

THE OUDH RENT ACT, 1886

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ACT No. XXII OF 1886.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st October, 1886.)

An Act to consolidate and amend the law relating to Rent in Oudh.

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Oudh Rent Act, 1886.

(2) Save as provided thereby, it shall extend to the territories for the time being comprised in the Province of Oudh ; and

(3) It shall come into force on the first day of January, 1887.

(4) Any power conferred by this Act on the Chief Commissioner to make rules, or to issue orders, may be exercised at any time after the passing of this Act ; but a rule or order so made or issued shall not take effect until the Act comes into force.

Repeal.

2. (1) The Oudh Rent Act, XIX of 1868, is hereby repealed, but all notifications published and rules made under that Act shall, so far as may be, be deemed to have been published and made under this Act.

(2) The

(Chapter I.—Preliminary.—Section 3.)

(2) The following enactments also are hereby repealed, namely :—

(a) section 40 of the Oudh Civil Courts Act, XXXII of 1871;

(b) sections 23 and 24 of the Oudh Laws Act, XVIII of 1876; and

(c) section 1 of Act XIV of 1878.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

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

(1) “Court” means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act:

(2) “suit” means a suit under this Act:

(3) “land” includes the ungathered produce of land, whether spontaneous or not, and whether growing in earth or in water, but shall not include land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto, so long as that land is not let to agricultural tenants:

(4) “revenue” means money payable to the Government on account of land: in sections 34 and 35 it means land-revenue only:

(5) “rent” means the money, or the portion of the produce of land, payable on account of the use or occupation of land, or on account of any right in land, or on account of the use of water for irrigation:

(6) “proprietor” does not include an under-proprietor; and where there are two private rights of property, one superior and the other subordinate, in the same land, “proprietor” means the holder of the superior right only:

(7) “proprietary right” means a proprietor’s right in land:

(8) “under-proprietor”

(Chapter I.—Preliminary.—Section 4.)

(8) "under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent :

(9) "under-proprietary right" means an under-proprietor's right in land :

(10) "tenant" means any person, not being an under-proprietor, who is liable to pay rent; and in the following portions of this Act, namely, sections 13, 14, 15, 17, 18, 29, 53, 54, 55, sub-sections (1) and (2), 56, 59, 60, 61, 62, 108, 126 and 138, but in no others, the expression "tenant" shall be held to include a thikadár or person to whom the collection of rents in a village or portion of a village has been leased by the landlord :

(11) "landlord" means any person to whom an under-proprietor or a tenant is liable to pay rent :

(12) "representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person, and includes the guardian of a minor and the legal curator of a lunatic or idiot :

(13) "prescribed" means prescribed from time to time by the Chief Commissioner by rules under this Act :

(14) "registered" means registered under any Act for the time being in force for the registration of documents :

(15) "signed" includes marked, when the person making the mark is unable to write his name : and

(16) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

Restrictions
on exclusion
of Act by
agreement.

4. (1) Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act.

(2) Nothing in any contract made between a landlord

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Section 5.)

lord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(3) Where land not previously cultivated has been or is hereafter let by a landlord to a tenant, either after being reclaimed by or at the expense of the landlord or for the purpose of being reclaimed by the tenant, nothing in this section shall be construed to affect the conditions of any contract relating to that land until fourteen years have elapsed from the date on which the land was first brought under cultivation.

(4) Where land has remained uncultivated during a period of seven years, it shall for the purposes of the last foregoing sub-section be deemed to have not been previously cultivated.

(5) This section does not apply to tenants having a right of occupancy or to sub-tenants.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS AND TENANTS.

Right of Occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for those lands according to the provisions of this Act, have a right of occupancy under the following rule:—

Every such tenant who, within thirty years next before the thirteenth day of February, 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor

Tenants having a right of occupancy.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 6-8.)

prietor in a village or estate shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August, 1866: provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February, 1856: provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty-second day of July, 1868.

Saving of power to confer right of occupancy.

6. Nothing in the last foregoing section shall be construed to restrict the power of a landlord to confer by registered document on any persons other than those mentioned in that section a right of occupancy in the lands which they hold or cultivate.

Loss of right of occupancy.

7. If a tenant having a right of occupancy is ejected, in accordance with the provisions of section 52, from the land in which he possesses the right, he shall thereupon lose his right of occupancy in that land.

Tenants' Right to Pattas.

Tenant's right to patta.

8. Every tenant is entitled to receive from his landlord a patta or memorandum of the terms of the tenancy, signed by the landlord or his authorized agent, and containing the following particulars, namely:—

(a) the quantity of land and, where the fields comprised in the patta have been numbered in a Government survey, the number of each field;

(b) the

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 9-12.)

- (b) the term for which the tenancy is to run ;
- (c) the amount of rent payable ;
- (d) the instalments in which and the times at which that amount is to be paid ;
- (e) any special conditions not inconsistent with the provisions of this Act ; and
- (f) if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

9. Tenants having a right of occupancy are entitled to receive pattas at rates of rent determined in accordance with the provisions of Chapter IV, Part A, of this Act.

Patta to which tenant having right of occupancy is entitled.

10. Tenants not having a right of occupancy are entitled to pattas for the terms and at the rates prescribed in Chapter IV, Part B, of this Act.

Patta to which tenant not having right of occupancy is entitled.

Landlords' Right to Counterparts.

11. Every landlord who grants a patta is entitled to receive from the tenant a counterpart signed by or on behalf of the tenant.

Landlord's right to counterpart.

Arrears of Revenue or Rent.

12. Any instalment of revenue or rent which is not paid on or before the day when it becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be :

What to be deemed an arrear of revenue or rent.

Provided that, unless the proprietor and under-proprietor have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which the rent is payable

is

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 13-15.)

is situate, and to be payable in the same number of instalments as the revenue; and the amount of each instalment of the rent shall bear the same proportion to the whole of the rent payable for the year as the amount of each instalment of the revenue bears to the whole of the revenue payable for the year.

Receipts.

Receipts for rent.

13. (1) Every receipt for rent shall specify the year or years on account of which the rent has been paid; and any refusal to make that specification shall be held to be a withholding of a receipt.

(2) If a receipt for rent paid by an under-proprietor or tenant is withheld from him without sufficient cause, he may recover compensation from the landlord up to an amount not exceeding that of the rent paid.

Deposit of Revenue or Rent in Court without Suit.

Power to pay into Court amount of revenue or rent due.

14. (1) If a co-sharer, under-proprietor or tenant from whom any revenue or rent is due in respect of the land held or cultivated by him, tenders the full amount of that revenue or rent at the usual place of payment to the person authorized to receive it, and that person does not accept the amount and forthwith give a receipt in full therefor, the co-sharer, under-proprietor or tenant may, without any suit having been instituted against him, deposit the amount in Court to the credit of the person authorized to receive it.

(2) The deposit shall, so far as regards the co-sharer, under-proprietor or tenant, and all persons claiming through or under him, operate as a payment then made to the lambardár or landlord of the amount so deposited.

Procedure on making and withdrawing such payment.

15. (1) The Court shall receive the deposit on the written application of the co-sharer, under-proprietor

or

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 16-17.)

or tenant, or his recognized agent; and on the applicant making a declaration in the form set forth in Schedule A to this Act, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

(2) The declaration shall be verified in the manner prescribed for the verification of plaints by section 52 of the Code of Civil Procedure, and shall be signed by the person making it.

(3) Upon receiving the deposit, the Court shall issue to the person to whose credit it has been paid a notice in the form set forth in Schedule B to this Act.

(4) The notice shall be served by the proper officer without the payment of any fee.

(5) If the person to whose credit the deposit has been paid, or his recognized agent, appears and applies for it, the Court shall cause it to be paid to him.

(6) The application under sub-section (5) may be on plain paper.

16. Where a deposit has been made under the provisions of the two last foregoing sections, a suit shall not be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless the suit is instituted within six months from the date of the service of the notice mentioned in section 15.

Limitation for suits for balance of revenue or rent.

Illegal Enforcement of Payment of Rent.

17. (1) If payment of rent or of any sum in excess of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for the illegal enforcement of the payment, the Court may award to him compensation, not exceeding the sum of two hundred

Compensation to under-proprietor or tenant for illegal enforcement of payment.

rupees,

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 18-19.)

rupees, in addition to any amount for which it makes a decree in respect of the payment itself.

