

47. DISPOSAL OF APPLICATIONS UNDER THE WEST BENGAL RESTORATION OF ALIENATED LAND ACT, 1973.

The Calcutta Gazette
Extra Ordinary
Published by authority

VAISAKHA 15]

SATURDAY, MAY 5, 1973

[SAKA 1895

**Government of West Bengal
Legislative Department**

NOTIFICATION

No. 962-L. — 5th May, 1973,- The following act of the West Bengal Legislature, having been assented to by the President, is hereby published for general information:-

West Bengal Act XXIII of 1973
The West Bengal Restoration of Alienated Land Act, 1973
[Passed by the West Bengal Legislature]

[Assent of the President was first published in the Calcutta Gazette, Extraordinary, of the 5th May, 1973.]

An act to provide for the restoration of land alienated under certain circumstances and for matters connected therewith.

WHEREAS it is expedient to provide for the restoration of land alienated under certain circumstances and for matters connected therewith;

It is hereby enacted in the Twenty-Fourth year of the Republic of India, by the Legislature of West Bengal, as follows :-

Short title and extent. 1. (1) This act may be called the West Bengal Restoration of Alienated Land Act, 1973.

(2) It extends to the whole of West Bengal.

Definitions : 2. In this act, unless there is anything repugnant in the subject or context.-

(1) "Collector" means the Collector of district or any other officer not below the rank of Deputy Collector appointed by the State Government to discharge the functions of a Collector under this act;

(2) "Land" means agricultural land and includes homestead, tank, well and water channel;

(3) "Prescribed" means prescribed by rules made under this Act;

(4) "Special Officer" means an officer not below the rank of a Sub-Deputy Collector appointed by the State Government to discharge the function of a Special Officer under this Act;

Act to override other law etc. : 3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force:

Provided that nothing in this Act shall apply to any land which is evacuee property under section 3 of the West Bengal Evacuee Property Act, 1951.

Procedure for effecting restoration of land alienated under certain circumstances : 4. (1) Where before the commencement of this Act a person being the transferor holding not more than two hectares of land in the aggregate transferred the whole or any part of his land by sale to any person being the transferee, then, if-

(a) such transfer was made after the expiry of the year 1967 being in distress or in need of money for the maintenance of himself and his family or for meeting the cost of his cultivation, or

(b) such transfer was made after the expiry of the year 1967 with an agreement, written or oral, for reconveyance of the land transferred, to the transferor,

The transferor may, within five years from the date of such transfer or within two years from the date of commencement of this Act , whichever period expires later, make an application in the prescribed manner to the Special Officer having jurisdiction in the area in which the land transferred is situate for restoration of such land to him.

(2) On receipt of such application, the Special Officer shall cause a notice thereof to be served in the prescribed manners on the transferee.

(3) On the date fixed in the notice for hearing such application or on any subsequent date to which the hearing may be adjourned by the Special Officer, the Special Officer shall receive such evidence as may be adduced by the transferor and transferee .

(4) If after considering such evidence and hearing the parties the Special Officer is satisfied that such transfer was made by the transferor within the time, and for the purpose referred to in clause(a) of sub-section (1), or, as the case may be, within the time, and under the conditions, referred to in clause (b) of that sub-section, the Special Officer shall make an order in writing restoring the land transferred to the transferor and directing the transferor to pay, in such number of equal instalments not exceeding ten and by such dates as may be specified in the order , the amount of the consideration which was actually paid by the transferee to the transferor for such transfer , together with interest on such amount at the rate of four per centum per annum from the date of his receipt of such consideration and the amount of any compensation for improvements effected to such land, allowed by the Special Officer and determined by him in the manner prescribed, less the amount determined in the manner prescribed of the net income from such land of the person in possession of such land as a result of such transfer:

Provided that the first of the instalments provided in the order made under this sub-section shall be payable within three months of the date of the order.

Explanation - subject to the other provisions of this section,-

- (i) The word “transferor” referred to in this Act means the first transferor between the expiry of the year 1967 and the date of commencement of this act and includes the heirs of such transferor;
 - (ii) The word “transferee” shall mean where the land is in the possession of any person other than the first transferee by virtue of a subsequent transfer such subsequent transferee; and
 - (iii) The expression “consideration” which was actually paid by the transferee to the transferor, the amount which was paid by the first transferee to the first transferor.
- (5) Notwithstanding anything contained in the Indian Evidence Act, 1872, any evidence adduced by a transferor varying, adding to, or subtracting from, the terms of the sale deed to prove the necessity or purpose for which the transfer was made or the amount of consideration actually paid by the transferee to the transferor, shall be admitted.
- (6) When the Special Officer makes an order for payment under sub-section(4), he shall direct that-
- (a) Where such land has been sold, before or after such order is made, in execution of a decree or of a certificate under the Bengal Public Demands Recovery Act, 1913, against the transferee, the whole of the amount payable under the said order, or such part of it as may then remain due, shall, notwithstanding anything contained in such order, become due and payable at once and on such payment being made, such sale in execution of the decree or the certificate shall be set aside and the amount paid shall be applied towards satisfaction of the decree or the certificate, as the case may be;
 - (b) In the case where such land has been alienated by the transferee before the date of such order by means of a bonafide lease for valuable consideration or a usufructuary mortgage, such payment shall be made to the transferee and the person in possession of such land as a result of such transfer in such proportion and in such manner as may be determined by the Special Officer and specified in the order; and
 - (c) In other cases, such payment shall be made to the transferee :

Provided that if such land is subject to a bonafide mortgage other than a usufructuary mortgage and such mortgage was executed after the transfer of such land referred to in sub-section(1),

the Special Officer shall direct that such instalments shall first be paid to the mortgagee until the amount due under the mortgage as determined by the Special Officer is paid off and that thereafter any such instalments or part thereof still remaining due shall be paid in the manner provided in clause(a), clause(b), or clause(c) of this sub-section , as the case may be.

(7) The amount ordered to be paid by instalments under sub-section (4) shall be a charge on the land in respect of which the order under that sub-section has been made.

(8) Where any land, in respect of which an order under sub-section(4) is made, is after the date on which such order takes effect under sub-section(1) of section 5, sold in execution of a decree or of a certificate filed under the Bengal Public Demands Recovery Act, 1913, against the transferor to whom restoration had been made, or otherwise transferred by him, the whole of the amount payable under such order the remaining due shall, notwithstanding anything contained in such order, at once become due and payable, and the person to whom such amount is payable shall be entitled to recover it under section 6.

