

## **BOMBAY VILLAGE PANCHAYATS (RECOVERY OF DUES) RULES, 1960**

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## **BOMBAY VILLAGE PANCHAYATS (RECOVERY OF DUES) RULES, 1960**

In exercise of the powers conferred by Section 176 of the Bombay Village Panchayats Act, 1958 (Bom.III of 1959), and in supersession of all rules made under any of the enactments repealed by Section 185 of the said Act and still in force in so far as they provide for matter covered by these rules, the Government of Maharashtra hereby makes the following rules, namely

### **1. Short title :-**

These rules may be called the BOMBAY VILLAGE PANCHAYATS (RECOVERY OF DUES) RULES, 1960 .<sup>1</sup>

1. Subs, by G.N. of 18.8.1964

### **2. Definitions :-**

In these rules, -

(a) "Act" means the Bombay Village Panchayats Act, 1958 ;

(b)<sup>1</sup> [\* \* \*]

(c) "dues" means any tax or fee or any other sum due from a person to the panchayat under the Act or or rules thereunder;

(d) "Form" means a form appended to these rules;

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

1. Deleted by G.N. of 22.9.1970.

### **3. Form of writ of demand :-**

The writ of demand to be served on the defaulter under Sub-Section (2) of Section 129 shall be in Form 'A'.

### **4. Warrant of distress :-**

If the person liable to pay any dues for which a writ of demand has been served on him does not, within thirty days from the date of service of such writ of demand either,

(1) pay the sum demanded in the writ, or

(2) show sufficient cause to the satisfaction of the panchayat for the non-payment of the sum demanded, a warrant of distress in Form 'B' shall be issued.

### **5. Warrant of distress to be signed and executed :-**

<sup>1</sup> :- Every sum warrant shall be signed either by the Secretary or any other servant of the panchayat authorised by him and shall be executed by such other servant of the panchayat as it may authorise in this behalf.

1. Subs, by G.N. of 7.3.1985.

### **6. Distraint of goods or chattel of defaulter :-**

<sup>1</sup>[Subject to the provisions of rule 6A, the <sup>2</sup> [authorised person] shall distrain, wherever found, any goods or chattel of the person named in the warrant as defaulter:

Provided that, -

(a)

(1) the necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, of his wife and children and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman,

(2) The tools of artisans,

(3) If the defaulter is an agriculturist his implements of husbandry,

seed, grain, and such cattle as may be necessary to enable him to earn his livelihood shall not be distrained;

(b) The property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant and if any property has been distrained which in the opinion of the person authorised to sign the warrant under rule 5 should not have been so distrained, it shall forthwith be returned to the person in whose possession it was at the time of distraint.

1. Subs, by G.N. of 15.4.1968

2. Subs, by G.N. of 22.9.1970

**6A. Investigation of claims to, and objections to distraint of, distrained property :-**

(1) Where any claim is preferred to, or any objection is made to the distraint of, any property distrained in execution of a warrant on the ground that such property is not liable to such distraint, the panchayat shall, by order in<sup>^</sup> Writing, direct the authorised person to investigate the claim or objection in the manner provided by this rule and so submit to it within fifteen days a report thereon.

(2) If the property to which the claim or objection applies has been advertised for sale, the authorised person ordering the sale shall postpone it, pending the investigation of the claim or objection.

(3) The authorised person shall examine the claimant or objector who shall adduce evidence to show that at the date of the distraint, he had some interest in, or was possessed of, the property distrained.

(4) If any document is produced in evidence of the claim or objection, it shall be endorsed to that effect and a note, of it shall be taken. The document shall be returned to the claimant or objector soon after the investigation is completed.

(5) In investigating the claim or objection, the authorised person shall take into account the fact whether the property was not, when distrained in possession of the defaulter or of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in possession of the defaulter at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person.

(6) On completion of the investigation, the authorised person shall submit his report together with his decision and reasons in support thereof to the panchayat within the time limit prescribed under sub-rule(1).

(7) On receipt of the report under sub-rule (6), the panchayat shall on hearing the claimant or objector, by order in writing, direct the authorised person either -

(a) To release the property wholly or to such extent as it deems fit; or

(b) To distrain the property Where the property has been ordered to be distrained, the authorised person shall follow the procedure as hereinafter provided.

**7. Inventory of goods and chattels distrained and notice for sale :-**

The [authorised person] shall forthwith make an inventory of the goods and chattels which he has seized under such warrant and shall at the same time give a written notice in Form 'C' to the person in whose possession it was at the time of seizure, that the said goods and chattels shall be sold, if he fails to pay within seven days [from the date of service of the notice upon him] into the office of the panchayat the amount recoverable under the notice together with the cost of recovery:

Provided that, the [authorised person] shall not remove the property distrained but shall keep it with the defaulter on his giving a surety for the amount equal to the value of the property distrained, to produce the property distrained, whenever required:

Provided further that, when the property distrained is 'Subject to speedy and natural decay, or when the expenses of keeping it in custody together with the amount to be recovered is likely to exceed its value, the person by whom the warrant was signed shall at once give notice to the person in whose possession the property was when distrained, to the effect that it will be sold at once, and shall sell it accordingly, unless the amount specified in the warrant be forthwith paid:

Provided also that, if after the penalty is distrained and before it is removed the sum due by the defaulter together with all costs incidental to the service of writ warrant and distress of the property are paid, the [authorised person] shall remove the distress.

**8. Copy of notice for sale to be affixed at panchayat office :-**

A copy of the notice given under Rule 7 shall also be affixed at the office of the panchayat.

**9. Auction of goods and chattels seized :-**

The goods and chattels seized shall, after the expiry of the period named in the notice served under rule 7, be sold by the panchayat by public auction held at the office of the panchayat:

Provided that no member or the Secretary or any other servant of the panchayat shall be permitted to bid at such auction.

**10. Disposal of surplus sale proceeds :-**

The surplus, if any, of the sale proceeds of the distrained goods after satisfying the claims of the panchayat shall be paid to the person in whose possession the goods and chattels were at the time of the distraint.

**11. Fee for writ of demand :-**

The fee [of] every writ of demand issued under sub-section (2) of Section 129 shall be chargeable at the following rate, namely:-

**12. Fee for distress :-**

The fee for every distress made under sub-section (4) of Section 129 shall be chargeable at the rate of [0.30 P] for every amount of Rs.5 or part thereof for which the distress is made.

**13. Cost of maintaining livestock :-**

The cost of maintaining any livestock seized under sub-section (4) of Section 129 shall be chargeable at the following rates namely:-

Explanation:- For the purposes of this rule -

(a) a colt or a filly which has completed three years of age, and

(b) a heifer, shall be chargeable as a horse or mare, or, as the case may be, a cow.