

CHAPTER XIX

Receivers

1. Application for appointment of Receiver to be by petition supported by affidavits—Every application for the appointment of a receiver shall be made in writing and shall be supported by an affidavit.

2. Register of Receivers—On an order for the appointment of a receiver being drawn up and signed, an entry shall be made in a register to be kept for the purpose. a copy of the order of appointment shall be sent to the receiver.

3. Receiver other than official receiver to give security—Where an order is made directing a receiver to be appointed, the person appointed, if not the Official Receiver, shall, unless otherwise ordered, first give security to the satisfaction of the Registrar for the due performance of his duties as receiver. Unless the Court otherwise orders, the Registrar shall take the personal bond of the receiver with such number of sureties as he may consider necessary. The amount of the bond shall be double the annual rental of the immovable property, or the value of the movable property which is likely to come into the hands of the receiver. Such annual rental or value shall be estimated after notice to the parties and the receiver and in case of disagreement the matter shall be placed before a Judge in Chambers for orders.

The sureties shall leave with the Registrar an address within the jurisdiction of the Court for service of any notice on them.

4. Surety may point out omission or neglect of duty cast on receiver—If the security mentioned in Rule 3 be furnished by the receiver by his executing a bond with a surety or sureties (including in the latter term a guarantee Company or society), the surety or sureties shall be entitled, by an application to bring to the notice of the Court any act, omission or neglect of any duty cast on the receiver by law or any other circumstance, which would entitle the surety or sureties to be discharged from the obligation created by such bond and the Court may thereupon make such order and on such terms as it may think fit.

5. Receiver to submit report—Unless otherwise ordered by the Court the Receiver shall, within one week of the appointment, submit to the Court a detailed report regarding the property with an inventory of the property, account books, etc. taken charge of documents by him.

6. Directions for investment of monies in the hands of the receiver —Unless otherwise ordered by the Court, the Registrar shall, in consultation with the parties, give appropriate

directions for the investment of all monies received by a receiver. Ordinarily such monies shall be deposited in a Scheduled Bank or invested in Government securities.

7. Notice to surety of application effecting surety's risk—The surety or sureties mentioned in Rule 4 shall be entitled to notice of any application to the Court, on the part of the receiver, or any other party interested relating to any property in the management or under the control of the receiver which may affect the risk undertaken by the surety or sureties under the security bond furnished by the receiver and the Court upon hearing the said surety or sureties may make such order as to his or their cost of appearance in such application as it may think fit.

8. Powers of Receiver—In the absence of any order in that behalf every receiver of immovable property shall have all the powers specified in Order XL, rule (d) of the Code, except that he shall not without the leave of the Court—

(a) grant lease, or

(b) bring suits, except suits for rent, or

(c) institute an appeal in any Court (except from a decree in a rent suit) where the value of the appeal is over Rs. 1,000; or

(d) expend on the repairs of any property in any period of two years more than one-fourth of the annual rental of the property to be repaired, such rental being calculated at the amount at which the property to be repaired could be let out within fair state of repairs.

9. Receivers' remuneration—The scale of remuneration of the Receiver shall, unless otherwise ordered by the Court in a particular case, be as under—

(1) on (a) Rents recovered,

(b) outstanding recovered except as provided in item (2) below, and

(c) Value realised on the sale of movable and immovable properties calculated on any one estate:

(i) On First Rs. 10,000 5 p.c.

(ii) Above Rs. 10,000 up to Rs. 20,000 3 p.c.

(iii) Above Rs. 20,000 up to Rs. 50,000 2 p.c.

(iv) Above Rs. 50,000 up to Rs. 1,00,000 1 p.c.

(v) Above Rs. 1,00,000 ½ p.c.

(2) On outstandings recovered from a Bank or from a public servant without filing a suit—

(i) Up to Rs. 1,00,000 1 p.c.

(ii) On any further sum exceeding Rs. 1,00,000 ½ p.c.

(3) For taking charge of movable property which is not sold on debentures, debenture-stock or other securities which are not sold on the estimated value 1 p.c.

