

THE AZAD JAMMU AND KASHMIR REDEMPTION AND  
RESTITUTION OF MORTGAGED LANDS RULES, 1971.

(Passed Under Government Order No. FC/92-132/71 Dated 13-4-1971.)

1. **SHORT TITLE AND COMMENCEMENT.**, These rules may be called the Azad Jammu and Kashmir Redemption and Restitution of Mortgaged Lands Rules, 1971,  
(2) They shall come into force at once.
2. **DEFINITIONS.** In these rules, unless there is anything repugnant in the subject or context --
  - (i) "Ordinance" means the Azad Jammu and Kashmir Redemption and Restitution of Mortgaged Lands Ordinance, 1969;
  - (ii) "application" or "petition" means an application or petition, as the case may be, made under sections 3, 10 and 12 of the Ordinance;
  - (iii) "compensation" means the amount assessed by the Collector under section 12 of the Ordinance as payable to the mortgagee prior to restitution of any mortgaged land to the mortgagor;
  - (iv) "Form" means a form appended to these rules;
  - (v) "rules" means the Azad Jammu and Kashmir Redemption and Restitution of Mortgaged Land Rules, 1971.
  - (vi) "section" means a section of the Ordinance.

PART I

REDEMPTION OF MORTGAGES

3. **Presentation of, application.** (1) An application under section 3 shall be in Form "A", and shall be signed and verified in the manner prescribed in Order VI, rules 14 and 15 of the First Schedule to the Code of Civil Procedure, 1908.

(2) The application shall bear the Court-fees-stamp of Rs. 1.00 and shall be accompanied by

(a) an attasied copy of the latest entry in the Annual Record of Rights (Jamabandi) relating to the land mentioned in the application;

(b) an attested copy of the original mutation of mprtgate;

(c) as many copies of the application as the number of persons mentioned in columns 1 and 2 of the application;

Provided that if the applicant is unable to supply attested copies of the latest entry in the Annual Record of Rights (Jamabandi) and the original mutation of the mortgagee as he shall deposit a fee of Rs. 3.00 with the Collector who shall issue a receipt in Form 'C' to the applicant and arrange TO get the requisite copies made in his office; and

(d) A treasury challan, indicating the deposit of the sum due on the mortgage, if any, as shown in column 12 of the application in Form 'A'.

(3) The application shall be presented to the Collector of the district in which the mortgaged land is situated, by the applicant personally, or through a duly authorised agent. In the case of two or more applicants, it may be presented by any one of them.

(4) When there are more mortgagors than one and all of them do not join in making an application, it may be made by any one or more of them, the names of the others being set out in column 1 of the application; and the other mortgagors may subsequently be allowed to join as applicants on such terms as may be decided by the Collector.

4. **PROCEDURE BEFORE THE COLLECTOR,-** On receipt of an application, 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 application and cause notice thereof, together with a copy of the application, to be servpri on the persons mentioned in column 1 and 2 of the application.

**5. PRESENTATION OF STATEMENT OF DEFENCE BY MORTGAGEE,ETC.-** The persons mentioned in columns I and 2 of the aplication, 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 First Schedule to the Code of Civil Procedure, 1908.

