

DELAY IN PROJECTS DUE TO DISPUTES IN LAND ACQUISITION

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Abstract: The process of Land acquisition in India has mainly been carried out on the pretext of development of economy and infrastructure. It has constantly been under the shadow of disputes and controversies. The reasons behind these disputes are very varied and the process is affected from the grass root level to the final outcome. The issues vary from unclear land titles to issues as big as the very purpose- "public purpose" - not being clearly defined in the acts. Through this research we would analyze and study the Land Acquisition Act of 1894, the various amendments and causes for disputes in land acquisition. We intend to achieve this by a thorough understanding of the intricacies of land acquisition act, considering the various causes for disputes and analyzing each reason through a case study. We would also like to explore alternate ways of dispute resolution, if any, and see if there is a need to bring about any rectification in the basic dispute resolution process.

Key Words: Land acquisition, compensation, public purpose, consent, rehabilitation and resettlement

1. INTRODUCTION

Throughout the history of mankind, there has always been a conflict to maintain a balance between the power of the state and the individual's rights. With rapid urbanization, development and economic growth, many times the state has to take very difficult decisions that may curb an individual's rights. The biggest example of such an act is the acquisition of large tracts of land for the development process, which has led to major disputes that have been plaguing and crippling our development process.

Disputes in land acquisition are an important cause for plan delays and cost over-runs. It tends to create an anti-development and undemocratic sentiment among the people. What makes it more complicated is that there are a lot of loopholes in the act itself, which make this process more complicated and the basis of such acquisition questionable.

There are immense difficulties that come in the process of Land Acquisition in India, given the population density, prevalence of ancient settlements, and dependency on agriculture sector.

Land acquisition simply refers to the process by which private land is acquired for some public purpose especially development like construction of roads, canal, dams, bridges, buildings, railway lines etc. The acquired land indirectly helps in development of society as well as Nation. The person whose land is being acquired is given suitable compensation calculated according to its market value along with additional sum which depends on various factors. It overrides the right of a person to own a property.

2. IMPORTANT ACTS

2.1 land acquisition act 1984

The land acquisition act of 1984 is the law that is adopted by the government of India to acquire land for public purpose. Government in return of land pays adequate compensation to the people whose land is acquired.

According to this act land is acquired for betterment of people only. Public interest is superior to private interest.

The provisions of land acquisition acts were:-

1. The acquisition process was forcibly adopted. There was no way in which farmers could oppose/stop such acquisition.

2. It recognizes claim of only title holders but not of livelihood losers or people who have other kind of interest in that land like tenancy interest.
3. It only had an inclusive definition of public purpose and it was believed that with time definition of public purpose was used for acquiring land for purpose which were considered not public.
4. Compensation provided to displaced people very low and was based on outdated rates.
5. There were procedural delays and it was also believed that the procedure did not allow any public participation in the decision of state to acquire the land.
6. There was misuse of urgency clause. The urgency clause essentially allows the state to bypass the procedure prescribed under the act in case of urgency but this clause was made use to all time the land is acquired.

2.2 The land acquisition rehabilitation and resettlement act 2013

The 2013 act made the following changes :-

1. It broadened the group of land claimants and considered all those who had interest in land including tenancy and all those who depend on that land as their source of livelihood.
 - a) On public purpose 2013 act provides much more detailed listing to public purpose with a view to restrict the definition of public purpose.
 - When the government acquires land for following purposes :-
 - I. For strategic purpose related to military, air force and armed force.
 - II. For infrastructural projects which includes the following :-
 - a) Activities including private hospitals, educational institutes etc.
 - b) Projects involving agro-processing
 - c) Mining activities
 - d) Water harvesting
 - e) Educational and research schemes
 - III. Project for project affected families
 - IV. Land for residential purpose
 - For public private partnership
2. Compensation to be provided is twice the sale deed in urban areas and four times the sale deed in rural areas.
3. It also provided for rehabilitation and Resettlement awards. These awards included the provision of a constructed house in place of acquired house.
4. In terms of procedure consent of people whose land is acquired is considered. If government acquires land for public purpose then consent of 70% displaced people and if land is acquired for private company then consent of 80% people is must.
5. It also included detailed provision for social impact assessment of project before the land gets acquired. It enabled greater public involvement in acquisition process.

6. Limited use of urgency clause to situation including National security or emergency due to natural calamities.
7. In case if the acquisition does not start in 5 years and no compensation is provided then fresh acquisition process had to be started.
8. It also made provision for participation of local panchayati raj institutions.
9. In scheduled areas, no land can be acquired without the consent of gram sabha.
10. If the acquired land is sold to third party for a higher price, then 40% of the original profit has to be shared with the original owner.
11. Provisions are there to ensure food security.
12. Multi crop land to be acquired only as a last option.
13. If agricultural land is acquired, the state has to provide an equivalent area of land elsewhere.

