

AWARD NO. 1246

Name of the locality:-

Sir Syed Ahmed Road,
Darya Ganj, Delhi.

Nature of Acquisition:-

Permanent.

This is a case for the acquisition of Houses No.XI/2583-2590 situated in the locality known as Sir Syed Ahmed Road, required by the Municipal Corporation for a public purpose, namely, for the construction of Municipal Market at the expense of the Corporation. A declaration to this effect was made vide notification No.F.15(42)/57-LSG dated 25.4.57. The substance of the notification was given due publicity on 1.5.57 inviting objections against this acquisition within a period of one month. Some objections were filed by the interested persons within the period of the limitation and the objectors were given patient hearing. The objections were considered unsatisfactory and a declaration under section 6 of the Land Acquisition Act was made vide notification of even number dated 31.12.59. Notices under section 9 and 10 of the Land Acquisition Act were issued and the interested parties have filed their claims.

MEASUREMENT & OWNERSHIP.

According to the notifications, the measurement of the area under acquisition is 4011 sq.yds. From further measurements made by the Naib Tehsildar on the spot, the total area of the land under acquisition was found to be 3890 sq.yds. The land owners have raised no objections against this measurement and therefore, the measurement of the area to be acquired is held correct at 3890 sq.yds.

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Before the partition the whole of this area belonged to muslims. The displaced persons from Pakistan squatted on this area just after the partition. Some of the owners migrated to Pakistan while others remained in India and the property became composite. Five persons namely, Sardar Ali, Nasir Ali, Jafir Ali, Ahmed Ali and Mohmad Rafique filed a joint claim in the property under acquisition before the Competent Officer to fix their ^{share with} property ^{as} Composite. The property under acquisition was numbered as XI/3316-3379 according to old numbers. The Competent Officer held that the applicants' shares at 144299/153216 in properties No.XI/3316-33 and 3335-79, remaining share of this property was declared to be evacuee. As regards Property No.XI/3334, the claim of the applicants was rejected. It means that the property No.XI/3334 was evacuee. Afterwards two of the land owners Sardar Ali & Nasir Ali died. The Competent Officer substituted the name of Shri Kabir Ali in place of Shri Sardar Ali. As regards Nasir Ali, he substituted Amtul Basir 9/72, Rouf Ali 14/72, Salma, Razia and Mamouna 7/72 each and Custodian 28/72 in place of Irshad Nagri 14/72, Ronak Jahan 7/72 and Sultan Jahan 7/72 who were nationals of Pakistan. It is not possible to calculate the share of each muslim's claim. The share of the each of the claimants will be ascertained before the compensation is paid to them.

In addition to the above owners there are tenants on the land who are paying rent, while there are other squatters who are not paying any rent. The list of such tenants is Appendix 'A'.

C L A I M S + E V I D E N C E .

All the land owners who have not migrated to Pakistan have made a joint claim stating that they are the owners of 7591/8064 shares in the total ^{land} bearing property No.XI/2583-90 and the Custodian is the owner of the remaining shares of 473/8064. In proof of their claim, they have given the copies of the two orders of the Competent Officer. According to that order, there is no ^{decision} ~~description~~ ^{on} of old House No.3334 which is pretty big in size, and also forms a ^{part} ~~path~~ of the area under acquisition which is shown as XI/2583-2590. The shares also arrived at by the Competent Officer, do not fit in with the claim of the owners of the property. This is a very complicated matter and the compensation will be sent to the District Judge for disbursement according to the right of each person and the Custodian.

The land owners have claimed compensation @ Rs.225/- per sq.yd. In evidence they have produced copies of two registered deeds and also referred to an award already made in the area of Treha Behram Khan, a locality near the area under acquisition. From verifications made from the record, it is gathered that the rate of award was Rs.73/- per sq.yd. and not Rs.90/- for an area of only 94 sq.yds. It is a well known fact that the price of smaller plots is proportionately much more ^{than} higher than of the bigger plots. The property under acquisition has got an area of about 4000 sq.yds. and, therefore, it cannot have the same rate as in the case of plot of 94 sq.yds. According to a copy of another registered deed produced by them,

House No.XI/2620 measuring 303 sq.yds. was sold for a sum of Rs.17,500/- in the year 1957 yielding an average of Rs.59/- per sq.yd. Similarly according to another sale-deed Plot No.1456 measuring 169 sq.yds. situated in Urdu Bazar was sold for a sum of Rs.10,966/- yielding an average of Rs.65/- per sq.yd. It may be mentioned here that Urdu Bazar ~~was~~ is far better locality than the area under acquisition. Moreover, the plot is only of 169 sq.yds. while the property under acquisition is of about 4000 sq.yds. This is the only evidence produced by the land owners regarding their claim and according to their own evidence the rates of land should be much less than Rs.59/- per sq.yd. as already discussed. The evidence given by them is for the sales which have brought highest average rate in the locality.

