

THE PUBLIC DEMANDS RECOVERY ACT, 1913

CONTENTS

PART I

PRELIMINARY

SECTIONS

1. Short title, commencement and extent
2. [*Repealed*]
3. Definitions

PART II

**FILING, SERVICE AND EFFECT OF CERTIFICATES, AND HEARING OF
OBJECTIONS THERETO**

4. Filing of certificate for public demand payable to Collector
5. Requisition for certificate in other cases
6. Filing of certificate on requisition
7. Service of notice and copy of certificate on certificate-debtor
8. Effect of service of notice of certificate
9. Filing of petition denying liability
10. Hearing and determining of such petition
- 10A. Special provisions relating to certificate for the recovery of certain dues

PART III

EXECUTION OF CERTIFICATE

11. Who may execute certificate
12. Transmission of certificate to another Certificate-officer for execution
13. When certificate may be executed

SECTIONS

14. Modes of execution
15. [Omitted]
16. Interest, costs and charges recoverable

Attachment

17. Attachment of property
18. Payment of moneys, contrary to attachment, to be void
19. Attachment of decree

Sale

20. Purchaser's title
21. Suit against purchaser not maintainable on ground of purchase being on behalf of plaintiff

Setting aside sale

22. Application to set aside sale of immovable property on deposit
23. Application to set aside sale of immovable property on ground of non-service of notice or irregularity
24. Application to set aside sale on ground that certificate-debtor had no saleable interest or that property did not exist
25. Sale when to become absolute or be set aside

Disposal of proceeds of execution

26. Disposal of proceeds of execution

Resistance to purchaser after sale

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

Arrest, detention and release

SECTIONS

29. Power to arrest and detention
30. Release from arrest and re-arrest
31. Detention in, and release from, prison
32. Release on ground of illness
33. Prohibition of arrest or detention of women and persons under disability

PART IV**REFERENCE TO CIVIL COURT**

34. Suit in Civil Court to have certificate cancelled or modified
35. Grounds for cancellation or modification of certificate by Civil Court
36. Suit to recover possession of, or to set aside sale of, immovable property, where notice of certificate not served
37. General bar to jurisdiction of Civil Courts, save where fraud alleged

PART V**RULES**

38. Effect of rules in Schedule II
39. Power of Board of Revenue to make rules as to procedure
40. Publication and effect of rules made under section 39

PART VI**SUPPLEMENTAL PROVISIONS**

41. Persons under disability

SECTIONS

42. Continuance of certificates
43. Procedure on death of certificate-debtor
44. Cancellation of certificates
45. Costs
46. Compensation
47. Entry into dwelling-house
48. Application of Act XVIII of 1850
49. Officer to have powers of Civil Court for certain purposes
50. Control over officers
51. Appeal
52. Bar to second appeals
53. Revision
54. Review
- 54A. Government may empower certain officers
55. Saving of other Acts
56. Application of the Limitation Act, 1908
57. Certificate-officer deemed to be a Court
58. Penalties
59. Signature of documents by ministerial officers
- 60.-64. [*Repealed*]

SCHEDULE I

Public Demands

SCHEDULE II**RULES**

Signature and verification of Requisitions for Certificates

RULE

1. Signature and verification of requisition for certificate

Service of Notices

2. Mode of service
3. Service on certificate-debtor or his agent
4. Service on adult male member of certificate debtor's family
5. Person served to sign acknowledgement
6. Procedure where certificate-debtor refuses to accept service or cannot be found
7. Endorsement of time and manner of service
8. Examination of serving officer
9. Service by post

Petitions under Section 9, Denying Liability

10. Signature and verification of petition denying liability
11. Transfer of such petitions

Execution of certificates,

12. Execution in another district

Attachment of Movable property, etc.

13. Application for attachment of movable property in the possession of the certificate-debtor
14. Procedure for the attachment of movable property when its value is up to Taka 40 or above
15. Attachment of movable property (other than agricultural produce) in possession of certificate-debtor

RULE

16. Attachment of agricultural produce
 17. Provisions as to agricultural produce under attachment
 18. Attachment of debt, share and other movable property not in possession of certificate-debtor
 - 18A. Rules regarding realization of rents due to certificate-debtor from the holders of subordinate interests
“Garnishee Rules”
 - 18B. Certificate-officer to issue notice to the Garnishee liable to pay rent
 - 18C. Certificate-officer to order the Garnishee to comply with the terms of notice
 - 18D. Certificate-officer to amend notice where the Garnishee disputes liability
 - 189E. Rule 43 to apply to an order made under rule 18C
 - 18F. Certificate-officer to order a third person to state the particulars of his claim, if any
 - 18G. Certificate-officer to proceed under rule 18D in case the third person does not appear
 - 18H. Payment under rule 18B or rule 18C
 - 18-I. Cost
 19. Attachment of share in movables
 20. Attachment of salary or allowances of public officer or servant of Railway Company or Local Authority
 21. Attachment of negotiable instruments
 22. Attachment of property in custody of Court or public officer
 23. Attachment of immovable property
 24. Removal of attachment on satisfaction or cancellation of certificate
- Maintenance and custody, while under attachment of
livestock and other movable property**
25. Custody of property under attachment
 26. Removal of property to Court

RULE

27. List of property under-attachment
28. Debtor's consent to the sale of the property under attachment
29. Custody of property under attachment, while in Court
30. Claim of any person other than the certificate-holder to the property under attachment
31. Withdrawal of attachment
32. Feeding and tending of livestock under attachment
33. Cost for feeding livestock and expenses attending its removal to Court
34. Responsibility of the *Nazir* for safe custody and proper feeding
35. Custody of livestock in Government ponds
36. Responsibility of the *Nazir* for the custody of livestock
37. Rates to be allowed for the custody and maintenance of various descriptions of livestock
38. Fees to be charged where process of attachment of movable property is by actual seizure
- 38A. Refund of custody fees.

Investigation of Claims and Objections

39. Investigation by Certificate-officer
40. Evidence to be adduced
41. Release of property from attachment or sale
42. Disallowance of claim to property attached
43. Saving of suits to establish right to attached property

Sale generally

44. Power to order sale of attached property
45. Sale of movable property falling under rule 15 or of value not exceeding Tk. 40 or of greater value
46. Proclamation of sale by public auction

RULE

47. Mode of making proclamation
48. Time of sale
49. Purchase of property by the certificate-holder
50. Adjournment or stoppage of sale
51. Defaulting purchaser answerable for loss on re-sale
52. Restriction on bidding or purchase by officers
53. Levy of poundage fees
54. Addition of cost, etc., to Certificate and payment by Certificate-holder of purchase money in excess of the amount of Certificate
- 54A. Time limit within which the Certificate-debtor can dispute claim of Certificate-holder to receive payment of the balance of the sale proceeds under clause (c) of section 26

Sale of movable property.

