

EXECUTION-SALES OF LAND, BENGAL ACT 1846

ACT No IV OF 1846

(Rep., Act 12 of 1873)

[7th January, 1846.]

Passed by the Hon'ble the President of the Council of India in Council on the 7th January 1846, with the assent of the Right Hon'ble the Governor General of India.

An Act for amending the Law regarding the Sale of Land in Execution of Decrees in the Territories subject to the President of Fort William in Bengal.

I. It is hereby enacted, that so much of Sections 10 and 11, Regulation I. 1793, Section 7, Regulation XXVII. 1795, Section 37 and 38, Regulation XXV. 1803, and Section 27 and 28, Regulation IX. 1805, as relates to the Adjustment of the Government Jumma and lands exposed to public sale in satisfaction of the decrees of the Courts of Civil Judicature, Regulation XLV. 1793, XX. 1795, and XII. 1796, Section 15 to 26, (both inclusive) Regulation XXVI. 1803, so much of Section 27 and 28 of the same Regulation as relates to the satisfaction of decree, and Clauses Second and Third, Section 4, Regulation VII. 1825, all of the Bengal Code, be repealed.

II. And it is hereby enacted, that all Regulations or parts of Regulations which extend any of the Regulations or parts of Regulations herein before repealed, be also repealed.

III. And it is hereby enacted, that in the Territories subject to the Presidency of Fort William in Bengal, except the North West Provinces, attachments and sales of land, or of any interest in land in satisfaction of the decrees or other process of the Courts of Civil Judicature, shall be made by such Courts or under their directions, and that the Rules now in force for the attachment and sale of such real property as the Courts of Civil Judicature are now authorized to sell in satisfaction of decrees, without application to the Revenue Authorities, shall apply to attachments and sales made under the authority of this Act.

IV. And it is hereby enacted, in addition to the said Rules, that in the said Territories, except as aforesaid whenever a holder of a decree of any Court of Civil Judicature shall apply to such Court for the sale in execution of any Estate paying

Revenue to Government, or any portion of any such Estate, he shall, at the time of making such application, file an authenticated Extract from the Register of the Collector's Office, Specifying the Jumma of such Estate, which shall be inserted in the Notification of Sale.

V. And it is hereby enacted, in addition to the said Rules, that in the said Territories, except as aforesaid, the purchaser at any such sale shall be required to deposit immediately either in Cash, Bank of Bengal Notes, or Post Bills, or Government Securities duly endorsed, fifteen per cent on the amount of his bid, and in default of such deposit such land or interest therein shall forthwith be put up again and sold, and if the purchaser having paid the deposit required shall neglect or refuse to pay the purchase money, within the period which may be stipulated, the deposit shall be forfeited and shall be applied as if it were purchase money, and the land or interest therein, or such portion thereof as may be sufficient to satisfy what remains due, shall be again put up to sale, due notification having been first given.

VI. And it is hereby enacted, that in the North West Provinces of the Territories subject to the Presidency of Fort William in Bengal, attachment and sales of land or of any interest in land in satisfaction of the decrees or other process of the Courts of Civil judicature, shall (except in the case of land which the Courts themselves are now by law authorized to attach and sell) be made by the Collector or any of his subordinate Officers under his directions, upon the requisition of such Courts.

VII. And it is hereby enacted, that in last mentioned Provinces, every such requisition shall specify the number of the suit, the Court which made the decree, the amount to be realized, the names of the parties, distinguishing those whose land or interest it is intended to sell, and the amount for which each is liable, if they are severally liable, and the land or interest which each is alleged in the Schedule of the party applying for execution to be possessed of.

VIII. And it is hereby enacted, that in the last mentioned Provinces the Collector shall issue a Proclamation in the current language of the country of any intended sale of land or any interest therein, thirty days at least before the day appointed for the sale, exclusive of the day of sale, and of the day on which the

Proclamation is issued, and the said Proclamation shall specify the name of the person whose land or whose rights and interest in certain land are to be sold, and Jumma of the Estate constituting the property, or in which the property is situate ; also particulars of the property to be sold, of the time and place of sale, and of the amount due for the recovery of which the sale is ordered, and such Proclamation shall be fixed up in some conspicuous place within the village or town in which the said land is situate, or which is nearest to the said land, and in the Cutcheries of the Local Moonsiff, of the Collector, of the Zillah or City Judge, and of the Court from which the requisition issued.

IX. And it is hereby enacted, that in the last mentioned Provinces the provisions contained in Section V. if this Act shall be applicable to sales of land or any interest in land in execution of decrees of Court or other Judicial process.

X. And it is hereby enacted, that in the Territories subject to the Presidency of Fort William in Bengal, sales of land or of any interest in land in execution of decree of Court or other Judicial process, shall be of the nature of private transfers.

XI. And it is hereby enacted, that in the Territories subject to the Presidency of Fort William in Bengal, the Courts of Sudder Dewanny Adawlut shall, from time to time, frame such Rules as to them shall seem meet, and as shall not be repugnant to anything in this Act contained, for the attachment and sale of property in satisfaction of decrees or other process of the Courts of Civil Judicature, which shall, after they have been approved by the Governor General of India in Council, have the same force as in they had been part of this Act, until revoked by the said Courts of Sudder Dewanny Adawlut with the approbation of the said Governor General of India in Council, or by the said Governor General of India in Council.

XII. And it is hereby enacted, that in the Territories subject to the Presidency of Fort William in Bengal, all application which may have been made by the Courts of Civil Judicature to the Revenue Authorities for the sale of land, or of any interest in land in satisfaction of decrees or other process of such Courts, previously to the passing of this Act, shall be proceeded upon as if this Act had not been passed.

XIII. And it is hereby enacted, that nothing contained in this Act shall effect the process of Her Majesty's Supreme Court of Judicature, or of the Court of Requests at Calcutta, or of any Court in the Settlements in the Straits of Malacca.
