

ASSAM RURAL INDEBTEDNESS RELIEF RULES, 1975

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ASSAM RURAL INDEBTEDNESS RELIEF RULES, 1975

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1. Short title :-

These rules may be called the Assam Rural Indebtedness Relief Rules, 1975.

2. Definitions :-

In these rules, unless there is anything repugnant in the subject or context

(a) "Act" means the Assam Rural Indebtedness Relief Act, 1975 ;

(b) "family" means a family consisting of father, mother, brothers, sisters, sons, daughters other than married daughters and married sisters or any one or more of the above and living with a common mess ;

(c) other words and expressions used in these rules shall have the same meaning which have been assigned to them in the Act.

3. . :-

(1) A debtor desirous of transferring the whole or any part of his immovable property on any one or more of the following grounds, namely, that such a frame is absolutely necessary for

(1) maintaining his family ;

(2) meeting the expenditures for the treatment of his own or of any

member of his family ;

(3) meeting the expenditures in connection with the education of any member of the family ;

(4) meeting the expenditures in connection with the marriage of any member of the family ;

(5) any other good and sufficient reason, may make an application to the Sub-Deputy Collector within whose circle the applicant permanently resides.

(2) The applicant shall in his application state the ground or grounds on which he wants to transfer the land, the total immovable property held by him and the total area he wants to transfer. He shall also give an estimate of the total expenditures to be incurred.

(3) On receipt of an application the Sub-Deputy Collector shall make an enquiry about the reasonableness and genuineness of the same and if after such enquiry he is satisfied that the ground on which the land is proposed to be transferred is reasonable and genuine he shall pass an order either allowing the applicant to transfer the whole or any part of the immovable property found to be reasonable under circumstances or rejecting the application :

Provided that the Sub-Deputy Collector shall not pass an order allowing a transfer on the ground of R. 3 (1) (5) above without the prior approval of the Deputy Commissioner in the Sadar Sub-division or the Sub-divisional Officer in other sub-division, as the case may be.

4. . :-

(1) Any debtor who is a party to the transaction may, by an application made to the Sub-Deputy Collector within whose circle he permanently resides, ask for a declaration that the transaction was not a sale but a transaction in respect of a debt only.

(2) The application shall contain the following particulars :

(1) date of the purported transfer ;

(2) mode of the purported transfer, whether by writing or otherwise ;

(3) the amount of consideration for the purported transfer ;

- (4) the grounds for seeking the declaration ;
- (5) the specific declaration sought for ;
- (6) evidence in support of the declaration sought for ;
- (7) the date of making the application.

(3) Any debtor who is a party to the transaction may, by an application made to the Sub-Deputy Collector within whose circle he permanently resides, ask for a declaration that the transaction was really in respect of a debt of any other amount other than the amount mentioned in the transaction. An application under sub-R.

(3) shall contain the following particulars, namely :

- (1) date of the purported transaction of debt ;
- (2) names of the parties in the transaction with addresses ;
- (3) nature of the purported transaction of debt whether written or oral ;
- (4) amount of debt mentioned in the transaction ;
- (5) the actual principal amount of debt taken ;
- (6) the grounds for seeking the declaration ;
- (7) the specific declaration sought for ;
- (8) evidence in support of the declaration sought for.

5. . :-

(1) On receipt of the application under R. 5, the Sub-Deputy Collector, shall fix the date, hour and place of enquiry and shall issue a notice to the applicant and other parties to the transaction asking them to appear on the date, hour and place fixed for the enquiry and requiring them to produce all books, documents and all other evidences in support of their respective claim. A copy of the application shall also be sent to the parties other than the applicant together with the notice. The notices may be served in any one of the following ways, namely :

- (a) personal service by a messenger or a Jarikarak ;
- (b) by registered post with acknowledgement due.

(2) A copy of the notice will also be hung up in the notice board of

the Sub-Deputy Collector's office.

