CHAPTER - I

LAND SYSTEM

Land is a free gift of nature and it occupies a key position in the economic structure of a society. India remained an agricultural country since time immemorial and people were attached to the land more than any other thing. Despite the fact that the State used to receive immense amount from war booty, fines, and tolls, still the major and regular collection was made from land-tax. The importance of land was further increased by the origin and growth of feudalism during this period. Possession of land was considered a main aspect of social status, and the people vied against each other in acquiring more and more land. All this gave rise to a well devised and elaborate land system. In this chapter an attempt has been made to throw light on land ownership, tenure, survey, measurement and sale during this period.

1. OWNERSHIP OF LAND

The ownership of land continues to be a ticklish problem. Probably it has aroused more curiosity than any other single problem in ancient India. Three types of ownership of land, viz., Royal, Individual and Communal existed simultaneously, and an attempt is being made to discuss each of them under separate heads.
A) ROYAL OWNERSHIP OF LAND

V. A. Smith, J. N. Samaddar, B. Breber, U. N. Ghoshal, Hopkins, and S. K. Maity, believe that king was the real owner of land in ancient India. All lands were considered absolutely belonging to the king and individual legal ownership of land was derived from the king and subject to his authority. The individual could enjoy land quite peacefully subject to terms and conditions laid down by the king. The tax on crops and the other products of the soil was in the form of rent in return for tenancy. The concept of the ultimate royal ownership of land can be easily traced in the early law books, foreign accounts and epigraphs.

Diodorus, Strabo and Megasthenes explain that land is the property of the Crown and farmers pay rent to cultivate it. Fa-hien and Huien-tsong, while describing the land tenure in India, have used the expression 'royal land' for the whole territory of the State. U. N. Ghoshal has shown that the use of this expression indicates that the Chinese travellers believed the soil in India to be State-owned, as in contemporary China. According to Huien-tsong, "Of the royal lands, there is a four-fold division, one part is for the expenses of government and state worship, one for the endowment of great public servants, one to reward high intellectual of eminence and one for acquiring religious merit by gifts to the various sects." He adds
that "the king's tenants pay 1/6th of the produce as rent". Hiuen-tsang meant that royal lands to meet the expenses of the Government, consisted of those plots which yielded a great amount of natural resources like minerals, plant and animal products. Moreover, the land cultivated by people replenished the royal treasury as they had to pay one-sixth of the produce of the soil to the king.

There are, however, certain verses which attribute to the king the lordship of all the land. First, there is a verse in the Manusmrti to the effect that the king was entitled to the shares of treasure-troves and the produce of mines, because he affords protection and is lord of the earth. Bühler in his English translation of the Manusmrti took the last pada to mean "(and) because he is lord of the soil", and pointedly drew attention to this distinct recognition of the principle that the ownership of all land is vested in the king. Phatatasvamin, commenting on a passage in the Arthashastra, states that those who are well-versed in the sacred books declare the king to be the lord of land as well as water; the householders have the right of ownership over all other things except these two. Gautama, Brhaspati and Katyayana opine that king is the lord of soil.

Many epigraphic evidences tend to support the theory of royal ownership of land. The inscriptions record the various donations of land or villages made by the rulers to
various individuals. For instance, the Spurious Gayā copper-plate of Samudra Gupta (C.7th A.D.), records the grant of a village named Revatika in the Gayā vishaya by the king to a brāhmaṇa. This act entitled the brāhmaṇa to the taxes which were previously paid by the villagers to the king. The villagers were also required to render general obedience to the donee. Thus, the donee became the new owner of the village. This act of the gift and donation by the rulers was not rare. The Deo-Bārnārk inscription of Jīvita Gupta II reveals how Jīvita Gupta II continued the renewal of the grant of a village Vārunikā to a brāhmaṇa. Originally the village grant was made by Bālāditya and later on renewed by the Maukhari King Avantivarman. King Dharmapāla granted four villages to the temple of Nunna Nārāyaṇa and hāta brāhmaṇa. Devapāla granted revenues of five villages for the maintenance of the monastery constructed by the king of Yavadivīpa. Similarly, the Nālandā copper-plate of Dharmapāla and Bhagalpur copper-plate of Nārāyanapāla refer to the grants of villages. The grants of the Senas and the feudatory families which arose in Bengal granted villages along with houses, articles of food, mines of iron and salt and all other things within its boundaries. All these show that the king was the owner of villages and could make gifts of these. It is not clear whether the king only surrendered to the donee his royal dues from the villages or as owner of all land including entire villages, he made gifts of these
villages. However, at least as a result of these donations, a new class of hereditary owners of land or villages was created, as the donees certainly passed on their right accrued from donation to their successors, unless specifically mentioned to the contrary. As a matter of fact, generally, the land granted by the king or his predecessor remained the property of the donee.

Here it is interesting to note that neither of the inscriptions make it clear that the donees had the power to dispossess the peasants at will from the land and hence one can assume that this right was not ascended to them. But they could punish or evict tenants who refused to pay their dues. Even after the donation of the land the king reserved certain prerogatives over the donated lands, such as the right of imposing fines on theives. Moreover, the new owner was not allowed to exact any new taxes from the people of the donated area and was liable to punishment or the annulment of his rights if he imposed any new taxes. The donee enjoying tax-free village or lands was forbidden to encourage revenue paying cultivators, artisans etc. from other villages to immigrate into the donated villages for this would involve loss of revenue to the State. In certain land grants the State still has specific rights of enjoyment. Furthermore, certain conditions of tenure are imposed on land grants.
Certain specific forms of land tenure were: Nividharma, akṣaya - nivī - dharma, Aksavarilvī, apradādharma, Apradaksavanīvīdharma or Nīvīmarvāda, Bhumichidrenvāva.

 Probably in difficult times the donee or his inheritors might have experienced some difficulties in enjoyment of the gift-property and, therefore, we find the successors of the king renewing the grant. For instance, Sharvavarman, Avantivarman and his successor renewed the grant made by Bālāditya, and the grant needed again to be renewed by Jīvita Gupta II. Mihirabhoja renewed the grant made by Nāgabhaṭṭa II which had fallen to disuse during the reign of Rāmabhadra. Thus, the donee or his successors remained the owners of the donated property in perpetuity.

The Nandpur copper-plate and Damodarpur copper-plate inscriptions prove that a system of the sale of land was in vogue. The Nandanpur copper-plate inscription (later half of the C. 5th A.D.) elaborately records how an individual, in this case a Vishayapati, applied to the local government officials for permission to buy some fallow land, and consequently non-revenue yielding land, belonging to the Crown, was given in order that he may donate it to a brahmana for performance of Pañchamahāyajña (the five sacrifices). The record-keepers reported that the prevalent rate of sale
of fallow and non-revenue yielding land in the locality was two dinārās for each kulyāvāpa of land and the applicant accepted to buy four kulyāvāpas of such land at that rate. He was thereafter granted the permission. Similarly, the Damodarpur Copper-plate inscriptions (c. 5th to 6th A.D.) describe the sale of the royal land to individuals for religious purposes. The sale of land was legalised during this period through the medium of sale-deeds, and the transaction of land was settled through the government with the consultation of the record-keepers along with the help of local and district governments and the sale deeds were preserved in the department of records under 'Akṣapṭalādhikṛtā' (record-keeper).

The royal ownership is further substantiated from the king's enjoyment of various kinds of taxes and revenues. Manu, Nārada, Vishṇu state that the sixth part of the produce of the soil forms the customary royal revenue, in return for the protection of the king's subjects. This is also corroborated by the numerous literary evidences. Kālidāsa states that by protecting asceticism from obstacles and wealth from robbers, the king was made the enjoyer of one-sixth earnings of respective Āshramas and the different castes, subject to their respective capacities. Mines were without any doubt regarded as a State monopoly. Manu and Vishṇu state that everything dug up from mines belongs to the king.
The Chamrak C.P. of Pravarasena II, Riddhapur C.P. of Prabhāvatīgupta, the Siwani C.P. of Pravarasena II, the Arang C.P. of Malā Jagarāja, the Poona Plates of Prabhāvatīgupta, the Raypur C.P. of Mahā-Sudevarāja state that the king had also the monopoly over treasure-trove (nidhi) and king gave such rights of enjoyment to the donee.

In the Harshacharita also the earth is represented as sitting comfortably in the king's knee. The Banakhera Plate of Harsha mentions the royal donation of a village named Marakatasāgara, lying in the Ahicchhatra bhukti in Angadiya Vishaya to two brāhmaṇas of Bhāradvāja Gota. The Madhuban copper-plate also records the transfer of the village of Somakuṇḍaka in the Kuṇḍadhān village of Shrāvastī bhukti which was held by a brāhmaṇa Vamarathya on the strength of a forged charter to two other brāhmaṇas. It denotes the absolute hold of the king on the land. The Valabhi inscription is also eloquent about royal grants of villages. Bhāskarvarman of Kāmarūpa granted the land of Mayūrashalmalagrahara to the Brāhmaṇas, though it was previously granted by a predecessor king Bhūtivarman but became liable to revenue on account of the loss of document.

The royal ownership of land is further corroborated by the following inscriptions, as they show that the king could appropriate the land held by others when required. The Wala plate of Shilāditya I refers to the grant of land to a
Buddhist monastry founded by Duddha for religious and charitable purposes. It is not clear whether the previous owners of the plots mentioned were ejected or their plots were purchased by the king for making a grant or he paid due compensation to them. If they held land by legal right of ownership, the king could not take away these plots. It can be maintained here that the king purchased the plots and made proper compensations, took them away from the tenants in order to make fresh grants. Kauṭilya makes express provisions for confiscation of land from those who did not cultivate it and to give the same to others. The Chammak C.P. of Pravarasena II, refers to the donation of a village of Charmāṇaka to a thousand brāhmaṇa for perpetual enjoyment. The State will take it back from the donees only if they were the slaughter's of brāhmaṇas, adulterers, thieves and were involved in insurgency and were committing offences in other villages.

The theory of royal ownership can further be supported by the fact that there was royal monopoly over the hidden treasures and natural resources as stated by some inscription. For example, the Chammak grant records the grant of the village Carmāṇaka to the brāhmaṇas along with the hides and charcoal, mines and salt and hidden treasure. Siwani grant of village Brahmapūraka by Mahārāja Pravarasena II also records that the village granted does not carry with it the right to flower, pasturage, hides, charcoal, mines and salt. In the Nirmanḍ C.P. of Samudrasena granted the village Shulisagrāma to a
body of the brahmapas together with the level and marshy land, including, grass, timber and springs. The Wala pl. of Shilāditya I refers to the donation of flower gardens along with other gifts to a Valabhi Buddhist monastery. Thus, it can be concluded here that, there was king's sole right on the natural resources yielded by the land and he could transfer it, at his will.

Thus, from all available evidences, royal ownership over land was prevailing in one form or other. It does not mean that cultivators had no right over the land. They had perpetual and hereditary possession over the land, but subject to royal authority, as their possession could be disturbed, in case they failed to pay necessary levies imposed on them by the king. Even cultivator's possession could be disturbed, if they did not cultivate the land, which resulted in loss to government revenue. Therefore, it can be maintained here that king's authority over the land was supreme, and one could have possession, so long as the king desired. But the king could exercise his authority subject to rules and regulations, and the prevailing customs.

B) INDIVIDUAL OWNERSHIP

K.P. Jayaswal, R.N. Banerjee, Baden Powell, Keith, Macdonell, Altekar, and Lallanji Gopal, Bongard Levin, R.S. Sharma, etc. hold the view that individual was the owner of land. Ownership refers to the relation of a person with the property. Thus, the private ownership over land refers
to the relations of individual with the landed property. The freedom with which an individual can exercise his authority over the property, determine, the extent of his ownership over it. Thus, absolute authority refers to absolute ownership, while limited authority to limited ownership.

