

GOVERNMENT OF WEST BENGAL
Directorate of Land Records & Surveys & Jt. Land Reforms Commissioner,
West Bengal

No.2/6482/C/86(PT).

Dated, Alipur, the 10th Dec., 1985.

CIRCULAR

The undermentioned problem arose at the time of attestation of a mouza.

PROBLEM : A plot has been purchased by the recorded bargadar himself from the owner of the plot by registered deed and on the same day he has sold the plot by another registered deed to some other person. Will the name of bargadar be recorded against the plot in the khatian of the latest purchaser ?

The problem has to be examined in the following manner.

- (a) If the transfers are genuine, the bargadar right is extinguished by the purchase of land by the bargadar, as no body can be his own bargadar.
- (b) But whether the transactions are genuine is to be carefully examined in such cases. Section 54 of the Transfer of Properties Act lays down that no transfer is valid unless acted upon by delivery of possession. This requires to be examined. If there has been no follow up of the transfer by actual delivery of possession, the transfer cannot be recognized for the purpose of preparing records of rights. The facts and circumstances of the given case strongly suggest that the transfer to the bargadar was only notional, and are made as stratagem to delete his name as a bargadar. It is hardly likely that a person can exercise ownership possession during the spell of a single day.

Ownership possession has to be exercised by some specific act and there is little scope for making any specific operation on the land or making a decision about the manner of cultivation etc. in the course of a day. There are the basic criteria for ownership possession. If this is found to be the case, the name of the bargadar should remain on record. However this is a question of fact to be determined by the Revenue Officer according to his judgement.

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