

SAURASHTRA PROHIBITION OF LEASES OF AGRICULTURAL LANDS ACT, 1953

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**SAURASHTRA PROHIBITION OF LEASES OF AGRICULTURAL
LANDS ACT, 1953**

An Act to provide for the prohibition of leases of agricultural lands. WHEREAS on the abolition of Girasdari and Barkhali systems in Saurashtra, the intermediate interests as between the States and the cultivators are disappearing and direct relationship is being established between the State and the cultivators; and WHEREAS the system of leasing agricultural Khalsa land and thereby creating a class of subordinate holders thereon has not yet come into existence to any appreciable extent; and WHEREAS it is expedient in the interest of the general public to ensure that no intermediate interests hereafter appear and direct relationship between the State and the cultivators is created and maintained and to provide for certain other matters incidental thereto: It is hereby enacted as follows:-

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Saurashtra Prohibition of Leases of Agricultural Lands Act, 1953.

(2) It extends to the whole of the State of Saurashtra.

(3) This Act shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires-

(1) "agricultural land" means any land which is used for the purpose of agriculture;

(2) "Code" means the Bombay Land Revenue Code, 1879, as adapted and applied to the State;

(3) "cultivate personally" or any cognate expression means to cultivate on one's own account -

(a) by one's own labour,

(b) by the labour of any member of one's family, or

(c) by servants on wages payable in cash or in kind, but not in a share of the crops or by hired labour, under one's personal supervision or the personal supervision of any member of one's

family.

Explanation-In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family;

(4) "occupancy" means a parcel or parcels of agricultural land held by an occupant;

(5) "occupant" means an occupant as defined in the Code and includes a mortgagee in possession of such occupancy;

(6) "Tribunal" means the Saurashtra Revenue Tribunal;

(7) words and expressions used, but not defined in this Act, shall have the meanings assigned to them in the Code.

3. Act to over ride other laws :-

Save as otherwise expressly provided in this Act, the provisions of this Act, and of the rules and orders made there under shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law or any usage, agreements, settlement, grant, sanad, or any decree or order of any court or other authority.

4. Registration of leases :-

(1) Every occupant who has leased his occupancy or part thereof, prior to the coming into force of this Act, shall on or before 1st September, 1954 get such lease, if subsisting on the date of coming into force of this Act registered with a revenue officer not below the rank of a Mahalkari, furnishing such particulars as may be prescribed by Government.

(2) No lease, other than a lease which has been registered under sub-section (1), shall be recognised as such and the provisions of section 6 shall apply to such lease as if it were granted in contravention of section 5.

CHAPTER 2

Prohibition of lease of agricultural lands

5. Prohibition of lease; occupant to cultivate personally :-

(1) On and after the date on which this Act comes into force, an occupant shall not, save as otherwise expressly provided by or under this Act, lease to any person, or renew any lease registered

under sub-section (1) of section 4 in respect of his occupancy but he shall cultivate it personally.

(2) Lease in contravention of sub-section (1) void.-Any lease granted or renewed, whether by an instrument, or an oral agreement, in contravention of the provisions of sub-section (1) shall be void.

6. Penalty for contravention of sub-section (1) of section 5 :-

(1) Any occupant who contravenes the provisions of sub-section (1) of section 5 shall, on conviction, be punishable with fine which may extend to-

(i) in the case of contravention for the first time, an amount equal to six times the assessment:

(ii) in the case of contravention for the second time, an amount equal to twelve times the assessment;

(iii) in the case of contravention for more than two times, an amount equal to twenty times the assessment.

(2) [*****]

Explanation-For the purposes of this section, "assessment" shall mean the assessment leviable at full, and not reduced, rate on the occupancy in respect of which the provisions of sub-section (1) of section 5 are contravened,

7. Exception :-

Nothing contained in sub-section (2) of section 4 and sections 5 and 6 shall apply to an occupant who is a widow, a minor subject to any physical or mental disability or a member of the armed forces.

