

OFFICE OF THE ADM/LAC(SOUTH-WEST),ROOM NO. 12  
OLD TERMINAL TAX BLDG. KAPASHERA,NEW DELHI-37

**AWARD**

Award No:- 02/2009-2010/SOUTH-WEST

Name of Village: - MAHIPALPUR

Nature of Acquisition: - Permanent.

Purpose of Acquisition:- Development of Indira Gandhi  
International Airport

**Notifications:** U/S 4 &17(1) No. F.9(28)/08/L&B/LA/11328  
Dated 12.01.2009

U/S 6 No. F.9(28)/08/L&B/LA/12906  
Dated 16.02.2009

U/s 17(1) No. F.9(28)/08/L&B/LA/12907  
Dated 16.02.2009

**INTRODUCTION**

The award pertains to acquisition of land in village Mahipalpur. The land measuring 19 Bighas 17 Biswas land was notified U/s-4 & 17(1) of the land Acquisition Act 1894 vide notification No. F.9(28)/08/L&B/LA/11328 dated 12.01.2009, U/s 6 vide No. F.9(28)/08/L&B/LA/12906 dated 16.02.2009 & notification U/s 17(1) vide No. F.9(28)/08/L&B/LA/12907 dated 16.02.2009. The land is required to be taken by the Government for a public purpose namely, **Development of Indira Gandhi International Airport.**

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The urgency clause was invoked for the acquisition of land in reference thus, the hearing U/s 5A of LA Act were not given in this case. Being aggrieved of this, the petitioner/claimant/land owner approached the Hon'ble High Court in Writ Petition Civil No. 7284 of 2009 in the matter of Rajiv Joshi & Ors. Vs UOI & Ors. The Hon'ble High Court of Delhi vide its order dated 23/04/2009 has dismissed the Writ petition with a direction that " the LAC will endeavour to complete the proceedings within a period of four months after claim petition being filed by the petitioners". In the para 27 of the judgement the Hon'ble High Court has also observed that " we may note in the end that the anxiety of any land owner is often to get adequate compensation for the land. A large number of cases arise to challenge the acquisition proceedings where such adequate compensation does not flow to the parties keeping in mind the market realities. One method which has been adopted by the legislature is to increase the percentage of solatium. It is really not a solatium in the sense of providing solace to the person whose land is sought to be acquired but an endeavour to compute realistic price of the land on account of perennial problem of the registered documents often not reflecting the correct market value. This is a hard reality which cannot be ignored. It is not as if the same person who has sold some adjacent land at a price and then seeks compensation for his remaining land by seeking to include the element not reflected in the sale deed. The breach of law by other parties by not reflecting the full consideration in the sale transaction is visited upon a person who is deprived of his land under the said Act. An endeavour to provide some mitigation has also been in the form of fixation of circle rates which can be one indicator for the prevalent market value. The circle rate would normally be at least the minimum market price of the land in most cases".

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In order to hear the claims of the affected persons, the notices U/s 9 & 10 of LA Act 1894 were issued to the interested persons of village Mahipalpur to file their claims. The claims filed by the persons in respect of land being awarded have been discussed under the appropriate heading "Claims".

### TRUE AND CORRECT AREA

As per notification U/s 4, 6 & 17(1) of LA Act 1894 issued for area measuring 19 Bigha 17 Biswa.

The details of land total measuring 19 Bigha 17 Biswas which is being awarded in this award is as Khasra No. and area specified u/s 6 of LA act are as under:

Khasra No.	Area
61	(3-14)
62/2/2	(1-17)
77/3	(0-02)
78/1/2	(2-04)
78/2	(2-08)
79	(5-13)
80	(0-11)
83/1	(2-08)
84/3	(1-00)
<b>TOTAL</b>	<b>19-17</b>

### CLAIM AND EVIDENCE

Notices U/s 9&10 of LA Act were issued to the interested persons/land owners to file claims. In pursuance of Notices u/s 9 & 10 following claims were received in this office:-

Sl. No.	Name of land owner/claimant	Kh. No.& Area	Claim
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1.	Omkar nath Joshi s/o Vasudev Joshi (1/3 <sup>rd</sup> share)	61(3-14) 62/2/2(1-17) 77/3(0-02) 78//1/2(2-04) 78/2(2-08) 79(5-13) 80(0-11) 83/1(2-08) 84/3(1-00) <b>Total(19-17)</b>	@ Rs. 3 lakh per Sq m + Rs. 10 Crore for the structure and other inhouse facilities to the extent of 1/3 <sup>rd</sup> share alongwith 30 % solatium and 12% Additional Amount from the date of notification U/s 4 till the date of possession + other statutory interest till the amount is tendered to the claimant
2.	Sanjay Kalia, Deepak Sharma, Arun Kumar Joshi & Rajeev Joshi (1/6 <sup>th</sup> share each)	Do	1. Rs. 268.45 crore @ Rs. 65 Crore per acre/ Rs. 1,60,461 per sq m (proportionate to their entitlement of share in the land )  2.Rs. 25 lakh on account of damage to movable property  3.Rs. 45 lakh on account of damage to immovable property  4. Rs. 54 lakh on account of loss of trees + other statutory benefits

