

21. PROVISIONS OF CEILING UNDER THE WBEA ACT, 1953.

General Order No. 71

Dated 10.06.70

A question has been raised as to whether lands on which pineapples are grown should be treated as orchard within the meaning of section 6(1)(f).

On a careful consideration of the matter it has been decided that pineapples being a seasonal crop and the plant not being a fruit tree, such lands cannot be regarded as orchards and should be treated as agricultural lands. These lands should, therefore, come under clause (d) of sub-section (1) of Section 6 for the purpose of calculation of ceiling under the W.B.E.A. Act.

Necessary action should be taken accordingly.

D. Bandyopadhyay,
Director of Land Records & Surveys,
West Bengal.

Memorandum No.218/3929-36/C/67,

Dated, Alipore, the 9.6.70.

Copy forwarded to the Settlement Officer, with spare copies for necessary action.

Illegible,
For Director of Land Records &
Surveys, West Bengal.

From the booklet "General instruction on vesting of ceiling surplus land under the WBEA Act and WBLR Act" issued by the DLRS on 9.7.1984.

2.12 **REVIEW OF BIG RAIYAT CASES** – It has come to notice that in some cases orders U/s. 6(5) have not been properly incorporated in the vested land register. It has also come to notice that in some cases such lists were inadvertently not forwarded to the JLRO. This has caused de facto non-vesting because the vested lands were not available for distribution as a result of these omissions. All 6(1) & 6(5) records should be thoroughly checked up to find out such omissions. It should also be checked if the vested land registers are upto-date and correct and whether copies of all vested land statement have been sent to the JLRO. If not, the omission should be made good. If necessary, the vested land register should be rewritten for this purpose.

2.12.1 **Tamilling of 6(1) & 6(5) proceedings** – It has come to notice in some cases that the orders in 6(1) & 6(5) proceedings have not been tamilled in the records resulting again in de facto non-vesting. All big raiyat proceedings should be examined with reference to the records to find out such defects, if any. Incidentally, this should also apply to orders U/s. 44(2a) and 5A.

2.12.2 **Arithmetical mistakes** – It has also come to notice that in some cases, by arithmetical miscalculation, a raiyat has been allowed to retain more than 25 acres of land. A review of big raiyat cases is also necessary to correct such lacunae.

2.12.3 **Discovery of further land of inter-district Big Raiyats** – It is often found that not all the lands of a big raiyat came to notice during disposal of the big raiyat case. Therefore, an order was made that if any more land owned by the big raiyat was found later on, that should also vest. It may so happen that sometimes such orders have been lost sight of and additional land owned by the big raiyat, which came to notice latter, have not vested. This has especially happened in respect of inter-district

big raiyats. Big raiyat cases and record-of-rights should be thoroughly scrutinized to identify such cases. If any such case is identified, additional land would vest in terms of an order more or less to the following effect :-

“In terms of order dated in B.R. Case No. camp U/s. 6(1)/6(5) of the W.B.E.A. Act, all lands owned by the raiyat on 14.4.56, not actually allowed to be retained by him, have vested. It now appears that the following schedule of lands owned by the raiyat on 14.4.56 and not allowed to be retained by him, should vest in terms of that order. Such lands are accordingly declared as vested. Correct the vested land statement and inform the J.L.R.O. accordingly.”

2.12.4 Many of the big Raiyats having land near an inter-district border might have retained excess land in both the Districts by furnishing separate 'B' Form Returns in each District. Any big raiyat having full quota of land in the areas having border with other Districts should be suspected and a communication must invariably be made with the concerned R.O. of that district to ascertain if he has retained any land there. Many of the raiyats might have land below ceiling in a particular District but he is resident of some other district. The Raiyat having land below ceiling was naturally not brought to B.R. register. If such raiyat comes to the notice of the Staff or Revenue Officer checking records, communication should immediately be made regarding that raiyat with his district of residence to ascertain the quantum of land held by him in that district. The Districts of 24-Parganas, Midnapur, Burdwan, Hooghly, Murshidabad and Malda may fetch dividend from this exercise. This principle will have reference to W.B.L.R. Act also.

2.12.5 **B.R. Cases found in Register but not initiated** – Such cases should be initiated and appropriate orders passed. This would also apply to cases initiated but not pursued for some reason or other.

2.13 **CIVIL SUITS & CIVIL RULES** – Sometimes divesting or non-vesting is a result of wrong understanding of the implication of orders in Civil Suits & Civil Rules. Apart from the fact that further legal steps to change an order considered wrong should be taken in appropriate cases, very often, a correct reading of the orders would result in non-divesting of vested lands. The following points should be kept in mind.

2.13.1 **Filing of Appeals** – Very often decrees in title suits are given against the State as we fail in our duty to represent the matter properly before the courts. If appeal is possible, we should try the filing of an appeal, by having limitation waived, if necessary. If we are advised that it is not possible to have limitation waived, we should examine whether we should file a suit for declaring the original order as void. Obviously, each such case has to be examined on its merits and no general principle for such examination can be laid down. This examination should be done by the Law cells of Settlement/Charge Offices and guidance from Law Officers of the Government should be obtained, if necessary.

2.13.2 In many cases, the State is not made a party to the suit and it is not incumbent on the State to give effect to the order.

2.13.3 It is difficult to give a list of how the orders of courts are mis-read to the detriment of vesting. Orders should be carefully perused in individual cases. For example, an injunction order on recording of bargadars is sometimes misread as an injunction on vesting. Guidance from Law Officers should be taken in cases of doubt.

