



Conflict of Issues in Land Acquisition Act

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ABSTRACT

For the development of any country the government should acquire property for public purpose. The Land Acquisition Act empowers the state, as an exception to the general rule, to compel an owner of the property to sell it to the state or to an agency authorised by the state, because the same is required for the use of the state. Under Article 300A of the Indian Constitution compulsory acquisition can be affected only in accordance with the provisions established by law. The exercise of this law is obviously the interference with the right of the owner of such property not to sell it, if he does not desire to. For a society to develop, Government should strike a fine balance between the need for developmental activities which is essential for any country and the need to protect the interest of those impacted by the acquisition of the land.

KEYWORDS : Land Acquisition, development, compensation, rehabilitation, property, government

Conflict Of Issues In Land Acquisition Act

The Government of any country so as to be stable and strong has to strive for the welfare of its subjects and total growth of the country. Rapid economic growth, increasing industrialisation, liberal concept of social justice, chronic housing shortage and lot other similar factors have contributed for the increasing demand for the acquisition of land for public purpose.

The Land Acquisition Act empowers the state, as an exception to the general rule, to compel an owner of the property to sell it to the state or to an agency authorised by the state, because the same is required for the use of the state. The law also provides that a proper price should be paid to such owner. Under Article 300A of the Indian Constitution compulsory acquisition can be affected only in accordance with the provisions established by law.

The exercise of this law is obviously the interference with the right of the owner of such property not to sell it, if he does not desire to. The only way we can justify this is on the ground that the welfare of the greater number, the community as a whole should be given predominance over the right of the individuals. In most cases generally two interests come into conflict i.e.; the interest of the individual and the society as a whole. Generally it is the farmers or the poor or less influential people who are the losers as on the other side are mostly the big industrialists or multinational corporations. For a society to develop, welfare of these two sectors should go hand in hand. Government should strike a fine balance between the need for developmental activities which is essential for any country and the need to protect the interest of those impacted by the acquisition of the land.

No sections of people should be left outside the purview of compensation as well as rehabilitation and settlement. The Land Acquisition Act 1894 has become out-dated and does not contain adequate compensation provision. The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, has made many progressive changes but Section 105 has kept 13 acts like mining, atomic energy, national high ways, electricity, railway etc. which are probably the most frequently used and dislocate the people the most. That should not be the case in a welfare state. The bill now present before the parliament has changed that and brought these acts under the RFLARR Act for compensation and rehabilitation so that in such a situation the hardship of the evicted people can be mitigated.

If a decision is taken then it should be executed expeditiously and properly. Procrastination will not bring good to any sections. In the case of prolonged procedure of land acquisition neither the owner of the property is able to get benefit, i.e. the compensation nor is the project completed in time so that it will be useful to the society at large. It is the necessity of the hour that a speedy mechanism or a fast track method should be made used in the case of land acquisition instead

of prolonging for years,

Let us take the example NH 17 in Kerala, decades have gone since the land has been frozen for acquisition for the widening of the National Highway which is one of the most busy and congested roads in Kerala. Even though the name is NH it is smaller, narrower than a village road. As the land is frozen the owners of the property cannot sell it or they cannot even make improvements to the land or buildings in it. It has created many hardships to the people as they cannot sell the property even if it is the only way in which they can procure money in case of emergency like hospitalization or marriage expenses.

On the other hand as the vehicles on the road increased the widening of the road has become urgent, this creates hardships to the society at large and widening is not happening at all even after all these years. This prolonged way of implementation should be stopped at once as it will not benefit any person, everyone will be the losers of this game. There should be a maximum time frame within which the acquisition as well as the project should be finished. Then only the benefit should reach every section of the society.

Utmost care should be taken in the case of acquisition as what is acquired is something which belongs to another person. Here it should not be the muscle power which should be shown. Maximum benefit should be given to the land owner as he is sacrificing something which he considers his own and sacred for the welfare of the society at large. The main drawback which comes out of this Act is the power which is given to the executives and the chance of misuse is greater. If they are not using this wisely it will be like the boon given to Bhasmasura. Then the society will be the loser at large.

We can see many instances of this. Large tracts of land will be acquired for setting up of big factories. Mostly they will not be completely utilising the allocated land so that large areas will be left unutilised. Later they even sell this property to secure money as in the case of land belonging to HMT in Kalamasery. Actually all this is against the fundamental basis of Land Acquisition Act.

In my view the Government should not acquire land for setting up companies for the foreigners, as the income generated from this will be taken away by the company out of the country. In most cases the argument is that employment will be generated, but it is not true, more income and jobs can be created if the land acquired in which is being cultivated were left for cultivation. This in turn results in the most important requirement of the country i.e. the food safety.

The public purpose should be specifically enumerated so that for unwanted or unnecessary purposes the land will not be taken under acquisition. As in a state like Kerala where the density of population is very high there is no need for acquiring land for building factories. That should be set up in states where there are plenty of lands available.

ble. Even in the case of Nedumbassery Airport, no doubt an airport is a need of a society but the location which is selected by the executives is one of the most fertile paddy fields in Kerala. Instead they should have selected the non-fertile sand land which was available at Udayamperoor. This is not a single lapse on the part of executive. It has been happening again and again. Under the muscle power of the executive, funded and aided by the multinational companies. The hapless victims were the poor owners of small pieces of land, as they don't have the money or the muscle power to fight against this. That scenario should be changed so as to bring a balance between development and the rights of the land owners.