

Procedure for The Sale of Immovable Property Attached

MADHYA PRADESH

India

Procedure for The Sale of Immovable Property Attached

Rule

PROCEDURE-FOR-THE-SALE-OF-IMMOVABLE-PROPERTY-ATTACHED of 1963

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Procedure for The Sale of Immovable Property Attached Published vide Notification No. M.P. Rajpatra Part 2, dated 15-3-1963

1.

(1) Where any property is ordered to be sold by public auction under Section 179 of the Madhya Pradesh Municipal Corporation Act, 1956, the Commissioner shall authorise any of his assistants to conduct the sale. (2) The person authorised under sub-rule (1) shall cause a proclamation of the intended sale to be made in Hindi. (3) Such proclamation shall be drawn up after notice to the defaulter and shall state the time and place of sale and specify as fairly and accurately as possible—(a) the property to be sold; (b) any encumbrance to which the property is liable; (c) the amount for the recovery of which the sale is ordered; and (d) every other thing which he considers material for a purchaser to know in order to judge the nature and value of the property. (4) The proclamation shall be made at some place on or adjacent to such property by beat of drum or other customary mode and shall be published in newspapers, and a copy of the proclamation shall be affixed on a conspicuous part of the property and upon a conspicuous part of the Corporation office.

2.

(1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Commissioner that there is reason to believe that the amount of the arrears may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Commissioner may, on his application, postpone sale of the property comprised in the order for sale on such terms and for such period as he thinks proper to enable the

defaulter to raise the amount.(2)In such case the Commissioner shall grant a certificate to the defaulter authorising him within a period to be mentioned therein to make the proposed mortgage, lease or sale :Provided that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Commissioner.

3.

If the sale is not postponed under sub-rule (1) of Rule 2 the sale shall be conducted at the lime and place specified in the proclamation.

4.

On every sale of immovable property the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five percent of the amount of purchase-money to the officer or person conducting the sale, and in default of such deposit, the property shall forthwith be resold.

5.

The full amount of purchase money payable shall be paid by the purchaser into the Corporation office on any day not later than the fifteenth day from the day of the sale of the property.

6.

In default of payment within the period mentioned in the last preceding rule, the deposit may, if the Commissioner thinks fit, after defraying the expenses of the sale, be forfeited to the Corporation and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

7.

Every re-sale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period prescribed for sale in Rule 1.

8.

Where the property sold is a share of undivided immovable property and two or more persons, of whom one is a co-shared, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

9.

(1)After the full amount has been paid as required by Rule 5 and if no objection is preferred under Rule 10, 11 or 12 within 21 days from the date of sale, the Commissioner shall make an order confirming the sale, and shall grant a certificate specifying the property sold and the amount of purchase money and the name of person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date on which the sale is confirmed.(2)No sale shall be deemed to be complete until the sale is confirmed under this rule.

10.

(1)Where immovable property has been sold under these rules, any person either owning such property or holding an interest therein by virtue of a title acquired before such sale, may apply to the Commissioner within 21 days from the date of such sale to have the sale set aside on his depositing in the Corporation office-(a)for payment to the purchaser a sum equal to five per cent of the purchase-money; and(b)for payment towards arrears to the Corporation the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the Corporation.(2)Where a person applies under Rule 11 to set aside the sale of his immovable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this rule.(3)Nothing in this rule shall relieve the defaulter from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.

11.

Where any immovable property has been sold in execution of the order, the defaulter or any person whose interests are affected by the sale, may apply to the Commissioner within 21 days from the date of such sale to set aside the sale on the ground of a material irregularity or fraud in publishing or conducting it :Provided that no sale shall be set aside on the ground of irregularity or fraud unless upon the facts proved, the Commissioner is satisfied that the applicant has sustained substantial injury by reason of such irregularity or fraud :Provided further that no such application for setting aside the sale shall be entertained upon any ground which could have been, but was not put forward by the applicant before the commencement of the sale.

12.

The purchaser at any such sale in execution of an order may apply to the Commissioner within 21 days from the date of the said sale to set aside the sale, on the ground that the defaulter had no saleable interest in the property sold.