

AWARD NO. 1919

Award No. _____ for the year 1966- by

Shri Bishan Singh, P.C.S., Land Acquisition Collector, Delhi.

Case No. _____

Acquisition of land for the SETTING UP OF A WOMEN POLYTECHNIC.
at 22, Harding Avenue, New Delhi.

A W A R D

In pursuance of Delhi Administration Notification under section 4 No.F.4(47)/62-L&H, dated the 19th July, 1962 and as declared vide Notification under section 6 No.F.15(107)/62-L&H, dated the 6th November, 1962, the Delhi Administration, area measuring 2.5 acres of land - 22 Harding Avenue, New Delhi, is to be acquired at a public expense for a public purpose, namely ^{for} setting up of a women's Polytechnic. Notices under section 9 and 10 were also issued to the concerned right-holders who submitted their objections which will be dealt with under the heading "CLAIMS".

2. MEASUREMENT.

The total area as given in the notification under section 6 of the Land Acquisition Act, 1894, is 2.5 acres which is in accordance with the entries made in perpetual lease-Deed executed on 23.6.1920 by Hon'ble Raja Moti Chand of Banaras as lessee and the Chief Commissioner, Delhi as a lesser. The plot is situated in the Princess area. It is surrounded by a boundary wall and has also got a bungalow.

3. CLASSIFICATION:

The land under acquisition bears No.22 known as Harding Avenue, New Delhi. No objection regarding measurement and classification of land was received either from the claimants or from the department concerned ^{for which} it is being acquired. I agree with the classification of land as proposed by the Naib-Tehsildar Land Acquisition, on the basis of spot inspection by him. Details of Khasra Nos in form 7A have been prepared under 55 of Finance Commissioner's standing order No.28 which

as under

contd...2/-

(2)

as under:-

S.No.	DESCRIPTION OF LAND ALONGWITH CLASSIFICATION	AREA	KIND OF LAND
1.	22 Harding Avenue	2.5 acre	Ghairmumkin Kothi

Note:- No khasra No. is given to this site.

4. CLAIMS

Jyoti Bhushan s/o Shri Manglu Prasad has challenged the validity of the above mentioned both notifications. He has stated that himself and his sons, Sarvashri Anil Kumar Gupta, Sushil Kumar Gupta, Chander Sheikhar Gupta and Ashok Kumar Gupta, all the five are interested persons in equal share in one half and the legal heirs of Shri Gokal Chand, namely, Raj Kumar, Bijay Kumar, Lalit Kumar and Parmod Kumar all sons of Gokal Chand, Saroj Kumar s/o Kumar Krishan Kumarji, Smt. Raj Mini Devi w/o Rameshwar Parshad, all the seven in equal shares in the other half of the bungalow and the land of 22, Harding Avenue which was built by Late Raja Moti Chand who died in 1934. He has requested for compensation @ Rs.100/- per sq. yard of the land valuing Rs.12,10,000/- value of the bungalow Rs.2,50,000/- potentialities attached to the market value of the land and building @ 15% totalling Rs.1,62,900/-. In this way he has put his claim of 1/10th share in the property amount to Rs.1,62,900/- vide his application dated 13.12.1962. Vide his another application dated 9.1.1963, he has, alongwith his sons, put up another amended claim for compensation @ Rs.175/- per sq. yard amounting to Rs.21,17,500/- and Rs.2,50,000/- for the building besides potentialities @ 15% and interest @ 6% p.a. for 6 months totalling Rs.27,93,645/-. On 23.2.1963 Jyoti Bhushan Gupta and his four sons through their counsels submitted their another amended claim for compensation @ Rs.350/- per sq. yard for the land. They have filed four pieces of News Paper cuttings and a statement showing prices fetched for lessee rights in plots in Golf Links auctioned on 29.1.61. They have tried to show the average rate of Rs.181.75 paise per

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sq.yard in the statement and different rates varying from Rs.164 to Rs.416/- per sq. yard of the commercial-cum-residential area in Jor Bagh and Diplomatic Enclaves^{which} were fetched by the Government has been shown through the cuttings of Newspaper.

