



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ABSTRACT: DUAL LIABILITY IN LAND DISPUTES: WHEN DOES A CIVIL WRONG BECOME A CRIMINAL OFFENCE

AUTHORED BY - NANDITHA SURESH¹ & MALAVIKA V²

This research explores the intersection between civil and criminal liabilities in land disputes, focusing on when a civil wrong transition turns into a criminal offense. Land disputes, common in many legal systems, often involve claims of ownership, trespass, or encroachment. When land disputes involve acts of violence, fraud, or coercion the nature of the dispute may evolve from a civil matter to a criminal case, while these are typically addressed through civil litigation, certain actions trigger criminal liability which may serve to deter misconduct and protect property rights. In land disputes this occurs when the act not only violates private rights but also breaches public laws, warranting criminal prosecution.

Various property-related statutes such as the transfer of property act and land revenue codes govern civil liabilities meanwhile several sections of the Bhartiya Nyaya Sanhita, 2023 governs provisions for criminal trespass, cheating intimidation etc. The study highlights the challenges that arise when courts must determine whether a civil claim has crossed into the realm of criminal behaviour and also calls for clearer legal guidelines to help practitioners and courts navigate the dual nature of liability in land disputes. Future research could focus on legislative reforms to streamline the application of dual liability in property-related conflicts, which is discussed briefly with regard to the Indian judicial system and the precedents.

INTRODUCTION:

Property disputes in India cover a wide spectrum of disagreements. which reflects the complex and varied nature of inheritance and property ownership. The exploitation of leased land, family inheritance disputes, and disagreements over property boundaries are among the common causes of property disputes in India. In addition to putting a strain on relationships, many conflicts also include complicated legal issues that call for skilful legal assistance to be

¹ HB20089, B.COM LLB (HONS), nandithasuresh19@gmail.com

² HB20078, B.COM LLB (HONS), vmalavika07@gmail.com

addressed successfully.

The way people regarded land gradually started to change as time changed. Previously viewed as merely a supporting element for agricultural endeavours, land is now considered from a more strategic standpoint, specifically as a valuable resource in industry and human existence. Currently, a large area of land is utilized for both industrial and agricultural purposes including the construction of integrated residential complexes, such as the housing that has recently proliferated everywhere. Given that the primary goal of mediation is to resolve issues rather than merely impose rules or establish order, its application must also be founded on broad principles. As a result, settling disputes through discussion and mediation is viewed as a means of resolving land issues.

Conflict is endangering projects worth \$200 billion and affecting an estimated 7.7 million people across 2.5 million hectares of land in India. The majority of lawsuits in India both in terms of total numbers and judicial pendency are related to land disputes, which clog all tiers of Indian courts. Approximately one-quarter of all Supreme Court decisions involve land disputes with 30% of those cases involving land purchases. Once more, property and land conflicts account for 66% of all civil lawsuits in India. From the time the case is created until the Supreme Court resolves it, a property purchase dispute often lingers for 20 years. Resolving land conflicts is one of India's top policy concerns because land is essential to development.

When it comes to land disputes "dual liability" or "joint and several liability" refers to the fact that numerous parties have full responsibility for the debt or damages. This means that the claimant can pursue any one or all parties for the total amount even if one of them is unable to pay. In land disputes, this could imply that, even in cases where one party is more directly at fault, the landowner and a developer (or other parties involved) are both held jointly and severally accountable for damages or for meeting commitments pertaining to a property.

PURPOSE AND SCOPE:

- This paper looks at the complicated topic of dual liability in property disputes, particularly the situations in which civil wrongs might turn into criminal ones.
- To Analysis of court precedents and reasoning, as well as a review of important cases that illustrate instances of dual liability in land disputes.

- This investigation will advance knowledge of the difficulties faced by lawyers, property owners, and other interested parties when settling conflicts involving both criminal violations and civil damages.
- To identifying issues with the legal system, such as the possibility for exploitation or unfair results and the difficulty in differentiating between criminal and civil offenses in land disputes.
- To suggestions for enhancing the legal system and reducing the difficulties brought on by dual liability in land disputes, derived from the results of the study.

DEFINITIONS:

➤ CIVIL LIABILITY:

A liability that results from a civil wrong that an individual has done is known as civil liability. The defendant is legally required to pay damages or abide by the court's order concerning the civil litigation. It may take the following forms:

Liability as duty and liability as a cost.