6. **APPEARANCE OF PARTIES BEFORE THE COLLECTOR,-**Parties to proceedings under the Ordinance may appear in person or through a legal practitioner holding a power of attorney, or through a duly authorised' agent.
7. **APPLICATION BY MINOR'S AND PERSONS OF UNSOUND MIND.-** If any one of the applicants or respondents is a minor or of unsound mind, the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 shall, so far as these may be applicable, apply to proceedings under the Act.
  - (1) On the day, fixed under rule 4 for hearing of the parties, or on any other day to which the hearing may be adj'oued, the Collector shall hear the evidence produced by the parties and after making such further enquiry as he may deem necessary, shall decide whether the applicant has a right to redeem the mortgage.
  - (2) If the Collector is satisfied that the applicant has a right to redeem the mortgage, he shall pass orders under sections 5 and 6.
8. **ASSESSMENT OF THE AMOUNT DUE UNDER THE MORTGAGE WHEN THE MORTGAGE IS IN POSSESSION.-** When the mortgaged land concerned is in the possession of the mortgagee, the Collector shall, in assessing the amount due under the mortgage, take into account the benefits received by the mortgagee while in possession. For this purpose, the Collector shall, in the absence of any satisfactory evidence to the contrary, presume that they were equal to the net assets of the land as defined in clause (18) of section 3 of the Punjab Land Revenue Act, 1887 (XVIII of 1887) as adapted in Azad Jammu and Kashmir. Where cash rents are rare and to secure uniformity, the estimate of net assets based on rents in kind prescribed by rule 1 of Land Revenue Assessment Rules, 1929, shall be used. Contrary evidence may be offered by a mortgagor to justify a proportionate increase in the net assets for years of high prices or areas of intensive cultivation; and by a mortgagee to justify a proportionate reduction of these net assets for extraordinary calamities.

10. **PROCEDURE FOR MAKING DEPOSIT OF 'TOE SUM DUE UNDER THE MORTGAGE,** (1) The sum to be deposited by the applicant under section 4 of the time of submitting his application and any further sum found due under the mortgage by the Collector under section 5 to be paid within thirty days or within such further period as may be specified by the Collector in this behalf, shall be deposited by the applicant in the Government, Treasury for disbursement to the mortgagee.
- (2) When the mortgagee has deposited with the Collector the mortgage deed and other documents, if any, evidencing the mortgage or title to the land or satisfied him that the documents though at one time existing, had been lost, he shall be entitled to receive the amount deposited under sub-rule (1) in accordance with rules of the Government Treasury, and the documents of the title shall be made over to the applicant.

**PART II  
RESTITUTION OF MORTGAGES**

11. **PRESENTATION OF PETITION.-** A petition under section 10 shall be in form 'B' and shall be verified, bear the Court-fee stamps and be accompanied by the documents, as provided in rule 3, except the document mentioned in clause (d) of sub-rule (2) of rule 3.
12. **DETERMINATION OF COMPENSATION FOR IMPROVEMENTS MADE BY THE MORTGAGEE.-** In case of an express contract for improvement; the mortgagee shall file a statement of claim on account of compensation for improvement effected by him. The Collector shall proceed to determine the amount of compensation and the mortgage shall only be deemed to have been extinguished on payment of compensation awarded by the Collector under this rule.
13. **PROCEDURE FOR MAKING DEPOSIT OF COMPENSATION FOR IMPROVEMENTS,** (1) The amount of compensation for improvements made by the mortgagee as determined by the Collector under rule 12, shall be deposited by the mortgagor in the Government Treasury within such time not exceeding six months, as shall be fixed by the Collector, for disbursement to the mortgagee.
- (2) When the mortgagee has deposited with the Collector the mortgage deed and other documents, if any, evidencing the

mortgage or title to the land or satisfied him that documents though at one time existing had been lost, he shall be entitled to receive the amount deposited under sub-rule (1), in accordance with the rules of the Government Treasury and the documents of the title shall be made over to the petitioner.

14. **APPLICATION OF RULES 5 TO 10 IN RESPECT OF PETITIONER FOR RESTITUTION OF MORTGAGE.**- The provisions of rules 4 to 10 (both inclusive) under pan 1 of these rules, shall also apply to proceedings in respect of a petition under Section 10.

PART III

SUPPLEMENTARY PROVISIONS.

