

CHAPTER 4

Assessment of Market Value and Payment of Compensation

In order to safeguard the interests of the land owners, the manner of assessment of market value and procedure for payment of compensation, have specifically been outlined in the RFCTLARR Act, 2013. Audit, however, came across instances of non-adherence to the provisions, in assessing the market value of the land, as well as in the payment of compensation. Significant audit observations, in this regard are given below:

- *In 74 (36 per cent) out of 203 test-checked LA cases, the sales data of adjoining villages had not been obtained for determination of the market value of the land, notified for acquisition. In six LA cases, involving acquisition of 43.48 acres, Audit assessed the under-valuation of land, amounting to ₹ 10.07 crore.*
- *In one case, the Benchmark Value, despite being higher than the average sales value of similar category of land in adjoining villages, had not been considered for determining the market value. Resultantly, the amount of compensation had been under-assessed by ₹ 5.27 crore.*
- *For acquisition of land for private entities, the amount of compensation consented to by the land owners, had not been obtained. Besides, the valuation of land had been done in an unfair manner, resulting in short payment of compensation, amounting to ₹ 63.76 crore.*
- *Computation of additional market value had not been done, as per the provisions of the Act, resulting in short payment of compensation, amounting to ₹ 4.03 crore, in 120 cases, involving acquisition of 1,061.109 acres of land.*
- *In 179 cases, involving acquisition of 3,055.583 acres of land, the compensation amount of ₹ 120.94 crore, could not be disbursed, due to non-updation of land records.*
- *In 114 LA cases, land measuring 2449.594 acres, had been physically taken over, after making payment of 83 per cent of the compensation, though full payment was to be made for taking physical possession of the land.*
- *Land measuring 57.453 acres, had been taken over by Government, without initiating LA proceedings and also without paying any amount towards compensation, in disregard of the statutory provisions.*

4.1 Assessment of the Market Value of Land

As per Section 26 of the RFCTLARR Act, 2013, read with RDM instructions of February 2014, Collectors were required to adopt the higher of the following, in assessing and determining the market value of land:

- The *market value* specified in the Indian Stamp Act, 1899, for the registration of sale deeds or sale agreement, in the area where the land is situated, or the market value of land, as per the approved Benchmark Value²⁶ (BMV), whichever is higher; or
- The *average sale price* for similar type of land, situated in the nearest village or nearest vicinity, in the immediate preceding three years; or
- *Consented amount of compensation*, as agreed upon under sub-section (2) of Section 2, in case of acquisition of lands for private companies, agreed to by at least 80 *per cent* of the affected families, at the time of giving consent for their land to be acquired.

In addition to the market value of the land, the land owner is also entitled to compensation towards value of assets attached to the land²⁷, multiplying factor²⁸; solatium²⁹ and additional market value, at the rate of 12 *per cent* per annum, for the intervening period, from the date of preliminary notification to the date of award of compensation. The process of assessment of the market value and award of compensation, is depicted in **Chart 4.1**.

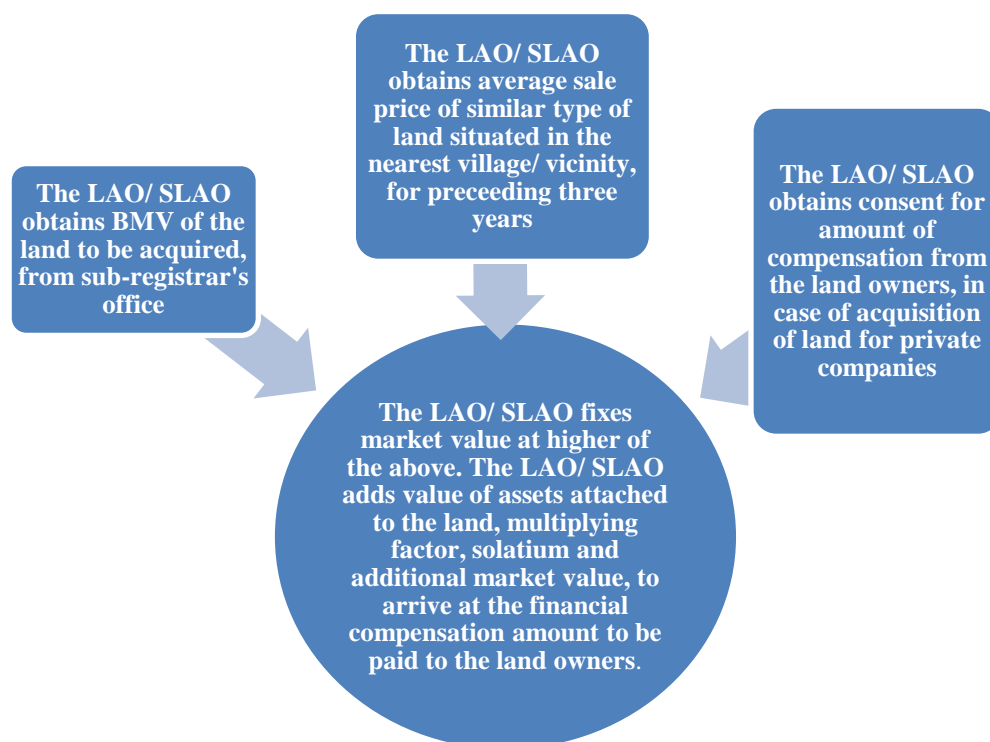
²⁶ Floor price fixed by Government, under the Odisha Stamp Rules, 1952, as amended from time to time. It is revised biennially by the Government

²⁷ Cost of trees, wells, structures, *etc.*, standing on the land

²⁸ Market value is multiplied by a factor, ranging from one to two, considering the distance from nearest urban area

²⁹ After determination of compensation to be paid, a Solatium, equivalent to one hundred *per cent* of the compensation amount, is added to arrive at the final award

Chart 4.1: Process of assessment of market value of land



Audit scrutinised the fixation of the compensation amount, in 203 LA cases, involving acquisition of 3,190.068 acres of land, in the six test-checked districts and noticed deficiencies in the valuation of land, as tabulated below:

Table 4.1: Overview of the assessment of market value, in the test-checked LA cases

District	Compensation awards passed (No./ area in acres)	No. of cases, where sale data of the adjoining villages was not considered	No. of cases where the compensation was less than the BMV	No. of cases settled without obtaining the consented amount of compensation	No. of cases of under-assessment of additional market value
Kalahandi	8/125.64	-	-	3	-
Keonjhar	45/561.878	4	-	-	44
Koraput	41/210.00	2	-	-	-
Mayurbhanj	37/1527.35	-	-	-	7
Nabarangpur	1/0.74	-	-	-	-
Sundargarh	71/764.46	68	1	2	69
Total	203/ 3,190.068	74	1	5	120

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Scrutiny of these 203 LA cases, in Audit, revealed instances of violation of Section 26 of the RFCTLARR Act, 2013, by the SLAOs/ LAOs, for determining the amount of compensation to be paid to the land owners, as discussed in the succeeding paragraphs.

