

The Tripura Public Demand Recovery Rules, 2001.

(As Amended Upto 1st Amendment Rules, dated 27.07.2016).

THE TRIPURA PUBLIC DEMAND RECOVERY
RULES, 2001

GOVERNMENT OF TRIPURA
FINANCE DEPARTMENT
(INSTITUTIONAL FINANCE)

NOTIFICATION

No.F.1 (11) – DIF / C – I / Part / 99 – 2000
2001.

Dated, Agartala, August 24,

In exercise of the powers conferred by section 37 of the Tripura Public Demand Recovery Act, 2000 the State Government hereby makes the following rules, namely

THE TRIPURA PUBLIC DEMAND RECOVERY RULS, 2001

CHAPTER – I

PRELIMINARY

Short title and Definition:-

1. (1) This rules may be called the Tripura Public Demand Recovery Rules, 2001.
(2) They shall come into force on the date of their publication in the official gazette.
2. In these Rules, unless there is repugnance in the subject or context: –
 - (a) “Act” means the Tripura Public Demand Recovery Act, 2000.
 - (b) ‘Competent Authority’ shall have the same meaning assigned to it as in the Act.
 - (c) ‘Form’ means any of the forms given in Schedule –I, or a translation thereof in the Bengali / Kok Borok language published under the authority of the State Government.
 - (d) ‘Schedule’ means Schedule-I and any other schedule to be incorporated into these rules.
 - (e) ‘Section’ means all or any of the section in the Act.

Arrear of public demand, defaulter and Public Demand Recovery Officer –

3. (1) Any public demand which is not paid on the due date shall become an arrear of public demand and the person responsible for the payment shall become a defaulter.

Explanation – “Defaulter” in this sub-section shall not include the Central or the State Government.

(2) The concerned Administrative Department of the State Government shall authorize one or more officer in the department to deal with all matters relating to public demand payable to that Department. Similarly, a Corporation, a Government Company or a Bank shall authorize one or more officer to deal with all matters relating to public demand payable to them. Such officer may be known as Public Demand Recovery Officer (PDRO).

CHAPTER II

ARREAR OF PUBLIC DEMAND AND ISSUE OF CERTIFICATE

Requisition for certificate –

4. (1) When there is any arrear of public demand the PDRO concerned may send to the Certificate Officer having local jurisdiction a written requisition in Form No.1.

(2) Every such requisition shall be signed and verified by the concerned PDRO as below -

- (i) The PDRO shall, in all cases, reflect the actual state of affairs in respect of the dues and in confirmation he will put his signature with seal after mentioning that the amount has been personally verified to be correct. This verification Certificate is to be given in Form No.1.(a).
- (ii) The PDRO shall also endorse an authenticated copy of the loan account indicating the dues along with Form No.1.(a).

Filing of certificate on requisition –

5. On receipt of any such requisition, the Certificate Officer, if satisfied that the demand is recoverable, shall sign a Certificate in Form No.2 stating that the demand is due from the defaulter (who shall be known as the certificate debtor) and shall cause the Certificate to be filed in his office.

Service of notice and copy of certificate to Certificate Debtor –

6. When a certificate has been filed in the office of a Certificate Officer, he shall cause to be served upon the Certificate Debtor a notice in Form No.3 and a copy of the Certificate. The notice in Form No.3 shall be Duplicate of which the original shall be served upon the certificate debtor and the duplicate shall be signed by the certificate debtor as a token of receipt & returned to the Certificate Officer.

Effect of the service of notice and the certificate –

7. From and after the service of notice of any certificate under section 6 upon a certificate debtor –
 - (a) any private transfer or delivery of any of his immovable property or of any interest in such property, shall be void against any claim enforceable in execution of the certificate; and
 - (b) the amount due from time to time in respect of the certificate shall be charged upon the immovable property of the certificate-debtor, wherever situated, to which every other charge created subsequent to the service of the said notice shall be postponed.

Filling of petition denying liability –

8. (1) The certificate debtor may, within 30 days from the service of the notice required by section 6, present to the Certificate Officer in whose office the original Certificate is filed, a petition in Form No.4, signed and verified by him denying his liability, in whole or in part or explaining the circumstances to plead that he / she is not a willful defaulter.

(2) The Certificate Officer while granting relief to the Certificate debtor on the ground that the certificate debtor is not a willful defaulter shall, in all cases apply his mind and take such evidence as may be necessary to ascertain the plea.

(3) No relief under this section shall be given if there is any doubt about the genuineness of the certificate debtor as a willful defaulter.

Hearing of the petition and Determining of liability –

9. The Certificate Officer in whose office the original certificate is filed shall hear the petition, take evidence if necessary, and determine whether the certificate debtor is liable for the whole or any part of the amount for which the certificate was signed or whether he is a willful defaulter and may set-aside or modify and certificate accordingly. Such

certificate with or without modification after decision under this section shall be the final certificate.

Explanation: A person can not be said to be willful defaulter if he fails to pay public demand for reasons beyond his control, that is, force majeure.

CHAPTER III EXECUTION OF CERTIFICATE

Who may execute certificate –

10. A final certificate may be executed by –

- (a) the Certificate Officer in whose office the original certificate is filed; or
- (b) the Certificate Officer to whom, a copy of the certificate is sent for execution under sub-section (1) of Section 11.

Transmission of certificate to another Certificate Officer for execution –

11. (1) A Certificate Officer in whose office the original certificate is filed may send a copy thereof after it becomes a final certificate for execution to any other Certificate Officer.

(2) When a copy of the final certificate is sent to any such officer he shall cause it be filed in his office and thereupon the provisions of section 7 shall apply as if such copy was an original certificate:

Provided that it shall not be necessary to serve a second notice and copy under Section 6.

