**Preliminary Decree for Redemption Where on Default of Payment of Mortgagor a Decree for Foreclosure is Passed (Order Xxxiv, Rule 7) (Where Accounts are Directed to be Taken.)**

**(Title)**

1.             This suit coming on this........................day, etc.; It is hereby ordered and decreed that it be referred to.................................... as the Commissioner to take the accounts following: --

                                          i.    an account of what is due on this date to the defendant for principal and interest on the mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent per annum or at such rate as the Court deems reasonable);

                                         ii.    an account of the income of the mortgaged property received up to this date by the defendant or by any other person by order or for the use of the defendant or which without the willful default of the defendant or such person might have been so received;

                                        iii.    an account of all sums of money properly incurred by the defendant up to this date for costs, charges and expenses (other than the costs of the suit) in repeat of the mortgage-security together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or, failing both such rates, at nine per cent per annum.);

                                        iv.    an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the defendant which is destructive of, or permanently injurious to, the property if by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgaged.

2.             It is hereby further ordered and decreed that any amount received under clause (ii) or adjudged due under clause (iv) above, together with interest thereon, shall be adjusted against any sums paid by the defendant under clause (iii) together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, be debited in reduction of the amount due to the defendant on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3.             And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient dispatch after making all just allowances on or before the..................................day of................................., and that upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4.             And it is hereby further ordered and decreed --

                                          i.    that the plaintiff do pay into Court on or before the day of.................................., or any later date up to which time for payment may be extended by the Court, such sum as the Court shall find due and the sum or Rs..............................for the costs of the suit awarded to the defendant;

                                         ii.    that, on such payment, and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property, in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all in cumbrances created by the defendant or any person claiming under him or any person under whom he claims and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

5.             And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant shall be at liberty to apply to the Court for a final decree that the plaintiff shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.