

LAND ACQUISITION ACT ,1894
(Act 1 of 1984)

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OBJECTIVES

- Government have Authority to acquire Private Land for bonafide public purpose.
- Expansion of State's activity in promoting public welfare, acquisition of private lands – more significant.
- Article 31-A of the Constitution of India stipulates payment of compensation at a rate that shall not be less than the market value.
- Acquisition by the State does not infringe any of the rights conferred by Article 14 or 19 of the Constitution of India.
- The affinity of a farmer with the land is no way compensated by the amount paid – Important to remember

DEFINITIONS

- “**Land**” includes benefit to arise out of land and things attached to the earth. Section 3(a)
- “**Person interested**” includes all persons claiming an interest in compensation. (Section 3(b)).
- “**Collector**” means the Collector of a District and any officer, specially appointed by Government to perform the functions of a Collector under the Act. (Section 3©).
- “**Court**” means a Principal Civil Court of original jurisdiction. (Section 3(d))

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DEFINITIONS --contd

- “Corporation” owned or controlled by the State means any body corporate established under a Central or State Act and includes a Government company, as defined in Section 617 of the Companies Act 1956 (Section 3(C.C))
- “Company” means a Company as defined in Section 3 of the Companies Act 1956, other than a Government Company, a registered Society and a Cooperative Society (Section 3(e)).
- “Public purpose” includes a purpose which the general interest of the Community, as opposed to the particular interest of individuals is directly or vitally concerned. (Section 3(f)).

PRELIMINARY PROCEEDINGS

- Requisitioning Department to send application in Form-1 to the L.A.O.
 - -Copy to be marked to the District Collector.
 - The purpose of acquisition is indicated.
 - Provision of funds to be provided.
 - A plan of the land, details of S.No. wise extents, boundaries and the name and designation of the officer nominated for joint inspection be furnished.
 - In scheduled areas, before taking up acquisition, Gram Sabha or Panchayat to be consulted as per Panchayats (Extension to the Scheduled Areas) Act, 1996. (Govt. Memo No.22836/LA(2)/99 Revenue (L.A) Department dated. 10-01-2001).

DRAFT NOTIFICATION STAGE

- **Government** to publish Notification U/S 4(1) of the Act in the official Gazette
- Government can delegate the authority to the District Collector
(Sec 3 A)
- The Notification has to be issued in Form 2-A for the purpose of State and in Form 2-B for the purpose of the Union.
- The designation of the Officer -of the cadre of Deputy Collector – who discharges functions as collector u/s 3(c) is specified.
- The Survey number-wise extents, name of the pattadar / enjoyer, structures / trees etc., existing to be shown in the Notification.
- The public purpose is specified

DRAFT NOTIFICATION STAGE --contd

- Published in two daily News Papers of which at least one shall be in regional language.
- Public Notice of the substance of Notification also to be given in the locality.
- The last of the dates of publication shall be the date of publication
- It serves a two fold purpose Meant for information of the people concerned. ---Shows the intention of the Government to acquire a particular land.
- empowers the authorized officers etc., to enter upon the land and conduct survey etc.,
- Date of Publication of the Notification is crucial for determination of the market value of the land.

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DRAFT NOTIFICATION STAGE---contd

- Government lands and Government assigned lands shall not be included in the Draft Notification and Draft Declaration noticed.
- Joint inspection by the LAO and the Requisitioning Department to be carried
- After 4(1) Notification is issued, L.A. proceedings can be cancelled by Notification in Form-25, in case lands not required.

ENQUIRY UNDER SECTION 5A

- Notice U/s 5-A shall be issued in Form-3
- Any person interested may, within thirty days of causing public notice U/S 4(1), object to the acquisition of land - 15 days time after issue of Notice in Form 3 (Section 5-A(1)).
- Every objection shall be made to the Collector in writing. (Section 5-A(2))
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- Collector to give to the objector an opportunity of being heard

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ENQUIRY UNDER SECTION 5A -- contd

- Objections are heard and further inquiry held
- Proposals are submitted to the Government / the District Collector for a decision and such decision shall be final.
(Section 5-A(2)).
- Orders of the Government / the District Collector – communicated to interested parties.
- Meanwhile, Demarcation - Sub-Division got done and scrutinized by the Deputy Inspector of Survey, concerned.