55. Sale of agricultural produce
56. Special provisions relating to growing crops
57. Sale by public auction
58. Irregularity not to vitiate sale, but any person injured may sue
59. Delivery of movable property, debts and shares
60. Transfer of negotiable Instruments and shares
61. Vesting order in case of other property

Sale of immovable property

62. Sale of tenure or holding at fixed rates, subject to registered and notified incumbrances
63. Sale of tenure or holding at fixed rates, with power to avoid all incumbrances
64. Sale of occupancy holding, with power to avoid all incumbrances
65. Rules 62 to 64 not to apply in certain cases to certificate-holders who are co-sharer landlords

RULE

66. Postponement of sale to enable certificate-debtor to raise amount due under certificate
67. Prohibition of purchase of tenure or holding by certificate-debtor
68. Deposit by purchaser and re-sale in default
69. Time for payment of purchase-money in full
70. Procedure in default of payment
71. Fresh proclamation before re-sale
72. Bid of co-sharer to have preference
73. Return of purchase-money in certain cases
74. Certificate to purchaser
75. Delivery of property in occupancy of certificate-debtor
76. Delivery of property in occupancy of tenant or other person

Arrest and Detention

77. Discretionary power to permit certificate-debtor to show cause against detention in prison
78. Subsistence allowance

Supplemental

79. Register of certificates
80. Payment by instalments
81. Remittance to Certificate-officer of sums received under a certificate transferred for execution
82. Entry of satisfaction
83. Communication of satisfaction to other persons
- 83A. Exemption of requisitions from Liquidator of Co-operative Societies from *ad valorem fee*
- 83B. Procedure to be followed when one of two or more certificate-debtors is found to have died before the filing of the certificate

FORMS

84. Forms in Appendix

FORMS

FORM NO

1. Certificate of public demand
2. Requisition for a certificate
3. Notice to certificate-debtor
4. Petition denying liability
5. Notice to show cause why sale should not be set aside
6. Summons to appear and answer charge of obstructing execution of certificates
7. Warrant of committal
8. Warrant of arrest
9. Order committing certificate-debtor to the civil prison
10. Order for the release of a person imprisoned in execution of a certificate
11. Notice to legal representative of certificate-debtor
- 11A. Warrant of attachment of movable property
- 11B. Notice to persons added to the original certificate
- 11C. Notice to surviving certificate-debtor
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
13. Attachment in execution.—Prohibitory order, where the property consists of shares in the capital of a Corporation
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

FORM NO

15. Order to attach salary of public officer or servant of Railway Company or Local Authority
 16. Order of attachment of Negotiable instrument
 17. Attachment.—Prohibitory order, where the property consists of money or of any security in the custody of a Court of Justice or officer of Government
 18. Notice to certificate-holder
 19. Warrant of sale of property
 20. Notice of the day fixed for settling a sale proclamation
 21. Proclamation of sale
 22. Order on the *Nazir* for causing publication of proclamation of sale
 23. Certificate by officer holding a sale, of the deficiency of price on a re-sale of property by reason of the purchaser's default
 24. Notice to person in possession of movable property sold in execution
 25. Prohibitory order against the transfer of shares sold in execution
 26. Prohibitory order against payment of Debts sold in execution to any other than the purchaser
 27. Certificate to certificate-debtor authorizing him to mortgage, lease or sell property
 28. Certificate of sale of land
 29. Order for delivery of possession to certified purchaser of land at a sale in execution
 30. Notice to show cause why warrant of arrest should not issue
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THE PUBLIC DEMANDS RECOVERY ACT, 1913

ACT NO. III OF 1913

[30th April, 1913]

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

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

¹[* * *]

It is hereby enacted as follows:—

PART I

PRELIMINARY

1. (1) This Act may be called the ²[* * *] Public Demands Recovery Act, 1913. Short title, commencement and extent

(2) It shall come into force on such date as the Government may appoint by notification in the official Gazette.

(3) It extends to the whole of Bangladesh.

2. [Repealed by the Bengal Repealing and Amending Act, 1938 (Act No. I of 1939).]

* Throughout this Act, except otherwise provided, the words “Bangladesh”, “Government” and “Taka” were substituted, for the words “East Pakistan”, “Provincial Government” or “Central Government or the Provincial Government” and “rupees” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The 2nd paragraph of the preamble was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Definitions

3. In this Act, unless there is anything repugnant in the subject or context,—

- (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 includes any person whose name is substituted or added as creditor by the Certificate-officer;
- (3) “Certificate-officer” means a Collector, a ¹[Upazila Nirbahi Officer, a Upazila Magistrate,] and any officer, appointed by a Collector ²[, with the sanction of the Commissioner] to perform the functions of a Certificate-officer under this Act;
- (4) “movable property” includes growing crops;
- (5) “prescribed” means prescribed by rules;
- (6) “public demand” means any arrear or money mentioned or referred to in Schedule I, and includes any 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.

¹ The words and commas "Upazilla Nirbahi Officer, a Upazila Magistrate," were substituted, for the words and commas "Sub-divisional Officer," by section 2 of the Public Demands Recovery (Amendment) Act, 1987 (Act No. XXXV of 1987).

² The comma and words ", with the sanction of the Commissioner" were inserted by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

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. (1) 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 registered under the Co-operative Societies Act, 1940, or an assignee of such bank, unless the requisition be countersigned by the Registrar of Co-operative Societies, Bangladesh.

(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.

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.

Filing of certificate on requisition

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.

Service of notice and copy of certificate on certificate-debtor

Effect of
service of
notice of
certificate

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

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

Filing of
petition
denying
liability

9. (1) The certificate-debtor may, within thirty days from the service of the notice required by section 7, or, where the notice has not been duly served, then within 30 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.

(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.

Hearing and
determining of
such petition

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 of property is involved, shall make an order canceling the certificate.

¹[10A. (1) Notwithstanding anything contained in section 7, when a certificate has been filed in the Office of the Certificate-officer under section 4 or section 6 for the recovery of any dues under the ²[Bangladesh House Building Finance Corporation Order, 1973 or the Bangladesh Krishi Bank Order, 1973,] or the Co-operative Societies Act, 1940 or the ³[Customs Act, 1969] or for the recovery of any loan advanced by the ⁴[Government], ⁵[or for the recovery of any money referred to in Article 15 of Schedule I] the Certificate-officer shall, instead of causing a notice prescribed under section 7 to be served upon the certificate-debtor, cause a demand-notice to be served upon the certificate-debtor by registered post with acknowledgement due requiring the certificate-debtor to deposit with the Certificate-officer the amount of his debt within thirty days of the service of such notice.

Special provisions relating to certificates for the recovery of certain dues

(2) From and after the service of the demand-notice under sub-section (1) upon a certificate-debtor, the provisions of clauses (a) and (b) of section 8 shall apply.

(3) The provisions of section 9 or section 10 shall not apply in the case of a certificate for the recovery of any dues or loan specified in sub-section (1); and on the default of the certificate-debtor to deposit the amount of his debt as require by sub-section (1), the Certificate-officer shall proceed to execute the certificate in accordance with the provisions of the Act.]

¹ Section 10A was inserted by the Bengal Public Demands Recovery (Amendment) Ordinance, 1961 (East Pakistan Ordinance No. XXXV of 1961.)

² The words, commas and figures "Bangladesh House Building Finance Corporation Order, 1973 or the Bangladesh Krishi Bank Order, 1973," were substituted, for the words, commas and figures "House Building Finance Corporation Act, 1952 or the Agricultural Development Bank Ordinance, 1961," by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words, comma and figure "Customs Act, 1969" were substituted, for the words, comma and figure "Sea Customs Act, 1878" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The word "Government" was substituted, for the words "Central or Provincial Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁵ The words and figures "or for the recovery of any money referred to in Article 15 of Schedule I" were inserted by section 2 of the Public Demands Recovery (Amendment) Ordinance, 1978 (Ordinance No. XXXV of 1978).

PART III**EXECUTION OF CERTIFICATES**

Who may
execute
certificate

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).

Transmission
of certificate to
another
Certificate-
officer for
execution

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

(2) When a copy of a certificate is sent to any such officer, he shall cause it to be filed in his office, and thereupon the provisions of section 8 with respect to 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 realization 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.

