

258/12 (1)

**AWARD MADE UNDER SECTION 11 OF LAND ACQUISITION ACT AS  
ORDERED BY HON'BLE SUPREME COURT VIDE ORDER DATED 12/2/2013**

Award No. : 01./2013-14

Name of Village : Kilokri

Area under acquisition : 2633.80 Sq. Mtrs. (03 Bigha 03 Biswas i.e. 3150 yards)

Purpose of acquisition : Construction of Staff Quarters for DESU now Delhi Power Company Limited.

Nature of acquisition : Permanent

Notification u/s 4 : 12/2/2013 (Khasra No. 307 notified under Section 4 under the Act for the first time on 05.03.1963. Then another notification under Section 4 of the Act was issued on 07.10.1968. Then notification under section 4 dated 26.03.1983 was issued but the award was not made. Now, as per the direction of Hon'ble Supreme Court at para no. 12 of order dated 12/2/2013 in case no. C.A. Nos. 204-205 of 2004, the date of notification under section 4 was directed to have been made on the date of order i.e. 12/2/2013. Accordingly, in pursuance of the directions of Hon'ble Supreme Court of India, the notification under section 4 of the Land Acquisition Act, 1894 is deemed to have been issued on 12/2/2013).

**The detail of true and correct area of the land under award is as under: -**

<u>Field No./Kh.No.</u>	<u>Area (in Sq. Mtrs)</u>
307	2633.80

**Possession:** Possession of land has been taken on 05/07/1966.

**Background:** Hon'ble Supreme Court passed order dated 12/2/2013 in case no. C.A. Nos. 204-205 of 2004 titled as Bhimandas Ambawani (d) through Legal Heirs Verses Delhi Power Company Limited with respect to the acquisition proceedings of khasra no.307 (3-3), village Kilokari. The facts in this matter are as following:

1. Shri Bhimandas Ambwani had been conferred title over the land in Khasra no.307 admeasuring 3 bighas 4 biswas situated in the revenue estate of village Kilokari, Delhi and the conveyance deed for the same was registered on behalf of the President of India in favour of appellant on 06/6/1962.
2. The land of Shri Bhimandas Ambwani admeasuring(03-03) out of Khasra No. 307 notified under Section 4 under the Land Acquisition Act, 1894 (herein after 'Act') for the first time on 05.03.1963 and a declaration u/s 6 of the Act was also made in

25216

(2)

respect of the said land on 22.08.1963 and the Land Acquisition Collector made an award under the provisions of the Act on 29.11.1963. However, no award was made in respect of land admeasuring (23-07) including the land of the claimant as the same had been shown to be the land under the ownership of Central Government. However the possession of the land in respect of which the award was made and land transferred to the claimant, was also taken and Union of India handed it over to DESU for construction of Staff Quarters on 05.07.1966.

3. Another notification under Section 4 of the Act was issued on 07.10.1968 in respect of the land admeasuring 31 Bighas & 15 Biswas but no declaration under Section 6 of Act in respect of the subject land was ever issued. The said notification was not acted upon and a supplementary award bearing No. 1651-A Dated 16.02.1974 was made making reference to Section 4 Notification dated 05/3/1963.
4. Then, the predecessor in interest of the claimant filed a Writ Petition bearing No. 307/72 before the Hon'ble Delhi High Court which was disposed off vide Judgement and order dated 26.11.1982 making it clear that the acquisition proceedings arising out of Section 4 notification Dated 05.03.1963 stood superseded by virtue of a Second Notification dated 07.10.1968 thereby making the supplementary No. 1651-A illegal. However, Hon'ble High Court of Delhi further gave liberty to the State to issue a fresh notification under Section 4 of the Act within a period of one year.
5. In view of the said Judgement and order dated 26.11.1982, a fresh notification under section 4 dated 26.03.1983 was issued in respect of the land of the claimant which followed by a declaration u/s 6 of the Act dated 30.05.1983. But, the State failed to make an award in respect of the land of the claimant within the stipulated time frame as per the provisions of the Act and thus all the previous notifications were ordered quashed.
6. Shri Bhimandas Ambwani filed a Civil Appeal in the Hon'ble Supreme Court of India bearing C.A. No. 204-205 /2004 which was finally decided vide order dated 12.02.2013. It is mentioned at the para no.11 &12 of the said order that:

*"considering the fact that the possession of the land was taken over half a century ago and stood completely developed .....that a full fledged residential colony of employees of DESU has been constructed thereon, therefore, it would be difficult for respondent no.1 to restore the possession.*