(2) An award of compensation under sub-section (1) shall not bar any prosecution to which the person illegally enforcing the payment may be liable under any law for the time being in force.

Abatement of Rent.

Suit for
abatement of
rent by
under-pro-
prietor or
tenant.

18. Save as provided by section 29, sub-section (4), a suit for an abatement of the rent of a holding shall not be brought by an under-proprietor or tenant except on the ground that the area of the holding has diminished, or on some ground specified in a lease, agreement or decree under which he holds:

Provided that, if the under-proprietor holds a sub-settlement in a revenue-paying estate, an abatement shall not be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

Remission of Rent.

Remission of
rent by order
of Court

19. (1) Notwithstanding anything in the last foregoing section, a Court, when it makes a decree for an arrear of rent, may, with the previous sanction of the Deputy Commissioner, allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been materially diminished by diluvion or otherwise, or if the produce of that land has been diminished by drought, hail or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be paid.

(2) Where a remission of rent under this section causes a material diminution of the assets of the landlord in the village in which the remission is given,
the

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 20-21.)

the revenue-authorities shall take into consideration any claim made by the landlord for a remission of revenue.

(3) A remission shall not be allowed under this section to an under-proprietor holding a sub-settlement, or to a tenant having a right of occupancy, unless a remission of revenue has been allowed on the same ground and by competent authority in the same village.

Relinquishment of Land.

20. (1) A tenant shall continue liable for the rent of the land in his holding unless on or before the fifteenth day of March in any year he gives to the landlord or to the recognized agent of the landlord notice in writing of his desire to relinquish that land, and relinquishes it accordingly.

Relinquish-
ment of land
by tenant.

(2) If the landlord or his recognized agent refuses to receive the notice or to sign and deliver a receipt therefor, the tenant may, before the latest date prescribed for giving the notice, apply on plain paper to the tahsildar or proper officer, and written notice of the desire of the tenant to relinquish the land shall then be served on the landlord at the expense of the tenant.

(3) A tenant cannot without the consent of his landlord relinquish a part only of his holding.

(4) Nothing in this section shall entitle a tenant holding under a registered document under section 69 to relinquish his holding otherwise than in accordance with the terms of that document.

21. (1) If a tenant abandons his holding without informing his landlord and without arranging for the cultivation of the holding, the landlord may at any time after the fifteenth day of May enter on the holding.

Abandon-
ment of
holding.

(2) Before a landlord enters on a holding under sub-section

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 22-23.)

sub-section (1), he shall file a notice in the prescribed form at the office of the tahsildár for service on the tenant stating that he has treated the holding as abandoned and is about to enter on it accordingly.

(3) When a landlord enters on a holding under sub-section (1), the tenant may institute a suit under this Act to recover possession of the holding, and the Court shall, on being satisfied that the tenant did not voluntarily abandon the holding, order recovery of possession on such terms with respect to the time of delivery of possession, the payment of arrears of rent, if any, and, if injury has been caused by the wrongful act, neglect or default of any party to the proceeding, with respect also to the payment of compensation by that party, as to the Court may seem just.

Compensation for Tenants' Improvements.

Tenant's
right to com-
pensation for
improve-
ments.

22. (1) If a tenant, or a person from whom he has inherited, has made any such improvement on his holding as is hereinafter in this Chapter mentioned, neither he nor his representative shall be ejected from the holding unless and until he or his representative, as the case may be, has received compensation for the improvement:

Provided that compensation shall not be payable for any improvement made thirty years or more before the date on which the ejectment is to take effect.

(2) An improvement made by a tenant for the benefit of his holding on land belonging to the person who is entitled to receive the rent of the holding shall for the purposes of this section be deemed to have been made on the holding of the tenant.

Landlor's
consent to
tenant's im-
provement.

23. Except as provided in the next following section, a tenant shall not be entitled to claim compensation for an improvement made subsequently to the passing of this Act without the written consent of the landlord.

24. (1) If

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 24-26.)

24. (1) If a tenant applies for the written consent of his landlord to the making of an improvement on his holding, and the landlord omits or refuses to grant it, the tenant may apply to the Deputy Commissioner for permission to make the improvement.

Reference to Deputy Commissioner when consent is refused.

(2) When an application is made to the Deputy Commissioner under sub-section (1), he shall take into consideration any objections which the landlord may have to urge on either of the following grounds, namely :—

(a) that the improvement is too costly or is unsuitable to the nature of the tenant's holding, or

(b) that the landlord is himself prepared to make the improvement,

and shall then either grant the permission on such conditions as he considers fair and equitable or refuse the application.

25. (1) If either the landlord or the tenant desires the amount expended on an improvement executed with the permission of the Deputy Commissioner under the last foregoing section to be determined and registered, the Deputy Commissioner shall, on application made to him for the purpose, determine the amount of the outlay, and enter it in a register kept in the prescribed form.

Registration of outlay on improvements.

(2) The entry in the register shall be conclusive proof of the amount of the outlay in any subsequent proceedings respecting the cost of the improvement.

26. The word "improvement", as used in this Act, means a work by which the annual letting value of land has been, and at the time of a demand for compensation continues to be, increased, and comprises—

"Improvement" defined.

(a) the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage and for protection

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Sections 27-29.)

tion against floods; the construction of wells; the reclamation of waste land and jungle; and other works of a like nature:

- (b) the renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for the maintenance thereof and increase durably their value.

Principle on which compensation is to be estimated.

27. In estimating the compensation to which a tenant is entitled for an improvement regard shall be had—

- (a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the condition of the improvement and the probable duration of its effects;
- (c) to the labour and capital required for the making of such an improvement;
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the tenant in consideration of the improvement; and
- (e) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.

Modes of making compensation.

28. When a Court has assessed the amount of the compensation due to a tenant, it may, if both landlord and tenant desire that the compensation assessed, instead of being paid wholly in money, shall be made wholly or partly in some other way, proceed to give judgment according to the terms agreed upon between them.

Improvement by the landlord.

29. (1) A landlord may make an improvement on the holding of a tenant not having a right of occupancy with or without the consent of the tenant.

(2) A

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.—Section 30.—Chapter III.—Payment of Rent in kind.—Section 31.)

(2) A landlord intending to make an improvement shall, if any part thereof is to be made on the holding of any such tenant, give notice of his intention to the tenant through the tahsildár.

(3) A landlord making an improvement on the holding of any such tenant shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of the improvement is to impair the productive powers of the holding, the tenant shall, in addition to any compensation which may be awarded to him under sub-section (3), be entitled to such abatement of his rent as to the Court seems just.

(5) A landlord may not make an improvement on the holding of a tenant with a right of occupancy without the consent of the tenant.

Survey and Measurement.

30. A landlord and his agents and surveyors may at all reasonable times enter upon any land comprised in his estate for the purpose of surveying and measuring the land.

Landlord's right to enter and measure lands.

CHAPTER III.

PAYMENT OF RENT IN KIND.

31. Where rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other proceeding of a similar nature requiring the presence of both the tenant and the landlord either personally or by recognized agent, if either party neglects to be present at the proper time, or if a dispute arises between the parties regarding the division, estimate, appraisement or proceeding, either party

Division or appraisement of produce.

(Chapter III.—*Payment of Rent in kind.*—Section 32.—Chapter IV.—*Enhancement and fixing Rates of Rent.*—Section 33.)

party may present an application to the Court, requesting that a proper officer be deputed to make the division, estimate or appraisement or conduct the proceeding.

Procedure in
case of dis-
pute.

32. (1) On receiving the application, the Court shall issue a written notice to the other party to attend at a time and place specified in the notice, and shall depute an officer before whom the division, estimate or appraisement shall be made or the proceeding conducted.

(2) The award of that officer in respect of the division, estimate, appraisement or proceeding shall be final, unless, within one month from the date thereof either party institutes a suit to set it aside.

CHAPTER IV.

ENHANCEMENT AND FIXING RATES OF RENT.

Part A.—Tenants with Right of Occupancy.

Enhancement
of rent of
tenant with
right of
occupancy.

