

The Calcutta Thika Tenancy (Acquisition And Regulation) Act, 1981

WEST BENGAL

India

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Act 37 of 1981

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The Calcutta Thika Tenancy (Acquisition And Regulation) Act, 1981 West Bengal Act 37 of 1981 [2nd November, 1981] [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.] [[The 'long title' substituted by W.B. Act 21 of 1993. The previous 'long title' was as under: - 'An Act to provide for the acquisition of lands comprised in thika tenancies, and other lands held under any person in perpetuity or under registered lease for a period of not less than twelve years or held in monthly or periodical tenancies for being used or occupied as Khatahs, in Calcutta and Howrah and the rights of landlords in such lands for regulation of the incidents of thika tenancies and of monthly and periodical tenancies and relations between thika tenants and their Bharatias and for planned development and distribution of such lands with a view to subserving the common good;'.]] [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;] [[The 'Preamble' substituted by W.B. Act 21 of 1993. The previous 'Preamble' was as under: - 'Whereas it is expedient to provide for the acquisition of lands comprised in thika tenancies, and other lands held under any person in perpetuity or under registered lease for a period of not less than twelve years or held in monthly or periodical tenancies for being used or occupied as Khatahs, in Calcutta and Howrah and the rights of landlords in such lands, for regulation of the incidents of thika tenancies, and of monthly or periodical tenancies and relations between thika tenants and their Bharatias and for planned development and distribution of such lands with a view to subserving the common good;'.]] It is hereby enacted as follows :-

Chapter I

Preliminary

1. Short title, extent and commencement. -

(1) This Act may be called [the Calcutta Thika and other Tenancies and Lands] [Words substituted for the words 'the Calcutta Thika Tenancy' by W.B. Act 21 of 1993.] (Acquisition and Regulation) Act, 1981. (2) It extends to Calcutta as defined in [clause (9) of section 2 of the Calcutta Municipal Corporation Act, 1980] [Words, figures and brackets substituted for the words, figures and brackets 'clause (11) of section 5 of Calcutta Municipal Act, 1951' by W.B. Act 41 of 1984 (w.e.f. 4.1.1984).] and [to Howrah as defined in clause (15) of section 2 of the Howrah Municipal Corporation Act, 1980:] [Words, figures and brackets substituted for the words 'the municipality of Howrah' by W.B. Act 41 of 1984 (w.e.f. 10.1.1984).] [Provided that the provisions of this Act shall not extend to the whole or 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:] [Proviso inserted by W.B. Act 41 of 1984 (w.e.f. 10.1.1983).] [Provided further that the provisions of this Act shall not extend to the whole or any area included within the limits of Calcutta, which, immediately before the 4th day of January, 1984, being the date of coming into force of the Calcutta Municipal Corporation Act, 1980, was comprised in any municipality.] [Proviso inserted by W.B. Act 41 of 1984 (w.e.f. 4.1.1984).] (3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Declaration as to the policy of the State. -

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India.

3. Definitions. -

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 or tenant of other lands in his holding or by a landlord in a bustee on his khas land.] [[Cause (1) substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous clause (1) was as under :

6.

'Bharatia' means any person by whom, or on whose account, rent is payable for any structure or part of a structure erected by a thika tenant in his holding;'.] (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;] [Clause

(1A), inserted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982).](2)"Controller" means an officer or officers appointed under section 10;(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;] [[Clauses (3) and (4) substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous clauses (3) and (4) were as under:](3) 'holding' means a parcel or parcels of land occupied by any person as a thika tenant under one lease or one set of conditions where such tenant has been occupying the land from or before the commencement of this Act;(4)'landlord' means any corporation, 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 of any land comprised in a thika tenancy and includes any corporation, institution or person having any superior interest in such thika tenancy:'.)](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 of reinforced concrete;] [Clauses (3A), (3B), (5A) and (7A) inserted by W.B. Act 21 of 1993.](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;] [Clauses (3A), (3B), (5A) and (7A) inserted by W.B. Act 21 of 1993.](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;] [[Clauses (3) and (4) substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous clauses (3) and (4) were as under:](3) 'holding' means a parcel or parcels of land occupied by any person as a thika tenant under one lease or one set of conditions where such tenant has been occupying the land from or before the commencement of this Act;(4)'landlord' means any corporation, 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 of any land comprised in a thika tenancy and includes any corporation, institution or person having any superior interest in such thika tenancy:'.)](5)"notification" means a notification published in the Official Gazette;(5A)["other lands" includes any vacant land or tank;] [Clauses (3A), (3B), (5A) and (7A) inserted by W.B. Act 21 of 1993.](6)"prescribed" means prescribed by rules made under this Act;(7)"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;(7A)["slum area" means the area declared as such by 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 Slumdweller's Act, 1958;] [Cluses (3A), (3B), (5A) and (7A) inserted by W.B. Act 21 of 1993.](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;] [Clause (7B) inserted by W.B. Act 21 of 1993.](8)"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 at any other periodical rate, for that land to that another person and has erected or acquired by purchase or gift any structure on such land for residential, manufacturing or business purpose and includes the successors-in-interest of such person.

