

Debt Relief Act, 1976

Section 5 - Creditors to File Statement, Etc.

- (1) Every creditor referred to in clause (e) of section 4 shall, within forty five days from the eleventh day of November, 1975 furnish to the Sub-Divisional Magistrate¹[or any other executive Magistrate authorised by the State Government in this behalf, (hereinafter called 'the executive Magistrate')] having jurisdiction over the area where such creditor has his ordinary place of business a statement containing the names of all the debtors who have pledged articles with him, the nature and description of the articles pledged, the amount advanced and due as on 21st October, 1975 and such other particulars as may be prescribed.
- (2) On receipt of such statement and after such summary inquiry conducted in the manner provided in the Karnataka Land Revenue Act, 1964 as he considers necessary, the Sub-Divisional Magistrate¹[or the executive Magistrate, as the case may be,] shall by order, determine which of the debtors are entitled to relief under section 4 and direct the creditor to produce on or before the date specified in the order the articles pledged by such debtors.
- (3) If the creditor fails to produce the article as directed in the order under sub-section (2) the Sub-Divisional Magistrate¹[or the executive Magistrate, as the case may be] may recover possession of the articles from the creditor and for this purpose shall exercise the same powers as are invested in him under the Code of Criminal Procedure, 1973 regarding search and seizure.
- (4) After such production or recovery of the article pledged, the Sub- Divisional Magistrate¹[or the executive Magistrate, as the case may be,] shall deliver the article to the debtor.
- (5) Every creditor referred to in clause (f) of section 4, shall within 45 days from the first day of March 1976 furnish to the Sub- Divisional Magistrate¹[or the executive Magistrate, as the case may be,] having jurisdiction over the area where such creditor ordinarily resides a statement containing the names of all the debtors who have mortgaged properties to him, the full description of such properties, the amount advanced and due as on 21st October, 1975 and such other particulars as may be prescribed. On receipt of such statement the Sub-Divisional Magistrate¹[or the executive Magistrate, as the case may be,] shall by order, determine which of the debtors are entitled to the relief under section 4 and direct the creditor to make an endorsement of discharge on the mortgage deed and deliver the same to the debtor. Where such property is in possession of the creditor he shall deliver the same to the debtor. If the creditor fails so to do, the Sub-Divisional Magistrate¹[or the executive Magistrate, as the case may be,] shall himself record the fact of discharge and issue a certificate to that effect to the debtor and also deliver possession of the property to the debtor by using such force as may be necessary.
- (6) Every order of the Sub- Divisional Magistrate¹[or the executive Magistrate, as the case may be,] under this section shall be final.
- (7) No legal practitioner shall be allowed to appear in the proceedings before the Sub-Divisional Magistrate¹[or the executive Magistrate, as the case may be,] under this section.
- (8) Pending determination of the question under sub-section (2), no creditor shall sell or dispose of the articles pledged.
- (9) Notwithstanding anything in the proceeding sub-section the Sub- Divisional Magistrate¹[or the executive Magistrate, as the case may be,] may, on application made by a debtor or otherwise, enter any premises of the creditor and search and seize articles pledged by debtors and arrange for their safe custody. Thereafter he shall proceed to determine which of the articles so seized, are to be released to the debtors and pass orders accordingly.
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1. Inserted by Act 63 of 1976 w.e.f. 27. 10. 1976.

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