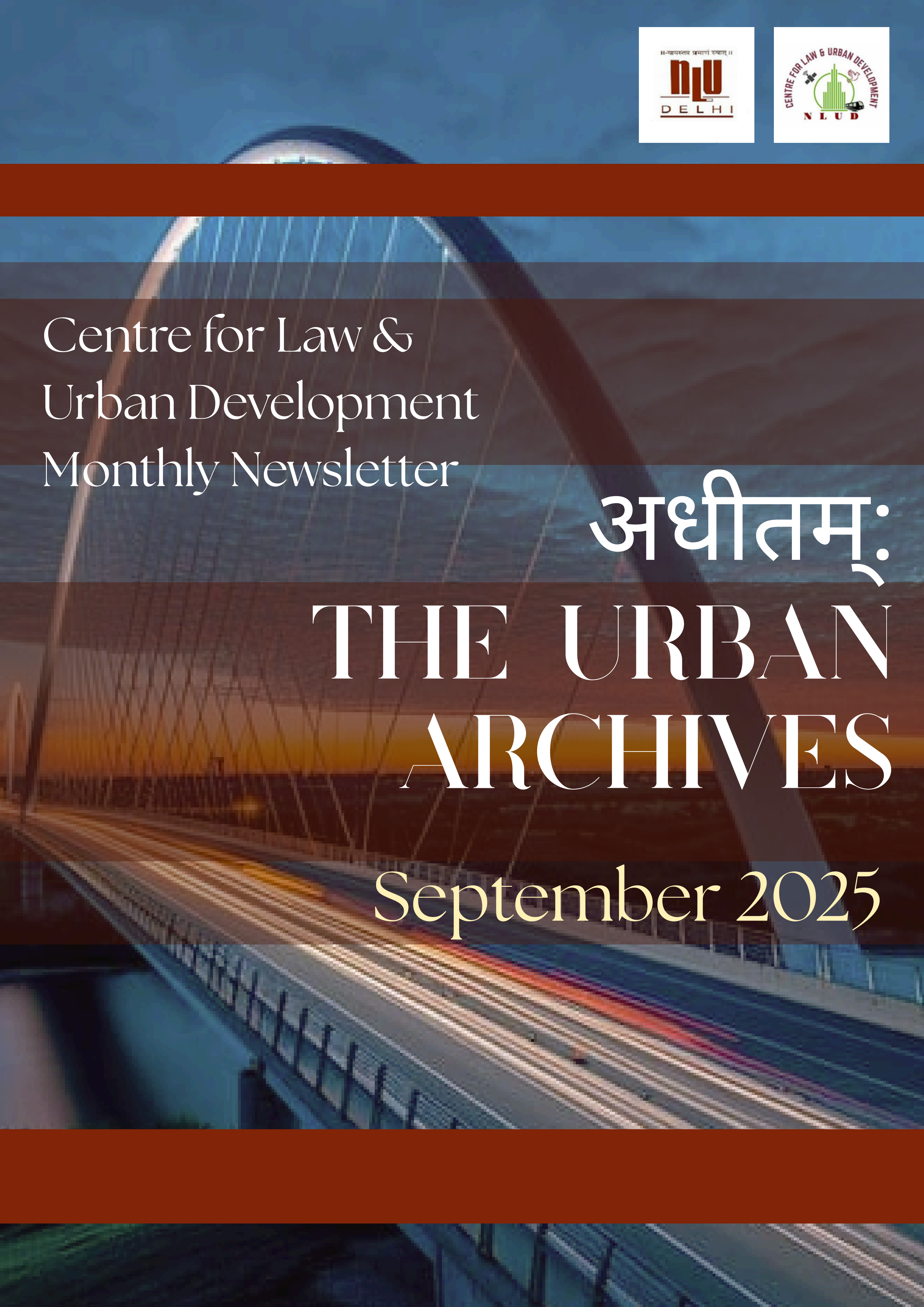

Centre for Law &
Urban Development
Monthly Newsletter

# अधीतम्:
# THE URBAN ARCHIVES

September 2025

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# About CLUD

The primary objective of the Centre is to evolve and impart comprehensive and interdisciplinary research involving land laws, property laws and working towards a sustainable legal education that is socially relevant. We aim to promote legal and ethical values and foster the rule of law and the objectives enshrined in the Constitution of India. Furthermore, the Centre works toward dissemination of legal knowledge and its role in national development, so that the ability to analyse and present contemporary issues of public concern and their legal implications for the benefit of public are improved. These processes strive to promote legal awareness in the community and to achieve political, social and economic justice.

Many believe that the path of liberalisation we embarked upon in the early 90s unleashed India's potential. Undoubtedly the country has undergone vast changes in all spheres and we see a more confident India asserting itself on the global stage. However, this progress has come with very significant challenges to the country. India's various social classes are yet to be assimilated; their participation in the process of governance remains fractured. Cumulative progress needs to be fair and equitable and integral to that is a legal system that empowers the marginalised.

Our sincere endeavour is to make legal education an instrument of social, political and economic change. Each individual who is part of this institution must be remembered for the promotion of social justice. Our students will not only be shaped as change agents as the country achieves its social and developmental goals, but will also be equipped to address the imperatives of the new millennium and uphold the Constitution of India.

# REAL ESTATE

## Karnataka High Court Quashes a Karnataka Real Estate Regulatory Authority Circular Imposing Delay Fees on Promoters

The Karnataka High Court in this significant ruling considered the validity of a circular issued by the Karnataka Real Estate Regulatory Authority (K-RERA) that sought to impose "delay fees" on promoters for late filing of quarterly progress reports (QPRs) and annual audit statements.

The petitioner, a registered promoter, objected to the circular of K-RERA on the basis that it had the effect of retrospectively penalising developers for delays in filing mandatory reports prior to the issuance of the circular. It was contended that K-RERA had exceeded its powers under the Act, as the State Government alone had the power to formulate rules fixing fees, penalties, or charges under Section 84. The petitioner also argued that although being compliant with disclosure obligations under Section 11(1) was compulsory, non-compliance could attract only penalties by a quasi-judicial procedure under Sections 59 to 61, and not by a general administrative order. K-RERA, in its defence, maintained that the circular was intended to improve transparency and accountability in the real estate sector. It described the "delay fee" as an administrative measure to encourage punctual filing, not a penalty. The Authority invoked Section 37 of the Act, which allows RERA to issue directions for the effective implementation of the statute.

The Court, however, rejected this argument on the grounds that Section 37 did not authorise the imposition of any financial burden. It held that the rule-making power of a fiscal nature was vested only in the State Government under Section 84 of the Act. Through the levy of "delay fees," K-RERA had overstepped legislative powers and disrupted the balance between delegated legislation and administrative control. The Court further noted that the retrospective operation of the circular violated the principles of natural justice and legal certainty, as promoters were being penalised for past conduct that was not penalised at the time it occurred. The circular was accordingly declared ultra vires the Act and quashed.

This ruling is significant as it establishes a clear distinction between administrative oversight and legislative power, ensuring that regulatory authorities such as RERA stay within their statutory limits. The decision strengthens the rule of law and reiterates that even regulatory mechanisms that are well-intentioned must work strictly within the parameters set by Parliament.

# Punjab & Haryana High Court Clarifies that IBC Moratorium Does Not Shield Builders from RERA Penalties



In the present case, the Punjab and Haryana High Court examined whether the Regulatory Authority could impose penalties on a company after the commencement of the moratorium under the Insolvency and Bankruptcy Code (IBC). The dispute arose from an order passed by the Haryana Real Estate Regulatory Authority (HRERA) imposing a penalty of Rs. 8 Lakhs on the Petitioner. These proceedings were initiated due to continued defaults in disclosure and project compliance requirements. The Petitioner challenged the validity of the order, contending that it was unsustainable as the moratorium under Section 14 of the IBC had come into effect and the Resolution Professional (RP) had been appointed.