Effect of Orders of restoration of land : 5. (1) When the Special Officer makes an order under sub-section(4) of section 4 restoring any land to the transferor, such order shall have effect on the 1st day of Baisakh next following the date of the order.

(2) From the date on which an order under sub-section(4)of section 4 takes effect under sub-section(1) of this section , the right, title and interest in the land accruing to the transferee or the person in possession as a result of the transfer referred to in sub-section(1) of section 4 shall , subject to the provisions of sub-section(7) of that section , be deemed to have vested in the transferor free from all encumbrances, if any , which have been created after the date of such transfer.

(3) If on or before the date on which an order under sub-section (4) of section 4 takes effect under sub-section(1) of this section , the person in possession of the land as a result of the transfer referred to in sub-section(1) of section 4 has not delivered possession of such land to the transferor, the Special Officer may on his own motion, and shall, on the application of such transferor, eject such person and place such transferor in possession of such land.

Recovery of sums due under an order under sub-section (4) of section 4 as a public demand : 6. Any sum payable under an order made under sub-section (4) of section 4 shall be recoverable as a public demand.

Bar of jurisdiction of High Court and Civil Courts : 7. Save as otherwise provided in the Constitution of India, neither the High Court nor any Civil Court shall have jurisdiction in any matter which the Special Officer is empowered to dispose of under this Act:

Provided that any person who is dissatisfied with any order made under sub-section(4) of section 4 may, within thirty days from the date of such order , apply in the prescribed manner to the Collector and the decision of the Collector upon such appeal shall be final.

Powers of the Special Officer : 8. The Special Officer shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents.

Power to make rules : 9. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (i) any matter which is required to be prescribed under this Act;
- (ii) the levy of any fees

By order of the Governor,
K.K. Moitra
Secy. to the Govt. of West Bengal.

Government of West Bengal
Land Utilisation and Reforms and Land and Land Revenue Department
Land Reforms.

NOTIFICATION

No.9960-L-Ref. — 28th May 1973.- In exercise of the power conferred by section 9 of the West Bengal Restoration of Alienated Land Act, 1973 (West Bengal Act XXIII of 1973), the Governor is pleased hereby to make the following rules, namely:-

RULES

1. Short title.- These rules may be called the West Bengal Restoration of Alienated Land Rules , 1973.
2. Definition.- In these rules, unless the context otherwise requires ,-
 - i) "The Act" means the West Bengal Restoration of Alienated Land Act, 1973;
 - ii) "section" means a section of the Act.
3. Manner of making application under sub-section (1) of section 4. — (1) Each transfer of land by sale shall for the matter of one application under sub-section (1) of section 4, and every such application shall be in Form A, appended to these rules or in a form substantially similar thereto.
 - (2) A fee of rupee one and fifty paise shall be paid in court fee stamps along with the application, which shall be presented by the applicant or his agent duly authorised by him in writing, to the Special Officer appointed under clause(4) of section 2 of the Act having jurisdiction in the area in which the land is situated.
 - (3) As soon as the application is received, the Special Officer shall have the particulars of the application recorded in a Registered in Form B and start a case.
4. Manner of service of notice under sub-section (2) of section 4. — A notice on transferee shall be served-
 - (a) by delivering or tendering a copy thereof, endorsed by the Special Officer, to the person concerned, or
 - (b) if such person is not readily traceable or , refuses to accept the copy of the notice so delivered or tendered, by affixing a copy thereof on the outer door or some other conspicuous part of the house , in which the person ordinarily resides or carries on business or personally works for gain; or
 - (c) by sending it to the person concerned by registered post with acknowledgment due at his last known address.
5. Hearing of cases. — As far as possible, the Special Officer shall hear the parties and examine the witnesses at the office of the local Junior Land Reform Officer or some other convenient place in the locality where the land is situated, by giving previous notice to the parties concerned.
6. Manner of determining the amount of compensation for improvement under sub-section (4) of section 4. — For the purpose of determining the amount of compensation for improvement under sub-section (4) of section 4, the Special Officer shall have regard to.-
 - (a) the amount by which the value, or the produce, of the land or the value of that produce, is increased by the improvement effected to such land,
 - (b) the condition of the improvement and the probable duration of its effect.
 - (c) the labour and capital required for making the improvement.

7. Manner of determining the amount of the net income under sub-section (4) of section 4. — The amount of net income from the land of the person in possession of such land shall be determined by the Special Officer under sub-section (4) of section 4 in the following manner:-

- a) The gross receipt from the land shall first be calculated by multiplying the amount of each kind of the normal produce of the land determined by the Special Officer after such enquiry, as he may think fit to make, by the average rate of price, after taking into consideration the publication of the rates of price authorised by the Government of each such kind of produce during the period of such possession immediately before the date of the order of restoration;
- b) 25 per cent, of the gross receipts from the land so calculated shall be the net receipt from the land;
- c) the net income shall then be computed by deducting from the net receipts, any sum payable as land revenue, cesses, rates or taxes on account of the land.

8. Manner of filing appeal under section 7. — (1) An appeal under section 7 shall be filed in the form of a memorandum and shall be signed and verified by the appellant and shall be accompanied by an authenticated copy of the order appealed against.

(2) The court-fee payable on a memorandum of appeal shall be such as provided in Article 11 of Schedule II to the West Bengal Court-fees Act, 1970 (X of 1970), and shall be collected in the manner as laid down in that Act.

9. Manner of granting copies of records. — The rules in the Bengal Records Manual shall apply mutatis mutandis in the matter of granting copies of records.

10. Transfer of cases. — The Collector of a District or the Additional District Magistrate may, for reasons to be recorded in writing transfer any case from one Special Officer to another for disposal.

FORM A

[See sub-rule (1) of 3]

Form of application for restoration of alienated land

- i) Name and address of the applicant or applicants
- ii) Particulars of land transferred by sale, the restoration of which is prayed for-
 - (a) Name of the mouza, police-station and district.
 - (b) Khatian number and plot number.
 - (c) Area of the land.
- iii) Amount of consideration money for which the land was sold.
- iv) Dates of sale and receipt of consideration money by the applicant or applicants.
- v) Total area of the land held by the applicant or applicants on the date of the transfer of the land in question by sale.
- vi) Reasons for sale.
- vii) Whether there was any agreement, written or oral, for reconveyance of the land transferred to the transferor and if so, particulars thereof.
- viii) Name and address of the transferee and of the person in possession of the land, if any, other than the transferee.

