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GOVERNMENT OF MANIPUR
SEEREFARIAT: LAW & LEGISLATIVE AFFAIRS DEFARTMENT

NOTIFICATION

Imphal, the 14th May, 2003

No. 2/11/99-Leg/L(Pt).—The following Act of the Legislature, Manipur which received assent of the Governor of Manipur on 7-5-2003 is hereby published in the Official Gazette.

TH. KAMINI KUMAR SINGH, Deputy Secretary (Law), Government of Manipur.

THE MANIPUR PUBLIC DEMAND RECOVERY ACT, 2003

(Manipur Act No. 4 of 2003)

An

Act

to provide for speedy recovery of Public Demands in Manipur.

Be littenacted by the Legislature of Manipur in the Fifty-fourth year of the Republic of India as follows:

Part-I PRELIMINARY

Short Title, Extent and Commencement :

- (1) This Act may be called the Manipur Public Demand Recovery Act, 2003.
- (2) It extends to the whole of the State of Manipur.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

- 2. Definitions: In this Act, unless there is anything repugnant is the subject or context:
 - (1) "Certificate-debtor" means the person named as debtor in the certificate filed under this Act, and includes any persons 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 Deputy Commissioner, a Sub-Divisional Officer and any officer appointed by a Deputy Commissioner with the sanction of the Revenue Commissioner appointed under the Manipur Land Revenue and Land Reforms Act, 1960 to perform the functions of a Certificate Officer under this Act;
 - "Deputy Commissioner" means the Chief Officer in charge of the revenue administration of a district and includes an Additional District Magistrate appointed under sub-section (2) of section 20 of the Code of Criminal Procedure, 1973;
 - (5) "Movable Property" includes standing crops;
 - (6) "prescribed" means prescribed by Rules made under this Act;
 - (7) "Public Demand" means any arrear or money mentioned or referred to in the schedule and includes any interest which may, by law, be chargeable thereon up to the date on which a certificate is signed under this Act;
 - (8) "Rules" means rules and forms made under section 56.
 - (9) "Bank" means and includes-
 - (i) a 'bank' included in the Second Schedule to the Reserve Bank of India Act, 1934;
 - (ii) the 'State Bank of India' constituted under the State Bank of India Act, 1955;
 - (iii) a 'subsidiary bank' as defined in the State Bank of India (Subsidiary banks) Act, 1959;
 - (iv) a 'corresponding new Bank' as defined in section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1978 (5 of 1970) and section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

- (v) a 'co-operative bank' as defined in section 5 (cci) of the Banking Regulation Act, 1949;
- (vi) a Regional Rural Bank constituted under the Regional Rural Banks Act, 1976 (21 of 1976).
- (10) "Financial institution" means.
 - (i) a company or a body corporate incorporated under the Companies Act, 1956 and whose main business is to finance trade, commerce or industrial enterprise;
 - (ii) "a financial corporation" as defined in State Financial Corporation Act, 1951;
 - (iii) a society registered under the Societies Registration Act, 1860 which is engaged in financing activities or has been constituted by any law for the time being in force and which is either owned by, or in which the majority shares are held by the State Government.
- (11) "Financial assistance" means any kind of financial assistance—
 - (i) for establishing, expanding modernising, renovating or running any industrial undertaking; or
 - (ii) for the purposes of vocational training; or
 - (iii) for the development of agriculture, horticulture, animal husbandry or agro-industry; or
 - (iv) for purposes of any other kind of planned development; or
 - (v) for relief against distress caused by fire or serious drought, flood or other natural calamities; or
 - (vi) for the purpose of carrying out any State sponsored scheme; or
 - (vii) for any other prescribed purpose.
- (12) "Scheme" means a scheme sponsored by way of financial assistance by the State Government or the Central Government or the State Government and the Central Government together under which the State Government either—
 - (i) advances money to a Government company for the purposes of disbursing loans, advances or grants or for the purposes of sale of goods on credit or hire-purchase; or

- guarantees or agrees to guarantee the repayment of a loan advance or grant or the payment of the price of goods sold on credit or hire-purchase.
- 13) "State Government" means the State Government of Manipur.

Part-II

Filing Service and effect of certificate
and hearing of objections thereto.

3. Filing of Certificate for Public Demand Payable to Deputy Commissioner:

When the Certificate Officer is satisfied that any public demand payable to the Deputy Commissioner 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:

Provided that the certificate-officer shall, as soon as he signed a certificate inform the signing of a certificate by him to the Sub-Registrar under whose jurisdiction the immovable property belonging to the certificate debter is situated.

