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शुक्रवार, डिसेंबर ८, १९७८/अग्रहायण १७, शके १९००

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 8th December 1978 :—

L. A. BILL No. LI OF 1978.

A BILL

to further amend the Bombay Tenancy and Agricultural Lands Act, 1948.

WHEREAS, it is expedient further to amend the Bombay Tenancy and Agricultural Lands Act, 1948, for the purposes hereinafter appearing; It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows:—

Bom.
LXV.
II of
1948.

1. (1) This Act may be called the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1978.

Short title
and com-
mencement.

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(2) It shall be deemed to have come into force on 14th November 1978.

Defi-
nitions.

2. In this Act, unless the context otherwise requires,—

(a) "Principal Act" means the Bombay Tenancy and Agricultural Lands Act, 1948.

(b) "Amending Act" means this Act.

Deletion of
sub-section
(3) of section
31 of Bom.
LXVII of
1948.

3. In section 31 of the principal Act, sub-section (3) shall be deleted.

Amendment
of section
32F of Bom.
LXVII of
1948.

4. For section 32F of the principal Act, the following shall be substituted, namely:—

"32F. (1) Notwithstanding anything contained in sections 31 and 32F, and other provisions of this Act, as they stood immediately before the commencement of the Amending Act, every tenant who is cultivating personally the land held by him as tenant, on fourteenth day of November 1978, and who is either the tenant or the heir of the tenant, cultivating the said land personally on first day of April 1957, shall be deemed to have purchased from his landlord, free from encumbrances subsisting thereon on fourteenth day of November 1978, on payment of the price equal to one hundred times the assessment of the said land, payable in five equal annual instalments.

(2) Where proceeding had been taken pursuant to section 32F prior to the commencement of the Amending Act, by the landlord to recover possession of the land and is pending on the said date, it shall be dropped; and if the possession was already taken by the landlord, the tenant shall be deemed to be in possession of the said land on the said date for the purposes of sub-section (1) of this section and the actual possession of the said land shall be restored to the tenant.

(3) The provisions of section 31A to 32E (both inclusive) and 32G to 32R (both inclusive) shall so far as may be applicable, apply to such purchase."

STATEMENT OF OBJECTS AND REASONS

Under the Bombay Tenancy and Agricultural Lands Act, 1948, on the Tillers' day every tenant, subject to certain exceptions, was deemed to have purchased from his landlord the land held by him as tenant. Before the operation of this provision the landlord was given an option to recover possession of the Land from the tenant, under section 29 read with section 31 of the said Act. On the final disposal of the proceeding for recovery of possession of the land from the tenant, the tenant was deemed to have purchased the land, if any, left, with him.

However, where the landlord was either a minor, or a widow or a person subject to mental or physical disability, the right of the Landlord to recover possession of the land held by the tenant was postponed to the time of attainment of majority in case of a landlord who was a minor, and to some indefinite period in case of a landlord who was either a widow or a person subject to mental or physical disability. This was provided for under section 31 (3) and section 32F (1) (a) of the said Act. Consequently the right of the tenant to purchase the land from such landlord was similarly postponed.

Where the tenant was a minor, or a widow or a person subject to any mental or physical disability or a serving member of the armed forces, the right of the tenant to purchase the land was postponed; under section 31 (1) (b) and section 31 (1A), similarly.

More than 21 years have passed since the Tillers' day. The landlords who were minor then have attained majority and would have exercised the right to recover the possession of the land, if they so desired. If they had not exercised their aforesaid right, it only meant that either they have no right or they do not desire to exercise the right. In either case the law would have taken its course, unless it was unjustly obstructed otherwise.

In case of landlords who were and are either widows or persons subject to mental or physical disability, the position of tenants is precarious. The tenants are required to wait indefinitely to exercise their right to purchase the land.

Similarly, in case of tenants, who are widows or persons subject to any mental or physical disability, or serving members of the armed forces, their position is equally precarious. Besides, the law has been so interpreted as to disentitle the tenant who is a widow to purchase the land throughout her lifetime.

This amendment seeks to remove this difficulty and anomaly.

Nagpur, dated 27th November 1978.

A. T. PATIL,

Member-in-charge.

G. S. NANDE,

Secretary,

Nagpur, dated the 8th December 1978. Maharashtra Legislative Assembly.