

ASSAM LAND AND REVENUE REGULATION, 1886

[Regulation I of 1886]

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SCHEDULE

COMMENTS

Preamble. This Regulation was passed in the year 1886 by the Governor-General-in-Council in accordance with the provisions of S. 1 of the Government of India Act, 1870. Thus, this Regulation will be regarded as a Central Act and no question of taking away of the power of the State legislature as soon as the declaration is made by Parliament either under

Entry 36 of List I of the Seventh Schedule to the Constitution or by the competent legislature under Entry 36 of List I of the Government of India Act, will arise in regard to the Regulation.

The Regulation cannot be said to have been enacted in the exercise of the powers given to the Assam Legislature either under Entry 23 of the List II of the Constitution or under Entry 23 of List II of the Government of India Act, 1935, nor can there be any question of repugnancy between the two. In pith and substance, this Regulation is an Act relating to land and hence it cannot be said to have been superseded by passing of Central Acts. This Regulation does not rest on the existence of power under Entry 23 of List II and thus if the power of the Assam Legislature under Entry 23 of List II has been taken away by the enacting Act, namely the Mines and Minerals (Regulation and Development) Act, 1957, cannot be said to be destroyed. The Regulation is a Central Act by virtue of the definition under the General Clauses Act. It is an existing law within the meaning of the Constitution. Even if it may be regarded as an Act passed by the Assam Legislature, it cannot be said to be an Act passed in the exercise of its powers under Entry 23 of List II. [*Banshidhar Saikia v. B. K. Bhuyan*, AIR 1966 A & N 107].

CHAPTER I

Preliminary

1. **Short title, commencement and local extent.** (1) This Regulation may be called the Assam Land and Revenue Regulation, 1886 ; and

(2) It shall come into force on such dates and in such territories under the administration of the State Government of Assam as the Government may direct by notification in the official Gazette :

Provide that—

(a) any such notification may declare that any portion of this Regulation shall not be in force in any territory to which the Regulation may be extended ; and

(b) the State Government may direct by notification in the official Gazette that any portion of this Regulation shall cease to be in force in any territory to which the Regulation may have been extended.

(3) The State Government may in like manner, amend, vary or rescind any notification issued under sub-S. (2).

COMMENTS

(1) The Regulation has been brought into force in Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur with effect from the 1st July, 1886. Certain lands are exempted from the operation of Chapter II, *vide* S. 4.

(2) The Regulation with the exception of Ss. 3—68, 69-A—93, 95—144 and 148—159 has been brought into force in the North Cachar Hills with effect from the 28th April, 1930.

(3) The Regulation with the exception of Ss. 3—68, 69-A—93, 95—144 and 145—155 has been brought into force in the Garo Hills district with effect from the 4th October, 1928 and in the Khasi and Jaintia Hills, Naga Hills and Lushai Hills districts with effect from the 16th March, 1929. Sub-sections (2) and (3) of S. 12 of the Regulation has been brought into force in the Khasi and Jaintia Hills district with effect from the 9th June, 1962.

(4) The Regulation has been brought into force in the tract transferred from the Mokokchung sub-division of the Naga Hills district to the Sib-sagar district as defined in Notification No. 1436 P., dated the 11th April, 1901, with effect from the 11th April, 1901.

(5) The Regulation was brought into force in the tracts described below :

(i) The tract transferred from the Naga Hills district to the district of Sibsagar by Notification No. 5646 R., dated the 9th December, 1898, as amended by Notification Nos. 988R., dated the 24th February, 1903 and 219R., dated the 29th January, 1923, with effect from the 25th November, 1924 ;

(ii) The tract transferred from the Naga Hills district to the district of Nowgong by Notification No. 5646R., dated the 9th December, 1898, as amended by Notification Nos. 988R., dated the 24th February, 1903 and 219 R., dated the 29th January, 1923 and 1119 R., dated the 30th April, 1923, with effect from the 27th December, 1924 ;

(iii) The tracts transferred—(a) from the Balipara Frontier Tract to the district of Darrang as specified in Notification No. RSS, 135/51/4, dated 25th April, 1951 and (b) from the Abor Hills and Mishimi Hills districts (Sadiya Frontier Tract) and the Tirap Frontier Tract to the district of Lakhimpur as specified in Notification No. RSS. 135/51/5, dated 25th April, 1951 with effect from 1st October, 1951.

(6) Regulation II of 1889 came into force on the 21st September, 1889.

(7) Regulation II of 1905 came into force on the 1st July, 1905.

(8) Assam Act XV of 1947 came into force on the 22nd October, 1947.

(9) Assam Act XXII of 1962 came into force on 15th February, 1963.

2. **Repeal.** On and from the date on which this Regulation comes into force in any territory, the enactments mentioned in the schedule here-to annexed, in so far as they apply to, or are in force in that territory, and all regulations and rules (if any) in force there relating to any of the matters provided for by this Regulation, shall be repealed t

Provided that—

- (a) this repeal shall not revive any enactment repealed or affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced before this Regulation comes into force ; and
- (b) all rules prescribed, appointments and settlements made, powers conferred and notification published under any enactment hereby repealed, and all other rules (if any) in force on the date on which this Regulation comes into force relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Regulation and could be prescribed, made, conferred or published thereunder) be deemed to have been respectively prescribed, made, conferred and published thereunder.

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

- (a) “the commencement” of this Regulation, used with reference to any local area, means the date on which it comes into force in that local area ;
- (b) “estate” includes—
 - (1) any land subject, either immediately prospectively, to the payment of land revenue, or the discharge of which a separate engagement has been entered into ;
 - (2) any land subject to the payment of, or assessed with a separate amount as land revenue, although an engagement has been entered into with the Government for that amount ;
 - (3) any local area for the appropriation of the produce or products whereof a licence or form has been granted under rules made by the State Government under S. 155, Cl. (e) or Cl. (f) ;
 - (4) any *char* or island thrown up in a navigable river which under the laws in force is at the disposal of the Government ;
 - (5) any land which is for the time being entered in the Deputy Commissioner’s register of revenue-free estates as a separate holding ;
 - (6) any land being the exclusive property of the Government of which the State Government has directed the separate entry in the registers of revenue-paying and revenue-free estates mentioned in Chapter IV.

Explanation. Any land gained by alluvion or by dereliction of a river to any estate as herein defined, which under the laws in force is considered an increment to the tenure to which the land has accredited, shall be deemed to be part of that estate ;

- (c) "permanently-settled estate" means any estate in the districts of Cachar and Goalpara included in the decennial settlement of the Lower Provinces of Bengal or permanently settled at any subsequent date under any law for the time being in force ;
- (d) "temporarily-settled estate" means any estate not being a revenue-free or permanently-settled estate ;
- (e) "land revenue" means any revenue assessed by the State Government on an estate, and includes any tax assessed in lieu of land revenue ;
- (f) "proprietor" means the owner of any estate permanently settled or entered on the Deputy Commissioner's register of revenue-free estates ;
- (g) "land-holder" means any person deemed to have acquired the status of a land holder under S. 8 ;
- (h) "settlement-holder" means any person, other than a proprietor, who has entered into an engagement with the Government to pay land revenue, and includes a land-holder ;
- (i) "recorded proprietor", "recorded land-holder", "recorded sharer", and "recorded possession" means any proprietor, land-holder, sharer or possession, as the case may be, registered in the general registers prescribed in Chapter IV ;
- (j) "agricultural year" means the year commencing on the 1st April, or on such other date as the State Government may, in the case of any specified local area, by notification, appoint ;
- (k) "notification" means a notification published in the official Gazette ; and
- (l) "prescribed" means prescribed by rules made under this Regulation ;
- (m) "Deputy Commissioner" includes and shall be deemed always to have been included the Additional Deputy Commissioner ;
- (n) "Board" means the Assam Board of Revenue constituted under the Assam Board of Revenue Act, 1959 or under any statutory re-enactment or modification thereof.

CHAPTER II

Rights over land

4. Land exempted from the operation of this Chapter. This Chapter shall apply to all land except the following :

- (a) land included in any forest constituted as reserved forest under the law for the time being in force ;
- (b) any land which the State Government may, by notification, exempt from the operation of this Chapter.

COMMENTS

"The Luming *Khiraj* Block" has been exempted from the operation of Chapter II.

5. Power to define boundaries of exempted land. (1) When the boundaries of any land exempted under S. 4 from the operation of this Chapter need definition for the purposes of that section, and no other mode of defining them is provided by law, the State Government shall cause them to be defined by the Deputy Commissioner.

(2) If, before the boundaries are defined, any question arises as to whether any land is included within them, it shall be decided by the Deputy Commissioner.

(3) The order by which a Deputy Commissioner defines any boundaries or decides any question under this section shall, subject to the provisions of S. 151 of this Regulation, be final

6. Rights which may be acquired over land. No right of any description shall be deemed to have been, or shall be acquired by any person over any land to which this Chapter applies, except the following :

- (a) rights of proprietors, land-holders and settlement-holders other than land-holders, as defined in this Regulation, and other rights acquired in the manner provided by this Regulation ;
- (b) rights legally derived from any right mentioned in Cl. (a) ;
- (c) rights acquired under Ss. 26 and 27 of the Indian Limitation Act, 1877 ;
- (d) rights acquired by any person as tenant under the Rent Law for the time being in force :

Provided that nothing in this section shall be held to derogate from the terms of any lease granted by or on behalf of the Government.

7. Rights of proprietor. Proprietors shall, subject to the provisions of this Regulation, have the same rights and enjoy the same privileges in respect of lands included in their estates as they have at the commencement of this Regulation.

COMMENTS

Section 3 of the Assam Assessment of Revenue Free Waste Land Grants Act, 1948 has made a revenue-free waste land grant liable to assessment to, and the payment of, revenue.

8. Status of land-holder how acquired. (1) (a) Any person who has, before the commencement of this Regulation, held immediately under the Government for ten years continuously any land not included either in a permanently-settled estate or in a revenue-free estate, and who has during that period paid to the Government the revenue due thereon, or held the same under an express exemption from revenue ; and

(b) Except as provided by S. 15, any person who has, whether before or after the commencement of this Regulation, acquired any such land under a lease granted by or on behalf of the Government, the term of which is not less than ten years,

shall be deemed to have acquired the status of a landholder in respect of the land.

(2) When land held by one person has come immediately by transfer or succession to be held by another, the holding shall, for the purposes of sub-S. (1), Cl. (a), be deemed to have been continuous, and the latter person may, in reckoning the length of his holding, add the holding of the former to his own.

(3) When any revenue has been paid in respect of land by any person holding the land under an order, that revenue shall, for the purposes of the said clause, be deemed to have been paid by the latter person.

9. Right of land-holder. A land-holder shall have a permanent, heritable and transferable right of use and occupancy in his land, subject to—

- (a) the payment of all revenue, taxes, cesses and rates from time to time legally assessed or imposed in respect of land ;
- (b) the reservation in favour of the Government of all quarries and of all mines, minerals and mineral oils, and of all buried treasure, with full liberty to search for and work the same, paying to the land-holder only compensation for the surface damage as estimated by the Deputy Commissioner ; and
- (c) the special conditions of any engagement into which the land-holder may have entered with the Government.

COMMENTS

For restrictions on the right of transfer *see* Executive Instruction 6 in Assam Land Revenue Manual.

Section 9. Under this section the land-holder acquires a right to the property subject to the right of the Government regarding the quarries and mines, minerals and mineral oils. [*Banshidhar Saikia v. B. K. Bhuyan*, AIR 1966 A & N 107].

This section provides that a land-holder shall have a permanent heritable and transferable right of use and occupancy in his land subject to the provisions contained in Cls. (a), (b) and (c) of this section. The Bardeories (Temple officials) to whom lands were granted by the Assam Rajahs to enable them to render service to the deities installed in the temple at Hajo fell under S. 8 (1) (a) and became land-holders under S. 3 (g) and as such this section applied to them. [*Jiban Chandra Sarma v. Anandi Ram Kalita*, AIR 1961 SC 309]. The principle involved in this case was distinguished in the case of *Harendra Nath Bhattacharjee v. Kaliram Das*, AIR 1972 SC 246].

10. Forfeiture of land-holders' rights on relinquishment. Any land-holder who, after the commencement of this Regulation, voluntarily relinquishes any land and ceases to pay the revenue assessed thereon shall at once forfeit his status of land-holder in respect of that land.

11. Rights of settlement-holders A settlement-holder who is not a land-holder, shall have no rights in the land held by him beyond such as are expressed in his settlement lease.

COMMENTS

Section 11. Settlement-holder means any person other than a proprietor who has entered into an engagement with the Government to pay land revenue and it includes a land-holder. All that the definition requires is that there should be an engagement with the Government to pay the land revenue by a person other than a proprietor. The execution of a patta is not a necessary ingredient. The engagement confers the status of a settlement-holder. But a settlement-holder can have no greater rights than those expressed in the settlement lease as provided under this section. [*Abdul Gani v. Settlement Officer*, AIR 1955 Assam 45].

The correct interpretation of this section is that when an annual patta-holder purports to transfer his ownership in such land for consideration, the transferee takes good title to the property subject only to paramount title of the Government, that is to say, if the Government has chosen it may, at the expiry of the period of the annual patta, refuse to grant an annual patta to the transferee. That, however, is a matter between the Government and the transferee and not a matter between a transferor and transferee. [*Jainur Ali v. Mst. Chafina Bibi*, AIR 1951 Assam 20].

Evidentiary value of mutation. [*Refel Bhengfa v. Bhuliram Gogoi*, (1991) 1 GLR (NOC) 64].

Annual patta converted to periodic-right of the purchaser. [*Safatun Nessa v. Gitarant Kundu*, (1987) 2 GLR 64].

12. Power to make rules for the disposal of Government lands and ejection therefrom of unauthorized occupiers. In the case of any land over which no person has the rights of a proprietor, land-holder or settlement-holder under this Regulation, the State Government may make rules to provide for—

- (1) the disposal by way of grant, lease or otherwise of such land ;
- (2) the ejection of any person who has entered into unauthorized occupation of such land ; and
- (3) the disposal of any crop raised, or any building or other construction erected without authority on such land.

COMMENTS

For the rules framed under this section see Part II, Chapter I, Ss. I, II and IV of the Assam Land Revenue Manual.

13. Power to make rules for allotment of grazing grounds. The State Government may make rules for the allotment from the land referred to in S. 12 of grazing grounds to the inhabitants of any village in the neighbourhood whom they consider to stand in need of such allotment, and for regulating and controlling the enjoyment of those grazing grounds by person permitted to resort thereto.

COMMENTS

For the rules framed under this section, see Part II, Chapter I and Part VII, Appendices II and III

14. **Power to make rules for allotment of lands for tribes practising jhum or migratory cultivation.** The State Government may make rules for the allotment from the land referred to in S. 12, for the use of tribes or families practising *jhum* or migratory cultivation, or areas suitable for such cultivation, of sufficient extent, and situated in localities reasonably convenient for the purposes of the persons to whom they are allotted, and for regulating and controlling the enjoyment of lands so allotted by persons permitted to resort to the same.

COMMENTS

No rules have hitherto been framed by the State Government under this section.

15. **Bar to acquisition of rights over land disposed of under Ss. 12, 13 and 14.** No person shall acquire, by length of possession or otherwise, any right over lands disposed of or allotted under S. 12, S. 13 or S. 14 beyond that which is given by the rules made under the section.

16. **Rights in fishery.** The Deputy Commissioner, with the previous sanction of the State Government, may, by proclamation published in the prescribed manner, declare any collection of water, running or still, to be a fishery; and no right in any fishery so declared shall be deemed to have been acquired by the public or any person, either before or after the commencement of this Regulation, except as provided in the rules made under S. 155 :

Provided that nothing in this section shall affect any express grant of a right to fish made by or on behalf of the Government or on any fishery rights acquired by a proprietor before the commencement of this Regulation, or the acquisition by a proprietor of such rights in any fishery farming after the commencement of this Regulation in his estate.

COMMENTS

Section 16. This section deals with the right of fishery and provides that the Deputy Commissioner, with the previous sanction of the State Government may, by a proclamation, declare any collection of water to be fishery and no right in a fishery so declared shall be deemed to have been acquired by the public or by any person except as provided in the rules made under S. 155. There is nothing in this section which would go to show what are the principles on which such rules for the acquisition of fishery by the public or any person have to be made nor is there anything to indicate any policy which will guide the Government in the making of such rules. The whole thing is left to the discretion of the Government which is empowered to make rules relating to the granting of licences and the framing of the right to fish in fisheries. [*Ganga Ram Das v The Tezpur Kaibarta Co-operative*, AIR 1957 SC 377].

It would be illegal for the Government to settle the fishery directly by executive action because of the statute. It would be proper for it to sanction the settlement under R. 190-A. One cannot sanction one's own act. Sanction can only be accorded to the act of another and the only other person concerned in the matter was the Deputy Commissioner. [*State of Assam v. Keshab Prasad Singh*, AIR 1953 SC 309].

CHAPTER III

Settlement and resumption

PART A

General

17. Settlement operations defined. Settlement operations may consist of one or more of the following :

- (a) survey and demarcation ;
- (b) assessment of land revenue of the land ;
- (c) record-of-rights.

18. General notification of settlement. (1) When any local area or class of estates is to be settled, the State Government may issue a notification of settlement, and in the notification shall—

- (a) define the local area or class of estates to be settled ; and
- (b) specify the settlement operations to be carried out.

(2) The State Government may amend or alter any such notification.

COMMENTS

Notice for eviction—misquotation of the rule. [*Md. Moinuddin v. State of Assam*, (1995) 1 GLR 33.]

Settlement Rules—cancellation of patta. [*Ram Krishna Sevashram v. Board of Revenue*, (1995) 1 GLR 326].

19. Period during which local area is held to be under settlement. (1) Every local area or class of estates shall be held to be under settlement from the date of any notification published under S. 18 and relating thereto, until the issue of another notification declaring settlement operations to be closed therein.

(2) Every local area or class of estate under settlement at the commencement of this Regulation shall be deemed to be under settlement within the meaning of this section without the issue of the notification prescribed by S. 18.

20. Power of State Government to exclude any local area, etc., from the operation of any portion of this Chapter. The State Government may, by rule, direct that this Chapter or any one or more sections or portions of sections thereof shall not apply to any local area or to the settlement of any particular class of estates.

