

A W A R D No. 31/70-71/1

Name of the locality: H.No.II/1002, Kucha
Natwan, Delhi.

Nature of acquisition: Permanent.

INTRODUCTION:


The property known as House No.II/1002, situated in the locality of Kucha Natwan, Chandani Chowk, Delhi is required by the Government at the expense of the Municipal Corporation for a public purpose, namely for Municipal Park. A notification under section 4 of the L.A. Act was made vide the notification No.F.15(12)/66-L&H dated the 20th October, 1966. A notice under section 5-A of the L.A.Act was issued for inviting and hearing the objections from the interested persons but no objection was received and a report u/s 5-A of the L.A.Act was made to the Delhi Administration vide this office letter No. 1746/LAB/Rev dated 15.2.1967. A declaration under section 6 of the L.A.Act was made by the Delhi Administration vide the notification No.F.15(12)/66-L&H dated 28.2.1967. A notice under section 9(1) was given due publicity and notices under sections 9(3) and 10(1) of the L.A.Act for inviting their claim were issued to the interested persons. Almost all the the interested persons have responded to the notices by filing their claims.

'MEASUREMENT & OWNERSHIP'

According to the notifications under sections 4 and 6 of the L.A.Act, the total area to be acquired was 91.6 sq. yds. From further verification made on the spot u/s 8 of the L.A.Act, the area was found to be correct and I, therefore, hold the area to be true at 91.6 sq.yds, the owner of which according to the Municipal Corporation's Record is Shri Rattan Chand Kapur s/o Shri Gokal Chand, Mall Road, Amritsar vide their letter No.87/L&E dated 15.4.1966.

'Claims & Evidence'

Shri Rattan Chand Kapoor, through his counsel Shri Tulsi Dass Malhotra Advocate, has in his claim petition demanded the compensation of his land at the rate of Rs.450/- per sq.yd. He has also stated that the area of the property is 103 sq.yds. and not 91.6 sq.yds. In support of his claim petition, an attested copy of the Sale Deed No.16576, Vol.16.1755 dated 21.12.1960 was produced on behalf of the claimant Shri Rattan Chand Kapoor. However, a perusal of the Sale Deed shows that no area as such has been specified, but, only the boundaries of the property in question have been indicated. Even in the schedule given at the end of the sale deed, the boundaries of the property have been shown and not the area. In the site plan annexed with Sale Deed, a rough sketch of the property is given. But on spot verification the dimensions given in the sketch do not tally with the dimensions of the Site Plan supplied by the Municipal Corporation Delhi. Hence, the plea of the claimant regarding the area has no force and is hereby ignored.

 According to the above Sale Deed, the property under acquisition has been purchased by the claimant from one Shri Shiv Nath Sharma for a consideration of Rs.22,200/-. The sale Deed was executed on 21.10.1961, but it was registered on 21.12.1960, i.e., after the date of the notification u/s of the Land Acquisition Act of the present award, namely 20.10.1961. In the body of the sale deed it is mentioned that as declared by the Municipal Corporation Authorities, the property in question was completely demolished and in dangerous condition. The Municipal Corporation Authorities had repeatedly asked the vendor Shri Shiv Nath Sharma to remove the debris which was both unhygienic and a source of nuisance, and had since notified that in case of default they would take appropriate action and have the debris removed at the vendor's cost.

The vendor had no funds to comply with the demand of the Municipal Authorities; and otherwise also, he was in need of funds for the celebration of his daughter's marriage, for the adequate maintenance and education of his minor sons etc. The property was sold for Rs.22,200/-. The transaction was entered into in the normal course and out of the sale money, a sum of Rs.21,100/- was paid before the Sub Registrar. The transaction being for the property actually for the land under acquisition, it will have to be depended upon for fixation of the market value as discussed later under the head 'Market Value'.

'MARKET VALUE'

The property under acquisition is situated in "Kucha Natwan" which is in Chandni Chowk area. It is surrounded on the north by a covered lane, on the south by House No. II/1003, on the east by a gali and on the west by a small lane known as 'Kucha Natwan'. The Office of the Delhi Municipal Corporation is near by on the other side of the road towards the west of the property under acquisition.

As described above, the property under acquisition is in a dilapidated condition and is full of debris, thus causing a great danger to the adjoining buildings. The entrance to this property is through a narrow street.

Certain extracts of the sale transactions that had taken place in the vicinity of the property under acquisition during the year 1965-66 preceding the date of notification No. 4 of the Land Acquisition Act, viz., 20.10.1966 as obtained from the Sub Registrar, Delhi are reproduced as below:-

Sl.No.	Name of the Locality.	To. & date of registry.	H.No.	Area.	Sale Av. amount per sq.ft.
1.	Chandni Chowk.	12521 dated 18.11.65.	1966-1907 1905.	133/12.	Rs.3378 Rs.15000/-

2. Chandni Chowk. 14245	VI/606	15 sq. yds.	Rs.3750/-	Rs.250/-
dated 14.11.65.				
3. Chandni Chowk 15795 dt.	II/929	47 sq.yds.	Rs.4649/-	Rs.98.91
Katra Kabil 28.12.65.				
Attar.				
4. -do- 1467 dt.	-do-	-do-	Rs.14500/-	Rs.308.51
20.1.66.				
5. Chandni Chowk 11773 dt.	VI/532	90 sq. yds.	Rs.10,000/-	Rs.111.11
Kucha Rehman. 10.8.66.				
6. -do- 11984 dt.	Shop No. 13	sq.yds.	Rs.5025/-	Rs.386.53
17.8.66.	5 Godown.			

