

CHAPTER - XI

LAND TENURE SYSTEMS

There were several distinct land tenures in Cooch Behar State during this period of study. All the tenures may be grouped under two heads, namely, (a) Revenue paying estates and (b) Rent free holdings¹.

The land tenures prevailing in Cooch Behar State are of less complicated character than those generally found in Bengal, and it is said that they are more favourable to all the parties engaged in the soil, as the rights of each are defined either by law or custom and easily ascertained².

1. REVENUE PAYING ESTATES

The Raja or King of Cooch Behar is the owner of the soil, and stands much in the same relation to the jotedars as does a Zamindar in lowered Bengal to his rayats³.

The Revenue paying estates are called "Jotes" and the holders of these estates are called "Jotedars". The Jotedars are thus, in one sense, analogous to "Zemindars" and "Talukdars" of British India, who pay the revenue direct to Government. A jote is heritable and transferable. It is also divisible subject to the limits fixed by the laws of the State. The State has always recognised the rights of ownership, subject to the payment of revenue at the prevailing rates, although, there is no written code extant from which such right could be proved. The rent payable by Jotedars is liable to enhancement. It is liable to be summarily sold for its own arrears of revenue although the law on the subject is more lenient than Act. XI of 1859, of British India⁴.

The Jotes are of two kinds, (a) Mokarari or permanently settled, and (b) Sarasari or temporarily settled. The revenue of the former is fixed

permanently and no increase can be made by the State unless the quantity of land in possession of the holder be found to be in excess of the original grant. The revenue of the temporarily settled jotes, on the other hand, can be increased after the expiration of the term of the lease. The jote can be relinquished under the customary law of the country after payment of the full revenue for the year within a stated time. It can be resumed by the State on the violation of any terms of the lease, or for a public purpose, without paying any compensation for the land. In the case of Mokararis, however, a fair and equitable price is paid for the land. The Jotedar has thus got a little interest for Sarasari Jotes⁵.

Under the Jotes there were six grades of under-tenures in Cooch Behar. These, at least those of the higher grades, have been in existence from a very old time and mark the great development of sub-infendation which has prevailed in the country from before the first settlement. This system received an impetus from the abuses of the Ijaradari system of collection of land revenue which was abolished in 1872. In 1888 a law was passed to put a check to the evils of sub-infendation which prohibited subletting the chukanis and all holdings inferior to them.

2. TYPES OF UNDER-TENURES

There were six types of under-tenures existed in Cooch Behar, such as :-

1. Chukani,
2. Darchikani,
3. Dara-dar-chukani,
4. Tashya Chukani
5. Tali Chukani
6. Tashya-tali-chukani

Chukani is the General name for an under-tenure, and the prefix "Dar", "Dara-dar", etc. makes its place in the scale of Subordinate tenancy.

These tenures have occupancy rights. An under-tenant was formerly liable to ejectment only on the violation of any terms of the lease. This character of these holdings have been emphasised by the sub-indentation Act of 1889. These holdings are heritable and divisible, but could not be formerly transferred by sale as of right, without the consent of the superior Landlord, except under orders of the Court. This disability has been removed by the Voluntary sale of under-tenures Act of 1892. The under-tenants can now sell their title to the holdings by a deed duly registered, and on the payment of a fee to the landlord through the Revenue authorities⁶.

Formerly, almost every class of under-tenant could sublet his lands, either verbally or by a written instrument, and thus sub-infendation was carried to an undue excess. In 1888, subletting of lands except by a jotedar, and that only in chukani right, was put down by Legislation, verbal contracts of payment of rent were also prohibited⁷.