I/We declare that to the best of my/our knowledge and belief the information given by me/us in the application is correct and complete.

Date

Signature of the applicant/applicants

Received application under sub-section (1) of section 4 of the West Bengal Restoration of Alienated Land Act, 1973, from Shri

Signature of the receiving officer
with date

FORM B
[See sub-rule (3) of rule 3]
Register of cases

S1. No.	Name and address of the applicant or applicants	Date of receipt of the application.	Date of disposal of the application	Synopsis of the Final order passed with signature of the Special Officer
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By order of the Governor,
S. Mullick,
Secy. to the Govt. of West Bengal

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**Government of West Bengal
Legislative Department**

**West Bengal Act I of 1975.
The West Bengal Restoration of Alienated Land
(Amendment) Act, 1975.**

[Passed by the West Bengal Legislature]

[Assent of the Governor was first published in the Calcutta Gazette,
Extraordinary, of the 19th March, 1975]

[19th March, 1975]

An Act to amend the West Bengal Restoration of Alienated Land Act, 1973.

WHEREAS it is expedient to amend the West Bengal Restoration of Alienated Land Act, 1973, for the purpose and in the manner hereinafter appearing;

It is hereby enacted in the twenty-sixth year of the Republic of India, by the Legislature of West Bengal as follows :-

1. This act may be called the West Bengal Restoration of Alienated Land (amendment) Act., 1975.
2. In section 2 of the West Bengal Restoration of Alienated Land Act, 1973, for clause (4), the following clause shall be substituted, namely :-

“(4) “Special Officer” means any Gazetted Officer appointed by the Commissioner of a Division to discharge within the Division the function of a Special Officer under this Act.”

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**Government of West Bengal.
Legislative Department**

**West Bengal Act XV of 1975
The West Bengal Restoration of Alienated Land
(Second Amendment) Act, 1975.**

[Passed by the West Bengal Legislature]

[Assent of the President was first published in the Calcutta Gazette, extraordinary
of the 10th may , 1975]

[10th May, 1975]

An Act to amend the West Bengal Restoration of Alienated
Land Act, 1973

WHEREAS it is expedient to amend the West Bengal Restoration of Alienated Land Act, 1973, for the purpose and in the manner hereinafter appearing;

It is hereby enacted in the twenty-sixth year of the Republic of India, by the Legislature of West Bengal as follows:-

1. This Act may be called the West Bengal Restoration of Alienated Land (second amendment) Act., 1975.
2. In sub-section(1) of section 4 of the West Bengal Restoration of Alienated Land Act, 1973 (hereinafter referred to as the said Act) for the words "within two years from the date of commencement of this Act", the words "within four years from the date of commencement of this Act" shall be substituted.
3. Section 6 of the said Act shall be re-numbered as sub-section (1) of that section, and- Amendment of Section 6.
 - (a) to sub-section (1) as so re-numbered, the following proviso shall be added , namely:-

"Provide that no action shall be taken under the Bengal Public Demands Recovery Act, 1913, unless a requisition is made by the transferee for recovery of any sum payable under sub-section(4) of section 4 and the requisition before being forwarded to the Certificate Officer with or without any modification , as the case may be, is countersigned by the Special Officer,"; and

- (b) after sub-section(1) as so re-numbered, the following sub-section shall be added, namely :-

"(2) On receipt of a requisition under the proviso to sub-section (1) the Special Officer shall, if he is satisfied that the transferee had refused to accept any of the instalments provided in the order under sub-section (4) of section 4, which was duly tendered by the transferor within date specified in the said order, award, in consideration of the harassment suffered by the transferor, such compensation to him as the Special Officer thinks fit. The Special Officer shall adjust the amount awarded as compensation against the amount claimed in the requisition and shall modify the requisition accordingly before countersignature".

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The Calcutta Gazette
Extraordinary
Published by authority

CHAITRA 12]

THURSDAY, APRIL 1, 1976

[SAKA 1898

**Government of West Bengal
Legislative Department**

NOTIFICATION

No. 809-L — 1st April , 1976.- The following Act of the West Bengal Legislature, having been assented to by the President, is hereby published for general information:-

West Bengal Act XX of 1976

**THE WEST BENGAL RESTORATION OF ALIENATED
LAND (AMENDMENT) ACT, 1976.**

[Passed by the West Bengal Legislature]

[Assent of the President was first published in the Calcutta Gazette, Extraordinary of the 1st April, 76]

An Act to amend the West Bengal Restoration of Alienated Land Act, 1973.

WHEREAS it is expedient to amend the west Bengal restoration of Alienated Land Act, 1973 for the purpose, and in the manner hereafter appearing,

It is hereby enacted in the Twenty-seventh year of the Republic of India , by the Legislature of West Bengal, as follows :-

1. This Act may be called the West Bengal Restoration of Alienated Land (Amendment) Act, 1976.

2. After section 8 of the West Bengal Restoration of Alienated Land Act, 1973 (hereinafter referred to as the said Act), the following section shall be inserted, namely,:-

“Stay of payments. 8A. (1) Notwithstanding anything contained elsewhere in this Act, with effect from the date of commencement of the West Bengal Rural Indebtedness Relief Act., 1976, it shall not be necessary for a transferor to make any payment,-

(i) for obtaining restoration of possession of his Land in accordance with the provision of sub-section(4) of section 4, or

(ii) where such possession has already been obtained in pursuance of an order made by the Special Officer towards instalments under sub-section (4), or in lump amount under sub-section(6) or sub-section (8) of section 4,

for a period of two years.

(2) The State Government may, by notification in the official Gazette , extend the period referred to in sub-section (1) from time to time but such extension shall not exceed a period of one year at a time.

(3) A transferor shall not be liable to pay interest upon any amount the payment of which is stayed under this section.

Restriction
on transfer

8B. Notwithstanding anything contained in any law for the time being in force or in any contract express or implied, or in any custom or usage, to the contrary, every transferor who obtains restoration of his land in pursuance of an order made under this Act , shall be debarred from alienating such Land for a period of twelve years, except by way of a simple mortgage or a mortgage by deposit of title deed in favour of a bank or a co-operative society or a local or statutory authority or the Life Insurance Corporation of India.

