

**CHAPTER 10**

FORFEITED AND UNCLAIMED PROPERTY AND  
*MALKHANAS*

PART A- ITEMS OF ACCOUNT CONNECTED WITH LAW AND  
JUSTICE, SALES OF UNCLAIMED PROPERTY, JUDICIAL  
FORFEITURES, & C.

(i) The annexed rules, framed at the instance and with the approval of the State Government, aim at the prevention of fraud so far as items of account connected with law and justice are concerned. General.

(ii) They deal with-

(1) Sale-proceeds of unclaimed and escheated property; and (ii) Subjects dealt with.

(2) Judicial forfeitures, including-

(a) The proceeds of property of absconding offenders and witnesses, sold under the provisions of section 88 of the Code of Criminal Procedure;

(b) Forfeitures of earnest money deposited at sales of immovable property in execution of decrees; and

(c) Sums realized under forfeited security and bail-bonds.

(iii) Heads of offices will take particular note of the instructions contained in rules 1-4 inclusive, and will not fail to appoint an officer of the headquarters staff to supervise the Nazirs' Store-room and Miscellaneous Register F as required by rule 4. Officer-in-charge.

(iv) The principles underlying rules 6 and 7 for the preparation of the returns thereby required, are those which regulate the monthly Fine Statements. As Subordinate Directions as to preparation of returns.

Judges are under the operation of rule 6 required to furnish a return of the forfeiture of earnest money deposited at sales of immovable property in execution of decrees, District Judges should take steps to instruct Subordinate Judges in the rules, regulating the preparation and submission of fine statements, and direct strict compliance therewith, *mutatis mutandis*, for the preparation and submission of the statement prescribed in rule 6. It will not escape notice that the statements required by rules 6 and 7 must be separate and distinct from each other, and from the statement of fines. The caution to Record-keepers at the end of rule 6 should be brought prominently to the notice of those officials.

Statements to be submitted monthly.

(v) The statements should be submitted monthly to the Accountant-General, as soon as possible after the close of the month to which they refer.

Items of uncertain revenue, stamps, etc., require special attention.

(vi) The attention of Deputy Commissioners is specially invited to the following remarks, regarding items of uncertain revenue, recorded by the Accountant-General:-

“All items of uncertain revenue for which there is no fixed demand, or for which there are no vouchers, as in the case of stamps, are liable to be misappropriated in the first instance by the establishment which collects them, the statements of receipts being falsified in its preparation and made to agree with the sum actually paid into the Treasury. The system of check now proposed will reveal no fraud designed and perpetrated at this stage; and with the knowledge before them, that independent statements of realisations by the collecting officers, and of Treasury credits, exist for comparison, the perpetrators of such frauds would be careful to see that the statement of receipts corresponds with the sums actually paid in by them.”

Portions of bail and security bonds forfeited.

(vii) Demands on account of amounts forfeited on bail and security bonds should be entered in Criminal Register No. XIV, and realizations of such demands in Fine Register No. XV.

(viii) Every Nazir shall be provided with a strong box and store-room for the custody of all property made over to him, including bullion or jewels of less value than one thousand rupees. The bullion or jewels shall be kept in the strong box which shall be deposited in the Treasury under single lock, while the other property shall be kept in the store-room which shall be guarded by the police with Government property. It shall be the duty of the officer-in-charge of the store-room to see that the value of valuable property such as bullion or jewels lying with the Nazir at any time does not exceed Rs. 1,000. If at any time this limit is exceeded the property shall be sent to the Treasury Officer for safe custody.

Nazir's strong box not to contain property exceeding Rs. 1000. Nazir's store-room and Police guard.

(ix) If there is any property which has been attached by a Court in execution of a decree and is subsequently found to be unclaimed and incapable of being returned, it should be disposed of under sections 25 to 27 of the Police Act.

Disposal of property attached and subsequently found to be unclaimed.

### RULES

1. All property made over to the Nazir under the rules contained in Chapter 11-E of volume III of the Rules and Orders, or otherwise under the orders of a Judicial Officer acting as such, shall, after each article has been entered in Miscellaneous Register F, be kept in such place as may be appointed by the head of the office concerned in consultation with the Police authorities.

Entry of property made over to Nazir in Register K and its safe custody.

2. One register in 2 volumes shall be maintained in each office for both the Civil and Criminal Departments, the first volume for articles which have been forfeited and the second for articles which have been made over to the Nazir pending the decision of a case. If it is subsequently decided that an article entered in the 2<sup>nd</sup> volume should be forfeited, it should be entered in the 1<sup>st</sup> volume. Columns 1 to 5 of this

Articles forfeited and made over to the Nazir to be entered in one register, etc., and directions *re.* the entries to be made in this register.

register shall be filled up on receipt of the property. When the property is received from the Police the number given to the deposit in column 1 shall be entered by the Nazir in the Police register in which he acknowledges the receipt of the property. When the property is received otherwise than through the Police, the number given to the deposit in column 1 shall be noted by the Nazir on the record of the proceedings ordering the property to be made over to him. To ensure due compliance with these instructions, the Police Registers should occasionally be compared with the Nazir's registers and Record-keepers should be instructed not to receive into their record-rooms any record in which property appears to have been made over to the Nazir, otherwise than through the Police, unless the acknowledgement of the Nazir and the number given to the deposit in his register have been duly entered on the record.