2.13.4 Implications of orders in Civil Rules and Civil Suits should be carefully scrutinized. In some rare cases, it may be found that prompt carrying out of the orders without trying for an appeal may, in fact, result in additional vesting either under the W.B.E.A. Act or the W.B.L.R. Act.

2.13.5 **Identification of Cases** – It is not practicable to take up all cases described in the above items simultaneously. Local information is often a good pointer as to which cases should be taken up first. Another indication would be the lists of marginal and big raiyats prepared earlier. Their cases should be studied carefully in accordance with the above guidances.

Summary steps to be taken

V. BIG RAIYAT CASES

1. Review of B.R. cases –

A. Scrutinise schedule of lands in 6(5)/6(1) cases with reference to vested land register.

B. If lands vested in Govt. under the above proceedings have not been included in the vested land register, incorporate them there and send information to the J.L.R.O.

C. Find out if information to J.L.R.O. has been sent in respect of all orders U/s. 6(1)/6(5). If not, do so.

D. Scrutinise if all the aforesaid orders have been tammed in the records, if not, correct the records suitably.

E. Similar tallying with records should be made in respect of 44(2a) & 5A proceedings.

F. Find out if, by arithmetical miscalculation, a raiyat has been allowed to retain more than the ceiling land. For this purpose, make a fresh total of all the schedules enclosed with 6(5)/6(1) orders. If a discrepancy is found, correct it by reviewing the proceedings.

G. If a considerable number of mistakes are found, re-write the vested land register thana-wise.

2. Big Raiyat having land near the border between 2 districts —

A. Find out the names of such Big Raiyats by scrutiny of the Registers.

B. Find out also the names of marginal Big Raiyats having land near the border of a district by scrutiny of the registers and records.

C. Correspond with the neighbouring district/districts to ascertain if the raiyats had lands in the neighbouring district on the date of vesting.

D. On receipt of such information, if the big raiyat is found to have had land above the ceiling, on the date of vesting review 6(1) or 6(5) proceedings or start a fresh one as the case may be.

3. When new lands of decided B.R. cases come to notice —

A. Where there is information that not all the lands of a big raiyat came to notice during disposal of the case, scrutinize the big raiyat case with reference to available information. Search B.R. case records and R.O.Rs for this purpose. If necessary, collect schedule of land from other camps or districts.

B. Thereafter, make an order to the following effect :-

“In terms of order dated in B.R. Case No.....or case U/s. 6(1)/6(5) of the W.B.E.A. Act, all lands owned by the raiyat on 14.4.56, not actually allowed to be retained by him, have vested. It now appears that the following schedule of lands owned by the raiyat on 14.4.56 and not allowed to be retained by him, should vest in terms of that order. Such lands are accordingly declared as vested. Correct the vested land statement and inform the J.L.R.O. accordingly.”

4. Scrutiny of B.R. Register to find out if there are omissions —

Find out by scrutiny of registers and case records whether all B.R. cases in the register were actually initiated. If it is found that cases in respect of some B.R.s were not initiated, initiate such cases.

5. **Marginal Big Raiyats** —

Examine cases of marginal big raiyats to examine if they should be open by collecting additional land Schedule.

VI. **CIVIL SUITS & CIVIL RULES**

A. Find out the cases where vesting has not been made because of a noting in the register or in the records about the pendency of orders regarding Civil Suit/Civil Rule.

B. Find out the records in respect of the Civil Suit/Civil Rule.

C. If adequate information regarding the C.S/C.R. is not available in the camp, collect the said information from superior officers/advocates/parties.

D. Find out if the temporary or final order actually prohibits further proceedings. If not, complete the proceedings and implement orders.

E. If orders have been passed affecting vesting, assess whether appeal is necessary and whether there are grounds for such appeal. If necessary, initiate steps for filing an appeal.

F. If appeal is barred by limitation, find out if grounds can be made out for condonation of delay. If so, send a proposal with grounds for condonation of delay.

G. If it is found that limitation cannot be waived, examine whether a suit should be filed for declaring the order concerned as void.

H. Examine whether the state was a party to the suit/rule. If not, there is no need to take notice of the decision.

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TO BE SUBSTITUTED FOR THE BOARD'S ORDER BEARING THE SAME NO. & DATE
GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
S & S - Branch

Memo. No.6097-S & S

Dated, Calcutta, the 26th June, 1984,.

To

The Director of Land Records & Surveys, West Bengal.

Survey Building, Alipore, Calcutta - 27.

Subject : Relief U/s. 6(5) of the Estates Acquisition Act.

Ref. : His unofficial Note No.804/4008/6/81 dated 19/23.11.83.

The undersigned is directed to refer to the above and to state that after careful consideration and in supersession of all previous instructions in this behalf, the Board has decided as follows :-

Relief u/s. 6(5) of the Estates Acquisition Act may be considered on specific prayer (i) where lands of intermediary/raiayat vested in the State due to non-submission of 'B' Form, or (ii) where 'B' Form was submitted, but the Revenue Officer disposed it of disregarding the option exercised in such 'B' Form without good and sufficient reasons manifest in the records and without giving any opportunity of hearing to the intermediary/raiayat provided that the lands involved in either of the two cases have not been distributed.

