 1950.

[Ben. Act III
430 *The Bengal Public Demands Recovery Act, 19 J 3.*

(Pan Vf.—Supplemental Provisions.—Sections 52—56, J

(4) When any officer has been so authorized, the Collector may transfer to him for hearing any appeal referred to in clause (a) of subsection (1), unless the order appealed against was 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. No appeal shall lie from any order of a Collector, or an officer authorized under section 51, sub-section (3), when passed on appeal.

53. ³⁽¹⁾ The Collector may revise any order passed by a Certificate-officer, Assistant Collector or Deputy Collector under this Act;

Bar (o
scL'ond
appeals.
Revision.

the Commissioner may revise any order passed by a Collector under this Act;

and the Board of Revenue may revise any order passed by a Commissioner under this Act.

¹(2.) The period of limitation for an application for revision under this section shall be thirty days from the date of the order revision whereof is applied for, excluding the time occupied in obtaining a copy of the order:

Provided that such an application for revision may be admitted after the period aforesaid if the applicant satisfies the Collector, the Commissioner or the Board, as the case may be, that he had sufficient cause for not making the application within the period.]

54. 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.

Review.

55. The powers given by this Act shall be deemed to be in addition to, and not in derogation from, any powers conferred by any other Act now in force for the recovery of 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. (1) Sections 6 to 9 of "[the Limitation Act, 1963,] shall not apply to suits, appeals or applications under this Act.

Saving of
other Acts.

Section 53 was renumbered as sub-section (1) of that section and after that section as so re-numbered. sub-section (2) was added by s.2 of the Bengal Public Demands Recovery (Amendment) Act, 1957 (West Ben.Act XV of 1957).

The words and figures "the Limitation Act, 1963," with the marginal reference "36 of 1963," were substituted for the words and figures "the Indian Limitation Act, 1908," with the marginal reference "IX of 1908." by s.2(n) of the Bengal Public Demands Recovery Act, 1985 (West Ben.Act XX of 1985).

Application of
the Indian
Limitation
Act, 1908.

³[36 of
1963.]

of 1913.] (Pari VI.—Supplemental Provisions.—Sections 57—62.—Schedule I.—Public Demands.—Article J.)

(2) Except as declared in sub-section (1), the provisions of '[the Limitation Act, 1963,] shall apply to all proceedings under this Act as if a certificate filed hereunder were a decree of a Civil Court.

^{13G of 1963.}

57. 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 Limitation Act, 1963],

Certificate officer deemed to be a Court,

58. 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.

Penalties.

AcL XLV of 1860.

59. (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.

Signature of documents

(2) The [State Government] may, by notification in the ^A[Official Gazette], empower Certificate-officers to authorise ministerial officers, by written order, to sign on behalf of Certificate-officers any classes of original notices, summonses or proclamations issued by Certificate-officers under this Act which are specified in such notification.

ministerial officers.

60, 61, 63 and 64.—[Rep. by s. 6 of the Bengal Public Demands Recovery (Amendment) Act, 1942 (Ben. Act I of 1942).]

62.—[Rep. by s. 3 and the Second Schedule of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946).]

SCHEDULE I Public Demands.

[See sections 3 (6) and 34 (b).]

I. Any arrear of revenue which remains due in the following circumstances, namely:—

¹The change was made as per foot-note 2 on page 430. *ante* by s. 2(b) of the Act mentioned in this footnote.

²The words and figures within the square brackets were substituted for the words and figures "the Indian Limitation Act, 1908." by s. 3 of the Bengal Public Demands Recovery Act, 1985 (West Ben. Act XX of 1985).

³Cf. footnote 2 on page 410. *ante*.

⁴See footnote 3 on page 410. *time*.

when under the provisions of the Bengal Land-revenue Sales Act, ^{xi} of 1859, 1859, or (the Bengal Land-revenue Sales Act, 1868, or any other law ^{vi} for the time being in force, an estate or tenure, or any share of an estate, or tenure, has been sold for the recovery of arrears of revenue due thereupon, and, after deducting the expenses of such sale the balance of the 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 latest day of payment fixed under section 3 of the said Bengal Land-revenue Sales Act, 1859.

3. Any money which is declared by any law for the time being in force to be recoverable or realizable as an arrear of revenue or land-revenue, or by the process authorized 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.

5. Any money due from the sureties of a farmer in respect of the revenue of the estate farmed 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 of the 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

^{xi} In irisi estates managed by Government, the express trustee, and in attached estates managed by Revenue authorities on behalf of private individuals, arrears of rent are recoverable under Article 8. The Act does not apply to rents of houses and shops, and the certificate procedure cannot be applied to the recovery of such rent unless, by a written instrument duly registered, the persons liable to pay such rents have agreed that they shall be recoverable as public demand.

(Schedule I.—Public Demands.—Articles 9—ii.)

the Court of Wards or the Revenue-authorities on behalf of a private individual⁶ any arrear of rent, or of any demand which is recoverable as rent, whether such arrear became due before or after the management devolved upon such Court or such Authorities.

9. Any money payable to an officer of the Government, in respect of which the person liable to pay the same has, by a written instrument, which shall, except in cases of fees, not exceeding fifty rupees per annum, for licences granted for use and occupation of agricultural land vested in the Government under the West Bengal Estates Acquisition Act, 1953, be duly registered, agreed that such money shall be recoverable as a public demand.

^{9A.} Any money payable to Government or 10 an officer of Government in repayment of a loan or 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 a written instrument that such money shall be recoverable as a public demand.

^{9B.} Any money payable to a society registered or deemed to have been registered under the West Bengal Societies Registration Act, 1961, when such money is financed jointly by the State Government and the Central Government and is granted by such society as subsidy or loan to a person who agrees by a written instrument, registered or unregistered, that such money shall be recoverable as a public demand.

10. Any stamp duty payable by a proprietor in respect of a paper of partition prepared under the Estates Partition Act, 1897.

11. In the case of a person to whom the collection of tolls has been farmed under section 11 of the Canals Act, 1864, or of the sureties of such person⁶ any money due in respect of such farm.

⁶Article 9 was substituted for the original article by s/2 of the Bengal Public Demands Recovery (Amendment) Act, 1966 (West Ben. Act 1 of 1966). Prior to this substitution there occurred two changes in the original article, namely :

(i) the words "an officer of the Crown" were originally substituted for the words "a Government officer" by para. 3 of Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter, the word "Government" was subsumed for the word "Crown" by para A(J) of the Adaptation of Laws Order, 1950, and (ii) the words "or any local authority" were omitted by s.7(nj) of the Bengal Public Demands Recovery (Amendment) Act, 1942 (Ben. Act 1 of 1942).

⁷Article 9A was substituted for the former Article 9A by s.2(a) of the Bengal Public Demands Recovery (Second Amendment) Act, 1953 (West Ben. Act XVIII of 1953).

⁸Article 9B was inserted by s.4 of the Bengal Public Demands Recovery (Amendment) Act, 1985 (West Ben. Act XX of 1985).

(Schedule I.—Public Demands.—Articles 12—18.)

