

BENGAL PATNI TALUKS REGULATION, 1819

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17. First.Second.—Declaration on account of Government. —Payment to Zamindars. Third. Fourth.—Disposal of remainder. —Under-tenants free to prosecute for price of their Fifth. interest or compensation. Sixth.—Suit not to lie if under-tenant be himself in arrear at time, of sale. Seventh.—When defaulter to receive excess unclaimed. Eighth.—Substitution of Government securities for cash in deposit. 18, 19. (Repealed.) t a ti It sea p. reF Ben. Reg. t.] PATNI TALUKS 55 BENGAL REGULATION 8 OF 1819 (THE BENGAL PATNI TALUKS REGULATION, 1819)i [3rd September 1819] Preamble a. d in A Regulation to declare the validity of certain tenures, and to define the relative rights of zamindars and patni talukdars ; also to establish a process for the sale of such taluks in satisfaction of the zamindar's demand of rent* 1. By the rules of the perpetual settlement, g proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different mahals were declared to be entitled to make any arrangements for the leasing of their lands in taluk or otherwise that they might deem most conducive to their interests. By the rules of Regulation 44, 1793, however, all such arrangements were subjected to two limitations ; first, that the jama or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale. The provisions of section 2, Regulation 44, 1793, by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation 5, 18125 and in Regulation of the same year, it is more distinctly declared that zamindars are at liberty to grant taluks or other leases of their lands fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue in the same manner as heretofore. SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), since repealed, LOCAL EXTENT.—This Regulation is in force in the district of Sylhet— .see the Assam Land Revenue Manual, 1931, Introduction. Words repealed by the Amending Act, 1891 (XII of 1891), are omitted. See the Bengal Permanent Settlement Regulation, 1793 (I of 1793), and Ben. Reg. XLIV of 1793 was repealed by Act XXIX of 1871. The Bengal Land

Revenue Sales Regulation, 1812. It has been re-ed in Assam by the Assam Land and Revenue Regulation, 1886 (I of 1886). 2. post. The Bengal Leases and Land Revenue Regulation, 1812. It has been repealed in Assam by the Assam Land and Revenue 1886 (I of 1886). 56 PATNI TALUKS [1819 : Ben. Reg

8. In practice, the grant of taluks and other leases at a rent fixed in perpetuity had been common with the zamindars of Bengal for sometime before the passing of the two Regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare to the rules of Regulations 5 and 18 of 1812, or in any other Regulations, whether tenures at the time in existence and held, under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation 44, 1793 should, if called in question, be deemed invalid and void as heretofore. This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force. Furthermore, in the exercise of the privilege thus conceded to zamindars under direct engagements with Government, there has been created a tenure, which had its origin on the estates of the Raja of Burdwan, but has since been extended to other zamindars ; the character of which tenure is that it is a taluk created by the zamindar, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever ; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamindars' discretion ; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamindar. By the terms also of the engagements interchanged, it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the zamindar, and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand. These tenures have usually been denominated patni taluks, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of darpatani talukdars ; these again sometimes similarly underlet to sepattidars ; and the constitutions of all the title-deeds vary in nothing material from the original engagements executed by the first holder. See foot-notes 5 & on prepage, Ben. Reg. XLIV of 1793 was repealed by Act of 1871. 1819 : Ben. Reg. 8.] PATNI TALUKS 57 In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant ; that is, whether, in case the proceeds of sale should exceed the zamindar's demand of rent, the tenant would be entitled to such excess ; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules by the application of which to the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner. The tenures in question have extended through several zilas of Bengal, and the mischief which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the of the legislature ; it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a patni taluk as above described, also to declare the legality of the practice of underletting in the manner in which it has been exercised by patnidars and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the zamindar or others for his ruin, as well as to secure the just rights of the zamindar on the sale of any tenure under the stipulations of the original engagements entered into with him. It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale : and Whereas the estates of zamindars under engagements with Government are liable to be brought to sale: at any time for an arrear in the revenue payable by monthly kists to Government, it has seemed just to allow any zamindar who may have granted tenures with a stipulation of the right to sell for arrears the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year as

