

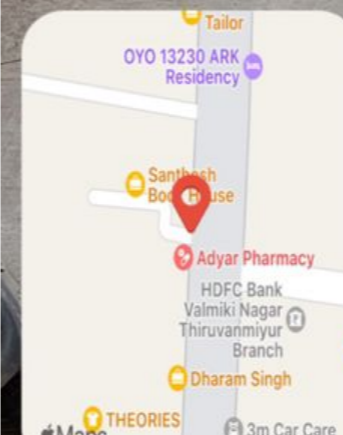
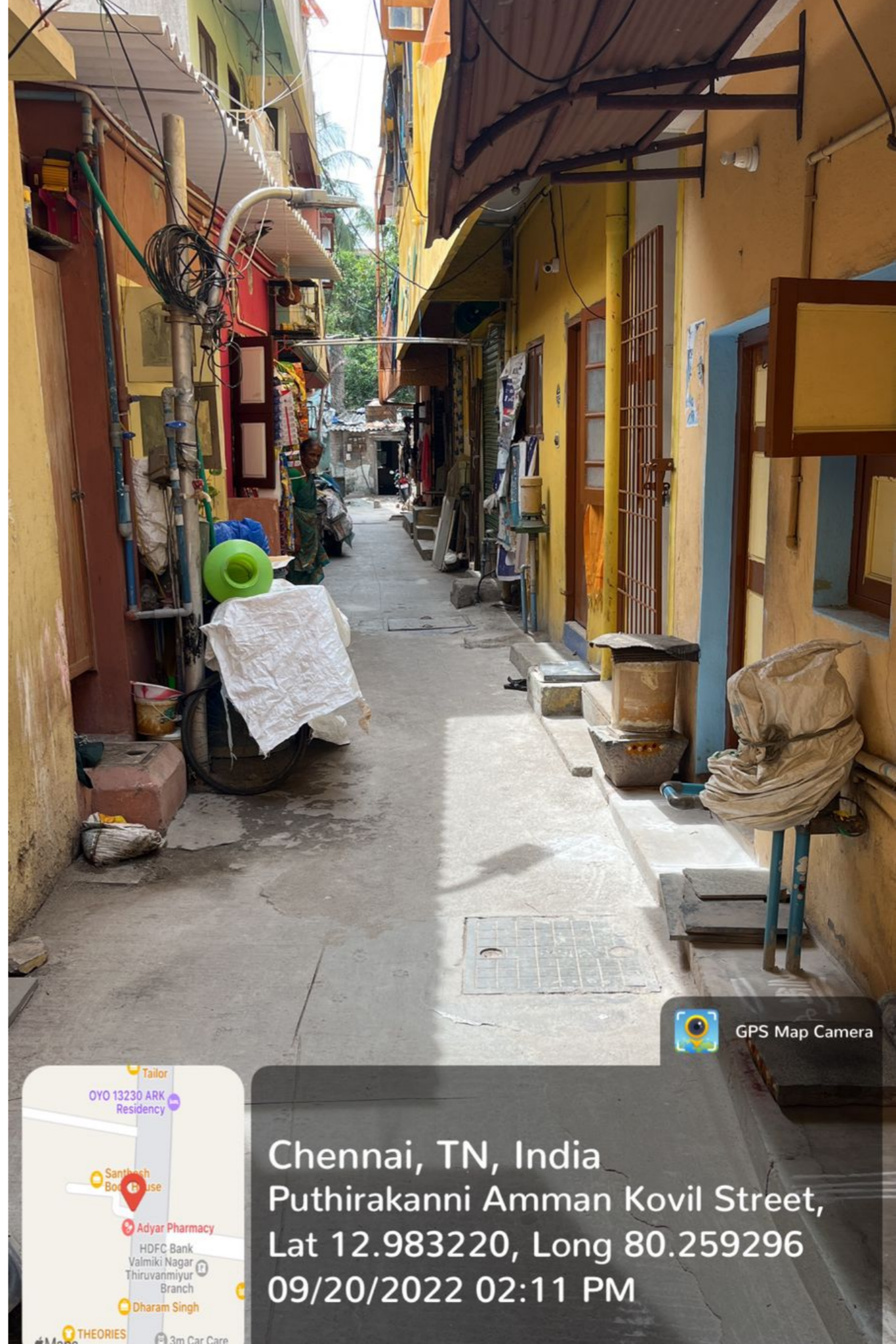
ACCESS TO SECURITY OF LAND TENURE IN THE MADRAS URBAN DEVELOPMENT PROJECT (MUDP): ASSESSMENT

OCTOBER 2022

Acknowledgments

The Information and Resource Centre for the Deprived Urban Communities (IRCDUC) expresses our heartfelt gratitude to the residents of the settlements for participating in this process and sharing their valuable inputs.

Sincere appreciation to Carmaline Thresa Costa. R., Keerthana S., Keren Shalo S., Muralidharan K., John Ebenezer D., Vignesh V., and Vijay M., students of the Department of Development Management, Madras School of Social Work (MSSW), Chennai, for their immense contribution.



Chennai, TN, India
Puthirakanni Amman Kovil Street,
Lat 12.983220, Long 80.259296
09/20/2022 02:11 PM

I. Background

The Madras Urban Development Project (MUDP), Phase I & II, was funded by the World Bank. The MUDP I was implemented from 1977 to 1982 and the MUDP II from 1982 to 1987.