4. Act to override other laws. -

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 other lands and the rights of landlords in such lands.

Section 5 substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The original Section 5 was as under: 5. Lands comprised in thika tenancies and other lands, etc. and right, title and interest of landlords in such lands to vest in the State. With effect from the date of commencement of this Act, lands comprised in thika tenancies and other lands held under any person in perpetuity or under registered lease for a period of not less than twelve years or held in monthly and periodical tenancies for being used or occupied as Khatahs along with easements, customary rights, common facilities and such other things in such thika tenancies and Khatahs attached to or used in connection with such thika tenancies, and Khatahs and the right, title and interest of landlords in such lands shall vest in the State free from all incumbrances : Provided that the easements, rights, common facilities or benefits enjoyed by a thika tenant or an occupier of any land under any person in perpetuity or any land under any person under registered lease for a period of not less than twelve years or a Khatal in Khas lands of the landlords shall not be affected in any way by such vesting.

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

- 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 :-(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).]

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

(1) Subject to the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 and the provisions of this Act, every thika tenant and any tenant, in respect of other lands which vest under section 5, 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.(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.] [[Sub-section (2) substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous sub-Section (2) was as under :'(2) Subject to the provisions of section 26 of this Act, every thika and other tenants occupying land directly under the State under sub-section (1) shall be liable to pay to the State an amount of revenue determined in accordance with the provisions of the West Bengal Land Holding Revenue Act, 1979 and for this purpose such tenant shall be deemed to be a raiyat under that Act:Provided that the revenue payable by the tenant shall not be less than what he was paying to the landlord before the coming into force of this Act.]](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-sharers interest or to the prospective heirs, subject to the provisions of sub-section (1) of section 7.] [[Sub-Section (3) substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous sub-Section (3) was as under :-(3) The rights of a thika tenant and other tenants occupying lands directly under the State under sub-section (1) shall, subject to the provisions of this Act, be heritable and shall not be transferable. No such tenant shall, without obtaining prior approval in writing from such authority as may be prescribed and without submitting a comprehensive development plan or improvement scheme for the holding, construct pucca structure. Any such scheme shall provide for alternative accommodation for Bharatias in accordance with sub-section (2) of section 11:Provided that a thika tenant or a tenant in respect of other lands which vest under section 5 may construct a pucca structure for essential common facilities like common pathway, common bath, toilet, water supply, drainage, sewerage, lighting and similar other purposes.'].](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-] [Sub-Section (4) inserted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982).](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.

7. Thika tenant not to let out land. -

[(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)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.] [[Sub-Sections. (1) and (2) substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous sub-sections (1) and (2) were as under :-(1) Any person occupying and directly under the State

within the meaning of sub-section (1) of section 6 shall not have any right, title or interest in the land comprised in the holding and shall not let out the whole or any part of the land for any period : Provided that nothing in this sub-section shall prevent any such person from letting out the whole or any part of the structure standing on the land as long as his thika tenancy subsists. (2) Any person occupying land directly under the State within the meaning of sub-section (1) of section 6 shall not contravene any provision of this Act. Any transaction, contract or agreement (oral or written) in contravention of the provisions of this Act shall be void and upon such contravention the thika tenancy shall stand determined and the structure standing thereon shall vest in the State free from all incumbrances from such date as may be specified by the Controller in his order made on his own motion or on an application : Provided that no such order shall be made by the Controller, unless upon hearing the parties affected he comes to a finding that any provision of the Act has been violated.] (3) 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 before taking possession of the land the thika tenants in actual occupation of the structure or part thereof and bharatias shall be provided with alternative accommodation in the neighbourhood of such land as far as practicable. Explanation.-For the purpose of this sub-section "public purpose" shall include planned development of any area or holding and implementation of any scheme for improvement thereof.

