

19. PROVISIONS OF CEILING UNDER THE WEST BENGAL LAND REFORMS ACT, 1955

From the booklet “General Instruction on vesting of ceiling surplus land under WBEA Act and WBLR Act” issued by the DLRS on 9th July, 1984.

3. VESTING UNDER THE WEST BENGAL LAND REFORMS ACT :

3.1. WRONG DECLARATION OF FAMILY MEMBERS :

It is necessary to re-open cases already decided U/Sec. 14T (3A) in appropriate cases. This, especially, applies to cases disposed of before Nov. '75. Very often, the wrong declaration of a raiyat about the number of family members has been accepted. Sometimes, persons not coming within the definition of family given in the Act, like grand parents, sister, family servants, etc. have been accepted as members of the family. Sometimes, the wrong statement of the raiyat about the total holdings of his family have been accepted without question. Such cases should be identified and reviewed.

3.2. SEARCHING OF KHATIANS :

Re-oriented khatians should be carefully searched to find out if 5 acres or more of land have been recorded in any individual khatian. In such cases, further enquiries and searching of records should be made and a case should be started if not already started. If a proceeding already started has been wrongly decided because of inadequate information it should be re-opened U/Sec. 14T(3A).

3.3. FAMILY WITH 2 MEMBERS OR FAMILY WITH MORE THAN 5 MEMBERS :

Where the number of family members have been shown either as two or more than 5 (five) in a declaration given by the raiyat, field enquiry should be conducted to find out the actual membership of the family.

3.3.1. DATE OF MARRIAGE :

In this connection, the date of marriage of an individual or even the fact of marriage is often manipulated to evade ceiling laws. In case of a two-member family, consisting of husband & wife only, the date of marriage should be carefully ascertained by local enquiry. In case of Hindus, it may be useful to examine the priest in case of doubt. The marriage invitation cards issued both by the bride's family and the bridegroom's family may also be sources of information. It is unusual to have false invitation cards to be prepared by both parties.

3.3.2. DATES OF BIRTH & DEATH :

Similarly, the date of birth or death of an individual is very often relevant for the purpose of determination of ceiling. If either the birth or the death of an individual can be shown as occurring on a date prior to its actual occurrence, vesting of land can often be minimised. So, intelligent enquiry should be made for ascertaining the actual date of birth or death in marginal cases. The death certificate, the school leaving certificate or the certificate from the head of an institution which the person concerned last attended would be valuable pieces of evidence, but no blind trust should be placed on any of these. Intelligent enquiries by method depending on the need of each individual case are vital for the purpose.

3.4. TRUSTS AND ENDOWMENT :

Section 14M(5) provides that “lands owned by a Trust or Endowment other than of a public nature shall be deemed to be lands owned by the beneficiaries under the Trust or Endowment”. Thus, it is often necessary to ascertain whether a Trust or

Endowment is “of a public nature” or not. The term “of a public nature” has not yet been defined in the Law. But it is well settled that a Trust or Endowment is of a public nature when the number of beneficiaries is unlimited or fluctuating and it is not of a public nature when the number of beneficiaries is limited or fixed. If the trust or endowment is not of a public nature the land is divided prorata among the beneficiaries and the respective shares are added to the holdings of the beneficiaries for the purpose of computation of ceiling. If the Trust or Endowment is of a public nature, the Trust or Endowment is entitled to retain 7 standard hectares of land in terms of Section 14M(1)(e). It will thus appear that under certain circumstances, it is profitable for the beneficiaries to show the Trust or Endowment to be not of a public nature. In some other circumstances it is beneficial to them to show the Trust of Endowment to be of a public nature. There is a tendency to distort facts by the beneficiaries to suit the convenience of particular cases. Care must be taken to ensure that the position is not distorted by misrepresentation, to the detriment of the Government interest.

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3.4.2. **ENHANCEMENT OF CEILING U/Sec. 14Q(3) :**

The State Government may allow certain benefits in terms of enhanced ceiling to some Corporation or Institution or Trust or Endowment. This power is reserved by the State Government and the Revenue Officer has not been empowered to give any decision in the matter. Therefore, there should not be any reference to the provisions of Section 14Q(3) in the orders of the Revenue Officers. Such references may vitiate the entire proceeding due to lack of jurisdiction. If any prayer is filed before a Revenue Officer claiming some benefit under this Section, the prayer should be summarily rejected for lack of jurisdiction. However, Revenue Officers have often in their executive capacities to enquire into a petition under Section 14Q(3) to report to Government through their official superiors. In making such enquiries, the following points should be borne in mind :-

- 1) Whether the Corporation or Institution or Trust or Endowment was established exclusively for a charitable or religious purpose. For this purpose, the accounts books, the original deed of creation and nature of expenditure met by the body will be relevant. These have to be found out from documentary evidence.
- 2) The Corporation or Institution or Trust or Endowment should require the land itself and not the income therefrom for its avowed purpose.

3.5 **WAKF ESTATES :**

In case of all Wakf estates, the Wakf Commissioner, Govt. of West Bengal, is a necessary party. He should be noticed while deciding cases relating to the properties constituted in wakf estates. Failure to do this may result in the proceedings being declared bad in law for non-joinder of a relevant party.

3.6 **CHANGE IN COMPOSITION OF FAMILY / OF NON-IRRIGATED LAND INTO IRRIGATED :**

The provision of sections 14L & 14Y of the W.B.L.R. Act should be remembered. These two provisions read together indicate that any change in the composition of a family, or increase in the quantum of land after date of vesting, or change of non-irrigated land into irrigated land rendering some lands belonging to the family as ceiling-surplus, would warrant a fresh proceeding U/Sec. 14T. Some examples would clarify this. A dependent daughter may be married off after the date of vesting, or an adult son may come into some property, reducing the size of the family. Individual members may acquire some lands after the date of vesting. There may be new irrigation project & new land may be notified as irrigated. In any of these cases, some lands belonging to the family would be ceiling surplus on a date after the date of vesting. Such cases should be reopened U/Sec. 14T read with Sec. 14L and Sec. 14Y, which would result in further vesting.

SUMMARY OF STEPS TO BE TAKEN

I. **14T CASES :**

- A. Initiate proceedings U/s. 14T in respect of all pending 7A returns and have them completed quickly.
- B. Where the number of family members has been shown in the return either as two or more than five in a declaration given by the raiyat, conduct field enquiry to find out the exact membership.
- C. Also conduct field enquiry where there are other reasons, including local information, to doubt the accuracy of the statement regarding the number of family members, or their age or relevant details.
- D. In case of a two member family consisting of Husband and Wife only, the date of marriage should be carefully ascertained by local enquiry.
- E. Among other points, the priest or moulabi may be examined to find out the date of marriage. Invitation cards issued by both the bride and bridegroom family should be examined.
- F. Where for the determination of ceiling, the dates of birth and death of individuals are relevant, local enquiry and examination of documents should be made. The documents will include birth certificate, death certificate, school leaving certificate, etc. No paper should be placed full reliance or unless corroborated by attendant circumstances.

II. **TRUSTS AND ENDOWMENTS :**

1. Determination of "Public nature"-

- A. Ascertain by careful enquiry under Section 14(M) whether the beneficiaries are limited and fixed or unlimited and fluctuating.
- B. If the former, the Trust should be declared to be 'not of a public nature' and the share of each beneficiary should be added to his holding.
- C. If the Trust is not of a public nature, find out if after such addition the land of any beneficiary exceeds the ceiling limit.
- D. If so, start a proceeding under Section 14(T) in respect of the beneficiary or review the proceeding under Section 14T(3A) if one has already been started and disposed of.
- E. If the Trust or Endowment is found to be of a public nature dispose of the same by allowing the Trust or Endowment to retain 7 standard hectares of land.
- F. When making the aforesaid enquiry, find out if it will enable the beneficiaries to retain more land if the Trust or Endowment is declared to be a public nature or whether it is other way round. It should be carefully checked that there is no attempt by the beneficiaries to distort the character of the Trust or Endowment to retain more land.

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3. Enhancement of ceiling under section 14Q(3)-

- A. On receipt of a petition claiming relief under this Section reject the same on ground of lack of jurisdiction as only the State Government has powers under this Section.
- B. When an enquiry is ordered by the State Government on the applicability of Section 14Q(3) in a particular case, enquire into the following points :-
 - i) Whether the Corporation or Institution or Trust or Endowment was established exclusively for a charitable or religious purpose. For this purpose, the Account Books,

the original deed of creation and the nature of expenditure met by the body, will have to be ascertained from documentary and other evidence;

ii) Whether the Corporation or Institution or Trust or Endowment requires land in excess of ceiling. The body should require the land itself for its avowed purpose and not the income to be derived from the land.

III. **WAKF ESTATE :**

A. In case of wakf estates, the Wakf Commissioner, Govt. of West Bengal, is a necessary party and should be noticed in all proceedings.

IV. **CHANGE IN COMPOSITION OF FAMILY ETC.**

A. In some cases, it would appear that due to the change in the composition of family or further acquisition of land, or conversion of non-irrigated land into irrigated, more land will vest if the matter is examined relating to a date after 15.2.71. This should be done in appropriate cases.

B. For this purpose, the transfer register and "Irrigated" Notification should be consulted.

V. **SUO MOTU 14T CASES :**

Suo Motu cases u/s 14T should be started in appropriate cases. This may be done on –

A. Local information.

B. Petition by Panchayats or Peasant's Organisations.

C. Scrutiny of records. Records should be scrutinised and if it appears that an individual has more than 5 acres of land in a mouza, the name of his family members should be ascertained. All the mouzas in the camp should be searched to prepare land-schedule in respect of the raiyat and his family members. If it appears from local information that the raiyat has land under other camps, the land-schedule should be prepared with the help of those camps.

D. Suo motu cases U/s. 14T should be started in respect of all big raiyats and marginal big raiyats under the WBLR Act.

E. To ascertain the names of new big raiyats, the transfer registers should be consulted. If the name of a person features frequently in a transfer register he is likely to be a big raiyat.

F. If a testament is produced to prove that a big raiyat died before the date of vesting, the testament should not be relied on without field enquiry.

G. The help of the transfer registers should also be taken to examine if the case of big raiyat should be taken with reference to a date after 15.2.1971 U/s. 14Y read with Sec. 14L.

VI. **REVIEW OF DECIDED 14T CASES :**

A. Take up all decided 14T cases for examination about whether review U/s. 14T(3A) is necessary, specially cases decided before 1976.

B. In particular, examine whether persons not coming within the definition of family have been included as Family members.

C. Also examine whether considerations as in paragraph I apply. Also collect local information about whether any decided case should be reopened.

D. Reopen all appropriate cases thus discovered U/s. 14T(3A).

E. While preparing the land-schedule take the help of records prepared under the WBLR Act, at whatever stage the records may be, e.g., K-B, Attestation, D.P. &F.P.

F. If K.B has not been done in respect of the properties involved, prepare schedule with the help of WBEA Act records and local enquiry. It is essential to supplement the information contained in the WBEA Act records by local enquiry in such cases. This would apply to fresh 14T cases started either on return or suo motu also.

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**Government of West Bengal
Office of the Director of Land Records & Surveys,
West Bengal.**

CIRCULAR NO.224/5418/C/85

dt. 23/25.9.85

Sub: Meaning of an "adult" under the W.B.L.R. Act.

A question has arisen as to at what particular age a person should be considered as "Minor" or "Adult" for the purpose of Sec. 14K(c) of the W.B.L.R. Act.

2. As the terms have not been defined in the Act, the definition given in the Indian Majority Act, 1875 should be followed. Accordingly to Sec.3 of the Act, a person attains majority after having completed 18 years of age. Therefore, a person having completed 18 years of age shall be considered an "adult" for the purposes of Sec.14K(c) of the W.B.L.R. Act and any person below that age should be considered a 'minor'. This may be brought to the notice of all concerned.

T. K. Ghosh,

Director of Land Records & Surveys,
West Bengal.

Memo No.224/5419-5427/C/85

dt. 25.9.85

Copy forwarded to the Settlement Officer,

K. P. Sandilya,

For Director of Land Records &
Surveys, West Bengal.

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From the booklet "Guidelines on implementation of ceiling provisions under WBLR Act, 1955" issued by DLRS in the year 1990.

D. BIG RAIYAT PROCEEDINGS U/S 14T(3) READ WITH SEC. 14T(11) OF W.B.L.R. ACT.

B.R. Proceedings may be started u/s. 14T(3) read with Sec. 14T(11) of W.B.L.R. Act either on receipt of 7AA return or suo motu. As the WBLR (3rd amendment) Act'86 has already come into force, a notification for filing returns by raiyats in Form 7AA has already been published u/s. 14T(10) of WBLR Act read with rule 14C(4) of the WBLR Rules, '65. In terms of the notification, all raiyats having lands in excess of the ceiling limit, including the lands held by their family members are required to submit the return in Form 7AA. But it is apprehended that only a small percentage of the big raiyats having excess lands will submit the return. Particularly the raiyats owning large area of lands as tank fishery, orchards and non-agri land will try to evade the land ceiling by not submitting the return. Even if such returns are filed, these are not likely to contain the fullest details of the lands of various nature owned by the raiyats. In cases where 7AA returns are received, fresh B.R. proceedings will have to be initiated suomotu, 14T(3) proceedings initiated and disposed of earlier, either on receipt of 7A return or suomotu, should not be revised or re-opened. In either of the cases, for initiation of B.R. proceedings, what is most important is the preparation of a complete land schedule

showing all the lands held by a raiyat and the members of his family. For the purpose of preparation of such land schedule the following registers and R-O-Rs should be searched:-

- (1) Big raiyat registers kept in different 'C' and 'B' camps of erstwhile Settlement Wing.
- (2) Suspected Big raiyat registers kept in the aforesaid offices.
- (3) 7A case registers, kept either in Settlement 'B' or 'C' Camps or in Circle Camps.
- (4) 14T(3) suo motu case registers – kept in the aforesaid offices.
- (5) Inter-district B/R registers.
- (6) Civil Rule Register.
- (7) One Man One Khatian.
- (8) Khasra Volume.
- (9) R.S. record-of-rights.
- (10) Transfer Register.
- (11) All dropped cases either u/s. 6(1) or 6(5) of WBEA Act'53 or u/s. 14T(3) of WBLR Act '55 should be examined.
- (12) All Trust and Endowment cases either disposed of or pending for disposal should carefully be examined.

Many big raiyats suppressed the actual number of family members or fabricated the dates of birth or dates of marriage of the family members during disposal of B.R. proceedings which had already been drawn up against them. The actual position may be ascertained on examination of the following documents as may be found necessary :-

- (a) Ration Card.
- (b) Voters list.
- (c) Registers kept at birth registrars office and death registrars office.
- (d) School admission register.
- (e) The Chowkidary or anchal Assessment list.
- (f) Agricultural Income Tax list & registers.
- (g) Employment Exchange Card.
- (h) Service Identity Card.
- (i) Service Book.
- (j) Local informations, etc.
- (k) 14P & 14U registers.
- (l) Registers maintained in sub-Registrar's Office.
- (m) Registers maintained in Marriage Registrar's Office.
- (n) Registers maintained in District Mines & Minerals Office.
- (o) Registers maintained in Commerce and Industries Department. Etc.

While ascertaining the actual number of members of the family of a raiyat or the dates of birth and marriage, etc. mere reliance on the above documents and registers will not be enough. In such cases, local information is very vital. Diligent and intelligent enquiries should be conducted locally to ascertain correct information by personal contact with the recorded or un-recorded bargadars, co-shares, peasants' organisation and local Panchayats, etc.

Of the various sections involved in disposal of B.R. cases initiated u/s. 14T(3) read with 14T(11) either, on the basis of 7AA return or suomotu, particular care should be taken of the following sections :-

S.2(7) – Definition of Land.

The definition of land had been amended by the WBLR (Amendment) Act, 1981. According to the amended definition 'Land' means land of every description and includes tank, tank-fishery, fishery, home-stead or land used for the purpose of livestock breeding, poultry farming, dairy or land comprised in tea garden, mill, factory, workshop, orchard, hat, bazar, ferries, tolls or land having any other sairati interest and any other land together with all interest, and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to earth.

Explanation : 'Homestead' shall have the same meaning as in the WBEA Act, 1953.

S. 3A – Vesting of rights of non-agri. tenants and under-tenants in non-agricultural lands.

This section has been inserted by the WBLR (Amendment) Act, '81 and subsequently amended by the WBLR (3rd Amendment) Act, '86. According to this section the rights and interests of non-agricultural tenants and under-tenants under the WBNAT Act, 1949 shall vest in the State free from all encumbrances and the provisions of Sections 5 & 5A of the WBEA Act shall apply mutatis mutandis to all such non-agri. tenants and under-tenants. This section has been given retrospective effect from 9.9.1980.

Consequently, there are two dates of vesting. The date of vesting in respect of all agricultural lands, orchards, tank fisheries and also all non-agricultural lands to which the provisions of Sec. 3A of the WBLR Act, 1955 does not apply is 15.2.71 and the date of vesting in respect of the non-agricultural lands to which the provisions of Sec. 3A ibid apply is 9.9.80.

S. 14P – Land transferred after 7.8.69 to be taken into account in determining the ceiling area.

This section has been amended by the WBLR (3rd Amendment) Act, 1986. In terms of this section all types of land, except non-agricultural land to which the provisions of Sec. 3A apply, transferred or partitioned between 8.8.69 and 7.2.71 shall be taken into account as if such land had not been transferred or partitioned. All non-agricultural land to which the provisions of Sec. 3A apply transferred or partitioned between 8.8.69 and 8.9.80 shall be taken into account as if such land had not been transferred or partitioned except in cases of bonafide transfer or partition of such lands, but the burden of proving the bonafides of such transfer or partition shall lie on the transferor or the person in whose name the lands stood recorded before the partition. The transfer of any land during the above period in favour of the relative of the transferor as mentioned in S. 14P(3) shall however be presumed to be not bonafide.

In the latter case i.e. in case of non-agri land to which the provisions of S.3A ibid apply, an enquiry will have to be made to determine whether the land transferred or partitioned during the above period is bonafide or not bonafide. Since transfer of any land during the above period in favour of 14 categories of relatives of the transferor is to be presumed to be not bonafide, two separate enquiries should be undertaken – one for transfer of land in favour of the relative mentioned in the sub-section and the other for transfer of land in favour of any other person. On completion of the enquiry and proceedings, a clear finding should be recorded as to whether a transfer of land hit by this section is bonafide or not bonafide. If a transfer of land is declared to be not bonafide, the area of such land is to be taken into account in computing the ceiling of the transferor as if such land had not been transferred or partitioned, as the case may be.

S. 14U – Restriction on transfer of land by a raiyat.

This section has been amended by the WBLR (third amendment) Act, 1986. According to this section restrictions have been imposed on transfer of land by a raiyat

after 8.2.71 without the permission of the R.O. until the excess land which is to vest in the State has been determined and taken possession of. If a raiyat has transferred any land which he retained in pursuance of any order of the R.O. under sub-section 3 or 3A of S.14T, such land shall be taken into account in determining on any subsequent occasion the ceiling area of the said raiyat as if such land had not been transferred. The above provision applies to all types of land excluding non-agricultural lands to which the provisions of Sec. 3A apply with effect from 9.9.80 without the written permission of the R.O. until the excess land has been determined or re-determined and taken possession of.

If a raiyat makes any transfer of any land in contravention of the provisions mentioned above, the State Government may in the first instance take possession of land, equal in area to the land which is to vest in the State from out of the land owned by such raiyat and where such recovery from the raiyat is not possible from the transferee.

S. 14K(c) - Definition of family.

The definition of family has not been affected by the WBLR (Amendment) Act, '81 or WBLR (3rd Amendment) Act, 1986.

S. 14K(d) – Definition of irrigated area.

According to this section, all lands included in the notification published by the Govt. in the Official Gazette are to be treated as irrigated area irrespective of whether such land actually received irrigation water or not. In other words, the R.O. is bound by the notification of irrigated area published by the Govt. without any regard to the actual state of affairs in the field, when the powers of specifying an area as irrigated area by notification in the Official Gazette, it is the Govt. only who can review it and none-else. The field officers have to act strictly according to the notification. A certificate issued by an officer of the Irrigation Department or a shallow or deep tube-well operator is of no avail for the purpose of determination of irrigated area.

Sec. 14N – Determination of irrigated area.

This section which has not been affected by the Amendments of 1981 & 1986 has to be read with rule 14B of the WBLR Rules, '65.

The section empowers the prescribed authority to decide a question as to whether any land is or is not within an irrigated area. According to the rule while deciding such a question the prescribed authority shall hold such enquiry as he may think necessary, record a memorandum of such enquiry and after giving the raiyat a reasonable opportunity of being heard shall give his decision with reasons thereof.

The proceedings for determination of a question as to whether any land is or is not within an irrigated area should form a part and parcel of the B.R. proceedings drawn up u/s. 14T(3) read with 14T(11) in which the question is involved. The opportunity of hearing on this point should be given to the raiyat in course of hearing on other points. A memorandum on the hearing should be recorded in the proceedings in which he should clearly note that he is satisfied on examination of the notification (details of notification to be noted) that the plots are irrigated.

14K(f) – Definition of standard hectare:

The definition has been amended by the WBLR (3rd amendment) Act, '86. The amendment has been necessary to show the extent of land which is equivalent to 1 standard in respect of any other land than agricultural land and orchard.

S. 14M – Ceiling area

This section has not been affected by the amendments of 1981 and 1986.

The first step towards initiation of a big raiyat proceeding u/s. 14T(3) read with 14T(11) of WBLR Act either on the basis of 7AA return or suo motu is the preparation of

a complete land schedule showing all the lands of the raiyat and the members of his family. The registers and documents to be consulted for preparing the land schedule have already been mentioned above. Since there are two dates of vesting – 15.2.71 in respect of other lands than non-agricultural lands to which provisions of Sec. 3A apply, it will be necessary, at the first instance, to determine the ceiling in respect of a raiyat with reference to 15.2.71 in cases where such ceiling has not yet been determined. So, a schedule of all agricultural lands, orchard, tank fishery and also all non-agricultural lands other than those held in khas by an erstwhile non-agricultural tenant or under – tenant under the WBNAT Act, 1949 with reference to that date should be prepared in which such lands as transferred between 8.8.69 and 14.2.71 should be included. Then the ceiling of such a raiyat should be determined on the basis of number of members of his family and the area of his land having fallen in irrigated or non-irrigated area.

