

**MODULE 1 : INTRODUCTION AND CHAPTER 1 OF RRCA**

PRESIDENT ASSENTED ON : 25th  
February, 2003.

CAME INTO FORCE : 1st April, 2003

**PREAMBLE**

- to provide for control of eviction from,
- letting of, and
- rents for,

**certain premises in the State of Rajasthan and matters incidental thereto.**

Rajasthan Rent Control Act, 2001 replaced the  
Rajasthan Premises (Control of Rent & Eviction) Act, 1950.

**REASON FOR THE REPLACING THE OLD LAW :** Rajasthan had undergone a considerable change in past 5 decades i.e, after the enactment of RRCA,1950. Therefore change in law is warranted.

Old law has created 'Feeling of insecurity among the landlords' and there is a need of adequate provision for

- Timely vacation of premises
- Determination of fair rent
- Certain inbuilt safeguards for tenants
- Excepting the certain premises from tenancy law.

Para 47 of *Kamal Kishore vs State Of Rajasthan RLW 2008 (1) Raj 192*

- Old law is to mitigate the difficulties faced by the tenants in getting rented accommodation at reasonable rates, at th time when there was great scarcity of accommodation in big cities.
- With the change of time, considering the need prevailing in the society, the new Act has been enacted, in which also protection has been made available to the tenants keeping in mind the balance between the landlord and the tenant.

**WHETHER NEW LAW IS UNCONSTITUTIONAL?**

- Rajasthan Rent Control Act, 2001 is a valid social legislation, and not violative of Article 14 of the Constitution.
- It is policy decision

- ✓ to classify the tenants based on economic criterion under Chap.1 to 4
- ✓ to fix the criterion of applicability for a specified rent rate.
- ✓ To classify tenant for residential or commercial purposes on time demand.
- ✓ Replacing the civil courts with the Tribunals and Authorities [as the same validated by Art.323(B) of constitution of India]

cannot be termed as unjust, unreasonable or unfair to infringe Art. 14 of Constitution or violate any fundamental right.

- ✓ It is within domain of the legislature to make such a classification of tenant.
- None of the provisions of the new Act can be said to be unconstitutional or ultra vires in any manner and the enactment of the New Act is valid one.

## 2017 AMENDMENT

**PURPOSE OF 2017 AMENDMENT:** In order to keep up with the National Housing Policy, 2007, *Draft Model Tenancy Act, 2015* was framed as a model for all states to achieve beneficial results for both, tenants and landlords resulting in the advancement of affordable housing for all.

The Rajasthan Rent Control Act 2001 was amended in 2017 in line with the above-said recommendations.

1. Insertion of Chapter V-A (Sec.22-A,22-B,22-C) & V-B (Section 22-D to 22-G)

### 2. RENT AUTHORITY :

- **CREATION OF RENT AUTHORITY(RA)** under *section 2(k)*
  - **APPOINTMENT OF OFFICIERS :** *Addition of Section 22-A :* Rajasthan Administrative Services (R.A.S.) not below the rank of Sub-Divisional Officers (SDOs) will be appointed as Rent Authority to perform the functions under Secs.22-B,22-G,22-H,22-J,22k,23 and 24.
  - They will be treated as Public Officer under section 21 of IPC. (*Sec-26-A*)
  - **POWERS AND PROCEDURE :** Section 21-A clarifies that powers and procedure of Rent Tribunal under Section 21, will be applicable *mutatis mutandis* for Rent Authority.
3. *Clause (i), (ii) and (iii) in Section 3* which in effect gave exemption from RRCA,2001 for certain categories including

- i. new premises,
- ii. tenancy agreement for 5 years,
- iii. guidelines based on the rent paid

Are **now deleted** in 2017 Amendment.

Now the *section 3*, which gives exception to application of RRCA, is limited to central and state

government buildings or premises.

4. 2017 Amendment gives the option to pay the rent directly to rent authority under *Section 9*. This would prevent tactics played by landlord to evict the tenant on the ground of non-payment of rent.

