

# The productive fuzziness of land documents: The state and processes of accumulation in urban villages of Delhi

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*This article revolves around the fuzzy nature of land titles within and around the 'Lal Dora' (literally, 'red thread') ringing the urban villages of Delhi to understand how property ownership gets mediated through documents. Through a close look at three kinds of documents—land records, a particular notification over construction in the Lal Dora region and the General Power of Attorney, it pries open how these documents govern property relations today. As much as records and laws become the means through which the state attempts to intervene, disaggregate and make sense of property regimes, these attempts are frustrated through practices pertaining to property and localised bureaucratic effects. The evidence presented as documents, stamp papers or certificates is only superimposed on the larger field of property relationships in the urban villages of Delhi. The article shows that the informality produced by inconsistencies in these documents plugs into the logic of accumulation and comes through as a dynamic albeit inegalitarian force that challenges state power.*

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## I

### *Introduction*

As social scientists, we no longer inhabit a world dominated by a rigid, positivistic rationality. The intellectual battles fought over what constitutes objectivity, what one considers as 'proof', how fallible or infallible 'proofs' themselves can be and whether documents speak more than the

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written words, have made us rethink what evidence can possibly mean. The ways in which history and anthropology have evolved in a self-reflective fashion as disciplines have also paved the way for a more critical approach to what we see and hear. While archives, data, field notes and ethnography still remain important to us as evidence, our relationship with what we take as evidence, how we look at it and how we use it has become more complex and reflective.

Several scholars argue that plans remain restricted to the high modernist imagination of the planner and that plans have little to do with the realities of how people live (De Certeau 1984; Jacobs 1961; Scott 1998). Recent works on state planning have gone further to show us that plans, laws and regulations of the state are actually social products of human interaction, mediated and manipulated, as any other. Matthew Hull's (2011) recent work shows how state documents like maps, circulars, forms, letters and reports are not simply impractical and inert documents of little consequence, but rather that their circulation among bureaucrats, property owners, property dealers, businessmen, builders and politicians has a significant impact upon the material realities along with creating new effects. While Nayanika Mathur (2016) shows how the act of writing bureaucratic letters is far from being a clinical act, Tarangini Sriraman (2018) illustrates how the state undercut its own rules in the absence of address proofs of the refugees in the wake of the Partition in Delhi to accept anything that looked like a paper with some authority to generate welfare identification documents. Documents, therefore, never really are objective 'truths'. They get traded (Tarlo 2003), forged (Gupta 2012) and contested (Sriraman 2018).

Property, too, seems to operate at two levels. On the one hand, property is seen as a stultified object, evidenced through documents that people either possess or do not. On the other, property can be understood as purely relational (Blomley 2004). If social space is imbued with power, land relations and property too are embedded in the same social relations of power. Property relations—how property is owned, exchanged and laid claims to—are matters of politics and are, therefore, always contested. But these two different meanings of property do not operate as separate planes. They come head to head with each other over documents. This article aims to discuss how these two unstable and tentative regimes—the property regime and the regime of documentation—interact with each other. It navigates through the territories of legality and illegality to

see how property ownership and state regulations map onto each other. How do we see the battle over property—whether it is legal or illegal and formal or informal—fought through the rubric of evidence? Also, in the process of doing so, how do we see evidentiary documents on land navigate through this topography of legality and illegality, given that they merely appear as objective? In a situation where close to all of Delhi's urban properties may be seen as illegal in one way or the other (Ghertner 2011: 285), the relationship between property and law is a rich and diverse canvas.

The literature, which is concerned with state documents about land historically, has indicated that the state and its bureaucratic regime in the context of property ownership has constantly attempted to create a 'scientific and systematic' form of accounting of land through numbers and calculations (Poovey 1998; Varley 2002). The primary function is to exude authority and objectivity.<sup>1</sup> However, these documents couch within them diverse forms of violence, informal arrangements and inequalities. Land documents, like any other documents, compress and coagulate the social tension to be able to represent the 'facts' within the prescribed proforma. But, then, these documents are more than simply mutated representations—they hold power. These documents are simply another node in the complex web of property relations defined by caste, kinship and power.

In order to understand the property relations in the urban villages of Delhi, I delineate interactions with three kinds of documents—land record documents, the 1963 notification on *Lal Dora* and the general power of attorney (GPA). Through a close look at these three, I explore the relationship among state, law and property relations. Documents themselves begin to tell a contradictory tale of property relations. They also do not necessarily remain the prerogative of the state. This article situates the questions of land, land value and politics of urban real estate and the overall question of political economy in relation to governmental documents to show how land grab is made possible through the gaps and crevices within these documents. As scholars of urbanisms, 'property' becomes an entry point to tap into the constellations of social interactions and contestations in order to theorise what these could possibly mean and imply.

<sup>1</sup> Mary Poovey (1998) goes on to argue that the survey went a long way in terms of historically instituting numbers as facts in the public imagination around the 17<sup>th</sup> century.

