

(775)

A W A R D No. 5/74-75

Name of the village: S H A H B A D - M O H D P U R

Nature of acquisition: Permanent.

Purpose of acquisition: Public purpose (Development of Palam Airport.)

A W A R D

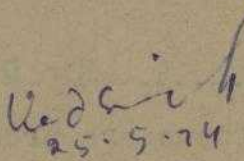
These are proceedings for determination of compensation U/s 11 of the Land Acquisition Act 1894. The land measuring 66 bighas 4 biswas situated in village Shahbad Mohdpur was notified for acquisition U/s 4 of the L.A. Act vide notification No.F.15(38)/64-L&H dated 21.2.73 and corrigendum No.F.15(38)/64-L&H dated August 17, 1973 for a public purpose namely for Development of ~~am~~ Palam Airport. After considering objections U/s 5-A, of the L.A. Act, the Delhi Administration issued a declaration U/s 6 of the L.A. Act for the acquisition of an area measuring 66 bighas 4 biswas vide notification No.F.15(38)/64-L&B dated October 15, 1973. In pursuance of the aforesaid notifications, notices U/s 9 & 10 of the L.A. Act were issued to all the persons interested in the land and claims filed by them are discussed hereafter under the heading "COMPENSATION CLAIMS".

TRUE AND CORRECT AREA: The land was measured on the spot by the Land Acquisition Field Staff and the area available for acquisition on the spot is as under:-

Field No.	Area Big.Bis.	Kind of soil as per revenue record.
1 -tc. 253/2	2 - 15	Apash
" 254/2	0 - 4	G.M.Rasta.
" 255/2	0 - 2	Apash
" 256/2	0 - 7	Gairapash
" 257/2	0 - 6	"
" 276/2	2 - 10	Apash
" 278/2	2 - 2	"
" 337/1	1 - 10	Gairapash

contd:.....2/-

3115 दिनांक 25.5.74 को राजा शाहबाद गौतमपुर
के निवासी लालबहादुर सिंह को 25 नवंबर को लालबाद
आने।

1. श्री लालबहादुर सिंह  25.5.74

2. श्री लालबहादुर सिंह पत्नी लालबा

3. श्री लालबहादुर सिंह लालबा  25.5.74

4. श्री लालबहादुर सिंह लालबा

5. श्री लालबहादुर सिंह लालबा  25.5.74

6. श्री लालबहादुर सिंह लालबा

7. श्री लालबहादुर सिंह लालबा

8. श्री लालबहादुर सिंह लालबा लालबा

9. श्री लालबहादुर सिंह लालबा लालबा

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12. श्री लालबहादुर सिंह लालबा लालबा

13. श्री लालबहादुर सिंह लालबा लालबा

14. श्री लालबहादुर सिंह लालबा लालबा

15. श्री लालबहादुर सिंह लालबा लालबा

25.5.74

1 etc.	338/1	0 - 1	Apash
"	339/1	3 - 00	Gairapash
"	340/1	0 - 2	Banjar Qadim
"	350/2	13 - 09	Apash
"	437/2	1 - 13	Apash
"	439/2	1 - 13	"
"	441/2	5 - 12	"
"	442/2	0 - 19	Gairapash
"	443/2	0 - 2	"
"	447/2	6 - 4	Apash
"	457/2	0 - 19	"
"	458/2	2 - 6	"
"	459/2	1 - 11	G.M.Rasta
"	482/2	0 - 3	Chahi (in record G.M.Chahi)
"	483/2	2 - 8	Apash
"	558/2	0 - 19	G.M.Bitwar (School Area)
Total		50 - 17	

CLASSIFICATION OF THE AREA

Apash.	41 - 17
Gairapash	6 - 4
Banjar Qadim.	0 - 2
School area	0 - 19
G.M.Rasta	1 - 15
Total	50 - 17

The difference of 15 bighas 7 biswas between the area notified for acquisition and area under acquisition is due to the reasons that the area of 12 bighas 16 biswas is not required by the requiring department and the Tehsildar (Notification) will get this area denotified U/s 48 of the L.A.Act. The area of 1 bigha 8 biswas^{is} notified surplus due to a totalling error in the draft notification. The detail of the area which is to be denotified is as under:

Khasra No.337 (0 - 19), 338 (4 - 9), 339 (2 - 2), 340 (0 - 13) & 559 (4 - 13) total area 12 bighas 16 biswas.