In considering the cases u/s. 6(5), the fact that the lands now opted for retention have been taken possession of even symbolically may be ignored.

While disposing of the 6(5) cases the facts regarding preparation of Compensation Assessment Roll and payment of compensation in favour of the petitioner intermediary/raiayat will have to be duly considered. If payment of compensation on the

basis of finally published C.A. Roll or on Ad-interim basis has already been made, no relief should be given. If however, no Roll has been prepared or a Roll has been prepared but no payment has been made, relief U/s. 6(5) can be given subject to fulfillment of other conditions.

The Board has further decided that in the matter of relief U/s. 6(5) the final decision in all cases should rest with the Settlement Officers.

It should be the duty of all the supervising officers to see that proceedings U/s. 6(5) are initiated only in appropriate cases and that relief is extended only to such cases as satisfy the conditions set forth in the foregoing paragraphs.

He is requested to issue detailed instructions to the Settlement Officers within the framework of the above guideline under intimation to the Board.

A.K. Chakraborti,
Special officer & (ex-Officio) Secretary,
Board of Revenue, West Bengal.

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

Memo. No.81/2645/C/93

Dated, Alipore, the 11th April, 1994.

To
The District Land & Land Reforms Officer,
Bankura.

Subject : Disposal of land vested by operation of law under the W.B.E.A. Act.

During the conference with the Block Land & Land Reforms Officers and others in his district held on 19.1.1994 in the Chamber of the District Magistrate, it was learnt that khas land of the intermediaries who did not submit any option in B-Form and as a result, vested to the State by operation of law are not being actually treated as vested land merely on the confusion that quite a sizeable no. of such intermediaries were holding land much below the ceiling and was entitled to relief under section 6(5) of the WBEA Act. As a result of such confusion, though the R.S. Khatians have duly been marked as vested, but the affected plots have neither been included in our vested land register, nor were recorded in Register VIII of the erstwhile management set-up. Naturally, even the symbolic taking over possession of such vested land, has not been effective.

Such a state of affairs can not in any-way be allowed to continue any more. All such plots are to be treated as duly vested land and should be entered in Register Nos. VIII and also be included in khatian No.I of the record-of-rights modified U/s. 47 of the WBEA Act, in L.R. Operation at any stage of the record of rights revised U/s. 51 of WBLR Act by a suitable section, i.e. either U/s. 51 BB or section 50 or section 51B which may be suitable.

Possession U/s. 10(2) of the WBEA Act must be taken over except the lands still used as "Homestead/Bastu". Immediate steps to be taken to settle the land, of which possession has been taken, with eligible persons under section 49 of the WBLR Act.

During the course of taking over possession, it is not unlikely that the possessor will approach for relief on the plea that he never owned land above the ceiling and hence did not opt for retention. This may also occur during pre-distribution joint survey. In all such cases, the D.L. & L.R.O. will be at liberty to entertain cases where the land involved in the R.S. record, will be within 1 (one) acre. In other cases, there will be no scope for

the D.&L.R.O. to extend relief U/s. 6(5) of the WBEA Act at such belated stage. The successors in interests of a Big Raiyat under WBEA Act, if now hold lands much below the ceiling due to inheritance will not get this benefit. Plot of vested land recorded in R.S. record of rights as Bastu, and found to be still in use as Bastu, need not be taken possession at all.

DLLRO will please see that immediate steps be taken to properly dispose of the lands vested by operation of law in the quickest possible time. For this purpose a detailed time bound programme may be chalked out and field officials be instructed to act accordingly. In case of specific problem, DLLRO may make a detailed study in one or two mouzas of such problem area and send a detailed report for appreciation of the problem at this end so that further necessary guidance may be issued.

A compliance report may be sent to this end by 30.4.94.

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

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

Memo. No.81/2669-77/C/93.

Dated, Alipore, the 11th April, 1994.

To
The District Land & Land Reforms Officer,
24-Parganas (North).

Subject : Disposal of land vested by operation of law under the WBEA Act.

A copy of the Dte. Memo. No.81/2645/C/93 dated 11th April, 1994 on the subject noted above, is enclosed, which will speak for itself for favour of kind perusal. He is requested to report whether such irregularities still exists in his district. If not, regarding relief under Section 6(5), he should take action paying due regard to the instructions contained Board's circular No.6097-S&S dated 26.6.1984, a copy of which is enclosed for ready reference.

A.K. Bhattacharyya
For Director of Land Records and Surveys &
Jt. Land Reforms Commissioner, W.B.

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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-700 027.

Memo. No.34/2915-32/C/2000.

Dated, Alipore, the 31st May, 2000.

To
The District Land & Land Reforms Officer,
South 24-Parganas.

Subject : Divesting of Land.

A copy of Directorate Memo. No.81/2645/C/93 dated 11.04.1994 on the above mentioned subject, which was circulated to him vide this Directorate Memo. No. 712/3062-86/C/91 dated 22.08.1997, is enclosed again.

He is requested to kindly look into the matter seriously and dispose of all divesting cases upto 1 Acre considering the merit of each and every case.

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 & Surveys
And Joint Land Reforms Commissioner, West Bengal,
35, Gopalnagar Road, Alipore, Calcutta - 27.

Memo. No.34/912-29/C/2000

Dated : 20.02.2001.

To
The District Land & Land Reforms Officer,
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Subject : Disposal of land vested by operation of law under the W.B.E.A. Act.

