

# **Characterising land and property related litigation at the Delhi High Court**

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## **Abstract**

There are three common conjectures regarding land and property related litigation in India. First, it forms a large proportion of the caseload of Indian courts. Second, the quality of property records is to blame for the large volume and length of the litigation. Third, the caseload is compounded due to the complexity created by the multitude of laws that govern land and property. Additionally, the government is thought to be the largest litigant. This paper presents a novel data-set of case-level data from the Delhi High Court to test these conjectures. It answers important questions regarding the volume and typologies of such disputes, and the typologies of litigants. At the Delhi High Court, land and property disputes constitute 17% of the litigation. In these cases, the largest proportion of litigation is between private parties. The Union government is the petitioner (or appellant) in 2% of such litigation but is the respondent in more than 18% of cases. Tenancy and land acquisition matters are the most common types of litigation. Lastly, approximately 14% of property litigation originates from and is related to property records.

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# 1 Introduction

The Indian judiciary is said to be plagued with land and property (immovable property) disputes. The common perception is that a reduction in such cases is crucial for reducing judicial delays.<sup>1</sup> Daksh (2017), in a survey of citizens, found that more than two-thirds of the respondents involved in ongoing litigation reported land as the main cause of the dispute.<sup>2</sup> While this throws some light on the extent of litigation that ordinary citizens are involved in, little is known about the scale of such litigation and its nature from the court’s perspective. The prime reason for this is the lack of analysis-ready data on Indian courts.<sup>3</sup> Previous studies have also suggested that better land-titling and rationalising conflicting laws may reduce litigation (Shah, Burman, Damle, et al. 2017; Wahi 2019). However, the premise that such litigation constitutes the majority of a court’s workload and that most of it is rooted in land-titling issues has not been sufficiently established. Designing effective policy interventions requires a better understanding of the nature and magnitude of immovable property related litigation in Indian courts.

Robinson (2013) attempted to address this problem at the Supreme Court of India by constructing a data set of case-level information. Since then, several studies have emerged which analyse cases at the Supreme Court (Chandra, Hubbard, and Kalantry 2017; Ashok 2017; Hemrajani and Agarwal 2019). However, the literature on the functioning of High Courts has remained relatively scant. A majority of the quantitative studies, even the few about land litigation, are largely restricted to Supreme Court cases. For example, Wahi, Bhatia, Shukla, et al. (2017) studied 1269 land acquisition cases at the Supreme Court to evaluate why such disputes arise. While analyses of Supreme Court cases are undoubtedly important, it is of limited value for understanding the volume, typologies, and the most frequent causes of disputes. The jurisdiction of the Supreme Court is primarily appellate, and it hears limited types of cases (Neuborne 2003). Its caseload is not representative of the courts across the country. Under the Seventh Schedule to the Constitution of India, States have the right to legislate on many subjects which directly affect rights over land. For example - land, agriculture, local government, and regulation of mines and minerals - are all in the State List. Similarly, inheritance is in the Concurrent List, which means States can amend legislation governing inheritance enacted by the Union government.<sup>4</sup> This means States can and often do have different laws affecting rights over immovable property.<sup>5</sup> The volume and type of litigation may be affected by laws that vary State-to-State. Thus, understanding the State-wise complexity of laws and litigation under them requires analysing the cases at high courts and subordinate courts. Moreover, the proportion of litigation may differ as per the practices and procedures of the concerned court.<sup>6</sup>

This paper addresses the gap in the literature on litigation in High Courts by constructing a

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<sup>1</sup>See, for example, Burman 2019.

<sup>2</sup>See also, World Bank 2007.

<sup>3</sup>The issues with lack of analysis-ready data have been acknowledged by a committee set up at the Supreme Court of India, which observed that: “*Data is manual, sometimes inconsistent, splintered and not available in real time... It is therefore hardly surprising that there is [a] considerable misunderstanding among policymakers and people at large about the performance of the judicial system...; and the challenges it faces.*” *National Court Management System: Policy and Action Plan* 2012.

<sup>4</sup>Inheritance is salient in this context because most immovable property in India is acquired through inheritance. For more details see: Desai and Barik 2017; Lahoti, Suchitra, Swaminathan, et al. 2016; Deere, Oduro, H. Swaminathan, et al. 2013.

<sup>5</sup>Wahi 2019, finds that there are more than 1200 local land laws in India.

<sup>6</sup>For example, courts differ in record-keeping practices. Some courts club *connected* disputes into one. Most courts have their own, usually distinct, schemes for case-type classification. There is no consistency in what the court considers a *case*. For example, the question, “Do procedural matters filed in the process of a particular litigation count as separate cases?”, has a different answer in different States. See, Law Commission of India 2014.

novel data set of case-level data from the Delhi High Court. The Delhi High Court is one of five high courts in India that has original jurisdiction.<sup>7</sup> This means that it not only hears appeals but also original cases where the value of the dispute is more than Rs. 20 million.<sup>8</sup> The court is also anecdotally known to be the preferred forum for litigants in the National Capital Region.<sup>9</sup> Given its original and geographical jurisdictions, and that it is the preferred forum for litigants in the region, we expect to capture a significant variety of disputes, both original and appeals. The paper analyses the judgments of the Delhi High court in both civil and criminal matters. It attempts to answer the following questions:

1. What proportion of cases are related to immovable property?
2. Who are the parties to such litigation before the court? How often is the government involved in litigation?
3. What is the subject matter of immovable property litigation, and what is the distribution of the typologies of litigation?
4. How frequently are issues with property records the cause or a major contributing factor to litigation?

We find that 17% of all disputes at the Delhi High Court are related to immovable property. In these cases, the largest proportion of litigation is between private parties. The Union government is the petitioner (or appellant) in 2% of such litigation but is the respondent in more than 18% of cases. Tenancy disputes are the most common type of litigation, closely followed by land acquisition related matters. Contrary to expectations, disputes originating from and related to property records form a small proportion (13.6%) of immovable property litigation. We expect this work to serve as a foundation for further analyses to re-evaluate land laws and customs, and court administration in India.

