

KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) RULES, 1985

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KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) RULES, 1985

Whereas, draft of the Karnataka, Parks, Play-fields and open spaces (Preservation and Regulation) Rules, 1985 was published in Notification No. HUD 47 MIE 85, dated 6th June, 1985 in Part IV, Section 2-C(i) of the Karnataka Gazette, Extraordinary, dated the seventh day of June, 1985 inviting objections and suggestions to the said draft from persons likely to be affected thereby, within a period of fifteen days from the date of publication of the said draft in the Karnataka Gazette. And, whereas, the said Gazette was made available to the Public on the seventh day of June, 1985. And, whereas, the objections and suggestions received have been considered by the State Government. Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 14 of the Karnataka Parks, Play-Fields and Open Spaces (Preservation and Regulation) Act, 1985 (Karnataka Act 16 of the 1985) the Government of Karnataka hereby makes the following rules, namely.

1. Title and commencement :-

(1) These rules may be called the Karnataka Parks, Play-fields and Open Spaces (Preservation and Regulation) Rules, 1985.

(2) They shall come into force at once.

2. Definitions :-

In these rules unless the context otherwise requires.

(a) "Act" means the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985 (Karnataka Act 16 of 1985);

(b) "Section" means section of the Act.

3. Submission of Lists of Parks, Play-fields and Open Spaces :-

The executive authority shall indicate in the list submitted to Government under sub-section (1) of S.3 of the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985, the name and address of the owner and the details and nature of the buildings, if any, already existing in each of the parks play-fields and open spaces as on the date of its submission.

4. Publication of List :-

The list submitted to Government under sub-section (1) of S.3 of the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985 shall be published.

(i) by affixing on the notice board of the office of the concerned local authority;

(ii) by exhibition in all reading rooms and such other conspicuous places within the concerned local authority;

(iii) by affixing on the notice board of the office of the Tahsildar of the taluk; and

(iv) by affixing on the notice board of the office of the.

(a) Bangalore Development Authority in case the concerned local authority is situated within the jurisdiction of Bangalore Development Authority; or

(b) Deputy Director of Town Planning Bangalore Metropolitan Region in case the concerned local authorities are situated in Bangalore District excluding the area within the jurisdiction of the Bangalore, Development Authority; or

(c) Assistant Director of Town Planning within whose jurisdiction the concerned local authority, in Districts other than Bangalore is

situated.

5. Publication of approved List etc :-

The order of the Government and the approved list under sub-section (3) of S.4 of the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985 and the proposal to include new lands in the list under sub-section (2) of S.5 of the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985 shall be published in the same manner as specified in the Rule 4.

6. Construction of other structures in the Parks, Play-fields and Open Spaces :-

(1) The executive authority may permit construction of a well, pumphouse, benches for the visiting public to sit and quarters for the watchmen in any park play-fields or open space.

(2) Notwithstanding anything in sub-rule (I).

(a) no permission to construct quarters for the watchmen shall be granted where the total area of the park, play field or open space is less than two hectares;

(b) in other cases, not more than two quarters may be permitted to be constructed and the area of any such quarters shall not exceed thirty square metres.

7. Collection of Cost :-

(1) Where the cost payable under S.9 of the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985 is due from any person the executive authority shall cause to be served upon or sent to such person a bill for the sum due before proceeding to enforce the provisions of Rule 8.

(2) A bill under sub-rule (1) shall be signed by the executive authority and shall contain.

(a) the particulars of the demand; and

(b) notice of the liability which may be incurred in default of payment.

8. Distraint :-

(1) If the amount due on account of the cost is not paid within fifteen days from the service of the bill and if the person from

whom the cost is due has not shown cause to the satisfaction-of the Executive authority why it should not be paid, the executive authority may recover by distraint under his warrant and sale of the movable property of the defaulter:

Provided always that movable property described in the proviso to sub-section (1) of Section 60 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall not be liable to distraint.

(2) Under a special order in writing of the executive authority, any Officer charged with the execution of a warrant of distress may between sunrise and sunset, break open any outer or inner door or window of a building in order to make the distress, if he has reasonable ground for believing that such building contains property which is liable to seizure and if, after notifying his authority and purpose, and duly demanding admittance, he cannot otherwise obtain admittance:

Provided that such Officer shall not enter or break open the door of any apartment appropriated to women until he has given three hour's notice of his intention and has given such woman an opportunity to withdraw.

(3) The Officer charged with the execution of a warrant shall, before making a distraint, demand payment of the cost due. If the cost due is paid no distraint shall be made or else be shall.

(a) seize such movable property of the defaulter as he may think necessary;

(b) make an inventory of the property seized; and

(c) give to the person in possession of the property seized at the time of seizure a copy of the inventory and the notice of sale:

Provided that a period of seven days shall be allowed for paying the amounts due and redeeming the property seized.

(4) The distress shall not be excessive, that is to say the property distrained shall be as nearly as possible equal to the value of the cost due by the defaulter.

9. Sale :-

(1) If the amount due by the defaulter on account of cost payable under S.9 of the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985 and expenses incidental

to the detention of the property are not paid within the period of seven days mentioned in the notice given under Rule 8 and if the distraint warrant is not suspended by the executive authority, the property seized or a sufficient portion thereof, shall be sold by public auction under the orders of the executive authority who shall apply the proceeds of the sale to the payment of the amount due on account of cost payable under S.9 of the Karnataka Parks Play-fields and Open Spaces (Preservation and Regulations) Act, 1985 and the expenses incidental to the detention and sale of the property and shall return to the person in whose possession the property was at the time of seizure any property which may remain after the sale and the application of the proceeds thereof as afore said, if application is made by such person within three years from the date of the sale. If no such application is made, the property so remaining shall be forfeited to the local authority concerned. If the proceeds of the sale are insufficient for the payment of the amount due on account of the cost and expenses incidental to the detention and sale of the property the executive authority may again proceed under Rule 8 in respect of the sum remaining unpaid.

(2) Then the property seized is perishable or subject to speedy and natural decay or if the expenses of keeping it well, together with the amount of cost, exceed the value of the property, the executive authority may sell it any time before the expiry of the said period of seven days unless the amount due is sooner paid.

(3) The executive authority shall consider any objections to the distraint of any property which are made within the said period of seven days and may postpone the sale pending investigation thereof. If the executive authority decides that the property attached was not liable to distraint, he shall return it or if it has already been sold the proceeds of the sale shall be paid to the person appearing to be entitled thereto and again may proceed under Rule 8, and all expenses connected with the first distraint and sale shall be recoverable from the defaulter if it shall appear to the executive authority that he wilfully permitted distraint of the property when to his knowledge it was not liable to distraint.

10. Executive authority etc. not to purchase :-

Neither the executive authority nor any Officer or servant of the local authority shall directly or indirectly purchase any property at any sale of distrained property held under the foregoing rules.

11. Submission of annual returns :-

The executive authority shall submit to the Government annual returns with all the particulars in the Form appended to these rules.