

AWARD No. 3/1969

Name of the locality:

Charkhewalan, Delhi.

Nature of acquisition:

Permanent.

INTRODUCTION.

The property bearing H.No. VI/3777 to 3779 situated in Charkhewalan, Delhi is required by the Govt. at the expense of the Municipal Corporation Delhi, for a public purpose, namely, for the construction of a Municipal school. The preliminary notification u/s 4 of the Land Acquisition Act No.F.15(32)/63-LSG dated 21.5.1966, Only one objection petition was received in this office within the time limit prescribed on behalf of S/Sh. Kishan Das and Kanhaya Lal sons of L. Chandu Lal through Sh. Kapoor Chand, Advocate. The objectors were heard and a report u/s 5-A of the Land Acquisition Act was sent to the Delhi Administration alongwith the objection petition in original. The Delhi Admn. rejected the objections and issued a final declaration u/s 6 of the Land Acquisition Act vide the Notification of even number dated 15.4.1968. A notice u/s 9 (1) of the Land Acquisition Act was given due publicity, and notices u/s 9(3) and 10(1) of the said Act were served upon the known interested persons who have filed their respective claims.

' MEASUREMENT & OWNERSHIP '

According to the notifications u/s ~~ex~~ 4 & 6 of the L.A. Act, the area proposed to be acquired is 663 Sq. yds. The land owners S/Sh. Krishan Das and Kanhaya Lal and other claimants have however, denied in their claim petitions the area notified to be 663 Sq. yds., and they stated that it was only 150 Sq. yds. However, on further verification made on the spot u/s 8 L.A. Act, and in accordance with the site plan furnished by the Municipal Corporation of Delhi vide its letter No. 6069/L & ~~N~~ E dated 3.1.1967, the actual area of the acquisition was measured as 663 Sq. yds. I, therefore, hold the area of the property under acquisition to be true at 663 Sq. yds., the ownership of which, according to the

municipal record is in the joint names of S/Sh. Krishan Das and Kanhaya Lal Gupta sons of L. Chandu Lal, c/o Wire Netting Store, 3691 Chawri Bazar, Delhi-6. At the site, the field staff has prepared the list of the persons occupying the premises under acquisition who will have to be evicted as a result of the proposed acquisition as per the details given below :-

S. No.	Property No.	Name of the occupant	Occupation
1.	3777	Sh. Chuni Lal	Commercial paper mart
2.	3778	Sh. Chotey Lal	Indian Metal Monger
3.	3779	M/Sh. Panna Lal Chandu Lal	Godown
4.	"	Sh. Hari San	"
5.	"	M/s. Pyarey Lal Banwari Lal	"
6.	"	M/s. Rameshwar Dass Ram Narain	"

Note: The Commercial Paper Mart has been amalgamated with Indian Metal Monger.

CLAIMS AND EVIDENCE

The following persons have filed claim petitions for compensation :-

The land owners of the property under acquisition S/Sh. Krishan Das and Kanhaya Lal of M/s. Wire Netting Stores, Chawri Bazar, Delhi, have through their Advocate Sh. K.C. Jain claimed the compensation of the land @ Rs. 900 per Sq. Yd. and in addition, Rs. 20,000/- for the pukka boundary wall, Rs. 6500/- for the super structure and Rs. 3000/- for the tree existing in the property under acquisition. The land owners have also claimed damages of Rs. 25,000/-, Rs. 2000/- for chaging the place for the storage of goods, Rs. 50,000/- on account of loss of profits and earnings etc. They have also claimed alternative accommodation for one godown.

The tenants of the property under acquisition M/s. Panna Lal and Chandu Lal, through Sh. Munna Lal partner have stated

in their claim petition that they are carrying on the business of metal hardware etc. in the H.No. 3779/A measuring about 25 Sq.yds. and are using it as their store earning a profit of Rs. 40,000/- per annum. They claim damages of Rs. 40,000/- per annum as a consequence of the acquisition and compulsory vacation of the said commercial premises. They further claimed Rs. 4000/- on account of furniture, ~~ra~~ racks etc. and Rs. 10,000/- for damages resulting from diminution of goods etc. They have also claimed alternative accommodation in the same locality.