4.1.1 Fixation of market value of land, ignoring the sales data of adjoining villages

As per Section 26 of the RFCTLARR Act, 2013, the average sale price for similar type of land, situated in the nearest village or nearest vicinity, during the immediate preceding three years, is to be collected, for comparison with the BMV, and the highest between the two, is to be taken as the rate of compensation. In three of the test-checked districts (Keonjhar, Sundargarh and Koraput), in the acquisition of 753.14 acres of land, by four LAOs/ SLAOs³⁰, the sales data of adjoining villages, had not been obtained/ considered, for assessment of the market value of land. Audit noticed that:

- In the acquisition of 1.23 acres of land, in four LA cases, LAO, Keonjhar, had fixed the market value of land at ₹3.63 lakh to ₹2.10 crore, per acre, taking into account only the BMV. The LAO did not consider the average sale price of similar types of land at the adjoining villages, which ranged between ₹20 lakh and ₹2.13 crore per acre, *i.e.*, higher than the BMV. As a result, the concerned land owners were paid compensation that was short by an amount of ₹ 36.55 lakh. On this being pointed out in Audit (December 2022), the LAO revised (January 2023) the market value of the land, as per the average sale price.
- In the acquisition of 247.64 acres of land, in 29 LA cases, for TBRLP, SLAO, TBRLP, determined the market value of land, based on the average sale value of land, in the preceding three years, only in the villages concerned, ignoring the average sale value in the adjoining villages. Audit analysed the fixation of market value in case of 43.48 acres of land in five LA cases and found that the market value of land had been fixed at ₹1.10 lakh to ₹1.75 lakh, per acre, *i.e.* same as the BMV. Accordingly, compensation amounting to ₹ 2.73 crore, was awarded. However, the average sale value, in the adjoining villages, ranged between ₹1.60 lakh and ₹18.10 lakh, per acre, based on which the compensation amount worked out to be ₹ 12.80 crore. Thus, there was under assessment of compensation, by an amount of ₹ 10.07 crore. Some of the villagers refused to receive the award amount, alleging fixation of the market value on the lower side. A District Level Committee, headed by the Collector, Sundargarh³¹ examined the under-valuation issue and decided to increase the compensation amount. Even though the District Level Committee raised the compensation amount to ₹5.33 lakh per acre, in regard to the entire 247.64 acres, the same was not approved by the RDM Department. Fixation of market value, deviating from the laid down procedure, and its subsequent enhancement, as well as rejection of the enhanced amount, were indicative of arbitrariness in the fixation of market value.

In reply, SLAO, TBRLP, stated that sale data of the adjoining villages could have been considered for fixation of market value of land. The fact, however, remained that the SLAO did not rectify the market value,

³⁰ LAO, Keonjhar: 4 cases, 1.23 acres; LAO, Koraput: 2 cases, 14.31 acres; LAO, Sundargarh: 39 cases, 489.96 acres and SLAO, TBRLP: 29 cases, 247.64 acres

³¹ Other members were Additional District Magistrate, Sundargarh; Sub-Collector, Bonai; LAO, Sundargarh; Tahasildars of Kolra, Lahunipara, Bonai and LAO, TBRLP

despite admitting the lapse. At the same time, the LAO, Keonjhar, rectified the market value, after this was pointed out in Audit.

- In the other 41 LA cases, pertaining to the Sundargarh (39 cases) and Koraput (two cases) districts, sales data of the adjoining villages had not been obtained in acquisition of 504.27 acres of land³². In the absence of such data, Audit could not vouchsafe correctness of the amount of compensation determined by the respective LAOs.

Collector, Koraput, stated that the Audit observation had been noted, for future guidance.

4.1.2 Fixation of market value less than the BMV

In the acquisition of 16.72 acres of land, for the Super Thermal Power Project of NTPC Limited, the LAO, Sundargarh, fixed the market value at the average sales value per acre, which was less than the BMV, as detailed in **Table 4.2**.

Table 4.2: Category-wise land value

Category of land ³³	Average sales value	BMV	Under-assessment
	<i>(Figures are ₹ in lakh per acre)</i>		
Mal Sadharana	16.73	32.00	15.27
Goda II	16.25	32.00	15.75
Gharabari	25.50	30.25	4.75

(Source: Records of the Offices of the LAO, Sundargarh)

As can be seen from **Table 4.2**, the LAO had fixed market value less than the corresponding BMV, contrary to the provisions of Section 26 of the RFCTLARR Act, 2013. As a result, the land owners had been paid short compensation, amounting to ₹ 5.27 crore. Reply of LAO, Sundargarh had not been received (as of February 2024).

Recommendation 4.1: Valuation of the land notified for acquisition, should be made with due regard to the average sales price in the adjoining villages and the governing Benchmark Value, as provided in Section 26 of the RFCTLARR Act, 2013.

4.1.3 Fixation of market value of land, without obtaining consent of the land owners on the amount of compensation

Section 26 (3) (a) of the RFCTLARR Act, 2013, provides, *inter alia*, that, where the market value of the land cannot be determined for the reason that the transactions in land are restricted by or under any other law, for the time being in force in that area, the State Government shall specify the floor price or minimum price per unit area of the said land. In case of acquisition of land for private companies, the Act also provides that the market value of land shall be the consented amount, as agreed upon. Audit noticed the following in this regard:

³² Sundargarh: 39 LA cases for 489.96 acres and Koraput: 2 LA cases for 14.31 acres

³³ Mal Sadharan and Goda II category land represent agricultural land, while as Gharabari land represents house-sites and its adjoining land

4.1.3.1 Under-valuation of land acquired for M/s Vedanta Limited

The Odisha Industrial Infrastructure Development Corporation (IDCO) applied (January 2013) for acquisition of 117.98 acres of private land, in three villages³⁴, under the Lanjigarh Tahasil of Kalahandi District, for establishment of industries by a private company, namely, Vedanta Limited (Vedanta). The land identified for the purpose comprised 7.92 acres of homestead land and 110.06 acres of non-homestead land³⁵. The preliminary notification, in this regard, was issued in December 2013.

