

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 12307 of 2026

Ananda Agarwalla

Vs.

State of West Bengal & Ors.

Mr. Kumar Jyoti Tewari, Sr. Adv.

Mr. Manas Kr. Das

Mr. Amrit Sinha

Mr. Aniruddha Tewari

....For the petitioner.

Mr. Ajit Mishra, Ld. A.G.P.

Mr. Rhitam Chatterjee

....For the State.

Hearing Concluded On : 17.07.2026

Judgment Delivered On : 30.07.2026

Judgment Uploaded On : 30.07.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition praying for a direction upon the respondent no.4, The District Magistrate, Nadia for issuance

of “No Objection Certificate” to the petitioner for establishment and commissioning of the proposed Retail Outlet Dealership of Indian Oil Corporation Limited on the basis of the report submitted by the concern Block Land and Land Reforms Officer, the respondent no.7.

2. The petitioner purchased various plots of land measuring 94 Decimal, situated at L.R. Dag No. 148, 149 and 155 under L.R. Khatian No. 1993, Mouza- Bholadanga, J.L. No. 74, Police Station- Nakashipara, District- Nadia from various persons including the respondent no.9. The Indian Oil Corporation Limited (hereinafter referred to as “IOCL”) published an advertisement for appointment of Retail Outlet Dealership at various places in the State of West Bengal. The petitioner made an application for Regular Open Category Dealership on LHS of NH 34 (new NH 12) between KM Stone 131 to KM Stone 140, while going from Gachha to Plassey, being serial No. 85 of the advertisement. After opening of the bids, the petitioner was provisionally selected for allotment of Retail Outlet Dealership.
3. The petitioner has obtained Trade Registration Certificate for the purpose of carrying out his business of Petrol Pump. The respondent no.3 has issued Letter of Intent (LOI) to the petitioner subject to certain terms and conditions. The petitioner has made an application before the respondent no.7 for deleting ‘barga’ notation appearing in the name of respondent no.9 with respect to Dag No. 149. On receipt of the request of the petitioner, the Revenue Inspector, Muragachha, has issued notice to the petitioner as well as to the respondent no.9 to

conduct field survey. After inspection by the Revenue Inspector, the Block Land and Land Reforms Officer wrote a letter to the Additional District Magistrate and District Land and Land Reforms Officer for taking appropriate steps.

4. The Deputy District Land and Land Reforms Officer has made an internal communication with the Block Land and Land Reforms Officer for verification of the documents and to opine whether the case is fit for initiation of proceeding under Section 20B(5) of the West Bengal Land Reforms Act, 1955. The Block Development Officer, Nakashipara, submitted a report to the District Magistrate, Nadia, regarding issuance of No Objection Certificate to the petitioner. The Block Land and Land Reforms Officer informed the respondent no.5 that upon verification of the land, it reveals that the suit land will not be affected by proceeding under Section 20B(5) of the West Bengal Land Reforms Act, 1955.
5. The petitioner has submitted a representation before the Additional District Magistrate and District Land and Land Reforms Officer as well as to the Block Land and Land Reforms Officer, Nakashipara, for correction of Record-of-Rights pertaining to Plot No.149 by deleting the erroneous notation of "Bargadar" in the name of the respondent no.9 but till date the request of the petitioner is not considered.
6. Mr. Kumar Jyoti Tewari, Learned Senior Advocate representing the petitioner submits that "bargadar" has been defined under Section 2(2) of the West Bengal Land Reforms Act, 1955. He submits that a person

who under the system generally known as adhi, barga or bhag cultivates the land of another person on condition of delivering a share of the produce of such land to that person and includes a person who under the system generally known as kisani 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. He submits that essential requirement of the aforesaid definition is that a bargadar must cultivate the land belonging to another person. He submits that once the bargadar acquires title to the very same land and becomes the raiyat, the foundational requirement for continuation of his status as a bargadar ceases to exist.

7. Mr. Tewari submits that upon such acquisition, he no longer cultivates the land of another person but cultivate his own land as owner. Upon acquisition of ownership rights by the bargadar, the limited right of cultivation as a bargadar merges into the superior right of a raiyat. He submits that where a lesser right and higher right become vested in the same person in respect of the same property, the lesser right stands absorbed into and extinguished by the higher right. The two rights being mutually inconsistent cannot co-exist simultaneously in respect of same parcel of land.
8. Mr. Tewari submits that a person cannot continue to hold the status of both raiyat and bargadar in respect of same land at the same time. Once the bargadar acquires ownership and assumes the status of a raiyat, his earlier right as bargadar automatically comes to an end by

operation of law and consequently, continuation of the name of the bargadar in the Record-of-Rights is merely erroneous and the entry does not create, preserve or revive a right that has already extinguished.