Note. It has been declared by Settlement Rule 96-A—

- (1) that the following portions of the following sections of the Regulation shall not apply to the settlement of any area or estate in the Assam Valley or in the district of Cachar excluding Karimganj Sub-division, viz.,—
 - (i) Sub-section (2) of S. 33 ;
 - (ii) Sub-section (3) of S. 33 so far as it relates to delivery of an acceptance ;
 - (iii) Proviso (b) to S. 34 ; and
- (2) that in addition, Ss. 18 and 19 shall not apply to any area or estate to the Assam Valley or in the district of Cachar excluding Karimganj Sub-division, which is not included in a village which has been traversed, surveyed, mapped and classed.

PART B

Survey and demarcation of land

21. Power to call for information and assistance. Every proprietor and settlement-holder of any land and every person entitled to receive rent in respect of any land or occupying any land as a tenant, shall, on the written requisition of a Survey Officer, furnish, personally or otherwise, as the Survey Officer directs, such information or assistance as may be required by that officer for the purposes of the survey of the land.

22. Power to require erection and maintenance of boundary marks. (1) Every proprietor and land-holder of any land, and every person entitled to receive rent in respect of any land, shall, on the written requisition of a Survey Officer, erect and repair such boundary-marks on the land as the Survey Officer directs.

(2) If any person on whom a requisition has been made under sub-S. (1) fails to erect or repair any boundary-mark mentioned in the requisition, the Survey Officer may erect or repair it.

23. Procedure in case of boundary disputes. (1) Whenever in the course of survey it comes to the knowledge of the Survey Officer that any boundary dispute exists, he shall notify the same to the Settlement Officer, who shall proceed as follows :

- (a) if the dispute is between the proprietors of different estates, the Settlement Officer shall decide it on the basis of actual possession ; or if he is unable to satisfy himself as to which party is in possession he may determine by summary inquiry who is the person best entitled to possession, and may put him in possession ; or he may refer the dispute to arbitration for decision on the merits, as provided in S. 143 ;
- (b) if the dispute is between the settlement-holders of different estates, the Settlement Officer shall, after the inquiry, determine the proper boundaries of those estates ;

(c) if the dispute is between the Government and any settlement-holder as to whether any land is comprised in the settlement, the Settlement Officer shall, after due inquiry, determine the dispute.

(2) The order by which a Settlement Officer determines any boundaries or any dispute under Cl. (b) or Cl. (c) of this section shall, subject to the provisions of S. 158 of this Regulation, be final.

Note. (1) As no appeal lies to a superior revenue authority and the jurisdiction of the Civil Court is barred in cases under S. 23, Cls. (b) and (c), the Settlement Officer must be very careful in deciding boundary disputes. The report of a *mauzadar* or any other local official may be a useful addition to the evidence in the case, but independent evidence must also be taken if either of the parties does not agree to the report and offers to produce other evidence.

Note. (2) When there is no special Settlement Officer, the powers of a Settlement Officer devolve under S. 138 (2) upon the Deputy Commissioner or Sub-divisional Officer.

24. Power of Survey Officer in certain cases to cause marks to be erected. Whenever the Settlement Officer has determined a dispute under S. 23 and the order has become final or has been altered by a decree or order of any competent Court or authority which has become final,

and whenever it comes to the notice of the Survey Officer that any boundary has been determined by a competent Court or authority,

the Survey Officer may cause such marks as he may think fit to be erected in order to secure the boundary permanently.

Note. In the course of the original cadastral survey of the plains portions of Assam, conducted between the years 1883 and 1897 by a professional party of the Government of India, Survey Department, the boundaries of the permanently-settled and revenue free estates and also of waste land grants, as then existing, were surveyed and as far as possible, demarcated. In their letter No. 2709—23R., dated the 22nd July, 1895, Government have declared that they will not in future recognise any boundary in these estates other than those laid down by the cadastral survey.

25. Penalty for removing boundary-marks. Any person wilfully destroying, removing or damaging any boundary-mark (not being a landmark fixed by the authority of a public servant within the meaning of S. 434 of the Indian Penal Code) which has been lawfully erected shall be punished with fine which may extend to two hundred rupees for each mark so destroyed, removed or damaged, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so destroyed, removed, or damaged.

Note. Action shall usually be taken in accordance with this section when any boundary-mark erected under Ss. 22 and 24 and Statutory Rule 100 of the Regulation is destroyed, removed or damaged. Action may be taken under the provisions of S. 434 of the Indian Penal Code also, when the section applies and the offence is of a grave nature.

26. Obligation to give notice of injury to boundary-marks. If a permanent boundary-mark lawfully erected on any land, or on the boundary thereof, is injured, destroyed or removed, or requires repairs, the proprietor or settlement-holder of the land, and every person entitled to receive rent in respect of the same or occupying it as a tenant, shall be bound to give immediate notice of the fact to the prescribed Revenue Officer; and every person who omits to give notice as required by this section shall be liable to a fine, not exceeding one hundred rupees, to be imposed by order of the Deputy Commissioner.

27. Power of State Government to make rules. The State Government may make rules prescribing the mode in which any survey conducted under the provisions of this Part shall be effected, and the manner in which all the cost of such a survey, compensation due on account of anything done under the orders of a Survey Officer, and all expenses incurred under this Part in erecting and repairing boundary-marks, shall be apportioned among and levied from proprietors and land-holders and persons entitled to receive rent in respect of land.

Note. The rules which have been framed by the State Government under Ss. 27 and 152 for the recovery of the cost of survey and boundary marks will be found in Part II, Chapter III.

PART C

Assessment of land

28. Land liable to assessment. All land shall be deemed liable to be assessed to revenue, except—

- (a) land for the time being exempt from assessment under the express terms of any grant made or confirmed by, or on behalf of the Government;
- (b) land in respect of which a tax is for the time being imposed under S. 47:

Provided that nothing in this section shall—

- (1) affect the provisions of any settlement, grant or lease for the time being in force;
- (2) authorize the assessment of any land included in the limits of a permanently-settled estate, unless it is shown that it was not included in the permanent settlement;
- (3) affect any title to hold land revenue-free if the title existed immediately before the commencement of this Regulation and was valid under the law then in force; or
- (4) authorize the assessment of any land which has been held revenue-free for sixty years continuously unless it is shown that the right so to hold it has ceased to exist;

Provided further that notwithstanding anything contained in any law for the time being in force or in any lease, grant, settlement, transfer, allotment, acquisition, agreement or contract, the State Government may assess revenue on all or any land held by any individual, organisation,

company, association, society, authority, public undertaking or any body whether corporate or not, whether Government or Semi-Government and whether under the Central or State Government by way of transfer, allotment, acquisition and used by such individual, organisation, company, association, society, authority, undertaking or body for trade, commerce, industries or any other purpose.

Note. (1) When revenue-free *baksha* lands in Cachar are alienated, they should be assessed at full rates. The heritable nature of these lands when first bestowed is open to doubt, but it has been decided not to raise this question now.

Note. (2) The *Nisf-khiraj* lands held by the family of the Darrang Rajas were granted as a personal dignity, and are liable to assessment at full rates on alienation. An exception has been made, however, in favour of lands alienated prior to 1858.

Note. (3) *Bona fide* places of public worship which are not already regarded as Government land should, on the application of the settlement-holder and with the consent of the worshippers concerned, be recorded as a matter of grace, as Government land, and should be exempted from the payment of land revenue for as long as they continue to be used for public worship.

Note. (4) When the settlement-holder is unwilling to relinquish to Government a piece of land which is used for *bona fide* public worship, but which is now included within his lease, the existing state of affairs should be maintained, that is, if the settlement-holder has hitherto been paying revenue for the land which is used for public worship he should continue to pay it; but if he has hitherto been paying no revenue for the land, he should not be called upon to do so without special orders from the State Government.

Note. (5) Under S. 3 of the Assam Assessment of Revenue-free Waste Land Grants Act, 1948 the revenue-free waste land grants as specified in S. 2 (1) of the same Act have been made liable to assessment of revenue on and from 1st April, 1948.

COMMENTS

Section 28. From time to time the settlement operations take place in the area and this section, onwards of the Regulation, deal with the settlement operation. [*Abdul Hasem v. Haji Mohiuddin*, AIR 1967 A & N 9].

The effect of proviso 4 to this section which is based on S. 2 of the Bengal Regulation is to exempt land from assessment if the owner can prove 60 years' possession of it without payment any land revenue during that period and thus to introduce the rule of 60 years' limitation. It is not necessary that the 60 years should be subsequent to the passing of the Assam Regulation. Proviso 2 to the section merely authorises assessment of lands excepted from the permanent settlement if they do fall under any of the saving clauses. [*Anando Kumar v. State of India*, 1LR 43 Cal 973].

The second proviso was inserted *vide* Assam Act No. XVIII of 1997.

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29. Settlement rules. The State Government may make rules prescribing the principles on which the land revenue is to be assessed, the term for which, and the conditions on which, settlements are to be made, and the manner in which the Settlement Officer is to report for sanction his rates and method of assessment.

Notes. (1) The term "settlement" in Assam has two distinct meanings, firstly, the allotment of unoccupied land at a revenue assessment calculated at fixed rates, and secondly, the modification of the rates at which occupied land has been assessed, and at which unoccupied land will be assessed. The latter process is distinctively known as "re-settlement".

Note. (2) For the rules framed under this section, see Part II, Chapter I.

30. Framing and submission of general proposals of assessment. The Settlement Officer shall, in accordance with the rules issued under S. 29, frame general proposals of assessment for any local area or class of estates to be assessed, and submit those proposals to the State Government.

31. Detailed assessment and declaration thereof of persons concerned. After the receipt of the orders of the State Government thereon, subject to such orders, the Settlement Officer shall ascertain, and make an order, determining the amount of the assessment proper for each estate, and shall, on a date and at a place to be notified by proclamation in the prescribed manner, offer a settlement based thereon to the person with whom the settlement of the estate is to be made.

32. To whom settlement is to be offered. (1) The Settlement Officer shall offer the settlement to such persons (if any) as he finds to be in possession of the estate and to have a permanent heritable right of use and occupancy in the same, or to be in possession as mortgagees of persons having such a right.

(2) If the Settlement Officer finds no person in possession as aforesaid, it shall be in his discretion, subject to such rules as the State Government may make under S. 12, to offer the settlement to any person he thinks fit.

COMMENTS

Section 32. Where the Settlement Officer, on enquiry, found that the appellants were not in possession of the land in question nor did they occupy it through a Chowkidar as alleged, the Settlement Officer as such had every discretion to settle the same with any person he considered desirable. [*Lakhi Charan Dutta v. The Deputy Commissioner*, Unreported Judgment dated 28-7-1953 in Revenue Appeal Nos. 61 and 62 of 1952].

Under this section mere occupation is not enough for occupation may be the occupation of a trespasser. The occupation contemplated under this section must have a permanent, heritable and transferable right of use and occupation in the land or be in possession as mortgagees of persons having such a right. [*Kanteswar Choudhury v. Province of Assam*, AIR 1950 Assam 77].

33. Acceptance of refusal of settlement. (1) It shall be in the option of the person to whom a settlement is offered to accept or refuse the same.

(2) If he is willing to accept, he shall deliver to the Settlement Officer as acceptance in writing under his hand, in prescribed form.

Note. *Vide* R. 63 in Part II, Chapter I, S. III and Form No. 13.

(3) If a person to whom a settlement has been offered does not, within the prescribed time, deliver such an acceptance or inform the Settlement Officer in the prescribed manner that he refuses the proposed settlement, he shall, if the Settlement Officer by an order in writing so directs, be deemed to have accepted the settlement.

34. Effect of acceptance of settlement. When a settlement has been accepted, the revenue fixed thereby and no more shall be payable from such date and for such term, as the State Government may fix in this behalf :

Provided that—

- (a) the revenue shall be liable to revision according to the law for the time being in force ;
- (b) a settlement shall not be final as against the Government until it has been sanctioned by the State Government ;
- (c) in the case of gain by alluvion, or by dereliction of a river, or loss by deluvion, during the currency of the settlement, increment shall be assessed and reductions granted by the Deputy Commissioner according to such limitations as to the extent of the gain or loss and such other conditions as may be prescribed; and
- (d) in any local area to which the State Government may, by notification, apply this clause, a settlement-holder may after giving notice at the time and in the manner prescribed, relinquish the estate of which he has accepted a settlement or any part thereof on which a separate part of the revenue has been apportioned and shall thereupon be released from all future obligations to pay from the revenue of the estate, or the part thereof so apportioned, as the case may be.

Note. Clause (d) of S. 34 has been applied to the district within which the Regulation is in force.

COMMENTS

Section 34. In this section the words "or, at the expiry.....until a new settlement has been made" were added and present Cl. (a) being inserted by re-numbering the other clauses by Assam Act XV of 1959 published in the Assam Gazette dated 20-5-1959 to come into force once.

Assessment of land revenue where the land is gained by alluvion or by dereliction of a river to any estate. [*Amal Chandra Suklabaidya v. Bidhu Bala Roy*, 1990 (2) GLJ 133].

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COMMENTS

Section 34-A was inserted *vide* Assam Act No. XVIII of 1997.

35. Effect of refusal of settlement. If the person to whom a settlement is offered refuses to accept it, it shall be in the discretion of the Settlement Officer, subject to such rules as the State Government may make under S. 12, to exclude him for the terms of the settlement from possession of the estate, and to offer the settlement thereof to any other person he thinks fit.

36. Procedure when some of those to whom the settlement is offered refused. In the case of an estate held by several persons jointly entitled to an offer of settlement, if some of those persons refuse to accept the offer, it shall be in the discretion of the Settlement Officer to exclude them from possession for the term of settlement and to offer the settlement of the whole estate to the others.

37. Settlement Officer when to apportion assessment over land. (1) When the whole or part of the land comprised in an estate is held in severalty, the Settlement Officer shall, on the application of any one or more of the settlement-holders make an order apportioning to several holdings the revenue assessed on the estate.

(2) Except as provided by sub-S. (1), a Settlement Officer shall not apportion the revenue of an estate over the lands comprised therein unless he is required so to do by rules made by the State Government in this behalf.

(3) No apportionment of the revenue by the Settlement Officer shall affect the joint and several liability for the revenue imposed by S. 63.

38. Representation of incompetent persons and of bodies of persons. (1) A lunatic, minor or other person incapable of making a contract, shall be deemed to be duly represented for all the purposes of this Part by his manager.

(2) A body of persons for whom representatives have been appointed in this behalf under rules made under S. 155, Cl. (d), shall be deemed to be duly represented for all the purposes of this Part by those representatives.

39. Effect of decision of Settlement Officer as to settlement. Subject to the provisions of S. 151 of this Regulation the order of a Settlement Officer as to the person to whom a settlement should be offered, the amount of revenue to be assessed, and the nature and term of the settlement to be offered, shall be final and settlement concluded with that person shall be

binding on all persons from time to time interested in the estate ; but, except as provided by Ss. 35 and 36, no person shall, merely on the ground that a settlement has been made with him or with some person through whom he claims, be deemed to have acquired any right to or over any estate, as against any other person claiming rights to or over that estate.

COMMENTS

Section 39. Under this section a person having subsisting right to an estate is entitled to seek a declaration of his right from a Civil Court as against a person who has succeeded in getting a settlement in his favour. But if he has no subsisting right such a declaration cannot be sought under this section. [*Dinesh Chandra Sardar v. Harendra Biswas*, AIR 1972 Gau 81 : See also *Md. Masum v. State of Assam*, 1959 Assam LR 239 where the person was wrongfully granted settlement and kept the other out of possession it was competent to the Civil Court not only to declare title of the person so deprived but also to put him in possession by ejecting the possessor]. Such suits are not barred under S. 154 (1), Cl. (a).

If settlement was granted to the defendants and they had no legal right in the property, it would be competent to the Civil Court not only to declare the title of the plaintiff but also to put him in possession by ejectment of the defendant. [*Dharmeshwar Sarma v. Lakhyadhar Borgohain*, AIR 1950 Assam 107].

PART D

Record-of-Rights

40. Record-of-rights The Settlement Officer shall frame for each estate a record-of-rights in prescribed manner.

Note. The record-of-rights is the jamabandi based on the chitha and the field map.

COMMENTS

Section 40. The Settlement Officer has to frame for each estate a record-of-rights in the prescribed manner. The note appended to this section shows that the record-of-rights is the Jamabandi based on the chitha and the field map. Entries in the record-of-rights are to be founded on the basis of actual possession. Undoubtedly at the time of settlement the jamabandi is prepared which records the name of the pattadars on the basis of possession. But in respect of the annual patta the entry is bound to change from year to year. [*Abdul Hasem v. Haji Mohiuddin and others*, AIR 1967 A & N 9].

41. Entries in record and their effect. (1) Entries in the record made under S. 40 shall be founded on the basis of actual possession and all disputes regarding such entries, whether taken up by the Settlement Officer of his own motion or on the application of a party concerned, shall be investigated and decided by him on that basis and all persons not in possession, but claiming the right to be so, shall be referred by him to the proper Court.

(2) Every entry in the record-of-rights made under this section shall, until the contrary is proved, be presumed to be correct.

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42. Determination of class of tenants and the rent payable by them. Notwithstanding anything contained in S. 41, in case of any dispute respecting the class of any tenant under the Rent Law for the time being in force, or the amount of rent payable by such tenant, the Settlement Officer shall decide the dispute, or, where the rent is open to alteration, fix the rent according to the principles laid down in the said Rent Law, and, subject to provisions of S. 151 of this Regulation, his order shall be final.

Note. The Rent Law in force in the Karimganj Sub-division is the Sylhet Tenancy Act (Assam Act XI of 1936); in the permanently settled portions of the Goalpara district it is the Goalpara Tenancy Act (Assam Act I of 1929), and in the other parts of the State it is the Assam Temporarily Settled Area Tenancy Act (Assam Act XXIII of 1971).

PART E

Resumption

43. Enquiry by Deputy Commissioners regarding land liable to resumption. Whenever a Deputy Commissioner has reason to believe that any land within his jurisdiction is being held wholly or partially free of assessment and is liable to be assessed under S. 28, he may institute an inquiry, and the person claiming the land shall be bound to prove his title to hold the same wholly or partially free of assessment as the case may be.

44. Report to State Government of result of inquiry. The result of every inquiry instituted by the Deputy Commissioner under S. 43 shall be reported to the State Government for orders in the prescribed manner.

