

A W A R D    N O. 1114.

Locality:-                      Jogdhian Colony, Chandni Chowk, Delhi.

Nature of Acquisition:-       Permanent.

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In pursuance of notification No.F.15(133)/53-LSG, dated the 31st October, 1959 under section 4 of the Land Acquisition Act, 1894, issued by the Chief Commissioner, Delhi for the construction of a building for Dispensary under the Contributory Health Service Scheme of the Government of India, and residential quarters for the staff employed in the said scheme, 500 sq. yards of land is under acquisition for which declaration under section 6 of the said Act was issued by the same authority for the same area and purpose vide notification of the even number dated the 6th May, 1960.

TRUE AREA.

The specification as given in the above mentioned notifications are as under:-

North:-                      Vacant land under demolished structures.  
South:-                      Dewan Hall Street.  
East:-                        Dewan Hall Road.  
West:-                        Lane along the Jogdhian Colony.

The description of the property under and acquisition is correct and the extent of its area agrees to the demand of the requiring department.

(1) Sarvshri Harish Chand Rastogi and Hari Nath Rastogi through their written claim dated the 6th July, 1960 demanded compensation of Rs. 12,94,520/- of which the details are given below:-

- (i) Market value of the plot measuring 500 sq. yards at the rate of Rs. 1200/- per sq. yard:- Rs. 6,00,000/-.
- (ii) Compensation for the settlement of claims of 6 tenants against whom decrees for ejection were obtained on the ground and reconstruction with a condition that after construction they shall be provided with similar premises. .... Rs. 45,000/-.
- (iii) Damage sustained by reason of severance of 100 sq. yards from the one under acquisition :- Rs. 60,000/-.
- (iv) Damage sustained because of the acquisition in as much

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TRUE AREA.

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North:- Vacant land under demolished structures.  
South:- Dewan Hall Street.  
East:- Dewan Hall Road.  
West:- Lane along the Jogdhian Colony.

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as the petitioner has brought deed of agreement dated 23.6.55 agreed to construct the building jointly with Lala Jogdhian Hari Shanker and Smt. Chander Wati Devi and consequent loss of rental income :- Rs. 49,0640/-

(v) Loss of corporation tax suffered by the petitioner:-  
Rs. 3705/-.

(vi) Interest on the amount from 19.5.60 to 4.7.60:- Rs. 5175/-

(vii) Compensation in consideration of compulsory acquisition at the rate of 15% of the market value:- Rs. 90,000/-.

Before discussing the market value of the land it would be necessary to know the other items to be taken into consideration for assessment.

About item No. 2, the claimants were requested through this office letter No.F.10(31)/58-LAB/Rev/12829, dated the 3rd January, 1961 to furnish the full particulars of the tenants such as their names, parentage, ~~old~~<sup>ages</sup> and the area covered by them under each of the claimants (Harish Chand and Hari Nath) separately. Through their letter No. nill dated the 9th January 1961 they have written to say that regarding the claims of the tenants that might be left to them and they would settle with the tenants as per terms of section 15 Rent Act XXXVIII of 1952. They have thus scrupulously suppressed the information which would have otherwise been very useful for arriving at the market value of the land in question besides the apportionment of the compensation between the land owners and the tenants. In the absence of the facts and figures it is not now possible to set apart the share of the tenants in the compensation.

About item No. 3, the remaining portion of the property is also being acquired for a school for which a demand has been received from the Directorate of Education. Therefore, the question of damage due to severance does not arise.

About item No. 4, the claimants failed to disclose the rental and, therefore, the consequential loss on that account cannot be ~~case~~<sup>gauged</sup> due to their own ~~failure~~.

considered separately.

About item No. 5, it will be kept in view, so far as it is desirable, in arriving at the market value of the land.

About item No. 6, interest accrues from the date of taking over possession which has not been taken so far. Therefore, the question of payment of any interest does not arise.

About item No. 7, a solatium of 15% on the market value of the land shall have to be given under the statute and for its being a mandatory clause, shall be added to the amount of compensation.