This question brings us to a discussion on informality. The ever burgeoning literature on informality has produced several interesting perspectives to understand informality especially from the perspective of the right to the city. Ananya Roy's (2005) powerful argument as to how the state creates informality has been fundamental in this regard. She invokes Giorgio Agamben to argue that the 'the planning and the legal apparatus of the state have the power to determine when to enact a "suspension" to determine what is informal and what is not, and to determine which forms of informality will thrive and which will disappear' (Roy 2005: 149; cf. Agamben 1998: 18). Much of the literature around urban informality that has followed has emphasised this nature of the state which produces informality either through planning (Bhan 2013; Sharan 2014) or by providing legitimacy to some illegal structures and denying it to others (Ghertner 2015).

The literature around public interest litigation (PIL) (Bhan 2016; Bhuwania 2017) and bourgeois environmentalism (Baviskar 2011) gesture towards how the civil society/political society divide is reproduced where the poor and middle classes make their claims on the state differently. While the civil society acts through its formal access to the state by creation of new state spaces like the *Bhagidari*<sup>2</sup> system and discourses on world-class aesthetics (Ghertner 2015; Srivastava 2009) or by filing PILs (Bhan 2016), the poor access it through negotiations with the lower bureaucracy, collective protests (Weinstein and Ren 2009) or by producing counter-archives (Bandopadhyay 2011). Existing literature shows how the state as an actor creates and maintains this distinction between the formal and the informal which then goes on to constitute the geographies of inequality in our cities today. But while this writing is important, it goes on to reproduce the same distinction that it began to critique. Informality of the rich gets legitimised by the state through law while the informality of the poor lies outside the domain of law and becomes a space of collective resistance (Anjaria 2011; Benjamin 2008) of conviviality (Gandhi 2011) and innovation (Birtchnell 2011). The lens of everyday life reveals the practice of corruption, for instance, as extractive but imbued with flexibilities through which the marginalised find some space for negotiation (Anjaria 2011; Gupta 1995).

<sup>2</sup> It is an initiative started in 2003 by the then incumbent Congress government to promote civic participation in local governance.

However, corruption also becomes that aberration from law, which begins to complicate state–society interactions, whereby aberration becomes the norm. Law and state, despite being undone by the everyday state, at another plane appear untouched by workings at the ground level. Law and the state become the force which designates and orders people and objects around the axis of legality and illegality. By looking into property documents, I show how this designation of the formal and informal is far from neat, and that this is not necessarily for the lack of trying by the state. Despite numerous circulars and notifications, the space of urban villages in Delhi remains blurry. So, while this article stands on the shoulders of these works, the neat divisions that this literature has inadvertently created need to be challenged.

I go back to one of the foundational essays on urban informality where Ananya Roy (2005) categorically warns us of this kind of dichotomy where the space of informality of the poor is understood as non-hierarchical and morally righteous. While it must be said that the intention of the aforementioned literature may not have been to romanticise the space of informality, the space of informality is now increasingly understood as a marginalised space. The problem I am pointing to is that the space of informality has not been looked at as a variegated, layered space. As informality and poverty have been conflated, these assumptions of the space of informality as being necessarily poor and egalitarian gets created as effects. While I am not making the case that this is necessarily false, but rather, that there are more ways of understanding informality. Going back to Roy's warning, I try to show that this informality when posited against the state or the urban sense of aesthetics and gentrification is a highly variegated space and, therefore, cannot always be seen through the lens of the moral economy.

To contextualise this debate, I attempt to destabilise this imagery of the state as neatly designating and categorising property and practices as formal and informal. For doing this, I look at property and the regime of documents—property titles or legal orders—as the primary tools for producing and maintaining this divide. What if we began to understand this literature on formality and informality through the literature on the instability and unreliability of documents? Although informality always begins with the story of discrimination, I argue that a story of subaltern resistance and defiance does not seem to be the case always. In this article, I describe a tussle between the state and a powerful landowning caste over

the ‘legality’ of land. Through the cracks in state laws and land records, an informal space gets created for this landowning caste to maintain its dominance. For once, it is the state that tries to ordain a legal status to the land which the people are trying to resist. Informality in this context emerges as a source of power. Informality begins to be desired. Here, I look at urban villages of Delhi to understand how different meanings of property engage and interact with each other.

## II

### *Urban villages of Delhi*

With rapid urbanisation in the 1950s and the 1960s, villages that were once outside the periphery of Delhi started getting acquired by the state for land development. In this case of land acquisition, it was only the agricultural land of the villagers that was acquired for the development of South Delhi, while their residential *abadi* land was not. Abadi areas or homesteads remained with villagers, and they continued to live there in their residential spaces. While a majorly agrarian-pastoralist rural society suddenly found itself in the middle of the city, it also had to learn to cope up with the loss of land. Over the next couple of decades, we saw these villagers themselves becoming speculators using the loopholes of the building bye-laws which supposedly exempted these villages from any building regulations. Since these villages predated any form of urban planning historically, their abadi areas were not subjected to building bye-laws in the beginning. As a result, most of these villages began to plug into the opportunities thrown up by the city—some emerged as lower middle-class housing spaces, while some emerged as godown spaces, some saw the mushrooming of cheap hotels and some became home to garment manufacturing workshops.