The species of this concept of private ownership are found in the Vedic period. The references in the early Vedic literature make it clear beyond doubt that the idea of individualistic theory of landed property was known to the Indo-Aryans. Firstly, we have references to the measuring of fields and to their being separated by strips (khilya). Again, we find expressions meaning, 'lord of a field' and "the winning of a field" (urvarasa, urvarāpati, urvarājīt, kṣetrasā, kṣetrapati). Most of these references suggest that the land was divided among fields cultivated by individual peasants who were regarded as the owners of fields (kṣetrapati).

During the period of the Jātakas, the concept of ownership of land had fairly developed. The sale and mortgage and the boundaries to distinguish the plot of land possessed by different owners are referred to in Pāli canonical texts.

The idea of private ownership of land can also be had from the pre-Mauryan times. The king was looked upon as a functionary to be paid by the subjects for the services rendered. Such restrictions must have helped individual ownership of land in pre-Mauryan times.
Megasthenes while speaking about the Mauryan land-system, said that the cultivators paid a land-tribute to the king because the whole of India was the property of the Crown. But it should be noted that the payment of land revenue was not a mark of royal ownership because the law-givers pointed out that the treasury was the mainstay of the government and the taxes were to be paid to the royal treasury in 'return of protection' to the subjects.

There are indications in the Arthashastra too which show private ownership of land. Kautilya uses the word Svāmyam or ownership while dealing with disputes about the sale of land and about a person driving cattle through a field without informing the owner. The fields of the different holders were demarcated by boundaries, an encroachment upon which was an offence. It deals with boundary disputes between individuals. The private ownership of land is further clear from the rules relating to the construction of irrigation works on another cultivator's plot. The cultivator had the right of alienating his field. He could lease it to others for cultivation. The land could also be sold by the cultivator. Dispossessing a person of his fields was a penal offence. Kautilya gives detailed rules regarding all these points. Making improvements on another's plot did not create any right of ownership. An important evidence in favour of private
ownership is the rule that a person who steals images of gods or of animals, abducts men, or takes possession of the fields, houses, gold, gold coins, precious stones or crops of others, shall be beheaded or compelled to pay the highest amercement. At another place the Arthashastra discusses the question of the fatherhood of a child: whether it belongs to the husband or to him from whom the seed is received? The analogy on which the two alternative claims are based is that of the ownership of the crop; does it belong to the owner of the field or to the person who sows the seed in the field?

Some references like disputes of land and penalty for dispossession from land, clearly state that individual had absolute authority over his property and it was the duty of king to protect it, for which the king was paid revenue by the owner.

According to Jolly, there was a clear distinction between the concepts of ownership and possession. The pronoun svām and its derivatives are used to express ownership, while the derivatives of the root bhuj indicate mere possession or enjoyment. Later works basing their conclusion on earlier smritis define ownership (svatva) as property capable of being disposed of as one likes. There is also a discussion about the nature of ownership as to whether it is a separate category (padārtha) or a capacity. Likewise the commentaries and digests discuss in minute
detail whether ownership is to be apprehended from *Shastra* alone or is a matter of worldly usage. In the Dharmasūtras and *Smṛtis* the different modes of acquiring ownership, have been noted in detail.

Indian legal works clearly distinguish between possession and legitimate title, the two constituents of ownership and emphasise their due importance in determining it. Ṛṣhapati, Narada, Vishṇu and Yājñavalkya say that possession coupled with a legitimate title constitutes proprietary right. Narada and Kātyāyana state that possession needs to be supported by title only in cases within human memory, but in cases beyond the memory of man possession extending over three generations is proof of ownership even in the absence of a document or other title. The *Smṛtikāras* seem to be divided on the minimum period of adverse enjoyment amounting to ownership. Manu and Gautama appear to regard ten years adverse enjoyment of land as sufficient to create ownership. To Ṛṣhapati who had occupied land unopposed and uninterrupted for a period of 30 years could not be deprived of such property. Yājñavalkya opines that enjoyment of certain property at least for three generations constituted legal ownership. But Vishṇu, Narada and Kātyāyana require a time span of sixty years. Despite their recognition of simple possession of long standing as a criterion of ownership, the
jurists themselves lay much emphasis on its insufficiency and declare that ownership is not possible without legal title.

The ancient law-givers have described the different methods of obtaining legal title of ownership. Manu mentions seven legal modes of acquiring wealth, viz., inheritance, finding, purchase, conquest, lending at interest, performance of work and acceptance of a gift from the virtuous. According to Nārada and Brhaspati one could acquire wealth by inheritance, gift, purchase, the reward for valour, the dowry in marriage and obtained from kinsman without issue. Brhaspati while dealing with law of inheritance, writes "Houses and landed property inherited from an ancestor shall be shared equally by the father and son, but the son cannot claim a share of his father's own property without the consent of the father." Gautama ordains that a person becomes owner by means of inheritance, purchase, partition, acceptance and finding.

The prevalence of peasant-proprietorship follows from many other rules relating to legal problems connected with agricultural land. Manu, while treating the question of right over crops, says that if a man sows his seed in another's field, or when the seed is carried by water or wind and germinate there, he has no right over the crops, which belongs to the owner of the field. Then there was the
question of the settlement of boundary disputes. The Śrauta Sūtras give elaborate rules on this point. Manusmriti, Nārada and Yājñavalkya refer to boundary disputes regarding fields, wells, tanks, gardens and houses. The sense of ownership is again shown by the rules regarding the right to enjoy the fruits and flowers of trees that grow on the boundary between the two fields.

The rules about dispossession of a cultivator's plot by another person also imply a recognition of the claims of the owner of a field. Manusmriti and Yājñavalkya also treat dispossession of another's field as a penal offence. The fear of religion was also brought to bear on the question. Theft of land was viewed as one of the four great sins. The proprietary right of a cultivator over his field is again manifested by the rules prescribing the compensation to be paid to the owner of agricultural land for damage caused to his field by a negligent herdsman in charge of cattle.

The owners could sell (although it will be sold, under certain restrictions), donate, mortgage and lease, the land they possessed, or part of it, because, they were the full legal proprietors. The right of cultivators to do with their fields as they liked, established full individual right over agricultural land. According to Indian tradition itself, as recorded in late medieval
commentaries and digests, ownership implies the quality of the object owned to be used by the owner according to his pleasure.\textsuperscript{114} This test of ownership, when applied to agricultural land, proves it also to have been an object of private proprietorship. Individual rights in land are further proved by laws regarding the lease of land to tenants.

The \textit{Apastamba Dharmasūtra}\textsuperscript{115} grants to cultivators the right to lease their fields against half or any other fixed share of the produce. \textit{Vyāsa} and \textit{Brhaspati} also refer to the leasing of fields.\textsuperscript{116} Several texts also enjoin that negligent tenants should pay a fine to the king.\textsuperscript{117} In case of neglect the \textit{Mitāṅgarā} provides that the field should be taken away and given to another cultivators.\textsuperscript{118} Thus, the owner had the right to change his tenant. The owner's share known as krṣṭra-phala or Sāda differs according to the nature of the land.

Further a cultivator had the right to use his field as a pledge. The first to do so is \textit{Brhaspati}, who defines the use of a mortgaged house or the produce of a field as bhogalābha (interest by enjoyment).\textsuperscript{119} \textit{Kātyāyana} ordains that the boundaries of the house or land to be pledged and the villages or the countries in which they are situated must be defined.\textsuperscript{120} This injunction was followed in the case
of village made over as religious gifts and probably also in secular transactions. Brhaspati states that when a field or other immovable property has been enjoyed and the principal and interest has been actually collected from it by the creditor, the debtor receives back his pledge. This shows that in the case of debt land was given towards the payment of both the principal and the interest. Kātyāyana adds that the debtor can get back his field, etc., transferred for enjoyment as interest from the creditors on paying back the amount he had taken. The practice of mortgaging land on interest is attested by sources of our period. Asahāya (C. 8th A.D.), commenting on the two kinds of pledge mentioned by Nārada gives a house and a field as instances of a pledge for use. Similarly commenting on Manu, Medhātithi states that a cow is given as ādhi to the creditor for using its milk, and a piece of land or garden is given as ādhi for enjoying its produce, hence the creditor is not entitled to anyṛddhi or kusida. Even where land is not pledged it can be sold to clear off his debts.

According to Kauṭilya, Brhaspati, Nārada and Kātyāyana the land could be disposed off subject to certain restrictions. But these restrictions were gradually removed. The Arthashastra permits the sale of the immovable property (vastu) subject to the restriction that kinsmen are to have preference over neighbours and these
again over the creditors while the outsiders come last.\textsuperscript{125(a)} Eṛhaspati and Nārada\textsuperscript{125(b)} allow immovable property as an article of trade. Eṛhaspati\textsuperscript{126} provides that in the case of sale of land, wells, trees, waterways, fields, ripe-crops, eatable fruits, ponds, toll houses etc., restrictions thereon should specifically be mentioned. Kātyāyana\textsuperscript{127} says that proper price of immovable property is decided by the neighbours assembled together, who know the price of fields, gardens, houses and the like, and improper price may be annulled even after a hundred years. Kātyāyana also contains rules on an uktalābha sale\textsuperscript{128} which has been defined by Bhāradvāja\textsuperscript{129} as a conditional sale, where the seller borrows only a portion of the proper price of a plot of land, promising to repay the borrowed money on a certain day, failing which his ownership over the land will come to an end.

Manu, Eṛhaspati and Viśṇu also refer to the practice of the gift of land to brāhmaṇas.\textsuperscript{130} Thus, we find that Indian legal texts grant a peasant all the rights of sale, gift, mortgage, etc. which clearly denote to private ownership,\textsuperscript{131} as it can be individual's land, which was subject to purchase and sale.

The holders of the land could exercise their authority over land, in any manner, they liked. Manu, Nārada and Kātyāyan state that king is for one-sixth of the produce of the land as reward for the protection of his subjects.\textsuperscript{132}
Sahara and Nilkantha also appear to hold that the ownership of land rested in the cultivator, the king being entitled to a share of produce for the protection he afforded. So the payment of land revenue to the king by landlords did not establish royal ownership of land but private ownership of land. The fact that cultivators had to contribute a fixed portion of their land produce, to the royal exchequer, does not establish the existence of tenancy of land between the king and cultivators, as contribution was made to the king, not in consideration of the rent of land, but in consideration of protection provided by him to his subjects.

The very fact that the partition of property is allowed for first time by Brhaspati who is followed by Narada shows the individual's right to property. Brhaspati states that in partition land cannot be given to the Sudra son of a higher caste father. Katyayana declares that when field, garden, houses etc. are partitioned, the eldest should get either the southern or the western part. Even pasture land was indivisible according to Manu and Vishnu. Brhaspati took contrary view. These provisions of partition found in the law-books of Manu, Brhaspati, Narada, Katyayana and Vishnu unmistakably establish the existence of private ownership over the land.
Some inscriptions of our period which record cases of landgrants and land sale by private individuals corroborate the testimony of the legal works. Some feudatories or high government officers might own even whole villages which they could donate as gifts. From the Amauna Plate of Mahārāja Nandana dated in Samvat 232 (C.551-52 A.D.), we learn that Mahārāja Kumāramātya Nandana granted the village Mallayash-titikī, to a brāhmaṇa named Ravisvāmi. Bhubaneswar inscriptions records that a certain lady named Madamadevi purchased in conjunction with a leading merchant (Sādhu-pradhāna) from the hands of a Śreṣṭhin a piece of land in Devadha-grāma and granted it in favour of the god Kirthvāseshvara or Śiva worshipped in the hingarāja Temple. The evidence of the two Kangra inscriptions (C. 804 A.D.) may also be profitably utilised here. These record, among many donations by private individuals to a Śiva temple, the gift of agricultural land. All these go to show the existence of private ownership of land. These evidences provide an example of the ownership of land by merchants, and thus, show that land was owned even by classes other than those to whom grants or assignments of lands were generally made by the State.

