

Madras City Tenants Protection Act, 1921

03 of 1922

[21 February 1922]

CONTENTS

1. Short title and application
2. Definitions
3. Payment of compensation on ejectment
4. Disposal of suits for ejectment
5. Determination of the compensation awardable under section 4
6. Determination of rent
7. Application of landlord for fixing the rent
- 7A. Application by tenant
8. Effect of order under sections 6, 7, and 7-A
9. Application to Court for directing the landlord to sell land
10. Application of sections 4, 5, 6, 8 and 9 to certain suits and applications
11. Notice before institution of suits or applications against tenants
12. Effect of contracts made by tenants
13. Restriction on the application of the Transfer of Property Act

Madras City Tenants Protection Act, 1921

03 of 1922

[21 February 1922]

PREAMBLE

An Act to give protection to certain classes of tenants ²[in municipal towns and adjoining areas in the State of Madras.]

Whereas it is necessary to give protection to tenants who ³[in municipal towns and adjoining areas in the State of Madras] have constructed buildings on others' lands in the hope that they would not be evicted so long as they pay a fair rent for the land; ⁴[] It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, dated 36th July 1921, page 1491; for Report of the Select Committee, see *ibid*, dated 16th August 1921, pages 1493-1499; for proceedings in Council, see Proceedings of the Madras Legislative Council, Volume II, pages 223-235, and Volume III,

pages 962-1005, 1377 and 1438-1457.

2. These words were substituted for the words "in the City of Madras" by sub-section (I) of section 2 of the Madras City Tenants' Protection (Amendment) Act, 1955 (Madras Act XIX of 1955).

3. These words were substituted for the words " in many parts of the City of Madras " by clause (i), of sub-section (2) of section 2, *ibid*.

4. The words, figures and letter " and whereas the sanction of the Governor-General has been obtained under section 80-A (3) of the Government of India Act;" were omitted by clause (ii) of sub-section (2), of section 2, *ibid*.

1. Short title and application :-

(1) This Act may be called the Madras City Tenants Protection Act, 1921.

1[(2) It extends to the City of Madras and the State Government may, by notification in the fort St. George Gazette, extend this Act to any other municipal town and any specified village within five miles of the City of Madras or such municipal town with effect from such date as may be specified in the notification.

(3) This Act shall apply, in the City of Madras, only to tenancies of land created before the commencement of the Madras City Tenants Protection (Amendment) Act, 1955(Madras Act XIX of 1955), and in any municipal town or village to which this Act is extended by notification under sub-section (2), only to tenancies created before the date with effect from which this Act is extended to such town or village.]

1. These sub-sections were substituted for the original sub-sections (2) and (3) by section 3, *ibid*.

2. Definitions :-

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

(1) "Building" includes a house, out-house, stable, latrine, shod,

hut and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever.

¹[(1-A) "Improvement " means any work which materially adds to the value of the land, is suitable to it and consistent with the purpose for which the land was let.]

(2) " Land " does not include buildings.

(3) " Landlord " means any person owning any land, and includes every person entitled to collect the rent of the whole or any portion of the land, whether on his own account or on behalf of or for the benefit of any other person, or by virtue of any transfer from the owner or his predecessor in title or of any order of a competent court or of any provision of law.

(4) " Tenant " means tenant of land liable to pay rent on it, every other person deriving title from him, and includes persons who continue in possession after the termination of the tenancy.

1. Clause (I-A) was inserted by section 2 of the Madras City Tenants Protection (Amendment) Act, 1926 (Madras Act VI of 1926).

3. Payment of compensation on ejectment :-

Every tenant shall on ejectment be entitled to be paid as compensation the value of any building, which may have been erected by him, by any of his predecessors in interest, or by any person not in occupation at the time of the ejectment who derived title from either of them, and for which compensation has not already been paid. A tenant who is entitled to compensation for the value of any building shall also be paid the value of trees which may have been planted by him on the land ¹[and of any improvements which may have been made by him].

1. These words were added by section 3 (a), *ibid*.

4. Disposal of suits for ejectment :-

(1) In a suit for ejectment against a tenant in which the landlord succeeds, the court shall ascertain the amount of compensation, if any, payable under section 3 and the decree in the suit shall declare the amount so found due and direct that, on payment by the landlord into court, within three months from the date of the decree, of the amount so found due, the tenant shall put the landlord into possession of the land with the building and trees thereon.

(2) In an application under section 41 of the Presidency Small Cause Courts Act, 1882(Central Act XV of 1882), in which the landlord succeeds, the court shall ascertain the amount of compensation payable under section 3 and shall pass an interim order declaring the amount so found due and stating that, on payment by the landlord into court within three months of the date of the said interim order of the amount so found due, the landlord shall be entitled to the order contemplated by section 43 of the Presidency Small Cause Courts Act, 1882(Central Act XV of 1882).

