

West Bengal Act X of 1956¹

THE WEST BENGAL LAND REFORMS ACT, 1955²

(As modified up to the 1st January, 1999)

[30th March, 1958]

An Act to reform the law relating to land tenure consequent on the vesting of all estates and of certain rights therein³ [and also to consolidate the law relating to land reforms] in the state

It is hereby enacted in the Sixth Year of the Republic of India, by the Legislature of West Bengal, as follows:-

CHAPTER I. Preliminary.

1. (1) This Act may be called the West Bengal land Reforms Act, 1955. (2) It extends to the whole of West Bengal⁴ [except the area described in Schedule I of the Calcutta Municipal Corporation Act, 1980, but not excepting the area included in the said Schedule, which, immediately before the coming into force of the Calcutta Municipal Corporation (Amendment) Act, 1983, was comprised in the municipality of Jadavpur, South Suburban or Garden Reach:]

West Ben. Act LIX of 1980
West Ben. Act XXXII of 1983.

Short title, extent and commencement

⁵ Provided that the State Government may, from time to time by notification in the *Official Gazette*, extend and bring into force the provisions of this Act, in whole or in part, to such part or parts of the area described in Schedule I to the Calcutta Municipal Act, 1951, with effect from such date or dates as may be specified in the notification.

West Ben. Act XXXIII of 1951.

¹ In terms of the provisions of sub-section (3) of section 3 read with Schedule III of the West Bengal Transferred Territories (Assimilation of Laws) Act, 1958 (West Ben. Act XIX of 1958), this Act shall not extend to, or come into force in, the territories transferred from the State of Bihar to the State of West Bengal by S. 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (XL of 1956).

² For the Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 10th December, 1954, Part IVA, page 1765. For Report of the Joint Select Committee, see the *Calcutta Gazette, extraordinary*, dated the 18th August, 1955, Part IVA, page 1215, For proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of the West Bengal Legislative Assembly, see the proceedings of the meeting of the West Bengal Legislative Assembly, held on the 24th and the 25th February, 16th August, 27th, 28th, 29th and 30th September, 1st, 3rd, 4th, 5th, 6th, 7th, 8th, 10th and 11th October, 10th, 13th and 14th December, 1955; and for the proceedings of the West Bengal Legislative Council, see the proceedings of the meetings of the West Bengal Legislative Council held on the 4th March, 18th August, 20th and 21st December, 1955.

³ The Words within the square brackets were inserted by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981) w.e.f. 7.8.69.

⁴ The words, figures and first brackets within the square brackets were substituted for the words and figures "except the areas described in Schedule I of the Calcutta Municipal Act, 1951, as deemed to have been amended under section 594 of that Act." by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1986 (West Ben. Act V of 1986) w.e.f. 4.1.84.

⁵ This proviso was added by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981) w.e.f. 7.8.69.

(Chapter I. - Preliminary - Section IA.)

(3) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into¹force on such date or dates and in such district or part of a district as the State Government may from time to time by notification in the *Official Gazette* specify.

Declaration
as to the
policy of the
State.

²IA. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution of India.

¹The provisions of clause (2), clause (7) including the *Explanation* thereto, clause (8) and clause (9) of section 2, section 3, section 17 [except sub-section (3) thereof], section 18, section 19, section 20, section 21, section 59 [so far as it relates to clause (7) thereof] and section 60 came into force in all the districts of West Bengal with effect from the 31st March, 1956, *vide* notification No. 63464. Ref., dated the 30th March, 1956, published in the *Calcutta Gazette, Extraordinary*, dated the 31st March, 1956, Part I, page 679. The provisions of section 57 came into force on the 1st September, 1957, in all the district of West Bengal except in the district of Purulia and except in the police-stations of Chopra, Karandighi, Islampur and Goalpokhar of the Raiganj subdivision in the district of West Dinajpur, *vide* notification No. 19990.-L. Ref., dated 13th August, 1957, published in the *Calcutta Gazette, Extraordinary*, dated the 17th August, 1957, part I, page 3239. The provisions of clause (12) of section 2 came into force on the 15th January, 1958, in all the districts of West Bengal except in the district of Purulia and except in the police-stations of Chopra, Karandighi, Islampur and Goalpokhar of the Raiganj subdivision in the district of West Dinajpur, *vide* notification No. 624L.Ref., dated 14th January, 1958, published in the *Calcutta Gazette, Extraordinary*, dated the 14th January, 1958, Part I, page 79. The provisions of sections 19A and 19B came into force on the 16th February, 1958, in all the districts of West Bengal except in the district of Purulia and except in the police-stations of Chopra, Karandighi, Islampur and Goalpokhar of the Raiganj subdivision in the district of West Dinajpur, *vide* notification No. 2730L.Ref., dated 13th February, 1958, published in the *Calcutta Gazette, extraordinary*, dated the 13th February, 1958, Part I, page 489. Clause (10) of sec. 2 and secs. 4(3), 6,8,9,10,54 and 55 came into force on the 22.10.63, published in the *Calcutta Gazette, Extraordinary*, of 1963, Part I page 3522a. Section 17(3) came into force on 12.12.63, in all the districts of West Bengal except in the areas transferred from Bihar to West Bengal under Act 40 of 1956, *vide* notification No. 20818L.Ref., dated 9.12.63, published in the *Calcutta Gazette, Extraordinary*, of 1963, Part I, page 4091. Clause (6) of sec. 2, secs, 4(1), (2), (4) and (5), 4.14.15.49 and 58 came into force on the 7.6.65, in all the districts of West Bengal except in the areas transferred from Bihar to West Bengal under Act 40 of 1956, *vide* notification No. 8144L. Ref., dated the 4.6.65, published in the *Calcutta Gazette, Extraordinary*, of 1956, part I, page 1195. Sub-sections(1), (3), (4) and (6A) of section 2, sub-section (2A), (2B) and (2C) of sec. 4, sec. 11, sec. 12, all the provisions of Chapter 11A, proviso to sub-section (1) and sub-section (2A), (2B) and (6) of sec. 18, sub-section (3) and (4) of sec. 19, all the provisions of chapters IV, VII and VIII, section 56, and clauses (1), (2), (3), (4), (5) and (6) of sec. 59 came into force in all the district of West Bengal except in the areas transferred from Bihar to West Bengal under Act 40 of 1965, *vide* notification No. 14810L.Ref., dated the 25.9.65, published in the *Calcutta Gazette, Extraordinary*, of 1965, Part, I pages 3769-3770.

²section 1A was inserted by s. 4 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69

(Chapter I. - Preliminary. - Section 2.)

1. In this Act, unless there is anything repugnant in the subject or context.- Definitions.

(1) "agricultural year" means the Bengali year commencing on the first day of *Baisakh*;

(2) "*bargadar*" means a person who under the system generally known as *adhi barga*, or *bhag cultivates* the land of another persons on condition of delivering a share of the produce of such land to that person ¹[and includes a person who under the system generally known as *kisani* ²(or by any other description) cultivates the land of another person on condition of receiving a share of the produce of such land from that person;]

³*Explanation*, - A *bargadar* shall continue to be a *bargadar* until cultivation by him is lawfully terminated under this Act;

Ben. Act III
of 1913

(3) "certificate" means a certificate signed under the Bengal Public Demands Recovery Act, 1913;

(4) "Collector" means the Collector of a district or any other officer appointed by the State Government to discharge any of the functions of a Collector under this Act;

(5) "consolidation" includes re-arrangement of parcels of land comprised in a holding or in different holdings for the purpose of rendering such holding or holdings more compact;

(6) "holding" means the land or lands held by a *raiyat* and treated as a unit for assessment of revenue;

4(6A) "incumbrance" means any lien, easement or other right or interest created by a *raiyat* on his holding or in limitation of his own interest therein, but does not include the right of the *bargadar* to cultivate the land of the holding;

¹The words within the square brackets were inserted by s. 2(i) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

² The words within the first brackets were inserted by s. 5(a)(i) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

³ The '*Explanation*' was added by s. 5(a)(ii), *ibid.*

⁴ Clause (6A) was inserted with retrospective effect by s. 2(1) of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

(Chapter I.-Preliminary. - Section 2.)

1(7) “land” means land of every description and includes tank, tank-fisher, fishery, homestead, or land used for the purpose of live-stock breeding, poultry farming, diary or land comprised in tea garden, mill, factory, workshop, orchard, *hat, bazar, ferries*, tolls or land having any other *sairati interests*, and any other land together with all interests, 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 West Bengal Estates Acquisition Act, 1953.

West Ben.
Act I of 1954

(8) “Personal cultivation” means cultivation by a person of his own land on his own account -

- (1) by him own labour, or
- (2) by the labour of any member of his family, or
- (3) by servants or labourers on wages payable in cash or in kind ²[(not being as a share of the product)] or both:

³Provided that such person or member of his family resides for the greater part of the year in the locality where the land is situated and the principal source of his income is ⁴[produce of] such land.

³*Explanation.* - The term “family” shall have the same meaning as in clause (c) of section 14K.

(9) “prescribed” means prescribed by rules made by the State Government under this Act;

5(9A) “prescribed authority” means and authority appointed by the State Government, by notification in the *Official Gazette*, for all or any of the purpose of this Act;

¹Clause(7) was substituted for the original clause by s. 5(b) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69. Prior to this substitution, the words “but does not include tank”, were inserted at the end of original clause (7), by s. 2(ii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

²The first brackets and words within the square brackets were inserted by s. 2(iii), *ibid*.

³The ‘Proviso’ and the ‘*Explanation*’ were added to clause (8) by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1977(West Bengal. Act XXXIV of 1977).

⁴The words within the square brackets were substitute for the words “produced from” bys. 2 of the West Bengal Land Reforms (Amendment) Act, 1978 (West Ben. Act XXXIX of 1978), w.e.f. 3.2.78.

⁵Clause (9A) was inserted by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1966 (West Ben. Act XI of 1966).

(Chapter I. - Preliminary. - Section 3, 3A.)

¹(10) “*raiyat*” means a person or an institution holding land for any purposes whatsoever;

(11) “revenue” means whatever is lawfully payable or deliverably in money or kind or both by a *raiyat* under the provisions of this Act in respect of the land held by him;

(12) “Revenue Officer” means any officer whom the State Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue Officer in any area;

(13) “Scheduled Tribe” shall have the same meaning as in clause (25) of article 366 of the Constitution of India.

⁴3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any custom or usage or contract, express or implied, or agreement or decree or order or decision or award of a court, tribunal or other authority.

Act to
override
other laws

West Ben.
Act XX of
1949.
West Ben.
Act I of
1954

⁵3A. (1) The rights and interests of all non-agricultural tenants and under-tenants under the West Bengal Non-Agricultural Tenancy Act, 1949 shall vest in the State free from all encumbrances, and the provisions of sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 shall apply, with such modifications as may be necessary, *mutatis mutandis* to all such non-agricultural tenants and under-tenants as if such non-agricultural tenants and under-tenants were intermediaries and the land held by them were estates and person holding under a non-agricultural tenant or under-tenant were a *raiyat*.

Rights of
non-
agricultural
tenants and
under-
tenants in
non-
agricultural
land to vest
in the State

Explanation. - Nothing in sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 shall be construed to affect in any way the vesting of the rights and interests of a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949 in the State under sub-section (1) of the section.

¹Clause(10) was substituted for the original by s. 5(c) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69. Prior to this substitution, the words “a person or an institution holding”, were substituted for the words “a person who holds”, by s. 2(iv) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

²For notification relating to appointment of all sub-divisional officers as the officers referred to in section 17(1) of the Act for the areas specified, see notification No. 780L.Ref., dated 17.1.58 published in the *Calcutta Gazette, Extraordinary* of 1958, Part I, page 167.

³Clause (13) was added by s. 2 of the West Bengal Land Reforms (Second Amendment) Act, 1986 (West Ben. Act XIX of 1986).

⁴Section 3 was substituted for the original section by s. 6 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

⁵Section 3A was first inserted by s. 7, *ibid*. Then, the same was substituted by s. 2 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

(Chapter II. - Raiyats. - Section 4.)

(2) Notwithstanding anything contained in sub-section (1), a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949, holding in his *Khas* possession any land to which the provisions of sub-section (1) apply, shall, subject to the other provisions of this Act, be entitled to retain as a *raiyyat* the said land which together with other lands, if any, held by him shall not exceed the ceiling area under section 14M.

West Ben.
Act XX of
1949

(3) Every intermediary,-

(1) whose land held in his *Khas* possession has vested in the State under sub-section (1), or

(2) whole estates or interests, other than land held in his *khas* possession, have vested in the State under sub-section(1),

shall be entitled to receive an amount to be determined in accordance with the provisions of section 14V.

(4) The provisions of this section shall not apply to any land to which the provisions of the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981, apply.

West Ben.
Act XXXVII
of 1981.

(5) This section shall be deemed to have come into force on and from the 9th day of September, 1980.

CHAPTER II.

Raiyats.

Rights of
raiyyat in
respect of
land.

4. (1) Subject to the other provisions of this Act, a *raiyyat* shall on and after the commencement of this Act be the owner of his holding and the holding shall be heritable and transferable.

(1) Nothing in sub-section (1) shall entitle a *raiyyat* to subsoil rights.

¹(2A) No *raiyyat* shall -

(1) quarry sand, or permit any person to quarry sand, from his holding,
or

(2) dig or use, or permit any person to dig or use, earth or clary of his holding for the manufacture of bricks or tiles,

for any purpose, other than his own use, except with the previous permission in writing of the State Government and in accordance with such terms and conditions and on payment of such fees as may be prescribed.

¹Sub-section (2A), originally inserted by s. 3(1) of West Ben. Act XVIII of 1965, was substituted by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1966 (West Ben. Act XI of 1966).

(Chapter II. -Raiyats. - Section 4.)

¹(2B) If any *raiayat* commits a breach of the provisions of sub-section (2A), the prescribed authority may, after giving in the prescribed manner an opportunity to the *raiayat* to show cause against the action proposed to be taken, impose upon him ²[a fine not exceeding two thousand rupees and where the breach is a continuing one, a further fine not exceeding two hundred rupees for each day] during which the breach continues. Such fine, if not duly paid, shall be recoverable as a public demand.

¹(2C) An appeal shall lie from any order made under sub-section (2A) in accordance with the provisions of section 54 and 55.

³* * * * *

(4) Notwithstanding anything in sub-section (1), the holding of a *raiayat*, excluding his homestead, ⁴[shall vest in the State free from all incumbrances under an order of the prescribed authority made in the prescribed manner] after such enquiry as it thinks fit and after giving the *raiayat* an opportunity to show cause against the action proposed to be taken if-

- (1) he has without any reasonable cause used the land comprised in the holding or a substantial part thereof for any purpose other than ⁵[that for which it was held by him or settled by the State or directly incidental thereto];
- (2) he has without any reasonable cause ceased to keep the land or any substantial part thereof under personal cultivation ⁶[or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto] for a period of three consecutive years or more except when such land is under a usufructuary mortgage mentioned in section 7;

¹Sub-sections (2A) (which was later substituted by s. 3 of West Ben. Act XI of 1966 - *vide* foot-note 1 on page 6, (2B) and (2C) were inserted by s. 3(1) of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

²The words within the square brackets were substituted for the words "a fine not exceeding three hundred rupees, and where the breach is a continuing one, a further fine not exceeding fifty rupees for each day" by s. 2 of the West Bengal Land Reforms (Second Amendment) Act, 1969 (West Ben. Act XXIII of 1969).

³Sub-section (3) of section 4 was omitted by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

⁴The words within the square brackets were substituted for the words "shall be sold by the prescribed authority in the prescribed manner" by s. 8(a)(i) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

⁵The words within the square brackets were substituted for the word "agriculture" by s. 8(a)(ii), *ibid*, w.e.f. 7.8.69.

⁶The words within the square brackets were inserted by s. 8(a)(iii), *ibid*, w.e.f. 7.8.69.

(Chapter II. - Raiyats. - Section 4A.)

- (3) he has without any reasonable cause failed to bring the land comprised in the holding or any substantial part thereof under personal cultivation¹[or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto] within three consecutive years of the date on which this Act comes into force or of the date on which he came into possession of such land, whichever is later;
- (4) he has let out the whole or any part of the holding;

Provided that nothing in this sub-section shall prevent the *raiyyat* from cultivating any part of his holding by a *bargadar*.

²(5) On the holding of a *raiyyat* being vested in the under sub-section (4), his ownership therein shall cease and the rights of the lessee, if any, shall terminate and the *raiyyat* shall be entitled to receive an amount to be determined under section 14V.

Certain restrictions on rights of *raiyyats* in Sadar, Kalimpong and Kurseong sub-divisions of Darjeeling district.

³4A. (1) In the Sadar sub-division, Kalimpong sub-division and Kurseong sub-division of the district of Darjeeling, the Deputy Commissioner of the district may, from time to time, give directions regarding the form of cultivation to be adopted by a *raiyyat* in respect of his holding or prohibiting a *raiyyat* from cutting more than one tree from his holding except with the previous permission in writing of the Deputy Commissioner or such other officer as may be authorised by the State Government in this behalf.

(2) For contravention of any of the directions given under sub-section (1), the Deputy Commissioner may, after giving the defaulting *raiyyat* an opportunity to show cause against the action proposed to be taken, impose upon hi, by order, a fine not exceeding one hundred rupees which, if not duly paid, shall be recoverable as a public demand.

(3) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Commissioner against any order passed by the Deputy Commissioner under sub-section (2) and the decision of the Commissioner shall be final.

¹The words within the square brackets were inserted by s. 8(a)(iv) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²Sub-section (5) was substituted for the original sub-section by s. 8(b), *ibid*, w.e.f. 7.8.69.

³Section 4A was inserted by s. 4 of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

(Chapter II. - Raiyats. - Section 4B, 4C)

¹4B. Every *raiayat* holding any land shall maintain and preserve such land in such manner that its area is not diminished or its character is not changed or the land is not converted for any purpose other than the purpose for which it was settled or previously held except with the previous order in writing of the Collector under section 4C:

Maintenance and preservation of land.

Provided that any *raiayat* may plant and grow trees on any land held by him within the ceiling area applicable to him and to his family without any previous order under section 4C, if such land is not cultivated by *bargadar*:

²Provided further that without prejudice to the provisions of Chapter IIB of the Act the provisions of this section shall not apply to the diminution in area or the change of character of any land or the conversion of any land for any purpose other than the purpose for which it was settled or previously held, if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force.

³4C.(1) A *raiayat* holding any land may apply to the Collector for change of area of character of such land or for conversion of the same for any purpose other than the purpose for which it was settled or was being previously used or for alteration in the mode of use of such land.

Permission for change of area, character or use of land.

(1) On receipt of such application, the Collector may, after making such inquiry as may be prescribed and after giving the applicant or the persons interested in such land or affected in any way an opportunity of being heard, by order in writing either reject the application or direct such change, conversion or alteration, as the case may be, on such terms and conditions as may be prescribed.

(2) Every order under sub-section (2) directing change, conversion or alteration shall specify the date from which such change, conversion or alteration shall take effect.

(3) A copy of the order passed by the Collector directing change, conversion or alteration, if any, under sub-section (2), or in an appeal therefrom shall be forwarded to the Revenue Officer referred to in section 50 or section 51, as the case may be, and such Revenue Officer shall incorporate in the record-of-rights changes effect by such order and revise the record-of-rights in accordance with such order.

¹Section 4B was first inserted by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1974 (West Ben. Act XXXIII of 1974). Then, the same was substituted by s. 9 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f.7.8.69.

²The second proviso was added by s. 3 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

³Sections 4C, 4D and 4E were inserted by s. 10 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

(Chapter II.-Raiyats. - Sections 4D, 4E)

(4) If the Collector is satisfied that any land is being converted for any purpose other than the purpose for which it was settled or was being previously held, or attempts are being made to effect alteration in the mode of use of such land or change of the area of character of such land, he may, by order, restrain the *raiayat* from such act.

Offences and penalties. ¹4D. (1) Any change, conversion or alteration in the area, character or mode of use of any land, except in accordance with the provisions of section 4C, or any violation of the order of the Collector under sub- (5) of section 4C, shall be an offence punishable with imprisonment which may extend to three years or with fine which may extend to one thousand rupees or with both:

Provided that no prosecution shall lie for an offence under this sub-section in a case where an action has already been taken by the prescribed authority under sub-section (4) of section 4.

