



## The Land Ownership and concept of Land Grants in the Ancient India: A Reappraisal

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According to Medhatithi and Vijnanesvara possession with a legal title was the proof of ownership. One might be in possession of property but as long as title to that property was not clearly proved, he could not become the owner of it. It is the duty of a purchaser to verify the title of the seller before purchase.<sup>1</sup> Whatever may be the facts about possession, in a case in which the property has been enjoyed by a person for three Generations that property cannot be confiscated by the king. In other words, the person in possession for three Generations of a property is treated to be the absolute owner of that property. Sukra holds that if a man enjoys the land for a period of 20 years and the owner in fit to file the suit in a law-court, still he does not do so, the previous owner cannot claim the land. In case a man is in possession of a plot of land for many hundred years and the real owner is found out, the king should punish him like a thief.

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In support of the legal title of land we have numerous epigraphic records which throw light on the validity of possession on land. When a plot of land was donated it was recorded on a stone slab or copper plate with full details, in the presence of village elders, neighbours and King servants. It was also recorded that it should be enjoyed by the donor as long as sun, the earth endure. When the copper plate or stone slab was split it was again engraved.

### **Economic classification of land:**

(i) Cultivable land (ii) Waste land (iii) Habitable land (iv) Pasture- land, and (v) Gardens and forest lands. Krishnaswami in his commentary on Amarakosa mentions twelve types of land namely:- (i) Urvara (fertile) (ii) Ushara (barren) (iii) Maru (desert), (iv) Aprahata (fallow), (v) Sadvala (grassy land), (vi) Pankila (muddy land) (vii) Jalavrayananupan (watery or wet land), (viii) Kachchha (land contiguous to water), (ix) Sarkara (land full of pebbles and pieces of limestone), (x) Sakravati (Sandy), (xi) Nadimatrika (land watered from a river for cultivation), (xii) Devamatrika (land watered by rain).<sup>2</sup>

**Concept of Land Grants:-** The idea of donation of land as a form of gift to Brahmanas was envisaged by the *Dharmasastra's*, *Smriti's*, and *Puranas*. There are *danastuties* in the *Rig-Veda*

and later Vedic literature in which the gifts made by the king and *dana*, in general, are eulogized. In the *Anusasana Parva*<sup>3</sup> of the *Mahabharata*, a full chapter entitled *bhumidana prasamsa* discussed the importance of *bhumidana*. The gift of land is said to have been the best of all kinds of gifts as the earth is immovable and indestructible. Amongst all the creatures, the giver of earth grows in prosperity forever and ever, and by giving the land as a gift, one rescues ten generations of one's paternal and maternal families. The *Matsya Purana*<sup>4</sup> and *smritis*<sup>5</sup> such as Vishnu, Brihaspati, Yajnavalkya enumerate precepts regarding the *bhumidana* as a gift to the Brahmanas and to the institutions of religion and learning, and glorification of the donor not only in this world but also in the heaven. The importance and merit thus associated with the donation of land as gifts to Brahmanas must have encouraged the kings, merchants, and common people to make a gift of land and villages for a good cause of which we have ample evidence.<sup>6</sup>

It is also clear from epigraphical sources that *bhumidana* (donation of land) has been considered the most sacred of *dana* and earned the greatest of spiritual merit in this world and the next world. We have a large number of inscriptions and copper plates from various parts of ancient India giving us the details of the *bhumidana*, its purpose and names of donor and donees and also listed the motive and nature of the gift of land. Thus, the *bhumidana* charters are the important source materials for the studies of *bhumidana* and its various purposes.<sup>7</sup> The list of donees includes the educational and religious institutions, learned Brahmanas, charitable organizations, Buddhist monasteries, and Viharas. The tradition of *dana* (making gifts and endowments) is considered not only the main characteristics features of the household in Kaliyuga but the principal aspects of the religious life of a householder in every practicing religion of the world.

