

West Bengal Land Reforms Rules, (Bargadars) Rules, 1956

WEST BENGAL

India

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Rule

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West Bengal Land Reforms Rules, (Bargadars) Rules, 1956Published vide notification No. 18080L. Ref. dated 30.10.1970, published in Calcutta Gazette, dated 31.10.1970.

071.

1. Short title.

These rules may be called the West Bengal Land Reforms (bargadars) Rules, 1956.

2. Definitions.

In these rules (a)"the Act" means the West Bengal Land Reforms Act, 1955;(b)"section" means a section of the Act.

2A. [Period for determination or nomination of a lawful heir and procedure in respect thereof. (1) The period, within which all the lawful heirs of a deceased bargadar, where there are more than one lawful heir, may determine, under sub-section (1) of section 15A, one lawful heir who may continue the cultivation of such land, is thirty days from the date of death of the deceased bargadar.

(2) Where such lawful heirs omit or fail to determine one lawful heir as required by sub-section (1) of section 15A within the period referred to in sub-rule (1), all or any of such lawful heirs or the owner of the land whose land the deceased bargadar cultivated may, within seven days from the expiry of the period referred to in sub-rule (1), make an application before the officer or authority appointed under sub-section (1) of section 18, giving necessary particulars, for nominating one of the lawful heirs of the bargadar who is in a position to cultivate the lands personally, to continue the cultivation thereof: Provided that the provisions of section 5 of the Limitation Act, 1963, shall apply to such application. (3) On receipt of such application, the officer or authority appointed under sub-section (1) of section 18 shall, after giving all persons interested in the cultivation of such land an opportunity of being heard, and after making such enquiries as he or it may deem necessary, make an order, under the proviso to section 15A, nominating one of the lawful heirs of the bargadar, who is in a position to cultivate the land personally, to continue the cultivation thereof. (4) The application made by such officer or authority under sub-rule (3) shall be disposed of as expeditiously as possible but not later than thirty days from the date of making such application unless for reasons to be recorded by such officer or authority in writing, it is not possible for him or it to dispose of such application within that period.] [Inserted by Notification No. 14080L. Ref., dated 30.10.1970, published in Calcutta Gazette, dated 31.10.1970.]

2B. The terms and conditions for cultivation of land by a lawful heir determined or nominated.

The lawful heir of a deceased bargadar, who is determined or nominated for the cultivation of such land under sub-section (1) of section 15A shall, (a) as soon as thereafter as possible, inform the owner of such land and the officer or authority appointed under sub-section (1) of section 18 having jurisdiction over such land, of his willingness to continue the cultivation of such land, (b) take steps for continuation of the cultivation of such land (i) within seven days from the date of his such determination or nomination, if the agricultural operations in the neighbouring lands are in progress, or (ii) within fifteen days from the date of commencement of such operation, if such operations are not then in progress. (c) while cultivating such land, enjoy all the rights of, and discharge all the liabilities of, a bargadar, in respect thereof, under the provisions of the West Bengal Land Reforms Act, 1955.

3. Period and manner of service of notices and procedure for deposit of produce and intimation in respect thereof.

(1) The period referred to in sub-section (2) of section 16 shall be seven days from the date of threshing of the produce by the bargadar. (2) The receipt referred to in sub-section 16 shall be in Form. B. (3) (a) The period, within which a bargadar may make deposit under sub-section (4) of section 16, is thirty days from the date of refusal of the owner of the land to accept the share of the produce tendered to him by the bargadar or to give a receipt therefor, and (b) the officer or authority with whom such deposit may be made by the bargadar is the officer or authority appointed under sub-section (1) of section 18. (4) The receipt referred to in clause (a) of sub-section (5) of section 16 shall be in Form C. (5) Intimation of deposit, referred to in clause (b) of sub-section (5) of section 16,

shall be (a) in Form D, and (b) sent by registered post by the officer or authority receiving such deposit. (5A) Intimation of revenue deposit, referred to in sub-section (6) of section 16, shall be in Form E and sent by registered post. (6) The notice on the person whose land the bargadar cultivates, referred to in clause (b) of sub-section (7) of section 16, shall be, served (a) personally on such person, or (b) by making over the notice to any adult male member of his family, or (c) by registered post.

