



The West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001

Act 32 of 2001

Keyword(s):

Khatal, Land Appurtenant, Landlord, Lease, Pucca Structure, Thika Tenant

Amendment appended: 11 of 2019

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XXXII of 2001¹

THE WEST BENGAL *THIKA* TENANCY (ACQUISITION AND REGULATION) ACT, 2001.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Kolkata Gazette, Extraordinary*, of the 22nd November, 2002.]

An Act to provide for the acquisition of interests of landlords in respect of lands comprised in thika tenancies in Kolkata, Howrah and Other Municipalities of West Bengal for development and equitable utilization of such lands.

WHEREAS it is expedient to provide for the acquisition of interests of landlords in respect of lands comprised in *thika* tenancies in Kolkata, Howrah and Other Municipalities of West Bengal for development and equitable utilization of such lands with a view to subserving the common goods;

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

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal *Thika* Tenancy (Acquisition and Regulation) Act, 2001.

Short title,
extent and
commence-
ment.

(2) It extends to Kolkata as defined in clause (9) of section 2 of the Kolkata Municipal Corporation Act, 1980, and to Howrah as defined in clause (15) of section 2 of the Howrah Municipal Corporation Act, 1980 and such other areas as the State Government may notify from time to time:

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

¹For proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 19th February, 2001.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

[West Ben. Act

(Chapter I.—Preliminary.—Section 2.)

Provided that the provisions of this Act shall not extend to the whole of, or to any area included within the limits of, Howrah, which, immediately before the 10th day of January, 1983, being the date of coming into force of the Howrah Municipal Corporation Act, 1980, was not comprised in the municipality of Howrah:

West Ben.
Act LVIII of
1980.

Provided further that the provisions of this Act shall not extend to the whole of, or to any area included within the limits of, Kolkata, which, immediately before the 4th day of January, 1984, being the date of coming into force of the Kolkata Municipal Corporation Act, 1980, was comprised in any municipality.

West Ben.
Act LIX of
1980.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (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, but excludes any person paying rent to a *Bharatia* and any resident of a structure forfeited by the State Government under sub-section (2) of section 6, irrespective of the status, the said person may have enjoyed earlier;
- (2) “*Controller*” means an officer appointed under section 10 and includes an Additional Controller and a Deputy Controller;
- (3) “*holding*” means a parcel or parcels of land occupied by a *thika* tenant under one set of conditions along with any tank included in such land;
- (4) “*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;
- (5) “*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;
- (6) “*land appurtenant*” includes any easement, right, or any common benefits or facilities, or access, passage, drains, tanks and pools which were owned by the landlord and were enjoyed by the *thika* tenant and the *Bharatia*, if any, before the date of vesting;

¹This Act came into force w.e.f. 1.3.2003 *vide* the Land & Land Reforms Department notification No. 515-L Ref/125-36/95, dt. 24.2.03, published in the *Kolkata Gazette, Extraordinary*, Part I, dt. 25.2.03.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

[XXXII of 2001.]

(Chapter I.—Preliminary.—Section 2.)

- (7) “landlord” means any corporation, charitable or religious institution 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 in a *khatal*, tank or hut owned by him, and includes any corporation, institution or person having superior interest in such *thika* tenancy;
- (8) “lease” means a lease of immovable property by which a transfer of a right to enjoy such property made for a certain time expressed or implied, or in perpetuity in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee who accepts the transfer on such terms.

The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent;

- (9) “local authority” includes a *Panchayat* as defined in clause (15b) of section 2 of the West Bengal *Panchayat* Act, 1973, or a municipality constituted under the West Bengal Municipal Act, 1993;
- (10) “notification” means a notification published in the *Official Gazette*;
- (11) “prescribed” means prescribed by rules made under this Act;
- (12) “public purpose” includes a planned development of any holding or area, or the continuation of a scheme or a project which ensures the general welfare of the public;
- (13) “*pucca* structure” means any structure constructed mainly of brick, stone or concrete or any combination of these materials, or any other material of a durable nature;
- (14) “*thika* tenant” means any person who occupies, whether under a written lease or otherwise, land under another person, and is, or but for a special contract, would be, liable to pay rent at a monthly or any other periodical rate for that land to that another person, and has erected or acquired by

West Ben.
Act XLI of
1973.
West Ben.
Act XXII of
1993.

