

Chota Nagpur Tenancy Act, 1908 and Its Role in Protection of Tribal Land Rights

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Abstract

Land is at the root cause of many litigation both civil and criminal in the Subordinate Courts. Albeit Chota Nagpur plateau being in the midst of regions of Jharkhand, has long history of settled life, it never had any strong centralized system of governance and different tribal communities were independently governing their own villages through their indigenous systems. Chota Nagpur Tenancy (CNT) Act, a legal document, enacted in 1908 after the Birsa Movement to govern land issues and prevent land alienation, is supposed to be the Magna Carta for tribals. Present developments have brought in a paradigm shift in mandatory acquisition of tribal land to foster imposition of various developmental projects by the state. In the light of such change in notion of development, highly contentious legal instrument is witnessing a drastic change which is apprehensive of rapid structural mechanisms of land alienation and further exploitation of tribals. The century old veteran Act, if appreciated and implemented in its letter and spirit, still capable of protection of Tribals is on the verge of amendment in the consonance of state's notion of development. In the light of aforementioned context, the present paper is an attempt to provide with the detailed critical analysis of the pro-tribal provisions in the aforementioned Act and contemporary changes being brought out. Researcher has attempted to give comprehensive as well as exhaustive understanding of loopholes in the present Act and has also tried to address the contemporary issues by suggesting normative reforms to foster Access to Justice to Tribals.

Keywords: Tribal Rights, Land Rights, Chota Nagpur Tenancy Act, Land Alienation

Introduction

Political leadership as well as the population of Jharkhand seems to be divided on the issue of amendment to Chota Nagpur Tenancy Act, 1908 (CNT). Though Chota Nagpur plateau in the midst of regions of Jharkhand has long history of settled life, it never had any strong centralized system of governance and different tribal communities were governing their own villages, CNT Act, enacted in 1908 aftermath of the Birsa Movement to govern land issues and prevent land alienation, is apparently supposed to be the Magna Carta for tribals. Its operation is effective in North Chotanagpur, South Chotanagpur and Palamu divisions, including areas declared through government notification issued by notified area committees. Development in the lines of industrialization and other proposes requires a pre-requisite of land and in the present context of development, century old veteran Chota Nagpur Tenancy Act which acts as an apparent layer of protection from being alienated of land right of tribals restricts the notion of development flagged by the state. Courts have been reiterating their stern decisions that the said piece of legislation is the only resort to save tribals from being alienated of their land rights. Previously Jharkhand Assembly has approved amendments of Chota Nagpur Act which was, pending before the office of president of India for his assent, has sparked vociferous and uncontrolled protests by various stakeholders throughout the state. The highly contentious changes that got legislative nod have paved the way for the land of tribals being used for industrial and welfare projects. Those amendments passed by the state includes commercialization of tribal land through after following due procedures of law. The existed old law was considered deterrent in terms of development of the Chota Nagpur region. Those amendments were considered as a pre requisite resource to propel and boost trade, investment and revenue.

Contentious provisions such as sections 21, 46, 49 and 71A of CNT Act are on the verge of becoming apparent propelling force to unequivocally support state to achieve goals of development. On the other hand, it is apprehensive that vulnerable tribals who are still in transition phase of accepting and adapting into the so called modernised world, would be more marginalised and more vulnerable. In this technology driven world, the land still being used as the status symbol and protector of the rights of tribals through land holdings might not stand the test of the times, but it still serves as a symbol to recognise and maintain status quo of tribals. Land has always remained as a source of conflict as it is as major resource for almost all developmental needs. Development has a major stake on availability of land and therefore, acquiring it is always a challenge for the state. Jharkhand has always being in a crossroad, from where it has to choose whether it should opt for massive developmental corporate projects or should turn its direction towards development which is in consonance of overall development of tribals.

Historical Background of Chotanagpur Tenancy Law: The Chota Nagpur Division, or Southern portion of the State of Bihar, comprised five districts namely Ranchi, Hazaribagh, Dhanbad, Sighbhum and Palamu.¹ The history of Chota Nagpur can be divided into four clearly marked periods. During the first period the Mundas seem to have reclaimed the uncultivated forests and called their country Jharkhand (the forest tract). The other two tribes, the Oraons and Kharias followed later.² The Mundas organised themselves into independent village communities, "each village community was the proprietary body owning all the land inside the village boundary."³ The neighbouring forests and fields belonged to the village. Each family owned the land as its private property. They showed the sasandiris (burial slabs) as evidence for their claim to property, that they had made the land cultivable out of the forest area. That is how they claimed belongingness to Chota Nagpur Plateau.⁴

Counting among various democratic aspects, one of important governing systems was Munda Manki System.⁵ It was regarded as most effective system to use land for various purposes.