45. Order of State Government on Deputy Commissioner's report. (1) In any case report to the State Government under S. 44, if the State Government declare the land not liable to assessment, their order shall be final except on proof of fraud or collusion on the part of or on behalf of the person interested.

(2) If the State Government declare the land liable to assessment, the Deputy Commissioner shall inform the person interested of the State Government's decision, and shall proceed to assess the land in accordance with the rules made under S. 29 and to settle it with the person in possession.

46. Suits in Civil Court to set aside State Government's order directing resumption. Any person, whose lands are assessed by order of the State Government passed under S. 45 may, at any time within one year from the date of his being informed of the State Government's order, institute a suit in the Civil Court to have the order set aside, failing which the order shall be final.

PART F

Hoe-Tax or House-Tax

47. Hoe-tax or house-tax. (1) The State Government may direct that in lieu of the revenue assessable on any land there shall be collected an annual tax on each male person who has completed the age of eighteen years taking part in the cultivation of the land at any time during the year of assessment, or on each family or house of persons taking part as aforesaid.

(2) The rates of the tax, the class of persons upon whom, and the localities and mode in which, it may be assessed, shall be determined by the State Government.

CHAPTER IV

Registration

PART A

The preparation and maintenance of Registers

48. Registers to be kept. (1) The Deputy Commissioner of every district shall prepare and keep the following registers :

- (a) a general register of revenue-paying estates ;
- (b) a general register of revenue-free estates ; and
- (c) such other registers as the State Government may direct.

(2) The registers shall be written in the prescribed form and language, and shall be prepared, arranged, kept and maintained in the prescribed manner.

Note. For the general registers prescribed under this section, *see* the rules framed under Chapter IV.

COMMENTS

Section 48. If any change is made in the general register with regard to annual patta-holders the rules under this section is attracted. [*Abdul Hasem v. Haji Mohiuddin*, AIR 1967 A & N 9].

49. Existing Register. Until registers are prepared for any tract under S. 48, the State Government may direct that any registers kept by or under the control of the Deputy Commissioner at the commencement of this Regulation shall be deemed to be registers prepared under that section.

Note. (1) The forms of general register prescribed in the rules under Chapter IV of the Regulation, in accordance with S. 48, have been written up for waste land grants and revenue-free estates throughout the State and for permanently-settled estates in Goalpara.

(2) They have not been written up for permanently settled estates in Karimganj Sub-division of Cachar District. It has been decided that it would be a waste of time and labour to attempt the preparation of a general register of permanently-settled estates in the absence of a cadastral survey of the Sub-division. It has also been impossible to substitute any register by a notification under S. 49.

PART B

Registration

50. Liability of persons succeeding to estates to give information of succession. After the commencement of this Regulation—

- (a) every proprietor or land-holder succeeding to any estate, or share in an estate, whether by transfer or inheritance, and obtaining possession of the same ;
- (b) every joint proprietor or joint land-holder, of any estate assuming charge of the estate or of any share therein on behalf of the other proprietors or land-holders thereof ;
- (c) every person assuming charge of any estate of a proprietor or land-holder, or of any share therein as manager ; and
- (d) every mortgagee obtaining possession of any estate of a proprietor or land-holder, or of any share therein ;

shall, within six months from the date of taking possession or assumption of charge, apply to the Deputy Commissioner of the district on the general registers of which the estate is borne for registration of his name as such proprietor, land-holder, manager or mortgagee, and of his nature and extent of the interest in respect of which the application is made.

Note. (1) District Officers are responsible that the registers (*jama-bandis*) in the case of ordinary (*raiyatwari* lands) are maintained to date by the entry of all charges in propriety possession.

(2) They should get information from the Registering Officer regarding all deeds affecting rights in land which are produced before them for registration, a clerk being deputed once a week, if necessary, to attract the required information from the Sub-Registrar's books. Where a separate registration clerk is entertained, the required information should be furnished monthly by the Sub-Registrar in the following form :

- (i) Name of sub-registry officer.....
- (ii) Name and address of transferor.....
- (iii) Name and address of transferee.....
- (iv) Name and number of estate : its *pargana* and *mauza*.....
- (v) Specification of share transferred.....
- (vi) Date and description of deed.....
- (vii) Date of registration.....
- (viii) Remarks.....

(3) It is the duty of the *mandal* or *patwari* or bring to notice all changes which he discovers in the course of his annual tours. The procedure to be followed in registering these changes after local investigation instead to by inquiry in Court is described in the Land Records Manual. The obligation of the *mandal* or *patwari* to report changes does not absolve private persons from liability under Ss. 50 and 51.

COMMENTS

Section 50. The order for mutation or registration of the names in the record of rights only facilitates the collection of land revenue and does not confer any title on the person whose name is registered with respect to any

particular land and under such circumstances it raises only a presumption of possession. [*Jogindra Nath Bhattacharjee v. Bhogeshwar Hazarika*, Unreported Judgment dated 3-7-1953 and Revenue Appeal No. 22 of 1953].

51. Existing proprietor, etc., may apply for registration. Every person who, at the commencement of this Regulation, is in the possession of an estate or any share in an estate as proprietor or land-holder, or as manager of the estate of a proprietor or land-holder, or as mortgagee, may apply to the Deputy Commissioner of the district on the general register of which the estate is borne for registration of his name as such proprietor, land-holder, manager or mortgagee and of the nature and extent of the interest in respect of which the application is made.

52. Procedure on application for registration (1) On receiving an application under S. 50 or S. 51, the Deputy Commissioner shall, if he considers there are sufficient grounds for proceeding with the application, publish a notice requiring all persons who object to the registration of the name of the applicant, or who dispute the nature or extent of the interest in respect of which registration is applied for, to give a written statement of their objections, and to appear on a day to be specified in the notice, not being less than one month from the date thereof.

(2) If the application alleges that the applicant has acquired possession of the estate, or share in an estate in respect of which he applies to be registered by transfer from any person, a copy of the notice shall be served on the alleged transferor, or, if he is dead, upon his heirs.

53. Inquiry by Deputy Commissioner. On the day fixed in the notice issued under S. 52, or as soon thereafter as possible, the Deputy Commissioner shall consider any objections which may be advanced, and, after such further inquiry (if any) as appears necessary to ascertain the truth of the succession, assumption of charge or possession alleged in the application, shall, if it appears to him that the succession accompanied by possession has taken place or that charge has been assumed or that the applicant is in possession, as the case may be, make an order directing the registration.

Note. In uncontested cases evidence need not be recorded unless the registering officer considers inquiry by the examination of witnesses necessary as to the fact of possession.

COMMENTS

Mutation. The section is an enabling provision to grant mutation on fulfilment of two conditions by the applicant. He must satisfy that his title is accompanied by possession. There is a line of decisions of this Court that no registration or mutation is permissible merely on the strength of possession. Title to the land is an essential pre-requisite. [*Shri Goya Prasad Khemani v. The Assam Board of Revenue*, (1982) 1 GLR 130].

53-A. Power of Deputy Commissioner to direct registration on information received otherwise than through application. (1) Notwithstanding anything contained in Ss. 50 to 53, where the Deputy Commissioner has

received information, otherwise than through an application, of any such taking of possession or assumption of charge as is referred to in S. 50, he may make an order directing the registration of the name of the person so taking possession or assuming charge :

Provided that—

- (a) the information has been verified by local inquiry made by an officer not below the rank of an Assistant Settlement Officer, or
- (b) notice has been published and inquiry has been held in the manner prescribed by Ss. 52 and 53 as if an application for registration had been received from the person to whom the information relates.

(2) Where any person is aggrieved by an order directing registration under this section which has been made after verification of the information received by local inquiry only, he may within a period of 3 years of the date of such order apply to the Deputy Commissioner to have such order set aside and on receipt of such application the Deputy Commissioner shall cancel the registration and then proceed to publish the notice and hold the inquiry prescribed by Ss. 52 and 53 as if an application for registration had been received from the person whose name had been registered.

Note. (1) For the procedure to be followed in dealing with mutation cases, by local investigation see the instructions in the Assam Land Records Manual. A case which has been disposed of by local investigation may be reopened on application and should then be dealt with formally by inquiry in Court. Cases which cannot be disposed of by local investigation—including, generally, all cases in which a dispute exists,—must be made the subject of formal inquiry in Court, after issue of notice according to the procedure laid down by the Registration Rules [Chapter IV of Part II].

(2) Petition of objection to applications for mutation must be stamped.

(3) Partition cases must be kept entirely distinct from mutation proceedings, and an order granting separate *pattas* must never be issued in connection with an application for registration of names. Should any person desire to have his share of a holding partitioned off to him, he must apply separately for partition under Chapter VI of the Regulation.

(4) The payment of land revenue in respect of the interest to be registered should not be made a condition precedent to registration.

COMMENTS

Section 53-A. The period of limitation as prescribed under this section (as amended by Act XI of 1946) applies even to orders passed before the Amendment came into force. [*Muzafar Sheikh v. Jahuruddin Sheikh*, AIR 1950 Assam 215].

54. Power to put one party in possession in case of dispute. If, in the course of an inquiry made under S. 53, a dispute regarding the fact of possession arises and the Deputy Commissioner is unable to satisfy himself

as to who is in possession, he shall ascertain by summary inquiry who is the party best entitled to possession, and shall put him in possession and make the necessary entry in proper register accordingly.

Note. (1) Orders should not be passed under this section on the summary local inquiry of Sub-Deputy Collector.

(2) Officers conducting summary registration inquiries under Ss. 53 and 54 should not let them drift into full and regular inquiries such as would have to be held in order to dispose of the matter finally in the Civil Court. It is necessary also to avoid going to the opposite extreme. The question of how deeply Revenue Officers should go into the matter is one of degree and can only be determined by plain common-sense.

(3) An officer should not leave it to the parties, as in a civil suit, to raise what issue they please, and adduce what evidence they please but should, on the dispute first developing itself before him, take the matter into his own hands and make up his mind as to limits to which he will push the inquiry.

(4) Deputy Commissioners should, when these cases come before them on appeal, give hints to their subordinates on particular points which will gradually guide them to the proper medium in such matters.

(5) The nature and extent of the interest must be recorded in registration cases, even when the determination on this point is one of great difficulty.

55. Registration of tenures in permanently settled estate. After the commencement of this Regulation, if any person holds a *talukdari* or other similar tenure which has been created since the time of the permanent settlement, and is held immediately from the proprietor of a permanently settled estate may apply to the Deputy Commissioner to have the tenure registered.

56. Procedure on application for registration under S. 55. (1) On receiving an application under S. 55 the Deputy Commissioner shall serve a notice on the recorded proprietors of the estate in which the tenure is situated, and shall also publish a general notice requiring the proprietors or any persons interested, who object to the applications, to file within thirty days from the date of the notice a written statement of their objections.

(2) If within the time specified an objection is made, the Deputy Commissioner shall register the tenure.

(3) If within the time specified an objection is made by any recorded proprietor, or by any person interested not being a proprietor, the Deputy Commissioner shall examine the person so objecting and, if it appears that he has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court.

(4) Provided that no tenure shall be registered under this section unless the Deputy Commissioner is satisfied that it has been created in good faith and at a rent not less than the full amount of the revenue fairly payable in respect of the lands comprised in it.

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Note. Persons cannot obtain registration for a heir in a revenue paying estate regarding which they have arranged with the registered proprietors to pay no revenue, or, if any, only a nominal sum.

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57. Registration fee. On any registry under this Chapter, fees may be levied from the person in whose favour the registration is made at the prescribed rates.

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Note. For the rates prescribed *see* R. 126 of the rule framed under this Chapter in Part II.

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58. Penalty for non-registration. (1) If any person, being required by S. 50 to apply for registration, voluntarily or negligently omits to do so within the time specified in that section he shall be liable to a fine, to be imposed by the Deputy Commissioner which may extend to five times the amount of fee which would be payable under S. 57 for registration and to such further daily fine as the Deputy Commissioner may think fit to impose, not exceeding one rupee for each day during which the person omits to apply for registration after a date to be fixed by the Deputy Commissioner in a notice requiring him to apply for registration ; and

(2) A person required by S. 50 to apply for registration shall not acquire, or be deemed to have acquired, as against the Government any interest in land as proprietor, land-holder, manager or mortgagee, or be entitled to prefer any claim against the Government in respect of such interest as he omits to apply for registration but shall be subject to all the liabilities of a proprietor, land-holder, manager or mortgagee so far as regards the payment of revenue and all other obligation to the Government.

59. No person bound to pay rent to unregistered proprietor etc. (1) No person shall be bound to pay rent to any person claiming it as proprietor, land-holder, manager or mortgagee in possession of an estate, unless the name of the claimant has been registered under this Chapter.

(2) No person, being liable to pay rent to two or more such proprietors, land-holders, managers or mortgagees, shall be bound to pay one such proprietor, land-holder, manager or mortgagee more than the amount which bears the same proportion to the whole of the rent as the extent of the share in respect of which the proprietor, land-holder, manager or mortgagee is registered bears to the entire estate.

Note. (1) It is immaterial whether the estate-holder was registered before the Assam Land and Revenue Regulation came into force or not. He must apply again for registration under the Regulation if he wishes to establish a legal claim to rent.

Note. (2) The permanently-settled portion of Karimganj Sub-division was withdrawn alongwith other such areas of former Sylhet district from the operation of this section by Notification No. 27 R. dated 26th July, 1889.

PART C Miscellaneous

60. Public entitled to inspect and to apply for extract from registers. Subject to the prescribed conditions and to payment of the prescribed fees, all registers kept under this Chapter shall be open to public inspection, and subject as aforesaid, the Deputy Commissioner shall supply an extract from any such register to any person who may apply for the same.

Note. For the fees, etc., prescribed under this section see R. 129 of Part II, Chapter IV.

61. Power of Deputy Commissioner to pay recorded proprietors, etc., money due to them in accordance with their registered interests. Whenever any sum of money is payable (otherwise than under the Land Acquisition Act, 1894) by the Deputy Commissioner to two or more proprietors, land-holders, managers or mortgagees in possession of an estate, the Deputy Commissioner may pay to any one or more recorded proprietors, land-holders, managers or mortgagees thereof, respectively, such portions of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor, land-holder, manager or mortgagee is registered, and the receipt of each such proprietor, land-holder, manager or mortgagee shall afford full indemnity to the Deputy Commissioner in respect of any sum so paid.

62. Saving clause. Nothing contained in this Chapter and nothing done in accordance therewith shall be deemed to—

- (a) preclude any person from bringing a suit in the Civil Court for possession of, or for declaration to his right to any immovable property to which he may deem himself entitled, or
- (b) render the entry of any land in any register under this Chapter as revenue-free an admission on the part of the Government of the right of the person in whose name the land may be entered, or an admission of the validity of the title under which the said land is held revenue-free.

COMMENTS

Section 62. This section does not control S. 154 which deals with certain specified subjects. [*Kanteswar Choudhury v. Province of Assam*, AIR 1950 Assam 77].

Power of Civil Court to decide title over the property and cancellation of mutation. [*Sukumari Dev v. Manindra Ch. Dev*, (1991) 1 GLR 236].

CHAPTER V

Arrears and mode of recovering them

Liability for revenue and default

63. Liability for land revenue, etc. Land revenue payable in respect of any estate shall be due jointly and severally from all persons who had been in possession of the estate or any part of it during any portion of the agricultural year in respect of which that revenue is payable.

64. Liability for house-tax of family of cultivators. When tax is imposed on a family or house in respect of the cultivation of any land, the amount due for any year of assessment from the family or house shall be jointly and severally liable from all males of the family or house who, at any time during the year, being then above the age of eighteen years, took any part in the cultivation of the land.

65. Procedure when co-proprietor of permanently settled estate desires to pay separately. (1) When there are several recorded proprietors of a permanently-settled estate, any one of them whether he is entitled to a share of the estate or to particular lands comprised therein, may, if he desires to pay his share or portion of the revenue separately, submit a written application to that effect to the Deputy Commissioner specifying his share of the estate or the particular lands therein to which he is entitled and when he claims particular lands the portion of the revenue for which, as between him and his co-proprietors, he is liable.

(2) The Deputy Commissioner shall then publish a notice requiring all persons who object to the application to appear within six weeks from the date of the notice and give in a written statement of their objections.

(3) If within the period specified in the notice no objection is made by any recorded co-proprietor of the estate, the Deputy Commissioner shall open separately accounts for the applicant's share or lands and for the aggregate of the other proprietors, and shall credit separately in those accounts all payments made by him and them respectively.

(4) If any recorded co-proprietor of the estate objects that the applicant has no right to the share or lands claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application is in respect of particular lands, that the amount of revenue stated by the applicant to be payable on account of those lands is not the amount which is recognised among the co-proprietors as the revenue thereof, the Deputy Commissioner shall refer the parties to the Civil Court, and shall suspend proceedings until the objection is withdrawn or the question at issue is judicially determined.

(5) The opening of separate accounts under this section shall not affect the joint and several liability imposed by S. 63 except in so far as is, by this Regulation, expressly provided.

Note. (1) If a person owns particular lands in an estate, a person owning a share of the residue would not own a share of the estate but of particular lands, and he could therefore only open a separate account for the actual plots held by him and not for his share in the residue, the Regulation makes no provision for opening a separate account for share of particular lands.

Note. (2) In a case in which a *halabadi* and *dassana* estate settled with the same owners were intermingled in such a way that while it was possible to define the boundaries of the aggregate of the two, it was impossible to determine which land within those boundaries belonged to each, it was ruled that no separate account could be opened for lands within those boundaries, inasmuch as it is clear from S. 65 that in order that a separate account may be opened in respect of particular lands they must be ascertained to be in some particular estate.

Note. (3) Separate account cases must not be postponed until arrears of revenue are paid.

Note. (4) If in any case in Karimganj Sub-division in which a person having opened separate accounts allows one portion of his estate to be brought to sale, the auction purchaser complains that the opening of a

separate account was secured by collusion and fraud, and that the apportionment of the *jama* is wrong, the Deputy Commissioner should call on the owners of the unsold portion of the estate to show cause against the order for a separate account being set aside and if they are unable to show cause, he should report the matter to the Commissioner for the order of Government.

66. Revenue when due, and where and to whom payable. Every sum payable under this Regulation on account of land-revenue, shall fall due on such date and shall be payable in such manner, in such instalments, at such place and to such person, as may be prescribed.

