

THE LAND REFORMS ORDINANCE, 1984

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¹THE LAND REFORMS ORDINANCE, 1984

ORDINANCE NO. X OF 1984

[26th January, 1984]

An Ordinance to reform the law relating to land tenure, land holding and land transfer with a view to maximising production and ensuring a better relationship between land owners and *bargadars*.

WHEREAS it is expedient to reform the law relating to land tenure, land holding and land transfer with a view to maximising production and ensuring a better relationship between land owners and *bargadars*;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

CHAPTER I

PRELIMINARY

- | | |
|------------------------------|---|
| Short title and commencement | <p>1. (1) This Ordinance may be called the Land Reforms Ordinance, 1984.</p> <p>(2) It shall come into force on such date as the Government may, by notification in the <i>official Gazette</i>, specify.</p> |
| Definitions | <p>2. In this Ordinance, unless there is anything repugnant in the subject or context,-</p> <p>(a) “<i>bargadar</i>” means a person who under the system generally known as <i>adhi</i>, <i>barga</i> or <i>bhag</i> cultivates the land of another person on condition of delivering a share of produce of such land to that person;</p> <p>(b) “<i>barga contract</i>” means the contract under which any land is cultivated by a person as a <i>bargadar</i>;</p> <p>(c) “<i>barga land</i>” means any land under cultivation of any person as a <i>bargadar</i>;</p> |

¹ The Ordinance was declared void by the Appellate Division of the Supreme Court of Bangladesh in Civil Appeal No. 48 of 2011 and subsequently the Ordinance has been made effective as an Act of Parliament by section 4 and Schedule of ১৯৮২ সনের ২৪ মার্চ হইতে ১৯৮৬ সালের ১১ নভেম্বর তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৭ নং আইন)।

- (d) “family”, in relation to a person, includes such person and his wife, son, unmarried daughter, son’s wife, son’s son and son’s unmarried daughter:

Provided that an adult or married son who has been living in a separate mess independent of his parents and pays union rate in his own name and his wife, son and unmarried daughter shall be deemed to constitute a separate family;

- (e) “homestead” means a dwelling house with out-houses, tanks and enclosures immediately connected with it covering an area of not more than one standard *bigha*:

Provided that where such area exceeds one standard *bigha*, the excess land shall not be deemed to be homestead;

- (f) “*malik*” means a person or an organisation, body or authority holding agricultural land;

- (g) “owner” in relation to a *barga* land, means the person from whom the bargadar gets the land for cultivation under a *barga* contract;

- (h) “personal cultivation” means cultivation by a person of his own land or *barga* land on his own account-

(i) by his own labour, or

(ii) by the labour of any member of his family, or

(iii) by the labour of any servant or labourer employed on wages to supplement his own labour or labour of any member of his family;

- (i) “prescribed” means prescribed by rules made under this Ordinance;

- (j) “prescribed appellate authority” means an authority appointed by the Government, by notification in the *official Gazette*, for the purpose of hearing all or any of the appeals under this Ordinance, or an authority specified in the rules for such purpose;

- (k) “prescribed authority” means an authority appointed by the Government, by notification in the *official Gazette*, for all or any of the purpose of this Ordinance, except for the purpose of hearing appeals, or an authority specified in the rules for such purposes;

- (l) "produce" includes straw, stalk of any crop and any other crop residue;
- (m) "rules" means rules made under this Ordinance;
- (n) "rural area" means any area which is not included within a municipality.

Ordinance to
override other
laws, etc.

3. The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any custom or usage or in any contract or instrument.

CHAPTER II

LIMITATION ON ACQUISITION OF AGRICULTURAL LAND

Limitation on
acquisition of
agricultural
land

4. (1) No *malik* who or whose family owns more than sixty standard *bighas* of agricultural land shall acquire any new agricultural land by transfer, inheritance, gift or any other means.

(2) A *malik* who or whose family owns less than sixty standard *bighas* of agricultural land may acquire new agricultural land by any means, but such new land, together with the agricultural land owned by him, shall not exceed sixty standard *bighas*.