33. (1) A tenant having a right of occupancy in any land shall not, in case of dispute as to the rent to be paid in respect of the land, be liable to an enhancement of the rent except in pursuance of a decree made under this Act on some one of the following grounds, namely :—

1st ground.—That the rate of rent paid by him is below the rate of rent usually paid, by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding that rate.

2nd ground.—That the rate of rent paid by him is more than twelve-and-a-half per cent. below the rate
of

(Chapter IV.—*Enhancement and fixing Rates of Rents.*—Sections 34-36.)

of rent usually paid, by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding that rate, less twelve-and-a-half per cent.

3rd ground.—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the rules contained in this section, as the case may be.

(2) Nothing in sub-section (1) shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty-second day of July, 1868.

34. After a decision has been passed in accordance with the last foregoing section, a suit shall not lie for re-enhancement of the rent until the expiration of five years from the date of the decision, except on the 3rd ground mentioned in that section, or, in the case referred to in the next following section, until, by re-assessment within the term of five years, the revenue of the land has been increased.

Term for re-enhancement after decision fixing rent under section 33.

35. If, on a re-assessment of the revenue, the rent of the tenant cannot be enhanced under section 33 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at the re-assessment upon land of a similar description and with similar advantages held by tenants of the same class in the same village.

Enhancement on re-assessment of revenue.

Part B.—Other Tenants.

36. Every tenant, not being a tenant with a right of occupancy or a sub-tenant, shall be entitled to retain

Tenant in occupation at passing of

(Chapter IV.—*Enhancement and fixing Rates of Rent.*—Sections 37-38.)

Act: the conditions of his statutory tenancy.

retain possession of the holding occupied by him at the time of the passing of this Act, at the rent then payable by him, for a period of seven years from the date of the last change in his rent or of the last alteration in the area of the holding, or, where no such change or alteration has taken place, from the date on which the tenant was admitted to the occupation of the holding.

Tenant admitted after passing of Act: the conditions of his statutory tenancy.

37. Every such tenant who may be admitted to the occupation of a holding after the passing of this Act shall be entitled to retain the same for a period of seven years from the date of his admission at a rent agreed upon with the landlord in accordance with the provisions of this Act; and every such tenant, in the area of whose holding or in the amount of whose rent any change is made by the landlord subsequently to the passing of this Act, shall be deemed to be admitted to the occupation of a holding within the meaning of this section.

Explanation I.—"Holding" means a parcel or parcels of land held by a tenant and forming the subject of a separate engagement. The engagement may be express or implied.

Explanation II.—This section and section 36 have effect subject to the provisions of section 4, sub-sections (3) and (4), relating to land not previously cultivated, and subject also to section 157, excluding certain classes of land from the operation of certain sections of this Act.

Enhancement of rent of tenant not having right of occupancy and not being a sub-tenant.

38. (1) A landlord may enhance the rent of a tenant to whom section 36 or section 37 applies, either by contract in accordance with the provisions of this section or by notice as hereinafter provided.

(2) Subject to the provisions of sections 49 and 50, the enhancement shall not in any case exceed one anna in the rupee, or six-and-a-quarter per cent., on the annual rent payable by the tenant at the time when the contract was made or the notice was issued:

(3) Provided

(Chapter IV.—*Enhancement and fixing Rates of Rent.*—Sections 39-43.)

(3) Provided that, where rent is paid in kind, the proportion of produce paid as rent by a tenant shall not be subject to increase except in accordance with an established custom of the pargana in which the land is situate.

39. If a landlord desires that the rent of a tenant to whom section 36 or section 37 applies be enhanced on the expiration of the term of seven years referred to in section 36 or section 37, as the case may be, or at any time during the currency of that term in the case mentioned in section 50, he may cause a notice to that effect to be served under section 42.

Enhancement by notice.

40. (1) A notice whereby enhancement is claimed on account of the expiration of the period of the tenancy shall not be served before the commencement of the last year of the tenancy.

Time for service of notice of enhancement.

(2) A notice of enhancement on account of an improvement made or acquired by the landlord may be served at any time during the currency of the tenancy.

41. The notice shall be written in Hindí and Urdú, and shall specify the land, the amount of the present rent and the amount of the enhancement, and require the tenant, if he refuses to pay the enhancement, to vacate the land by the fifteenth day of May next following, or to institute a suit in the proper Court to contest the notice of enhancement within thirty days from the date of the service thereof.

Contents of the notice.

42. On the application of the landlord to the tahsildár or other prescribed officer the notice shall be served by the officer on or before the fifteenth day of February at the expense of the landlord.

Service of the notice.

43. The tenant may institute a suit to contest the notice of enhancement, within thirty days from the date of the service thereof, on any of the following grounds, namely:—

Grounds on which tenant may contest his liability to enhancement.

(a) that he has a right of occupancy in the land specified in the notice;

(b) that

(Chapter IV.—*Enhancement and fixing Rates of Rent.*—Sections 44-46.)

- (b) that he holds under a special agreement or decree of Court or lease under the terms of which his rent is not liable to enhancement;
- (c) that the enhancement claimed is in excess of the rate authorized by law;
- (d) that seven years will not have elapsed on the fifteenth day of May next following, since the date of any such change of rent or alteration of area as is under section 36 or section 37 equivalent to an admission to the occupation of a holding, or, where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding;
- (e) that the notice has not been served in the manner required by this Act;
- (f) that, where the enhancement claimed is on account of an improvement, the amount claimed is excessive.

Tenant's
liability for
enhanced
rent.

44. (1) If the tenant does not contest the notice of enhancement and remains in possession of the land after the fifteenth day of May next following the date of the service of the notice, he shall become liable for the enhanced rent.

(2) If the tenant contests the notice, and the validity thereof is maintained by the Court in whole or in part, he shall, if he remains in possession of the land after the fifteenth day of May next following the date of the service of the notice, become liable for the enhanced rent to the extent to which the Court has maintained the validity of the notice.

Commence-
ment of fresh
statutory
period.

45. If the tenant by remaining in possession of the land under the last foregoing section becomes liable for enhanced rent, he shall be entitled to hold the land at that rent for a further period of seven years.

Vacating
tenant's right

46. If the tenant refuses to accept the enhance-
ment

(Chapter IV.—*Enhancement and fixing Rates of Rent.*—Sections 47-48.)

ment claimed or decreed and vacates the holding, he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him on the holding.

to compensa-
tion for im-
provements.

47. (1) Except in the cases mentioned in sections 49 and 50, the rent of a tenant admitted to the occupation of any land the tenancy of which has determined according to the provisions of this Act shall not exceed by more than one anna in the rupee, or six-and-a-quarter per cent., the rent payable by the tenant immediately preceding him.

Rent of ten-
ant succeed-
ing to vacant
holding.

(2) In the case of a tenant admitted to the occupation of a holding of which the rent has been immediately before his admission paid in kind, the rent payable shall, subject to any established custom of the pargana in which the holding is situate, be either the rent payable by the tenant immediately preceding him, or a sum which, subject to the provisions of sections 49 and 50, shall not exceed by more than six-and-a-quarter per cent. the equivalent of the value of the produce annually paid as rent on the average of the three years immediately preceding.

48. (1) The heir of a tenant who dies during the currency of the tenancy of a holding shall be entitled to retain occupation of the holding at the rent payable by the deceased for the unexpired portion of the period for which the deceased tenant might have held without liability to enhancement or ejectment, and to receive compensation under the provisions of this Act for improvements, if any, made on the holding by himself or his predecessor in interest, but shall not be entitled to a renewal of the tenancy.

Rights of the
heir of a
deceased
tenant.

(2) Subject to any rights which he may have under section 22 as a representative of the deceased, a collateral relative who did not at the date of the death of the deceased share in the cultivation of the holding shall not be deemed to be an heir of the deceased within the meaning of this section.

49. The

(Chapter IV.—*Enhancement and fixing Rates of Rent.*—Sections 49-51.)

Rent of tenant succeeding to a holding vacated by the death of the previous tenant.

49. The rent of a tenant admitted to the occupation of any land the tenancy of which has ceased in consequence of the death of a previous tenant, or of the ejectment of a thikadár or mortgagee from land of which he has taken cultivating possession during the period of his thika or mortgage, shall be such amount as may be agreed upon between him and the landlord.

Enhancement of rent for improvements made or acquired by landlord.

