

# Land Acquisition and its Impact on Changing Family Relationships: A Study of Nawada Fatehpur Village, Gurugram

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**Abstract – Development always implies some vision of good life and choice of preferred means for moving towards it. Development is a multidimensional process. Indian economy has traditionally been and under developed economy, where 70% of the population is dependent on agriculture as their primary source of livelihood. Significantly land is the most essential asset for the development and growth of any Nation, particularly in the infrastructure sectors. To fulfil the said objective, the Government has to acquire the land under the Land Acquisition Act, 1894 and other nineteen special Acts, which are applicable to various other sectors including Highways, Railways, Ports and Defence. Hindu Succession Act, 1956 provide equal property rights to women in ancestral property. Earlier girls used to enjoy this right before marriage but this Act help her to enjoy this right even after getting married. Time is changing so is the position of women in the society. Now women are more educated and independent. What is her position in family, the moment she exercise her rights? How her relations with parents, siblings and society as a whole changes after taking share in the family property? This is what I explored in my present study of a Village called Nawada Fatehpur in District Gurugram. It is important to understand the ground reality of women special when they exercise their rights because mere provisions of such rights on paper would not change her position.**

**Key Words – “LAA, LARR, R&R, NCR, GOI, NAC”**

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## INTRODUCTION

Development always implies some vision of good life and choice of preferred means for moving towards it. Development is a multidimensional process. It indicates a continuum of ends and means sustained by a social philosophical and economic program along with requisite administrative infrastructure. Indian economy has traditionally been an under developed economy, where 70% of the population is dependent on agriculture as their primary source of livelihood. Significantly land is the most essential asset for the development and growth of any Nation, particularly in the infrastructure sectors. Land has always played a crucial role in life of human community and is basics to human existence and also a limited resource. It plays an important role as a financial asset. Investment in infrastructure development such as airport, road, railways, hydropower, irrigation and town development for public purpose is very important for the development of any country and any infrastructure development needs a huge quantity of land. The first step towards the public infrastructure development is the acquisition of land. Land acquisition is a process of

acquiring private/public land and providing for the public benefits (Burns,2007).

"Women constitute half the world's population, perform nearly two-thirds of its hours, and receive one-tenth of the world's income and less than one hundredth of the property."(The United Nation's Report, 1980 in Law Teacher)The law of Inheritance deals with rules, which govern devolution of property on the death of its owner. In Hindu law, the concept of the joint family system came much earlier in point of time; the law of inheritance came later and applied only to the property belonging exclusively to a person as distinguished from property held by the joint family. In the primitive age, Women and children were alike. They were classed as chattels and possessed no right of property. In course of time, the son's right was recognized, then the right of other male kinsmen. At this stage of social evolution, women were still chattels. They had still no rights of their own. The recognition of woman's right of inheritance is of comparatively recent origin. Nitya Rao's(2005) concluded in her work that "If one sees empowerment as a process moving towards equality, from welfare and access

through conscientization to participation and to control, the conferment of equal rights to inheritance of agricultural land denotes a control over decision-making processes at par with men.”

Bina Agarwal's(1996) studies have further brought out a number of positive effects of conferring inheritance rights over agricultural land. She has argued that gender equality in agricultural land can reduce not just a woman's and her family's risk of poverty, it can expand their livelihood options, enhance the prospects that their children will survive, improve their families' education and health, reduce domestic violence and can empower women. In a study conducted in Kerala, she found that land in women's names can increase agricultural productivity, given the increase in male out-migration and the growing number of female headed households. However, in a more recent article 'Landmark Step to Gender Equality', Bina Agarwal raised the question that while the HSAA 2005 is a landmark legislation, it has yet to be determined if it gives women the security they seek.

After the amendment was done for the protection of women's rights & ensuring equality between male & female in spite of merely making recent laws it did not ensure equality to women as well as protection for her rights. Hindu succession Act amended but women still not perceived as natural inheritors of property because of the awareness of their rights, financial resources, and illiteracy about laws also unknown about knowledge regarding her rights which are provided by state as well as constitution. Also most of the families in society are greedy about property, Money because of that on women (Wife) husband put pressure as well as torture to demand share in her father's property even without her consent. In this transaction she become only mediator for transferring money/ property from father to Husband it has been happened in patriarchal society. Also women should not be considered at the time of dying intestate in patriarchal family. (Kharat, 2016 at <https://ssrn.com>). The present study discussed the cases of such women of Nawada Fatehpur village of district Gurugram. Here it would not be wrong to discuss Kiran's case. Kiran and her sister Mala was the only child of her parents. Relatives forced them and her father to transfer the property in the name in her uncle's son who is usually drunk, her father stood against the family and said till he is alive he would not transfer it to anyone. When her parents are growing old the elder sister Mala decided to stay near by her parents along with her husband and two children so she took a flat on rent in nearby locality. Everything was going fine as her father has about one lakh per month rental income and he shares it among his two daughters. Both of Mala's kids were admitted to reputed boarding school. One day Mala's husband was drunk and faught with her and asked her to get the property either in his name or her sons name, when Mala denied it he murdered her. He is now in jail for the murder but now Kiran husband did the same, he

asked Kiran to get all the property transferred in her name or else he will leave her. Now Kiran along with her son and Mala's children is staying with her parents and none from her in-laws place came to take her back.