The above mentioned illustrations regarding the sites⁷ Jor Bagh, etc. where the plots are stated to have been auctioned at higher rates can not be taken into account for fixing up the market value in the present case due to the fact that they are at a great distance. Moreover no documentary proof regarding such ^{high} prices has been produced by the claimants. Under these circumstances, the compensation shall be fixed up according to the facts and figures.

It is evident from the letter of Land and Development Officer that this land is owned by the Government and the officer concerned (Land and Development Officer) has supplied some information^{vide his letter which is on the file} in respect of this land under acquisition in pursuance of notice under section 9 of the Land Acquisition Act which runs as under:-

" The area of the plot is 2.5 acres which was perpetually leased out to Raja Moti Chand on 23.6.1920 and a sum of Rs.875/- was charged on account of premium and the annual ground rent is Rs-42=12 payable in advance half yearly in two equal instalments. The original lessee died in March, 1934 and the property has not yet been mutated in the name of his heirs and executors, and it can not be transferred without the approval of the Chief Commissioner in writing and under the instruction of the Government which is given after charging 75% of the unearned increase in the value of the land. This unearned increase in the ~~xxx~~ value is calculated by deducting the premium from the present day market value which has been fixed by the Government of India. He has informed that in the present case, the market value^{value} comes to Rs.39=60 & the total of land^{land} comes to Rs.4,79,160/= and the unearned increase comes to Rs.4,78,235/- and 75% of it would

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come to Rs.3,58,713=75 which may be kept aside as Government share in the value of the land. The amount may be credited to the land and Development office. He has further informed that Government had a right to revision of the Ground Rent but this right has not been exercised by the Government. "

The claim of Rs.39.6 per sq. yard made by the Land and Development Officer who is closely associated with the land in the area is to be taken into account.

5. MARKET VALUE:

In calculating the amount of compensation to be awarded certain points as mentioned under section 23(2)(i) of the Land Acquisition Act, 1894, are to be kept in view. All these, among other factors, such as area allowed to be put to use for certain purposes, its situation, rise and fall in price of land in market are also to be considered. In big cities like Delhi, the market value of the land generally depends on the use to which land can be put under the law. The area of big plots reserved for residential purposes only would surely be purchased by men of very high position because no other person with limited means can offer to live in that place. For fixing the market value of the land on the date of notification under section 4 i.e. 19.7.1962 of the Land Acquisition Act, all sale transactions which took place during the first 5 years preceding the date of publication of notification under section 4 are also to be scrutinised.

About 3 months back I directed Naib Tehsildar to search out any sale transaction which took place in this vicinity, but it proved unfruitful because of the fact that area round about this site is owned by the Government and has been leased out to different persons. After making strenuous efforts, some sale deeds relating to land facing to Asaf Ali Road New Delhi

~~have been traced out~~ have been traced out and the market price in this area as per sale deeds is as under:-

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S.NO.	DATE ON WHICH TRANSACTION TOOK PLACE.	AREA IN SQ.YDS.	SALE PRICE	PRICE PER SQ.YARD.
1.	1957-58	129	12.10.57 525 Rs. 95,000=00	Rs. 180=95
2.	1958-59	nil	nil	nil
3.	1959-60	143	28.8.1959 $\frac{1}{4}$ of 444 Rs. 87,500/-	Rs. 788=29
4.	-do-	144	-do- $\frac{1}{4}$ of 444	-do-
5.	-do-	145	-do- -do-	-do-
6.	-do-	146	-do- -do-	-do-
7.	1960-61	135	19.11.1960 525 Rs. 1,50,000=00	Rs. 285=71
8.	1961-62	-	-	-

The average price per sq.yd. comes to Rs.398=26

A detailed scrutiny of the prices of plots sold during the above mentioned period is as under:-

1957-58

During this year, only one transaction involving 525 sq. yards took place and the price per sq. yard is Rs.180=95

1958-59

No transaction took place.

