

(2024) 01 KL CK 0039

In the High Court Of Kerala

Case No : Writ Petition (C) Nos.29569 Of 2021 & 2945 Of 2022

C. Lajith

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 05-01-2024

Acts Referred:

Constitution of India, 1950 — Article 300A

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 4, 4(1), 4(5), 4(6), 7, 7(2), 7(2)(b), 7(4), 8, 10A, 11, 11(1), 15, 15(1), 15(2), 109

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement and Development Plan) Rules, 2015 — Rule 5, 5(3), 6, 6(2), 12, 12(4), 18, 18(1)

Citation : (2024) 01 KL CK 0039

Hon'ble Judges : T.R.Ravi, J

Bench : Single Bench

Advocate : P.A.Mohammed Shah, Muhammed Janaise V., Renoy Vincent, Aswin Kumar M J, Helen P.A., Arun Roy, Shahir Showkath Ali, K.V.Manoj Kumar, C.S.Sheerja

Final Decision : Partly Allowed

Judgement

T.R.Ravi, J.

WP(C)No.2945 of 2022

1. The writ petition has been filed with the following prayers;

(i) To declare that Rule 18(1) RCTLARR (Kerala) Rules, 2015 limiting the time period for filing objection to 15 days as against 60 days as stipulated under Section 15 of the Fair Compensation Act is ultra vires to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(ii) To declare that the Form Nos. 7 and 7A issued by the 1st Respondent under Rule 18(1) of the RCTLARR (Kerala) Rules, 2015 limiting the time period for filing

objection to 15 days as against 60 days as stipulated under Section 15 of the Fair Compensation Act, is ultra vires to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(iii) Issue a writ of certiorari or any other appropriate writ, order or direction quashing Exhibit P14 series orders passed by the 4th Respondent; and

(iv) Issue a writ of certiorari or any other appropriate writ, order or direction quashing Exhibit P5 Report submitted under Section 4 of the Fair Compensation Act; and

(v) Issue a writ of certiorari or any other appropriate writ, order or direction quashing Exhibit-P6 submitted under Section 7 of the Fair Compensation Act; and

(vi) Issue a writ of certiorari or any other appropriate writ, order or direction quashing Exhibit-P7 Government Order issued by the 1st Respondent under Section 8 of the Fair Compensation Act; and

(vii) Issue a writ of certiorari or any other appropriate writ, order or direction quashing Exhibit P9 Notification issued by the r respondent issued under Section 11 of the Fair Compensation Act; and

(viii) Issue a writ of mandamus or any other appropriate writ order or direction directing the Respondents 1 to 5 to consider Exhibit P3 proposal submitted by the Petitioners and others in the locality and make consequential modifications; and Grant such other and incidental reliefs as this Hon'ble Court may deem fit, just and necessary in the peculiar facts and circumstances of the case; and

(ix) To allow the Writ Petition (Civil) with costs to the Petitioners.

2. The petitioners' case is as follows;

3. The petitioners owned properties, buildings and businesses at Puthiyatheru, about 4 Kilometres from Kannur town, abutting the Old NH 66 between Manna Junction and National Highway By-pass Junction. The grievance that is projected is that the 4th respondent rejected the objections raised by the petitioners under Section 15 of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'LARR Act'), challenging the Social Impact Assessment Study and the consequential proceedings. The petitioners have stated the details of the properties owned by them. Such details may not be very relevant for determining the issues involved, and hence, they are not being extracted. All that needs to be said is that the facts relating to the ownership of the properties and the constructions and businesses that are being carried on are not seriously disputed by the respondents. According to the petitioners, the existing width of the road at Puthiyatheru is 10 to 13 Metres. It is stated that there are 500 employees working in the commercial establishments at Puthiyatheru Junction, and the livelihood of more than 3500 persons depends on the businesses that are being conducted in the locality. It is further stated that as part of the

widening of the Highway, a by-pass road has been constructed deviating the National Highway 66 from the original NH-66, and after the said deviation, except persons who need to reach Kannur town, all other vehicles towards Mangalore (towards North) and Kozhikode (towards south) use the above by-pass and the traffic in the existing road is stated to have reduced by more than 25%. It is also stated that another bypass road is proposed from Puthiyatheru (Kottali Road Junction) to Kannothechal Junction, having a length of 7.4 kilometres, which would again reduce the traffic considerably. According to the petitioners, it is in the above circumstances that respondents 1 to 3 have proposed to widen the road, which has a width of 10 to 13 Metres to 22 Metres. According to the petitioners, the entire commercial establishments in the locality will be affected by the proposal. The petitioners suggested that the widening may be up to 17 Metres, thus mitigating the damage that may be caused. Ext.P2 is the map showing the bypass, mini bypass, and the existing NH-66, and Ext.P3 is the proposal submitted by the Puthiyatheru Action Committee.

4. On 14.03.2019, the 1st respondent issued Ext.P4 notification under Section 4(1) of the LARR Act for conducting a Social Impact Assessment Study. The Centre for Socio-Economic and Environmental Studies (CSES), Padivattom, Kochi, was authorised to conduct the study. The study was to be carried out within 22 weeks. Ext.P5 is the SIA report prepared under Section 4 of the LARR Act. Subsequently, an appraisal of the SIA report was done by experts, as provided under Section 7 of the LARR Act and the recommendation of the Expert Group dated 18.03.2020 is produced as Ext.P6. The 1st respondent thereafter proceeded to issue Ext.P7 notification on 18.06.2020 recommending the acquisition of the land. Even before the Ext.P6 recommendation of the Expert Group had been prepared, the Puthiyatheru Action Committee had submitted a complaint before the Chief Minister of the State against Ext.P4 notification, on 29.07.2019, true copy of which has been produced as Ext.P8. It is the case of the petitioners that the SIA report and the recommendation by the Expert Group have been prepared in total violation of the statutory provisions. The petitioners submit that the Expert Group constituted under Section 7(2) of the LARR Act shall mandatorily have two representatives of the respective Local Self Government Institutions. It is submitted that no representatives from Valapattanam Panchayat and Chirakkal Panchayat, who are respondents 7 and 8 in the writ petition, were included in the Expert Group. Another submission is that even though Ext.P4 required the Social Impact Assessment on 11 roads, the assessment was carried out only for four roads, which is evident from Chapter 1.3 of the report. It is stated in the report that an assessment was carried out in Chovva Village. The petitioners submit that no portion of the above project is passing through Chovva Village. So also, even though there are two Villages named "Kannur 1" and "Kannur 2", the report speaks of only one Village, named Kannur. It is also pointed out that the report says that the assessment was carried out in Ward No.6 of Chirakkal Panchayat, while no portion of the road passes through Ward No.6 of Chirakkal Panchayat, which is 3 Kilometres away

