

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

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A CRITICAL STUDY ON GOVERNMENT ACQUISITION OF PRIVATE LAND WITH REFERENCE TO VIDYA DEVI V. STATE OF HIMACHAL PRADESH (2020)¹.

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ABSTRACT

This research explores the balance between the State's power to acquire land for public infrastructure and the individual's right to property. The State's sovereign power to take private property for public use known as **Eminent Domain**. While the State possesses the power of Eminent Domain to facilitate development, this power is not absolute and must be exercised within the strict procedures of the law.

The main focus of this research revolves around the landmark Supreme Court of India judgment in **Vidya Devi v. State of Himachal Pradesh (2020)**. In this case, the State took over a citizen's land in 1967 without formal acquisition proceedings or compensation, later claiming "Adverse Possession" to avoid its liabilities. The research highlights the judiciary's shift in recognizing property not just as a constitutional right under **Article 300A**, but as a fundamental **Human Right**. This research studies that "development" cannot serve as a justification for "land grabbing" by the State. By analyzing the procedural lapses and the court's refusal to allow the State to benefit from its own wrong, this study argues that the rule of law demands strict adherence to the "procedure established by law." The research concludes that any acquisition without compensation and due process is an unconstitutional exercise of power that undermines the democratic social contract.

Keywords: Eminent Domain, Article 300A, Adverse Possession by State, Human Rights, Constitutional Right to Property, Rule of Law, Just Compensation.

¹ (2020) 2 SCC 569

INTRODUCTION

"The right of property is the guardian of every other right, and to deprive a people of this, is in fact to deprive them of their liberty." — Arthur Lee

BACKGROUND

The land is a basic source of livelihood for humans and the right to live in the land is inherent and attached to the land. With the development of human civilization, people who used to live, work, and cultivate on the piece of land started owning the land as a property or asset. However, the concept remains changing with the evolution where in the dynasty era the kings used to be the owners of the land followed by the British government ownership an individual ownership.

EVOLUTION FROM ARTICLE 31 TO 300A

Since the Constitution of India came into force in the 1950s, the right to property was given fundamental status. Basically, two articles Art. 31² and Art. 19(1)(f)³ ensures that any person's right against his property remains protected.

WHY 44th AMENDMENT WAS EXECUTED

The zamindars and other land owners whose ceiling limit exceeded approached Supreme Court using their fundamental right to property with the intention to hold acts unconstitutional. So, in order to stop this from happening and with a view to doing economic justice, Art.31⁴ and Art. 19(1)(f)⁵ ceased to be a fundamental right and was modified as a constitutional right in new chapter IV Part XII of the Constitution as Art. 300A, which continues to exist and follow till today.

CONCEPT OF EMINENT DOMAIN AND ADVERSE POSSESSION

Idea of Land Acquisition is a process of acquiring land by the government authority from the private individual in consideration of the compensation in monetary form, for the public purpose. The **Doctrine of Eminent Domain** is the root of the notion of land acquisition which was introduced by the father of International Law- Hugo Grotius in his book called Laws of War and Peace in the 17th century. This doctrine was based on the maxim- 'Necessity public major set quam private' which means that the public necessity is greater than the private

² <https://indiankanoon.org/doc/354224/>

³ <https://indiankanoon.org/doc/1218090/>

⁴ Supra note 1

⁵ Supra note 2

necessity. **Adverse possession** allows a person to claim legal ownership of land they do not own if they have occupied it exclusively, openly, and continuously for a statutory period without the owner's consent.

EMINENT DOMAIN VS INDIVIDUAL LIBERTY

If the government takes private land without passing a specific law, providing compensation, or following a clear process, it doesn't just violate Article 300A; it directly threatens **Article 21 (the Right to Life and Personal Liberty)**⁶. Forcing someone off their land without due process destroys their livelihood, uproots their community, and violates their right to live with dignity. In the recent judgment of **Vidya Devi v. The State of Himachal Pradesh & Ors.**⁷, it was held by SC that the Right to own Private Property is a human right and cannot be denied. The party depriving one's right to property must have the authority of law. In this case, the plaintiff was given compensation for the wrong acquisition of property by the state. In the case of Hari Krishna Mandir Trust vs State of Maharashtra and others⁸, it was held by the SC that the appellant cannot be deprived of his strip of land being a private road, without the authority of law, if allowed will be a violation of Art. 300A of COI.