For determination of the market value, the LAO could collect sales statistics of 3 out of 14 adjacent villages only, as there had not been any sale transactions in other villages. Accordingly, the market value of homestead land was fixed at ₹ 32.69 lakh per acre and that of non-homestead land at ₹ 2 lakh per acre, based on the average sales value being higher than the BMV. The compensation awards, amounting to ₹ 9.86 crore, for 110.06 acres of land, were issued during November 2016 to March 2017. Possession of land in two villages (Bandhaguda and Rengopali) was handed over (March 2018) to IDCO, while payment of compensation in respect of Kothaduar village, was under progress (as of November 2022).

Audit observed that:

- The District Collector, Kalahandi, had imposed restrictions on sale of land in 29 villages (including the three villages mentioned above), under the Lanjigarh Tahasil, in July 2002³⁶ and March 2004³⁷, which was in force (as of November 2022). The reason for imposing such restriction was that, in the event of further expansion of the industrial facility by M/s Vedanta, land in these villages would be utilised for the purpose. Due to this restriction, there had been only 11 sales transactions in these three villages. In view of the negligible number of sale transactions, the valuation, made on the basis of the sales data, was not truly representative of the market value of land.
- In this context, a comment had been made vide Paragraph 2.1.3.9 of the Report of the Comptroller & Auditor General of India (Civil) for the year ended March 2011 on Government of Odisha, that such restriction, devoid of any legal basis and, in absence of any registered sale and purchase of land, would keep the benchmarked price of land, in the area, at an artificial level, and would also facilitate further acquisitions of land, for promoters of industry, at rates below their economic value. Since prohibition was in place, on sale of land, determination of the market value of land, on the basis of only a few transactions, would not indicate the fair price. Therefore, assessment of market value, by the LAO, on the basis of these limited transactions, was not fair.

³⁴ (i) Village Kothaduar: LA case No. 03/2013, area: 4.97 acres; (ii) Village Rengopali: LA case No. 04/2013, area: 107.35 acres and (iii) Village Bandhaguda: LA case No. 05/2013, area: 5.66 acres

³⁵ Homestead land: House sites; non-homestead land: Agricultural and other land except homestead land

³⁶ 12 villages, including Kothaduar and Bandhaguda

³⁷ 18 villages, including Kothaduar and Rengopali (village Kothaduar, which was repeated in both the orders)

- The Collector, Kalahandi, had sanctioned (November 2012) lease of 2.15 acres of *Rasta kisam*³⁸ Government land, in village Kothaduar (*i.e.*, one of the three villages³⁹), in favour of IDCO, for establishment of industries by Vedanta, at ₹ 15.40 lakh per acre. As against this, after 16 to 21 months⁴⁰, the market value of non-homestead land was arrived at as being ₹ 2 lakh per acre. Thus, in view of non-availability of sale transactions in the three villages and very few transactions in nearby villages, the market value, of *Rasta kisam* Government land, could have been adopted for determination of non-homestead land, in these three villages.
- The LAO also had not obtained consent from the affected land owners, in regard to the agreed amount of compensation, to be paid, as required under the RFCTLARR Act, 2013. Despite imposition of restriction on sale of land, the floor price of the land had also not been fixed by the Government.

Thus, the LAO had neither assessed the market value in a fair manner, nor exercised due diligence, to arrive at the highest of the three criteria, as provided under Section 26 of the aforesaid Act, for determining the amount of compensation to be awarded. Considering the cost of Government land, determined in November 2012, the compensation amount, for 110.06 acres of non-homestead land, worked out to be at least ₹ 73.62 crore, against which the land owners had been awarded compensation, amounting to ₹ 9.86 crore only. As a result, the land owners had been deprived of the compensation amount, amounting to ₹ 63.76 crore.

In reply, the LAO, Kalahandi, stated (December 2022) that no sale transactions were available for the years from 2011 to 2013, due to which the sale statistics of neighbouring villages, covering the periods from 2011 to 2013, had been taken into consideration, for determination of the market value. Moreover, no objection had been received from any of the land owners, from the villages of Bandhaguda, Kothduar and Rengopali, in regard to less payment of compensation.

The reply is not convincing, as the amount consented to by the land owners had not been obtained by the LAO for determination of the market value of land, nor had the floor price been fixed. Despite these deficiencies, the rate at which the Government had valued its own land, for lease in favour of Vedanta, in one of the acquisitioned villages, had also not been adopted as the basis for determining the market value. Moreover, non-receipt of objection against valuation of land from the land owners should not be treated as an indicator of fairness in valuation of land, as ignorance of the land owners might be one of the reasons for not raising any objection.

³⁸ *Rasta Kisam* land are common use land which are not leasable. The same was converted (March 2012) to leasable land *i.e. Patita Kisam*

³⁹ Kothaduar, Rengopali and Bandhaguda

⁴⁰ Notifications for acquisition of land had been issued in December 2013 and May 2014. Valuation of Government land was done in August 2012

4.1.3.2 Acquisition of land for Dalmia Cement (Bharat) Limited and M/s ESSAR Steel Limited

The Collector, Sundargarh, acquired (April 2021 to January 2022) 277.412 acres of land, in five LA cases, for two private companies (Dalmia Cement (Bharat) Limited, formerly known as M/s OCL India Limited, and M/s ESSAR Steel Limited). The LAO, Sundargarh, fixed (January and October 2021) the market value of land at ₹6.05 lakh and ₹13.75 lakh per acre, respectively, on the basis of BMV/ sale data of village proper. However, the LAO did not obtain the consent of the land owner on the amount, though for acquisition of land for private companies, the consent of the land owner was to be obtained, as provided in the Act.

The same LAO, Sundargarh, however, fixed (December 2020) the market value of land at ₹32.35 lakh and ₹11.53 lakh per acre, on the basis of consent of the land owner, against BMV and average sale price of ₹18.15 lakh and ₹1 lakh per acre, respectively, for acquisition of 2.79 acres of land, for Gail India Limited (a GoI PSU).