from the proposed roads. Another aspect pointed out is that in the town development, the total amount earmarked for land acquisition for NH66 is ₹ 131.84 Crores, which assessment is much less than even 1/5th of the total amount that would be required for acquisition of the buildings and land. Chapter 2.3 of Ext.P5 report says that the data was collected through officers without hearing landowners and tenants. The petitioners submit that they are from Valapattanam and Chirakkal Panchayat, and they were not heard by the agency. In the footnote to Chapter 4.1 of Ext.P5 report, it is specified that out of 1191 plots, the agency was able to identify only 406 plots. The report also says that the above said 406 plots are owned by about 1932 persons and 432 families. The report considers only the impact on the above families as the affected families, ignoring 759 plots. It is hence submitted that the SIA is not a comprehensive one as contemplated under Section 4 of the LARR Act. The report says that there are many employees affected, but the agency got details only of 744 employees. In table 4.7 in the report, it is stated that in NH-66, there are only two houses, 70 commercial buildings, and four other buildings that need to be demolished. The petitioners submit that, as a matter of fact, there are about 300 commercial buildings that need to be demolished. It is also pointed out that the above details are against what is contained in Chapter 5.5, where it is mentioned that only 12% of the plots are vacant, 14% are residential houses, and 82% are commercial houses. In table No.6.2, it is stated that there are 76 landlords, about 100 tenants, and 684 employees who will lose their livelihood. This fact is countered by the petitioners stating that, as a matter of fact there are about 250 tenants and 3000 employees affected in Puthiyatheru itself. The petitioners submit that the above anomalies in the SIA report are also reflected in the recommendation of the Expert Committee, which is produced as Ext.P6. The petitioners further pointed out that in Ext.P3, they had suggested having a drainage under the footpath, which has also been recommended by the Expert Committee, but the final decision is to have the drainage outside the footpath. In the above circumstances, the petitioners challenged Exts.P5, P6, and P7 in WP(C). No.18887 of 2020. During the said proceedings, the 1st respondent issued a notification under Section 11(1) of the LARR Act on 01.02.2021, a true copy of which is produced as Ext.P9. The petitioners then got the writ petition amended, including a challenge to Ext.P9. WP(C). No.18887 of 2020 was disposed of by this Court by judgment dated 10.08.2021, which is produced as Ext.P10, finding that the stage of hearing under Section 15 of the LARR Act has not yet reached and that the petitioners can raise all their contentions against the Social Impact Assessment at the stage of Section 15 hearing.

5. The petitioners thereafter submitted their objections against Ext.P5 SIA report and Ext.P6 expert appraisal before the 4th respondent on 25.08.2021. Ext.P11 is a copy of the objections. By a separate application, Ext.P12, the petitioners produced documents that have been relied on in the objections. According to the petitioners, even though in Ext.P10 judgment, this Court had directed the 4th respondent to grant an opportunity of hearing to the petitioners, no steps were

taken in this regard for a long time. The petitioners then initiated Contempt Case No.1926 of 2021 before this Court. The contempt case was closed on 29.11.2021 based on the submission that an enquiry is scheduled to be held on 01.12.2021 and a submission across the Bar that the directions contained in Ext.P10 judgment will be complied with. Thereafter, on 22.12.2021, the 4th respondent issued orders on all the representations submitted by the petitioners. True copies of the orders are produced as Ext.P14 series along with the writ petition. The petitioners submit that Ext.P14 series orders are totally erroneous and, in effect, give a total go-bye to the statutory provisions of the LARR Act. It is pointed out that the petitioners had suggested a width of 1.1 Metres for the drainage and the footpath above it, while what is proposed as per the present plan is footpaths on either side with 3.5 Metres width and drainage on both sides. It is pointed out that in the underpass constructed between Manna Junction and the National Highway bypass, the width given for the footpath along with the drainage is only 1.5 Metres, and for the overbridge being constructed along the same stretch, the width is only 2 Metres. It is hence submitted that the very rationale adopted for fixing the width of the footpath alongside the road is fundamentally flawed. It is also contended that there is a further proposal for increasing the width from 22 Metres, as was originally proposed, to 26 Metres, and the property is being acquired without any legal sanction. The writ petition has been filed on the above premise.

6. The 4th respondent has filed a counter affidavit. It is stated that the Kannur City Road Improvement Project under the Kerala Road Fund Board proposes to develop 11 corridors in Kannur City into projects having international-level features. It is stated that the purpose is to reduce the traffic congestion and improve the travel facilities. It is stated that out of 11 roads, 8 roads need acquisition of land. According to the 4th respondent, NH portion from Manna Junction to Chala NH bypass Junction is being developed into a four Lane Road, including a drain, Bus Bay, and footpath and that the width of the proposed Right of Way (RoW), varies from 22 Metres to 34 Metres including land for utility and Bus Bay. Other roads including the Chala-Pallikkunnu-Kunjipally road are being developed into two Lane roads with a minimum width of 14 Metres for Road, drain and footpath and proposed RoW as per design varies from 14 Metres to 22 Metres including the land for utilities, Bus bays, Railway Over Bridge (ROB) and 45 Metres at bell mouths. It is stated that out of eight roads which require land acquisition, the Social Impact Assessment Study has been completed in respect of 4 road projects including the widening of NH road from Manna Junction to New NH bypass Junction. The preliminary notification under Section 11(1) of the LARR Act has been published with respect to four road improvements including NH road from Manna Junction to New NH bypass Junction on 01.02.2021 and an erratum was published subsequently on 15.11.2021 and 17.11.2021.