The rest of this paper is organised as follows: after this introduction, section 2 describes the methodology for identifying immovable property litigation. Section 3 presents the findings thereof, and section 4 concludes the paper and presents the way forward.

## 2 Methodology

We scraped judgments from the orders and judgments database of the Delhi High Court.<sup>10</sup> The database contains judgments for cases where the court gave a written decision. It does not include cases that were dismissed without a final written decision. Though the latter constitutes a large majority of cases, these would not have been decided on the merit or nature of the dispute (evident from the lack of a written decision). They may represent disputes due to immovable property; however, they are not a part of property *litigation* at the court. Their tenure before the court is the same as any other civil litigation. Thus, they do not affect the analysis of the court's actual immovable property related workload.

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<sup>7</sup>The High Courts of Bombay, Calcutta, Shimla, and Madras are the other high courts with original jurisdiction.

<sup>8</sup>See, *Delhi High Court Act* (1966).

<sup>9</sup>This is based on conversations with practising lawyers and supported by manual test checks of the locations of causes of action in cases filed in the Delhi High Court.

<sup>10</sup>See, High Court of Delhi 2020.

## 2.1 Data description

Of the 1,006,888 cases in the Delhi High Court’s online records, approximately 800,000 are marked as disposed (as of 2<sup>nd</sup> September 2020).<sup>11</sup> Of this stock of disposed cases, the judgments database contains records for 90,142 cases in which the judgement was passed between 1st January 2007 to 31st December 2019. This window was chosen based on consultations with other researchers and practising advocates on the quality and completeness of data. Out of 90,142 cases, 75,435 cases are of the case types expected to contain disputes concerning immovable property. The full list of case types is in Appendix A. We excluded case types that indicate purely procedural matters such as caveats, interim applications, and transfer petitions.<sup>12</sup> We also excluded case-types, such as certain company matters and contempt petitions, after manually reading through several cases and discussions with practising advocates. Of the 75,435 records for the case types of interest, we could successfully download judgments for 60,573 cases.<sup>13</sup> The database provides the (i) case number, (ii) date of the judgment, (iii) names of parties (expressed as X vs Y), and (iii) the link to the text of the judgment. We used text processing tools to extract further information from the fields mentioned above. These first-order derived fields were:

1. *Case Type*: Derived from the case number. The case number is represented in the form of CASE-TYPE - SERIAL-NUMBER/YEAR-OF-FILING. E.g.: WP (C) - 1234/2015. These were clubbed into twelve buckets i.e. Arbitration, Civil Appeal, Civil Original, Civil Writ, Criminal Appeal, Criminal Original, Criminal Writ, Land Acquisition Appeal, Miscellaneous Petitions, Non-subject appeals, Rent Control, and Tax.
2. *Petitioner*: Derived from the names of parties. Names of parties are of the form “X vs Y”. X denotes the petitioner.
3. *Respondent*: Derived from the names of parties. Names of parties are of the form “X vs Y”. Y denotes the respondent.
4. *Year of filing*: Derived from case number. The last four digits in the case number are the year of filing.

We also used pattern matching using regular expressions and manual checks to categorise the petitioners and respondents in the dispute. They were divided into the following types: (i) Business (for-profit private entities), (ii) CPSE, (iii) Municipal, (iv) Private (shortened as Pvt), (v) SPSE, (vi) State, (vii) Union, and (viii) Others. The procedure used for extracting this data is in Appendix B.

## 2.2 Strategy for identifying immovable property litigation

The first filter used to reduce the search space was the case types reported by the court. As mentioned, we only included case-types expected to contain disputes concerning immovable property. Two case types – viz. Review Petitions under the Rent Control Act (RC REV) and Appeals under the Land Acquisition Act (LA APP) – relate exclusively to immovable property litigation. All such cases were classified as relevant (i.e. related to immovable property).<sup>14</sup> For the remaining case types, we analysed the judgment’s text and used a multi-stage pattern matching protocol using regular expressions implemented in Python 3.8. We only looked for

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<sup>11</sup>High Court of Delhi 2020.

<sup>12</sup>In caveat cases, a party applies to be informed if the opposite party initiates any proceedings; interim applications are filed during a proceeding for permission to file additional documents, condone delay, bring on additional parties, etc.; and transfer petitions make a case for transferring a dispute from one district to another.

<sup>13</sup>This difference was caused by non-functional links, and corrupted or non-machine readable files.

<sup>14</sup>Based on consultations with practising advocates and ex-members of the court administration.

these patterns in the first 4000 characters of the text of the judgment.<sup>15</sup>

The steps were as follows:

1. *Negative search terms*: Search for terms and phrases that reliably indicate that the litigation is not related to immovable property. Some examples are “*Armed Forces Tribunal*”, “*labour court*”, and “*university/school/college admission*”. A full list of negative search terms is in Appendix C.
2. *Positive search terms*: Search for phrases and word combinations that reliably indicate litigation over immovable property. Some examples are “*circle rate*”, “*eviction*”, “*mesne profit*”, “*mortgage*”, and “*suit property*”. If more than one of these terms occurs in the initial 4000 characters of the text, classify the case as relating to immovable property. A full list of positive search terms is in the Appendix D.
3. *Positive statute names*: Search for a reference to statutes and policies that reliably and exclusively indicate litigation related to immovable property. Some examples are the *Transfer of Property Act*, the *Delhi Rent Control Act*, and the *Real Estate (Regulation and Development) Act*. Examples of policies include the *Policy and Procedure for Permission and Regularisation for Additions/Alterations in DDA Flats* and *Delhi Slum and JJ Rehabilitation and Relocation Policy 2015*. If any of these statutes or policies are cited along with at least one of the positive search terms, classify the case as relating to immovable property. For a comprehensive list of statutes and policies, see Appendix E.