When certificate may be executed –

12. (1) A Certificate shall be executed immediately after decision under section 9 without any further notice to the certificate debtor.

(2) If the Certificate Officer is satisfied that the certificate debtor is likely to conceal, remove or dispose of the whole or any part of his movable properties as would be liable to attachment in execution of a decree of a Civil Court and that the realisation of the amount of the certificate in consequence be delayed or obstructed, he may at any time after filing of the original certificate direct, for reasons to be recorded in writing, attachment of the whole or any part of such movable property;

Provided that if the certificate debtor whose movable property has been so attached furnish a security to the satisfaction of the Certificate

Officer, such attachment shall be cancelled from the date on which such security is accepted by the Certificate Officer.

Modes of execution –

13. Subject to the conditions as in the code of Civil Procedure, 1908 relating to attachment & sale of property, detention etc a Certificate Officer may order execution of certificate:–

- (a) by attachment and sale, or by sale without previous attachment, of any property of the certificate debtor; or
- (b) by attachment of any decree or award passed by any Civil Court or, as the case may be, any Tribunal or other authority in favour of the certificate debtor; or
- (c) by arresting the certificate debtor and detaining him in the civil prison; or
- (d) by any two or more of the methods mentioned in clauses (a), (b) & (c) provided that property of a certificate debtor shall not be sold and no decree shall be passed if, as a result of such decree the certificate debtor becomes landless, likewise, no person shall be arrested if he / she has a sucking baby and there is none else in the family to support the baby.

Notice of sale –

14.(1) Before effecting the sale of any land or other immovable property the Certificate Officer shall issue and publish notice in Form-5 and proclamation in Form No.6, in the manner as below:-

- (a) The Officer conducting the sale shall cause wide publicity of the proclamation of sale to be made and may, in addition to other processes provided for such publicity in Para 14 of Schedule – 1, get it published in any newspaper having circulation in the area.
- (b) The proclamation of the intended sale shall state the date, time and place of the sale and specify the following as clearly and accurately as possible –
 - (i) the property to be sold;
 - (ii) estimated value of the property;
 - (iii) the amount for the recovery of which the sale is ordered; and
 - (iv) such facts which the authority considers material to note in the proceeding in order to charge full and fair value of the property including such other circumstances as a purchaser ought to know.

(c) The proclamation mentioned in the Sub-rule (1) shall be served under Sub-section 2 of 14 on the defaulter as provided in Paras 3 to 12 of Schedule-I.

(d) The authority issuing the proclamation may summon the defaulter and examine him with respect to any matter which is to be included in the said proclamation.

(e) The place of sale to be specified under sub-rule 1(b) shall be either the Office of the Certificate Officer or any place near the property to be sold.

(2) A copy of every notice and proclamation issued under sub-section (1) shall be served on the certificate debtor.

Sale by auction –

15. All sales of property, movable or immovable of the certificate debtor shall be by public auction held in manner as below: -

(i) Any Certificate Officer may issue a warrant of distraint of movable property including the produce of the land of any defaulter in Form No.7 and sell the same thereafter by public auction.

(ii) Such auction shall be held at the spot unless the officer ordering the auction is of the opinion that the auction if held in any other place would bring a higher price in which case auction may be held at such other place.

(iii) If the auction is not held at the spot due publicity thereof shall be given by issuing a proclamation in Form No.8 which may also be proclaimed by beat of drum, if the Officer ordering the sale deems it necessary.

Distraint of movable property other than the produce of land –

(1) When the property to be distrained is movable property (other than the produce of the land) in the possession of the defaulter the distraint shall be effected by actual seizure and the distraining officer shall keep the property in his own custody, or in the custody of any one of his subordinates who shall be responsible for the due custody thereof.

Provided further that if the property so distrained consists of live-stock, agricultural implements or articles, which cannot be conveniently

removed, and the distraining officer does not act under the first proviso he may:

- (i) Leave it in charge of any person claiming to be interested in such property or of any other person, who is willing to undertake to keep and be responsible for the custody of such property on his entering into a bond with one or more sureties for an amount not less than the value of the property that he will take proper care of the property and produce it when called for. or,
 - (ii) In the case of Live-Stock leave it in the charge of the pound keeper, if any.
- (2) The distraining officer shall make a list of the property distrained and obtain thereon an acknowledgement from the person in whose custody the property is left, and if possible, also of the defaulter and at least two other persons in attestation of the correctness of the list, if the property distrained includes both live-stock and other articles, separate lists thereof shall be prepared and got attested.

Distrain of produce of land –

- 16.(1) Where the property to be distrained is the produce of the land, the distraint shall be made by affixing a copy of the distraint warrant:
- (a) Where such produce is growing, or the land on which the produce is growing, or
 - (b) Where such produce has been cut or gathered on the threshing floor or the place for treading out grains or the like in which it is deposited. This service will be in addition to normal process of service process in Para 14 of Schedule I.
- (2) The distraining Officer shall make such arrangements for the custody of produce of the land as he may consider sufficient and also to tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it.
- (3) The cost incurred under sub-rule (2) shall be payable by the defaulter.

Custody of distrained property –

- 17.(1) Where the distrained live-stock is not left in the charge of the defaulter the expenses of feeding it shall be charged at such reasonable rate as the Certificate Officer may, by general or special order, fix

(2) Where the property distrained is movable property, other than produce of the land or live-stock, and has not been left in the charge of the defaulter, the expenses for its safe custody shall be charged at such reasonable rate as the Certificate Officer may, by general or special order, fix.

(3) The cost incurred under sub-rules (1) and (2) shall be a charge on the sale price of the property.

