

FORM No. (J) 25.**Decree in original suit.**

(Or. 20, rr. 6 and 7, C. P. Code.)

District

In the Court of

Suit No. of 19

Plaintiff,

versus

Defendant.

Claim for

This suit coming on this day for final disposal before
 in the presence of for the plaintiff, and of
 for the defendant, it is ordered and decreed that
 and that the sum of Rs. be paid by
 the to the
 on account of the costs of this suit, with interest thereon at the
 rate of per cent. per annum from this date to date of realisa-
 tion.

Given under my hand and the seal of this Court, this (1) day of
 19

Judge.

(1) Enter here the date of the judgment.

N.B.—The Judge shall make an autograph note stating the date, month and year on which the decree is signed and initial the corrections or alterations, if any.

Costs of Suit.

Plaintiff.	Rs. a. p.	Defendant.	Rs. a. p.
1. Stamp for plaint ..		1. Stamp for power ..	
2. Stamp for power ..		2. Stamp for petitions and affidavits ..	
3. Stamp for petitions and affidavits ..		3. Cost of exhibits including copies made under the Bankers' Book's Evidence Act, 1891 ..	
4. Cost of exhibits including copies made under the Bankers' Book's Evidence Act, 1891 ..		4. Pleader's fee ..	
5. Pleader's fee on Rs...		5. Subsistence and travelling allowances of witnesses (including those of party if allowed by Judge) ..	
6. Subsistence and travelling allowances of witnesses (including those of party if allowed by Judge) ..		6. Process fees ..	
7. Process fees ..		7. Commissioners' fees..	
8. Commissioners' fees ..		8. Demi-paper ..	
9. Demi-paper ..		9. Cost of transmission of records. ..	
10. Cost of transmission of records ..		10. Other costs allowed under the Code and Civil Rules and Orders ..	
11. Other costs allowed under the Code and Civil Rules and Orders ..		11. Adjournment costs not paid in cash (to be deducted or added as the case may be) ..	
12. Adjournment costs not paid in cash (to be added or deducted as the case may be)			

Note 1.—The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve as they will be destroyed at the time prescribed by the High Court (Rule 462 *et seq.*, Vol. I).

Note 2.—The above note shall be penned through if there are no exhibits for return. (See Note 1 to rule 390, Volume I.)

FORM No. (J) 26.

Simple money-decree.

(Section 34, C. P. Code.)

District

In the Court

at

Suit No. 19

Plaintiff,

versus

Defendant.

Claim for

This suit coming on this day for final disposal before
in the presence of for the plaintiff, and
for the defendant, it is ordered that the

do pay to the the sum
of Rs. with interest thereon at the rate of per cent. per annum
from
to the date of
realisation of the said sum, and do also pay Rs.

, the costs of this suit, with interest thereon at the rate of per cent.
per annum from this date to the date of realisation.

Given under my hand and the seal of the Court, this⁽¹⁾ day of
19

Judge.

(1) Enter here the date of the judgment

N.B.—The Judge shall make on autograph note stating the date, month and year on which the decree is signed and initial the corrections or alterations, if any.

Costs of Suit.

Plaintiff.

Defendant.

Section 390 of the C.P. Code

Rs. a. p.

Rs. a. p.

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Stamp for plaint .. 2. Stamp for power .. 3. Stamp for petitions and affidavits .. 4. Cost of exhibits including copies made under the Bankers' Book's Evidence Act, 1891 .. 5. Pleader's fee on Rs. 6. Subsistence and travelling allowances of witnesses (including those of party, if allowed by Judge) .. 7. Process fees .. 8. Commissioner's fees .. 9. Demi-paper .. 10. Cost of transmission of records .. 11. Other costs allowed under the Code and Civil Rules and Orders. .. 12. Adjournment costs not paid in cash (to be added or deducted as the case may be) | <ol style="list-style-type: none"> 1. Stamp for power .. 2. Stamp for petitions and affidavits .. 3. Cost of exhibits including copies made under the Banker's Book's Evidence Act, 1891 .. 4. Pleader's fee .. 5. Subsistence and travelling allowances of witnesses (including those of party, if allowed by Judge) .. 6. Process fees .. 7. Commissioner's fees .. 8. Demi-paper .. 9. Cost of transmission of records .. 10. Other costs allowed under the Code and Civil Rules and Orders .. 11. Adjournment costs not paid in cash (to be deducted or added as the case may be) .. |
|--|---|

Note 1.—The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve as they will be destroyed at the time prescribed by the High Court (Rule 462, *et seq.*, Vol. I).

Note 2.—The above note shall be penned through if there are no exhibits for return. (See Note 1 to Rule 390, Volume I.)

FORM No. (J) 27.

Decree under Or. 21, r. 11(1) of the C. P. Code.

District

In the Court

at

Suit No. of 19 .

Plaintiff(s),

versus

Defendant(s).

Claim for Rs.

This suit coming on this day for final disposal in the presence of
 on the part of the plaintiff, and on
 the part of the defendant, it is ordered as follows :—

- (1) That C. D. the defendant do pay to A. B.
 the plaintiff the sum of Rs.
 and also the sum of Rs. for the costs of the suit together
 with interest on principal/the said amount at the rate of Rs.
 per cent. per annum from this day until payment thereof respectively.
- (2) That if the said sum/sums are not paid, a warrant do issue for the arrest of
 the said C. D.
- (3) That if warrant is issued as aforesaid, the defendant do pay to the plaintiff
 the further sum of Rs. for his costs thereof and that the
 said sum be inserted in the warrant accordingly.

Given under my hand and seal of this Court this day of

19 .

Judge.

N.B.—The Judge shall make an autograph note stating the date, month and year on which
 the decree is signed and initial the corrections or alterations, if any.

FORM No. (J) 28.

***Decree in original suits between landlord and tenant for the recovery of rent.**

District

In the Court of _____ at _____

Rent Suit No. _____ *of 19* .

Plaintiff,

versus

Defendant.

Claim for Rs. _____ on account of rent for the period from _____
to _____ (calculated at the yearly rent of _____
Rs. _____ and cess at _____) in respect of land held in Mauza
thana _____ and recorded in (enter here the serial number or numbers borne
by the tenancy in the Record of Rights).

This suit coming on this day for final disposal before _____ and
in the presence of _____, for the plaintiffs, and
for the defendant, it is ordered and decreed that the sum of Rs.
(which includes rent calculated at a yearly rental of Rs. _____, cess at
and interest at _____ per cent./damages at _____ per cent.) be paid by
to _____ together with interest at
per cent. per annum until realisation and that Rs. _____ the costs of the suit
(vide schedule below) be also paid by _____ to _____ with interest
thereon at the rate of _____ per cent. per annum until realisation.

Given under my hand and the seal of this Court this day¹ of _____ 19

Judge.

*Framed under the Bengal Tenancy Act.

¹Enter here the date of judgment.

N.B.—The Judge shall make an autograph note stating the date, month and year on which the decree is signed and initial the correction or alterations, if any.

Costs of Suit.

