

Acquisition & Alienation

What are the various laws under which acquisition of land takes place?

- ▶ The Coal Bearing Areas (Acquisition and Development) Act, 1957.
- ▶ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

What are some of the other laws which are relevant with respect to land acquisition?

- ▶ Panchayat (Extension to Scheduled Areas) Act, 1996.
- ▶ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

How is land acquired under The Coal Bearing Areas (Acquisition and Development) Act, 1957?

- ▶ Section 4(1): Intention to Prospect. A notification passed under this section is valid for 2 years which can be extended by a year.
- ▶ Section 7(1): Intention to acquire the land.
- ▶ Section 8: Objection to acquisition of land.
- ▶ Section 9(1): Notice for acquiring the land after disposing off objections.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

- ▶ It replaced the Land Acquisition Act, 1894 on 26th September 2013.
- ▶ It introduced certain prospective changes in the process of land acquisition:
 - ▶ The concept of a Social Impact Assessment.
 - ▶ The requirement for Consent of Landowners.
 - ▶ Special provisions for protection of multi-cropped and irrigated land.
 - ▶ Special provisions for land which has remained unused for more than 5 years.
 - ▶ Higher compensation.
 - ▶ A comprehensive R & R scheme.

How is the CBA, 1957 related to the RFCTLARR, 2013?

- ▶ Initially, acquisitions under the CBA and 12 other Acts were exempt from the provisions of the RFCTLARR. (Section 105)
- ▶ On 28th August 2015 however, a statutory order was passed by the Government extending the benefits related to compensation, infrastructural amenities and R & R to acquisitions under the earlier exempt Acts.
- ▶ Thus, with respect to acquisition under the CBA:
 - ▶ The rates of compensation will be as per Schedule 1 of the RFCTLARR.
 - ▶ Provision of infrastructural amenities as per Schedule 3 of the RFCTLARR.
 - ▶ The resettlement and rehabilitation process as per Schedule 2 of the RFCTLARR.

Determination of Compensation under the RFCTLARR

- ▶ The concept of multiplying factor.
- ▶ The multiplying factor for land in rural areas: 2.00 (Central)
- ▶ The multiplying factor for land in urban areas: 1.00 (Central)
- ▶ Solatium fixed at 100% of the value of land arrived at after calculating the Market Value.

The Panchayat (Extension to Scheduled Areas) Act, 1996 and the RFCTLARR.

- ▶ Section 4 (i): Before any acquisition is made in a Vth Schedule area, it is **mandatory** that the Gram Sabha or the Panchayat is **consulted** with.
- ▶ Section 41 of the RFCTLARR: Prior consent is required before acquiring land in a Scheduled area.

Forest Rights Act, 2006 and The RFCTLARR.

- ▶ Section 4 (8): Right to land for those Schedules tribes and other forest dwellers who can establish that they were displaced without being paid the compensation due and where the land has not been used for the purpose for which it was acquired for a few years.
- ▶ RFCTLARR definitions: Both the definitions for “affected person” and “land owner” recognises persons granted forest rights under the FRA.
- ▶ The Gram Sabha herein thus also has an important role to play in allowing the acquisition to take place.

Optimization of Land and its relevance in Land Acquisition

- ▶ What do we mean by optimization of land?
- ▶ How do project proponents use land in a non-optimum manner?
 - ▶ POSCO was committed land in excess of what it actually needed for the construction of a 4 MTPA production unit. The expert body of the Ministry was of the opinion that optimisation of the land could be done for 8 MTPA.
 - ▶ A coal mine in Surguja applied for an approval to increase production to 15 MTPA and were ready to it within the 2700 hectares of land allotted to them. The EC granted in 2011 however accounts only for 1300 hectares for the first 5 years to extract 10 MTPA.
 - ▶ A 300 MW Thermal Power Plant in Kutch, Gujarat occupies 316 acres of land, of which 196 acres is ear-marked for future expansion use.

Thank You!