- 4. Requisition for the certificate in other cases:
- (1) When any public deemed payable to any person other than the Deputy Commissioner is due, such person may send to the Certificate-officer a written requisition in the prescribed form:

Provided that no action shall be taken under this Act on a requisition made by a land development bank registered or demand to be registered under the Manipur Co-operative Societies Act, 1976 (Manipur Act 14 of 1976), or an assignee of such bank, unless the requisition be countersigned by the Registrar, Co-operative Societies, Manipur.

- (2) Every such requisition shall be signed and verified in the prescribed manner, and except in such cases as may be prescribed, shall be chargeable with the fee of the amount which would be payable under the Court Fees Act, 1870 (VII of 1870), in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.
- 5. Filing of Certificate on Requisition:

On receipt of any such requisition, the Certificate-officer, if he is satisfied that the demand is recoverable and that recovery by suit is not barried 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 sub-section (2) of section 4, and shall cause the certificate to be filed in his office.

6. Service of notice and copy of certificate on certificate-debtor:

When a certificate has been filed in the office of a Certificate-officer under section 3 or section 5, 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.

7. Effect of service of notice of certificate:

From and after the service of notice of any certificate under section 6-

- (a) 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;
- (b) any private transfer of delivery of any of his immovable propertysituated in the district in which the certificate is filed, or of any interest in such property, shall be void against any claim enforceable in execution of the certificate.

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8. Filing of petition denying liability:

- (1) The Certificate-debtor may, within thirty days from the service of the notice required by section 6, or where the notice has not been duly served, then within thirty days from the execution of any process for enforcing the certificate, present to the Certificate-officer in whose office the certificate is filed, or to the Certificate-officer who is executing the certificate, a petition, in the prescribed form, signed and verified in the prescribed manner, denying his liability, in while 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.

9. Hearing and determining of such petition:

The Certificate-officer in whose office the original cerificate is filed shall bear 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 or modify the certificate accordingly;

Provided that, if the Certificate-officer is not the Deputy Commissioner, and considers that the petition involves a benafide claim of right to property, he shall refer the petition to the Deputy Commissioner for orders, and the Deputy Commissioner, if he is satisfied that a bonafide claim of right to property is involved, shall make an order cancelling the certificate.

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

Subject to the provisions of the Limitation Act, 1963 (36 of 1963), and upon application made to him by the Certificate-holder, the Certificate-officer may at any time, amend a certificate by the addition, omission or substitution.

of the name of any Certificate-holder or Certificate-debtor, or by the alteration of the amount claimed therein;

Provided that when any such amendment is made a fresh notice and copy of amended certificate shall be served upon the certificate-debtor as provided in section 6.

PART-III

- 11. Who may execute certificate:
 - . A scertificate filed under section 3 or section 5 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 sub-section (1) of section 12.
- 12. Transmission of certificate to another Certificate-officer for execution:
- (a) A Certificate-officer in whose office a certificate is filed may send a copy thereof, for execution, to any other Certificate-officer.
 - (b) 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 7 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 6.

13. When certificate may be executed:

No step in execution of a certificate shall be taken until the period of thirty days has lapsed since the date of the service of the notice required by section 6, or, when a petition has been duly filed under section 8, until such petition has been theard and determined:

Provided that, if the Certificate-officer in whose office a certificate is filed is satisfied that the certificate-debtor is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a Civil Court, and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing an attachment of the whole or any part of such movable property:

Provided surther 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. Mede of Execution:

Subject to such conditions and limitations as may be prescribed, a Certificateofficer may order execution of the certificate—

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

. Ceram sales by whom to be held:

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

- (a) by the Certificate-officer exercising jurisdiction in the district to the revenueroll of which the estate or share appertains, or
- (b) by the Certificate-officer exercising jurisdiction in the district in which such estate or share is situated.

16. Interest, costs and charges recoverable:

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

(a) Interest calculated in such manner as may be prescribed upon the public demand to which the certificate relates, at the rate of six per cent per annum from the date of the signing of the certificate up to the date of realization;

Provided that-

- (i) no interest shall be charged if the amount of public demand is lessthan one hundred rupees, or if the period from the date of signing the certificate up to the date of realisation does not exceed three months;
- (ii) no interest shall be charged for the period during which the execution proceedings are stayed under an order passed by the Certificate-officer at the instance of the Certificate holders; and
- (iii) no interest shall be charged for the period during which the execution proceedings are stayed under an order passed in appeal or in revision or by a Court at the instance of the Certificate holder or any person other than the certificate-debtor;
- (b) such costs as are directed to be paid under section 42; and
 - (e) all charges incurred in respect of-

- (i) the service of notice under section 6, and of warrants and other processes; and
- (ii) all other preceedings taken for realizing the domand.

