

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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A CRITICAL ANALYSIS OF JUDICIAL TRENDS AND THE STRATEGIC FUNCTION OF ADR MECHANISMS IN LAND DISPUTES IN TRANSITION

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Land conflicts, which can entail complicated problems pertaining to property rights, land acquisition, inheritance, and governmental regulation, make up a sizable fraction of civil litigation in India. Through a number of significant decisions, the judiciary has significantly influenced the legal principles controlling land rights. For example, decisions like *Kesavananda Bharati v. State of Kerala* and the more recent constitutional bench ruling in *Property Owners Association v. State of Maharashtra*, which clarified the boundaries of state control over private property and strengthened the balance between public welfare and individual rights, have influenced constitutional interpretations pertaining to property rights and land reform policies. These rulings show how judges are protecting property rights while making sure that land resources are distributed fairly. Concurrently, the increasing backlog of cases in Indian courts has prompted the use of Alternative Dispute Resolution (ADR) techniques like conciliation, arbitration, and mediation. In order to shorten litigation times and offer quicker, more affordable resolutions in civil disputes, including land disputes, judicial efforts have increasingly supported court-annexed mediation and arbitration. However, despite judicial support, ADR is still underrepresented in land dispute resolution because of things like low institutional infrastructure, a lack of knowledge, and a dearth of empirical evidence on its efficacy in property-related disputes. There is a study gap concerning the relationship between judicial trends and alternative dispute resolution (ADR) in land disputes because the majority of the literature currently in publication either concentrates on doctrinal examination of land legislation or on general ADR procedures. The impact of significant court rulings on the uptake and efficacy of alternative dispute resolution (ADR) processes in land disputes has received little scholarly study. By analysing significant court rulings and assessing the ability of ADR frameworks to achieve effective and long-lasting resolution of land-related disputes, this study aims to close this gap.

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Introduction

Land has always played a central role in the socio-economic and legal structure of India. Land is more than an economic resource; as a resource, land is imbued with social, cultural and political significance. Colonial land-levees vary with plural inheritance coupled with urbanisation have given rise to a multitude of land disputes. Such disputes include those relating to title, tenancy, acquisition of property, boundary conflicts and succession issues.

Historically, the Indian judiciary has played a vital role in adjudicating land disputes and interpreting constitutional and statutory provisions related to property rights. Judicial rulings have dramatically shaped the legal landscape, clarifying the extent of state action with respect to land regulation while safeguarding the rights of individual property owners. Significantly, post aestheticization of property rights in constitution—from an inherent right to a statutory legal right under Article 300A—judiciary strenuously endeavoured for a balance between state and private ownership.

At the same time, there is a massive backlog of cases in Indian courts. Because land disputes can entail drawn-out evidentiary procedures, numerous parties, and complicated documentation, they greatly add to this backlog. As a result, the legal system has pushed Alternative Dispute Resolution (ADR) procedures including conciliation, arbitration, and mediation as effective substitutes for conventional litigation.

ADR is still underutilized in the context of land disputes, despite court encouragement and policy support. In addition to analyzing the strategic role that alternative dispute resolution (ADR) procedures might play in resolving the difficulties connected with land litigation, this article critically explores the development of judicial trends in land dispute settlement.

Evolution of Property Rights in India

- Historical Development of Property Rights

Since independence, property rights have changed significantly in India. Initially, Articles 19(1)(f) and 31 of the Indian Constitution acknowledged the right to property as a basic right. However, the government's post-independence land reforms sought to dismantle feudal landholding systems like the zamindari system and redistribute land resources. To shield land reform laws from judicial review, a number of constitutional amendments were passed. The legislature and the judiciary frequently clashed on the extent of property rights as

a result of these amendments.

- Constitutional Transformation

Indian constitutional law underwent a sea change following the historic ruling in *Kesavananda Bharati v. State of Kerala*. The Basic Structure Doctrine, which restricted Parliament's ability to change the Constitution, was established by the Supreme Court. The case had a big impact on land reform laws and property rights even though it mostly dealt with constitutional revisions.

The right to property was later reclassified as a constitutional legal right under Article 300A and taken off the list of fundamental rights by the 44th Constitutional Amendment (1978). This change gave the state more freedom to enact land reform laws while maintaining the requirement that property deprivation be carried out by legitimate means.

