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VILLAGE COMMONS – A LEGAL CASE STUDY ON INDUSTRIALIZATION IN A PERI-URBAN TAMIL NADU

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Abstract

Village commons are used by the communities as a common resource for livelihood. Owing to urbanization and industrialization, the State under land acquisition Laws utilizes village commons for establishing industrial parks and various other 'development' projects. This study focuses on the legal framework that governs the village community's ownership of the common areas and the concerns surrounding the preservation of rural and semi-urban resources. More precisely, the Madras High Court questioned whether the industrial park's (SIPCOT) acquisition of common property grazing and water catchment lands will impact the rights of the local community, whose subsistence depends on the livestock. This paper observes the dynamics of judicial interpretation. The paper assumes importance in the context of judiciary consistently structuring the policy of the State and their implementation in the management of village commons. A field study was conducted in the village to better understand how the Court's recommendations are being implemented and how the people who were formerly reliant on the village commons are making a living.

Keywords: Village Commons, Peri-Urban, Industrialization, Land Acquisition Laws, Judiciary.

I. Introduction:

The maintenance of forest, cultivable lands, grazing pastures, rivers, lakes, water, and air, play a vital role in keeping the environment clean and for pleasant living. The provision of common land for the purpose of common use in villages is an age-old practice and such lands are utilized for cattle grazing, village pond, schools, dispensaries etc., From ancient times onwards a significant portion of village lands was kept as village commons keeping in mind their utility for the village community at large¹. This practise was followed from time immemorial and even during colonial period. But when the days pass by, increase in population of mankind and industrialisation are

factors made the common man and state encroach such lands for their own purpose quoting reasons like 'possession for many years' 'already houses constructed' 'common land kept idle' 'orders given by local authorities' etc., In the context of Indian in the Post-independence period in the process of development, due to the growth of cities, urbanisation and industrialisation the value of land has gone up and resulted in the shrinkage of village commons². Every state in India faces such problems and various social and legal measures are already implemented to mitigate this menace.

Effects of urbanisation can be felt in the surrounding rural areas. It is vital to understand

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¹ Haruka Yanagisawa, 'The Decline of Village Common Lands and Changes in Village Society: South India, c. 1850–2000', 6(4) Conservation and Society 293–307, 293 (2008). <<https://www.jstor.org/stable/26392947>>

² Kartik Chugh , Whose City? Whose Commons?: Urbanization and the fate of (Peri) Urban Commons in India., <<https://cuesonline.org/2020/11/11/whose-city-whose-commons-urbanization-and-the-fate-of-peri-urban-commons-in-india/>> (last visited Feb. 5, 2024).



the meaning of peri urban, its development and its impact on the village commons. An investigation is conducted on the reasons behind the peri-urban village commons' decline in Tamil Nadu, as well as the legal safeguards that the village commons enjoy. As defined by Merriam Webster dictionary peri-urban means an area immediately surrounding a city or town³. Thus, it can be understood that the rural villages in the transition of the urban influence which is neither rural nor urban. This term "peri-urban" has its origin from the word 'peripheral' which means edge, border, fringe etc. thus peri-urban area is a rural area surrounding the urban surrounding farmland⁴. Present transportation services and connecting roads have made it conveniently to set up new businesses and homes far from the traditional urban city centres. The cost of land in these peri-urban areas are lower than in the centre of the urban cities and hence comparatively more land in the peri-urban areas is used for each function⁵.

It is well known that the urban community cannot survive on its own but within a "sphere of dependence" on surrounding areas and their ecosystems of these peri-urban areas provide various services to the sustenance of the urban cities⁶. In peri-urban areas, due to urbanization and development there is strong indication of the decline in the village commons, such as grazing land and common water bodies like ponds and lakes, which discourages the small, and marginal farmers to rear more cattle and thereby reduce the livestock population⁷. Although peri-urban areas supply the land and water needed for urban development, industrial pollution causes

them to receive urban pollution⁸. Though the landless and marginal farmer's rights to livelihood are violated when the village commons are acquired by the state in the process of urban expansions, the urban cities provide employment prospects to the landless and marginal farmers of the peri-urban areas⁹.

The significance of preserving common land for its customary and equitable uses is the study of this paper. It debates the viability of bringing the common land back and the part played by local administrators and authorities in allowing unapproved use of common land and the involvement of the Judiciary in their restoration or alteration.

Village Common land plays a vital part in the existence of the rural societies¹⁰ as they are the support of the livelihoods of the rural inhabitants, mainly for the poor and landless livestock keepers¹¹. In the rural community that depends on the ecology for survival, the common land serves to maintain the ecological balance. This paper focus on socio legal analysis on the reduction of village commons by the state and legal framework for its conservation. The case of the state acquiring the village common land for industrialization and other development projects will be examined by the researcher in this study. Village commons support self-employment and the requirements of marginal and landless farmers by providing additional revenue¹². A study has been made to find how urbanization and growing industrialization have led to significant reduction of village commons particularly in peri-urban areas and the judiciary's role when there is a conflict between

³ Merriam-webster Dictionary <<https://www.merriam-webster.com/dictionary/peri-urban>> (last visited Feb. 5, 2024).

⁴ V.Gajendran, *Chennai's Peri-Urban: Accumulation Of Capital And Environmental Exploitation*, 7(1) Environment And Urbanization Asia 114,113-131(2016).

⁵ Yves Cathelinaud, *Agriculture - Critical Element in Planning Peri-Urban Areas*, 97 OECD Observer 35, 1-42(1979).

⁶ Nivedita, M Et. Al., *Peri-Urban Ecosystems And Urban Resilience: Knowledge Compendium Of Case Studies*, 23(Gorakhpur Environmental Action Group, Gorakhpur India 2021).

⁷ Rakodi. C, 'Poverty and wellbeing in the peri-urban interface of developing country cities: a review', UK Department for International Development Natural Resource Systems Research Programme, Final Report, 1999, 70.

⁸Narain, V, *Whose land? Whose water? Water rights, equity and justice in a peri-urban context*, 19(9)Local Environment: The International Journal of Justice and Sustainability 9(2014).

⁹ Vij, Sumit & Narain, Vishal, *Land, water & power: The demise of common property resources in periurban Gurgaon, India*, Land Use Policy 60 (2016).

¹⁰S. V. Giriacy-Wantrup & Richard C. Bishop, *Common Property as a Concept in Natural Resources Policy*, 15 Nat. Resources J. 713 (1975).

