



“LAND ACQUISITION AND COMPENSATION - A CASE STUDY OF MANGALORE SEZ LTD.”

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Land acquisition Back ground and evolvement:

Land acquisition in India dates way back to the Law – Regulation I of 1824 of Bengal Code. The main objective then was to make land available for salt pans and other purposes. Thereafter in India, the forest laws were enacted to suit British revenue needs to provide timber for railway sleepers and to build ships for colonial wars. “By one stroke of the executive pen attempted to obliterate centuries of customary use by rural population all over India”(Gadgil and Guha,1992)

It is a known fact that the Land Acquisition Act, 1894 was passed by the Colonial Government to enable the state acquire private land for public purpose projects. However procedures for settlement of related disputes were inherent in it even then. The original Land Acquisition Act was enacted in 1894 by the British. In 1984, it was amended by the Indian Parliament and passed as a new Act. The amendment of 1984 is most important for modification and additions. The definition of the ‘public purpose’ is so amended to include a longer comprehensive list. Acquisition of land for non- government companies is made in pursuance of Part VII of the Act. A time limit of one year has been set for completion of all formalities between issue of preliminary notification under section 4 (1) of the Act, and the declaration for acquisition of specified land under 6(1) of the Act. It provides a period of two years from the date of publication of the declaration within which the Collector should make his award, failing which the entire proceedings for the acquisition of land would lapse, but some of the provisions imbibe in the Amended Act.

In spite of several amendments, the Land acquisition Act, 1894 is still in force. The 1984 Act was passed by the Indian parliament with several changes, yet it this has the same objective and spirit as the original.

As per Act 18 of 1966 it is imperative to make provisions for the orderly establishment and development of Industries in suitable areas of the State. To achieve this objective, it is proposed to specify suitable areas for Industrial Development and later establish such a Board to develop such areas and make available lands therein for establishment of Industries.

Amendment Act 27 of 1978 The Karnataka Industrial Areas Development Act, 1966 (Karnataka Act No. 18 of 1966), was enacted for the establishment the Industrial areas in the State and generally to promote the establishment and orderly development of industries therein.

Amendment Act 19 of 1987 It proposes to provide for constitution of Board on a broader basis by including the different authorities connected with Industrial development in the State, there better co-ordination and effective implementation of various programmes taken up by the Board.

Amendment Act 12 of 1992 Karnataka State Financial Corporation is plays a pivotal role in promoting of industries in the State and also finances the Karnataka Industrial Areas Development Board. Therefore the Managing Director of the Karnataka State Financial Corporation has been nominated to the Karnataka Industrial Areas Development Board, for better co-ordination.

Amendment Act 11 of 1997 After the wide cussed liberalisation of economic and industrial policies in the year 1991, increased emphasis has been given to Private Sector investment in the Industrial Sector as well as in the Infrastructural Sectors. As such, a number of proposals, both from indigenous and foreign companies have been processed for large ticket investments in infrastructural areas like establishment of power subjects, express highways, ports, airports, townships, etc. These projects need large tracks of hindrance for land for implementation.

Therefore, it was considered imperative to amend the Karnataka Industrial Areas Development Act. 1966 to enable the Board to acquire land accordingly for sustained development. Accordingly, it was proposed to incorporate the definition of industrial Infrastructural facilities.

To declare any area as a notified area is prohibited under the Constitution 73rd Amendment Act, therefore there in section 16 effected has been omitted. Certain consequential amendments are also made.



Amendment Act 19 of 2000 It was considered necessary to provide for a provision, other than section 25, enabling the Board to specify resumption of the possession of the premises in case of breach of any of the terms of lease or contract or unauthorised occupation by lease, without having recourse to the provisions of the Public Premises (Eviction of Unauthorised Occupation) Act, 1974 or by filing a civil suit for possession.

According to section 34 penal action could be initiated against any person who constructs or alters or uses any building in an industrial area or industrial estate contrary to the terms under which he holds such building or land. There is, however, no provision in the Act to demolish or alter the unauthorised structures for the purpose of enforcing the building regulations made under the Act, it is considered necessary to empower the Board to demolish such unauthorised constructions and to direct the holders to construct or alter buildings in accordance with the regulations and conditions laid down in this behalf and facing which to get it done at their cost.