heretofore allowed by the Regulations in force ; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year. i. i. e., the month of Chaitra, which corresponds with the last part Of March and the first part of April. The words ' •It has been likewise deemed advisable to explain and modify some Of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters," which were repealed by the Amending Act, 1891 (XII of 1891), are omitted. 58 PATNI TALUKS, Ben. Reg 8 The following rules have accordingly been enacted by His Excellency the Most Noble the Governor-General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal, including Midnapur. Leases fixing 2. It is hereby declared that any leases or engagements for rent in perpetuity or for the fixing of rent now in existence that may have been granted more than ten or concluded for a term of years or in perpetuity by a proprietor years, valid, under engagement with [the Government 11 or other person notwithstanding that the same may have been executed 4-4, 193' before the passing of Regulation 5, 1812. % and while the rule of was in force. which limited the period for section 2, Regulation VI, 1793. which it was lawful to grant such engagements to ten years, and Patni tenures declared valid, transferable and answerable for debt. Patnidars' declared all that might be entered into for a longer term to be null and void, was in full force and effect ; and notwithstanding that the stipulations of the said leases may be in violation Of the rule in question : Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors or estates paying revenue to [the Government] 1 from the liability to be cancelled on sale of the said estates for arrears unless especially exempted of the said revenue from such liability by the rule in question, or by any other specific rule of the Regulations in force

3. First.—The tenures known by the name of patni taluks, as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions ; and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable his personal debts and subject to the process of the Courts of Judicature, in the same manner as other real property. **Second.**—Patni talukdars are hereby declared to possess the right of right of letting out the lands composing their taluks in any manner they may deem most conducive to their interest ; and any engagements so entered into by such talukdars with others shall be legal and binding between the parties to the same, their heirs and assignees. Provided, however, that no such engagements shall operate to the prejudice of the right of the zamindar to hold the Substituted for • 'Crown' by the A. O. 1950 v, which was substituted for 'Government' by the A. O.

1937. The Bengal Land-revenue Sales Regulation, 1812. It is repealed in Assam, set Reg. I of 1886, s. 2 port. Ben. Reg. XLIV Of 1793 was repealed by Act XXIX of 1871. The words and figures 'under the rule of section 5, Regulation XLIV of 1793." which were repealed by the Repealing Act. (XVI of 1874), are omitted. 1819: Ben. Reg. 8.] PATNI TALUKS 59 superior tenure answerable for any arrear of his rent, in the estate in which he granted it, and free of all incumbrance resulting from the act of his tenant, **Third.**—In case of an arrear occurring upon any tenure of Patni tenure not void the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same ; but the tenure arrears. shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject, however, to the provisions contained in section 17 of the Regulation. underlet in Inferior tenure- 4. If the holder of a patni taluk shall have tenures under such manner as to have conveyed a similar interest to that similar title enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have similar interests acquired all the rights and immunities declared in the preamble to that section to attach to patni taluks, in so far as concerns the provided for patni taluks grantor of such under-tenure. in section The same construction shall also hold in the case of patni 3. taluks of the third or fourth decree. Zamindars 5. The right of alienation having been declared to vest in not to refuse the holder of a

patni taluk, it shall not be competent to the zamindar or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee. In conformity, however, with established usage, the zamindar or other superior shall be entitled to exact a fee upon every demand of such alienation; and the rate of the said fee is hereby fixed at two per cent. on the jama or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account. The zamindars shall also be entitled to demand substantial and security from the transferee or purchaser, to the amount of half the jama or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure. The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale of an arrear in the rent due to the zamindar or other superior, under the rules hereinafter contained. The purchaser at such a sale shall be entitled to have his name registered and to obtain possession without interference, though of course liable to be called on to give security under the conditions of the tenure purchased. The word "and figures" under the rule contained in the seventh clause of section 15, Regulation V of 1799, for leases conveying limited interest in the land, which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted. Section 5 does not apply to transfers of any fractional portion of a patni taluk, or to any alienation other than that of the entire interest, notwithstanding concluding paragraph 6. 60 PATNI TALUKS • [1819 : Ben: Reg