After perusing the submissions, the Court ultimately held that the penalty was lawfully imposed for non-compliance with provisions of the Real Estate (Regulation and Development) Act, 2016. The Court noted that the RP had access to the company's assets and was therefore obligated to comply with the order imposing penalties. The Court further observed that the penalty was imposed through interim orders and that the Petitioner had an alternative remedy available in the form of an appeal before the Real Estate Appellate Tribunal under Section 43(5) of the RERA Act. Accordingly, the Court refused from utilising its Writ jurisdiction and dismissed the Petition.

## NATIONAL COMPANY LAW TRIBUNAL CHENNAI CLARIFIES LIMITS OF HOMEBUYER CLAIMS IN INSOLVENCY PROCEEDINGS



In Rajnesh Sharma v. Business Park Town Planners Ltd., the Supreme Court set aside part of a National Consumer Disputes Redressal Commission (NCDRC) order and enhanced the compensation given to a homebuyer, ruling that developers cannot get away with little liability after inordinate delays while charging exorbitant interest rates from consumers for late payments. The dispute arose from a project booked by the appellant in the year 2006 with a delivery schedule of 24 months. The builder, however, failed to deliver possession of the property even after a period of more than ten years, even though he had received a substantial amount of Rs. 43 Lakhs from the allottee. Further, in 2011, the builder unilaterally assigned an alternative plot on the grounds of "layout changes," demanded additional charges, eventually giving possession in 2018, twelve years from the initial booking.

Aggrieved by the undue delay, the Appellant filed a complaint before the National Consumer Disputes Redressal Commission (NCDRC) claiming a full refund with an interest of 24% p.a. Furthermore, the Appellant claimed an additional sum of Rs. 72,30,000 as compensation for the increase in the property's value that he missed out due to not receiving the plot. Before the NCDRC, the Respondents offered to repay the principal amount with 9% simple interest per annum. The NCDRC disposed of the complaint on the basis of the offer given by the Respondent, without delving into the merits of the case. The Appellant contended that the NCDRC committed a serious mistake by mechanically awarding compensation, without regard to the considerable delay in handing over possession and the unilateral nature of the agreement. Conversely, the Respondent argued that compensation should be restricted to quantifiable loss established under Section 14 of the Consumer Protection Act, 1986, and relied on precedents wherein 9% interest was considered standard.

The Supreme Court observed that though parity in interest between builder and buyer is not a universal rule, the amount of interest should be governed by the principle of reasonableness. Accordingly, a series of judgments cited by the Respondents emphasising that 9% interest is awarded as standard, had no bearing on the decision of the bench. Based on the overall conduct of the Respondent, including the delay caused by it in offering the plot, the fact that the Respondent charged the appellant delay compensation @ 18% p.a. on the due amount, and the long wait that the appellant had to endure over a period of a decade, causing harassment and anxiety, the Court held that awarding simple interest of 9% p.a. would not meet the ends of justice. It noted that based on equity and fairness, the respondent should be held liable for consequences similar to those imposed on the appellant for default committed by him. Accordingly, the Court enhanced the interest rate to 18% per annum on the refunded amount.

In Mansi Brar Fernandes v. Shubha Sharma, the Supreme Court heard multiple appeals arising from Section 7 IBC petitions filed by alleged homebuyers against real-estate developers. The Court dealt with two fundamental issues of law: (i) First, whether the appellants were speculative investors, and thus disentitled from initiating CIRP under Section 7 IBC; (ii) second, whether the IBC Amendment Ordinance of 2019, which imposed a threshold requirement of 10% or 100 homebuyers, was applicable in the appellants' cases?

The Court noted that the IBC serves the twin purpose of reviving viable companies and protecting bona fide stakeholders. It emphasised IBC's role as a forum of revival and denounced its misuse by those driven purely by profit motives. Drawing from its judgment in Pioneer Urban, it carved out a key distinction between "genuine homebuyers" and "speculative investors". In the opinion of the Court, a bonafide homebuyer under the IBC is one who is willing to take physical possession of the residential unit, while a 'speculative investor' is one who enters into a transaction with the intent to make profits and no desire to acquire possession. The Court observed that categorising a party as a genuine homebuyer or a speculative investor entails a factual enquiry, considering factors like: (i) Presence of buy-back/refund clauses; (ii) Demand for high interest instead of possession; (iii) Absence of builder-buyer agreement; (iv) Multiple unit purchases with disproportionate privileges; (v) Promises of excessive returns.

On the facts, the Court found that certain appellants (including the lead appellant) had entered into Memorandum of Understandings (MoUs) that functioned as disguised investment contracts with buy-back options exercisable at the developer's discretion, inflated assured returns, dishonoured post-dated cheques, and lack of genuine intent to take possession. These features pointed to speculative intent and the NCLAT's characterisation of those appellants as speculative investors was therefore upheld. The Court held that permitting such investors to trigger Corporate Insolvency Resolution Process (CIRP) would destabilise projects and prejudice bona fide allottees. Answering the second issue, the Court emphasised the mandatory nature of the threshold requirement of 10% or 100 homebuyers imposed by the 2019 Amendment and mandated its compliance by all pending petitions.

Outside adjudication of the dispute, the Court also issued guidelines to safeguard the "right to housing" guaranteed under Article 21 of the Constitution. It directed every residential real estate transaction for new housing projects to register with local revenue authorities upon payment of at least 20% of the property cost by buyer. Further, proceeds from allottees shall be placed in an escrow account and disbursed in phases aligned with project progress, as per a RERA-sanctioned SOP. Other recommendations include establishing a revival fund to provide bridge financing for stressed projects, and creation of a body corporate, similar to National Asset Reconstruction Company Limited [NARCL], to take over and complete stalled projects under IBC.

## The Supreme Court held that the Land Contributed for a Common Purpose must be Returned Proportionally in case the land is Unutilised

The Supreme Court of India, reviewing its own decision of 2022, recently held that if the land contributed for a common purpose has not been utilised, the same must be returned to the landowners in proportion to their contribution. This observation was made by a 3-judge bench of the Supreme Court, comprising Chief Justice B.R. Gavai and Justices P.K. Mishra and K.V. Viswanathan, in the case of State of Haryana v. Jai Singh, 2025 INSC 1122.

The dispute arose out of an amendment by the State government, which expanded the definition of shamilat deh to include the land that was contributed by the village locals for the development of roads, schools, or pastures. Shamilat deh refers to common lands in a village that are reserved for the benefit of the village community. This amendment was challenged by the landowners who contributed to the land as a colourable exercise of power to appropriate bachat land (unutilized land) without compensation for the same. The High Court held that unless unutilized/bachat land is specifically reserved for common purposes and its possession is handed over to the Panchayat, it continues to belong to the proprietors.

The State government, in appeal against the judgment, approached the apex court against the Court's ruling on the premise that the ruling of the High Court was self-contradictory because while it held that lands reserved for common purposes vest in the Gram Panchayat, it directed the cancellation of mutations made in favour of the State.

The respondents, on the other hand, argued that they were the absolute owners of the lands and they cannot be deprived of their proprietary rights without due process and compensation. They argued that the impugned amendment amounted to compulsory acquisition without compensation and hence, violated Article 31A of the Constitution, which mandates that the acquisition of land must be accompanied by payment of compensation which must not be less than the market rate of the land.

The Court, while adjudicating upon the issue, relied upon the previous ruling of the Court in the case of Bhagat Ram & Ors. v. State of Punjab, (1967) 2 SCR 165, which adjudicated upon the issue of acquisition of land by the panchayat for the purpose of facilitating the income of the Panchayat. Hence, the Court upheld the High Court's decision and held that lands not earmarked for any specific purpose do not vest in the Gram Panchayat or the State.

## Fairly Determined Compensation for Land Acquisition must be given to even those Land Owners who didn't approach the Court

Himachal Pradesh High Court, adjudicating upon the issues presented before it in the case of Vishwa Nath Sharma v. State of H.P., 2025:HHC:30828, recently held that the benefits of a revised compensation for land acquisition must be provided to even those land owners who did not approach the Court against the award. The single judge bench of Justice Ajay Mohan Goel held this while adjudicating upon a dispute pertaining to a reference made against a land acquisition for the construction of a stadium and helipad.

