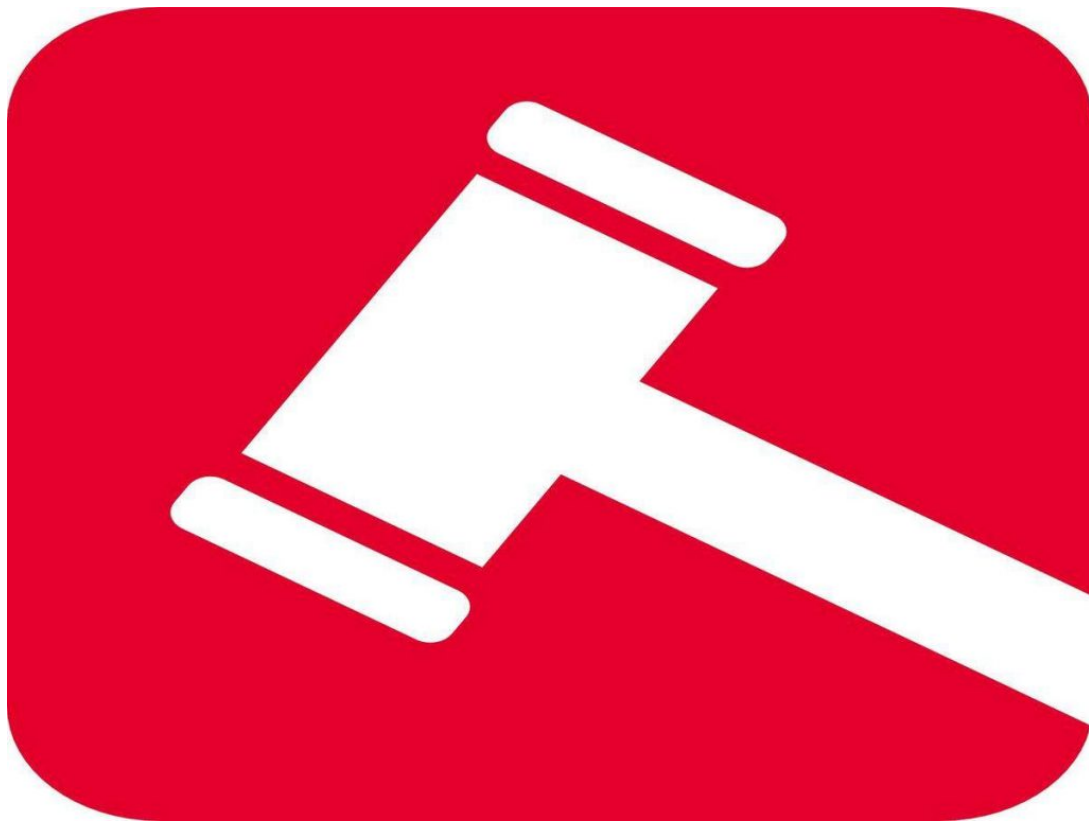


The Land Acquisition Act, 2013

By [Sneha Mahawar](#) - November 23, 2022



This article has been written by [Ayush Tiwari](#), a student of Symbiosis Law School, NOIDA. This article elaborates upon the fundamentals of the Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. Along with its importance, features, and shortcomings, the article covers all the highlights of the Act with the help of recent developments.

This article has been published by [Sneha Mahawar](#).

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Introduction

Land acquisition in India refers to the procedure by which the Union or a state government in India acquires private land for industrialisation, the advancement of infrastructural facilities, or the urbanisation of privately owned land, and offers compensation to the impacted landowners as well as their rehabilitation and resettlement.

The [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 \(LARR\)](#), which went into effect on January 1, 2014, governs land acquisition in India. The [Land Acquisition Act of 1894](#) controlled land acquisition in India up until 2013.

An ordinance with the formal mandate to “meet the dual objectives of farmer welfare; coupled with speedily satisfying the strategic and developmental demands of the country” was issued by the President of India on December 31, 2013. The Land Acquisition Act of 1894 helped institutionalise involuntary acquisition during the course of its 120-year existence, with little respect for the rights of individuals who were evicted from their lands and left without a means of subsistence, security, or community. Under this colonial statute, there was no effective consultation procedure, which was indicative of the larger premise supporting the whole law on land acquisition at the time, which was founded on the idea of eminent domain. The legislation’s tone assumed that the needs of the State for the common good would always take precedence over the interests of landowners and characterised them as tragic “victims of growth.”

The Statement of Objects and Reasons of the [Land Acquisition \(Amendment\) Act, 1984](#), which discussed the “sacrifices” of the affected people who were “unavoidably” being deprived of their property rights for the greater interests of the society, seemed to indicate this. By seeking to make the land acquisition process more facilitating and collaborative, the Land Acquisition Act of 2013 seeks to rectify this imbalanced paradigm of development.



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History of the Land Acquisition Act, 2013

Timeline for the Land Acquisition Act

- The Land Acquisition, Rehabilitation, and Resettlement Bill, 2011, was introduced in the Lok Sabha on September 7, 2011.
- The Bill was approved in the Lok Sabha on August 29, 2013.
- Bill approved in Rajya Sabha on September 4, 2013.
- Bill was approved by the president on September 27, 2013.
- The Land Acquisition Act goes into effect on January 1, 2014.
- The amendment was promulgated by the President on May 30, 2015.

The Indian Government approved the Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. It was passed in order to provide transparent rehabilitation and resettlement processes and equitable compensation in the event of land acquisition. The former 1894 land acquisition Act has been repealed in favour of this one. Due to the gaps and openings in the previous land acquisition Act of 1894, this Act was passed. Its foundation was laid in 2007 when the UPA administration proposed the [Rehabilitation and Resettlement Bill of 2007](#). The [Rehabilitation and Resettlement Bill of 2009](#) and the [Land Acquisition Act of 2009](#) were then introduced in Parliament. Both Bills in Parliament have expired. After carefully examining the circumstances and problems surrounding the land acquisition, the National Advisory Council recommended the "National Development, Land Acquisition, Resettlement, and Rehabilitation Act." as opposed to the two separate pieces of legislation, the [Land Acquisition \(Amendment\) Bill 2009 \(LAA 2009\)](#) and the [Resettlement and Rehabilitation Bill, 2009. \(R&R 2009\)](#). The LARR Bill, which was proposed in 2011 and then passed by the Parliament in 2013 to promote the cause, became law as a result.