4. Jurisdiction of officers or authorities.

The officer or authority referred to in sub-section (1) or sub-section (2) of section 17 or sub-section (1) of section 18 or sub-section (2) of section 20 shall exercise jurisdiction over such areas as may be specified by the State Government.

5. Authority to sell land under section 17(2); procedure and terms and conditions of the sale.

(1) The prescribed authority referred to in sub-section (2) of section 17 shall be the officer or authority appointed by the State Government to decide disputes referred to in sub-section (1) of section 18. (2) In deciding any matter referred to in sub-section (2) of section 17, the person owning the land in question and the bargadars concerned shall be given an opportunity of being heard. (3) Before making any order for sale of the land, the prescribed authority referred to in sub-section (2) of section 17 shall determine the market price of the land and then make an offer to the bargadar evicted under clause (d) of sub-section (1) of section 17 to take the land at such price. If the bargadar accepts the offer but is unable to pay the price at the time, provision shall be made in the order for sale allowing him to make the payment in equal annual instalments not exceeding ten with interest at three and one-eighth per centum per annum to be paid on such dates as may be specified in the order: Provided that the first instalment shall be payable on a date not later than the first day of Baisakh next following the date of the order. (4) On payment of the price at a time or the first instalment, as the case may be, the prescribed authority referred to in sub-section (2) of section 17 shall make a further order that the land has been transferred to the bargadar by sale and on such order being made the land shall vest in the bargadar with effect from the first day of Baisakh next following the date of the order. (5) The amount ordered to be paid by instalments shall be a charge on the land in respect of which the order has been made. (6) Where a bargadar is unwilling to take the land at the market price or for any other reason, the prescribed authority referred to in sub-section (2) of section 17 shall sell the land by public auction to the highest bidder amongst other persons after giving publicity of the sale by beat of drums as well as by affixing copies of the notice of sale in a conspicuous place on the land, and in the notice board of the local Union Board and the sub-divisional civil and criminal courts of the district concerned. On such sale being made, the land shall vest in the purchaser with effect from the first day of Baisakh next following the date of the sale.

