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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.
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Memo. No. 11/4299-4315/C/05

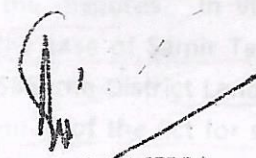
Dated, Alipore, the 22nd October, 2013

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To
The District Land & Land Reforms Officer, *Purba Medinipur*

Sub: Instruction regarding power of collector for settlement of disputes u/s 9
of the W.B. Acquisition of Homestead Land for Agricultural, Labourers,
Artisans and Fisherman Act, 1975

A copy of the valued opinion dated 16.04.2013 made by the
Learned Govt. Representative (LRTT) clarifying the power and function
under section 9 of the West Bengal Acquisition of Homestead Land for
Agricultural, Labourers, Artisans and Fisherman Act, 1975, is sent
herewith with the request to peruse and act accordingly.

Encl: As stated.


(A. SANYAMATH)

Addl. Director and Ex-officio, Jt. Secretary,
L & LR Department, W.B.

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Note Sheet

Ref : His Office Memo No.131(27)/1758/P/2012
Dated 26-03-2013

Sub :- Clarification regarding power and function under Section 9 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fisherman Act, 1975.

Your kind attention is drawn in the subject matter under reference.

As the Sub-Divisional Land & Land Reforms Officer, Kakdwip had made a reference to have guideline regarding function as Collector, under Section 9 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, 1975 for settlement of relevant disputes and as there are some confusions in discharging the function of Collector under Section 9 of the said act due to want of explicit clarifications in this regard in the relevant Notifications issued by the erstwhile Panchayet & Community Development (CD) Department, Government of West Bengal, the opinion of the Government Representative, LRTT is solicited on this issue.

In this context, I like to draw the attention to a Judgement of the Hon'ble Division Bench of Calcutta High Court which may enlighten us in this regard. In a Judgement passed on 01-03-2011 in the WPLRT No.103 of 2010 by the Hon'ble Justice Pranab Kumar Chattopadhyay and the Hon'ble Justice Asoke Kumar Das Adhikari, it has been observed that - "In terms of Section 9, the Collector should take appropriate decision regarding settlement of the disputes. In view of the order passed by this Court in F.M.A. 706 of 1988 in the case of Samir Talapatra & ors vs Gurupada Dey & ors, reported in 2000 (1) CHN 586, the District Land & Land Reforms Officer should decide the reference under section 9 of the act for settlement of the dispute. The relevant extracts from the aforesaid Judgement of this Court passed in Samir Talapatra & ors (Supra) are set out hereunder :

"32. Chief Justice Mookherjee has opined that as the B.L.& L.R.O. is in the position of a Collector, an appeal from his Order cannot be heard by another person of a higher rank, who is also a Collector because that would necessitate importing words into the statute. With the greatest of respect, I am unable to agree. If a person, who is a deemed Collector passes an order under Section 4, then a Section 9 reference has to be heard by another Collector and it would be reasonable if it were to be held that such later authority should be higher in rank than the person, who passed the earlier order.
