

The Redemption of Mortgages (Himachal Pradesh) Rules, 1972

HIMACHAL PRADESH

India

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Rule

THE-REDEMPTION-OF-MORTGAGES-HIMACHAL-PRADESH-RULES-1 of 1972

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The Redemption of Mortgages (Himachal Pradesh) Rules, 1972Published Vide Notification No. 10-23/71-Revenue A. dated 30th October, 1972.The Redemption of Mortgages (Himachal Pradesh) Rules, 1972Revenue DepartmentNo. 10-23/71-Revenue A. - In exercise of the powers vested in it under section 17 of the Redemption of Mortgages (Himachal Pradesh) Act, 1971 (Act No. 12 of 1971), the Government of Himachal Pradesh is pleased to make the following rules:-

1. Short title, extent and commencement.

(1)These rules shall be called the Redemption of Mortgages (Himachal Pradesh) Rules, 1972(2)They extend to the whole of Himachal Pradesh.(3)They shall come into force at once.

2. Definitions.

- In these rules unless there be anything repugnant in the context,-(a)"Act" means the Redemption of Mortgages (Himachal Pradesh) Act, 1971; and(b)"petition" means a petition under section 4 of the Act.

3. Form of Petition and Court-fees thereon.

(1)A petition shall be made in the Form 'A' attached to these rules, signed and verified as laid down in Order VI, rules 14 and 15 respectively, of the Code of Civil Procedure, 1908."(2) A petition shall bear the court-fee prescribed by Article 1(b) of Schedule II to the Himachal Pradesh Court-fees Act, 1968 (No. 8 of 1968) and be accompanied by an attested copy of the latest Jamabandi entry relating

to the land, and a copy of the mutation creating the mortgage. These shall be also filed as many copies of the petition as is the number of persons mentioned in columns (2) and (3) of the petition: Provided that if the petitioner is unable to supply the copies of the latest Jamabandi and the mutation creating the mortgage he shall pay a fee of Rs. 2 and the Collector shall get those copies from his office within 30 days of the date of the deposit of the fee."(3) A petition shall be presented to the Collector by the petitioner personally or through a duly authorised agent. In the case of two or more petitioners, it may be presented by any one of them.

4. Number of [Mortgagors] [Substituted for the word 'Mortgagor' by Notification No. 10-23/71-Revenue-A, dated 4th February 1974, published in R.H.P. dated 8-2-1974, pages 150-51.] to join a petition.

- When there are more mortgagors than one and all of them do not join in making a petition, it may be made by one or more of them, the names of the others being set out in column (2) of the petition, and the other mortgagors may subsequently be allowed to join as petitioners on such terms as may be decided by the Collector.

5. Registering of petition and issue of notice.

- On receipt of a petition, or if it is not in order after getting the necessary corrections made, the Collector shall order it to be registered, fix a date for hearing the petition and cause notice thereof, together with a copy of the petition, to be served on the persons mentioned in columns (2) and (3) of the petition.

6. Procedure.

- Except as otherwise provided by these rules the Collector dealing with a petition shall be guided by the procedure prescribed for the Revenue Officers in the enactments mentioned in section 3 of the Act, in so far as it may be applicable.

7. Verification of [written] [Substituted for the word 'defence' by *ibid.*] statement.

- The persons mentioned in column (2) and (3) of the petition may at the first hearing and shall if required by the Collector at any time, present a written statement of their defence, which shall also be signed and verified as laid down in order VI, rules 14 and 15, respectively, of the Code of Civil Procedure, 1908.

8. Appearance in the proceedings.

(1) Parties to the proceedings under the Act may appear in person or through a legal practitioner holding a power of-attorney or other duly authorised agent. (2) If any one of the petitioners or respondents is a minor or of unsound mind, the provisions of order XXXII, Code of Civil Procedure,

1908, shall so far as these may be applicable, apply to proceedings under the Act.

9. Production of evidence and further enquiries.

- The Collector shall then hear the evidence produced by the parties and make such further enquiries as he may deem fit.

10. Deposit of sum due under mortgage.

- The petitioner shall deposit the sum due under the mortgage as required under section 4 of the Act.

11. Payment of sum deposited.

(1)The sum deposited by the petitioner under rule 10 shall be paid to the person or persons entitled to receive it in accordance with the procedure laid down in sections 6, 7, 8, 9, 10 and 11 of the Act as the case may be.(2)If there is any dispute between persons claiming to be entitled to receive the sum deposited by the petitioner under rule 10, the Collector may either decide the dispute himself, or order the sum deposited by the petitioner not to be paid to any one till the contesting persons have had their rights decided by a competent Court of Law.

Form 4Application Under Section 4 of the Redemption of Mortgages (Himachal Pradesh) Act, 1971In the District_____ Tehsil_____ year_____

Name, parentage[****] [The word 'caste' delete by Notification No. 10-23/71-Revenue-A, dated the 4th February 1974, published in R.H.P. dated 8-2-1974, pages 150-51.]and residence of the applicant	Name, parentage,[****] [The word 'caste' delete by Notification No. 10-23/71-Revenue-A, dated the 4th February 1974, published in R.H.P. dated 8-2-1974, pages 150-51.]and residence of other mortgagorsnot joining the application	Name, parentage,[****] [The word 'caste' delete by Notification No. 10-23/71-Revenue-A, dated the 4th February 1974, published in R.H.P. dated 8-2-1974, pages 150-51.]and residence of the mortgagee and(b) if he is not in possession of the person in possession of the land	[The area date and description of the land mortgaged to be redeemed] [Substituted for the words 'The area, and the date of description of the land mortgaged to be redeemed' by ibid.]
1	2	3	4
The name, parentage,[****] [(The word 'Caste' delete by Notification No. 10-23/71-Revenue-A, dated 4th February 1974, published in R.H.P., dated 8-2-21974, pages 150-51.)and residence of		The amount for which the mortgage was affected	Payment if any, made towards the mortgage debt Period for which the mortgagee has been in

the original mortgagor and mortgagee			possession
5	6	7	8
How does the applicant claim the right of redemption	In case the respondent was not the original mortgagee, the manner in which he came to possess the mortgagee rights		Remarks
9	10		11

Note. -(1) Attested copies of the latest jamabandi entry relating to the land and the mutation of the mortgage in question should be attached to the petition.(2)The facts in columns 5 to 11 should be given as are known to the petitioner and any mistake therein will not effect the petition.(3)If the petitioner is unable to secure copies of the latest jamabandi entry and the mortgage mutation or to give the fact required in column numbers 5 to 11, he should pay a fee of Rs. 2 and the Collector shall get the necessary documents and facts from his office. Signature of the petitioner. Verification Verified that the facts set out in columns are true to my knowledge while facts set out in column No. are true to my belief and information. verified at.....on. Signature of the person making the Verification. (R.H.P. Extra, dated the 1st of November, 1972, p. 1034-1036).