

The M.P. Municipalities Sale of Immovable Property Distraigned Rules, 1963

MADHYA PRADESH

India

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Rule

THE-M-P-MUNICIPALITIES-SALE-OF-IMMOVABLE-PROPERTY-DISTRAIGNED of 1963

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1. Short title.

- These rules may be called the Madhya Pradesh Municipalities Sale of Immovable Property Distraigned Rules, 1963.

2. Procedure for sale of property distraigned.

(1)Where any immovable property is ordered to be sold by public auction in execution of an order of attachment of any immovable property for arrears of tax, the Chief Municipal Officer or any officer authorised by him in this behalf shall conduct the sale.(2)The Chief Municipal Officer or 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 a copy of the proclamation shall be fixed on a conspicuous part of the property and upon a conspicuous part of the Municipal Office.

3. Order for sale of immovable property.

(1)Where an order for the sale of immovable property has been made, if the defaulter satisfies the Chief Municipal Officer 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 Chief Municipal Officer may, on his application postpone the 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 Chief Municipal Officer 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 Chief Municipal Officer.(3)If the sale is not postponed under sub-rule (1) the sale shall be conducted at the time and place specified in the proclamation.

4. Procedure for public auction.

- Subject to the provisions of Rule 5, the provisions of Rule 6 of the Madhya Pradesh Municipalities Transfer of Immovable Property Rules, 1963 shall apply to the sale of property by auction under these rules.

5. Share of undivided immovable property deemed to be co-sharer.

- Where the property sold is a share of undivided immovable property and two or more persons, of whom one is a co-sharer, 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.

6. Grant of certificate for the property sold.

(1)After the full amount has been paid as required by Rule 6 of the rules referred to in Rule 4 and if no objection is preferred under Rule 7, 8 or 9 within twenty days from the date of sale, the Chief Municipal Officer 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.

7. Confirmation of sale.

(1)Where immovable property has been sold in execution of an order of attachment for arrears of tax, any person either owning such property or holding an interest therein by virtue of a title acquired before such sale may apply to the Chief Municipal Officer within twenty days from the date of such sale to have the sale set-aside on his depositing in the Municipal 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 Municipal Council 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 Council.(2)Where a person applies under Rule 8 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.

8. Limit for submission of application from a person whose interest suffers from execution of order.

- 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 Chief Municipal Officer within twenty 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 Chief Municipal Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity or fraud :Provided also 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 application before the commencement of the sale.

9. Submission of application for setting-aside.

- The purchaser at any such sale in execution of an order may apply to the Chief Municipal Officer within twenty 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.

10. Rules to be general.

- These rules shall be general for all Municipalities.