Directions with regard to the above-mentioned register.

3. Columns 6 to 8 of the register will be filled up when the property is disposed of. If the property is disposed of by delivery to a private person, the delivery shall always take place in the presence of the officer ordering the delivery and be attested by his initials in column 6. In cases in which the sale-proceeds of property or the property itself, where it consists of cash, are paid into the Treasury, the date of payment and number of the Treasury receipt shall be entered in column 8, in addition to the Treasurer's signature; and when items pertaining to several cases are acknowledged in one receipt, the register numbers of the different cases and the amount paid in each shall be endorsed on the Treasury receipt.

Monthly statement by Nazir and its verification by the officer-in-charge. Six-monthly inspection of store-room and monthly inspection of Register K.

4. The Nazir's store-room and Miscellaneous Register F shall always be placed under the special supervision of an officer of the headquarters staff, who shall examine and countersign the register at least once a month, and inspect the contents of the store-room at least once in 6 months. The District Nazir shall be responsible under the officer-in-charge for the disposal of such property and he will prepare the monthly statement of sale-proceeds of unclaimed and escheated property credited into the Treasury for submission

to the Accountant-General. The office copy of the statement will be used for the purposes of checking the Treasury credits and a reference to the number of the entry in Miscellaneous Register F should therefore be made in the last column of the office copy. The officer-in-charge should, when signing the monthly statement after verification by the Treasury, compare the entries in the office copy with those in the Miscellaneous Register F and initial in column 6 of the Register all entries of sale of unclaimed property brought to account in the monthly statement and also all orders of competent authority to destroy such property. Papers relating to orders authorizing destruction or those relating to sale fetching less than Re. 1 should be kept by the Nazir in quarterly files till the accounts have been audited, when those with regard to which no objection has been raised may be destroyed and the others kept pending till the next audit. The rest should be arranged in monthly files and sent to the Record-room.

*Note.-1.* The officer-in-charge at the time of the six-monthly inspection, required by this rule, should report to the District Magistrate the total value of the property lying with the Nazir and the District Magistrate should satisfy himself that proper steps have been taken to return the articles of private property to their owners and to dispose of unclaimed property by auction.

*Note.-2.* To safeguard against any loss of property, the personal control of the Nazarat Officer over the store-room is imperative and should be exercised by keeping the store-room, like the district armoury, under double lock, one key of which should remain with the District Nazir and the other with the Nazarat Officer.

5. The papers relating to the disposal of property forfeited in judicial cases are included in the proceedings in which the order of forfeiture is given. Each Court shall send to the Nazir a monthly statement of such realizations. From these statements the Nazir will compile the District statement, but the comparison of entries in the office copy with those in Miscellaneous Register F and the initialing of entries in column 6 of Miscellaneous Register F shall be the duty of the Court dealing with the proceedings for forfeiture.

Judicial forfeitures- Duty of Courts to send monthly statements and verify Nazir's District statement

6. In the event of an order of forfeiture of the earnest money mentioned in Order XXI, Rule 84, Civil Procedure

For forfeiture of earnest money in auction sales in execution-Duty of Court to submit statement. Duty of record-keeper on receipt of execution record.

Code, becoming necessary under the operation of Order XXI, Rule 85, the presiding officer of the Court ordering the sale and subsequent forfeiture shall prepare, for submission to the Accountant-General, according to the present procedure for the preparation and submission of the monthly statement of realization of fine by each Court, at the beginning of the month next following that in which the forfeiture occurred, a statement of the sum credited to Government under the provisions of Order XXI, Rule 86; and such presiding officer will be responsible that the legitimate "expenses of the sale" only have been deducted from the amount deposited. The Treasury receipt for the amount actually credited to Government shall remain in the record of proceedings, and Record-keepers shall not receive into the record office any record which is not accompanied by such receipt.

Statement of sums realized under forfeited security and bail bonds.

7. Sums realized under forfeited security and bail bonds shall be entered in the Register of Fine Realizations (Criminal Register No. XV) maintained by the District Fine Moharrir for all Courts in the District. Each Court shall, at the beginning of every month, prepare, for submission to the Accountant-General, according to the present procedure for the preparation and submission of the monthly statement of realizations of fines by each Court a list of all sums so realized by it during the month preceding.

*Note.-* The statement mentioned in rule 6 and the list in rule 7 will be separate from each other and from the monthly statement of fines realised, sent to the Accountant-General in accordance with paragraph 20 (i) of Chapter 11 of this volume.