14. Subject to such conditions and limitations as may be prescribed, a Certificate-officer may order execution of a certificate—

Modes of execution

- (a) by attachment and sale, or by sale (without previous attachment), of any property, or
- (b) by attachment of any decree, or
- (c) by arresting the Certificate-debtor and detaining him in the civil prison, or
- (d) by any two or all of the methods mentioned in clauses (a), (b) and (c).

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

15. [Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.]

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

Interest, costs and charges, recoverable

- (a) interest on the public demand to which the certificate relates, at the rate at which interest may, by law, be chargeable on the public demand on the date of the signing of the certificate or at the rate of six and a quarter per centum per annum, whichever is higher, from the date of the signing of the certificate up to the date of realization,
- (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 realizing the demand.

Attachment.

Attachment of property

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.

Payment of moneys, contrary to attachment, to be void

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.

Attachment of decree

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 representative of the holder attached to the decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

Sale

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.

Purchaser's
title

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchasers' 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) or in any other law for the time being in force, where a tenure or holding is sold in execution of a certificate for arrears of rent due in respect thereof or for the recovery of any dues under the ¹[* * *] Agricultural Income-tax Act, 1944, the tenure or holding shall, subject to the provisions of section 90 of the ²[* * *] State Acquisition and Tenancy Act, 1950, where that section is in force, pass to the purchaser with power to annual incumbrances:

Provided as follows—

- (a) an incumbrance created by a registered instrument, of which a copy has, not less than three months before the actual of the arrear, been served on the Government shall not be so annulled except in the case prescribed; and
- (b) the power to annual shall be so exercisable only in the manner prescribed.

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "East Bengal" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(4) Notwithstanding anything contained elsewhere in this Act, no sale of any tenure or holding in execution of a certificate for arrears of rent or for the recovery of any dues under the ¹[* * *] Agricultural Income-tax Act, 1944, shall effect the title or interest of the House Building Finance Corporation established under the ²[Bangladesh House Building Finance Corporation Order, 1973] or the ³[Bangladesh Krishi Bank] established under the ⁴[Bangladesh Krishi Bank Order, 1973] or a co-operative society established under the ¹[* * *] Co-operative Societies Act, 1940 in respect of a registered and notified incumbrance mentioned in clause (i) of the proviso to sub-section (3), unless a concise statement of the order of attachment and proclamation of sale has, in the prescribed manner and at the time of issue of such proclamation, been sent by the Certificate-officer by registered post to the House Building Finance Corporation or the ²[Bangladesh Krishi Bank], or the co-operative society, as the case may be.

(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-section (3) shall not apply.

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, commas and figure "Bangladesh House Building Finance Corporation Order, 1973" were substituted, for the words, comma and figure "House Building Finance Corporation Act, 1952" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words "Bangladesh Krishi Bank" were substituted, for the words "Agricultural Development Bank of Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The words, comma and figure "Bangladesh Krishi Bank Order, 1973" were substituted, for the words, comma and figure "Agricultural Development Bank Ordinance, 1961" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

21. (1) 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 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 the 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. (1) Where immovable property has been sold in execution of a certificate, the certificate-debtor, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Certificate-officer to set aside the sale, on his depositing—

Application to set aside sale of immovable property on deposit

- (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 Taka; and
- (c) for payment to the collector (where the certificate is for a public demand payable to the Collector), such outstanding charges due to the Government under any law for the time being in force as the Collector certifies to be payable by the certificate-debtor.

(2) Where a person makes an application under section 23 for setting aside the sale of his immovable property he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this section.

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

23. (1) Where immovable property has been sold in execution of a certificate, the certificate-holder, the certificate-debtor, or any person whose interests are affected by the sale, may, at any time within sixty days from the date of 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 that property did not exist

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.

Sale when to become absolute or be set aside

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.

(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 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:—

Disposal of proceeds of execution

- (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 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.

(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.

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

(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.

Procedure on
such application

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.

(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

Power to arrest
and detention

29. (1) No order for the arrest and detention in civil prison of a certificate-debtor in execution of a certificate shall be made unless, after giving the certificate-debtor an opportunity of showing cause why he should not be committed to civil prison, 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,—
 - (i) is likely to abscond or leave the local limits of the jurisdiction of the Certificate-officer, or
 - (ii) 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.— 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.

(2) When a certificate-debtor appears before the Certificate-officer in obedience to a notice to show cause, 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 (3), 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 arrested:

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.

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 execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by section 31, sub-section (1).

Detention in
and release
from, prison

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

- (a) where the certificate is for a demand of an amount exceeding fifty Taka – for a period of six months, and
- (b) in any other case – for a period of six weeks:

Provided that he shall be released from such detention—

- (i) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or
- (ii) on the certificate being otherwise fully satisfied, or cancelled, or
- (iii) on the request of the person (if any) on whose requisition the certificate was filed, or of the Collector, or
- (iv) on the omission by the person (if any) on whose requisition the certificate was filed to pay the subsistence allowance fixed by the Certificate-officer:

Provided, also, that he shall not be released from such detention under clause (ii) or clause (iii) without the order of the Certificate-officer.

(2) A certificate-debtor released from detention under this section shall not, merely by reason of his release, be discharged from his debt; but he shall not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison.

32. (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.

Release on ground of illness

(2) Where a certificate-debtor has been arrested, the Certificate-officer may release him if, in the opinion of the Certificate-officer, he is not in a fit state of health to be detained in the civil prison.

(3) Where a certificate-debtor has been committed to the civil prison, he may be released therefrom—

- (a) by the Collector, on the ground of the existence of any infectious or contagious disease, or
- (b) by the Certificate-officer, or the Collector, on the ground of his suffering from any serious illness.

(4) A certificate-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that 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—

Prohibition of arrest or detention of women and persons under disability

- (a) a woman, or
- (b) any person who, in his opinion, is a minor or of unsound mind.

PART IV

REFERENCE TO CIVIL COURT

34. The certificate-debtor may, at any time within six months—

Suit in Civil Court to have certificate cancelled or modified

- (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:

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. (1) No certificate duly filed under this Act shall be cancelled by a Civil Court, except on one of the following grounds, namely:—

Grounds for cancellation or modification of certificate by Civil Court

- (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.

(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.

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 that 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.

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

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:

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

Effect of rules in Schedule II

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.

Power of Board of Revenue to make rules as to procedure

39. (1) The ¹[Board of Land Administration] may, after previous publication ²[* * *] 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, be such rules, alter, add to or annul any of the rules in Schedule II.

¹ The words "Board of Land Administration" were substituted, for the word "Government" by Schedule of the Laws (Amendment) Ordinance, 1982 (Ordinance No. XLI of 1982).

² The words "and with the previous sanction of the Provincial Government" were omitted by Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973).

(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-officers 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 such petitions, to other officers for disposal;
- (g) the scale of charges to be recovered under section 16, clause (c);
- (h) the maintenance and custody, while under attachment, of livestock and other movable property, the fees to be charged for such maintenance and custody, the sale of such livestock and property, and the disposal of the proceeds of such sale;
- (i) the registers, books and accounts to be kept by Certificate-officers, and the inspection thereof by the public;
- (j) the 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;
- (m) the forms to be used under this Act.

Publication and effect of rules made under section 39

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 that schedule as for the time being amended by such rules.

PART VI

SUPPLEMENTAL PROVISIONS

Persons under disability

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.

Continuance of certificates

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.

Procedure on death of certificate debtor

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:

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.

