

39. BAR TO REGISTRATION OF DOCUMENTS OF TRANSFER OF LAND

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section A(I), G.E.Branch.

Memo No.8666-G.E./150/86

Calcutta, the 17th September, 1986

From : Shri B. B. Adhya,
Special Officer & (ex-officio) Secretary
Board of Revenue, West Bengal.

To
The Secretary, Judicial Department.

Subject : Bar to registration of the document of transfer of land or interest in Urban agglomeration areas.

Sir,

I am directed to invite your attention to the provisions of Section 4E of West Bengal Land Reforms Act (as inserted under West Bengal Land Reforms Amendment Act, 1981) (Copy enclosed for ready reference) which runs as follow – “No transfer (including sales in execution of a decree of a Civil Court or for recovery of arrears of land revenue of any land or interest in such land) within an Urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976 or within any part of such Urban agglomeration as may be specified by the State Govt. by notification in the official gazette and used mainly for agriculture or as an orchard, without any order in writing of the Collector shall be valid and no registering authority shall, notwithstanding the provisions of the Registration Act, 1908, register a document of such transfer unless order of the Collector in writing permitting such transfer is produced.

Provided that an application made to the Collector for permission for any such transfer made of one's own motion for registration of transfer in execution of a decree of a Civil Court shall be disposed of by the Collector within sixty days of the filing of the application failing which it shall be within the rights of the registering authority to register the document of transfer."

I would request you kindly to issue necessary instructions to the registering authorities whose jurisdiction's fall within the said Urban agglomeration areas so that the above bar to the registration of documents of transfer is properly observed.

An intimation to the Board of Revenue, about action taken at your end will be highly appreciated.

Yours faithfully,
B.B. Adhya
Special Officer & (ex-officio) Secy.,
Board of Revenue, West Bengal.

Memo No.8666/1(16)-G.E.

Copy forwarded for information and necessary to all Collectors.

2. While granting such permissions Collector may kindly see that the provisions of Urban Land (C & R) Act, 1976 are not in any way evaded by such transfer of land in the Urban agglomerations.

B.B. Adhya
Special Officer & (ex-officio) Secretary,
Board of Revenue, West Bengal.

Calcutta, the 17th September, 1986.

Copy forwarded for information to the –

- 1) Inspector General of Registration, West Bengal.
- 2) Commissioner _____ Division _____
- 3) Additional District Magistrate (LR), _____
- 4) Sub-Divisional Officer,
- 5) Land and Land Reforms Deptt., (ULC), 12B, russel Street, Calcutta.

Calcutta,
The 17th September, 1986.

B.B. Adhya
Special Officer & (ex-officio) Secretary,
Board of Revenue, West Bengal.

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

NOTIFICATION

No.190-L.Ref.

Calcutta, the 27th March, 1987.

In exercise of the powers conferred under the provisions of Section 62 of the West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956) the Governor is hereby pleased to issue the following directions to be followed by the Collectors while disposing of the applications made under Section 4E of the said Act :-

1. Under the provisions of Section 4E of the W.B.L.R. Act, 1955 registration of deeds of transfer of lands situated within urban agglomeration as defined in Urban Land (C. & R.) Act, 1976 or within any part of such urban agglomeration as specified therein without the Collector's written permission is barred. An application seeking such permission has, therefore, to be filed before the Collector.

2. It is, however, provided in section 4E of the W.B.L.R. Act that the Collector has to dispose of such application within sixty days of the filing of the application, failing which, the registering authority shall have the right to register the deed.

3. The policy of the State Government in enacting this provisions of law is to secure that ownership and control of land are so distributed and that agricultural resources are so used as best to subserve the common good and to prevent concentration of property to the common detriment. Keeping these objects in view the Collector shall take into consideration the following points in dealing with and disposing of an application under section 4E of the Act and shall cause an enquiry to be made for the said purposes.

i) Whether the land is situated within urban agglomeration as mentioned in section 4E of the Act and whether the land is used mainly for agriculture or as an orchard.

ii) Whether the land is situated in an urban, sub-urban or the peripheral area of a town or by the side of any public property including road, drain, park, water area etc. so that the proposed transfer is likely to affect any development of the area / locality.

iii) Whether the land is so situated having regard to the surroundings that the proposed transfer would appear to be a colourable transfer of agricultural or orchard land and the future use of the land is likely to be other than agriculture or as an orchard.