67. "Arrear" and "defaulter" defined. Land-revenue not paid on the date when it falls due shall be deemed to be an arrear; and every person liable for it shall be deemed to be a defaulter.

Notice of demand

68. Penalty leviable on arrears and notice of demand. (1) When an arrear has accrued, an additional charge by way of penalty not exceeding one rupee may be levied.

(2) If the arrear is not in respect of a permanently-settled estate, the prescribed officer may in his discretion, before employing any of the processes for enforcing payment prescribed by this Chapter, issue a notice of demand, calling on the defaulter to pay the amount within a time specified:

Provided that, in such classes of cases, not being cases in which an arrear has accrued in respect of a permanently settled estate as the State Government may direct in this behalf, the prescribed officer shall not employ any such process for enforcing payment as aforesaid, until he has issued a notice of demand and the defaulter has failed to pay the arrear within the time specified in such notice.

Note. (1) For the "prescribed officer" referred to in this section, see R. 133 in Part II, Chapter V, Section I.

Note. (2) This section, it will be observed, empowers a Deputy Commissioner to issue in his discretion a notice of demand as an alternative to a warrant, and the issue of notice should precede the issue of warrant in the case of land-holders of position who are ordinarily regular payers.

Note. (3) In the case of temporarily-settled areas in Cachar the practice of issuing a notice of demand has been discontinued.

Note. (4) In the case of temporarily settled estates in Assam Valley, the notice of demand has been dispensed with, *mauzadars* are required to send warning notices by post or messenger before proceeding to attach a *raiyat's* property.

COMMENTS

The proviso to sub-S. (2) of this section is directory and not mandatory and its non-compliance does not vitiate the attachment. It was opined that mere attachment without a prior notice is a mere irregularity and will not vitiate the attachment itself. [*M/s. Balimara Tea Company (P) Ltd. v. The Agricultural Income-tax Officer*, (1982) 1 GLR 276].

Sale of movables

69. Attachment and sale of movables. (1) The Deputy Commissioner may, for the recovery of an arrear, order the attachment and sale of so much of a defaulter's movable property as will, as nearly as may be, defray the arrear.

(2) Every such attachment and sale shall be conducted according to the law for the time being in force for the attachment and sale of movable property under a decree of a Civil Court, subject to such modifications thereof as may be prescribed by rules framed by the State Government for proceedings under the Assam Land and Revenue Regulation.

(3) Nothing in this section shall authorise the attachment and sale of necessary wearing apparel, implement of husbandry, tools of artisans, material of houses and other buildings belonging to and occupied by agriculturists, or of such cattle or seed-grain as may be necessary to enable the defaulter to earn his livelihood as an agriculturist.

Note. When the Deputy Commissioner intends to proceed against a defaulter's movable property lying in a district, other than the district in which the arrear accrued, the provisions of S. 3 of the Revenue Recovery Act (Act I of 1890) should be followed.

COMMENTS

Section 69 The *Mauzadar* may be invested with the power of attachment and sale of immovables under this section. [*The State of Assam v. Kanak Chandra Dutta*, AIR 1967 SC 884].

Attachment of defaulting estate

69-A. Attachment of estate, application of profits and duration of attachment. (1) When an arrear has accrued in respect of a temporarily-settled estate, the Deputy Commissioner, with the previous sanction of the Commissioner, may attach the estate, and may take it under his own management or may let it in farm.

(2) During the continuance of such attachment, the settlement-holder shall be excluded from possession of the land attached, and the Deputy Commissioner or the person to whom it is let in farm by the Deputy Commissioner shall have all the rights of the settlement-holder to manage the estate, and to realise the rents and profits arising therefrom.

(3) The surplus profits of the estate, after defraying the cost of attachment and of collection, shall be applied, first to the payment of any revenue becoming due in respect of such estate during the attachment, and, next to discharging the arrear for the recovery of which the attachment was made.

(4) The attachment shall continue until the arrear is paid or realised from the profits of the estate attached, or the Deputy Commissioner reinstates the settlement-holder in possession :

Provided that, without the sanction of the State Government, no attachment shall continue for a longer period than five years.

69-B. (1) When an arrear has accrued in respect of any estate pertaining to a religious institution, the Deputy Commissioner after consultation with the Managing Committee of the religious institution, if there be any, may with the previous sanction of the Commissioner attach such estate and may take it under his own management or may let it out in farm.

(2) Whenever the Deputy Commissioner attaches under sub-S. (1) an estate pertaining to a religious institution to which another estate or other estates in the same district pertain, the Deputy Commissioner may, with the previous sanction of the State Government, also attach such other estate or some or all of such other estates and take it or them under his own management or let it or them out in farm.

(3) During the continuance of an attachment under sub-S. (1) or (2), the settlement-holder, or when an estate is *lakheraj* or revenue-free, the *lakherajdar* or proprietor, as the case may be, shall be excluded from possession of the land attached; and the Deputy Commissioner or the person to whom it is let in farm by the Deputy Commissioner shall have all the rights of the settlement holder, *lakherajdar* or proprietor, as the case may be, to manage the estate and to realise the rents and profits arising therefrom.

(4) (i) The income of every estate attached under sub-S. (1) or (2) shall be applied as follows:

Firstly, to the defraying of the costs of attachment, management and collection in respect of all the estates so attached;

Secondly, to the payment of all sums lawfully due to the Government on account of revenue or otherwise in respect of any of the estates under attachment; and

Thirdly, to the discharge of the arrear for the recovery of which the attachment was made.

(ii) Should any surplus remain after the appropriations as aforesaid, it shall be paid to the person conducting the daily worship or prayer at the institution concerned on his furnishing such security as the Deputy Commissioner may require.

(5) (i) Save as provided in Cls. (ii) and (iii) of this sub-section, every attachment under sub-S. (1) or (2) shall continue until the arrears in respect of all the estates so attached are fully realised or paid.

(ii) When an estate is released from attachment, the Deputy Commissioner shall forthwith reinstate the settlement-holder, *lakherajdar* or proprietor, as the case may be, in possession;

Provided that if the Deputy Commissioner is not satisfied that the future management of any such estate or estates would be such as would adequately ensure the punctual payment of future dues to Government in respect of such estate or estates, he may, with the previous sanction of the State Government maintain the attachment of such estate or estates in force until he is so satisfied.

(iii) No attachment shall continue for a period longer than two years without the previous sanction of the State Government,

Sale of defaulting estate

70. When estate may be sold. When an arrear has accrued in respect of a permanently-settled estate or of an estate in which the settlement-holder has a permanent, heritable and transferable right of use and occupancy, the Deputy Commissioner may sell the estate by auction :

Provided that—

- (1) except when the State Government by general order applicable to any local area or any class of cases, or by special order, otherwise direct, an estate which is not permanently-settled shall not be sold unless the Deputy Commissioner is of opinion that the process provided for in S. 69 is not sufficient for the recovery of the arrear ;
- (2) if the arrear has accrued on a separate account opened under S. 65, only the shares or lands comprised in that account shall in the first place be put up to sale ; and, if the highest bid does not cover the arrear, the Deputy Commissioner shall stop the sale, and direct that the entire estate shall be put up for sale at a future date, to be specified by him ; and the entire estate shall be put up accordingly and sold ;
- (3) no property shall be sold under this section—
 - (a) for any arrear which may have become due in respect thereof while it was under the management of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the law for the time being in force ; or
 - (b) for any arrear which may have become due while it was under attachment by order of a revenue authority.

Note. (1) In the temporarily-settled estates, sale must not be resorted to as general measure without the previous sanction of the State Government which can only be given when it is clearly shown that the realisation of the arrear by the ordinary process is likely to be more than usually difficult.

Note. (2) Officers holding revenue sales of temporarily-settled estates are required to ignore the bids of those who are not *bona fide* cultivators such as Marwaris and others.

Note. (3) Ministerial or menial officers are not allowed to have anything to do with the sale or purchase of defaulting estates otherwise than to the extent necessary for the performance of their duties as officers of Government.

Note. (4) No *mauzadar* shall, without the permission of the Deputy Commissioner or Sub-divisional Officer, bid for or purchase land sold at his instance for arrears of revenue in his *mauza*.

COMMENTS

Section 70. The defaulting estate, which is liable to be sold under this section, must be either a permanently settled estate or an estate in which the settlement holder has a permanent, heritable and transferable right of

use and occupancy. Where the defaulting estate is covered by annual patta, there is no permanent, heritable and transferable right of use and occupancy with regard to these lands and hence the sale could not be held under this section. [*Abdul Gani Sarkar v. Assam Board of Revenue*, AIR 1970 A & N 82].

Tahsildar although considered to be a Revenue Officer, cannot put a defaulting estate to sale, unless he gets an order from the Deputy Commissioner to order sale of the estate. [*Nimai Biswas v. Kalidas Mandal*, (1985) 1 GLR 354].

71. Estate to be sold free of incumbrances. Property sold under S. 10 shall be sold free of all incumbrances previously created thereon by any other person than the purchaser :

Provided that—

first, nothing in this section shall apply—

(a) in a permanently-settled estate,—

(1) to tenures which have been held from the time of the permanent settlement ; or

(2) to tenures held immediately of the proprietors which have been created since the permanent settlement and which have been registered under Chapter IV :

(b) in any estate, to tenures created *bona fide* and at a rent not less than the full amount of the revenue fairly payable in respect of the land ;

secondly, nothing in this section shall entitle a purchaser to reject any tenant having a right of occupancy under the Rent Law for the time being in force, or to enhance the rent of any such tenant otherwise than in the manner prescribed by that law ;

thirdly, nothing in this section shall apply when the purchaser is a recorded or unrecorded proprietor or settlement-holder of the estate ;

fourthly, nothing in this section shall apply to encumbrances created in favour of State Government in any estate.

72. Notice of sale. (1) If the Deputy Commissioner proceeds to sell any property under S. 70, he shall prepare a statement in manner prescribed, specifying the property which will be sold, the time and place of sale, the revenue assessed on the property and any other particulars which he may think necessary.

(2) A list of all estates for which a settlement has been prepared under sub-S (1) shall be published in manner prescribed, and the copy of the statement relating to every such estate shall be open to inspection by the public free of charge in the manner prescribed.

(3) If the revenue of any estate for which a statement has been prepared under sub-S. (1) exceeds five hundred rupees, a copy of the statement shall be published in the official Gazette,

Note. Sales for arrears need not be published in the Gazette unless the revenue of the shares to be sold for arrears exceeds Rs. 500 ; the total revenue paid by the estate is immaterial.

(4) When the arrear has accrued on an estate, not being a permanently settled estate in the district of Cachar a copy of the settlement prepared under sub-S. (1) shall be served on the defaulter, or, if he cannot be found, posted on the estate in the manner prescribed.

(5) When the arrear has accrued on a permanently-settled estate in the district of Cachar a copy of the statement shall be posted on, or in the vicinity of the estate in the manner prescribed and, if any proprietor of the estate has registered his name and address in the manner prescribed, a copy of the notice shall be despatched to him by post in a registered cover to that address.

(6) In making rules prescribing the manner of registering names and addresses for the purpose of sub-S. (5), the State Government may impose a fee for such registration and may fix a period which such registration will, unless renewed, become void.

Note. For details of procedure to be followed, the rules in Part II, Chapter V should be referred to.

73. Proclamation to tenants of defaulter. When any property is notified for sale under S. 72, the Deputy Commissioner may publish a proclamation forbidding the tenants of the defaulter to pay the defaulter any rent which has fallen due since the arrear accrued, on pain of not being entitled to credit in their accounts with the purchaser for any sum so paid.

74. Sale by whom and when to be made. (1) Every sale under this Chapter shall be made either by the Deputy Commissioner in person, or by an officer specially empowered by the State Government in this behalf.

(2) No such sale shall take place on a Sunday or other authorised holiday, or until after the expiration of at least thirty days from the date on which the list of estates has been published under S. 72.

Note. The date of sale should be so fixed that the day preceding the sale is an open day and not a gazetted holiday.

(3) The Deputy Commissioner may, from time to time, postpone the sale, and every postponement of sale of a permanently-settled estate shall be reported to the Commissioner or (where there is no Commissioner) to the State Government.

COMMENTS

Section 74. A revenue sale of property held before the expiration of the period of thirty days mentioned in sub-S. (4) of this section being not in accordance with the provisions of the Regulation is liable to be set aside under S. 81. [*Gayanath Mandal v. Dhruba Hazarika*, AIR 1950 Assam 210].

Tahsildar although considered to be a Revenue Officer, cannot put a defaulting estate to sale, unless he gets an order from the Deputy Commissioner to order sale of the estate. [*Nimai Biswas v. Kalidas Mandal*, (1985) 1 GLR 354].

75. When sale may be stayed. If the defaulter pays the arrear of revenue in respect of which the property is to be sold, and the fee (if any) prescribed in this behalf, at any time before the day fixed for the sale, the sale shall be stayed.

Note. (1) For the fee prescribed under this section *see* Rules 165 and 169 in Part II, Chapter V, Sections III and IV.

(2) The Deputy Commissioner of Cachar should have a notice stuck up outside his own and Karimganj Sub-division at cutcheries warning the public that tender of payment of arrears in respect of Karimganj Sub-division on the day of sale will not be accepted except for very special reasons

76. Right of co-proprietors to purchase share or land sold on separate account. Where the arrear has accrued on a separate account opened under S. 5, and a sale of the entire estate has been directed under S. 70, proviso (2), any proprietor of the estate who is not comprised in the separate account may, within ten days from the time at which the direction is given, purchase the share or lands comprised in the separate account by paying the amount of the arrear, and the provision of S. 71 shall, notwithstanding the third proviso thereto, apply to such a purchase.

Note. In a case where a separate account had been opened for a portion of an estate and the estate was sold for arrears accruing on the remaining portion, it was held by the State Government that under S. 95 (3) there must necessarily be a separate account for the remaining portion, and therefore a proprietor having any share in that portion is not entitled to purchase the estate under the section.

77. Deposit by purchaser. The person declared to be the purchaser at an auction-sale under the foregoing section shall be required to deposit immediately twenty-five per centum on the amount of this bid, and in default of such deposit the property shall forthwith put up and sold.

78. Payment of balance of purchase-money and consequences of default.

(1) The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from the date on which the auction-sale took place or, if that day is a Sunday or other authorized holiday then on the next following office day.

(2) In default of payment within that period the deposit, after defraying thereout the expenses of the sale, shall be forfeited to the Government, the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold :

Provided that no re-sale under this section shall be made unless and until a fresh notice has been issued in the manner prescribed for the original sale.

(3) If the proceeds of the sale which is eventually made are less than the price bid by the defaulting purchaser the difference shall be leviable from him under the provisions of this Chapter as if it were an arrear ;

Provided that the provisions of this section shall not apply to any case in which the sale has been set aside under S. 78-A before the full amount of purchase-money falls due under sub-S. (1) of this section.

78-A. Application to set aside sale on depositing percentage of purchase-money. (1) Where an estate has been sold under S. 70 or 76 any person may apply at or before noon on the sixtieth day from the date of sale, reckoning the said day of sale as the first of the said sixty-days to have the sale set aside on depositing in the Deputy Commissioner's Court—

- (a) for disposal as directed in sub-S. (2), a sum equal to five per cent of the purchase-money up to Rs. 1,000 and to three per cent on the excess over Rs. 1,000 ; provided that such sum shall not be less than one rupee ; and
- (b) for payment to the State Government, the amount specified in the proclamation of sale as that for recovery of which the sale was ordered together with the expenses of the sale.

(2) If deposit and application be made as aforesaid, the Deputy Commissioner shall set aside the sale and shall cause to be repaid to the purchaser the purchase-money so far as it has been deposited together with the deposit made under sub-S. (1) (a), unless the former has been forfeited to the Government under sub-S. (2) of S. 78, in which case the latter sum shall also be forfeited to the Government.

(3) Nothing in this section shall be deemed to create in favour of the person making such deposit any title or right to such estate or part of estate merely by virtue of the fact that he has made such deposit or that the sale has been set aside at his instance.

Explanation. The word 'estate' in this section includes a separate account opened under S. 65.

79. Application to set aside sale on ground of mistake or irregularity. At any time within sixty days from the date of the sale, application in writing may be made to the Deputy Commissioner, to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it :

Provided that no sale shall be set aside on this ground unless the applicant proves to the satisfaction of the Deputy Commissioner that he has sustained substantial injury by reason of the irregularity or mistake complained of ;

Provided also that the non-delivery or misdelivery of a registered cover despatched under S. 72, sub-S. (5), shall not, for the purposes of this section, be deemed an irregularity or mistake in publishing or conducting the sale.

Note. (1) Before any application is entertained under S. 79 or any recommendation is made under S. 81 of the Regulation for annulment of the sale of an estate for arrears of revenue, a deposit should be required of a sum of money sufficient to cover the arrears of revenue for which the estate is sold, the cost of sale, the claim for interest at the rate of 6 per cent

per annum on the purchase-money, as also all intermediate payment of Government dues which may have been made by the auction purchaser. In cases in which no recommendation for annulment of sale is made but the sale is set aside by the Board on appeal, the payment of interest on purchase-money at 6 per cent per annum is always made one of the conditions of the order passed, and if that condition is not complied with, the order becomes null and void or, in other words, the sale becomes final. It is for the Deputy Commissioner concerned to insist upon compliance within a reasonable time, with the conditions which may be imposed by the orders passed by the Board and for this purpose a period of 15 days from the date on which the orders are communicated to the appellant may be considered at reasonable interval to allow.

(2) The following procedure is recommended for the recovery of interest charges when the *mauzadar* or revenue office is at fault in sale cases—

- (i) where the *mauzadar* after accepting payment of revenue does not take proper step to stop the sale, he shall bear the interest on the purchase-money ;
- (ii) where the *mauzadar* proves that a report for stay of the sale was duly submitted, the fault should be presumed to be with the dealing clerk in the office who should therefor bear the interest charges ;
- (iii) and finally where the *mauzadar* alleges but cannot prove that a report for stay of the sale was duly submitted, the interest charged should be distributed by the Deputy Commissioner between the *mauzadar* and the dealing clerk on the basis of the evidence available.

(3) Deputy Commissioners should insist on the grounds of appeal being clearly and unequivocally stated before they receive or forward to higher authority a petition of appeal.

(4) A Deputy Commissioner is not bound to hear a pleader when a report on a petition for setting aside a sale comes before him.