5. Section 19-A empowers the Rent Tribunal to order the tenant to pay all arrears or due pending the application before it.

6. SCHEDULE-D – form of information of tenancy – as required under section 22-B.

Section 1 : Short title, extent and commencement.

1(1) Act is called as *Rajasthan Rent control Act, 2001*.

1(2)

- Act is extended initially only to Municipal areas in District HQ. (33 Municipal areas)
- And it can be extended to other Municipal areas by SG(State Government) by notification<sup>1</sup>.

1(3) SG can notify the when the RRCA will C.I.F.<sup>2</sup>

- Once the Rajasthan Rent Control Act, 2001 was extended to the municipal areas, the Civil Courts would lose jurisdiction to adjudicate a dispute between a landlord and a tenant. No tenant could be evicted by a Civil Court. [*Para 44*] Eviction suits will be tried by authorities under RRCA, wherever the law extends, and civil court jurisdiction is ceased. <sup>3</sup>
- Wherever RRCA does not extend, landlord is entitled to evict the tenant by termination of tenancy under Transfer of Property Act or as per the contract.<sup>4</sup>

Section 32, clause (75) of Rajasthan General Clauses Act, 1955 defines “State Government”

“*State Government*” shall mean in relation to anything done or to be done,  
(i) On and from the commencement of the Constitution until the first day of November 1956, the Rajpramukh; and [ii] On and from the 1st day of November, 1956, the Governor

After 1/11/1956 - All the powers of the State Government vest in the Governor.

<sup>1</sup> 2014 Notification : RRCA was extended to municipal areas of *Kishangarh, Beawar, Bhiwadi, Hindaun City, Gangapur City, Sujangarh, Makrana, Fatehpur, Suratgarh, Ratangarh, Sardarshahar and Balotra*

<sup>2</sup> No. F. 8(G)(11)/Rules/01/1879, Published in Raj. Gaz. EO, Part 6(Kha) dated 21-3-2003 in English. Notified that it will come into force from 1<sup>st</sup> April 2003.

<sup>3</sup> K. Ramnarayan vs. Pukhraj DB Civil Reference 1/2015

<sup>4</sup> Pyarelal v. Banwari Lal, 1982 Raj. L.R. 456

## DEFINITIONS

Section 2 has 10 Definitional clause in it.

(a) "amenities" includes

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• supply of             <ul style="list-style-type: none"> <li>✓ water and</li> <li>✓ electricity,</li> </ul> </li> <li>• passages,</li> <li>• staircase,</li> <li>• natural light,</li> </ul> | <ul style="list-style-type: none"> <li>• lavatories, lifts,</li> <li>• conservancy,</li> <li>• sanitary services,</li> <li>• telephone services,</li> <li>• T. V. Cable services or</li> <li>• <u>the like;</u></li> </ul> |
|---|--|

(b) Appellate Rent Tribunal" means Appellate Rent Tribunal constituted under section 19;

(c) "landlord" means

- any person
- who for the time being
  - ✓ is receiving or
  - ✓ is entitled to receive the rent of any premises,
- whether on his own account or as an agent, trustee, guardian or receiver for any other person, or
- who would so receive or be entitled to receive the rent, if the premises were let to a tenant;

**STATUTORY LANDLORD :** "Landlord" under this section is known to be "Statutory landlord"; in comparison to "Contractual landlord" under Section 105 of TPA.

**ESSENCE OF DEFINITION :** Person – receives/entitled to rent – for premises let to tenant- on his account/ agent, trustee, guardian or receiver / any other person.

Word – "*entitled to receive rent*" – connotes that this interest can be transferred to anyone and such transferee can collect rent. This will not prevent landlord to file eviction/claim rent. i.e., although landlord had transferred his interest to receive rent to someone else, still he can file *for eviction or claim for rent* from tenant. [*Mohammed Aslam vs. LRS of Smt. Parwati Devi*, 2016(5) WLN 113 (Raj.)]