50. (1) Nothing in the foregoing sections shall bar the right of a landlord to enhancement of rent on the ground that the productive powers of the land held by the tenant have been increased by an improvement which has been made by, or at the expense of, the landlord, or for which during the currency of the tenancy compensation has been accepted from the landlord by the owner of the improvement or, on the expiration of the tenancy, compensation has been paid in accordance with the determination of a Court under this Act.

(2) Where an enhancement is claimed on the ground of any such improvement, the Court, in determining the claim, shall have regard to—

- (a) the increase in the productive powers of the land caused, or likely to be caused, by the improvement;
- (b) the cost of the improvement; and
- (c) the cost of the cultivation required for the utilising of the improvement.

Power for Local Government to vary the limit of enhancement of rent.

51. Notwithstanding anything in the foregoing sections, the Chief Commissioner may, by notification in the local official Gazette, vary from time to time, within periods of not less than seven years, the limits of the enhancement to which tenants to whom section 36 or section 37 applies are liable in any local area specified in the notification.

CHAPTER V.

(Chapter V.—Ejectment.—Sections 52-55.)

CHAPTER V.

EJECTMENT.

Tenants holding on special terms.

52. (1) A tenant having a right of occupancy in any land, or holding any land under a special agreement or decree of Court, shall not be ejected from that land otherwise than in execution of a decree for ejectment : Ejectment of tenants holding on special terms.

Provided that the decree for ejectment shall not be made, unless, at the date of that decree, a decree against the tenant for an arrear of rent in respect of the land has remained unsatisfied for fifteen days or upwards.

(2) A decree for the ejectment of a tenant holding under a special agreement or decree of Court may be made on such grounds as would justify ejectment under the agreement or decree.

Other Tenants.

53. A tenant not having a right of occupancy, and not holding under a special agreement or decree of Court, may be ejected by notice, application or suit under the following sections of this Chapter. Ejectment of other tenants.

54. If a landlord desires to eject any such tenant on the expiration of his tenancy, he may cause a notice of ejectment to be served on the tenant under the next following section. Ejectment by notice.

55. (1) The notice shall be written in Hindí and in Urdú; it shall be signed by the landlord or by an agent authorized by him in that behalf; it shall specify the land from which the tenant is to be ejected; it shall, if a court-fee is payable in respect thereof under this section, contain a certificate by the patwári as to the annual rent payable for the holding to which the notice relates; and it shall inform the tenant that he must either (a), if he means to dispute the ejectment, institute a suit for that purpose within Contents, service and cost of notice.

thirty

(Chapter V.—Ejectment.—Section 56.)

thirty days from the date of the service of the notice, or (b) vacate the land on or before the fifteenth day of May next following.

(2) On the application of the landlord to the tahsildár or other prescribed officer, the notice shall, if the proper court-fee (where a court-fee is payable under this section) has been paid in respect thereof, be served on the tenant by the officer on or before the fifteenth day of November at the expense of the landlord.

(3) If the tenant on whom the notice is to be served is a tenant to whom section 36 or section 37 applies, there shall, except as provided by this sub-section and sub-section (4) and by section 69, be payable in respect of the notice a court-fee equal in value to half the annual rent payable for the holding of the tenant, or, in the case of a tenant paying rent in kind, a court-fee equal to half the value of the produce annually paid as rent on the average of the three years immediately preceding :

Provided that the court-fee shall not in any case exceed twenty-five rupees.

(4) A court-fee shall not be payable under sub-section (3) in respect of a notice on a person to whom section 48 applies.

(5) Stamps representing the court-fee shall be affixed on the notice before the notice and the application for the service thereof are presented to the tahsildár or other prescribed officer.

(6) The court-fee paid by a landlord under this section shall not in any circumstances be adjudged to be payable as costs or otherwise by the tenant.

Grounds on which tenant may contest liability to ejectment.

56. (1) A tenant on whom a notice has been served under the last foregoing section may institute a suit to contest his liability to be ejected from the land specified therein on any of the following grounds, namely :—

(a) that he has a right of occupancy in the land ;

(b) that

(Chapter V.—Ejectment.—Sections 57-59.)

- (b) that he holds under a special agreement or decree of Court or unexpired lease under the terms of which he is not liable to be ejected from the land ;
- (c) if he is a tenant to whom section 55, subsection (3), applies, that the notice was insufficiently stamped ;
- (d) if he is a tenant to whom section 36 or section 37 applies, that seven years will not have elapsed on the fifteenth day of May next following, since the date of any such change of rent or alteration of area as is under section 36 or section 37, as the case may be, equivalent to an admission to the occupation of a holding, or, where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding ;
- (e) if he is a tenant to whom section 53 applies, that notice of ejectment has not been served upon him in the manner required by this Act.

(2) A thikadār shall not be entitled to contest a notice of ejectment on any ground other than that he holds a lease under the terms of which he is not liable to ejectment.

57. If the tenant has any claim for compensation for improvements on the holding, he shall file with his plaint a statement of the claim and of the grounds on which it is based.

Compensation for improvements, if any, to be claimed in suit contesting liability to ejectment. Determination of the claim.

58. If the Court dismisses the suit in whole or in part, it shall determine the amount of the compensation, if any, due for improvements, and shall declare ejectment from the whole or part of the land, as the case may be, to be conditional on payment of that amount into Court.

59. If the tenant on whom notice of ejectment

Tenancy to cease if

has

(Chapter V.—Ejectment.—Sections 60-61.)

notice is not
contested.

has been served fails, within thirty days from the date of the service, to institute a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall cease on the fifteenth day of May next following, unless, after the service, the landlord has authorized him in writing to continue to occupy the land.

When assist-
ance to
eject may be
given by
Court.

60. (1) If the landlord requires assistance to eject a tenant on whom he alleges a notice to have been served under section 55, he may apply for that assistance to the Court which would have had jurisdiction with respect to a suit by the tenant to contest his liability to be ejected under the notice, and that Court shall order the ejectment of the tenant if it is satisfied—

- (a) that a notice of ejectment was duly served on the tenant;
- (b) that the tenant has not brought a suit to contest the notice, or that, if a suit for that purpose has been brought, it has been determined adversely to the tenant;
- (c) that the tenant has not been authorized by the landlord in writing to continue to occupy the land.

(2) Nothing done by the Court under sub-section (1) shall affect the right of the tenant to institute a suit against his landlord on account of illegal ejectment and to recover compensation therefor.

Ejectment by
application.

61. (1) If a landlord desires to eject a tenant to whom section 53 applies and against whom a decree for an arrear of rent has been passed and remains unsatisfied, he may, after the first day of April of the year in which that arrear accrued, apply to the Deputy Commissioner to eject the tenant.

(2) The Deputy Commissioner shall, on receiving the application, cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay that amount
into

(Chapter V.—Ejectment.—Sections 62-65.)

into Court within fifteen days from the receipt of the notice he will be ejected from his holding.

(3) If the amount is not so paid, the Deputy Commissioner shall, unless good cause is shown to the contrary, eject the tenant.

62. (1) A tenant to whom section 53 applies shall be liable to ejectment by suit during the currency of his tenancy on any of the following grounds, namely:—

Ejectment by suit.

- (a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy;
- (b) that at the time of the institution of the suit the entire holding has been sub-let;
- (c) where the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of the holding;
- (d) where the tenant holds, under an unexpired lease, land to which section 4, sub-sections (3) and (4), applies, then on any ground which would justify ejectment under the lease.

(2) The tenant shall continue liable for the rent of the land until the decree is executed.

General.

63. Except in pursuance of an order under section 21, sub-section (3), a tenant shall not in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupation, except between the first day of April and the thirtieth day of June in any year after the passing of this Act.

Time of ejectment of tenant.

64. A thikadár liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

Time of ejectment of thikadár.

65. In any suit for ejectment the defendant may file any claim for compensation for improvements which

Preferment by tenants of claims for

(Chapter V.—Ejectment.—Section 66.—Chapter VI.—
Supplemental Provisions respecting Tenancies.—
Section 67.)

compensation
for improve-
ments in
suits for
ejectment.

which he may have against the plaintiff, and, if the Court finds the grounds on which the suit is brought to be valid, it shall determine the amount of compensation, if any, due from the plaintiff to the defendant, and shall pass a decree of ejectment conditional on the payment into Court of that amount.

