

Land Acquisition Issues in Noida District: Background to 'Land Wars' in India

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New Delhi is located on the western side of the Yamuna River, which flows almost north to south. Over the past ten years, New Delhi and its environs have been rapidly developing and changing. Many modern shopping malls stand in Gurgaon, which is located south of Delhi. Noida, which is located on the eastern side of the Yamuna River, is also experiencing rapid development as a commuter town of the capital, as can be seen by many industrial complexes being built one after another. The Noida area is now experiencing chaos.¹

On July 6, the Supreme Court set aside land acquisition (156.3 hectares) carried out in 2009 at Shahberi Village (Uttar Pradesh State (UP), Greater Noida, Gautam Buddha Nagar District) by the UP government and Greater Noida Industrial Development Authority (GNIDA), which is an UP governmental body.² Based on this judgment, land was returned to the original owners (most of them are farmers).

These farmers, who were unilaterally evicted from their land without being given an opportunity to file objections and waged a campaign against the acquisition, of course celebrated this judgment. However, about 6,500 people, who had booked flats to be built in the district, were disappointed by the loss of their long-awaited dreams.³ Further, residents of other villages in Greater Noida (Noida Extension), where land acquisitions were conducted concurrently with Shahberi Village, are also filing similar suits. This situation has raised developers' and builders' fears of bankruptcy and of failure to reimburse deposits to those who booked flats and houses in this area. While reports heat up on how financial institutions, who provide companies with funds for construction and buyers with housing mortgages, will address this issue, there are concerns over what judgment the High Court and the Supreme Court will deliver next.

Why did such a situation occur? The land acquisitions were originally carried out by the UP State (Bahujan Samaj Party (BSP) government) as a part of the Greater Noida's Industrial Development Plan, pursuant to the emergency clause (Article 17) stipulated in the 1894 Land Acquisition Act, whereby procedures for residents' objections (Article 5A) are dispensed with. The grounds for the judgment of the Supreme Court were: (1) such urgency was not likely to be present, and (2) GNIDA

¹ The facts in this column are based on two major English-language newspapers in India, *The Hindu* and *The Times of India*, unless otherwise indicated.

² More precisely, the Supreme Court dismissed GNIDA's appeal by special leave against the judgment of the Allahabad High Court (May 12, 2011) that quashed the land acquisition, supporting the judgment of the High Court.

³ Generally, the prices of flats were set in the range of 1 million to 5 million rupees, and in many cases those who booked a flat paid deposits of 10% to 50%.

changed the purpose of land use from industrial use to residential use without the prior approval of the State.

In the entire Greater Noida area including Shahberi Village, land totaling 2,000 hectares (mostly farmland) was acquired by the UP government in 2009. A total of 16 villages were affected by the acquisitions. The land was acquired at 850 rupees per square meter from farmers. GNIDA then resold the land at 10,000 to 12,000 rupees to private developers for the planned construction of residential buildings (250,000 flats) in the area.⁴

The Supreme Court criticized GNIDA, stating: 'In the name of public interest, the Greater Noida Authority was serving private interest'. In response to developers who asserted that they did not know the land had been resold without prior clearance of the change of land use and that consideration must be given to the interests of those who have already purchased flats, the Supreme Court dismissed them, stating 'You were behind the curtain when Greater Noida transferred the land for residential purposes without approval'. With regard to payments made by those who purchased flats to be constructed in Shahberi Village, the Supreme Court ordered developers and builders to reimburse the amounts plus interest. At the same time, the Supreme Court stated that the buyers did not suffer as much as those who lost their land to acquisitions executed through illegal procedures.

On July 6, when the judgment of the Supreme Court was delivered, only about 3% of purchase agreements (6,500 of 250,000 units) or about 8% of the land area (150 of 2,000 hectares) were affected. Companies who sold flats at first showed an inclination to respond to the issue with reimbursement or provision of alternative flats. However, following this case, former landowners in other villages, including Patwari, Rauja-Yakubpur, Bistrakh, Haibatpur, Changhola, Devla, and Iteda, where land acquisitions were carried out concurrently with Shahberi Village, filed a total of 220 writ petitions to the Allahabad High Court, seeking to quash the land acquisitions. As a result, the situation has become more serious.

In response to the actions of the former landowners, those who had bought new flats to be built also organized and established an association of their own. This association (with about 3,000 members) said that members might participate in the lawsuits filed by former landowners to protect their interests. In addition, they have already organized demonstrations, holding up placards declaring, for example: 'We too are victims'. The representative of the buyers said that they are not unsympathetic to farmers who unilaterally lost their land; however, they also cannot accept being victims.