3. DIFFERENT CLASSES OF CULTIVATORS

The different classes of cultivators found all over the State of Cooch Behar are as follows :-

1. Jotedars.
2. Chukanidars.
3. Dar-chukanidars.
4. Dur-a-dur-chukanidars.
5. Tosio Chukanidars.
6. Adhiars.

Persons holding revenue paying land immediately under the Rajah are called Jotedars or proprietors of jotes. Jotedars cannot take more than 25 percent in advance of the rates they themselves pay the State (as sanctioned by Government in letter No. 152T of the 4th October, 1872) from their under tenants called chukanidars. This was done to prevent the under-tenants from being unduly oppressed by the jotedars for it was ascertained that the Jotedars wanted to take from 60 to 100 per cent more from the Chukanidars than they paid themselves as rent.

A Chukandar is an under-tenant of a jotedar or the owner of a chukani. A chukanidar has rights of occupancy, his under-tenure is also heritable like a jote and divisible. He pays to the jotedar as rent a sum of not exceeding 25 percent over and above the rates that the jotedar pays to the State. The quantity of land held by each Chukanidar together with the maximum rent payable by him to the jotedar has been entered in the Terij and a copy of this terij has been given to each chukanidar⁸.

A Dur-chukanidar is an under-tenant of a chukanidar or the owner of a durchukani. A dur-chukani under tenure is also transferable with the consent of the chukanidar and heritable. A dur-chukanidar has also a right of occupancy in fact in Cooch Behar, the right of ejectment has never been known or recognised. A darchukanidar pays 50 percent over the jotedar's rates as rent to his chukanidars⁹. The quantity of land they held, its incidents and the maximum rent due by them to their chukanidar is also as in the case of the chukanidar shown in the Terij and an extract of this has been given to each durchukanidar.

A Dur-a-dur-chukanidar is an under-tenant of a dur-chukanidar or the owner of a dur-a-dhur-chukani and they have the same rights as a dur-chukanidar. Their rent is 75 percent over the Jotedar's rates. It is interesting

to note that while in Bengal under the rulings of the High Court only one class of holders under a Zamindar can have occupancy rights, at the same time in Cooch Behar, all classes of under tenants have their rights and moreover each man knows from the copy of the Terji in his hands the exact maximum he can be called on to pay as rent, thus preventing illegal cesses being taken from him. The under-tenant in Cooch Behar is therefore, in a much better position than men of the same class in Bengal. As a result they are a happy, contended, well-to-do class.

A tosio Chukanidar is an under tenant of a dur-a-dur chukanidar or the owner of a toso chukani. This is a very rare occurrence that a dur-a-durchukanidar have under-tenant under them. There are only a few of such type of under-tenants in Cooch Behar. They have also occupancy rights.

An Adhiars or Proja is a person who cultivates lands on the condition that he gets half the produce in kind, he is in fact a hired labour paid in kind. Till that time they have had no rights whatever in the soil. But Sir George Campbell in his letter No. 1527 dated 4th October, 1872 ordered that any adhiars who cultivate with their own cattle for 12 consecutive years would gain occupancy rights in their fields. A Proclamation to this effect has accordingly been issued. Each class of rayot cultivates generally speaking some of his land by the aid of adhiars, thus there are adhiars under Jotedars as well as under chukanidars, dur-chukanidars etc¹⁰.

4. RENT-FREE TENURES

A large quantity of land is held rent free by different persons all over the State. This rent-free lands are commonly known as Lakheraj Estates. The term "Lakhiraj" is a combination of two Arabic words "La" and "Khiraj", "La" means "free" and "Khiraj" means "Revenue". Hence "Lakhiraj"

means revenue free. These rent free lands bear five different denominations according to the purpose which they served. They are :-

1. Brahmattar - when the grants made to Brahmans.
2. Debottar - when allotted to the worship of a particular Deva or Deity.
3. Pirpal - when given to Musalmans for support of Pirs or saints.
4. Lakhraj - for meritorious act.
5. Petbhata - for maintenance.

Brahmattar lands, given to Brahmaṇas for their support, such grants are hereditary and transferable. They are of personal nature, in contradiction to Debottar grants, which are made for the support of an idol. Deottar grants are lands given for the support of an idol, they cannot be sold in any way. In Cooch Behar there are two kinds of such grants :-(1) State debottars, (2) besides State Debottars there are which may be called private debottars.