44. (1) The Certificate-officer shall cancel any certificate at the request of the certificate-holder. Cancellation of certificates

(2) The Certificate-officer may cancel any certificate filed under section 6 if the certificate-holder is not reasonably diligent.

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; Compensation

and the amount so awarded shall be recoverable from the certificate-holder under the procedure provided by this Act for recovery of costs.

47. (1) No person executing any warrant of arrest issued under this 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. Entry into dwelling house

(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.

Application of
Act XVIII of
1850

48. Every Collector, Certificate-officer, Assistant Collector or Deputy Collector acting under this Act, and every Government officer 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.

Officers to
have powers of
Civil Court for
certain
purposes

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.

Control over
officers

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.

Appeal

51. (1) An appeal from any ¹[* * *] order made under this Act shall lie—

- (a) if the order was made by an Assistant Collector or a Deputy Collector, or by a Certificate-officer not being the Collector,— to the Collector, or
- (b) if the order was made by the Collector,—to the ²[Commissioner]:

Provided that no appeal shall lie from any order made under section 22.

¹ The word "original" was omitted by Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973).

² The word "Commissioner" was substituted, for the words "Civil Court" by Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

(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 ¹[Commissioner] authorize—

- (i) any Sub-divisional Officer, or
- (ii) any officer appointed under clause (3) of section 3 to perform the functions of a Certificate-officer, to exercise the appellate powers of the Collector under sub-section (1)

(4) When any officer has been so authorized, the Collector may transfer to him for hearing any appeal referred to in clause (a) of sub-section (1), unless the order appealed against was 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.

Bar to second appeals

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

Revision

(2) The Commissioner may revise any order passed by a Collector under this Act.

³[(3) The Board of Land Administration may revise any order passed by a Commissioner under this Act and the order of the Board shall be final.]]

¹ The word "Commissioner" was substituted, for the words "Civil Court" by Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² Section 53 was substituted, for section 53 by Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

³ Sub-section (3) was substituted, for sub-section (3) by Schedule of the Laws (Amendment) Ordinance, 1982 (Ordinance No. XLI of 1982).

- Review **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.
- Government may empower certain officers ¹**[54A.** The Government may, by notification in the official Gazette, empower an Additional Deputy Commissioner or a joint Deputy Commissioner to exercise all or any of the powers exercisable by the Collector under this Act.]
- Saving of other Acts **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 effected by this Act.
- Application of the Limitation Act, 1908 **56.** (1) Sections 6 to 9 of the Limitation Act, 1908, shall not apply to suits, appeals or applications under this Act.
(2) Except as declared in sub-section (1), the provisions of the Limitation Act, 1908, shall apply to all proceedings under this Act as if a certificate filed hereunder were a decree of a Civil Court.
- Certificate-officer deemed to be a Court **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, 1908.
- Penalties **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 ²[Penal Code].

¹ Section 54A was substituted, for section 54A by section 2 of the Bengal Public Demands Recovery (Second Amendment) Ordinance, 1961 (East Pakistan Ordinance No. XLIII of 1961).

² The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

59. (1) Any Certificate-officer may, by written order, authorize 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 by
ministerial
officers

(2) The Government may, by notification in the official Gazette, empower Certificate-officers to authorize 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.

60-61. [*Repealed by the Bengal Public Demands Recovery (Amendment) Act, 1942 (Act No. I of 1942), section 6.*]

62. [*Repealed by the Bengal Repealing and Amending Act, 1946 (Act No. XVI of 1946), section 3 and the Second Schedule.*]

63-64. [*Repealed by the Bengal Public Demands Recovery (Amendment) Act, 1942 (Act No. I of 1942), section 6.*]

SCHEDULE I**Public Demands**

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

¹[* * *]

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

²[* * *]

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 sue and enjoyment of such land, pasturage, forest-rights, fisheries or other thing.

³**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

¹ Articles 1 and 2 were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Clause (iii) was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ In trust estates managed by Government, as 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 rents unless, by a written instrument duly registered, the person liable to pay such rents hence agreed that they shall be recoverable as public demand.

managed by, the Court of Wards or the Revenue-authorities on behalf of a private individual – any arrear of rent, or of any demand which is recoverable as rent, whether such arrear became due before or after the management developed upon such Court or such Authorities.]

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

¹**9A.** Any money payable to the Government or to an officer of the Government which was advanced as a loan to a person and in respect of which such person has agreed by a written instrument that it shall be recoverable as a public demand.

Explanation.—For the purpose of this Article, ‘money’ includes money value of things advanced as a loan at the rate stipulated in the written instrument or, where there is no such stipulation in the written instrument, at the market rate prevailing at the time of the realization of the loan.]

10, 11 and 12. [Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.]

²**12A.** Any sum ordered by a liquidator appointed under ³[section 90 of the] Co-operative Societies Act, 1940, to be recovered as a contribution to the assets of a society or as the cost of liquidation.]

¹ Article 9A was inserted by section 3 of Bengal Public Demands Recovery (East Bengal Amendment) Act, 1948 (Act No. II of 1948).

² Article 12A was inserted by the Bengal Public Demands Recovery (Amendment) Act, 1918 (Act No. I of 1918).

³ The words and figure "section 90 of the" were substituted, for the words, figures and commas “sub-section (1) of section 42 of the Co-operative Societies Act, 1912, or the Bengal” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹[**12B.** Any sum due to a land mortgage bank registered under the ²[* * *] Co-operative Societies Act, 1940, 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.

14. Any money payable to a local authority, namely, ³[Paurashava or a Shahar Committee or a Zilla Board].

⁴[**15.** Any money payable to a new bank constituted under the Bangladesh Banks (Nationalization) Order, 1972 (P. O. No. 26 of 1972) ⁵[* * *].]

⁶[**16.** Any money payable to Palli-Karma Sahayak Foundation (A company incorporated under the Companies Act, 1994).]

¹ Article 12B was inserted by the Bengal Public Demands Recovery (Amendment) Act, 1938 (Act V of 1938).

² The words, commas and figures “Co-operative Societies Act, 1912, or the Bengal” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words "Paurashava or a Shahar Committee or a Zilla Board" were substituted, for the words “a Municipal Committee or a Town Committee or a District Council” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ Article 15 was added by section 3 of the Public Demands Recovery (Amendment) Ordinance, 1978 (Ordinance No. XXXV of 1978).

⁵ Comma and words “, on account of agricultural loan” were omitted by section 2 of the Public Demands Recovery (Amendment) Ordinance, 1986 (Ordinance No. XLII of 1986).

⁶ Article 16 was inserted by section 2 of the Public Demands Recovery (Amendment) Act, 2001 (Act No. IX of 2001).

¹[**SCHEDULE II**

RULES

(See section 38.)

Signature and verification of Requisitions for certificates

1. (1) Every requisition made under section 5 shall be signed and verified at the foot by the person making it.

Signature and verification of requisition for certificate

(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.

Service of Notices

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.

Mode of service

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 cannot 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

Explanation.—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 acknowledgement of service endorsed on the original notice.

Person served to sign acknowledgement

¹ SCHEDULE II was substituted for SCHEDULE II by Board of Revenue Notification No. 3948 C.P., dated 21st December, 1914.

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

6. Where the certificate-debtor on his agent, or such other person as aforesaid, refuses to sign the acknowledgement or where the serving officer, after using all due and reasonable diligence, cannot find the certificate-debtor and there is no agent empowered to accept service of the notice on his behalf, for any other person on whom service can be made, the serving officer shall—

- (a) affix a copy of the notice on the outer door or some other conspicuous part of the house in which the certificate-debtor ordinarily resides or carries on business or personally works for gain, 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.

and shall then returned 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.