15. **PROCEDURE FOR EJECTING THE MORTGAGEE & DELIVERING POSSESSION OF THE MORTGAGED PROPERTY TO THE MORTGAGOR.**- (1) On application by a person in whose favour an order has been made i-nder section 5 or 12 of the Ordinance, as the case may be, the Collector may issue a warrant directing the said person to be put into possession of the land.
- (2) If any co-mortgagor Nils to apply under sub-rule (4) of rule 3 to be made a petitioner, or being a petitioner fails to pay his share of the compensation assessed, possse— ssion shall be given to the mortgagor by wnou-i such compensation has been paid in full; and such co-mortgagor shall continue to be shown in the revenue records as mortgagor until such time as he has paid as mortgagee of -his share.
- (3) The warrant shall, after execution and with necessary endorsement, be returned to the Collector.
- (4) Possession shall normally be delivered between the first day of May and the fifteenth day of June, both days inclusive unless the land is lying vacant, but the petitioner may, subject to the payment by him on compensation for standing crops, as may be determined by the Collector, be allowed possession at any other time.
16. **PROCEDURE TO BE FOLLOWED WHERE MORTGAGED LAND IS SITUATED IN MORE THAN ONE DISTRICTS.**-When any mortgage transaction affects land situated in more districts than one, application may be made to whom the application is made shall deal with the case as if the entire land were situated in his

districts.

(2) In an application covered by sub-rule (1), the Collector receiving the application shall transmit a copy of the same to the Collector of each district where any part of the rest of the land is situated,

(3) Every final order passed under sections 5 and 6 and 12 and 13 by the Collector enquiring into the application shall, so far as it relates to the land lying in the other districts, be similarly communicated to the Collectors thereof.

(4) If after the receipt by any Collector of an intimation under sub-rule (2), any fresh application is made to him in respect of the mortgage covered by the first application, he shall forward the same to the Collector of the district where the first application is pending and advise the applicant to seek his remedy there-

(5) In cases covered by this rule, the Collector issuing warrant of possession under rule 15 shall issue a separate warrant for the area lying in each other district and transmit the same for execution to the Collector thereof who shall execute the warrant as if it had been issued by himself.

**17. PROCEDURE IN CASES OF DISPUTE CLAIMS TO THE MORTGAGE MONEY.-** If there is any dispute between persons claiming to be entitled to the amount under the mortgage found due by the Collector under section 5, or the amount of compensation determined by him under clause (b) of section 12, the Collector may either decide the dispute himself or order the sum deposited by the applicant not to be paid to any one till the contesting persons have had their rights decided by a competent court of law.

**18. REPEAL.-** The following rules are hereby superseded.

(i) The Punjab Restitution of Mortgaged Land Rules, 1939-

FORM 'A'  
(See Rule 3).

APPLICATION for redemption of land section 3 of the Azad Jammu and Kashmir Redemption and Restitution, of Mortgaged Lands Ordinance, 1969.

To  
The Collector  
District.  
Sir,  
I/We \_\_\_\_\_ (here state name, father's  
name and caste) land-owner(s) of  
village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_  
apply that my/our land/lands, described in the Schedule hereto annexed,  
may be redeemed and that I/We be put in possession thereof.

SCHEDULE

1. Name, parentage, caste and residence of other mortgagors not joining the application.
2. (a) Name, parent age, caste and residence of the mortgagee, and (b) if he be not in possession, of the person in possession of the land.
3. The name, parent age, caste and residence of the original mortgagor and mortgagee.
4. In case the person shown in column 2 was not the original mortgagee, the manner in which he came to possess the mortgagee rights.
5. The area and description of the land (Survey/Khasra No. with name, if any) to be redeemed.
6. Detail of the area of any share in the common land of the village or of a sub-division (tarf or patti), if any, included in the mortgaged land, to be excluded from the mortgaged land under

Explanation I to section 3.

7. The nature of 'the mortgage (whether by registered deed unregistered deed or, by an oral agreement)
8. The date of mortgage.
9. The amount for which the mortgage was effected.
10. The date on which the principal money becomes due.
11. Payments, if any, made towards the mortgage debt.
12. The sum which, to the best of the applicant's knowledge, is due under the mortgage.
13. Period for which the mortgagee has been in possession.
14. How does the applicant claim the right of redemption,
15. Remarks-

2. The attested copies of the latest entry in the Annual Record of Rights (Jamabandi) relating to the land mentioned in column 5 and the original mutation of the mortgage in question, together with a Treasury Challan showing the deposit of the amount due under the mortgage, as required by section 4, are attached herewith.

