

**GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT**

Legislative

West Bengal Act XXI of 1993

**THE CALCUTTA *THIKA* TENANCY (ACQUISITION
AND REGULATION) (AMENDMENT)
ACT, 1993.**

[*Passed by the West Bengal Legislature.*]

[Assent of the President of India was first published in the
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[15th March, 1994.]

*An Act to amend the Calcutta Thika Tenancy (Acquisition and
Regulation) Act, 1981.*

WHEREAS it is expedient to amend the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Calcutta *Thika* Tenancy (Acquisition and Regulation) (Amendment) Act, 1993.

(2) Sections 13 and 14 shall come into force at once; and the remaining provisions of this Act shall be deemed to have come into force on the 18th day of January, 1982.

2. In the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted:—

“An Act to provide for the acquisition of interests of landlords in respect of lands comprised in thika tenancies and certain other tenancies and other lands in Calcutta and Howrah for development and equitable utilization of such lands.”

3. In the principal Act, for the preamble, the following preamble shall be substituted:—

“WHEREAS it is expedient to provide for the acquisition of interests of landlords in respect of lands comprised in thika tenancies and certain other tenancies and other lands in Calcutta and Howrah for development and equitable utilization of such lands with a view to subserving the common good;”

Short title and commencement.

Substitution of long title.

Substitution of preamble.

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[West Ben. Act

(Sections 4, 5.)

Amendment
of
section 1.

4. In sub-section (1) of section 1 of the principal Act, for the words "the Calcutta *Thika* Tenancy", the words "the Calcutta *Thika* and other Tenancies and Lands" shall be substituted.

Amendment
of
section 3.

5. In section 3 of the principal Act,—

(1) for clause (1), the following clause shall be substituted:—

'(1) "*Bharatia*" means any person by whom, or on whose account, rent is payable for any structure or part thereof, owned by a *thika* tenant or tenant of other lands in his holding or by a landlord in a *bustee* on his *khas* land;';

(2) after clause (1), the following clause shall be inserted:—

'(1A) "*bustee*" means an area containing land with a collection of huts used or intended to be used for human habitation or for any business purpose, and includes any tank in or appurtenant to and in common use of the occupiers of such *bustee*, whether or not the same person is the owner or the landlord in respect of such tank;';

(3) for clause (3), the following clause shall be substituted:—

'(3) "holding" means a parcel or parcel of land occupied by a *thika* tenant or tenant of other lands under one set of conditions, and includes a *bustee* owned by a landlord on his *khas* land along with any tank included in such *bustee*;';

(4) after clause (3), the following clauses shall be inserted:—

'(3A) "hut" means any building or structure, the roof or the floor of which, excluding the floor at the plinth level, is not constructed of masonry or reinforced concrete;

(3B) "*khatal*" means a place where cattle are kept or maintained for the purpose of trade or business including business in milk derived from such cattle;';

(5) for clause (4), the following clause shall be substituted:—

'(4) "landlord" means any corporation, charitable or religious institution or person who, for the time or person who, for the time being, is entitled to receive or but for a special contract would be entitled to receive the rent for any land comprised in the tenancy of a *thika* tenant or tenant of other lands or in a *khatal*, tank or hut owned by him in a *bustee* on his *khas* land, and includes any corporation, institution or person having superior interest in such *thika* tenancy;';

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(Section 6.)

- (6) after clause (5), the following clause shall be inserted:—
'(5A) "other lands" includes any vacant land or tank;';
- (7) after clause (7), the following clauses shall be inserted:—
'(7A) "slum area" means the area declared as such by the State Government under section 3 of the West Bengal Slum Areas (Improvement and Clearance) Act, 1972, or section 4 of the Calcutta Slum Clearance and Rehabilitation of Slum-dwellers Act, 1958;
- (7B) "tenant of other lands" means any person who occupies other lands under another person, whether under a written lease or otherwise, and is or but for a special contract would be liable to pay rent at a monthly or periodical rate for occupation of such other lands, and includes the successor-in-interest of such person;'

West Ben.
Act X
of 1972.
West Ben.
Act XX
of 1958.

6. For section 5 of the principal Act, the following section shall be substituted:—

"Lands comprised in *thika* tenancies, *khas* lands and other lands, etc. to vest in the State.