Munda Manki System (Mundari Khuntkatti System):- This village based administrative system varied depending upon the communities, but usually it was governed by the village headman known as Munda and the priest was known as Pahan. Network of 8 10 villages were headed by a Manki who used to solve disputes arising between / among different mundas. The pieces of land were held jointly by the villagers and there was no concept of an individual holding of land as a proprietor of land in his own personal capacity. Different portions of land were earmarked for different purpose, like some portion of the land was marked as *rajhas(kings)* the produce of which was reserved to be sent to the king as tribute, certain portion was reserved for religious activities called *Sarna land*, some portion of land for community dancing and celebration known as akhars land and some portion of agricultural produce was for everyday use.

In other words, at the lineage level the elder or the lineage head, leads the own lineage people, whereas village head is the Munda. There are two types of inter-village organizations known as Parha and Patti as political and social organizations respectively. The Khunkhatti area is divided into circles called Pattis. A Patti is a group of villages, generally at least ten or twelve. The Head of Patti is called Manki. The Patti organization is again of two types, Bhuinhan⁶ Pattis and Khuntkhatti Pattis. While Patti organization is territorial, Parha is based chiefly on the Killi, i.e., clan. The Patti organization has jurisdiction on every individual falling under its territorial jurisdiction whatever be his or her clan, while Parha has jurisdiction over every individual of the clan no matter where he be territorially. Thus there is inherent contradiction in this system; an individual will have two heads, one clan head, Parha and one Manki, Patti head. Munda Manki system has to a large extent been retained in Kolhan area under the Wilkinson rule.⁷

The traditional Mundari Khuntkatti village usual by contains three elements, namely,

(a) The Khuntkattidars:- The Khuntkattidars are descendants in the male line of the original founders of the village. As such they are all akin, of equal status and differing in wealth mainly owing to differences in size of the families of their ancestors. As a group they are the owners of the whole of the area included in the village boundaries, subject to the payment of a fixed annual rent to the superior landlord. This annual rent was originally made up solely out of the subscriptions (chandas) of the various Khuntkattidars; but in most villages these subscriptions, or some of them, have now been reduced, the deficit being made good from the rent paid by the Parjas. The amount of a man's subscription, no doubt, originally corresponded with the share of the cultivated lands, which he inherited; but in as much as the uncultivated lands, though as such held in common, were liable to be appropriated by an individual khuntkattidar who might reduce them to cultivation, such correspondence is not now found to exist. It is to be noted that the cultivated lands are not held in common, and that no trace is found of the existence of any custom of equalisation of shares or periodic redistribution of lands. To the rule of rule of descent from common ancestors the only exceptions (and these are extremely rare) arise from either formal public adoption with the consent of the brotherhood, or the union for the purpose of foundation of the village of men of different descent, these two acts having, according to Mundari ideas, the same legal effect as common descent. The rule of succession is equal division among the sons, daughters having no rights.

(b) The Parjas or Raiyats:- The Parjas are almost invariably Mundaris, and very often are relatives on the female side of the Khuntkattidars. They are in no sense co-

¹ Imperial Gazetteer of India, XXI (Oxford, 1908), 197.

² Hoffmann, Encyclopaedia Mundarica (1993), VIII, 2334-2335.

³ Circa 6th Century B.C. the Mundas settled in Chota Nagpur. S.C. Roy, The Mundas and their Country (Calcutta, 1912), App. 4/69.

⁴ J.B. Hoffmann, Encyclopaedia Mundarica (1932), V, 1440-41.

⁵ http://jarkhand.in/wp-content/uploads/2017/01/06_handbook_on_land_law.pdf. As Accessed on 20th April, 2026.

⁶ Decedents of the first original founders of villages in Chotanagpur.

⁷ *Ibid*.

owners of the village, and can bring under cultivation only such specific lands as may from time to time be given to them.

