

# **STANDARD OPERATING PROCEDURE (SOP)**

## To Deal With **LAND DISPUTES**

by

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# Objectives of Land Dispute SOP

- To give a Standardised frame of reference and set of instructions to police officers while dealing with land dispute cases.
- To reduce the discretion of individual police officers when dealing with such cases which may lead to favouring of a certain party to the conflict.
- To avoid getting a bad name to the police department of getting involved beyond the legal limits in land dispute related cases.

# GENERAL SOP FOR ALL DISPUTES

1. While conducting enquiry I/O should summon all the connected parties at the same time with their papers. Necessary action should be taken as per this SOP by referring to the type of dispute and conduct open enquiry before them, to avoid allegations.
2. I/Os are instructed to bring to the notice of concerned superior officers when ever land related cases are reported without any delay.
3. A separate file should be maintained at police station level in all major land disputes for the benefit of successor officers.
4. History sheets to be opened against the habitual land related offenders under the sub head of 'Land Grabber' (Sec.110 Cr.P.C. and S.O.No.600 A.P. Police Manual.

# PENAL PROVISIONS FOR REGISTERING CASES

- Section 447,427,506, 120(b) IPC.
- Sec 147,148 IPC.
- Sec 420, 468 , 471, 419, 201 IPC.
- Sec 4 and 5 of AP Land Grabbing Act.
- 145,107 CrPC etc .,

## DISPUTE TYPE – 1: MULTIPLE SALE DEEDS

Person executing number of sale deeds in respect of the same property and number of persons seeking protection for the same property.

### DO's

1. LEGAL SUPPORT should be given to the first, rightful purchaser.

“ Legal Support ” means:

- Registering cases under appropriate provisions of law against the person who sold the land subsequently by suppressing earlier transaction / facts.
- Issuing notices under Sec. 91 Cr.P.C. to the concerned Govt. departments like revenue, registration, municipality etc., for collecting information pertaining to the facts required for the investigation.
- Analyzing the same to find out the rightful owner.
- Investigating the case in all angles
- Arresting the accused
- Filing Charge Sheet

### DON'Ts

➤ No protection should be given to the new claimant's unless the court gives specific directions to Police to implement the orders.

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## DO's

2. If the subsequent purchaser is in possession, first party should be advised to approach the concerned court for eviction of subsequent purchaser.
3. In case of disturbance of possession, cases should be registered under appropriate provisions of law.
4. Any illegal occupants should be evicted through legal process by approaching concerned court.

## DON'Ts

Police should not evict the subsequent purchaser, if he is in possession.



## DO's

5. Initiating 145 Cr.P.C. proceedings through revenue authorities, if the different parties are involved and there is likelihood of breach of peace.
6. Initiating 107 Cr.P.C. proceedings if different parties are involved in breach of peace and tranquility.
7. If civil litigations are pending in the courts protection should be given on the specific directions of the concerned court.
8. Who ever is in factual / physical possession, IO should see that possession should not be disturbed

## DON'Ts

## DISPUTE TYPE – 2: BOUNDARIES

### Dispute regarding boundaries of agricultural lands, sites, buildings, flats and non-agricultural lands

#### DO's

1. Party should be advised to go for SURVEY at Mandal level, by Inspector of Survey in the RDO office, if not satisfied they should be advised to go for AD (Assistant Director's) (S&LRS) Survey. For big holdings/ disputes, parties may be advised to seek state level survey. i.e. Regional Director Survey or Commissioner of Land Survey Settlements, Narayanaguda.
2. If parties don't agree for the survey they may be advised to approach the court for redressal

#### DON'Ts

- No protection should be given to the new claimant's.
- No private survey should be entertained as it has no legal sanctity.
- No protection should be given for private survey

(Contd.,)

## DO's

3. Court commission report and civil court orders will be final proof for deciding the boundaries.
4. Protection to be given at the time of survey to the concerned authorities on their written request.
5. If the revenue/ survey officials are not responding to the request of IO for survey, necessary steps to address the requisition through superior officers should be endeavored.
6. Commissioner of Land Survey and Settlements has issued directions to the survey / revenue officials to conduct survey in respect of land covered by single survey number and also regarding its parts (podi).