6. It shall be competent to the zamindar or other superior Zamindar may refuse to refuse the registry of any transfer until the fee above stipulated sanction to be paid, and until substantial security to the amount specified transferer till be tendered and accepted : fee and security tendered. Provided, however, that if the security tendered by any purchaser or transferee should not be approved by the zamindar, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security offered, shall issue an injunction on the zamindar to it and give effect to the transfer without delay. It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a patni taluk, nor to any alienation other than of the entire interest: for no apportionment of the zamindar's reserved rent can be allowed to stand good unless made under his special sanction. 7. In case of the sale of a patni Upon public sale, if judgment of Court, if the purchaser not, within the period of security not one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the within one month, the zamindar or other superior to whom the rent fixed upon it is payable, the zamindar or other superior shall be entitled, of his own authority, to send a notice to attach and hold possession of the tenure until the terms prescribed be observed. In case also of the sale of a patni tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the zamindar and the purchaser fail to furnish the same within one month of the date of sale, the zamindar shall to attach and hold similarly be entitled to send a notice possession of the tenure which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given. Attachments made under this section shall be regarded as mortgages for the benefit and at the risk of the purchasers: Save effect of quarterly, after deducting the rent due and the expense of attachment, any surplus that may be yielded by the collections shall be held in deposit for such purchaser: but, if the collections for the time fall short of the rent, the tenant and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the zamindar or other superior making the attachment shall be received as prima facie evidence warranting an arrear so accruing. 1819: Ben. Reg. 8.] PATNI TALUKS 01 or else or all remainder of his tenure shall be subject to be sold by the zamindar or other superior, that is, proprietors under direct Zamindars engagements with the Government shall be entitled to apply in all sales the manner following for periodical sales of any tenures upon tenures in which right which the right of selling or bringing to sale an arrear of rent to sell for may have been specially reserved by stipulation in the engagements: arrears is rents interchanged on the creation of the tenure. served. The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for sale at the end of

he year, in conformity with the practice heretofore allowed by the Regulations in ce. the first day of Baisakh, that is, at the com- First •ije to mencen-;ent Clac 101 lowing year ii•mn that of which the r7•nt is be applied due, the zamindar shall present a petition * * to the for on Of Baisakh. Collector containing a specification of any balances that may be due to on account of the expired year, from all or any talukdars or other holders of an interest of the nature described in the preceding clause of this section. The same shall then be stuck up in some conspicuous part of the cutcherry with a notice that, if the amount claitned be not paid before the first of Jeth lowing, the tenures of the defaulters will on Ihat day be sold by public in liquida- tion. Ihll on a Sunday or Should, however, the fiest of Jeth holiday, the next subsequent day, not a holiday, shall be selected instead ; a similar notice shall be stuck up at the sadar cutchery of the zamindar himself, and a copy or extract of such part of the notice as Inay apply to the individual case shall be by him sent to be similarly published at the cutcherry or at the principal town or Village upon the laud of the defaulter. The zamindar shall be exclusively answerable the obser- vance of the forms above pct:scribed, and the notice required to be sent into tilt: rnulåssal shall be served by a single peon, who shall bring baek the receipt of the defaulter, oc of his manager, As to the officer who should conduct sales of tenures of the nature Of those described in clause of section 8 of Bengal Rego lation VIII of 1819 see the Bengal Patni 'laluks Regulation IU20 (I or 1820), s. 2, post, and the Bengal Rent Recovery (Under-tenures) Act, (Ben. Act. VIII of 1865). s.3, post. Substituted tor S 'Crown" by the A.O. 1950 which waq substituted by the A. O. 1937, for ' 'Government' The month of Baisakh corresponds with the last part of April and the first part of May. The words c •to the Civil Court of the Ostrict, and a similar one, which were repealed by the Repealing Act, 1674 (XVI of 1874), are omitted. In A:sam, the Deputy Commissioner. As to exercise of functions of Deputy Commissioner', see the Assam Land and Revenue Regulation, 1880 (I of 1886), Chap. VI I, post. 0 The month of Jeth corresponds with the last 1st part of May and the first part of June. 62 PATNI TALUKS [1819 : Ben. Reg. 8 for the same, or, in the event of inability to procure this, th signatures of three substantial persons residing in the neighbou hood, in the attestation of the notice having been brought an published on the spot. If it shall appear from the tenor of the receipt or attestatio in question that the notice has been published at any time pr vious to the fifteenth of the month of Baisakh, 1 it shall b sufficient warrant for the sale to proceed upon the day appointe In case the people of the village should object or refuse t sign their names in attestation, the peon shall go to the cutcherr of the nearest munsif or if there should be no munsif, to th nearest thana, and there make voluntary oath of the same havin been duly published ; certificate to which effect shall be sign and sealed by the said officers and delivered to the peon. Mid-year Third.—On the first day of Kartik, 2 in the middle of th sale to be applied for year, the zamindar shall be at liberty to present a similar petitio on first of with a statement of any balances that may be due on account Kartik. the rent of the current year, up to the end of the month Assin 3 and to cause similar publication to be made of a sal of the tenures of defaulters, to take place on the first of Aghan, unless the whole of the advertised balance shall be paid befor the date in question, or so much of it as shall reduce the arrear including any intermediate demand for the month of Kartik, z to less than one-fourth of a four-anna proportion of the tot demand of the zamindar, according to the kistabandi, calculat Sales how from the commencement of the year to the last day of Kartik±

