



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.11884-11888 OF 2025
(Arising out of SLP(C)Nos.9585-9589 of 2023)

THE STATE OF ARUNACHAL PRADESH & ANR.

... APPELLANTS

Versus

MIHIN LALING & ORS.

... RESPONDENTS

J U D G M E N T

1. Leave granted.

2. The core controversy in the instant set of appeals concerns the purported legal dissonance between two Statutes, both of which *inter alia* provide for land acquisition by the State authorities. While on the one hand is the Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation, 1947 (hereinafter, '1947 Regulations'), a pre-independence legislation governing the acquisition of 'Jhum' lands in the State of Arunachal Pradesh; on the other are the settled land laws prevailing in the rest of the country, i.e. either the Land Acquisition Act, 1894 (hereinafter, '1894 Act') or its successor-statue, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter, '2013 Act').

3. The State of Arunachal Pradesh and its Authorities are before us in appeal against the judgment and final order dated 12.09.2022, passed by a Division Bench of the Gauhati High Court (Itanagar Bench) (hereinafter, 'High Court') with respect to the validity of the compensation provided for acquisition of certain 'Jhum' lands, undertaken under the provisions of the 1947 Regulations.

4. The High Court has, *vide* the impugned judgment, *inter alia* held that the 1947 Regulations and the 2013 Act function in distinct legislative spheres, and are therefore not repugnant to each other under Article 254 of the Constitution. It has also upheld the learned Single Judge's finding that the appellant-authorities must provide solatium and interest to the respondents as per the scheme of the 2013 Act.

5. Before proceeding with adjudication on merits, it is apposite to briefly explicate the facts, which are broadly admitted. The lands of the private-respondents were notified to be acquired on 17.02.2014, in a Notification issued under Section 10 of the 1947 Regulations. Notably, these lands were sought to be acquired for the purpose of construction of the Trans-Arunachal-Highway (hereinafter, 'TAH') along the Potin-Bopi (Godak) corridor.

6. The estimates for compensation were drawn up by the concerned Departments, and communicated to the relevant landowners. Pertinently, no solatium or additional interest formed part of these calculations. Aggrieved by the same, the respondents made

representations before the Deputy Commissioner, Lower Subansiri District, Ziro. These representations were negatived by the Authority, citing Section 10 of the 1947 Regulations as a provision which merely necessitates "reasonable compensation", and no other statutory benefit.

7. The private-respondents thereafter approached the High Court seeking the benefits provided under the 2013 Act's acquisition mechanism. However, the High Court relegated them to the statutory remedy of appealing before the State Governor, postulated under Section 17 of the 1947 Regulations. By order dated 14.08.2020, the Governor was pleased to reject their appeal, holding that since the acquisition was effected under the 1947 Regulations, there would be no applicability of the 2013 Act.

8. Still aggrieved, the respondents again approached the High Court assailing the Governor's rejection. The learned Single Judge of the High Court allowed this Writ Petition *vide* order dated 25.04.2022, reasoning that the State's laws cannot be repugnant to the Central legislation and they are, to that extent, void. Thus, while the acquisition under the 1947 Regulations was held to be valid, its compensation was ordered to be calculated as per the model laid down in the 2013 Act. Accordingly, the High Court allowed for grant of the statutory benefits as prayed for by the respondents.

9. The State of Arunachal Pradesh and its authorities, i.e. the appellants, challenged this finding through intra-Court appeals,

before a Division Bench of the High Court. As already noticed hereinabove, the High Court has partly allowed these appeals in a common judgment and order. The Division Bench modified the earlier order to the extent of holding that the 1947 Regulations and the 2013 Act are not repugnant to each other in principle but rather function in different fields. However, the Division Bench confirmed that statutory benefits flow to the respondents from the 2013 Act (even for acquisitions under the 1947 Regulations). Finally, the impugned order indicates that all acquisitions completed under the 1947 Regulations may be reopened for re-determination of their compensation as per the 1894 or the 2013 Act, as the case may be.

10. We have heard Mr. Sanjay Jain, learned Senior Counsel for the appellants and Mr. Abhimanyu Tewari, learned counsel for the respondents, and carefully perused the material placed on record.

