

AWARD NO.

28 /2005-06/DC (N-W)

NAME OF THE VILLAGE

SALIMPUR MAZRA MADIPUR

NATURE OF ACQUISITION

PERMANENT

PURPOSE OF ACQUISITION

FOR PUBLIC PURPOSE NAMELY FOR M.C. PRIMARY SCHOOL AT MULTANI MOHALLA RANI BAGH AND PARK.



INTRODUCTORY

These are the proceedings for determination of compensation U/s 11 of LA Act, 1894 in respect of land measuring 4 bigha 4 biswa situated in village Salimpur Mazra Madipur, Delhi. The land is required by the Government for a public purpose namely for M.C. Primary School at Multani Mohalla, Rani Bagh and park.

The land stands notified under section 4 of LA Act, 1894 vide notification No. F.11(52)/2003/L&B/LA/23646 dated 15.01.2004 issued by the Government of National Capital Territory of Delhi, Land and Building Department. The Government of National Capital Territory of Delhi, Land & Building Department issued a declaration under section 6 of LA Act, 1894 vide notification No. . F. 11(52)/2003/L&B/LA/27212 dated 5.3.2004. Also emergency clause under section 17(1) of LA Act has been invoked in the aforesaid land by the Land & Building Department vide notification No. F. 11(52)/2003/L&B/LA/27213 dated 5.3.2004.

In pursuance of the said notification, notices under section 9 & 10 of the LA Act, 1894 were issued to the interested persons. Also notice was issued under section 50 of LA Act, 1894 to the requisitioning department. In response to the notices issued, claim(s) filed by the claimant(s)/interested persons/requisitioning department. have been discussed under the heading "**CLAIMS**".

Signature

MEASUREMENT

The area to be acquired for M.C. Primary School at Multani Mohalla, Rani Bagh and park and declared under section 4 & 6 of LA Act, 1894 is 4-04. The field staff measured the land to be 4 Bigha 4 Biswa on verification/total of the notification. Also, the actual area to be acquired comes to 4 Bigha 4 Biswa on the basis of the revenue record.

Thus, the present award is for **4 bigha 04 biswa** land as per detail given below: -

Khasra No.	Area in (Bigha-Biswa)
314 min	3-16
308 min	0-08
TOTAL	4-04



CLAIMS

In response to the notices issued under section 9 and 10 (to interested persons) and under section 50 of the LA Act to the requisitioning Department following persons/department have filed their claims: -

S No	Name of the claimant	Kh No.	Claims	Remarks
1	Hari Ram Gupta S/o Chandgi Ram Gupta K.K. Jindal	314 min, 308 min	Land @Rs.84,000/- per Sq mtr alongwith statutory additional amount, solatium and interest.	The claimants have not produced any evidence in support of their claim as regards the assessment of the market value of the land. But has produced copy of award bearing No. 13/DC(East)/2004-05 and 14/DC(East)/2004-05 of village Khureji Khas, wherein the rates of L&DC has been awarded alongwith an enhancement at 10% to arrive at the new rates as on the date of notification U/s 4 of the

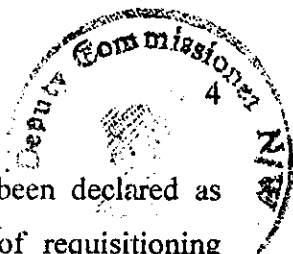


MARKET VALUE

While determining the market value of the land as on 15.1.2004, i.e the date of notification U/s 4 of the Land Acquisition Act, 1894, several factors such as location of the land, nature of soil, awards announced in the recent past of the same or adjoining villages, pronouncement of different courts, claims filed by the interested persons, sale deeds and price policy of the Government regarding acquisition of agricultural land are to be taken into consideration.

