

LAWBY WRITES

Experience law effortlessly



Has your property been wrongfully classified as Enemy property by the Government of India?

Understanding the Doctrine of Interest Reipublicae Ut Sit Finis Litium

Maternity homes in India: Policies, challenges, and legal framework

The hidden game of luxury car registrations in Puducherry



EDITORIAL



P Arun Sugavaneshvar
Founder

Has your property been wrongfully classified as Enemy property by the Government of India? Read this

The Government of India has declared that there are as many as 12,000 odd immovable properties across the country valued at around Rs. 1 lakh crore as “enemy property” in their official website of Custodian of Enemy Property for India <https://enemyproperty.mha.gov.in/epweb/immovableEnemyProperty>. The genesis of the Enemy Property Act, 1968 can be traced after the Sino-Indian war, 1962 and Indo-Pak war 1965 where enemy property was taken over and held in custody under the Defence of India Rules, 1962 and the Defence of India Rules, 1971. The movable and immovable properties that belonged to people who chose to take up Chinese and Pakistani citizenship post the war were declared as enemy properties and have been placed under the Custodian for Enemy Property in India, under the Ministry of Home Affairs.

The Enemy property Act was amended in the year 2017 to bar legal heirs of enemies (even if they are Indian citizens) from claiming ownership of the enemy property. Therefore succession laws will not be applicable in such scenarios. Recently, properties worth Rs. 15000 crores relating to which Mr. Saif Ali Khan has been running a legal battle, may be rendered ineligible due to the 2017 amendment. This turn of events is due to their classification as “enemy property” as Abida Sultan, the eldest daughter of Nawab Hamidullah Khan of Bhopal, migrated to Pakistan. Later, Sajida Sultan Begum, the second daughter of Nawab, was recognised as the sole successor to these properties as she remained in India. The properties were later inherited by Mansoor Ali Khan Pataudi and subsequently by Saif Ali Khan from his father. The properties in dispute are now under the radar for Governmental action.

Under Section 8A of the Enemy Property (Amendment and Validation) Act, 2017, the Custodian, with the prior approval of the Central Government, may sell the enemy property and remit the sale proceeds into the Consolidated Fund of India and intimate details thereof to the Central Government.

If any of your property is classified as enemy property, you may apply to the Ministry of Home Affairs to declassify your property upon producing conclusive evidence of the citizenship of the original owner and the non-enemy status. However, this process is quite cumbersome. As per section 18 of the Enemy Property (Amendment and Validation) Act, 2017, any aggrieved person shall apply to the Central Government within a period of thirty days from the date of receipt of such order or from the date of its publication in the Official Gazette of their property as “enemy property”.



LEGAL CRISPS

Understanding the Doctrine of Interest Reipublicae Ut Sit Finis Litium

-Nithyaparvathy R G

The Latin maxim “**Interest Reipublicae Ut Sit Finis Litium**”, which translates to “**it is in the interest of the state that there should be an end to litigation**”, is a cornerstone of Indian jurisprudence. This doctrine highlights the importance of ending legal cases, recognising that perpetual litigation can be detrimental to both individuals and society.

The Supreme Court and several High Courts in India have continuously upheld this doctrine. It ensures judicial efficiency, reduces the incessant reopening of decided cases, and establishes clarity in legal relationships. The Supreme Court has underlined the need for litigation to end at some point to preserve social order and public trust in the legal system.

The doctrine is put into practice in India through several legal systems and finds practical application through various legal mechanisms in India. Section 11 of the Civil Procedure Code, 1908 which embodies the **Doctrine of Res Judicata**, prohibits re-litigating cases that a competent court has already decided. Similarly, the concept of **Constructive Res Judicata** prevents parties from bringing up matters that should have been brought up in past proceedings.

This doctrine has been followed strictly by Indian courts in cases involving property disputes, family matters, and commercial litigation. For instance, in the case of **Satyadhyan Ghosal v. Deorajin Debi (1960 AIR 941)**, the Supreme Court emphasised that this doctrine is essential for social stability and economic growth.

The application of this doctrine is not, however, absolute. When justice demands a deviation from this rule, Indian courts have acknowledged exceptions. These exceptions often apply to cases involving fraud, lack of jurisdiction, or abuse of principles of natural justice.

The doctrine also affects various Indian statutory regulations, including the limitation period for submitting appeals and review petitions. These limitations reflect the legislative intent to resolve conflicts while providing reasonable opportunities to seek judicial recourse.

The importance of this doctrine grows as the Indian judiciary battles litigation backlogs and delays. It serves as a reminder that justice must be prompt, decisive, and thorough. The doctrine continues to serve as a guide for judicial policy and decision-making, which helps the efficient administration of justice in India's complex legal system.





