

Madras Co-Operative Land Mortgage Banks Act, 1934

10 of 1934

[31 July 1934]

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Madras Co-Operative Land Mortgage Banks Act, 1934

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PREAMBLE

An Act to facilitate the working of Co-operative Land Mortgage Banks in the Presidency of Madras.

Whereas it is expedient to supplement the provisions of the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), in order to facilitate the working of co-operative land mortgage banks in the Presidency of Madras with a view to provide for the grant of long-term loans to owners of land or other immovable property, 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;

And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, dated 7th February 1933--Part IV, pages 20-22.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

This Act was extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 3 of, and the Schedule to, the Madras (Transferred Territory) Extension of Laws Act, 1957 (Madras Act XXII of 1957) repealing the corresponding law in force in that territory.

CHAPTER 1 PRELIMINARY

1. Short title :-

This Act may be called the Madras Co-operative Land Mortgage Banks Act, 1934.

2. Extent :-

It extends to the whole of the Presidency of Madras.

3. Definitions :-

In this Act, unless there is anything repugnant in the subject or context--

(a) Board means the Board of Directors of the Central Mortgage Bank;

(b) Central Mortgage Bank means the Madras Co-operative Central Land Mortgage Bank, Limited;

(c) committee means, in relation to the mortgage bank, the Board of Directors or Board of Management or the panchayat or the committee of management or the governing body 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 Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), and admitted as a member of the Central Mortgage Bank;

(e) prescribed means prescribed by rules made by the ¹[State Government] under this Act;

(f) Registrar means the person appointed by the ¹[State Government] to be Registrar of Co-operative Societies for the Presidency of Madras under section 3 of the Madras Co-operative Societies Act, 1932; and

(g) Trustee means the Trustee referred to in section 5.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order 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 and other assets transferred ¹[or deemed under the provisions of section 23-A to have been transferred] by the 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 (including those issued before the commencement of this Act) and outstanding at any time shall not exceed ²[the aggregate of (a) the amounts due on the mortgages, and the value of the other assets, transferred or deemed under the provisions of section 23-A to have been transferred by the mortgage banks to the Central Mortgage Bank and subsisting at such time and (b) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time].

1. This Expression was, inserted by section 2(i) of the Madras Cooperative Land Mortgage Banks (Amendment) Act, 1950 (Madras Act IX of 1950).

2. This was substituted for the words "the total amount due on the mortgages, the amounts paid thereunder and remaining in the hands of the Board or of the Trustee at such time and the value of all other assets transferred by the mortgage banks to the Central Mortgage Bank and subsisting at that time" by section 2(ii), *ibid*.

5. Appointment of Trustee and his powers and functions :-

The Registrar, or where the ¹[State Government] appoint any other person in this behalf such person, shall be the Trustee for the purpose of securing the fulfilment of the obligations of the Central Mortgage Bank to the holders of debentures issued by the Board. The mortgages and other assets transferred ²(or deemed under the provisions of section 23-A to have been transferred) by the mortgage banks to the Central Mortgage Bank shall vest in the Trustee from the date of such transfer. The holders of the debentures shall have a floating charge on all such mortgages and assets, 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. The powers and functions of the Trustee shall be governed by the instrument of trust executed between the Bank and the Trustee as modified from time to time by mutual agreement between the Board and the Trustee.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2. This Expression was inserted by section 3 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1950 (Madras Act IX of 1950).

6. Guarantee by State Government of principal of, and 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 ¹[State Government] and subject to such conditions as they may think fit to impose shall, subject to the provisions of sub-section (3), carry the guarantee of the ¹[State Government].

(2) The ¹[State Government] may, after consulting ²[both ³(Houses) of the ⁴(State) Legislature], increase the maximum amount of any guarantee given by them.

(3) The ¹[State Government] may, after consulting the Board and the Trustee-

(a) by notification in the ⁵[Official Gazette], and

(b) by notice for not less than fourteen days in such of the principal newspapers in the ⁶(State) of Madras and of ⁷(other States) as the ⁸[State Government] may select in this behalf, discontinue any guarantee given by them 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 notification in the ⁵[Official Gazette].

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.

Explanation.--The withdrawal, restriction or modification of any guarantee under this sub-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. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2. These words were substituted for the words "the Legislative Council" by the Adaptation Order of 1937.

