

R.M.M. Law College, Saharsa

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L.L.B Part- 3rd

Subject- Bihar Privileged Persons Homestead Tenancy Act, 1947

Paper- 4th

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Topic- What are the Land, Building and other areas where Bihar Privileged persons Home Stead Tenancy Act, 1947 does not apply? What are the Grounds on which a privileged tenant may be ejected?

Bihar Privileged Persons Homestead Tenancy Act, 1947

An Act to make better provisions on certain subjects relating to the law of Landlord and tenant in respect of Homestead held by certain classes of persons in Rural Areas of State of Bihar.

Whereas it is expedient to make better provisions on certain subjects relating to the law of landlord and tenant in respect of homestead held by certain classes of persons in rural areas of the State of Bihar.

Act not to apply to certain lands, buildings or areas. –

This Act shall not apply to-

(a) any land or building, residential or otherwise-

(i) appertaining to an industrial establishment;

(ii) vested in the Government or a local authority; and

(b) any land situated within-

(i) any area which has been, or may hereafter be, constituted a municipality or notified area under the provisions of the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) or a Union Committee constituted under Section 38 of the Bihar and Orissa Local Self-Government Act of 1885 (Bengal Act III of 1885);

(ii) vested in the Government except homestead deemed to have been acquired by the State Government under sub-section (2) of Section 17A, or a local authority;

(iii) any other area which is declared by the State Government by notification issued in this behalf to be a place of business or fair;

[Provided that if any area in which a privileged person or a privileged tenant has acquired any right in his homestead under this Act, is subsequently converted into an area mentioned in sub-clause (1) of clause (b), the privileged person or the privileged tenant, as the case may be, shall not be divested or deprived of his right in the homestead.]

Grounds on which a privileged tenant may be ejected. –

(1) A privileged tenant shall be liable to ejectment on the following grounds and not otherwise, namely –

(a) on the ground that he has used the holding or any part thereof in a manner which renders the holding unfit for the purposes of the tenancy.

(b) on the ground that he has failed to pay the rent of the holding for two years:

Provided –

firstly, that no privileged tenant shall be so ejected except in execution of an order for ejectment passed by the Collector [x x x]

secondly, that no such order passed on the ground referred to in clause (b) shall be executed, if the full amount of the arrears of rent together with interest, if any; or where there has been a decree for such arrears, the amount payable under such decree is deposited with the Collector within three months from the date on which the order was signed;

thirdly, that before executing an order for ejectment, the Collector shall grant such time as he may consider reasonable to the privileged tenant for removing the materials of the building, if any, erected by the Privileged tenant on such holding or any part thereof;

[fourthly, that no privileged tenant shall be ejected unless he holds at least one-tenth of an acre, being land in the village in which his homestead is situate, which is, in the opinion of the Collector suitable for erecting a building for residential purpose.]

(2) The following shall not be deemed to render any holding unfit for the purposes of the tenancy, namely -

(a) the planting of trees and bamboos and growing of crops on a portion of the holding;

(b) the manufacture of bricks and tiles for domestic purposes of the privileged tenant and his family; and

(c) the digging of wells intended to provide supply of water for drinking or for domestic purposes of the privileged tenant and his family.

(3) & (4) [Deleted by Amendment Act 11 of 1989.]

(5) If a privileged tenant has been ejected by his landlord [or any other person] from his homestead or any part thereof, otherwise than in accordance with the provision contained in sub-section , then the tenant may apply to the Collector for restoration of his possession over the homestead or part thereof from which he has been so ejected.

(6) The Collector may on receipt of an application under sub-section , or on his own motion, after making such enquiry as he deems fit, order that privileged tenant shall be put in possession of the homestead or part thereof from which he has been so ejected.

(7) If a privileged tenant is threatened with unlawful ejection from his tenancy or any portion thereof by his landlord, the Collector may, of his own motion or on application made in this behalf by the privileged tenant initiate a proceeding for preventing the landlord from ejecting the privileged tenant, and may, after hearing the parties, for which due notice shall have been given to them or even after ex-parte hearing in cases of emergency, by an order, giving reasons therefor in writing, restrain the landlord from ejecting the privileged tenant; Provided that where an ex-parte order has been made, the Collector shall, as soon thereafter as possible hear, the parties after giving due notice to them and may, for reasons to be recorded in writing confirm the order but, if after such hearing he finds that there is no reasonable grounds for such owner he will set aside the same and reject the prayer.

(8) If the person against whom an order has been made under sub-section fails to carry out the order of the Collector within such time, if any, as may be specified in the order: or if the person against whom an order has been made under sub-section disobeys that order, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(9) An offence under sub-section shall be cognizable for which any Police office may arrest without warrant.

(10) No court shall take cognizance of an offence punishable under subsection except with the previous sanction of the Collector.

The End