Since the date of vesting of non-agri land held in khas by a erstwhile non-agricultural tenant or under-tenant under the WBNAT Act, 1949 is 9.9.80, a fresh determination of his ceiling will have to be made with reference to this date. The land schedule to be prepared for the purpose will include all lands allowed to be retained by him in consequence of determination of ceiling as on 15.2.71, all such lands subsequently acquired by him and his family members by purchase or inheritance and all non-agri land held in khas by him and his family members as non-agri tenant or under – tenants under the WBANT Act, 1949. All non-agri land held in Khas by him and family members as non-agri tenants or under-tenants under WBANT Act, '49 which has been transferred or partitioned between 8.8.69 and 8.9.90 shall also be included in the land schedule as if such land had not been transferred or partitioned except in cases of bonafide or not bonafide as has been discussed earlier. All possible efforts should be taken to prepare the land schedule as accurately as possible. The R.O. dealing with the proceedings should personally be satisfied that the land schedule has been correctly prepared and includes all types of land owned by the raiyat and the members of his family. Any land detected to have been held by a raiyat in benami and any land recorded in the name of a trust or endowment declared on enquiry to be not of public nature shall also be included in the land schedule of the raiyat. Similarly any proceeding, case of dispute relating to vesting of land, fit for review u/s 14T(5) or S.14T(6) read with S.14T(9) should be re-opened and decided afresh for determination of the total land held by an intermediary or a raiyat and such lands should also be included in the land schedule on inclusion of the fresh proceedings. Local enquiry should be held to ascertain if the raiyat and the members of his family owned any other land than those included in the schedule. Such enquiry should also be undertaken to ascertain correctly the family composition of the raiyat. After completing all these preliminaries and giving the raiyat due opportunity of being heard the proceedings should be brought to a logical and the excess land, if any, should be vested and taken possession of. In determining the area to be retained by the raiyat and to be vested in the State Govt. notifications issued u/s. 14K(d) specifying irrigated area should be carefully examined. No reliance should be given to any certificate issued by any officer of the Irrigation Department or deep or shallow tube-well operator stating that any plot of land, though included in the Govt. notification, did not receive any irrigation water. A control register showing the particulars of land held by a raiyat and the members of his family should be maintained in the proforma given in Annexure – I. The ceiling area applicable to raiyats and the method of computation of area to be retained by the raiyats are given in Annexure – II.

SOME IMPORTANT POINTS

- (1) If the 7AA return is filed within stipulated time it should be checked that the raiyat's signature or L.T.I. is given in proper place or not. If yes, then the return should be countersigned by an R.O. with date and all particulars should be entered in the register on 7AA returns;
- (2) A title page and fly-leaf along with some blank order sheets should be tagged with 7AA return;

- (3) If the return is submitted after the last date of submission of returns, it should be considered as a piece of information only. If the raiyat furnishes any return in form 7AA on call after the last date, it should contain an account of land held by the raiyat and his family since 7.8.69 and particulars of lands transferred thereafter and a choice of option for retention of land within the prescribed limit. The particulars of family members should also be mentioned by the optee raiyat;
- (4) The return should always be verified with reference to the B/R case (if any), vested land schedule of the concerned mouzas, and R.S. and L.R. record of rights. No lands vested in B.R. case or 7A case or 14T(3) case should be allowed to be retained until any such vesting is quashed by an order of Hon'ble High Court and no distribution of such vested land is made and no appeal has been preferred against the order of the Hon'ble Court;
- (5) Schedule of retained and vested lands should be examined by the R.O. personally who should put his dated signature on them. The schedules should always be made part of the proceedings;
- (6) Determination of family composition of a raiyat should be made on the basis of authentic and reliable document. Local enquiry should invariably be made to ascertain the actual composition of the family of a raiyat;
- (7) It should be carefully ensured that notice issued on interested parties are properly served;
- (8) Attendance of raiyat and of person or persons appearing on behalf of the raiyat or his family should be taken and made part of the proceedings after the R.O. has countersigned it;
- (9) Raiyats and witnesses should be properly interrogated to ascertain the actual members of the family, total land held, land transferred after 7.8.69 and benami lands, if any, held by the raiyat;
- (10) The deposition of the raiyat and the witnesses should be properly recorded, their signature or L.T.I. obtained thereon, which should then be counter-signed by the R.O. A certificate "Read over and explained by me and admitted to be correctly recorded" should be appended to them. Such depositions should be made part of the proceedings;
- (11) In case of an injunction issued by a Court, it should be carefully examined to see whether the same is applicable to the proceedings. If not, the proceedings should continue;
- (12) Irrigated and non-irrigated area should be determined strictly with reference to the notification issued by the Govt. u/s 14K(d). No deviation therefrom should be made and no extraneous evidence produced should be relied on;
- (13) All proceedings should be concluded with a note "The case is thus disposed of subject to vesting of excess land if found on scrutiny or otherwise anywhere in West Bengal".
- (14) The possession of vested land should be taken u/s. 14SS and the possession certificate should always to made part of the proceedings;

Model order-sheets and notices in connection with a proceeding initiated u/s 14T(3) and a model order-sheet and notice in connection with taking over possession of vested land u/s. 14SS are appended hereto.

ANNEXURE - I

As per provision of section 14(M) the ceiling area shall be as follows :-

Description of raiyat	Ceiling areas in standard hectares.	Ceiling area in acres	
		Irrigated area	Non-irrigated or other area
1	2	3(a)	3(b)
1. A raiyat who is an adult unmarried person	2.5	2.5 hectare 6.18 acres (Approx.)	3.50 hectare 8.65 acres (Approx)
2. A raiyat consisting of two to five members' family	5	5 hectares 12.35 acres	7 hectares 17.30 acres (Approx)
3. A raiyat having a family of 6 members.	5+0.5	5.5 hectares 13.59 acres	7.7 hectares 19.02 acres (Approx)
4. A raiyat having a family of 7 members	5+1 = 6	6 hectares 14.8 acres	8.4 hectares 20.75 acres (Approx)
5. A raiyat having a family of 8 members.	5+1.5= 6.5	6.5 hectares 16.15 acres (Approx)	9.10 hectares 22.48 acres (Approx)
6. A raiyat having a family of 9 members.	5+2=7	7 hectares 17.30 acres (Approx)	9.80 hectares 24.20 acres (Approx)
7. A raiyat having a family of more than 9 members.	-do-	-do-	-do-

In computing area this should be kept in mind that

1 hectare = 2.471 acres.

1 standard hectare = 2.471 standard acres (In irrigated area)

For the purpose of calculation, 1 (One) acre should be multiplied by 1.40 to convert one standard acre of irrigated area into an equal quantum of land in non-irrigated area. The following two examples will make the thing more clear.

Q-1) X, a raiyat have a family consisting of 3 members. He has 20 acres of irrigated land and 10 acres of non-irrigated land. He opted to retain 10 acres of irrigated land and rest of non-irrigated land. How much quantum of land is he entitled to retain?

Ans.1) According to ceiling provision the raiyat X has a family consisting of 2 to 5 members and entitled to retain 5 standard hectares or (5 x 2.471) = 12.35 standard acres in irrigated area.

Now out of 12.35 acres of lands in irrigated area, he opted to retain only 10 acres of irrigated area. Hence he can further retain 12.35 – 10.00 = 2.35 standard acres in irrigated area or 2.35 x 1.40 = 3.29 acres of land in non-irrigated area. Thus the total quantum of land he can retain is 10.00 + 3.29 = 13.29 acres of land, out of which 10 acres are from irrigated area and rest 3.29 acres are from non-irrigated area.

Q-2) Y, a raiyat has a family consisting of 12 members. He has in his khas possession one standard acre of land in irrigated area and 23.20 acres of land in non-irrigated area. He opted to retain 1 acre of land in irrigated area and entire 23.20 acres of land in non-irrigated area. Does any land owned by 'Y' shall vest to State? In any case he desires to retain the land situated in the irrigated area.

Ans.2. Now, 'Y' has a family consisting of 12 members. So under the provisions of W.B.L.R. Act he is entitled to retain 7 standard hectares of land. i.e. $7 \times 2.471 = 17.30$ standard acres approximately. He has only 1 standard acre of land in irrigated area which he opts to retain.

Hence he will get $17.30 - 1.00 = 16.30$ standard acres of land which is equivalent to $16.30 \times 1.40 = 22.82$ acres of land situated in non-irrigated area.

So, in this case he can retain only $1 + 22.82 = 23.82$ of land situated in both irrigated and in non-irrigated area out of 1 acre of irrigated land + 23.20 acres of non-irrigated lands. He owns 1 acre of irrigated land + 22.82 acres of non-irrigated lands. So, 0.38 acre of non-irrigated land shall vest to the State.

ANNEXURE - II

CONTROL REGISTER

Name of the Raiyat detected or suspected as a Big raiyat either under WBLR Act or under W.B.E.A. Act, with Father's/Husband's name and names of the family members and benamdars	Relation between the raiyat and his family members and benamdars	Present age of raiyat and his family members	Lands recorded in favour of the raiyat and his family members and benamdars			
(1)	(2)	(3)	(4)			
			Mouja & J.L. No.	Khatian	Area	Remarks
			4(a)	4(b)	4(c)	4(d)

Lands recorded in any other P.S., Sub-Division, District					Area may be vested	Action taken		Lands		
Dist.	Sub-Division	P.S.	Mouja & J.L.No.	Area		Case No.	Result	Retained	Vested	
5(a)	5(b)	5(c)	5(d)	5(e)	6	7(a)	7(b)	8(a)	8(b)	

Quantum of such land transferred in prohibited period to be taken into account of the raiyat's land.						As a result of 14T(5) to 14T(9) cases the following lands should be included in the raiyat's account.				Remarks
P.S.	Mouja & J.L. No.	Khatian	Area	Date of transfer	Remarks	P.S.	Mouja & J.L. Nos.	Khatian	Area	
9(a)	9(b)	9(c)	9(d)	9(e)	9(f)	10(a)	10(b)	10(c)	10(d)	11

MODEL ORDER SHEET

Nature of the Case: u/s 14T(3) of W.B.L.R. Act read with Rule 14C of W.B.L.R. Rules

Case No. _____ of district _____ of 19 _____

Date	Order	Date of action taken on the order.
------	-------	--

1. Whereas it appears that Sri 'X' son of _____ a raiyat erstwhile intermediary is alive on and after 15.2.71 / 9.9.80 having much land in excess of the prescribed ceiling as provided in the provisions of Chapter IIB of W.B.L.R. Act, 1955 as per R.S. record of rights / L.R. record of rights or Finally published L.R. record of rights in respect of the mouzas _____ of P.S. _____ of district _____ and as Sri _____ did / did not furnish return in Form 7AA.

The undersigned Revenue Officer, having all powers to deal with and dispose of cases u/s 14T and its Sub-Section as laid down in the provisions of W.B.L.R. Act and Rules, deems it necessary to draw up this proceeding for determination of Ceiling limit of the lands held by the raiyat _____ and his family, who was also an intermediary in respect of some lands and to allow him so much of the land as he along with his family members, if any, can retain as per provisions of law.

Hence, issue notices upon the raiyat under section 57 of W.B.L.R. Act read with Section 14T(3) of the said Act and Rule 14(c) asking him to furnish a statement showing schedule of total lands held by him since 7.8.69 and particular of lands transferred by him after that date with a choice for retention of land and the members of family with their age on 15.2.71 / 9.9.80 and the lands he claims to be irrigated and non-irrigated to the office of the undersigned at _____ on or before _____ at 11 a.m. at _____. A copy of the notice should be served upon the B.L.L.R.O./R.O. _____ on behalf of Collector _____

Revenue Officer,
.....Block Land and
Land Reforms Office,

- 2 Notices duly Served. Service return filed with the case records.
- 3 Sri _____ appeared personally and submitted a return in form 7AA. Please put up for security of records.

[Here, the return should be scrutinised with the record of rights very carefully in separate sheets. The discrepancies detected should also be marked in the copies of the return filed by the raiyat. All corrections should bear the initials of the raiyat, or any authorised representative or any agent of the raiyat and Revenue Officer. During the scrutiny many anomalies may be detected and the raiyat may suppress some of the transfers or some of lands under his khas possession. The Revenue Officer should carefully note down such omissions and take into

account of the raiyat's lands if such lands need to be included in the raiyat's land schedule strictly in accordance with law.]

Final Order

In the final order, the total quantum of land held by the raiyat and his family as stood on 15.2.71 (and as stood on 9.9.80, in case the non-agricultural lands hit by Sec. 3A are taken into account, by determination of Ceiling on 9.9.80 is made) or any subsequent date as read with section 14L and 14Y of W.B.L.R. Act, along with the transferred land made after 7.8.69, showing into account the land held by the raiyat and his family which has been allowed to retain, should specially mentioned. A model is shown below :-

“Hence, the raiyat along with his family members are allowed to retain _____ hectares of land which is shown separately in Schedule ‘A’ and a total quantum of land measuring _____ acres being excess to the prescribed ceiling limit as envisaged in section 14M and its Sub-Sections under W.B.L.R. Act is vested to State. The Statement of Vested lands is shown in Schedule ‘B’. Both the Schedules are made part of the proceeding.

The case is thus disposed of, subject to vesting of excess land if found further on scrutiny or otherwise”.

After this tamilling should be done in the Record-of-Rights and possession of the vested lands should be taken U/S 14T(3) read with Sec. 14SS of W.B.L.R. Act & Rule 14BB of WBLR Rules and the proceeding and writ of possession should be made part of the proceeding. It shall always be kept in mind that unless the tamilling of the order is made and possession taken, the vesting remains partial and practically inoperative. So, tamilling and taking over possession should always be completed just after the final order of vesting is passed.

**MODEL ORDER SHEET
(Rule 129 of the Records Manual, 1971)**

Name of the Raiyat F/H's Name
Address :

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

Nature of the Case : Proceedings under Sec. 14T(3) of W.B.L.R. Act, read with Rule 14C of W.B.L.R. Rules.

<i>Serial Number of Order</i>	<i>Order and signature of Officer</i>	<i>Note of action taken on Order</i>
-----------------------------------	---------------------------------------	--

- Where as it appears that Shri / Sm _____ S/D/W of _____ of Vill. _____, P.O. _____, P.S. _____, District _____ has submitted option in form 7AA as per provision of Sec. 14T(1) of W.B.L.R. Act read with Rule 14-C of W.B.L.R. Rules and whereas the return has been submitted within the time limit as specified by the Govt., put up the return with records for my scrutiny.

Revenue Officer
of _____ B.L. & L.R.O. Office.

2. Verified the return filed in form 7AA with records. No discrepancies found.

Issue notice under Sec. 57 read with Sec. 14-T(3) of W.B.L.R. Act read with rule 14C(1) of W.B.L.R. Rules to the raiyat fixing _____ to appear before me at 11 A.M. at _____ with tangible evidence about family members and other raiyats of the family, for hearing.

Enclose a cyclostyled copy of Sec. 14-K(c) of W.B.L.R. Act (Bengali version) with the Notice.

Or

Verified the return with records. Discrepancies found in respect of name / share / Khatian / plots mentioned in the return.

Issue notice under Sec. 57 read with Sec. 14T(3) of W.B.L.R. Act and Rule 14C(1) of W.B.L.R. Rules directing the raiyat (optee) to appear before me on _____ at 11 A.M. at _____ with all evidence to prove his claim, failing which the case will be disposed of exparte.

Revenue Officer

of _____ B.L. & L.R.O. Office.

3. Notice served. Service return filed with case records.

Revenue Officer

of _____ B.L. & L.R.O. Office

----- (Bengali Matter) -----

<http://wblroa.in>

----- (Bengali Matter) -----

<http://wblroa.in>

Name of the Raiyat
S/O, W/O
Vill: P.O.
Dist:

MODEL ORDER SHEET

(Rule 129 of the Records Manual 1971)

Order sheet, dated from _____ to _____
District : _____ No. _____ of 19_____

Nature of the case : Proceeding for taking over possession of Vested land U/s. 14SS of the W.B.L.R. Act read with Rule 14BB of W.B.L.R. Rules.

<i>Serial Number and date of Order</i>	<i>Order and signature of Officer</i>	<i>Note of action taken on Order</i>
--	---------------------------------------	--

1. It is evident that _____ acres of land shown in the schedule appended herewith / in the margin has vested to the State in Case No..... U/s. 14T(3) of the W.B.L.R. Act, 1955. Possession of the aforesaid vested land should now be taken over after observing all the formalities required by the law.

Whereas, it is found that out of the land so vested following plots (partly vested) were held immediately before the vesting jointly by the raiyat(s) shown against, the plot(s) with that of Sri / Smt. _____ (name of raiyat whose share vested). These raiyats having joint possession should also be given an opportunity of hearing before determining which portion of the plot(s), so vested shall be taken possession of.

Hence, issue notice upon all materially interested persons, so discussed including the Bargadars on records (all sorts of recorded possessors in col. 16 need be noticed), and the B.L.L.R.O./R.O. of the area directing them to remain present on _____ at _____ A.M. over plot No. _____ (lowest serial number of the vested lands i.e., the plot in the North West corner), of mouza _____, J.L. No. _____, P.S. _____ (If different dates are fixed for different mouzas order should be received accordingly) wherefrom possession of vested area of the material plot(s) will be taken one by one in their presence after giving due hearing to all of them (and the same procedure will be followed for the vested lands of the other mouzas too.)

Sri _____ is hereby directed to assist me in taking over possession of the vested lands discussed above.

Revenue Officer

2. Notice duly served upon the materially interested persons. Service return filed.

Revenue Officer.

3.

Reached the spot. Sri / Smt. _____ (Raiyat) & other possessors of the part vested plots / Bargadars etc. being the noticed person were found present / none is present on behalf of the raiyat / Co-owners. Heard them, recorded option of the raiyat / Co-possessor raiyats against partly vested plots and their depositions are recorded and made part of the proceeding.

Also found several persons of the locality as witnesses. Their depositions are recorded and made also part of this proceeding. Prepared sketch map in triplicate showing the vested portion and area thereof against the plot(s) of which portion(s) vested to the State. Took over possession of the entire vested land. Prepared the possession certificate in triplicate in presence of the raiyat / witnesses etc. (as will be applicable). A copy of the said certificate along with a copy of sketch map duly signed by me is handed over to the raiyat / as none is present on behalf of the raiyat to receive the copy of possession certificate and/or copy of the sketch map. Handed over / sent a copy of the possession certificate along with a duly signed copy of sketch map to the R.O. / B.L.L.R.O. _____ of behalf of the Collector _____

Send the case records along with the signed copy of certificate of possession and sketch map to the _____ (Office) _____ (Place) for taking subsequent action.

Revenue Officer.

Certificate of possession U/S 14T(3) read with Sec. 14 SS of the W.B.L.R. Act read with Rule 14BB of the corresponding Rules.

----- (Bengali Matter) -----

GOVERNMENT OF WEST BENGAL
OFFICE OF THE
DIRECTOR OF LAND RECORDS & SURVEYS & JOINT
LAND REFORMS COMMISSIONER, WEST BENGAL,
35, GOPALNAGAR ROAD, ALIPUR, CAL - 27

Memo No.172/1778-95/C/93

dated, Alipur, the 24th August, 1993.

From: DIRECTOR OF LAND RECORDS & SURVEYS AND JT. LRC, WEST BENGAL.

To

DIST. LAND & LAND REFORMS OFFICER /
SUB-DIVISIONAL LAND & LAND REFORMS OFFICER / _____,
BLOCK LAND & LAND REFORMS OFFICER / _____.

Sub : Regarding resolution of dispute between Mitakshara or Dayabhaga School.

Ref : Application of Ceiling and other Land Laws.

It is to bring to your notice that a Hindu generally carries his personal law with him wherever he settles but there are following exceptions :-

1) If a Hindu belonging to Mitakshara School comes and settles in Bengal and if he has adopted customs and usages of Dayabhaga School, has relatives among the Dayabhaga School of Hindu Law and specially at the time of marriage, adopting Dayabhaga customs, he will be deemed to belong to Dayabhaga School of Hindu Law. To prove this, facts should be collected by the Officers. However, once it is established, burden of proof shifts on the raiyat to disprove the same. Presumption in this case, in favour of Govt. stand.

2) In case a Mitakshara Hindu marries in Dayabhaga Hindu, or a member marriage with a girl / son of Mitakshara with Dayabhaga traditions as is the custom of province of West Bengal, the Mitakshara family which had acquiescence will be deemed to belong to Dayabhaga School of Hindu Law. A Mitakshara Hindu must maintain his tradition of Saptapati etc. during marriage.

The cases referred are

Parbati V. Jagadi
Privy Council 29 - Calcutta - Page 33 Year 1902

And

Vijay Lal V. Bhubaneshwar
AIR 1963 Calcutta - 18.

After going through the judgement, it is clear from the Privy Council times that any deviation from Mitakshara tradition amounts to slipping with Dayabhaga School as because when a raiyat / person resides in a portion of West Bengal or Orissa, he is generally thought to belong to Dayabhaga as per general understanding of the Hindu Law.

However, if a raiyat continues to maintain links of marriages etc. in Uttar Pradesh and other places belonging to Mitakshara, there is a heavy presumption in his favour belonging to Mitakshara School of Hindu Law.

3) The moot point is gathering of facts by Revenue Officers by way of his relations, solemnisation of marriages and other customs of observance of festivals etc. However, in the State of West Bengal, the presumption can be soon shifted on the raiyat to belong to Dayabhaga School of Hindu Law because generally a person living for years, adopt local customs, rites and rituals.

P. K. Agrawal
Director of Land Records & Surveys and Jt.
Land Reforms Commissioner, West Bengal.

GOVERNMENT OF WEST BENGAL
Office of The Director of Land Records and Surveys
and Joint Land Reforms Commissioner, West Bengal,
35, Gopal Nagar Road, Alipore, Calcutta - 27.

Memo No.737/6146/C/91

Dated, Alipore, the 24/27-12-93.

C I R C U L A R

The final publication of the record of rights of the district Purulia and Islampur Sub-Division of Uttar Dinajpur under the provisions of W.B.E.A. Act was made belatedly. Moreover, the progress of preparation of record-of-rights under the provision of W.B.L.R. Act is very poor. For which some problems have arisen.