12. Any money awarded as compensation under section 2 of the Bengal Land-revenue Sales Act, 1868,

¹12A. Any sum ordered by a liquidator appointed under subsection (7) of section 42 of the Co-operative Societies Act, 1912, to be recovered as a contribution to the assets of a society or as the cost of liquidation.

²12B. Any sum due to a land mortgage bank registered under the Co-operative Societies Act, 1912, or any sum due to an assignee of such bank in respect of any principal sum or any interest thereon under a mortgage made to the bank,

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.

³14. Any money payable to a local authority***

⁵15. Any money awarded as costs by the High Court at Calcutta in proceedings under Article 226 of the Constitution of India relating to matters arising outside its ordinary original civil jurisdiction.

⁸16. Any money fixed as water rate by the State Government under sub-section (2) of section 14 of the Damodar Valley Corporation Act, 1948,

⁹17. Any sum payable to the Government by a person on account of use or occupation by such person of any house, tenement or room belonging to the Government.

⁷18. Any money payable to a Government Company wholly owned either by the State Government or by the Central Government or jointly by the State Government and the Central Government.

¹Article 12A was inserted by s. 3 of the Bengal Public Demands Recovery (Amendment) Act, 1918 (Ben. Act I of 1918).

²Article 12B was inserted by s. 3 of the Bengal Public Demands Recovery (Amendment) Act, 1938 (Ben. Act V of 1938).

³Article 14 was added by s. 1 (b) of the Bengal Public Demands Recovery (Amendment) Act, 1942 (Ben. Act I of 1942).

⁴The words "namely, the commissioners of a municipality or a district board" were omitted by s. 2(b) of the Bengal Public Demands Recovery (Second Amendment) Act, 1953 (West Ben. Act XVIII of 1953).

⁵Articles 15 and 16 were added by s. 4 of the Bengal Public Demands Recovery (Amendment) Act, 1955 (West Ben. Act XV of 1955).

⁶Article 17 was inserted by s. 3 of the Bengal Public Demands Recovery (Amendment) Act, 1972 (West Ben. Act XIV of 1972).

⁷Article 18 was inserted by s. 2 of the Bengal Public Demands Recovery (Amendment) Act, 1973 (West Ben. Act XXV of 1973).

of 1913,]

(Schedule I.—Public Demands,—Article 19.—Schedule II.—Rules.—
Rules 1 to 1B.)

West Ben.
Act II of
1948.

19. Any amount paid in advance under section 8B of the West Bengal Land (Requisition and Acquisition) Act, 1948, to a person not lawfully entitled thereto or any amount paid in advance to a person under the said section in excess of what is payable under section 7 of the said Act.

SCHEDULE II

Rules.

(See Section 38.)

Signature and Verification of Requisitions for Certificates.

1. (I) 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 on which it is signed.

1A. The procedure and the rules to be followed in respect of certificates for arrears of sales tax shall be the same as those in the case of arrears of land revenue payable to the Collector.

1B.—All the columns of Form No. I (Certificate of Public Demand) shall be filled up clearly in ink before the same is filed in the office of the Certificate Officer, and subsequent corrections, if any, made therein shall be made in red ink, and initialled by the Certificate Officer with dates.

Article 19 was added by s. 2 of the Bengal Public Demands Recovery (Amendment) Act, 1975 (West Ben. Act III of 1975).

This Schedule II has been substituted for the original Schedule II by the Board of Revenue Notification No. 39/18 C. P., dated the 21st December, 1914, published in the *Calcutta Gazette*, dated the 23rd *idem*, Pt. I, page 2351, Section 39, read with section 40 of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913), which authorises the Board or Revenue to alter, to add to or to annul by notification any of the rules including the forms thereunder, in Schedule II to this Act. The Schedule has been amended in accordance with the several notifications and orders which have been issued under these powers.

Rule 1A was inserted by notification No. 9601 C.P., dated the 13th September, 1954, published in the *Calcutta Gazette* for 1954, Part I, page 3174.

Rule 1B was inserted by notification No. 14998 C. P., dated the 30th August, 1957, published in the *Calcutta Gazette* of 1957, Part I, page 3347.

Signature
and veri-
fication of
requisition
for
certificate.

[Ben. Act III
436 *The Bengal Public Demands Recovery Act, 19 J 3.*

(Schedule 11.—Rides.—Rules 2—6.)

Service of Notices.

Mode of service. 2. 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 authorizes in this behalf, and sealed with the seal of the Certificate-officer.

Note. It has been laid down by the Calcutta High Court in the case reported in LVIII-C. (V. N., pages 573-586, that omission to sign the Notice under section 7 of the Public Demands Recovery Act, 1913, by the Certificate-officer or by one authorised by him or the use of rubber-stamp or lithographic signatures thereon renders the notice invalid.
(Vide Board's 'D' Group, C. P. Branch file No. 23 of 1954.)

3. Wherever 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.

Service on certificate-debtor or his agent. 4. Where the certificate-debtor can not be found, and has no 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. "

Service on adult male member of certificate-debtor's family.

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

5. 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 acknowledgment of service endorsed on the original notice.

Person served to sign acknowledgment.

6. Where the certificate-debtor or his agent, or such other person as aforesaid, refuses to sign the acknowledgment, 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

Procedure where certificate-debtor refuses to accept service or cannot be found.

(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 personality works for gain, or (b) if there be land affected by the notice, affix a copy of the notice on some conspicuous place in the office of the Certificate-officer and also on some conspicuous part of the land,

(Schedule II.—Rules.—Rules 7—11.)

and shall then return the original to the Certificate-officer by whom it was issued, with a report endorsed thereon or annexed thereto 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. 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 manner in which the notice was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice.

8. 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 Certificate-officer, or, subject to any general order of the Collector, by an Assistant Collector, Deputy Collector or Sub-Deputy Collector, touching his proceedings and may make such further inquiry in the matter as he thinks fit; and shall either declare that the notice has been duly served or order such service as he thinks fit.

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

Endorsement of time and manner of service.

Service by post.

Examination of serving officer.

Petitions under Section 9, Denying Liability.

10. (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.

(3) The petition referred to in sub-clause (1) above shall be filed in duplicate so that one copy may be supplied to the certificate-holder.

11. (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.

Signature and verification of petition denying liability.

Transferor such petitions.

(Schedule II.—Rules.—Rules 12—15.)

(2) The provisions of section I Oshal J be applicable to any Assistant Collector or Deputy Collector to whom any such petition has been transferred under sub-rule (J).

Execution of Certificates.

12. Where a copy of a certificate is sent for execution to any other Certificate-officer under section 12, sub-section (I), the certificate may be executed by him.

Attachment of Movable Property, etc.

"13. 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 forty rupees in value. If the property is declared to be above forty rupees in value, the certificate-holder shall pay the costs of issuing the proclamation of sale. If, however, the value of the property, having been declared to be forty rupees or under, should be found as determined by rule 14 to exceed forty rupees, the certificate-holder shall pay the costs of issuing the proclamation of sale immediately on receipt of notice of attachment.