5. With effect from the date of commencement of this Act, the following lands along with the interest of landlords therein shall vest in the State, free from all incumbrances, namely:—

Substitution
of new
section for
section 5.

- (a) lands comprised in and appurtenant to tenancies of *thika* tenants including open areas, roads, passages, tanks, pools and drains;
- (b) lands comprised in and appurtenant to *bustees* on *khas* lands of landlords and lands in slum areas including open areas, roads, passages, tanks, pools and drains;
- (c) other lands not covered by clauses (a) and (b) held under a written lease or otherwise, including open areas, roads, passages, tanks, pools and drains;
- (d) lands held in monthly or other periodical tenancies, whether under a written lease or otherwise, for being used or occupied as *khatal*:

Provided that such vesting shall not affect in any way the easements, customary rights or other facilities enjoyed by *thika* tenants, *Bharatias* and occupiers of land coming within the purview of clauses (c) and (d)."

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(Section 7.)

Amendment
of
section 6.

7. In section 6 of the principal Act,—

(1) for sub-section (2), the following sub-section shall be substituted:—

"(2) Every *thika* tenant and every tenant of other lands holding directly under the State under sub-section (1) shall be liable to pay to the State Government in the prescribed manner such revenue as may be determined.";

(2) for sub-section (3), the following sub-section shall be substituted:—

"(3) The interests of *thika* tenants and tenants of other lands holding directly under the State under sub-section (1) shall be heritable and shall not be transferable except *inter se* amongst the heirs and existing co-shares interest or to the prospective heirs, subject to the provisions of sub-section (1) of section 7.";

(3) after sub-section (3), the following sub-section shall be inserted:—

"(4) The *thika* tenants and tenants of other lands holding directly under the State under sub-section (1) shall be entitled to construct *pucca* structures in accordance with the building plans sanctioned under the Calcutta Municipal Corporation Act, 1980, and the rules made thereunder, or the Howrah Municipal Corporation Act, 1980, and the rules made thereunder, according as the land may be situated within Calcutta as defined in clause (9) of section 2 of the Calcutta Municipal Corporation Act, 1980, or Howrah as defined in clause (15) of section 2 of the Howrah Municipal Corporation Act, 1980, for—

(a) residential and business purposes for themselves and the *Bharatias* under them; and

(b) essential common facilities like common pathway, common bath, toilet, water supply, drainage, sewerage, lighting and similar other purposes."

West Ben.
Act LIX of
1980.
West Ben.
Act LVIII
of 1980.

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(Sections 8-12.)

8. In section 7 of the principal Act,—
- Amendment
of
section 7.
- (1) for sub-section (1), the following sub-section shall be substituted:—
- "(1) The *thika* tenants and tenants of other lands holding directly under the State shall be entitled to let out in whole or in part structures existing on, or constructed after, the date of commencement of this Act on such lands but not any vacant land or any part thereof.";
- (2) for sub-section (2), the following sub-section shall be substituted:—
- "(2) Any transfer or agreement for transfer, whether oral or in writing, in contravention of the provisions of sub-section (3) of section 6 or sub-section (1) of this section shall be void and be of no effect whatsoever and the land and structure shall stand vested in the State in accordance with the prescribed procedure."
9. In sub-section (2) of section 8 of the principal Act, for the words "an annuity for such number of years", the words "a perpetual annuity or, where the interest of the landlord is terminable or is liable to be exhausted, as annuity for such number of years" shall be substituted.
- Amendment
of
section 8.
10. In Chapter III of the principal Act, for the existing heading, the following heading shall be substituted:—
- "Incidents of tenancies of Bharatias in structures"*.
- Substitution
of new
heading for
existing
heading of
Chapter III.
11. For sub-section (1) of section 9 of the principal Act, the following sub-section shall be substituted:—
- Amendment
of
section 9.
- "(1) The monthly and other periodical tenancies of *Bharatias* in respect of structures occupied by them on payment of rents to *thika* tenants shall, with effect from the date of coming into force of this Act, be governed by the provisions of the West Bengal Premises Tenancy Act, 1956, in all matters coming within the purview of the said Act and, for the said purpose, the owners of the structures shall be deemed to be landlords and the *Bharatias* shall be deemed to be tenants under the said Act."
12. For section 11 of the principal Act, the following section shall be substituted:—
- Substitution
of new
section for
section 11.
- "Tenancy of *Bharatia* to continue. 11. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, the tenancy of a *Bharatia* as a tenant under a *thika* tenant shall not be extinguished because of subsequent non-existence of the structure or a part thereof which the *Bharatia* previously occupied under the *thika* tenant."