7. It is contended that the prayer of the petitioners is to revise the design of the road, which has been prepared as per IRC specifications, which is neither practical nor scientific. It is further submitted that pursuant to the directions

issued by this Court, the petitioners were heard, and orders were issued after due consideration of their grievances. It is submitted that even after the completion of the bypass, the importance of NH-66 will not be reduced.

8. According to the respondents, the request of the petitioners to reduce the width of the proposed road cannot be accepted, since it will affect the very aim of the project. It is also submitted that all the commercial structures will not be affected by the present acquisition plan, and only those structures that will be affected will be acquired. Regarding the inclusion of representatives of the Local Bodies, it is stated that the representatives of the Municipal Corporation participated in the SIA study that was conducted. It is also stated that the Councillors of the Municipal Corporation, Mrs.E.P.Latha and Mrs.Shamna participated and signed in the Expert Committee Report. A true copy of the report has been produced as Ext.R4(g). Regarding the amount earmarked, it is submitted that what is earmarked is not the final amount, and the final amount will be arrived at after preparing a detailed valuation statement. It is also stated that the expert committee had never suggested that the drainage would be under the footpath, and all that is stated is that it can be accepted, if it is technically feasible. The respondents have raised a specific contention that the petitioners are not entitled to challenge the alignment of the road which is for the experts to decide after scientific consideration and after considering all relevant factors, including safety and welfare, to the public. It is stated that the SIA agency had not considered alternate proposals, since the project laid emphasis on improvements to the existing roads.

9. Regarding the identification of plots, it is stated that most of the affected parties were non-co-operative towards the SIA agencies, and they could identify only 406 plots owned by 432 families consisting of 1932 members. Wide discussions were held with the affected parties, according to the respondents. Regarding the Expert Group, it is submitted that the Government had directed the District Collectors to constitute Expert Groups having seven members, details of which are given in paragraph No.22 of the counter affidavit. It is further stated that since the total number of members in the Expert Group is to be seven, only two representatives of the Local Self Government Institutions can be included, and as a large extent of land under acquisition lies in the Kannur Corporation, the District Collector, Kannur nominated Smt.E.P.Latha, then Mayor of Kannur Corporation, and Smt. P.Shamna, Councillor, Talap Division, Kannur Corporation as members. According to the respondents, only a small portion of the project lies in Chirakkal and Valapatanam Grama Panchayats.

10. Regarding the claim of the petitioners that the restriction of the time limit for raising objections to fifteen days as against sixty days available under Section 15 of the Act, the respondents submit that the same is baseless. Reliance is placed on Rule 18 of the LARR Rules, 2015, which deals with the manner in which preliminary notification is to be published, and Form No.7 issued under Rule 18(1), which says that all persons interested in the land are to submit objections

within fifteen days from the date of publication of the notification or after giving public notice, whichever is later. The respondents submit that the objection contemplated under Section 15(1) of the LARR Act is about the area and suitability of land proposed to be acquired, the justification offered for public purpose, and the findings of the Social Impact Assessment study. It is contended that Section 15 speaks about objections consequent to the Social Impact Assessment Study, and hence Section 15 and Rule 18 deal with different aspects.

11. The petitioners have filed a reply to the counter affidavit. Along with the reply, they have produced Ext.P15 reply received under the Right to Information Act from the 9th respondent, which would disclose that the plan is to increase the existing width of "12 Metres to 16 Metres" to "21 Metres to 25 Metres". It is hence submitted that the averment that the proposed right of way varies from 22 Metres to 34 Metres is devoid of any truth. It is further stated that the manner in which the 9th respondent has identified Puthiyatheru, where the petitioners have properties, buildings, and business, as a part of the Kannur City Road Improvement Project itself is misconceived and scientifically flawed.

12. Heard Sri P.A. Mohammed Shah on behalf of the petitioners, Sri K.V. Manojkumar, Standing Counsel for the 9th respondent, Smt. C.S. Sheeja, Senior Government Pleader on behalf of respondents 1 to 6, Sri I.V. Pramod on behalf of the 8th respondent and Sri Mohammed Shafi on behalf of the 7th respondent.

THE CHANGE IN THE LAW RELATING TO ACQUISITION.

13. The Land Acquisition Act, 1894, undoubtedly is expropriatory legislation, and the provisions of the Act must be strictly followed. The 2013 Act, which was enacted after 120 years of the earlier enactment, has attempted to replace the expropriatory legislation by providing for a humane, participative, informed, and transparent process for land acquisition, as the preamble to the new Act suggests. The preamble also shows that the intention is to acquire land with the least disturbance to the owners and other affected families, provide just and fair compensation to the affected persons, make adequate provisions for their rehabilitation and resettlement, and ensure that the cumulative outcome of the compulsory acquisition should be that the affected persons become partners in development leading to an improvement in their post-acquisition social and economic status. Detailed provisions have been made in the 2013 Act to ensure the participation of the affected persons in all the stages of the acquisition. The Introduction and Statement of Objects and Reasons of the 2013 Act are extracted hereunder:

"Introduction

The Land Acquisition Act, 1894 was a general law relating to acquisition of land for public purposes and also for companies and for determining the amount of compensation to be made on account of such acquisition. The provisions of the said Act was found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private

land and property. The Act did not address the issues of rehabilitation and resettlement to the affected persons and their families. There had been multiple amendments to the Land Acquisition Act, 1894 not only by the Central Government but by the State Governments as well. However, there was growing public concern on land acquisition, especially multi-cropped irrigated land. There was no Central law to adequately deal with the issues of rehabilitation and resettlement of displaced persons. As land acquisition and rehabilitation and resettlement were two sides of the same coin, a single integrated law to deal with the issues of land acquisition and rehabilitation and resettlement was necessary.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 addresses concerns of farmers and those whose livelihood are dependent on the land being acquired, while at the same time facilitating land acquisition for industrialisation, infrastructure and urbanisation projects in a timely and transparent manner.

This Act represents a change in the legislative approach to land acquisition. It introduces for the first time provisions for social impact analysis, recognises non-owners as affected persons, a mode of acquisition requiring consent of the displaced and statutory entitlements for resettlement. In addition, it has restricted the grounds on which land may be acquired under the urgency clause.