Compensa-
tion to eject-
ed tenant for
growing
crops.

66. A tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to the tenant and being on the land at the time of his ejectment:

Provided that, if the land has been sown or planted by the tenant after service on him of a notice under section 55, he shall not be so entitled, unless, after that service, the landlord has authorized him in writing to continue to occupy the land.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS RESPECTING TENANCIES.

Sir Lands.

Sir lands.

67. (1) The rights conferred upon tenants by sections 24, 36, 37, 38, 39, 45, 46, 47 and 48 shall not accrue to cultivators of any of the following lands, namely:—

(a) land which for the seven years immediately preceding the passing of this Act has been continuously dealt with as sir in the distribution of proprietary or under-proprietary profits and charges;

(b) land which for the seven years immediately preceding the passing of this Act has been continuously cultivated by the proprietor or under-proprietor himself or by his servants or by hired labour.

(2) Land

(Chapter VI.—Supplemental Provisions respecting Tenancies.—Sections 68-69.)

(2) Land which was recorded as sîr at settlement and has been continuously so recorded since shall, until the contrary is proved, be presumed to be land of the class mentioned in clause (a) of sub-section (1).

Thîkadârs, Mortgagees and Sub-tenants.

68. (1) A person holding land as a thîkadâr, mortgagee or sub-tenant shall not, while so holding, acquire any of the rights enumerated in the last foregoing section in any of the land comprised in his thîka, mortgage or sub-tenancy.

Thîkadârs,
mortgagees
and sub-
tenants.

(2) A person having those rights in land does not lose them by subsequently taking a thîka or mortgage in which his holding is comprised.

Long Leases.

69. (1) When a holding has been let by registered document for a term of eight years or upwards at a rent determined thereby for the whole of the term in accordance with the provisions of this Act to a tenant to whom section 36 or section 37 applies, the landlord shall, on the expiration of the term, be entitled to enhance the rent of the holding in accordance with the provisions of Chapter IV, Part B, and not otherwise, and shall also be entitled to eject the tenant by notice under section 55 without payment of a court-fee under that section :

Incidents of
leases for
eight years
or upwards.

Provided that any change in the rent or alteration in the area of the holding by the landlord during the term shall be a bar to enhancement and ejectment for seven years from the date of that change or alteration.

(2) In addition to the grounds mentioned in clauses (a), (b) and (c) of section 62, sub-section (1), a tenant to whom this section applies shall be liable to ejectment by suit during the currency of his tenancy on any ground which would justify ejectment under the registered document under which he holds.

Miscellaneous.

(Chapter VI.—Supplemental Provisions respecting Tenancies.—Sections 70-71.—Chapter VII.—Distress for Arrears of Rent.—Sections 72-73.)

Miscellaneous.

Evidence respecting change of rent or alteration of area of holding.

70. Where a tenant has received a patta, a statement that since the date of the patta his rent has been changed, or area of his holding altered, by the landlord, shall not be admissible in evidence unless the change or alteration is recorded in an entry on the patta signed by or on behalf of the landlord, and in an entry on the counterpart signed by or on behalf of the tenant, or in a new patta and counterpart.

Construction of certain expressions.

71. The expression "special agreement" or "decree of Court", where it is used in this Act to signify the tenure on which land is held by a tenant, is to be construed as referring to an agreement or decree made or passed before the passing of this Act.

CHAPTER VII.

DISTRESS FOR ARREARS OF RENT.

Recovery of arrears of rent by distress.

72. When an arrear of rent is due from any tenant, the landlord may, subject to the provisions of this Chapter, distrain the produce of the land in respect of which the arrear is due :

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which the rent is payable shall not be liable to distress so long as the security is in force.

Distress not permissible in certain cases.

73. Distress shall not be made for the recovery of—

(a) any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay that excess or unless he has been declared by decree to be liable therefor, or

(b) any

(Chapter VII.—Distress for Arrears of Rent.—Sections 74-76.)

(b) any arrear which has been due for a longer period than one year.

74. The power of distress vested by section 72 in landlords may be exercised by managers under the Court of Wards, managing agents and tahsildárs of estates held under direct management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney to distrain :

Power of distress by whom exerciseable.

Provided that, if any such agent, purporting to act in the exercise of that power, commits an act which, under the provisions of this Chapter, is illegal, the person employing him shall be liable, as well as the agent, to be sued for compensation for any injury caused by the act.

75. Any person empowered to distrain property under section 72 or section 74 may employ a servant or other person to make the distress, but in every such case he shall give to the servant or person a written authority in that behalf, and the distress shall be made in the name and on the responsibility of the person giving the authority.

Distress by servants.

76. (1) Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with powers of distress under this Act.

Crops liable to distress.

(2) But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

77. (1) Before

(Chapter VII.—Distress for Arrears of Rent.—Sections 77-79.)

Demand of
arrear before
or at time of
distress.

77. (1) Before or at the time when any distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall, if practicable, be served personally on the defaulter, but, if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

Value of dis-
tress and
service of list
of distrained
property on
owner.

78. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and, when he has made the distress, he shall prepare a list or description of the property distrained and deliver a copy thereof to the owner, or, if the owner is absent, affix it at his usual place of residence.

Reaping and
storing
standing
crops dis-
trained.

79. (1) Standing crops and other ungathered products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

(2) If the tenant neglects to do so, the distrainer may cause the crops or products to be reaped or gathered, and in that case shall store them either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

(3) In either case the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

(4) If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

80. If

(Chapter VII.—Distress for Arrears of Rent.—Sections 80-84.)

80. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it thinks necessary, depute an officer to assist the distrainer in making the distress.

Application by distrainer in case of resistance.

81. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the payment and give a receipt therefor and forthwith withdraw the distress.

Withdrawal of distress on tender of arrear and costs.

82. Within five days from the time of storing any distrained crops or products, or, if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for the sale thereof to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

Application for sale.

83. (1) The application shall be in writing; it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due and the place in which the distrained property is deposited.

Form of application.

(2) Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as provided in the next following section.

84. (1) Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C to this Act, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

Procedure on receipt of application.

(2) The officer shall at the same time send to the Court, for the purpose of being put up at the court-house,

(Chapter VII.—Distress for Arrears of Rent.—Sections 85-87.)

house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation, and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

(3) The proclamation shall contain a description of the property, and shall specify the demand for which it is to be sold, and the place where the sale is to be held.

Suspension
of sale on
institution of
suit.

85. (1) If a suit is instituted in pursuance of the notice mentioned in the last foregoing section, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

(2) On the certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale:

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

Suit to con-
test distrain-
er's demand.

86. (1) Any person whose property has been distrained as aforesaid may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 84, sub-section (1).

(2) When any such suit is instituted, the Court shall proceed in the manner directed in section 85.

(3) If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the case.

Withdrawal
of distress on
execution of
bond.

87. (1) The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount

(Chapter VII.—Distress for Arrears of Rent.—Sections 88-90.)

amount not less than double the value of the property distrained, binding himself to pay whatever sum may be adjudged to be due from him, with costs of suit.

(2) When a bond has been executed under subsection (1), the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the execution of the bond.

(3) Upon the certificate being presented to the distrainer by the owner of the property, or upon the notice being served on the distrainer by order of the Court, as the case may be, the property shall be released from distress.

88. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless that demand with such costs of the distress as are allowed by him, is discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary. Sale.

89. (1) The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár or other place of public resort, if the proper officer thinks that it is likely to sell there to better advantage. Place and manner of sale.

(2) The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable, and if the demand, with the costs of distress and sale, is satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

90. If, on the property being put up for sale, a price which the officer holding the sale thinks fair is not offered, and if the owner of the property or his Postponement of sale.
recognized

(Chapter VII.—Distress for Arrears of Rent.—Sections 91-94.)

recognized agent applies to have the sale postponed until the next day or (if a market is held at the place of sale) until the next market-day, the sale shall be postponed until that day, and shall be then completed at whatever price may be offered.

Payment of
purchase-
money.

91. (1) The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit, and in default of payment the property shall be put up again and re-sold.

(2) When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

Proceeds of
sale.

92. (1) The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee on account of the expenses attending the sale.

(2) He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 84 to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

(3) The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

Officers hold-
ing sales not
to purchase.

93. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, those officers, are forbidden to purchase, either directly or indirectly, property sold by those officers.

Illegal acts
of distrainer
to be report-
ed.

94. (1) The officer mentioned in section 82 shall bring to the notice of the Court any illegal act which may come to his knowledge as having been committed by any person in making a distress under this Act.

(2) If in any case, on proceeding to hold a sale under

(Chapter VII.—Distress for Arrears of Rent.—Sections 95-96.)

under this Act, that officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 84, or make such other order as it thinks proper.

95. (1) When that officer has gone to any place for the purpose of holding a sale, and a sale does not take place either for the reason stated in section 94 or because the distrainer's demand has been previously satisfied, a charge of one anna for every rupee of the value of the distrained property, as estimated by the officer, shall be leviable by him on account of the expenses of the intended sale, unless the distrainer's demand has been satisfied before the day fixed for the sale and notice of its having been satisfied has been given by him to the officer.

Recovery of expenses where sale does not take place.

(2) If the distrainer's demand is not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion of the property as may be necessary.

(3) In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property.

(4) The charge leviable under this section shall not exceed ten rupees in any case.

96. (1) When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion thereof is adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

Second proclamation of sale when arrears are adjudged to be due.

(2) On the application of the distrainer (which shall be made within five days from the receipt of the order by the officer), the officer shall publish a second proclamation

(Chapter VII.—Distress for Arrears of Rent.—Sections 97-99.)

proclamation in the manner prescribed in section 84, fixing another day for the sale of the distrained property, not being less than five or more than ten days from the date of the proclamation, and, unless the amount adjudged to be due with costs of distress is paid before that day, shall proceed to sell the property in the manner hereinbefore provided.

Distrainer to prove the arrear in suit to contest his demand.

97. (1) In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount of the arrear.

(2) If the demand or any part thereof is found to be due, the Court shall make in favour of the distrainer a decree for the amount so found.

(3) That amount may be recovered, if the distrained property has not been released on security, by sale of the distrained property as provided in section 96, and, if any balance remains due after the sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property has been released on security, by execution of the decree against the person and property of the defaulter, and if his surety has been made a party to the suit, against the person and property of the surety.

Compensation for vexatious distress.

98. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

Suit by third party claiming property distrained.

99. If any person claims, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and that other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement

(Chapter VII.—Distress for Arrears of Rent.—Sections 100-102.)

ponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

100. (1) When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

Rules applicable to suit by third party.

(2) If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property, or the recovery of its value, as the case may be.

(3) If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

101. No claim to any produce liable to distress under this Act and found at the time of the distress in the possession of a defaulting tenant, whether the claim be in respect of a previous sale, mortgage or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against the prior claim of the landlord.

Landlord's prior claim to distrain-able produce in possession of defaulting tenant.

102. When property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for that arrear is claimed by or on behalf of any person other than the distrainer, on the ground of that other person being actually and in good faith in the receipt and enjoyment of the rent of the land, that other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of the inquiry:

Stranger claiming to be landlord and to have right of distress to be made a party.

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of land to establish that title in a Court of competent jurisdiction,

(Chapter VII.—Distress for Arrears of Rent.—Sections 103-105.)

jurisdiction, by suit instituted within one year from the date of the decision.

Suit for
illegal
distress.

103. Any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by section 84 or section 99, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress and sale.

Suit for
illegal act of
distrainer.

104. In any of the following cases, namely :—

- (a) if any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells, otherwise than in accordance with the provisions of this Act, any property for the recovery of an arrear of rent alleged to be due, or
- (b) if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or
- (c) if the distress is not immediately withdrawn when any provision of this Act requires its withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

Suit for
distress or
sale falsely
purporting to
be under the
Act.

105. (1) If any person not empowered by this Act to distrain or sell, or not duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of the property may institute a suit to recover compensation from the person so distraining or selling for any injury

(Chapter VII.—Distress for Arrears of Rent.—Sections 106-107.—Chapter VIII.—Jurisdiction of the Courts.—Section 108.)

injury which the plaintiff has sustained from the distress or sale.

(2) The institution of a suit under sub-section (1) shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

106. (1) If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of the resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

Procedure in case of resistance to distress.

(2) If the case cannot be at once heard and determined, the Court may, if it thinks fit, require the person arrested to give security for his appearance whenever he may be required to appear, and, in default of the security being given, may commit him to the civil jail until the case is tried.

107. If the resistance to the distress or the removal of the distrained property is proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made :

Punishment of offender.

Provided that the offender shall not be imprisoned under this section for a longer term than six months.

CHAPTER VIII.

JURISDICTION OF THE COURTS.

Suits cognizable.

108. Courts other than Courts of Revenue shall not take cognizance of the following descriptions of suits,

Suits cognizable under the Act.

(Chapter VIII.—Jurisdiction of the Courts.—Section 108.)

suits, and those suits shall be heard and determined in Courts of Revenue in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord—

- (1) for the delivery by a tenant of the counterpart of a patta;
- (2) for arrears of rent, or, where rent is payable in kind, for the money-equivalent of rent;
- (3) for the enhancement of the rent of a tenant;
- (4) for the ejectment of a tenant;
- (5) against patwáris or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of those patwáris or agents for money received or accounts kept by the patwáris or agents in the course of their employment as aforesaid, or for papers in their possession, or for the rendering and settlement of accounts;

B.—Suits by an Under-proprietor or a Tenant—

- (6) for establishing a right of occupancy;
- (7) for the delivery by a landlord of a patta;
- (8) for contesting a notice of enhancement or ejectment;
- (9) for compensation—
 - (a) on account of illegal enforcement of payment of rent, or of any sum in excess of rent due, or
 - (b) on account of the withholding of a receipt for a payment of rent, or
 - (c) on account of illegal ejectment, or
 - (d) on account of loss caused by the making of an improvement under section 29, subsection (3), or
 - (e) on

(Chapter VIII.—*Jurisdiction of the Courts.*—Section 108.)

- (e) on account of the value of standing crops under section 66;
- (10) for the recovery of the occupancy of any land which has been treated by a landlord as abandoned or from which an under-proprietor or tenant has been illegally ejected by the landlord;
- (11) for contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of that power, or for compensation for illegal distraint;
- (12) for abatement of rent in accordance with the provisions of section 18 or section 29, sub-section (4);
- (13) for the recovery of compensation for improvements in accordance with the provisions of section 22;

C.—Suits regarding the Division or Appraisement of Produce—

- (14) to set aside an award in respect of a division, estimate, appraisement or proceeding under section 32;

D.—Suits by and against Lambardárs, Co-sharers and Muáfidárs—

- (15) by a sharer against a lambardár or co-sharer for a share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of those profits;
- (16) by a lambardár, or by a pattídár who is entitled to collect the rents of the pattí, for arrears of revenue or rent payable through him by the co-sharers whom he represents, or by a lambardár for village-expenses and other dues for which the co-sharers may be responsible

(Chapter VIII.—Jurisdiction of the Courts.—Sections 109-112.)

responsible to him or against a joint lambardár for compensation for revenue or rent paid by the lambardár on account of the joint lambardár ;

- (17) by co-sharers against lambardárs, or by proprietors or lessees against muáfídárs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the withholding of a receipt for a payment of revenue or rent ;
- (18) by muáfídárs or assignees of revenue for arrears of revenue.

Grades of Courts.

Grades of Courts for the purposes of the Act.

109. For the purposes of this Act, there shall be five grades of Courts of Revenue, namely :—

- (1) the Assistant Collector of the second class ;
- (2) the Assistant Collector of the first class ;
- (3) the Collector ;
- (4) the Commissioner ;
- (5) the Judicial Commissioner.

Power to invest officers with powers of Assistant Collector.

110. (1) The Chief Commissioner may from time to time confer upon any officer the powers of an Assistant Collector of the first or of the second class under this Act, and may at any time withdraw those powers.

(2) In conferring powers under this section the Chief Commissioner may empower persons specially by name or classes of officials generally by their official titles.

Deputy Commissioner to have Collector's powers. Investment of Settlement-officers with powers of Collector or Assistant Collector.

111. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

112. The Chief Commissioner may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector or Assistant Collector under this Act.