#### MARKET VALUE

The Hon'ble High Court vide its order dated 23.04.2009 in WPC No. 7284 of 2009 titled Sh. Rajiv Joshi & Ors. Vs UOI & Ors. has issued direction in Para 28 as " the present case is one where we feel it appropriate to direct that there should be expeditious determination of realistic market compensation for the land. Learned senior counsel for the petitioner states that the claims with supporting documents will be filed by the petitioners within two (2) weeks. The AAI would give all the necessary assistance to the LAC to expeditiously conclude the proceedings for determination of the value of the land and to publish the award. The LAC would endeavour to complete the proceedings within a period of four (4) months of the claim petition being filed by the petitioners".

Here it is pertinent to mention that tentative 80% compensation amount for the land in question were worked out in accordance with the

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Govt. of NCT of Delhi minimum indicative price for the agricultural land which is Rs. 53,00,000 per acre plus other statutory benefits in this case. The 80% compensation amount has already been tendered to the land owners respective of their shares in land in question. Though the petitioners/landowners have filed a number of claims/objections wherein they have challenged the market value fixed by the Govt. and similarly they demanded the compensation at the rate which is exorbitantly high in my considered opinion. After perusal of claims it is observed that the land owners are claiming the compensation at commercial rate as they claimed that a pottery known as Palam potteries were operational on the land in reference prior to the notification U/s 4 & 6. They have also filed supportive document in favour of their claims wherein they have quoted a number of reference regarding the market value of land in reference. I have gone through all the documents filed by the land owners/appellants in pursuance of the notice U/s 9&10 of LA Act issued by this office.

However, in my considered opinion the land in question is an agricultural land since land use can not be changed by mere operating potteries. The Khautani of the land in reference also shows the land as *Gair Mumkin Factory* means though the land owners might obtain the permission to operate the potteries on the land in reference however, the change of land use has not been obtained by the concerned authority and neither the landowners has provided any CLU Certificate(Change in land use certificate) which means that the land will be treated as argricultural land. Futher, the petitioners/landowevers have not supplied the copy of Master Plan of Delhi in which the land may be shown as commercial land as claimed by the petitioners. The other facts were also taken into account that the adjacent portion of the land which have earlier been acquired by the govt. for the one purpose or other, the market rate was fixed in

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accordance with the indicative price fixed by Govt. of NCT of Delhi. As regard the sale deeds of the adjacent properties/land, the Sale deeds of village Mahipalpur were also considered which were regulated approximately at the time of notification of the land in reference. The details of which are as under:

Sl. No.	Village	Area	Consideration amount paid	Date of sale deed
1	Mahipalpur	33.44 Sq. Mtr	Rs. 231,000	02/03/2009
2	Mahipalpur	33.44 Sq. Mtr	Rs. 390,000	01/03/2009
3	Mahipalpur	96.15 Sq. Mtr	Rs. 6,66,500	03/01/2009

Considering the average value of these transactions the average value comes to Rs. 7899/- per sq. meter. However, the same cannot be taken into consideration keeping in mind that these are private transactions and are of small patches of land. Apart from the above the grievance of the land owners/petitioners(if any) may be readdressed in the reference court in the form of reference U/s 18 as given in the statute itself.

Keeping all the facts in mind, I have a considered opinion that the land in question, which is to be acquired, is an "Agricultural Land". The market value of the land under acquisition is to be determined with reference to the date of Notification u/s-4 of the Land Acquisition Act.1984, which is 12.01.2009 in the instant case. For determination of the market value of land the indicative price fixed by the Govt. of NCT of Delhi for agricultural land in Delhi at the rate of Rs. 53,00,000 per acre plus other statutory benefits as conveyed by the Dy. Secy (LA), Land & Building Deptt. The indicative price of land has been fixed by taking into consideration various factors in respect of land in NCT of Delhi.

The land being acquired is agricultural land measuring is 19 Bigha 17 Biswa and market value of land fixed by the Govt. of Delhi, the

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appropriate market value of land should be determined @ Rs. 53,00,000 per acre plus other benefits.