In terms of the Dte. Memo. No.81/2645/C/93 dated 11.4.1994 and 34/2915-32/C/2000 dated 31.05.2000, the District Land & Land Reforms Officers were empowered to dispose of all divesting cases upto 1 acre considering the merit of each and every case.

2. Now after careful consideration of the matter it has been decided that henceforth the D.L.&L.R.O., would be at liberty to divest the cases where the total land involved, as per R.S. Record within 5 (five) acres only.

3. This order will supercede the previous Dte. Circular Nos.81/2645/C/93 dt : 11.4.94 and 34/2915-32/C/2000 dt : 31.5.2000.

S. Suresh Kumar
Director of Lands Record & Surveys and
Joint Land Reforms Commissioner,
West Bengal.

From the booklet "General instruction on vesting of ceiling surplus land under the WBEA Act and WBLR Act" issued by the DLRS on 09.07.1984.

2.10. **Trusts & endowments Proceedings U/s. 6(1)(i).** - In the past, Trusts & Endowments were often declared as absolute due to a mistaken view of law and procedure. Wherever a Trust or Endowment of which a big raiyat is a Sebait or Trustee has been declared as absolute, the matter should be closely examined and reopened, if necessary. Such reopening would be done by review of the already decided case. In some cases, the records of the decided case are not available. In such cases, the non-availability of the earlier records should be clearly mentioned in the order-sheet and a fresh case should be started for grounds to be stated clearly in the order sheet. A trust or Endowment, to be qualified for being treated as absolute, should be able to produce detailed accounts of income & expenditure, deeds of dedication and other papers to prove that it was intended to be, and was indeed, utilized solely for the purpose for which the trust or endowment was created and not for the benefit of the trustees or the seabits, either wholly or in part.

Summary steps to be taken.

III. PROCEEDINGS UNDER SECTION 6(1) (i)

A. All cases deciding a Trust or Endowment as absolute, where one of the beneficiaries is a big raiyat should be scrutinized to find out if there are grounds for reopening.

B. In appropriate cases, a review of the decided case should be started.

C. If the records of the decided case are not traceable, this should be clearly mentioned in the order sheet and a fresh case should be started.

D. During enquiry the Trust or Endowment should be asked to produce detailed accounts of income and expenditure, deeds of dedication and other papers to prove that the property was intended to be utilized solely for the purpose of the Trust or Endowment and not for the benefit of the Sebaitis.

E. They should also be asked to produce papers to prove that this intention was given effect to.

F. As in 44(2a) & 5A cases, the first order should be a speaking order and served on the parties along with the notice.

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**From LAND AND LAND REVENUE (LAND ACQUISITION) DEPARTMENT
FILE NO. 5C-2/59.**

Subject – The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954) – Section 6(3) – Proceedings for resumption of land from mills, factories, etc. – Procedure for resumption of acquired land.

Legal Remembrancer's opinion

There should be formal proceedings under section 6(3) of the West Bengal Estates Acquisition Act, 1953. In these proceedings, notice should be issued to the original lessee. After giving a hearing to the original lessee, an order should be made in the name of the Governor that the land in question is not required for the purpose of the mill or factory. After such an order is made, a copy of it should be sent to the Collector. It will then be for the Collector to proceed to take action under section 10 asking the lessee to make over possession of the land.

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**Government of West Bengal
Directorate of Land Records and Surveys, West Bengal.**

Memo. No.1379/2068/C/69.

Dated, Alipore, the 30.09.1972.

**To
The Settlement Officer,
Howrah – Hooghly – Nadia.**

Subject : To forestall the move of the Ex-intermediaries against disposing of surplus lands under the cover of Injunction.

Recently, State has succeeded in obtaining an order of restraint on petitioner-Mill, Viz: Radha Krishna Sugar Mill in C.R. 5932 (W) of 67 against disposing of the surplus lands.

2. The said Mill obtained the aforesaid Rule with interim order of injunction on the state from dealing with the lands of the Mill. Thus having restrained the State, the said Mill proceeded to dispose of the lands of the Mill to the intending purchaser and issued a public notice in a daily of Calcutta. The Collector, Murshidabad having been attracted by the Notice pursued it and moved His Lordship Mr. P. K. Banerjee J. by an Application seeking interference of the Hon'ble Court. His Lordship after having gone through the Notice and hearing the parties involved, passed the aforesaid restraint order on the Mill.

3. It is, therefore, urged that the Settlement Officers should be vigilant over the big ex-intermediaries who may try to dispose of surplus khas land by out-manoevering the State in the aforesaid manner and collect all material papers and documents in this connection so as to enable us to move the Court for obtaining similar restraint order.

Sd/- Illegible.

29.5.72.

For Director of Land Records and Surveys,
West Bengal.

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

Order Sheet, dated fromto P.S. Barasat
District 24-Parganas No.1 of 1981
Nature of the case : Preliminary Enquiry U/s. 6(3) of the W.B.E.A. Act.