12. *In such a fact-situation, the only option left out to the respondents is to make the award treating Section 4 notification as, on this date i.e. 12/2/2013 and we direct*



*the Land Acquisition Collector to make the award after hearing the parties within a period of four months from today. For that purpose, the parties are directed to appear before Land Acquisition Collector, C/o the Deputy Commissioner, South, M. B. Road, Saket, New Delhi on 26/2/2013. The appellant is at liberty to file a reference under section 18 of the Act and to pursue the remedies available to him under the Act. Needless to say that the appellant shall be entitled to all statutory benefits.*

**Notices:** - No notice was issued. As per the direction of Hon'ble Supreme Court at para no. 12 of order dated 12/3/2013 in case no. C.A. Nos. 204-205 of 2004, the parties were directed to appear before Land Acquisition Collector, C/o the Deputy Commissioner, South, M. B. Road, Saket, New Delhi on 26/2/2013.

**Hearing done before Land Acquisition Collector as ordered by Hon'ble Supreme Court vide order dated 12/2/2013:**

The undersigned joined the office of ADM (SE)/LAC (SE) on 26.2.2013. The claimants appeared for the first time on 15/3/2013. On 15/3/2013 Sh. Shyam Sunder Ambwani, applicant/Claimant appeared whose land had been acquired and he submitted that Kh.No.307(3-03), village Kilokri was acquired for public purpose on request of Delhi Vidyut Board/Delhi Transco Ltd. The said land belonged to Late Sh. Bhimandas Ambwani and now their legal heirs are required to be paid compensation on the basis of order dt. 12.2.13 passed by Hon'ble Supreme Court. Now award is required to be made treating date of Notification under section 4 of Land Acquisition Act on 12.2.2013. The applicant submitted Special Power of Attorney (SPA) executed by the legal heirs of Late Sh. Bhimandas Ambwani in favour of Sh. Shyam Sunder B. Ambwani, S/o late Sh. Bhimandas N. Ambwan. This SPA is notarised on 12.5.2010. Another copy of Will dated 25.1.2008 executed by Late Sh. Bhimandas Ambwani was enclosed by applicant as per which the Kh.No.307, Village Kilokri was given in favour of Sh. Murlidhar, Sh. Shyam Sunder, Sh. Deepak, Smt. Devki, Smt. Savitri, Sh. Krishna, Smt. Pushpa and Smt. Kanchan. Sh. Sumesh Tangri, DGM, Civil Planning, DTL present on behalf of Delhi Power Company along with Sh. Hukum Singh, AG/Grade II, Land & Building Department, DTL as respondent. They submitted that the rate of land as applicable on 12.2.13 as ordered by Hon'ble Supreme Court should be considered in making award. The applicant/Claimant submitted that the higher of market rate and which rates should be made applicable in calculating the compensation. Time of two weeks was

*Ajay Kumar*

given to both parties to file written submissions in this regard. Thenafter, both the parties were heard on 03/4/2013, 10/4/2013, 22/4/2013 & 01/5/2013.

On 03/4/2013, Sh. S.S. Ambwani, applicant appeared and submitted the detailed claim for calculation of the award which copy was given to Sh. Hukum Singh (AG), Grade II, Land & Building Department, DTL. Sh. Hukum Singh submitted that he need some time to file reply. The applicant/ claimant submitted the following vide letter dated 31/3/2013:-

1. *"That it is pertinent to mention that the State has taken the possession of the land of the claimant illegally and arbitrarily on 05.07.1966 and during all this while, the claimants were deprived of their valuable land of which they have not received any compensation till date.*
2. *That the value of the land of the claimants as on 12.02.2013 is not less than Rs 7,01,198 per Sqmt (Rs. 586,286 per Sqyd) which is prevailing market price of the area in which the land of the claimant is situated and the claimants claim the same. So Claimants are filing the claims as under :*

*A) Firstly, the claim is to be as per market rate / market value of the Land as on 12-02-13:*

*The land comprising of Khasra No. 307 of Kilokari is located on the Maharani Bagh, Kilokari, ring road. This land has been shown of colony in category A of Central Zone as per notification of circle rates applicable to NCT of Delhi w.e.f. 05-12-12. Circle rate for the same has been shown as Rupees 6,45,000/- Per Sqmt. Which works out to Rupees 539,297 Per Sq. yrd. However, the expression of the fair market value on the date of publication of these notification should be higher than the minimum price. The concept of compensation as per market value has much wider connotations than the minimum price of the land or the minimum price of the land as per the notification as per the circle rates which is much lower than the actual market value of the land.*