¹¹ Regmi, Sudarshan, 'Common Property Resources and Their Linkages with Livelihood in South Asia: A Review' (2011). <<https://www.researchgate.net/publication/228533585>> last visited 5 Feb 2024

¹² Gaur, Mahesh & B, R & K., Shiran, *Common Property Resources as Village Ecosystem Service Centre in Drylands of Rajasthan, India*, 10(1) Journal of Rangeland Science 57(2020).



the development and the reduction of village commons. This paper focus on the significance of village commons in the 2nd section of the paper, the law relating to village commons are focused under head the legal framework in the 3rd section of this paper, section 4 deals with Land Acquisitions relating to village commons for development, further under section 5 speaks about the dynamic role of the judiciary relating to village commons, 6th section deals with the case study of Thervoy village where the SEZ developed on the of village commons, finally the section 6 put forth the conclusion of the study.

II. Definitions and Significance of village commons:

Common resources in India include ponds, rivers, rivulets, protected and unclassified woods, village pastures, and common woodlands like village forests, As Jodha defines These are the assets that a village's entire population has access to and over which no single person has exclusive property rights. These consist of village pastures, tanks, rivers, riverbeds, wastelands, communal woodlands, and common threshing fields in rural India¹³. Village commons provide fodder to live stock, timber and wild fruits to the village community¹⁴. Village commons are not only a resource available to the rural community when they face the financial crisis due to failure of crop nevertheless bring an supplementary source of income during normal times¹⁵. Village common land is undeniable resource available for the village community to full fill their day-to-day needs. Village common resources in land are estimated to be about 70 million hectares in the major states of India¹⁶. The properties, quality and functioning of village commons are

decided by the ecological circumscribing and the vegetative system of the particular community. The functioning of the village commons benefits the wider set of social and economic factors of the community and it differ from one community and another, such as the village commons of Himalayan regions management and village commons of southern region of India varies. Village common land such as *meikal poramboke*¹⁷, Community pastures are the basic resource for the village livestock¹⁸. Raising of livestock is the most vital source of livelihood for rural population in Tamil Nadu in terms of generating income. In the case of landless pastoralists and marginal farmers rearing of livestock is the vital source of food and income¹⁹.

Community pastures in village commons are often the only basic resource for the marginal and landless farmers who rears livestock. Vital nature of the livestock rearing in the country can seen from the factor of 8.5-9% of the GDP²⁰. In late 90's there is decline in the village common land particularly grazing land because of factors such as illegal encroachment and developmental policies of the state (for example - promotion of bio fuels - like *Jatropha*, introduction of special economic zones) which reallocate the pasture lands for other purposes. Shortage of fodder due to reduced areas of Village Commons, degraded lands and overgrazing led to malnutrition in livestock. It is well known that village commons have always remained an important source of livelihood for the sustainability of rural communities and balancing the village eco

¹³Jodha, N.S, *Common property resources and rural poor in dry regions of India*, 21(27) Econ. Political Weekly 1169-1178(1986).

¹⁴ Aggarwal, B, *Participatory Exclusions, Community forestry, and Gender: An analysis for South Asia and Conceptual framework*, 29 (10) Institute of Economic Growth, World Development 1623-1648(2001).

¹⁵ Paper No. 98, Vedeld A, Et. Al., *Counting on The Environment: Forest Incomes And The Rural Poor*, 95 (The World Bank Environment Department, Environmental Economics Series, Washington D.C, 2004).

¹⁶ Chopra K & Gulati S.C, Migration, *Common Property Resources And Environmental Degradation: Interlinkages In India's Arid And Semi-Arid Regions*, (Sage Publications India Pvt. Limited, New Delhi, 2001)

¹⁷ Common grazing land-a classification of land , ref section 134 of Tamil Nadu Panchayat Act, 1994.

¹⁸Animal Husbandry, Animal Husbandry , Dairying and fisheries Department Policy Note 2020-2021

<https://cms.tn.gov.in/sites/default/files/documents/ah_e_pn_2020_21.pdf> Last visited 14 Jan 2022 and The Kavalas Way, *Community Ownership and Institutional Mechanisms to Develop CPRs' and Enhance Livelihoods, Good Practice Code: INGP3* <<http://sapplpp.org/publications/files-repository/goodpractices/INGP31%20Brief.pdf>> page no 2 , Last visited 03.11.2023.

¹⁹ Shalander Kumar, C.A.Rama Rao, K.Kareemulla & B.Venkateswarlu, *Role of Goats in Livelihood Security of Rural Poor in the Less Favoured Environments*, 65 (4) Indian Journal of Agricultural Economics 761-781(2011).

²⁰ Anon, *Report of The Task Force On Grasslands And Deserts* 7 (Planning Commission, GoI 2006).



system²¹. The reduction of pasture land or grazing land of the village commons created a steady drop in owning a large number of livestock by small and marginal farmers affecting the quantity of natural compost available and compelling them to be dependent on the other factors to enrich their cultivating land²². The village commons helping in meeting livelihood needs for peri-urban community, in addition to these, village common resources work for precarious ecological utilities and facilitate for carbon absorption, biodiversity conservation, hydrological supplies and act as shield to biodiversity rich areas²³. Though they provide the above-mentioned factors, village commons have been disregarded due to disapproving usage rights and fragile institutional arrangements of the local management and control leading to extensive dreadful conditions²⁴. Thus due to urban growth, peri-urban areas are always at risk of environmental contamination and ecological degradation. There aren't many effective local efforts addressing environmental challenges, but for these regions to be sustainable, the government must get involved.

III. Legal Framework

A. Constitutional aspects of village commons

The state is obligated under the Fundamental Right and the Directive Principle of State Policy to conserve and improve the environment regarding the constitutional protection of village commons. The Indian human rights regime, which includes the right to a clean environment, has been influenced by international human rights principles, as evidenced by judicial interpretations. The human right relating to human dignity with

special reference to basic needs are underscored under Article 11.1 of the International Covenant on Economic, Social and Cultural Rights which states that, "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions"²⁵. Above rights have been emphasized through international environmental treaties and conventions, national legislative measures and in judicial verdicts.

The Indian constitution under Article 21 confirm right to life as one of the fundamental rights guaranteed to all. The Supreme Court termed this right as the "heart of fundamental rights"²⁶. The rights to life and personal liberty are protected by Article 21. As mentioned in the Menaka Gandhi Case the Article 21 includes, right to live with human dignity, right to decent environment, including pollution-free water, air and protection, right to livelihood and right to shelter. It is also clarified that the 'Right to life' does not merely mean animal existence but all those aspects of life which go hand in hand to create the individual's life noteworthy, complete and worthy living. In making the Right to life a reality, the provision of common land played a major role as the right throws light on environment, livelihood and shelter.

