

# Calcutta Thika Tenancy (Acquisition and Regulation) Rules, 1982

WEST BENGAL

India

## Calcutta Thika Tenancy (Acquisition and Regulation) Rules, 1982

### Rule

### CALCUTTA-THIKA-TENANCY-ACQUISITION-AND-REGULATION-RULES of 1982

- Published on 5 May 1982
- Commenced on 5 May 1982
- [This is the version of this document from 5 May 1982.]
- [Note: The original publication document is not available and this content could not be verified.]

Calcutta Thika Tenancy (Acquisition and Regulation) Rules, 1982Published vide Notification No. 710-L. Ref/20R. 15/81 dated 5th May, 1982.

### 023.

Notification No. 710-L. Ref/20R. 15/81 dated 5th May, 1982. In exercise of the power conferred by section 20 of the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 (West Bengal Act No. 37 of 1981), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section, the Calcutta ThikaTenancy (Acquisition and Regulation) Rules, 1982.

### 1. Short title.

This rules may be called the Calcutta Thika Tenancy (Acquisition and Regulation) Rules, 1982.

### 2. Definitions.

- In these rules (i)"the Act" means the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 (West Bengal Act No. 37 of 1981);(ii)"form" means a form appended to these rules;(iii)"section" means a section of the Act.

### **3. Terms and conditions of occupation of land directly under the State under section 6(1).**

- Every thika tenant and any tenant in respect of otherlands which vest under section 5, occupying any land under a landlord on the date of commencement of the Act, shall occupy such land directly under the State on the following terms and conditions : (a) every thika tenant, or tenant as the case may be, shall furnish to the Controller a return in Form A showing the particulars of his total land within two hundred and forty days from the date of commencement of the Act. The Controller may, on a written application from such thika tenant or extend the date for furnishing the return by a period not exceeding sixty days : [Provided that the Controller may, on reasonable grounds, accept any return which may be filed by the thika tenant or tenants after the expiry of the prescribed time-limit.] [Proviso inserted by Notification No. 84-L. Ref./6M-11/85 dated 17.1.1986 and published in the Calcutta Gazette, Extraordinary, Part I dated 6.2.1986.] (b) every thika tenant or tenant shall pay to the Controller an annual revenue being not less than what he was paying to the landlord before the coming into force of the Act until the amount of revenue is determined in accordance with the provisions of the West Bengal Land Holding Revenue Act, 1979 (West Bengal Act No. 44 of 1979) read with sub-section (2) of section 26. The annual revenue paid for any period pending determination of the amount of revenue as aforesaid shall be adjusted against the amount of revenue when determined; (c) the amount of revenue when determined and the amount of penalty if any, shall be paid in such instalment or instalments and on such date or dates as the Controller may direct; (d) any arrear of revenue or instalment of revenues or amount of penalty or part thereof shall bear simple interest at the rate of 6 1/4 per centum per annum from the date on which the revenue or the instalment thereof or the amount of penalty or the part thereof falls due till the date of its payment; (e) subject to the provisions of the Act and these rules, the arrear of revenue or penalty or part of revenue or penalty shall be recoverable as a public demand; (f) all cesses, municipal or other local rates or other impositions which are, or may hereafter be, imposed on the land and the buildings or other erections thereon, if any, whether payable by the owner or the occupier, shall be paid by the thika tenant or the tenant, as the case may be; (g) no remission or reduction of revenue or penalty on any ground whatsoever shall be claimed. The State Government may, however, by notifications remit wholly or in part, for such period as may be specified therein, the revenue or the penalty or the both, payable for the land falling within an area or areas affected by flood or earthquake or any other natural calamity; (h) the boundaries of the land shall be kept intact and well defined; (i) the land shall be kept free from nuisance, dirt, filth or encroachment; (j) no part of the land shall be converted into, or used as, a place of religious worship or cremation or burial; (k) no part of the land shall be used or permitted to be used for any purpose, other than that for which it was occupied on the date of commencement of the Act, or in any manner which renders it unfit for use for the purpose for which it was occupied on such date; (l) no part of the land shall be used or permitted to be used for any immoral or illegal purposes or in any manner detrimental to public peace or public safety; (m) the Controller or any officer authorised in this behalf by the State Government or the Controller may, after giving 24 hours' notice, enter upon the land or any part thereof to inspect and enquire the condition of the land or the buildings or other erections thereon, if any, or inspect and enquire about any building or erection thereon in the course of its construction or making and for all other reasonable purposes; (n) if there is any breach of, or non-compliance with, any of the terms and conditions as aforesaid or the provisions of the Act or these rules, the