8. Summary eviction :-

Any person unauthorisedly occupying or being wrongfully in possession of any occupancy-

(a) the transfer of which either by the act of the parties or by the operation of law, is invalid under the provisions of this Act; or

(b) to the use and occupation of which he is not entitled under the said provisions; may be summarily evicted by the Collector or by any officer not below the rank of a Deputy Collector authorised by the Collector in this behalf.

9. Saving as to certain tenants :-

Nothing contained in sub-section (2) of section 4 and sections 5 and 6 shall affect the operation of the provisions of Chapter III of the Saurashtra Land Reforms Act, 1951.

CHAPTER 3

Procedure and jurisdiction of revenue officers and the Tribunal.

10. Notice by Mamlatdar regarding contravention of the provisions of this Act :-

If, on a report received from a revenue officer, or an information received in any manner whatsoever, it appears to the Mamlatdar that any person has contravened the provisions of this Act, the Mamlatdar may cause a notice to be served on such person, in such manner as may be prescribed, to show cause why he should not be proceeded against as provided for in section 6.

11. Enquiry by Mamlatdar :-

If, after hearing the person on whom a notice is served under section 10 and after making such further inquiries as are considered necessary, the Mamlatdar is satisfied that the provisions of this Act are contravened in respect of any occupancy, he shall pass an order imposing such penalty as he considers necessary, under the provisions of section 6.

12. Appeal :-

An appeal against any order passed by a Mamlatdar under section 11 shall lie to the Collector.

13. Revision :-

An application for revision against any order passed by a Collector under section 12 shall lie to the Tribunal.

14. Limitation :-

Every appeal or application for revision shall be filed within a period of 60 days from the date of the order of the Mamlatdar or Collector, as the case may be. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal or application for revision.

15. Court fees :-

Every appeal or application for revision under this Act shall bear a court fee stamp of such value as may be prescribed .

16. Inquiries and proceedings to be judicial proceedings :-

All inquiries and proceedings before the Mamlatdar, the Collector or

the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860.

CHAPTER 4

Miscellaneous

17. Bar of jurisdiction :-

(1) No civil court shall have jurisdiction to settle, decide or deal with any question which is, by or under this Act, required to be settled, decided or dealt with by a Mamlatdar, a Collector or the Tribunal in appeal or revision or the Government in exercise of their powers of control.

(2) No order of the Mamlatdar, the Collector, the Tribunal or the Government, made under this Act, shall be questioned in any civil or criminal court.

Explanation-For the purposes of this section a civil court shall include a Mamlatdar's Court constituted under the Saurashtra Mamlatdars' Courts Ordinance, 1948.

18. Control :-

In all matters connected with this Act, the Government shall have the same authority and control over Mamlatdars and the Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

19. Indemnity :-

No suit or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

20. Act not to apply to certain lands and areas :-

(1) Nothing in this Act shall apply -

(a) to agricultural land held on lease from the Government, or a local authority;

(b) to agricultural lands held on lease for the benefit of an industrial or commercial undertaking;

(c) to any land reserved as Gharkhed by, or allotted for personal cultivation to, a Girasdar or a Barkhalidar under the provisions of the Saurashtra Land Reforms Act, 1951, or the Saurashtra Barkhali Abolition Act, 1951, upto the Akhatrij of Samvat year 2016;

(d) to any area or class of land which the Government may, from time to time, having regard to the local conditions, the situation or prevailing circumstances in that area in respect of that class of land, think it necessary, by notification in the Official Gazette, specify.

(2) Notwithstanding anything contained in sub-section (1), the Government may, from time to time having regard to the local conditions, the situation or prevailing circumstances in the area, in respect of particular agricultural lands or class of land, direct that such area or particular agricultural lands or class of land shall not be exempt from all or any of the provisions of this Act.

21. Rules :-

(1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-

(a) the particulars to be furnished under section 4;

(b) the manner of issuing notice under section 10;

(c) the procedure to be followed by the Mamlatdar, the Collector and the Tribunal under sections 11, 12 and 13 respectively;

(d) the value of the court fee stamp payable on an appeal to the Collector and application revision to the Tribunal under section 15;

(e) any other matter which has to be, or may be, prescribed under this Act.