

Rajasthan Co-Operative Land Mortgage Banks Act, 1956

38 of 1956

[31 October 1956]

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Rajasthan Co-Operative Land Mortgage Banks Act, 1956

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An Act to facilitate the working of Co-operative Land Mortgage Banks in the State of Rajasthan. Whereas it is expedient to make provision for facilitating the working of Co-operative Land Mortgage Banks in the State of Rajasthan with a view to providing for the grant of long term loans to holders of land to enable them to discharge their debts, to carry out agricultural improvements, to acquire land for the formation of economic holdings and other like purposes and thereby to promote thrift and self help among them; Be it enacted by the Rajasthan State Legislature in the Seventh

Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title :-

The Act may be called the Rajasthan Co-operative Land Mortgage Banks Act, 1956.

2. Extent And Commencement :-

- (1) This Act extends to the whole of the State of Rajasthan.
- (2) It shall come into force at once.

3. Definitions :-

In this Act, unless the subject or context otherwise requires,-

- (a) "Board" means the Board of Directors of the Central Mortgage Bank;
- (b) "Central Mortgage Bank" means the Rajasthan Co-operative Central Land Mortgage Bank which is, or may hereinafter be, established and registered or deemed to be registered as such under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act IV of 1953);
- (c) "Committee" means, in relation to a Mortgage Bank, the Committee of Management or other directing body of a mortgage bank to whom the management of its affairs is entrusted;
- (d) "Mortgage Bank" means a Co-operative Land Mortgage Bank registered or deemed to be registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act IV of 1953) and admitted as a member of the Central Mortgage Bank;
- (e) "Registrar" means the person appointed by the State Government to be Registrar of Co-operative Societies for the State of Rajasthan under section 6 of the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act IV of 1953);
- (f) "Trustee" means the Trustee referred to in section 5;
- (g) "Principal Officer of the Co-operative Department" means, in relation to a district, the Assistant Registrar of Co-operative Societies having jurisdiction over the district; and
- (h) references to the Transfer of Property Act, 1882 (Central Act IV of 1882) shall, in cases where that Act does not apply, be construed as references to that Act as adapted to the State of Rajasthan by the Rajasthan Adaptation of Central Laws Ordinance, 1950 (Rajasthan Ordinance IV of 1950)

CHAPTER 2 DEBENTURES

4. Issue Of Debentures By The Board :-

(1) (a) With the previous sanction of the Trustee, the Board may issue debentures of one or more denominations for such periods as it may deem expedient on the security of the mortgages assigned or deemed under section 24 to have been assigned, and other assets transferred, by mortgage banks to the Central Mortgage Bank and of the other properties of such Bank.

(b) Such debentures may contain a term fixing a period not exceeding ten years from the date of issue during which they shall be irredeemable, or reserving to the Board the right to call in at any time any of the debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months notice in writing.

(2) The total amount due on the debentures issued by the Board and outstanding at any time, shall not exceed the aggregate of-

(i) the total amount due on the mortgages assigned or deemed under section 24 to have been assigned by the mortgage banks to the Central Mortgage Bank.

(ii) the value of other assets transferred by the mortgage banks to the Central Mortgage Bank and subsisting at such time, and

(iii) the amount paid under the mortgages referred to in clause (I) and remaining in the hands of the Board or of the trustee at that time.

5. Appointment Of Trustee And His Powers And Functions :-

(1) The Registrar, or, where the State Government appoints any other person in this behalf, such person, shall be the Trustee for the purposes of securing the fulfillment of the obligations of the Central Mortgage Bank to the holders of debentures issued by the Board.

(2) The mortgages assigned or deemed under section 24 to have been assigned, and other assets transferred, by the mortgage banks to the Central Mortgage Bank shall vest in the Trustee.

(3) The holders of the debentures issued under section 4 shall have a floating charge on all mortgages and assets referred to in that section, on the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee and on the other properties of the Central Mortgage Bank.

(4) The powers and functions of the Trustee shall be governed by the instrument of trust executed between the Central Mortgage Bank and the Trustee as modified from time to time by mutual agreement.

(5) The form of such instrument, or any modification thereof which the parties thereto may mutually agree to make in any of its terms after its execution, shall be subject to the previous approval of the State Government.