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16. श्री गौजिराम श/० नरेश

LT1
गौजिराम

17. श्री 3 मल मिह S/० लोहराम

18. श्री रिक्ता S/० रसाजीत

LT1
रिक्ता

19. श्री गीता S/० रसाजीत

LT1
गीता

20. श्री लखवी S/० लुधिये

LT1
लखवी

21. श्री गंगा राम S/० गंगु राम गंगाराम

22. श्री लाला चंद S/० गंगु राम लाला चंद

23. श्री. श्री प्रकाश श/० चंदराम Shree Parkash

24. श्री लदामहि S/० लोहराम लदामहि

25. श्री लहरी श/० नरेश LT1
लहरी

26. श्री गुरुनारायण मिह S/० श्री गंगाराम गुरुनारायण

The area measuring 1 bigha 3 biswas comprising Kh.No.559/1 is the property of Govt.Hr.Secondary School village Shahbad Mohdpur, Delhi Administration which being Govt. property cannot be subject matter of acquisition and the Civil Aviation Deptt. will get this area through book transfer from the Land & Building Deptt. of the Delhi Administration.

COMPENSATION CLAIMS:

The following persons have filed claims for compensation

S.N.	Name of the claimant.	Compensation claimed.
1.	Govt.Boys Hr.Sec. School, Shahbad Mohdpur.	Has filed an application that the portion of the school under acquisition may not be acquired.
2.	Shri Bihari s/o Bakhtawar.	Has claimed compensation @ Rs.20000/-per bigha.
3.	Pradhan Gaon Sabha Shahbad Mohdpur.	Has claimed compensation @ Rs.50/-per sq.yd. of Gaon Sabha land.
4.	Surender Singh, Joginder Singh & 6 others.	Have claimed compensation @ Rs.50/-per sq.yd.
5.	<i>Lehri & Harji ss/o Nathur</i>	<i>do</i>
6.	Sh.Mam Chand, Sabha Chand & Virender.	Have claimed compensation @ Rs.50/-per sq.yd. for their land.
7.	Sh.Risal Singh, Lakhi Ram & 5 others.	-do-
8.	Sh.Bhima, Khima ss/o Ranjit.	-do-
9.	Sh.Sant Ram & 6 others.	-do-
10.	Sh.Krishan, Murari, Maru & Smt.Ramkali.	-do-
11.	Sh.Jangli s/o Lal Singh.	Has claimed compensation @ Rs.20/-per sq.yd.
12.	Sh.Budh Ram, Mir Singh & 4 others.	Have claimed compensation @ Rs.20/-per sq.yd.
13.	Sh.Des Ram, Amar Singh & 6 others.	-do-
14.	Sh.Kabul Singh s/o Parsa. Khan Singh s/o Parsa.	-do-
15.	Sh.Sis Ram s/o Mehru.	-do-
16.	Sh.Risal Singh, Gattu, Ram Sarup & Smt.Gaindo.	-do-
17.	Badam Singh & Khima.	-do-
18.	Hira, Sardar Singh, Jai Narain Rampat.	-do-

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| 19. Sh.Birkhey, Badam Singh & 9 others. | Have claimed compensation @ Rs.20/-per sq.yd . |
| 20. Sh.Niadar s/o Behari. | -do- |
| 21. Sh.Ved Singh & Sh.Rupe. Gordhan s/o Ram Kalan. | Have claimed compensation @ Rs.50/-per sq.yd. |

DOCUMENTARY EVIDENCE:

S/Sh.Des Ram, Amar Singh, Inder Singh, Sardar Singh etc have filed a copy of award No.23/1973-74 village Nangal Dewat as evidence in support of their claims. The preliminary date of notification of award No.23/1973-74 is 3.12.71.

