



GOA

Judicial Services Exam

CIVIL JUDGE CADRE

High Court of Bombay

Volume - 4



GOA JUDICIAL SERVICES

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**The Goa, Daman & Diu Building
Control Act**

The Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968

Act No. 2 of 1969

CHAPTER I ***Preliminary***

1. Short title, extent and commencement.

- (1) This Act may be called the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968.
- (2) It extends, in the first instance, to the cities of Panaji, Margao, Mapusa and Vasco (including the Harbour area) and to Daman (Nani and Moti) in the Union Territory of Goa, Daman and Diu but the Administrator may, from time to time, by notification in the Official Gazette extend this Act or any provision thereof to any other area in the said Union Territory.
- (3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint: Provided that different dates may be appointed for different provisions of this Act and for different areas and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions

In this Act, unless the context otherwise requires,-

- (a) "Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965;
 - (b) "Administrator" means the administrator of the Union Territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;
 - (c) "Appellate Board" means the Appellate Board constituted under sub-section (1) of section 41;
 - (d) "Authorised Officer" means an officer appointed as such under sub-section (2) of section 41;
 - (e) "Building" means any building, or part of a building, which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes-
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- (i) the garden, ground and out-houses, if any, appertaining to such building or part of the building;
 - (ii) any furniture supplied by the landlord for use in such building or part of the building; but does not include a room in a hotel or lodging house;
 - (f) "Controller" means a person appointed as a controller under sub-section (2) of section 41 and, except in section 42, includes an Additional Controller;
 - (g) "fair rate" means the fair rate fixed under section 37 and includes the rate as revised under section 38;
 - (h) "fair rent" means the fair rent fixed under Chapter III;
 - (i) "hotel or lodging house" means a building, or part of a building, where lodging with or without board or other services is provided for monetary consideration;
 - (j) "landlord" means a person who, for the time being, is receiving, or is entitled to receive, the rent of any building, whether on his own account or on account of, or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant;
 - (k) "manager of a hotel" includes any person in charge of the management of the hotel;
 - (l) "member of the family" means-
 - (i) in relation to a landlord who is an individual, his spouse, son, daughter and includes father, mother, grandson solely dependent on the landlord for maintenance: Provided that in the case of married daughter, her husband shall not be entitled to claim any benefit under section 5, if his wife has already got the said benefit thereunder and in case her husband has already got the said benefit, the married daughter shall not be entitled to claim the same".
 - (ii) in relation to a landlord who is a joint Hindu family, the members of such a family;
 - (iii) in relation to joint owners other than a Joint Hindu family, the members of the family as indicated in sub-clause (i) in relation to each of such joint owners;
 - (m) "owner of a lodging House" means a person who for the time being is receiving, or is entitled to receive, whether on his own account, or on account of, or on behalf of, or for the benefit of, himself or any other person or as an agent or guardian, receiver or a trustee or any other person, any monetary consideration
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from any person on account of board, lodging or other services provided in the lodging house;

- (n) "prescribed" means prescribed by rules made under this Act;
- (o) "Rent Tribunal" means the Rent Tribunal constituted under sub-section (1) of section 41;
- (p) "tenant" means any person by whom or on whose account or behalf the rent of any building is, or but for special contract would be, payable and includes in the event of his death the surviving spouse, or any son, or unmarried daughter or father or mother who had been living with him as a member of his family upto the date of his death and a sub-tenant and also any person continuing in possession after the termination of his tenancy, but shall not include any person against whom any order, or decree for eviction has been made.

3. Act not to apply to certain buildings

(1) Nothing in this Act shall apply-

- (a) to any building belonging to the Government, or a State Housing Board, or a local authority, or Industrial Development Corporation;
- (b) to any building vested in the Custodian of Evacuee Property;
- (c) to any newly constructed building for a period of "fifteen" years from the date of its completion;

"(cc) to any building let out or leased for the first time on or after 20-4-1994, whose monthly rent exceeds-

- (a) Rs. 2,500/- if such building is used for residential purpose;
- (b) Rs. 5,000/- if such building is used for commercial purpose".

"(cc) (i) in clause (a), the expressions "the 1st day of January, 1965, or" and "whichever is later" shall be omitted;

(ii) for the existing proviso, the following proviso shall be substituted, namely:- "Provided that the fair rent once fixed shall automatically stand increased by 2% per annum".