3. This word was substituted for the word "Chambers" by the Adaptation (Amendment) Order of 1950.

4. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

5. These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

6. This word was substituted for the word "Presidency" by the Adaptation (Amendment) Order of 1950.

7. These words were substituted for the words "the other Provinces in British India" by *ibid*.

8. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

7. Guarantee by State Government of principal of, and interest on, debentures issued before commencement of the Act :-

The ¹[State Government] may, in their discretion, guarantee the principal of, and the interest on, any debentures issued before the commencement of this Act by the Board, subject to such conditions as the ¹[State Government] may think fit to impose.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

8. power of Board to make regulations :-

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 DISTRAINT AND SALE OF PRODUCE

9. Distraint when to be made :-

(1) If any instalment payable under a mortgage executed in favour of a mortgage bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee may, in addition to any other remedy available to the bank, apply to the Registrar or to any person appointed by the ¹[State Government] under section 3 of the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), to assist the Registrar, for the recovery of such instalment, or part by distraint 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), take such action as is necessary to distrain and sell such produce:

Provided that no distraint shall be made after the expiry of twelve

months from the date on which the instalment fell due.

(2) The distress shall not be excessive; the value of the property distrained shall be as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

10. Distraint how to be effected :-

(1) Before or at the time when a distraint is made under section 9, the distrainer 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 distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male 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.

11. Sale of property distrained :-

(1) If, within fifteen days from the date of service of the demand referred to in section 10, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(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 distrainer on account of the distraint.

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

12. Power of State Government to make rules :-

The ¹[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 the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained 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.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

CHAPTER 4 POWER OF SALE

13. Power of sale when to be exercised :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), or in the Trustees and Mortgagees Powers Act, 1866 (Central Act XXVIII of 1866), where a power of sale without the intervention of the Court is expressly conferred on the mortgage bank by the mortgage deed, the committee of such bank or any person authorized by such 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 the bank, to bring the mortgaged property to sale without the intervention of the Court.

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

(a) the Board has previously authorized the exercise of the power conferred by sub-section (1), after hearing the objections, if any, of the mortgagor or mortgagors;

(b) 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

(c) 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 committee of a mortgage bank or any person duly authorized by such committee, may apply to the sale officer appointed in that behalf under section 22 to 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.

(2) The sale shall be by public auction 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 a 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 committee of the mortgage bank concerned to have the sale set aside on his depositing at the office of such bank--

(a) for payment to the mortgage bank, the amount specified in the proclamation of sale together with subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale; and

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

(2) If such deposit is made, 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 committee 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 costs, charges and expenses properly incurred by him as incident to the sale or any attempted sale; secondly, in payment of all interest due on account of the mortgage in consequence whereof the mortgaged property was sold; thirdly, 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 decision of the sale officer in regard to the distribution of such residue may, within thirty days of the communication to him of such decision, institute a suit in a 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 :-

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.

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 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 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 V of 1908), shall mutatis mutandis and so far as may be, apply.

Explanation.--In this section, "Court" shall have the same meaning

as in section 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 within such period as may be fixed by the Trustee.

20. Appointment of receiver and his powers :-

(1) The Board may, on the application of a 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 professed exercise of a power of sale under section 13 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 damnified by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the mortgage bank.

22. Appointment of sale officer :-

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

23. Power of State Government to make rules :-

The ¹[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 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.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

CHAPTER 5 MISCELLANEOUS

23A. Mortgages executed in favour of mortgage bank, etc., to stand vested in Central Mortgage Bank :-

¹[The mortgages executed in favour of, and all other assets transferred to, a mortgage bank by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such mortgage bank to the Central Mortgage Bank.]

1. This section was inserted by section 4 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1950 (Madras Act IX of 1950). * Repealed by Central Act XLVIII of 1952.

24. 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 a mortgage bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the mortgage bank, 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 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 committee shall be entitled to take action against the mortgagor under section 9 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 by-laws of the mortgage bank.

25. Power of Board or of Trustee to direct distraint and sale of produce and the sale of mortgaged property, etc :-

(1) The Board or the Trustee may direct the committee of a mortgage bank to take action against a defaulter under section 9, section 13 or section 24 and if the committee neglects or fails to do so, the Board or the Trustee 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 thereunder shall apply in respect thereto as if all references to the mortgage bank and to its committee in the 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 or regulations made thereunder shall apply in respect thereto as if all references to the mortgage bank or to its committee in the said provisions were references to the Trustee.

26. Mortgagors power to lease :-

Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), the duration of any lease executed by a mortgagor of property mortgaged to a mortgage bank after the execution of the mortgage shall in no case exceed five years.

27. Mortgage not to be questioned on insolvency of mortgagor :-

Notwithstanding anything contained in the Presidency Towns Insolvency Act, 1909 (Central Act III of 1909), or the provincial Insolvency Act, 1920 (Central Act V of 1920), a mortgage executed in favour of 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 mortgage bank a preference over the other creditors of the mortgagor.

28. Priority of mortgage over claims arising under the Land Improvement Loans Act, 1883 :-

A mortgage executed in favour of a mortgage bank after the commencement of this Act shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883 (Central Act XIX of 1883), granted after the execution of the mortgage.