For the purpose of this clause a declaration from the transferee that the character or nature of the land will not be changed except in accordance with law, may be obtained.

iv) Whether the land in question is vested or not. For this purpose a report from the Settlement Wing may be called for.

- v) Whether the owner transferor of the land holds land in excess of the ceiling as provided in the Act.

For this purpose, the application for permission shall also be accompanied with an affidavit of the transferor declaring the total quantity of lands of various descriptions held in West Bengal by him and his family as defined in the Act.

4. If on such enquiries it is found that the land in question is situated on the peripheral area of the town or locality or by the side of any public property as stated in 3.(ii) above, the Collector may in his discretion refuse to grant permission. If the transfer appears to be a colourable transfer as stated in 3.(iii) above or the land is in excess of the ceiling, the Collector shall refuse to grant permission for transfer of such land. If the land is found to be vested the question of granting permission will not arise at all.

5. Permission for transfer of such lands shall also be refused until the excess land which is to vest in the State has been determined by the Revenue Officer and taken possession of by or on behalf of the State [Sec.14U(1).]

For the purpose of ascertaining the excess land the Collector may for the time being make appropriate use of the affidavit filed by the transferor along with the application.

6. In determining the ceiling area of a trust or endowment other than that of a public nature the Collector shall have regard to the provisions of Sec. 14M(5) & (6) of the W.B.L.R. Act as amended by the Amending Act, 1981. In case of trust or endowment of a public nature it shall be enquired into as to whether the total holding of such raiyat is more than 7.00 standard hectares (see Sec. 14M(6)). Further, in determining the ceiling area in all cases including individuals the lands transferred after the 7th August, 1969, shall be taken into consideration (Sec. 14P).

7. Further, if on such enquiry it is found that the land, though recorded as agricultural land or an orchard in the Record-of-rights, is not used mainly for agriculture or as an orchard the applicant may be informed that his application does not come under the purview of Sec. 4E of the Act.

8. The enquiries for above noted purposes may be held by any competent officer under the Collector as the Collector considers fit and necessary.

9. The Collector shall maintain a register showing therein the name, address and other particulars of the transferor and the transferee, the date of receipt of application, particulars of the land etc. and whether permission is granted or refused shall also be entered therein.

10. A copy of the Collector's decision of granting or refusing permission shall be forwarded within sixty days of the filing of the application by registered post with A/D or hand delivery on receipt to the registering, settlement and Urban Land Ceiling authorities concerned for necessary action, if any, from their end. In view of the time frame of sixty days there should be a cell or earmarked staff in the L.R. Branch of the Collectorate to handle and dispose of such applications.

A specimen form of application for permission u/s. 4E is enclosed.

By order of the Governor,
P. K. Datta,
Deputy Secretary to the
Government of West Bengal.

No.191(16)- L.Ref.

Dated, Calcutta, the 30th March, 1987

1. The Collector, _____

P.K. Datta
Deputy Secretary to the
Government of West Bengal.

**FORM OF APPLICATION FOR PERMISSION OF THE COLLECTOR FOR TRANSFER
OF ANY LAND OR INTEREST UNDER SECTION 4E OF WEST BENGAL LAND
REFORMS ACT, 1955**

(To be submitted in triplicate)

COURT FEE OF RS. TO BE AFFIXED

No.

Date

Received (Place)

On (date)

(Initial of the Receiving Officer)

To
The Collector,

Sir,

I request that permission under Section 4E of West Bengal Land Reforms Act, 1955 for the transfer of the land mentioned below be granted.