Endorsement of time and manner of service

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.

Examination of serving officer

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 office, 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.

Service by post

Petitions under Section 9, Denying Liability

10. (1) Every petition filed under section 9, denying liability, shall be signed and certified 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.

Signature and verification of petition denying liability

(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:

Transfer of such petitions

Provided that the Collector may re-transfer any petition so transferred, and order that it be heard and determined by the Certificate-officer.

(2) The provisions of section 10 shall be applicable to any Assistant Collector or Deputy Collector to whom any such petition has been transferred under sub-rule (1).

Execution of Certificates

12. Where a copy of a certificate is sent for execution to any other Certificate-officer under section 12, sub-section (1), the certificate may be executed by him.

Execution in another district

Attachment of movable Property, etc.

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

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 Taka 40 in value. If the property is declared to be above Taka 40 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 Taka 40 or under, should be found, as determined by rule 14 to exceed Taka 40, the certificate-holder shall pay the costs of issuing the proclamation of sale immediately on receipt of notice of attachment.

Procedure for the attachment of movable property when its value is up to Taka 40 or above

14. When the attaching officer believes that the property attached does not exceed Taka 40 in value, he shall inform the debtor or, in his absence, any present adult member of his family, that it will be sold by public auction at once without the issue of any proclamation. In case the certificate-holder or the certificate-debtor, or any person on his behalf, objects to this, the attaching officer, shall convoke a *panchayat* of not less than three respectable adult male inhabitants of 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 Taka 40 in value he shall deal with it according to the rules for the sale of movable property exceeding Taka 40 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.

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

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:

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 a growing crop—on the land on which such crop has grown, or
- (b) where such produce has been cut or gathered—on the threshing floor or place for treading out grain or the like, or 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, in 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 arrangement 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.

Provisions 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.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Certificate-officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

Attachment of debt, share and other movable property not in possession of certificate-debtor

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 (i) of sub-rule (1) may 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.

(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 *raiyyat* or any under-*raiyyat*, 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 1 containing the names of the tenants from which 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 the sub-rule the Certificate-officer shall issue the order of attachment under sub-rule (1) on such subordinate tenure-holders, *raiyats* or under-*raiyats* as are named in the application for an order of attachment under that sub-rule.

Rules regarding realization of rents due to Certificate-debtor from the holders of subordinate interests "Garnishee Rules"

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

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

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

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.

(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.

This sub-rule shall not apply when the Government is the Certificate-holder.

Certificate-officer to order the garnishee to comply with the terms of notice

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.

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 as amended is forthwith paid to the Certificate-officer, may make an order, under rule 18C.

Certificate-officer to amend notice where the garnishee disputes liability

(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.

Rule 43 to apply to an order made under rule 18C

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.

Certificate-officer to order a third person to state the particulars of his claim, if any

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 prescribed in rule 18D.

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

Payment under
rule 18B or rule
18C

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.

Costs

18-I. 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 anyway.

Attachment of
salary or
allowances of
public officer or
servant of
Railway
company or
local Authority

20. (1) Where the property to be attached is the salary or allowances or 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 Government may, by notification in the official Gazette appoint in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Certificate-officer the amount due under the order, or the monthly instalments, as the case may be.

(2) Where the attachable 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 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.

(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 Government or the Railway Company or Local Authority, as the case may be; and 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 instruments

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.

Attachment of immovable property

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
- (b) the certificate is cancelled,

Removal of attachment on satisfaction or cancellation of certificate

the attachment shall be deemed to be withdrawn, and, in the case of immovable property, the withdrawal shall, if the certificate-debtor so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner prescribed by rule 47, sub-rule (1).

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

Custody of
property under
attachment

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

Removal of
property to
Court

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.

List of property
under
attachment

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.

Debtor's
consent to the
sale of the
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.

Custody of
property under
attachment,
while in Court

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.

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.

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

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.

Withdrawal of attachment

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

32. Whenever livestock 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.

Feeding and tending of livestock under attachment

33. In the event of the certificate-debtor failing to feed attached livestock, 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.

Cost for feeding livestock and expenses attending its removal to Court

34. When attached livestock is brought to Court, the *nazir* shall be responsible for the safe custody and proper feeding of it so long as the attachment continues.

Responsibility of the *nazir* for safe custody and proper feeding

Custody of livestock 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 livestock 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 livestock 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 maintenance of various descriptions of livestock

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 livestock with reference to seasons and local circumstances. The Collector may make any alterations he deems fit in the rates so prescribed.

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

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

- (i) When the amount or value of the subject matter of the case exceeds Taka 1,000—

	Tk.	p.
(a) for the seizure under the order of attachment	2	0
(b) for each man necessary to ensure safe custody of property so attached, when such man is actually in possession, <i>per diem</i>	0	6 0

- (ii) When the amount or value of the subject matter of the case is Taka 1,000 or under, but above Taka 50—

	Tk.	p.
(a) for the seizure under the order of attachment	1	0 0
(b) for each man necessary to ensure safe custody of property so attached, when such man is actually in possession, <i>per diem</i>	0	4 0

Note (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 realize 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 Nezarat staff.

(iii) When the amount or value of the subject matter of the case is Taka 50 or under—

	Tk.	p.
(a) for the seizure under the order of attachment	0	8 0
(b) for each man necessary to ensure safe custody of property so attached, when such man is actually in possession, <i>per diem</i>	0	4 0

(2) When process of attachment is issued in a number of cases relating to the same or neighbouring villages, the fee (a) referred to above must be paid in each case, and the daily fee (b) only for the men actually employed. The daily fee (b) is to be paid at the time of obtaining the process for so many days as the Certificate-officer shall order, not being ordinarily less than fifteen days, and the number of days required for the coming and going of the attaching officer; but where that officer is not to be left in possession, 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).

NOTE (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.

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.

NOTE (4).—When a warrant of arrest is re-issued after a partially or wholly unsuccessful attempt to realize 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.

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.

(3) Where process of warrant of arrest is issued in certificate cases, the fees at the following rates shall be charged:—

Fees for issue of process of warrant of arrest

- (i) Taka 1 when the amount under certificate is Taka 50 or under.
- (ii) Taka 4 when the amount under certificate is Taka 1,000 or under but above Taka 50.
- (iii) Taka 10 when the amount under certificate exceeds Taka 1,000.

(4) The fees prescribed by this rule shall be payable in advance at the time of when the petition for service or execution is presented, and shall be paid by means of court-fee stamps affixed to the petition in addition to the stamps necessary for its own validity.

Refund of
custody fees

38A. All refund cases of custody fees will be entered in Register 8 and the Certificate-officer shall be asked to report whether the claim is admissible. If his report shows that the refund may be granted, the Collector will authorize him to issue a payment order on the back of the paper to which the court-fee stamps are affixed. The refund will be adjustable under the head “VII–Stamps–Deduct Refunds”.

Investigation of Claims and Objections.

Investigation by
Certificate-
officer

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

Provided that no such investigation shall be made where the Certificate-officer considers that the claim or objection was designedly or unnecessarily delayed.

(2) Where the property to which the claim or objection applied has been advertised for sale, the Certificate-officer ordering the sale may postpone it pending the investigation of the claim or objection upon such terms as to security otherwise as the Court shall deem fit.

Evidence to be
adduced

40. The claimant or objector must adduce evidence to show that—

(a) (in the case of immovable property) at the date of the service of the notice under section 7, or

(b) (in the case of movable property) at the date of the attachment,

he had some interest in, or was possessed of, the property attached.