(4) For taking custody of moneys 1 p.c.

(5) For taking custody of Government securities of stocks, shares, the estimated value 1 p.c.

(6) For any work, not provided for above, such remuneration as the Court on the application of the receiver shall think reasonable.

Whenever the properties are in charge of an official receiver the above fees shall be credited to Government revenue.

10. Establishment and costs therefore to be detailed in the appointment order—The establishment, clerical or otherwise, required by a receiver, if any, and the cost thereof chargeable to the state or property of which he is appointed receiver shall as far as possible, be detailed in the order of appointments or in subsequent order.

11. No charge for additional establishment allowed—Unless otherwise ordered, no charge for establishment shall be allowed to the receiver.

12. Receiver to file half-yearly accounts—Every receiver shall, unless otherwise ordered file his half-yearly account in Court, the first of such accounts to be filed within one month after the expiration of six months from the date of his appointment, and every subsequent account within one month after the expiration of each succeeding period of six months, or in a case where the purpose for which the receiver was appointed has been carried out or completed before the expiry of six months from the date of appointment, within one month from the date of such carrying out or completion.

Form of affidavit—Every such account shall show the balance in hand, and if so what portion thereof is required for the purpose of the estate and how much may be paid into Court or invested, and shall be verified by an affidavit.

13. Examining and vouching of accounts by Registrar—Every such account, before being submitted to the Court, shall be examined and verified by the Registrar, who may for this purpose require the attendance of the receiver or his explanation or his evidence upon oath or affirmation or the production of any document by him and receive within such time as he may appoint and decide objections to the account and shall embody the result of his examination in a report.

14. Appointment of date for passing accounts—Notice thereof—After the Registrar shall have submitted his report to the Court under Rule 13, he shall obtain a date from the Court for passing such accounts, or which date notice shall be given to the person interested including the sureties and to the receiver.

15. Objection to report to be filed—Objection, if any to the report shall be filed in Court one week before the day fixed for the passing of the accounts or within such further time as may be allowed by the Court. They shall specify in a concise form the nature of the objection and shall be signed and verified.

16. Passing of accounts by Court—Where no objections are filed, the Court shall if otherwise satisfied pass such accounts. Where objections have been filed, the Court shall subject to Rule 18 after hearing the objections make such order as it may think proper.

17. Procedure of hearing of objections—The Court may, from time to time, adjourn the hearing of any objections or may refer them to an officer of the Court or to any other person, with such directions as the Court may deem fit.

18. Auditing of difficult and complicated accounts—In any case where the accounts are difficult and complicated, Court may order such accounts to be audited at the expense of the estate by a Chartered Accountant.

19. Order as to payment of balance—The Court, on the passing of the Accounts, may make such order as to the payment of the balance, or any part thereof, either into Court or in such other manner as may seem proper.

20. Consequence of Receiver's negligence to file accounts or pay the balance etc.—Where any receiver neglects to file his accounts, or to pass the same or to pay the balance or any part thereof as ordered the matter shall be reported by the Registrar to Court, and the Court may, from time to time, when the accounts of such receiver are produced to be examined and passed, not only disallow, the remuneration therein claimed by such receiver but also charge him with

interest not exceeding nine per cent per annum upon the balance, if any, so neglected to be paid by him during the time such balance shall appear to remain in the hands of such receiver.

21. Consequence or default by receiver—Where any receiver fails to file any account or affidavit or to make any payment or commits any other default the receiver or persons interested or any of them, may be required by notice to attend before the Court to show cause why such account or affidavit has not been filed or such payment made or any other proper proceeding taken and thereupon the Court may give such directions as may be proper, including the discharge of the receiver and appointment of another and also the payment of costs by the defaulter.

22. Rule 8 applicable to manager or guardian—Subject to the order of the Court, Rule 8 shall apply to a guardian of the person or estate of a minor and the manager of the estate of a lunatic appointed by the Court.

23. Interim receiver—Unless otherwise ordered by the Court, the provisions of this Chapter shall apply *mutatis mutandis* to orders for appointment of interim receivers.