COMMENTS

Section 79. In this section for the words, "Commissioner or (where there is no Commissioner) to the State Government", the words "Deputy Commissioner", was substituted and in the first proviso for the words "Commissioner or the State Government (as the case may be)" the words "Deputy Commissioner" were substituted by Assam Act No. XXII of 1962 published in the Assam Gazette dated 4-9-1962, to come into force on 15-2-1963 by a separate notification.

80. **Sale when final.** (1) A sale on which the purchase-money has been paid as directed in S. 78, and against which no application under S. 78-A or 79 has been preferred shall, subject to the provisions of Ss. 81 and 82, be final at noon of the sixtieth day from the day of sale, reckoning the said day of sale as the first of the said sixty days.

(2) A sale against which such an application has been preferred and has been dismissed by the Deputy Commissioner shall, subject as aforesaid, be final from the date of the dismissal. If more than sixty days from the day of sale, or if less, then at noon of the sixtieth day as above provided.

81. Annulment of sale on ground of hardship. The Board may, on application made to them at any time within one year of a sale becoming final under S. 80, set the sale aside on the ground of hardship or injustice.

COMMENTS

Section 81. Whether the seller had or had not title to property is not material to the maintainability of an application under this section. [*Gayanath Mandal v. Dhruba Hazarika*, AIR 1950 Assam 210].

See Notes under S. 79.

A revenue sale of property held before the expiration of the period of thirty days mentioned in sub-S. (4) of this section being not in accordance with the provisions of the Regulation is liable to be set aside under S. 81. [*Gayanath Mandal v. Dhruba Hazarika*, AIR 1950 Assam 210].

In this section for the words "State Government" the word "Board" was substituted *vide* Assam Act No. XXII of 1962 published in the Assam Gazette dated 5-9-1962 to come into force on 15-2-1963 by a separate notification.

The Board has power to annul the sale under this section on the ground of hardship or injustice within one year of the sale becoming final. In the instant case, the Board having held that it was a case of hardship and injustice, instead of taking recourse to this section, has allowed the petition acting under S. 151, which should have been done under this section only. [*Nimai Biswas v. Kalidas Mandal*, (1985) 1 GLR 354].

82. Annulment of sale by Civil Court. (1) A sale for arrears of revenue shall not be annulled by a Civil Court except on the ground of its having been made contrary to the provision of this Regulation, and on proof that the plaintiff has sustained substantial injury by reason of the neglect of those provisions.

(2) A suit to annul such a sale shall not be entertained upon any ground, unless that ground has been specified in an application made to the Deputy Commissioner under S. 79, or unless it is instituted within one year from the date of sale becoming final under S. 80.

(3) No person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money.

COMMENTS

Section 82. There is nothing in the section which could suggest even remotely that sales under S. 91 could also be covered by it. [*Narayan Bedia v. Dambarunath*, AIR 1950 Assam 40].

In this section, in sub-S. (2), for the words "Commissioner or the State Government", the words "Deputy Commissioner" were substituted *vide* Assam Act XXII of 1962 to come into force on 15-2-1963 by a separate notification.

83 Saving of right to sue for damages. Nothing in the foregoing sections shall be construed to debar any person, considering himself wronged by any act or omission connected with a sale under this Regulation from his remedy in a suit for damages against the person by whose act or omission he considers himself to have been wronged.

84. Re-payment of purchase money when sale is set aside. Whenever the sale of any estate is set aside except under S. 78-A the purchaser shall be entitled to receive back from the State Government his purchase-money, except the surplus thereof (if any) paid away under the last clause of S. 87, with or without interest, at such rate, not exceeding six per centum per annum, as the State Government think fit.

85. On sale becoming final purchaser to be put in possession. (1) After a sale has become final, the Deputy Commissioner shall put the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(2) The certificate shall bear the date on which the sale become final under S. 80, and the title to the property sold shall vest in the purchaser from the date of the certificate and not before.

(3) A certificate granted to a purchaser under this section shall be conclusive evidence in his favour, and in favour of any person claiming under him, that every publication serving, posting or despatch of any statement, list, notice or letter required by this Regulation, or the rules made under it, to be published, served, posted or despatched has been duly effected; and the title of any person who has obtained any such certificate or of any person claiming under him, shall not be impeached or affected under S. 82 or otherwise by reason of any omission, informality or irregularity as regards the publication, serving, posting or despatching of any statement, list, notice, or letter in the proceeding under which the sale was held at which the property was purchased:

Provided that nothing in this sub-section shall affect the power conferred on the Board by S. 81.

COMMENTS

Section 85. In the proviso to sub-S. (3), for the words, "State Government" the word, "Board" was substituted by Assam Act XXII of 1962, to come into force on 15-2-1963, by a separate notification.

86. Bar of suit against certified purchaser. The name of the purchaser to be entered in the certificate shall be that of the person declared at the time of sale to be the actual purchaser, and any suit brought in a Civil Court against the certified purchaser on the ground that purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

87. Application of proceeds of sale. When a sale has become final under S. 80, the proceeds of the sale shall be applied—

first, to defraying the expenses of the sale ;

secondly, to the payment of the arrear due ;

thirdly, to the payment of any other arrear due by the same defaulter ; and the surplus, if any, shall be paid to the person whose property has been sold, and shall not, except under an order of a Civil Court, be payable to any creditor of that person.

Note. (1) Payment before suit, if made to a wrong person, may subject the Government to a second claim from the rightful owner, but after a Civil Court has given a decree in favour of any person and Government has in compliance therewith paid him, it does not seem probable that any second claim against Government could stand good. Nonetheless, as Government has a residuary right to all unclaimed deposits, this interest alone will justify Government in meeting all such suits with resistance until a good title as proprietor has been made out by the claimant. When therefore a suit is brought so far should Government contest it shall secure that a *bona fide* good title is shown before a decree is passed.

(2) The claims of proprietor on account of the surplus sale proceeds or their estate should never be rejected on the ground of limitation.

88. Liability of purchaser for revenue. The person named in the certificate of title as purchaser shall be liable for all instalments of land revenue becoming due in respect of the property purchased subsequently to the accrual of the arrear for the recovery of which the property was sold.

89. Right of pre-emption. When an estate held by settlement-holders situate in any local area to which the State Government may, by notification, apply this section, is sold under S. 70, any recorded settlement-holders of the estate, not being himself in arrear with regard to the revenue which, as between him and the other settlement-holders, is payable by him, if the lot has been knocked down to a stranger, claim to take the property at the sum last bid :

Provided that the claim is made on the day of sale, and before the officer conducting the sale has left the officer for the day, and that the claimant fulfils all the other conditions of the sale.

Note. The provision of this section have been extended to all the plains districts.

Annulment of settlement

90. Annulment of settlement. (1) Where the estate in respect of which the arrear has accrued is not a permanently-settled estate, and is situate in any local area to which the State Government may, by notification, apply this section, if the process provided for in S. 69 is not sufficient for the recovery of the arrear, the Deputy Commissioner may, by proclamation published in the prescribed manner, annul, the existing settlement of the estate and relinquish the claim of the Government to the arrear ;

Provided that—

- (a) if the arrear is in respect of an estate in which the settlement-holder has a permanent, heritable and transferable right of use and occupancy, the Deputy Commissioner shall not, unless the State Government otherwise by rule direct, annul the settlement without the sanction of the State Government ;
- (b) this section shall not apply to the recovery of any arrear which may have accrued on an estate—
 - (1) while it was under the management of the Court of Wards or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under law for the time being in force ; or
 - (2) while it was under attachment by order of a revenue authority.

(2) Upon the publication of a proclamation under this section, all encumbrances, other than the tenures mentioned in S. 71, proviso *first* Cl. (b) affecting the estate, or any portion thereof, shall become void, and the Deputy Commissioner may eject the settlement holder from possession and may enter upon and manage the estate and receive all rents and profits accruing therefrom, or may dispose of the estate, in accordance with the rules issued by the State Government under S. 12.

Note. (1) The provisions of S. 90 have been extended to all the districts in which the Regulation generally is in force.

(2) The Deputy Commissioners have power to annul for arrears the settlement of estates in which the settlement-holder have not a permanent, heritable and transferable right of use and occupancy. The annulment of settlement of an estate carries with it the remission of the arrear due thereon, and it is not necessary to apply for separate sanction to the remission.

(3) The Deputy Commissioners are empowered to remit process fees in all cases in which the original demand is remitted or the process has been issued by mistake.

(4) An order formally annulling settlement should invariably be recorded when arrears due on annual pattas other than in *faut ferar* cases are remitted by Deputy Commissioners. Deputy Commissioners should submit to the Commissioner a quarterly return in Form No. 10, showing the number of annul estates in each sub-division the settlement of which has been annulled during the quarter under S. 90 of the Regulation and the amount of revenue remitted thereon.

(5) When under this section possession of an estate has been taken on behalf of Government, the Deputy Commissioner may, if immediate eviction would cause undue hardship, allow the former tenants or members of his family to continue to reside in the homestead free of rent, or subject to such rent as he may think fit, for the period of one year and may, for special reasons, extend the terms for such residence from year to year. Details of all cases of this nature shall be entered in a register to be kept in the Deputy Commissioner's office,

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(6) See also R. 150 in Part II, Chapter V. To provide for the treatment of contumacious defaulters the following Executive Instructions were issued :

- (i) No land, the settlement of which has been annulled on account of arrears will be resettled with the defaulter or with any member of a joint family to which the defaulter belongs without the special sanction of the Deputy Commissioner or Sub-divisional Officer. Such sanction will not be given unless and until the arrears on account of which the settlement has been annulled have been first paid, with all costs of proceedings taken for their realisation.
- (ii) Every *mandal* will visit at least once a year every field in his circle the settlement of which has been annulled under S. 90 and will submit a special report to the *mauzadar* in every case in which he finds that a defaulter has re-occupied land from which he has been ejected, without paying the arrears and obtaining settlement. It will also be the duty of the *gaonburas* to report to the *mauzadar* any such cases which may come to their notice, and the *mauzadar* will report them to the Deputy Commissioner or Sub-divisional Officer for orders.
- (iii) In resettling lands, the settlement of which has been annulled on account of arrears, preference will be given to an applicant who tenders payment of the arrears and costs. Such land will not, during the agricultural year in which settlement is annulled be settled with any person without payment of the arrears costs, otherwise than on annual lease.

COMMENTS

Section 90. Where a patta is annulled by reason of arrears of land revenue, the pattadar cannot claim that he has got a right to a re-settlement of the land on payment of the arrears of land revenue. The executive direction does not create any right in favour of such person. It merely embodies a rule that defaulter should not have re-settlement of the land without the special sanction and as such the discretion to re-settle the land on a defaulter still remains with the Revenue Officer. [*Lakhiram Koch v. Chandra Borah*, AIR 1951 Assam 5].

Sale of immovable property other than the defaulting estate

91. Power to proceed against defaulter's other immovable property.

(1) If an arrear of an estate in which the settlement-holder has not a permanent heritable and transferable right of use and occupancy, cannot be recovered by the process mentioned in S. 69, and an arrear in respect of any other estate cannot be recovered by any of the processes mentioned in this Chapter, and the defaulter is in possession of any immovable property other than the estate in respect of which the arrear has accrued, the Deputy Commissioner may proceed against any of the other property situated within his district according to law for the time being in force for the attachment and sale of immovable property under the decree of a Civil Court.

(2) If there is no such other property in his district, the Deputy Commissioner may make under his hand a certificate in the prescribed form, of the amount of the arrear remaining unpaid, and may forward the same

to the Deputy Commissioner of any other district in which this Regulation is in force, and within the limits of which the defaulter is possessed of any such property, and that Deputy Commissioner shall thereupon proceed to realise the arrear as if it were an arrear accruing in his own district.

Note 1. This section must be carefully distinguished from S. 70. When an estate is sold for own arrears, S. 70 applies; when an estate is sold for arrears not its own, S. 91 applies. The sale procedure and the legal effects of the sale are different in two cases.

When a *mauzadar* defaults and the estate pledged by his surety is sold in consequence under the Regulation the sale, being of an estate for arrears other than its own, is governed by the provisions of S. 91. Accordingly, the sale rules in Order 21 of the Civil Procedure Code must be observed. In particular, as laid down in R. 73 of the aforesid Order, no officer or other person having any duty to perform in connection with the sale should, either directly or indirectly, bid for the property. The officer conducting the sale should not therefore, attempt to buy in the property for Government even in the absence of bids from others. Some persons not coming with the prohibition contained in the rule cited may, however, with the permission of the officer conducting the sale, bid for and purchase the property on behalf of Government in any case where such a course is considered necessary or desirable.

Note 2. The expression in sub-C1 (1) 'the law for the time being in force for the attachment and sale of immovable property under the decree of a Civil Court', includes the procedure laid down in the Civil Procedure Code not only for the actual conduct of such attachment and sale, but also for the determination of claims and objections arising out of such sale and for setting them aside. In other words this section confers jurisdiction on Deputy Commissioner to hear and determine claims and objection arising out of sale of immovable property held under this section and applications to set aside such sales, in accordance with Order XXI of the Code of Civil Procedure.

COMMENTS

Section 91. Sub-section (1) of this section was substituted *vide* Assam Act No. XXXIII of 1971 published in the Assam Gazette dated 17-12-1971 having come into force at once and the section so substituted read as follows:

"91. (1) If an arrear of an estate in which the settlement holder has not a permanent, heritable and transferable right of use and occupancy, cannot be recovered by the processes mentioned in S. 69, and an arrear in respect of any other estate cannot be recovered by the processes mentioned in this Chapter, and the defaulter is in possession of any immovable property, other than the estate in respect of which the arrear has accrued, the Deputy Commissioner may proceed against any of that other property situated within his district according to the law for the time being in force for the attachment and sale of immovable property under the decree of a Civil Court."

Sections 81 and 82 of the Regulation, does not suggest even remotely that sales under this section could also be covered and hence for a person affected by such a sale under S. 91, it is necessary to institute a suit for having the sale annulled by a competent Civil Court. [*Narayan Bedia v. Dambarunath*, AIR 1950 Assam 40].

It was held in the case of *Abdul Gani v. Assam Board of Revenue*, AIR 1970 A & N 82], that a sale could not take place of a non-defaulting estate for arrears of rent of an annual patta land under this section.

Supplemental

92. Recovery of cost. The costs of serving any notice, proclamation or other process under this Chapter shall be recoverable as part of the arrear in respect of which such process was issued.

93. Recovery of existing arrears. Arrears of land revenue due at the commencement of this Regulation shall be recoverable as nearly as may be according to the provisions of this Chapter.

94. Recovery of other money. The provisions of this Chapter shall, so far as may be, apply to the recovery of any sum of money realisable under any enactment for the time being in force as if it were an arrear of land revenue.

COMMENTS

Section 94. In order that this section may apply, it must be shown that the particular sum of money to be recovered is realisable under any enactment as if it were an arrear of land revenue. It was held that a *Kabuliyat* is not a substitute for an enactment mentioned under this section. [*Lakshmi Bhusan Barua v. Bakijat Officer*, 1973 ALR 187].

On being forwarded by the Excess Profits Tax Officer a certificate, the Collector on receipt thereof was competent to act under this section and an appeal against his order shall lie under S. 147 of the Regulation. The provisions of Bengal Public Demands Recovery Act shall not apply.

95. Power of State Government to make rules. The State Government may, from time to time, make rules not inconsistent with this Regulation, to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Chapter.

Note. For the rules framed under this Chapter, see Part II, Chapter V.

CHAPTER VI

Partition and union of revenue paying estates

96. "Perfect partition" and "imperfect partition" defined. Partition is either perfect or imperfect. "Perfect partition" means the division of a revenue paying estate into two or more such estates, each separately liable for the revenue assessed thereon. "Imperfect partition" means the division of a revenue-paying estate into two or more portions jointly liable for the revenue assessed on the entire estate.

97. Persons entitled to partition. (1) Every recorded proprietor of a permanently-settled estate and every recorded land-holder of a temporarily-settled estate may, if he is in actual possession of the interest, in respect of which he desires partition, claim perfect or imperfect partition of the estate :

Provided that—

- (a) no person shall be entitled to apply for perfect partition if the result of such partition would be to form a separate estate, liable for an annual amount of revenue less than five rupees ;
- (b) no person shall be entitled to apply for imperfect partition of an estate unless with the consent of recorded co-sharers holding in the aggregate more than one half of the estate ;
- (c) a person may claim partition only in so far as the partition can be effected in accordance with the provisions of this Chapter.

(2) When two or more proprietors or landholders would be entitled under sub-S. (1) to partition in respect of their respective interests in the estate, they may jointly claim partition in respect of the aggregate of their interests.

Note. Applications for partitions must not be granted if included in an application for mutation of names.

98. Application for perfect partition. Every application for perfect partition shall be in writing, shall be presented to the Deputy Commissioner, and shall specify the area of the estate, the applicant's interest therein, and the names of the other proprietors or land-holders.

99. Notification of application. (1) The Deputy Commissioner shall, if the application is in order and not open to objection on the face of it, publish a proclamation at his office, and at some conspicuous place on the estate to which the application relates ; and shall serve a notice on all such of the recorded proprietors or land-holders of the estate as have not joined in the application, requiring any of them in possession who may object to the partition to appear before him and state their objections, on a day to be specified in the proclamation and notice, not being less than thirty or more than sixty days from the date on which the proclamation is issued.

(2) Where, from any cause, notice cannot be personally served on any proprietor or land-holder, the proclamation shall be deemed sufficient notice under this section.

100. Objection on question of title. (1) If an objection preferred as required under S. 99 raises any question of title which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner shall stay his proceedings for such time as, in his opinion is sufficient to admit of a suit being instituted in the Civil Court to try the objection.

(2) A Deputy Commissioner staying his proceedings under this section shall make an order requiring the objector, or, if for any reason he deems it more equitable, the applicant, to institute such a suit within the time fixed, and, in the event of such a suit not being instituted within the time, may, in his discretion, disallow the objection, or dismiss the application, as the case may be.

(3) On a suit being instituted to try any objection, under this section, the Deputy Commissioner shall, with reference to the objection, be guided by the orders passed by the Civil Court in the suit.

101. Other objections how dealt with. If any objection, other than an objection of the nature referred to in S. 100, is preferred as aforesaid to the partition, the Deputy Commissioner shall dispose of it himself; unless for any reason he thinks fit to require that it be submitted to a Civil Court for adjudication, in which event the provisions of S. 100 shall apply to the objection.

