

AWARD NO : 2/2004-05 Distt. (SW)
NAME OF VILLAGE : NANGAL RAYA
NATURE OF ACQUISITION : PERMANENT
PURPOSE OF ACQUISITION : PLANNED DEVELOPMENT OF DELHI
NOTIFICATION : U/S 4 No.F.10(15)(77)L&B(i) dt. 25/3/88
U/S 6 No.F.10(15)(77)L&B(i) dt. 21/4/1988.
U/S 17(i) No.F.10(15)L&B(ii) dt. 21/4/1988.

INTRODUCTION

There are proceedings for determination of compensation under section 11 of Land Acquisition Act, 1894 in respect of Land measuring 1 Bigha 2 biswas of land in village Nangal Raya which was notified under section 4 of Land Acquisition Act vide Notification No.F.10(15)/77/L&B(i) dated 25.3.88 for a public purpose namely planned development of Delhi. In view of the urgency of the scheme the provisions of section 17(i) of the Act were made applicable to the Land. The Delhi Govt. issued a declaration under section 6 of L.A. Act vide notification No.F.10(15)/77/ L&B(ii) dated 21/4/1988. Notice U/s 9 (1) of the Act asking the petitioner to appear at the inquiry to be held on 30/5/1988 for the purpose of determination of compensation were also issued but in the meantime the Hon'ble High Court in CM No. 1508/88 in CWP No. 1150/1988 passed the status quo orders vide order dated 26th May, 1988. The CWP No. 1150/1988 was disposed off by the Hon'ble High Court vide its order dated 17th September, 2003 in which the Hon'ble High Court has observed that "*Before passing this award he shall given notice to the petitioners and consider the submissions which would be made by the petitioners in this behalf. In case the petitioners are not satisfied with the compensation ultimately awarded by the Land Acquisition Collector, petitioners would be entitled to seek reference to the Reference Court under Section 18 of the Act.*"

In pursuance of the above notification notice under section 9 & 10 of the L.A. Act were issued to all the interested persons to file their claims. The claims filed by the claimants are discussed hereinafter under heading 'CLAIMS'.

MEASUREMENT

The area to be acquired as given in the declaration under section 6 of L.A. Act is 1 Bigha 2 Biswas. The details of the land under acquisition are as under :-

Khasra No.	Area
43/2	0-12
142/2	0-10

CLAIMS

The persons named below have jointly filed their claims :-

S.No.	Name	Khasra No.	Area.
1.	Sh. Sita Ram s/o Tej Ram	43/2	0-12
2.	Sh. Satish Kumar s/o Sita Ram	142/2	0-10
3.	Sh. Sukhbir Singh		
4.	Yaspal Singh		
5.	Narender Singh s/o Sh. Ram Narain		
6.	Ram Narain Singh s/o Tej Ram		
All resident of WZ-1181, Nangal Raya, New Delhi.			

The perusal of claims reveals that the claimants have filed claims, which are exorbitantly high. The claims are considered on merit and rejected, since it does not represent market value of the land.

MARKET VALUE

The market value of land under acquisition is to be determined with reference to the date of Notification U/s 4 of the Land Acquisition Act, 1894, which is 25.03.1988 in this case. The possession of the land under acquisition has already been taken over in the year 1975 for Planned Development of Delhi. The land under reference was also notified U/s 4 vide Notification No. F.10(15)/77/L&B(1) dated 25.03.1988, u/s 6 vide Notification No. F.10(15)/77/L&B(1) dated 21/04/1988 and U/s 17(1) vide Notification No. F.10(15)/77/L&B(1) dated 13/05/1988 of the LA Act. Notice U/s 9 (1) of the Act asking the petitioner to appear at the inquiry to be held on 30/5/1988 for the purpose of determination of compensation were also issued but in the meantime the Hon'ble High Court in CM No. 1508/88 in CWP No. 1150/1988 passed the status quo orders vide order dated 26th May, 1988. The CWP No. 1150/1988 was disposed off by the Hon'ble High Court vide its order dated 17th September, 2003.

The claimant Shri Ram Narayan represented himself through the Advocate and stated that the land of the petitioner / claimant had enormous value as it was lying in a very lucrative area of Mayapuri Industrial Area Phase II and has the considerable potential of being developed as commercial / industrial site. He further stated that the DDA in the counter affidavit in the High Court has admitted that the said land has already been developed in terms of Planned Scheme. The market value of the land has to be, therefore, assessed in terms of commercial value of the land which was Rs. 15,000 per sq. yard. The similar land in the vicinity has been sold / auctioned by the DDA for Rs. 10,000 per sq. yard. The claimant filed a copy of the letter dated 23/12/1988 issued by DDA confirming the auction price of Rs. 16,55,000/- for a plot measuring about 139 sq. mtrs. and further the DDA accepted the auction price vide its letter dated 19/1/1989.

