

Dr Jayaprakash Narayan
General Secretary

4th April, 2016

To
Sri K. Chandrashekar Rao,
Chief Minister of Telangana
Hyderabad

Dear Sri Chandrashekar Rao garu,

Countless innocent purchasers of immovable properties are being cheated by unscrupulous land mafias all over the State, and particularly in Hyderabad city and other urban areas. Our legal provisions are very weak. Though the middle class and poor buyer of property pays a substantial stamp duty and registration fee running into vast sums, the Government does not guarantee the title of land. At present the amount collected through the stamp duty and registration fee as per 2016-17 budget is estimated at Rs 4,219.99 Crores. Unfortunately, the innocent buyer in most cases is not even aware of any pending litigation in respect of the land. A middle class or poor family invests a lifetime's savings in purchasing valuable immovable property. When such a property is found to be involved in litigation, or the seller has already sold it to another buyer, or the seller is not a bonfide owner of the property, the innocent buyer is subjected to enormous hardship, anxiety, litigation, and potential loss of lifetime's savings.

The 2006 *Bhu Bharathi* land survey programme taken up as a pilot project in Nizambad district has raised the expectations of all stake holders, including the poor buyers of immovable properties, realty promoters and banks who lend substantial funds on the basis of documents. However the programme has failed to take off and people's expectations were dashed. It is estimated in a study conducted by National Institute for Smart Government that 28% of the lands in peri-urban areas are affected by land disputes and the litigants end up spending about Rs.750 crores per annum without an end in sight. The Government which collects substantial sums from the public by way of stamp duty and registration fee has the bounden duty to protect the title to the properties purchased by unwary public.

The recent initiative of your government to digitize land records should be aimed at protecting not only the Government lands but patta lands as well. There are however a few legal tangles that have to be resolved and a few practical steps need to be taken.

This letter is regarding the need for a mechanism for prospective purchasers of immovable property to verify whether a property is subject to any pending suit, decree or an attachment. Thousands of prospective purchasers are buying lands every year unaware of the pending litigations over the immovable property that they purchase. This is causing a lot of hardship, loss, anxiety and unnecessary litigation since the purchaser has no way of ascertaining if litigation is pending over the property if the person offering the property for sale does not disclose it or if he deliberately suppresses the information.

Registration of any property should ensure the following:

1. Registration of any property must guarantee a clear title. Irrespective of whether the buyer knew or did not know about the pending suit, he would be subject to Court's decision.
2. Information about pending suits must be made accessible to the buyers. In the absence of such mechanisms thousands of innocent people are being drawn into unnecessary legal battles.

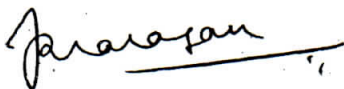
The law as it stands today states in Transfer of Property Act, Section 52 that if a property is bought while a case is pending with respect to any right to such property directly and specifically in question, the buyer will be subject to whatever the court decides. As a result, after parting with the life time savings, the purchaser gets a shock of his life when he comes to know that the property is subject to litigation, and that it may stretch for decades and ultimately deny him the title to the property.

The states of Maharashtra and Gujarat by a State amendment to Section 52 of The Transfer of Property and the Indian Registration (Bombay Amendment) Act, 1939 have facilitated registration of the notice of *lis pendens* so that the office of sub-registrar will disclose to the prospective buyer whether there are any pending litigation along with other encumbrances over the property. The Supreme Court in 2010 cited this Act and recommended to the Law Commission and the Parliament to consider such amendment or other suitable amendments to make registration of notices in respect of decrees and in regard to attachments of immoveable properties compulsory in all other states too. The 157th report of the Law Commission submitted in April 1998 also recommended the amendment of these two sections. In 2011, the Gujarat High Court held that due to this amendment, "the purchaser may not be in a position to contend that he was not aware about the pendency of the litigation..." When the pending litigation is registered, the purchaser can protect his bonafide interests.

Considering the commitment of Telangana State Government to proactively reduce needless litigation and to protect the interests of the unwary public who otherwise may get entangled in avoidable litigation, we request you to amend Sec.52 of Transfer of Property Act, 1882 and Section 17th or 18 of Indian Registration Act, 1908 as proposed in the Annexure.

With warm personal regards,

Sincerely,



Jayaprakash Narayan

Encl: Annexure (Proposed Amendment)

4th April, 2016

To
Sri N. Chandrababu Naidu
Chief Minister of Andhra Pradesh
AP Secretariat
Hyderabad

Dear Sri Chandrababu Naidu garu,

Countless innocent purchasers of immovable properties are being cheated by unscrupulous land mafias all over the State, and particularly in major cities and other urban areas. Our legal provisions are very weak, and though the middle class and poor buyer of property pays a substantial stamp duty and registration fee running into vast sums, the Government does not guarantee the title of land. At present the amount collected through the stamp duty and registration fee as per 2016-17 budget is estimated at Rs 5,180 Crores. Unfortunately, the innocent buyer in most cases is not even aware of any pending litigation in respect of the land. A middle class or poor family invests a lifetime's savings in purchasing valuable immovable property. When such a property is found to be involved in litigation, or the seller has already sold it to another buyer, or the seller is not a bonfide owner of the property, the innocent buyer is subjected to enormous hardship, anxiety, litigation, and potential loss of lifetime's savings.

The 2006 Bhu Bharathi land survey programme taken up as pilot project in of Nizambad in the erstwhile united Andhra Pradesh has raised the expectations of all stake holders, including the poor buyers of immovable properties, realty promoters and banks who lend substantial funds on the basis of documents. However the programme has failed to take off and people's expectations were dashed. It is estimated in a study conducted by National Institute for Smart Government that 28% of the lands in peri-urban areas are affected by land disputes and the litigants end up spending about Rs.750 crores per annum without an end in sight. The Government which collects substantial sums from the public by way of stamp duty and registration fee has got a bounden duty to protect and reinforce the title to the properties purchased by unwary public.

The recent decisions of the Andhra Pradesh government to digitize and make revenue records accessible for verification by the banks and simplify the loan disbursal process to help the farmers and to amend the Registration Act to prevent the menace of double registration are positive steps to ensure transparency of property transactions.

This letter is regarding the need for a mechanism for prospective purchasers of immovable property to verify whether a property is subject to any pending suit, decree or an attachment. Thousands of prospective purchasers are buying lands every year unaware of the pending litigations over the immovable property that they purchase. This is causing a lot of hardship, loss, anxiety and unnecessary litigation since the purchaser has no way of

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