99. All sales of saleable tenures applied for under the rul conducted.of this Regulation shall be made in pubic cutcherry land shall be sold to the highest bidder, and every one, not actual defaulter, shall be free to bid, not excepting the person i satisfaction of whose demand the sale may be made, nor th fifteen per cent. of the purchase under-tenants of the defaulter ; money shall be paid immediately the lot is knocked down, and th officer conducting the sale shall be competent to refuse to accep a bid, or to knock down a lot to any bidder, unless he has assur ance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hou The month of Baisakh corresponds with the last part of April and the fir part of May. The month oi Kartik correspond with the last part of October an the first Part of November. J The month of Assin corresponds wiith the last part of September and first part of October. • The month of Aghan corresponds with the last part of November and th first part Of December. OAs to the extension Of thea lication of s. 9 the Bengal Patni Talu Regulation, 1820 (1 OC1820), s. 8) post, The words "by the Registrar or actiog Registrar of the Civil Court, in his absence, by the person in charge of the office of Judge or of Magistra of the district within which the lands may be situated, which were repealed b Che Repealing Act, 1874 (XVI Of 1874), are omitted. [1819: Ben. Reg. 8.] PATNI TALUKS 63 If the fifteen per cent. be not paid in cash, or in hcurrency notes], within two hours of the sale, or an

equivalent amount in Government securities be not lodged, the lot shall be re-sold on the same day, and, if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bazar of the sadar station of the zila, after which the lot shall be re-sold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already paid * * 2 and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one ; such deficiency to be levied by the process of the execution of decrees of the Civil Courts. 10. At the time of the sale the notice previously stuck up in rooms to be the cutcherry shali be taken down, and the lots be called up observed in selling, successively in the order in which they may be found in that notice. A person shall attend on the part of the zamindar, with a particular statement the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the Inuissal, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance {Or the year ascertained therefrom, nor until the receipt for the notice shall have been read ; the observance of which forms shall be recorded in a separate rubakari to be held upon each lot sold. If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandi of the default-er shali likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale ; nor shall the sale take place unless this be ascertained. The zamindar shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect except for its fairness and publicity, and for the observance of the rules prescribed {Or his guidance in this Regulation. 1 The words " currency notes" in s. 9 were substituted for the words notes of the Bank of Bengal" by the Amending Act, 1903 (1 of 1903), since repealed. 2 The words (which shall be in such case regarded as part of the proceeds of the sale), in s. 9, which were repealed by the Forfeited Deposits Act, 1850 (XXV of 1850), are omitted. As to the application of Forfeited Deposits Act, see s. 2 of that Act, post, 64 PATNI TALUKS [1819 Ben. Reg. 8

