



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

FRUSTRATION OF CONTRACTS IN INDIA: DOCTRINAL AND JUDICIAL PERSPECTIVES

- *Yeshika Sharma*

ABSTRACT

Frustration is an important concept in the Contract Law. It deals with the situation where the events which were unforeseen at the time of entering into a contract occur. The circumstances that are not expected to occur result in such a situation where it becomes impossible for a party to perform their part of the contract or such performance becomes unlawful. It thus forms an exception to the rule of pacta sunt servanda according to which contracts must be performed in their entirety. The said concept has been dealt with extensively in the Indian Contract Act, 1872 by Section. This article attempts to discuss the historical background of the said doctrine; the statutory provisions dealing with it; and the decisions of the Courts in India on the said matter. It also seeks to discuss the extent of application of the said provision; its limitations; and the relevance of the said provision in a modern scenario.

I. INTRODUCTION

It is a fundamental principle of contract law that both parties will fulfil their contractual obligations. However, after a contract has been entered into, there can occur events that make performance impossible, even illegal, or which so change basic purpose that it would be unjust to hold the other party to terms and conditions of the contract. Thus, there are circumstances where clearly it would be unjust and/or impractical to enforce a contract.

Frustration of contract is a situation where an event, not anticipated at the time of contract, takes place which may result in a situation where the affected party's obligations under the contract become impossible to be performed in whole or in part; or where the very purpose of the contract has been frustrated. Frustration of contract is meant to release both the parties from their obligations under the contract where circumstances occur which make the enforcement of

contract an act of injustice or is even against public policy and therefore clearly impractical to be enforced.

In India, this doctrine has been codified in Section 56 of the Indian Contract Act, 1872. In contrast to English law which was developed through judicial decisions and forms a part of common law, the said Section forms part of the statutory law. Although Indian courts have relied upon English cases while interpreting the aforesaid Section, vast body of case laws have developed which are based upon the said Section.

Import of doctrine has increased of late. The global events such as pandemic, war, economic depression, government actions or inactions etc., have resulted in performance of contractual obligations becoming impossible or impracticable. This refers not only to force majeure clauses but also to the applicability of the said doctrine of frustration in contractual transactions, particularly in view of the ongoing COVID-19 pandemic and its consequences.

This article examines the doctrinal foundations and judicial perspectives relating to frustration of contracts in India and evaluates its contemporary significance.

II. HISTORICAL DEVELOPMENT OF THE DOCTRINE OF FRUSTRATION

A. EARLY COMMON LAW POSITION

Under early English common law, contractual obligations were considered absolute. A party was required to perform contractual duties regardless of subsequent difficulties or impossibility.

Paradine v. Jane is a classic illustration of the strict approach referred to above.¹ In this case the court held that even where a party to a contract for the sale of land is subsequently dispossessed of the subject matter of the contract by events outside of his control, he shall still perform his obligations under the contract. This case sets out the principle that parties enter into contracts with the expectation that they shall be performed by both parties even where events outside of their control have occurred.

However, the said approach to contract was often harsh and caused hardship and injustice to the contracting parties. Hence, exceptions began to creep in and the said approach was gradually done away with.

¹ *Paradine v. Jane*, 82 Eng. Rep. 897 (K.B. 1647).

B. EMERGENCE OF THE MODERN DOCTRINE

The modern approach however was illustrated in *Taylor v. Caldwell* (1863-1866).² The case concerned an agreement to let a music hall for a series of concerts. Before the date for the concerts, the hall was destroyed by fire. It was held that the contract had come to an end because for certain purposes the continued existence of the subject matter of the contract was a condition necessary to be fulfilled. The contract had been frustrated by the destruction of the very thing needed for its due performance.

The case laid down the principle that a contract could be annulled when the facts provided for the relevant event occurring which rendered performance impossible through the destruction of the subject matter with which the contract was concerned.

Subsequent cases have developed and clearly defined the principle laid down in the aforesaid case to the following situations:

- Death or incapacity of a party;
- Non-occurrence of an essential event;
- Governmental intervention;
- Frustration of commercial purpose.

These developments significantly influenced Indian jurisprudence.

III. SECTION 56 OF THE INDIAN CONTRACT ACT, 1872

In India, the doctrine of frustration is mainly mentioned under Section 56 of the Indian Contract Act, 1872:

“An agreement to do an act impossible in itself is void.”³

The section further provides:

Where a contract is made which is to be performed by an act to be done after the time of the contract, and at the time specified for the performance thereof the act to be performed becomes impossible, or by some event which the promisor could not prevent becomes unlawful, such contract becomes void when the act to be performed becomes impossible or unlawful.⁴

² *Taylor v. Caldwell*, 122 Eng. Rep. 309 (Q.B. 1863).

