

## **Jharkhand Buildings (Lease, Rent And Eviction) Control Act, 2000**

**4 of 1983**

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## **Jharkhand Buildings (Lease, Rent And Eviction) Control Act, 2000**

**4 of 1983**

### **PREAMBLE**

An Act to regulate the letting of building and the rent of such buildings and to prevent unreasonable eviction of tenants therefrom in the State of Jharkhand.

Be it enacted by the Legislature of the State of Bihar\* in the thirty third year of the Republic of India as follows:-

1. Assented by the President on 29.1.1983 and published in Bihar Gazette (Ex-ord.) No. 242 dated 21.2.1983.

\*. Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 has been adapted by the State of Jharkhand vide Notifn. No. 2754 dt. 14.11.2002 (published at Pg. 467).

### **1. Short title, extent and commencement :-**

(1) This Act may be called the Jharkhand Buildings (Lease, Rent and Eviction) Control Act, 2000.

(2) It applies to the whole of the State of Jharkhand.

**1**(3) Section 28 shall come in force immediately and the remaining provisions of this Act shall be deemed to have come into force on the 1st of April, 1981 and shall continue to remain in force:

Provided that the period between expiration of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1977 (Bihar Act XVI of 1977) and the commencement of this Act shall not-

(a) render recoverable any sum which during the continuation thereof was irrecoverable or affect the right of a tenant to recover

any sum which during the continuance of the Act was recoverable by him thereunder; or

(b) affect any liability incurred under that Act or any punishment incurred in respect of any contravention of that Act or any order made thereunder; or

(c) affect any investigation or legal proceeding in respect of any such liability or punishment as aforesaid, and any such investigation or legal proceeding may be instituted, continued or enforced, and any such punishment may be imposed as if that Act has not expired.

1. Vide supra this sub-section (3) may be read as "(3) It shall be in force from the 15th November, 2000".

## **2. Definitions :-**

In this Act unless there is anything repugnant in the subject or context:-

(a) "Appellate authority" means in respect of any local areas the Collector of the district in which such areas are situated and includes any other officer empowered by the State Government to perform the functions of an appellate authority;

(b) "Building" means any building, or hut or a part of the building or hut, let or to be let, separately for residential or non-residential purposes and includes-

(i) the garden, grounds and out houses, if any, appurtenant to such building or hut or part of such building or hut, and

(ii) any furniture supplied by the landlord for use in such building or hut or part of building or hut.

(c) "Controller" means in respect of any local areas comprised within the limit of sub-division, the Sub-Divisional Officer Incharge of the Sub-Division, and includes any other officer appointed in this behalf by the State Government to perform the functions of Controller under the Act.

(d) "Court" means the court having jurisdiction under the Code of Civil Procedure, 1908 (Act V of 1908), to entertain a suit by landlord against a tenant for recovery of possession of a building in respect of which a suit or application is filed under this Act.

(e) "Fair Rent" means the rent of a building determined or re-determined under sections 5, 6 & 7.

(f) "Landlord" includes the person who for the time being is receiving or is entitled to receive, the rent of the building, whether on his own account or on behalf of another, or on account or on behalf of for the benefit of himself and others or as an agent, trustee, executor, administrator, receiver, guardian or who would so receive the rent, to be entitled to receive the rent, if the building were let to a tenant;

(g) "Prescribed" means prescribed by rules under this Act.

(h) "Tenant" means any person by whom, or on whose account rent is payable for a building and includes-

(i) a person continuing in possession after the termination of the tenancy in his favour; and

(ii) a person who occupies a building as an employee of the landlord of such building either on payment of rent or otherwise;

(iii) in the event of death of the person continuing in possession after the termination of his tenancy subject to the order of

succession and condition specified, respectively, in Explanations I and II to this clause, such of the aforesaid persons-

(a) spouse.

(b) son or unmarried daughter or where there are both, both of them.

(c) parents.

(d) daughter-in-law, being the widow of a pre-deceased son, as had been ordinarily residing in the premises with such person as a member or members of his family up to the date of his death, but does not include any person against whom an order or decree for eviction has been made.

