

HOUSING FINANCE INSTITUTIONS (PROCEDURE FOR RECOVERY OF DUES) RULES, 2002

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HOUSING FINANCE INSTITUTIONS (PROCEDURE FOR RECOVERY OF DUES) RULES, 2002

G.S.R. 341 (E). In exercise of the powers conferred by Sec. 54A of the National Housing Bank Act, 1987 (53 of 1987), the Central

Government hereby makes the following rules, namely:

CHAPTER 1
PRELIMINARY

1. Short title and commencement. :-

(1) These rules may be called the Housing Finance Institutions (Procedure for Recovery of Dues) Rules, 2002.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. :-

In these rules, unless the context otherwise requires,

(a) "Act" means the National Housing Bank Act, 1987 (53 of 1987);

(b) "agent" means a person duly authorised by a party to present application or to give reply on its behalf to the recovery officer;

(c) "applicant" means an approved institution or a person making an application to the recovery officer under Sec. 36E;

(d) "application" means an application made to the recovery officer under Sec. 36E;

(e) all other words and expressions used and not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

CHAPTER 2
PROCEDURE OF FILING APPLICATION BEFORE THE RECOVERY OFFICER

3. Language. :-

(1) The proceeding by the recovery officer shall be conducted in Hindi or English.

(2) No reference, application, representations, documents or other matters contained in any language other than Hindi or English shall be accepted by the recovery officer, unless the same is accompanied by a true translation thereof in Hindi or English.

4. Procedure for filing application. :-

(1) An application shall be presented in prescribed form by the applicant in person or by his agent or shall be sent by registered post, to the recovery officer within whose jurisdiction his case falls.

(2) An application sent by post under subrule (1) shall be deemed to have been presented the day on which it is received by the recovery officer.

(3) The application under subrule (1) shall be presented in two sets, in a paper book along with an empty file size envelop bearing full address of the respondent and where the number of respondents is more than one, then sufficient number of extra paper books together with empty file size envelops bearing full address of each respondent shall be furnished by the applicant.

5. Scrutiny of applications. :-

(1) Recovery Officer shall endorse on every application the date on which it is presented or deemed to have been presented under Rule 4 and shall sign endorsement.

(2) If, on scrutiny, the application is found to be in order, it shall be duly registered and given a serial number.

(3) If the application, on scrutiny, is found to be defective and the defect noticed is formal in nature, the recovery officer may allow the applicant filing it to rectify the defect in his presence and if the said defect is not formal in nature, the recovery officer may allow the applicant such time to rectify the defect as he may deem fit.

(4) If the concerned applicant fails to rectify the defect within the time allowed in subrule (3), the recovery officer may by order and for reasons to be recorded in writing, decline to register the application.

6. Place of filing applications. :-

The application shall be filed by the applicant with the recovery officer within whose jurisdiction borrower actually and voluntarily resides, or carries on business, or personally works for gain, or the cause of action wholly or in part arises.

7. Contents of application. :-

(1) Every application filed under Rule 4 shall set forth concisely under distinct heads, the grounds for such application and such grounds shall be numbered consecutively and shall be typed in double space on one side of the paper.

(2) It shall not be necessary to present separate application to seek interim or adinterim order or direction if in the original application

the same is prayed for.

(3) Documents accompanying the application shall be neatly typed in double space on one side of the paper or legible photocopies thereof, duly attested by an officer of the approved institution, and numbered accordingly. The Recovery Officer may summon the original of the documents as and when it is considered necessary.

8. Notice to the borrower. :-

(1) The notice which is required to be served on the borrower under subsec. (1) of Sec. 36F shall be in the prescribed form.

(2) Every such notice shall be accompanied by a copy of the application and paper book filed by the applicant under Rule 4.

(3) The notice shall be served by delivering a copy to each of the respondent or to his authorised agent, or when such service cannot be so effected, by affixing a copy of the notice on some conspicuous part of his residence, or by registered post or by such other mode as may be decided by the recovery officer.

