Supreme Court Hearing on Land Acquisition Case

Why in news?

A five-judge Constitution Bench of the Supreme Court is hearing a case to clarify the interpretation of the law on land acquisition.

What is the case on?

- Two three-judge Bench rulings delivered by the apex court in 2014 and 2018 on the same issue differed in their interpretations.
- This has prompted the court to refer the matter to a larger Bench.
- The hearing will decide the legality of several cases of land acquisition that took place across the country before 2009.
- The matter also raises significant questions on judicial discipline.
- It relates to how judgments of the court are applied while deciding subsequent cases on similar issues.

What is the provision in question?

- The case is specifically over the provision related to compensation awarded to landowners.
- The issue involves Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- The 2013 Act replaced the colonial 1894 land acquisition law.
- Section 24(2) says that in cases where acquisition proceedings were initiated under the 1894 law and compensation had been determined -

i. the proceedings would lapse if the state did not take possession of the land for 5 years (and)
ii. had not paid compensation to the landowner

- Once the proceedings lapse under the old law, the acquisition process would be initiated again under the new law.
- This would allow the owner to get a higher compensation.
- The term “paid” in the provision needed interpretation.
- Since it placed the responsibility on the government, cases were filed before the courts soon after the law was implemented.

What were the two conflicting judgments?

- **2014** - In 2014, the first such case involving the interpretation of the new law was the Pune Municipal Authority v Harakchand Misirimal Solanki.
- A three-judge Bench said that the state depositing the compensation in its own treasury cannot be equated with the landowners being "paid".
- In exceptional circumstances, where the landowner refuses the compensation, the sum can be deposited with the court.
- But, a deposit in the state's own treasury would not suffice.
- This ruling was followed as the precedent by High Courts in several cases, and was affirmed by the apex court itself in 2016.
- **2018** - In February 2018, a three-judge Bench ruled in Indore Developmental Authority v Shailendra on a similar issue.
- It held that in cases where the landowner had refused compensation, depositing it with the treasury was sufficient.
- So, the state was not obligated to deposit it with the court.
- In doing so, the court also invalidated the 2014 ruling and declared it "per incuriam" (as lacking in regard for the law and facts).

What does "per incuriam" mean?

- 'Incuria' is Latin for "carelessness", and when a judgment is declared per incuriam, it means that the case was wrongly decided.
- This means that the judges were ill-informed about the applicable law.
- A judgment can also be declared per incuriam if it has materially deviated from earlier precedents.
- A judgment that is per incuriam has no legal force or validity and does not have to be counted as a precedent.

Why was a referral to a larger Bench made?

- Days after the 2018 verdict was pronounced, another three-judge Bench noticed the inconsistency in the two judgements.
- Thus, the bench stayed all cases relating to the concerned provision of the land acquisition Act in High Courts across the country.
- It also asked "other Benches of the Supreme Court" to not take up the issue until it was decided by a larger Bench.
- In oral observations, a Judge strongly criticised the 2018 ruling.
- It was said that the verdict had deviated from "virgin principles" of the judiciary in declaring a verdict of equal Bench strength as per incuriam.

Why is a ruling being invalidated contentious?

- The controversy arises not only as the 2014 ruling was declared per

incuriam, but also because it was done so by a Bench of equal strength.

- In the judicial system that is followed in India, a judgment of the court is used as the basis or precedent for determining future cases.
- In the US, all justices of the Supreme Court sit together for hearing every case.
- Unlike this, the Supreme Court in India sits in Benches of two or three.
- So, the practice of following precedent ensures consistency and certainty in law.
- Also, a ruling of the Supreme Court is binding on all High Courts.
- Likewise, a ruling of the Supreme Court by Benches of larger or equal strength is binding on other Benches of the court.
- So, a three-judge Bench cannot hold a decision by another three-judge Bench to be per incuriam.
- Similarly, a Bench cannot ask other Benches to not follow a judgment.
- It can only ask for consideration by a larger Bench if it disagrees with the precedent.
- Larger Bench rulings are preferred to make sure that the law laid down by the court is predictable as far as possible.

Source: Indian Express

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