MARKET VALUE:

The market value of the land under acquisition has to be determined with reference to bonafide sale transaction as at the material date. It is thus the price which the land could fetch when offered for sale to a seller not being obliged to sell and the buyer being under no necessity of buying it. Apart from it, the awards of the court also afford a good guide in evaluating the market value of the land under acquisition. It is with ^{these} factors in mind that the market value of the land under acquisition has to be assessed. Before embarking on the question of the determination of the market value it would be relevant to discuss the evidence adduced by some of the persons interested. The persons interested have filed a copy of award No.23/1973-74 village Nangal Dewat as a documentary evidence in support of their claims. The preliminary date of notification of award No.23/1973-74 is December 3, 1971. The rates awarded in award No.23/1973-74 are primarily based on L.A. Case No. 648/65 Piare Lal Vs. U.O.I. and on the decision of the High Court in R.F.A. 150/68 Piare Lal Vs. U.O.I. The higher rates awarded for various blocks in award No.23/1973-74 village ~~Nangal~~ Nangal Dewat were due to the situational

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advantage of the land and bear no comparison with the land under acquisition which lies far in the interior and is mostly land-blocked. The aforesaid judgments of the Addl. District Judge and High Court were duly taken into account in award No. 103/72-73 village Shahbad Mohdpur. Award No. 23/1973-74 village Nangal Dewat therefore, cannot be taken as a proper evidence to fix the market value of the land under acquisition.

It would thus appear that there is hardly any evidence from the side of the claimants which should have been helpful in evaluating the market value of the land under acquisition. From a scrutiny in the office of the Sub-Registrar as well as the revenue records, the following sale transactions came to notice nearest to the material date:

S.N. Mutation No.	Date Regd. No.	Date of regn.	Kh. No.	Area Big.	Consideration money.	Average
1.	7431	16.11.71	131/300	150 sq. yd.	Rs. 5000/-	Rs. 33333.33
2. 0-4/15	3583	23.2.69	371 min	1 - 00	Rs. 9800/-	Rs. 9800/-
3. 0-4/20	6193	6.9.69	1/50	1 - 00	Rs. 5500/-	Rs. 5500/-
4. 0-4/44	4100	8.6.72	454	1 - 10	Rs. 11000/-	Rs. 7333.33

Sale deed at S.No.1 bears no comparison with the land under acquisition as in this sale transaction an area measuring 150 sq.yds. was sold on the periphery of the village abadi. Such lands always afford an ideal site for homesteads and therefore, such lands cannot compare with the land under acquisition. As for sale deed at S.No.2 it is revealed that Bhima & Khima transferred a piece of land measuring 1 bigha to Sultan Singh resident of village Basti Ladrawan Tehsil Jhajjar, Distt. Rohtak, Haryana on a consideration of Rs.9800/-per bigha. The deed indicates that neither any cash payment was made before the Sub-Registrar nor was the vendee present at the time of registration. The deed therefore, cannot be treated as a bonafide sale transaction which for all interests and purposes was executed merely to indulge in speculation. Likewise, in sale transaction at S.No.3 the vendor transferred land measuring 1 bigha out of Kh.No.50 which according to the revenue records measured

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22 bighas 7 biswas. The vendee Sh.Ranjit S belongs to village Hamyampur which is about 8 miles from the village. This land is also within the ambit of the Delhi Land Reforms Act and can only be put to agricultural use. It is not understood as to why the vendee paid such a high price for a land which according to the deed of registration is not physically delineated at the spot and that to what advantageous use the vendee would put the land particularly when he is residing at about 8 miles from the village. It is for these considerations that this sale cannot be treated as a bonafide transaction which for all practical purposes was executed with a view to inflate the rates in the coming acquisition proceedings. Lastly the sale transaction at S.No.4 also pertains to abadi land which for reasons stated earlier cannot be referred to in the determination of the market value.