It is evident from the above that the LAO did not fix the market value on the basis of consent of the land owners, for acquisition of land for private companies, though provided in the Act. However, the LAO fixed the market value, based on the consent of the land owners, for acquisition of land for Government PSU, though this was not provided in the Act. As the consented amount of land was evidently higher than the BMV/ average sales value, the LAO, by not obtaining the consented amount, deprived the concerned land owners of the higher compensation amount, in regard to acquisition for private companies. Response of the Collector, Sundargarh had not been received (February 2024).

Recommendation 4.2: Valuation of the land, notified for acquisition for private entities, should be made based on the consent of the land owners. For Scheduled areas, Government should fix the floor price of the land, for the benefit of the land owners.

4.1.4 Under-assessment of additional market value

After issue of declaration under Section 19 of the RFCTLARR Act, 2013, the Collector issues notices, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land, may be made to him/ her. The Collector enquires into the objections, if any, and passes award of compensation under Section 23 of the Act. As per Section 30 (3) of the RFCTLARR Act, 2013, read with RDM Department Clarification (June 2018), in addition to the market value of the land, provided under Section 26, the Collector shall, in every case, award an amount (termed as Additional Market Value), calculated at the rate of twelve *per cent* per annum, on such market value, for the period commencing from the date of issue of the preliminary notification under Section 11, to the date of award, or the date of taking possession of the land, whichever is earlier.

Audit noticed that, in 120 test-checked LA cases, involving acquisition of 1,061.109 acres of land, the calculation of Additional Market Value (AMV) was not in consonance with the provisions of the RFCTLARR Act/ instructions of the RDM Department. During preparation of estimate, the LAOs/ SLAOs had calculated the AMV, for periods ranging from 365 to 965 days, which had also been approved by the land requisitioning authorities⁴¹. During passing of award, the period for which AMV to be paid were to be revised considering the actual date of award. The period were, however, not revised, even though the awards under Section 23, were eventually passed with time gaps of 388 to 1,314 days, from the dates of issue of the preliminary notifications, under Section 11. Due to non-revision of the AMVs, an amount of ₹944.42 lakh, was awarded against ₹1,347.31 lakh due, as detailed in **Table 4.3**:

Table 4.3: Details of less award of additional market value

(₹ in lakh)

Name of the Unit	No. of LA cases	Area (in acres)	Period for which AMV was due (in days)	Period for which AMV paid (in days)	Amount of AMV due	Amount of AMV awarded	Less amount awarded
SLAO, DBRLP, Keonjhar	16	11.05	1,187-1,195	365	138.01	42.41	95.60
SLAO, KIP, Keonjhar	25	546.113	444-1314	365-965	574.40	501.59	72.81
SLA&RRO, TMIP, Koraput	29	33.25	388-942	365	3.93	2.75	1.17
LAO, Mayurbhanj	7	2.769	488-817	365	12.98	10.81	2.17
SLAO, SIP, Mayurbhanj	3	126.66	794-1,312	730	360.67	203.46	157.21
LAO, Sundargarh	11	93.627	411-593	365	107.07	79.09	27.98
SLAO, TBRLP, Sundargarh	29	247.64	890-1,134	730	150.25	104.31	45.95
Total	120	1,061.109			1,347.31	944.42	402.89

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

In reply, the SLAOs of TMIP, TBRLP, DBRLP and KIP, assured that revised estimates would be prepared, considering the date of award. The SLAO, SIP, stated that the AMV had been calculated for two years, as per the instructions of the RDM Department and the same had also been approved by the land requisitioning authorities. Response of LAO, Sundargarh, had not been received(as of February 2024).

The reply furnished by the SLAO, SIP, was not acceptable, as it was in contravention of the provisions of Section 30 of the RFCTLARR Act.

Recommendation 4.3: Additional market value may be calculated, considering the dates of issue of preliminary notifications and dates of awards, as provided in Section 30 of the RFCTLARR Act, 2013.

⁴¹ The authority which files requisition for acquisition of land

4.1.5 Under-valuation of landed property of an SC land owner in a Scheduled area

In case of direct purchase of private land, market value is to be fixed, as per the provisions of Sections 26 to 30 of the RFCTLARR Act. As per Section 22 of the Orissa Land Reforms Act, permission of sale of land, belonging to SC, is required to be granted by the Sub-Collector concerned.

Audit noticed, in Sundargarh district, that the Collector, Sundargarh, had approved (October 2018) an estimate of ₹6.04 lakh⁴², for acquisition of 0.09 acre of land, through the direct purchase mode⁴³, from a land owner belonging to the SC community. The land value had been assessed as per the BMV of the year 2013. The said land was required by the Executive Engineer (EE), Rural Works (RW) Division, Rourkela, for construction of road and bridge. The EE, before seeking permission from the Sub-collector for purchase of land, started construction of a portion of bridge and road, on the said land. The land owner filed (December 2019) a petition before the Sub-Collector, Panposh, seeking restraining the EE from any construction over his land, until fair compensation was paid. The land owner had also requested (September 2020) enhancement of the compensation, as per the then applicable BMV. The Sub-Collector ordered (November 2020) that valuation of the land be made as per the BMV, 2019, which was ₹ 55 lakh per acre (prevailing during the period 2019-21). Accordingly, the value of 0.09 acre land worked out to be ₹ 10.49 lakh. The Sub-Collector, Panposh, granted (June 2021) permission to the EE, to purchase the land at the approved rate. The EE, however, purchased (July 2021) the said land at ₹6.04 lakh, *i.e.*, the pre-revised rate. Thus, the land owner received compensation that was short by an amount of ₹ 4.45 lakh, as compared to the amount that was actually due to him.

Audit observed that, despite the order of the Sub-Collector, to revise the value of the land as per the BMV, 2019, the EE paid ₹ 6.04 lakh to the land owner, as per the old BMV rate. The sale deed registering authority also allowed the registration, despite payment of sales consideration at a lower rate. As a result, the SC land owner was deprived of fair land value, amounting to ₹ 4.45 lakh.