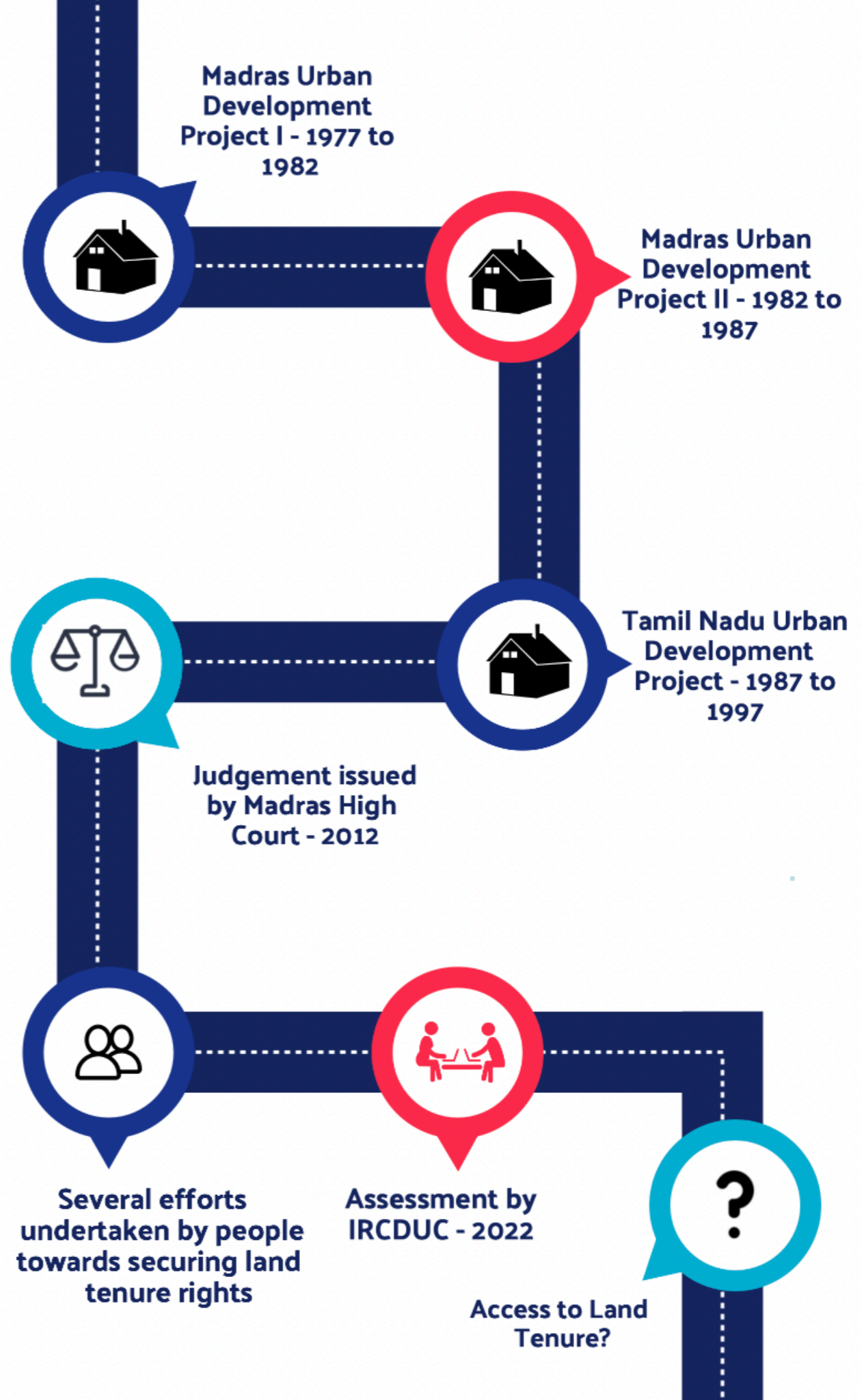
Madras Urban Development Project I

One of the objectives of MUDP I, was to promote low-cost solutions to sectors of shelter, employment, water supply, sewerage, and transport, and particularly to make investments responsive to the needs of the urban poor.

Under this project the 'slum improvement scheme' was implemented in 56 locations (24,862 rights-holders) by introduction of basic infrastructure to the settlements. Provision of secure tenure (freehold titles) to the inhabitants of the improved 'slums', and recovery of improvement costs through hire-purchase agreement were two main components of the slum improvement scheme.

However the Project Performance Audit Report of MUDP I, issued by World Bank in 1986 mentions that the process of issuing lease-cum-sale (LCS) was very slow. **The Performance Audit Report of the World Bank for MUDP II also mentions that issuing land tenure for 'slum improvement beneficiaries' was one of the main problem areas encountered in MUDP I.**

Despite the aforesaid challenges, the Project Performance Audit Report of MUDP II issued in 1992 mentions that "MUDP I has succeeded in demonstrating that the provision of serviced urban land, the transfer of land tenure, and in situ slum improvement were cost effective ways of meeting the shelter needs of the urban poor.



One of the conditions imposed by World Bank during project negotiations of MUDP II was issuing of land tenure agreements to 2,000 ‘dwellers of slums’ improved under MUDP I

Madras Urban Development Project II

In MUDP II, 250 settlements benefited under the ‘slum’ improvement scheme. About 23,500 lease-cum-tenure agreements were finalised.


The risk anticipated in the project as mentioned in the Project Performance Audit Report of MUDP II:

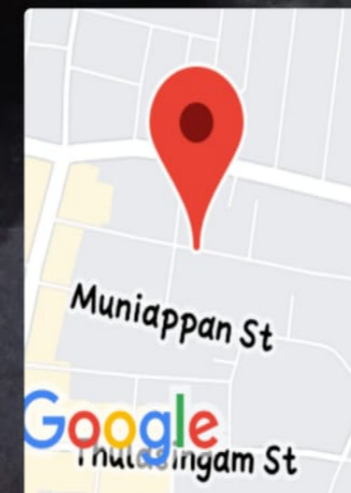
- Poor collections performance and cost recovery for slum improvement investments due to delays in providing tenure. Under this project, only 55% of the total outstanding were collected as of February 1990”.
- Weakness in the implementing capacity of the agencies responsible for the project’s shelter component.

Despite the risks and challenges the report claimed that under MUDP II “many newly-tenured residents seemed to have improved the conditions of their dwellings”

MUDP II was followed by the implementation of the Tamil Nadu Urban Development Projects (TNUDP) in three phases.



 GPS Map Camera



Chennai, Tamil Nadu, India

467W+W79, Nattal Garden 2nd St, Lakshmpuram,
Chinnaiyan Colony, Perambur, Chennai, Tamil
Nadu 600039, India

Lat 13.114854°

Long 80.245774°

21/09/22 12:13 PM GMT +05:30

The Tamil Nadu Urban Development Project (I & II)

The Tamil Nadu Urban Development Project (I & II) was implemented from 1988 to 2004. Under this project the slum improvement scheme was expanded to 10 cities across Tamil Nadu and 490 settlements (84,000 families) were developed.

The Project Performance Assessment Report of TNUHDB issued in 2007, reveals that recovering the cost of land and service improvement from the 'beneficiary' was an unforeseen challenge. There were several revisions in the payment and substantial increase in the payment, during the implementation, and in a number of instances after the beneficiary has made some payments. This resulted in many disputes between TNUHDB and the beneficiary population. The Project Performance Assessment Report also mentions that there was "substantial confusion among the beneficiaries about the amount they were required to pay to obtain tenure."

It was also mentioned in the assessment report that "with the frequent upward revision in prices midway through payment, several beneficiaries have stopped regular payments, incurring penalty interest. Inconsistency and lack of transparency, the project has discouraged beneficiaries from making regular payments and exposed them to exploitation, for example by money lenders, and abuse. In some reported cases when beneficiaries are not current with their payments bill collectors have locked them out of their houses ostensibly to frighten them into making payments. In the case of dispute with the Board there was no third party mechanism for redress except to appeal to the Board. Overall, weak project design regarding this aspect of the component has been further exacerbated by weak implementation."