Mangalore SEZ Ltd is a unique joint project of State and Central government. Karnataka Industrial Area Development Board (KIADB) is representing the Karnataka state Government. Therefore here provision for the orderly establishment and development of Industries in suitable areas in the State taken centre stage. Towards this objective, it was proposed to specify suitable areas for Industrial Development and establish a Board to develop such areas and make available lands therein for establishment of Industries. Therefore acquisitions towards this purpose were done under KIADB act 1966.

Karnataka Industrial Area Development Act Section 28 explains how to acquire and put it to use for which it is acquired.

Section 28. Acquisition of land.- (1) If at any time, in the opinion of the State Government, any land is required for the purpose of development by the Board, or for any other purpose in furtherance of the objectives of this Act, the State Government may by notification, give notice of its intention to acquire such land.

(2) On publication of a notification under sub-section (1), the State Government serve notice upon the owner or where the owner is not the occupier, on the occupier of the land and on all such persons known or believed to be interested therein to show cause, within thirty days from the date of service of the notice, why the land should not be acquired.

(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein, and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.

(4) After orders are passed under sub-section (3), where the State Government is satisfied that any land should be acquired for the purpose specified in the notification issued under sub-section (1), a declaration shall, by notification in the official Gazette, be made to that effect.

(5) Following publication in the Official Gazette of the declaration under sub-section (4), the land shall vest absolutely with the State Government free from all encumbrances.

(6) Where any land is vested in the State Government under sub-section (5), the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(7) If any person refuses or fails to comply with an order made under sub-section (5), the State Government or any officer authorised by the State Government in this behalf may take possession of the land and may for that purpose use such force as may be necessary.

(8) Where the land has been acquired for the Board, the State Government, after it has taken possession of the land, may transfer the land to the Board for the purpose for which it has been acquired.

Procedure and methods for acquisition, followed during MSEZL project;

Acquisition Agency: It was decided that the land for the Mangalore SEZ would be acquired by KIADB under its Karnataka Industrial Area Development Act. This decision was taken keeping in view the importance of the project to the State and as a measure of the support of the State Government to this project. Further, KIADB was made an equity partner to the extent of 23% in Mangalore SEZ Ltd and entrusted with acquiring the land for this Project.

Approach to Land Acquisition: While identifying the land to be acquired, the KIADB was versed with the following:

- That the land needed to be adjacent to the MRPL refinery as the, its products would become the building blocks for further downstream industries and effective use of pipelines.
- The entire land (2500 acres minimum requirement for multi-product) to be contiguous as required under the SEZ Rules – Therefore acquisition of some agricultural land could not be avoided.
- To minimize acquisition of agricultural land to the least extent possible.
- To minimize acquisition of areas with dense population.

Important aspects of the identified land: The land so identified with the above criteria in mind would therefore had to be largely undulating in nature. It is transpired that 77% of the identified land was not fit for agriculture and consisted largely of scrub land, laterite soils and abandoned quarries. The total agricultural land was only around 23%, of which the prime agricultural land was only around 5%, while the land with horticulture crops was around 3.5%. Therefore, adequate care was propose and taken to minimize acquisition of agricultural land. So also the identified land had relatively scarce population and the average land holding was around 3 acres per family.

Fixation of price for the Land: The compensation for the land was not fixed on the basis of the sales statistics or the guidance value prevailing in the vicinity. Instead a Price Advisory Committee headed by the Deputy Commissioner arrived at the final price. While the prevailing rates as per the guidance value/sales statistics were ranging from Rs.1.5 to Rs.2.75 lakhs per acre, the final price had been fixed at Rs.8 to 8.50 lakhs per acre. Therefore, the land price itself was fixed at a level much higher than what was usually done in cases of land acquired through Government agencies.

