

President's Act No. 2 of 1968

THE CALCUTTA *THIKA* TENANCY (AMENDMENT) ACT, 1968

[26th March, 1968.]

Enacted by the President in the Nineteenth Year of the Republic of India.

An Act further to amend the Calcutta Thika Tenancy Act, 1949.

6 of 1968.

In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968, the President is pleased to enact as follows:—

1. This Act may be called the Calcutta *Thika* Tenancy (Amendment) Act, 1968. Short title.

West Bengal Act II of 1949.

2. In sub-section (2) of section 1 of the Calcutta *Thika* Tenancy Act, 1949 (hereinafter referred to as the principal Act), the following words and figures shall be, and shall be deemed always to have been, omitted, namely:— Amendment of section 1.

Bengal Act II of 1866.

“such suburbs of Calcutta as may have been or may hereafter be notified under section 1 of the Calcutta Suburban Police Act, 1866 and are not included within Calcutta as so defined and also”.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force or in any rule, order or notification or in any contract, express or implied and notwithstanding any decision of any court, tribunal or other authority to the contrary.

Act to override other laws, etc.

West Bengal Ordinance 1X of 1967.

4. The provisions of this Act shall apply to all suits, appeals and other proceedings (including proceedings in execution) pending at the commencement of the Calcutta *Thika* Tenancy (Amendment) Ordinance, 1967.

Act to apply to certain suits, appeals, etc.

[President's Act

Validation.

5. Anything done or any action taken contrary to the provisions of clause (b) of sub-section (1) of section 6 of the West Bengal Estates Acquisition Act, 1953 in respect of any land situated within such suburbs of Calcutta to which the provisions of the principal Act had, before the commencement of the Calcutta *Thika* Tenancy (Amendment) Ordinance, 1967, extended, shall be deemed to have been as validly done or taken as if the principal Act had not extended to the said suburbs of Calcutta when such thing was done or such action was taken.

West
Bengal
Act I of
1954.West
Bengal
Ordinance
IX of
1967.Repeal
and
saving.

6. (1) The Calcutta *Thika* Tenancy (Amendment) Second Ordinance, 1968 is hereby repealed.

West
Bengal
Ordinance
VI of 1968.

(2) Notwithstanding such repeal, anything done or any action taken (including any order made, proceeding commenced, obligation or liability incurred), or deemed to have been done or taken, under the principal Act as amended by the said Ordinance shall continue to be in force and shall be deemed to have been validly done, taken, made, commenced or incurred, as the case may be, under the principal Act as amended by this Act as if this Act were in force on the day on which such thing was done, such action was taken, such order was made, such proceeding was commenced or such obligation or liability was incurred.

2 of 1968.]

Reasons for the enactment

The Garden Reach Municipal area is outside the area described in Schedule I to the Calcutta Municipal Act, 1951 (West Bengal Act XXXIII of 1951) and as such the West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954) extends to this area. Accordingly, in the last Revisional Settlement Operation, the record-of-rights was prepared showing the *thika* tenants there as tenants holding directly under the State.

2. The retrospective introduction of the *Explanation* to clause (b) of sub-section (1) of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954), by the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Bengal Act IX of 1961), which entitled an intermediary to retain land appertaining to buildings and structures owned by a *thika* tenant as defined in the Calcutta *Thika* Tenancy Act, 1949 (West Bengal Act II of 1949), however, created in the area a serious problem, the full implication of which came to light when the *thika* tenants faced ejection for not paying rent to the intermediaries although they had paid the rent to the State Government.

3. With a view to removing the anomalous position and regularising the action already taken in vesting the intermediary interests in the State, it was considered necessary that the Calcutta *Thika* Tenancy Act, 1949 (West Bengal Act II of 1949) should be so amended as to take out, with retrospective effect, the Garden Reach Municipal area which was notified under section 1 of the Calcutta Suburban Police Act, 1866 (Bengal Act II of 1866), from the area within which the Calcutta *Thika* Tenancy Act, 1949 (West Bengal Act II of 1949) applied.

4. The Calcutta *Thika* Tenancy (Amendment) Ordinance, 1967 (West Bengal Ordinance IX of 1967) was accordingly promulgated by the Governor of West Bengal.

5. The Legislature of West Bengal having had a session on the 29th November, 1967, the Ordinance was due to expire on the 9th January, 1968. In order to continue the provisions of the Ordinance, the Governor of West Bengal promulgated the Calcutta *Thika* Tenancy (Amendment) Second Ordinance, 1968 (West Bengal Ordinance VI of 1968).

6. The proposed measure seeks to replace the Calcutta *Thika* Tenancy (Amendment) Second Ordinance, 1968 (West Bengal Ordinance VI of 1968).

7. As it is not practicable to refer the present legislation to the Consultative Committee of Parliament on West Bengal legislation, it has been decided, in view of the urgency of the matter, to enact the present legislation without such reference.