

KARNATAKA PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS RULES, 1969

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KARNATAKA PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS RULES, 1969

In exercise of the powers conferred by Section 44 of the Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966 (Karnataka Act 1 of 1967), the Government of Karnataka, hereby makes the following rules, the draft of the same having been previously published as required under Section 44 of the said Act in Notification No. GSR 107 (RD 24 TCO 67), dated 22nd March, 1968, in Part IV, Section 2-C(i) of the Karnataka Gazette, dated 18th April, 1968, namely.

1. Title :-

These rules may be called the Karnataka Prevention of Fragmentation and Consolidation of Holdings Rules, 1969.

2. Definitions :-

In these rules, unless the context otherwise requires.

(a) "Act" means the Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966;

(b) "Form" means a form appended to these Rules;

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

3. Form of entry regarding fragments in a village where there is no record of rights :-

In a village where there is no record of rights, all fragments in such village shall be entered as such as required by sub-section (1) of Section 4, in Form I.

3A. Furnishing of intimation and affidavit :-

¹ The intimation and the affidavit to be sent to the Tahsildar and the copies thereof to be furnished to the Sub-Registrar as required under clause (b) of Section 5 of the Act shall either be sent by the

owner of the fragment to them by registered post or be presented in person. The intimation shall be in Form XV and the affidavit in Form XVI.]

1. Rule 3-A inserted by GSR 289, dated 13-12-1983, w.e.f. 14-12-1983.

4. Manner of choosing by lot on sharers for allotment of share of land or money compensation under sub-section (2) (b) of Section 8. :-

(1) The Court or the Deputy Commissioner as the case may be shall first fix the number of co-sharers to whom a share of land may be provided and the number of co-sharers to whom money compensation may be given and shall call upon all the co-sharers by a written notice, to be present before the Court or the Deputy Commissioner, as the case may be, on the date specified in such notice.

(2) On the date specified in the notice referred to in sub-rule (1) or such future date to which the proceedings may be adjourned, the Court or the Deputy Commissioner, as the case may be, shall in the presence of co-sharers or their representatives who may be present on that day.

(i) prepare as many identical slips of paper as there are co-sharers;

(ii) write the name of each co-sharer on a separate slip one side and fold all such slips in identical manner so as to completely enclose the name written thereon;

(iii) place all the slips in an empty box of a suitable size and thoroughly mix them by shaking the box; and

(iv) ask one of the co-sharers or any other person who may be present there to take out from the box with hand, but without looking at the box, one by one, as many folded slips as the number of co-sharers fixed under sub-rule (1) for allotting share of land.

(3) The co-sharers whose names appear in the slips so taken out shall be entitled to get share of land and the remaining co-sharers shall be entitled to get money compensation.

(4) If on the date specified in the notice issued under sub-rule (1) all or more than half the number of co-sharers are absent, the Court or the Deputy Commissioner, as the case may be, may draw the lots as provided in sub-rule (2) in the presence of not less than

three Panchas to be selected by the Court or by the Deputy Commissioner.

5. Manner of depositing compensation by a co-sharer under sub-section 2(c) of Section 8 :-

The Court or the Deputy Commissioner making partition of land shall, after determining the amount of compensation payable by each co-sharer in respect of the excess value of land he gets over the share of land legally due to him, call upon the Co-sharers concerned by notice in writing to deposit in case of Court with the Court and in case of Deputy Commissioner, in the nearest Government Treasury, the amount of compensation payable by him within the period to be specified in the notice. Where the amount is deposited in a Government Treasury, the co-sharer shall produce the receipted challan from the Treasury before the Deputy Commissioner within seven days from the date of deposit of the amount by him.

6. Application for transfer of any land for public or non-agricultural purpose :-

(1) Any person desiring to obtain permission for transferring any land for any public purpose or for a bona fide non-agricultural purpose may make an application in that behalf to the Deputy Commissioner.

(2) The Deputy Commissioner shall on being satisfied that the transfer of lands is for a public purpose or for a bona fide non-agricultural purpose grant the permission applied for subject to the conditions that may be imposed under sub-rule (3).

(3) Conditions may be imposed in order to secure the health, safety and convenience, and in the case of land which is to be used as building sites, in order to ensure that the dimensions, arrangement and accessibility of sites are adequate for the health and convenience of occupiers or are suitable to the locality and do not contravene the provisions of any law relating to town and country planning or the erection of buildings.