102. Proceedings of Deputy Commissioner after objections have been disposed of. When the period specified under S. 99 has expired, and the objections (if any) made have been disposed of by the Deputy Commissioner or by the Civil Court, as the case may be, the Deputy Commissioner shall, if no such objection has been allowed, proceed to make the partition:

Provided that the Deputy Commissioner may, in his discretion, in order to admit of the institution of an appeal from any decision regarding an objection, or for any other reason he deems sufficient, further postpone his proceedings.

103. Mode of partition. The Deputy Commissioner may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he may make the partition himself.

104. Power to enter on land for purposes of partition. In making partitions the Deputy Commissioner and any person appointed by him, shall have the same powers for entry on the land under partition, for making out the boundaries surveying and other purposes as have been conferred on Survey Officers by or under this Regulation.

105. Partition of lands held only in severalty. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate estate, and shall be separately assessed to the Government revenue.

106. Partition of lands some of which are held in common. (1) Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of those lands in accordance with village-custom if any such exists. If no such custom exists, Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

(2) The portion of the common lands falling by the partition to the share of the applicant shall be added to the land held by him in severalty, and the aggregate thus formed shall be declared a separate estate, and shall be separately assessed to the Government revenue.

107. Partition where all lands are held in common. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the estate, and the land allotted to him shall be declared a separate estate, and shall be separately assessed to the Government revenue.

108. Transfers to be effected in making partition. In making the partition under S. 105 or S. 106, the Deputy Commissioner shall give effect of any transfer of lands held in severalty, forming part of the estate, agreed to by the parties and made before the declaration of the partition.

109. Estates to be compact. In all cases, each estate shall be made as compact as possible :

Provided that, except with the sanction of the Commissioner or, where there is no Commissioner, with the sanction of the State Government, no partition shall be disallowed solely on the ground of incompactness.

110. Rule when building of one sharer is included in estate assigned to another. (1) If, in making a partition, it is necessary to include in the estate assigned to one sharer the land occupied by a dwelling house or other building in the possession of another co-sharer, that other co-sharer shall be allowed to retain it with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose portion it may fall.

(2) The limits of the land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

111. Rule as to tanks, wells, water-courses and embankments. (1) Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

(2) Where from the extent, situation or construction of any such work, it is found necessary that it should continue as the joint property of the proprietors or land-holders of two or more of the estates into which the estate is divided, the Deputy Commissioner shall determine the extent to which the proprietors or land-holders of each estate may make use of the work, and the proportion of the charges for repairs to be borne by them respectively, and the manner in which the profits, if any, derived from the work, are to be divided.

112. Rule as to places of worship and burial grounds. (1) Places of worship and burial grounds held in common previous to the partition of an estate, shall continue to be so held, unless the parties otherwise agree among themselves.

(2) In such cases they shall state in writing the agreement into which they have entered, and their statement shall be filed with the record.

113. Determination of revenue payable by each portion of divided estate. (1) The amount of revenue to be paid by each portion of the divided estate shall be determined by the Deputy Commissioner :

Provided that the aggregate revenue of the new estates shall not exceed the revenue assessed on the estate immediately before partition.

(2) The proprietors or land-holders of each of the new estates shall be jointly and severally liable for the portion of the revenue assessed on their estate, whether new acceptances are taken from them or not.

114. Costs. (1) The State Government shall make rules for determining the costs of partition under this Act, the mode in which those costs are to be appointed, and the parties by whom, and the stage of the proceedings at which, they are to be paid :

Provided that the cost of surveying an estate, when a survey is necessary for the purpose of partition, shall be paid rateably, by all the proprietors or land-holders of the estate, according to their interests therein.

(2) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner subject to the rules made under this section the case may be struck off the file.

Note. For the rules framed under this section see Part II, Chapter VI.

115. Power to stay partition. If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may, of his own motion, stay the partition and order the proceedings to be quashed

116. Proclamation of partition. On completion of a partition the Deputy Commissioner shall publish a proclamation of the fact at his office and at some conspicuous place on each of the new estates or in the estate of which they originally formed part, and the partition shall take effect from the beginning of the agricultural year next after the date of the proclamation.

116-A. Procedure to be followed by Deputy Commissioners in giving effect to the partition. As soon as may be after the date on which the partition takes effect under the last preceding section, the Deputy Commissioner shall deliver to the several sharers possession of the separate lands allotted to them, and for this purpose may, if necessary, summarily eject any proprietor or land-holder who may refuse to vacate the same.

COMMENTS

Powers, authority and jurisdiction of the Deputy Commissioner after perfect partition and in respect of those refusing to vacate the land. [*Sunil Krishna Paul v. Assam Board of Revenue*, 1995 (11) GLT 120].

117. Appeal from decision of Deputy Commissioner. An appeal against the decision of the Deputy Commissioner making a partition shall lie to the Board within one year from the date on which the partition takes effect.

COMMENTS

Section 117. In this section, for the words "Commissioner of Division, or where there is no Commissioner, to the State Government" the word, "Board" was substituted *vide* Assam Act XXII of 1962 published in the Assam Gazette dated 4-9-1962, having come into force on 15-2-1963, by a separate notification.

118. Power to order new allotment of revenue on proof of fraud or error in the first distribution. Where the revenue is fraudulently or erroneously distributed at the time of partition, the State Government may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the revenue upon the several estates into which the estate has been divided, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

119. Making of imperfect partition. Imperfect partition shall be carried on according to the provisions of the preceding section, so far as they are applicable.

120. Persons entitled to union. If a recorded proprietor or landholder is in possession of two or more revenue-paying estates, he may, subject to the rules framed under S. 121, claim to have those estates united, and to hold them as a single estate.

121. Power to make rules. The State Government may make rules, not being inconsistent with this Regulation, as the procedure and principles to be observed in dealing with applications for and in carrying out the partition and union of estates, and in assessing the land revenue on estates divided.

CHAPTER VII

Powers of officers

122. State Government. The State Government shall be the chief controlling authority.

123. Ex officio Revenue Officers. Every Commissioner of a Division, Deputy Commissioner, Assistant Commissioner and Extra Assistant Commissioner shall be the Revenue Officer for the purposes of this Regulation.

COMMENTS

Tahsildar although considered to be a Revenue Officer, cannot put a defaulting estate to sale, unless he gets an order from the Deputy Commissioner to order sale of the estate. [*Nimai Biswas v. Kalidas Mandal*, (1985) 1 GLR 354].

124. Appointment of other Revenue Officers. The State Government may, for the purposes of this Regulation—

- (a) appoint to each district, in addition to the officers mentioned in S. 123, as many other Revenue Officers as they think fit ; and
- (b) suspend or remove any officer appointed under this section.

Note. The following officers have been appointed as Revenue Officers in addition to the officers mentioned in S. 123 :

- (1) *Tahsildar* including *Naib Tahsildar* ;
- (2) Sub-Deputy Collectors ;
- (3) *Mauzadar* in the Assam Valley ;
- (4) Revenue *Nazirs* including *Naib Nazirs* ;
- (5) All officers who are authorised to receive payment of land revenue or other money realisable under the Regulation or rules issued thereunder and who have given, or are required, to give security for the due performance of their duties.

COMMENTS

Section 124. Mauzadars are appointed Revenue Officers under this Act and all Mauzadars in the Assam Valley and in the case of Mauzadars who are minors, their Sarbarabkars have been appointed *ex-officio* Assistant Settlement Officers and invested with the power to effect registration under S. 53 (a) in uncontested cases and to dispose of under Chapter VI of the Regulation all applications for partition of revenue paying estates in which no objection is preferred. [*The State of Assam v. Kanak Chandra Dutta*, AIR 1957 SC 884]. It was also observed that a Mauzadar in the Assam Valley is the holder of a Civil post under the State. The State has the power and right to select and appoint a Mauzadar and the power to suspend and dismiss him. He is subordinate public servant working under the supervision and control of the Deputy Commissioner. There is a relationship of master and servant between the State and him.

Tahsildar although considered to be a Revenue Officer, cannot put a defaulting estate to sale, unless he gets an order from the Deputy Commissioner to order sale of the estate. [*Nimai Biswas v. Kalidas Mandal*, (1985) 1 GLR 354].

125. Sub-divisional Officer. 1) The State Government may, for the purposes of this Regulation—

- (a) divide any district into sub-divisions, or make any portion of a district a sub-division, and may alter the limits of a sub-division ; and
- (b) place any Assistant Commissioner or Extra Assistant Commissioner in charge of one or more sub-divisions of a district, and at any time remove him therefrom.

(2) An Assistant Commissioner or Extra Assistant Commissioner in charge of a sub-division shall be called the Sub-divisional Officer.

126. Powers of Sub-divisional Officers. (1) A Sub-divisional Officer shall, in addition to any other powers conferred on him by or under this Regulation, have the following powers of a Deputy Commissioner, namely :

- (a) power to dispose of cases of gain by alluvion or by dereliction of a river, and loss by diluvion under S. 34 ;
- (b) power to inquire into and report on revenue-free holdings and to assess revenue on resumed lands under Chapter III, Part E ;
- (c) the powers conferred by Ss. 50 to 58 (both inclusive) in respect of registration ;
- (d) power to attach and sell movable property belonging to defaulters under Chapter V ; and
- (e) subject to the confirmation of the Deputy Commissioner power to receive applications and to do all that is necessary for effecting partition and union of estates under Chapter VI.

(2) The State Government may confer on any Sub-divisional Officer all or any of other powers of a Deputy Commissioner under the Regulation.

Note. All Sub-divisional Officers in the plains districts of Assam have been vested *ex-officio* with the following powers in addition to those conferred on them by the Regulation :

- (i) power to fine for omission to give notice of injury to boundary marks [S. 26] ;
- (ii) powers conferred by S. 65 in respect of the opening of separate accounts ;
- (iii) powers conferred by Ss. 70, 72, 73, 74, 75 and 85 in respect of the sale of defaulting estates ;
- (iv) power to proceed against immovable property for arrears of revenue [S. 91 (1)] ;
- (v) power to proceed against defaulting Revenue Officers and their sureties [Ss. 145 and 146] ;
- (vi) all Sub-divisional Officers in the plains districts of Assam have been vested with power to receive and dispose of applications under S. 78-A.

127. Power to invest Assistant Commissioners, etc., not incharge of sub-division with special powers. The State Government may confer upon Assistant Commissioners and Extra Assistant Commissioners not in charge of sub-divisions of districts all or any of the powers conferred by or under this regulation on Sub-divisional Officers in such cases or classes of cases as the Deputy Commissioner of the district may, from time to time, refer to them for disposal.

COMMENTS

Section 127. Under this section, the Chief Commissioner can confer on an Extra Assistant Commissioner only the powers of a Sub-Divisional Officer and not those of the Deputy Commissioner and that too not without reservation but to be exercised in such cases or classes of cases as the Deputy Commissioner may from time to time refer to him for disposal. [*Thockchom Tomnok Singh v. R. K. Santomba Singh*, 1974 ALR 147].

128. Subordination of Revenue Officers. (1) All Revenue Officers in a district shall be subordinate on the Deputy Commissioner, and shall exercise all powers conferred on them by or under this Regulation subject to his control.

(2) Subject to the general control of the Deputy Commissioner, all Revenue Officers, other than the Sub-divisional Officer, in a sub-division of a district shall, unless the State Government otherwise direct, be subordinate to the Sub-divisional Officer, and shall exercise all powers conferred on them by or under this Regulation subject to his control.

(3) Subject to the general control of the State Government, all Revenue Officers in a district which is included in a Commissioner's division shall be subordinate to the Commissioner, and shall exercise all powers conferred on them by or under this Regulation subject to his control.

(4) Subject to the general control of the State Government, all Revenue Officers shall be subordinate to the Board and shall exercise all the powers conferred on them by or under this Regulation subject to its control.

COMMENTS

Section 28. Sub-section (4) was inserted *vide* Assam Act XXII of 1962 published in the Assam Gazette dated 4-9-1962, having come into force on 15-2-1963.

129. Power to distribute work. (1) Subject to any rules which the State Government may make in this behalf, the Deputy Commissioner or Sub-divisional Officer may refer any case to any Revenue Officer subordinate to him for investigation and report, or, if that officer has power to dispose of the case, for disposal.

(2) Subject as aforesaid, a Deputy Commissioner may direct that any Revenue Officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on the case or class of cases, or, if he has power, dispose of it himself.

(3) A Subordinate Revenue Officer shall submit his report on any case referred to him under this section for report to the officer referring it, or otherwise as may be directed in the order of preference; and the Officer receiving the report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold the investigation himself.

Note. Rule 184 of the rules in Part II, Chapter VII, framed under Ss. 129, 152 and 155 (b) and (c), lays down that no case shall be referred for investigation or report to a Revenue Officer of lower rank than a *Tahsildar*, *Mauzadar* or Deputy Commissioner, and that no Revenue Officer below that rank shall be directed to deal with, and to investigate and report on any case or class of cases without reference. These orders, however, only prohibit revenue cases being referred to officers of inferior standing; there is nothing to prevent any officer being employed to hold a local inquiry and report on disputed facts in connection with a case *e. g.*, question of disputed possession, boundaries, etc.

130. Power of superior revenue authorities to withdraw and transfer cases. The Board or a Deputy Commissioner or Sub-divisional Officer may withdraw any case pending before any Revenue Officer subordinate to it or him and either dispose of it itself or himself or refer it for disposal to any other Revenue Officer subordinate to it or him and having power to dispose of the same.

COMMENTS

Section 130. This section was substituted *vide* Assam Act XXII of 1962 published in the Assam Gazette dated 4-9-1962 having come into force on 15-2-1963.

131. Power of officers transferred to another district. Whenever any Revenue Officer who has been invested with any powers under this Regulation in any district or sub-division is transferred to another district or sub-division, he shall, unless the State Government otherwise direct, be held to be invested with the same powers in the district or sub-division to which he is so transferred.

132. Provision for discharge of duties of Deputy Commissioner dying or being disabled. When a Deputy Commissioner dies or is disabled from performing his duties, such officers as the State Government may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Regulation, until successor to the Deputy Commissioner so dying or disabled is appointed, and that successor takes charge of his office, or until the person so disabled resumes charge of his office.

PART B

Settlement and Survey Officers

133. Appointment of Settlement Officers. (1) The State Government may appoint a Settlement Officer to be incharge of the settlement of any local area or class of estates, and as many Assistant Settlement Officers as they think fit ; and all Assistant Settlement Officers so appointed shall be subordinate to the Settlement Officer.

Note. (1) All *Mauzadars* in the Assam Valley, and in the case of *Mauzadars* who are minors, their *Sarbrahkars*, have been appointed *ex-officio* Assistant Settlement Officers.

(2) *Mauzadars* in Cachar excluding Karimgaj Sub-division have been appointed *ex-officio* Assistant Officers.

(2) The State Government may suspend or remove any officer appointed under this section.

134. Appointment of Survey Officers. (1) The State Government may appoint a Survey Officer to be incharge of the survey of any local area or class of estates, and as many Assistant Survey Officers as they think fit ; and all Assistant Survey Officers so appointed shall be subordinate to the Survey Officer.

(2) The State Government may suspend or remove any officer appointed under this section.

135. Powers of Assistant Settlement Officers. A Settlement Officer shall in addition to any other power conferred on him by or under this Regulation, have in the local area or class of estates under settlement—

- (a) all the powers conferred by Chapter III, Part E, on a Deputy Commissioner ; and
- (b) when a survey does not form part of the settlement all the powers conferred by Chapter III, Part B, on a Survey Officer.

136. Powers of Assistant Settlement Officers and Assistant Survey Officers An Assistant Settlement Officer and Assistant Survey Officer

shall have all the powers conferred by this Regulation on a Settlement Officer and Survey Officer respectively, subject to such restrictions as the Settlement Officer or Survey Officer may, from time to time, impose :

Provided that no Assistant Settlement Officer shall, unless specially empowered by the State Government, have power—

- (a) to frame proposals for assessment under S. 30 ;
- (b) to exclude persons under Ss. 35 and 36 for refusal to accept settlement ; or
- (c) to assess land which the State Government has under S. 45, sub-S. (2) declared liable to assessment.

137. Investing of Settlement Officers with special powers. The State Government may invest any Settlement Officer, Survey Officer, Assistant Settlement Officer, or Assistant Survey Officer with all or any of the powers of a Deputy Commissioner under this Regulation, within such limits, and with such restrictions, and for such period, as they think fit.

Note. All *Mauzadars* in the Assam Valley Districts, and in the case of *Mauzadars* who are minors, their *Sarbarahkars*, having been appointed as Assistant Settlement Officers, have been invested with the powers—

- (a) to effect registration under S. 53-A in uncontested cases ; and
- (b) to dispose of under Chapter VI of the Regulation, all applications for partition of revenue-paying estate in which no objection is preferred.

138. Exercise of powers of Settlement Officer or Survey Officer by other officers. (1) At any time during the currency of a settlement the State Government may invest any officer with all or any of the powers of a Settlement Officer or Survey Officer under this Regulation, within such limits, and with such restrictions, and for such period, as they think fit.

(2) If no Settlement Officer or Survey Officer is appointed, and no officer is invested with the powers of a Settlement Officer or Survey Officer under sub-S. (1), the Deputy Commissioner and Sub-divisional Officer (if any) shall have all the powers conferred by the Regulation on a Settlement Officer or Survey Officer, as the case may be.

PART C

Mode of conferring and withdrawing powers

139. Conferring and withdrawing of powers. (1) In conferring powers under this Regulation the State Government may empower persons by name or classes of officials generally by their official titles, and may vary or cancel any order conferring such powers.

(2) The State Government may withdraw from any officer the powers conferred on him by this Regulation.

CHAPTER VIII

Procedure

140. Place for holding Court. Subject to the orders of the State Government—

- (a) The Board may hold Court at any place within the State of Assam ;
- (b) a Deputy Commissioner, and Assistant Commissioner, or Extra Assistant Commissioner (whether-in-charge or not of a sub-division of a district), a Settlement Officer, an Assistant Settlement Officer, a Survey Officer and an Assistant Survey Officer may hold his Court at any place within the limits of the district or sub-division to which he is appointed.

