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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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EXISTING LEGAL ISSUES AND DIGITISATION OF LAND RECORDS

AUTHORED BY: MALAVIKA K¹

ABSTRACT:

Digitalisation of land records has been introduced by Indian government in the name of Digital India Land Records Modernisation Program in order to modernise the land record system in the country. It includes computerisation of land records and registrations, survey/ resurvey etc. This will provide transparency and inter connectivity between revenue and registration of lands. Under this program a Unique Land Parcel Identification Number will provide a 14-digit alphanumeric unique ID to all lands which has been surveyed. This unique ID will help to understand the illegally held lands and also help rural land owners to get loans, there will be no fear of loss of documents due to natural calamities as they are digitally secured. But it comes with certain caveat. Some of them are: even though India is considered to be a digital hub, millions of people even now doesn't have access to internet and they are digitally illiterate. Another major concern is related to the forest area. Forest Right Act provide individuals and communities right over forest lands. Only 14.67 % of forest area has been recognised after the implementation of FRA as per reports. The forest lands have been used by the local communities traditionally without any formal land holding titles. Since there are no land holding titles there is always a risk of the customary used forest land being added to land banks or utilized for industrial establishments, developmental activities or even for Compensatory Afforestation Fund Management and Planning Authority plantations.

The objectivity of the paper is to analyse and determine the effect of ULPIN in forest dwelling citizens whose legal claim to the forest land remains unsettled. The paper examines about applicability of ULPIN as majority of the land documents are outdated, disputed or unaccounted.

KEYWORDS: Digitisation of land records, ULPIN, forest land, land holding titles

¹ LLM student affiliated with School of Law, Forensic Justice and Policy Studies, NFSU Gandhinagar, Gujarat. The author can be reached at malavikak444@gmail.com

INTRODUCTION

Digital India Land Record Modernisation program was started in 2008 and it can be said that it is a combination of two centrally sponsored schemes such as Computerisation of Land Records and Strengthening of Revenue Administration and Updating of Land Records. The main aim is to modernise the management of land records, enhance the transparency of land record management system, try to minimise land property disputes, provide conclusive titles to immovable property.

This program is based on certain principles such as

1. Single window for handling land records
2. Mirror II principle
3. Curtain II principle
4. Title insurance

Mirror II principle indicates that the cadastral record mirror the ground reality and curtain II principles states that record of title reflects the status of ownership. Title insurance guarantees the title for its accuracy and indemnifies the title holder against any losses which can be occurred due to any defects.

The major components of DILRMP are

1. Computerisation of land records: it include mutation, integration of textual and spatial data, digitalisation of maps, updating survey and settlement records and computerisation of registration, it also include development of core Geospatial Information System and capacity building.
2. Survey and re survey
3. Computerisation of registration

During the budget of 2021-22, the DILRMP was extended up to 2020-21 at a total cost of Rs.950 crores. Other initiatives which were taken up by the Department were

1. National Generic Document Registration System: it means one nation, one software for the registration of documents and properties so that it can help in the empowerment of the citizens. The main benefits are the reduction of land disputes and a regular check on fraudulent transactions.
2. Unique Land Parcel Identification Number: it means a 14-digit alpha numeric ID will be given for each land parcel. This ID is given based on the Geo reference coordinate of vertices of the parcel. The ULPIN will help to have a proper land statistics and land accounting which will lead to development of land banks and towards Integrated Land

Information Management System. Pilot test was carried out in 11 states such as Madhya Pradesh, Sikkim, Andhra Pradesh, Goa, Bihar, Jharkhand, Haryana etc...

In year end review 2022 of Department of Land Resources stated that

The department of land resources is implementing two schemes such as

- Digital India Land Record Modernisation Programme
- Watershed Development Component of the Pradhan Mantri Krishi Sinchayee Yojana

It has been revealed by the Department of Land Resources that Computerization of Land Records has been completed in more than 94 percent of the villages of the country. Record of Rights has been completed in about 94 percent areas in 29 States and Union Territories. The Computerization of Registration has been completed about more than 93 percent in 27 States and Union Territories. Integration of Sub Registrar Offices with Land Records has been completed by more than 75 percent in States and Union Territories. It has also been revealed that cadastral maps have been digitized in more than 70 percent in 21 States and Union Territories. These maps will help to view the ownership status of the land pieces in different regions based on your requirements. These cadastral maps are also known as Bhu Naksha.