111. First.—It is hereby declared that any taluk or saleable Tenure to be sold free tenure that may be disposed of at a public sale, under the rule of incumbrances of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly written vested in the holder by a stipulation to that effect in the engagements under which the said taluk may have been held. No transfer by sale, gift or otherwise, no mortgage of the limited assignment, shall be permitted to bar the indefeasible right of the zamindar to hold the tenure of his creation answerable, in the State in which he created it for the rent, which is in fact his reserved property in the tenure, except the transfer assignment should have been made with a condition to that effect under express authority obtained from such zamindar. Second.—In like manner, on sale of a taluk for arrears of rent all the under-lease to stand originating with the holder of the former tenure, if created before or after sale, the middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred ; the possessors of such interest must consequently lose the right to hold possession of the land to collect the rents of the raiyats thus having been enjoyed merely in consequence of the defaulting assignment of a certain portion of his own interest, the whole which was habit for the rent, Third.—Provided, nevertheless, that nothing herein contained Exception in favour of shall be construed to entitle the purchaser of a taluk or other bona fide engrossable tenure intermediate between the zamindar and engagements with cultivators to eject khudast caiyat or resident and hereditary raiyats, cultivator, nor to cancel bona fide engagements made with such tenants by the late incumbent or his representative, except it proved in regular suit, to be brought by such purchaser, for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by predecessor. 12, The rules of the preceding section, being declaratory of the rule to take effect of the principle to be observed on all occasions wherein saleable tenures are made responsible for the rent reserved respectively, will equally apply to the case of taluks, heretofore sold, as those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognised and in use in the district at the time of selling. Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a taluk and the lessees of his predecessor. 1 As to the extension of the application of s. 11 See the Bengal Patni