9. Mr. Tewari submits that the petitioner has completed all formalities required for commissioning of the Retail Outlet but the only issue which remains unsolved is the issuance of the “No Objection Certificate” by the District Magistrate, Nadia.
10. Mr. Tewari has relied upon the judgment in the case of ***Subrata Kar vs. Indian Oil Corporation Limited and Others*** reported in **2018 SCC OnLine Cal 11782** and submits that the right to cultivate land by bargadar is lesser right than the right of raiyat and the moment such right merged with the right of a raiyat it *ipso facto* extinguishes the right of a bargadar and the nature of the property remained as riyatee hold land without any existence of barga therein.
11. Mr. Ajit Mishra, Learned A.G.P., representing the respondents submits that the dispute in the present writ petition relates to land reforms that is, namely, correctness of the bargadar entry in the Record-of-Rights and consequences flowing under Sections 14Y and 20B of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as “WBLR Act, 1955”). He submits that under Section 6 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, the petitioner ought to have

approached the Tribunal for the reliefs sought for in the present writ petition, thus the writ petition is not maintainable.

- 12.** Mr. Mishra submits that Section 14Y of the WBLR Act, 1955 is a statutory exception which enables a person to acquire and hold/retain land in excess of the ceiling area only upon obtaining previous permission in writing from the State Government and only for the purposes specifically enumerated in the first proviso. He submits that the said proviso exhaustively specifies the categories of projects/ purposes for which such permission may be granted. He submits that the establishment and operation of a Retail Outlet/ Petrol Pump dealership does not figure anywhere in the said enumeration. He submits that the Additional Director of Land Records and Survey and Joint Land Reforms Commissioner clarified that the proviso of Section 14Y of the WBLR Act, 1955, does not include the purpose of a Petrol Pump.
- 13.** Heard the Learned Counsel for the respective parties, perused the materials of record and the judgments relied by the petitioner. The petitioner purchased the landed properties by way of registered sale deeds from different persons including the private respondent. The petitioner has offered plots of land in Dag No. 148, 149 and 155 to the Indian Oil Corporation Limited for the purpose of establishment of Retail Outlet/ Petrol Pump Dealership.

- 14.** During inspection of the properties offered by the petitioner for Retail Outlet Dealership, it was found that an area of 37 decimal of land in Dag No. 149 is recorded as 'barga' in the name of 'Sanjib Kumar Sarkar', the private respondent no.9 herein. The respondent no. 9 had purchased the said land by way of registered sale deed from one Gaurgopal Biswas being Sale Deed No. 620/83. At the time of execution of Sale Deed by the respondent no.9 in favour of the petitioner dated 2nd February, 2012 being Sale Deed No. 1263 of 2012, it is specifically mentioned that:

"It is hereby declared that I have no further objection/claim to the Barga Record in respect of the 15 decimal of this land sold by me and the total 37 Decimal of the land purchased by you. In this regard, being of sound mind, willingly, knowingly, and without any coercion or influence from others, I have fully understood the terms of this contract and execute this document in the presence of witness on this, the 17th day of Magh in the Bengali year 1418, corresponding to 01/02/2012."

- 15.** The petitioner has made an application before the respondent no.7 for deleting the recording 'barga' at Dag No. 149 on 29th September, 2023, informing that the petitioner is in occupation of the land since 2012 and neither himself nor any person is not doing any cultivation in the said land. As no action has been taken by the authorities, the petitioner has again made a representation on 29th July, 2024 to the respondent no. 7 for removal of recording of 'barga' as the petitioner has offered the said land to the Indian Oil Corporation for setting up of Retail Outlet/ Petrol Pump Dealership.

- 16.** Sub-Section (2) of Section 2 of the WBLR Act, 1955, defines “bargadar” which reads as follows:

“2.(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 [and includes a person who under the system generally known as kisani (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;]”

- 17.** The petitioner has made an application to the respondent no.7 informing that the petitioner has purchased the land by way of sale deed from the respondent no.9 and the land is recorded in the name of the petitioner but in the remark column of the Record-of-Rights, the name of the respondent no.9 is recorded as ‘bargadar’. The petitioner requested for deleting the noting ‘barga’ from the remarks column. On receipt of the application of the petitioner, notices were served to the petitioner and the respondent no.9, and field enquiry was conducted. On field enquiry, it was found that the petitioner is in occupation of the land since 2012 and there is no cultivation going on over the said land since long. After verification of record, the respondent no.7 submitted report to the respondent no.5 stating that the land will not be affected the proceeding under Section 20B (5) of the WBLR Act, 1955.