³ Indian Contract Act, No. 9 of 1872, § 56, India Code (1872).

⁴ Indian Contract Act, No. 9 of 1872, § 56, India Code (1872)

Section 56 consists of three parts:

1. INITIAL IMPOSSIBILITY

An agreement to do an act which is impossible or totally capricious for all the time is void ab initio as it amounts to an agreement to do something impossible which was stated under Section 56 of the Indian Contract Act, 1872.

2. SUPERVENING IMPOSSIBILITY

A valid contract may subsequently become impossible due to unforeseen events occurring after its formation.

This is the core aspect of the doctrine of frustration.

3. KNOWLEDGE OF IMPOSSIBILITY

A person who knowingly enters into a contract which is an impossible agreement will be liable for the other party's losses.

Thus, Section 56 sets out a comprehensive legislative scheme dealing with the issue of impossibility, whether contractual or otherwise.

IV. THEORETICAL FOUNDATIONS OF FRUSTRATION

Several theories have been advanced to explain the doctrine.

A. IMPLIED TERM THEORY

This theory, now largely of historical interest in English law, attributes to parties an implicit intention that the contract shall come to an end in the event of particular unforeseen events.

The theory has played a large part in the development of the English law of frustration. However, the theory has many detractors, for it ascribes to parties a different intention from that which they had when they entered into the contract.

B. JUSTICE AND FAIRNESS THEORY

Under this approach, frustration is justified because enforcing performance after a radical change in circumstances would be unjust.

A Court of law will intervene and prevent one party from being placed under an unfair burden which had not been anticipated by both parties when they entered into the contract.

C. CONSTRUCTION THEORY

Modern courts often view frustration as a matter of contractual construction.

Does the unforeseen occurrence in fact change the liability in question into a completely different obligation than were contracted?

Indian courts have a pragmatic approach of deciding contract issues on the facts of a case rather than by referring to any one of the afore-stated concepts or theories in isolation.

V. LANDMARK JUDICIAL PERSPECTIVES IN INDIA

A. *Satyabrata Ghose v. Mugneeram Bangur & Co.*

A leading Indian Case on Frustration is *Satyabrata Ghose v. Mugneeram Bangur & Co.*⁵

Facts

Defendant in the case was a company which agreed to develop a land and to sell plots thereof. Later World War II broke out. During the war a very large portion of the land in question was requisitioned by the Government for military purposes.

The Purchaser argued that as a result of the requisitioning of a large portion of the land contracted to be developed by the Defendant Company for sale in plots the contract had become frustrated.

Judgment

The Supreme Court held that the doctrine under Section 56 is not confined to literal impossibility.

Justice Mukherjee observed that impossibility includes situations where performance becomes impracticable or useless from the standpoint of the contract's object.

The Court stated that:

“The word ‘impossible’ has not been used in the section in the sense of physical or literal impossibility.”⁶

Significance

⁵ *Satyabrata Ghose v. Mugneeram Bangur & Co.*, A.I.R. 1954 S.C. 44

⁶ *Satyabrata Ghose v. Mugneeram Bangur & Co.*, A.I.R. 1954 S.C. 44

The judgment remains the cornerstone of Indian frustration jurisprudence.

It established that:

- Impossibility may be practical rather than physical;
- Courts must examine the nature and purpose of the contract;
- Mere inconvenience does not constitute frustration.

B. Alopi Parshad & Sons Ltd. v. Union of India

In *Alopi Parshad & Sons Ltd. v. Union of India*,⁷ the plaintiff sought relief because wartime conditions increased the cost of performance.

Judgment

The Supreme Court rejected the claim and held that increased expense or commercial hardship does not frustrate a contract.

Principle

A contract is not frustrated merely because the task of the other party to the contract becomes more onerous or more expensive.

This decision reinforces contractual certainty.

C. Naihati Jute Mills Ltd. v. Hyaliram Jagannath⁸

The test for determining whether a contract has been frustrated on account of the change in circumstances is whether the effect of the event or circumstance, which has occurred, has made a significant and fundamental change to the overall obligations of the parties under the contract.

D. Boothalinga Agencies v. V.T.C. Poriaswami Nadar⁹

The Supreme Court ruled that the contract would terminate only when the performance of the contract became impossible to perform and not because it became difficult to perform.

