



## ANALYSIS OF APPLICATION OF PROVISIONS OF THE RFCTLARR ACT, 2013 “RETROSPECTIVELY”

Dr. Runa Mehta Thakur (Prof. HP University )& Swati Sahotra (PhD Research Scholar)

---

### ABSTRACT

*The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into being by repealing the former Land Acquisition Act, 1894. When the New Act of 2013 received the presidential nod, there were many unresolved issues. The New Act of 2013's Section 24(2)'s operation is one of the areas where there are uncertainties. The aforementioned clause states that fresh land acquisition proceedings under the New Act of 2013 must be started following those under the LA Act 1894 if real possession of the land has not been taken or if compensation has not been paid five years after an award has been made. According to the aforementioned provision, if no physical possession of the land has been taken or if compensation has not been paid five years after an award has been made under Section 11 of the LA Act 1894, new land acquisition proceedings under the New Act of 2013 must be conducted after those under the LA Act 1894. In essence, this provision makes the New Act applicable retrospectively in that regard, and uncertainty arose as to how the said provision would operate in the current situation when so many LA proposals are in the middle of being implemented. Due to the possibility of lower payouts and the absence of R&R, everyone wants to close the LA Case under the Old Act.*

**KEYWORDS:** *Land Acquisition, Retrospective, compensation, rehabilitation, resettlement, retrospective.*

### INTRODUCTION:

India is a developing nation, thus it faces many obstacles on the road to economic progress that must be overcome in order to uphold the social justice that is guaranteed to all under our constitution, as well as environmental protection, political issues, and, most importantly, the rule of law. The government must purchase property for a variety of industrial and infrastructure development projects in order to promote economic growth.



Maintaining a balance between economic growth and protecting people's legal and constitutional rights is extremely challenging. When we talk about land, which is regarded as the primary source for all developmental activities as well as the basis for an individual's history, culture, and sense of self.<sup>1</sup> Despite this, there are a number of land disputes in India disputing the technique, intent, and various other aspects of land acquisition. Due to the eminent domain concept being introduced into our legal system, the government of India has extensive ability to acquire land for public purpose, which can be used by the government to address public requirements.<sup>2</sup>

### **Retrospective Applicability of LARR Act, 2013:**

The Land Acquisition Act of 1894 is a long-standing law, however it does not effectively safeguard the public's interests. This Act has a number of flaws, including coercive and forcible acquisition, no provisions for the rehabilitation and resettlement of affected parties, and years of vacant use of the seized land. Due to these flaws, it was necessary to replace this law with one that was fair and transparent, which was accomplished by passing the RFLARR Act in 2013. According to the new act's purposes, clause 18, benefits of the new act will be granted in situations where an award has not yet been made or possession has not yet been taken, making it clear that the new act's goal is to offer helpful provisions to people who are experiencing delays.<sup>3</sup> Therefore, the new Act of 2013 is established in response to the evolving situation and public demand. Section 24 was added to the new Act in order to address issues with the earlier, under British administration, Old Act of 1894.<sup>4</sup> If an award has not been passed prior to the start of the 2013 Act, Section 24 states that the requirements of the new Act shall apply.<sup>5</sup> Despite the

---

<sup>1</sup>NamitaWahi&Ankit Bhatia et.al., "Land Acquisition in India: A Review of Supreme Court Cases," 8 (Centre for Policy Research, New Delhi, 2017)

<sup>2</sup>Nicholas K. Tagliarino, "Encroaching on land and Livelihoods: How National Expropriation Laws measure up against International Standards," *World Resources Institute*, 1 (2016)

<sup>3</sup>*RamjiVeerji Patel &Ors. v. Revenue Divisional Officer&Ors MANU/SC/1288/2011*

<sup>4</sup>SiddharthBatrat, "The undoing of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" Available at: <https://www.sconline.com/blog/post/2021/03/31/the-undoing-of-section-24-of-the-right-to-fair-compensation-and-transparency-in-land-acquisition-rehabilitation-and-resettlement-act-2013/> (Visited on November 15, 2021)