6. Guarantee By State Government Of Principal Of, Interest On Debentures Issued Under Section 4 :-

(1) The principal of, and interest on, the debentures issued under section 4 to such maximum amount as may be fixed by the State Government and subject to such conditions as it may think fit to impose, shall, subject to the provisions of sub-sections (3) and (4), carry the guarantee of the State Government.

(2) The State Government may increase the maximum amount of any guarantee given by it.

(3) State Government may, after consulting the Board and the Trustee

(a) by notification in the 1[Official Gazette,] and

(b) by notice published for not less than fourteen days in such of the principal newspapers in the State of Rajasthan and of the other States in India as the State Government may select in this behalf, discontinue any guarantee given by it or restrict the maximum amount thereof or modify the conditions subject to which it is given with effect from a specified date, not being earlier than six months from the date of publication of the modification in the [Official Gazette].

(4) In cases where the maximum amount of the guarantee is to be restricted or the conditions subject to which the guarantee is given are to be modified, the notification and notice aforesaid shall set forth with sufficient clearness the scope and effect of the restriction or modification, as the case may be.

(5) The withdrawal, restriction or modification of any guarantee under this section shall not affect in any way the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

1. Substituted by section 4 of the Rajasthan Act No. 27 of 1957 pub. in Raj. Gaz. Pt IV-A, Exty. dated 13.8.1957, This Act now extends to the whole of the State of Rajasthan including the Abu

Ajmer and Sunel areas w.e.f. 1.9.1957 i.e., the date of enforcement of Rajasthan Act No. 27 of 1957.

7. Power Of Board To Make Regulations :-

The Board may, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Chapter-

- (i) for fixing the period of debentures and the rate of interest payable thereon;
- (ii) for calling in debentures after giving notice to debenture-holders;
- (iii) for the issue of new debentures in place of debentures damaged or destroyed.
- (iv) for converting one class of debentures into another bearing a different rate of interest; and
- (v) generally for carrying out the provisions of this Chapter.

CHAPTER 3 DISTRAIT AND SALE OF PRODUCT OF MORTGAGED LAND

8. Distrait When To Be Made :-

(1) If any installment payable under a mortgage executed in favour of the Central Mortgage Bank or a mortgage bank or any part of such installment has remained unpaid for more than one month from the date on which it fell due, the Board or the committee, as the case may be, may in addition to any other remedy available, apply to the Registrar or to any person appointed by the State Government under section 6 of the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act IV of 1953), to assist the Registrar for the recovery of such installment or part by distrait and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application the Registrar or such person may, notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882) but subject to the provisions of section 130 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) and section 224 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956), take such action as is necessary to distain and sell such produce:

Provided that no distrait shall be made after the expiry of twelve months from the date on which the installment fell due.

(2) The distress shall not be excessive; the value of the property distained shall be, as nearly as possible, equal to the amount due

and the expenses of the distraint and the costs of the sale as well as all rent, revenue and Government dues outstanding against the defaulter in respect of that harvest only, which may be communicated to or brought to the notice of the Registrar or other person making the distraint.

9. Distrait How To Be Effected :-

(1) Before or at the time when a distraint is made under section 8, the distraint shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(2) The demand shall be dated and signed by the distained and shall be served upon the defaulter by delivering a copy to him or to some adult member of his family at his usual place of abode or to his authorized agent or, when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

10. Sale Of Property Distained :-

(1) if, within fifteen days from the date of service of the demand referred to in section 9, the defaulter does not pay the amount for which the distraint was effected the disdainer may sell in auction the distained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distained and the costs of the sale and all rent, revenue and Government dues referred to in sub-section (2) of section 8.

(2) From the proceeds of such sale, a deduction shall be made at a rate not exceeding one Anna in the rupee on account of the costs of the sale.

(3) From the balance shall be deducted the expenses incurred by the disdainer on account of the distraint and all rent, revenue and Government dues referred to in sub-section (1).

(4) The remainder, if any, shall be applied to the discharge of the amount for which the disdain was made.

(5) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

11. Defect Etc. Not To Vitate Distrait :-

(1) No defect, irregularity or want of form in making any distraint or

sale under this Chapter shall vitiate such distraint or sale.