Recommendation 4.4: In case of direct purchase of private land through bilateral negotiation, the market value of land may be fixed, as per Sections 26 to 30 of the RFCTLARR Act, 2013

4.2 Payment of compensation

The RFCTLARR Act, 2013 and the Odisha RFCTLARR Rules, 2016, envisaged that the land records, of the land parcels intended to be acquired, be updated before issue of preliminary notification. The compensation amount was to be paid within a period 15 days of passing of awards, or the amount would

⁴² Land value: ₹2,70,000 at BMV of ₹30,00,000 per acre, additional market value: ₹32,400 and solatium: ₹3,04,000)

⁴³ Direct purchase of private land means purchase through bilateral negotiations, as provided under Section 46 of the RFCTLARR Act, 2013, read with RDM Department's instructions of January 2016. In case of direct purchase of private land, the market value is determined, as per Sections 26 to 30 of the RFCTLARR Act, 2013

be deposited with the designated authority⁴⁴, for eventual payment to the entitled land owners. Audit noticed deficiencies in the updation of land records, as well as in the payment of compensation, as discussed in the succeeding paragraphs.

4.2.1 Non-disbursement of compensation, due to non-updation of land records

As per Rule 4(2) of the Odisha RFCTLARR Rules, 2016, on receipt of application for acquisition of private land, the District Collector is to send the land particulars of the proposed project area, to the Tahasildar concerned, for updating the Record of Rights (RoRs), within a period of three months. Further, as per Section 11(5) of the RFCTLARR Act, 2013, after issue of preliminary notification under Section 11 and before issue of a declaration under Section 19, the Collector is required to undertake and complete the exercise of updating the land records.

As per Rule 28 (3) of the Odisha RFCTLARR Rules, 2016, payment of compensation is to be made within a period of 15 days of passing of the award, by organising disbursement camps and through account payee cheques, or by way of electronic transfer of funds, to the bank accounts of the awardees, whichever is preferable. As per Section 77 of the RFCTLARR Act, 2013, if the person, entitled to compensation, does not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title for receiving the compensation or as to its apportionment, the Collector is to deposit the amount of the compensation with the Authority, to which a reference under Section 64, is to be submitted.

Audit noticed that, in 288 LA cases, involving acquisition of 5,057.832 acres of land, by 13 LAOs/ SLAOs⁴⁵, in six sampled districts, preliminary notifications under Section 11 of the RFCTLARR Act, 2013, had been issued during February 2016 to July 2022. Subsequently, declarations under Section 19, for acquisition of 3,074.075 acres of land, had been issued in 203 LA cases, during November 2016 to December 2022. Thus, the records of land, involved in these 203 LA cases, were supposed to have been updated. Audit, however, observed that, in 182 cases (90 per cent), involving 3,057.57 acres of land, land records had not been updated, as detailed in **Table 4.4:**

Table 4.4: LA cases, on which declarations under Section 19 were made, without updation of RoRs

District	Name of the LAO/ SLAO	LA cases, where declarations were made		LA cases, where RoRs had not been updated	
		No.	Area (in acres)	No.	Area (in acres)
Kalahandi	SLA&RO, RIP	5	7.66	5	7.66

⁴⁴ Land Acquisition, Rehabilitation and Resettlement Authority, established under Section 51 of the RFCTLARR Act, 2013, for the purpose of providing speedy disposal of disputes, relating to land acquisition, compensation, rehabilitation and resettlement

⁴⁵ LAO, Koraput; LAO-cum-Tahasildar, Laxmipur; SLA&RRO, TMIP, Koraput; SLAO, Jeypore-Nabarangpur and Jeypore-Malkanagiri Rail Link Project, Koraput; LAO, Sundargarh; SLAO, TBRLP, Sundargarh; LAO Mayurbhanj; SLAO, SIP, Mayurbhanj; SLA&RO, RIP, Kalahandi; LAO, Nabarangpur; LAO, Keonjhar; SLAO, KIP, Keonjhar; and SLAO, DBRLP, Keonjhar

District	Name of the LAO/ SLAO	LA cases, where declarations were made		LA cases, where RoRs had not been updated	
		No.	Area (in acres)	No.	Area (in acres)
Keonjhar	SLAO, KIP	25	546.113	25	546.113
	LAO, Keonjhar	4	4.715	0	0
	SLAO, DBRLP	16	11.05	0	0
Koraput	LAO, Koraput	2	14.31	2	14.31
	LAO cum Tahasildar, Laxmipur	1	0.547	1	0.547
	SLA&RRO, TMIP	39	195.69	39	195.69
Mayurbhanj	LAO, Mayurbhanj	10	8.23	10	8.23
	SLAO, SIP	27	1,519.12	27	1,519.12
Nabarangpur	LAO Nabarangpur	1	0.74	0	0
Sundargarh	LAO, Sundargarh	44	518.26	44	518.26
	SLAO, TBRLP	29	247.64	29	247.64
Total		203	3,074.075	182	3,057.57

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Audit noticed, in 179 out of the aforesaid 182 test-checked cases, that compensation of ₹370.49 crore, had been awarded (January 2017 to November 2022), by eight LAOs/ SLAOs. Out of this, an amount of ₹120.94 crore could not be disbursed, as of December 2022, due to non-updation of land records, as summarised in **Table 4.5**:

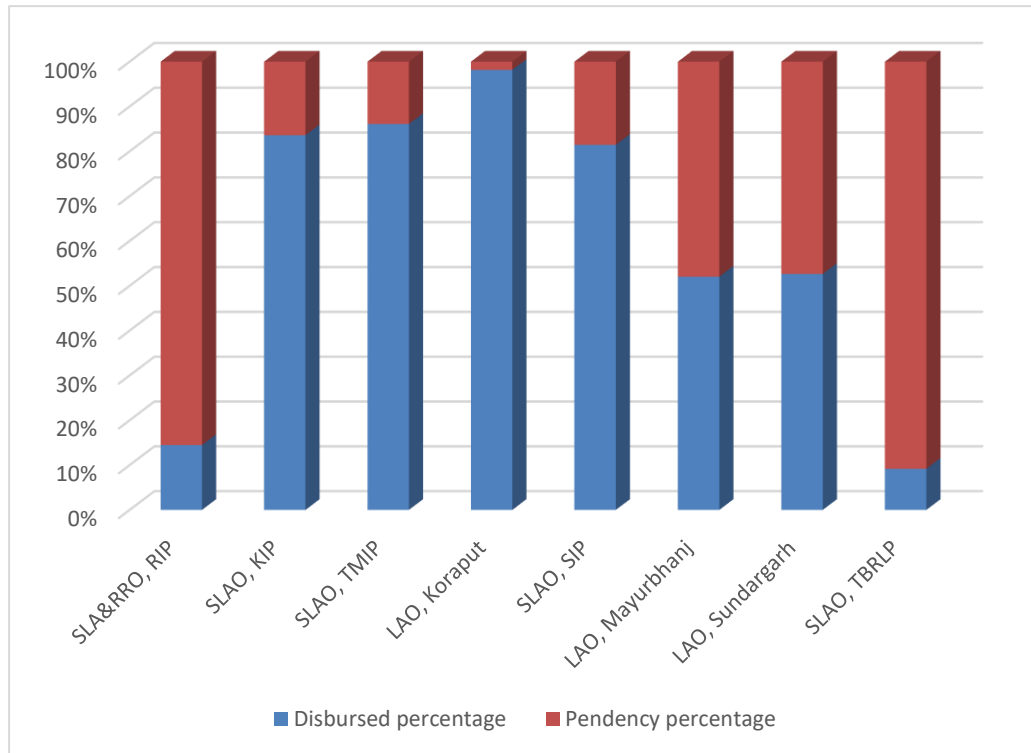
Table 4.5: Details of non-disbursement of compensation

District	Name of LAO/SLAO	No. of LA cases	Area acquired	Status of compensation disbursed (₹ in lakh)		
				Awarded	Disbursed	Balance
Kalahandi	SLA&RRO, RIP	5	7.66	27.72	4.01	23.71
Keonjhar	SLAO, KIP	25	546.113	8,514.75	7,117.03	1,397.72
Koraput	SLAO, TMIP	39	195.69	655.80	564.70	91.10
	LAO, Koraput	2	14.31	447.47	439.25	8.22
Mayurbhanj	SLAO, SIP	27	1,519.12	12,037.97	9,804.57	2,233.40
	LAO, Mayurbhanj	10	8.23	1,322.27	688.01	634.26
Sundargarh	LAO, Sundargarh	42	516.82	11,613.12	6,113.93	5,499.19
	SLAO, TBRLP	29	247.64	2,429.66	222.96	2,206.70
Total		179	3,055.583	37,048.76	24,954.46	12,094.30

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

The LAO/ SLAO-wise percentage, of disbursed and undisbursed compensation amounts, are depicted in **Chart 4.2**:

Chart 4.2: LAO/ SLAO- wise percentage of compensation disbursed and undisbursed



Audit observed that:

- In 15 LA cases⁴⁶, no compensation had been paid (as of December 2022), even though compensation awards of ₹ 11.48 crore, had been passed during August 2020 to November 2022.
- In 39 LA cases, the percentage of payment was below 50, whereas, in another 34 cases, the percentage of payment ranged between 50 and 80.
- Even though the compensation remained unpaid beyond the prescribed period, the same had not been referred to the LARR authority. Besides, such delayed payment led to consequential delay in taking over of possession of acquired land, as well as commencement of projects.

This has been discussed in detail in **Paragraph 4.2.2**.

⁴⁶ LAO, Sundargarh: 1; SLAO, TBRLP, Sundargarh: 9; SLAO, TMIP: 1; LAO, Mayurbhanj: 3 and SLARRO, RIP: 1

Case study: 4.1

In case of acquisition of land in village Kaloshiria, under the Kuarmunda Tahasil of Sundargarh District, for establishment of a gas pipeline project by GAIL India Limited, the LAO, Sundargarh, passed (March 2021) an award of compensation of ₹120 lakh, for acquisition of 0.90 acres of land⁴⁷. The recorded tenant had passed away. The LAO passed (9 March 2021) the compensation award in favour of 11 persons, who were the legal heirs. Four of the legal heirs, submitted an affidavit, stating that the remaining seven legal heirs had authorised them to receive the compensation amount on their behalf. Accordingly, the LAO paid the entire compensation amount to the four persons. Subsequently, two objection petitions were received from the three legal heirs, regarding non-receipt of compensation. The matter was enquired into by the Sub-Collector, Panposh, who reported (July 2021) that one co-sharer had misled the other legal heirs and obtained their signatures/ thumb impressions on the affidavit, without revealing the exact facts, either regarding the acquisition of land or apportionment of the amount. The Additional District Magistrate, Sundargarh, lodged an FIR (November 2021) against the legal heirs, who had appropriated the compensation amount.

Had the RoRs been corrected, prior to passing of the award of compensation, the genuine land owners could have received their share, without such complications.

- Apart from the above, in 20 LA cases, pertaining to the Keonjhar district⁴⁸, involving acquisition of 15.765 acres, despite updation of land records and award of compensation of ₹ 8.47 crore, during July 2021 to April 2022, an amount of ₹ 1.06 crore had not been disbursed, as of December 2022.

In reply, the SLA&RRO, TMIP, stated that the Tahasildar had not updated the RoRs, though requested. The SLAO, SIP, Baripada, stated that payment of compensation would be made after updation of RoRs. No response was furnished by LAOs, Sundargarh and Mayurbhanj, while other LAOs/ SLAOs noted the audit observation, for future guidance. The SLA&RO of RIP, assured that the final notice for disbursement of compensation, would be issued. The SLAO, KIP and DBRL, did not furnish any specific reply.

Recommendation 4.5: Records of Rights of land parcels, notified for acquisition, should be updated, as per the schedule prescribed in the RFCTLARR Act, 2013.

⁴⁷ Recorded tenant: Dulu Oram, S/o Chaian Oram; Khata No.129/141, Plot No. 586, area to be acquired: 0.90 acres, out of 1.52 acres

⁴⁸ SLAO, DBRLP: 16 cases and LAO, Keonjhar: 4 cases

4.2.2 Taking possession of land, before payment of compensation

As per Section 38(1) of the RFCTLARR Act, 2013, read with RDM Department instructions (March 2016), the Collector can take possession of land, only after ensuring full payment of compensation.