We classified cases as relating to immovable property using our computer program based on the aforementioned algorithm. We then drew a random sample of 700 cases, i.e. approximately 1% of the downloaded data (60,573 cases) and manually checked the accuracy of the classification. The manual check showed erroneous classification for 23 of the 700 cases (3.29%). Of these, 19 were false positives, and 4 were false negatives.

This methodology yielded a total of 15,225 immovable property related cases. This represents 17% of the total 90,142 cases. This is likely to be a slight overestimation given the presence of false positives in the sample check. The results do not agree with the findings in Daksh (2017), which estimated that land disputes constitute 66% of litigation in India. The difference could be a result of three factors. First, Daksh only examined civil disputes involving citizens and calculated the percentage of those related to immovable property. Our data includes criminal cases and cases where a private individual is not a party, such as a dispute between a level of government on the one hand and a company on the other. Second, our analysis is exclusive to Delhi, whereas Daksh covers several States. The distribution of the type of litigation could be different across States. Third, Daksh collected information on litigation in the subordinate judiciary. In contrast, our data is from a single High Court.

### 2.3 Identification of nature of the litigation

For parameters related to the nature of the dispute, we relied on a manual reading of a random sample of 700 cases. We read the entire text of the judgments and hand-coded the subject matter. This exercise was done independently by the two authors. An input system was deployed to prevent both authors from comparing their classification. If they marked a judgment differently, an independent reviewer read and classified the judgment. The judgments were classified into seven broad heads viz.:

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<sup>15</sup>The Court summarises the subject matter of the dispute in the initial paragraphs of the judgment. This decision was based on our previous experience working with judgments, consultations with practising advocates, and manual checks.



1. *Eviction*: eviction petitions and challenges to eviction orders;
2. *Land acquisition*: challenges to land acquisition proceedings;
3. *Family matters*: succession, divorce and partition related matters;
4. *Contractual*: disputes over contracts (such as sale agreements, leases, building contracts, etc.);
5. *Allotment*: disputes over allotment or cancellation of allotment of land or houses;
6. *Mortgage*: disputes over mortgage default; and
7. *Others*: disputes which do not fit in any of the above categories. This includes disputes involving easements, building-code violations, adverse possession, and other matters.

These categories are not mutually exclusive. For example, some matters may involve a bank trying to repossess a built-up property for mortgage default. In such a situation, the relief sought is for the borrower to hand over possession of the property. Such a case would be classified as an eviction as well as a mortgage dispute.

## 2.4 Litigation due to property record issues

In the sample of 700 cases, we also checked whether the quality of property records is the root of the litigation. This included litigation arising due to the record of rights not being updated, mutations not being entered when they should have been, the name of the person in possession not being recorded in the record of rights or not matching the name of the person in the record of rights, misidentification of a land parcel, issues with partitions, and issues with succession not being recorded or being improperly recorded. Given the urban nature of Delhi, we included litigation arising from issues in registered deeds between two parties, such as litigation over sale agreements, lease deeds, adoption deeds, relinquishment deeds, release deeds, and gift deeds. However, in this analysis, we only included cases that concerned an issue with the document itself. As an illustration, we did not include cases related to non-performance of sale deeds; however, we did include cases where a sale deed is claimed to be fraudulent. A similar blind review methodology as mentioned above was adopted. Of the 700 cases, property records were at the root of the litigation in 95 (13.6%) cases.

## 3 Findings

With its vast and varied case-docket, the Delhi High Court pronounces judgment on a variety of subjects. It may be an appellate forum for a lower court (district courts, Zilla Parishads, etc.), act under its original jurisdiction for writs challenging the violation of a constitutional right, or initiate *suo-moto* proceedings.<sup>16</sup> As fig. 1 shows, there was an increase in the filing of immovable property cases from 2007 to 2015, followed by a declining trend. However, the decrease since 2015 is not representative of the court's docket. Instead, it only represents the time taken for the court to conclude a matter. This is evident since the number of cases as a whole also declined from 2015. Similarly, the lower number of cases before 2007 does not indicate that the court heard substantially fewer cases but that some were filed and disposed by 2007. Cases disposed before January 2007 and pending after December 2019 are not captured in our data since we only include cases disposed between 1st January 2007 and 31st December 2019.

To better understand the impact of immovable property litigation on the court's workload, fig. 2

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<sup>16</sup>These are proceedings that the court decides *on its own motion*. This means that the court took notice of the grievances itself without anyone approaching it.

