

A W A R D No. 1187

Name of the Village:

Kherara.

Nature of Acquisition:

Permanent.

This is a case for the acquisition of land in Kherara, required by the Government at the public expense for a public purpose, namely, for the Plan Development of Delhi. A declaration under section 4 of the Land Acquisition Act regarding the area under acquisition was made vide notification No.F.15(84)/57-LSG(i) dated 1st July 1961. The area round about the area under acquisition had already been reserved for the Plan Development of Delhi and there was an order regarding the acquisition of this area so that development plots could be started immediately. The Chief Commissioner, Delhi, being of the opinion that provisions of sub-section 4 of section 17 of the Land Acquisition Act, were applicable to this land, was further pleased under sub-section 4 of the said section to direct that the provisions of section 5(a) shall not apply. A declaration under section 6 of the Land Acquisition Act was made vide notification No.F.15(84)/57-LSG(ii) dated 1st July 1961. Notice under section 9(1) of the Land Acquisition Act was given due publicity on 1.7.61. The possession of the land was given to the Delhi Administration on 18.7.61. Notices under section 9(3) and 10(1) of the Land Acquisition Act were issued to the interested parties and all of them have responded to the notices.

M E A S U R E M E N T & O W N E R S H I P

According to the notifications the area under acquisition amounted to 42 bighas 15 biswas. From further measurement

ments made under section 8 of the Land Acquisition Act, the following discrepancies were detected in the measurements.

10. The area of Khasra No.545/527/199 was notified at 2 bighas 7 biswas while the area required for the scheme is only a part of this khasra number amounting to 1 bigha and 16 biswas.
- 2). The area of Khasra No.239 was notified at 12 biswas, but actually according to the Revenue Record it is 17 biswas.
- 3). The area of Khasra No.534/521/185 was notified at 18 biswas while only less than 1/2 a biswa of the area of this khasra number is involved in this scheme.

On account of the above reasons, the area under acquisition was reduced from 42 bighas 15 biswas to 41 bighas and 11 biswas. Whole of the area is either composite or Evacuee property in which different persons have got some interest. The details of the interest of the different persons are given below:-

Sl.No.	Name of the owner.	Name of other right holders.	Kind of interest.	Khasra No.	Bigha	Biswas
1.	Custodian.	----	---	239 30	0 0 1	17 12 -
2.	Custodian 3/4, Anand Lok Co- operative House Building Society 1/4.	----	---	237/2	0	16
3.	Custodian.	Sh.K.K.Chopra.	Auction purchaser Sale-certificate not yet issued.	569/297	4	10
4.	Custodian.	Shm.Maya Dass Devi.	-do-	570/297	1	12
5.	Custodian.	Sh.K.K.Chopra.	207min. -do-	207min	1	7
6.	Custodian owner Chiranjil Lal, Kanihya Lal and Rattan Lal sons of Prabhu Dayal Occupancy tenants.	Sh.D.D.Chopra.	Auction purchaser of ownership rights <i>Sale certificate not yet issued.</i>	201/1	3	1

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Sl.No.	Name of the owner.	Name of the right holders.	Kind of interest.	Khasra number.	Area Big-Bis
7.	Custodian.	Dalip Singh.	Claims to be the owner.	546/517/ 200/2. ✓	1 - 0
8.	Custodian.	K.S.Harikishan Lal.	Auction purchaser Sale-certificate not yet issued.	209 ✓	0 - 8
9.	Custodian.	Om Parkash.	-do-	207 ✓	1 - 0
10.	Custodian.	Harbans Lal.	-do-	545/527/ 199/1 202 ✓	1 - 1 1 - <u>2 - 18</u>
11.	Custodian.	Badri Nath.	-do-	203	2 - 3
12.	Custodian.	Brij Bhan.	-do-	205	5 - 5
13.	Custodian.	Pria Bala. <i>Wet.</i>	-do-	206	6 - 15
14.	Hon. Colnl. Bashir Hussain Zaidi 1/3, Installment Supply Co. 1/3, Harish Kumar 1/3.	Custodian.	Occupancy rights.	624/249 625/249	4 - 6 4 - 9 <u>8 - 15</u>

Note:- The owners claim that they have occupancy rights as well in these khasras. According to the Revenue Record, the occupancy rights are evacuee. The custodian has auctioned the occupancy rights in khasra No. 624/249 to Shri Khan Chand and in Khasra No. 625/249 to Shri Kishan Chand.