<sup>5</sup>SiddharthBatrat, "The undoing of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" Available at:



fact that an award has been granted, if the compensation for the bulk of land holdings has not yet been deposited, the land acquisition proceeding will be considered to have expired and new acquisition proceedings will be initiated.<sup>6</sup> Even though the award was made more than five years before the Act of 2013 took effect, this is still the situation and possession of compensation has not been made within that time. Due to the varying interpretations of this Section by the judiciary, several questions have been raised. This Section's literal interpretation adds to the application's complexity. To prevent absurdity and an increase in the number of lawsuits pertaining to the applicability of the LARR Act, 2013, several terminology must be properly interpreted. The initial concern with compensation was how to interpret the term "paid" as employed in Section 24, where the issue is whether or not the deposit of money in court constitutes payment of compensation. The SC initially interprets this to mean that a treasury payment won't count as payment. The second concern that came up was how to interpret the phrase "taking possession," and it was unclear whether possession meant having something in your physical possession or just having it mentioned in an official document like an inquest report or memorandum (rapatroznamcha).<sup>7</sup>

**Legislative provision under RFCTLARR Act, 2013 regarding retrospective applicability:**

The majority of court proceedings are based on this new Act's clause. It has to do with how this Act will be applied in the past. The lawmakers included this clause with the goal of ensuring that justice is not denied to wider segments of society. People were dealing with outdated laws that did not offer the protection provided by the new Act of 2013, as the old Act of 1894 has many flaws and cannot meet the needs of modern society. In order to defend against the applicability of certain sections to the old act in certain circumstances, this provision was added to the new Act of 2013.

---

<https://www.scconline.com/blog/post/2021/03/31/the-undoing-of-section-24-of-the-right-to-fair-compensation-and-transparency-in-land-acquisition-rehabilitation-and-resettlement-act-2013/> (Visited on November 15, 2021)

<sup>6</sup>Ibid, S. 24 (1) (iii) & (iv)

<sup>7</sup>Superanote-4



- The provisions of the New Act of 2013 relating to the determination of compensation shall apply if an award is not made in accordance with the Act of 1894.<sup>8</sup>
- If an award has been given in accordance with Section 11 of the Act of 1894, the Act must be treated as if it had not been repealed in all proceedings under that Act. In this circumstance, the provision of this Act shall not apply.<sup>9</sup>
- If an award is made but actual possession of the land is not taken, the provisions of the New Act of 2013 are applicable. If the award was made at least five years prior to the Act's commencement date (1 January 2014), but real possession of the land has not been obtained or compensation has not been paid, this is the case. The land acquisition proceedings under the 1894 Act will be judged to have ended in these situations. In fact, if compensation for the majority of the beneficiaries' holdings of land has not yet been placed in their accounts, all beneficiaries who are identified in the notification for acquisition under Section 4 of 1894 will be entitled to compensation in line with the terms of this Act..<sup>10</sup>

#### Judicial Attitude:

The first case in this area is ***Pune Municipal Corporation vs. Harakchand Solanki***<sup>11</sup> by SLP 18 appeals, in which it was disputed how to interpret the phrase "compensation has not been paid" because it was contended that in these cases, land acquisition proceedings had already expired because compensation had not been paid. The Pune Municipal Corporation purchased land for a "forest garden" Awards have been made in these instances, and a period of five or more years has passed, but the applicants have refused to accept the compensation. The Pune Municipal Corporation claims that because they put the compensation in the Treasury, they had already paid it. Following the announcement of this judgement, several other judgments that took into account a similar SC viewpoint. The SC ordered the return of the land to the original owners in ***Shiv Raj v. UOI***<sup>12</sup> despite the fact

---

<sup>8</sup>S.24 (1) (a) of *RFCTLARR Act, 2013*

<sup>9</sup>*Ibid*, S.24 (1) (b)

<sup>10</sup>*Id*, 1<sup>st</sup> Proviso to S.24 (2)

<sup>11</sup>(2014) 3 SCC 183

<sup>12</sup>(2014) 6 SCC 564



that the original owners had been fighting for the past 20 years. The Delhi High Court has likewise adopted this tendency in a number of decisions. In the case of *Jagjit Singh v. UOI*<sup>13</sup>, a number of writ petitions are submitted to the court arguing that the 2013 RFTCLARR Act's interpretation of Section 24(2) caused the acquisition of their lands to expire. All three conditions for triggering Section 24(2) have been met in these circumstances. The following periods are excluded from the computation of the five-year period:

- Any period of stay or injunction granted by a court;
- Any period indicated in a tribunal's award for taking possession;
- Any period during which compensation is deposited with a court.