(2) Any person aggrieved by such distraint or sale shall, however, have his remedy in damages against the Central Mortgage Bank or a mortgage bank, as the case may be, at whose instance such distraint and sale were made.

12. Powers Of State Government To Make Rules :-

The State Government may make rules not inconsistent with this Chapter-

- (i) for the manner of effecting distraint,
- (ii) for the custody, preservation and sale of distained property,
- (iii) for the investigation of claims by persons other than the defaulter to any right or interest in the disdained property and for the postponement of the sale pending such investigation,
- (iv) for the immediate sale of perishable articles, and
- (v) generally for the purpose of carrying out the provisions of this Chapter.

CHAPTER 4 SALE OF MORTGAGED PROPERTY

13. Power Of Sale When To Be Exercised :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), where a power of sale without the intervention of the court is expressly conferred on the Central Mortgage Bank or a mortgage bank by the mortgage deed, the Board or the committee, as the case may be, of such Bank or any person, authorized by such Board or committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available, to bring the mortgaged property to sale without the intervention of the court subject to the provisions contained in section 130 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) and in section 224 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956).

(2) No such power shall be exercised unless and until:-

- (a) in the case of a mortgage bank, the Board has previously authorized the exercise of the power conferred by sub-section I);
- (b) the Board or the committee has previously heard the objections, if any, of the mortgagor or mortgagors;
- (c) notice in writing requiring payment of such mortgage money or part has been served upon-

- (i) the mortgagor or each of the mortgagors;
 - (ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same;
 - (iii) any surety for the payment of the mortgage debt or any part thereof; and
 - (iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and
- (d) default has been made in payment of such mortgage money or part for three months after such service.

14. Application For Sale And Manner Of Sale :-

(1) In exercise of the power of sale conferred by section 13 the Board or the Committee or any person duly authorized by such Board or committee may apply to the sale officer appointed in that behalf under section 22 of sell the mortgaged property or any part thereof, and such officer shall, after giving notice in writing to all the persons referred to in section 13, sell such property in the manner prescribed, subject to the provisions contained in section 130 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) and in section 224 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956).

(2) The sale shall be by public auction, shall, in case of the property to be sold being an agricultural holding, be subject to the provisions of sections 42 and 213 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) and shall be held in the village where the mortgaged property is situated or at the-nearest place of public resort if the sale officer is of opinion that the property is likely to sell to better advantage there.

15. Application To Set Aside Sale On Deposit And Confirmation Of Sale In Default Or On Dismissal Of Such Application :-

(1) When any mortgaged property has been sold under this Chapter, the mortgagor or any person having a right or interest therein affected by the sale may, at any time within thirty days from the date of sale, apply to the Board or the committee concerned as the case may be, to have the sale set aside on his deposit at the office of the Central Mortgage Bank or the mortgage bank concerned, as the case may be-

(a) for payment to the Central mortgage Bank or the mortgage

bank, the amount specified in the proclamation of sale together with subsequent interest and the costs, if any, incurred in bringing the property to sale, and

(b) for payment to the purchaser, a sum equal to five percent of the purchase money.

(2) If such deposit is made, the Board or the Committee shall make an order setting aside the sale.

(3) Where no application is made under sub-section (1) or where such application is made and disallowed, the Board or the committee, as the case may be, shall apply to the Principal Officer of the Co-operative Department in the district to make an order confirming the sale and, on such officer confirming the sale, it shall become absolute.

16. Distribution Of The Proceeds Of Sale :-

(1) The proceeds of every sale under this Chapter shall be applied by the sale officer, first, in payment of all rent, revenue and Government dues in respect of the property sold which may be communicated to, or brought to the notice of, the sale officer; secondly, in payment of all costs, charges and expenses properly incurred by him incident to the sale or any attempted sale; thirdly, in payment of all interest due on account of the mortgage in consequence whereof the mortgaged property was sold; fourthly, in payment of the principal money due on account of the mortgage and lastly the residue, if any, shall be paid to the person proving himself interested in the property sold or, if there are more such persons than one, then to such persons according to their respective interests therein or upon their joint receipt.

(2) (a) Any person dissatisfied with the decisions of the sale officer in regard to the distribution of residue may, within thirty days of the communication to him of such decision, institute a suit in court to establish the right he claims.