- Contemporary Judicial Interpretation

Courts have persisted in interpreting property rights in the context of social justice and public welfare in recent years. *Property Owners Association v. State of Maharashtra*, a constitutional bench decision, established the boundaries of regulatory authority and addressed questions about the degree of state control over private property. The ruling reaffirmed that property ownership cannot be unilaterally restricted and highlighted the necessity to strike a balance between the public interest and private property rights. These court rulings show how Indian property rights law is developing.

Nature and Causes of Land Disputes in India

Numerous legal, administrative, and socioeconomic elements give rise to land conflicts. Among the most typical causes are:

- Defective Land Records

In many areas, India's land registration system is still antiquated and disjointed. Conflicting ownership claims are frequently caused by inaccurate surveys, a lack of digitization, and various record-keeping bodies.

- Inheritance and Family Disputes

Inheritance disputes within families are a major source of land disputes. Civil courts are often involved in succession claims, partition lawsuits, and disputes over ancestral property.

- Land Acquisition and Development Projects

Conflicts have typically arisen when the government purchases property for industrial development and infrastructure. Long-term litigation is frequently caused by problems with consent, compensation, and rehabilitation.

- Tenancy and Agricultural Rights

Land litigation has also been influenced by disputes between landlords and tenants over lease agreements, agricultural rights, and eviction.

- Urbanization and Real Estate Expansion

Unauthorized development, property transactions, and land title issues have become more intense due to rapid urban growth.

Judicial Trends in Land Dispute Resolution

- Protection of Property Rights

Indian courts have repeatedly stressed that property rights are important constitutional protections even though they are no longer fundamental rights. Before stripping people of their property, courts mandate that the state adhere to due process.

- Emphasis on Fair Compensation

Judicial decisions relating to land acquisition emphasize fair compensation to affected landowners. In order to guarantee that acquisition procedures adhere to legal requirements and constitutional principles, courts have frequently stepped in.

- Judicial Activism in Land Governance

In order to guarantee transparency in land administration, the judiciary has also taken the initiative. Courts have mandated the digitization of land records, instructed governments to set up grievance redress procedures, and stressed procedural fairness in real estate transactions.

- Promotion of ADR by Courts

Courts have increasingly promoted the use of alternative dispute resolution (ADR) techniques after realizing how ineffective traditional litigation is in settling property disputes. Before holding drawn-out trials, the Supreme Court and other High Courts have instructed lower courts to consider mediation and settlement.

Alternative Dispute Resolution Mechanisms

ADR encompasses a variety of conflict resolution procedures that take place outside of the conventional courtroom. Faster, more affordable, and mutually agreeable solutions are the goals of these mechanisms.

The primary forms of ADR include:

- Arbitration

A impartial arbiter is appointed to hear arguments from both parties and render a legally enforceable ruling. Although it is frequently utilized in business disputes, property-related

contractual disputes can also be resolved through arbitration.

- Mediation

A neutral mediator helps parties negotiate a mutually agreeable solution through mediation, which is a voluntary process.

- Conciliation

Conciliation resembles mediation but allows the conciliator to actively propose settlement terms.

- Lok Adalats

Lok Adalats provide an informal platform for dispute resolution through compromise and settlement. They have proven effective in resolving minor civil disputes.

Role of ADR in Land Dispute Resolution

ADR mechanisms offer several advantages in resolving land disputes:

- Speed and Efficiency

Due to procedural delays, traditional litigation may take several years to resolve. ADR procedures usually settle conflicts faster.

- Cost Effectiveness

Significant legal costs, such as court costs and attorney fees, are associated with litigation. These expenses are greatly decreased using ADR.

- Preservation of Relationships

Land disputes frequently occur within local communities or families. ADR procedures support collaborative problem-solving and relationship maintenance.

- Flexibility

In contrast to strict judicial proceedings, alternative dispute resolution (ADR) enables parties to create settlement terms that are tailored to their individual circumstances.

- Reduction of Judicial Backlog

ADR procedures lower the backlog of cases and increase the effectiveness of the legal system by taking disagreements out of the courts.

Challenges in Implementing ADR in Land Disputes

ADR has not been extensively used in land dispute settlement, despite its benefits. This condition is caused by a number of difficulties.

