

# Characterising land and property related litigation at the Delhi High Court

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# Introduction

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- India has a judicial delays problem. This results in individuals not getting timely relief.
- It also restricts the ease of doing business.
- One conjecture is that land and property disputes, arising from poor property records, clog Indian courts.<sup>1</sup>
- If this is true, property, the largest household asset for Indians,<sup>2</sup> gets stuck in courts.
- Though there is some evidence that this is the case,<sup>3</sup> extrapolation is not ideal.

- We present a novel data-set of case-level data from the Delhi High Court to answer questions regarding:
  1. The volume of litigation related to immovable property
  2. The proportion of such litigation arising out of issues with property records, and
  3. The proportion of such litigation that involves the government

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<sup>1</sup>Reuters (2016) and Burman (2019)

<sup>2</sup>Badarinza, Balasubramaniam, and Ramadorai 2016

<sup>3</sup>World Bank (2007) and Daksh (2017)

# Why the Delhi High Court? i

- Several studies have analysed cases at the Supreme Court of India.<sup>4</sup>
- The literature on high courts and subordinate courts is sparse, and it is important to study them because:
  1. The SC primarily hears appeals, and admits very few matters.
  2. Immovable related litigation is bound to vary from state-to-state due to differences in laws, and local customs and practices
- We attempt to bridge this gap by studying of the Delhi High Court

- We chose the Delhi High Court for two reasons:
  1. It is one of five high courts in India that has *original jurisdiction*
  2. It is anecdotally known to be the preferred forum for litigants in the National Capital Region
- Our findings are thus unique to the Delhi High Court, which:
  1. Has jurisdiction over an urban area; and
  2. Is known to be more efficient than its counterparts.

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<sup>4</sup>Chandra, Hubbard, and Kalantry (2019); Ashok (2017); Wahi (2019); and Hemrajani and Agarwal (2019).

# Methodology

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- We scraped judgments from the orders and judgments database of the Delhi High Court.
- The Delhi High Courts judgments database contains 90,142 decisions (from 2007 to 2019).
- Of these, 75,435 decisions were of case types expected to contain disputes concerning immovable property.
- We were able to successfully download 60,573 judgments.
- The database provided us:
  1. case type;
  2. year of filing;
  3. date of the judgment; and
  4. names of parties.
- We also used regular expressions based pattern-matching followed by manual checks to categorise the petitioners and respondents.



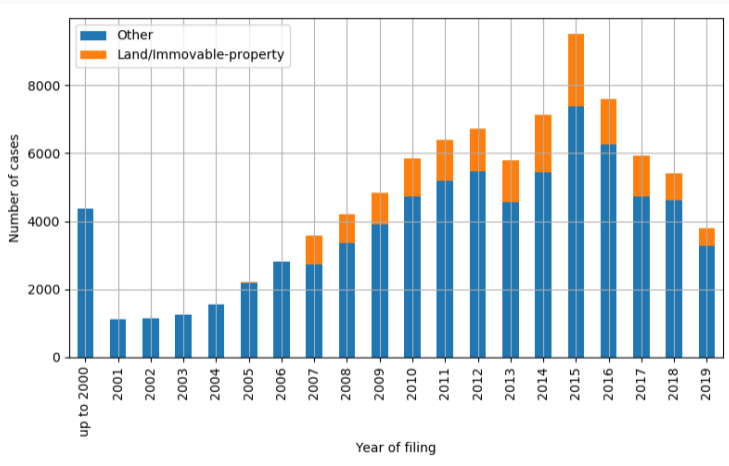
- We used a two-level filter to identify immovable property related cases.
- The first filter was the case-types. We excluded case-types that indicate:
  1. purely procedural matters (e.g. caveats and interim application); and
  2. other substantive cases that would not relate to a property dispute (e.g. contempt petitions).
- Next, we used a three-stage pattern matching protocol based on regular expressions to identify cases related to immovable property.
  1. Negative filter for phrases and words;
  2. Positive filter for phrases and words; and
  3. Positive filter for statutes and policies.

- In our dataset, 15,225 cases (16.9%) of the 90,142 total were immovable property disputes.
- We drew a sample of 700 cases to manually check our classification.
- Our rubric gave us erroneous classifications for 23 out of the 700 cases (3.29%).
- Of these, 19 were false positives and 4 were false negatives.
- Further, for parameters related to the nature of the dispute, we relied on a manual reading of a random sample of 700 cases.
- Here, we also checked whether the quality of property records is the root of the litigation.

