

# The Land Acquisition Act 1894



# THE LAND ACQUISITION ACT, 1894

ACT NO.1 OF 1894

[AS ON 1955]

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:-

## PART I-PRELIMINARY

**1.Short title, extent and commencement:-** (1) This Act may be called the Land Acquisition Act, 1894 ;

(2) It extends to the whole of India except Part B States; and

(3) It shall come into force on the first day of March, 1894.

(Part I - Preliminary)

**2.[Repeal ]** Rep.party by the Repealing and Amending Act, 1914 (10 of 1914), s.3 and Sch.II, and partly by the Repealing Act, 1938 (1 of 1938), s.2and Sch.

**3.Definicion:-** In this Act, unless there is something repugnant in the subject or context,-

(a) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastended to anything attached to the earth;

(b) the expression " person interested" includes all persons claiming an interest in compensation to be made on accout of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the function of a Collector under this Act;

(d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the appropriate Government has appointed (as it is hereby empowered to do) a special judicial officer within any specifed lacial limits to perform the functions of the Court under this Act;

(e) the expression "Company" means a Company registered under the {See now the Indian Companies Act, 1913( 7 of 1913)} Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament {Ins.by the A.O.1950.} [ of the United Kingdom] or by an Indian law, or by Royal Charter or Letters Patent {Ins.by Act 17 of 1919, s.2.}[ and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912];

{Ins.by the A.O.1950.}[ (ee) the expression "appropriate Government" means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government].

(f)The expression " public purpose" includes the provision of village-sites In districts in which the appropriate Government shall have declared by notification in the Official Gazette that it is customary for the Government to make such provision; and

(g) the following persons shall be deemed persons "entitled to act" as and to the extent

hereinafter provided (that is to say)-

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, the same extent as the minors, lunatics or idiots themselves, if free from disability , could have acted:

Provided that-

(i) no person shall be deemed "entitled to act" whose interest in the subject- matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court , as the case may be , shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

(iii) the provisions of {See now the Code of Civil Procedure, 1908 (5 of 1908), Sch.I Order XXXII.} Chapter XXXI of the Code of Civil Procedure shall , mutatis mutandis, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and

(iv) no person "entitled to act" shall be competent to receive the compensation- money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase- many on a voluntary sale.

## **PART II-ACQUISITION**

### **Preliminary investigation**

{As to amendments with which this section should be read when land is required for the purposes of a Company, See s.38 (2) , infra.)

(A protected monument may be acquired under this Act as if its preservation were a "public purpose" within the meaning of the Act, see s.10 of the Ancient Monuments Preservation Act, 1904 (7 of 1904).} 4.Publication of preliminary notification and powers of officers of there upon:-

(1) Whenever it appears to the appropriate Government that land in any locality {Ins.by Act.38 of 1923, s.2.} [ is needed or ] is likely to be needed for any public purpose, a notification to that effect shall be published in the Official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen.-

to enter upon and survey and take levels of any land in such locality ;

to dig or bore into the subsoil ;

to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;

to mark such levels, boundaries and line by placing marks and cutting trenches' and.

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof ) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

**5.Payment for damage:-**The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue- officer of the district, and such decision shall be final.

[Objections {Ins.by s.3, ibid.}]

**5 A.Hearing of objections:-** (1) Any person interested in any land which has been notified under section 4, Sub-section (1) as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the appropriate Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections, The decision of the appropriate Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.]

Declaration of intended acquisition

**6.Declaration that land is required for a public purpose:-** (1) Subject to the provisions of Part VII of this Act , {Subs.by Act 38 of 1923, s.4.for "whenever it appears to the L.G."}[when the appropriate Government is satisfied, after considering the report, if any, made under section 5 A, sub-Section (2),] that any particular land is needed for public purpose or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders :

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2 ) The declaration shall be published in the Official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and , where a plan shall have been of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration , the appropriate

Government may acquire the land in manner hereinafter appearing.

**7. After declaration Collector to take order for acquisition:-** Whenever any shall have been so declared to be needed for a public purpose or for a Company the appropriate Government, or some officer authorised by the appropriate Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

**8. Land to be marked out, measured and planned:-** The Collector shall thereupon cause the land (unless it has been already marked out under section 4 ) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof , a plan to be made of the same.

**9. Notice to persons interested:-** (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interest in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interest in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (If any) of such land and on all such persons known or believed to be entitled to act for persons so interested as reside or have agents authorised to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the {See now the Indian Post Office Act, 1898 (6 of 1898).}

Indian Post Office Act, 1866.

