

West Bengal Act XXXVII of 1981

THE ²[KOLKATA] *THIKA* TENANCY (ACQUISITION AND REGULATION) ACT, 1981,

West Ben. Act XL¹ of 1984. AMENDKB . . . , . West

Ben. Act; XXI of 1993.

West Ben. Act XVIII of 2001.

[2nd November, 1981.]

^[/bf Ac 1 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 ²[Kolkata] and Howrah for development and equitable utilization of such lands.]

. ³[WHEREAS it is expedient to provide for the acquisition of interest of landlords in respect of lands comprised in *thika* tenancies and certain other tenancies and other lands in ⁴[Kolkata] and Howrah for development and equitable utilization of such lands with a view to subserving the common good;]

It is hereby enacted in the Thirty-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 ⁵the ⁶[Kolkata] *Thika* and other Tenancies and Lands] (Acquisition and Regulation) Act, 1981.

(2) It extends to ⁷[Kolkata] as defined in clause (9) of section 2 of

⁸the ⁹[Kolkata] Municipal Corporation Act, 1980 and ¹⁰[to Howrah as

defined in clause (15) of section 2 of the Howrah Municipal Corporation Act 1980.]

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The 'Kolkata I' [Hika Tenancy (Acquisition and Regulation)

Act, 1984.

[West. Ben. Act

Chapter I, — Preliminary. — See sections 2, 3.)

— 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, 1984, being the date of coming into force of the Howrah Municipal Corporation Act, 1980, was not comprised in the municipality of Howrah:

Act LVIII of 1980.

— Provided further that the provisions of this Act shall not extend to the whole or 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 not comprised in any municipality.

Act LIX of 1980.

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

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

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

1) "Tiliarcita" means any person by whom, or on whose account, rent is payable for any structure or part thereof, owned by a *ihika* tenant or tenant of other lands in his holding or by a landlord in a *bitsree* on his *khas* land:

(i A) "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 land 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;

(2) "Controller" means an officer or officers appointed under section 10;

¹See footnote 2 on page 295, *ibid.*

²The first proviso was added by s. 2(b)(1) of the Kolkata I [Hika Tenancy (Acquisition and Regulation) (Amendment) Act, 1984 (West. Ben. Act XL of 1984).

³The second proviso was added by s. 2(c) of the *ibid.*

⁴The Act came into force with effect from the 10th January, 1984, by notification No. -16-L, RuT. 1111 of the 14th January, 1984 published in the *Cultural Gazette, Extraordinary*, Part I of the 15th January, 1984, page 37.

⁵Clause (1) was substituted for original Clause (1) of the Kolkata I [Hika Tenancy (Acquisition and Regulation) (Amendment) Act, 1984 (West. Ben. Act XL of 1984).

⁶Clause (1 A) was inserted by s. 5(2) of the *ibid.*

(Chapter I.—Preliminary.—Section J.)

- ■'(*?) "holding" means a parcel or parcel of land occupied by a *thika* icnani or leuanl or oilier lands under one set of conditions, and includes a *bustee* owned by a landlord on his *khas* land along with any land included in such *bustee*:
 - '(3A) "hui" means any building or structure, (the roof or the floor of which, excluding the floor at the plinth level, is not constructed of masonry or reinforced concrete;
 - (3B) "*khaia*" means a place where cattle are kept or maintained (or the purpose of milch or business including business in milk derived from such cattle);¹(4) "landlord" means any corporation, charitable or religious institution or person who, for the time of person who, for the time being, is entitled to receive or hold 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 *khatal*, land 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;
 - (5) "notification" means a notification published in the *Official Gazette*;
 - (5A) "other lands" includes any vacant land or tank;
 - (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 the State Government under section 3 of the West Bengal Slum Areas (Improvement and Clearance) Act, 1972, or section 4 of the [Kolkata Slum Clearance and Rehabilitation of Slum-dwellers Act, 1956;
 - "(7B) "tenant of oilier hinds" means any person who occupies other lands under another person, whether under a written lease or otherwise, and is or will 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;

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West Ben. Act
XX of 1956.

¹It is footnote 3 on page 295. "iff.