We are thus left with only one item for assessment which is the market value of the land itself as a whole for which the person interested demanded a rate of Rs. 1200/- per sq. yard. In support of his assertion he produced the following evidence:-

(a) Documentary.

- (i) A deed of partnership dated 23rd June, 1955, between Lala Jogdhian of the first part and Sarvshri Harish Chand Rastogi of the second part, Hari Shanker of the third part, Hari Nath of the fourth part and Shrimati Chander vati Devi of the fifth part showing that a piece of land measuring about 1615 sq. yards was owned and possessed by the parties to the extent of 315 sq. yards, 280 sq. yards, 340 sq. yards, 340 sq. yards and 340 sq. yards respectively.
- (ii) A copy of agreement dated the 8th January, 1960 in respect of the transfer of 185 sq. yards of land bearing plot number 1650/13-VI at the rate of Rs. 850/- per sq. yard.
- (iii) Valuation estimate of Sri Chanan Singh, Consultant Engineer and Registered Architect at the rate of not less than Rs. 950/- per sq. yard (Ex.C-7).
- (iv) Offer for purchase of vacant plot opposite Lajpat Rai Market behind State Bank, Chandni Chowk, Delhi at the rate of Rs. 915/- per sq. yard, by Sri S.C.Sharma dated the 23rd August, 1959.
- (v) A copy of the order of Sri Radha Krishan Baveja, Senior Sub-Judge, Delhi dated 2nd January, 1957 pertaining to the matter that the parties had arrived at a compromise, as a result of which the order of temporary

injunction issued by the lower Court could stand upto the 31st January, 1957 and after that the stay vacated. That the parties would be bound by the terms of the compromise as contained in their statement before him, in the execution proceedings which were pending in the court concerned. That the appeal was accepted to that extent and the parties were left to bear their own costs. It was supported by a copy of the compromise for restoration of possession to the tenants after re-construction.

- (vi) The opinion of Sri B.R.Swengan, Chartered Structural Engineer, Registered Architect, Valuer appointed by the Central Government and Municipal Corporation dated the 2nd June, 1950 at Rs. 960/- per sq. yard of the land in question which has been marked Ex.C-3.
- (vii) An offer from Sri Bhola Nath Bros. dated August 31, 1959 at the rate of Rs. 900/- per sq. yard with certain conditions marked Ex.C-4.
- (viii) A copy of the valuation estimate of the land in question at the rate of Rs. 1,000/- per sq. yard for purposes of health tax by the Income Tax Officer New Delhi dated the 22nd March, 1960 as it was on the 30th June, 1956 (Ex.C-2).
- (ix) A copy of the valuation estimate at the rate of Rs. 572/- per sq. yard of the land in question by the Wealth Tax Officer dated the 27th March, 1958 as it was on the 30th June, 1956 marked Ex.C-1.

The partnership deed only indicates the area falling in the lot of the persons interested. The agreement dated the 8th January, 1960 took place after the relevant date (31.8.59) of the notification under section 4 of the Land Acquisition Act, 1894 and has, therefore, no relevancy to the case, because it could be arranged by the persons interested very easily in order to inflate the prices of the land in question.

The valuation of Sri Chanan Singh and Sri B.R.Sengal could be arranged by them very easily and are, therefore, not entirely dependable. About the offers made by Sarvsri S.C. Sharma at the rate of Rs. 915/- and Bhola Nath Bros at the rate of Rs. 900/- per sq. yard in August, 1959 immediately before the issuance of the notification under section 4 of the said Act could be arranged <sup>by consent</sup> ~~confidentially~~ and are not truly representative of the prices prevalent in the locality. The order of the Senior Sub-Judge, Delhi indicates that the tenants would have been restored to the extent they previously



occupied portions out of the land in question but<sup>for</sup>/the acquisition of this land. There are glimpses about rents as given in letter number nil dated the 30th September, 1954 under the signature of the Managing Partner of Indo-Europa Trading Co. at Rs. 20/10/- per month. It has not been given therein as to what extent their garage No. 31 <sup>occupied</sup> the area. They have produced a copy of registered deed No. 3437 pertaining to the transfer of 27 sq. yards of land in the same locality at the rate of Rs. 500/- per sq. yard. It took place on the 1st August, 1952. The circumstances under which it took place could not be known. It is marked Ex.C.10

The variation in the assessment rates by the Wealth Tax Officer at Rs. 572/- per sq. yard and the Income Tax Officer at Rs. 1,000/- per sq. yard is great and it is doubtful whether they were actually serious in keeping in view the prices ~~pre~~valent in that locality in the year 1956. They have not discussed any criteria on the basis of which they arrived at their conclusions.