DRAFT DECLARATION

- Proposals for publication of Draft Declaration to be submitted to the Government / the District Collector
- The Survey number-wise extents, name of the pattadar / enjoyer, structures / trees etc., existing to be shown in the Declaration.
- DD is Published under Section 6(1) of the Act
- The Declaration shall be issued in Form 5-A for the purposes of the State, in Form 5-B for the purposes of the Union and in Form 5-C for a local authority.
- If not published within **one year** from the date of publication of the Notification U/S 4(1), the DN lapses (Section 6(1)).
- Period of stay, if any, granted by a Court to be excluded.

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DRAFT DECLARATION --contd

- To be published in the official Gazette - in two daily news Papers - one shall be in regional language. (Section 6(2))
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- Collector to cause public notice of the substance of such declaration to be given at convenient places in the locality. (Section 6(2))
- The last of the dates of such publication to be the date of publication of the declaration. (Section 6(2))
- DD shall be the conclusive evidence that the land is needed for a public purpose. (Section 6(3))

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DRAFT DECLARATION --contd

- No such declaration to be made unless the compensation to be awarded is to be paid wholly or partly
- Any changes in proposed acquisition to be incorporated by way of Amendment / Addendum / Errata to the D.N and D.D.
- If not required – Government have to issue withdrawal orders
(Sec.48)

SPECIAL POWERS IN CASE OF URGENCY

- DN and DD are published simultaneously .
- At least one day gap is mandatory between Section 4(1) Notification and Declaration under Sec 6 (1).
- Provision under section 17(4) are invoked. The invoking provision under section 17(4) to be justified
- Enquiry under section 5A is dispensed with

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SPECIAL POWERS IN CASE OF URGENCY --- contd

- The land can be taken possession on the expiry of fifteen days from the publication of the notice under Section 9(1) before passing award.
- Before taking possession, Collector shall tender payment of 80% of the compensation to persons interested.
(Section 17 (3-A(a))).
- State Amendment of Section 17(5) regarding taking possession within three months of causing public notice became repugnant after Central Amendment.

PRELIMINARY VALUATION

Determination of compensation

Fixation of Market value –

Section 23(1)

- As on the date of DN

- Details of registered sale transactions for a period of three years, preceding to the date of 4(1) Notification are obtained from the Sub-Registrar concerned

- A combined sketch is prepared.

- Market value – a genuine purchase can offer – genuine seller can demand.

- All Sales are considered.

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PRELIMINARY VALUATION ---contd

- **Sale in same survey number is relied upon.**
- Proximity and similarity (Taram / Bhagana)
- Sale involving land with trees / structures not considered
- All sales are discussed – especially sales involved higher rate than the rate related to the sale adopted.
- Enhancement for the period from date of sale to date of DN to be considered.

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PRELIMINARY VALUATION ---contd

- Damages to the standing crop while possession taken to be covered.
- Damages to other land are covered.
- Damages to property if any are covered.
- Charges for shifting machinery allowed.
- Loss in profit during the period of DN to date of payment of compensation is covered.

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PRELIMINARY VALUATION ---contd

Fixation of value of trees –

- Fruit bearing trees to be fixed as per G.O.Ms.No.357, Revenue (LA) Department, dated 22.03.2006 - Age of trees to be furnished by A D Horticulture.
- The value of non-fruit bearing trees to be fixed as per the estimates of Forest Department.

The value of structures

- As per the estimates furnished by Executive Engineer (R&B).

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PRELIMINARY VALUATION ---contd

Additional market value Section 23 (1A)

- At the rate of 12% ----from 30.04.1982.
- From the date of DN to date of award / date of taking possession - earlier of the two.
- Period covered by court stay if any – excluded.
- Not thereon structures.
- On trees as per G.O.357.

Solatium – Section 23 (2)

- At the rate of 15% upto 30.04.1982 and at 30% from 30.04.1982.
- Allowed on structures.
- On trees as per G.O.357

Statement to be prepared and submitted in Form-4 and got approved by the Joint Collector / Special Collector concerned.-
Administrative control

AWARD ENQUIRY:

- Public Notice be in Form-6. (Section 9(1) and Sec 10).
- Interested parties can attend award enquiry.
- Date and time specified – minimum 15 days (Sec.9(2))
- Collector also to serve Notice on the known interested persons (Sec.9(3) and Sec 10)
- **Services of notice is mandatory.**
- If not found on male adult member.
- By Registered Post – returned rejected – sufficient.
- Affixing on the last known residence.
- If attended award enquiry – notice deemed to have been served.