Audit noticed that possession of 2,542.131 acres of land had been taken over, in 158 out of 203 test-checked LA cases, where compensation awards had been passed during FYs 2017-18 to 2021-22. Audit found that, in 114 out of 158 LA cases, full possession, of 2,449.594 acres of land, had been taken, by paying only 83 per cent of the total compensation amount⁴⁹, as detailed in **Table 4.6**:

Table 4.6: Taking over possession of acquired land, before ensuring full payment of compensation

District	Name of LAO/ SLAO	LA cases, where possession was handed over		LA cases, where possession was taken over without ensuring full payment of compensation	
		No.	Area (in acres)	No.	Area (in acres)
Kalahandi	LAO, Kalahandi	2	113.01	2	113.01
	SLA&RO, RIP	4	7.02	3	3.54
Keonjhar	LAO, Keonjhar	2	1.66	1	0.80
	SLAO, DBRL	16	11.05	14	9.42
	SLAO, KIP	25	546.113	24	514.463
Koraput	LAO, Koraput	2	14.31	1	0.26
	SLA&RRO, TMIP	37	195.10	21	185.29
Mayurbhanj	LAO, Mayurbhanj	6	6.203	3	5.036
	SLAO, SIP	23	1,397.53	21	1,389.19
Nabarangpur	LAO, Nabarangpur	1	0.74	0	0
Sundargarh	LAO, Sundargarh	39	247.345	23	226.535
	SLAO, Sundargarh	1	2.05	1	2.05
Total		158	2,542.131	114	2,449.594

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Thus, taking over possession of land, without ensuring full payment of compensation amount, contravened the instructions of the RDM Department, as well as the RFCTLARR Act, 2013.

The SLA&RRO, TMIP, accepted the fact and assured that the matter of payment of the balance compensation amount, would be taken up with the competent authority. The SLAO, SIP, stated that possession had been taken over, considering the interest of the project. The SLAO, KIP, assured that, in future, possession would be taken over after ensuring full payment of compensation. The SLAO, DBRLP, stated that possession had been taken over, due to government pressure for construction of doubling railway link project.

⁴⁹ Compensation amounting to ₹250.69 crore (83 per cent) was paid against the total compensation amount of ₹301.83 crore

The replies are not acceptable, since the interests of the land owners had been overlooked by taking possession of land, before ensuring full payment of the compensation.

4.2.3 *Non-payment of compensation towards structures, wells, ponds and trees*

The Collector, Sundargarh, passed (August 2013) a compensation award, amounting to ₹713.29 crore, for acquisition of 2,731.431 acres of land, for establishment of a 4,000 MW Ultra Mega Power Project, at Sundargarh. The acquired land was handed over to the land requisitioning authority, viz. IDCO, during November 2014 to February 2015. The amount included ₹620.87 crore towards land, ₹85.70 crore towards structures, wells, ponds, etc. and ₹6.72 crore towards trees.

Audit noticed that the Rehabilitation and Periphery Development Advisory Committee⁵⁰ (RPDAC), in its meeting (18 October 2014), decided that compensation towards the value of trees (₹ 6.72 crore) and structures (₹ 85.70 crore), not be disbursed, until finalisation of the R&R site. Thereafter, neither was any RPDAC meeting held, nor was the R&R site, finalized. As a result, compensation amounting to ₹ 92.42 crore, remained undisbursed, despite lapse of more than nine years, from the date of award (as of December 2022).

In reply, the Sub-Collector, Sundargarh, while admitting the fact, assured that steps would be taken for early disbursement of the pending compensation amount.

4.2.4 *Irregular deduction of income tax at source (TDS) from the compensation amount*

As per Section 96 of the RFCTLARR Act, 2013, no income tax or stamp duty shall be levied on any award or agreement made under this Act, except under Section 46, i.e., Direct Purchase of land. The Central Board of Direct Taxes also clarified (25 October 2016) that compensation received in regard to award or agreement, which has been exempted from levy of income tax, vide Section 96 of the RFCTLARR Act, 2013, shall also not be taxable. Audit noticed, in this regard, that:

- The LAO, Sundargarh, had deducted TDS, amounting to ₹5.86 crore, from 264 awardees, at the rate of 10 *per cent* of the compensation amount awarded for structures, during FYs 2018-19 to 2021-22, irregularly. The TDS amount had, however, been deposited with the concerned IT authority.
- During FY 2022-23, the same LAO again deducted TDS of ₹21.90 lakh, irregularly, from 17 awardees, towards the compensation for structures. This amount was, however, not deposited with the concerned IT authority. Out of the deducted amount, the LAO had refunded ₹12.74 lakh to six awardees, while the balance amount of ₹9.16 lakh, was lying with the LAO (December 2022), which was irregular.

Thus, the LAO, Sundargarh, had been irregularly deducting TDS, violating the provisions of the RFCTLARR Act.

⁵⁰ Constituted as per the Odisha R&R Policy, 2006, to oversee the R&R measures initiated

In reply, the LAO stated that TDS had been deducted inadvertently from the structure owners, having PAN and the amount had been deposited under the IT head. The concerned persons were filing IT returns and getting back their deducted compensation, accordingly. The reply was not convincing, since deduction of TDS, from the compensation awarded towards acquisition of land, was irregular. Further, there was no documentary evidence, available with the LAO, in support of the fact that the land owners had got back the TDS amount.

4.2.5 Acquisition of private land, without initiating LA proceedings and without payment of compensation

Article 300A of the Constitution of India envisages that no citizen shall be deprived of his property, except under authority of law. The RFCTLARR Act, 2013, empowers the State Government to acquire private land, after following due procedure. Section 38 of the Act, *inter alia*, authorises the Collector to take possession of the acquired land, after ensuring full payment of compensation and R&R entitlements, to the entitled persons.

Audit noticed that the process of acquisition of 57.453 acres of land, situated in Scheduled areas, as detailed in **Table 4.7**, was at an initial stage with the LAOs, Sundargarh and Koraput. However, the land had already been occupied by the Government, even before initiation or conclusion of LA proceedings.