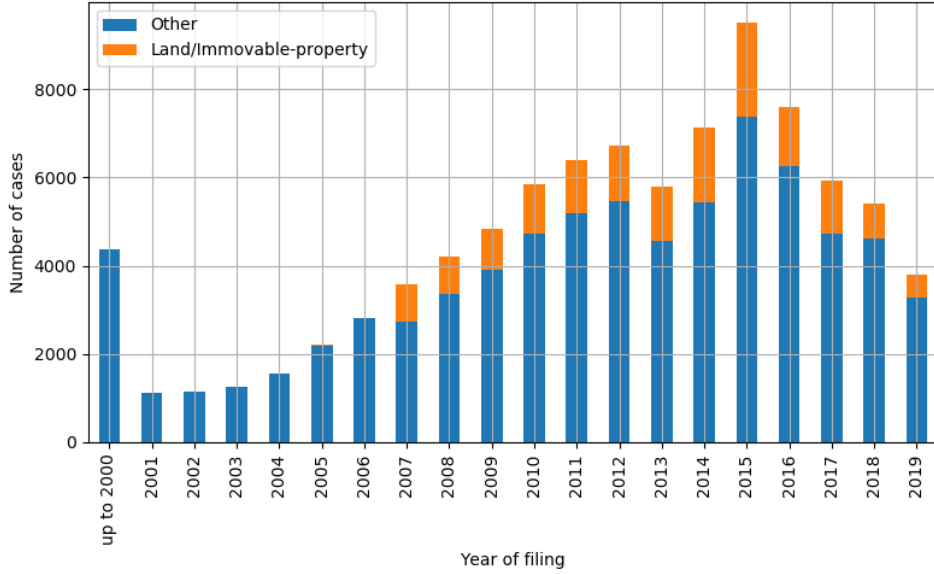


Figure 1: Year-wise distribution of cases

shows immovable property cases as a proportion of the Delhi High Court’s docket from 2007 to 2019. The graph shows that (*ignoring* 2018 and 2019), on average, immovable property related cases constitute approximately 20% of the court’s docket. There has been a decrease in the proportion since 2007, with a slight rise from 2013 to 2015. This may explained by the Land Acquisition Act of 2014 or the Commercial Courts Act of 2015 - both of which increased the court’s jurisdiction. However, given that the data is truncated on both sides, i.e. cases disposed before 1st January 2007 and cases pending as of 31st December 2019 cannot be observed in our data, we do not further analyse changes over time. Instead, we focus our attention on understanding features of the litigation other than those related to time.

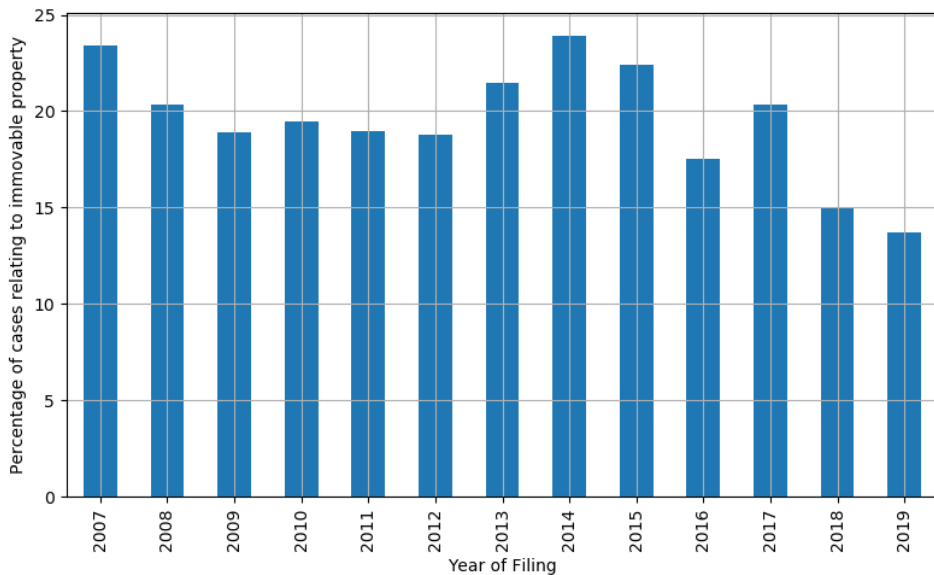


Figure 2: Year-wise percentage of property-related cases

### 3.1 Types of petitions

As mentioned earlier, the High Court hears various categories of cases. They can range from land acquisition disputes to criminal prosecutions. Table 1 presents the number of each type of petition type from 1st January 2007 to 31st December 2019, in which a written judgment was issued.

Table 1: Types of petitions

Type	Total cases	Immovable property related cases	Percentage of total cases
Civil Writ	26,169	5,195	19.85
Civil Original	9,768	3,007	30.78
Civil Appeal	6,635	2,785	41.97
Non-subject Appeals	7,128	1,663	23.33
Rent Control	1,293	1,293	100.00
Miscellaneous Petition	2,359	475	20.14
Land Acquisition Appeals	332	332	100.00
Criminal Original	8,942	232	2.59
Arbitration	1,053	122	11.59
Criminal Appeal	10,174	81	0.80
Criminal Writ	1,582	40	2.53
Irrelevant/Procedural	14,707	-	-
<b>Total</b>	<b>90,142</b>	<b>15,225</b>	<b>16.89</b>

Civil writ petitions, i.e., a petition brought before the court to challenge the violation of a constitutional right in a civil dispute, form the largest proportion of cases related to immovable property. *Anandpur Dham Kalyan Samiti v Govt of NCT of Delhi* is an example of a civil writ petition. In it, the petitioners requested the court to bar the government (issue a writ of mandamus) from demolishing the petitioner’s allegedly unauthorised colony.<sup>17</sup> Original civil side cases form the next largest proportion of immovable property litigation, followed by civil appeals. The next largest bucket, Rent Control cases, relate to tenancy disputes under the *Delhi Rent Control Act*. These are appeals against the orders of a special court known as the Rent Controller. While cases classified as Rent Control cases represent a small portion of the total caseload, as we shall see in section 3.3, cases related to rental property (viz. eviction, mesne profit etc.) form the largest proportion of litigation. Similarly, though Land Acquisition Appeals form a small proportion of immovable property litigation, we shall see in section 3.3, that petitions against land acquisition proceedings form a large proportion of cases before the court. This is because rental property and land acquisition cases tend to be filed as writ petitions.

### 3.2 Parties to the litigation

While it is commonly thought that the government is the largest litigant, this conjecture is not accurate, at least in matters related to immovable property at the Delhi High Court. Table 2 shows the distribution of cases by petitioner and respondent types. We only look at the first petitioners or respondents and do not include proforma parties. For example, if in *X vs Y and*

<sup>17</sup>For details, see *Anandpur Dham Kalyan Samiti v Govt of NCT of Delhi* 2013.

Ors, the State government is included in the *other* respondents, the data does not count this as a case where the government was a respondent. This presents a better picture of the frequency of litigants. It ignores cases where governments may be impleaded due to technicalities and are not the disputing parties.

