

(1990) 08 BOM CK 0082
In the Bombay High Court
Case No : First Appeal No. 148 of 1978

Apar Private Limited

APPELLANT

Vs

D.K. Karnik and Another

RESPONDENT

Date of Decision : 09-08-1990

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1)

Citation : (1991) 2 BomCR 510

Hon'ble Judges : D.J. Moharir, J

Bench : Single Bench

Advocate : K.D. Parikh, instructed by Marchand Mangaldas and Hiralal Shroff and Co, for the Appellant; Y.V. Patil, Assistant Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

D.J. Moharir, J.—This is an appeal by the former landlords of premises requisitioned under the Bombay Land Requisition Act, 1948 against the order of fixation of reasonable compensation to be paid to them annually.

2. The premises in question are Flats Nos. 9-A and 10-A (two flats) in the Sunita building near Hangings Garden, Bombay 400 006. The buildings of which the two flats were part, belongs to a co-operative housing society. The area of the premises is 4700 sq. metres. By an order dated 23rd July, 1976, the respondent No. 2 requisitioned these premises on the ground that they were so liable to be requisitioned for the reason that these had not been occupied for use over a period of six months after the construction. The requisition was made for the Counsel General, Consulate General of United Republic of Egypt i.e. a Government allottee. Possession was also taken on the same day. On 13th October, 1977 the landlords' Petition No. 1084 of 1976 came to be allowed and the order of requisition for the said premises was set aside by the High Court. After requisition, a notice u/s 9-A of the Bombay Land Requisition Act, 1948 (hereinafter referred to as the Act) was issued, inviting the landlord's claim for

compensation in the prescribed form, within the stipulated time. In response to the said notice, the landlord - apart from, the writ petition filed for quashing the requisition, preferred his claim in the said prescribed form on 13th December, 1976 without prejudice to his rights and contentions in the said Misc. Petition No. 1084 of 1976. The claim preferred by the landlords was initially to the effect that the landlords instead of claiming monthly compensation for the requisitioned flats, their's being an industrial undertaking having substantial borrowings for its business and being under the terms and conditions stipulated by the nationalised banks and other financial institutions, prohibited from having any investment in real property, not used for the purpose of business. It was submitted that it was not, therefore, possible for the company to own the said flats if it was not used by its directors for whom they are really purchased. In the circumstances, the first offer by the landlords was that the flats be purchased, either by the State Government or the allottee on a out-right basis for a price of Rs. 15,17,754-54 ps.

3. The second claim made by the appellants on 24th January, 1977 was that the compensation be paid at the rate of Rs. 14,899.50 paise per month, excluding the outgoings on the property as also the electricity and water consumption charges. The landlords submitted, alongwith their claim, a report prepared by their architects, one shri R.M. Nanavati with regard to this periodical compensation claimed in respect of the flats. That report is dated 4th February, 1977.

4. Upon the claim for periodical compensation having been field, the respondent No. 1, the Compensation Officer, summoned the appellants for a meeting on 20th March, 1977. The appellants attended the same alongwith his architect Shri Nanavati and they were fully heard. At the time of the said meeting, the architect's report which had been filed with the respondent No. 1 was considered, discussed and argued upon at length by the said architect for justifying the valuation of the said flats and the amount of monthly compensation claimed. The papers and proceedings under the said Misc. Petition No. 1084 of 1976 then pending in the High Court at the instance of this appellant were also field with the respondent No.1. Apart from the inquiry dated 20th March, 1977, the respondent No. 1, Compensation Officer, also paid a personal visit to and inspected the said flat. Then by an order dated 30th May, 1977 in the form of a letter addressed to the Counsel General as the government allottee, the Compensation Officer fixed the compensation for the said flats at Rs. 16,000/- per month including municipal taxes and all outgoings but excluding the water and electricity charges. The order was made operative from 23rd July, 1976 i.e. the date on which the requisition was made and possession taken. Inspite of the fact that this was only a provisional order, as a matter of abundant caution, the appellants filed an appeal against the same in the High Court, being aggrieved by it. That appeal was also pending at the date of the present appeal.