7. Manner of publication of Notifications under Section 10 :-

After a notification under Section 10 is published, the Deputy Commissioner shall cause the contents thereof to be published by beat of drum in each of the villages concerned and by affixing translations of the same in the regional language in the Taluk Office of the Taluk concerned and at the chavadi or other prominent place

in each of the villages concerned in the regional language of such village.

8. Constitution of Village Committee :-

(1) The Consolidation Officer shall constitute a Village Committee under Section 2(k) for such of the village specified in the notification under Section 10 for which there is no village panchayat or town panchayat in the manner hereinafter provided.

(2) The Consolidation Officer shall issue a notice in Form II requiring the owners of the lands of the village and other persons interested in the lands to assemble on a date and at a time and place in the village specified in such notice of the purpose of constituting a Village Committee.

(3) The notice referred to in sub-rule (2) shall be published.

(i) by being affixed in village chavadi or if there is no village chavadi in some conspicuous place in the village; and

(ii) by beat of drum in the village.

(4) The Consolidation Officer shall be present in the village on the date and at the time and place specified in the notice referred to in sub-rule (2) and shall after taking consideration the wishes of the land owners and other persons interested assembled nominate the members of the Village Committee.

(5) The number of members of the Village Committee shall be fixed by the Consolidation Officer and the number of such members shall not be less than five or more than nine.

(6) The Consolidation Officer shall as soon as may be and not later than fifteen days from the date of the constitution of the Village Committee, cause to be published in the village, a notice specifying the names of the members of the Village Committee.

(7) The notice referred to in sub-rule (6), shall be in Form III and shall be published in the manner specified in sub-rule (3).

9. Notice of the intended visit of the Assistant Consolidation Officer :-

The notice by the Assistant Consolidation Officer under Section 11 shall be in Form IV and shall be published in the chavadi for a period of not less than seven days and shall also be published by beat of drum.

10. Procedure to be followed by the Assistant Consolidation Officer in preparing the scheme :-

In preparing a scheme the Assistant Consolidation Officer shall follow the following procedure, namely.

(a) The lands in the village shall be grouped into separate blocks, having regard to the following factors.

(i) the kind and number of the crops grown;

(ii) the quality and fertility of the soil;

(iii) the nature of the irrigation facilities, if any available.

(b) Consolidation of holdings shall, as far as possible, be effected with respect to the plots situated within the same block.

(c) The allotment of plots shall be made, having regard to the following factors, namely.

(i) the location of the residence of the owner; and

(ii) the improvements, if any, made by the owner to the land.

11. Interest on and instalments of loans :-

¹ The interest on the loans granted under sub-section (3) of Section 12 shall be charged at eight per cent per annum. The loan together with the interest thereon shall be repaid in ten annual instalments.]

1. Rule 11 substituted by GSR 426. dated 22-11-1969, w.o.f. 11-12-1969.

12. Publication of declaration under Section 13 :-

The declaration under sub-section (1) of Section 13 shall be published in the village by affixing copies of the same for thirty days at a prominent place on the road, street, lane or path concerned and at the chavadi or other prominent place in the village concerned in the regional language of the village. It shall also be announced in the village by beat of drum that the declaration has been so published and that objections if any, to the declaration and claims, if any, for compensation on account of the extinction or diminution of any interest or right other than the right of public highway on or over (the said road, street, lane or path should be submitted to the Assistant Consolidation Officer within thirty days.

13. Publication of draft scheme by the Consolidation Officer

:-

(1) The draft scheme of consolidation prepared under Section 11 together with the maps, statements, lists and other particulars mentioned therein shall be published by the Consolidation Officer by affixing copies of the same along with the notice in Form V for thirty days at the chavadi or other prominent place in each of the villages concerned in the regional language of such village. Individual notice of such publication shall be given to the land owners likely to be affected by the scheme by beat of drums in the village to the effect that the scheme has been published and that objections, if any, should be submitted to the Consolidation Officer, within thirty days.

(2) A copy of the notice in Form V shall also be simultaneously affixed for thirty days at the Taluk Office in the regional language of the Taluk.

14. Publication of the amended draft scheme by the Consolidation Officer :-

The Consolidation Officer shall publish the amended draft scheme together with the notice in Form VI in the same manner as is provided in Rule 13.

15. Publication of the amended draft scheme by the Commissioner :-

The Commissioner shall publish the amended draft scheme proposed by the Consolidation Officer under clause (c) of sub-section (3) of Section 15 or as may be amended by him under sub-section (2) of Section 16 along with a notice in Form VII for thirty days in the same manner as is provided in Rule 18.