Explanation:- for the purpose of this section “bank” means a banking company as defined in clause(c) of section 5 of the Banking Regulation Act, 1949 and includes the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Bank) Act, 1959, a corresponding new bank as defined in clause(d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, a banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 and also includes any other financial institution which may be notified in this behalf by the State Government.”

Repeal and
savings

3. (1) The West Bengal Restoration of Alienated Land (Amendment) Ordinance, 1976, is hereby repealed.

(2) Anything done or any action taken under the said Act as amended by the West Bengal Restoration of Alienated Land (Amendment) Ordinance, 1976, shall be deemed to have been validity done or taken under the said Act as amended by this Act as if this Act had commenced on the 30th day of January, 1976.

By order of the Governor,
K.K. Moitra
Secy. to the Govt. of West Bengal

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The Calcutta Gazette
Extraordinary
Published by Authority

MAGHA 7

WEDNESDAY, JANUARY 27, 1982

[SAKA 1903

**Government of West Bengal
Legislative Department**

NOTIFICATION

No. 182L- 27th January 1982- The following Act of the West Bengal Legislature, having been assented to by the President, is hereby published for general information :-

West Bengal Act XLI of 1981

The West Bengal Restoration of Alienated Land (Amendment) Act, 1981.

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the Calcutta Gazette, Extraordinary, of the 27th January, 1982]

An Act to amend the West Bengal Restoration of Alienated Land Act, 1973.

WHEREAS it is expedient to amend the West Bengal Restoration of Alienated Land Act, 1973 for the purpose, and in the manner hereafter appearing:

It is hereby enacted in the thirty second year of the republic of India, by the Legislature of West Bengal, as follows:-

1. This act may be called the West Bengal Restoration of Alienated Land (Amendment) Act, 1981.
2. In section 4 of the West Bengal Restoration of Alienated Land Act, 1973, for sub-section (10), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 20th day of August, 1981 :-

“(10) If the transferee including the members of his family hold on the date of transfer not more than one acre of the land including the transferred land and such land becomes the principal source of income of the transferee including the members of his family, the Special Officer shall not make any order under sub-section (4) unless the transferor including the members of his family holds not more than one acre of land including the transferred land on the date of transfer.”

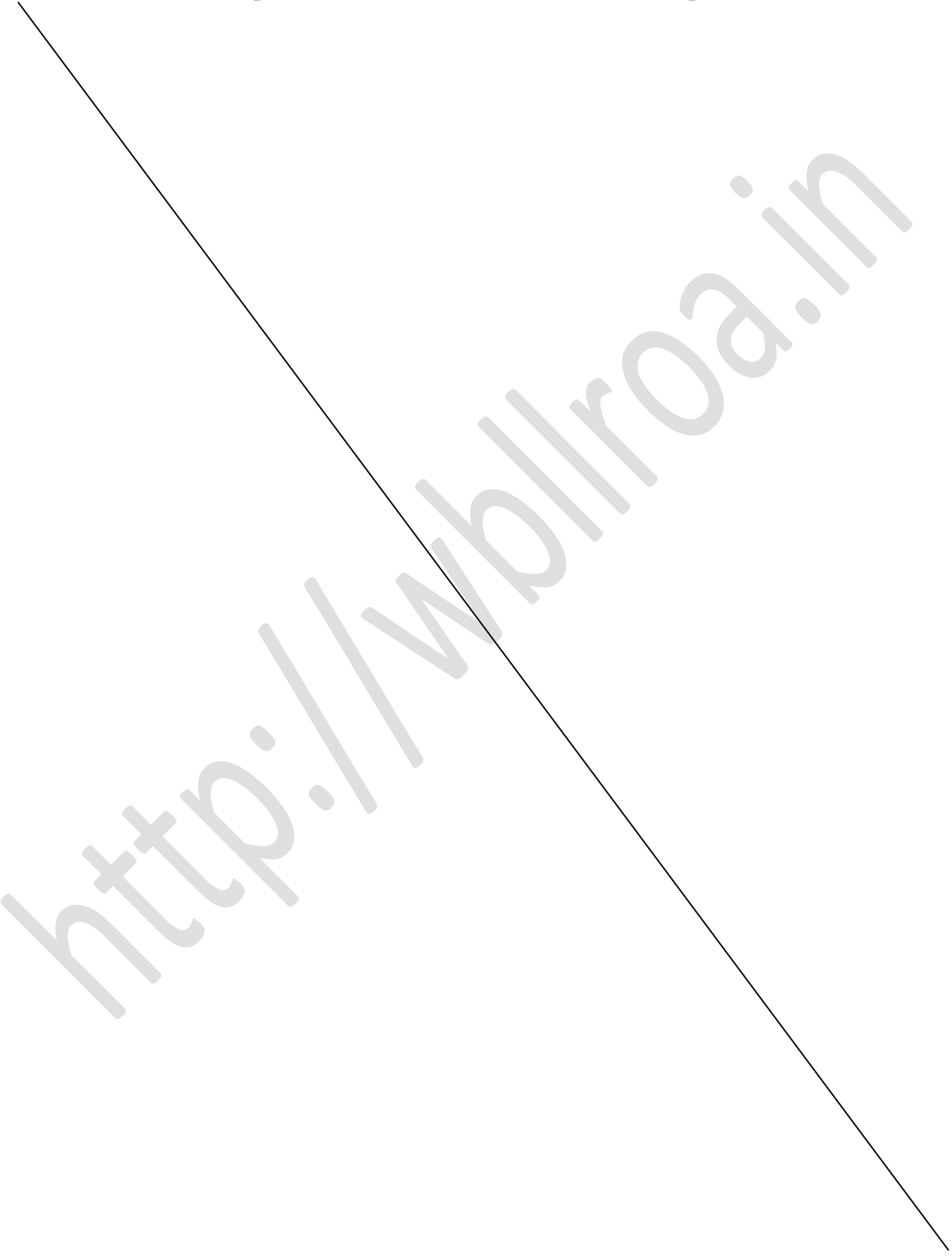
By order of the Governor,
H. Chakrabarty
Secy. to the Govt of West Bengal

SETOUT [Bengali Matter]

[See Seperate Pagemaker File]

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SETOUT [Bengali Matter]

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<http://wblroa.in>

SETOUT [Bengali Matter]

[See Seperate Pagemaker File]

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ORDER SHEET

Order Sheet dated from _____ to _____
District _____ No. _____ of 19 _____

Nature of case : Proceeding under section 4 of West Bengal Restoration of Alienated Land Act of 1973.