The question that needs to be addressed here is that when so much religiosity and sacredness was involved in the *bhumidana* then what kind of land could have been donated by the king and people and who is entitled to donate the land. The question of ownership of land is one of the most debatable and vexed issues in human history over the centuries. The concept of ownership of land has been vividly described in the context of kingship, agriculture, taxes and revenues, and geographical extension of the boundaries of states and empires throughout the world. In the epigraphical sources donated land or village is very often specified by the boundary marks like the wells, tanks, hills, forest, and certain other physical landmarks may indicate whether it lies in a virgin, semi-virgin, or settled area. The physical landmarks used to demarcate the boundaries in many instances further enlighten us about the geographical and ecological background of gifted land or village. The tradition of *bhumidana* includes what could have been given in the *dana*, and what types of land legitimately belong to the donor. It is therefore important to discuss the question of the ownership of land in the Indian context. Here a critical and comparative analysis of the land ownership system that was prevalent in ancient India is discussed. The purpose of this article is to discuss the two aspects of Indian culture and tradition that is the right of land ownership through which a person is entitled to give the *bhumidana* and the second question is for what purpose *bhumidana* was given.

As per tradition and customs, property rights included all movable and immovable things, and land has always been a very central and important constituent of property to the human possessions right from the beginning. It has been considered as not only the life-giver but also the one which sustains all forms of life. *Sukraniti*<sup>8</sup> says that "land is a source of all the wealth. For

this earth, kings can lay down their lives.... What has else the man who has wealth and life but not cherish land?" The possession of land, house, and tanks were so highly cherished that people did not hesitate to forge the documents to show that a particular piece of land or the house was in their possession. Not only a large number of literary sources mention such forgeries but also, we have a number of inscriptions/copper plates that were discovered to be forged.

In view of this great importance is attached to the land and the right of ownership over the land. There are large numbers of copper plates and epigraphical evidence mentioning the donation of land (*bhumidana*) in this context. It becomes very important to see as to whether the land itself was given to the donees or the revenue accruing from that land was given to the donees. From the survey of literature and facts available therein, scholars have concluded that there were three kinds of landownership prevalent in ancient India. The various types of sources are discussed here in the context of various types of ownership of land. These were:, State/Royal ownership, Communal ownership, , Individual ownership.

The scholars like Maine (1913), Basak(1934), and Majumdar (1918) feels that by and large the major portion of land was held in communal ownership, while Biden-Powell (1896), Keith and Macdonell (1912), Jayaswal (1924), and Altekar (1927) are of the view that land was held under the individual ownership. Smith (1904), Ghosal (1929), Maity (1957), Sharma (1965) feel that land was under Royal/ State ownership. The efforts will be made to survey the references to the land ownership scattered in a large number of literary sources, and try to see as to where the ownership of major part of the land lay. The land system that is prevalent in India from the Rigvedic period onwards can be divided into four classes namely: homestead land, arable land, pasture land and forest land.

**Royal Ownership of Land:-** In the *RigVeda*, the king was regarded as the owner of the land or the owner of the state. However, in later Vedic period literature, we find the references that land was divided into four classes viz. pasture land, homestead land, arable land, and the forest.

The *Mahabharata*<sup>9</sup> says that the protection of land, and not the ownership, was one of the important duties of the king. The *Mahabharata* further lay down rules for the land-tax which should never be so heavy as to induce the agriculturist to migrate to other areas. The king was required to reclaim land for cultivation, to excavate tanks and lakes in order to make agriculture independent of the caprices of the rains. He was also required to distribute seed grains to the cultivators in times of need. *The Jatakas*, *Panini's Asthadhyayi*, and early *Dharmasutras* like *Gautama Dharmasutra*, *Baudhayana Dharmasutra*, *Apastmaba Dharmasutra*, and *VasisthaDharmasutra* mention that the king was the head of the state but not the owner of the entire property in the state.<sup>10</sup>

Kautilya's *Arthashastra*<sup>11</sup> says that the arable lands were divided into private land and the crown land (*sita*). The crown land was under the direct supervision of the officer-in-charge of agriculture known as *assitadhyaksha*. The forest which was regarded as no man's land earlier came to be regarded as the property of the state during the Mauryan period. Kautilya's *Arthashastra*<sup>12</sup>

includes forest as a separate item in the classification of sources of revenue. He classified forest into four groups—namely forest of wild animals (*pasu-vana*), economic forest (*dravya-vana*) and elephant's forest (*hasti-vana*), a forest of domesticated animals (*mriga-vana*). *Arthashastra*<sup>13</sup> further says that the state should clear some parts of the forest and develop them either into cultivable land or homestead land as per the needs and welfare of the people.