6. Manner of making application by an owner or a bargadar and the procedure to be followed by the trying officer.

(1) A bargadar or a person whose land is cultivated by a bargadar may make an application for a decision in respect of the matters referred to in sub-section (1) or sub-section (2) of section 18. Every such application shall be signed by the applicant or, if the applicant cannot sign, shall be marked with his left thumb-impression and shall contain the following particulars : (a) the name and place of residence of the applicant; (b) the name and place of residence of the person whose land is cultivated by the bargadar if the bargadar is the applicant; (c) the name and place of residence of the bargadar if the person whose land is cultivated by the bargadar is the applicant; (d) the location and sufficient description for the purpose of identification of the land in regard to which the application is made; (e) the point or points in dispute and the claim of the applicant. A fee of seventy-five paise shall be paid in court-fee stamps along with an application under this sub-rule except an application for determination of any question under sub-section (2) of section 18 as to whether a person is a bargadar or not which may be made on plain paper without any court-fee. (2) The application shall be accompanied by as many true copies thereof as there are opposite parties for sending such copies to the opposite parties along with the notices to be served on them : Provided that if the applicant claims to be an indigent person and prays for exemption from furnishing copies, the officer or authority, appointed under sub-section (1) of section 18, to whom the application may be presented, shall make an inquiry and, is satisfied that the applicant is an indigent person, pass an order exempting him from furnishing copies and shall get sufficient number of copies prepared in his office to be served on opposite parties along with the notices. Explanation. "Indigent person" means any person who is not possessed of any property movable or immovable worth five hundred rupees or more other than the subject-matter of the dispute. (3) Such application may be presented by the applicant or by his agent duly authorised by him in writing to the officer or authority appointed under sub-section (1) of section 18 for the area in which the land is situated, or where for any area two or more officers or authorities are appointed under the said sub-section, to such of those officers or authorities as may be specially appointed by the State Government for the purpose of receiving such application. The applicant and the opposite party may also be represented by agents so authorised before the officer or authority disposing of the application: Provided that no legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 (18 of 1879) shall be allowed to appear, plead or act in any capacity on behalf of any party before any officer or authority appointed or empowered, as the case may be, under section 17, section 18 or sub-section (1) of section 19B, or mentioned in section 20B unless such legal practitioner is himself a party to the proceedings. (3A) This sub-rule was added by Notification No. 7782L. Ref. dated 16.4.1959 but latter omitted by Notification No. 1046L. Ref. dated 26.6.1963. (4) [Any officer or authority proceeding to dispose of such application shall, after making such inquiry including on-the-spot inquiry and inspection as he deem fit, and after giving the parties concerned an opportunity of being heard, dispose of the application on a date to be fixed by him for consideration thereof. Explanation. In disposing of the application the officer or authority concerned shall be entitled to act on the findings arrived at by him as a result of such enquiry including on-the-spot enquiry or inspection.] [Sub-rule (4) of Rule 6 has been substituted by notification No. 3191L. Ref./20R-12/81. dated 31.11.1981.] (5) Every such application shall be disposed of within three weeks from the date of filing of the application : Provided that if such application is in respect of any matter referred to in clause

(a) [or clause (b) * * *] of sub-section (1) of section 18, the officer or authority shall make an enquiry from the Settlement Officer having jurisdiction over area in which the land is situated whether proceedings under section 5A of the West Bengal Estates Acquisition Act, 1953, are pending in respect of the land in respect of which the application is made. If any such proceedings are pending, the disposal of the application shall be stayed pending conclusion of the said proceedings :Provided further, that notwithstanding anything contained in the foregoing proviso where the officer or authority considers it expedient to dispose of the produce, such officer or authority shall divide the share of the produce, in the manner laid down in sub-section (1) of section 16, allow the bargadar to take his share of the produce, sell the owner's share thereof and, after deduction of the expenses of the sale, deposit the balance of the sale-proceeds in the revenue deposit to the credit of the Sub-divisional Officer of sub-division in which the land is situated. After the conclusion of the proceedings the sale-proceeds deposited may be withdrawn by the owner.(5a)In determining any question under sub-section (2) of section 18 as to whether a person is bargadar or not the officer or authority shall take into account along with other evidences, the entries, if any, made in this regard in the existing record-of-rights and where the record-of-rights is under preparation or revision, the entries, if any, made in the draft record in course of such preparation or revision.(6)In disposing of such application, the officer or authority shall only make a summary record of the essential facts disclosed in the hearing on which evidence has been taken and the order is based. The order shall contain a concise statement of the dispute, the points for determination and the decisions thereon together with the reason for the decisions. The order shall specify the date or dates fixed by the officer or authority for division of the produce and also the date or dates for threshing of the produce, if any, fixed by the officer or authority.

6A. Superintendence and control.

(1) The State Government may, by a notification in the Official Gazette, empower in each district of sub-division, one or more officers to exercise superintendence and control over officers or authorities appointed under sub-section (1) of section 18, exercising jurisdiction in the district or the sub-division, as the case may be, who shall, for the purposes of these rules, be subordinate to such officer or officers.(2)The officer or officers empowered under sub-rule (1) shall have the power to withdraw, by general or special order, from the file of any officer or authority appointed under sub-section (1) of section 18 and subordinate to him or them, any proceeding or proceedings and transfer the same for disposal to any other subordinate officer or authority appointed under sub-section (1) of section 18.

