

## Land Problems in the Northern Portion of Bengal

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**Abstract.** Different types of land problems were originated in the northern portion of Bengal during the colonial period which is existed till now. British – India Government introduced two categories of land revenue systems in the separate geographical location of the same district of Jalpaiguri such as permanent settlement and Rayotwari settlement. In the Duars, declared as Khasmahal area, lands were given to the jotdars and tea cultivators by agreement or lease in a specific terms and conditions. In the town of Alipurduar most of the lands were given by lease. After independence the tenure of lease has been expired. After so many years the inhabitants living in the lease lands facing many problems because they have no rayoty right or ownership in the lands. The people living in the enclaves situated in between the boundary areas of Cooch Behar and Bangladesh have been facing different types of problems and crises though the way of solution of enclaves is under process at present. The problems of adverse lands situated in the border areas of Cooch Behar and Bangladesh have still existed. So, in the present article the history and background of all these land – related problems in the northern portion of present West Bengal has been shown.

**Key words:** Lease lands, enclaves, adverse lands, Duars, Berubari

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In the colonial period British- India Government introduced two types of land revenue systems in Jalpaiguri district as follows:

- The zamindari area mostly situated to the West of Tista comprising with Baikunthapur Pargana, Chaklas of Boda, Patgram and Purbabhadra where permanent settlement was introduced since 1793 and, here, zamindars were the proprietors of the lands,
- Other than zamindari areas, there was a vast area called Western Duars where no permanent settlement or zamindari system was introduced by the Britishers. Most of the areas of Western Duars were no man's land, which were filled with jungles and ferocious animals. Only the people of some tribes namely, Mech, Toto, Garo, Rabha and Drucpa lived there more or less independently in the pre-colonial period. So, after coming of the Britishers in 1865 after the 2<sup>nd</sup> Anglo Bhutanese war defeating the Bhutanese power, they

occupied whole of the areas which was declared as a Waste land or Non-regulated area and here British- India Govt. was the proprietor of the land.

As the Government was the proprietor of the land in the Duars, so the Government would give land to the cultivators including jotdars, chukanidars or tea cultivators by agreement or lease and the lessee of the land have to follow all the terms and condition of lease failing which Government occupied the land and gave it to another person by lease. Before annexation of the Duars by the Britishers there were already a number of jotdars who possessed lands, but there were no uniform system or laws for holding jotes and paying revenue to the Government. For over twenty years after annexation jotes were settled under the provisions of the Act XVI of 1869 and the waste lands Rules of 1875, while the question of the right of the different classes of Tenants found in the tract was slowly threshed out and two attempts at a settlement of the Duars were made, but neither was a successes. The result of it was that the system of land holding and the de-facto incidents of the various tenures got into a some what chaotic state. To reduce this chaos to order, to systematize the land policy.....the Waste Land Rules of 1888 were formed and the settlement of Mr. Sunder, culminating in the so called Mal Jote Lease of 1891 was carried out<sup>1</sup>

Persons who were willing to obtain lands had to apply to the Tahshildars, Tahshildar sent it to the Deputy Commission. After investigation Commission granted the land by a preliminary lease for five years. In paragraph 12 (b) Dy. Commissioner recommends that rule 15 of the rules for the grant of ordinary lease of arable Lands in the Western Duars be altered and that instead of granting preliminary leases that after the lands are surveyed they should be assessed to revenue at once and leases should be granted for such period as will end with the term of the present settlement. From paragraph 2 of the Form of the lease it will be observed that the lease referred to the rule 15 shall be for a period of five years from the commencement of the official years next following the official year of actual entry and the rent to be paid shall be as follows :-<sup>2</sup>

Year of entry (i.e. from actual date of entry to 31 <sup>st</sup> March following).....	Nil
First full years (From 1 <sup>st</sup> April following date of entry) .....	Nil
Second year .....	3 annas per acre
Third and fourth year.....	6 annas per acre
Fifth year.....	8 annas per acre

After completed the terms of 5 years lease, the new lease was necessary. On behalf of the landholders demand was raised for 15 years lease. In many cases where these lands were under dense jungle last years, and for which 15 – years leases have been issued, they are now smiling fields <sup>3</sup>

At the time of settlement works of Mr. Sunder three types of settlement works were found settled by lease. 1. The expression “Mal jote” is occasionally used in official correspondence. By ‘Mal jote’ is meant a jote which had existed at last settlement. There were 4221 Jotes of this class.

(2) Time expired jote – A “time expired jote” is a jote which had been taken up under the rules for the grant of ordinary leases for availed waste lands and the preliminary of which had expired. There were 898 jote of this class.