This is a law that governs land acquisition and lays out guidelines for providing compensation, rehabilitation, and resettlement to those impacted in India is the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. The Act includes measures for equitable compensation for landowners who lose their property, more openness in the land acquisition process for industries, buildings, and infrastructure projects, and guarantees the rehabilitation of individuals who are impacted.

Need for the Land Acquisition Act

There are a number of significant challenges and reasons why a new land acquisition statute was necessary. The following are a few of the primary factors and concerns:

- The need for urbanisation and land has grown as a result of industry expansion, globalisation, Special Economic Zones, etc. On the other hand, reasonable compensation, relocation, and restoration plans must be offered to landowners whose property must be acquired by the government. The land is therefore necessary for industrialisation and economic progress, but the affected populations must not suffer as a result of the acquisition.
- The term “public purpose” has produced significant issues. The Supreme Court has expanded the definition of “public purpose” in decisions like *Yamuna Expressway, Smt. Somavanti & ors. case* (1962), and several such cases. In certain situations, the court has ruled that it is legal to acquire property and give it to a private firm for projects that do not truly use it for public purposes. As a result, one of the primary justifications for the acquisition of new property is the wide interpretation and absence of precise criteria.
- In the instance of eminent domain acquisition by the state or acquisition for a private enterprise for a project connected to a public purpose, the prior laws provided no provisions for relocation and rehabilitation. Despite receiving compensation, the impacted individuals still face significant difficulties.
- Previously, the collector had the ability to decide on compensation. The quantum of the compensation was to be determined using the worth of the local market. However, there was no detailed process for calculating compensation or any other rules. In certain instances, the landowner was deceived.
- The previous law lacked a provision requiring permission from the owner of the property the government intended to acquire. Instances like *Nandigram*, where the government chose to acquire the land of the farmers and gave them short notice so that a Special Economic Zone could be established, occurred as a result of the lack of such laws.
- Section 17 of the 1894 legislation, which discusses the urgency clause, was a significant flaw. The government and private businesses have abused this urgency clause a great deal.

Jurisprudence behind the Land Acquisition Act

The Act’s first goal focuses on purchasing public lands in order to enhance the nation’s infrastructure and businesses. The goal of infrastructure development and industrialisation contributes to the nation’s economic growth, and other goals follow from it and work to mitigate its effects. The purpose also discusses the acquisition of property for public use. Public well-being is included in the definition of “public purpose” in its broadest sense. The Supreme Court stated in *Dev Sharan v. State of Uttar Pradesh*

(2011) that the public purpose in cases of land acquisition should be examined from a perspective consistent with the idea of a welfare state. The welfare state discusses societal and public interests.

This legislation is consistent with Roscoe Pound's notion of social engineering, which focuses on creating an effective society that serves the needs of every member. He discussed three types of interests: private, public, and social. The enacted law compensates all the impacted families, safeguarding their individual rights. Rehabilitation and resettlement frequently result in improvements in the social and economic standing of the impacted family. As the government has taken away their means of support and housing. The statute offers affected families a rehabilitation and resettlement plan as a result of the change in their social and economic circumstances.

It was noted when outlining the objectives of the Acts that the jurisprudence behind these Acts is connected to the economic approach and the sociological approach. Now that the purpose has been thoroughly explained, it is clear that the Act takes an economic and sociological approach.

Objectives of the Land Acquisition Act, 2013

The "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013" and the national draft LARR Bill from 2011 both outline the Act's objectives. Inferring from the Act and the national draft LARR Bill of 2011, the following primary objective:

- The Act's first goal is to define and direct a land acquisition process that involves consultation with local self-government and the Gram Sabha and is transparent, educational, and participatory. This land acquisition process's goal is the development of vital infrastructure and urbanisation, both of which are required for public purposes.
- The second objective is to guarantee that the landowners whose property is being acquired receive equitable and fair compensation while taking into account all the economic and social factors. likewise to guarantee appropriate procedures and rules for the same.
- Aside from the landowners, other families that depend on the property either directly or indirectly also suffer when it is bought. The rehabilitation and resettlement of the affected landowners and their families is the third primary objective, which was not included in the previous Land Acquisition Act.

Applicability of the Land Acquisition Act, 2013

The government acquires property for its own use, possession, and control, including public sector enterprises. The land is acquired by the government with the ultimate goal of transferring it to private corporations for a specific public purpose. Projects involving public-private partnerships are included in LARR 2013, but those involving property acquired for state or national highway projects are not. The land is acquired by the government for declared and immediate use by private businesses for public purposes. Acquisitions made under 16 current laws, such as the [Special Economic Zones Act of 2005](#), the [Atomic Energy Act of 1962](#), the [Railways Act of 1989](#), etc., are exempt from the terms of the Act.

Important provisions of the Land Acquisition Act, 2013

Important definitions

Public purposes

The following are examples of public purposes for land acquisition in India as defined by [Section 2\(1\)](#) of the Act:

- For any work essential to the national security, defence, or safety of the people, or for strategic reasons pertaining to the navy, military, air force, and armed forces of the State, including central paramilitary forces; or
- For infrastructure projects, such as those listed below, specifically:
 1. All actions or things mentioned in the notice issued by the Government of India's Department of Economic Affairs (Infrastructure Section) number 13/6/2009-INF, dated March 27, 2012, with the exception of private hospitals, private schools, and private lodging;
 2. Projects which involve agro-processing, the provision of agricultural inputs, warehousing, cold storage facilities, and marketing infrastructures for agriculture and related industries like dairy, fisheries, and meat processing, established or owned by the relevant government, a farmers' cooperative, or an institution established by statute;
 3. A plan for mining operations or industrial corridors, as well as national investment and manufacturing zones, as specified in the National Manufacturing Policy;
 4. A project to provide sanitary facilities and water harvesting buildings;
 5. A project for institutions or programmes for education and research that are run or supported by the government;
 6. A project for sports, healthcare, tourism, and space programme transportation;
 7. Any infrastructural facility that the Central Government may notify in this respect after notifying Parliament of the notification;

- An initiative for families who were impacted by the project;
- Housing projects or any income groups that the relevant government may from time to time specify;
- The supply of land for residential uses for the weaker sections in rural and urban regions, or a planned development project, or the development of village areas or any place in urban areas;
- Project for residential purposes to the poor or landless or to those living in disaster-prone regions, or to people who have been displaced or otherwise impacted by the execution of any project conducted by the Government, any local authority, or a company owned or managed by the State.