*Following rates have been collected from DDA, where auction for the neighbouring Friends colony was held and the rates received of Friends Colony were Rupees 701,198 Per Sqmt, which works out to be Rupees 586,286 Per Sq yard. Also by comparison, claimants land is better located than Friends Colony and is on Ring Road itself.*

*The detail of the claim as per Market value are as under:*

i) Total area 3175.02 Sqyrd @ Rs 586,286/- = Rs. 186,14,58,050/- ( Rs. One Hundred and Eighty Six crores, Forteen lacs, Fifty eight thousand and Fifty only)

The Claimants are duly Enclosing the self attested photocopy of the of the DDA auction rates as cited above and also the Circle rates notification applicable as per the NCT of Delhi w-e-f 5/12/2012.

B) Secondly, We are entitled to the benefit of the compensation under Section 23(1-A) of the Land acquisition act:

As per the Section 23[(1-A)] of the Land Acquisition Act, in addition to the market value of the land, as provided, the court shall in every case award an amount calculated at the rate of twelve percent per annum on such market value for the period commencing on and from the date of the consideration of the market value of the said property in case of market value obtained from the adjacent market value rates, which can be the case of auction or any other source of information on which the market value of the land is based upon.

Since we are considering the rates from the date of the auction by the DDA of such adjacent land on the date 17.11.2011 & 28/3/2012, that is the interest @ 12% shall be payable in addition to the market value as per 1) above.

We are duly Enclosing the copy of the Operative Section 23[(1-A)] of the Land Acquisition Act for your ready reference.

ii) Total interest considered @ 12% on Rs. 186,14,58,050/- as above from 28-03-2012 till the date of payments to us which is approx.

say for 14 months till 28.05.2013 =  $12/100 * 186,14,58,050/- * 14/12 =$  Rs. 26,06,04,127/-

C) Thirdly, We are entitled to the Solatium as per Section 23(2) of the Land acquisition act

" Solatium " is " money comfort " quantified by statute, and given by conciliatory measure for the compulsory acquisition of the land of the citizen. It follows automatically, without any impediment, the market value of the land acquired, as a shadow would to a man. It springs up spontaneously as a part of the statutory growth on the determination and emergence of the market value of the land acquired. That it falls to be awarded by the court in "every case" leaves no description with the

court in not awarding in some cases and awarding in others.. The principle behind the Solatium is to satisfy the land owner who shows disinclination to part with his land.

As per section 23 (2) of the land acquisition act, it states that in addition to the market value of the land as provided, the court, shall in every case award a sum @ Thirty percent on such market value, in consideration of compulsory nature of the acquisition.

We are duly Enclosing the copy of the Operative Section 23(2) of the Land Acquisition Act for your ready reference.

iii) Total Solatium @ 30% on Rs. 186,14,58,050/- ( Market value) = Rs. 55,84,37,415/-

D) Fourthly, "We are entitled to the Section 23 of the Land acquisition act wherein we are entitled to the damages sustained by us by forcibly taking possession of the land, by reason of the acquisition injuriously affecting our earnings.

Thus as per Section 23 and Para 71 Page 67 regards of Rented Compensation(Copy Attached) and Section 34 of the Act, we are entitled to the damages in the form of rent to be charged from the DTL on the wrongful occupation of the land w.e.f the date of possession i.e., 05-07-66 when the formal possession obtain by erstwhile DESU, now DTL. The claimants are also entitled to interest @ 9 % PA for the first year and 15 % PA thereafter.

iv) The claim which is detailed = Rs. 20,95,04,607 /-

E) Fifthly, Besides the above claims , Lt Shri Bhimandas Ambwani was harassed and suffered a lot on account of the wrongful acquisition proceedings and also lost his life in attending the various courts proceedings due to unending litigation which had been thrust upon him by the State.

v) The Claim which is Detailed = Rs 50,00,000 /-

F) Sixthly, The claimants are also entitled to 10 % of the alternative developed land & Royalty as per the Hon'ble Supremen Court orders.

