

## **Chotanagpur Encumbered Estates Act, 1876**

**6 of 1876**

**[14 March 1876]**

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## **Chotanagpur Encumbered Estates Act, 1876**

**6 of 1876**

**[14 March 1876]**

An Act to relieve certain land in Chota Nagpur. Whereas it is expedient to provide for the relief of holders of land in Chota Nagpur who may be in debt, and whose immovable property may be subject to mortgages, charges and liens; It is hereby enacted as follow: - 1. Legislative Papers.--For statement of objects and reasons, see Gazette of India 1876, part vi, pp. 21; and for proceedings in Council, see ibid, 1876, supplement, pp. 54, 59, 195, 218, 289, and 322. Local Extent--This Act applies to the Chota Nagpur Division (see the title and preamble) and has been applied as amended by Act 5 of 1884, with certain other modifications, to the Deo Estate in the Gaya District-see the Deo Estate Act, 1886.

### CHAPTER 1

Preliminary

#### **1. Short Title :-**

This Act may be called the Chota Nagpur Encumbered Estates Act,

1876.

CHAPTER 2

Vesting Order

**2. Power To Vest Management Of Property In An Officer Appointed By Commissioner :-**

Whenever any holder of immovable property, or (when such holder is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator, or the person who would be heir to such holder if he died intestate. or (when such person is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator,. 1[or the Deputy Commissioner within whose jurisdiction any such property belonging to such holder is situate, when- (i) attachment has been made of, or a proclamation has been issued for the sale of, such property or any portion thereof, execution of a decree or order of a Civil Court or a Revenue Court, or (ii) such Deputy Commissioner is satisfied, after making such inquiry as he may think fit, and after considering and placing on record all representations (if any) made by such holder, that such holder has entered upon a course of wasteful extravagance likely to dissipate his property, applies in writing to the Commissioner, stating that the holder of the said property is subject to, or that his said property is charged with, debts or liabilities other than debts due, or liabilities incurred, to the 2[Government] and requesting that the provisions of this Act be applied to his case, the Commissioner may, with the previous consent of the 2[State] Government 3(to be obtained through the Board of Revenue by order published in the 4[Official Gazette], appoint an officer (hereinafter called the Manager) and vest in him the management of the whole or any portion of the immovable property of or to which the said holder is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir, during the continuance of such management: 3[Provided as follows -- First, if any holder referred to in clause (ii) of this section petitions the Commissioner, while the inquiry referred to in that clause is being made, to postpone, until the petitioner has been heard, the passing of orders on any request that the Deputy Commissioner may make for applying the provisions of this Act to his case, and if a request as aforesaid be made by the Deputy Commissioner, the Commissioner shall appoint a day for hearing the petitioner; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day

(if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard ; Secondly, if any holder referred to in clause (ii) of this section petitions the Board of Revenue, while any proceedings are pending before the Commissioner under proviso, First, to postpone, until the petitioner has been heard, the passing of orders on any request that the Commissioner may make for the consent of the 2[State] Government to the application of the provisions of this Act to his case, and if a request as aforesaid be made by the Commissioner, the Board of Revenue shall appoint a day for hearing the petitioner; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Board shall not pass any order in the matter until he has been heard ; Thirdly, the consent of the 5[State] Government shall not be given in the case of any holder referred to in clause (ii) of this section unless either - such holder belongs to a family of political or social importance, or the 5[State] Government is satisfied that it is desirable, in the interests of the tenants of such holder, that such consent should be given. 6[Every application under this section must state- (a) the particulars of the debts and liabilities as aforesaid to which the said holder is subject or with which his immovable property is charged ; and (b) the particulars of the immovable property of or to which he is then possessed or entitled in his own right or which he is entitled to redeem. Every such application must, except when it is made by a Deputy Commissioner, be verified by the applicant or by some other competent person in the manner required by law for the verification of complaints; and, if it contains any averment which the person making the verification knows or believes to be false evidence within the meaning of the Indian Penal Code.] 1. Substituted by Ben. Act 3 of 1909. 2. Substituted by A.L.O. for "Crown". 3. Inserted by Ben. Act 3 of 1909. 4. Substituted by A.O. for "Calcutta Gazette". 5. Substituted by A.L.O. 6. Inserted by Act 5 of 1884.