Further, under the Directive Principle of State Policy Article 48A reads as "Protection and improvement of environment and safeguarding of forests and wild life. - The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country." In addition, as per Article 51-A (g) there is an obligation on every citizen "to protect and improve the natural environment including forests, lakes, rivers and

²¹ Pasha, S.A, *Sustainability and Viability of Small and Marginal Farmers: Animals Husbandry and Commons Property Resources*. 26(13) Econ. Political Weekly, 28, 27-29(1991).

²² *Id.*

²³ Berge, Erling, *Protected areas and traditional commons: Values and institutions*, 60 Norwegian Journal of Geography 65-76(2006).

²⁴ Manish Shah, Manohar Rao, *Managing commons: Need and challenges , How can technology, knowledge and capacity creation help in management of commons?* <<https://www.indiawaterportal.org/articles/managing-commons-need-and-challenges>> Last visited 5 Feb 2024.

²⁵ International Covenant on Economic, Social and Cultural Rights, General Assembly Resolution 2200A (XXI), December 1966. <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>> Last visited 5 Feb 2024.

²⁶ Unni Krishnan, J.P. *And Ors v State of Andhra Pradesh and Ors* [1993] AIR 2178, [1993] SCR (1) 594



wild life, and to have compassion for living creatures". Relating to the conservation of common resources Indian constitution being a socialist democratic and welfare state under Article 39(b)²⁷ one of the Directive Principles in Part IV of the Constitution stress that the state should ensure "that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good."

B. Other Statutory provisions

The constitutional frame work relating to Village Commons is backed by various statutory protection one such statutory protection is The Environment (Protection) Act, 1986²⁸, which is enacted to protect the environment. Under the Act environment is defined by Section 2A to include "water, air and land and the inter-relationship which exist among and between water, air and land, and human beings, other living creatures, plants, microorganism and property" in addition to the physical and biological aspect, the term environment also includes social, economic, cultural, religious and other aspects. Thus, the environment is a combination of several issues having great influence on human life and interaction. Under section 3 of the Environment Protection Act, 1986 the union has authority to make all such actions as is considered as required or beneficial for conserving and developing the condition of the environment. Section 3(3)²⁹ enables the Union Government to create a body for carrying out the functions under Section 5 of the Act. In exercising its powers and performing its duties under the Act,

the Central Government is authorized by Section 5 of the Act to issue direction to any person, officer, or authority, and that person, officer, or authority will be required to comply with such direction. Further The National Environment Policy 2006 (NEP) states that though protection of environmental resources is essential for stable livelihoods and security of the people, the vital reliable source of conservation is to make sure that people who depend on those specific resources acquire better livelihoods from the fact of conservation, than from degradation of the natural resources.

In the case of *T. N. Godavarman Thirumulpad v. Union of India & Ors*³⁰, the Apex court has observed and applied public trust doctrine in conserving the village commons and state that the state and its administrative authority cannot renounce its obligation in conserving the resource and transfer it to private or commercial utilization. It emphasised the states duty not to erode the nature and its ecosystem except in the case of public good and public interest.

i. Local Land Governance and Commons

In India, governance is at a shift amid the nation's economic development objectives and there is a necessary compulsion of land accessible for developmental ventures³¹. There is increase in Land conflicts due to rivalry, and ambiguity relating to common lands. in the post-independent period Land governance has progressed as a state-subject, with the administration of land-revenue became the key upholder, while the real accountability and responsibility is dispersed by various other departments and agencies such as public works department, electricity board, high ways etc. at the state and local level such as municipality and gram panchayat, making land governance complex with overlapping jurisdictions. Under the Constitution of India, "Land" is incorporated in the "State" list and

²⁷ INDIA CONST. art. 39.cl b, Certain principles of policy to be followed by the State: (b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;

²⁸ Act No. 29 OF 1986

²⁹Environmental Protection Act 1986, Section 3(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

³⁰ (1997) 2 SCC 267

³¹ Dr. Madan Mohan, 'Land Governance and Agricultural Development: A General Regional Geographic Analysis for India' (2016) 3(4) International Journal of Humanities Social Sciences and Education 35-56.



"Forests" under concurrent list (both State and Centre lists). Land and land reforms are governed under the legislative and administrative jurisdiction of the States while both the Union and the States have jurisdiction over "forests". In the Sixth Scheduled States³², except the land under "reserve forests", almost all land is under community ownerships with customary legal and institutional mechanisms for their management and governance. In India the states have authority to govern the village commons and some states have enacted specific statutory laws for such governance. Certain laws endowed Gram Panchayat for use and management of grazing lands and the responsibility of management and protection vested with them. Village commons are mostly connected to the access and usage rights with limited management rights in India. Common pastures under village commons find a mention under Section 18 of the Indian Easements Act, 1882³³, wherein the right to graze cattle on a common pasture is a community right placed under a customary easement right. Customary easement right attained by local custom can only be in for particular class of people or community of a defined vicinity. Whereas Easement rights are private rights belonging to definite persons while customary easement rights are public rights attached to the place in general³⁴

Even though there is no specific Act to protect the rights of the Village Commons, Punjab³⁵ and Himachal Pradesh³⁶, are the only states which has *Common land Act* to protect the community rights of the village commons. Other than the above two states the Village Common land governance comes under the

local panchayat of the village as ordained through the Constitution by the 73rd Constitutional amendment Act which allows participation of rural local bodies – panchayats to manage land. The Constitutional amendment Act which came to force on 24-4-1993, laid a strong and accountable system of governance at grassroot level for equitable distribution of resources in a beneficial manner to village community at large³⁷. According to Article 243 G, the State governments have constitutional authority to delegate their obligation of preparing and implementing economic development and social justice plans to the local village panchayats. In the subject of land, states have the power to assign panchayats the authority and duties necessary for land management, implementation of land reforms, land consolidation, rural housing, and maintenance of community assets.

Villagers in nearly every region of India are only legally allowed access to areas that are under the direct control of their village or Panchayat, such as "village forests" and "pasture and grazing lands". The Revenue or the Forest Departments are in charge of all other types of land, including forests, land used for other than agricultural purposes, and land that is infertile or uncultivable³⁸. Village land management to the local panchayat is for the consolidation of the communities' rights over natural resources and makes resilient provisions to prevent alienation of village commons which is inherently linked to the livelihoods of the rural community, particularly women, livestock keepers and tribal communities³⁹.

a. Local Land Governance in Tamil Nadu

In the State of Tamil Nadu, Tamil Nadu Panchayat Act 1994 is enacted for management of the village commons and the power to alienate also vest with the local body.