G) *Seventhly, . . we leave it to the jurisdiction of L.A.C. for adding any further claims which we are entitled to and during our reply may not have duly considered or forgot to consider, as we had to file the reply within stipulated time period*

*Thus the total claim is:*

*As per (A) – i) above = Rs. 186,14,58,050/-*  
*As per (B) – ii) above = Rs. 26,06,04,127/-*  
*As per (C) – iii) above = Rs. 55,84,37,415/-*  
*As per (D) – iv) above = Rs. 20,95,04,607/-*  
*As per (E) – v) above = Rs. 50,00,000/-*

*The above claims kindly be pursued and the amount may be awarded at the earliest as per Directives of Supreme Court since we have already suffered a lot since last 50 years and the Land has remained under wrong full occupation of Delhi Power Company Ltd."*

Case was adjourned for hearing and for filing reply by DTL. Next date of hearing was fixed on 10.4.13.

On 10/4/2013, Sh. S.S. Ambwani, applicant appeared. Sh. Hukum Singh (AG), Grade II Land & Building department, DTL present and he submitted his submissions on the matter of calculation of award on behalf of DTL which copy was given to Sh. S.S. Ambawani who was accompanied with Sh. Deepak Ambawani, S/o Late Sh. Bhimandas Ambawani, Sh. Anil Vaswani, S/o Sh. S.L. Vasuwani (Grandson of Late Sh. Bhimandas Ambawani), Sh. Puneet Ambawani, S/o Sh. S.S. Ambawani. The case was fixed for argument/final submission on 19.4.13. The hearing scheduled to happen on 19/4/2013 was adjourned for hearing on 22.4.13 as 19.4.13 was Gazetted holiday.

On 22/4/2013, Sh. S.S. Ambawani, applicant present alongwith Sh. Anil Vaswani, S/o Sh. S.L. Vaswani (Grandson of Late Sh. Bhimandas Ambawani), Sh. Deepak Ambawani s/o Late Sh. Bhimandas Ambawani and Sh. Puneet Ambawani, s/o Sh. S.S. Ambawani, Sh. Sumesh Tangri, DGM, DTL and Sh. Hukum Singh (AG), Grade II present for Respondent i.e., DTL. The respondent submitted reply to the claim petition filed by Legal heirs of Late Sh. Bhimandas Ambawani which copy was given to applicant/ Claimant. The applicant

submitted brief synopsis on behalf of claimant which copy was given to respondent. The applicant argued that the compensation has to be paid on market rate as on date of notification as taken in order of Supreme Court, i.e., 12.2.13. The respondent/ DTL submitted that they have taken land by way of acquisition in year 1963 when land was agriculture. LAC should consider the best judgment of sale deed of agriculture land in the area while giving its award. The award dated 30/3/11 of District North East has been enclosed. The applicant & respondent requested for one week time for submission of written argument/final submission. Case fixed for final and last hearing on 01/5/13.

On 01/5/2013, Sh. S.S. Ambawani applicant present alongwith Sh. Anil Vaswani s/o Sh. S.L. Vaswani (Grandson of Late Sh. Bhimandas Ambawani) Sh. Deepak Ambawani s/o Late Sh. Bhimandas Ambawani, Sh. Puneet Ambawani s/o Sh. S.S. Ambawani. Mrs. Avanish Ahlawat, Advocate present along with respondent Sh. Sumesh Tangri, DGM, DTL and Sh. Hukum Singh (AG), Grade II from DTL. Mrs. Avanish Ahlawat, Advocate for DTL submitted brief synopsis which copy was given to applicant. Applicant/claimant also submitted brief synopsis on behalf of claimants which copy was given to Respondent. At this stage, Smt. Kanchan Ambawani, W/o Sh. Ashish Sharma, D/o Late Sh. Ashok Kumar Ambawani present alongwith her advocate Sh. Ashish Sharma for claimants. The claimants submitted that as per Master Plan of Delhi of year 1962 (MPD-62), Kilokri has been shown as residential use and the zonal development plan of Kilokri was notified in December, 1973. In MPD-21 also the land has been shown as residential which has been marked as 'x' in plan by the claimant. Hence, it's clear that the land use had been residential since then upto now. This is the reason, the defendants/DTL could construct residential flats at this site/land. The letter dated 29.4.13 given by DDA shows that during auction done by DDA on 17.11.11 and 28/3/12 the reserve price was Rs.15,03,000,00 for 334 sq. mtrs. Plot while the auction price was Rs.24,51,000,00/- (unconfirmed) and Rs.22,33,000,00/-. The defendant/DTL has mentioned at para No.10 of brief synopsis dt.1.5.13 that normally 60% of land has gone in park, road, recreational centres etc.. The claimants however argued that whatever is the size of plot or land, the FAR (Floor Area Ratio) remains the same and total construction is carried out as per FAR. Therefore, the land price remains same irrespective of the plot area. The claimant argued that both the land auctioned by DDA in New Friends Colony and DTL Staff quarters have been developed for residential use around forty years back. The claimants reiterated the submission made at para No.4 of brief synopsis dt.30.4.13, submitted in court

Ajay Kumar



250/1C

of LAC on 1.5.13 and they relied on the judgment of Supreme Court and Bombay High Court in support of their claim for rental/damages from 1966 upto today.