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AWARD ENQUIRY: -- contd

- On the day fixed, Collector to conduct the enquiry.
- The objections of the persons interested as regards to the measurements, value of the land at the date of the publication of the Notification be heard.
- The statement of the interested person to be recorded.
- Valid documentary proof be produced as regards to right over the land.
- The apportionment of compensation to be arrived at – survey number wise.

AWARD ENQUIRY: -- contd

- If no claim is there / no documentary evidence is available / not produced / counter claims are there, the case has to be referred to civil court **under section of 30** of the Act and the compensation to be deposited in civil court under section 31(2) of the Act.
- If **dispute** is there as regards to title in a court / before any forum – award passed – referring the case to civil court under section 30 (G.O.Ms.No.232, Revenue (LA) Department, dated 23.02.2005).
- If **Rythwari patta** not issued under Estates Abolition Case /Inams Abolition , the compensation be deposited in Civil Court

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NEGOTIATIONS FOR PASSING CONSENT AWARD

- **Government issued Rules in GO 1050 Rev dated 17-10-1992**
- District Level Committee, under the Chairmanship of the District Collector
- State Level Negotiation Committee, under the Chairmanship of the CCLA
- Notices to be issued to interested persons in Form-I
- The Requisitioning Department informed in Form-II.
- Negotiations to be held only after **award enquiry is completed and PV is approved.**

NEGOTIATIONS FOR PASSING CONSENT AWARD -- contd

- PV is the **basis** for negotiations
- The DLNC is competent to increase compensation as a package upto **50%**. - Under INDIRAMMA- HOUSING PROGRAMME – by **100%** - in **certain Districts by 150%**
- If the rate is agreeable Agreement is arrived at in **Form-III**.
- Consent of the Requisitioning department to be obtained inform **Form-V**.
- Declaration of the awardee is obtained in **Form-IV** on stamp paper
- If the interested persons do not agree for 50% enhancement and if they desire, it to be referred to **SLNC** furnishing a detailed report.

AWARD

- Consent award is passed under section 11(2) of the Act.
- Otherwise normal award under section 11(1) of the Act.
- Award to be passed within **two years** from the date of publication of Draft Declaration U/S 6. (Section 11-A).
- In cases where **advance possession** of land is taken, limitation period of two years does not apply.
- Period of stay, if any, granted by a Court to be excluded.
Draft award to be sent District Collectors, Joint Collectors and Special Collectors who are authorized to accord approval to the awards vide Notification issued in G.O.Ms.No.1843 Revenue (k) Department, dated 13-12-1984.

AWARD -- contd

- It shall be in the form prescribed i.e., Form-8
- Award deemed to be made when Collector draws up and signs the same
- Award becomes final, when filed in Collectors Office. (Section 12(1)).
- Separate awards for different interests in the same land not to be passed .
- LAO to pass award for a particular land extinguishing all interests of a person in the land to get absolute title free from all encumbrances.
- Once award is passed notice under section 12 (2) are served.
- Awardee is informed to surrender.
- Possession be taken by conducting Panchanama

INTEREST

- Interest at the rate of 9% for the first year and at the rate of 15% from there after Sec 34
- From the date of Award / possession taken (earlier of the two) to the date of payment
- Possession taken as per Law is considered
- Possession before DN is not a legally taken one .

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CLAIM FOR ENHANCEMENT OF COMPENSATION

Section 18

- Awardee / interested persons make application to the Collector.
- Compensation would have been received **under protest**.
- No specific form – written application.
- Within **six weeks** – if present at the time of passing award.
- Within **two months** from the date of service notice under section 12(2)
- Otherwise within **six months**..
- Collector may refer the application to civil court or reject.

CLAIM FOR ENHANCEMENT OF COMPENSATION --- contd

- Collector may refer the application to civil court or reject.
- Separate claim petition is filed by the awardee / interested person in civil court furnishing detailed evidences.
- Onus to prove compensation is inadequate lies on claimant.
- Reply statement to be filed by Collector - All the evidences mentioned in Claim petition must be properly denied – field inspection and records to be traced and verified .
- Collector to adduce the evidence- Officer passed Award is preferable – but generally it is not feasible.