E. Energy Watchdog v. Central Electricity Regulatory Commission

⁷ *Alopi Parshad & Sons Ltd. v. Union of India*, A.I.R. 1960 S.C. 588

⁸ *Naihati Jute Mills Ltd. v. Hyaliram Jagannath*, A.I.R. 1968 S.C. 522

⁹ *Boothalinga Agencies v. V.T.C. Poriaswami Nadar*, (1969) 1 S.C.C. 267

*Energy Watchdog v. Central Electricity Regulatory Commission*¹⁰ – A Landmark Decision.

Facts

The Power producers claimed relief on account of the increased coal prices and the changes in the regulatory environment.

Judgment

The Supreme Court further distinguished between force majeure and frustration and held that commercial hardship alone would not amount to frustration of contract.

Significance

This case therefore clarifies the scope of application of force majeure provisions in contracts as against Section 56.

VI. ESSENTIAL ELEMENTS OF FRUSTRATION

For a contract to be frustrated, the following elements generally must be present:

A. VALID CONTRACT

A valid and enforceable contract must exist.

B. SUPERVENING EVENT

The frustrating event must occur after contract formation.

C. EVENT BEYOND CONTROL

The event must be beyond the control of the parties.

D. NO FAULT OF PARTIES

The event should not be self-induced.

E. FUNDAMENTAL CHANGE

The event must render performance impossible, unlawful, or radically different.

VII. SITUATIONS CONSTITUTING FRUSTRATION

¹⁰ *Energy Watchdog v. Cent. Elec. Regulatory Comm'n*, (2017) 14 S.C.C. 80

The Indian Courts have identified various circumstances which may allow a contract to be terminated on grounds of frustration. Whether a contract terminates due to frustration depends on the facts of a given situation.

A. DESTRUCTION OF SUBJECT MATTER

Where the subject matter of a contract, essential for its due performance of same by either party, has, without the fault of either, been destroyed then the said contract becomes frustrated and ceases to have effect. In this connection, it must be noted that continued existence of subject matter of contract is an implied condition of contract itself. Thus, a contract for hire of building for conducting of wedding, for holding of an exhibition or for conducting of a concert, would be frustrated and automatically come to an end by virtue of destruction of building by fire, prior to due date of holding of events.

B. DEATH OR INCAPACITY

A further category of contract which may be frustrated is one which is entered into by parties who rely on the personal skill, expertise, talent or qualifications of a particular individual. These are contracts which are 'personal' in nature. They cannot be delegated by the individual entering into the contract. In cases where a singer of international renown enters into a contract to perform at a concert which is subsequently rendered impossible by the singer's death before the date of the concert, or an artist enters into a contract to create a particular work of art which is rendered impossible by the artist's illness and consequent inability to complete the work in accordance with the terms of the contract, the contracts will be frustrated.

C. CHANGE IN LAW

A contract can also be frustrated by a subsequent change in law or of law or of any rule or other governmental regulation made for the purpose of dealing with emergencies or other matters of public policy which renders a party's performance or ensure to be impossible. It is no part of the contract that a party shall commit a crime. Thus a contract for the export of goods which is lawful at the time of its making will be frustrated by a later enactment making the export of the particular commodity involved absolutely prohibited. The parties will be relieved of their obligations under the contract as it would be against public policy to hold them a party to (to perform) an act which is contrary to law.

D. GOVERNMENTAL INTERVENTION

A governmental intervention in a contract, for instance by a requisition order, by a licensing restriction, by an embargo, by a lockdown, or by an administrative prohibition by an administrative body, can make the performance of a contract impossible. In these cases it must have a substantial effect on the performance of the contract and not merely create some difficulties. The extent to which a governmental intervention makes the performance of a contract impossible is a matter for case by case decision. The decisive question is whether the intervention makes it possible for the parties to perform their contractual obligations. Typically, a governmental intervention will be held to make a contract impossible to perform if it results in the governmental body acquiring the property which is the subject matter of the contract, or if the contract requires the operation of a business which the governmental body then prohibits.

E. FRUSTRATION OF PURPOSE

There are times when a contract can be frustrated even though performance is possible because the purpose of the contract has been extinguished. In those cases, although the contract may still be performed, the fact remains that there is no purpose in doing so. A classic example is that of a person had hired a room in anticipation of being able to view a public procession from there. If the public procession were to be cancelled for unforeseen reasons, the purpose for which the person rented the room would have been extinguished even though the room could be used for something else. The contract would be frustrated. Since the common purpose for which the parties entered into the contract no longer exists, the contract may be discharged on the ground of frustration. Courts apply this principle cautiously and only where the loss of purpose is substantial and fundamental to the agreement.