"14. When the attaching officer believes that the property attached does not exceed forty rupees 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 convok a *panchayai* of not less than three respectable adult male inhabitants of the 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 forty rupees in value, he shall deal with it according to the rules for the sale of movable property exceeding forty rupees 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 purchasers.

15. 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:

Rules 13, 14, 44, 46 f I), and 48 are shown as amended by the Board of Revenue notification No. 7112 C. P., dated the 8th June, 1933, published in the "Calcutta Gazette" of 1933. Part I, dated the 15th June, 1933, page 880.

Execution in another district.

Application for attachment of movable property in the possession of the certificate-debtor.

Procedure for the attachment of movable property when its value is up to Rs. *10 or above.

Attachment of movable property (other than agricultural produce) in possession of certificate-debtor.

of 1913.]

(Schedule II.—Rules.—Rules 16, 17.)

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

Attachment of agricultural produce.

(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 plate for treading out grain or the like, or fodder-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, or in which he is known to have last resided or carried on business or personally worked for gain ;

and the produce shall thereupon be deemed to have passed into the possession of the Certificate-officer.

17. (1) Where agricultural produce is attached, the Certificate-officer shall make such arrangements for the custody thereof as he may deem sufficient, and, "[for the purpose of enabling the Certificate-officer to make such arrangements, every application for the attachment of a growing crop shall specify the time at which it is likely to be fit to be cut or gathered and the applicant shall deposit in Court such sum as the Court shall require in order to defray the cost of watching or tending the crop till such time.]

Provision as to agricultural produce under attachment.

(2) Subject to such conditions as may be imposed by the 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.

These words were substituted for the words "when the produce is a growing crop gathered." vide Board of Revenue notification No. 12971C.A., dated the 20th October, 1932, published in the *Calcutta Gazette* of 1933. Part I. pages 1532-33.

(Schedule II.—Rules.—Rule 18.)

[Ben. Act III

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require reattachment 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 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 cut or gathered.

18. (1) In the case of

(a) a debt not secured by a negotiable instrument,

(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 the 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 (1) shall pay the amount of his debt to the Certificate-officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

A copy of this rule shall be sent to the certificate-debtor.

of 1913.]

(Schedule II—Rules.—Rules ISA, I SB.)

(4) Before making under sub-rule (1) an order of attachment of rents due to the certificate-debtor from any subordinate tenure-holders or any *raiya* or any under-*ranyal*, the Certificate-officer may, upon the application of the certificate-holder, issue notice on the certificate-debtor calling upon him to submit a statement signed and verified in the manner specified in rule 18 containing the names of the tenants from whom rent is due to him and the amount of rent due to him from each such tenant within fifteen days from the date of receipt of the notice and the Certificate-officer shall make the order of attachment under sub-rule (1) after considering the said statement. Where the certificate-debtor in spite of such notice fails to furnish such statement within the time mentioned in this sub-rule the Certificate-officer shall issue the order of attachment under sub-rule (1) on such subordinate tenure-holders, *miyats* or under-*ranyals* as are named in the application for an order of attachment under that sub-rule.

18A. (1) Rents due to a certificate-debtor from subordinate tenure-holders or *miyats* or under-*raiya*s which have been attached under rule 18 may be dealt with under the eight succeeding rules.

Rules
regarding
realisation or
rents due
to
certificate-
debtor from
the holders
of subordinate
interest.:

(2) The word "Garnishee" in these rules means and includes such subordinate tenure-holders, *miyats* and under-*ranyals*.

"Garnishee"
Rules.

18B. (1) Upon the application of the certificate-holder, the Certificate-officer may issue a notice to the garnishee liable to pay the rent calling on him either to pay to the Certificate-officer the rent due from him to the certificate-debtor or so much thereof as may be sufficient to satisfy the certificate and costs of execution or to appear and show cause on a date to be specified in the notice why he should not do so.

Certificate-
officer to issue
notice to the
garnishee
liable to pay
rent.

(2) Notwithstanding anything else in these rules notice under sub-rule (1) may be issued simultaneously with an order under rule 18 (1).

(3) Such application shall be made on affidavit verifying the facts alleged and stating that in the belief of the deponent the garnishee is indebted to the certificate-debtor.

*Sub-rule (4) was added, vide Board of Revenue Notification No. 16364 C, PS dated the 27th November, 1936. published in the *Calcutta Gazette* 1936. Part I, page 2715.

(Schedule //.— Rules.—Rules ISC—ISF.j

¹ [This sub-rule shall not apply when the Central Government or the State Government is the certificate-holder.]

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18C. Where the garnishee does not forthwith pay to the Certificate-officer the amount due from him to the certificate-debtor or so much thereof as is sufficient to satisfy the certificate and the costs of execution or does not appear and show cause in answer to the notice, the Certificate-officer may order the garnishee to comply with the terms of such notice, and on such order execution may issue as though such order were a certificate against him other than one for arrears of rent.

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18D. (1) Where the garnishee disputes liability in part only, the Certificate-officer may amend the notice in accordance with the amount admitted, and unless the amount so amended is forthwith paid to the Certificate-officer, may make an order under rule 18C.

(2) Notwithstanding anything in sub-clause (1) where the garnishee disputes the liability in whole or in part and where the Certificate-officer thinks fit to make a determination as to the whole or part liability disputed by the garnishee, the Certificate-officer shall proceed to investigate the dispute, take evidence (if necessary) and determine whether the garnishee is liable for the whole or any part of the amount for which the notice was issued and may set aside, modify or vary the notice accordingly, and unless the amount of the notice so amended is paid forthwith shall make an order under rule 18C.

18E. The provisions of rule 43 shall apply to an order made under rule 18C.

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rule

18F. Where it is suggested or appears to be probable that a third person has a claim to or other interest in the amount, the Certificate-officer may order such third person to appear and state the nature and particulars of his claim (if any) to such amount and prove the same.

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¹ These words were added by notification No. 22233 C. P., dated the 20th December, 1938, published in the *Calcutta Gazette* of 1938, Part 1, page 3034.

² The word "State" was substituted for the word "Provincial" by paragraph 4f 1) of the Adaptation of Laws Order, 1950.

(Schedule If.—Rides.—Rides 18G—18I. 19. 20.)

18G. After hearing such third person and any other person or persons who may subsequently be ordered to appear, or when such third person or other person or persons do not appear when so ordered, the Certificate-officer may proceed as proscribed in rule 18D.

Certificate officer to proceed under rule 18D in case the third person does not appear.

[of 1913.]

18H. Payment made by the garnishee on a notice under rule 18B or under an order under rule 18C shall be valid discharge to him as against the certificate-debtor and any other person ordered to appear as aforesaid for the amount paid or levied though such certificate may be set aside or reversed.

Payment under rule 18B or rule 18C.

Costs.

18I. The costs of any application made under rule 18B and of any proceeding arising therefrom or incidental thereto shall be in the discretion of the Certificate-officer,

Attachment of share in movables.