7. Procedure for appeals.

(1) Every appeal shall be filed in the form of memorandum and shall be signed and verified by the appellant in the manner provided in sub-rules (2) and (3) of rule 15 of Order VI of Schedule I to the Code of Civil Procedure, 1908. It shall be accompanied by an authenticated copy of the order appealed against and shall contain the following particulars (a)the name and address of the appellant;(b)the name and address of the respondent;(c)the location of the land cultivated by the bargadar; and(d)the grounds of appeal.(2)The court-fees payable on the Memorandum of Appeal under sub-section (1) of section shall be such as are provided in sub-clause (ii) of clause (a) of

-Article 11 of Schedule II to the Court Fees Act, 1870, and shall be collected in the manner laid down in that Act.(3)On the filing of an appeal the Appellate Officer shall call for the records of the case from the officer or authority against whose order the appeal has been filed and after giving the appellant and the respondent an opportunity of being heard shall dispose of the appeal.(4)Every appeal shall be disposed of by the Appellate Officer within one month from the date of filing of the Appeal.

8. Manner of service of notices and processes.

All notices and processes under these rules shall be served either by registered post or in the manner provided for the service of a revenue or a civil process.

9. [Manner of execution of an order under section 20(2).- Every officer or authority referred to in Chapter III of the Act shall, after making an order under that chapter, send forthwith a copy of the order to the officer or authority referred to in sub-section (2) of section 20 for execution. On receipt of the copy of the order, the officer or authority, as the case may be, shall execute the order as far as practicable in the manner laid down in the Code of Civil Procedure, 1908 (V of 1908), after serving on the person against whom execution is to be made, a notice to show cause, within seven days of the date of service of the notice, why the order should not be executed.

Explanation.- For the purpose of this rule receipt of the copy of the order meant for execution shall be deemed to be an application of the decree-holder for execution.] [Substituted by the Notification No. 2730-L. Ref./20R-5/80 dated 20.11.1980, published in Calcutta Gazette, dated 5.12.1980]

10. Manner of giving copies of records.

The rules in the Bengal Records Manual shall be followed in the manner of granting copies of records.

11. Process-fee.

When an application to the officer or authority referred to in sub-section (1) of section 18 or a Memorandum of Appeal to Sub-divisional Officer referred to in sub-section (1) of section 19 is filed, a process-fee of rupees three and paise fifty per party on whom a notice is to be served shall be paid in court-fee stamps along with the application or the Memorandum of Appeal, as the case may be :[Provided that if the applicant claims to be an indigent person and prays for exemption from paying the process-fee, the officer or authority appointed under sub-section (1) of section 18 or Sub-divisional Officer referred to in sub-section (1) of-section 19, as the case may be, shall make an enquiry and if satisfied that the applicant is an indigent person pass an order exempting him from paying the process-fee.Explanation. The expression 'indigent person' shall have the same meaning

as in the explanation under the proviso to sub-rule (2) of rule 6.] [Inserted by the Notification No. 1674-L. Ref./20R-4180. dated 6.8.1980, published in Calcutta Gazette, dated 8.8.1980.]

12. Maintenance and preservation of registers and classification and preservation of records of appeals under section 19(1).

