

Award No. 745

Subject:- Acquisition of land for C.O.D. at village Ma

An area of 120.82 acres at village Madipur was originally requisitioned vide Collector's orders dated 23.1.43, 17.2.44 and 27.4.45 for the Central Ordnance Depot, Shakeorbasti. Later on, this area was acquired permanently vide Notification No. 17(25)/47-M, dated 16.7.47, under section 5 of the Requisitioned Land (continuance of powers) Act 1947.

Measurement and Classification:-

The land actually measures 585 bighas and 18 biswas (122.06 acres) and is classified as under:-

Thaxi

	Big.	Bis.
Nehri	367	8
Chahi Nehri	38	14
Chahi	4	14
Sailaba	1	17
Dakar	1	4
Rosli	128	12
Banjar Qadim	26	3
Gairmumkin	17	6
Total	585	18 (122.06 acres)

Claim.

The land owners have claimed a compensation Rs.5000/- per bigha kham i.e. Rs.24,000/- per acre for the lands. In support of their claim they have produced the copies of the mutations of sales noted below:-

	Mutation No.	village	Date of registration	Area		Sum
				Big.	Bis	
1.	1714	Basiladarapur	18.4.48	9	16	40,000
2.	944	Madipur	13.7.49	0	9	500
3.	928	"	11.4.49	3	9 1/2	4,500
4.	895	"	23.8.47	11	18	18,000
5.	914	"	23.8.47	12	12	

The first three mutations cannot be taken into account as the mutation No.1714 relates to other village (Basiladarapur). The second and the third transactions No.944 and 928 were registered on 13.7.49 and 11.4.49 respectively, i.e. some two years after the date of notification. However, the remaining fourth and fifth transactions

one month after the date of notification give an indication of the market value of the land in the village at the material date at about Rs.3526/- per acre.

On further investigation, the patwari Halqa Madipur submitted an other list attached of the transactions of sale in the village. These transactions also took place in June, 1947.

In the first transaction one Makhan Singh S/o Ram Singh sold his land measuring 3 bighas and 6 biswas in favour of Captain Raghuvindar Singh for Rs. ^{2500/-} ~~20500/-~~. In the second transaction one Udmil S/o Ram Sahai sold 2 bighas 10 biswas to Captain Raghuvindar Singh for Rs.2000/- while in the third sale deed one Kanhaya S/o Nibbhey sold his land measuring 4 bighas 17 biswas to Captain Raghuvindar Singh for Rs.3500/-. All the above sale deeds are recorded in the mutation register of village Madipur at Nos.896, 897 and 899 respectively. The average price of these transactions ~~also~~ comes to Rs.3523/- per acre.

Accordingly assess the market value of the land at Rs.3500/- per acre, in 1947 when the notification for its acquisition was issued.

Under the provisions of para 6(2) of the Requisitioned (continuance of Powers) Act, 1947, the compensation is to be either the market value prevailing on the date of notification under section 5 or double the market value of the land on the date of the requisition of the land, whichever is less.

The lands under acquisition were requisitioned on the following dates:-

Area	Date
84.08	23.1.1943
29.73	17.2.1943
7.01	27.4.1945
120.82 acres.	

The patwari halqa Madipur has produced a list of mutations which took place from 1938 to 1947. It would appear from the inventory of the mutations prepared by the patwari that no transactions of sale took place in this village from 1941 to 1947. The average price of land in 1941 cannot be considered as ^{fair} market value of the

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land in 1943 and onwards. The price of agricultural/produce was very low in 1938 to 1940. It was after 1941 that the price of agricultural produce showed an upward trend and prices of lands also increased accordingly and perhaps it was for this reason that the land-owners, realizing that value of lands were appreciating, were reluctant to enter into sale transactions of lands. Evidently, therefore, the price of land prior to 1941 cannot be considered the prevailing market value of land in 1943 and without any reliable data which is not available in this case, it is not easy to assess the market value of the land from 1941 to 1947 during which period no transactions of sale took place in this village or in the neighbouring villages.

Flag D | The average rent of the rosli land in ^{the adjoining} this village in year 1943-44 when this land was requisitioned, was Rs.3/- per bigha kham. Ordinarily the capitalized value of the land is 20 times the rent of the land during the relevant period minus the land revenue and other cesses on the assumption that the prevalent rate of ^{interest} ~~rent~~ in the rural area ranges between 4 to 6 % per annum. Thus calculating, the capitalized value comes to Rs.50/5/- per bigha kham i.e. Rs.241/8/- per acre. No cash or well irrigated ^{land} ~~well~~ was on ^{cash} rent during the relevant period therefore, the capitalized value of the irrigated land cannot be accurately determined. On the whole, the yield of the irrigated land is ² considered to be double the yield of the rosli land accordingly, the irrigated land fetches double the cash value of the rosli land and as such the capitalized value of the Nehri and Chahi land may be estimated at Rs.100/10/- per ¹⁰⁰ ~~11~~ bigha kham or Rs.482/- per acre.

Apparently, therefore, double the capitalized value of land in the year 1943-44 is far below the market value of the land at the time of notification for its acquisition. According to the provisions of para 6(2) of the requisitioned land (continuation of powers) Act 1947, double the capitalized value as calculated above ~~xxxxxxx~~ i.e. Rs.100/- per bigha or Rs.

re for un-irrigated land and Rs.200/- per bigha or Rs.960/- per
 irrigated land ~~may~~ be offered to the land-owners.
 The value of the banjar and ghairmumkin land may be offered
 at Rs.80/- per bigha or Rs.384/- per acre. But I am
 doubtful whether the land-owners would accept this price
 because the land in this village is fetching Rs.1000/- to
 Rs.12,00/- per bigha kham *at present.*

Garden.

