



The Social Life of Property: Kinship, Law and Land Litigation in India

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Abstract

Land and family property disputes constitute a significant proportion of cases in Indian courts, yet they are often interpreted primarily as outcomes of legal inefficiencies. This paper argues that such disputes are better understood through a socio-legal framework that conceptualises property not merely as a legal asset but as an institution, a set of practices, an object, and an idea embedded in social relations. The intersection of kinship structures, gendered patterns of succession, and administrative practices produces complex and protracted arenas of litigation. Drawing on a case study of an urban family property dispute adjudicated in the district court of Saket, New Delhi, the paper illustrates how legal entitlements are deeply entangled with social relationships. It further examines the role of property records as instruments of power that contribute to the reproduction of social inequalities. By bridging legal analysis with sociological insights, the paper highlights the need to reconceptualise property disputes beyond procedural and institutional limitations.

Keywords: Legal Pluralism, Socio-Legal analysis, Gendered succession, Property rights, Litigation and Land disputes

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Introduction

Property, as significant as it is as an institution, cannot be reduced to a purely economic or legal entitlement. It possesses a multi-dimensional character that becomes particularly visible in the context of inheritance and family property disputes. Such disputes not only expose but also challenge the limitations of conventional legal processes, especially their adherence to rigid procedural frameworks that often overlook the complexity of social relations.

Adopting a socio-legal perspective, this paper argues that land litigation translates lived social relationships—rooted in kinship, hierarchy, and everyday practices—into formal legal categories. This translation frequently fragments these relationships, complicating both the pursuit of equality and the delivery of justice. Land and property disputes constitute a substantial portion of court caseloads in India. As noted by Damle and Gulati, a key factor contributing to this trend is the poor quality of land records, with a majority of disputes arising between private parties.²

Importantly, much of this litigation is concentrated in the High Courts rather than in appellate or Supreme Court jurisdictions, indicating that national-level data often fails to capture the full scope of the issue. This highlights the need to critically examine not only the volume of such cases but also the institutional and administrative mechanisms that shape them, including the role of government agencies and land record system.

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² Devendra Damle & Karan Gulati, *Characterising Land and Property Related Litigations at the Delhi High Court*, 34 *Nat'l L. Sch. India Rev.* 1 (2022).

According to findings by Daksh, approximately 66% of civil litigation in India is related to land disputes, with tenancy (especially eviction) and land acquisition cases forming a significant share.³ A notable feature of such litigation is the increasing reliance on civil writ petitions in land acquisition matters. This raises an important question: why do litigants prefer writ petitions over specialised appellate mechanisms?

A civil writ petition, typically filed in higher courts, addresses violations of fundamental rights and often receives prioritised judicial attention. In this context, writ petitions function as a “bypass mechanism,” allowing litigants to circumvent slower or fragmented legal processes. However, this shift has broader implications—it contributes to increasing legal complexity and transforms what are essentially private disputes over land into constitutional questions.

Literature Review

Property has conventionally been understood within legal and economic paradigms as a system of ownership, control, and transfer. However, contemporary socio-legal scholarship challenges this reductionist view by conceptualising property as a socially embedded and historically contingent institution. Drawing on Antonia Layard, property is neither neutral nor natural; rather, it is constituted through specific ontologies of law, belief, and social practice.⁴ Its meanings and functions are culturally distinctive and jurisdictionally variable, particularly in contexts such as India, where land is not merely a material resource but also a lived and relational entity.

This reconceptualisation is further supported by Bruce G. Carruthers and Laura Ariovich,⁵ who argue that property rights are fundamentally social relations rather than merely legal entitlements. They emphasise that property operates as a “bundle of rights,” encompassing the rights to use, exclude, and transfer, which may be distributed across multiple actors rather than concentrated in a single individual. Such an understanding shifts the analytical focus from ownership as a static category to property as a dynamic and contested field of social relations. In the Indian context, this complexity is particularly evident in land-related disputes, where legal claims intersect with kinship ties, customary practices, and administrative frameworks. As demonstrated by Devendra Damle and Karan Gulati,⁶ land and property disputes constitute a significant proportion of litigation, often exacerbated by ambiguities in land records and competing claims among private parties. These disputes highlight the inadequacy of purely legalistic interpretations and underscore the need for a socio-legal approach that accounts for the interplay between law, society, and power.

