

I.N.D.I.A..R.E.P.O.R.T.

TOWARDS SELF RESOLUTION OF DISPUTES.

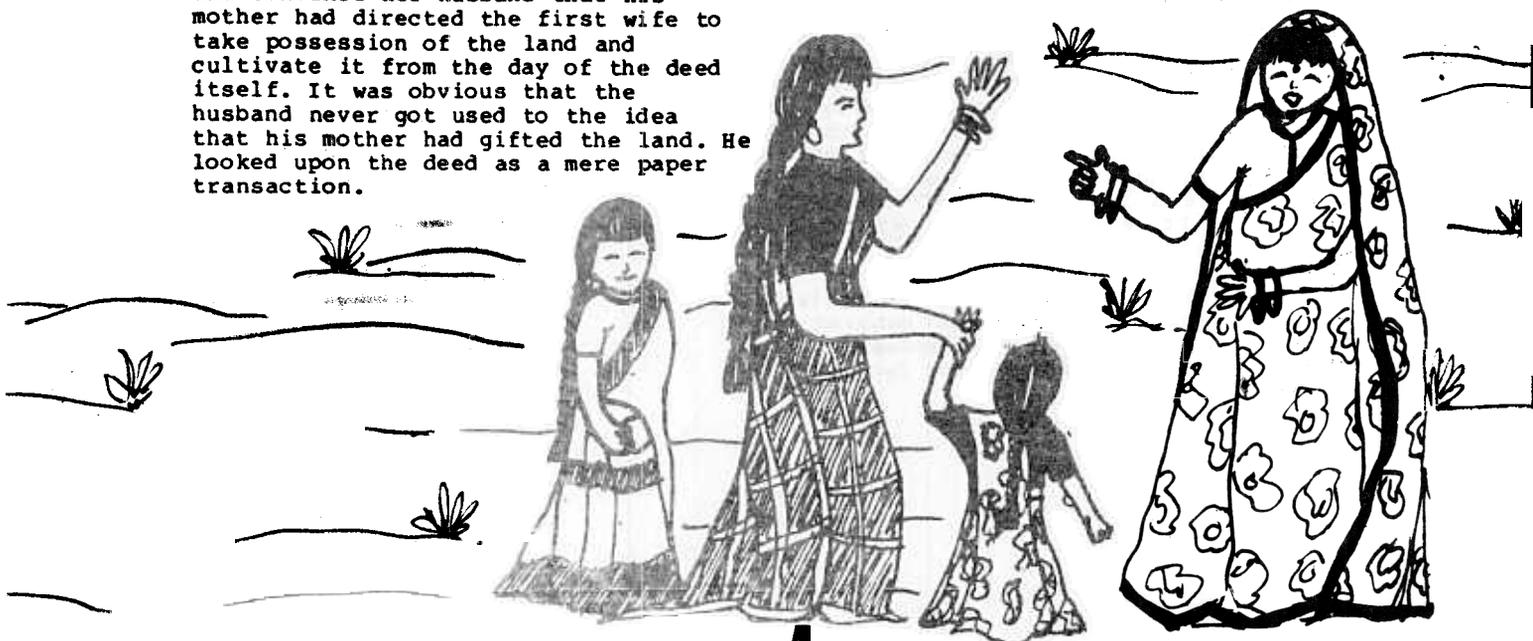
A middle aged women comes to the mediation centre at Tiruppur seeking assistance to regain the possession of a piece of land from her husband, which had been given to her by her Mother-in law, when her husband took a second wife about ten years ago. In the beginning both wives and the husband lived in the same house, but after the second wife had two children and the Mother-in-law had died, it became impossible for the first wife to stay in the same house. As she was made to do all the household chores and was slighted by the second wife and her husband, so she left. But when she left her husband would not let her keep the land.

The mediation centre sent him a letter but did not receive a reply so a field worker was sent to visit him. They found him working in other fields for wages as he was very poor and obviously his wife land was very important to him.

During the negotiations at the negotiations at the mediation centre the husband showed his resentment that his wife had 'rushed' to strangers with her problem instead of going to relatives or castmen in the village, who would have readily listened to her complaint. So the first task was to explain to him how the mediation centre was also a friendly forum where he could speak uninhibitedly without fear of anything being used against him in any later litigation. The presence of lawyers as mediators made it difficult for him to grasp that the mediation programme was totally outside the system. Once he had been convinced he started to talk to his wife, recalling how according to him, his mother gave the land to induce his wife into staying with the family after he married his second wife and that the intention would be defeated if she lived on her own using produce from the land. She dismissed the suggestion that she was betraying the donor's wishes. The mediator read out the gift deed to try and convince her husband that his mother had directed the first wife to take possession of the land and cultivate it from the day of the deed itself. It was obvious that the husband never got used to the idea that his mother had gifted the land. He looked upon the deed as a mere paper transaction.