Under such turbulent circumstances, the Allahabad High Court set aside on July 19 the land acquisition (589 hectares) at Patwari Village. This judgment affected about 20,000 flat buyers and 4,250 people who had bought plots of 120 to 240 square meters (winners of lotteries held in 2009 and

⁴ This range may indicate that GNIDA or the UP government received high margins; however, GNIDA asserted that it had sold land at zero profit because it is a public body. GNIDA explained that the price covered the cost of infrastructure work, such as roads, water supply, sewage and electricity, in addition to public facilities such as schools.

2010 by the Greater Noida authority). Considerable amounts of construction work, such as for water supply, sewage and roads, had already begun in the district.

In addition, former landowners in the Noida District, where development was completed quite a long time previously, started to dispute the legality of land acquisitions executed from 1976 to 1997, making the turmoil more serious. Noida District experienced land acquisitions beginning during years when the rights of citizens were suppressed following the declaration of a state of emergency in 1975. Residents suffered acquisition of their houses as well as agricultural land.⁵

There are no clear prospects of the issue being settled at this time (as of August 8).

With regard to Noida District, the issue of land acquisition has been present for a long time since 1976. To legalize the status of former landowners residing in a form of illegal occupation (encroachment), it is reported that the UP government reached an agreement with a representative of the former landowners on July 30 to provide each with residential plots within three months and rehabilitation, in exchange for giving up demands to increase compensation. However, the negotiations are still underway because some former residents oppose the agreement.

Regarding villages in the Greater Noida District, other than the Shahberi area for which the Supreme Court has already given its judgment, on July 26 the Allahabad High Court issued an instruction to settle the problem through discussions between GNIDA and a representative of each village by August 12. On August 6, GNIDA announced that it had reached an agreement with the representative of farmers of Patwari Village. However, reportedly, some residents do not accept this agreement, leaving a chaotic situation for future negotiations. Similarly, no solution is close at hand in other villages.

Those who booked flats that were to be constructed are facing an uncertain and stressful situation as to whether or not they can purchase the flats as planned; if not, whether or not they are entitled to be reimbursed the money they paid; and, even if they have the invested amounts reimbursed with interest, they will be obliged to change their life plans significantly.

This land acquisition issue in Noida may have aspects unique to the Noida District or UP State.⁶

Nevertheless, this is one example of a major issue—‘economic development and land redistribution’—that the current Indian society is confronting on how, having continued to record high levels of strong economic performance since 2002, it can secure land for industrial and housing uses or land for improving infrastructure.

⁵ Regarding the spread of the dispute to Noida District from Greater Noida, some criticize the protestors for attempting to obtain compensation, taking advantage of the judgment of the Supreme Court and the High Court over issues of the latter. However, it may be the case that the breakthrough judgments have brought about an environment where the voices of people in the Noida District are now being heard, after having been largely ignored for some decades.

⁶ The issues unique to Noida or the UP state include: (1) the district is close to the Delhi metropolitan area, which faces the problem of a housing shortage, and (2) a political issue relating to an election that is expected to be held next year in the UP state.

As land disputes are taking place not only in Noida but also throughout India, we often find the headline 'Land Wars' in major newspapers nowadays. Confrontations have occurred at many places between governments and residents over land acquisition for the development of mines, dams, steel works, power-generation plants and SEZs (special economic zones), as well as for residential areas and highways.

In particular, public concern has intensified since the media reported on the Kalinganagar Firing, which occurred in Orissa State in 2006, and the tragic Nandigram Violence, which occurred in West Bengal State in 2007, during which police shot a number of residents who were protesting against the land acquisition.⁷ More recently, police confronted residents who lost their land and other protesters demonstrating against construction, in Jaitapur this April, where the world's biggest nuclear power plant is planned to be constructed, and one resident lost his life. In May, the state government confronted farmers over land acquisition for constructing highways in Noida (Bhatta Parsaul Village) and four farmers were reported dead.

Of course, land acquisition issues have existed for a long time. Nevertheless, there are some significant differences in land acquisition executed before and after economic liberalisation in 1991.⁸ Many lands have forcibly been acquired by the central and state governments for the construction of dams and agrarian reform since the independence of the country. However, land acquisitions for agrarian reform were based on a policy by which a large number of farmers would become independent proprietors in lieu of sacrifices made by a small number of landlords. Those for constructing dams were executed for irrigation development and power generation. So, it would have been the case that it was relatively easy for people to share a recognition of these public purposes. In addition, some scholars point out that employment of the acquirees in the public sector was guaranteed to a considerable extent.