Serial Number and date of order.	Order and signature of officers.	Note of action taken on order.
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1.	Perused the order of the A.D.M (L.R) transferring the case in my file. Put up on _____	
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Special Officer.

2.	Whereas it appears on scrutiny of the application filled by Shri _____ son of _____ of village _____ P.O. _____ P.S. _____ of District _____ that he has filed the application in Form A prescribed in the West Bengal Restoration of Alienated Land Rules, 1973 for restoration of alienated land as per provision of sub-section (4) of section 4 of W.B.R.A.L Act , 1973 and whereas from the recital of the application it appears that applicant/predecessor-in-interest of the applicant(s) transferred _____ acres of lands (details of which given in the application) by a registered deed of sale dated _____ i.e. within the dates mentioned in sub-section (1) of section 4 of W.B.R.A.L Act, 1973 to _____ Shri _____ son of _____ of Vill. _____, P.O. _____ P.S. _____ District _____ and whereas the transferor did not hold more than 2 hectares of the land in aggregate inclusive of transferred land and whereas it further appears from the application that such transfer was made being in distress/in need of money for maintenance of himself and his family for meeting the cost of his cultivation, it is necessary to ascertain the genuineness of the prayer and to consider whether applicant(s) is/are entitled to restoration of the alienated land as per provision of sub-section (4) of sec 4 ibid.	
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Issue notice to both the parties to appear before me with all evidence both documentary and oral on _____ at 11 A.M. at _____ for hearing.

Special Officer.

3.	Notice served. Service return filed with records.	
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Special Officer.

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**Government of West Bengal
Land Utilisation and Reforms and Land and Land Revenue Department.
Land Reforms Branch.**

No. 2735(18)-L. Ref.

Dated Cal, the 11th July ,1978.

To : The Addl. District Magistrate ,(LR),

Sub : General instruction for disposal of application received under the West Bengal Restoration of Alienated Land Act, 1973.

The undersigned is directed to send herewith a copy of the General Instructions in respect of administration of the West Bengal Restoration of Alienated Land Act, 1973 for information and guidance.

2. A copy of the General instructions may please be furnished to all the Special Officers, Block Development Officers and Sub-divisional Officers.

Sd/- Illegible
Dy. Secy. to the Government of
West Bengal

GENERAL INSTRUCTIONS

1. As soon as an application is presented before the Special Officer with the requisite court-fee, he shall endorse on the body of the petition the following order:

“Received to-day. Enter in B Register. Start a case and put up within a week”. This should be signed and dated by the Special Officer.

2. The Bench Clerk or dealing assistant shall thereafter comply with the order by starting a file making necessary entries in B Register and putting up the case before the Special Officer within the due date.

3. On the next date, the Special Officer shall endorse the following order:

“issue notice under Rule 4, fixing (the date should not be beyond a fortnight) for local enquiry and for evidence”. The Bench Clerk shall issue the necessary notice within a week.

4. On the date so fixed, the Special Officer shall visit the locality, make local enquiry. He will hear evidence of both sides and record it in writing. Document produced should be noted and if necessary, copies thereof should be kept in the record. After completion of evidence, both sides should be heard, and a date (within three days from local enquiry) shall be given for orders. Evidence should be taken to ascertain if any improvement was made by the transferee, and if so, that should be determined under rule 6. A memorandum should be prepared, as per model, showing the net amount payable by the transferor to the transferee subject to the moratorium under section 8A of the Act.

5. Within three days from hearing, the Special Officer shall dispose of the application either accepting it or rejecting it. No amicable settlement unless it is in favour of the transferor shall be allowed. The order passed by the Special Officer should be brief, it will show the case of the applicant, the plea of the opposite party, the points for determination and the decision. The operative portion of the order will be: ‘Hence ordered that the land transferred shall be restored to the transferor. The transferor is directed to pay, subject to the moratorium under section 8A of the Act, in (here put the number of equal instalments which should not exceed 10) equal instalments, the net amount payable (shown in the memorandum), each instalment being Rs. (specify the amount), to be paid by the end of each Bengali month, the first instalment being paid by the end of the month of (here specify the Bengali month which should be within 3 months from the date of this order)’. Synopsis of the final order should be entered in Register B.

6. Copy of the order is to be supplied from of cost to each of the parties by the Special Officer.

7. The order of the Special Officer under section 4(4) restoring any land to the transferor shall take effect on the first day of Baisakh next following the date of the order. The bench clerk will, therefore, put up the records a week after the 1st Baisakh next for order of the Special Officer under section 5(3) of the Act regarding delivery of possession. A noting should be kept in the “remarks” column (which should be an additional entry) in Register B regarding the delivery of possession.

APPENDIX

Memorandum showing net amount payable by transferor (Vide section 4(4)).

1	Consideration money	Rs X
2	Interest @ 4% from..... to on Rs. X	Rs Y
3	Amount of compensation for improvement, if any	Rs Z
4	Amount of net income of the transferee during..... to.....	Rs P
	Net amount payable by transferor	Rs(X+Y+Z-P)

Signature with date of the Special Officer

Government of West Bengal
Office of the Board of Revenue, West Bengal
Section – A1, G.E. Branch

No. 13691(19)-G.E.
547/78

Dated Calcutta, the 26th July 1978

To

1. The Director of Land Records & Surveys, West Bengal
2. The Additional District Magistrate(L.R)/
The Additional Deputy Commissioner(L.R).

Sub : Correction of records in favour of the persons to whom the lands are restored under the West Bengal Restoration of Alienated Land Act, 1973.

A reference is invited to item no. 6.3 of the operational decision taken in the Workshop held on 23rd and 24th June 1978 at the Survey Building, Alipur. It has been enjoined therein that the Special Officers appointed under the West Bengal Restoration of Alienated Lands Act, 1973, shall furnish the Junior Land Reforms Officer and the Circle Officers with copies of orders passed under sub-section (4) of section 4 of *ibid*.