16. Publication of confirmed scheme :-

After the notification stating that the scheme as confirmed is published in the Official Gazette, the Consolidation Officer shall cause the scheme as confirmed to be published by affixing copies of the same at the chavadi or other prominent place in each of the villages concerned in the regional language of such village. It shall also be announced in each such village by beat of drum that the scheme has been so published. A notice in Form VIII shall also be affixed at the Taluk Office in the regional language of the Taluk.

17. Manner of Depositing, etc., under Section 17 :-

(1)As soon as the scheme of Consolidation is confirmed the Assistant Consolidation Officer shall prepare/a statement in Form VIII-A showing the name/s of person/s from whom the compensation amount is to be recovered and also the name/s of person/s to whom the compensation amount is payable and forward the same in triplicate to the Treasury Officer for taking note of credits and payments and simultaneously pass orders in Form VIII-B directing the holders concerned, to credit the compensation amount into the Treasury, personally or through the Village Officers concerned under the Head "IX. L.R. Deposit of compensation amount under Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966". A copy of the order in Form VIII-B shall also be endorsed to the Treasury Officer concerned.

(2) Soon after the compensation amount is fully received from the persons concerned the Assistant Consolidation Officer, shall pass the orders in Form VIII-C directing the persons entitled to receive the compensation amount to take away the same from the Treasury. A copy of the order passed shall also be endorsed to the Treasury Officer, concerned.]

1. Rule 17 substituted by GSR 216, dated 16-7-1976, w.e.f. 29-7-1976.

18. Manner of eviction of any person from land under sub-section (3) of Section 17 and putting the owner in possession :-

(1) If the Assistant Consolidation Officer is satisfied after making such enquiry, if any, as he considers necessary, either suo motu or on an application made in this behalf, that it is necessary to evict any person from any land for the purpose of putting any owner in possession of the holding to which he is entitled under a scheme for the consolidation of holdings, he shall pass an order requiring such persons to vacate the land within a period specified in such order, which shall be not less than fifteen days from the date of service thereof:

Provided that no such order shall be passed unless the person concerned has been given a reasonable opportunity of showing cause against the proposed order.

¹ (2) The order issued under sub-rule (1), shall be executed in the following manner, namely.

(i) by serving it on the person or persons in possession requiring them to vacate the land within the time specified in said order; and

(ii) if such order is not obeyed, by removing any person who may fail or refuse to vacate the same; and

(iii) if the Officer removing any such person is resisted or obstructed by any person, the Assistant Consolidation Officer shall hold a summary inquiry into the facts of the case and if he is satisfied that the refusal or failure to vacate the land within the period specified was without any just cause and that such resistance and obstruction still continues may, without prejudice to any proceedings to which such person may be liable under any law for the time in force for the punishment of such resistance or failure, take or cause to be taken such steps and use or cause to be used such force as may, in his opinion be reasonably necessary for securing the compliance with the order.]

1. Sub-rule (2) substituted by GSR 426, dated 22-11-1969, w.e.f. 11-12-1969.

19. Manner of determination of additional compensation or reduction in compensation under sub-section (4) of Section 17 :-

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(1) For the purpose of determining the additional compensation payable or the reduction to be made in the compensation payable under sub-section (4) of Section 17, the Assistant Consolidation Officer shall make the valuation of the standing crops, trees, embankments and similar other improvements found on the land at the time of putting the owner in possession of the holding as if these improvements were there on the date on which the original compensation was determined. Where standing crops, trees, embankments and similar other improvements have been taken into consideration in determining the compensation under the scheme and they or any of them have ceased to exist or substantially changed at the time of putting the owner in possession of the holding, the value of the improvements as estimated originally shall be deducted from the amount of compensation determined.

(2) The additional compensation determined under sub-rule (1) shall be deposited in the same manner as specified in Rule 17.]

1. Rule 19 substituted by GSR 426, dated 22-11-1969, w.e.f. 11-12-1969.

20. Manner of re-allotment of a holding under sub-section (6) of Section 17 :-

The right in a holding shall be re-allotted by the Consolidation Officer under sub-section (6) of Section 17 in the following manner, namely. The Consolidation Officer shall announce in the village concerned through the Village Officers and by beat of drum and also by affixing a notice in the regional language of the village at the chavadi or other prominent place in the village, the fact of the default committed by the person to whom the holding was allotted and of its availability for re-allotment and invite applications stating the value at which the applicants may wish it to be allotted to them. After considering these applications, the Consolidation Officer shall re-allot the holding to the highest bidder provided that.