Statement of Objects and Reasons

The Land Acquisition Act, 1894 is the general law relating to acquisition of land for public purposes and also for companies and for determining the amount of compensation to be made on account of such acquisition. The provisions of the said Act have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private land and property. The Act does not address the issues of rehabilitation and resettlement to the affected persons and their families.

2. The definition of the expression "public purpose" as given in the Act is very wide. It has, therefore, become necessary to re-define it so as to restrict its scope for acquisition of land for strategic purposes vital to the State, and for infrastructure projects where the benefits accrue to the general public. The provisions of the Act are also used for acquiring private lands for companies. This frequently raises a question mark on the desirability of such State intervention when land could be arranged by the company through private negotiations on a "willing seller-willing buyer" basis, which could be seen to be a more fair arrangement from the point of view of the landowner. In order to streamline the provisions of the Act causing less hardships to the owners of the land and other persons dependent upon such land, it is proposed repeal the Land Acquisition Act, 1894 and to replace it with adequate provisions for rehabilitation and resettlement for the affected persons and their families.

3. There have been multiple amendments to the Land Acquisition Act, 1894 not

only by the Central Government but by the State Governments as well. Further, there has been heightened public concern on land acquisition, especially multi-cropped irrigated land and there is no Central law to adequately deal with the issues of rehabilitation and resettlement of displaced persons. As land acquisition and rehabilitation and resettlement need to be seen as two sides of the same coin, a single integrated law to deal with the issues of land acquisition and rehabilitation and resettlement has become necessary. Hence, the proposed legislation proposes to address concerns of farmers and those whose livelihoods are dependent on the land being acquired, while at the same time facilitating land acquisition for industrialisation, infrastructure and urbanisation projects in a timely and transparent manner.

4. Earlier, the Land Acquisition (Amendment) Bill, 2007 and Rehabilitation and Resettlement Bill, 2007 were introduced in the Lok Sabha on 6-12-2007 and were referred to the parliamentary Standing Committee on Rural Development for Examination and Report. The Standing Committee presented its reports (the 39th and 40th Reports) to the Lok Sabha on 21-10-2008 and laid the same in the Rajya Sabha on the same day. Based on the recommendations of the Standing Committee and as a consequence thereof, official amendments to the Bills were proposed. The Bills, along with the official amendments, were passed by the Lok Sabha on 25-2-2009, but the same lapsed with the dissolution of the 14th Lok Sabha.

5. It is now proposed to have a unified legislation dealing with acquisition of land, provide for just and fair compensation and make adequate provisions for rehabilitation and resettlement mechanism for the affected persons and their families. The Bill thus provides for repealing and replacing the Land Acquisition Act, 1894 with broad provisions for adequate rehabilitation and resettlement mechanism for the project affected persons and their families.

6. Provision of public facilities or infrastructure often requires the exercise of powers by the State for acquisition of private property leading to displacement of people, depriving them of their land, livelihood, and shelter, restricting their access to traditional resource base and uprooting them from their socio-cultural environment. These have traumatic, psychological, and socio-cultural consequences on the affected population, which call for protecting their rights, particularly in case of the weaker sections of the society, including members of the Scheduled Castes (SCs), the Scheduled Tribes (STs), marginal farmers and their families.

7. There is an imperative need to recognise rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of affected persons and families. Additional benefits beyond monetary compensation have to be provided to families affected adversely by involuntary displacement. The plight of those who do not have rights over the land on which they are critically dependent for their subsistence is even worse. This calls for a broader concerted effort on the part of the planners to include in

the displacement, rehabilitation, and resettlement process framework, not only for those who directly lose their land and other assets but also for all those who are affected by such acquisition. The displacement process often poses problems that make it difficult for the affected persons to continue their traditional livelihood activities after resettlement. This requires a careful assessment of the economic disadvantages and the social impact arising out of displacement. There must also be holistic effort aimed at improving the all-round living standards of the affected persons and families.

8. A National Policy on Resettlement and Rehabilitation for Project Affected Families was formulated in 2003, which came into force with effect from February 2004. Experience gained in implementation of this policy indicates that there are many issues addressed by the policy which need to be reviewed. There should be a clear perception, through a careful quantification of the costs and benefits that will accrue to society at large, of the desirability and justifiability of each project. The adverse impact on affected families—economic, environmental, social and cultural—must be assessed in participatory and transparent manner. A national rehabilitation and resettlement framework thus needs to apply to all projects where involuntary displacement takes place.

9. The National Rehabilitation and Resettlement Policy, 2007, has been formulated on these lines to replace the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003. The new policy has been notified in the Official Gazette and has become operative with effect from 31-10-2007. Many State Governments have their own rehabilitation and resettlement policies. Many public sector undertakings or agencies also have their own policies in this regard.

10. The law would apply when the Government acquires land for its own use, hold and control, or with the ultimate purpose to transfer it for the use of private companies for stated public purpose or for immediate and declared use by private companies for public purpose. Only rehabilitation and resettlement provisions will apply when private companies buy land for a project, more than 100 acres in rural areas, or more than 50 acres in urban areas. The land acquisition provisions would apply to the area to be acquired but the rehabilitation and resettlement provisions will apply to the entire project area even when private company approaches the Government for partial acquisition for public purpose.

11. "Public purpose" has been comprehensively defined, so that Government intervention in acquisition is limited to defence, certain development projects only. It has also been ensured that consent of at least 80% of the project affected families is to be obtained through a prior informed process. Acquisition under urgency clause has also been limited for the purposes of national defence, security purposes, and rehabilitation and resettlement needs in the event of emergencies or natural calamities only.

12. To ensure food security, multi-crop irrigated land shall be acquired only as a last resort measure. An equivalent area of culturable wasteland shall be developed, if multi-crop land is acquired. In districts where net sown area is less than 50% of total geographical area, no more than 10% of the net sown area of the district will be acquired.

13. To ensure comprehensive compensation package for the landowners, a scientific method for calculation of the market value of the land has been proposed. Market value calculated will be multiplied by a factor of two in the rural areas. Solatium will also be increased up to 100% of the total compensation. Where land is acquired for urbanisation, 20% of the developed land will be offered to the affected landowners.