(3) If any *malik* acquires any new agricultural land in contravention of the provisions of this section, the area of land which is in excess of sixty standard *bighas* shall vest in the Government and no compensation shall be payable to him for the land so vested, except in the case where the excess land is acquired by inheritance, gift or will.

(4) Compensation for the excess land payable under subsection (3) shall be assessed and paid in such manner as may be prescribed:

Provided that where such compensation is payable only for a portion of the excess land, the assessment and payment of compensation shall be made for such portion of the excess land as the *malik* may specify in this behalf.

CHAPTER III

PROHIBITION OF BENAMI TRANSACTION OF IMMOVABLE PROPERTY

5. (1) No person shall purchase any immovable property for his own benefit in the name of another person. No *benami* transaction

(2) Where the owner of any immovable property transfers or bequeaths it by a registered deed, it shall be presumed that he has disposed of his beneficial interest therein as specified in the deed and the transferee or legatee shall be deemed to hold the property for his own benefit, and no evidence, oral or documentary, to show that the owner did not intend to dispose of his beneficial interest therein or that the transferee or legatee holds the property for the benefit of the owner, shall be admissible in any proceeding before any Court or authority.

(3) Where any immovable property is transferred to a person by a registered deed, it shall be presumed that such person has acquired the property for his own benefit, and where consideration for such transfer is paid or provided by another person it shall be presumed that such other person intended to pay or provide such consideration for the benefit of the transferee, and no evidence, oral or documentary, to show that the transferee holds the property for the benefit of any other person or for the benefit of the person paying or providing the consideration shall be admissible in any proceeding before any Court or authority.

CHAPTER IV

HOMESTEADS

6. Any land used as a homestead by its owner in the rural area shall be exempted from all legal processes, including seizure, distress, attachment or sale by any officer, Court or any other authority and the owner of such land shall not be divested or dispossessed of the land or evicted therefrom by any means: No eviction, etc., from homestead

Provided that nothing in this section shall apply to the acquisition of such homestead under any law.

Settlement of
khas land for
homestead

7. (1) Where in the rural areas any *khas* land fit for being used as homestead is available, the Government shall, in setting such land, give preference to landless farmers and labourers:

Provided that not more than five *kathas* of such land shall be allotted for such purpose to any individual.

(2) Any land settled under sub-section (1) shall be heritable but not transferable.

CHAPTER V

BARGADARS

Cultivation
under *barga*
contract

8. (1) Subject to the other provisions of this Ordinance, no person shall allow another person to cultivate his land and no person shall cultivate the land of another person on condition of sharing the produce of such land between them unless they execute a contract for such cultivation in such form and manner as may be prescribed.

(2) A *barga* contract shall be valid for a period of five years commencing from such date as may be specified in the *barga* contract.

Recognition of
existing
bargadars

9. (1) Any person cultivating the land of another person as a *bargadar* immediately before the commencement of this Ordinance shall be deemed to be a *bargadar* in respect of such land under this Ordinance.

(2) The owner and the *bargadar* of any land referred to in sub-section (1) shall execute a contract as required under section 8 within ninety days from the date of commencement of this Ordinance.

(3) If the parties fail to execute the contract within the specified period, any of them may make an application to the prescribed authority for getting a contract executed.

(4) The prescribed authority shall, after making such enquiry as it deems fit, within sixty days of receipt of the application, decide whether or not the applicant is entitled to get such contract executed.

(5) If the prescribed authority decides that the applicant is entitled to get a contract executed in respect of any property mentioned in the application, it shall direct the opposite party to execute the contract within two weeks from the date of receipt of the direction and, if such party fails to execute, the authority shall execute it on behalf of such party.

(6) A *barga* contract executed under this section shall be deemed to be effective from the date of commencement of this Ordinance, and shall be valid for a period of five years from that date.

10. (1) Where a *bargadar* dies before the expiry of the period of *barga* contract, the cultivation of the *barga* land may be continued by the surviving members of the family of the deceased *bargadar* till such expiry or till the *barga* contract is terminated under this Ordinance.