(b) The sale officer shall not distribute such residue until thirty days have elapsed from the communication of his decision to all the persons concerned or, if a suit has been instituted within the said period of thirty days by any such person, until the suit is disposed of or otherwise than in accordance with the decision of the court therein.

Explanation.--In this sub-section, "court" means the civil court which would have jurisdiction to entertain a suit to enforce the mortgage and within the limits of whose jurisdiction the property

sold is situated.

17. Certificate To Purchaser :-

(1) Where a sale of mortgaged property has become absolute, the sale officer shall grant a certificate specifying the property sold and the name of the person who at the time of the sale is declared to be the purchaser. Such certificate shall bear date, the day on which the sale became absolute.

(2) The person so declared to be the purchaser of the interest of the mortgagor in his holding or part thereof shall have the same interest in such holding or part and be subject to the same liabilities in respect thereof as the mortgagor.

18. Delivery Of Property To Purchaser :-

(1) Where the mortgaged property sold is in the occupancy of the mortgagor or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the Central Mortgage Bank or a mortgage bank and a certificate in respect thereof has been granted under section 17 the court shall, on the application of the purchaser, order delivery to be made by putting such purchaser or by any person whom he may appoint to receive delivery on his behalf, in possession of the property.

(2) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under section 17, the court shall, on the application of the purchaser and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the mortgagor has been transferred to the purchaser.

(3) In regard to the cases dealt with in sub-sections (1) and (2), the provisions of rules 97 to 103 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (Central Act 5 of 1908) shall, mutates mutans and so far as may be, apply.

Explanation.--In this section "court" shall have the same meaning as in sec. 16.

19. Right Of Mortgage Bank Or Of The Central Mortgage

Bank To Purchase The Mortgaged Property At Sale :-

It shall be competent to a mortgage bank or the Central Mortgage Bank to purchase the mortgaged property sold under this Chapter, but the property so purchased shall be disposed of by such bank by sale with in such period as may be fixed by the Trustee.

20. Appointment Of Receiver And His Powers :-

(1) The Board may, of its own motion or, in the case of a mortgage executed in favour of a Mortgage Bank, on the application of such mortgage bank and under circumstances in which the power of sale conferred by section 13 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realized by him; his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882 (Central Act IV of 1882).

(2) A receiver appointed under sub-section (1) may for sufficient cause and on application made by the mortgagor, be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a civil court.

21. Title Of Purchaser Not To Be Impeached On The Ground Of Irregularity Etc :-

When a sale has been made in exercise of a power of sale under section 14 and has been confirmed under sub-section (3) of section 15, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale, or that due notice was not given or that the power was otherwise improperly or irregularly exercised, but any person dandified by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the Central Mortgage Bank or the mortgage bank concerned, as the case may be, by whom the power of sale conferred by section 13 was exercised.

22. Appointment Of Sale Officer :-

The Registrar may appoint a sale officer for the purpose of conducting sales under this Chapter.

23. Power Of State Government To Make Rules :-

The State Government may make rules not inconsistent with this Chapter:-

- (i) for the due proclamation and conduct of the sale;
- (ii) for the recovery of the expenses of the proclamation and sale;
- (iii) for the deposit of the purchase money;
- (iv) for the resale of the property, if the purchase money is not deposited; and
- (v) generally for carrying out the provisions of this Chapter.

CHAPTER 5 MISCELLANEOUS

24. Mortgages Executed In Favour Of Mortgage Bank To Stand Assigned To Central Mortgage Bank :-

Upon the issue of debentures under section 4, all mortgages executed in favour of a mortgage bank by the members thereof and other assets, on the security of which debentures are issued, shall, with effect from the date of such issue, be deemed to have been respectively assigned and transferred by such mortgage bank to the Central mortgage bank.

25. Powers Of Mortgage Bank In Case The Mortgaged Property Is Wholly Or Partially Destroyed Or The Security Is Rendered Insufficient :-

Where any property mortgaged to the Central Mortgage Bank or a mortgage bank is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the Board or the committee, as the case may be, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Board or the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the Board or the committee shall be entitled to take action against the mortgagor under section 8 or section 13 for the recovery thereof.

Explanation.--A security is insufficient within the meaning of this

section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Central Mortgage Bank or the mortgage bank concerned.