(3) Arable waste land jote – An arable waste land jote is one of which the preliminary lease had not expired ..... With the permission of the commissioner and at the request of the jotdars the preliminary lease was cancelled and superseded by a lease for 15 years being the term of this settlement.<sup>4</sup>

Since the settlement works of Mr. Sunder a large number of jotes were issued to the jotdars. But maljotes had not been issued regularly instead of the Renewed Arable waste lands lease on the expiry of preliminary Reclamation leases. Milligan pointed out that for a few years after 1905 Preliminary Leases under the Arable Waste Land Rules were issued to all new settlers, but when the consideration of new lease – forms was under taken, only amalnamas were issued which gave possession of the land with a promise of a lease hereafter.<sup>5</sup> So, there were four classes of jotes in the Duars for which lease had to be prepared at the Milligan’s settlement –

- Jotes settled by Mr. Sunder under Mal Jote leases.
- Jotes settled subsequently under Renewed Arable Waste Lands Lease.
- Jotes settled under A.W.L Preliminary Leases.
- Jotes created under Amalnamas for the reclamation of Waste Land for which no lease had yet been issued or prescribed.

Beside these four classes of leases there were some special leases which were settled with particular persons like Col. Hedayet Ali, Upendra Nath Duardar etc. which were discussed in the previous chapters. It is found that there were some limitations in the Sunder's settlement and lease for which revenue was not collected properly. So, at the time of Milligan's settlement, he changed some terms and conditions of the leases. Milligan wrote, "..... what has actually been done is to retain the old form of renewed lease in the case of jotes of the 2<sup>nd</sup> and 3<sup>rd</sup> classes above mentioned while a new form has been approved for jotes of class 4, and for future new settlement, the provisions of which have, as a preliminary measure, been embodied in a revised Schedule of Arable Waste Land Rules for the Western Duars."<sup>6</sup>

From the official sources it is found that after expiration of term of the lease, the leasee had to renewed their leases newly with the Government to fulfill the terms and conditions of the Government. In a nutshell, it can be said that a leasee had to promise to pay revenue or cess with installments to the Deputy Commissioner or any other officer appointed for the purpose of realizing the same. The date of payment revenue or cess:-

15<sup>th</sup> Bysak (27 April) for ten anna kist

15<sup>th</sup> kartic (31st October) for six anna kist

No claims were considered for remission to pay revenue on account of failure of crops, absconding of raiyots or the non- payment of their rents to the leasee. In case of failing to pay the rent or cess to the kistibundhi on the aforesaid dates, all arrears would be realized by sale of his property in force for the recovery of public demands. With fulfilling all the terms and conditions of the Government and paying the rent and cess regularly a leasee could transfer their jotdari right or any share or interest therein, by sale, gift or other wise, and in the same way the person or persons to whom the jote would be transferred, had fulfill all the terms conditions, and liabilities of the Government.

A leasee or land holder could sublet his land to the chukanidars on condition of paying rent or cess regularly in a scheduled date of the year and after expire the term of the lease, the chukanidars also had to renewed his lease with jotdars (Land holders). It is found from field survey in Alipurduar Sub-division that the jotdars would give their lands to the chukanidars by lease either whole of the jotes or partly. Sri Prosanya Kumar Roy, 86 years old, ex-jotdar of Majherdabri, P.S Alipurduar, Dt – Jalpaiguri told that his father late Dina Nath Roy cleared the

jungle and prepared for cultivation, then the British Govt. gave Patton or lease. Their land would be cultivated by chukanidars or ryots.<sup>7</sup> Another ex-jotdar Khagendra Nath Das, 77 years of Chaparer par, P.S Alipurduar, Dt- Jalpaiguri gives same statement that their land was also cultivated by chukanidars to whom land were given by lease on condition of pay revenue and cess such as water cess, education cess, for road cess etc.<sup>8</sup>

With same alteration Mr. Milligan would give the lands to the jotdars by lease after expiration of the terms of lease. The jotdars would receive jotes subject to the provisions of clause 18, a renewed lease at such rate and on such condition as may be determined on by the Government. The jotdars pay the rent and cess at the tahshil office within whose jurisdiction their jote is situated on or before the days specified failing which, all arrears shall be realized by sale of their property.

It can be said from various Government sources that the rents would not be collected properly. Heavy amount had not been collected in the due date of the financial year. It is found from the statement of the Lt. Governor dated 3<sup>rd</sup> April 1891 on the Dy. Commissioner office, Jalpaiguri.