Therefore, these challenges had contributed to the delay in accessing secure land rights for decades. However, in some settlements people have tried to apply for the land titles/sale deeds but they were unable to succeed because of issue of increase of payment, non payment of dues resulting in mounting penalty, lack of transparency, non access to information and the Board unable to issue sale deed because of no formal ownership over land.

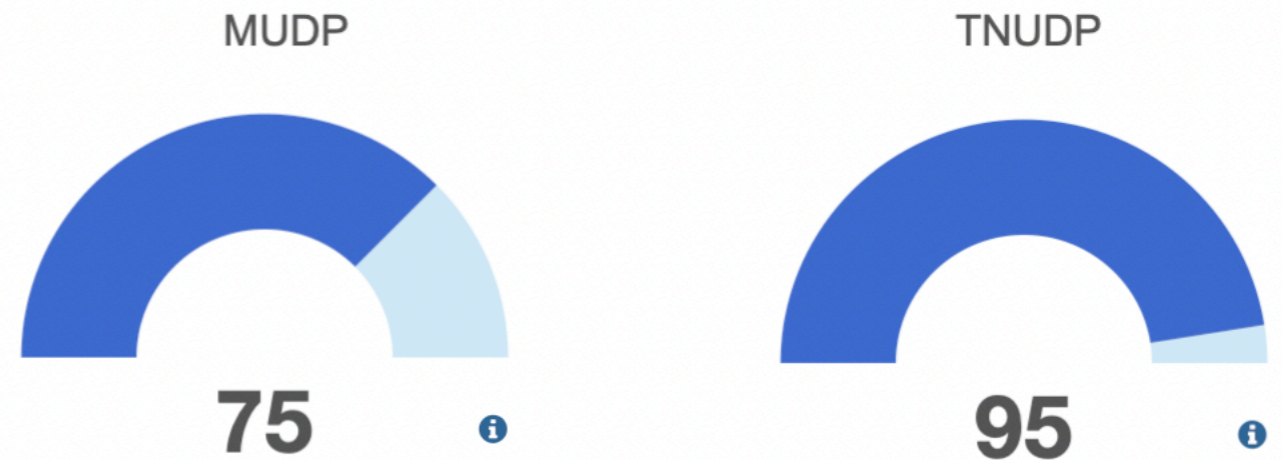
Adding to the complication, the Board was unable to get formal ownership over the land because some of the project area was located in 'objectionable land'. It is in this context that an order was issued by the Madras High Court in 2012.

The Performance Assessment Report of TNUDP mentions that "TNUHDB did not have title to the land and hence was unable to issue sale deeds even when people completed the payments. In Coimbatore, 23% of the families were not provided with sale deeds as TNUHDB was awaiting formal ownership of the land from the Government of Tamil Nadu in 33 out of the 59 projects of MUDP."

a. Families without Sale Deed

| | Rights-holders (eligible households) | % of household not issued Sale Deed |
|--------------|---|--|
| MUDP | 48,459 | 75 |
| TNUDP | 47,790 | 95 |

Percentage of Families without Sale Deed



Source: IRCDUC, 2012

b. Order issued by Madras High Court - 2012

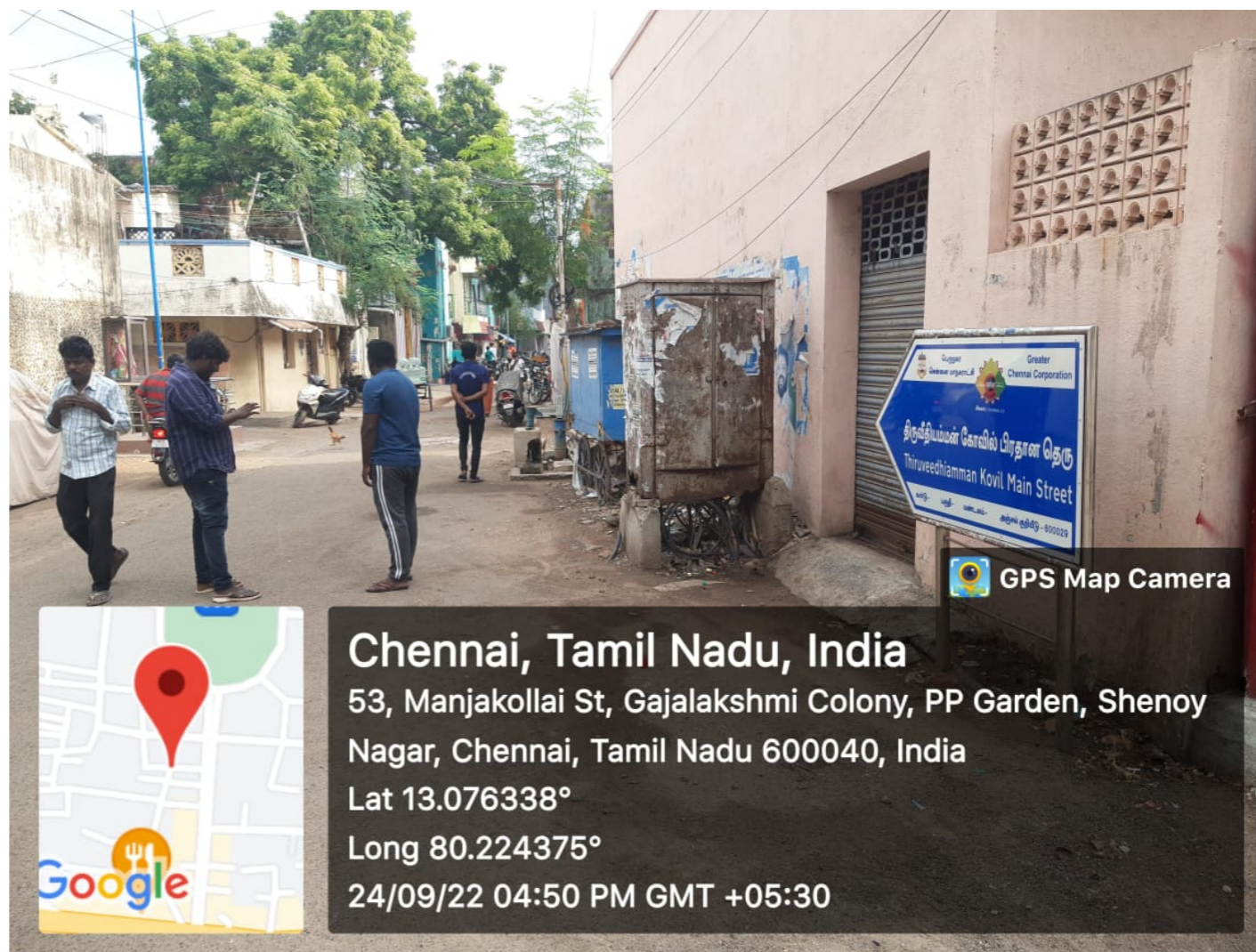
On 30 July 2012, the High Court of Madras issued an order (W.P. No. 18999 of 2003) in a case where the petitioner had paid all his dues for the plot allotted to him under the MUDP II and yet he was unable to access the sale deed because the land was classified as ‘objectionable’. This order was in favour of all the families who were facing similar challenges.

