

36.Charge on land owned or held by members borrowing loans from certain societies.-

Notwithstanding anything contained in this Act or any other law for the time being in force,-

(i)a member who makes an application for a loan to a society of which the majority of the members are agriculturists shall, if he owns any land or holds any land as a tenant entitled to fixity of tenure, make a declaration in the prescribed form, which shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein, for the payment of the amount of the loan which the society may make to the member on the application and future loans, if any, that may be made to him, from time to time, by the society together with interest on such loan or loans;

(ii)a declaration made under clause (i) may be varied or cancelled at any time by the member, with the previous written permission of the society in favour of which such charge has been created;

(iii)no member shall alienate the whole or any part of the land or his interest in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid to the society in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society:

Provided further that it shall be lawful to a member to mortgage such land or any part thereof in favour of the Government or a Land Mortgage Bank:

Provided also that if a part of the amount borrowed by a member is paid, the society with the approval of the financing bank to which it may be

indebted may, on an application from the member, release from the charge created by the declaration made under clause (i) or varied under clause (ii) such part of the land or of the interest in land specified in the declaration as it may deem proper, with due regard to the security of the balance of the amount of loan outstanding from the member;

(iv) any alienation made in contravention of clause (iii) shall be null and void;

(v) subject to the claims of the Government in respect of basic tax or any money recoverable as land revenue and to the claims of the Government or the Land Mortgage Bank in respect of any money payable under a mortgage in favour of the Government or the Land Mortgage Bank and to the prior claims of any person in whose favour alienation of the land or interest in land specified in the declaration made under clause (i) or varied under clause (ii) has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society on such land or interest for and to the extent of the dues owing by him on account of the loan;

(vi) a declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii) shall be sent by the society, by registered post, to the sub registrar having jurisdiction over the area in which the land is situate, and the sub registrar shall register such declaration or variation or cancellation or release and issue a copy thereof to the society;

(vii) any declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii), which has not been registered under clause (vi), shall be null and void.

Explanation.-In this section-

(a)“basic tax” means the tax imposed under the provisions of the Kerala Land Tax Act, 1961 (13 of 1961);

(b)“Land Mortgage Bank” means the Kerala Co-operative Central Land Mortgage Bank, Limited, or a primary mortgage bank as defined in the Kerala Co-operative Land Mortgage Banks Act, 1960 (1 of 1960).