19. Where the property to be attached consists of the share or 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. (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 the Certificate-officer's jurisdiction, may order that the amount shall be withheld from such salary or allowances, either in one payment or by monthly instalments as the Certificate-officer may direct; and, upon 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,

Attachment of salary or allowances of public officer or servant of Railway Company or Local Authority.

(2) Where the attachable proportion of such salary or allowances 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 full statement of all the particulars of the existing attachment.

¹See Foot-note 2 on page 410. *ibid.* ²See Foot-note 3 on page 410, *ante*.

(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 [Central Government or the State Government] or the Railway Company or Local Authority, as the case may be; and [Central Government or the State 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. 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.

Attachment
of
negotiable
instru-
ments.

22. Where the 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:

Attachment
of property
in custody of
Court or
public
officer.

Provided that, where such property is in the custody of a 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. Where the property is immovable, no attachment need be made before sale.

24. Where

(a) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to a sale, are paid to the Certificate-officer, or

Attachment
of
immovable
property,

(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 (I).

Removal of
attachment
on
satisfaction
or
cancellation
of
certificate.

"The words "Central Government or the Provincial Government" were originally substituted for the words "the Government" by the Board of Revenue notification No. 8778-C.P., dated the 24th September, 1942, published in *the Calcutta Gazette*, 1942, Part I, page 2332, and thereafter the word "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

(Schedule II.—Rules.—Rules 25—31.)

Maintenance and custody, while under attachment, of livestock and other movable property.

25. Under rule 15, the properly seized will remain in the custody of the attaching officer or of one of his subordinates on his responsibility.

Custody of
properly
under
attachment.

26. 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.

Removal of
property to
Court.

27. 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 seized, so that the Certificate-officer may thereon at once issue the proclamation of sale.

List of
property
under
attachment.

28. 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. When 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 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.

Debtor's
consent to
the sale of
the property
under
attachment.

Custody of
property
under
attachment,
while in
Court.

30. When property remains at the place where it is attached in the custody of the attaching officer, and 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. [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.

Claim of any
person other
than the
certificate-
holder to the
property
under
attachment,

Withdrawal
of
attachment.

[Ben. Act III:

(Schedule 11.—Rules.—Rules 32—37.)

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.

Feeding and
tending of
live-stock
under
attachment.

32. 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.

Cost for
feeding live-
stock And
expenses
attending its
removal to
Court.

33. 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.

Responsibility
of the nazir for
safe
custody and
proper
feeding.

34. When attached 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.

Custody of
live-stock
in
Government
pounds.

35. 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 it such attached live-stock as can be properly kept there in which case the pound-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.

Responsibility
of the nazir for
the custody of
livestock.

36. 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.

Rates to be
allowed for
the custody
and
mainte-
nance of
various
descripti-
ons of
live-
stock.

37. The Certificate-officer shall, from time to time, fix the rates to be allowed for the custody and maintenance of the various descriptions of live-stock with reference to seasons and local circumstances. The Collector may make any alterations he deems fit in the rates so prescribed.

(Schedule II.—Rules.—Rule 38.)

38. (I) 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 :

Fees to be charged where process of attachment of movable property is by actual seizure.

When the [amount or value of the subject matter or the estate] exceeds Rs. 1,000		
(a)	(i) For the seizure under the order of attachment ...	
	(b) For each man necessary to ensure safe custody of property so attached, when such man is actually in possession, <i>per diem</i>	R s. a. p. 0 0 0
	When the [amount or value of the subject matter or the estate] is Rs. 1,000 or under, but above Rs. 500	0 6 0
(H)	Rs.	
J	For each man necessary to ensure safe custody of property so attached, when such man is actually in possession, <i>per diem</i>	1 a. p. 0
(K)	... 0 4 0	0
(b)	(Hi) When the [amount or value of the subject matter of the case] is Rs. 50 or under	Rs. a. p.
	(a) For the seizure under the order of attachment ...	0 0 0
	(b) For each man necessary to ensure the safe custody of property so attached, when such man is actually in possession, <i>per diem</i>	0 4 0

Now (1) —When any process of attachment of movable property by actual seizure is issued, as a result of action taken under sections 13 and 14 of the Act, only the special fees leviable under the above rule should be charged. At this stage, the fee of annas twelve for an ordinary executive revenue process, as prescribed in rule 166(a), page 18 of the Bengal Practice and Procedure Manual, 1934, which is added to the certificate demand at the preliminary stage when notice under section 7 of the Act is issued, should not be imposed again.

Note (2).—When a process of attachment of movable property by actual seizure is re-issued after a partially or wholly unsuccessful attempt to realise certificate dues, the fees as laid down in the above rule should be levied afresh, except in cases where the re-issue is due to any mistake or fault on the part of the Nazarat staff.

(3).—The phrase "amount or value of the subject matter of the case" means the original demand as in the certificate signed under section 4 or 6 subject to any modification subsequently made under section 10.

These words were substituted for the words "amount under certificate", vide Board of Revenue notification No. 11263 C. P., dated the 7th September, 1933, published in the *Catania Gazette* of 1933, Part I, page 1311.

Notice JJ was added, vide Board of Revenue notification No. 11263 C.P., dated the 9th September, 1933, published in the *Calcutta Gazette* of 1933, Part I, page 1311,

(Schedule II.—Rules.—Rule 38.)

Note (3a).—In addition to the fees leviable under the above rule, the boat hire prescribed in rule 166(c), page 18 of the Practice and Procedure Manual, 1934, should be charged.

(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, then 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 expense 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 be not paid within the period originally fixed and in respect of which fees have been paid, the attachment shall cease on the expiry of that period.

Fees for (1) Where process of warrant of arrest is issued in certificate cases, the fees at the following rates shall be charged :—
Rupee 1 when the amount under certificate is Rs. 50 or under.
Rupees 4 when the amount, under certificate is Rs. 1,000 or under but above Rs. 50.
Rupees 10 when the amount under certificate exceeds Rs.

1,000.
Note (4).—When a warrant of arrest is re-issued after a partially or wholly unsuccessful attempt to realise the certificate dues, the fees as laid down in the above rule should be levied afresh, except in cases where the re-issue is due to any mistake or fault on the part of the Nazarat staff.
Note (5).—In addition to the fees leviable under the above rule the boat hire prescribed in rule 166(c), page 18 of the Practice and Procedure Manual, 1934, should be charged.

These words were added, *vide* Board of Revenue notification No. 12971-C. A., dated 1st October, 1933, published in the *Calcutta Gazette* of 1933, Part 1, pages 1532-33,

Refund of
custody
fees.

Investigation
by
Certificat-
officer.

Evidence to
be adduced.

Release or
property .
from attach-
ment or sale.

in the possess) on 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, bei ng in the possession of the certi ficate-debtor at the said date, it was so in his possession, not on his own account or as his own properly, but on account of 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 lo such extent as he thinks fit, from attachment or sale.

42. Where the Certificate-officer is satisfied that the property was, at the

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The Bengal Public Demands Recovery Act, 1913.

[Ben. Act III

(Schedule If.—Rules.—Rules 42—45.)

said date, in the possession of the cerrificate-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. 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.

