

EVACUEE INTEREST (SEPARATION) RULES, 1951

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SCHEDULE 1 :- Description of property

EVACUEE INTEREST (SEPARATION) RULES, 1951

S.R.O.108, dated 15th January, 1952. Published in the Gazette of India, 1952, Part 11, Sec. 3, p. 109. In exercise of the powers conferred by Sec. 23 of the Evacuee Interest (Separation) Act, 1951 (64 of 1951), the Central Government hereby makes the following rules, namely:

1. Short title. :-

These rules may be called the Evacuee Interest (Separation) Rules, 1951.

2. Definitions. :-

In these rules,

(b) "claimant" means a person who makes a claim under the Act;

(c) "form" means a form appended to these rules;

(f) "Regional Settlement Commissioner" shall have the meaning assigned to it in Cl. (e) of rule 2 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955;

(g) "Suburban lands" means lands situated within five miles of the limits of urban area;

(h) "urban area" means any area within the limits of a corporation, a municipal committee, a notified area committee, a town area committee, a small town committee, a cantonment or any other area notified as such by the Central Government from time to time;

(i) "rural area" means any area which is not urban area.]

3. Application under Sec.6. :-

(1) An application by a claimant under sub-section (1) of Sec. 6 of the Act shall be in Form "A".

(2) Every such application may be presented personally or by an authorised agent to the competent officer having jurisdiction or may be sent to him by registered post, acknowledgment due.

4. Form of notice under Sec.6. :-

Where a competent officer has received information under Sec. 6 of the Act, he shall issue a general notice in Form "B" and an individual notice in Form "C" to every person who, in the opinion of the competent officer, may have a claim in the composite property.

5. Particulars in a statement of claim. :-

(1) Every statement of claim under Sec. 7 of the Act shall be in Form "D".

(2) Every such statement of claim may be presented either

personally or through an authorised agent to the competent officer having jurisdiction or may be sent to him by registered post acknowledgment due.

6. Registration of claims. :-

Every statement of claim submitted under Sec. 7 of the Act shall be registered in a register to be kept for the purpose in Form "E".

7. Persons interested in the composite property to be parties to proceedings. :-

(3) Notwithstanding anything contained in this rule, it shall be lawful for competent officer to add as a respondent to the proceeding any person who in his opinion is interested in the composite property and issue a notice to him in Form "F".

8. Rejection of a statement of claim in certain cases. :-

Where a statement of claim made under Sec. 7 of the Act does not comply with any of the requirements of that section or these rules, the competent officer may reject the claim or grant to the claimant such further time as he thinks fit for complying with such requirements.

9. Issue of notice. :-

Where a claim is not rejected under rule 8, the competent officer shall, after causing the date ¹[within which a written statement under rule 10 may be filed] ² [and the date of hearing] to be inserted in the notices referred to in rule 7, cause them to be served on the respondent.

1. Subs. by S.R.O. 1332, dated 24th July, 1952.

2. Ins. by S.R.O. 236, dated 22nd January, 1953.

10. Objections by respondents. :-

(3) A written statement may contain a counter-claim to the composite property and where such counter-claim is made, it shall have the same effect as a statement of claim under these rules.

11. Service of notice or order. :-

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1. Subs. by S.R.O. 722, dated 22nd April, 1952.

11A. Certain evidence regarding valuation of property to be admitted. :-

1 Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or any other law for the time being in force the competent officer shall, for the purpose of determining the money value of any composite property under Sec. 8 of the Act, admit in evidence

(b) in the case of any other immovable property, a certified copy of the proceeding before any officer of the Government relating to the determination of the money value of such property.

1. Subs. by S.R.O. 236, dated 22nd January, 1953.

11B. Mode of separation of interest of evacuee. :-

1 A competent officer having regard to the provisions of Sec. 10 of the Act shall adopt any of the following measures in the order of precedence set down below:

In the case of any claim of a co-sharer or a partner

1. Subs. by S.R.O. 2845, dated 31st August, 1957.

11C. Deposit of purchase money. :-

1 Every purchase or evacuee share, desiring to pay the purchase price or any part thereof in case, shall pay the same within 15 days of such purchase or within such further time as the competent officer may allow.]

1. Subs. by G.S.R. 371, dated 13th March, 1961.

11C(C). Mode of sale of composite property. :-

1 Any composite property may be sold by public auction or by inviting tenders.]

1. Ins. by G.S.R. 1248, dated 5th October, 1960.

11D. Sale of composite property by public auction. :-

¹ Where a Competent Officer proposes to sell a composite property, the following procedure shall be followed :

(2) The competent officer or any other officer authorised by him in this behalf shall cause a proclamation of the intended sale to be made in the language of the principal Civil Court of original jurisdiction within whose jurisdiction the property is situated.

(4) In the case of sale of agricultural lands in rural area in the State of Punjab comprising 2 acres or less, the competent officer shall draw up a programme fixing the dates of sales of such properties. He shall give publicity to such sales by affixing notices in his court-room, at the tehsil building, at the panchayat ghar, and also by beat of drum in the village concerned, which may be done through the tehsil agency. The competent officer shall then auction the property in his court-room where the Tahsildar- auctioneer or his Field Sub-Inspector may be present to assist him if necessary.

(5) No sale shall take place until after the expiry of a period of 10 days from the date of publication of the notice.

(7) No officer or other person having any duty to perform in connection with the valuation or sale of any property shall either directly or indirectly bid for, or otherwise acquire or attempt to acquire any interest in, such property.