In contrast, after economic liberalization, firstly, there has been a growing sense of distrust about the idea that land acquisition is being forced in the interests of a few private companies and in the interests of corrupt central and state governments, in lieu of sacrifices made by many residents and farmers. Secondly, farmers and residents who surrendered their land have very little chance of being employed in the public sector. This is partly because of policy changes triggered by the economic liberalization of 1991, as the role of the public sector in economic development was significantly lessened since then. Therefore, in general, people are increasingly disinclined to lose their livelihoods to land acquisition. Thirdly, although land acquisition issues were basically considered as a matter of property rights

⁷ On January 2, 2006, there was a protest campaign against land acquisition for Tata Steel in Kalinganagar, Orissa State, and 13 people were reportedly shot and killed by police. Then, in 2007, there was a campaign against land acquisition for building a SEZ for Indonesian Salim Group in Nandigram of West Bengal State. On March 14, 2007, over 4,000 heavily armed police were deployed and 14 protestors were reportedly shot dead.

⁸ For more detailed analysis, see, for example, articles in *Frontline* 28 (12) (2011 June) and in 3iNetwork (2009) *India Infrastructure Report 2009: Land - A Critical Resource for Infrastructure*, New Delhi: Oxford University Press.

(Article 300A of the Constitution), they are also being understood as an issue of ‘right to life’ (Article 21 of the Constitution), as broadly interpreted and recognized by the Supreme Court from the 1980s, on the grounds that residents would lose their livelihoods and social ties in the case of large-scale land acquisitions. In other words, there has been a change in society’s awareness of rights. Fourthly, as interstate competition to attract private investment has been intensifying since economic liberalization, state governments increasingly take hasty and forcible procedures for land acquisition. This may also contribute to the increase in the number of confrontations over land.

In short, India is proceeding to the stage at which the issue of development and land (redistribution) is coming to the fore in different forms from the era prior to economic liberalization, as Indian society and its political economy are changing dramatically.

For now, the Central Government of India is focusing its efforts on amending the Land Acquisition Act of 1894 or drafting a new act to replace it. This 1894 Act, which was established during the colonial era, vested great discretion in the government, allowing central and state governments to execute land acquisitions in a heavy-handed manner.⁹ To reduce this aspect, the central government is considering tougher requirements¹⁰ and procedures¹¹ for exercising the power of the state, revising the compensation¹² for land acquisition, and formulating a law covering the rehabilitation of those who are forcibly displaced.

The following words of the first Prime Minister Nehru spoken to about 110,000 residents of 20,000 households who were displaced for the construction of the Hirakud Dam in Orissa State, which began in 1948, are well known.

If you are to suffer, you should do so in the interest of the nation.

Given that at the time people broadly shared the ideal of achieving economic independence as well as political independence, and eventually construct a new nation state called ‘India’, the words of the great leader must have touched the hearts of many Indian citizens. Today, half a century later, Indian society is changing significantly. As long as the economy develops and society changes, it is unavoidable, not only for India but also for any country, to redistribute land (not through markets) using the powers of government. Now, India is facing questions through land disputes such as: ‘who

⁹ The judiciary tended to avoid involvement in land acquisition issues until recently, despite that it is widely known for its thrust towards judicial activism since the 1980s. See Gonsalves, C. ‘Judicial Failure on Land Acquisition for Corporations’, *Economic and Political Weekly* XLV (32) pp. 37-42.

¹⁰ Especially in the case of land acquisitions for corporations, discussions are underway on the requirement that a company can request the government to execute land acquisitions only after it directly purchases land that covers a considerable proportion (70% for example) of the land for the relevant use.

¹¹ One problem of the Act lies in its weak guarantee of residents’ participation in the decision-making process. Another disputable point is that the Act does not allow residents to file a suit against land acquisition as such.

¹² There is some consensus that compensation for land acquisition is too low under the current system. However, discussions continue because there are many different opinions as to how compensation should be calculated.

should bear the pain for society and for what reason?’ In other words: ‘for whom and for what will land acquisition and development be executed?’ And: ‘Where is the country heading?’

As the judiciary has continued to deliver tough judgments towards land acquisitions made by governments based on the emergency clause since the beginning of this year, forcible and unilateral land acquisition under the clause may no longer be accepted by society. It is now the turn of the legislature and the executive branches of central and state governments to decide how India will address the issue of economic development and land redistribution.