(b) VERBAL.

The persons interested produced 8 witnesses including Sri Harish Chand. Sri Gulab Singh Mathur stated on the 10th August, 1960 before me that he was a Chartered Accountant for the last 10 years. That there were shops of Medical practitioners and Film studios in the Jogdhian colony. That the Wealth Tax Officer assessed the value of 280 sq. yards of land at Rs. 1,60,000/- in the immediate neighbourhood of the land in question for the year 1956-57. Mr. B.R. Sengal stated before me on the same day that he was a Structural and Chartered Engineer and a Valuer appointed by the Government of India for Estate duty. That he was also a registered Architect of the Municipal Corporation. That he inspected the land in front of the Dewan Hall and he expressed his opinion in Ex.C-3, after his inspection of the spot assessing it at Rs. 960/- per sq. yard. Sri Bhola Nath in his statement of the <sup>same</sup> day stated that they were the

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proprietor of the Claridge Hotel and he saw the land situated towards the north of the Dewan Hall. That letter Ex.C4 was issued by them. That they were prepared to purchase the land in question at the rate of Rs. 900/- per sq. yard about 1½ year back and he was still prepared to purchase it at the rate of Rs. 925/- per sq. yard. Sri S.C.Sharma stated on the same day that he had seen the plot in question in Jogdhian colony where he wanted to make a shopping centre and his office for which he advanced a rate of Rs. 915/- per sq. yard and Ex.C.5 was the copy of his offer. That he was still prepared to purchase it at the rate of Rs. 915/- per sq. yard. Sri Chanan Singh stated on the same day that he was working as Architect for the last 30 years in Delhi and was a Registered Architect, Valuer, Consultant Engineer and R.C.C. specialist. That he got first prize in constructing Meerut College Hall and got a gold medal in the exhibition of designs. That he had seen the plot situated in front of the Dewan Hall and he did its valuation vide Ex.C-6 at the rate of Rs. 950/- per sq. yard. That his certificate Ex.C-7 was correct. Sri Sita Ram stated on the same day that he entered into an agreement dated the 8th January, 1960 in respect of a plot of land near the Dewan Hall at the rate of Rs.850/- per sq. yard for which he advanced Rs. 5,000/- for earnest money. That the prices might have risen by Rs. 100/- to Rs. 125/- per sq. yard <sup>over</sup> ~~there~~ and above that rate because it was a commercial place. Sri Vas Dev stated on the same day that he owned a house in Jogdhian Colony and he had seen the land under acquisition which was in front of the Lajpat Rai Market and near the Dewan Hall where there were shops of Radio dealers and electric appliances and offices of the Film Studios. That he was prepared to offer Rs. 1,100/- per sq. yard ~~there~~

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for making a market there. Sri Harish Chand stated on the 19th August, 1960 that 280 yards belong to him and the rest of 220 belong to his brother Hari Nath of which compensation might be given at the rate of Rs. 1200/- per sq. yard. That there were some tenants on this plot who were ejected on the condition that they would be provided with accommodation to the same extent after constructing shops there. That they drew up a partnership deed for making a market there. That they ~~spent~~ Rs. 3705/- for the building plan and Rs. 2,000/- towards the fee of the Architect. That they were entitled to interest and compulsory acquisition cost.

CHIEF DATA.

The Naib-tehsildar, Land Acquisition vide his report dated the 22nd November, 1960 proposed a rate of Rs. 440/- per sq. yard as fair and reasonable value according to him.

DEPARTMENTAL REPRESENTATION.