The big raiyat cases under the provision of 6(1) have not been completed yet. For certain obvious reasons the proceedings u/s. 14T(3) of W.B.L.R. Act have also been taken up and are being disposed of resulting in vesting.

As the records have not been prepared under the provision of W.B.L.R. Act, transactions are going on the basis of R.S. Record of Rights which do not reflect the vesting under W.B.L.R. Act.

Taking advantage of this, some unscrupulous big raiyats are selling the lands vested under the provisions of W.B.L.R. Act to small farmers causing difficulties during distribution.

To avoid such illegal transactions, it is, ordered that all vestings made under W.B.L.R. Act should be reflected in the R.S. Record of Rights as per entries stated below:-

- 1) In case, where the entire interest of a Khatian is vested in the State, then an entry " _____ **(Bengali Matter)** _____".

This entry should be reflected on the front side of the Khatian.

- 2) In case of vesting of a particular plot appertaining to a Khatian the above entry should be made against the particular plot vested.

- 3) In case where part of a plot appertaining to a Khatian vests in the State, then a Khanda Khatian covering the vested area of the plot, should be opened in the name of the raiyat or his successors and the aforesaid noting should be made in the Khanda Khatian. The area so vested out of that particular plot should be deducted from the area of that plot shown in the original khatian. In the original Khatian, showing the retained area an entry should be made against the plot stating _____ **(Bengali Matter)** _____.

At the time of modification u/s 47 of the E.A. Act, the Khanda Khatian showing the vested land should be eliminated and the land be brought to Collector's Khatian including all entries against the plot.

All these corrections should be made by drawing up proceeding u/s 50 of the W.B.L.R. Act. The proceeding number and all the entries stated earlier should be noted in the R.S. Khatian by red refill.

While doing so, the concerned Revenue Officer shall also up date the Khatian by mutating the names of the owner as stood on the date of order. All the dates of transfers should also be noted in the concerned Khatian to facilitate the detection of cases under sections 14(P), 14(U), 14T(5), and 14T(6) of the W.B.L.R. Act.

P. Bandyopadhyay
Director of Land Records and
Surveys and Joint Land Reforms
Commissioner, West Bengal.

Copy forwarded to :-

The District Land and Land Reforms Officer, Purulia + North Dinajpur – with a request to communicate the Circular amongst all Officers for compliance.

The District Land and Land Reforms Officer,

For information and necessary action.

P. Bandyopadhyay
Director of Land Records and
Surveys and Joint Land Reforms
Commissioner, West Bengal.

●

**Government of West Bengal
Office of the Director of Land Records & Surveys and
Joint Land Reforms Commissioner, West Bengal.**

Memo No. 6/4735/C/92

Dt. 14.9.94

CIRCULAR

**SUBJECT : EFFECTIVE DATE OF ACCOUNTING AND VESTING OF CEILING SURPLUS
NON-AGRICULTURAL LANDS HELD BY DIFFERENT CLASSES OF
TENANTS AND APPLICATION OF SECTION 3A OF W.B.L.R. ACT, 1955.**

In supersession of all previous circulars, instructions relating to accounting and vesting of Non-agricultural lands, it is clarified that all non agricultural lands belonging to erstwhile intermediaries and raiyats shall vest (if found excess) to the State, with effect from 15.2.71 under Section 14S of W.B.L.R. Act, 1955. To remove all doubts and confusions the Statutory provisions are explained below :-

1) Section 3A of the W.B.L.R. Act, applies only upon to those non agricultural tenants, who were outside the jurisdiction and provisions of the W.B.E.A. Act, 1953 and guided by W.B.N.A.T. Act, 1949.

2) Exclusively non-agricultural tenants, like “Dakhalkar”, “Dakhalkar Chandina” or “Dakhalkar Basat Proja” etc. of all grades were outside the purview of W.B.L.R. Act and were exclusively guided by WBNAT Act 1949. [Hereinafter all class of Dakhalkar i.e., Dakhalkar Chandina and Dakhalkar Basat Proja, will be stated as Dakhalkar only.]

3) The system of intermediary was in existence upto 8.9.80, i.e. the day, before Section 3A of W.B.L.R. Act came into force. Hence there might be a “Dakhalkar” under tenant under a “Dakhalkar” before 9.9.80.

4) All types of “Dakhalkar” tenants could hold any quantum of land in khas possession and in W.B.E.A. Act no land of a “Dakhalkar” of any type was vested.

5) The very purpose of Section 3A of W.B.L.R. Act, 1955, was to abolish the intermediary system running in respect of some categories of exclusively non-agricultural tenants, who were known as occupier in Bengal Tenancy Act, 1885 and subsequently termed as “Dakhalkar” as well as to bring the khas land held by such occupier as Dakhalkar under the purview of vesting provisions as laid down under chapter IIB of W.B.L.R. Act.

6) The erstwhile intermediaries like “Malik”, “Madhya Swatwadhikari” etc., who held agricultural land, orchard, tank fisheries, etc. along with other non-agricultural land were never a person like “Dakhalkar” and never were guided exclusively by W.B.N.A.T. Act. The non-agricultural land held by them was very much under the purview of ceiling provisions under W.B.E.A. Act and as laid down in Section 6(1)(c) they could retain only 15 acres of land, maximum, as raiyat.

Similarly the raiyats and under raiyats having non-agricultural lands also, could retain only 15 acres of non-agricultural land at the maximum.

7) The "Akrishi" khanda khatian opened as per 'B' Form submitted by the Chapter II intermediaries like "Maliki" and "Madhyaswatwadhikari" etc. under Rule 4 of W.B.E.A. Rules, does not create any tenancy like "Dakhalkar" and these lands when found in excess, of 15 acres were vested to the state as per provisions of W.B.E.A. Act. These "Akrishi" khanda khatians are not hit by the provisions of Section 3A of W.B.L.R. Act. Khanda Khatians are always part of the Bengali Matter and had no separate identity. For preparation of C.A. Rolls and for detection of ceiling surplus land and to facilitate other ancillary works, Khanda Khatians are generally opened. Hence, after change of definition of "Land" as per section 2(7) of W.B.L.R. Act, the non-agricultural land recorded in the R.S. Khanda Khatians as "Akrishi Proja" originated from "Maliki" or "Madhya Swatwadhikari" khatians now recorded as raiyat in W.B.L.R. Act shall be accounted for in calculation of the ceiling excess area of a family with effect from 15.2.71 as the amended Section 2(7) comes effective from 7.8.69.

8) It is reiterated that all "Akrishi" land belonging to a raiyat either of W.B.E.A. Act or of W.B.L.R. Act shall be taken into account while calculating the land of raiyat's family with effect from 15.2.71 for determining the ceiling excess land of a raiyat for vesting. Only non-agricultural khas land of a "Dakhalkar" status, who has become a raiyat on 9.9.80, for the purpose of ceiling calculation, will be taken into account as land of the raiyat and his family with effect from 9.9.80.

This should be strictly followed.

P. BANDYOPADHYAY

Director of Land Records and
Surveys and Joint Land Reforms
Commissioner, West Bengal.

Memo No.6/4736-69/C/92,

dated, Alipur, the 14th september, 1994.

Copy forwarded to :

1. The Secretary, Board of Revenue, West Bengal for his kind perusal.
2. The District Land and Land Reforms Officer, with a request to circulate the same amongst all officers under his jurisdiction to remove the confusions, if any, at the earliest, also to ensure proper implementation of the circular.

A. K. Bhattacharya

For Director of Land Records and
Surveys, and Joint Land Reforms
Commissioner, West Bengal.

Government of West Bengal
Office of the Director of Land Records and Surveys
& Joint Land Reforms Commissioner, West Bengal,
35, Gopalnagar Road, Calcutta – 700 027.

Memo No. 15/C/ 2594/95

Dated, Alipore, the 26th June, 1995.

To
The District Land and Land Reforms Officer,
Bardhaman.

Sub : Recovery of land from the transferees (when more than one transferees) u/s
14U of WBLR Act, 1955.

Ref : His No.220(2329)/511/S/95, dtd. 6.4.95.

Reference above. No raiyat is permitted to transfer land under the WBLR Act after 7.2.71 until his admissible ceiling is determined. Naturally, in terms of the provisions of the said Act, all transferred land should be treated as land held by the raiyat for the purpose of determination of ceiling in respect of that raiyat. Accordingly, quantity of land transferred after 7.2.71 in contravention of the provision of WBLR Act, should be accounted for in the land that may be allowed to be retained. In case, however, where quantum of land so transferred at different dates exceeds the admissible ceiling of retainable land, the transfers may be arranged chronologically and land transferred through the subsequent deeds are to be recovered from the transferees as per provision of 14U(3) of the WBLR Act. All concerned may be asked to follow this instruction strictly without any deviation.

P. Bandyopadhyay

Director of Land Records & Surveys
and Jt. Land Reforms Commissioner,
West Bengal.

Memo. No.15/C/2595-2612/95

dated, Alipore, the 26/28th June, 1995.

Copy along with the copy of memo. under reference to which this instruction is issued, is forwarded to District Land & Land Reforms Officer, South 24-Parganas for information. Extra copies of the instruction may be sent to all officers for their information and strict compliance.

P. Bandyopadhyay

Director of Land Records & Surveys
and Jt. Land Reforms Commissioner,
West Bengal.

Government of West Bengal
Office of the District Land & Land Reforms Officer, Burdwan.

Memo. No.220 (2329)/511/S/95

Dated, Burdwan the 6.4.95.

To
The Director of Land Records & Surveys and
Joint Land Reforms Commissioner, West Bengal.

Sub : Selection of transferees (when there are more than one transferee) u/s.
14U(3) of W.B.L.R. Act, 1955 for regularisation of quantity of vested land
when lands are transferred by Raiyat in contravention of provision of
Section 14U(1) and 14U(2).

In order to regularise the quantity of lands to be declared vested under provision of Chapter-IIB of W.B.L.R. Act its Section 14U(3) contains a secondary provision to the effect that for lands transferred after 7.2.71 by the Raiyat, recovery can be made even

from the transferee, when said recovery from the Raiyat is not possible. Problem, however, arises in the matter of selection of transferees when the number of such eligible transferee become more than one. It is opined that such transferees may be selected chronologically from the last date of transfer by the Raiyat.

His instruction / opinion is solicited on the issue as the law does not contain any specific provision to settle such problem. This is necessary for disposal of petitions filed by good numbers of transferee purchasing about 20.90 acres of land after 7.2.71 from 2 Raiyats who had been allowed to retain 12.36 acres (6.18 acres in each cases being single member family) of land in 2 separate 14T cases, the total quantum of lands declared vested in those 2 cases being 40.85 acres.

Sd/- Illegible
District Land & Land Reforms Officer,
Burdwan.

————— • —————
Government of West Bengal
Office of the Director of Land Records and Surveys &
Joint Land Reforms Commissioner, West Bengal,
35, Gopalnagar Road, Alipore, Calcutta - 27.

Memo No.1086/247-264/CS/96

Dated, Alipore, the 20th January, 1997

To
The District Land and Land Reforms Officer,

Subject : Consequential actions against cases affected by "usual orders" in reference to Appeal No.400 of 1992 (Paschim Banga Rajya Bhumi jibi Sangha & Others -Vs- State).

You are well aware that quite a large number of writ petitions praying for quashing the notices issued and/or order passed in a proceeding u/s 14T(3)/(10)/(11) of the WBLR Act, has since been disposed of with usual orders citing reference to the judgements dt. 26.7.96 passed by their Lordships Mr. Justice S.B. Sinha and Mr. Justice S.N. Chakraborty in Appeal No.400 of 1992.

The law cell of this Dte. has procured a list of cases affecting usual orders of Hon'ble Single Benches of the Calcutta High Court, a copy of which is annexed herewith. The cases against which appeal has been preferred, are noted against each case. But appeal could not be preferred against all the cases. The list may be scrutinised to identify the cases in which (i) notices asking the raiyat to submit return in form 7AA has been quashed and (ii) order of vesting passed in a proceedings u/s 14T(3) of the WBLR Act has been quashed relying upon order dt.26.7.96 passed in Appeal no.400 of 1992.

In cases where only notices has been quashed by Hon'ble Court, the relevant proceedings u/s 14T(3) of the WBLR Act may be dropped and started afresh in terms of judgement of Hon'ble Division Bench in Appeal No.400 of 1992.

In cases which were disposed of quashing the order of vesting, should be effectively dealt with by filing immediate appeal. To achieve it, proposal may be sent to Learned Legal Remembrancer for obtaining certified copy and a competent officer should contact Mrs. Monjuri Gupta, Learned State Advocate for drafting Memo of appeal.

It is most likely, there are even more cases, not included in the annexed list, in which order of vesting u/s 14T(3) of the WBLR Act, has been quashed. All such cases should be properly attended to, so that none of such cases miss preferring appeal.

He is further requested to send a list of appeals already tendered for monitoring of the appeals from this Directorate.

This is for information and taking necessary action.

Sd/- P. Bandyopadhyay
Director of Land Records and Surveys
and Jt. Land Reforms Commissioner,
West Bengal.

Encl: as stated

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Government of West Bengal
Land and Land Reforms Department
Sec - AI : Branch - IS

No. 2467 - IS
89/98

Dated, Cal., the 6th May, 1998.

From: K. L. Mukhopadhyay, Joint secretary to the Govt. of West Bengal.

To

Sri D. C. Sarkar,
D.L.R. & S, W.B. & Jt. L.R.C., W.B.

Sub : Instructions regarding Chapter IIB of the WBLR Act in the context of order of the Supreme Court.

Sir,

The Division Bench of the High Court, Calcutta in Appeal No.400/92 arising out of Matter No.1367/87 (Paschim Banga Bhumijibi Krishak Samiti & Ors. -Vs- State of West Bengal & Ors) held that "provision of Sec 14V Vis-à-vis the definition of land as contained in Sec. 2(7) and Sec. 3A (3) of the said Act is ultra vires Article 300A of the Constitution of India". Against this order of the Division Bench, SLP was filed before the Hon'ble Supreme Court. The SLP after admission has been numbered C.A. No.16879/96. In a recent hearing in I.A.No.3 in CA No.16879/96 the Hon'ble Supreme Court has passed the following order :-

"Having heard learned counsel for the parties, in our view, proper relief which can be passed is to the effect that there will be stay of the operation of the impugned order of the Division Bench of the High Court subject to the rider that Status-quo regarding possession on spot shall be maintained by both the sides.

I.A. No.-3 is disposed of."

2. It will appear from the aforesaid order that there is no bar to disposing of the cases on returns already filed, or proceedings taken up Suo-motu for the purpose of vesting ceiling surplus land in the manner as prescribed in Chapter II-B of the WBLR Act. But the surplus land so vested can neither be taken possession of nor distributed until further order is passed by the Supreme Court on the matter as aforesaid. The details of the schedule of vested land under such proceedings shall be entered in a separate register describing the register as "Register of Land for Conditional Vesting".

3. As the land cannot be distributed the very purpose of land reform will remain unachieved. Therefore, he is requested to instruct all the DLLROs, to furnish information in the following format, at the end of each month, to him, on the disposal of such proceedings :

- (1) Name of the district :
- (2) Name of the Block :
- (3) No. of cases disposed of :
- (4) Quantum of land vested :
 - (a) Total land vested :
 - (b) Classificationwise land vested :
- (5) Photocopy / ink-to-ink copy of the case proceedings including land schedule (a, b and c).

In his turn, he should submit a comprehensive report to this Dept. after compiling all such reports to be received from the districts, for further necessary action by the Government.

A copy of the order of the Hon'ble Supreme Court is enclosed.

4. It is clear from the order that Status quo regarding possession on spot shall be maintained by both the sides. This means that land vested in the cases already disposed of but not distributed cannot be distributed until further order from the Hon'ble Supreme Court.

5. Many of the 14T(3) cases which were concluded by the Revenue Officers have either been quashed or order of vesting stayed. Against the cases quashed by the Single Bench of the Hon'ble Calcutta High Court, appeals have been filed before the Division Bench. At the time of hearing of the appeals in the Division Bench the order of the Hon'ble Supreme Court must invariably be produced by the Ld. State Advocates with a prayer to set aside the order of the Single Bench. For the 14T (3) cases which have been quashed but no appeals has yet been filed, all efforts should be made to file appeals immediately mentioning in the Memo of appeals, the order of the Hon'ble Supreme Court, so that the order quashing vesting made by the Single Bench of Calcutta High Court is stayed in the very first hearing.

In respect of cases still pending before the Single Bench, the order of the Supreme Court should be produced at the time of hearing with a prayer for dismissing the petition. All the learned State Advocates should be accordingly briefed.

6. In case of any confusion attention of the Department be drawn immediately by personal contact.

Yours faithfully,
K.L. Mukhopadhyay
Joint Secretary to the Govt. of West Bengal,
Land & Land Reforms Deptt.

Extract of the Order of Supreme Court of India

State of W.B. & Others Petitioner(s)
Heramba P. Bandyopadhyay & Ors. Respondent(s)

SLP (Civil)	CC 118/98	SLP (Civil)	CC 152/98	SLP (Civil)	CC 153/98
SLP (Civil)	CC 156/98	SLP (Civil)	CC 223/98	SLP (Civil)	CC 224/98
SLP (Civil)	CC 225/98	SLP (Civil)	CC 226/98	SLP (Civil)	CC 227/98
SLP (Civil)	CC 228/98	SLP (Civil)	CC 229/98	SLP (Civil)	CC 230/98
SLP (Civil)	CC 231/98	SLP (Civil)	CC 232/98	SLP (Civil)	CC 233/98
SLP (Civil)	CC234/98	SLP (Civil)	CC 235/98	SLP (Civil)	CC 236/98
SLP (Civil)	CC 237/98	SLP (Civil)	CC 238/98	SLP (Civil)	CC 239/98
SLP (Civil)	CC 210/98	SLP (Civil)	CC 241/98	SLP (Civil)	CC 242/98
SLP (Civil)	CC 218/98	SLP (Civil)	CC 241/98	SLP (Civil)	CC 245/98
SLP (Civil)	CC 216/98	SLP (Civil)	CC 247/98	SLP (Civil)	CC 248/98
SLP (Civil)	CC 219/98	SLP (Civil)	CC 250/98	SLP (Civil)	CC 251/98
SLP (Civil)	CC 252/98	SLP (Civil)	CC 253/98	SLP (Civil)	CC 254/98
SLP (Civil)	CC 255/98	SLP (Civil)	CC 256/98	SLP (Civil)	CC 257/98
SLP (Civil)	CC 258/98	SLP (Civil)	CC 259/98	SLP (Civil)	CC 260/98
SLP (Civil)	CC 261/98	SLP (Civil)	CC 262/98	SLP (Civil)	CC 263/98
SLP (Civil)	CC 264/98	SLP (Civil)	CC 265/98	SLP (Civil)	CC 266/98
SLP (Civil)	CC 267/98	SLP (Civil)	CC 268/98	SLP (Civil)	CC 269/98
SLP (Civil)	CC 270/98	SLP (Civil)	CC 271/98	SLP (Civil)	CC 272/98
SLP (Civil)	CC 273/98	SLP (Civil)	CC 271/98	SLP (Civil)	CC 275/98
SLP (Civil)	CC 276/98	SLP (Civil)	CC 277/98	SLP (Civil)	CC 278/98
SLP (Civil)	CC 279/98	SLP (Civil)	CC 280/98	SLP (Civil)	CC 281/98
SLP (Civil)	CC 282/98	SLP (Civil)	CC 283/98	SLP (Civil)	CC 284/98
SLP (Civil)	CC 285/98	SLP (Civil)	CC 286/98	SLP (Civil)	CC 287/98
SLP (Civil)	CC 288/98	SLP (Civil)	CC 289/98	SLP (Civil)	CC 290/98
SLP (Civil)	CC 395/98	SLP (Civil)	CC 396/98	SLP (Civil)	CC 397/98
SLP (Civil)	CC 398/98	SLP (Civil)	CC 399/98	SLP (Civil)	CC 400/98
SLP (Civil)	CC 401/98	SLP (Civil)	CC 402/98	SLP (Civil)	CC 403/98
SLP (Civil)	CC 404/98	SLP (Civil)	CC 405/98	SLP (Civil)	CC 406/98
SLP (Civil)	CC 410/98	SLP (Civil)	CC 411/98	SLP (Civil)	CC 412/98
SLP (Civil)	CC 413/98	SLP (Civil)	CC 424- 185/98		Etc. etc.

Date : 20/03/98 These petitions were called on for hearing today

Present : HON'BLE MR. JUSTICE S. B. MAZUMDAR
HON'BLE MR. JUSTICE S. P. KURDUKAR

For Petitioners :

Mr. Tapash Ray, Sr. Advocate,
Ms. A. Subhasini, Advocate,
Mr. H.K. Puri, Advocate.

For petitioner in : Mr. Rajesh Srivastava, Advocate.
Mr. Soli J. Sorabjee, Sr. Advocate
M/s H.K. Puri, Rajesh Srivastava, Advocates.
For Respondent(s) : M/s. N.R. Chowdhury, Somnath Mukherjee, Advocates.

UPON hearing counsel the Court made the following Order.

In D.P. (c) Nos. 124-185/983

Issue notice in each of these petitions. There will be ad-interim stay in terms of prayer (a) In I.A. No.3 in C.A. 16879/96.

Having heard learned counsel for the parties, in our view, proper relief which can be passed is to the effect that there will be stay of the operation of the impugned order of the Division Bench of the High Court subject to the order that status quo regarding possession on spot shall be maintained by both the sides.

I.A. No. 3 is disposed of.

In S.L.P. CC 3029/98:

Delay, if any, is condoned. Leave granted.

Printing dispensed with. To be heard with C.A. No. 16879/96. In the meantime, there will be ad-interim stay of the impugned order dated 10.9.1997 till further orders.

In rest of the S.L.Ps

I.As for amendment of the petitions are allowed. The amended S.L.Ps be placed for orders next week.

Sd/- N. Moorjan
Court Master.

NOTE ON VESTING

From the date of communication of the Hon'ble Court's Order dated 26.7.96 till communication of the order of the Hon'ble Supreme Court dated 20.3.98 and thereafter, Reports regarding vesting are to be sent as per instruction communicated by the L & LR Department under no.2467 dated 6.5.1998.