²Provided further that no prosecution shall lie for any diminution in area or change of character of any land or any conversion in the use of any land if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force:

(2) No court shall take cognizance of any offence punishable under sub-section (1) on a complaint in writing made by the Collector or by an officer authorised by him in that behalf.

Bar to registration ¹4E. 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 Government 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 if produced:

33 of 1976

16 of 1908

Provided that an application made to the Collector for permission for any such transfer made of one's own motion or for registration of a 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 the transfer.

¹See foot-note 3 on page 9, ante.

²Proviso added by s. 4 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben.

Act XXXV of 1986).

(Chapter II.-Raiyats. -Section 5.)

5. (1) A transfer of the holding of a *raiayat* or a share or portion thereof shall be made by an instrument which must be registered and the registering officer shall not accept for registration any such instrument unless-

Transfer-ability of holding of a *raiayat*

- (1) the sale price, or where there is no sale price, the value of the holding or portion or share thereof transferred, is stated therein; ¹* *
- (2) there is tendered along with it,
 - (1) a notice giving the particulars of the transfer in the prescribed form for transmission to the prescribed authority;
 - (2) such notices and process fees as may be required by sub-section (4);
- ²(c) the purpose for which the land shall be used by the transferee is stated therein; and
- ²(d) such prose for use of the land by the transferee is consistent with the purpose for which the land was settled or was being used and is not contrary to the provisions of section 4B, section 4C, section 4E or section 49.

Explanation. -The purposes under clauses (c) and (d) shall include agriculture, horticulture, animal husbandary, trade manufacture, entertainment, recreation, sport and such other purposes.

- (2) In case of bequest of such holding or portion or share thereof, no court shall grant Probate or Letters of Administration until the applicant files in the prescribed form a notice giving particulars of the bequest together with the prescribed process fee for transmission to the prescribed authority.
- (3) No court or Revenue Officer shall confirm the sale of such a holding or portion or share thereof put to sale in execution of a decree or certificate and no court shall make a decree or order absolute for foreclosure of a mortgage of such a holding or portion or share thereof, until the purchaser or the mortgagee, as the case may be, files a notice or notices similar, to, and deposits process fees of the same amount as that referred to in sub-section(1)

¹The word "and" was omitted by s. 11(1)(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²Clause (c) and (d) were inserted by s. 11(1)(b), *ibid*, w.e.f. 7.8.69.

(Chapter II. - Raiyats. - Section 6,7.)

(4) If the transfer of a portion or share of such a holding be one to which the provisions of section 8 apply, there shall be filed by the transferor or transferee notices giving particulars of the transfer in the prescribed form together with the process fees prescribed for the services thereof on all the co-shares of the said holding who are not parties to the transfer and for affixing a copy thereof in the office of the registering officer or the court house or the office of the Revenue Officer, as the case may be, as well as for affixing a copy on the holding.

(5) The court, the Revenue Officer or the registering officer, as the case may be, shall transmit the notice to the authority referred to in sub-clause (i) of clause (b) of sub-section (1) who shall serve the notices on the co-sharers referred to in sub-section (4) by registered post and shall cause copies of the notice to be affixed on the holding and in the court house or in the office of the Revenue Officer, or of the registering officer, as the case may be.

Explanation.- In this section-

- (1) "transferor",¹["transferee",] "purchaser" and "mortgagee" include their successors-in-interest, and
- (2) "transfer" does not include²[simple or usufructuary mortgage or mortgage by deposit of title deeds].

6. [(Limitation on transfer.)- Omitted by s. 5 of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972.)]

Limitation
on mortgage
of *raiayat*
holdings.

7. (1) A mortgage by a *raiayat* of his holding or any share thereof other than-
 - (a) a simple mortgage, or
 - (b) a usufructuary mortgage for a period not exceeding fifteen years,³[or].
 - ⁴(c) a mortgage by deposit of title deeds in favour of-

- (i) a scheduled bank as defined in the Reserve Bank of India Act, 1934, or

2 of 1934

¹The word within the square brackets were omitted by s. 11(2) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²The words within the square brackets were substituted for the words "partition or simple or usufructuary mortgage" by s. 4 of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

³The word "or" was inserted by s. 6(i) *ibid*.

⁴Clause(c) was first inserted by s. 6(ii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972). Then the same was substituted by s. 2 of the West Bengal Land Reforms

(Amendment) Act, 1990 (west Ben. Act XXIV of 1990).

(Chapter II.- Raiyats. - Section 7.)

- (ii) a co-operative land mortgage bank registered or deemed to be registered under any law for the time being in force, or
- 1 of 1956 (iii) a public financial institution referred to in section 4A of the Companies Act, 1956, or
- (iv) a corporation owned or controlled by the Central government or the State Government or by both the Central Government and the State Government, or
- 42 of 1958 (v) the International Finance Corporation established under the Agreement as defined in clause (a) of section 2 of the International Finance Corporation (Status, Immunities and Privileges) Act, 1958, or
- (vi) such other financial institution, by whatever name called, established or registered under any law for the time being in force, as the State Government or the Central Government may, by notification in the *Official Gazette*, specify, for the purpose of obtaining loan or financial assistance [including debenture as defined in clause (12) of section 2 of the Companies Act, 1956] for the development of the land comprised in the holding of such *raiayat* or for the improvement of any agricultural production (including horticulture or fishery) or for the development or improvement of any plantation or for the establishment or development of any industry, livestock breeding, dairy, poultry farming, commercial unit, educational centre, health centre, public recreation centre or research centre upon such land or for the promotion and holding of sports or cultural or philanthropical activity upon such land or for the construction of any housing estate for *bona fide* residential purpose or any building for providing accommodation for any office upon such land or for such other activity as the State Government may, by notification in the *Official Gazette*, specify,

shall be void.

(2) A usufructuary mortgage referred to in clause (b) of sub-section(1) may be redeemed at any time before the expiry of the period.

(Chapter.II-Raiyats. - Section 8.)

Right of purchase by co-share or contiguous tenant.

8. (1) If a portion or share of a holding of *raiyyat* is transferred to any person other than a co-sharer in the holding, ¹[the *bargadar* in the holding may, within three months of the date of such transfer, or] any co-sharer *raiyyat* of the holding may, within three months of the service of the notice given under sub-section (5) of section 5, or any *raiyyat* possessing land adjoining such holding may, within four months of the date of such transfer, apply to the ²[Munsif having territorial jurisdiction], for transfer of the said portion or share of the holding to him, subject to the limit mentioned in 3[section 14-M] on deposit of the consideration money together with a further sum of ten per cent, of that amount:

⁴Provided that if the *bargadar* in the holding, a co-sharer *raiyyat* and a *raiyyat* possessing land adjoining such holding apply for such transfer, the *bargadar* shall have the prior right to have such portion or share of the holding transferred to hi, and in such a case, the deposit made by other shall be refunded to them:

⁵[Provided further that where the *bargadar* does not apply for such transfer and] a co-sharer *raiyyat* and *raiyyat* possessing land adjoining such holding both apply for such transfer, the former shall have the prior right to have such portion or share of the holding transferred to him, and in such a case, the deposit made by the latter shall be refunded to him:

⁶[Provided also] that as amongst *raiyyats* possessing lands adjoining such holding preference shall be given to the *raiyyat* having the longest common boundary with the land transferred.

- (2) Nothing in this section shall apply to-
- (a) a transfer by exchange or by partition, or,
 - (b) a transfer by bequest or gift 7[or heba-bil-ewaz], or,

¹The words within the square brackets were inserted by s. 12(1)(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981) w.e.f. 7.8.69.

²The words within the square brackets were substituted for the words 'Revenue Officer specially empowered by the State Government in this behalf' by s. 7(i) (a) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

³The word, figures and letter within the square brackets were substituted for the words, brackets and figures "sub-section (3) of section 4" by a s. 7(i)(b), *ibid*.

⁴The proviso added by s. 12(1)(b) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act Lof 1981), w.e.f. 7.8.69.

⁵The words within the square brackets were substituted for the words "Provided that if" by S. 12(1)(c), *ibid.*, w.e.f. 7.8.69.

⁶The words within the square brackets were substituted for the words "Provided further" by s. 12(1)(d), *ibid*, w.e.f. 7.8.69.

⁷The words within the square brackets were inserted by s. 7(ii)(a) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

(Chapter II. -Raiyats. - Section 9.)

- (c) a ¹* * * mortgage mentioned in section 7, or,
 (d) a transfer for charitable or religious purposes or both without reservation of any pecuniary benefit 2[for any individual, or,]
³(e) a transfer of land in favour of a *bargadar*, in respect of such land if after such transfer, the transferee holds as a *raiyyat* land not exceeding one acre (or 0.4047 hectare) in area in the aggregate.

⁴Explanation. - All orders passed and the consequences thereof under sections 8, 9 and 10 shall be subject to the provisions of Chapter IIB.

West Ben. Act XII of 1972

⁵(3) Every application pending before a Revenue Officer at the commencement of section 7 of the West Bengal Land Reforms (Amendment) Act, 1972, shall, on such commencement, stand transferred to, and be disposed of by, the Munsif having jurisdiction in relation to the area in which the land is situated and on such transfer every such application shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

9. (1) On the deposit mentioned in sub-section (1) of section 8 being made, the 6[Munsif] shall give notice of the application to the transferee, and shall also cause a notice to be affixed on the land for the information of persons interested. On such notice being served, the transferee or any person interested may appear within the time specified in the notice and prove the consideration money paid for the transfer and other sums, if any, properly paid by him in respect of the land including any sum paid for annulling encumbrances created prior to the date of transfer, and rent or revenue, cesses or taxes for any period. The 6[Munsif] may after such enquiry as he considers necessary direct the applicant to deposit such further sum, if any, within the time specified by him and

⁶[Munsif] to allow the application and apportion lands in certain cases.

¹The word "usufructuary" was omitted by s. 7(ii) (b) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

²The words within the square brackets were substituted for the words "for any individual" by s. 12(2)(1a) of the West Bengal Land Reforms (amendment) Act, 1981 (West Ben. Act L of 1981). w.e.f. 7.8.69.

³Clause (e) was inserted by s. 12(2)(2)(a), *ibid*, w.e.f. 7.8.69.

⁴Explanation was added by s. 12(2)(b), *ibid*, w.e.f. 7.8.69.

⁵Sub-section (3) was added by s. 7(iii) of the West Bengal land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

⁶The words within the square brackets was substituted for the words "Revenue Officer" by s. 8(i), *ibid*.

(Chapter II. - Raiyats. - Section 9.)

on such sum being deposited, he shall make an order that the amount of the consideration money together with such other sums as are proved to have been paid by the transferee or the person interested plus ten per cent of the consideration money be paid to the transferee or the person interested out of the applicant. The ¹[Munsif] shall then make a further order that the portion or share of the holding be transferred to the applicant and on such order being made, the portion or share of the holding shall vest in the applicant.

(2) When any person acquires the right, title and interest of the transferee in such holding by succession or otherwise, the right, title and interest acquired by him shall be subject to the right conferred by sub-section (1) of section 8 on a co-share raiyat or a raiyat possessing land adjoining the holding.

(3) In making an order under sub-section (1) in favour of more than one co-share raiyat or raiyat holding adjoining land, a the ¹[Munsif] may apportion the portion or share of the holding in such manner and on such terms as he deems equitable.

(4) Where any portion or share of a holding is transferred to the applicant under sub-section (1), such applicant shall be liable to pay all arrears of revenue in respect of such portion or share of the holding that may be outstanding on the date of the order.

(5) The ¹[Munsif] shall send a copy of his order as modified on appeal, if any, under sub-section (6) to the prescribed authority for correction of the record-of-rights.

(6) Any person aggrieved by an order of the ¹[Munsif] under this section may appeal to the ²[District Judge] having jurisdiction over the area in which the land is situated, within thirty days from the date of such order and the ²[District Judge] shall send a copy of his order to the ¹[Munsif]. The fees to be paid by the parties and the procedure to be followed by the ²[District Judge] shall be such as may be prescribed.

³(7)Every appeal pending before an Additional District Magistrate at the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1972, shall, on such commencement, stand transferred to, and be disposed of by, the District Judge having jurisdiction in relation to the area in which the land

West Ben.
Act XII of
1972

¹See foot-note 6 on page 15, *ante*.

²The words within the square brackets were substituted for the word "Munsif" by s. 8(ii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

³Sub-section (7) was inserted by s. 8(iii), *ibid*.

(Chapter II. - Raiyats. - Section 10.12)

is situated and on such transfer, every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

West Ben.
Act XII of
1972

10. On an order under section 9 being made -

- (1) the right, title and interest of the *raiyyat* and on the transferee or of the person mentioned in sub-section (2) of section 9 who acquires any right, title and interest in the holding shall vest in the *raiyyat* whose application for transfer has been allowed by the Revenue Officer or by the Munsif¹[or, after the commencement of section 8 of the West Bengal Land Reforms (amendment) Act, 1971, by the Additional District Magistrate, or, after the commencement of the West Bengal Land Reforms (Amendment) Act, 1972, by the District Judge,] on appeal:

Conse-
quences of
an order for
transfer.

President's
Act 3 of
1971.

Provided that the transferee or the person mentioned in sub-section (2) of section 9 shall have the right to take away the crops which he might have grown on the land before the date of the order ;

- (b) the *raiyyat* whose application has been so allowed shall be liable for any revenue accruing from the date of the order.

11. (1) If the holding of a *raiyyat* or a portion of it is lost by diluvion, the revenue of the holding shall, on application made by the *raiyyat* in the prescribed form to the Revenue Officer, be remitted or abated by an amount which, in the opinion of the Revenue Officer, is fair,

Diluviated
lands.

(1) The right, title and interest of the *raiyyat* shall subsist in such holding or portion thereof during the period of loss by diluvion not exceeding twenty years and the *raiyyat* shall on its re-appearance at any time within that period have the right to possession thereof and be liable to pay such revenue as in the opinion of the Revenue Officer is fair,

²12. Any land gained by gradual accession to a holding, whether from the recess of a river or of the sea, shall vest in the State Government and the *raiyyat* who owns the holding shall not be entitled to retain such land as an accretion thereto.

Land gained
by recess of
river or sea.

¹The words, figures and brackets within the square brackets were inserted by s. 9 of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

²Section 12 was substituted for the original section by s. 5 of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

(Chapter II. - Raiyats. - Section 13,14)

13. [Restriction on alienation of land by Scheduled Tribes. - Omitted with retrospective effect by s. 6 of the West Ben. Act XVIII of 1965.]

Partition of holding among co-sharer *rai-yats*.

14. (1) Partition of a holding among co-share *rai-yats* owning it shall be made either by -
 (2) a registered instrument; or
 (3) a decree or order of a court.

(2) When partition is effected by an instrument, the registering officer shall not accept for registration any such instrument unless there is tendered along with it a notice, giving the particulars of the holding and the area of each share, and such process fee as may be prescribed, for transmission to the prescribed authority.

(3) If as a result of partition one or more shares comprise an area less than the standard area -

- (1) the prescribed authority in a case where partition is effected by a registered instrument, or
- (2) the court passing the decree or order for partition,

shall recast the shares, excluding the homestead of the co-shares, so that no share is less than the standard area, and sell such shares, or when the holding comprises an area which cannot be partitioned into two or more shares, each comprising not less than the standard area, sell the entire holding to the highest bidder or bidders among the co-shares, or failing them to other persons, and the sale proceeds shall, after deducting the expenses for conducting the sale, be paid to the co-sharers in accordance with their shares in the holding partitioned, excluding the homestead.

(4) If the holding or any share or shares thereof cannot be sold as aforesaid, the prescribed authority or the court shall report the case to the State Government and the State Government shall, by order made in this behalf, take over such holding or share or shares and shall place at the disposal of the prescribed authority or the court, as the case may be, the market value thereof for payment to the co-shares in the manner indicated in sub-section (3).

(5) For the purpose of preventing fragmentation of holdings as a result of partition the State Government may by order made in this behalf specify an area, which in its opinion is the minimum unit for effective ¹[utilisation] in the interest of ²* * * production ³[or in the public interest], as the standard area, and different standard areas may be specified for different localities or for different classes of land.

¹The word within the square brackets was substituted for the word "cultivation" by s. 13(1)(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²The word "agricultural" was omitted by s. 13(1)(b), *ibid.*, w.e.f. 7.8.69.

³The words within the square brackets were inserted by s. 13(1)(c), *ibid.*, w.e.f. 7.8.69

(Chapter IIA. - Restrictions on Alienation of land by Scheduled Tribes. - Section 14A-14C.)

¹(6) Notwithstanding anything contained in any other law for the time being in force or in any agreement or any custom or usage or any decree, judgement or award of any court, no partition amongst co-sharer *raiyats* and co-parceners of a Hindu Undivided family governed or claiming to be governed by the *Mitakshara* School of Hindu Law shall have any force unless such partition is made by registered instrument or by a decree or order of a court and is effect by metes and bounds; and both the conditions have been fulfilled, any such partition shall be deemed to have come into force from the date of registration of the deed of partition or the date of final decree or other of a Court, as the case may be, or from the date of effecting partition by metes and bounds, whichever is later.

²CHAPTER IIA.

²14A. The provisions of the Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act.

Provisions of Chapter IIA to override other provisions of this Act.

²14B. Save as provided in section 14C, any transfer by a *raiyat* belonging to a Scheduled Tribe of his holding or part thereof shall be void.

Restrictions on alienation of land by Scheduled Tribes.

²14C. (1) A *raiyat* belonging to Scheduled Tribe may transfer his holding or part thereof in any one of the following ways, namely:-

Modes of transfer of land by Scheduled Tribes.

- (1) by a complete usufructuary mortgage entered into with a person belonging ³[to a Schedule Tribe] for a period not exceeding seven years ;
- (2) by sale or gift to the Government for a public or charitable purpose ;
- (3) by simple mortgage to the Government or to a registered co-operative Society ;

¹Sub-section (6) added by s. 13(2) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²Chapter IIA containing sections 14A to 14I was inserted by s. 7 of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

³The words within the square brackets were substituted for the words " to the same Scheduled Tribe to which the transferor belongs" by s. 10(i)(a) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

(Chapter IIA. - Restrictions on Alienation of land by Scheduled Tribes. - Section 14C.)

¹(cc) by simple mortgage or mortgage by deposit of title deeds in favour of a scheduled bank, a co-operative land mortgage bank or a corporation, owned or controlled by the Central or State Government, or by both, for the development of land or improvement of agricultural production ;

²(d) by gift or will to a person belonging to a Scheduled Tribe ;

³(e) by sale or exchange in favour of any person belonging to a Scheduled Tribe :

Provided that any such *raiyyat* may, with the previous permission, in writing, of the Revenue Officer, transfer by sale his holding or any part thereof to a person not belonging to any Scheduled Tribe:

Provided further that no such permission shall be granted by the Revenue Officer unless he is satisfied that no purchaser belonging to a Scheduled Tribe is willing to pay the fair market price of the holding or any part thereof and that the proposed sale is intended to be made for one or more of the following purposes, namely :-

- (4) for the improvement of any other part of the holding, or
- (5) for investment, or
- (6) for such other purposes as may be prescribed.

⁴* * * * *

(3) A complete usufructuary mortgage referred to in sub-section (1) may be redeemed at any time before the expiry of the term.

(4) A mortgagor under a complete usufructuary mortgage intending to redeem such mortgage before the expiry of its term or any person acting on his behalf, may make an application for redemption in such form and containing such particulars as may be prescribed to the Revenue Officer. On receipt of such application the Revenue Officer shall after service of notice to the mortgagee make an enquiry in the prescribed manner and pass a preliminary order declaring the amount due under such mortgage to the mortgagee at the date of such order and fixing a

¹Clause (cc) was inserted by S. 10(i)(b) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

²Clause (d) was substituted for the original clause by s. 2 of the West Bengal Land Reforms (Second Amendment) Act, 1972 (West Ben. Act XXVIII of 1972).

³Clause (e) was substituted for the original clause by s. 10(i)(c) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

⁴Sub-section (2) was omitted by s. 10(ii), *ibid.*

(Chapter IIA. - Restrictions on Alienation of land by Scheduled Tribes. - Section 14D.)

date for payment of such amount by the mortgagor. If the mortgagor pays such amount by the date so fixed the Revenue Officer shall make a final order directing the mortgagee to restore possession of the mortgaged property and to deliver up the mortgage-deed, to the mortgagor.

