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AWARD NO. 44/81-82

NAME OF THE LOCALITY: CHURIWALA, DELHI
NATURE OF ACQUISITION: PERMANENT.
PURPOSE OF ACQUISITION: MUNICIPAL CORPORATION SCHOOL.

INTRODUCTION.

Property described as part of House No. IX/3739 measuring 1262.5 sq.yds. situated in Churiwala, Delhi is needed by the Government ~~by the Government~~ at Public expenses for public purpose namely for Municipal Corporation School. To this effect notification U/s 4 of the Land Acquisition Act, 1894 was made vide No.F.15(94)/68-L&H dated 26.9.73 by Delhi Administration. The substance of the said notification was given due publicity and objections were invited. No objection was preferred by anybody and, therefore, the Administration issued final declaration U/s 6 of the said Act vide notification No. F.15(94)/68/L&H dated 25th September, 1976. Notice U/s 9(1) of the aforesaid Act was given due publicity and notice U/s 9(3) and 10(1) of the said Act were issued to the interested persons who responded to them by filing their respective claims.

MEASUREMENT AND OWNERSHIP.

According to notification U/s 6 of the area of the property under acquisition is 1262.5 sq.yds. On verification made on the spot, U/s 8 of the aforesaid Act, by the field staff, the correct area is found to be 1260 sq.yds. The owner of the property claimed it to be not less than 1400 sq.yds. but further verification also confirmed it at 1260 sq.yds. which will be deemed to be the correct area for purposes of this award. According to the record maintained by the Municipal Corporation of Delhi the property under acquisition is recorded in the ownership of Smt. Alma Sultan Jahan Begum w/o Sayad Itad Ali R/o Lal Darwaja, Churiwala, Delhi.

CLAIMS & EVIDENCE.

The said Smt. Alma Sultan Jahan Begum w/o Sayad Itad Ali now R/o Mohalla Pir Gair, Muradabad, U.P. filed claim for the property as owner, Inter alia demanding a rate of Rs. 2000/- per sq.yds. for the land and Rs. 4/- lakhs for the building and 15% solatium and interest according to law. In support of her claim the owner led no evidence except to say that other properties in the area with ^{lower} ~~less~~ potentialities were sold at Rs. 900/- per sq. yds. as far back as 26th May, 1969 and that her property, having all sorts of amenities like electricity, water etc., ~~on~~ it, attracted a higher rate.

The other claimant is Municipal Corporation of Delhi which after raising the preliminary objections as to the utility of

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acquisition, claimed compensation of Rs. 2/- lakhs on account of spending on repairs, fitting, replacing, refurnishing of the building which was made suitable to house a school which it runs here and another Rs. 1 lakh has been claimed on account of its tenancy rights and severance. Like the owner the tenant too led no evidence in support of this claim.

MARKET VALUE.

The property under acquisition is to be assessed on the date of notification U/s 4 that being 26.9.73. The sale transaction in respect of the similarly situated properties in the vicinity of the property under acquisition, awards and court decisions in respect of similar properties on or about the date of notification U/s 4 become relevant for consideration of market value of the property at present under acquisition though the correct market value will be its sale value which a willing purchaser will offer to the willing seller.

As I have said, the owner has simply demanded a high rate of acquisition but led no evidence in support of her claim of Rs. 2000/- per sq.yd. Naib Tehsildar (Land Acquisition) has cited the acquisition of property No. 652, Churiwala vide award No. 101/72-73 of 23.3.73 as most relevant precedent for consideration of market value in this case. I have gone through this award and have inspected the site of the two properties. The property covered under award No. 101/72-73 is situated on the road leading to Chawri Bazar and its south side opens on the said road and is used for commercial purposes; there are a few shops and commercial establishments even at present functioning on it whereas the property under acquisition is situated about 50 yds off this road. This being part of House No. IX/3739, the other part adjoins the road. The property under acquisition is normally approached from the side of Lal Darwaja through a 7 feet wide lane. It, therefore, cannot conveniently be put to commercial use; it has ever since been a residential site and is presently housing Municipal School. In award No. 101/72-73, the learned Land Acquisition Collector has discussed a number of sale transactions and certain other factors to arrive at the market value which he has considered at Rs. 100/- per sq.yd. as fair and reasonable. Whereas I consider it as the most suitable basis for valuation in the present case, I am unable to persuade myself to believe that Rs. 100/- can be correct fair rate for the property under acquisition for the simple reason that it suffers two main disadvantages as compared to property No. 652 from the location and utilization point of view. One on the road site and having potentiality for commercial use in or near the famous Chawri Bazar should, in all fairness, attract a higher rate than the one which is only useful for residential purposes in a locality which is rendering itself into a slum with every day that passes. Apart from this