Leaving live stock in the charge of Pound Keeper –

18. Where the distrained live-stock is left in the charge of the pound-keeper, the provision provided in paragraphs 17 to 20 in Scheduled-I regarding live-stock attached in execution of decrees of attachment will be applicable.

Attachment of immovable property –

19. (1) Where the property is immovable property, the attachment shall be made by an order in Form No.9 issued by the Certificate Officer prohibiting the defaulter from transferring or charging the property in any manner and all persons from having any transfer or charge from him.

(2) In addition to service provided for the service of a notice in Schedule I a copy of the prohibitory order shall be affixed at a conspicuous part of the property and shall be proclaimed in the locality by beat of drum.

(3) The order shall take effect as against transferees for value in good faith from the date when a copy of the order is affixed on the property and against all other transferee from the date on which such order is made.

(4) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Certificate Officer or his agent shall be credited to the person making the payment or relieve him from liability to make the payment to the Certificate Officer or his agent.

Management of attached property –

20. When the property attached consists of immovable property, the attaching authority shall be entitled to manage the property so attached or entrust its management to such person or authority on such conditions as it deems fit and to receive all rents and profits accruing

therefrom, to the exclusion of the defaulter. The collection charges in respect of the property so attached and managed shall after the costs of attachment and management have been deducted therefrom be applied to the payment of arrears for which the property was attached.

Claim of third person –

21. If any claim is set up by a third person to the property attached or proceeded against, the Officer ordering the attachment or proceedings, shall enquire in to the claim and may admit or reject it.

Objections by defaulter –

22. If the defaulter files any objection against the attachment or proceeding against the property it shall be disposed off by the officer ordering the attachment or proceedings.

Prohibition to bid at auction –

23. No Officer having any duty to perform in connection with any such sale and no person employed by or sub-ordinate to such Officer shall, either directly or indirectly, bid for or acquire any such property except on behalf of the Government.

Sale of perishable articles –

24. Perishable articles shall be sold by auction with the least possible delay and such sale shall be finally concluded by the officer conducting the sale.

The sales to be proportionate to the amount of public demand –

25. Every sale of property, movable or immovable, shall, as far as may be practicable, be proportionate to the amount of the arrear of public demand to be recovered together with the interest thereon and the expenses of attachment and sale.

Deposit by purchaser of immovable property –

26. In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately 25% of the amount of his bid, and the balance within 15 days of the date of sale.

Failure to make deposit –

27.(1) in default of the payment of the deposit referred to in Section 19 the property shall be put up for re-sale and the expenses incurred in connection with the first sale shall be borne by the defaulter bidder.

(2) In default of payment of the balance of the bid amount within the period prescribed in Section 19, the deposit after defraying therefrom the expenses of the sale shall be forfeited and the property shall be re-sold.

(3) When the proceeds of the re-sale are less than the arrear of public demand the difference shall be bridged, as far as practicable, by the balance amount of the deposit forfeited under sub-section (2). However, if there is no difference and the re-sold value is enough to meet the arrear of public demand or the difference is such it does not require entire forfeited amount then the forfeited deposit or part thereof, as the case may be, shall vest with the State Government.

Setting aside of sale –

28. When immovable property has been sold, the defaulter or any person owning such property or holding an interest therein, may, at any time, within 30 days of the date of sale or within such further period not exceeding 15 days as the Certificate Officer may for sufficient cause allow, apply to the Certificate Officer to have the sale set-aside in the manner as in Schedule –I Para – 16.

- (a) On the ground the some material irregularity or mistake or fraud resulted in substantial loss or injury to him, and
- (b) On his depositing to the Certificate Officer the amount of the arrear specified in the proclamation for sale, the cost of sale and for payment to the purchaser, a sum equal to 5% of the purchase money.

Confirmation of sale –

29. If on expiration of 30 days from the date of sale of any immovable property or the further period, if any, allowed under Section 21, no application has been made for setting aside the sale, or if made has been rejected, the Certificate Officer shall make an order confirming the sale unless, for reasons to be recorded, the Certificate Officer sets aside the sale notwithstanding that no application or prayer has been made.

Refunds –

30.(1) The Certificate Officer shall order refund and payment to the purchaser, of –

- (a) the amount deposited by him under Section 19, and
- (b) the sum equal to 5% of the purchase money deposited under Clause (b) of Section 21, if the sale is set-aside.

- (2) The Certificate Officer shall order the refund and payment of all the moneys deposited under Clause (b) of Section 21 to the person who made the deposit if the sale is confirmed.

Certificate of purchase –

- 31. When a sale held under this Chapter is confirmed, the Certificate Officer shall put the person declared to be the purchaser in possession of the property and shall grant a certificate in Form No.10 to the effect that he has purchased the property specified therein and such certificate shall be deemed to be a valid transfer of such property.

Application of proceeds of sale –

- 32. The proceeds of the sale of any such property shall be applied to defray the expenses of the sale which shall be determined in the prescribed manner and the balance shall be applied to the payment of the arrears of public demand on account of which the sale was held and the surplus, if any, shall be paid to the person whose property has been sold.

- (1) In the calculating the cost of sale, the Certificate Officer shall take into account the cost of notice of demand, attachment, and publication of the sale and any other costs incurred in conducting the sale.
- (2) If the proceeds of the sale fell short of such arrears for which it was held, the balance remaining due from the defaulter may be recovered from him by further proceeding under chapter – III of the Act, or by any other means authorized by law.

Liability of certified purchaser –

- 33. The person who has purchased any such land and to whom a certificate of purchase has been granted shall not be liable for the land revenue in respect of that land for any period prior to the date of sale.