“I only stayed a few minutes at the Mainaguri tahshil and required into the collections. The Tahshildar glibly informed me that he had collected over 90 percent, which showed that he knew the standard expected of him. I found however that the practice is this. The second or 10-anna kist is fixed for 15<sup>th</sup> February. After that day a register is prepared of defaulter of over Rs,10 and a sale notice is issued fixing 24<sup>th</sup> April for sale, if they do not pay up earlier .....But no list had been prepared of the defaulters under Rs,10 nor any steps taken. This is not a satisfactory procedure.”<sup>9</sup>

So, to collect the rent systematically and to give some opportunity to pay the rent the date had been scheduled in the following way – In reply I am to say that, as the 15<sup>th</sup> February and 31<sup>st</sup> October, are the kist days according to the new form of pattah sanctioned in Government No.965 L.R dated 24<sup>th</sup> July 1891 for the jotdars of Jalpaiguri. The Lt. Governor desires that those dates may be definitely adopted as the latest days of payment.<sup>10</sup>

Form of Renewed Lease for Mal Jotes in the Western Duars granted by the Deputy Commissioner of Jalpaiguri.



plantation. After independence this problems had not yet been solved and the old system had been continuing. A lot of money was to be paid to the Government as salami for lease land recently a committee has been formed to solve the problems called “Sen Committee” and the committee has given some suggestions. The Government has abated the amount of salami for renew of lease land from Rs. 15000 /- to Rs. 9000/- and for lockout gardens was Rs. 4500/- and the rent of land was abated from 45% to Rs 30%. <sup>11</sup>

Lease land in Alipurduar Town:-

One of the problems of land in Jalpaiguri district has been the question of lease land specifically in the Alipurduar town in 1930s. Out of 1064.52 acres of land 373.71 were under the direct management of “Khasmahal” authority and 54.36 acres were under the management of the Western Duars Market Fund statutory authority (Letter of Nirmal Das, M.L.A) the Khasmahal authority gave 204.04 acres of land on lease to several persons under the provisions of the crown Manual Act, 1932 for different terms of periods viz. 10 years, 12 years and 30 years. But all the terms of lease expired since 1960 and onwards. The lease holders and their successors could not renew the terms of lease by which they could legitimize their possessions as on lease lands.<sup>12</sup>

In the following way with the terms and conditions made by the Government of Bengal lands were granted by lease: - <sup>13</sup>

Lease granted by the Governor of the Province of Bengal to .....

Son of .....

Of .....in the police station. Alipurduar in the district of Jalpaiguri.

This Indenture made on the 27<sup>th</sup> day of November 1936 between the Governor of the Province of Bengal (here in after called the lessor, which term, unless there be anything repugnant in the context, shall include his successors representatives) of the one part and the above mentioned (here in after called the lessee, which term unless there be anything repugnant in the context, shall include his heirs executors, administrators, representatives) of the other part.

Now this indenture witnessed that in consideration of the payment to the lessor of the sum of Rs. 18/- (on or before the exclusion of these presents) (by the installments on the dates here in after mentioned) and of the rent and covenants on the part of the lessee and condition herein after reserved and contained the lessor doth here by demise unto the lessee all that piece

or parcel of land in the first part of the schedule here to more particularly described to hold the same unto the lessee for a term of 30 (thirty) years from the 1<sup>st</sup> day of April 1936 paying therefore the rent at the times and in manner hereinafter in the second part of the said schedule specified (with successive rights of renewal for period of 30 years in perpetuity for two further terms at such terms as may be fixed.)

Installment of rent etc.

	<u>Rs.</u>	<u>A P</u>	
First Installment	7	8	on 30 <sup>th</sup> Nov
Second Installment	12	8	on 28 <sup>th</sup> Feb

*Sources:* - Standard Form of Long –term Lease of Town Khasmahal Land for Non agricultural purpose.

There were fourteen terms and conditions imposed by the Government to the lessee to be followed strictly. Among the fourteen terms and conditions some important terms and conditions were as follows: - <sup>14</sup>

- i. The lessee including his heirs and representatives shall carry out the terms embodied in this lease and will continue to be bound there by.
- ii. The lessee shall pay the rent of the holding in the Collectorate in equal half – yearly installments as shown in the first part of the schedule and shall also pay the premium fixed in the manner stated below.
- iii. In default of payment of any installment of rent or premium on the date fixed in the schedule, the lessee shall be bound to pay in addition to the arrear interest at the rate of 12½ percent, per annum on the amount of arrears till the day of payment and the arrears shall be realizable as public demand.
- iv. If the lessee dies before the expiry of this lease, his heirs or if the land leased be transferred then assigns shall register their names in the collectorate within three calendar months after obtaining possession of the holding and will possess and use the land abiding by all the terms and condition of these leases.



