

**(Rules under the section 323 of Code of Civil Procedure)**

**No. 17.**

**The 23rd January 1884.**

No.17.- The 23rd January 1884.- With reference to the rules published under this Department notification No. 16, dated the 23rd January 1884, and under the provisions of section 323 of the Code of Civil Procedure, the Chief Commissioner makes the following rules for the guidance of the Collector when proceeding under paragraphs (2), (3), and (4) of the said section.

I.- If the Deputy Commissioner proceed under paragraphs 2,3, and 4 of section 323 of the Code of Civil Procedure, he shall be guided by the following rules:-

- (a) He shall first of all endeavour to raise the money for the discharge of the decree by giving a mortgage, either usufructuary or simple, of the whole or part of the property to some person of the same family or nationality as the judgment-debtor.
- (b) If no mortgage can be effected, he shall invite tenders for the lease or farm of the property, fixing an upset rent and appointing a date after which no tenders will be received.
- (c) If he proceeds under clause (b) of this rule the Deputy Commissioner shall not be bound to accept the highest or any other tender; and in deciding which tender to accept he shall ordinarily give preference to tenders in the following order:-
  - (1) tenders by a relative or family connection of the judgment-debtor;
  - (2) tenders by a person of the same nationality as the judgment-debtor;
  - (3) tenders by judgment-creditor.
- (d) If a lease is given to the judgment-creditor, it shall be given only on the condition that the acceptance of the lease shall be deemed to be a full satisfaction of the decree.
- (e) If the Deputy Commissioner should decide that the amount of the judgment-debt shall be paid as a premium for the lease, the applicant shall be required to pay down 25 per cent, of that sum with his tender and the remainder on acceptance of the tender. In default of payment of this balance, the lease shall be cancelled and the deposit shall be liable to forfeiture.
- (f) If the debt is to be recovered by instalments from the rent payable by the lessee, due security must be taken to the amount of at least one year's rent, or the rent may be levied each year in advance.
- (g) In making mortgages or leases under these rules, due consideration shall be given to the permanent interests of the estate and the tenantry and to the conservation of timber and other forest produce; and all conditions necessary for the attainment of the above objects shall be inserted in the mortgage or in the lease, as the case may be.
- (h) If no offers are obtainable for the farm or mortgage of the estate, the Deputy Commissioner may arrange to manage it himself.

II.- When the Deputy Commissioner shall have matured his proposals under Rule I he shall submit them to the Commissioner of the division and the Commissioner may-

- (1) sanction,

(2) modify, or

(3) remand them for further consideration, as he shall think fit.

III.- If the whole of the judgment-debt be recovered in one sum by the mortgage, lease, or other proceedings under section 323, the Deputy Commissioner shall at once render an account to the Court and ask for instructions as to the disposal of the balance.

In all other cases the Deputy Commissioner shall render accounts on the 15th May of each year and shall take the Court's orders for the disposal of the income.

---

#### **Footnote**

[ပင်ရင်း- ၂၆.၁၈၈၄ ရက်နေ့ထူတ် ပြန်တမ်းမှုကူးယူတင်ပြသည်။]

---