Precautionary measures in certain cases –

34. When a crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, the Certificate Officer may, if he thinks it necessary, prevent its being removed from the land until the demand for the current year in respect of the land is paid, whether the date fixed for the payment of the same has arrived or not.

Attachment of decree –

35. (1) The attachment of decree or award as mentioned in section 13(b) may be made by issue to the Civil Court or the Tribunal or other authority of a notice with request to stay the execution of the decree or payment of the award unless and until –
- (i) the Certificate Officer cancels the notice; or
 - (ii) the certificate holder or the certificate debtor applies to the Court of execute the attached decree for satisfaction of the certificate from the net proceeds.
- (2) When a Civil Court, Tribunal or other Authority receives an application under Clause (ii) of sub-section (1) it shall subject to the provisions of the Code of Civil Procedure, 1908, proceed to execute the attached decree and apply the net proceeds for satisfaction of the certificate.
- (3) The Certificate holder shall be deemed to be the representative of the holder of the attached decree, and be entitled to execute such attached decree in any manner lawful for the holder thereof.

Power to arrest and detention –

36. (1) Before a Certificate Officer makes order for execution of a certificate by arresting the certificate debtor and detaining him in the civil prison he shall issue and serve a notice in Form No.11 upon the certificate debtor calling upon him to appear before the certificate officer on a date to be specified in the notice and to show cause why he should not be committed to civil prison.
- (a) if the Certificate Officer after considering the cause shown by the certificate debtor, or if no cause is shown within the specified period, is satisfied that the certificate debtor with the object of obstructing or delaying execution of the certificate has, after the filing of the certificate in the Office of the Certificate Officer, dishonestly transferred cancelled or removed any of his property or any part thereof; or

- (b) that the certificate debtor has or has had since the date of the filing of the certificate the means to pay the amount or any substantial part thereof for which the certificate has been issued and has refused or neglected to pay the same, any issue the order for the arrest in Form No.12 and detention in civil prison of the certificate debtor.

(2) Notwithstanding anything contained in Sub-Section (1) –

- (i) A warrant for the arrest against the certificate debtor may be issued by the Certificate Officer if the Certificate Officer is satisfied, by affidavit or otherwise, that with the object of delaying the execution of the certificate the certificate debtor is likely to abscond or leave the local limits of the jurisdiction of the Certificate Officer;

- (ii) Where an appearance is not made in obedience to a notice issued and served under Sub-Section (1), the Certificate Officer may issue a warrant of arrest against the certificate debtor.

(3) Every person arrested in pursuance of a warrant issued under Sub-Section (2), shall be brought before the Certificate Officer as soon as practicable and in any event within 24 hours of his arrest (exclusive of the time required for journey).

(3) When a certificate debtor appears before the Certificate Officer in obedience to a notice to show cause or is brought before the certificate officer under Sub-Section (3) the Certificate Officer shall proceed to hear as to why he should not be committed to the civil prison.

(4) Pending conclusion of the hearing under Sub-Section (4) the Certificate Officer may, in his discretion, order that the certificate debtor be detained in the custody of such officer or authority as the Certificate Officer may think fit or release him on his furnishing a security to the satisfaction of the Certificate Officer for his appearance when required.

(5) Upon conclusion of the hearing under Sub-Section (4) the Certificate Officer may, subject to the provision of Section 31, make an order for the detention of the certificate debtor in the civil prison and shall in that event cause him to be arrested if he is not already in custody.

(6) When the Certificate Officer does not make any order under subsection (6) he shall, if the certificate debtor is under arrest, direct his release.

(7) (1) A certificate debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court, and his detention may be in the civil prison of the district in which the Court ordering the detention is situated, or, where such civil prison does not afford suitable accommodation, if any other place which the State Government may appoint for the detention of persons ordered by the Courts of such district to be detained:

Provided, firstly, that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset and before sunrise:

Provided, secondly, that no outer door of a dwelling house shall be broken open unless such dwelling-house is in the occupancy of the certificate debtor and he refuses or in any way prevents access there to, but when the officer authorized to make the arrest has duly gained access to any dwelling house, he may break open the door of any room in which he has reason to believe the certificate debtor is to be found:

Provided, thirdly, that, if the room is in the actual occupancy of a woman who is not the Certificate debtor and who according to the customs of the country does not appear in public, the Officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest:

Provided, fourthly, that, where that decree in execution of which a certificate debtor is arrested, is a decree for the payment of money and the certificate debtor pay the amount of the decree and the costs of the arrest to the Officer arresting him, such Officer shall at once release him.

(2) The State Government may, by notification in the Official Gazette, declare that any person or class of persons whose arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with the provisions and procedures provided in the procedural legislations in this respect.

(3) Where a certificate debtor is arrested in execution of a decree for the payment of money and brought before the Court, the Court shall inform him that he may apply to be declared insolvent, and that he may be discharged if he has not committed any act of bad faith regarding the subject of the application and if he complies with the provision of the law of insolvency for the time being in force.

(3) Where a certificate debtor expresses his intention to apply to be declared an insolvent and furnishes security, to the satisfaction of the Court, that he will within one month so apply, and that he will appear, when called upon, in any proceeding upon the application or upon the decree in execution of which he was arrested, the Court may release him from arrest, and, if he fails so to apply and to appear, the Court may either direct the security to be realized or commit him to the civil prison in execution of the decree.

Release from arrest and re-arrest –

37.(1) The Certificate Officer may order the release of a certificate debtor who has been arrested in execution of a certificate, upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Certificate Officer and that he has not committed any act of bad faith.

(2) If the Certificate Officer has ground for believing the disclosure made by a certificate debtor under sub-section (1) to have been untrue, he may order the re-arrest of the certificate debtor in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by sub-section (1) of Section 31.