This will, however, not affect –

- (a) the cases disposed of prior to 26.7.1996.
- (b) cases taken up with specific direction of any court of law.
- (c) Prior possession has already been taken.
- (d) Cases taken up / to be taken up under WBEA Act.
- (e) Lease-hold lands under Tea Garden and proceedings u/s. 14Z(2) of WBLR Act.

1. However, in those cases under WBLR Act distribution cannot be made in view of Supreme Court's order to maintain status quo.
2. There is no bar to continue or take up vesting proceeding. Fresh proceedings u/s 14T may also be taken up.
3. In all such cases while vesting of land, mention may be made about the Supreme Court's order, especially the rider as mentioned in the Hon'ble Supreme Court's order.
4. Please ensure that no distribution is made of land vested under WBLR Act as amended, till further instruction is received from the Department.
5. As status quo is to be maintained by both sides, sale / transfer of the land cannot be made by the owner. A list of land vested may be sent to the concerned Registrar / Sub-Registrar quoting the Supreme Court's order so that sale / transfer deeds can be checked.

6. The BL&LRO should open a separate register of lands for conditional vesting. SDL&LRO will also maintain such a register for his Sub-Division for land vested during this period and will monitor the proceedings. DL & LROs will furnish the Block-wise information in the format prescribed by the department by 15th of June'98 positively so that consolidated report on such vesting of lands during this period may be reported to L & LR department for placing before the Hon'ble Supreme Court for further orders.

7. Along with the report Xerox copy of the final speaking order (not the entire proceedings) along with land-schedules A, B & C is required to be sent.

8. After such conditional vesting tamilling should be done against the respective plots mentioning case number but it should not be brought to Collector's Khatian before possession is taken.

9. In respect of the cases already pending in different Courts mention may be made before the appropriate bench for quashing the ad-interim order by producing the copy of the Hon'ble Supreme Court.

10. Intermediary once departed with possession cannot be allowed the benefit u/s. 6(5) of the WBEA Act and there is no scope to re-open the proceedings.

(Application of Gour Gopal Mitra – In the matter of 6(5) proceedings under WBEA Act
Ref: 67 CWN Page – 32)

11. As per Supreme Court's decision in the case of Suburban Dairy Development Authority Limited & Others – the State has no liability in respect of post-vesting purchasers. Such cases may be disposed of in that manner without further reference.

D. C. SARKAR

22/5/98

Director of Land Records & Surveys
and Jt. Land Reforms Commissioner,
West Bengal.

●
Government of West Bengal
Office of the Director of Land Records & Surveys
& Jt. Land Reforms Commissioner, West Bengal,
35, Gopalnagar Road, Alipur, Calcutta – 27.

Memo. No. 25/840-857/CS/98 dated, Alipur, the 29th June/8th July, 1998.

To

The District Land & Land Reforms Officer,

Subject : Compliance of Hon'ble Supreme Court's order dtd. 20.3.98 passed in the matter of State of West Bengal & Ors. –Vs- Paschim Banga Rajya Krishijibi Sangha & Ors.

In drawing his attention to the above subject, he is requested to take steps for vesting of land but to maintain status quo as regards possession on land in compliance with Hon'ble Supreme Court's Order dated 20.3.98 passed in the matter and he is also requested to send vested land schedule to all Districts registrar, Sub-registrar after passing an order of vesting with a request to ensure that no land included in the vested land schedule is transferred by the raiyat or his family member.

This is for favour of his information and taking necessary action.

D. C. Sarkar
Director of Land Records & Surveys,
& Jt. Land Reforms Commissioner,
West Bengal.

Copy of memo. No. 35/1775/C/98 dated 10th August, 1998 from the Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal to the Dist. Land & Land Reforms Officer, Nadia.

Sub : Vesting under Chapter IIB of the WBLR Act in the context of order of the Supreme Court of India & this Dte. Circular No.35/1233-39/C/98 dated 10.06.98.

A reference is invited to his office memo. No.1515/98 dated 05.06.98 on the above mentioned subject.

The undersigned is directed to inform him that if the vesting was made before 12.05.89 and possession has been taken and if such land remain undistributed, that may be distributed.

Memo. No. 35/1776-93/C/98

Dated, the 10th August, 1998.

Copy forwarded to the Dist. Land & Land Reforms Officer,
This has reference to the note on vesting circulated by this Dte. during conference on 22.05.98 at this Dte.

A. K. Bhattacharjee
For Director of Land Records & Surveys and
Joint Land Reforms Commissioner,
West Bengal.

●

GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records & Surveys and
Joint Land Reforms Commissioner, West Bengal
35, Gopal Nagar Road, Alipore, Calcutta - 700 027.

Memo No.1086/251-68/CS/96 (Part)

Dated, Alipore, the 4th Feb. 1999

To
The District Land & Land Reforms Officer,

Sub : Taking over possession & distribution of Lands vested U/s 14-S of the WBLR Act.

Ref : L & LR Dept. No.2467-IS /89/98 dated Cal, the 6th May, 1998 communicated vide this Directorate No.35/1233-39/C/98 dated 1.6.98.

A conference was held at the Calcutta residence of Sri Tapas Kr. Roy, Sr. Advocate, Supreme Court of India along with Sri P. K. Ghosh, Special Officer Law & Ex-officio Special Secretary L & LR Department, Sri P. Bandyopadhyay Jt. Secretary L & LR Department and Sri D. C. Sarkar, D.L.R. & S. & Jt. L.R.C., West Bengal on 30.12.98, in the matter of taking consequential action in respect of lands vested under Section 14-S of the WBLR Act vis-à-vis order dated 20.3.98 passed in C.A. No.16879 of 1996 by Hon'ble Supreme Court of India.

An extract from relevant file of L & LR Department embodying the minutes of the proceedings dated 30.12.98 is enclosed for ready reference.

This is for information and immediate compliance.

D. C. Sarkar
Director of Land Records and Surveys &
Jt. Land Reforms Commissioner,
West Bengal.

Copy forwarded to :

1. The Jt. Secretary, L & LR Department, Govt. of West Bengal for favour of information.
2. Sri Tapas Roy, Sr. Advocate, Supreme Court of India, 48, Supreme Enclave, 14, Moyur Vihar (Phase – I), New Delhi – 110 091 for favour of kind information.
3. Sub-Divisional Land & Land Reforms Officer For immediate compliance.
4. Jt. D.L.R. / D.D.L.R./A.D.L.R. / Sri Madhab Chatterjee, SRO – II and Directorate Vesting Cell/H.A. 'C' Group / H.A. 'CS' Cell – for information.

M. J. Iqbal
For Director of Land Records and Surveys &
Jt. Land Reforms Commissioner,
West Bengal.

“Met Shri Tapas Ray, Sr. Advocate, Supreme Court in his Calcutta residence on 30.12.98 along with Sri P. K. Ghosh, S. O. (Law) and Sri D. C. Sarkar, DLRS, W.B.

2. The issue regarding vesting on ceiling surplus land under the WBLR Act and distribution of land was discussed thread-bare in the context of ad-interim order of the Hon'ble Supreme Court and the Circular issued from the Deptt. vis-à-vis the Supreme Court's order. Shri Tapas Ray is of the view that the Circular issued by the Deptt. is perfectly in order, but as the substance of the case involves not vesting but the payment of amount (Sec. 14V) against the vesting the may be distributed provided the land-owner is not party to the proceeding before the Hon'ble Supreme Court. The Revenue Officer, while issuing notices for vesting of ceiling surplus land under Sec. 14T(3) of the WBLR Act may incorporate a line in the notices to the effect that the raiyat may submit papers if he has any case in any court concerning the schedule of land involved in the proceeding. If the raiyat at the time of hearing fails to produce adequate papers proving that he is a party to any case before the Hon'ble Supreme Court, his land may be vested in accordance with the provisions of the Act and such land may also be distributed. The fact of failure of raiyat to prove his participation in Supreme Court's cases should be mentioned in the order sheet by the Revenue Officer concerned and signature of the raiyat must be obtained in the appropriate place of the order sheet as a token of acceptance of the position by the raiyat.

3. The matter regarding early hearing of SLP in the Supreme Court was also discussed. Three Cross appeals preferred by the State Govt. before the Divn. Bench, Calcutta High Court were not heard along with the appeal No.400 of 1992 (P.B. Bhumijibi Sangh –Vs- State of W.B. & Ors.). As these appeals involving 4 other Sections of the WBLR Act have not been disposed of by the Divn. Bench, the Ld. Lawyer of the Opp. Party in the Supreme Court objected to the adjudication of those Sections in the Supreme Court. Our Ld. Counsel has advised to transfer those appeals to Supreme Court for hearing analogously with the other SLPs. A report in form of 'information slip' regarding Cross appeals has since been obtained from the High Court. The S.O. (LAW) has already forwarded the information slip, memo of appeals and other papers to Sri H.K. Puri, AOR, Supreme Court for drafting Transfer petition.

4. Sri Tapas Ray, Ld. Sr. Advocate has further advised to submit another petition before the Supreme Court for expeditious hearing simultaneously with the petition for transfer of cross appeals. He has further advised that apart from sending Fax message to Sri H. K. Puri for quick drafting of the above two petitions at least 2 officers, one of them being very senior should visit New Delhi by the middle of January '99, take the drafts from Sri Puri, get them approved by Shri Ray and file in the Supreme Court. Accordingly, it is suggested that Sri D. C. Sarkar, DLRS, accompanied by Sri A. L. Brahmachari, ADC in-charge of the Directorate Law Cell & well – conversent with the entire issue may visit New Delhi in the middle to the last week of January, 1999 (27.1.99 – 29.1.99) for the above purposes. In the meanwhile Shri Puri may be contacted over phone for preparation of petitions etc.

P. Bandyopadhyay
Joint Secretary,
Land & Land Reforms Dept.

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**GOVERNMENT OF WEST BENGAL
OFFICE OF THE DIRECTOR OF LAND RECORDS & SURVEYS AND
JOINT LAND REFORMS COMMISSIONER, WEST BENGAL
35, GOPAL NAGAR ROAD, ALIPORE, CALCUTTA – 700 027.**

Memo No.325/1530-47/CS/98

Dated, Alipore, the $\frac{23^{\text{rd}}}{25^{\text{th}}}$ August, 1999

To

The District Land & Land Reforms Officer,.....

Sub : Determination of ceiling of a raiyat under Section 14M of the W.B.L.R. Act on the 15.2.1971.

A question has arisen whether it is admissible to determine the ceiling of a raiyat under Section 14M of the W.B.L.R. Act, on the 15.2.1971, the date of enforcement of provisions of Chapter IIB of the W.B.L.R. Act. This is to instruct, in this regard that if at any point of time after the 15.2.1971, a raiyat is found to own lands in excess of ceiling prescribed under Section 14M of the W.B.L.R. Act, vis-à-vis number of members of family of the raiyat, provision of Section 14L of the W.B.L.R. Act may be invoked to draw proceedings under Section 14T(3) read with Section 14T(11) of the W.B.L.R. Act.

This is for information and guidance.

D. C. Sarkar
Director of Land Records & Surveys and
Jt. Land Reforms Commissioner,
West Bengal.

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Copy of Dte. memo. No.717/9918/C/76 dt. 21.9.76, to the Secretary, Board of Revenue, West Bengal.

Subject : Procedure and form of complaint before the Sub-divisional Judicial Magistrate for action u/s. 14T(4) of the West Bengal Land Reforms Act, 1955.

Board's attention is invited to Section 14T(4) of the West Bengal Land Reforms Act, 1955 wherein it has been prescribed for penal action against the Raiyat who fails to furnish return u/s 14T(1) or (2) of the said Act within the prescribed time or wilfully makes any omission or incorrect statement in such return. As such, returns in 7A forms have been filed by the Raiyats before the Revenue Officers and as all the S.R.Os. II, Kanungos Grade-I and Grade-II of the Settlement Offices have been appointed in the

State of West Bengal to discharge within their respective jurisdictions, the functions of Revenue Officer u/s 14T of the W.B.L.R. Act under Revenue Department's Notification No.26500-L. Ref., dated 29.10.75, it may be convenient for those officers to file a complaint before the Sub-Divisional Judicial Magistrate for action u/s. 14T(4) of the Act while scrutinising 7A returns in their offices.

2. Procedure and form of complaint will have to be formulated in consultation with the Law Officers and necessary rules will have to be framed. A complaint form is, however, enclosed for consideration.

3. If the Revenue Officers, as proposed in para 1 above, are authorised to file such complaint before the Sub-Divisional Judicial Magistrate, it will be necessary to engage pleaders to conduct the cases in favour of the State. Hence it is proposed that the District Authorities may be requested to depute Panel Pleaders to conduct such cases.

4. In anticipation of formulation of procedure and form of complaint we have already requested all the Settlement Officers to direct the Revenue Officers to file such complaint before the Sub-divisional Judicial Magistrate.

Memo. No.62336 – 616/E-22(Part-X)/76 dated, Medinipur, the Nov. 3, '76.

Copy together with a specimen form of complaint forwarded to :

1. All Charge Officers ;
2. All 'B' / 'C' / Thana Camp Officers;
3. All Circle Officers;
4. All Halka Officers ;
for information. Complaints may be filed on big cases only. A return is to be sent to this office after filing complaints.
5. In File / E-45/76 and Guard File.

Encl: As stated.

Sd/- Illegible
For Settlement Officer, Medinipur.

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE
C.R.CASE NO. _____/76 DATED

Complainant –

-Vs-

Accused –

U/S 14T(4) of W.B.L.R. Act 1955 as amended afterwards

Date of occurrence –

Names of Witnesses – (1)
(2)
(3)

The complainant above named most respectfully submits :-

(1) The accused above named holds land in excess of the ceiling area applicable to him as per Schedule – “A” below

(1a) That as per records the accused holds total area of land to the extent of _____ acres and on local enquiry it is learnt that he also acquired and holds land to the extent of _____ acres by subsequent transfers which is further described in Schedule – “A-1” making a total area of land in his account to _____ acres.

(2) That according to Section 14T of W.B.L.R. Act he is to submit a return in the prescribed form within the time limit showing the lands which he proposes to retain.

(3) That he is further required to furnish particulars of the land which is in-excess of the ceiling area and also he is to furnish other prescribed particulars.

(4) That according to Section 14M of W.B.L.R. Act the Raiyat is prevented from keeping more land beyond his ceiling.

(5) That inspite of such scheduled date as mentioned above and also after service of Notice which is not required according to law, the above named accused raiyat failed without any reasonable excuse to furnish any return / has filed wilfully an incorrect statement / has wilfully made omission in the statement. (A true copy of the notice as stated above is filed herewith, the original will be filed at the time of hearing).

(6) That such non-compliance of the accused raiyat has no reasonable cause and it is done by him wilfully and negligently without any reasonable excuse.

In the circumstances the accused is liable to be punished under section 14T(4) of W.B.L.R. Act.

Your honour may be pleased to take cognizance of the Offence under the above provision of law against the accused and your honour may be further pleased to summon the accused fixing date of hearing of the case for the ends of justice.

And as in duty bound your humble complainant shall ever pray.
(Date of petition) .

Schedule of lands :-

●

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section - A(I), GE - Branch

No. 10023-G.E.
225/89

Dated, Calcutta, the 1st July, 1989.

From : A. K. Chakraborti, I.A.S.. Special Secretary, Board of Revenue, W.B.

To
The Director of Land Records & Surveys,
West Bengal, Alipore.

Sub : Scope of Sec. 14T(5) of the W.B.L.R. Act – guidelines in connection with.

The undersigned is directed to state that Sub-section (5) of Section 14T of the W.B.L.R. Act, 1955, as amended by the W.B.L.R. (Third Amendment) Act, 1986, empowers a Revenue Officer to enquire and decide any question of benami in relation to any land and any question of title incidental thereto, or any interest therein or any matter of transaction.

2. The scope of the sub-section is quite wide. First, in terms of this sub-section, the Revenue Officer may, out of his own motion, or on information, initiate an enquiry to decide the question of benami in connection with preparation or revision of records. Secondly, such an enquiry may be initiated by the Revenue Officer in relation to determination of ceiling area under the provisions of the Act. Thirdly, by virtue of the provisions in sub-section (8) of Sec. 14T the Revenue Officer may enter into the question of benami in respect of any transaction / transfer which took place on any date subsequent to 5th May, 1953.

3. During enquiry the Revenue Officer should ascertain, in addition to other information that may be relevant to the case, the fact of possession in respect of the land in question. Also, the actual mode of utilisation of the usufruct of the land should be carefully looked into. Local enquiry should be made to ascertain relevant facts.

4. If after enquiry it is found that the transfer / transaction is benami in nature, a finding should be recorded to that effect and the record-of-right prepared on the basis of such a transaction / transfer should be corrected. In other words, the name of the

transferee (benamdar) featuring in the record-of-right should be deleted and the land recorded in the name of the transferor. The land so recorded should be considered to be land of the transferor for computation of his ceiling area under the provisions of the Act.

5. Sub-section (9) of Section 14T seeks to further enlarge the scope of sub-section(5). In terms of sub-section (9), a Revenue Officer, during determination of the quantum of land retainable by a raiyat or an intermediary, may re-open any case relating to nature of any transaction notwithstanding any judgment, decision or award of any Court, Tribunal or authority in relation to such transaction. The principle of resjudicata will not apply to such re-opening and fresh determination.

6. It should be clearly understood that the provisions of Sec. 14T(5) may be invoked even where no question of determination of ceiling is involved. If any question arises in course of preparation of record-of-right as to the nature of any transfer on the basis of which recording is sought by any person, the Revenue Officer, may initiate enquiry to determine the nature of such transfer and proceed to prepare the record of rights on the basis of the results of the enquiry.

7. All field officers should be instructed accordingly.

A. K. Chakraborti
Special Secretary, 5.7.89
Board of Revenue, West Bengal.

From the booklet "Guidelines on implementation of ceiling provisions under WBLR Act, 1955" issued by DLRS in the year 1990.

The various methods of detection of evasion of ceilings may be discussed under the following five heads :-

- (A) Benami transactions;
- (B) Trust and Endowment cases;
- (C) Civil Suits and Collusive Suits;
- (D) Big Raiyat proceedings u/s 14T(3) read with Sec. 14T(11) of the WBLR Act, 1955.
- (E) Proceedings u/s 14Z(2) of WBLR Act, 1955.

A. Benami Transactions :-

These transactions are to be dealt with under Sections 14T(5), 14T(8) and 14T(9) of the WBLR Act.

Section 14T(5), empowers a Revenue Officer to enquire into and decide any question of benami in relation to any land and any question of title incidental thereto or any interest therein or any matter of transaction made for the purpose, inter alia, of detection and vesting of ceiling surplus land.

Prior to insertion of this sub-section, there was no provision for enquiring into or deciding any question of benami, in relation to land. As a result, State had lost in most of the proceedings initiated under Section 44(2a) or 5A of the WBEA Act for detection and vesting of lands held in benami. The snag in the law has been removed by insertion of this sub-section, which by virtue of sub-section (8) shall operate with retrospective effect from 5.5.1953.

The system of acquiring and holding property in names of other than those of the real owners is known as benami system. In relation to land held in benami, the property stands recorded in the name of one person while the possession of the land lies with another person who also enjoys the usufructs from the land.

To locate benami transactions / transfers in land, both C.S. and R.S. records have to be searched. If, in course of such search of the C.S. and R.S. records, any land, specially big areas, is found to have been transferred, such transfer should be locally verified, to ascertain the actual possession and the mode of utilisation of usufructs of the

land. During the local enquiry, serious efforts should be made to collect actual information in respect of possession of the land and utilisation of usufructs from the peasants' organisations, bargadars, if any and tillers of the surrounding lands. If it is noticed during such enquiry that the land, though recorded in the name of one person, is actually possessed by the transferor and the usufructs are enjoyed by the latter, it is to be concluded that the land is held in benami. The evidence of the persons questioned during enquiry should be recorded with their signatures. A proceeding under section 14T(5), read with sec. 14T(8), and 14T(9) of the WBLR Act should immediately be started for correction of record-of-rights with regard to such benami lands.

In course of the intensive drive launched during 1967 to 1969 for detection of clandestinely held ceiling surplus lands, proceedings u/s. 5A or 44(2a) of the WBEA Act were initiated for correction of record of rights and vesting of lands held in benami. But, as already pointed out, State had lost in most of such cases since enquiry into benami transactions was not within the ambit of WBEA Act. So, while searching of records and local enquiry into possession and utilisation of usufructs should continue for detection of benami lands, what is more important for vesting of benami lands is to take up cases u/s. 14T(5), read with 14T(8), 14T(9) of WBLR Act in respect of the old proceedings initiated u/s. 44(2a) or 5A of the WBEA Act in which vesting could not be effected due to court's orders.

Before the passing of the WBLR (Amendment) Act'81 and WBLR (3rd Amendment) Act, 86, reopening or fresh adjudication in such proceeding was beset with difficulties in view of the court's orders and the principle of resjudicata. But these difficulties have now been removed by insertion of sub-section (9) of S.14T. In terms of sub-section (9), any officer specially empowered may, in course of determination of the quantum of land retainable by a raiyat or an intermediary, reopen and decide afresh any proceeding, case or dispute relating to any benami transaction notwithstanding any judgment, decision or award of any court, tribunal or authority in relation to such transaction. The principle of resjudicata shall not apply to such re-opening of any proceeding, case or dispute and fresh determination of ceiling of land retainable by a raiyat or intermediary.

There may be cases in which Court's orders quashing any proceedings initiated u/s 5A or 44(2a) of WBEA Act. for correction of record of rights and vesting of ceiling surplus land, have not yet been tamilled. Re-opening of any such proceedings u/s 14T(5), read with 14T(8) & 14T(9) will require the tamilling of the Court's orders. There should not, however, be any gap between tamilling of Court's orders and initiation of a fresh proceedings u/s. 14T(5) read with sections 14T(8) & 14T(9). In other words, tamilling of Court's orders and issue of notices for reopening the same proceedings should be done simultaneously.

If after completion of the proceedings drawn either u/s 14T(5), read with 14T(8) or u/s 14T(5), read with Secs. 14T(8) and 14(9) of WBLR Act, it is established that a transfer / transaction is benami in nature, a finding should be recorded to that effect and the record of rights prepared on the basis of such a transfer / transaction should be corrected u/s 51BB. The recording of the lands in the record of rights of the transferee (benamdar) should be struck off. The land should be featured in the record of rights of the transferor and taken into account for computation of his ceiling area under the provisions of the Act.