CONSTITUTIONAL AND STATUTORY FRAMEWORK

1. Post 1978 Constitutional Landscape of Article 300A

By 44th Amendment Act 1978 of the Constitution of India, a new article namely 300A was inserted and titled as Right to Property. It reads as:

“No person shall be deprived of his property save by authority of law⁹. This article provides restrictions on the State that it cannot take anybody's property without the force of law also interpreted can be deprived of the force of law. The word 'law' here means a validly enacted law which is just, fair, and reasonable” IK. In the case of K.T. Plantation Pvt. Ltd. v. State of Karnataka¹⁰, it was held by SC that the rule of law is an inherent part of Article 300A.

2. The Effectiveness of Modern Land Acquisition Act 2013

After determining the flaws and defects in the former Land Acquisition Act, the New

⁶ <https://indiankanoon.org/doc/1199182/>

⁷ Supra note 1

⁸ (2020) 9 SCC 356

⁹ <https://indiankanoon.org/doc/120077007/>

¹⁰ (2011) 9 SCC 1

Land Acquisition Law was enacted to overcome the flaws in the previous laws. The Act was called "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013." (RFCTLARR Act 2013)¹¹. The bill of the Act was passed in 2011, however, it was passed in 2013 and came into force on 1st January 2014. There are certain amendments made in the year 2015. The main aim of the act of RFCTLARR, 2013 is to ensure fair and reasonable compensation to the affected parties whose land property has been acquired by the government authority, to ensure transparency in the process of land acquisition, and to facilitate the resettlement and rehabilitation to the displaced parties in the procedure of land acquisition. The benefits of the compensation, rehabilitation and resettlement provided in the Act are extended in cases of land acquisition made under the 13 Acts specified in the Fourth Schedule.

3. Due Process of Law

The doctrine of "due process of law" serves as a foundational constitutional guarantee that protects individual life, liberty, and property from arbitrary, capricious, or unconstitutional state intervention. It mandates that the sovereign cannot deprive a citizen of their rights without adhering to recognized legal principles and established legal frameworks. Structurally, the doctrine is bifurcated into two distinct dimensions:

- **Procedural Due Process:** It demands that before the state can alter or diminish an individual's legal status or property rights, it must provide adequate **notice**, a **fair and meaningful hearing** before an unbiased tribunal, and a transparent procedure.
- **Substantive Due Process:** It acts as a judicial filter ensuring that the substance of a law is not arbitrary, oppressive, or unreasonable. Even if the state follows impeccable procedures, the underlying law will be struck down if it fundamentally violates basic human liberties or constitutional mandates¹². (Manupatra)

The Supreme Court in *A.K. Gopalan v. State of Madras*¹³ where the Court ruled that "procedure established by law" meant any validly enacted statutory

¹¹ <https://dolr.gov.in/act-rules/>

¹² [Due Process of Law and Natural Justice](#)

¹³ [AIR 1950 SC 27],

Procedure, regardless of how harsh or unfair it might be. In *Maneka Gandhi*¹⁴, the Supreme Court read the essence of substantive due process into Article 21, establishing that any procedure depriving a person of life or personal liberty must not merely exist textually, but must be "**just, fair, and reasonable.**" If a law is found to be arbitrary or fanciful, it fails the constitutional test.

DECONSTRUCTING VIDYA DEVI VS STATE OF HIMACHAL PRADHESH¹⁵: RIGHT TO PROPERTY AS A HUMAN RIGHT

1. FACTS

In 1967–68, the State Government of Himachal Pradesh took physical possession of 3.34 hectares of land belonging to the appellant, Vidya Devi (an illiterate widow from a rural background) in order to construct the Nadaun–Sujanpur major district road. The State completely bypassed due process. It failed to follow formal acquisition proceedings under the Land Acquisition Act, 1894. The State had failed to acquire explicit written consent, and paid zero compensation. In 2010 i.e 42 years later upon learning that similarly situated neighbours had successfully sued the state for compensation, the appellant approached the Himachal Pradesh High Court via a Writ Petition. The High Court dismissed the plea in 2013 on the grounds of gross **delay and laches**, declaring it a time-barred matter with "disputed questions of facts." The appellant subsequently appealed to the Supreme Court. Before the Apex Court, the State argued that the claim was hit by limitation and further contended that it had clear title over the land through **adverse possession** due to its continuous, open occupation for over 40 years.

2. RULING OF THE COURT

The Supreme Court bench consisting of **Justice Indu Malhotra and Justice Ajay Rastogi** completely overturned the High Court's decision.

1. The Supreme Court held that while the right to property ceased to be a fundamental right via the 44th Constitutional Amendment in 1978, it remains a robust **constitutional right under Article 300A¹⁶** and an indispensable **human right**.