This lead the spouses to a discussion as to why the first wife should wish to live seperately when the husband was willing to have her in the family. This was a question the cast leaders would have raised. The first wife's answer was that she did not want to be the second wife's slave. The mediators thought that the husband saw his first wife as being jealous of his second wife, as she had two children and his first wife was unable to have any and saw herself as being useless. They also thought that the wife preferred the mediation centre because she thought the cast leaders would side with her husband.

The mediator in assesing the situation decided that to go by the word in the deed alone would deepen the bitterness between them. This was already engendered by the disparity in the status of the wives as a result of the first wife being barren. This was a good opportunity to educate the parties how bigamy was an offence and how the second wife had no status as a wife. It was suggested that a little more regard and consideration for the first wife due to her seniority would perhaps compensate for her stigma of being useless. In their eyes a useless wife is a non-person. It was explained how unreasonable such attitudes were and the mediator made a vain attempt to salvage their marital life. When this failed the negotiation came back to the proposal that the first wife should live seperately, cultivating the land through her own tenant. But the husband did not want a stranger/tenant to cultivate his mothers land when he was there to do it. So the husband consented to cultivate it for a year and give his first wife half the produce and give the land up after harvest. This was agreed by the first wife.



Though the wife succeeded in her resolve to live seperatly and also resuming possession of her land, the husband did not go back empty handed. Even this was failure given the garb of a settlement so as to ensure that he would not harass her.

Next week the husband turned up at the centre of his own accord to say that he was giving up possession of the land then and there, waiving his right to cultivate for one more year. When asked why by the mediator, he said that now he was giving it up of his own accord and not on his wifes insistance.

This mediation centre is run by the Tamil Nadu Legal Aid & Advice Board, Madras. They have organized, from the 1st of July 1987, 32 mediation centres all over Tamil Nadu. Each centre is at least 20 to 25 km away from the nearest court. The lawyers from the court towns go to these centres for weekly sessions of 3 hours of dispute resolution. In some of the centres villagers or social workers help the lawyer-mediator. The association of local people from the poorer sections act as a corrective to any unconcious tendancy of the lawyer to foist his middle class values in the court mediation. For instance, in the dispute discussed above, there was a doubt as to whether the mediator was yielding to male chauvenistic values when he suggested a face saving formula for the husband. In theory the husbands face need not be saved at all, particularly at the illtreated wife's expence. But in practice why not allow the husband to cultivate the land and take half the produce, as she would have to give her own tenant half of the produce for cultivating the land anyway. It would incur no loss to the wife unless she was nursing any notions of punishing her co-wife and husband. In such a case it is part of the mediation that both parties should remove all such vindictive thoughts from their minds.

A follow-up visit by the field worker a month later showed that the parties had acted on the settlement and that the first wife had got the land ploughed up by her own tenant. The field worker called on the husband too to find him reconciled to his not having his 'mothers land'. The follow-up visits are part of the mediation programme to ensure that any wrinkles in the settlement are ironed out before they generate further problems. Thus it is a continuous exercise. The settlement is by no means the end of a dispute. Often it is only the begining of the conciliation. The follow up enables the mediator also to improve his expertise by identifying areas which breed further controversies, if incorporated in the settlement. Thus it is a two way exercise, benefiting the disputants as well as the mediator. There is no last word on human relations. Often, they themselves come back when they again run into trouble. The ultimate goal is self resolution of disputes by the people themselves.

Statistics serve only as a yardstick of a sort and do not do justice to the immeasurable benefits of this programme to the poor. 87% of the initiators are from poor sections of the society, the landless labourers, the daily wage earners, the unemployed and the rest amongst the most needy persons without resources. In 62% of the disputes, both parties meet at the negotiating table, where 36% of the disputes are successfully settled. Even in cases where negotiations do not fructify into a settlement, that they met to talk it over is itself a success. The programme is totally voluntary and the intake for weekly sessions is two fresh disputes. This is indeed heartening for the future of the programme.

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