M/s. Hari Sons, through Shri Hari Mohan Prop. have stated that they are the tenants of the H.No.3779/B measuring about 15 Sq. yds. and paying the monthly rent of of Rs. ~~15x50~~ Rs. 50.50 P. They further stated that they would suffer a recurring loss and damages of Rs. 25,000/- per annum consequent to the acquisition and compulsory vacation of the said commercial premises. They have also claimed Rs. 2000/- on account of racks Bardana etc., Rs. 8000/- per annum for damages and alternative accommodation.

M/s. Pyarey Lal Banwari Lal, through Sh. Krishan Kumar partner have stated in their claim petition that they are the tenants of the H.No. 3779/C measuring about 11½ Sq. yds. paying a rent of Rs. 33/30 P. per month and using the same as their store. They also stated that they will suffer a recurring loss and damages of Rs. 28,000/- per annum consequent to the acquisition and compulsory vacation of the said premises. They have claimed Rs. 3000/- on account of furniture, racks etc., @ Rs. 10,000/- per annum for damages resulting from diminution of the goods. They have also claimed alternative accommodation in the locality.

Sh. Chotey Lal of M/s. Indian Metal Monger has stated in his claim petition that he is the tenant of the shop No. 3778 measuring about 32 Sq. yds. paying the rent of Rs. 166/50 p.m. and that, he will suffer a recurring loss and damages of Rs. 45,000/- per annum as a consequence of the acquisition and compulsory vacation of the said business premises. He has claimed Rs. 3000/- for furniture and reasonable expenses incidental to such removal etc. and Rs. 10,000/- per annum for damages.

He has also claimed alternative accommodation.

M/s. Rameshwar Das, Ram Narain, through Sh. Rameshwar Das partner have stated in the claim petition that they are using the property No.3779/D measuring about 11½ Sq. yds. paying the rent of Rs. 27/75 p.m. They claim damages of Rs. 50,000/- consequent to the compulsory acquisition and vacation of the premises. They have further claimed Rs. 1000/- for furniture, Rs. 10,000/- for damages and any alternative accommodation in the locality.

Sh. Chuni Lal of M/s. Commercial Paper Mart has stated in his claim petition that he is the tenant of the H.No.3777 measuring about 18 Sq. yds. and paying the monthly rent of Rs. 166/59 P. He further ~~sixteen~~ claimed damages of Rs. 50,000/-, Rs. 1000/-, for furniture etc. and Rs. 10,000/- for the loss of business. He has also claimed alternative accommodation in the locality.

No evidence has been produced on behalf of any of the above claimants in support of their claims for compensation. Their claims are therefore, fabulous and without any basis.

" MARKET VALUE "

The property under acquisition is situated in Charkhe Walan, Chawri Bazar, Delhi. It is surrounded commercial area and at the same time by the slums. It is bounded by the public lane (Gali Lohewali) on its North, H.No. VI/3761 to 3776 on its South, Charkhewalan Road and the H.No. 3776 on its East and the H.No.3759-60 and 3781 on its West.

The year wise average of the sale transactions as collected by the field staff from the Sub Registrar's office, which had taken place in the vicinity of the locality during the last five years prior to the date of the notification under section 4 of the L.A. Act, viz. 21.5.1966 are as given below :-

S.No.	Year	Area	Amount	Average per Sq. yd.
1.	1961-62	1119½ Sq.yds.	Rs. 123400/-	110/117
2.	1962-63	944½ "	119000/-	126/-
3.	1963-64	1309½ "	186408/83	142/35
4.	1964-65	287½ "	41000/-	142/69
5.	1965-66	518 "	58288/-	112/40

from the above statement it is seen that the rates of ^{are} fluctuating. The average rate during the material year, 1956 was Rs. 112/40 per Sq. yd. This price includes the value of the land as well as the super structures existing on it. These super structures in general are old and fit to be demolished. Unless and until the super structures are evaluated, it is difficult to work out the value of the land and the value of the structures separately. The property under acquisition also consists of structures, fetching rental income to the owners. Hence, in my opinion, the best way for assessing the market value of the property under acquisition is by capitalised method, which is worked out as follows :-