(d) as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of a building, the possession of which has been taken over under Section 6.

(2) Where the Administrator is of the opinion that it is necessary or expedient in the public interest so to do, he may, by notification in the Official Gazette, and subject to such conditions, if any, as he may specify in the notification, exempt any building or class of building from all or any of the provisions of this Act.

CHAPTER II

Control of letting

4. Notice of vacancy

- (1) Every landlord shall, within ten days after a building becomes vacant by his ceasing to occupy it or by termination of a tenancy, or by eviction of a tenant, or otherwise, give notice of the vacancy to the Authorised Officer.
- (2) Every such notice shall be given in such manner, and shall contain such particulars, as may be prescribed.

5. Release of building for use of the landlord.

- (1) The Authorised Officer may, on receipt of an application from the landlord, or on receipt of a direction from the Administrator in pursuance of an application made to him by the landlord, by order, release a building for the occupation of the landlord or a member of his family.
- (2) A landlord who has obtained possession of a building in pursuance of an order made under sub-section (1) shall use it only for his own occupation or for the occupation of any member of his family, and if he fails to do so proposes either to let out or keep vacant the whole or any part of the building for a period exceeding that permitted by the Authorised Officer by order in writing, he shall give notice as required under section 4 as if the building had fallen vacant.

6. Requisitioning of building

- (1) Within fifteen days of receipt, by the Authorised Officer, of the notice under sub-section (1) of section 4, or sub-section (2) of section 5, the Authorised Officer, may, if he is of the opinion that the building is required for the purpose of the Government or of any local authority or of any public institution under the control of the Government or for the occupation of any officer or employee of the Government or a local authority, issue an order in the prescribed form giving intimation to that effect to the landlord, and calling upon the landlord to hand over possession of the building to him or any other officer empowered by him for this purpose on a date to be specified by him in this behalf in the said order, or on any other later date, as may be specified by him.
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- (2) (a) On receipt of the order issued under sub-section (1), the landlord shall deliver vacant possession of the building to the Authorised Officer or any officer empowered by him for this purpose.
- (b) If the landlord fails to deliver the possession on the date so specified, the Authorised Officer or any other officer empowered by him in this behalf may take possession of the building.
- (3) As soon as may be after the possession of the building is taken over under sub-section (2), the Authorised Officer shall, after giving notice in this behalf to the landlord and hearing him and after holding such inquiry as he deems fit, determine the monthly rent payable to the landlord for the building on the following basis namely:-
- (a) where the fair rent of the building is fixed under the provisions of Chapter III, the rent shall be the fair rent so fixed;
- (b) in all other cases, the rent shall be the reasonable rent as the Authorised Officer may determine: Provided that the reasonable rent fixed by the Authorised Officer shall be subject to such fair rent as may be determined by the Rent Tribunal.
- (4) The landlord shall be entitled to payment of rent determined under sub-section (3),-
- (a) where possession of the building has been handed over on the date specified in the order issued under sub-section (1), from the date on which the Authorised Officer received notice under sub-section (1) of section 4 or sub-section (2) of section 5, as the case may be;
- (b) in any other case, from the date on which the possession of the building has been taken over by the Authorised Officer or the officer empowered by him in this behalf.
- (5) The Authorised Officer may, by order in writing, allot the building for the purpose for which it was taken, over and the allottee shall hold it subject to such terms and conditions as may be specified in the allotment order.

7. Landlord's right to occupy

If, within fifteen days of the receipt by the Authorised Officer of a notice under sub-section (1) of section 4 or sub-section (2) of section 5, the Authorised Officer does not intimate to the landlord in writing that the building is required for any of

the purposes specified in sub-section (1) of section 6, the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

8. Restriction on structural alterations to a building.

Where the possession of a building has been taken over under section 6, no structural alteration shall be made in the building except with the consent in writing of the landlord.

9. Effect of failure to give notice and prohibition of letting.

Notwithstanding the fact that a landlord has failed to give intimation to the Authorised Officer as required by sub-section (1) of section 4, or sub-section (2) of section 5, Administrator or the Authorised Officer may, if the building is required for any of the purposes specified in sub-section (1) of section 6 at any time, give intimation to the landlord that the building is so required and thereupon the provisions of this Chapter shall apply to such building as if the requisite notice had been given: Provided that such intimation shall not affect any liability of the landlord for any penalty to which he may be subject by reason of his omission to give the notice.