17. Attachment of property:

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 (Act V of 1908), may be attached and sold in execution of a certificate under this Act.

18. Payment of money, contrary to attachment, to be void:

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

19. Attachment of decree:

- (1) The attachment of a Civil Court decree for the payment of money or for the 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 Certicate-officer cancels the notice; or
 - (ii) the Certificate-holder or the Certificate-debtor applies to the Court receiving such notice to execute the decree.
- (1), it shall, on the application of the certificate-holder or the certificate-debtor, and subject to the provision of the Code of Civil Procedure, 1908 (Act V of 1908), proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate.
- (3) The certificate-holder shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

20. Purchaser's title:

- (1) Where property is sold in execution of certificate, there shall vest in the purchaser merely the right, title and interest of the certificate-debtor at the time of the sale, even through the property itself be specified.
- (2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

- 21. Suit against purchaser not maintainable on ground of purchase being made on benalf of plaintiff:
- (1) No suit shall be maintained against any person claiming title under a purchase certified by the Certificate-officer in such a manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.
- (2) Nothing in this section shall have a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate franculently or without the consent of the real purchaser, or interfere with the night of a third person to proceed against that property through ostensibly sold to the certified purchaser on the ground that it is liable to satisfy a claim of such third person against the real owner.

SETTING ASIDE SALE

- 22. Application to set aside sale of immovable property on deposit:
- the certificate-debtor or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Certificate-officer to set aside the sale, on his depositing—
- (a) for payment to the certificate-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of six per cent per annum, calculated from the date of the preslamation 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 ten rupees; and
- (c) for payment of the Deputy Commissioner (where the certificate is for a public demand payable to the Deputy Commissioner), such outstanding charges due to the Government under any law for the time being in force as the Deputy Commissioner certifies to be payable by the certificate debtor.
- (2) Where a person makes an application under section 23 for setting aside the sale of his immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this section.

- 23. Application to set aside sale of immovable property on ground of non-service of notice or irregularity:
- (1) Where immovable property has been sold in execution of a certificate, the certificate-holder, the certificate-debtor, or any person whose interests are affected by the sale, may, at any time within sixty days from the date of sale, apply to the certificate-holder to set aside the sale on the ground that notice was not served under section 6 or on the ground of a material irregularity in the certificate proceedings or in publishing or conducting the sale:

Provided that-

- (a) no sale shall be set aside on any such ground unless the Certificateofficer 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.
- 24. Application to set aside sale on ground that certificate-debtor had no saleable interest or that property did not exist:

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

- 25. Sale when to become absolute or be set aside:
- (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 deposite required by that section is made within thirty days from the date of the sale, the Certificate-officer shall make an order setting aside the sale;

Provided that no order shall be made, unless notice of the application has been given to all persons affected thereby.

26. Disposal of proceeds of execution:

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

RESISTANCE TO PURCHASER AFTER SALE

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

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

28. Procedure on such application:

- (1) If the Certificate-officer is satisfied that the resistance or obstruction was occasioned without any just cause by the certificate-debtor or by some person on his behalf, he sall 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 of some person other than the certificate-debter, the Certificate-officer shall rake an order dismissing the application.

ARREST, DETENTION AND RELEASE

29. Power to arrest and detention:

- (1) No order for the arrest and detention in civil prison of a certificate-debtor in execution of a certificate shall be made, unless the Certificate-officer has issued and served a notice upon the certificate-debtor calling upon him to appear before him on a day to be specified in the notice and to show cause why he should not be committed to civil prison and unless the Certificate-officer for reasons recorded in writing, is satisfied—
 - (a) that the certificate-debtor, with the object or effect of obstructing or delaying the execution of the certificate, has, after the filing of the certificate in the office of the Certificate-officer, dishonestly transferred, cancelled, 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 neglected to pay the same.

EXPLANATION: In the calculation of the means of the certificate debtor for the purpose of this clause there will, 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 exempted from attachment in execution of the certificate.