2.3 The land acquisition act 2017

The land acquisition act 2017 contains amendments that are made in land acquisition act 2013. It is difficult to assess whether it is in favor or against the land holders.

Certain changes that are made in 2013 act and amended in 2017 act are :-

- In 2017 act social impact assessment was removed, which simply means that the participation of land holders in acquisition process was cut off.
- The provision that if the acquired land is not used for 5 years and not compensated also will be returned to the farmers is also removed from the act as it was considered by our policy makers that it takes considerable amount of time to bring into action any big project like nuclear power plant. So this provision was removed in new act.
- The term public purpose is widened too much.
- There was very little transparency in this act.

3. CASE STUDY OF LAND ACQUISITION

3.1 CASE 1 :-

Case :- Delay in barna canal extension project under irrigation schemes due to problems in land acquisition.

Details- Barna Dam is constructed over Barna river in Badi, Raisen. An irrigation scheme was proposed by Irrigation department for the extension of Barna Canal.

Land required for this scheme was acquired by farmers of Khari Mugli gram according to Consent land purchase policy. In this project, land of 22 farmers was acquired having total area of 8.258 hectare costing 1,17,68,520 rupees .So total 1,17,68,520 rupees. Compensation was required to be given by 22 farmers & this compensation amount depends on type of land whether irrigated/Un irrigated. The land of all 22 farmers was considered as irrigated & accordingly compensation will be evaluated as 1,17,68,520 rupees and project was started.

For acquiring land SDO of the department sends letters to all the land owners to ask for their consent.

If the land owner agrees to the offer that is provided to them then he puts forward the declaration stating that he agrees to permit state Government to purchase his land with due compensation and declare that the proposed land is under his

ownership & there is no court case related to his land in any court & is free from all encumbrances and proposed land is not disputed. There is format in which the land holder declares the above mentioned points.

After doing all the formalities the land was handed over by the farmer to the state government for the proposed project. The project started and later on it was found that few of the land was irrigated & some of them are un irrigated . The consent was made by land acquisition officer on the basis of irrigated land but the compensation was made on basis of un irrigated land. But compensation was given purely on the basis of un irrigated land hence this resulted in conflict as those farmers whose lands was irrigated had to receive more amount as compared to un irrigated land, so they raised objection. And the project was opposed by few farmers.

Result :- The constructors of 1 Km length of the canal has not yet completed which not only delays the project but also increases the cost of project, machinery, material etc.

Conclusion :- It is due to the carelessness of officials the project could not get completed on time. The procedure to amend this change and calculate compensation as per irrigated land and it also needs approval from collector, it all took so long and resulted in increased cost of project then estimated cost.

3.2 CASE 2 :-

Case : Land acquisition act 1894 under condition of urgency : Indore pithampur sez

In order to develop an SEZ in Indore, 1038.57 hectares of land was needed to be acquired across six villages. The requirement of land was deemed very urgent and due to this urgency clause was made use of and the duration of land acquisition process was reduced. The whole process of land acquisition was carried out very speedily. As a result of which , the objection of people could not be entertained and the whole process of acquisition was carried out in only 18 months between 2002 and 2004. The value of land was computed from the land sales registry record of 2002 to 2003. Additional premium for irrigation land was also provided. The final value of compensation to be provided was calculated using solatium of 30% and an interest rate of 12% for seven months (between the time from notification of acquisition and takeover).

Objections raised :

- The method used for computing compensation was according to the amount of registry but registry were done at very lower price than market value of the land so people who were displaced felt that they were under compensated.
- Land owners also claimed that officers acquired their fertile land even though barren land was also available adjacent to the land acquired.
- Urgency clause was misused.

Result : Writ petition has been filed and cases are ongoing.

4. SUGGESTED SOLUTIONS TO THE PROBLEM OF LAND ACQUISITION :

1. There should be active role of Civil Engineer in the planning phase of land acquisition. As in the process of land acquisition and computation the value of compensation to be provided to affected people, two things are very crucial and important :-
 - a) Measurement of affected farmland or area which is going to be affected by land acquisition.
 - b) Assessment of the property or area which is affected in land acquisition process.
2. Effective measures should be taken in carrying out survey accurately for this land data should be linked with GPS.

5. CONCLUSION:

- In order to calculate the compensation, valuation should be carried out properly.
- Utmost care should be taken in surveys carried out during site selection. Priority should be to acquire barren land instead of fertile land.
- Urgency clause should be used only in case of actual urgency.
- Land surveyors should be entitled to work with utmost professionalism, accuracy and clarity.
- Compensation rates for the destruction of crops should be calculated as per current market prices and maturity of the crop.

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