Explanation .-The order of succession in the event of the death of the person continuing in possession after the termination of his tenancy, shall be as follows:-

(a) firstly, by his surviving spouse;

(b) secondly, his son or unmarried daughter or both if there is no surviving spouse, or if the surviving spouse did not ordinarily reside with the deceased person as a member of his family up to the date of his death;

(c) thirdly-his parents, if there is no surviving spouse, son or unmarried daughter of the deceased person or if such surviving spouse, son or unmarried daughter or any of them; did not ordinarily reside in the premises as a member of the family of deceased person up to the date of his death; and

(d) fourthly-his daughter-in-law, being the widow of his pre-deceased son, if there is no surviving spouse, son, unmarried

daughter or parents of the deceased person, or any of them or if such surviving spouse, son, unmarried daughter or parents or any of them did not ordinarily reside in the premises as a member of the family of deceased person up to the date of his death.

Explanation II.-If the person, who acquires by succession, the right to continue in possession after the termination of tenancy, was not financially dependent on the deceased person on the date of his death, such successor shall acquire such right for a limited period of one year and on the expiry of the period or on his death whichever is earlier, the right of such successor to continue in possession after the termination of the tenancy shall become extinguished.

Explanation III.-For the removal of the doubts, it is hereby declared-

(a) where due to Explanation II, the right of any successor to continue in possession after the termination of the tenancy, is extinguished, such extinguishment shall not affect the right of any other successor of the same category, the right to continue in possession after the termination of the tenancy shall not, on such extinguishment, pass on to any other successor specified in any lower category or categories, as the case may be.

(b) the right of every successor referred in Explanation I, to continue in possession after the termination of tenancy shall be personal to him/her and shall not on the death of such successor devolve on any of his heirs.

### **3. Premium, Salami, fine or advance of more than one months rent not to be claimed or received :-**

It shall not be lawful for any person to claim or receive, in consideration of the grant, renewal or continuance of a tenancy of any building, the payment of any premium, salami, fine or any other like sum in addition to the rent or payment of any sum exceeding one months rent of such building as rent in advance.

#### **4. Enhancement of rent of buildings :-**

Notwithstanding anything contained in any agreement or law to the contrary, it shall not be lawful for any landlord to increase or claim any increase in the rent which is payable for the time being, in respect of any building except in accordance with the provisions of this Act.

#### **5. Determination of fair rent of buildings in occupation of tenants :-**

(1) When, on application by the landlord or by the tenant in possession of a building or otherwise, the Controller has reason to believe that the rent of that building is low or excessive, he shall hold a summary enquiry and record a finding.

(2) If, on a consideration of all the circumstances of the case including any amount paid by the tenant by way of premium or any other like sum in addition to the rent, the Controller is satisfied that the rent of the building is low or excessive he shall determine the fair rent for such building.

#### **6. Determination of fair rent of buildings not in occupation of tenants :-**

The Controller may, on his own motion, and shall on the application of the landlord or a prospective tenant and after making such enquiry, as he may think fit, determine the fair rent for any building not in the occupation of a tenant.

#### **7. Re-determination of fair rent in certain cases :-**

(1) If at any time after the fair rent of a building has been determined under section 5 or 6, it appears to the Controller that subsequent to such determination some addition, improvement or

alteration not included in the repairs, which the landlord is bound to make under any law, contract or custom, has been made to the building at the landlords expense, the Controller may after making such inquiry, as he thinks fit, re-determine the fair rent of the building.

(2) Any increase in the fair rent allowed under sub-section (1) shall not in any month exceed 5/8th percent of the cost of the addition, improvement or alteration.

### **8. Matters to be considered in determining fair rent :-**

(1) (a) For the purposes of this Act the fair rent of a building shall be determined as for a tenancy from month to month.

(b) The fair rent of a building shall be determined in accordance with the rule framed for this purpose.

(c) In determining the fair rent of any <sup>1</sup>[xxxxxx] building under section 5 or 6, the Controller shall have due regard to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances at any time during the twelve months preceding the first day of <sup>2</sup>[December 1980, and to the increased cost of repairs, and in the case a building which has been constructed after that date, also to any general increase in the cost of site and building construction:

Provided that where the Controller is satisfied, on an application made to him by the landlord under section 5, that the rent of a building referred to in this clause is low, the Controller shall, in determining the fair rent of such building to be payable by a tenant, fix the rent of the building at a figure which shall not be less than the average monthly rent actually paid for the same or similar accommodation by any tenant over the period of twelve months preceding [the first day of December, 1980, increased by not more than 25 per cent of the average monthly rent so received by the landlord during the aforesaid period in addition to the

enhancement, if any, on account of the increased cost of repairs or the general increase in the cost of sites and building construction, where such enhancement is admissible under the foregoing provision of this clause.