- (2) Notwithstanding anything contained in sub-section (1), a warran for the arrest of the certificate-debtor may be issued by the Certificate-officer, if the Certificate-officer is satisfied by affidavit or otherwise that, with the object or effect of delaying the execution of the certificate, the certificate-debtor is likely to abscond or leave the local limits of the jurisdiction of the Certificate-officer.
- (3) Where appearance is not made in obedience to a notice, issued and served under sub-section (1), the Certificate officer may issue a warrant for the arrest of the certificate debtor.
- (4) Every person arrested in pursuance of a warrant of arrest issued under sub-section (2) or sub-section (3), shall be brought before the Certificate-officer as soon, as practicable and in any event within twenty four hours of his arrest (exclusive of the time required for journey):

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

- (5) When a certificate-debtor appears, before the Certificate-officer in obedience to a notice to show cause or is brought before the certificate-officer under sub-section (4), 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.
- (6) Notwithstanding anything contained in the Criminal Procedure Code, 1973, pending the conclusion of the inquiry under sub-section (5), 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 thing fit or release him on hir furnishing security to the satisfaction of the Certificate-officer for his appearance when required.
- (7) Upon the conclusion of the inquiry under the sub-section (5), 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, if he is not already under arrest:

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 specified period not exceeding fifteen days of releasing him on 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.

(8) When the Certificate-officer does not make on order of detention under sub-section (7), he shall, if the certificate-debtor is under arrest, his release.

30. Release from arrest and re-arrest:

- (1) The Deputy Commissioner 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 incorrect, 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 sub-section (1) of section 31.

- 31. Detention in and release from prison:
- (1) Every person detained in the civil prison in execution of a certificate may be so detained—
 - (a) where the certificate is for a demand of an amount exceeding one thousand rupees for a period of three months, and
 - (b) in any orther 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 prison; or
- (ii) on the certificate being otherwise full satisfied, or cancelled; or
- (iii) on the request of the person (if any) on whose requisition the certificate was filed, or of the Deputy Commissioner; 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 further that he shall not be released from such detention under clause (ii) or clause (iii) without the order of the Certificate-officer.

- (2) A certificate-debtor released from detention under this section shall not, merely by reason of his release, be discharged from his debt; but he shall not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison.
 - 32. Release on ground of illness
- (1) At any time after a warrant for the arrest of certificate-debtor has been issued, the Certificate-officer may cancel it on the ground of his serious illness.
- (2) Where a certificate-debtor has been arrested, the Certificate-officer may release him if in the opinion of the Certificate-officer, he is not in a fit state of health to be detained in the civil prison.
- (3) Where a certificate-debtor has been committed to the civil prison, he may be released therefrom—
 - (a) by the Deputy Commissioner, on the ground of the existence of any infections contagious desease, or
 - (b) by the Certificate-officer, or the Deputy Commissioner on the ground of the suffering from any serious illness.
 - 33. Prohibition of arrest or detention of minor and persons under disability:
- (1) Notwithstanding anything contained in this Act, Certificate-officer shall not order arrest or detention in civil prison of—
 - (a) a minor; or
 - (b) any person who, in his opinion, is of unsound mind.
- (2) Whenever it is necessary to arrest a women, no such arrest shall be made between sunset and sunrise.

PART-IV

REFERENCE OF CIVIL COURT

Suit in civil Court to have certificate cancelled or modified:

The Certificate-debtor may, at any time within six months-

- (1) from the service upon him of the notice required by section 6, or
- (2) if he files, in accordance with section 8, a petition denying liability from the date of determination of the petition, or
- -(3) if he appeals, in accordance with section 50 from an order passed under section 9-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 8, a petition denying liability, or to state in his petition denying liability the ground upon which he claims to have 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 the Schedule appended to this Act, 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 6, or
 - (ii) if he has filed in accordance with section 8, a petition denying liability-then within thirty days from the date of determination of the petition, or
 - (iii) if he has appealed in accordance with section 50—then within thirty days from the decision of the appeal.

Provided 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 per cent annum.

- 35. Grounds for Cancellation or modification of certificate by civil court:
- (1) No certificate duly filed under this Act shall be cancelled by a Civil Court except on one of the followings, grounds, namely—

- (a) that the amount stated in the certificate was actually paid or discharged before the signing of the certificate; or
- (b) that no part of the stated in certificate was due by the certificate-debtor to the certificate-holder; or
- (e) that, in the case of fines imposed or cost, charges, expenses, damages, duties or fees adjusted by a Deputy Commissioner or a public officer under any law or any rule having the force of law, the proceedings of such Deputy Commissioner 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.
- (3) Nothing contained in this section shall interfere with the ordinary original jurisdiction of the Gauhati High Court.
- 36. Suit to recover possession of or to set aside sale of immovable property where notice of certificate not served:

Notwithstanding anything herein before contained, a sale of immovable property in execution of a certificate shall not be void on the ground that the notice required by section 6 has not been served, but a suit may be brought in a Civil Court to recover the 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 such irregularity.