The provisions of S. 14T(5) are operative with retrospective effect from 5.5.53. This does not mean that benami transfer only come within the ambit of enquiry by a Revenue Officer. The R.O. is quite competent to enquire into and decide any question of benami in relation to land irrespective of the date of such benami transfer or transaction, if the lands were held in benami on 5.5.53 or thereafter.

According to S.5A of the W.B.E.A. Act. lands transferred with in the prohibited period and declared on enquiry either bonafide or not bonafide, is taken into account for computation of the ceiling of the transferor under the WBEA Act. But there is no such provision u/s 14T(5) of the WBLR Act. As such, if any land hit by S.5A is taken for

enquiry u/s 14T(5) of WBLR Act and is ultimately found to be not benami, the land will not be taken into account for computation of ceiling of the transferor and vesting of an area equal to the land so taken up for enquiry u/s. 14T(5) will not be possible. It is, therefore, clarified that enquiry into the transfer of any land hit by S.5A, which has not been covered by any earlier enquiry, should be taken up under section 5A of the WBEA Act and not under 14T(5) of the WBLR Act.

Proceedings drawn up & disposed of u/s. 5A or 44(2a) of the WBEA Act should be carefully scrutinised to see if the same were properly disposed of. If, on scrutiny, such proceedings are found to be fit for review on the ground that the same were not properly disposed of or the orders passed were erroneous, the proceedings should immediately be taken up u/s 14T(5) read with 14T(8) and 14T(9) of WBLR Act. So long, there were difficulties in reviewing the proceedings on grounds of resjudicata. With the insertion of the above sections in the WBLR Act, such difficulties no longer exist. There is no doubt that if the proceedings are scrutinised, a good no. of them will be found fit for review and on review of such proceedings, a good quantum of land will vest in the State. The matter should therefore be attended with the zeal and promptitude it deserves.

For implementation of the provisions contained in S.14T(5), 14T(8) & 14T(9) of the WBLR Act, a register should be maintained in the following proforma:

(1) Name of raiyat / intermediary in whose name the land was recorded in C.S.

(2) Name of transferee in whose name the land stands recorded in R.S.

(3) Mouza & J.L. No.

(4) Whether any 44(1), 5A, 44(2a) cases were initiated or not.

(5) If initiated, the results thereof :-

(a) Vested (b) Affected by Court cases (c) Divested (d) Yet to be divested

(6) Whether the case was taken up u/s. 14T(5) or 14T(6) read with 14T(9),

(7) Area vested _____

Khatian No.	Plot No.	Area
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(8) Remarks.

All the proceedings to be initiated u/s 14T(5) or 14T(6) read with 14T(8) and 14T(9) will not naturally be of similar nature. The order sheet in each case will have to be prepared on the basis of available documents, merits and facts of the case. However, for guidance of the Revenue Officers or Officers specially empowered u/s. 14T(9), three model order sheets are given below :

MODEL ORDER SHEET NO. 1

(Rule 129 of the Records Manual, 1917)

Order Sheet dated from _____ to _____ District : XYZ

No. 2 of 1989

Nature of the case : Proceeding u/s 14T(5) read with Section 14T(9) of WBLR Act.

Serial Number and date of Order	Order and signature of Officer	Note of action taken on Order
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1

Date Examined the suo-motu proceeding under Section 44(2a) of WBEA Act bearing No. _____ of _____ where the plot nos. _____ No. _____ of Khatian No. _____ of Mouza _____ of P.S. _____ duly adjudicated by a specially empowered officer and passed an order dated _____, this Suomotu proceeding U/s 44(2a) of WBEA Act was drawn up in order to rectify the mistakes in the finally published record of rights. The mistakes being that the disputed plots No. _____ comprising a total area of _____ acres was wrongly recorded in Khatian No. _____ of Mouza _____ P.S. _____ of district _____

The learned Revenue Officer in that proceeding merged the Khatian bearing No. _____ with its superior Landlord's Khatian bearing No. _____ of the same mouza. As the plot in question was not retained by the erstwhile intermediary, the same was vested to State.

Being aggrieved to that decision, Sri _____ preferred an appeal / moved under Article 226 before the _____ and obtained a Civil Rule / Order against the aforesaid 44(2a) proceeding. As per order passed by Mr. J. _____ in his judgement dated _____ his lordship _____ quashed / set aside the order passed in 44(2a) suomotu proceeding. No appeal was preferred on behalf of the State. The record of rights have been tamilled in order to comply with the Hon'ble Court's judgement dated _____

Whereas, after the 3rd amendment of the WBLR Act 1986, Section 14T(5) and Section 14T(9) coming into force, new concept of benami transaction has been introduced in WBLR Act. On new legislation of Section 14T(5), the Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question of benami in relation to any land and any question of title incidental thereto or any interest therein or any matter of transaction made, on being satisfied that such enquiry and decision are necessary for the purpose of preparation, correction or revision of record of rights and all matters incidental or consequential thereto or detection of vesting of surplus land over the ceiling area.

Now, after scrutiny of finally published R.S./L.R. record of rights of mouza _____ particularly Khatians bearing Nos. _____ and after going through the preliminary enquiry report and other papers such as _____ and _____ etc. which are considered very valuable informations, the undersigned is of prima facie opinion and satisfied that an enquiry is necessary to be held for the purpose of deciding whether any benami transaction in respect of the lands above took place or not. And the undersigned is of further opinion that by enquiry into or deciding the question of benami transaction in this regard, the question of resjudicata does not arise at all also in this case as the cause of action is completely different and in earlier case, the question of benami was not adjudicated and this being a fresh case with new grounds from different bearing is maintainable and is in accordance with law.

And whereas the undersigned is duly empowered u/s 14T(5) also u/s 14T(9) of WBLR Act it is ordered to issue notices upon all interested parties u/s 57 of WBLR Act, read with section 14T(5) and 14T(9) of the

said Act, asking them to appear before the undersigned at _____ on _____ at 11 a.m. to adduce all papers and witnesses for a hearing of the said case.

Revenue Officer & Officer Specially empowered u/s 14T(5), 14T(8), 14T(9) of WBLR Act. Block / Sub-divisional/District Land & Land Reforms Office _____

MODEL ORDER SHEET NO.2
[Rule 129 of the Records Manual, 1917]

Order Sheet dated from _____ to _____ District : _____

No. _____ of _____

Nature of the case : Proceeding u/s 14T(5) read with Section 14T(9) of WBLR Act, 1955.

<i>Serial Number and date of Order</i>	<i>Order and signature of Officer</i>	<i>Note of action taken on Order</i>
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1 Whereas, it appears from the records of rights prepared and finally published under the West Bengal Estates Acquisition Act (E.A.Act)/WBLR Act that Sri _____ Son of _____ of _____ who possessed areas of land, including the areas of land which he transferred to others by creating tenancies under him by Dakhilas (rent receipts) issued purportedly on a date or dates prior to 5.5.1953, exceeded the ceilings fixed under Section 6 of the said act; and

 Whereas the names of the persons and the particulars of the land transferred to them by Sri have been shown in a separate schedule made a part of this proceedings and

 Whereas, being satisfied that the said transfers were fictitious and were made with a view to evading the ceiling laws of the said Act, the duly authorised Revenue Officer initiated a proceeding No. _____ of _____ under Section 5A of the said Act in order to determine whether the said transfers were genuine or fictitious and after hearing the parties and examining the evidences, came to the conclusion that these were fictitious and ordered for revision of record-of-rights and other papers in the light of his conclusion; And,

 Whereas, being aggrieved by the said order of the Revenue Officer, Sri _____ the transferee (or Sri _____ the purchaser from the transferee) moved the appeal No. _____ of _____ before the court of the Special Judge at _____ challenging the said order, and, after hearing the parties in the case, the Ld. Special Judge was pleased to hold that the Revenue Officer, in exercising his power under section 5A of the E.A. Act had no jurisdiction to question or alter the presumptive value of evidence of the finally published record-of-rights on the basis of khasra enquiry reports or preliminary records; none of which had attained the evidentiary value, and, accordingly, the order of the Revenue Officer was set aside;

 Whereas, despite the said order of the Ld. Special Judge, there remains strong reasons to believe from the circumstances and nature of the said transfers that the persons to whom the lands in question were transferred were benamdars of Sri _____ and, whereas, before proceeding to determine the areas of land which could be allowed

to be retained by the persons, who are now raiyats, under the ceiling laws of the W.B.Land Reforms act, it has become imperative to determine with certainty whether or not the said raiyats are the benamdars of Sri _____.

Therefore, I, Sri _____ Revenue Officer and duly empowered under the law, draw up this proceeding in order to determine the aforesaid issues and pass appropriate orders after hearing the parties concerned.

Before notices are issued for hearing, direct the Revenue Officer of _____ office to send me a very early report with the following pieces of information –

1. Whether the transferor Sri _____ is alive or not. If alive, what is his present address? If dead, the date or year of his death, the names and addresses of his heirs (relationship) or any other successors-in-interest.
2. Whether the transferees are alive. If alive, what are their present addresses ? If dead, the names of their heirs or any other successors-in-interest, together with their present address.
3. Whether any of the disputed plots of lands or portions thereof have meanwhile been transferred by the transferors to others and, if so, who are the present raiyats in these transferred land.

(Enclose a copy of the land schedule)

Put up as soon as the report is received.

Revenue Officer and Officer
Specially empowered u/s
14T(5), 14T(8) and 14T(9) of
W.B.L.R. Act.

MODEL ORDER SHEET NO. 3
(Rule 129 of the Records Manual, 1917)

Ostensible Owner _____
B/R _____

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

Nature of the case : Proceeding u/s 14T(5) read with Sections 14T(8), 14T(9) and 57 of
the W.B.L.R. Act

<i>Serial Number and date of Order</i>	<i>Order and signature of Officer</i>	<i>Note of action taken on Order</i>
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1. Whereas, it appears from a petition of Sri _____ all sons of _____ dated _____ that the petitioners demanded correction of R.O.Rs. being _____ of Mouza bearing _____ areas of land against plot nos. _____ and other claimed that they have purchased the land on _____ by Regd. Kawalas being Nos. _____ from one _____ of village _____ P.O. & P.S. _____ Dist. _____ According to _____ and others their Vender _____ was a tenant under _____ and right and title of said _____ was confirmed by ex-parte order no. _____ dated _____ in the T.S. Case No. _____ in the Court of _____ Munsiff _____

Whereas, from Kh. No. _____ of Mouza “ _____ ” J.L. No. _____ prepared and finally published u/s 44(2) of the W.B.E.A. Act, 1953 having a presumptive value of correctness it appears that _____ acres of land including suit _____ acres was recorded in favour of _____ S/O _____ from the stage of preparation of Math-Khashra (field verification) to the stage of Final Publication. Possession and right title of the entire material land was recorded in favour of said Sri _____

Whereas, it also appears from _____ Case No. _____ drawn up and disposed of against _____ that said Sri _____ was a big intermediary having roughly _____ acres of land in the State of West Bengal (so far detected) and that in the said Case _____ was allowed to retain _____ acres of agricultural land _____ acres of non-agri land and _____ acres of homestead land and that _____ acres of land including the suit _____ acres of land was declared vested to the State.

Whereas, it appears from paragraph No.3 of the true copy of plaint furnished in connection with T.S. Case No. _____ that _____ stated the following.

----- (Bengali Matter) -----

Whereas, from a certified copy of deed of gift being No. _____ of District Registrar Office _____ executed by _____ S/o _____ in favour of _____ S/o _____ it appears that Sri _____ (mother _____ was the daughter of _____) and that _____ took birth not long before _____. That it is difficult to believe the story of _____ about taking settlement of the property by payment of Salami of Rs. _____ and rent @ _____ per year from his own income and about erroneous framing of records in favour of _____ who happened to be his (son)/(daughter) etc.

Whereas, it appears that _____ S/o _____ having large quantum of land, had enough motive to give rise to a benamdar to subserve his interest by retaining more lands on the one hand and by inflating compensation amount on the other hand and more so when the name lender was a minor son of his own _____

Thus, while traversing through the documents, I, Sri _____ Revenue Officer, Specially empowered under Sub-sec. 9 of Section 14T do find several reasons to prima facie believe that the claim of _____ about taking settlement of the material _____ areas of land from _____ through unregistered papers may not be a genuine one and that Sri _____ was a benamdar of _____

Whereas, it is necessary to enquire and decide the above question of benami in relation to the material _____ acres of land and the questions of title incidental, thereto, and any interest arising out of the transactions made thereafter.

Hence, issue notice upon all the materially interested persons including the Revenue Officer of _____ along with the copy of the Order Sheet to let them know the purpose of the proceeding and to have their say and to produce their documents at the time of hearings to be held on _____ at 11 A.M. in my chamber.

Revenue Officer & Officer
Specially empowered U/S
14T(5), 14T(8), 14T(9) of
W.B.L.R. Act.

Block / Sub-divisional/District

Land & Land Reforms Office _____

* * * *

C. CIVIL SUITS & COLLUSIVE SUITS :-

The Courts have been used by the interested parties for obtaining judicial approval of illegal transfers and of re-classification of land and also for other ends. In court cases, the state is always at a disadvantage. It is a common experience that the state cases are not always contested as vigorously as they should be or as is done by private parties. As a result, the state loses most of the cases on nominal contest. Such cases involve back dated transfer, claim for re-classification of land recorded, claim for declaration of a trust or endowment to be a public nature etc. Other glaring instances are collusive suits filed for ratifying sham transactions. Claims of back dated Settlement of land are put up, which are compromised through solenamas in Courts. The flase show is put up to legalise some illegal transactions for the purpose of evading land ceiling. Another example of evasion of land ceiling is the auction purchase of land in fraudulent rent sales. The land holders created fictitious and fake tenancies in the wake of the WBEA Act. They put the tenancies in rent sales through the civil courts on grounds of arrear rent. The tenancies were created in favour of the near relatives, trusted friends or servants or benamdars. These are nothing but benami transactions. But the modus operandi is so subtle that no action could be taken generally u/s. 5A earlier. The lands involved in such cases were actually being enjoyed by the land-holders and would have otherwise vested had it not been manipulated so nicely through the cloak of law.

All these cases should be very carefully checked and enquired u/s. 14T(5) read with S.14T(9) of the WBLR Act.

Quite a good number of Civil rules and Civil Suits involving large quantum of land is pending for a long time. It is likely that most of these C.Rs/C.Ss have already been disposed of in favour of the Government. If, decisions in the C.Rs/C.Ss had gone in favour of the parties, they would have produced certified copies of the judgments seeking relief in terms thereof. Since the C.Rs/CSs are very old and since the parties have lost the C.Rs/C.Ss. Each and every such C.Rs/C.Ss. which is more than 5 years old and in respect of which no information regarding present position is available should be taken up for scrutiny immediately and the relevant proceedings should be disposed of in the following manner:-

- (1) Notices should be issued by regd. post with A/D to the raiyats and their lawyers asking them to intimate, within 15 days of the receipt of the notices, the results of the C.Rs / C.Ss with certified copies of the judgments.
- (2) In case no reply is received on the expiry of the time given, a reminder may be issued stating that if no reply is received within 15 days, the cases will be proceeded with on the presumption that the C.Rs/C.Ss have been disposed of in favour of the Government.
- (3) If a reply is received, the same should be throughly examined and necessary action taken.
- (4) If the parties have lost the C.R/C.S it is most likely that they will not respond to the notice issued by the R.O. Non-receipt of a reply to the notice will, therefore, be a good

ground for assuming that there is no bar to the proceedings affected at one time by adinterim injunction order. The case then should be taken up for disposal.

(5) Every step taken in such a case be recorded in the order-sheet. Moreover, the steps taken for eliciting from the parties information regarding the results of the C.R/C.S should be stated in the final order.

(6) All cases sent back on remand or with liberty to proceed according to law should be disposed of immediately to the best advantage of the government.

The above procedure applies to all ad-interim orders passed in Civil rules / Suits affecting B.R. Cases, 44(2a) cases, 5A cases, Barga cases etc. under both the WBEA and WBLR Acts.

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**GOVERNMENT OF WEST BENGAL
OFFICE OF THE DIRECTOR OF LAND RECORDS & SURVEYS AND
JT. LAND REFORMS COMMISSIONER, WEST BENGAL,
35, GOPAL NAGAR ROAD, KOLKATA - 700 027.**

Memo No.07/6104-08/C/05

Dated, Alipore the 18th August, 2005.

From : Director of Land Records & Surveys and Jt. Land Reforms Commissioner, W.B.

To
The District Land & Land Reforms Officer,

Sub : Purchase of ceiling excess land by promoters and subsequent disposal of land violating ceiling laws.

It has come to the notice of the undersigned that in many cases land promoters purchased land from raiyats on different dates in different names in benam through registered deeds of conveyance and they did not present their purchase deeds for mutation of R-O-R, but subsequently disposed of these lands after altering the classification and land boundaries to individual entrepreneurs. In some cases total quantum of land held by the promoters goes beyond the ceiling limit as defined U/s 14M of the WBLR Act. The DL&LROs and the BL&LROs are to remain careful about these activities. As soon as the information of such purchases are received by his office or in the office of the BL&LRO/SDL&LRO, a prompt action U/s 14T(5) of the WBLR Act is to be taken by a competent officer. After completion of hearing U/s 14T(5) a proceeding U/s 14T(3) is to be started.

During the visit of the undersigned instruction was given to BL&LRO. Sankrail in presence of the SDL&LRO, Sadar and the DL&LRO to start a case under proper section of law against such a promoter in Howrah, but till date no action taken report was received from his end.

It is, therefore, requested that immediate action be taken for curbing the illegal activities of the promoters by applying ceiling laws in addition to Section 4C of the WBLR Act. An action taken report be sent to the undersigned through Fax a fortnight hence.

D. K. Chaudhuri
Director of Land Records & Surveys and
Jt. Land Reforms Commissioner, W.B.

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section – A(I), GE – Branch

No. 10024-GE
225/89

Dated, Calcutta, the 1st July, 1989

From: A. K. Chakraborti, I.A.S.
Special Secretary,
Board of Revenue, W.B.

To
The Director of Land Records & Surveys, West bengal.

Sub : Scope of Sec. 14T(6) of the W.B.L.R. Act – Guidelines in connection with.

Sub-Section (6) of Sec. 14T of the W.B.L.R. Act, 1955, as amended by the W.B.L.R. (Second Amendment) Act, 1981, authorises a Revenue Officer to enquire and decide any question as to whether any trust, endowment or institution is of public or private nature or of exclusively religious or charitable in character or both and any question of title incidental thereto to determine the extent of land which is to vest in the State as surplus of such trust, endowment or institution.

2. For a proper appreciation of the scope and import of this sub-section, its provisions are to be read with those of the sub-sections (5) and (6) of Sec. 14M as amended by the Amendment Act of 1981. In terms of sub-section (5), the land owned by a trust or endowment other than that of a public nature should be deemed to be the land owned by the author of such trust or endowment to the extent of his share in the said land. Also, the author shall be deemed to be raiyat under the provisions of the Act and the share of such author in the said land shall be taken into account in computing the area of land retainable by such author. Again, under the provisions of sub-section (6) of Sec. 14M a trust or institution of Public nature established exclusively for charitable or religious purpose or both shall be deemed to be a raiyat which will be entitled to retain land not exceeding 7.00 Std. Hectare irrespective of the number of its centres or branches in the State.

3. It is, therefore, clear from the above that for the purpose of determination of land retainable by a trust or endowment, it is first necessary to ascertain the character of the trust. A trust will be entitled to the benefits of sub-section (6) of Sec. 14M only when two conditions are satisfied namely, the trust is of public nature and is of exclusively religious or charitable in character or both. Sub-section (6) of Sec. 14T authorises the Revenue Officer to make necessary enquiries to examine these two issues relating to a trust or endowment and come to an appropriate finding.

4. A public trust, as opposed to a private one, is a trust where the members of the public or at least a part of it may partake of or benefit from, its activities. Therefore, detailed enquiries should be made by the Revenue Officer to ascertain if in case of the trust under enquiry the benefits flow only to an individual or to the members of the public. Similarly, a trust or endowment may be considered to be of exclusive nature only when the usufruct from the land which forms the subject matter of the trust are used only for the purposes of the trust and not otherwise. Sub-section (6) has laid down that in determining the nature and character of the trust, the Revenue Officer will take into account certain matters, like actual user of income or usufruct of the land, mode of cultivation, pattern of utilisation of the land and share of income or usufruct of the land enjoyed by or on behalf of the Manager / Sebait / Motwalli or any other person managing the trust endowment or institution. If during enquiry, it appears that the income or usufruct of the land is enjoyed by the manager, sabait etc. in their personal capacity, even in part, then the trust, endowment or institution loses its exclusive character and an order should be recorded to that effect.

5. In terms of sub-section (8) of Section 14T the provisions of sub-section (6) will operate with retrospective effect from 5th May, 1953. In other words, sub-section (8) authorises a Revenue Officer to decide the nature and character of a trust, endowment

etc. if such a trust or endowment was created or established on any date subsequent to 5th May, 1953.

6. Again, by virtue of the power conferred by sub-section (9) of Sec. 14T a Revenue Officer, may, while determining the area to be retained by a trust, endowment etc. reopen any case, proceeding relating to the character of such trust endowment etc. notwithstanding any judgment, decision or award of any Court, authorities or Tribunal to the contrary. The principle of resjudicate will not apply in such case.

7. It should be understood that the intention behind the insertion of sub-section (6) of Sec. 14T is to extent the benefit of retention only to such trust and endowment etc. as are public in nature and exclusively religious or charitable character or both. It is against this background that the provisions of this sub-section should be administered.

8. This should be brought to the notice of all concerned.

A. K. Chakraborti
Special Secretary, 5.7.89
Board of Revenue, West Bengal.

No.10024/1(38)-GE

Copy forwarded for information to :-

1. The Land & Land Reforms Department,
2. The Collector _____
3. The District Land & Land Reforms Officer, _____
4. P.A. to Minister-in-Charge, Land & Land Reforms Deptt.
5. P.A. to Minister of State, Land & Land Reforms Deptt.
6. P.A. to Member, Board.
7. P.A. to Land Reforms Commissioner, West Bengal.