9. Filing of reply and other documents by the respondent. :-

(1) On receipt of the notice, the respondent may pay the amount specified in the notice or file two complete sets containing the reply to the application as to why the relief prayed for should not be granted along with documents in a paper book form with the recovery officer within a period of ninety days from the date of service of the notice on him.

(2) The respondent shall also serve one copy of the reply along with documents as mentioned in subrule (1) to the applicant.

(3) The recovery officer may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the recovery officer thinks reasonable :

Provided that where it appears to the recovery officer that either applicant or defendant desires the production of a witness for cross-examination, and that such witness can be produced an order shall not be made authorising the evidence of such witness to be given by affidavit.

(4) If the respondent denies his liability to pay the claim made by the applicant, the recovery officer may act upon the affidavit of the

applicant who is acquainted with the facts of the case or who has on verification of the record sworn the affidavit in respect of the contents of application and the documents as evidence.

(5) If the respondent fails to file the reply under subrule (1) on the date fixed for hearing of the application, the recovery officer may proceed forthwith to pass such order on the application as he thinks fit.

CHAPTER 3

PROCEEDINGS OF RECOVERY OFFICER

10. Date and place of hearing to be notified. :-

(1) The recovery officer shall notify the parties the date and place of hearing of the application in such a manner as he may by general or special order direct.

(2) The recovery officer shall endeavor to hear the application at the place from where the loan was disbursed to the borrower.

11. Order to be signed and dated. :-

Every order of the recovery officer shall be in writing and shall contain the date when the order was signed and pronounced.

12. Communication of orders to parties. :-

Every order passed on an application shall be communicated to the applicant and to the respondent either in person or by registered post free of cost.

13. Orders and directions in certain cases. :-

The recovery officer may make such orders or give such directions as may be necessary or expedient to give effect to his orders or to prevent abuse of its process or to secure the ends of justice.

CHAPTER 4

REVIEW OF ORDERS BY RECOVERY OFFICER

14. Review. :-

(1) Any party considering itself aggrieved by an order made by the recovery officer on account of some mistake or error apparent on the face of the record desires to obtain a review of the order made against him, may apply for a review of the order to the recovery officer which had made the order.

(2) No application for review shall be made after the expiry of a period of thirty days from the date of communication of the order

and no such application shall be entertained unless it is accompanied by an affidavit verifying the application.

(3) Where it appears to the recovery officer that there is no sufficient ground for a review, he shall reject the application but where the recovery officer is of opinion that the application for review shall be granted, he shall grant the same ;

Provided that no such application shall be granted without previous notice to the opposite party to enable him to appear and to be heard in support of the order, a review of which is applied for.

CHAPTER 5

MISCELLANEOUS

15. Fee for inspection of records and obtaining copies thereof. :-

(1) No fee shall be charged for inspecting the records of pending application by a party.

(2) All costs to be incurred in obtaining copies of the document desired by a party shall be recovered from such party by the recovery officer

16. Working hours of the office of Recovery Officer. :-

(1) Except on Saturdays, Sundays and other public holidays, the office of the recovery officer shall, subject to any order made by him, remain open daily from 10 a.m. to 6.00 p.m. but no work, unless, of an urgent nature, shall be admitted after 4.30 p.m. on any working day.

(2) The working hours of the office of the recovery officer shall be displayed at prominent place in his office.

17. Sitting hours of the Recovery Officer. :-

(1) The recovery officer shall regulate his own sitting hours.

(2) The sitting hours of the recovery officer shall be displayed at prominent place in his office.

18. Effect of Holiday. :-

Where the last day for doing any act falls on a day on which the office of the recovery officer is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which that office opens.

19. Staff of the Recovery Officer. :-

(1) The approved institution, the officer of which is appointed as the recovery officer, shall provide the recovery officer with such of its other officers and employees as that institution may think fit.

(2) Such other officers and employees shall discharge their functions under the general superintendence of/the recovery officer.

20. Seal and emblem. :-

The official seal and emblem of the recovery officer shall be such as the Central Government may specify.