- v. The lessee shall not be at liberty within previous sanction of the collector in writing to transfer or sublet the whole or portion only of the land leased nor in any manner to divest himself of whole or part of the land demised.
- vi. The lessee shall not make any deep ditch or excavation without the consent of the collector, nor in any way injure or damage the land or property hereby leased out.
- vii. The lessee shall keep the land free from jungle and all sorts of nuisance. On his failure to do so, after due notice to the lessee they will be removed by the collector and the expenses incurred for the removed shall be recovered from the lessee as an arrears of rent.
- viii. The lessee shall pay and discharge all existing and future rates, taxes and assessment duties impositions outgoing and burdens whatever assessed, charged or imposed upon the demised premises or upon the owner or occupier thereof in respect there of payable by either in respect thereof.
- ix. The lessee shall preserve intact the boundaries of his holding and will keep them well demarcated according to the requisition of the collector and shall point them out when required by the less or to do so to any other duly authorized by him in writing to inspect them.
- x. If the said land or any part thereof shall at any time, be required by Government for a public purpose the lessee shall give up the same on demand without any claim to compensation in respect of the said demised land. If the land is required permanently the lease shall forth with be determined and the lessee shall be entitled to such fair and reasonable compensation for building and improvements affected by him as shall be decided by the Collector / Deputy Commissioner. If a part of the land is required, whether permanently or temporarily, the lease shall not determine, but in the former case the lease shall be entitled to proportionate reduction of rent, and in the latter to total remission of rent and to such compensation in either case as shall be decided by the collector / Deputy Commissioner.

From the above mentioned terms and conditions it may be said that it was easy to have lease land but it would be a problem to the lease for future which could not be realised by the

leasee at that moment for their future generation. After attaining independence in 1947 followed by the land reforms policy of the Government of India the Government of West Bengal passed 'West Bengal land Acquisition Act, 1953 and land reforms Act, 1955 (Discussed in details in previous chapter). But the Government could have not been solved the problem of lease land like other problems of land and land holders such as landless peasants, bargadars etc. (Discussed previously) because the lease holders and their successors are not able to have raiyoti right on their lands after dwelling so many years. So the problem is created in the new forms. Within long duration the lease holders transferred their holdings to other persons.

It is mentioned earlier that the term of lease has expired since 1960's, and after that no lease had been issued to the lessee as a result of which the Government became failure to have rent or revenue from these lands. It is found in a letter of Alipurduar Byabasayee Samiti, no ABS/65/94-95, dated 23<sup>rd</sup> August, 1994 "That, the lease – term of almost all the leases of the old C.S. plots has expired about 20/25 years ago. Besides original leases there are huge number of occupants who subsequently purchased land by way of registered sale–deeds from the original leases, had been regularly paying land revenue in their respective names till 1388 B.S. Mutation in their favour was also done by the land Reforms Department and thereby the right & title of the occupiers was accepted by the Government."<sup>15</sup> It is also mentioned in a writing of Anupam Talukdar, "204.04 acre land out of 373.71 acre had been leased in accordance with the Crown Manual Act of 1932, tenure of 1933 to 1960 in several times for 30 years as a C.S Plot. The term of lease has expired long ago since then the Government became failure to collect rent from these lands. Many of the original lease holders and this successor registered their lands and also sold in some cases beside this, many of them recorded their names in the mutation. But suddenly the Government held over the collecting of revenue since 1983 as it expired the term of lease."<sup>16</sup>

Another problem of the land in Alipurduar Town is the land of Western Duars Market Fund. The Western Duars Market Fund was formed during the survey and settlement works of Mr. Sunder, the Settlement officer of the Western Duars. The Transactions of the Western Duars Market Funds will be accounted for accordance with the following rules –

- i. Each Tehshil in the Western Duars will have a Market Fund. The savings of one Tehshil will not be spent in another.
- ii. The purpose for which the Fund May be expended are the following:-

**Firstly:** for the payment of the establishment required for collection, supervision and the maintenance of market in a proper sanitary condition.

**Secondly:** For the construction and maintenance of works of public utility and convenience in the market or wells, construction of sheds public necessities and urinals, planting trees repair or construction of roads leading to market & C.

**Thirdly:** For the establishment of new market.<sup>17</sup>

Out of its 54.36 acres of land only an area near about 10.00 acres area now utilized as hat or market. The rest of the land is in possession of several persons for years together, some of them temporary lease and some of them having utilizing it without any authority.

Later on, lands of half plots were brought under the control of Zilla Parishad for management by an order of Board of Revenue and the authority of the administrator ceased to existent in the matter of the market fund when the matter was brought to the notice of the Board, a proposal for declaring these plots of lands as “Civil Station Area” and then leasing them out to the licensees / occupiers thereof on long term lease in terms of rule 166 of the land Management Manual was considered. Board in its memo No. 4451-GE dated 24<sup>th</sup> March, 1973 agreed in principle to the proposed action.<sup>18</sup>

The licensees and occupiers informed their inabilities to pay rent and salami in terms of rules 166/168 of the land Management Manual and they prayed to hold the land granting them long term lease exempting from payment of rent and salami. Then the proposal for exemption from payment of salami and rent was referred to the Finance Department. The Finance Department recommended in such way –“..... we may agree to waiving the salami but there is no case of giving further concession in respect of rent ( 4% of the market value ).( vide G.O. NO Gr. 011-403 dated 15.9.84 )

The district magistrate of Jalpaiguri has also been instructed to deal with the dispose of the Western Duars Market Fund lands in the New Alipurduar Town in terms of the provisions of the Western Duars Market Fund Rules as amended under notification No. 817 – L. Ref dated 4<sup>th</sup> August, 1986 on the following basis as a special case –

- a. The Salami may be waived as already agreed to by the Finance Department.