Explanation.- For the purposes of this clause, where rent was charged by the landlord or actually paid by the tenant for the same building over the aforesaid period on any other than a monthly basis, the average monthly rent for such building shall be calculated at thirty times the average rent per day of the period in respect of which the rent was charged or actually paid.

(2) When the fair rent of a building has been determined or redetermined, any sum in excess or short of such fair rent paid, in respect of occupation for any period after such date shall in case of excess, be refunded to the person by whom it was paid or at the option of such person be otherwise adjusted and, in case of shortage be realised by the landlord as arrears of rent from the tenant:

Provided that if a building is let out subsequent to the determination or re-determination of a fair rent, on a rent which is less than the fair rent, so determined or re-determined, the landlord shall not be entitled at any time to realise the difference between the fair rent and the rent at which the tenant was admitted to occupation.

1. Deleted by Act 4 of 1994.

2. Substituted by *ibid*.

## **9. Directions for repairs to the building :-**

(1) Every landlord shall carry out the repairs which he is bound, under any law, contract or custom, to make to a building in the possession of tenant.

Explanation,-In this sub-section "repairs" include annual white-

washing, re-colouring and periodical repairs.

(2) If the landlord fails to carry out annual white-washing, re-colouring and periodical repairs, which he is bound to make, the tenant may by notice require him to carry out the same within one month from that date of service of the notice and, on the landlords failure to do so within the said period, the tenant may himself carry out the same at a cost not exceeding one months rent for the building and deduct such cost from the rent.

(3) If the landlord neglects to carry out repairs, other than those referred to in sub-section (2), which he is bound to make, the Controller shall, on application by the tenant, which shall specify the approximate cost of such repairs, cause a notice to be served on the landlord to appear and show cause, within such time as may be fixed against the application.

(4) If the landlord does not appear in obedience to the notice or if he appears but fails to satisfy the Controller as to why he should not be directed to carry out the repairs or such of them as he finds the landlord is bound to make, the Controller shall after making such further inquiry as may be necessary direct him to carry out the same within a time to be fixed, and on the landlords failure to comply with such direction, the Controller may permit the tenant to carry out such repairs at a cost not exceeding such amount as may be specified in the order and to recover such cost from the landlord. It shall, thereafter, be lawful for the tenant to make such repairs and to deduct the cost thereof from the rent or to recover it otherwise from the landlord as if it were a debt due to him by the landlord:

**1**[Provided that if, the Controller is satisfied that the repairs involved were due to the negligence of the tenant, he will order the tenant to make such repairs and the cost of repair shall be borne by the tenant and the same shall not be recoverable from the landlord by deduction from the rent.]

## **10. Landlord not to interfere with amenities enjoyed by the tenant :-**

(1) No landlord shall, without just or sufficient cause cut-off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in possession of a building may, if the landlord has contravened the provisions of sub-section (1) make an application to the Controller complaining of such contravention and may restore any of the amenities on his own responsibility, pending consideration of his application by the Controller.

(3) If the Controller on enquiry is satisfied that the landlord has without just or sufficient cause cut-off or withheld any of the amenities enjoyed by the tenant at the time of the commencement of the tenancy or at any time thereafter, he shall-

(i) in case such amenity has already been restored by the tenant make an order directing the landlord to pay to the tenant the cost of such restoration as determined by him within such time as may be specified in the order; and

(ii) in any other case, direct the landlord to restore such amenity at such cost and within such time as may be determined by him and also that in case the landlord fails to do so, the amenity may be restored by the tenant at his own cost and such amount as may be specified in the order may be recovered by the tenant as the cost of the restoration either by adjustment towards the rent payable by him or as if the amount were a debt due to him by the landlord.

Explanation.-In this section amenities include supply of water, electricity lights in passages and on staircases, lifts and conservancy or sanitary services.

## **11. Eviction of tenants :-**

(1) Notwithstanding anything contained in any contract or law to the contrary but subject to the provisions of the Industrial Disputes Act, 1947 (Act XIV of 1947), and to those of Section 18, where a tenant is in possession of any building, he shall not be liable to eviction there from except in execution of a decree passed by the Court on one or more of the following grounds:-

(a) for breach of the conditions of the tenancy, or for sub-letting the building or any portion thereof without the consent of the landlord, or if he is an employee of the landlord occupying the building as an employee, on his ceasing to be in such employment;

(b) where the condition of the building has materially deteriorated owing to acts of waste by, or negligence or default of the tenant or of any person residing with the tenant or for whose behaviour the tenant is responsible;

(c) where the building is reasonably and in good faith required by the landlord for his own occupation or for the occupation of any person for whose benefit the building is held by the landlord:

Provided that where the Court thinks that the reasonable requirement of such occupation may be substantially satisfied by evicting the tenant from a part only of the building and allowing the tenant to continue occupation of the rest and the tenant agrees to such occupation, the Court shall pass a decree accordingly, and fix proportionately fair rent for the portion in occupation of the tenant, which portion shall henceforth constitute the building within the meaning of clause (b) of Section 2 and the rent so fixed shall be deemed to be the fair rent fixed under section 5;

Explanation I.-In this clause the word "landlord" shall not include an agent referred to in clause (f) of Section 2.

