

GOVERNMENT OF ASSAM
REVENUE (REFORMS) & DM DEPARTMENT

No RRG 95/2018/12

Dated Dispur the 22nd February 2019

From: U. Hazarika IAS
Secretary to the Government of Assam

To: The Deputy Commissioner
Kamrup (Metropolitan) District

Sub: Clarification on transfer of tenanted land by the land lord

Ref: Yours letter No KRM(M)-207/2018/39 dated 9th January 2019

Sir,

In inviting a reference to the subject quoted above, I am directed to say that the matter of transfer of landholder's right over tenanted land is to be looked upon with reference to the relevant provision in the Assam Land & Revenue Regulation 1886 and the Assam (Temporarily Settled Areas) Tenancy Act 1971. It may be noted that under Section 9 of the Assam Land and Revenue Regulation 1886 a land holder has permanent, heritable and transferable rights of use and occupancy over his holding. This right has not been curtailed by the Tenancy Act rather kept intact by laying down the sub Section (19) in Section 3 where it is categorically stated that "land holder or proprietor etc all have the same meaning as that of the Assam Land and Revenue Regulation. The section reads as below:

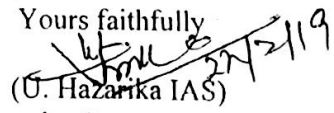
"[3(19) The following words shall have the same meaning as is assigned to them in the Assam Land and Revenue Regulation, 1886 (1 of 1886), or the Rules framed thereunder"

"estates", "temporarily-settled-estate", "land revenue", "proprietor" "land holder", "settlement-holder", "periodic lease", "special cultivation", "ordinary cultivation"]"

As such, a landholder's transferable right has not been annihilated by the enactment of the Assam (Temporarily Settled Areas) tenancy Act 1971. However, it may be noted that in such transfers, the landholder transfers only his title over the land while the possessory/occupancy right remains with the existing recorded tenant. If the existing recorded tenant is not found in possession, it is the duty of the Deputy Commissioner to enquire into the matter and ascertain that no deviations have been done than what has been incorporated in the Chapter IX and also conditions laid down in Section 61 of the Assam (Temporarily Settled Areas) tenancy Act 1971.

While allowing transfer of the tenanted land, it should invariably be ensured that the nominated attorney is specifically empowered to deal with the tenanted land i.e. for the specific performance of all the duties of a landholder by the Attorney in respect of the recorded tenants. Over and above, regular verification regarding 1) authenticity of the pattaders who have nominated the attorney, 2) possession of the land by the recorded tenant, 3) clearance of the dues by the pattders, 4) current use of land and 5) if any tenants have been evicted from the land in question should also be invariably made.

Yours faithfully


(U. Hazarika IAS)

Secretary to the Government of Assam
Revenue (Reforms) & D M Department

Memo No: No RRG 95/2018/ 12-A

Dated Dispur the 22nd February 2019

Copy to:

1. PS to Additional Chief Secretary to the Government of Assam, Revenue & DM Department. For kind appraisal of the Additional Chief Secretary.

2. File No RRT 33/2018 for reference.


(M. Phukan ACS)

Deputy Secretary to the Government of Assam