The harmed party has the right to pursue remedies from the defendant under civil liability, including the capacity to sue for personal injury damages. For the aggrieved party to receive compensation for damages, they must have suffered the loss. A physical injury, property damage, monetary loss, etc. could be the loss. When the defendant does a non-criminal act, the plaintiff often seeks monetary damages for any harm or loss. For example; Breach of contract, tort and class of action. The court's ruling in civil liability cases is predicated on the preponderance of the evidence.

➤ CRIMINAL LIABILITY:

The accused is held criminally liable by the victim. Victims of criminal proceedings seek punishment, which may include incarceration or a penalty for the offender. For instance, rape, assault, sedition, murder, and theft. In criminal matters, the defendant is often prosecuted by the state in court.

Furthermore, in these situations, it is presumed that any criminal offense involves both a mental and physical component. Criminal liability, on the other hand, maybe punishment in the form of a fine or imprisonment, a fine and imprisonment, a fine or imprisonment, or both. The capacity to prove the accused's guilt beyond a reasonable doubt serves as the foundation for the court's decision.

PRINCIPLES OF CIVIL LIABILITY IN LAND DISPUTES:

The following are the principles of civil liability in land disputes:

- **Trespassing:** This is when someone goes onto someone else's property without authorization. The landowner may file a lawsuit to halt the trespassing activity or to recover damages.
- **Nuisance:** When one person's use of their property impedes another's enjoyment of it, this is known as nuisance. This can include things like noise and access pollution. In order to cease the nuisance, the impacted landowner may file a lawsuit for damages or an injunction.
- **Negligence:** When someone's thoughtless actions damage someone else's property, it is considered negligence. In order to make up for the injury, the landowner may file a lawsuit.
- **Breach of Contract:** This is when someone doesn't adhere to a land-related contractual commitment. In order to enforce the agreement, the landowner may file a lawsuit for damages or specific performance.

PRINCIPLES OF CRIMINAL LIABILITY IN LAND DISPUTES

It is the responsibility of the prosecution to establish two elements to create criminal liability:

- **Actus Reus (Prohibited Act):** A person's behaviour that causes significant injury and may result in punishment. The first element is the performance of the prohibited act.
- **MensRea (Guilty Mind):** There is no criminal responsibility if the individual perpetrating the conduct has an innocent mind. Mens rea is, therefore necessary for someone to be held criminally accountable. That is, there needs to be a guilty mental state or a wrong intention, and the second element is the wrongful mental state.

This means that the prosecution must demonstrate that the defendant was in a guilty state of mind when they committed the offense and provide the judge with proof of this beyond a reasonable doubt. The defendant will be found not guilty if any one of the two requirements is not met.

LEGAL PROVISIONS GOVERNING BOTH LIABILITIES IN LAND DISPUTES:

CIVIL PROVISIONS RELATED TO LAND DISPUTES IN INDIA:

Some of the major laws include:

- Transfer of Property Act, 1882: This act regulates the transfer of immovable property in India. It governs property transactions and rights of ownership. It provides provisions regarding Sale and Mortgages of Property, Leases and Licenses, and Conditions of Transfers.
- Indian Succession Act, 1925: Applicable to succession and inheritance in non-Muslim families. Governs the succession of property among Christians, Parsis, and other non-Hindu communities.
- The Hindu Succession Act, 1956: regulates inheritance laws in Hindu families. It governs the succession of property among Hindus, Buddhists, Jains, and Sikhs. It deals with both self-acquired and ancestral property.
- Land Revenue Codes (state-specific): Cover records, ownership, and tenancy issues.
- The Registration Act, 1908: Deals with the registration of land documents. This Act mandates the registration of documents related to immovable property, such as sale deeds, leases, and wills. A document must be registered to be legally valid and enforceable.
- Specific Relief Act, 1963: Provides for legal remedies like injunctions and recovery of possession. This Act allows a person to seek specific performance of a contract for the sale or transfer of land if the seller defaults.
- Indian Limitation Act, 1963: This Act sets time limits for filing civil suits related to land disputes. For instance, the time limit for seeking possession of land through a civil suit is 12 years (Section 27 of the Limitation Act). A suit for recovery of land possession can be filed within 12 years, while claims based on contracts or agreements involving land must be filed within 3 years.
- Indian Contract Act, 1872: This Act governs contracts related to land, such as sale agreements, leases, and rental contracts. If a land sale agreement is breached or if one party violates the terms of the agreement, the affected party can file a civil suit for specific performance or damages.
- Indian Easements Act, 1882: This Act deals with easements (rights of access or usage over another person's land). It governs how rights of way, light, air, or water may be claimed or disputed on land.
- The Civil Procedure Code (CPC), 1908: The CPC governs the procedure for civil suits in India, including those related to land disputes. It includes provisions for filing and