**OWNERSHIP AND LANDLORD :**

**Point is,** Owner is always a landlord, and by virtue of his ownership, he can collect rent or authorize someone else to collect rent or transfer his interest. But this does not mean landlord should be always owner by the virtue of this definition.

Definition of landlord includes "any person entitled to receive rent".<sup>5</sup> It includes even person

- who are authorized to collect rent, keep accounts and manage property.
- who are succeeding as per the will after the death of the owner.
- Includes Juristic person as well.
- Co-owners<sup>6</sup>

**Capacity to let the premises to rent, not the status of ownership, is one of the factors to determine whether that person is landlord or not.**<sup>7</sup>

**Title of leased property is irrelevant and tenant cannot question it as per Section 116 of IEA.**<sup>8</sup>

- It does not include a *tenant in relation to a sub-tenant*.

#### RIGHTS AND LIABILITIES OF THE LESSOR/LANDLORD [Section 108 of TPA]

##### DUTIES:

##### Section 108 → clause (a) → Disclosure of defects

Disclose those defects which are material with reference to its indeed use by the lessee, and at the same time which cannot be discovered with ordinary care. It extends to only those defects of which lessor is aware.

##### Section 108 → clause (b) → Deliver of Possession

A lease by a person not in possession is not ipso facto void.

##### Section 108 → clause (c) → Implied covenant for quiet enjoyment

Protects lessee against interruption by whomsoever it is occasioned.

##### RIGHTS:

- Section 108 → clause (d) → Right to accessions
- Section 108 → clause (e) → Right to repudiate the lease
- Section 108 → clause (f) → Repair in default of lessor
- Section 108 → clause (g) → Deduction of taxes.
- Section 108 → clause (h) → Rights to fixtures
- Section 108 → clause (i) → Right to remove the crops after termination of lease
- Section 108 → clause (j) → Right to alienate his interest in any lawful manner.

#### REMEDIES AVAILABLE UNDER SECTION 9 OF RRCA :

- Suit for eviction of tenant for recovery of possession.

<sup>5</sup> Rakesh Chandra Somani vs. Abhinav, AIR 2018 (NOC) 171 (Raj.)

<sup>6</sup> Jeetmal v. Teomal 1986 Raj. LR 378.

<sup>7</sup> Morarji Gokuldassv. The Asian Com. Co. 21 Bom L.P. 397

<sup>8</sup> Shri Ram Pasricha v. Jagannath 1977 (1) RC.

<sup>9</sup> Morarji Gokuldassv. The Asian Com. Co. 21 Bom L.P. 397

<sup>10</sup> Shri Ram Pasricha v. Jagannath 1977 (1) RC.

- Suit for eviction alongwith recovery of arrears of rent.

OTHER REMEDIES : Suit for specific performance under the contract.

(d) "lease" means a lease as defined under the Transfer of Property Act, 1882 (Central Act No. 4 of 1882);

#### Section 105. Lease defined.—

A lease of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

Lessor, lessee, premium and rent defined.—The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent.

#### Essentials of a lease:

- i. Parties: lessor and lessee.
- ii. Property: immovable
- iii. Period: any period, day, week, month or a year
- iv. Premium: money or other valuable
- v. Partial transfer i.e. transfer of only right to enjoy.

Not necessary → lease to be in writing.

Necessary → transfer of a right of enjoyment of property, made for certain time, expressed or implied, for consideration of price.

CASE: *Bhola Nath v. Maharao Raja Saheb Bundi State (1984)*

Fact- Right to enjoy the pond was transferred on payment of certain amount for specific period. The period expired but lessee remained in possession.

Question- whether a patta given for pisciculture was lease?

Held- court declared it as lease.