## **2A. Power Of Deputy Commissioner To Order Production Of The Statement And Documents :-**

- 1[(1) For the purpose of making an application under section 2 in the case of any holder, the Deputy Commissioner may, by written order, require the said holder to produce before him, on a date to be stated in such order -- (i) a statement in writing, showing - (a) all debts and liabilities to which the said holder is subject. (b) the amount, kind and particulars of his property, and the annual value of any such property not consisting of money, (c) the names and residences of his creditors, so far as they are known to, or can be ascertained by him, and (d) such other information as the Deputy Commissioner may by his order require, and (ii) such

documents relating to his estate, which are in the possession, power or control of the holder, as the Deputy Commissioner may deem necessary. (2) The Deputy Commissioner may, by a like order, call upon any person in whose possession, power, or control he has reason to believe there is any document relating to a debt or liability to which the holder is subject, to submit the same to him for the aforesaid purpose]. 1. Inserted by Ben. A of 3 of 1909.

## **2B. Power Of Commissioner To Prohibit Sale Of Immovable Property :-**

- 1[At any time after the receipt of an application under section 2 from or in the case of any holder, the Commissioner may, by order, prohibit the sale of the immovable property of such holder or any portion thereof, in execution of any decree or order of any Civil or Revenue Court, until the passing of final orders on such application, either rejecting it or vesting the property in a manager.] 1. Inserted by Act 4 of 1911.

## **3. Effect Of Order-Bar Of Suits :-**

1[On the publication of an order under section 2 the following consequences shall ensue; First, all proceedings which may then be pending in any Civil Court in 2[any3[Part A State or Part C State 4[or in any Revenue Court] 2[in Bihar or in West Bengal or that Part of Orissa which in the year 1909 was included in the Presidency of Bengal in respect to such debts or liabilities, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void, Freedom from arrest.--Secondly, so long as such management continues, the holder of the said property and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the publication subject, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to the 3[Government] Movable property not attachable for prior debts.- Nor shall their movable property be liable to attachment or sale, under process of any Civil Court in 5[any 6[Part A State or Part C State] 7[or any Revenue Court in Bihar or in West Bengal or that part of Orissa which in the year 1909 was included in the Presidency of Bengal], for or in respect of such debts and liabilities other than as aforesaid; and Cessation of power to alienate.-- Thirdly, so long as such management continues, (a) the holder of the said immovable property and his heir shall be incompetent to mortgage, charge, lease or alienate their immovable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom, Immovable property freed from attachment.-- (b) Such property shall be exempted from attachment or sale under such process as aforesaid except for or in respect of debts due, or liabilities incurred, to the Government and

Cessation of power to contract. -- (c) the holder of the same property and his heir shall be incapable of entering into any contract which may involve them; or either of them, in pecuniary liability. 1. Substituted by Act 5 of 1884. 2. Substituted by. I.I.O. 3. Substituted by A.L.O. 4. Inserted by Act 3 of 1909. 5. Substituted by I.I.O. 1948 6. Inserted by A.L.O. 7. Inserted by Ben. Act 3 of 1909.

#### CHAPTER 3

##### Duties of Manager

#### **4. Manager To Receive Rents And Profits, And Pay Therefrom The Government :-**

demand, rent due to superior landlord, for maintenance of holder and his heir, loans raised for estate, costs of repairs and improvements, cost of management, debts and liabilities The Manager shall, during his management of the said immovable property, receive and recover all rents and profits due in respect thereof; and shall upon receiving such rents and profits, give receipts for the same. From the sums so received, he shall pay- First the Government revenue, and all debts or liabilities for the time being due or incurred, to the 1[Government]. Secondly, in the case of under-tenures, the rent (if any) due to the superior landlord, in respect of the said property; Thirdly, such annual sums as appears to the Commissioner requisite for the maintenance of the holder of the property, his heir, and their families; 2[Fourthly, all sums due in re-payment of loans effected under the power conferred by clause (c) of section 18]; Fifthly, the costs of such repairs and improvements of the property as appear necessary to the Manager are approved by the Commissioner, and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the property and his heir as may be established under the provisions hereinafter contained. 3[\*x x\*] 1. Substituted by A.L.O. 2. Inserted by Act 3 of 1909. 3. Omitted by ibid.

