WHEN PROPERTY HAS NO OWNER: A JURISPRUDENTIAL ANALYSIS WITH REFERENCE TO INDIAN LEGAL SYSTEM AND CONTEMPORARY FRONTIERS

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ABSTRACT

The law of property ordinarily presupposes the existence of an identifiable owner who possesses a bundle of enforceable rights, including its title. The concept of ownerless property challenges this assumption by raising the question that what happens when no person can establish a legally recognised proprietary claim. The very concept was first evolved in ancient Rome and afterwards spread throughout the Europe and Common Law Countries. From this concept of ownerless property today's modern concept of bona vacantia, escheat, abandonment, unclaimed and lapse properties have been derived. Article 296 of the Constitution of India recognised acquisition of property by escheat, lapse or bona vacantia. However, ownerless property remains conceptually fragmented across property, succession, constitutional, corporate and administrative jurisprudence. This article examines the jurisprudential foundations of ownerless property, distinguishes bona vacantia from escheat and abandoned property, analyses the constitutional position under Article 296 and Article 300A, and evaluates the role of the judiciary. Applying the Analytical Doctrinal Legal Research and using Primary and Secondary data sources it argues that the mere absence of a claim should not automatically be equated with absence of ownership. A legally regulated determination of ownerlessness, accompanied by procedural safeguards and mechanisms for restoration to subsequently established owners, is necessary to reconcile State sovereignty with private property rights.

Keywords: Ownerless Property, *Bona Vacantia*, Escheat, Article 296, Property Law, State Ownership, Abandoned Property, Succession.

I. INTRODUCTION

***"Aharajyam Brahmanadravyam Rajna Nityamiti Sthiti, Itareshantu Varnanam Sarbabhave Harenripa."* - Manusmriti[1]**

Ownership is one of the foundational concepts of private law. Ordinarily, every property is presumed to have an identifiable owner whether in possession or not, but must have the right to possesses or enjoy, authority to transfer or otherwise deal with it. The situation becomes legally complex when such ownership disappears or cannot be established. Property may become apparently ownerless because a person dies without heirs, a corporation is dissolved leaving assets behind, an owner deliberately abandons property, or no legally identifiable person can establish a proprietary claim. The law cannot indefinitely leave such property in a legal vacuum. The phase "ownerless property" is a primitive legal theory replaced by a comprehensive property category such as *bona vacantia*, escheat, lapse, abandoned property and unclaimed property which is well recognised in common law countries including India. This fragmented treatment creates an important conceptual problem regarding when property merely become unclaimed, and when it became legally ownerless.[2]

Article 300A of the Constitution of India protects a person's right to property by providing that no person shall be deprived of property except by authority of law. At the same time, Article 296 recognises the State's or Union's entitlement to property accruing by escheat, lapse or *bona vacantia*. The legal challenge is therefore to determine the circumstances in which private ownership has genuinely ceased so that the State's residual proprietary claim may arise. This article examines ownerless property as a broader legal phenomenon and argues that *bona vacantia* and escheat should be understood as distinct manifestations of the legal response to the failure of private ownership.

II. CONCEPTUALISING OWNERLESS PROPERTY

Ownerless property may be defined as property in respect of which no person possesses a legally enforceable proprietary title or identifiable lawful claim, either because it has never been privately owned, or has been validly abandoned, or has been left without a lawful

1. Chapter IX, Verse 189 of Manusmriti
2. Manish, student of St Joseph College Of Law, Bangalore, "A STUDY ON JUDICIAL DEVELOPMENTS PRECEDING ABANDONED PROPERTY IN INDIA" *Lawful Legal*, June 27, 2026, available at: https://lawfullegal.in/a-study-on-judicial-developments-preceding-abandoned-property-in-india/ (Last Visited on 22.08.2026)

successor. In modern jurisprudence there is no concept of ownerless property. Hence for the convenience of law and society the State has given such responsibility to acquire, hold and manage these properties.[3] Further it is contended that initially the state should not be given an absolute ownership upon such property, to resolve the conflict of subsequent claim by better title holder. Again the state should utilized these properties for socio-economic purposes.[4]

The significance of these distinctions extends well beyond academic categorisation, since the legal consequences of placing an asset within one or another of these categories are markedly different. The scale of the problem is illustrated by the experience of unclaimed financial assets in India: as of August 2024, the Investor Education and Protection Fund held unclaimed shares across 1,671 listed companies at a combined market value exceeding Rs 89,000 crore, reflecting the sheer volume of assets that may occupy an intermediate status between unclaimed and legally ownerless.[5] Whether such assets are properly classified as unclaimed property, over which the original owner retains title, or as property that has become so thoroughly separated from its owner as to be effectively ownerless, is not merely a conceptual question: it determines the rights of heirs, creditors and the State, as well as the procedural obligations incumbent upon public authorities.