Maternity homes in India: Policies, challenges, and legal framework

-Seethala B

Maternity homes in India play a vital role in ensuring safe childbirth and postnatal care, particularly for women from economically weaker sections. The government has introduced several schemes to promote institutional deliveries and maternal healthcare, such as Janani Suraksha Yojana (JSY) and Pradhan Mantri Surakshit Matritva Abhiyan (PMSMA). Under JSY, financial assistance is provided for institutional deliveries—₹2,000 in rural areas and ₹1,200 in urban areas, including incentives for Accredited Social Health Activist (ASHA) workers. PMSMA ensures high-quality antenatal care on the 9th of every month during pregnancy, offering free ultrasounds, supplements, and risk-based categorization of pregnancies through a red-green sticker system. However, despite these initiatives, gaps in implementation and accessibility persist.

The Delhi High Court's ruling in **Laxmi Mandal v. Deen Dayal Harinagar Hospital & Ors [2010:DHC:3102]** and **Jaitun v. Janpura Maternity Home & Ors [W.P. No. 10700/2009]** exposed systemic failures in providing maternity benefits to Below Poverty Line (BPL) women. Shanti Devi, a woman with severe pregnancy complications, was denied medical care at multiple hospitals due to BPL documentation issues, ultimately leading to her preventable death. Similarly, Fatema, a homeless woman, was forced to give birth under a tree without medical support and was repeatedly denied financial assistance under maternity schemes. The Court ruled that these cases violated Article 21 (Right to Life) of the Indian Constitution and India's obligations under the Protection of Human Rights Act, 1993.

The judgment identified critical flaws in the implementation of maternity schemes, including lack of portability across states, bureaucratic hurdles in accessing benefits, inadequate referral systems, and poor infrastructure in maternity homes. The Court held that no pregnant woman should be denied care due to administrative inefficiencies and emphasized that maternity benefits should be easily accessible to all eligible women. It directed the government to strengthen monitoring mechanisms and ensure that maternity schemes reach the intended beneficiaries without unnecessary barriers. Private hospitals and maternity centres also provide advanced maternal healthcare, but their high costs make them inaccessible to economically weaker sections, highlighting the need for better regulation and affordability measures.

Despite existing policies, India's maternal healthcare system faces challenges like infrastructure gaps, lack of awareness, and poor implementation of schemes. Strengthening maternity homes through improved regulation, increased outreach, and better healthcare facilities is crucial for reducing maternal mortality and ensuring every woman's right to safe childbirth and postnatal care.





BEYOND THE OBVIOUS

The hidden game of luxury car registrations in Puducherry

-Saraswathy Thogainathan

For years now, many vehicle owners, especially people owning luxury cars have quietly exploited Puducherry's tax loophole to save big on road taxes. With its significantly lower road tax rates, it has become one attractive spot to spend less on taxes. This brings more important legal and ethical questions like, "Is this method of saving money legal?" or "Is it a calculated move to evade taxes".

In Puducherry, road taxes are considerably lower **around 5-7%** compared to neighbouring states like **Tamil Nadu (upto 20%) and Kerala (15-18%)**. People from other states register their vehicles, especially luxury cars, in Puducherry despite residing elsewhere, saving lakhs in tax. However, **Section 40 of the Motor Vehicles Act, 1988** mandates that a vehicle must be registered in the place where the owner **originally resides**.

In Puducherry, agents often suggest vehicle owners take a **LIC Policy** for proof of residence. They even use fake addresses solely for the purpose of registration. It had come to light that multiple vehicles were registered at the same address, without the knowledge or consent of the property owner. Once the documents are submitted, the vehicle is registered with a PY number plate. The car is driven back to the owner's home state. However, **Section 47 of the Motor Vehicle Act of 1988** states that it is illegal to drive a vehicle registered in another state for more than a year in the owner's home state without re-registering it.

As per **Section 336(1) of Bharatiya Nyaya Sanhita, 2023 (BNS)** registration done on a fake address by forgery is an offence which may result in two years of imprisonment, and under **Section 335 of BNS**, making a false document with the intent to deceive is a serious crime. Additionally, **Section 340(2) of BNS** penalises anyone who uses a forged document as a real one. In such cases, RTO can initiate strict legal action, which includes filing a police report which could lead to criminal charges, hefty fines, vehicle confiscation and even imprisonment, apart from the tax recovery measures. Incidents involving Actors from Tamil and Malayalam industry has brought attention to this practice in Tamilnadu and Kerala. These actors had to pay hefty penalties after it was revealed that they evaded taxes by registering their vehicles in Puducherry. Registering a vehicle in Puducherry is not illegal if the owner genuinely resides there, but using fake address and documents to evade is a clear violation of law.



MEET THE TEAM



Nithyaparvathy R G

Legal Consultant



Seethala B

Legal Consultant



Saraswathy Thogainathan

Law Student