The villages I look at are a part of this milieu. Their lands were acquired during the 1950s to 1960s, and now lie right in the middle of rich, upper middle-class localities and malls of South Delhi. They are anomalies in all senses of the term—they are villages in the middle of the city and do not subscribe to either the politics or the ‘rule of aesthetics’ of upper middle-class Delhi (Ghertner 2015). As village land began to get monetised, houses began to encroach into lanes. Cattle sheds and common spaces like squares and parks began to disappear to give rise to multi-storey buildings with one-room sets to rent. By 2000, older houses were

broken down to erect cheaply built multi-storey buildings with a series of 'one-room sets'—a room attached with a bathroom and a kitchen for letting out to the migrant youth.

Village abadi land, which was understood to be communally owned property, did not have clear-cut rights of individual ownership, which allowed a rampant form of land grab by the dominant Jats of these villages. After acquisition, in villages where land consolidation did not take place, the village abadi was given one *khasra* (record register) number. Khasra numbers were given out on the basis of ownership and are, therefore, unchangeable. Designating the entire abadi area of the village as one khasra number means that there was no question of individual property titles within the village. As historically, village abadi was never revenue-generating land, the village abadi land had never been formally mapped. The revenue map shows other numbered khasras around the village khasra. But most of those were agricultural properties, which were acquired by the state.

As the volume of migration grew, many of these villages too began to morph themselves overnight. A steady rent economy began to shape up in the face of the excessive demand for cheap and affordable housing in South Delhi. Land grabs became more and more lucrative as this was a market built on the logic of volume—the more one-room flats one could build, the more income one could also expect to earn. With this transformation of village land into real estate in the 1990s, most of the vacant village space was grabbed largely by Jats who could make the most of the opportunity. It is important to note here that the Jats who are the dominant caste in many of these urban villages, and have historically wielded social power, have been able to make the most of the opportunities thrown up by urbanisation. The Jats have historically had an extremely important relationship with land. Their sense of social identity is rooted in *bhaichara*—a form of collective ownership of land which was historically mediated through the panchayat system (Chakravarty-Kaul 1999; Kumar 2012). The social codes of the Jats since the time of these 'village republics' have been intrinsically related to land relations that exist within the community. The Jats who were once considered to be a dispersed tribe, with a strong clan network, acquired a new identity beyond that of a tribe or a clan once they came into the possession of land (Stokes 1980). Until the present, their regional solidarity is rooted in this identity of being Jats who run their own panchayats (Gupta 1997).

Some of the land grab was done overnight, but some happened over a period of time, as if it was natural. The common, open spaces just outside the village periphery began to be claimed as private properties. The innocuous act of tying cattle and drying dung cakes acquired an ulterior motive. The act of drying dung cakes, which requires flat surfaces, also made it possible to surreptitiously encroach on more land slowly. Objects like dung cakes and firewood became primary instruments in not only asserting property rights but also in enabling expansion. In this scenario, social dominance often translated into more effective land grabbing through the use of violence. What John Locke shows to be a rather natural, peaceful process in the condition of a state of nature, such that people mix their labour with land to legitimately claim proprietorship over that land, obfuscates the violence that often underlined this process later (Locke 1946). The manner of Lockean possession of land which glossed over the violence over Native Americans for instance in this case meant dispossession of dalit families from their land in some cases and an absolutely disproportionate grab of open, empty lands by the dominant Jats in others.

While the land just outside Lal Dora (literally ‘red thread’), which had been acquired by the state was quickly getting grabbed by villagers and developed into smaller markets much earlier, village land which had little commercial value quickly began transforming into coveted land that could be developed into property for renting out since the 1990s. Land grab, both inside and outside Lal Dora, became a function of accumulation. Village lanes became narrower and village squares started disappearing as encroachment became extremely lucrative. The more lane area your house could encroach upon, the greater number of one-room sets that could be built. No wonder that in a short span, post-1990s, when these villages began to become increasingly popular with new migrants to the city, the villages too quickly morphed into a planner’s nightmare.

Lal Dora now remains a virtually unidentifiable line which no longer translates onto the field from the map. As rampant construction began taking place, the distinction beyond Lal Dora land and government-acquired land began to dissolve since villagers started building on land outside Lal Dora and on the lands acquired by the government which were still to be developed. Probably left intentionally blurred with buildings mushrooming everywhere, there is no longer a discernible line between the ‘village’ and the ‘unauthorised colony’ that fixes the status of a property.