#### CHAPTER 4

##### Settlement of debts

#### **5. Notice To Claimant Against Holder Of Property :-**

On the publication of the order vesting in him the management on the said property, the Manager shall publish a notice, in English 1[ and language of the district or estate] calling upon all persons having claims against the holder of the said property to notify the

same in writing to such Manager within three months from the date of the publication.] Notice how published. --Such notice shall be published by being posted at the cutcheries in the district or districts in which the said property lies, and at such other places as the Manager thinks fit. 1. Substituted by Act 3 of 1909.

#### **6. Claim To Contain Full Particulars :-**

Documents to be given up Every such claimant shall, alongwith his claim, present full particulars thereof. Every document on which the claimant finds his claim, or on which he relies in support thereof, shall be delivered to the Manager alongwith the claim. Entries in Books --If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing, the copy with the original shall return the book to the claimant. Exclusion of documents not produced.- If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with claim, the Manager may refuse to receive such document in evidence on the claimants behalf at the investigation of the case.

#### **7. Debt Not Due To Be Barred :-**

Every debt or liability, other than debts due, or liabilities 1[incurred, to the 2[Government] or (in the case of under-tenures) the rent due to the superior landlord, to which the holder of the property is or with which the property is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred; Admission of claim within further period.-Provided that when proof is made to the Manager that the claimant was unable to comply with the provisions of sees, 5 and 6, the Manager may admit his claim within the further period of 3[six months] from the expiration of the said period of three months. Barring of debts incurred after making petition for postponement of order, application of Act.-- 4[If a holder of property has petitioned the Commissioner, under the first proviso in section 2 or the first proviso to section 12A, sub-section (5), to postpone the passing of orders on any request that the Deputy Commissioner might make for applying or re-applying the provisions of this Act to his case. Every debt or liability which such holder has, after the date on which the said request was made incurred, or charged upon his property, shall be barred, with the exception of-- (a) debts due, or liabilities 1[incurred to the

2[Government] (b) debts or liabilities which the Deputy Commissioner is satisfied had necessarily to be incurred for the maintenance of such holder or his family, (c) in the case of under-tenures, the rent due to the superior landlord, and (d) interest due in respect of debts or liabilities incurred before the said date] 1. Substituted by A.O. for "incurred to Govt." 2. Substituted by A.O. 3. Substituted by Act 5 of 1884. 4. Inserted by Act 3 of 1909.

### **8. Determination Of Debts :-**

The Manager shall, in accordance with the rules to be made under this Act, determine the amount of all principal debts and liabilities justly due to the several creditors of the holder of the property, and to persons holding mortgages, charges or liens thereon, and the interest (if any) due at the date of such determination, in respect of such debts and liabilities.

### **9. Power To Inquire Into Consideration For Leases Or Grants :-**

If such property or any part thereof be in the possession of any person claiming to hold it under a lease 1[or rent-free or maintenance grant] dated within the three years immediately preceding the publication of the order mentioned in section 2, the Manager, with the sanction of the Deputy Commissioner and Commissioner (or of the Commissioner only, if the Deputy Commissioner be himself the Manager), may inquire into the sufficiency of the consideration for which the lease 2[or grant was given. Power to set aside leases or grants. --and, if such consideration appears to him insufficient, may by order either set aside the lease 2[or grant] or cause the person so in possession to pay such consideration for the said lease 2[or grant] as the Manager thinks fit, and in default of such payment the lease 2[or grant] shall be cancelled; 1[Provided that no rent-free or maintenance grant shall be set aside or cancelled without the previous sanction of the Commissioner, which may be accorded only if he is satisfied that the grant was not made in good faith.] 1. Substituted by ibid. 2. Inserted by Act 3 of 1909.