pursuing cases, the powers of courts, and appeals. Suit for Property (Order VII): Provides the procedure for filing a suit for the recovery, partition, or declaration of property rights.

DUAL LIABILITY IN PRACTICE:

The distinction between civil and criminal law is fundamental in legal systems, yet there are still instances where a single act can be treated as both a civil (tort or breach of contract) and a criminal wrong (offense punishable by the state).

- **INSTANCES WHEN A CIVIL WRONG IS TREATED AS A CRIMINAL WRONG;** Certain wrongful acts, which traditionally fall under civil law can also lead to criminal prosecution if they involve fraud, deceit or public harm such as;

1. **Defamation:** defamation, both libel (written) and slander (spoken), involves making false statements that harm someone's reputation, and is a civil and potentially criminal wrong.

In the case of *Subramanian Swamy V. Union of India* (2016)³, the supreme court upheld the constitutionality of criminal defamation, emphasizing the need to protect the individual's reputations.

2. **Medical Negligence leading to criminal prosecution:**

In case of medical negligence leading to death or serious injury, criminal prosecution can occur Under the Bhartiya Nyaya Sanhita, 2023, which deals with causing death by negligence, leading to imprisonment and/or a fine.

In the case of *Jacob Mathew v. State of Punjab*⁴ (2005) the supreme court rules that criminal liability should only apply in cases of gross negligence, where there is a reckless disregard for human life.

3. **Cheating and Breach of Contract:**

While a breach of contract is civil matter, cheating, while involves fraudulent or dishonest intent from the outset, can lead to criminal prosecution. The key distinction lies in the intention behind the actions, with cheating requiring deception at the time of the agreement.

In the case of *S.W. Palanitkar v. State of Bihar* (2001)⁵, The supreme court clarified that mens rea must be present for criminal liability to apply.

- **INSTANCES WHEN A CRIMINAL WRONG IS TREATED AS A CIVIL WRONG;**

³ 2016 INSC 427

⁴ AIR 2005 SUPREME COURT 3180

⁵[2001] Supp. (4) S.C.R. 397

Some acts that constitute criminal offenses may also lead to civil liability, particularly in cases where victims seek compensation.

1. Assault and Battery leading to civil compensation:

Victims can pursue civil claims for compensation, potentially recovering damages for injuries, medical expenses, lost wages, and emotional distress, separate from any criminal proceedings. In the case of *Rudul Sah v. State of Bihar (1983)*⁶, the supreme court ordered compensation for the victim of wrongful imprisonment, treating it as both a criminal wrong and civil wrong.

2. Sexual Harassment at the workplace:

Sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication), which brings mental agony to the woman subjected to it. In the case of *Vishaka v. State of Rajasthan (1997)*⁷, the supreme court established the Vishaka Guidelines, imposing civil liability on organizations for failing to prevent harassment.

3. Trespass and criminal trespass:

Trespass is a civil wrong, but when coupled with criminal intent, it can be prosecuted as criminal trespass under *Bhartiya Nyaya Sanhita*.

In the case of *K.K. Modi v. K.N. Modi (1998)*⁸, the supreme court differentiated between simple trespass (civil) and trespass involving criminal intent (criminal).

LAND DISPUTES TREATED AS CIVIL AND CRIMINAL LIABILITY:

The overlap between civil and criminal law ensures that wrongful acts are adequately addressed based on intent, severity, and consequences. While civil law focuses on compensation and remedying private wrongs, criminal law aims to punish and deter public offenses. Courts play a crucial role in discharging between these domains and ensuring justice is served.

Land disputes are generally considered civil matters, but certain circumstances can escalate them into criminal offenses. Disputes regarding ownership, title and possession of land are usually civil matters and are decided by civil courts. In the case of *K.K. Verma v. Union of India (1954)*⁹, the supreme court held that mere possession disputes should not lead to criminal prosecution unless accompanied by force or fraud.