Mrs. Avnish Ahlawat, Advocate for DTL argued that even after notification of area for different land-use by DDA, the said land-use does not come into effect automatically. The concerned party approaches DDA with concerned land and DDA approves land use for certain part/area only after keeping remaining area with DDA only. In this case, total 139 bighas of land in village Kilokri was acquired vide notification U/s 4 of Act on 5.3.1963 and awarded vide award dated 29/11/1963. In this award, the compensation was given as per agricultural land use i.e., ranging from Rs.2500/- to Rs.4500/- per bigha. Then DESU (now DTL is owner) was given 6.9 acres of land by government. The said land acquisition was done for planned development of Delhi. The land of claimants is now part of this 6.9 acres of land. Hence, the land use for the purpose of awards under Act will remain the same, i.e., agriculture. Hence the base of current agricultural land price based on award dt.30/3/11 of village Mandoli Distt North East and the sale deed dated 20.1.12 of village Dera Mandi, South District may be taken. Regarding the matter of rental compensation, Mrs. Ahlawat submitted that the order of Supreme Court states only that 'to make the award treating Section 4 notification as on this dated i.e., 12.2.13 and we direct the Land Acquisition Collector to make the award after hearing the parties within a period of four months from today.' The order of Supreme Court no-where talks about rental/damages. Hence under land acquisition proceedings whatever legally permissible under Act should be provided. The judgment of Supreme Court in case titled as State of Maharashtra & Others v/s Maimuna Banu & Others has no application in this case because in that case AIR 2003 SC 3698, 2003, after notification u/s 4 & 6 of L.A. Act, the land was acquired by private negotiation and possession was taken. Then the State of Maharashtra passed several resolutions and instructions for providing for rental compensation to tile holders of the land. But in this case, only date of notification u/s 4 has been given by the Supreme Court to make the award and there is no government resolution for paying rent. Neither this judgment nor other judgments draws similarity with this present case for award under consideration. There is no provision for rental compensation under Act. Regarding the letter dt. 29/4/13 from DDA, the claimants have relied on auctioned rate of land of Friends Colony which land use is land commercial cum residential. In this regard, Mrs. Ahlawat argued that the said land falls under well carved out colony which had already undergone all process for charging/developing area for



249/C

commercial cum residential land use from DDA and other agencies. The size of plot of Friends Colony itself shows that it is not agricultural land.

Both the parties made their submission and nothing more was desired to be submitted, hence the hearing in this matter was concluded and the matter was reserved for finalizing award as per the order of Hon'ble Supreme Court.

**Compensation Claims :** - The following persons have filed claims for compensation as per details below:

S. No.	Name of Claimant	Claim
1.	Shri Shyam Sunder Ambwani S/o Late Shri Bhimandas Ambwani r/o H.No. 12/25 East Patel Nagar, New Delhi	30% of Share of Value of the land based on: (i) minimum circle in force w.e.f. 5/12/2012 in respect of Category 'A' of locality i.e. Maharani Bagh @ Rs. 6,45,000/- Per Sqmt. However, as per the auctioned rate of a plot in Friends Colony by DDA on 17.11.2011, the market rate is Rupees 701,198 Per Sqmt. The interest @ 12% shall be payable in addition to the market value as per Section 23[(1-A)] of Act from 17/11/2011 to 31/3/2013 (i.e. date of making submission for claim) (ii) Total interest considered @ 12% on Rs. 186,14,58,050/- as above from 28-03-2012 till the date of payments. (iii) Solatium as per Section 23(2) of the Land acquisition act @ Thirty percent on such market value. (iv) As per Section 23 and Para 71 Page 67 regards of Rented Compensation(Copy Attached) and Section 34 of the Act, we are entitled to the damages in the form of rent to be charged from the DTL on the wrongful occupation of the land w.e.f the date of possession i.e., 05-07-66 when the formal possession obtain by erstwhile DESU, now DTL. The claimants are also entitled to interest @ 9 % PA for the first year and 15 % PA thereafter