This Court is of the view that they cannot be termed as encroachers, as everything done by the Slum Dwellers on the plots allotted to them, have been permitted to be done, by the Board. A specific promise has been held out to them by the Board, that the slum dwellers would be issued with sale deeds on collection of land cost and developmental charges. But there is a failure on the part of the respondents in honouring their promise. The principles of promissory estoppel and legitimate expectation squarely applies to the facts of this case. The slum dwellers have been permitted to reside for along number of years. Their houses cannot be pulled down. The education of the children cannot be disrupted and that the slum dwellers cannot be driven to some other place. Their long possession and enjoyment of the plots, have been recognised by the Government and the Board. When the developmental works have been carried out under the World Bank and other financial sources, by identifying the slum areas throughout the State and after receiving the entire cost of the land, from 55,000 beneficiaries, at this juncture, it cannot be said that the project has made carried out in certain banned categories of lands and therefore, they cannot be issued with any sale deeds. As stated supra, the Government and the Board have found that there was good ground and justifiable reasons, to enter into the lands and spent huge amounts for development. On the facts and circumstances of this case and considering the plight of the poor 55,000 Slum dwellers living in 120 slum developmental areas, who have not been issued with the Sale Deeds, even after the receipt of the entire sale consideration for the plots, allotted to them and in the light of the decisions, stated supra, a Mandamus is issued to the Secretary to Government of Tamil Nadu, Housing and Urban Development Department, Fort St. George, Chennai, and the Managing Director, Slum Clearance Board, Chennai, to execute the sale deeds to the petitioner as well as to all the 55,000 slum dwellers, by taking a positive decision, on the proposals, dated 21.06.2012, sent by the Managing Director, Slum Clearance Board, Chennai to the Government, the whole exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

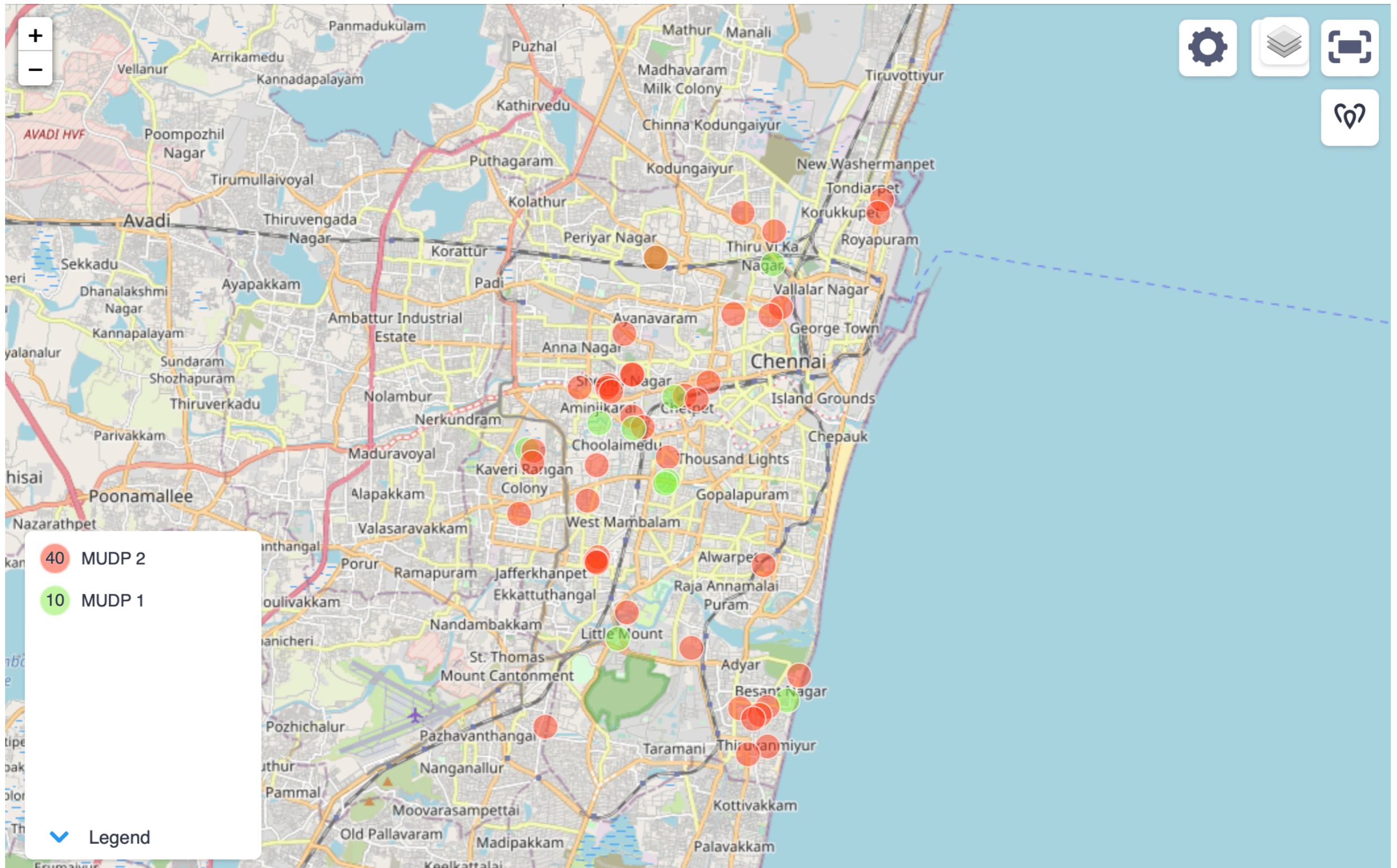
Despite the order issued in 2012, interaction with communities reveal that they do not have adequate information about land titles/sale deeds. And some were also facing eviction threats. To understand this issue further, Information and Resource Centre for the Deprived Urban Communities(IRCDUC) undertook an assessment in the month of August 2022.