*Brihaspatismriti*<sup>14</sup> declares that the king is the lord of all. It further says that if Kshatriya, Vaisya, and Sudra, die without a male issue, or a wife or brother, their property should be taken by the state. *Naradasmriti*<sup>15</sup> says that one-sixth of the produce of the soil forms customary of royal revenue, in return for the protection of the King's subjects. It further says that the king has the monopoly over the treasure-trove and it is one of the important sources of revenue for the state. *Naradasmriti*<sup>16</sup> makes the distinction between different types of land for the purpose of remission of revenue or for fixation of taxes.

Kalidas<sup>17</sup> says that by protecting ascetics from obstacles, and wealth from robbers, the king was made the enjoyers of one-sixth of earnings by people in their respective *Ashramas* and different castes, according to their respective capacities. Like *Brihaspatismriti*,<sup>18</sup> he further suggests that the king could only appropriate the wealth and property of a dead subject who had no heir. *Jaiminisutra*<sup>19</sup> in the context of *visvajit sacrifice*, says that when the performer of sacrifice has to donate everything that belongs to him, even the greatest king cannot make a gift of the whole earth of which he may be the ruler since the earth is common to all.

Sabara<sup>20</sup> in his *Bhasya* says that men enjoy lordship with regard to fields, but not with regard to the whole earth and hence there is no difference between a paramount ruler and an individual with regard to the objects received as fees for providing protection to the crops. *Medhatithi* on *Manusmriti* also considers the king only as a recipient of share for the protection he affords.<sup>21</sup> Madhava,<sup>22</sup> commenting upon Jaimini's *Mimamsa*, expressly says that the king cannot give the state territory (*mahabhumi*) because it is not his own (*sva*), but his *rajya* (state).

The above discussion shows that the king was not the lord of land in his individual capacity, but in the capacity as the head of the state. It was the state which was the lord of entire water and land, but it was an abstract power. It got itself personified in the king, the minister, and other officials. Among the seven limbs (*saptanga*) of the sovereignty, the king has been assigned the first place, and they are the minister and other functionaries. That is why the king is the paramount ruler, exercised this prerogative of being called the lord of the earth, and he acted in a manner he liked with regard to the movable and the immovable properties of the state; but he did so not in his individual capacity. This may explain why the fear always lurked that the lands given in grants might be confiscated by the future monarchs, for which they were exhorted in the imprecatory verses not to interfere with the right of the donees. *Brihaspatismriti*<sup>23</sup> says that the king's decision was not to be disgraced.

The *Smritikaras*<sup>24</sup> and the commentators advise that the *bhumidanaga* given by officials and inhabitants of the villages should also be included in the land transaction records. Inscriptions

often enumerate a large number of officials and village residents some of them being quite in keeping with the injunctions of the legal texts. Most of these officials appear to be associated with one or other form of the properties mentions in connection with the *dana* of the village. Where there was no owner, state, as absolute power called the owner of the land. But it was the duty of the king to protect the people and the property in his territory. *Sukranitisara*<sup>25</sup> enumerate this in the following terms, “God has made the King, though master in form, the servant of the people, getting his wages (sustenance) in taxes for the purpose of continuous protection and growth”.

Even in the medieval period sources do not speak of the king as an owner of the land. Irfan Habib,<sup>26</sup> on the question of land ownership during the medieval period, writes, “No such pretensions (the king being an owner of the land) were put forward on behalf of the Mughal rulers in any official documents. When Abul Fazl sets himself the task of justifying the imposition of taxes on ‘the peasant and merchants’, he does not argue that the tax on the land flows from the sovereign’s right of ownership, he appeals, on the contrary, to a social contract by which the sovereign obtains his ‘remuneration’ through taxation in return for providing protection and justice to his subject”.<sup>27</sup>

Irfan Habib<sup>28</sup> very rightly points out that, “It is only in the eighteenth century that we have an assertion of the king’s right to ownership” basically because of lack of understanding of the system by the European travelers who wrote an extensive treatise on India and this doctrine was passed on the British officials who maintained that the East India Company had inherited a universal right of ownership over the land from its predecessors.