The ownerless property has its three dimensions i.e., unclaimed property, abandoned property and ownerless property. Where unclaimed property continues to have a potential owner whose identity or entitlement may be established.[6] Abandoned property involves an intention to relinquish proprietary rights.[7] Ownerless property represents the stronger legal conclusion that no person presently possesses a legally enforceable proprietary claim.[8] This distinction was recognised by the Supreme Court in *Bombay Dyeing & Manufacturing Co. Ltd. v. State of Bombay*,[9] where the Court explained that *bona vacantia* covers property in which no person can claim a proprietary interest, while also distinguishing property passing to the State through escheat from property that has been abandoned. Consequently, ownerlessness should not be

3. *State of W.B. v. Subodh Gopal Bose*, (1953) 2 SCC 688
4. Siti Khadijah Binti Abdullah Sanek, Mohd Zulhelmey Bin Abdullah Abd Halim, Nur Irinah Binti Mohamad Sirat, Nurul Mazrah Binti Manshor, Salmah Binti Roslim, Syatirah Binti Abu Bakar, "Bona Vacantia and the Administration of Ownerless Property: A Global Review of Theory and Practice" 9 IX *INTERNATIONAL JOURNAL OF RESEARCH AND INNOVATION IN SOCIAL SCIENCE (IJRISS)* 6 (2025)
5. Business Today Desk, "Reliance Industries tops IEPF unclaimed shares; Rs 89,000 crore stuck across 1,671 companies: Report" *Business Today,* 12 April 2026, available at: https://www.businesstoday.in/personal-finance/investment/story/reliance-industries-tops-iepf-unclaimed-shares-rs89000-crore-stuck-across-1671-companies-report-525182-2026-04-12 (Last Visited on 23.08.2026).
6. *Dwarkadas Shrinivas of Bombay v. Sholapur Spg. and Wvg. Co. Ltd.*, (1953) 2 SCC 791.
7. *Karnail Singh v. State of Haryana*, (2024) 14 SCC 1.
8. *Maruti Babaji Sonar, In re*, 1922 SCC OnLine Bom 52.
9. *Bombay Dyeing & Mfg. Co. Ltd. v. State of Bombay*, 1957 SCC OnLine SC 7.

determined solely by the passage of time, rather cessation of actual interest under due process of law.[10]

III. BONA VACANTIA ESCHEAT AND LAPSE

There are three principles associated with ownerless property i.e. *bona vacantia*, escheat and lapse. Where *bona vacantia* refers to property that has no lawful claimant, may arise in several situations, including dissolution of a legal entity or circumstances where property remains without a rightful owner. Escheat, on the other hand, traditionally operates where a person dies intestate without legally recognised heirs or successors. In such circumstances, the State succeeds as the ultimate heir. Whereas lapse refers to extinction or failure of a proprietary interest due to absence of legally recognised person upon whom that interest could be devolved.[11] In *Pierce Leslie & Co. Ltd. v. Violet Ouchterlony Wapshare*,[12] the Supreme Court of India observed that in India, escheat is not founded upon the feudal structure of English law but constitutes an incident of sovereignty based upon the principle that, in the absence of private ownership, the State is the ultimate owner.

The distinction between *bona vacantia* and escheat carries significant practical consequences in the Indian context. *Bona vacantia* is a broader category that may arise independently of intestacy, encompassing the dissolution of companies, the failure of trusts, the lapse of gifts and any circumstance in which no person can assert a proprietary claim.[13] Escheat, by contrast, operates in the narrower context of intestate succession without heirs. Because Indian escheat doctrine is grounded in sovereignty rather than feudal tenure, as the Supreme Court confirmed in *Pierce Leslie*, it is well adapted to address the modern complexity of property relationships without the doctrinal constraints that limit the English position. This flexibility is particularly important when dealing with corporate property and financial assets, where the chain of ownership may be difficult to establish and the passage of time may preclude any private claim.

IV. ORIGIN AND HISTORICAL DEVELOPMENT

10. *State of Bihar v. Radha Krishna Singh*, (1983) 3 SCC 118.
11. Rachit Garg, "All you need to know about the doctrine of escheat" *The iPleaders*, March 12, 2022, available at: https://blog.ipleaders.in/all-you-need-to-know-about-the-doctrine-of-escheat (Last Visited on 22.08.2026).
12. *Pierce Leslie & Co. Ltd. v. Violet Ouchterlony Wapshare* (1969) 1 SCR 203.
13. Aishwarya Agrawal, "What Does Bona Vacantia Mean?" LawBhoomi, March 6, 2026, available at: https://lawbhoomi.com/what-does-bona-vacantia-mean/ (Last Visited on 23.08.2026).