II. Methodology

- The researchers of IRCDUC and the students of the Madras School of Social Work, interacted with community leaders and collected information using KOBO Toolbox.
- Interactions were carried out with women and men in the communities and in several streets of the settlement.
- The research design and the desk research was completed in the month of August 2022 and the data collection in the first two weeks of September 2022.
- Data validation exercise was carried out by the researchers
- As 3 October 2022 is the Global Observance of World Habitat Day, under the theme Mind the Gap. Leave No One and No Place Behind, IRCDUC releases this report to highlight the problem of growing inequalities in the cities.



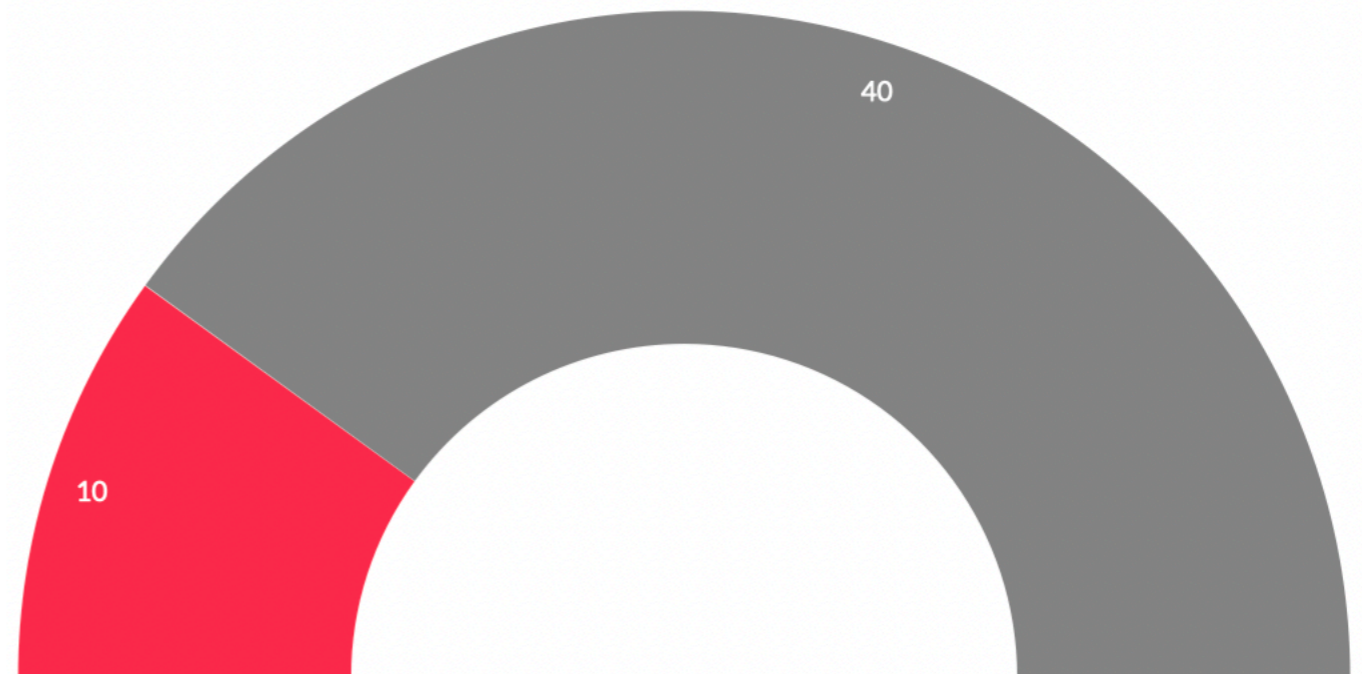
a. Settlements identified for the assessment



b. Number of Settlements

Number of Settlements Identified for Assessment

| | Total Settlements Developed | Total Settlements Identified for Assessment |
|----------------|-----------------------------|---|
| MUDP I | 56 | 10 |
| MUDP II | 250 | 40 |
| Total | 298 | 50 |