A. K. Chakraborti
Special Secretary, 5.7.89
Board of Revenue, West Bengal.

Calcutta, The 1st July, 1989.

●

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section - AI, GE - Branch

Memo No. 14698-GE
225/89

Dated, Calcutta, the 18th December, 1989.

To

**The Director of Land Records & Surveys, West Bengal,
Alipore.**

Sub : Scope of Sec. 14T(6) of the W.B.L.R. Act, 1955 - guidelines in connection with.

Ref : Board's memo no.10024 - GE dt. 1.7.89.

A reference is invited to paragraph 5 of the memo. mentioned above wherein it has been envisaged that a Revenue Officer may, in terms of sub-section (8) of Section 14T of the W.B.L.R. Act, decide that nature and character of a trust, endowment etc. if such a trust or endowment was created or established on any date subsequent to 5th May, 1953.

2. A question has now been raised if the Revenue Officer may take up for decision the nature and character of such a trust if the trust was created prior to 5th May, 1953.

The matter has further been examined by the Board. It is clarified that a Revenue Officer may decide the nature and character of a trust or endowment etc. if such a trust or endowment existed on 5th May, 1953 irrespective of its date of creation as also of a trust or endowment which was created and existed subsequent to that date.

3. This modifies to the extent indicated above para 5 of the memo under reference.
4. This may be brought to the notice of all concerned.

A. K. Chakraborti
Special Secretary, 22.12.89
Board of Revenue, West Bengal.

Memo No.14696/1(34)-G.E.

Copy forwarded for information :-

1. The Land and Land Reforms Department.
2. The Collector _____
3. The Dist. Land and Land Reforms Officer, _____

Dated, Calcutta,
The 18th December, 1989.

A. K. Chakraborti
Special Secretary, 22.12.89
Board of Revenue, West Bengal.

From the booklet "Guidelines on implementation of ceiling provisions under WBLR Act, 1955" issued by DLRS in the year 1990.

B. TRUSTS AND ENDOWMENTS :-

The cases of trusts and endowments are to be dealt with U/s 14T(6) read with Sec. 14T(8) and 14T(9).

Sec. 14T(6) empowers a Revenue Officer to enquire into and decide any question as to whether any Trust, Endowment or Institution is of Public or Private in nature or exclusively religious or charitable in character or both and any question of title incidental thereto as may be necessary to determine the extent of land which is to vest in the State as surplus of such Trust, Endowment or Institution.

In terms of Sec. 14M(5) and Sec. 14M(6) the land owned by a Trust or Endowment other than that of a public nature shall be deemed to be the land owned by the author of such Trust or endowment to the extent of his share in the said land. The author shall be deemed to be a raiyat and the share of such author in the said land shall be taken into account in computing the area of land retainable by such author. A Trust or Institution of public nature established exclusively for a charitable or religious purpose or both shall be deemed to be a raiyat which will be entitled to retain land not exceeding 7 standard hecs. irrespective of the number of its centres or branches in the State. A Trust or endowment of a public nature created exclusively for a charitable or religious purpose or both is entitled to retain of 7 standard hecs. of land, i.e. the maximum limit as laid down under the WBLR Act.

A Public Trust, as opposed to a private one, is a Trust where the members of the public or at least a part of it may partake of, or benefit from, its activities. Therefore, detailed enquiries should be made by the Revenue Officer to ascertain if in a case of the Trust under enquiry the benefits flow only to an individual or to the members of the public. Similarly a Trust or Endowment may be considered to be of exclusive nature only when the usufructs from the land of the Trust are used only for the purposes of the Trust and not otherwise. If, during enquiry, it transpires that the income and usufruct of the land is enjoyed by the Manager, Sebait, etc. in their personal capacity even in part then the Trust, Endowment or Institution loses its exclusive character and becomes a Trust of private nature.

Before the passing of the WBLR (Amendment) Act'81 there was no procedure laid down for enquiring whether a Trust is of public or private nature or exclusively religious or charitable in character. The newly inserted section 14T(6) has laid down that the Revenue Officer will determine the nature and character of the Trust by examining the documents, if any, or by taking into account the following, among others :-

- (i) Actual user of income or usufructs of the land;
- (ii) Mode of cultivation;
- (iii) Pattern of utilisation of the land; and
- (iv) Share of income or usufructs of the land appropriated or enjoyed by or on behalf of the Manager, Sebait, Mutawalli or any other person managing the Trust, Endowment or Institution.

In deciding the character of a Trust or Endowment, the following legal and factual aspects and pertinent circumstances must be considered :-

- (1) Documents both registered and unregistered
- (2) Trust deed and conditions laid down in the deed
- (3) Manner of maintenance of accounts
- (4) Signature in each page of the account book, voucher, income-tax statement
- (5) Evidence in regard the foundation of Temple or Mosque
- (6) Evidence regarding utilisation of benefits derived out of the property in trust or endowment.
- (7) Conduct of the founder / doner / author or his descendants or trustees or executors.
- (8) Transfers made by the Sebait / authors / trustees from the trust or endowments.

In this respect, the Revenue Officer should also carefully examine all relevant documents and circumstantial evidence, and record the depositions of witnesses examined to ascertain the actual income of the Trust or endowment and how the income or usufructs of the land by a Trust or Endowment are utilised. If any audited accounts of income and expenditure of any Trust or Endowment are produced, the same should not be relied upon blindly. Attempts should be made to ascertain independently the actual state of affairs with regard to the income and mode of utilisation of the income or usufructs of the land. The local inhabitants, bargadars, members of the local panchayats and peasant's organisation may be examined for arriving at a correct picture regarding the income and the utilisation of the income or usufructs of the land. This enquiry has to be conducted intelligently and diligently. If the lands are cultivated by bargadars, they may be examined to ascertain the production and to whom the share of the produce is delivered and how such share is utilised. If the lands are used for any profitable purpose other than agriculture the income derived from such activities should be ascertained alongwith the mode of utilisation of the same. It has also to be examined whether any lands are occupied or enjoyed individually by or on behalf of the Manager, Sebait or Mutawalli. If, after such enquiry, it is noticed that any portion, however small, of the income or usufructs of the land owned by a Trust or Endowment is utilised for the personal benefit of the Manager, Sebait or Mutawalli or any other person managing the Trust, Endowment or Institution, it has to be concluded that the Trust or Endowment is of private nature and an order should be recorded accordingly.

Distinction between a private trust / endowment and a public trust / endowment is shown below :-

- (A) In a private trust / endowment – (i) the beneficiaries are definite and ascertained individual or can be definitely ascertained within a definite time;
- (ii) the property is set apart for the worship of a family god, in which the public are not interested;

- (iii) the beneficial interest is vested absolutely or partly in one or more individuals.
- (B) In a public trust / endowment – (i) the beneficiaries are uncertain and fluctuating ;
- (ii) the dedication is made for the benefit of the public and enables public participation ;
- (iii) the dedication is full and not partial;
- (iv) the Sebait or Manager or Mutawalli cannot sell the trust property (either in whole or in part) except in accordance with the conditions laid down in the trust deed or except in cases where such sale is absolutely necessary for the benefit of the trust / endowment. Such sale effected for bringing an income larger than that derived from the property itself is not however authorised;
- (v) office of the Mutawalli is not heritable;
- (vi) a Mutawalli can receive as his remuneration an amount not exceeding 1/10th of the total income of the wakf.

In terms of sub-section (8) of Sec. 14T the provisions of sub-section (6) shall operate with retrospective effect from 5.5.1953. Any Trust or Endowment existing on this date will come under the purview of enquiry by the Revenue Officer u/s 14T(6) irrespective of the date of its creation alongwith all Trusts or Endowments created on or before 5.5.1953 or thereafter.

Many Debuttar cases were taken up for enquiry u/s. 6(1)(i) of the WBEA Act and were declared secular. But the lands owned by such Debuttar could not be vested because of court's order. The area of land involved in such cases was quite large. Nothing could be done in regard to such land in view of the court's order and the principle of res judicata. Sec. 14T(9) now empowers an officer specially empowered to re-open any such case, proceeding or dispute relating to the character of such Trust, Endowment etc. notwithstanding any judgement, decision or award of any Court, tribunal or authority to the contrary. The principle of resjudicata will not apply in such cases. An officer specially empowered may now take up all these cases and determine afresh the extent of land which is to vest in the State.

If a trust or endowment is declared other than that of a public nature, the lands owned by such trust or endowment, shall be deemed to be lands owned by the author and such author shall be deemed to be raiyat under the Act. So, the determination of author or successor-in-interest of the author, as the case may be, should be made in the very proceeding started u/s 14T(6) read with sections 14M(5) & 14M(6) of WBLR Act. In most of the private debuttars / wakfs, the Sebait's are either author or successors of the authors but if in any case the author and the Sebait's are not same and identical person, then the author should be determined on the basis of the trust deed or any such deed creating the trust or endowment or from R.S. or C.S. record or by local enquiry.

In any case when a trust is declared private, the author should be determined as on the material date and the record-of-rights should be corrected after disposal of the findings by incorporating such entires as follows:-

----- Bengali Matter -----

(b) If any trust is declared public and exclusive and religious in nature then the entries will be

----- Bengali Matter -----

(c) If the trust is declared as public in nature and exclusively religious & charitable then the entries will be same like (b) with an additional entry.

----- Bengali Matter -----

For implementation of the provisions contained in Sec. 14T(6), 14T(8) and 14T(9), a register should be opened and maintained in the following proforma :-

Register to be maintained for 14T(6) cases

District	Name of the trust/endorow	Name of the Sebaitis /	Mouja with J.L. No.	Khatian No.	Plot No.	Area	Case No.	Declared		Area vested			Remarks
								Private	Public	Mouza	Pt. No.	Area	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	9(a)	9(b)	10(a)	10(b)	10(c)	11

All proceedings started u/s 14T(6), 14T(8) and 14T(9) will not be similar in nature. The order sheets to be framed will therefore vary from case to case depending upon the materials available. It is therefore not possible to prescribe a standardised order-sheet for all the cases. However, for the guidance of the officers one model order sheet is annexed.

**MODEL ORDER SHEET
(Rule 129 of the Records Manual, 1917)**

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

Nature of the case : Proceeding U/S 14T(6) read with Sections 14T(8) to (9), 14M(5) and 14M(6) of the W.B.L.R. Act, 1955.

Serial number and date of Order	Order and Signature of Officer	Note of action taken on Order
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Whereas, it appears from the R.O.Rs finally published under Sub-section (2) of Sec. 44 of the W.B.E.A. Act, 1953 recorded in Khatian nos. corresponding Khanda Khatian nos. _____ of Mouza _____ J.L. No. _____ and Khatian Nos. _____ corresponding Khanda Khatian Nos. _____ of mouza _____ J.L. No. _____ of P.S. _____ Dist. _____ that nearly

117.89 acres of land stood recorded in the khas possession of _____ through its Trustees namely _____

Whereas, it also appears that the abovestated _____ acres of land in mouza _____ J.L. No. _____ and _____ of P.S. _____ was the subject matter of a proceeding bearing case No. _____ u/s 6(1)(i) of W.B.E.A. Act, 1953 and in the said proceeding learned R.O. / A.S.O. determined and ordered that the intermediary _____ was not entitled to the benefit as provided in section 6(1)(i) of W.B.E.A. Act, 1953. Being aggrieved by the said order of the learned R.O. / A.S.O., the trustees _____ and others filed an appeal before the court of Tribunal being T.A. Appeal No. _____ and in the said appeal the learned Tribunal Judge _____ set aside the decision of the R.O. / A.S.O. Thus the effect of the appeal quashed the order of the R.O. / A.S.O. and the consequential corrections made, thereafter, in the R.O.Rs.

Whereas, from a report of the Revenue Officer under _____ R.S.O. and the relevant copy of draft records prepared u/s 51 of the W.B.L.R. Act in Mouza _____ and Mouza _____ of P.S. _____ sent under memo no. _____ (which is made a part of the present proceeding) that nearly _____ acres of land stand record in the name of _____. That it is also possible that more lands are there under the ownership and possession of the said _____

Whereas, in the light of comprehensive amendment of 1986 in W.B. Land Reforms (Third Amendment Act) 1986 it is considered necessary to enquire and decide as to how much land belongs to the said trust and decide any question as to whether the trust _____ is of public or private nature or of exclusively religious or charitable in character, or both, and any question of title incidental thereto as may be necessary to determine the extent of land which is to vest in the State under Section 14S, by examining the documents, if any and by taking into account the factor as laid down under the provisions of section 14T(6) of WBLR Act.

Whereas, I _____ Revenue Officer and duly empowered under the material provisions, to draw up this proceeding to cause enquiry and decide the above question u/s 14T(6) to (9) of the W.B.L.R. Act.

Issue notice u/s 57 of the W.B.L.R. Act, 1955 alongwith the copy of the order on the trustees namely _____ and on the _____ on behalf of the managing committee of _____ to appear before me on _____ at _____ and to submit statement showing total quantum of land held by the trust / institution and to produce relevant documents, accounts and evidences required for determination of the Character of the trust / institution and the extent of land allowable for retention and vesting to the State. Also a copy of the notice and order sheet be sent to the Block Land and Land Reforms Officer / Revenue Officer _____ of the areas on behalf of the Collector of the districts.

R.O. (Specially empowered)
U/s 14T(6) to 14T(9) of WBLR Act.
Block / Subdivisional/District Land & Land Reforms Office

_____ ● _____

**All Illuminating Judgment on determination of character of a trust / endowment
Constitutional Writ Jurisdiction**

Present : M. N. Roy

March 12, 1981

C.R. No. 173 (W) of 1977.

SRI SRI ISWAR BASANTI DURGA DEBI Petitioner
-Versus-
STATE OF WEST BENGAL Respondent.

West Bengal Land Reforms Act, 1955, Sec. 14M (5) – Private Debutter, whether entitled to benefit of.

Trusts or endowments which are private in nature are not entitled to the benefits of Section 14M(5) of the West Bengal Land Reforms Act, 1955.

Cases referred to :

Deoki Nandan V. Muralidhar, AIR 1957SC 133
Gangadhar V. Comnr. Hindu Religious Endowments, 31 Cal. LJ 283
Mahant Moti –Vs- S. P. Sahi, 1959 SC 942
Nabi Shirazi –Vs- Province of Bengal, ILR (1942) 1 Cal 211
Sasanka V. Union of India, 1980(4) SCC 716
Sri Sri Iswar Saradiya Durga Thakurani V. the Revenue Officer 1981(1) CHN 178
Vidya Varathi V. Baluswami, LR 48 IA 302
Saktinath Mukherjee and Himadri Sankar Majumdar for petitioner.
Sadhan Gupta, R. C. Bose, Rathindranath Bhaduri and K. N. Inha for the Respondents.

The following judgment was delivered by :

M. N. Roy J. : The Deity Sri Sri Iswar Basanti Durga Debi (hereinafter referred to as the said Deity), is represented through her shebait, Sri Siddheswar Panda. The said Deity has claimed to have owned and possessed 27.88 acres of agricultural lands, situated within non-irrigated areas. It has also been stated that the name of the said Deity was duly recorded in the record of rights, as prepared under the West Bengal Estate Acquisition Act, 1953 (hereinafter referred to as the said 1953 Act,). The said Deity has further stated to have retained, lands upto the prescribed ceiling under the said 1953 Act.

2. It is the case of the said Deity in 1953, enquiries were held with regard to the entry and Debutter character of the properties, by the Revenue Officer concerned, for ascertaining whether the said Debutter or the properties of the same, were absolute Debutter and were used for religious purposes and after enquiries, the answer was in the affirmative.

3. The said Deity has further stated to have filed a return in Form 7A of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the said 1955 Act,) as she did not possess lands more than the prescribed ceiling retaining 27.88 acres of lands. On the basis of the said return, the Revenue Officer concerned, issued a notice and directed the petitioner to produce the relevant records, for determining the ceiling. It has been alleged that the said officer, upon misinterpretation of the provisions of the said 1955 Act, passed illegally, an order, vesting the Debutter properties, were not at all spent or used for the benefits of the public or for any charitable purpose and the public were not interested in the management of the same and as a result of such finding the properties of the said Debutter were considered as the properties of the shebait, in calculating his ceiling limit. It has also been contended that the officer concerned applied wrong tests and acted illegally and with material irregularities in calculating the members of the family, apart from the fact that the said officer was also wrong in holding that the said Deity was not in possession of the lands in question. It has also been claimed that the officer concerned misinterpreted the provisions of sub section (5) of section 14M, which provides that the lands owned by an trust or endowment and each such beneficiary shall be deemed to a raiyat in respect of the concerned Debutter properties. It has also been

claimed that the beneficiary viz the said Deity in this case and not the Shebait, should have been treated as a Raiyat, in the matter of determining the ceiling limit and calculation on any basis, other than as mentioned above, was wrong and improper. It was the specific submissions that under the provisions of the said 1955 Act, each beneficiary i.e. the said Deity in this case, should have been treated as a Raiyat and as such, she was entitled to hold and retain properties of her own and upto her separate ceiling limit and that too in terms of the endowment. As such, it has also and further been claimed that the act or action of the officer concerned in vesting all the properties of the said Deity and also those of the petitioner as one which he retained as his own, was illegal, void malafide, arbitrary and bad, apart from being violation of the provisions of section 14M(5).

4. The Respondents, in their affidavit in opposition dated 23rd December 1978, as filed through Shri Anukul Patra, the Special Revenue Officer, Grade – II, have stated that the shebait of the said Deity viz. Siddheswar Panda, submitted a return in Form 7A, in the name of the said Deity, for retention of 27.88 acres of lands. As such, the connected case was initiated to determine the ceiling, as would be applicable to the said Deity, on enquiring the nature of the Debutter. In fact it has been stated that on such enquiry, the Debutter was found and determined to be other than public. It has thus been stated that in view of the above under sub-section (5) of section 14M of the said 1955 Act, the Debutter property was taken into account, incalculating the ceiling of the Shebait, as beneficiary to the extent of 16 annas. The deponent has stated that on the basis of such determination, the properties of the Shebait were found to be holding 11.07 acres in secular capacity and 25.71 acres as Debutter property.

5. It has also been stated that the family of the Shebait consisted of 6 members and as such, he was entitled to retain 5.50 standard hectare of lands or 19.03 acres, as they were situated in a non-irrigated area. So, it has been stated that the Shebait has 17.75 acres of surplus lands and thus, he was directed to exercise his choice of retention of 19.03 acres of lands, out of the Debutter and his secular properties. It has been stated that no such choice was exercised and as such, he was allowed to retain 19.03 acres of lands and the surplus lands as mentioned above, were vested. The determinations as above, have also been claimed to have been duly made in a proceeding under section 14T and 14M(5).

6. Mr. Mukherjee, appearing in support of the Rule, contended that the said Deity, not only in view of the terms of the endowment but also in view of the provisions of sub-section (5) of section 14M of the said 1955 Act, was entitled to have retain separate ceiling of lands or lands other than those of the Shebait and the tagging of properties belonging to the said Deity under the endowment with those of the properties of the Shebait, was improper, void, irregular, apart from being without jurisdiction and authority. On the basis of the determinations in the case of Vidya Varathi Thirtha V. Balusani Ayyar L.R. 48 I.A. 302. Mr. Mukherjee contended that the said Deity, and not her Shebait in the facts of this case, should have been treated and considered to be the beneficiary and as such also, she was entitled to the benefits under section 14M(5). In the case as cited above it has been observed that the endowments of a Hindu math are not “conveyed in trust” nor is the head of a math a “trustee” with regard to them, save as to specific property, proved to have been vested in him for specific object. On a reference to above and in the basis of the decision, it was claimed by Mr. Mukherjee that both the said Deity and her Shebait, would thus in the facts of this case, be entitled to separate ceilings.

7. Mr. Gupta, appearing for the Respondents claimed that sections 14(M)(1)(e) and 14M(5) must be read and construed together and if such construction is made then in the case of any other raiyat i.e. raiyat other than those mentioned in Section 14M(1)(a) to (d), the ceiling limit would be 7.00 standard hectares. Mr. Gupta also contended that if the endowment in question is not of a public nature, then the lands should be counted towards the share of the beneficiary viz. the shebait in this case and not the said Deity and the real beneficiary was not the said Deity but her Shebait. Mr. Gupta submitted that in view of the provisions in section 14J, which lays down that the provisions of chapter IIB shall have effect, notwithstanding any thing to the contrary contained elsewhere in the said 1955 Act or in any other law for the time being in force, the

determinations in the case of Vidya Varathi Thirtha -Vs- Balusami Ayyar (Supra), will have no application in this case. Mr. Gupta claimed that the beneficiary, when ascertained, would be a private endowment and when such beneficiary is unascertained than the same would be a case of public one. In fact, it was claimed that the above is and should be the test for finding out the true nature and character of the endowment. In support of the above submissions, reliance was placed on the determinations in the case of Deoki Nandan -vs- Muralidhar A.I.R. 1957 S.C. 133. In that case it has been observed that the distinction between a private and public trust is that whereas in the former, the beneficiaries are specific individuals, in the latter they are the general public or a section thereof. While in the former, the beneficiaries are persons, who are ascertained or capable of ascertainment. A religious endowment must, therefore, be held to be private or public according as the beneficiaries thereunder are specific persons of the general public or sections thereof. In that case, it has also been observed that under the Hindu law, an idol is a juristic person capable of holding property and the properties endow for the institution, vest in it. But, it does not follow from this that it is to be regarded as the beneficial owner of the endowment, it is only in an ideal sense that the idol is the owner of the endowment properties and it cannot have any beneficial interest in the endowment. It was the specific submissions of Mr. Gupta that endowment in this case, was thus a private one and as such, the lands covered by the same, could be encountered under section 14M(5) with that the Raiyat viz the Shebait in this case.

8. Apart from the supreme Court case as mentioned above, Mr. Gupta referred to the decision in the case of Mahant Moti Das V. S.P.Sahi 1959 S.C. 942. In that case, it has been observed that the exact legal position of a shebait may not be conable of precise definition, but its implications are fairly well established.

It is now settled that the relation of a shebait in regard to debuttar property, is not that of a trustee to trust property under the English law. In view of the above and the tests as laid down in the case of Deoki Nandan V. Murlidhar (supra), Mr. Gupta contended that the admitted fact that the said Deity was a family idol, would also show and establish the endowment to be a private one.