5. Though according to the appellant, every fact and circumstance had been duly

placed before the learned Compensation Officer and though every factor conceivable had been taken into account before passing the order dated 30th May, 1977, and though it was thus, virtually a final order in the matter, it had been stated to be a provisional order fixing the periodical compensation payable by the government allottee. Thereafter by a letter dated 19th July, 1977, much to the surprise of the appellant, the respondent No.1 again called upon the appellants to give their say in regard to the position that the water and the electricity connections had not been provided and which the allotted was required to carry out for enabling him to make use of the premises from 1st April, 1977. The Compensation Officer, therefore, informed the appellant that these facts will have to be taken into consideration while finally determining the amount of periodical compensation. The appellant replied to this letter putting straight the true facts on record bringing it to the notice of the respondent No. 1 that at the hearing dated 22nd March, 1977, the appellants' solicitor and architect had fully presented the appellant's case and had also filed all the relevant document before the respondent No. 1 and that as regards the filing of photo-stat copies of various bills, vouchers and documents, the respondent No. 1 had also been apprised of the fact that these had already been filed by the appellant with the Enquiry Officer. In spite of this objection raised by the respondent, the appellant attended the office of respondent No. 1 on the 30th July, 1977 and again produced before him the original records also, as required. They also furnished all such particulars desired by. All such details as had been canvassed prior to the order dated 30th May, 1977 fixing the provisional periodical compensation, were substantiated by the production of the original evidence whereupon the respondent No. 1 passed his order dated 6th August, 1977 fixing the amount of compensation for the requisitioned flats at Rs. 2,113/- per month for the period from 23rd July, 1976 to 31st March, 1977 and at Rs. 8,225/- per month from 1st April, 1976 till 30th November, 1977 on which latter dated the High Court quashed the order of requisition in the Misc. Petition No. 1084 of 1976 before it. The fixation of the periodical compensation at this rate is now under challenge in this first appeal. There are several submissions which the learned Counsel Shri Parikh has endeavoured to stress. He contends-that-in the first instance - the order in question must appear to have been passed mala fide, secondly that the drastic reduction of the periodical compensation from Rs. 16,000/- per month as the provisional one, to Rs. 8,000/- per month as the final one is entirely unjustified and that this was done without a proper opportunity to the appellant to contest. He submitted that an adjournment sought by him on 30th July, 1977 had been deliberately and improperly denied to the appellant. The contention is also that the report of the architect Shri Nanavati should have been accepted for the final fixation of the amount of compensation as it had been at the time of fixing the compensation on 6th August, 1977 as it was at the time of fixing the earlier compensation on 30th July, 1977. An unnecessary hair-splitting had been indulged in by the respondents No. 1 with ulterior motives as was suggested. These and several other factors were dealt with as endeavoured to be assailed and substantiated respectively by the parties.