An elaborate process was followed by the KIADB/Price Advisory Committee while arriving at the final price. A large public consultation meeting was convened at the Town Hall, Mangalore, which was attended by around 1,000 land owners. The broad nature, scope and objectives of the Mangalore SEZ Project and highlighted, the economic advantages which would accrue to the area in general was explained and also the substantial number of job opportunities that would be created on account of such a project. The land prices were also discussed with compensation to other projects in the area as well as the details of the average of sales statistics were projected. It was mentioned that as per the norms, the eligible price would range from Rs.1.75 lakhs to Rs.2.50 lakhs per acre. However, in view of the magnitude of the land acquisition, the Price Advisory Committee offered Rs.3 lakhs per acre. This price was not acceptable to the land owners and some of the land owners wanted as high as Rs.20 lakhs per acre.

Consequent to the above meeting, the land owners organized themselves into an Association called Samyukthahitharakshanasamithi and the same was duly recognized and encouraged by MSEZL as well as the District Administration.

This was followed by a separate meeting with certain representatives of the land owners (around 100 members) in the office of the Deputy Commissioner, wherein again the issue of land price as well as other advantages of the project were discussed in detail. The negotiations continued and the land owners expressed their views and were firm that a much higher price was to be paid. The Deputy Commissioner then agreed to raise the price to a range of Rs.4 lakhs to Rs.4.5 lakhs per acre. However, the meeting ended without acceptance of this price by the land owners.

Another meeting was then convened, which was also attended by the local Member of Parliament and the local MLA and after further negotiations with the land owners, a revised price was offered at a level of Rs.6 lakhs to 6.5 lakhs per acre. This again was not acceptable to large number of land owners. However, during this meeting, a hint was given that a settlement was possible with a slightly higher offer as against the original demand of the land owners of Rs.20 lakhs per acre.

A final meeting was again convened with some land owners and with representatives of the Association of land owners. In this meeting, the Deputy Commissioner, in the interest of a settlement, agreed to a price of Rs.8 lakhs to Rs.8.50 lakhs per acre. This was acceptable to the land owners, keeping in view the R&R Package and job opportunities, which would be made available to them.

Throughout the above negotiations, the District Administration and the KIADB were in close touch with MSEZL and the representatives of the Project were also present in all the above meetings with the land owners. From time to time, MSEZL also agreed to the higher prices suggested by the Deputy Commissioner and did not try to pressurize the District Administration to necessarily fix a lower price.

Compensations by Karnataka Industrial Area Development Board, Bykampadi and Mangalore SEZ Ltd.

Two offices were designated for the purpose. The compensation awarding procedure were thoroughly organised the one at KIADB Bykampadi gave compensation for Land, Structural, Horticulture and forestry valuation. The Resettlement and Rehabilitation benefits were given at the Mangalore SEZ office. All payments were done in the form of Cheques.

MSEZL initiated the facilitation work for KIADB in the acquisition composition process by providing:

- Additional man power to KIADB office for payment to land losers
- Stationary and files to keep files in systematic way.
- Facilitating to get consent papers from land owners.
- Additional man power (foresters, surveyor, horticulture, structural) for Joint measurement certification (JMC) work.
- Structural valuation by consultant engineers.
- Facilitation work for payment for PDF's.
- Project displaced families list after proper verification with supporting documents.
- Discussion meeting with KIADB staff.
- Follow-up work for board sanctions for payment.
- Timely financial deposits to KIADB.
- Facilitation work for rate fixation meetings at DC's office.
- Facilitation work for serving notice to land losers.

MSEZL initiated the facilitation work for KIADB in connection with payments to land losers by:

- Motivating family members to receive the compensation
- Doing facilitation work to get the Family tree chart done
- Doing facilitation work to get Form no. 10 document of the land and other Land documents for Sub- registrar, Grama Panchayat and Taluk office.
- Initiating facilitation work to prepare Nastapoorthy and other documents for KIADB payments.
- Providing arrangement for Encumbrance Certificates from Sub registers office.
- Providing arrangement for death certificates for land payments
- Providing legal support to prepare GPA documents.
- Providing of vehicles for the land owners to collect the KIADB payment.
- Convincing the land owners to divide the payment received for land among the RTC owners.
- Collected the land documents from Taluk Office
- Initiating discussion with the family members regarding the payment procedure.

Horticultural and forestry valuation had been fixed in accordance with departmental rates and valuations of the same was done by the concerned Government departments. During fixing the structural valuation depreciations were not taken into account and present market values were awarded to the land losers. Owing to a hike in the horticultural values, MSEZL had given an additional 25% for horticultural values than received at KIADB.