2. During the present revisional survey and settlement operations the lands have obviously been recorded in favour of the transferee. It is necessary for the Revenue Officer to record these lands in favour of the transferor as soon as those are restored to them by an order under section 4 (4) *ibid*. It is, therefore directed that immediately on receipt of the copies of orders from the Special Officers, the Revenue Officer shall correct the records in favour of the person to whom the land has been restored. The record are to be corrected under section 51 of the Land Reforms Act in areas where the revisional settlement operation is in progress. In other areas the correction if necessary should be made under section 50 of the Land Reforms Act. Where the information is received during the currency of any stage of the settlement operation under section 51, the record should be corrected right in that stage. Where, however, the information is received after completion of a particular stage the correction should be made in the stage following.

3. A copy of the record of rights so corrected should be given to the person in whose favour land has been restored.

4. All concerned should be instructed accordingly.

A.K. Chakraborty,
Special Officer & (Ex-officio) Secretary,
Board of Revenue, West Bengal

Memo.No. 13691/1(27)-G.E.

Copy forwarded to-

1. The Commissioner.....
2. The District Magistrate/ Deputy Commissioner.....
3. The Settlement Officer.....
4. Land Utilisation and Reforms & Land & Land Revenue Department.
for information.

Calcutta ,
The 26th July 1978.

A.K. Chakraborty,
Special Officer & (Ex-officio) Secretary,
Board of Revenue, West Bengal

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Government of West Bengal.
Land Utilisation and Reforms and Land and Land Revenue Department
Land Reforms Branch.

No. 2426(18)-L. Ref./6M-182/'79'

Dated, Calcutta, the 29th June, 1979.

To : The Additional District Magistrate (L.R),

Sub : Implementation of Restoration of Alienated Land Act.

In the Workshop on land reforms held on the 4th and the 5th may ,1979 it was inter alia, decided vide Para 7. 2 and 7.3. of the operational decisions that the Special Officers appointed for hearing cases under the West Bengal Restoration of Alienated Land Act should have a short training on procedure for quasi-judicial matters as insufficient knowledge of the procedure appears to be a major obstacle in the way of disposal of cases.

2. It was also noted that an insignificant percentage of cases went finally in favour of potential beneficiaries under the Act. It was, therefore, decided the Special Officers should be instructed by Additional District Magistrates (L.R.) to see that the petitions of the potential beneficiaries under the Act were not rejected on grounds of default (mostly for want of communication) and compromises against their interests should be discouraged.

3. Accordingly, he is requested to organise a short training programme for the Special Officers in his district in collaboration with the Settlement Officers as early as possible. A copy of the programme may kindly be furnished to this Department.

4. It is further requested that instructions in the lines indicated at Para 2 above be issued to the Special Officers under intimations to this Department.

Sd/- Illegible,
Deputy Secretary to the
Government of West Bengal

Memorandum no. 745/6835-6842/C/'76,

dated, Alipore, the 5th July ,1979

Copy forwarded to Settlement Officer, Coochbehar for information and necessary action.

N.K. Ghosh
For Director of Land Records and Surveys,
West Bengal

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Government of West Bengal
Land and Land Reforms Department
Land Reforms Branch

No. 2378(18)-L.Ref./6M-126/80,

Dated, Calcutta, the 26th September,'80.

To : The Additional District Magistrate (LR)
The Additional Deputy Commissioner (LR)

Sub : Instruction on certain points with regard to the provisions of the West Bengal Restoration of Alienated Land Act, 1973.

The undersigned is directed to say that certain points have been raised in connection with the provisions of the West Bengal Restoration of Alienated Land Act, 1973. The points and the clarifications thereto are given below for information and guidance.

	POINTS RAISED	CLARIFICATIONS
1.	Whether there has been any amendment to include heirs and successors of a transferee within the meaning of transferee in section 4 (4) explanation (ii) ?	The West Bengal Restoration of Alienated Land (Amendment) Bill , 1980, contains clauses for amending the Act for the purpose mentioned in points 1, 2 & 3. The bill is awaiting assent of the President.
2.	What will happen if some of the transferors do not want to take back the lands sold by them and how the willing transferors can get back the entire property?	-do-
3.	Whether there has been any rule or Departmental instructions barring appearance of Advocates before the Special Officers?	-do-

4.	What will be the mode of payment in cases of refusal to accept the consideration money according to the order passed by the Special Officer?	Necessary action is being taken to amend the West Bengal Restoration of Alienated Land Rules to meet the situation.
5.	Whether the Special Officer can allow amendment of pleading although there is no specific power of the Special Officer to the effect ?	In cases of Application filed under section 4 (1), if the Special Officer is satisfied that there are bonafide reasons for making amendments there in, he may allow such amendment. But such amendment should not alter the whole case of the party seeking the amendment.
6.	What will happen to a bargadar who might have been engaged by the transferee in case the land is ordered to be restored to the transferor ?	The bargadar will have to go as his right was created by the transferee and the land is to be restored free from all encumbrance (vide section 5 of the Act).
7.	Can possession of the restored land be delivered to the transferor in any month other than Baisakh and what will happen if some agricultural crops remain on the land even in the month of Baisakh ?	U/S 5(1) of the Act, the order of the Special Officer restoring any land to the transferor shall take effect from 1 st day of Baisakh following the date of the order. The provisions of Act is specific on the point and no deviation can be made therefrom. If possession is not restored, the transferor may apply to the Special Officer, who may take steps for restoration of physical possession, the date of which will obviously be a date after the 1 st day of Baisakh. The transferor to whom the land is restored should not wait indefinitely and possession should be restored irrespective of any standing crops.
8.	Whether a doba should be treated as a tank ?	Doba should be treated as a tank.

All concerned may please be informed accordingly.

Sd/- Illegible,
Deputy Secretary to the
Government of West Bengal

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Government of West Bengal
Land and Land Reforms Department
Land Reforms Branch

No. 2488-L.Ref./6M- 126/80,

dated, Calcutta, the 27th July, 1981.

To : The Additional District Magistrate (L.R),
West Dinajpur (Balurghat).

Sub : Instruction on certain points with regard to the provisions of the West Bengal Restoration of Alienated Land Act, 1973.

The undersigned is directed to invite a reference to his Memo. No. 9803/L.R. dated 15th November '1980 and to say that the clarification sought for therein are given below seriatim :-

(1) If a transferee governed by the West Bengal Restoration of Alienated Land Act, 1973 engages a bargadar, the land when restored to the transferor should be returned to him along with the bargadar's right of cultivation since right of a bargadar is not an encumbrance in accordance with the provision of section 2 (6A) of the West Bengal Land Reforms Act, 1955. The clarification given on point no. 6 in this Department Memo. No. 2378(18)- L.R. , dated the 26th September ,1980 stands modified to that extent.