1959-60

In all 4 transactions for 444 sq. yards took place and the average price per sq. yard is Rs.788=29.

1960-61

Area measuring 525 sq. yards was sold during this year and the price per sq. yard for this transaction comes to Rs.285=71.

1961-62

No transaction took place during this year.

The above table shows that the prices in this area are high due to fact that there are multi storeyed buildings are allowed to be used for commercial purposes and this area is also far from the area now under acquisition, whereas only single or double storey buildings for residential purposes only are allowed to be constructed on the land now under acquisition. In big cities like Delhi, value of the land depends upon the rental value of that site as well. Hence the price per sq. yd of this area

not be taken into account for fixing up the price of the land per sq. yd now under acquisition.

I have also looked into the ¹copy of the lease Deed 26/12 which shows that this area can be put to use for residential purposes and the number of storeys to be erected on this site is also restricted. Had there been no such restriction, then the price of this area would have been higher than what can now be. As already mentioned, in big cities like Delhi, the main factor for determining market value of a piece of land depends upon the site for which it can be used, the number of storeys of the building allowed to be constructed and the size of the site. In every case, the price of a small plot, where multi-storeyed buildings for commercial purposes like Hotel etc. are allowed to be constructed, is bound to be very high because it attracts many business men as compared with the number of purchasers for a plot of the same size but is not allowed for such purpose, because only limited wealthy persons will come in the market for competition as there is no attraction of rental value of that plot. In case like the present one, only the well-to-do persons who want to have decent living, offer to purchase such land. The market prices of such plots is bound to be down as compared with other sites from where the purchaser can have permanent monthly income for putting that building to use to other than residential purposes. It is also not out of place to mention here that major share of the value of the site of this land is to go to the Govt. and the market value intimated on behalf of the is not to be ignored in any case. In this connection, the Land and Development Officer, as already mentioned, was also served with a notice and has also intimated the market value of this land. The claims of other interested persons already discussed are also to be kept in view for this purpose.

Keeping all the above mentioned facts in view, it is now beyond doubt that plots in the vicinity where the land is now being acquired can only be purchased by well-to-do persons with no desire for having any substantial income in the form of rent and to put the site for use P.T.O

for residential purposes only. The size of plots is also big and is out of purchasing capacity of all persons with limited means of livelihood. It is also a fact that competition for purchase of such plots is to a certain extent will be among very well-to-do persons of very high standard and the prices are bound to go only to a certain limit only. In the absence of any sale transaction in the vicinity of this land, the price per sq. yd. as demanded by the claimant without any documentary proof in support of it, can not be made a base for fixing up the value of this land. On the other hand, the demand of the Land and Development officer, who is closely associated with the interest of the Government, can not be ignored. I am, therefore, of the view that Rs. 39=60 per sq. yd. would be quite reasonable and fair market value in this case which I also assess.

6. TREES: WELLS AND OTHER STRUCTURES:

Trees:- There are many small and big plants and trees out of which the following are worth consideration. The compensation for the trees is assessed @ Rs. 6/- per quintal and is as under:-

1.	1	Qadam Tree	20	Quintal	Rs. 120/-
2.	5	Jai kronda plants	6	-do-	Rs. 36/-
3.	1	Gul Mohar Tree	24	-do-	Rs. 144/-
4.	2	Gular Trees	32	-do-	Rs. 192/-
5.	20	Neem trees	54	-do-	Rs. 324/-
6.	10	Peepal trees	120	-do-	Rs. 720/-
7.	1	Pipri	14	-do-	Rs. 84/-
8.	1	Owl tree	20	-do-	Rs. 120/-
9.	1	Pilkhan Tree	16	-do-	Rs. 96/-
10.	1	Cheer	8	-do-	Rs. 48/-
TOTAL.					Rs. 1884/-

There are some fruit trees also which are assessed as

under:-

1.	1	Chikoo	Rs. 25/-
2.	1	Amrood plant	Rs. 15/-
3.	3	Banana	Rs. 30/-
4.	11	shahtoot plant	Rs. 55/-
5.	1	khirni	Rs. 60/-
6.	2	Aeru	Rs. 10/-
7.	3	Jaman plants	Rs. 36/-

TOTAL Rs. 231=00

Well:- There is no well on the area under acquisition.

