**Preliminary Decree for Sale (Order XXXIV, Rule 4)**

*When the Court declares the amount due*

IN THE COURT OF ……..

SUIT NO……… 20…...

This suit coming on this …………… day, etc. it is hereby declared that the amount due to the plaintiff on the mortgage mentioned in the plaint calculated up to this ………….. day of ………… is the sum of Rs……. …………….. for principal, the sum of Rs…………… for interest on the said principal, the sum of Rs………….. for costs, charges and expenses (other than the costs of the suit) property incurred by the plaintiff in respect of the mortgage-security, together with interest thereon, and the sum of Rs…………… for the costs of the suit awarded to the plaintiff, making in all the sum of Rs…………

2. And it is hereby ordered and decreed as follows :

(i) that the defendant to pay into Court on or before the …………… day of ….. or any later date upto which time for payment may be extended by the Court, the said sum of Rs……………

(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 cost, charges and expenses as may be payable under Rule 10, together with such subsequent interest, interest as may be payable under Rule 11 of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff 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 defendant, or to such person as he appoints, and the plaintiff shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the plaintiff of any person claiming under him or any person under whom he claims and shall, if so required, deliver upto the defendant quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the plaintiff may apply to the Court for a final decree for the sale of the mortgaged property; and on such application being made, the mortgaged property or a sufficient part thereof shall be directed to be sold ; and for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged property.

4. And it is hereby further ordered and decreed that the money realized by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under this decree and in payment of any amount with interest, if any, which the Court may have adjudge due to the plaint in respect of such costs of the suit, and such cost, charges and expenses as may be payable under Rule 7 of Order XXXIV of the First Schedule to the Code of Civil Procedure (Act V of 1908) and that the balance, if any, shall be paid to the defendant or other persons entitled to receive the same.

5. And it is hereby further ordered and decreed that, if the money realized by such sale shall not be sufficient for payment in full of the amount payable to the plaintiff as aforesaid, the balance, if legally recoverable from the defendant otherwise than out of the property sold, be paid by the defendant personally.

SCHEDULE

**Description of the Mortgaged Property**