

Understanding The Legal Issues Surrounding Land Acquisition For Power Projects In India

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Introduction

India, an agrarian economy transitioning into an industrial powerhouse, is at a crossroads where development and land rights intersect. With a history deeply rooted in agriculture, land holds immense value for Indian families, often forming the bedrock of their livelihoods. However, the nation's imperfect land registry system and the intricate web of familial relationships – where multiple generations often co-own a property, a cornerstone of Indian society - have contributed to disputes over land ownership and sales. This complexity is further magnified when it comes to land acquisition for power projects.

Amidst this quest for greener energy, the intricate legal and bureaucratic landscape of land acquisition has emerged as a formidable challenge. Recent court directives and policy analyses shed light on the hurdles that renewable energy projects face in acquiring land. This article explores the implications of recent developments, legal judgments, and underlying challenges in land acquisition for renewable energy ventures in India.

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Land Acquisition Laws and their Implications

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the "Act"), enacted by the Indian Government, plays a crucial role in shaping land acquisition practices. The Act aims to streamline the process of acquiring land for public purposes, particularly for infrastructure and industrial projects. It mandates transparency and fairness, emphasizing fair compensation and rehabilitation for affected individuals. The Act also provides for the rehabilitation of affected communities, encompassing employment opportunities, housing provisions, and other forms of support.

Recent Court Directives and Legal Judgments

In a recent turn of events on July 26, 2023, the Hon'ble Bombay High Court issued a directive to the Maharashtra State Government, ordering compensation for farmers whose lands were acquired for various infrastructure projects in 2017. The Hon'ble High Court underscored the need for adequate compensation to avoid stirring anti-state sentiments among farmers and to deter potential protests[1]. Its mandate includes a timeline for compensation disbursement based on different circumstances, urging swift action[2].

In another noteworthy ruling, the Hon'ble Supreme Court of India[3] clarified that only the original landowner possesses the legal standing to challenge land acquisition processes. The court's decision emphasized that individuals who acquired land post-acquisition lack the right to challenge the process. This judgment draws from pivotal cases like Shiv Kumar & Anr V. Union of India & Ors and Delhi Development Authority V. Godfrey Phillips[4], highlighting the significance of previous ownership in legal challenges to land acquisition.

Key Factors leading to Project Delays: -

1. **Inefficient Land Records Maintenance:** Land ownership intricacies in India are often defined by government survey records, revenue records, and registered sale deeds. The prevalence of unclear property records, compounded by rural legal knowledge gaps, has led to disputes and legal conflicts, significantly impacting renewable energy projects. This imperfect system has also sowed the seeds for legal conflicts involving extended family, as families grapple over rightful ownership due to historical discrepancies.
 - **Lack of Land Allocation Policies:** Certain states lack formal policies for land allocation, impeding the potential for solar and wind projects. For instance, regions like Rajasthan and Jammu and Kashmir possess vast expanses of wasteland that could be harnessed for renewable projects, but the absence of explicit land allocation policies hampers progress. Only four states - Rajasthan, Madhya Pradesh, Maharashtra and Gujarat - have formulated suitable policies for government land allocation in terms of renewable projects.
 - **Government Land Allotment Delays:** Solar Park projects under the ISTS (Inter-State Transmission System) often face delays due to inadequate land acquisition processes prior to project auctions. Such haste results in infrastructure unpreparedness and delays in project development even after allocation.
 - **Digitization of Land Records:** The absence of digitized land records

complicates the ownership verification process. Embracing digital solutions can modernize land records, mitigate property disputes and expedite land acquisition procedures.

Conclusion

The Act has introduced significant changes to the land acquisition landscape, offering greater protection to landowners and affected individuals. Nevertheless, it is evident that further reforms are essential to ensure fairness and transparency in the land acquisition process. Renewable energy projects, pivotal for India's sustainable future, must overcome the challenges stemming from inefficient land records, policy gaps, and procedural delays. Embracing technological advancements and refining legal mechanisms will be key to harnessing renewable energy's potential while respecting landowners' rights and local communities' needs. As India strides towards a greener energy landscape, the fusion of legal reforms and efficient land acquisition processes will be pivotal in driving sustainable development.

FAQs

What are the benefits of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013?

It provides benefits like increased compensation, fair compensation, rehabilitation, transparency, and the protection of community rights.

What is the process for the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013?

It includes several steps like social impact assessment, environmental impact assessment where necessary, public consultation, and fair compensation.

Who is responsible for implementing the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013?

The responsibility for implementing the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 lies with the state. It is required to follow the guidelines set out in the law when acquiring land for public purposes.

[1] Vasudeo Sonu Patil v. State of Maharashtra, 2023 SCC OnLine Bom1437.

[2] <https://mahakhanij.maharashtra.gov.in/government-resolution.aspx>

[3] Government of NCT of Delhi and Anr. M/S Beads Properties Pvt Ltd & Ors. Civil Appeal No 1522 of 2023.

[4] Delhi Development Authority V. Godfrey Phillips, Civil Appeal No 3073 of 2022.