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(Section 13.)

- (2) If any structure or part thereof which was in the occupation of a *Bharatia* as a tenant under a *thika* tenant ceases to exist except under an order of a court under section 18A of the West Bengal Premises Tenancy Act, 1956, the *thika* tenant shall reconstruct similar accommodation and restore possession to the *Bharatia* and put the *Bharatia* in possession of such accommodation within one month of such structure ceasing to exist, failing which the *Bharatia* may make an application to the Controller in the prescribed manner.
- (3) On an application made by the *Bharatia* under sub-section (2), the Controller shall, after giving the *thika* tenant and the *Bharatia* an opportunity of being heard, direct the *thika* tenant to reconstruct similar accommodation and restore possession to the *Bharatia* within such time as the Controller may decide.
- (4) If the *thika* tenant fails to comply with the orders of the Controller under sub-section (3), the *Bharatia* shall be entitled to reconstruct the structure and, for that purpose, may make an application to the Controller who shall, after giving the *Bharatia* and the *thika* tenant an opportunity of being heard, approve such cost of reconstruction as may appear to him to be fair and reasonable and, after such reconstruction, allow adjustment of the cost of such reconstruction from the rent payable by the *Bharatia* in such monthly instalments as the Controller may think fit.
- (5) If there is any unlawful resistance by or on behalf of the *thika* tenant to the reconstruction by the *Bharatia* under sub-section (4), the Officer-in-charge of the local police station shall, on receipt of any requisition of the Controller in writing in this behalf, render all necessary and lawful assistance to the *Bharatia*."

West Ben.
Act XII of
1956.

Insertion
of new
section 18A.

13. After section 18 of the principal Act, the following section shall be inserted:—

- "Penalty. 18A. (1) Any contravention by any person occupying land directly under the State, being the landlord within the meaning of sub-section (1) of section 6, of any provision of this Act shall be an offence punishable with imprisonment for a term which may extend to five years and also with fine which may extend to ten thousand rupees.
- (2) No court shall take cognizance of any offence punishable under sub-section (1) except on a complaint made in writing by the Controller or by an officer authorised by him in this behalf."

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(Sections 14, 15.)

14. For section 25 of the principal Act, the following section shall be substituted:—

Substitution
of new
section for
section 25.

"Maintenance,
preparation and
revision of
record of rights. 25. (1) Except as hereinafter provided,
Chapter VII and Chapter VIIA of the West
Bengal Land Reforms Act, 1955, and the rules
made thereunder shall apply *mutatis mutandis* to the
maintenance, preparation and revision of record-of-rights
for the purposes of this Act.

- (2) Without prejudice to the generality of the provisions of Chapter VII and Chapter VIIA of the West Bengal Land Reforms Act, 1955, the names of *Bharatias* and *thika* tenants, duration and incident of tenancies, rent payable by each *thika* tenant and each *Bharatia* and area occupied by each *Bharatia* shall be incorporated in such record-of-rights.
- (3) The State Government may, if it thinks fit, direct that such record-of-rights shall be revised or prepared only in respect of lands to which section 5 of this Act applies.
- (4) Notwithstanding anything contained in sub-section (5) of section 51 of the West Bengal Land Reforms Act, 1955, there shall be a separate *khatian* for each *thika* tenant or tenant of other lands holding directly under the State, but the lands owned by such *thika* tenant or tenant of other lands as a *raiyyat* shall not be incorporated in such *khatian*."

15. For section 26 of the principal Act, the following section shall be substituted:—

Substitution
of new
section for
section 26.

"Payment of
monthly revenue. 26. (1) In respect of any holding, a *thika*
tenant or tenant of other lands holding
directly under the State shall pay monthly revenue to the
State Government at the rate of five rupees per 0.00674
hectare or at the rate at which he paid to his landlord
immediately before vesting under this Act, whichever is
higher.

- (2) The monthly revenue shall be enhanced at the rate of ten *per centum* on the expiry of every five years."