Property Registration and Title in India – The unending challenge

Mains: *GS II – Governance*

Why in News?

Recently, The Supreme Court of India, in its judgment in Samiullah vs State of Bihar, described the process of buying and selling property as "traumatic" for many Indians.

What was the issue before the Supreme Court in the Samiullah case?

- **Background** – The Samiullah case arose from amendments introduced to the Bihar Registration Rules in 2019.
- **Bihar's registration rules amendment** – These amendments empowered registering authorities to refuse registration of property transfer documents, such as sale deeds or gift deeds, if the seller failed to provide proof of mutation.
- Such proof included documents like Jamabandi or holding allotment records.
- The intent of the State was to ensure that only persons with legitimate ownership could transfer property.
- **Issues with the amended rules** - The amendments effectively made proof of mutation a mandatory precondition for registration, thereby altering the nature and scope of the registration process under the Registration Act, 1908.

Why did the Supreme Court strike down the Bihar Registration Rules?

- **Issue of subordinate legislation** – The court held that the rules exceeded the powers granted to the Inspector General of Registration under the Registration Act.
- Subordinate legislation cannot override or expand the scope of the parent statute.
- **Freedom of property curtailed** – By requiring proof of mutation, the rules indirectly demanded proof of title.
- This contradicted the fundamental objective of the Registration Act, which is limited to registering documents and not adjudicating ownership.
- Such a requirement curtailed the freedom to transfer property and adversely affected the constitutionally protected right to property under Article 300A.
- **Practical impossibilities** – The court took judicial notice of the ground realities in Bihar.
- With the Bihar Mutation Act and the Bihar Special Survey and Settlement Act still far from completion, obtaining mutation records was practically impossible for many landholders.
- Enforcing such a requirement would therefore exclude genuine transactions and

deepen administrative hardship.

How did the court clarify the distinction between registration and title?

- **Registration vs Title** – The Supreme Court reaffirmed that registration of a document and establishment of title are legally distinct processes.
  - **Registration** – It serves as public notice of a transaction and creates only a rebuttable presumption of ownership.
  - It does not confer or confirm title conclusively.
  - **Questions of title and ownership** – It fall within the exclusive domain of civil courts, which possess adjudicatory powers to examine evidence, hear parties, and determine competing claims.
- **Administrative overreach** – Registering officers, by contrast, perform a ministerial function.
- Their enquiry is confined to verifying the identity of the parties, the description of the property, and compliance with statutory formalities.
- The court clarified that references to surveys or maps during registration are meant solely to identify the property and not to establish ownership.

How does this judgment align with earlier Supreme Court rulings?

- **K. Gopi vs Sub-Registrar (2024**) – In that case, the court struck down a rule framed by the State of Tamil Nadu that allowed Sub-Registrars to refuse registration if the seller failed to produce the original title deed.
- The court held that Sub-Registrars lack the authority to decide questions of title and cannot be transformed into quasi-judicial authorities.
- Both judgments reinforce the long-established principle that the Registration Act concerns itself only with documents, not ownership.
- **Forthcoming Registration Bill, 2025** – It seeks to replace the Registration Act of 1908, and it also upholds this distinction by limiting the powers of registering authorities.

Why has buying and selling property become ‘traumatic’ in India?

- **Complex issues** – India’s land governance framework is shaped by a complex mix of colonial-era laws, fragmented administration, and an overburdened judiciary.
- **Lack of coordination** — Registration, survey and settlement, and revenue administration, operate independently, each governed by distinct statutes and bureaucratic hierarchies.
- The lack of coordination among these institutions results in inconsistent and outdated records.
- **Presumptive titling system** – It is followed in India where ownership is inferred from documents such as sale deeds, revenue receipts, mutation entries, and proof of possession.
- Since none of these provide conclusive title, ownership can always be challenged in court.
- This places an onerous burden on buyers to conduct extensive due diligence and exposes them to prolonged litigation.

- **Historical factors** – Over centuries, the Indian subcontinent was governed by diverse rulers who implemented different revenue systems.
- Colonial policies, varying practices in princely states, post-independence land reforms, and land ceiling laws have created region-specific legal complexities.
- These layered inconsistencies continue to affect present-day land records.

What reforms are needed in land administration?

- **Integration of land records** – Meaningful reform requires large-scale administrative restructuring aimed at integration and synchronisation of land records.
- The primary objective should be to reduce disputes, prevent fraud, and enhance certainty in property transactions.
- **Initiatives of Governments** – Both the Union and State governments have undertaken initiatives to digitise land records.
- **Karnataka** – The Bhoomi and KAVERI platforms represent a notable example, where records of rights are linked with registration systems, enabling automatic updating of ownership upon registration.
- Similar efforts are underway in other States, particularly for agricultural land, though progress remains uneven.
- However, digitisation alone is insufficient without verification, updating of legacy records, and institutional coordination among departments.

What role can technology, including blockchain, play in reform?

- **Supreme court's recommendation** – The Supreme Court itself, in Samiullah, suggested exploring blockchain technology to create secure, transparent, and tamper-proof land records.

> ***Blockchain*** *is a decentralised digital ledger in which data is stored in interconnected blocks that are immutable and verifiable by all participants.*
>
> *Once recorded, information cannot be altered without consensus, making fraud and manipulation extremely difficult.*

- **Blockchain in land records** – Applied to land records, blockchain could create a single digital block for each parcel of land containing its entire transaction history, title details, survey maps, inheritance records, and registered documents.
- Each subsequent transaction would add a new block, ensuring chronological transparency and traceability.
- **Andhra Pradesh's pilot blockchain project** – It reportedly reduced land disputes significantly and improved transaction efficiency.
- However, the success of such technologies depends on the accuracy of initial data entry and alignment with existing legal and administrative frameworks.

What lies ahead?

- The Supreme Court's decision in Samiullah vs State of Bihar is a timely reminder of

the structural flaws in India’s land governance system.

- While it reinforces a settled legal principle separating registration from title, it also highlights the urgent need for comprehensive administrative and technological reform.
- Ensuring secure property rights is essential not only for individual citizens but also for economic growth, investment, and social stability.
- A transparent, integrated, and reliable land administration system is the cornerstone of that goal.
- Understanding the historical and institutional complexities is the first step toward building a future-ready framework that truly secures the right to property for all.

Reference

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