During my fieldwork, I found that the contours of Lal Dora always ended up being a 'little ahead' of someone's property, therefore leaving one perplexed as to the limits and expanse of this rather mythical Lal Dora. The presence of Lal Dora and the supposed exemptions only led to 'spilling over' and new urban development by land grabbing in areas outside Lal Dora. The status of most of these possessions is tenuous at best. The land encroached outside the Lal Dora can be identified as having been encroached in land records, but land grabs within the Lal Dora, in the absence of any property titles, remain unmapped.

The task at hand is to understand these land grabs and encroachments through land records, court cases, government circulars and other documents. In the 50–60 years that have passed since the land acquisition, the state which had once refused to address the question of land grabs around the Lal Dora is now slowly coming around to try and regulate them. But in the time span, when the state had been looking away, the affluent Jats of these villages exploited loopholes in the law to grab this land. The state is now attempting to regulate these spaces not simply because they *need* planning, but because the state is seeking to create its own stakes by asserting its presence through governmental measures. Creating clear land titles and bringing land into the objective, documented fold, therefore, is the only legitimate weapon that the state possesses while also being actively engaged in developing land illegally itself. The battle, therefore, takes place over the evidence and counter-evidence of property ownership, a qualitative valuation through various forms of documentary evidence and other alternative, informal ways of creating evidence in the absence of formal modes.

This brings us to ask: 'How does informality navigate through state documents? How are these different kinds of possessions—legal and illegal—made sense of by the state?' The curious thing about property regimes within Lal Dora and unauthorised colonies is that property 'ownership' can mean a host of things. Two properties designated as 'unauthorised' might not have the same status. An unauthorised form of property can be unauthorised for various reasons such as squatting on land owned by someone else, using property in contravention of the land use designated or in violation of a building plan, possession through an act of sale which is not recognised (like GPA) or government land which has been acquired by the government but is still in possession of private people. The case of Lal Dora would show a range of claims made on the basis of a diverse

nature of possessions and ownerships where the two may not necessarily overlap. I look at three specific interfaces between informal property and documentary regimes—land record documents, the 1963 exemption and the GPA, for the same.

### III *Land records*

The Report of the Expert Committee on Lal Dora (ECLD) acknowledged these different kinds of unauthorised developments in Lal Dora/extended Lal Dora area—construction of floors beyond the permitted number, sale to commercial buyers, use of residential property for commercial use and commercial activity of non-village origin in the village (ECLD Report 2007: 53). Here, layers of illegalities get produced within the lands of the Lal Dora, which leave one more ‘illegal’ than the other or one more ‘legible’ than the other. What kind of interventions does the state make in these places to work around citizens with such illegible properties especially when the illegibility of these properties is making accumulation through rent possible and all the more lucrative? These spaces have remained ‘untamed’ despite various attempts by the state to wrest control over them. The logic of plans and maps interacts with the logic of practices of land ownership in urban villages in a manner that allows these spaces to foster and transform into prime real estate. The two kinds of property ownership, one that is documented and the other that is practised, are at conflict with each other. It is at the intersection of these two—where the documents appear fuzzy and the fuzzy properties seem perfectly functional on the ground—that we try to delve a little more into the question of informality.

The complicated nature of property ownership, and an even more complicated method of maintaining these land records, constantly tests the technocratic, objective ideal. As seen in *Union of India and Another vs Gopal Seth and Others* (2011), Letter Patents Appeal (LPA) 480–481/2005, the Delhi High Court notes a discrepancy between ‘acquisition’ and ‘possession’ by the state.<sup>3</sup> It was a common practice for the state to notify and

<sup>3</sup> LPA 480–481/2005—the case was that of 28 owners of plots in Sunlight Colony, which were sold between 1952–55 and were a part of Mohammadpur–Munirka which was acquired, who had gone to court and won the case against acquisition. The defendants had filed several letters demanding alternate plots in Masjid Moth in lieu of their land in Sunlight Colony. The judgment, however, notes that they were still in possession of the

acquire land and pay compensation for it but then leave it unused. These stretches of land, some vacant and some already built up before land acquisition itself, became the site for the growth of unauthorised colonies in Delhi. The plethora of ways in which property comes to be possessed or owned in these villages needs to be taken cognisance of within the land revenue records so that they do not remain bearers of *facts* of proprietorship but real actors in these transactions.

Records and documents have never been innocent—and the ones pertaining to property, even less so. They embody within them myriad hierarchies, power equations and errors and crimes of omission and commission. Owing to their origin to the land records systems in medieval times, these records have evolved through the colonial and the postcolonial eras. The document *Khasra Girdawari* was used to enlist the names of the owner, the cultivator, or information, such as whether the land is self-cultivated, extent of the area and what crops have been sown, which needed to be updated every four years. Since the status of the land has not been agricultural for a long time, most of these columns containing information on types of crops, etc. are now redundant.

