



RODA ACT & RULES 1974/1976

VEERENDRA SINGH BANKAWAT IAS,R



The Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974

- AGRICULTURE AND AGRICULTURAL PURPOSE:
- Agri Activities
- Marketing of agri products
- Storage and Transportation
- Acquisition of implements and machinery

Bank

- A banking company as defined in Banking Regulation Act,1949;
- SBI constituted under the SBI Act,1955;
- A subsidiary bank as defined in the SBI(Subsidiary Banks) Act,1959;
- Corresponding new bank constituted under the Banking Companies Act,1970;
- The Agriculture Refinance Corporation constituted under the Corresponding Act 1963;
- The Agro Industries Corporation;
- Agricultural Finance Corporation Ltd.
- Any other Financial Institution notified by the State Government

Co-operative Society

- Registered under the Rajasthan Cooperative Societies Act 1965 the objective of which is to provide financial assistance to its members and includes a Cooperative Land Development Bank

Rights of Agriculturists to alienate land/interest In favour of banks

-Chapter III

-Sec.5 Charge on crop and other movable property in favour of a bank

-Sec.6 Creation of charge on land in favour of a bank by declaration under sub section 1

-Sec 9 Registration of charge and mortgage in favour of banks

-Sec10 Noting of charge or mortgage created in favour of a bank in the record of rights

-Sec 11 Restrictions on creation of tenancy by an agriculturist borrower

Section 12 Removal of bar on attachment and sale by process of court

- If an application for recovery of an amount is made to the authorised officer under the provisions of the act and if he makes an order of attachment, it can not be said that he had no such power. There is no provision that the attachment order could not be made without first determining the liability, if the dispute is raised by the agriculturist.

Section 13. Recovery of dues of a bank through a prescribed authority

-1. An official notified by the State Government, make an order directing the payment of any sum due to the bank on account of loan availed by the agriculturist, by the sale of any land or interest therein or any other immovable property upon which the payment of such money is charged or mortgaged,

-Provided that no order shall be made by the prescribed authority without imparting the agriculturist or his heir or his LR, an opportunity of being heard and has been served with a notice calling upon him to pay the amount due and default has been in payment thereof for three months after determination of liabilities.

-2. Every order passed by the prescribed authority in terms of sub section 1 shall be deemed to be a decree of a civil court and shall be executed by him in the same manner as a decree of such court

The Rajasthan Agricultural Credit Operations(Removal of Difficulties)Rules,1976

-Rule 4 Distraint and sale of crop or other movable property:1.DC/ADC/AC/SDO ,within whose jurisdiction the bank or its branch which disburse the loan is situated,shall be the official designated by the State Government for exercising the powers for the purpose of section 5(3).

-2.For the purpose of distraint and sale in the event of failure of the agriculturist to pay an overdue loan,Branch Manager/Agent of the bank shall make an application to the designated officer giving the following particulars:-

-i. Name of the agriculturist(his heir/LR as the case may be)

-ii.Certified copy of the loan agreement

Defaulter information

- iii. Certified Statement of account
- iv. Amount overdue towards principal and interest with date on which it became overdue;
- v. Description crop/other movable property charged, including location and details of defaulter's interest or share thereof;
- vi. Description of property required to be distrained and sold;
- vii. Description of efforts made by the bank;
- viii. Reasons, if known to the bank for non payment

Scrutiny of information submitted by the bank and satisfaction of designated officer

-a.Loan and charge

-b.Charge has been properly affected

-c. The loan or an installment of it is overdue;

-d. The bank has issued a demand notice by registered post with acknowledgement due asking the cultivator to pay the overdue amount and a period of one month has elapsed without payment being made

He shall make an order for distraint of the said property.

