

Gopal Kheria
 @ Matlu Kheria
 Village-Natunpara,
 P.O. Jaldapara,
 Dist.-Alipurduar,
 Pin- 736204

To
 The Officer-in-Charge
 Alipurduar Police Station,
 P.O. Alipurduar Court,
 District-Alipurduar
 Pin-736122.

Date: 31/08/2022

Sub: Complaint under Section 3(1)(f)(g)(h)(p)(q)(z) and 3(2)(v)(va) of the SCs and STs (POA) Act, 1989 and Rules/Notifisation/Guidelines framed thereunder against Sri Tapan Sen, son of Late Rebati Mohan Sen, being one of its directors of M/s. Rebati Agro Private Limited having its office at 4, Jibananda Sarani, Rathkhola, P.O. Rabindra Sarani P.S. Siliguri, District Darjeeling, Pin-734 006, its other directors and Ananda Mandal, Tea Garden Manager for creating false and fabricated documents in order to grab and/or usurp "Tribal Land" by misleading such poor and illiterate tribal people of Village-Natunpara, P.O. Jaldapara, District-Alipurduar, Pin- 736204 to make them execute illegal documents pertaining to grab Tribal Land in gross violation of Section 124 of Chapter IV of West Bengal Land Reforms Act, 1955 and instituting false cases and/or giving false information to the public authorities against poor tribal.

Ref: All That the piece and parcel of land admeasuring more or less 0.31 acres, in the District of Alipurduar, Block Alipurduar-I, Police Station-Alipurduar, Mouza Natunpara, J.L. No 11 Rs Dag No 323, LR 450 Khatian No 151, belonging to the tribal raiyat Gorju Kheria, since deceased (hereinafter referred to as the said subject plot of land)

Sir,

This is to place on record that my father's elder brother, namely Gorju Kheria, since deceased, is the recorded raiyat/land owner of the subject plot of land and the same is accordingly mutated in the Land Revenue Records. Late Gorju Kheria was belonging to Scheduled Tribe, sub-caste "Kheria".

The accused abovenamed i.e. Sri Tapan Sen, being one of the directors of the above named company i.e. M/s. Rebati Agro Private Limited with ulterior motive to grab tribal land proceeded to manufacture and/or forged documents, inter alia

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 No 440/22; Dt. 31-08-2022; U/s: 3(1)(f)(g)(h)(p)(q)(z) of
 SC & ST (POA) Act, 1989.

31/08/22

Inspector-in-Charge
 Alipurduar Police Station
 Dist. Alipurduar

purporting to create false title in his favour and/or in the favour of his company. After manufacturing such illegal documents the said accused person, proceeded to take illegal physical possession of the subject plot of land by giving an impression that he was trying to develop a Tea Garden in the subject plot of land alongwith some other contiguous plots; which are also belonging and owned by fellow tribals. Due to illiteracy and extreme poverty faced by the legal heirs of Late Gorju Kheria alongwith other tribal brethrens could not understand the evil designs of the said Tapan Sen and were thus kept completely in the dark about the fate of their land and/or their livelihood while the said accused person, alongwith other directors of the accused company proceeded to grab tribal land behind the back of the said legal heirs as well as the other tribal people, as aforesaid, who failed victim in the hands of the accused.

After execution of such illegal documents and after taking forceful physical possession of the subject land of the said Late Gorju Kheria as well as a few other poor and illiterate tribals, as aforesaid, the said accused persons proceeded to stage a drama by giving a false impression that they were trying to employ poor tribal people to help them gain better livelihood and/or wider employment. However, it soon dawned upon the poor tribal land owners, including the legal heirs of the said Late Gorju Kheria that in the name of giving employment to poor tribals the said accused person(s) had actually and/or in reality usurped tribal land and were harbouring the ulterior motive of exploiting the same for personal gain through exploitation of tribal land as well as tribal labour. As such the accused persons have inveigled poor tribal people to grab their land taking undue advantage of their illiteracy and backwardness.

Being poor and illiterate, the heirs of the said Late Gorju Kheria alongwith a few other tribal people who were similarly placed and were equally exploited, were constrained to approach the said accused persons for restoration of their land and requested the said accused persons to return the subject land to the respective plots of land to the respective tribal owners and to put an end to the above process of tribal exploitation. But all such polite and peaceful request for return of tribal land, back to the tribals, fell in deaf ears.