- b. The market value may be computed on the basis of the years of occupation taking 1948 as the base year for assessment of land valuations, fixing at 4% of that valuation as the rent to be paid by the occupiers from the date of such occupation.
- c. Some occupants may have paid salami. Such payments will be adjusted against rent payable under the new system proposed.
- d. To obviate hardship, the Administrator may fix easy installments not exceeding ten years for payment of the arrear rent calculate in the manner indicated above.<sup>19</sup>

But the problems of the occupants have not yet been solved because of the heavy amount of rupees for leasing on long – term lease. The occupants of the land of Western Duars Market Fund remain uncertainty in spite of dwelling on the land for long time, on the other hand Government also have become failure to obtain rent from this land.

Another problem in the land of Alipurduar Town is in the land of refugee colony which was set up by the Govt. in the R.R & R. Department in the Paschim Jitpur Mauza. In the colony Measuring 32.28 acres of lands, refugees were settled on 15/30 year lease during the period of 1950 to 1953 and the rent was also fixed up. But the term of such leases also expired since 1983. It has not yet been possible to solve the problem of lease land of the refugees or their successors either giving them raiyoti right or long term lease in spite of declaring an order by the Settlement Officer of Coochbehar, Jalpaiguri and Darjeeling district “Collector granted them pattas they are in possession that’s all record them as raiyots”<sup>20</sup>

To solve the problem of the lease- expired land of Alipurduar town, Govt. took initiative for granting long term lease after receiving prayer from different corner of the people of Alipurduar such as Byabasayee Samiti, Citizen Forum, Senior Citizen Forum of Alipurduar and the M.L.A himself. After consulting with higher authority of the Board of Revenue, West Bengal, the Sub- Divisional land and land Reforms officer, Alipurduar issued a letter to the general secretary, Alipurduar Byabasayee Samiti for renewal of long term lease of land in Alipurduar town “with reference to discussions made with you on 30/11/94 that long term lease of land in Alipurduar town may be renewed if the lessee / ex-lessee or his successors in interest pays rent @ 15 times of annual rent previously payable or 4% of the market price of the land at the times of renewal of the lease whichever is less. No salami will be charged at the time of renewal of such lease. Other person who came in possession of the Government Khasland

without any lease or by virtue of purchase of land from ex-lessee shall have to take long term lease (for 30 years with option for successive renewal for the same period) on payment of annual rent to be fixed at 4% of present market value of such land and salami being 10 times of annual rent.”<sup>21</sup>

District Land and Land Revenue officer has given a list about the amount of salami and rent of the lease land for renew in the following way-

Land for Domestic purpose: -<sup>22</sup>

<u>95% of the proposed rate as salami w.e.f 15.4.83</u>	<u>Market value fixed</u>
A- Zone: Rs. 98, 68,030/20.77 acre = Rs.4,751 per decimal + token annual rent	Rs. 5000/- per decimal
B- Zone: Rs.182,79,520/48.10 acre =Rs. 3,800 per decimal + token annual rent	Rs. 4000/- per decimal
C- Zone: Rs. 5, 24,400/1.84 acre = Rs. 2850 per decimal + token annual rent	Rs. 3000/- per decimal

Land for Commercial purpose:-<sup>23</sup>

<u>95% of the proposed rate as salami w.e.f 15.4.83</u>	<u>Market value fixed</u>
A- Zone: Rs: 43. 96,000/10.99 acres = Rs. 4000/- per decimal + annual rent 4% or Rs. 400/- per decimal	Rs. 10.000 per decimal
B- Zone: Rs. 6,65,600/2.08 acres =Rs. 3200 per decimal + annual rent 4% or Rs. 3200/- per decimal	Rs. 8000/- per decimal

From the above table it is found that if a land occupants wants to take his land by long term lease he will have to pay huge amount of rupees sometimes it would be heavier than market value which is impossible to many persons because of their economical inability. Nirmal Das, M.L.A of Alipurduar pointed out in his letter to Abdur Rajjak Molla, land and land revenue minister that near about Rs 10000/ - per decimal will have to pay by the lessee to renew his land which is impossible to pay by the people of migrated and devastating flood affected in 1993.<sup>24</sup>