(5) A final order made under sub-section (4) shall be executed by the Revenue Officer in such manner as may be prescribed.

Explanation. - In this section "complete usufructuary mortgage" means a transfer by a *raiyat* of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage.

¹14D (1) No transfer of any land or any interest in such land by a *raiyat* belonging to a Scheduled Tribe shall be valid unless made by a registered instrument.

16 of 1908 (2) Notwithstanding anything contained in the Registration Act, 1908 or in any other law for the time being in force, no instrument of transfer or dealing with land or interest in such land by a *raiyat* belonging to the Scheduled Tribe made in contravention of the provisions of this Chapter shall be recognised as valid by any court, officer or authority exercising civil, criminal or revenue jurisdiction and no registering officer shall register any such instrument unless he is satisfied that the instrument does not contravene any of the provisions of this Chapter.

Transfer in contravention of Chapter IIA shall not be valid unless registered.

(3) If, in course of registration of any instrument referred to in sub-section (2) or in any proceeding relating to the registration of such instrument or in any proceeding before any civil, criminal or revenue court, any question arises as to whether the *raiyat* executing such instrument belongs to the Scheduled Tribe or as to whether such instrument has been made in contravention of the provisions of this Chapter, the registering officer or other officer or authority exercising powers under the Registration Act 1908 or the civil, criminal or revenue court before whom such question arises, shall refer such question to the Revenue Officer referred to in section 14C and shall give effect to the decision of the Revenue Officer.

¹Section 14D was substituted for the original section by s. 14 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

(Chapter IIA.-Restrictions on alienation of land by scheduled

Tribes. -Section 14E.)

Power to
Revenue
Officer to set
aside
improper
transfers by
raiyat.

¹14E. (1) If a transfer of holding or any portion thereof is made by a *raiyat* belonging to a Scheduled Tribe in contravention of the provisions of section 14C, ²[or if the permission for the transfer is found, after an inquiry in the prescribed manner, to have been obtained by misrepresentation or fraud] of if in the case of a complete usufructuary mortgage referred to in clause (a) ³* * * of sub-section (1) of section 14C, the transferee has continued or is in possession for more than seven years from the date of the transfer, the Revenue Officer may, of his own motion or on an application made in that behalf, and after giving the transferee an opportunity of being heard, by an order in writing, ⁴[annual the transfer, where necessary, and] eject the transferee from such holding or part thereof :

Provided that the transferee whom it is proposed to eject has not been in continuous possession for ⁵[thirty years] under the transfer made in contravention of section 14C, or in the case of a complete usufructuary mortgage referred to in clause (a) ³* * * of sub-section (1) of section 14C, for ⁵[thirty years] from the expiry of the ⁶[period of seven years, notwithstanding anything contained in the Limitation Act, 1963].

Act 36 of
1963

(2) When the Revenue officer has passed any order under sub-section (1), he shall restore the transferred holding or part thereof to the transferor or his successor-in-interest.

⁷(3) For the purpose of restoration of possession of any land and evicting any person in actual occupation of such land under sub-section (2), any such Revenue Officer may use such force as may be required for evicting the person in action occupation of such land and may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station having jurisdiction or to any police officer superior in rank to such officer-in-charge, and on receipt of such written requisition, the police officer concerned shall render all necessary lawful assistance for enforcing delivery of possession of such land :

¹See foot-note 2 on page 19, *ante*.

²The words within the square brackets were inserted by s. 11(i) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

³The words, brackets and letter "or clause (e)" were omitted by s. 11(ii), *ibid*.

⁴The words within the square brackets were inserted by s. 11(iii), *ibid*.

⁵The words within the square brackets were substituted for the words "twelve years" by s. 15(1)(a) of the West Bengal land reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

⁶The words and figures within the square brackets were substituted for the words "period of seven years" by s. 15(1)(n), *ibid*, w.e.f. 7.8.69.

⁷Sub-section (3) was inserted by s. 15(2), *ibid*, w.e.f. 7.8.69.

(Chapter IIA.-Restrictions on alienation of land by scheduled

Tribes. -Section 14F-14G.)

Provided that the provisions of this sub-section shall not be applicable to any person not belonging to the Scheduled Tribe, if he has been owning, possessing or cultivating land not exceeding 0.4047 hectare in area in the aggregate and the transfer was made by a member of the Scheduled Tribe owning, possessing or cultivating land measuring 4 hectares or more in area in the aggregate.

¹14F. ²(1) No decree or order shall be passed by any court for the sale of the holding or any portion thereof, of a *raiyat* belonging to a Scheduled Tribe nor shall any such holding be sold in execution of any decree or order.

Restriction on the sale of *raiyat's* holding or any portion thereof.

5 of 1908
9 of 1872

²(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908 and the Indian Contract Act, 1872, no decree or order relating to any land or interest in such land shall be passed by any court against a *raiyat* belonging to a Scheduled Tribe on the basis of any consent, agreement or compromise. Any such decree or order passed in contravention of this sub-section shall be void.

4 of 1882

³14FF. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 or in any other law for the time being in force, any *benami* transaction or instrument relating to any land or any interest therein showing the name of any person belonging to a Scheduled Tribe as the ostensible owner shall be void for all purposes.

Benami transaction or instrument to be void

(2) No Court shall entertain any suit to enforce any right in respect of any such land or interest in such land against a person belonging to a Scheduled Tribe by or on behalf of a person claiming to be the real owner of such land or interest therein.

Ben. Act III
of 1913.

¹14G. (1) When a certificate is filed for the recovery of an arrear of revenue or any other public demand recoverable under the Bengal Public Demands Recovery act, 1913, in respect of the holding of a *raiyat* belonging to a Scheduled Tribe, the Certificate Officer shall, before proclamation for sale of the holding is issued in execution of the certificate, refer the case to the Revenue Officer having jurisdiction who may, in his discretion, -

Power to the Revenue Officer to settle or sell holding for realisation of certificate dues.

- (a) eject the defaulting *raiyat* from his holding and put another person belonging to a Scheduled Tribe in possession of the holding for a period not exceeding seven years on payment of the amount due in respect to the certificate by him ; or

¹See foot-note 2 on page 19, *ante*.

²Section 14F was renumbered as sub-section (1) of that section and after section 14F as so renumbered, sub-section (2) was added by S. 16 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

³Section 14FF was inserted by s. 17, *ibid*, w.e.f. 7.8.69.

(Chapter IIA.-Restrictions on alienation of land by scheduled Tribes. -Section 14H, 14HH.)

- (b) sell the holding to a member of a Scheduled Tribe, if available, and if not available, to any other person at a fair market price to be fixed by the Revenue officer, not being less than the amount due in respect of the certificate :

Provided that if the homestead of the defaulting raiyat is comprised in the holding, he shall not be ejected from such homestead under clause (a), nor shall such homestead be sold under clause (b).

- (2) (i) If the Revenue Officer puts any person in possession of the holding under clause (a) of sub-section (1) for any period, the amount paid by such person shall, at the end of such period, be deemed to have been satisfied in full, and the Revenue officer shall then restore the holding to the defaulting *raiyyat* ;
- (ii) if the Revenue Officer sells the holding under clause (b) of sub-section 91), any amount that may remain out of the sale-proceeds after satisfaction of the amount due in respect of the certificate shall be paid to the defaulting *raiyyat*.

Appeal and revision.

¹14H. An appeal, if presented within thirty days from the date of the order appealed against, shall lie ²[to the Munsif having jurisdiction] from any order made under sub-section (4) of section ³[14C or section 14E] or section 14G and his order shall be final :

Provided that an application for revision or modification of the order passed by the ⁴[Munsif on appeal shall lie to the District Judge] if made within sixty days from the date of the order :

Provided further that the provisions of section 5 of the Limitation Act, 1963, shall apply to an appeal under this section.

Act 36 of 1963.

Setting aside of sale of land of a *raiyyat* belonging to a Scheduled Tribe.

⁵14HH. Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, every court exercising appellate or revisional jurisdiction shall, either of its own motion or on an application made in this behalf, set aside the sale of land of a *raiyyat* belonging to a Scheduled Tribe or any portion of such land in execution of a decree in favour

5 of 1908

¹See foot-note 2 on page 19, *ante*.

²The words within the square brackets were substituted for the words "to the Collector of district" by s. 12(i) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

³The figures, letters and words within the square brackets were substituted for the figures and letter "14C" by s. 12(ii), *ibid*.

⁴The words within the square brackets were substituted for the words "Collector on appeal shall lie to the Commissioner" by s. 12(iii), *ibid*.

⁵This section was inserted by s. 3 of the West Bengal Land Reforms (Second Amendment) Act, 1986 (West Ben. Act XIX of 1986).

(Chapter IIA. - Restrictions on alienation of land by Scheduled

*Tribes. - Sections 14I. - Chapter IIB.-Ceiling on Holdings. -
Sections 14J, 14K.)*

of a person not belonging to a Scheduled Tribe, notwithstanding the failure of the party to file any objection before the court which passed the decree or passed any order for execution of the decree.

¹14I. No suit shall lie in any Civil Court to vary or set aside any order passed by the Revenue Officer in any proceeding under this Chapter except on the ground of fraud or want of jurisdiction.

Bar to suits

²CHAPTER IIB Ceiling on Holdings

³14J. The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force or in any custom, usage or contract (express or implied) or in any agreement, decree, order, decision or award of any court, tribunal or other authority:

Provisions of Chapter IIB to have overriding effect

33 of 1976 Provided that nothing in this Chapter shall apply to any vacant land in an urban agglomeration as defined in the urban Land (Ceiling and Regulation) Act, 1976.

²14K. In this Chapter, -

Definitions.

- (a) "Ceiling area" means the extent of land which a *raiyat* shall be entitled to own ;
- (b) "Charitable purpose" includes relief of the poor, medical relief or the advancement of education or of any other object of general public utility ;
- (c) "family", in relation to a *raiyat*, shall be deemed to consist of -
 - (1) himself and his wife, minor sons, unmarried daughters, if any,
 - (2) his unmarried adult son, if any, who does not hold any land as a *raiyat*,
 - (3) his married adult son, if any, where neither such adult son nor the wife nor any minor son or unmarried daughter of such adult son holds any land as a *raiyat*,

¹See foot-not 2 on page 19, *ante*.

²Chapter IIB consisting of sections 14J to 14Y was inserted by s. 13 of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

³Section 14J was first substituted by s. 18 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981). Thereafter, the same was resubstituted by s. 5 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

(Chapter IIB. - Ceiling on Holdings. - Section 14K.)

- (iv) widow of his predeceased son, if any, where neither such widow nor any minor son or unmarried daughter of such widow holds any land as a *raiyat*,
- (5) minor son or unmarried daughter, if any, of his predeceased son, where the widow of such predeceased son is dead and any minor son or unmarried daughter of such predeceased son does not hold any land as a *raiyat*.

but shall not include any other person.

Explanation I. - For the purposes of this Chapter, an adult unmarried Person shall include a man or woman who has been divorced and who has not remarried thereafter :

Provided that where such divorced man or woman is the guardian of any minor son, or unmarried daughter, or both, he or she, together with such minor son or unmarried daughter, or both, shall be deemed to be a separate family.

Explanation II. - References in this clause to wife , son or daughter shall, in relation to a raiyat who is a woman, be construed as references to the husband, son or daughter, respectively, of such woman ;

- (d) "Irrigated area" means an area specified as such by the State Government, by notification in the Official Gazette, being an area which is, or is in the opinion of the State Government capable of being, irrigated, at any time during the agricultural year commencing on the 1st day of Baisakh, 1377 B.s. 1[or thereafter, from any State canal irrigation project or 2(State power-driven deep tubewell or shallow tubewell or any other State irrigation project) or State riverlift irrigation project] ;
- (e) "Orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for 3[any other] purpose ;

¹The words within the square brackets were substituted for the words ", from any State canal irrigation project or State (power driven deep tubewell) irrigation project" by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1974 (West Ben. Act XXXIII of 1974).

²The words within the first brackets were substituted for the brackets and words "State (power driven deep tubewell) or State (power driven shallow tubewell)" by s. 19(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

³The words within the square brackets were substituted for the word "any agricultural" by s. 19(b), *ibid.*, w.e.f. 7.8.69.

(Chapter IIB.-Ceiling on Holdings. -Sections 14L, 14M)

- (f) "Standard hectare" means, -
- (1) in relation to an agricultural land, an extent of land equivalent to-
 - (1) 1.00 hectare in an irrigated area,
 - (2) 1.40 hectares in any other area;
 - (ii) In relation to any land comprised in an orchard, an extent of land equivalent to 1.40 hectares ;
 - ¹(iii) in relation to any other land, an extent of land equivalent to 1.40 hectares.

²14L. ³[Subject to the provisions of sub-section (3) of section 14Q. Section 14Y and sub-section (2) of section 14Z, on and from the commencement] of the provisions of this Chapter, no *raiyat* shall be entitled to own, in the aggregate, any land in excess of the ceiling area applicable to him under section 14M.

No *raiyat* to hold land in excess of the ceiling area.

²14M. (1) The ceiling area shall be, -

Ceiling area.

- (1) in the case of a *raiyat*, who is an adult unmarried person, 2.50 standard hectares;
- (2) in the case of a *raiyat*, who is the sole surviving member of a family, 2.50 standard hectares ;
- (3) in the case of a *raiyat* having a family consisting of two or more, but not more than five members, 5.00 standard hectares ;
- (4) in the case of a *raiyat* having a family consisting of more than five members, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area for such *raiyat* shall not, in any case, exceed 7.00 standard hectares ;
- (5) in the case of any other *raiyat*, 7.00 standard hectares.

(2) Notwithstanding anything contained in sub-section (1), where, in the family of a *raiyat*, there are more *raiyats* than one, the ceiling area for the *raiyat*, together with the ceiling area of all the other *raiyats* in the family shall not, in any case, exceed, -

- (a) where the number of members of such family does not exceed five, 5.00 standard hectares :

¹Sub-clause (iii) was inserted by s. 6 of the West Bengal Land Reforms (Third Amendment) Act. 1986 (West Ben. Act XXXV of 1986).

²See foot-note 2 on page 25, ante.

³The words, figures, letters and brackets within the square brackets were substituted for the words "on and from commencement" by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1996 (West Ben. Act XXIV of 1996).

(Chapter. IIB- Ceiling on Holdings. - Section 14M.)

(b) where such number exceeds five, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area shall not, in any case, exceed 7.00 standard hectares.

(3) For the purposes of sub-section (2), all the lands owned individually by the members of a family or jointly by some or all the member of such family shall be deemed to be owned by the *raiyats* in the family.

(4) In determining the extent of land owned by the raiyats in a family or the sole surviving member of a family or an adult unmarried person, the share of such *raiyat* or *raiyats*, or such sole surviving member, or such adult unmarried person, as the case may be, in the lands owned by a co-operative society, company, co-operative farming society, Hindu undivided family or a firm shall be taken into account.

Explanation. - For the purposes of this sub-section, the share of a *raiyat* in a family or the sole surviving member of a family or an adult unmarried person in the lands owned by a co-operative society or a joint family shall be deemed to be the extent of land which would be allotted to such *raiyat* or person had such lands been divided or partitioned, as the case may be.

¹(5) The lands owned by a trust or endowment other than that of a public nature, shall be deemed to be lands owned by the author of the trust or endowment and such author shall be deemed to be a *raiyat* under this Act to the extent of his share in the said lands, and the share of such author in the said lands shall be taken into account for calculating the area of lands owned and retainable by such author of the trust or endowment, and for determining his ceiling area for the purposes of this Chapter.

Explanation.- The expression "author of trust or endowment" shall include the successors-in-interest of the author of such trust or endowment.

²(6) Notwithstanding anything contained in sub-section (1), a trust or an institution of public nature exclusively for a charitable or religious purpose or both shall be deemed to be a *raiyat* under this Act and shall be entitled to retain lands not exceeding 7.00 standard hectares, notwithstanding the number of its centres or branches in the State.

¹Sub- section (5) was substituted for the original sub-section by s. 20(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²Sub-section (6) was inserted by S. 20(b), *ibid.*

(Chapter IIB. - Ceiling on Holdings. - Sections 14N-14P.)

¹14N. (1) If any question arises as to whether any land is or is not within an irrigated area, such question shall be determined by the prescribed authority in such manner as may be prescribed.

Determination of irrigated area.

(2) The State Government shall prescribe such authority as it may think fit for the determination of the question referred to in sub-section (1).

¹14-O. (1) Any person who is aggrieved by any determination made by the prescribed authority under section 14N may, within thirty days from the date of such determination or within such further time as the appellate authority may, on sufficient cause being shown, allow, prefer an appeal to such authority as the State Government may, by notification in the *Official Gazette*, specify in this behalf, against such determination.

Appeal.

(2) On receipt of such appeal, the appellate authority may, after giving a reasonable opportunity to the appellant of being heard, confirm, modify or reverse the determination made by the prescribed authority.

²14P. (1) In determining the ceiling area, any land transferred by sale, gift or otherwise or partitioned, by a *raiyat* after the 7th day of August, 1969 but before the date of publication of the West Bengal Land Reforms (Amendment) Act, 1971 in the *Official Gazette*, shall be taken into account as if such land had not been transferred or partitioned, as the case may be :

Land transferred after the 7th day of August, 1969 to be taken into account in

Provided that provisions of sub-section(1) shall not apply to transfer or partition of land to which provisions of section 3A apply.

(1a) In determining the ceiling area, any land to which the provisions of section 3A of this Act apply and which was transferred or partitioned after 7th Day of August, 1969, but before the 9th Day of September, 1980, shall be taken into account as if such land had not been transferred or partitioned, as the case may be.

(2) The provisions of sub-section (1a) shall not apply to a *bona fide* transfer or partition of any land as aforesaid, and the burden of proving the *bona fides* of such transfer or partition shall lie on the transferor or the person in whose name the land stood recorded before the partition, as the case may be.

¹See foot-note 2 on page 25, ante.

²Section 14P was substituted for the original section by s. 7 of the West Bengal Land Reforms (third Amendment) Act, 1986 (West Ben. Act XXXV of 1986). Prior to this substitution, the words, brackets and figures "West Bengal Land Reforms (Amendment) Act, 1981" were substituted for the words, brackets and figures "West Bengal Land Reforms (amendment) Act, 1971" by s. 21 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

(Chapter IIB. - Ceiling on Holdings. - Sections 14Q.)

(3) For the purposes of sub-section (2), the transfer of any land in favour of one or more of the following relatives of the transferor shall be presumed to be not bona fide :-

- (1) wife, or
- (2) husband, or
- (3) child, or
- (4) grand child, or
- (5) parent, or
- (6) grand parent , or
- (7) brother, or
- (8) sister, or
- (9) brother's son or daughter, or
- (10) sister's son or daughter, or
- (11) daughter's husband, or
- (12) son's wife, or
- (13) wife's brother or sister, of
- (14) brother's wife.

Ceiling area
in special
cases.

¹14Q. (1) Subject to the provisions of sub-section (2), the ceiling area for a co-operative society, company, co-operative farming society, Hindu undivided family or a firm, as the case may be, shall not exceed the sum total of the ceiling areas of each member of such co-operative society, company, co-operative farming society, Hindu undivided family or each partner of such firm:

Provided that for the purpose of determining the ceiling area referred to in this sub-section, any land held separately by a person, who is a member of a co-operative society, company, co-operative farming society or Hindu undivided family or a partner of a firm, shall be deducted from the ceiling area referred to in section 14M, so that the sum total of the area of land held by such person, whether as such member or partner or individually or as a member of a family, may not, in any case, exceed the ceiling area applicable to him under section 14M.

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¹See foot-note 2 on page 25, ante.

²Sub-section (2A) was inserted by s. 4 of the West Bengal Land Reforms (Amendment) Act, 1974 (West Ben. Act XXXIII of 1974). Thereafter, sub-section (2) and sub-section (2A) was simultaneously omitted by s. 22(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

(Chapter IIB. - Ceiling on Holdings. - Sections 14R 14S.)