41. Where, upon the said investigation, the Certificate-officer is satisfied that, for the reason stated in the claim or objection, such property was not,—

Release of property from attachment or sale

- (a) (in the case of immovable property) at the date of the service of the notice under section 7, or
- (b) (in the case of movable property) at the date of the attachment,

in the possession of the certificate-debtor or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the certificate-debtor at the said date, it was so in his possession, not on his own account or as his own property, 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 to such extent as he thinks fit, from attachment or sale.

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

Disallowance of claim to property attached

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.

Saving of suits to establish right to attached property

Sale generally.

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.

Power to order sale of attachment property

Sale of
movable
property falling
under rule 15
or of value not
exceeding Taka
40 or of greater
value

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

Proclamation
of sale by
public auction

46. (1) Where any immovable property, or any movable property exceeding forty Taka 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 *raiya* holding at fixed rates, situated in an area in which Chapter XIV of the ¹[* * *] 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 ¹[* * *] 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.

(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.

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 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.

Mode of making
proclamation

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(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 ¹[* * *] 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 *thana*.

(4) Where property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Certificate-officer otherwise be given.

Time of sale

48. 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 Taka 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 ¹[* * *] 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

¹ The word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (b) the date on which the sale proclamation has been published in the *Malkachari* or rent office of the estate and at the local *thana*,

whichever is later.

49. (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.

Purchase of property by the certificate-holder

(2) Where a certificate-holder purchases with such permission, the purchase-money and the amount due on the certificate may be set off against one another, and the Certificate-officer executing the certificate shall enter up satisfaction of the certificate in whole or in part accordingly.

(3) Where a certificate-holder purchases, by himself or through another person, without such permission, the Certificate-officer may, if he thinks fit, on the application of the certificate-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 Government.

50. (1) The Certificate-officer may, in this 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:

Adjournment or stoppage of sale

Provided that, where the sale is made in, or within the precincts of, the office of the Certificate-officer, no such adjournment shall be made without the leave of the Certificate-officer.

(2) Where a sale is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation under rule 47 shall be made unless the certificate-debtor consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale, proof is given to his satisfaction that the amount of such debt and costs has been paid to the Certificate-officer who ordered the sale.

Defaulting purchaser answerable for loss on re-sale

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

Provided that no such application shall be entertained unless made within 15 days from the date of re-sale.

Restriction on bidding or purchase by officers

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

Levy of poundage fees

53. (1) The percentage or poundage fee on the gross amount realized by any sale under the Public Demands Recovery Act, 1913, shall be leviable on every such sale at the rate of 2 *per cent* on such gross amount up to Taka 1,000 and at the rate of 1 *per cent* on all excess of gross amount over Taka 1,000.

(2) The percentage or poundage fee under sub-rule (1) shall be paid in court-fee-stamps by the auction-purchaser (certificate-holder or other person) as soon as his bid is accepted by the Court and the sale is completed.

(3) The percentage leviable under sub-rule (1) shall be calculated on multiples of Taka 25, that is to say, a poundage fee of 8 annas should be levied for every Taka 25, or part of Taka 25, realized by the sale, up to Taka 1,000, and in the case of the proceeds of the sale exceeding Taka 1,000, an additional fee of 4 annas for every Taka 25 or part thereof should be levied.

(4) In case in which several properties are sold in satisfaction of one certificate, only one poundage fee calculated on the gross sale-proceeds should be levied, 2 *per cent.* being charged on the gross sale-proceeds up to Taka 1,000 and 1 *per cent.* on such proceeds exceeding Taka 1,000.

(5) The proceeds of a sale effected in execution of a certificate may be paid out of Court only on an application made for that purpose in writing.

(6) In cases in which the certificate-holder applies for leave to purchase under rule 49, sub-rule (1) no order to set off the purchase money against the amount of the certificate shall be made on that application. If a certificate-holder-auction-purchaser desires such set off, he shall file a separate application for the purpose at the time of the payment of the poundage fee.

(7) When a sale of immovable property is set aside under sub-section (2) of section 25, the Certificate-officer may make an order for payment by the certificate-debtor or by the person at whose instance the sale is set aside of the poundage fee paid by the auction-purchaser (certificate-holder or other person) under sub-rule (2).

54. Upon the hearing of the petition referred to in rule 53, sub-rule (6), the costs of execution, including the poundage fee, shall be added to the certificate; and in cases in which the amount of the purchase-money exceeds the amount of the certificate and such costs, the certificate-holder-auction-purchaser shall pay to the Certificate-officer the sum of 25 *per cent* on the balance of the purchase-money after deducting the amount of the certificate and of such costs, and shall pay the balance on or before the fifteenth day from the sale in accordance with rule 59.

Addition of costs, etc., to certificate and payment by certificate-holder of purchase money in excess of the amount of certificate

Time limit within which the certificate-debtor can dispute claim of certificate-holder to receive payment of the balance of the sale proceeds under section 26, clause (c)

54A. If a certificate-holder files a claim before the Certificate-officer to receive any amount referred to in clause (c) of sub-section (1) of section 26, the Certificate-officer shall issue notice to the certificate-debtor, who may dispute the claim within thirty days from the service of the notice. If the certificate-debtor disputes the claim, the Certificate-officer shall determine the dispute as required by sub-section (2) of section 26, and payment of the amount claimed will be made in accordance with such determination. If the certificate-debtor 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 (1) of the said section.

Sale of movable property

Sale of agricultural produce

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

- (a) if such produce is a growing crop-on or near the land on which such crop has grown, or
- (b) if such produce has been cut or gathered – at or near the threshing-floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited:

Provided that the Certificate-officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

(2) Where, on the produce being put 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 stored 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.

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 sue

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

Delivery of movable property, debts and shares

(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.

(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 the manager, secretary or other proper officer of the Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Transfer of negotiable instruments and shares

60. (1) Where the execution of a document, or the endorsement of the party in whose name a negotiable instrument or a share in a Corporation is standing is required to transfer such negotiable instrument or share the Collector, or such officer as he may appoint in this behalf, may execute such document or make such endorsement as may be necessary and such execution or endorsement shall have the same effect as an execution or endorsement by the party.

(2) Such execution or endorsement may be in the following form, namely:—

A B, by C D, Collector of the district of _____, in a proceeding under the ¹[* *] Public Demands Recovery Act, 1913, against A B.*

¹ The word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

61. In the case of any movable property not herein before 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.

Vesting order
in case of other
property

Sale of immovable property

62. (1) When a tenure or a holding at fixed rates, situated in an area in which Chapter XIV of the ¹[* * *] 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.

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

(2) The purchaser at such sale may, in manner provided by section 167 of the ¹[* * *] 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

Sale of tenure
or holding at
fixed rates

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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.

(2) The purchaser at a sale under this rule may, in manner provided by section 167 of the ¹[* * *] Tenancy Act, 1885, and not otherwise, annul any incumbrance on the tenure or holding.

Sale of
occupancy-
holding, with
power to avoid
all
incumbrances

64. (1) When an occupancy-holding, situated in an area in which Chapter XIV of the ¹[* * *] 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.

(2) The purchaser at a sale under this rule may, in manner provided by section 167 of the ¹[* * *] Tenancy Act, 1885, and not otherwise, annul any incumbrance on the holding.

Rules 62 to 64
not to apply in
certain cases to
certificate
holders who
are co-sharer
landlords

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.

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.

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(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 ¹[* * *] 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.

Prohibition of purchase of tenure or holding by certificate-debtor

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

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

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 *per cent* 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.