Alipurduar Chamber of Commerce and industry pointed out by a letter to Sri Surja Kanta Mishra, Hon’able Minister in charge of land and land Reforms, Govt of west Bengal –“Proposed rate of rent is considered abnormally high while comparing with the present market price of this town land& which is having no similarity with any districts or Sub-divisions of west Bengal”. “A fresh lease holder will have to pay rent at the rate of Rs 500/- to Rs 1000/- per decimal per annum an one side of a particular road, while a resident on other side of that road is paying Rs. 1/-per decimal per annum & enjoying Raiyoty rights – which is not justified.”<sup>25</sup>

A letter was also sent to Sri. Surja Kanta Mishra, in charge of land and land Reforms, on 18.09.1996 by senior citizens forum mentioning “The rents proposed will be more or less Rs 500/- to Rs. 1000/- per decimal per annual according to the market price in different locality while the rent for the Raiyoty land, which exists side by side in this town, is almost Rs 1/- per decimal per annum. So the proposal is likely to cause huge disparity among the citizens against principal of natural justice.”<sup>26</sup>

So, it is found from above discussions that the different corner of the people of Alipurduar it is being demanded to solve the problem of lease land which is expired in addition with that in favour of some political parties also demanded for reality right instead of lease, as for example B.J.P protested the modification for renew of lease land issued by land and land revenue department they also observed the day as “black day” demanding for raiyoty right on land instead of lease.<sup>27</sup> A convention, organized by left front was held on 02.02.2003 where Nirmal Das, M.L.A, Rabin Dasgupta leader of C.P.I (M), Arun Ganguly, leader of forward block and Chandan Sarkar leader of C.P.I expressed their views regarding land problems of Alipurduar. They pointed out that it is the matter of land and land Revenue Department, Municipality cannot decide to solve the problem whether giving raiyoty right or anything else, in addition to that raiyoty right is never to be granted to the land occupiers of the lease land, which is illegal according to the Act of land and land Reforms of West Bengal, rather they have been demanding for long term lease for 99 years, to reduce the amount of rent and salami.<sup>28</sup>

### ***Problem of Chitmahals (Enclaves) and the land of Berubari***

A lot of burning land related problems are in the boundary areas of Jalpaiguri, Cooch Behar and Bangladesh which were created before long past. The people of these areas both adverse land and Chitmahals have been facing different types of problems, particularly the people of Chhitmahal areas have been living like a convicts since independence struggling with poverty. They have been confined in a particular ambit losing the right of moving freely and the rights of citizens of main parts of India.

To realize the problems it should be gone through, the history of long past. Koch Kings were powerful in the 16<sup>th</sup> and the 17<sup>th</sup> century. Mirjumla invaded Coochbehar in 1661. Taking shelter in Bhutan, Koch King fought against Mirjumla, as a result of which Mughal army had broken off and a treaty was concluded between Koch King and Shayestha Khan in 1665. Atabat

Khan again invaded Cooch Behar in 1687 and he entered 4 miles into Coochbehar and occupied Kaikana Chakla of Cooch Behar. In this circumstance, Raikot King of Baikunthapur joined with Cooch Behar in spite of having clash between Cooch Behar and Baikunthapur and they attacked jointly against the Mughals as a result of which a treaty was concluded in 1699 between Alikuli Khan, Mughal Fauzdar and Koch King Rup Narayan. In accordance with the treaty, Fatepur Kazirhat and Kaikana chakla came under Mughal Empire permanently on the other hand Patgram, Boda and Purbabhag chaklas came under Koch kingdom. Many chits of Cooch Behar are situated in these three chaklas. After formation of the district, these three chaklas were included with Jalpaiguri.

But Nawab Nazim of Bengal Suba denied the treaty and new faujdar Niyamatulla was appointed in place of Ali Kuli Khan. Again fight was started, Shekh yaar Mahammad occupied the three chaklas and the army of year Mahammad started to dwell in the Coochbehar frontier. The Peace of these areas was disturbed by the armies of the Mughals and broke out into a rebellion realizing the situation. The Nawab of Bengal agreed to give these three chaklas to chhatra Nazir Santanu, the Koch king by agreement or lease. By this time some villages of Coochbehar were occupied by the Mughals army. These villages became enclaves of Pakistan (Now Bangladesh). Milligan in his report mentioned “the two chaklas of Boda and Patgram make up the southern portion of the permanently settled part of the district. These two chaklas are separated from each other by a strip of Cooch Behar territory; and a multitude of enclaves of Cooch Behar state are scattered through them; similarly a number of enclaves of the chaklas lie within the periphery of the state.”<sup>29</sup> In the settlement with the Mahamadans the Koch Kings took the zamindari in the name of “Nazir Deo” but at the time of the permanent settlement the British Government settled the zamindari with the Raja in his own name. The zamindari is still composed of many patches, but it consists of three main chaklas – two are now in Jalpaiguri, namely Boda and Patgram and one in Rangpur namely Purbabhag.<sup>30</sup>