**10. Power to require and enforce the making of statements as to names and interests:-** (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Enquiry into measurements, value and claims, and award by the Collector

**11. Enquiry and award by Collector:-** On the day so fixed, or any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8 , and into the value of the land {Ins. by Act 38 of 1923, s.5}[ at the date of the publication of the notification under section 4, sub-section (1)], and into the respective interests of the persons claiming the compensation and shall make an award under his hand of--

(i) the true area of the land ;

(ii) the compensation which in his opinion should be allowed for the land ; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him,

**12.Award of Collector when to be final:-** (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

**13.Adjournment of enquiry:-** The Collector may, for any cause he thinks fit from time to time adjourn the enquiry to a day to be fixed by him.

**14.Power to summon and enforce attendance of witnesses and production of documents:-** For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them ,and to compel the production of documents by the same means, and (so far as may be ) in the same manner, as is provided in the case of a Civil Court under the {See now the Code of Civil Procedure, 1908 (5 of 1908).} Code of Civil Procedure.

**15.Matters to be considered and neglected:-** In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

### **Taking possession**

**16.Power to take possession:-** When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

**17.Special powers in cases of urgency:-** (1) In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the appropriate Government enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances.

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hour's notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in cases, such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

{Ins.by Act 38 of 1923, s.6}(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1) or sub-section (2) are applicable, the appropriate Government may direct that the provisions of section 5A shall not apply, and, if it does not so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1).]

### **PART III-REFERENCE TO COURT AND PROCEDURE THEREON**

**18.Reference to Court:-** (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the appropriate of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,---

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

**19.Collectors statement to the Court:-** (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,---

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid for tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

**20.Service of notice:-** The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:---

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

**21.Restriction on scope of proceedings:-** The scope of the inquiry in every such proceedings shall be restricted to a consideration of the interests of the persons affected by the objection.

**22.Proceedings to be in open Court:-** Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the State shall be entitled to appear, and act (as the case may be) in such proceeding.

**23.Matters to be considered in determining compensation:-** (1) In determining the amount of compensation to be awarded for land acquired under this Act, the court shall take into consideration---

first, the market-value of the land at the date of the publication of the {Subs, by Act 38 of 1923, s.7, for "declaration relating thereto under s.6."} [notification under section 4, sub-section (1)];

secondly, the damage by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land; and, by the reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if in the consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land as above provided the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

**Comment:** "It is settled law that the burden of proof of market value prevailing as on the date of publication of Section 4(1) notification is always on the claimants. Though this Court has time and again pointed out the apathy and blatant lapse on the part of the acquiring officer to adduce evidence and also improper or ineffective or lack of interest on the part of the counsel for the State to cross-examine the witnesses on material facts, it is the duty of the Court to carefully scrutinise the evidence and determine just and adequate compensation. If the sale deeds are found to be genuine, the market value mentioned therein must be presumed to be correct. If the genuineness is doubted, it cannot be relied upon, Proper tests and principles laid down by this Court must be applied to determine compensation." *Hookiyar Singh v. Special Land Acquisition Officer, Moradabad AIR 1996 SUPREME*

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**24. Matters to be neglected in determining compensation:-** But the Court shall not take into consideration---

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him, if caused by a private person, would not render such persons liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquires will be put; or

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the {Subs, by Act 38 of 1923, s.8, for "declaration under s.6. "[notification under section 4, sub-section (1)].

**25. Rules as to amount of compensation:-** (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) when the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not less than, and may exceed, the amount awarded by the Collector.

**(S.26 was re-numbered as sub-section (1) of that section by Act 19 of 1921.s.2.)[26. Form of awards:- (1)]** Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

{Ins. by s.2, Act 19 of 1921.}[(2) every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgement within the meaning of section 2, clause (2) and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908.]

**27. Costs:-** (1) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

**28. Collector may be directed to pay interest on excess compensation:-** If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum from the date on which he took possession of the land to the date of payment of such excess into Court.

#### **PART IV-APPORTIONMENT OF COMPENSATION**

**29. Particulars of apportionment to be specified :-** Where there are several persons interested, if such persons agree in the apportionment of the Compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

**30. Disputes as to apportionment:-** When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

#### **PART V**

##### **PAYMENT**

**31. Payment of compensation or deposit of same in Court:-** (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted;

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the appropriate Government instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and (As to persons who are competent to contract, see s.11 of the Indian Contract Act, 1872 (9 of 1872).) competent to contract in respect thereof.

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