³² INDIA CONST, SIXTH SCHEDULE [Articles 244(2) and 275(1)] Those States coming under the Sixth Scheduled of the Constitution of India. The Sixth Schedule under Article 244 (2) of the Constitution relates to those areas in the States of Assam, Meghalaya, Tripura and Mizoram which are declared as "tribal areas" and provides for District or Regional Autonomous Councils for such areas. These councils have wide ranging legislative, judicial and executive powers.

³³ Act 15 of 1877 and Act 9 of 1871

³⁴ *Brahma Nand v Teju Ram*, [2019] 195 AIC 584.

³⁵ **The Punjab Village Common Lands Regulation Act 1961; Punjab Act No. 18 of 1961**

³⁶ The Himachal Pradesh Village Common Lands Vesting And Utilisation Act, 1974, (Act No. 18 of 1974)

³⁷ Subhro Kamal Mukherjee, S.P.Gupta, *Durga Das Basu on Indian Constitutional law* (Vol1, 5th ed Kamal Law House, Kolkotta, 2019) 865.

³⁸ Jagdeesh Venkateswara Rao Puppala, Rahul chaturvedi, Pratiiti Priyadarshini, Kiran Kumari, *Commoning the Commons: Mediating for Spaces in Public Policy* (Foundation for Ecological Security, India, 2015)

³⁹ *Ibid*



Under Section 134 Tamil Nadu Panchayat Act 1994, The village panchayat is responsible for allocating the *porambokes*, which include grazing areas, threshing floors, burning and burial grounds, cow stands, cart stands, and topes. The Village panchayat have the ability and jurisdiction to control how these *porambokes* are used. In Tamil, "*Poramboke*" literally translates as "spaced out" and is applied to lands which are not used for cultivation or kept apart for communal purpose of the village and exempt from revenue in the above cases. There are various kinds of *porambokes* classified according to their purpose for which they are utilised, such as *meikal poramboke* (where livestock can graze), *mandaveli poramboke* (where livestock can rest), *eri poramboke*, etc. the fact is that the land do not yield revenue to government is called as *poramboke*⁴⁰.

After consulting with the local village panchayat, the district collector is authorized by Section 134(4) of the Act⁴¹ to exclude village common land that is managed by the village panchayat, ensuring the welfare of the local community. In addition, village panchayats are empowered under the aforementioned clause to control how *porambokes*—that is, grazing fields, threshing floors, burning and burial sites, cattle stands, cart stands, and topes—are used, so long as the State own them. Therefore, the village panchayat plays a crucial role in relinquishing land rights to the state upon the acquisition of village commons, while also taking into account the interests of local stakeholders.⁴²

IV. Land Acquisitions relating to village commons for development

A. Alienation of village Commons:

There is rapid increase in the acquisition of land in India since 1990s. further the communal land under the head as village common land or grazing land is often

acknowledged as government land and without any difficulty is assumed by the state without the consent of local residents⁴³. When the village common are acquired by the state in the name of development, the question of sustainability and equity arise when their right to life is violated. The vulnerable stakeholders who have an interest in the village commons are inclusive of the present generation and the future generation, taking into consideration of both while keeping a balance on ecosystem to overcome environmental challenges is a vital concern. The state should consider these aspects when drafting a policy of acquiring the village common land for developmental projects.

The landless farmers and marginal landowning farmer's sustenance rest on the village common lands for survival needs⁴⁴. In these circumstances, their demands cannot be disregarded or overlooked in the sake of progress, as domesticating animals like cows, sheep, and other animals has become a fundamental aspect of rural life⁴⁵. The upkeep cost of livestock which were once depended on the village commons has increased as the feeding expenses have gone beyond the manageable capacity of landless farmers, they find it very difficult to keep livestock for their livelihood.

B. Vital role of Special Economic Zone in development:

The transformation of agricultural land in the peri-urban area around metropolitan city like Chennai mainly happens for factors and issues like Infrastructure building, Industrialization, Ground water recharge etc.⁴⁶.

⁴⁰ Prof.A. Chandrasekaran, '*Land Laws of Tamil Nadu*' (Sitaraman & Co. Pvt Ltd, Chennai, 2003) .

⁴¹ Tamil Nadu Panchayats Act, 1994 [Tamil Nadu Act 21 of 1994]

⁴² Second Administrative Reforms Commission, '*Local Governance an Inspiring Journey into The Future*, sixth report, Government of India, October 2007.

⁴³ Vasundhara Jairath, '*Farmers' Protests: An Opportune Moment to Review the Development Model of Land Grabbing*' <<https://thewire.in/agriculture/farmers-protest-opportune-time-review-development-model-land-grab>> Last accessed 5 January 2022

⁴⁴Depinder Kapur, '*Dependence of Livestock Rearers on Common Lands: A Scoping Study*', (2011) Report for the south Asia Pro Poor Livestock Policy Programme10

<<http://www.sapplp.org/filesrepository/dependenceoflivestockrearersoncommonlands>> accessed 5 October 2021.

⁴⁵ Ram Krishna Mandal, '*Use of Common Property Resources in Rural Household of Arunachal Pradesh: A Case Study*' [2014] 8 Research Journal of Forestry 1-15.

⁴⁶Ramesh S, N. Nagarajan, S. Poongothai, '*Land Use in Suburbia: Perungalathur Village of Chennai Metropolitan Area*' (2011) 2 (8) International Journal of Scientific & Engineering Research 4,5.



the State acquires land around the peri urban area for industries, particularly for Special Economic Zones (SEZs) to facilitate growth of industries around urban area. In case of SEZ, the State exhibits its monopoly in acquiring land and then transferring it to the private firms⁴⁷. SEZs are 'delineated duty-free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs'⁴⁸. In the globalized world the Multinational companies will develop the land and establish manufacturing units in the SEZs. In the name of economic development of the state, these zones are essential for the state to promote exports and they are generally discharged from tax regulation, labour laws and environmental laws of the State. Many villages in the peri-urban areas of the city are converted as SEZs and the livelihood of the villagers of that area, which are mainly reliant on agriculture is threatened. In Tamil Nadu there are 48 SEZs⁴⁹. The World Investment Report 2019 has particularly stated the vital role of the SEZs in promoting the growth and development of the country by inviting foreign investments, creating job opportunities for the local population, and encouraging exports etc.