Detention in, and release from prison –

38.(1) Every person detained in the civil prison in execution of a certificate may be so detained –

- (a) where the certificate is for a demand of an amount exceeding Rs.5,000/-, for a period which may extend from six months to two years.
- (b) in any other case for a period which may extend to three months.

(2) Notwithstanding the provision of sub-section (1) a certificate debtor may be released from detention -

- (i) on the amount mentioned in the warrant for his detention being paid to the officer in-charge of the civil prison; or
- (ii) on the certificate being otherwise satisfied, or cancelled; or
- (iii) on the omission of the PDRO on whose requisition the certificate was filed to pay the subsistence allowance fixed by the Certificate Officer.

Provided that the certificate debtor shall not be so released from detention except under an order of the Certificate Officer.

(3) A certificate debtor released from detention under clause (iii) of sub-section (2) shall not, merely by reason of his release, be discharged from his debt, but he shall not be liable to be re-arrested and detained in the civil prison in execution of the same certificate.

Release on ground of illness –

39.(1) At any time after a warrant for the arrest of a certificate debtor has been issued, the Certificate Officer may cancel it on the ground of his serious illness or that he is not in a fit state of health to be detained in the civil prison or on ground of any infections or contagious disease.

(2) A certificate debtor released under this section may be rearrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by sub-section (1) of Section 31.

Bar to Civil Court jurisdiction –

40.No suit or other proceeding against any person acting under this Act for the recovery of any public demand shall lie in any Civil Court, and no injunction shall be granted in respect of any action taken or intended to be taken in pursuance of the provisions of this Act.

Act shall not affect interest created by mortgage charge, pledge etc. –

41.(1) Nothing in this Act shall affect any interest of the State Government, a Corporation, a Government Company or a bank in any mortgage, charge, pledge or other encumbrance.

(2) Where the property of a certificate debtor is subject to any mortgage, charge, pledge or other encumbrance in favour of the State Government, a Corporation, a Government Company or a bank then -

(a) in every case of a pledge of goods, proceedings shall first be taken for sale of the goods pledged, and if the proceeds of such sale are less than the sum due, then proceedings shall be taken for recovery of the balance;

(b) in every case of a mortgage, charge or other encumbrance on immovable property, such property or, as the case may be, the interest of the certificate debtor therein, shall first be sold in proceedings for recovery of the sum due from him as if it were an arrear of land revenue, and any other proceedings may be taken thereafter only if Certificate Officer certifies that there is no prospect of realization of the entire sum due through the first mentioned process within a reasonable time.

CHAPTER IV MISCELLANEOUS

Appeal –

42. Any person aggrieved by any order of the Certificate Officer may file appeal within a period of 30 days from the date of passing such order. If the Certificate Officer is of the rank of the Deputy Collector the appeal shall lie to the District Collector and if the District Collector himself is the Certificate Officer, the appeal shall lie to the Revenue Secretary to the State Government.

Act not to debar recovery of dues by bank under any other law –

43. (1) Nothing in this Act shall debar the recovery of dues in respect of financial assistance given to an agriculturist or the security of a charge or mortgage created by the agriculturist on any land or interest therein in favour of a corporation, bank or other institution where such dues are recoverable under the provisions of any other law for the time being in force.

(2) The provision of this Act is not in derogation of any of the provisions of the TLR and LR Act, 1960 relating to recovery of land revenue and other money mentioned therein but may be enforced or resorted to in the alternative.

Shortcoming of these Rules –

44. Any short coming in these Rules shall be done away with the spirit of relevant provision in the TLR & LR Rules, 1961 as amended from time to time.

Transitory provision –

45. All suits of the nature for recovery of money falling within the definition of public demand pending in any civil court immediately before coming into force of this Act shall abate so however that such abatement shall be without prejudice to the right of the State Government, Corporation, Government Company or bank, as the case may be, to recover such demand in accordance with the provisions of this Act or any other law for the time being in force.

Fees charges on PDROs at the time of filling the petition –

46. Every PDRO shall be liable to pay to the Certificate Officer five percent of the amount in default being the process fee at the time of filling the requisition provided that such fee shall be refunded after deducting the actual costs, if any case a certificate is not issued.

Explanation: - The PDRO shall pay the prescribed fee to the Certificate Officer in cash which will be paid into the treasury by the Certificate Officer as Revenue Deposit. Any refund of the amount deposited into the treasury shall be made to the PDRO in the same manner as ordinary revenue deposit as prescribed in the TLR & LR Rules, 1961.

By order of the Governor

Debashish Sircar
Commissioner & Secretary to the
Government of Tripura

To
The (Certificate Officer)

.....
.....
.....

Sir,

This is to bring to your kind notice that a sum of Rs. (Rupees) only is due to the (name of Department / Organisation / Bank / Corporation etc.) as on on account of financial assistance availed of by Sri / Smti. for the purpose of (name of the scheme).

Details are given below:

1. Name of the defaulter loanee
2. S/o , D/o, W/o:
3. Address : Vill:
P.O:
P.S:
District:
4. Amount due – Principal Rs.
Interest Rs.

Total Rs.

(Rupees) only.

5. Description of moveable / immovable property
.....
.....
.....

It is therefore, prayed that action may kindly be taken under section 5 of the Tripura Public Demand Recovery Act, 2000 for realization of the dues.

Yours faithfully,
Signed & verified by
Public Demand Recovery Officer,
(seal)

I, Shri / Smti.

PDRO in respect of

(Deptt. Organisation / Bank etc) do hereby confirm, verify and certify that the particular in Form No.1 are correct.

I also confirm that the defaulter loanee is a willful defaulter for the reasons stated as under;

1.
2.
3.
4.
5.
6.