thika tenant or the tenant, as the case may be, shall, in addition to any other penalty or disqualification to which he may be subject under the Act or the rules, forfeit his right, of occupation of the land, with effect from the date on which an order in this behalf is made in writing by the Controller after giving him a reasonable opportunity of being heard. Upon such forfeiture, the occupant shall be treated as a trespasser and the Controller or any officer authorised by him may, after giving 3 days' notice, enter the land and the buildings or other erections thereon, if any, and take vacant possession thereof.

#### **4. Authority under section 6(3).**

(1) For the purpose of sub-section (3) of section 6, the following shall constitute the authority in respect of an area within the jurisdiction of a Controller : (i) the Controller, (ii) a representative nominated by the Calcutta Metropolitan Development Authority, (iii) a representative nominated by the Calcutta Improvement Trust, if the area is within the limits of Calcutta as defined in clause (11) of section 5 of the Calcutta Municipal Act, 1951 (West Bengal Act No. 33 of 1951), or the Howrah Improvement Trust, if the area is within the limits of the municipality of Howrah, (iv) a representative nominated by the Corporation of Calcutta, if the area is within the limits of the Corporation of Calcutta or the municipality of Howrah, if the area is within the limits of the municipality of Howrah, and (v) a representative nominated by the Land and Land Reforms Department of the Government of West Bengal. (2) The approval of the majority of the members of the authority present at a meeting of the authority shall be deemed to be the approval of the authority within the meaning of sub-section (3) of section 6 of the Act. (3) Two members of the authority shall be a quorum for a meeting of the authority. (4) The Controller shall be the convener of the authority.

#### **5. Payment of annuity under section 8(2).**

(1) The annuity payable under sub-section (2) of section 8, which shall not exceed the annual net income derived from the holding, shall be paid for twenty years. (2) The annual net income derived from the holding shall, subject to the provisions of sub-section (3) of section 6, be determined in the following manner : (a) the gross income derived from the holding shall first be determined; (b) upon the determination of the gross income, apart from the deduction from the gross income under sub-section (2) of section 8 of charges on account of management and collection at the rate of twenty per centum of the gross income, there shall be deducted from the gross income revenue and other dues, if any, payable to the State Government and dues, if any, on account of income-tax or other taxes; (c) the balance, if any, after the deductions as aforesaid, shall be the annual net income for the purpose of annuity under sub section (2) of section 8.

#### **6. Payment of amount and determination of fair rent under section 8(5).**

(1) The amount payable under sub-section (5) of section 7 for under sub-section (2), or resumption under sub-section (3), of section 7 of any structure comprised in any tenancy shall be calculated in the following manner : (a) the Controller of the area concerned shall, with the assistance of any technical officer under him, if any, first determine the market value of the structure. If there is no

such officer under him, the Land Acquisition Collector having jurisdiction over such area shall, upon a requisition, in writing from the Controller in this behalf, land the services of a technical officer under him to the Controller for determination of the market value of the structure. While determining the market value, all relevant documents and circumstances shall be taken into consideration;(b)thereafter the amount shall be calculated at a rate not exceeding ten times the annual rent paid by Bharatias to the tenant and shall be reduced by (apart from rent, taxes and other charges on account of management and collection at a rate of twenty per centum of the gross annual rent) rent, taxes and revenue or other dues payable to the Central Government or the State Government;(c)the amount for the purpose of sub-section (5) of section 8 shall be the market value determined under clause (a) or the amount calculated under clause (b), whichever is less.(2)Where any structure is occupied by the tenant himself, the fair rent determined by the Controller under sub-section (5) of section 8 shall be deemed to be the annual rent paid by Bharatias. The fair rent shall, however, be determined having regard to the situation, locality and condition of the premises and the amenities provided therein and where there are similar or nearly similar premises in the locality, having regard also to the rent payable in respect of such premises and after giving the tenant a reasonable opportunity of being heard, and shall be such as will appear to the Controller to be reasonable.