Due to the parties' compliance with the criteria of section 24 (2) of the 2013 Act, the Delhi High Court dismissed the Delhi Development Authority's pending acquisition cases. In *Bharat Kumar v. State of Haryana*<sup>14</sup>, The appellant made two arguments in a writ petition filed before the High Court of Haryana: first, that the acquiring authority had not followed the Land Acquisition Act, 1894's Section 5A procedure; and second, that the acquired land had been developed and should, therefore, be released in the appellant's favour since the other portion of the land had been given to the land owners. The requested relief was turned down. The Supreme Court ruled in another case following its ruling in the case of the Pune Municipal Corporation that, in light of Section 24(2) of the RFTCLARR Act 2013, the Land Acquisition Collector's award should be revoked because the land had not been physically taken into possession and because the compensation had not yet been paid.. When approving the appeal, the Court stated that the aforementioned provision was considered to be directly applicable to the appellant's situation and that the appeal was thus permitted. According to the ruling in *M/s Radiance Fincap (p) Ltd. &ors vs. UOI &Ors*<sup>15</sup>, The second clause included by the law is prospective in nature and is not permitted to violate the petitioners' rights. The court ruled that the privilege provided to landowners under Statute 24(2) of the Act is a statutory right and cannot be revoked by an ordinance or by amending the section to add a proviso.

---

<sup>13</sup>211 (2014) DLT 15

<sup>14</sup>Civil Appeal No. 1971 of 2014

<sup>15</sup>CA 4283/2013 decided on 12, 2015



In the case of **Delhi Development Authority Vs Sukhbir Singh and ors**<sup>16</sup> By notifying and declaring, large swaths of land were seized in and around Delhi for development reasons. A Panchanama took ownership of the acquired land, which is an open area, in January 2002 after the LAC issued the judgement in December 1997. Due to a disagreement about compensation eligibility, no compensation could be given. The respondents requested in a writ petition that the High Court dismiss the land acquisition case after the RFCTLARR Act of 2013 was passed because no compensation had been paid and control of the land had not yet been taken. The High Court cited the Pune MC case ruling in holding that all the conditions of section 24(2) were met in this instance, making the proceedings presumed to have expired. The DDA appealed this ruling to the Supreme Court after being upset by it. Both the compensation paid and the possession have not been taken by the acquiring authority, according to the SC, which supported the decision of the HC. The compensation is supposed to be paid at the time the award is made, but DDA wasn't prepared to do so. However, the compensation was deposited with the Land Acquisition Collector in 2002, five years after the award was granted, and the LAC made no attempt to pay the cash to the landowners as well, as required by the laws. Only after the 2013 statute was passed can compensation be lodged by making a court application. In this situation, the land cannot be taken into ownership even after 40 years, from 1961 to 2000, and no compensation has been given for it. When the notification for acquiring land was made under the old act of 1894, the judiciary was asked to decide whether the date of the money's deposit into the Treasury as instructed by the Collector or under the new legislation of 2013 should be used to assess the market value of the land. The compensation was mandated by the court to be decided in accordance with the new laws because the deposit of funds into the Treasury was deemed invalid.<sup>17</sup> Where the Ministry of Road, Transport, and Highways, New Delhi, purchased land to widen the 4-lane. It was asserted that although the award had been made on November 20, 2014, payment had just been made on May 1, 2015. The assessment of compensation under the old statute or under section 24 of the new act was the issue that was before the court. The court determined that because the petitioners had not received

---

<sup>16</sup>MANU/SC/0986/2016

<sup>17</sup>Prahlad Singh &Ors. V. State of UP Writ C. No. 15804 of 2016



compensation before 2014, section 24 of the 2013 Act applied, and the compensation was ordered to be given in accordance with its requirements.<sup>18</sup> Therefore, if the award was made prior to 1.1.2014, the provision of Section 24 of the RFCTLARR Act, 2013 was applied while calculating the compensation.<sup>19</sup>