26. Powers Of Board Or Trustee To Direct Distrain And Sale Of Produce And The Sale Of Mortgaged Property Etc :-

(1) In the case of the Central Mortgage Bank the Trustee may direct the Board and, in the case of mortgage bank, the Board or the Trustee may direct its committee, to take action against a defaulter under section 8 or section 13 or section 25 and, if the Board or the committee neglects or fails to do so, the authority making the direction may take such action.

(2) (a) Where such action is taken by the Board, the provisions of this Act and of any rules or regulations made there under shall apply in respect thereto as if all said provisions were references to the Central Mortgage Bank and the Board respectively.

(b) Where such action is taken by the Trustee, the provisions of this Act and of any rules and regulations made there under shall apply in respect thereto as if all references to the Central Mortgage Bank or a mortgage bank or to its Board or committee in the said provisions were references to the Trustee.

27. Mortgagors Power To Lease :-

Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act No. IV of 1882) or in the Rajasthan Tenancy Act, 1955 (Rajasthan Act No. 3 of 1955) the duration of any lease executed by a mortgagor of property mortgaged to the Central Mortgage Bank or a Mortgage Bank after the execution of the mortgage shall in no case exceed five years.

28. Mortgage Not To Be Questioned On Insolvency Of Mortgagor :-

Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (Central Act V of 1920), a mortgage executed in favour of the Central Mortgage Bank or a mortgage bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Central mortgage bank or a Mortgage Bank preference over the other creditors of the mortgagor.

29. Right To Pay Prior Debts Of Mortgagor :-

Where a mortgage is executed in favour of the Central Mortgage Bank or a mortgage bank for payment of prior debts of the mortgagor, such bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882 (Central Act IV of 1882) notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice. If any such person fails to recover such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:

Provide that, where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the mortgage bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

30. Power To Summon Witness And Requisition Documents :-

(1) Subject to such restrictions, limitation and conditions as may be prescribed, the Registrar and persons subordinate to the Registrar who are authorized by him in this behalf be general or special order in writing and such other persons; being officials engaged in the relief of rural indebtedness or officers of co-operative banks which are registered or deemed to be registered under the Rajasthan Co operative Societies Act, 1953 (Rajasthan Act IV of 1953) as the State Government may, by notification in the Rajasthan Gazette, authorized in this behalf, shall have the same powers as are vested in court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit; in respect of the following matters, namely:-

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses.

(2) Any of the officers or persons authorized by or under subsection (1) may require any person present before him to furnish any information or to produce any document then and there in his possession or power.

(3) Any officer or person before whom any document is produced under subsection (1) or sub-section 2 shall have the power to take or to authorize the taking of, such copies of the documents or of any entries therein as such officer or person may consider necessary. Copies so taken shall, when certified in such manner as may be prescribed be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein, as the case may be.

(4) (a) Any person willfully or without reasonable excuse disobeys any summons, requisition or order issued under sub-section (1) or sub-section (2) shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing disobedience, with an additional fine which may extend to five rupees for every day during which such disobedience continues after conviction for the last such disobedience.

(b) No court inferior to that of Magistrate of the first class shall try an offence under clause (a).

(c) Every offence under clause (a) shall, for the purpose of the Code of Criminal Procedure, 1898 (Central Act V of 1898), be deemed to be non-cognizable.

(d) No prosecution shall be instituted under clause (a) without the previous sanction,-

(i) of the Registrar in case the summons, requisition or order alleged to have been disobeyed was issued by the Registrar or any disobeyed person subordinate to him or by any officer of a co-operative bank; and

(ii) of the Collector of the district in other cases.

(e) Such sanction shall not be given without giving the party concerned an opportunity to be heard.

(5) The State Government shall have powers to make rules for giving effect to the provisions of this section.