There is a garden measuring 12 bighas and 14 biswas
 in the land under acquisition which has also been occupied
 by the C.O.D.. There were some 1111 fruit and other trees
 in the garden at the time of its taking over the possession
 by the C.O.D. The owners have put in a claim of Rs.30,000/-
 for the trees and Rs.3000/- for the two wells within the
 garden in question, beside the compensation for garden land
 100/- per bigha kham vide their written claim dated

Flag E

Flag G

The details of the trees is as follows according
 to the inventory prepared by the patwari at the time of
 acquisition:-

Flag E

Variety	No. fruit Trees.	Other trees	Flowery plants.
	8		
	99	12	
	12		
	125		
	280	6	
	100		400
	7	9	
	5	15	
		3	
			2
			9
			14
			1
			2
	2		
	638	45	428

~~XXXXXXXXXXXXXXXXXXXX~~ The owners have produced a copy of
 a girdawari which shows that the fruit trees of the
 village Basaidarapur was rented by one Ghasita S/o

Flag H

Tirkha Ram to one Ganga S/o Hari-Singh at Rs.2250/- for the period of one year commencing from kharif 1947, which ^{gives} ~~shows~~ a rental value of nearly Rs.173/- per bigha ^{per annum}.

E
I have inspected the garden as now standing. Some of the trees are still on the land while other might have either been removed or dried up. Therefore it is difficult to determine the exact number and value of the trees standing on the land at the time of requisition. The list prepared by the village patwari at the time of requisition, attached to the file, is the only documentary evidence about the number of the trees in the garden. The list, however, does not indicate the valuation of the trees or their height or girth. I have inspected the garden in the presence of the owners. The Jaman, Mango and the Lokat trees now standing are not even now fully grown. Keeping in view the existing condition of the trees, I think that the price of Jaman, Lokat, Shahtut, Amrood and pomogranate should be assessed @ Rs.15/- per tree. The price of Lemon and orange @ Rs.20/- per tree. The price of mango @ Rs.25/- ^{per tree}. The price of other trees such as Neem, Jand and Kikar, and that of flower plants @ Rs.2/- per plant. Shisham and Pipal @ Rs.10/- per tree. Thus calculating, the price of the trees comes to Rs.12051/-.

flag K
As laid down in para 482 (2) of the U.P. Revenue Manual the maximum compensation for the fruit trees may be assessed at 8 times the average rental value of fruit garden in that locality. The average rent of fruit garden in that locality was Rs.142/13/9 per bigha in the adjoining village Shakurpur as reported by the patwari. As the garden was not fully developed, therefore, rent for the maximum of 8 years cannot be allowed. I think, the average rent for six years for the fruit trees may be allowed in this case, and the timber trees i.e. kikar shisham, Neem may be assessed at Rs.10/- per tree and flowery plants Motia etc. at Rs.2/- per plant. Thus calculating the compensation for garden comes to Rs.12,188/2/-, which is nearly equal to the amount assessed otherwise according to the approximate valuation of the standing trees. I consider that Rs.12000/- is a fair assessment.

and trees standing in the garden at the time of requisition according to the inventory prepared by the patwari.

Wells.

There are 5 wells on the land under acquisition. The Over-seer Wells sinking scheme was asked to assess their valuation. His estimate in respect of each well is enclosed, which seems reasonable and may also be allowed.

Calculating as stated above the estimated price of land, garden and wells is as under:-

1. 410 bighas and 6 biswas of irrigated land @ Rs.200/- per bigha kham.	Rs.82,060/-
2. 131 bighas and 13 biswas of un-irrigated land @ Rs.100/- per bigha kham.	Rs.13,165/-
3. 43 bighas and 9 biswas of Banjar and Ghairmumkin land @ Rs.80/- per bigha kham.	Rs.3,476/-
4. Garden (trees)	Rs.12,000/-
5. Wells.	Rs.4,690/-
Total..	Rs.1,15,391/-

In the Act no mention is made regarding the payment of interest to the land-owners. Under the Land Acquisition Act 1894, interest is payable to the land-owners from the date of possession to the date of payment. In this case, rent for the land requisitioned has been paid till rabi 1947. Thereafter, the payment of rent was stopped as the land was notified for acquisition. ^{analogous} On the authority of the Land Acquisition Act and taking an equitable view, I think, interest @ 6% on the compensation to be awarded should be paid from the 16th June, 1947, if the land-owners agree to receive the payment of compensation determined by the Collector.

The land in this case has been acquired under ^{The Requisitioned Land} Defence ^{Finance of Power, Act, 1947} Rules ---- and as laid down in para 6(2), the Collector is to assess fair compensation and offer the same to the persons interested. If the Collector approves of the compensation, estimated by me, a copy of the above estimate may be forwarded to the Area Lands Hirings and Disposals Officer, Delhi

in case he agrees to make the payment, offer

of the estimated compensation decided by the Collector

be made to the persons interested ^{if the right holder} are willing to receive payment at the rate offered by the Collector, the Land Hirings and Disposals Officer, Delhi Cantonment ^{will} ~~may~~ be asked to arrange for early payment, otherwise the case ^{shall} ~~should~~ have to be referred to an Arbitrator to be appointed by the Central Government for adjudication of the award.

Q. M. Singh
Revenue Assistant, Delhi.

Collector.

As proposed
AD 7/12
11/9/57
6/9/51