In addition to land, structural, horticultural and forestry valuation, MSEZL under the order no G.O No R.D 309 REH, 2006 Bangalore 20-6-2007 of Government of Karnataka for R&R package for displaced has been provided by MSEZL. During implementation process, demands of Bajpe-Permude-Kalavaru SamyukthHitharakshanaSamithi and were considered by MSEZL. As a result several other facilities/ benefits were incorporated.

Successful land acquisition primarily depends on the passion of the promoters to make their project a success, adherence to the laws of the land provide the best of R&R package and other benefits to the land losers and by also trying to make them partners in progress. MSEZL true to its manifests to had the service motive as priority rather than the profit motive.

Therefore MSEZL at the outset made a clear distinction between resettlement and rehabilitation. Resettlement was a onetime event, a physical relocation with or without other economic or social support. Rehabilitation is considered rebuilding the lost livelihood. In livelihood not only economic assets but also social support structures, health, educational, cultural systems are considered. Training the PDF's to cope with a new system, psychological preparation, replacing common property resources or finding economic substitutes for them, were some of the initiatives taken by MSEZL treading an innovative path. It is a process over that many years or even a couple of decades.

Mangalore SEZ Limited on its part has played a proactive role in finalizing the R&R package. It has formulated the R&R Policy in consultation with the PDF's and the district administration in the lines of the R&R package implemented in the region for other developmental projects like MRPL, Mangalore International Airport, Nagarjuna Power Plant, Sea Bird Project of Karwar and more so the Upper Krishna project in Karnataka

The cut off dates to decide the eligibility of people under various category viz. major brothers, sons and unmarried daughters, was the date of notification of KIADB under Sec. 28(1) of KIADB Act. 1966. Similarly, for any acquisition in the future, to be entitled to get benefits from such acquisition of land or structure for persons of all categories the cut off dates would be dates on which Notification under Sec.28(1) published as per KIADB Act 1996. The project displaced person or the family is permitted to take the portable assets and other articles along with them. The implementation of Resettlement and Rehabilitation package was monitored by the R&R committee constituted under the chairmanship of D.C., D.K district and represented by KIADB, requiring body, MRPL, other district level officers and representatives of PDFs. After many such additions, the R&R package of MSEZL presently contained the following benefits.

1. **The Rehabilitation Grant** would be given in the following proportion to the PDP/PDF as separate grant apart from compensation paid under KIADB Act. 1966:

Agricultural land lost for the project (irrigated or dry)	
a) From 0.00 acre to 1.00 acres	Rs. 60,000/-
b) From 1.00 acre to 3.00 acres	Rs. 75,000/-
c) From 3.00 acres to 5.00 acres	Rs. 90,000/-
d) Beyond 5.00 acres	Rs. 1, 00,000/-

2. **One time financial assistance of Rs.50,000/- and job or a shop site** in rehabilitation colony would be given to project displaced families not possessing land and are adversely affected by losing their trade, occupation and profession. One time financial assistance of Rs.50,000/- and a shop site in rehabilitation colony would be given to project displaced who own house in addition to the R&R benefits to be provided under the category of losing house.

3. The Project Displaced Families would be offered **an ex-gratia amount** of Rs. 20,000/- per family, and no other Resettlement & Rehabilitation benefits shall be given to them.

4. **Monthly rent** of Rs. 3,000/- for one year been provided from the house evacuation date.

5. **Free housing site** (land) would be given to each project displaced family lost or was going to lose its house due to land acquired for the project as per following:

I PDF losing house on Agricultural land (Wet and Garden)	Housing site that the PDF is eligible to get
Single RTC holder	60' x 90'
Two adult children of PDF	40' x 60'
Joint RTC holder (Limited to three)	In case of joint RTC holders of Agriculture land (Wet and Garden) one 60 *90 Site to be given to head of the family who is residing and two other members whose name is entered in joint RTC and residing to be given 40*60'

II.