As per the report of the Controller and Auditor General of India (CAG) on SEZs reveals several discrepancies in their functioning relating to land acquisition and utilization⁵⁰. On observing the report of the CAG, that out of 392 reported SEZs, only 152 are successfully functioning. Land allotted to 424 SEZs that is approximately 53 percent of total approved

SEZs, was not utilized for the purpose it was allotted. According to the report in 30 SEZs, the acquired land had been dormant in the custody of developers for two to seven years. 14 percent of the acquired land was de-notified and diverted for commercial purposes, when the village commons were acquired invoking the 'public purpose' clause. The CAG report speaks about the acquisition of land which include agriculture and village commons, and the failure of developers to provide adequate compensation to affected families, in certain cases⁵¹. The SEZs has reduced trade costs which enables many states to upkeep and develop themselves in global value chains. The vital hurdle in the development of SEZs in India is the problem of land acquisition. Nearly 80 percent of land conflicts are because of development and industrialization processes, infrastructure being the single largest factor⁵² with land being a central issue in the development, pursuit of livelihoods, and wellbeing of communities, conflicts that restrict with access, ownership, utilization and control over land have direct influence on the environment.

V. Judicial Contribution Relating to Village Commons:

The Indian judiciary has acknowledged relationship amongst the environmental surrounding of the people, their cultural and indigenous tenets and development that encroaches on their rights, to deliver justice in disputes. The court's decisions and cases addressing the issue of acquisition of village common lands are discussed:

Justice Markandey Katju, and Justice Gyan Sudha Misra in *Jagpal Singh & Ors v State Of Punjab & Ors*⁵³ on 28 January, 2011 delivered a landmark Judgment on land acquisition. The direction given by above judgement states that

⁴⁷R K Mishra, *Role of State Owned Enterprises in India's Economic Development*, OECD Workshop on State-Owned Enterprises in the Development Process, Paris, 4 April 2014

< https://www.oecd.org/daf/ca/Workshop_SOEsDevelopmentProcess_India.pdf > accessed 23 October 2021

⁴⁸ Shiva V, S. Jani, S.M. Fontana, 'The Great Indian Land Grab' (New Delhi, Navdanya, 2011) 2.

⁴⁹Ministry of Commerce & Industry, A written reply in Lok Sabha by the Minister of commerce and Industry, Shri Hardeep Singh Puri, < <https://pib.gov.in/PressReleasePage.aspx?PRID=1703791> > accessed 23 October 2021

⁵⁰Union Government Department of Revenue (Indirect Taxes – Customs) No. 21 of 2014, Report of the Comptroller and Auditor General of India, Performance of Special Economic Zones (SEZs) (2012-13) < https://cag.gov.in/uploads/download_audit_report/2014/Union_Performance_Dept_Revenue_Indirect_Taxes_Special_Economic_Zones_SEZs_21_2014.pdf > accessed 23 October 2021

⁵¹ 'CAG Performance Audit Report on Special Economic Zones,' Press Release, Office of the Comptroller and Auditor General of India, New Delhi, 28 November 2014. < <https://www.saiindia.gov.in/content/report-no-21-2014-performance-audit-special-economic-zones-sezunion-government-department> > accessed 14 September 2021.

⁵² Land Conflict in India a Interim Analysis, (The Rights and Resources Initiative, 2016) < https://global-uploads.webflow.com/5d70c9269b8d7bd25d8b1696/5ee0c4ef84ac53255993e73c_RRI%20Report%.pdf > Last visited 23 September 2021

⁵³ (2011) 11 SCC 396



it is unlawful for the State Government to provide orders to private individuals or businesses for the sale or allocation of Gram Sabha or village panchayat land, and such orders should be disregarded. In the aforesaid case it was stated that regularization of the alienated land should only be allowed in extraordinary circumstances, such as when a school, pharmacy, or other public utility already exists on the property, or when a government notification has been used to grant a lease to landless labourers or members of Scheduled Castes or Scheduled Tribes. The decision made it evident that the village commons, which are under the control of the village panchayat, must be maintained for the community's common use and that it is forbidden to legalize such illegalities.

Subsequently the Lordship in the Judgment directed all State Governments nationwide to create a plan for evicting unauthorized or illegal occupants from Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and returning the land to the Gram Sabha/Gram Panchayat for the village community's common use. The said order has obliged the administrative system to inspect their prevailing legal and administrative structure relating to village commons in villages.

A. Judiciary in Defence of Development

In *P. Dakshinamoorthi v. State of Tamil Nadu*⁵⁴, the petitioner challenged the acquisition of *Mandaiveli Poramboke* land by the state and the said land had been used as a cattle grazing ground, from time immemorial. The court has stated that such acquisition does not violate provided, an alternative land is provided within the same district.

i. Community rights protected by the Judiciary

The Apex court in *Chigurupati Venkata Subbayya v Paladuge Anjaya*⁵⁵ stated "It is true that the suit lands in view of Section 3 of the *Estates Abolition Act 1948*⁵⁶ did vest in the Government. That by itself does not mean that the rights of the community over it were taken away. Our attention has not been invited to any provision of law under which the rights of the community over those lands can be said to have been taken away. The rights of the community over the suit lands were not created by the landholder. Hence those rights cannot be said to have been abrogated by Section 3 of the *Estates Abolition Act 1948*⁵⁷". Thus, they emphasizes village commons ownership by the community. The villagers' community rights over the village commons were so strongly guarded that several statutes explicitly said that the community rights over the village commons would not be impacted even if property vested in the State. In the case of *Hinch Lal Tiwari v Kamal Devi*⁵⁸, The Supreme Court emphasized that maintaining the ecological balance is necessary to preserve the material resources, such as forests, tanks, ponds, and other natural areas. This would pave the way for the provision of a healthy environment and allow people to lead fulfilling lives, which is the fundamental right confirmed by Article 21 of our Constitution.

Further in *L. Krishnan v State of Tamil Nadu*⁵⁹ following the judgment of *Hinch Lal Tiwari v Kamal Devi*⁶⁰, directed the State Government to ascertain all such natural water resources in different parts of the State and wherever illegal encroachments are found, initiate appropriate steps in accordance with the relevant

⁵⁵ [1972] AIR 1421

⁵⁶ Tamil Nadu Act 26 of 1948

⁵⁷ *Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act, 1948, Section 3 (b)* the entire estate (including all communal lands; porambokes; other non-ryoti lands; waste lands; pasture lands; lanka lands; forests; mines and minerals; quarries; rivers and streams; Substituted and were deemed always to have been[tanks and ooranies(including private tanks and ooranies) and irrigation work]; fisheries and ferries), shall stand transferred to the Government and vest in them, free of all encumbrances and the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864), the Tamil Nadu Irrigation Cess Act, 1865 (Tamil Nadu Act VII of 1865), and all other enactments applicable to ryotwari areas shall apply to the estate;

⁵⁸ (2001) 6 SCC 496

⁵⁹ (2005) 4 CTC 1

⁶⁰ *Hinch Lal Tiwari v Kamal Devi* (2001) 6 SCC 496

⁵⁴ W.P.No.31303 of 2018 < <https://indiankanoon.org/doc/80079671/> >
Last visited 20 September 2021



provisions of law for restoring such natural water storage resources which have been classified as such in the revenue records to its original position by stating that the Articles 21⁶¹, 47⁶², 48-A⁶³ and 51-A(g)⁶⁴ of the Constitution of India give a clear mandate to the State to protect and improve the environment and to safeguard the forests and wildlife of the country. Every Indian citizen has a responsibility to preserve and enhance the country's natural environment, which includes its forests, lakes, rivers, and animals, as well as to show compassion for all living things. The above judgement reveals a social responsibility for all the citizen of India to show concern for living creatures and to safeguard the forests, lakes, rivers on which the environment depends.