(3) If the State Government, after having regard to all the circumstances of the case, is satisfied that a corporation or institution established exclusively for a charitable or religious purpose, or both, or a person holding any land in trust, or in pursuance of any other endowment, creating a legal obligation exclusively for a purpose which is charitable or religious, or both, requires land, as district from the income ¹[or usufructs] derived from such land, for the due performance of its obligations, it may, by notification in the *Official Gazette*, increase the ceiling area for such corporation or institutions or persons to such extent as it may think fit:

²Provided that the State Government may, at any time on its own motion or on an application, revise an order under this sub-section and may resume the whole or may part of land in excess of the ceiling are and take possession of such resumed land after giving the parties concerned an opportunity of being heard.

³14R. The provisions of section 14M shall not apply -

Exemption.

(a) to any land owned as a *raiyat* by a local authority of ⁴[an] authority constituted or established by ⁵[or under] any law for the time being in force ;

(b) for such period as may be specified by the State Government, by notification in the *Official Gazette*, to any land in such hilly portion of the district of Darjeeling as may be specified in the said notification.

³14S. (1) On the commencement of the provisions of this Chapter ⁶[or on any subsequent date] any land owned by a *raiyat* in excess of the ceiling area applicable to him shall vest in the State free from all incumbrances.

Vesting of land in excess of ceiling area.

¹The words within the square brackets were inserted by s. 22(b) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²Proviso was added by s. 22(c), *ibid.*

³See foot-note 2 on page 25, *ante.*

⁴The word within the square brackets were substituted for the words "any body or" by s. 23(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

⁵The words "or under" were omitted by s. 23(b), *ibid.*, Later, the same words were inserted by s. 8 of the West Bengal Land Reforms (third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

⁶The words within the square brackets were inserted by s. 9 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

(Chapter IIB. - Ceiling on Holdings. - Sections 14SS, 14T.)

(2) Where any land vested in the State under sub-section 91) is being cultivated by a *bargadar*, the right of cultivation of such *bargadar* in relation to any such vested land which, including any other land owned or cultivated by him is in excess of ¹[0.4047] hectare of land used for agriculture], shall, on the commencement of the provisions of this Chapter ²[or on any subsequent date], stand terminated.

(3) Every *bargadar* shall, in relation to the land which he is authorised by sub-section (2) to retain under his cultivation, become, on and from the date of commencement of the provisions of this Chapter ²[or on any subsequent date], a *raiyyat*.

Power to enter upon and take possession of vested land.

³14SS. (1) Upon vesting of any land in the State under any of the provisions of this Act, the Revenue Office or the prescribed authority or any other officer or authority who makes the order of vesting shall enter upon and take possession of such vested land by using such force as may be necessary for this purpose.

(2) Any Revenue officer, prescribed authority or any other officer or authority empowered in this behalf, may enter upon and take possession of any other vested land by using such force as may be necessary for this purpose.

(3) For the purpose of entering upon such land and taking possession thereof, any such officer or authority may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station or to any police officer superior in rank to such officer-in-charge, and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for taking possession of such land.

Duty of *raiyyat* to furnish return.

⁴14T. (1) Every *raiyyat* owning land in excess of the ceiling area shall furnish to the Revenue Officer, in such form and within such time as may be prescribed, a return containing the full description of the land which he proposes to retain within the ceiling area applicable to him under section 14M and a full description of the land which is in excess of the ceiling area and such other particulars as may be prescribed.

¹The figures and words within the square brackets were substituted for the figures and word "1.00 hectare" by s. 24 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²See foot-note 6 on page 31, *ante*.

³Section 14SS was inserted by s. 25 of the West Bengal Land Reforms (amendment) Act, 1981 (West ben. Act L of 1981), w.e.f. 7.8.69.

⁴See foot-note 2 on page 25, *ante*.

(Chapter IIB. - Ceiling on Holdings. - Sections 14T.)

(2) Where there are more *raiyats* than one in a family, the return referred to in sub-section (1) shall be furnished by the head of the family or any other *raiyat* in accordance with the provisions of that sub-section.

(3) The Revenue Officer may, on receipt of a return submitted under sub-section (1) or sub-section (2), or on his own motion, determine the extent of land which is to vest in the State under section 14S and take possession of such lands:

¹Provided that where a *raiyat* has exercised his choice of retention of land within the ceiling area in such a way that portions of more than one plot are to vest in the State, the Revenue Officer may disregard the choice exercised by the *raiyat* and may, after giving the *raiyat* an opportunity of being heard, determine the plot or, where necessary, plots of land proposed to be retained by the *raiyat* from which an area equal to the area of the portions of the plots shown in the return to be in excess of the ceiling area, is to vest in the State and take possession of such land:

²Provided further that in the case of mortgage by a *raiyat* by deposit of title deeds under clause (c) of sub-section (1) of section 7, such *raiyat* shall first retain the land comprised in his holding and mortgaged by him within the ceiling area and where the total area of any land comprised in his holding and mortgaged by him exceeds the ceiling area, such portion of the land so mortgaged as is in excess of the ceiling area, together with any other land owned by him but not so mortgaged, shall vest in the State free from all incumbrances.

³(3A) The Revenue Officer may of his own motion and after giving the *raiyat* an opportunity of being heard, revise an order made under sub-section (3) and determine afresh the extent of land which is to vest in the State under section 14S and take possession of such land:

Provided that application made to the Revenue Officer prior to the commencement of the West Bengal Land Reforms (Amendment) Act, 1978 shall be disposed of by the Revenue Officer in accordance with the provisions of this sub-section.

¹The proviso was added by s. 5 of the West Bengal Land Reforms (Amendment) Act, 1974 (West Ben. Act XXXIII of 1974).

²The proviso was added by s. 3 of the West Bengal Land Reforms (Amendment) Act 1990 (West Ben. Act XXIV of 1990).

³Sub-section (3A) was first inserted by s. 2(1) of the West Bengal Land Reforms (Amendment) Act, 1976 (West Ben. Act XII of 1976). Later, the same was substituted by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1978 (West Ben. Act XXXIX of 1978).

(Chapter IIB. - Ceiling on Holdings. - Sections 14T.)

(4) If a *raiyat* fails to furnish, without any reasonable excuse, the return referred to in sub-section (1), or sub-section (2), within the prescribed time or wilfully makes any omission or incorrect statement in such return, he shall be punishable¹[with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both].

²(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 and vesting of surplus land over the ceiling area.

²(6) 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 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 as may be necessary to determine the extent of land which is to vest in the State under section 14S, by examination of documents, if any, or by taking into account the following, among others :-

- (1) actual user of income or usufructs of the land,
- (2) mode of cultivation,
- (3) pattern of utilisation of the land, and
- (4) share of income or usufructs of the land appropriated or enjoyed, or the area of such land occupied or enjoyed, by or on behalf of the manager, *sebait*, *mutwalli*, or any other person managing the trust, endowment or institution.

¹(7) Any person aggrieved by any order made under sub-section (3), (3A), (5) or (6) may prefer an appeal under section 54.

¹The words within the square brackets were substituted for the words "with fine which may extend to one thousand rupees" by s. 2(2) of the West Bengal Land Reforms (Amendment) Act, 1976 (West Ben. Act XII of 1976).

²Sub-section (5), (6), (7), (8) and (9) were inserted by s. 26 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981). Thereafter, sub-section (5) was substituted by s. 10(a) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

(Chapter IIB. - Ceiling on Holdings. - Sections 14T.)

West Ben.
Act 1 of
1954.

¹(8) Notwithstanding anything contained in this Act or in the West Bengal Estates Acquisition Act, 1953 or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgement, decision or award of any court, tribunal or authority, the provisions of sub-sections (5), (6), and (7) shall operate with retrospective effect from the 5th day of May, 1953.

¹(9) Sub-sections (5), (6), (7) and (8) of this section shall be deemed to have always been inserted in the West Bengal Estates Acquisition Act, 1953. Any officer specially empowered in this behalf under the provision of the West Bengal Estates Acquisition Act, 1953 or under the provisions of this Act, may, in exercise of the powers conferred by sub-sections (5) to (8), re-open and decide afresh any proceeding, case or dispute in relation to determination of total land held by an intermediary or a *raiyat* or an *under-raiyat* at any point of time or may determine the quantum of land such intermediary, *raiyat* or *under-raiyat* was or is entitled to retain and also may determine the extent of land which is to vest in the State or which shall remain vested in the State and shall take possession of such land in accordance with the provisions of section 14SS. Notwithstanding any judgement, decision or award of any court, tribunal or authority to the contrary, the rule of *resjudicata* shall not apply to such cases of re-opening and fresh determination.

²(10) Notwithstanding any return submitted by a *raiyat* under sub-section (1) or sub-section (2) and notwithstanding any order passed by the Revenue Officer under sub-section (3) or sub-section (3A) in respect of the land owned by him, the State Government may, at any time by a notification in the *Official Gazette*, as every *raiyat* owning land in excess of the ceiling area under section 14M to furnish to the Revenue Officer, in such form as may be prescribed and within such time as may be specified in the notification, a return containing the full description of the land which he proposes to retain within the ceiling area application to him under section 14M and a full description of the land which is in excess of the ceiling area and such other particulars are may be prescribed.

²(11) On the publication of the notification under sub-section (10), the provisions of this section shall apply *mutatis mutandis* to every *raiyat* owning land in excess of the ceiling area under sub-section 14M.

¹See foot-note 2 on page 34, *ante*.

²Sub-sections (10) and (11) were inserted by s. 10(b) of the West Bengal Land Reforms (Third

Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

(Chapter IIB. - Ceiling on Holdings. - Sections 14U.)

Restriction
on transfer
of land by a
raiyat.

¹14U. (1) Except where he is permitted, in writing, by the Revenue Officer so to do a *raiyat* owning land in excess of the ceiling are applicable to him under section 14M, shall not, after the publication, in the *Official Gazette*, of the ²[West Bengal Land Reforms (Amendment) Act, 1971], transfer, by sale, gift or otherwise or make any partition of any land owned by him or any part thereof until the excess land, which is to vest in the State under Section 14S, has been determined and taken possession of by or on behalf of the State :

³Provided that nothing in this sub-section shall apply to any land to which the provisions of section 3A apply:

³Provided further that if a *raiyat* has transferred any land which he retained in pursuance of any order of the Revenue Officer under sub-section (3) or sub-section (3A) of section 14T, such land shall be taken into account in determining, on any subsequent occasion, the ceiling area of the said *raiyat* in pursuance of the provisions of this Act, as if such land had not been transferred.

⁴(2) Except where he is permitted, in writing, by the Revenue Officer so to do, a *raiyat* owning land to which the provisions of section 3A apply, whether or not such land together with other land, if any, is in excess of the ceiling area under section 14M, shall not on and from the date of coming into force of section 3a of the Act, transfer by sale, gift or otherwise, or make any partition of, any such land or any part thereof until the excess land, if any, which is to vest in the State under section 14S has been determined or re-determined and taken possession of by or on behalf of the State.

⁵(3) If a *raiyat* makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1) or sub-section (2), 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 :

¹See foot-note 2 on page 25 *ante*.

²The words, figures and brackets "West Bengal Land Reforms (Amendment) Act 1981" were first substituted for the words, figures and brackets "West Bengal Land Reforms (Amendment) Act, 1971" by s. 27 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal. Act L of 1981). Thereafter, the words, figures and brackets within the square brackets were substituted for the words, figures and brackets " West Bengal Land Reforms (Amendment) Act, 1981" by s. 11(a)(i) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

³The provisos were added by s. 11(a)(ii) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

⁴Sub-Section (2) was substituted for the original sub-section by s. 11(b), *ibid*.

⁵Sub-section (3) was substituted for the original sub-section by s. 11(c), *ibid*.

(Chapter IIB. - Ceiling on Holdings. - Sections 14V-14Y.)

Provided that where the transferee is a person who is eligible for allotment of surplus land in accordance with the provisions of this Act, the State Government may, instead of enforcing its right to recover the land or equal amount of land, recover from the transferor the amount which he had received as consideration for the transfer of such land.

¹(4) Any *raiyat* who transfers any land in contravention of the provisions of sub-section (1) or sub-section (2) shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to six months or with both:

Provided that nothing in this sub-section shall apply to any transfer made in accordance with the provisions of any law for the time being in force.

²14V. The State Government shall pay, in the prescribed manner, for the vesting of any land in the State under the provisions of this Act, after possession of such land is taken under sub-section (3) of section 14T, to the person or persons having any interest therein an amount equal to fifteen times the land revenue or its equivalent assessed for such land; or where such land revenue or its equivalent has not been assessed or is not required to be assessed, an amount calculated at the rate of Rs. 135 for an area of 0.4047 hectare.

Payment of amount.

³14W. [(Damages for use and occupation of land.) - Omitted by s. 3 of the West Bengal Land Reforms (amendment) Act, 1980 (West Ben. Act XLI of 1980).]

³14X. No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Chapter required to be decided or dealt with or to be determined by the Revenue Officer or other authority specified therein and no orders passed or proceedings commenced under the provisions of this Chapter shall be called in question in any Civil Court.

Bar of jurisdiction of Civil Courts.

⁴14Y. If at any time, after the commencement of the provisions of this Chapter, the total area of land owned by a *raiyat* exceeds the ceiling area applicable to him under section 14M, on account of transfer, inheritance or otherwise, the area of land which is in excess of the ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling area shall apply to such land:

Limitation on future acquisition of land by a *raiyat*.

¹Sub-section (4) was inserted by s. 11(d) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

²Section 14V was substituted by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1980 (West Ben. Act XLI of 1980). Prior to this substitution see foot-note 2 on page 25, *ante*.

³See foot-note 2 on page 25, *ante*.

⁴Section 14Y was substituted by s. 12 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986). Prior to this substitution *see* foot-note 2 on page 25, *ante*.

(Chapter IIB. - Ceiling on Holdings. - Sections 14Z.)

³Provided that a person intending to establish a tea garden, mill, factory or workshop, livestock breeding farm, poultry farm, or dairy, or township in accordance with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979, may, with the previous permission, in writing, of the State Government and on such terms and conditions and in such manner as the State Government may by rules prescribe, acquire and hold land in excess of the ceiling area applicable to him under section 14M:

West Ben.
Act XIII of
1979.

¹Provided further that if such person, having been permitted by the State Government, does not utilise within two years of the date of such permission such land for the purpose for which he has been so permitted by the State Government to acquire and hold it, then, all the provisions of this Chapter relating to ceiling area shall apply to the area of land which is held in excess of the ceiling area applicable to him under section 14M.

¹Explanation.- For the purpose of this section, "person" includes an individual, a firm, a company, an institution, or an association or body of individuals, whether incorporated or not.

Application
of Chapter
IIB.

²14Z. For the removal of doubts it is hereby declared that -

- (1) notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgement, decision or award of any court, tribunal or authority, the provisions of this Chapter shall apply to all lands of all classes and descriptions defined in clause (7) of section 2;
- (2) in the case of land comprised in a tea garden, mill, factory or workshop or land used for the purpose of livestock 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 Government, is required for the purpose of the tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be :

Provided that the State Government may, if it thinks fit so to do, after reviewing the circumstances of a case and after giving the *raiyat* or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this clause specifying the land which the *raiyat* or the lessee shall be entitled to retain for tea garden,

¹The provisos and the *Explanation* were added by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1996 (West Ben. Act XXIV of 1996).

²Section 14Z was inserted by s. 28 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

(Chapter IIB. - Bargadars. - Sections 15, 15A.)

Mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be :

¹Provided further that in determining the land required for the purpose of tea cultivation, there shall not be any diminution of the area of a tea garden.

Explanation. - The expression "Land under a lease" includes any land held directly under the State Government under a lease.

CHAPTER III.

Bargadars.

15. ²(1) The Provisions of clauses (b) and (c) of the sub-section (4) of section 4 shall not apply to the holding of a *raiyyat* or any part of it which is cultivated by a *bargadar* so long as cultivation by a *bargadar* continues.

Certain safeguards for holdings cultivated by *bargadars*.

²(2) The right of cultivation of land by *bargadar* shall, subject to the provisions of this Chapter, be heritable and shall not be transferable.

²(3) The provisions of this Chapter shall not apply to any person not belonging to a Schedule Tribe claiming to be a *bargadar* under a *raiyyat* belonging to a Scheduled Tribe.

³15A. (1) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, where a *bargadar*, cultivating any land, dies at a time when cultivation of such land by the *bargadar* was continuing, the cultivation of such land may be continued by the lawful heir of the *bargadar* or where there are more than one lawful heir, by such lawful heir of the *bargadar* as all the lawful heirs of the *bargadar* may determine within the prescribed period:

Continuation of right of cultivation on *bargadar's* death.

Provided that where the lawful heirs of the *bargadar* omit or fail to make a determination as requires by this sub-section, the officer or authority appointed under sub-section (1) of section 18 may nominate one of the lawful heirs of the *bargadar* who is in a position to cultivate the land personally, to continue the cultivation thereof.

(2) The lawful heir of the *bargadar* who is determined or nominated for the cultivation of the land shall cultivate the land subject to such terms and conditions as may be prescribed.

¹The proviso was inserted by s. 13 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

²Section 15 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-section (2) and (3) were inserted by s. 29 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

³Section 15A was inserted by s. 14 of the West Bengal Land Reforms (Amendment) Act, 1972 (West

Ben. Act XII of 1972).

(Chapter III-Bargadars-Section 16.)

(3) Where-

- (1) no lawful heir of the *bargadar* is in a position to cultivate the land personally, or
- (2) the lawful heirs of the *bargadar* fail to determine, within the prescribed period, the heir by whom the cultivation of the land will be continued and the officer or authority appointed under sub-section (1) of section 18 also omits or fails to nominate, within the prescribed period, any lawful heir of the deceased *bargadar* for the continuation of the cultivation of the land, or
- (3) the person determined or nominated under sub-section (1) omits or fails to take any steps, within the prescribed period, for the continuation of the cultivation of the land,

cultivation of the land may be continued by such person, whether an heir of the deceased *bargadar* or not, as may be nominated by the person whose land was cultivated by the deceased *bargadar*.

Share of
produce
payable by a
bargadars.

(3) (1) The produce of any land cultivated by a *bargadar* shall be divided as between the *bargadar* and the person whose land he cultivates -

- (a) in the proportion of 50:50 in a case where plough, cattle, manure and seeds necessary for cultivation are supplied by the person owning the land.
- (2) in the proportion of [75:25] in all other cases.

²(2) The *bargadar* shall tender, within the prescribed period, to the person whose land he cultivates, the share of the produce due to such person.

²(3) Where any share of produce tendered under sub-section (2) is accepted by the person whose land is cultivated by the *bargadar*, each party shall give to the other a receipt, in such form as may be prescribed, for the quantity of the produce received by him .

²(4) If the person whose land is cultivated by the *bargadar* refuses to accept the share of the produce tendered to him by the *bargadar*, or to give a receipt therefor, the *bargadar* may deposit, within the prescribed period, such share of the produce with such officer or authority as may be prescribed and such deposit shall discharge the *bargadar* from his obligation to deliver the share of the produce to the person whose land he cultivates:

¹The figures within the square brackets were substituted for the figures "60:40" by s 15(i) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben Act XII of 1972)

²Sub-sections(2) to (7) were substituted for the original sub-sections (2) and (3) by s 15(ii) *ibid*.

(Chapter III-Bargadars-Section 16A)

Provided that where the quantity of the produce deposited by the *bargadar* is lesser than the quantity of the produce due to the person whose land he cultivates, the obligation of the *bargadar* with regard to the delivery of the deficiency in relation to the produce shall continue.

¹(5) Where a deposit referred to in sub-section (4) has been made, the prescribed officer or authority shall -

- (3) give to the *bargadar* a receipt in such form as may be prescribed stating therein the quantity of the produce deposited by the *bargadar* and the particulars of the person for whom the produce has been deposited; and
- (4) give intimation of such deposit, in such form and in such manner as may be prescribed, to the person for whom the produce has been deposited.

¹(6) Where any produce is deposited under sub-section (4) and the person for whom the produce has been deposited does not take delivery of such produce within fifteen days from the date of service on him of the intimation of such deposit, the officer or authority referred to in sub-section (4) may sell such produce and deposit the proceeds of such sale, after deducting therefrom the cost of conducting the sale, in the treasury, in revenue deposit, to the credit of the person for whom the produce has been deposited and give intimation of such deposit to such person, in such form and in such manner as may be prescribed.