Yours faithfully,

(Public Demand Recovery Officer)

—

Note :- In order to substantiate that the defaulter is a willful, defaulter, all supporting documents shall be furnished by the PDRO.

Form – 2

In the Court of the Certificate Officer (jurisdiction)

Whereas Shri / Smti. a PDRO in respect of Deptt. / Bank / Institute / Corporation etc. has filed a written requisition in Form No.1 and 1(a) under the PDR Rules 2001, whereby the following debtor has been claimed to be a willful defaulter –

Shri / Smti. S/O, D/O, W/O Shri / Smti. /
Late of Vill P.O. P.S.
..... District for the default in repaying an
amount of Rs. (principal) plus (interest) = Total
Rs. (Rupees) only.

Whereas, from the documents furnished by the PDRO, the undersigned is satisfied / not satisfied that the loanee is a willful defaulter.

Now, therefore, on being satisfied / not satisfied that the amount is recoverable / not recoverable the undersigned do hereby refuse to sign / sign the certificate to the effect that the demand is due / not due from Shri / Smti.

Certificate Debtor / not a willful defaulter and file / do not file this certificate in this Office.

Registered & file vide No.
Dated

Certificate Officer

Form – 3
(See Rule – 6)

In the Court of Certificate Officer,

To

.....
S/o, W/o, D/o.
of Village
P.O.
P.S.
District

You are hereby required to take notice that a sum of Rs.
(Rupees) only is due from you on account of financial assistance availed by you from (name of Department / Organisation / Bank / Corporation) as per details given below and that unless it is paid within days from the receipt of this notice further proceedings for the recovery of the dues shall be drawn against you according to law:-

1. Financial assistance given by for Rs.
 - i. Interest upto Rs.
 - ii. Total amount due as on Rs.
 - iii. Description of movable property / immovable property
.....

A copy of crepitare is also annexed herewith.

Dated / 2000.

Certificate Officer,
(Seal)

Served upon the certificate debtor on
By at hours.

Received a copy of the above notice.

Name & signature of the
Certificate Debtor.

Form – 4
(See Rule – B)

To
The (Certificate Officer)
.....
.....

Sir,

I Shri / Smti S/O, W/O, D/O of
village / Town District hereby deny /
agree that the demand raised by (name of Bank / Deptt.
/ Corporation etc. against me is correct.

I however, solemnly state that I am not a willful defaulter on the following
grounds

.....
.....

(a) I undertake to repay the loan received by me for an amount of Rs.
..... in the manner as stated below :-

or,

(i) As you deem fit;

or,

(ii) In installment @Rs. per month.

Signed & Verified by the
Certificate Debtor

Form – 5

Notice under proviso to section 14(1) of the Tripura Public Demand Recovery Act, 2000.

In the Court of the Certificate Officer,

.....
.....

To

Shri S/O, W/O, D/O of village / Town
P.O: P.S..... District

You are hereby required to take notice that a sum of Rs.
(Rupees) only being the Principal of Rs. And interest
of Rs. is due from you on account of financial assistance given to
you by Deptt. / Bank / Corporation / organization and unless it is
paid within Days from the date of receipt of this notice, further
proceeding for the recovery of the dues shall be taken against you according to
law.

Certificate Officer,

Form – 6
(See Rule 14(1))

Proclamation of sale of immovable property.

Whereas immovable property as specified blow has been attached for recovery
of Rs. (Rupees) only on account of financial
assistance received from S/O, W/O, D/O P.O:
..... P.S. District

Proclamation is hereby made that, unless the amount due be paid to the
..... Before the day herein fixed for the sale, the said property shall be
sold by public auction at on the day of 20
..... At or about O'clock.

Description of immovable property.

.....
.
.....
..
.....

Dated 20

Certificate Officer,

Form – 7
Warrant of distraint of movable property.

To

.....
.....
(name and office of the person charged with execution of warrant)

Whereas Shri / Smti. S/O, W/O, D/O
..... residence of village Tahsil Thana
..... Circle Sub-Division has made default
in payment of Rs. on account of financial assistance received
from bank as per details given below, you are ordered to attach the
movable property of the said and unless the total amount due is
paid to the Bank / Corporation / Deptt. / Organization to hold the same
until further orders.

You are further ordered that if the property distrained be subject to speedy
or natural decay; or if the expense of keeping it in custody is likely to exceed its
value, you may sell it at once by public auction and deposit the proceeds
accordingly to law.

You are ordered to return this warrant on or before the day of
20 With the endorsement certifying the date and the manner in which it has
been executed or why it has not been executed:-

1. Description of the movable property charged.

.....
..

- 2. Financial Assistance given Rs.
- 3. Interest Rs.
- 4. Total amount due Rs.

Dated 20...

Certificate Officer,

Form – 8

Proclamation of sale of movable property.

Whereas movable property specified below has been attached for the recovery of Rs. on account of financial assistance received from Bank / Deptt. / Corporation etc. By Shri / Smti. S/O, W/O, D/O of village / Town P.O: P.S:..... District

Proclamation is hereby made that, unless the amount due be paid to Rs. (Rupees) the Bank / Deptt./ Corporation) before the day herein fixed for the sale, the said property shall be sold by public auction at on the day of 20 At or about

<u>Description of movable property</u>	<u>Number of articles</u>

Dated 20.....

Certificate Officer,

Form – 9

Prohibitory order: Attachment of immovable property.

Whereas Shri / Smti. son / daughter of caste resident of Village P.O:.....P.S: District has made default in payment of Rs. on account of financial assistance availed by him as below:

.....
..
.....
.....

It is ordered that the said be and is hereby prohibited and restrained until further order of this Office, from transferring or charging the property specified in the following scheduled by sale, gift or otherwise and all persons be and hereby in like manner prohibited from receiving the same by purchase, gift or otherwise.