Provided that no such suit shall be entertained-

- (a) if instituted more than one year from the date on which possession of the property was delivered to be 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, or
- (c) if instituted after one year from the date of having the fact of delivery of the property by the plaintiff in case the fact of such delivery was not know to the plaintiff.

37. General Bar to jurisdiction of Civil courts, save where fraud alleged;

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 traud.

PART--V

38. Persons Under Disability:

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

39. Continuance of Certificates:

No certificate shall cease to be in force by person of-

- (a) the property to which the demand relates ceasing to be under the charge or management of the Court of Wards or Revenue authorities; or
- (c) the death of the certificate-holder.

40. Procedure on Death of Certificate-Debtor:

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 6:

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.

41. Cancellation of Certificates:

- Principle of the Control of the Control of the Control of the (1) The Certificate-officer shall cancel any certificate at the request of the certificate-holder.
- (2) The Certificate officer may cancel any certificate filed under section 5, if the Certificate-holder is not reasonably diligent.

42. Costs:

Subject to such limitation as may be prescribed, the award of any 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.

43. Compensation:

If the Certificate-officer is satisfied that any requisition under section 4 was made without reasonable cause, he may award to the certificate-debtor such compensation, as the Certificate-officer thinks fit; and the amount so awarded shall be recoverable from the certificate-holder under the precedure provided by this Act for recovery of costs.

44. Entry Into Dwelling House:

- (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.
- (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 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 clandesting removal.

45. Application of Act-XVIII of 1850:

Every Certificate-officer shall, in the discharge of his functioning under this Act, be deemed to be acting judicially within the meaning of the Judicial Officer's Protection Act, 1850.

46. Officers to have Powers of Civil Court for Certain Purposes:

Every Certificate-officer 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.

47. Control Over Officers: A Certificate-officer (not being Deputy Commissioners) shall, in the performance of their duties under this Act, be subject to the general supervision and control of the Deputy Commissioner.

48. Appeal:

- (1) An appeal from any original order made under this Act shall lie—
- (a) if the order was made by a Certificate-officer not being the Deputy Commissioner, to the Deputy Commissioner, or
- (c) if the order was made by the Deputy Commissioner, to the Revenue Commissioner; Provided that that no appeal shall lie from any order made under
- (2) Every appeal under sub-section (1) shall be presented, in case of clause(a). within fifteen days or in case of clause (b) within thirty days, from the date
- (3) Pending the decision of any appeal, execution may be stayed, if the of order appellate authority so directs, but not otherwise.
- 49. Bar to Second Appeals:

No appeal shall lie from any order passed on appeal under section 48.

- (1) Any order passed by a Certificate-Officer other than Deputy Commi-50. Revision: ssioner may be revised by the Deputy Commissioner and the Revenue Commissioner may revise any order passed by a Deputy Commissioner under this Act.
- (2) The period of limitation for an application for revision under this section shall be thirty days from the date of the order of revision whereof is applied for excluding the time occupied in obtaining a copy of the order;

Provided that such an application for revision may be admited after the period aforesaid, if the applicant satisfies the Deputy Commissioner or the Revenue Commissioner, as the case may be, that he has sufficient cause for not making the application within the period.

51. Review:

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

52. Saving of other Acts:

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

53. Application of the Indian Limitation Act, 1963:

The provisions of the Limitation Act, 1963, except sections 6 to 9, shall apply to all proceedings under this Act, as if a certificate filed hereunder were a decree of a Civil Court.

54. Certificate-Officer Deemed To be a Court

A Certificate-officer shall be deemed to be a Court and any proceeding before him shall be deemed to be a civil proceeding within the meaning of section 14 of the Limitation Act, 1963.

