

The Bhagelas Contracts Act of 1353 F

MAHARASHTRA

India

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Act 9 of 1353

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The Bhagelas Contracts Act of 1353 F Act No. 9 of 1353 Fasli (Received the assent of H.E.H. the Nizam through Firman, dated 27th Moharrum-ulharam, 1363 Hijri, corresponding to 21st Isfandar, 1353 Fasli) Preamble Whereas it is expedient to re-enact the provisions relating to Bhagelas contracts; It is hereby enacted as follows

1. Short title, commencement and extent.

- This Act may be called the Bhagelas Contracts Act of 1353 F., and it shall come into force in the whole of H.E.H. the Nizam's Dominions from the date of its [publication in the Jarida.] [Published in the Jarida, dated 12th Fawardi, 1353 F.]

2. Repeal and saving.

- The Bhagelas Contracts Regulation of 1345 F., shall be deemed to be repealed as from the commencement of this Act, but in respect of every such Bhagela contract as may be in force on the commencement of the Bhagelas Contracts Regulation of 1345 F., any of the following matters which has not occurred prior to that shall be deemed, after the expiry of one year from the said date, to have occurred, -(a) all the stipulated labour has been duly performed and every kind of obligation for the performance of labour or the supply of Bhagela has been discharged; (b) the advance, or principal and interest have been paid; (c) the debt and interest thereon have been settled.

3. Definitions.

- In this Act unless there is anything repugnant in the subject or context :-(1) "advance" means an advance in cash or in kind or partly in cash and partly in kind and includes any transaction which is held under this Act to be substantially an advance; (2) "executant" means a party to the Bhagela contract which undertakes that it, or some other person under its guardianship, shall work for wages; (3) "Bhagela" means a person who under the term of the Bhagela contract is responsible to

work for wages;(4)"Bhagela transaction" means a transaction, written or oral, or partly written and partly oral, wherein the consideration for the labour by any person is an "advance" made or to be made to any person, and the interest on such "advance" or a debt due by any person and the interest on such debt and it includes any settlement which is held under this Act to be such a transaction but it shall not include the following cases:-(a)a transaction for the execution of work entered into by a skilled workman;(b)a transaction for the performance of work, ultra vires of this Act: or(c)a transaction to supply a cart and cartman.(5)"Labour" means the work of agricultural labour and includes domestic service and labour whether performed indoor or outdoor.

4. Certain matters to be observed in execution of Bhagela contracts.

(1)After the commencement of this Act, the following matters shall be observed at the time of execution of every Bhagela contract and in case of contravention such contract shall be deemed to be void(a)All the terms of the contract entered into between the parties shall be recorded in a document and it shall be entered in a register in the office of the village Patwari within such period and on payment of such fee to the Patwari as the Government may prescribe by rules under this Act;(b)The person making the advance or to whom the debt is due, shall deliver to the executant a certified copy of the document referred to in clause (a) at the time of execution of the document;(c)The period expressed or implied during which the labour is to be performed shall not in any case exceed one year. But the parties may terminate the contract before the expiry of the period of one year by executing another document. A copy of the subsequent document shall also be delivered in accordance with the provisions of clause (b);(d)the contract shall contain no condition as regards performance of labour by a child under twelve years of age or for recovery from it of any advance or debt or interest which is the consideration or part of the consideration of the contract;(e)it shall be specified in the contract that on the expiry of the period of performance of labour, all liability in respect of an advance, debt or interest, which is the consideration or part of the consideration of the contract shall be extinguished.(2)Notwithstanding anything contained in the Hyderabad Stamp Act of 1331 F., a deed of Bhagela contract and its certified copy shall be exempt from stamp duty.(3)The instrument of Bhagela contract which is void under sub-section (1) shall not be admitted to registration under the Hyderabad Registration of Documents Act of 1328 F.

5. Rate of interest under Bhagela contract.

- The interest under a Bhagela contract shall not be recovered at a rate of simple interest exceeding six per cent, per annum.

6. Agricultural labour contract shall become void, and liability to labour extinguished on death of Bhagela or other executant.

