

(3) Unless there is a recognised hereditary right of succession the Durbar may, after the death or removal of the present incumbent terminate the post.

CHAPTER VII.—THE RECOVERY OF LAND REVENUE.

85. (1) The land revenue assessed on any land shall be the first charge on that land and on the crops, rents and profits thereof.

(2) The primary liability for the land revenue assessed on any land shall be on the person in whose name the land is recorded as ryot, tenant or grantee, as the case may be.

(3) When there are more than one ryot tenant, grantee or co-sharer in a holding, all such ryots, tenants, grantees or co-sharers, as the case may be, shall be jointly and severally liable for the payment of the land revenue assessed on such holding.

86. The land revenue or *takoli* payable on account of any agricultural year shall be levied in such instalments not less than two or more than three may be prescribed and on such dates not earlier than 15th January, or later than 15th August of the following agricultural year, as may be prescribed :

Provided that the interval between any two instalments shall not be less than six weeks.

87. (1) Any land revenue or *takoli* due and not paid on or before the prescribed date becomes therefrom an arrear and the persons responsible for it become defaulters.

(2) Land revenue shall be paid to the headman of the village who shall grant a receipt for such sum in the form prescribed by rules and the granting of such receipts in the prescribed form shall be deemed to be a duty of the headman under this Law.

(3) If any instalment of land revenue is not paid on or before the prescribed date and the revenue officer is satisfied that the default has been made wilfully by the ryot he may, after recording his reasons in writing, impose a penalty not exceeding an amount equal to the land revenue payable but no interest shall be chargeable : provided that no penalty shall be charged for the non-payment of any instalment, the payment of which has been suspended by the order of the State in respect of the period during which the payment remained suspended.

(4) When land revenue is recovered under section 89 on behalf of a tenure-holder, he may apply to the revenue officer for the imposition of a penalty on the tenant who has made wilful default, and the revenue officer may proceed as in the case of a ryot under sub-section (3); and the amount of the penalty, if imposed, shall be payable to the tenure-holder.

88. The Durbar may accord remission or suspension of land revenue in years in which crops have failed in any area and such remission or suspension shall be determined in accordance with the rules made under this law.

(2) Every order by a revenue officer under such rules shall be final.

89. (1) A statement of account certified by a revenue officer, or filed by a village headman or a tenure-holder, with an affidavit in such form as may be prescribed, shall be conclusive evidence of the existence of arrears and of the person who is the defaulter until the contrary is proved.

(2) The Dewan may recover an arrear of land revenue or an amount recoverable as an arrear of land revenue by any one or more of the following processes, namely—

(a) by service of a written notice of demand on the defaulter ;

(b) by attachment and sale of the defaulter's movable property ;

(c) by attaching and leasing out for a period not exceeding three years, the holding on which the arrear is due ;

(d) if the defaulter is not a grantee, by attachment and sale of the whole or a portion of the defaulter's holding : provided that if the full arrear is likely to be discharged by sale of a portion of the holding the

entire holding shall not be put to sale : provided further that land shall not be put to sale for arrears of land revenue of a period less than three years ;

(e) if a defaulter is a grantee, by ejecting him from the holding on which the arrear is due ;

(f) in the case of an arrear recoverable as an arrear of land revenue, by the attachment and sale of any immovable property belonging to the defaulter.

(3) The processes specified in clause (b) of sub-section (2) shall not permit the attachment and sale of the following articles, namely (a) the necessary wearing apparel, cooking utensils, beds and bedding of the defaulter, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman; (b) tools of artisans and if the defaulter is an agriculturist his implements of husbandry and such cattle and seed as may, in the opinion of the Dewan, be necessary to enable him to earn his livelihood as such.

(4) Proceedings under this section shall not be taken for the recovery of land revenue due to a tenure-holder unless the cost of issuing and enforcing the processes required is paid.

90. The cost of issuing and enforcing any process specified in section 89 shall be deemed to be the land revenue assessed on the holding in respect of which the arrear is due and shall be recoverable as a part of that arrear.

91. The Dewan may order the execution of a process for the recovery of any revenue issued by another State or Government as if it were a process issued by him under this Law, if the execution of such process does not contravene the provisions of this Law, or may order the issue of a process under this Law for the recovery of an amount required to be recovered by another State or Government.

92. The attachment and sale of movable property shall be made, as nearly as may be, according to the Law for the time being in force for the attachment and sale of such property under the decree of a civil court :

Provided that the sale shall not be held except by, or in the presence of, a revenue officer of not below such rank as may be prescribed.

(2) Attachment of immovable property shall be made, as nearly as may be, according to the Law for the time being in force for the attachment of such property under the decree of a civil court.

(3) After an attachment has been made, any private transfer or delivery of the property attached or of any interest therein shall be void as against claims enforceable under the attachment.

(4) If any claim is set up by a third person of the property attached or proceeded against under the provisions of this Chapter, the Dewan shall enquire into the claim and may admit or reject it.