(2) The loan is not given against land, but the same is given to a Bargadar against the crops . Hence, no problem on this score should arise.

(3) In view of what has been stated in item no. 1 above, the question of eviction of the bargadar by the Special Officer doesn't arise. Regarding the second question raised in item no. 3 it may be stated that clause 5 of the West Bengal Restoration of Alienated Land (Amendment) Bill, 1980 provides that the Special Officer may, if he is an Executive Magistrate, enforce the delivery of possession of the land to the transferor with the help of the police, or if he is not Executive Magistrate, apply to an Executive Magistrate having jurisdiction for enforcing delivery of possession. We have, of course, to wait till the bill becomes an Act with the assent of the President.

Sd/- Illegible,
Deputy Secretary to the
Government of West Bengal

No. 2488/ 1(45)-L. Ref.

The 27th/ 29th July, 1981

Copy, with copy of the memo, to which this is a reply forwarded for information and necessary action to the :-

- 1) to 5)
6) Settlement Officer, Koch Behar- Jalpaiguri- Darjeeling at Koch Behar.

Sd/- Illegible,
Deputy Secretary to the
Government of West Bengal

**Government of West Bengal
Office of The Collector, West Dinajpur
L.R. Department, Balurghat.**

Memo No. 9803/ L.R.

Dated, Balurghat the 15-11-80

From : Additional District Magistrate, West Dinajpur

To : The Deputy Secretary to the Government of West Bengal,
Land and Land Revenue Department (Land Reforms Branch).
Writers' Buildings, Calcutta.

Sub : Instruction on certain points with regard to the provisions of the West Bengal Restoration of Alienated Land Act, 1973.

Ref. : G. O. NO. 2378(18)-L.Ref./6M-126/'80, dated 26-09-80

The undersigned would like to draw his attention to the clarification made on point no. 6 of the G.O quoted under reference which is in conformity with the provision made vide section 5 of the West Bengal Restoration of Alienated Land Act, 1973.

But some confusion may arise at the time of implementation of the said provision for eviction of Bargadars engaged by any transferee since the right title and interest of the Bargadars have been well guarded in the West Bengal Land Reforms Act, 1955 and the term "Bargadar" has not been mentioned in Sec.5 of the W.B. Restoration of Alienated Land Act, 1973.

In view of the circumstances, he is requested to consider the following points and to issue further clarification in the matter at an early date :-

- 1) In the absence of any amendment of Sec. 5 of the W.B. Restoration of Alienated Land Act 1973 providing specific provision for eviction of bargadar engaged by any transferee before restoration of the land to transferor, whether such eviction will be admitted by any Court of Law on the basis of the clarification made in point no. 6 vide G.O. no. 2378 (18), L. Ref., dated 26-09-80, specially under the W.B.L.R. Act, 1955 and such ground for evicting the Bargadar have not been provided in that Act.
- 2) What will be the process of realisation of any loan if taken, by such Bargadar by sowing the said Adhi land prior to restoration in favour of the transferor and who will take the liability of such loan, if any.

3) Whether the Special Officer appointed under the West Bengal Restoration of Alienated Land Act , 1973 is competent to cause eviction of such Bargadar in view of the present clarification and whether the said Special Officer may exercise the Magistral power, for maintaining Law and order at the time of evicting such Bargadar/s, if required

An early reply is requested.

Sd/- Illegible,
Addl. District Magistrate
West Dinajpur

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COPY OF AN ORDER

On examination of the entire case, I am satisfied that the applicant sold lands described in schedule below in distress and for maintenance of his family and that the applicant hold not more than 2 (two) hectares of land at the material time .

It is therefore ordered that the said lands detailed in schedule below be restored to the applicant Sri Amulya Ch. Das of Sukhani in terms of sec.4(4) of the W.B.R.A.L Act.1973 w.e.f. 1st Baisakh 1386 B.S.

Land Schedule

Dist : Jalpaiguri P.S. Rajgunj
Mouza : Sukhani
Area : 2.00 Acres

Plot no.....*.....*.....*.....
Sheet No. * (J.L. No. 28, Khatian No. *)

The right, title and interest in the lands mentioned above shall be deemed to have vested in the applicant free from all encumbrances , if any, which have been created after the date of such transfer w.e.f. 1st Baisakh 1386 B.S. without prejudice to the right, title and interests of any person other than the transferor that might be lawfully persisting immediately before such transfer

On careful perusal and consideration of all relevant documents and deposition of witness, I am also satisfied that the applicant Shri Amulya Ch. Das is liable to pay the sum of Rs.89/- (eighty nine) only as shown in the calculation table below to the transferee Shri Ramdas Majumdar in terms of Sec. 4 (4) of the act subject to provisions contained in sec. 4 (6) & 4 (8) of the said Act.

: TABLE :

Consideration money	:	Rs. 1200.00
+		
Interest @ 4% per annum	:	Rs. 464.00
+		
Compensation for improvement if any	:	Nil
Total	:	Rs. 1664.00
Net income	:	Rs. 1575.00
Net amount payable	:	Rs. 89.00

It is therefore, ordered that the applicant Shri Amulya Ch. Das shall pay Rs.89/- (eighty nine) only to the transferee Shri Ramdas Majumdar. In consideration of financial condition of the applicant, it is further ordered that the payment shall be made in 3(three) equal annual instalments the first of which shall be paid on expiry of two years in terms of section 8A of the Act.

Sd/- Illegible
Special Officer
W.B.R.A. Land Act.
&
Block Dev. Officer
Rajganj (Jalpaiguri)

Memo no. 1836(5)

Dated : 21.10.78

Copy forwarded to :-

The Revenue Officer (Settlement)
P.O. Rajganj, Dist. Jalpaiguri
For information and taking necessary action.

Sd/- Illegible
Special Officer
W.B.R.A. Land Act.
&
Block Dev. Officer
Rajganj (Jalpaiguri)

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**Government of West Bengal
Land and Land Reforms Department
Land Reforms Branch**

No. 1510-L.Ref./6M-105/'82,

Dated, Calcutta. the 09th August, 1982

From : Shri M.C. Dutta , Deputy Secretary to the Government of West Bengal.

To : Shri A.K. Banerjee, Commissioner,
Presidency Division.