One of the central dimensions of property, as articulated by Antonia Layard, is its character as an institution of spatial governance.⁷ Property regimes establish systems through which access to land is regulated, rights are enforced, and disputes are adjudicated. In doing so, they reflect and reproduce broader structures of power and authority.

Institutional frameworks of property are deeply intertwined with the state, which plays a pivotal role in defining legal ownership, maintaining land records, and enforcing rights. However, these processes are not neutral. Instead, they often privilege certain groups while marginalising others. In India, for instance, women frequently encounter structural barriers in accessing property due to

DAKSH, *State of the Indian Judiciary: A Report by DAKSH* (2016), <https://dakshindia.org>

⁴ Antonia Layard, *Property: Law, Space and the Social Life of Things* 3–5 (2020).

⁵ Bruce G. Carruthers & Laura Ariovich, *The Sociology of Property Rights*, 29 *Ann. Rev. Socio.* 23, 24–26 (2004).

⁶ Devendra Damle & Karan Gulati, *Understanding Land Conflict in India and Suggestions for Reform* 6–10 (2019).

⁷ Antonia Layard, *Property: Law, Space and the Social Life of Things* 71–75 (2020).

discriminatory inheritance practices, limited representation in land registration systems, and restricted access to formal dispute resolution mechanisms. These institutional constraints contribute to the systematic exclusion of women from property ownership, thereby reinforcing gendered inequalities.

The relationship between property and power extends beyond gender to encompass class and caste hierarchies. Property ownership is often concentrated among socially and economically privileged groups, resulting in patterns of accumulation that perpetuate inequality. Legal frameworks, rather than challenging these disparities, may inadvertently reinforce them by prioritising the protection of existing ownership over equitable resource distribution.

Moreover, institutional arrangements tend to focus on the governance of property after its allocation rather than addressing the initial processes of distribution. This orientation reflects the interests of decision-makers, who are often themselves beneficiaries of existing property regimes. The state, in particular, derives significant fiscal benefits from property through taxation and land-based revenues, which may contribute to its reluctance to undertake redistributive reforms. Consequently, property functions as a site where governance, power, and economic interests converge, shaping both legal outcomes and social realities.

Beyond its institutional dimension, property must also be understood as a set of practices that operate in everyday life. This perspective highlights how ownership is enacted, negotiated, and contested through social interactions, rather than being determined solely by formal legal rules.

As Antonia Layard suggests, property as practice reveals the ways in which legal norms intersect with informal social norms, particularly in contexts characterised by legal pluralism.⁸ In India, property relations are often governed simultaneously by statutory law, customary practices, and local norms, resulting in complex and sometimes contradictory regimes of authority.

A key aspect of property as practice is the relationship between ownership and belonging. Ownership is not merely a legal status but also entails a sense of attachment to place. This sense of belonging can motivate individuals to assert claims over property, even in the absence of formal legal recognition. For instance, occupants of informal settlements may develop strong claims to land based on long-term residence and social investment, despite lacking a formal title.

However, the efficacy of such social practices is context-dependent. While they may hold considerable weight in local settings, they often lack legitimacy within formal legal systems, which prioritise documentary evidence and statutory provisions. This tension between social norms and legal norms creates a dynamic field of contestation, where different forms of authority compete for recognition.

The persistence of informal practices also raises important questions about the limits of formal law. In some cases, social norms may effectively regulate property relations, reducing the need for legal intervention. In others, they may conflict with legal frameworks, leading to disputes that escalate into litigation. This interplay underscores the importance of adopting a socio-legal perspective that recognises the coexistence of multiple normative orders.

The third dimension of property concerns its material and documentary aspects. Property as an

⁸ Antonia Layard, *Property: Law, Space and the Social Life of Things* 102–105 (2020).

object encompasses both the physical asset (such as land or housing) and the legal instruments that establish ownership. This dual character highlights the role of materiality and documentation in shaping property relations.

Historically, boundaries and ownership were established through physical markers, maps, and surveys. In contemporary contexts, however, documentary evidence has become increasingly central to the recognition of property rights. Land titles, registration records, and legal documents serve as the primary means of establishing ownership, often taking precedence over physical occupation or use.

This shift has significant implications for the production of legitimacy. As noted by Damle and Gulati, the poor quality and fragmentation of land records in India contribute to a large proportion of disputes, particularly among private parties.⁹ Ambiguities in documentation create opportunities for competing claims, leading to protracted litigation.