(i) where two or more applicants who own the adjoining holding and cultivate them personally offer the same bid, the holding may be re-allotted to him whose application was received first;

(ii) where two or more applicants offer the same bid and one of them owns the adjoining holding or holdings and cultivates them personally, a holding may be re-allotted to the latter applicant; and

(iii) where two or more applicants offer the same bid and one of them owns the adjoining holding or holdings the holding may be re-allotted to the person whose application was received first.

21. Form of certificate of transfer :-

The certificate of transfer under sub-section (1) of Section 20 shall be issued by the Assistant Consolidation Officer in Form IX or X as the case may require.

22. Assessment of cost :-

¹ The cost of carrying out a scheme of consolidation shall, include the following items, namely.

(1) The proportionate pay and allowance of the staff employed for the work;

(2) The wages of the labour engaged, provided that no such wages shall be charged if the parties were to provide labour;

(3) Cost of stones and other materials, if any;

(4) Contingent charges, if any; and

(5) Supervision charges at twenty per cent of the cost thereof.]

1. Rule 22 substituted by GSR 426, dated 22-11-1969, w.e.f. 11-12-1969.

23. Period for making application under sub-section (2) of Section 23 :-

The period for making an application for possession under clause (b) of sub-section (2) of Section 23 shall be twenty-one days from the date of proclamation in the village by the Assistant Consolidation Officer under the said section.

24. Manner of transfer of mortgage debt or other encumbrances to new holdings :-

In transferring a mortgage debt or other encumbrance under sub-section (1) of Section 26, the Assistant Consolidation Officer shall observe the following rules, namely.

(1) where a new holding is of the same market value as the original one, the whole of the encumbrance attaching to the latter shall be transferred to the former;

(2) if the new holding is of a substantially greater market value than the original one, the mortgage and other encumbrances attaching to the latter shall be transferred to the former, subject to the condition that the mortgagee and other creditors will agree to such reasonable reduction in the rate of interest as may be fixed by the Assistant Consolidation Officer having regard to the substantially better security provided by the new holding.

25. Procedure for putting mortgagee or other encumbrancer into possession under sub-section (3) of Section 26 :-

In cases where a mortgagee or other encumbrancer appears to the Assistant Consolidation Officer to be entitled to possession of a holding under sub-section (3) of Section 26, the Assistant Consolidation Officer shall issue a notice to the owner to show-cause within fifteen days why the mortgagee or the other encumbrancer, as the case may be, should not be put into possession of his holding. If the owner fails to show-cause or if the Assistant Consolidation Officer is satisfied that the cause shown by the owner is not adequate, he shall put the mortgagee or other encumbrancer, as the case may be, into possession of the holding and get the Record of Rights in respect of the holding corrected accordingly.

26. Publication of the order under Section 28 :-

The order made by the Commissioner under Section 28, shall be published by affixing copy of the same together with a notice in Form XI for fifteen days at the chavadi or other prominent place in each of the villages concerned in the regional language of such village. It shall also be announced in each of the villages concerned by beat of drum that the order has been so published. A copy of the notice in Form XI shall also be affixed for fifteen days at the Taluk Office concerned in the regional language of the Taluk.

27. Publication of draft variation scheme under sub-section (1) of Section 29 :-

The draft variation scheme under sub-section (1) of Section 29 shall be published by affixing a copy of the same together with a notice in Form XII for thirty days at the chavadi or other prominent place in each of the villages concerned in the regional language of such village. It shall also be announced in each village by beat of drum, that the draft variation has been so published. A copy of the notice in Form XII shall also be affixed for thirty days at the Taluk Office of the Taluk concerned in the regional language of the Taluk.

¹ [Individual notice of such publication shall also be given to all the owners likely to be affected by the draft variation scheme.]

1. Inserted by GSR 194, dated 31-7-1973, w.e.f. 9-8- 1973.

28. Publication of the varied scheme under sub-section (4) of Section 29 :-

After the notification stating that the scheme has been varied under sub-section (3) of Section 29 is published in the Official Gazette, the Consolidation Officer shall cause the varied scheme to be published by affixing copies of the same together with a notice in Form XIII at the chavadi or other prominent place in the regional language. It shall also be announced in the village by beat of drum that the scheme so varied has been published. A copy of the notice in Form XIII shall also be published at the Taluk Office. ¹ [Individual notice of such publication shall also be given to all the land owners likely to be affected by the varied scheme.]