14. Comprehensive rehabilitation and resettlement package for landowners including subsistence allowance, jobs, house, one acre of land in cases of irrigation projects, transportation allowance, and resettlement allowance is proposed.

15. Comprehensive rehabilitation and resettlement package for livelihood losers, including subsistence allowance, jobs, house, transportation allowance, and resettlement allowance is proposed.

16. Special provisions for Scheduled Castes and the Scheduled Tribes have been envisaged by providing additional benefits of 2.5 acres of land or extent of land lost to each affected family; one-time financial assistance of Rs 50,000; twenty-five per cent additional rehabilitation and resettlement benefits for the families settled outside the district; free land for community and social gathering and continuation of reservation in the resettlement area, etc.

17. Twenty-five infrastructural amenities are proposed to be provided in the resettlement area including schools and playgrounds, health centres, roads and electric connections, assured sources of safe drinking water, Panchayat Ghars, Anganwadis, places of worship, burial and cremation grounds, village level post offices, fair price shops, and seed-cum-fertilisers storage facilities.

18. The benefits under the new law would be available in all the cases of land acquisition under the Land Acquisition Act, 1894 where award has not been made or possession of land has not been taken.

19. Land that is not used within ten years in accordance with the purposes, for which it was acquired, shall be transferred to the State Government's Land Bank. Upon every transfer of land without development, twenty per cent of the appreciated land value shall be shared with the original landowners.

20. The provisions of the Bill have been made fully compliant with other laws such as the Panchayats (Extension to the Scheduled Areas) Act, 1996, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and Land Transfer Regulations in Fifth Scheduled Areas.

21. Stringent and comprehensive penalties both for the companies and Government in cases of false information, mala fide action, and contravention of the provisions of the proposed legislation have been provided.

22. Certain Central Acts dealing with the land acquisition have been enlisted in the Bill. The provisions of the Bill are in addition to and not in derogation of these Acts. The provisions of this Act can be applied to these existing enactments by a notification of the Central Government.

23. The Bill also provides for the basic minimum requirements that all projects leading to displacement must address. It contains a saving clause to enable the State Governments, to continue to provide or put in place greater benefit levels than those prescribed under the Bill.

24. The Bill would provide for the basic minimum that all projects leading to displacement must address. A Social Impact Assessment (SIA) of proposals leading to displacement of people through a participatory, informed and transparent process involving all stakeholders, including the affected persons will be necessary before these are acted upon. The rehabilitation process would augment income levels and enrich quality of life of the displaced persons, covering rebuilding socio-cultural relationships, capacity building, and provision of public health and community services. Adequate safeguards have been proposed for protecting rights of vulnerable sections of the displaced persons.

25. The Bill seeks to achieve the above objects. The notes on clauses explain the various provisions contained in the Bill.”

RELEVANT PROVISIONS OF 2013 ACT.

14. Section 4 of the LARR Act deals with the preparation of a Social Impact Assessment Study. As per Section 4(4), the study shall include an assessment as to whether the proposed acquisition serves a public purpose, an estimation of affected families and the number of families among them likely to be displaced, the extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition, whether the extent of land proposed for acquisition is the absolute bare-minimum extent needed for the project, whether land acquisition at an alternate place has been considered and found not feasible and study of social impacts of the project, and the nature and cost of addressing them and the impact of these costs on the overall costs of the project, vis-a-vis, the benefits of the project. Section 4(5) of the Act details the aspects that must be taken into consideration by the appropriate Government. Section 4(6) says that the appropriate Government shall require the authority conducting the SIA study to prepare a Social Impact Management plan, listing out the ameliorative measures required to be undertaken for addressing the impact of a specific component referred to in Section 4(5). Section 5 says that the Government shall ensure that a public hearing is held in the affected area after giving adequate publicity whenever a Social Impact Assessment is required to be prepared. As per Section 7, the appropriate

Government is to ensure that the Social Impact Assessment Report is evaluated by an independent multi-disciplinary Expert Group, as may be constituted by it. Section 7(2) says that the Expert Group constituted under sub-section (1) shall include two non-official social scientists, two representatives of Panchayat, Grama Sabha, Municipality or Municipal Corporation, as the case may be, two experts on rehabilitation, and a technical expert on the subject relating to the project. As per Section 7(4), if the Expert Group constituted under sub-section (1) is of the opinion that the project does not serve any public purpose or the social costs and adverse social impacts of the project outweigh the potential benefits, it shall make a recommendation within two months from the date of its constitution to the effect that the project shall be abandoned forthwith, and no further steps to acquire the land will be initiated in respect of the same. Section 8 says that the appropriate Government shall ensure that there is a legitimate and bonafide public purpose for the proposed acquisition, which necessitates the acquisition of the land identified, and that the potential benefits and the public purpose referred to above outweigh the social costs and adverse social impact as determined by the Social Impact Assessment that has been carried out, that only the minimum area of land required for the project is proposed to be acquired, that there is no unutilised land which has been previously acquired in the area and that the land, if any, acquired earlier remained unutilised, is used for such public purpose and make recommendations in respect thereof. It is after following the above procedures that a preliminary notification is published under Section 11. Section 15 of the LARR Act deals with the hearing on the objections raised against the acquisition. Section 15(1) says that any person interested in any land which has been notified under sub-section (1) of section 11 as being required or likely to be required for a public purpose may within sixty days from the date of the publication of the preliminary notification, object to (a) the area and suitability of land proposed to be acquired, (b) justification offered for a public purpose, and (c) the findings of the Social Impact Assessment Report.

15. Section 109 empowers the appropriate Government to make rules for carrying out the provisions of the Act. Section 109 (2) (c) and (d) relate to the manner and time limit for carrying out the Social Impact Assessment Study under sub-section (1) of Section 4, and the manner of preparing and publishing Social Impact Assessment Study reports under sub-section (1) of Section 6. Section 109 (2) (g) deals with the manner of conducting public hearings under Section 16(5).