The High Court of Gujarat in *Alabhai Rajde Batiya v State of Gujarat*⁶⁵ on 22 June, 2011 contended that 402 hectares, or 24 acres and 2 square meters, or 1000 acres, of village common grazing land assigned to the Village Panchayat were unlawfully and unjustifiably reclaimed by State authorities, and that respondent no. 3 was given the land with the intention of creating a Special Economic Zone. It is the case of the petitioners that such resumption and ultimate allocation of land in favour of respondent no.3 is wholly illegal and unlawful. The issue involved in this case is whether allotting land for Special Economic Zone in favour of the 3rd respondent can be said to be a public purpose under Section 108(4) of the Gujarat Panchayats Act, 1993, as per Government standards per 100 cattle, 40 acres (16 hectares) of grazing land is required to be

maintained, so that village cattle can be properly looked after. The High Court stated that the Government is empowered to resume even the grazing land for any public purpose because such resumption of land ultimately benefits village people also. Further it was stressed, provided that wherever, available grazing land is less than the prescribed standards, in such cases, grazing land should not be utilised for any other purpose and that in exceptional cases only, when such land is required for public purpose, procedure for resumption of land should be undertaken. Even in such cases, if there is opposition from the local self-governing bodies, as far as possible, procedure for resumption of such land should be avoided unless opposition is found to be baseless. It mentions to ratio of village cattle to the grazing land to be maintained as far as possible. It also, though while recognizing the Government's power to resume grazing land for any public purpose, it needs to consultation with the Village Panchayat while resuming the grazing land in case where minimum ratio is not maintained. Sub-section (4) of Section 108 of the Gujarat Panchayat Act, 1993, it is lawful for the State Government to resume any land including the grazing land vested by the Government in Panchayat, if it is required for any public purpose.

In the case of *Panchayat Varga Sharmajivi Samudaik Sahakari Khedut Coop. Society and others v. Haribhai Mevabhai and others*⁶⁶ the supreme court has stated that it is a constitutional directive as the basic human right to empower economically particularly the underprivileged of the society namely the schedule caste and the schedule tribes, as is given under Article 46⁶⁷. When the appellant Society had requested for assignment of the wasteland vested in the Gram Panchayat, the Gram Panchayat undoubtedly passed a

⁶¹ INDIA CONST. art. 21, No person shall be deprived of his life or personal liberty except according to procedure established by law.

⁶² INDIA CONST. art. 47, *Duty of the State to raise the level of nutrition and the standard of living and to improve public health*: The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

⁶³ INDIA CONST. art. 48A, amended by The Constitution (Forty-Second Amendment) Act, 1976: Protection and improvement of environment and safeguarding of forests and wild life

⁶⁴ INDIA CONST. art. 51A(g), to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

⁶⁵ [2011] Indlaw GUJ 678

⁶⁶ (1996) 10 SCC 320

⁶⁷ INDIA CONST. art. 46, *Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker section*: The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.



unanimous resolution requesting the Collector to resume the land for assignment to the appellant-society. Since, the Gram Panchayat as a representative body passed the resolution, it would be obvious that the elected members represent the interest of the Gram Panchayat for effecting the constitutional goal. When the Gram Panchayat in turn passed the resolution for the said purpose, there was no obligation to issue notice to the villagers. When the wasteland or open site or vacant land or grazing land vested in the state was sought to be resumed from the Gram Panchayat by the Collector for another laudable public purpose, then the silence of issuance of notice is expressive. Hence requirement of hearing the villagers is not insisted. The legislature did not intend issuance of notice to villagers.

The issue involved in *S. Nadha Kumar v The Secretary to Government of Tamil Nadu*⁶⁸ concerns the government's decision to distribute 70 acres of land and the ensuing authorization granted to specific municipalities to establish their Solid Waste Management Plant in Kuthambakkam Village, in Thiruvallur District. Where around 1000 livestock of the village community depend on 100 acres of their village common grazing land. The livestock in Kuthambakkam provides the inhabitants with a means of living. The court is of the view that the local panchayat, is merely the land's custodian; the State is the true owner. Although before the custodian is stripped of its authority, they should be given a chance to voice their opinions. It should be noted that the consultative process is a crucial component of the environmental impact assessment study, and that any breach of the required procedure in holding a public hearing and documenting the opinions or objections of the affected parties would provide the aggrieved with a legal basis to contest the validity and accuracy of the public hearing and Without waiting for the conclusion of the impact assessment

procedures, recording the opinions or objections of the impacted parties would provide the aggrieved with a legal basis to contest the legitimacy and accuracy of the public hearing proceedings. The Municipalities and Panchayat were directed by the court to file a comprehensive application to the Environmental Impact Assessment Authority that included specifics on the proposed solid waste management plant, further it noted that before approving the project, and granting clearance, the relevant statutory authority should assess its environmental and ecological implications. The Environmental Impact Assessment Authority then denies the request for prior environmental approval in the case, and the Kuthambakkam Panchayat is given permission to petition the government to have the acquired land canceled. This judgement views the basic human right to livelihood and shows the option available for the Kuthambakkam villagers to proceed to restore their common graze lands.

In the *State of Jharkhand and others v. Pakur Jagran Manch and others*⁶⁹, the Supreme Court in its judgment stated that de-reservation of village common land should only be in exceptional circumstances and for valid reasons. It was further emphasised that when the village common land is not a Government land but is village common land vesting in the villagers and not the Government, the consent of village headman and the villagers in whom the land vests shall have to be obtained before de-reservation and diversion of use of village common land.

Appeal against the order of National Green Tribunal was made In the *Jitendra Singh v Ministry of Environment & Ors*⁷⁰, when the Greater Noida Industrial Development Authority (GNIDA) presented an affidavit claiming that it was creating larger alternative water bodies, dismissing the appellant's challenge against the sale of village commons, namely a village

⁶⁸ W.P.NO.15525 OF 2009
, <<https://judicialportal.informea.org/sites/default/files/court-case/COU-156167.pdf>>., <<https://indiankanoon.org/doc/788976/>> Last visited 14 January 2022.