The properties involved in the above sale instances are situated in the Chandni Chowk, which is a well known commercial and heavily built up area. The transactions mentioned at sl.Nos. 3 and 4 relate to the same property bearing H.No.II/929 situated in the locality known as 'Katra Kabil-Attar' which is at a distance of about 1½ furlong from the property under acquisition. The average sale price of the property as per the sale transaction at sl.No.3 above was Rs.98.91 per sq.yd. on 28.12.1965. According to the sale transaction at sl.No.4, the average sale price of the same property was Rs.308.51/sq.yds. on 20.1.1966, i.e. within one month from the original transaction. The fact is that, one Shri Rishikesh s/o Shri Bhoja Ram had first purchased this property from the Ministry of Rehabilitation through a Deed of Conveyance ~~referred~~ dated 28.12.1965 for a consideration of Rs.4649/-. On 20.1.1966, Shri Rishikesh had resold this property to one Shrimati Shukantala Devi for a sum of Rs.14500/-. From a further probe it transpired that Shri Rishikesh had purchased the property from the Rehabilitation Department by adjustment of his claims against the compensation payable under the Displaced Persons (Compensation & Rehabilitation) Act, 1954. It further transpired that Shri Rishi-Kesh was actually in occupation of the property in question at the time of purchasing it. In view of the above facts, the sale transaction at sl.No.3 above cannot be relied upon.

The above sale transactions include the value of the land as well as the super-structures existing on it. Unless and until the super-structures are evaluated independently, it is very

price
difficult to find out the exclusive/for the land. The property under acquisition, as stated above is vacant, and hence, it has to be assessed as such.

Several awards have been made in the vicinity of the area in which the property under acquisition exists. Out of these, the Award No.1893 of Katra Alam Beg appears to be relevant for arriving at the true market value of the property under acquisition. The property involved in the award No.1893 is situated at a distance of about 2-3 furlongs from the property under acquisition. This property Katra Alam Beg is about ^{2 furlongs 2} $1\frac{1}{2}$ away from the main Chandni Chowk Road. The approach to this property is also through a narrow lane. In the award No.1893, the market value of the vacant land has been assessed at the rate of Rs.80/- per sq.yd. About 14 reference petition under section 18 of the L.A. Act have been filed against the said award, but, none has been decided by the Additional District Judge, Delhi and P. No. 10000, the date of the notification under section 4 of the L.A. Act of the award No.1893 is 4.7.1963, whereas, it is 20.10.1966 in the present award. The property Katra Alam Beg is located in Mohalla Mallimaran, which is a famous locality from commercial point of view, and hence, the location of Katra Alam Beg is somewhat superior to the property under acquisition. Thus considering the location, the date of the notification under section 4 and the prices of the properties situated in the vicinity I am of the opinion that the market value of the land under acquisition should be near-about Rs.90/- per sq.yd.

In the light of the A.I.R. 1958, Kerala, 1953, ^{question} arises as to whether the claimant is entitled to get the price of Rs.22,200/- which he had actually paid for the property under acquisition, and whether the transaction was genuine and was entered into having due regard to the market condition prevailing at about that time. A perusal of the judgment reveals that the case relates to the transaction having been entered into with the knowledge of the acquisition proceedings and to the claimant having paid a fancy price for the property. The facts

and the context of this base however, are different. There is no doubt that the sale transaction entered into by the claimant in this case is genuine as discussed under the head 'Claims & evidence' of this award. The property under acquisition had been actually purchased on 21.10.1961, i.e., about five years prior to the crucial date of the notification u/s 4 of the L.A. Act of the present award, viz., 20.10.1966. As such it cannot be said that the price paid by the claimant for the property under acquisition was fancy and that, it had no bearing to the then prevailing market conditions. Under the circumstances, it would be only fair and reasonable to pay this amount as compensation. Accordingly, I assess the compensation of the property under acquisition at Rs.22,200/-, the sale price paid by the claimant.

'Other Compensations'

There is neither any structure nor any tree in the land under acquisition. Therefore the question of assessment of compensation does not arise.

However, as stated above, there is a lot of debris (Malba) lying in the property under acquisition and some expenses would be incurred for removing the same. Hence a sum of Rs.500/- is allowed as charges for removing the Malba. The Claimant should remove the Malba and clear the area within two months from the date of the announcement of the award. In case of default, the Acquiring Department, i.e. Delhi Municipal Corporation would have the right to clear the debris, and the claimant will not be entitled to get the awarded cost of Rs.500/- as well as the Malba itself which will become the property of the Acquiring Department.

15% solatium: As provided under section 23(2) of the L.A. Act the landowner will also be paid 15% solatium for compulsory nature of acquisition.

'Apportionment'

The compensation of the property under acquisition will be paid after verifying the ownership rights of the claimant.

'The Award is summarised as below'

Cost of land measuring 91.6 sq.yds.	Rs. 22,200.00
15% of the above as solatium for compulsory nature of acquisition.	Rs. 3,330.00

	Rs. 25,530.00
Charges for removing the malba.	Rs. 500.00

G.Total ...	Rs. 26,030.00

The land is assessed to no land revenue.

(Zal Zowarwanji)
Land Acquisition Collector (Ds)
Delhi.

Compared.

*h/An
n-7681*

Announced + filed today

*P. M. L. S. M. A-
4.9.70
L.A. (Ds)*

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Case called out. No one is present
Amount is announced after. Mr. will issue
w/die up 12/2) LA. Ach to interested person within
3 days.

Paulsamm 16
49.70
LAC (DS)