Clause (3) was substituted for original clause in use by s. 5(1) of the Calcutta *Thika* Tenancy (Acquisition and Regulation) (Amendment) Act, 1991 (West Ben. Act XXI of 1991),

Clauses (3A) and (3B) were inserted by s. 5(4), *ibid.*

Clause (4) was substituted for original clause by s. 5(5), *ibid.*

Clause (5A) was inserted by s. 5(6), *ibid.*

Clauses (7A) and (7B) were inserted by s. 5(7), *ibid.*

The 'Kolkara' Thika Tenancy (Acquisition and Regulation) Act, 1981.

(Chapter II,—Acquisition of lands comprised in thika tenancies and other kinds and the rights of landlords in such lands.—

Sections 6, 7.)

3." of 1^76.

6. (1) Subject to the provisions of the Urban Land (Ceiling and [ndilcnis of 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, lands vesied 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, dirculy under the State as if the Suite had been the landlord in respect of ih;ii land.

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

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

(4) The *thika* tenants and tenants of other lands holding directly under , the Statu under sub-section (1) shall be entitled to construct *pitcca* structures in accordance with the building plans sanctioned under the ux''mso''' '[Kolkataj Municipal Corporation Act, 1980, and the rules made West Be ii. Aci thereunder, or the Howrah Municipal Corporation Act, 1980, and the rules Lvniof 19B0. macic thereunder, according as the land may be situated within 'JKolkala] as defined in clause (9) of section 2 of the '[Kolkaia] Municipal Corporation Act, 1980, or Howrah as defined in clause (15) of section 2 of the Howrah Municipal Corporation Act, 1980, for—

(a) residential and business purposes for themselves and the *Bharaiias* under them; and (b) essential common facilities like common pathway, common bath, loilei, water supply, drainage, sewerage, lighting and similar other purposes.

7. (1) The *thika* tenants and tenants of other lands holding directly *Thika* icnmm under the State shall be entitled to let out in whole or in part structures j^1^10 kcl^o^ existing on, or constructed after, the dale of commencement of this Act on such hinds but not any vacani land or any part thereof.

¹Yrv foul-nolo 2 on page 295. dine.

²Sub-section (2) was substituted by s. 7(1) of the Calcutta *Thika* Tcnajicy (AcL]uniiiion and Kcjuibliim) (Amendment) Act, 1993 (West Ben. Act XXI of 1993).

³Sub-section (3) was substituted by s. 7(2), *ibid.*

⁴Sub section (-1) was inserted by s. 7(3), *ibid.*

⁵Sub-section (1) was substituted for original sub-section by s. 8(1) of the Calcutta *Thika* Tenancy (Aa[ui]-iLion mid Kegulalion)-Amendmcnl) Act, 1993 (West Ben. Act X X t of 1993).

(Chapter II.—Acquisition of hinds comprised in thika ten amies and
(tt her lands and the rights of landlords in such lands—Section H.)

(2) Any transfer or agree men l for transfer, whether oral or in writing, ' in coniravemion of [he provisions of sub-section {3} of section 6 or subsection (1) of iliis section shall be void and be of no effect whatsoever and ihe land and structure shall stand vested in ihe Slate in accordance with the prescribed procedure.

(3) Whenever it appears in the Stale Government thai ihe land comprised in any *thika* tenancy is needed or is likely (> be needed for any public purpose, ii may, after giving the *thika* lenam and ihe *Dlutraiiias*, 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 ihe land:

Provided lhai before taking possession of ihe land the *thika* tenants in actual occupation of the structure or part thereof and *Bhat alias* shall be provided wiili aiernaaiive accommodation in ihe neighbourhood of such land as far as practicable.

For ihe purpose of ihu sub-section "public purpose" shall include planned development of any area or holding and implementation r>! any scheme lor improvement thereof.

Pjyinerii of 8, (1) The Slate shall for the vesting of any land under section 5.
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as may be determined in accordance with the provisions of the Urban Land (Ceiling
and Regulation) Act, 1976,

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(2) Where the landlord is a corporation or an institution established exefusively for a religious or a charitable purpose, of a public nature, or is a person holding under a public ttusi or an endewmeni or olher legal obligation exclusively for a public purpose which is religious or charitable,
Ihe Slate shall, for vesting under sction 5, pay lo such landlord '[a perpeuuU annuity or, where the interest of the landlord is terminable or is liable to he exhausted, an annuity for such number of years! may tie prescribed, having regard to the exieni of the lights of tha landlord.