The DDA was also given the opportunity by issuing notice to participate in the Award proceedings. The Revenue staff of DDA attended the proceedings on various dates and filed a letter No. F.2(867)/88/HC/Legal dated 16/2/2004 wherein the Dy Director (NL) stated that "I am directed to request you to award the minimum rate fixed by the Government. The rates as demanded by the petitioner is not justified and may not be given to him as 50% land is being utilized for public facilities. As such auctions rate cannot be determining factors in arriving

at the rates of the land to be acquired. The location, business potentiality, future prospects etc. are also determining factor. It is not known if this particular land is within the Mayapuri Industrial area as claimed by the petitioner. Even for moment accepting, not conceding the fact that the said land is within the Mayapuri Industrial area, this land cannot be said to have the potential of the land sold through auction. Besides, such auctions cannot determine the market rate. We have to go by the normal rate at which land is sold by the willing seller to a willing purchaser in the last 3-4 years. Auctions are aberrations which do not determine the rate. In view of the above, LAC is requested to Award the minimum rate fixed by the Government."

The claim of the petitioner / claimant to fix the market value as Rs. 15,000 per sq. yard because the land falls in the developed industrial area is not acceptable due to the fact that the possession of the land under reference was taken over in the year 1975. The land under reference and also the adjoining land of the said village was developed by the DDA at its own cost. The market value so quoted by the claimant / petitioner has reached to this stage only because of the developmental activities carried out by the DDA. Further, since the possession has already been taken over, no land was available which could be sold / purchased by someone on this high prices.

To assess the true market value of the land, the Govt. of Delhi set up a committee of experts to suggest the price of the land (market value) for acquisition purpose in Delhi State. On the basis of the recommendation of the committee, the Delhi Administration vide its circular / order dated 3/5/1990 has fixed the minimum market value as Rs. 4 lakhs 65 thousand per acre for entire Delhi. It has been further mentioned in the said circular / order that "For the land notified in the previous years u/s 4 of the Land Acquisition Act, the price would be that for the year in which the Notification u/s 4 arrived at by discounting the 1990 price by 15% per annum". Accordingly, the Market Value for the land under reference for the year 1988 i.e. the date on which Notification u/s 4 was issued comes to Rs. 3,36,000/- per Acre after discounting @ 15% from Rs. 4,65,000/- per Acre fixed for the year 1990.

Accordingly the market value of the land under acquisition is determined as Rs.3,36,000/- per Acre i.e. Rs. 70,000 per Bigha. In addition to the market value the land owner will be entitled for other benefits as per provisions of the Land Acquisition Act, 1894.

No interest shall be paid on stay period w.e.f. 26/5/88 to 16/9/2003.

VALUATION OF STRUCTURES

No structure was in existence. Hence no compensation is awarded.

SOLATUM

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

ADDITIONAL AMOUNT

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



In the instant case the land was in possession of DDA at the time of notification U/S 4 i.e. 25/3/88 itself. Therefore, land owners are not entitled for an additional amount @ 12% per annum on the market value of land U/S 23(IA) of Land Acquisition Act 1894.

OTHER BENEFITS / DAMAGES

In this regard, the Hon'ble High Court has observed that *"Coming to contentious issue of damages for unauthorized occupation, it may be mentioned that learned counsel for the petitioners has relied upon the judgment in the case of Delhi Electricity Supply Undertaking vs. Bhimandas Ambwani and Ors. reported in 2002 VI AD (Delhi) 934 wherein the petitioners were compensated by awarding the cost of Rs. 50,000/-. The admitted fact in this case is that the possession of land in question was taken by the DDA even when the land in question was not acquired. Petitioners were, thus, deprived of their land by Government/statutory body illegally and without due process of law. This act on the part of the DDA cannot be justified on any ground. At the same time the conduct of the petitioners is also not without blemish. They did not approach the Court challenging their illegal dispossession and were satisfied by only making representations to the authorities even when such representations did not evoke any response. Petitioners rushed to this Court by filing the instant petition only when the acquisition proceedings in respect of land in question were initiated and were at advance stage, i.e. after notice under Section 9 was also issued. We may state here that in the affidavit dated September, 2003 petitioners have claimed substantial damages. In these circumstances the damages which may normally be payable for illegal dispossession cannot be awarded to the petitioners. One cannot loose sight of the fact that any suit by the petitioners for this purpose would be time barred. At the same time we are of the opinion that because of the wrong doing on the part of the DDA, DDA should be burdened with some cost. This writ petition is accordingly disposed of with cost of this petition which is quantified at Rs. 35,000/-"*.

