



LAND REFORMS IN THE STATE OF GOA – AN ASSESSMENT

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ABSTRACT

This paper looks into the Conflict between the landlord and tenant for protection of the rights, and their livelihood. It's need to determinants of rights of tenant and rights recognition of the tenant farmer. In Goa all tenants were lived in the foot hills of the Western Ghats with an agrarian economy of life.

The paper examines how the state recognizing 'tenants rights in Goa. Against this backdrop, the paper examines ongoing attempts among the rethink tenant rights and how the Agricultural Tenancy Act 'beneficial for protection of tenant rights in the state of Goa. This paper is prepared with help of secondary data from books, articles; journal, newspaper etc. have been used.

Keywords: *Agricultural Tenancy Act, Amendments, Contract Farming, Position of Contract Farming.*

INTRODUCTIUON

The last generation of significant improvements in agricultural yields in India - the famous "Green Revolution" - was achieved in the 1960s and 1970s through government investments, institutions and interventions. But success stories from public action since then have been rare and Indian agriculture is widely seen to be in crisis today.

In the environment liberalization and globalization policies, the role of the state in agricultural marketing and input supply is being reduced and an increasing space is being provided to the private sector to bring about better marketing efficiency in input and output markets. On the other hand, processor, and/or marketers face problems in obtaining timely, cost effective, and adequate supply of quality raw materials. Contract farming is a step towards achieving both these objectives of cost reduction and value addition by providing the farmers with better seeds and other inputs improved marketing channels and technical know-

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how. In India though contract farming is not new it has come to limelight in the late 1980s with the entry of Pepsi in the processing of Tomato in Punjab. Currently there are nearly 50 processor / exporters practicing contract farming for different commodities. There are very successful cases like gherkin in Karnataka, paper mint and roses in Punjab, broilers and coleus in Tamil Nadu, organic cotton in Gujarat and some less satisfactory ones like safflower in Maharashtra, Basmati and Paddy in Punjab and Wheat in Uttar Pradesh”¹.

India had been agrarian economy where 70% population depends on agriculture. In spite of India become independent in 1947 vides disparity and uneven distribution on land holding continued to dog the country. Few landlords possessing huge pockets of land caused the poor farmers and landless without any means of production. The optimum utilization of the land in independent India further dithered due to the fact that landlords possessing land did not have capacity to cultivate, whereas poor landless farmers having capacity to produce did not possess the land.

This uneven distribution of land alarmed the framers of Indian constitution to make provisions in Indian constitution, to bring equality both under (a) Fundamental Rights and (b) Directive Principles of state policy to bring social and economic justice in entire country. This resulted in agrarian reforms throughout the country in the form of different land laws passed by different states in different names.

The situation in Goa is somewhat different from the rest of India as Goa was liberated only in the year 1961 from the Portuguese Rule who ruled over Goa for 451 years. Being union territory at that time, Goa did not lack behind in bringing agrarian reforms and the first bill was introduced in the year 1964, in the Goa Legislative Assembly (bill No. 7 of 1964) immediately after it was liberated from Portuguese Regime. The statement, object and reason behind bringing the said bill were to grant agricultural tenants security of tenure against eviction at the whims and fancies of the landlords. Under Portuguese Regime tenants security was at will and pleasure of the landlord. Agricultural tenants were most neglected persons without any rights at all. Rates of rent levied were very high and crippling. There was no standard price for fixing rent, hence rates varied widely. Rate of rent was fixed on auction and highest bidder for rent was given the lease of the land. This pushed up the rents very high and no margins were left to the cultivators.

After the liberation, on 28th February 1963, Government of Goa appointed an expert committee under the Chairmanship of Shri A.L. Dias. This committee submitted the report to the Government in 1964. Thereafter precise proposed Bill was prepared which forms the basic skeleton of present Goa Agricultural Tenancy Act 1964.

The Bill aimed at providing Security to the Tiller who were cultivating the land for food grains for survival and whose lands was originally owned by their ancestors. By the Tenancy Act, interest of the Landlords was also protected by fixing 1/6th of the total produce as a rent to the landlords.

This Act was made applicable to the tillers except for Cashew, Coconut and orchards. By the amendment in 1976 the protection was extended to all the tillers. Further the Act made all Tillers of 1964 as deemed purchasers. Under Sec 18 K deemed purchasers had no right to transfer the land even by way of lease. Through the Mamlatdar, the land could be taken and given to the persons willing to cultivate. After 1975, Landlords and Builders filed several litigations based on Survey Records and Land Revenue Code claiming the ownership right. Litigations between Tenants and Landlords became more cumbersome due to non-preparation of Record of Rights, having no receipt of payment of rent to the Landlord with the Tenant and contract of lease.

Under the Goa Agricultural Tendency Act 1964 to claim tenancy right, the Tenant had to prove (a) possession of the land (b) Personal cultivation (c) Existence of lease (d) Payment of rent.