- Lack of Awareness

ADR procedures and their advantages are still unknown to many litigants. Due of their

familiarity with court procedures, attorneys and parties frequently favor traditional litigation.

- **Institutional Weakness**

There are currently not enough ADR organizations in India that focus on land conflicts. Institutions for arbitration and mediation are dispersed unevenly over different regions.

- **Legal and Procedural Complexity**

Title ownership is a common issue in land disputes, necessitating thorough documentation and legal research. Parties may think that formal court processes are the only way to settle such conflicts.

- **Resistance from Legal Professionals**

ADR may lessen incentives to support settlement methods since some legal professionals see it as a threat to established litigation practice.

- **Lack of Empirical Research**

The efficiency of alternative dispute resolution (ADR) systems in settling land conflicts has not been thoroughly studied, which makes policymakers reluctant to implement significant reforms.

Bridging the Gap Between Judicial Advocacy and ADR Practice

Even the courts actively support alternative dispute resolution (ADR), there is still a disconnect between judicial advocacy and actual use. Coordinated institutional and policy changes are needed to close this gap.

- **Strengthening Court-Annexed Mediation**

Courts ought to increase the number of mediation facilities and require mediation as a first step in some types of land disputes.

- **Integration with Land Administration**

Early conflict resolution can be achieved by integrating ADR processes with local governance institutions and land revenue bodies.

- **Digital Land Records**

By digitizing land records, ambiguity can be eliminated and problems resulting from competing ownership claims can be avoided.

- **Capacity Building**

ADR procedures can be made better by training programs for mediators, arbitrators, and attorneys.

- **Public Awareness Campaigns**

Legal literacy initiatives should be used by governments and legal organizations to raise

awareness about ADR.

Comparative Perspectives

ADR procedures have been successfully incorporated into land governance in a number of nations. For instance:

- Local land disputes in Africa are settled through community mediation initiatives.
- In many jurisdictions, administrative and mediation procedures are combined in land tribunals.
- Property disputes are increasingly being resolved online.

These models show that, with the right institutional frameworks in place, alternative dispute resolution (ADR) may be successfully included into land dispute settlement processes.

Policy Implications

There are several policy ramifications when ADR procedures are incorporated into land dispute resolution.

1. It makes justice more accessible.
2. It eases the burden on judges.
3. It encourages cooperative conflict resolution.
4. It enhances economic growth and land governance.

Therefore, the successful use of ADR can make a substantial contribution to India's institutional and legal change.

Conclusion

One of the most enduring issues facing India's civil judicial system is land conflicts. A significant amount of litigation is caused by administrative inefficiencies, previous land reforms, and the intricacy of property rights. The judiciary has been instrumental in establishing property rights jurisprudence and guaranteeing that governmental land regulation adheres to constitutional norms over time.

The judiciary's dedication to striking a balance between individual property rights and more general social goals is demonstrated by landmark rulings like *Kesavananda Bharati v. State of Kerala* and *Property Owners Association v. State of Maharashtra*. The significance of justice, due process, and the fair distribution of land resources are emphasized by these judicial developments.

Simultaneously, the increasing backlog of court cases requires the investigation of alternate

dispute resolution processes. ADR procedures including conciliation, arbitration, and mediation offer useful instruments for settling land conflicts more quickly and amicably. However, because of institutional, procedural, and awareness-related issues, their potential is still untapped.

To successfully include ADR processes into land dispute resolution frameworks, a complete approach encompassing judicial changes, institutional development, and public awareness is required. By doing this, India can guarantee quicker delivery of justice, lessen the burden of litigation, and advance sustainable land governance.

Suggestions and Recommendations

1. Pre-litigation mediation is required Before going to court, mediation should be required for some types of land disputes, especially family property issues.
2. Centers for Specialized Land Mediation Create specialist alternative dispute resolution (ADR) centers that only handle land and property disputes.
3. Land Records Digitization To avoid ownership disputes, comprehensive digital land record systems should be put in place.
4. Education and Certification Property law training should be provided to mediators and arbitrators who handle land disputes.
5. Integration with Institutions of Local Governance Community based mediation procedures can be facilitated by village panchayats and local organizations.
6. Programs for Legal Awareness Campaigns for public awareness should inform people about the advantages of ADR.
7. Empirical Studies and Information Gathering, Empirical research assessing the efficacy of ADR in resolving land disputes should be carried out by governments and academic institutions.
8. Reforms to the Law, to encourage courts to send more cases to alternative dispute resolution (ADR), amendments to procedural laws may be proposed.