The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.

[West Ben. Ac

(Chapter I.—Preliminary.—Section 3.—Chapter II.—Acquisition
of lands comprised in thika tenancies and the rights
of landlords in such lands.—Section 4.)

purchase or gift any structure on such land for residential,
manufacturing or business purpose, and includes the
successors-in-interest of such persons but excludes any
resident of a structure forfeited to the State under sub-
section (2) of section 6 of this Act irrespective of the status,
he may have enjoyed earlier.

Act to
override
other laws.

3. The provisions of this Act shall have effect notwithstanding
anything inconsistent therewith in any other law for the time being in
force or in any custom, usage or agreement or in any decree or order
of a court, tribunal or other authority.

CHAPTER II

Acquisition of lands comprised in *thika* tenancies and
the rights of landlords in such lands.

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

4. With effect from the 18th day of January, 1982, the following
lands along with the interest of landlords therein shall be deemed to have
vested in the State, free from all encumbrances:—

- (a) lands comprised in, and appurtenant to, tenancies of *thika*
tenants including open areas, roads; and
- (b) lands held in monthly or other periodical tenancies, whether
under a written lease or otherwise, for being used or occupied
as *khatal*:

Provided that any land comprised in, and appurtenant to, tenancies
of *thika* tenants created after the 18th day of January, 1982, shall also
be deemed to be vested in the State, free from all encumbrances with
effect from the date of creation of tenancies of *thika* tenants:

Provided further that such vesting shall not be deemed to have
affected in any way the easements, customary rights or other facilities
enjoyed by *thika* tenants, *Bharatias* or occupiers of land coming within
the purview of this section:

Provided also that nothing contained in this section shall prevent the
State Government or the local authority from taking up any development
work on the land appurtenant to tenancies of *thika* tenants for public
purpose.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

XXXII of 2001.]

(Chapter II.—Acquisition of lands comprised in thika tenancies and
the rights of landlords in such lands.—Section 5.)

3 of 1976.

5. (1) Subject to the provisions of the Urban Land (Ceiling and Regulation) Act, 1976, and the provisions of this Act, every *thika* tenant, occupying any land under a landlord on the date of commencement of this Act, shall occupy such land, on such terms and conditions as may be prescribed, directly under the State as if the State had been the landlord in respect of that land.

Incidents of tenancies in respect of lands vested in the State.

(2) Every *thika* tenant 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.

(3) If any question arises as to whether a person is a *thika* tenant or not, the matter shall be decided by the Controller.

(4) The interests of the *thika* tenants 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 and spouses or to the prospective heirs, with a prior permission of the Controller, subject to the provisions of sub-section (1) of section 6.

(5) The *thika* tenants 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 Kolkata 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 Kolkata as defined in clause (9) of section 2 of the Kolkata Municipal Corporation Act, 1980, or Howrah as defined in clause (15) of section 2 of the Howrah Municipal Corporation Act, 1980, for—

est Ben.
ct LIX of
80.
est Ben.
ct LVIII of
80.

(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:

Provided that the *thika* tenants holding directly under the State under sub-section (1), shall obtain a no objection certificate from the Controller before making any *pucca* construction or changing the nature, character and dimension of an existing structure on the land, irrespective of the area of the land.

(6) The *thika* tenant holding directly under the State under sub-section (1), shall be liable to pay rent to the State Government at such rate and in such manner as may be prescribed.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

[West Ben. Act

*(Chapter II.—Acquisition of lands comprised in thika tenancies and
the rights of landlords in such lands.—Section 6.)*

Thika tenant
not to let out
vacant land.

6. (1) The *thika* tenants holding lands 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) Any transfer or agreement for transfer, whether oral or in writing, or any activity in contravention of the provisions of sub-section (4), or sub-section (5) of section 5 or proviso to sub-section (1) of this section, shall be declared invalid under an order of the Controller and the structure or part of structure, as the case may be, shall stand forfeited to the State in accordance with the procedure as may be prescribed.