- A Bhagela contract shall become void on the death of the Bhagela or of the executant even though it was executed under the Bhagela Contract Regulation of 1345 F., and notwithstanding anything contained in the Bhagela contract or in any other law, no liability for performance or nonperformance of labour shall lie with the estate of the deceased or with any of his heirs nor shall

any suit be instituted to satisfy such liability.

7. Bar of suit in respect of void Bhagela contract.

- Notwithstanding anything contained in the Hyderabad Contract Act of 1316 F. when a Bhagela contract is void under section 4 or otherwise, or becomes void under section 6, no suit shall lie for restoration of any advantage or compensation thereof 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 contract.

8. Bar of suits in respect of Bhagela contract except suits instituted for recovery of remuneration of work not performed without just cause.

(1) Except in the case referred to in this section, no suit shall lie against the executant of a Bhagela contract or any other person for nonperformance of labour, or in respect of any advance, debt or interest which is the consideration or part of the consideration of the contract. (2) If during the period of valid Bhagela contract, the Bhagela without just cause withholds the stipulated labour, then, subject to the provisions contained in section 5, an application may be made against the executant within three months after the termination of the period of contract to the Tahsildar of the taluka in which the executant resides, for the recovery of the actual remuneration of the work so withheld or not performed, but on such application the Tahsildar shall not decree a sum exceeding the principal of the advance found to be due at that time together with simple interest at a rate not exceeding six per cent, per annum. The decree passed by the Tahsildar shall, for all purposes, be deemed to be the decree of a competent Civil Court.

9. Procedure for enforcement of provisions of sections [2] [Substituted by Act No. XV of 1357 F.], 4 and 6.

- If the provisions of section [2] [Substituted by Act No. XV of 1357 F.], 4 or 6 are contravened, a Bhagela may apply for relief to the Tahsildar of the taluq in which he resides. If the Tahsildar, after giving a hearing to the parties, is satisfied that the contract was terminated under section [2] [Substituted by Act No. XV of 1357 F.] or that it is void under section 4 or section 6, he may pass an order accordingly and by such order the contract shall terminate.

10. Civil Courts not to have jurisdiction.

(1) No Civil Court shall have power to entertain a suit or proceeding in respect of a transaction for the disposal of which power vests in a Tahsildar under sections 8 and 9 of this Act and no act of a Tahsildar done in exercise of powers conferred by this Act shall be called in question in a Civil Court. (2) If a case or proceeding is pending decision in any Civil Court at the commencement of this Act or is instituted after the commencement of this Act for the recovery of an advance or debt stated in the contract under section [2] [Amended by Act No. XV of 1357 F.], 4 or 6 and the defendant produces a certificate of the Tahsildar to the effect that an application in respect of the said

transaction has been lodged before the Tahsildar under this Act, the Court shall adjourn and transfer the case or proceeding to the Tahsildar and the Tahsildar shall dispose of it in accordance with this Act.(3)If in the opinion of the Tahsildar, the transaction produced is not a Bhagela contract, he shall return the case to the Court and the Court shall decide it on merit.

11. Penalty for extracting labour on account of terminated or void contract.

- If a Bhagela is forced to perform labour or to pay something in respect of a contract which has been terminated by order under section 9, he may apply to the Tahsildar who may. after making necessary enquiry and giving a hearing to the offender, punish him with fine which may extend to twenty-five rupees which shall be recoverable as arrear of land revenue.

12. Penalty for making oral contract.

- If a village Patwari finds that an employer has not executed a contract with a Bhagela or his guardian under section 4 and is taking work from the Bhagela without such contract, he shall give a notice to the said employer to execute a valid contract in writing within fifteen days. If the employer does not comply, the Patwari shall report to the Tahsildar who may after making necessary enquiry and giving a hearing to the employer, punish the employer, in case a contravention of this Act is proved, with fine which may extend to twenty five rupees which shall be recoverable as arrear of land revenue.

13. Exemption from stamp duty.

- A contract made and every application filed by a Bhagela under this Act shall be exempt from stamp duty.

14. Appeal.

- An appeal shall lie from every decision of a Tahsildar with the Second Taluqdar whose decision shall be final.

15. Power to make rules.

- The Government may make rules to carry out the purposes of this Act.