**Communal Ownership of Land:** - In the *Rig-Veda*<sup>29</sup> the pasture (*gavya* or *gavyuti*) land was held in communal ownership. One of the hymns of the *Rig-Veda*,<sup>30</sup> however, mentions that the cattle herds of the village were entrusted to a common herdsman which indicates, that the pasture land was enjoyed in common. The land system that was prevalent in the *Rig-Vedic* times, continued in the later Vedic period as well. *Mahabharata’s Vanaparva* and *Ramayana’s Ayodhyakanda*<sup>31</sup> also mention that the communal ownership over the pasture land was continued over the period.

In the Buddhist literature,<sup>32</sup> pasture land was under communal ownership, which was indicated by the fact that all the cattle and goats of the village were allowed to graze in such fields. The *gopalkas* or *gopas* and *ajapalas* led the herds to the pasture lands, grazed them during the day, and returned them to the owners in the evening. The *Kunala Jataka*<sup>33</sup> mentions that the republican clan of Sakyas and the Koliyas cultivated their land, which was held in common. The forest (*vanapacara*) has been regarded as no man’s land in the Buddhist literature<sup>34</sup> also, but its economic value increased as it began to supply raw material for various kinds of industries. It also served the purpose of natural pastures and habitations of certain classes of people. *Gautama Dharmasutra* and *Vasistha Dharmasutra* also lay down rules for communal ownership of land. *Gautama Dharmasutra*<sup>35</sup> says that un-enclosed pasture lands should be used for grazing cattle and firewood. Generally, such lands should be regarded as communal property.

From the Kautilya's *Arthashastra*<sup>36</sup> we came to know about two types of pasture lands: those owned by the state and those in private or communal ownership. It speaks of *godhyaksha* and the *asvadhyaksha*, who were an officer incharge of the herds of cattle and pasture lands belonging to the king. These officers had to put a special mark on the royal cattle so that they may not get mixed up with the cattle of others. It seems that everyone had the right to use the common pasture land. *Manusmriti*<sup>37</sup> has also recommended various measures for the pasture land. It says that roundabout every village there should be a strip of land measuring one hundred bows or even three times of staff in width, but around a city, it should be three times the width of the pasture land in the village. The epigraphical evidence also mentions the term *svasimatrinarayutigocharparyanta* for defining the boundaries of land, which was given as *bhumidana*.

**Individual Ownership:-** On the topic of the individual ownership of the land, we have evidence from the *Rigveda* downwards. The *Rigveda*<sup>38</sup> refers to the measurement of fields with the help of a rod. The individual owner of the homestead land was called *vastaspati*. Further, we find the terms like *kshetrapati*, *kshetrasa*, *urvarapati*, and *urvaras*, meaning lords or owners of the field. *Rigveda* mentions the right over private property or private land. It also refers to separate plots of private land with boundaries demarcation. The land system that was prevalent in the *Rigvedic*<sup>39</sup> period continued in the later Vedic period also. In *Chhandogya Upanishads*<sup>40</sup> fields and the houses together are mentioned as private wealth. *Atharvaveda*<sup>41</sup> points to the existence of the joint ownership of land. There are references to terms like *sajata*, *samana*, meaning clansmen or men of the same family. The prevalence of the joint ownership of land is also noticed in the *Krishna Yajurveda*.<sup>42</sup> The *Aitareya Brahmana*<sup>43</sup> mentions that even during the lifetime of the father, sons were regarded as having a share in the property from which they could not be excluded at will. The *Taittiriya Samhita*<sup>44</sup> describes a father acquiring common property with his son. As a matter of fact, there are reference not only to the joint ownership of land but also to the gift and transfer of land by the king in the joint ownership in the later Vedic Period.<sup>45</sup>

In the *Atharvaveda*,<sup>46</sup> we find prayers for a grant of share in the villages to the king which indicates that he was not regarded as the sole owner of the villages but that the people gave him some part of produce for the maintenance of his authority and dignity. The *Atharvaveda*<sup>47</sup> also makes several references to the king's revenue. It included a share in the village, cows, horses, tributes paid by the enemies, etc. *Atharvaveda* also refers to the fixed shares of the product being paid to the king as a tribute and the sixteenth part of the produce as land tax.

