

ACT No. XIV OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th March 1863.)

An Act to amend Act X of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal.)

WHEREAS it is expedient to amend Act X of 1859 (*to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal*) so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal, and to authorize the extension of the Act to places to which its provisions do not now apply; It is enacted as follows:—

I. In addition to the suits specified in Sections XXIII and XXIV of Act X of 1859, the following suits shall be cognizable by the Collectors of Land Revenue under the provisions of the said Act, and, except in the way of appeal as provided in the said Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner, (that is to say):—

1st.—Suits by lumberdars for arrears of Government Revenue payable through them by the co-sharers whom they represent.

2nd.—Suits by co-sharers for their share of the profits of an estate or any part thereof after payment of the Government Revenue and village expenses, or for a settlement of accounts.

3rd.—Suits by Maafeedars or assignees of Government Revenue for arrears of Revenue owing to them as such Maafeedars or assignees.

4th.—Suits

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4th.—Suits by Talookdars and other superior proprietors for arrears of Revenue or otherwise (not being rent claimable under Section XXIII of the said Act X of 1859) due to them as such Talookdars or other superior proprietors.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear or the amount of profits claimed shall have become due, or if the suit be for an arrear, or for profits due at the time of the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year to which the accounts relate, or in the case of any claim for such settlement now existing, within one year from the time of the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

III. In addition to the grounds mentioned in Section XVIII of the said Act X of 1859, upon which a ryot, having a right of occupancy, can claim an abatement of the rent previously paid by him, every such ryot may claim abatement on the ground that the rate of rent paid by him is above the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages, in the places adjacent.

IV. Clause 2 of Section XXIII of the said Act X of 1859 shall be read as if the words "or by any other means not warranted by law" were added thereto.

V. From the date of the passing of this Act, Sections XXXIV and LXXXVI of the said Act X of 1859 shall cease to have effect in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and shall not come into force in any place to which this Act shall be extended as hereinafter provided, and the following Sections are enacted in lieu thereof:—

“Section

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“Section XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and the date of the cause of action.”

Procedure in the institution of suits under this Act.

“Section LXXXVI. Process of execution may be issued against either the person or the property of a judgment debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment creditor, his agent, or mookhtar, made at the time the decree is passed, or thereafter upon the written application of the judgment creditor, his agent, or mookhtar. Process of execution against the person or moveable property of a debtor shall be in form E or F contained in the Schedule to the said Act X of 1859, or to the like effect.”

Issue of process of execution.

VI. The provisions of Sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government Revenue, or of profits, or otherwise. Orders passed by a Collector under either of the said Sections shall be subject to revision by the Commissioner of the Division, and the Sudder Board of Revenue, but shall not be open to appeal to the Civil Court.

Certain provisions of Civil Procedure Code applicable to decrees in rent suits.

Revision and Appeal.

VII. Section CXII of the said Act X of 1859 shall be read as if the words “or where the rent of a puttee is not collected by a lumberdar, through the putteedar who is entitled to collect the rent” were added at the end of such Section.

Addition to Section CXII of Act X of 1859.

VIII. The local Government may invest any Officer employed in making or revising settlements of the Land Revenue, with the powers of a Collector as described in the said Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such Officer, of the nature mentioned in

Local Government may invest Settlement Officers with certain powers.

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in Section XXIII of the said Act, or in this Act, while such Officer is so employed.

IX. In the exercise of the powers given under the last preceding Section, ^{Matters cognizable by such Settlement Officers.} the Officer so invested shall have power to determine all disputes existing between Zemindars, Talookdars, or other Sudder Malgoozars, or Farmers of land, or any person duly authorized on their behalf, and any dependent Zemindar, ryot, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent Zemindar, under-tenant, ryot, or other tenant.

X. If a suit for enhancement of rent be brought before any Officer ^{Rule as to suits for enhancement of rent.} empowered under Section VIII of this Act to hear the same, such suit shall be heard and determined by such Officer notwithstanding that no notice of enhancement shall have been served under Section XIII of the said Act X of 1859 on the party from whom such enhanced rent is claimed. In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed. If a decree be passed in favor of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the decree.

XI. Whenever a claim to enhancement or abatement of rent against or ^{Provision for suits by or against ryots collectively.} by any number of ryots is brought before an Officer engaged in making or revising settlements, and empowered under Section VIII of this Act to hear such claim, such ryots may be sued or may sue collectively, and it shall be no ground for dismissing or refusing to hear the claim that such ryots are wrongly joined as plaintiffs or defendants, provided all such ryots cultivate in the same Estate, but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such Officer as aforesaid shall be satisfied that every ryot has had an opportunity to appear and make objection to the claim preferred against him. Provided also that every decree passed in any such case shall specify the extent to which each of the ryots named in the decree shall be affected thereby.

XII. All decisions passed under the foregoing Sections by an Officer ^{Decisions liable to appeal.} engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the

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the said Act X of 1859 in respect to decisions passed by a Collector in suits of the same description. Provided that no decree passed in any such suit by an Officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of jurisdiction in the Officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decree in like manner as if the suit had been decided under this Act.

XIII. In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an Officer employed in making or revising the settlement of the Land Revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money payment. The rate or amount of rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X of 1859. All decisions already passed by any such Officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X of 1859 in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

XIV. The provisions of Chapter VI (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X of 1859, and under this Act.

XV. In any District through which any canal passes, in respect of which any water rate is payable to Government, it shall be lawful for the local Government to appoint any proprietor or farmer of an estate through which such canal passes in such District, with the consent of such proprietor or farmer, to be a lumberdar for the collection of such water rate in such estate, and thereupon the amount annually payable on account of such water rate by the dependent zemindars, ryots, and other under-tenants in such estate shall (subject to such abatement on account of commission or otherwise as shall be allowed by the local Government to such lumberdar), be held to be a charge on the estate of such proprietor or farmer, and shall be added to the assessment payable to Government in respect of such estate, and the amount thereof shall be recoverable in like manner as the assessment on

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on such estate, and for the purpose of collecting such water rate from the dependent zemindars, ryots, and other tenants in such estate liable thereto, such lumberdar shall have the like powers and shall be subject to the same rules as are provided in any law for the time being in force in respect of the collection of the rent of land.

XVI. If any person shall be arrested under Section CXLV of the said Act X of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case. If the case cannot be at once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Jail until the case is tried.

XVII. Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under the said Act X of 1859, are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

XVIII. This Act shall be read and taken, in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following Section, as part of the said Act X of 1859.

XIX. It shall be lawful for the Governor-General of India in Council to extend the provisions of Act X of 1859 as amended by this Act to any Territories immediately administered by the Government of India, or for the Lieutenant-Governor of the North-Western Provinces, and of the Punjab, respectively, to extend the said Act amended as above to any part of the Territories under their respective Governments, in which the said Act X of 1859 is not now in force. Whenever the said Act amended as above shall be so extended, the Governor-General of India in Council,

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eil, or the Lieutenant-Governor, who shall so extend the same, shall declare by what Officers in the said Territories or any parts thereof, to which the said Act X of 1859 amended as above shall be extended, the powers given by the said Act shall be exercised, and such Officers shall thereupon be authorized to exercise such powers.