Taluks Regulations, 1820 (I of 1820), s. 21 d t: ti b o s. r d l r o s. 1819: Ben. Reg. 8.] PA%NI TALUKS 65 Neither shall the rule for the fall of under-tenures be consi- Rule not to apply to dered to apply to any private transiér by a talukdar of his own private interest, nor lo a public sale in execution of a degree, nor to the transfer. case ofa relinquishment by the talukdar in favour of the zamin- dar, nor to any act originating with the former holder, other : a!} such operations involvc only a than default as aforesaid transiér 01' the tenure in the state in which it may be held at the titne, and the new incumbent succeeds .to no more than the rights of the !Ormer tenont, such as they may be, and is of course subject to any restriction put upon the tenure by his act. yr Terence to lthe injury that may be Reason for — With • 13. First. allowing brought upon the holder of a taluk of the second decree by the under.tenant operation of the preceding rules, in case the proprietor or the means of superior tenure pujvosely withholds the rent due from himself to staying sale the zamindar alter having realized his own dues from the inferior How under tenant may tenantry, it is deemed necessary to allow such talukdars the means stay sale. of saving theta: tenures frotn the ruin that must attend such a sale ; and the iöllowing rules have accordingly been enacted for this purpose . Second.—Whenever the tenure of a talukdar of the first degree may be adveytised lijr sale in the tuanner required by the second and third clauses of section 01 this Regulation, tor arrears of rent due to the zaminder, the talukdars of the second degree, of any nutnber of them, shall entitled to stay the final sale, by paying into court the amount of balance that may be declared due by the person attending oti the part of the zamindar on the day appointed tor •sale ; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answer- ing any demand that may remain due on the day fixed for the sale, and, should the amount lodged be sufficent, the sale shall not proceed, but, alter tnaking good to the zaminder the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it. Third—If the arnount so lodged Shail bc rent due by the Procedure 1 lie advectised tenure, the same in case of inferior talukdalß [he i.o!der oi amount shall be stated at tinw oi lljaking the deposit, and the amount lodged being shall be carried to the account of the tenant or tenants lodging it, rent due from and bc deducted any oi rent that may at the time be under-tenant. pending, or be tiltaa•aiter brought lot-ward against him or then by the prepliector oi the advertised tenure on account of the year or months for which the notice of sale may have been published. As to the extension of the of s, 13, tlie Bengal Pauli 'Tatuks Regulation, (1 of s. 2 the Bengal Rent Recmery Act, 1863 (Bcn, of 1865) Post. (3), Post Act 66 PATNI TALUKS [1819 : Ben. Reg. 8. and in case Fourth.Ä[[he pcvson or pecsoos such a deposits in or amount order to stay the sale of the supecior have already lodged being paid the whole of the rent due. f? •m himself• the 'hsc}vcs, qo that advanced the amount lodged is an advance licun priv;t C!) Tids, and not a from private disbursement on account of tile saiA rent, such shall not funds. bc carried to credit in, or again it tire for vent, but shall bc considere.ci as a loan In:Ac: to [l:e propr;ctoc of the tenure preserved fvoru saic by such means, at'(i taluk go pre- served shah be the security to the persons making the advance, who shali i)? to licit in the same manner as if the Io..n had macle mortg,yge ; and he or they shall bc cntitcel, v he s mne, to obtain immcciiacc posycssi0!) OC ili order to recover the. amount so advance;G a' 11,' profits belongyng ther cto. If the defaulter shaii de..s;re tennrc froin the hands of the person or persons who, by the advance, may have acquired such an interest therein, entered on possession in consequence, lie. shall not bc entitled so, excnpt re-payment of the entifr: advanced, w;tft at ratc of twelvc co.'!. to (latc c.f ijavirvr been given as above,' ur exhi in a regular Sthit be instituttxl for the that the so advanced, with interrt, lias been the the tenuye. • I l. tile balance zaininciar• on Sale not to be stayed account of the rent of anv utidcu•tenure reinoin unpaid upon the unless arrear claimed be day fixed ror the o!' tenure. the be without lodged. reserve, in tbc yections 9 IO Of -this: Regulation ; Shull it IN: staved oc anv accoimnt, unless the amount ct- dcmanc-l iye !odgwl. It shall however be colljpt•tenz any Ciesivous of con- But suit to lie for it' testing the right or zantinclar to the saie, on. the• Reversal. ground of there having no in',-ancc due, or on any other ground, to suc the 7.mnind:rr för the revmsal of the same, Ohel, with filll upon establishin;t a Kiltlic;cnt plea, to obtain a decree costs and dam,vres. The purchaser shali Toe 'aa•le a party ia suc.ii snits, and upon the C.ourt shali bc careful to decree passing rever<.ai of the sale, indemnify him against all at the o? zaltiindar or person at whose suit tite s." 'e nsay bc.cn made. casts also in which a may contest the Defaulter may apply zamindar's o!' a nv in the notice for summary advertised, such taf.:kdar to ror a investigation. Sale not mary investigation at any notice ; the. be stayed zamindar shall then be called fitrllish his k abuliyat and unless other proofs at the convenient notice, in that amouut award may, if possible, be made the day appointed for sale. claimed be deposited. Such award, if so made. course

regulate the ulterior process ; but, if the case be pending the tot shall be called up in its turn, notwithstanding the suit ; and the zamindar or his agent in attendance insist on the demand, the sale shall be