10. Occupation without giving notice of vacancy void.

Where a landlord fails to give intimation to the Authorised Officer as required by sub-section (1) of section 4 or sub-section (2) of section 5 and occupies the building himself or lets it out to a tenant or otherwise allows it to be occupied by some other person, the said occupation of the building by the landlord or the tenant or other person shall be deemed to be void.

11. Exemption of certain classes of buildings from Chapter. -

Nothing in this Chapter shall apply-

- (a) to a residential building the monthly rent of which does not exceed twenty-five rupees;
- (b) to a non-residential building the monthly rent of which does not exceed fifty rupees;
- (c) to any building or buildings in the same city, town or village owned by any company, association or firm, whether incorporated or not, and *bona fide* intended solely for the occupation of its officers, servants or agents.

CHAPTER III

Determination of fair rent

12. Rent Tribunal to determine fair rent.

- (1) The Rent Tribunal shall, on application by the landlord or the tenant of a building, fix the fair rent payable per annum for such building after holding such inquiry as may be prescribed.
- (2) The fair rent payable per annum shall consist of-
 - (a) "twelve per cent" of the market value of the building (including the land on which the building is constructed) as on ".." the date of the completion of the building, "... and "Provided that the fair rent once fixed shall automatically stand increased by 2% per annum".
 - (b) fifty per cent. of the taxes or cesses levied by the local authority and payable per annum by the landlord in respect of the building including the land on which the building is constructed.

13. Increase in fair rent in what cases admissible.

- (1) When the fair rent of a building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and, if the building is then in the occupation of a tenant at his request: Provided that the increase shall be calculated at a rate per annum not exceeding twelve per cent of the cost of such addition, improvement or alteration.
- (2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Rent Tribunal.
- (3) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed.
- (4) Any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Rent Tribunal.

14. Increase of rent in certain cases.

- (1) Where the amount of taxes and cesses payable by the landlord in respect of a building to a local authority is enhanced or is levied for the first time after the fixation of the fair rent under section 12, the landlord shall be entitled to claim half of such excess or levy from the tenant in addition to the fair rent fixed:
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Provided that such excess shall not be recoverable in so far as it has resulted from an increase of rent in respect of the building.

- (2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Rent Tribunal.

15. Landlord not to claim or receive anything in excess of fair rent.

- (1) Where the Rent Tribunal has fixed fair rent or a building, the landlord shall not claim, receive or stipulate for the payment of-

(a) any extra sum in addition to such fair rent, or

(b) save as provided in section 13 or section 14, anything in excess of such fair rent: Provided that the landlord may claim, receive or stipulate for the payment of an amount not exceeding one month's rent, by way of advance.

- (2) Save as provided in sub-section (1), any extra sum or any rent paid in addition to, or in excess of, such fair rent, whether before or after the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building, shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord: Provided that where before the determination of the fair rent, has been paid in excess hereof, the refund or adjustment shall be limited to the amount paid in excess for a period of six months prior to the date of the application by the tenant or the landlord under sub-section (1) of section 12 for fixing the fair rent.

- (3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be void.

16. Prohibition of receipt of premium.

- (1) Where the fair rent of a building has not been so fixed, the landlord shall not, after the commencement of this Act, claim, receive or stipulate for the payment of an extra amount or other like sum in addition to the agreed rent: Provided that the landlord may claim, receive or stipulate for the payment of an amount not exceeding one month's rent by way of advance.

- (2) Save as provided in sub-section (1), any sum paid in excess of the agreed rent after the commencement of this Act in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord.

- (3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be void.
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CHAPTER IV

Payment and deposit of rent

17. Receipt to be given for rent paid.

- (1) Every tenant shall pay rent within the time fixed by contract or, in the absence of such contract, by the fifteenth day of the month next following the month for which it is payable.
- (2) Every tenant who makes a payment of rent or advance to his landlord shall be entitled to obtain forthwith from the landlord or his authorised agent a written receipt for the amount paid to him, signed by the landlord or his authorised agent.
- (3) If the landlord or his authorised agent refuses or neglects to deliver to the tenant a receipt referred to in sub-section (2), or does not accept any rent tendered by a tenant, the tenant shall remit the rent to the landlord by money order after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent and deliver a receipt as required by sub-section (2).