Claims filed by the claimants have been perused. The interested persons are claiming the market value of the land to be fixed at Rs.84,000/- per Sq mtr on the ground that on the date of issuance of notification under section 4 of the Land Acquisition Act, the land is surrounded by road on all the sides. The land of the claimants is situated in a fully developed colony known as Rani Bagh with all facilities of metalled roads, electricity, water and other facilities like hospitals etc. The area is thickly populated and even residential properties are fetching more than Rs.30,000/- per Sq. Yds. That the land at present is being utilized by MCD for a School i.e commercial activity. Towards East and North there are commercial activities and the properties are fetching more than Rs.50,000/- per Sq. Yds. That the area of Rani Bagh was declared developed area by the MCD and DDA in the year 1979 by a Gazette notification. The DDA auctioned a plot of about 400 feet away from the land under reference, falling in this very village for commercial purpose. The land of the claimants is also meant for commercial purpose. The DDA sold the land at Rs.84,000/- per Sq. mtr. The value of the land of the claimants has also to be assessed at the same rate.

Here, it is submitted that although the interested parties have produced the perpetual deed regarding the sale of land by DDA at Rs.84,000/- Sq. mtr but have not produced any evidence as regards the properties in the vicinity of the subject land fetching between Rs.30,000/- to Rs.50,000/- per Sq. yds. The property/land auctioned by the DDA is to be used for shop or office. Here, it is pertinent to mention that DDA has received Rs.84,000/- per Sq mtr on auction



Here it is submitted that the village Salimpur Mazra Madipur has been declared as urbanized village. Also as per the joint survey carried by the officials of requisitioning department, Land and Building department and the staff of Land Acquisition branch (Saraswati Vihar Sub-Division) on 25.4.2003, it is revealed that the land is not being used for agricultural purpose. A part of the land measuring 3-16 is being used by MCD, as MC Primary School, Multani Mohalla, Rani Bagh and balance land has been developed by MCD as Park.

The Supreme Court of India in case of state of U.P. Vs Rajender Singh (AIR 1996 SC page 1564) had said that "the burden is on the claimant to establish that the land under acquisition are possessed of the same value, nature of the land are same and capable to fetch same price and so also other situations as comparable features".

Moreover in decision given by the Supreme Court of India in Bhag Singh and others Vs union Territory of Chandigarh AIT 1985 SC 1576 it says :

"Where land is acquired under the Land Acquisition Act, 1894, it would not be fair and just to deprive the holder of his land without payment of the true market value when the law in so many terms, declare that he shall be paid such market Value".

In determining the amount of compensation, factors enumerated in section 23 of the Act are to be taken into consideration and the factors enumerated in Section 24 of the Act are to be extended. Further the Supreme Court in The Collector, Raigarh Vs Dr. Hari Singh Thakur and another (1979) SCC 236 held that the question as to whether a particular land had potential value as a building site or not is primarily one fact depending upon several factors such as its condition and situation, the use to which it is put or is reasonable capable of being put, its suitability for building purpose, its proximity to residential, commercial and industrial areas and educational, cultural or medical institution, existing amenities like water electricity and drainage and the possibility of their future extension, whether the nearby town is a developed schemes and the presence or absence of pressure of building activity towards the land acquired or in

It is in light of these principles that we have to approach the question before us. In the instant case the village has been urbanized and the land is not being used for agricultural purpose as such the rates fixed by the Government of Delhi in respect of agricultural land for acquisition from time to time can not be applied for determination of market value of the land in the instant case.

It is well settled principle of law that in determining the market value of land the prices paid in sale and purchase of land acquired within a reasonable time from the date of acquisition of the land in question would be the best piece of evidence. In its absence the prices paid for land possessing similar advantages to land in the neighborhood of the land acquired in and about the time of notification would apply the data to assess the market value. This office is in possession of the sale transaction in respect of land/plot situated in village Salimpur Mazra Madipur and Rani Bagh. The details of the sale transaction are as under: -

S.No.	Registration No.	Date of Sale	Area of land sold in Sq. Yds	Total sale value	Average sale per Sq yds	Remark
1	8545	14.1.04	65, Kh. No. 313 min	60,000/-	923/-	The vendor has sold third floor with roof rights
2	752	11.12.03	50, property No. wz-1042	75,000/-	1,500/-	The Area involved is Rani Bagh

There is no notified rates for Salimpur Mazra Madipur issued by Government of India, Ministry of Urban Affairs & Employment, Department of Urban Development (lands Division). The rates for Rohtak Road is available, which is 6 Km away from the land in question. Hence the same cannot be taken as a basis for determination of the market value of the land under reference. The only basis left would be sale deed in similar situation.