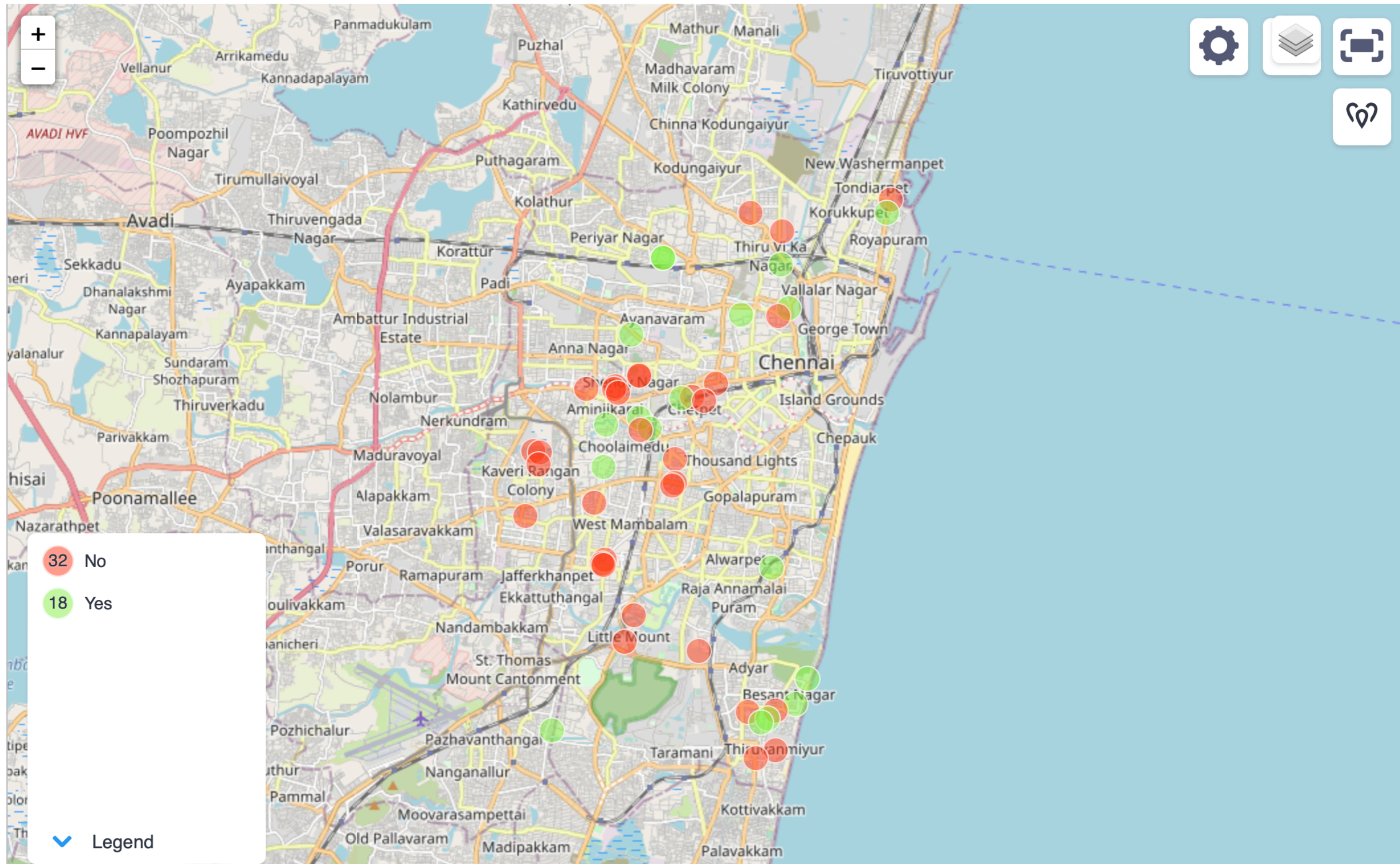


■ MUDP I (20%) ■ MUDP II (80%)