Note.—It has been held by the Calcutta High Court in the case of Union of India vs. Shri Raja Rum Shaw and others in Civil Rules Nos, 1145 and 1146 of 1952, that the right of appeal given under section 51 of the Act cannot be taken away by any rule, such as Rule 43 which has been made under the rule making power of a non-legislative body and that the right of suit of the claimant or the objector is not taken away whether he prefers an appeal or not. Orders passed by the Certificate-officer under Rule 41 or 42 are, therefore, appealable to higher Revenue Authorities.

Disallow-
ance of
claim to
property
attached-

(Vide Board's 'D' Group, C. P. Branch file No, 10 of 1955.)

Sale generally.

Saving of
suits to
establish
power to
order sale
of property
attached
properly.

44. 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.

Sale of
movable
property
falling under
rule 15 or of
value not
exceeding Rs.
400 or of
greater value.

45. Sales of property under the proviso to rule 15 and of movable property not exceeding forty rupees in value, shall be held on the spot. Such sales will necessarily be conducted by peons when they are 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 proclama-

of 1913.]

(Schedule //.—Rules.—Rule 46.)

lion. For such sales officers of higher rank than peons should always be deputed when the value of the property is estimated to exceed fifty rupees and proclamation should be issued. When the value is between forty rupees and fifty rupees the Collector or Certificate-officer may, by a special order, depute a peon, if he considers it desirable to do so.

46. V f) Where any immovable property, or any movable property exceeding forty 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 interest in an estate or in 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 a *rai-yari* holding at fixed rates, situated in an VIII or ^{area in which} Chapter XIV of the Bengal Tenancy Act, 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 registered and notified incumbrances, and will be sold subject to those 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, 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-clauses (3) and (4) shall not apply.

452

The Bengal Public Demands Recovery Act, 1913.

[Ben. Act III

(Schedule 11.—Rules—Rules 47, 48.)

(6) For the purpose of ascertaining the matters to be specified in the proclamation, the Certificate-officer may summon any person whom he thinks necessary to 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.

making^ 47. (1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum^{lion} or other customary mode, and a copy of the proclamation shall be

affixed on a conspicuous part of the property and [also] upon a conspicuous part of the office 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 *raiya* holding at fixed rates or an occupancy holding situated in an area in which Chapter XIV of the Bengal Tenancy Act, 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 office of the estate and at the local *thia*.

(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.

Time or 348. 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 thirty days in the case of immovable property, or of at least fifteen days in the case of movable property exceeding forty 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 [or in a case of immovable property in a conspicuous part of the property whichever is later]:

Provided that if a tenure, a *raiya* holding at fixed rates or an occupancy holding situated in an area in which Chapter XIV of the

¹This word was substituted for the word "ilic" by notification No. 5743 C.P., dated the 15th May, 1942, published in the *Calcutta Gazette* of 1942, Part I, page 1372.

²See foot-note 3 on page 410. *ante*.

³See foot-note 1 on page 43 K. *ante*.

⁴These words were added, *vide* notification No. 5745 C.P., dated the 15th May, 1942, published in the *Calcutta Gazette* of 1942, Part I, page 1372.

(Schedule II.—Rates.—Rules 49, 50.)

VHtof
1885.

Bengal Tenancy Act, 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 *r liana*, whichever is later.

49. (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.

Purchase or
property by
the
certi II cate-
holder.

(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-debtor 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 the State Government],

50. f I) The Certificate-officer may, in his discretion, adjourn any sale hereunder to a specified 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.

Adjournment
or stoppage or
sale.

(Schedule II.—Rules.—Rules 55, 56.)

does not dispute the claim, the amount claimed by the certificate-holder shall be paid to him after the said period of thirty days in accordance with the provisions contained in clause (c) of sub-section (I) of the said section.

Sale of movable property.

55. C D) Where the property to be sold is agricultural produce, the sale shall be held,—

Sale or
agricultural
produce.

- (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 treading out grain or the l ike, 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 up 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 authorized to act in 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. (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 the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

Special
provisions
relating to
growing
crops.

(2) Where the crop from its nature does not admit of being stored¹ [or can be sold to a greater advantage in an unripe state (e.g. as green wheat)], it may be sold before it is cut and gathered; and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending ~[or] cutting or gathering the crop.

¹These words were inserted, *vide* Board of Revenue notification No. 12971-C.A., dated the 20th October, 1933, published in the *Calcutta Gazette* of 1933, Part I, pages 1532-33.
-This word was substituted for the word "and", *ibid*.

(Schedule 11.—Rules.—Rules 57—60.)

57. (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 as the officer or other person holding the sale directs, and in default of payment the property shall forthwith be resold.

Sale by public auction.

(2) On payment of the purchase-money, the officer or other person holding the sale shall grant a receipt for the same, and the sale 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. 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.

Irregularity not to vitiate sale, but any person injured may

59. (J) 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 the purchaser.

Delivery of movable property, debts and shares.

(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 of the share to any person except the purchaser or receiving payment of any dividend or interest thereon, and 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. (i) 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

Transfer of negotiable instruments and shares.

(Schedule II.—Rules,—Rules 61—63.)

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 :

A B, by *C D*, Collector of the district of
in a proceeding under the Bengal Public Demands Recovery Act,
1913, against *A. B*.

(3) Until the 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 receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself.

61. In the case of any movable property not hereinbefore provided for, the Certificate-officer may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

Sale of immovable property.

62. (1) When a tenure or holding at fixed rates, situated in an area in which Chapter XIV of the Bengal Tenancy Act, 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 bidding 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, and not otherwise, annul any incumbrance upon the tenure or holding, not being a registered and notified incumbrance.

63. (1) If the bidding for a tenure or 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 the tenure or holding be sold with power to avoid all incumbrances, the person holding the 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, 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.

Vesting
order in
case of
order
properly.

Sale of tenure
or holding at
fixed rates,
subject to
registered and
notified
incumbrances.

Sale or
tenure or
holding at
fixed rates,
with power
to avoid all
incumbrances.

Ben. Act III
of 1913.

VIII of
1885.

(Schedule II.—Rules.—Rules 64—67.)

Vll of
1885.

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

64. (1) When an occupancy-holding, situated in an area in which Chapter XIV of the Bengal Tenancy Act, 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.

Sale of
occupancy-
holding, with
power to
avoid all
incum-
brances.

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

65. 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.

Rules 62 to
64 not to
apply in
certain cases
to certificate-
holders who
are co-sharer
landlords.
Postponement
of sale to
enable
certificate-
debtor to raise
amount due
under
certificate.

66. (1) Where 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 of such property, or some part thereof, or of 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, authorizing 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. (1) When a tenure or holding, situated in an area in which Chapter XIV of the Bengal Tenancy Act, 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

Prohibition
of purchase
of (tenure or
holding) by
certificate-
debtor.

Note.—Rule 67(1) is binding on the certificate-debtor, but not on the Certificate-officer, who under rule 67(2) may, in his discretion, allow such bids and refuse subsequent applications to set aside a sale on such grounds.