¹⁴ (1978) 1 SCC 248

¹⁵ Supra note 1

¹⁶ Supra note 9

2. The Court strongly condemned the State's plea, ruling that the State cannot behave like a common trespasser or land-grabber to perfect its title over its citizens' lands through adverse possession.
3. Invoking its power to dispense complete justice, the Court directed the State to treat the land as notionally acquired and pay full market-value compensation along with all statutory plus ₹1,00,000 in legal costs.¹⁷

THE CONFLICT BETWEEN STATE-LED DEVELOPMENT AND INDIVIDUAL PROPERTY RIGHTS

1. State Land Grabbing (Adverse Possession)

Adverse possession is a traditional legal principle where someone who occupies another person's private property openly, continuously, and without permission for a long period (typically 12 years in India) can legally claim absolute ownership of it. The conflict arises when the State itself tries to use this defence against its own citizens.

In cases like Vidya Devi, the government argued that because it had built a road and occupied her land for over 40 years without any protest, the State had perfected its title through adverse possession and no longer owed her any compensation. The Judiciary significantly points out saying The State cannot use the passage of time to turn its own illegal actions into a legal title. The doctrine of adverse possession exists to settle private property disputes, not to shield a sovereign State from its constitutional obligation to pay for what it takes. (Pathak 2022)

2. Time Delay As An Excuse

When affected citizens finally go to court after decades the government routinely argues that the case should be dismissed because too much time has passed. They use legal technicalities called "**delay and laches**" or "**limitation periods**" as a shield. The conflict here is whether the state should be allowed to use time limits to get away with an illegal act.

The Supreme Court in Vidya Devi and Sukh Dutt Ratra¹⁸ completely rejected the state's excuse. The Court ruled that holding a citizen's land without paying for it is a **continuing wrong**. A new violation happens every single day the state stays on the

¹⁷ <https://indiankanoon.org/doc/127924004/>

¹⁸ (2022) 7 SCC 508

land. It is deeply unfair to punish poor or uneducated citizens for delaying a lawsuit when the state was the one that broke the law in the first place.

3. Human Right VS Constitutional Right

In 1978, the Right to Property was removed from India's list of Fundamental Rights and moved to Article 300A¹⁹ as a ordinary Constitutional Right. For a long time, this made property look like a second-class right that the government could easily bypass. The courts have now made it clear that **the right to property is a basic human right**. In India, land is not just an asset; it is tied directly to a person's livelihood, home, and dignity. Taking away someone's land without due process violates their right to a dignified life under Article 21²⁰. Therefore, treating property as a minor constitutional right is a major mistake.

The Supreme Court in **State of Haryana v. Amin Lal (Dead) through LRs**²¹ held that While the right to property is no longer a Fundamental Right, it remains a true Constitutional and Human Right. The State must use appropriate legal channels (like the Right to Fair Compensation and Transparency in Land Acquisition Act) rather than acting as a squatter.

4. Development tool or Violation of Property rights

The state uses Eminent Domain as an essential development tool to build public infrastructure like highways, metro lines, dams, and airports, which benefit the entire economy. The controversy arises when the state treats individual property rights as an obstacle to this progress. Instead of balancing the two, the government often uses the term public welfare to justify the direct violation of a citizen's rights. For eminent domain to be a legitimate tool of development rather than a violation of rights, the state must strictly follow due process and ensure that public progress does not result in individual devastation.

SUGGESTIONS

1. Execution of Strict Penalties:

Enact strict administrative penalties and personal liability for government officers who

¹⁹ Supra note 9

²⁰ Supra note 6

²¹ (2024) 19 SCC 244

bypass statutory acquisition steps and take physical control of private land through executive force.

2. Establishment of Tribunals or grievance cells:

Establish low-cost, independent Land Grievance Cells under the RFCTLARR Act, 2013, dedicated specifically to resolving historic, uncompensated land takeovers.

3. Rehabilitation and Resettlement before possession:

Enact a provision under the RFCTLARR Act 2013 that prevents the state from taking physical possession of any land—even under "urgency clauses"—until 100% of the calculated compensation and rehabilitation packages are deposited in a neutral escrow account for the landowner.

CONCLUSION

The landmark jurisprudence surrounding **Vidya Devi v. State of Himachal Pradesh**²² marks a pivotal victory for the Rule of Law in India, demonstrating that the deletion of the Fundamental Right to Property in 1978 did not reduce Article 300A to a toothless provision. By intertwining property rights with the Right to Livelihood and Dignity under Article 21, the Supreme Court has elevated Article 300A to the status of an inalienable human right. This doctrinal evolution firmly establishes that a democratic welfare state is constitutionally and morally barred from behaving like a common squatter; it cannot hold a hostile, thief-like intent against its own citizens to claim ownership through adverse possession. Ultimately, this legal framework establishes that while the power of Eminent Domain is an essential development tool for national infrastructure, public utility can never serve as a blank check for executive overreach or state-sanctioned land grabbing.

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