Ajay Kumar

		<p>(v) Claim for harassment and unending litigation caused by the department to the claimant- Rs. 50,00,000/-.</p> <p>(vi) 10 % of the alternative developed land &amp; Royalty as per the Hon'ble Supremen Court orders.</p> <p>Thus the total claim is:</p> <p>As per i) above =Rs. 186,14,58,050/-</p> <p>As per ii) above =Rs. 26,06,04,127/-</p> <p>As per iii) above =Rs. 55,84,37,415/-</p> <p>As per iv) above= Rs 20,95,04,607/-</p> <p>As per v) above= Rs 50,00,000/-</p>
2.	Shri Murli Dhar Ambwani S/o Late Shri Bhimandas Ambwani r/o H.No. 12/25 East Patel Nagar, New Delhi	7% share of value of land calculated above at Column No.1.
3.	Shri Deepak Ambwani S/o Late Shri Bhimandas Ambwani r/o H.No. 12/25 East Patel Nagar, New Delhi	20% share of value of land calculated above at Column No.1.
4	Smt. Devki Ubriani, Married Daughter of Late Shri Bhimandas Ambwani ( No deceased) through her LR (1) Shri Arun Ubriani(son) and (2) Smt. Neena Ubriani @ Bharti Khemani, Married Daughter R/o	10% share of value of land calculated above at Column No.1.
5.	Smt. Savitri Peswani, Married Daughter of Late Shri Bhimandas Ambwani	10% share of value of land calculated above at Column No.1.
6.	Smt. Krishana Vaswani Married Daughter of Late Shri Bhimandas Ambwani	10% share of value of land calculated above at Column No.1.
7.	Smt. Reshma Bhagia @ Smt. Pushpa Ambwani, Married Daughter of Late Shri Bhimandas Ambwani	10% share of value of land calculated above at Column No.1.
8.	Smt. Kanchan Ambwani Grand Daughter of Late Shri Bhimandas Ambwani	3% share of value of land calculated above at Column No.1.

*Ajay Kumar*

247/C

**Documentary Evidence:**

In support of their claims of ownership, the claimants have submitted following documents:

- a. Copy of WILL dated 25/1/2008 executed by Late Shri Bhimandas Ambwani
- b. Copy of SPA dated 11/5/2010 executed in favour of Shri Shyam Sunder Ambwani S/o Late Shri Bhimandas Ambwani r/o H.No. 12/25 East Patel Nagar, New Delhi and his WILL.
- c. Copy of letter dated 09/11/1967 sent by Revenue Assistant, Delhi to Sh. B. N. Ambwani regarding mutation of Khasra no. 307, village Kilokari.

In support of their claims for rates, the claimants have submitted following documents:

- a. Copy of letter dated 29/4/2013 sent by Dy. Director (LA) Residential, DDA sent to Sh. S. S. Ambawani mentioning the auctioned rates of plots of Friends Colony.
- b. Copy of Master Plan of Delhi showing Kilokari under residential use in 1962 which was said to be notified in 1973.
- c. Copy of Circle rates issued by the Govt. of NCT of Delhi w.e.f. 5/12/2012.

**Market Value :-**

The market value of the land has to be determined with reference to the price prevailing as at the date of preliminary notification. As per the order of Hon'ble Supreme Court, the award has to be made treating Section 4 notification as on this dated i.e., 12.2.13. The claimant has contested that the land comprising Khasra No. 307 of Kilokari is located on the Maharani Bagh, Kilokari, ring road. This land has been shown of colony in category A of Central Zone as per notification of circle rates applicable to NCT of Delhi w.e.f. 05-12-12. Circle rate for the same has been shown as Rupees 6,45,000/- Per Sqmt. However, the expression of the fair market value on the date of publication of these notification should be higher than the minimum price. The concept of compensation as per market value has much wider connotations than the minimum price of the land or the minimum price of the land as per the notification as per the circle rates which is much lower than the actual market value of the land. As per the rates collected from DDA, where auction for the neighbouring Friends colony was held and the rates received of Friends Colony were Rupees 701,198 Per Sqmt, which works out to be Rupees 586,286 Per Sq yard. The letter dt.29.4.13 sent by DDA to the claimants in response to RTI application shows that during auction done by DDA on 17.11.11 and 28/3/12 the reserve price was Rs.15,03,000,00 for 334 sq. mtrs. Plot while the auction

246/C

price was Rs.24,51,000,00/- (unconfirmed) and Rs.22,33,000,00/-.Also by comparison, claimants land is better located then Friends Colony and is on Ring Road itself.