In *Ramayana* and *Mahabharata*<sup>48</sup> there are several references to private houses and fields. The agriculturist had to pay one-sixth of the produce to the king as land tax. It also prescribes that the land taxes should never be so heavy as to induce the agriculturists to migrate to other areas. *Ramayana* and *Mahabharata* both clearly lay down that the king was not the real owner of the land but he was simply a custodian and for which he was paid a share of the produce. *Jatakas*<sup>49</sup> mention that the arable or agricultural land (*khetta*) was divided into small individual farm holdings each in the possession of an individual landowner. It is important to note that in this

period the stone pillars (*thambhe*) were erected as demarcation lines between the plots of land possessed by different owners. *Jatakas* contain numerous stories of individual donations and the transfer of land to the Buddhist order. Jivaka (a Royal physician) donated pleasure gardens to Buddhist monks at Rajagriha. Amrapali (a courtesan) at Vaisali and Anthapindaka (a merchant) at Sravasti also donated various gardens and grooves to Buddha and other monks, after purchasing them from prince Jeta. A Brahmana of Magadha gave a portion of his arable land to another person.<sup>50</sup>

According to Panini<sup>51</sup> land was surveyed and measured by *kshetrakaras*. This means that the lands were in the individual ownership but the state was involved in terms of dispute settlements etc. The *Dharmasutras* not only throw light on the ownership of land but also on the role of the state in the management of different kinds of land. The king was the head of the state but not the owner of the entire property in the state. *Gautama Dharmasutra*<sup>52</sup> says that the cultivators should lay down rules for themselves. He further says that the king should charge one-sixth, one-eighth, or one-tenth of the produce as land tax, but the standard rate was generally one-sixth of the produce. *Baudhayana Dharmasutra* has also prescribed one-sixth of the produce of the land as the dues of the state.<sup>53</sup>

The early writers of *Dharmasutras* agree that the *Vastu* or homestead land and the arable land should be regarded as private or individual property. *Gautam Dharmasutra*<sup>54</sup> says that animals, land, and females are not lost by the possession of another. On the topic of the acquisition of private property, *Vasishta Dharmasutra*, and *Gautama Dharmasutra*<sup>55</sup> say that a man becomes owner by inheritance, purchase, partition, or finding. Further, acceptance is an additional mode of acquisition for a *Brahmana*, conquest for a *Kshatriya*, and gain by labour for *Vaisya* and *Sudra*.

According to *Vasishta Dharmasutra*<sup>56</sup> legal immovable property, documents, witnesses and possession should be admitted as proof of title, but if there was some confusion in the documents of ownership and conflict, the statement made by elders, guilds, and corporation should be relied upon. *Gautama Dharmasutra* and *Vasishta Dharmasutra*<sup>57</sup> say that immovable property should always be acquired by usage or customs. They also say that the following things if used by a person other than the owner for ten years continuously, become the property of the person who possesses them, ancestral property, a purchased property, a pledged property given to the wife by her husband's family, a gift received for performing a sacrifice, the property of reunified co-presenters, and wages. *Gautama Dharmasutra*, *Baudhayana Dharmasutra*, and *Vasishta Dharmasutra*<sup>58</sup> have also laid down rules for the partition of the estate and inheritance of movable and immovable property. These rules and regulations prescribed by the early *Dharmasutra* writers are conclusive evidence of individual or private ownership of land, but the necessity of producing witness and document against proof of property as well as levying of land tax suggest state's involvement in the acquisition and management of land by an individual or private person. Therefore, it can be safely concluded that the king was not the owner, rather he was merely a custodian or protector of land in lieu of which he was paid tax or a part in the produce.

According to the *Arthashastra*, there were different types of land namely—the homestead land, the arable land, the pasture land, and the forest. In the earlier period, we see that the homesteads and, the arable lands belonged to individual/private and pasture land was under community ownership and the forest was regarded as no man's land or the state property. But in the Mauryan period, some changes in ownership were noticed. The forest land, over which nobody had the claim, comes under state control.