(c) The subsidiary castes:- The subsidiary castes (Penrains, Mahilis or Khangars, Bhogtas, and Barais) perform the non-agricultural functions necessary to the village life and rarely cultivate land.

Need for Chota Nagpur Tenancy Law : Tribal people have unique way of life which has a graceful essence and purity in itself. The affinity with land is sacred in terms of relationship with the land. Land which they occupy, is essential for their physical, cultural and spiritual sanctity. Over centuries, tribals and more specifically scheduled tribe, have evolved an intricate convivial mode of living. Tribals belong to their territories which are essence of their existence, the abode of spirits and their dead and the source of their science and technology, way of life, their religion and culture.

To quote Mr. Slack⁸, *“Owning to non-recognition of their rights, the Mundaris for more 3/4th of the century have been in a state of agitation, which from the time has culminated in outbursts. In 1822 a horde of middlemen was let loose over the country by and then Maharaja of Chota Nagpur. These persons were up countrymen. They were ignorant of, or oblivious to, the rights and customs of the aborigines, among whom naturally much discontent arose. This found a vent in the great Munda rebellion of 1832-1833, the immediate cause of which was an attempt by the Thakur of the Sonpurgarh to destroy Khuntkatti rights in Bandgaon and Kochang in the district of Ranchi. The attempts to destroy the Khuntkattidars’ rights did not cease, and they were the cause of the disturbances between the Landlords and Tenants in that district in the year of the Mutiny. Both sides took advantage of the disorder that then prevailed – the landlords to oust the khuntkattidars who were holding at low permanent rentals, the Khuntkattidars who were holding at low permanent rentals, the khuntkattidars to recover the khuntkatti lands which the landlords had previously succeeded in making Rajhas or Manjihahas, i.e. Rayati or Sir.”*⁹

Eventually the Chota Nagpur Tenures Act of 1869 was passed, and effected some improvement. But it omitted to deal with the all the privileges lands, as it took no notice of instant khuntkatti villages. This omission left such villages at the mercy of the spoliator. The destruction of the khuntkatti tenancies went on, and the discontent thereby created brought about the outburst of 1888, when what is locally known as the Sardari-Larai began, and has not yet ceased. Utilising the bitter feeling of the Mundaris, some of their fellow-clansmen-they came to be known afterwards as Sardars-persuaded the people that the Hindus had no right to the lands that the lands belonged to the Mundaris, that no rent should be paid, and that the Sovereign had given a decree to this effect. The outburst that occurred at the time was put down, but it again broke out in 1899-1900 under the leadership of Birsas, who styled himself as God.

The phenomena of prolonged disaffection among tribals were the reason that had led Government to have a survey and record-of-rights made of the Mundari country. But if steps were not taken to safeguard by legislation the rights of those people and to secure the finality of the record-of-rights, the latter by itself will not suffice to quiet the agitation. As long as 1839 it was reported that unless those people are protected in the possession of their lands, Britishers could not ascertain peace within the said region. Once the necessary facts had been obtained, as the precarious situation existed, such legislation could not be afforded to be delayed, because the attacks which had been made on these rights so pertinaciously and for so long a time would be carried on with a greatly increased vigour, owing to the need of acting before the law could intervene.

To give a summative view, after the advent of the Britishers in India and specifically on tribal lands gave rise to uprisings among the tribals. In 1779, Tilka Manjhi challenged the Britishers who were bent upon snatching their land by reiterating that land is tribals’ heritage since are the first inhabitants in that place. Notwithstanding, claim made by tribals Britishers in 1793 enacted the Permanent Settlement Act and further the Land Acquisition Act, 1894 which henceforth gave the concept of private property and eventually Zamindari System came into existence which further deprived tribals and took away their land which once they relish the heritage and collective notion of collective usufructuary rights of the community. This further gave rise several tribal uprisings namely Kolh Uprising(1831), Santhal Uprising(1855), Kolhan Ulgulan(1893) and Birsas Ulgulan (1893) which disturbed Britishers and thus resulted in enacting and enforcing three important legislations namely the Wilkinson’s Rules, 1837, Chota Nagpur Tenancy Act and Santhal Pargana Act, 1949 with prime objective of protection of tribal lands.

The British Government was unable to douse more than 100 years of their rebellion-fire in the plateau region using its violent approach, and the fire was only spreading. Thus with the enactment of CNT Act the British Colonial Government tried to end the non-ending simmering discontent among the general population of Chota Nagpur Plateau. Given the fact that people of Chota Nagpur were greatly attached to their land-assets, the CNT Act 1908 went a long way in establishing peace in the region.