CLAIM FOR ENHANCEMENT OF COMPENSATION --- contd

- Civil court passes order / (award)under section 26 of the Act.
- Appeal to be preferred -obtaining Opinion of the G P – If enhancement is nominal - may be implemented informing the District Collector in writing.
- Appeal to High Court on orders of reference Court –to Supreme Court on the orders of High Court - in 90 days
- Careful in calculating **Decretal Charges**
 - No interest is allowed on Additional Market Value – Solatium
 - But Courts tend to allow – G P be consulted
 - Calculation as per the wording of the Decree
 - Some times Additional M V and interest are allowed for the same period..- against Law

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CLAIM FOR ENHANCEMENT OF COMPENSATION --- contd

- No interest / only **rent** to be considered nbif possession taken before D N
- Additional M V not allowed on the period covered by **court stays** between Date of D N / Date of Award/ possession taken.
- If decided not to prefer Appeal – be paid with out delay – otherwise Interest accrues.
- Reply statement be filed in time and the G P is pursued to for **early disposal** of O P
- Interest as per Act is **Simple Interest** – but not at Compound rate
- Amounts already paid to be **adjusted towards Principal**

SPECIAL ORDERS IN TAKING DECISION ON ORDERS OF CIVIL COURT – IRRIGATION DEPARTMENT

- District level Committee headed by J C to take decision to prefer Appeal / implement the Decree of Civil Court , when enhancement is $> 50\%$ and $< 100\%$
G O Ms No 34 Irri & CAD dated 8.3.2004.
- District Collector / Special Collector to take decision to prefer Appeal / implement the Decree of Civil Court, when enhancement is $> 100\%$ and $< 150\%$
G O Ms No 119 Irri & CAD dated 13-10-.2004.
- DLNC to entertain petition for settlement in pending O Ps – if come forward to accept 50% enhancement and to file joint statements in Civil Court after agreement is reached – certain restrictions – G O Ms No 45 Irri & CAD dated 15-03-2005

ACTION ON INTERIM ORDERS ISSUED IN APPEALS BY THE HON,BLE HIGH COURT

- Generally stay is granted on payment of Certain percentage of Enhanced Compensation / Compensation
- Amount to be deposited in Civil Court as per the wording in the interim orders
- If Orders there permitting the Claimants to receive the deposited amount - Petition be filed for setting a side such orders.
- Petition for Review / Appeal if any interim order against Law

REDETERMINATION OF COMPENSATION

– Section 28A

- Application to be made to L.A.O. within three months from the date of Civil court's Orders / Award
- Award should have been made by the court after section 28-A came into force. Act 68 / 1984 w e f 24.9.1984
- Applicant should have been a person interested in other lands covered by same Notification under section 4(1)
- Applicant should not have made application under section 18.
- Applicant to make only one application under section 28-A

REDETERMINATION OF COMPENSATION -- contd

- Section 28-A applies to **only civil court order** in O.P.---- does not apply to order of Appellate court i.e., High Court. --- First of the OPs covered by same DN
- Section 28-A application can be filed even when the amount of compensation was received without protest
- Enquiry to be conducted and an award made by determining the amount of compensation, taking into account the proximity, potentiality and utility of land. – **Not to blindly award as per the Orders of reference Court**
- Application under Section 18 can be filed on the award under section 28-A

OTHER ITEMS

- Post Award Action to be carried out – generally neglected – but it is absolutely necessary and the L A is not concluded without Post Award Action
- Only exgratia as per G O 1307 is entitled in case of Assigned Lands resumed for Public Purposes – Resumption be carried properly
- RESETTLEMENT AND REHABILITATION POLICY 2005 ANDHRA PRADESH ISSUED IN G.O.MS.NO.68 , IRRIGATION & CAD (PW) DEPARTMENT , DATED 08-04-2005 IS REQUIRED TO BE IMPLEMENTED
- The Land Acquired and possession taken shall not be re-conveyed- may be used for other Public Purposes or even auctioned and realised amount is used for welfare of the Public.

Thank You