The homestead land generally consisted of the villages and the towns where people constructed buildings for residential purposes, markets, and offices. According to Kautilya's *Arthashastra*,<sup>59</sup> the homestead land (*Vastu*) is comprised of tenements (*griha*), fields (*kshetra*), gardens (*arama*), embanked reservoirs (*setubandha*), and tanks (*tataka*). He recommends various measures to safeguard the possession of such lands and lays down a definite procedure for the sale of homestead land. He recommends that elaborate inventories and statistical lists of tenements and families belonging to them should be prepared under the supervision of the *gopa*, the officer in charge of five or ten villages. This register should contain in serial order the list of tenements (*griha*), of arable lands of several varieties (cultivated and fallow plots, as well as lowlands and upland plots), gardens of two kinds namely flower garden and fruit garden, pasture and woodlands, embanked reservoirs cremation ground and pathways, the places of charity for the distribution of food and drinking water, and shrines of deities, and sacred trees. Forcible occupation of homestead land should be treated as theft of property.

The above evidence of the *Arthashastra* clearly suggests that the homestead lands which included agricultural land, posture, and ponds, etc. were held in private ownership and the state maintained a register for the proper record. Kautilya<sup>60</sup> says that the arable lands were divided into two classes namely the private lands (revenue paying cultivators) and the crown land. He refers also to *kshetrinah*, the owner of the field, like the father or the son, sale and purchase of the land (*kshetra*), park, embankment, tank, and reservoir.<sup>61</sup> It also refers to the disputes of the land which were settled by village elders. But in case it was not settled by elders, the king should decide the dispute. It also refers to the demarcation of boundaries of the field as well as the grant of compensation to the owner of the field whose seeds and fields were damaged by the reservoir, or channels to a field of another. The private ownership over houses, fields, embankments, and so forth is also proved by the provisions of penal clauses for robbery or theft in respect of fields, tenements, etc. The act of grazing cattle on the field of another without permission of the owner was a crime amounting to theft. Kautilya even distinguishes between a landlord (*ksethika*) and his tenant (*upavasa*) and says that their mutual relationship was regulated by law.

Kautilya further says that cultivators who pay tax should be given a right to sell, purchase or mortgage the land but they should enter into such transactions only with those who also pay taxes. Besides these, forcible seizure of agricultural land of the owner should be regarded as a serious crime and the culprits should be punished with a fine of 200 to 500 *panas*. Kautilya clearly mentions that in the case of the sale of an agricultural holding, the kinsmen should be given preference over neighbours, and neighbours over creditors and outsiders should be considered at the last.



*Manusmriti* lays down that a field belongs to him who first removed the weed and the deer belongs to him who first wounded it,<sup>62</sup> further, he also recommends various measures to protect and safeguard the individual or private ownership of land. He has compared the soil (*kshetra*) with the wife and while laying down the rules for the ownership of the land he mentions that neither by sale nor by reputation is a wife released from the husband. He also says that in this connection those who, not owning the land but possessing the seed sow it in the land of another man, never at any time receive the fruit from the crop thus produced. But if by a special contract a field is made over to another for sowing, then the owner of the seed and the owner of the soil both should be considered in this world as sharers of the crops.

*Manusmriti*<sup>63</sup> enjoins that all the villages should mark their boundary properly so that there may not be any dispute in this regard. He also points out methods as well for marking the boundary of the land. But even then, if a dispute arises between two villages (with regard to a boundary), the king should determine the boundary in the month of *Jyestha* by reference to the boundary mark and if there is a doubt, the matter should be decided by evidence. In the list of various categories of witnesses, he mentions the neighbour, old men of the village, hunters, bird-catchers, cowherds, fishermen, root-diggers, snake-catchers, and other men who wander in the woods (forest). If they determine the boundary truthfully it should be regarded as valid and effective in the eyes of law but if they determine is contrary to the truth, they should be fined two hundred *panas*. He lays down that the boundary mark should not be damaged, otherwise it may lead to dispute, and one who destroys the boundary should receive corporal punishment. *Manusmriti*<sup>64</sup> further lays down that in, “whatever dispute false testimony has been given the king should consider the affairs and even what has been done is to be regarded as not done.” Besides this, such a person should be punished. If a delivery or sale has been made by one who is not the real owner, it should be regarded as not made at all. Further, if a person has clear possession of the property, but his acquisition is not clear, in such a case the proof is acquisition and not possession. He also says that one who pleads possession, without being able to produce any title should be considered a thief. Further, if a person is in possession of a plot of land without a title even for a hundred years he should also be punished like a thief. He further says that possession of land quite unopposed and uninterrupted for a period of thirty years, cannot be deprived of such property. In this connection, he further says that when possession has been successively held even unlawfully by the three ancestors of the father of the present possessor, the property cannot be taken away from him. He, like Gautama, has also laid down rules for acquiring wealth and says that there are seven modes of acquiring wealth namely—inheritance, receiving, purchase, conquering, earning by lending money or by labor, and also by receiving gifts. These rules were also applicable in the case of land. *Manusmriti*<sup>65</sup> further says that if a man by frightening the owner takes possession of a house, pond, garden, or field, he should be fined five hundred *panas*. But if he has taken possession through ignorance, the fined should be two hundred *panas* only.

