

## Bihar Tenancy Act

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Topic- Discussion of “occupancy right is inherent in the status of Raiyat”.

#### Continuance of existing occupancy rights:

Every *Raiyat* who cultivated or held land for 12 years had a right of occupancy in the land so cultivated by him whether held under a *patta* or not; but this rule did not apply to lands locally known as *Manjihahas*, *Man* or *Saika*, nor to *Khamar*, *Nij Jote*, or *Sir* land belonging to the proprietor of the estate or tenure and let by him on a lease for a term or year by year.

The holding of the father or other person from whom the *Raiyat* inherited was to be deemed the holding of the *Raiyat*. A *Raiyat* could contract himself out of his status.

#### Acquisition of occupancy rights by custom:

It has been found during the Settlement operations in Ranchi and Singhbhum that as a matter of fact there is usually no difference recognized between the status of a new *Raiyat* and an old *Raiyat*.

It is found, however that occupancy rights do not accrue by custom in lands leased out on produce rent, locally known as *Adhbatai*, *Sanjha*, *Saika* and *Maswar*. The tenants of the lands held on this system are by local usage and custom liable to ejection, at the will of the landlord. Occupancy Rights which accrue by custom are equally valid with those which accrue under the statutory law, provided they are not inconsistent with it.

#### Settled Raiyats:

To acquire occupancy rights in land, a *Raiyat* must have held it for a period of 12 years; and, if he became a tenant of new lands, he could not obtain occupancy rights in them, until after the lapse of 12 years from the date when he took the lease. Applying the criterion of 12 years

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possession it was found during the settlement operations in Ranchi district, that about 1/3<sup>rd</sup> of the total number of *Raiyati* tenancies were non-occupancy holdings.

Under the present law, a *Raiyat*, who is settled *Raiyat* of the village obtains a right of occupancy in all lands held by him as a *Raiyat* in the village.

### **Difference between an Occupancy Raiyat and a Settled Raiyat:**

Every occupancy *Raiyat* is not necessarily a settled *Raiyat*. Thus, the occupancy right in a holding may be purchased, when a *Raiyati* tenancy is sold by the court for arrears of rent. But, the purchaser may not be a settled *Raiyat* or even a *Raiyat* of the village. The status of an occupancy *Raiyat* cannot be transferred at all. The latter status can only be acquired by cultivating land in the village for a period of 12 years, or by inheritance from a settled *Raiyat*.

Again occupancy rights accrue at once in the class of lands known as *Korkar*. But, the *Raiyat* who has prepared the *Korkar*, may not be a settled *Raiyat* of the village.

### **occupancy right is inherent in the status of Raiyat:**

#### **Under-raiyat within the ceiling area of raiyat to acquire status of raiyat. - (1)**

Subject to the other provisions of this Act, every under-*raiyat* of a *raiyat*, holding land in excess of the ceiling area on the date of commencement of this Act, shall, in respect of land not resumed under Section 13, be deemed to have acquired the status of an occupancy *raiyat* if no application for resumption is made within the period specified in sub-section (2) of Section 13, on the expiry of the said period, and where such an application has been made, on the date the application is finally rejected and the right, title and interest of the *raiyat* in such land shall be deemed to have been extinguished with effect from the date of such expiry or rejection, as the case may be:

Provided that notwithstanding the acquisition of such status, he shall not have the right to transfer the land until the entire amount of compensation payable under clause (ii) of sub-section (2) has been paid.

(2) (i) The land in respect of which the under-*raiyat* is deemed to have acquired the status of an occupancy *raiyat* under sub-section (1) shall, for the purpose of payment of compensation to the *raiyat*, under whom he held it, be deemed to have been acquired by the State Government under this Act.

(ii) The under-*raiyat* shall pay to the State Government on account of the acquisition of the status of an occupancy *raiyat* in the land under sub-section (1), such amount as if specified in this behalf in the Schedule.

(iii) The amount payable by the under-*raiyat* to the State Government under clause (ii) shall be a charge on the land and shall take priority over all other claims on the land.

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**Under-raiyat on surplus land to acquire status of raiyat.** - [(1) If there is an under-*raiyat* on the surplus land on the date it vests in the State under the provisions of this Act, such under-*raiyat* shall, if he makes an application in this behalf in the prescribed manner, be allowed to retain as occupancy *raiyat*, subject to payment in the prescribed manner and within the prescribed period to the State Government the amount specified in this behalf in the Schedule, so much of the land as together with all the other lands held by him anywhere in the State does not exceed the area he may hold under Section 5.]

(2) If the under-*raiyat* refuses or fails to make the application within the said period, he shall be liable to be ejected by the Collector and where he is allowed to retain the land under sub-section (1), he shall not have any right to transfer the land until the entire amount he is liable to pay to State Government under sub-section (1) has been paid.

(3) The amount payable by the under-*raiyat* as to the State Government under sub-section (1) shall be a charge on the land and shall take priority over all other claims on the land.

**The End**