

By e-Mail/FAX

**GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT**

No. RDM-LAA-CLRFIC-0002-2015 / 3030 R&DM, dated 02 FEB 2022

From

Avaya Kumar Nayak, OAS (SS)
Special Secretary to Government

To

All Collectors
All LAOs/Spl LAOs

Sub: Clarification regarding determination of the market value under section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

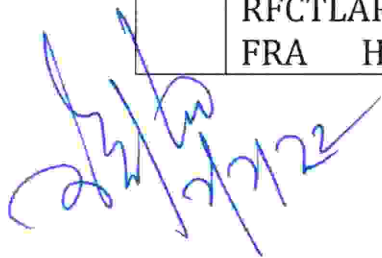
Ref: This Department letter No.4030 dated 07.02.2014, No. 29747 dated 07.09.2017, Notification No. 14131 dated 19.04.2018. & Letter No. 22485 dated 22.06.2018

Sir,

In inviting a reference to the letters on the subject cited above, I am directed to say that the field officers are facing problem while determining the market value of the land under section 26 of the RFCTLA R&R Act 2013 and queries are also being arisen to this aspect by Commerce & Transport (Transport) Department. In this connection, Law department was requested to enlighten in certain queries with regards to determination of market value under section 26 of the Act. Basing on the views offered by the Law Department, queries on the said issues are clarified as below.

Sl. No.	Queries	Views/Clarifications offered by the Law Department
1	How the market value of land be determined in the villages, where no transaction has been done during last three years and no BMV is fixed	Procedures to determine the market value of the land by the Collector have been mentioned in Section 26 of the RFCTLA R&R Act, 2013. Sub-Section 3 of Sec. 26 of the Act provides solution to most of the situations that may arise while determining market value of the land.
2	There are some un-surveyed villages where there is no BMV or sale transactions,	Under such scenario it would be apt to reproduce the aforementioned provision.

	<p>then if such villages will be under acquisition process, then how the market value will be calculated.</p>	<p><i>Sec.26 (3) Where the market value under Sub-Section (1) or Sub-Section (2) cannot be determined for the reason that</i></p> <p><i>(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or</i></p> <p><i>(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of Sub-Section (1) for similar land are not available for the immediately preceding three years; or</i></p> <p><i>(c) the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority, the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-Section (1) in respect of similar types of land situated in the immediate adjoining areas.</i></p> <p>On bare reading of the provisions mention above it is clear that in absence of sale transaction, agreement to sale for similar lands for last three years or non-specification of market value as per the Stamp Act etc. the State Govt. shall specify the floor price or minimum price per unit area of the said land basing on the price calculated as per Sub Sec.1 of Section 26 in respect of similar type of land situated in the immediate adjoining areas.</p>
3	<p>In similar other cases, where forest rights have been granted on forest land, if such land is acquired, as per the provisions of the RFCTLAR&R Act, 2013, the FRA Holders will get</p>	<p>It may be noted here that the State Government in Revenue & DM Department has issued a clarification that in the event of acquisition of Forest land where forest right is recognized with a member of the Scheduled Tribe community and other forest dwellers then such persons are</p>



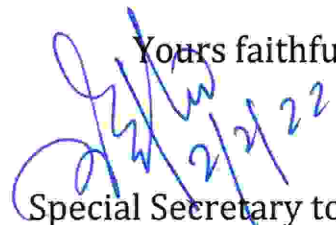
	<p>compensation towards individual forest rights and proportionate compensation for community forest rights. As forest lands are not alienable and no transaction is possible, how 'the similar type of land' will be defined in such cases and the valuation of such land will be done.</p>	<p>entitled to compensation in the event of acquisition of land irrespective of the ownership of such land. In such event, it may be referred to Sub.Sec.3 (a) of Sec. 26 of the Act, 2013. The said provision relates to a situation where transactions in land are restricted by or under any other law for the time being in force in that area. In case of Forest land there is absolute restriction on sale etc. for which the State Government shall have to specify the floor price / minimum price per unit etc. as per the provisions mentioned in the preceding paragraph.</p>
4	<p>How the term vicinity will be determined? Whether Vicinity means the adjoining villages in the peripheral region of the concerned village where acquisition process is going on.</p>	<p>The word Vicinity has not been defined under the Act, 2013. The words 'nearest Vicinity area' found place in Section 26 (1) (b) perhaps has been used so as to deal with a situation where only few registered sale deeds / registered agreement to sale of small piece of land etc. of nearest village are only available. In such circumstance, the Collector may refer to the average sale price of nearest vicinity area and the same may include the immediate adjoining village to the nearest village of the acquired lands.</p>
5	<p>Even in such cases, the plot in the nearest vicinity may come in an urban area, the cost of which may be too high in comparison to the plots in the same vicinity area pertaining to Rural area. Whether the value of the urban land in the nearest vicinity can be avoided?</p>	<p>The query that nearest vicinity may come under urban area has lost its significance for aforementioned reasons. Speaking differently if the nearest vicinity area is close to urban area then the value of land may be calculated by taking in account all the relevant factors mentioned in the Act, 2013, in particular Section 26 of the Act.</p>
6	<p>In the event of two different rates of land value emerged, one for the nearest village (same village) and another for nearest vicinity and if the rates vary substantially, which one will be given</p>	<p>As per relevant provision Sec. 26 (1) (b) only the average sale price for similar type of land situated in the nearest village or nearest vicinity of area shall be taken into account. Therefore, the question of taking into account sale transaction of lands of the</p>