Integrated Land Information Management System has already been rolled out in about 321 districts. It provides online single window which will provide access to all available and relevant information about any plot in question to the land owners, officials, interested persons etc. Unique Land Parcel Identification number is known as Bhu Aadhar. This number will facilitate real estate transactions, helps to resolve property taxation issues, improves mitigation and responses of disaster management. By the end of 2022 it has been rolled out about in 24 States such as Mizoram, Assam, Madhya Pradesh, Nagaland, Maharashtra, Rajasthan, Haryana, Tripura etc. To have a uniform process for the registration of deeds and documents One Nation One Registration Software was implemented that is National Generic Document Registration System. It has been implemented in about 17 States and Union Territories such as Andaman Nicobar Islands, Manipur, Punjab, Goa, Himachal Pradesh.

The programme has also tried to link e-courts with registration data base and land records so that the courts will be able to have authentic first-hand information and data about land records which can lead to speedy redressal of cases. The benefits of such linkage are

1. It makes first-hand information available for the courts based on substantive and authentic evidences of Record of Rights, Cadastral maps.
2. This information is useful for deciding as well as disposal of cases
3. It reduces the quantum of land disputes and can lead to ease of doing business thereby increases ease of living.

Therefore, it can be said that the main objective of DILRMP is the development of modern, transparent and comprehensive land record management system which has an aim to develop an Integrated Land Information Management System. This can help in certain things such as

- Optimizes use of land resources
- Improve real time information on land
- Benefits both the land owners as well as prospectors
- Reduce land disputes
- Enables sharing of information about land with Governmental as well as other agencies
- Will have a check on fraudulent transactions
- Assist in policy and planning

The year end review of 2022 has stated that DILRMP has been approved by the Government for period of five years such as 2021-22 to 2025-26.

Forest right act 2006

The Forest Right Act 2006, deals with the right of the communities that dwell in the forests over land and other resources which have been denied to them over the years. So it can be said that the act provide the Forest Dwelling Scheduled Tribe and Other Traditional Forest Dwellers who has been residing in the forest for generations the right to ownership. For the first time community rights and right over common property resources was recognized. The act recognized four types of rights such as

1. Title rights
2. Use rights
3. Forest management rights
4. Relief and management rights

As a part of title rights, FDST and OTFD has been given the right to ownership of land farmed by tribals or forest dwellers subject to maximum of 4 hectares and ownership is granted only for lands which is being actually being cultivated by the family. No new land will be granted to them.

Through this act the concept of revenue village has been surfaced as the act deals with conversion of forest villages, old habitation, un surveyed villages and other villages into revenue villages. About 66 percent of the cases in India is related to land disputes which may cost about 58,000 crore rupees for litigation and trial of the cases. It is also found that digitization land record can increase India's GDP by about 1.3 percent.

OBJECT OF THE STUDY

The basic objective of the study

1. To study the effect of ULPIN on forest dwelling citizens whose legal claim to forest land remains unsettled.
2. To analyse the applicability of ULPIN as majority of the land documents are outdated, disputed or unaccounted.

RESEARCH METHODOLOGY

The present paper is research done based on doctrinal method. Through analysis of various literature based on the concept regarding digitization of land records and its effect on forest dwelling citizens especially the effect of ULPIN which is a part of DILRMP program of Government of India. The author could identify certain ambiguities existing. The paper seeks to work on identifying the loopholes by studying more literatures based on these topics.

ULPIN

As stated about it is a component of DILRMP and it was introduced in 2008 by Indian Government. It is known as Bhu Aadhar. This number is developed by the National Informatics Centre. By 2021 this has been launched in 10 States of India as part of pilot test and it was expected to be launched in whole of India by 2022.