Issued under my hand and seal of this Office this day of 2000.

Certificate Officer,

Schedule

Village & TK	Khatian No.		Plot No.	Area	Description	Amount

Form – 10
(See Rule 24)

Certificate of purchase

In the court of the Case No.

This is to certify that S/O, W/O, D/O. of village / Town P.O: P.S:..... District has been declared the purchaser of the immovable property specified below of a sale by public auction held on the day of and that the sale has been duly confirmed by the certified Officer on theday of 20.....

The sale transferred the right, title and interest of S/O, W/O, D/O in the said property to the purchaser.

Details of property

Description	Location	Place of Assessment	Name of recorded Owner / Occupant	Amount for which purchased
1	2	3	4	5

Dated, 20...

Certificate Officer,
(Seal)

Form – 11
(See Rule 29 (1))

In the Court of
Case No.
Parties

To S/O, W/O, D/O. of village /
Town P.O: P.S:..... District

Whereas Has instituted a case against you for defaulting in repayment of loan for an amount of Rs..... (Principal Rs. plus interest Rs.) which you availed from for the purpose of you are summoned to appear in this court in person or by a pleader to show cause why you should not be committed to civil prison.

Take notice that, in default of your appearance on the day before mentioned, the case will be heard and determined in your absence.

Give under my hand and seal of the court, this day of 20.....

Certificate Officer
Seal

Form – 12

To

..... S/O, W/O, D/O. of village / Town
..... P.O: P.S:..... District has not obeyed the summons issued by this court for appearance on for which summons was duly served on him, you are hereby given direction to arrest the said and to produce him before this court on the day or before 20.....

Dated,20...

Certificate Officer
Seal

If the said pays the amount of Rs. as due under the Certificate and the cost of the Officer arresting the said the arresting Officer shall release him forthwith.

Dated,20.....

Certificate Officer
Seal

SCHEDULE – I

Issue of Notice –

1. An application for the issue of notices for a party or a witness shall ordinarily be made by the party concerned. A court may summons any person whose attendance it considers necessary for the purpose of any business before it.
2. (1) A party shall file with his application for issue of notices the requisite number of printed forms of notices in duplicate duly and legibly written in bold characters. The party its recognized agent or pleaders shall sign the forms at the bottom on the left hand corner.

(2) Every notices to a party shall be accompanied by a concise statement about the subject matter of the proceedings which as well shall be signed by the party filling the summons, or by its recognized agent or pleader.
3. When any party nor his agent presents an application for summoning witnesses, the court shall pass an order directing the Nazir to receive payment on account of allowances to witnesses and it shall then return the applications to the party concerned. The Nazir after receiving the amount shall certify the receipt thereof together with the number of deposit in the register maintained by him on the application and return it to the court. On receipt of the Nazir's report the court shall proceed forthwith to issue the witnesses and such money shall be tendered to the witnesses along with notices.

(1) A person summoned shall be bound to appear at the time and place mentioned in the notices in persons or, if the notices to allows, by his recognized agent or a legal practitioner.

Persons summoned bound to Appear and to state truth –

- (2) The person attending in obedience to the notices shall be bound to state that truth upon any matter respecting which he is examined or makes statement and to produce such documents and other things relating to any such matter as the court may require.

Personal service by rayat –

4. A party or his agent, may be leave of the court effect the service or summons on his own witness by personal service, and in such case no process fee shall be charged.

Service on summons on public servants –

5. (1) A summons to a Government servant other than a member of the Armed Forces of the union or the employee of a local authority shall ordinarily be served through the head of the office in which he employed.
- (2) Where the person to be summoned is an Officer of the Armed Forces of the union the Court shall send the summons direct to him and where such persons is a soldier, sailor or airman the summons shall be sent for service to his Commanding Officer.
- (3) Where the Court considers it necessary to issue a summon direct to a public servant other than a soldier, sailor or airman, it shall, simultaneously with the issue of the summons, send a notice to the head of the Office in which the person summoned is employed.
- (4) In all these cases sufficient time shall always be given to admit or arrangement being made for the relief of the person summoned.

Service of summons –

6. A summons shall, if practicable, be served (a) personally on the person to whom it is addressed or failing him (b) on his recognized agent or (c) on any adult male member of his family usually residing with him.
- (2) if service cannot be effected as above, or if acceptance of service so made is refused, the summons may be served by pasting a copy thereof on the door of the usual or last known place of residence of the person to whom it is addressed or by publication in a newspaper.

Acknowledgement when summons pasted at person's door –

7. When a summons be pasted on the door of a place of residence and acknowledgement of its having been so pasted shall be taken from two respectable neighbours.

Substituted Service –

8. If the Court decides to effect service by publication in a newspaper it shall select the paper after considering which is or are the most likely to be brought to the notice of the person to be served. The name of the person addressed in the notice or summons shall be printed in bold letters at the top the particulars of the case being given thereafter.

Service when persons to be served are numerous –

9. If the summons relates to a cases in which / having persons the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Court so directs, be served by delivery of a copy thereof to such of those persons as the court nominates in this behalf and by proclamation of the contents thereof for the information of other person.

Service by registered post –

10. A summons may, if the court so directs, served on the person named therein, either in addition to, or in substitution for, any other mode of service by post in a letter addressed to the person and registered under part III of the India Post Office Act, 1866.

Presumption of service by post –

11. When a summons is so forwarded in a letter, it is proved that the letter was properly addressed and duly posted and registered, the court may presume that the summons was served at the time when the letter would have been delivered in the ordinary course of post.