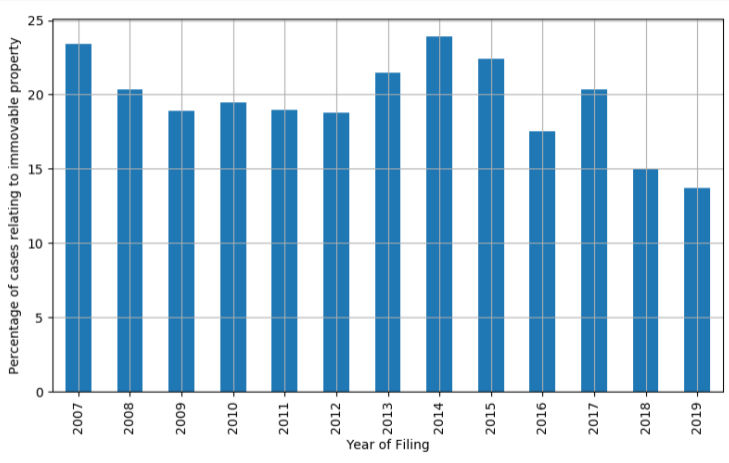
# Findings

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# Year-wise distribution of cases



# Year-wise percentage of cases



## Types of petitions

Type	Total cases	Immovable property related cases	Percentage of total cases
Civil Writ	26,169	5,195	19.85
Civil Original	9,768	3,007	30.78
Civil Appeal	6,635	2,785	41.97
Non-subject Appeals	7,128	1,663	23.33
Rent Control	1,293	1,293	100.00
Others	39,149	1,282	3.28
<b>Total</b>	<b>90,142</b>	<b>15,225</b>	<b>16.89</b>

- For context, in the US, landlord-tenant disputes constitute one-fourth of all civil cases.<sup>5</sup>

<sup>5</sup>US National Center for State Courts (2016)

## Parties to the dispute

Petitioner	Respondent								Total
	Pvt	State	Union	Business	Municipal	CPSE	SPSE	Other	
Pvt	6219	2595	1769	631	556	242	62	54	12128
Business	674	189	432	426	73	175	32	8	2009
Union	197	5	2	112	0	5	0	0	321
CPSE	154	8	14	84	8	10	0	0	278
State	192	3	1	43	0	4	3	0	246
Municipal	97	0	1	9	0	1	0	0	108
Other	17	22	27	1	4	0	0	3	74
SPSE	43	0	1	16	1	0	0	0	61
Total	7593	2822	2247	1322	642	437	97	65	15225

## Case type v petitioner

Case Type	Petitioner								Total
	Pvt	State	Union	Business	Municipal	CPSE	SPSE	Other	
Civil Writ	4266	727	32	78	16	13	52	11	5195
Civil Original	2501	423	8	30	25	10	5	5	3007
Civil Appeal	2283	254	38	84	59	54	1	12	2785
NS Appeals	1091	267	85	47	112	22	14	25	1663
Rent Control	1221	63	2	2	1	4	0	0	1293
Other	766	275	156	37	33	5	2	8	1282
Total	12128	2009	321	278	246	108	74	61	15225



# Sample study

- For further analysis, we read and labelled a random sample of 700 cases
- We classified these cases into seven broad heads viz.:
  1. Eviction;
  2. Land acquisition;
  3. Contractual;
  4. Family matters;
  5. Allotment;
  6. Mortgage; and
  7. Others.
- These are not mutually exclusive
- In the same sample, we examined if land and property records (e.g. mutations) were the cause of the dispute

## Nature of dispute

Dispute type	Petition type						Total
	Civil Writ	Civil Appeal	Civil Original	Other	Rent control	Non-subject Appeals	
Eviction	16	48	52	20	92	12	240
<i>Land Acquisition</i>	132	5	4	21	1	7	170
Contractual	8	40	22	44	1	8	123
Family Matter	2	38	52	8	2	19	121
Allotment	20	3	4	6	0	7	40
Mortgage	11	7	3	3	1	1	26
Other	7	9	7	3	2	3	31

- For context, land acquisition and rent matters are 10% of the Supreme Court's workload.<sup>6</sup>

<sup>6</sup>Robinson (2013)

# Land Records

Subject matter	Cases involving property records	Total Cases	Percentage
Eviction	17	240	7.1
Land acquisition	10	170	5.9
Contractual	25	123	20.3
Family matter	45	121	37.2
Allotment	9	40	22.5
Mortgage	2	26	7.7
Other	6	31	19.4
<b>Total</b>	<b>95</b>	<b>700</b>	<b>13.6</b>

## Conclusion

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Our findings can be summarised as:

- 17% of all litigation at the Delhi High Court is related to immovable property
- Writ petitions constitute the largest case type, followed by original side suits, and appeals against orders from subordinate courts
- Eviction disputes represent the largest proportion of cases, followed by challenges to land acquisition
- Challenges to land acquisition proceedings, allotment matters, and mortgage disputes, are frequently filed as writ petitions;<sup>7</sup>

- Most litigation involving immovable property is between private parties
- The State and Union governments are the second and third largest respondents, respectively, but they are often not the petitioners
- Property records are responsible for a small proportion of cases
- Property records are typically an issue in litigation involving family property (mainly partition and succession)

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<sup>7</sup>This may be because of the relief available or perception of prioritisation.

- Our work is the first step in looking at immovable property related disputes
- Further research may focus on:
  1. Other High Courts to understand state-wise variation;
  2. Origins of litigation (the forum where it originated);
  3. Life-cycle of cases;
  4. Eviction disputes — causes, values, and outcomes;
  5. Contentious legislation; or
  6. How courts decide *salient* immovable property disputes

Thank you