Plaintiff.	Rs. a. p.	Defendant.	Rs. a. p.
1. Stamp for plaint ..		1. Stamp for power ..	
2. Stamp for power ..		2. Stamp for petitions and affidavits ..	
3. Stamp for petitions and affidavits ..		3. Cost of exhibits including copies made under the Bankers' Book's Evidence Act, 1891 ..	
4. Cost of exhibits including copies made under the Bankers' Book's Evidence Act, 1891 ..		4. Pleader's fee ..	
5. Pleader's fee on Rs...		5. Subsistence and travelling allowances of witnesses (including those of party, if allowed by Judge) ..	
6. Subsistence and travelling allowances of witnesses (including those of party, if allowed by Judge) ..		6. Process fees ..	
7. Process fee ..		7. Commissioner's fees ..	
8. Commissioner's fees ..		8. Demi-paper ..	
9. Demi-paper ..		9. Cost of transmission of records ..	
10. Cost of transmission of records ..		10. Other costs allowed under the Code and Civil Rules and Orders ..	
11. Other costs allowed under the Code and Civil Rules and Orders ..		11. Adjournalment costs not paid in cash (to be deducted or added as the case may be).	
12. Adjournalment costs not paid in cash (to be added or deducted as the case may be).			

Note 1.—The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve as they will be destroyed at the time prescribed by the High Court (Rule 462 *e' seq.*, Vol. I.).

Note 2.—The above note shall be penned through if there are no exhibits for return. (See Note 1 to rule 390, Vol. I.)

FORM NO. (J) 28B.

Decree in original suits between landlord and tenant for the recovery of rents (framed under the Cooch Behar Tenancy Act).

In the Court of

Rent suit No.

of 19 .

Plaintiff,

versus

Defendant.

Claim for Rs. _____ on account of rent for the period from _____
to _____ at the yearly rent of Rs. _____ in
respect of land held in Talook _____, Pargana _____.

In the presence of the parties* it is ordered and decreed that the sum of _____ Rupees (which includes rent calculated at a yearly rental of Rs. _____ and interest at 12½ per cent., damages at _____ per cent.) be paid by _____ to _____ together with interest at _____ per cent. until realization and that costs be paid as directed at the foot of the schedule given below :—

Costs of the suit.

	Plaintiff.		Defendant.	Amount.	
	Rs.	a. p.		Rs.	a. p.
1. Stamp for plaint	..		Stamp for power	..	
2. Stamp for power	..		Stamp for petition	..	
3. Stamp for Exhibits	..		Pleader's fee	..	
4. Pleader's fee on Rs.	..		Subsistence of witnesses	..	
5. Subsistence of witnesses for attendance.	..		Service of Process	..	
6. Service of Process	
Total	..		Total	..	

Cost Rs. _____ payable _____ with interest at _____ per cent. until realization.

NOTICE TO TAKE BACK DOCUMENTS.

The parties in this case are hereby required to take back, as soon as this decree shall have become final, the documents produced by them, which are exhibits in the case. If they fail to take them back, the documents will be destroyed, either when the record is destroyed, or on the expiry of one year from the date of this decree becoming final.

Signature of Presiding Officer.

*Enter here date of judgment.

FORM No. (J) 29.

Decree for recovery of land and mesne profits.

(Or. 20, r. 12, C. P. Code.)

District

In the Court of the

at

Suit No.

of 19

Plaintiff,

versus

Defendant.

Claim for

This suit coming on for final disposal before
and in the presence of _____, for the plaintiff, and
_____ for the defendant;

It is hereby decreed as follows:—

(1) That the defendant do put the plaintiff in possession of the property specified in the schedule hereunto annexed.

(2) That the defendant do pay to the plaintiff the sum of Rs. _____ with interest thereon at the rate of _____ per cent. per annum to the date of realisation on account of mesne profits which have accrued due prior to the institution of the suit

or

(2) That an enquiry be made as to the amount of mesne profits which have accrued due prior to the institution of the suit.

(3) That an enquiry be made as to the amount of mesne profits from the institution of the suit until (the delivery of possession to the decree-holder) (the relinquishment of possession by the judgment-debtor with notice to the decree-holder through the Court) (the expiration of three years from the date of the decree).

Given under my hand and the seal of this Court, this
day of _____ 19 _____

Judge.

*Enter here the date of judgment.

N.B.—The judge shall make an autograph note stating the date, month and year on which the decree is signed and initial the corrections or alterations, if any.

Schedule.

N.B.—In the printed form, a table of costs and notice to take back documents is appended as in Form No. (J) 25 ante.

FORM No. (J) 30.

Preliminary decree for foreclosure.

(Where accounts are directed to be taken.)

(Or. 34, r. 2(1)(a), C. P. Code.)

District

In the Court of the _____ at _____

Suit No. _____ of 19 _____

Plaintiff,

versus

Defendant.

Claim for

This suit coming on this _____ day of _____ 19 _____
 for hearing before _____ and in the presence of _____
 for the plaintiff and _____ for
 the defendant; It is hereby ordered and decreed that it be referred to
 as the Commissioner to take the accounts

following :—

- (i) an account of what is due on this date to the plaintiff for principal and interest on his mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable);
- (ii) an account of the income of the mortgaged property received up to this date by the plaintiff or by any other person by the order or for the use of the plaintiff or which without the wilful default of the plaintiff or such person might have been so received;
- (iii) an account of all sums of money properly incurred by the plaintiff up to this date for costs, charges and expenses (other than the cost of the suit) in respect of the mortgage security, together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or failing both such rates, at nine per cent. per annum);
- (iv) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the plaintiff which is destructive of, or permanently injurious to, the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. And it is hereby further ordered and decreed that any amount received under clause (ii) or adjudged due under clause (iv) above, together with interest thereon, shall first be adjusted against any sum paid by the plaintiff under clause (iii) together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, debited in reduction of the amount due to the plaintiff on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making all just allowances on or before the _____ day of _____ and that upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

(i) that the defendant do pay into Court on or before the _____ day of _____, or any later date up to which time for payment may be extended by the Court, such sums as the Court shall find due, and the sum of Rs. _____ for the costs of the suit awarded to the plaintiff;

(ii) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the defendant or to such person as he appoints, and the plaintiff shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of _____ and from all incumbrances created by the plaintiff or any person claiming under him or any person under whom he claims and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the plaintiff shall be at liberty to apply to the Court for a final decree that the defendant shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property: and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this*
day of _____ 19 _____

Judge.

*Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule.

Description of the mortgaged property.

N. B.—In the printed form, a table of costs and notice to take back documents is appended as in Form No. (J) 25 ante.

FORM No. (J) 30 (i).

Preliminary decree for foreclosure.

(Where the Court declares the amount due.)

[Or. 34, r. 2 (1) (b), C. P. Code.]

District

In the Court of the

at

Suit No.

of 19

Plaintiff,

versus

Defendant.

Claim for

This suit coming on this _____ day of _____ 19____
 for hearing before _____ and in the presence of _____ for
 the defendant; It is hereby declared that the amount due to the plaintiff on his
 mortgage mentioned in the plaint calculated up to this _____
 day of _____ is the sum of Rs. _____ for principal, the sum of
 Rs. _____ for interest on the said principal, the sum of Rs. _____ for
 costs, charges and expenses (other than the costs of the suit) properly incurred by
 the plaintiff in respect of the mortgage security, together with interest thereon,
 and the sum of Rs. _____ for the costs of this suit awarded to the plaintiff,
 making in all the sum of Rs. _____

2. And it is hereby ordered and decreed as follows :—

- (i) that the defendant do pay into Court on or before the
 day of _____ or any later date up to which time for payment
 may be extended by the Court of the said sum of Rs. _____
- (ii) that, on such payment and on payment thereafter before such date as the
 Court may fix of such amount as the Court may adjudge due in respect
 of such costs of the suit and such costs, charges and expenses as may be
 payable under rule 10, together with such subsequent interest as may
 be payable under rule 11, or Order XXXIV of the First Schedule to the
 Code of Civil Procedure, 1908, the plaintiff shall bring into Court all
 documents in his possession or power relating to the mortgaged property
 in the plaint mentioned, and all such documents shall be delivered over
 to the defendants, or to such person as he appoints, and the plaintiff
 shall, if so required, re-convey or re-transfer the said property free from
 the said mortgage and clear of and from all incumbrances created by
 the plaintiff or any person claiming under him or any person under
 whom he claims and free from all liability whatsoever arising from the
 mortgage or this suit and shall, if so required, deliver up to the defendant
 quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the plaintiff may apply to the Court for a final decree that the defendant shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this*
day of 19 .