Deposit by purchaser and re-sale in default

¹ The word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Time for payment of purchase-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 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 purchase 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 (b) 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 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.

Delivery of property in occupancy of certificate-debtor

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.

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 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 on property in occupancy of tenant or other person

Arrest and Detention

77. (1) The Certificate-officer shall, before issuing a warrant for the arrest of the certificate-debtor, issue a notice calling upon him to appear before the Certificate-officer, on a day to be specified in the notice, and show cause why he should not be committed to the civil prison.

Discretionary power to permit-certificate-debtor to show cause against detention in prison

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

78. (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 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 payment in advance before the first day of each month.

(4) The first payment shall be made to the Certificate-officer for such portion of the current month as remains unexpired before the certificate-debtor is committed to the civil prison; and the subsequent payments (if any) shall be made to the officer-in-charge of the civil prison.

(5) Sums disbursed by the certificate-holder for the subsistence of the certificate-debtor in the civil prison shall be deemed to be costs in the proceeding:

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

Supplemental

Register of
certificates

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.

Payment by
installments

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

(2) The payment of every such installment 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

83. When a copy of a certificate has been sent to another officer under section 12, sub-section (1),

Communication of satisfaction to other persons

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.

83A. Requisitions from a Liquidator of Co-operative Societies appointed under section 42 (1) of the Co-operative Societies Act, 1912, or under section 90 of the ¹[* * *] Co-operative Societies Act, 1940, countersigned by the Registrar of Co-operative Societies, under the proviso to section 5 (1) of the ¹[* * *] Public Demands Recovery Act, 1913, should be treated as applications from a Government officer and should accordingly be exempt from *ad valorem* fee.

Exemption of requisitions from Liquidator of Co-operative Societies from *ad valorem* fee

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Procedure to be followed when one of two or more certificate-debtors is found to have died before the filing of the certificate

83B. (1) 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 order 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.

Forms

Forms in Appendix

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

APPENDIX**FORMS***(See Rule 84)***FORM No. 1****Certificate of Public Demand***(See sections 4 and 6)**Filed in the Office of the Certificate-officer of (name of District)*

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

I hereby certify that the above-mentioned sum of Taka _____ is due to the above-named _____ from the above-named _____

[If the certificate is signed on requisition sent under section 5, add—]

I further certify that the above-mentioned sum of Taka _____ is _____ justly recoverable and that its recovery by suit is not barred by law.

Dated this _____ day of _____ 19 _____ .

A. B.,

Certificate-officer of

FORM No. 2
Requisition for a Certificate
(See sections 5)

To the Certificate-officer of the district of

Name of certificate-debtor.	Address of certificate-debtor.	Amount of public demand for which this requisition is made.	Nature of the public demand for which the requisition is made.
1	2	3	4

I request you to recover the above-mentioned sum of Taka _____, which I am satisfied, after inquiry, is due from the said

in respect of

Verified by me on the _____ day of _____ 19 _____.

A. B.,
(Designation)

FORM No. 3
Notice to Certificate-debtor
(See section 7)

To (name of Certificate-debtor).

You are hereby informed that a certificate against you for Taka _____, due from you on account of _____ has this day been filed in my office, under section _____ of the ¹[* * *] Public Demands Recovery Act, 1913. If you deny your liability to pay the said sum of Taka _____, 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 Taka _____ on account of the demand and Taka _____ on account of costs 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 above mentioned 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

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

FORM No. 4
Petition denying Liability
(See section 9)

To

The CERTIFICATE-OFFICER OF
The humble petition of (*name of petitioner*) of (*address*).

SHEWETH—

That a certificate No. of (year), for the sum of Taka has been filed against your petitioner in your office under section of the Public Demands Recovery Act, 1913.

That your petitioner respectfully denies his liability to pay the said sum of Taka (*or, where the liability to pay part is admitted, denies his liability to pay more than Taka*), and this for the following reasons:—

That the facts above stated are true to the best of your petitioner's knowledge and belief.

Your petitioner, therefore, respectfully prays that the said certificate may be set aside (or modified or varied).

A. B.,
(*Petitioner*).

FORM No. 5
Notice to show cause why Sale should not be set aside
[See proviso to section 25(2)]

To

WHEREAS the undermentioned property was sold on the day of , 19 , in execution of certificate No. , dated the , 19 , and whereas the certificate-holder [*or certificate-debtor*] has applied to me to set aside the sale of the said property on the ground that

Take notice that if you have any cause to show why the said application should not be granted, you should appear with you your proofs in this office on the day of 19 , when the said application will be heard and determined.

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

Description of property.

Certificate-officer

FORM No. 6**Summons to appear and answer charge of obstructing execution of Certificates**

[See section 27(2)]

Certificate No. _____ of 19 ____ .

To

WHEREAS _____, the certificate-holder in the above certificate, has complained to this Court that you have resisted (or obstructed) the officer charged with the execution of the warrant for possession;

You are hereby summoned to appear in this Court on the _____ day of _____ 19 __, at _____ a.m., to answer the said complaint

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

Certificate-officer of.

FORM No. 7**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. _____ dated _____ 19 __, and whereas the Court is satisfied that _____ without any just cause resisted (or obstructed) and is still resisting (or obstructing) the said _____ in obtaining possession of the property, and whereas the said _____ has made application to this Court that the said _____ be committed to the civil prison;

You are hereby commanded and required to take and receive the said _____ into the civil prison and to keep him imprisoned therein for the period of _____ days.

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

Certificate-officer

FORM No. 8
Warrant of Arrest
[See section 29]

To
Whereas a certificate No. _____ was filed in this office on the
19 _____, under section of the ¹[* * *] Public Demands
Recovery Act, 1913, against _____ Certificate-debtor, and the sum of Taka
_____, as noted below, is due from him in respect of the said certificate

		as. P.
Original demand	...	..
Interest	...	..
Costs	...	..
Execution	....	..
Total	...	..

and whereas the said sum of Taka has not been paid to the Certificate-holder in satisfaction of the said certificate; these are to command you to arrest the said certificate-debtor and, unless the said certificate-debtor shall pay to you the said sum of Taka _____, together with Taka _____ 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
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 _____ 19 _____, under section of the ¹[* * *]
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 commanded and required to take and receive the said
_____ into the Civil Prison and keep him imprisoned therein for a period not exceeding
_____ or until the said certificate shall be fully satisfied, or the said _____ shall be otherwise
entitled to be released according to the terms and provisions of section 31 or section 32 of the said
Act; and I hereby fix _____ annas *per diem* as the rate of the monthly allowance for the
subsistence of the said _____ during his confinement under this order of committal.

Dated this _____ day of _____ 19 _____.

Certificate-officer

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

FORM No. 10**Order for the release of a person imprisoned in execution of a Certificate***(See sections 31 and 32)*

District

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.***FORM No. 11****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 Taka due from him on account of was filed in this office on the , 19 , under section of the ¹[* * *] Public Demands Recovery Act, 1913, and that a demand of Taka , 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 Taka , 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 Taka (Taka on account of the demand and Taka on account of costs, 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 above-mentioned 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*

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

FORM No. 11A
Warrant of attachment of movable property
(See sections 13 and 14)

To WHEREAS a Certificate No. _____ was filed in this office on the _____ 19 _____, under section of the ¹[* * *] Public Demands Recovery Act, 1913, against Certificate –debtor and the sum of Taka as noted below, is due from him in respect of the said certificate:

	Taka	as. P.
Original demand
Interest
Costs
Execution
	Total	...

and whereas the said sum of Taka _____ has not been paid to the certificate-holder in satisfaction of the said certificate; these are to command you to attach the movable property of the said certificate-debtor* and unless the said certificate-debtor shall pay to you the said sum of Taka _____ together with Taka _____, 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 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.