The *Khasra Girdawari* register, which is still supposed to be updated every four years, has in fact become an indicator of how changes in the nature of land relations have taken place. As the village abadi is within one khasra number, the manoeuvrings around land within the abadi area remain opaque. But it is revealing in the context of the agricultural area outside the village abadi that has been acquired by the state. While the register bears the name of the ‘owner’ of a particular piece of land and its particular khasra number, it also indicates the ‘occupier’ of the same land which is often not one and the same. The columns which once used to enter the names of owner and the tenant farmer on agricultural land

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land in dispute. The defendants had never been dispossessed of this land by the C.P.W.D. (Central Public Works Department).

The Delhi High Court notes:

The only evidence produced on behalf of the defendants, is that possession of this land was taken and transferred to the C.P.W.D. by the Land Acquisition Collector on 8.6.57. No evidence has been produced to prove that the C.P.W.D. was still in possession of this land at the time of the filing of these suits. It seems legitimate to presume that the defendants so-called possession of this land did not go beyond the proceedings of possession held on 8.6.57 and that the C.P.W.D. and other concerned Officers took no subsequent steps to assert their possession. (para no. 16).

are now used to keep an account of the ‘owner’ and the ‘occupier’. The two figures that emerge, one the ‘owner’ and the other the ‘occupier’, are often located at two ends of the spectrum of legality. In this case, wherever the owner and the occupier are different entities, it seems that the owner of the land is mostly *sarkar daulatdar* (the government) while the occupiers are mostly private individuals. This goes to show the rampant encroachment of government land that has taken place. The encroacher’s entry into the register itself marks a certain degree of legitimacy of that possession today. The document, though, has recorded encroachment or land grab, the very fact of recording itself strengthens the claims of the occupier of the land.

During my fieldwork, I found that the *Tehsildar*<sup>4</sup> and other officials at the revenue office have very little acquaintance with Urdu, the erstwhile administrative language of land records. The *Patwari*,<sup>5</sup> Raghubir Sanwal,<sup>6</sup> has no reading or writing abilities in Urdu, while Sushil Verma, his assistant, who has been working in this office for years, has equipped himself to understand basic terms and digits which help him get by with the documents. With several years of practice, Verma is the only one in the office who could try to make sense of these complicated documents to some extent due to this working knowledge. And yet, the authority to interpret these documents lies with officials in the revenue office. However, their limited expertise makes way for new interpretations of what is written in these documents. This shows that knowledge can also be created by revenue personnel by virtue of the authority to interpret these documents rather than knowledge bestowing authority that is technocratic and related to expertise. The practice of land record documentation works entirely on the logic of ‘translatability’. It is not only a question of translation—from

<sup>4</sup> A Tehsildar is a class I gazetted officer who heads the District Revenue Office.

<sup>5</sup> Patwari is a lower-level official in the revenue office who is in charge of most of these land records. Oscar Lewis describes the Patwari system thus: ‘The [patwari] system seems to have been established at the time of Akbar in the [16<sup>th</sup>] century. In former times [patwaris] were servants of the village and were paid for by the *zamindars* (Lewis 1958: 330).’ He quotes Baden-Powell (1892) on Patwari system: ‘The Patwari is, in effect, *the accountant of the village*, both as regards the revenue-payments due from the various co-sharers, the distribution of the profits of the joint-estate, and the accounts of rent payment between landlord and tenant; he is also the *registrar of changes in ownership* due to succession and transfer’ (Powell 1892, 2: 278, cited in Lewis 1958: 330). See Baden-Powell, Baden Henry. 1892. *Land-Systems of British India*, Vol. 2. Oxford: Clarendon Press.

<sup>6</sup> The names used here have been changed to protect identity.

Urdu to Hindi, from an administrative parlance to a colloquial one and from a knowledge that rests in the various textual registers to an actual physical geographical space. It carries with it the dilemma, the limitations and entrapments of translation—that not only could it never be translated exactly but that it is also very much amenable to being intentionally mistranslated.

With Urdu phased out of administrative use and Persian and Arabic going out of our social milieu, what is created is another level of complication in terms of accessing the data that exists in the form of land records. The land record office emerges then not simply as a repository of these documents but as a centre of authority pertaining to these documents manned by officials who are assumed to be able to read and interpret them along with the power to disseminate their meaning. This interpretation as we have discussed is never straightforward. The distance between the knowledge as it exists in these documents and its dissemination as information to people is mediated by power relations, practices of corruption and bureaucratic procedures. Lewis had noted the extent of authority that the patwari yields simply by virtue of having knowledge over land documents (1958: 332–36). Here, we see how the revenue office manages to maintain that control despite limited knowledge. The official positions of revenue personnel give them a semblance of knowledge which goes on to function as knowledge. This control over information gives the lower-level officials much power and discretion, which is then utilised to take part in speculation and land deals.

While the state strives for legibility through circulars, laws and notifications, the everyday practices of the state work to make it illegible to itself (Das and Poole 2004; Fuller and Benei 2000). The patwari and other officials at the revenue office are a quintessential demonstration of how the state and society are not strictly watertight compartments (Gupta 1995; Mitchell 1991). The life of bureaucratic objects and the material practices of the bureaucracy and its regime of documents and papers here reside in the logic of the political economy, state power and speculation in land. In the case of a dubious status of land that may fall within or outside the Lal Dora, the lower officials, in collusion with the Jat landlords, are able to either manoeuvre around the laws or generate newer documents like the GPA. The land in question, thereby, can be kept in its illegible status—illegible for the state while maintaining and continuing its regime of accumulation for the Jats. The tussle between legality and illegality is, therefore, that of accumulation.