Judge.

*Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule.

Description of the mortgaged property.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

FORM No. (J) 31.

Final decree for foreclosure.

[Or, 34, r. 3 (2) C. P. Code.]

District

In the Court of the at

Suit No. of 19

Plaintiff,

versus

Defendant.

Claim for

Upon reading the preliminary decree passed in this suit on the
 the day of and further orders (if any) dated
 the day of and the application of the
 plaintiff, dated the day of
 for a final decree and after hearing the parties and it appearing that the payment
 directed by the said decree and orders has not been made by the defendant or any
 person on his behalf or any other person entitled to redeem the said mortgage :

It is hereby ordered and decreed that the defendant and all persons claiming
 through or under him be and they are hereby absolutely debarred and foreclosed
 of and from all right of redemption of and in the property in the aforesaid prelimi-
 nary decree mentioned ; †[and (if the defendant be in possession of the said mort-
 gaged property) that the defendant shall deliver to the plaintiff quiet and peaceable
 possession of the said mortgaged property.]

2. And it is hereby further declared that the whole of the liability whatsoever
 of the defendant up to this day arising from the said mortgage mentioned in the
 plaint or from this suit is hereby discharged and extinguished.

Given under my hand and the seal of this Court, this*
 day of 19

Judge.

*Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding
 Officer under his signature or in any other convenient and conspicuous place and he should
 initial the corrections or alterations, if any.

†Words not required to be deleted.

N.B.—In the printed form, a table of costs and notice to take back documents is appended,
 as in Form No. (J) 25, ante.

FORM (J) 31(i).

Final decree for foreclosure in a redemption suit on default of payment by mortgagor.

[Or. 34, r. 8(3), C. P. Code.]

District

In the Court of the _____ at _____

Suit No. 19

Plaintiff,

versus

Defendant.

Claim for

Upon reading the preliminary decree in this suit on the _____ day of _____ and further orders (if any) dated the _____ day of _____ and the application of the defendant dated the _____ day of _____ for a final decree and after hearing the parties, and it appearing that the payment as directed by the said decree and orders has not been made by the plaintiff or any person on his behalf or any other person entitled to redeem the mortgage :

It is hereby ordered and decreed that the plaintiff and all persons claiming through or under him be and they are hereby absolutely debarred and foreclosed of and from all right of redemption of and in the property in the aforesaid preliminary decree mentioned* [and (if the plaintiff be in possession of the said mortgaged property) that the plaintiff shall deliver to the defendant quiet and peaceable possession of the said mortgaged property].

2. And it is hereby further declared that the whole of the liability whatsoever of the plaintiff up to this day arising from the said mortgage mentioned in the plaint or from this suit is hereby discharged and extinguished.

Given under my hand and the seal of this Court this (i) _____ day of _____ 19 .

Judge.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

N.B.—In the printed form a table of costs and notice to take back documents is appended, as in Form No. (J), 25, ante.

*[] Words not required to be deleted.

(i) Enter here the date of judgment.

FORM No. (J) 32.

Preliminary decree for sale.

(Where accounts are directed to be taken.)

[Or. 34, r. 4(I), C.P. Code.]

District

In the Court of the

at

Suit No. of 19

Plaintiff.

versus

Defendant.

Claim for

This suit coming on this _____ day of _____ 19____
 or hearing before _____ and in the presence of _____
 or the plaintiff and _____ for the defendant ; It is
 hereby ordered and decreed that it be referred to _____ as
 the Commissioner to take the accounts following :—

- (i) an account of what is due on this date to the plaintiff for principal and interest on his mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable) ;
- (ii) an account of the income of the mortgaged property received up to this date by the plaintiff or by any other person by the order or for the use of the plaintiff or which without the wilful default of the plaintiff or such person might have been so received ;
- (iii) an account of all sums of money properly incurred by the plaintiff up to this date for costs, charges and expenses other than the costs of the suit in respect of the mortgage-security, together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or, failing both such rates, at nine per cent. per annum) ;
- (iv) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the plaintiff which is destructive of, or permanently injurious to, the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. And it is hereby further ordered and decreed that any amount received under clause (ii) or adjudged due under clause (iv) above, together with interest thereon, shall first be adjusted against any sums paid by the plaintiff under clause (iii), together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, be debited in reduction of the amount due to the plaintiff on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making all just allowances on or before the _____ day of _____, and that upon such report of the Commissioner being received, it shall be confirmed and countersigned subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

- (i) that the defendant do pay into Court on or before the
 day of or any later date up to
 which time for payment may be extended by the Court, such sum as
 the Court shall find due and the sum of Rs.
 for the costs of the suit awarded to the plaintiff;
- (ii) that, on such payment and on payment thereafter before such date as
 the Court may fix of such amount as the Court may adjudge due in
 respect of such costs of the suit, and such costs, charges and expenses
 as may be payable under rule 10, together with such subsequent interest
 as may be payable under rule 11, of Order XXXIV of the First Schedule
 to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court
 all documents in his possession or power relating to the mortgaged prop-
 erty in the plaint mentioned, and all such documents shall be delivered
 over to the defendant, or to such person as he appoints, and the plaintiff
 shall, if so required, re-convey or transfer the said property free
 from the mortgage and clear of and from all incumbrances created by
 the plaintiff or any person claiming under him or any person under
 whom he claims and shall, if so required, deliver up to the defendant
 quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment
 as aforesaid, the plaintiff may apply to the Court for a final decree for the sale of
 the mortgaged property; and on such application being made the mortgaged
 property or a sufficient part thereof shall be directed to be sold; and for the purposes
 of such sale the plaintiff shall produce before the Court, or such officer as it appoints,
 all documents in his possession or power relating to the mortgaged property.

6. And it is hereby further ordered and decreed that the money realised by
 such sale shall be paid into Court and shall be duly applied (after deduction there-
 from of the expenses of the sale) in payment of the amount payable to the plaintiff
 under this decree and under any further order that may be passed in this suit and
 in payment of any amount which the Court may adjudge due to the plaintiff in
 respect of such costs of the suit, and such costs, charges and expenses as may be
 payable under rule 10, together with such subsequent interest as may be payable
 under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure,
 1908, and that the balance, if any, shall be paid to the defendant or other persons
 entitled to receive the same.

7. And it is hereby further ordered and decreed that, if the money realised
 by such sale shall not be sufficient for payment in full of the amount payable to the
 plaintiff as aforesaid, the plaintiff shall be at liberty (where such remedy is open to
 him under the terms of his mortgage and is not barred by any law for the time being
 in force) to apply for a personal decree against the defendant for the amount of the
 balance; and that the parties are at liberty to apply to the Court from time to
 time as they may have occasion, and on such application or otherwise the Court
 may give such direction as it thinks fit.

Given under my hand and the seal of this Court, this*
 day of 19 .

Judge.

*Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding
 Officer under his signature or in any other convenient and conspicuous place and he should
 initial the alterations or corrections, if any.

Schedule

Description of the mortgaged property.

N.B.—In the printed form a table of costs and notice to take back documents is appended,
 as in Form No. (J) 25, *ante*.