### **10. Appeal To Deputy Commissioner :-**

An appeal against any refusal admission, determination or order under sections 6, 7, 8 or 9 1[except a refusal under the proviso to [section 9], shall lie, if preferred within six weeks from the date thereof to the Deputy Commissioner within whose jurisdiction the property is situate; and the decision of the Manager, if no such



appeal has been so preferred, 1[shall subject to the provisions of section 10A and 21-A, be final]; Provided that, if the Deputy Commissioner be himself the Manager, the appeal shall lie to the Commissioner. Appeal to Commissioner. --An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of his decision, to the Commissioner; and the decision of such Commissioner, or of the Deputy Commissioner, if no such appeal has been so preferred 2[shall, subject to the provisions of sections 10A and 21-A, be final. 1. Inserted by Act 3 of 1909. 2. Substituted by ibid.

### **10A. Review By Commissioner :-**

- The Commissioner may of his own motion review any order or proceeding under sections 6, 7, 8, 9 or 10, and may revise, modify or reverse the same]

### **11. Scheme For Settlement Of Debts :-**

When the amount due in respect of the debts and liabilities mentioned in section 8 has been finally determined, the Manager shall prepare and submit to the Commissioner schedule of such debts and liabilities, and a scheme for the settlement thereof 1[ \* \* \*] 1[\*xxx\*] 1. Omitted by Act 8 of 1922.

### **11A. Proceedings Of Commissioner On Submission Of Scheme 1[The Commissioner May :-**

- (a) as often as he thinks fit before approving the scheme send it back to the Manager for revision, and direct him to make such further inquiry as may be requisite for the preparation thereof, or (b) approve the scheme, or any revised scheme, submitted to him either as it stands or subject to such modification (if any) as he may deem expedient. (2) Such scheme or revised scheme when so approved shall be carried into effect subject to any modifications that may subsequently be made therein under Section 11-B] 1. Inserted by ibid.

### **11B. Powers Of Commissioner To Relinquish Management Or Modify Approved Scheme :-**

- 1[If any time after the approval of the scheme or of any modification thereof made in the manner hereinafter provided in this section, new circumstances come into existence, facts are disclosed or events occur which, in the opinion of the Commissioner ; render the scheme unsuitable for the settlement of the debts and liabilities mentioned in the schedule referred to in section 11, the Commissioner may, with the previous sanction of the Board of Revenue, direct -- (a) that the management of the property be relinquished, or (b) that-the scheme be modified or, if it has already been modified under this section, that it be further modified, and any modification made in compliance with such directions shall, after it has been approved by the Commissioner, take effect as part of the scheme.] 1. Inserted by ibid.

### **12. Restoration Of Owner To His Property :-**

1[When ail the debts and liabilities mentioned in the schedule

referred to in section 11, and the amount of any loan 2[effected under the power conferred by clause (c) of section 18] together with the interest (if any) due thereon, have been paid and discharged], 1[or if the Commissioner, at anytime before a scheme has been approved by him under section 1[11A], thinks that the provisions of this Act should not continue to apply to the case of the holder of the said property or his heir<sup>3</sup>[or if after a scheme has been so approved a direction is made under section 11-B for the relinquishment of the management of the property], 4[or if any time an arrangement is made for the satisfaction of the debts and liabilities which he accepted by the creditors and approved by the Commissioner] such holder or his heir shall be restored to the possession and enjoyment of the property, or of such part thereof as has not been sold by the Manager under the power contained in section 18, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained; 5[Provided that, where a fresh order has been made under section 2, in pursuance of section 12 A, sub-section (5) reappointing a Manager and vesting in him the management of the whole Or any portion of the property of any holder, such property shall not be restored to such holder, but shall be retained by the Manager for restoration to the heir of such holder in due course. Restoration to be notified Revival of barred proceedings and debts. Reinstatement of mortgages.-- Where the holder of the property or his heir is so restored under the circumstances mentioned in the second clause of this section such restoration shall be notified in the 6[Official Gazette]: and thereupon the proceedings, processes, executions any attachments mentioned in section 3 (so far they relate to debts and liabilities which the Manager has not paid off or compromised), and the debts and liabilities barred by section 7, shall be revived; and any mortgage or conditional vendee dispossessed under section 16 shall be reinstated, unless his claim under the mortgage or conditional sale has been satisfied; Period of limitation as to revived proceedings and debts. --And in calculating the periods of limitation applicable to such revived proceedings, and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 2 7[or the making of the order (if any) mentioned in section 2-B shall be excluded.] Under section 12 as it existed before 1922, unless the debts had been discharged or an arrangement come for their satisfaction, the Commissioner could not restore the property after he had once