Pirpal grants are lands granted to Muhammadans for the support of a Pir or Saint, just as a debottar is given to Hindus for the support of an idol.

Lakhraj grants are not confined to any particular class, and are hereditary and transferable. All Lakhraj grants return back to the State on failure of heirs.

Petbhata lands are rent-free holdings, generally given by a Raja for the maintenance of his relatives during their lives. A petbhata grant lapses at the death of the original grantee, and his heirs must apply to the Raja for a renewal. If no fresh grant is given, the heirs are ordinarily, but not necessarily,

allowed to hold the lands as a jote, paying rent at the prevailing rates, like any other jotedar, while the land is held as petbhata, it is not transferrable¹¹.

Another category of revenue free tenure special to Cooch Behar should be mentioned. It was known as Jaigir, very different from the tenure of the same name obtaining in British India. In almost all country the Jagirdari system has prevailed in some shape or other. In some parts of Bengal it is called Chakran-land or land given to servants, and is the exact equivalent of the English "Service-land"¹². The Cooch Behar Jaigirs were non-transferable and non-hereditary grants to slaves in lieu of payment for service to the Palace¹³.

This system has been in working in the State from a remote antiquity¹⁴. The system must have been introduced when land did not possess much value, and when the personal liberty of the subjects was not much respected. Some years ago the Jaigirdars were looked upon as slaves. They could be imprisoned or made to suffer corporal punishment of any description by their superior. Their number originally was 974 in 1789. The lands given to them were not clearly described in any book ; the consequence was that they generally held much larger quantities than they were entitled to. As improvements began to be introduced into the State, and the liberty of the subjects was more and more respected, it was found that the Jaigirdari system did not work satisfactorily. The Jaigirdars were accustomed to work in the old way ; they were lazy and irregular ; their usefulness also decreased owing to the change in the nature of the work which had to be done at the Palace. In the course of the new settlement their number has, therefore, been gradually reduced to 367 at the time of first settlement i.e. in the year 1876¹⁵.

The most influential class amongst the Jaigirdars consisted of the Morangias. Their ancestors were slaves and given as presents by a Morang King to Maharaja Nara Narayan of Cooch Behar towards the end of the sixteenth Century, on the occasion of a marriage. These men settled in Kodalksheti, Bhogmara and other Taluks in pargana Mathabhanga and one member of each family served as Jaigirdar. In times the Morangias managed to acquire some influence, and committed much oppression on the people. When Government adopted steps for defining their Jaigir lands, they filed resignations giving up their posts ; these resignations were accepted and their lands were resumed and settled with them and they were turning into peaceful rayats. The annual revenue derived from resumed Jaigir lands in Pargana Mathabhanga amounts to Rs.10999-13-2. The work before done by 1156 Morganias is managed by twelve paid Dhangur coolies. The quantity of Jaigir lands upheld in this Pargana is 2,932 bighas 10 kathas and 10 dhurs and it is held by 50 jotedars¹⁶.

The Jaigirdars as already noticed are bound to give certain defined personal service for the lands they hold. If they fail to do so, or are inefficient, or if their services are no longer required, their lands are resumed. Jaigir lands are consequently not saleable or transferable. They cannot be encumbered by the creation of tenures under them. On the death of a Jaigirdar qualified heirs ordinarily inherit, or rather, are chosen to succeed him, but the state is not bound to accept the service of the heir, and can substitute some one else.

Before the first settlement the number of Jaigirdars was very large, they were mostly useless men and the settlement was availed of to greatly reduce their number, and also to define exactly the quantity of land each Jaigirdar should hold. Some idea may be formed of the large extent of

resumption of these lands when it is remembered that a sum of Rs. 14,691 was obtained by the first settlement of the resumed Jaigirs alone of the State¹⁷.