The particulars in respect of the proposed transfer are given below :-

1. Name of the applicant with full address :
2. Name of the transferor with full address. :
3. Name of the proposed transferee with full address. :
4. The particulars of the land proposed to be transferred :-

1) Plot No.	5) Police Station.
2) Khatian No.	6) Area of the Plots.
3) Mouza	7) Area recorded in connected khatian.
4) J.L. No.	8) Area of the plot proposed to be transferred.
5. Right and interest of the transferor on the land and the mode by which such right and interest accrued.
6. Classification of the land proposed to be transferred as per R.O.Rs. If the land is used as Orchard, no. and kind of trees standing thereon.
7. Present use of the land proposed to be transferred.
8. Proposed use of the land by the proposed transferee.
9. Mode of proposed transfer of the land. (i.e. sale / gift / mortgage etc.)

- | | | |
|--|---------------------------------|-----------------------------|
| 10. Quantum & Schedule of all kinds of lands including Homestead held by the transferor other than the land proposed to be transferred. | J.L. No.
Khatian No.
Area | Mouza with P.S.
Plot No. |
| 11. Name of the recorded tenant with Co-sharers, if any, of the land in item No.4. | | |
| 12. Whether the land has been included in any return submitted by the transferor to the competent authority under Urban Land (C. & R.) Act 1976. | | |

I do hereby declare that the particulars furnished above are correct and I am ready to furnish any other details as may be required by you.

Place : Yours faithfully,
Date: Signature of the applicant.

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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, Kolkata – 700 027.

No.21/2674/C/2001

Dated, Alipore, the 27th June, 2001

From: S. Suresh Kumar, I.A.S.,
The Director of Land Records and Surveys
and Joint Land Reforms Commissioner,
West Bengal.

To
Shri Bikash Majumdar, I.A.S.,
Inspector General of Registration &
Commissioner of Revenue, West Bengal,
Writers' Buildings, Kolkata – 700 001.

Sub : Registration of deeds.

In sending herewith the photocopy of sale deeds No.1008 dated 09.09.97, 2789 dated 12.08.99 and 4861 dated 22.05.97, this is to state that in the first deed an area of 2.55 acres of land have been sold out of 78 plots without mentioning the quantum of land transferred from each plot and the specific portion of the plot. In the second deed, at the 1st instance 2.25 acres of land have been transferred out of 17.10 acres of land consisting of 9 plots in the same amalgamated fashion without the specific position of the plot. In the second instance out of two plots 0.33 acres have been transferred. In the 3rd deed, out of 20.13 acres of the area, an area of 0.29 acres have been sold out of 6 plots. All the deeds mentioned above have been registered at Rajgunj Sub-Registry Office of Jalpaiguri District and have done by clubbing the lands in all the plots as one quantum without segregating the area to be transferred from each plot and the specific location in each plot.

This is very much against Section 21 & 22 of Registration Act and the Officers under this Directorate have to face much difficulties to revise the maps or to revise the record of rights. This trend is maximum in the district Jalpaiguri. The deed writers,

advocates, muharrirs and sub-registrars are accustomed to this sort of deeds. But it is really very difficult on the part of this Directorate to prepare the record-of-rights, to record the name of a bargadar, if any or to detect ceiling surplus and to vest ceiling surplus land in the state, as well as in taking over possession of vested lands also. Many more difficulties will have to be faced in disposing of land dispute cases U/s 51A(1)/51A(4) or to mutate transfers U/s 50 of the WBLR Act, 1955.

The area transferred from each plot, description of specific portion transferred from each plot should be narrated exhaustively to enable the officers carve bata plots in the sheet, during recording of new plots in the record-of-right.

Considering the circumstances, he is requested kindly to instruct all the Registrars and Sub-Registrars to refuse registration of such a clumsy and misleading deeds as mentioned above.

An early action in the matter, is solicited.

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

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Government of West Bengal
Directorate of Registration & Stamp Revenue
Writers' Bldgs, 'F' Block, Top Flr., Kol - 1.

Memo No.3933/(17)/1M-205/01

dated, 27.7.2001.