[Ben. Act III

(Schedule II.— Rules.—Rules 68 — 74.)

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.

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

Time for pay mem or purchasc-money in full. 69. 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.

Procedure in default of payment. 70. In default of payment within the period mentioned in rule 69, the deposit 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.

Fresh proclamation before re-sale. 71. 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.

Bid of co-sharer to have preference, 72. Where the property sold is a share of undivided immovable property, and two or 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.

Return of purchasc-money in certain cases. 73. Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase together with the penalty (if any) referred to in clause (6) of section 22, and such interest as the Certificate-officer may allow, shall be paid to the purchaser.

Certificate to purchaser. 74. (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 became absolute.

(Schedule 11.—Rules.—Rules 75—78.)

75. Where the immovable property sold is in the occupancy of the certificate-debtor, or of some person on his behalf, or of 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.

Delivery of property in occupancy of certificate-debtor.

76. 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 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.

Delivery of property in occupancy of tenant or other person.

Arrest and Detention.

77. [Omitted—by s. 4 of the Bengal Public Demands Recovery (Amendment) Act, 1953 (West Ben. Act XIII of 1953).]

78. (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-officer thinks sufficient for the subsistence of the certificate-debtor from the time of his arrest until he can be brought before the Certificate-officer.

Subsistence allowance.

(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 judgment-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.

See Too I-note 2 on page 410. ante.

(Schedule 11.—Rules.—Rules 79—82.)

(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 proceeding :

Provided that the certificate-debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed.

Supplemental.

79. (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.

Note.—The fee should be prepaid by court-fee stamp affixed to the application.

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

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

81. 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.

Remittance to Certificate-officer of sums received under a certificate transferred for execution.

82. When the whole or any portion of the amount due under a certificate has been realized, 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,

Entry of satisfaction.

■ (Schedule If.—Rule.—Rules 83, 83A—83C, 84.)

83. When a copy of a certificate has been sent to another officer under section 12, sub-section (I),

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.

Communi-
cation by
satisfaction to
other persons.

Ben. Act
XXI of
1940.

83A. Requisitions from a Liquidator of Co-operative Societies appointed under section 90 of the Bengal Co-operative Societies Act, 1940, submitted under rule 139 of the Bengal Co-operative Societies Rules, 1942, shall be treated as applications from a Government officer, and shall accordingly be exempt from *ad valorem* fee. -

Exemption of
requisitions
from
Liquidator of
Cooperative
Societies from
*ad
valorem*
fee.
Procedure to
be followed
when one of
two or more
certificate-
debtors is
found to have
died before the
filing of the
certificate.

83B. Where one of two or more certificate-debtors is found to have died before the certificate was filed under section 4 or section 6, the Certificate-officer may, at any stage of the proceedings and on such terms as he thinks fit, order that the name of the deceased be struck out and that the legal representative of the deceased be added as a certificate-debtor, and the certificate shall be amended accordingly.

(2) When a certificate is so amended, the Certificate-officer shall cause a notice and a copy of the amended certificate to be served, in accordance with the provisions of section 7, on the new certificate-debtor and, if the Certificate-officer thinks fit, on the other certificate-debtors.

(3) The certificate proceedings as against the new certificate-debtor shall be deemed to have begun only on the service of such notice and certificate on him.

*830. Requisitions from the Directorate of Commercial Taxes under sub-section (J) of section 5 of the Bengal Public Demands Recovery Act, 1913, made during the period from 24th March, 1952 to 15th January, 1953, shall not be chargeable with fees.

Ben. Act III
of 1913.

Forms.

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

Rule 83A was substituted for the existing rule by notification No. 5131 C, P., dated the 20th June, 1949, published in the *Calcutta Gazette* of 1949, Part I, page 1051.

Rule 83C was inserted by notification No. 9600 C. P., dated the 13th September, 1954, published in the *Calcutta Gazette*, of 1954, Part I, page 3174.

Forms in
Appendix.

[Ben. Act III

(Schedule I.—Rules.—Rule 84.)

Note. It has been laid down by the Calcutta High Court in [the case reported in LVIII-C. W. N., pages 573-586, that the certificate form is a statutory form and the effect of any error or omission in filling it is fatal to the certificate and to the entire proceeding which is liable to be quashed. The following defects, namely—

- (i) misdescription in the name of the certificate-holder in the certificate, or,
- (ii) omission to mention correctly in the certificate other particulars including the period for which the demand is due and the reason for the imposition of penalty, or
- (iii) omission to sign by the certificate-officer the certificate which is filed in his office,

renders the certificate invalid.

(Vide Board's 'D' Group, C. P. Branch file No. 23 of 1954.)

APPENDIX.
FORMS.
(See rule 84.)
'FORM No. 1

West Bengal Form No. 1027.'

Certificate of Public Demand

(See sections 4 and 6.)

Certificate No..... filed in the officer of*

Name and address of certificate-holder : ^llf&fvwiJqliik fi JS^HI 1	
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. PJTSflR>t<=1 ^ (t *f<TRJ (l) 3«T><J^11»jAllfii^T> ICSpS] fllei?lil EñHJ "I@ ~l>1<t>1<5 ^ llñJR't'wsñ ^T'Sl i3<K CI ftfre > *f SlfiJI	Rs. nP.

Name and address of certificate-debtor :

Further particulars of the public demand for which this certificate is signed.

fttcii^ tfaa

^1

C^l P\$ ^3 forag t

Name of district *f<r?{f<f q|si I

[certify that the sums mentioned hereinbefore are due to the certificate-holder by the certificate-debtor (s) and that they are justly recoverable, the recovery by suit not being barred by law.

'G Dated this pn^ffin day of ^itft i 19
soln^iJ i\$> Ttim fwii

Certificate-officer.
ItflfpFOTj I

*Substituted for the existing Form No. 1 by notification No. 7716 C.P., dated 20Lh April, 1961, published in the Calcutta Gazette of 1961, Pan I, pages 10976 -1098.

**[Ben. Act III
468**

(Schedule II,—Form Nos. 6, 7.)
The Bengal Public Demands Recovery Act, 1913.
FORM No. 6.

Summons to appear and answer charge or obstructing execution of Certificate.

[See section 27(2).]

Certificate No. _____ of 19 _____

To _____

WHEREAS _____, the certificate-holder in the above certificate has complained to (his 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 of

FORM No. 7.

(Bengal Form No. 1045.)

Warrant of Committal.

[See section 28.]

To _____

THE OFFICER IN CHARGE OF THE CIVIL PRISON AT _____

WHEREAS the undermentioned property has been sold to the purchaser at auction sale in execution of certificate case No. _____, date _____

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 to 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-officer.

FORM No. 8.
(Bengal Form No. 1034.)
Warrant of Arrest.
(See section 29.)

To
WHEREAS a certificate No. _____ was filed in this office on the _____ day of _____, 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	...	...	...	...
Costs,	...	...	...	...
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 arrest the said certificate-debtor, unless the said certificate-debtor shall pay to you the
said sum of Rs. _____, together with Rs. _____ for the costs of executing 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-officer.