- 18.** Section 20B of the WBLR Act, 1955, reads as follows:

“20B. Surrender or abandonment by bargadar.

(1) If a bargadar-

- (a) *Surrenders his right to cultivate in relation to any land cultivated by him as a bargadar, or*
- (b) *Voluntarily abandons cultivation of such land.*

[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 (1) 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 so 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 so 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.

[Provided that subject to the payment of compensation by a transferee to a bargadar under the Land Acquisition Act, 1894 (Act 1 of 1894), and the rules made thereunder, nothing in this sub-section shall apply to any land intended to be utilized for any of the purposes referred to in the first proviso to section 14Y.]”

- 19.** Mr. Mishra has relied upon Section 14Y of the WBLR Act, 1955. As per Section 14Y, if the total area owned by riyat exceeds 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 Chapter IIB relating to ceiling area shall apply to such land. This Court is not satisfied with the argument of Mr. Mishra. The issue in the present case is whether after purchase of the land by the petitioner from the respondent no.9 by way of registered sale deed in the year 2012 and mutation has also been carried out in the name of the petitioner despite of the same whether noting the name of respondent no.9 in the remark column of the Record-of-Rights, the name of the respondent no.9 is noted at “Bargadar” is correct or not and whether without deleting the name of name of private respondent as bargadar from remark column of Record-of-Rights, No Objection Certificate can be provided to the

petitioner for operating Retail Outlet/ Petrol Pump Dealership in the said land.

20. In the Sale Deed executed between the petitioner and the respondent no.9, there is a recital that the respondent no.9 has no objection or no further claim to the barga record in respect of 15 decimal of the land sold by him to the petitioner and total land purchased by the petitioner is 37 decimal.
21. On receipt of the application, field enquiry was conducted. After field enquiry and verification of the record, the respondent no.7 submitted report to the respondent no.5 wherein it is recorded that *“on verification of the land it reveals that the suit land will not affected the proceeding under Section 20B (5) of the WBLR Act, 1955.”*
22. From the report submitted by the respondent no.7, it is clear that land will not be affected the proceeding under Section 20B(5) of the WBLR Act, 1955. If the authorities have come to the said conclusion, the authorities ought to have issued No Objection Certificate to the petitioner for setting up Retail Outlet/ Petrol Pump Dealership but the authorities have not issued such certificate.
23. The ‘bargadar’ has been defined under Section 2(2) of WBLR Act, 1955 to mean a person who under the system generally known as adhi, barga or bhag cultivates the land of another person on condition of delivering a share of the produce of such land to that person, and includes a person who under the system generally known as kisani, 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. The explanation clause provides that a bargadar shall continue to be a bargadar until cultivation by him is lawfully terminated under this Act.

- 24.** The respondent no. 9 in the sale deed mentioned that he has no claim or objection with respect to barga record. In the case of **Subrata Kar (supra)**, the Coordinate Bench of this Court held that :

“19. There is a fallacy in the aforesaid submission. The first and foremost thing the Court is required to indicate that mere entry in the Record of Right neither extinguished nor created title in favour of the person whose name was erroneously recorded therein. The expression “clear ownership title” cannot be stretched to include the entry made in the Record of Right to be a determinant factor but should be based upon the valid documents effecting the transfer of property. In addition to the same, this Court would like to highlight the position of law relating to a bargadar under the West Bengal Land Reforms Act, 1955 (hereinafter referred to as ‘said Act’).

24. It is a trite law that the right to cultivate land by bargadar is lesser right than the right of raiyat and the moment such right merged with the right of a raiyat it ipso facto extinguishes the right of a bargadar and the nature of the property remained as raiyatee hold land without any existence of barga therein. The moment the purchase was made in the year 1967 by the bargadars in favour of their respective wives, the right to cultivate land as bargadar extinguished and subsequent purchase by the father of the petitioner in the year 1974 did not bring any change in such position.

25. In view of the above, there is no hesitation in my mind that the petitioner satisfies the clause pertaining to the ownership in the land as the right of bargadar was not subsisting as on such date and mere erroneous recording in the Record of Right cannot act as a deterrent to the applicant and operate prejudicially to his interest.”

25. In view of the above, the respondent no.4 is directed to consider the representation of the petitioner along with the report of the respondent no.7 and if required, necessary notice be issued to the respondent no.9 and to the petitioner for their opportunity of hearing and to pass necessary order for grant of “No Objection” and for deletion of recording the name of private respondent no.9 in the Remark Column of Record-of-Rights of the landed property as “Bargadar” within a period of four weeks from the date of receipt of the copy of this order.

26. WPA No. 12307 of 2026 is disposed of.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)