Other Structures:-

The interested persons have claimed Rs. 2,50,000/- ^{24/10} for the bungalow which is at site at present with no proof either documentary or oral. Hence this price for the said bungalow can not be accepted as correct one in the absence of any ~~concrete~~ ^{convincing} proof. The valuation of this bungalow in respect of built up area ~~at~~ this site has been assessed by Assistant Surveyor of Works (Valuation). The A.S.+W. (Valuation) vide his letter No. SW:LVN/517-19/ dated the 2nd July, 1963 has intimated that the value of the structure is Rs. 93,895/- which seems reasonable and I accept as correct.

7. MODE OF PAYMENT:

In this case the land belongs to Government and the same is recorded ~~as~~ ⁱⁿ perpetual lease with Raja Moti Chand of Banar who is stated to have died since long but the same has not been mutated in the name of his heirs. Sarvashri Brij Bhushan and others have claimed to be heirs but have ~~produced~~ produced no evidence in support of their claims. According to clause 11 of the lease Deed, 75% of the unearned increase is to go to Government. As regards compensation for structures and trees, it would go to lessee and will be paid to the heirs after the property is mutated in their favour. Moreover there is Income Tax recovery against the heirs, for which they will have to produce Clearance Certificate from the Income Tax Department before compensation is paid. At present the whole of the amount shall be kept under dispute.

8. INTEREST:

The owners and the interested persons are not entitled to get an interest on the amount awarded as there is nothing on the record to prove that the possession of this area has been taken by the department on behalf of which this area is now being acquired. If the Acquiring Department will inform the date on which the possession was taken by that department the interest shall be paid @ 6% from the date on which the possession was taken and a supplementary award, in this respect.

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shall be drawn after absorbing all the formalities in that connection.

9. POSSESSION:

The possession of the land is not so far been taken over.

10. COMPULSORY ACQUISITION CHARGES:

The owners and the interested persons will be entitled to 15% in consideration of the Compulsory nature of acquisition on the market ~~xxx~~ value of land and structure which comes to Rs. 85,958=25 paise.

11. LAND REVENUE:

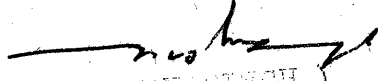
The land is not subject to land Revenue. As such the question of remission of the same does not arise. However the yearly ground rent comes to Rs. 43=75' paise only which will be remitted.

Subject to the above remarks, the amount compensation will stand as under:-

1.	Price of land measuring 2.5 acre (4840x5/2 sq.yds) @ Rs. 39=60 paise per sq.yard.	-	Rs. 4,79,160=00
2.	Price of bungalow	-	Rs. 93,895=00
3.	15% on account of compulsory acquisition	-	Rs. 85,958=25
4.	Price of trees	-	Rs. 2,115=00

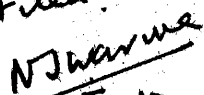
GRAND TOTAL:

Rs. 6,61,128=25

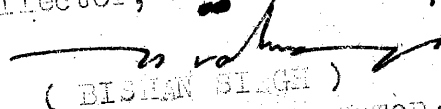

(BISHAN SINGH)
LAND ACQUISITION COLLECTOR:
KARELA CIRCLE: DELHI 26.10.66

Forwarded to the Collector, Delhi, for favour of ap

Seen. Filed.


N. Sharma

5.12.66
COLLECTOR, DELHI


(BISHAN SINGH)
LAND ACQUISITION COLLECTOR:
KARELA CIRCLE: DELHI 26.10.