The land was acquired in 1984, and the land acquisition award was passed in 1995. Although some landowners filed a reference, the petitioners in the current case did not. The reference led to an enhanced award, to which the current petitioners filed an application under Section 28A of the Land Acquisition Act, 1894, which provides for re-determination of the amount of compensation on the basis of the award of the Court. The enhanced award was initially granted to the petitioners, but it was later unilaterally reviewed, and the award was reduced.

The state, before the High Court, contended that the petitioners were neither co-owners nor in any other way interested in the land belonging to the parties who received the favourable Supreme Court orders. Thus, the Collector's rejection of granting them the revised award was appropriate and non-perverse.

The Court, however, rejected this argument and held that if a particular rate of compensation is judicially determined, the benefit thereof is to be given even to those who could not approach the Court.

The Court further held that the principle of re-determination under Section 28-A of the Land Acquisition Act, 1894, is based on the principle of equity. Since land owners were deprived of their land through compulsory acquisition and not by choice, they should have been provided with the best compensation for their land.

## The Supreme Court asks the Union Government to reconsider Certain Provisions for Land Acquisition under the National Highways Act

A division bench of the Supreme Court, comprising of Justice Surya Kant and Justice Joymalya Bagchi, recently, in the case of Riar Builders Pvt Ltd and Anr. v. Union of India, Diary No. 26933-2025, asked the Solicitor General to obtain instructions from the Union government on bringing certain changes to the provisions entailed in the National Highways Act, 1956.

The issue before the Court arose out of a challenge against a judgment of the Punjab & Haryana High Court in the case of Sohan Lal v. Union of India, 025:PHHC:040091-DB, in which the Court of Justice Sureshwar Thakur and Justice Vikas Suri had struck down Section 3G and 3J as being unconstitutional for providing a discriminatory mechanism for compensation of landowners.

Section 3G pertains to the determination of the amount payable as compensation, and Section 3J states that nothing in the Land Acquisition Act, 1894, shall apply to an acquisition under the National Highways Act. The Sections were held to be unconstitutional by the bench since landowners under the 1894 and 2013 Acts receive higher compensation with additional statutory benefits, whereas those under the 1956 Act were denied the same.

The Hon'ble Supreme Court orally observed that the 1956 Act leaves adjudication of compensation up to the executive, even though acquisitions under other laws, such as the Land Acquisition Act, require judicial oversight. The Court underlined the importance of fairness in the procedure for NHAI land acquisitions and highlighted that the same must undergo judicial scrutiny.

1.

## Port Connectivity at the Core of India's Infrastructure Push

Union Minister for Road Transport and Highways Nitin Gadkari announced in September 2025 that projects worth nearly ₹1 trillion are under full-scale implementation to improve port connectivity across India's coastline. These projects cover about 2,700 km of road and expressway links designed to integrate major and minor ports with industrial corridors and logistics parks. The initiative is part of the government's wider effort to build an interconnected freight ecosystem through the PM Gati Shakti National Master Plan.

Gadkari also confirmed that twenty-five greenfield expressways, spanning around 10,000 km with an investment of ₹5 trillion, are moving forward alongside these coastal links. Together, they are expected to lower logistics costs, improve last-mile freight efficiency, and strengthen trade routes. The ministry estimates that every ₹100 spent on road and highway infrastructure contributes roughly ₹321 to India's economy.

From a legal and governance perspective, the port connectivity drive shows how large-scale transport projects now depend on coordination between central and state agencies and compliance with environmental impact and coastal-zone regulations. The programme also expands the role of public-private partnerships and innovative financing mechanisms such as Infrastructure Investment Trusts (InvITs) and Toll-Operate-Transfer models. These frameworks reflect a move toward greater accountability and long-term financial sustainability in India's transport and logistics planning.

2.

# Adani to Build ₹4,081 Crore Ropeway Linking Sonprayag and Kedarnath

Adani Enterprises Limited announced on 15 September 2025 that it has received a Letter of Award from the National Highways Logistics Management Limited (NHLML) to develop the 12.9 km Sonprayag–Kedarnath ropeway project in Uttarakhand. The project, valued at ₹4,081 crore, will reduce the pilgrimage journey from an 8–9 hour trek to just 36 minutes and can carry 1,800 passengers per hour in each direction.

Developed under a Public-Private Partnership (PPP) model with NHLML, the ropeway will be implemented by Adani's Roads, Metro, Rail, and Water (RMRW) division and completed in six years. After construction, the company will operate it for 29 years under a revenue-sharing arrangement. Kedarnath attracts over 20 lakh pilgrims each year, making this one of India's most ambitious religious mobility projects under the National Ropeways Development Programme – Parvatmala Pariyojana.

From a legal and governance perspective, the ropeway reflects a modern approach to faith-based tourism infrastructure that combines engineering precision with regulatory oversight. The project will require adherence to environmental clearances, land acquisition norms, and the PPP framework under the National Highways Authority of India. It is expected to improve accessibility while creating jobs and promoting sustainable economic development in the Himalayan region.

3.

3.

## Judicial Review and Metro Planning: Karnataka High Court Upholds Executive Domain

On 1 September 2025, the Karnataka High Court dismissed a public interest litigation seeking a directive to the Bangalore Metro Rail Corporation Limited (BMRCL) to construct a metro station at Chikkajala Village under Phase 2B of the Blue Line (C. Naveen Kumar & Others v. BMRCL & Others, W.P. No. 23534 of 2025). The petitioners argued that the exclusion of the station deprived the area's residents of equitable access to public transport.

The Division Bench observed that decisions on the location or number of metro stations are matters of technical and financial policy falling within the competence of the executing authority, not the courts. It held that judicial interference would be warranted only if a decision was shown to be arbitrary, discriminatory, or in violation of statutory provisions. Finding none of these grounds, the Bench refused relief, reaffirming that courts must respect administrative discretion in complex urban-infrastructure projects.

The judgment reinforces a consistent line of reasoning in transport-law jurisprudence that separates policymaking from adjudication. For urban-development professionals, it underlines the need for stronger participatory planning mechanisms and transparent consultation processes during project design so that citizen concerns can be addressed before plans are finalized.

## Dhaka's DAP Revision: Growth at the Cost of Liveability?

Recently, a revision has been made to Dhaka's Detailed Area Plan 2022-2035 (DAP). One of the major changes introduced has been that it doubles the height limit of buildings and increases the allowable limits of population density. This has kick-started a debate over the capital city's population density and strained resources. The aim of this change is to give impetus to housing and investment in the city. However, urban planners warn that the change could increase congestion, waterlogging and exacerbate environmental degradation in a city, which is already one of the world's most congested and populated areas.

The revised DAP merges 275 population-density blocks into 68 zones across 1,094 square kilometres and raises the maximum population density from 250 to 300 per block. Floor Area Ratios (FAR) and housing-unit ratios have more than doubled in many areas, allowing structures that were once capped at five storeys to reach ten or eleven. Developers are therefore in support of the new plan and have hailed the changes as necessary to provide a boost to the construction sector.

Along with a revision to the DAP, the draft Dhaka Metropolitan building rules 2025, endeavours to streamline several administrative procedures. Occupancy certificates will no longer require renewal. Every five years, sewage treatment. Plants will be mandatory for plots of certain sizes, and processing times for approvals have been extended to 180 days. The new framework also seeks to implement incentives for green buildings and more stringent enforcement mechanisms to curb compliance violations.

Supporters argue that these changes reflect the practical realities of Dhaka. An argument made in support is that raising height limits, particularly in the outskirts and peripheral areas of Dhaka, such as Narayanganj, Savar and Keraniganj, could help take some pressure off the city centre as housing would expand in the suburbs. Another contention has been that the open-space clause which links greater building height to more surrounding greenery, will also encourage better land use and planning. Developers, represented by the Real Estate and Housing Association of Bangladesh (REHAB), are of the view that these changes could help revive a stagnant housing market.