(3) Notwithstanding anything contained in this section, where a *pucca* structure has been constructed without no objection certificate as required by the proviso to sub-section (5) of section 5, the Controller may, subject to the provisions of any other law for the time being in force, after being satisfied that the forfeiture of such structure to the State under sub-section (2) will cause hardship to the *thika* tenant or the *Bharatia*, as the case may be, issue a provisional certificate for the purpose of obtaining construction plan sanctioned by the local authority:

Provided that the Controller shall not issue final certificate unless the *thika* tenant has produced a construction plan of such structure sanctioned by the local authority to the Controller within such time and on payment of such fee, as may be prescribed:

Provided further that if the *thika* tenant fails to produce such sanctioned plan within such prescribed time to the Controller, the Controller may invoke the procedure of forfeiture under sub-section (2).

(4) Whenever it appears to the State Government that the land comprised in any *thika* tenancy is needed, or is likely to be needed, for any public purpose, it may, after giving the *thika* tenant and the *Bharatias*, if any, an opportunity of being heard, resume the land comprised in such *thika* tenancy with or without structures, if any, and take possession of the land:

Provided that immediately after such resumption, the State Government shall pay to the *thika* tenant or the *Bharatia*, if any, an amount not exceeding ten times of the compensation determined under sub-section (6) of section 7 of the Act in the compensation determined under sub-section (6) of section 7.

(5) A Controller after satisfying himself that a *Bharatia* stays at the structure forfeited under sub-section (2) above may grant him licence as per terms as may be prescribed.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

XXXII of 2001.]

*(Chapter II.—Acquisition of lands comprised in thika tenancies and
the rights of landlords in such lands.—Section 7.)*

7. (1) The State shall, for the vesting of any land under section 4, pay to the landlord or landlords having any right in such land an amount as may be determined in accordance with the provisions of the Urban Land (Ceiling and Regulation) Act, 1976.

Payment of
compensa-
tion.

33 of 1976.

(2) Where the landlord is a corporation or an institution established exclusively for a religious or a charitable purpose of a public nature, or is a person holding under a public trust or an endowment or other legal obligation exclusively for a public purpose which is religious or charitable, the State shall, for vesting under section 4, pay to such landlord a perpetual annuity or, where the interest of the landlord is terminable or is liable to be exhausted, an annuity for such number of years as may be prescribed, having regard to the extent of the rights of the landlord. Such annuity shall not exceed the annual net income derived from the holding as may be determined by the Controller in the prescribed manner. In determining the net annual income the Controller shall deduct from the gross income, apart from other sums as may be prescribed, charges on account of management and collection at the rate of twenty *per centum* of the gross income.

(3) For the purposes of sub-section (2), the Controller, on his own motion or upon any information, may, after giving the person interested an opportunity of being heard, enquire and decide any question as to whether any trust, endowment, corporation or institution is for exclusively religious or charitable purpose, or as to whether it is of public or private nature, and any question of title incidental thereto as may be necessary to determine such question, by examining the document, if any, and by taking into account—

- (a) the actual user of income of the land,
- (b) the mode of user, and
- (c) the share of income of the land appropriated, or enjoyed, by or on behalf of such trust, endowment, corporation or institution.

(4) An appeal from any order passed by the Controller under this section shall lie under section 12.

(5) No compensation shall be paid to the *thika* tenant for forfeiture of a structure or a part of a structure under sub-section (2) of section 6.

(6) The State shall, on resumption under sub-section (4) of section 6 of any structure comprised in any tenancy, pay to the tenant having any right in such structure an amount calculated by the Controller in the

(Chapter III.—Incidents for tenancies of *Bharatias*
in structures.—Section 8.)

prescribed manner. Such amount shall be calculated at such rate as may be prescribed, apart from other sums as may be prescribed. Where the structures are occupied by the tenant himself, fair rent determined by the Controller under this sub-section in the prescribed manner shall be deemed to be the rent paid by the *Bharatias*.

(7) Where there are more than one landlord in respect of a *thika* tenancy or other tenancy vested under section 4, the amount payable to them under sub-section (1), or the annuity payable to them under sub-section (2), shall be apportioned among them in the prescribed manner.

CHAPTER III

Incidents for tenancies of *Bharatias* in structures

8. (1) This monthly and other periodical tenancies of the *Bharatias* in respect of the structures occupied by them on payment of rents to the *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 matters relating to the payment of rent by the *Bharatias* and their eviction by the *thika* tenants, the owners of the structures shall be deemed to be landlords and the *Bharatias* shall be deemed to be tenants under the said Act.

(2) Any question as to whether a person is a *Bharatia* under a particular *thika* tenant, or where there is no *thika* tenant, in a particular *thika* land, shall be decided by the Controller.