The cooperation of the landowner is not necessary when the government announces a public purpose and immediately controls the land. However, before using its authority under the Act to acquire the remaining land for the public good, the government must first obtain the consent of at least 80% of the project's affected families through an informed process. In the case of a public-private project, at least 70% of the affected families must also consent to the acquisition process.

The Act contains a provision for quick land acquisition. The urgency clause may only be used in cases of catastrophes or natural disasters affecting national defence, security, or the rehabilitation of those impacted.

Landowner

The following people have deemed landowners under the Act:

1. A person whose name appears in the records of the relevant authorities as the owner of the property, building, or a portion thereof; or
2. A person who has been given forest rights by the Scheduled Tribes and Other [Traditional Forest Dwellers \(Recognition of Forest Rights\) Act of 2006](#) or by any other currently enacted law; or
3. A person who is qualified to receive Patta rights under any State legislation, including those pertaining to assigned lands; or
4. Someone who has been designated as such by a court or authority order

Agricultural land

"Agricultural land" is defined as land utilised for—

1. agriculture or horticulture;
2. raising animals or producing medicinal plants in nurseries or in the dairy and poultry industries, as well as in pisciculture and sericulture;
3. cultivating plants, trees, grass, or products from the garden;
4. land utilised for livestock grazing.

Company

“Company” means

1. a business, as defined in Section 3 of the [Companies Act of 2013](#), other than a government-run company;
2. a society recognised by the [Societies Registration Act of 1860](#) or by any comparable statute currently in effect in a State;

Displaced family

A “displaced family” refers to any family that is to be evacuated and resettled from the affected region to the resettlement area due to the acquisition of land;

Family

“Family” refers to an individual, his or her spouse, minor children, and minor siblings who are reliant on him or her:

As long as widows, divorcees, and women who have been deserted by their families are regarded as separate families;

Explanation: For the purposes of this Act, an adult of either gender who is married, has children, has dependents, or has none of these things is deemed to constitute a separate family.

Interested persons

“Interested person” means—

1. Any individuals who have a claim to compensation due to the acquisition of land under this Act;
2. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, who have forfeited any forest rights recognised under the Act;
3. A party with an interest in a land-related easement;
4. Those with tenancy rights under the pertinent State legislation, such as sharecroppers, regardless of their name; and
5. Anybody whose main source of income is likely to be negatively impacted.

Re-settlement area

“Re-settlement Area” refers to a location where the appropriate Government has relocated the impacted households that have been displaced due to land acquisition;

Determination of the social impact of public purpose

Land may only be acquired for public purposes. The Act defines public purpose to include, among other things, defence and national security; government- and

government-built roads, railways, highways, and ports; land for project-affected people; planned development and improvement of the village or urban sites; residential purposes for the poor and landless; etc. This is almost similar to the 1894 Act's provisions. In some circumstances, getting the approval of 80% of the project's affected individuals is necessary. These include buying land for the government to use for reasons other than those listed above, for public-private partnerships to utilise, and for private corporations to use.

Section 5

The appropriate government shall ensure that a [public hearing](#) is held in the affected area whenever a social impact assessment is required to be prepared pursuant to Section 4, after providing adequate publicity regarding the date, time, and venue for the public hearing, in order to ascertain the opinions of the affected families to be recorded and included in the social impact assessment report.

Preliminary notification

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013 states that the acquisition process starts with the issue of preliminary notification. A preliminary notification under [Section 11](#) in rural or urban areas shall be issued if it seems to the appropriate government that land in any area is necessary or likely to be required for any public purpose.

Publication of notification

The preliminary notification must be published in the manner described below:

1. Published in the Official Gazette;
2. In two daily newspapers published in the specified area, one of which must be in the local dialect;
3. In the language spoken locally in the offices of the District Collector, Sub Divisional Magistrate, and Tehsil, as well as in the Panchayat, Municipality, or Municipal Corporation;
4. Displayed on the appropriate Government's website;

In every case of land acquisition, the concerned Gram Sabha or municipality must be notified of the details of the notification issued at a meeting specifically scheduled for this purpose as soon as it is issued.

The notification that will be sent out must include information about the land that will be acquired, a description of the public purpose that will be served, the reasoning for the need to relocate the affected parties, a summary of the Social Impact Assessment Report, and information about the administrator who will be in charge of rehabilitation and resettlement.

The Court found that the language of Section 4(1) of the Land Acquisition Act, 1984, plainly implies that the provision is an obligatory one in the case of *Khub Chand v. State of Rajasthan* (1966). According to the Act's later structure, publication of the notification in the manner specified in Section 4(1) of the Act is a requirement for a legitimate acquisition.

The Allahabad High Court ruled in *Habib Ahmed v. State of Uttar Pradesh* (1964) that the acquisition of the property was not necessary for a public purpose, and so neither the notification nor the declaration could be revoked. The state government alone must assess whether or not the land is needed for a public purpose.

Although the aforementioned instances were handled in accordance with the previous legislation, the Land Acquisition Act of 1984, the new Act's provisions, and the previous law's, are substantially similar. As a result, the guidelines established in the important decisions made under the previous legislation are still applicable to the current Act.

Restraint on transaction

From the date of publication of the preliminary notice until the conclusion of the acquisition procedures, no one may transact on or cause to be transacted on any of the lands indicated in the notification. According to the proviso the Collector may, upon the owner of the land so notified in the application, exempt such owner from the application of this limitation under unusual circumstances that are documented in writing. However, the Collector shall not be liable for any damage or harm incurred by any person as a result of his willful breach of this article.

Survey of land

[Section 12](#) outlines the preliminary survey of land and gives officers the authority to do it. It should be legal for any officer, either generally or expressly authorised by such Government in this regard, and for his servants and labourers, in order to enable the appropriate Government to decide the area of land to be acquired.

