

ISSUES REGARDING REGISTER OF MUTATION AND RECORD OF RIGHTS WITH REFERENCE TO LAND ACQUISITION IN INDIA

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Introduction

Section 148 –A Record of right shall be maintained in every village and such record shall include the names of all the persons (other than tenant) who are holders, occupier owners or mortgagees of the land or assignees of the rent or government leasee or the tenants. The nature and extent of the respective interests of such persons and the conditions or liabilities if any attaching thereto. Mutation entry or entries in record of rights are made only for fiscal purpose or recording revenue. Such entries cannot be treated as transfer of title of holder of property in favour of person in whose name the entries are made.

Entries in the revenue record cannot be form basis for the declaration of title in immovable property.

1) A.B.Garge and others v/s B.R Gharge¹. After the declaration of title inn immovable property.

The entries in the record or right do not create any legal right whatsoever on immovable property. Entries in 7/12 extract carries presumptive value and are presumed to be correct unless rebutted. The entries create no title on 7/12 extract and they are for fiscal purposes.

Thirty Years Chain Of title

After verifying that the vendor had legal right to dispose of the property under investigation the another step to be teach is to ascertain whether the vendor had a legal title in the property traceable in the chain of title for thirty years. There are two ways prefer to take search by purchaser. One is that to take thirteen years search because thirteen years period as the limitation period for action for claiming relief against addressee possession is twelve years. And the second is that.

- 1) B.B. Pokle v/s K.B Gunjawate²
- 2) Noor M.V. Makade v/s A.M. Mukadam³

A search for thirty rears period.

The logic behind thirty report is that the minor requires eighteen years when he attain the age of majority and thereafter he can claim his charge within twelve years of attaining majority. The basic idea behind that seller has to deliver 'marketable title', to property proposed to be sold to the purchaser which means title should be free from reasonable doubts as to its validity.

Record Of Rights And Inquiry Under Rule 31

Rule 31- register of persons in possession other than the persons deemed to be in possession according to the record of right.

- 1) During the course or inspection of crops under rule 30 –Talathi shall verify whether the person in actual possession of a survey number is the one whose name is recorded in the record of rights.

- 2) On receipt of the extract of the register in the form 14th under sub rule one, Tahasildar shall visit the village for making necessary inquiry about the possession of the land by the person mentioned in the said register. Tahasildar shall give prior intimation of the time and date office visit to the talathi and sarpanch of the village at least seven days notice in advance.

Talathi shall arrange to inform all interested persons of the Tahasildars visits.

- 1) Tahasildar hear the entire interested person and decide the matter, he shall cause necessary entries to be made in the relevant khate pustika.

The village form 7/12 is combine form known as record of rights and register of crops and entering record of rights neither creates not extinguishing right, it is merely rebuttal piece of evidence .despite this legal position, wrong impression is entertained by the public as well as government officials including revenue authorities.

Entries in the revenue records is the paradise of the Patwari in fact the farmers are rarely concerned with entries in revenue records which are fertile grounds for unless slew of litigations filed in the courts. Moreover the acquainted with the latest decisions of High Court and Supreme Court persisting in totally not able to held decisions resulting into increasing of litigation.

The acquisition cannot be set to be a colourable device to achieve some motive. But the object of law is to empower the government to acquire lands for public purpose. Unfortunately the present Act has not defined public purpose. Whenever there shall be an acquisition of land, it will naturally be any person whose land is acquired causing some amount of inconvenience. Land acquisition proceedings are not meant to be the weapon in the hand of the state to yield it accordingly to its whim and caprices.

The right to fair compensation and transparency in land acquisition, rehabilitation and resettlement Act. 2013. Under Sec.(1) of the Act says that the Collector shall pass rehabilitation and resettlement award for each affected family in terms of the entitlements provided in the second schedule and sub clause (2) of Sec.31 says that the rehabilitation and resettlement award shall include sub clause (h) given details of mandatory employment to be provided to the members of the affected families. The second schedule of the Act says element of rehabilitation and resettlement entitlements for all the affected families (both land owners and their families whose livelihood is primarily dependent on land acquired) in addition to those provided in first schedule. The second schedule of the Act sr. no. 4 'Choice of annuity or (element of rehabilitation resettlement entitlements)

The appropriate government shall ensure employment that thee affected families are provided with the following options-

- a) Where jobs are created through the projects, after providing suitable training and skill development in the required field, make provision for employment of a rate not lower that minimum wages provided for in and any other laws for the time being enforced to at least to one member per affected family in the or arrange for the job in such other as may be required or
- b) Onetime payment of 5 lakh rupees per affected family or
- c) Annuity policies that shall pay not less than 2000 rupees per family for 20 years with appropriate indexations to the consumer price index for agricultural labourers.

Having been discussed all the provisions regarding employment of the Act where jobs are created through projects then state would consider the affected family members for the purpose of the employment. But if the jobs are not created through projects then Act is silent on this regard.

According to Sec.3 (m) of family , it does not consider the parents of the person whose land been acquired by the State and the parents are helpless to look for the employment also.

The Act does not make it clear of specific scheme for affected families regarding their employment, affected families are entitled to get employment but such employment get it at the State role or project roles that has not been made it clear in the Act. According to the proportionate with the land acquisition where the employment is offered to affected family members or to additions to the compensations.

It is necessary to get the employment to the family according to their loss which is been occurred by losing their land instead of keeping addition to employment, my suggestions would be keep employment in the Act as the optional one and offer employment according to the status, education, skills or lost of land by acquisition of the State depending on the family members.

Sec.31 and second schedule of the Act do not make at all protective and attractive for the people where State has really taken care of their own subjects. In one hand farmers are so sensitive about their lands like they cannot bear heavy rainfall and losses which occurred due to hailstorm few days back. We knew it many farmers has committed suicides due to loss which they could not sustain and here according to the Act we are making them landless and asking them to vacate the land permanently. We need to consider their emotional attachments towards their land and accordingly make them accommodate in the mainstream of the nation. In the Act there is no specific scheme for affected families for protecting their livelihood.

- 1) State should have made special schemes for affected families regarding their employment and affected families should accommodate in State employment and not on the project role.
- 2) Definition of family has made little wider one which should consider at least the parents and adult brother and sister.
- 3) While making the employment schemes by the State for affected families, it should consider the amount of loss (specially of land), education, skills, competency of the people of the affected family members.
- 4) In addition to employment, State should compensate the family by monetary compensation, land for land and house for house.
- 5)

(Endnotes)

- 1 (1996) L.J 209
- 2 vol.99 (3) Bom.L.R. 479.
- 3 9 (1998) Mah.L.R.285.