## DON'Ts

Police should not take any premature action, on the pretext that revenue / survey officials are not responding.

## DISPUTE TYPE – 3: GPA

**A person produces General Power of Attorney regarding agricultural, non-agricultural land, building, flat or a site and seeks police protection**

### DO's

1. Genuinity of GPA in respect of the petitioner to be thoroughly verified (un registered GPA, registered GPA, irrevocable GPA, agreement of sale cum GPA, agreement of sale cum GPA with possession) (Explanation of each given later).
2. Whether the GPA is given by the legally authorized persons or not.
3. Status of GPA i.e. whether the GPA holder is alive or not, (if the principal of the GPA dies, the said GPA is deemed to be cancelled).

(Contd.,)

### DONT's

- No protection should be given unless the court orders to give police aid to implement the orders, to the new claimant.

4. At the time of transfer of property, the GPA is in existence or not.
5. In case of cancellation of GPA, whether the GPA is cancelled according to law or not (recently registration authorities made it compulsory that both parties to be present at the time of cancellation of GPA).
6. Notice and paper publication regarding cancellation of GPA given by the principal should be collected.
7. Possession to be verified, the terms and conditions of GPA should be verified.
8. In case of disturbance of possession, cases should be registered under appropriate provisions of law.

## DO's

9. The Parties may approach civil court for obtaining specific eviction order with police protection against illegal occupants.
10. Initiating 145 Cr.P.C. proceedings through revenue authorities, if the different parties are involved and creating breach of peace.
11. Initiating 107 Cr.P.C. proceedings if different parties are involved in breach of peace and tranquility.
12. Who ever is in factual / physical possession, IO should see that the possession should not be disturbed.

## DON'Ts

Police should not dispossess any persons / party who are in actual and physical possession.

# Explanation: “General Power of Attorney (GPA)” means

- Power given to an agent to do the acts mentioned in the GPA on behalf of the principal.
- The acts done by the agent prior to the cancellation of GPA are legal.
- The GPA comes to an end on the death of the principal or agent.
- The GPA is not inheritable.

## **SPA – Special Power of Attorney**

- Power given to an agent to do particular acts mentioned in the SPA on behalf of the principal.

## **Irrevocable GPA**

- There is no legal concept of irrevocable GPA. All GPAs can be revoked by the principal during his life time .
- The acts done by the agent prior to the cancellation of GPA are legal.

## **Registered GPA**

- Section 17 of Registration Act does not envisage the compulsory registration of GPA hence an Unregistered or Registered GPA stand on same footing.
- All GPAs are chargeable with stamp duty.
- GPAs executed abroad should be impounded (regularised by paying deficit stamp duty and penalty).

## **Multiple Principals and agents**

- The death of one principal will not affect the GPA if the principals share of the property is properly and distinctly described & available and in all other cases the GPA comes to an end.



## **Agreement of Sale Cum GPA**

- Parties execute AGPA in order to save stamp duty and as a means of investment.

## **AGPA with Possession**

- Delivering the possession of property to the agent to do the acts specified in the AGPA.
- The agent's name will be reflected in the possession column no 13 of the Pahani.
- This AGPA becomes irrevocable in the event of the agent doing some acts expending some amount on the development of land covered by AGPA.

## DISPUTE TYPE – 4: GPA VERSUS REGISTRATION

Incase a person having GPA and registration on one side and another having revenue records

### DO's

1. Genuinity of GPA in respect of the person claiming to be thoroughly verified.
2. Revenue record has to be verified
  - a) How the right is acquired (inheritance, by purchasing, by gift, allotment by government, evacuee property, lease property (private, endowment, Govt, wakf, etc.), protected tenancy (38 A, D & E).
  - b) KASRA PAHANI /PAHANI / ADANGAL, ROR proceedings, pattedar pass books, survey record , podi (division of survey numbers), teepan according to grama naksha, ( Explanation of above given in slide 20).