Serial number and date of order.	Order and signature of Officer	Note of action taken on Order
<u>1</u> 8-9-81	<p>Whereas it appears from the record of rights finally published under Chapter – V of the W.B.E.A. Act (Act-I of 1954) that 203.80 acres of land of various classifications (Vide the Schedule ‘A’ showing the details of land) have been recorded for both title and possession in favour of M/s. Edward Keventer Private Limited, 11/3, Lindsey Street, Calcutta – 700 016,</p> <p style="text-align: center;">And</p> <p>Whereas a notice U/s. 57 of the W.B.E.A. Act was served upon the said company with a view to ascertaining the quantum of land allowed to be retained by the company,</p> <p style="text-align: center;">And</p> <p>Whereas the said notice has been declared utterly misconceived by the Hon’ble Mr. Justice A.K. Mukherjee in the C.R. 4922 (W) of 1969 obtained by the Company,</p> <p style="text-align: center;">And</p> <p>Whereas in the said C.R. No.4922 (W) of 69 Hon’ble Mr. Justice Mukherjee has further been pleased to give liberty to the respondent to revise the order passed under section 6(3) of the W.B.E.A. Act after giving the company proper opportunity of being heard,</p> <p style="text-align: center;">And</p> <p>Whereas it appears that under sub-section (3) of section 6 of the said Act the company would be entitled to retain only so much of land as in the opinion of the State Government is required for the purpose of its dairy.</p> <p>A preliminary enquiry into the matters of land (required for the dairy of the company) may therefore be held giving it (the company) the fullest opportunity of being heard.</p> <p>Hence issue notice to the M/s. Edward Keventer (P) Ltd. calling upon them to appear before me with all evidences for hearing on the matter on 28.9.1981 at Settlement ‘C’ Camp No. I, Barasat at 11 A.M.</p>	

Serial number and date of order.	Order and signature of Officer	Note of action taken on Order
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Issue also a copy of this order sheet with the notice. Copy of the notice to be also served on J.L.R.O. Barasat – I for hearing.

Sd/- Illegible,
A.S.O. & S.R.O. II, R.O.,
U/s. 6 of the W.B.E.A. Act.

2
25.9.81

Notice served. The service returns (Acknowledgement due card of Post Office and Peon Book Extract) are filed with the case records.

Sd/- Illegible,
A.S.O. & S.R.O. II,
R.O. u/s. 6 of the
W.B.E.A. Act.

3
28.9.81

The case is taken up for hearing to day. Parties present. Shri Baidya Nath Biswas for the J.L.R.O., Barasat – I. None appeared even on call, on behalf of the Edward Keventer Private (Ltd.) inspite of notice to them vide the A.D. filed with the case records.

Proceeded with the case in presence of the representative of the J.L.R.O. and exparte against the company.

Ordered that a local enquiry be held so as to ascertain the quantum as also the particulars of land actually required for the dairy of the company in terms of Section 6(3) of the W.B.E.A. Act. The date of enquiry is fixed on 16.10.81 from 12-00 A.M. at the dairy site i.e., at the mouza Kokapur, J.L. No. 11, P.S. Barasat and the adjacent area. In order to give the company another opportunity of being heard, a notice be served upon, asking them to represent their case before me on the date of enquiry at the dairy site.

Issue to them with the notice, a copy of this order. Inform also the representative of the JLRO, Barasat-I.

Sd/- Illegible,
S.R.O. II & A.S.O.
R.O. u/s 6(3) of the
W.B.E.A. Act.

4
3-10-81.

Notice served by registered post vide the postal receipt No.1406 dated 03.10.1981.

Sd/- Illegible,
S.R.O. II & A.S.O.,
R.O. Under Section
6(3) of WBEA Act.

Serial number and date of order.	Order and signature of Officer	Note of action taken on Order
<p style="text-align: center;"><u>5</u> 16-10-81.</p>	<p>The scheduled local enquiry started from today. Present at the field. Shri Niharendu Chakraborty representing. M/s. Edward Keventer (P) Ltd. vide hazeran filed with the case records. At the outset Shri Chakraborty has submitted a petition praying for holding up the enquiry on the ground that the company is now running under the Administrator appointed by the Hon'ble High Court and the Administrator is now out of Calcuta due to Puja vacation of the High Court. Considered the petition. Ordered that the preliminary survey work for ascertaining the actual utilization of the case lands, will continue. The company will also have the opportunity to produce papers before me on the next date of hearing fixed on the 17th November, 81 at my office at 12-00 A.M.</p> <p style="text-align: center;">Inform the party.</p> <p style="text-align: center;">Sd/- Illegible, S.R.O. II & A.S.O. R.O. U/s. 6(3) of the W.B.E.A. Act.</p>	<p>Seen, Sd/- Illegible, 16.10.81,</p>
<p style="text-align: center;"><u>6</u> 17.11.81</p>	<p>The case is taken up for hearing today. None appeared for the company. As an appointed Administrator/Special officer of the company, the Learned Bar-at-Law Mr. Bhaskar Sen, has however submitted a petition dated 16.11.81 through a messenger. In the petition, Mr. Sen has prayed for further time of one month, on the ground that in the meantime the existing litigation between the share holder and the Directors of the company would come to an end.</p> <p>It appears that the case was initiated on 8.9.81 fixing the first date of hearing on 28.9.81, but the company did not pay any heed to it, inspite of notice. At that position instead of proceeding ex-parte, the company has further been notified for having the opportunity of being heard on 16.10.81 at the factory site of the company. On this date one representative came and prayed for holding up the enquiry till the opening of the Hon'ble High Court after the Puja holidays. Time was then allowed extending the date of hearing, up to this date (17.11.81).</p> <p>It would be worth mentioning here that earlier the case was initiated in 1969. After a long time the present case has been initiated taking the liberty sanctioned by the Hon'ble High Court. It would not be justified to drag the case for further time. The dispute between the share holder and the Directors of the company is about the title and ownership. The instant case is for finding out preliminarily the quantum of land actually required by the company for its factory. The company executive can well represent the same.</p>	

Serial number and date of order.	Order and signature of Officer	Note of action taken on Order
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No further time is therefore allowed. The case to be proceeded exparte against the absentees. However as the enquiry will take some more time for survey in the field, preparation of sketch map and serutiny of records, I keep it open to the company to present the case at any time till the final recommendation.