To

- 1) **The Dist. Registrar**
- 2) **Registrar of Assurances, Kolkata, 63, N. S. Road, Jessop Bldg., Kol - 1.**

Sub : Registration of deeds by clubbing the lands as one quantum.

In connection with the subject noted above, the undersigned is to forward herewith a copy of letter from the Director of Land Records & Surveys and Jt. Land Reforms Commissioner, West Bengal, addressed to the Inspector General of Registration & Commissioner of Stamp Revenue, West Bengal, which speaks for itself and to request him to take note of the irregularities done in the office of the Rajganj Sub-Registry Office, Jalpaiguri.

Accordingly, he is directed to instruct all the Registering Officers under his administrative control to ensure that no such clumsy and misleading deeds are entertained as suggested and pointed out by the Director of Land Records & Surveys & Jt. Land Reforms Commissioner, W. Bengal.

Encl: As stated.

S. Roy
Inspector General of Registration &
Commissioner of Stamp Revenue, W.B.

Memo. No.3933/(17)(9)/(1)/1M-205/01

dated 27.7.2001/3.8.

Copy forwarded for information and necessary action to

** 2) Director of Land Records & Surveys, West Bengal, 35, Gopalnagar Road, Alipur, Kolkata - 27. This has a ref to his No.21/2674/C/01 dated 27.6.01.

S. Roy
Inspector General of Registration &
Commissioner of Stamp Revenue, W.B.

Memo No.21/5328-58/C/2001

dated, Alipur, the 3rd September, 2001.

The copy along with the copy of the Dte. memo. No.21/2674/C/2001 dtd. 27.6.01 is forwarded to the Dist. Land & Land Reforms Officer, _____ with a request to circulate it to the S.D.L.L.R.O's and B.L.L.R.O.'s offices in his district for information and taking necessary action.

- 2) Shri A. L. Brahmachari, A.D.C., W.B. .
- 3) Guard file 'C' Group,
- 4) O/C, Library for information and necessary action.

Encl: As mentioned above.

A. Bhattacharjee
For Director of Land Records & Surveys,
& Jt. Land Reforms Commissioner,
West Bengal.

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**GOVERNMENT OF WEST BENGAL
LAND AND LAND REFORMS DEPARTMENT
SECTION – LR (AI) : IS – BRANCH**

No.5674/329/2001-IS

Dated, Kolkata, the 17th August, 2001.

CIRCULAR

It has been reported from various corners particularly from Director of Land Records and Surveys and his officers down the line that vested lands are often transferred by ex-land owners, keeping the fact of vesting suppressed. The Registration wing under the Department of Finance has recently, expressed concern with such transfers.

What actually happens is that in many cases the landowner transfers the land on the basis of old RORs in which vesting of land either under the WBEA Act, 1953 or under the WBLR Act, 1955 has not been reflected. In some cases the record-of-rights cannot be corrected for the vesting of land being struck up by injunction from court. Suppressing the fact of vesting of land the landowners transfer the vested land and the post-vesting purchasers purchase the land in a completely helpless situation. There are cases where post-vesting purchasers have already undertaken construction and the DLLRO/Collector finds it extremely difficult to demolish such construction and remove encroachment.

In view of above and to avoid the untoward situation as already explained it is instructed that the BLLROs shall forward a mouzawar list of vested land not yet settled with any person to the concerned Sub-Registrar requesting him to ensure that no deed is registered on such vested land. The BLLRO should send a copy of such vested land to the District Registrar to enable him to effectively monitor with Sub-Registrars under him so that the Government land is not registered between private parties.

