

Bihar Tenancy Act

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Topic- Explanation of the term “Occupancy raiyat” and how shall an Occupancy raiyat be ejected from its holding.

Occupancy-raiyats

General

Continuance of existing occupancy-rights. –

(1) Every raiyat who, immediately before the commencement of the Bengal Tenancy (Amendment) Act, 1928, has, by the operation of any enactment by custom or otherwise, a right of occupancy in any land, shall, when that Act comes into force, have a right of occupancy in that land.

(2) The exclusion from the operation of this Act, by a notification under clause (ii), clause (iii) of sub-section (3) of section 1, of any area or part of any area referred to in those clauses shall not affect any right, obligation, or liability, previously acquired, incurred or accrued, in reference to such area or part thereof.

settled raiyat –

(1) Every person who for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

(1A) A person shall be deemed, for the purposes of this section, to have continuously held land in a village, notwithstanding that such village was defined, surveyed and recorded as, or declared to constitute a village at a date subsequent to the commencement of the said period of twelve years.

Bihar Tenancy Act

- (2) A person shall be deemed for the purposes of this section to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.
- (3) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.
- (4) Land held by two or more co-sharers as a raiyati holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.
- (5) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.
- (6) If a raiyat recovers possession of land under section 87, he shall be deemed to have continued to be a settled raiyat notwithstanding his having been out of possession more than a year.
- (7) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.

Settled raiyats to have occupancy-rights. –

- (1) Every person who is a settled raiyat of a village within the meaning of section 20 shall have a right of occupancy in all land for the time being held by him as a raiyat in that village.
- (2) Every person who, being a settled raiyat of a village within the meaning of section 20, held land as a raiyat in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

Effect of acquisition of occupancy-right by landlord. –

- (1) When the immediate landlord of an occupancy holding is a proprietor or permanent tenure-holder and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession or in any other way whatsoever, such person shall have no right to hold the land as a raiyat, but shall hold it as a proprietor or a permanent tenure-holder, as the case may be, but nothing in this sub-section shall prejudicially affect the rights of any third person.
- (2) Nothing in this section shall prevent the acquisition by transfer, succession or in any other way whatsoever, of the holding of an occupancy-raiyat or share or portion thereof together with the occupancy-rights therein by a person who is, or becomes, jointly interested in the lands as a proprietor or a permanent tenure-holder :

Bihar Tenancy Act

Provided that a co-sharer landlord who purchases a holding of a raiyat at a sale in execution of a rent decree or of a certificate under this Act shall not hold the land comprised in such holding as a raiyat but shall hold the land as a proprietor or tenure-holder, as the case may be, and shall pay to his co-sharers a fair and equitable sum for the use and occupation of the same. The rent payable by the raiyat to the other co-sharer landlords at the time of transfer shall be regarded as the fair and equitable sum until otherwise determined in accordance with the principles of this Act regulating the enhancement or reduction of the rents of occupancy-raiyats.

(3) A person holding land as a temporary tenure-holder or farmer of rents shall not, while so holding, acquire a right to hold as a raiyat any land comprised in his temporary tenure or farm.

Grounds on which occupancy-raiyat may be ejected. –

An occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejection on one or more of the following grounds, and not otherwise (namely) :

- (a) on the ground that he has failed to pay an arrear of rent;
- (b) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;
- (c) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;
- (d) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

The End