1. to access any land in such area and survey and level it;
2. to drill or dig into the soil;
3. to carry out any additional actions required to determine whether the land is suitable for such a purpose;
4. to outline the boundaries of the land that is being considered for acquisition and the anticipated path of any proposed activity (if any); and
5. to mark such levels, borders, and lines by planting markers and digging trenches; and, in cases where the survey cannot be finished, levels taken, boundaries indicated, or clear away any part of a standing crop, fence, or jungle away.

Restriction

No action under sections (a) to (e) relating to land may be taken without the owner of the land or without a person authorised in writing by the owner being present. If the

owner has been given a reasonable chance to be present during the survey and has been given at least sixty days' notice, the survey may be conducted without the owner's presence.

Compensation for damages

According to [Section 13](#), the officer is required to cover any damage at the time of entry pursuant to Section 12. It is compensation for the intended harm. Damage is any harm done to land while surveying it or performing other tasks required to determine if it may be used for a public purpose.

If there is a disagreement over whether the sum paid is sufficient, the officer must immediately report the matter to the Collector or another district chief revenue officer, whose judgment is binding.

The fundamental rule that no man's property may be acquired without providing him with a fair opportunity to be heard is upheld by [Section 15](#). The major goal of sending out a preliminary notification is to solicit any objections, if any, from the owners or other parties with an interest in the property, giving them a chance to voice their grievances with the government's plan to acquire their holdings. According to Section 15(1), any party with an interest in land that has been informed that it is necessary or likely to be required for a public purpose may object to the notice within 60 days of the preliminary notification's publication date.

1. the size and appropriateness of the land that is intended to be acquired;
2. provided justification for a public purpose;
3. the Social Impact Assessment report's conclusions.

Report on the remarks

Every objection must be submitted in writing to the collector. The Collector shall provide the objector with an opportunity to be heard in person or by any person authorised by him or by an Advocate, and shall submit a report to the appropriate Government containing his recommendations on the objections, along with the record of the proceedings held by him, as well as a separate report providing therein the approximation of the cost of land acquisition, details regarding the number of affected families likely to be relocated, for the decision to be made.

If concerns are raised, the collector will take them into account and, in his report to the government, propose a course of action. The collector is required to provide a report if no objections are raised. The government is then given the green light to continue. According to Section 15(3), the competent government's decision regarding the objections is binding.

Scheme for rehabilitation and resettlement

The Administrator must prepare the Rehabilitation and Resettlement Scheme in accordance with [Section 16](#). The Administrator for Rehabilitation and Resettlement is

responsible for conducting a survey and doing a census of the affected families following the issuance of the preliminary notification by the Collector.

- details on the lands and other immovable property each impacted household is buying;
- livelihoods lost for those who are landless and who depend heavily on the lands being acquired;
- a list of public utilities, government structures, amenities, and infrastructure that are impacted or are anticipated to be impacted, where relocation of impacted families is concerned;
- information on any resources that are obtained as common property.

Drafting the scheme

The Administrator must create a draft Rehabilitation and Resettlement Scheme based on the prior survey and census, which must include the following:

- The specifics on each landowner's and landless person's rehabilitation and resettlement rights when impacted households are being relocated and their livelihoods are substantially based on the acquired lands;
- The draft must specify a deadline for the Rehabilitation and Resettlement Scheme's implementation.

Specifics about the government structures, amenities for the general public, and infrastructure facilities that must be supplied in the resettlement area must be made known locally by holding a public hearing in the impacted region before being considered in the relevant Gram Sabhas or Municipalities.

After the public hearing is over, the administrator must give the collector the draft of the Rehabilitation and Resettlement Scheme, along with a detailed report on the claims and objections made during the hearing.

In accordance with [Section 17](#), the Collector must consult the Rehabilitation and Resettlement Committee established under [Section 45](#) at the project level on the draft scheme that the Administrator has provided. The proposed Rehabilitation and Resettlement Scheme will be submitted by the Collector along with his recommendations to the Commissioner of Rehabilitation and Resettlement for approval.

If the plan is approved, the Commissioner is required by [Section 18](#) to make the Rehabilitation and Resettlement Scheme publicly available in the following ways:

- In the local language to the Tehsil, the District Collector, the Sub-divisional Magistrate, and the offices of the Panchayat, Municipality, or Municipal Corporation, as applicable;
- In the areas impacted;
- Posted on the appropriate government's website.

Declaration

A final statement dismissing the claims will be made by the appropriate authorities following consideration of any objections that have been raised. According to [Section 19](#) of the new Act, the authority must publish the final declaration within 12 months of the date the preliminary notification under Section 11 of the Act was issued.

When the appropriate government determines that a certain piece of property is required for a public purpose, it must be declared as such, together with a designated area known as the “resettlement area” for the purposes of rehabilitation and resettlement of the affected families, under the hand and seal of the Secretary to the government or of any other officer duly authorised to certify its orders, and different declarations may be made from time to time in respect of different parcels of any land covered by the same preliminary notification.

Publication of the declaration

Every declaration must be published in the manner described below:

1. Published in the Official Gazette;
2. In two daily newspapers published in the area, one of which must be published in the local language;
3. At the Panchayat, Municipality, or Municipal Corporation, as appropriate, as well as at the District Collector, Sub-divisional Magistrate, and Tehsil offices;
4. Posted on the appropriate Government’s website.

Summary of rehabilitation and resettlement scheme

A summary of the Rehabilitation and Resettlement Scheme and a statement must be published by the Collector. But unless the summary of the Rehabilitation and Resettlement Scheme is published alongside it, no disclosure under this shall be made.

Additionally, the “requiring body” is required to provide a deposit equal to or greater than the cost of acquiring the land, as determined by the respective authority.

According to Section 3(zb), a “requiring body” is any company, body corporate, institution, or other organisation for which land is to be acquired by the appropriate government. This definition also includes the appropriate government if the land is being acquired for the government’s own use or for later transfer to a company, body corporate, institution, or other organisation for a public purpose.

The Court ruled in *Habib Ahmed v. State of UP* that the acquisition of the property was not necessary for a public purpose, and hence neither the notification nor the declaration could be revoked. The state government must be the exclusive authority to determine whether the land is needed for a public purpose or not.