In addition to the land owners 86 tenants made their claims stating that they have made some improvements on the houses in which they are residing at present. From verifications made on the spot by the Naib Tehsildar, 11 claimants were not found to be residing on the spot while the remaining 75 persons are residing there. The claims made by each of the tenants are shown in Appendix 'A'. The tenants have made claims mainly on five grounds:-

(1) Cost of structure:- The value of the whole super-structure assessed by the P.W.D. comes to Rs.14,100/-. If the claims of the super-structure of ~~the~~ all the tenants is added then the cost will come to about Rs.60,000/-. This shows that the claims made by the tenants are totally wrong. From the inspection on the spot it is found that the walls on which the super-structure

are built were made by the land owners, while the Tin Sheets and thatched roofs used as roofs were constructed by the tenants and the squatters. The thatched huts are useless and have been used for a pretty long time to exhaust the money spent by them. The Malba can be easily removed by the tenants themselves & therefore no compensation is allowed for such structures.

(2). Value of tenancy rights:- The tenants claimed alternative accommodation plus the compensation for the loss of tenancy rights. They can claim on either of these two grounds and not on both the grounds. The Municipal Corporation is considering to provide alternative accommodation to the tenants and, therefore, compensation on account of loss of tenancy rights will be paid to those tenants, if no alternative accommodation is demanded by them.

(3). Loss on account of shifting from the premises and loss on account of business.

The tenants have claimed compensation on these two grounds. From the inspection of the spot it will be very evident that the place is not even fit for the residence of the cattle, what to say of human beings. I have inspected the spot several times and no reasonable person will like to reside in such insanitary conditions. The area is totally slum and has got to be demolished in order to clean up the locality. Moreover the tenants are paying either no rent or only nominal rent. In view of the above circumstances no compensation can be given on these two grounds.

(4). Loss on account of inconvenience, trouble and mental worry:-

The tenants have approached me several times that the property should be acquired as early as possible and they should be

provided alternative accommodation. There is more mental worry in such a dirty place which is likely to fall down at any time of the rains, rather than going to a new place and living peacefully without fear of death in a clean locality. No compensation is therefore, allowed on the above grounds.

The tenants have further claimed alternative accommodation and the Municipal Corporation is considering to provide them alternative accommodation. They have produced no evidence in support of their claim. Therefore, the claim of the tenants is unsubstantiated.

MARKET VALUE.

The property under acquisition is situated on Sir Syed Ahmed Road. Only about 72 ft. is situated on this road, while the remaining 133 ft. is situated in a street. Shops can be built only on this 72 ft. of land. Sir Syed Ahmed Road is not a very good shopping centre, particularly in the vicinity of the area under acquisition. The property is very old, ^{very} dilapidated building, dangerous for residence and it has not been repaired for the last 15 years, since partition. The roofs are all in ¹ very bad condition and are likely to fall down at any moment. The whole area is infested with mud huts and the conditions are highly insanitary. It is not fit for residence at all. Out of the 75 tenants, only about half are paying any rent while remaining are squatters. It is impossible for the land owners to eject these tenants in the present condition ¹ of the law. The property is fetching very little profit to the land owners in the present conditions. The land owners will be, able to find hardly any purchaser for this property. The Municipal Corporation is

is acquiring this property under the law and is in a position to eject the tenants. It can only be profitable to the Municipal Corporation and not to any private purchaser. The Market value of this property is, therefore, very low.

The Maib Tehsildar has taken great pains in collecting the data of the sales which have taken place in whole of the Daryaganj area. It is unfortunate that few sales are available for vacant plots. The sale pertains to houses already built thereon. The sales, therefore, include the cost of construction as well as the price of the land. Most of these properties are old built houses and the present value of the structure after deduction of the depreciation is, therefore, nominal. I, therefore, consider the price of the house as the price of the vacant land, with additional burden of removing the tenants from these old structures. The area under acquisition is in a similar condition as the other houses for which the sales have taken i.e. the value of the structure is very little while it has got the burden of ejecting the tenants in order to construct a new building. The relevant date in this case is 24.4.57 and the following transactions are, therefore, relevant.