From the foregoing discussions, it is apparent that there are no proper exemplars to guide in the determination of the market value of the land. In cases where there have been no recent sales of the same land to guide, the market value can be determined by sales of similar land in the neighbourhood. It has been ~~xx~~ held that bonafide transactions of purchase of land adjacent to the land acquired and possessing similar advantages provide an alternative means of estimating the market value. Village Nangal Dewat is just adjoined to this village and therefore, the sale transactions in that village can afford proper guide.

S.N.	Mutation No.	Date of regn.	Area Big.Bis.	Khasra No.	Consideration money.	Average per bigha.
1.	7155	5.11.71	19 - 04	1164, 1167, 1171, & 1172.	Rs.9000/-	Rs.468.75P
2.	6577	25.9.69	00 - 02	1533	Rs.2000/-	Rs.20000/-
3.	6576	-do-	1 - 00	736	Rs.7500/-	Rs.7500/-
4.	386	22.1.68	56 - 11	1802/2, 1803 to 1806, 1807/2, 1826, 1827, 1810 to 1813, 1819, 1801/1, 1808/3	Rs.80000/-	Rs.1414.68

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5. 22	2.1.69	4 - 14	1471/2, 1477/1, 1/5 shr. 1470/2	Rs.1000/- Rs.1052.63
6. 1385	4.3.68	24 - 09	993 to 996, 1010 & 1185	Rs.50000/-Rs.2004.00
7.	30.3.68	3 - 00	1541/2	Rs.30000/-Rs.10000.00

A scrutiny of above sale transactions reveals that the prices in the transactions at S.No.1, 4, 5 & 6 are on a low side which indicate a down-ward trend in prices from 1969 to 1971. Sale transaction at S.No.2 & 7 also cannot be referred to as the land covered in these transactions is just adjacent to the Delhi Gurgaon Highway and is about 2½ miles away from the land under acquisition in village Shahbad Mohdpur. It is a common knowledge that the immediate contiguity to a highway commonly called frontage is a well known and powerful element in value of all lands in populous districts. That being so the land under acquisition by no stretch of imagination be equated with the land covered in these two transactions. Apart from the advantage of frontage the land covered in these two transactions lies in close propinquity to the Mahipal Pottery complex which confers a high element of potentiality to the land involved in these two sale transactions. A perusal of a copy of a sale deed at S.No.7 indicates that only a sum of Rs.20000/-was paid before the Sub-Registrar for land measuring 3 bighas, the average of which works out to Rs.6666/-per bigha while the sale price of the transaction at S.No.2 gives an average of Rs.20000/-per bigha. The high which prices in the two transactions/cannot be reconciled with each other is due to the advantage of frontage on the Delhi Gurgaon Highway and the close proximity to the Mahipalpur pottery complex. For these consideration, the land involved in these two sale transactions which lies about 2½ miles cannot be compared with the land under acquisition. In the transaction at S.No.3 the documents does not recite the payment

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of any cash money before the Sub-Registrar and as such the sale price as agreed in the deed cannot be taken into account.