Lapse of notification

If a declaration is not submitted within 12 months after the preliminary notification date, the notice will be presumed to be revoked. According to the proviso, any time during which the land acquisition procedures were stalled due to a stay or injunction by a court order will be disregarded for calculating the 12-month timeframe. If the appropriate government determines that there are reasons to justify doing so, it may decide to extend the 12-month period. In this case, the decision must be made in writing, notified, and published on the authority's website. After making the declaration, the appropriate government may acquire the land in the manner described by this Act. The declaration shall be conclusive proof that the land is necessary for a public purpose.

Notice to interested persons

"Person interested" is defined in Section 3(x) as:

- All parties claiming a stake in compensation to be paid in connection with the acquisition of land;
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 recognised some forest rights for certain groups, although such rights have since been lost by these groups;
- A party with an interest in a land-related easement;
- Those with tenancy rights under pertinent State legislation, such as sharecroppers; and
- Someone whose main source of income is expected to be negatively impacted;

Public notice

In accordance with [Section 21](#), the Collector is required to post a public notice stating that the government intends to take possession of the land and that claims for compensation, rehabilitation, and resettlement for all interests in such land may be requested by him on his mail and at convenient locations on or near the land to be taken.

The public notice must outline the specifics of the needed property and demand that all parties interested in the land come before the collector at the time and location specified in the notice to make their claims for compensation, rehabilitation, and resettlement, as well as any written objections.

The time frame shouldn't be less than 30 days or longer than 6 months from the day the notification was published.

If any interested party lives elsewhere and does not have an agent, the collector will see to it that the notice is published in at least two national daily newspapers, forwarded to him by mail at his last known addresses of home and business, and made available on his website.

In *State of Madras v. B.V. Subramania Iyer* (1961), the Court decided that any dispute over a single claimant's title is included in the term "dispute." Public funds must be used to pay compensation to the rightful owner of the property, not just to any claimant who wishes to show up on the scene, when the government uses its power of eminent domain to acquire it. In this regard, the government has a specific duty and cannot afterwards hide behind the justification that the compensation was given to the claimant who showed up while others did not.

Statement to collector

According to [Section 22](#), the collector may also require any interested party to make or deliver to him a statement within 30 days that includes the name of every other person who has an interest in the land or any part of it as a co-proprietor, sub proprietor, mortgagee, tenant, or in any other capacity, as well as information about the type of interest they have, as well as any rents and profits they have received or are due for the three years immediately prior to the date of the statement.

According to [Sections 175](#) (omission to produce a document to a public servant by a person legally bound to produce it) and [176](#) (omission to give notice or information to a public servant by a person legally bound to give it) of the [Indian Penal Code, 1860](#), everyone who is required to make or deliver a statement to the Collector shall be deemed to be legally bound to do so.

According to the 2013 Act, the minimum payment must be a multiple of the assessed market value of the property, the value of any attached assets, and a settlement equivalent to 100% of the assessed market value of the property, including the value of any attached assets.

Compensation under the Act

According to [Section 23](#), the collector must investigate the objections that any interested party has raised in response to a notice given under [Section 21](#) and the respective interests of the people requesting compensation, rehabilitation, and resettlement, and he must then issue an award under his signature of-

1. The actual land area;
2. The compensation calculated in accordance with [Section 27](#) and the Rehabilitation and Resettlement Award calculated in accordance with [Section 31](#) and which in his opinion should be allowed for the land; and
3. The distribution of the compensation among all parties, whether or not they have individually appeared before him, who are known to have an interest in the land or of whose claims he is aware.

Period for award

According to [Section 25](#), the collector must provide an award within a year of the date the declaration was published. If no award is issued within that time frame, the whole land acquisition process would be abandoned. With the proviso that the appropriate government may decide to prolong the 12-month term if, in its opinion, circumstances exist that warrant the same; nevertheless, such a decision must be documented in writing, informed, and put on the website of the authority involved.

Market value determination

The claimant shall be entitled to compensation based on the market value of the land as of the date of the preliminary notice. The more expensive of the following shall constitute the market value of the proposed land under [Section 26](#) to be acquired:

1. The minimum land value required under the Indian Stamp Act of 1899 for the registration of sale documents in the region where the land is located, if any; or
2. The top fifty percent of the sale deeds filed over the previous three years in the closest village or area to the property being acquired, which gives the average selling price for similar types of land being acquired; or
3. The accepted amount in the event that the site is acquired for private businesses or initiatives involving public-private partnerships.

For land acquired in rural regions, the market value would be multiplied by a factor of at least one to two times, while for land acquired in urban areas, the market value would be multiplied by at least one.

Determination of compensation

The collector will compute the entire amount of compensation to be given to the landowner whose land has been acquired by adding all assets connected to the land under [Section 27](#) after determining the market value of the land to be acquired. The collector is required by [Section 28](#) to take the following factors into account when assessing the amount of compensation to be given for land acquired under this Act:

1. The award amount is determined in accordance with the First and Second Schedules and the market value as assessed in accordance with Section 26;
2. The harm incurred by the interested party as a result of the removal of any standing crops and trees that may have been on the property at the time the Collector obtained control of it;
3. The damage incurred by the interested party upon the collector's taking control of the property as a result of disconnecting it from his other property;
4. The harm incurred by the interested party when the collector took possession of the property as a result of the acquisition negatively impacting his other property, whether movable or immovable, in any other way, or his earnings;
5. The interested party must relocate or change his place of business as a result of the collector's acquisition of the land, and shall bear all reasonable moving-related costs;
6. The genuine harm brought on by the reduction in the land's revenues between the time the declaration under Section 19 was published and when the collector took control of the property; and
7. Any other basis that would be beneficial to the affected families and in the interests of equality and justice.

Value of attached items

The services of a qualified engineer or any other specialist in the relevant field, as may be considered necessary by him, will be used by the collector to determine the market value of the building and other immovable property or assets attached to the land or building that are to be acquired under [Section 29](#) that:

1. The collector may use the assistance of experts in the fields of agriculture, forestry, horticulture, sericulture, or any other subject he may see as essential in order to assess the worth of the trees and plants related to the property acquired.
2. The services of experienced individuals in the agricultural sector may be used by the collector, as he may deem them essential for determining the worth of the standing crops destroyed during the land acquisition procedure.