Such annuity shall not exceed ihe annual nel income derived from the holding as may be determined by ihe Con Holler in Ihe prescribed manner. In determining nel annual income the Controller shall deduct from ihe gross income apart from other sums as may be prescribed, charges on account of management and collodion at the rate of twenty *percvntim* of !he gross income.

'ire t'cot-nple 2 on page 295. *nine*.

Sub-.stc(ion (2) was substituted for original sub-icelinn by s. ti(2) of the Caktitla *Thika* Tenancy(Auditionmid Regulation){Amendment)Ad. W> (West Ben. Act XXI or 1993).
'Wonts wiiliiii iliu square bnckcis were substituted Tar the words "an annuity Tor such number of years" by s. 9. *ibid*.

The '[Kolkata] Thika Tenancy (Acquisition and Regulation) /Iff. J9Sf.

(Chapter Hi.—Incidents of tenancies of *Bharatias* in structures.—Section 1J.)

(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 (rust, 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 or 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, the 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 sub-section (1) or the annuity payable to them under subsection (2) shall be apportioned among them in the prescribed manner.

CHAPTER III [Incidents of tenancies of *Bharatias* in structures]

9. (1) The monthly and other periodical tenancies of *Bharatias* in respect of structures occupied by them on payment of rents, to *thika* tenants shall, with effect from the date of coming into force of this Act, be governed

WL-M Ren. by (the provisions of the West Bengal Premises Tenancy Act, 1956. in all

¹⁾ matters coming within the purview of the said Act and, for the said purpose,

19_56. the owners of the structures shall be deemed to be landlords and the *Bharatias* shall be deemed to be tenants under the said Act.

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¹⁾ See Footnote 2 on page 295 ante.

The heading to Chapter III was substituted by s. 10 of the Calcutta *Thika* Tenancy (Acquisition and Regulation) (Amendment) Act, 1997 (West Ben. Act XXI of 1997).¹⁾ Sub-section (1) was substituted for original by s. II, *ibid*.

²⁾ See Footnote 2 on page 295, ante.

Section 11 was substituted for original by s. 12 of the Calcutta *Thika* Tenancy (Acquisition and Regulation) (Amendment) Act, 1993 (West Ben. Act XXI of 1993).

³⁾ See Footnote 2 on page 295, ante.

⁴⁾ See Footnote 1 on page 25b, ante.

(Chapter III.—Incidents of tenancies of Bharatias in sfnic firres.—Sections 10. //J

(2) Notwithstanding anything contained in this Act or in the West Bengal Premises Tenancy Act, 1956, a *Bharatia* under a *thika* tenancy 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. 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.

(1) Notwithstanding anything to the contrary contained in any law for the time being in force, the tenancy of a *Bharatia* as a tenant

under a *thika* tenancy shall not be extinguished because of subsequent non-existence of the structure or a part thereof which the *Bharatia* previously occupied under the *thika* tenancy.

(2) If any structure or part thereof which was in the occupation of a *Bharatia* as a tenant under a *thika* tenancy ceases to exist except under an order of a court under section 18 A of the West Bengal Premises Tenancy Act, 1956, the *thika* tenancy shall reconstruct similar accommodation and restore possession to the *Bharatia* and put the *Bharatia* in possession of such accommodation within one month of such structure ceasing to exist, failing which the *Bharatia* may make an application to the Controller in the prescribed manner.

(3) On an application made by the *Bharatia* under sub-section (2), the Controller shall, after giving the *thika* tenant and the *Bharatia* an opportunity of being heard, direct the *thika* tenant to reconstruct similar accommodation and restore possession to the *Bharatia* within such time as the Controller may decide,

(4) If the *thika* tenant fails to comply with the orders of the Controller under sub-section (3), the *Bharatia* shall be entitled to reconstruct the structure and, for that purpose, may make an application to the Controller who shall, after giving the *thika* tenant and the *Bharatia* 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*.

XXXVII of 1981.]

