

Place: : Jhandewala Road, Delhi.
 Nature of acquisition: Permanent.

In pursuance of Chief Commissioner, Delhi's notification No.P.15(90)/54-L.S.G., dated the 8th December, 1954, under section 4 of the Land Acquisition Act, 1894, 1022 square yards of land was notified for acquisition for M.E. School at Jhandewala Road. Subsequently, declaration under section 6 of the said Act was made vide notification of the same number dated the 11th April, 1955, by the same authority in respect of the same area, for the same purpose.

PLAN AREA:

Originally, the specification of the land under acquisition as given in the notifications under sections 4 and 6 of the Act was as under:-

Between House Nos. XV/10622 & 10625.

North: Jhandewala Road.
 South: Gali No.1, 20 feet wide.
 East: H.Nos.10625 & 10703/32/IV.
 West: H.Nos.10622 & 10581/IV.

It was intimated through letter No.301(VTI)/1148/LB, dated the 6th February, 1956 by the Secretary, Municipal Committee, Delhi that according to the records of the Delhi Improvement Trust Plot Nos.75 and 76 were owned by the Trust itself and plot Nos.76 and 77 were owned by Smt. Jawala Devi w/o Ch. Kirpa Shankar, Gopi Phawan, Doctor Lane, New Delhi. Through letter No.1426/LB, dated the 3rd August, 1956, the Assistant Secretary (Pldg.), Municipal Committee, Delhi, wrote to say that on enquiry from the Trust it had transpired that area of each plot was 222 square yards. Further correspondence is about plot Nos.76 and 77 between House Nos.10622 and 10625 situated at Jhandewala Road as indicated in letter No.2238/L&B, dated the 24th March, 1958 and the departmental representation received through letter No.301(VTI)/1518/L&B, dated the 30th September, 1959 supporting the statement of Shri Attar Singh, Land Inspector, Delhi Municipal Corporation, Delhi dated the 30th May, 1958. The area of these plots comes to 444 sq. yards. The property is situated in the revenue estate of Qadam Sharif, a

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price

Mazul estate. Under para 1 of part 'A' of Standing Order No.28, the proceedings under the land acquisition act 1 of 1894 are inappropriate in such cases, but there are other rights involved say the perpetual leasehold rights of Smt. Jawala Devi, which have to be assessed. About plot Nos.75 and 78, no action is necessary under the act, because these plots already belong to Government. Therefore, ^{the leasehold rights are} the land, under acquisition concerned, remains to the extent of 444 sq.yards to be dealt with in this award.

COMPLAINT:

Smt. Jawala Devi wd/o Late Shri Virya Shankar, filed her written claim on the 11th October, 1956, wherein she claimed a reasonable price about her rights. While describing the history of the land under acquisition, she stated that plot Nos.13, 76 and 77 with an area of 717 square yards were sold by the Improvement Trust in August, 1920 for Rs.4,325.00 with annual rent for the land at the rate of 2% P.A. That the value of land was Rs.6/11/8 per sq.yard with lease money of Rs.92/8/- per annum. That in the year 1945, the Improvement Trust revised the value of the land and the lease money was Rs.159/9/- P.A., thus the value of land in August, 1945 was Rs.7,989.00. That the value of her land was at the rate of Rs.18.00 per sq.yard and since then the value of land was rising yearly. That plot Nos.76 and 77 were purchased in the year 1943 for Rs.4,400.00 and the lease money from 1943 upto 1956 had been paid.

She produced a copy of the lease deed No.3834 dated the 19th November, 1920. She produced no evidence, but made a representation to the Hon'ble Home Minister, Government of India, whereby she admitted the area of these plots as 444 sq.yards. She stated therein that ever since the influx of displaced persons in Delhi consequent upon the partition of the country (1947) the two plots of land had been in illegal possession of displaced persons; that no action was taken by the land acquisition office in respect of fixing the price

of the land; that she had to pay to Delhi Improvement Trust a sum of Rs.165.00 P.A. on account of lease money in respect of the said two plots of land and there was no rental income to her from these plots.