Explanation II.-Where there are two or more premises let out by the landlord, it will be for the landlord to choose which one would be preferable to him and the tenant or tenants shall not be allowed

to question such preference.

(d) where the amount of <sup>1</sup>[two months rent, lawfully payable by the tenant and due from him is in arrears by not having been paid within the time fixed by contract or in the absence of such contract, by the last day of the month next following that for which the rent is payable or by not having been validly remitted or deposited in accordance with Section 16;

(e) in case of a tenant holding on a lease for a specified period, on the expiry of the period of the tenancy; and

(f) the landlord requires the premises in <sup>1</sup>[order to carry out any building work at the instance of the Government or the Municipality or Municipal Corporation or the Notified Area Committee or the Regional Development Authority or any other Authority within whose jurisdiction the building lies and such building work cannot be properly and fully carried out without the premises being vacated.

(2) (a) Where a servant of the Government in possession of any building as a tenant intends to vacate such building he shall give fifteen days previous notice in writing of his intention to do so to the landlord and to the District Magistrate who shall under intimation to the landlord within a week of the receipt of the notice, either allot the building to any other servant of the Government whom the District Magistrate thinks suitable subject to the payment of rent, and the observance of the conditions of the tenancy by such servant of the Government or direct that the landlord shall be put in possession of the building:

Provided that when no such order is passed by the District Magistrate, the landlord shall be deemed to have been put in possession of the building.

(b) Where a building is vacated by a servant of the Government any person occupying such building other than the person referred

to in clause (a) shall be liable to be evicted by the District Magistrate in such manner as may be prescribed:

Provided that after a landlord has been or is deemed to have been put in possession of such building, he may let it to any person.

1. Substituted by Act 4 of 1994 for "three months."

**12. Binding nature of the order of the Court on all persons in occupation of the building :-**

Notwithstanding anything contained in any other law, where the interest of tenant, in any premises is determined for any reason, whatsoever, and any order is made by the Court under this Act, for the recovery of possession of such premises, the order shall be binding on all persons who may be in occupation of the premises and vacant possession thereof shall be given to the landlord by evicting all such persons therefrom:

Provided that nothing in this section shall apply to any person who has an independent title to such a premises or [XXX] to tenant who has been inducted with the express written permission of the landlord himself personally.

**13. The provisions of Section 14 to have overriding effect :-**

The provisions of section 14 or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this or in any other law for the time being in force.

**14. Special procedure for disposal of cases for eviction on ground of bonafide requirement :-**

(1) Every suit by a landlord for the recovery of possession of any premises on the ground specified in clause (c) or (e) of sub-section (1) of section 11 shall be dealt with in accordance with the procedure specified in this section.

(2) The Court shall issue summons in the prescribed form in every suit referred in sub-section (1) without delay.

(3) (i) The Court shall, in addition to, and simultaneously with the issue of summons for service on the tenant or tenants, also direct the summons to be served by registered post with acknowledgement due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require also direct the publication of the summons in the official gazette or in newspapers circulating in the locality, in which the tenant is last known to have resided or carried on business or personally worked for gain.

(ii) When an acknowledgement purporting to be signed by the tenant or his agent is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent has refused to take delivery of the registered article, the court may declare that there has been a valid service of summons.

(4) The tenant on whom summons is duly served (whether by ordinary mail or by registered post) shall not contest the prayer for eviction from the premises unless he files an affidavit stating the ground on which he seeks to make such contest and obtains leave from the Court as hereinafter provided; and in default of the appearance in pursuance of the summons or his obtaining such leave the statement made by the landlord in the suit for eviction shall be deemed to be admitted by the tenant and the landlord shall be entitled to an order for eviction on the ground aforesaid.

(5) The Court shall give to the tenant leave to contest the suit if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for eviction on the grounds specified in clauses (c) and (e) of sub-section (1) of Section 11.