1819: Ben. Reg. TALUKS 67 made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in [currency by the talukdar contesting the demand ; and if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and interest of the sale [unless he makes an application under section Procedure J [14A. First.—It shall be competent to a defaulting patni or for setting aside of a patni taluk or a ciciating holder of a tenure sold under a sale. this regulation or a Talukdar or tenure-holder of the second decree of such taluk or tenure or to a person holding an interest in such taluk or tenure in virtue of a decree before the sale of the taluk or tenure or of a mortgage on such taluk or tenure apply to the Collector to have the sale set aside on the application at depositing with the Collector within thirty days from the date of sale, or, if the taluk or tenure has been resold, within thirty days from the date of the original sale— (a) an amount equal to per cent. of the purchase money to be paid to the State Government] for the purposes specified in the second clause of section, (b) an amount to be paid on account of which sale has been made [together with interest and charges incurred in bringing the taluk or tenure to sale, or payment to the zamindar, and (c) an amount not to exceed five per cent. of the purchase money in no case less than one rupee for payment to the purchaser. On receipt of an application to set aside the sale the Collector shall serve a notice on the applicant and the auction purchaser fixing a date for hearing the application. Second.—No application shall be entertained under this section if the applicant has instituted a suit in the Civil Court to set aside the sale unless he first withdraws such suit. Third.—No application shall be allowed under this section without the consent of zamindar if the defaulting talukdar or tenure-holder is liable to pay on behalf of the zamindar any cess due to [the State Government] or any other revenue due to the State Government. The words "currency notes" substituted for the word "notes of the Bank of India by 1903 since repealed & inserted by Ben. IV which extended to the district of Sylhet with effect from the 1st July 1902. The words substituted for "Government" by the A. O. 1937, the substituted by the word "State" by A. O. 1930. 68 PATNI TALUKS [1819: Ben. Reg. Fourth.—if no objection is made by the zamindar or the auction purchaser on the date fixed for the hearing of the application or on any subsequent date to which the hearing may be adjourned and the deposit required by the first clause of this section has been made within thirty days from the date of the sale, the Collector shall allow the application and make an order setting aside the sale, and shall pass orders for the disposal of the money deposited by the applicant and the refund of the purchase money. Fifth.—If any objection is made by the zamindar or auction purchaser the Collector shall refer the application together with the objection to the nearest Civil Court having jurisdiction and such Civil Court shall decide whether the applicant is entitled under this section to have the sale set aside, and shall either dismiss the application or make an order setting aside the sale, and shall pass such further orders regarding the disposal of the money deposited by the applicant, the refund of the purchase money, the payment of costs or any other matter arising out of the application as it thinks fit. The Civil Court may, at its discretion, make suitable arrangements for protection of the taluk or tenure but the patnidar or tenure-holder shall be allowed to remain in possession if he pays to the Court in advance six months' rent payable by him for such patni or tenure or gives security for one year's rent to the satisfaction of the Court. If such payment is not made or security is not given the Court may appoint a receiver for the patni or tenure. Sixth.—The Civil Court may direct that any sum in deposit with the Collector under the first or third clause of this section shall be invested pending decision of the application by the Civil Court and thereupon the Collector shall remit the said sum to the Civil Court for investment. Seventh.—Notwithstanding anything contained in this section, the zamindar may, at any time after the sale proceeds have been deposited under section 9, if such sale proceeds are still in deposit and the sale has not been set aside, withdraw therefrom an amount equal to the amount on account of which the sale was made or the whole amount of the sale-proceeds less the one per cent. due to [the State Government] or, whichever is less, and if the sale is thereafter set aside by the Collector or the Civil Court under this section an amount equal to the amount so withdrawn by the zamindar shall be paid out of the deposit made by the applicant under sub-clause (b) of the first clause of this section to the auction purchaser instead of to the zamindar. Substituted "Government" by the A. O. 1937 ; the word "State" substituted for "Provincial" by A. O. 1950. 1819: Ben. Reg. PATNI TALUKS 69 '5. the expiry of thirty days from the date of Delivery

any sale made under this Regulation, or if there has been a resale possession to within thirty days of the original sale if the entire amount of the purchase money has been paid by the purchaser, and if no application under section 14A to set aside the sale is pending.] 2 such purchaser shall receive from the officers conducting the sale a certificate of such payment. The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the cutcherry of the zamindar, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual 'Camal- dustauk' or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him. The zamindar shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his cutcherry, and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the court, and he shall receive orders for possession, and shall be put in possession, of the lands by means of the nazir, in the same manner as possession is obtained under a decree of Court : Provided, however, that, if the delay be on account of the zamindar's contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed. Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the case of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court for the aid of the public officers in obtaining possession of his just rights. As to the extension of the application of s. 15, see the Bengal Patni Taluks Regulation, 1820 (I of 1820), s. 2 (3), post. 2 Substituted for the words 'So soon as the entire amount of the purchase money shall have been paid in by the purchaser at any sale made under this Regulation' by Ben. Act IV of 1933. As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-Tenures) Act, 1865 (Ben. Act VIII of 1865), s. 3, post. As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act VIII of 1865), s. 3, post, 40 PATNI : Ben. Reg