(3) If in such suit or application the court finds that any sum of money is due by the tenant to the landlord for rent or otherwise in respect of the tenancy, the court shall set off such sum against the sum found due under sub-section (1) or sub-section (2), as the case may be, and shall pass a decree or interim order declaring as the amount payable to the tenant on ejectment the amount, if any, remaining due to him after such set-off.

(4) If the amount found due is not paid into court within three months from the date of the decree under subsection (1) or of the interim order under sub-section (2), or if no application is made under section 6, the suit or application, as the case may be, shall stand dismissed, and the landlord shall not be entitled to institute a fresh suit for ejectment, or present a fresh application for recovery of possession for a period of five years from the date of such dismissal.

5. Determination of the compensation awardable under section 4 :-

(1) The compensation awardable under section 4 shall be the value of the building and trees ¹[and of any improvements which may have been made by the tenant] on the date of the decree or interim order, as the case may be.

(2) In determining such value, the court may take into consideration the estimated cost of erecting a similar building, the amount to be allowed for depreciation and the amount spent on repairs.

(3) If, on account of any cause for which the tenant is responsible, the building, for which compensation has been adjudged under section 4, is destroyed or has deteriorated in value between the date of the decree or interim order and the date of ejectment, the court may, on application by the landlord, pass an order directing that he be placed in possession without paying any compensation, or on payment of the amount determined on a revaluation of the building as the case may be.

1. These words were inserted by section 3 (b) of the Madras City Tenants Protection (Amendment) Act, 1926 (Madras Act VI of 1926).

6. Determination of rent :-

(1) If after a decree or interim order is passed under section 4, the landlord is unable or unwilling to pay the compensation ordered, he may, within three months from the date of the decree or interim order, apply to the court to fix a reasonable rent for the occupation of the land by the tenant and thereupon the court shall by its order fix such rent as it deems reasonable :

Provided that the rent previously payable for the land shall not be enhanced by more than 2 annas in the rupee.

(2) On the passing of an order under sub-section (1) the decree or interim order passed under section 4 shall be deemed to have been vacated.

7. Application of landlord for fixing the rent :-

Any landlord may apply by a petition to the court having jurisdiction to entertain a suit for ejectment ¹[or, in the City of Madras, either to such Court or to the Presidency Small Cause Court] to fix a reasonable rent for the occupation of the land by the tenant and thereupon the court shall by its order fix such rent as it deems reasonable:

Provided that the rent previously payable for the land shall not be enhanced by more than 2 annas in the rupee.

1. These words were substituted for the words "or to the Presidency Small Cause Court" by section 4 of the Madras City Tenants Protection (Amendment) Act, 1955 (Madras Act XIX of 1955).

7A. Application by tenant :-

¹[A tenant may apply to the Court having jurisdiction to entertain a suit for ejectment or, in the City of Madras, either to such Court or to the Presidency Small Cause Court, to fix a reasonable rent for the occupation of the land or where on application under section 7, the rent previously payable for the land has been enhanced, for a reduction of the rent fixed; and thereupon the Court shall, by its order, fix such rent as it deems reasonable.]

1. This section was substituted by section 5 ibid for section 7-A which was inserted by section 4 of the Madras City Tenants Protection (Amendment) Act, 1926 (Madras Act VI of 1926).

8. Effect of order under sections 6, 7, and 7-A :-

An order passed by a Court ¹[under section 6, section 7 or section 7-A] shall have effect as a decree in a suit and the rent so fixed shall not be revised nor shall the tenant be liable to be evicted for a period of five years.

1. These words and figures Were substituted for the words and figures "under section 6 or section 7 " by section 5, *ibid*.

9. Application to Court for directing the landlord to sell land

:-

(1) Any tenant who is entitled to compensation under section 3 and against whom a suit in ejectment has been instituted or proceeding under section 41 of the Presidency Small Cause Courts Act, 1882(Central Act XV of 1882), taken by the landlord, may, within ¹[one month] ²[of the date of the Madras City Tenants Protection (Amendment) Act, 1955, coming into force or of the date with effect from which this Act is extended to the municipal town or village in which the land is situate], or within 1[one month] after the service on him of summons, apply to the court for an order that the landlord shall be directed to sell the land for a price to be fixed by the court. ³[The court shall fix the price according to the lowest market value prevalent within seven years preceding the date of the order] and shall order that, within a period to be determined by the court, not being less than three months and not more than three years from the date of the order, the tenant shall pay into court or otherwise as directed the price so fixed in one or more instalments with or without interest.