16. The Central Government has issued the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014. Form I of the Rules deals with the terms of reference and processing fee for the Social Impact Assessment and notification of the Social Impact Assessment, and Form II deals with the Social Impact Assessment Report. The State Government has issued the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement and Development

Plan) Rules, 2015, as well as Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Kerala) Rules, 2015 (hereinafter referred to as the Kerala Rules, 2015) in the exercise of the power available under Section 109 of the LARR Act. Chapter IV of the Kerala Rules deals with Social Impact Assessment. Rule 12 deals with the process of conducting the Social Impact Assessment Study. As per Rule 12 (4), except for projects specified under Section 10A of the Act, the Social Impact Assessment Unit shall conduct the social impact assessment studies as provided under sub-section (4) and (5) of Section 4 of the Act involving the nominated representatives of the Panchayats, Municipalities or Municipal Corporations in the affected areas. Rule 18 deals with the publication of the preliminary notification under Section 11(1). The notification is to be published in Form No.7. Form No.7 says that any person interested in the land notified is to lodge before the appropriate authority within 15 days from the date of publication of the notification or after giving public notice regarding the notification whichever is later, a statement in writing of their objections, if any, regarding the updating of land records or title in respect of the land proposed for acquisition. It also says that any objection received after the due date is liable to be summarily rejected.

17. The grievance of the petitioners is that the procedure prescribed under the LARR Act has not been followed by the respondents while deciding on the acquisition of land for the purpose of widening the roads in question.

18. One of the contentions of the petitioner is that when Section 15 specifically says that a person interested can, within sixty days of the notification under Section 11(1), file objections regarding the findings of the Social Impact Assessment, the said period cannot be reduced in any manner.

19. Regarding the importance of procedure in matters relating to the compulsory acquisition of land, it is useful to extract portions of the judgment of the Hon'ble Supreme Court in *Urban Improvement Trust, Bikaner v. Gordhan Dass (D) through LRs & Ors.* [2023 SCC OnLine SC 1368], which read as follows:

89. The Supreme Court in a recent judgment had the occasion to look at the process of compulsory land acquisition where the landowners had practically no means to oppose the proposed acquisition. A two judge bench in *Vidya Devi v. State of H.P.*¹⁴ speaking through Indu Malhotra J. made the following significant observation:

"12.2. The right to property ceased to be a fundamental right by the Constitution (Forty-fourth a human right (*Tukaram Kana Joshi v. Maharashtra Industrial Development Corpn.* [Tukaram Kana Joshi v. Maharashtra Industrial Development Corpn., (2013) 1 SCC 353 : (2013) 1 SCC (Civ) 491]) in a welfare State and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law.

The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article [K.T. Plantation (P) Ltd. v. State of Karnataka [K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1 : (2011) 4 SCC (Civ) 414]].

12.3. To forcibly dispossess a person of his private property, without following due process of law, would be violative of a human right, as also the constitutional right under Article 300-A of the Constitution.

90. The significance of complying with procedural requirements cannot, therefore, be overstated.

94. It logically follows from above that dispossession without following prescribed statutory process such as giving proper notice, is not only highly prejudicial but it is also a violation of constitutional rights and would thereby vitiate the entire process of land acquisition. Law is well-settled that strict adherence to the mandatory procedural requirements outlined in the legislation is sine-qua-non for the compulsory acquisition of land. Legally conducted acquisition procedures minimize the potential for arbitrary action by the concerned Authority. The findings to this effect by the Appellate Court and the High Court would therefore merit our approval. In other words, land acquisition proceedings for the entire 3 bighas of land is held to be void-ab-initio.

20. The legal proposition that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all is so very settled that it does not need any further elaboration. I shall proceed to consider the contentions raised by the petitioners and the respondents in the background of the development of the law relating to land acquisition and the importance of following the strict procedure in cases relating to the compulsory acquisition of land.

WHETHER A SPECIFIC PROCEDURE IS PRESCRIBED UNDER THE RULES FOR A HEARING ON THE ASPECTS COVERED BY SECTION 15?

21. The contention of the petitioner is that even though Section 15 says a period of sixty days is available for preferring an objection against the social impact assessment, in Form No.7 issued under Rule 18, the period is restricted to 15 days. Rule 18 does not speak about objections regarding the suitability of the land proposed to be acquired, the justification offered for public purposes, or the findings of the Social Impact Assessment Report, which are the subject matter of Section 15. In fact, the Rule is silent regarding objections that may be preferred under Section 15 (1) of the Act. In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement and Development Plan) Rules, 2015 also there is no specific Rule that provides for a hearing on the aspects which are covered by Section 15(2). Rule 5 of the aforementioned Rules says that the preliminary notification shall be published in Form II. Under Rule 5 (3), the Collector is to ensure completion of the exercise of updating land records.

Rule 6 provides for hearing of objections which says that the objections should be invited in Form III, and after hearing the objections and making enquiry as provided under sub-section (2) of Section 15, a report is to be submitted along with his recommendations on the objections to the appropriate Government for decision. Rule 6(2) says that the report shall include the assessment as to whether the proposed acquisition serves a public purpose, whether the extent of land proposed for acquisition is the absolute bare minimum extent required, whether land acquisition at an alternate place has been considered found not feasible, etc. However, Rule 6 also does not speak about the Social Impact Assessment Report. The Central Rules also do not deal with the above aspect.

22. It can thus be seen that there is no specific procedure prescribed in the Rules for a hearing as contemplated in Section 15 of the Act. A notice for hearing, which is issued under the Rules, does not take in the aspects like affording a hearing on the findings of the Social Impact Assessment Authority. However, this Court need not at this stage go into the question of want of notice regarding hearing under Section 15, since after the directions issued by this Court in W.P. (C) No.18887 of 2020, the petitioners had submitted their objections, and the same had been received on 25.8.2021 by the respondents. The respondents have also proceeded to conduct a hearing on 01.12.2021, which was the reason for closing the contempt case initiated by the petitioners as per Ext.P13 judgment. A hearing had also been conducted, and it was thereafter that Ext.P14 series orders were issued, rejecting the contentions raised by the petitioners. The mere fact that the Rules do not lay down a procedure, the hearing contemplated under Section 15 will not be defeated in any manner. Since it is not proper for this Court to issue any directions to legislate, there will be a direction to the respondents to actively consider the laying down of a procedure for hearing as contemplated in Section 15 of the Act, which inter alia stipulates 60 days from the date of publication of the preliminary inspection under Section 11, for submission of objections. The above-said period cannot in any manner be reduced by notices issued for different purposes, granting 15 days' time for submission of objections. In the case on hand, even at the time this Court directed the petitioners to submit their objections in its judgment in WP(C)No.18887 of 2020, the period of 60 days after the issuance of Section 11(1) notification had expired.