(e) "Municipal Area" means the municipal area as defined under the Rajasthan Municipalities Act, [2009 (Act No. 18 of 2009)];

**"Municipal Area" means the territorial area of a Municipality as notified by the State Government from time to time. [Section 3(xxxix) of Rajasthan Municipal Act, 2009]**

#### **(f) "Premises" means**

(a) any land not being used for agricultural purposes; and

(b) any building or part of a building (other than a farm building)

- let or intended to be let for
- use as a residence or for commercial use or for any other purpose,

- including,
  - (i) the gardens, grounds, godowns, garages and out-houses, if any, appurtenant to such building or part,
  - (ii) any furniture supplied by the landlord for use in such building or part,
  - (iii) any fittings affixed to, and amenities provided in, such building or part for the more beneficial enjoyment thereof, and
  - (iv) any land appurtenant to and let with any such building or part, but does not include a room or other accommodation in a hotel, dharamshala, inn, sarai, lodging house, boarding house or hostel;

*Explanation*-In absence of a contract to the contrary, **the top of the roof shall not form part of the premises let out to a tenant;**

The word “premises” used in RRCA is similar to the

- “Accommodation” in MP & UP ;
- “Building” in Madras, AP, kerala, HP, Punjab and Haryana etc.

#### **ESSENCE OF DEFINITION :**

- a) Any land/building/part of building [*does not include agricultural purpose/farm building*] –
- b) let/intended to be let –
- c) for use as residence or commercial or any other purpose.

**If the purpose of letting is combined – then it is known as “combined/composite lease”**

**INCLUDED LIST :** (i) the gardens, grounds, godowns, garages and out-houses, if any, appurtenant to such building or part,  
(ii) any furniture supplied by the landlord for use in such building or part,  
(iii) any fittings affixed to, and amenities provided in, such building or part for the more beneficial enjoyment thereof, and  
(iv) any land appurtenant to and let with any such building or part,

#### **EXCLUDED LIST :**

- Land used for agricultural purpose/ farm building;
- Room or other accommodation in a hotel, dharamshala, inn, sarai, lodging house, boarding house or hostel;
- In absence of a contract to the contrary, the top of the roof shall not form part of the premises let out to a tenant.

After analyzing the definition of “land” under Sec.5(24) and “Agricultural” under sec.5(2) of the Rajasthan tenancy act,1955- one can conclude -

- Any land in municipal limits +
  - which is not used for
    - agriculture [i.e., cultivation of land, horticulture, cattle breeding, dairy farming, poultry farming and forestry development, groveland, pasture] OR
    - land with covered with water/farmhouse/enclosures
- will come within the meaning of Premises under RRCA.

MEANING OF APPURTENANT : The word 'appurtenants to' means "the adjoining to" the building. If a building is let out and there is some attached ground or open land then such ground or open land is appurtenant to a building

(fa) "Rent Authority" means the officer appointed under Section 22-A;

(g) "Rent Tribunal" means Rent Tribunal constituted under section 13;

(h) "Senior citizen" means a citizen of India who has attained the age of sixty five years or more;

### Section 2(i) "tenant" means

(i) the person

- by whom or
- on whose account or behalf
- rent is, or but for a contract express or implied, would be payable
- for any premises
- to his landlord including the person who is continuing in its possession after the termination of his tenancy otherwise than by an order or decree for eviction passed under the provisions of this Act; and

(ii) in the event of death of the person referred to in sub-clause (i),

(a) in case of premises let out for residential purposes, his surviving spouse, son, daughter, mother and father who had been ordinarily residing with him in such premises as member of his family upto his death;

(b) in case of premises let out for commercial or business purposes, his surviving spouse, son, daughter, mother and father who had been ordinarily carrying on business with him in such premises as member of his family upto his death; and

Section 2(i)(ii) is “Contractual tenant” ; whereas in case of Section 2(i)(ii) is both “contractual and statutory”

A tenant, would continue to be a tenant in the sense in which this word is defined by the Act so long as he continues in possession even though his tenancy may have been



terminated within the meaning of the Transfer of Property Act and he does not hand over possession to the landlord under the provisions of the Act.<sup>11</sup>

(j) "Tribunal" means an Appellate Rent Tribunal or a Rent Tribunal, as the case may be.