finally approved of the Scheme of Settlement referred to in section 12. The effect of the Chota Nagpur Encumbered Estates (Amendment) Act VIII of 1922 was to do away with the provision requiring that the scheme when approved by the Commissioner shall be barred into effect and to give the Commissioner power with the previous sanction of the Board of Revenue, at any time, even after approval of the property to the holder where new circumstances came into existence, facts were disclosed or events occurred which in his opinion rendered the scheme unsuitable for the settlement of debts and liabilities. Mahabir v. Chota Nagpur Banking Association, AIR 1927 Pat. 105. Section 12 does not apply to a case to which para 2 as amended by Act VIII of 1922, does not in terms apply. The revival of debts is expressly confined to the case dealt with in para 2 section 12. There is no revival of barred proceedings and debts if the restoration takes place under para 1 or under para 3, section 12. Beni Madhab Mahto v. Ganesh Singh Sardar, AIR 1937 Pat. 486. The provisions of section 12 relating to the revival of barred proceedings and debts should not be strictly construed. Mathura v. Jageshwar, AIR 1926 Pat. 260. The word "heir" in section 12 is loosely used and may be taken to include a person who has a right to succeed in law to the holder. Man Mohan Singh v. Raghu Nandan Singh, AIR 1941 Pat. 465.] 1. Substituted by Act 5 of 1884. 2. Substituted by Act 3 of 1909. 3. Substituted by Act 8 of 1922. 4. Inserted by ibid. 5. Inserted by Act 3 of 1909. 6. Substituted by the A.O. for "Calcutta Gazette". 7. Inserted by Act 4 of 1911.

### **12A. Continuance Of Disabilities After Restoration Of Property To Owner :-**

- 1[(1) When the possession and enjoyment of property is restored, under the circumstances mentioned in the first or the third clause of Section 12, to the person who was the holder of such property when application under section 2 was made, such person shall not be competent, without the previous sanction of Commissioner, - (a) to alienate such property, or any part thereof, in any way, or (b) to create any charge thereon extending beyond his lifetime, (2) If the Commissioner refuses to sanction any such alienation or charge, an appeal shall lie to the Board of Revenue, whose decision shall be final. (3) Every alienation and charge made or attempt in contravention of sub-section (1) shall be void. (4) The Deputy Commissioner may at any time, either of his own motion or on the application of any person interested make an enquiry, to ascertain whether any holder of property who is referred to in sub-section (1) has made or attempted to make any alienation on charge in contravention of that sub-section and shall consider and place on record all representations (if any) made by such holder and by the person in whose favour such alienation or charge is alleged to have been made. (5) If the Deputy Commissioner is satisfied, after making such an inquiry, that such holder has made or attempted to make any alienation or charge in contravention of sub-section (1), he may make a report to the Commissioner,