Award of solatium

The collector must impose a "solatium" equal to 100% of the compensation amount after determining the total compensation to be paid in order to determine the final award under [Section 30](#).

In addition to the compensation due to everyone whose land has been acquired, this solatium sum must be paid. According to the First Schedule of the Land Acquisition Act, the collector must issue specific awards that include information on the compensation that is due as well as how it will be paid. In addition to the market value of the land specified in Section 26, the collector must also award a sum calculated at a rate of 12% annually on that market value for the period beginning on the date that the social impact assessment study was published until the date of the award by the collector or the date that the land was actually taken into possession, whichever comes first.

Contravening provisions and problematic issues of the Land Acquisition Act

The Act being discussed is essentially opposed to land acquisition for public purposes. The word "public purpose" now encompasses a wider range of activities. (Sec. 2(l)) This expanded scope includes a wide range of tasks. As a result, the likelihood of exploitation has grown as the definition of "public purpose" has been expanded. The likelihood of abuse will undermine the fundamental goal of industrialisation-based economic development.

Acquisition by private enterprises is the main change. There are several provisions under the new legislation that must be met in the event of an acquisition by a private corporation. The new statute demands 80% permission in the case of a private company and 70% consent in the case of a public company with impacted families. It has provided an SIA evaluation method for this.

However, the legislation lacks clarity on important aspects of SIA evaluation, such as how it will be done and by which authority or agency. As a result, private corporations might use various improper tactics to get approval. However, the legislation does not need the approval of affected people if the property is acquired by the government under specific circumstances, as specified in Section 2(l) public purpose clause. Now, the provided clause contradicts the purpose, which calls for participatory, informational, and transparent land acquisition.

The "Rehabilitation and Resettlement" clause is one of the major provisions included in the new land acquisition laws. On the one hand, the legislation provides rehabilitation and relocation measures for impacted persons, which include not just landowners but also other affected families. Section 69 states that the "rehabilitation and resettlement cost" shall be calculated in line with Sections 26 and 30. Section 26 discusses calculating the market value of land, while Section 30 discusses "solatium" based on the market value calculated in Section 26. A question might occur as to "how can the cost of rehabilitation and resettlement be calculated using market value, and how realistically does it depend on market value?" There is no answer to this question.

Section 40 also empowers the government to seize land in an emergency if the 30-day notice provided in Section 30 expires, even if such awards are not made by the collector. This part runs counter to the third goal.

Another contentious subject is the compensation requirements from Section 26 through Section 30. Compensation is calculated on the basis of the market value, if any, stipulated in [the Indian Stamp Act of 1899](#) for the sale of land or the average sale price of land in that location and nearby. Although the technique for calculating compensation is provided, it is still arbitrary because market value does not account for the future worth of the land, and the amount indicated in the Act may be undervalued. So the goal of providing reasonable and fair compensation is challenged, despite the fact that compensation in rural areas is double the market value.

Furthermore, it establishes provisions for compensation and the method for determining it, as well as incentives for the affected parties to litigate for the compensation provided to them. The propensity to claim compensation will stay unchanged because the foundation for determining compensation has not changed significantly, despite the fact that the amount of the award is twice as much in rural areas. Although the new legislation replaces the ADJ court with the LARR Authority in cases of compensation-related disputes, it only transfers the burden from the ADJ court to the LARR Authority, which is not an appropriate solution to the problem of litigation and the accompanying wastage of resources.

The Act takes economic loss into account, but it does not take other losses into consideration. When families are separated, they suffer not just economic loss but also social, psychological, and status loss. Because it is not required that the compensation and arrangements created for them provide them with the same status and wealth as the land may provide.

Furthermore, Section 105 exempts land acquired by specific acts from the scope of this Act. The new statute, although including certain modifications, fails to address key issues and contains loopholes.

Landmark case laws on the Land Acquisition Act, 2013

Land Acquisition Officer, A.P v. Ravi Santosh Reddy (2016)

In a 1987 land acquisition [case](#), the Andhra Pradesh Government pursued the landowner into court for 20 years to challenge his Rs. 50,000 claims. Meanwhile, the claimant died in the middle of this lengthy legal process. When the state government sought the Supreme Court, the deceased's heirs failed to attend. However, in May 2016, the Supreme Court issued a decision in which it slammed the state government for abusing the legal system, saying, *"In our opinion, the State unnecessarily pursued this pity matter to this Court in this appeal, which does not involve any arguable point either on facts or in law, nor does it involve any point of public importance, nor does it involve any substantial claim."* It was just a calculation of the payment of interest on the decretal sum for a specific term. In this Court, however, learned counsel was unable to demonstrate any illegality or perversity in the executing court's assessment of the state's responsibility in paying Rs.50,000/- in interest. *"As a result, it was, in our opinion, a clear abuse of process on the part of the state to pursue a matter by filing a*

misconceived appeal against an interim order, which we do not approve,” further adding, “It is unfortunate that the state did not satisfy a genuine claim of the land owner for such a long time.”

Balakrishnan v. UOI (2017)

In this [case](#), the Kerala State Government acquired around 27 acres of agricultural land for the expansion of a technopark in South Kerala. The landowner was dissatisfied with the compensation provided, so he negotiated with the concerned party for more compensation; nonetheless, in order to avoid litigation, he decided to sell the land at the price offered by the state. Following payment of the compensation, the state revenue agency assessed capital gains tax on the sum received from the landowner, claiming that the transaction was a “*voluntary sale*” and so did not qualify for exemption under Section 10 of the Income-Tax Act as a compelled acquisition. The landowner then challenged this judgment in the High Court, which dismissed the appeal. The case was then heard by the Supreme Court, which decided that the owner “*succumbed to the measures taken by the government*” in order to avoid litigation. As a result, the transaction was not a “*voluntary sale*,” but rather a “*compulsory acquisition*,” and therefore it should be excluded from capital gains tax.

