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## How and why the land disputes will increase in India?

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*In recent years, the problem of land disputes will be increasing day by day. In India, land has an important resource because it provides various types of vegetation and wildlife may live there thanks to it. It is used by humans for a multitude of purposes, consisting of farming, forestry, mining, building houses and other structures like roads and bridges, as well as the start-up of enterprises. It is crucial to consider land as a production element. The land is a very important source because many livelihoods were based on it. If any dispute arises on the land it directly affects the livelihoods of many people. Various laws were also implemented to regulate these disputes but also some more policy recommendations are required. So, there will be a grave concern to overcome from land disputes problem which was increasing in India.*

**Keywords:** *land, disputes, law, resources, policy recommendation.*

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### INTRODUCTION

The land is one of the most important natural resources. If we look at it from an Indian perspective more than fifty percent of people's livelihood is dependent on land. Not only in the development of a country the most important factor is the availability of land. There are various non-agricultural uses of land such as industrial, commercial, residential purposes, etc. India's major population is agriculture-dependent and the continuous increases in the population of the country put a heavy load on agricultural land which make the land

unfavorable for the cultivation of several crops due to loss in its potency. Disputes on land arise due to several reasons such as the development of infrastructure.

The majority of the cases related to the land dispute are against the state because of its developmental projects. Another issue due to which the land dispute arises is that the land is in the state list in which the state can make laws whereas the land acquisition is in the concurrent list where both the state and center can make laws. Before the center and state laws, both are aligned symmetrically but the center replaced the old "land acquisition law" with the new law that is more competent with the present time which is the "*Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*". Disputes can arise out of ownership. Ownership can be transferred out of succession and inheritance as well. The dispute may arise because of the validity of the rights of ownership to be transferred and the seller's eligibility to purchase the land. Land disputes may lead to several issues such as the division of land into a smaller number of pieces, excess pressure on land resources the rising need for cultivation, due to the process of urbanization, and the change in the economic conditions of the country. It is a matter of concern that the piling up of the cases add misery to the life of people. There are major numbers of farmers in India who possess very less acres of land and late judgment by the courts can cause trivial family as well as economic problems in their life.

It is a matter of necessity to reduce the piling of cases in courts. It is also important to reduce the disputes so that issues will not be created and also will not reach court. The reduction in the number of disputes would help the owner to enjoy the land to the fullest. It would directly help in the economic situation of a person or a family. Delay of the disputes will often lead to the wastage of a large sum of money for the administration institution as well as that of the land owner. The litigants have to bear all the costs including advocates' fees, court fees, etc which will put an extra financial burden on litigants. Quarrels between family members and tension lead to several social problems. It is better to stop the delay of the land dispute cases in court. The objective of this paper lies in identifying how and why land disputes increase in India. If it increases then how these conflicts will decrease? To achieve this my research paper was divided into four sections. The first section will discuss what is Land Acquisition Act. And

how it is related to land disputes. The second section focuses on how these land disputes increased in India. The third section talks about what are the steps taken to overcome land arises conflict. And the fourth section of this paper discusses judicial pendency and policy recommendations. Lastly, we conclude my paper by giving our own opinions that how and why land disputes increased in India.

### **WHAT IS LAND ACQUISITION ACT?**

Firstly, we have to know what you mean by Acquisition. The acquisition means getting something or doing something to get it. land acquisition is a process to purchase private land for a variety of uses, the government (federal or state) must go through the land acquisition procedure. The “land acquisition act” was passed in 1894. This law is might apply to any other private property. Typically, it is done to establish infrastructure for public use, and promote urbanization, development, and industrialization. When the population of India was increasing, the demand for land acquisition also increased due to this the government had the authority to seize the land that supersedes the individual's right over the property.

So, the government can purchase private land for public projects. This process is called land acquisition. In 2013, The Land acquisition act, of 1894 was replaced by “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” which is also called the land acquisition act,2013 to implement a new process designed to provide individuals impacted with just compensation with it. This law's primary objective is to control the land acquisition procedure. It also provides the guidelines and procedures for offering relocation, rehabilitation, and compensation to those who give up their property to the government for infrastructure development. Some various objectives of the Land Acquisition Act are:-

- To ensure that the least amount of inconvenience is feasible for affected households and other landowners, land acquisition operations can only be arranged with the local self-government and gram sabhas.