113. An

(Chapter VIII.—*Jurisdiction of the Courts.*—*Sections 113-117.*)

113. An Assistant Collector of the second class may try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (12), (15), (16), (17) and (18) of section 108, of which the value does not exceed one hundred rupees.

Jurisdiction
of Assistant
Collector of
the 2nd class.

114. An Assistant Collector of the first class may try and determine suits of every description of which the value does not exceed five thousand rupees.

Jurisdiction
of Assistant
Collector of
the 1st class.

XIV of 1882. 115. (1) The Collector may try and determine suits of every description without limit as regards the value, (and hear appeals from decrees of Assistant Collectors of the second class, and, except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from orders of Assistant Collectors of the first and of the second class.)

Jurisdiction
of Collector.

(2) Whenever the state of the public business so requires, the Chief Commissioner may invest any Assistant Collector of the first class with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from decisions of that Assistant Collector, and with the powers of a Deputy Commissioner under sections 24, 25 and 61, and may invest any Collector with all or any of the powers of a Commissioner under this Act.

XIV of 1882. 116. The Commissioner may, subject to the provisions of section 119, hear and determine appeals from original decrees of Collectors and of Assistant Collectors of the first class, and, except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from original orders of Collectors.

Jurisdiction
of Commis-
sioner.

XIV of 1882. 117. The Judicial Commissioner may, subject to the provisions of section 119, hear and determine appeals from original decrees of Commissioners, and, except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from original orders of Commissioners, and, subject also to the provisions of that Code as so applied, appeals from appellate

Jurisdiction
of Judicial
Commission-
er.

(Chapter VIII.—Jurisdiction of the Courts.—Sections 118-120.)

appellate decrees and orders of Collectors and of Commissioners.

Appeals.

Limitation
for appeals.

118. (1) Save as provided by sub-section (2) of this section, an appeal shall not lie—

- (a) to the Collector—after the expiration of thirty days from the date of the decree or order complained of ;
- (b) to the Commissioner—after the expiration of sixty days from that date ; or
- (c) to the Judicial Commissioner—after the expiration of ninety days from that date.

(2) In computing these periods of thirty, sixty and ninety days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

XV of 1877

Restrictions
on appeals.

119. The decree or order of a Commissioner or of a Collector in a suit of value not exceeding one hundred rupees and of a description mentioned in clause (2), (5), (9), (11), (14), (15), (16), (17) or (18) of section 108, or in an appeal from a decree or order in any such suit, shall be final, unless a question of right to enhance or otherwise vary the rent of a tenant, or a question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the decree or order of the Commissioner or of the Collector, in which case the decree or order last-mentioned shall be open to appeal in the manner provided in this Act.

Appeal from
orders of De-
puty Com-
missioners
acting as
such.

120. An order of a Deputy Commissioner sanctioning a remission of rent under section 19, or granting or refusing an application under section 24, or determining the amount of the outlay on an improvement under section 25, or directing or refusing to direct the ejectment of a tenant under section 61, shall be subject to appeal to the Commissioner, whose order on the appeal shall be final.

Distribution

(Chapter VIII.—Jurisdiction of the Courts.—Sections 121-124.)

Distribution of Business.

XIV of 1882. 121. Notwithstanding anything in the Code of Civil Procedure, the Deputy Commissioner may, by order in writing, direct that any business cognizable by him and the Courts subordinate to him shall be distributed among those Courts in such manner as he thinks fit:

Power of Deputy Commissioner to distribute business.

Provided that a direction given under this section shall not empower any Court to exercise any power or deal with any business beyond the limits of its proper jurisdiction.

Transfer of Suits and other Proceedings.

122. The Commissioner or Deputy Commissioner may withdraw any suit or other proceeding instituted in any Court subordinate to him, and try it himself, or refer it for trial to any other such Court competent to try it.

Transfer of suits and other proceedings by Commissioners and Deputy Commissioners.

123. The Judicial Commissioner may order that any suit or other proceeding pending in any Court subordinate to him shall be transferred to any other such Court competent to dispose of it.

Transfer of suits and other proceedings by Judicial Commissioner.

Miscellaneous.

124. In the performance of their duties under this Act, Collectors shall be subordinate to, and subject to the direction and control of, Commissioners and the Chief Commissioner, and Assistant Collectors shall be subordinate to, and subject to the direction and control of, the Deputy Commissioners to whose districts they are respectively appointed:

General subordination of Courts.

Provided that nothing in this section shall empower the Chief Commissioner or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

125. Suits

(Chapter VIII.—Jurisdiction of the Courts.—Sections 125-128.—Chapter IX.—Limitation of Suits.—Section 129.)

Suits by or against managing agents or tahsildárs of estates held under direct management. Sharer to exercise certain powers only through manager or lambardár.

125. Suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or tahsildárs of estates held under direct management, whether those estates are the property of Government or not.

126. (1) A sharer in a joint estate or under-proprietary or other tenure, in which a division of land has not been made among the sharers, shall not exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

(2) In pattidári estates or tenures those powers shall be exercised only through a lambardár, or through the pattidár who is entitled to collect the rents of the pattí.

(3) Nothing in this section shall be construed to affect any local custom or special contract.

Rent payable for land occupied without consent of landlord.

127. Any person in possession of land occupied without consent of the landlord shall be liable for the rent of that land at the rate payable in the previous year, or, if rent was not payable in the previous year, at such rate as the Court may determine to be fair and equitable, and he shall not in respect of that land have any of the statutory privileges conferred by this Act.

Place of sitting of Courts.

128. A Court may sit at any place within the local limits of its jurisdiction, or, in the case of an Assistant Collector, at any place within the limits of the district to which he is appointed.

CHAPTER IX.

LIMITATION OF SUITS.

General limitation

129. Subject to the provisions as to legal disability contained

(Chapter IX.—Limitation of Suits.—Sections
130-134.—Chapter X.—Procedure.—Section 135.)

contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall, except as otherwise provided in this Act, be instituted within one year from the date of the accrual of the cause of action.

130. A suit for the delivery of a patta or the counterpart of a patta may be instituted at any time during the tenancy.

Suits for delivery of pattas or counterparts.

131. A suit by a tenant for the recovery of a holding which has been treated by a landlord as abandoned under section 21 shall be instituted within three months from the date on which the landlord entered upon the holding.

Suits for recovery of holdings treated as abandoned.

132. A suit for the recovery of an arrear of revenue or rent, or, where rent is payable in kind, for the money-equivalent of rent, or of a share of profits, shall, except in the case mentioned in section 16, be instituted within three years from the last day of the month of Jeth of the Fasli year in which the arrear fell due.

Suits for arrears of revenue or rent or share of profits.

133. A suit for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be instituted at any time during the continuance of the agency or within one year after its determination.

Suits against agents for money, or delivery of accounts or papers.

134. A suit regarding distress under section 103, 104 or 105, ~~or to set aside an award in respect of a division, estimate, appraisement or proceeding under section 32,~~ shall be instituted within three months from the date of the accrual of the cause of action.

Suits regarding distress and division or appraisement of produce.

CHAPTER X.

PROCEDURE.

XIV of 1882.

135. The provisions of the Code of Civil Procedure as in force in Oudh shall, so far as they are not inconsistent

Application of the Code of Civil Pro-

(Chapter X.—Procedure.—Sections 136-137.)

cedure to
proceedings
under this
Act.

Mode of
service of
notices.

inconsistent with the provisions of this Act, apply to all suits and other proceedings under this Act.

136. Every notice under this Act shall, if practicable, be served on the person to whom it is addressed or on an agent authorized by him to accept service on his behalf; but if that person or an agent so authorized cannot be found, service may be made by posting the notice at the usual place of residence of the person to whom the notice is addressed, or, if that person does not reside in the district wherein the land is situate, at the village-chaupal or other conspicuous place in the village wherein the land is situate.

Contents of
plaints.

137. In addition to the particulars required by section 50 of the Code of Civil Procedure to be specified in the plaint, the plaint shall contain the following particulars, namely:—

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- (a) the name of the village or estate, and of the pargana in which the land to which the suit relates is situate;
- (b) if the suit is for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice of ejectment, or for the recovery of the occupancy or possession of any land, then the extent, situation and designation of the land to which the suit relates and, where fields have been numbered in a Government survey, the number (if it is possible to give it) of each field;
- (c) if the suit is for recovery of an arrear of rent or revenue, then the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear and the time in respect of which it is alleged to be due;

(d) if

(Chapter X.—Procedure.—Sections 138-142.)