18. Deposit of rent by tenant.

- (1) Where there is a bona fide doubt as to the person or persons to whom the rent is payable or where the address of the landlord or his authorised agent is not known to the tenant, or the landlord refuses to accept the rent from the tenant he may deposit such rent with the Controller in the prescribed manner.
 - (2) The deposit shall be accompanied by an application by the tenant containing the following particulars, namely:-
 - (a) the building for which the rent is deposited with a description sufficient for identifying the building;
 - (b) the period for which the rent is deposited;
 - (c) the name and address of the landlord or the person or persons claiming to be entitled to such rent;
 - (d) the reasons for and the circumstances in which the application for depositing the rent is made;
 - (e) such other particulars as may be prescribed.
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- (3) On such deposit of the rent being made, the Controller shall send in the prescribed manner a copy or copies of the application to the landlord or persons claiming to be entitled to the rent with an endorsement of the date of the deposit.
- (4) If an application is made for the withdrawal of any deposit of rent, the Controller shall, if satisfied that the applicant is the person entitled to receive the rent deposited, order amount of the rent to be paid to him in the manner prescribed: Provided that no order for payment of any deposit of rent shall be made by the Controller under this sub-section without giving all persons named by the tenant in his application under sub-section (2) as claiming to be entitled to payment of such rent an opportunity of being heard and such order shall be without prejudice to the right of such persons to receive such rent being decided by a court of competent jurisdiction.
- (5) If at the time of filing the application under sub-section (4) but not after the expiry of thirty days from receiving the notice of the deposit, the landlord or the person claiming to be entitled to the rent complains to the Controller that the statements in the tenant's application of the reasons and the circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, if he is satisfied that the said statements were materially untrue, impose on the tenant a fine not exceeding an amount equal to two months' rent, and may further direct that such portion thereof as he considers fit should be paid to the landlord as compensation.
- (6) The Controller, on the complaint of the tenant and after giving an opportunity to the landlord of being heard may, if he is satisfied that the landlord without any reasonable cause refused to accept rent though tendered to him within the time referred to in section 17, impose on the landlord a fine not exceeding an amount equal to two months' rent and may further direct that such portion thereof as he considers fit should be paid to the tenant as compensation.

19. Time limit for making deposit and consequences of incorrect particulars in application for deposit.

- (1) No rent deposited under section 18 shall be considered to have been validly deposited under that section, unless the deposit is made within twenty-one days of the time allowed by section 17 for payment of the rent.
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- (2) No such deposit shall be considered to have been validly made, if the tenant wilfully makes any false statement in his application for depositing the rent, unless the landlord has withdrawn the amount deposited before the date of filing an application for the recovery of possession of the building from the tenant.
- (3) If the rent is deposited within the time mentioned in sub-section (1) and does not cease to be a valid deposit for the reason mentioned in sub-section (2), the deposit shall constitute payment of the rent to the landlord as if the amount deposited had been validly tendered.
- (4) If the deposit is not considered to have been validly made, the person depositing may withdraw the deposit at any time when he wishes to withdraw by making an application in writing in this behalf to the Controller.

20. Saving as to acceptance of rent.

The withdrawal of rent deposited under section 18 in the manner provided therein shall not operate as an admission against the person withdrawing it of the correctness of the rate of rent, the period of default, the amount due, or of any other facts stated in the tenant's application for depositing the rent under the said section.

CHAPTER V

Control on eviction of tenants

21. Bar on eviction of tenants.

Notwithstanding anything to the contrary contained in any other law or contract, a tenant shall not be evicted, whether in execution of a decree or otherwise, except in accordance with the provisions of this Chapter: Provided that where the tenant denies the title of the landlord or claims a right of permanent tenancy, the Controller shall decide whether the denial or claim is bona fide and if he records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a civil court and the court may pass a decree for eviction on any of the grounds mentioned in this Chapter even though the court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

22. Grounds of eviction. -

- (1) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf.
- (2) If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application is satisfied -
 - (a) that the tenant is in arrears in payment of rent due by him in respect of the building for a total period of three months and has failed to pay or tender such arrears of rent as are legally recoverable from him within thirty days of the receipt of or of the refusal of a registered notice served on him by the landlord for such arrears; or;
 - (b) that the tenant has without the written consent of the landlord-
 - (i) transferred his right under the lease or sub-let the entire building or any portion thereof, or
 - (ii) used the building for a purpose other than that for which it was leased;or
 - (c) that the tenant has committed such acts of damage as are likely to impair materially the value or utility of the building; or
 - (d) that the tenant has been guilty of such acts and conducts which are a nuisance to the occupiers of other portions of the same building or of buildings in the neighbourhood;