Sub : Petition from Sri Ganesh Chandra Roy, u/s 4(I) of the West Bengal Restoration of Alienated Land Act., 1973 — proposal for appointment of a Special Officer under the Act for Calcutta.

Sir,

I am directed to refer to your letter no. 917-R.L., dated the 21st June 1982 and to say that under section 2 (2) of the West Bengal Restoration of Alienated Land Act, 1973 "Land" means "agricultural land and include homestead, tank, well and water channel". For relief under the Act, the land must be agricultural and "homestead" and must be connected with or related to or for the purpose of agriculture. The "homestead" as mentioned and included in the definition of "land" under the Act cannot mean a homestead as of the petitioner in a city like Calcutta and having no connection with agriculture even in a very remote way. Therefore, petitioner is not entitled to any relief under the Act, and the question of appointing a Special Officer under the Act for Calcutta does not arise. The Collector of Calcutta may please be advised to give a suitable reply to the petitioner.

In this connection, I am directed to draw your attention to a recent judgement (Prosad Dhara ...versus... Kamala Dixit (reported in 86 C.W.N. at page 848) of the High Court on the same issue, the observation of the Division Bench of the High Court on the point is as follows :-

"On a careful consideration of the orders passed by the two tribunals below, we are of the opinion that the order of the appellate authority is unsustainable as it is based upon a clear misconception of the law on the point. The appellate authority failed to appreciate that the Act under consideration does not profess to reopen all transfer of all properties. It was intended to give relief to agriculturists in respect of distress sales or the like and in the definition clause land has been defined to be limited to agricultural land. Obviously the term "homestead" when included within the meaning of the term Land means the homestead of an agriculturist and not any and every structure on non-agricultural land. This seems to be clear from the context and the appellate authority was in error in thinking that the land or the structure thereon need not necessarily be agriculture".

Yours faithfully,
M.C. Dutta.

Dy. Secy. to the Govt. of West Bengal

Memo. No. 791/3079-86/C/'81,

dated, Alipore, the 30th august/ 04th September, 1982

Copy forwarded to the Settlement Officer, Kochbehar-Jalpaiguri-Darjeeling for information and necessary action.

K.P. Sandilya,
For Director of Land Records and Surveys,
W. Bengal

**Copy of memo no. 4403-G.E dt. 5.5.84 from Board of Revenue,
West Bengal to A.D.M. (L.R), Bankura**

Sub : Clarification whether Chapter IIA of L.R Act shall have any effect in case where the transferee is a S.T. and the transferor is a non-tribal for the purpose of W.B. Restoration of Alienated Land Act., 1973

Reference : His memo no. 833-L.R dt. 15.2.83

The undersigned is directed to say that the Law Officers of the Govt. has been consulted in the matter. They have opined that Chapter IIA of the L.R. Act applies when the transferor is a person belonging to Schedule Tribe and the transferee is a person belonging to some other caste and not vice-versa. Therefore, if the transferor does not belong to S.T and the transferee belongs to S.T then the provision of Chapter IIA ibid will not apply. The actions under W.B Restoration of Alienated Land Act, 1973 cannot be construed as a transfer; but it is only restoration of the land to the original transferor. In view of this , if in case of any transfer of land by a person not belonging to S.T to a person belonging to S.T., there is an order for restoration under R.A.L. Act, 1973. It cannot be construed as a transfer by a Scheduled Tribe in favour of non-Schedule Tribe to bring that within preview of Chapter IIA of the L.R. Act. There is nothing in the R.A.L Act to exclude the Schedule Tribe from the operation of this Act.

In the above circumstances, any case coming under the preview of the R.A.L. Act , 1973 will have to be dealt with irrespective of whether any of the parties belong to Schedule Tribe or not.

All concerned may please be instructed accordingly.

Sd/- illegible
Special Officer & (ex officio) Secretary,
Board of Revenue, West Bengal

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**Copy of memo no. 4474(3)-G.E/ 192/90 dtd. Cal. the 6th June,1990 of the Special
Secretary , Board of Revenue, West Bengal**

To,
The Commissioner,
..... Divn.

Sub : Appointment of Special Officer under Clause(4) of section 2 of the West Bengal Restoration of Alienated Land Act, 1973.

The undersigned is directed to state that a large number of cases filed under the provisions of the West Bengal Restoration of Alienated Land Act, 1973 is pending in all of the districts of the State. Under the provisions of the Act, these cases are to be disposed of by the Special Officer. Under clause (4) of section 2 of the Act, as amended Special Officer is a Block Development Officer and includes any other officer not below the rank of a Block Development Officer appointed by Commissioner of the Division.

Upon introduction of the integrated set up of land reforms administration, Block Land and Land Reforms Officers and Revenue Officers have been posted in the Blocks. In order that the huge arrears of the cases may be disposed of expeditiously, it is necessary to appoint these officers as Special Officers by designation under the above Act.

It is requested that necessary orders may please be immediately issued from his end appointing the following categories officers of the integrated set-up as Special Officers under clause (4) of sec. 2 of the Act.

- 1) All Block Land & Land Reforms Officers;
- 2) All Revenue Officers.

A copy of the order issued from his end may be sent to the Board in due course.

A.K. Chakraborty
Special Secretary, Board of Revenue
West Bengal

**Office of the Commissioner
Presidency Division
11, Netaji Subhas Road,
Calcutta-700001**

ORDER

No.87/R.L.

Date : 7.2.91

The following categories of officers of the Integrated set up are hereby appointed u/s. 2(4) of the West Bengal Restoration of Alienated Land Act,1973 as amended by West Bengal Act-I of 1975 to discharge the function of a Special Officer under the aforesaid Act in the district of South 24-Parganas, North 24-Parganas, Nadia, Murshidabad and Howrah under the Presidency Division.

- 1) All the Block Land and Land Reforms Officers.
- 2) All Revenue Officers.

Sd/- Illegible 5/2
Commissioner,
Presidency Division.

Memo no. 88(11)/R.L.

dated . 7.2.91

Copy submitted / forwarded to :-

1. The Board of Revenue , West Bengal for information.
2. The Collector, South 24-parganas/North 24-parganas/Nadia/Murshidabad/Howrah for information and taking necessary action.
3. The Addl. District Magistrate and District Land and Land Reforms Officer, South 24-Parganas/ North 24-Parganas/Nadia/ Murshidanad/Howrah for information and taking necessary action.

Sd/- Illegible
For Commissioner,
Presidency Division.

<http://wbllroa.in>