Under the Goa Agricultural Tendency Act 1964, the definition of the term Agriculture was very narrow restricting to paddy cultivation and Arecanut only. But after V amendment to the Goa Agricultural Tenancy Act, the definition of the term Agriculture has been widened which includes allied pursuits such as Horticulture, Cashew cultivation and Coconut garden also.

The V Amendment to the Act in the year 1976 abolished the payment of rent by the tiller to the landlord with important slogan known by the name "land to the tiller". However the dreams of V Amendment were shattered to pieces when the Court of Judicial Commissioner declared the said V Amendment as unconstitutional. However, Government of Goa preferred an appeal to the Apex Court over the said Judgment and Apex Court in the year 1990's upheld the constitutional validity of the said Judgment.

Hence the dreams of V Amendment of 1970's only became reality in the year 1990's wherein the cultivators and the tillers of the land became the real owners of the land. Tillers under V Amendment have to move an application for purchase of the land under Section 18C of the Act.

Price of the land is determined by the Mamlatdar under Section 18D of the Act, maximum 40 paise / sqmtr depending upon the nature of the land / Kher/ Khazan / Morod / Sugarcane/ Coconut garden / Cashew gardens etc..

Once the price is fixed by the Mamlatdar and paid by the tenant, tenant gets the sanad by virtue of which the tenant becomes the owner of the land. Once the property is purchased under tenancy, same cannot be leased, mortgaged, sold nor can be converted to Non-Agricultural use without the permission of the Mamlatdar.

In Goa there are two important statutes (a) Goa Agricultural Tenancy Act 1964, (b) Mundkar Act 1975. Goa Agricultural Tenancy Act, takes the care of Agricultural lands whereas, Mundkar Act takes the care of Dwelling Houses occupied by the Mundkars, Village artisans and Agricultural labourers.

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In other states of India like Maharashtra, Karnataka, Orissa, West Bengal, Kerala their agricultural land laws protects the rights of Dwelling house of the Village artisans, Agricultural laborers in those states without having any separate legislation like that of the Mundkar in the state of Goa.

Though land reforms in Goa were initiated with a view to confer benefits to the landless and the tillers, they suffered with several disadvantages. To name the few

- (i) Though land to the tiller Act conferred ownership right on them, agricultural development is being hampered as the number of farmers interested in agriculture were increasing but tenants prefer to keep their fields fallow. "The tenants are wary of subleasing their land and prefer to leave it fallow out of fear that they may lose it to the cultivators"².
- (ii) In many cases, the third parties illegally cultivate the land in an arrangement with tenants. "This is a common practice which keeps agriculture alive in Goa, but such farmers cannot avail the plethora of government subsidies, schemes and programmes"³. Further, the tenant who is granted ownership though he/she has not purchased it cannot sub-lease it under the law.
- (iii) "This ambiguity about agricultural land ownership status is not good for any state, but for a small state with limited land and strong food security concerns like Goa, it is a major problem"⁴. Even Siddharth Karapurkar agrees that "A law to lease out land for a specific period without any liabilities should be evolved"⁵.
- (iv) Conceding that tenants abandoning agriculture is a setback to the land to the tiller Act. "Its basic purpose was to give land to the tiller for producing food, but if they are not serious and not cultivating the land, such land would have to be reverted back to the government." However, farmers say that the government lacks political will to enforce this clause.
- (v) Another problem plaguing agriculture sector in the state is that a sizeable chunk of farmers are not registered. "Their tenancy rights are not clear and they are not registered in form I and XIV," a source said.
- (vi) "Unless a transparent, fair, speedy and progressive system to resolve and govern agricultural land is brought into place in short order, agricultural development will be stifled and continue to be misused and much higher food insecurity and inflation are inevitable," says Mrs. Mehra.
- (vii) Another problem is the ownership of land in Goa. When a person buys a piece of land, the government issues him an extract of a record of rights, which though considered to be sufficient proof of the person's ownership, is not, so and is only "presumptive proof". A third person can challenge that ownership. The root cause

of the huge number of court cases in Goa is right to land. The Goa Law Commission is enacting a new law called the Land Title Guarantee Act to correct this problem, says The Chairman of Goa Law Commission, Adv. .RamakantKhalap.

- (viii) The Portuguese gave Goa a law in 1867, of which, we go about telling everyone as the Uniform civil code. But it's a misnomer to some extent. In 1966, the Portuguese changed that law in their own country. So did Macau, Angola and other Portuguese colonies."But we in Goa are clinging on to the 1867 law and living in a world of make believe that we have the best enactment in the whole country. We need to change that," Chairman of Goa Law Commission
- (ix) Abhijeet Prabhudesai, another GXE member feels that land reform may be one way of addressing the ownership use. "If agricultural land is considered as a community asset and equitable distribution of produce is assured, it could work as a solution," He said further said, Reforms can help increase the size of land holdings to ensure operation of machinery for transplanting and harvesting.
- (x) Mr. Satish Tendulkar, Director, Department of Agriculture said, government is serious in pursuing contract farming to allot land to interested cultivators. "With food security looming ahead, a suitable instrument to provide legal support to contract farming is under process," He continued further that, the tenant will not lose his land and interested farmers will be able to use the land for cultivation.