6. Though it should not be a overwhelming and determinative one for this appeal, it does need to be noted as a fact that after the passing of the order of the provisional periodical compensation at Rs. 16,000/- per month, neither the Government allottee nor the respondent No. 2, Controller of Accommodation had bothered about paying the same to the appellant. Therefore, in the pending Petition No. 1084 of 1976, the appellants were required to take out a Notice of Motion No. 608 of 1977 to claim directions to the respondent to hand over the vacant and peaceful possession of the requisitioned flat on the grounds stated in detail in the affidavit in support of that notice of motion. It was then this notice of motion came for hearing on 14th July, 1977, that an undertaking was given on behalf of the respondents that the arrears of compensation due and payable from 23rd July, 1976 would be paid as expeditiously or as early as possible and at the latest, within one month from the date of the said order. No payment was yet made in pursuance of this assurance and undertaking given before the High Court. It was clearly in order to evade and stall the payment of arrears of compensation that a ruse appear to have been found by writing a letter dated 19th July, 1977 within a week of the passing of the order on the notice of motion in the High Court calling upon him to produce documents showing the costs of the construction and costs of all additions, alterations and amenities in addition to the architect's report which had been already filed and further to produce all such documents showing the outgoings including municipal charges, maintenance charges, and service charges. This, as would appear hereinafter, was entirely unnecessary in as much as all the relevant documents had been placed on record in the form of copies to which no exception appear to have been then taken and which would appear to have been also taken into consideration for the purposes of passing the provisional order for payment of periodical compensation. The said order for payment of periodical compensation was tried to be run down by conveying to the appellants that at the time when the premises were requisitioned and taken in possession, the appellants had not made a water and electricity connection available for use and occupation of the premises. According to Shri Parikh, the mala fides on the part of the respondents must be found to have been brought out very clearly from the singularly important fact and circumstances that the respondent No.1 had visited the said flat and inspected in on the 12th July, 1977 on which date also the electricity and water connection was not there and in spite of the said two connections not being there, the order fixing the provisional compensation at Rs. 16,000/- per months was made. Indeed, it is not without significance therefore, that the respondent No. 1 chose virtually to re-open the matter and scale done the compensation for and on account of a circumstance which was itself pre-existing at the time when the provisional order of compensation was passed.

7. Due advertence may therefore be made to the report of the appellant's architect Shri Nanavati Exhibit ``B''' dated 4th February, 1977. This report has been no doubt exclusively dealt with and referred to by the respondent No. 1, Compensation Officer, while passing the order and having dealt with the same,

what he observes in paragraph 8-A is as follows:-

"In my view the basis taken for calculating and arriving at the reasonable compensation by the landlord's Architect interpreting the meaning of the word "Just Compensation"" cannot be accepted by me as the same cannot, exclusively form as the circumstances to be taken into consideration while assessing the reasonable compensation even though they may form as one of the circumstances amongst so many ""

It is therefore, to be appreciated essentially that there is no rejection as such of the report of the architect either as a whole or in part, in relation to any particular fact factor in or aspect of the matter. What, therefore, the other circumstances are - which the respondent No. 1 has considered relevant and impinging upon the issue of determination of the reasonable periodical compensation, are not at the same time reflected in the discussion and reasoning as one goes through the impugned order. The description of the premises, their composition such as kitchen, store room, living room, dining room, library, prayer room, master bedroom, servant's room, etc., has been also dealt with and it will be noted that each of these components of the premises, their quality and furnishings have been accepted by the respondent No. 1 as correct. Addressing himself to the question of determination of the compensation in accordance with the provisions of section 8(1) of the Act, respondent No.1 has stated that he would have to determine such amount of compensation as he would deem just, having regard to all the facts and circumstances, of the case as also the provisions of section 23(1) and section 24 of the Land Acquisition Act. The respondent No. 1 noted that the market value would have to be the periodic payment which a willing owner may expect to receive in open market from a willing transferee as consideration for parting with the right of user in favour of the transferee. What has to be appreciated, therefore, is that this is not a case of a transaction between a willing owner and willing transferee in respect of the premises in question. It is a case of the appellant being required to part with possession under compulsion upon an order of requisition passed under the Act. Therefore, even in respect of such premises as have come to be requisitioned, the need would be on the part of the respondent No. 1 to consider what a willing transferee would be willing to pay to a person as a willing landlord willing to transfer the right of user of the premises. Nonetheless, the Compensation Officer has therefore observed that compensation claimed by the landlords exclusively of the estimated cost of construction the requisitioned premises at the current market value, expected interest thereon etc., as being blocked up capital would not correctly represent the reasonable rate of compensation and this could not be the basis or a circumstance and factor for assessing the amount of compensation with reference to the admissibility of the same and in accordance with the provisions of law. According to respondent No. 1, consideration of the monthly amount of rent assessed for the purpose of assessment of house tax by the Bombay Municipal Corporation was necessary. So also the outgoings on account of the co-op. society's service charges and maintenance charges, etc.