FORM No. (J) 32. (i).

Preliminary decree for sale.

(Where the Court declares the amount due.)

[Or. 34, r. 4 (1), C. P. Code.]

District

In the Court of the

at

Suit No.

of 19

Plaintiff.

versus

Defendant.

Claim for

This suit coming on this _____ day of _____ 19____
for hearing before _____ and in the presence of _____
_____ for the plaintiff and _____ for the defendant ;

It is hereby declared that the amount due to the plaintiff on the mortgage men-
tioned in the plaint calculated up to this _____ day of _____
is the sum of Rs. _____ for principal, the sum of

Rs. _____ for interest on the said principal, the sum of
Rs. _____ for costs, charges and expenses (other than the costs
of the suit) properly incurred by the plaintiff in respect of the mortgage-security,
together with interest thereon, and the sum of Rs. _____
for the costs of the suit awarded to the plaintiff, making in all the sum of Rs. _____

2. And it is hereby ordered and decreed as follows :—

(i) that the defendant do pay into Court on or before the _____ day of _____
or any later date up to which time
for payment may be extended by the Court the said sum of
Rs. _____ ;

(ii) that on such payment and on payment thereafter before such date as the
Court may fix of such amount as the Court may adjudge due in respect
of such costs of the suit and such costs, charges and expenses as may be
payable under rule 10, together with such subsequent interest as may be
payable under rule 11, of Order XXXIV of the First Schedule to the
Code of Civil Procedure, 1908, the plaintiff shall bring into Court all
documents in his possession or power relating to the mortgaged property
in the plaint mentioned, and all such documents shall be delivered
over to the defendant, or to such person as he appoints, and the plaintiff
shall, if so required, re-convey or re-transfer the said property free
from the said mortgage and clear of and from all incumbrances created
by the plaintiff or any person claiming under him or any person under
whom he claims and shall, if so required, deliver up to the defendant
quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid the plaintiff may apply to the Court for a final decree for the sale of the mortgaged property ; and on such application being made, the mortgaged property or a sufficient part thereof shall be directed to be sold and for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged property.

4. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under this decree and under any further orders that may be passed in this suit and in payment of any amount which the Court may adjudge due to the plaintiff in respect of such costs of the suit, and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interests as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the defendant or other persons entitled to receive the same.

5. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for payment in full of the amount payable to the plaintiff as aforesaid, the plaintiff shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the defendant for the amount of the balance ; and that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this (i)
day of 19

Judge.

(i) Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule.

Description of the mortgaged property.

N. B.—In the printed form a table of costs and notice to take back documents is appended, as in Form No. (J) 25, *ante*.

FORM No. (J) 32(ii).

Preliminary decree for sale.

[Or, 34, r. 4 (4), C. P. Code.]

District

In the Court of the _____ at _____

Suit No. _____ of 19 _____

Plaintiff,

*Sub or derivative mortgagee.**versus*

Defendant No. 1,

Mortgagor.

Defendant No. 2,

Original mortgagee.

Claim for

This suit coming on this _____ day, etc.; It is hereby declared that the amount due to defendant No. 2 on his mortgage calculated up to this _____ day or _____ is the sum of Rs. _____ for principal, the sum of Rs. _____ for interest on the said principal, the sum of Rs. _____ for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security together with interest thereon and the sum of Rs. _____ for the costs of the suit awarded to defendant No. 2, making in all the sum of Rs. _____.

(Similar declarations to be introduced with regard to the amount due from defendant No. 2 to the plaintiff in respect of his mortgage.)

2. And it is hereby ordered and decreed as follows :—

- (i) That defendant No. 1 do pay into Court on or before the said _____ day of _____ or any later date up to which time for payment may be extended by the Court the said sum of Rs. _____ due to defendant No. 2.

(Similar declarations to be introduced with regard to the amount due to the plaintiff, defendant No. 2, being at liberty to pay such amount.)

- (ii) That, on payment of the sum declared due to defendant No. 2 by defendant No. 1 in the manner prescribed in clause 2 (i) and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff and defendant No. 2 shall bring into Court all documents in their possession or power relating to the mortgaged property in the plaint mentioned, and all such documents (except such as relate only to the sub-mortgage) shall be delivered over to defendant No. 1, or to such person as he appoints, and defendant No. 2 shall, if so required, re-convey or re-transfer the property to defendant No. 1 free from the said mortgage clear of and from all incumbrances created by defendant No. 2 or any person claiming under him or any person under whom he claims and free from all liability arising from the mortgage or this suit and shall, if so required, deliver up to defendant No. 1 quiet and peaceable possession of the said property, and
- (iii) That, upon payment into the Court by defendant No. 1 of the amount due to defendant No. 2, the plaintiff shall be at liberty to apply for payment to him of the sum declared due to him together with any subsequent costs of the suit and other costs, charges and expenses, as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908; and that the balance, if any, shall then be paid to defendant No. 2; and that if the amount paid into the Court be not sufficient to pay in full the sum due to the plaintiff, the plaintiff shall be at liberty (if such remedy is open to him by the terms of the mortgage and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 2 for the amount of the balance.

3. And it is further ordered and decreed that if defendant No. 2 pays into Court to the credit of this suit the amount adjudged to the plaintiff, the plaintiff shall bring into the Court all documents, etc. [as in sub-clause (ii) of clause 2].

4. And it is hereby further ordered and decreed that, in default of payment by defendants Nos. 1 and 2 as aforesaid, the plaintiff may apply to the Court for a final decree for sale, and on such application being made the mortgaged property or a sufficient part thereof shall be directed to be sold; and that for the purposes of such sale the plaintiff and defendant No. 2 shall produce before the Court or such officer as it appoints, all documents in their possession or power relating to the mortgaged property.

5. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) first in payment of the amount due to the plaintiff as specified in clause 1 above with such costs of the suit and other costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be applied in payment of the amount due to defendant No. 2; and that, if any balance be left, it shall be paid to defendant No. 1 or other persons entitled to receive the same.

6. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for payment in full of the amounts payable to the plaintiff and defendant No. 2, the plaintiff or defendant No. 2 or both of them, as the case may be, shall be at liberty (if such remedy is open under their respective mortgages and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 2 or defendant No. 1 (as the case may be) for the amount of the balance.

7. And it is hereby further ordered and decreed that, if defendant No. 2 pays into Court to the credit of this suit the amount adjudged due to the plaintiff, but defendant No. 1 makes default in payment of the amount due to defendant No. 2, defendant No. 2 shall be at liberty to apply to the Court for a final decree for foreclosure or sale (as the case may be)—(declarations in the ordinary form to be introduced according to the nature of defendant No. 2's mortgage and the remedies open to him thereunder).

8. And it is hereby further ordered and decreed that the parties are at liberty to apply to the Court as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this (i)
day of 19

Judge.

(i) Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule.

Description of the mortgaged property.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

FORM No. (J) 33.

Final decree for sale.

[Or. 34, r. 5(3), C. P. Code.]

District

In the Court of the

at

Suit No.

of 19

Plaintiff,

versus

Defendant.

Claim for

Upon reading the preliminary decree passed in this suit on the _____ day of _____ and further orders (if any) dated _____ the _____ day of _____ and the application of the plaintiff dated the _____ day of _____ for a final decree and after hearing the parties and it appearing that the payment directed by the said decree and orders has not been made by the defendant or any person on his behalf or any other person entitled to redeem the mortgage :

It is hereby ordered and decreed that the mortgaged property in the aforesaid preliminary decree mentioned or a sufficient part thereof be sold, and that for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged property.

2. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into the Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under the aforesaid preliminary decree and under any further orders that may have been passed in this suit and in payment of any amount which the Court may have adjudged due to the plaintiff for such costs of the suit including the costs of this application and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11 of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the defendant or other persons entitled to receive the same.

Given under my hand and the seal of this Court, this*
day of _____ 19 _____

Judge.

*Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

N.B.—In the printed form a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

FORM No. (J) 33(i).

Final decree for sale in a redemption suit on default of payment by Mortgagor.

[Or. 34, r. 8 (3), C. P. Code.]

District

In the Court of

at

Suit No. of 19 .

Plaintiff,

versus

Defendant.

Claim for

Upon reading the preliminary decree passed in this suit on the day of and further orders (if any), dated the day of and the application of the defendant dated the day of for a final decree and after hearing the parties and it appearing that the payment directed by the said decree and orders has not been made by the plaintiff or any person on his behalf or any other person entitled to redeem the mortgage :

It is hereby ordered and decreed that the mortgaged property in the aforesaid preliminary decree mentioned or a sufficient part thereof be sold and that for the purposes of such sale the defendant shall produce before the Court, or such officer as it appoints, all documents in his possession or power relating to the mortgaged property.

2. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the defendant under the aforesaid preliminary decree and under any further orders that may have been passed in this suit and in payment of any amount which the Court may have adjudged due to the defendant for such costs of this suit including the costs of this application and such costs, charges and expense as may be payable under rule 10, together with the subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the plaintiff or other persons entitled to receive the same.

Given under my hand and the seal of this Court, this (i)
day of 19 .

Judge.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

(i) Enter here the date of judgment.

FORM No. (J) 33(ii).

Final decree in a suit for foreclosure, sale or redemption where the mortgagor pays the amount of the decree.

[Or. 34, rr. 3(I), 5(I) and 8(I), C. P. Code.]

District

In the Court of _____ at _____

Suit No. _____ of 19 _____

versus

Plaintiff,

Defendant.

Claim for _____

This suit coming on this _____ day for further consideration and it appearing that on the _____ day of _____ the mortgagor or _____, the same being a person entitled to redeem, has paid into Court all amounts due to the mortgagee under the preliminary decree dated the _____ day of _____

It is hereby ordered and decreed that :—

- (i) the mortgagee do execute a deed of re-conveyance of the property in the aforesaid preliminary decree mentioned in favour of the mortgagor *(or as the case may be, _____ who has redeemed the property) or an acknowledgment of the payment of the amount due in his favour ;
- (ii) the mortgagee do bring into Court all documents in his possession and power relating to the mortgaged property in the suit.

And it is hereby further ordered and decreed that, upon the mortgagee executing the deed of re-conveyance or acknowledgment in the manner aforesaid,—

- (i) the said sum of Rs. _____ be paid out of Court to the mortgagee ;
- (ii) the said deeds and documents brought into the Court be delivered out of court to the mortgagor *(or the person making the payment) and the mortgagee do, when so required, concur in registering at the cost of the mortgagor* (or other person making the payment), the said deed of re-conveyance or the acknowledgment in the office of the Sub-Registrar of _____ ; and
- (iii) *(if the mortgagee, plaintiff or defendant, as the case may be, is in possession of the mortgaged property) that the mortgagee do forthwith deliver possession of the mortgaged property in the aforesaid preliminary decree mentioned to the mortgagor *(or such person as aforesaid who has made the payment).

Given under my hand and the seal of this Court, this (i) _____ of 19 _____

Judge.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

*() ; Words not required may be deleted.

(i) Enter here the date of judgment.

FORM No. (J) 33(iii).
Preliminary decree for foreclosure or sale.

[Or. 34, rr. 2(3) and 4(4) C. P. Code.]

District

In the Court of _____ at _____

Suit No. _____ of 19 _____

Plaintiff

, *1st Mortgagee,*

versus

Defendant No. 1

, *Mortgagor,*

Defendant No. 2

, *2nd Mortgagee.*

The suit coming on this _____ day, etc. ; It is hereby declared that the amount due to the plaintiff on the mortgage mentioned in the plaint calculated up to this _____ day of _____ is the sum of Rs. _____ for principal, the sum of Rs. _____ for interest on the said principal, the sum of Rs. _____ for costs, charges and expenses (other than the costs of the suit) incurred by the plaintiff in respect of the mortgage-security with interest thereon and the sum of Rs. _____ for the costs of this suit awarded to the plaintiff, making in all the sum of Rs. _____

(Similar declarations to be introduced with regard to the amount due to defendant No. 2 in respect of his mortgage if the mortgage-money due thereunder has become payable at the date of the suit).

2. It is further declared that the plaintiff is entitled to payment of the amount due to him in priority to defendant No. 2* [or (if there are several subsequent mortgagees) that the several parties hereto are entitled in the following order to the payment of the sums due to them respectively :—]

3. And it is hereby ordered and decreed as follows :—

- (i) (a) that defendants or one of them do pay into Court on or before the _____ day of _____ or any later date up to which time for payment has been extended by the Court the said sum of Rs. _____ due to the plaintiff, and
- (b) that defendant No. 1 do pay into Court on or before the _____ day of _____ or any later date up to which time for payment has been extended by the Court the said sum of Rs. _____ due to defendant No. 2 ; and

*[] Words not required to be deleted.

(ii) that, on payment of the sum declared to be due to the plaintiff by defendants or either of them in the manner prescribed in clause (i) (a) and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned. and all such documents shall be delivered over to the defendant No. (who has made the pyament), or to such person as he appoints, and the plaintiff shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the plaintiff or any person claiming under him or any person under whom he claims, and also free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the defendant No. (who has made the payment) quiet and peaceable possession of the said property.

(Similar declarations to be introduced, if defendant No. 1 pays the amount found or declared to be due to defendant No. 2 with such variations as may be necessary having regard to the nature of his mortgage.)

4. And it is hereby further ordered and decreed that, in default of payment as aforesaid of the amount due to the plaintiff, the plaintiff shall be at liberty to apply to the Court for a final decree—

(i) *[in the case of a mortgage by conditional sale or an anomalous mortgage where the only remedy provided for in the mortgage deed is foreclosure and not sale] that the defendants jointly and severally shall, thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver to the plaintiff quiet and peaceable possession of the said property ; or

(ii) *[in the case of any other mortgage] that the mortgaged property or a sufficient part thereof shall be sold ; and that for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property ; and

(iii) *[in the case where a sale is ordered under clause 4 (ii) above] that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under this decree and under any further orders that may have been passed in this suit and in payment of the amount which the Court may adjudge due to the plaintiff in respect of such costs of this suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be applied in payment of the amount due to defendant No. 2 ; and that if any balance be left it shall be paid to the defendant No. 1 or other persons entitled to receive the same ; and

(iv) that, if the money realised by such sale shall not be sufficient for payment in full of the amounts due to the plaintiff and defendant No. 2, the plaintiff or defendant No. 2 or both of them, as the case may be, shall be at liberty (when such remedy is open under the terms of their respective mortgages and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amounts remaining due to them respectively.