With the growing idea of comfort and liberty of the modern age the Jaigirdari system is fast becoming antiquated and unpopular. Most of the Jaigirdars are anxious to throw their rights which the system imposes and are desirous of setting up an independent rayats whose obligation to the State mainly ceases with the payment of the land revenue. The State also does not gain by their services which are generally inferior what can be easily obtained for hire labour of much cheaper rate¹⁸.

SUMMARY

The land tenures in Cooch Behar State may be grouped under two heads (a) Revenue paying estates and (b) Rent-free estates. The revenue paying estates in the State are called "Jotes", and the holders of these estates are called "Jotedars". This is in one sense, analogous to "Zamindars" and "Talukders" of British India, who pay the revenue direct to the Government. A jote is heritable and transferable.

The Jotes are of two kinds. Mokarari or permanently settled and Sarasari or temporarily settled. The revenue of the former is fixed in perpetuity and no increase can be demanded by the State unless the quantity of land in possession of the holder be found to be in excess of the original grant.

The revenue of the temporarily settled jotes, on the other hand, can be increased after the expiration of the terms of the lease.

Under the jotes there are six grades of under-tenures. These, at least those of the higher grades, have been in existence from a very old time, and mark the great development of sub-infendation which has prevailed in the country from before the time of first settlement. This system received an impetus from the abuses of the Ijardari system of collection of land revenue which was abolished in 1872. In 1888, a law was passed to put a check to the evils of sub-infendation which prohibited subletting of chukanies and all holdings inferior to them.

The names of the under-tenants are : (1) Chukani, (2) Dur Chukani, (3) Dura-dar-chukani, (4) Tashya chukani, (5) Tali Chukani and (6) Tashyatali Chukani.

Formerly, almost every class of under tenant could sublet his lands, either verbally or by a written instrument, and thus sub-infendation was carried to an undue excess. In 1888, subletting of lands except by a Jotedar, and that only in chukani right, was put down by legislation, verbal contracts of payment of rent were also prohibited in that year.

Chukani is the General name for an under-tenure, and the prefix "Dar", "Dar-dar", etc. marks its place in the scale of subordinate tenancy. There were six different classes of cultivators found in Cooch Behar. They are : (1) Jotedars, (2) Chukanidars, (3) Dara-chukanidars, (4) Dara-dar chukanidars, and (6) Adhiars.

These tenures have occupancy rights. An under-tenant was formerly liable to ejectment only on the violation of any terms of the lease. These holdings are heritable and divisible but could not be formerly transferred by sale as of right, without the consent of the superior landlord, except under orders of the Court. This disability has been removed by the Voluntary sale of lands

under-tenures Act of 1892. The under tenants can now sell their title to the holdings by a deed duly registered and on the payment of a fee to the landlords through the Revenue Authorities.

A large quantity of land is held rent free by different persons all over the State. These lands were received alike by Hindus and Mahamedans and the grants were made for both secular and religious purposes. These lands bear five different denominations according to the purpose which they serve. They are (1) Brahmattar - when the grants are made to Brahmans, (2) Debottar - when allotted to the worship of a particular Deva or Deity. (3) Pirpal when given to Musalmans for the support of Pirs or saints. (4) Lakhiraj for the meritorious act, (5) Pethbhata for maintenance.

Jaigirs or service lands, though enjoyed by the holders without rent, are quite distinct from the lands of the above descriptions. The Jaigirdars have to render personal service as a return for the occupation and enjoyment of the lands. This is a feature which is not present in any of the grants. In almost every country the Jaigirdari system has prevailed in some shape or other and is the exact equivalent of the English "Service-land".

With the growing idea of comfort and liberty of the modern age the Jagirdari system is far becoming antiquated and unpopular. Most of the Jaigirdars are anxious to throw off their rights which the system imposes and are desirous of setting up as independent rayats whose obligation to the State mainly ceases with the payment of the land revenue.

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