Shri Chandra Sk. Das, Amin (Pkr) and Shri Lakshman Ch. Amin (Pkr) to survey the field, prepare the sketch map and other papers as per my instruction.

Put up on 18.1.82.

Sd/- Illegible,
S.R.O. II & A.S.O.
R.O. U/s. 6(3) of
the WBEA Act.

7
18-1-82.

Survey and preparations of map have not yet been complete. Put up on 22.2.82.

Sd/- Illegible,
S.R.O. II & A.S.O.
R.O. u/s. 6(3) of
the WBEA Act.

8
22.2.82.

The technical work is yet to be done. Put up on 10.3.82.

Sd/- Illegible,
S.R.O. II & A.S.O.
R.O. U/s. 6(3) of the
WBEA Act.

9
10.3.82.

The case is put up today. Scanned through the records. Surveyed the field, heard the local people and recorded the deposition of witness in making necessary enquiries.

The preliminary enquiry is over. The report and recommendation are made in a separate sheet which is annexed herewith and made a part of the proceeding.

Sd/- Illegible,
S.R.O. II & A.S.O.
R.O. U/s.6(3) of
the WBEA Act.

REPORT AND RECOMMENDATION

10.03.1982:

The name of the Company is Edward Kaventer (P) Ltd., at the address 11/3, Lindsay Street, Calcutta at present 1A, S. N. Banerjee Road, Calcutta – 700 013

Name of the Company and Address

The Company acquired 203.80 acres of agricultural and non-agricultural lands in the Mouzas (1) Kokapur J.L. No. 11, (2) Fateabad, J.L. No. 14, (3) Rangapur, J.L. No. 12, (4) Salarhat, J.L. No.13, P.S. Barasat for the purpose of its factory in dairy operation i.e., rearing tending and maintaining cattle (Cows and buffaloes) for production of milk and calf carrying out business with the same. Those lands were taken for the dairy-factory of the company which is situated by the side of the Barrackpore Barasat Road at the bus stop formerly known Kaventer Gate – now Subhasnagar Coloney. The whole lands for the dairy factory fall within the P.S. Barasat. The areas are shown in the map (16”-1 mile) and the particulars of total land are given in the schedule ‘A’ attached. About twenty (20) years back the company started to construct the dairy farm on the acquired land. In all five (5) cattle sheds, one (1) godown and four (4) other small structures were erected. Since the inception the Company did not carry out the dairy operation directly. It had only a couple of employees at the factory. It let out the sheds to four (4) other private Mahajans in a contract to tend cattle there on monthly rental of Rs.7 (seven) only per animal. In lieu the company was to purchase milk from those Mahajans. The Mahajans used only these sheds and some areas appertaining to the sheds. The remaining vast area acquired by the Company were left vacant.

Quantum of lands acquired & purpose

Location of the Factory site

A retrospect of the Factory site.

In the year 1969, the refugees from East Bengal in their acute necessity for land rushed to the vacant place, forcibly occupied and developed the same and rehabilitated themselves by establishing a colony which is now known “Subhasnagar Colony”. There are about 720 families in the Colony.

Apart from residential purpose by creating houses and huts the refugees alongwith some local landless peasants had also occupied the land for agricultural purpose as a means of livelyhood. These forcible occupants are there continuously for about twelve (12) years. They have also formed a society which is known as Subhasnagar Pally Unnayan Samity. It is known from them that the Refugee Rehabilitation Department has decided to regularize Colony under the Government Scheme. In the map the occupied residential and agricultural area are shown under green and violet hatching respectively. The nonhatched areas are places used by public in general. The present position is that, the factory has got only five (5) Cattle sheds, one (1) godown and four (4) small-dilapidated structures. The extensions of the sheds are used as dormitory for the workers and the adjoining areas are used for stack yard, dumping ground and open space. There are 130 (one hundred thirty only) Cattle (buffaloes and cows) which are tended in the sheds, by readymade fodder like “Bhusi” and “Khail” etc. There is no system of grazing them. These cattle are owned and maintained by the private Mahajans who are known to have severed connexion with the company recently. Only two to three employees of the company are at the dairy farm.

Present position of the factory

Now the entire dairy establishment including the area require for maintenance of the cattle in the sheds covers only 8.67 acres land. In the sketch map the present farm area has been hatched in red ink. The particulars of this areas of land are given in the Schedule 'B'.

In reality the company's function in dairy operation here limited to the aforesaid 8.67 (Eight acres sixty seven decimals only) of land and that too through other agencies. The factory of the company is practically t the defunct stage. The East Bengal Refugees on the other hand have occupied the vast lefts out areas for about 12 years. Evacuation of them is practically impossible involving formidable legal battle mingled with humanitarian consideration. Thus it transpires that since the inception, the company could not utilize the vast area acquired for the factory. It could utilize only 8.67 acres of Land. Instead of expansion, the factories case to a defunct stage during the last 34 years. Hence I find to scope for its expansion in future.