However, on the other end of the spectrum, experts from the Bangladesh Institute of Planners have offered an entirely contrary view. They contend that these changes prioritise profit over people. The higher density threshold has been described as reckless while referring to global urban norms, which seldom exceed 150-200 residences per block. An expert further warned that such a change could transform peripheral zones into vertical slums, thereby worsening congestion and undermining efforts to control the population pressure in the city.

Environmental concerns extend beyond density. While the plan merges major and minor watercourses into flood-flow zones, prohibiting construction there, critics say this single measure cannot offset the cumulative strain of rapid vertical expansion. The capital's chronic drainage problems, traffic gridlock, and declining air quality could all intensify if infrastructure fails to keep pace with denser habitation.

The dilemma facing the Bangladesh government with respect to Dhaka then remains whether to prioritise rapid urbanisation or take a more prudently paced approach to deal with the city's wider population density problem. Tier 2 cities in India are also at the cusp of such major decision-making with respect to urban planning as populations continue to grow in cities such as Indore, Lucknow and Jaipur. This is a conundrum which is not unique to Dhaka alone but echoes the issues faced by several Asian cities which are home to swiftly growing populations.

New South Wales in Australia is at the cusp of one of its most transformational planning reforms in nearly five decades, with the introduction of the Environmental Planning and Assessment (Planning System Reforms) Bill 2025. The main endeavour sought by the bill is to streamline the complex planning process of the state and fast-track housing approvals in the midst of an escalating crisis of housing, affordability, and supply.

One of the major reforms sought to be enforced by the bill is the creation of a "single front door" Development Coordination Authority, which would replace the current system, which forces builders to navigate approvals from over 20 government agencies. This new body would consolidate decision-making and advice across departments, thereby eliminating deals and bureaucratic overlaps. The bill also envisages the creation of a Housing Delivery Authority, which would be a statutory corporation responsible for evaluating large-scale housing projects. These institutions therefore, indicate a shift towards centralised as well as expedited planning control.

The reforms also include the removal of Sydney's district and regional planning panels, the introduction of a targeted assessment pathway for low-risk developments, and a 10-day deemed approval period for minor home renovations unless a council rejects the application. Local Community Participation Plans would also be replaced with a single, state-wide framework—further standardising processes across councils.

The bill has gained rare bipartisan support with Opposition Leader Mark Speakman and Shadow Planning Minister Scott Farlow collaborating with the government on the bill. There is much consternation in political circles with regards to the bill as it is being perceived as a possible "game changer" for reducing red tape and approval times.

The Indian housing landscape is also marred by similar concerns over rampant red tapism where approvals from various municipal authorities need to be sought before a project can begin and during the project as well. This problem has eased to some extend with digitisation such as the recent introduction of the PRATYAY MahaBhumi Portal in Maharashtra where deemed conveyance was made an entirely digital process.

Nonetheless, the Indian scenario presents a unique problem where both developers and homebuyers are caught in the web. While developers struggle with red tape and the various oversight and compliance mechanisms, for homebuyers, these still do not offer enough assurances as developers nonetheless fail to deliver projects on time or with the quality and amenities marketed initially. This is particularly a problem in Delhi NCR where although the introduction of Real Estate (Regulation and Development) Act, 2016 clarified laws on occupancy, development, developers' obligations etc, the problems with large-scale housing projects persist. In this context, New South Wales's proposed Housing Delivery Authority via the new bill presents a model which could be adopted in India as well for dealing with large scale housing projects.

In essence, the 2025 New South Wales's planning reforms represent a high-stakes balancing act between urgency and oversight. If successful, the "single front door" model could mark a historic leap toward responsive urban governance. If not, it may simply replace one maze of bureaucracy with another —albeit a faster-moving one.

## Review Decisions Can Cure Earlier Assessment Gaps: United Kingdom Court of Appeal in Zahra Fatolahzadeh v. London Borough of Barnet [2025] EWCA Civ 1174



The Court of Appeal dismissed Ms Fatolahzadeh's appeal against Barnet, upholding the County Court's earlier conclusion that a lawful review of suitability cured any shortcoming in the local authority's earlier housing-needs assessment.

The appellant, threatened with homelessness, completed medical and affordability self-assessments in September 2022. Barnet recorded a Personal Housing Plan (PHP), obtained a medical assessment, upgraded the applicant's banding and identified suitability criteria (ground/level access shower, max first floor or lift). Barnet offered and then withdrew an unsuitable property; later it made a final Part 6 offer of a ground-floor two-bed flat with a level-access shower. The appellant accepted but asked for a statutory review under s.202 (challenging suitability). The reviewing officer produced a detailed decision concluding the property was suitable.

The appellant argued (i) Barnet had not carried out the statutory assessment required by s.189A (or kept the PHP under review), and therefore could not lawfully discharge its prevention duty under s.195; and (ii) any deficiency in the PHP could not be remedied by a later review decision.

The Court of Appeal accepted the County Court's factual finding that Barnet had in substance carried out an assessment. The assessment appeared across interview notes, the PHP, medical team input and banding correspondence. Even if the initial assessment lacked detailed reasoning on the distance from the applicant's support network, that deficiency was expressly addressed and remedied by the detailed review decision. The Court endorsed the established principle that where Parliament provides a statutory, administrative review route (s.202) that affords the applicant a fresh decision, that review can cure defects in the initial decision, provided the review itself is legally robust. Judicial review remains available where the initial assessment is so flawed that public law relief is required, but that was not this case.

The Court further reasoned that one must ask whether Parliament intended non-compliance to produce automatic invalidity. Here, given the statutory scheme and purpose, it would be an absurd result to treat a faultless, comprehensive review as invalid because of an earlier procedural deficiency that the review has corrected.

Accordingly, the appeal was dismissed. The Court reaffirmed that the focus on appeal is the lawfulness of the review decision and earlier procedural imperfections do not automatically invalidate a properly reasoned and lawful review outcome.

## Decriminalization of Deaths Caused by Medical Negligence: A Major Reprieve to the Physicians after the New Criminal Law Bills were passed by Lok Sabha.

After making a historic move, Union Home Minister Amit Shah informed the Lok Sabha that deaths resulting from medical negligence would be decriminalised, a move that will mark a historic reform of the healthcare sector in India. To be included through an amendment to the Bharatiya Nyaya (Second) Sanhita, the proposal will exempt the physicians from criminal prosecution in cases where such deaths were caused by unintended medical errors.

Presently, these cases are tried under Section 304A of the Indian Penal Code (IPC), which tries cases of imprisonment of up to two years for causing death through negligence. The next amendment is aimed at providing criminal liability to look into the cases where no gross misconduct or wilful conduct can be proved in a medical professional situation.

It has been highlighted that until the doctors are seen as criminals due to unintentional outcomes, it is important to reform the long-standing demand to carry out reform, as expressed by the Indian Medical Association (IMA). The association had earlier petitioned the government to exclude professional medical practice of crime because such laws would instil fear in the practitioners and would promote defensive medicine among the practitioners.

Specialists argue that this amendment brings India into line with international legal standards, where the negligence of the medical care provider is mainly considered a civil case. It will still give patients the right to seek redress in the civil courts and the regulatory medical councils, thus holding them accountable without making them criminals in case of true mistakes.

It is expected that the results of this reform will be a reduction in stress and burnout among doctors, encouragement of confident decision-making in medicine, and increased attractiveness of the profession to the future practitioner, which will be a significant step toward building a more trustworthy and fair healthcare system.

# Delhi HC Requests HMIS to provide real-time hospital bed and doctor availability to the general population.

The Delhi High Court has taken what could be considered a critical step in improving the transparency of an emergency healthcare provision system when it ordered the Delhi government to look into ways in which real-time information on bed and physician availability in a hospital can be made available to the citizenry through the Health Management Information System (HMIS).