## **7. Apportionment under section 8(6).**

Where there are more than one landlord in respect of a thika tenancy or other tenancy vested under section 5, the amount payable to them under sub-section (1) or the annuity payable to them under sub-section (2) shall be apportioned among them by the Controller in the following manner :(a)where the landlords agree in writing as to their respective shares, the Controller shall apportion the amount among them according to such shares;(b)where the landlords do not agree in writing as to their respective shares, the Controller shall, having regard to the documents, affidavits and other evidences, if any, produced before him, make such apportionment as will appear to him to be reasonable;(c)where the Controller fails to make any apportionment under clause (b), he shall withhold the apportionment until the dispute as regards the shares of the landlords is decided by a court having jurisdiction.

## **8. Making of application and execution of order under section 11(3).**

(1)A Bharatia or a thika tenant, as the case may be, may make an application to the Controller in Form B in case of any dispute referred to in sub-section (3) of section 11. Every such application shall be accompanied by as many copies as there are parties on whom notices are to be served together with a process fee of Rs. 3.50 for each copy of application. The application shall be verified and signed in the manner provided in sub-rules (2) and (3) of rule 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).(2)Any order of the Controller under sub-section (3) of section 11 shall be deemed to be an order within the meaning of clause (f) of section 12 and shall, without prejudice to the provisions of rule 19, be executed accordingly.

## **9. Manner of review under sub-sections (4) and (5) of section 13.**

(1)The provisions of rule 1 of Order XLI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) as to form of preferring an appeal shall apply, mutatis mutandis, to an application for review by the court or the Controller, as the case may be.(2)Where it appears to the court or the Controller that there is not sufficient ground for review, the court or the Controller shall reject the application.(3)Where the court or the Controller is of opinion that the application for 'review should, be granted, the court or the Controller shall grant the same :Provided that (a)no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard; and(b)no such application shall be granted on the ground of discovery of new matter or evidence, which the applicant alleges was not within his knowledge or could not be adduced by him when the order was passed, without strict proof of such allegation.

## **10. Terms and conditions and manner of making use of, or settling with any person or authority, any land or structure under section 27.**

- Any land or structure vested in or resumed by the State under the Act may be made use of, or settled with any person or authority, for sub serving the common good, on the terms and conditions and in the manner laid down in the West Bengal Land Management Manual, 1977, the provisions of which shall apply mutatis mutandis.

## **11. Miscellaneous and supplementary.**

All notices required to be served under the Act or these rules shall be served by registered post with acknowledgement due or in the manner provided for service of a process of a revenue or civil court.

## **12. Fees for making applications and for copies.**

(1) A fee of rupees two shall be payable for every application made under the Act.(2)Such application may be presented by the applicant himself or by his agent, duly authorised by him in writing. The applicant and the opposite party may be represented by agent, duly authorised in writing :Provided that if the person representing a party,,is a legal practitioner and holds a Vakalatnama from the party in this behalf, no separate authorisation shall be necessary. Such Vakalatnama may, however, be cancelled on a prayer of the party.(3)Fees for copies shall be payable as follows :(a)the fee chargeable for a certified copy of any application, written statement or document shall be rupees two :Provided that when an application is made at the same time for certified copies of the application, written statement and document of the same case, there shall be charged a consolidated fee of rupees three for all of them;(b)the fee chargeable for a certified copy of notes of evidence, order or judgment shall be rupees two plus fifty paise for a folio of ninety words :Provided that when an application is made at the same time for certified copies of notes of evidence, order or judgment and proceedings of the same case, there shall be charged a consolidated fee of rupees three plus fifty paise for a folio of ninety words;(c)the fee chargeable for uncertified

copies of notes of evidence or order or judgment shall be fifty paise only for a folio of ninety words;(d)in the case of an urgent application for copies, an expedition fee of rupees two shall be payable in addition to the fees specified above :Provided that if the copy exceeds four folios, extra charge of forty paise for each extra folio shall be payable;(e)if the Head of any Department of Directorate of Government applies to the Controller or to the Appellate Authority for a certified copy of any final order of the Controller or of the Appellate Authority, as the case may be, for any public purpose, a certified copy of such order shall be granted to such applicant on plain paper only, free of cost;(f)in the matter of granting copies of records written in languages other than English and Bengali, the procedure laid down in the Civil Rules and Orders for the guidance of civil courts and officers subordinate to the High Court at Calcutta shall be followed with such modifications as may be necessary;(g)while applying for copies of maps or plans, the Applicant shall file with the application necessary tracing papers for such copies. The cost of copies of such maps or plans shall be assessed by the Controller in such manner as he thinks fit.