(9) If the highest bidder does not deposit the balance of the purchase money within the period specified in Cl. (b) of sub-rule (8) above, or if being a displaced person, he does not pay the non-evacuee share fill as required under sub-rule (15) or does not make any application for the payment of compensation within the period specified in sub-rule (15), or if the new compensation admissible to the highest bidder and to his associate, if any, is found to be less than the balance of purchase money and the highest bidder does not make up the deficiency within such period as may be specified by the competent officer, the initial deposit made by the highest bidder under sub-rule (8) may be forfeited to the Custodian or the bond executed by him in Form "N" may be enforced against him, as the case may be, and he shall not have any claim to the property.

(10) Every sale of property held under these rules shall be subject to a reserve price of the property being fixed therefore by the competent officer at such rate which shall not be less than 90 per cent. of the value of the property as may be determined by the

competent officer in this behalf.

(13) After completion of the sale, the officer conducting the sale shall remit the amount realised by him the competent officer together with an abstract of the expenses incurred in connection with the sale of each property and from the sale-proceeds, such expenses of, and incidental to, auctioning the composite property, as may be specified by the competent officer, shall be deducted and paid to the party entitled before the sale-proceeds are distributed between the Custodian and the claimant.

(14) Provisions with regard to displaced persons. Where the person whose bid is accepted is a displaced person and where such person has either executed a bond in Form "N" under the proviso to sub-rule S(a) or intimates his desire in writing to the competent officer of taking advantage of the provisions of sub-rule (15), the said provisions shall apply to his case and the provisions in the foregoing sub-rules, in so far as they are inconsistent with the provisions of sub-rule (15), shall not apply.

1. Subs. by S.R.O. 2845, dated 31st August, 1957.

11D(D). Sale of composite property by tender. :-

¹ (2) The tenders shall be opened by the competent officer, on the date and at the time and place fixed for the opening offenders in the presence of all those tenders who may wish to be present.

(3) The competent officer shall not be bound to accept the highest or any other tender and shall not be bound to disclose his reasons therefor. Every tenderer shall be bound by his offer and shall, if he resiles from such offer, be liable to forfeit his deposit of earnest money. The decision of the competent officer with regard to the forfeiture of the earnest money shall be final.

(4) When a tender has been accepted by the competent officer, the tender shall produce before the competent officer within 15 days of the intimation to him of the acceptance of the tender, a challan evidencing a deposit into the treasury of the balance of the purchase price of the non-evacuee share in the property.

(5) The balance of the tendered amount representing the evacuee share in the property may be paid either in cash or by adjustment of compensation due to the purchaser or by associating claimants.

1. Ins. by G.S.R. 1248, dated 5th October, 1960.

11D(D)(A). Time within which association of claims may be made or cash deposited. :-

¹ Any person entitled under these rules to adjust purchase price or any part thereof by association of claims shall so adjust within such time as may be specified in this behalf by the Central Government by notification in the official Gazette.]

1. Ins. by G.S.R. 371, dated 13th March, 1961.

11E. Sale certificate and possession. :-

¹(2) A certified copy of the sale certificate shall be sent by the competent officer to the Registering Officer within the local limit of whose jurisdiction the whole or any part of the property comprised in the certificate is situate ² [and such officer shall file a copy in his Book No. I.]

(5) Where the property is in the occupancy of a non-evacuee claimant whose interest in the property has been sold, and he refuses to vacate the property; in spite of the order of the competent officer, the competent officer shall order delivery to be made, by putting the auction-purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing the non-evacuee claimant.]

1. Subs. by S.R.O. 1154, dated 18th March, 1954.

2. Ins. by S.R.O. 2158, dated 24th August, 1955.

11F. Form and presentation of appeal. :-

¹ (2) Every such memorandum of appeal shall be presented either personally or by an authorised agent to the appellate officer having jurisdiction or may be sent to him by registered post acknowledgment due.

(5) If the appellant fails to comply with the requirements of the sub-rules above within a time fixed by the appellate officer, the appellate officer may extend the time or reject the appeal.

(6) If the envelope furnished by the appellant is returned with the report of the postal authorities that the appellants is not available at the address given on the envelope and the appellant has not intimated any change of address, the appellate officer may reject the appeal.]

1. Ins. by S.R.O. 1844, dated 29th October, 1952.

11G. Register of appeal. :-

Where a memorandum of appeal is presented to, or received by, appellate officer, he shall endorse thereon the date of presentation or receipt and shall register it in a register to be kept for the purpose in Form "K".

11H. Record of proceedings. :-

For the purpose of hearing any appeal, the appellate officer may send for the record of the case if he so thinks fit.]

12. Statements to be on oath. :-

All statements made in any proceedings shall be on oath.

13. Quarterly returns by competent officer. :-

Every competent officer shall, at the end of each quarter, submit a statement in Form "G" to the State Government.

14. Fees. :-

¹ (2) Fees leviable under sub-rule (1) shall be paid in the form of an Indian Postal Order crossed in the name of the competent officer concerned.]

1. Ins. by S.R.O. 1331, dated 23rd July, 1952.

15. Register of composite properties. :-

¹ Every competent officer shall maintain in Form "H" a register of composite properties in respect of which a general notice of a notice to any individual person has been issued under sub-section (1) of Section 5 of the Act.

1. Ins by S.R.O. 1332, dated 24th July, 1952.

16. Quarterly returns by appellate officer. :-

¹ Every appellate officer shall, at the end of each quarter submit a

statement in Form "L" to the State Government.]

1. Ins. by S.R.O. 1844, dated 29th October, 1952.

17. 17 :-

1 (b) the account of any such bond when realised shall be credited to the account of the Custodian.]

1. Subs. by S.R.O. 2845, dated 31st August, 1957.

SCHEDULE 1

Description of property