

GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records & Surveys
and Jt. Land Reforms Commissioner, West Bengal
35, Gopalnagar Road, Alipur, Kolkata - 700 027.

Memo. No. 7/5041-5058/C/2000.

Dated, Alipur, the 24th / 25th August,
2000.

To
The District Land and Land Reforms Officer,
Haora/Hugli/Nadia/Murshidabad/Birnbhim/
Malda/Uttar Dinajpur/Dakshin Dinajpur/
Kochbehar/Jalpaiguri/Darjeeling/Bardhaman/
Bankura/Medinipur/Tamluk/Purulia/North
24-Parganas/South 24-Parganas.

Sub : Production of Public documents and records.

It has often been noted that inspite of the availability of public documents duly certified u/s 76 of the Indian Evidence Act summons have been issued for the production of the original record-of-rights or working sheets/finally inked sheets of maps by certain Civil Courts. It has been found that these original records are sui-genesi in nature and as no copies exist, they cannot ordinarily be parted with and more often they are not returned at all by the courts due to which the work has to be done do novo. The rule 106 of the Civil Rules and Orders of the Calcutta High Court is reproduced below:

Rule 106 Subject to any provisions of the law to the contrary, the originals of public and municipal records should not be called for when duly authenticated and certified copies of the same are admissible in evidence and will serve the purpose for which the records are required. When public documents as defined u/s 74 of the Indian Evidence Act, 1872, or documents forming part of public documents or in public custody are called for, the court calling for them shall state the circumstances which render the production of the documents necessary. When, however, the Collector or other public office in-charge of the documents, has been summoned under Order 15 Rules 1 and 6 of the CPC, 1908 to produce in court a certain document it will be his duty to send it to the court; but such officer may at the same time, in person or by letter addressed to the court, object to the production of the document u/s 123 or u/s 124 of the Indian Evidence Act, 1872, stating the grounds of such objection. On an objection being made, it shall be the duty of the court to consider and decide according to law if it should compel the production of such document.

The matter can be brought to the notice of the court through Ld. AGP that in view of the fragility of the records, it's necessity for the general public and the danger of any possible loss or damage to the public document due to which a considerable government expense would be involved for the do-novo preparation, the records could at the most be inspected and returned the same day. In case, the court insists by a written order for it's production then the Rule 108 of the Civil Rules and orders should be brought to the notice of the court. The Rule 108 is as follows:

Rule 108.....”and the officer from whose custody it has been produced, desires its prompt return, the court shall, after the documents has been inspected or put in evidence, cause it to be returned with the least practicable delay to such officer, after the preparation of such copy as the court may require under Order 13, Rule 2 unless it detention is considered up to the judgement”

In case the judge were to decide that the papers are necessary till the day of judgement then an appeal should be filed without any delay. However, it is best that an authenticated copy of the public documents to be produced should be taken along for filing if necessary. This circular should be brought to the notice of all BL&LROs.

Sd/-

S. Suresh Kumar
Director of Land Records & Surveys
and Jt. Land Reforms Commissioner,
West Bengal.