(3) Any dispute regarding payment of rent by the *thika* tenant to the State Government or by a *Bharatia* to a *thika* tenant, or any case of eviction of *Bharatia*, shall be disposed of by the Controller in such manner as may be prescribed.

(4) A *Thika* tenant may, in default of payment of rent to the State Government, be evicted or otherwise penalised by the Controller in such manner as may be prescribed.

(5) For the purpose of this section, the Controller shall exercise all such powers and perform such duties as are exercisable by a Rent Controller under the West Bengal Premises Tenancy Act, 1956.

(6) Notwithstanding anything contained in this Act or in the West Bengal Premises Tenancy Act, 1956, a *Bharatia* under a *thika* tenant shall be entitled to take separate electrical connection from the electricity supplying agency and separate water supply connection from the appropriate agency for his own use.

Thika
tenants and
Bharatias to
be governed
by West
Ben. Act XII
of 1956.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

XXXII of 2001.]

*(Chapter III.—Incidents for tenancies of Bharatias
in structures.—Sections 9, 10.)*

(7) A *Bharatia* shall be liable to pay rent to the *thika* tenant at such rate as may be prescribed.

(8) Where there is no *thika* tenant, a *Bharatia* shall be liable to deposit rent with the Controller of the area at such rate as may be prescribed.

9. (1) The State Government may, by notification, appoint one or more officers as Controller or Controllers and Additional Controllers and Deputy Controllers to perform all the functions of a Controller under this Act in respect of any area or areas to be specified in the notification.

Controller.

(2) A Controller may be an officer belonging to the Indian Administrative Service, West Bengal Civil Service (Executive) or West Bengal Higher Judicial Service.

(3) An Additional Controller and Deputy Controller may be an officer belonging to the Indian Administrative Service, West Bengal Civil Service (Executive), West Bengal Higher Judicial Service or West Bengal Subordinate Land Revenue Service, Grade-I.

10. (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.

Tenancy of
Bharatia to
continue.

(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 any order of a court, 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 concerned in the prescribed manner.

(3) On an application made by a *Bharatia* under sub-section (2), the Controller having jurisdiction in the area shall, after giving the *thika* tenant and the *Bharatia* an opportunity of being heard, direct the *thika* tenant by an order in writing to reconstruct an accommodation in such manner as may be prescribed and restore possession to the *Bharatia* within such time as the Controller may specify in the order.

(Chapter IV.—Miscellaneous and supplemental
provisions.—Sections 11, 12.)

(4) If the *thika* tenant fails to comply with the order 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*.

CHAPTER IV

Miscellaneous and supplemental provisions

Powers of
Controller.

11. The Controller and any person deciding any appeal from his order shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters:—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath as a witness,
- (b) requiring the discovery and production of any document or record,
- (c) receiving evidence on affidavits,
- (d) requisitioning any public record or copy thereof from any court or office,
- (e) issuing commission for the examination of witnesses or documents,
- (f) enforcing or executing orders (including an order for restoration of possession) as if such orders were decrees of a civil court,
- (g) remanding any case or proceedings to the officer from whose order the appeal is preferred.

Appeal.

12. (1) Any person aggrieved by an order of a Controller may, within 30 days from the date of the order, prefer an appeal in writing before the Land Reforms and Tenancy Tribunal established under the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.

West Ben.
Act XXV of
1997.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

XXXII of 2001.]

*(Chapter IV.—Miscellaneous and supplemental
provisions.—Sections 13-15.)*

(2) Subject to provisions of this Act and rules made thereunder, any order passed by the Land Reforms and Tenancy Tribunal may, in the manner prescribed, be reviewed by the said Tribunal on account of some mistake or error apparent on the face of the record or for any other sufficient cause of like nature.

13. (1) The State Government may, on its own motion, call for and examine the records or any order passed or proceedings taken by the Controller under the provisions of this Act and against which no appeal has been preferred for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure, and pass such order with respect thereto as it may think fit:

Revision by
State
Government.

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

(2) The State Government shall empower, from time to time, one or more officers to act on behalf of the State Government and to exercise all powers conferred on the State Government in this section.

