

DISTRESSES, CALCUTTA ACT 1847

ACT No VII OF 1847

(Rep., Act 1 of 1875)

[1st May, 1847.]

Passed by the Hon'ble the President of the Council of India in Council on the 1st May 1847, with the assent of the Right Hon'ble the Governor General of India.

An Act to regulate Distresses for Small Rents in Calcutta.

I. IT is hereby enacted, that it shall be lawful for the Commissioners of the Court of Commissioners for the Recovery of Small Debts in and for the Settlements of Fort William in Bengal to appoint four or more persons to be Bailiffs and Appraisers for the purposes of this Act, and to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient, and that such persons shall be duly sworn before the said Commissioners, and shall also give security to be approved by the said Commissioners faithfully to discharge the duties of their office, and that the said Commissioners shall have power to suspend or remove such persons so appointed, provided that it shall be lawful for the said Commissioner to appoint to Bailiffs who may be attached from time to time to the said Court to the officer of Distraint Bailiffs and Appraisers for the purposes of this Act, and to award to the said Officers such remuneration in addition to their respective salaries drawn from the said Court as to the said Commissioners shall appear expedient.

II. And it is hereby enacted, that it shall be lawful for any Commissioner of the said Court upon the Affidavit in the Form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears of rent of any House or Premises situate in Calcutta not exceeding the amount of 100 Rupees, or in case of absence of such party from Calcutta, or in case of respectable females who do not appear in public, upon the Affidavit of the constituted Attorney to such party stating the amount of such arrears and for what time and at what rate the same became due, to issue a warrant under his hand and seal in the Form contained in the Schedule to this Act annexed (marked A) addressed to any one of such Officers directing him to levy the amount of such rent, together with the costs of

the said distress in the manner therein mentioned, provided that it shall be lawful for any of the said Commissioners upon personal examination of the party applying for such warrant to grant or withhold the same at the discretion of the said Commissioner.

III. And it is hereby enacted, that by virtue of such warrant it shall be lawful for such Officer to seize the whole or such part of the Goods and Chattels upon the said Premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and that he shall thereupon make an Inventory of the Goods and Chattels so seized, and shall give a notice in writing in the Form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said Premises that the said Goods and Chattels will be appraised and sold in manner therein mentioned. And that the said Officer shall file in the said Court true copies of the said Inventory and Notice, provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of the said Court to discharge or suspend such warrant, and it shall be lawful for such Commissioner to discharge or suspend such warrant accordingly, with or without costs, provided always that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

IV. And it is hereby enacted, that in default of such application, it shall be lawful for any two of such Officers at the expiration of five days from such seizure to appraise the Good and Chattels so seized, and to give notice in writing in the Form in the Schedule to this Act annexed (marked E.) of t he sale thereof at such time and place as they shall direct, after an interval of not less than two days, and that they shall file in the said Court a true copy of the said Notice, and that the same shall be sold accordingly, and that the said Officers shall forth with after realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the said Court, and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and that the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due, provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

V. And it is hereby enacted, that not costs shall be taken or demanded for such distress except those contained in the Schedule to this Act annexed (marked C.) and that it shall be lawful for the said Commissioners to apply the sum so arised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers as shall appear to the said Commissioners expedient, and that the Chief Clerk of the said Court shall keep a book in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distressess shall be duly entered, and that the Chief Clerk of the said Court shall also enter in the said book all sums realized by sale of the Goods and Chattels distrained and paid over to the Landlords under the provisions of this Act.

VI. And it is hereby enacted, that after the passing of this Act no distress shall be levied for arrears of rent amounting to Rupees 100, or less, except under the provisions of this Act, and that any person, except such Officer as appointed, levying or attempting to levy any such distress shall be guilty of a misdemeanor and shall be liable to be punished by fine and imprisonment for the same in addition to any other liability he may have incurred by such trespass.

VII. And it is hereby enacted, that this Act shall not extent to any arrears of rent exceeding 100 Rupees, nor in respect of any House or Premises situate out of Calcutta, not to any rent due to Government not to any seizure except on the Premises in respect of which such rent is claimed.

A.

*In the Court of Commissioners for the Recovery of Small Debts in and for the
Settlement of Fort William in Bengal.*

Form of Warrant.