(5) The person against whom an order is made under sub-section (4) may institute a suit to establish the right he claims to the property attached or proceeded against but subject to the result of such suit, if any, the order shall be final.

93. (1) An arrear of *takoli* due from a tenure-holder may be recovered as an arrear of land revenue or by attaching and taking under management the villages or shares of villages or alienated lands held by him.

(2) The attachment shall be made in the manner prescribed by section 92 sub-section (2) and the Dewan shall issue a proclamation declaring the attachment to be in force.

(3) The management of the attached tenure shall ordinarily be effected through the agency of a co-sharer or relative of the tenure-holder, if any, in the village or land who, in the opinion of the Dewan, is most likely to discharge the duties properly and is able to produce security to the satisfaction of the Dewan for the proper discharge of his duties, and failing such co-sharer or relative, the Dewan may take the village or land under his own management or may appoint any suitable person as agent.

(4) During the continuance of such attachment the defaulter and any co-sharers shall be excluded from the possession of the village or share of the village or land attached and the Dewan or the agent appointed by him

shall have all the rights of the said defaulter to manage the same and to realise the rents and profits arising therefrom and shall be bound by all their liabilities as tenure-holders or co-sharers to any tenants thereof.

(5) The surplus profits of any such village or share or land, after defraying the cost of attachment and management, shall be applied, first, to the payment of the land revenue becoming due in respect thereof during the continuance of such attachment, and next, to discharging the arrears for the recovery of which the attachment was made.

(6) Attachment shall continue until the arrear is paid or is realised from the profits of such village or share.

94. (1) If the sale of any immovable property has been ordered, the Dewan shall issue a proclamation of the intended sale specifying the property to be sold, the land revenue, if any, assessed thereon, the arrears due, the time and place of sale and any other particulars which may be prescribed by rules under the Law.

(2) Every sale of immovable property shall transfer the holding free of all incumbrances imposed upon it and all grants and contracts made in respect of it by any person other than the purchaser :

Provided that the Durbar may, by notification, direct that in any local area, or in respect of any class of arrears recoverable as arrears of land revenue, the sale shall transfer only the right, title and interest of the defaulter.

95. (1) Every sale of immovable property shall be by public auction held by a revenue officer not below such rank as may be prescribed,

(2) No such sale shall take place on any authorised holiday, or before the expiry of at least 30 days from the date on which proclamation thereof was published, or during the months of July to September.

(3) The officer holding the sale may, from time to time, postpone it for reasons to be recorded.

96. (1) No revenue officer shall, either in person or by agent, in his name or in the name of another, or jointly or in shares with others, purchase or bid for any immovable property which is being sold under the provisions of this Chapter.

(2) If a sale has been effected in which there is a contravention of the provisions of sub-section (1), such sale shall be void.

97. If the arrear in respect of which the property is to be sold is paid at any time by any person before the lot is knocked down, the sale shall be set aside.

98. (1) The person declared to be the purchaser shall deposit immediately 25 per centum of the amount of his bid, and in default of such deposit, the property may be offered to the next highest bidder at his highest bid.

(2) If such offer is not made or accepted, the property shall forthwith be resold; and the costs of the sale and any deficiency of price which may occur may be recovered from the defaulting purchaser by the Dewan as an arrear of land revenue. Any sum recovered as deficiency shall be deemed to be a part of the sale-proceeds.

99. (1) Unless an application has been made under Section 100 the full amount of purchase money shall be paid by the purchaser on or before the 15th day from the date of the sale, and if the purchase money is not so paid, the deposit, after the expenses of the sale have been defrayed therefrom, shall be liable to be forfeited to the State, and the property shall be resold, 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.

(2) If the proceeds of the sale which is eventually made are less than price paid by such defaulting purchaser the amount of deficiency may be recovered from him by the Dewan as an arrear of land revenue and such amount shall be deemed to be a part of the sale-proceeds.

(3) In case the deficiency is not recovered the loss may, if the Deputy Commissioner so directs, be made good out of the deposit forfeited under sub-section (1).

100. Where immoveable property has been sold under this Chapter, any person either owning such property, or holding an interest therein by virtue of a title acquired before such sale, may, at any time within thirty days from the date of sale, apply to the revenue officer to have the sale set aside on his depositing, (a) for payment to the purchaser, a sum equal to 5 per cent, of the purchase money, (b) for payment on account of the arrear, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may have been paid since the date of the sale on that account ; and (c) costs of the sale.

(2) If such deposit has been made within thirty days from the date of the sale, the Dewan shall pass an order setting aside the sale : provided that if a person applies under Section 101 to have such sale set aside, he shall not be entitled to make an application under this Section.

101. At any time within thirty days from the date of sale, any person whose interests are affected by the sale may apply to the Dewan to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it and the Dewan may, after giving notice to the persons affected thereby, pass an order setting aside the sale and may order resale; but no sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Dewan that he has sustained substantial injury by such irregularity or mistake.

102. If no application is made under Section 101 within the time allowed therefor, all claims on the ground of irregularity or mistake shall be barred.