This order was made by a division bench led by Justice Prabha M. Singh and Justice Maneet Pritam Singh Arora in a 2017 suo motu public interest litigation that touched on the shortage of intensive care unit (ICU) beds and increased violence towards medical professionals. The Court noted that patients in emergency departments, especially those who require ICU services, are often forced to seek services at various hospitals in search of beds and physicians who are available, a situation that is considered undesirable.

The bench suggested that the government of Delhi come up with a web-based or mobile-based application that is built on the HMIS to relay real-time information on regard to the ICU bed availability, outpatient department (OPD) services, inpatient department (IPD) services, and the availability of specialist services so that patients could easily contact hospitals that provide the services needed.

The Health Secretary told the Court that the HMIS software was designed in line with the recommendations of the Dr. SK Sarin Committee. The bench has now ordered the Director of AIIMS to call a meeting of the relevant persons and to present a status report on what modules of the HMIS have been put in operation, and also which are still awaiting to be put into operation, and a time schedule for their full implementation.

The Court also emphasised that the main purpose of the HMIS should be to make hospitals reachable, effective, and patient-centred, especially in emergencies. Further, the bench instructed the Union Public Service Commission (UPSC) to carry on with the recruitment of radiologists, nursing staff, and paramedical staff without any bureaucratic interference, which strengthened the overwhelmed healthcare system in the city.

# Delhi High Court gives AIIMS Director the authority to manage the Health Reforms in the middle of the governance crisis.

The Delhi High Court ordered the Director of the All India Institute of Medical Sciences (AIIMS) to take steps to see that all the recommendations of the Dr. S.K.Saran Committee are carried out in an effort to fill in the shortcomings of the public healthcare system in Delhi, in a forceful judicial intervention. The Court granted the Director vast power to organise and operate emergency healthcare services at government hospitals. The Court ruled on this basis because of what it described as a complete absence of agreement between the government of Delhi and its bureaucratic system, making citizens the eventual losers of apathy and indifference.

A major setback in the Sarin Committee, which met in February 2024 to examine the lack of intensive care unit (ICU) beds and ventilators in government hospitals, was that four of six members recused themselves on conflict of interest grounds due to their employment by the Delhi government. The Court noted that these developments can say volumes about the dysfunctionality of the city's health administration.

To empower the AIIMS Director as a separate entity, the bench approved the use of AIIMS staff or as a contractual employee to manage dysfunctional units of emergency at Delhi government and Municipal Corporation of Delhi (MCD) hospitals. The Director also had the mandate to raise funds via corporate social responsibility (CSR) donations, as well as securing or leasing medical equipment, and all the funding came through the Government of the National Capital Territory of Delhi (GNCTD).

The Court also mandated the GNCTD to create 38,000 new posts to order doctors, specialists and paramedics to serve the 24 hospitals under construction at the moment. The Court also ordered the GNCTD to provide appointment notices to 23 doctors who were picked by the Union Public Service Commission (UPSC) within a period of seven days.

The order is a significant judicial intrusion into the governance of public health, and it highlights the growing role of the judiciary in maintaining accountability, coordination, and service delivery in the already poor healthcare infrastructure of Delhi.

# Supreme Court Rebukes NCDRC on Acting Exceeding its mandate in the Antenatal Negligence case, and directs 10 Lakh repayment.

In an important jurisprudential ruling that highlights the existing limitations on the quasi-judicial powers, the Supreme Court of India has set aside an order of the National Consumer Disputes Redressal Commission (NCDRC) which placed the liability of a gynaecologist on grounds of an alleged antenatal negligence claim that was not mentioned in the original complaint. The Court ordered the complainant to pay back 10 lakh from the compensation awarded in NCDRC.

The case is based on the lethal death of a woman who had a severe postpartum haemorrhage (PPH) after delivery. Both the treating physician and the nursing home were first held negligent by the State Consumer Disputes Redressal Commission (SCDRC), which ruled the payment of 20.26 lakh to the complainant. The NCDRC on appeal dismissed the nursing home and only imposed the physician to be responsible.

On appeal again, the bench of Justices Sanjay Kumar and S.C. Sharma ruled that the NCDRC had exceeded its mandate by bringing on board an "antenatal negligence" claim, even though it was filed in respect of the care given after delivery. (Antenatal negligence is when a healthcare provider fails to meet the accepted standard of care during the prenatal period or labor and delivery, resulting in harm to the mother or baby.) The Court observed that several medical boards had determined that there was no evidence of negligence noting that post-partum haemorrhage is an acknowledged obstetric complication, which can arise despite appropriate precautions.

By underlining the fact that adjudicatory bodies should restrict themselves to the submissions, the Court said that not all failure in treatment necessarily suggests negligence.

This decision is consequential in that it strengthens judicial restraint in the consumer fora that ensure that physicians cannot be characterised as liable based on grounds that are neither pleaded nor proved, and therefore emphasises fairness and procedural discipline in the medical-negligence adjudication.

# Gujarat Urja Vikas Nigam Limited (GUVNL) v. Essar Power Limited (EPL): Supreme Court clarifies distinction between reimbursement and compensation in cases of diverted electricity

India's electricity regulation jurisprudence witnessed a landmark judgment in Gujarat Urja Vikas Nigam Limited (GUVNL) v. Essar Power Limited (EPL). The primary discourse in the case was with respect to the interpretation of Power Purchase Agreements (PPAs) and the recovery of fixed charges in cases of illegal/wrongful power diversion. The issue in the case had been in litigation for over two decades since 2005 and concerned whether GUVNL could claim reimbursement of fixed charges and compensation when EPL diverted electricity from its allocated share to its sister company, Essar Steel Limited (ESL).

The core of the dispute lay in a 1996 PPA, which had allocated 300 MW to the Gujarat Electricity Board, which was the predecessor of GUVNL, and another 215 MW to ESL in a 58:42 ratio. It was subsequently alleged that EPL diverted GEB's share to ESL from 1998 onward, and this led to multiple regulatory as well as judicial interventions. GEB's claim was upheld before the Appellate Tribunal for Electricity, and this was appealed before the Supreme Court.

The Supreme Court, in an earlier judgment where it considered the varied interpretations of "proportionate allocation" and the right to reimbursement, set aside APTEL's judgment as erroneous and restored GERC's earlier order. However, GERC's order had not dealt with the calculation of the loss suffered by GUVNL and the same continued to remain the subject of the dispute.

To determine the same, the Supreme Court in this case carefully marked out the distinction between "compensation" for diversion and "reimbursement" of fixed charges. The Court further held that GUVNL would be entitled to both in this scenario because the compensation was necessary on account of the loss suffered by GUVNL due to the diverted power, and the reimbursement would be needed as restitution for fixed charges that had been paid for capacity which was never supplied. The Court also rejected EPL's attempt to benefit twice by retaining the fixed charges from both GUVNL and ESL for the same diverted electricity. Additionally, it was clarified that both GERC and APTEL had erred in applying the earlier 2016 Supreme Court judgment and had conflated the two heads of recovery.

The computation of diverted energy was another significant aspect of this case. Although the PPA initially required hourly calculations, the Court, based on the Central Electricity Authority's 2005 recommendation, upheld a half-hourly computation-based model. This would have to be implemented by both parties to ensure accuracy. The judgment reiterates and underscores accountability in regulatory practices – parties cannot subsequently repudiate operational standards they had earlier adopted themselves. The decision highlights the binding nature of proportionate allocation principles under PPAs, clarifies the regulatory commission's limits with respect to interpretation, and further emphasises fairness in public-private power contracts.

# Supreme Court Upholds Pro-Rata Coal Allocation, Reiterates Judicial Restraint in Regulatory Matters



The core issue in Haryana Power Purchase Centre (HPPC) & Ors. v. GMR Kamalanga Energy Ltd. & Ors. revolved around coal supplied to GMR Kamalanga Energy Ltd. (GKEL) under government linkage, and the question was whether the same should be divided among multiple state distribution companies (DISCOMs) on a pro-rata basis or prioritized for individual Power Purchase Agreements (PPAs). The Court dismissed the appeals filed by Haryana Utilities and GRIDCO, and upheld the findings of the Central Electricity Regulatory Commission (CERC) and the Appellate Tribunal for Electricity (APTEL). The Court held that all DISCOMs are required to share the coal allocation proportionally and also reiterated that appellate intervention has to be limited to substantial questions of law under Section 125 of the Electricity Act, 2003.