Table 2: Parties in immovable property litigation

Petitioner	Respondent								
	Pvt	State	Union	Business	Municipal	CPSE	SPSE	Other	Total
Pvt	6219	2595	1769	631	556	242	62	54	12128
Business	674	189	432	426	73	175	32	8	2009
Union	197	5	2	112	0	5	0	0	321
CPSE	154	8	14	84	8	10	0	0	278
State	192	3	1	43	0	4	3	0	246
Municipal	97	0	1	9	0	1	0	0	108
Other	17	22	27	1	4	0	0	3	74
SPSE	43	0	1	16	1	0	0	0	61
Total	7593	2822	2247	1322	642	437	97	65	15225

The number of cases between private individuals is the largest, followed by cases filed by private individuals against the State government. Overall, even though the State and Union governments are the second and third most frequent respondents, they are petitioners in a small fraction of the cases. This finding is similar to Daksh (2017). Curiously, we also find a small but significant proportion of litigation between different government levels and even between different arms of the same level. For example, in *Union of India v GNCT of Delhi*, the Union of India filed a case against the Government of Delhi regarding the location of a hospital constructed by the latter.<sup>18</sup> There also appears to be a small but significant proportion of litigation between public sector enterprises and the government.

To better understand why parties approach the court, table 3 shows the petitioner wise count of case types. As expected, civil writ petitions are the most common case type across petitioners. However, of these writ petitions, 150 involve government or government enterprises as the petitioner. This is odd, given that writ petitions are supposed to be for violations of constitutional rights. In some cases, these are against other government agencies or departments. For example, the case of *Union of India v GNCT of Delhi* mentioned above is a writ petition filed by the Union of India.

Table 3: Case type vs petitioners

Case type	Petitioner								
	Pvt	Business	Union	CPSE	State	Municipal	Other	SPSE	Total
Civil Writ	4266	727	32	78	16	13	52	11	5195
Civil Original	2501	423	8	30	25	10	5	5	3007
Civil Appeal	2283	254	38	84	59	54	1	12	2785
Non subject appeal	1091	267	85	47	112	22	14	25	1663
Rent Control	1221	63	2	2	1	4	0	0	1293
Miscellaneous Petition	140	200	68	33	20	5	1	8	475

<sup>18</sup>For details, see *Union of India v GNCT of Delhi* 2019.

Table 3: Case type vs petitioners

Case type	Petitioner								
	Pvt	Business	Union	CPSE	State	Municipal	Other	SPSE	Total
Land Acquisition Appeals	243	3	82	2	1	0	1	0	332
Criminal Original	216	11	0	2	3	0	0	0	232
Arbitration	64	56	2	0	0	0	0	0	122
Criminal Appeal	65	3	4	0	9	0	0	0	81
Criminal Writ	38	2	0	0	0	0	0	0	40
Total	12128	2009	321	278	246	108	74	61	15225

### 3.3 Typology of cases

So far, the analysis has included the entire data set of 15,225 cases. Here on after, we present the analysis for the manually analysed sample of 700 cases. Table 4 shows the distribution of cases by the nature of the dispute. The total exceeds 700 because some cases involve multiple types of disputes. For example, a case might involve a bank trying to evict a borrower from a house for default. We count such a case under the head of both mortgage and eviction disputes.

Table 4: Nature of dispute

Dispute type	Number of cases	Percentage
Eviction	240	34.3
Land Acquisition	170	24.3
Contractual	123	17.6
Family Matter	121	17.3
Allotment	40	5.7
Mortgage	26	3.7
Other	31	4.4

In the sample, eviction related matters are the largest category of cases at the Delhi High Court, followed by land acquisition matters. This finding is similar to those of Robinson (2013) regarding the caseload of the Supreme Court, which found that Land Acquisition and Rent matters made up a significant proportion of the court’s workload between 2005 and 2011 (10%).<sup>19</sup> While land acquisition disputes make up 24.3% of all immovable property cases before the High Court, land acquisition appeals (LA APP case type) only constitute 2.2% of all petitions. This is because a large proportion of challenges to land acquisition are filed as writ petitions. As table 5 shows, of the 170 land acquisition disputes in the sample, 132 (77%) were filed as civil writ petitions. Only 16 (9%) were filed as land acquisition appeals. For example, *Jogendri Devi v Union of India* was a civil writ petition challenging the land acquisition proceedings as no compensation was tendered to the petitioners after the acquisition.<sup>20</sup> Notably, while the government and its enterprises are petitioners in only 30 out of 700 cases, 13 of those matters, i.e. 43%, relate to land acquisition. In contrast, private individuals are petitioners in 521 matters,

<sup>19</sup>This is a proportion of the total workload of the Supreme Court and not immovable property litigation. Robinson 2013.

<sup>20</sup>For details, see *Jogendri Devi v Union of India* 2018.

out of which 133 i.e. 25% are land acquisition related matters. As with table 4, the total in table 5 exceeds 700 (sample size) because some matters include multiple forms of dispute.

Table 5: Dispute type vs petition type

Dispute type	Petition type					
	Civil Writ	Civil Appeal	Civil Original	Other	Rent control	Non-subject Appeals
Eviction	16	48	52	20	92	12
Land Acquisition	132	5	4	21	1	7
Contractual	8	40	22	44	1	8
Family Matter	2	38	52	8	2	19
Allotment	20	3	4	6	0	7
Mortgage	11	7	3	3	1	1
Other	7	9	7	3	2	3

Generalising the finding in the case of challenges to land acquisition, writ petitions are frequently used in disputes related to allotment and mortgage. Why this is the case merits further investigation. One conjecture is that the court tends to prioritise writ petitions over other matters since they are supposed to relate to violations of constitutional rights.