The objectives of ULPIN are

1. It makes sure that all land related transactions are unique and all the land titles are updates
2. It renders all the citizens affordable and easily accessible land related services
3. It helps to identify various departments related to land and other matters like Revenue Department, survey and settlement department etc

Therefore, it can be said that it will check land fraud incidents. It is more useful when the land records or ownership is disputed, ambiguous or even unclear. This scheme is considered to be cost

effective as it only cost three rupees for linking Aadhaar with the title deeds by using ULPIN and in order to verify the Aadhaar data of the land owner five rupees per transaction is the only cost. Even though ULPIN has major positives, as a coin has two sides this also has both positives and negatives.

Challenges as to ULPIN

1. There are still certain issues going on based on Aadhaar such as mismatch of IDs and biometric data. So, it can prevent beneficiaries from linking ULPIN number with the Aadhaar card.
2. This can lead to an increase in dependence on the middle men by the rural people and this can lead to a lot more expenditures to the rural people.
3. Most of the rural people are not digitally educated. So, digital illiteracy is one of the chief concerns of the ULPIN scheme.
4. Not only digital illiteracy, there is a lack of hardware and accessibility to the internet is also a major concern in rural areas.
5. The scheme will comprehend the Forest Right Act and can even undermine the FRA as it may result in increased vulnerability of forest communities.

Challenges of Digital India Land Record Modernisation Programme

One of the main challenges as to this programme is that India has the system of registered sale deeds and not of land titles. Other challenges are

1. According to the Transfer of Property Act of 1882, transfer or sale of right to an immovable property can be made only through registered documents and these documents are usually registered under the Registration Act of 1908. So another issue is that even bona fide property transactions may not guarantee ownership.
2. Another major issue is that land ownership is maintained and established through multiple documents which are in the custody of different departments. Since they are maintained by several departments, it is very difficult to access them all together.
3. Even the cost of registration is so high, so that people avoid registration of transactions.
4. The governmental departments don't record or update the data in a proper manner so it causes a lot of problems therefore the person has to go several years back of the documentations in order to find the ownership claims on the property.

5. According to Registration Act of 1908, registration is not mandatory for transactions such as the acquisition of land by the government, heirship partitions and property leased for leased for less than one year.

Therefore, the concerns related to Digital India Land Record Modernisation Programme can be stated as

- Has not addressed the issue of land ownership
- Data of Cadastral map and Record of Rights (RoR) has not been updated in 21 villages, even though the data has been digitalized
- There is only low percentage of computerized land records
- Only about 48 percent of cadastral map has been digitalised

Due to the unclear land titles, they impede the development such as it causes lack of transparency in real estate transaction which leads to disputes, then great risk is involved in infrastructure which is built on unclear lands and other problem is that the institutional credit as well as the social benefits does not reach the one who is in need such as the marginalised section of people especially the farmers.

There is always a question remaining whether the programme of digitization land records is a proper solution. There have been incidents in India which has been caused due to the problems or ambiguities of the Digital India Land Record Modernisation Programme. One of such incidents happened in a small town of Bihar, known as Chhapra. A protest took place at this place as some of the governmental officials went to the village in order to measure the land to build flyover. The land which they measured was occupied by the citizen for a very long period. As response it was informed by the government official that the land, they measured is unsurveyed so it comes under public property. Since it was told to be a public property the concerned citizens were not given any compensation for taking up their property and for demolition of their home, work place etc. When it comes to a solution of such problems which has become very common in our country, the widely accepted solution is digitization of land records. But if digitization happens in Chhapra what can be the ultimate result. Its true that digitization can help not only in the improvement of land records but also the services related to lands. They will also help to have conclusive titles on the land which will open a way to get services from the land such as loans from formal financial sectors. But even if the digitization took place in Chhapra, it will not make any difference to the marking of the land as public property that is the land will be still held as a public property. The only difference the digitization was going to make was that it would have created more concrete

titles and thereby leading to fewer chances of protest by the people. From score of NCAER Land Records and Service Index of 2020, the gap between the textual land records in the hands of the government and the on-ground situation can be understood. The overall average score of all the states in India is just 15.1 out of 40. It can be clearly understood that it is an alarming low score.