COMMENTS

Section 140. Clause (a) was substituted *vide* Assam Act XXII of 1962, having come into force on and from 15-2-1963 by a separate notification.

141. Power to summon persons to give evidence, etc. (1) The Board and any officer mentioned in S 140 may summon any person whose attendance they consider necessary for the purposes of any investigation or other business before them conducted under this Regulation.

(2) All persons so summoned shall be bound to attend either in person or by authorised agent as the Board or such officer may direct ;

and to state the truth upon any subject respecting which they are examined ;

and to produce such documents and other things as may be required.

COMMENTS

Section 141. In sub-S. (1) for the words "State Government", the word "Board" was substituted by Assam Act XXII of 1962 having come into force on and from 15-2-1963. In sub-S. (2), between the words "as" and "such" the words "the Boards" were inserted by the same Amendment Act.

142. Power to fine person summoned for non-attendance. If any person fails to comply within the time fixed by a notice served on him with any requisition made upon him under S. 141, the Board or the Officer, as the case may be, making the requisition may impose upon him such daily fine as they or he thinks fit, not exceeding fifty rupees, until the requisition is complied with : Provided that, whenever the amount levied under an order under this section passed by an officer exceeds five hundred rupees the Deputy Commissioner shall report the case to the Board and no further levy in respect of the fine shall be made otherwise than by authority of the Board.

COMMENTS

Section 142. This section was substituted *vide* Assam Act XXII of 1962 having come into force from 15-2-1963, by a separate notification.

143. Power to refer disputes to arbitration. (1) The State Government, a Deputy Commissioner, a Sub-divisional Officer, a Settlement Officer or an Assistant Settlement Officer, a Survey Officer or an Assistant Survey Officer may, with the consent of the parties, refer any dispute before them to arbitration.

(2) In all cases referred to arbitration the procedure laid down in the Code of Civil Procedure in force for the time being shall be followed so far as applicable, and the officer referring the case shall discharge the function of the Civil Court.

COMMENTS

Section 143. In this section, in sub-S. (1) the words "a Commissioner of a Division" was deleted *vide* Assam Act XXII of 1962, having come into force from 15-2-1963.

144. Recovery of fines and costs. All fees, rents, fines, and other money payable under this Regulation, or under rules made by the State Government under this Regulation shall be recoverable as an arrear of land revenue.

144-A. Recovery of rents, fees, royalties, and of moneys due to the Government in certain cases. All rents, fees, and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof and all moneys falling due to the Government under any grant, lease, security bond, or contract which provides that they shall be so recoverable, may be recovered under this Regulation in the same manner as an arrear of land revenue.

145. Proceedings against defaulting Revenue Officers. If a Deputy Commissioner has reason to believe that a Revenue Officer subordinate to him, who has collected any sum due under this Regulation, has absconded, or is about to abscond, without accounting for such sum, he may issue a warrant for the apprehension of the officer, and proceed against him, or cause proceedings to be instituted against him, under Chapter V, as if he were a defaulter in the amount so collected.

146. Proceedings against sureties of defaulter or Revenue Officers. Any person who has become liable for any amount as surety for a defaulter or Revenue Officer may be proceeded against in the manner prescribed in Chapter V, as if he were a defaulter in such amount.

147. Authority to whom appeals lie. Appeals shall lie under this Regulation as follows :

- (a) to the Board from orders, original or appellate passed by a Deputy Commissioner, Settlement Officer or Survey Officer ;
- (b) to the Deputy Commissioner, from orders passed by a Sub-divisional Officer, an Assistant Commissioner or Extra Assistant Commissioner ;
- (c) to the Settlement Officer, from orders passed by an Assistant Settlement Officer ;
- (d) to a Survey Officer, from orders passed by an Assistant Survey Officer ;

Provided that no appeal shall lie against the following orders :

- (i) orders of an Assistant Settlement Officer or Assistant Survey Officer under Ss. 21 and 22 ;

- (ii) orders of a Survey Officer or Settlement Officer—
- (1) under Ss. 21, 22 and 24 ;
 - (2) apportioning the expense of erecting and repairing boundary marks in accordance with rules made under S. 27 ;
- (iii) orders of a Survey Officer, Settlement Officer or Deputy Commissioner, original or appellate imposing or confirming a fine not exceeding fifty rupees ;
- (iv) orders of a Deputy Commissioner under S. 79 setting aside or refusing to set aside the sale ;
- (v) any decision given in accordance with an award of arbitrators appointed under S. 143, except in the case of fraud or collusion ;
- (vi) orders under S. 148, admitting an appeal after the period of limitation has expired ;
- (vii) orders expressly declared by this Regulation to be final subject to the provision of S. 151.

COMMENTS

Section 147. An order issuing non-renewal notice to an annual patta-holder or directing him to show cause why he should not be prosecuted is not an order within this section. [*Rafiquddin v. Muklusa Bibi*, AIR 1950 Assam 99].

Settling waste land in town on a person is an appealable order under this section having been made by the Deputy Commissioner. [*Saligram Rai Chunilal Bahadur v. Jajna Chandra Goswami*, AIR 1950 Assam 157].

Under the Regulation no power has been given to the State Government to interfere with the order passed by the Deputy Commissioner as a Revenue Officer. The remedy of the party affected by such order was either to file an appeal under this section if it was permissible or to go up in revision to High Court under S. 151. [*Abdul Malik v. Deputy Commissioner*, AIR 1961 Assam 126].

Provisions of this section cannot be invoked to entertain any appeal which does not lie under the provision of the Ceiling Act. [*Sawna Brahma v. Assam Board of Revenue*, AIR 1972 Gau 121].

Appeal filed under this section being revenue matter relating to settlement of fishery can be entertained by the Board of Revenue. [*Rampatt Goala v. Aswini Das*, AIR 1967 Assam 50].

There is no provision in this section under which an appeal lies to the Board of Revenue from an appellate order of the Sub-divisional Officer. But the Board cannot be said to have committed any error of law in passing the order in exercise of its jurisdiction under S. 151 of the Regulation. [*Akkesh Ali v. Abdul Hussain*, 1977 ALR 72].

A periodic patta once granted cannot be cancelled except on default in payment of land revenue. Revenue authorities have no power to cancel it even on the ground of fraud ; they must refer the aggrieved party to civil court for settlement of their respective rights. [*Sona Mura v. Charthey Teron*, AIR 1951 Assam 41].

This section was substituted *vide* Assam Act XXII of 1962, published in the Assam Gazette on 5-9-1962 and came into force from 15-2-1963 by a separate notification.

148. Limitation of appeal. (1) Unless otherwise specially provided in this Regulation, or in rules issued under this Regulation—

- (a) no appeal under S. 147, Cl. (a) shall lie after the expiration of two months from the date of the order appealed against ;
- (b) no appeal under same section, Cls. (b), (c) and (d) shall lie after the expiration of thirty days from the date of the order appealed against ;

(2) In computing the period prescribed for an appeal by this section, the day on which the order appealed against was passed, and the time requisite for obtaining a copy of such order, shall be excluded.

(3) An appeal may be admitted after the period of limitation prescribed therefor by this section when the appellant satisfies the Board or officer to whom he appeals that he had sufficient cause for not presenting the appeal within that period.

Note. In order to enable the appellate authority to calculate the time to be deducted under Cl. (2) of this section from the period allowed by law for an appeal, the Presiding Officer of the Court whose order is appealed against should certify on the back of the copy of the order appealed against the date on which the copy was applied for and the date on which it was granted.

COMMENTS

Section 148. An annual patta, until it is either cancelled or notice of non-renewal given to the patta-holder by the authorities concerned, confer good title upon the person to whom the patta is issued. [*Parasanna Ram Pathak v. Balabax Agarwala*, AIR 1950 Assam 209].

The effect of non-service of non-renewal notice personally is that the annual patta must be deemed to be in force and until the annual patta is cancelled by a notice in accordance with law, it will be deemed to be renewed from year to year until duly cancelled. [*Someshwar Choudhury v. Province of Assam*, AIR 1960 Assam 192].

Sub-section (1) was substituted *vide* Assam Act XXII of 1962 published in the Assam Gazette on 5-9-1962, having come into force from 15-2-1963.

149. Procedure of Appellate Court on appeal. The Board or officer to whom the appeal lies may reject the appeal without hearing the respondent (if any); if it or he, as the case may be, admits the appeal, it or he may reverse, modify or confirm the order appealed against; it or he may direct such further investigation to be made or such additional evidence to be taken as it or he may think necessary, or it or he may itself or himself, as the case may be, take such additional evidence.

Note. In cases of appeals against orders under Chapter IV, the appellate authority should fill in the final order in the appropriate form (*i.e.*, Form No. 9 of the Assam Schedule XVII Part I) when registration is allowed by it by reserving of modifying the orders appealed against.

COMMENTS

Section 149. In this section for the word "Tribunal" the word "Board" has been substituted *vide* Assam Act XXII of 1962.

150. Suspension of orders appealed against. In any case in which an appeal is admitted the Appellate Court may, if it thinks fit, pending the result of the appeal, direct the order appealed against to be suspended.

151. Power to call for proceedings of subordinate officers. The Board, a Deputy Commissioner, a Settlement Officer and a Survey Officer may call for the proceedings held by any officer subordinate to it or him, and pass such orders thereon as it or he thinks fit.

Note. An order once passed in any case cannot be revised either by the officer who passed it or by his successor in office. But this order does not apply to summary registration orders.

COMMENTS

Section 151. The powers of the Tribunal under this section are apparently very wide. It may pass any order it deems fit after calling for the proceedings held by any subordinate officer. But it will be readily conceded that it has no power to pass arbitrary orders. This section, correctly interpreted, merely empowers the Tribunal to pass any order it may deem fit within the scope of its authority. Its order also must be legal and also within the limit of its jurisdiction. [*Sib Charan v. Manik Chandra*, AIR 1950 Assam 141].

The Revenue Tribunal could not validate a sale which was void *ab initio* even under this section. [*Narayan Bedia v. Dambarunath*, AIR 1950 Assam 40].

This section gives sufficiently wide power and could be invoked in an appropriate case and the question of limitation would not affect the jurisdiction of the Board. [*Abdul Gani v. Assam Board of Revenue*, AIR 1970 Assam 82].

Once an entry has been made directing the name of a person to be mutated in the Mutation Register by order of the Deputy Commissioner, his successor cannot revise the order of his predecessor but can invoke his inherent power under S. 151, C. P. C. to set aside a mutation order obtained by suppression of facts. [*Brojomohan Das v. Konoj Kumari*, AIR 1951 Assam 45].

An order once passed in any case cannot be revised either by the officer who passed it or his successor in office. But this order does not apply to summary registration orders.

This section was substituted *vide* Assam Act XXII of 1962 published in the Assam Gazette on 5-9-1962 having come into force from 15-2-1963 by a separate notification.

The powers of the Board under this section have been conferred in the widest terms. These powers can be exercised *suo motu* or on an application filed before it. There is no period of limitation prescribed under the Regulation for such an application. There is also no period of limitation for the exercise of such power. It may exercise its power in respect of any proceeding held by officer subordinate to it. As observed by the Supreme Court in *Nagendra Nath Boro v. Commissioner* [AIR 1958 SC 398] the powers of the Board are co-extensive with those of the officers subordinate to it. [*Satya Ranjan Paul Mazumdar v. Assam Board of Revenue*, AIR 1977 Gau 83]. The language of S. 151 shows that the power of the Board is very wide and unrestricted. The Board can *suo motu* call for the records of a case and pass an appropriate order on an application filed by an aggrieved party. There is also no limitation for exercise of powers under this section, which is supported by the decision of the Supreme Court in AIR 1966 SC 893.

The Board has power to annul the sale under this section on the ground of hardship or injustice within one year of the sale becoming final. In the instant case, the Board having held that it was a case of hardship and injustice, instead of taking recourse to this section, has allowed the petition acting under S. 151, which should have been done under this section only. [*Nimai Biswas v. Kalidas Mandal*, (1985) 1 GLR 354].

152. Power to make rules. The State Government may make rules consistent with this Regulation, to regulate the procedure of officers in the discharge of any duty imposed on them by or under this Regulation, and may by such rule confer upon any officer any power exercised by a Civil Court in the trial of suits.

Note. For the rules framed under Ss. 129, 152 and 155 (b) and (c) see Part II, Chapter VII. These rules, which have the force of law, have been supplemented by certain executive orders which will be found in Part X of the Manual.

CHAPTER IX

Miscellaneous

153. Proceedings under this Regulation unaffected by mistake, misdescription or irregularity. (1) No proceedings under this Regulation shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate in respect of which he is rendered liable to pay, or by reason of any other informality: provided that the provisions of this Regulation, and of the rules passed under this Regulation have been substantially complied with.

(2) No proceedings under this Regulation shall be affected by reason of any irregularity or omission in the publication or service of any notice or proclamation thereunder, unless it is proved that some material injury was caused by such irregularity or omission.

153.A. Board's power to hear pending proceedings. Any proceeding under the Regulation pending before the Commissioner immediately before the date of commencement of this Act, shall be deemed to have been instituted before the Board, and shall be decided as if it were duly instituted before the Board.

154. Matters exempted from cognizance of Civil Court. (1) Except when otherwise expressly provided in this Regulation, or in rules issued under this Regulation, no Civil Court shall exercise jurisdiction in any of the following—

- (a) questions as to the validity or effect of any settlement or as to whether the conditions of any settlement are still in force ;
- (b) questions as to the amount of revenue tax, cess, or rates to be assessed ; and the mode, or principle of assessment ;
- (c) the formation of the record-of-rights, or the preparation, signing or alteration of any document contained therein ;
- (d) claims of persons to perfect partition ;
- (e) claims of persons to imperfect partition, except in cases in which a perfect partition could not be claimed from, and been refused by, the revenue authorities on the ground that the result of such partition would be to form a separate estate liable for an annual amount of revenue less than five rupees ;
- (f) the distribution of the land or allotment of the revenue on partition ;
- (g) claims connected with, or arising out of the collection of land revenue, or any process for the recovery of an arrear of land revenue or any other enactment for the time being in force, realisable as an arrear of land revenue ;
- (h) claims to occupy or resort to lands under Ss. 13 and 14, and disputes as to the use and enjoyment of such lands between persons permitted to occupy or resort to the same ;
- (i) claims to have an allotment made under S. 13 or S. 14 and objection to the making of such allotment ;
- (j) claims to a remission or refund of any revenue, cess, tax, rate, fee, or fine payable or paid under this Regulation or liable under any enactment for the time being in force as an arrear of land revenue ;
- (k) claims to set aside a decision passed in accordance with an award of arbitrators ;
- (l) claims to any office connected with the revenue administration or to any emolument appertaining to such office, or in respect of any injury caused by exclusion, suspension or removal therefrom ;
- (m) any matter respecting which an order expressly declared by this Regulation to be final, subject to the provisions of S. 151, has been passed ; and

(n) any matter regarding ejection of any person from a land over which no person has accrued the right of a proprietor, landholder or settlement-holder and the disposal of any crop raised, or any building or other construction erected without authority on such land.

(2) In all the above cases jurisdiction shall rest with the revenue authorities only.

(3) Notwithstanding anything in S. 265 or S. 396 of the Code of Civil Procedure, a Civil Court may, in the case of claims for an imperfect partition with respect to which its jurisdiction is not barred by this section, exercise the same powers in making the partition of a revenue-paying estate as it is competent to exercise in making the partition of a revenue-free estate.

(4) When a Civil Court has made an imperfect partition of a revenue-paying estate, the amount of revenue for which each portion of the divided estate is, as between that portion and the other portions to be liable shall be determined by the Deputy Commissioner in the same manner as if the partition had been carried out by himself under Chapter VI of this Regulation.

COMMENTS

Section 154. If a *Mauzadar* lends money to a *raiyat* to enable him to pay an arrear of revenue, and the arrear is then satisfied, the loan is a debt recoverable in the Civil Court, S. 154 (g) being no bar to the suit; but if the *Mauzadar* pays the demand without any authority from the *raiyat* he can only proceed against the *raiyat* by revenue process, S. 154 (g) being a bar to a civil suit.

Before the bar in this section can be said to be inoperative, the plaintiff may lay the foundation for his contention that he had an existing right under the Regulation which the Government had violated. Section 62 of the Regulation does not control this section which deals with certain specified subjects. [*Kanteswar Choudhury v. Province of Assam*, AIR 1950 Assam 77].

This section does not debar the Civil Court from entertaining suits based on title to the property. In the case of *Arjab Ali Laskar v. State of Assam*, [(1955) ILR 7 Assam 201], it was held that this section is somewhat loosely worded, but it should not be so broadly construed as to debar suits involving questions of title from the purview of Civil Courts, merely because the title claimed had its origin in settlement of lands. [*The State of Assam v. Sifat Ali*, AIR 1967 A & N 3].

Sub-section (1), Cl. (a) of this section does not bar a person having a subsisting right to an estate to seek declaration of his right from a Civil Court as against a person who has succeeded in getting a settlement in his favour. [*Dinesh Chandra v. Harendra Biswas*, AIR 1972 Gau 81].

Clause (n) was inserted *vide* Assam Act No. XXIX of 1971 published in the Assam Gazette dated 22nd December, 1971 to come into force at once.

A Civil Court cannot only declare title to the property but it can also adjudicate that the Revenue Officer or the Courts acted beyond their jurisdiction resulting in a failure of justice. In the case of *Dinesh Chandra Sarkar v. Harendra Biswas* [AIR 1972 Gau 81], it was held that suit for declaration of right, title and interest is not barred by this section. Dealing with these propositions it was held that the matters within the jurisdiction of the Revenue authorities or Courts could be decided by them but no such decision of a Revenue Court could take away the jurisdiction of a Civil Court, when a person having a right to an asset claim entitlement to it and sought declaration of his right in the Court notwithstanding the provisions contained in this section [(1984) 2 GLR 8]

The jurisdiction of the Civil Court is not barred because of Cls. (h) and (i) of sub-S. (1) of this section. [*Chief Executive Member, North Cachar Hills District Council v. Thangsaving Changaon*, (1982) 1 GLR 674].

Where the suit was for declaration of right, title and for recovery of khas possession whether barred under this section? [*Hemodhar Kanwar v. Mst. Ganeswari Dutta*, 1990 (1) GLJ 495 ; see also decision in *Produmnya Das Purkayastha v. Rasendra Kumar Das*, 1990 (2) GLJ 163].