### **13. Searching and other fees.**

A searching fee of fifty paisa shall be payable for every application (1)for information whether a record is available in the record-room or not :Provided that it shall be necessary to make a separate application with separate fee for any information required in connection with every separate cause or separate matter;(ii)for inspection where the record is deposited in the record-room : Provided that such fee shall also be charged for inspection of records of pending cases by advocates and other legal practitioners.

### **14.**

In addition to the searching fee, expedition fee of rupee one shall also be payable for every application for urgent inspection or information.

### **15.**

A process-fee at the rate of rupees three and fifty paise in respect of every party on whom a notice is to be served under the Act shall be paid.

### **16.**

An affidavit sworn before the Controller shall be charged with a equivalent to the stamp-duty payable under article 4 of Schedule 1A to the Indian Stamp Act, 1899 (2 of 1899).

### **17. Payment of fees.**

-Any fee payable under these rules shall, unless otherwise expressly provided in these rules, be paid in court-fee stamps.

## 18. Fee payable for any matter coming within the purview of section 13.

The fee payable for any matter coming within the purview of section 13 of the Act shall be such as is provided for such or similar matter in the Code of Civil Procedure, 1908 (5 of 1908).

## 19. Assistance by the police.

For the purpose of enforcing delivery of possession of any land or structure or evicting any person in actual occupation of any land or structure as may be necessary under the Act, the Controller may send a written requisition to the officer-in-charge, of the local police-station or to any police-officer superior to such officer-in-charge, and on receipt of such written requisition, the officer-in-charge or the police officer as aforesaid shall render all necessary and lawful assistance for enforcing delivery of possession of such land or structure or for evicting any person in actual occupation of such land or structure.

## 20. Submission of return.

- For the purpose of payment of amount under sub-section (1) of section 8, every landlord shall submit to the State Government a return in form C within two hundred and forty days from the date of commencement of the Act. The Controller may, on a written application from the landlord, extend the date for furnishing the return by a period not exceeding sixty days :[Provided that the Controller may on reasonable grounds, accept any return which may be filed by the landlord after the expiry of the prescribed time-limit.] [Proviso inserted by Notification No. 84-L. Ref.6M-11/85 dated 17.1.1986 and published in the Calcutta Gazette, Extraordinary, Part I, dated 6.2.1986.]Form A[See rule 3(a)]Form of Return of Land to be furnished to the Controller

- |     |     |   |
|-----|-----|---|
| 1.  | (a) | Name(s)<br>ofthikatenant(s)/other<br>tenant(s). |
|     | (b) | Name(s) of father/husband.                      |
| 2.  |     | Name(s) of landlord(s) with address(es).        |
| 3.  |     | Description of the land under tenancy-          |
| (a) |     | Address with municipal or other holding number. |
| (b) |     | Area in Cottahs or Sq. metres or both.          |
| (c) |     | Butted and bounded by... .. on the North        |
|     |     | ..... on the<br>East                            |
|     |     | .... .. on the<br>South                         |
|     |     | .... .. on the<br>West                          |
| 4.  |     | Particulars of the tenancy—                     |

- (a) Date of commencement (certified/xerox/attested copies of documentary evidence to be enclosed).
- (b) Amount of periodical rent (state the period). If receipts were granted, a xerox/attested copy of the receipt for rent last paid to be enclosed.
5. Description of the structures on the land —
- (a) Whether the structures were raised by the thika tenant or any tenant and, if so, the date and cost of construction thereof.
- (b) Whether any part of structures was raised or improved by CMDA or any other authority if so, state details.
- (c) Details of structures.
6. Particulars of each of the thikas —
- (a) Name
- (b) Name of father/husband
- (c) Area under occupation in square metres or square feet or both.
- (d) Amount of rent (true copy of counterfoil of last rent receipt to be enclosed).
7. Whether the thika tenant/other tenant holds any other land/land with building in Calcutta or Howrah.