*When the order is to attach part of the movable property only, add here “to the value of Taka”.

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 Taka _____ on account of _____ was filed
 in this office on the _____ 19 _____, under section _____ of the ¹[* * *] 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 Taka _____ 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 Taka _____ (Taka on account of demand and Taka _____ on account of costs 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 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

¹ The word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act VIII of 1973.

FORM No. 11C
Notice to surviving certificate-debtor
 [See rule 83B (2)]

WHEREAS a certificate against (a) or
 (b) or
 (c) etc.
 for Taka 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 ¹[* * *] 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

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(1)(a) and (c)]

To

WHEREAS has failed to satisfy certificate No. of
 19 , for Taka it is ordered that defendant be and is hereby, prohibited and restrained
 until the further order of this Court, from receiving from you² 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 from³ any person
 whomsoever, or otherwise than into this Court.

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

Certificate-officer of

¹ The word “Bengal” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act VIII of 1973.

² “A certain debt alleged now to be due from you,” 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

Attachment in Execution

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

[See rule 18(1) (b)]

To

Certificate-debtor
, Secretary of

and to Corporation.

WHEREAS has failed to satisfy Certificate No. of 19 , for Taka ; 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 .

Certificate-officer of

FORM No. 14

Attachment in Execution

Prohibitory order, where the property to be attached consists of movable property, to which the certificate-debtor is entitled subject to a lien or right of some other person to the immediate possession thereof

[See rule 18(1)(c)]

To

WHEREAS has failed to satisfy certificate No. of 19 , for Taka it is 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 day of , 19 .

Certificate-officer of

FORM No. 15**Order to attach Salary of public officer or servant of Railway Company or Local Authority**

[See rule 19]

To

WHEREAS Certificate-debtor in certificate case
 No. of 19 is
 a receiving his Salary / or allowance at your certificate-
 holder in the said hands; and whereas case, has applied in this Court for the
 attachment of the salary / or allowances of the said to the extent of
 due to him under the certificate, you are hereby required to withhold the said sum of
 from the salary / or allowances of the said in monthly instalments of and
 to remit the said sum / or monthly instalments to this Court.

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

Certificate-officer of

Describe office of certificate-debtor

FORM No. 16**Order of Attachment of Negotiable Instrument**

(See rule 21)

To

THE COLLECTORATE *Nazir*.

WHEREAS an order has been passed by this Court on the day
 of 19 , for the attachment of , you are
 hereby directed to seize the said and bring the same into Court.

GIVEN under the seal of the Court, this 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 of Justice or officer of Government

(See rule 22)

Certificate case No. _____ of 19 ____ .

To

SIR,

The certificate-holder having applied, under rule 22 of Schedule II of the ¹[* * *] Public Demands recovery Act, 1913, for an attachment of certain money now in your hands;²

I request that you will hold the said money subject to the further order of this Court.

Your obedient servant

Certificate-officer of

Dated the _____ day of _____ 19 ____ .

FORM No. 18

Notice to Certificate-holder

(See rule 39)

WHEREAS _____ has made application to this Court for the removal 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 _____ day of _____, 19 ____ .

Certificate-officer.

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act VIII of 1973.

² Here state how the money is supposed to be in the hands of the person addressed, on what account etc.

FORM No. 19
Warrant of Sale of Property
(See rule 44)

To

THE

THESE are to 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 Taka _____, being the _____ of the said certificate and costs still remaining unsatisfied.

You are further commanded to return this warrant on or before the _____ day of _____ 19____, with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

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

Specification of property:—

Certificate-officer.

FORM No. 20
Notice of the day fixed for settling a sale Proclamation
(See rule 46)

To _____, certificate-debtor.

WHEREAS, in execution of certificate No. _____ of _____ a sale is about to be held of your property mentioned below; you are hereby informed that the _____ day of _____, 19____, has been fixed for settling the terms of the proclamation of sale.

The total amount due from you in respect of the certificate including costs and interest is _____

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

Specification of property:—

Certificate-officer.

FORM No. 21
Proclamation of Sale

(See rule 46)

NOTICE is hereby given that, under rule 44 in Schedule II to the ¹[** *] Public Demands Recovery Certificate No. of 19 , Act, 1913, an order has been passed by me for the sale of the property under which is the mentioned in the annexed schedule, in satisfaction of the claim of the certificate-holder and is certificate-holder, under the certificate mentioned in the margin, amounting, the certificate-debtor. with costs and interest up to date of sale to the sum of Taka.

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 certificate-debtor above-named as mentioned in the schedule below.

In the absence of any order of postponement, the sale will be held by _____ at the _____ monthly sale commencing at _____ o'clock on the _____ at _____

In the event, however, of the debt above specified, and of the cost 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 biddings are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising as to the amount bid, or as to the bidder, the lot shall at once be again put up to auction.
3. The highest bidder shall be 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 ¹[* * *] Public Demands Recovery Act, 1913.
5. In the case of movable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and in default of payment the property shall forthwith be again put up and re-sold.
6. In the case of 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 re-sold.
7. The full amount of the purchase-money shall be paid by the purchaser before the office of the Certificate-officer closes on the fifteenth day after the sale of the property exclusive of such day, or, if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act VIII of 1973.

FORM No. 23

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

(See rule 51)

CERTIFIED that at the re-sale of the property in execution of Certificate No. _____ dated the _____, 19____, in consequence of default on the part of _____ purchaser, there was a deficiency in the price of the said property amounting to Taka _____, and that the expenses attending such re-sale amounted to Taka _____ making a total of Taka _____, which sums recoverable from the defaulter.

Dated the _____ day of _____, 19____.

Officer holding the sale.

FORM No. 24

Notice to person in possession of movable property sold in execution

[See rule 59 (2)]

To _____
WHEREAS _____ has become the purchaser at a public sale in execution of Certificate No. _____, dated _____, 19____, of _____ (now in your possession) you are hereby prohibited from delivering possession of the said _____ to any person except the said _____

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

Certificate-officer.

FORM No. 26**Prohibitory order against Payment of Debts sold in execution to any other than the purchaser**

[See rule 59 (3)]

To

AND TO

WHEREAS

has become the purchaser at a public sale-in execution of Certificate No. of 19 , being debts due from you to you it is ordered that you receiving and you be, and you are hereby prohibited from making payment of the said debt to any person or persons except the said

GIVEN under the Seal of the Court, this day of 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. of 19 , an order was made on the day of , 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 authorize the said certificate-debtor to make the proposed mortgage, lease, or sale within a period of from the date of this certificate: provided that all money payable under such mortgage, lease, or sale shall be paid into this Court and not to the said certificate-debtor.

DESCRIPTION OF PROPERTY

GIVEN under the Seal of the Court, this day of 19 .

Certificate-officer.

FORM No. 28

Certificate of Sale of Land

(See rule 74)

This is to certify that _____ has been declared the purchaser, at a sale by public auction on the _____ day of _____, 19____, of _____ in execution of certificate No. _____, dated the _____, 19____, and that the said sale has been duly confirmed by me.

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

Certificate-officer.

FORM No. 29

Order for delivery of possession to certified purchaser of land at a Sale in execution

(See rule 75)

To

The _____

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

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

Certificate-officer.

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 _____ day of _____ 19____, to show cause why you should not be committed to the Civil prison in execution of the said Certificate.

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

Certificate-officer.]