5. And it is hereby further ordered and decreed—

(a) that if defendant No. 2 pays into Court to the credit of this suit the amount adjudged due to the plaintiff, but defendant No. 1 makes default in the payment of the said amount, defendant No. 2 shall be at liberty to apply to the Court to keep the plaintiff's mortgage alive for his benefit and to apply for a final decree (in the same manner as the plaintiff might have done under clause 4 above)—

*[(i) that defendant No. 1 shall thenceforth stand absolutely debarred and foreclosed of an from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to defendant No. 2 quiet and peaceable possession of the said property:]
or

*[(ii) that the mortgaged property or a sufficient part thereof be sold and that for the purpose of such sale defendant No. 2 shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property ;] and

(b)(if on the application of defendant No. 2 such a final decree for foreclosure is passed), that the whole of the liability of defendant No. 1 arising from the plaintiff's mortgage or from the mortgage of defendant No. 2 or from this suit shall be deemed to have been discharged and extinguished.

6. And is hereby further ordered and decreed* [in the case where a sale is ordered under clause 5 above]—

- (i) that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) first in payment of the amount paid by defendant No. 2 in respect of the plaintiff's mortgage and the costs of the suit in connection therewith and in payment of the amount which the Court may adjudge due in respect of subsequent interest on the said amount; and that the balance, if any, shall then be applied in payment of the amount adjudged due to defendant No. 2 in respect of his own mortgage under this decree and any further orders that may be passed and in payment of the amount which the Court may adjudge due in respect of such costs of this suit and such costs, charges and expenses as may be payable to defendant No. 2 under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the first Schedule to the Code of Civil Procedure, 1908, and that the balance, if any shall be paid to defendant No. 1 or other persons entitled to receive the same; and
- (ii) that, if the money realised by such sale shall not be sufficient for payment in full of the amount due in respect of the plaintiff's mortgage or defendant No. 2's mortgage, defendant No. 2 shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amount of the balance.

7. And it is hereby further ordered and decreed that the parties are at liberty to apply to the Court from time to time as they may have occasion and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this (i) _____ day
of _____ 19 _____

Judge

*[] Words not required to be deleted.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

(i) Enter here the date of judgment.

Schedule

Description of the mortgaged property.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25, *ante*.

Decree against mortgagor personally-

(Or. 34, rr. 6 and 8A, C. P. Code.)

District

In the Court of the

at

Suit No.

of 19 .

Plaintiff

versus

Defendant.

Claim for

Upon reading the application of the mortgagee (the plaintiff or defendant, as the case may be) and reading the final decree passed in the suit on the

day of

and the Court being satisfied that

the net proceeds of the sale held under the aforesaid final decree amounted to Rs.

day of

and that the balance now due to him

under the aforesaid decree is Rs.

And whereas it appears to the Court that the said sum is legally recoverable from the mortgagor (plaintiff or defendant, as the case may be) personally ;

It is ordered hereby and decreed as follows :-

That the mortgagor (plaintiff or defendant, as the case may be) do pay to the mortgagee (defendant or plaintiff, as the case may be) the said sum of Rs. with further interest at the rate of six per cent. per annum from the day of (the date of payment out of Court referred to above) up to the date of realization of the said sum and the costs of this application.

Given under my hand and the seal of this Court, this*
day of 19 .

Judge.

qEnter here date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

FORM No. (J) 35

Preliminary decree for redemption where on default of payment by mortgagor a decree for foreclosure is passed.

(Where accounts are directed to be taken.)

[Or. 34, r. 7(I) (a), C. P. Code.]

District

In the Court of the

at .

Suit No. of 19 .

Plaintiff

versus

Defendant.

Claim for

This suit coming on this _____ day of _____ 19 _____ for hearing before _____ and in the presence of _____ for the plaintiff and _____ for the defendant ; it is hereby ordered and decreed that it be referred to _____ as the Commissioner to take the accounts following :—

- (i) an account of what is due on this date to the defendant for principal and interest on the mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable) ;
- (ii) an account of the income of the mortgaged property received up to this date by the defendant or by any other person by order or for the use of the defendant or which without the wilful default of the defendant or such person might have been so received ;
- (iii) an account of all sums of money properly incurred by the defendant up to this date for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or failing both such rates, at nine per cent. per annum) ;
- (iv) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the defendant which is destructive of, or permanently injurious to, to the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. It is hereby further ordered and decreed that any amount received under clause (ii) or adjudged due under clause (iv) above, together with interest thereon, shall be adjusted against any sums paid by the defendant under clause (iii) together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, debited in reduction of the amount due to the defendant on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making all just allowances on or before the _____ day of _____, and that upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

(i) that the plaintiff do pay into Court on or before the _____ day of _____, or any later date up to which time for payment may be extended by the Court such sum as the Court shall find due and the sum of Rs. _____ for the costs of the suit awarded to the defendant ;

(ii) that, on such payment, and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints and the defendant shall, if so required, re-convey or r-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the defendant or any person claiming under him or any person under whom he claims and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant shall be at liberty to apply to the Court for a final decree that the plaintiff shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property ; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this*
day of _____ 19 _____.

Judge.

qEnter here date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule.

Description of the mortgaged property.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

FORM No. (J) 35 (i)
Preliminary decree for redemption on default of payment by mortgagor a decree for sale is passed.

(Where accounts are directed to be taken.)

[Or 34, r. 7 (1)(a), C. P. Code.]

District

In the Court of the

at .

Suit No. of 19 .

Plaintiff,

versus

Defendant.

Claim for

This suit coming on this day of 19 for hearing before and in the presence of for the plaintiff and for the defendant ; it is hereby ordered and decreed that it be referred to as the Commissioner to take the accounts following :—

- (i) an account of what is due on this date to the defendant for principal and interest on the mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable) ;
- (ii) an account of the income of the mortgaged property received up to this date by the defendant or by any other person by the order or for the use of the defendant or which without the wilful default of the defendant or such person might have been so received ;
- (iii) an account of all sums of money properly incurred by the defendant up to this date for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or failing both such rates, at nine per cent. per annum) ;
- (iv) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the defendant which is destructive of, or permanently injurious to, to the property or by his failure to perform, any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. And it is hereby further ordered and decreed that any amount received under clause (ii) or adjudged due under clause (iv) above, together with interest thereon, shall first be adjudged against any sums paid by the defendant under clause (iii) together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, be debited in reduction of the amount due to the defendant on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making of just allowances on or before the _____ day of _____, and that upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

(i) that the plaintiff do pay into Court on or before the _____ day of _____, or any later date up to which time for payment may be extended by the Court such sum as the Court shall find due and the sum of Rs. _____ for the costs of the suit awarded to the defendant ;

(ii) that, on such payment, and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the defendant or any person claiming under him or any person under whom he claims and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant may apply to the Court for a final decree for the sale of the mortgaged property ; and on such application being made, the mortgaged property or a sufficient part thereof shall be directed to be sold ; and for the purposes of such sale the defendant shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property.

6. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the defendant under this decree and under any further orders that may be passed in this suit and in payment of any amount which the Court may adjudge due to the defendant in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the plaintiff or other persons entitled to receive the same.

7. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for payment in full of the amount payable to the defendant as aforesaid, the defendant shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the plaintiff for the amount of the balance ; and that the parties are at liberty to apply to the Court from time to time as they may have occasion ; and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this*
day of 19 .

Judge.

*Enter here date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule

Description of the mortgaged property.

N.B.—In the printed form, a table of costs and notice to take back documents is appended as in Form No. (J) 25 *ante*.

FORM No. (J) 35 (ii).

Preliminary decree for redemption where on default of payment by mortgagor a decree for foreclosure is passed.

(Where the Court declares the amount due.)

[Or 34, r. 7(1)(b), C. P. Code.]

District

In the Court of the

at

Suit No. of 19

Plaintiff,

versus

Defendant.