⁶⁹ [2011] 2SCC 591

⁷⁰ 2019 SC 1537; [2019] SCC online 1510



pond, to private industrialists. In the case it was decided that *the UP Zamindari Abolition and Land Reforms Act, 1950* and the *Section 57 of the UP-Revenue Code, 2006* vesting such ponds and local areas in the State would not, by themselves, alter the nature of land in violation of revenue records or undermine the long-standing rights of the local people to common areas. Further it confirmed that allocation of village commons for private development would violate the people's right to life, and it is a breach of the state's Constitutional obligations, by stating:

"These common areas are the lifeline of village communities, and often sustain various chores and provide resources necessary for life. Water bodies, specifically, are an important source of fishery and much needed potable water. Many areas of this country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal"

The vital role of the village commons was stressed by Justice Sanjay Kishan Kaul and Justice M.M. Sundaresh in the case of *Rameshbhai Virabhai Chaudhari v The State of Gujarat* on 6 September, 2021⁷¹ by stating that grazing land can be used only for purposes for which it is permitted to be used. If there is a user contrary to the permissible user, whether by the State or by any third party, the same cannot go on. In the above stated view, they ordered the state authorities to clear the grazing land inside three months from all types of encroachments together with cattle sheds, an Anganwadi, a college and a Hanuman temple.

VI. A Case Study on Thervoy Gramam:

To understand the dynamics of the development in a peri urban village a study was made in Thervoy Kandigai village,

Gummudipoondi taluk, Thiruvallur District in Tamil Nadu, where a SEZ was proposed in the year of 2007. The village of Thervoy Kandigai is located 50 km north of Chennai, in Gummudipoondi taluk of Thiruvallur district, is surrounded by pastures, forests, paddy fields, and lakes. The people make a living based on the forest where they find medicinal plants and wild fruits and where they also grow vegetables. Especially during droughts, the rice becomes scarce and the people have to rely on natural resources from the forest. In addition, the forest also serves as a reservoir for the surrounding 13 villages⁷². The total population of the village is approximately 5500 of March 2023 out of which major portion of the population belongs to schedule castes, and the number of family card holders are 1100.

When the SEZ was proposed in the year 2007 village community of the Thervoy village protested against the alienation of the village commons to the SIPCOT. In spite of the agitation and protest by the villagers against proposed SEZ in the Thervoy village, Government alienated an extent of 250 hectares of grazing ground poramboke lands for the establishment of second Industrial complex in Thervoy Kandigai village, Gummudipoondi Taluk, Thiruvallur District, to the name of SIPCOT. The dispute arose in the case was conversion of the village common land use from *Meikkal poramboke* which is village common grazing land and acts as a watershed not only for the Thervoy Kandigai village, but neighboring 24 villages, as industrial area.

A. Brief Facts of the Case

In 2009, a Writ Petition was filed in the Madras High Court challenging the proposed SEZ by praying to quash G.O.Ms.No.650 of Revenue Department dated 13.11.2008 transferring/assigning the lands comprised in S.Nos.32/2 and 33/2 in Thervoy Kandigai village, Gummudipoondi Block, Tiruvallur District to the

⁷¹Gautam Mishra, "Gauchar Land (Grazing Land) Cannot Be Used For Purposes Except For What Is Permitted": Supreme Court, (2021) <<https://lawbeat.in/top-stories/gauchar-land-grazing-land-cannot-be-used-for-purposes-except-what-permitted-supreme-court>> accessed 14 November 2021.

⁷²India: No Michelin factory in the forest of the "untouchables" <https://www.rainforest-rescue.org/petitions/819/india-no-michelin-factory-in-the-forest-of-the-untouchables#letterLast> visited 22 May 2023.



SIPCOT and from changing the use of such land from *Meikkal poramboke* to any supplementary use. In the aforementioned petition the petitioner's contented that the *Meikkal poramboke* land was used as grazing field for the livestock and water catchment for three irrigating lakes of Thervoy Kandigai village and other surrounding villages. Since the primary occupation of the villagers are agriculture and related activities such as rearing of cattle, conversion of village commons particularly the grazing land to SEZ development will make them lose their livelihood. In the said case the court directed SIPCOT to develop grazing land to cultivate fodder and to form a plan through which the livestock depending on the village commons can be benefited, further it directed the SIPCOT to do it within a period of three years and it should be under the disposal of Animal husbandry department. In the same petition the court directed that environment clearance is mandatory even if the proposed plan is less than 500 hectares The Revenue Department of State of Tamil Nadu issued on 13 November, 2011, issued a G.O. (MS) No. 650 ordering transfer of title lands comprised in Thervoy Kandigai Village, Survey No. 32/2 and 33/2 measuring 1127 acres, to the SIPCOT for the development of SEZ.

i. Observation Made in the Study

Initially, a survey made at the Thervoy Kandigai SEZ and the village relating to the livelihood of the persons who were dependent on the village commons, prior to the development of the SEZ. The main occupation of the village is agriculture and allied activities. As per cattle census given by the Department of Animal Husbandry⁷³ for the year 2023 the entire livestock of Thervoy Kandigai excluding ducks is 2840, out of which, 1300 are Cows, 500 are Buffaloes, 480 are Sheep and 560 are Goats. As per cattle census [in the year 2005] the entire livestock of Thervoy Kandigai was 2432, out of which, 752 were Cows, 543 were Buffaloes, 138 were Sheep and 999 were Goats.

The field study in the Thervoy Kandigai village where the SIPCOT Thervoy Kandigai industrial park is situated is to understand the sustainable utilisation of the village commons and the dependence of the village community livelihood in the said area after the industrial development in the peri-urban village. Various players such as farmers, educated youth and multinational companies operating in the SEZ are the subjects in the field study. In this perspective, this article focuses on the several progressions of accrual and assets exchange. Using the interview method with the local community, the primary issue pertaining to the people's livelihood was understood. The total extent of the industrial park is 456.27 hectares, it has as on now 12 manufacturing A category industries like, Synthetic rubber (tubes/tyres, industrial products), Engineering fabrication / manufacturing units and Glass industries, etc. are operating, and three more industries are on developing stage, The total area under industrial plots are 369.83 ha. A 40 m wide green belt is made around the boundary of industrial park. The total population of the village is approximately 5500 as of march 2023, and the number of family card holders are 1100. During a interview with one Mr. Murugan aged 65 years, who is the resident of the Thervoy village stated that when the land was acquired by the SIPCOT it was under the custody of the village panchayat and the president of the panchayat disposed of the land to the SIPCOT and they were not given the opportunity to voice their needs. Using the intensive interview method with the people of age around 20 to 40, it is found out that most of the people in the village are graduate and only 3 persons from the village are employed in the SEZ and the others are employed for daily wages on contract basis. The studies show the unfair practices and there is no transparency in the process of giving employment opportunity because of this reason most of the graduate of the village are searching for job opportunity in the other peri-urban villages like Avadi etc. In the words of Mr. Gokulraj aged about 26 years, "I

⁷³ Assistant Director of Animal Husbandry for Gummudipondi Taluk <<https://tiruvallur.nic.in/contact-directory/>> , Last viewed 24 May 2024.



am graduate, and I am not interested in livestock rearing since the cost of fodder is high and by going to company we get a daily wage of Rs. 650 which help us for sustenance". it is observed that during the study there is no primary health care centre is established in the Thervoy village even though they have established a SEZ.

