

FINANCIAL DEPARTMENT.

(Rules for the guidance of Collectors in the exercise of their powers under section 19H (3), Court-fees Act, 1870.)

No.13

Dated Rangoon, the 28th January 1905.

No.13. - In exercise of the powers conferred by section 19H, subsection (8), of the Court-fees Act, 1870 (VII of 1870), His Honour the Lieutenant-Governor is pleased to make the following Rules for the guidance of Collectors in the exercise of the powers conferred by subsection (3) of the said section, and directs their insertion as Rules A to I in the Rules under the Court-fees Act, 1870 (VII of 1870), published with this department Notification No. 17, dated the 12th February 1902, namely:-

CHAPTER A.

Rules for the guidance of Collectors in the exercise of their powers under section 19H (3), Court-fees Act, 1870.

- A.** - On receipt from any Court of a notice that application has been made for probate or letters of administration, the Collector shall scrutinise the list of property therein detailed as belonging to the deceased and the valuation thereof. The value of any property for the purposes of these rules is its market value on the date on which application was made for probate or letters of administration.
- B.** - When an estate includes property situated in more districts than one, the Collector to whom notice of the application for probate or letters of administration is sent shall send to the Collector of each district in which any portion of the estate is situated a copy of the list of property attached to the application so far as it relates to such portion. Each Collector shall then proceed as if the notice had been sent to him by the Court in the first instance.
- C.** - If, after the scrutiny prescribed by Rule A and after such inspection of the judicial record as he considers necessary, the Collector considers that there is reason to believe that the property has been undervalued, he shall make a preliminary enquiry. The officers employed for the purpose of the enquiry should ordinarily be officers who, from the nature of their official duties, may be expected to have an expert knowledge of the value of the kind of property on which they are required to report. For example, a Court Bailiff should be able to estimate the value of moveable property and of houses and house-sites in towns,

while an Inspector of Land Records is, as a rule, competent to advise regarding the value of land used for agricultural purposes. In the case of land used for agricultural purposes the statistics of sales and mortgages recorded in the registers of the Land Records Department, and in the case of house property or house-sites in towns, the registers in the Registration of Deeds offices, supply the information necessary to frame an estimate. The opinion of a silversmith should be taken in respect of jewelry, of a cattle-owner in respect of cattle, and so forth. Where the value of the property is large and the difference between the value as stated in the application and the value as estimated by the Collector is great, a gazetted officer should be deputed to hold the enquiry.

- D.** - If on the completion of an enquiry under Rule C the Collector finds that the property or any part thereof has been undervalued, he shall issue an order to the applicant for probate or letters of administration requiring him to amend the valuation and to pay into the Court to which application was made the Court-fee on the difference between the valuation as stated in the application and the valuation fixed by the Collector. The order shall state a date on or before which it shall be complied with and shall inform the applicant that the Collector will, at any time before that date, be prepared to hear any objections which he has to advance against it. A copy of the order shall be sent to the Court with a request that the Judge will, on the expiry of the time allowed, inform the Collector whether or not the applicant has complied with it.
- E.** - If the applicant to whom an order has been sent under Rule D appears before the Collector either in person or by duly authorized agent and objects to amend the valuation of the property in terms of the order, the Collector may, after hearing such arguments and evidence as the applicant adduces and after making such further enquiry and calling such further evidence as he sees fit, cancel or modify the order, and shall notify the Court of such cancellation or modification.
- F.** - All non-officials examined in the course of an enquiry under the foregoing rules should be paid expenses at the rates prescribed for witnesses in a civil suit.
- G.** - If the applicant to whom an order under Rule D has been sent fails to appear before the Collector or if, whether he has appeared or not, he fails to amend the valuation of the property or to pay the additional Court-fee as required by the order under Rule D or by that order as modified under Rule E, the Collector who made the order shall move the Court under the provisions of section 19H, subsection (4), to hold an enquiry into the value of the property.

- H. - If the valuation is amended as required by the Collector, but the additional fee is not paid into Court, the Collector shall report the case through the Commissioner of the division to the Financial Commissioner for an order under section 19G.
- I. - If any additional fee found due on an enquiry by the Court under section 19H, sub-section (5), or any penalty or forfeiture adjudged by an order under section 19G is not paid, the Collector shall apply through the Commissioner of the division for a certificate of the Financial Commissioner as required by section 19J, subsection(l).

H. THOMPSON,

Offg. Rev. Secy. to the Govt. of Burma.