In recent years several studies have highlighted the importance of inherited assets as a share of total wealth of individuals and the role played by inheritances in the generation and transmission of lifetime resources (Blinder 1973; Stiglitz 1981; Cowell 1998). Parental bequests of material wealth and human capital investments represent important forms of intergenerational transfer that affect long term development in far reaching ways. At low levels of development, land is a key asset and an essential source of livelihood. It is thus not surprising to find that societies have long developed rules to govern the way in which land is transferred across generations (Baker and Miceli 2005; Platteau and Baland 2001). The Government has to acquire the land under the Land Acquisition Act, 1894 and other nineteen special Acts, which are applicable to various other sectors including Highways, Railways, Ports and Defence. Land acquisition and compensation have always been an emotional and highly contentious issue between the Government and the Land Owners. Keeping in view various agitations by the farmers, the Govt of India has amended the said old Land Acquisition Act with Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 which has been adopted by maximum State in the Country. Similarly, Hindu Succession Act, 1956 provide equal property rights to women in ancestral property. Earlier girls used to enjoy this right before marriage but this Act help her to enjoy this right even after getting married. Time is changing so is the position of women in the society. Now women are more educated and independent. What is her position in family, the moment she exercise her rights? How her relations with parents, siblings and society as a whole changes after taking share in the family property? This is what I tried to explore in my present study of a Village called Nawada Fatehpur in District Gurugram. It is important to understand the ground reality of women especially when they exercise their rights because mere provisions of such rights on paper would not change her position. It was found in my study that after acquisition or development in the area 36.69 % of the total 109 respondents siblings that is girl of the family asked for her share and their relationship with the girl ended their only. It clearly shows that though people are forced to share the ancestral property because of the HSAA 2005 but in practical they still believe in that system where girls don't owe any right in ancestral property apart from the "streedhan". When further enquired about a family who was denying any daughter in the family , it was found that the girl asked for her share in property after denial she along with her husband filed a case and received her share . After this incident they

family abandoned all relations with the girl. It shows how patriarchy is deep rooted in our society.

An interesting study by Prem Chowdhry conducted in Haryana in 2011 highlighted existing social conditions by way of which women are gaining access to land. Her study identified social situations where women's control or possession and utilization of property and other productive assets were enhanced. These cases include a woman prompted by her husband to claim her share of the natal property and acquire it, or her husband may claim her share on her behalf, a widow claiming a separate possession of her husband's share and a woman can be in actual control of the property due to the migration of her husband. The study goes on to point out that possessing land or property as means of production means that women have in addition to a source of income, a source of authority, power, status and mobility and that this can lead to access to education and health facilities and to reduced violence.

A report of the sub-group on land related issues submitted to the Planning Commission in January 2007 underscored that the HSAA can have far reaching implications not only for women's status but also for improving production in agriculture. It described evidence to show that lack of assets enhances vulnerability and poverty and those women who do not own any assets are subject to violence, threats of violence and allocation inequalities within the household. In contrast, those who owned both land and house reported considerably less violence. Along these lines, Goyal (2010) explored whether inheritance legislation improves women's access to land. Their study focused on land bequests to sons and daughters in the states of Maharashtra, Andhra Pradesh, Kerala and Karnataka, states which had passed amendments in the late eighties and early nineties. Based on household-level data for three generations, they find that although women continue to be at a disadvantage when it comes to inheriting land, as a result of these amendments women are now 9% more likely to inherit some land. On the other hand, a study by S Galab and E Revathi from the Centre for Economic and Social Studies in Hyderabad done in five states (Meghalaya, West Bengal, Rajasthan, Andhra Pradesh and Madhya Pradesh), found that the HSAA has had no considerable impact on women getting land from their natal family. They found that, typically, women do not wish to exercise their rights for fear of estrangement from their natal family. None of the women they interviewed had approached the court of law and only a few had opted for enforcing their rights through Gram Panchayats. These women were unaware of the processes involved in obtaining ownership titles. They found that the Revenue Department has not geared itself up adequately to make title deeds to women in case of family property in line with HSAA 2005. They also found that when it comes to asserting their inheritance rights, village

communities and leaders treated widows more favourably than they treated daughters and sisters. On a positive note, the study found that parents gave land to their daughters when their daughters married landless men and they stayed in the same village as that of the father of the wife.