The grant of land made by the king and others perhaps created a class of people who owned land for generations. These land-owners were supposed to enjoy their land according to the law of Bhūmicchhidra or as long as the
sun, the ocean, the earth, the rivers and the mountains would endure. But the successors of the donor used to renew the charter of the grant. The Deo-Barnark inscription of Jīvā Gupta II records that the grant of the village Vārunikā by Bālāditya was renewed by Ṣharvavārman, Aṃvantivārman and even by Jīvā Gupta II. Possession coupled with clear title appears to have been necessary for ownership. So legal evidence of ownership was of great importance. Therefore, endowment of land to the donee was usually recorded either on stone slabs or on copper-plates. These methods were adopted to check forgery and fraudulent activities. The Madhuban copper-plate inscription of Harsha refers to the fabrication of royal charter. The village Samākuṇḍaka in Shravasti bhukti was held by a brāhmaṇa named Vāmarathy on the strength of a forged charter. Harsha, therefore, having revoked the charter, took away the village from him and granted it to two other brāhmaṇas. Thus, a document was to be renewed when necessary. Some references of land grants, which could be enjoyed from generation to generation without interference, also support the argument in favour of private ownership.

There are references which indicate that private owners had the right of giving their fields in gift which was not the Crown property. Manu, Brhaspati and Vishṇu
refer to the practice of gift of land to the brahmana.\textsuperscript{146} Of course an individual could do so after obtaining permission from the State.

The period also witnessed the extension of the areas under cultivation through the land grants. The king probably granted land revenue to his officers in lieu of salaries. This is supported by a passage of Fa-hien which has been variously translated. Legge's translation of this passage renders that "the king's bodyguards and attendants all have regular salaries."\textsuperscript{147} In Beal's translation it is said "the chief officers of the king have been allotted revenues."\textsuperscript{148} A third translation of recent times renders it thus, "the king's attendants and retainers all receive endowment and pensions."\textsuperscript{149} The third translation partially supports our contention, the second does so explicitly.

Here it is interesting to note that some officers and other servants of king were allowed to collect revenue. Two pertinent questions arise (1) why did the king not make land grants in lieu of salaries? (ii) who were the revenue payer? But in absence of any contrary evidence, it is surmised that there was not sufficient land, under the control of the king and most of the land was under individual authority subject to the payment of revenue to the king.

From the time of Pravarasena II onwards (C. 5th A.D.) the ruler gave up his control almost over all sources of
revenue including pasturage, hides and charcoal, mines for production of salt and all hidden treasures and deposits. Royal ownership of mines which was an important sign of sovereignty in the Mauryan age seems to have been transferred to the brāhmaṇas who, according to several grants of the 4th and 5th century A.D. were allowed to enjoy the hidden treasures and deposits of the villages.

The Harsha era (C. 606-47 A.D.) shows that land grants continued to be made as under the Guptas. But an important change appears to be that apart from the brāhmaṇas, temples and the Buddhist monasteries emerged as important recipients of these grants. In fact 6th and 7th century A.D. witnessed the rise of land owning temples, the prototypes of later mathas. In the second half of the 6th century A.D. a settled village in Gayā was granted to the goddess Bhavānī by a Maukhari Chieftain Anantavarman. In Bengal, the Damodarpur copper-plate inscription of C. 543 A.D. refer to the gift of five kulyavāpas of land to a God. The Apshad inscription (7th century A.D.) informs us that a matha was constructed and endowed with land by a member of royal family. A.S. Attekar remarks in such cases "donees acquired full ownership of the land and not the right to its land taxes, in fact they were not exempted from it. When, however, entire village were given away in charity what was donated was the right to receive the royal dues."
In this connection, it is interesting to study the conditions attached to the donations and grants by the rulers. Really what was assigned as gifts in such cases was the revenue which the State received from the villages and often certain other rights, but not the agricultural land in the village. The earlier inscriptions on the subject are brief and so do not throw any light on the problem, but those later in date are full of details and show that such grants of villages did not imply a transfer of the proprietary rights over fields. These inscriptions, often addressed to the villagers, require them simply to give to the donee the revenue and other dues, which they owed earlier to the State. There is nothing whatever in the inscriptions to show that cultivators were to transfer to the donee their ownership of the land. They were affected only to the extent that the person to whom they paid their dues was now changed. Likewise, the lists of the rights of a donee include the different taxes and dues which he was to receive from the village. That the grant of a village did not amount to an assignment of the proprietary rights over arable land in the villages is further evident from certain inscriptions, which mention the grant of a village together with some particular tract in that very village or elsewhere. If the State had its proprietary right over all the agricultural land in the village the grant of the village would have
implied that of the particular tract as well. It seems that what was granted in the case of villages was a right to revenue, whereas in the case of a particular field it was the proprietary right over it. The State had proprietary right only over certain fields. Agricultural land in general belonged to him who cultivated it.

There are, besides, instances in which kings granted small plots of cultivable lands of various sizes situated in different parts of a village or even in different villages. The Bhāvanagar Plate of Śrī Dhārasena IV records the grant of two fields in the villages of Raksaraputra and Udrapadraka to an assembly of medicant priests. The Jesar Pl. of Shilāditya III mentions a grant of land consisting of three pieces to a brāhmaṇa of Valabhi, of these the first was the largest plot measuring 73 pādavartas lying towards the western boundary of the village, the second piece comprised of twelve pādavartas situated on the South-Western part of the village and the third piece was situated on the eastern boundary. The Ghugrahat copper-plate of Śaṃcārādeva records that one Supratikāsvāmi applied for a piece of waste land for settling himself on it. He was given a whole plot minus three kulyavāpas which had already been granted to another man. These inscriptions state that the kings made grants in pieces of land in different villages or in the same villages at different places. It implies that if the State owned all the
land in a village, we cannot explain the necessity of granting tracts scattered over a large area, situated at a distance from one another. It could very well have granted a field of requisite area consolidated in a particular part of the village. This would have been more convenient both for the donor and the donee. It appears, therefore, that the State did not own all the arable land in a village. The fields generally belonged to peasants, though there were some tracts owned by the State, which alone it could grant. Further, the grant of Dhruvasena I which records the grant of 360 pādavarthas of land to a temple in four different places would have been unnecessary had the king been actual owner of all land. In that case, the king would have given a compact area to the donee.161

S.K.Maity, while speaking in favour of royal ownership, states thus: "There is no record of the donation of a whole village except by the king. This leaves no room for doubt that the king was thought of as the ultimate owner of the village." But the Mallyastikā grant of Nandana discovered in the villages of Amauna in Gayā district records the grant of the village Mallyastikā to a brāhmaṇa named Ravisvāmin by a subordinate chieftain named Kumāramātya.163 The Nirmaṇī copper-plate of Mahāsāmanta Mahārāja Samudrasena refers to the grant of the whole village Shūlīsagrāma to a body of brāhmaṇas.164 The Ganjām copper-plate inscription of Shashāṅka's region also states that Mahārāja Mahāsāmanta Mādhavarāja II granted the
Chhavalakkhaya village to a Brāhmaṇa named Charampāsvāmin for increasing spiritual merit. These epigraphical instances reveal that not only the kings but also the feudatory chieftains could grant a whole village to the brāhmaṇas for obtaining spiritual merit. These also point to the existence of private landholdings. Sometimes the king, described to donate a land to the donee in a particular village, purchased the required plots from the private owner and then made the grants to the other. A late inscription from Tirukkoyalur, (C. 961 A.D.), mentioning a Vaidumba king purchasing 3 velis of land from the local assembly in order to grant it to a temple, shows that throughout the period of our study, there was no fundamental change in the position as regards the ownership of agricultural land.

The question regarding the ownership of soil in ancient times is found in the work on Mīmāṃsā, which goes back probably to the 5th century of the Christian era and extends far down in the medieval period. According to the Mīmāṃsā: "The earth is not the king's, but is common to all beings enjoying the fruits of their own labour. It belongs, says Jaimini, to all alike; therefore, although gift of a piece of ground to an individual does take place, the whole land cannot be given by a monarch, nor a province by a subordinate prince." This Mīmāṃsā stand-point on this subject had also been accepted by such commentators as Śabara, Milakaṭṭha and Mādhava etc.
The royal ownership is claimed by this fact that a king had the right to confiscate land and, in certain cases, to transfer it from one person to another. To support this argument two passages from the Arthashastra and a statement of Brhaspati have been cited. An often-quoted passage in Arthashastra is: "land may be confiscated from those who do not cultivate them, and given to others." It has been taken to imply State ownership of land. A thorough investigation would not support this view. The Arthashastra implies two distinct types of land: one may be called the royal farm while the other is revenue paying land in general. The difference is indicated by the Arthashastra employing two separate terms for incomes derived from the two types. Sita denotes the various incomes from the first category of land. Bhaga stands for revenue from lands other than State farms. The Arthashastra uses the term Sita to include all kinds of crops that are brought in by the Superintendent of Agriculture. An analysis of the chapter dealing with the duties of this officer clearly shows that he got the royal farms cultivated either directly by State officers or through tenants under his supervision. Moreover, the reference to the right of the State to confiscate lands does not apply to private fields. The passage occurs in the chapter dealing with the formation of villages and refers to the newly settled or colonised lands, which were obviously ownerless and to which the 'State had full proprietary rights.' An analysis of the passage in the context in which it appears also shows
that it cannot be taken to describe the position of the cultivators of non-crown lands. As first provision is made for *brahmadeya* lands and assignments to some of the State officers. Next, there are rules about revenue-paying cultivators. Fields prepared obviously at State expenses, are to be allotted to tax-payers only for the life of immediate settlers. Unprepared lands are not to be taken away from cultivators who have made them fit for cultivation. But the fields of those who do not cultivate them properly should be confiscated and given to others, or such fields may be cultivated by village labourers and petty traders (*Vaidehikar*). Later in the text, rules are given for concessions and remissions of taxes, granted on the occasion of opening new settlements or on any other emergent occasion. The rules show that the State had not a limited right to do with the land what it willed. In disposing of new lands under schemes of colonisation the king had the right to limit the grant of a field to a cultivator's life only in case of prepared lands. He could evict tenants only when they neglected plots assigned to them. The rule, guaranting against eviction, or in other words giving the right of hereditary possession to cultivators who prepared plots of newly colonised lands at their own expense, implies that hereditary occupation of fields was the rule in the case of settled villages. The second passage from the *Arthashastra*\(^{130}\) too, goes against State landlordism, for it warns that if the king sometimes confiscated land, it caused resentment and alarm. It is clear that such cases only go to show the proprietary right of the
cultivator to his land. Brhaspati also implies private ownership and says that the king had no right to dispossess a rightful owner. If he does so, it is not considered valid. Brhaspati, in the next passage, explains himself: 'when land is taken from any man by a king actuated by avarice, or using a fraudulent pretext, and bestowed on a different person as a mark of his favour, such a gift is not valid'. In this context we may add a verse from the Nārada Smṛti: 'A householder's house and his field are considered as the two fundamental of his existence. Therefore, let not the king upset either of them; for that is the root of householders'.

Hiuen-tsang's statement about the Crown land went in favour of royal ownership, but his specific mention of four-fold division of royal land indirectly points to the existence of private ownership. The ministers and officials of the State had their portion of land goes in support of the existence of private holdings. If kings were the actual owners of the earth, such categorical mention would have been irrelevant.

The right of a king to revenue has also been taken to support the legal claims over agricultural land. The cultivator's right to the free enjoyment of his land was no doubt restricted to some extent by rules, which were the
logical extension of the royal right to land revenue. Of these two are significant. The first is the rule regarding the imposition of a fine on a cultivator who negligently destroys his crops. The fine was in respect of the loss sustained by the king as a result of the action of the cultivator. Allied to it is the rule about the sale of land by the State in case of non-payment of land revenue. But the details of these rules themselves show that no abiding claim of the king to ownership was recognised. Katyāyana, for example, says that if such a sale is inequitable it may be set aside within ten years, and a compromise or exchange may be set aside within three generations. Even the Sukraniti, which generally favours an increase in the control of the State over agriculture and other industries, acquiesces in such a view and states, that the ruler has been made by Brahmā a servant of the people, getting his revenue as remuneration, and his sovereignty is only for protection. The theory was so deep-rooted that even literary works refer to it without implying any scope for doubt or discussion.