(3) When a notice is served personally on a person, the person to whom it is delivered or tendered shall be required to put his signature as a token of acknowledgement of the service.

(4) The messenger or Jarikarak, as the case may be, in all cases where a notice has been served under sub-R. (1) shall cause to be endorsed on or annexed to the original notice, a return stating the time when and the manner in which the notice was served and the name and address of the person, if any, identifying the person concerned and witnessing the delivery or tender of notice.

(5) The sufficiency of the proof of service of notice shall be decided by the officer issuing the same.

(6) In case of absence of any party to the dispute after service of the notices the enquiry may be made and a decision taken ex parte.

6. . :-

The Sub-Deputy Collector making the enquiry shall record a brief note of, the statements of the parties who attend and of such witnesses as are examined, and of the documentary evidence produced by the parties and after consideration of the same shall record his decision in writing giving his reasons in brief for the same.

7. . :-

(1) Any person aggrieved by an order passed under S. 10 (7) and (2) of the Act may file an appeal against the order to the Deputy Commissioner and Additional Deputy Commissioner or the Sub-divisional Officer.

(2) An appeal shall be presented by the appellant to the Deputy Commissioner and Additional Deputy Commissioner in Sadar Subdivision or the Sub-divisional Officer in other sub-division either in person during office hours or by sending it by registered post to the Sub-divisional Officer with acknowledgement due.

(3) Every appeal shall be accompanied by a copy of the order appealed against.

(4) Every appeal shall

(a) specify the name and address of the appellant and the opposite

parties ;

(b) clearly state the grounds on which the appeal is preferred ; and

(c) state precisely the relief claimed by the appellant.

(5) On receipt of the appeal, the Deputy Commissioner and Additional Deputy Commissioner or the Sub-divisional Officer shall endorse on it the date of its receipt and shall as soon as possible but not later than 30 days of receipt of the same examine it and shall satisfy itself that

(a) the person presenting the appeal is competent to do so ;

(b) it is made within the prescribed time limit ;

(c) it conforms to all the provisions of the Act and these rules.

(6) If the Deputy Commissioner and Additional Deputy Commissioner or the Sub-divisional Officer finds that the appeal presented does not conform to any of the provisions of the Act and these rules he shall make a note of the same to that effect and may call upon the appellant to rectify the defects within a period of ten days of receipt of the notice or in case the appeal has not been presented within the prescribed time limit to show cause within the said period of ten days as to why it should not be dismissed as time-barred by the appellate authority.

(7) If the defect is rectified or a cause is shown by the appellant to the satisfaction of the appellate authority, the appellate authority may proceed to consider the appeal.

(8) If the appellate authority considers it necessary to give a hearing, it may fix a date for hearing of which notice shall be given to the appellant and the opposite parties.

(9) On the date so fixed the appellate authority shall go through the relevant papers, hear the appellant and the opposite parties who are present.

(10) The Deputy Commissioner and Additional Deputy Commissioner or Sub-divisional Officer shall obtain from the Sub-Deputy Collector the records of the proceedings before him in respect of the matter involved.

(11) The appellate authority shall, after perusal of the records and on hearing the parties, if present, pass such order on the appeal as

he may deem fit and proper.

(12) The appellate authority may, in its discretion but after recording reasons, adjourn to any other day the hearing of any appeal at any stage, but he shall ensure that the appeal is disposed of as quickly as possible.

(13) Every order of the appellate authority shall be in writing and it shall be communicated to the appellant or to such other person/persons as, in the opinion of the authority, are likely to be affected by the decision or order and to the Sub-Deputy Collector against whose order the appeal is preferred.

(14) In serving notices of appeal under this rule the same procedure as has been laid down in R. 5 shall be followed.

8. . :-

If any person wilfully furnishes false information or gives a false statement or wilfully neglects or refuses to do any act required by the Act or these rules to be done or wilfully or without reasonable excuse disobeys any notice, requisition or lawful order issued under the provisions of these rules shall be punishable with fine not exceeding two hundred rupees.