### 3.4 Cases involving property record issues

In the random sample of 700 cases involving immovable property, 95 (13.6%) cases arose due to issues with property records. Even though property records are commonly understood as a large contributor to disputes, in our sample, they appear to be a small proportion of cases. One possible explanation for this could be the high urbanisation levels in Delhi.<sup>21</sup> Table 6 shows the distribution of cases involving issues with property records.

Table 6: Cases involving property records

Dispute type	Total cases	Cases involving issues with property records	Percentage
Eviction	240	17	7.1
Land Acquisition	170	10	5.9
Contractual	123	25	20.3
Family Matter	121	45	37.2
Allotment	40	9	22.5
Mortgage	26	2	7.7
Other	31	6	19.4

Property record issues are disproportionately high in cases involving disputes over family property. This makes intuitive sense since succession and partition related matters are where records

<sup>21</sup>Among all the States and Union territories in India, the National Capital Territory of Delhi has the highest urbanisation with 97.5%, followed by Chandigarh at 97.25%.

are most common and undergo modification. Property records issues also form a significant proportion of contractual and allotment litigation related to immovable property. Again, this makes intuitive sense since transactions involving property (including allotment) are likely to involve property records.

## 4 Conclusion

Our findings can be summarised as follows:

1. 17% of all litigation at the Delhi High Court are related to immovable property;
2. Writ petitions constitute the single largest case type in immovable property litigation, followed by original side suits, and appeals against orders from subordinate courts;
3. Eviction disputes represent the largest proportion of cases, followed by challenges to land acquisition;
4. Challenges to land acquisition proceedings, allotment matters, and mortgage disputes, are more often filed as writ petitions;
5. Most litigation involving immovable property is between private individuals;
6. The State and Union governments are the second and third largest respondents, respectively. But they are often not the petitioners;
7. Property records are responsible for a small proportion of cases; and
8. Property records are typically an issue in litigation involving family property (mainly partition and succession).

Data on the court's workload allows one to understand the types of cases it hears, how they fare, where they originate, and why. Though our findings regarding the proportion of immovable property litigation differs from conventional wisdom, the proportion itself is not of much significance. There is no empirical benchmark to test an ideal proportion. Immovable property is the most commonly owned asset in India — in many cases, it is the only asset (Badarinza, Balasubramaniam, and Ramadorai 2016; Household Finance Committee, Reserve Bank of India 2017). In such an economy, it seems natural that a high proportion of litigation would be related to property. However, as shown, that may not always be the case. As per Burman (2019), if *“policy actions are taken on the basis of insufficient evidence, this may lead to wastage of our already low state capacity, and misplaced responses could create additional inefficiencies in the land market.”*

What is important is that the stakeholders are aware of the data and are accordingly enabled to make better decisions. This information can help judges, policymakers, and the public gain a deeper understanding of the institution's ever-expanding docket and better target interventions.

The findings of this paper point to the need for a more detailed, State-wise investigation of case-level data. Delhi is an urban area. The nature of immovable property litigation may differ in more agrarian States. While the findings in this paper may not represent the situation in the rest of the country, they give some indications of what may not work when it comes to reducing pendency in the courts in Delhi. Given the small proportion of litigation arising from property records, improving records may not significantly reduce litigation. On the other hand, which cases are admitted under the writ jurisdiction might merit reconsideration since it is used for a wide variety of disputes. In this spirit, we intend to replicate this study with data from other high courts and subordinate courts in the future.

This paper presents a novel data set for studying litigation involving immovable property. While it has identified several features of interest, designing precise policy interventions requires further

study. Two areas of investigation that need to be pursued are the origins of litigation (the forum where it originated: district court, revenue court, rent control tribunal etc.), and the overall life-cycle of cases, from initiation in a lower court to conclusion in the High Court. All policy-making requires rigorous research. Resolving issues with backlogs in courts and the infamously long durations of litigation in India thus requires a deeper study of disputes in the court system.



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## A Case types

We expect the following case types to cover immovable property litigation.

1. *Appeal under Land Acquisition Act (LA APP)*: A challenge to land acquisition for compensation, delay in possession, etc.
2. *Appeal under § 10F of the Companies Act (CO A (SB))*: An appeal under the erstwhile *Companies Act 1956* against a decision of the Company Law Board.
3. *Arbitration Appeal (ARB A, ARB A (COMM))*: Challenge to an Arbitral Award under § 37 of the Arbitration and Conciliation Act 1996.
4. *Arbitration Petition (ARB P)*: Any petition filed in the High Court in the course of Arbitral Proceeding that does not challenge the order of the tribunal. For example, recall of order appointing a Nominee Arbitrator.
5. *Civil Miscellaneous in Civil Writs (CM APPL)*: Any miscellaneous application filed in the course of a Civil Writ Petition. For example, an application for the stay of a notice or circular.
6. *Civil Miscellaneous Main (CM (M))*: A petition under Article 227 of the Constitution of India.
7. *Civil Revision (CRP)*: A revision petition under § 115 of the Code of Civil Procedure 1908.
8. *Civil Suit (CS (OS), CS (COMM))*: A suit on the Original Side of the High Court i.e. where the claim is above Rs. 2 Crore or a suit on the Commercial Side of the court.
9. *Civil Writ (WP (C))*: A Writ Petition under Article 226 of the Constitution of India.
10. *Company Appeal (CO APP)*: An appeal against a decision of the Company Court, usually challenging a winding-up proceeding.
11. *Criminal Appeal (CRL A)*: An appeal under § 374 of the Code of Criminal Procedure 1973 against the decision of a subordinate court.
12. *Criminal Miscellaneous Application (CRL LP, CRL M (CO), CRL MC)*: An application to request varying actions in the course of a criminal proceeding. For example, an application for the opposite party to produce certain evidence.
13. *Criminal Original (CRL O, CRL O (CO))*: A proceeding under the extra-ordinary criminal original jurisdiction of the High Court.
14. *Criminal Reference (CRL REF)*: A reference under § 395 of the Code of Criminal Procedure 1973 by a subordinate court for clarity on a question of law.
15. *Criminal Review Petition (CRL REV P)*: A petition for the court to review its decision in a criminal case on the grounds of an error apparent on the face of the record.
16. *Criminal Writ (WP (CRL))*: A Writ Petition under Article 226 of the Constitution of India.
17. *Execution First Appeal (EFA (OS), EFA (OS) (COMM))*: An appeal against a decision in an Execution Petition.
18. *Execution Petition (EX P)*: A petition to the court after the pronouncement of a decision to execute the same.
19. *First Appeal (FAO, FAO (OS), FAO (OS) (COMM), OA)*: A first appeal from an order of a subordinate court or a single judge in a CS (OS).