All these provisions give a fair indication of growing individual rights in land. It is evident that the peasant was the proprietor of the land in every sense of the term. The king as the universal sovereign of every thing in his State, had, no doubt, some claim over the land. He received revenue from the peasant as the wages for the protection he afforded to the people; but this in no way amounted to a proprietary right over the land. Thus, it can be maintained that there
were individual holdings of land subject to a limited authority of king. It can be concluded here, beyond doubt, that individual holdings and king's holdings of land were in existence side by side.

C) COMMUNAL OWNERSHIP

Maine, R.G. Basak, and R.C. Majumdar suggest that there was communal ownership of land. Communal ownership can be defined as ownership of land vested in group of people, without having any right to partition. All the members of the group or village, co-operate in tilling and raising the crops, and then store the produce in a common granary. The pasture-land also falls under this category of ownership, for it has been said in Rgveda that the land of the village was entrusted to a common herdsman, implying that the pasture land was enjoyed in common.

According to Campbell and Maine the traditional village communities exercised joint ownership of land. This theory has been partly refuted by Hopkins, who seems justified in saying that joint family with its original common ownership of land testifies to all such traces of communalistic land ownership and the joint ownership of village had only the form of the modern "joint village". Though the villagers were joint but they were not communal in the strict sense. Thus, the tribes of the North-West referred to by the classical writers were in fact independent tribal joint villages, where
the shares of land originally allotted to each member of the group, were held separately and a tribe or a clan held land under joint responsibility for the taxes.

The communal ownership of land did not empower the king to dispossess an individual of his land, it merely restricted his power of disposal. Perhaps the tribesmen who met in the Vedic Assembly exercised control over public land. R.K. Chaudhary too sees communal ownership in the Vedic period when the Sabha was the centre of the communal life. According to late R.K. Mookerji, the tenure by a family was more frequent in the Vedic period.

The Jātakas are full of references to the communal ownership. A.N. Bose quotes a passage in Jātakas which states that village pond (candanikam), moothal (Sāla) bridges, parks etc. belonged to the village corporation. Manu says that land around a village on all sides for 100 bows (about 100 ft.) is common land. According to the Arthashastra this limit is 800 añgulas. Gautama lays down that what is considered as livelihood (yogakṣema) cannot be divided. He obviously refers to the land which was not subject to division among the members of the family. The idea of communal rights in land is fully confirmed by Jaminī. It states that in the Vsvajit sacrifice in which the sacrificer has to donate all his belongings, even an emperor cannot give away the whole land of which he may be the ruler, for the earth is common to all. This has been taken by some to
establish the right of the individual in land. But the statement is obviously intended to convey the contrast between the private rights on the one hand and the public rights of many on the other. Sabera Svāmi who commented on this passage in the 4th century A.D. argues that others have as much right over the earth as the king which implies the theory of joint rights on land.

There are references in the Arthashastra that the corporation of Licchvika, Vrijikas, Mallaka, Madraka, Kukuras, Kurus, Pāńchālas and others live by the title of a Rāja (where all citizens having equal rank and rights were owner of the unit as land).

Strabo refers to communal cultivation of land, "Among other tribes, again, the land is cultivated by families in common and when the crops are collected each person takes a load for his support throughout the year." The remainder of the produce is burnt for setting them to a new work and not allowing them to remain idle. In the Arthashastra, land owned by a village community is hardly traceable. But it deals with boundary disputes not only between individuals but also between villages which are to be settled by elders of five or ten villages. This implies that there was village land based on communal ownership.

The laws regarding settlement of boundary disputes give the community a strong voice in land transactions. Manu,
Brhaspati, Nārada, Yājañavalkya and Kātyāyana ordain that the decision concerning the boundary marks of fields, wells, tanks, gardens and houses depends upon the evidence of the neighbour. Katyāyana adds that in the absence of witnesses, sāmantas (neighbouring villages), mauks (who were first sāmantas but later migrater to another country), Vṛddhas, and Uddhṛtas are in order the means of decision.

Maine, Basak and R.C. Majumdar have tried to assert the joint ownership. According to R.G. Basak, the State could not alienate land "without the consent of the people's representatives, the Mahattaras and other businessmen of the province and the district and sometimes even the commonfolk." He presumes that, "these lands belonged not to the State but to the whole village or the village assemblies, and hence their transfer could not take place without the consent or approval of the later." Basak argues that if we assume that the lands belonged to the State why could it not alienate them without the consent of the people's representatives, the Mahattaras and the businessmen (Vṛṣyaḥārins) of the province and the district and sometimes even the commonfolk. One way of answering these questions may be that these lands belonged not to the State but to the whole village or village assemblies and hence their transfer could not take place without the consent or approval of the later. Basak on the strength of Faridpur copper-plate no. A of the time of Dharmāditya, made such an argument because in this grant no private owner is referred to,
as it records that the donor Sadhanika Vāṭabhoga bought the land from the Mahattaras or leading men of the locality at the established rate of 12 Dināras. It, therefore, denotes that the land purchased by Vāṭabhoga must have belonged jointly to the villagers.

The view of Basak is supported by R.C. Mazumdar. He points out that village communities were, "practically the absolute proprietors of the village lands, including the fresh clearings and were responsible for the total amount of rent to the government. In case the owner of a plot of land failed to pay his share, it became the property of the corporation, which had a right to dispose it of to realise the dues." Basak points out that according to this particular grant one-sixth of the sale proceeds in this translation would go to the royal exchequer according to law. It appeared to him that the remaining five-sixth of the price must gone to the village assemblies.

U.N. Ghoshal holds that R.G. Basak's argument is not tenable because it is based on a wrong translation of the term Dharma – Saṅbāga mentioned in the grant, which he took to be one-sixth of the sale proceeds. "The true explanation of the above phrase", as he puts it, "is to be found in the sacred texts making the king eligible to one-sixth of the spiritual merit as well as demerits of his subjects. As in all the cases, the applicant for the purchase of land signifies his intention of disposing it for pious purposes, it is
A.S. Altekar suggests that "the ownership of the cultivable land vested in private individuals or families and not in the State. The fact of alienation of land and the introduction of a new owner were evidently matters which concerned the whole village. Thus, the consent of the village through its leading men was always indispensable, for these village elders were well aware of the title, the boundaries etc. of the land in question.

Joint ownership of land can be inferred from inscriptions too. A temple inscription at Gwalior records for donations made by the inhabitants of an entire area (i.e. the whole town of Gwalior - 'Samastasthāna') of a piece of land (bhūmikhaṇḍa) lying in a village and two fields (kṣetra) in another, in favour of certain temples, and both the villages are expressly declared to be in their collective possession (avabhūnḥyamāna). The pieces of land donated are specified as belonging to village so and so and cultivated by so and so. The Siyadoni inscription comprises, in a long list of private donations, the gift of a field specified according to the current hasta measure, made by a whole town (sakalasthāna). An epigraph from Nasik region belonging to post-Mauryan period records the gift of a village by the Nasikakas which has been rendered as the 'people of Nasik'. Since the village is
donated by a group of donors, mentioned as Nāsikakas, it is possible that they perhaps exercised joint ownership over the village in question. A Gwalior temple inscription mentions the grant of land by the people of an entire area or Samaslas-thāna or the whole place. It is not unusual, therefore, that some plots of land in a village or a town were held in common or jointly and could be granted to the donees for obtaining spiritual merit by joint or common consent.

It was under the pretext of communal welfare that land was enjoyed by the priests and temples. An important reason why sale was permitted for religious purposes was that the temple was supposed to function in the interest of the community. Apparently not only the priests but also the devotees were patron of the offerings made in connection with the bali and sattra for which land was granted to the temples. Even now offerings made to the Gods are distributed among the villagers who congregate around the local temple on the occasion of the daily and periodical worship. It is likely that in ancient times a major part of the offerings was distributed among the devotees. Gradually the priests appropriated the lion's share and shared only a small portion of the produce of the donated land with the real benefactors.

So far as pasture grounds are concerned, Manu and Vishṇu clearly lay down that grazing land cannot be partitioned. Communal rights in water reservoir are indicated by the provision that Udaka cannot be divided. Inscriptions indirectly
show that the people had the same rights but sustained laws and grants contrived to undermine them.

Baden Powell tries to establish his theory of peasant ownership by arguing against communal ownership. According to the analysis, the joint ownership of the village had only the form of the "modern joint village". A.N.Bose, on the other hand, holds that Powell's proposition was based on hypothesis of consanguinity which may be applicable to tribal Oligarchies. During the period of our study families of different castes and professions are sometime grouped in village settlement and do not shed off their communal tinge. Withal, nor is joint ownership by industrial guilds or religious fraternities a rare feature in Indian land system.

The Arthashastra explicitly states that holdings (vastu) may be sold to only kinsmen and neighbours. This is the unwritten law in many parts of rural India even today.

A deep communal ownership of land leads to the conclusion that the village assembly or any other joint body functioned as royal agent of land management responsible to the king than to the people. The village assemblies were practically the absolute proprietors of rural land including fresh clearings and were responsible for the total amount of revenue to the king. As for consultation of the group of elders and neighbours in boundary disputes, their role was considered important in as much as they knew well the title, boundaries and details of the land.
To sum up, it can be maintained undoubtedly that, there was some land around the village, ownership of which vested in the village assembly, like pasture land or any other types of land used for common purpose. Secondly, there were specific tribes, residing in a particular village or group of villages, headed by a person, in whom proprietary of land vested, not in individual capacity, but in the capacity of representatives of the whole village. Thirdly, the fact that individuals were the holders of the land cannot be denied, but still community had the say, over individual's right, while dealing with his own property. For example, individual could dispose of his land subject to the approval of the village assembly or elders of the village, so as not to sub-serve the interest of the community. Thus, community interest was paramount. Moreover, in case of land dispute between individuals decision of the village assembly or elders of village was final.

2) LAND TENURE

Tenure of land means, a right in land something short of ownership. Where the ownership is recognised only by legal title, tenancy system becomes indispensible to society, as a person having legal title in land and a person having its possession can be two different entities. After having established that the ownership was to be accompanied by a legal title, existence of land tenure system cannot be rejected. From the references of different kinds of ownership and land grants, one can visualise, the system of land tenure system. Both individual and joint land tenure system were known in the ancient tribes.
of the North-West as noticed by the Greeks. Kautilya also recognised the corporate ownership by 'interminable agreement' with the colonies.

The term अतिथ्या occurs along with the brahmadeya in the Arthashastra (ब्रह्मदेयातिथ्यायानां). अतिथ्या were the lands given to officials commissioned with the management of alms-houses and other public charities and pious acts. U.N. Ghoshal compares this class of lands to inām and muāfi of the Moslem India, which according to Baden Powell, were generally hereditary and of permanent nature, so long as purpose of their endowment was complied with. Thus, अतिथ्या means lands donated to officials managing the public charitable houses, which can be enjoyed perpetually by the such houses. It is noticeable here that such official donees were not the owner of the land and only the income from such land could be used for charitable purposes.

Service tenures are referred to in our sources. The grantees probably enjoyed land as long as they rendered efficient service to the State. The giving of portion of land to the officials in lieu of their service reminds us to the origin of भृमिय तन्त्र. But the rights of such grantees in northern India were limited. Lands granted on condition of a regular supply of troops in lieu of taxes were known as अवुध्या. The arrangements for such military service by the people were made through the revenues collectors appointed by the State.
Governing laws for the tenureship of a particular holding have been described in contemporary inscriptions also. It appears that the inscriptive documents are all land grants for religious purposes and in these grants certain specific farms of land tenure are recorded: (i) Nividharma, (ii) Aksayanividharma or aksayanivi, (iii) Apradharma, (iv) Aparada - Karya - nivi - dharma or apradaksiayanivi - maryada and (v) bhumiçchidranyaya.

