



## Interpretation of section 24 land acquisition Act, 2013

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### Abstract

Land markets in India and described how the compensation provisions under the LARR Act, 2013 would affect land markets under this law and make them too expensive. To provide fair compensation to the families who are affected or whose land has been acquired or livelihood has been affected, because of the land acquisition.

**Keywords:** land acquisition, compensation, legal, land revenue, rehabilitation, resettlement

### Introduction

The land is so essential to the existence of all human beings that every system of law recognizes and protects a formidable list of rights connected with it. For every country, the land is important and people use the land as a source for food, a place to live, a place to work, etc. India is an agrarian country, wherein land has always been an important source of income and authority but ownership rights of land have remained very complex and ambiguous. During the ancient and medieval periods, we find individual, community and State ownership of land. However, during British rule, this was changed.

Land is a limited natural resource of the mother earth. In a wider sense, value of the land is infinite, and its value depends upon its utility vis-a-vis demand. More the utility more will be its value. For a given piece of land there must be an owner with inherent right to possess, enjoy and to transfer the same to any third party for any consideration or otherwise. At no point of time there shall be any land without an owner. If there is any ownerless land, the state or Government shall become its owner.

Sanjoy Chakravorty, in his book *The Price of Land Acquisition, Conflict, Consequence* 15-20 (2013) evaluated land markets in India and described how the compensation provisions under the LARR Act, 2013 would affect land markets under this law and make them too expensive. Chakravorty argued that over the last decade, India has entered a permanent regime of high land prices. This has been driven by an increasing supply of money, high-income inequalities, and scarcity of land. Chakravorty's analysis was based on land prices reported in newspapers over the period 2010 and 2011, which indicated that Indian urban land prices ranged from Rs.1.4 to Rs.253 crores per acre. Analyzing residential price index data based on home mortgage figures of banks from 15 cities during the period 2007- 2010, he concluded that the price of urban land has increased fivefold from 2001 to 2011. Based on news reports and studies of rural land prices, he concluded that rural land prices have increased by 5 to 10 times during the same period. In light of this, he concluded that the proposed compensation formula in the LARR Act was unsustainable.

### Purpose of the Act

- To ensure a transparent process for acquiring land, in consultation with all the stakeholders and local governing bodies.

- To ensure minimum displacement of the existing population, owning or staying on the land.
- To provide fair compensation to the families who are affected or whose land has been acquired or livelihood has been affected, because of the land acquisition.
- To provide adequate provision for rehabilitation and resettlement of the families affected.

### Scope and Extent of Section 24 of the Act of 2013.

Section 24 says that the land acquisition process under 2013 Act shall be deemed to have been lapsed in certain cases. There are four conditions in section 24:

**Condition I** - Where land acquisition will be initiated under the Land Acquisition Act, 1894, and an award has been passed as per the provisions of the 1894 Act, then the proceedings will be considered beyond the purview of the Land Acquisition Act 2013.

**Condition II** - Where land acquisition has been initiated under the Land Acquisition Act 1894 then the provision of the Land Acquisition Act 2013 which enhanced the compensation under the new Act, 2013 shall be applicable.

**Condition III** - If an award has been passed as per the provision under section 11 of the Land Acquisition Act, 1894 five or more than five years ago, but compensation has not been accepted by the land loser or physical possession of land has not been taken by the authority then the acquisition will lapse and if necessary a fresh acquisition will be initiated.

**Condition IV** - If an award has been made as per the provision of Land Acquisition Act, 1894 and majority of land loser has not accepted compensation, then all person who has been affected by the acquisition process of Land Acquisition Act, 1894, shall be entitled to compensation as per the provisions of the new law.

In *Pune Municipal Corporation v. Harakchand Misirimal Solanki*, the Supreme Court held that where acquisition proceeding has been initiated as per the provision of Land Acquisition Act 1894, five years before the coming into force of the new Land Acquisition Act, 2013, would lapse if acquired land was not taken into possession by the acquiring

authority or compensation was not paid to the displaced persons. The Bench further held that in this case, if the landholder refuses to receive the compensation then, it should be deposited in a court rather than in the government treasury, if the proceedings were not to lapse. On 24<sup>th</sup> January 2014 a three-judge Bench (Justices R M Lodha, M B Lokur, and Kurian Joseph) held that mere deposit of compensation in the Collector's treasury office, in the district headquarter cannot be regarded as payment of compensation as per section 24(2) of Land Acquisition Act, 2013 and the proceeding under the said Act will lapse in this case. This view of the *Pune Municipal Corporation v. Harakchand Misirimal Solanki*, followed in India for paying compensation to the landowner for nearly over three years until a two-judge Bench comprising Justice Arun Mishra and Justice Amitava Roy doubted its correctness in the *Indore Development Authority* case in December 2017 and referred this case to a larger Bench.

After that the three-judge Bench headed by Justice Arun Mishra in the *Indore Development Authority* case with 2:1 majority held that the decision given in *Pune Municipal Corporation* was per incuriam. The majority judge was Justices Arun Mishra and A K Goel and the dissenting opinion given by Justice Mohan M Shantanagoudar stated that a precedent cannot be overruled by a co-ordinate Bench. Shortly after, the decision was taken by Justice Arun Mishra in the *Indore Development Authority v. Shailendra through LRs & others* another Three-Judge Bench (Justices M B Lokur, Kurian Joseph, and Deepak Gupta) took objection to this course. Justice Arun Mishra referred the issue to the CJI for determination of this issue by a larger Bench. The CJI in October 2019 notified the Constitutional Bench for hearing this case, headed by Justices Arun Mishra, Indira Banerjee, Vineet Saran, M R Shah, and S Ravindra Bhatt. On 6<sup>th</sup> March 2020, the Supreme Court said that the treasury deposit in the District Collector's office will not cause any prejudice to the landowners because they will be entitled to pay compensation and higher interest as per Land Acquisition Act, 2013. The five-judge Bench observed that "there is no prejudice caused and every infraction of law would not vitiate the act." Further, the Supreme Court also observed that the Land Acquisition Act, 2013 is a beneficial legislation, which protects the right of the individual landowner. The preamble of the 2013 Act itself states that the Act is to "ensure a humane, participative, informed and transparent process for land acquisition".

### Conclusion

Thus, land acquisition has a history and we need to understand how it evolved. Landowners' reservation price change along with changes in the economy and the land market and these changes have to be understood too. Therefore, the price of land in urban and rural India, in different cities and regions, for acquisition and voluntary sale, contested and accepted, from pre-colonial to contemporary times is a core theme running through this analysis.

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