The reliance on documents also opens the possibility of manipulation, including the forging or ageing of titles to establish legitimacy. In such cases, ownership becomes a function of documentary authority rather than actual possession or use. This dynamic underscores the role of property records as instruments of power, capable of shaping legal outcomes and reinforcing inequalities.

Moreover, property as an object extends beyond material assets to include symbolic dimensions of power and privilege. The notion that certain forms of property confer social status highlights the broader cultural significance of ownership. In this sense, property operates not only as an economic resource but also as a marker of identity and authority.

The final dimension of property concerns its ideological and conceptual aspects. Property as an idea refers to the normative frameworks that justify and legitimise ownership, including notions of individual rights, private property, and economic efficiency.

As Carruthers and Ariovich argue, property rights are deeply embedded in broader social and economic systems, reflecting underlying assumptions about the relationship between individuals, society, and the state.¹⁰ The conceptualisation of property as a “bundle of rights” emphasises its flexibility and variability, allowing for different configurations of use, exclusion, and transfer.

At the same time, the idea of property carries significant ideological weight. The legitimacy of private ownership is often taken for granted, despite its role in producing and reproducing inequality. This ideological dimension shapes legal frameworks, policy decisions, and social attitudes, reinforcing the centrality of property in modern societies.

In the Indian context, the ideological significance of property is evident in the prioritisation of ownership rights within legal systems, even in cases involving competing social claims. For instance, land acquisition disputes often involve tensions between individual property rights and collective interests, raising questions about the limits of state authority and the meaning of public purpose.

⁹ Devendra Damle & Karan Gulati, *Understanding Land Conflict in India and Suggestions for Reform* 8–12 (2019).

¹⁰ Bruce G. Carruthers & Laura Ariovich, *The Sociology of Property Rights*, 29 *Ann. Rev. Socio.* 23, 27–30 (2004).

The transformation of private disputes into constitutional questions, particularly through the use of writ petitions, further illustrates the interplay between property and ideology. By framing property disputes in terms of fundamental rights, litigants invoke broader principles of justice and equality, thereby elevating the stakes of legal adjudication.

Bringing together these dimensions, it becomes evident that property is a multifaceted and dynamic institution that operates at the intersection of law, society, and power. The socio-legal framework advanced by Antonia Layard provides a valuable lens for understanding this complexity, while the relational perspective offered by Bruce G. Carruthers and Laura Ariovich highlights the social foundations of property rights.

In the Indian context, these theoretical insights are particularly relevant given the prevalence of land-related disputes and the persistence of legal pluralism. Property disputes cannot be understood solely in terms of legal inefficiencies; they must be situated within broader social processes, including kinship relations, administrative practices, and patterns of inequality.

Furthermore, the interaction between formal and informal systems of governance contributes to the complexity of property litigation. While formal legal frameworks provide mechanisms for dispute resolution, they often fail to account for the social realities that underpin property relations. This disconnect can lead to prolonged litigation, as courts attempt to reconcile competing claims rooted in different normative orders.

Finally, the role of property records and documentation underscores the importance of administrative practices in shaping legal outcomes. As instruments of power, these records play a crucial role in determining access to resources and the distribution of rights, thereby contributing to the reproduction of inequality.

Methodology

Research Design

This paper adopts a qualitative socio-legal research design to examine the multidimensional nature of property and land litigation in India. Moving beyond doctrinal legal analysis, the study integrates insights from sociology and legal studies to explore how property operates as a lived social institution. The research is interpretive in nature and seeks to analyse the interaction between formal legal frameworks and informal social relations, particularly in the context of kinship, gender, and administrative practices.

The study is grounded in an interdisciplinary approach, drawing upon theoretical contributions from socio-legal scholarship to conceptualise property as an institution, practice, object, and idea. This framework enables a comprehensive understanding of how legal disputes over property are embedded in broader social processes.

Research Approach

The paper employs a case study method as its primary research strategy. The case study focuses on an urban family property dispute adjudicated in the district court of Saket, New Delhi. The selection of this case is purposive, as it represents a typical instance of intra-family litigation involving competing claims over property, thereby allowing for an in-depth exploration of the intersection between kinship relations and legal entitlements.