11. The present appeals turn upon the interplay between a pre-constitutional special Regulation, namely, the 1947 Regulations, and the 1894/2013 Acts, with particular reference to the entitlement of claimants to solatium and interest. It is thus appropriate at this juncture to refer to certain key provisions of the 1947 Regulations. Firstly, we find that 'Jhum' lands are defined in Section 2(b) of the 1947 Regulations, which reads to the following effect:

"(b) "Jhum Lands" means and includes all lands which any member or members of a village or community have customary rights to cultivate by means of shifting cultivation or to utilise by clearing jungle or grazing

livestock provided that such village or community is in a permanent location but does not include :-

(i) any land which has been or is under process of being terraced for the purpose of permanent or semipermanent cultivation whether by means of irrigation or not.

(ii) any land attached appurtenant to a dwelling house and used for the purpose of permanent cultivation, or

(ii) any land which in the opinion of the [Deputy Commissioner] is subject to permanent cultivation.

Explanation :- (1) any land which is otherwise Jhum land according to the above definition shall be deemed to be so notwithstanding the fact that a part or the whole thereof may have been planted with fruit trees, bamboos, or tung or reserved for growing firewood.

(2) Any village or community shall be held to be in permanent location of it always remains within a specific area, although part or the whole of such village or community may migrate from time to time to different localities within that area."

12. Since Section 2(b) refers to the 'Customary Rights', a brief reference to Section 4 of the 1947 Regulations may also be relevant for our limited discussion. That provision is reproduced below:

"4. (1) A Customary right to Jhum land shall be deemed to be established in favour of village or a community when

such village or community has enjoyed the right to cultivate or utilize such Jhum land for not less than 5 years prior to making of this Regulation.

(2) A customary right to Jhum land shall be deemed to be established in favour of an individual cultivator, -

(a) if he inherited the land in accordance with a local custom;

(b) if he purchased the land prior to the making of this Regulation and such purchase was not contrary to local custom, or

(c) if he has purchased the land at any date subsequent to making of this Regulation, provided such purchase was not contrary to any local custom or any provisions of this Regulation, or

(d) if, being a resident of permanent village, he has brought the land under cultivation, and the land has not been cultivated at any time within 30 years preceding his bringing the same into cultivation:

Provided that such land is within cultivatable reach of his own village."

13. Finally, it is abundantly noticeable that the most contentious provision in these appeals is Section 10 of the 1947 Regulations, whose interpretation goes to the very essence of the dispute. Section 10 - titled as "Acquisition for public purpose" - reads as

follows:

"10. The Government may acquire any Jhum land required for a public purpose. No formal acquisition proceedings shall be necessary but an opportunity shall be given to those having rights in the land to show cause against such acquisition and reasonable compensation shall be paid for all land required under this section.

Land so acquired shall, if relinquished by the Government at any time, be returned to the village, community or individual from whom it was acquired on refund, if any, of such compensation to the Government as the latter may decide."

14. A brief perusal of these provisions and the preamble of the 1947 Regulations indicates that they are a special law, enacted in exercise of powers conferred under Section 92(2) of the Government of India Act, 1935 in order to safeguard, regulate, and protect the rights of the tribes indigenous to the Balipara/Tirap/Sadiya Frontier Tracts over the 'Jhum' lands.

15. In other words, the 1947 Regulations were enacted to protect and regulate the customary tenure of 'Jhum' lands in the Frontier Tracts, recognising their distinct character and insulating them from the general regime of land acquisition. Section 10 of the 1947 Regulations, which authorises acquisition for public purpose by the State, dispenses with elaborate procedures, and instead stipulates a mandatory opportunity of hearing and payment of fair and just

market price of the acquired land. It is evident that the framers of the 1947 Regulations sought to ensure the security of tribal land while equipping the State with its eminent domain authority to requisition such land in the larger public interest.

16. Thus, there cannot possibly be any room to doubt the fact that the 1947 Regulations do not envisage the routine procedure followed under the 1894/2013 Acts, i.e. the issuance of Notification proposing the acquisition; the subsequent Declaration of such acquisition; issuance of notice(s) before passing of an award, etc. Due to such omissions, it seems that the appellants have always construed Section 10 to mean that the land can be acquired without prescribing any rigid procedure, so long as there is compliance of the expression of "reasonable compensation", which is averred to be transparent and non-discriminatory.

17. It is this shapeless "reasonable compensation" that has worried the respondents, who sought applicability of the 2013 Act, a decidedly more thorough legislation with determinative elements for the calculation of compensation, including statutory benefits such as solatium and additional interest.