31. Registration Of Documents Executed On Behalf Of A Mortgage Bank Or Of The Central Mortgage Bank :-

(1) Notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act 16 of 1908) it shall not be necessary for any Director, Secretary or other officer of mortgage bank or of the Central Mortgage Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of the Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Director, Secretary or officer for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

32. Power Of Mortgage Bank To Receive Money And Grant Valid Discharges Notwithstanding Assignment Of Mortgage Deeds To The Central Mortgage Bank :-

Notwithstanding that a mortgage executed in favour of the mortgage bank has been assigned, or is deemed under the provisions of section 24 to have been assigned, to the Central Mortgage Bank-

(a) all money due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the trustee and communicated to the mortgagor, be payable to the mortgage bank, and such payment shall be as valid as if the mortgage had not been so assigned; and

(b) the mortgage bank shall, in the absence of any specific direction to the contrary issued by the Board or the Trustee and communicated to the mortgage bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

33. Special Provision For Mortgages Executed By Managers Of Joint Hindu Families :-

(1) Where a mortgage executed in favour of the Central Mortgage Bank or a mortgage bank either before or after the commencement of this Act is called in question on the ground that it was executed by the manager of a Joint Hindu Family, for a purpose not binding on the members thereof, whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, be on the party raising it.

(2) A mortgage so executed by the manager of a Joint Hindu Family shall be binding on the members thereof, whether major or minor, if the loan secured by the mortgage was advanced for any of the following purposes, namely:-

(a) the improvement of agricultural land or of the methods of cultivation; and

(b) the purchase of land.

34. Proof Of Documents Or Entries In Documents :-

Any mortgage bank or the Central Mortgage Bank may grant copies of any document contained or kept by it in the course of its business or of any entries therein; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein, as the case may be.

35. Chapters Iii And Iv To Apply To Loans Advanced By Mortgage Banks From Funds Not Borrowed From The Central Mortgage Bank :-

The provisions of Chapter III and IV shall apply also to the loans advanced by mortgage banks from funds which have not been borrowed from the Central Mortgage Bank.

36. Service Of Notice Under The Act :-

Whenever under the provisions of this Act notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

37. Sections 102, 103 And 104 Of The Transfer Of Property Act, 1882 To Apply To Such Notices :-

The provisions of section 102 and 103 of the Transfer of Property Act, 1882 (Central Act IV of 1882) and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections shall apply, so far as may be in respect of all notices to be served under this Act.

38. Officers Of Mortgage Banks And Of The Central Mortgage Bank And Sale Officers Not To Bid At Sale :-

At any sale of movable or immovable property held under the provisions of this Act in order to recover any money due to the Central Mortgage Bank or a mortgage bank no Director, Secretary or other officer of any such Bank (except on behalf of the Bank of which he is a Director or Secretary or an officer), and no Sale Officer or other person having any duty to perform in connection with such sale, shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in such property.

39. Delegation Of Certain Powers By Board :-

The Board may, if it thinks fit, delegate all or any of its powers under sections 13, 20 and 26 to an executive committee constituted by it and consisting of two or more of its members.

40. Power Of Board To Make Regulations :-

Notwithstanding anything contained in the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act IV of 1953) or the rules made there under, the Board shall have a general power of supervision over the mortgage banks and may make regulations not inconsistent with this Act or the rules made there under;

(a) for the inspection of the account books and proceedings of mortgage banks;

(b) for the submission of returns and reports by mortgage banks in respect of their transactions;

(c) for the periodical settlement of accounts between mortgage banks and the Central Mortgage Bank and for the payment of the amounts recovered by mortgage banks on mortgages assigned or deemed under the provisions of section 24 to have been assigned to the Central Mortgage Bank;

(d) for prescribing the form in which applications to the Central Mortgage Bank or mortgage banks for loans should be made;

(e) for the valuation of the properties offered as security for such loans;

(f) for the investment of moneys realized from the mortgagors; and

(g) generally for the purpose of safeguarding the interests of the parties concerned and carrying out the purposes of this Act.

41. Omitted :-

1Omitted

1. Omitted vide Item No. (46) of the Schedule to the Rajasthan Act No. 27 of 1957, Pub. in Raj. Gaz. Pt. IV-A. Exty. dated 13.8.1957. This Act now extends to the whole of the State of Rajasthan including the Abu, Ajmer and Sunel areas with effect from 1.9.1957 i.e. the date of enforcement of Rajasthan Act No. 27 of 1957.

42. Omitted :-

1Omitted

1. Omitted vide Item No. (46) of the Schedule to the Rajasthan Act

No. 27 of 1957, Pub. in Raj. Gaz. Pt. IV-A. Exty. dated 13.8.1957.
This Act now extends to the whole of the State of Rajasthan
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