Sub Rules 4,5 and 6

- 4. The DO shall also issue a show cause notice to the defaulter asking him to make payment within 15 days or to explain why the distrained property may not be put to sale in case of default with a copy to bank branch manager/agent;
- 5. After 15 days,if the defaulter has not made payment or has not entered into any satisfactory arrangement with the bank for payment (shown insufficient cause),the DO shall order sale of the property distrained;
- 6. Proceeds of sale shall be appropriated to payment of all dues outstanding including cost of recovery,to the bank and the surplus,if any,shall be paid back to the cultivator

Rule 5. Recovery of dues of the banks by sale of immovable property

-1. The DO having jurisdiction in the area wherein the immovable property is situated shall exercise the powers U/S 13 (1) of the Act;

-2. The Branch Manager/Agent of the Bank concerned shall for the purpose of this section make an application to the DO concerned giving the following particulars with respect to the loan sought to be recovered: LIST AS PER RULE 4(2) with the exception that at point (v) Certified copy of documents creating mortgage or charge with evidence regarding its registration and (vi) Other details of immovable property sought to be sold such as valuation, details of co-owners etc,

Sub Rule 3, Action by DO

- On receipt of application and scrutiny thereof if the DO is satisfied :-
- -a. That the loan has been duly taken and the loan amount or an installment is overdue;
- -b. The bank has issued a demand notice by registered post with acknowledgement due, asking the cultivator to pay the overdue amount, and more than 1 month has elapsed;
- -c. The property sought to be sold has been mortgaged to the bank against the overdue loan
- He may issue a notice to the cultivator informing him:-
- I. Application U/S 13(1) of the Act has been filed by the bank for recovery of loan against him
- II. If he wishes to deny liability for payment of the amount determined as due, he should within 30 days of the receipt of this notice, file a petition denying liability and produce documentary and other proof to support his claim

Notice to the cultivator by the DO

- III. The notice should state that if the cultivator does not deny liability or make payment, proceedings will be taken to effect recovery of the amount determined as overdue, through the sale of the immovable property specified in the notice.

Sub Rule 5(4): If the cultivator denies his liability the DO shall after hearing him decide his petition within a further period of 2 months;

Sub Rule 5(5): If the cultivator does not deny liability or can not show sufficient cause for non payment, the DO shall order sale of immovable property

Sub Rules 6,7 and 8 of Rule 5

- Rule 5(6): The proceeds of the sale shall be appropriated for payment of dues of the bank and the cost of recovery and balance amount,if any,shall be paid to the cultivator;
- Rule5(7); For all all distrains and all sales effected U/S 5(3) OR 13(1),the procedure followed shall be similar to that prescribed under L R Act,1956 and rules framed thereunder;
- Rule5(8): On auction if no one offers to purchase it,for a price sufficient to pay to the bank the money due to it,the Bank may close the recovery proceedings by acquiring the land or interest thereunder or other immovable property mortgaged to it,in exercise of powers vested in it U/S 14

Sub Rules 9-13 of Rule 5

- Rule 5(9): For action U/S 14 the Bank Manager or Agent concerned may apply to the Collector informing him of the intention of the Bank to exercise this right;
- Rule5(10): The Collector shall thereupon stop all recovery proceedings and pass an order directing that necessary entries be made by the Sub Registrar and Tehsildar concerned, in their books and records of rights;
- Rule5(11): The Collector/ADC/AC/SDO shall also if required take steps to hand over the possession of such land or other immovable property to the Branch Manager/Agent of the Bank concerned;
- Rule5(12): The Bank shall sell the property so acquired by it within a period of 5years of possession;
- Rule5(13): The bank may during this period lease out the property as per provisions of Section 14(3)

Sub Rule 14 of Rule 5

- Rule 5(14): Any sale of such property shall be subject to the following restrictions:-
- 1. The buyer must be an agriculturist as defined in the Act;
- 2. Land acquired from an SC or ST person shall not be sold to persons who are not SC or ST;
- 3. The buyer should not on acquisition of such land by purchase, exceed the ceiling limit applicable to him under the law relating to ceiling on agricultural holdings

Rajasthan Public Demands Recovery Act,1952; Rules1953

- The Act came into force on 15-06-1952
- Public Demand:1.Arrears of money as referred to in the schedule appended to this Act such as dues of Income TAX;
- 2.Sales Tax Dues;
- 3. Arrears of any other Tax dues;
- Sec.3. Requisition for Recovery: 1. When any Public Demand is due ,the officer or authority charged with its realisation may send to the Collector having jurisdiction in the place where the defaulter resides or owns property a written requisition in the prescribed form duly signed and verified.