1. Inserted by GSR 194, dated 31-7-1973, w.e.f. 9-8- 1973.

29. Procedure and period for payment of penalty under Section 40 :-

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(1) The penalty payable under Section 40 shall be paid not later

than three years from the date of commencement of these rules, to the head of account "IX-Land Revenue-d-Recoveries on account of survey and settlement charges, (v) Recoveries on account of Prevention of Fragmentation and Consolidation of Holdings Act (Bombay-Karnataka Area)". The person crediting such penalty shall forward the Challan for having credited the penalty to the Tahsildar of the Taluk concerned along with an application in Form XIV. Document evidencing the transfer, partition or Sub-Division of the Land in respect of which such penalty is credited shall also be sent along with the application.

(2) On receipt of such challan and the application, if the Tahsildar is satisfied that the amount of penalty credited is less than the amount payable under Section 40, he shall issue a notice calling upon such person to credit the balance of the amount (to the same head of account) within fifteen days, which shall not be beyond the period specified in sub-rule (1), from the date of receipt of the notice and produce the challan for having credited the amount.

(3) Where the penalty paid is in accordance with the provisions of Section 40, the Tahsildar shall make an order that the proper amount of penalty has been paid. A copy of such order shall be sent to the Village Accountant concerned who shall enter the changes in the register of mutations and in the Record of Rights against the entries relating to the transfer or partition or sub-division as the case may be, of the land in respect of which the penalty has been paid, the amount of penalty and the date on which it is paid. A copy of the order shall also be sent to the applicant.]

1. Rule 29 substituted by GSR 7, dated 28-12-1970, w.e.f. 7-1-1971.

30. Correction of Record of Rights :-

In accordance with the scheme of consolidation, the Record of Rights shall be corrected ¹ [x x x x x] in the manner laid down in the Karnataka Land Revenue Act and the Rules made thereunder.

1. The words "by the Consolidation Officer" omitted by GSR 426, dated 22-11-1969, w.e.f. 11-12-1969.

31. Officer who may determine areas where land possessing facilities for assured irrigation lie and the manner in which they may determine such areas :-

(1) The Assistant Commissioner having jurisdiction over any area

shall determine as required under Explanation 1 to the Schedule to the Act the areas where land possessing facilities for assured irrigation lie. For this purpose, the Assistant Commissioner may obtain such information as he may consider necessary from any Department of Government.

(2) The Assistant Commissioner shall prepare a provisional list of areas where land possessing facilities for assured irrigation lie; and shall cause such list along with a notice, to be published by affixture on the Notice Board of his office, and on the Notice Boards of the Taluk Offices concerned, and by affixture of the relevant extract thereof in the village chavadies concerned.

(3) A notice under sub-rule (2) shall specify that any person interested may within thirty days from the date of affixture of the notice in the Office of the Assistant Commissioner file any objections or suggestions before the Assistant Commissioner. The Assistant Commissioner shall consider such objections and suggestions as may be received within the time so specified, determine the areas and publish the list by affixture on the Notice Board in his office and on the Notice Boards of the Taluk Offices concerned and by affixture of the relevant extracts thereof in the chavadies concerned.

32. Officer who may specify the average rainfall :-

For the purpose of Explanation 2 to the Schedule to the Act, the Director of Bureau of Economics and Statistics in Mysore, Bangalore, shall after treating every Taluk as a unit, notify in the Official Gazette the average of the annual rainfall of every Taluk during a period of twenty-five years prior to the Second day of October, 1965. ¹ [Provided that. -

(i) Where from out of the limits of any taluk, a new taluk is created the average annual rainfall already notified for the taluk shall be deemed to be the average annual rainfall for the new taluk also; and

(ii) Where a new taluk is created out of two or more taluks, the Director of Bureau of Economics and Statistics shall, after taking into consideration the average annual rainfall notified for such taluks, notify the average annual rainfall for the new taluk.]

1. Proviso added by GSR 405. dated 10-12-1971. w.e.f. 16-12-1971.

33. Repeal and Savings :-

All rules framed under the enactments repealed by Section 47 of the Act are hereby, repealed: Provided that the repeal shall not affect.

(a) the previous operation of the rules so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, application or liability acquired, accrued or incurred under any rule so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any rule so repealed; or

(d) any investigation or legal proceeding or remedy in respect of any such right, privilege, obligation, liability or penalty, forfeiture or punishment as aforesaid any such investigation, legal proceeding or remedy may be instituted continued, or enforced and any such penalty, forfeiture, punishment may be imposed as if such rules had not been repealed:

Provided further that anything done or any action taken (including any appointment or delegation made, notification, order, instructions or directions issued, certificate obtained, permit granted or registration effected under any such rules), shall be deemed to have been done or taken under the corresponding provisions of these rules and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the Act or these rules as the case may be.