

# **R.M.M. Law College, Saharsa**

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**L.L.B Part- 3<sup>rd</sup>**

**Subject- Bihar Tenancy Act**

**Paper- 4<sup>th</sup>**

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**Topic- Defination of Non-occupancy raiyat and grounds on which Non-occupancy raiyat may be ejected.**

## **Non-occupancy-raiyats**

**1.Application** – This shall apply to raiyats not having a right of occupancy who are in this Act referred to as non-occupancy-raiyats.

**2. Initial rent of non-occupancy-raiyat.** - When a non-occupancy-raiyat is admitted, to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

**3. Conditions of enhancement of rent.** - The rent of a non-occupancy-raiyat shall not be enhanced except by registered agreement or by agreement under. section 46 :

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

**4. Grounds on which non-occupancy-raiyat may be ejected.** - A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment 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.

**5. Conditions of ejectment on ground of refusal to agree to enhancement.** –

(1) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy - raiyat unless the landlord has tendered to the raiyat a draft of an agreement to pay the enhanced rent, and the raiyat has within three months before the institution of the suit refused to execute the agreement.

(2) A landlord desiring to tender a draft of an agreement to a raiyat under this section may file it in the office of such Court or officer as the State Government appoints in this behalf for service on the raiyat. The Court or officer shall forthwith cause it to be served on the raiyat in the prescribed manner, and when it has been so served it shall for the purposes of this section be deemed to have been tendered.

(3) If a raiyat on whom a draft of an agreement has been served under sub-section (2) executes the agreement, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(4) When an agreement has been executed and filed by a raiyat under sub-section (3), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(5) If the raiyat does not execute the agreement and file it under subsection (3), he shall be deemed for the purposes of this section to have refused to execute it.

(6) If a raiyat refuses to execute an agreement of which a draft has been tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(7) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment subject to the provisions of this Act, unless he has acquired a right of occupancy.

(8) If the raiyat does not agree to pay the rent so determined the Court shall pass a decree for ejectment.

(9) In determining what rent is fair and equitable the Court shall have regard to the rents generally paid by raiyats for land of a similar description and with like advantages in the same village.

(10) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

**6. Explanation of "admitted to occupation". –**

Where a raiyat has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this Chapter, not with standing that the lease may purport to admit him to occupation.

**The End**