Sri W. Mathur, Assistant Engineer General, C.H.S. vide his letter No. 15-22/58-CHSII dated the 21st December, 1960 wrote to say that in reaching his conclusions about the present value, the learned Naib-tehsildar had placed far too much reliance on the contention of the persons about the unusual suitability of the land for construction of a commercial building. While certain basic factors not based on facts had been taken into account in fixation of the value at a higher level, some other relevant factors definitely need to be taken into account suggesting deductions in the value of the land compared with the assessment of the land in the neighbourhood are equally important commercial centres in Belhi appear to have been ignored. The plot in question was not likely to have open frontage right upto Red Fort, on account of the location of the permanent Lajpat Rai Market which would intervene in between. It was situated at the periphery



centre known as Bhagirath Palace market and the importance of the property therein as commercial place diminished as one is moved away from the heart of the centre. It should have been set back of 50 feet on all the three sides. Thus half of it could be utilised for actual building construction. The learned Naib-tehsildar took into account a certain piece of land having structures on it and situated in Khari Baoli market saying that the land near the Dewan Hall was more valuable than the land in Khari Baoli market which would not be held up sound on a comparison of the land and transact of business in these two areas. However, the value of the land proposed to be acquired, being without any structures, it be fixed at a much lower level as compared to whatever rate might have been accepted for the Khari Baoli land, which was alleged to have structures on it. // It is needless to go in another locality when quite a number of sale transactions are available in the same locality. The land in question, no doubt, has potential value and special adaptability for building purposes and is situated in one of the important business centres for electric appliances in Chandni Chowk. It suffers from the disadvantage of fetching any substantial amount of rent. Whatever it was, it appears that it has been intentionally suppressed by the persons interested so that it may not be valued low on that basis. They have failed to give the particulars of the tenants, the area occupied and the rent paid by them. The land in question abuts on pucca roads on three sides. It is situated in close proximity of the Lajpat Rai Market, in front of the Dewan Hall. After inspecting the locality on the 19th January, 1961, I had been able to collect a few instances of sales there. These details are given below:-

From	To	Year	Area	Consideration money.	Structure
Mrs. ✓ L. Jagan Nath	56-57	188 sq.yds	Rs.33,000/-	Two big and	
Nath Rastogi	Munim			four small rooms	
Amar Nath.				in every floor of	

40- Mr & Mrs. 57-58 about 200 sq. Rs. 38000/- three storeyed building, bearing H.No.II-1809. Complete three storeyed building bearing H.NO.II-1810.

40- Mr.&Mrs. 58-59 220 sq. Rs. 4,000/- Complete 3 storeyed building bearing H.No. II-1811.

Note:- The information was given by Sri Onkar Nath Rastogi when I personally contacted him the other day. About No.1, the information/ verified by Sri Jagan Nath. The transferer verbally told me that he disposed of the properties at cheaper rates because there were old tenants residing there and the rents were too low commencing from the year 1935-36. That he was feeling difficulty in the realisation of the rents. He arranged to show me the properties. All the three places are situated in a row in the interior of the Basu Mal colony forming part of the Jogdhian colony. Though the designs are old but the places are magnificent.

Mr. Amar Nath Muna Ram, June, 57. About Rs.1,15,000/- Two storeyed building complete and the 3rd one incomplete bearing H.No.III-1520 known as Palace Hotel situated near the Bhagirath Palace. It is said to be fetching a rent of about Rs. 1300/- P.M. and is said to be occupied by 4 tenants.

40- Kailash Chand, Feb. 59. About Rs.137500/- Complete 3 storeyed building bearing H.No. III-1557 etc. said to be fetching a rent of about Rs.1600/- P.M. occupied by about 15 tenants. It is known as Deepak Mahal.

40- Balkishan Oct. 57 490 sq.yds. Rs.155000/- Vacant plot situated just in front of the Bhagirath Palace.