The dispute had stemmed from long-term PPAs executed by GKEL with GRIDCO (Odisha), Haryana DISCOMs, and Bihar DISCOMs. Subsequently, there was a change in government coal policies, and GKEL sought compensation for the same under "Change in Law" provisions before the CERC. The CERC, in its decision, held that coal and related costs ought to be distributed proportionately among beneficiaries. This decision of the Commission was challenged by Haryana Utilities and GRIDCO. Both argued that their agreements were distinct, and Haryana Utilities, in particular, grounded its contention in the fact that Haryana had an earlier firm linkage and should therefore not bear the costs attributable to other states. These contentions were rejected by CERC as well as APTEL. Both the Commission and the Tribunal held that the coal allocation would apply to the project as a whole and not to specific PPAs.

The issue then came before the Supreme Court, where Haryana contended that the primary issue was with regard to the interpretation of documents, which amounts to a substantial question of law. GRIDCO argued that since it had not been a party to earlier proceedings, its rights had been prejudiced. The Court, however, deemed that the appeals essentially were seeking a re-evaluation of factual findings which had been adequately determined by the Tribunal and the Commission. Citing precedents including MSEDCL v. Adani Power and Energy Watchdog v. CERC, the judgment highlighted that regulatory authorities such as CERC and APTEL are specialised forums which enjoy a particular status in their respective domains. Courts must therefore defer to the expertise of such forums unless their orders are arbitrary or contrary to statutory provisions. Ultimately, the decision of the Court also underscored that such unwarranted challenges to concurrent findings delay regulatory certainty and ultimately harm consumers through higher carrying costs.

# APTEL's Insistence on Fair &Project-Specific Tariff Determination: Manchukonda Pvt. Ltd. v. Karnataka Electricity Commission



In Manchukonda Agrotech Pvt. Ltd. v. Karnataka Electricity Regulatory Commission, the Appellate Tribunal for Electricity (APTEL) set aside a tariff determination order issued by the Karnataka Electricity Regulatory Commission (KERC), citing that the same violated Section 62 of the Electricity Act, 2003. The Tribunal deemed the tariff determination to be arbitrary and inconsistent with the principles of project-specific tariff setting. The Tribunal's decision emphasised that such regulatory decisions must have a basis in evidence, should be transparent and must take into account the unique operational contexts of individual projects.

The subject of the dispute was Manchukonda Agrotech's 5 MW rice husk-based cogeneration plant. A cogeneration plant, also known as a Combined Heat and Power plant, is a facility that simultaneously generates both electricity and heat from a single fuel source. Considering the specificities of the plant, KERC had directed the company to seek a project-specific tariff since there was no generic category for such a biomass-based cogeneration plant. The Commission, nonetheless, selectively borrowed parameters from other generic tariff orders for other renewable energy sources and arbitrarily adopted values favourable to the generator.

The Tribunal, in its decision, underscored that mixing norms of generic category tariff determination along with project-specific norms would lead to undermining of regulatory integrity. The Commission's deductions in capital cost, plant load factor (PLF), operation and maintenance (O&M) expenses, and fuel costs were found to be unsubstantiated by data or sound reasoning. The decision further noted a conspicuous absence of transparency in the determination of financial parameters such as return on equity and depreciation. The Commission also did not disclose benchmark assumptions, discounting factors and calculation methodologies, which violated procedural fairness, and also hindered the Tribunal's process of determining the adequacy of the tariff determination by the Commission.

APTEL also iterated that payments accepted under a supplemental Power Purchase Agreement (PPA) did not amount to a waiver of any appellate right, and that adherence to regulatory directions does not wipe out legal redress of a party. The Tribunal remanded the issue to KERC to determine afresh, transparently, and based on evidence, all methodologies and calculations, and set a deadline of six months.

This ruling supports the judicial view of insisting on transparency, reasonableness, and commitment to the project-specific approach in tariff determination issues. It also indicates an increasing judicial intolerance of opaque regulatory practices, which are in line with general reforms in energy regulation that seek to attain a balance between investor confidence and consumer protection.

# ECOLOGICAL PROTECTION

## The Central Government sanctions the creation of new 'environment auditors'

The Indian Government has sanctioned the establishment of a separate cadre of environment auditors under the new Environment Audit Rules, 2025. The initiative is taken to enhance environmental compliance and enhance monitoring, which has been fraught with the lack of capacity of the Central and State Pollution Control Boards. The action establishes a professional team of certified auditors who will independently audit and monitor environmental compliance and standards in industries and infrastructure projects.

A new Environment Audit Designated Agency (EADA) would be established to license, register, and regulate these auditors. To reduce conflicts of interest, auditors would be assigned to the projects at random. In addition to ensuring adherence to waste management regulations, air and water quality standards, and new systems like the Green Credit system, they will examine self-declared information provided by industries and confirm compliance with environmental clearances. They will also assist in determining environmental compensation in violation cases. The certification procedure will be made available to experts through a National Certification Examination or through Recognition of Prior Learning for experts with experience in environmental auditing. Each registration will be effective for five years and may be renewed after evaluation.

The Ministry of Environment, Forest and Climate Change shall be responsible for implementing it through a Steering Committee, which will be chaired by an Additional Secretary. The purpose of this reform is to enhance transparency, accountability, and efficiency in environmental administration through de-linking audit functions from enforcement agencies. Though the transition is expected to increase compliance, experts note that guaranteeing auditor autonomy, developing robust digital reporting systems, and harmonizing among different agencies will also be crucial to achieving success. If applied successfully, the new structure could kick off a major transformation in India's environmental regulatory and monitoring practice.

## Supreme Court Upholds Citizens' Right to Clean Water over Ganesh Idol Immersion Issue

The Division Bench of the Supreme Court, composed of Acting Chief Justice Shree Chandrashekhar and Justice Aarti Sathe, on September 4, 2025, upheld the right of citizens to clean water in a plea seeking permission to immerse their "eco-friendly" Ganesha idols at the city's Banganga Talao Lake in Mumbai.

The Court in Sanjay Shirke vs Brihanmumbai Municipal Corporation considered the plea of the petitioner, who sought permission for the citizens of Mumbai's plush Malabar Hill area to immerse their "eco-friendly" Ganesha idols in the city's Talao Lake. He contended that he and other residents of Malabar Hill had been immersing their eco-friendly idols in the lake for several years and challenged the fresh guidelines issued by Maharashtra Pollution Control Board, which prohibited the immersion of even eco-friendly idols in natural waterbodies. These guidelines were challenged on the grounds of violation of their rights under the Constitution. On the other hand, the Board and the Maharashtra Government contended that no one can claim a fundamental right to immerse their idol at a particular water body, particularly the Talao Lak Talao, which is a "protected monument" under the Maharashtra Ancient Monuments Act and thus Archaeological Department's permission is required for any immersion activity which has not been granted to anyone till now.

The Court accepted the state's submission and held that the guidelines were valid and constitutional, and emphasised that the Board has been encouraging citizens not to immerse any kind of idols, be it of PoP or eco-friendly, in natural water bodies. The petitioners were aggrieved by the alleged breach of their 'private and individual rights' without giving deference to the larger right of fellow citizens. That the public rights of the citizens, i.e. right to clean air and clean water, would prevail over the private rights of individuals. The guidelines were thereby constitutional and were validly made under the statute by the Board. Finally, the Court agreed with the State that there is no absolute right of any individual to immerse their idols at the Banganga Talao and that the petitioners have other alternate sites like artificial ponds or the Chowpatty for the immersion of their eco-friendly idols. The Court has drawn a fine balance between ecological protection and the religious sentiments of citizens under the constitutional framework and refused to compromise on the environment for the sake of religious ceremonies.