Quadrangular Perspective: Significance of Provisions 21, 46, 49 and 71A: The Pandora box of Chota Nagpur Tenancy Act open with lines which states that it is an act to amend and consolidate certain enactments relating to the law of landlord and tenant and settlement of rents in Chotanagpur. The Act also guarantees the customary rights of the tribal community and also recognizes the categories of tenures and also protects the rights of the raiyats against high rents and arbitrary enhancement of rents. The Act also gives protection to the transfer and also for restoration of the land belonging to the scheduled tribe illegally transferred.

Section 21¹⁰ provides rights of occupancy raiyats in respect of use of their lands which states that a raiyat has a right to use his land in consonance of local custom or usage, or in any manner which does not materially impair the value of the land. Exceptions to the said provision are manufacture of bricks, digging of wells and tanks, erection of buildings solely for domestic or agriculture purposes. Section 46¹¹ of the CNT Act restricts transfer of land belonging to Scheduled Tribes/Scheduled Castes and Backward Classes. However, a tribal may transfer his land through sale, exchange, gift or will to another Scheduled Tribe member who is mandatorily resides within the same police station area jurisdiction. In other words, if a tribal sells, exchange, gift or will to another tribal who does not resides within the same police jurisdiction, such transfer could not be backed by law and therefore it would be considered ab initio void. In addition aforementioned condition, prior permission of Deputy Commissioner is mandatory to transfer of land. Incongruous to popular belief, the CNT Act also allows transfer of land from tribals to non-tribals under Section 49.¹² This can be done only for industries or mining. Restrictions and procedures are prescribed in the relevant Sections of the Act. As per the Section 49 of the CNT Act, tribal land can be sold to non-tribals too but only for the purpose of setting up of industries or mining establishment, after prior written consent of Deputy Commissioner and only be registered deed. The last corner of quadrangular contours is Section 71A.¹³ This section gives wide power to Deputy Commissioner for restoration of land belonging to Raiyat, Munda-kattidar or a Bhuinhari who is a member of scheduled tribe, if the transfer has been made in contravention of section 46, 48 or section 240 of the CNT Act. There is no limitation for filing application for restoration under this provision and it empowers Deputy Commissioner to make an enquiry and if found true, can evict the transferee from such land with or without paying compensation depending upon the facts and circumstances of the case and compensation if paid, should be in the nature which DC may deem fair and equitable.

The present study is focused on the understanding of conundrums and significance of Chota Nagpur Tenancy Act, 1908 and its relevance in promotion of Access to Justice to Tribals residing in Chota Nagpur region. It is an attempt to provide with the detailed analysis of the pro tribal provisions in the aforementioned Act and contemporary issues being raised to foster present notion of development. It intends to find out the extent of protection being bestowed by the Act and its relevance in the present context. It is presumed that Chota Nagpur Tenancy Act to some extent, has failed in protection of Tribal land.

The CNT Act, Tribal Land Rights and Judicial Pronouncements

Community Rights: The Chota Nagpur Tenancy Act, 1908 (CNT Act) holds an important place in the legal history of Jharkhand as it was designed to protect the customary land rights of tribal tribes. The Act was a response to the recurring tribal uprisings against colonial plunder, forced alienation of lands and intrusion into traditional ways of land management. One of the most important provisions of the CNT Act is the recognition of community rights through preparation and maintenance of land records called “Khatians”. These records remain the main source of evidence for land ownership, tenancy rights and customary practices in Jharkhand. The records were made in the course of survey and settlement operations carried on under the Act. The land records were essentially categorised into three parts. The first portion popularly termed the “Khevat” contains the record of rights in respect of proprietors and tenure-holders along with the particulars of plots and shares in the village. The second portion, records of community right known as Khatians. The third portion, generally called the village note comprises general description of social and economic organization of the each village, traditional customs, obligations of village headmen and community rights over land and other resources.

⁸ Peter Tete, *A Missionary Social Worker in India: J.B. Hoffman, The Chota Nagpur Tenancy Act and Catholic Co-operatives 1893-1928* (Gregorian University Publication, Rome, 1984) p.145. Mr. F.A. Slack was Commissioner of Chota Nagpur Region and introduced amending bill of 1903.