The case study approach facilitates a context-sensitive analysis, enabling the researcher to capture the complexity of property disputes as they unfold within specific social and legal settings. It also allows for the examination of how abstract legal principles are interpreted and applied in practice.

Scope and Limitations

While the case study approach provides depth and contextual richness, it also entails certain limitations. The findings are not intended to be statistically generalizable but rather analytically transferable to similar contexts. The reliance on secondary data may also limit access to certain perspectives, particularly those of litigants and other stakeholders.

However, these limitations are mitigated by the study's focus on theoretical generalisation, which seeks to contribute to broader debates on property, law, and society rather than to produce empirical generalisations. The study is based on publicly available judicial records and secondary sources. Care has been taken to ensure that the analysis remains objective and does not disclose sensitive personal information beyond what is already in the public domain.

Case Study and Discussion

This section analyses a recent family property dispute adjudicated before the District Court of Saket, New Delhi, in 2025: **Smt. Mini v. Shri Devender Singh & Ors.**¹¹ The case is illustrative of broader patterns in urban India, where property disputes are deeply embedded in kinship structures, gendered succession, and administrative practices. It provides an empirical lens through which the socio-legal dimensions of property—outlined earlier—can be examined in practice.

The dispute concerns a suit for partition and permanent injunction, arising from competing claims over two immovable properties following successive deaths within a family. As such, it exemplifies how legal entitlements intersect with complex familial relationships, producing protracted and contested litigation.

The case reveals a layered and fragmented family structure. The plaintiff, referred to here as Smt. Veena, instituted proceedings against her stepfather, the widow of her deceased brother, and her minor nephew. The plaintiff also sought the appointment of the nephew's mother as his legal guardian for the purposes of litigation.

The familial history is central to understanding the dispute. The plaintiff's mother, Pooja Singh, was initially married in 1995 and had two children—the plaintiff and her brother—from this union. Following a divorce in 1997, she remarried Ravi Singh (the stepfather). According to the plaintiff, her mother did not disclose the existence of her children to her second husband, instead introducing them as extended relatives. This concealment later contributed to ambiguity in familial recognition and inheritance claims.

The dispute revolves around two properties:

- A flat located in DDA Janta Flats, Chilla Village
- A property in Malviya Nagar

Together, these properties were valued at approximately ₹85 lakhs and became the subject of contested claims among family members.

¹¹ *Smt. Mini v. Shri Devender Singh & Ors.*, Civ. Suit No. ___ of 2025 (Dist. Ct. Saket, New Delhi 2025).

The litigation arises from two successive deaths, each triggering distinct rules of intestate succession under the Hindu Succession Act, 1956. This significantly complicates the legal determination of shares.

First Succession (Death of Son – Male Intestate): The first property had been purchased by the mother in the name of her son. Upon his death (in 2007), the property devolved upon:

- His mother
- His widow
- His son

This follows the statutory scheme for male intestate succession, where Class I heirs inherit simultaneously.

Second Succession (Death of Mother – Female Intestate): The second property, held in the mother's name, devolved upon her death (in 2013). The legal heirs included:

- Her husband (stepfather)
- Her daughter (plaintiff)
- The child of her predeceased son

This shift reflects the distinct rules governing female intestate succession under the Act.

The dispute intensified when:

- The stepfather and the brother's widow retained possession of property documents
- They attempted to alienate (sell) the property without the plaintiff's consent
- The plaintiff was denied her claimed share

This led to the filing of a partition suit, grounded in the principle that co-heirs hold property as tenants in common, not joint tenants.

One of the most striking features of the case is the transformation of family relations into mathematical fractions of ownership. The application of succession rules required the court to compute shares across two successive inheritance events, resulting in fractional divisions (e.g., conversion of $\frac{1}{2}$ shares into $\frac{1}{6}$ shares).

This reflects a broader tension in property law:

- On one hand, property is embedded in emotional, familial, and social relations
- On the other, law reduces these relations into quantifiable legal entitlements

This process illustrates how legal frameworks translate complex kinship structures into rigid categories, often obscuring the lived realities of family relationships.

The case vividly demonstrates the following analytical framework proposed by Antonia Layard.

(a) Property as Institution

The dispute reflects how property operates as a system of governance, structured by formal legal rules. The Hindu Succession Act, 1956¹² provides the institutional framework for determining

¹² Hindu Succession Act, No. 30 of 1956, § ____, India Code (1956).

rights, yet its application reveals inherent complexities when layered with real-life kinship arrangements.