In 1895 a boundary dispute arose between Jalpaiguri district and the state of Cooch Behar. Both were mutually agreed that both sides should abide by the line shown in the Map of O’ Donel in 1868 – 70. The relaying was accepted in September 1899, and the readjustment was finalized in 1901. The matter however was reopened in 1910 and the map was re-laid in 1910 – 11 by O. J. Hart of the survey Department of Bengal. The work of Hart was accepted by the

Maharaja of Cooch Behar and confirmed by the Government of India in November 1914 and April 1915 respectively.<sup>31</sup>

During British period the problem of enclaves could have not been solved, rather more chits were created in the boundary areas of Coochbehar, Jalpaiguri and Rangpur district. Assistant director of revenue Department of Bengal, Rai J. N Sircar Bahadur sent a memorandum to the director of land and surreys, Bengal (No. 2949 – Jr, dated cal, 21<sup>st</sup> March 1934). “I am directed to refer to paragraph 4 of your letter No. 1/10, 3272 dated 22<sup>nd</sup> August, 1932 regarding the proposal of exchanging the enclaves of Coochbehar state in the district of Rangpur and Jalpaiguri with those of Rangpur and Jalpaiguri in the Cooch Behar state and to say that in view of the strong local objection to the proposed exchange Government have decided to abandon the proposal.”<sup>32</sup>

After independence, the problem of enclaves had not yet been solved because of the conflict of demarcation between Pakistan and India. Boundary area between India and Pakistan was demarcated with the consent of political parties and the decision of a commission under the chairmanship of Sir Siril Radcliff without any practical knowledge. Dr. Anananda Gopal Ghosh pointed out in his article that the boundary was demarcated between India and Pakistan on the basis of Police Station, not on the religion of the people.<sup>33</sup> It is unfortunate and tragic event to the history of Jalpaiguri that the five Police Stations of Jalpaiguri namely Debiganj, Patgram, Boda, Panchagar and Tetulia had been transferred to East Pakistan by Radcliff Award as a result of which the people of Jalpaiguri, Coochbehar and Darjeeling had to face different types of problems because these areas were scattered from southern part of Bengal because the people of both areas had to communicate through Purnia (Bihar).

Why did it happen? Reason is not clear to us, it can be said that the political leaders, as well as Radcliff Commission had no practical experience about the boundary areas of both countries and sentiment of the people. The present researcher has taken interview of the people of Khudipara, Singpara and Manikganj where he found a lot of problems regarding land and boundary for which they have been living in a confusion and the problem has not yet been solved in spite of so many discussions and meetings held on higher level of both the countries. Md. Amiruddin, 60, s/o Late Osman Ali of Khudipara told that many meetings were held between the



officials and political leaders of both the countries where local people are not invited as a result of which problems are not being solved.<sup>34</sup>

Since the independence jurisdiction of the district changed time to time. Some of the enclaves of Cooch Behar had been transferred to Jalpaiguri. 17 chhiits of Haldibari police station were transferred to Jalpaiguri under the Govt. of West Bengal Home (police) Dept., Notification No. 2427 P/dated the 27<sup>th</sup> June 1952. A further adjustment between the district boundaries of Cooch Behar and Jalpaiguri had taken place in the year 1955 under home (police) Dept. Govt. of West Bengal Notification No. 2115 P/ dated 20<sup>th</sup> May 1955, 34 chhiits of Cooch Behar were transferred to Jalpaiguri.<sup>35</sup>

### **Dispute of Berubari Union No. 12**

At the time of demarcating between Jalpaiguri district and Pakistan, a dispute came up. During this period, Pakistan Claimed that the whole of the Berubari union No. 12 of Jalpaiguri would have to be included with Pakistan as per Radcliffe Award, but India was not agree with that. Then to tackle this dispute an agreement was signed “between” two prime minister of both the countries called Nehru – Noon agreement in September, 1958. In accordance with the agreement – it was decided that the half area of Berubari would be given to Pakistan, the other half adjacent to India. The division of Berubari union No. 12 will be horizontal starting from the North – east of Debiganj Thana. The division should be made in such a manner that the Coochbehar enclaves between Pachagar Thana of East Pakistan and Berubari union No. 12 of Jalpaiguri P.S of West Bengal will remain connected as at present with Indian Territory and will remain with India. The Coochbehar enclaves lower down between Boda Thana of East Pakistan and Berubari union No. 12 will be exchange along with the general exchange of enclaves and will go to Pakistan.<sup>36</sup>

But local people started movement against the Nehru – Noon Agreement, and strongly protested to join with Pakistan. This movement spread in different parts of Jalpaiguri and Coochbehar led by Prof Nirmal Basu, Amar Roy Pradhan, contemporary Forwardblock leader and many other local leaders. Prof. Nirmal Basu litigated the case in high court and later on in Supreme Court challenging the Nehru – Noon Agreement. President of India then wanted to know about Article 143 to Supreme Court, in reply Supreme Court declared that any part of India would not be transferred to Pakistan without amendment of the constitution of India. Then

the 9<sup>th</sup> amendment of the constitution was done to keep up the prestige of Jawharlal Nehru, then Prime minister and according to the provisions of the amendment the transferring of Berubari to Pakistan had been legalized. But it was Herculean task to hand over Berubari to Pakistan denying the aggressive agitation of the local people.