c. Location of Settlements

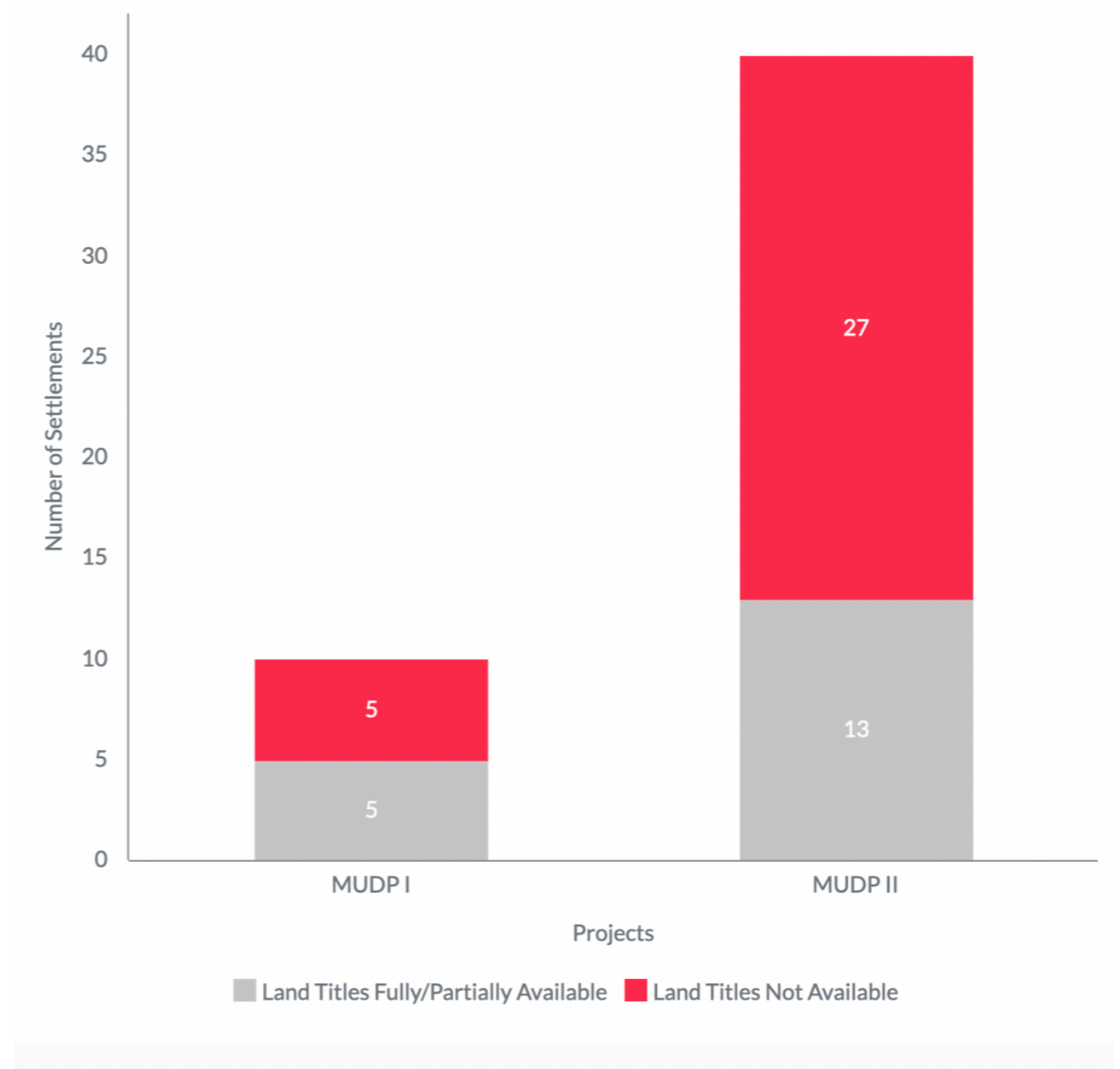


III. Findings: Status of Access to Land Tenure Rights in the Identified Settlements

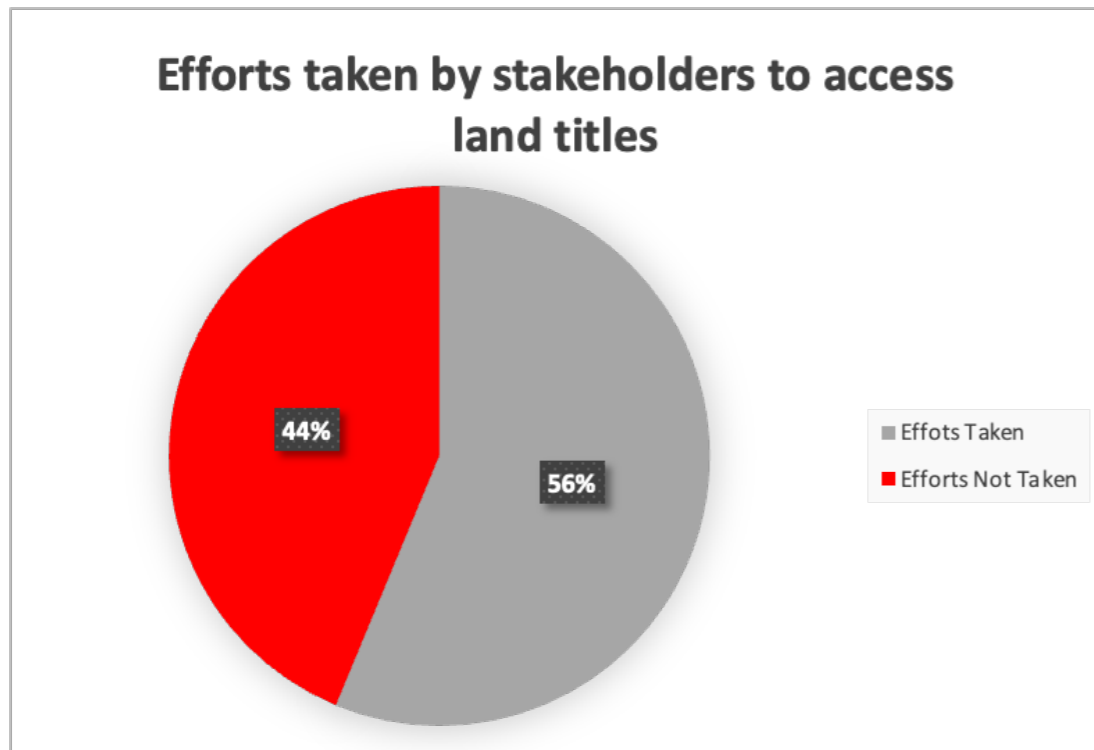


a. Access to Sale Deeds

| | Land Titles Fully/ Partially Available | Land Titles Not Available |
|----------------|---|------------------------------|
| MUDP I | 5 | 5 |
| MUDP II | 13 | 27 |
| Total | 18 | 32 |



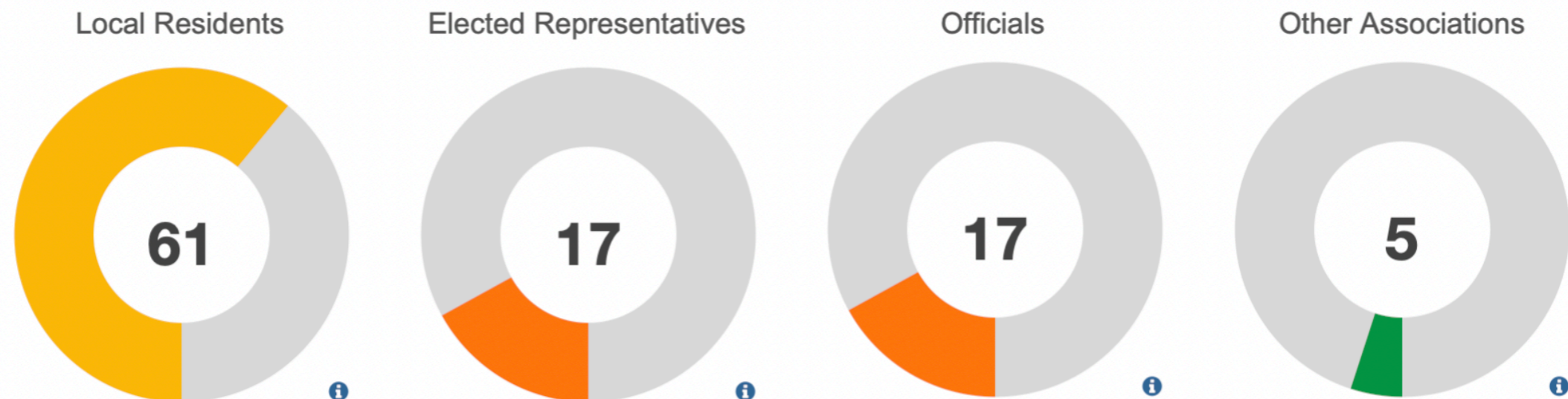
b. Efforts Taken to Access Sale Deeds



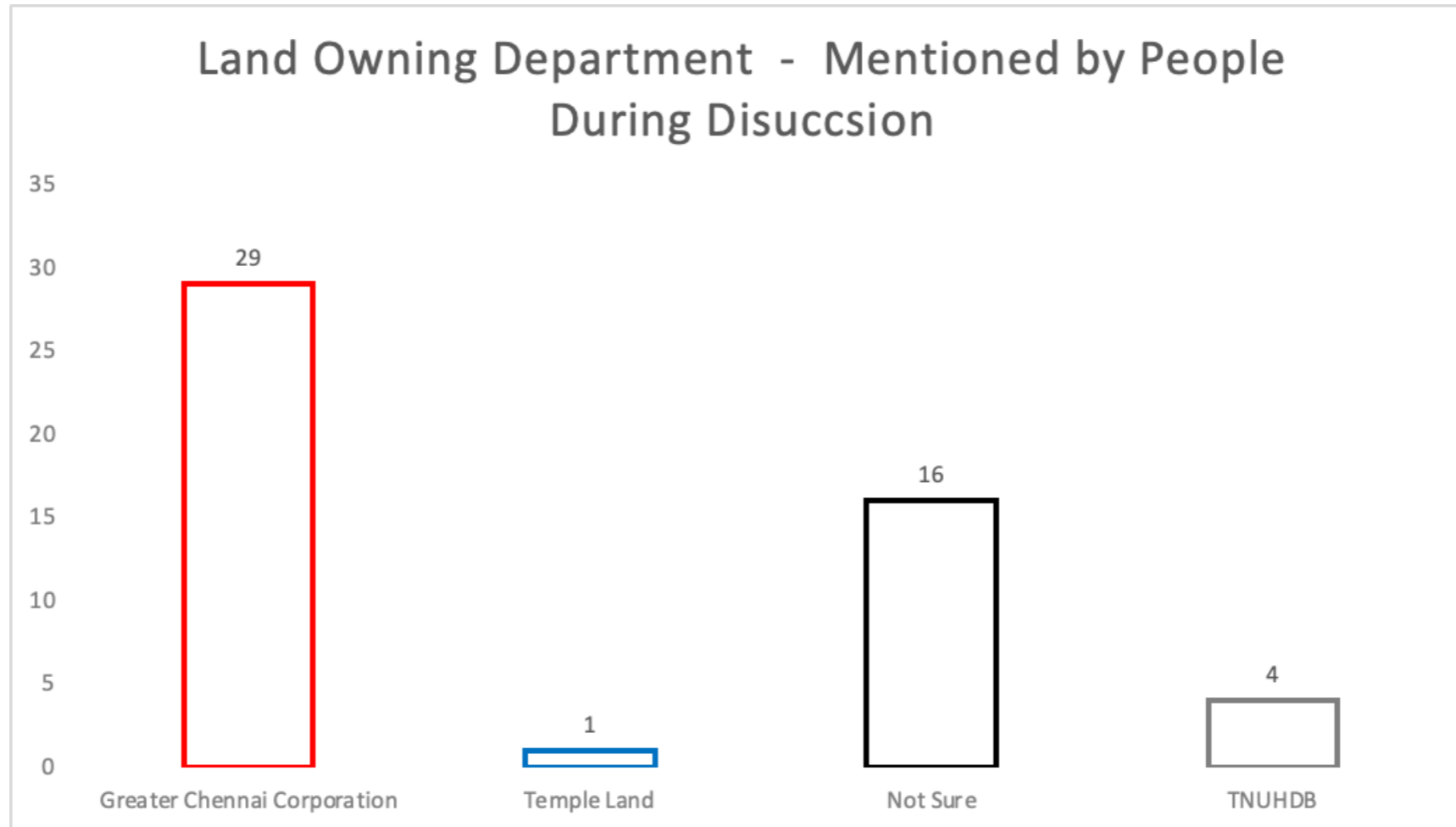
Of the 32 settlements that were not issued sale deeds, efforts were taken in 18 settlements (56%) by the residents, elected representatives, officials and other associations for availing sale deeds.