9. Mr. Mukherjee of course admitted and argued that the character of the endowment in this case was of a private nature, but he claimed that the court will have to find out and answer, who is the real owner. In support of his contentions, as mentioned above, he also relied on the determinations in the case of Sri Iswar Saradiya Durga Thakurani V. The Revenue Officer, 1981 (1) C.H.N. 178. In this case, it has been observed that when a property is absolutely dedicated to the Deity the same would belong to the Deity and the usufructs therefrom are to be utilised solely for the purposes connected with the shevapuja of the deity and ancillary functions. As a Shevak, the shebait should be entitled for its maintenance out of the Debuttar properties, so long he continues to remain as a shebait, but for such benefits he cannot be held to be a beneficiary or trustee as contemplated in section 14M of the said 1955 Act. In the cases, it has further been observed that in such circumstances, it would not be proper to adopt Debuttar properties as the personal properties of the Shebait and to determine the ceiling of the shebait by adding the Debuttar properties to his personal properties.

10. A debutter, may either be absolute or partial. Where the dedicator dedicates in favour of an idol and such dedication covers the entire beneficial interest, which he had in the property, the dedication and the Debutter would be absolute. But the position would be otherwise, if the dedicator retains some property or pecuniary right or interest in the property, so dedicated. In terms of the observations in the case of Nabi Shirazi V. Province of Bengal, I.L.R. (1942) 1 Cal 211, the essential distinction between a public and private trust would be that in case of private trusts, the beneficiaries are definite and ascertained individuals or these persons who within a definite time can be appropriately ascertained, but in case of public trust, the beneficial interest should be vested in an uncertain body or persons viz either the public at large or some considerable position of the same, answering a particular description. Whether a trust is public or private, should be decided in the facts and circumstances of each case, with reference to the terms of the dedication and the manner and the treatment of the same. This, of course, would be a cause where any document is available and in case of absence of document or ambiguity in the language of the same, tests would be to in far

such, which could be legitimately drawn from the evidence available or as adduced with regard to the actual user, enjoyment or the treatment of the properties. The essence of a public endowment as observed in the case of Bhagwan Dei V. Gir Bar Saroro, A.I.R. 1940 P.C. 7, consists in dedication to the public and whether there has been any dedication or not, must be ascertained with reference to the circumstances of each case.

11. A Debuttar like any other endowment, may either be public or private. By public trusts must be understood such trusts as are created for the benefit of the public at large or of a considerable section of the same, answering a particular description, while private trusts concern only individuals or families. The distinction between private and public trust has been laid down by the Supreme Court in the case of Deoki Nandan V. Muralidhar (Supra), the particulars whereof have been reproduced herein before. But it is certain that then no express dedication is proved, the character of the endowment must always be a case of legal inference from proved facts or the circumstances as mentioned herein before. As pointed out in Mukherjee's Hindu Law of Religious and Charitable Trusts (Fifth Edition), that the user by the public, conduct of the founder and its descendants would also be relevant, and if they, in fact, held out the temple to be a public one, a strong presumption of dedication would arise. The use of or by the public would be a greater factor or importance, for the purpose of finding out the nature and character of the endowment. The fact, that by long uses and acceptance the public were visiting the property as endowed or enjoying the same, would also create a strong presumption as observed in the case reported in A.I.R. 1970 S.C. 2025, which incidentally was the determination on public temples, against a private character. This apart, there are other characters, which would be relevant and material for the purpose of establishing a public nature or the public character of endowment. In the cases of Ganga Dhar Vs. Commissioner, Hindu Religious endowments (1973) 31 cut. L.J. 283, the various factors, necessary for considering whether a temple is private or public, have been illustrated those illustrations, in my view, would also be appropriately applicable in case of the endowment of the present nature. The line of distinction between a public purpose and a purpose which is not so, is very thin and technical and as observed in Hindu Law Religious and Charitable Trust (Fourth Edition) is difficult of an easy definition while on this point, Tudor on Charities; (Fifth Edition), wherein the principles as summed up, "If the intention of the donor is merely to benefit specific individuals, the gift is not charitable, even though the motive of the gift may be to relieve their poverty or accomplish some other purpose with reference to those particular individuals which would be charitable if not so confined; on the other hand, if the donor's object is to accomplish the abstract purpose of relieving property, advancing education or religion or other purpose charitable within the meaning of the Statute of Elizabeth, without giving to any particular individuals the right to claim the funds, the gift is charitable," would be of relevant consideration. As mentioned herein before, whether the trust public or private, would have to be decided in each case with reference to the terms of the documents, if any, apart from the way and manner in which the same is treated. The considerations or the tests as laid down in the case of Deoki Nandan Vs. Muralidhar (Supra), which incidentally is the law of the land as laid down by the Supreme Court of India, must and should be followed.

12. It has been observed in the preceeding and that too on the basis of the evidence as adduced and available that the deed in question was executed on 3rd August 1953 and the same was registered on 7th September 1953. The said Shri Panda, while alive managed the worship of the said Deity, out of the income of this property and such position continued till the execution of the deed. It has also been found on evidence that the concerned deed is silent as to the succession to the post of Shebait and the present Shebait would get the usufructs of the property after spending a negligible portion of the same, for the worship of the said Deity. It has also been observed on evidence and construction of the deed that the public are not interested in or benefited by the same. On the basis of the above mentioned specific findings on evidence, it is thus clear that the beneficiaries are definite and ascertained persons and the usufructs of the properties are not at all spent for the benefit of the public or for any charitable purpose and the public are not at all or also interested in the management of the Debuttar properties. The Debuttar in question was not a public one. This is on the basis of the terms of the deed

in question and the way and the manner in which the properties as endowed, were treated.

13. So the question to be answered, is if sub-section (5) of section 14M of the said 1955 Act, was applicable in this case. On the basis of the determinations, as in the case of Deoki Nandan Vs. Muralidhar (Supra), it cannot be doubted and it can be safely deduced in this case of Sri Sri Iswar Saradiya Durga Thkurani V. The Revenue Officer (Supra), and as such the determination as made therein, are distinguishable on the basis of the determinations by the Supreme Court. These apart, on the basis of the intrinsic intention of the deed in question or that of the maker of the same, apart from the treatment by the donee and the character of enjoyment, I also hold the deed in question to be a private one. Since the provisions of chapter IIB of the said 1955 Act, have now been found to be inoperative by the Supreme Court in the case of Sasanka Sekhar Maity V. Union of India 1980(4) S.C.C. 716, I am of the view that because of section 14J, the provisions of chapter would override the other provisions of law and as such, the determinations in the case of Vidya Varithi Thirtha V. Baluswami Ayyar (Supra) would not be available in this case. The trusts or endowments, which are private in nature, in my view, would not get the benefits of section 14M (5).

14. In view of the above that too in view of that nature and character of the trust or endowment, I find that the same was not of public nature and as such, the lands have been appropriately deemed to be belonging to the real beneficiary under the trust or endowment viz the shebait Shri Siddheswar Panda and as such beneficiary, he was appropriately held and found to be a Raiyat under the provisions of the said 1955 Act.

Thus the Rule is discharged. There will be no order for costs.

Rule discharged. No costs.

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**Government of West Bengal
Office of the Director of Land Records & Surveys and
Joint Land Reforms Commissioner, West Bengal.**

C I R C U L A R

13/3583/C/88

Dated 15.7.93

A question has been raised whether a Sebait can transfer any land of deity by sale deed. As a general rule of Hindu Law, property endowed for maintenance of religious worship and of charities connected therewith is inalienable. It, however, appears that transfer of property of a debottar estate is alienable in a limited way if such transfer is absolutely necessary for the benefit of the Estate. In case of need of the debottar or for the benefit of the estate a Sebait can sell part of any debottar property. But the Sebait is not entitled to sell the property for the purpose of investing the price of it so as to bring in an income larger than derived from the property itself.

A Sebait is in the position of a trustee. According to Section 37 of the Indian Trusts Act which provides for POWER TO SELL in lots, and either by public auction or private contract, where the trustee is empowered to sell any trust property, he may sell the same subject to prior charges or not and either together or in lots, by public auction or by private contract or either at one time or at several times, unless the instrument of trust otherwise direct.

So it is not a fact, that the Sebait of a debottar can not sell any part of the debottar property. Under certain terms and condition he may sell the property. But he must be empowered to do so. Now this, power may either come from the deed by which the trust / debottar was created, and in case of a public debottar, the resolutions taken by the Governing Body or Managing Committee may also empower the Sebait to sell such property.

But all the debottars are not public in nature, nor are they exclusive debottar, functioning for religious and charitable purposes only. There may be some debottars in

which the sebaits make personal gain from the income of the debottar property. Such debottars are simply private or fake or paper debottars.

- A) The theory that the Sebait is a mere manager can not be accepted in view of the W.B.E.A. Act and the W.B.L.R. Act. If the Sebait is a Manager only then the idol/deity must be the owner. And an owner must have the capacity to control his Estate, appoint the Sebait or remove the Sebait from office, but the true picture is not the same.
- B) Under Hindu Law, an idol is a juristic person capable of holding property or properties vested in it. This does not, however, necessarily mean that it is to be regarded as the beneficial owner of the endowed property / properties. It is only an ideal sense that the Deity / Idol is the owner of the endowed properties but it can not have any beneficial interest in the endowment.
- C) The deity can not itself make use of the property dedicated. It can not enjoy them or even protect them. The true purpose of a gift property to the idol is not to confer any benefit on God, but to acquire spiritual benefit by providing opportunities and facilities for those who desire to worship.
- D) The deity is an owner in the secondary sense. Since ownership in its primary sense connotes the capacity to enjoy and deal with property at one's pleasure. A deity can not hold and enjoy property like a man, hence the deity is not owner in primary sense. Ownership is attributed to a deity in secondary or ideal sense.
- E) The question as to scope of the dedication is a mixed question of Law and fact the decision of which must depend on the application of legal concepts of a public and private endowment from facts found.

So, transfer of debottar land by Sebait cannot in all cases be prima facie termed as illegal. Such transfers, if not authorised in the manner indicated above or if made for the personal gain of the Sebait, will no doubt be illegal. Where, however, the Sebait has sold the property under proper authority for the limited purpose of benefit of the debottar Estate, the sale cannot be termed as illegal. The question of whether a transfer of a property is legal or illegal, authorised or unauthorised is a matter of law and fact and cannot be decided without holding a detailed enquiry. Recording the sales of debottar property by a Sebait in the Settlement record will leave a solid evidence which can be used at the time of determination of the character of the debottar u/s 14T(6) of the W.B.L.R. Act.

As such, the transfers of debottar property by a Sebait should not be ignored but should be carefully recorded with full details in the Settlement records. While featuring such transfers in remarks column against the plots of the L.R. Khatian, the following note should invariably be made :-

----- Bengali Matter -----

Cases of debottar Estates whose properties are being disposed of by the Sebait should immediately be taken up for enquiry u/s 14T(6) of WBLR Act.

On completion of the enquiry under Section 14T(6) if the debottar is declared as a private debottar, the land owned by the debottar shall be deemed to be land owned by the author of the debottar and shall be taken into account for calculating the area or lands owned and retainable by such author of the debottar and for determining the ceiling area applicable to him. After calculating his total land in manner aforesaid, which will also include lands hit by Sec. 14P, the excess land, if any, shall vest in the State. The transferred lands shall be included in the land allowed to be retained by the raiyat i.e. the author of the trust even if he does not exercise option to retain such lands.

P. K. AGRAWAL
Director of Land Records & Surveys
and Joint Land Reforms Commissioner,
West Bengal.

Copy forwarded to the :

- 1) District Land and Land Reforms Officer, _____ for information and guidance. All officers may be instructed to follow the guideline strictly. Extra copies meant for circulation among the officers are enclosed.
- 2) Secretary, Board of Revenue, West Bengal.
- 3) Shri _____ [All officers in the Directorate.]
- 4) Guard file, 'C' Group.

P. K. AGRAWAL
Director of Land Records & Surveys
and Joint Land Reforms Commissioner,
West Bengal.

•
Govt. of West Bengal
Office of the Director of Land Records & Surveys &
Joint Land Reforms Commissioner, West Bengal,
35, Gopal Nagar Road, Calcutta – 700 027.

**MODEL GUIDELINE FOR SENDING PROPOSAL
U/S 14Q(3) OF THE W.B.L.R. ACT, 1955.**

The State Government under the provisions of S.14Q(3) of the W.B.L.R. Act may by a Notification increase the ceiling area of a Corporation or institution or person to such extent as it may think fit, after having regard to all circumstances of the case and being satisfied that the Corporation or the Institution established exclusively for a charitable or religious purpose or both or a person holding any land in trust or in pursuance of any endowment creating a legal obligation exclusively for the purpose which is charitable or religious or both, requires land **as distinct from the income or usufruct derived from such land**, for the due performance of its obligation.

It is clear that all the Institution or trust or endowment held public in nature and being religious or charitable or both, shall not get the special benefit available u/s. 14Q(3) of the W.B.L.R. Act. In a very few cases, such benefit may be extended where Government is satisfied as to the requirement of the land over and above the prescribed ceiling limit.

There is no prescribed proforma for application in this regard nor there is any guiding rule to help the field level officers in initiating such proposal for submission before the Government. After careful consideration the following instruction is being circulated for the guidance of the field level officers so that proposals received by the Government for extension of the benefit of S.14Q(3) may be disposed of conveniently.

On receipt of application from any trust / endowment / Institution (received from the higher authorities) for retention of excess land over and above the prescribed ceiling limit, the applicant should be advised to submit the following documents :-

- (1) Land schedule in respect of all land held by the trust / endowment / institution including manner of acquisition, all over the state along with list of centres / branches in the State.
- (2) Present use of land held by such trust / endowment / Institution.
- (3) Statement of income and expenditure including income from the land held by trust / endowment / institution.
- (4) Specific purpose for which ceiling surplus land is intended to be retained (details of developmental project etc. are to be enclosed to justify the claim).

(5) Details of benefit extended to general public, if any, expected from the proposed projects which requires retention of ceiling surplus land and entire income and expenditure statement.

(6) In case of proposed acquisition of land, whether land belongs to any member of the SC/ST community or any of the plots proposed to be acquired is under cultivation of any bargadar.

On receipt of all the documents and the prayer for retention of excess land a detailed enquiry will have to be made to ascertain the genuineness of the claim. [It is presumed that the action u/s 14T(6) and 14M(5) have been disposed of prior to receipt of such application. In case the proceeding is pending at that point of time, that must be disposed of first.] The concerned officer (may be the BLLRO) will then forward the case record with his specific finding on enquiry recommending extension of benefit of 14Q(3) (or not recommending the prayer with specific argument for doing so) to his higher authority, in the form of an order-sheet. All documents received along with the application and the enquiry report in original should be sent along with the order-sheet. The DLLRO while forwarding the application to the Dte. will record his specific recommendation in the ordersheet with sufficient ground justifying his recommendation. All the papers which require to be submitted to this Directorate, must come in duplicate and in the form of a paper book.

This instruction may be circulated among all concerned so that proposals initiated by the field level officers for extension of benefit u/s 14Q(3) may be a complete one and Government may take appropriate decision without wasting time in asking for information from the district.

P. K. AGRAWAL
Director of Land Records & Surveys and
Jt. Land Reforms Commissioner, W. Bengal.

Dated, Alipur, the 22nd July 1993.

Memo. No. 6/4131/C/92
Copy forwarded to –
The Secretary, B.O.R., W.B.
- for favour of his kind information.

P. K. AGRAWAL
Director of Land Records & Surveys and
Jt. Land Reforms Commissioner, W. Bengal.

Copy of the no.1128-GE(M) – 279/99 GE (M) dated 24/28.4.2000 from Officer on Special Duty & Ex-Officio, Deputy Secretary to the Govt. of West Bengal, Land and Land Reforms Department L.R. (A-III) Br. to the Director of Land Records and Surveys & Jt. Land Reforms Commissioner, West Bengal.

Sir,

I am directed to send herewith for information and necessary action, a copy of the order dated 27.3.2000 passed by Sri S. N. Ghosh, Land Reforms Commissioner, and Principal Secretary to the Govt. of West Bengal, L & L.R. Deptt. on the petition of Sree Satyananda Mahapeeth for holding land in excess of the ceiling limit.

Memorandum No.36/2695 – 712/C/91

dated Alipur, the 19.5.2000

Copy forwarded to :-

- 1) The A.D.M. (L.R.) & District Land and Land Reforms Officer, South 24-Parganas for information and taking possession over the land of the said petitioner which vested in the State.
- 2-18) The District Land and Land Reforms Officer, for information and taking necessary action in similar cases.

A. Bhattacharjee
For Director of Land Records and Surveys,
and Jt. Land Reforms Commissioner, W.B.

ORDER SHEET

(Rule 129 of the Records Manual 1917)

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

Nature of the case: Petition for permission to hold land beyond ceiling limit.

Serial Number and date of Order	Order and Signature of Officer	Note of action taken on Order
27.3.2000	<p>This hearing takes place to arrive at a decision on the petition of Sree Satyananda Mahapeeth u/s 14Q(3) of West Bengal Land Reform Act dated 20.1.2000. Hazira filed and both Sree Satyananda Mahapeeth and the Director of Land Records & Surveys are represented. Heard both sides.</p> <p>The case of Sree Satyananda Mahapeeth, simply put, is that the Mahapeeth wishes to be allowed to retain land measuring about 200 acres for the proposed Mahapeeth township at Mouza Ramnagar, P.S. Baruipur, Dist. South 24-Parganas. The Mahapeeth, in fact, has already purchased 32.37 acres of land at Ramnagar from different raiyats through different registered deeds. The petition of the Mahapeeth was sent to the Director of Land Records & Surveys for conducting an enquiry into the contents of the petition and for reporting the results thereof. The concerned Revenue Officer started a proceeding u/s 14T(3) of the WBLR Act in case no. 1(BRP) of 1999, enquired into the submissions made by the Mahapeeth and submitted his report endorsed by the Director, Land Records & Surveys.</p> <p>From his report, it appears that Sree Satyananda Mahapeeth is a philanthropic, religious and charitable Trust formed in 1992 with its office situated at No.1, Ibrahimipur Road, Jadavpur, Calcutta - 700 032. The objects of the Trust, inter alia, are encouraging and promoting education, establishing maintaining schools, colleges, hostels etc., supporting and maintaining institutions for promotion of science, literature, fine arts etc., establishing maintaining and running Ashrams, Vidyapeeths, Gurukuls, vedic Universities etc, establishing and maintaining dispensaries, clinics, maternity homes, hospitals etc, granting relief to the needy afflicted by natural calamities, provide food, clothes and shelter to the poor and the needy etc.</p>	

Serial Number and date of Order	Order and Signature of Officer	Note of action taken on Order
	<p>The Revenue Officer found that the said Trust that has already purchased 32.37 acres of land in Mouza – Ramnagar, J.L. No.97, P.S. Baruipur, Dist. South 24-Parganas, has began / completed various construction work in about 13 acres of land (out of the said 32.37 acres), while the rest of the land is still agricultural in its use. From various documents produced to the Revenue Officer – as also to this authority subsequently – it appears that the Trust proposes to construct a large monastery as also various other buildings for religious, educational and charitable use in future.</p> <p>However, the Revenue Officer concluded that the Trust was entitled, by dint of Section 14M read with Section 14Y of the WBLR Act, to retain only 7 standard hectares, i.e. 24.22 acres of land, and therefore, the rest 8.15 acres of land should vest in the State.</p> <p>In course of the hearing, the petitioners explained in details how the Trust had been contemplating taking up a large number of projects and how the Trust would finally require about 200 acres of land approx. to fulfil such purposes. They also took pains to explain how these projects would benefit the people, particularly the needy and the poor. While not disagreeing with the petitioners on this score though it is not for this authority either to agree or disagree ---- one needs to take a hard look first at the legal provisions underlying the moot question.</p> <p>Under the present dispensations of the West Bengal Land Reforms Act 1955, as amended from time to time, a raiyat can hold land beyond the ceiling laid down by Section 14M, only through operation of Section 14Q(3) and/or Section 14Y and/or Section 14Z(2) of the Act. In terms of Section 14L of Chapter IIB, no raiyat shall be entitled to own land in excess of the ceiling as defined by Section 14M, from the date of commencement of this chapter, except under provisions of Section 14Q(3), and/or Section 14Y, and/or Section 14Z(2) of the Act. The point, therefore, boils down to a question as to whether the Trust is entitled to any exceptional treatment u/s 14Q(3), or Section 14Y or Section 14Z(2).</p>	

Serial Number and date of Order	Order and Signature of Officer	Note of action taken on Order
	<p>A scrutiny of Section 14Q(3) and Section 14Z(2) shows that only such institutions, organizations or corporations or mills, factory, workshop etc. as they existed prior to 15.2.71, i.e. the date of vesting will be entitled to hold land in excess of the ceiling. Any organization or institution which might have come to existence after the date of vesting (i.e. 15.2.71) will not be entitled to the relaxations because Section 14Y bars any organization / institution from acquiring and/or holding any excess land subsequent to the date of vesting. The Trust came into existence in 1992 long after the said date of vesting. Therefore, the Trust cannot hold any excess land.</p> <p>Section 14Y has, however, been amended in 1996 to provide a fillip to the growth of industry and setting up of planned townships. This amendment has made provision for a raiyat to acquire and hold land in excess of the ceiling for establishment of a tea garden, mill, factory or workshop, livestock breeding farm, poultry farm, or dairy or a township in accordance with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979. The present petitioners, a philanthropic, charitable and religious Trust, however do not fall into any of the above categories. Therefore, the present petitioners do not qualify for the purpose of Section 14Y.</p> <p>Thus, after a careful consideration of the pleas of Sree Satyananda Mahapeeth, a religious – charitable – philanthropic Trust that came into existence long after the date of vesting, one concludes that the said Sree Satyananda Mahapeeth is not entitled to the benefits either u/s 14Q(3) or u/s 14Y of the WBLR Act, 1955 as amended from time to time. The prayer of Sree Satyananda Mahapeeth is, therefore, rejected.</p> <p>All concerned, including the petitioners, are to be informed accordingly.</p> <p style="text-align: center;">S. N. Ghosh Land Reforms Commissioner & Principal Secretary to the Govt. of West Bengal, Land & Land Reforms Deptt.</p>	

Dictated and corrected by me.
S. N. Ghosh.

