

The Execution of Warrants for the Levy of Fines (Rules) 1960

RAJASTHAN

India

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Rule

THE-EXECUTION-OF-WARRANTS-FOR-THE-LEVY-OF-FINES-RULES-1960

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The Execution of Warrants for the Levy of Fines (Rules) 1960 Published vide Notification No. F.3(7) LJ/B/59, dated 9.5.1960 (Published in Rajasthan Gazetted, Part 4C Dated 4.8.1960.RJ66In exercise of the powers conferred by sub-section (2) of section 386 of the Code of Criminal Procedure, 1898 (Act V of 1898), the State Government is pleased to make the following rules to regulate the manner in which warrants for the levy of fines issued under clause (a) of sub-section (1) of the said section is to be executed and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrants.

1. Short title , extent and commencement

(1)These rules may be called the Execution of Warrants for the levy of Fines, (Rules) 1960.(2)They extend to the whole of Rajasthan .(3)They shall come into force from the date of their publication in the Rajasthan Gazette.

2. Form of Warrant

- A warrant for the levy of a fine issued under clause (a) of sub-section (1) of section 386 of the Code of Criminal procedure, 1898 (hereinafter referred to as the Code), shall be directed to a police officer and shall be in Form No. XXXVII of Schedule V to the code.

3. Contents of Warrant

- The authority issuing the warrant shall specify a time for the sale of the attached property and for

the return of the warrant. The time specified for the sale shall not be less than two months from the date of the issue of the warrant.

4. Attachment of movable property

(1)The attachment of movable property belonging to the offender shall be made by seizure :Provided that, where, in addition to or in lieu of seizure, the Police Officer consider that either or both of the methods referred to in clauses (b) and (c) of sub-section (3) of section 88 of the code, should be adopted, he shall obtain an order to that effect from the Court issuing the warrant.(2)When the method referred to in clause (b) of sub-section (3) of section 88 of the Code is adopted and a Receiver is appointed, the Court may confer on the Receiver all or any of the powers which may be conferred on a Receiver appointed by a Civil court under Order XL, Code of Criminal Procedure, and his duties, and liabilities shall be the same as the duties and liabilities of a Receiver so appointed.

5. Attachment of shares etc

- Where the property to be attached consist of the share or interest of the offender in movable property belonging to him and another as co-owners, the attachment shall be made after obtaining an order to that effect from the Court issuing the warrant, by a notice to the offender prohibiting him from transferring the share of interest or charging it in any way.

6. Service of Warrant

- Before making the attachment, the Police Officer shall deliver or tender a copy of the warrant to the offender or in his absence to any adult member of his family. If the Offender is in jail, a copy of the warrant shall also be sent to the offender through the Jailor. If a copy cannot be so delivered, the Police Officer shall affix a copy of the warrant at some conspicuous place where the property to be attached is found and if the property is situated in a village, the fact of attachment should be proclaimed by beat of drum after making the attachment, the Police Officer, shall, in like manner, deliver, tender or affix, as the case may be, an inventory of the property attached.

7. Sale of property

- If no claim is preferred to any property attached, within one month from the date of attachment, by any person other than the offender, the Police Officer executing the warrant shall have power to sell, within the time mentioned in the warrant previous reference to the Court issuing the warrant, the property or such portion thereof, as may be sufficient to satisfy the amount to be levied:Provided that, if the property attached consists of live stock or is subject to speedy and natural decay, or if in the interests of the owner, the Court issuing the warrant orders its immediate sale, the Police Officer may sell it at once, but the proceeds of the sale shall not be appropriated towards the fine until the expiration of one month from the date of the attachment, and until any claim preferred under rule 6 has been disposed of:Provided further that where any property is attached under rule 4, it shall not be sold without obtaining an order to that effect from the Court issuing the warrant; and where two

or more persons, of whom one is a co-owner, respectively offer the same sum of such property; it shall be deemed to be the bid of the co-owner.

8. Objections against attachment

- if any claim is preferred to any property attached under the rule 3 within one month from the date of such attachment, by any person than the offender, on the ground that the claimant has an interest in such property and that such interest is not liable to attachment, the claim shall be enquired into and disposed of as provided in rules 8 to 11 and the Police Officer to whom the warrant is directed shall be directed to stay the sale of the property attached until further orders: Provided that any claim preferred within the period allowed by this rule may, in the event of the death of the claimant, be continued by his legal representative.

9. Competent court for filing objections

- Claims may be preferred under rule 7 in the court by which the warrant is issued or if the claim relates to property attached under a warrant endorsed by a District Magistrate under section 387 of the code, in the Court of such Magistrate.

10. Enquiry on objections

(1) Every claim shall be enquired into and disposed of by the Court in which it is preferred : Provided that, if it is preferred in the Court of a Session or Additional Sessions Judge or a District Magistrate, such judge or Magistrate may transfer it for enquiry and disposal to any Magistrate of the first or second class, as the case may be, subordinate to him. (2) Before any claim is enquired into under sub-rule (1), the Court may, in its discretion, require the claimant to deposit in Court, a sum of money not exceeding ten per cent of the value of the property attached or Rs. 10 whichever may be greater. If the claimant fails to deposit the sum so required, the Court shall reject the claim. If the deposit is not so forfeited, it shall be returned to the claimant as soon as may be practicable after the Court has recorded its decision under rule 11.

11. Service of notice of objections

- Notice of claim preferred under rule 7 or of any objection thereto shall be served on the offender or in his absence, on any adult member of his family, If acceptance of such notice be refused, notice may be dispensed with or may be affixed to the residence of the offender or member of his family.

12. Order on objections

- The enquiry shall be summary. An adult member of the offender's family or such other person as the Court in its discretion may permit, may adduce evidence on behalf of the offender relevant to the claim or objection which may have been preferred. The Court shall record its decision on the claim with the reasons therefor. The decision shall forthwith be communicated to the police officer

executing the warrant who shall dispose of the property in accordance with such decision.

13. Suit against order on objections

- Any person whose claim has been disallowed in whole or in part by a decision under rule 11 may, within a period of one year from the date of such decision, institute a suit to establish any right which he claims in respect of the property in dispute, but subject to the result of such suit, if any decisions shall be conclusive.

14. Vesting of sold property

- Where any property, attached under rule 4 is sold, the Court issuing the warrant may make an order vesting such property in the purchaser; and such property shall vest accordingly.

15. Sale proceeds

- The Police officer executing the warrant shall, as soon as possible after the sale, produce the sale-proceeds before the Court issuing the warrant or if the property was sold under a warrant endorsed by a District Magistrate under section 387 of the Code, in the Court of such Magistrate.

16. Fresh warrant of attachment

- Subject to the proviso to sub-section (1) of section 386 of the Code and subject also to section 70 of the Indian penal Code, if at any time subsequent to the return of the warrant, the fine, or any part thereof, remains unpaid, and the Court has reasonable ground for believing that the offender has any movable property, it may issue fresh warrant of the attachment and sale of such property in accordance with the Code of these rules.

17. Rank of Police Officer

- A Police Officer empowered under these rules shall not be inferior in rank to a Sub-Inspector of Police or Head Constable when the estimated value of the property to be attached exceeds Rs. 100.