(6) When leave is granted to the tenant to contest the suit, the latter may, within fifteen days from the date of the order, pray after filing the requisite Court fee, required for a written statement that the affidavit may be treated as the written statement or if he chooses to file a separate written statement he may do so within fifteen days of the grant of leave to contest the suit and if he does not file the written statement within the period he shall not be allowed to do so later. The Court shall thereafter commence the hearing of the suit as early as practicable.

(7) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908) or any other law, the Court while hearing a suit under this section shall follow the practice and procedure of a Court of Small Causes including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made in accordance with procedure specified in this section:

Provided that on an application being made within sixty days of the date of the order of eviction the High Court may for the purpose of satisfying itself that an order under the section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court in revision as laid down in sub-section (8) above, the Court, which passed the order for eviction may exercise the powers of review in accordance with the provision of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908):

Provided that no such review shall be made unless an application is filed for the same within ninety days of the date of order of eviction.

#### **14A. Special provisions for active/ex-servicemen of Military**

**:-**

**1**[ (1) Where the landlord has been in active military service or is ex-servicemen or has been discharged or retired from service or is to retire or has died while in such active service and any member of his family is in actual necessity of house, then on an application being filed by the landlord or any member of his family, the competent court after issuing notice of fifteen days and on being satisfied after hearing that the claim of the landlord is genuine, by order, shall direct the tenant to give possession of the house to the landlord or his family member and if the Court is not satisfied with the claim of such landlord, it shall pass order rejecting the application:

Provided that if the landlord or his widow has more than one residential house, then such landlord or his widow shall have no right to take back possession of more than one house or if the Ex-serviceman has rented anyone house to the present tenant after his retirement, in such circumstances the right to have possession of one residential house shall be limited to only one application of landlord or his widow or his authorized person;

(2) (a) The Court on the receipt of application shall issue summon to the tenant within seven days of filing the application.

(b) In addition to this, the Court shall direct to send summon to the tenant or his agent by registered post with acknowledgement and also to stick the second copy of the summon on any conspicuously visible portion of the house.

(c) If the summon with the registered post is returned with the endorsement of the postman that the tenant or his agent has refused to take the summon, the Court after enquiry as it may think fit and being satisfied with the endorsement, may declare that the summon has been legally served on the tenant.

(d) The tenant against whom service of summon has been declared valid, will have no right to oppose the petition of eviction till an affidavit within fifteen days of service of summon is filed mentioning the reasons on the basis of which he opposes the petition of eviction and obtains the permission of the Court on it. In case of failure of his appearance and obtaining Courts permission, the statement of the landlord or his widow, father, mother, son, grandson, or widow daughter-in-law, as the case may be, shall be deemed to be accepted by the tenant and the petitioner shall be entitled for the order of eviction of the tenant.

(e) The Court within fifteen days of the filing of such affidavit, shall give permission to the tenant to oppose the application if the tenant has disclosed such facts which can debar the landlord, his widow, father, mother, son, grandson or widow daughter-in-law in getting back the possession of that residential house.

(f) Where permission to oppose the application has been granted to the tenant, the Court shall not fix the date more than one month from the date of permission given to the tenant to oppose the application and hearing of the application shall continue day to day till the disposal of the case and as far as possible the decision shall be given within two months from the commencement of the hearing.

(g) The Court shall give appropriate time to the tenant to give back The possession of the residential house to the landlord, his widow, father, mother, son, grandson or widow daughter-in-law, as the case may be, but will not extend that time altogether more than two months.

(h) Where such proceeding of enquiry in which this section is applicable including the recording of the statements of witnesses the Court will follow the procedure of a Court of Small Causes.

(3) No appeal shall lie against the order of the Court to give possession of any residential house as per procedure laid down in this section:

Provided that the revision petition may be filed in the High Court within sixty days from the date of the order of eviction.

(4) No Court other than the High Court, shall stay the operation of eviction during the pendency of the revision petition filed under subsection (3) of this section.

(5) Where the tenant has been evicted from the residential house and the landlord or his widow, father, mother, son, grandson or widow daughter-in-law, as the case may be, does not occupy within three months continuously from the date of eviction or let out the house or a portion thereof to a person other than the evicted tenant within three years of eviction of the tenant, then the evicted tenant may file application in the Court for order for restoration of possession of that residential house to him on the same terms and conditions which were applicable at the time of his eviction and the Court shall pass order accordingly and also order to pay cost.]