29. Right of mortgage bank to pay prior debts of mortgagor :-

Where a mortgage is executed in favour of a mortgage bank for payment of prior debts of the mortgagor, the bank may, notwithstanding the provisions of sections 83 and 84 of the

Transfer of property Act, 1882 (Central Act IV of 1882), by 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 ¹[at its registered office] within such period as may be specified in the notice. If any such person fails to receive such notice or 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:

Provided 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.

1. The words within square brackets were inserted by section 2 of the Madras Co-operative Land Mortgage Banks(Amendment) Act, 1935 (Madras Act XVII of 1935).

29A. Power to summon witnesses and requisition documents :-

¹[(1) Subject to such restrictions, limitations and conditions as may be prescribed, the Registrar and persons subordinate to the Registrar who are authorised by him in this behalf by 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 Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), as the ²(State) Government may, by notification in the Fort St., George Gazette, authorise in this behalf, shall have the same powers as are vested in a 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 sub-section (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 sub-section (1) or sub-section (2) shall have power to take, or to authorize the taking of, such copies of the document 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 who wilfully 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 a Presidency Magistrate or a Magistrate of the first class shall try any offence under clause (a).

(c) Every offence under clause (a) shall, for the purposes 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

person subordinate to him or by any officer of a co-operative bank;
and

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

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

(5) The 2(State) Government shall have power to make rules for giving effect to the provisions of this section.]

1. Section 29-A was inserted by section 2 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1939 (Madras Act XXIII of 1939).

2. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

30. 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 XVI of 1908), it shall not be necessary for any Director, Secretary or other officer of a 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 that 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.

31. Power of mortgage bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Mortgage Bank :-

¹[Notwithstanding that a mortgage executed in favour of a mortgage bank has been transferred, or is deemed under the provisions of section 23-A to have been transferred, to the Central Mortgage Bank]--

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or 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 transferred; and

(b) the mortgage bank shall, in the absence of any specific direction to the contrary issued by the Board or 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.

1. This expression was substituted for the words "Notwithstanding the transfer of a mortgage by a mortgage bank to the Central Mortgage Bank" by section 5 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1950 (Madras Act IX of 1950).

32. Special provisions for mortgages executed by managers of joint Hindu families, karnavans of Marumakkattayam tarwads or tavazhis or of Nambudri illoms, etc :-

¹[(1) Where a mortgage executed in favour of a mortgage bank either before or after the passing of this Act is called in question on the ground that it was executed by the manager of a joint Hindu family or the karnavan of a Marumakkattayam tarwad or tavazhi or of a Nambudri illom, or the manager of a Thiyya or Ezhava family, or the ejaman or ejamanthi of an Aliyasantana family, for a purpose not binding on the members thereof, whether majors or minors, the burden of proving the same shall, notwithstanding any law to the contrary, be on the party raising it.

(2) A mortgage executed in favour of a mortgage bank by the manager of a joint Hindu family or the karnavan of a

Marumakkattayam tarwad or tavazhi or of a Nambudri illom or the manager of a Thiyya or Ezhava family or the ejaman or ejamanthi of an Aliyasantana family shall be binding on the members thereof, whether majors or minors, if the loan secured by the mortgage was granted 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.]

1. This section was substituted for the original section 32 by section 6 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1950 (Madras Act IX of 1950).

32A. [Omitted] :-

¹[* * *]

1. Section 32-A which was inserted by section 7 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1950 (Madras Act IX of 1950) was omitted by clause 3 of, and the Schedule to, the Madras Adaptation of Laws Order, 1957.

32B. Proof of documents or entries in documents :-

¹[Any mortgage bank or the Central Mortgage Bank may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document; 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.]

1. This section was inserted by section 2 of the Madras Co-operative Land Mortgage Banks (Second Amendment) Act, 1950 (Madras Act XXII of 1950).

33. Chapters III and IV to apply to loans advanced by mortgage banks from funds not borrowed from the Central Mortgage Bank :-

The provisions of Chapters 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.

34. Service of notices 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.

35. Sections 102, 103 and 104 of the Transfer of Property Act, 1882 to apply to such notices :-

The provisions of sections 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 of the purposes of the said sections shall apply, so far as may be, in respect of all notices to be served under this Act.

36. Officers of mortgage banks and of the Central Mortgage Bank and sale officers not to bid at sales :-

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

37. 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 25 to an executive committee constituted by it and consisting of two or more or of its members.

38. Power of Board to make regulations :-

Notwithstanding anything contained in the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), or the rules made thereunder, 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 thereunder--

(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 Banks and for the payments of the amounts recovered by mortgage banks on mortgages transferred¹(or deemed under the provisions of section 23-A to have been transferred) to the Central Mortgage Bank;

(d) prescribing the form in which applications to mortgage banks for loans should be made and for the valuation of the properties offered as security for such loans;

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

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

1. This expression was inserted by section 8 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1950 (Madras Act IX of 1950).