Sec.4.Filling of Certificates by Collector

- i. On receipt of any such requisition as is referred to in Sec.3, the Collector if satisfied that the demand is recoverable under the Act and that its recovery is not barred by any law suit for the time being in force, may sign a certificate to that effect in the prescribed form specifying the following:
 - a, Amount of Demand
 - ;b.The account on which it is due;
 - c.The Name of the defaulter and
 - d.such other particulars as may be necessary for its identification; and shall cause the certificate to be filed in his office.
- li .Where the Collector himself is the officer charged with the realisation of a public demand, he shall cause a like certificate to be signed and filed in his office.

Certificate Officer

- Under the Rajasthan PDR Act a competent and prescribed officer is Collector.
- State Government vide Notification Dated 28-02-1957 empowered the Additional Collector to act and dispose of the matters under this Act.

Sec.5 Transmission of Certificates

- i. A Collector in whose office a certificate has been filed U/S 4 may transmit a copy thereof to any other Collector within whose jurisdiction the defaulter resides or owns property.
- ii. Upon receipt of such copy, such other Collector shall proceed as if certificate was originally filed in his office.

Sec.6. Service of Notice and copy of Certificate: The Collector shall cause the notice and a copy of certificate to be served on the defaulter in the prescribed manner.

Where service of notice is disputed the process server himself must be produced as witness. Notice sent by registered post returned with the remarks of refusal held valid service.

Substituted service

- It can be resorted to by delivery of copy of notice to the adult male member of the defaulter's family or where a defaulter is not found despite attempts and service can not otherwise be effected ,the affixing of the notice on the outer door of the residential house of the defaulter held sufficient service.
- Burden of Proof: Where service of notice is denied,the onus to prove sufficient service is on the person who alleges it.

Sec. 7 Effect of Service of Notice

- A. Any private transfer or delivery of any immovable property of the defaulter situated within the local limits of the Collector or of any interest in such property shall be void against any claim enforceable in execution of the certificate, and;
- B. The amount due from time to time in respect of the certificate shall be charge upon the immovable property of the defaulter, wherever situated ,to which every other charge created subsequently to the service of the said notice shall be postponed.

Sec.8 Petition denying Liability

- 1. The defaulter may within 30 days of service of the notice, present to the Collector, a petition in the prescribed form signed and verified, denying his liability in the whole or in part on the grounds that the demand is not recoverable under this Act or that its recovery by suit is barred by any law for the time being in force.;
- 2. On receiving the petition the Collector shall hear and determine the petition and may set aside, modify or vary the certificate
- 3. All proceedings under the certificate shall be stayed pending the determination of the petition.

Sec. 10 ,11 and 12

- Sec.10. Who may execute certificate: a. Collector who filed it U/S 4 or b. Collector who received it on transmission U/S 5
- Sec.11. Execution of certificate by subordinate officers: Collector may send it for execution to Assistant Collector or Tehsildar subordinate to him, execution only after 30 days of service of notice or after determination of petition.;
- Sec.12. When certificate may be executed: As above. Provided that ,if the Collector is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment for recovery of certificate amount, he may at any time direct for reasons to be recorded in writing, an attachment of the whole or any part of such property

Sec.13. Modes of execution

- Subject to other provisions of this Act, the amount due under a certificate may be recovered in one or more modes specified U/S 228 of the L.R.Act 1956 and the provisions of that Act shall apply as if such amount were an arrear of land revenue due from the defaulter.

Sec 13 A. Power to grant installments: The Collector may for sufficient reason, order that payment of the amount due under a certificate shall be made by such number of installments and on such terms as to payment of interest, the attachment of property of the defaulter, the taking of security from him as he thinks fit, provided installments granted shall not be spread over a period of three years.