The inscriptions often refer to the term nividharma. In the Damodarpur copper-plate grant, we find that a purchaser Karppatila applied for the purchase of a piece of land which he desired to be granted to him according to nividharma. According to Jayaswal nivi means a despatch, document, record or file. The nivi of the inscriptions has, thus, to be interpreted as 'document or despatch', and 'aksayanivi' as permanent document. R.N. Saletore explains it as the system of tenureship by which land was granted to a person to be enjoyed in perpetuity during his life-time. P.C. Chakravarty also suggests that the State allowed transfer of land to the donee or the purchaser only to enjoy a usufructuary right over the land. S.K. Maity contends that to make a gift of land or money according to the nividharma is to give it on condition that the endowment is to be retained as perpetual. It may be seen that whenever the word nivi occurs in the inscriptions, it is to be explained as the fixed capital out of the interest on which particular expense is to be met. Thus, to make a gift of land or money according to
nīvīḍharmā is to give it on condition that the endowment is to be maintained as perpetual. The donee can only spend the interest for the specified purposes.259

The term aksaya is often added to the nīvīḍharmā principle. The term aksaya means indestructible or perpetual. The Vappaghoṣavatā grant of Jayānaga records that an entire village was granted to a brāhmaṇa by a Sāmanta under the condition of aksaya-nīvī.260 S.K. Maity, Fühler and Barnett interpret the term aksaya as being used to put special emphasis on the permanency of the endowment.261 This is further indicated by the fact that, where aksaya-nīvī-dharma is mentioned, in some cases we have also the expression 'sāsvata-candra-tāraka' as in the Paharpur copper-plate. It thus, indicates that the endowment was perpetual. In the Sānchī stone inscription, we find that upāsaka Harisvāminī made a grant of 12 dināras as aksaya-nīvī to the Saṅgha in the great monastery of Kākonādabhotta and it is clearly pointed out that a bhikṣu is to be fed daily out of the interest that accrues from this endowment.262 Again in a passage of Bihār inscription of Skandagupta we read of the grant of a village field as an aksaya-nīvī or a permanent endowment.263 In the Siyadoni inscription Keilhorn interprets this term as permanent endowments. But Maity says that in certain cases the above terms of tenureship are reversed. The new owner has got the full right to enjoy the endowment with the power of transfer and sale. This is further supported by the Dhanaidaha charter which
records that a place named Kṣudraka possessed by Shivasharma and Nāgasharma was donated to one Varahsvāmin after reversing the principle of nīvidharma or nīvidharma-ksayena implies the destruction of the principle of nīvidharma. R.G. Basak explains that "it seems from the use of the word 'nīvidharma-ksayena' that the intending purchaser wanted to buy land by destroying the condition of non-transferability of it, i.e., to buy it with the future right of alienation. But Ghoshal interprets this in quite a different way and suggests the reading of nīvidharma-ksayena or nīvidharma-aksayana. He then translates it "according to the custom of non-destruction of nīvidharma". On the other hand, the Dhanaidha copper-plate seems to contradict this explanation and quite clearly suggests that the principle of nīvidharma was reversed. Maity agrees with the interpretation of Basak and quotes him in support of his own suggestion. It seems from use of the word 'nīvidharma-ksayena' that the intending purchaser wanted to buy land by destroying the condition of non-transferability of it, i.e., to buy it with the future right of alienation.

Thus, the term nīvi and nīvidharma, can be differentiated as here under. The term nīvi meant right to enjoy the income from land or principal in question. While the term nīvidharma can be interpreted as perpetual right of enjoyment of land. Kṣayena means to nullify the principle of nīvidharma. Thus, it can be concluded that nīvi-dharma is perpetual right of
enjoyment of land and could be reversed by the principle of 
ṇīvīdharma ksayena. Thus, it can be mentioned here that both 
types of land tenures, i.e., non-permanent and permanent were 
prevalent during the period under study.

The grant of land according to apradā-dharma perhaps 
means that the donee has all rights to enjoy such a property, 
but has no right to make further gift of the same and can only 
enjoy the interest and income that accrue from the endowed 
land.272

The term apradā-akṣaya-ṇīvī also occurs in the 
inscriptions. The Damodarpur copper-plate no. 5 informs us 
that Amṛṭadeva, a nobleman from Ayodhyā, donated five 
Kulyavāpes of Khila land with vastu to the Shvetavāraśvāmin 
according to the maxim of apradāakṣayanīvī and these grants 
were to be preserved in future with approval of the administer-
ing agents.273 According to Basak "it seems doubtful whether 
this applicant wanted the land on the nullification or conti-
nuation of the condition of non-transferable, the word apradākṣaya 
admitting of an interpretation applicable both ways."274 D.C. 
Sircar points out that pradā means a gift and apradā is non-
transferable and therefore the term apradā - dharma is 
equivalent to the term akṣaya-ṇīvīdharma.275 R.N. Saletore 
states that according to this custom, land once granted could 
not be passed from generation to generation nor could it be 
transferred by the donee to another.276 It can thus, be inferred
that the maxim nīva and other terms associated with it meant the perpetual enjoyment of the land by the donee or the purchaser without any right of alienation.

The next important fiscal term is bhūmicchhidra-nyāya and this reveals another condition for holding the land granted or purchased. This system was very common in northern India. According to the bhūmicchhidra law, the land was granted to the donee to last as long as the moon, the sun, the ocean and the earth should endure and to be enjoyed by his sons, grandsons and further descendants. As the term bhūmicchhidra literally means ground and cleft, Bhandarkar in the light of this expression tried to explain that as holes in the earth are not permanent but are filled up in due course and the earth is whole again, so the grant should survive all the wealth of time and remain unchanged. Bühler states that any land granted according to the bhūmicchhidra-nyāya simply means that land is made over with all its appurtenances, produce and rights. U.N. Ghoshal says that according to this maxim, land was granted to the donee along with the right of ownership which could be obtained by making a barren land arable for the first time. Kauṭilya made a clear distinction between cultivable areas and bhūmicchhidra land in the chapter entitled bhūmicchhiravidhānam that deals mainly with uncultivated tracts which were denominated bhūmicchhidra land. Bühler suggests that uncultivable land donated to the grantee according to this maxim was to be enjoyed with the full right of ownership if he reclaimed it
for the first time. But according to this maxim, thus, interpretation does not reconcile the grant of an entire village to a donee as is found recorded in many of the land charters. For instances, in the Madhuban charter, we find that the village of Somalcundaka in a Kuṇḍadhani Vishaya of Shrāvastī-bhukti which was held by a brahmāṇa named Vērmarathya on the strength of a forged charter was donated by king Harsha, having broken the previous charter, to the two brahmāṇas with all the income that might be claimed by the king's family and exempt from all obligations, according to bhūmicchhādra maxim to be enjoyed in perpetuity and for generations. So the condition of the reclamation of an uncultivable area can hardly be applied to a village which was previously held by a brahmāṇa, as it must have comprised cultivable land also. So it would appear that arable areas were also granted according to this maxim. On the other hand, the term usually occurs after pūravaprattadeva brahmadeya varjitaḥ (it occurs in the Alina charter of Shilāditya VII) and the word is to be linked grammatically with niṣṛṣṭah that follows. All this seems to reserve the right of the granter to the mineral resources and treasure-trove, etc. The right of the king to these is always urged against a gift unless it is expressly transferred. The word, therefore, may reserve this right in favour of the royal donor in spite of the gift of land. Notwithstanding a variety of opinions, it is clearly indicated in the Bānskhera and Madhuban charters of Harsha, the Nidhanpur plate of
Bhāskaravarman of Kāmarūpa, the Valabhi grant of Dhruvasena III, the Navalakhi plates of Shilāditya I and many other inscriptions refer to the grant of land in accordance to this maxim, the law of tenureship to a particular holding lasted in perpetuity and the land could be enjoyed for generations.

3) LAND SURVEY, MEASUREMENT AND SALE

A) LAND SURVEY

During the Vedic period land survey depended upon the requirements of the families, their capability to reclaim forests and waste land. The respective positions were unchallenged for those who paid taxes to the king. Āpastamba frequently refers to the boundaries of the villages. Such boundaries and locations were donated both by natural and artificial marks. Kauṭilya, Manu and Yājñavalkya lay down boundary marks as village mound, forest, cave, artificial buildings (setubandha) viz., tanks, wells, cisterns, temples, fountains and bulbous plants (grshti), trees having long life such as Sālmali, silk, cotton tree and milky and different kinds of bamboo etc. It is important to note here that, all these boundaries of villages and fields were determined by the State.

The references of village boundaries are also found in various inscriptions. For example, in the Siwani C.P. of Pravarasena II, the village named Brāhmaṇapūraka was carefully delimited by references to the river which flowed through it.
and the four villages on its boundaries. The Poona plates of Prabhavatigupta records a similar specification of the boundary of the granted land by four villages. Sometimes the pillars were set up between two villages or between two plots of land. Sometimes trenches of demarcation were mentioned on all sides of the village. Thus, mountains, caves, rivers, etc. specified the demarcation and location of the village and plots of land and the rules framed by the ancient jurists were fairly applied.

In order to solve the problem of exact location of village's boundaries, records of full description were also made. For instance, Mahārāja Hastin endowed certain brāhmaṇas with the agrahāra of Kārparika and specified its area as follows: "The boundaries of it (are), on the east (the boundary-trench or village called) Kārparagarta; on the north Animuktakakakōnaka (and) a vṛka-tree in the centre of valaka on the south side of the village of Vahgara, and a clump of amṛāta-trees; on the west (the tank or village called) Nāgasarī, (and) on the south, the Pariccheda of Palavaman."

The boundaries of individual plots are referred to in our sources. Manu, Phaspati and Yajnavalkya state that the stones, bones, cow's hair, chaff, ashes, potsherds, sand pebbles, bricks, cinders and other things of a similar nature having long life should be buried beneath the soil at the junction of the boundaries of the plot. Manu also enacts that the boundaries should be denoted by some hidden marks, which Kedhatithi, explains as dry cow dung at the time of the formation of new
village. The location and the boundaries of individual plot were very minute and detailed in the Gupta and post-Gupta periods. They were apparently always carefully marked out and measured by the record-keepers and the influential men of the locality. But in the case of villages such details are not required, for their boundaries are more or less fixed by natural or artificial barriers. Thus, we see that Vijayasena donated to Vatsasvāmin land measuring eight kuryavāpas in area. It was situated in the village of Vettregarttā within the Vākāṭaka Vīthi of the Vardhamāna bhukti. It was bounded on the east and south by Godhagrama, on the north by Vaṭavallaka agrahāra and on the western part by Amragarttikā. The plot was duly marked out by pegs (Kilaka) which are commonly used in the land survey of India to this day. Besides, numerous references to partition of property suggest the division and demarcation of the fields amongst the lawful heirs. Thus, the marks like stones, pillars, etc. were set up around the plots of land which distinguished the land held by the different owners.

The boundaries of the villages were very specific and any violation to them was severely punishable. Baudhāyana says that no one should go to the boundaries of the village without a waterpot. The significance is not known. But it may probably be in view of the sanctity of water as one of the five elements of the universe, that it was not considered an auspicious omen.
otherwise. Kautilya fixes a fine of 24 papas for destruction of the boundaries.\textsuperscript{303} Manu, Vishnu and Yajñavalkya state that anyone destroying the land marks should be compelled to pay the highest amercement and asked to mark the boundary again with the land marks.\textsuperscript{304}

In spite of boundary marks and the rules of punishment to trespasses, land disputes regarding boundaries of the village and fields were quite common. Such disputes were resolved by the neighbours, the village elders, the members of the same community, the guilds and corporations and outsiders normally having full acquaintance with the place etc.\textsuperscript{305} The mediator was required to know the boundary marks and to give an evidence of his knowledge. He used to put on unusual dress incognito and led the people to the place of dispute. If he stated correct boundary marks, the encroaching party was heavily fined. But if he failed to give correct marks, he was similarly treated.\textsuperscript{306} The ancient Jurists attach great importance to the verdict of the witnesses of different categories in deciding such disputes.\textsuperscript{307} The witnesses were to determine the boundaries with truth. Those convicted of false evidence were punished.\textsuperscript{308} In the absence of persons knowing the facts on land marks, the boundaries were fixed by the king himself.\textsuperscript{309}

The \textit{Arthashastra} tells that the total area of the village was ascertained by means of inspection of the village accounts and records which were maintained by the \textit{Gopas} and \textit{Sthānikas} with separate entries of produce of different types.
of land after complete verification of the boundaries of the lands. Spies were also deputed for this purpose.