Partition in pursuance of Civil Court's decree. [*Moinunnessa v. Faizur Rahman*, (1987) 2 GLR 28].

154-A. (1) Notwithstanding anything contained in any judgment, decree or order of any court any notice served or any action taken or any penalty imposed or any ejection done under sub-Rr. (1), (2), (3a) and (3b), (4), (5) and (5a) of R. 18 of the Settlement Rules made under the Regulation shall be and always be deemed to have been validly done.

(2) No suit or other proceeding shall be maintained or continued in any court against the Government or any person or authority for any act done or purported to have been done under sub-Rr. (1), (2), (3a) and (3b), (4), (5) and (5a) of R. 18 of the Settlement Rules made under the Regulation.

(3) No court shall enforce any decree or order against the Government or any other person for any action taken or purported to have been taken under sub-Rr. (1), (2), (3a) and (3b), (4), (5) and (5a) of Rr. 18 of the Settlement Rules made under the Regulation.

COMMENTS

Section 154-A. This section was inserted *vide* Assam Act No. XXIX of 1971 published in the Assam Gazette dated 22nd December, 1971, to come into force at once.

Object of inserting this section. [*Daulatram Lakhani v. State of Assam*, (1989) 1 GLR 131].

155. Additional power to make rules. The State Government may, in addition to the other matters for which they are empowered by the Regulation to make rules, make rules consistent with this Regulation relating to the following matters :

shall before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(2) If, on such consideration of the draft, any modification is made, the State Government shall determine whether it is necessary to republish the draft under this section.

(3) * * *

(4) All rules made by the State Government under this Regulation shall be published in the official Gazette, and shall thereupon have the force of law.

158. * * *

159. Powers exercisable from time to time. All powers conferred by this Regulation may be exercised from time to time as occasion requires.

CHAPTER X

Protection of backward classes

160. Protection of certain classes. (1) Notwithstanding anything herebefore contained, in State Government may adopt such measures as it deems fit for the protection of those classes who, on account of their primitive condition and lack of education or material advantages, are incapable of looking after their welfare in so far as such welfare depends upon their having sufficient land for their maintenance.

(2) The State Government may, by notification in the official Gazette, specify the classes of people whom it considers entitled to protection by such measures as aforesaid.

COMMENTS

Constitution of belts and blocks for protection of backwards—Constitution of compact areas. [*Strajuddin v. State of Assam* (1990) 2 GLR 22].

161. Constitution of compact areas. The protective measures may include the constitution of compact areas, in regions predominantly peopled by the classes of people notified under the provisions of sub-S (2) of S. 160, into belts or blocks. The boundaries of the areas so constituted shall, as far as possible, coincide with mauza boundaries or be otherwise easily distinguishable.

162. Extension of Chapter X to such areas. (1) The State Government may, by notification in the official Gazette, direct that the provisions of this Chapter shall apply to the areas, or any of the areas, constituted into belts or blocks under the provisions of S. 161. On such application, the disposal of land by lease for ordinary cultivation, the nature and extent of rights conveyed by annual or periodic leases, the termination or forfeiture of such rights, the ejection of persons in occupation who have no valid right in the land, the management or letting out in farm of land in certain circumstances by the Deputy Commissioner, and other allied or connected matters shall, so far as possible, be governed by the provisions of this

- (a) the person by whom, and the time, place, manner at or in which, anything is to be done for the doing of which provision is made in this Regulation or the rules made thereunder ;
- (b) the mode in which notices, proclamations, summonses, warrants and other process issued under this Regulation shall be issued, published, and served, and the fees to be charged for the issue, publication and service of such proceedings ;
- (c) the costs of all proceedings under this Regulation ;
- (d) the manner in which representatives shall be appointed to act in matter relating to this Regulation on behalf of any body of settlement-holders or persons entitled to, or with whom it may be desirable to make, a settlement ;
- (e) the granting of licences to prepare or collect or the forming of the right of preparing or collecting, rubber, lac and other forest produce upon land over which no person has the rights of a proprietor, land-holder, or settlement holder ;
- (f) the granting of licences, or the forming of the right, to work mines, stones, and lime quarries, salt-wells and oil-wells, to fish in fisheries proclaimed under S. 16, and to carry on gold washing operations ;
- (g) the payment in consideration of which, and the conditions on which, such licences or forms may be granted ; and
- (h) generally to carry out the provisions of this Regulation.

COMMENTS

Jurisdiction of Civil Court in respect of a settlement order under Fishery Rules. [*Batgaon Nayapura Fishery Co-operative Society Ltd. v. Bauri Fishery Co-operative Society Ltd.*, (1993) Supp. (1) GLR 398].

Matters exempted from the cognizance of civil court. [*Shri Produmnya Das v. Rasendra Kumar Das*, 1990 (2) GLR 412 ; *State of Tamil Nadu v. Ramalinga Samigal Madam*, (1985) 4 SCC 10 and *Daulatram Lakhani v. State of Assam*, (1989) 1 GLR 131] Civil Courts jurisdiction when not barred.

156. Penalty for breach of rules. The State Government may, in making any rule under this Regulation, provide that a breach of the rule, in addition to any other consequence which would ensue from such breach, be punishable with fine which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues, or, on conviction before a Magistrate, with imprisonment which may extend to six months or with fine up to one thousand rupees or with both.

157. Making and publication of rules. (1) The State Government shall, before making any rules under this Regulation, publish in such manner as may, in their opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration ; and

Chapter and the rules made thereunder. Where this is not possible, the Deputy Commissioner shall be guided by the spirit of the provisions of the foregoing Chapters at the Regulation and the rules made thereunder.

✓(2) Notwithstanding anything to the contrary in any law, usage, contract, or agreement, no person shall acquire or possess by transfer, exchange, lease, agreement or settlement any land in any area or areas constituted into belts or blocks in contravention of the provisions of sub-S. (1):

Provided that nothing contained in this Chapter or in the rules made thereunder, shall affect any transfer by way of mortgage in favour of any nationalised bank, a co-operative society registered under the Assam Co-operative Societies Act, 1949 (Assam Act I of 1950) or such other financing institution as may be approved by the State Government.

✓(3) From and after the commencement of the Assam Land and Revenue Regulation (Amendment) Act, 1964, no document evidencing any transaction for acquisition or possession of any land by way of transfer, exchange, lease, agreement or settlement shall be registered under the Indian Registration Act, 1908 if it appears to the registering authority that the transaction has been effected in contravention of the provisions of sub-S. (2).

(4) The State Government may in like manner, direct that the provisions of this Chapter shall cease to apply to any area or areas or portions of any area or areas, to which they have been applied under the provisions of sub-S. (1).

(5) The application of the provisions of this Chapter to any area as aforesaid will not affect—

- (a) land settled for special cultivation or purposes ancillary to special cultivation (including grants made for tea cultivation):
- (b) *lakheraj*, *nisfkheraj* or special estates settled with non-cultivators for their maintenance, which land and estates and the rights and interests therein shall continue to be governed by the provisions of the foregoing Chapters of the Regulation and the rules made thereunder.

COMMENTS

Section 162. Any person who is a party to the violation of sub-S. (2) of this section cannot ask for and get any declaration of title and consequently cannot have any cause of action for getting possession, khas or otherwise. The classes of persons mentioned in sub-S. (1) and those who are entitled to settlement under S. 163 or the Rules under Chapter X can have and acquire right, title and interest in the land covered by Chapter X. [*Manindra Chandra Dey v. Kamal Chandra Bora*, 1977 ALR 75].

It was also held in the above case that if a Court comes to the conclusion that the registration was done or made in violation of sub-S. (3) of this section, the resultant effect may be that the document is void. Any transfer violative of sub-S. (2) makes the transaction invalid and void *ab initio*. [The decision in the case of *Ram Kristo Mandal v. Dhan Kristo Mandal*, AIR 1969 SC 204, relied upon].

The proviso to sub-S. (2) was inserted *vide* President's Act No. 2 of 1981.

Sub-sections (4) and (5) existing were earlier numbered as sub-Ss. (2) and (3) and the present sub-Ss. (2) and (3) were inserted *vide* Assam Act XVI of 1964 published in the Assam Gazette having come into force on such date as the State Government may, by notification in the official Gazette, appoint.

163. Disposal of land for purposes of cultivation. (1) The disposal of land in area to which the provisions of this Chapter apply, for the purpose of ordinary cultivation or purposes ancillary thereto, shall be in accordance with such policy and procedure as may be adopted and directed by the State Government.

(2) In adopting and directing such policy or procedure, the State Government shall take into consideration—

- (a) *First* the bona fide needs of persons belonging to classes notified under sub-S. (2) of S. 160 who are permanently residing in such area from before its constitution under S. 161 ;
- (b) *Secondly*, the bona fide needs of persons belonging to such classes who are temporarily residing in such area from before its constitution, but, who are settlement holders of land within the area, on the date of its constitution, and who are likely to undertake to become permanent residents therein within a reasonable time ; and
- (c) *Thirdly*, if the extent of cultivable land available for settlement in belt or block be large enough the bona fide needs of—
 - (i) the persons belonging to the other classes of people residing in the belt or block from before the constitution of the belt or block ;
 - (ii) the persons belonging to the classes notified under sub-S. (2) of S. 160, who are living elsewhere in the State.

(3) The policy adopted and directed under sub-S. (1) shall also provide that no settlement with the persons belonging to the classes of people mentioned in Cl. (c) of sub-S. (2) shall be made except with the previous approval of the State Government.

COMMENTS

Section 163. "The area" in question in sub-S. (2) (a) of this section means only the area in which the sale transaction has taken place. It cannot mean any area in any other place or any other tribal belt or block. This is apparent from a reading of other provisions of Chapter X of the Regulation. [*Manindra Chandra Dey v. Kamal Chandra Bora*, 1977 ALR 75].

Sub-sections (2) and (3) were substituted as President Act No. 2 of 1981.

✓ 164. **Rights of settlement-holders and land-holders.** (1) A settlement-holder other than a land-holder shall have no right in the land held by him beyond such as are expressed in his settlement lease.

(2) A land-holder shall have a right of use and occupancy in the land held by him subject to any restrictions or modifications prescribed in rules made under this Chapter, and to the provisions of S. 9 :

Provided that no land-holder shall transfer his land in a belt or block to—

- (a) any person not belonging to a class of people notified under S. 160, or
- (b) any person who is not a permanent resident in that belt or block :

✓ Provided further that no such land-holder shall transfer his land in a belt or block to any person who is a permanent resident in that belt or block who does not belong to a class of people notified under S. 160 except with the previous permission of the Deputy Commissioner ; ✓

Provided also that in granting such permission the Deputy Commissioner shall have due regard to the interests of persons belonging to the classes notified under that section.

(3) The rights of a landlord derived from a periodic lease in respect of land to which the provisions of this Chapter have been applied, and issued before the date of the notification under sub-S. (1) of S. 162 shall, for the period during which the area remains subject to the provisions of the Chapter, be the same as described in sub-S. (2).

164-A. Notwithstanding anything to the contrary contained in this Act or any law relating to limitation, no person to whom any land is transferred in a belt or block in contravention of the provisions of this Chapter, shall acquire any right or title in that land by length of possession whether adverse or not.

COMMENTS

Section 164-A was inserted *vide* President's Act No. 2 of 1981.

164-B. **Penalty for transfer.** If any transfer of land is effected in contravention of the provisions of this Chapter, both the transferor and transferee shall be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

COMMENTS

Section 164-B was inserted *vide* Assam Act No. IV of 1990.

165. Ejectment and eviction. (1) In the case of unsettled land, any person who without valid authority has encroached upon or occupied it shall be liable to ejectment forthwith.

(2) In the case of annually settled land, persons other than settlement-holders, members of their families and hired servants, if found in occupation thereof, shall be liable to ejectment forthwith. The settlement, with the settlement-holder shall, unless terminated earlier for infringement of the conditions of the lease or for any action contrary to or inconsistent with the rights conferred on him by the lease, automatically terminate the end of the period covered by the lease.

(3) (a) In the case of periodically settled land, persons who have entered into occupation without valid authority from the landholder or whose entry or occupation is or has come about in a manner inconsistent with the provisions of this Chapter shall be liable to eviction.

(b) Such eviction shall be preceded by service of notice requiring the occupants to vacate the land, and to remove all buildings and other constructions erected and crops raised, within a period not exceeding one month from the date of receipt of the notice.

(c) The Deputy Commissioner may, after the persons concerned have evacuated or been evicted from the land, take the land under his own management, or may let it in farm, for such period as he thinks fit, but shall give the landholder a reasonable opportunity of undertaking in writing that he will do everything in his power to prevent unauthorised occupation by other persons in future, and of agreeing in writing that, on his failure to do so, he will forfeit his rights and status of a landholder in respect of the land. If satisfied with an undertaking and agreement as aforesaid, the Deputy Commissioner shall accept them, and they shall be deemed to govern the land-holder's future rights and status in respect of the land, and the land shall then be restored to the landholder. If the land-holder subsequently contravenes the undertaking as aforesaid, or any of the provisions of S. 9, he shall be liable to forfeiture of his rights and status in respect of the land, which will then be available for settlement afresh, subject to any lawful encumbrances subsisting upon it.

166. Immunity. No suit shall lie against any public servant for anything done by him in good faith under this Chapter.

167. Ban on jurisdiction. No Civil Court shall exercise jurisdiction in any of the matters covered by this Chapter.

COMMENTS

Section 167. A Civil Court will undoubtedly have jurisdiction to knock down the illegal orders passed without jurisdiction and in violation of the letters and spirit of Chapter X. Hence, S. 167 does not oust or create a bar on the jurisdiction of Civil Court. [*Manindra Chandra Dey v. Kamal Chandra Bora*, 1977 ALR 75].

168. Investment of powers. The State Government may, by notification in the official Gazette, invest any Revenue Officer with the powers of the Deputy Commissioner under all or any of the provisions of this

Chapter within such limits, with such restrictions and for such period as may be specified, and may withdraw from any such officer any of the powers so conferred upon him.

169. Appeals. (1) An appeal shall lie under this Chapter—

- (a) to the Deputy Commissioner, from any original order passed by any officer subordinate to him, and
- (b) to the Board from any original order passed by a Deputy Commissioner.

(2) Except in regard to orders relating to periodically settled land an order passed on appeal under sub-S. (1), Cl. (a) shall be final.

(3) In regard to orders relating to periodically settled land an appeal will lie to the Board from an appellate order of the Deputy Commissioner.

COMMENTS

Section 169. In this section in sub-S. (1) (b) and (3) for the words "Revenue Tribunal" the word "Board" was substituted by Assam Act XXII of 1962 having come into force from 15-2-1963.

170. Revision. The Board or the Deputy Commissioner may call for the proceedings held by any officer subordinate to it or him, and pass such order thereon as it or he thinks fit.

COMMENTS

Section 170. In this section for the words "Revenue Tribunal" the word "Board" was substituted by Assam Act XXII of 1962 having come into force from 15-2-1963.

171. Rules. The State Government may, by notification in the official Gazette, make rules for purpose of carrying out the provisions of this Chapter.

THE SCHEDULE

[See Section 2]

Enactments repealed

Part I. Bengal Regulation

Number and year	Subject	Extent of repeal
Act XIX of 1793 ..	Non-badshahi lakhiraj grants	... The whole
„ XXXVII of 1793...	Badhshahi lakhiraj grants	... Do
„ XLVIII of 1793 ..	Quinquennial Register	... Do
„ III of 1794 ..	Collection of land revenue Embezzlement by Tahsildars	.. Do
„ XV of 1797 ...	Fees	... Do

Number and year	Subject	Extent of repeal
Act VIII of 1800	.. Pargana Register and Mutation	... The whole
.. I of 1801	... Division of joint estates	... Do
.. XI of 1811	.. Partition	... Do
.. V of 1812	.. Leases by proprietors ; Collection of land revenue	... Do
.. XVIII of 1812	... Leases by proprietor ; Partition	... Do
.. XIX of 814	.. Partition	... Do
.. II of 1819	.. Resumption	... Do
.. IV of 1821	.. Assistant Collectors	... Do
.. III of 1822	... Board of Revenue	... Do
.. VII of 1822	.. Settlement	... Do
.. XI of 1822	.. Sales of land for arrears of revenue...	Do
.. IX of 1825	.. Extending Regulation VII of 1822	... Do
.. XIII of 1825	.. Lakhiraj tenures, Kanungos	... Do
.. XIV of 1825	.. Lakhiraj tenures	.. Do
.. III of 1828	... Special Commissioners	.. Do
.. VI of 1828	.. Settlement	.. Do
.. I of 1829	... Commissioners	... Do
.. IX of 1833	... Settlement ; Deputy Collectors	... Do

Part II. Acts of the Governor-General-in-Council

Number and year	Subject	Extent of repeal
Act II of 1835	... Assam Arracan ; Tenasserim	So far as it refers to the Board of Revenue
.. VI of 1835	.. Khasi Hills and Cachar	.. Do
.. XX of 1836	... Partition	... The whole
.. XX of 1836	... Zilas	.. Do
.. XI of 1838	.. Remuneration of Amins effecting partition	.. Do
.. XII of 1841	.. Sales of land for arrears of revenue...	Do
.. IX of 1847	... Assessment of land gained by alluvion	Do
.. XX of 1848	... Attendance before Collector	... Do
.. XXII of 1850	... Defaults of public accountants	... Do
.. XXXI of 1858	... Board of Revenue	... Do
.. XI of 1859	... Sales of land for arrears of revenue...	Do

Part III. Acts of the Lieutenant Governor of Bengal Council

Number and year	Subject	Extent of repeal
Act III of 1862	... Amending Act XI of 1859	The whole
„ VII of 1862	.. Repealing S. 30, Regulation II of 1819	.. Do
„ IV of 1864	.. Amending Act XXI of 1836	... Do
„ III of 1868	.. „ Regulation VII of 1822	... Do
„ IV of 1868	... „ Act IX of 1847	... Do
„ VII of 1868	... „ Act XI of 1859	.. Do
„ II of 1871	... „ Act XI of 1859	... Do
„ VII of 1880	.. Recovery of Public Demands	So far as it relates to recovery of arrears of land revenue

Part IV. Regulation under 33 Victoria, Chapter 3

Number and year	Subject	Extent of repeal
Regulation IV of 1875	Realisation of arrears of revenue in Sylhet and Goalpara	The whole