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Acquisition



Shrinivas Rao,
CEO-Asia Pacific,
Vestian Global

Land acquisition is the act of acquiring land from private party for public purposes by a government in return for an agreed compensation. The government acquires land for urbanization, industrialization and infrastructure development for its own purpose as well as on behalf of private parties.

In India, land acquisition is governed by the Land Acquisition Act, 1894. This legislation enacted by the British Government was adopted by the Indian Government post-independence and continues to be effective to this day. Also, 'land' being a state subject,

each state has its own policy on land acquisition. In the past, the government continued to acquire land against the owner's wishes for public purposes under the powers of eminent domain.

However, in recent times, land owners have protested, sometimes violently, to such acquisitions. Farmers are citing loss of livelihood and insufficient compensation as the major reasons for their protests. In India, land acquisition and rehabilitation and resettlement are handled by two separate ministries. Several industrial and infrastructure projects have been affected due to land owners' opposition to acquisition.

The recent clearing of the land acquisition bill with the Union Cabinet proposes to give a much better deal, including higher compensation to landowners and sets the stage for radical overhaul of the 1894 act. The bill, among other things, makes it mandatory for private parties buying 50 acres in urban areas to file intimation with the district collectors on "the intent to buy the land, the purpose of purchase and the particulars of the land to be bought." The new bill would give enhanced compensation and relief and rehabilitation (R&R) package to displaced persons. The 'public purpose' has been tightly defined to curb whimsical acquisitions. Private companies would have to give R&R package even if they directly buy land from landowners, provided the area is over 50 acres in urban areas and 100 acres in rural areas.

Land Acquisition Bill, 2011

A new bill called as the 'Land Acquisition, Rehabilitation and Resettlement Bill, 2011 (LARR) has been proposed that intends to democratize the land acquisition process, trying to balance the need for industrialization with issue of livelihood. The new bill combines land acquisition with rehabilitation and resettlement.

The following are some of the key provisions of this Bill:

- The scope of public purpose includes strategic purposes (armed forces, national security), industrialization and infrastructure, rehabilitation and resettlement and private companies using land for public purposes.
- Land once acquired cannot be put to any other purpose other than public use ensuring that the land is not misused.
- The land would be returned to the original owner if not used within 5 years of acquisition
- In case of government acquiring land to be transferred to private companies, then at least 80% of the affected population must approve the acquisition
- Affected families include not only the land owners but also right holders under Forest Rights Act, 2006 as well as livelihood losers who depend on the land being acquired for their livelihood but do not own the land.
- The compensation package proposed accounts for the following factors for both rural and urban areas ensuring that the appreciated value of land is shared with the land owners:
 - ◆ Market value of land
 - ◆ Value of assets attached to the land
 - ◆ 100% of total compensation

As per this, the total compensation in rural areas would amount to four times the market value of the land at the time of acquisition and twice the market value at the time of acquisition in urban areas.

Additionally, the Bill is also set to ensure employment especially in rural India. Mandatory employment is

included to at least one member of the affected family as part of the resettlement and rehabilitation which is same as the previous Act. Secondary impact will be growth in employment due to development.

- The bill also includes an extensive rehabilitation and resettlement package which includes mandatory employment. Also, a fixed timeline is stipulated to disburse the same.
- In order to ensure better implementation of the resettlement and rehabilitation, the draft bill proposes to set up a national monitoring body which will be regularly updated by states.

In comparison to the Land Acquisition Act 1894 that did not address the prevailing conditions, this bill promises to live up to the expectations of India Inc. But LARR 2011 will be more suited to today's needs and is expected to make the process more transparent. This will reduce time spent in land acquisition however, the acquisition costs will increase. Land acquisition being the biggest bottleneck for all industrial and infrastructure projects in India and faster land acquisition will give impetus to growth.

The bill will help not only businesses to acquire land but also the government and contribute to the overall development of the country. All development projects like housing, industries, infrastructure etc. will be positively impacted by this bill.

The bill is still under discussion in the Parliament and is expected to bring in much required transparency in the functioning of the real estate sector and thereby ensure the timely completion of industrial and infrastructure projects. Once the bill comes into force, it will address the grievances of both farmers as well as the corporations/government. A win-win situation for both parties was the prime reason behind revising the bill. ■

Shrinivas Rao, the founding member of Vestian Global Workplace Services, is responsible for Vestian's growth and expansion in Asia Pacific. With over 20 years of experience in global real estate industry, he has assisted various Multinational Corporations with portfolio planning, strategic consulting, expansions/ relocation and project delivery in order to achieve their real estate goals in key Asian markets. His association with the industry dates back to the beginning of organized real estate consultancy in the country. He is also amongst the pioneers of professional real estate consulting services in India. In his previous engagements, He has successfully established UGL Equis' Asia Pacific operations and has held senior positions with Cushman & Wakefield and Colliers in India. He received his BE in Civil Engineering and MBA in Marketing and Finance.