setting forth the result of the inquiry and showing all debts and liabilities to which such holder is subject, and requesting that the provisions of this Act be re-applied to his case; and the Commissioner may, with the previous consent of the 2[State] Government (to be obtained through the Board of Revenue), publish a fresh order under section 2, re-appointing a Manager and vesting to him the management of the whole or any portion of the property of such holder: Provided as follows-- Firstly, if the said holder petitions the Commissioner, while the said inquiry is being made, to postpone, until the petitioner has been heard, the passing of orders on any request that the Deputy Commissioner may make for re-applying the provisions of this Act to his case, and if request as aforesaid be made by the Deputy Commissioner, the Commissioner shall appoint a day for hearing the petitioner if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard ; Secondly, if the said holder petitions the Board of Revenue, while any proceedings are pending before the Commissioner under proviso first, to postpone, until the petitioner has been heard, the passing of orders on any request that the Commissioner may make for the consent of the 2[State] Government to the re-application of the provision of this Act to his case. and if a request as aforesaid be made by the Commissioner, the Board of Revenue shall appoint a day for hearing the petitioner, and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Board shall not pass any order in the matter until he has been heard. (6) No suit shall be brought to charge any person to whom property is restored under the circumstances mentioned in the first or third clause of section 12.- (i) upon any promise, made after such restoration, to pay any debt contracted while the management of the property was vested in the Manager, or (ii) upon any ratification, made after such restoration, of any promise or contract made while the management of the property was vested in the Manager, whether or not there be any new consideration for such promise or ratification. 1. Inserted by Act 3 of 1909. 2. Substituted by the A.L.O.

## CHAPTER 5

### Powers of Manager

#### **13. Power To Call For Further Particulars :-**

The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

#### **14. Power To Summon Witnesses, And Compel Production Of Documents :-**

For the purposes of this Act the Manager may summon and enforce the attendance of witness and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.]<sup>1</sup> 1. See Act 5 of 1908.

#### **14A. Power To Order Production Of Title To Tenures And Under- Tenures :-**

- 1[(1) The Manager may order all holders of tenures and under-tenures of property under his management to produce their evidence of title to such tenures

and under-tenures. (2) Any person who refuses to comply with an order of the Manager under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred rupees; Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made, by such person. 1. Inserted by Act 3 of 1909.

**15. Investigation To Be Deemed Judicial Proceeding :-**

Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code. Statements of persons examined to be evidence.- And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

**16. Manager To Have Powers Of Holder Of Estate :-**

The Manager shall have for the purpose of realizing and recovering the rents and profits of the said immovable property, the same powers as the holder of the property would have had for such purpose if this Act had not been passed. Power to remove mortgagee or conditional vendee in possession. --And if such property, or any part thereof, be in the possession of any mortgagee or conditional vendee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefore had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions hereinbefore contained.

**17. Power To Lease :-**

Subject to the rules made under section 19, the Manager shall have power to demise all or any part of the property under his management for any term of year 1[or in perpetuity], to take effect in possession in consideration of any fine or fines, or without fine and reserving such rents and under such conditions as may be agreed upon. 1. Substituted by Act 5 of 1884.

**18. Power Of Manager To Raise Money By Mortgage, Sale, Or Loan :-**

1[After a scheme has been approved by the Commissioner under section2[11A], the Manager shall, subject to the sanction of Commissioner, have power,- (a) to demise by way of mortgage the whole or any part of such property for a term not exceeding twenty

years from the date of publication of the order under section 2, or (b) to sell by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of such property as may appear expedient; for the purpose of raising any money which may be required for the settlement of the debts and liabilities to which the holder of the property is subject, or with which such property or any part thereof is charged, or (c) borrow money, at such rate of interest as appears reasonable to the Board of Revenue. for the aforesaid purpose or for the purpose of meeting the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Commissioner. 1. Substituted by Act 3 of 1909. 2. Substituted by Act 8 of 1922.

### **18A. Freedom From Obligation To Inquire Into Necessity For Or Application Of, Money :-**

- (1) A mortgagee advancing money upon any mortgage made under section 18 shall not be bound to see that such money is wanted, or that no more than is wanted is raised. (2) the receipt of the Manager for any moneys paid to him as such shall discharge the person paying the same therefrom and from being concerned to see to the application thereof. Section 18B - Power of Manager to contract and take action for the benefit of the property Subject to the sanction of the Commissioner, the Manager, shall have power to enter upon any contract or to execute or relinquish any release or counterpart of a lease, or to take any action not otherwise provided for in this Act which is his opinion in necessary for the proper care and management of the property.

