

CHAPTER XXVII

RECOVERY OF MUNICIPAL DUES OTHER THAN TAXES.

438. Recovery of expenses of removals by Commissioner under certain sections.

Recovery of expenses of removals by Commissioner under certain sections

- (1) The expenses incurred by the Commissioner in effecting any removal under section 60, section 231 or sub-section (3) of section 239. or, in the event of a written notice issued under sub-section (2) of section 226 or, sub-section (3) of section 227 or section 232 or sub-section (3) of section 244 or sub-section (3) of section 245 or .section 264 or section 308 not being complied with under section 479, and all other expenses and charges specified in sub-section (2), if any, shall subject to the provisions of sub-section (2). be recoverable by the sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.
- (2) If the expenses of removal are in any case paid before the materials are sold, the Commissioner shall restore the materials to the owner thereof, on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any. incurred by the Commissioner in respect thereof or in respect of the intended sale or disposal thereof and all such chaises, if any as the Commissioner may fix for the storage of the materials.
- (3) If the materials are not restored to the owner thereof under sub-section (2) they shall be sold by auction or otherwise disposed of as the Commissioner thinks fit :
Provided that, if the materials are perishable, they may be sold or disposed of forthwith, and, if other than perishable, they shall be sold or disposed of as soon as conveniently may be after one month from the date of their removal whether the expenses of the removal and the charges, if any, for storage have in the mean time been paid or not and the proceeds, if any, of the sale of other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and if necessary, of the removal and the charges for the storage, be paid to the credit of the Municipal Fund, and shall be the property of the Corporation.

439. Expenses recoverable under the Act to be payable on demand, and if not paid on demand may be recovered as arrear of property tax.

Expenses recoverable under the Act to be payable on demand, and if not paid on demand may be recovered as arrear of property tax

- (1) Whenever under this Act, or any rule, regulation or by-law the expenses of any work executed or of any measure taken or thing done by or under the order of the Commissioner or of any municipal officer empowered under section 69 in this behalf are payable by any person, the same shall be payable on demand.
- (2) If not paid no demand, the said expenses shall be recoverable by the Commissioner, subject to the provisions of sub-section (4) and sub-section (3) of section 416 by distress & sale of the moveable property or attachment and sale of the immovable property of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.
- (3) If, when the Commissioner demands payment of any expenses under sub-section (1) his right to demand the same or the amount of

the demand is disputed, or if, in the case of expenses incurred by the Commissioner in taking temporary measures under sub-section (2) of section 247, the necessity for such temporary measures is disputed, the Commissioner shall refer the case for the determination of the Judge.

(4) Pending the Judge's decision the Commissioner shall defer further proceedings for the recovery of the sum claimed by him, and, after, decision, shall, subject to the provisions of section 416, proceed to recover only such amount if any, as shall be thereby determined to be due.

If defaulter is owner 440. If defaulter is owner of premises in respect of which expenses are payable, occupier to be also liable for payment thereof. of premises in respect of whichIf the said expenses are due in respect of some work executed or thing expenses are done to, upon or in connection with, some building or land or of some payable, occupier to

measure taken with respect to some building or land or in respect of a be also liable for

private street and the defaulter is the owner of such building or land or payment thereof.

of the premises fronting or adjoining such street or abutting thereon, as the case may be, the amount thereof may be demanded from any person who at any time, before the said expenses have been paid, occupies the said building, land or premises under the said owner; and in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the moveable property or the attachment and sale of the immovable property of the said person, as if the amount thereof were a property-tax due by him :

Provided as follows, namely :-

- (a) unless the said person neglects or refuses at the request of the Commissioner, truly to disclose the amount of the rent payable by him in respect of the said building or premises and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, upto the time of demand, is payable by him to the owner on account of rent of the said building, land or premises; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner;
- (b) the said persons shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;
- (c) nothing in this section shall affect any agreement made between the said person and the owner of the building, land or premises in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

441. Commissioner may agree to receive payment of expenses in instalments. Instead of recovering any such expenses as aforesaid in any manner in instalmentsherein before provided, the Commissioner may, if he thinks fit and

with the approval of the Standing Committee, take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon, at such rate not exceeding nine percent per annum as the Standing Committee may fix from time to time, within a period of not more than five years.

Certain expenses
may be declared to
be improvement
expenses

442. Certain expenses may be declared to be improvement expenses.

(1) Any expenses incurred by the Commissioner under any provision of this Act in respect of any material or fittings supplied or work executed or thing done to, upon or in connection with some building or land which are recoverable from the owner or occupier of such building or land may, subject to the regulations, be declared to be improvement expenses if the Commissioner with the approval of the Corporation, thinks fit so to declare them, and no such declaration being made, such expenses, together with interest thereon payable under sub-section (2), shall be a charge on the premises in respect of which, or for the benefit of which, the expenses have been incurred.

(2) Improvement expenses shall be recoverable in instalments of such amount not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at such rate not exceeding six percent per annum as the Standing Committee may fix from time to time, within such period not exceeding thirty years as the Commissioner with the approval of the Corporation may in each case determine.

(3) The said instalments shall be payable by the occupier of the premises on which the expenses and interest thereon are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the sum, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

443. Proportion of improvement expenses may be deducted from rent.

(1) Where the occupier by whom any improvement expenses are paid holds the premises on which the expenses together with interest thereon are charged, at a rent not less than the rack-rent, he shall be entitled to deduct three-fourth of the amount paid by him on account of such expenses and interest thereon as aforesaid from the rent payable by him to his landlord, and if he holds at a rent less than the rack-rent, he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses and interest thereon as aforesaid as his rent bears to the rack-rent.

(2) If the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof :

Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Proportion of
improvement
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Redemption of charge for improvement expenses

444. Redemption of charge for improvement expenses.

At any time before the expiration of the period for the payment of any improvement expenses together with interest thereon, the owner or occupier of the premises on which they are charge may redeem such charge by paying to the Commissioner such part of the said expenses and such interest due, if any, as may not have been already paid or recovered.

Recovery of instalments due under sections 441 and 442

445. Recovery of instalments due under sections 441 and 442.

Any instalment payable under section 441 or 442 which is not paid when the same becomes due, may be recovered by the Commissioner by distress and sale of the moveable property or the attachment and sale of the immovable property of the person by whom it is due as if it were a property-tax due by the said person.

In default of owner the occupier of any premises may execute required work and recover expenses from the owner

446. In default of owner the occupier of any premises may execute required work and recover expenses from the owner.

Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any rule, regulation or by-law the occupier, if any, of such building or land may, with the approval of the Commissioner, execute the said work, and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may without prejudice to any other right of recovery deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

Persons liable for expenses or compensation may be sued for recovery thereof

447. Persons liable for expenses or compensation may be sued for recovery thereof.

Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation of which the amount has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success the sum due, or the balance of the sum due as the case may be, may be recovered by a suit brought against the person liable for the same in any Court of competent jurisdiction.