

## CHAPTER XLVII

### RULES UNDER THE TRANSFER OF PROPERTY ACT, 1882 (ACT No. 4 OF 1882)

**845. Application under section 83 of the Transfer of property Act –** Every application under section 83 of the Transfer of Property Act, 1882, (hereinafter in this Chapter referred to as “the Act”) by a mortgagor or any other person entitled on institute a suit for redemption of the mortgaged property shall be made by petition and shall be presented to the Judge in Chambers

**846. Payment into Court of costs and expenses under section 83, or any subsequent section. –** Unless otherwise ordered, there shall be paid into Court, in addition to the sum deposited under section 83 or any subsequent section of the Act, a sum sufficient to provide for the mortgagee’s costs of withdrawing the deposited amount from the Court and a further sum to provide for the mortgagee’s costs of transferring the property, and causing such transfer to be registered. Such costs shall be estimated and certified by the Taxing Master.

**847. Order for payment of money into Court under section 83 –** Every order for payment of money into Court under section 83 of the Act shall specify the sums to be paid and the purpose for which each sum is intended.

**848. Notice under section 83 to be served by the Prothonotary and Senior Master -** Unless otherwise ordered, the notice required to be served under section 83 of the Act shall be issued by the Prothonotary and Senior Master and shall be served by sending it by registered post to the party concerned.

**849. Notice of payment under Order 34 of Code of Civil Procedure to be given by the person making such payment –** When money is paid into Court under Order XXXIV, rule 2 of the Code of Civil Procedure, or under any subsequent rules of the said order, the person making such payment shall forthwith give written notice thereof to the person or persons on whose account such payment is made.

**850. Application by mortgagee –** Every application by a mortgagee to withdraw moneys deposited in Court shall be made by petition and shall be presented to the Judge in Chambers. Notice of the petition shall be given by the

mortgagee to the person by whom the moneys were deposited, unless the Judge in Chambers thinks fit to dispense with such notice.

**851. Consequence of refusal of tender** – Where it shall appear that previous to any payment into Court under section 83 or any subsequent section of the Act a sufficient tender was made to, and refused by the mortgagee, he shall, unless otherwise ordered, pay to the mortgagor the costs of his application to the Court and the mortgagee shall not be allowed to withdraw the amount deposited in court to meet his claim, without deducting the costs of the mortgagor of his application to the Court, and the mortgagor shall not be allowed his costs of obtaining the order for payment. Except as aforesaid or when otherwise ordered, the mortgagee shall be allowed all costs properly incurred by him.

**852. Interest not to be allowed to the mortgagee in certain circumstances.** – If through default on the part of the mortgagee it becomes necessary to obtain an enlargement of time under Order XXXIV of the Code of Civil Procedure, no interest shall be allowed for the enlarged time, unless the Judge in Chambers otherwise orders.

**853. Application for withdrawal of moneys from the Court under section 83 or any subsequent section** – On an application for withdrawal of moneys from the Court under section 83 or any subsequent section of the Act by a mortgagee who has complied with the orders of the Court and the provisions of the Act and of the rules made in this behalf and has, when required so to do, transferred the property and possession free from encumbrance and caused such transfer to be registered and accounted for the documents of title which were held by him, the Judge in Chambers may make such order as he thinks fit for the disposal of the principal sum, interest thereof and the amount deposited for costs and expenses.

**854. Certificate of Sale and Conveyance** – Where immovable property is sold under Order XXXIV of the Code of the Civil Procedure, the purchaser may, on application to the Judge in Chambers, obtain a certificate of sale as evidence of the title to the property sold to him and may also, at his own costs, obtain a conveyance from the mortgagor.

**855. Enforcement of Order under this Chapter** – Every order made under this chapter shall be deemed to have been made in a suit instituted under the Code of Civil Procedure and may be executed in like manner as an order made in a suit.

**856. Rules relating to sales by Commissioner to apply to sales under the Code of Civil Procedure** - Rules relating to sales by the Commissioner for Taking Accounts, so far as they may be applicable, shall apply to all sales by the Court under Order XXXIV of the Code of Civil Procedure.

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