Claim for

This suit coming on this day of 19 for hearing before and in the presence of for the plaintiff and for the defendant ; it is hereby declared that the amount due to the defendant on the mortgage mentioned in the plaint calculated up to this day of is the sum Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses (other than the costs of the suit) properly incurred by the defendant in respect of the mortgage-security together with interest thereon, and the sum of Rs. for the costs of the suit awarded to the defendant, making in all the sum of Rs.

2. And it is hereby ordered and decreed as follows :—

- (i) that the plaintiff do pay into Court on or before the day of or any later date up to which time for payment may be extended by the Court the said sum of Rs. ;
- (ii) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property, in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances

created by the defendant or any person claiming under him or any person under whom he claims, and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant may apply to the Court for a final decree that the plaintiff shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such direction as it thinks fit.

Given under my hand and the seal of this Court, this*
day of 19 .

Judge.

*Enter here the date of judgment.

NOTE.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule.

Description of the mortgaged property.

N.B.—In the printed form, a table of costs and notice to take back documents appended, as in Form No. (J) 25, ante.

FORM No. (J) 35(iii).

**Preliminary decree for redemption where on default of payment by mortgagor
a decree for sale is passed.**

(Where the Court declares the amount due.)

[Or. 34, r. 7(I)(b), C. P. Code.]

District

In the Court of the _____ at _____

Suit No. _____ of 19 _____.

Plaintiff,

versus

Defenden.

Claim for

This suit coming on this _____ day of _____ 19 _____ for hearing before _____ and in presence of _____ for the plaintiff and _____ for the defendant; it is hereby declared that the amount due to the defendant on the mortgage mentioned in the plaint calculated up to this _____ day of _____ is the sum of Rs. _____ for principal, the sum of Rs. _____ for interest on the said principal, the sum of Rs. _____ for costs, charges and expenses (other than the costs of the suit) properly incurred by the defendant in respect of the mortgage-security together with interest thereon, and the sum of Rs. _____ for the costs of this suit awarded to the defendant, making in all the sum of Rs. _____.

2. And it is hereby ordered and decreed as follows:—

(i) that the plaintiff do pay into Court on or before the _____ day of _____ or any later date up to which time the payment may be extended by the Court the said sum of Rs. _____;

(ii) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10 together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear off and from all incumbrances created by the defendant or any person claiming under him or any person under whom he claims, and free from all liability whatsoever arising from the mortgage of this suit and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant may apply to the Court for a final decree for the sale of the mortgaged property; and on such application being made, the mortgaged property or a sufficient part thereof shall be directed to be sold; and for the purposes of such sale the defendant shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged property.

4. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the defendant under this decree and under any further orders that may be passed in this suit and in payment of any amount which the Court may adjudge due to the defendant in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908 and that the balance, if any, shall be paid to the plaintiff or other persons entitled to the same.

5. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for the payment in full of the amount payable to the defendant as aforesaid, the defendant shall be at liberty (where such remedy is open to him under the terms of the mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the plaintiff for the amount of the balance and that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this*
day of 19

Judge.

*Enter here the date of judgment.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under the signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

Schedule.

Description of the mortgaged property.

N.B.—In the printed form, a table of costs and notice to take back documents is appended, as in Form No. (J) 25 ante.

Preliminary decree for redemption of prior mortgage and foreclosure or sale on subsequent mortgage.

[Or. 34, rr. 2(3) and 4(4), C. P. Code.]

District

In the Court of

at

Suit No. of 19 . . .

Plaintiff

, 2nd Mortgagee,

versus

Defendant No. 1

, Mortgagor.

Defendant No. 2

, 1st Mortgagee.

The suit coming on this day, etc.; It is hereby declared that the amount due to defendant No. 2 on the mortgage mentioned in the plaint calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs charges and expenses (other than the costs of the suit) properly incurred by defendant No. 2 in respect of the mortgage-security with interest thereon and the sum of Rs. for the costs of this suit awarded to defendant No. 2 making in all the sum of Rs.

(Similar declarations to be introduced with regard to the amount due from defendant No. 1 to the plaintiff in respect of his mortgage if the mortgage-money due thereunder has become payable at the date of the suit.)

2. It is further declared that defendant No. 2 is entitled to payment of the amount due to him in priority to the plaintiff* [or (if there are several subsequent mortgagees) that the several parties hereto are entitled in the following order to the payment of the sums due to them respectively :—]

3. And it is hereby ordered and decreed as follows :—

(i) (a) that the plaintiff or defendant No. 1 or one of them do pay into Court on or before the day of or any later date up to which time for payment has been extended by the Court the said sum of Rs. due to defendant No. 2; and

(b) that defendant No. 1 do pay into Court on or before the day of or any later date up to which time for payment has been extended by the Court the said sum of Rs. due to the plaintiff; and

(ii) that, on payment of the sum declared due to defendant No. 2 by the plaintiff and defendant No. 1 or either of them in the manner prescribed in clause (i) (a) and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11 of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, defendant No. 2 shall bring into Court all documents in his possession or power relating to the mortgaged property

*[] Words not required to be deleted.

in the plaint mentioned, and all such documents shall be delivered over to the plaintiff or defendant No. 1 (whoever has made the payment) or to such person as he appoints, and defendant No. 2 shall, if so required re-convey or retransfer the said property free from the said mortgage and clear off and from all incumbrances created by defendant No. 2. or any person claiming under him or any person under whom he claims, and also free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the plaintiff or defendant No. 1 (whoever has made the payment) quiet and peaceable possession of the said property.

(Similar declarations to be introduced, if defendant No. 1 pays the amount found or declared due to the plaintiff with such variations as may be necessary having regard to the nature of his mortgage.)

4. And it is hereby further ordered and decreed that, in default of payment as aforesaid, of the amount due to defendant No. 2, defendant No. 2 shall be at liberty to apply to the Court that the suit be dismissed or for a final decree.

(i) *[In the case of a mortgage by conditional sale or an anomalous mortgage where the only remedy provided for in the mortgage-deed is foreclosure and not sale] that the plaintiff and defendant No. 1 jointly and severally shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver to the defendant No. 2 quiet and peaceable possession of the said property ; or

(ii) *[in the case of any other mortgage] that the mortgaged property or a sufficient part thereof shall be sold ; and that for the purposes of such sale defendant No. 2 shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property ; and

(iii) *[in the case where a sale is ordered under clause 4 (ii) above] that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to defendant No. 2 under the decree and any further orders that may be passed in this suit and in payment of the amount which the Court may adjudge due to defendant No. 2 in respect of such costs of the suit and such costs, charges and expenses as may be payable to the plaintiff under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908 ; and that the balance, if any, shall be applied in payment of the amount due to the plaintiff and that if any balance be left, it shall be paid to defendant No. 1 or other persons entitled to receive the same ; and

(iv) that, if the money realised by such sale shall not be sufficient for payment in full of the amounts due to defendant No. 2 and the plaintiff, defendant No. 2 or the plaintiff or both of them, as the case may be, shall be at liberty (when such remedy is open under the terms of their respective mortgages and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amounts remaining due to them respectively.

5. And it is hereby further ordered and decreed—

(a) that, if the plaintiff pays into Court to the credit of this suit the amount adjudged due to defendant No. 2 but defendant No. 1 makes default in the payment of the said amount, the plaintiff shall be at liberty to apply to the Court to keep defendant No. 2's mortgage alive for his benefit and to apply for a final decree (in the same manner as the defendant No. 2 might have done under clause 4 above)—

*[(i) that defendant No. 1 shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property ;] or

¶ [] Words not required to be deleted.