Applying consideration to these, the respondent No. 1 has concluded that what is claimed by the appellant-landlords is exorbitant rent having no nexus with and relevance for all such points required to be taken into consideration while claiming compensation. Therefore, in the first instance, the respondent No. 1's reason that the earlier order fixing the provisional rent at Rs. 16,000/- per month including all the outgoings for the requisitioned premises could not have any bearing. This would virtually amount to taking a step retrograde upon the respondent No. 1's own reasoning for the purpose of passing the provisional order. Now, it is as significant as interesting to note that at the time of passing the order dated 30th May, 1977, which was on the basis of what was submitted before the respondent No. 1 by the appellant's architect and Counsel as also what was placed before the respondent No.1 in the form of various documents and papers, the factors which the respondent No. 1 took into account were that the total costs of the flat including fixtures thereof was Rs. 13,50,810/-. The amount of interest at 10% p.a. thereon would be Rs. 1,35,081/-; that the monthly interest would be Rs. 11,257/-; that for the outgoings on account of municipal taxes and other services Rs. 4,800/- would be required and thus, the total monthly compensation would come to Rs. 16,057/- rounding of the same of Rs. 16,000/-. A further reference to the consideration applied by the respondent No. 1 is placed before me by the learned Additional Government Pleader himself. It is mentioned there, in the note put up, that the landlords having claimed compensation of Rs. 14,899/- plus out-goings, that would come to Rs. 20,090/-. Having regard to the area of the requisitioned premises and the rental statistics supplied by the landlords, the rate of compensation would be Rs. 1.69 p. per sq.ft. per month in the year 1970/71, Rs. 1.87 p. per sq.ft. in the year 1973 and Rs. 3.28 p. per sq.ft. per month during the year 1974. It was therefore, proposed that the compensation should be provisionally fixed at Rs. 16,000/- which would work out at the rate of Rs. 3.48 p. per sq.ft. That is how the order dated 30th May, 1977 came to be passed and then the record of the respondent No. 1 shows that the only points which were left to be considered in reality for passing the final order were also the ones which had been noted there. Subject to these queries being answered, it is evident that the order as passed provisionally, was also intended to be made final. The only points which were to be considered were whether the cost of construction and cost of furniture was supported by documentary evidence. It is nowhere to be even remotely detected as being the case of the respondent No.1 that the cost of construction and the cost of furniture as claimed by the appellant remained unsupported by any documentary evidence. The second point, after consideration of which the final order for determination of the reasonable compensation was to be passed, was whether there were any articles of furniture etc., costing Rs. 1,99,325/- and whether these had been observed by the Compensation Officer during his visit to the flat in May, 1977. Upon this also there is nothing in the final order passed by the respondent No. 1 which would appear to lead to an inference that he had come to conclude that the description and number etc., articles of furniture and their cost were not available at all at the time of the fixation of the periodical

compensation by order dated 30th May, 1977.

8. Dealing with the most specific of these aspects, Shri Parikh for the appellant submitted that indeed the cost of furniture and fixture as detailed in the statement submitted before the respondent No.1 and the report of the architect has come to be really ignored. He also pointed out that the cost of additional fixtures is different from the cost of the furniture and has also been dealt with as such by architect Shri Nanavati, and the respondent No. 1 has wrongly failed to consider the same.