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section – A(I): GE – Branch

No.10126(17)-G.E.-257/89

Dated, Calcutta, the 5th July, 1989

To
The District Land & Land Reforms Officer,

.....

Sub : Filing of returns in Form No.7AA and disposal thereof – arrangements in connection with.

The undersigned is directed to state that sub-Section (10) of Sec.14T of the W.B.L.R. Act 1955 requires the State Govt. to issue a notification calling upon the raiyats to furnish returns to the Revenue Officers giving full descriptions of the land held by them and indicating the particulars of the lands which they want to retain under the provisions of the Act. Sub-rule (4) of Rule 14C of the W.B.L.R. Rules, 1965 prescribes Form No.7AA in which the returns will have to be submitted by the raiyats.

2. Necessary arrangements have been made by the Board to print sufficient number of copies of the above Form in Bengali. These Forms will be distributed through the D.L.R.&S. to all the District Land & Land Reforms Officers, who, in their turn, will distribute the same to the Sub-divisional Land & Land Reforms Officers, Block Land & Land Reforms Officers and the Revenue Inspectors so that these Forms may be finally supplied to the raiyats on request free of cost to enable them to furnish the returns. The distribution of the Forms to the District Land & Land Reforms Officers has already started and it is expected that it will be completed by the middle of this month. It is to be ensured by the District Land & Land Reforms Officers that the Forms received from the D.L.R.&S. are made available to all sub-ordinate offices upto the office of the Revenue Inspectors by the 3rd week of this month.

3. It has been decided that the Land & Land Reforms Department would issue the notification under sub-section (10) of Section 14T calling upon the raiyats to furnish the returns within a period of one month with effect from 1.8.89. It is, therefore necessary that all preliminaries at the field level are completed so that the Forms may be made available to the raiyats from all the offices, i.e. Office of the Sub-divisional Land & Land Reforms Officers, Block Land & Land Reforms Officers and Revenue Inspectors before 1st August, 1989.

4. Disposal of the returns to be furnished by the raiyats will have to be taken up as soon after their receipt as possible. With this aim in view certain preliminaries are required to be completed within this month. The immediate tasks, therefore, will be the following :-

- (a) Preparation of register for distribution of the blank Forms;
- (b) Preparation of register for receipt of the filled in returns at the Block Level;
- (c) Selection of the officers to be entrusted with disposal of the filled in returns;
- (d) Segregation of the case records relating to the disposal of the returns submitted by the raiyats earlier in Form No.7A; and
- (e) Such other administrative arrangements as local conditions may demand.

The tasks enumerated at (a), (b), (c) and (e) above will have to be completed well before the distribution of blank Forms starts. Item No.(d) will have to be taken up concurrently with the submissions of the returns so that disposal of the same may start as expeditiously as possible.

5. He is requested to issue appropriate instructions to all the offices under him for completion of the preliminaries as indicated above. A report should also be sent to the Board by the end of this month confirming that the preliminary arrangements have been completed and that the offices are in a state of preparedness to distribute the blank

Forms and to receive the filled in returns with effect from 1.8.89 and to take up disposal of the same as soon thereafter.

6. A report on the number of returns submitted in his district during the month of August should be reported to the Board by the 10th of September, 1989 under intimation to the D.L.R & S.

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

●

**GOVERNMENT OF WEST BENGAL
LAND AND LAND REFORMS DEPARTMENT
LAND REFORMS BRANCH**

No.409 – L.Ref.

Dated, 25th July, 1989.

In exercise of the power conferred by sub-section (10) of section 14T of the West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956) as subsequently amended (hereinafter referred to as the said Act), and sub-rule (4) of rule 14C of the West Bengal Land Reforms Rules, 1965, the Governor is pleased hereby to direct as follows :-

(1) Every raiyat who owned between the 16th day of February, 1971 and the 9th day of September, 1980 land(s), excluding land(s) held by him during the said period as a non-agricultural tenant or under-tenant within the meaning of the West Bengal Non-agricultural Tenancy Act, 1949, (West Ben. Act XX of 1949) in excess of the ceiling area specified in section 14M of the said Act, and also every raiyat who owned or owns on the 9th day of September, 1980 or on any subsequent date thereafter land(s), including land(s) of every classification and description, in excess of the ceiling area specified in section 14M, read with section 3A of the said Act, shall submit within thirty days from the date of publication of this notification, a return in triplicate in Form No.7AA appended to the West Bengal Land Reforms Rules, 1965, to the Revenue Officer at Block Land and Land Reforms office within whose jurisdiction the land(s) or major portions thereof owned by the raiyat is/are situated.

(2) Particulars of all the lands of every classification and description owned by the raiyat and by other members of his family at the time of submission of the return mentioned hereinabove shall be furnished in Part II of the said return in Form No.7AA.

(3) Particulars of any land which is not owned by the raiyat or by a member of his family at the time of submission of the return mentioned hereinabove shall not be furnished in Part IIIB of the said return in Form No.7AA.

(4) Particulars of all transfers of land(s) of every classification and description made by the raiyat or by a member of his family since the 8th August, 1969 till the date of submission of the return mentioned hereinabove shall be furnished in Part IV of the said return in Form No.7AA.

Printed copy of Form No.7AA translated into Bengali may be available, free of cost, at the offices of the Revenue Inspector, the Block Land and Land Reforms Officer and the sub-divisional Land and Land Reforms Officer in all the districts.

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

No.410(37) – L.Ref.

Dated 25th July, 1989.

Copy forwarded for information and necessary action to :-

- 1) Collector
- 2) Dist. Land and Land Reforms Officer
- 3) Commissioner, Division.
- 4) Board of Revenue, West Bengal.
- 5) Director of Land Records & Surveys, West Bengal, 35, Gopal Nagar Road, Calcutta – 27.

Sd/-Illegible
Deputy Secretary to the Govt. of West Bengal.

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

No. 240- L.Ref.
2A-3/80 (Pt. XII)

Dated, 30th March, 1990.

NOTIFICATION

In continuation of Government Notification No.409-L. Ref. Dated the 25th July, 1989, Notification No.490-L.Ref. dated 28th August, 1989, 602 – L. Ref. Dated 6th October, 1989 and 738 – L.Ref. dated 29.12.89 and in exercise of the power conferred by the proviso to sub-rule (4) of Rule 14C of the West Bengal Land Reforms Rules, 1965, the Governor is pleased hereby to further extend the time for submission of the return in triplicate in Form No.7AA appended to the West Bengal Land Reforms Rules, 1965 to the appropriate authority upto 30th April, 1990.

By Order of the Governor,
J. K. Kohli
Secretary to the Government
of West Bengal.

No.241(53) – L.Ref.,

Dated, Cal. 31st March, 1990.

Copy forwarded for information and necessary action to the :-

1. Collector _____
2. District Land and Land Reforms Officers,
3. Commissioner, _____
4. Board of Revenue, West Bengal.
5. Director of Land Records & Surveys, West Bengal, 35, Gopalnagore Road, Calcutta – 27.
6. Sabhadhipati, _____

You are requested to give wide publicity to the foregoing notification among all raiyats of his locality.

K.P. Sandilya
Joint Secretary to the
Government of West Bengal.

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From the booklet “Guidelines on implementation of ceiling provisions under WBLR Act, 1955” issued by DLRS in the year 1990”.

E) Land comprised in Section 14Z(2) – tea garden, mill, factory or workshop or land used for the purpose of livestock breeding, poultry farming or dairy.

This Section has been inserted by the WBLR (Amendment) Act, 1981. According to this section, in the case of land comprised in a Tea Garden, Mill, Factory or Workshop or land used for the purpose of live-stock breeding, poultry farming or dairy the raiyat or where the land is held under a lease, the lessee, may be allowed to retain (in excess of the prescribed ceiling) only so much of such land as, in the opinion of the State Govt., is required for the purpose of the tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be.

As a result of insertion of this section such lands as mentioned above has assumed special importance. The cases may be divided into two categories as follows :-

(a) Cases relating to tea gardens etc. which were in existence prior to the date of vesting under the WBEA Act, and

(b) Cases relating to the tea gardens etc., which were created after the date of vesting.

In case of category (a) the process of enquiry must be completed under the provision of WBEA Act. For this, each and every such case should be scrutinised to see if the Govt. order has been received. If no Govt. order is received attempts should be made to cause issuance of Govt. order. Where Govt. order is received it should be scrutinised if the order has been tamilled in the Record-of-Rights with consequences. Where no Govt. order for retention and resumption has been issued and the cases were referred to Land Reforms Commissioner, West Bengal, for onward submission to the Govt., reconnaissance survey should have to be undertaken and case records showing present utilisation of land with recommendation of resumption and retention of land u/s 6(3) of WBEA Act should be sent to this Directorate for onwards submission to the Govt. In such cases where reconnaissance survey has been done recently and the case records have been sent to Govt. through the Director of Land Records & Survey, West Bengal, there is no necessity for further reconnaissance survey.

The cases which were covered by Govt. order and tamilled in Record-of-Rights and the cases which were created after the date of vesting i.e. category (b) should be attempted u/s. 14Z(2) (where the land is in excess of ceiling area).

Sub-rule (4C) of rule 14C provides that Raiyat or lessee holding lands comprised in Tea Garden, Mill Factory or workshop or land used for livestock breeding, poultry farming or dairy may submit a memorandum along with the return in from 7-AA if he desires to retain the land in excess of the ceiling stating therein the purpose for which land in excess of the prescribed ceiling is needed. The Settlement Officer (D.L.L.R.O.) shall cause enquiry to ascertain the actual requirement of land and forward a report with his comments to the State Govt. for consideration. In effect the preliminary enquiry will be done by the Block Land and Land Reforms Officer in whose jurisdiction the land or major portion of the land is situated.

On receipt of the 7-AA return along with memorandum from the settlement Officer (D.L.L.R.O.) the Sub-Divisional Land and Land Reforms Officer concerned will initiate a case under section 14Z in the manner as shown in the enclosed ordersheet.

For the purpose of survey internal details within the area of Tea Gardens, Mills and Factories etc. is required. The object of survey is to ensure the different classifications of land held in the name of the Mill or Factory or Tea Garden etc. The Tea Garden, Mill, Factory, workshop usually consists of vast area of land with Tea Plants, Cardamoms, Machine rooms, Store, House, space for processing materials, roads, residential quarters etc. besides these, tank, playground, garden, orchard, waste land, agricultural land etc. are owned by the Mills, Factories, Tea Garden etc. which are not used for the purpose of Tea Garden Mills, Factories etc. In such cases the periphery of the Tea Garden or Mills / Factories etc. along with the peripheries of such tank, playground, the extra plots should be surveyed and separate plot numbers in accordance with the classification and land use should be given during the preparation of record-of-rights u/s 51 of the WBLR Act/or during the current enquiry or survey. It should be noted that the report should contain the plot nos., mode of use and classification of land, so involved. The particular use of a plot or part of a plot should be demarcated in traced copy of the map by using separate colours for different uses. The traced copy of the map should be made part of the proceeding and also all measurements should have to be taken correctly.

If the detailed survey has not been done in any place it is necessary to take immediate steps for causing the survey in respect of each and every Tea Garden, Mill, Factory, Poultry, livestock breeding or dairy u/s 51BB of the WBLR Act and after the surveying is completed a case record should be prepared which should contain copy of sketch map, copy of record-of-rights and preliminary enquiry report for consideration of the State Government. The case records should be sent in duplicate to this Directorate.

MODEL ORDER SHEET
(Rule 129 of the Records Manual 1917)

Order sheet, dated from _____ to _____ District _____
No. _____ of 19 _____.

Nature of the case : Report of enquiry u/s 14Z of the W.B.L.R. Act. 1955 in respect of :
Tea Garden.

Serial Number and date of Order	Order and signature of Officer	Note of action taken on Order
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1. Whereas it has been provided in sub-sec. (2) of Sec. 14Z of W.B.L.R. Act, 1955 (as amended) that the State Government shall determine how much land is required to be retained under the above Act for the above Tea Garden and whereas the above Tea Garden has filed a memorandum along with a return in Form 7AA as per rule 14C(4)(c) of W.B.L.R. Rules 1965 (as amended) and the same has been sent to me by the Settlement Officer for causing enquiry and report about the actual requirement of land for the purpose for which it is sought to be retained.

Now, therefore, issue notice to the Manager _____ Tea Garden, requesting him to appear personally or through his authorised representative on _____ at _____ for hearing.

S.D.L. & L.R.O.

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2. Heard the Tea Garden Authority and checked the return with records. A reconnaissance survey is necessary to reconcile the discrepancies detected between the 7AA return and the Record-of-Rights prepared under the W.B.L.R. Act as shown in the enclosed list.

Inform the Manager that a survey will be taken up in the above garden with immediate effect by _____

S.D.L. & L.R.O.

3. Reconnaissance Survey has been completed and report has been received from _____ Corrected the mistakes and reconciled the discrepancies. Now check the Schedule of Land and prepare a map for the land of the Tea Garden.

S.D.L. & L.R.O.

4. Schedules and Maps have been prepared and checked. Put up for preparation of the report.

S.D.L. & L.R.O.

Serial Number and date of Order	Order and signature of Officer	Note of action taken on Order
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5. Report prepared. As per records Tea garden possesses _____ acres of land in total out of which it is recommended to allow the garden to retain _____ acres of land. The remaining area of _____ acres is recommended for resumption as surplus land of the garden. Details on the basis of which this recommendation has been made are given in the report. Now send all connected papers to the S.O. for his kind consideration and taking necessary action.

S.D.L. & L.R.O.

6. Examined the recommendation made by the SDL & LRO _____. The Tea Garden may be allowed to retain _____ acres of land as shown in the Schedule _____ appended to the report.

Settlement Officer

.....

7. On examination of the report I endorse the views of the Settlement Officer _____. Tea Garden may be allowed to retain _____ acres of land and the remaining _____ acres of land may be resumed as surplus to the requirement of the Tea Garden.

To the Land & Land Reforms Department for orders.

Director of Land Records and Surveys, West Bengal.

**PRELIMINARY ENQUIRY REPORT U/S 14Z OF THE W.B.L.R.ACT, 1955
IN RESPECT OF**

1. INTRODUCTORY

1.1 The _____ Tea Garden is located on the _____ in the belt commonly known as _____ area. The garden was started in 1920 by taking lease of land from the then zaminders. Originally the owner of the Garden was the Nawab of Jalpaiguri. Sometime in 1958 the ownership transferred hands & came under the present management which mainly rests with the _____ Family of Jalpaiguri.

1.2 Though there are two Railway Stations on the two sides of the garden at a distance of roughly 10 K.M. each, railway traffic is not used by the Garden through these two stations due to lack of accessible roads. Traffic from the garden is generally made by road. Siliguri being the centre of all communications.

2. PARTICULARS OF LAND HELD BY THE GARDEN

- 2.1 According to the statement of the management, the garden was founded on 4200.00 acres of which major portions were tenanted. From the Settlement records, it is found that the garden has a total of 3221.96 acres of land of which 1607.12 acres are under its khas possession and 1614.84 acres are tenanted. Total rent and cess paid by the garden before the date of vesting was Rs.2935.00 and Rs.901.50 respectively. After implementation of 6(3) of the W.B.E.A. Act, the Garden was allowed to retain _____ acres of land with a rent of Rs._____
- 2.2. Land of the garden falls in mouzas _____ Dist. _____ These Mouzas were previously under the State of Coochbehar and have come to West Bengal on 1st November, 1956 as a result of re-organisation of the State Boundaries.
- 2.3. In the table below, the khas land measuring 1607.12 acres of the garden is shown according to different classification as found from the R.O.R. A detailed description of which is shown in Schedule 'A' appended with this report.

	Tea	Agri	Bastu	Road etc.	Jungle	Others	Total
Mouza A	473.88	160.80	25.01	17.16	5.41	68.89	751.15
Mouza B	46.75	319.45	12.18	20.00	31.55	4.17	434.10
Mouza C	20.56	262.42	36.38	8.79	-	10.59	338.74
Mouza D	-	65.98	13.57	3.58	-	-	83.13
	541.19	808.65	87.14	49.53	36.96	83.65	1607.12

No objection has been raised about the above recording and this has been accepted by the management as correct.

3. STEPS TAKEN FOR ENQUIRY U/S 14Z

3. 1. The classifications above were recorded on the basis of field verification made during Khanapuri – Bhujarat / Attestation in L.R. operation. After the records were finally published and all objections disposed of a fresh enquiry was made on _____ to find out if there was any major change in the classifications. The Manager of the garden was duly informed about this enquiry and his cooperation was invited which was very sincerely given.

In the table below, area under different classifications as found after this enquiry is given :-

	Tea	Agri	Bastu	Road etc	Jungle	Others	Total
Mouza A	488.09	150.46	24.14	17.16	2.41	68.89	751.15
Mouza B	46.75	319.45	12.18	20.00	31.55	4.17	434.10
Mouza C	26.10	256.88	36.38	8.79	-	10.59	338.74
Mouza D	-	65.98	13.57	3.58	-	-	83.13
	560.94	792.77	86.27	49.53	33.96	83.65	1607.12

3.2. From what has been discussed above it will appear that actual area under Tea was 541.19 acres on the date of vesting and subsequently total area of 560.94 acres for this purpose. It is, therefore, clear that on the date of vesting there was contemplation to raise the area under Tea to at least 560.94 acres in the near future. In the circumstances area under Tea on the date of vesting and the area under other classifications of land have also been taken according to the date found during local enquiry in _____ as the basis for calculating the area that may be allowed to be retained by the garden u/s. 14Z of W.B.L.R. Act. 1955.

3. 3. The management was also requested to state their requirement of land for the garden justifying the grounds therefor. A memorandum has been submitted by the garden in which they have discussed all their points elaborately.

4. MANAGEMENT'S REPRESENTATION

4.1. The management wants to retain all the lands recorded in their favour. The arguments they have preferred for such retention are briefly summarised below :-

- (a) Most of the Tea bushes are more than 50 years old and have become uneconomic and require uprooting and re-transplantation. Uprooting cannot be done without bringing an equivalent area under Tea first, because otherwise production of the garden will be hampered. The garden, therefore, requires a substantial area for this purpose in addition to the land already under Tea.
- (b) It is the statutory duty of the garden to supply ration to the labourers. The agricultural land now recorded under the garden are being utilised to raise food-crop which meet a large quota of this ration. This not only helps the garden also the economy of the country in general. No agricultural land should, therefore, be taken away from the garden.
- (c) The garden requires a good amount of land for expansion. The present area under Tea is not sufficient to make the garden profitable. The quality of soil and the climate condition of the area in which the garden is situated is not much congenial for tea and cannot be compared with the other gardens of Tarai or Doars. Production of Tea here is much less than elsewhere and for its existence the garden must bring considerable additional area under tea.
- (d) Besides the above, the garden requires considerable quantity of land for staff and labour quarters, factory, Hospital etc. and also land for recreational and religious activities etc.
- (e) Bamboo and thatch are two common building materials which are required in large quantity every year for the garden labourers. These materials are getting source outside and the garden must grow them on their own land.
- (f) With the pressure on land everywhere, grazing of cattle has become a problem. The garden labourers have a good number of cattle population. To avoid friction with outside villagers and also to avoid damage to the Tea plants, the garden requires a large tract of land for use as grazing ground.

In brief, these are the grounds on which the management prays for allowing them to retain the full 1607.12 acres of land recorded in their khas possession and not to make any part of this land to vest in the State.

5. RESULT OF ENQUIRY & RECOMMENDATIONS

5.1 The representation made by the garden authority was duly considered from all points of view before coming into a conclusion in making the recommendation for assessment of land that should be allowed to be retained by the garden U/s 14Z. As started before, the garden has roughly 561 acres of land under Tea at present. To this may be added roughly 50 acres of land under Road which are mainly part of Tea plantations. So it may be taken that the garden has about 600 acres of land actually under Tea. Generally half of this area i.e. about 300 acres will be sufficient to meet the ancillary requirement like land for factory, staff and labour quarters and growing other materials essentially necessary of this garden. It was stated previously in the introductory portion of this report that the management of this Garden originally rested with the Nawabs of Jalpaiguri who did not pay much heed to its expansion after the partition of Bengal and ultimately sold out the proprietary right to the present management. It will also appear from the table of classifications found after the enquiry that the expansion work have been taken up by the present management in all seriousness in the recent past. There is, therefore, sufficient ground to believe that Garden requires some elbow room for its expansion without which it will not be possible for it to survive in the present competitive market. Considering this and with a view to delimit the retained area within a well defined continuous boundary it is recommended

that the _____ Tea Estate should be allowed to retain 1078.91 acres of land against the total area of 1607.12 acres recorded in their khas possession.

5. 2. Classification wise description of land that is recommended to be retained is given below :-

Tea	Agri	Bastu etc.	Road etc.	Jungle	Others	Total
473.47	152.88	25.01	17.76	5.41	68.89	742.42
46.75	15.12	0.54	8.60	2.84	-	73.85
20.56	177.45	40.20	3.05	-	10.59	251.85
	8.25	2.52	0.02	-	-	10.79
						<u>1078.91</u>

A more detailed description of the above land have been given in Schedule 'B' appended with this report.

5.3. Classification-wise description of lands proposed to be vested is also shown below, a detailed description of which have been given in Schedule 'C' also appended with this report:-

Tea	Agri	Bastu etc.	Road etc.	Jungle	Others	Total
0.41	7.92	-	0.40	-	-	8.73
-	304.30	11.64	12.14	28.71	3.46	360.25
-	84.97	0.63	1.29	-	-	86.89
-	57.73	2.94	11.45	-	0.22	72.34
						<u>528.21</u>
						<u>Acres</u>

6. ASSESSMENT OF REVENUE

Assessment of Revenue for the land that will be finally allowed to be retained by the garden will be made after Government Order u/s 14Z is received. As there is no specific provision for assessment of revenue for the land that will be allowed to retain by the Govt. no specific recommendation about revenue for the land has been made here. State Govt. may consider and decide.

7. MAP OF THE TEA ESTATE

A map in the scale of 16" to 1 mile showing the land under possession of Tea Estate as prepared during the Revisional Settlement Operation is annexed with the report.

S.D.L. & L.R.O.

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<http://wbllroa.in>