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Uniform norms for acquiring land: The Economic Times

Raghav Chandra, Aug 16, 2006, 12.00am IST

One problem that impedes infrastructure development is the difficulty in acquiring land. Apart from issues of displacement, valuation, compensation, and even propriety, in India, zameen is perceived as a source of dispute, rarely as a tradable economic asset.

One of the key issues in land acquisition is the issue of valuation. Section 23 of the Land Acquisition Act, 1894, stipulates that compensation should be awarded based on the market value of the land on the date of Section 4 notification.

However, the methodology for fixing market value varies from state to state. Sometimes it is based on sales in the previous year, sometimes the average of several years. In one case, because construction of a dam was pending for several decades, no sales, whatsoever, of land in the villages to be submerged (and therefore acquired) had taken place.

This resulted in a market-failure! As a result, the rates of compensation worked out to very low levels. Sales in the same village could be taken as benchmark, or more villages could be included. Sometimes, the guidelines rates fixed by the registrar of stamps are the basis. Often only the current use of the land is considered; sometimes its prospective use is also considered to determine market value. Clearly there is no uniformity.

The Supreme Court in Jawajee Nagnatham vs RDO, Adilabad, 1994, has clarified that the collector guidelines are only for the purpose of stamp duty and not for determining market value. There is case law to indicate reasonable factors to bear in mind while determining market value-average sale rates, benchmarking, discounted cash flows based profitability. However, the wording offers little comfort in the absence of nationally recognised policy and rule making.

The Bangalore-Mysore Expressway Corridor and the Reliance-Haryana SEZ in Gurgaon are fresh in the mind. In both cases there is concern over the rates of compensation to farmers, and hefty profits to private promoters.

Not incorrectly, especially in the first case, since excessive and advance compulsory acquisition robs the farmer of the benefits of market-price discovery. Also, such controversy is traumatic for the private infrastructure developer who couldn't have anticipated the afterthought by the state government.

States have Town Planning Acts; development authorities (DAs) arbitrarily notify huge swathes of land for acquisition for future development schemes. Little effort is made to implement the actual acquisition process, which has to be carried out only under the LA Act. And completed in two years.