(1) Appeals filed before the Sub-divisional Officer under sub-section (1) of section 19 shall be entered in a register in Form A appended to these rules. (2) The records of appeals referred to in sub-rule (1) shall consist of two files to be styled and marked, respectively, File B and File C of which (i) File B shall contain, (a) table of contents, (b) order sheets, (c) memorandum of appeal together with any schedule annexed thereto, (d) counter petition, if any, (e) memorandum of the points for decision, (f) decision upon which preliminary order, if any, is founded and such order with further direction if any given, (g) evidence in appeal. (ii) File C shall contain all other papers. (3) All records of appeals other than those dismissed for default or non-prosecution shall be sent to the Record Room of the Collector of the district by the Sub-divisional Officer of a Sadar sub-division and to Record Room of the Sub-divisional Officer by the Sub-divisional Officer of an outlying sub-division, within the third month next succeeding the month in which the appeals were decided or disposed of. In case where there is no Record Room in the outlying sub-division, the records of such appeals shall be sent to the Record Room of the Collector of the district within the period specified above. The original and appellate records shall be kept together in the Record Room of the Collector or the Sub-divisional Officer, as the case may be. The records of the appeals dismissed for default or non-prosecution shall be kept in the office of the Sub-divisional Officer and shall be destroyed after a period of one year from the date of dismissal. The registers of appeals in Form A shall be similarly sent to the Record Room of the Collector or of the Sub-divisional Officer, as the case may be, after all appeals entered therein have been decided or disposed of. (4) The registers of appeals, and the records of appeals other than those dismissed for default or non-prosecution shall be preserved for the following period, namely :

- (i) Records File B 12 years
- File C 3 years
- (ii) Registers 12 Years

12A. Form of Notice to the bargadar in cases of surrender or abandonment of cultivator.

The notice referred to in sub-section (2) of section 20B shall be in Form F. Form A [See Rules 12(1)] Register of Bhagchaks Appeals Year..... Court of the Sub-divisional Officer at..... etc. Form B [See sub-rule (2) of Rule 3] Form of Receipt I do hereby acknowledge the receipt of..... (Particulars and quantity of the produce) in full satisfaction of my claim of the share of the produce of the land described in the Schedule below for the period..... due to me as the owner/bargadar of the land. The Schedule Plot No..... Mauza..... Police station..... Name and address of 'the owner'..... Name and address of the bargadar..... (Signature in full with date) Form C [See sub-rule (4) of Rule 3]

Particulars of receipt(Counterfoil)	Particulars of receipt(To b
1 Serial No. of receipt.	Serial No. of receipt.
2 Date of deposit.	Date of deposit.
3 Name and address of the bargadar making the deposit.	Name and address of the b
4 Name and address of the owner(s) of the land in whose favour the deposit is made	Name and address of the o
5 Particulars of the land, the produce of which is deposited C.S. Plot No.....Mouza.....P.S.....	Particulars of the land, the Plot No.....Mo
6 Period of which the produce deposited relates	Period of which the produ
7 Particulars and quantity of the produce deposited.Signature of the officer receiving the deposit	Particulars and quantity o deposit
<p>Form D[See sub-rule (5) of Rule 3]To Shri.....(Address).....You are hereby informed that Shri.....of..... (address) claiming to be bargadar in respect of plot No.....of mauza.....police station deposited with the undersigned on (date) (particulars and quantity of produce) in your favour vide this office receipt No.....You are requested to take delivery of the said produce within 15 days of the date of service on you of this intimation failing which it will be sold by the undersigned by public auction to the highest bidder without further reference to you, and the proceeds of such sale, after deducting therefrom the cost of conducting the sale, will be deposited in the treasury in revenue deposit to your credit for withdrawal by you in due course.(Officer or authority receiving the deposit)</p> <p>Form E[See sub-rule (5A) of Rule 3]To Shri.....(Address).....You are hereby informed that on your failure to take delivery within the prescribed period, of the share of the produce deposited with the undersigned by Shri.....in your favour, it was sold and the sale-proceeds thereof, less the cost of conducting the sale amounting to Rs.....(Rupees.....), has been deposited in the treasury in revenue deposit to your credit vide challan No.....dated.....for withdrawal by you in due course.(Officer or authority receiving the deposit)</p> <p>Form F(See Rule 12A)Notice under sub-section (2) of section 20BTo Shri.....(Address).....Take notice that Shri.....of village.....police station....., has given information in writing that you use to cultivate his land particulars of which are given below, as a bargadar and that you have surrendered your right, voluntarily abandoned to cultivate in relation to the said land as a bargadar.....cultivation of the said land.The matter will be heard by the undersigned on..... When you present your case.</p> <p>Description of the land.</p>	