8. Payment of compensation. -

(1) The State shall for the vesting of any land under section 5, 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. (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 5, 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] [Words substituted for the words 'an annuity for such number of years' by W.B. Act 21 of 1993 (w.e.f. 18.1.1982).] 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 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 purpose 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 the following, among others:-(i) actual user of income of the land, (ii) mode of user, (iii) 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 13.(5)The State shall, for vesting under sub-section (2), or resumption under sub-section (3), of section 7 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 prescribed manner. Such amount shall be calculated at a rate not exceeding ten times the annual rent paid by Bharatias to the tenant reduced by, apart from other sums as may be prescribed, rent, taxes and other charges on account of management and collection at a rate of twenty per centum of the gross annual rent. 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 annual rent paid by Bharatias.(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 subsection (1) or the annuity payable to them under sub-section (2) shall be apportioned among them in the prescribed manner.

Chapter III

[Incidents of tenancies of Bharatias in structures] [[The 'heading' substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous 'heading' was as under :

'Incidents of tenancies of Bharatias in premises on lands comprised in thika tenancies.']]

9. Thika tenants and Bharatias to be governed by West Bengal Act 12 of 1956. -

[(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.] [[Sub-Section (1) substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The previous sub-Section (1) was as under :'(1) Thika tenants and Bharatias hitherto governed by the provisions of the Calcutta Thika Tenancy Act, 1949, shall with effect from the coming into force of this Act, be governed by the provisions of the West Bengal Premises Tenancy Act, 1956, in all matters regulated by the West Bengal Premises Tenancy Act, 1956, and for such purpose a 'thika tenant' and a 'Bharatia' shall be deemed to be a 'landlord' and a 'tenant' respectively within the meaning of that Act.']](2)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 or separate water supply connection from the appropriate agency for his own use.

10. Controller. -

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

Section 11 substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The original Section 11 was as under :-11. Bharatia to continue as monthly tenant.- (1) Notwithstanding anything contained in the West Bengal Premises Tenancy Act, 1956, or in any other law for the time being in force, a Bharatia under a thika tenant shall continue to be a monthly tenant unless lawfully evicted and the tenancy of a Bharatia shall not be extinguished because of subsequent non-existence of the structure or building or part thereof, which the Bharatia previously occupied under the thika tenant.(2) If any building or structure is built or rebuilt on the same site within the period of twelve years next after the date on which the old building or structure ceased to exist, the Bharatia shall be put into possession of the whole or a part of the new building or structure in proportion to the area held by him in the old building or structure and on such terms and conditions in force immediately before the date of cessation of the old building or structure.(3) Any dispute in this regard shall be decided by the Controller on an application made to him in the prescribed manner, after giving the parties opportunity of being heard and the order of the Controller shall be executed in the manner prescribed.

11. Tenancy of Bharatia to continue. -

(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.](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 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.

Chapter IV

Miscellaneous and supplemental provisions

12. Powers of Controller. -

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, namely:-(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.

13. Appeal. -

(1)Any person aggrieved by an order of the Controller may, within thirty days from the date of the order, prefer an appeal in writing-(a)in respect of any holding within the jurisdiction of the Court of Small Causes of Calcutta, to the Chief Judge of the Court of Small Causes of Calcutta; and(b)in respect of any holding elsewhere, to the District Judge within whose jurisdiction the holding is situate.(2)The Chief Judge of the Court of Small Causes of Calcutta or the District Judge, as the case may be, before whom an appeal is preferred under subsection (1) may either himself hear any such appeal or transfer such appeal to a Judge, Court of Small Causes of Calcutta or to an Additional District Judge, as the case may be, and the Judge to whom such appeal is so transferred shall hear and dispose of such appeal.(3)The Chief Judge of the Court of Small Causes of Calcutta or the District Judge, as the case may be, either on his own motion or on the application of any party may withdraw any appeal pending before any Judge to his own file for hearing and disposal or transfer it to any other Judge of the Court of Small Causes of Calcutta or any Additional District Judge, as the case may be, for hearing and disposal.(4)Subject to such rules as may be made under this Act, any final order passed by any Court under sub-section (2) or sub-section (3), may in the manner prescribed be reviewed by the Court which passed the order on the discovery of any new and important matter or evidence or on account of some mistake or error apparent on the face of the record or for any other sufficient cause of like nature:Provided that before making any order under this sub-section the person likely to be adversely affected by such order shall be given reasonable opportunity of being heard.(5)An order passed by the Controller against which no appeal has been preferred, may also be reviewed by him in the manner prescribed on the ground of discovery of new matter or evidence or on the ground of error apparent on the face of the record after giving the person an opportunity of being heard.(6)Subject to the provisions of this Act, any decision of the Appellate Authority and, in cases where no appeal has been preferred, the decision of the Controller shall be final and may be executed by the Controller in the manner provided in the Code of Civil Procedure, 1908, for the execution of decrees.