#### **CHAPTER 6**

#### **Miscellaneous**

### **19. Power To Make Rules :-**

The 1[State] Government 2[ \* \* \* \* ] from time to time make rules, consistent with this Act, to regulate the following matters: -- (a) the security to be required from subordinate officers under this Act; 3(aa) the classes of cases which may be submitted by the Commissioner for the consent of the 1[State] Government under section 2; (b) the notices to be given under this Act and the publication of such notices; (c) the procedure to be followed in determining under section 8 the debts and liabilities due to creditors and other persons and in performing the other duties imposed on any office by this Act; (d) the allowance of interest on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment; (e) the order of paying debts and liabilities so

determined; and generally, for the guidance of officers in all matters connected with the enforcement of this Act. Such rules, when 4[\* \* \* \*] published in the 5[Official Gazette], shall have the force of law. 1. Substituted by A. L. O. 2. Omitted by Act 4 of 1914. 3. Inserted by Act 5 of 1884. 4. Omitted by Act 4 of 1914. 5. Substituted by A.O.

### **19A. Power To Make Ordes As To Education Of Holders Children. Penalty For Disobedience :-**

- 1[(1) The Commissioner may make such orders as to him may deem fit in respect of the education of any child of a holder whose property is being managed under the provisions of this Act otherwise than on the application of the Deputy Commissioner. (2) Any person who disobeys any order made by the Commissioner under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred rupees : Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made by such person. 1. Inserted by Act 3 of 1909.

### **19B. Recovery Of Fines :-**

- 1[Any fine imposed by the Deputy Commissioner under section 14A or section 19A shall be recoverable as an arrear of land revenue. 1. Inserted by Act 3 of 1909.

### **20. Power To Appoint New Managers :-**

Whenever the Commissioner thinks fit, may appoint any officer to be a Manager instead of any Manager appointed under this Act; and thereupon the property then vested under this Act in the former Manager shall become vested in the new Manager. Every such new Manager shall have the same powers as if he had been originally appointed.

### **21. Managers To Be Public Servants :-**

Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code. Section

### **21A. Control By Board Of Revenue :-**

- 1[All orders or proceeding of the Commissioner and of the Deputy Commissioner under this Act shall be subject to the supervision and control of the Board of Revenue; and the Board of Revenue may, if it thinks fit, revise, modify or reverse any such order or proceeding.] 1. Inserted by Act 3 of 1909.

### **21B. Suits And Appeals By And Against Holder, During Management 1[During The Period Of Management :-**

- (1) every suit or appeal by the holder shall be instituted in his name by the Manager; (2) in every pending suit or appeal in which the holder is plaintiff or defendant, the Manager shall be named as the representative of the holder for the purposes of the suit or appeal; and no application in any such suit or appeal shall be made to the Court on behalf of the holder except by the Manager; (3) no person

other than the Manager shall be ordered to sue or be sued as next friend or guardian, or be named as guardian, of the holder, for a pending suit; and (4) the Court, upon application by the Manager or by any party to a suit, may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (1), or that the Manager be named as the representative of the holder as required by Clause (2) of this section.] 2[Provided that, if in any suit or appeal both the plaintiff and defendant are holders of separate property managed by the same Manager, the Commissioner shall appoint for each holder an officer other than the Manager to be his representative for the purpose of such suit or appeal and references in this section to the Manager shall be deemed to be references to such representative; 1. Inserted by Act 3 of 1909. 2. Inserted by Act 2 of 1924.

## **22. Bar Of Suits :-**

No suit or other proceeding shall be maintained against any person in respect of anything done by him bonafide pursuant to this Act.

## **23. Saving Of Jurisdiction Of Courts In Chota Nagpur In Respect Of Certain Suits :-**

1[Subject to the provisions of section 21B] nothing in this Act precludes the Courts in Chota Nagpur having jurisdiction in suits relating to the succession to, or claims of maintenance from, any immovable property brought under the operation of this Act from entertaining and disposing of such suits; 2[\* \* \*]. 1. Inserted by Act 3 of 1909. 2. Omitted by *ibid*.

## **24. Omitted :-**

1[\* \* \* \*] 1. Omitted by *ibid*.