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

The Assistant Settlement Commissioner vide his letter No. F.147)/ASO(R)/61- dated 7.8.61 has simply given a list of the persons in whose favour the land has been auctioned. He has further stated that in these cases, the sale-certificates have not yet been issued, so far. It means that the Custodian is still the owner of the property. The other claims made are as follows:-

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Name of the interested party.	Claim made.
1. Shri Harbans Lal s/o Shri Amar Nath.	Rs.60/- to Rs.70/- ^{per sq.yard} . He has further stated that although the auction was in his name, but there 4 other parteners Shri R.N.Bedi, Shm. Ram Piari, Shri Subhadar Nath Chhibhar and Shri Satender Nath Chibbar. He has also submitted a copy of the registered deed of partnership.
2. Shri Khan Chand s/o Chowdhry Karam Chand.	Claimed compensation at Rs.65/- per sq.yd. He has further stated that there are 8 co-sharers in this land.
3. Brij Bhan.	Rs.50/- per sq.yd.
4. Harkishan Lal.	No claim made.
5. Colnl. Bashir Hussain Zaidi through Shri Rattan Lal, Gupta, Advocate.	They claim that they have the right of ownership as well as the occupancy rights. They should get compensation @ Rs.30/- per sq.yd. They have also claimed compensation for severance of their land for Khasra No.243 at Rs.6,000/-. Khasra No.243 is also under acquisition.
6. Shri Rattan Lal Gupta.	Claimed compensation @ Rs.80/- per sq.yd. He states that the right of ownership in this land have been sold by the Custodian to Shri G.D.Chopra and that the occupancy tenants should get 15/16 of the compensation while the owners 1/16.
7. Dalip Singh.	He is in open, exclusive and hostile possession of Khasra No.207 and that he has built 87 jhungees on this area and that he is paying House-tax for these jhungees. He claims compensation @ Rs.55/- per sq.yd. He further claims that alternative accommodation should be given to the tenants. He has produced a copy of the proceedings of the Municipal Corporation according to which there are 9 jhungees on this land and he pays Rs.108/- per annum as House-tax. He also claims to be the owner of Khasra No. 546/517/200/2 and 545/527/199 alleging that he has entered as owner of the jhungees on land of the Municipal register and he is paying house-tax for these jhungees. He claims compensation @ Rs.55/- per sq.yd. for the land and Rs.20,000/- as cost of structure on the land.
8. Shri Badri Dass.	He claims compensation @ Rs.40/- per sq.yd. and alternative plot of equal area.

None of the claimants have produced any evidence in support of their high claims. They have argued that since the plots in Hauz Khas Enclave and the Green Park Colony are being

sold @ Rs.60/- or Rs.70/- per sq.yd. now, therefore, they should get the same compensation. In this area no one can build a house ~~xxxxxx~~ without the permission of the Municipal Corporation. The area ^{is} under acquisition for the Greater Development of Delhi, and no haphazard construction of houses is being allowed at present. In the first instance, the owners can never have ^a built ~~a~~ house on the land under acquisition because the Municipal Corporation does not allow such construction. Secondly, ^{if} the land is developed into plots then 1/2 the area is left for common purposes and in addition to this the development society has to spend a lot on the development of the land. It is, therefore, absurd to claim that a land ~~whose~~ ^{which} is undeveloped should get the same price ~~xxxx~~ as plots, which are being sold in developed colonies near the land under acquisition. The claims made by the land owners are absurd. The claim of Shri Dilip Singh at Rs.20,000/- is absurd. The jhuggees are constructed by his sub-tenants. He is neither an occupancy tenant nor an owner of the land. There are some jhuggees on the land involved in Khasra No.207, 546/517/200/2 and 545/527/199/2. These are constructed by the persons who have no right ~~of~~ ⁱⁿ putting on that land. These jhuggees are temporary and all the material can be removed. There is no necessity for paying any compensation for the structures because they are illegal and removable.

MARKET VALUE.

The land under acquisition is situated on the main Mehrauli Road between the Hauz Khas Enclave and the Green Park Colony. The agricultural value of this land is very meagre.