*Milinda Panho*<sup>66</sup> also records, like Manu, that a person who clears the forest and takes other steps for the development of land, ultimately makes it suitable for the purpose of cultivation, should be regarded as the owner of the land. In the *Divyavadana*<sup>67</sup> the king is advised by his minister thus: “the kingdom being protected yield taxes and revenues”, and refers to individual

farmers in large numbers, working hard and engaged in cultivation. *Mahavastu*<sup>68</sup> says that the king should protect his own kingdom of both towns and countryside and make his realm prosperous, developed, and populous by arranging rightly for the protection of his people through righteousness.

The above-mentioned system of ownership of land was even continued during the Guptatime. In the Gupta period such works as *Brihaspatismriti*, *Yajnavalkyasmriti*, *Naradasmriti*, *Katyayanasmriti*, epigraphical evidence, and accounts of foreign travellers like Fa-Hien and Hiuen-Tsang and works of Kalidas and other throw light on the land system prevalent in the country.

The epigraphical records of the Post Mauryan period show that lands for agricultural usage were in private or individual ownership. In the Hathigumpha inscription<sup>69</sup> of king Kharavela of Kalinga, the king speaks of exempting the masons engaged by him from paying land revenue.<sup>67</sup> This means that masons engaged by the king had land and they were paying land revenue to the king. The Kanheri cave inscriptions of the Satavahana period refer that the subject of Satavahana rulers enjoyed individual ownership of land for the merchants and other lay worshippers could freely dispose of their land to the Buddhist monks and to Brahmanas.<sup>70</sup> Nasik cave inscriptions record the *dana* of the field by one Mugudasa. Another inscription mentions that Usavadata purchased the land from a Brahmana by paying 4,000 *karsapanas* and then donated it to Buddhist monks.<sup>71</sup> The Inscription No. 20 records the gift of the village of Dhambhika by the Nasik people. Junar inscriptions refer to the *dana* of 15 *nivarttanas* of land and of the gift of small units of agricultural land owned by private individuals.<sup>72</sup>

Out of 827 inscriptions of the Stupas 1, 2, and 3, temple 40, and other monuments at Sanchi, dated to about the first century B.C., over 200 of them record donations for the construction of stupas. The donors called themselves 'bankers' or chief merchants (*setthi*) merchants (*vanija*), householders (*grahapati*), clock-maker (*pavarika*) 'weaver', (*satika*) 'foremen of artisans' (*Avesani*), and mason (*vadhaki*).<sup>71</sup> The land transactions that took place between the king and the private individuals (in their individual or private capacity) becomes clear from the legal texts. In these works, the written deeds are classified as the royal writs and the private person's deeds. The above rules of Dharamasastras and Dharmasutras, in connection with the land system have been greatly substantiated by the king to maintain his authority over the land on the one hand and to safeguard the rights of the private cultivators on the other hand. The inscriptions of the Gupta and post Gupta period also refer to the purchase of donation of a small piece of land by ordinary citizen. Even during the Mughal period, the land was mostly owned by private individuals and cultivators.

From the above discussion about the ownership of the land it became clear that in India from the time of *Rig-Veda* till the modern time, the land was held into three types of ownership: a. land owned by the community as a whole; b. king as a head of state or in the personification of state was the lord of the land but not the owner, he did not have any propriety ship over the land. However, the state did own some land, forests, etc.; and c. the land was owned by individuals with

full rights over the land he owned, he was free to dispose of it according to his wish and state did not interfere in this right but protected the ownership of individual according to the laws prescribed by lawmakers and according to social custom and punished those who violated the rules.

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