Explanation. - For the purpose of this clause, "nuisance" shall be deemed to include any act which constitutes an offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956;

- (e) that the tenant of a dwelling house has, whether before or after the commencement of this Act, built, acquired vacant possession of, or been allotted a residence within an area of five kilometers radius for the outer limits of the city or village as the case may be, where such dwelling house is situated; or
 - (f) that the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause; or
 - (g) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim was not bona fide; the Controller shall make an order directing the tenant to put the landlord in possession of the building; and if the Controller is not so satisfied he shall make an order rejecting the application:
- (3) No order for the eviction of a tenant shall be made on the ground specified in clause (a) of sub-section (2), if the tenant, within thirty days of the service of the summons of proceedings on him, pays or tenders to the landlord or deposits with the Controller the arrears of rent due by him up to the date of such payment, tender or deposit together with the cost of application: Provided that no tenant shall be entitled to the benefit under this sub-section, if, having obtained such benefit once in respect of any building he again makes a default in the payment of rent of that building for a total period of three months.
- (4) In any proceeding falling under clause (a) of sub-section (2), if the controller on an application made to it is satisfied that the tenant's default to pay, tender or deposit rent was not without reasonable cause, he may, notwithstanding anything contained in sub-section (3) or in section 32, after giving the parties an opportunity of being heard, give the tenant a reasonable time, to pay or tender the rent due by him to the landlord upto the date of such payment or tender and on such payment or tender the application shall be rejected.

23. Landlord's right to obtain possession.

- (1) A landlord may, subject to the provisions of section 24, apply to the Controller for an order directing the tenant to put him in possession of the building-
- (a) in case it is a residential building,-
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- (i) if the landlord is not occupying a residential building of his own in the city, town or village concerned and he requires it for his own occupation or for the occupation of any member of his family; or
 - (ii) if the landlord who has more buildings than one in the city, town or village concerned is in occupation of one such building and he *bona fide* requires another building instead, for his own occupation;
- (b) in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, if the landlord requires it for his own or to the possession of which he is entitled in the city, town or village concerned which is own or to the possession of which he is entitled whether under this Act or otherwise: Provided that a person who becomes a landlord after the commencement of the tenancy by an instrument 'inter vivos' shall not be entitled to apply under this sub-section before the expiry of five years from the date on which the instrument was registered : Provided further that in case of gift from parents the above period of five years shall be reduced to two years: Provided further that where a landlord has obtained possession of a building under this section, he shall not be entitled to apply again under this section-
- (i) in case he has obtained possession of a residential building for possession of another residential building of his own;
 - (ii) in case he has obtained possession of a non-residential building for possession of another non-residential building of his own.
- (2) Where the landlord of a residential building is a religious, charitable, educational or other public institution, it may, if the building is required for the purposes of the institution, apply to the Controller, subject to the provisions of section 24, for an order directing the tenant to put the institution in possession of the building.
- (3) A landlord who is occupying only a part of a residential building, may notwithstanding anything in sub-section (1), apply to the Controller for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for his own use or for the use of any member of his family.
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Explanation. - For the purpose of this section, a landlord means a person, on account of or on behalf of or for the benefit of whom the rent of a building is received but does not include an agent, trustees, guardian or receiver.

23A. Right to recover immediate possession of premises to accrue to certain persons.

- (1) Where a landlord who, being a person in occupation of any residential premises allotted to him by the Government or any local authority is required, by, or in pursuance of any general or special order made by the Government or such authority to vacate such residential accommodation or in default, to incur certain obligations, on the ground that he owns in the place where such residential premises has been allotted to him either by the Government or by such local authority, a residential accommodation either in his own name or in the name of his wife or dependent child there shall accrue on and from the date of such order to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately possession of any premises let out by him: Provided that nothing in this section shall be construed as conferring a right on a landlord owning in the place where the residential accommodation has been allotted to him by the Government or such local authority two or more dwelling houses whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.
- (2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary where the landlord exercises the right of recovery conferred on him by sub-section (1), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority: Provided that where the landlord had received,-
- (a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of the premises by him, refund to the tenant such
-