### **BARRIER TO EXERCISE RIGHT:**

Studies have also shown that Hindu women continue to be deprived of their inheritance through wills. According to the report of a working group of the Planning Commission on Women's Agency and Child Rights for the Twelfth Five Year Plan, "laws like the HSA would have limited success unless the Right to Will is restricted and relinquishment of property in favour of male siblings is also curtailed". Another study by Rachel Brule in Andhra Pradesh found that there is now an increased focus on the registration of oral wills, which enables the heads of households to make daughters ineligible for inheritance. Wills are therefore a means of using legal institutions to abnegate women's inheritance rights.

A study by Sanchari Roy in 2008, "Female Empowerment through Inheritance Rights: Evidence from India" identified certain formal barriers which could potentially be used to disinherit daughters in the following ways: 1) if a father renounced his rights in the coparcenary (joint) property, his sons would continue to maintain their independent rights to the coparcenary but his daughters, widow or mother would lose out on the possibility to gain from such property; and 2) after partition of the coparcenary, if the father made a gift or willed his share in the coparcenary to his sons, the rights of the female inheritors would cease to exist. Kirti Singh in her article noted that even in the absence of a will, when the HSAA is applicable, women are generally forced to give up their share in favour of their brothers for various reasons. One of the main reasons is the fear of breaking familial bonds. She stresses the need to devise ways to ensure that daughters do not lose their right to inheritance. Here I would like to discuss the case of Kaushalya (name changed), they are four sisters all married. Three of them got married to three brothers in same family and one married to another family. As they don't have brother she and her sisters along with her parents were forced to transfer the property to her cousin brothers. They were ensured that the cousin brother will take care of her parents and will also do all the rituals throughout the life but these girls and her parents denied. After some time one of the sister decided to stay with her parents as they are growing old. Her parents used to stay in the old house but when the Kaushalya decided to stay with them along with her husband and kids then her father decided to construct a new house on a 250 square yard plot on the outer circle of the village but Kaushalya and her father was informed by her

cousin brother that they don't have any such share. They talked to her uncle and some elders in the family but nothing helped. At the end they have to call the police to take her share of property but in all this she lost her father in a cardiac attack in 2013. Finally she got the plot but was also emotionally blackmailed by her cousin and she left 50 square yard for him to straighten his plot. She says had she been a boy she would have fought for her land and none can fool her too. She said that though we talk of development and the village no doubt is progressing but the basic mindset of people and society as a whole is still, people still look for male child, still female foeticide is going on illegally, still a women needs to raise her voice for her rights.. still...still..still.. Everything is developing the economic status, infrastructure but when it comes to a girls share in her parental property everyone appreciate it but while execution she has been convinced to transfer it in her brother's name.

N.C. Saxena(2013) in his article reaches the same conclusion that women often have to forgo their claims with regard to agricultural land to ensure the support of their natal family in case they encounter marital problems or their marriages breakup, even though such support may not actually materialize. In the same article he also mentions that rural women most often lack the wherewithal to claim their rights through the tedious and harassing process of approaching the bureaucracy and the courts.

In traditional patriarchal societies, such as Haryana, local authorities brazenly deprive girls of their legal right to ancestral property. In May 2012, the Gram Panchayat in Jind district in Haryana banned married women from seeking a share in parental property. The Gram Panchayat stated, "Every married girl will have to part with her share of parental land and hand it over to her brothers. If she has no brother, she will give it to other family members at her parental home. If a woman violates the diktat, she will face social boycott and have to pay a fine." The Gram Panchayat further declared that villagers who purchased land from married women would be ostracized. This case was highlighted in an article "Denying women their due share in family property" by Seema Sindhu.

More importantly, in light of evidence documenting the importance of asset ownership for women's bargaining power, livelihood opportunities, and the allocation of resources among members' consumption and investment, low legal rights to women's property may be at the root of broader patterns of inequality and gender discrimination. Although the underlying cultural and social dynamics are complex, legal change to improve women's inheritance rights could thus provide a low-cost means to reduce gender discrimination and improve a wide range of socio-economic outcomes by women. To conclude we can say that mere provision of rights does not implies the empowerment of women, a woman will be empowered when she will

feel free to exercise her rights without any pressure or social construct and education is the key to it. When the socialisation of a boy will be to respect women and give her equal freedom then only the deep roots of patriarchy can be broken otherwise the number of rights for women will keep on increasing in paper and so does the number of Mala or Kaushalya. We have entered into an era of modernity no doubt, but my question is about mental modernity. Why we are still living in pre independence era? Why women can't be given her legal rights without fighting for it? Why she is still considered as a second citizen? Why can't she be the head of the family? Why can't she take decision regarding her life like education or choosing life partner? Why is she associated to family honour and why not a male? Why are we all always referred by our fathers name and why not by our mother's name? Why?

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