14. Revision by State Government. -

The State Government may, on its own motion, call for and examine the records of 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: Provided that no such order shall be made except after giving the person affected reasonable opportunity of being heard in the matter.

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

(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 on his own motion without such notice, the District Judge in the case of a proceeding pending before a Controller appointed for any area within the district, or the Chief Judge of the Court of Small Causes of Calcutta in the case of a proceeding pending before a Controller appointed for any area within the jurisdiction of the Court of Small Causes of Calcutta, may, at any stage, withdraw such proceeding and transfer it for hearing or disposal to a Controller appointed for any other area within the district or within the jurisdiction of the Court of Small Causes of Calcutta, as the case may be, or retransfer it for hearing or disposal to the Controller from whom it was withdrawn. (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" includes any proceeding arising out of an application made to the Controller under the provisions of this Act.

16. Bar to application of Act to certain lands. -

Nothing in this Act shall apply to- (a) Government lands, (b) any land vested in or in the possession of- (i) the State Government, (ii) a port authority of a major port, or (iii) a railway administration, or (iv) a local authority, or (c) any land which is required for carrying out any of the provisions of the Calcutta Improvement Act, 1911.

17. Restriction or exclusion of Act by agreement. -

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 by 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.

18. Power to enter and inspect premises, to require information and to summon witnesses. -

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; (b) authorise any person subordinate to him to enter and inspect any premises between sunrise and sunset; or (c) by written order, require 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.

18A. [Penalty. - [Section 18A inserted by W.B. Act 21 of 1993 (w.e.f. 15.3.1984).]

(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 subsection (1) except on a complaint made in writing by the Controller or by an officer authorised by him in this behalf.

19. Proceedings including appeals and proceedings in execution of orders, etc., to abate. -

All proceedings including appeals and all proceedings in execution of orders passed in proceedings including appeals under the Calcutta Thika Tenancy Act, 1949, pending on the 19th day of July, 1978, for the ejectment of thika tenants and Bharatias shall stand abated with effect from the 19th day of July, 1978, as if such proceedings, appeals or execution proceedings had never been made.

20. Power to make rules. -

(1) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters that may be or are required to be prescribed or made by rules.

21. Repeal. -

The Calcutta Thika Tenancy Act, 1949 is hereby repealed.

22. Saving of limitation. -

In computing the period of limitation prescribed by any law for the time being in force for an application for ejectment 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 ejectment 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.

23. Bar to jurisdiction. -

No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Act required to be or has been decided or dealt with or to be determined 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.

24. Indemnity.-

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.

Section 25 substituted by W.B. Act 21 of 1993 (w.e.f. 15.3.1994). The original Section 25 was as under: 25 Survey.- The State Government shall cause a survey to be made in the areas of Calcutta as described in sub-section (2) of section 1 of the Calcutta Thika Tenancy Act, 1949 in accordance with the provisions of the Calcutta Survey Act, 1887, in order to record the names of thika tenants and of Bharatias.

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

(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 raiyat shall not be incorporated in such khatian.

Section 26 substituted by W.B. Act 21 of 1993 (w.e.f. 18.1.1982). The original Section 26 was as under :- 26. The provisions of West Bengal Act 44 of 1979 to be applicable to thika tenants.- (1) The provisions of the West Bengal Land Holding Revenue Act, 1979 shall, mutatis mutandis, apply to a

thika tenant as if the said Act extends to the area described in Schedule I of the Calcutta Municipal Act, 1951 and as if the said area is a region within the meaning of the West Bengal Land Holding Revenue Act, 1979.(2) The Schedule to the West Bengal Land Holding Revenue Act, 1979, shall not apply to a thika tenant. The following shall be deemed to be the Schedule to the said Act being applicable to a thika tenant:-In the case of any holding of a thika tenant the rate of revenue on land holding:-(a) on the first rupees 10,000 of the total rateable value- 5 paise in the rupee.(b) on the next rupees 10,000 of the total rateable value- 8 paise in the rupee.(c) on the balance of rateable value- 10 paise in the rupee.

26. Payment of monthly revenue. -

(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.

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

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 to subserve the common good on such terms and conditions and in such manner as may be prescribed.