- To enable a seamless rehabilitation process for the affected people after the acquisition, the government should try to involve them as partners in the development if it must carry out a required acquisition.
- To build up the necessary plans for the relocation and restoration of the impacted households.
- To guarantee that the compensation provided to the impacted families is just.<sup>1</sup>

These are the main objectives on which The Land Acquisition Act was based. This law permits both state and federal governments to purchase any land for:

- Private sector companies
- Public purpose
- Public sector companies

“Public purposes” include agriculture, development, industrial corridors, and all the development which is useful for public purposes. In 2014, the amendment was enacted in the land acquisition act, of 2013, and this newly enacted Land acquisition act, which took effect on 1<sup>st</sup> January 2014, aims to drastically reform India’s Land Acquisition system. This new amendment of this act was intensely criticized because the law is directly at odds with India's ambitions to achieve investment-driven economic growth, in addition to failing to implement a practical and workable approach for monitoring land acquisition.

As per schedule VII in India, “Land” is a state subject while “Land Acquisition” is a concurrent subject, there will be various chances of disputes arising between them. The controversies related to the land acquisition act have a grave concern to overlook on this. From the above analysis of the land acquisition act, what I have observed is that the laws that were created in the past must be updated to reflect modern society. As we have seen that the social, economic, and political systems were changing on account of that if we can’t make any significant

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<sup>1</sup> Tarun Raheja, ‘What is Land Acquisition Act, 2013?’ (*99acres*, 10 June 2022)  
<<https://www.99acres.com/articles/what-is-land-acquisition-act-2013.html#:~:text=%20Objectives%20of%20the%20Land%20Acquisition%20Act%20,attempt%20to%20make%20the%20affected%20people...%20More%20>> accessed 05 July 2022

revisions then the law has been ineffective due to these changing circumstances. If a simple system has been provided to the landowners while accounting for all their basic rights then there won't be any major issues with Land Acquisition.

### **HOW LAND DISPUTES WILL INCREASE IN INDIA?**

Due to the rising number of land disputes in India, which impact an estimated 7.7 million individuals, there will be conflict over 2.5 million hectares of land there. There were several reasons for land disputes in India that affect the livelihoods of people. As we have seen in the above article land is a state subject but both state and center can legislate on land acquisition so there will be chances that conflict will arise between both. State find out that each state has its land acquisition law. The number of land rights disputes in India is expected to increase. In recent years, many disputes have become violent as communities have confronted the government. According to new research, the amount of land needed for industrial projects in India is expected to treble over the next 15 years, which would result in more disputes over land acquisition.

Many traditional lands that were used by tribal communities were taken by the industries and a report was published by “non-profits (Rights and Resource Initiative and society for protection of wasteland)” that in the past ten years, conflicts have broken out in 130 of the 610 districts in the nation as a result of the appropriation of common lands and forests. In the last two years, the disputes have intensified.<sup>2</sup>Reasons for increasing land disputes in India are:

1. Not having proper law for regulating land disputes and a new amendment was required in land acquisition law.
2. Land conflicts can also develop as a result of poor coordination, collaboration, and communication among land sector institutions.
3. Due to the pendency of cases in the court (either matters related to civil cases or criminal cases)

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<sup>2</sup> Kumar Sambhav Shrivastava, 'Land unrest set to increase in India' (*Down to Earth*, 17 December 2012) <<https://www.downtoearth.org.in/news/land-unrest-set-to-increase-in-india-study-39863#:~:text=Disputes%20over%20land%20rights%2C%20which%20have%20turned%20violent,going%20to%20increase%2C%20according%20to%20a%20new%20study>> accessed 05 July 2022

4. In recent years, land degradation is also the main purpose of land disputes in India.
5. Conflict of interest between communities and increasing corruption in India.

These are the main factors of land disputes in India. Even though the contributions of agriculture and related rural occupations to India's GDP have decreased during the past 70 years since its independence, about 60% of the population still depends on land, particularly agriculture, for a living. If a large amount of dependence on land occurs then there will be an obvious reason for the increase in land disputes. The more will be dependent, the more conflict arises.