Section 3 enumerates *the premises* to which Chapter 2 & 3 of RRCA is not applicable.

*Clause (i) to (iii)* has been deleted now BY 2017 Amendment.

**Any premises belonging to or let out by**

- Government(State/Central) or local *authority* [Clause (iv)]
- Body corporate (of central/rajasthan act) [Clause (v)]

**Any premises belonging to**

- Government companies[Clause (vi)]
- Devasthan Department/wakf[Clause (vii)]
- Religious, charitable or educational trust or class of such trusts[Clause (viii)]
- University[Clause (ix)]

**Any premises let to**

- banks, or any Public Sector Undertakings or any Corporation or Multinational companies [Clause (x)]
- private limited companies or public limited companies with paid up share capital of 1 crore or above. [Clause (x)]
- citizen of a foreign country or to an Embassy/ High commission, Legation or other Body of a foreign State, or such international organization [Clause (xi)]

**Section 4 : Rent to be as agreed.**

**The rent payable for**

- any premises shall, subject to other provisions of this Act,
- be such as may be agreed upon between the landlord and the tenant and
- it shall not include the charges payable for amenities which may be agreed upon separately; and shall be payable accordingly.

**OBJECT OF SECTION 4 :** The origin of every tenancy is an offer made by a landlord to permit possession of the landlord's property to be used by a tenant for an agreed period of time and at an agreed rent to be paid.

The simple term 'rent' connotes the rent as is agreed between the landlord and the tenant and which is to be paid by the tenant to his landlord for use and occupation of not only the building but its appurtenances.<sup>12</sup>

<sup>11</sup> Gopal v. Laxmi Narain ILR (1962) 12 Raj. 875.

<sup>12</sup> Krishna Chandra v. Hiralal 1962Jab. LJ 450.

AGREED RENT : This section paves the way for “*agreed rent*” between landlord and tenant. It is simply known as “contractual rent”

- ESSENCE OF SECTION 4 :
- ✓ It should be premises under Sec.2(f)
- ✓ Rent payable was agreed between landlord and tenant
- ✓ It will not include amenities charges
- ✓ It is subject to other provision of RRCA.

**AMENITIES CHARGES NOT INCLUDED :** Agreed rent shall not include charges payable for amenities, which should be agreed and paid separately.

#### Sec. 5. Payment and remittance of rent by tenant

- (1) Unless agreed otherwise, every tenant shall pay the rent by the fifteenth day of the month next following the month for which the rent is payable.
- (2) Every tenant who makes a payment on account of rent shall be entitled to obtain a receipt of the amount paid duly signed by the landlord or his duly authorised agent.
- (3) A tenant may make payment to the landlord or his duly authorised agent, by any of the following methods:
  - (a) by personal payment, by cash, by Cheque or Bank Draft, or
  - (b) by payment in the bank account as may be specified by the landlord, or
  - (c) by remitting through postal money order.
- (4) The landlord shall disclose to the tenant his bank account number and name of the bank in the same municipal area, in the rent agreement or by a notice sent to him by registered post, acknowledgement due.

Clause (1) of it lays down that *every tenant shall pay by the 15th day of the month next following the month for which it is payable*. It can agreed otherwise.

Clause (2) On such payment: Receipt signed by landlord to be given to Tenant.

Clause (3) Mode of Payment : Cash/cheque/bank draft/bank account/postal money order.

Clause (4) In case of bank account transfer, landlord should disclose bank a/c number, name of bank in *rent agreement/notice*.

**After the notice to the tenant, if the payment is made in the mode not authorized in this RRCA, then eviction can be done. [Smt. Krishna Bhasin vs. Appellate Rent Tribunal, 2017(8) WLC (Raj.) 340.]**