### VALUATION OF STRUCTURES

As there were structures on the land in reference therefore a request was made to the PWD Govt. of NCT of Delhi to assess the value of these structures so that the same can be incorporated in the award. In pursuance of the request made by this office PWD Department made a thorough survey of the structures on the land in reference in presence of the revenue staff, L&B Staff and Airport Authority staff. The PWD department vide their letter No. **DB/Val/CBMD M-122/NCT/656 dated 10/08/2009** has forwarded the valuation report duly vetted by Ex. Engineer CBM Div. M-122 PWD, for the structures of land in reference. The valuation report as forwarded by PWD is being accepted without going into technicality viz. depreciation or appreciation. It is presumed that PWD has taken into consideration all these aspects while determining the value of structures. The PWD department has assessed the value of these structures for **Rs. 3962381.00** (Rs. Thirty Nine Lac Sixty Two Thousand Three Hundred Eighty One only). The same is being taken into the award.

### SOLATIUUM

30% solatium will be given to the landowners on the market value of the land due to compulsory nature of the acquisition as per Provision laid under section 23(2) of Land Acquisition Act 1894.

### ADDITIONAL AMOUNT

An additional amount @ 12% per annum on the market value of land U/S 23(1A) of Land Acquisition Act 1894 shall be given to the land owners for the period commencing from the date of notification U/s-4 of LA ACT 1894 to the date of physical possession or Award, whichever is

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earlier. In the instant case the urgency clause i.e. 17(1) of LA Act was invoked hence the possession of the land in reference was taken on 01.05.2009. Therefore, additional amount @ 12% per annum U/s 23 (1A) of LA Act 1894 shall be applicable w.e.f. 12.01.2009 i.e. date of notification U/s 4 to 04.05.2009 (103 days) i.e. date of possession handed over to the Govt.

### APPORTIONMENT

Apportionment of the said compensation among all the persons known or believed to be interested in the land of whom, or of whose claims, I have the information, whether or not they have appeared before me, is to be determined as per the Naksha Muntazamin/revenue record. Where there is a dispute and the same is not settled, the matter shall be referred to the Court of Additional District Judge, Delhi U/s 30-31 of the Land Acquisition Act, 1894. As per revenue record following are the details of land owners alongwith their respective shares:-

Sl. No.	Name of land owner/claimant	Kh. No.& Area
1.	Omkar nath Joshi s/o Vasudev Joshi (1/3 <sup>rd</sup> share)	61(3-14) 62/2/2(1-17) 77/3(0-02) 78/1/2(2-04) 78/2(2-08) 79(5-13) 80(0-11) 83/1(2-08) 84/3(1-00) <b>Total(19-17)</b>
2.	Sanjay Kalia, Deepak Sharma, both son of Sh. B. L. Sharma Arun Kumar Joshi & Rajeev Joshi both s/o Raj Kishan Joshi (1/6 <sup>th</sup> share each)	61(3-14) 62/2/2(1-17) 77/3(0-02) 78/1/2(2-04) 78/2(2-08) 79(5-13) 80(0-11) 83/1(2-08) 84/3(1-00) <b>Total(19-17)</b>

LAND REVENUE

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The land revenue will be deducted from the rent roll of the village Mahipalpur w.e.f. taking over the physical possession.

### SUMMARY

The award is summarized as under: -

A) The market value of land measuring 19 Bigha 17 Biswa @ 53,00,000 Per Acre or @ Rs. 11,04,167 Per Bigha.	Rs: 21,917,708.00
B) Value of structures	Rs. 39,62,381.00
Total:	Rs. 2,58,80,089.00
C) 30% Solatium U/S 23(2)	Rs. 77,64,027.00
C) Additional amount @ 12% Per annum U/s 23(1A) w.e.f 12.01.2009 to 04.05.2009 (103 Days).	Rs. 8,76,378.00
Total A+B+C+D=	Rs. 3,53,96,872.00
Less 80% amount already received	Rs. 2,27,94,416.00
Balance Amount	Rs. 1,26,02,456.00
Interest @9% per annum w.e.f. 04.05.2009 to 07.12.2009 (217 days)	Rs. 6,74,318.00
<b>Grand Total</b>	<b>Rs: 1,32,76,774.00</b> (Rs One Crore Thirty Two Lakh Seventy Six Thousand Seven Hundred Seventy Four Only)

*Singh*  
(SATNAM SINGH)  
LAND ACQUISITION COLLECTOR  
DISTRICT SOUTH WEST

*Lonehals*  
PR. SECRETARY (Revenue)

Announced on 7/12/09.  
Issue notice U/S 12(2) of the Act. 7/12/09