⁹ Sameer Bhagat, *Why CNT Act 1908 Was Passed By British Colonial Government*, <http://www.focusmagazine.in/cnt-act-1908-passed-british-colonial-government> .As accessed on 23rd of April, 2026.

¹⁰ Ins. by Section 8 of CNT (Amendment) Act, 1947

¹¹ Subs. by section 14 of CNT (Amendment) Act, 1947

¹² Subs. By CNT (Amend.) Act, 1996

¹³ Ins. By Serial No. 3 of the Bihar Scheduled Areas Regulation, 1969

The acknowledgement of community rights in the CNT Act reflects the ancient tribal view that land is not only an economic asset but a part of cultural identity, spirituality and social existence. The tribal groups have always depended on forests, agricultural land and water supplies for their livelihood. Therefore, the safeguarding of customary rights became essential for the preservation of the social fabric of indigenous society.

The Act has a historical background of the Ulgulan revolution led by Dharti Aba Birsa Munda. The insurrection exposed the extent to which tribal people were exploited by landlords, moneylenders and colonial officials. As a result, the British administration realized the need to create a unique tenancy law according to the customs and traditions of the tribal community. Therefore, the Chota Nagpur Tenancy Act, 1908 came into force for regulating landlord-tenant interactions and also to protect the tribal territory from unauthorized transfer and exploitation. But, whereas the Act allows for community rights, implementation has often been inadequate. Post-independence surveys and settlement efforts have often overlooked customary rights established in colonial surveys. As a result various disputes over village forests, common land and customary usage are still arising in Jharkhand. However, the Act still is an important legal tool for protecting tribal identity, and for protection against arbitrary deprivation of land.

Land Rights of a Tenure Holder : The CNT Act contains specific provisions as to rights and obligations of the tenure holders. According to section 5 of the CNT Act 'A tenure holder is a person who holds land directly under a proprietor and has specific legally recognised interests in the land. The Act recognises the different kinds of tenure prevalent in Chotanagpur and strives to govern the landlord-tenant relationship in conformity with the local custom.

Chapter III of the Act deals with the rights of tenure holders. The Act prohibits arbitrary increase in rent of the permanent tenure holders. In general, a tenant who has been paying a fixed rent from the time of the Permanent Settlement cannot be made to pay a higher rate. The purpose of this protection was to prevent the zamindars and landlords from exploiting them. Regulation VIII of 1793 also prevented the arbitrary raising of rents by the zamindars, unless such increase was grounded on local usage, the terms of contract, or other valid grounds. Section 10 of the CNT Act says that no Bhuinhar whose lands are entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869 shall be liable to any enhancement of the rent of his tenure.

Further sections 11 and 12 provide for the registration of transfer of a tenancy in case of inheritance, succession, sale, gift or exchange. If the landlord refuses to register the transfer without fair cause to register, the aggrieved party may apply to the Deputy Commissioner for such relief as may be necessary.

Judicial interpretation of these laws has been significant in determining the rights of tenure holders. In *Maharaja Pratap Udai Nath Sah Deo vs. Sunderbans Kuer*¹⁴ the Court has observed that the delivery of symbolic possession in favour of an under-tenure holder would have a binding force. The ruling defined the legal status of possession and strengthened the procedural protections for tenure holders. The stipulations in respect of tenure holders further indicate that the CNT Act was not a revenue law but a welfare legislation which aimed at bringing stability to agrarian relations. The Act was designed to preserve the social equilibrium in tribal communities by safeguarding the tenure holders from arbitrary raising of rent and illegal dispossession.

Land Rights of Raiyats

Under section 6 Raiyat means a person who has acquired the right to hold land for cultivation either directly or via members of his family or through hired workers or partners. But this definition clearly excludes a 'Mundari Khunt Kattidar.'

The Act recognises the raiyats as an important class of tenants and vests in them extensive rights over their properties. Courts have also emphasised the difference between raiyats and under-raiyats. In *Godwin Ekka v. Additional Collector, Commissioner, South Chhotanagpur Division and Cyril Kharia*¹⁵, the Court concluded that raiyats and under-raiyats are independent classifications under the Act. A raiyat is one who holds land directly under a proprietor, tenure holder or Mundari Khunt Kattidar. An under-raiyat is one who holds land immediately or subsequently under a raiyat.