## The Central Government exempts public consultations for critical minerals mining projects

As per the office memo dated September 8, 2025, public consultations are not required for atomic, strategic, or critical minerals projects during the environmental clearance process, according to the Central Government. This change ends up eliminating the need for public hearings where local communities could voice their concerns prior to project approvals. Requests from the Department of Atomic Energy and the Ministry of Defence led to the decision, claiming that the exemption would speed up approvals necessary for industrial expansion, the transition to clean energy, and national security.

These mining projects will still go through environmental reviews by specialist committees, but local community involvement will not be part of the new process. The government claims the projects will still need environmental impact assessments and will have mitigation and rehabilitation plans for affected people. Officials have defended the action as being essential for India's independence in relation to key minerals like lithium, cobalt, and rare earth minerals, which are important for renewable energy, electronics, and defence industries. The exemption also applies to atomic minerals such as thorium and uranium that are involved in India's long-term nuclear energy program.

This decision has drawn strong criticism from environmental activists, scientists, and local groups who see it as a setback for democratic and environmental protections. They argue that removing public consultation harms transparency and accountability, especially in regions already facing the ecological and social consequences of mining. Critics worry that this policy could increase conflicts between local communities and the state, especially in mineral-rich coastal areas like Tamil Nadu, where illegal mining has caused significant damage. This decision reflects a broader trend toward centralizing decision-making and prioritizing strategic and industrial interests over participatory environmental governance. Although the government presents it as a move toward efficiency and national defence, the implications for local rights and environmental justice remain highly disputed.

## Supreme Court pulls up the Himachal Government and flags the environmental crisis in the Himalayas

The Supreme Court, on 23 September 2025, in Re: Issues Relating to Ecology and Environmental Conditions prevailing in the State of Himachal Pradesh, passed an order demanding a response from the Himachal Pradesh government on a series of questions relating to the ecological crisis in the Himalayas. The Bench comprising Justices Vikram Nath and Sandeep Mehta had initiated the suo motu case upon taking cognisance of videos showing wooden logs floating in flood waters, which indicated the carrying out of illegal tree cutting in the Himachal mountains.

The Court noted that the State and especially the Himalayan region were facing a 'serious existential crisis' as unregulated development activities had been ongoing without supervision or consideration of environmental impact, including hydropower projects, four-lane highways, deforestation, and multi-storey constructions, which were deemed responsible for recurring landslides, collapsing infrastructure. Earlier, the Court, with the aid of the amicus curiae, in August had perused the State's interim report and prepared a questionnaire on ecological and developmental concerns, which the Court now adopted in full and ordered the State to respond to the same.

The Court sought precise and complete information from the State, supported by an affidavit of the Principal Secretary, Department of Forests, before the next hearing on October 28, 2025. The questionnaire included queries relating to zoning, forests and tree cover, compensatory afforestation, climate change, roads, hydroelectric projects, mining and heavy machinery, tourism and construction.

The Court's intervention is a long-awaited response to the ongoing environmental crises in the Himalayan region, which is exacerbated by rising global temperatures and the unregulated urban development ongoing in the State. The questionnaire will provide some measure of accountability from the State in the matter and could be a step toward the realisation of sustainable urban development, especially for ecologically sensitive areas.

# MIGRATION

## Ashok Kumar v. Dulari Kapil & Anr.

A revision petition under Section 24(5) of the Himachal Pradesh Urban Rent Control Act, 1987 was dealt with by the Himachal Pradesh High Court in the case of Ashok Kumar v. Dulari Kapil & Anr. Subtenant Ashok Kumar, the petitioner, contested the Appellate Authority's and the Rent Controller's eviction orders relating to a Hamirpur store because of subletting. Kuldeep Kumar, the tenant, was first sought out by the landlord on the grounds of subletting and personal bona fide need. However, only the second ground was accepted. The tenant, who had moved abroad, reportedly gave Ashok Kumar exclusive possession of the premises. Both the tenant and the subtenant firmly denied any subletting, claiming that the original owner, Dev Raj, directly brought in the subtenant.

The landlord also presented witnesses and documents to show that the tenant still had control over the property and that the subtenant was never recognized as a tenant by Dev Raj or in official records. The Rent Controller believed that the landlord had met the initial burden of proof for subletting, but the tenant and subtenant could not show any independent tenancy rights. The Appellate Authority agreed with this assessment.

In the High Court, the landlord argued against the subtenant's revision petition, claiming that he was not an "aggrieved party." However, the Court determined that the subtenant could be considered an aggrieved party because the landlord had included him in the initial eviction case, citing the Karam Singh Sobti v. Pratap Chand case. Regarding merits, Justice Vaidya reaffirmed that courts cannot reevaluate evidence unless there is blatant misconduct or illegality, and that revision powers are restricted. The court dismissed the revision petition after determining that there was no such irregularity and upheld the previous conclusions, declaring that the eviction was valid despite the lack of sufficient pleadings.

The judgment confirmed that subletting without written permission is a valid reason for eviction and that revision courts should not overturn consistent factual findings unless there is evident error.

# Rajasthan High Court quashes Rent Tribunal's order rejecting the tenant's evidence on the grounds of delay.

In Girdhar Gopal v. Sanwarmal Sharma (deceased) & Ors., the Jaipur Bench of the Rajasthan High Court was faced with a writ petition challenging an order of the Rent Tribunal of 8 July 2025. The Tribunal had declined to go on record with the petitioner's affidavit, which was belatedly filed in an eviction case under Section 9 of the Rajasthan Rent Control Act, 2001, and instead kept it in Part D of the file. Petitioner argued that although the affidavit was filed slightly late, after the reply was filed, it was highly relevant defence evidence and could in no manner have been rejected on a technicality. Petitioner's argument was that non-acceptance would cause extreme prejudice in the pending eviction case.

Justice Anoop Kumar Dhand considered whether the Tribunal had correctly declared Section 15(3) of the 2001 Act to be obligatory. Section 15(3) mandates that a tenant file a reply, affidavits, and documents within 45 days of notice. The court had before it the Division Bench decision in Ramesh Kumar v. Chandu Lal & Anr., where Section 15(3) had been held to be directory and not obligatory. The banch emplained that the object of procedural law What was the object of procedural law was to promote justice and not to frustrate it by inflexibility. Therefore, late presentation of an affidavit could not per se invalidate a defence where no prejudice was shown to have been caused. In its application of this precedent, the High Court found that the refusal of the Tribunal to put the affidavit on record was unwarranted. The challenged order was set aside on the condition that the petitioner pay ₹2,000 towards costs and plant eleven shady trees in his neighbourhood within a period of fifteen days, with maintenance until the disposal of the case. This environmental condition was upheld by the court in the interests of public welfare. This judgment confirmed anew that procedural provisions in rent control litigation shall be given a liberal construction to promote substantive justice, and delay in presenting evidence shall in no way derail fair proceedings.

# Gujarat's Cross-City TDR Model: Reforming Urban Land Use Strategy

By: Adarsh Parashar

## Introduction

Transferable Development Rights (TDRs) are zoning instruments that help developers to transfer unused development potential from one parcel of land to another, allowing the owner to sell the development rights of the land. They are of four types: road, reserved plots, slum, and heritage TDR. These instruments were used within the jurisdiction of a single independent municipality and were governed by the Development Control Regulations (DCR) and state-level planning acts. Yet limited land, slow redevelopment processes, and inconsistent governance have slowed progress toward true urban transformation. To tackle these, Gujarat rolled out India's first inter-city TDR in June 2025, allowing the development rights to be moved seamlessly across boundaries, i.e., to be issued in one city and used in another. This new architecture creates India's first regional market for development rights, unlocking the latent land value across Gujarat.

The pilot program currently encompasses five major urban centres - Ahmedabad, Surat, Vadodara, Rajkot, and other participating cities - creating a potential regional marketplace worth hundreds of crores. With Ahmedabad alone generating Rs 1,700 crore from slum TDRs and AMC estimating an additional Rs 1,000 crore annually from unused FSI sales, the cross-city model promises to unlock significantly greater value across Gujarat's urban landscape.