VIII. SITUATIONS NOT AMOUNTING TO FRUSTRATION

Some situations are always excluded by the courts when applying the doctrine of frustration.

A. INCREASED COST

An increase in cost does not affect the parties' obligations under a contract.

B. COMMERCIAL DIFFICULTY

Reduced profitability is insufficient.

C. FORESEEABLE EVENTS

Events which could have been reasonably anticipated will generally not amount to circumstances of frustration.

D. SELF-INDUCED FRUSTRATION

A party cannot rely on circumstances created by its own conduct.

E. TEMPORARY IMPOSSIBILITY

Temporary interruptions do not necessarily frustrate contracts unless they destroy the commercial purpose.

IX. FRUSTRATION AND FORCE MAJEURE

Although related, frustration and force majeure are distinct concepts.

Basis	Force Majeure	Frustration
Source	Contractual clause	Statutory doctrine
Applicability	Governed by contract terms	Governed by Section 56
Consequence	Depends on contract	Contract becomes void
Judicial Role	Interpretation of clause	Application of law

The Supreme Court in *Energy Watchdog* clarified that where a force majeure clause exists, courts must first examine the contractual provision before resorting to Section 56.¹¹

X. EFFECTS OF FRUSTRATION

Once a contract is frustrated:

A. AUTOMATIC DISCHARGE

The contract becomes void automatically.

B. FUTURE OBLIGATIONS END

Parties are discharged from future performance.

C. RESTITUTION

¹¹ *Energy Watchdog v. Cent. Elec. Regulatory Comm'n*, (2017) 14 S.C.C. 80 (India)

Section 65 of the Indian Contract Act requires restoration of benefits received under a void agreement.¹²

This prevents unjust enrichment.

XI. FRUSTRATION DURING THE COVID-19 PANDEMIC

The COVID-19 pandemic saw a massive number of contractual obligations coming within the ambit of litigation.

Lockdowns, restrictions on traveling and other measures caused by the pandemic impacted on performance of contracts.

Indian courts generally adopted a cautious approach. They emphasized that:

- Every contract must be examined individually;
- Mere financial hardship is insufficient;
- Actual impossibility must be demonstrated.

The frustration and force majeure cases that flowed from the COVID-19 pandemic thus again underline the necessity of these two contractual doctrines in the face of modern trade.

XII. CRITICAL ANALYSIS

Frustration is a key concept in contract law and it deals with cases of unforeseen circumstances which may alter contractual terms and conditions.

Strengths

1. Promotes fairness.
2. Prevents injustice.
3. Adapts contract law to changing realities.
4. Balances contractual obligations with practical considerations.

Weaknesses

1. Lack of precise standards.

¹² Indian Contract Act, No. 9 of 1872, § 65, India Code (1872)

2. Judicial discretion may create uncertainty.
3. Difficult distinction between hardship and frustration.
4. Potential inconsistency in application.

Though some criticism can be levelled against the manner of application of the said doctrine by Indian Courts, yet generally speaking the doctrine of frustration has been treated as an exception to the rule of specific performance of contracts, i.e. contracts have to be performed as per terms thereof unless circumstances arise which are beyond control of parties and rendering performance of contract as impossible as card playing is for a man who has lost his arms.

XIII. CONCLUSION

An exception to the rule that parties are required to perform their contracts in full is provided by the doctrine of frustration. Under Section 56 of the Indian Contract Act, 1872 a contract becomes voidable at the option of a party to it where some event, which is not due to the default of that party, occurs after the contract was made and before the substance of the contract has been wholly performed by both parties. Such an event makes it impossible for that party to perform the contract. As held in the landmark case of *Satyabrata Ghose v. Mugneeram Bangur & Co.*, the word “impossible” in Section 56 has been interpreted very widely and includes situations where performance of a contractual obligation becomes impracticable.

On the other hand, there are numerous decisions of the Indian Courts which emphasize the need of performing contracts and show that Courts would not allow parties to wriggle out of their contractual obligations merely because performance has become more costly, or more inconvenient, or even more commercially frugal. It is true that in exceptional circumstances Courts would allow equitable solution to the problem of a contracting party, but decisions like *Alopi Parshad, Naihati Jute Mills and Energy Watchdog* reiterate commitment of Indian Judiciary to the rule of avoiding frustration of contracts and at the same time to do justice to parties.

In today’s globalized world characterized by occurrence of Pandemics, Geopolitical conflicts, Climate change, Economic instabilities etc. Frustration doctrine shall continue to evolve with the Indian Courts playing a vital role to balance interests of commercial certainty with fairness and justice in contracts.