55. Penalties:

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

RULES

56. Power to Make Rules:

- (I) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for the purpose of carrying into effect the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - (a) the signature and verification of requisitions made under section 4;
 - (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 6, 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 8, denying liability;
- (f) the transfer of certificates; proceedings in execution of certificates and petitions under section 8 denying liability from one Certificate-officer to another for disposal;
- (g) the manner of calculating interest referred to in clause (a) of section 16:
- (h) the scale of charges to be recovered under clause (c) of section 16;
- (i) the maintenance and custody, while under attachment, of live-stock and other movable property and the disposal of the proceeds of such sale;
 - (j) the registers, books and accounts to be kept by the Certificate-officers and the inspection thereof by the public;
 - (k) the fee to be charged for the inspection of the register of certificates maintained;
 - (1) the recovery of expenditure on the certificate establishment by the lovy of costs under clause (b) of section 16 and section 43;
 - (m) the recovery of poundage fees;
 - (n) the forms to be used under this Act.
- (3) All rules made under this Act shall, as soon as may be after they are made, be laid before the Legislature, while it is in session, for a total period of not less than fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the official Gazette, subject to such modifications or annulments as the Legislature may agree to, make so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

57. Power to remove difficulties:

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette as the occasion may require, do anything (not inconsistent with the provisions of this Act) which appears to it be necessary to remove the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the date of commencement of this Act.

58. Protection of action taken in good faith:

No suit, prosecution or other legal proceeding shall lie against Certificate-officer for anything which is done in good faith or intended to be done under the Act or the Rules made thereunder.

SCHEDULE

PUBLIC DEMANDS

1. Any arrear of revenue which remains due in the 10110wing circumstances, namely;

When under the previsions of the Manipur Land Revenue and Land Reforms Act, 1960 (No. 33 of 1960), or, any other law for the time being in force, an estate or tenure, or any share of an estate or tenure, has been sold for the recovery of arrears of revenue due thereupon and after deducting the expenses of such sale, the balance of the sale-proceeds remaining is insufficient to liquidate the arrears of revenue in discharge of which such sale-proceeds may, under the said provisions, be applied.

- 2. Any arrear of revenue which is due from a farmer on account of an estate held by him in farm and is not paid on the latest day of payment fixed under the said Manipur Land Revenue and Land Reforms Act, 1960 (No. 33 of 1960).
- 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 demand or a public demand. or
- (ii) to be recoverable as arrears of a demand or public demand, or
 - (iii) to be recoverable under the Manipur Land Revenue and Land Reforms
 Act. 1960.
- 5. And 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 Deputy Commissioner by a person holding any interest in land, pasturage, forest-rights, fisheries or the like, whether such interest is or is not transferable, when such demand is a condition of the use and enjoyment of such land, pasturage, forest rights, fisheries on other things.
- 8. In the case of property which, under the provisions of any law for the time being in force, is under the charge of, or is managed by, the Court

of Wards or the Revenue authorities on behalf of a private individual—any arrear of rent or 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 Government or to an officer of Government in repayment of a loan in cash or in kind, in respect of which money, the person to whom the loan in cash or in kind was advanced, as agreed by a written instrument that such money shall be recoverable as a public demand.
- 10. Any money payable to a society registered or deemed to have been registered under the Manipur Societies Registration Act, 1989, when such money is financed jointly by the State Government and the Central Government and is granted by such society as subsidy or loan to a person who agrees by a written instrument, registered or unregistered, that such money shall be recoverable as a public demand.
- 11. Any sum due to a land mortgage bank registered under the Manipur Cooperative Societies Act, 1976 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.
- 12. 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.
 - 13. Any money payable to a local authority.
- 14. Any money awarded as costs by the High Court at Guwahati/Imphal Bench in proceedings under article 226 of Constitution of India relating to matters arising outside its ordinary original civil jurisdiction.
- 15. Any sum payable to the Government by a person on account of use or occupation by such person of any house, tenement or room belonging to the Government.
- 16. Any money payable to a Government company wholly owned either by the State Government or by the Central Government or jointly by the State Government and the Central Government.
- 17. Any money fixed as water rate, electricity tariff, motor vehicles taxes, professional tax, sales tax etc. by the Government under any statutory Act or Rule in force in the State.
- is. Any amount due to a bank or a financial institution from any person in respect of any amount advanced or granted under any scheme in the form of financial assistance shall, apart from any other mode of recovery, be recoverable under provisions of this Act.

Provided that no proceeding under this Act shall be proceeded with simultaneously before any other forum for recovering the amount that is the subject matter of the certificate.

Explanation—The dues referred to above shall also apply to any amount advanced or granted by way of any such loan before the date on which this Act somes into force and remaining unpaid on such day.