P. Bandyopadhyay,
Special Secretary to the
Government of West Bengal
Land and Land Reforms Department.

Copy forwarded to :-

1. Shri B. K. Majumdar, IAS, Special Secretary, Finance Department. This has reference to discussion with him in this regard. It is mentioned that land is also vested under Urban Land (Ceiling & Regulation) Act, 1976 by the Subdivisional Officers who are the competent authority in respect of the Act. The schedule of land vested by competent authorities is normally not communicated to the BLLROs. This aspect may kindly be taken up with the Urban Development Department, Govt. of West Bengal.
2. Shri S. Suresh Kumar, IAS, Director of Land Records and Surveys and Joint LRC, West Bengal with request to ensure that the BLLROs submit mouzawar statement of vested land to the Sub-Registrars at least by installment. Initially, the vested land schedule of Urban and semi-urban mouzas should be submitted to Sub-Registrars concerned to be followed by statement of other mouzas.
3. Copy to DLLRO with request to ensure furnishing of vested land statement to the Sub-Registrars concerned at the earliest.

Dated, Kolkata,
the 17th / 22nd August, 2001.

P. Bandyopadhyay
Special Secretary to the
Government of West Bengal.

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Government of West Bengal
Land and Land Reforms Department
Section - LR(AI)-I, Branch - IS

No.5622-IS/ 534/2002

Dated Kolkata, the 29th October, 2003.

ORDER

It has come to the notice of the Government in the Land and Land Reforms Department that the raiyats who hold land along the highways running through the State are debarred from transferring their land, whether the highway comes under the purview of the Notification No.7818-IS dated 25th October, 2002, or not, and in the case of highway Nos. 2, 6, 60, 31, 31C & 34 where the effects of notification No.7818-IS dated 25.10.2002, actually applies, if a portion / part of the Dag No. of the plot of land a raiyat holds and intends to transfer falls within the line of 75 mtr. from the centre line of the existing road, even though the proposed land to be transferred remains outside the line of 75 mtr.

Considering the hardship caused to the raiyats for the above reasons, the undersigned is directed, by order of the Governor, to make it clear that the Notification No.7818-IS dated 25.10.2002 has no application, whatsoever, along the highways other than the highways mentioned in the Notification, that too, between the stretches mentioned against each of them and also there is no restriction on transfer of land beyond the line of 75 mtr. from the centre of the existing roads, where the effect of the Notification persists, even though a portion / part of the land appertaining to a particular Dag No. falls within the line of 75 mtr.

However, as the 75 mtr. line has not been demarcated in the event of transfer of land where a portion / part of the Dag No. of the land proposed to be transferred falls within the line of 75 mtr. from the central line of the existing road, the Registering authority should obtain, i) an Affidavit from both the transferor & transferee to the effect that they have fully satisfied that the proposed land to be transferred / procured does not fall within the line of 75 mtr. from the centre line of the existing road and if subsequently, it is found that the transferred land or part thereof falls within the line of 75 mtr. from the centre line of the existing road, they will abide by the instructions over

the use of the land, to be issued by the Government time to time and they shall have no claim, otherwise, whatsoever over the said land, and ii) a sketch plan with area of each under the signature of the transferor, showing specifically in different colours the plot of land, its' distance upto 75 mtr. from the centre line of the existing road and the portion proposed for transfer, and allow registration making the affidavit & sketch plan as part and parcel of the instrument.

Mutation and conversion where necessary should also be allowed in accordance with the law after the Registration takes place.

S. Banerjee
Joint Secretary to the
Government of West Bengal

Memo. No.5622/1(105)

Dated Kolkata, the 29th October, 2003.

Copy forwarded for information and necessary action to :-

- 1) The Principal Secretary / Secretary,
- 2) The Inspector General of Registration, Writers' Buildings, Kolkata – 700 001. He is requested kindly to issue necessary instruction to all the District Registrars and Sub-Registrars under his kind control accordingly.
- 3) The Commissioner, Division.
- 4) The Director of Land Records & Surveys, West Bengal & Joint Land Reforms Commissioner, West Bengal, 35, Gopalnagar Road, Alipore, Kolkata – 27.
- 5) The Collector & District Magistrate.
- 6) The District Land & Land Reforms Officer,

Sd/- Illegible
Deputy Secretary
to the Government of West Bengal
Land and Land Reforms Department.

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<http://wbllroa.in>