The Guptas maintained a regular department of land survey and staffed by pustapalas, whose literal function was record-keeping. They kept careful record of all land transactions and were mainly responsible for the fiscal administration.

The Damodarpur copper-plate of the time of Buddhagupta, G.E. 163 (432 A.D.) gives us more details about transaction of land. It refers to a council of non-officials consisting of village-elders (mahattaras), aṣṭakulādhikarpa's who were officials in charge of groups of eight households in the locality, village headman and house-holders (kutumbinaḥ). Nabhaka of Chandagrama (Pupdravardhanabhukti) applied for land desiring to settle some good (ārya) brahmans. The local advisory committee sent the application for consideration by village-elders etc. Patradāsa, the Pustapala was asked to report on land. He reported that land was proper one (yuktam) and confirmed to the current conditions and customs relating to sale (vikraymentādā) and then the plot was inspected by the above village council (pratyavekṣya) and was served and separated (apavīṇchhyā) from other plots by the measurement of 8x9 reeds (aṣṭaka-navakanaḷāthyaṃ).

Land was surveyed, measured and divided into holdings called pratyayas with their boundaries defined. The holdings were of different size, that is of 105, 100 and 90 padāvartas and were severed by common lands called padraka and in certain cases the irrigation wells (vāpi), covering an area of
23 padāyartas. The names of all the individual proprietors of the holdings were entered in the village records together with the boundaries of the holdings which were fixed by a separate class of officers called Simāpradāta or Simākarmakaras. Re-survey of land was also done when the floods washed away the boundary marks. Strabo observes that the rivers were improved and the land was re-measured. According to F.J. Monahan re-survey was required in the lower Gangestic plain due to frequent alluvium and diluvium caused by the rivers.

An elaborate and detailed system of survey and re-survey shows that there was hardly any scope for leaving any piece of land unrecorded for fiscal purposes. The economy of early medieval period being agrarian primarily, the state seems to have left nothing unturned to give primary attention to land.

B) LAND MEASUREMENT

The measurement of land is one of the most important features of the land transactions. Without general accepted standard unit of measurement of land, all disputes of land title would have been unresolved. Our sources show that, such units were used both by the State and the people. The measurement units used by the royal surveyors were specific and accurate. The people on the other hand, have always decided their petty land disputes by use of both standard as well as conventional unit.

The smallest unit of linear measure was an atom (paramāṅgavan). The other such measures as likas, the yukas,
and the yavas may have been in use for measuring articles of smaller dimensions, but their use for measurement of land does not seem to be plausible. A more definite measure for the latter was aṅgula\textsuperscript{319} which may be taken as an equivalent to the middle joint of the middle finger of an adult man having a height of at least six feet.\textsuperscript{320} It was approximately a digit of three fourth of an inch.\textsuperscript{321}

The Arthashastra mentions unit of measure such as the dhanurgraha and the dhanurmusti which are equal to four aṅgulas (i.e. about 3 inches) and eight aṅgulas respectively.\textsuperscript{322}

The Pada, the Sama, the Sala and the Parirava were used to mean 14 aṅgulas breadth.\textsuperscript{323} The pada etymologically would mean a foot having bones numbering 26 and its length may possibly range from 9 inches to 12 inches from the corner of the heel to the tip of the first digit of toe varying with different persons. It seems that a breadth of 14 aṅgulas for a foot was considered as the standard length for measurement by the State.

The another popular known measure was the Haṣṭa. The Prājāpātya haṣṭa (haṣṭa of king) was equal to 24 aṅgulas in breadth,\textsuperscript{324} or a cubit of the length from the tip of the elbow to the tip of the middle finger and probably may have been used for measuring arable lands (kṣeṭra) and other irrigation works of importance.\textsuperscript{325} The references of Haṣṭa are also available
in the following inscriptions. For example, in the three copper-plate grants of Dharmāditya and Gopachandra, it is stated that transferred lands were measured by the length of the Haṣṭa of upright Shivachandra. In the Vāllabhaṭṭasvāmin temple inscription, there is a reference to the measurement of a piece of land on the basis of the Haṣṭa standard, the Haṣṭa being described as the Haṣṭa of the king (Pārāmeshvarīya-Haṣṭa). From this it is evident that Shivachandra and Darivikarma were not record-keepers, for these officials are mentioned separately in each case. They were probably surveyors or local officers in some way connected with the fiscal department of the government or it may have been the technical designation of a person who measured the area. It is clear from the Faridpur grants of Dharmāditya and Gopachandra that only the Haṣṭa of Shivachandra was accepted as standard in the locality. Thus, Haṣṭa was equal to approximately 19 or 19 inches and is still a popular measure in many parts of India. B.C. Sen took the average measurement of Haṣṭa as equal to 19 inches. Pargiter suggests that the difference varied from 13 inches to 21½ inches and takes the average measurement of 19 inches to be the standard Haṣṭa. But it may not be correct. The Haṣṭa of the Mārkandeya Purāṇa corresponds to the Kara of Śukrāṇiti and the Haṣṭa of the Arthashastra. According to them 24 angulas are equal to one Haṣṭa (Kara), and if one angula is ⅛ of an inch, one Haṣṭa must be 18 inches, which is still considered a standard measure current in India. Thus, it
may reasonably be assumed that the Hasta was not taken in the
exact sense of the word, but it was a length of measure of
different denominations used by the land surveyors. The
people might have been using their Hasta from the tip of the
elbow to the tip of the middle finger for their own purposes.
Thus, the controversy over the length of Hasta is still not
resolved.

The next measure, more freely used for measurement of
land, was the Dhanu (bow) or Danda (rod). The Arthashastra
states its length as 96 aṅgulas. According to Nārada the
dhanu varied in length from 105 to 107 aṅgulas thus, its average
length was 6 feet 7½ inches. The Mārkaṇḍeya Purāṇa and
SukranItisara also state that the danda is equal to 4 haṣtas
or 96 aṅgulas, i.e., approximately 6 feet. Bühler also
suggests the same length. Danda is also probably the nala
(reed) of Gupta inscriptions. There is a great deal of
controversy regarding the length of nala. The phrase aṣṭakana-
kanalābhyaṃ - apavincchaya occurs in numerous inscriptions.
This aṣṭakanaṣikalābhyaṃ-apavincchaya probably meant a nala
having a measurement of 8x9 cubits or haṣtas. The Satka, aṣṭaka
and navaka compounded with the word nala may imply rods or nalas
of 6, 8 and 9 cubits respectively. This view is supported by
D.C. Sircar. Pargiter explains the term aṣṭakanaṣikalābhyaṃ-
apavincchaya as referring to a plot 8 reeds in breadth and 9 reeds
in length. B.C. Sen expresses a slightly different opinion.
He states that "two nalas were used in turn for the measurement
of length and breadth respectively one for measuring 9 cubits and the other 8 cubits." The elements Astaka and Navaka in the compound can well be taken as representing the size of the nala employed in each case, and the custom of measuring by haṭta standard having been shown in some inscriptions to have been current, it is evident that whether the compound was preceded by haṭta or not, the same practice must have been followed throughout. Taking the average measurement of the haṭta to be 19 inches, the unit represented by the astaka and navaka nalaś will correspond to an oblong area of 19x8x19x9 = 25,992 square inches or 130½ square feet. S.K. Maity states that to employ two measuring units one for length and another for breadth, seems inconvenient. Basak and R.N. Saleto in discussing the third of the Damodarpur copper-plates, the Baigram copper-plate and the Dhanaidaha copper-plate, believes that only one rod was used for measuring rectangular plots of land each being 8 nalaś in breadth and 9 nalaś in length. S.K. Maity, on the other hand, rejects this and points out that "it is most unlikely that the total area of a large plot of arable land should be arrived at by measuring it off, thus, in large squarish rectangles." However, the astaka-navaka-nalabhyām measurement is still an enigma to us. From a few later inscriptions of Bengal, it can be gathered that the nala measure was not always based on the haṭta unit. From the Bengal inscriptions, it is learnt that
Nala measuring 56 cubits or 22 cubits were also used. The length of the nala varied in different places, according to different local customs and usages, although the hasta as the unit in framing the size of the nala was generally not lost sight of. Where the exact size of a nala, however, is not indicated, it is difficult to ascertain it, for the available references clearly point to the use of nalas of different varieties in different regions.

Epigraphic and literary sources mention a measure called nivartana. The Kadambapadraka grant and the Kalvan plate of Yashovaman, refer to this measure, which is known to have been the current extensively in earlier times. The Arthashastra states that nivartana was a square measure. According to Pran Nath, the brahmdeyanivartana was an area of land granted to a brahmana and equal to an english acre. Altekar takes its area as 5 acres of land. S.K.Dass vaguely says that it was equal to an area sufficient to support one man from its produce. R.S.Sharma says that it was 1½ acres. But none of them give sufficient reasons for their conclusions. Kane holds that a nivartana was so called because it represented a day’s ploughing by a team of eight or six oxen (from the root 'vrit' with 'ni' making the cessation of work after a day’s cultivation). Thus, nivartana would be a length of 60 yards, but because it was a square measure, its area would come to 60x60 = 3,600 square yards and was less than a acre. According to Sircar, one nivartana land was 240x240 square cubits (2975
acres) or 120x120 square cubits (743 acres). The extent of a nivartana, however, differed according to different authorities. Kautilya says that 4 aratins are equal to 1 rajju and 3 rajju are equal to 1 nivartana i.e., a nivartana is equal to 30 dandas. Barnett holds that 10 hastras = 1 vaṃsha; 20 square vaṃshas = 1 nivartana. A nivartana is thus, shown to be equal to a square of 20 vaṃshas on each side, each vaṃsha being equal to 10 cubits. Therefore, a nivartana covered an area of 40,000 cubits (200x200).

Another term of measurement was Yojana. According to Arthashastra, the Yojana was equal to 4,000 dhanus or 4.54 miles. But if Bhaṭṭasvāmin's interpretation be taken, it will double the distance i.e. 9.08 miles. According to Barnett, the Hindu made use of both a long and short yojana. The former contained 9 miles and the short yojana, was exactly half of the length. Fleet calls them general yojana and Magadha yojana respectively. Fleet also points to a third type having a distance of 12.12 miles on the testimony of Yuan Chwang.

There was also another standard of land measurement current in the eastern region known as Ādhavāpa, Dronavāpa and Kulyavāpa. In many inscriptions of the period the extent of the land concerned is indicated by a term denoting the measure of seed which could be sown on it. The element 'vāpa', in the compound 'kulyavāpa', Ādhavāpa and Dronavāpa derived from the root 'vap' to 'sow', definitely establishes this interpretation. The system of kulyvāpa measurement was well known in eastern India during the period. But there is a great deal of
controversy regarding the interpretation of this measurement. Kullūka Bhaṭṭa, the commentator of Manu, states that the kulya or kula is as much land as can be cultivated by two ploughs or in other words, it can be said that it signifies a few acres of land. Pargiter thinks that a kulyavāpa of land was equivalent to a land measuring a little more than an acre (i.e. $\frac{1}{3}$ bighās). But this interpretation cannot be accepted for two reasons. Firstly, the expression "aṣṭakancanaṇa-nāla" occurs along with other measurements such as pravarta, dropavāpa and ādhavāpa in addition to Kulyavāpa. D.C. Đircar suggests that four ādhavāpa made one dropavāpa and eight dropavāpa is equal to one kulyavāpa and he further opines that "a kulyavāpa seems to have been equal to about 150 Bengal bighās." Elsewhere, however, he specifically states that one kulyavāpa of land is equivalent to 123 to 160 bighās, one dropavāpa is equal to 16 to 20 bighās, one ādhavāpa is equal to 4 to 5 bighās and one Umpāna is equal to 1/9 of a bighās of land. S.K. Kaity states that the measurement of land was based on the area of seed sown and not that of transplantation of seedlings comprised the Kulyavāpa area. Thus, in view of sharp differences prevailing, it is impossible to reach a definite conclusion.