20. *Letter Patent Appeal (LPA)*: An appeal challenging an order passed by a single judge in cases other than a CS (OS), commonly an order passed in a Writ Petition.
21. *Matrimonial Cases (MAT, MAT APP, MAT APP (FC), and MAT CASE)*: Original and appellate cases in matrimonial disputes such as the dissolution of marriage.
22. *Original Miscellaneous Petition (OMP, OMP (COMM), OMP (CONT), OMP (E), OMP (E) (COMM), OMP (EFA) (COMM), OMP (ENF) (COMM), OMP (MISC), OMP (MISC) (COMM), OMP (T), OMP (T) (COMM))*: An original petition usually under § 34 of the Arbitration and Conciliation Act 1996.
23. *Original Reference (O REF)*: A reference under § 113 read with Order XLVI of the Code of Civil Procedure 1908 by a subordinate court for clarity on a question of law.
24. *Probate Case (TEST CAS)*: A case to grant probate and related matters under Successions Acts such as the Indian Succession Act 1925 and the Hindu Succession Act 1956.
25. *Regular First Appeal (RFA, RFA (OS), RFA (OS) (COMM))*: An appeal under § 96 of the Code of Civil Procedure 1908 against the decision of a subordinate court or a decision on the Original Side of the High Court.
26. *Regular Second Appeal (RSA)*: An appeal under § 100 of the Code of Civil Procedure 1908 against the decision of a subordinate court.
27. *Rent Control Second Appeal (RC SA)*: An appeal against the decision of a Rent Control Tribunal or Additional Tribunal under § 39 of the Delhi Rent Control Act 1958.
28. *Review Petition (REV PET)*: A petition under § 114 of the Code of Civil Procedure 1908 for the court to review its jurisdiction.
29. *Revision Petition under the Rent Control Act (RC REV)*: A revision petition under the Delhi Rent Control Act 1958 impugning the decision of a Rent Controller or Additional Rent Controller.

## B Protocol for categorisation of litigants

The classification was done as follows:

1. *Identify private limited companies:* Based on the terms like private limited, incorporated and their variations.
2. *Identify educational institutions, and non-corporate organisations:* Based on terms such as school, vidyalaya, college, and university, and their variations.
3. *Identify local bodies:* Based on terms such as municipal, SDMC, NDMC, MCD, gaon sabha, and their variations.
4. *Identify Union government entities:* Based on (i) terms such as Union of India, Ministry, (ii) names of statutory bodies such as National Highways Authority of India, and (iii) names of regulators such as Central Electricity Regulatory Commission, and other government bodies, and acronyms and variations of their names.
5. *Identify State government entities:* Based on (i) terms such as State govt, Govt of National Capital Territory, (ii) names of agencies such as Delhi Development Authority, (iii) designations of administrative officials such as tehsildar, district magistrate, and (iv) acronyms and variations of all terms.
6. *Identify Central public sector enterprises:* Based on a comprehensive list of names of CPSEs such as National Thermal Power Corporation, Air India etc. and acronyms and variations of their names.
7. *Identify State public sector enterprises:* Based on a comprehensive list of SPSEs, such as BSES Rajdhani, Delhi Industrial and Infrastructure Development Corporation, Delhi Tourism Development Corporation etc. and acronyms and variations of their names.
8. *Identify courts and court's bodies:* Based on terms such as judge, civil magistrate, chief justice etc. and their acronyms and variations.
9. *Identify companies and organisations from remaining unsorted entities:* Based on terms which are most likely to appear exclusively in the names of companies such as M/s, enterprises, industries, manufacturing, global, universal, world, modern, etc.
10. Mark remaining unsorted entities as private parties.
11. Manually check and correct all categories.

## C Negative search terms

We used the following regular expressions (as implemented in Python 3.8) for a case insensitive search to identify cases reliably not related to immovable property:

1. acit
2. all india pre medical test
3. amalgamation
4. anti sikh riot victim
5. Armed Forces Tribunal
6. arms act|licen[sc]e
7. assessing officer
8. Back Wages
9. blood
10. cbdt
11. Central Administrative Tribunal
12. central board of direct taxes
13. competition commission
14. copy \*rights?
15. Customs and Excise
16. dcit
17. dead body
18. demurrage
19. Delhi Higher Judicial Services
20. Delhi School Education Act
21. defamation|disparagement
22. Disciplinary Authority
23. dispute resolution panel
24. Employee s Compensation Act
25. Employees Provident Fund Appellate Tribunal
26. Grant of authorization\W+
27. grant of parole
28. habeas corpus
29. illegal.{,15} detain
30. Industrial Dispute
31. Intellectual Property
32. Insurance
33. juvenile justice|jjb|juvenility
34. Labour court
35. illegal mining
36. minority quota
37. motor accident
38. murder
39. National Commission for Minority Educational
40. Institutions Act
41. pocso|sexual offences
42. Private Security Agencies Regulation Act
43. probation
44. prosecutrix
45. recruitment quota
46. Private Security Agencies Regulation Act
47. probation
48. purchase order
49. recruitment quota
50. Restitution of Conjugal Rights
51. Retrenchment
52. scholarship
53. sexual harassment
54. smuggl[eingd]+
55. snatched
56. subject vehicle
57. theft
58. Trade and Tax
59. Trade \*Mark
60. vehicle loan
61. wharf charge