The Origin of Ownerless property can be trace back into Human Civilization especially when the concept ownership has evolved. Thereafter in Roman law, the concept of *res nullius* i.e. things belonging to no one, and *res derelictae* i.e. property deliberately abandoned by its owner get prominence which can be acquired through *occupatio*, or lawful appropriation. Subsequently it developed the concept of *bona vacantia* for property left without a rightful claimant, particularly in matters of succession.

The Roman doctrine of *bona vacantia* underwent significant evolution during the later imperial period. Under the early Republic, ownerless property could be acquired by any private individual through the principle of *occupatio*, whereby the first possessor of a *res nullius* obtained title. However, as the fiscal requirements of the imperial state expanded, the Emperor progressively asserted an exclusive right to property left without a lawful owner, displacing private appropriation with sovereign acquisition.[14] This transformation provides a direct historical antecedent for the modern constitutional position in India, where the sovereign's claim to ownerless property is grounded not in feudal tenure but in the practical necessity of ensuring that property does not remain outside all legal regulation.

Ancient Greek legal systems approached the issue primarily through *inheritance and the continuity of the oikos rules* concerning succession, adoption and testamentary disposition sought to prevent family property from becoming without a lawful successor.

The doctrine later developed significantly in English Common Law, where the Crown acquired property through *escheat* when a person died without heirs and through *bona vacantia* where property lacked a lawful owner. These principles were introduced and developed in colonial India through successive Government of India Acts.

After independence, the historical sovereign prerogative was transformed into a constitutional principle through Article 296 and Article 300A of the Constitution of India, under which property accruing by escheat, lapse or bona vacantia vests in the appropriate State or the Union and acquisition of property under the due process of law. Thus, ownerless property evolved from a classical concept of private appropriation into a modern constitutional doctrine balancing private ownership and State sovereignty.

14. V.D. Mahajan, *Jurisprudence and Legal Theory*, 368 (EBC Publishing Pvt. Ltd. Lucknow 6th Edition, 2022).

V. CONSTITUTIONAL FRAMEWORK

Article 296 provides that property accruing by escheat, lapse or as bona vacantia, for want of rightful owner shall vest upon State or the Union depending upon the constitutional circumstances. Whereas Article 300A says that no person shall be deprived of his property save by authority of law.

The aforesaid provisions are not contradictory. If property has genuinely become ownerless in accordance with law, the State's acquisition does not amount to deprivation of an existing private proprietary right. Consequently, if a better title holder makes claims after the State's encroachment, the property will be reverted back to him, subject to law of limitation and the State will not be held liable for trespasser, as acting under sovereign authority.[15]

Therefore State should make reasonable inquiry to identify the owner, heirs or other lawful claimants. Notice, public declaration, opportunity of claim and judicial or quasi-judicial review may be necessary safeguards depending upon the nature and value of the property. Hence the constitutional scheme therefore requires a balance between two principles i.e. the State's ultimate proprietary authority and the protection of legitimate private ownership.[16]

The significance of procedural safeguards in this context has been underscored by commentators who have drawn attention to the structural inadequacy of current State mechanisms for identifying potential claimants before property is declared ownerless.[17] In India, high levels of emigration, poor maintenance of title records, and widespread unfamiliarity with statutory procedures create conditions in which legitimate owners or heirs may be unaware that proceedings have commenced against property to which they retain a valid claim. The constitutional guarantee under Article 300A therefore demands not merely the existence of a legal procedure, but one that is reasonably designed to reach potential claimants before ownership is extinguished.

VI. STATUTORY FRAMEWORK

15. Dwarkadas Shrinivas of Bombay v. Sholapur Spg. and Wvg. Co. Ltd., (1953) 2 SCC 791.
16. *Dolby Builders (P) Ltd. v. Municipal Corpn., Greater Mumbai*, (2023) 2 HCC (Bom) 382.
17. Samriddhi Tripathi and Reshma Umair, 'Digital Inheritance: Bridging India's Legal Gap' (2025) 6(8) International Journal of Research Publication and Reviews 1999, 2002.