Scope for expansion

I, therefore, recommend that for the purpose of factory, the Edward Kaventers (P) Ltd., be allowed to retain 8.67 acres of land . The details of the land are given in the Schedule 'B' and the area is shown under red hatching in the map.

Recommendation.

I further recommend that the remaining area measuring 195. acres may be resumed by the Government. The detail particulars of these lands are given in the Schedule 'C' attached and shown in map in different colours.

Sd/- Illegible
S.R.O. II & A.S.O., Revenue Officer,
U/s. 6(3) of the W.B.E.A. Act.

Extract of lands as per Classification

(..... Bengali Words)

**Government of West Bengal
Land and Land Reforms Department
L. Ref. Branch.**

No.574 (17)-L.Ref. /1M-5/99.

Dated: 05.04.99

To
The District Land & Land Reforms Officer,
.....
P.O. , Dist.

Subject : Initiation of proceedings U/s. 6(3) of the W.B.E.A. Act, 1953.

The undersigned is directed to refer to the above subject and to say that while initiating proceedings under section 6(3) of the W.B.E.A. Act it is first to be examined the position in the relevant R.O.Rs whether it is in order or not. There should be the entry in the relevant R.O.Rs. the order issued U/s. 6(3) of the W.B.E.A. Act in respect of the land comprised in the mill, factory or workshop, as the case may be and if not, necessary rectification should be made in the R.O.Rs. in accordance with the law before starting proceedings for revision of the order so made.

He is, therefore, requested to take actions, accordingly and submit the required proposal to this Department through the D.L.R.S., West Bengal for taking necessary action in this regard.

Sd/- Illegible
O.S.D. & Depluty Secy. to the
Government of West Bengal.

No. 574(17)/1-L. Ref.

Dated : 05.04.99.

Copy forwarded for information and necessary action to the D.L.R.S., West Bengal, 35, Gopalnagar Road, Alipore, Calcutta - 700 027.

Sd/- Illegible
O.S.D. & Deputy Secy. to the
Government of West Bengal.

●

INSTRUCTION FOR REVIEW OF 6(3) CASES UNDER WBEA ACT, 1953.

In the case of land comprised in a tea garden, mill, factory or workshop the intermediary, or where the land is held under a lease, the lessee, shall be entitled to retain only so much of land as in the opinion of State Govt. is required for the tea garden, mill, factory or workshop as the case may be under the provisions of Section 6(3) of WBEA Act, 1953.

In the years 1962 to 1964 Govt. orders for retention and resumption of lands held by mill, factory etc. were published for most of the cases from L & LR Department, Govt. of West Bengal. In those orders, the mills and factories were allowed to retain some excess land not used for the factory purpose, but for future extention of the workshops, construction of staff quarter, playground, hospital, road etc. By the passage of time some of the mills or factories or tea gardens have been defunct and some factories have not extended since inception.

Under the proviso of section 6(3) of WBEA Act, 1953, the State Govt. may, if it thinks fit so to do after reviewing the circumstances of a case and after giving the intermediary or lessee, as the case may be an opportunity of being heard, revise any order made by it under Section 6(3) of WBEA Act specifying the land which the intermediary or the lessee shall be entitled to retain as being required by him for the tea garden, mill, factory or workshop as the case may be.

After lapse of more than thirty years, it requires to review of all old 6(3) cases. For this purpose, two things require to be done. The first is preparation of 6 (3) registers and the second thing is reconnaissance survey and submission of report to Govt. thereof.

In all the districts of West Bengal there are copies of 6(3) registers. There are also orders for retention and resumption of land. On verification of the cases, registers should be opened in the following proforma.

Sl. No.	Name of the District	Name of P.S. & Mouza	Name of the Tea Garden, Mill, Factory
Schedule of land retained by the mill, factory, etc.	Schedule of land resumed in the State	Govt. notification No.	Date of taking over of possession.
Reconnaissance Survey held on	Area recommended afresh to retain	Area recommended for further resumption	Govt. Order No.
Area allowed to retain after revision of the case	Area resumed afresh	Date of taking over of possession	Remarks.

This register should be maintained in the offices of S.D.L.&L.R.O. and D.L.&L.R.O. respectively.

For revision of 6(3) cases, D.L.&L.R.O. will initiate the proceeding after transcribing his order in a order sheet and should hand over the file to the concerned SDL&LRO. SDL&LRO in his turn will serve a notice for reconnaissance survey on spot and fix a date of hearing.

During reconnaissance survey three copies of maps on tracing paper should be prepared showing from R.S. Map. Plots or part of plot where the mill or factory is situated, the workshop, office, staff quarter, dispensary, road, playground, etc. and in case of tea gardens area under forest should be shown in traced copies of maps. The vacant land not used by the factory should also be demarcated by actual measurement on the spot. The different uses of the plots should be shown in different colours. The map should be prepared in scale. This work should be done by a R.O. or SRO-II with the assistance of T.A. as per selection of the SDL & LRO. They should also prepare ink to ink copy of R.S. & L.R. Khatians involved. Three land schedules should also be prepared. 'Schedule A' should contain the total land with present classification and area held by the mill, factory or workshop etc. 'Schedule B' should reflect land in actual use by the mill, factory. etc. and 'Schedule C' will show the land not used by the mills, factories etc. and submit a report to SDL&LRO. SDL&LRO after issuing notice to the Mill, factory etc. will examine the following documents –

- 1) The original gazette notification and subsequent amendments.
- 2) whether mill etc. is running or defunct.
- 3) whether it has gone under liquidation,
- 4) the articles of memorandum & articles of association,
- 5) the attendance register of the staff and workers,
- 6) the balance-sheet and audit report for last 3 years,
- 7) expansion of the mill etc. for the last 10 years,

- 8) actual land required by the mill etc.
- 9) any transfer made out of the land allowed to be retained u/s.6(3) and the copies of the transfer deeds.
- 10) land required for future expansion.