## D Positive search terms

We used the following regular expressions (as implemented in Python 3.8) for a case insensitive search to identify cases related to immovable property:

1. adverse possession
2. agreement to sell
3. Apartment
4. Bigha
5. Biswa
6. Community forest right|CFR
7. Committee for rehabilitation and resettlement
8. Circle rate
9. construction
10. Coparcener
11. dispossess
12. easement
13. ejection
14. (?:(encroachment|occupation|occupied|structure|construction))
15. evicte?d?
16. Eviction
17. Fair Compensation
18. final will
19. Floor area ratio| FRA
20. Floor space index|FSI
21. free \*hold
22. gift deed
23. (?<!through his) Heir
24. (?<!through her) Heir
25. immov[e]\*able (?:asset|property)
26. Inherit
27. Jamabandi
28. Kattha
29. Khasra
30. Khata
31. Khatauni
32. Khewat
33. Land Acquisition Rehabilitation and Resettlement Authority
34. Land Ceiling
35. lease deed
36. Leave and License
37. Lessor
38. letter[s]\* of administration
39. living will
40. Memorandum to Sell
41. Mesne Profit
42. Mutation
43. National Monitoring Committee for rehabilitation and resettlement
44. Patta
45. possess.{,15} premises
46. Preemption
47. Probate
48. purchase .{,15} (?:plot|land|flat|house|building)+
49. Real Estate
50. Record of rights
51. Registered Will
52. (?<!room) Rent
53. rented
54. Residential
55. revenue records
56. Row house
57. sale deed
58. sub \*let
59. Succession
60. Successor
61. Tenant
62. Testamentary
63. testator
64. testatrix
65. absolute owner
66. acquired land
67. Agricultural land
68. allot.{,15} (?:flat|plot|land|apartment|house)+
69. (?:flat|plot|land|apartment|house)+ .{,15} allot
70. building bye[ ]\*laws
71. bona[ ]\*fide necessity
72. easementary right
73. Easement by way of (?:Necessity|Prescription)
74. land \*lord
75. Land Owner
76. land revenue record
77. lease \*hold
78. Mortgage
79. Partition
80. pay.{,15} rent
81. planning (?:dep[a-z]+|board)
82. Ready reckoner
83. Real Estate Appellate Tribunal
84. reconveyance
85. regional plan

- 86. remove encroachment
- 87. Rent Control Tribunal| RCT
- 88. Rent Tribunal
- 89. Rent Control
- 90. resettlement scheme
- 91. Slum Rehabilitation
- 92. subject property
- 93. suit premises
- 94. suit property
- 95. Title Deed
- 96. TDR|Transferable development rights
- 97. trespass
- 98. unauthori[zs]ed
- 99. vacant possession|vacat.{,15} premises

## E List of statutes and policies

Period	Statutes and policies
Till 1947	<i>Easements Act, Revenue Recovery Act, Inland Vessels Acts, Married Women's Property Act, Transfer of Property Act, Land Improvement Loans Act, Land Acquisition Act, Colonisation of Government Lands (Punjab) Act, Hindu Disposition Of Property Act, Cantonments (House Accommodation) Act, Indian Succession Act, Hindu Women's Rights to Property Act, Hindu Married Women's Right to Separate Residence and Maintenance Act.</i>
1948 to 1960	<i>Ajmer Tenancy and Land Records Act, Evacuee Interest (Separation) Act, Factories Act, Mines Act, Requisitioning and Acquisition of Immovable Property Act, Delhi (Control of Building Operations) Continuance Act, Hindu Succession Act, Slum Areas (Improvement and Clearance) Act, Cantonments (Extension of Rent Control Laws) Act, Delhi (Control Of Building Operations) Act, Delhi Development Act, Delhi Rent Control Act, Delhi Land Holdings (Ceiling) Act, Manipur Land Revenue and Land Reforms Act, Mineral Products (Additional Duties Of Excise And Customs) Act.</i>
1961 to 1975	<i>Coal Mines conservation And Development Act, Delhi (Urban Areas) Tenants Relief Act, Essential Services Maintenance Act, Railway Property (Unlawful Possession) Act, Faridabad Complex (Regulation and Development) Act, Public Premises Eviction of Unauthorised Occupants, Delhi Lands (Restrictions on Transfer) Act, Haryana Ceiling on Land Holdings Act, Haryana Public Premises and Land (Eviction and Rent Recovery) Act, Haryana Requisitioning and Acquisition of Immovable Property Act, Haryana Urban (Control of Rent and Eviction) Act, Haryana Requisitioning and Acquisition of Moveable Property Act, Haryana Urban Development Authority Act.</i>
1976 to 2000	<i>Haryana Apartment Ownership Act, Delhi Apartment Ownership Act, National Housing Bank Act, Prohibition of Benami Property Transactions Act, Acquisition of Certain Area at Ayodhya Act, Delhi Rent Act, Land Acquisition (Mines) Act, Manipur Municipalities Act, Manipur Panchayati Raj Act.</i>
2001 to 2020	<i>Coal Mines (Special Provisions) Act, Haryana Special Economic Zone Act, Haryana Regulation of Property Dealers and Consultants Act, Policy and Procedure for Permission and Regularisation, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Relocation Policy, Real Estate (Regulation and Development) Act, Gurugram Metropolitan Development Authority Act, Faridabad Metropolitan Development Authority Act, Faridabad Development Corporation Act, National Capital Territory of Delhi Laws (Special Provisions) Act, Street Vendors Protection of Livelihood Act.</i>



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