### **STEPS TAKEN TO OVERCOME FROM LAND DISPUTES IN INDIA**

There are various types of land disputes in India such as conflicts over land leases, property acquired via a divorce, parcel exchanges, border trespassing, and many more. So there will be a grave concern to take proper steps to overcome land disputes in India. Land disputes are one of the most frequent legal issues in India. Land conflicts encompass ownership, a partition of property, and sales and purchases of property, among other issues. India has a pendency of cases related to land disputes. In India there were two ways in which we can resolve land conflicts that are:

1. Settlement
2. Litigation

#### ***Settlement:***

We can resolve land disputes through settlement if any disputed land between the members of the family can be resolved by settling the problem. Along with dividing real estate, this also entails dividing personal property like jewelry that is transportable. A neutral third party may occasionally be used by families to uphold discipline throughout the process. The parties may be assisted in reaching a win-win solution by such an impartial third party. You should draught a settlement agreement as soon as all allocation has been decided by family members. All family members must affix their signatures to this settlement agreement.

#### ***Litigation:***

First of all, we will discuss what is litigation. Litigation is the action, procedure, or practice of resolving a legal issue in court. To resolve Land conflicts, one must file a lawsuit. Lawyers, court fees, and sometimes a sizable amount of delay are involved. Litigation is frequently used as the first option by unconnected parties. The matter may not be resolved for a very long period in litigation since it includes judicial procedures and processes. Only file a lawsuit provided you possess all the documentation, including the title deed, and your lawyer believes you have a strong case. The parties may be ordered to settle outside of court by judges on occasion. This settlement will be supervised by the court.<sup>3</sup>

### **SOME CONSTITUTIONAL PROVISIONS AND CASE LAWS RELATED TO LAND OR PROPERTY IN INDIA**

According to “Article 31”<sup>4</sup>of the Constitution, the "right to private property was still a basic right" in 1967 when the government forcefully seized the land. The 44th Constitutional Amendment, passed in 1978, eliminated the right to property as a basic right and made constitutional right under “Article 300A”<sup>5</sup>. In the constitution of India, “Article 19(1)(f)”<sup>6</sup> safeguards each citizen's unrestricted ability to obtain, keep and dispose of the property by their preferences. This protects each person's basic right to property. This is because the ability to own property is seen as the most fundamental right, available to all social groups without regard to discrimination based on religion, race, caste, or gender.

In *Guru Dutt Sharma v State of Bihar*<sup>7</sup>, the Supreme Court noted that it is a collection of rights and that for physical property, those rights would include the right to own, use, keep, transfer, and destroy. Specifically, it was determined in the *State of Haryana v Mukesh Kumar*<sup>8</sup>case (2011) that property right is a human right in addition to being protected by the constitution or other laws.

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<sup>3</sup> ‘Ways To Resolve Property Disputes In India’ (*Legal kart*) <<https://www.legalkart.com/legal-blog/ways-to-resolve-property-disputes-in-india#:~:text=In%20India%2C%20there%20are%20two%20ways%20through%20which,you%20can%20resolve%20property%20disputes%3A%20Settlement%20Litigation%20Settlement%3A>> accessed on 09 July 2022