Delhi Transco Limited i.e. DTL contested that the status of the land is same even on today i.e. agricultural land. Total 6.98 Acres of agricultural land was allotted to the erstwhile DESU for construction of quarters for their employees in 1966. The cost price of land was paid to the Collector @ Rs.20/- per sq. yds., total amounting to Rs.10,16,400/-, on 25th May 1966. However, since acquisition vis-à-vis 3 bighas 3 biswas was cancelled, it reverts back to the original position i.e. agricultural land goes back to the claimant. The Hon'ble Supreme Court in order to meet this situation had directed that fresh acquisition for this land be made and Section 4 Notification be treated as date of order i.e. 12.02.2013. The status of the land will remain the same. The development of the area as such will not give the claimant any benefit as claimant cannot use this part of the land for any other purpose except agricultural. This being the agricultural land, the respondent submits that, infact, the latest sales of agricultural land in the area which are also registered with the Sub Registrar Office but instances are available in the revenue records of District South. The potentiality of the land is to be seen what it was and what it is today. Merely because all around this land, some houses are constructed by erstwhile DESU, the potentiality of the land will not increase. If this piece of land is to be developed 60% of the land will go for development purposes i.e. for parks, recreation centre, roads, internal roads, etc. In the North East District, recently the Land Acquisition Collector has given an Award where market value of the agricultural land in Block A has been calculated as Rs.53,00,000/- per Acre. This Award was given on 30th March 2011 at best by adding another 10% the Land Acquisition Collector can give his Award with respect to the land in dispute which is 3 bighas 3 biswas of agricultural land.

As per the order of Hon'ble Supreme Court, 12/2/2013 is the date of notification u/s 4 of Act. It is evident that when the possession of the land was taken in 1966 then this land was agricultural land. The DESU (now Delhi Transco Limited now said as DTL) had taken this land as agricultural land, hence for the purpose of compensation the land use of this land should be agricultural land only. The owners of the land could not have developed the residential colony on its own volition as such no such rule to permit development of a residential area by private person on agricultural land existed in Delhi after 1957. In Delhi, only DDA or any other State agency could develop residential areas after getting approval of the land and as such only state agencies could have developed residential colony. Therefore, the volitions arising out of developmental activities undertaken by the state agencies after acquisition and having possession of the land, could not accrue to the Bhumidar of the private

Ajay Kumar

275/2

(14)

land. In short, DESU/ DTL has taken the possession of agricultural land and the compensation is required to be paid for agricultural land only. Though the date of notification under section 4 of Land Acquisition Act, 1894 is treated as 12/2/2013 as per Supreme Court order and market value has to be determined as on 12/2/2013, the market value should be as per type of land for which possession was taken. I may further refer to section 24 (fifth) of LA Act which deals with matters to be neglected in determining compensation. As per the fifth clause of Section 24 of LA Act, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired, has to be neglected in determining compensation. Since construction of the quarters and development works have been done on the land under acquisition after taking possession by DESU/ now DTL, the benefit of such development works cannot be given to the claimants while determining compensation and the development of the area as such will not give the claimant any benefit as claimant.

In view of above, I agree that though market value of the land should be determined on 12/2/2013 but the value of this land should be assessed as agricultural land because the possession of the land was taken in 1966 as agricultural land. In the absence of any reliable evidence of the village kilokari of price of agricultural land, I rely upon the indicative price fixed by the Government of NCT of Delhi for agricultural land vide letter dated F.9(20)/80/L&B/LA/15065 dated 24/10/2008. Accordingly, I assess the market value of this land as on date of notification under section 4 of Land Acquisition Act, as Rs.53 lakhs per acre i.e. Rs.1309.66 per sq. Meter (1 Acre = 4046.856 Sq. Mts)

**TREES:** - As the possession of said land in question is with the requisition agency i.e. DESU now Delhi Power Company Ltd. since 05/07/1966, there is no point to assess the compensation at this belated stage due to construction of staff quarters way back in the year 1966 as such no compensation is considered for calculation.

