

Bihar And Orissa Kamiauti Agreements Act, 1920

5 of 1920

[10 November 1920]

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PREAMBLE

An Act to make provision regarding agreements for the performance of certain kinds of labour in 2[the States] of Bihar [and Orissa.]

WHEREAS it is expedient to limit the period and regulate the terms of, and otherwise to make provision regarding agreements for, the performance of certain kinds of labour;

AND WHEREAS the previous sanction of the GovernorGeneral has been obtained under Section 79 of the Government of India Act, 1915, to the passing of this Act;

It is hereby enacted as follows:-

1. Legislative Papers.-For Statement of Objects and Reasons, see the Bihar and Orissa Gazette, 1920, Pt. V, p. 110; for Report of the Select Committee, see *ibid.*, Pt. V, p. 140; and for Proceedings in Council, see *ibid.*, Pt. VI pp. 357 and 449.

2. Substituted by A.L.O.

1. Short title and extent :-

(1) This Act may be called the Bihar and Orissa Kamiauti Agreement Act, 1920.

(2) It extends to the whole of ¹[the States] of Bihar [and Orissa] including the Santhal Parganas [and district of Angul].

1. Substituted by A.L.O.

2. Definitions :-

In this Act, unless there is something repugnant in the subject or context,-

(1) advance means an advance of money or in kind or partly of money and partly in kind, and includes any transaction which is, in the opinion of the Court, substantially an advance;

(2) executant means the party to a Kamiauti agreement who undertakes that he or some other person shall perform labour;

(3) Kamia means a person who under the terms of a Kamiauti agreement is to perform labour;

(4) kamiauti agreement.

(a) means an agreement written or oral, or partly written and partly oral, wherein the consideration for the performance of labour by any person is or includes one or more of the following, namely, an advance made or to be made to any person, the interest on such advance, a debt due by any person, the interest on such debt; and

(b) includes any transaction which, in the opinion of the Court, is

substantially such an agreement; but

(c) does not include

(i) an agreement to work entered into by a skilled workman,

(ii) an agreement to work outside the area to which this Act extends, or

(iii) an agreement to supply a cart and cartman.

(5) labour means agricultural labour and includes domestic service or labour whether indoor or outdoor.

3. In subsisting kamiauti agreements, labour deemed performed and advance and debt discharged after one year :-

In respect of every kamiauti agreement subsisting at the commencement of this Act, each of the following shall, if it has not previously occurred, be deemed on the expiry of one year from such commencement to have occurred:-

(a) all the stipulated labour to have been duly performed, and every obligation to perform labour or to provide a kamia to have been discharged;

(b) the advance, principal and interest, to have been repaid;

(c) the debt and interest thereon to have been discharged.

4. Future kamiauti agreement unless satisfying certain conditions void and inadmissible to registration :-

(1) A kamiauti agreement entered into after the commencement of this Act shall be wholly void-

(i) unless the full terms of the agreement between the parties are expressed in an instrument duly stamped according to the law for the time being in force;

(ii) unless the person making the advance or to whom the debt is due, delivers to the executant a counterpart of the said instrument at the time of the execution of the instrument;

(iii) if the period expressed or implied during which the labour is to be performed exceeds, or might in any possible event exceed, one year;

(iv) unless it provides that on the expiry of the period during which the labour is to be performed, all liability shall be extinguished in respect of any advance, debt or interest which is the consideration or part of the consideration of the agreement;

(v) unless it provides for a fair and equitable rate of remuneration for the labourer.

(2) No kamiauti agreement which is void under clauses (i) to (iv) of sub section (1) of this Section shall be admitted to registration.]¹

1. As to registration of agreements, see the Indian Registration Act, 1908, ss. 17-18. These provisions do not apply to a kamiauti agreement by virtue of sub-section (2) of Sec 4 above.

5. Kamiauti agreement void on death of labourer or other executant, and liability to labour extinguished :-

A kamiauti agreement shall become void on the death either of the

kamia or of the executant, or if such kamia or executant is dead at the commencement of this Act, as such commencement; and notwithstanding anything to the contrary in the kamiauti agreement or in any law, no liability to perform labour or in respect of the non-performance thereof shall survive against the estate or against any heir of the deceased, nor shall any suit be brought to enforce such liability.

6. Bar to suits on kamiauti agreements when void :-

Notwithstanding anything contained in the Indian Contract Act, 1872, when a kamiauti agreement is void under Section 4 or otherwise, or becomes void under Section 5, no suit shall lie for restoration of or compensation for any advantage received by the executant, or, in particular, for the recovery of any advance, debt or interest which is the consideration or part of the consideration of the agreement.

7. Bar to suits on kamiauti agreements except for recovery of value of labour not performed without just cause :-

(1) Except as provided in this section, no suit shall lie against the executant of a kamiauti agreement or any other person in respect of non-performance of labour, or in respect of any advance, debt or interest which is the consideration or part of the consideration of the agreement.

(2) If during the period of a valid kamiauti agreement the kamia without just cause withholds the stipulated labour or does not perform it with reasonable assiduity, then, subject to the provisions of Section 5 and notwithstanding the provisions of section 3 (a), a suit shall, if brought within three months after the termination of the period, lie against the executant for recovery of the net value of the labour so withheld or not performed, but no decree shall be passed in such suit for a sum exceeding the principal of the advance or of the debt, and the costs in the suit.