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### DON'Ts

No protection should be given to the new claimant unless court directs.

## DO's

3. The parties should be advised to get the land surveyed by mandal / AD Survey, if required.
4. Records at registration office should be verified and genuinity of registration shall be verified.
5. Whoever is in factual / Physical possession, IO should ensure that the possession is not disturbed.

## DON'Ts

Police should not take any action, unless genuinity of the record is verified with concerned authority.

## **Explanations:**

- The “Pahani” for the year 1954 – 55 is called “Kasra Pahani” which means in the absence of any document of title, the Kasra Pahani will be treated as basic document which can form a link document / flow of title.
- Adverse possession means a continuous possession of 12 years and above in respect of private property and 30 years and above in respect of Govt. Property.
  - To the knowledge of the owner
  - should be open and continuous
  - It can be conferred by civil court .
- ROR means Record of Rights. The Pattedar rights will be created in this record.

## DISPUTE TYPE – 5: REGISTERED AGPA

**A person produces Registered AGPA with possession and approaches P.S with regard to possession**

### DO's

- The party should be advised to approach the concerned civil Court for specific directions to police for assistance.

### DON'Ts

- No protection should be given to the new claimant's as the loss of the possession is within the purview of civil courts.

## DISPUTE TYPE – 6: AGREEMENT OF SALE

**A person produces agreement of sale in respect of agricultural land, non- agricultural land, site or building, flat and requests for protection**

### DO's

1. The agreement of sale holder should be advised to file a specific performance suit in the court to get the property registered.
2. Possession should be verified.

### DON'Ts

No protection should be to the new claimant given, since the situation is purely civil in nature.

## DO's

3. If the owner executes second agreement of sale in favor of third party without cancelling/by concealing the earlier agreement of sale.
4. To the new claimant's, it amounts to cheating and after taking legal advice, criminal action maybe initiated.

## DON'Ts

The police should not take action against new claimant or harass him, unless his collusion with principal owner is established.

## DISPUTE TYPE – 7: FALSE / FAKE AGREEMENTS OF SALE

**A person enters into agreement of sale for the sale of the property knowingly that it does not belong to him and receives advance money**

### DO's

1. Collect receipts, agreements.
2. Verify title.
3. Case should be registered under appropriate provisions of law including cheating .
4. To the new claimant's it amounts to cheating and after taking legal, criminal action maybe initiated.

### DON'Ts

- No protection should be given to the new claimant.



## DISPUTE TYPE – 8: ADVANCE PAYMENTS

Cases where the person produces proof of having given advance money towards purchase of agricultural land, non-agricultural land, building, or site / flat

### DO's

1. Police should not interfere.
2. The party should be advised to approach the concerned civil court and to file specific performance suit to get the property registered.
3. To the new claimant it amounts to cheating and after legal advice, criminal action can be initiated.

### DON'Ts

- No protection should be given to the new claimant.

## DISPUTE TYPE – 9: INJUNCTION ORDERS

**A person seeks protection on the ground of a specific injunction order from the court in respect of agricultural land, non-agricultural land, building, flat or site**

### DO's

1. When there is no specific direction from court to police, the police should not interfere.

### DON'Ts

- No protection should be given to the new claimant.
- Police should not act suo-motu citing injunction orders as pressurised by the party.

## DISPUTE TYPE – 10: COURT ORDERS

**A person produces specific Court /Tribunal orders for protection of agricultural land, non-agricultural land, building, flat or site**

### DO's

- Police should act according to the specific directions from the court.
- Police should check the genuineness of the order by addressing letters to the concerned authorities and give protection after addressing the revenue authorities concerned for clarification of the boundaries of the subjected land, if required.
- If land is in possession of opposite party, police should file a report in to the court about the same.
- If the revenue authorities request for police protection in writing to erict a party , it shall be extended.