This acquisition of the village commons dispossessed the local livestock-dependent village communities, especially, the landless and marginal farmers of the village, their grazing land, their access to common grazing lands. In the field interviews, it is found that about 60% of the households in the village who have livestock use their own land for providing fodder. In case of poor and land less farmers due to raise in the fodder and feed cost they don't find it beneficial for their livelihood. After fieldwork, about four weeks spent in Thervoy Kandigai village the study provides a new perception into the community-centred societies, their determining factor and their influences on utilization on village commons resource pattern and environmental conservation, since no alternative grazing land has been provided with in the village by the SIPCOT.

ii. Observation Made on Compliance on Environment Impact Assessment Report

After detail scrutinization of the compliance report of Environment Impact Assessment report submitted in June 2023⁷⁴, it is observed that the ground water, air quality, soil quality is as per the environment standards, further as directed all the topsoil excavated during the development activities should be stored for use in horticulture/landscape development within the project site. Further green belt using local species in the periphery wall of the SEZ as stated in the EIA report is

provided⁷⁵. As per the specific conditions mentioned by ministry of environment and forest, in relating to environment clearance in the year 2010, it has given specific conditions to SIPCOT to carry out. One such specific condition is to provide grassland for the cattle's which the SIPCOT failed to mention the compliance report.

Thus, from the study the nexus between the livelihood and village commons of the poor and their relations with other sections of society are an important part of research to obtain a better understanding of what policy changes in the management of community-based life are possible and how people might use these changes to progress their livelihood security. The full understanding of the relationship between institutions, resource use pattern and village commons management outcome will be a major step toward formulating policies and programs that aim to increase equity and enhancing the sustainability of resource based at the community level. The study will recommend future policy that will facilitate and promote efficient and equitable resource management regimes where village commons-based livelihoods are pervasive features of the rural economy.

Through the case study, it could be ascertained that the value of the voice of the local farmers of Thervoy Kandigai which shows the deep passion for their traditional agriculture and allied activities in addition to their attachment towards the rearing of cattle. While interaction they have expressed their concern for economic growth of the nation through government schemes they strongly felt that the growth should not be proposed at the cost of village commons. Sacrificing such grazing land and water catchment area will deprive the villagers their livelihood. The environment, ecological balance and natural habitat will also be disturbed resulting in the total failure of the scheme itself.

⁷⁴Development of Industrial Park at Thervoy Kandigai, Thiruvallur District, Tamil Nadu", HALF YEARLY ENVIRONMENTAL CLEARANCE COMPLIANCE REPORT For the Period of October 2022 to March 2023, MAY 2023 < <https://sipcot.tn.gov.in/webroot/img/1.Thervoykandigai-HYCJune2023.pdf>>Last visited 23 May 2023.

⁷⁵Appendix-I, Form 1 Government of India, Ministry of Environment, Forest and climate change <http://environmentclearance.nic.in/auth/FORM_A_PDF.aspx?cat_id=IA/TN/IND2/60836/2016&pid=New> visited 23 May 2023.



VII. Conclusion:

After a detailed study of the relevant legal provisions and the judgments delivered by the judiciary, and the study made in the village, it can be stated that the procedure of getting the consent of the local stakeholders cannot be considered as fulfilling the mere formality, and local communities whose livelihood depend on the village commons need to be involved in social impact, and the environmental risk. Post-approval compliance needs to be observed. Transparency relating to information and access to information is vital for public participation in decision making. Further consultation and consent of the local stakeholders who depend on the village commons should be more motivated on decisions and they should be engaged in the process. Alternative remedies must be made available to persons whose livelihood is dependent on the village commons. Compensation by way of financial payments must be contemplated by considering various dynamics, such as livelihood dependence including community rights to common resources.

Various judgements by different courts all over India establish the need for safeguarding the village commons with a view to ensure restoration of basic human rights. They have reiterated the essential aspect of illegal encroachment of common lands for government projects like SEZs, SIPCOTs etc. and gave strict directions to the state governments to refrain from such activities. It is also observed that the power to own, manage and maintain the common lands vest with local administrative bodies. The court verdicts state that any order by state government authorities to convert, regularise, compensate or provision of alternate in view of industrial development is not legal and should be avoided. Especially the grazing lands, water bodies which are the basic natural provision for the survival of cattle, fish and ducks should be protected. The courts maintained that very scrupulous study should be taken up before entertaining regularising and the same should be granted only on very

exceptional cases. It is very encouraging to note that the judiciary is deeply concerned with the problem of encroachment of village commons and prepared to curb any such activity at all levels.

The Nobel Prize winner Amartya Sen in his work "Development as Freedom" has stated that the issue of development cannot be separated from the conceptual framework of human right and the right to development includes the whole spectrum of civil, cultural, economic, political and social process, for the improvement of peoples' well-being and realization of their full potential. Joint action and collective responsibilities of local communities can help balance the use of village commons for ecological well-being, social justice, and economic opportunities. This requires consolidation of traditional knowledge with scientific understanding of utilization of village common resources. Peri-urban Communities have an understanding of the traditional knowledge but need guidance in the right direction to utilize them in action to conserve the environment for the future generation. When the resources common to a community are utilized, concern should include both the current generation of users and the future generations of users and given the nature of the ecosystem functioning (e.g., slow regrowth of forests), sustainability of the resource over time. It becomes an important concern for the states when it acquires the said resource for development. The development activity of the state should include compliance to future environmental risks such as climate change, pollution etc., Subsequently, in the case of equity in the distribution of benefits arising out the utilization of the village commons, the state should consider both local and global stakeholders. If landless and marginal landowning farmers livelihood rest more greatly on village commons for subsistence needs, the State adopting social justice policy should give importance for the local stake holders.