III- Others who have lost house. : Site measuring 30' x 40' PDF losing house in Non-Agricultural land or dry land under the category of agriculture land	Housing site that the PDF is eligible to get
Single RTC holder	40' x 60'
Two adult children of PDF	30' x 40'
Joint RTC holder (Limited to <u>three</u>)	In case of joint RTC holders Non-Agriculture land or dry land one 40*60 Site to be given to head of the family who is residing and two other members whose name entered in joint RTC and residing to be given 30*40 site

- a) Unmarried daughter above 35 years of age of a project displaced family or sister's daughter in case of matrilineal family. And A widow daughter or daughter-in-law of the family who is completely dependent on the family. Or widow daughter or daughter-in-law of sister of PDF head, in case of matrilineal family shall be considered as

independent entity and shall be provided a site measuring 30'*40'. Physically handicapped person of the family who is 18 years and above of ages shall be provided a site measuring 30'*40'.

b) If the beneficiaries request for financial grant in lieu of house sites, they would be given the grant as under:

1. Person eligible for a site of 60' x 90' Rs. 2, 00,000/-
2. Person eligible for a site of 40' x 60' Rs. 1, 50,000/-
3. Person eligible for a site of 30' x 40' Rs. 1, 00,000/-

6. Rs.75, 000/- as **house construction grant** would be given to those who lost the house.

7. A grant of rupees 10,000/- would be provided to the PDF to meet cost of **transportation of salvage material**.

8. Each project displaced family was to be given a sum of Rs. 20,000/- as **subsistence allowance** when they vacate and handing over the land possession to MSEZL

9. Rs.10,000/- **special grants was to be provided to the PDFs who have Daiva / Bhootha towards the cost of relocation**. In cases of PDFs having separate structure for Bootha/Daivastana outside the residential structures, one & half time of plinth area of such structure would be provided in addition to the eligible site.

10. Rs.20, 000/- **special grants was to be provided to the PDFs who have Nagabana towards the cost of relocation**.

Rehabilitation colonies: The package mandates the development of an R&R Colony with all common facilities like roads, drainage, water supply, electricity, street lights, health centre, Community centre, Anganwadi, school, ration shop, bank, market place, burial ground, places of worship, post office etc. Towards this end, MSEZL has acquired around 250 acres of land and developed the colonies. The said land has been identified in consultation with the PDFs. It is expected that the total cost of building and providing infrastructure to the R&R Colonies will be approximately Rs. 70 crores. Colonies are constructed at Kulai, Thokur, Kalavaru, Bajpe and Permude villages, Around 400 houses have already been constructed in these colonies. MSEZL has then provided around 700 plots

MSEZL is to undertake the following infrastructure facilities at the Rehabilitation centre and shall also take steps for systematic management of these facilities. At the outset it has to be noticed that MSEZL has to maintain the R&R colonies for a period of 5 years at the outset.

The facilities to be provided are

- i. Community Hall.
- ii. Primary Health Centre, Rural Veterinary school if needed.
- iii. Balavadi /Anganwadicenters.
- iv. Schools as per requirement.
- v. Roads (Concrete/tarred).
- vi. Drainage system.
- vii. Street lights.
- viii. Pure drinking water facility, Bore wells,
- ix. Bus stands.
- x. Religious places – as in the original habitat.
- xi. Grave yard / Crematorium.
- xii. Post office/Banking facilities.
- xiii. Co-operative Societies to manage RehabilitationCenters.
- xiv. Fair-price shop
- xv. Dhobi ghat
- xvi. Shops / complex.
- xvii. Gardens/ play grounds.

Relocation of Religious places:

1) For relocation of place of worship, replacement site of not more than one and half time shall be provided to the concerned Committee/trust/organization /Board.

2) In every case, the construction expenditure shall be given to the trust, board/organization concerned. The construction expenditure shall not be more than 1½ times of the total compensation of the structure. The reconstruction expenditure shall be released phase wise taking into consideration the progress of construction work.

3) Separate grant shall be decided on case to case basis by the R&R Committee, to meet the expenditure of shifting and relocating the idol/statue.