Another term denoting land-measure based on seed-measure is ādhavāpa. There are references to this measure in several inscriptions, particularly in an inscription of Vigrahaśaila III.
and in two inscriptions of Lakshmanasena. The Belwa copper-plate inscription records the grant of land called lavanikāma which was divided into two parts, one of which measuring

1 kula, 2 dropas, 3¼ adhavāpas and 3½ unpanas was excluded from the gift and the other measuring 3 kulas, 7½ dropas and 11 uḍpanas only was transferred by donation. Thus, from the scale of measurement, adhavāpa comes next to dropa, which seems to mean that the latter was lesser than the former. A further reference to the term adhavāpa is to be found in the Āṇuliā and Tarpanāghi plates of Lakshmanasena. It is known that four adhavāpas made one dropavāpa. As already stated, 16 dropavāpas made two kulyavāpas, therefore one kulyavāpa was equivalent 8 dropavāpas. Hence, 4x8 = 32 adhavāpas (adhakas) constituted one kula. It is suggested that a kulyavāpa may have been equivalent to 128-160 bighas; a dropavāpa (1/3 of a kulyavāpa) = 16.20 bighas; and an adhavāpa (1/4 of a dropavāpa) = 4.5 bighas. In the Saktipur copper-plate of Lakshmanasena, dropa is used as land measure. It is also used as a land measure in the Madanpur plate of Shirichandra of the Chandra dynasty of Bengal, of the year 4280, which refers to a rent free land measuring 3 dropas exceeded by 8½. It may be presumed that it is the same as the dropavāpa of the Gupta period. Dropa was sub-divided into adhaka or adhavāpakā into ummāna and ummāna into kāka or Kākinikā. Pātaka was another measure prevalent in Bengal. This is mentioned along with other measures in the Āṇuliā copper-plate.
plate inscription of Lakshmanasena, which records the grant of a piece of land measuring 1 pātaka, 9 dropas, 1 ādhavāpa, 37 unṁaṇas and 1 kākipikā. Pātaka (a kind of measure widely used in East Bengal in 6th and 7th centuries A.D.) was equal to 40 dropavāpas = 5 kulyavāpas. From the Kailan copper-plate, it can be gathered that 13 Pātakas of land were distributed to thirteen Brāhmaṇas. Of them eight brāhmaṇas received 5 pādas each, two others jointly got 5 pādas, two obtaining 2 pādas each, while one received 3 pādas. Thus, the total of 52 pādas was equivalent to 13 pātakas. It is thus evident that 4 pādas were equivalent to 1 pātaka. In this connection reference may be made to the Saktipur plate of Lakshmanasena, which records the gift of six pātakas, each of which is given a name, namely, Rāghavahaṭṭa, Vārahakeṇḍa, Vāllīhiṭa, Vijaharpura, Dāmaravaṭṭa and also Nīmapāṭaka of which only a portion was included. It cannot be said definitely whether each of these six pātakas measured one pātaka or they represented different wards or parts of an area. There is some difficulty in accepting the second alternative as there will be no information about the measure of the land donated. Kielhorn has explained the term ‘pātaka’ as meaning grāmaikadesha a part of a village; outlying portion of a village or a kind of hamlet, which had name of its own, but really belonged to a larger village. According to the Abhidhanachintāmaṇi, "a pātaka is one half of a village (pātakasu tadardha syāt)."
D.C. Sircar states that 5 kulyavapas were equivalent to 1 Pātaka and states that as a kulyavapa seems to have been equal to about 150 Bengal bighas, a pātaka may be roughly about 750 modern bighas. Five pūdas were equivalent to 1½ pātaka, therefore, the pūda was a larger unit than kulyavāpa.

The inscriptions of Bengal furnish us with certain other seed measures. In the Mādhaṅgāra and the Sundarban copper-plates, mention is made of a land measure known as khārika (khārī or khādīka). This seems to be the same as khārivāpa of Amarakosha. One khārī is made from 16 dropas and 16 dropas were equal to 2 kulyas or kulyavapas. Thus, a land, which measured one khārivāpa was double the size of that which measured one kulyavāpa. One dropa constituted 1/16 part of a khārivāpa.

From the Faridpur grant of Dharmaditya (No. B) we learn about another term parvartha. This grant states that the purchaser Vasudevasvāmin obtained some kulya-sowing areas of waste land plus a parvartta-sowing area. Fargiter defines it as a plot of land smaller than half a kulyavāpa on the strength of this epigraphic record because the actual price of the cultivable waste land in the eastern region was four dināras per kulyavāpa, while the purchaser had to pay only two dināras for a plot of kulya-sowing area of waste land and a Pravartha-sowing area.
In the Vākāṭaka inscriptions, the term bhūmi as a unit of land measurement is mentioned. It is difficult to ascertain the actual area implied by the term bhūmi. The terms bhūmi or bhu and bhūmishakti is used in the Chamba inscriptions. According to Fleet, bhūmi is a technical land measure of known value. The Chamba inscriptions of a later period refer to 4 māgaśkas as being equivalent to one bhūmi. It was, therefore, a specific standard of land measurement rather than a hypothetical one.

Another land-measure mentioned apparently in a number of variant forms is unipana, udāna or udanāna. The term udanāna is mentioned in the Belwa copper-plate inscription of Vignaprānapāla III and the Aṅgāchhī plates of the same king. The term unipana occurs in the Govindpur, Parpandīghi, Ānulīa, Sundarban plates of Lakṣmanasena. It is also mentioned in the Nākāṭī plate of Vallālasena. In the Calcutta Parishat copper-plate of the Sena dynasty, the term udāna is shown to be same as unipana. Sometimes the term kulyavāpa is not used but measurement is given in terms of dropavāpa and its subdivisions including unipana. Thus the Govindpur plate of Lakṣmanapāsa refers to a land measuring 60 dropas and 17 unipānas. Even the dropavāpa measure is omitted with ādhavāpas and unipāna are mentioned. The Parpandīghi copper-plate of Lakṣmanapāsa refers to a land measuring 120 ādhavāpas and 5 unipānas. The Ānulīa copper-plate of Lakṣmanapāsa also omits kulyavāpa measures but includes pāṭaka measures along with
dropas, ādhavāpas, unṛṇānas and kākīpikas. The 60 dropas mentioned in the Govindapur plate, may have been otherwise described as 7 kulyavāpas and 4 dropavāpas. Similarly, 120 ādhavāpas mentioned in the Tarpanḍiṣṭhi plate could have been expressed as 3 kulyavāpas and 24 ādhavāpas. The 9 dropas in the Anulīṭa copper-plate, similarly can be taken as equivalent to 1 kulyavāpa and 1 drope. There must have been some reason accounting for the tendency towards the exclusion of the name kulyavāpa as a land measure. As regard the implication of the term unṛṇa, the Sundarban copper-plate of Lakṣmīnasena supplies some useful data. This plate records the grant of a piece of land which measured 3 bhū-dropas, 1 khāḍika, 23 unṛṇānas and 2½ kāhīqis. It is stated in carrying out the measurement recorded in the inscription that one unṛṇa was equivalent to 32 cubits and 1 cubit = 12 anigulas. On the basis of this valuable information supplied by the Sunderban copper-plate it may be possible to have an approximate idea about the size of the land forming the subject of the gift.

In the western region, prevalence of pādavartta measurement can be traced from epigraphic records. The Jhar plate of Dharasena II records the grant of one hundred pādavarttas of land on northern boundary, one hundred and sixty pādavarttas of land on the eastern boundary of the village Velāpadraka in the Jhari Sthali and twenty-five pādavarthas on the southern boundary of the same village. A grant of Shiladitya I also mentions pādavartta as a land measure.
From the Valabhi inscriptions, it is apparent that fields as well as the area of the irrigation wells was measured in the pādavartta standard. Fleet defines the word pādavartta as turning of a foot. He narrates that 100 pādavarttas in the Māliyā copper-plate of Dharasena II means a plot of ground measuring a hundred feet square each way i.e. ten thousand square feet, "because the simple interpretation one hundred would be rather a small area for a grant." If a pādavarttas denoted one square feet, even then ten pādavarttas of land referred to in the Māliyā grant would seem to be a very small area for pious endowment to a donee. The real size of a pādavartta, therefore, still remains inconclusive.

The Hala (plough) measure was current in many places as shown by records connected with different dynasties of northern India. The Senakapat inscription of the time of Shivagupta Balarjuma found in Madhya Pradesh records that one Durgaraksila granted two Hala measures of black soil to the donee. The use of the word hala in the sense of a land measure is found in Pāṇini, Patañjali etc. Even in the Dhulla copper-plate of Shrīcandradeva of the Chandra dynasty of East Bengal (C. 10th A.D.) the term hala also occurs as a land measure. In some inscriptions the land measuring one hala is called bhūhala, e.g. the Bhātera plate of Govindakesava and a copper-plate grant of Maharāja Yoshovarmadeva. That
hala definitely means a plough is clear from the expression halavāba which is used in the Bombay Asiatic Society copper-plate of Bhīmadeva II,\(^{413}\) which means 'that much of land of which could be ploughed with one plough (thus, a plough measure of land). The same expression was used by the Paramārī king Cāhūr̥a rṣhadeva in one of his inscriptions.\(^{419}\)

The term hāra is still used in Gujarat where it means not a land measure but a measure of grain.\(^{420}\) It is also used to denote current measure of corn in Kathiawar. A suggestion has been made that hāra is only another form of word hala and that as the name of a measure the word may have originally been connected with the plough measure, measuring a fixed quantity of grain produced "by the use of the hala or plough." In short, the suggestion is that, originally the word hāra denoted the same thing as a plough measure but later it may have come into use as the name of a measure of grain or corn only.

It seems that haele is only a local variation of the word hala denoting a particular land measure. The word hala in this form is found in the Sāndēvī stone inscription of Kelhanadeva,\(^{421}\) of the Cāhamāna dynasty of Sambhar. According to it the donor, Analadevī, granted one haele or yugāṇḍhāri and that some Rathakaras also granted another haele of yugāṇḍhāri. Like the word hāra mentioned above the term haele may also be connected with hala in the same sense. One haele of yugāṇḍhāri will mean one haele of jvar corn, which was the yield of a plot
of land cultivated with one plough. The corn measure thus used represents a definite quantum which is represented by the yield of a piece of land cultivated with one plough.

There is difficulty in ascertaining the exact area that could be cultivated with one plough. Soil was of different qualities in different regions, the capacity of the plough depended on the variable character of the soil. Then again, the size of the plough may not have been the same everywhere. There may have been different sizes of the plough in the same locality also. Thus, the Harsha stone inscription of the Cañamāna King Vigrahasāja (C. 917 A.D.) refers to a big plough which clearly indicates that ploughs of different types were used. The size of the plough must have been an important factor in the determination of the extent of land cultivated with its help.

Summing up, the following were the units of measurement: angulas, dhanurmusti and dhanuragraha; pāda, the Sāna, Sala and the Pariraga; haṣṭa; dhanu or danda or probably nālas; rajju, nivartana; yojana, adhavāpa, dropavāpa and Kulyavāpa; Pāṭaka; Parvartta; bhūmi; hala and pādavartta.

C) LAND SALE

Sale can be defined, as transfer of goods (i.e. movable or immovable). It is evident from our sources the system of land sale was prevalent in the ancient period. With the development of the social and economic pattern, there was a departure from the injunctions against the sale of landed
property. Though we have only a few actual instances of land sale, the elaborate rules and regulations framed by the ancient jurists tend to show that the sale of land became fairly prevalent. A number of inscriptions of this period provide a fair picture of land sale which was elaborate and practical. However, no charter on an exclusive secular land sale has yet been discovered. Available copper-plate grants on land transactions only refer to purchase of land for making pious endowments for spiritual merits.