	priority?	village under acquisition does not arise.
7	When sale transaction of village under acquisition are available, whether sale transaction of same village shall be taken into consideration or sale transaction of all the adjacent villages (excluding the same village) shall be taken into consideration or sale transactions of all villages including the same village be taken?	
8	When sale transaction of village under acquisition is not available and transactions of adjacent villages are taken, whether all adjacent villages be calculated separately or all villages will be taken together for calculation.	Usually there would be one village to the nearest village lands under acquisition and the exception is otherwise. If there is more than one nearest village to the acquired land then the required sale transactions of all the said nearest villages may be taken in account for calculation of market value. It may be pointed out here that no such term adjacent villages have been referred to in Section 26 or any other related provisions of the Act.
9	Whether highest sale transaction or the average of the 50% highest sale transactions will be taken into consideration?	Explanation-2 of Section 26 (1) (c) is clear to the effect that one half of the total number of the sale deeds or sale agreements in which the highest price has been mentioned shall be taken into account. Therefore, while calculating market value it will not be improper to take into account average of the 50 % of the highest sale transactions.
10	Whether section 26(1)(c) i.e (consented amount) shall be taken into consideration for acquisition of land for all types of projects or only for projects taken up for private companies or for PPP projects?	Section 26 (1) (c) clearly stipulates that the Collector shall take into account the consented amount of compensation as agreed upon under Sub-Sec.2 in case of acquisition of land for private companies or for public private partnership projects but not for acquisition of land for all type of projects.

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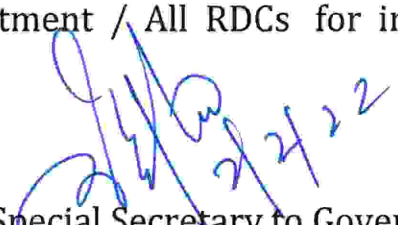
In view of the above, you are requested to take necessary action accordingly.

Yours faithfully,


Special Secretary to Government

Memo No. 3031 / **R&DM, Dated** 02 FEB 2022

Copy forwarded to Member, Board of Revenue, Odisha/ All Departments of Government / All Heads of Department / All RDCs for information and necessary action.


Special Secretary to Government

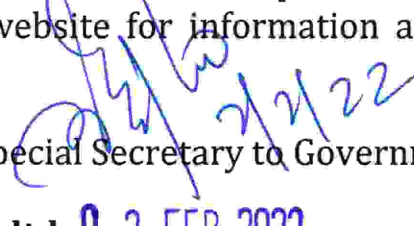
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Special Secretary to Government

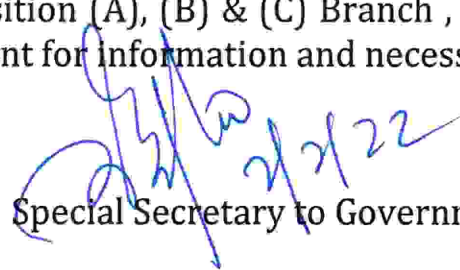
Memo No. 3033 / **R&DM dtd.** 02 FEB 2022

Copy forwarded to E-Governance Branch with a request for upload of the same in Revenue & DM Department website for information and necessary action.


Special Secretary to Government

Memo No. 3034 / **R&DM dtd.** 02 FEB 2022

Copy forwarded to Land Acquisition (A), (B) & (C) Branch , Registration Branch and R&R Cell of this Department for information and necessary action.


Special Secretary to Government