Service of summons out of union of India –

12. The provisions of the Code of Civil procedure, 1908 along with any rules or notifications issued by State Government as amended from time to time, for service of summons out of Union of India or service of summons received from other countries, shall apply to the Courts of Certificate Officers in Tripura.

Mode of serving notice –

13. Every notice under the Act may be served either by tendering or delivering a copy thereof, or sending such copy by post to the person on whom it is to be served, or his authorized agent or, if service in the manner aforesaid cannot be made by affixing a copy thereof at his last known place of residence or at some place of public resort in the village in which the debt to which the notice relates is situated.

Mode of issuing proclamation –

14. Whenever a proclamation is issued under the Act copies thereof shall be pasted in some conspicuous place of the Court house of the Officer issuing it, at the Office of the Certificate Officer in his jurisdiction within which the properties to which it refers is situated, and some place of public resort on or adjacent to the properties to which it refers, and, unless the Officer issuing it otherwise directs, the proclamation shall be further published by beat of drum in the village, in which the properties to which it refers is situated, or if such village is uninhabited, in the village from which the properties maintained.

Notice of proclamation not void for error –

15. No notice of proclamation shall be deemed void on account of any error in the name or designation or any person or in the description of any land referred to therein, unless such error has produced substantial injustice.

Application for setting aside the sale –

16. (1) An application for setting aside a sale under section 21 shall be made to the Certificate Officer giving therein the grounds on which such sale is sought to be set aside and documentary evidence, if any, in support thereof.
- (1) Such an application shall be disposed of by the Certificate Officer after giving notice to the parties interested in the sale and after affording such parties an opportunity of being heard and producing evidence.
17. For every animal committed to the custody of the pound keeper a charge shall be levied as rent for the use of the pound for each fifteen days or part thereof during which such custody continues, according to the scale prescribed under section 12 of the Cattle Trespass Act of 1871. And the sums so levied shall be sent to the treasury for credit to the Municipality, Notified Area or the state of Tripura as the case may be, under whose jurisdiction the pound is, or made over to the pound keeper.

18. The pound keeper shall take care of, feed and water, animals distrained and for committed as aforesaid until they are withdrawn from his custody as herein after provided and shall be entitled to be paid for their maintenance at such rates as may be, from time to time, prescribed under proper authority.
19. The charges for the maintenance of live stock shall be paid, to the pound keeper by the distraining Officer for the first fifteen days are the time the animals are committed to his custody and thereafter for such further such period as the court may direct, at the commencement of such period, payments for such main amount so make in excess of the sums due for the number of days during which the animals may be in the custody of the pound keeper shall be refunded by him to the distraining Officer.
20. Live stock distrained and committed as presaid shall not be released from custody of the pound keeper except on the written order of the Court concerned or of the distraining Officer or of the Officer appointed to conduct the sale. The person receiving the animals on their being so released, shall sign a receipt for them in the register.

GOVERNMENT OF TRIPURA
FINANCE (INSTITUTIONAL FINANCE) DEPARTMENT

No.F.1(11) – DIF / C – I (P) / 9169-264
2004.

Dated, Agartala, the 18th October,

NOTIFICATION

In exercise of the powers conferred by Sub-Section (3) of Section 1 of the Tripura Public Demand Recovery Act, 2000 the Government of Tripura hereby appoints 21st September, 2000 on and from which the Act shall be deemed to have come into force.

By order of the Governor,

G.K. Rao
Principal Secretary to the
Government of Tripura

*****X*****

TRIPURA



GAZETTE

Published by Authority

EXTRAORDINARY ISSUE

Agartala, Wednesday, July 27, 2016 A. D., Sravana 5, 1938 S. E.

PART--I-- Orders and Notifications by the Government of Tripura,
The High Court, Government Treasury etc.

GOVERNMENT OF TRIPURA
FINANCE (INSTITUTIONAL FINANCE) DEPARTMENT

No. F. 1(11)-DIF/C-I (P)/ 3381

Dated, Agartala, the 25th July, 2016.

NOTIFICATION

In exercise of the powers conferred by Section 37 of the Tripura Public Demand Recovery Act, 2000, the Governor of Tripura, is hereby pleased to make the following rules, to further amend "The Tripura Public Demand Recovery Rules, 2001" namely;

Short title and

Commencement: 1 (i) The rules may be called "The Tripura Public Demand Recovery (amendment) Rules 2016".

(ii) They shall come into force on and from the date of the publication in the Tripura gazette;

2. **In these rules, unless there is repugnance in the subject or context:**

- (a) 'Act' means, the Tripura Public Demand Recovery Act, 2000,
 - (b) Competent authority "shall have the same meaning assigned to it as in the Act".
 - (c) 'Form' means any of the forms given in schedule I, or a translation thereof in the Bengali or Kok Barak language published under the authority of the State Government.
 - (d) 'Schedule' means – schedule- I and any other schedule to be incorporated into these rules.
 - (e) 'Section' means all or any of the sections in the Act.
-

Substitutions of Rules - 46.

- 3. Rule 46 of "The Tripura Public Demand Recovery Rules, 2001 hereinafter called as the Principal Rules shall be substituted by the following:**

Rule 46 (i) Every Public Demand Recovery Officer (PDRO) shall be liable to pay 2% of the certificate case amount to the Certificate Officer along with the request for Certificate case recovery.

- (ii)** As soon as certificate case is finalized, 2% of the recovered amount shall be deposited with the certificate officer by the Public Demand Officer.

Explanation: The PDRO shall pay the prescribed amount to the certificate officer in cash which inturn will be deposited into the treasury by the Certificate Officer as Revenue Deposit.

By order of the Governor,

esr
22/7/16

(Dr. G.S.G. Ayyangar)

Principal Secretary to the
Govt. of Tripura,
Finance Department