(d) if the suit is for the delivery of a patta or the counterpart of a patta, then all the particulars mentioned in section 8.

138. When in any suit between a landlord and an under-proprietor or tenant the right to receive the rent of land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed the rent up to the time of the commencement of the suit, that third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be inquired into, and the suit shall be decided according to the result of the inquiry:

Third person claiming rent to be made a party.

Provided always that the decision of the Court shall not affect the right of any party having a legal right to the rent of the land to establish his title thereto in a Court of competent jurisdiction.

139. In suits under clauses (1), (2), (7), (10) and (11) of section 108, the summons to the defendant shall be for the final disposal of the suit.

Summons to defendant to be for final disposal in certain suits. Set-off in suits for arrears of rent.

140. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

141. When an arrear of rent remains due from any tenant, he shall be liable to pay interest on the arrear at the rate of one per cent. per mensem.

Interest on arrears of rent.

142. (1) In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of the making of the deposit.

Payment of money into Court by defendant.

(2) Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

(3) From the date of the making of a deposit under

(Chapter X.—Procedure.—Sections 143-147.)

under this section, interest shall not be allowed to the plaintiff on the sum deposited, whether that sum be in full of the plaintiff's claim or fall short thereof.

Proceeding for balance where defendant pays less than amount claimed.

Making of local investigations by Court.

143. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in the last foregoing section shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

144. (1) A Court may, if it thinks fit, itself make a local investigation instead of issuing a commission under section 392 of the Code of Civil Procedure.

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(2) When the Court itself makes a local investigation, the provisions of section 393 of that Code with respect to the recording of evidence shall apply to the Court, and any observations which the Court sees fit to record on its proceedings shall be received as evidence in the suit.

Decrees.

Time for the making of applications for execution.

145. A process of execution shall not be issued on a decree under this Act when the application for the issue of the process is made after the lapse of three years from the date of the decree, unless the decree is for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law for the time being in force as to the period allowed for the execution of decrees of Civil Courts.

Immediate execution of decree.

146. When a decree for money is made in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 256 of the Code of Civil Procedure.

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Decree for enhancement to state date of commencement of enhancement.

147. When a decree in favour of the plaintiff is made in a suit for an enhancement of rent, the Court shall declare the date from which the enhancement shall take effect.

148. (1) If

(Chapter X.—Procedure.—Sections 148-153.)

148. (1) If the decree is for the delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made or by the attachment of his property, or by both imprisonment and attachment.

Enforcement of decree for delivery of papers or accounts.

(2) The imprisonment and attachment may be continued until the party complies with the terms of the decree :

Provided that he shall not be imprisoned under this section for a longer period than six months.

149. A decree for the delivery of a patta or of the counterpart of a patta shall specify all the particulars mentioned in section 8, and such other particulars in accordance with the provisions of this Act as the Court deems fit.

Decrees for patta or counterpart to specify certain particulars.

150. If the decree is for the delivery of a patta or the counterpart of a patta, and the party ordered to deliver the patta or counterpart neglects or refuses to do so, the Court may grant a patta or counterpart in conformity with the terms of the decree, and that patta or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

Grant of patta or counterpart in case of defendant's refusal.

151. If the decree is for money, a process in execution shall not issue against the immoveable property of the judgment-debtor, other than for attachment of that property, unless satisfaction of the decree cannot be obtained against his moveable property.

Execution to be first made against moveable property.

152. If the decree is for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in that right may, subject to the provisions of this Act, be sold in execution of the decree.

Sale of under-proprietary right in execution of decree for arrears of rent.

153. A beneficial lease or other incumbrance created by an under-proprietor on his tenure after the twenty-second day of July, 1868, shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless the in-

Registration of incumbrance created by under-proprietor.

cumbrance

(Chapter X.—Procedure.—Sections 154-155.)

cumbrance has been registered under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests.

Proprietor's
lien for rent
payable by
under-pro-
prietor.

154. (1) When an under-proprietor creates any such incumbrance and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or the part of that rent, as the case may be, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

(2) Where after the passing of this Act an under-proprietor transfers his rights or any part thereof in land, and the transferee enters into possession, the transferee shall, subject to any agreement in writing with the proprietor to the contrary, be liable to pay to the proprietor any arrears of rent due in respect of the land at the date of the transfer.

Right of pre-
emption at
execution-
sale.

155. (1) When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

(2) A like claim may be made, if the land is a proprietary tenure, by an under-proprietor, and, if the land is an under-proprietary tenure, by a proprietor.

(3) Any claim made under this section shall be allowed:

Provided that, if a claim to the same land or lot is made by a proprietor or under-proprietor as well as by a co-sharer, the claim of the co-sharer shall prevail:

Provided

(Chapter XI.—General.—Sections 156-158.)

Provided also that a claim shall not be allowed unless the claimant fulfils all the conditions of the sale binding on a purchaser.

CHAPTER XI.

GENERAL.

III of 1877. 156. Notwithstanding anything in the Indian Registration Act, 1877, pattas granted for any term not exceeding seven years by landlords to tenants to whom section 36 or section 37 of this Act applies shall be deemed good and valid without their being registered. Registration of statutory pattas unnecessary.

157. The provisions of sections 4, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48 shall not extend to the areas specified in Schedule D to this Act, or to any other area which the Chief Commissioner may from time to time, by notification in the local official Gazette, add to that schedule, but the Chief Commissioner may from time to time, by like notification, extend those provisions, or any of them, to any of those areas. Exclusion of specified areas from certain provisions of the Act.

158. (1) The Chief Commissioner may, from time to time, make rules consistent with this Act for the guidance of all persons in matters connected with the enforcement of this Act. Power to make rules.

(2) The Chief Commissioner shall, before making rules under this section, publish a draft of the proposed rules in such manner as, in his opinion, is sufficient.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Chief Commissioner shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) Every rule made under this section shall be published in the local official Gazette in English and in

(Schedule A.—Schedule B.)

in such other language or languages as the Chief Commissioner directs, and that publication shall be conclusive proof that the rule has been made as required by this section.

SCHEDULE A.*

(See section 15.)

I, *A B* of _____, &c., solemnly declare that I did personally [*or* by my agent *C D*] on the _____ day of _____ tender payment to *E F* at _____ (the place where the (revenue *or*) rent of the lands at _____, [*held or*] cultivated by me under [*or* from *or* jointly with] the said *E F* is usually payable) of the sum of rupees _____ as and for the whole amount due from me in respect of the (revenue *or*) rent of the said lands from the month of _____ to the month of _____, both inclusive. I further declare that the said *E F* refused to accept the said sum so tendered [*or* to give me a receipt in full forthwith for the sum so tendered]. And I declare that, to the best of my belief, the sum of rupees _____ so tendered, and which I now desire to pay into Court, is the full amount which I owe to the said *E F* on account of the (revenue *or*) rent of the said lands from the month of _____ to the month of _____, both inclusive, and that I owe to the said *E F* no further sum on account of the (revenue *or*) rent of the said lands.

I, _____, the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

SCHEDULE B.†

(See section 15.)

Court of the _____ of _____
Dated the _____ day of _____ 18 ____
To *E F* of _____, &c.

With reference to the within declaration, you are hereby informed that the sum of rupees _____ therein mentioned is now in deposit in this Court, and that the above sum will be paid _____ to _____

* If this declaration is made by an agent it must be altered accordingly.

† This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

(Schedule C.—Schedule D.)

to you or your recognized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said *A B* in respect of the (revenue or) rent of the said lands, you must institute a suit in Court for the establishment of that claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

(See section 84.)

Office of officer appointed to sell distrained property.

A B.—Distraîner.

Whereas the said *A B* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A B*, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 188 .

SCHEDULE D.

(See section 157.)

(1) Parganas Kukra Mailani, Bhur, Srinagar, Nighasan, Palia, Khairigarh, Dhaurahra and Firozabad in the district of Kheri;

(2) alluvial maháls for the time being registered as such under the rules made under clause (b) of section 220 of the Oudh Land-revenue Act, 1876; and

(3) lands heretofore or hereafter granted under the waste-land rules for the time being in force in Oudh.