WHETHER THE PROCEDURE PRESCRIBED FOR CONDUCT OF THE SOCIAL IMPACT ASSESSMENT STUDY AND THE EVALUATION OF THE EXPERT GROUP THEREAFTER HAS BEEN FOLLOWED ?

23. The next question is whether the orders issued after hearing the petitioners are legally sustainable for failure to comply with the procedure prescribed in the Statute. Section 15 of the Act reads thus;

"15. Hearing of objections.-(1) Any person interested in any land which has been notified under sub-section (1) of section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the

publication of the preliminary notification, object to—

- (a) the area and suitability of land proposed to be acquired;
- (b) justification offered for public purpose;
- (c) the findings of the Social Impact Assessment Report.

(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 in person or by any person authorised by him in this behalf or by an Advocate and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section

(1) of section 11, or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him along with a separate report giving therein the approximate cost of land acquisition, particulars as to the number of affected families likely to be resettled, for the decision of that Government.

(3) The decision of the appropriate Government on the objections made under sub-section (2) shall be final.”

24. A reading of the Section will show that the objections can be in relation to the existence of a public purpose, the area and suitability of the land proposed to be acquired and regarding the findings by the Social Impact Assessment Authority. When objections are raised regarding the above three issues, they necessarily must be answered after hearing the objectors.

25. On the question of the Social Impact Assessment Report, the primary contention raised by the petitioners is that the constitution of the Expert Committee is in violation of Section 7 of the Act. Section 7 says that the Expert Group shall include two representatives of Panchayat, Grama Sabha, Municipality, or Municipal Corporation, as the case may be. If the acquisition is from areas covered by Panchayats, Grama Sabhas, Municipalities and Municipal Corporations, Section 7(2)(b) cannot be understood to mean that it is sufficient to have a person from one of the said Local Self Government Institutions alone. The Section can only mean that while the Expert Group is considering acquisition from a particular Panchayat, two representatives from the said Panchayat should be there and while considering acquisition from a Municipality, two representatives from the said Municipality should be there. The answer to the above contention by the respondents is that the representatives of the Municipal Corporation had participated in the Social Impact Assessment Study and that the Councillors of the Municipal Corporation named Mrs.E.P.Latha and Mrs.Shamna had participated and signed in the Expert Committee Report. It is stated that since the Expert Committee consisted of a total number of 7 persons, only two representatives of the Local Government Institutions can be included. The non-

inclusion of members from the other Local Self Government Institutions from where the land is acquired is thus sought to be justified by stating that a larger extent of land under acquisition lies in the Kannur Corporation. So, the question is whether the above justification offered by the respondents meets the requirement of the Statute. Section 7 of the Act is extracted for reference;

"7. Appraisal of Social Impact Assessment report by an Expert Group. –

(1) The appropriate Government shall ensure that the Social Impact Assessment report is evaluated by an independent multi-disciplinary Expert Group, as may be constituted by it.

(2) The Expert Group constituted under sub-section (1) shall include the following, namely:—

(a) two non-official social scientists;

(b) two representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be;

(c) two experts on rehabilitation; and

(d) a technical expert in the subject relating to the project.

(3) The appropriate Government may nominate a person from amongst the members of the Expert Group as the Chairperson of the Group.

(4) If the Expert Group constituted under sub-section (1), is of the opinion that,—

(a) the project does not serve any public purpose;

or

(b) the social costs and adverse social impacts of the project outweigh the potential benefits, it shall make a recommendation within two months from the date of its constitution to the effect that the project shall be abandoned forthwith and no further steps to acquire the land will be initiated in respect of the same:

Provided that the grounds for such recommendation shall be recorded in writing by the Expert Group giving the details and reasons for such decision:

Provided further that where the appropriate Government, in spite of such recommendations, proceeds with the acquisition, then, it shall ensure that its reasons for doing so are recorded in writing.

(5) If the Expert Group constituted under sub-section (1), is of the opinion that,—

(a) the project will serve any public purpose; and

(b) the potential benefits outweigh the social costs and adverse social impacts, it shall make specific recommendations within two months from the date of its constitution whether the extent of land proposed to be acquired is the absolute bare-minimum extent needed for the project and whether there are no other less

displacing options available:

Provided that the grounds for such recommendation shall be recorded in writing by the Expert Group giving the details and reasons for such decision.

(6) The recommendations of the Expert Group referred to in sub-sections (4) and (5) shall be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed and uploaded on the website of the appropriate Government.”

26. A reading of the Section would show that the Expert Group shall include two non-official Social Scientists, two experts on rehabilitation, one Technical Expert in the subject relating to the project, and two representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be. The words 'as the case may be', along with the several Local Self- Government Institutions, can have reference only to the particular Local Self Government Institutions within whose jurisdiction the land proposed to be acquired is situated. Such an understanding alone can promote the purpose of the social impact assessment. The Act does not say that there can only be one Expert Group for a whole project. As a matter of fact, going by the scheme of the Act, there should be different Expert Groups for assessing the Social Impact Assessment Study relating to land situated within the jurisdiction of each of the Local Self Government Institutions when the project requires acquisition from areas coming under several such institutions. To understand otherwise will be doing violation to the statutory provisions as well as the purpose of the enactment. To illustrate, if an acquisition is being carried out for the purpose of a road that passes through all the four types of Local Self-Government Institutions referred to in Section 7(2)(b), coming under different districts and two representatives from one Gram Sabha alone are included in the Expert Group, necessarily, there is no person to represent the other Local Self-Government Institutions or even the districts, which cannot be the intention of the provision. The above aspect is strengthened by the purpose of the constitution of the Expert Group. The Expert Group is expected to consider the Social Impact Assessment Report and evaluate it, in its capacity as an independent multi-disciplinary Expert Group. Section 4, which deals with the preparation of the Social Impact Assessment Study report, says that the study includes an assessment as to whether the proposed acquisition serves any public purpose, an estimation of affected families likely to be dispossessed, the extent of land proposed for acquisition being the bare minimum extent needed for the project, whether acquisition at an alternate place will serve the purpose, etc. It also says that the impact of the project on various components like the livelihood of affected families, public and community properties, assets and infrastructure, public transport, drainage, sanitation, etc., are to be considered. The Statute also speaks about ameliorative measures that are required to be undertaken to