Table 4.7: Occupation of private lands, before acquisition of land and payment of compensation

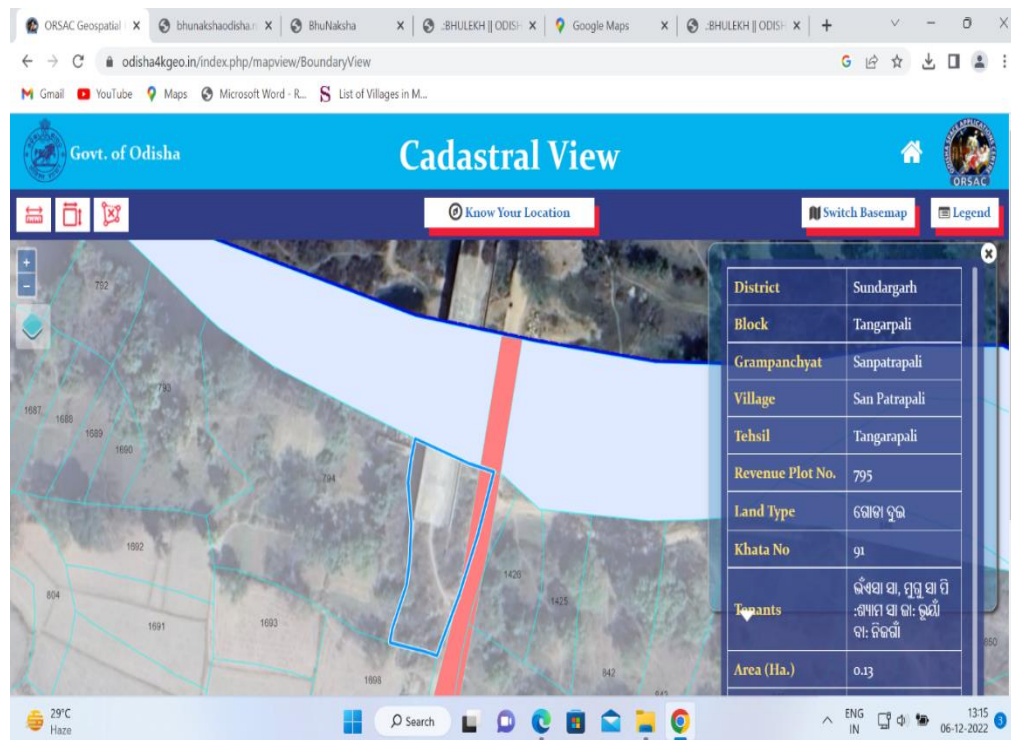
Sl. No.	Purpose of requirement of land	Name of Village/ area under acquisition (in acres)	Remarks
A. LAO, Sundargarh			
1	Construction of Head Works of Ghoghar Medium Irrigation Project (MIP)	Itma/ 3.82	LA case initiated. Issue of SIA notification under process. No compensation paid. Irrigation project already constructed, as seen from Google maps.
2	Construction of Ghoghar MIP	Itma/ 3.10	SIA notification issued in October 2018 and declaration made in February 2020. Payment of compensation not yet made. Irrigation project already constructed, as seen from Google maps.
3	Construction of Gadiajore MIP	Gadiajore/ 21.78 Amasdegi/ 7.86	SIA notification issued in January 2020. No further progress in LA proceedings. Irrigation project already constructed, as seen from Google maps.
4	Construction of Reservoir of head works of Mashinanalla MIP	Tatijore/7.75 Birkaldihi/ 3.68	SIA notification issued in June 2020. No further progress in LA proceedings. As per the SIA report, the MIP had been constructed since 1994 and the plots under acquisition had been submerged in the reservoir.
5	Construction of HL Bridge over	Sanapatrapa li: 0.48 acre	SIA notification issued in February 2022. As seen from the cadastral view, the HL

Sl. No.	Purpose of requirement of land	Name of Village/ area under acquisition (in acres)	Remarks
	Saraswati Nalla (Bandhapali Kingirkela Road)	and Khuntgaon: 0.35 acre	bridge over Saraswati Nalla had already been constructed over a portion of the land that was intended for acquisition in village Sanapatrapali.
6	Construction of HL Bridge over IB (Subdega Rajpur Road)	Kukuridihi: 1.918 acre and Gailo: 1.455 acre	SIA study under process. As seen from the cadastral view, HL bridge over the river Ib had been constructed over a portion of a land that was intended for acquisition at village Kukuridihi.
B. LAO, Koraput			
7	Development of Jeypore Airstrip	Souraguda/ 5.26	SIA notification issued in November 2019, for 3.32 acres and, in June 2022, for 1.94 acres. Preliminary notification under Section 11 issued in August 2022, for 3.32 acres. The notified land had already been occupied and construction was under progress.
Total		57.453	

(Source: Records of the Offices of the test-checked LAOs/ SLAOs and cadastral view of plots)

A cadastral view of Plot No. 795 of village Sanapatrapali (at Sl. No. 5 in the table), showing construction of a bridge, over a portion of the plot, is given in Image 4.1.

Image 4.1: Cadastral view of Plot No. 795 of village Sanapatrapali



Case study: 4.2

Private land, measuring 4.59 acres, at village Bhogabati, under the Betaonati Tahasil of the Mayurbhanj District, was occupied by the Panchayati Raj and Drinking Water Department, for construction of a Gram Panchayat Office, prior to 1960. No compensation had been paid to the land owners, despite repeated requests. The aggrieved land owners filed an appeal before the Hon'ble Orissa High Court (in September 2011). The High Court directed (November 2015) completion of LA proceedings within six months, from the date of issue of the direction. The Collector, Mayurbhanj, passed (March 2018) compensation awards of ₹6.44 crore, of which ₹6.35 crore had been disbursed, as of September 2022.

Thus, while the RFCTLARR Act, 2013, provides special safeguards for persons residing in Scheduled areas, by stipulating that land acquisition in these areas should be the last resort and, in no case, should acquisition be made without the consent of the GS, the implementing authorities⁵¹ in the RDM Department of the Government of Odisha, by violation of the Act, had acquired land, even without waiting for conclusion of the LA proceedings. Even in cases, where the Government is aware that the private land has been acquired, without following due procedure, as prescribed in the Act and without paying compensation to the land owners, the Government is not taking initiatives to compensate the land owners. As such, the land owners were compelled to resort to the court of law.

The LAO *cum*-Sub-Collector, Jeypore, admitting the audit observation, stated that, due to urgent requirement for construction of approach road and extension of airstrip, the concerned land parcels had been acquired before conclusion of the LA proceedings. Response of the Collectors, Sundargarh and Mayurbhanj, had not been received (as of February 2024).

Recommendation 4.6: No land should be acquired without following the procedure provided under the RFCTLARR Act, 2013, and physical possession of land should be taken only after ensuring payment of full compensation.

⁵¹ The Collectors and LAOs/ SLAOs