**STRUCTURE:** - It is not feasible now on the part of the Govt. to assess the value of structures that might have been existed on the subject land at the time of acquisition in the year 1966, as such no compensation is considered for payment for structures, if any, as on the date of judgment i.e. 12/2/2013. Moreover, the present structures i.e. the staff quarters has been got constructed by DTL in which there is no role of claimants.

Ajay Kumar

24/1/15

**30% SOLATIUM:** - 30% Solatium is payable on the market value/minimum circle rates of the land U/S 23(2) of L.A. Act 1894.

**ADDITIONAL AMOUNT U/S 23(1-A):**

In addition to the market value of the land an amount calculated at the rate of 12% per annum on such market value for the period commencing on and from the date of publication of the notification under section-4, sub section- (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

**DAMAGE:**

The claimants have demanded the damage in the form of rent. They have submitted that as per Section 23 and Para 71 Page 67 regards of Rented Compensation and Section 34 of the Act, they are entitled to the damages in the form of rent to be charged from the DTL on the wrongful occupation of the land w.e.f the date of possession i.e., 05-07-66 when the formal possession obtain by erstwhile DESU, now DTL. The claimants are also entitled to interest @ 9 % PA for the first year and 15 % PA thereafter from the year 1966 upto 2013. The claimants also relied on the the judgment of Supreme Court in case titled as State of Maharashtra & Others v/s Maimuna Banu & Others and some order of Mumbai High Court. However, the order dated 12/2/2013 of Supreme Court in this matter states only that 'to make the award treating Section 4 notification as on this dated i.e., 12.2.13 and we direct the Land Acquisition Collector to make the award after hearing the parties within a period of four months from today.' The order of Supreme Court no-where talks about rental/damages. Hence, the compensation permissible under Land Acquisition Act only should be provided in this case. The judgment of Supreme Court in case titled as State of Maharashtra & Others v/s Maimuna Banu & Others has no application in this case because in that case AIR 2003 SC 3698, 2003, after notification u/s 4 & 6 of L.A. Act, the land was acquired by private negotiation and possession was taken. Then the State of Maharashtra passed several resolutions and instructions for providing for rental compensation to tile holders of the land. But in this case, only date of notification u/s 4 has been given by the Supreme Court to make the award and there is no government resolution for paying rent. Neither this judgment nor other judgments draws similarity with this present case for award under consideration. There is no provision for rental compensation under Act. Further, the Supreme Court stated to take 12/2/2013 as the date of notification u/s 4 of Act to make award, hence the claimants are getting the present market rate only as on 12/2/2013 and also interest @12% from 12/2/2013 upto the time of making of the award, hence the matter of rental compensation/damage does

Ajay Kumar

(16)  
243/C

not arise in this case because compensation at current market rate is being provided to the claimants.

### APPORTIONMENT

Compensation will be paid as per the directions of the Hon'ble Supreme Court vide order dated 21/2/2013 to the legal heirs of Late Sh. Bhimandas Ambawani after completing necessary formalities. If there is a dispute regarding title/apportionment, which could not be settled here within a reasonable period, the dispute will be referred to the court of ADJ for adjudication u/s 30 & 31 of L.A. Act.

### VESTING OF OWNERSHIP

From the date of taking over the possession of the land, the land under acquisition will vest absolutely in government and free from all encumbrances.

### LAND REVENUE DEDUCTIONS :

The land revenue assessed by the revenue officer concerned till date shall be deducted from the awarded money at the time of making the payment.

### SUMMARY OF AWARD MADE UNDER SECTION 11 OF ACT :

<u>S. No.</u>	<u>Details</u>	<u>Amount of Compensation.</u>
1.	Market value @ Rs.53 Lakhs per Acre i.e. Rs. 1309.66/ per Sq. Meter for an area measuring 2633.80 Sq. Mtrs	= Rs.34,49,382.51/- or say Rs.34,49,383/-
2.	Solatium @ 30% Sub-total	= Rs.10,34,815/- = Rs.44,84,198/-
3.	Additional amount @ 12% u/s 23(1-A) 13.02.2013 to 14.06.2013 (122 days)	= Rs.1,79,859/-
Total		= Rs.46,64,057/-

(Rupees forty six lakhs sixty four thousands fifty seven only)

*Ajay Kumar*  
(AJAY KUMAR)

LAND ACQUISITION COLLECTOR (SOUTH-EAST)

*Mahesh*  
DIVISIONAL COMMISSIONER  
SECRETARY (REVENUE)

14/6/2013

*Award amount*