¹(7) The *bargadar* shall store or thresh the produce-

- (1) at such place as may be agreed upon between him and the person whose land he cultivates, or
- (2) where there is disagreement between them, at such place as may be fixed by him after giving notice, in writing, served in the prescribed manner, to the person whose land he cultivates, or

Provided that the person whose land is cultivated by the *bargadar* may, at any time during the storage or threshing of the produce, enter the place where the produce has been stored or is being threshed for the purpose of inspecting the storage or threshing, as the case may be, of the produce.

²16A. If the produce of any land cultivated by a *bargadar* is harvested and taken away, or if such produce after it is harvested by the *bargadar* is taken away, forcibly or otherwise, by the owner of such land, the *bargadar* shall be entitled to recover from such owner the share of the produce due to him or its money value.

Bbargadar
entitled to
recover his
share in
certain cases.

¹Sec foot-note 2 on page 40 *ante*

²Section 16A was inserted by S 3 of the west Bengal Land Reforms (second Amendment) Act, 1969 (West Ben. Act XXIII of 1969)

(Chapter III.-Bargadars.-Section 17.)

Termination
of cultivation
by *bargadar*.

17. (1) No person shall be entitled to terminate cultivation of his land by a *bargadar* except in execution of an order, made by such officer or authority as the State Government may appoint, one or more of the following grounds:-

- (1) that the *bargadar* has without any reasonable cause failed to cultivate the land, ¹* * * * or has used it for any purpose other than agriculture;
- (2) that the land is not cultivated by the *bargadar* personally;
- (3) that the *bargadar* has failed to tender or deposit to the full extent the share of the produce as required by sub-section (2), or sub-section (4), as the case may be, of section 16 :

Provided that no order for the termination of cultivation, made on the ground specified in this clause, shall be given effect to if the *bargadar* delivers to the person, whose land he cultivates, the share of the produce due to such person, or pays to him the market price thereof, within such time and in such instalments as the officer or authority making the order may, having regard to all the circumstances of the case, specify in this behalf.

- (4) that the person owning the land requires it *bonafide* for bringing it under personal cultivation:

³Provided that the person owning the land shall be entitled to terminate cultivation by a *bargadar* of only so much of land as, together with any other land in the personal cultivation of such person, does not exceed 3.00 hectares:

³Provided further that such person shall not be entitled to so terminate cultivation by a *bargadar* as to reduce the aggregate area of the land cultivated by the *bargadar* to less than 1.00 hectare.

Explanation -In determining the areas specified in the foregoing provisos no transfer of land made after the commencement of the west Bengal Land Reforms (Amendment) Act, 1970, shall be taken into account.

President's
Act 16 of
1970

Explanation-For purposes of clause (b), a *bargadar* who cultivates the land with the held of members of his family shall be deemed to cultivate it personally.

⁴(2) If an owner fails to bring under personal cultivation any land, the cultivation of which by a *bargadar* has been terminated under clause (d) of sub-section (1) within two years from the date of such termination or allows such land to be cultivated by some other person, the land shall vest in the State free from all incumbrances under an order of the prescribed authority in the prescribed manner, and the owner of the land shall be entitled to an amount therefor in accordance with the provisions of section 14V.

¹The words "or has neglected to cultivate it properly," were omitted by s. 16(i)(a) of the west Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act XII of 1972)

²Clause (c) was substituted for the original clause by s 16(i)(b), *ibid*.

³The proviso to clause (d) were substituted s 16(i)(c), *ibid*.

⁴Sub-section (2) was substituted for the original sub-section by s. 30(1) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act L of 1981) w.e.f. 7.8.69

(Chapter III-Bargadars-Section 18)

¹* * * * *

(4) No *bargadar* shall be entitled to cultivate more than ²[4.00 hectares] of land. In computing this area, any land owned by the bargadar as well as the land cultivated by him as a *bargadar* shall be taken into account.

(5) If a *bargadar* cultivates land in excess of ³[4.00 hectares], the share of the produce due to him as a *bargadar* in respect of the land in excess of ³[4.00 hectares] shall be forfeited to the State Government, by order made in this behalf by a Revenue Officer.

⁴(6) Where any land cultivated by a *bargadar* is in excess of the limit specified in sub-section (4), the person whose land is cultivated by such *bargadar* shall, if the excess land is within the ceiling area applicable to such person in accordance with the provisions of Chapter II-B, have the land cultivated by any person referred to in section 49 who is willing to cultivate the said land as a *bargadar*.

⁵Explanation - for the purposes of clause(d) of sub-section (2), "personal cultivation" shall not include cultivation by servants or labourers on wages payable in cash or in kind not being as a share of the produce, or both.

18. (1) Every dispute between a bargadar and the person whose land he cultivates in respect of any of the following matters, namely :-

Jurisdiction to decide certain disputes.

- (a) division or delivery of the produce.
- ⁶(aa) recovery of produce under section 16A.
- (b) termination of cultivation by the *bargadar*

⁷* * * * *

shall be decided by such officer or authority as the State Government may appoint.

¹Sub-section (3) was omitted by s. 30(1A) OF THE West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act L of 1981) w.e.f. 7.8.69.

²Firstly, the figures and word "6.00 hectares" were substituted for the words "twentyfive acres" by s. 16(ii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972). Thereafter, the figures and word within the square brackets were substituted for the figures and word "6.00 hectares" by s 30(2) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben Act L of 1981) w.e.f. 7.8.69.

³First, the figures and word "6.00 hectares" were substituted for the words "twentyfive acres by s. 16(ii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben Act XII of 1972). Thereafter, the figures and word within the square brackets were substituted for the figures and word 6.00 hectares by s. 30(3) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben Act XII of 1972). Thereafter, the figures and word within the square brackets were substituted for the figures and word "6.00 hectares" by s 30(3) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben Act L of 1981) w.e.f. 7.8.69.

⁴Sub-section (6) was inserted by s. 16(iii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben Act XII of 1972).

⁵The Explanation was added by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1977 (West Ben Act XXXIV of 1977).

⁶Clause (aa) was inserted by s 4(a) of the West Bengal Land Reforms [Second Amendment) Act 1969 (West Bengal Act XXIII of 1969)

⁷Clause (c) was omitted by s. 17(i) of the West Bengal Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

(Chapter III-Bargadars-Section 18)

¹Provided that no application for decision of any dispute shall be entertained unless such application is presented to the officer or authority within three years from the date on which the claim falls or becomes due.

(2) If in deciding any dispute referred to in sub-section (1) ²[or otherwise], any question arises as to whether a person is a *bargadar* or not and to whom the share of the produce is deliverable, such question shall be determined by the officer or authority mentioned in sub-section (1).

³(2A) If in deciding any question referred to in sub-section (2), the officer or authority mentioned in that sub-section finds that any default in the delivery of the share of the produce is due to doubt or uncertainty on the question whether the land in respect of which the share of the produce is claimed has vested in the State or has been retained under the West Bengal Estates Acquisition Act, 1953 ⁴[or under this Act], by the person claiming the share, such officer or authority shall, instead of terminating cultivation of the land by the *bargadar* on the ground of default, allow him time to deliver the share of the produce due to the person entitled thereto or to pay the price thereof by annual instalments not exceeding four, the first of such instalments being deliverable or payable on a date not later than the first day of *Chaitra* next following the date of the order.

West Ben.
Act I of
1954

5* * * * * * * *

⁶(3) The decision of any dispute referred to in clause (a) of sub-section 91) shall specify the money value of the share of the produce to be delivered, which shall be payable in default of delivery of such share.

⁷(3A) The decision of any dispute referred to in clause (aa) of sub-section 91) shall specify the quantity of the produce recoverable from the owner by the *bargadar* as his share and also its money value which shall be payable by the owner in default of delivery of such quantity of the produce.

¹The proviso was first inserted by s. 8(a) of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965). Then, the present proviso was substituted for the original proviso by s. 31(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²The words within the square brackets were inserted by s. 6 of the West Bengal Land Reforms (Amendment) Act, 1974 (West Ben. Act XXXIII of 1974).

³Sub-section (2A) was inserted by s. 8(b) of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

⁴These words within the square brackets were inserted by s. 31(b) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

⁵Sub-section (2B) was first inserted by s. 8(c) of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965). Thereafter, the same was omitted by s. 17(ii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

⁶Sub-section (3) was added by s. 2(1) of the West Bengal Land Reforms (Amendment) Act 1962 (West Ben. Act XVI of 1962).

⁷Sub-section (3A) was inserted by s. 4(b) of the West Bengal Land Reforms (Second Amendment)

Act, 1969 (West Ben. Act XXIII of 1969).

(Chapter III-Bargadars-Section 18A.)

West Ben.
Act XVI of
1962.

¹(4) For the removal of doubts it is hereby declared that notwithstanding any decision of any Court to the contrary, any order under clause (a) of sub-section (1), specifying the money value of the share of the produce to be delivered payable in default of delivery of such share, made before the commencement of the West Bengal Land Reforms (Amendment) Act, 1962, shall be deemed to be and to have always been validly made as if that Act had come into force when such order was made.

West Ben.
Act XVIII of
1965.

²(5) If the decision of any dispute referred to in clause (a) of sub-section (1) given before the commencement of the West Bengal Land Reforms (Amendment) Act, 1962, does not specify the money value of the share of the produce to be delivered, the *bargadar* or the person whose land is cultivated by the *bargadar* or the successor-in-interest of such person may, within ninety days from the commencement of the West Bengal Land Reforms (Amendment) Act, 1965, make an application before the officer or authority who decided the dispute of his or its successor for review of the decision for the purpose of specifying the money value of the share of the produce to be delivered payable in default of delivery of such share.

²(6) Upon receipt of such application the officer or authority shall, after giving the parties to the dispute an opportunity of being heard and adducing evidence, pass an order specifying the money value of the share of the produce to be delivered, which shall be payable in default of delivery of such share.

³18A. (1) An officer or authority appointed under section 17 or section 18 shall continue to function after the appointment of his or its successor until such successor commences to function.

(2) Notwithstanding any decision of any court to the contrary, any proceedings continued by or before any such officer or authority and any order made by any such officer or authority, after his or its successor is appointed but before such successor commences to function, shall be deemed to be and to have always been validly continued or made.

West Ben.
Act VI of
1960.

(3) Any appeal against any order referred to in sub-section (2) filed before the commencement of the West Bengal Land Reforms (Amendment) Act, 1960 or any order made in any such appeal shall have no effect.

Continuance
in office of
officers and
authorities
appointed
under
sections 17
and 18 until

¹Sub-section (4) was added by s. 2(2) of the West Bengal Land Reforms (Amendment) Act, 1962 (West Ben. Act XVI of 1962).

²Sub-sections (5) and (6) were added by s. 8(d) of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVII of 1965).

³Section 18A was inserted with retrospective effect by s. 2 of the West Bengal Land Reforms (Amendment) Act, 1960 (West Ben. Act VI of 1960).

(Chapter III-Bargadars-Section 19)

Appeal. 19. (1) An appeal shall lie to the ¹[Collector], having jurisdiction over the area in which the land is situated, against any order made ²[under section 17 or section 18 or sub-section (3) of section 21.] The ¹[Collector] shall, on an appeal being disposed of send a copy of his order to the officer or authority whose decision is appealed against.

³(1A) An officer or authority appointed by the state Government under section 17 or section 18 or an officer specially empowered under sub-section (1) of section 19B shall not pass any interlocutory or final order in any proceedings before him or it on the basis of any consent, agreement or compromise obtained or effected for the purpose of such proceedings, notwithstanding anything contained in the Indian Contract Act. 1872, or any other law for the time being in force.

9 of 1872

(2) The period within which the appeal mentioned in sub-section (1) must be filed shall be thirty days from the date of the order appeal against:

⁴Provided that an appeal against any order referred to in sub-section (2) of 18A made before the commencement of the West Bengal Land Reforms (Amendment) 1960 may be filed within ninety days of such commencement.

West Ben.
Act VI of
1960.

⁵Provided further that the provisions of section 5 of the Indian Limitation Act, 1908 shall apply to an appeal under this section.

Act IX of
1908

⁶(2A). Every appeal pending before any ¹[Collector] at the commencement of the West Bengal Land Reforms (Amendment) Act, 1970. Shall, on such commencement, stand transferred to, and be disposed of by, the ¹[Collector] having jurisdiction in relation to the area in which the land is situated and on such transfer every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provision of this Act as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

President's
Act 16 of
1970.West Ben.
Act XII of
1972.

¹The words "Sub-divisional Officer", in sub-section (1) were first substituted for the words "Munsif" by s. 18(a) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben Act XII of 1972). Thereafter, the word within the square brackets was re-substituted for the words "Sub-divisional Officer", wherever they occur, by s. 32(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben Act L of 1981) w.e.f. 7.8.69.

²The words, figures and brackets within the square brackets were substituted for the words and figures "under section 17 or section 18 except where such order was made with the consent of the parties to the dispute by s. 32(b) *ibid*.

³Sub-section (1A) was inserted by s. 32(c) *ibid*

⁴The proviso was added by s. 3 of the West Bengal Land Reforms (Amendment) Act 1960 (West Ben Act VI of 1960)

⁵The second proviso was added by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1962 (West Ben Act XVI of 1962)

⁶Sub-section (2A) and (2B) were inserted by s. 18(b) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben Act XII of 1972).

(Chapter III-Bargadars-Section 19A.)

West Ben. Act XII of 1972. ¹(2B) The ²[Collector] may transfer any appeal, whether transferred to, or filed before, him, for disposal to any officer not below the rank of a Sub-Deputy Collector, subordinate to him, but senior in rank and position to the officer or authority against whose order the appeal has been preferred and every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposal of in accordance with the provisions of this Act as amended by the west Bengal Land Reforms (Amendment) Act,1972.

³(3) The [Collector] or other officer hearing the appeal may for sufficient cause make an order staying execution of the order appealed against.

³(4) When the [Collector] or other officer makes an order under sub-section (3), a copy of such order shall be sent to the officer or authority before whom an application for execution is pending.

⁴19A. ⁵(1) Any person who fails to comply with an order made under section 17, 18 or 19 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty.

West Ben. Act XI of 1966. ⁵(2) If, after the commencement of the West Bengal Land Reforms (Amendment) Act,1966, any person owning any land terminates or causes to be terminated [or attempts to terminate] the cultivation of the land by a *bargadar* in contravention of the provisions of this Act, he shall be guilty of an offence punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

⁷(2A) Any person who fails to give a receipt in contravention of the provisions of sub-section (3) of Section 16 for the share of the produce accepted by him shall be guilty of an offence punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

¹See foot-note 6 on page 46 *ante*.

²See foot-note 1 on page 46 *ante*.

³Sub-section s(3) and (4) were added by s.9 of the West Bengal Land Reforms (Amendment)Act ,1965 (West Ben Act XVIII of 1965)

⁴Section 19A and 19B were inserted by S 2 of the west Bengal Land Reforms (Amendment) Act, 1957 (West Ben. Act XXIII of 1957)

⁵Section 19A was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered sub-section(2) and (3) were added by s. 4 of the West Bengal Land Reforms (Amendment) Act, 1966 (West Ben Act XI of 1966)

⁶The words within the square brackets were inserted by s.4(i) of the West Bengal Land Reforms (Amendment) Act,1977 (West Ben Act XXXIV of 1977).

⁷Sub-Section (2A) was inserted by s. 4(ii) *ibid*.

(Chapter III-Bargadars-Section 19B.)

¹(3) An offence under sub-section (2) ²[or under sub-section 2A] shall be cognizable and bailable.

Restoration of land to *bargadar*. ³19B. (1) If a person owning any land terminates or causes to be terminated the cultivation of the land by a *bargadar* in contravention of the provisions of this Act, then any officer specially ⁴empowered by the State Government in this behalf shall, on an application by such *bargadar*, by order direct.

(1) in a case where such land has not been cultivated, or has been cultivated by the owner or by any person on his behalf other than a *bargadar*, that the land be immediately resorted to the applicant and further that forty per cent of any produce of the land shall be forfeited to the State Government and the remaining sixty per cent of such crops shall be retained by the applicant.

(2) in a case where such land has been cultivated by a ⁵[person other than, the *bargadar*] engaged by the owner, that the land be resorted at the end of the cultivation season to the applicant and further that the ⁵[person other than the *bargadar*] ⁶[shall retain twenty-five per cent] of the crops harvested before restoration and make over ⁷[remaining seventy-five per cent.] of such crops to the applicant.

⁸Provided that nothing in this section shall apply to termination of cultivation by a *bargadar* if the termination occurred before the 4th day of August ,1970, namely, the date with effect from which the West Bengal Land Reforms (Amendment) act,1969 ceased to be in force:

West Ben.
Act XI of
1969.

¹See foot-note 5 on page 47 *ante*.

²The words, figure, letter and brackets within the square brackets were inserted by s. 4(iii) of the West Bengal Land Reforms (Amendment) Act, 1977 (West Ben Act XX XIV of 1977).

³See foot-note 4 on page 47 *ante*.

⁴For notification empowering for the purposes of section 19B(1) all officers appointed under section 17(1) of the Act, see notification No.2898 L. Ref. Dated the 18.2.58. Published in the Calcutta Gazette Extraordinary of 1958, Part 1 page 551.

⁵The words within the square brackets were substituted for the words "new *bargadar*" by s.33(a)(i) of the West Bengal Land Reforms (Amendment) Act,1981 (West Ben Act L of 1981).w.e.f. 7.8.69

⁶The Words within the square brackets were substituted for the words "shall retain fifty per cent." by s. 33(a)(ii), *ibid*.

⁷The words, within the square brackets were substituted for the words "remaining fifty per cent." by s. 33(a)(iii), *ibid*.

⁸ The proviso with the Explanation were added by s. 4 of the West Bengal Land Reforms (Amendment) Act, 1980 (West Ben. Act X L1 of 1980)

(Chapter III - Bargadars - Section 20).

West Ben.
Act XLI of
1980

¹Provided further that an application under sub-section (1) shall be made within two years from the date of termination of cultivation by the *bargadar* or two years from the date of commencement of the West Bengal Land Reforms (Amendment) Act, 1980, whichever is later.

¹Provided also that if there is more than one applicant, the *bargadar* who have cultivated the land for the longest period shall be considered to be the rightful *bargadar* for the purpose or restoration in exclusion of other *bargadars*.

¹Provided also that after any application under sub-section (1) has been disposed of with the order of restoration of cultivation by a *bargadar*, the question shall not be reopened on any other application.

¹Explanation - For determining the "longest period" the total period of cultivation may not be continuous, but while computing the "longest period" of cultivation, the period of periods of cultivation since the 4th day of August, 1970 (which may or may not be continuous) shall only be taken into account.

Ben. Act III
of 1913.

²(1A) If the produce forfeited under clause (a) of sub-section (1) cannot be recovered from the owner of the land or the person cultivating the land on his behalf other than a *bargadar* or if the share of produce receivable by the *bargadar* under clause (b) of sub-section (1) cannot be recovered from any person other than the *bargadar*, money value of the share of produce so forfeited under clause (a) or share of produce so receivable under clause (b) shall be recovered by the prescribed authority under sub-section (1) as a "public demand" under the Bengal Public Demands Recovery Act, 1913 on a written requisition sent by such prescribed authority to the certificate officer.

³(2) An appeal against any order made under sub-section (1) shall lie to the Collector who shall be superior in rank to the officer from whose order the appeal is preferred.

⁴* * * * *

20. The procedure to be followed in deciding disputes or appeals under this Chapter and the fees to be paid by the parties shall be as may be prescribed.

Procedure
and
execution.

¹See foot-note 8 on page 48 *ante*

²Sub-section (1A) was inserted by s. 33(b) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben Act L of 1981) w.e.f. 7.8.69

³Sub-section (2) was substituted for the original sub-section by s. 33(c) *ibid*

⁴Sub-section (3) was omitted by s. 33(d) *ibid.*

(Chapter III-Bargadars-Sections 20A, 20B)

(2) Any order made under this Chapter including an order passed on appeal shall be executed by the officer or authority appointed by the State Government, in such manner as may be prescribed.

²(3) No order for the ejection of a bargadar shall be executed except during the months of the Bengali year specified below-

- (1) in such portions of the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, the month of *Paus* or *Magh* and
- (2) elsewhere, the month of *Chaitra* or *Baisakh*:

Provided that proper compensation is paid, in such manner as may be prescribed, by the owner to the *bargadar* for his share of the standing crops, if any.

Setting aside of order for termination of cultivation by *bargaders*.