Property disputes encompass a broad spectrum of conflicts related to ownership and usage rights. Resolving these disputes often involves intricate legal proceedings, requiring

⁶ 1983 AIR 1086

⁷ AIR 1997 SUPREME COURT 3011

⁸ [1998] 1 S.C.R. 601

⁹ AIR1954BOM358

comprehensive documentation and legal expertise. A clear understanding of each type is essential for effectively managing and mitigating such conflicts.

- **LANDLORD- TENANT DISPUTES:**

Landlord-tenant disputes are among the most common property conflicts in India, typically stemming from issues like rent defaults, unauthorized subletting, property damage, or eviction procedures. These disputes are primarily regulated by state-specific Rent Control Acts, which define the rights and responsibilities of both parties. Legal remedies available to landlords include filing for eviction, recovering unpaid rent, and seeking compensation for damages. Conversely, tenants are safeguarded against illegal eviction and have the right to a fair hearing.

- **PROPERTY- BOUNDARY DISPUTES:**

Property boundary disputes are a common form of property conflict, usually arising from unclear or disputed property lines. These disagreements often occur between neighbours and stem from inaccuracies in boundary demarcation. Resolving such disputes may require legal proceedings, where both parties present evidence such as property deeds, land surveys, and historical records to establish rightful ownership.

- **BUILDER-BUYER DISPUTES:**

Builder-buyer disputes are a prevalent type of property conflict, often arising due to project delays, substandard construction, or failure to deliver promised amenities. Such disputes typically occur when builders fail to fulfil contractual obligations, causing financial and emotional distress to buyers. The Real Estate (Regulation and Development) Act, 2016 (RERA) provides a regulatory framework to address these issues, enabling buyers to file complaints and seek redressal. Legal remedies include refund claims, compensation for delays, and enforcement of contractual terms.

- **DISPUTES OVER INHERITED OR WILLED PROPERTIES:**

Disputes over inherited or willed properties are common in India, often arising when multiple heirs have conflicting claims over ownership or division. These conflicts typically involve questions of inheritance legitimacy, will interpretation, or allegations of undue influence. The distribution of such properties is governed by the Indian Succession Act, 1925, the Hindu Succession Act, 1956, and other personal laws, depending on whether a valid will exists or intestate succession rules apply. Challenges may include contesting a will's validity or disputing its terms. Having a clear and legally sound will can help prevent many of these disputes.

- **ADVERSE POSSESSION DISPUTES:**

Adverse possession disputes are a distinct category of property conflicts in India, where an individual asserts ownership of a property through continuous occupation without the legal owner's consent. As per the Limitation Act, 1963, if a person openly, continuously, and hostilely possesses a property for a statutory period (typically 12 years), they may acquire legal ownership through adverse possession. Resolving such disputes often requires presenting evidence of uninterrupted and exclusive possession over time.

- **TITLE DISPUTES:**

Title disputes are a major category of property conflicts in India, occurring when multiple parties assert competing ownership claims over a property. These disputes often arise due to forged documents, fraudulent transfers, or inaccuracies in property records. The Transfer of Property Act, 1882, and the Registration Act, 1908, establish legal frameworks for resolving such conflicts, which usually require a detailed examination of property deeds, title documents, and historical records.

ROLE OF LAW ENFORCEMENT AND JUDICIARY IN LAND

DISPUTES:

The judiciary is the ultimate authority in resolving land disputes by interpreting the law, adjudicating ownership claims, and ensuring justice. Different courts handle land-related matters based on the nature and complexity of the dispute.

- **CIVIL COURTS:**

Civil courts handle non-criminal disputes between individuals or organizations, addressing matters such as contracts, property, personal injury, and family issues. Their structure ranges from lower courts, which deal with local or less complex cases, to district courts that oversee more significant matters. Decisions from these courts can often be appealed to higher state courts or the Supreme Court. The primary objective is to resolve conflicts by providing legal remedies such as compensation or specific performance, rather than imposing criminal penalties.

- **CRIMINAL COURTS:**

Criminal courts are judicial institutions responsible for handling cases involving violations of criminal law. Their primary function is to adjudicate offenses by determining the guilt or innocence of the accused and imposing appropriate punishments to ensure justice. These courts operate at multiple levels, including lower courts (Magistrate Courts), intermediate courts

(Sessions Courts), and higher courts (High Courts and the Supreme Court). They deal with a range of criminal offenses, including theft, assault, fraud, and murder.