Relocation of places of worship has been given due importance and the Temple Committees or the individual owners as the case may be had been consulted and their consent taken for the place of relocation. Two famous temples at Permude village were relocated in the same village. One temple at Bajpe village is yet to be relocated in the Bajpe village itself as per aspirations of the villagers. Similarly, Dakshina Kannada District has the practice of many individual families having Bhootha worship within their households. All such families have been identified and provision is being made for giving larger sites so that they can also accommodate the above places of worship. MSEZL has given alternate land for places of worship up to the extent of 1.5 times the area of the existing places of worship. In addition, the entire cost of building the place of worship would be met by the Company, while the actual construction has been handled by the local Committees themselves. Further, the Company has also agreed to reimburse the cost of ceremonies involved in relocating the idols even though these ceremonies are extremely elaborate as per local customs and hence quite expensive in this District.

11. Training facilities for the project displaced.

One willing member aged between 18 and 40 from each project displaced family shall be given industrial and vocational training to develop skills to make him employable as per his educational qualification. One willing member of each project displaced family shall be employed on a priority basis by the MSEZ based on the vacancies and opportunities available. The Project Authority shall also explore the possibilities to get employment opportunities for these people outside the SEZ. If the project displaced family doesn't opt for job, they shall be given a sum of rupees 3.5 lakh as a one-time compensation.

Documents for compensation

To receive the land, structural, horticulture and forestry valuation from KIADB office Bykampady Mangalore, they were required to produce below mentioned documents.

1. Land title documents like: Sale deed, LRT judgements, Partition deeds, Settlement deeds, Gift deeds, Court decrees etc.
2. Affidavit and "NastapoorthiPathra" in stamp paper.
3. Village Accountants, No dues certificate.
4. Bank NOC in case of bank loans.
5. Latest RTC copies
6. Revenue sketch
7. General Power of attorney
8. Family tree
9. NOC from LRT section

After receiving the land, structural, horticulture and forestry valuation from KIADB office, only house losers will approach MSEZL for Rehabilitation and Resettlement benefits. Which includes cash compensation, Developed site and one job for each family. To receive the benefits Project Displaced Family (PDF) should produce Project Displaced Certificate from KIADB. The family who were residing one year prior to the 28 (1) notification will be considered as PDF, In some special cases R&R committee chaired by DC will decide the PDF benefits, after detailed discussion with the committee members. MSEZL will receive the below mentioned documents for R&R benefits:

1. Displacement Certificate from KIADB
2. Latest RTC
3. General Power of attorney
4. Family tree
5. Ration Card
6. Voter ID
7. Passport size Photo
8. Age proof certificate for additional site for co -parcener, unmarried daughter.
9. NastaPoorthiPrathibhandakaPathra and Affidavit.
10. House Tax paid receipt.

To summarize, land acquisition despite its origin in the late 1980's and many amendments to it after 1984 has remained an enigma when it comes to application on ground. Land acquisition remain the main factor for setting up any individual related or any other development venture. The very fact that many states, projects are following different R&R policies in connection with land acquisition given ample proof. The compensation factor includes the 'emotional' factor concerned with parting of land by the inheritors is a sham by block in land acquisition. Added to it are the relocation of places of worship which generation concerned are attached to. Getting them to give up such places by a mere shot of a pen is not as easy as it sounds to be.



As far as Mangalore SEZ Ltd. was concerned and prime example that can be counted is the acquisition process of the 800 year's old PermudeSomanatheswara temple along with its related deities. Simple question the displacers ask is 'can that grandeur subject to a particular location of a deity can be recreated at a place far away from its relevance?'

That the government as well as the state authorities are always in the process of refining "land acquisition" and formulating new laws for Rehabilitation and resettlement of the displaced is no secret matter. To lend credence to this fact is the recent setting up of a 'Rehabilitation and resettlement Authority' by the Karnataka State Government in all its districts and mainly senior officers to head them in an effort to settle all disputes arising out of land acquisition. The concerned districts First Additional and District Magistrates are to head this authority accordingly to an order passed by the revenue department. Only High court and Supreme Court can hear appeals in matters related to Land acquisition. The rehabilitation and resettlement authority has been vested with judicial powers and at the lower level only it can hear disputes regarding land acquisition. Many of the developmental projects which include water resources development, roads and Rail projects are expected to take off at a brisk pace away to the setting up of this Rehabilitation and Resettlement Authority.

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