- In 11 settlements (61%) the residents have approached the government for sale deeds
- In 3 settlements (17%) efforts were taken by the elected representatives
- In another 3 settlements (17%) measures were taken by officials of TNUHDB by establishing special camps for awareness on sale deed
- In one settlement (5%) people with support of another association has approached government for sale deeds

Efforts taken in settlements by different stakeholders for land titles



C. Land Ownership



- **Discussion with communities reveal that there are multiple land owning departments.** Therefore transfer of land to TNUHDB continues to remain a challenge.
- Despite G.O. No. 1117, dated June 1979 issued by the Housing and Urban Development Department and G.O Ms. 1911, dated 28 August, 1998, and the Order of the Madras High Court in 2012, there was a delay in land transfer to TNUHDB therefore affecting the access to land tenure of the people. (Reference: Page 16)
- People were also unable to provide information about the land owning departments in many cases

Government Order (G.O. Ms. No. 1117, issued by the Housing and Urban Development Department, dated 27 June, 1979

- The scheme consists of improving slum areas with the provision of basic amenities access ways and provision of special and economic, facilities, including, running of pre-schools. The project provides for security of tenure to the slum dwellers.
- The Government, after careful consideration. of the proposals of the Madras Metropolitan Development Authority, pass the following orders:
- In the first instance poramboke lands of the State Government and Corporation Public lands, in which improvements have been carried out, will be transferred to the Tamil Nadu Slum Clearance Board free of cost for the purpose of giving issue of patta on the stipulated conditions.
- **As regards the Corporation private lands, temple and wakf Board lands, separate action will be taken to get them transferred to the Tamil Nadu Slum Clearance Board on payment of reasonable cost. Regarding the lands of the Defence, Salt, railways departments, Port trust, etc. the concerned Ministry will be addressed by the State Government to transfer these lands to the State Government. Action will also be taken to acquire the private lands.**

Government Order (G.O.Ms.No.1911, issued by the Revenue Department, dated 28, August, 1998

- The Chairman, Tamil Nadu Slum Clearance Board has stated that more than 60 of the slums are on objectionable poramboke land.
- The Empowered committee before whom the matter was placed has recommended that right of entry can be given to the Tamil Nadu Slum Clearance Board to undertake improvement schemes on the basis of personal inspection of the Collector or District Revenue Officer and reclassification order will be issued by the Government on the basis of the report of the Collector and the commissioner of land Administration.
- The Government after careful examination accepts the recommendation of the Empowered Committee. Accordingly, in supercession of the orders issued in G.O. Second read above, the Government direct that in respect of implementation of slum Improvement scheme under Tamil Nadu Urban Development Project aided by World Bank, **the Tamil Nadu Slum Clearance Board be permitted to enter upon such of the lands that fall within the banned categories like water course porambokes. Grazing ground porambokes etc., which are occupied by slums for the past several years. The District collectors Revenue Officers are requested to permit the right of way to the Tamil Nadu Slum Clearance Board, if there is justification to undertake improvement scheme in banned categories of lands on the basis of their personal inspection.**

IV. Challenges

- Transfer of land by the land owning department to the TNUHDB is a key challenge
- For people who have not completed payment, the due with penalty is a challenge
- Some families are not aware about sale deeds as they do not know about the MUDP scheme
- As it has been nearly 4 decades since they were allotted these lands, some of the descendants of the original allottees do not have the necessary documents or basic information about the scheme details
- Because of the delay in issuing sale deeds, many families find it difficult to avail the legal heir document as the family has expanded and the family members are not cooperating
- In some cases, the tenants are currently residing in the houses and they are not aware of the availability of allotment orders
- In other cases, the original allottees are not residing in the areas, some have also 'sold' the houses

- **120 scheme areas (37,000 beneficiaries) under under MUDP and TNUDP are classified as water sources. Nearly 37,000 of the 55,000 beneficiaries were residing in pramboke lands with water sources.**
- **In the event of returning the amount collected from the beneficiaries the Board would incur heavy loss**

- **This assessment reveals that, nearly 7 identified settlements located near the water bodies are facing eviction threat, especially settlements located near the banks of Cooum River. In 2019, TNUHDB had made a proposal to cancel allotments of 36 houses in Naduvankarai Pillayar Koil as the authorities concluded the allotment as a 'mistake'. (The New Indian Express, 2019), The news article also that the residents whose allotment were to be cancelled would be allotted a house and the amount that the residents had paid towards the house would be returned with a 6% interest, calculated annually.**

V. Way Forward

- To expedite the pending petitions submitted by people
- In 6 settlements, the elected representatives and officials are taking actions to facilitate application for sale deeds, but the aforesaid challenges especially related to the unpaid due amount with penalty, plots that are sold, and absence of formal title of the land with the Board continues to be a concern. In some cases, there were regular meetings conducted by the elected representatives like M.S. Nagar in Chetpet. To address this issue it is recommended to depute a team of officers to specifically facilitate the field process for addressing the issue. Legal support is also required for people who are in need of it.
- This issue should be discussed in the Chennai District Habitat Committee for coordination between Land Owning Departments.
- High level meeting to be formed to monitor the issue of transfer of land title to TNUHDB wherever pending
- To issue sale deed for all the settlements under MUDP and TNUDP irrespective of the land classification.

Security of tenure needs to be recognised by the existing policies and programmes of the state. There is a direct link between property rights and poverty reduction. Vulnerable families are unable to break free from the intergenerational transmission of poverty as they continue to reside in lands which may not be legally recognised, constantly subjected to threats of eviction. However, access to land titles under schemes like MUDP and TNUDP has enabled families to break the cycle of poverty. IRCDUC urges the Government of Tamil Nadu to expedite the process of ensuring access to secure tenure for the most vulnerable groups.