In case of *Smt. In Bina Rani Ghosh vs. Commissioner, South Chhotanagpur*¹⁶ it was held that the landlord has just the right to receive rent and has no authority to interfere with the lawful possession of the raiyat as long as the raiyati rights are intact.

Settled raiyats have further been defined under sections 17 and 18 of the act, which includes raiyats, Bhuinhars and Khunt-Kattidars along with others. Section 19 further provides that the land for the time being held by him as raiyat and in village of which he is a settled raiyat. This has been held in the case of *Jaichand vs. Bhutanath*¹⁷.

Section 21 (1) of the CNT Act confers upon occupation raiyats a substantial right to use of land. Under the provision, a raiyat can utilise the land in any manner which is allowed by local custom or in any manner which does not seriously harm the value of the land or render it unfit for tenancy purposes. The clause allows for activities including:

- 1) Manufacture of bricks and tiles for household or agricultural reasons;
- 2) Digging of wells, tanks and construction of bandhs for supply of water;
- 3) Construction of buildings for domestic, agricultural or cottage industry uses.

In *Hindustan Aluminium Corporation Ltd. v. State of Bihar*¹⁸ these rights have been affirmed. The Court has stated that Section 21 protects the inherent rights of occupancy raiyats in regard to use and enjoyment of their land. In *State of Bihar v. Vijay Kumar Chowdhary*¹⁹, the Court held that the revenue authorities cannot demand salami or commercial rent on the ground that the raiyati land is being used for commercial purpose; provided the use does not seriously degrade the land.

Section 21A confers rights on the raiyats over the trees standing on their lands. In *Nanda Manjhi vs. Gokul Kamini*²⁰ the Court concluded that raiyats have rights over trees unless there are opposing customs or entries in the record-of-rights. The CNT Act also protects raiyats against arbitrary eviction. No raiyat can be removed except by a ruling on valid grounds, such as unauthorised user of land or infringement of stipulations of contract. Thus Act gives the guarantee of possession and livelihood of cultivators.

Transfer of Rights by Raiyats: Section 46 of the CNT Act prohibits the transfer of raiyati land. The provision was to safeguard vulnerable populations from exploitation and to prevent land alienation and transfer of tribal land to non-tribals. The section bans transfer of raiyati holdings by way of sale, mortgage, lease, gift or any other arrangement except in compliance with terms stipulated by the Act. The objective of this law is to keep tribal land with the tribe.

Whether Section 46 is applicable or not also relies on territorial conditions. This was laid down in *Jaishri Sahu vs. Dema*²¹ that the transferee must not be a resident outside the local borders of the police station area within which the land is situated. An significant interpretation of the provision was given in the case of *Bingul Sawaiya Ho vs. State of Jharkhand and Others*²², the Court stated that an occupancy raiyat who is a member of a Scheduled Tribe can transfer land only to another member of a Scheduled Tribe dwelling in the same police station area. No civil, criminal or revenue court shall take cognisance of any transfer in contravention of the provisions of section 46(1). In *Pandey Orson vs. Ramchander Sahu*²³, the phrase "transfer" under the Act was given free interpretation. The Court remarked that Section 71A is a beneficial statute enacted for the protection of tribal people and, thus, the word "transfer" should not be construed narrowly in the context of the Transfer of Property Act. Such judicial rulings show that the courts have interpreted the CNT Act as a welfare measure to protect the tribal land ownership and to prevent its abuse by the economically dominant parties.

Rights of the Tenant against unlawful ejection or transfer: Section 71 and Section 71A of CNT Act give essential remedies against illegal transfer and dispossession of tribal land. These laws authorise the Deputy Commissioner to restore possession of land to tribal raiyats dispossessed in contravention of the Act.

Section 71A empowers the Deputy Commissioner to reclaim land transferred in breach of Sections 46, 48 or 240 of the Act. Courts have broadly interpreted the provision in favour of the tribal communities.

In *Jitu Oraon vs. Commissioner, South Chota Nagpur Division*²⁴, the Court observed that Section 71A was brought on statute to safeguard the members of Scheduled Tribes who were deceived or illegally deprived of their land.

In *Ram Chandra Sahu vs. State of Bihar*²⁵, the Court held that the application under Section 71A can be brought solely by the transferor who belongs to a Scheduled Tribe and not by a transferee.