I hereby direct you to distrain the Goods and Chattels on the Premises of A. B.,
situate in _____ in the Town of Calcutta, for the sum of _____ Rs. Being the
amount of _____ months' rent due to C. D., for the same on the _____ day of
_____ last according to the provisions of the Act No. VII. of 1847. Dated 1st day
of May.

(Signed and Sealed)

To E. F., *Sworn Bailiff and Appraiser.*

B.

*In the Court of Commissioners for the Recovery of Small Debts in and for the
Settlement of Fort William in Bengal.*

Form of Inventory and Notice.

(State particulars of Goods seized.)

Take Notice that I have this day seized the Goods and Chattels contained in the
above Inventory for the sum of _____ Rs., being the amount of _____ months' rent
due to C. D., at _____ last, and that unless you pay the amount thereof, together
with the Costs of this Distress within five days from the date hereof, or obtain an
order from one of the Commissioners of the Court of Requests to the contrary, the
same will be appraised and sold pursuant to the provisions of the Act No. VII. of
1847.

(Signed) **E. F.,**

Sworn Bailiff and Appraiser.

To A. B.

C.

*In the Court of Commissioners for the Recovery of Small Debts in and for the
Settlement of Fort William in Bengal.*

Scale of Fees to be levied in Distraints for House Rent.

Sums and for.	Affidavit and Warrant to Distrain.	Order to Sell.	Commission.	Total.	Remarks.
1 and under 5 Rs.....	4 Annas,....	8 Annas,....	8 Annas,....	Rs 1 4	
5 and under 10 Rs.....	8 Annas,....	8 Annas,....	Rs. 1-0,....	Rs. 2 4	
10 and under 15 Rs.....	8 Annas,....	8 Annas,....	Rs. 1-8,....	Rs. 2 4	
15 and under 20 RS.....	8 Annas,....	1 Rupee,....	Rs. 2-0,....	Rs. 3 4	
20 and under 25 RS.....	12Annas,....	1 Rupee,....	Rs. 2-8,....	Rs. 4 4	
25 and under 30 RS.....	1 Rupee,....	1 Rupee,....	Rs. 3-0,....	Rs. 5 4	
30 and under 35 RS.....	1 Rupee,....	1 Rupee,....	Rs. 3-8,....	Rs. 5 4	
35 and under 40 RS.....	1 Rupee,....	Rs. 1-8,.....	Rs. 4-0,....	Rs. 6 4	
40 and under 45 RS.....	Rs. 1-4,.....	Rs. 2-0,.....	Rs. 4-8,....	Rs. 7 4	
45 and under 50 RS.....	Rs. 1-8,.....	Rs. 2-0,.....	Rs. 5-0,....	Rs. 8 4	
50 and under 60 RS.....	Rs. 2-0,.....	Rs. 2-0,.....	Rs. 6-0,....	Rs. 10 4	
60 and under 80 RS.....	Rs. 2-8,.....	Rs. 2-8,.....	Rs. 6-8,....	Rs. 11 4	
80 to 100 RS.....	Rs. 3-0,.....	Rs. 3-0,.....	Rs. 7-0,....	Rs. 13 4	

The above scale is intended to include all expences except in Suits where the Tenant disputes the Landlord's claim, and Witnesses have to be subpoena'd, in which case, each Subpoena for sums under Rs. 40 must be paid for at 4 Annas each, and 12 Annas above that amount –and also where Peons were kept in charge of property distrained, 4 Annas per day must be paid per man.

D.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlements of Fort William in Bengal.

A B.----(Plaintiff,)

versus

C. D. ----(Defendant.)

A. B., Inhabitant of _____, in the Town of Calcutta, _____ meketh oath and saith, that C. D. _____ who is also an Inhabitant of the Town of Calcutta, is justly indebted to _____ in the sum of Company's Rupees _____ for arrears of rent of the House and Premises No. _____, situated at _____, in the Town of Calcutta, due for _____ month, to wit from _____ to _____, at the rate of Co.'s Rs. _____ per mensem.

Sworn before me the _____ day of _____ 184_____

Commissioner.

E.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Take Notice that we have appraised the Goods and Chattels seized on the _____. Under the provision of the Act No. VII. of 1847, of which a Notice and Inventory had been duly served upon you under date the _____, and that the said Goods

and Chattels will be sold on the _____ at _____ pursuant to the provisions of the said Act.

(Signed) E. F.,

G. H.,

To A. B.

Sworn Bailiffs and Appraisers.