### DON'Ts

- Police should not act suo-motu citing court orders

## DISPUTE TYPE – 11: RECORD OF RIGHTS

**When Record of Rights (ROR) in respect of agricultural land are produced by both the disputing parties**

### DO's

- The parties should be advised to approach revenue authorities for clarification.
- If not satisfied, they may be advised to approach the concerned court.
- Status-Quo on land should be maintained.

### DON'Ts

- No protection should be given to both the claimants.

- If the ROR order is passed by MRO, the aggrieved party may approach by way of appeal to the RDO.
- The aggrieved party, if any with the order of the RDO they may file revision before the Joint Collector.
- The appeal against the orders of the Jt. Collector lies with High Court

## DISPUTE TYPE – 12: NON RENEWAL OF LEASED LAND / FLAT etc.

When a person complaints at the police Station that a person having leased non-agricultural land, building, flat or site has not renewed lease deed and is not vacating the premises

### DO's

- The Complainant to be advised to approach the concerned court .
- Police can seek legal advice from concerned PP/APP if case is blatantly cheating / Cr.br of trust.

### DON'Ts

- Police not to act suo-motu though it may appear to be cheating etc.

## DISPUTE TYPE – 13: OCCUPATION OF GOVT/NON GOVT LAND

**Illegal occupation of Govt / Non Govt. building, flat or site agricultural land, non-agricultural land, launi patta, assigned land, poramboku, grama kantam etc.,**

### DO's

- On receipt of a complaint from the person/authority having title to the agricultural land according to the Revenue Records or the ownership and possession according to the certified survey report, pahani extract of the local revenue authority, a case should be registered under appropriate provisions of law and should be investigated.

### DON'Ts

- Do Not act without written request of the Govt. authority.

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- Any ambiguity with regard to Govt/Private land should be clarified with the Revenue authorities.
- After completion of investigation, if the fact of illegal occupation is made out such person should be arrested and file the charge sheet against him.
- The complainant should be advised to approach the court of law to evict the accused from the property in dispute.
- Police should ensure no activity takes place on the land and absolute status quo is maintained .



## DISPUTE TYPE – 14: LANDS ACQUIRING BY GOVT AGENCIES

**A person seeks protection on the basis of the Record of Rights or pahani in respect of the land which has been acquired by the Government or a Government Agency like APIIC,APHB etc.,**

### DO's

- No protection should be given to such party in respect of the land acquired by the Government or the Government Agency.
- The applicant should be advised to approach the court to prove his contentions and get appropriate orders.

### DON'Ts

## DISPUTE TYPE – 15: INAM LANDS

### Dispute with regard to the Inam lands (as per APTA Inam Abolition Act 1955)

#### DO's

1. The Genuinity of ORC (occupancy right certificate) to be verified with the RDO Cum Inam Tribunal.
2. Whether concerned entries are made in the local revenue office.
3. Whether pattedar passbooks issued to the concerned or not
4. Protection may be given to the ORC holder.
5. If person is in possession of the land without any ORC certificate, he may be advised to approach RDO/Inam Tribunal.

#### DON'Ts

The Police should not initiate any action unless genuinity of ORC is verified with RDO / Inam Tribunal in writing.

## DISPUTE TYPE – 16: TENANCY LANDS

### Dispute with regard to the Tenancy lands, (U/S 38 A,D and E of the AP (T.A.) Tenancy & Agricultural lands Act.1950

#### DO's

1. The Genuinity of the tenancy certificate (38 A, D & E ) to be verified with the RDO cum Tenancy Tribunal.
2. Cases to be verified at the level of RDO and Jt. Collector with regard to the tenancy certificates.
3. Restoration of possession to the tenant vests with the Tahsildar.