## IV

*The diverse meanings of the 1963 notification*

The emergence of the real estate boom in the urban villages of Delhi was made possible by the ‘absence’ of building laws and relentless construction that just cannot take place anywhere in the rest of the city. But, this ‘absence’ is highly contested, and the documents hardly lend themselves to a singular reading. At the heart of the struggle between the state and the local landlords is the contention over the 1963 notification which supposedly had made the urban villages exempt from building bye-laws. One reading of the laws and office circulars claim that exemptions came with a 1963 notification of Delhi Development Authority (DDA) which allowed the rural abadi areas within both the Lal Dora and the extended Lal Dora to disregard certain sections under the building regulations of the Delhi Municipal Corporation Act, 1957. The notification had stated that within Lal Dora or the extended Lal Dora, no building permission was required for constructing a house by the owner on a particular plot for his or her own residential requirement.

The other reading is that the 1963 exemptions were only meant for rural villages and not the urbanised ones. The ECLD formed to look into the matter of urbanised villages alleges that the planning documents never made the distinctions clear between rural and urban villages. This, in turn, led to the misinterpretation that the exemptions were applicable to urbanised villages as well.<sup>7</sup> Only in 2009 did an office order clearly iterate that the ‘implied meaning’ of the Municipal Corporation of Delhi (MCD) notification dated 24 August 1963 was that no Lal Dora exists after a village is notified as urbanised and, therefore, no exemptions really apply. In one stroke, the state declared all properties in urban villages illegal, as they were all violating the building bye-laws in one way or the other. The office order substantiates that the exemption available to the residential buildings within Lal Dora of a rural village does not apply to any property in an urbanised village. This only meant that for all practical purposes, owing to a ‘misreading’ of the law, these villages had grown in ways that they had chosen.

<sup>7</sup> DDA, *ECLD Report* (p. 14). The committee report while sympathetic towards the cause of the villagers also mentions that the exemptions for rural villages are also limited to obtaining sanctions of building plans for their residential units. See DDA, *ECLD Report* (p. 16).

Though we will deal with the series of circulars trying to roll back the supposed exemptions, it is important to note here how vague regulations and flexibility are the norm in the state's planning and how vagueness in law only produces new kinds of spaces, subjectivities, power and social relations (Gururani 2013; Roy 2009). The misconceptions over the Lal Dora exemptions have now created a peculiar property regime, and the non-existent Lal Dora has become an intrinsic part of real geographies (Baeten 2004).

By turning a blind eye to these developments, the state now attempts to wrest control over these spaces and constantly tries to bring in new regulations. It attempts to generate a newer kind of 'formalised' documentation through circulars and directives which provide for an alternative form of evidence. As early as 1985, the Mini-Master Plan began by suggesting that the earlier privileges which were accorded to villages as exemptions to building bye-laws must end and that building plans have to be sanctioned by either the DDA or MCD (DDA 1985: 5). The court too directed the MCD to consider withdrawing its exemptions from the villages in the year 2005.<sup>8</sup>

However, as discussed earlier, there exists another interpretation of the same 1963 exemption in the bureaucratic view that the exemption was never meant for urban villages but rather exclusively for rural villages. Since the first authoritative clarification of the 1963 exemption came only in 2009, there have been significant attempts by the state to bring these village areas under some form of legibility. The building activities in urban villages are now governed by the notification issued by DDA on 17 January 2011 known as the 'Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, 2010' and Circular No.TP/G/3426/11 dated 28 September 2011 in conjunction with the Delhi Master Plan 2021 (MCD 2011). It states that it would be the

<sup>8</sup> *M.C Mehta v. Union of India and Others*, (2004) 6 SCC 588 was on the issue of unauthorised construction for industrial activity in residential areas in Delhi. The Supreme Court notes:

In respect of the industrial activity in Lal Dora, in the affidavit filed in October, 2002 by Chief Town Planner of Municipal Corporation of Delhi it has been stated that the proposal for the withdrawal of exemption notification would be placed before the Corporation. Nothing seems to have been done in that direction. It is not disputed that under the garb of exemption notification dated 24th August, 1963, all kinds of buildings have come up in the Lal Dora (para no. 69).

responsibility of the residents/Residents Welfare Association (RWA) to prepare a layout plan and get it approved from the local body. It clearly mentions that all existing exemptions with respect to sanctioning of building plans in the village abadis will cease to exist from the date of notification of these regulations.