Cultivation of
barga land
after
bargadar's
death

(2) Where the *bargadar* dies without leaving any person in his family who is in a position to cultivate the land, the owner of the land may bring the land under his personal cultivation or allow such land to be cultivated by another *bargadar*.

11. (1) No owner shall be entitled to terminate a *barga* contract except in execution of an order, made by the prescribed authority, on the ground that-

Termination of
barga contract

- (a) the *bargadar* has, without any reasonable cause, failed to cultivate the *barga* land;
- (b) the *bargadar* has, without any reasonable cause, failed to produce any crop equal to the average output of such crop in any land similar to the *barga* land in the locality;
- (c) the *bargadar* has used the *barga* land wholly or partly for any purpose other than agriculture;
- (d) the *bargadar* has contravened any provision of this Ordinance or the rules or orders made thereunder;
- (e) the *bargadar* has surrendered or voluntarily abandoned his right of cultivation;
- (f) the *barga* land is not under personal cultivation of the *bargadar*; or
- (g) the owner requires the *barga* land *bona fide* for personal cultivation.

(2) If the owner, without reasonable cause, fails to bring under personal cultivation any land on termination of a *barga* contract under sub-section (1)(g) or allows such land to be cultivated by some other *bargadar* within twenty four months of the date of such termination, the prescribed authority may, on an application made by the evicted *bargadar*, restore the possession of the land to such *bargadar* who shall thereupon continue to cultivate the land till the expiry of the period of *barga* contract or termination of the *barga* contract under this Ordinance.

Division of
produce of
barga land

12. (1) The produce of any *barga* land shall be divided in the following manner, namely:-

- (a) one-third shall be received by the owner for the land;
- (b) one third shall be received by *bargadar* for the labour;
- (c) one-third shall be received by the owner or the *bargadar* or by both in proportion to the cost of cultivation, other than the cost of labour, borne by them.

(2) The harvested crop of any *barga* land shall be stored for thrashing and division either at any place belonging to the *bargadar* or any place belonging to the owner, whichever is nearer to the *barga* land, or at any other place agreed upon between the parties.

(3) The *bargadar* shall tender to the owner the share of the produce due to him immediately after harvesting of the crop and when the tendered share is accepted by the owner, each party shall give to the other a receipt in such form as may be prescribed for the quantity of the produce received by him.

(4) If the owner refuses to accept the share of the produce tendered to him by the *bargadar* or to give a receipt therefore, the *bargadar* shall give intimation of such fact in writing to the prescribed authority.

(5) The prescribed authority shall, on receipt of such intimation, serve a notice upon the owner, in such form and manner as may be prescribed, asking him to take delivery of the produce within seven days from the date of service of the notice.

(6) If the owner fails to take delivery of the produce within seven days from the date of service of the notice, the prescribed authority shall permit the *bargadar* to sell the produce to any Government purchasing agency or, in the absence of such agency, in the local market.

(7) If the *bargadar* sells the produce, he shall deposit the proceeds of such sale with the prescribed authority within seven days from the date of sale.

(8) The prescribed authority shall give to the *bargadar* a receipt, in such form as may be prescribed, stating therein the amount of money deposited with him and the quantity of produce sold by the *bargadar* and such receipt shall discharge the *bargadar* from his obligation to deliver the share of the produce to the owner:

Provided that the quantity of the produce due to the owner, the obligation of the *bargadar* with regard to the delivery of the quantity of the produce not tendered or sold shall continue.

(9) Where a deposit is made under sub-section (7), the prescribed authority shall give intimation of such deposit to the owner in such form and manner as may be prescribed.

(10) If the owner does not receive the money in deposit from the prescribed authority within one month from the date of receipt of intimation of such deposit, the prescribed authority may deposit the money in the treasury in revenue deposit to the credit of the owner and give intimation of such deposit to the owner in such form and manner as may be prescribed.