(Chapter IV,—Miscellaneous and supplemental provisions.—Svt'tions 12, I.I.J

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CHAPTER IV

Miscellaneous und .supplemental provisions

12. The Controller and any person deciding any appeal from his order Powers of 5 oi i yos. shall have all the powers or a civil couri, while trying a suit under the Code Coiurollur. of Civil Procedure, 1908. in respect of the following mailers, 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 rccord,
 - (c) receiving evidence on affidavits.
 - (d) requisitioning any public; record or copy thereof from any court or office.
 - (e) issuing commission for lhc 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 lo the officer from whose order the appeal is preferred. "

13. (1) Any person aggrieved by an order of lhc Controller may. Appeal, within thirty days from Lhc date ol the order, prefer an appeal in writing—

- (a) in respect of any holding within the jurisdiction of the Court orSmall Causes of '[Kolkaia], to lhc Chief Judge of the Court of Small Causes of '[Kolkaia]; and
- (h) in respect of any holding elsewhere, to lhc District Judge within whose jurisdiction lhc holding is situate.

(2) The Chief Judge of the Court of Small Causes of '[Kolkaia] or the District Judge, as the case may be. before whom an appeal is preferred under sub-section (1) may either himself hear any such appeal or transfer such appeal lo a Judge, Couri of Small Causes of '[Kolkaia] or to an Additional Disirici Judge, as the case m;iy be. and the Judge to whom such appeal is so transferred shall hear and dispose of such appeal.

(3) The Chief Judge of (he Court of Small Causes of '[Kolkaia] 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 lo his own file for hearing and disposal or transfer il io any other Judge or the Court of Small Causes of '[Kolkaia] or any Additional District Judge, as the case may be, for hearing and disposal.

The 'Kolkara/Thika Tourney (Acquisition and Regulation) An. '198 J.

[West Ben. Act

(Chapter IV.—Ali.u c/laitcois and supplemental provisions,—See I ions 14, 15.)

(4) Subject lo such rules as may be made under this Acl, any final order passed by any court under sub-section (2) or sub-seclion O). may in the manner prescribed be reviewed by die court which passed the order mi the discovery of any new and important mailer or evidence or on account of some mistake or error apparent <m the lace of the record or for any other sufficient cause of like ualure:

Provided that before making any order under this sub-seclion the person likely lo be adversely affected by such order shall be given reasonable opportunity of being heard.

(5) An order passed by ihe Controller againsi which no appeal has been preferred, may also be reviewed by him in the manner prescribed on the ground ol' discovery of new matter or evidence or on the ground of error apparenl on the lace of llic record after giving the person an opportunity of being heard.

(6) Subject lo the provisions of litis Acl, any decision oTtbc Appellate Auihoriiy and, in cases where no appeal has been preferred, the decision of the Controller shall be final and may be executed by ihe Controller in the manner provided in the Code of Civil Procedure, 1908. for the execution of decrees.

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Id. The Stale Govern men i may. on its own motion, call lor and examine the records of any order passed or proceedings Inken by the Controller under ihe provisions of (his Acl and againsi which no appeal has been preferred lor ihe purpose of satisfying itself as to ihe legality or propriety of such order or as lo die regularity of lhe procedure and pass such order with respect thereto as it may iink Hi:

Provided (hat no such older shall he made except after giving the person :iTcaed reasonable opportunity of being heard in the in alter,

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15. (I) On lhe application of any of the parlies and after notice lo ihe parties and after hearing such of them as desire lo he heard, or on his own motion without such noiicc, lhe District Judge in ihe case ofa proceeding pending before a Controller appointed for any area within the district, or the Chief Judge of the Couri of.Small Causes of'[Kolkata] in the ease of a proceeding pending before a Controller appointed for any area within the jurisdiction of (lie Court t>(Small Causes of '[Kolkata], may, al any stage, withdraw such proceeding and transfer it for hearing or disposal Lo a Controller appointed for any oilier area within the district or within ihe jurisdiction of lhe Court of Sinai! Causes of'[Kolkata], as lhe case may he, or reiransfer ii forbearing or disposal to the Controller from whom it was withdrawn.

XXXVII of 1981.]

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

... (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 direction; in the order of transfer, either rehear it or proceed from the stage in 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.

²See *Section 16* of the Act, page 295, *infra*.

³See *Section 16* of the Act, page 295, *supra*.

Section 16 of the Act was inserted by s. 13 of the Kolkata Thika Tenancy (Acquisition and Regulation) (Amendment) Act, 1993 (Wen. Act XXI of 1993).

16. 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 '[Kolkata] Improvement Act, 1911.

