

ASSAM AGRICUTURAL CREDIT OPERATIONS AND MISCELLANEOUS PROVISIONS (BANKS) RULES, 1978

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ASSAM AGRICUTURAL CREDIT OPERATIONS AND MISCELLANEOUS PROVISIONS (BANKS) RULES, 1978

In exercise of the powers conferred by S. 29 of the Assam Agricultural Credit Operations and Miscellaneous Provisions(Banks), Act, 1977 (Assam Act VII of 1977), the Governor of Assam is pleased to make the following rules, namely :

1. Short title and commencement :-

(1) These rules may be called the Assam Agricultural Credit Operations and Miscellaneous Provisions (Banks) Rules, 1978.

(2) It shall come into force at once.

2. Definitions :-

In these Rules, unless the context otherwise requires,

(a) "Act" means the Assam Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1977.

(b) 'Department' means a Department of the State Government of Assam.

(c) "Form" means a form appended to these Rules.

(d) "Local Body" means Gaon Panchayat, Mahkuma Parishads,

Municipal Boards, Town Committees and the Gauhati Municipal Corporation and such other like body as to be established by law.

(e) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under the Assam Co-operative Societies Act, 1949 (Act 1 of 1950).

(f) "Section" means a section of the Act.

3. Registration of charge and mortgage :-

(1) On receipt of the declaration of charge or mortgage executed in the Form prescribed under S. 6 (1) and 6 (2) of the Act or of the mortgage deed executed under S. 7 of the Act in Form 'A' appended to these Rules, the concerned credit agency shall retain one copy of such instrument with it and forward the second copy under registered post with acknowledgment due to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged or mortgaged is situated, as referred to in S. 9 (1), within 30 (thirty) days from the date of execution of the instrument.

(2) The Bank shall furnish the particulars of charge or mortgage in Form 'B' appended to these Rules created by the agriculturist in its favour to the Sub-Deputy Collector or any other Revenue Officer as may be designated by the State Government in whose jurisdiction the charge or mortgage is created as required under S. 10 of the Act.

(3) On receipt of the particulars in Form 'B' of charge or mortgage, the Sub-Deputy Collector or any other Revenue Officer, as may be designated by the State Government, shall maintain the Records of Rights relating to the land over which the charge or mortgage is created in Form 'B' appended to these Rules as required under S. 10 of the Act.

4. Reference of dispute to a Board :-

(1) When the Registrar decides to refer a dispute to a Board for disposal as provided under sub-S. (I) of S. 30, he shall constitute a Board by notification in the official Gazette which shall comprise of the Chairman to be nominated by the Registrar and such member or members each to be nominated by each of the parties to dispute upon a notice from the Registrar within such time as he may direct.

(2) In case of difference of opinion between two nominees, the

Chairman's verdict shall prevail.

(3) If a party fails to make a nomination within the appointed time, the Registrar may make the nomination himself.

(4) If one of the nominees fails to attend or refuses to work as nominee, the remaining nominees shall refer the fact to the Registrar who shall cancel the nomination and may either

(a) constitute a new Board ; or

(b) appoint only one nominee ; or

(c) decide the case himself by making the award in the manner as provided in Rr. 11 and 12.

5. Appointment of nominees by Registrar :-

The Registrar may make nomination from the following :

(i) Officers of the Co-operative Department ;

(ii) Officers of any other Department or Bank ;

(iii) members of any local body ;

(iv) any other person with the approval of the Government.

6. Expenses in determining the dispute :-

(a) The expenses incurred in determining the dispute may include remuneration of the nominees and incidental expenditure for stationary and clerical assistance.

(b) Remuneration to nominees may be paid in such sums as the Registrar may think fit in accordance with general or specific instruction of Government.

(c) The expenses incurred in determining the dispute shall be deposited before the proceedings of the Board begin by the parties with the Registrar in such manner as he may direct.

7. Power to order payment of expenses :-

The Registrar shall have power to order expenses incurred in determining the disputes to be paid by the parties to the dispute.

8. Procedure for reference of dispute to Registrar :-

A reference to the Registrar of any dispute under S. 19 shall be in writing and shall be accompanied by

(a) statement of the subject matter of the dispute referred to in

Form D ;

(b) statement of the claims in Form 'E' ;

(c) copy of the Ledger Account ;

(d) other supporting records.

9. Court-fee stamp for reference :-

Every application for reference of a dispute to the Registrar under S. 18 shall bear court-fees stamp appropriate as for a miscellaneous petition unless the Registrar permits otherwise.

10. Procedure for hearing of dispute :-

(1) In every dispute, the Registrar or his nominee or the Board of Nominees appointed under sub-S. (1) of S. 20 shall fix the date, hours and the place of hearing of the dispute and issue notices to the parties concerned in Form 'F'.

(2) The nominees may issue summons or notices at least fifteen days before the date fixed for hearing of the dispute requiring

(a) attendance of the parties and the witnesses ;

(b) production of all books and documents relating to the matter in dispute.

(3) Notices may be served in any of the following manners :

(a) personal service ;

(b) registered post with acknowledgment due ; or

(c) affixing a copy of the notice at the last known place of residence or business of the parties in dispute.

(4)

(i) Service of notice on the Chairman, the Secretary or the Principal, Executive Officer of a Co-operative Society by whatever designation called shall be regarded as service on that society.

(ii) Service of notice on the Manager or the Accountant of a bank shall be regarded as service on that bank.

(5) The sufficiency of service of notice shall be decided by the authority issuing it and his decision shall be final.

(6) In the case of absence of any party to the dispute, the dispute

may be decided ex pane.

(7) In these proceedings, neither party shall be represented by any legal practitioner.

11. Recording of decision proceedings by Board of Nominees :-

The nominee or Board of Nominees appointed by the Registrar deciding the dispute shall record a brief note of the proceedings together with a memorandum of the statement of the parties who attend and of such witnesses as are examined, and upon evidence so recorded and after consideration of documentary evidence produced by the parties, shall give a decision in writing in accordance with justice, equity and good conscience and communicate it to the Registrar.

12. Power of Registrar in matters of dispute of decision :-

The Registrar may accept the decision of the nominee or Board of Nominees or may remit it to another nominee or Board of Nominees for further enquiry, if the Registrar is of opinion that the decision arrived at is not based on justice, equity and good conscience.