9. The plea of the appellant in respect of the car parking space was rejected by the respondent. This was admittedly for the reason that the car parking space had not come to be requisitioned. Shri Parikh submits that the appellant would still be entitled to claim compensation for the reason that the car parking space being attached to the flats in question, cannot be severed from the flats and has been otherwise rendered useless as it cannot be separated from the flat and rented out independently to any third person. The reason why this factor of the car parking space was left out of consideration by respondent No.1 is, as appears, with reference to the provisions of section 23(1) of the Land Acquisition Act. Section 23 deals with matters which are required to be considered in determining the amount of compensation and provides that in determining the amount of compensation to be awarded for the land acquired under this Act Court shall take into consideration, amongst others, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land, by reason of severing such land from his other land. Shri Parikh, therefore, argues that a necessary consequence of the requisition for flats 9-A and 10-A - car parking space allocated for the same; is to render the said car parking space entirely without any return to the landlords, so long as the occupation of the premises by the government allottee under the order of requisition would continue. It is, therefore, only by analogy that the learned Counsel Shri Parikh submits that this factor was over-looked by the Compensation Officer. In the reasoning as is being adopted by the learned Compensation Officer, consequential adverse effect of keeping the three car parks admeasuring 180 sq.ft. each in area, keeping these as un-yielding appendages to the property does not appear to have been considered. In the report of the architect Shri Nanavati, the three car parkings are valued at Rs. 36,000/- and income thereon as the blocked up capital by way of interest at the rate of 10% ought to have been taken into account. Shri Parikh has, therefore, submitted that respondent No. 1 erred in overlooking the fact that on the basis of this 10% return of Rs. 36,000/- as the cost of the three car spaces, the rent would be Rs. 300/- per month and, therefore, for the period from 23rd July, 1976 to November 1977, the appellant should have been found entitled to Rs. 4,880/- which submission I am inclined to accept.

10. It would not however be possible to accept Shri Parikh's further submission raised in the appeal that the plaintiff was, under the provisions of section 23(1)

of the Land Acquisition Act also entitled to a solatium at 15 per cent in as much as section 23(2) has been specifically excluded from being made applicable under the provisions of the Bombay Land Requisition Act, 1948. In fact, Shri Parikh stated at the Bar that he was not pressing any more this submission. The argument in the alternative advanced by him was that this was the case where the property viz., the two flats in question had come to be leased out, under compulsion as a requisitioned premises and not willingly at that. Shri Parikh also attacked the reasoning of the respondent No. 1 in paragraph 9(b) of the impugned order, as regards the market value of the rent in the said locality. Evidence came before me that the market value of rent ranged from Rs. 1.63 per sq. ft. to Rs. 4.05 per sq. ft during the years 1971 to 1974 and the average rental value was brought down to Rs. 1.69 per sq.ft. Rs. 1.80 per sq. ft. and Rs. 3.28 per sq. ft. in the years 1970-71, 1972-73 and 1974 respectively. The respondent appears to have sought to find out the means to determine the market value of rent. In as much as the appellants were compelled to part with the possession of the property and grant a lease to the government allottee under the order of requisition, Shri Parikh submits that in the absence of any evidence of the market value of the rent available for the years 1975 and 1976 and having regard to the position that the market value even for the years 1971-72, 1972-73 and 1974 had been found to be constantly rising up, the market value of rent must be presumed to have correspondingly increased in the years 1975 and 1976 and, therefore, the market value of Rs. 3.28 per sq. ft. in the year 1974 should have been awarded i.e. taken into consideration in determining the periodical compensation payable upon requisition in July 1976 when the possession was also taken. This submission must also stand acceptance because the learned Additional Government Pleader appearing for the respondents, has not been in a position to explain as to how on the basis of the three above mentioned years, the market value of the rent was found to be constantly rising up, how it could have, in due propriety and with justness required for determination of the compensation, been reduced.