The water table of the wells is very low and the average rent is hardly Rs.20/- per bigha. Had any one purchased it for agricultural purposes, then he would have paid not more than Rs.400/- per bigha for this land. The land has definitely got a potential value for building purposes. That is why these transactions are on very high rates in this village. The potentiality is included in the sale-price of the land involved in the transactions. In the year 1961 only two sale-transactions have been shown in the mutation register of the Patwari. In mutation No.966, the Custodian sold the rights of the ownership to Anand Lok Cooperative House Building Society, while the right of occupancy tenants belong to the local persons. The area involved was 61 bighas 1 bigwa, and for a sum of Rs.93108/-. The land involved in this transaction is situated either inside the area under acquisition or in the immediate vicinity of this area. The area involved is very big, the seller is the Custodian and the purchaser is the Cooperative Society. There is no likelihood of exaggerated prices being quoted in the registered deed. The transaction was registered on 20.3.61 i.e. only about three months before the date of notification under section 4. I, therefore, conclude that the Market value of the rights of ownership in the land which is occupied by occupancy tenants is ~~Rs.~~Rs.1500/- per bigha on the relevant date. According to the usage in Delhi the occupancy tenants get -/10/- of the compensation and the owners get only -/6/- of the compensation. Calculating on this basis the price of land involving all the rights comes to Rs.4000 per bigha. I, therefore, award Rs.4000/- per bigha for the land under acquisition. Some of the owners have claimed that their

land is situated just on the Mehrauli Road and they should get more compensation. According to law these land owners cannot build^h any house on the land under acquisition unless the sanction of the Municipal Corporation is taken. The Municipal Corporation cannot sanction ¹of any house in the area under acquisition unless the scheme of the development is approved by them. The land owners whose land is situated on the Mehrauli Road cannot get any sanction for the construction of the house on such land. Therefore, they have no special advantage over the persons who have their land not on the road-side, but somewhat removed from main^e roads. The high price of the land is not due to ~~any~~ its situation on the main road, but due to the fact that the whole area is included between the two developed colonies. I, therefore, consider that it will be fair that the same rate is given for all the land under acquisition.

OTHER COMPENSATION.

In addition to the value of land under acquisition, the land owners will get 15% of the value of land as solatium for compulsory nature of acquisition. There are some temporary huts in some khasra numbers. All these huts are illegal construction, not even with the approval of the land owner and ^{the material is} can easily be removed. No compensation is, therefore, allowed for these huts. There is only one Neem tree in Khasra No. 545/527/199/1. The Naib Tehsildar, Land Acquisition has assessed its value at Rs. 75/-. I have inspected the spot and I agree with the price fixed by him. I, therefore, award Rs. 75/- for the tree. The ^{provision in} compensation of all the land except 3 bighas 12 biswas was taken ~~by~~ by the Delhi Administration on 18.7.61. An interest from 18.7.61

to 24.8.61 will be paid to the land owners for the area, the ^{possession} compensation of which has been transferred. The land under acquisition is assessed to a land revenue of Rs.15.57 N.P. & it is Maufi in favour of the Custodian. The Custodian will get 20 times the land revenue as compensation for the abolition of this maufi.

A P P O R T I O N M E N T.

The compensation for the composite property will be sent to the Competent Officer for disbursement according to the rights of the Custodian and the local persons. The compensation of the evacuee property, which has been auctioned, but the sale-certificates have not yet been issued, will be sent to the Settlement Commissioner for payment ~~of~~ to the auction purchaser according ^{as} he decides. The auction purchaser should be asked to demand their compensation from the Settlement Commissioner.

THE AWARD IS SUMMARISED AS BELOW.

Compensation for 41 bighas 11 biswas @ Rs.4000/- per bigha.	Rs.1,66,200.00
15% of the compensation as solatium for compulsory nature of acquisition.	Rs. 24,930.00
Compensation for trees.	Rs. 75.00
Compensation for standing crops when the possession was taken.	Rs. 15.00
	Rs.1,91,220.00
Interest on compensation for the land measuring 37 bighas 19 biswas from 18.7.61 to 24.8.61 @ 6%. P.A	Rs. 1,091.62
Compensation for Maufi.	Rs. 311.40
Total.....	Rs.1,92,623.02

The land is assessed to a Khalsa land revenue of Rs.15.57 N.P. The land is being acquired for the purpose of Government, therefore, it will be deducted from the rent roll from Kharif 1961.

Nand Kishore
(Nand Kishore)
Land Acquisition Collector (I),
D E L H I.
22.8.61.

Submitted to the Collector of District for information and ~~approval~~ *filed*.¹

Nand Kishore
(Nand Kishore)
Land Acquisition Collector (I),
D E L H I.
22.8.61.

Seen. Filed.
[Signature]

23.8.61