In the absence of any relevant sale transaction it would be helpful in seeking recourse to previous awards and the judicial adjudication thereon given by the court. In award No.1836, the material date of which was September 26, 1964 some land in Nangal Dewat was acquired. In L.A.Case No.648/65 Piarey Lal Vs. Union of India the Addl.Distt.Judge fixed the market value of the land for Kh.No.370 @ Rs.5350/-per bigha. This decision was challenged both by Piarey Lal and the Union of India in the High Court. In R.F.A.No.150/1968 Piarey Lal Vs. U.O.I. the High Court upheld the decision of the A.D.J. and fixed the market value of the land comprising khasra No.370 @ Rs.5350/-per bigha. Further in L.A.Case No.196/67 Mam Chand Vs. U.O.I. directed against award No.1834 village ~~M~~ Shahbad Mohdpur the material date of which was the same, the A.D.J. fixed the market value of the land @ Rs.4800/-per bigha on the basis of his decision in L.A.Case No. 648/65 village Nangal Dewat. Since the U.O.I has gone in appeal against all such decisions of the A.D.J. against award No.1834 village Shahbad Mohdpur, no finality can be attached till the decision of the cases by the High Court. The A.D.J. had deducted a sum of Rs.550/-per bigha in these cases due to the fact that the land of Kh.No.370 in village Nangal Dewat abutted on the road while the land in these cases did not abut on the road and their situation was poor. However, guidance can be obtained from the judgment of the High Court in R.F.A.No.150/68 under which

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the market value of kh.No.370 which abutted on the road and which is about a mile from the land under acquisition was fixed @ Rs.5350/-per bigha as on September 1964. A scrutiny of the sale transactions in village Nangal Dewat would reveal that there is no evidence whatsoever regarding the rise in the trend of the prices from 1969 to 1971. This can be attributed to the proposed acquisition of land for expansion of Palam Airport as no purchaser would like to invest money on a land which was proposed for acquisition in near future. The land under acquisition in village Shahbad lies deeper and deeper from the land acquired under award No.1834 and therefore, the question arises as to what value the land under acquisition be assessed in the context of the rates fixed in R.F.A.No.150/68 Piarey Lal Vs. U.O.I.

In Alaul Haq Vs. Secretary of State for India (11 C.L.J 393) a case came before the Lordship where the front land had a very high value and the back land had a relatively low value. After considering the material in record, the court came to the finding that the back portion should be valued at not lower than 1/5th of the rate for the land on the front. But this principle in all fairness is not applicable in the instant case for the simple reason that the land under acquisition is purely agricultural and that it is about more than a mile away from khasra No.370 of village Nangal Dewat and goes on penetrating deeper and deeper. Taking into account the distance involved from the land covered in R.F.A.No.150/68, a rate of Rs.4000/-per bigha assessed was awarded in award No.103/72-73 , the material date of which was December 3, 1971. Relying therefore, on award No. 103/72-73 of village Shahbad Mohdpur and the time gap of about 14 months between the preliminary notification of award No.103/72-73 and the notification in the instant case
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for which enhancement @ of 6% is allowed, I assess the market value of land at the rate of Rs.4280/-per bigha.

Khasra No.254/2 area 4 biswas and khasra No.459/2 area 1 bigha 11 biswas vest in the Gaon Sabha and are being used as public path. As this land is dedicated to public use no compensation is payable to Gaon Sabha.

TREES WELLS AND OTHER STRUCTURES: No trees, wells or structures are existing on the portions of land under acquisition and hence no compensation is assessed.

15% SOLATIUM: 15% solatium is payable over and above the market value so assessed.

APPORTIONMENT: Payment of compensation will be made on the basis of the latest entries in the revenue records.

LAND REVENUE DEDUCTIONS: The land under acquisition is assessed at Rs.19.18P as land revenue which will be deducted from the Khatauni of the village from the date of taking over possession.

The aforesaid land will vest absolutely in the Govt. free from all encumbrances.

SUMMARY OF THE AWARD: The award is summarised as under:-

S.N.	Area Big.Bis.	Rate per bigha.	Amount of compensation
1.	49 - 02	Rs.4280/-	Rs.2,10,148.00
2.	1 - 15 (Public Path)	No compensation assessed.	
3.	15% solatium.		31,522.20
G.Total			Rs.2,41,670.20P

(G.BAHADUR)

LAND ACQUISITION COLLECTOR(MP):DELHI.

Annexed & read by
25/5