The Land Record and Service Index is divided into two components. The second component indicates the quality of land records and its related services. If the component is 40 percent of overall index, then it means that the states are marked with highest score of 40. So, when it comes to case of India as stated the score is 15.1, which is a very low score and it is considered to be alarmingly low.

Therefore, the question is when it comes to citizens whose claims are unsettled, what is the impact of ULPIN. It is shown by studies that only about 14.46 percent of total forest area in our country have been recognized. So, what about the unrecognized forest land and what about the people living in forest who got ownership over the land through Forest Right Act. In addition to this what happens to the resources of the village which are on record governmental property but as per Forest Right Act they have been claimed by the Gram Sabha. So, the customary lands which lacks formal land holding title is always at a risk of being added to the land banks and they are also at the risk of being used developmental activities or Compensatory Afforestation Fund Management and Planning Authority. In the Chhapra dispute, the Patna High Court held that the property cannot be considered as public property as unsurveyed land's nature is not defined so it cannot be said to be concrete.

Another question is regarding the linkage of Aadhaar to the ULPIN. Even today there are a lot of ambiguities existing with Aadhaar biometrics. Not only that Supreme Court has also struck down the orders which was passed to link Aadhaar with cell phone number as well as the bank accounts. So, to what extent it is possible and whether they will have a positive impact for the land owners. The main issues is that before digitization of land records, all the unsurveyed lands has to be surveyed so that incidents like happened in Chhapra can be avoided. Not only surveying of unsurveyed lands, there should be a congruency between the records with the government and on ground records related to land and property. There are a lot of cases pending which are related to land and property, so such litigations must be looked into before implementing the programme of digitization of land records.

Even such digitization has been experimented in South America. According to the report by GRAIN, the digitization process has paved a way towards massive privatisation and funding of lands without taking into concern the socio-ecological function of the community. This has led to massive scale land grabs which are often done at the expense of peasants.

When it comes to the status of digitization of land records in India, it can be seen that the Union Government has financed and as provided assistance to states for the proper implementation of the programme. The scheme was first introduced for the year of 2020-21 and it was then extended to 2023-24 as there is a significant progress in digitization. When it comes to all India level the lowest progress was achieved in case of survey and re survey objective.

CONCLUSION

When it comes to summing up, it can be said that digitization of land and property records will surely help to have transparency of land record management system with help of single window and proper updation of maps along with proper registration of property. As a whole, it provides a platform form the buyers as well as the developers to check the authenticity of the property.

But the question is whether digitization of land records in India is an ultimate solution or answer when there is already a number of legal issues existing. It is every evident from the programme and its sub programmes its beneficial for people especially for land owners, farmers etc but there are a lot of steps that has to be taken before and even after the digitization of land records.

Digitization and the unique parcel number given to the lands will certainly lead to a structured management of land and property in India but as it happened with other technologies in our country it is operated in the shadow of political interest. When it comes to linking with Aadhaar and all, it has to be kept in mind that right to privacy is a fundamental right guaranteed by Indian Constitution. ULPIN has the ability to become a game changer but it will be very difficult to get implemented in its 100 percent as India is a country with a lot of disputes as well as unsurveyed lands.

Therefore, this programme and its scheme has to implemented not in a hurry burry manner. Proper time and space has to be given to settle all the issues already existing related to land otherwise useless and just like other schemes. So, the ULPIN for the time being should be restricted to only property whose legal status and rights are settled and dispute free.

REFERENCES

- Sai Krishna Muthyanolla, “What is the status of land record digitization in India”, Factly.
- Sandip Chowdhury, “ Without addressing legal issues, can digitising land record in India be a game changer”, Wire.
- Guidelines, technical manuals and MIS 2018-19, DILRMP, Department of land resources, Ministry of rural development, Government of India
- “Digitization of land record and impact on disputes”, Indian law watch
- P. Ravindra Pai, “Digitization of land records”, Realty Check