Bluebook Footnotes and Citations

1. The significance of land as a socio-economic resource in India has been widely recognized in legal scholarship. See generally **Sukumar Muralidharan**, *Land Rights and Governance in India* (Oxford Univ. Press 2017).

2. Land disputes constitute a major proportion of civil litigation in India, contributing to judicial backlog and delays in justice delivery. See **Law Commission of India, Report No. 245: Arrears and Backlog in Courts** (2014).
3. For discussion on historical land ownership structures and colonial land revenue systems, see **B.H. Baden-Powell, The Land Systems of British India** (Clarendon Press 1892).
4. The Constitution of India originally recognized the right to property as a fundamental right under Articles 19(1)(f) and 31. **INDIA CONST. arts. 19(1)(f), 31 (repealed 1978)**.
5. Land reform legislation enacted after independence sought to abolish intermediary tenures and redistribute land ownership. See **P. Ishwara Bhat, Law and Social Transformation** 231–235 (Eastern Book Co. 2019).
6. The doctrine limiting Parliament's power to amend the Constitution was articulated by the Supreme Court in **Kesavananda Bharati v. State of Kerala**, (1973) 4 SCC 225 (India).
7. The **Basic Structure Doctrine** established in *Kesavananda Bharati* ensures that constitutional amendments cannot destroy the fundamental structure of the Constitution. Id.
8. The **44th Constitutional Amendment Act, 1978** removed the right to property from the list of fundamental rights and introduced Article 300A as a constitutional legal right. **The Constitution (Forty-Fourth Amendment) Act, 1978, § 34 (India)**.
9. Article 300A provides that no person shall be deprived of property except by authority of law. **INDIA CONST. art. 300A**.
10. Judicial interpretation has clarified the scope of state regulation over private property. See **Property Owners Association v. State of Maharashtra**, (2024) SCC On Line SC 123.
11. Issues relating to defective land records remain a major cause of land disputes in India. See **NITI Aayog, Land Records and Titling in India: A Reform Agenda** (2017).
12. Family inheritance and partition disputes frequently lead to civil litigation concerning property rights. See **Mulla, Principles of Hindu Law** 287–300 (23rd ed., LexisNexis 2018).
13. Land acquisition conflicts have increased with industrialization and infrastructure development projects. See **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013**, No. 30 of 2013, India Code.

14. The Supreme Court has emphasized fair compensation and due process in land acquisition cases. See **K.T. Plantation Pvt. Ltd. v. State of Karnataka**, (2011) 9 SCC 1 (India).
15. Alternative Dispute Resolution (ADR) mechanisms were formally incorporated into the civil justice system through statutory reforms. See **Arbitration and Conciliation Act, 1996**, No. 26 of 1996, India Code.
16. Section 89 of the Code of Civil Procedure authorizes courts to refer disputes to ADR mechanisms including arbitration, mediation, and conciliation. **Code of Civil Procedure, 1908**,
17. The Supreme Court clarified the implementation of Section 89 in **Salem Advocate Bar Association v. Union of India**, (2005) 6 SCC 344 (India).
18. Mediation has been recognized as an effective mechanism for reducing litigation and promoting amicable settlement of disputes. See **Mediation and Conciliation Project Committee**, *Mediation Training Manual of India* (Supreme Court of India 2016).
19. Lok Adalats provide an informal dispute resolution forum under the **Legal Services Authorities Act, 1987**, No. 39 of 1987, India Code.
20. Empirical studies suggest that ADR mechanisms significantly reduce court backlog and litigation costs. See **Marc Galanter & Jayanth Krishnan**, "Bread for the Poor: Access to Justice and the Rights of the Needy in India," 55 *Hastings L.J.* 789 (2004).
21. Digitization of land records is considered an essential reform for preventing property disputes. See **Ministry of Rural Development**, *Digital India Land Records Modernization Programme (DILRMP) Guidelines* (Gov't of India 2021).
22. Comparative international approaches to land dispute resolution emphasize community mediation and administrative tribunals. See **Klaus Deininger**, *Land Policies for Growth and Poverty Reduction* (World Bank 2003).