In Resolution No.233 of the Executive & Finance Sub-Committee of the erstwhile Delhi Municipal Committee, dated the 5th June, 1953, the land under acquisition was described as open and also stated as such in letter No.301(MTL)/111 dated the 24th May, 1954 from the Secretary Municipal Committee, Delhi. The Naib-Tehsildar, Delhi, in his report dated the 9th July, 1954 described it as open land. But in the map attached with the letter dated the 24th May, 1954, mentioned above, the land under acquisition is shown as "Area occupied by buffalo-knappers. It is dated 5-6th May, 1954. This is supported by letter No.301(MTL)/358-1&2, dated the 23rd May, 1954 from the Superintendent, Lands & Estate, Municipal Corporation of Delhi, who supplied a list of 10 occupants of plot Nos.76 and 77 n.e.f.1942. This was admitted by the person interested (Smt. Jwala Devi) in her representation to the Home Minister, dated the 4th July, 1959. In his departmental representation, the Deputy Commissioner, Municipal Corporation of Delhi, vide his letter No.301(MTL)/1518/1&2, dated the 30th September, 1959 also admitted the super structure and drainage, saying that there were only few sheds of temporary nature with cattle troughs which too had out-lived their age. That the flooring and the drain connections were got done by the occupants under compulsion and only for the use of their dairy purposes as required under the Corporation Bye-laws. This all goes to show that there were occupants at the time of the notification under section 4, over this land. The list of 10 persons supplied by the Municipal Corporation of Delhi appears to be convincing. Accordingly, the occupants were asked to file their claims. Sarveshri Madan Lal, Kala Ram, Munshi Ram, Chuni Lal, Munshi Ram Kumar, Munshi Ram Phabinda, Phur Lal, Milkhi Ram, Raja Ram, Bhadi Lal, occupants filed their written claim dated the 18th July, 1959 claiming compensation of Rs.3,000.00 each for 'khurlies, sheds and rucca

flooring' made by them and the loss of business with the request that they might not be dis-possessed unless alternative accommodation was given to them; that they were displaced persons and tenants of Shri Jawala Devi. In evidence the occupants produced Shri Kartar Chand, Sh. Parkat Ram and Theara Singh as their witnesses besides their own statements. The first two witnesses deposed that the occupants filled the pits after occupying it ^(lands) in 1947-48 and made pucca flooring, troughs, installed water taps and constructed sewer, and permanent huts. They spent Rs.10,000/- to Rs.11,000/- over it and were keeping 120 buffaloes and cows etc. there. They were licence-holders from the Municipal Committee and were paying rent to Sh. Rajeshwar Dayal s/o Shri Jawala Devi. The third witness stated that he prepared the flooring and the troughs over which about Rs.10,000/- to Rs.12,000/- were spent by the occupants. Sarvasbri Shashi Lal, Munshi Ram Kumar, Daya Ram, Munshi Ram Sachdeva, Mohan Lal, Munshi Ram Khabinda, Nilphi Ram, Bhaji Lal and Vela Ram, occupants supported the statement of their own witnesses and their written claim.

In rebuttal, Shri Attar Singh, Land Inspector, Municipal Corporation of Delhi stated on the 30th May, 1958 that the price of land was not more than Rs.10.00 per sq. yard at that place, as it was situated near the slaughter house, there there was much of bad smell; the locality was inhabited by poor and the place was rendered unwholesome because of tethering the cattle; that there was no bazaar in its vicinity, which could appreciate the prices. The departmental representation also supported the same rate (Rs.10.00 per sq. yard) and nothing for the structure, drainage, flooring etc. The witnesses were described to have over-lived their age, made under compulsion to observe the bye-laws of the Corporation. That the Corporation had no objection if the occupants were allowed to remove and take their material of the structure etc. Regarding alternative site, it was further stated that the Corporation had no arrangement.

SUMMARY

The Maib-Tehsildar, Land Acquisition vide his report dated the 28th March, 1959 revised on the 18th November, 1959 proposed a rate of Rs.15.00 per sq.yard or Rs.6,600.00 in all.