## Legal and Regulatory Architecture Behind Gujarat's Inter-City TDR Policy

The Legal basis of this scheme is based on the Gujarat Town Planning and Urban Development (Amendment) Act, 2017, which permits cross-jurisdictional transfers. The Gujarat TPUD Act, along with the Comprehensive Development Control Regulations (CDCR, 2017), gives technical and procedural details for the issuance, valuation, and redemption of cross-city TDR. Beyond the technical rules, Gujarat's Urban Development & Urban Housing Development (UDHD) provides a detailed operations manual enabling operationalization of the state's first regional TDR market. It also defined eligible categories of sending areas, such as slums, heritage zones, and public land, and enabled local authorities to grant TDRs under sanctioned town planning policies.

Together, these laws create a clear framework to back this inter-city TDR policy in Gujarat. They codified the eligibility criteria and municipal authority over issuance. The structure framed through these laws legitimizes the cross-jurisdictional transfer of development rights and also provides regulatory certainty for its allocation, monitoring, and enforcement.

## Why & How Gujarat's TDR Policy transitioned from Intra-City Mechanisms to Inter-City Strategy.

Earlier, Gujarat followed the traditional TDR policy, a localized, intra-city format that mirrored the early experiences of similar policies as seen in cities like Mumbai and Pune, where TDR incentivized urban redevelopment. Whether a plot could issue or use TDRs depended on municipal zoning, and every urban local body tracked these rights through standard, paper-based procedures.

The intra-city approach soon hit several limitations. Local TDR markets were messy, prices varied wildly, and supply rarely matched demand. The valuation of TDR was highly inconsistent across zones. Demand for additional floor space was not uniform; in some cities, developers wanted additional floor space Index (FSI) but faced scarcity, while in others, there were no buyers for surplus certificates. Demand was concentrated in growing cities like Ahmedabad, Surat, and Vadodara, and could not be efficiently redirected, leading to overall underutilization of TDR as a tool to incentivize equitable redevelopment.

To tackle these, Gujarat followed recommendations from expert committees, NITI Aayog's urban policy guidelines, and referenced innovations of other states. Through these, the state crafted an integrated inter-city TDR model, which allowed developers to source TDRs generated from one municipality and use them for development projects in high-demand cities.

This transition broke the jurisdictional barriers constraining TDR markets and marked a shift in Gujarat's urban land policy. To make the system work, Gujarat needed major regulatory fixes, from a uniform valuation method that curbs arbitrary pricing to a central e-registry for tracking certificates. The establishment of city-level implementation committees to coordinate, oversee inter-jurisdictional approvals, and resolve disputes was done to ensure smooth transfers.

The new design will overcome three major limitations of the previous arrangement: (a) the market illiquidity existing in sending areas, which remained underutilized as they could not be monetized within local boundaries, (b) Pricing Distortions, and (c) the spatial mismatch between redevelopment needs and the demand of developers. All of these were addressed through the creation of a regional market for TDR rights through this inter-city policy.

Here's how this works in practice: Under the new system, a developer planning a commercial complex in Surat's booming textile district could purchase TDR generated from a heritage building conservation project in Bhavnagar or from slum rehabilitation in Rajkot. Previously, the Bhavnagar heritage TDR might have remained unused due to limited local demand, while the Surat developer faced FSI constraints. The inter-city framework creates a win-win scenario - heritage gets preserved, slums get redeveloped, and commercial projects get the development rights they need.

In short, Gujarat's move from an intra-city to an inter-city TDR framework has not only made urban development methods more efficient and sustainable but also set a national benchmark by shifting from a scatter city-level scheme to a regional land policy.

## Analytical Assessment - Opportunities, Risks, and Legal-urban Challenges in Implementation

### Opportunities

- Better Utilization - The Inter-city TDR framework, allowing developers to transfer the unutilised development rights (FSI/ FAR) of "sending areas" (underutilized land, e.g., Landlocked parcels in Vadodara or Rajkot) to "receiving areas" (high-demand cities like Ahmedabad), has helped to create the state's first genuine regional market for developmental rights. This should unlock idle government land, fund slum rehabilitation, and make land use more efficient.

Financial and administrative benefits – The economic pressure on municipal bodies will reduce because private developers will be encouraged to undertake larger redevelopment projects due to the incentives provided by TDR.

This will mobilize private capital for the development of slum areas and the replanning of the urban regions without the expenditure of the government. Establishment of dedicated city-specific committees will also help to streamline the implementation of TDR transactions and increase transparency.

Consider a real-world scenario: Cosmos Realtors, currently involved in TDR-related litigation with GST authorities in the Gujarat High Court, represents the kind of developer who could benefit immensely from the inter-city system. Instead of being limited to local TDR sources, they could now source development rights from heritage conservation in Gandhinagar (where over 500 acres of green cover have been preserved through TDR) and use them for high-rise projects in Ahmedabad's expanding commercial zones. This flexibility could potentially reduce project costs by 10-15% while accelerating approval timelines.

Risks -

- Market volatility – The risk of market distortion and inequities due to speculative trading is heightened because the inter-city TDR can be freely sold and bought between different urban centres. This unregulated trade can cause inflation in real estate pricing, leading to uneven growth and undermining affordable housing goals, resulting in privileging the developed receiving cities while the sending areas remain underdeveloped due to inadequate investment.

Legal-urban challenges -

- Legal and Regulatory Ambiguities - The inter-city TDR policy faces legal hurdles because the statutes backing it permit the use of TDR for redevelopment and rehabilitation, but do not provide detailed procedures for inter-city transactions. The TDR scheme was already inconsistent, evident by the fact that in Ahmedabad, a city known for its heritage structures, only 99 heritage TDRs have been issued in a decade, and now, with this inter-city model, coupled with regulatory vagueness, it will further complicate its implementation.

- Fragmented governance and implementation gaps - Effective rollout of this plan is hampered due to the absence of a centralized trading platform, making these inter-municipality TDRs lack robust oversight, consistent regulatory updates, and real-time tracking. To give promising results, the policy must address hurdles like equitable distribution, transparency, and private-public balance.

Conclusion: Policy implications for the Future trajectory of Gujarat's inter-city TDR Model

With its inter-city TDR framework, Gujarat marks a significant step towards transformation from individual municipality boundaries to a regional market for development rights across its urban centres. This approach will help find solutions to urban challenges like slum rehabilitation, utilization of defunct industrial land, optimization of transport hubs, and productive use of idle government land. It will also reduce the fiscal burden on the state treasury by leveraging private investment. This market-driven approach also aligns with the broader goal of affordable housing, infrastructure utilization, and fostering strategic growth.

These cross-city markets must have clear rules and transparency. City-specific committees, formed to streamline approvals and oversee the execution of this policy, must lay down specified issuance and usage guidelines to develop a robust monitoring framework.

The present legal framework needs to be amended in order to include procedures and explicit rules for complex inter-city transfers. This will standardize the valuation criteria and establish clear obligations, thus making the inter-city TDR model more reliable, bankable, and acceptable to the market.

The state should draw on innovations like Mumbai's e-TDR exchange, where a nodal bank manages transactions, and development rights certificates exist only in digital form. This will boost the volume of the transactions and allow common citizens to buy TDR as an investment, thus bringing transparency and new opportunities for market participation, and reducing reliance on brokers to buy small amounts of DRC.

Special implementation guides, as used in Maharashtra to aid civic bodies and developers in adapting to this new system, will ensure that these TDR tools are managed effectively.

Gujarat's inter-city TDR framework can be made a powerful lever, catalysing sustainable redevelopment and urban growth if its framework is consistent with market needs and governance reforms. With continued efforts towards standardizing and integrating the TDR with the smart-city initiatives, Gujarat can create a scalable and equitable model that could become a national benchmark for an inclusive and balanced urban growth.

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