14. (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the Land Reforms and Tenancy Tribunal may, at any stage, withdraw such proceeding from one Controller and transfer it for hearing or disposal to a Controller appointed for any other area, or retransfer it for hearing or disposal to the Controller from whom it was withdrawn.

Power of
District
Judge and
Chief Judge,
Court of
Small Causes
of Kolkata
to withdraw
and transfer
any
proceedings.

(2) The Controller to whom any proceeding has been transferred under sub-section (1), shall have the same power to hear or dispose of it as the Controller from whom it was withdrawn and may, subject to any special directions in the order of transfer, either rehear it or proceed from the stage at which it was withdrawn and transferred.

Explanation.—In this section, ‘proceeding’ means any proceeding drawn by a Controller under the provisions of this Act.

15. Nothing in this Act shall apply to—

- (a) lands belonging to the Central and the State Government;
- (b) any land, vested under any other law in or in the possession of,—
 - (i) the Central Government, or
 - (ii) the State Government, or

Bar to
application
of the Act to
certain
lands.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

[West Ben. Act

*(Chapter IV.—Miscellaneous and supplemental
provisions.—Sections 16-18.)*

- (iii) a port authority of a major port, or
 - (iv) a railway administration, or
 - (v) a statutory body meant for the development of area like Kolkata Metropolitan Development Authority, Kolkata Municipal Corporation, Howrah Municipal Corporation, Kolkata Improvement Trust, and the Howrah Improvement Trust;
- (c) any land which is required for carrying out any of the provisions of the Kolkata Improvement Act, 1911:

Ben. Act V
of 1911.

Provided that nothing contained in this section shall apply to any land under the control or possession of bank.

Explanation.—For the purposes of this section, a bank is one as defined in section 2(e) of the Reserve Bank of India Act, 1934.

2 of 1934.

Restriction or exclusion of the Act by agreement.

16. Nothing in any contract between a *thika* tenant and a *Bharatia* made after the commencement of this Act shall take away, or limit, the rights of such tenant or *Bharatia* as provided for in this Act, and any contract which is made in contravention of, or which is inconsistent with, any of the provisions of this Act shall be void and without effect to the extent of such contravention or inconsistency, as the case may be.

Power to enter and inspect premises to require information and to summon witnesses.

17. For the purpose of any inquiry under this Act, the Controller and any person deciding an appeal under section 13, may—

- (a) enter and inspect any premises at any time between sunrise and sunset; or
- (b) authorise any person subordinate to him to enter and inspect any premises between sunrise and sunset; or
- (c) require, by written order, any person to produce for his inspection such accounts, rent receipts, books or other documents at such time, and at such place, as may be specified in the order:

Provided that no premises shall be entered under clause (a) or clause (b) without the consent of the occupier, unless at least twenty-four hours' previous notice in writing has been given.

Penalty.

18. (1) Whoever contravenes any provision of this Act which may facilitate the commission of an offence, shall be punishable with imprisonment for a term which may extend to five years and also with fine which may extend to ten thousand rupees.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

XXXII of 2001.]

*(Chapter IV.—Miscellaneous and supplemental
provisions.—Sections 19-22.)*

(2) Whoever voluntarily causes any resistance or obstruction to the lawful discharge of duties of the Controller or his representative, shall be punished with imprisonment for a term which may extend to one year and also fine which may extend to five thousand rupees.

(3) Offences under this section shall be bailable and cognizable.

(4) No court shall take cognizance of any offence punishable under this section except on a complaint made in writing by a Controller or by an officer authorised by him in this behalf.

(5) An offence under this section shall be triable by a Judicial Magistrate of first class having jurisdiction over the places of occurrence of such offence.

19. (1) The State Government may make rules for carrying out the purposes of this Act. The rules framed under the Calcutta *Thika* and other Tenancies and Land (Acquisition and Regulation) Act, 1981 may continue as rules under this Act to the extent they are not repugnant to and transgressive of the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or is required to be, prescribed or made by rules.

20. In computing the period of limitation prescribed by any law for the time being in force for an application for ejection of a *Bharatia* or for an appeal from an order or decree made on such application or suit or for the execution of an order or decree for ejection of a *Bharatia*, the period from the 19th day of July, 1978 to the date of coming into force of this Act shall be excluded.

Saving of limitation.

