

CHAPTER VIII-A

Grant of Certificate for Recovery under Section 101

86A: Application for grant of certificate for recovery

[1] Every Application for grant of certificate for recovery under section 101 shall be in Form "U". Such application shall be affixed by the court fees of rupees one hundred.

[2] Such application shall contain the claim of dues of the Society against the persons from whom the amount claimed is due.

[3] Such application shall state whether the person against whom the amount claimed as due is a member of the Society or not.

[4] To every such application there shall be accompanied a list of papers and the following papers:

(i) Letter of Authority, authorizing officer of the Society to present the Application and to represent the Society before the Registrar;

(ii) Certified true copy of the upto date extract of the account of dues;

(iii) Original copy of the Treasury Challan or any other proof of deposit of fees;

(iv) Copy of the Notice given by the Society to its member;

(v) Certified True Copies of the relevant documents (copies of the loan documents such as loan application, promissory note, loan agreement, etc);

[5] Every such application may be presented, **in person**, in the office of Registrar during office hours **by the authorized officer** of the Society or its Advocate.

86B: Scrutiny of Applications and Notice to Parties:

[1] On receipt of the application, the Registrar shall satisfy that the application is complete in all respects and thereafter proceed to register it.

[2] If the Application is not complete the Registrar may, call upon the Society to comply with, within a period of Seven days, such requirements as he may deem fit,

[3] On compliance of the requirements under sub-rule (2), the application shall be registered. If the requirements are not complied with, within the period specified under sub-rule (2), the Registrar shall dismiss the application.

[4] On registering the Application the Registrar shall, within fifteen days, issue a notice to the opponent requiring him to file his written statement on the day, date and place as specified in the notice. Such notice shall be served by registered post acknowledgment due or if the opponent could not be easily found by publication thereof in atleast one local daily newspaper. The provisions fo the Code of Civil Procedure, 1908, shall, mutatis mutandis apply to such public notice.

86C: Appearance of parties and consequences of non-appearance

[1] On the date fixed as aforesaid, the opponent shall appear either personally or through his advocate or his representative before the Registrar and shall file a written statement in his defence. The Registrar may grant adjournment for period not exceeding fifteen days in the first instance to file a written statement.

[2] On the date of hearing, if the applicant appears and the opponent or any of the opponents, if more than one, does not or do not appear, as the case may be, the Registrar shall satisfy himself that all the opponents are duly served the notices and order the applicant to prove the claim on the next date and decide the application ex-parte;

Provided that, before decided the application, if the opponent appears and shows a sufficient cause for his previous non-appearance on the earlier occasions, he shall be heard in the matter as if he had appeared before the Registrar on the first day.

[3] If, on the date fixed for the hearing, the opponent appears and applicant does not appear -

- (i) the Registrar may issue a recovery certificate on admittance by the opponent;
- (ii) non-appearance of the applicant would not be reason for dismissal of the claim and the Registrar shall decide the application on merit.

86D: Production and Inspection of documents:

[1] The parties shall file the documents referred to in the pleadings at the time of filing application and statement of defence, as the case may be. If either party satisfied the Registrar that any document is relevant and the same is in the custody of the opposite party, the Registrar may, by an order in writing, direct such party to produce such document on the next date of hearing. However, no such

application shall be entertained from the opponent before filing his written statement in defence.

[2] If the party so ordered, fails to produce such documents on the next date of hearing, the Registrar may draw "adverse inference" against such party and hearing of the original application shall not be postponed till filing of documents or for the reasons of such non compliance of the order.

[3] If the Registrar is satisfied that the documents required to be produced, cannot be brought before the Registrar for sufficient reasons like its volume or otherwise, the Registrar may allow the opposite party to take inspection of the documents within seven days from the date of order of such inspection.

[4] If the Registrar is satisfied that the opponent had no access to the documents earlier and the filing of additional statement is necessary, he may allow the filing of such additional statement. In no other case, such additional statement shall be allowed to be filed.

86E: Procedure for Hearing of Application:

[1] On receipt of the statement in defence of the opponent the applicant society shall prove contents of the application and also deal with the contention of defences. The opponent likewise may file reply in support of the defence on the next date, if he desires. No cross examination of any of the parties shall be permitted.

[2] On receipt of the replies, the Registrar shall proceed to hear oral arguments of the parties and shall close the proceeding for the order.

[3] Every endeavor shall be made by the registrar to decide the application within three months from the first date of hearing. However, the Registrar may decide the application beyond the period of three months for the reasons to be recorded in writing.

86F: Judgement, Order and Certificate:

AFTER hearing the arguments of the parties, the Registrar shall issue a reasoned judgement and pass an order for the grant or the rejection of the application. The Registrar, thereafter, shall issue a Certificate in form "V". The judgement and the Certificate shall bear his seal, signature and date.