11. A few submissions are made by Shri Patil, learned Additional Government Pleader appearing for the respondents, that the Compensation Officer has proceeded with due circumspection to determine the amount of the periodical compensation payable by the government allottee on the basis or at any rate giving serious consideration to the fact that the broker or agent of the appellants had in the meanwhile endeavour to strike a bargain. This point is considered in paragraph 10(vi) of the impugned order. The respondent No.1 as seen from the letter of 30th March, 1976 addressed to the Counsel General of Egypt by the Landlord's Estate Agents on behalf of the landlord as such, the said Agent had offered the premises to the government allottee at two alternative rates, the first stake being the rental of Rs. 3,500/- per month be paid and a deposit of Rs. 10,000/- without interest be also made. Or secondly, a rental of Rs. 5,000/- per month be paid and a deposit of Rs. 5,70,000/- be made, the same being equal to amount of five years compensation at the rate of Rs. 1,14,000/- per year. It is

difficult to accept the contention of Shri Parikh that the rental of the premises would therefore be taken to be between Rs. 3,500/- and Rs. 5,000/- per month, for this submission overlooks the fact that the landlord also expected a deposit of Rs. 10,000/- from the government allottee carrying some interest to the allottee or in the other alternative expected a lumpsum deposit of Rs. 5,70,000/- as equal to five years compensation at the rate of Rs. 1,14,000/- per month. As Shri Parikh pointed out the amount of rental together with interest which the landlord would earn on the amount of deposit would once again approximate to the actual rental of Rs. 14,899.50 per month. At any rate as Shri Parikh points out, there is nothing in the record which would show that the said person who claims to be agent of the appellant had been really shown to have any authority to act for and on behalf of the appellant to enter into a private deal.

12. With reference to paragraphs 6 and 7 of the impugned order Shri Patil submitted that the respondent No. 1 had himself visited the premises on the 12th May, 1976 and he had verified the description and contents of the premises as mentioned in the claim form submitted by the appellants, had verified and found them to be correct only with a few negligible exceptions. The situation and location of the requisitioned premises as described and distinctly mentioned in the said claim form were also found to be correct. He further referred to the contents of paragraph 7 of the impugned order which discusses and considers the information submitted by the Bombay Municipal Corporation in regard to the rentable value of the requisitioned premises and the rent taken for the purpose of assessment of the house tax, the year of its construction and the rateable value of the entire property also. The respondent No. 1 took into account the fact that the Corporation has informed that the rateable value of each flat was Rs. 18,128.90 per annum and the rent for the purposes of assessment recorded in the municipal record was Rs. 117.80 per month for each flat, the construction of the building being in the year 1974. This as Shri Parikh points out was an entirely incorrect approach on the part of the respondent No. 1, in as much as there was no material on record to show that the rental value had been arrived at by the municipal authorities, by taking into consideration each and everyone of the factors referred to in the claim form and which, importantly, is found to have been accepted as correct by the respondent 1, upon his personal visit to the premises on the 12th May, 1976. In the circumstances, this as a yardstick could not have been correctly applied by the respondent No.1 while determining the amount of periodical compensation payable by the government allottee.

13. The last of the submissions which the learned Additional Government Pleader made was that in the month of July 1977 the respondent had come to know that the premises in question did not have electricity connection as also water connection, that this had not been therefore made available by the landlord to the government allottee and that the latter had been compelled to obtain it subsequently by incurring an expenditure of Rs. 60,000/- on that account before the allottee could make use of the premises from 1st April, 1977 onwards. Now it is interesting to note, as has been earlier noted also, that the respondent No.1