Indian law does not have a single comprehensive central legislation governing all forms of ownerless property. Instead, the subject is regulated through succession, company, land and State-specific legislation.

a) Indian Succession Act, 1925:[18] provides the principal statutory framework for succession to the property of deceased persons. Where succession fails and there is no legally recognised heir, the doctrine of escheat may operate.
b) Hindu Succession Act, 1956:[19] when no heir can be identified under the statutory hierarchy, the question of escheat arises.
c) The Companies Act, 2013:[20] Where a company is dissolved and residual assets remain without a lawful claimant, questions of bona vacantia may arise. Indian courts have recognized that property of dissolved corporations may ultimately vest in the Government through escheat or bona vacantia, subject to statutory provisions and rights of creditors.
d) The Transfer of Property Act, 1882,[21] and The Registration Act, 1908:[22] Regulate the creation, transfer, recording and vesting of interests in properties. They become relevant when determining whether a person possesses an identifiable legal interest before State authorities treat property as ownerless.
e) The Treasure Trove Act, 1878:[23] A treasure discovered whose owner cannot be identified, although not strictly an escheat, but shall vest upon the State.
f) Banking and Financial Asset Laws: Various statutes and regulatory mechanisms govern dormant bank accounts, unclaimed deposits, insurance proceeds and securities. Such assets are generally transferred to designated funds rather than immediately becoming State property. Mere non-claim does not create ownerlessness.

The scale of unclaimed financial assets in India is considerable. As of August 2024, the Investor Education and Protection Fund (IEPF) held unclaimed shares in 1,671 listed companies with a combined market value exceeding Rs 89,000 crore, in addition to unpaid dividends and other monetary balances of approximately Rs 8,237 crore. The IEPF Authority received over 1.32 lakh applications for reclaiming shares and dividends over a two-year period ending in July 2026, of which 75,417 were approved, illustrating the significant gap between the volume of

18. ACT No. 39 OF 1925.
19. ACT NO. 30 OF 1956.
20. ACT NO. 18 OF 2013.
21. ACT NO. 4 OF 1882.
22. ACT NO. 16 OF 1908.
23. Act 6 of 1878.

dormant assets and the capacity of existing reclamation mechanisms.[24] The legislative scheme governing such assets, through Sections 124 and 125 of the Companies Act, 2013, reflects a principled distinction between unclaimed assets and ownerless property: ownership is preserved and the right to reclaim survives transfer to the IEPF, confirming that mere non-claim does not extinguish proprietary title.

g) State Legislations on Escheat and Bona Vacantia: Several states have their special legislations governing escheats such as Rajasthan Escheats Regulation Act, 1956,[25] Andhra Pradesh Escheats and Bona Vacantia Act, 1974,[26] Telangana Escheats and Bona Vacantia Act, 1974,[27] West Bengal Escheats and Forfeitures Act, 2012,[28] specifying the authorities, having general superintendence of escheat assets, and contain provisions regarding giving of notice, possession and disposing of claims and challenges, etc.

In *State of Rajasthan v. Lord Northbrook*,[29] the Supreme Court directed that proceedings under escheat legislation are intended to determine the State's right and identify rightful owners and restore property where legitimate claims exist.

VII. CONTEMPORARY LEGAL ISSUES

The traditional doctrine requires reconsideration in light of modern property relations. Firstly, large quantities of unclaimed financial assets may remain dormant because owners have died, migrated or become untraceable. Such assets cannot automatically be treated as ownerless. Secondly, corporate dissolution can leave residual assets and proprietary rights requiring determination under company law. Thirdly, urban abandoned properties create practical problems involving possession, municipal administration and competing claims. Fourthly, the rise of digital property creates a new category. Cryptocurrency, digital wallets, online accounts, domain names and other digitally controlled assets may survive the death or disappearance of their holders. Existing doctrines of succession and *bona vacantia* may not adequately address these assets. Finally, international migration creates situations in which owners or heirs may

24. Versha Jain, "Unclaimed Funds In IEPF: Over 75,000 Claims Approved In Two Years, Rs 77.82 Crore Dividend Refunded" *Outlook Money*, 29 July 2026, available at: https://www.outlookmoney.com/personal-finance/unclaimed-funds-in-iepf-over-75000-claims-approved-in-two-years-rs-7782-crore-dividend-refunded (Last Visited on 23.08.2026).
25. Act No. 23 Of 1956.
26. Act No. 35 Of 1974.
27. Act No. 35 Of 1974.
28. Act No. 14 Of 2012.
29. *State of Rajasthan v. Lord Northbrook* (2021) 16 SCC 400

be located outside India. A declaration of ownerlessness must therefore account for cross-border succession and tracing mechanisms.[30]

Again the problem of urban abandoned property in India is of considerable empirical magnitude. According to the 2011 Census of India, approximately 11.09 million housing units, representing 12.4 per cent of the total urban residential housing stock, were lying vacant across Indian cities.[31] While vacancy does not automatically constitute legal ownerlessness, a substantial proportion of these units are effectively abandoned in circumstances where the owner or heirs cannot be traced, title records are in dispute, or the property has been left without active management for extended periods. The absence of a framework for converting prolonged de facto abandonment into a formally determined ownerless status means that such properties remain in a legal limbo, adversely affecting municipal administration, urban development and the resolution of competing claims.