21. No civil court shall have jurisdiction to decide, or to deal with, any question, or to determine any matter, which, by or under this Act, is required to be, of has been decided or dealt with, or which is to be, or has been determined, by the Controller or the appellate or other authority specified in the provisions of this Act, and no order or judgment passed, or proceedings including execution proceedings commenced, under the provisions of this Act shall be called in question in any civil court.

Bar to jurisdiction.

22. No suit, prosecution or other legal proceedings whatsoever shall lie against any person for anything in good faith done or intended to be done under this Act.

Indemnity.

West Ben.
Act XXXVII
of 1981.

The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.

[West Ben. Act

(Chapter IV.—Miscellaneous and supplemental
provisions.—Sections 23-26.)

Maintenance,
preparation
and revision
of record-of-
rights.

23. (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.

West Ben.
Act X of
1956.

(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, the right of every *Bharatia* in respect of the concerned tenant, the duration and incident of tenancies with area involved in each case, rent payable by each *thika* tenant and each *Bharatia*, and the 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*.

Payment of
monthly
revenue.

24. (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 such rate as may be prescribed.

(2) The said monthly revenue shall be enhanced at such rate as may be prescribed.

Disposal of
land or
structures
vested in, or
resumed by,
the State.

25. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, and subject to the provisions of the Urban Land (Ceiling and Regulation) Act, 1976, it shall be competent for the State Government to make use of, or settle with any person or authority, any land or structure vested in, or resumed by, the State under this Act for public purpose on such terms and conditions, and in such manner, as may be prescribed.

33 of 1976.

Disposal of
land or
structures
vested in, or
resumed by,
the State.

26. Notwithstanding anything contained in this Act, the State Government shall not be deemed to be a landlord within the meaning of the term as in the West Bengal Premises Tenancy Act, 1956 but be a licensor and the *Bharatia* a licensee under the State where there is no *thika* tenant.

West Ben.
Act XII of
1956.

*The West Bengal Thika Tenancy (Acquisition and Regulation)
Act, 2001.*

XXXII of 2001.]

*(Chapter IV.—Miscellaneous and supplemental
provisions.—Section 27.)*

West Ben.
Act XXXVII
of 1981.

27. (1) With effect from the date of commencement of this Act, the Kolkata *Thika* and other Tenancies and Lands (Acquisition and Regulation) Act, 1981, shall stand repealed.

Repeal and
savings.

(2) Notwithstanding the repeal of the said Act, such repeal shall not—

- (a) affect the previous operation of the said Act or anything duly done or suffered thereunder; or
- (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or
- (c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or
- (d) affect any investigation, legal proceeding or remedy, in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

**Statement of Objects and Reasons on the West Bengal
Thika Tenancy (Acquisition and Regulation) Bill, 2000
(Bill No. 18 of 2000).**

STATEMENT OF OBJECTS AND REASONS.

The Calcutta *Thika* and other Tenancies and Lands (Acquisition and Regulation) Act, 1981 (West Ben. Act XXXVII of 1981) (hereinafter referred to as the said Act) was amended in 1993 to make up for certain deficiencies in the said Act. In course of administering the said Act, it has come to the notice of the State Government that certain provisions of the said Act are still defective, leaving scope for addition to existing litigations. It is, therefore, necessary to amend the said provisions.

2. The Bill has been framed with the above object in view.

KOLKATA,
The 28th June, 2000.

SURYA KANTA MISHRA,
Member-in-charge.

The

Kolkata **Gazette**
सत्यमेव जयते
Extraordinary
Published by Authority

BHADRA 12]

TUESDAY, SEPTEMBER 3, 2019

[SAKA 1941

PART III—Acts of the West Bengal Legislature.

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

THE WEST BENGAL *THIKA* TENANCY (ACQUISITION AND REGULATION) (AMENDMENT) ACT, 2019.

[*Passed by the West Bengal Legislature.*]

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

An Act to amend the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001.

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;

West Ben. Act
XXXII of 2001.

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

Short title and
commencement.

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

The West Bengal Thika Tenancy (Acquisition and Regulation) (Amendment) Act, 2019.

(Sections 2, 3.)

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 2 of West Ben. Act XXXII of 2001.

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 lease hold 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 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;’.

Amendment of section 5.

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”.

Amendment of section 6.

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.”.

Insertion of new section 6A.

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.

*The West Bengal Thika Tenancy (Acquisition and
Regulation) (Amendment) Act, 2019.*

(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.*