18. The controversy, therefore, revolves primarily around the manner and the procedure that may be required to be followed by the State Government while acquiring the 'Jhum' lands. The High Court, *vide* the impugned judgment, has firstly referred to various constitutional provisions in order to hold that the land could be acquired only under provisions of the 1894/2013 Act(s) and that Section 10 of the 1947 Regulations is merely an enabling provision

under which 'Jhum' lands can be acquired.

19. We find considerable force in this approach of the High Court. The phrase "reasonable compensation" is an open-textured expression, designed to confer flexibility. It cannot be read as permitting compensation which is merely notional or arbitrary. In constitutional jurisprudence, reasonableness of compensation must align with the guarantees of Article 14 and Article 300A. The right to property, though no longer fundamental, is nonetheless a constitutional right which cannot be divested save by authority of law, and such deprivation must meet tests of fairness and non-arbitrariness.

20. In this backdrop, subsequent legislative developments furnish an important guide. The 2013 Act – enacted to replace the 1894 law – represents the considered will of Parliament as to what constitutes just recompense when property is taken for public purpose. It mandates not only market value but also 'solatium' and 'interest', recognising that compulsory acquisition imposes a special burden upon the landholder.

21. While the 1947 Regulations may provide an alternate procedural framework for the North-Eastern Frontier Tracts, they cannot be interpreted in isolation from this broader evolution of law. To construe "reasonable compensation" narrowly, ignoring 'solatium' and 'interest', would be to perpetuate inequality: two landholders losing their property for identical projects – one under the 2013 Act, another under the 1947 Regulations – would stand on palpably

different footings, without rational justification. Such a construction would not withstand scrutiny under Article 14.

22. In this sense, we are in agreement with the High Court that “reasonable compensation” in Section 10 must be harmonised with the prevailing legislative standards of the time, and that solatium and interest are not alien imports but integral components of fairness. This interpretive technique properly reflects the principle that subordinate or special legislation must be read in the light of constitutional values and later general enactments, particularly where the language is sufficiently elastic.

23. At the same time, we are conscious of the limits of judicial intervention. The High Court, in its impugned judgment, permitted reopening of all concluded acquisitions under the 1947 Regulations for reassessment of compensation. Such an approach, in our considered opinion, may travel beyond the permissible bounds. Finality of administrative action cannot be lightly unsettled; to do so would not only destabilise public projects but also create fiscal uncertainty. Balance must therefore be struck by ensuring that pending and future acquisitions are aligned with the standards of the 2013 Act, while leaving untouched those transactions where compensation has been finally determined and accepted.

24. Before we part with these appeals, it merits mentioning that the controversy before us has since been laid to rest by legislative intervention. The Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation (Amendment) Act, 2024, namely, Act No. 11 of

2024 (which has come into force in the State of Arunachal Pradesh with effect from 07.08.2024) has introduced a proviso to Section 10 explicitly stipulating that compensation under the 1947 Regulations shall not be less than that computed under the law of land acquisition in force at the relevant time. This amendment confirms, in statutory form, the interpretive conclusion reached by the High Court and supplemented by us. However, as a matter of legislative policy, it operates prospectively and cannot, by itself, justify disturbing concluded acquisitions.

25. In view of the foregoing discussion, we direct that the respondents shall also be entitled to solatium as well as interest in accordance with the provisions of the 2013 Act.

26. The appellants shall ensure that any arrears towards solatium and interest, wherever not yet paid, are released to the landowners of the subject-acquisition within a period of three months from today.

27. It is further clarified that the obligation of the State to pay 'solatium' and 'interest' shall be without prejudice to its right to recover the same from the ultimate beneficiaries of the acquisition, in accordance with law.

28. In respect of concluded acquisitions where compensation has been finally determined, accepted and disbursed, no reopening shall be permissible. The impugned judgment of the High Court is therefore set aside, to that extent. However, in all matters which remain pending either before the competent authority or before a

Court/Tribunal, the compensation shall be recomputed to include solatium and interest as above.

29. The directions contained in our *interim* order dated 03.07.2023 regarding the deposit of amounts with the Deputy Commissioner shall be given full effect. In the event such deposits represent solatium and interest payable to the true landowners, the same together with the accrued interest in the Fixed Deposit shall be disbursed to the claimants without delay.

30. With these directions, the appeals are allowed in part. The judgment of the High Court stands modified to the extent indicated above.

31. All pending interlocutory applications stand disposed of.

.....J.
(SURYA KANT)

.....J.
(JOYMALYA BAGCHI)

NEW DELHI;
SEPTEMBER 16, 2025.