According to section 24 of the Land Acquisition Act of 1894, which was contested in the lower court, the Aligarh Development Authority acquired the land in **Aligarh Development Authority v. Megh Singh**<sup>20</sup>. On the grounds that possession of the land was acquired and money was deposited with the Land Acquisition officer, the appeal was brought before the High Court. The land purchase notices, however, were revoked by the HC because no award was made after the four-year period had expired despite the emergency being declared. The Supreme Court received an appeal from the Aligarh Development Authority. . While the appeal was pending, the landowner filed I.A. NO. 3/2015 claiming that the acquisition proceedings had expired due to compensation and that the land acquisition officer had not taken possession of the property in accordance with section 24 of the LARR Act, 2013, to which the authority responded that possession had been taken, a colony had been developed, and the compensation had been deposited in the Land Acquisition Collector. Section 24 of the 2013 Act specifies two basic situations: first, if the land acquisition process is started under the old act but an award is not made, in such cases the land acquisition process will proceed in accordance with the old act's provisions but the compensation-related provisions of the new act of 2013 will apply; and second, if possession and compensation have not been made but the award has been passed. The third incidental circumstance, however, in which only the payment and possession have not been undertaken while the award passed prior to the enforcement of 2013 within a period of 5 years prior to 2013 Act, is also prescribed by Section 24's provisions. In such cases, only the land acquisition proceedings will expire. It was determined that the land acquisition action and award in the current instance were made in accordance with the provisions of the 2013 Act because the award had not yet been passed. According to Sc, the Authority's

<sup>18</sup>Vikas Construction Company v. UOI CWP No. 11688 of 2016

<sup>19</sup>Mania Devi v. UOI CW Case No. 14357 of 2017

<sup>20</sup>AIR 2016 SC 2912 : (2016) 116 ALR 863 : (2016) 162 AIC 58



decision to deposit 80% of the compensation with the LAC was incorrect since, because land acquisition was made compulsorily, the strategy should be to "go and give" rather than "come and get." In the case of ***Special Land Acquisition Officer v. Anusuya Bai***<sup>21</sup>, land was purchased for development under the Karnataka Industrial Areas Development Act, but compensation was not given within the time frame required under the Land Acquisition Act of 1894. Consequently, the High Court quashed the land acquisition proceedings. The Supreme Court overturned the HC's ruling, ruling that the Karnataka Industrial Areas Development Act is a self-contained act and that the central act is not supplemental to it. Accordingly, when provisions from a previous act are incorporated into a subsequent act, those borrowed provisions become the crucial and self-governing portion of the subsequent act, and they are unaffected by any repeal or amendment in the previous Act.

***Indore Development Authority vs. Manoharlal&Ors.***<sup>22</sup>The interpretation of section 24 (2) of the RFCTLARR Act, 2013, was the issue up for debate before the bench of five judges in this case. According to the court, the RFCTLARR Act, 2013, which is prospective in its application and superseded the 120-year-old Land Acquisition Act 1894, is subject to the provisions set forth in section 24 of this Act. The court ruled that section 24 applies to proceedings that are open as of the effective date of the RFCTLARR Act, 2013, or 1.01.2014. The addition of Section 24 does not, however, reopen previously closed cases or time-barred claims, nor does it give landowners the right to contest land acquisition processes. The acquisition shall be deemed to have expired if neither possession nor compensation has been acquired, according to the court, which held that the term "or" in Section 24 (2) should be construed as "and." If section 24(2) processes do not expire, the provision stating that compensation for the majority of land holdings has not been paid will be read. This judgment's interpretation of the phrase "paid," which held a deposition of money in the court or treasury, is another significant advance. A memorandum or inquest report must also be drawn out in order to take ownership. The court concluded that the time of interim orders passed during the computation of the five-year period under Section 24 should be disregarded. The most significant changes in this case are:

---

<sup>21</sup>Latest Cases: Civil, e-Newsletter 02 CJA Feb. 2017

<sup>22</sup>(2020) 8 SCC 129





- 1)** There is no lapse in proceedings under Section 24 (1) (a) if the ward is not made by January 1, 2014, the Act's effective date, and compensation must be decided in line with the criteria of the RFCTLARR Act, 2013.
- 2)** The proceedings must proceed in accordance with Section 24 (1) (b) of the 2013 Act as if the 1894 Act had not been repealed if the award was made within the window period of 5 years following the excluding the term of the court's temporary order.
- 3)** In accordance with Section 24(2), the word "or," which is used to distinguish between ownership and compensation, must be interpreted as "nor" or "and," meaning that there is no lapse if possession of the land has been acquired but no compensation has been given. If compensation has been paid and possession has not been taken, there most likely hasn't been a lapse. As a result of authorities' inaction for at least five years previous to the Act's beginning, proceedings are judged to have expired.
- 4)** The term "paid" held not understood to include the deposit of compensation in court. This is the next significant development in this case. In the event that no deposit is made, the landowners will be entitled to compensation under the 2013 Act, according to the proviso to Section 24(2). Land acquisition proceedings do not end if compensation is not deposited (in court). In accordance with the Act of 2013, compensation must be granted to "landowners" as of the date of notification for land acquisition under Section if there has been a five-year or longer period of non-deposit with respect to the majority of holdings.
- 5)** Once the compensation has been submitted under Section 31(1) of the 1894 Act, it is not permissible to allege lapse of acquisition under Section 24(2) due to non-payment or non-deposit of the compensation (1). Under section 24(2) of the 2013 Act, it is not permissible to assert that the land purchase had expired due to a refusal to accept compensation or a request for higher compensation.
- 6)** The 2013 Act's proviso to Section 24(2) should be regarded as a component of Section 24(2) rather than Section 24(1). (b).
- 7)** According to the Act of 1894 and Section 24(2), possession may be obtained by drawing an inquest report or memorandum. Once the award has been granted upon taking possession under Section 16 of the Act of 1894, there is no divesting provision under Section



24(2) of the Act of 2013, as there is no lapse under Section 24 once possession has been taken (2).

8) When calculating the five-year timeframe, interim orders issued by the court must be taken into account.

9) The Section 24 provision is applied to cases that are still in progress on January 1, 2014, the date the 2013 Act took effect. Therefore, challenging the validity of completed land acquisition processes doesn't result in a new cause of action. Landowners are not permitted to challenge the legality of the process used to take possession in order to reopen proceedings or the process used to cancel acquisition by putting compensation in the Treasury rather than going to court. It also does not resurrect stale and time-barred claims or reopen concluded processes.

As per *Delhi Development Authority Vs Godfrey Phillips (i) Ltd. & Ors.*<sup>23</sup> According to the RFCTLARR Act, 2013, the proceedings of land acquisition are terminated if two requirements are met:

- 1) Possession was not taken, and/or no money was exchanged for it.
- 2) The purchaser does not have the right to assert that the acquisition proceedings have expired in these circumstances.

Because the original landowner in the current case did not raise any objections pursuant to Section 5A of the Act, the buyer is not entitled to the same redress that the original landowner was. Last but not least, it may be inferred from the Act of 2013's provision on retrospective applicability that this provision gave life to the right of the people whose land was forcefully stolen by the government but was never used for the reason for which it was taken. However, there have been other instances where there has been disagreement about how to interpret certain phrases, such as the words "or" and "paid" in the Section, when it comes to the retrospective application of the Act. The purpose of including this clause is to correct the injustice in the distribution of compensation because certain people aren't receiving it. The people whose compensation is put in the treasury by the acquiring authority rather than being paid to them have been shut out by the phrase "paid" holding

---

<sup>23</sup>2022 SC Live Law 476



that payment in place. The benefit of Section 24(2) will not be available to a person if one of the conditions is not met, as the word "or" has been ruled to be read as and.

**Conclusion:**

Based on the brief study, it can be concluded that the retrospective application of the Act of 2013 as provided under the RFCTLARR Act, 2013 played a significant role in ensuring that people received justice as the provisions gave life to the rights of those whose land had been compulsorily acquired by the government, but the land had not been used for the purpose it was acquired for or achieved the object of acquisition, despite the interpretation being to the contrary. Section 24 also attempted to address the error in the payment of compensation since some persons were denied it because it has been decided that a contribution made to the Treasury will be considered to be "paid." The determination that a payment made to the Treasury will be considered "paid" has, however, rendered this impossible. The word "or" in Section 24(2) must be interpreted as "and" since, in essence, even if one of the conditions—taking possession of property "or" paying compensation—is satisfied, a person will not benefit from Section 24(2).