In a circular issued by MCD on 28 September 2011, following the 2011 DDA notification, it was notified that all properties within the Lal Dora would need an affidavit as substantive proof of ownership, certification by the revenue department that the plot forms part of the old built-up abadi area, certification of correctness with regard to size and shape of the area along with its location within Lal Dora as certified by the revenue authorities.<sup>9</sup> The circular also clearly mentions several directives for construction as well.

The aforementioned attempts by the state to make these villages more legible are attempts by the state to become a stakeholder in a property regime. The informality, the vagueness in terms of interpretation of laws and rules that the state deliberately maintains in this case with regard to urban villages does not seem to work in favour of the state any longer. The state is now moving towards regulating these spaces. Such regulation will help the state to map these localities and make them governable but also enable it to draw taxes from these properties more legibly, something it has not been able to do so far. The battle, therefore, is fought over papers.

The Jat landlords, however, find the space of informality enabling as a space for accumulation. The space of informality allows them to use their collective strength to maintain chains of accumulation through rent (Pati 2016). What we see here is quite the obverse of what most other literature on informality displays. The teeming literature on informality which has become subsumed under subaltern heroism underrepresents how informality is also an unequal and violent space. The local landlords here are able to maintain their collective dominance through caste and landedness which exploit practices of informality. Quite unlike slum dwellers and inhabitants of unauthorised colonies, who look to formalising their property, the Jat landlords of these villages are struggling to keep this realm of informality intact. The tussle between the state as the super landlord and the landlords is that of who gets to accumulate, and this tussle is mediated through various governmental directives and notifications, court cases and the gaps

<sup>9</sup> D-111/COM/SDMC/2012, Circular issued by the office of the Commissioner, South Delhi Municipal Corporation, dated 20 June 2012.

and contestations they create. While the local landlords want it to remain in the realm of informality, which provides them with greater scope to manoeuvre around, the state wants to rationalise these spaces in order to tax them better. The tussle between legality and illegality is, therefore, that of accumulation—a form of accumulation that can take place through evidence and counter-evidence of property over fictions and realities of documents and ownership. In a situation where accumulation through land grabs is possible for the landlords through the crevices in documentary regimes, the state responds by attempting to rein them in through what it does best—generate more documents.

These villages are as susceptible to demolitions as any other unauthorised colony or any other slum in Delhi. In fact, if one looks closely, demolition, or rather the threat of it, is probably the only potent way in which the state makes, or rather can make, its presence felt. The spectre of the state and its sovereign power looms large in the form of the threat of demolition. But the collective strength that the Jats have been able to maintain and penetrate institutions like the municipal corporation and the police undercuts the threat of demolition by the sovereign power through the machinations at the local level.

The sheer resistance of these urban villages to be mapped, organised and ordered by the state despite numerous efforts shows how the state has failed to formally regulate the accumulation process and how the local landlords have been able to generate newer practices of accumulation which make use of this illegibility. This fuzziness, this untranslatability, drew from the fact that this formerly communal land neither remained communal nor could it be transformed to the liberal regime of private, exclusive ownership. Further, the form and nature of informality, though having emanated from state's planning, later began to work against the interests of the state, while the powerful Jat landlords here were able to manipulate it in their favour.

## V

### ***Possession versus ownership through GPA***

The complications over understanding land relations are not simply limited to that of the records over Lal Dora status. Apart from the Khasra Girdawari register, which speaks through its two columns of 'owner' and 'possessor', land transactions are further complicated by the presence of the GPA.

The use of instruments and innovations like that of the GPA whereby it becomes possible for people to have the right to transfer disputed or unauthorised property has become one of the most popular instruments of transactions of land in this scenario. The GPA first came into place to circumvent transfer and sale restrictions placed on leasehold property which had significant restrictions placed upon the legal transfer of such property.<sup>10</sup> GPA is a modified legal document which is not recognised as a legal sales transfer and does not give the buyer legal title to property.<sup>11</sup> The sale of property through GPA was banned in 2012 following a Supreme Court order in 2011.<sup>12</sup> However, since the GPA remains a rather popular instrument of transferring land in a city whose cityscape is dominated by unauthorised construction, the Delhi government quite predictably had to come around and in July 2013 lifted the ban on registration of property transfers done under GPA.

The GPA is often accompanied by an Agreement to Sell document, which is not the actual sale but a contractual agreement to sell a property on particular terms and for a particular price.<sup>13</sup> However, soon enough, GPAs began to be used for property transfers. Transfers made through GPAs did not invite registration charges and stamp duties associated with legal transfers which resulted in major losses for the revenue department.<sup>14</sup> GPAs then evolved to circumvent all kinds of restrictions on the sale of

<sup>10</sup> For more, see Nambiar (1994).

<sup>11</sup> Supreme Court of India notes in *Suraj Lamp & Industries Pvt. Ltd. vs State of Haryana & Anr.* on 11 October 2011, SLP (C) 13917/2009: <https://www.sci.gov.in/jonew/judis/38729.pdf>. Accessed on 18 February 2019) that

[GPA] is not an instrument of transfer in regard to any right, title or interest in an immovable property. The [GPA] is creation of an agency whereby the grantor authorises the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him. ....It is revocable or terminable at any time unless it is made irrevocable in a manner known to law (para no. 2).