³20A. Notwithstanding anything contained in any law for the time being in force, where, before the commencement of the West Bengal Land Reforms (Amendment) Act, 1969, an order for the termination of cultivation of any land by a *bargadar* had been made under clause (b) of sub-section (1) of section 18 but such order has not been given effect to (whether by reason of the operation of any law or otherwise), before the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, then, such order shall, on such commencements, stand vacated and the officer or authority by whom such order was made shall, after giving notice to the parties concerned, decide the dispute in accordance with the provisions of section 17 as amended by the West Bengal Land Reforms (Amendment), 1972.

West Ben.
Act XI of
1969.

President's
Act 16 of
1970.

West Ben.
Act XII of
1972.

⁴20B. (1) If a *bargadar*-

- (1) Surrenders his right to cultivate in relation to any land cultivated by him as a *bargadar*, or

¹For notification appointing certain officers as the officers referred to in section 20(2) of the Act-

- (1) For the Dum-Dum police station and 24-Parganas district see notification No.15946-L.Ref. Dated the 19.9.56 published in the *Calcutta Gazette* of 1956 Part I. Page 3664.
- (2) for the areas specified see notification No.1848-L.Ref. Dated the 30.1.57. published in the *Calcutta Gazette* of 1957 Part I. Page 570

²Sub-section (3) was substituted for the original sub-section by s.2 of the West Bengal Land Reforms (Second Amendment) Act, 1960 (West Ben. Act XVIII of 1960).

³Section 20A was inserted by s. 19(1q) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

⁴Section 20B was inserted by s. 19(2). *ibid.*

(Chapter III.-Bargadars.-Section 20B)

(b) Voluntarily abandons cultivation of such land.

¹[the owner of the land or the *bargadar* or any other person] may give information in writing of such surrender or abandonment to the officer or authority appointed under sub-section (I) of section 18, having jurisdiction in the area in which such land is situated.

(2) On receipt of such information [or on his own motion], such officer or authority shall issue a notice in the prescribed form, to the *bargadar*, and after giving the *bargadar* and the person whose land was cultivated by the *bargadar*, an opportunity of being heard and making such inquiries as he or it may deem necessary, determine whether the *bargadar* had voluntarily surrendered or abandoned his right of cultivation in relation to such land.

(3) If such officer or authority determines that the *bargadar* had not voluntarily surrendered or abandoned the cultivation of the land which was being cultivated by him as such and that he had been compelled by force or otherwise to surrender or abandon the cultivation of such land, such officer or authority shall restore the *bargadar* to the cultivation of the land, or where the *bargadar* is not available or is not willing to be restored to the cultivation of such land, the person whose land was cultivated shall not resume personal cultivation of the land but he may with the permission of such officer or authority, get the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a *bargadar*.

(4) If such officer or authority determines that the *bargadar* had voluntarily surrendered or abandoned the cultivation of the land which was cultivate by him as such, the person whose land was being to cultivated shall not resume personal cultivation of such land but he may, with the permission of such officer or authority, have the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a *bargadar*.

(5) any contravention of the provisions of sub-section (3) or sub-section (4) shall be an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

¹The words within the square brackets were substituted for the words "the person, whose land was cultivated by the *bagardar*" by s. 34(a) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²The words within the square brackets were inserted by s. 34(b), *ibid*.

(Chapter III.-Bargadars.-Sections 21, 21A)

Bar of jurisdiction.

21.(1) * * * * * no order or other proceedings whatsoever under this chapter shall be questioned in any civil court and no civil court shall entertain any suit or proceeding in respect of any matter mentioned in ²[sections 17,18,19B and 20B]

(2) On the appointment of officers or authorities under this Chapter all proceedings pending before any *Bhagchas* Conciliation Board established under the West Bengal *Bargadars* Act,1950, shall stand transferred to the officer or authority having jurisdiction over the area in which the land, to which the proceedings relate, is situated.

West Ben.
Act II of
1950.

³(3) If any question as to whether a person is or is not a *bargadar* arises in the course of any ⁴[suit, case, appeal or other] proceedings before any Civil or Criminal Court, the Court shall refer it to the officer or the authority mentioned in sub-section (1) of section 18 ⁵[for decision and such court shall dispose of the suit, case, appeal or other proceedings in accordance with the decision communicated to it by the officer or authority mentioned in sub-section (I) of section 18 to whom the question was referred].

⁶(4) On a reference being made under sub-section (3) of this section to the officer or authority mentioned in sub-section (1) of section 18 for decision, such officer or authority shall personally make such enquiry as may be prescribed, shall arrive at a decision after giving all the parties to the suit, case, appeal or other proceedings an opportunity of being heard and shall communicate his or its decision in the prescribed manner to the Court which made the reference. After communication of his or its decision to the referring Court such decision shall not be altered or revised except in an appeal under section 19.

Temporary stay of proceedings for termination of cultivation by *bargadars*.

⁷21A. Notwithstanding anything contained in this Chapter,-

- (1) all applications made under section 18 for the termination of cultivation by *bargadars*,
- (2) all appeals preferred under section 19 against orders made on such applications, and

¹The words and figures "save as provided in section 19" were omitted by s. 20 of the West Bengal Land Reforms (Amendment) Act,1972 (West Ben Act XII of 1972).

²The words, figures and letter within the square brackets were substituted for the words and figures "sections 17 and 18" by s. 35(a) of the West Bengal Land Reforms (Amendment) Act,1981 (West Ben. Act L. of 1981) w.e.f. 7.8.69.

³Sub-section (3) was inserted by s. 7 of the West Bengal Land Reforms (Amendment) Act, 1974 (West Ben. Act XXXIII of 1974).

⁴The words within the square brackets were inserted by s. 35(b)(i) of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben, Act L of 1981) w.e.f 7.8.69

⁵The words, figures and brackets within the square brackets were substituted for the words "for decision" by s. 35(b)(ii) *ibid*

⁶Sub-section (4) was added by s. 35(c) *ibid*.

⁷Section 21A was inserted by s.2 of the West Bengal Land Reforms (Amendment) Act,1969 (West

Ben. Act XI of 1969).

(Chapter III.-Bargadars-Sections 21B, 21C)

- (3) all proceedings commenced under sub-section (2) of section 20 for execution of orders for termination of cultivation by *bargadars*,

West Ben.
Act XI of
1969

Which are pending before the appropriate authority at the date of commencement of the West Bengal Land Reforms (Amendment) Act. 1969, or which may be so made, preferred or commenced after such date but before the expiry of the said Act, shall be stayed for the period during which the said Act continues in force.

¹21B. A person lawfully cultivating any land belonging to another person shall be presumed to be a *bargadar* in respect of such land if such person is not a member of the family of the other person whose land he cultivates and the burden of proving that such person is not a *bargadar* or that the land is in his personal cultivation shall, notwithstanding anything to the contrary contained in any other law for the time being in force, lie on the person who alleges that the person cultivating the land is not a *bargadar* in respect of such land.

Person
cultivating
land of
another
persons to be
presumed to
be a
bargadar in

²21C. (1) The State Government may on its own motion, by notification in the Official Gazette, constitute a State Land Corporation, or one or more Regional Land Corporations or both.

Constitution
of State
Land
Corporation
or Regional
Land
Corporation.

(2) The state Land Corporations and each of the Regional Land Corporations (hereafter in this section called as Corporation) shall be body corporate with perpetual succession and common seal, and shall have power to acquire, hold and dispose of property, to advance funds, to enter into contracts, to institute and defend suits, cases and all other legal proceedings and to do all things necessary for the purpose of carrying on its object.

(3) The object of the Corporation shall be to advance funds in the prescribed manner to a recorded *bargadar* of the land intended to be sold or to a *bargadar* of the land intended to be sold and holding certificate issued under the rules made under this act or to a person eligible for settlement of land under section 49, to enable him to purchase agricultural land from a *raiyat* who owns at the material time not exceeding one standard hectare as defined in clause (f) of section 14K of land in the aggregate, whose principal source of income is produce from his land and who being in distress has failed to see the land in the open market on account of cultivation of the land, which the *raiyat* intends to sell, by the *bargadar* and the name of the *bargadar* has been recorded or certificate has been issued to the *bargadar*, provided such *bargadar* or such person is otherwise eligible to receive the advance of fund, as may be prescribed.

¹Section 21B was inserted by s. 5 of the West Bengal Land Reforms (Amendment) Act, 1977 (West Ben. Act XXXIV of 1977).

²Section 21C was inserted by s.36 of the West Bengal Land Reforms (Amendment) Act, 1981. (West Bengal Act. L. of 1981) w.e.f. 7.8.69.

(Chaper III.-Bargadar.-Section 21C.)

(4) The price of the land intended to be purchased by the eligible *bargadar* shall be settled as between the *bargadar* and the owner of the land. Failing such settlement of price, the Corporation, on being requested by the owner of the land or the *bargadar* or on its own motion may assess the market value of the land for assessment thereof, *mutatis mutandis*, in accordance with the principles of the Land Acquisition Act, 1894 taking into account the fact of cultivation by *bargadar*, but assessment of market value shall not include any *solatium* or interest or any other thing except the market value of the land.

1 of 1894

(5) If in such a case the *bargadar* fails or does not intend to buy the land cultivated by him as *bargadar*, the Corporation, on being requested by the owner of the land, may offer the land to a person eligible under section 49 to buy the land at the mutually settled price or at the price assessed by the Corporation under sub-section (4). If such person fails or does not intend to buy, the Corporation may, within a period of six months of the request by the owner of the land, purchase the land at a price mutually settled between the Corporation and the owner of the land or at the price assessed by the Corporation under sub-section (4) and in case of such purchase the Corporation shall pay the settled or assessed market value, as the case may be, to the owner of the land.

(6) The instrument of purchase shall be by a registered deed of conveyance. If, however, the owner of the land does not register the deed of conveyance within thirty days of payment of the settled or assessed price to him by or on behalf of the *bargadar* or by the person eligible under section 49 or by the Corporation, as the case may be notwithstanding anything contained in the Registration Act, 1908, the Transfer of Property Act, 1882, or any other law for the time being in force, the issue of notification in the Official Gazette by the Corporation shall be the conclusive evidence of sale of the land.

16 of 1908

4 of 1882

(7) The recorded *bargadar* or the *bargadar* holding a certificate or the person eligible under section 49 who purchases the land shall mortgage the land to the corporation as security for the loan advanced or to be advanced to him by a registered instrument and the loan along with service or other charges shall be repayable to the Corporation in the prescribed manner.

(8) The land when purchased by the Corporation or acquired by the Corporation in satisfaction of a mortgage shall be sold in public auction in such manner as may be prescribed, for realising the money spent in purchasing or acquiring the land and also for service or other charges, if any.

(Chapter.III-Bargadars -Sections 21D, 21E)

(9) For the purpose of this section, the word “distress” shall mean-

- (1) marriage of a daughter,
- (2) performance of an obligatory ceremony due to death of father, mother, husband or wife, as the case may be,
- (c) medical treatment of an illness of a very serious nature endangering the life of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried daughters and any other relative having no independent source of income and solely dependent on the owner
- (4) maintenance of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried daughters and any other relative having no independent source of income and solely dependent on the owner, due to flood, drought or any other natural calamity.

(10) All powers, functions, rights and obligations laid down in this section for the Corporation shall be applicable to and exercised by any institution or organisation as may be notified by the State Government in the Official Gazette on such terms and conditions and in such manner as may be prescribed:

Provided that the provisions of this section shall not apply to a *bargadar* who owns and cultivates 4.00 hectares of land in the aggregate.

¹21D. (1) The names of *bargadars* in respect of every *raiyat* shall be entered in the record -of-rights in such manner as may be prescribed.

Names of *bargadars* to be entered in the record-of-rights.

²(2) The provisions of sub-section (1) shall have effect notwithstanding anything contained in Chapter VII or Chapter VIIA of this Act.

¹21E. In deciding any dispute under the provisions of Chapter-III, the officers and authorities may allow any party to the dispute, unable to make submission on its behalf, to be represented by its relative or by a representative of the association or organisation to which the party belongs:

Bar to legal practitioners.

18 of 1879. Provided that no advocate or legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 shall be allowed to appear, plead or act in any capacity on behalf of the party before any officer or authority, unless such Advocate or legal or legal practitioner himself is a party to the dispute.

¹Section 21D and 21E were inserted by s. 37 of the West Bengal Land Reforms (Amendment) Act, 1981(West Ben Act L. of 1981) w.e.f.)7.8.69

²Section 21D was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered sub-section (2) was inserted by s.2 of the West Bengal Land Reforms (Amendment) Act, 1989 (West Bengal Act XXIII of 1989) w.e.f. 7.8.69.

(Chapter IV-Provisions as to revenue - Sections 22,23,23A)

CHAPTER IV

Provisions as to revenue

- Liability to pay revenue. ¹22. (1) A *raiyat* shall be liable to pay revenue for his holding.
(2) Revenue shall be a first charge on the holding.
- Determina- tion of revenue. ²23. (1) A *raiyat* shall pay as revenue for his holding the same amount which was payable by him as rent for the lands comprised in such holding immediately before the coming into force of the provisions of this Chapter.

(2) Where no rent was payable in respect of the lands comprised in such holding immediately before the coming into force of the provisions of this Chapter, the *raiyat* shall pay revenue at such rate as the Revenue Officer, may determine in the prescribed manner, having regard to the rent that was generally being paid immediately before the coming into force of the provisions of this Chapter for lands of similar description and with similar advantages in the vicinity.
- Abatement of revenue in respect of homestead. ²23A. Where the holding of a *raiyat* comprises his homestead, the *raiyat* shall be entitled, on an application to the Revenue Officer, to have the revenue of such holding abated by such amount as bears the same proportion to such revenue as the area covered by such homestead or one-third of an acre, whichever is lesser, bears to the area of such holding.
- Provided that nothing in this section shall apply where such homestead lies within -
- (1) any area within the local limits of a municipality,
 - (2) any area constituted by the State Government as a notified area under section 93A of the Bengal Municipal Act, 1932, or
 - (3) any such area in a newly-developing locality as may be specified by the State Government by notification in the Official Gazette.

Ben. Act XV
of 1932.

¹Section 22 was substituted for the original section by s.10 of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965)

²Sections 23 and 23A were substituted for the original section 23 by s. 11 *ibid*

(Chapter IV-Provisions as to revenue-Section 23B.)

- ¹23B. Notwithstanding anything contained in this Chapter-
- (4) where on an application made by a *raiyat* or otherwise, the Revenue Officer makes an order that the total areas of land held by a *raiyat* within his holding or holdings ²[does not exceed 1.619 hectares in irrigated area or 2.428 hectares in non-irrigated area], the *raiyat* shall be exempted from paying revenue in respect of his holding or holdings with effect from the 1st day of Baisakh,³[1385 B.S.]

Re-
assessment
of revenue,
exemption of
revenue of
small
holdings and
payment of

Ben. Act IX
of 1880
Ben. Act VII
of 1930.

Provided that such exemption shall not affect the liability of the *raiyat* to pay any cess imposed on him under the Cess Act, 1880 or the Bengal (Rural) Primary Education Act, 1930, or any other law for the time being in force on the basis of the present revenue of his holding or holdings:

Provided further that a *raiyat* shall not be entitled to exemption from paying revenue under this section if as a result of transfer or partition made after the 1st day of Baisakh ⁴[1384 B.S., the total area of his land is reduced to 1.619 hectares in irrigated area or 2.428 hectares in non-irrigated area or less]

Explanation - The expression "land held by a *raiyat* within his holding or holdings" shall mean where there are more than one *raiyat* in a family, the aggregate area of lands held by all such *raiyats*,

- ⁵(aa) Where the land held by a *raiyat* within his holding or holdings is situated in both irrigated and non-irrigated areas, one hectare of land in irrigated area shall, for the purpose of clause (a), be deemed to be equivalent to 1.5 hectares in non-irrigated area;
- ⁶(b) subject to the provisions contained in clauses (a) (aa), the revenue payable by a *raiyat* in respect of his holding or holdings shall, with effect from the 1st day of Baisakh, 1385 B.S. be at the rate of the present revenue if the land included in the holding or holdings is situated in a non-irrigated area and at one and half times of such rate if such land is situated in an irrigated area:

¹Section 23B was first inserted by s. 5 of the West Bengal Land Reforms (Second Amendment) Act, 1969 (West Ben. Act XXIII of 1969). Thereafter the same was substituted by s.3 of the West Bengal Land Reforms (Second Amendment) Act, 1972 (West Ben. Act XXVIII of 1972).

²The words and figures within the square brackets were substituted for the words and figures "does not exceed 1.214 hectares" by s. 6(1)(i) of the West Bengal Land Reforms (Amendment) Act, 1977 (West Ben. Act XXXIV of 1977).

³The figures and abbreviations within the square brackets were substituted for the figures and

abbreviations "1376 B.S." by s. 6(1)(ii), *ibid*.

⁴The words, figures and abbreviations within the square brackets were substituted for the words figures and abbreviations "1376 B.S. the total area of his land is reduced to 1.214 hectares or less" by s. 6(1)(iii) *ibid*

⁵Clause(aa) was inserted by s.6(2) *ibid*

⁶Clause (b) was substituted for the original clause by s.6(3) *ibid*

(Chapter IV-Provisions as to revenue - Section 23C.)

Provided that if the Collector is satisfied that any land within an irrigated area has not received irrigation water or the crops have been damaged by excess water during any particular year, he may, by order, direct assessment of land revenue of such land for that year to be made as if the land is included in a non-irrigated area.

- (3) if the total area of land held by a *raiyat* in respect of his holding or holdings is 4 hectares or more in one *mouza*, he shall, with effect from the first day of Baisakh, 1379 B.S. pay, in addition to the revenue payable by him for such land, a surcharge at the rate of ten per cent of such revenue;
- (4) if any amount already paid by a *raiyat* is in excess of the revenue payable by him under this section, the same shall be refunded to him, but if there is any deficiency in such payment the same shall be recovered from him as an arrear of revenue under the Bengal Public Demands Recovery Act, 1913, without any claim for interest being made upon the same.

Ben. Act III
of 1913

Explanation - For the purposes of this section,

- (1) the term "family" in relation to a *raiyat* shall be deemed to consist of himself, his wife, minor sons and unmarried daughters, if any;
- (2) the expression "irrigated area" shall have the same meaning as in clause (d) of section 14K; and
- (3) the expression "present revenue" in relation to any holding means the amount of revenue payable by a *raiyat* in respect of such holding immediately before the commencement of the West Bengal Land Reforms (Second Amendment) act, 1969.

West Ben.
Act XXIII of
1969.

(2) Any person aggrieved by an order made by the Revenue Officer under clause(a) of sub-section (1), may prefer an appeal to such authority as the State Government may, by notification in the *Official Gazette*, specify within thirty days from the date of such order or within such further time as such authority may, on sufficient cause being shown, allow.

(3) The order made by the appellate authority under sub-section (2) shall be final.

Partial application of section 23B to the hilly portion of the district of Darjeeling.

¹23C. The provisions of section 23B other than those contained in ²[clauses (a) and (aa) of sub-section (1) thereof shall not apply to any land in the hilly portion of the district of Darjeeling referred to in

¹Section 23C was inserted by s.8 of the West Bengal Land Reforms (Amendment) Act,1974(West Ben. Act XXXIII of 1974).

²The words, brackets letters and figures within the square brackets were substituted for the words, brackets, letter and figures "clause (a) of sub-section (1)" by s.7 of the West Bengal Land Reforms (Amendment) Act,1977 (West Ben. Act XXXIV of 1977)

(Chapter IV.-Provisions as to revenue -Section 24-33)

West Ben. Act XXIII of 1969. Clause (b) of section 14R, where the *raiyat* shall subject to the provisions of ¹[clauses (a) and (aa) of sub-section(1)] of section 23B, pay revenue at the same rate at which it was payable in respect of the holding immediately before the commencement of the West Bengal Land Reforms (Second Amendment) Act, 1969.

