

**THE MODEL TENANCY ACT**- Ujjaini Borthakur<sup>1</sup>**Abstract:-**

The model tenancy act formalizes the relationship between the landlord and tenant making rental housing a formal market, it establishes few limits and advantages to both the parties which brings them into an equal footing, thus safeguarding both of their rights. With its added baggage of advantages aimed at urbanizing India by providing the citizens its basic need which is housing and also the rights attached to a tenant and on the other hand it also provides the landlord a security through the means of agreement with the tenant. However the drawbacks of the act add to its ineffectiveness and the act remains a mere model act diluting its novel nature, most important of which is the land being a state subject limits the applicability of the act, every state is not bound to follow the act, metro cities such as Mumbai will partially adopt the centre's model tenancy act since tenancy act have always been a big controversial issue however states where the development is still in its nascent stage , this act is less likely to be adopted. Furthermore, the act also give the corporate players an opportunity to enhance and extend their business in various ways. This act is linked with a mission to provide housing for all till 2022 which make it innovative in nature.

**Introduction:-**

The issues of a tenant and a landlord has a long history starting from the dilapidated conditions of rental housing , dispute between both the parties to possession of owners property and many more this factors have long been ignored but on 02.06.2021 the union

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cabinet, chaired by Prime Minister Narendra Modi approved the model tenancy act (MTA) which would bring up the rent authorities, courts and tribunals into the present scenario of tenant and landlord which would mediate between the two whenever any legal issue would arise. The model tenancy aims at establishing a rental housing market in the country which would be vibrant, sustainable and would provide equal rights to both landlords and tenants. It further aims to unlock one crore vacant houses so that housing facility is being provided without trust deficit between landlords and the tenants. This act also put an end to the verbal agreement between stakeholders which makes it difficult to provide evidence of the stated terms and conditions of both the parties if any dispute arise, by mandating written agreement through mutual consent of both the parties which would include duration of stay, rental amount, conditions related to increase in rental amount after a fixed period, acceptable practices etc and submit to the district rent authority. The law aims to aid rental economy in the estate sector.

### **Background:-**

Earlier the tenancy and leasing opportunities were closely regulated by a 'Rent control act' which had been implemented in various states. The aim of this act was to protect the tenants from unfair eviction and settle disputes between landlord and the tenant. However, this law had its own flaws firstly due to lack of amendment over nearly two decades, the rent ceilings remained capped at the levels prevalent in the late 90's due to which investors were discouraged to purchase second or third hand homes due to low capital return and on the other hand it was not benefitted to the low- and middle-income groups.

Furthermore, it also does not create scope for real estate companies or builders to invest in rental markets since rental yields are merely 3 to 3.5 percent per annum making it an unprofitable business proposition. The model tenancy act is linked with 'Pradhan mantra awaz yojna'(PMAY-U) to provide housing for all by 2022, which was launched in 2015 but before this mission was launched it was decided by the center that 20% of the two crore houses to be created should be exclusively for rent. The expenditure cleared an outlay of Rs

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6000cr for a rental component in the PMAY-U the center would bear 75% of the cost and the rest borne by state urban local bodies, NGO's or CSR activities of the private sector. This idea was based on a report by the task force in 2013 which held that "affordable rental housing addresses the issue of the underprivileged and inclusive growth, in an even more direct manner than affordable ownership housing". However, the model tenancy act comes under the state subject, since land itself is a state subject therefore it is not necessary for all the states to follow this law. Presently as per the new law there has been a shifting of rental market which was more informal to a formal market by institutionalizing it and giving a fill up to private participation in rental housing as a business model for addressing housing shortage as per the PMAY-U.

### **Pros and cons**

This act will benefit both landlord and tenant. Earlier if any dispute arose between landlords and tenants, they had to file a lawsuit which become a very lengthy process and because of this reason many house owner do not want to rent their property in fear of possession by the tenants. Therefore, this act has introduced a legal authority in dealing with the disputes of landlords and tenants known as the 'Rent Authority' to minimize petty disputes. The act mandates for written agreement for all new tenancies, which will have to be submitted to the concerned district rent authority.

It also provides for three months prior notice to the tenants for a hike in rentals to ensure that the landowners are able to get market price for their property also ensuring that those tenants get enough notice to make adequate arrangement in their best interest.

In case of residential property, this law also provides limits on taking of security deposit from tenants, thus making sure that tenants are not forced to invest hefty sums at the start of tenancy. As per the act, only two months of rent can be taken as advance for residential property, whereas the current norm in metro cities ranges from 5 to 12 months.

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However, since land is a state subject the effectiveness of the act is doubted because few states may not apply it, making the act ineffective and diluting its essence. Model tenancy act is also silent on leave and license agreement. In "leave and license" the term License means limited rights/set of rights given by one party to another to perform certain actions in or upon the immovable property, such rights are personal and non-transferable.

This act also has one more limitation i.e.; it would apply to premises let out for residential, commercial or educational use, but not for industrial use. It also won't cover hotels, lodging houses, inns etc. Experts say that rental housing can gain traction with a conducive policy framework which shall attract corporate players to provide serviced apartments for their employees.

### **Outlook:-**

The act gives a lucrative proposition for REITS and Foreign Direct Investments players with steady income as well as appreciation in the property value. Realtors' body NAREDCO had said earlier that the proposed model tenancy law, if implemented by all states, will promote rental housing in a big way and it expected builders to construct at least 50 percent of its total inventories for rent purpose in the next five years. "In order to truly open-up the rental market as an evolved one, it is imperative for the Government to formulate a way to balance social welfare of tenants and the economic interests of landlords. Balanced protection to landlords and tenants alike will provide impetus to landlords to rent out vacant premises," he says.

### **Conclusion:-**

However, the states should understand the importance of the model tenancy act, and should implement it to give a correct platform for any dispute between stakeholders. This act also maintains a privacy or basically a formal means to every landlord or property manager to enter the premises let out for rent after serving a notice in writing or through electronic means. Moreover, The Model Tenancy Act is prospective, which means it won't affect the

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owner-tenant relationship as it stands today under the Rent Control Act of the respective state. The rental authority must set up a website for easier submission of documents. It further protects the owner of a property from possession by the condition of enhanced rent as stated by this act. As a whole this act seeks to solve every problem of owner-tenant.



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