*[(ii) that the mortgaged property or a sufficient part thereof be sold and that for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property ;] and

(b) (if on the application of defendant No. 2 such a final decree for foreclosure is passed), that the whole of the liability of defendant No. 1 arising from the plaintiff's mortgage or from the mortgage of defendant No. 2 or from this suit shall be deemed to have been discharged and extinguished.

6. And it is hereby further ordered and decreed (in the case where a sale is ordered under clause 5 above)

(i) that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) first in payment of the amount paid by the plaintiff in respect of defendant No. 2's mortgage and the costs of the suit in connection therewith and in payment of the amount which the Court may adjudge due in respect of subsequent interest on the said amount ; and that the balance, if any, shall then be applied in payment of the amount adjudged due to the plaintiff in respect of his own mortgage under this decree and any further orders that may be passed and in payment of the amount which the Court may adjudge due in respect of such cost of the suit and such costs, charges and expenses as may be payable to the plaintiff under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to defendant No. 1 or other persons, entitled to receive the same ; and

(ii) that, if the money realised by such sale shall not be sufficient for payment in full of the amount due in respect of defendant No. 2's mortgage or the plaintiff's mortgage, defendant No. 2 shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amount of the balance.

7. And it is hereby further ordered and decreed that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

Given under my hand and the seal of this Court, this (i) day
of 19

Judge.

[] Words not required to be deleted.

Note.—The date, month and year of signing the decree should be entered by the Presiding Officer under his signature or in any other convenient and conspicuous place and he should initial the corrections or alterations, if any.

(i) Enter here the date of judgment.

Schedule.

Description of the mortgaged property.

N.B.—In the printed form a table of costs and notice to take back documents is appended, as in Form No. (J) 25, ante.

FORM No. (J) 36.
Commission to examine absent witness.

(Or. 26, rr. 4, 18, C. P. Code.)

District

In the Court of _____ at _____
No. _____ of 19 _____
of _____
versus _____

Whereas the evidence of _____ is required by
the _____ in the above suit; and whereas
_____ ; you are requested to take the evidence on
interrogatories [or *viva voce*] of such witness

and you are hereby appointed a Commissioner for that
purpose. The evidence will be taken in the presence of the parties or their agents
if in attendance, who will be at liberty to question the witness on the points
specified, and you are further requested to make return of such evidence so soon
as it may be taken. Process to compel the attendance of the witness will be issued
by any Court having jurisdiction on your application.

A sum of Rs. _____, being your fee in the above, has been paid into
court/is herewith forwarded.

Given under my hand and the seal of the Court, this
day of _____ 19 _____

Judge.

FORM No. (J) 37.

Commission for a local investigation, or to examine accounts.

[Or. 26, rr. 9, 11, C. P. Code.]

District

In the Court of

at

No. of 19

of

versus

To

Whereas it is deemed requisite, for the purposes of this suit, that a commission should be issued ; You are hereby appointed Commissioner for the purpose of

Process to compel the attendance before you of any witnesses, or for the production of any documents whom or which you may desire to examine or inspect will be issued by any Court having jurisdiction on your application.

A sum of Rs. , being your fee in the above has been paid into court/is herewith forwarded.

Given under my hand and the seal of the Court, this day of 19

Judge.

See also Form No. (J) 38, post

FORM No. (J) 38.

Proceedings in connection with the issue of commissions.

(Or. 26, r. 9, C. P. Code.)

No.

In the Court of

(Civil Jurisdiction.)

PRESENT :

No. of 19 .

versus

Whereas it has been found necessary to order a local investigation in this case under the provisions of Order XXVI, r. 9, of the Code of Civil Procedure the following order is issued in accordance with the instructions contained in rule 313, Volume I of the High Court's Civil Rules and Orders, :—

1. This enquiry is directed by the Court¹
2. The suit before this Court is for
3. The² alleges, *inter alia*, that

and the³ contends that

4. The point which requires to be elucidated and ascertained with the help of the local investigation is†

5. The point in dispute cannot, in the opinion of the Court, be determined in the ordinary way at the trial, inasmuch as

It is, therefore, ordered that a commission do issue to
for the purpose of an enquiry into this matter.

6. The Commissioner thus appointed is directed and instructed.*

¹*Proprio motu*, or upon the application of the parties, or under the orders of the Appellate Court.

²Plaintiff or decsee-holder.

³Defendant or judgment-debtor.

†(State here the points, to be determined in the case by the Court).

*Here the Judge should define categorically the points of enquiry by the Commissioner and give elaborate and precise directions as to how it should be conducted. If maps are to be relaid or made use of, their names should be given. See also, rule 237., Vol. I.

He will not enquire into any other point at the request of the parties without the written order of the court previously obtained. He will exercise all the powers conferred by Or. 26, rr. 16 and 17, of the C. P. Code, subject only to the restriction, viz. :—

7. The Commissioner is directed to submit his report, together with the evidence, if any, recorded by him, and any other papers forming the record of his enquiry on or before the—

8. The parties are directed to appear before the Commissioner hereby appointed.

9. The sum of Rs. _____ for travelling allowance and of Rs. _____ for _____ days' enquiry/remuneration have been paid into Court. Should this prove insufficient, the Commissioner should give timely notice† to the party for depositing additional expenses for such further period as may be necessary to complete the work, and report the fact forthwith to the Court and should suspend the investigation at the close of the period originally fixed until the receipt of certificate that necessary payment has been made into Court, or until the receipt of further directions.

†See rule 608, Vol. I.

Signature

Office

Date

FORM No. (J) 39.

Commission to make partition.

(Or. 26, r. 13, C. P. Code.)

District

In the Court of

at

Suit No.

of 19

Plaintiff,

versus

Defendant.

Whereas it is deemed requisite for the purposes of this suit that a commission should be issued to make the partition or separation of the property specified in, and according to the rights as declared in, the decree of this Court, dated the

day of 19 ; You are hereby appointed Commissioner for the said purpose and are directed to make such inquiry as may be necessary, to divide the said property according to the best of your skill and judgment in the shares set out in the said decree, and to allot such shares to the several parties. You are hereby authorised to award sums to be paid to any party by any other party for the purpose of equalizing the value of the share.

Process to compel the attendance before you of any witness, or for the production of any documents whom or which you may desire to examine or inspect will be issued by any Court having jurisdiction on your application.

A sum of Rs. being your fee in the above, has been paid into court/is herewith forwarded.

Given under my hand and the seal of the Court, this day of 19

Judge.

FORM No. (J) 40.

Decree on appeal.

(Or. 41, r. 35, C. P. Code.)

District

In the Court of

at

Appellant,

versus

Respondent.

Appeal No. of 19 , from the

of the Court of

day of

19 .

dated the

This appeal coming on for hearing on the
day of

19 , before

. in the

presence of

for the

Appellant, and of

for the Respondent, it is ordered--*

The costs of this appeal, as detailed below, amounting to Rs.
are to be paid by

The costs of the original suit are

to be paid by

Given under my hand, this

day of

19 .

Judge.

*Here specify clearly the relief granted or other adjudication made. See rule 134, Vol. I.

Cost of appeal.

Appellant.	Amount.			Respondent.	Amount.		
	Rs.	a.	p.		Rs.	a.	p.
1. Stamp for memorandum of appeal.				Stamp for power of attorney ..			
2. Do. for power ..				Do. for petition ..			
3. Service of process ..				Service of processes ..			
4. Pleader's fees on Rs.				Pleader's fees on Rs. ..			
5. Other costs				Other costs ..			
Total ..				Total ..			

The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve as they will be destroyed at the time prescribed by the High Court (Rule 462 *et seq*, Vol. I.)

Signature of Judge.

Dated

19