

**JUDICIAL DEPARTMENT.**

**(Rules Under the section 320 of Code of Civil Procedure.)**

**NOTIFICATIONS.No. 16.**

**[ Amendment : 18.06.1989 ]**

Amending Law

No. 16. -Under the provisions of section 320 of the Code of Civil Procedure, the Chief Commissioner prescribes the following rules for the transmission of decrees from the Court to the Collector and for regulating the procedure of the Collector and his subordinates in executing the same in cases where, under the said section, the execution of the decree has been transferred to the Collector:-

- ☐ I.- The Court, on receiving an application for the execution by the sale of immoveable property of a decree of the class of which the execution has been transferred to the Collector, shall forthwith transmit a copy of the application, with the decree and a statement of the amount due from the judgment-debtor, in Form A to the Deputy Commissioner of the district in which such property is situated, requesting him to execute the decree.
- ☐ II.- On receipt of any such requisition the Deputy Commissioner shall-
  - (1) register the case in Form B;
  - (2) cause a careful valuation to be made of the property showing-
    - (a) the gross assets;
    - (b) the yearly charges;
    - (c) the net profits after deducting cost of cultivation and Government revenue;
    - (d) any probable increase of assets obtainable by good management, extension of cultivation, or other means.
- ☐ III.- If the decree be a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, and the Deputy Commissioner, in the exercise of the powers conferred upon him by section 321 of the Code of Civil Procedure, decide to sell the property or any part of it, he shall proceed under the following rules:-
  - (i) He shall issue a proclamation in Myanmar and in the mother-tongue of the judgment-debtor specifying-
    - (a) the area, boundaries, and description of the property to be sold as well as the time and place of sale;
    - (b) the revenue and cesses assessed upon the property;
    - (c) the incumbrances upon it so far as they may be within his knowledge;
    - (d) the amount for the recovery of which the sale is ordered;
    - (e) the lots in which it is proposed to sell it;
    - (f) the upset price;
    - (g) any other particulars which he considers it material that the purchaser should know in order to judge of the nature and value of the property.

Such proclamation shall be made at the headquarters of the district and at the headquarters of the township in which the property is situated, and also in the village, or in the case of field-land in the nearest village to the kwin, in which the property is situated.

- (ii) A copy of the said proclamation shall be posted up in some conspicuous place in the office of the Deputy Commissioner, another shall be posted up in some conspicuous place in the Court of the township in which the land is situated, a third shall be forwarded to the circle thugyi, and a fourth shall be transmitted in the manner provided for service of summons to the judgment-debtor.
- (iii) The sale shall be conducted by the Deputy Commissioner in person, or by an Assistant Commissioner, Extra Assistant Commissioner, or Myook appointed by him for the purpose.
- (iv) No sale shall take place on any authorized holiday, or until the expiry of at least 30 days from the date on which the said proclamation shall have been published in the manner aforesaid, or until noon of the day fixed for the sale, or after dark.
- (v) The officer conducting the sale shall be guided by the provisions of section 325 of the Code of Civil Procedure as to the conduct of sales.
- (vi) Sections 291 (last clause), 292, 293, 294, 306, 307, 308, 309, 310, 311, 312, 313, 315, 316, 317, 318, and 319 of the Code of Civil Procedure shall apply (so far as may be) to all sales made under these rules, the word "Court" in the said sections being taken to mean "Deputy Commissioner."
- (vii) If no application to set aside a sale be made within the period prescribed by law in that behalf, or if such application be made and the objection be disallowed, the sale shall be confirmed subject to the sanction of the Commissioner.

<Amendment 18.06.1989>

- ☐ IV.- If the decree be not a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, the Deputy Commissioner shall call upon the judgment-debtor to show that proceedings under section 322 afford a reasonable prospect of saving the property from sale; and if the Deputy Commissioner see reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, he shall proceed under sections 322A and 322 B or 322 C.
- ☐ V.- If after determining the amount to be recovered and the property available, the Deputy Commissioner shall be of opinion that it is necessary to sell the whole or any part of the property, he shall report the circumstances of the case for the orders of the Commissioner of the division.
- ☐ VI.- If the Commissioner of the division sanction the sale, the Deputy Commissioner shall proceed as directed in Rule III above.

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## Footnote

[ပင်ရင်း- ၂၆.၁.၁၈၈၄ ရက်နေ့ထုတ် ပြန်တမ်းမှူးယူတင်ပြသည်။]

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