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LAND ACQUISITION IN INDIA

~ *Sargunjot Kaur*

INTRODUCTION

Land acquisition in India means the procedure by which union and state governments in India acquire private land for industrialization, the advancement of infrastructural facilities, or the¹urbanization of privately owned land, and offers compensation to the impacted landowners also for their rehabilitation and resettlement. The act aims to establish law for those who got affected by land acquisition in India. the act of land acquisition has its scope to whole except the state of Jammu and Kashmir.

HISTORY OF THE ACT

The Land Acquisition Act 1894 used to be the basis for all government acquisition of land for public purposes. Firstly, in India the acquisition came into existence in British raj in 1824, which underwent several changes and later was replaced by the LAA Act. The constitution of India placed Acquisition and requisitioning of property as Entry 42 in the concurrent list. However, the law failed as it was unable to explain the real meaning of the PUBLIC PURPOSE for acquisition which later caused many different opinions of supreme court in various judgments.

In state v Bombay v. RS Nanji 1956¹, the SC observed it is impossible to precisely define the expression 'public purpose' whereas in Coffee Board v. Commissioner of Commercial Taxes², the SC again stated 'Eminent Domain is an essential attribute of sovereign of every state and authorities are universal in support of the definition of eminent domain as the power of the

¹ State of Bombay v R S Nanji 1956 AIR 294

² Coffee Board v. Commissioner of Commercial Taxes 1988 AIR 1487

³ Joyita 'Land Acquisition: an overview of proposed amendments to the law'(March16,2015)<https://prsindia.org/theprsblog/>

sovereign to take property for public use without the owner's consent upto making just compensation'.

REHABILITATION & RESETTLEMENT OF THE PROJECT AFFECTED PEOPLE

Even in the act of 1894, the concept of rehabilitation and resettlement remained missing. Several states governments enacted separated legislations on resettlement and rehabilitation like Madhya Pradesh Resettlement Act, 1985 and others. Consequently, two bills were presented in the parliament. The two bills were pending final approval under the Rajya Sabha and therefore lapsed at the dissolution of the 14th Lok Sabha³

RISE OF PROTESTS

The demand for better legislation was strengthened which could be evidentiary through protest broke in 2007 in Nandigram, in Singur and their widespread protests against land acquisition took place in Uttar Pradesh and Orissa. These incidents resulted in introduction of a new land acquisition act in 2011. However as a result after 12 amendments, the new act namely 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,2013² which got president assent on September 26,2013 and came into force on January 1,2014.

OBJECTIVES OF THE ACT

1. To provide just and fair compensation to affected families whose land has been acquired or proposed to be acquired.
2. To make adequate provisions for such affected persons for their rehabilitation and resettlement.
3. To ensure that cumulative outcome of compulsory acquisition
4. To facilitate all the industrial facilities and urbanization with least disturbance to the land owners.

SALIENT FEATURES OF THE ACT

1. The wakf land will not be acquired under this law.

³ The right to Fair Compensation and Transparency in LAND Acquisition, Rehabilitation and Resettlement Act,2013

2. No land of scheduled areas to be acquired unless permission is taken from the Gram Sabha and no one shall be dispossessed unless all payment is made for rehabilitation and resettlement.
3. To provide the compensation to those who are dependent on the land being acquired.
4. The land can be acquired for private projects, public private partnerships and for government projects.
5. Compensation package under the new act is as- upto four times the market value in rural areas and twice the market value in urban areas.

RESTROSPECTIVE CLAUSE- it will be applicable in cases where no land acquisition award made.

CONCLUSION

There is an improvement in old statute as the act of 1894 didn't had provision for rehabilitation and resettlement which later got introduced in 2013 act. However, there is still heated controversy over the amount of compensation to be given to the affected families. Activists given their view that the market price is still quite low, particularly in rural and semi urban areas, so it can be said that the compensation amount may be insufficient for a landowner/farmer who is losing a significant portion of his/her livelihood. There is also need of proper implementation and enforcement of environmental regulations from air and water. There are still faults in working and provisions of the act which are need to be rectified. The lease provision ensures that the landowner no need to relinquish land ownership, even though others may lose their livelihoods in the process and must be suitably compensated and also restored.