8. A proclamation shall then issue under the seal of the Court and signature of the Judge declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamindar, acquired the entire rights and privileges attaching to the tenure of the late talukdar, in the state in which it was originally derived by him from the zamindar, he alone will be recognized as entitled to make the zamindari collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any suit for rent or any other occasion whatever when the same may be pleaded. Third.—Should the late incumbent or his late under-tenants proceed in case of continued opposition. Disposal of proceeds of sales. Deduction on account of Government. continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same ; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights. 16. [Sale of Under-tenures for Repayment] The Bengal Rent Recovery (Under-tenures) Act, (Ben. Act 8 of 1865)

17. First.—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation. Second.—One per cent. shall first be deducted from the net proceeds realized, and shall be carried to the account of the [State Government] for the purpose of meeting the expenses of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation. As to the substitution of Collector for the court the Bengal Rent Recovery (under-tenures) Act, 1863 (Ben. Act V of 1865). 2 The words "summary" which was repealed by the Repealing Act, of 1874, is omitted. The words and figures "originally under the provisions of section 15, Regulation VII, 1799, or in any application to stay process by distraint, under the rules of Regulation V, 1812" which were repealed by the Repealing Act (XVI of 1874), are omitted. As to the extension the application of s. 7, see the Bengal Patni Taluks Regulation, 1820 (I of 1820), s. 2(3), post. The words 'the provincial Government' substituted 'Government' by A. O. 1937, the word "Provincial" has again

been substituted by S 'State' by A. O. 1950. '1819 : Ben. Reg. 8.] PATNI TALUKS 71 Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all Payment to zamindars. charges incurred in bringing the taluk to sale) to the zamindar or other person to whom the same may be due : Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the zamindar shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual talukdar, and must be recovered in the same way as other debts by a regular suit in the Court. Fourth—Any excess that may remain after satisfying the Disposal on demand of the zamindar, in the manner above described shall be remainder forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the talukdars of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land comprising the taluk sold or on any part of it. Fifth.—It shall be competent to any one conceiving himself Under-tenant to possess such an interest to bring forward his claim to the price actually paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of completion of sale. If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances. If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled ; and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees. In Assam, the Deputy Commissioner. Deputy Commissioners, see the Assam Land (I of 1886), Chapter VI I, post. As to exercise of functions of Revenue Regulation, 1886 72 PATNI TALUKS (1819: Ben. Reg. 8, Suit not to Sixth—Provided, however, that no talukdar of the second degree or other possessor of an assigned interest upon the land of himself in the tenure sold, who may be holding under a stipulation for the time of sale. Payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluk, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale. Seventh.—Should no claims upon the purchase-money of a taluk sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, receive or should be amount claimed by those who may have sued not be claimed. equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit ; and, upon exhibiting such certificate to the Collector, the amount set free thereby shall be paid to his receipt. In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit ; and upon exhibiting these certificates the amount shall be paid severally to their receipts by the Collector. Eighth.—It shall be competent to any party interested in a Substitution deposit to withdraw the whole or any part thereof on substituting of Government securities, bearing interest, in lieu of the money so mentioned securities for cash held in deposit ; such Securities to be taken at the rate of discount in deposit. or premium of the day 18-19. [Rules regarding attachment of land of defaulter, summary process against person of defaulter.] Rep. by the Bengal Rent Act, 1859 (Act 10 of 1859). In Assam, the Deputy Commissioner. As to exercise of functions Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 of 1886), (Chapter V 11, post. 2 But words "as shown by the Government Gazette last received," which were repealed by the Amending Act, 1903 (I of 1903), are omitted.