#### DON'Ts

(Contd.,)

## DO's

4. Sanction of Succession to the tenant vests with the Tahsildar if the Legal Representatives (LRs) are in possession.
5. Where the LR's of tenant are not in possession they may have to obtain succession certificate from civil court.
6. In the absence of any civil litigation protection may be given to the protected tenant certificate holder.

## DON'Ts

## DISPUTE TYPE – 17: SALE DEED WITHOUT MUTATION.

When a person approaches with a sale deed which is duly executed, no mutation has taken place in respect of agricultural land and no entries are made in the pahani in respect of agricultural land, non-agricultural land, building, flat or site

### DO's

- He should be advised to get the property mutated (entry of rights of purchaser in the revenue records) in his name by approaching revenue authorities.
- In case of non-agricultural land/building/flat/structures, the party should be advised to get the entries updated in the registers of local bodies, Such as Gram Panchayat & Municipality etc.,
- Protection to be given to the purchaser in the absence of any court cases.

### DON'Ts

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### When court issues Status-Quo order in respect of agricultural land, building, flat or site

#### DO's

- For open plots both parties should be advised not to change the physical features of the property (if any ambiguity is there, the opinion of GP for revenue may be obtained).
- Status Quo should be maintained.
- Steps to be taken to initiate Sec.170 Cr.P.C and 145 Cr.P.C. proceedings, if law and order situation arises.
- If Status Quo is violated, police should take criminal action against the violator.

#### DON'Ts

- No protection should be given to the new claimant.

## DISPUTE TYPE – 19: FAKE / IMPERSONATED DOCUMENTS

### Creating fake / impersonated documents and going for possession

#### DO's

1. Register case under appropriate provision of law.
2. The IO should collect required documents.
3. Genuinity of the documents should be verified with the concerned authorities.
4. The IO should make efforts to Identify rightful owner and cheater / imposter.
5. Obtain expert opinion.
6. Arrests /Charge sheeting to be done.

#### DON'Ts

- Do not arrest without examining claims of both parties and getting expert / legal opinion.

## DISPUTE TYPE – 20: SALE DEEDS

**Dispute when one person produces sale deed executed by a court based on ex parte decree and another by a private party**

### DO's

1. Should verify the genuinity of documents related to both parties at the same time.
2. Verify with the original owner .
3. On verification of documents the parties may be advised to approach civil court for redressal, since police has no role to decide the ownership / title .
4. Factual / physical possession of the party should not be disturbed in the meanwhile.

### DON'Ts

- Don't allow disturbance of possession.



## DISPUTE TYPE – 21: MORTGAGE OF DOCUMENTS

1. When a person creates / fabricates a document and mortgages the same and obtains loan from the bank.
2. When a person mortgages the property with a bank by suppressing the earlier mortgage by obtaining a certified / fake document.
3. When the property is not in existence is mortgaged with the bank and obtains loan.

### DO's

- Register cases against the persons who obtain loan in the above circumstances.
- Investigate the role of the errant officials who cooperated in creating fake documents and getting loans.
- Collect the documents and obtain expert opinion.

### DON'Ts

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# Favorable Citations

## **2012 (1) ALD (Criminal) 312 (AP)**

- Findings of fact recorded by a civil court would not have any bearing so far as criminal case is concerned and vice versa where standard of proof is different.

## **2013 (1) ALD (Criminal) 353 (AP)**

- **Breach of injunction orders passed by civil courts – remedy of defacto complainant is only in civil court – resorting to filing of criminal cases parallel to civil proceedings prohibited in law (the meaning of above judgment is that if a party having injunction orders in his favour comes and complains that the opposite party has violated the party must be advised to approach civil court).**

# Favorable Citations

## **2008 (4) SCC 594**

- Possession follows title in respect of open lands.

## **2012 (1) ALD (Criminal) 347 (AP)**

- **Status-Quo order issued by civil court is not a bar for initiating Sec. 145 Cr.P.C. proceedings.**