1. Inserted by Act 4 of 1994.

**15. Deposit of rent by tenants in suits for ejectment :-**

(1) If, in a suit for recovery of possession of any building the tenant contests the suit as regards claim for ejectment, landlord may move an application at any stage of the suit for order on the tenant to deposit rent month by month at a rate at which it was last paid and also subject to the law of limitation, the arrears of rent, if any, and the Court after giving opportunity to the parties to be heard, may make any order for deposit of rent month by month at such rate as may be determined and the arrears of rent, both before <sup>1</sup>[or] after the institution of the suit if any and on failure of the tenant to deposit the arrears of rent within fifteen days of the date of order or the rent at such rate for any month by the fifteenth day of the next following month; the Court shall order the defense against ejectment to be struck-off and the tenant to be placed in the same position as if he had not defended the claim to ejectment and further the Court shall not allow the tenant to cross-examine the landlords witnesses.

(2) If in any proceeding referred to in sub-section (1) there is any dispute as to the person or persons to whom the rent is payable the Court may direct the tenant to deposit in Court the amount payable by him under sub-section (1) and in such case no person shall be entitled to withdraw the amount in deposit until the Court decides the dispute and makes an order for payment of the same.

(3) If the Court is satisfied that any dispute referred to in sub-section (2) has been raised by a tenant for reasons which are false or frivolous the Court may order the defense against the eviction to be struck-off and proceed with the hearing of the suit as laid down in sub-section (1).

1. Substituted for "and" by Act 4 of 1994.

**16. Deposit of rent determined by the Controller during the pendency of appeal or revision :-**

**1**[The appellate authority or the Commissioner may, after giving an opportunity to the parties to be heard make an order for deposit of rent at such rate as may, be determined, month by month and arrears of rent, if any, and in case of non-compliance of this order, the appellate authority or the Commissioner shall order the defense against the fair rent order to be struck-off. The landlord may apply for permission to withdraw the amount of rent so deposited without prejudice to any other legal remedy to which he is otherwise entitled and the court may permit him to do so.

Where fair rent of any building has been determined by the Controller under provisions of the Act and the tenant prefers an appeal against the order of the Controller or makes an application for revision to the Commissioner against the appellate order, it shall be required of the tenant to pay the rent at the rate fixed by the Controller. Mandate of Section 16 commands upon the appellate authority or revisional authority to pass an order for payment of rent during the pendency of the appeal or revision, as fixed by the Controller and in any event the requirement of the tenant is to make such payment in the prescribed manner. In case the rent is

not deposited, the court u/s 16 shall order for striking out the defense against the fair rent, after giving opportunity to the parties of being heard. Shree Sheo Mandir Mahavir Mandir N. Samiti vs. State of Bihar, 1994(2) PLJR 712.

Every order passed by the Controller or appellate authority or revisional authority is to be treated as a decree and the execution of the same is to be made by such courts treating such orders as decree. No distinction can be made between one or the other type of order. Md. Khaliq Zaman vs. H.C. Joshi, 1999(1) PLJR 362.

When the writ court refused to interfere with the order passed by the appellate authority (DC) affirming the order passed by the Rent Controller, then it was not open to the Controller to arbitrarily fix the fair rent on the lower side. Dayalji Madhavji vs. State of Bihar, 2002(3) JLJR 430.

When an order at an interlocutory stage is challenged in revision and pending revision the main appeal itself is dismissed, normally, the revisional court can only decline jurisdiction on the ground that the revision has become infructuous. This is in keeping with the theory that final order being a dependant order would fall to the ground on the original order being interfered with. However this theory cannot be applied universally and would depend upon the facts and circumstances of a particular case. In a case where dismissal of the appeal finally has been left untouched, the theory cannot be invoked. Consequently even if an order directing the tenant to deposit the fair rent is set aside, it would not wipe off the default of the tenant to deposit the rent. Rajendra Behl vs. Commissioner, 2003(3) JLJR 527 (FB).]

1. Sub-section (1) deleted and sub-section (2) made original Section by Act 4 of 1994 (w.e.f. 14.2.1994).

### **17. When a tenant is entitled to restoration of possession and compensation :-**

Where the landlord recovers possession of any building from the tenant by virtue of a decree secured because of clauses (c) and (e)

of sub-section (1) of Section 11 and the building is not occupied by the landlord, or by the person for whose benefit the building is held, within one month of the date of vacation of the building by such tenant, or the building, having been so occupied is re-let within six months of the date of such occupation to any person other than such tenant without the permission of the Controller, the Court may, on the application of such tenant, made within one month of his vacating the building, and giving the landlord an opportunity of being heard, by order direct the landlord to put such tenant in possession of the building or to pay him such compensation as may be fixed by the Court or both.