24. [*Procedure of determining revenue rates-Omitted by s.12 of West Ben. Act XVIII of 1965*]

25. [*Publication and confirmation of table of revenue rates-Omitted by s.12 of West Ben. Act XVIII of 1965*]

26. [*Rates shown as the maximum-Omitted by s.12 of West Ben. Act XVIII of 1965*]

27. [*Rates of revenue, etc to form part of record- of- rights - Omitted by s.12 of West Ben. Act XVIII of 1965*]

28. [*Duration of revenue rates - Omitted by s.12 of West Ben. Act XVIII of 1965*]

29. [*Settlement of fair and equitable revenue-Omitted by s.12 of West Ben. Act XVIII of 1965*]

30. [*Draft and final publication of revenue roll-Omitted by s.13 of West Ben. Act XVIII of 1965*]

31. [*Date from which settlement takes effect. -Omitted by s.14 of West Ben. Act XVIII of 1965*]

32. [*Period for which revenue as settled is to remain unaltered-Omitted by s.14 of West Ben. Act XVIII of 1965*]

²³³The revenue payable by a *raiyat* may be altered, in the manner prescribed by the Revenue Officer if the holding of the *raiyat* has increased or decreased in area due to amalgamation purchase partition sub-division acquisition or any other cause whatsoever subsequent to the determination of the revenue.

Grounds for alteration of revenue

¹Sec foot-note 2 on page 58 *ante*.

²Substituted for original section 33 by s.15 of the West Bengal Land Reforms (Amendment) Act,1965 (West Ben. Act XVIII of 1965)

(Chapter IV. - Provisions as to revenue, - Sections 34-38.)

Bar to jurisdiction of Civil Court.

¹34. No suit or other legal proceedings shall be instituted in any Civil Court in respect of the determination of any revenue of the omission to determine any revenue under this Chapter.

Instalment, time and place for payment of revenue.

35. (1) A *raiyat* shall pay revenue in such instalment, in such manner and at such times as may be prescribed.

(2) Payment of revenue shall be made at the Village *tahsil* office or at such other place and in such manner as may be prescribed.

(3) Any instalment of revenue or part thereof which is not duly paid at the prescribed time shall be deemed to be an arrear.

Raiyat entitled to a receipt for revenue.

36. Every *raiyat* shall on making payment of revenue be entitled to obtain forthwith a written receipt in the prescribed form for the amount paid by him, signed by the person authorised to make collection of revenue.

Rebate on payment in time and interest on arrears.

37. (1) Every *raiyat* who makes payment of revenue within the prescribed period shall be entitled to a rebate of five *per centum* of the amount of revenue.

(2) An arrear of revenue shall bear simple interest at the rate of six and a quarter *per centum per annum* from the due date up to the date of payment.

Procedure for recovery of arrears of revenue.

38. All arrears of revenue shall be deemed to be public demands payable to the Collector and shall, subject to such rules as may be made in this behalf, be recoverable under the Bengal Public Demands Recovery Act, 1913 :

Ben. Act III of 1913.

²Provided that no *raiyat* shall be liable to be arrested or detained in civil prison or to have his homestead attached or sold in pursuance of any order under the said Act:

²Provided further that before any property is sold in execution of a certificate under the said Act, the *raiyat* may, on an application made by him, be allowed to pay off the arrears in such instalments as may be prescribed :

²Provided also that whenever any immovable property is sold, the purchaser may annual any incumbrance on such property in the manner prescribed.

³*Explanation.* - For the purposes of this section and sections 35, 36 and 37, "revenue" shall include "surcharge"

¹Substituted for the original section 34 by s. 16 of the West Bengal Land Reforms (Amendment) Act

1965 (West Ben. Act XVIII of 1965).

²The provisos were substituted for the original provisos by s. 9 of the West Bengal Land Reforms (Amendment) Act, 1974 (West ben. Act XXXIII of 1974). Prior to this substitution, the original third proviso was added by s. 17 of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

³The Explanation was added by s. 4 of the West Bengal Land Reforms (second Amendment) Act, 1972 (West Ben. Act XXVIII of 1972).

*(Chapter V.- Consolidation of lands comprised in holdings and
Co-Operative Farming Societies. - Sections 39-41.)*

CHAPTER V.

Consolidation of lands comprised in holdings, and Co-operative Farming Societies.

39. The State Government may -

- (1) on the representation of *raiyats* in any area, or
- (2) on its own motion,

Acquisition
of holdings
for consoli-
dation.

acquired the lands in any area ¹[as may be necessary] on payment of compensation to the *raiyats* owning them when the lands comprised in the holdings of the *raiyats* in such area are not in compact blocks, if the State Government is of the opinion that the lands comprised²[in the holdings in such area] should be consolidated:

³Provided that consolidation of lands may be undertaken by the State Government if any seven or more persons being *raiyats* each owning land not exceeding 0.4047 hectare of land in the aggregate or being recipients of lands settled under section 49 or from both such categories make representation therefor.

40. On such acquisition being made, the State Government shall re-arrange the holdings so that the lands comprised in each is in a compact block and re-allot them to the *raiyats* whose lands have been acquired, in such manner as it thinks fit, ensuring that each *raiyat* gets a holding comprising the same area, and, as far as possible, lands of the same quality and value as before the consolidation:

Redistribut-
tion of land
after
acquisition.

Provided that no *raiyat* shall be entitled to receive any land in excess of the area held by him prior to acquisition:

Provided further that on such allotment being made there shall be deducted from the amount of compensation payable to a *raiyat* under section 39 the value of the land allotted to him after acquisition.

41. If the holding of a *raiyat* which is acquired for the purposes of consolidation is subject to any incumbrance, such incumbrance shall be deemed to be transferred and attached to the land which is allotted to the *raiyat* after acquisition and to the compensation, if any, payable to him under this Chapter and shall cease to have any effect against the land from which it has been so transferred.

Transference
of
incumbrances
on holding.

¹The words within the square brackets were inserted by s 38(a) of the West Bengal Land

Reforms(Amendment) Act, 1981 (West Ben. Act L of 1981). w.e.f. 7.8.69.

²The words within the square brackets were substituted for the words "in the holding in such area" by s. 38(b), *ibid*.

³The proviso was substituted for the original proviso by s. 38(c), *ibid*.

*(Chapter V.- Consolidation of lands comprised in holdings, and
Co-operative Farming Societies Section 42, 43.)*

Recovery of the excess value of allotted land. 42. If the value of the land allotted to a *raiyat* after acquisition be greater than the value of the land acquired from such *raiyat*, the difference in value shall be recoverable from him in such instalments as may be prescribed and it such difference be not paid within the time allowed for the purpose it shall be recoverable as a public demand payable to the Collector unless the *raiyat* declines to accept settlement of the land allotted to him.

Formation of Co-operative Farming Societies. 43. (1) Any seven or more *raiyats* owning lands in a compact block or intending to acquire such land, may form themselves into a Co-operative Farming Society and apply in writing, in the prescribed form, to the Registrar, Co-operative Societies, for the registration of such society under ¹[the West Bengal Co-operative Societies Act, 1973].

¹[West Ben. Act XXXVIII of 1973.]

(2) The Registrar may, after such enquiry as he may deem fit, register the society under ¹[the West Bengal Co-operative Societies Act, 1973²], and grant a certificate of registration and on such registration the provisions of ¹[the West Bengal Co-operative Societies Act, 1973²], subject to the special provisions of this Act, shall apply to such a society and the society may enlist new members in accordance with the rules and bye-laws under the said Act for the time being in force.

(3) When a Co-operative Farming Society has been registered under sub-section (2), all lands excluding homestead, belonging to the members thereof and forming one compact block, whether owned by them at the time when they became such members or acquired by them subsequently, shall vest in the society and no member shall be entitled to hold in his personal capacity any land, excluding homestead, which together with any land belonging to him but vested in the society under the provisions of this sub-section ³[exceeds the ceiling area applicable to him under Chapter II-B].

(4) When the lands belonging to a member of a Co-operative Farming Society vest in such society, there shall be allotted to him shares the value of which will, as far as possible, be equal to the value of the lands of the member vested in the society.

¹The words and figures within the square brackets along with the marginal reference were substituted for the words and figures "the Bengal Co-operative Societies Act, 1940" along with the marginal reference "Ben Act XXI of 1940" by s. 39 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

²The Bengal Co-operative Societies Act, 1940 (Ben. Act XXI of 1940, was repealed and re-enacted by s. 3 of the West Bengal Co-operative Societies Act, 1973 (West Ben. Act XXXVIII of 1973). The latter Act was again repealed and re-enabled by s. 3 of the West Bengal Co-operative Societies Act, 1983 (West Ben. Act XLV of 1983).

³The words figures and letter within the square brackets were substituted for the words "exceeds twenty five acres so long as he continues to be a member of the society" by s. 21 of the West Bengal land Reforms (Amendment) Act. 1972 (West Ben. Act XII of 1972).

*(Chapter V.- Consolidation of lands comprised in holdings, and
Co-operative Farming Societies Section 44-48.)*

(5) Notwithstanding anything elsewhere contained in this Act, no co-operative Farming society shall have the right to acquire or hold any land except the land which vests in it under sub-section (3).

¹* * * * *

44. (1) The shares held by a member of a Co-operative Farming Society shall not be transferred to any person other than another member of the society or a *raiyat* or other person residing in the locality in which the society has been established.

Restriction on transfer of shares in a Co-operative Farming Society.

(2) Subject to the restrictions mentioned in sub-section (1), the shares held by a member of a Co-operative Farming Society shall be transferable and heritable.

45. No Co-operative Farming Society established in accordance with the provisions of the Act shall be wound up or dissolved except under the orders of the State Government.

Dissolution of a Co-operative Farming Society.

46. When a Co-operative Farming Society is wound up or dissolved, the prescribed authority shall allot to its members, in such manner and subject to such rules as may be prescribed, all the lands vested in the society, and the rules may provide for equitable allotment of lands to the members having regard to the area and the quality of lands belonging to them before the vesting of such lands in the society.

Transfer of lands on dissolution of a Co-operative Farming Society.

47. When a Co-operative Farming Society is established under the provisions of this Act, the aggregate of the revenues which would have been payable by its members for their lands, if such lands had not vested in the society, shall be the revenue payable by the society for the lands vesting in it, subject to such reduction as may be allowed under section 48.

Revenue payable by a Co-operative Farming Society.

48. (1) A Co-operative Farming Society established under this Act shall be entitled to such concessions and facilities from the State Government as may be prescribed.

Concession and facilities for a Co-operative Farming Society.

(2) Without prejudice to the generality of the foregoing provisions, such concessions and facilities may include -

(1) such reduction of revenue as Government may allow ;

(2) free supply of seeds and manure for the first three years and

thereafter at concessional rates ;

¹Sub-section (6) was omitted by s. 5 of the West Bengal Land Reforms (Second Amendment) Act, 1972 (West Ben. Act XXVIII of 1972).

*(Chapter V.- Consolidation of lands comprised in holdings, and
Co-operative Farming Societies Section 48A)*

- (c) free technical advice by the experts of the State Government ;
- (d) financial assistance on such terms and conditions as may be prescribed.
- (e) arrangements for better marketing.

Formation of
Co-operative
Common
Service
Society.

¹48A. (1) Any seven or more persons each owning, cultivating or possessing in any capacity agricultural land not exceeding 0.4047 hectare in area in aggregate in any compact block or in different blocks may form themselves into a Co-operative Common Service Society and apply in writing, in the prescribed form, to the Registrar, Co-operative Societies, West Bengal for registration of such society under the West Bengal Co-operative Societies Act, 1973.

West Ben.
Act
XXXVIII of
1973.

(2) The Registrar may, after such enquiry as he may deem fit, register the society under the West Bengal Co-operative Societies Act, 1973 and grant a certificate, and on such registration the provisions of the West Bengal Co-operative Societies Act, 1973, shall, subject to the special provisions of this Act, apply to such a society and the society may enlist new members in accordance with the rules and by-laws under the said Act for the time being in force:

Provided that the society shall not enlist any person as its member who owns, cultivates or possesses in any capacity agricultural land exceeding ²[0.4047 hectare] in the aggregate.

(3) Notwithstanding anything contained in the West Bengal Co-operative Societies Act, 1973 and the rules made thereunder,-

- (1) the Chairman of any Co-operative Common Service Society shall be nominated from amongst the elected directors of the society by the Collector having jurisdiction on receiving a written requisition from the elected directors of the Society. A Chairman so nominated may be removed before expiry of the term of the managing committee of the society and a new Chairman may be nominated in his place;
- (2) the first managing committee of any Co-operative Common Service Society shall hold office for a term not exceeding three years;
- (3) after the expiry of the term of the first managing committee of the society, the Chairman shall be elected by the elected directors of the society.

¹Section 48A was inserted by s.40 of the West Bengal Land Reforms (Amendment) Act, 1981 (West

Bengal Act L of 1981)

²The figures and word within the square brackets were substituted for the words "one" hectare" by s. 14(a) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

(Chapter VI.- Principles of distribution of lands -Section 49)

(4) A Co-operative Common Service Society shall raise its funds from among other sources, the State Government, the Central Government, any bank, an insurance corporation and other financial institutions or from among its own members as grant, loan or equity. The society shall acquire by purchase, grant, gift, hiring or otherwise plough, cattle manure (including chemical fertilisers) seeds, modern scientific agricultural implements and such other inputs as may be necessary for cultivation ¹[and poultry farming] and supply or utilise the same among its members in proportion to the area of land held by them. The Society may advance loan to be members out of its own fund ²[or out of the fund raised by it]

(5) The society may recover loans, interest service charges and another charge for supply of implements and price or part of price of inputs supplied to the members in accordance with the bye-laws of the society specially made for this purpose.

(6) The society may undertake marketing of products grown by its members.

CHAPTER VI

Principles of distribution of lands.

49. ³(1) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force. Settlement of any land which is at the disposal of the State Government, shall be made without any premium being charged for it, in such manner as may be prescribed., with persons who are residents of the locality where the land is situated, and who together with other

Principles of distribution of lands.

¹The words within the square brackets were inserted by s. 14(b)(i) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986)

²The words within the square brackets were inserted by s. 14(b)(ii) *ibid.*

³Firstly, in section 49-

- (1) the figures and word "1.00 hectare" were substituted for the words "two acres" by s.22(i) of the West Bengal Land Reforms (Amendment) Act 1972 (West Bengal Act XII of 1972)
- (2) the second proviso was added by s. 22(ii) *ibid.*

Then, section 49 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-section (2) (3) and (4) were inserted by s.6 of the West Bengal Land Reforms (Second Amendment) Act 1972 (West Ben. Act XXVIII of 1972). Thereafter there occurred following changes in the aforesaid sub-section namely :-

- (1) sub-section (1) was substituted by s. 2(i) of the West Bengal Land Reforms (Amendment) Act, 1975 (West Ben. Act. XXIII of 1975),
- (2) sub-section (2) was substituted by s. 2(ii) *ibid.*, and
- (3) firstly, in sub-section (3), the words "annulling settlement or both the settlement and the transfer

of any land as the case may be "were substituted for the words annulling settlement of any land" by s. 2(iv) *ibid.* Thereafter sub-section (3) was substituted by s. 5(c) of the West Bengal Land Reforms (Amendment) Act, 1980 (West Ben. Act XLI of 1980)

(Chapter VI.-Principles of distribution of lands.-Section 49.)

members of their family, own no land or less than ¹[0.4047 hectare of land used for the purpose of agriculture], one half of the lands cultivated by them as *bargadars* being taken into account for the purpose of calculating the aggregate of such land, and subject to the following conditions, namely:-

- (1) that, in the case of agricultural land, such person intends to bring the land under personal cultivation.
- (2) that, in the case of homestead land, such person having no homestead of his own, intends to construct a dwelling house thereon, and
- (3) Such other terms and conditions as may be prescribed:

Provided that among the persons eligible for such settlement, preference shall be given to persons belonging to Scheduled Caste or Scheduled Tribe or who form themselves into a Co-operative Society for the purpose:

²Provided further that no settlement of land shall be made with any person or with a member of the family of any such person, who is engaged or employed in any business, trade, undertaking, manufacture, calling, service, or industrial occupation.

²Explanation- The second proviso to sub-section (1) shall not apply to an agricultural labourer, artisan or fisherman.

³(1A) No person with who any land is or has been settled under sub-section (1) shall be entitled to transfer such land except by way of a simple mortgage or a mortgage by deposit of title deeds in favour of a Scheduled Bank, or a Co-operative Society or a Corporation owned or controlled by the Central or State Government or both, and for the purpose of obtaining loan for the development of land or for the improvement of agricultural production or for the construction of a dwelling house.

⁴(2) If a Revenue Officer, on his own motion or on application made to him in that behalf, after hearing the person with whom the land was settled and in the case of any subsequent transfer, the transferee as also the person who is, for the time being, in actual occupation of such land and after making such enquiry as may be prescribed, is satisfied that settlement of such land ¹[was made by mistake or

¹Firstly, the figures and word "0.4047" were submitted for the figures and word "1.00 hectare" by a 5(a)(i) of the West Bengal Land Reforms (Amendment) Act, 1980 (West Ben. Act XLI of 1980). Thereafter the figures and words within the square brackets were substituted for the figures and word "0.4047 hectare" by s.42 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act L of 1981) w.e.f.7.8.69.

²The second proviso and the Explanation' were substituted for the original 'proviso and the Explanation' by s.5(a)(ii) of the West Bengal Land Reforms (Amendment) Act, 1980 (West Ben. Act XLI of 1980)

³Sub-section (A) was inserted by s.2(ii) of the West Bengal Land Reforms (Amendment) Act, 1975 (West Ben. Act XXIII of 1975).

⁴See foot-note 3 on page 65 *ante*.

(Chapter-VI. - Principles of distribution of lands - Section 49.)

obtained under any provision of this section by practice of fraud, misrepresentation, correction or otherwise,] or that a transfer of any land has been made in contravention of the provisions of sub-section (1A), he, may, by order in writing, annul the settlement or both the settlement and the transfer, as may be deemed necessary.

²(3) When a Revenue Officer makes an order under sub-section (2) annulling settlement or both the settlement and the transfer of any land, as the case may be, the Revenue Officer shall enforce delivery of possession of such land to the Collector by using such force as may be required after evicting the person in actual occupation of such land.

³(3A) For the purpose of enforcing delivery of possession of any land and evicting any person in actual occupation of such land under sub-section (3) any such Revenue Officer may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station or to any police officer superior in rank to such officer-in-charge and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for enforcing delivery of possession such land.

²(4) Any person aggrieved by an order made under sub-section(2) may, within Thirty days from the date of such order, prefer an appeal to such authority as the State Government may, by notification in the *Official Gazette*, specify and the order passed such authority in appeal shall be final.

⁴(4A) Notwithstanding anything contained in the foregoing provisions of this section, the State Government or an officer authorised in this behalf by the State Government, may transfer to, or settle with, a local body or an authority constituted or established by or under any law for the time being in force land which is at the disposal of the State Government, for such purpose and on such terms and conditions as may be decided by the State Government.

¹The words within the square brackets were substituted for the words, figure and brackets "was obtained by any person under sub-section (1) by practising fraud or misrepresentation" by a 5(b) of the West Bengal Land Reforms (Amendment) Act, 1980 (West Ben. Act XLI of 1980)

²See foot-note 3 on page 65. *ante*.

³Sub-section (3A) was inserted by s. 5(d) *ibid*

⁴Sub-section (4A) was inserted by s. 15 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986)

*(Chapter VI. Principles of distribution of lands - Section 49A.-
Chapter VII.,- Maintenance of the record-of-rights -Section 50.)*

¹(5) Notwithstanding anything contained elsewhere in this Act, where the State Government is satisfied that it is necessary so to do for a public purpose or for establishment, maintenance or preservation of any educational or research institution or industry, settlement for any period of any land may be made with any person or institution on such terms and conditions including periodical payments, with or without any premium being charged therefor, in such manner as may be prescribed.

²*Explanation I.* - For the purposes of this sub-section, 'Person' includes a an individual, a firm, a company, or an association or body of individuals, whether incorporated or not.

²*Explanation II.* - For the purposes of this sub-section, "industry" includes a tea-gardens, mill, factory or workshop, livestock breeding, poultry farming, or dairy, or township approved under the West Bengal Town and Country (Planning and Development) Act, 1979.

West Ben.
Act XIII of
1979.

Penalty for
unauthorised
occupation
of vested
lands.

³49A. Any person who -

- (1) being in unauthorised occupation of any land which is at the disposal of the State Government fails to vacate such land after a notice has been served on him to do so, or
- (2) obstructs any person with whom any land has been settled under sub-section (I) of section 49 from taking possession of such land.

shall be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both.