POSSESSION OF LAND

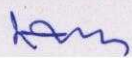
Vide letter No.F14(19)/69/cRc/DDA/dated 11/01/1988, Dy. Director(N.L),DDA intimated that the land under reference was utilized by DDA some where in the year 1975-76. Exact date of physical possession of land was not available in the record of DDA, as mentioned in the above letter.

APPORTIONMENT

The 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, have been determined as per the annexure. Where there is a dispute and the same is not settled the matter will be referred to the court of Additional District Judge, Delhi u/s 30-31 of the Land Acquisition Act, 1894.

LAND REVENUE

The land revenue was assessed 50 paise in the revenue records which will be deducted from the roll of the village from the date of taking over the possession.



SUMMARY OF THE AWARD

The award is summarized as under :-

A	The market value of land measuring 1 Bigha-2Biswa @ Rs. 70,000/- per Bigha	Rs. 77,000.00
B	30% Solatium on market value u/s 23(2)	Rs. 23,100.00
C	Interest @ 9 % per Annum U/s 34 w.e.f. 23/3/88 to 26/5/88 = 62 days 17/9/03 to 16/7/04 = 303 days 365 days	Rs. 9,009.00
D	Interest @ 15 % on Market value u/s 34 of LA Act w.e.f. 17/7/04 to 15/11/04 = 122 days.	Rs. 5,018.71
	GRAND TOTAL	Rs.1,14,127.71

SECRETARY (REVENUE)
Govt. of NCT of Delhi.

(S.S. KANAWAT)
LAND ACQUISITION COLLECTOR
DISTRICT SOUTH WEST

Award announced in presence of the following persons

16.11.04

MEASUREMENT

The area to be acquired as given in the declaration under section 6 of L.A Act is 1 Bigha 2 Biswas. The details of the land under acquisition are as under :-

Area

0-12

0-10

12
95

DELHI ADMINISTRATION : DELHI. LAND & BUILDING DEPARTMENT.
NOTIFICATION

Dated the 26-3-58

No. P.10(15)/77-LAB:-(1) Whereas it appears to the Lt. Governor, Delhi that the land is likely to be required to be taken by Government at the public expense for a public purpose, namely for 'Planned Development of Delhi, it is hereby notified that the land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Lt. Governor, is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

The Lt. Governor, being of the opinion that provisions of sub-section(1) of section 17 of the said Act are applicable to this land, is further pleased under sub-section 4 of the said section to direct that the provisions of section 5-A shall not apply.

NOTIFICATION

Name of village	Total Area Bigha-Biswa	Khasra No.	Area Bigha-Biswa.
Mangal Paya.	1-02	43/2 142/2	0-12 0-10

By Order,

[Signature]
(MRS. HEMU SINGH)
JOINT SECRETARY (L&B)
DELHI ADMINISTRATION: DEL. L.

DELHI ADMINISTRATION : DELHI : LAND & BUILDING DEPARTMENT
NOTIFICATION

Dated the 21.04.1988

No.F.10(15)/77-L&B:-(ii)Whereas the Lt. Governor, Delhi is satisfied that the land is required to be taken by Government at the public expense for a public purpose namely for Planned Development of Delhi. It is hereby declared that the land described in the specification below is required for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, to all whom it may concern and under the provisions of section 7 of the said Act, the Collector of Delhi is hereby directed to take order for the acquisition of the said land.

A plan of the land can be inspected at the office of the Collector of Delhi.

SPECIFICATION

Name of Village	Total Area Bigha-Biswa	Khasra Nos.	Area Bigha-Biswa
Nangal Raya	1 - 02	43/2 142/2	0 - 12 0 - 10

By order,

(MRS. NEERU SINGH)
(JOINT SECRETARY (LAND & BUILDING)
DELHI ADMINISTRATION : DELHI.

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DELHI ADMINISTRATION: DELHI (LAND & BUILDING DEPARTMENT)
NOTIFICATION

Dated the 20/4/ 1988

No.F.9(20)/78-L&B(iii): In exercise of the powers conferred by sub-section (i) of section 17 of the Land Acquisition Act, 1894, the Lt. Governor, Delhi is pleased to direct the Land Acquisition Collector, Delhi to take possession of the land the specification of which is given in his notification No.F.9(20)/78-L&B(i) dated 11.4.88 and No.F.9(20)/78-L&B(ii) dated 20.4.88 on the expiration of 15 days from the publication of the notice under sub-section (i) of section 9 of the said Act.

By Order,

(MRS. NEERU SINGH)
JT. SECRETARY (L&B)
DELHI ADMINISTRATION: DELHI

BUILDING
DELHI.