### **18. Extension of period limited by lease :-**

(1) If a tenant in possession of any building, held on a lease for a specified, period, intends to extend the period limited by such lease, he may give the landlord, at least one month before the expiry of the period limited by the lease, a written notice of his intention to do so, and upon the delivery of such notice the said time shall subject to the provision of Section 11 be deemed to have been extended by double the period covered by the original lease subject to a maximum of one year only.

(2) Where the landlord to whom notice has-been given under sub-section (1) wishes to object to the extension demanded by the tenant on one or more of the grounds mentioned in sub-section (1) of Section 11 or on the ground that the landlord has any other good and sufficient cause for terminating the lease on the expiry of period limited thereby, he may within fifteen days of the delivery of such notice, apply to the Court in that behalf and the Court after hearing the parties may terminate the lease or extend the same for such period as it deems proper in the circumstances: Provided that the tenant shall not in any case be allowed to remain in possession of the building beyond the period permissible under sub-section (1).

(3) If the tenant fails to vacate the building on the termination of lease or as the case may be on the expiry of the period fixed by the Court under sub-section (2), the Court shall on an application by

the landlord pass an order for ejectment, which shall be executed as a decree and may further order that the tenant shall pay to the landlord such amount as may be determined by it as daily compensation.

**19. Deposit of rent by tenant on refusal of the landlord to accept it or in case of doubt or dispute as to the person entitled to receive it :-**

(1) When a landlord refuses to accept any rent lawfully payable to him by a tenant in respect of any building, the tenant may remit such rent, and continue to remit any subsequent rent which becomes due in respect of such building, by postal money order to the landlord.

(2) Where any <sup>1</sup>[bonafide doubt or dispute has arisen as to the person who is entitled to receive any rent in respect of any building, the tenant may deposit such rent in the prescribed manner, stating the circumstances under which such deposit is made, and, may until such doubt has been removed or such dispute has been settled by the decision of any competent Court or by settlement between the parties, continue to deposit in like manner, the rent that may subsequently become due in respect of such building.

(3) When a deposit has been made under sub-section (2), the amount of such deposit shall be held by the Controller pending the removal of the doubt or the settlement of the dispute, which has arisen as to the person, who is entitled to receive the rent, either by the decision of a competent Court or by settlement between the parties, and the amount of such deposit may be withdrawn by the person who is declared by such Court to be entitled to it or who is held by the Controller to be entitled to it in accordance with such settlement.

1. Substituted by Act 4 of 1994 (w.e.f. 14.2.1994).

**20. Tenant making payment of rent entitled to receipt :-**

(1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a receipt in the prescribed form for the amount of rent paid by him, duly signed by the landlord or his appointed agent.

(2) If a landlord, without reasonable cause fails to deliver the tenant a receipt, as required by sub-section (1), such landlord shall be liable to fine not exceeding double the amount of rent so paid to be imposed after summary inquiry by the Controller upon a complaint of the party aggrieved within three months from the date of such failure.

## **21. Controller to maintain list of fair rents :-**

(1) The Controller shall maintain up-to-date list showing the fair rents of buildings as determined or re-determined by him from time to time under this Act.

(2) A copy of the list shall remain in the office of the Controller available for inspection free of charge during office hours, and copies of the entries in such list may be granted by the Controller on payment of such charge, not exceeding rupee one per copy, as may be fixed by the Controller.

## **22. Powers of Controller to make enquiries and inspections :-**

(1) For the purpose of any enquiry under this Act the Controller may-

(a) enter and inspect any building at any time between sunrise and sunset or authorise any officer subordinate to him to so enter and inspect any building:

Provided that no building shall be entered, without the consent of the occupier, unless at least twenty four hours previous notice in writing has been given; and

(b) by written order, require any person to produce for his inspection such accounts, rent receipts, books or other documents relevant to the enquiry; at such time and at such place as may be specified in the order.

(2) The Controller shall, in so far as such powers are necessary for carrying out the provisions of this Act, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Court by the Code of Civil Procedure, 1908 (V of 1908).

**1**[ ( 3 ) The Controller, Appellate Authority and Divisional Commissioner in exercise of powers conferred upon them under this Act, shall, be treated as a Court under sections 195 and 340 of Criminal Procedure Code, 1973 (Act 2, 1974) and any proceeding before them shall be regarded as judicial proceeding under sections 193 and 228 of Indian Penal Code.]

