

(1983) 03 CAL CK 0018

Calcutta High Court

Case No: None

Rohima Khatun

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

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**Date of Decision:** March 29, 1983**Acts Referred:**

- West Bengal Land Reforms Act, 1955 - Section 2, 51

**Citation:** 86 CWN 571**Hon'ble Judges:** Chittatosh Mookerjee, J**Bench:** Single Bench**Advocate:** Protap Ray, for the Appellant; Kedar Nath Laha, for the Respondent

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### Judgement

Chittatosh Mookerjee, J.

The Revenue Officer, Galsi Settlement Camp, has served a notice upon the petitioner stating, that, Abdul Mabud described as Abdul Sabud, the respondent No. 5, has made an application for recording him as a Bargadar under the petitioner in respect of the land mentioned in one schedule to the said notice. Thereupon, the petitioner has moved this writ Application challenging the authority of the Revenue Officer, Galsi to entertain the said application of the respondent no. 5. The petitioner's contention, inter-alia, is that no Revenue Officer with the additional designation of Settlement Officer under Schedule "A", second proviso, clause (i) of Rule 1 of the West Bengal Land Reforms Rules had cancelled the Records of Rights which have been already attested and such an officer also has not further directed that the R. S. Settlement proceedings be carried out de novo. Therefore, the Revenue Officer, Galsi, who himself is not a Settlement Officer has no jurisdiction to enter the name of the respondent no. 5 as Bargadar in the Record of Rights in question. Mr. Laha, who has appeared on behalf of the State, has produced before me a copy of the Notification No. 7666-S & S dated 20th June, 1979, issued by the Board of Revenue, Government of West Bengal, Section-C S&S Branch stating that :

In exercise of the power conferred by clause (12) of section 2 of the West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956), read with paragraph I of Schedule "B" of the West Bengal Land Reforms Rule, 1965, the Governor is pleased hereby to appoint the following officers, attached to the Revisional Settlement Operations under the Directorate of Land Records and Surveys, West Bengal, to discharge the functions of a Revenue Officer u/s 51 of the said Act within their respective jurisdictions:

- 1) All Settlement Officers
- 2) All Charge Officers
- 3) All Special Revenue Officers.

Grade-II

- 4) All Kanungos, Grade-I
- 5) All Kanungos, Grade-II

This supersedes all previous notifications issued on the subject appointing individual officers as Revenue Officers under the said section.

2. Mr. Laha has also placed the following Order No. 176/7414/S/78 dated 30th December, 1978 issued by the Settlement Officer, Burdwan-Bankura:

In exercise of the power conferred in Schedule A appended to Rule 22 of the West Bengal Land Reforms Rules, 1955, as subsequently amended by Notification No. 3290-L. Ref. dated Calcutta, the 9th September, 1978, I, the undersigned Settlement Officer on my own motion, do hereby direct that names of Bargadars be incorporated in the record-of-rights at any time before final publication by any Revenue Officer subordinate to me in respect of such mouzas of Bankura and Burdwan districts as are taken up for revision u/s 51 of the West Bengal Land Reforms Act, 1955 after giving the persons claiming as Bargadars and the owners of the land concerned such opportunity of being heard as the Revenue Officer may deem fit.

3. It is true that only a Revenue Officer who is designated as the Settlement Officer, can cancel settlement proceedings I may further point out that in case a Revenue Officer with the designation of settlement officer under clause (1) proviso to Rule 1 Schedule A cancels any settlement proceedings, he himself is not required to conduct the de novo proceeding. His subordinate officer or officers, would be competent to proceed de novo with the settlement operations. Again only a Revenue Officer who is also appointed as the Settlement Officer may give directions in terms of clause (ii) of proviso to Rule 1 Schedule A or the West Bengal Land Reforms Rules. Thereupon, any subordinate Revenue Officer who has been appointed to prepare or revise the records, may dispose of an application for recording the applicant as a Bargadar and make entries, if necessary, in the records.

The Revenue Officer is bound to give the person claiming as Bargadar and the owner of the land concerned opportunity of being heard.

4. Prima facie there is no merit in the contention of the petitioner that unless the preparation of the records be first cancelled in terms of clause (i) of the Second Proviso to Rule 1 of the Schedule A of the West Bengal Land Reforms Rules, the Revenue Officer would have no jurisdiction to hold any enquiry under Clause (ii) of the said Proviso and to incorporate the names of Bargadars in the Record of Rights.

5. Under the aforesaid Proviso to Rule 1 of the Schedule A the Revenue Officer who is appointed with the additional designation of the Settlement Officer, may either on his own motion or on receipt of applications from others, at any time before final publication of the record of rights may give the directions mentioned in clauses (i) to (v) of the said Proviso of Schedule A. But the said Officer is not bound to simultaneously give direction under all the said five clauses. He may separately exercise his powers under any of the said clauses (i) to (v). Even in case the Revenue Officer with the designation of Settlement Officer does not direct under clause (i) of the said Proviso to Rule 1, Schedule A, for cancellation of the record of rights, he may under clause (ii) of the proviso direct a Revenue Officer subordinate to him to incorporate names of Bargadars in the records. Exercise of such power under clause (ii) has not been dependent upon prior cancellation of the records under clause (i) of the Proviso to Rule 1 of Schedule A with a direction for starting the proceedings de novo. Such a direction for cancellation and proceeding de novo is thus not a condition precedent for exercising the power of the Revenue Officer under clause (ii), Second Proviso, Rule 1 of Schedule A. For the purpose of entering in the Records, the names of the persons specified in clauses (ii), (iv) and (v) of the said proviso, prima facie cancellation of the records which are under preparation or revision would not be always necessary. In case the records in a district or a part of a district are cancelled and a direction is given for their preparation de novo it might be unnecessary to give further direction under clause (ii) for the purpose of incorporating in the records the names of Bargadars because during de novo proceedings the persons claiming to be Bargadars might get opportunity under other provisions of the West Bengal Land Reforms Act to claim inclusion of their names in the records.

6. Accordingly, I conclude that the Settlement Officer, Burdwan-Bankura, who is also a Revenue Officer has given directions in terms of clause (ii) Second Proviso, Rule 1 of the Schedule A of the West Bengal Land Reforms Rules, Therefore, the Revenue Officer also has judisdiction to entertain the application filed by the respondent No. 5.

7. For the foregoing reasons I decline to interfere at this stage without expressing any opinion on the merits of the pending proceeding between the petitioner and the respondent No. 5 who is alleged to be the latter's own brother. The Revenue Officer will hear both Parties and proceed in accordance with law. The application is

disposed of without costs.

All interim orders are vacated.

I direct the Revenue Officer to fix the date of hearing of the case three weeks hence.