The deed mentioned at S. No. 2 is a gift deed and not a sale deed of area Rani Bagh. As such, I ignore this gift deed for purpose of fixing market value of land. The sale deed executed in respect of village Salimpur Mazra Madipur is more genuine for fixing the market value of the land. Here, it is pertinent to mention that the vendor has sold the third floor. That is the total market of land should be the market value of all the floors. Since the third floor is fetching Rs.923/- per Sq yds, the ground, first and second floor is bound to fetch more market value than the third floor, say a 20% increase per floor is sufficient to arrive at the market value of the land, which is the average increase in rate of floors. Accordingly the market value of the land comes to Rs. 1595/- per Sq yds.

Therefore, In light of the above discussions, I assess the market value of this land/plot @ Rs.1,595.00 (Rupees One Thousand Five Hundred Ninty Five Only) Per Sq yds. as on 15.1.2004.

SOLATIUM

As per 23(2) of the LA Act, 1984, solatium @30% shall be paid to the interested persons on the market value of the land, due to compulsory nature of acquisition.

ADDITIONAL AMOUNT

The interested persons are entitled to additional amount @12% p.a on the market value of the land as per the provisions of section 23(1-A) of the LA Amended Act, 1984 from the date of notification under section 4 i.e. 15.1.2004 till date of possession i.e 12.4.2004 as per the provision of the LA Act, 1894.

POSSESSION

Physical possession of the land under acquisition has been taken and handed over to MCD department through Land & Building Department on 12.4.2004.



STRUCTURE

As per joint survey report dated 25.4.2003 there is a school and Park belonging to MCD on the subject land.

APPORTIONMENT

Compensation will be paid to the land owners as per the latest entries in the revenue record. In case of any dispute regarding title, apportionment of compensation, the matter will be referred to the court of ADJ, Delhi under section 30-31 of the LA Act, 1894. Although Sh. Hari Ram Gupta and Sh. Krishan Kumar Jindal are shown as recorded owner of the land under reference. A look into the revenue record shows that these persons have become the recorded owner in the year 1989 whereas the School exists in its place since very long. As such, the date of existence of the School be determined at the very first instant and then payment be released to the recorded owner. Incase the School exists prior to the purchase of the land by the present recorded owner, then the matter be investigated as to how the land was purchased by the present recorded owner and the land mutated in their favour by the department.

The details of apportionment are as under:

S.No	Name	Kh. No.	Area (Bigha- Biswa)	Compensation In Rs.
1	Hari Ram Gupta S/o Chandgi Ram (1/2 share)	308 min 314 min	0-08 3-16	44,95,035.24
2	Krishan Kr Jindal S/o Ram Niwas (1/2 share)	Total	4-04	44,95,035.24
	TOTAL		4-04	89,90,070.04



SUMMARY OF AWARD

1.	Market value of land measuring 4 bigha 4 biswa or 4234 Sq. Yds. at the rate of Rs. 1595/- per Sq. Yd.	67,53,230.00
2.	Solatium @ 30% on the market value U/S 23(2) of the LA Act, 1894.	20,25,969.00
3.	Additional amount @ 12% p.a on the market value w.e.f 15.1.2004 to 11.4.2004 for 88 days U/S 23 (1-A) of LA Act, 1894.	1,95,381.12
4.	Total (Col. 1 + 2 + 3)	89,74,580.12
5.	Interest @9% p.a on (MV+Solatium+ Addl. amount) - 80% compensation already received) i.e on 19,51,220.92 U/S 34 of the LA Act, 1894 w.e.f 13.4.2004 to 19.4.2004 for 7 days	15,490.37
6.	TOTAL (COL. (4+5))	89,90,070.49

(Rupees Eighty nine lacs ninety thousand and seventy only)

C. Arvind

(C ARVIND)
Land Acquisition Collector

APPROVED

[Signature]
03/03/06
SECRETARY (REVENUE)

Award announced
in the open court in the presence