Criminal courts follow due legal process, ensuring fair trials, legal representation, and strict adherence to procedural safeguards. Their core objective is to uphold law and order, protect society, and safeguard individual rights within the framework of the **Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS)** and other relevant legal provisions.

- REMEDIES AVAILABLE UNDER CIVIL COURTS:

Legal Remedies Under Revenue/Land Law;

1. Filing a Case in Revenue Courts Revenue courts handle disputes related to land ownership, tenancy, and mutations. Affected parties can file cases seeking resolution through legal channels. These courts ensure fair hearings and quick settlements.
2. Land Record Verification and Mutation. Mutation is the process of updating land ownership records in government registers after property transactions or inheritance.
3. Alternative Dispute Resolution such as Mediation, arbitration, and conciliation are effective methods to resolve land disputes without prolonged litigation. Many states have Lok Adalat's (People's Courts) to settle such disputes amicably.
4. Filing an Injunction in Civil Court In cases of illegal encroachment or wrongful possession, landowners can seek a court injunction to prevent unauthorized occupation. this legal measure ensures the disputed property remains undisturbed until a final decision is made.
5. Appeals in Higher Courts If a land dispute decision is unfavourable, affected parties can appeal to higher courts, including the district court, high court, or Supreme Court, depending on the case's complexity and legal provisions.

- ROLE OF JUDICIARY IN LAND DISPUTES:

The judiciary is the ultimate authority in resolving land disputes by interpreting the law, adjudicating ownership claims and ensuring justice. Different courts handle land-related matters based on the nature and complexity of the dispute. Civil courts majorly deal with title disputes, property partition, breach of contract in property transactions and adverse possession cases are adjudicated. Courts rely on title deeds, sale agreements, revenue records, and historical documentation to determine rightful ownership. In the case of *K.K. Verma v. Union of India (1954)*, the supreme court clarified principles of land ownership and possession rights.

When land disputes involve criminal acts (such as trespassing, illegal eviction, or fraud), the matter is taken up by criminal courts, wherein the courts may issue orders for police investigation, arrests, or protective measures for the aggrieved party.

There are many special tribunals and forums for land disputes established by Indian Judiciary;

1. Revenue courts handle cases related to agricultural land ownership, tenancy disputes and land revenue issues.
2. Real estate regulatory authority (RERA), addresses builder-buyer disputes, delays in possession, and real estate fraud under the Real Estate (Regulation and Development) Act, 2016.
3. National Green Tribunal (NGT), resolves disputes related to illegal land use affecting the environment.

Hence the role and the involvement of judiciary is established with respect to land disputes. In the case of *Francis Coralie v. Union territory of Delhi (1981)*¹⁰, established that right to property is linked to the fundamental right to life and livelihood.

CHALLENGES IN LAND DISPUTE RESOLUTION:

Despite the role of law enforcement and the judiciary, land disputes often face the following challenges such as;

- Lengthy legal procedures leading to delayed justice.
- Corruption and political influence affecting impartial decisions.
- Lack of proper land records and documentation leading to confusion over ownership.
- Increasing cases of land grabbing by mafias, requiring stricter enforcement.
- Shortage of judges and infrastructure leading to excessive workload on judges.
- In high profile or organized crime cases organized crime cases many turn hostile due to threats, coercion, or bribery, leading to weakening of prosecution cases.
- The Bhartiya Nagarik Suraksha Sanhita, 2023 aims to modernize criminal procedures, but its implementation faces hurdles as the training law enforcement agencies, judicial officers, and legal practitioners has to adapt to new laws.