13. (1) Where the owner intends to sell the *barga* land, he shall ask the *bargadar* in writing if he is willing to purchase the land:

Bargadar's
right to
purchase

Provided that this provision shall not apply where the owner sells the land to a co-sharer or to his parent, wife, son, daughter or son's son or to any other member of his family.

(2) The *bargadar* shall, within fifteen days from the date of receipt of the offer, inform the owner in writing of his decision to purchase or not to purchase the land.

(3) If the *bargadar* agrees to purchase the land, he shall negotiate the price of the land with the owner and purchase the land on such terms as may be agreed upon between them.

(4) If the owner does not receive any intimation from the *bargadar* regarding his decision either to purchase or not to purchase the land within the specified time or if the *bargadar* informs the owner of his decision not to purchase the land or if the *bargadar* does not agree to pay the price demanded by the owner, the owner may sell the land to any person he deems fit:

Provided that the owner shall not sell the land to such person at a price which is lower than the price offered by the *bargadar*.

(5) Where the *barga* land is purchased by a person other than the *bargadar*, the *barga* contract in respect of the land shall be binding upon the purchaser as if the purchaser were a party to the contract.

Ceiling of
barga land

14. (1) No *bargadar* shall be entitled to cultivate more than fifteen standard *bighas* of land.

Explanation.- In computing this ceiling, area of any land owned by the *bargadar* as well as the land cultivated by him as a *bargadar* and held by him under a complete usufructuary mortgage shall be taken into account.

(2) If a *bargadar* cultivates land in excess of fifteen standard *bighas*, the share of the produce due to him as a *bargadar* in respect of the excess land may be compulsorily procured by the Government by order made in this behalf by the prescribed authority.

Restriction of
cultivation

15. (1) No person shall cultivate the land of another person except under a *barga* contract or complete usufructuary mortgage or as a servant or labourer.

(2) If a person cultivates the land of another person in violation of the provisions of this section, the produce of the land may be compulsorily procured by the Government by order made in this behalf by the prescribed authority.

16. (1) Every disputes between a *bargadar* and the owner in respect of- Disputes

- (a) division or delivery of the produce,
- (b) termination of *barga* contract,
- (c) place of storing and thrashing of the produce,

shall be decided by the prescribed authority.

(2) If in deciding any dispute referred to in sub-section (1), any question arises as to whether a person is a *bargadar* or not or to whom the share of the produce is deliverable, such question shall be determined by the prescribed authority.

(3) The prescribed authority shall not entertain any dispute if it is not referred to it by an application praying for its decision thereon within three months from the date on which the dispute arose.

(4) The prescribed authority shall, after giving the parties an opportunity of being heard and adducing evidence and making such enquiry as it deems necessary, give its decision within three months from the date of receipt of the application.

17. (1) An appeal shall lie to the prescribed appellate authority against any order, decision or action made or taken by the prescribed authority under any provision of this Ordinance. Appeals

(2) An appeal under sub-section (1) shall be filed within thirty days from the date of receipt or knowledge of the order, decision or action appealed against.

(3) The decision of the prescribed appellate authority shall be final.

18. (1) The prescribed authority and the prescribed appellate authority shall, in deciding any matter, dispute or appeal, follow such procedure as may be prescribed. Procedure

(2) Any person filing any application to the prescribed authority or any appeal to the prescribed appellate authority shall pay such fees as may be prescribed.

Execution **19.** Any decision or order of the prescribed authority or of the prescribed appellate authority shall be executed or enforced in such manner as may be prescribed.

CHAPTER VI

MISCELLANEOUS

Bar of jurisdiction **20.** No order, decision, action or proceedings made or taken by any authority under this Ordinance shall be called in question in any Court and no Court shall entertain any suit or proceeding in respect of any such order, decision, action or proceedings.

Penalty **21.** Any person who violates any provision of this Ordinance or the rules or any order of any authority made under this Ordinance or the rules shall be punishable with fine which may extend to two thousand Taka.

Power to make rules **22.** The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Ordinance.