REMARKS REGARDING VALUATION:

In the present case only the acquisition of very small leasehold rights is involved in plot Nos.70 and 77, measuring 444 sq.yards, corresponding to field numbers 368/19 and 369/19 according to the entries in the Jamabandi for the year 1956-57, wherein Smt.Jewala Devi w/o B.Kirpa Bhatnagar, Gopi Bhawan, Posters' Lane, New Delhi, had been entered as perpetual lease-holder. In the excerpt of the Jamabandi for the year 1953-54 and 1956-57, the land under acquisition had been shown in possession of the lessee and the condition of land had been shown as vacant. But as already discussed the parties admitted it to have been occupied by certain persons, the certainty of which cannot be ruled out. The occupants have also produced receipts in token of their payment of rent to the son of the lessee. The rents paid by them vary from Rs.1/7/- to Rs.4/13/9 per month. Harvachari Shund Lal and Munshi in their written statement submitted on the 2nd September, 59 described the plots to have been divided into 6 parts. The area fell to their share came to 74 sq.yards each. In the receipt for payment of rent from January, 1953 to June, 1954, the rent was Rs.4/13/9 P.M. Sh.Munshi has paid his share of the rent at the rate of Rs.4/13/- P.M. according to the receipts produced. At the rate of Rs.4/13/9 for the one sixth portion, the capitalised value over 20 years' purchase of the land in question comes to Rs.6,997.50 nF. But the lessee undertook to pay Rs.4,825.00 towards premium plus 2% towards the ground rent. No provision had been made in the deed of lease itself, as to how much the lessee or lessor would get in the event of land being compulsorily acquired under the Land Acquisition Act. Lessee is at best entitled to the proportionate premium

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of Rs. 2,988.12 nF. and therefore, award this much compensation for perpetual leasehold rights.

NOTIFICATION:

15% as statutory allowance has of course to be added to the amount of compensation.

ALLOCATION OF AMOUNTS:

It appears that the terms of the lease, laid down in clauses 4, 7 and 8 of the lease-deed were not observed properly. The matter should have been taken up by the lessor. It is an admitted fact that the land under acquisition was in the occupation of certain persons. But it has not been substantiated that there was any structure, flooring, drain or water-tap, at the time of the notification under section 4. Any improvement made afterwards without the written consent of the Collector cannot be taken cognizance under clause seventhly of section 24 of the act. The plea taken in the departmental representation that the structure, troughs etc. were of no use of the Corporation was meaningless. There was no compensation due to the occupants as they failed to substantiate their claims independently. The proportionate ground rent out of Rs. 478/11/- or which had fallen due thereafter, to be ascertained from the Delhi Development Authority will be the first charge on the amount of compensation for the perpetual leasehold rights. In case the Delhi Development Authority would like to take up the matter of non-observance of the terms of the lease before or at the time of payment of compensation, then the matter shall have to be referred to the District Judge, otherwise balance payment may be made to the lessee. Before payment to Shri Jawala Devi, her statement should be recorded, whether or not there is any liability on her leasehold rights.

The award is summarised as below:-

Particulars.	Amount.
Compensation for perpetual leasehold rights in plot Nos. 75 and 77, measuring 444 sq. yards situated in V. Qadam Sharif, a nazul estate on Jhandewala Road.	Rs. 2,988.12 nF.
Add 15% towards compulsory acquisition cost.	Rs. 448.22 nF.
Total:	Rs. 3,436.34 nF.

For the transfer of ownership over plot Nos. 75 to 76
the Delhi Municipal Corporation shall have to approach the
Delhi Development Authority.

Ali
(Signature)
Land Acquisition Collector, Delhi.
31.12.1959.

Submitted to the Deputy Commissioner, Delhi (Collector
of the District) for information.

Ali
(Signature)
Land Acquisition Collector, Delhi.

Ali
[Signature]
7/1/60

Ali
[Signature]
8/1

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