FORM No. 9.
(Bengal Form No. 1036.)
Order committing Certificate-debtor to the Civil Prison.
(See section 29.)

To
THE 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 _____ day of _____,
19____, under section _____ of the Bengal Public Demands 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, _____, _____, _____, _____, _____, _____, _____, _____,
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-officer.

The words "in the name of the King-Emperor of India" were omitted by Article 3 (1) of the Constitution of India and the Schedule to the Indian
Independent (Adaptation of Bengal and Punjab Acts) Order, 1948.

[Ben. Act III
470

(Schedule II.—Form Nos. 10, II.)
The Bengal Public Demands Recovery Act, 1913.
FORM No. 10.

Order for (he release of a person imprisoned in execution of a Certificate.

(See sections 31 and 32.)

isirici

Certificate No. of 19 .

To

THE 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 of

FORM No. 11.

(Bengal Form No. 1037.)

Notice to Legal Representative of Certificate-debtor.

(See section 43.)

To (name of legal representative).

You are hereby informed that a certificate against , deceased, for Rs. due from Kim 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 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 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 cost of realization) 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 abovementioned is hereto annexed.

You may remit the amount by money order, quoting the number and year of the certificate.

Dated this day of ,19

A.B.,

Certificate-officer of

(Schedule SI,—Form No. 11 A.)

FORM No. 11 A.

Warrant or Attachment of Movable Property.

(See sections 13 and 14.)

To
WHEREAS a certificate No. _____, 19____, as noted below, is due from him in
Recovery Act, 1913, against debtor and
the sum of Rs. _____
respect of the said certificate : .
_____ was filed in this office on the _____,
under section _____ of the
Bengal Public Demands

					Rs. a. p.
Original demand	
Interest	
Costs	
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 in 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. _____
together with Rs. _____, for the costs of executing this process, to hold the same until further orders
from the Court.
You are further commanded to return this warrant on or before the _____ day of _____,
19____, with 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-officer.

*When the order is to attach part of the movable property only, add here "to the value of Rs. _____".

The Bengal Public Demands Recovery Act. 19/3.
Calcutta Gazette, dated the 15th July. Pt. I. page 53 (in section 39, ante).

472

[Ben. Act III

(Schedule II.—Form Nos. IIB, IIC.)

FORM No. 11B.

Notice to persons added to the Original Certificate.

[See rule 83B(2)^]

To

You are hereby informed that a certificate against

(a)
(b)
(c)
etc.

for Rs. _____ on account of _____ was filed in this office
on the _____, 19____, under section _____ of the Bengal Public Demands Recovery

Act, 1913, it now appears that the certificate-debtor (a) or (b) or (c)
etc.

had died before the said certificate was filed and that you are liable as his legal representative to satisfy the said demand and your name has accordingly been added in the certificate. 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 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 demand and Rs. _____ on account of cost 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 number and year of certificate.

Dated this _____ day of _____, 19____.

Certificate-officer of

FORM No. IIC.

Notice to Surviving Certificate-debtor.

[See rule 83B(2J).]

WHEREAS a certificate against

(a) or
(b) or (c)
etc.

for Rs. _____ on account of _____ was filed in this office on the _____, 19____, and a copy of the said certificate and a notice under section 7 of the Bengal Public Demands

Recovery Act, 1913, has been served on you and whereas the said (a) or

(b) or
(c)
etc.

having died before the filing of the said certificate the name of his legal representative (X) has been added in and the name of the said (a) or

(b) or (c)
etc.

has been struck out from the said certificate, a copy of the certificate as amended is hereby annexed for your information.

Certificate-officer of

of 1913.]

(Schedule [I.—Form Nos. 12, 13.]

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 the certificate-debtor.

(See rule 18 (S)(a) and ft:.)

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 the further order of [his Court, from receiving from you] to the said certificate-debtor, namely, and that you, the said be, and

you are hereby prohibited and restrained, until the further order of this Court from any person whomsoever, or otherwise than into this Court.

GIVEN under the seal of the Court this day or

,19

Certificate-officer of
[Ben. Act III

(Schedule II.—Form Nos. 14, 15.)

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 or right of some other person to the immediate possession thereof.

[See rule 18 (S)(a);]

To

WHEREAS

has failed to satisfy certificate

No.

of 19, for Rs.

it is or

ordered that the certificate-debtor be, and is hereby, prohibited and restrained, until the 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 the

day of

,19

Certificate-officer of

FORM No. 15.

Order to attach salary or public of officer or servant of railway company or local authority. i

(See rule 20.)

To

WHEREAS certificate-debtor is ;
 certificate case No. of 19 *
 n4 receiving his salary at yoi
 hands ; and whereas or allowance certificate-holder in the
 said case, has applied in this Court for the attachment of the salary of it
 said or allowance
 to the extent of
 due to him under the certificate, you are hereby required
 withhold the said sum of from II
 salary of the said in monthly instalments
 or allowance sum
 and in remit the said to this Court
 or monthly instalments
 GIVEN under the seal OR the Court, this the day or ,19.
 Certificate-officer i

4 Offcribe nffirr of ccriifiiute-dcbtor.
 'Here state how the money is supposed to be in the hands of the person addressed, on what account, etc.

FORM No. 18.

(Bengal Form No. 1038.)

Notice to Certificate-holder.

(See rule 39.)

WHEREAS has made application to this Court for the re
 moval of attachment on placed at your instance in execution of Certificate
 No. of 19 ; this is to give you 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 the day of ,19 .
 Certificate-officer.

The Bengal Public Demands Recovery Act, 1913. **476**
of 1913.] *(Schedule II.—Form Nos. 16—18.)*

FORM No. 16.
Order of attachment of Negotiable Instrument.
(See rule 21.)

To
THE COLLECTOR AT *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,
GIVEN under the seal of the Court, this the day of ,19
Certificate-officer.

FORM No. 17.
Attachment.
**Prohibitory order, where the property consists of money or of any security in the custody of a Court or Justice or officer
of Government.**
- (See rule 22.)

Certificate case No. 19.
To
SIR,
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 the
further order of this Court. I have the honour to be,
SIR,
Your most obedient servant,
Dated the day of ,19
Certificate-officer of

[Ben. Act III
477

The Bengal Public Debtors Recovery Act, 1913.

FORM No. 19.

(Bengal Form No. 1039.)

Warrant or sale of Property.

(See rule 44.)

To

Thk

I hereby do command you to sell by auction, after giving _____ days' previous notice, by affixing the same in this office, and after making due proclamation, the undermentioned property attached in execution of certificate No. _____ in favour of _____, or so much of the said property as shall realize the sum of Rs. _____ being the amount due on the 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 on the reason why it has not been executed.

GIVEN under the seal of the Court, this the _____ day of _____, 19____.

Specification of property:

Certificate-officer.

FORM No. 20.

(Bengal Form No. 1040.)

Notice of the day fixed for setting a Sale Proclamation.

(See rule 46.)

