

RULE

KARNATAKA AGRICULTURAL CREDIT OPERATIONS AND MISCELLANEOUS PROVISIONS RULES, 1975

Where as, the draft of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Rules, 1975 was published as required by sub-section (1) of Section 16 of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 (Karnataka Act 2 of 1975) in Notification No. GSR 100 PD 87 PCM 71 in Part IV, Section 2-C(i) of the Karnataka Gazette dated the 3rd April, 1975 inviting objections and suggestions from all persons likely to be affected thereby before 24th April, 1975; And whereas, the said Gazette was made available to the public on 3rd April, 1975; And whereas, the suggestions and objections received with respect thereto have been considered by the State Government; Now, therefore, in exercise of the powers conferred by Section 16 of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 (Karnataka Act 2 of 1975), the Government of Karnataka hereby makes the following rules namely:

Rule1 Title and commencement

- (1) These rules may be called the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Rules, 1975.
- (2) They shall come into force at once.

Rule2. Definitions

In these rules, unless the context otherwise requires.

- (a) "Act" means the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 (Karnataka Act 2 of 1975);
- (b) "Form" means a form appended to these rules;
- (c) "Section" means a section of the Act.

Rule3. Procedure for distraint and sale of movables

- (1) Where any charge has been created on any crop, produce or other movable property in favour of a credit agency in respect of financial assistance given by such credit agency and the whole or any part of the amount due in respect thereof remains unpaid, the credit agency may make an application in Form 1 to the official designated by the State Government under Section 5 (hereinafter referred to as the "distraint") for distraint and sale of such crop, produce or property.
- (2) The original document creating the charge shall be filed along with the application referred to in sub-rule (1).

(3) If the distrainer is satisfied that the application is in order, he shall cause to be served on the agriculturist or his heir or legal representative, a written notice of demand in Form 2, calling upon him to pay the amount specified in the notice within a period of fifteen days from the date of service thereof, or to show cause why the property charged be not distrained and sold.

(4) The notice referred to in sub-rule (3) shall be served by delivering a copy to the agriculturist or his heir or legal representative or to any adult male member of his family at his usual place of residence or to his authorised agent, or when such service cannot be effected by affixing a copy of the notice on some conspicuous part of his residence.

(5) If the amount specified in the notice referred to in sub-rule (3) or any part thereof is not paid within the time allowed therefor, or if no cause is shown or where the cause shown is considered by the distrainer to be insufficient, the distrainer shall distrain the property charged.

(6) The distrainer shall make proper arrangements for custody and preservation of distrained property during the interval between distraint and sale thereof. The applicant or any officer of the credit agency concerned, if so authorised by the applicant shall, if required by the distrainer, undertake the custody and preservation of the property distrained.

(7) The distraint shall be made at any time between sunrise and sunset.

(8) If crops or ungathered produce of the land belonging to the agriculturist or his heir or legal representative are distrained, the distrainer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold.

(9) It shall be lawful for the distrainer to force open any stable, cowhouse, granary, godown, out-house or other building, and he may also enter any dwelling house, the outer door of which may be open, and may break open the door in any room in such dwelling house for the purpose of distraining the properties referred to in sub-rule (1), provided always that it shall not be lawful for such distrainer to break open or enter into any apartment in such dwelling house appropriated for the women or residence of women except after giving due notice for retirement or removal of such women.

(10) The distrainer may sell or cause to be sold by public auction any property distrained under sub-rule (5) or such part thereof as may in his opinion be necessary to satisfy, the demand together with expenses of the distraint and the costs of the sale.

(11) The distrainer shall at any time before the date of sale cause proclamation of the date and place of the intended sale to be made by beat of drum in the village in which the agriculturist or his heir or legal representatives reside or the properties referred to in sub-rule (1) are kept and in such other place or places as the distrainer may consider necessary to give due publicity to the intended sale.

(12) The distrainer may in his discretion adjourn the sale to a specified day recording the reasons for such adjournment. Where a sale is adjourned for a longer period than fifteen days, a fresh proclamation under sub-rule (11) shall be made unless the agriculturist or his heir or legal representative consents to waive it.

(13) The purchaser shall not be permitted to carry away any part of the property until he has paid for it in full.

(14) Where any crop, produce or other movable property is distrained and sold in accordance with this rule, the moneys due to the credit agency including the expenses incurred for distraint and sale shall be deducted from the sale proceeds and the balance if any shall be paid to the agriculturist concerned.

(15) The agriculturist or his heir or legal representative shall be given a receipt for the amount appropriated from the sale proceeds.

(16) Where prior to the date fixed for sale, the agriculturist or his heir or legal representative or any person acting on his behalf or any person claiming an interest in the property distrained pays the full amount due including interest, and other expenses incurred in the distraint and sale of the property charged, the distrainer shall not proceed with the sale and shall release the property forthwith.

Rule4 Form of declaration

The declaration referred to in clause (i) of Section 6 shall be in Form 3.

Rule5 Registration of charge or mortgage under Section 9

A duly certified true copy of the document referred to in sub-section (1) of Section 6 creating charge or mortgage or varying such charge or mortgage created shall be sent by the credit agency concerned to the registering officer concerned within a period of three months from the date of execution of such document by registered post acknowledgement due.

Rule6 Prescribed officer

The prescribed officer for the purpose of Section 12 shall be the Assistant Registrar of Co-operative Societies having jurisdiction over the area in which the credit agency or branch of that agency, which has given financial assistance, is situated.

Rule7 Other sums to be specified

The credit agency shall specify in the notice referred to in clause (a) of sub-section (4) of Section 13, the following other sums, namely.

(i) interest payable upto the date of payment;

(ii) expenditure incurred for bringing the property to sale.

Rule 8 Grant of certificate of sale

Where a credit agency purchases any mortgaged property in pursuance of the provisions of Section 13, the officer conducting the sale shall grant to it a certificate of sale bearing his seal and signature specifying the property sold. Such certificate shall be conclusive evidence of the fact of the sale of such property to the credit agency.