Registration number	Date of registration.	Property No. XXXXXX XXXXXX	Area in sq.yds.	Total Amount.	Average per sq.yd.
3335	29.8.52	XI/4378	350	Rs.9000/-	25.71
2036	30.3.55	XI/2689	323	Rs.14000/-	43.30
6383	14.10.55	XI/4343	294	Rs.14500/-	49.32
1766	21.12.56	XI/1316	215	Rs. 9000/-	41.86
3087	25.1.57	XI/3542	70	Rs. 4000/-	57.14
			1252	Rs.40500/-	

Adding the two transactions produced in evidence by the

land owners, the total area comes to 1724 sq.yds. and the total sale-value comes to Rs.68,966/- yielding an average of Rs.40/- per sq.yd. From the above statement it will be clear that there has been no change in the price in this locality from the year 1952 to the year 1957. The conclusion is reasonable because the whole area is very ancient and infested with the tenants who cannot be easily ejected. The prices vary according to the size of the plot. The average sale price of the bigger plots is much less than the price of the smaller plots. The transactions cited above are for a maximum area of 350 sq.yds. while the property under acquisition has an area of 3889 sq.yds. I, therefore, consider Rs.35/- per sq.yd. as the price of the land in the present position when the average price of smaller houses is Rs.40/- per sq.yd. From the calculations on the basis of 20 years purchase, the price arrived at comes to about the same rate. From verifications made by the Naib Tehsildar, Land Acquisition, it is found out that the total rent paid by the tenants comes to Rs.392/-. 45 tenants are paying nothing. The tenants have constructed their own huts and if rent is charged for land, it should not be more than Rs.7/- per month as compared with others who are paying rent. Calculating their rent at Rs.7/- per hut, the rent of these tenants comes to Rs.315/-. The total rent, therefore, works out to Rs.707/- per month and the total annual rental value comes to Rs.8,484/-. Deducting 10% as the cost of repairs and further 10% as House-tax payable to the Municipal Corporation, the net income to the owner can be Rs.6874/- per year. Allowing the rate of interest at 5% we should take 20 years purchase price for calculating the Market Value of the property. This comes to Rs.1,37,480/-. The total area is 3889 sq.yds.

and the average works out to Rs.35/- per sq.yd. It means that the land owner~~s~~ is realizing Rs.35/- per sq.yd. from the land which is to be acquired inspite of the fact that it is infested with tenants. Had there been no tenants on the land, it is possible that the land owners would have realized higher profits. The Municipal Corporation who is going to acquire this land are in a position to eject the tenants after payment of the compensation to them. The compensation to be paid to the tenants should, therefore, come out of the profits of the Municipal Corporation, so that the land owners might go on getting the same profits which they are getting at present. The tenants are allowed -/2/- for every rupee of the compensation payable for any property. In this way the price of all the rights i.e. the rights of ownership in the present conditions plus the rights of tenancy comes to $\text{Rs.}35/- \times \frac{8}{7} = \text{Rs.}40/-$ per sq.yd. I, therefore, award Rs.40/- per sq.yd. for the land under acquisition.

O T H E R C O M P E N S A T I O N .

In addition to the price of land, the land owners will get compensation for the structure constructed by them. The price of all the structure within the area has been fixed at Rs.14,100/- by the Engineering staff. Out of this sum Rs.2365/- is fixed^{for} the price of structure with G.I.sheets. These are constructed by the tenants and the whole structure can be removed very easily. This sum is, therefore, to be deducted from the price of the structure. I, therefore, award Rs.11,756/- as the compensation for the structure. In addition to the price of the land and structure 15% of the value of the compensation will be paid as solatium for compulsory nature of acquisition. The possession has not been taken so far, therefore, there is no question of interest.

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ON APPORTIONMENT.

Out of the compensation for land @ Rs.40/- per sq.yd. Rs.35/- per sq.yd. will be paid to the land owner and Rs.5/- per sq.yd. to the tenants if they do not wish to get any alternative accommodation. This compensation will be paid to the tenants when they vacate the portions in their possession without demanding any alternative accommodation. If the tenants demand alternative accommodation then compensation of Rs.5/- per sq.yd. will not be paid to them and it will be refunded to the Municipal Corporation. I ^{had} again a meeting with the tenants and they insisted upon getting the alternative accommodation. As regards structure, the tenants can remove their articles which they have fixed in the area under acquisition. No compensation is, therefore, due to them on these grounds. The compensation to the tenants will first be calculated @ Rs.5/- per sq.yd. plus 15% for compulsory nature of acquisition and it will be paid to them in the proportion of the rent they are paying at present. In case of tenants who are not paying any rent, their rate of rent will be assumed as Rs.10/- p.m.

THE AWARD IS SUMMARISED AS BELOW.

Compensation for 3889 sq.yds. of land @ Rs.40/- per sq.yd.	Rs.1,55,560.00
Compensation for structures.	Rs. 11,756.00
	<hr/> Rs.1,67,316.00
15% of compensation as solatium for compulsory nature of acquisition.	Rs. 25,097.40
Grand Total.....	<hr/> Rs.1,92,413.40 <hr/>

The land is assessed to no land revenue, therefore, no deduction is necessary from the Revenue Roll.

(Nand Kishore)
Land Acquisition Collector (I),
DELHI.
20.11.61.

Submitted to Collector of District for information and filing.

(Nand Kishore)
Land Acquisition Collector (I),
DELHI.
20.11.61.

San. Filed. Mmy
COLLECTOR, DELHI.
8.1.62