GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1001-L.—3rd September, 2019.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XI of 2019


[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the Kolkata Gazette, Extraordinary, of the 3rd September, 2019.]


WHEREAS it is expedient to amend the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001, for the purposes and in the manner hereinafter appearing;

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

1. (1) This Act may be called the West Bengal Thika Tenancy (Acquisition and Regulation) (Amendment) Act, 2019.

2. In section 2 of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001 (hereinafter referred to as the principal Act),—

(1) clause (1), shall be renumbered as clause (1a) of that section and before clause (1a), so renumbered, the following clause shall be inserted:—

'(1) “assignment” means transfer of leasehold interest over a thika land by a thika lessee to thika assignee;';

(2) after clause (1a), so renumbered, the following clauses shall be inserted:—

'(1b) “building” means any construction made over thika land either by the thika tenant himself or in collaboration with Bharatia with the prior sanction of the Kolkata Municipal Corporation or the Howrah Municipal Corporation or any other Municipal Corporation or any local authority and includes any construction made over thika land by the Kolkata Municipal Corporation or the Howrah Municipal Corporation or any other Municipal Corporation or any local authority, with the consent of thika tenant and Bharatia;

(1c) “construction” means any structure made over a vacant thika land either by a thika tenant himself or in collaboration with Bharatia or by the Kolkata Municipal Corporation or the Howrah Municipal Corporation or any other Municipal Corporation or any local authority, as the case may be;';

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

'(2a) “development agreement” means an agreement entered between thika tenant and Bharatia with or without the Kolkata Municipal Corporation or the Howrah Municipal Corporation or any other Municipal Corporation or any local authority, as the case may be, and approved by the concerned Corporation;';

(4) in clause (13), after the words “durable nature”, the words “and includes any type of construction or reconstruction or development of building done by thika tenant by himself or in collaboration with Bharatia, keeping intact their respective share” shall be inserted;

(5) after clause (13), the following clauses shall be inserted:—

'(13a) “thika assignee” means any Bharatia or any other person, in respect of whom assignment may be made by the thika lessee in terms of development agreement for construction over the thika land and includes the successor-in-interest of such persons;

(13b) “thika lessee” means any thika tenant holding a thika land and authorised to transfer interest on such land;'.

3. In section 5 of the principal Act,—

(1) after sub-section (4), the following sub-section shall be inserted:—

“(4A) Notwithstanding anything contained in this section, the interest of the thika tenant over thika land holding directly under the State under sub-section (1) may be transferable as thika lessee, by the Controller with the prior permission of the State Government, for assignment to thika assignee.”;
The West Bengal Thika Tenancy (Acquisition and Regulation) (Amendment) Act, 2019.

(Sections 4, 5.)

(2) in sub-section (5),—

(a) in clause (a), for the words “Bharatias under them; and”, the words “Bharatias under them;” shall be substituted;

(b) after clause (a), the following clause shall be inserted:—

“(aa) residential purposes of thika lessee, thika assignee or any other purpose or purposes, as may be prescribed; and”.

4. In section 6 of the principal Act, after sub-section (1), the following sub-sections shall be inserted:—

“(1A) Notwithstanding anything contained in sub-section (1), the Controller may allow thika tenants to transfer any vacant land or any part thereof to the thika assignee with the prior permission of the State Government, on such terms and conditions as may be prescribed by the State Government.

(1B) Where the vacant land as stated in sub-section (1A) of this section is not utilised within such time as may be prescribed from the date of grant or permission from the Controller, for the purpose for which the person has been permitted for, the State Government may, after giving opportunity of hearing to such person, resume the land or its part thereof, as the case may be, for violation of terms and conditions for such transfer.

(1C) Notwithstanding anything contained in this section, any land or structure or part thereof so resumed under this section, may be used or settled by the State Government on such terms and conditions as may be prescribed by the State Government.”.

5. After section 6 of the principal Act, the following section shall be inserted:—

“Construction over thika land for betterment of living condition.

6A. (1) For betterment of living condition of thika tenant and Bharatia, construction or reconstruction or development of building over thika land may be done either by the thika tenant himself or in collaboration with Bharatia without disturbing proportionate share of thika tenant and Bharatia, in terms of development agreement for the purpose:

Provided that both the thika tenant and Bharatia shall pay such amount of salami as may be prescribed, to the State Government, to be declared as thika lessee and thika assignee, respectively.

(2) Where the thika tenant either himself or in collaboration with Bharatia is unable to develop the thika land, the Kolkata Municipal Corporation or the Howrah Municipal Corporation or any other Corporation or any local authority of the concerned area may develop thika land for construction of building under any housing scheme or otherwise without disturbing proportionate share of thika tenant and Bharatia.

(3) The State Government may resume all or any portion of land or structure over any thika land with the written consent of thika tenant and all Bharatia for the purpose of betterment of living condition of the thika tenant and thika assignee:

Provided that no compensation shall be payable by the State Government to any thika tenant or Bharatia for resumption of land for the purpose of betterment of living condition of the thika lessee and thika assignee.
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(Section 5.)

(4) After construction or reconstruction or development as stated in this section, the thika lessee shall assign the building or part thereof to the thika assignee as stipulated in the development agreement entered by the thika tenant and Bharatia."

By order of the Governor,

AKHILESH KUMAR PANDEY,
Secy.-in-charge to the Govt. of West Bengal,
Law Department.