\*3. I am/We are unable to secure the copies of the latest entry in the Annual Record of Rights (Jamabandi) relating to the land mentioned in column 5 and the original mutation of the mortgage in question. I/We. have, therefore, paid a sum of Rs. 3 as copying fees. \_\_\_ vide receipt No.

dated \_\_\_\_\_(enclosed in original),for obtaining the required copies. :

Signature(s) or thumb-marks(s)  
of the petitioner(s).

\*To be scored out if not applicable.

VERIFICATION.

Verified that the facts set out in column Nos. \_\_\_\_\_



are true to .my/our knowledge while facts set out in column  
Nos. \_\_\_\_\_ are true to my/our belief and  
information.

Verified at \_\_\_\_\_ on  
Signature(s) of the person(s) \_\_\_\_\_  
making the verification.

FORM 'B'  
(See Rule 11)

Petition for restitution of possession of land under usufructuary mortgage under section 10 of the Azad Jammu and Kashmir Redemption and Restitution of Mortgaged lands Ordinance, 1969.

To

The Collector  
District.

Sir,

I/We & \_\_\_\_\_ (stare here name, father's name and T caste), land-ownerCs) of village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ apply for the restitution of possession of the mortgaged land described in the Schedule hereto annexed.

SCHEDULE

1. Name, parentage, caste and residence of other mortgagers not joining the petition.
2. (a) Name, parentage, caste and residence of the mortgagee, and (b) if he be not in possession:- of the person in possession of the land.
- \*3. The name, parentage, caste and residence of the original mortgagor and mortgagee.
- \*4. In case the person shown in column 2 was not the original mortgagee, the manner in which he came to possess the mortgagee rights.
- \*5. The area and description of the land (Survey/Khasra No. with name, if any) to be redeemed.
6. The nature of the usufructuary mortgage (Whether by registered deed, unregistered deed or ora
7. The date of mortgage.

\*To be scored out if not applicable.

8. In the case of an usufructuary mortgage of less than twenty years, the period for which it was effected.
  9. The period for which the mortgagee has been in possession of the mortgaged land.
  10. The amount-for which the mortgage was effected..
  - 11.. The date on which the period of mortgage has expired.
  12. How does the petitioner claim the right of restitution.
  13. Details of the express contract, if any, thai the mortgagee shall be entitled to compensation for improvement made by him and the payment, if any, made by the mortgagor to the mortgagee in this behalf. .
  - 14- Remarks.
2. The attested copies of the latest entry in the Annual Record of Rights (Jamabandi) relating to the land mentioned in column 5 and the original mutation of the mortgage in question, are attached herewith.
- \*3. I am/We are unable to secure .the copies of the latest entry in the Annual Record of Rights (Jamabandi) relating to the land mentioned in column 5 and the original mutation of the mortgage in question. I/We have, therefore, paid a sum , of Rs. 3 as copying fees, \_\_\_\_\_vide receipt No.
- dated \_\_\_\_\_ (enclosed in original),  
for obtaining the required copies. \

Signature(s) or thumb-marks(s) of the peitioner(s)  
\*(To be scored out if not applicable)

Verification.

Verified that ,the facts set out in column Nos—  
are true to my/our, knowledge while facts set out in column Nos. are true  
to my/our belief and information.

Verified at \_\_\_\_\_ on \_\_\_\_\_

Signature(s) of the person(s)\_\_\_\_\_making the

FORM 'C'

(See proviso to clause (a) of Rule 3 (2).

Receipt of fee for obtaining certified copies in connection with petition under section 3/10/of the Azad Jammu and Kashmir Redemption and Restitution of Mortgaged lands Ordinance, 1969.

Receipt No.....Dated.....

Received Rs.....-

from.....for obtaining attested

copies of the documents listed below:-

Detail of.....

Documents.....

:

Signature.....

Collector.....