had himself paid a visit to the premises on 12th May, 1977 and no demur had been made in regard to the non-availability of the water and the electricity connections at that time. It further needs to be appreciated that from the letter dated 19th July, 1977 of the respondent No. 1, what the landlords were given to understand and realise was that the electricity and water connections had not been made available at the date on which the possession of the premises was taken and upto 1st April, 1977. The indication is clear in that water taps and electricity connections were obtained by the government allottee with effect from 1st April, 1977. Therefore, there is not much substance in Shri Patil's contention that the amount of periodical compensation payable by the government allottee at Rs. 16,000/- per month as per the provisional order dated 30th May, 1977 was with due awareness of the fact that until the 1st April, 1977 the water taps and electricity connection had not been made available by the landlords. Though the submission of Shri Parikh has to be found as only partly correct, his further submission is also substantiated in my opinion - that it was for the respondent No. 1 in the first instance, while fixing the amount of compensation at Rs. 16,000/- per month with effect from 23rd July, 1976, as he ought to have taken and must also have taken into account the position that in the said period, 23rd July, 1976 to 31st April, 1977, water taps and electricity connections were not available. What is more important, as Shri Parikh submits is that it was never the case of the appellants that the premises requisitioned and taken in possession on 23rd July, 1976 had at any rate been represented by the appellants as being fully ready for use and occupation meaning fully ready with the water tap and electricity connections also available. In fact, it was the case of the appellants that the premises were not ready for occupation and were meant not for conducting the business of the appellant but only for the residential use of the appellant's directors. If, therefore, irrespective of the non-available of the water taps and electricity connection, the premises had been taken into possession under the order of acquisition on 23rd July, 1976, it would not be upon either for the requisitioning authority, the respondent No.1 or for the government allottee, to complain of the fact that the water taps and electricity connections were not until at a subsequent point of time, available. In my opinion, the determination of the period compensation must therefore, be the same throughout, contrary to what has been done by the respondent No. 1. The amount of compensation was fixed at Rs. 2,113/- per month for 23rd July, 1976 to 31st March, 1977 and then from 1st April, 1977 onward at Rs. 8,225/- per month. It is at this latter rate that at any rate, upon the reasoning adopted by respondent No. 1, the respondent No.1 should have fixed the periodical compensation at Rs. 8,225/- per month for the period from 23rd July, 1976 throughout. In the circumstances, and having carefully considered the report of the appellant's architect Shri Nanavati dated 4-2-1977 which had not only accompanied the claim form but had also been substantiated by the said architect by remaining present himself at the hearing on 20th March, 1977 and having explained as to how the compensation claimed, upon particulars furnished by him with reference to the situation and location of the premises, the nature of construction, the special points about construction,

the amenities provided the value of furnitures, fixtures and fittings, etc., the claim made by the appellants at Rs. 14,899.50 ps. was just and proper. It needs to be appreciated that the expert architect had also furnished in his report as many as four instances of properties in the very same area, giving details of the nature of construction, and other particulars to show that the value of the open plot in each of the four instances was Rs. 957 per sq. meter , Rs. 935/- per sq. meter, Rs. 970/- per square meter and Rs. 802/- per sq. meter respectively. The amount of compensation as per the report comes to Rs. 1,78,794/- annually. The claim for periodical compensation at Rs. 14,899.50 per month must therefore be found to have been justify and properly made but improperly rejected. It may, in the passing, also be appreciated that inspite of the fact that there had been a complete hearing on the 20th March, 1977, the respondent No. 1 without any proper justification ordered a re-hearing of the matter, on 30th July, 1977 at which hearing an opportunity to keep the appellant's Counsel present for duly advancing the submissions was denied to the appellant, the process of finally fixing the amount of compensation having been virtually rushed through.

14. In the result, the appeal has to be allowed to hold that the appellants are entitled to monthly compensation at Rs. 14,899.50 ps. in respect of the requisitioned premises consisting of Flat Nos. 9-A and 10-A for the period from 23rd July, 1976 to 30th November, 1977.

15. The respondents are accordingly directed to pay to the appellant periodical compensation in respect of the said premises for the period from 23rd July, 1976 to the 30th November, 1977 at the rate of Rs. 14,899.50 per month including all the out goings after deducting the amount of compensation already paid at the rate of Rs. 2113/- per month for the period from 23rd July, 1976 to 31st March, 1977 and at the rate of Rs. 8,225/- per month for the period from 1st April, 1977 to 30th November, 1977. The appellant shall further be entitled to interest at the rate of 9% per annum on the outstanding balance thus, found payable to the appellants. Decree accordingly.