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the property under acquisition is encumbered with the tenancy of Municipal Corporation of Delhi.

Keeping these factors in view I would have valued the land in the instant case @ Rs. 75/- per sq.yd. If its material date for determination of market value were to be the same as of the land covered by award No. 10/72-73. But there is a difference of time between the two. The material date for determination of market value in the instant case is 26.9.73 and it is 9.11.70 in the other case. It is to be appreciated that prices of land in the metropolitan city of Delhi have always had an upward trend and these definitely go up from year to year. This is an important factor which should weigh with us while determining the value of land ~~wherever~~ wherever it is located in Delhi. Taking to stock all that has been discussed above, I consider Rs. 95/- as reasonable & correct value per sq.yd. of the land under acquisition and assess accordingly.

COMPENSATION FOR SUPERSTRUCTURE.

As said about the owner has claimed Rs. 4 lakhs for the structures and the tenant-Corporation Rs. 2 lakhs but neither of the two led any evidence in support of their claims. As such these fantastic claims, ~~as such~~ are not worthy of acceptance. The Surveyor of Works III(P.D), Delhi Administration has estimated the cost of the super-structure including that of temporary sheds, electric fans and other fittings of sanitary and water supply at Rs. 1,13,500/- vide his letter No. SSW(DA)/SW III/131 dated 13.2.78. The Surveyor has arrived at this cost after considering all the technical aspects so I accept this valuation and assess the structures accordingly.

OTHER COMPENSATION.

The Municipal Corporation of Delhi has preferred a claim of Rs. 1 lakh on account of loss of its right to run the Primary School at the premises on account of acquisition. This claim does not become tenable in view of the fact that the present acquisition proceedings were also started at the instance of the Corporation itself which consider it necessary in the public interest to run school in the property presently under acquisition. It is for that purpose that this property is being acquired permanently and the Municipal Corporation of Delhi will consent into an owner-in possession. The claim of Rs. 1 lakh preferred by it, therefore, becomes redundant.

SOLUTION.

Since the property is being acquired under the provisions of the Land Acquisition Act, 1894 which are in the nature of compulsory acquisition,

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lation of 15% on the market value both of the land and the super-
structures will be paid as provided U/s 23(2) of the aforesaid Act.

REST.

Possession of the property having not been taken so far,
interest becomes payable under the Award.

REMARKS.

The compensation will be paid to the owner of the property on
furnishing proof of ownership. The Municipal Corporation of Delhi which
led claim both on account of repairs and fittings of the building and
by way of tenancy has, as I have said above, led no evidence in support
its claim. In absence thereof, it becomes very difficult to apportion
compensation for super-structure in particular. The whole of it will,
therefore, be deemed as disputed and sent to the court of Addl. District Judge
apportionment unless the parties settle amicably within a reasonable

SUMMARY OF THE AWARD.

Market value of land measuring 1260 sq.yds. @ Rs. 95/- per sq.yds.	Rs. 1,19,700/-
Market value of the super-structures.	Rs. 1,13,500/-
TOTAL MARKET VALUE	Rs. 2,33,200/-
15% Solatium on account of compulsory acquisition.	Rs. 34,980/-
GRAND TOTAL	Rs. 2,68,180/-

sent to court
10/12/87

Shiv Rao
10/12/87
SHIV RAO
LAND ACQUISITION COLLECTOR(DS), DELHI.