RECOMMENDATIONS FOR ADDRESSING DUAL LIABILITY IN LAND DISPUTES:

¹⁰ [1981] 2 S.C.R. 516

Land disputes often involve both civil and criminal liability, leading to complex legal battles. To ensure clarity, efficiency, and fairness in handling such cases and the following recommendations must be considered;

- There has to be a clear distinction between civil disputes such as ownership, possession and title issues and criminal offenses such as fraudulent transfers, encroachment, forcible dispossession, intimidation which makes it evident that there has to be a judicial clarity in the form of landmark judgements which can help prevent the misuse of criminal law in purely civil matters.
- There is a need for setting up of specialized fast – track courts for land related disputes can expediate both civil and criminal prosecution, wherein the judiciary should prioritize land dispute case to reduce pendency which in turn prevent prolonged litigation.
- Revenue authorities must be empowered to verify land records, investigate fraudulent transactions and resolve boundary disputes before they escalate into criminal cases. Mandatory digital land records and online verification must be implemented which helps in preventing fraudulent property transactions.
- Preventive safeguards have to be introduced in order to stop the parties from using criminal complaints as a pressure tactic to reduce civil disputes, and it is the duty of the courts to ensure that frivolous criminal cases are not filed as land disputes are discouraged which reduces criminalization.
- In order to encourage alternate dispute resolution, it is the first step in resolving dispute before the land disputes resort to criminal proceedings in order to implement mandatory pre-litigation mediation for litigation for property disputes to reduce the burden of the courts.
- Stricter implementation of a compulsory verification mechanism for all land transactions to deter fraudulent sales, encroachments, or illegal transfers early. In order to encourage use of blockchain technology, and other methods to develop the digitization of land records for transparency of dispute prevention.
- The laws which were enacted in the earlier times such as the Transfer of Property Act, 1882 and the Registration Act, 1908, to introduce due diligence for any land transfer and registration has to be made mandatory in order to avoid ambiguities and fraud and has to be amended with

- Implement AI-based land dispute monitoring systems to identify potential land conflicts and provide early warning mechanisms. Encourage online dispute resolution (ODR) platforms for land-related conflicts to streamline resolution.

CONCLUSION:

Addressing these challenges requires a multi-pronged approach, including judicial reforms, increased infrastructure, improved law enforcement training, adoption of technology, and stronger witness and victim protection mechanisms. Strengthening fast-tracks courts, digital case management, and forensic capabilities can significantly improve the efficiency and effectiveness of criminal courts in India. A balanced approach involving judicial efficiency, technology, preventive mechanisms, and alternative dispute resolution can help streamline the handling of land disputes with dual liability. By strengthening legal frameworks, discouraging frivolous criminalization, and improving dispute resolution mechanisms, India can ensure fair, transparent, and timely adjudication of land conflicts.

Dual liability in land disputes, where a case involves both civil and criminal dimensions, highlights the complexity of property-related conflicts in India. While civil law governs issues of ownership, possession, and title, criminal law addresses fraudulent transactions, illegal encroachments, and coercion. The interplay between these legal domains often leads to prolonged litigation, misuse of legal provisions, and delays in justice.

To ensure a fair and efficient resolution of land disputes, it is crucial to establish clear legal distinctions, prevent the misuse of criminal law in civil matters, and streamline judicial processes through specialized courts, digital land records, and alternative dispute resolution (ADR) mechanisms. Strengthening legal awareness, enforcement mechanisms, and technological interventions can further help in mitigating disputes and ensuring timely and transparent adjudication.

A balanced approach ensuring that genuine criminal acts are prosecuted while civil disputes remain within the appropriate legal framework will reduce the burden on courts, prevent wrongful criminalization, and uphold justice for all stakeholders in property disputes.

REFERENCES:

WEBSITES REFERRED:

- Shukla, A. (2021, September 15). *The difference between a civil wrong and a criminal wrong* - CLATalogue. <https://www.lawctopus.com/clatalogue/ailet-pg/the-difference-between-a-civil-wrong-and-a-criminal-wrong/>
- Cprindia. (2022, January 11). *Understanding land conflict in India and suggestions for reform*. CPR. <https://cprindia.org/understanding-land-conflict-in-india-and-suggestions/>
- Cprindia. (2022, January 11). *Understanding land conflict in India and suggestions for reform*. CPR. <https://cprindia.org/understanding-land-conflict-in-india-and-suggestions/>

ARTICLES REFERRED:

- SETTLEMENT OF DUAL LAND CERTIFICATE DISPUTES THROUGH MEDIATION RESULTING FROM CONVERSION OF CUSTOMARY LAND (Case Study at Padang City Land Office) - Sri Riska Putri, ISSN: 2456-6683 Volume - 5, Issue - 7, July – 2021
- The Civil Wrong Between Private Relationships and Social Order - Anna Lasso.

WHITE BLACK
LEGAL