The case also highlights how institutional mechanisms may disadvantage certain actors—particularly women—despite formal legal equality.

(b) Property as Practice

At the level of practice, the dispute shows how property is negotiated through:

- Control over documents
- Strategic withholding of information
- Attempts to sell property without consent

These practices demonstrate that ownership is not merely legal but is actively performed and contested in everyday life.

(c) Property as Object

The material and documentary dimensions of property are central here. The refusal to produce property papers underscores how documents function as instruments of power, rather than neutral evidence.

This aligns with findings by Devendra Damle and Karan Gulati, who note that poor-quality and fragmented land records contribute significantly to litigation. In this case, control over documentation directly influenced the balance of power among litigants.

(d) Property as Idea

Finally, the case reflects the ideological dimension of property—its association with:

- Authority
- Legitimacy
- Social status

The insistence on exclusive control and attempts at unilateral sale indicate the perceived importance of property as a marker of power and autonomy.

The case also foregrounds the gendered nature of property relations. Despite statutory recognition, the plaintiff's claim was contested through:

- Exclusion from decision-making
- Denial of access to documents
- Attempts to bypass her legal entitlement

This reflects a broader pattern in which women's property rights, though legally recognized, are often undermined in practice through familial and social mechanisms.

A critical insight emerging from the case is the role of property records in sustaining disputes. Rather than functioning as clear evidence, records:

- are fragmented or contested
- are strategically withheld
- enable competing claims

This reinforces the argument that property records are not neutral but are embedded in power relations, contributing to prolonged litigation.

While the case appears as a private family dispute, it reveals broader structural issues:

- Legal pluralism between formal law and social norms.
- Gendered exclusion despite legal reform.
- Administrative weaknesses in land records.
- Transformation of kinship into legal abstraction.

The case thus exemplifies how property disputes in India are not merely legal conflicts but sites where law, society, and power intersect. What thereby could be analysed from cases like such is the ambiguous relationship which persists around the land and property disputes within the family that contributes to the complexity of legal and cultural practices. The case has been complicated due to two successive deaths within the family due to which the court would have to apply a different set of rules for each death based on the gender of the deceased. As for the male intestate; property was to be succeeded to the mother, the widow and the son, whereas for the female intestate, the same property alongside of the second one was now to be divided amongst the husband (step father), daughter, and the child of her predeceased son. This thereby recalls a fractional calculation of $\frac{1}{2}$ share divided into $\frac{1}{3}$ share. It represents the legal challenges of moving from a humanised concept of family property towards a precise mathematical partition. The property records thereby act as instruments of power rather than neutral evidence; it is these poor record qualities that help in the sustenance of disputes in this case.

Conclusion

Thus, this paper demonstrates that the matters around land and property cannot be merely understood as problems of legal inefficiency, but rather emerge from the socio-legal nature of property. It highlights the intersectionality of formal legal rules with the social norms and the kinship structures that often also display administrative failures as well.

The dominance of land litigations under the Indian courts is best understood not as a mere failure of conflict resolution but rather due to the socio-legal fragmentation of the property. Property rights are thereby established, extinguished and transferred between owners. These transfers could occur via market exchanges, unilateral gifts or intergenerationally through inheritance. The inheritance rules further structure how inequality is reproduced across generations. It dictates access and control over valuable resources, which forms the further basis of social inequality,¹³ especially for wealth inequality that is more stable and extreme than income inequality.

Property rights remain a crucial and under-researched area in Sociology wherein the property laws are not solely defined by what is written in legal texts. The presence of repeated everyday actions could further alter the ownership of property. Even though property is understood as just one system of spatial governance, yet the property varies significantly across time and space, which recalls the need to acknowledge this variation intrinsically.

The analysis of the arena of property cannot be rendered by only taking into consideration either the field or the scholarly research, because there exists a need to combine both of them together to reach a holistic understanding of the same.

¹³ Bruce G. Carruthers & Laura Ariovich, *The Sociology of Property Rights*, 30 *Ann. Rev. Soc.* 23 (2004).

Finally, this paper highlights the need for greater engagement between **doctrinal legal analysis and socio-legal inquiry**, suggesting that a holistic understanding of property can only emerge through the integration of law with lived social realities. Future research should further explore these dynamics through empirical and comparative studies, particularly in diverse regional contexts.

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