Another important interpretation was given in case *Ashok Marwaha vs. State of Jharkhand*²⁶, where the Court decided that Section 71A applies solely to agricultural land and not to land modified for non-agricultural purposes.

Land Rights of the Mundari Khunt Kattidars

The Mundari Khunt Katti system is the historic collective landholding system of the Mundas of Chotanagpur. Section 8 of the CNT Act describes Mundari Khunt Kattidar as a Munda who earned rights to forest property by clearing and farming it along with male members of his family.

¹⁴ AIR 1923 Pat. 76

¹⁵ 2009 (57) BLJR 2459.

¹⁶ 1985 PLJR 732 (FB).

¹⁷ AIR 1930 Pat. 236.

¹⁸ 1991(2) PLJR 335.

¹⁹ 2002.

²⁰ AIR 1951 Pat.385.

²¹ AIR 1946 Pat. 423.

²² 2008(3) JCR 689 (Jhr).

²³ 1992(1) BLJ 427 (SC).

²⁴ 1987 PLJR (NOC) 51.

²⁵ 1990(1) PLJR 604.

²⁶ W.P.(C) 1413/04 (JHC).

In *Kamakhya Narain Singh vs. Hira Mahton*²⁷, the Court decided that the Khunt-Katti tenure holders are a separate class of tenants recognised under Section 7(2) of the Act. Their interests are not limited to reclaimed property but may include unreclaimed land as well.

Section 37 further lays down the rights of occupancy raiyats to be applicable to raiyats with Khunt-Katti rights. However, the Act also puts restrictions on enhancement of rent payable by the Khunt-Kattidars.

Land Rights in Bhuinhari Tenures: Another prominent kind of customary landholding recognised under the CNT Act is Bhuinhari tenure. Provisions relating to transfer and protection of Bhuinhari land are contained in sections 48, 48A and 49.

These laws have been thoroughly analysed in *Bharat Coking Coal Limited v. State of Bihar and Others*²⁸. The Court said that under Section 49, transfer of property is provided for reasonable and sufficient objectives such as building, charitable, educational or mining purposes. Such transfer, however, shall require previous written sanction of the Deputy Commissioner. The Court additionally stated that before granting consent, the Deputy Commissioner is required to assure adequate recompense to the landlord. Further, the State Government is empowered to cancel transactions effected by means of fraud, misrepresentation or contravention of legislative provisions. The safeguards afforded by these clauses are designed to prevent arbitrary alienation of tribal territory and to allow limited transfers for bona fide developmental purposes.

Rights of Korkar Land : The CNT Act also recognizes the rights of Korkar land, land transformed to paddy production via labour and reclamation. Land may be converted into Korkar by farmers or landless labourers living in a village or contiguous village with previous consent of the Deputy Commissioner. But this conversion shall not apply to orchards, homestead land or cultivated property of any other person.

In *Banwari Lal v. Ankurnath*²⁹ the Court concluded that the expression 'cultivator' should be used in a wide sense to mean any person who cultivates either himself or through labourers. In *Parbati v. Doman*³⁰ it was laid down that a tenant or inhabitant who turns land into Korkar cannot be removed unless by procedures before the Deputy Commissioner. Similarly, in case *Digaber v. Sengra*³¹, it was found that where such privilege of converting land into Korkar is recognised by the custom of the community, it is obvious that the occupancy rights to such land should also be recognised.

The recognition of Korkar rights is a reflection of the agrarian reality of Chotanagpur where farming sometimes meant the reclaiming of forest and waste land. It protected the cultivators who had put work into improving the land, and stimulated agricultural development. It also secured occupancy rights.

Chapter IV of the CNT Act lays down a comprehensive framework aimed at protecting tribal land rights, customary institutions and agrarian stability in Jharkhand. The statute is welfare orientated and its provisions have been interpreted liberally in favour of the indigenous people time and again by the judicial rulings. Despite implementation issues, the CNT Act remains one of the most important legislative protections against land alienation in tribal areas.

Conclusion

One of the most important legal protections for tribal land rights in the Chota Nagpur area is the Chota Nagpur Tenancy Act, 1908. The Act was passed in response to stop exploitation, unlawful land alienation, and disruption of the traditional socio-economic structure of tribal groups. It acknowledged the special bond that exists between tribal people and their land, which is an integral aspect of their cultural identity, customs, and way of life rather than just an economic resource.

