



SC Order on Land Acquisition

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Why in News

Recently, the **Supreme Court of India** reaffirmed its February 2018 ruling on **Section 24 on land acquisition compensation awards** in the Indore Development Authority case.

The five-judge Bench also overruled an earlier 2014 ruling under the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013**.

Background

- The **2013 Act replaced the Land Acquisition Act, 1894 (1894 Act)** and provides for higher compensation to those deprived of land by the government for both public and private sector projects.
 - It also mandates consent of a majority of land-owners and contains provisions for rehabilitation and resettlement.
- Under **Section 24(2) of the 2013 Act**, land acquisition made under the old law of 1894 lapses if the award of **compensation had been made five years before the new Act** came into force, but **has not been paid**.
 - In such situations, the process will start afresh under the new Act, which **mandates higher compensation**.
- However, there are cases of farmers and landowners refusing compensation which delays the possession by the government.
 - In such cases, the compensation is deposited in the government treasury and according to one interpretation, the acquisition process is saved.
 - This interpretation has been contended on the basis that such cases will fall under the new Act because compensation has not been paid to the landowners, and the lapsing clause in Section 24 should be applied.

- If a long-pending land acquisition process closes under the old law and fresh acquisition proceedings start under the new one, the land-owners will benefit and project proponents will have to pay higher compensation.
- In the **Pune Municipal Corporation vs Harakchand Misirimal Solanki case 2014**, a **three-judge bench** held that acquisition proceedings initiated under the 1894 Act, which were initiated five years before the 2013 law was enacted (in 2014), would lapse if the land in question was not taken control of or if compensation was not paid to displaced farmers.

The judgment came as a **relief for landowners**.

- However, in the **Indore Development Authority vs Shailendra (D) Through LRS & Ors case 2018**, another three-judge bench **declared the 2014 judgment “per incuriam”**.
 - It held that if a landowner refuses to accept the compensation offered by the developer, they cannot take advantage of their own wrongdoing and have the acquisition proceedings lapse under the old law.
 - This judgement was a **relief for developers**.

Per Incuriam

- It literally translates as "through lack of care".
- A judgment can be declared per incuriam if it does not follow a statutory provision or a binding precedent that may have been relevant.
- Such judgments can be declared to be without any legal force and are not treated as a valid precedent.

Key Points

- In the latest ruling, the Bench was interpreting **Section 24 (2)** of the 2013 Act.
- The provision said that **if the physical possession of land has not been taken or the compensation is not paid for five or more years** prior to 1st January 2014, the acquisition proceeding is **“deemed to have lapsed”**.
- The judgment said that the **compensation would be considered paid** if the amount is put in the Treasury.
 - There was no obligation that the amount should be deposited in the court in order to sustain the land acquisition proceedings.
- Thus, there is **no lapse if** possession has been taken and compensation has not been paid. Similarly, there is no lapse if compensation has been paid and possession not taken of the land.
- Further, it was also held that Section 24(2) of the 2013 Act **does not give rise to a new cause of action to question the legality of concluded proceedings** of land acquisition.

Source: TH