The challenge posed by digital property is further compounded by the absence of any mechanism within Indian succession law to address access to or transmission of such assets. The Madras High Court, in *Rhutikumari v. Zanmai Labs Pvt. Ltd.* (October 2025), for the first time judicially recognised cryptocurrency as property capable of ownership, beneficial enjoyment and inheritance, holding that it constitutes property albeit not tangible, which can be held in trust and transmitted. This ruling, while significant, does not resolve the deeper question of how ownerlessness should be determined in respect of digital assets whose access depends upon cryptographic private keys that may be lost upon the holder's death or disappearance.[32] Indian succession law remains silent on such assets, creating a category of property that is neither clearly owned nor clearly ownerless, and for which no State mechanism of acquisition or custody currently exists.[33]

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30. Pramod Rao, "Whose Assets are they Anyway?" *The SCC Times*, February 24, 2022, available at: https://www.scconline.com/blog/post/2022/02/24/whose-assets-are-they-anyway/ (Last Visited on 22.08.2026).
31. Ramanath Jha, Vacant urban homes in India" *Observation Research Foundation*, Dec 23, 2024, available at: https://www.orfonline.org/expert-speak/vacant-urban-homes-in-india (Last Visited on 22.08.2026); see also Census of India 2011, Housing in India: A Statistical Compendium (Ministry of Housing and Urban Poverty Alleviation 2013) 7.
32. Pradipta Mukherjee, "Indian court recognizes digital assets as 'property'" *Coingeek*, Nov 4, 2025 available at: https://coingeek.com/indian-court-recognizes-digital-assets-as-property/ (Last Visited on 23.08.2026); Rhutikumari v Zanmai Labs Pvt Ltd (Madras High Court, 25 October 2025).
33. Aniket Ghosh, KSK Data Privacy, "Digital Succession in India: Balancing Privacy and Property" *King Stubb & Kasiva*, 10 Aug 2026, available at: https://ksandk.com/data-protection-and-data-privacy/digital-succession-in-india/ (Last Visited on 23.08.2026)

VIII. CONCLUSION AND SUGGESTIONS

Ownerless property represents a unique intersection between individual right and State sovereignty. The law cannot permit property to remain indefinitely without a legal circulation, but neither should the State equate non-use or non-claim with extinction of ownership. Thus Constitution provides Article 296 and Article 300A and a series of statutory framework with a substantial body of judicial precedent concerning *bona vacantia* and *escheat*. However, these principles remain dispersed across different areas of law. The absence of a Unique and comprehensive conceptual framework creates uncertainty, particularly in relation to abandoned, unclaimed, corporate and digital property.

The central proposition of this article is that ownerlessness should be treated as a legally established status rather than a factual assumption. The State's ultimate ownership should arise only after reasonable procedures demonstrate the failure of private ownership. A modern legal regime must therefore balance sovereign entitlement with procedural fairness, property protection and the possibility of legitimate claims emerging in the future. In this sense, *bona vacantia* and *escheat* should not only a mechanisms through which the State acquires property but also a legal doctrines designed to resolve the fundamental problem of what happens when private ownership comes to an end to begin Sovereign Ownership which must occurred lawfully, transparently and constitutionally.

India would benefit from a more systematic framework governing ownerless and unclaimed property. Such a framework should clearly distinguish between unclaimed, abandoned and genuinely ownerless property. Hence this paper proposed the flowing measures, implemented through legislation:

i. identification and inventory of suspected ownerless property;
ii. reasonable investigation to locate the owner or heirs;
iii. public notice and adequate opportunity to submit claims;
iv. temporary State custody before permanent vesting;
v. judicial or independent administrative determination of ownerlessness;
vi. preservation of legitimate charges and third-party interests;
vii. mechanisms for restoration where a genuine owner subsequently establishes title; and
viii. special rules for digital and intangible property.

Such reforms would ensure that the doctrine serves its legitimate purpose without becoming an instrument for arbitrary State acquisition.