(2) In default of payment by the tenant of any one instalment, the application under sub-section (1) shall stand dismissed, provided that on sufficient cause being shown, the court may excuse the delay and pass such orders as it may think fit, but not so as to extend the time for payment beyond the three years above mentioned. On the application being dismissed, the court shall order the amount of the instalment or instalments, if any, paid by the tenant to be repaid to him without any interest.

(3) On payment of the price the court shall pass a final order directing the conveyance of the land by the landlord to the tenant. On such order being made the suit or proceeding shall stand dismissed, and any decree or order in ejectment that may have been passed therein but which has not been executed shall be vacated.

4[Explanation.--Land means the interest of the landlord in the land and all other interests which he can convey under any power and includes also the full interest which a trustee can convey under the power possessed by him to convey trust property when necessity exists for the same or the alienation of the property is for the benefit of the estate or trust.]

1. These words were substituted for the words " fifteen days " by section 6 of the Madras City Tenants Protection (Amendment) Act, 1926 (Madras Act VI of 1926).

2. These words, brackets and figures were substituted for the words " after the date of this Act coming into force" by section 6 of the Madras City Tenants Protection (Amendment) Act, 1955 (Madras Act XIX of 1955.)

3. These words were substituted for the words " The court shall fix the price according to the market value of the land on the date of the order " by section 6, of the Madras City Tenants Protection (Amendment) Act, 1926 (Madras Act VI of 1926).

4. This Explanation was substituted for the original Explanation by section 7, *ibid*.

10. Application of sections 4, 5, 6, 8 and 9 to certain suits and applications :-

(1) ¹[Sections 4, 5, 6, 8 and 9] shall apply to suits in ejectment and applications under section 41 of the Presidency Small Cause Courts Act, 1882, which are pending or in which decrees for ejectment or orders under section 43 of the Presidency Small Cause Courts Act, 1882 (Central Act XV of 1882), have been passed, ²[but have not been executed, in the City of Madras, before the commencement of the Madras City Tenants Protection (Amendment) Act, 1955 (Madras Act XIX of 1955), and in any municipal town or village, before the date with effect from which this Act is extended to such town or village.]

(2) In suits in which decrees for ejectment have been passed, the amount of compensation due shall on the application of the tenant be ascertained in execution and a fresh decree passed in

accordance with section 4.

(3) In cases in which orders passed under section 43 of the Presidency Small Cause Courts Act, 1882 (Central Act XV of 1882), are pending execution ³[at the commencement of the Madras City Tenants Protection (Amendment) Act, 1955 (Madras Act XIX of 1955)], the Court shall, on the application of the tenant, recall such orders, ascertain the amount of compensation and pass an interim order under section 4.

1. These words and figures were substituted for the words and figures "sections 4, 5, 6 and 8" by section 8, *ibid*.

2. These words, brackets and figures were substituted for the words " but have not been executed before the coming into force of this Act " by section 7 of the Madras City Tenants Protection (Amendment) Act, 1955 (Madras Act XIX of 1955).

3. These words, brackets and figures were substituted for the words " at the commencement of this Act" by section 7 of the Madras City Tenants Protection (Amendment) Act, 1955 (Madras Act XIX of 1955).

11. Notice before institution of suits or applications against tenants :-

No suits in ejectment or applications under section 41 of the Presidency Small Cause Courts Act, 1882 (Central Act XV of 1882), shall be instituted or presented against a tenant until the expiration of three months next after notice in writing has been given to him requiring him to surrender possession of the land and building, and offering to pay compensation for the building and trees, if any, and stating the amount thereof. ¹[A copy of such notice shall at the same time be sent, in the case of property situated in the City of Madras, to the Commissioner of the Corporation of Madras, or, in the case of property situated in any municipal town or village to which this Act is extended, to the executive authority of the municipality or the executive officer of the panchayat, as the case may be or any other authority as may be notified by the Government.]

1. This paragraph was substituted for the original paragraph by

section 8, *ibid.*

12. Effect of contracts made by tenants :-

Nothing in any contract made by a tenant shall take away or limit his rights under this Act, provided that nothing herein contained shall affect any stipulations made by the tenant in writing registered as to the erection of buildings, in so far as they relate to buildings erected after the date of the contract.

13. Restriction on the application of the Transfer of Property Act :-

In its application to the City of Madras,¹[and to any municipal town or village to which this Act is extended] the Transfer of Property Act, 1882(Central Act IV of 1882), shall, to the extent necessary to give effect to the provisions of this Act, be deemed to have been repealed or modified.

1. These words were inserted by section 9, *ibid.*