Amendments to the Agricultural Tenancy Act.

Goa Agricultural Tenancy Amendment Act, 2014, comes into force on 25th September, 2014 by which the Tenancy cases from the Mamlatdars Court are to be transferred to Civil Courts to reduce the burden of more than 4000 pending cases at Mamlatdars Court. Amendment has introduced Section 4A which talks about Contract Farming. Contract farming involves agricultural production being carried out on the basis of an agreement between the buyer and farm producers. Sometimes it involves the buyer specifying the quality required and the price, with the farmer agreeing to deliver at a future date. The farmer undertakes to supply agreed quantities of a crop or livestock product, based on the quality standards and delivery requirements of the purchaser. In return, the buyer, usually a company, agrees to buy the product, often at a price that is established in advance. The company often agrees to support the farmer by supplying inputs, assisting with land preparation, providing production advice and transporting produce to its premises.

Contract Farming.

Generally means the farmer is contracted to plant the contractor's crop on his land and harvest and deliver to the contractor, a quantum of produce, based upon anticipated yield and contracted acreage. This is at a pre agreed price towards these ends and the contractor may or may not supply the farmer with selected inputs.

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Contract farming has been used for agricultural production for decades but its popularity appears to have been increasing in recent years. The use of contracts has become attractive to many farmers because the arrangement can offer both an assured market and access to production support.

Types of Contract Farming.

There are five different contract farming models. Under the centralized model a company provides support to small holder production, purchases the crop from them and then processes it by controlling its quality. This model is used for crops such as tobacco, cotton, sugar cane, banana, tea, and rubber. Under the Nucleus Estate model, the company also manages a plantation in order to supplement smallholder production and provide minimum throughput for the processing plant. This approach is mainly used for tree crops such as oil palm and rubber. The Multipartite model usually involves a partnership between government bodies, private companies and farmers. The Intermediary model involves subcontracting by companies to intermediaries who have their own arrangements with farmers. The Informal model involves small and medium enterprises who make simple contracts with farmers on a seasonal basis.

Position of Contract Farming in Goa.

In Goa some lands are left fallow or cultivated below standard norms for genuine reasons like sickness, advanced age, poverty, etc. Such landlords would be permitted to give their lands on contract basis for the purpose of farming without creating any permanent rights in the farm land in favour of the Contractor”⁶.

Furtherance to this, Government intends to conduct Survey of the land which will be left fallow by the landlords and shall be handed over to the cultivators or Farm co-operative under the contract farming who will take the land on highest bidding and Government will pay Re. 1/- per square meter to the landlords depending upon the total number of Sq.meters of land.

Tenants claim that all cultivable land is Tenanted land hence tenants become deemed purchasers from 1975 and Land owners own no land. It is further argued that since under Section 18K of old Act, Deemed purchaser cannot transfer the land by Sale, Lease or Mortgage, the tenant has no right to give the land to contract farmer. Under old Act if land lie Fallow, Mamlatdar should step in and give the field to the adjoining tenant or Farmers Co-operatives. In the Amendment 2014, land goes back to the land owner. Sec 60C, introduced as” Sunset Clause” gives tenant three years from September 25, 2014 to file an application declaring his tenancy under section 7 of old Act but section 7 of old Act talks about the question of Tenancy and not declaration of tenancy. Section 7A talks about Nature of land. Sec 8 on “Bar on Eviction and restoration of possession”.

Section 10 on” Surrender of rights by tenants and Section 14 “Inheritance after death” similar, Section 46 of Old Act states that unless there is Cause of Action, one cannot file the

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proceedings against the Land owner. Amendment's Sec 60C states tenants can initiate proceedings without the Cause of Action.

Section 18C of the old Act talks about Mamlatdar taking sue motu action directing tenant to pay purchase price and issue Purchase Certificates. Tenants say that Section 60C takes away his right. The definition of Civil Judge should have been included in the definition of Mamlatdar. Goa, Daman and Diu Agricultural Tenancy Rules, 1965, states at Rule 10 that manner of conducting inquiries must be under Section 46 of Old Act. Civil Court is not empowered to conduct inquiry under this section. Section 5A of Old Act says Mamlatdar can act as an authority to implement the provisions of tenancy Act and Advocates permitted to appear before him without permission. This Section has not been deleted in the Amendment.

CONCLUSION

Finally to conclude one can say that the success of any law reforms depends upon the will of the Government and ability of its citizens in obeying those laws, but in Goa today, the scenario is totally adverse against land reform laws. Cultivators of the land purchased the land under tenancy law which must be exclusively used for agricultural purpose, but these tenants in reality sell the tenanted lands to the big Builders and Estate Developers for carrying out constructions activity in violation of the provisions of the Goa Agricultural Tenancy Act under the blessing of political leaders, Land Mafias and Bureaucrats. This needs to be stopped at all cost failing which land reforms in Goa will be a futile exercise without any gain to the state of Goa.

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