State — Yes/No.

If yes, state the following particulars —

- (a) Address with municipal holding No. etc.
- (b) Held as owner/thika tenant/ otherwise.
- (c) Area (in Cottahs and/or Sq. metres).
8. Particulars of suits/legal proceedings, if any, in respect of thika tenancy.
9. Remarks.

10. List of documents enclosed (vide items 4, 6 etc.)

- (a)
- (b)
- (c)
- (d)



I hereby declare that to the best of my knowledge and belief the particulars furnished in this declaration are correct, complete and true and no part of it is wrong or false. Dated : Address : Signature or left thumb impression of the thika tenant/other tenant. N.B. Separate returns should be furnished for each tenancy held by the person submitting the returns Form B [See rule 8(1)] Application to the Controller for deciding dispute To Sir, I beg to state that I have been a Bharatia in respect of the building structure described in the schedule hereunder in municipal holding No..... within Ward No..... of the Corporation/Municipality of..... being premises No..... under the thika tenant/tenant/Shri/Shrimati ..... residing at ..... from the day of the month of ..... of the year..... I have been paying monthly rent of Rs..... for the said building/structure to the said thika tenant/tenant. Receipts were/were not granted to me for rents paid by me. (If there were other terms and conditions, state the same here).

**2. (Then state whether you have been unlawfully evicted or the building/structure has ceased to exist. Give details with dates).**

**3. (If there is any dispute under section 11 (2), give the facts with dates and all particulars here.)**

**4. (Here state the relief prayed for).**

## Schedule

(Give detailed description of the land building/structure with area of land and measurements of building/structure). Note : (1) The application shall be signed and verified as required by sub-rule (1) of rule 8. (2) If applicant is a thika tenant/tenant. This form should be used mutatis mutandis. Form C [See rule 20] Form of return to be submitted to the State Government

- |        |  |        |
|--------|--|--------|
| 1. (a) | Name of landlord...  |        |
| (b)    | Name of father/husband.  |        |
| (c)    | Address(es).   |        |
| (d)    | Names and address of other persons, if any, having interest in such lands and the nature of such interest. |        |
| 2.     | Particulars of land/lands under & thika tenancy/other tenancy  |        |
| (a)    | Postal address(es) and Municipal/other holding number(s) to identify the land(s).                          | 1 2 3. |
| (b)    | Total area in Cottahs or Sq. metres or both.   | 1 2 3  |
| (c)    | Total No. of thika tenants/other tenants.  | 1 2 3  |
| (d)    | Total rent realised per month/ year.   | 1 2 3  |
| (e)    | Any other income from the land.  | 1 2 3  |

3. Particulars of each of the thika tenant(s)/other tenant(s).

(a)	Name	1 2 3
(b)	Postal address of the thika tenant/other tenant.	1 2 3
(c)	Holding No. in occupation of thika tenant/other tenant.	1 2 3
(d)	Area in occupation.	1 2 3
(e)	Date of commencement of tenancy (enclose certified/attached xerox copies of documentary evidence).	1 2 3
(f)	Rate of rent per month/year (enclose true copy of counterfoil of last rent receipt, if receipts were granted).	1 2 3
(g)	Particulars of suits/legal proceedings, if any, in respect of the land.	1 2 3
(h)	Remarks	

4. Remarks

5. List of documents enclosed

(a)	Certified/xerox/attested of title document proving the title to the land.
(b)	
(c)	
(d)	
(e)	

I hereby declare that to the best of my knowledge and belief the above information given by me is correct, complete and true and no part of it is wrong or false. Dated, the Signature or left thumb impression of landlord. Note : (i) Information against item 2 should be furnished for each municipal holding separately, if there are thika tenancies/other tenancies under the landlord in different holdings. (ii) Area, rent, etc. shown in items 2 should tally with the total area, etc. shown in item 3. (iii) The return should be submitted, in duplicate, to the office of the Controller, Calcutta or Howrah, as the case may be. (iv) If a landlord has thika tenancies on his lands in Howrah and Calcutta, separate returns are to be submitted in the offices of the Controllers of Howrah and Calcutta respectively. (v) Attach extra sheets, if necessary to furnish particulars against item 2 and 3. The information should be given for each thika tenant (item 3) separately but in the same return.