To avoid any fraud in sale transaction the title of the seller must be established. Arthashastra states that the ownership implies the right to dispose of the property. It further avers that if the real owner finds that his lost property being enjoyed by another, he should take legal steps against the latter. Manu also lays down that anybody selling the property of another without establishing ownership or without obtaining prior consent of the real owner, was considered to be a thief. Thus, the sale effected by anyone excepting the owner, was generally considered as an invalid transaction.

The best and full proof mode of immovable property is that it must be supported by documentary evidence. Trhaspati defines a deed of purchase by saying that when a person having purchased a house, field or other property causes a document to be executed containing an exact statement of the proper price paid for it, then it is regarded as a deed of purchase.
Kātyāyana states that when the boundaries of a field or house are specified and other details are written, then it becomes perfect. All the sale transactions were recorded as important documents, but the private transactions were not engraved on the stone or copper-plates. S.K. Maity says that these documents were written on cheap and perishable materials. It has been noted from various literary sources that birch tree leaves, leaves made from aloe-bark, cotton stuff, antelope skin, wooden tablets and plaster of the wall were used as writing material. From this it can be said that the sale deeds were recorded privately on different writing materials.

In order to preserve family settlement and village customs and traditions, some limitations were imposed on the seller's right to sell the property. The land was at first offered for sale to kinsmen of the owner. If they did not show any inclination to buy, the neighbours were approached. On refusal of both the parties, the land was sold to wealthy persons or possibly to the creditors of the seller. No sale in the village was complete without the presence of the villagers from the co-villages. Kautilya says that forty selected persons of good families should have the privilege of being present at the time of sale and purchase of fields, gardens, lakes etc., and possibly settling any kind of dispute arising out of such sales. Such persons are evidently supposed to be witnesses in a transaction, who had no personal interest in a sale. The Mallasārul copper-plate of the region of Maharājadhirāja of Gopachandra records that the purchaser named Vijayasena
approached the Kahattaras (village elders) and other important personages concerned with the business of land transactions like Agrahārins, Bhattas, Khādgīs, Vāhanāyakas and also the local district court (Vithi Adhikarāra) expressing his desire to purchase in the customary way eight Kulyavēpas of land for making an endowment to a brāhmaṇa named Vatsavāmin to enable him to perform the five great sacrificial rites. Damodarpur plate No. 5 of an earlier period speaks that Amritadeva from Ayodhya approached to local government of Koṭivarsha Vishaya and applied for purchasing some uncultivated Khila land according to the maxim of Aprada-dharma (non-transferability by further gifts) by paying the usual rate of three dināras for each Kulyavēpa with the object of providing the means of repairs and materials for daily worship at the temple of God Shvetavarānsvāmin. Three Faridpur charters also refer to the same procedure of approaching the local government for purchasing land. Jayanātha in the Kailan charter of Shrīdhāraṇa Rāta directly approached the king for the grant of a piece of land which he was willing to dedicate for religious purpose.

It can be maintained here that the first step towards the sale transaction was to approach the State officials directly or indirectly. The State agencies were approached directly or they were intimated through applications before effecting a legal sale deed.

The prices once settled could not be altered. As the selling meant actual handing over of the sold property to the purchaser, the seller could not change his mind. Arthasastra lays
down that if the owner sold his landed property to a person different from the actual bidder, he was to pay a fine of 24 pāpas.\footnote{442} But we learn from the later Smṛtis\footnote{443} that such owners (i.e. sellers) had to pay a fine of the produce of the immovable property i.e., land, which was obviously much more than the nominal penalty laid down in the Arthashastra. Manu tells that if after buying and selling anything, the seller or the buyer reverted of the bargain, the chattel (i.e. land according to Medhatithi, Govinda and Kullūka) should be returned within ten days.\footnote{444} After that any party involved in giving or taking back (except by consent presumably of the king) was to pay a heavy fine of 600 pāpas to the treasury.\footnote{445} The price of land varied according to the condition but there was a standard rate. The usual rate of uncultivated khīla land was three dināras a kulyāvāpa area, in Koṭivarsha vīshaya.\footnote{446} The Faridpur grants inform that in the province of Vāraka, the established rule along the eastern sea was that cultivated plots were to be sold at the rate of four dināras per kulyāvāpa area.\footnote{447} The Ghugrāhāti charter of the time of Samācāradaeva is very interesting in this connection because after proper decision of the elders the administrative council in land transactions decided to grant the applicant a piece of land free of any consideration.\footnote{448} This shows that the grantee was in this way encouraged to make the fallow state land cultivable and accessible for settlement. Faridpur grant no. A records that according to the local custom in these sale transactions, a sixty part of the merit or Dharmameṣṭhi would go to the feet of the king.\footnote{449}
To increase the state revenue was the only criterion for making sale and purchase by the State. We know from the authority of the *Arthashastra* that the first settlers purchased from the king, the whole tract for the establishment of colony. The *Mallasārul* charter records that the purchaser named Vijayasena approached the *Mahattaras* and other important personages concerned with the business of land transactions like *Agrahārins, Bhātṛs, Khāḍgīs, Vāhanāyalas* and the local district court (*Vithi Adhikarana*) and after receiving the application of Vijayasena, the district court held their enquiry into the matter and signified their approval, considering that a sixth part of the religious merit will accrue to the *Paramabhattaraka* i.e., the king and they themselves, as the protectors of the gift, will also have fame and prosperity. The *Chuğrahaṭa* charter of the time of *Samacaradeva* mentions that when a brahmana named Supratikasvāmi applied for a piece of waste land for settling himself on it, the elders and others skilled in law thought that the land which was full of pits and infested with wild animals was unprofitable to the king from the point of view of revenue and religious merit. So it was profitable to give the land to the applicant because this would bring both revenue and religious merit to the king. In this matter, the consent of the record-keeper (*pustapāla*) was greatly valued. The *Danodarpur* copper-plate no. 5 states that land was only granted after the recommendation of the record-keepers.
The Faridpur grants also refer to the same procedure. The major responsibility of determining the land to be granted was entrusted with the record keeping department of the State. This particular department was responsible for all possible documents and detailed information required to establish ownership. So, it can be adduced that unanimous decision among the State officials and leading member in administration of land was necessary while making any land transaction by State.

All kinds of illegal land sales were rejected by the State. Transactions by insane, drunk, minor, servile and other unauthorised persons were declared invalid, as also transactions effected by force. Vishnu and Yajnavalkya admit widow's right of inheritance, but forbid her to sell, mortgage or give that away. Land granted to the State officials could not be sold by them. Brahmanas were forbidden to dispose of brahmadeya lands to non-brahmanas. Taxable lands were not to be alienated to persons, who were tax-free.

The alienation of land to the new owner or purchaser was recorded in the copper-plates and documents, and the purchaser was given one such as evidence of sales. The Chugrāhāṭi charter records that Supratikavāmi received the grant of land after demarcation of boundaries by the issue of a copper-plate. Often seals were attached to the copper-plate to give it legal validity. The Damodarpur plate records that the sale charter has a seal attached to the middle of its left side and bears the symbol of trident in relief having the
The use of seal can also be traced in the Faridpur copper-plate of the region of Dharmaditya (No.A). The document bears a seal having an emblem of Shri or Lakshmi with the legend Varakamapalavisayadhikaragasya inscribed on it. These seals are of great significance and they symbolise the fact that the transaction was undertaken through proper official channel.

The process of land sale, therefore, was a noteworthy feature in the economic programme of the State and the alienation or the transfer of the ownership of land was permitted only after due consideration and unanimous decision of the leading members to whom the affairs of the administration of land were entrusted by the State. The sale of village land was not so common, though it was not prohibited. The village land could be sold with unanimous decision of village elders subject to the approval of State agencies. Purchase of land by a stranger was not restricted but he suffered from certain limitations. Kinsmen, neighbours, and villagers were give preferential right while selling the land. Preservation of family settlement, village customs and traditions might be the reason behind such law of pre-emption.
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322. Arth., II. 20; Nar., I.235, 286.
323. Ibid., II. 20; R.K. Mookerji, Harsha, p. 113.
324. Arth., II. 20.
325. E.I., VIII. p. 45 ff.
330. Markandeya Purana, XIIX. 37 ff.
332. Arth., BK. II. 20, p. 106.
333. ibid., II. 20.
335. Nar., fn. I., 2, 3.
(b) The Damodarpur Pls. E.I., XV. p. 136, Pl. 1'.
(c) The Dhanaidaha Pls. E.I., XVII. p. 347.
(d) The Balgram Pls. E.I., XXI, p. 82, l. 18-19.
343. Ibid., p. 520.


349. Luders list Nos., 1125, 1126, 1200, 1327.


357. Kane, *op.cit.*, III. p.245 and n.


361. *I.A.*, V. p.53 and n; In the Mitakshara the measure of nivartana is held to be 200 cubit square - Mitakshara, p.2.n.

362. Taking the usual length of a Dhanusas 6 feet, one Yojana would be equal to $4000 \times 6 = 4.54 \times 10^3$.


364. J.R.A.S., 1966, p.1011; Magha Yojana was equivalent to $\frac{2}{3}$ miles and General Yojana 9.09 miles.

365. According to Yuan Chwang, it was 1$1/2$ of the general Yojana.


368. I.A., XXIX, p.216.
374. E.I., XXIX, p.9 ff.
375. E.I., p.81 ff; 99 ff.
376. E.I., XX. p.59 ff.
379. E.I., XXI, p.211 ff.
380. Ibid., XXVIII. p.51 ff.
381. E.I., pp. 68 ff; 81 ff; 99 ff.
382. Ibid., p.31 ff.
384. I.H.Q., XXIII, p.236.
389. Ibid., p.169 ff.
391. Ibid.
396. E.I., XXIX, p.9 ff.
397. E.I., XV. p.293 ff.
398. I.E., p.92 ff; p.99 ff; p.31 ff; p.169 ff.
399. Ibid., p.69 ff.
400. Ibid., p.140 ff.
401. Ibid., p. 92 ff.
402. Ibid., p. 99 ff.
403. Ibid., p.91 ff.
404. Ibid., p. 92 ff.
405. Ibid., p. 99 ff.
406. Ibid., p. 91 ff.
407. Ibid., p. 169 ff.
409. I.A., XV., p.139.
410. Ibid., IX. p.237.
411. C.1.1., III. p.170, f.n.4.
412. E.I., XXXI, p.32.
413. IV. 4.97 In Panini the area cultivated with one plough is called halya, dvi-halya, tri-halya cited in Kashita
414. Ahsaya, 1.1.72.
418. I.A., XVIII. p.103.
419. Ibid., XIX, p.285.
421. E.I., XI., p.46.
422. A bigger unit is called Parama-hālya by Patañjali Bhāṣya, 1.1.72.
424. Patañjali's Bhāṣya, 1.1.72 Parama-hālya.
426. VII. 197; VIII. 165.
427. VI. 13.
428. 522.
431. Life, p.190.
433. Rāj., II.
434. D.C. Ryder, p.103.
436. Ibid.
437. Ibid.
444. Manu, VIII 222; Yajña, II.177.
445. Ibid., VIII, 22, 3.
446. E.I., XV, p.115.
448. E.I., XVIII. p.75
450. Arth., VII. 11.
451. E.I., XXIII. p.157
452. E.I., XVIII. p.79.
453. Ibid., XV. p.115.
454. I.A., XXIX. p.196, 205.
455. Manu, VIII. 163.
456. Ibid., VIII. 163; Vishnu, VII.6.
458. Ibid. Yajñas, II. 135-36.
459. Arth., II. 1; III, 10.
460. Ibid.
461. Ibid.
463. E.I., XVIII, p.79.
464. Ibid., XV, p.115.