CHAPTER VII.

⁴[Maintenance of the record-of-rights]

Maintenance
of the
record-of-
rights.

50. ⁵[The prescribed authority] shall maintain up-to-date in the prescribed manner the village record-of-rights by incorporating therein the changes on account of -

(a) mutation of names as a result of transfer or inheritance ;

¹Sub-section(5) along with its 'Explanation' was added by 5. 5(e) of the West Bengal Land Reforms (Amendment) Act. 1980 (West Ben. Act XLI of 1980)

²The existing 'Explanation II' was added as Explanation I and after Explanation I as so renumbered. Explanation II was added by s. 4 of the West Bengal Land Reforms (Amendment) Act, 1996 (West Ben. Act XXIV of 1996).

³Section 49A was inserted by s. 3 of the West Bengal Land Reforms (Amendment) Act, 1976 (West Ben. Act XII of 1976)

⁴The heading under Chapter VII was substituted for the original heading 'Maintenance and revision of the record-of-rights' by s.41 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act.

L of 1981) w.e.f. 7.8.69.

⁵The words within the square brackets were substituted for the words "The Revenue Officer especially empowered by the State Government in this behalf" by s. 43, *ibid*.

*(Chapter VII. - Preparation or revision of record -of-rights -
Sections 50A, 51.)*

(b) partition, exchange, or consolidation of lands comprised in holdings or establishment of Co-operative Farming Societies;

(c) new settlement of lands or of holdings;

(d) variation of revenue ;

(e) alteration n the mode of cultivation, for example, by a *bargadar*;

(f) such other causes as necessitate a change in the record-of-rights.

¹CHAPTER VIIA.

Preparation or revision of record-of-rights.

¹50A. Section 50 shall not apply to any district or part of such district where Chapter VIIA has come into force for the purpose of revision of preparation of record-of-rights, but section 50 shall apply to any land in any such district or part of such district after final publication of any such record-of-rights under section 51A.

Section 50 not to apply to certain cases.

²Provided that notwithstanding any order made under sub-section (1) of section 51 in respect of a district or part of a district, the State Government may make an order directing the Revenue Officers specially empowered under section 50 to incorporate such changes as may be specified in the said order in the records-of-rights in respect of such district or part of such district under section 50, if the State Government is satisfied that incorporation of such changes is necessary to mitigate the hardship of a *raiyat*.

³51. (1) The State Government may, in any case if it so thinks fit, make an order directing that record-of-rights in respect of any district or part of a district be revised or prepared by a Revenue Officer in accordance with the provisions of this Chapter and such rules as may be made by the State Government in this behalf.

Revision or preparation of the record-of-rights.

(2) A notification in the *Official Gazette* of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.

(3) When an order is made under sub-section (1), the Revenue Officer shall record in the record-of-rights to be revised or prepared in pursuance of such order, such particulars as may be prescribed.

¹Chapter VII along with section 50A was inserted by s. 44 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8. 69.

²The proviso was added by s. 16 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986)

³Section 51 was substituted for the original section by s.18 of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVII of 1965)

*[Chapter VIIA.- Preparation or revision of record-of-rights.-
Section 51A]*

¹* * * * *

¹(5) There shall be separate *khatian* for each *raiyat* and the *khatian* shall include all lands held by such *raiyat* in one *mouza*.

Draft and final publication of the record-of-rights.

²51A. (1) When a record-of-rights has been revised or prepared, the Revenue Officer shall publish a draft of the record so revised or prepared in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made during such p8eriod to any entry therein or to any om9ission therefrom

(2) When all such objections have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue Officer shall finally prepared the record and cause such record to be finally published in the prescribed manner and make a certificate setting the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation.

(3) Separate publication of different parts of draft or final records may be made under sub-section (1) or sub-section (2) for different local areas.

³(4) An officer specially empowered by the State Government may, on application within one year, or on his own motion within three years from the date of publication of the record-of-rights under sub-section)2) revise an entry in the record finally published in accordance with the provisions of sub-section (2) after the persons interested are given an opportunity of being heard and after recording reasons therefor.

(5) Any person aggrieved by an order passed in revision under sub-section 4 may, within such period and on payment of such court-fees as may be prescribed, appeal in the prescribed manner to ⁴[⁵the prescribed authority superior in rank to the authority from whose order the appeal is preferred) of the district in which the land is situated.

¹Sub-section (4) and (5) were first inserted by s.10 of the West Bengal Land Reforms (Amendment) Act, 1974 (West Ben Act XXXIII of 1974). Thereafter, sub-section (4) was omitted by s. 45 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act. L of 1981)w.e.f. 7.8.69.

²Sections 51A, 51B, 51C and 51D were inserted by s.19 of the West Bengal Land Reforms (Amendment)Act 1965 (West Ben. Act XVIII of 1965).

³Sub-section (4) was substituted for the original sub-section by s.17(a) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986)Prior to this substitution, the words "three years" were substituted for the words "one year" in the original sub-section (4) by s.46(a) of the West Bengal Land Reforms (Amendment) Act 1981 (West Ben. Act L of 1981)

⁴The portion within the square brackets were substituted for the words, figures, and letter "a special Judge appointed under section 51D for the purpose of this section" by s.23 of the West Bengal Land Reforms (Amendment)Act 1972 (West Ben. Act XII of 1972)

⁵The words within the first brackets were substituted for the words "the Additional District Magistrate" by s. 46(b) of the West Bengal Land Reforms (Amendment) Act 1981 (West Ben. Act L of 1981) w.e.f. 7.8.69.

*[Chapter VIIA - Preparation or revision of record-of-rights.-
Section 51B).*

President's
Act 3 of
1971.

West Ben.
Act XIII of
1972.

Provided that every appeal pending before a Special Judge appointed under section 51A at the commencement of section 19 of the West Bengal Land Reforms (Amendment) Act 1971, shall, on such commencement, stand transferred to, and be disposed of by, ¹(the prescribed authority superior in rank to the authority from whose order the appeal is preferred) and on such transfer, every such appeal shall be dealt with from the state at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act 1972]

(6) The certificate of final publication referred to in subsection (2) or in the absence of such certificate, a certificate signed by the Collector of any district in which the area to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proof of such publication and of the date thereof.

(7) The State Government may, by notification in the *Official Gazette*, declare with regard to any area specified in the notification that the record-of-rights for every village included in such area has been finally published and such notification shall be conclusive proof of such publication.

(8) In any suit or other proceeding in which a record-of-rights revised or prepared and finally published under this Chapter, or a duly certified copy of the record or an extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied.

(9) Every entry in the record-of-rights finally published under sub-section (2) including an entry revised under sub-section (4) or corrected under section 51B ²[or section 51BB] shall, subject to any by an order on appeal under sub-section (5) be presumed to be correct

³* * * * *

⁴51B. (1) Any Revenue Officer specially empowered by the State Government in this behalf may, on an application or on his own motion, at any stage of revision or preparation of the record-of-rights under this Chapter but before final publication of any such record-of-rights, revise or correct any entry in such record-of-rights after giving the persons interested an opportunity of being heard and after recording the reasons therefor:

Revisions or
correction of
entry in
record-of-
rights.

¹See foot-note 5 on page 70. ante

²The word, figures and letters within the square brackets were inserted by s.17(b) of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986)

³The words "until it is proved by evidence to be incorrect" were omitted by s. 11 of the West Bengal Land Reforms (Amendment) Act 1974 (West Ben. Act XXXIII of 1974)

⁴Section 51B was substituted for the original section by s.47 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981) w.e.f. 7.8.69.

*[Chapter VIIA - Preparation or revision of record-of-rights.-
Section 51BB, 51C, 51D]*

Provided that any order made under this sub-section shall be appealable in accordance with the provisions of sub-section (5) of section 51A.

Revisions or correction of entry in record-of-rights before or after final publication.

¹51BB. An officer specially empowered in this behalf by the State Government may revise or correct any entry in any record-of-rights in respect of a *mauza* at any stage before or after final publication of such record-of-rights under this Chapter if it is necessary, in his opinion, to do so in pursuance of an order under Chapter IIB or on account of any amendment made in the provisions of this Act:

Provided that no such revision or correction shall be made except when it is necessary to do so in order to prepare a separate *khatian* as required under sub-section (5) of section 51 by amalgamating the *khatians* in respect of a *raiyat* already prepared or finally published under this Chapter or to correct a bona fide mistake, until a notice has been given to the persons interested to appear and be heard in the matter.

Bar to jurisdiction of Civil Court in respect of certain matters

²51C. ³(1) When an order has been made under sub-section (1) of section 51 directing revision or preparation of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of revenue or the incidents of any tenancy to which the record-or-rights related, and if any suit or application in which any of the aforesaid matter is in issue, is pending before a Civil Court on the date of such order, it shall be stayed and it shall, on the expiry of the period prescribed for an appeal under sub-section , as the case may be, on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters.

³(2) No Civil Court shall entertain any suit or application concerning any land if it relates to alteration of any entry in the record-or-rights finally published, revised, corrected or modified under any of the provisions of this Chapter.

Explanation.- In this section "suit" includes an appeal.

²51D. *[(Appointment of Special Judge.) - Omitted by s. 24 of the West Bengal land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972)].*

¹Section 51BB was inserted by s. 18 of the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Ben. Act XXXV of 1986).

²See foot-note 2 on page 70, ante.

³Section 51C was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-section (2) was inserted by s. 12 of the West Bengal Land Reforms (Amendment) Act, 1974 (West ben. Act XXXIII of 1974).

*(Chapter VIII. - Management of Lands - Section 52-52B).***CHAPTER VIII.**¹[Management of Lands]

²52. (1) All lands to which this Act applies shall be deemed to have been held under the State on such terms and conditions as may be prescribed.

Management of lands.

(2) Any land belonging to the State or land which is at the disposal of the State Government or held under the State by virtue of the provisions of the West Bengal Estates Acquisition Act 1953 or this Act or any other law in force shall, unless the State Government otherwise directs by any general or special order, be managed, in such manner as may be prescribed, by the Collector of the district under whose jurisdiction the lands are situated subject to the control of the State Government.

West Ben. Act I of 1954.

(3) If the State Government is of opinion that different sets of rules are necessary for the management of different classes or descriptions of lands or lands of different areas, it may make different sets of rules under this section.

(4) Until rules made under this section come into operation management of any land covered by this Act shall continue to be made in accordance with the existing law or rules or manual or principles, whichever may apply.

³52A. The State Government may, while making rules under section 52, provide for the establishment of any Government Company or any co-operative society or any institution in the public interest for utilisation of any land.

Provision for establishment of Government Company, etc.

³52B Notwithstanding anything in any other law for the time being in force or in any custom, usage or contract or in any agreement, decree, order, decision or award of any court, tribunal or other authority, the State Government shall be entitled to enter upon and take possession of any land which is at the disposal of the State Government by evicting, if necessary, any person therefrom by an order of the prescribed authority in accordance with the provisions of section 49.

Power to enter upon or take possession of land.

Explanation - The expression "any land at the disposal of the State Government" shall include any land of which any lease, or license has been determined by the application of any law, by efflux of time, due to rescission of lease, leave or licence or due to violation of the terms of the lease, leave or licence, as the case may be, or for any other reason, and any land which has been abandoned by the lessee or licensee.

¹The heading under Chapter VIII was substituted for the original heading "Management of estates vested in the State" by s. 48 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981) w.e.f. 7.8. 9.

²Section 52 was substituted for the original section by s. 49, *ibid.*

³Sections 52A and 52B were inserted by s. 50, *ibid.*

(Chapter IX. - Miscellaneous. - Section 53, 53A, 54.)

CHAPTER IX.

Miscellaneous.

Delegation of powers by the State Government. 53. The State Government may by a notification in the *Official Gazette* delegate any of the powers under ¹[sub-section (2A) of section 4, ²[sub-section (2) of section 14U], section 22, section 39 and section 40] to be exercised by the prescribed authority subject to such reservation as may be specified in the notification.

Revenue Officer to be a necessary party in all suits, etc. ³53A. Notwithstanding anything contained elsewhere in this Act or in any law for the time being in force, the Revenue Officer having jurisdiction in the area in which any land is situated shall be necessary party to all suits of a civil nature relating to any such land or portion thereof in which one of the parties to the suit is a member of any Scheduled Tribe and the other party is not a member of any Scheduled Tribe.

Appeals 54. ⁴(1) Subject to any special provisions for appeal made in this Act or in any rules made under this Act, an appeal shall lie in the manner indicated below -

⁵(a) to a Collector, when the order is made by a Revenue Officer or revenue authority below the rank of a Collector;

(b) to the Commissioner of the Division, when the order is made by the Collector of a district within the Division ;

⁴* * * * *

⁶(2) Where, at the commencement of section 22 of the West Bengal Land Reforms (Amendment) Act, 1971, any appeal is pending before the Member, Board of Revenue, such appeal shall, notwithstanding anything contained in sub-section (1), be disposed of by such Member.

⁶(3) After any appeal is preferred to a Collector, he may transfer the appeal to any officer subordinate to him as may be prescribed :

Provided that the officer to whom the appeal is transferred is superior in rank or position to the officer or authority making the order appealed against.

¹The words, figures and brackets were substituted for the words and figures "sections 16, 22, 39 and 40" by s. 5 of the West Bengal Land Reforms (Amendment) Act, 1966 (West Ben. XI of 1966).

²The words, figures, letter and brackets within the square brackets were substituted for the word and figures "section 6" by s. 7 of the West Bengal Land Reforms (Second Amendment) Act, 1972 (West Ben. Act XXVIII of 1972).

³Section 53A was inserted by s. 25 of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

⁴Section 54 was renumbered as sub-section (1) of that section and in sub-section 91) as so renumbered, clause (c) and the proviso thereto were omitted by s. 26(i), *ibid.*

⁵Clause (a) was substituted for the original clause by s. 51(1) of the West Bengal land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

⁶After renumbering of sub-section (1) as per foot-note 4 above, sub-section (2), (3) and (4) were added by s. 26(ii) of the West Bengal land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972). Thereafter, sub-section (3) was substituted by s. 51(2) of the West Bengal land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

(Chapter IX.- Miscellaneous. -Sections 55-57.)

¹(4) An order passed in appeal shall be final.

²(5) Notwithstanding anything contained elsewhere in this Act, the State Government may, on its own motion, correct any erroneous decision passed by any Revenue Officer or by any officer in an appeal under the foregoing provisions of this section and any such order passed by the State Government shall be final and shall not be called in question in any court.

Limitation
for appeals.

55. Save as expressly provided in this Act or the rules made thereunder, the period of limitation for an appeal under section 54 shall run from the date of the order appealed against and shall be as follows, that is to say -

(1) when the appeal lies ³[to a Collector]- thirty days ;

(2) when the appeal lies to the Commissioner of a Division - sixty days;

⁴* * * * *

56. A Revenue Officer, or any officer authorised by him subject to any rules made under this Act, may at any time enter upon any land but not a dwelling house with such officers or other persons as he considers necessary, and made a survey or take measurement thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act.

Power to
enter upon
land, to
make
survey, etc.

5 of 1908 ⁵57. Subject to the provisions of this Act and any rules made thereunder, any officer in dealing with proceedings under this Act shall exercise the powers of a Civil Court under the Code of Civil Procedure, 1980 for the purpose of -

Powers of
officers
dealing with
proceedings
under this
Act.

- (3) summoning and enforcing the attendance of any person and examining him on oath as a witness,
(4) requiring the discovery and production of any document or record,

¹See foot-note 6 on page 74, *ante*.

²Sub-section (5) was added by s. 51(3) of the West Bengal Land Reforms (Amendment) Act, 1981 (West ben. Act L of 1981), w.e.f. 7.8.69.

³The words "or to the Additional District Magistrate" were first inserted by s. 27(i) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972). Thereafter, the words within the square brackets were substituted for the words "to the Collector or to the Additional District Magistrate" by s. 52 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.

⁴Clause (c) was omitted by s. 27(ii) of the West Bengal Land Reforms (Amendment) Act, 1972 (West Ben. Act XII of 1972).

⁵Section 57 was substituted for the original section by s. 2 of the West Bengal Land Reforms (Second Amendment) Act, 1978 (West Ben. Act XXXVII of 1978).

(Chapter IX. - Miscellaneous - Sections 58, 59.)

- (5) receiving evidence on affidavits,
- (6) requisitioning any public record or copy thereof from any Court of office.
- (7) issuing commission for the examination of witnesses or documents,
- (8) enforcing or executing orders including an order for restoration of possession as if such orders were decrees of a Civil Court,
- (9) remanding any case or proceedings to the officer from whose decree the appeal is preferred.

and such officer shall record of the substance of the evidence , if any, taken by him.

Protection of
action taken
under this
Act.

58. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Repeal.

59. ¹[Without prejudice to the provisions of clause (p) of section 2 of the West Bengal Estates Acquisition Act, 1953, the following] Regulation and Acts are hereby repealed, namely :-

- | | |
|--|---|
| (1) The Bengal Alluvion and Diluvion Regulation, 1825. | West Ben.
Act I of
1954 |
| (2) The Bengal Alluvion and Diluvion Act, 1847. | Ben. Regn.
XI of 1825.

IX of 1847 |
| (3) The Bengal Alluvial Land Settlement Act, 1858. | XXXI of
1858 |
| (4) The Bengal Rent Act, 1859. | X of 1859 |
| (5) The Bengal Tenancy Act, 1885. | VIII of
1885 |
| (6) The Cooch Behar Tenancy Act, 1910. | Cooch Behar
Act V of
1910. |
| (7) The West Bengal <i>Bargadars</i> Act, 1950. | West Ben.
Act II of
1950. |

¹The words, figures, letter and brackets within the square brackets were substituted for the words "The following" by s. 20(i) of the West Bengal Land Reforms (Amendment) Act, 1965 (West ben. Act XVIII of 1965).

(Chapter IX.- Miscellaneous. - Section 60-63).

¹* * * * *

60. (1) The State Government may, after previous publication, make ²rules for carrying out the purposes of this Act.

Power to make rules.

(2) The rules so made shall have effect as if they were incorporated in this Act.

5 of 1908

³61. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force or in any decree, judgment, decision or award of any court, tribunal or authority, no court shall have jurisdiction to determine any question relating to any land or connected with any matter which is required to be or which has been enquired into or decided by any Revenue Officer or prescribed authority or any officer or authority under the provisions of this Act.

Bar to jurisdiction of court.

(2) Any Revenue Officer or prescribed authority or other officer of authority empowered under the provisions of this Act shall have exclusive jurisdiction to enquire into and decide any question relating to any land in connection with any matter which is required to be enquired into or decided by any prescribed authority or other officer or authority under the provisions of this Act.

(3) Nothing in sub-section (1) and sub-section 92) shall be deemed to affect any right which the parties to any dispute may otherwise have against each other.

³62. The State Government may give such direction, not inconsistent with the provisions of this Act, to any Collector Revenue Officer or prescribed authority under this Act as may appear to the State Government to be necessary for carrying out the purposes of this Act or any rule made thereunder.

Power to State Government to give directions.

West Ben. Act. L of 1981
West Ben. Act XX of 1949.

³63. (1) With effect from the date of coming into force of the West Bengal Land Reforms (Amendment) Act, 1981 in any district or in any area of Calcutta, such provisions of the West Bengal Non-Agricultural Tenancy Act, 1949, as are repugnant to the provisions of this Act, shall cease to have effect in that district or area.

Repeal and savings.

(2) Notwithstanding the provisions of sub-section (1) any proceeding pending on the date of such coming into force before any authority appointed under the West Bengal Non-Agricultural Tenancy Act, 1949 or before any court shall be continued or disposed of as if the West Bengal Land Reforms (Amendment) Act, 1981 had not come into force in that district or area.

¹The proviso was omitted by s. 20(ii) of the West Bengal Land Reforms (Amendment) Act, 1965 (West Ben. Act XVIII of 1965).

²For rules made in exercise of the power conferred by s. 60 of the Act, see notification No. 9796-L. Ref., dated the 1st June, 1956, published in the Calcutta Gazette, Extraordinary, dated the 2nd June, 1956, Part I, page 1355, as subsequently amended from time to time.

³Sections 61, 62 and 63 were inserted by s. 53 of the West Bengal Land Reforms (Amendment) Act, 1981 (West Ben. Act L of 1981), w.e.f. 7.8.69.