Sec.14 . Interest,Costs and Charges recoverable

- A. Interest upon the amount of public demand,as stated in the certificate,from the date of signing of certificate upto the date of realisation @ 13%;
- B .Such costs as may be directed to be paid in any proceedings under this Act, and;
- C. All charges incurred in respect of :
 - I. the service of notice U/S 6 and warrants and other processes and;
 - li .all other proceedings taken for realising the demand

Sec.15 ,16, 17 and 18

- Sec.15: Payment under protest: The defaulter may pay under protest to the officer executing the certificate, where he denies the liability to pay. This results into stay of execution proceedings. Then he may seek remedy through a Civil Court under a regular suit.
- Sec.16 : Disposal by Collector: If the protest is in order, such amount along with the protest shall be forwarded to the officer or authority charged with the realisation of the public demand;
- Sec.17 : Persons under disability: If the defaulter is a minor or of unsound mind, he may be permitted to be represented by any suitable person;
- Sec.18: Continuance of certificate: even after death of the defaulter

Sec. 19,20

- Sec. 19: Procedure on death of defaulter: The officer executing the certificate may after serving upon the LR of the deceased a notice in the prescribed form, proceed to execute the certificate against such LR;
- Sec. 19-A: Liability of Legal Representative: He shall be liable only to the extent of the property of the deceased which has come to his hands;
- Sec. 20: Suits for cancellation or modification of certificates:
 - 1. A defaulter may put up a Civil Suit to have a certificate cancelled or modified and for any further consequential relief to which he may be entitled,;
 - 2. Such a suit may be brought at any time within 6 months from service of notice U/S 6, OR from the date of determination of petition U/S 8; from date of protest lodged U/S 15; from the date of decision of appeal U/S 23

Section 21,22 and 23

- Sec.21:Parties to the suit:A suit U/S 20 shall ordinarily be brought against the officer or authority charged with the realisation of the public demand,
- Provided that where the suit is brought under clause (b) or © of Sec.20(2) ,the Collector shall also be made a party thereto;
- Sec.22: Place of Suing: In a Civil Court having jurisdiction in the local area in which the office of the officer or authority charged with the realisation of the public demand is situated;
- Sec23: Suit not to operate as stay:It shall not operate to stay further proceedings under and in execution of the certificate, otherwise than an injunction issued by the court in which the suit is instituted
- Sec.23-A :Appeal at RAA within 30 days;
- Sec.23-B: Revision: at Board of Revenue Rajasthan

Sec.23-C,23-D,24

-SEC.23-C. Review: Any order passed under this Act may,after notice to all persons interested,be reviewed,by the officer who made the order or by his successor-in-office,or if the order is passed by the Board of Revenue,then by such Board on account of mistake or error either in making the certificate or in the course of any proceeding under this Act.

- Sec.23-D. Stay on execution during appeal,revisionor review:If the appellate, revising or reviewing authority as the case may be ,so directs;

-Sec.24.Costs: Subject to such limitations as may be prescribed,the award of cost of and incidental to any proceedings under this Act,shall be in discretion of the officer incharge of such proceedings and he shall have full powers to direct by whom and to what extent such costs shall be paid.

Sec.25,26,27

- Sec.25. Officers to have powers of Civil Court for certain purposes;
- Sec.26. Protection of action taken under Act: No suit,procution or other proceedings shall lie except as otherwise herein provided against the State Government or any officer or any person acting under the authority of the State Government or any officer in respect of anything which is in good faith done or intended to be done under this Act.
- Sec.27.Application of the Indian Limitation Act,1908:1. Sections 6 to 9 of the Indian Limitation Act,1908,shall not apply to suits or proceedings under this Act.
- 2.Except as declared in sub section1 the provisions of the Indian Limitation Act,1908 shall apply to all proceedings under this Act as if a certificate were a decree of a Civil Court

Sec.28,29,30

- Sec.28. Penalties:Whoever fraudulently removes,conceals,transfers or delivers to any person any property or any interest therein,intending thereby to prevent that property or interest therein from being taken in execution of a certificate,shall be deemed to have committed an offence punishable U/S 206 of the IPC.
- Sec.29. Power of Government to make rules;
- Sec.30. Saving of other laws:1. The powers given by this Act or the rules made thereunder shall be deemed to be in addition to and not in derogationfrom,any powers conferred by any other law for the time being in force for the recovery of any due,debt or demand to which the provisions of this Act are applicable,and except where expressly so provided,no legal remedy shall be affected by this Act

The Rajasthan PDR Rules, 1953

- Short title, extent & commencement
- Definitions
- Signatures & verification of requisitions
- Mode of Service
- Service on defaulter or his agent
- Service on adult male member of family
- Person served to sign acknowledgement
- Denial from service
- Endorsement of time and manner of service
- Examination of serving officer
- Service by post
- Forms