To

_____ , Certificate-debtor.
I, _____ , in execution of Certificate No. _____ of _____ a sale is about to be held of the 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 interest is _____ GIVEN under the seal of the Court, this the _____ day of _____, 19____.

Specification of property

Certificate-officer.

of 1913.]

(Schedule II.—Form No. 21.)

FORM No. 21.
(Bengal Form No. 104 I.)
Proclamation of Sale.
(See rule 46.)

NOTICE is hereby given that, under rule 44 in Schedule 71 to the Bengal Public Demands Certificate No. .OR Recovery Act, 1913, an order has been passed by me for the sale of the property 19 . under which is the mentioned in the annexed schedule, in satisfaction of the claim of the certificate-holder and holder under the certificate mentioned in the margin amounting, with costs and interest, to the sum of Rs. _____.

The sale will be by public auction and the property will be put up for sale in the lots specified in the schedule. The sale will be of the property of the abovenamed 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 _____ day of _____, 19____. In the event, however, of the debt above specified, and of the costs of the sale, being tendered or paid before the knocking down of any lot, the sale will be stopped.

At the sale the public generally are invited to bid, either personally or by duly-authorized agent. The following are the further

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 bidding are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising as to the amount of bid, or as to the bidder, the lot shall at once be again put up to auction.
3. The highest bidder shall be declared to be 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 make 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 rule 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 resold.
6. In the case of immovable property, the person declared to be the purchaser shall pay immediately after such declaration a deposit of 25 per cent, on 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 resold.
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 holiday, then on the first office day after the fifteenth day.
8. In default of payment of the balance of purchase-money within the period allowed, the property shall be resold 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 the _____ day of _____, 19____
Certificate-officer.

(Schedule II.—Form No. 22.)

Schedule of Property.

7. Number of lot	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, if 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	f	1	4

FORM No. 22.

(Bengal Form No. 1042.)

Order of the Nazir Tor 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 said property; , copies of the proclamation of sale are by this warrant made over to you and you are hereby ordered to have the proclamation published by beat of drum within each 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.

Date the day of ,19

Schedule.

Ce nifica te-offtcer.

479
of 1913.]

The Bengal Public Demands Recovery Act, 1913. (Schedule It.—Form Nos. 23—25.)

FORM No. 23.

->■

(Bengal Form No. 1044.)

Certificate, by Officer holding a sale, of the Deficiency of Price on a Resale of Property by reason of the Purchaser's Default.

(Sec rule 51.)

CERTIFIED that at the resale 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 resale amounted to Rs. _____ making a total of Rs. _____, which sum is recoverable from the defaulter.

Date the _____ day of _____, 19. .
Officer holding the sale.

FORM No. 24.

Notice to person in possession or 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 _____, 19, of _____ - (now in your possession) you are hereby prohibited from delivering possession of the said _____ loany person except the said _____

GIVEN under the seal of the Court, this the _____ day of _____, 19.
Certificate-officer.

FORM No. 25.

Prohibitory order against the transfer of shares sold in execution.

[See rule 59(3).]

To _____
AND _____, 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 purchaser 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 the _____ day of _____, 19.
Certificate - officer.

480 *The Bengal Public Demands Recovery Act, 1913. (Schedule I, —Form Nos. 26, 27.)*

[Ben. Act III]

FORM No. 26-

Prohibitory Order against Payment or Debts sold in Execution to any other than the Purchaser.

[See rule 59fJ>]

To

AND To

WnERli,\S

has become (the purchaser at a public sale in execution of Certificate No. of 19 being debts due from you

loyou

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 or ,19

Certificate-officer of

■ FORM No. 27.

Certificate to certificate-debtor authorizing him to mortgage, lease or sell property.

[See rule 66.]

WHEREAS in execution of Certificate No, day of

of 19, an order was made on the

,19, for the sale of the undermentioned 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 moneys payable under such mortgage, lease, or sale shall be paid into this Court and not to the said certificate-debtor.

Description of Property.

GIVEN under the seal of the Court, this the

day of

,19

Certificate-officer.

(Schedule II.—Form Nos, 28—30.)

FORM No. 28. Certificate of Sale of Land.

{Sec rule 74.)

THIS IS TO CERTIFY THAT an auction on the _____ day of _____ of _____
Certificate No. _____, dated the _____, 19____, and that the said sale has
confirmed by me. _____ been duly

GIVEN under the seal of the Court, (his the _____ day of _____, 19____.
has been declared the purchaser, at a sale by public, 19____.
. of _____ in execution _____

Certificate-officer.

FORM No. 29..

Order For Delivery to Certified Purchaser of Land at a Sale in Execution.

(See rule 75.)

To _____
THE _____
WHEREAS _____ has become
of _____ at a sale in execution of Certificate No. _____
the _____, 19____; you are hereby ordered to put the said
purchaser, as aforesaid, into possession of the same.

GIVEN under the seal of the Court, this the _____ day of _____ the certified purchaser
, dated the _____

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FORM No. 30.

Notice to Show Cause why Warrant of Arrest should not issue.

(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 the _____ day of _____, 19____.

Certificate-officer.

8. From and after the service of notice of any certificate under section-7 upon a certificate-debtor, ô

- (a) any private transfer or delivery of any of his immovable property situated in the district in which this 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. (J) 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 verified in the prescribed manner, denying his liability, in whole or in part.

The Bengal Public Demands Recovery Act, 1913.
of 1913.]

48]

¹These words were inserted by s. 2f(1) of the Bengal Public Demands Recovery (Amendment) Act, 1955 (West Ben. Act XV of 1955).

²This proviso was originally added by s. 2(2), *ibid* and (hereafter) (this proviso was substituted by s. 2 of the Bengal Public Demands Recovery (Amendment) Act, 1960 (West Ben. Act XIX of 1960).

³These words and figures were inserted by s. 3 of the Bengal Public Demands Recovery (Amendment) Act, 1942 (Ben. Act I of 1942).

The Bengal Public Demands Recovery Act, 1913.
of 1913.]

48]

¹These words were substituted for the words "twelve and a half" by s. 2 of, and the Sch. to, the Bengal Rales or Interest Act, 1939 (Ben. Act 111 of 1939).

²These words were substituted for the word "certificate" by s. 2 of the Bengal Public Demands Recovery (Amendment) Act, 1939 (Ben. Act 11 of 1940).

The word "Crown" was originally substituted for the word "Government"¹ by paragraph 3 of, and Sch. IV to, the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

The Bengal Public Demands Recovery Act, 1913.
of 1913.]

48]

"The words "Central Government or the Provincial Government" were originally substituted for the words "Secretary of State for India Council" by paragraph

"A certain debt alleged now to be due." or "certain movable property in your possession but alleged to belong."

³"Making payment of the said debt" or "giving delivery of the said movable property."

FORM NO. 13.

Almch/ieit fn Execution.

Prohibitory order, where the property consists of shares in the capital of a Corporation.

[See rule 18 (1)(b).]

To

, certificate-debtor and to

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 the further order of this Court from making any transfer of
shares 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 .

Ca rificate ■ officer of

The Bengal Public Demands Recovery Act, 1913.
of 1913.]

48]