The accused persons generate fear and to threaten the undersigned as well as other tribal land owners who were equally victimized by the accused persons, the said accused persons have instituted a false criminal complaint to the local police authorities and civil proceeding in court and/or cases against me (Gopal Kheria alias Matiu Kheria) along with other tribal persons on 23.11.2021 and Suit No. 163 of 2021 who have become victim in the hands of the accused persons. Please note that the institution of false cases by giving false information to statutory authorities and/or registering false cases in courts of law against tribals are otherwise punishable under Section 3(1)(p) &

(g) of the STs and SCs (POA) Act, 1989. Attention is further invited to the fact that usurping and/or denying a schedule tribe to enjoy his own land is otherwise impugnable under Section 3(1)(g)(i)(z) and 3(2)(v)(va) of the SCs and STs (POA) Act, 1989.

After taking such illegal possession the aforesaid accused persons have condemned the real owners, who are innocent and illiterate tribal forcing them to live in abject poverty and total deprivation from enjoying their own land and as a result of the above act of deceit and/or cheating, taking advantage of the illiterate and poor condition of such real tribal owners of the subject land.

The aforesaid transaction of illegal dealing of tribal land and taking of fraudulent and illegal possession thereof without complying with the mandatory provision of Section 14C of Chapter IIA of West Bengal Land Reforms Act, 1955 is completely non-est in the eye of law and therefore void ab initio. Moreover, playing fraud upon innocent tribal in snatching their land and condemning them to lead their lives in total poverty and/or deprivation is tantamount to the commission of a social crime which is against the basic mandate of the Constitution of India. The aforesaid illegal acts on the part of the accused persons namely directors of the aforesaid company, being Taban Sen and others being accused persons, is otherwise impugnable under the Section 3(1)(g)(i)(z) and 3(2)(v)(va) of the SCs and STs (POA) Act, 1989.

It has been consistently held by the Hon'ble Supreme Court of India in a catena of decisions that the taking of tribal land may have been done by way of transfer under the ordinary laws in various ways. The process and forms of law might have been followed. But the results are devastating. As a result of such unequal transactions, which were grossly unconscionable and unjust, many tribals have lost their land to non-tribal and/or thus rendered landless. It is implicit in the nature of legislation that the law regards such transactions, as unconscionable and oppressive and directs restoration of the property to the tribal-transferor treating the transfer to be non-est (in the instant case there is no existence of any registered document but tribal land has been snatched through mis-representation and guile). The Hon'ble Supreme Court has further held that in the case of such illegal transfers, it is axiomatic that such contracts are liable to be set-aside due to inequality of bargaining power, if someone without independent advice, enters into a contract on terms which are very unfair or transfers property for a consideration which is grossly inadequate when his bargaining power is graciously impaired by reasons of his own need or circumstances, or by his own ignorance or infirmity, coupled with undue influences or pressures brought to bear, on him by or benefit of the other.

In the aforementioned facts and circumstances of the case, I most humbly request your good office to kindly register an F.I.R against the said Tapan Sen, Ananda Mandal and other directors of the aforesaid company under Section 3(1)(f)(g)(h)(p)(q)(z) & 3(2)(vi)(vii) of SCs and STs (POA) Act, 1989 as amended by the SCs and STs (POA) Act, 2015 and 2018 as per provision of Rule 5(1) of SCs & STs (POA) Rules, 1995 read with SCs & STs (POA) Amendment Rules, 2010, 154 Cr.PC & Para 10 of the Guidelines to the Police Officers Investigating cases under SCs & STs (POA) Act, 1989 issued by the Additional Director General of Police, CID, West Bengal as soon as possible and Investigating Officer not below the rank of Deputy Superintendent of Police may be appointed by the Superintendent of Police, Alipurduar who may file the Charge Sheet in the court of the Learned First Additional Sessions Judge, Jalpaiguri designated as Special Court under SCs/STs (POA) Act, 1989 vide Notification No. 284-JL dated 04.05.2012 by the Secretary, Judicial Department, Government of West Bengal within the stipulated period of time as indicated in the said Rules /Notification/Guidelines as soon as possible and oblige.

Yours faithfully,

G. Gopal Kheria

(Gopal Kheria)

Encl: Net copy of Guidelines to the Police Officers Investigating cases under SCs & STs (POA) Act, 1989 issued by the Additional Director General of Police-II, CID, Bhabani Bhaban, Kolkata.

Copy to:

- 1) The Secretary, Tribal Development Department, Government of West Bengal, Adivasi Bhawan, Premises No. 2221, Action Area- IIIA, Rajarhat-Newtown, Kolkata 700156;
- 2) The Deputy Inspector General of Police, CID, Bhabani Bhaban, P.O. Alipore, Kolkata- 700027.

(Gopal Kheria)