<sup>4</sup> Constitution of India, 1950, art.31

<sup>5</sup> Constitution of India, 1950, art.300A

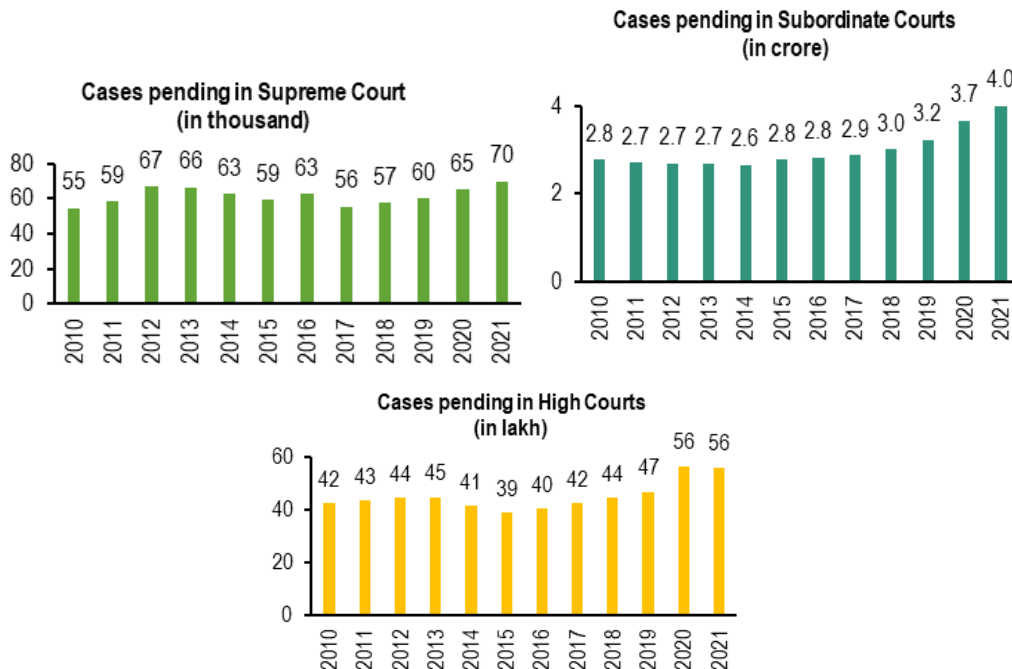
<sup>6</sup> Constitution of India, 1950, art.19(1) (f)

<sup>7</sup> *Guru Dutt Sharma v the State of Bihar* (1961) SCR (2) 292

<sup>8</sup>*State of Haryana v Mukesh Kumar* (2011) 10 SCC 404

## JUDICIAL PENDENCY AND POLICY RECOMMENDATIONS CONCERNING LAND DISPUTES IN INDIA

The increased number of land dispute cases in India and a large number of vacancies across all levels are the main concern of judicial pendency. If we can't take the proper step to overcome the land dispute cases it can be rapidly increasing day by day.



These are the stats of the supreme court, high court, and subordinate courts of India cases pending and show how yearly cases will be increasing. In India, there are a lot of outstanding legal cases because of the country's poor judge-to-population ratio. Land-related disputes account for more than half of all civil disputes, and five of these disputes reach the Supreme Court. Therefore, land conflicts in India cause a backlog of numerous sets of cases with horrifyingly long judicial pending times, delaying settlement resolution at all levels of courts. The major goal of the policy advice is to lower the frequency and persistence of land disputes. Eliminating legal disputes is very necessary. To provide policies regarding these disputes, the law ministry and law commission was established.

The government must take action to guarantee stronger administrative capability and a desire to uphold the rule of law. We also need improved access to land data, transparent land



management, and better cooperation amongst government ministries dealing with land. The proper actions can be taken to accomplish this.<sup>9</sup>

## CONCLUSION

The most valuable resource and source of livelihood for more than half of India's people are the lands. It is regarded as the main factor in production. In India, land disputes have an impact on 7.7 million people. Legislative, administrative, and judicial factors, as well as the high frequency of legal battles involving land, are to blame for the ongoing nature of land disputes. The breadth and intensity of land disputes today have achieved mammoth dimensions, slowing development initiatives and endangering livelihoods and investments due to the growing impact that the human population has on the environment and the corresponding requirement for land to power the development engine.

The two main ways to boost productivity, in my opinion, are to first modernize agriculture and then switch the land's primary use from agriculture to something else. The primary tool was a land purchase statute from 1894, which the independent Indian government found practical to address the fragmentation of property holdings. Land conflicts have frequently descended into violence when connected to a larger trend of political isolation, social prejudice, economic marginalization, and the sense that a peaceful approach to change is no longer a practical strategy. Land-related disputes are common. Judicial pendency was a major issue for land disputes in India. So there will be a grave concern to overcome land disputes. Major policy recommendations and taking proper steps to overcome these conflicts.

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<sup>9</sup> Namitawahi, 'Understanding Land Conflict in India and Suggestions for Reform' (*Centre for Policy Reform*, 26 June 2019) <<https://cprindia.org/understanding-land-conflict-in-india-and-suggestions/>> accessed 10 July 2022