The rental value of the property under acquisition, as obtained from the records of the municipal corporation of Delhi is Rs. 2160/- per annum. The ratable value, after deducting 10% from the rental value comes to Rs. 1944/-. The land owners are paying the House property tax of Rs. 237/60 P. per annum. After deducting this amount from the ratable value the net income of the land owners comes to Rs. 1706/40 P. If this value is capitalised for 20 years purchase the value of the property under acquisition is arrived at Rs. 34,128/-. This amount includes the value of the structures which are old and which have been assessed at Rs. 1840/- by the Asstt. Engineer (Valuation) C.P.W.D. I, therefore, allow Rs. ~~34,000/-~~ 34,128/- as compensation for the property under acquisition.

" OTHER COMPENSATIONS "

As stated above, the Asstt. Engineer (Valuation) C.P.W.D. has assessed Rs. 1840/- for the structures existing in the property under acquisition, but, since the compensation allowed for the property under acquisition is inclusive of the value of the structures, the same is not allowed.

Compensation for tree.

There is a pipal tree in the land under acquisition, the weight of which is about 70 quintals. The Naib Tehsildar has assessed Rs. 420/- for the said tree. I inspected the tree and found that this value is reasonable and I allow accordingly. 15% solatium for compulsory nature of acquisition as provided under section 23(2) of the Land Acquisition Act, 1947.

15% solatium will also be paid for compulsory nature of acquisition in addition to the market value of the land.

" APPORTIONMENT "

The owners of the property under acquisition have obtained a stay order dated 18.9.1968 from the Delhi High Court in the C.W.P. No. 443/68 against their dispossession from the property under acquisition till the disposal of the writ petition. Hence, the possession of the property under acquisition will be handed over to the acquiring department after the vacation of the stay order.

As per ^{my} ~~the~~ Inspection Note dated 14.2.1969, which has been appended with this award as annexure I, the owners of the property under acquisition have raised unauthorised structures on the acquired premises. ^{2 during the currency of acquisition proceedings} The details of the structures already raised upto the date of my inspection, viz. 22.1.1969 have been incorporated in the report. It was stated in the report that the construction work was in progress at the time of the said inspection, and as such, it is likely, that some more structures might have been added by the time the award is finally announced. Hence, at the time of handing over possession of the property to the acquiring department the entire unauthorised structures existing on the property under acquisition shall be demolished at the expenses of the owners.

After taking over the possession of the property under acquisition, the entire compensation of the property under acquisition will be paid to the owners on production of the relevant proofs from the M.C.D. showing their ownership and in presence of the occupants. In case of dispute, the entire compensation will be forwarded to the Addl. District Judge, Delhi for the disbursement.

" SUMMARY OF THE AWARD "

Compensation for the property measuring 663 Sq. yds. Rs. 34,128/-

Compensation for tree 420/-

Total 34,548/-

15% of the above as solatium for compulsory nature of acquisition 5,182/20

G. Total 39,730/20

The land is assessed to no land revenue.

Compared

Stamp issued
4/11/64

(ZAL HOSHERWANJI)
LAND ACQUISITION COLLECTOR (D)
DELHI.

245/69 : मिलपत्र हुई आवाज लगवाई गयी आज
आवाज सुनने के लिए सिद्धि निश्चित की गई
बी/अधिकृत भूमि के मालिक व सम्बन्धित व्यक्ति
के नाम नोटिस जारी करी व फर जायी किया
गया था परन्तु अधिकृत भूमि के मालिक व
सम्बन्धित व्यक्ति ने नोटिस फर
तामील व इस्ताहर करके से इनकार किया
वपरासी तामील कुनीन्दा ने अतः नोटिस की
एक कपी मौके पर चेम्बर व अदालत
नोटिस बोर्ड पर न्यायन की।
आवाज लगवाई गई कोई भी
आवाज न. 3/1964 सुनने हाजिर नहीं हुआ
ह.प.

199

आकांक्षित किया गया / कक्षा 12(3) के
नोट्स आकांक्षित व सम्बन्धित व्यक्ति
के नाम प्र. वि. वि. वि. वि. आदी वि.
आकांक्षित, आज ही पेश होवे।

गो. वि. वि.
उ. वि. वि.
24.5.67

श्री लाली राम न. वि.