G. Padmanabhan and Others v. Tamil Nadu State and Others (2015)

Facts

The facts required for the [writ petition](#)’s disposition were that the lands were bought by the government for the Tamil Nadu Housing Board’s Krishnagiri Scheme. On May 9, 1991, a Notification under Section 4(1) of the Land Acquisition Act was issued, and on July 31, 1992, a declaration under Section 6 of the Act was made. The petitioners filed a writ petition before this Court in 1994, and while hearing the writ petition, this Court granted a stay of the dispossession order on May 18, 1994. The petitioners are said to be in their possession to this day. The award was made on August 3, 1994, and it is the petitioners’ specific argument that the award sum has yet to be deposited with the Civil Court. Finally, on July 10, 2001, this Court rejected the Writ Petition filed in 1994. As a result, the interim order of dispossession was vacated. However, the petitioners claim that even after the stay was lifted, they are still not being evicted. Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. Petitioners have filed a petition seeking a determination that land acquisition procedures commenced under the Act of 1984 with respect to the properties in issue have lapsed in light of Section 24(2) of the Act of 2013.

Issue

Whether land acquisition proceedings were deemed to have lapsed in light of Section 24(2) of Act, 2013?

Judgment

Petitioners were still in control of the land; they were not evicted, and the compensation payment was not made through the civil court. As a result, acquisition procedures were deemed to have ceased in accordance with Section 24(2) of the Act of 2013, hence the petition was allowed.

Guru Nanak Vidya Bhandar Trust Vs. Union of India and Ors (2017)

Facts

In this [case](#), Respondent No. 1 is the property's lessor. The land was first leased to Sardar Ram Singh Kabli, and afterwards, ownership of the property was transferred to the petitioner. It is also undisputed that the petitioner's land was encroached upon by the NDMC (New Delhi Municipal Council) and that possession was obtained illegally. In accordance with that provision, the petitioner filed a petition for possession in 1979, which was decreed by a learned single judge of this Court in a decision and decree dated March 8, 2006. The NDMC's appeal to the Division Bench and then to the Supreme Court likewise failed. Following that, the NDMC asked that the Land Acquisition Authority acquire land, and the current acquisition processes were launched.

Issue

Whether reprieve of the proviso in Section 24 of the 2013 Act can be taken or not, in the facts of the present case?

Judgment

A review of the facts reveals that the compensation was deposited in the court unilaterally and without being offered to the persons interested, as interpreted in the Pune Municipal Corporation case, and no facts have been brought to the court's attention to suggest that the same was offered to the petitioner. As a result, compensation for a "majority" of land holdings has not been put in the accounts of the "beneficiaries." As a result, the petitioner would be eligible for compensation under the 2013 Act. The writ petition is granted to the extent that the acquisition will stand, but compensation will be provided to the petitioner in accordance with the amended Land Acquisition Act of 2013. The amount previously released to the petitioner, as stated above, will be deducted from the total amount determined in accordance with the 2013 Act.

Indore Development Authority v. Manohar Lal (2020)

The landowners contended in [Indore Development Authority v. Manohar Lal](#) that acquisitions made under the Land Acquisition Act of 1894 had lapsed and that new processes under the Land Acquisition Act of 2013 were required.

The Supreme Court declared in this significant decision that outstanding cases under the 2013 Act will expire under two conditions, and the acquisition procedure will have to be

restarted. The Supreme Court declared that new procedures under the Land Acquisition Act of 2013 will be required only if the following conditions are met:

- Possession of land has not happened.
- Landowners have not received compensation. According to the court, payment of compensation includes not only money given to landowners or put in court, but also money deposited in a government treasury. This implies that, even if the compensation payment was deposited with the government, the 2013 law will not apply to new acquisitions.

The 5-judge bench also ruled that landowners cannot seek compensation under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, if they declined the supplied compensation or requested for greater compensation. However, if compensation is not made under the provisions of Section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, as of the date of the 2013 Act's commencement, i.e., 1.1.2014, the proceedings will not be deemed to have lapsed, and compensation must be awarded in accordance with the provisions of the Act of 2013.

Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013 states:

1. Notwithstanding anything in this Act, in any land acquisition procedure begun under the Land Acquisition Act of 1894,—
 1. If no award has been granted under Section 11 of the said Land Acquisition Act, then all provisions of this Act related to compensation determination shall apply; or
 2. Where an award has been given under said Section 11, such processes must continue in accordance with the terms of the said Land Acquisition Act, as if the said Act had not been repealed.
3. Regardless of what is stated in sub-section (1), in the case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under said Section 11 has been made five years or more prior to the commencement of this Act, but physical possession of the land has not been taken or compensation has not been paid, the said proceedings shall be deemed to have lapsed, and the appropriate government, if it so desires, shall initiate new proceedings.

“Provided, however, that where an award has been made and compensation for a majority of land holdings has not been deposited in the accounts of the beneficiaries, all beneficiaries stated in the notification for acquisition under section 4 of the said Land Acquisition Act shall be entitled to compensation in accordance with the provisions of this Act,”

The Court issued the following rulings and interpretations:

1. "If the award was made within the five-year window period, except the period covered by an interim order of the court, then proceedings shall continue as provided in Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it had not been repealed."
2. In Section 24(2), the term 'or' between possession and compensation must be interpreted as 'nor' or 'and.' The assumed lapse of land acquisition procedures occurs under Section 24(2) of the Act of 2013, where possession of land has not been obtained or compensation has not been paid owing to the inaction of authorities for five years or more previous to the beginning of the said Act.
3. The term 'paid' does not include a deposit of compensation in court in the main section of Section 24(2) of the Act of 2013.
4. If a person is offered compensation under Section 31(1) of the Act of 1894, he cannot argue that the acquisition has expired under Section 24(2) owing to non-payment or non-deposit of compensation in court. By presenting the sum specified in Section 31(1), the obligation to pay is fulfilled.
5. The proviso to Section 24(2) of the Act of 2013 is to be considered part of Section 24(2), not Section 24(1)(b).
6. Under the Act of 1894 and as envisioned by Section 24(2), the way of obtaining possession is by drawing an inquest report/memorandum. Once an award is made on taking possession under Section 16 of the Act of 1894, the land vests in the State; there is no divesting provided under Section 24(2) of the Act of 2013, as there is no lapse under Section 24(2).
7. Section 24(2) provides for a considered lapse of proceedings in cases where authorities failed to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a land acquisition procedure continuing with the responsible authority as of 1.1.2014. The period of court-issued interim orders must be excluded from the five-year computation.
8. Section 24(2) of the Act of 2013 does not provide a new cause of action to challenge the legitimacy of completed land acquisition actions. Section 24 applies to any case that is continuing on the date of the Act of 2013, 1.1.2014. It does not reopen finished processes or allow landowners to contest the legality of the way of taking possession to reopen proceedings or mode of depositing compensation in the treasury instead of the court to invalidate acquisition."

