Preserving Tribal Land: How Land Grab in Kerala’s Attappady Violates Legal Safeguards

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SUMMARY

- The tribal communities in Kerala’s Attappady block are facing the issue of land alienation.
- Non-tribal settlers, primarily from Tamil Nadu and Kerala, are encroaching on tribal lands and claiming ownership through counterfeit sale agreements and forged documents.
- The tribal communities have traditionally held ownership of the land in Attappady; however, they have been unjustly labelled as “encroachers” by non-tribal settlers.
- Despite the legal prohibition against selling tribal land to non-tribal individuals, these laws are being violated.
- The absence of proper land surveys and demarcations, coupled with gaps in identifying fraudulent ownership claims, further exacerbates the problem of tribal land alienation.
BACKGROUND

Situated in the foothills of Nilgiris in Kerala, Attappady’s issue of dispossession of tribal lands can be traced to people migrating in search of agricultural lands. At present, the block houses a population of 33,000 tribals, constituting approximately 6% of the state’s tribal population. The first tribal block in Kerala, Attappady, has seen a decline in its tribal population, dropping from 90% in 1951 to roughly 40% in 2001 — mostly due to successive waves of migration from Kerala and Tamil Nadu for decades. Consequently, this has also led to a decline in forest coverage from 82% in 1959 to 19.7% by 1996.

a. Disregarding State Laws that Protect Tribals

Attappady’s tribal communities are documented as the rightful owners of the land. Over the years, however, non-tribal settlers have encroached upon tribal territories and asserted ownership, disregarding Kerala’s laws prohibiting such transactions. To execute this, deceitful tactics were employed, such as preparing false sale agreements and forging ownership documents, to acquire the land at low prices. This has led to a multitude of legal disputes and conflicts over land rights. The absence of proper documentation and verification processes has further amplified this issue.

b. A Report on Lost Tribal Lands


According to the report, tribal communities in the region experienced a loss of at least 4,064 hectares of land between 1960 and 1977. The report highlights the role of non-tribal populations who settled in Attappady since the 1940s and engaged in practices such as leasing tribal-owned land, coercing tribal landowners into signing blank documents, and subsequently acquiring the land through fraudulent sale agreements. This comprehensive survey report reveals the extent of land alienation and provides the historical context to the issue, emphasising the pressing need for protective measures to safeguard the land rights of the tribal communities. It is worth noting that no new studies have been conducted on this matter since then.
c. Existing Legislative Protections

The Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act of 1975, was enacted to safeguard the land rights of tribal communities within Kerala. This legal measure specifically prohibited the sale of tribal land to non-tribals, to prevent instances of land alienation similar to those happening in Attappady. Furthermore, the act was designed to facilitate the return of lands that non-tribals had unlawfully acquired, back to the tribal communities. However, despite the existence of this legislation, tribal communities in Attappady, continued to face challenges in preserving their land rights due to the non-execution of the orders issued under the act.

In 1999, the Kerala State Restriction in Transfer of Lands and Restoration of Alienated Land Act was passed as a replacement for the 1975 Act. Under this new legislation, non-tribal settlers were permitted to retain tribal land they had acquired through purchase, provided the land’s size was less than two hectares. This particular provision resulted in further complications and disputes over land ownership in Attappady. Despite its intention to address the issue of land alienation, the act did not effectively resolve the challenges faced by tribal communities.

d. Lack of Implementation

The process of identifying false ownership claims and verifying the documents as outlined in the act is beset with procedural fraud. The absence of accurate documentation and thorough verification processes has added an additional layer of complexity, thereby exacerbating the plight of the tribals in Attappady.

The sub-registrar office situated in Attappady’s Agali town acknowledges the existing gaps and uncertainty in the process, highlighting the need for fresh surveys and a permanent demarcation of tribal lands to prevent their sale or transfer to non-tribals in future.

Despite their failure, the existence of both these laws signifies the recognition by the Kerala state government of the imperative to safeguard tribal land rights.
Lack of effective implementation and enforcement of existing laws and regulations meant to protect tribal land rights.

Fraudulent practices employed by non-tribal settlers to acquire tribal land, such as forging ownership documents and manipulating records, further complicate the process of reclaiming ancestral lands.

Confusion and gaps in documentation and verification processes, along with non-transference of properties to the next generations, has also emerged as significant challenges in addressing the issue.

Legal disputes within tribal families over their share of the ancestral lands are frequently exploited by settlers to arrange sale deeds.

Additionally, there's a noticeable absence of political will and commitment to resolve the issue of land alienation.
Increasing awareness and sensitisation among both local and migrant communities regarding the rights of tribal communities and the significance of preserving their ancestral lands.

Strengthening governance and political commitment to address land alienation in tribal areas, while providing proactive support and resources to tribal communities in reclaiming their lands.

RECOMMENDATIONS

- Strengthening implementation and reinforcement of existing laws and regulations aimed at safeguarding tribal land rights.

- Enhanced documentation and verification process will ensure transparency and authenticity of claims regarding land ownership.

- Comprehensive surveys and demarcation of tribal lands will prevent sale to non-tribals.

- Increasing awareness and sensitisation among both local and migrant communities regarding the rights of tribal communities and the significance of preserving their ancestral lands.

- Strengthening governance and political commitment to address land alienation in tribal areas, while providing proactive support and resources to tribal communities in reclaiming their lands.
REFERENCES

1. “Criminal neglect takes toll on Attappady tribes.” Down to Earth.

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