Note:- The above information was given by Sri Jagan Nath, Munim of Sri Amar Nath when I personally contacted him the other day. The reason for the low price of number 4 was given to be that the building was old and the third storey was incomplete, though its situation was good. The reason for the very high price of number 5 was stated to be that about 15 business men were residing in this 3 storeyed building in small portions. That it was situated in a less favourable place as compared with numbers 4 and 6. The reason for comparatively high price for No. 6 was given to be that it enjoyed the frontage of Bhagirath Place where there was a centre of activities of the electric appliances market.

40- Hari Kishan 200 sq.yds. About Rs. 40,000/- Complete three storeyed building known as Mohan building constructed in the year 56 situated in Gali Jai Kishan of Jogdhian colony.

The information was given by the sons of Sri Hari Kishan who were not very sure about the price.

Of all the above sale transactions the one at number 6 appears to be most relevant. The only difference being that it enjoys the central <sup>position</sup> of the market which the land in question does not. The rate with the structures in other ~~instances~~ range from about Rs. 200/- to about Rs. 230/- per sq. yard except in the case of number 5 which is abnormally high. Some of the transactions given above are old. The prices have appreciated since then. The cost of construction cannot be lost sight of.

The claims of the persons interested are too exorbitant, the evidence produced by them is not reliable: <sup>because</sup> some of them have expressed expert opinion, Obviously in lieu of the amount paid to them; others stated about the offer made by them in the same month which could be arranged by the persons interested, because they very well knew sometime before the acquisition proceedings and still others, say the I.T.O. and the Wealth Tax Officer who did not base their assessments on any authentic or recognized principles. The agreement after the relevant date has no value. <sup>The</sup> circumstances under which registered deed No. 3437 <sup>about a very small plot</sup> came into being at such an abnormally high rate, are not known and are out of context <sup>in context</sup> from the prices prevalent in the locality. The rent at Rs. 16/- to Rs. 16/8/- given in the statement of Sri Sirdi Ram on the 26th December, 1960 before me and in the letter dated the 30th September, 1954 at Rs. 20/10/- from the General Attorney for Indo-Europa Trading Co. reveal that the annual rental would have been surprisingly low had the information not been suppressed by the persons interested. As sale transactions are available, therefore, too much stress need not be given on the annual rental now. Keeping in view the claims of the persons interested, the evidence produced by them, the chief data provided by the Naib-tehsildar, the departmental representation, the sale transactions with structures in the locality and my own observations of the spot I consider a rate of Rs. 220/- per sq. yard as fair and

reasonable and award accordingly.

As already discussed no claim for severance is made out and no other amount is due. Possession has not been taken. Therefore, the question of interest does not arise. However, as provided in sub-section 2 of section 23 of the Land Acquisition Act, 1894, 15% will be added for compulsory nature of acquisition to the amount of compensation.

APPORTIONMENT.

As given in the statement of Sri Harish Chand on the 19th August, 1960 and in letter No. nil dated the 9th January, 1961 from SarvShri Harish Chand Rastogi and Hari Nath Rastogi, 280 sq.yards of land belongs to Harish Chand Rastogi and the rest of 220 sq.yds. belongs to Sri Hari Nath Rastogi. The previous tenants held substantial rights and as it has been held by a court of law that they would have <sup>1/2</sup> got pieces of land to the same extent after construction which were held by them before. Their rights cannot be ignored. As already discussed the owners failed to give the particulars of their tenants, therefore, it has become difficult to apportion the amount of compensation between the tenants and the land owners. In the circumstances, the matter shall have to be referred to the District Judge for verification and payment to the rightful persons interested including the tenants.

The award is summarised as below:-		
Area	Rate per sq.yard.	Compensation.
500 sq.yards.	Rs. 220/-	Rs. 1,10,000/-
Add 15% for compulsory acquisition cost:-		Rs. 16,500/-
Total:-		Rs. 1,26,500/-

The land because of its situation in the Delhi city is not assessed to any land revenue.

( MURARI SINGH )  
Land Acquisition Collector,  
Delhi. 23-1-61.

Submitted to the D.C.(Collector of the District), Delhi for information.

( Murari Singh )  
Land Acquisition Collector,  
Delhi. 23-1-61.

See Jan 4.2.61

Recd by Mr Me

Jan 61