The study reveals that the Act contains several welfare-oriented provisions which seek to preserve tribal autonomy over land and protect raiyats, tenure holders, Mundari Khunt Kattidars and Bhuinhari tenants from arbitrary dispossession. The fundamental protective framework of the law is comprised of Sections 21, 46, 49, and 71A. Section 46 places limitations on the transfer of tribal land, and Section 21 protects the rights of occupation raiyats over land use. While Section 71A gives the authorities the authority to reclaim illegally transferred tribal territory, Section 49 allows limited transfers for public and developmental objectives under stringent circumstances. The legislation's welfare nature has been reinforced by judicial rulings that have repeatedly construed these clauses favorably in favor of native communities. It also emphasizes the increasing conflict between indigenous rights protection and developmental initiatives. Tribal land is under more strain due to industrialization, mining, and infrastructure projects, which has prompted recurrent attempts to weaken the protections offered by the CNT Act. Development is necessary for economic advancement, but it cannot be pursued at the expense of indigenous people's rights being eroded, displaced, and marginalized. The state's growth objective and the constitution's commitment to protect Scheduled Tribes continue to clash, as evidenced by the changes put up in recent years.

The Chota Nagpur Tenancy Act, 1908 has statutory safeguards, but its implementation is nonetheless weakened by issues including illicit property transfers, record-keeping fraud, tribal ignorance, and procedural delays. In the current climate of industrialization and land acquisition, the Act continues to be a crucial piece of social justice law that protects tribal identity, dignity, and means of subsistence. In order to promote sustainable development in Jharkhand while preserving the traditions, rights, and interests of tribal communities, any amendment to the Act must preserve a balance between development and tribal rights protection.

Key Recommendation

No law can be perpetuated forever. The changing society needs different types of law to meet the needs of the society. It is true that a century old law i.e Chota Nagpur Act, 1908 needs change and irrelevant provisions and deficiencies in the path of rapid development of Chotanagpur must be done away with. However, a balanced approach must be adopted so that the basic structure and essence must be intact. It must always be remembered that nature and forest and land are umbilical cord for tribals. It is rational approach that would renovate a brighter future and achieve unity in diversity. In light of the literature reviewed, data analysed and findings following points are recommended to make CNT effective and protector of Tribals.

1. Review the list of backward classes and modify it to include more vulnerable tribal Communities based on the ground realities based on their social status and economic background.
2. Section 46 should be amended in way to remove the barrier of police station Jurisdiction. In the present scenario of increased mobility, it would help in facilitating better sale and purchase of land by tribals within the state.
3. Permission of DC for the purpose of transfer of land from one tribal to another as contemplated in section 46, should be removed. It would further facilitate in removing hurdles in sale and purchase of tribal land among tribals.
4. Existing restriction on lease tenure which states that land belonging to ST/SC/BC can be mortgaged only for 5 years, should be exempted to the extent of taking loans from banks.
5. Provision should be added so as to enable a tribal to sell his land to a non-tribal not less than market price. It should be processed under the supervision of District Collector so as to ensure smooth execution of transfer.
6. If land is acquired as per the proposed amendments by virtue of section 21, the previous owner should be made stakeholder in the developmental project, whatsoever it may be.
7. Section 49 should be amended to increase compensation and further a shareholder of profits. A fixed percentage of profits should be mandatorily furnished to the original owner of the land. Aforesaid percentage may be decided through vide notification from time to time by the state government.
8. Scheduled Area Regulation (SAR) Courts should be vested with more powers to adjudicate the matters of land on a fast track manner.
9. SAR should be made permanent so as to render justice and ensure smooth function in effective manner.
10. Tribal Advisory Committee from time to time should review the Act and make appropriate recommendations to sustain the test of time.
11. Amendment so as to make land available under municipal areas for transfer should be brought so that such transfers could be exempted from the rigours of Act.
12. Given the complexity of the Act, land records should be streamlined and maintained.
13. State should reconsider fresh demarcation of schedule areas which decides the implementation of the Act. Percentage of tribal population should be taken as one of the essential parameters to demarcate schedule areas.

²⁷ AIR 1944 Pat. 348.

²⁸ 2000(1) BLJR 464.

²⁹ 1957 BLJR 63.

³⁰ AIR 1934 Pat. 680.

³¹ AIR 1933 Pat. 52