The Nandi gram Land Grab Case

The [event](#) occurred on March 14, 2007 in Nandigram, West Bengal, as a result of the Communist Party of India's forcible acquisition of 10,000 acres of land for the establishment of a Special Economic Zone (SEZ). Farmers from the Bhoomi Raksha Committee refused to give up their land for the proposed SEZ, resulting in violence that killed 14 people and injured 70 more. The CPI (M) took the locals for granted on an issue that directly affected their lives.

Farmers' experiences with land acquisition have been utterly terrible. To address the complexities of land acquisition, the LARR Act 2013 incorporates the Social Impact Assessment (SIA) to examine if projects are meeting the claimed public purpose. A social impact assessment is described as "*the identification, analysis, and evaluation of a*

social effect arising from a specific event,” with a social impact defined as “a major improvement or deterioration in people’s well-being or a significant change in an element of community concern.” Property acquisitions must result in a social stance that balances the interests of the displaced with the advantages of the acquired land for the general public.

The key social protection offered by the law is the SIA study and its evaluation by an impartial committee of experts. This expert committee will assess the SIA and determine if the project meets the declared public purpose, is in the greater public interest, and whether the project’s costs and negative consequences outweigh the possible benefits. Individually, the expert group is expected to voice its judgment on whether the project should be permitted to proceed or not.

The study draws on consultations with Gram Sabha members to examine the nature of public interest in the project and its potential benefits compared to social and environmental costs; the number of affected families and the socioeconomic impact on neighbouring areas; whether the extent of land proposed for acquisition is the bare minimum required; and whether acquisition at an alternate location is not feasible. The evaluation is then assessed by a panel of five external experts, who may “recommend that the initiative be abandoned” if the consequences are considered intolerable. Ambiguities in this statement impair the social safeguard’s credibility. The recommendation’s binding character must be clearly stated, leaving no space for subsequent interpretation.

In addition to the hefty monetary compensation for landholders, the Act takes a significant step forward by granting Resettlement and Rehabilitation (R&R) entitlements to all impacted persons. However, this will only be significant if R&R efforts are enhanced. Wherever feasible, land of equivalent value should be used to compensate. After accounting for the social cost of acquiring that specific land, the public interest would be met only if such an acquisition resulted in community benefit. As a result, the costs and benefits of the acquisition to society must be assessed in each situation. Only by focusing on the exact amount of land secured in each case would it be equitable.

Chennai Metro case

Background

As a result of the lengthy and difficult method necessitated by the New Act, it had been noted that states were altering their local legislation (similar to the old Act) to acquire land in order to avoid the trouble of the New Act. The acquisition of land for the Chennai Metro by Tamil Nadu using their state laws is one such contentious [example](#).

Judgment

Following the enactment of the New Act, the Tamil Nadu Government passed the [Tamil Nadu Land Acquisition Laws \(Revival of Operation, Amendment, and Validation\) Act, 2019](#) using their statutory power under Article 254(2) with the intent to exempt the application of LARR in three categories of projects for industrial and infrastructure

purposes, which constitute the majority of land acquisition. Their enactment was challenged in the Supreme Court via writ petition, and the Supreme Court upheld the enactment on the grounds that, subject to the assent of the president, a state can depart from the centre law under Article 254(2) of the Constitution.

The Tata Singur Case

Background

In this [case](#), industrialists and real estate developers seek the cooperation of ruling parties in order to obtain property for commercial usage. In general, it has become an implicit standard for the government to acquire land on their own terms under the protection of the law and transfer it over to private players.

The outcome of case

1. In May 2006, the West Bengal government granted Tata Motors 700 acres of fertile agricultural farmland in Singur, Hooghly, for the construction of their Tata Nano Project.
2. The land was forcibly grabbed and given over to Tata Motors.
3. The affected landowners and non-farming households working in agriculture-related occupations were highly agitated by the said acquisition.
4. Their anger was later fueled by opposing political groups, and other social workers became infamous throughout the country.
5. The acquisition was contested in the High Court, and it was discovered throughout the court processes that 65% of the total 400 acres had been obtained forcibly with no approval from the government.
6. As a result of the violence and negative publicity, Tata withdrew from the land and established an industrial plant in Sanand, Gujarat, India.

Conclusion

There is an improvement over the old statute, which provided no compensation (monetary or non-monetary) to people harmed by the land acquisition process. This legislation is a start, paying persons who would be impacted by land acquisition prior to the establishment of the infrastructure or development project, both monetarily and non-monetarily. In some situations, the statute also provides for land-for-land compensation.

Furthermore, the lease provision ensures that the landowner does not have to relinquish land ownership, even though others may lose their livelihoods in the process and must be suitably compensated and restored. The measure has been attacked primarily on two grounds. First, there is a heated dispute about whether such compensation is adequate. Activists argue that prior to the start of a development project, the market price is quite low, particularly in rural or semi-urban areas, and that the compensation amount (up to two times the market price) may be insufficient for a landowner/farmer who is losing a

significant portion of his or her livelihood. Second, those who would be affected after the project's establishment were not considered at all in the Act, despite the fact that this was not the primary purpose of the Bill, and second, these could be addressed through the proper implementation and enforcement of environmental regulations for air and water (if not for land). There are faults with such standards, but this is a secondary concern with the measure itself.

Frequently Asked Questions (FAQs)

In India, can the government acquire your land?

Yes, the government has the authority to acquire your land in order to develop infrastructure or economic zones.

Is the Land Acquisition Act of 1894 still in effect?

The Land Acquisition Act of 1894 was repealed in 2013 and replaced with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act.

What exactly is the Land Acquisition Act?

The Land Acquisition, Rehabilitation, and Resettlement (LARR) Act, 2013, is a piece of legislation that specifies the procedures to be followed when acquiring land anywhere in the country.

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