1. Inserted by Act 4 of 1994 (w.e.f. 14.2.1994).

### **23. Execution of Orders of Controller and Commissioner :-**

Every order of the Controller passed under this Act, where no appeal against such order has been preferred under section 24, every order of the appellate authority on appeal under section 24 and every order of the Commissioner passed in revision under section 26 shall be executed by the court as if such orders were a decree passed by such court.

### **24. Appeal :-**

(1) Any person aggrieved by an order passed by the Controller

may, within fifteen days from the date of receipt of such order by him, prefer an appeal in writing to the appellate authority.

(2) On such appeal being preferred, the appellate authority, may-

(a) after perusing the memorandum of appeal and hearing the appellant, if necessary, summarily dismiss the appeal, or

(b) call for the records of the case from the Controller and after examining such records and, if necessary, making such further enquiry as he thinks fit decide the appeal.

(3) Subject to the provisions of Section 26 the decision of the appellate authority and subject only to such decision where an appeal lies, an order of the Controller shall be final, and shall not be liable to be questioned in any Court of law whether in suit or other proceeding by way of appeal or revision.

## **25. Award of costs :-**

In every order passed by the Controller under this Act, and, every order of the appellate authority or the Commissioner passed in appeal under section 24 or in revision under section 26, as the case may be, the authority passing such order may, if it thinks fit award cost to the person in whose favour the order is passed and the cost so awarded shall include such sum as compensation for the expense, trouble and loss of time incurred in, or incidental to, the hearing of the case as to the authority may deem just and reasonable.

## **26. Power of revision of Commissioner :-**

Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, either of his own motion or on application made to him in this behalf, revise any order passed by the Controller or by the appellate authority on

appeal under this Act.

**27. Notice to landlord or tenant by Controller before exercising powers under this Act :-**

Before exercising any of the powers conferred by this Act the Controller shall give notice of his intention to do so to the landlord and to the tenant, if any, and shall consider any application that may be received by him, within the period specified in the notice, from such landlord or tenant or from any other person likely to be affected by the exercise of such powers and shall hear the applicant, if so desired by him.

**28. Penalties :-**

(1) If any person contravenes any of the provisions of this Act he shall except as otherwise provided in Section 20, be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(2) Whoever fails to comply with any direction made or deemed to have been made under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine or with both:

Provided that the Court trying any offence under this section may order the whole or any part of the fine recovered to be applied to the payment to any person as compensation for any loss caused by the offence.

**29. Supply of certified copies of orders and decisions of Controller and Commissioner.-**

Any person affected by any order of the Controller or any decision of the appellate authority on appeal or any order of the Commissioner in revision made or passed under

this Act shall be entitled to be furnished with a copy thereof duly certified by the Controller, the Appellate Authority or the Commissioner as the case may be, to be a true copy on payment of such fee as may be prescribed, and such copy shall be admissible in evidence in any Court of law to prove the order of the Controller, the decision of the Appellate Authority on appeal or the order of the Commissioner in revision, as the case may be.

**30. Decisions which have become final not to be reopened**  
:-

The Controller shall summarily reject, any application which raises substantially the same issues as have been heard and finally decided in a former proceeding under this Act between same parties under whom they or any of them claim.

**31. Protection of action taken under the Act :-**

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made or deemed to have been made under this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under this Act.

**32. Act not to apply to buildings owned by Government and Trusts :-**

Nothing contained in this Act shall apply to a tenant whose landlord is the local authority or the State Government or the Central Government or the Jharkhand State Shwetamber Jain Trust Board or Jharkhand State Digamber Jain Trust Board or the Wakf which may be under the Jharkhand State Wakf Boards.

### **33. Power to make Rules :-**

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters namely-

(a) the manner of depositing rent under sub-section (2) of Section 19 and the manner of service of notice of such deposit of rent on the landlord;

(b) the form of receipt on account of payment of rent under this Act;

(c) charging or remitting of costs and fees under this Act and the fixing of the amount or the scale of such costs and fees;

(d) the manner of exercising the powers of revision by the Commissioner under section 26;

(e) any other matter by this Act required or expressly or impliedly authorised, to be prescribed.

### **34. Repeal and saving :-**

(1) The Bihar Buildings (Lease, Rent and Eviction) Control Ordinance, 1982 (Bihar Ordinance No. 63, 1982) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of powers

conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.