To solve the problem again an agreement was signed between India and Bangladesh in 1974 called 'Indira – Mujib Agreement and by this agreement it was decided that India would retain the southern half of south Berubari union No. 12 and Bangladesh would retain Dahagram and Angrapota enclaves. In addition with that it was decided that Tinbigha would be transferred to Bangladesh. (Indira – Mujib Agreement, 1974) But again movement started against the decision of transferring 'Tinbigha' to Bangladesh lead by 'Tinbigha Sangram Committee', Kuchlibari Sangram Committee, 'Amra Bangali' and other political parties as well. The decision was death – like to the people of Kuchlibari because in case of transferring Tinbigha, the people of Kuchlibari would lost their way for interring into Mekliganj directly and Kuchlibari would turned into a chhit (enclave)

Later on, another agreement was signed called "Indira Arshad Agreement" in 1982 by which it was resolved that a flyover or an under way would be built for communication both the people of Kuchlibari and Bangladesh. Next time the treaty was amended and it was decided that the people of Kuchlibari could communicate through the way of Tinbigha. Again in 1992 "Tinbigha corridor Agreement was signed and the Day "June 26, 1992" was scheduled to be transferred 'Tinbegha to Bangladesh on condition that the people of Kuchlibari, Dahagram and Angarapota of Bangladesh could communicate with their countries after one hour subsequently. But the problem had not yet been solved.

#### ***Problem of Adverse lands:-***

Adverse land means land of Bangladesh occupied by Indians and they have been living since the independence as a citizen of India, on the other hand land of India occupied by the people of Bangladesh treating as a citizen of Bangladesh. Such type of land covered the village of Dakshin Berubari namely –

- Chilahati, seat No.1 and 2,
- Bara Shasi, seat No, 1

- Naotari Debottar
- Naotari Nabab Ganj and
- Kajal Dighi.

The people of these areas are the citizen of India and enjoyed the rights as a citizen of India, they cast their votes they have Panchayets, M.L.A and M.P. Many of them are involved in Government service since the independence.<sup>37</sup>

But the problem arises in 1989 at the time of settlement works, reaching up to pillar No. 769, a gap was shown after the pillar covering the mauzas of Kajal Dighi and Nautari occupied by Indians, next settlement works was done baring this said area and pillar No. 770 and 771 were shown in such a way that the seats of Naotari Debottar, Nababganj, Kajal Dighi and Pabanigram will be transferred to Bangladesh and if it happen people of these areas would have to suffer different types of crises and they will lost their way to enter to Haldibari and it will turned into an enclaves. So the local people prevented the works of settlement as a result of which, the authority of settlement works postponed to build the pillars No.770 and 771, but they setup pillar No. 772. Since then the work of settlement is withheld and the local people have been fighting against all sorts of process so that they are not shifted to Bangladesh. Local people of these areas are not agreeing to join with Bangladesh at any cost. They have been demanding that they are agree to die but not to join with Bangladesh they will remain in India as an Indian as they are until death.<sup>38</sup>

Two villages namely Kshudipara and Singpara of Berubari in the border area of Bangladesh and India are in the same problem Md. Amiruddin, 60 of Kshudipara and Md. Safij Uddin, 65 of the same village pointed out that 28 acre and 91 dcml. of land of Kshudipara village and 86 acres of land were out of five Police Stations namely Pachagar, Debiganj, Tetulya, Atowari and Boda. But at the time of survey and settlement during the period 1960 – 1962 this two villages were shown under Pachagar thana of East Pakistan and in accordance with the survey and settlement pillar No.4 was setup between India and Pakistan. On the basis of the work of survey and settlement and the pillar at present Bangladesh demanded two villages. But the people of these two villages have been dwelling as Indians since independence. They are the citizens of India, enjoyed all rights of citizens since independence, they cast their votes, they

have Panchayets, M.L.A and M.P. But their holdings are in Bangladesh in accordance with the boundary pillars. The people of these areas do not know what destiny is waiting for them? <sup>39</sup>

The local people expressed their grievances that many meetings, discussions are held between the higher Officials and Ministerial levels where local people are not called and do not realized the sentiment or advantage or disadvantage of the local people. So the problem has been remaining in the dark room.

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