The SDL&LRO will then recommend in the order sheet how much quantum of land should be allowed to retain by the mill etc. and quantum of land should be resumed in the State. While recommending the retained land the ingress and egress to the mill, factory, workshop etc. should be clearly shown in traced copy of map. He will then send the survey report to D.L.&L.R.O. in triplicate. D.L.&L.R.O. after hearing the ex-intermediary will incorporate his specific recommendation in the order sheet and furnish the case records in duplicate to the D.L.R.&S. The contents of the recommendations should not be revealed to the ex-intermediary. After obtaining revised order for resumption of land possession should be taken as per notice annexed. Possession U/s. 10(2) of WBEA Act, 1953 is not necessary.

Encl : Model notice.

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

Memo. No.7/2157-2191/C/2000

Dated, Alipur, the 24th April, 2000.

Copy forwarded for information and necessary action to :-

1. The Principal Secretary, L & LR Department.
2. The Joint Secretary, L & LR Department,
3. The District Land & Land Reforms Officer,
4. Sri
5. Guard File "C" Group

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

Notice U/s. 57 of WBEA Act, 1953

To Sri whereas it appears from the Govt. order No.....dated.....the land shown in schedule attached has been resumed in the State Govt. from.....Notice is hereby given up on you that possession of the resumed land will be taken onat.....p.m. You are requested to hand over possession to the undersigned officer failing which exparte decision will be taken.

Date

Place

Block Land and Land Reforms Officer
on behalf of Collector.

(..... Bengali Words)

Government of West Bengal
Land & Land Reforms Department

NOTIFICATION

No.433-L.R.

Dated : 08.02.2005

This is to notify that all land held by any mill, factory or workshop on ands before 14.04.1955 were absolutely vested to the State free from all encumbrances w.e.f. 14.04.1955 by the Gazette Notifications issued in exercises of the powers conferred upon the State by Section 4 read with Section 5 of the West Bengal Estates Acquisition Act, 1953 and some or whole part of such vested land were allowed to be retained by such mill, factory or workshop under section 6(3) of the said Act. Since such vested land belongs to the State Government, the 'retainer" mill, factory or workshop has neither any right to dispose of the retained land in any manner including sale, gift, mortgage or lease nor has any right to create any encumbrances or divert the land for any purpose other than the purpose for which it was allowed to be retained. The provisions of Section 6(3) of the said Act empowers the State Government to resume such portion of retained land as is found unused, or used for any purpose other than the purpose for which it was allowed to be retained or to prevent any initiative taken by the retainer for disposal of the retained Government land. Any Deed of Conveyance in the form of sale, gift , mortgage or lease, shall be absolutely illegal and void and any mill, factory or workshop violating Section 6(3) of the WBEA Act, 1953 shall be liable for resumption proceedings and other legal actions as are prescribed in law.

Sukumar Banerjee
Jt. Secretary to the
Government of West Bengal.

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THURSDAY, FEBRUARY 10, 2005

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PART I – Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

**GOVERNMENT OF WEST BENGAL
Land and Land Reforms Department**

NOTIFICATION

No.459-LR/5M-01/05 GE(M)

Kolkata, the 10th February, 2005.

WHEREAS it has come to the knowledge of this Department that some mill, factory or workshop, with or without clear knowledge of the legal provision, are either selling out, or developing real estate property, directly or through joint venture which they cannot at all do as all such land were vested to the State absolutely and free from all incumbrances with effect from 14.04.1955 in terms of notification under Section 4 read with Section 5 of the West Bengal Estates Acquisition Act, 1953;

WHEREAS the said vested land or appropriate part of the same was allowed to be retained by the concerned mill, factory or workshop under the terms and conditions of Section 6(3) of the West Bengal Estates Acquisition Act, 1953 which entitled the State Government to resume the retained land at any time if such land is found unused or being used for any purpose other than the purpose for which it was allowed to be retained, or attempted to be used for other than running mill, factory or workshop being sold out to any party whatsoever;

IT IS HEREBY directed that all mills, factories and workshops, which have been allowed to retain land vested to the State under Section 5 of the West Bengal Estates Acquisition Act, 1953, to refrain from the aforesaid unauthorized activities, failing which they shall be liable to face immediate resumption proceedings for whole or such part of the retained land which has been kept unused, or diverted for unauthorized use or unauthorisedly transferred or used for non-industrial activities as mentioned above and also to face other legal actions as are prescribed in the law.

The Revenue Officers are to keep a vigilant watch on the activities on such lands and if there is any violation of law by any retainer relating to retained land report immediately with the report of reconnaissance survey for resumption proceedings under Section 6(3) of the West Bengal Estates Acquisition Act, 1953.

By order of the Governor,

SUKUMAR BANERJEE,
Jt. Secy. to the Govt. of West Bengal.

<http://wbllroa.in>