address the impact of the specific purpose referred to. The inclusion of representatives of the area from where the land is acquired is hence necessary for carrying out the purposes of Sections 4 to 7 of the Act. The contention of the respondents that two representatives of the Corporation had been included and that is sufficient cannot be countenanced in view of the words "as the case may be" used in Section 7 (2)(b). Necessarily, it must be held that the Expert Group that studied the report was not properly constituted. The contention that had been raised by the petitioners regarding the constitution of the Expert Group has been answered in Ext.P14 series, stating that only land having an extent of less than 25 Cents is included in Valappattanam Village and since more land is taken from the Kannur Corporation, two members from the Corporation alone have been included. It is also stated that the agency that conducted the Social Impact Assessment Study had consulted the Chirackal Panchayat. It is also stated that since the maximum number of persons who can be included in the committee is only 7, the respondents cannot be found fault for including the representatives of the Corporation alone. As already held above, the understanding of the respondents that there can only be one Expert Group is wrong, and for the same reason, the helplessness expressed since the Statute prescribes seven members for the Committee is baseless.

IS THE SOCIAL IMPACT ASSESSMENT STUDY DONE IN THE PRESENT CASE EXHAUSTIVE?

27. Another contention that has been taken by the petitioners is that the study is not exhaustive. Admittedly, after noting that 1191 plots are involved in the acquisition, the report has proceeded to say that the owners of only 406 plots owned by 1932 persons and 432 families could be identified for the purpose of the study. Admittedly, there has only been a sample study of the persons who are likely to be affected by the acquisition. Out of the total area to be acquired, 785 plots have not been identified and it is not even known who the owners of the said plots are and how they will be affected by the acquisition. That is to say, almost two-thirds of the plots involved have not even been the subject matter of the study. It does not stand to reason how a social impact study as contemplated in the Act can be completed/concluded by studying the impact on the persons who are occupying about one-third of the plots sought to be acquired. The study can never be said to be exhaustive or comprehensive or as required under the statute. Another aspect that is pointed out is that, in Chapter 5.5 of the report, it is stated that 12% of the plots are vacant, 14% are residential houses, and 82% are commercial houses. In table No.6.2, it is stated that there are 76 landlords, about 100 tenants, and 684 employees, who will be affected and will lose their livelihoods. In Table 4.7, it is stated that in NH 66, there are only two houses, 70 commercial buildings, and four other buildings that need to be demolished. According to the petitioners, about 300 commercial buildings will have to be demolished, and there are about 250 tenants and 3000 employees who will be affected in Puthiyatheru itself. The above facts, if proved, would necessarily go to show that a sample study can never be conclusive and comprehensive and is not

what is contemplated under the Act. Even if a sample study alone is possible, there are scientific manners in which the sample is to be prepared and the basic requirement is that the sample should be a reliable sample with a substantial representation of every segment of the affected persons. There is no such claim in the report. Going by the counter affidavit filed by the respondents, the Social Impact Assessment Study has been completed only with respect to four road projects, including the widening of the NH road from Manna Junction to the new NH Bye-pass junction. The necessity of the Social Impact Assessment Study under the new regime needs no overemphasis since the objects and reasons of the enactment and the statutory provision itself lay sufficient emphasis. It is stated that eight roads need the acquisition of land. It is thus evident that the entire process contemplated under the Act for the acquisition of land for the whole project is still not complete.

28. In the counter affidavit regarding the identification of plots, it is contended that most of the affected parties were non-co-operative towards the SIA agencies. The sample study that has been carried out is sought to be thus justified by saying that there has been non-co-operation. I do not think that is a proper justification. With or without co-operation, the agency could have still identified the plots and gathered information, since there is no lack of clarity regarding the identity of the land to be acquired.

29. Since I have already found that the constitution of the expert committee was not in accordance with the Statute, I do not think it is necessary to go into the questions regarding the necessity of the widening beyond 17 Metres and the suggestion regarding putting up the footpath above the drain, since those are all matters which may have to be reconsidered after a proper Social Impact Assessment Study and a study by the Expert Group, which is duly constituted. The Special Government Pleader, placing reliance on the judgment of the Hon'ble Supreme Court in *Ramniklal N. Bhutia and another v. State of Maharashtra and others* (1997) 1 SCC 134, submitted that the Court should be slow in interfering with land acquisition matters, keeping in mind the larger public interest. The said judgment was rendered when the law relating to acquisition was the 1894 Act. The new regime for acquisition addresses several other aspects, like the inclusion of the persons who lose their properties as partners in development, and the entire dimension from which the issue must be viewed has undergone a sea change. The above said judgment cannot be applied in the fact situation, in the light of the statutory provisions contained in the 2013 Act.

30. As a result, writ petitions are partly allowed. Ext.P14 series orders are set aside. Ext.P6 recommendation submitted by the Expert Group, Ext.P7 Government Order accepting the report, and Ext.P9 notification, insofar as they relate to properties occupied by the petitioners, are set aside. Respondents are directed to

constitute an Expert Group as contemplated in Section 7 of the Act, conduct the study, and thereafter take further steps in the acquisition. Before parting with

the case, as it is not proper for this Court to issue any directions to legislate, I deem it appropriate to direct the respondents to actively consider the laying down of a procedure for hearing as contemplated in Section 15 of the Act, which inter alia stipulates 60 days from the date of publication of the preliminary inspection under Section 11, for submission of objections.