<sup>12</sup> See SLP (C) 13917/2009.

<sup>13</sup> Supreme Court of India notes in *ibid.*:

Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of Sections 54 and 55 of Transfer of Property Act and will not confer any title nor transfer any interest in an immovable property (except to the limited right granted under Section 53A of Transfer of Property Act) (para no. 12).

<sup>14</sup> Keeping in mind these losses that the state was incurring, in 1989, the government decided to regularise property transferred through GPA with a proof of possession, in return

property. GPAs, therefore, acquired an unprecedented popularity in Lal Dora villages and have been rampantly used to possess property without necessarily having the requisite documents or even paying taxes.

Property transfer through the GPA is one reason which complicates the nature of 'possession' and goes on to create 'complex layers of claims' which make a clear resolution of land titling almost impossible (Benjamin and Raman 2011: 42). Despite the fact that they are unregistered, their extensive presence has created a legal-administrative sphere that has to negotiate with them in this battle over legality and infrastructure (ibid.). In the absence of formal land records and documents, the GPA has worked as a form of an innovated document by the people, which had to be given a semblance of recognition owing to its rampant use. Not only is the legal registration of land a costly affair to some extent, the property owners of urban villages prefer to avoid it as it makes the piece of land and its usage very rigid and rule-bound. In the case of unauthorised property, it becomes all the more important to circumvent the legal process. So, in that case, the GPA is a manufactured piece of documentary evidence used to circumvent the documentary regimes of property ownership in order to create the right to alienate property. The GPA allows for transactions and land speculation to take place informally while also manufacturing a sense of legality through the GPA. It creates multiple, complex layers of claims on land unlike a singular property right. In several cases of land-related disputes, multiple stakeholders over a piece of land have claimed ownership of the one piece of land owing to the presence of numerous GPAs.

GPAs exhibit how the property right gets exercised in ways that are almost in opposition to the standard assumption of property right as black and white. A document like the GPA allows for the existence of law beyond the ambit of formal law itself, whereby the legality is imagined and manufactured with little or no institutional legitimation. The presence of the GPA elicits a sense of affective trust in the lives of people who associate GPAs with a sense of legality and security of property.<sup>15</sup> While the land record documents *authorised* land, the GPA as a purely invented document *authorises* the sale and purchase of such land. These documents together create authenticity, however fragile and challengeable, by precisely

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for payment of conversion charge, registration charges and stamp duties (see Nambiar 1994: 46).

<sup>15</sup> I am drawing from the work of Ghosh (2017). Her larger work traces the history and affects that stamp papers go on to create, often outside the purview of law as we understand it.

the fact that they have been documented on a piece of paper that looks authoritative. GPAs disrupt the logic of the modern state, which reposes all authority of issuing documents to itself. As documents occupying a liminal space in law, they have been able to undercut the documents ordained by the state to a considerable extent.

The Jat community's phenomenal rise to power in the city of Delhi could only happen as land acquired speculative value and, by extension, how land could be transformed into real estate. However, we also see how the state and the cartel of landowners (Pati 2016) compete with each other to accumulate—while the state does it through bye-laws, circulars and such, the cartel of landlords do it through encroachment and maintaining its unity against demolitions in collaboration with the everyday state. If maps are understood as cartographic projections of property relations that define and regulate property (Blomley 2004), to be unmapped allows for a host of possibilities. Therefore, it is apparent why this community uses its influence in order to keep the village land entirely outside the state's scope of knowledge. Unlike James Scott's (2010) influential work on hill societies in South and South East Asia where people move across this disparate region in order to avoid the state, this case is able to show how this zone of being 'not governed' is neither egalitarian nor evasive of the state. In fact, the local landlords enter electoral politics and work around legalities in order to not be governed and yet tame the Leviathan.

This takes us back to the question of law, documents and the very nature of evidence itself. Carlo Ginzburg (1991: 85) reminds us that our shift from a positivistic understanding of the relation between evidence and truth should not mark an altogether rejection of evidence itself, but rather a more layered, tentative relationship that we have with evidence, not as a transparent medium but as a historic document itself. The land record documents, and the GPA show exactly how evidences, sometimes contradictory, are created and maintained in order to create evidence for 'something else'. This 'something else' constitutes the fictions of land, possession and ownership which share a tenuous relationship with reality. As the 'formal' and the 'legal' begin to appear unstable, we are then able to see how informality gets constructed in one moment and then comes undone in the next. At least in the realm of property relations, the distinction between formality and informality is far more blurred. The state too finds itself in a space that it cannot violently clamp down on nor easily legitimise.

From this lens, the state, armoured with all its legal paraphernalia, appears as far less powerful, almost like the metaphorical spider who gets caught in its own web. At the same time, the spaces of informality operating within the crevices of law and exploiting every possibility for further accumulation seem far less innocent.

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