(2) Nothing under sub-section (1) shall bar the institution of a suit in the civil court to set aside the sale on the ground of fraud or on the ground that the arrear for which the property is sold was not due.

103. No sale after postponement for a period exceeding 7 days under Section 95 and no resale under Section 99 or 101 shall be made until a fresh proclamation has been published as prescribed under Section 94.

104. On the expiration of thirty days from the date of the sale, if no application under Section 100 or 101 has been made, or if such application has been made and rejected, the Dewan shall make an order confirming the sale: provided that if the Dewan has reasons to think that the sale ought to be set aside (1) notwithstanding that no such application has been made, (2) on grounds other than those mentioned in the application which has been made and rejected, or (3) notwithstanding that the period of thirty days from the date of sale has expired, he may, after recording his reasons in writing, set aside at any time before making an order confirming the sale.

105. If the sale of any property is set aside under Section 100 or 101 or 104 any amount deposited by the original purchaser shall be repaid to him.

106. If the sale of any immoveable property has been confirmed, the Dewan shall put the purchaser in possession of such property and shall grant him a certificate specifying the date on which the sale is confirmed, the property sold and the name of the purchaser.

107. The proceeds of every sale under this Chapter shall be applied, firstly, in satisfaction of the arrear on account of which the sale was held and to the expenses of such sale, and secondly, to the payment of any other arrear recoverable as an arrear of land revenue payable to the State by the defaulter, and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one, to such defaulters according to their respective shares in the property sold : provided that the surplus shall not be paid to the defaulter or defaulters until after the expiry of two months from the date of the sale, in the case of moveable property or from the date of confirmation of the sale in the case of immoveable property.

(2) Notwithstanding anything in sub-section (1), the proceeds of a sale of property for the recovery of an arrear recoverable as an arrear of land revenue shall be applied, first, to the payment of arrears of land revenue payable by the defaulter for the immoveable property sold up to the date of the sale, and the surplus, if any, shall be applied in accordance with sub-section (1).

108. (1) If at a sale or adjourned sale or resale for the recovery of an arrear of land revenue no bid is obtained or accepted, and the arrear has not been recovered for a period of one year from the date on which the land was first put to sale, the Dewan may exclude the defaulter from the holding on which the arrear is due and take such steps as may be prescribed for the recovery of the arrears.

(2) If after a period of one year from the date of exclusion of the defaulter the arrear remains unrecovered, the Dewan may declare the land to be unoccupied and the arrear due on the land shall be written off as irrecoverable.

(3) Save as provided in this Section a defaulter shall not be liable to ejection from the whole or any portion of his holding for the recovery of an arrear of land revenue.

109. If a grantee is ejected under the process mentioned in Section 89 clause (e), the land shall be liable to be treated as unoccupied unless the Durbar directs otherwise.

109A. If any holding is leased out under the process mentioned in clause (c) of section 89, sub-section (2) the rent realised shall be applied first, to the payment of land revenue becoming due during the continuance of the attachment and next, to discharging the arrears for the recovery of which the attachment was made.

110. The following moneys may be recovered as far as may be under the provisions of this Chapter in the same manner as an arrear of land revenue :

(a) All water rates, cesses, fees, charges, *salamis*, penalties, fines and costs payable or leviable under this Law or any other enactment for the time being in force relating to land revenue ;

(b) All moneys falling due to the State under any grant, lease, or contract which provides that they shall be recoverable in the same manner as an arrear of land revenue ; and

(c) All sums declared by this Law, or any other enactment for the time being in force, to be recoverable in the same manner as an arrear of land revenue.

111. (1) Any amount recovered by a village headman as land revenue, or as any other State due, and not credited by him to the State, shall be recoverable from his property as an arrear of land revenue.

(2) Nothing in this Section shall be deemed to prevent the prosecution of the headman for any offence under the Indian Penal Code or any other enactment for the time being in force.

112. (1) Standing crops on a field may be attached by a revenue officer if he has reasons (to be recorded) to believe that the ryot or tenant in possession of the holding is likely to make a default of land revenue, or is likely to abscond from the place without payment of land revenue.

(2) Attachment shall be effected by the service of a notice on the person concerned or by affixing a notice on the land on which the crops are standing.

(3) The ryot or tenant or lessee shall not be prevented from tending his crops but removal of the crop shall not be permitted without the permission of such person as may be authorised in this behalf by rules made under this Law.

(4) Permission to remove the standing crops under attachment shall be given if the crops are ready to be harvested but the ryot or tenant may be required to harvest the crop and deposit it in the custody of the village headman ; report of harvesting and deposit shall be immediately made by the headman to such revenue officer as may be prescribed.

(5) On receipt of the report mentioned in sub-section (4) the revenue officer to whom the report is made shall immediately take action, or cause action to be taken if the payment of land revenue has not been made, to sell a portion or the whole of the crop as may be necessary in the same manner as moveable property for an arrear of land revenue. The balance of the crop, if any, shall be released immediately from attachment.

(6) If at any time before the sale is effected the defaulter makes payment the crops shall forthwith be released.