

NEED TO AMEND PUNJAB URBAN RENT LAWS

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The era of Globalization in India has produced revolutionary changes in the complex Indian society. It has given new opportunities to flourish business and trade. It has also promoted the service sector as a major component of the economy. Further, the introduction of Information Technology in all aspects of life has also contributed to expand the business and trade.

One of the major affect of all such developments is rapid growth of urbanization. A large scale migration of workers, traders, service providers, etc. has taken place from village to city and from city to metropolitan city. Urban population was 25.73% in 1991, 27.82% in 2001 and further increased to 31.14% of the total population in 2011¹. In 2001, 28.61 crore people were living in the urban areas which rise to 37.71 crores in 2011. In view of the above said data, it is evident that there is ever rising need of houses in the urban areas. It has been estimated that there was a shortage of 1.9 crore houses in the urban India in 2014 and further projected that there will be a shortage of 4.4 to 4.8 crore housing units by 2022.²

The National Urban Rental Housing Policy³ mandates to supplement the ownership housing by a sustainable rental housing market to address diverse housing needs for various segments of the urban population. The policy has visualized that a viable rental market would make available the major portion of vacant houses for rental housing which are around 10.07% of the total houses.

It is the primary responsibility of the State Government to ensure housing for all being 'Housing' a State subject. The Draft Rental Housing Policy has suggested the State Governments to develop a strategy to deal with the vacant locked properties in consultation with various stakeholders and to come up with options/alternatives. It is also suggested to the State Governments that the existing Rent Control Legislations should be repealed and the draft Model Tenancy Act, 2015 (now called as Model Tenancy Act, 2019) should be adopted to create a conducive atmosphere to promote investment in rental housing sector. Rental housing policy has recognized that the economical weaker sections, lower income group, migrants and vulnerable groups may not be able to buy a house. It is also recognized that a number of migrants come for varying durations of stay in search of employment or education and that they prefer to stay in

¹ Handbook of Urban Statistics- 2019, Ministry of Housing and Urban Affairs, Govt. of India

² 'Decoding Housing for All by 2022' by KPMG India (2014)

³ Issued by Ministry of Housing and Urban Poverty Alleviation, Government of India in October,2015.

affordable accommodation to minimize the housing cost and therefore, the rental housing is viable option for them. In furtherance of the Urban Rental Housing Policy, the Govt. of India has also finalized the Model Tenancy Act, 2019. The Govt. has already invited the suggestions/comments on the said Model Act from the stakeholders and public in general and is in the process to finalize the same.

In above explained circumstances, Govt. of Punjab is required to take an early step for implementation of the National Urban Rental Housing Policy as well as Model Tenancy Act, 2019 being one of the highly urbanized State of the country⁴. It is essential due to the experience of Govt. of Punjab to implement the Model Rent Act, 1992 and thereby its failure to reap the benefits of said Model Rent Act. The Govt. of India had circulated the Model Rent Act, 1992 to modify the prevailing rent control laws. State Legislature had enacted the Punjab Rent Act, 1995 (hereinafter referred to as the Act of 1995) on the basis of the Model Rent Act, 1992 and the said Act had received the assent of the President of India on 26 March, 1998. The mandate of the said Act was to end the misery of such landlords who could not get any reasonable rental income from the tenanted premises due to rent restrictions provided in the East Punjab Urban Rent Restrictions Act, 1949 (hereinafter referred to as the Act of 1949). The Act of 1995 though continued the concept of statutory tenant and was allowing his eviction only on limited grounds⁵, had provided to re-fix the rates of rent of such old tenancies in consonance with rise in consumer price index since its fixation⁶. It has also provided for incremental periodical revision of such re-fixed rates of rent⁷. It also provided to repeal the Act of 1949. However, the State Executive took a period of 15 years to issue the requisite notification to enforce the said Act w. e. f. 30.11.2013⁸.

The landlords who were suffering from decades by the provisions of the Act of 1949 could not get any benefit from the enforcement of the Act of 1995 as the Act of 1995 was already amended to exclude the existing tenancies from the purview of the Act of 1995 and to provide the continuous regulation of such existing tenancies by the Act of 1949⁹. In this way, the law which was required to be implemented in 1990s was implemented after a long period of 15 years and that also only for the new tenancies shorn of its primary object.

⁴ Punjab Economic Survey 2019-20, Economic and Statistical Organization, Department of Planning, Government of Punjab

⁵ Section 20

⁶ Section 6 & 7

⁷ Section 10

⁸ Notification No. 9/19/2004-4lg4/122029/1 dated 12.11.2012 published in the Punjab Government Gazette (Extra.), November 12, 2013

⁹ The Punjab Rent (Amendment) Act, 2013

Urban tenancy laws have become more confusing in the State on implementation of the Act of 1995 due to application of the Act of 1949 and the Act of 1995 to urban tenancies. The tenancies existing on 29.11.2013 are covered by the provisions of the Act of 1949 and the tenancies came into existence after the said date would be regulated by the provisions of the Act of the 1995. On the other hand, both of the statues have become outdated in the current scenario. Neither of the said enactments can promote the investment in rental housing.¹⁰ Though the Act of 1995 have strong merits as compare with the Act of 1949 but both of the Acts are dis-allowing the free market in rental housing. Both of the Acts are over-riding the provisions of the tenancy agreements between landlord and tenant. The expiry of tenancy on completion of agreed term has not been allowed in both the Acts. The tenants get the statutory protection on expiry of the contractual term. Apart from that, both of the Acts restrict the periodical increase in rate of rent as per agreed terms though the Act of 1995 allows a reasonable increase in the rate of rent as per its provisions only.

It needs to be understood that the current mindset of the house owners in the Urban Punjab is that they could not get the houses vacated after letting it out.¹¹ This mindset needs to be changed to ensure the investment in rental housing. The statutory assurance is also required regarding a speedy and easy dispute redressal proceedings. The Model Tenancy Act, 2019 is recognizing the sanctity of terms and conditions agreed between the landlord and tenant. It provides for vacation of rented premises on expiry of lease term¹² and also for payment of agreed rate of rent alongwith agreed periodical increase during the currency of such tenancy¹³. The Model Tenancy Act provides only few regulatory provisions just to minimize the avoidable disputes between the landlord and tenant like registration of tenancy agreement under Section 4, procedure to pay rent on refusal by tenant under Section 14, etc. It also provides for speedy disposal of the disputes at the District level¹⁴.

Keeping in view the merits of the Model Tenancy Act, 2019 and the role it can play to solve the housing problem in urban areas; there is an imminent need to take appropriate action to adopt the Model Tenancy Act, 2019. The creation of public view in favour of the Model Tenancy Act, 2019 would take a reasonable time and the end of regulations of tenancies under the rent enactments of 1949 and 1995 would also require a phased manner scheme. Therefore, in the old and complex prevailing landlord-tenant laws situation, the Govt. of Punjab is required to initiate the public debate on the Model Tenancy Act, 2019 at the earliest and to make a roadmap for its timely implementation.

¹⁰ National Urban Rental Housing Policy, 2015.

¹¹ Survey conducted during research work by author.

¹² Section 5

¹³ Section 8 & 9

¹⁴ Section 32 to section 38