17. Nothing in any contract between a *fudr* tenant and a *lifurati* made after the commencement of this Act shall take away or limit the rights of such tenant or *Bhanuti* 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. 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.

restriction or
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Act by

Power to enter
and inspect
premises, to
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from
occupier

Application of
Act in certain
lands.

(Chapter IV.—Miscellaneous and suppleme/ital ptuvilions. —Sections 18A. 19-23.)

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³18A. (1) Any contravention by any person occupying land direcily under ihe State, being the landlord within the meaning of sub-^eeiion {1) of section 6. of any provision of ihis Act shall be an offence punishable with imprisonment for a term which may extend lo five years and also with fine which may extend to ten thousand rupees.

(2) No court shall lake cognizance of any oTJence punishable under sub-section (1) except on a complaint made jn writing by ihe Controller or by an officer authorised by him in ibis behalf.

³ The monthly revenue shall be enhanced at the rate of ten *per centum* on the expiry of every five years.

Proceedings including appeals and proceedings in execution of orders, sit., JO nbaie.

Power to make rules.

Repeal.

Saving of limitation.

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jurisdiction.

19. All proceedings including appeals and all proceedings in execution of orders passed in proceedings including appeals under the '[Kolkata] *Thika* Tenancy Act, 19-19, pending on the 19th day of July, 1978, for the ejection of *thika* tenant, and *Hhnruiias* shall stand abated with effect from the 19th day of July, 1978, as if such proceedings, appeals or execution proceedings had never been made.

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20. (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. The '[Kolkata] *Thika* Tenancy Act, 1949 is hereby repealed.

22. In computing the period of limitation prescribed by any law for the time being in force for an application for ejection of a *Bhtmlia* 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 or a *Bharttia*, the period from the 19th day of July, 1978 to the date of coming into force of this Act shall be excluded.

23. 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.

The 'Ikolkaia' Thika Tenancy (Acquisition and Regulation) Act, 1981.

XXXVII of 1981.1

(Chapter IV.—Miscellaneous and supplemental provisions.—Sections 24-26.)

24. 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.

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

Maintenance, preparation and revision of record of rights..

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(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 *Itika* tenants, duration and incident of tenancies, rent payable by each *thika* tenant and each *Hharatia* 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*.

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

Payment of monthly revenue.

Wcsl Ben.

1979. 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:—
(3) The Schedule to the West Bengal Land Holding Revenue

*See footnote 2 on page 295. *ante*.
-Section 25 was substituted for original section by s. 14 of the *Thika Tenancy (Acquisition and Regulation) (Amendment) Act, 1993* (Wcsl Ben. Act XXI of 1993). Section 26 was substituted for original section by s. 15. *ibid*.

*The [Kolkata] Thika Tenancy (Acquisition and Regulation)
Act, 1981.*

[West Ben. Act XXXVII of 1981.]

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

In the case of any holding of a *thika* tenancy 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 the rateable value —10 paise in the rupee.

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

27. 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.

Section 2 of the Act, page 29, nine

For Statement of Objects and Reasons, see the *Cooktown Gazette, Extraordinary*, Part IV of the 28th August, 1980, page 2603; for Report of the Select Committee, the Report of the Select Committee published in the *Cooktown Gazette, Extraordinary*, Part IV of the 28th March, 1981, pages 790(62)-190(63); for proceedings of the West Bengal Legislative Assembly, see the proceedings of the West Bengal Legislative Assembly held on the 31st March, 1981.

The word within the square brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

The word "original long title" was substituted for original "long title" by s. 2 of the *Calcutta Thika Tenancy (Acquisition and*

Regulation) (Amendment) Act, 1993 (West Ben. Act XXI of 1993).

The 'Preamble' was substituted for original 'Preamble' by s. 3, *ibid.*

Words within the square brackets were substituted for the word: "the Calcutta *Thika* Tenancy" by s. 4, *ibid.*

Words, figures and brackets within the square brackets were substituted for the words, figures and brackets "clause (11) of section 5 of the Calcutta Municipal Act, 1911" by s. 2(a)(i) of the Calcutta *Thika* Tenancy (Acquisition and Regulation) (Amendment) Act, 1984 (West Ben. Act XLI of 1984).

Words, figures and brackets within the square brackets were substituted for the words "the Municipality of Howrah" by s. 2(a)(ii), *ibid.*