

POSSESSION RECEIPT

CASE NO. LAQ/267

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I, Shri C.P. Ramrakhyani, Planning Assistant, on behalf of the Special Land Acquisition Officer(3), Bombay and B.S.D. Bombay-1 Handover and I Shri C.E. Rajbhave Assistant Engineer Land Acquisition B.T., on behalf of the Divisional Engineer Telephones(B), Bombay Telephones, Take over this day 1st April 1972 the vacant possession of the property mentioned below acquired vide Government Notification R & F D No. LB-3367-H dated 16th May 1970 and published in the Extra Ordinary Maharashtra Government Gazette dated 19-5-1970 and affix our signatures in token thereof.

SCHEDULE

District: Bombay City

Division: Malbar & Cumballa Hill

Cadastral Survey No.

Area in

Sq.Mts.

Sq.Yds.

8/669

9/669

669 pt

2740.58

3277.70

Hand over by me ,

C.P. Ramrakhyani
1/4/72

C.P. Ramrakhyani,
Planning Asstt. on
behalf of Special Land
Acqun. Officer(3), Bombay
and B.S.D.

Taken over by me,

C.E. Rajbhave
1.4.72

On behalf of the Divisional
Engineer Telephones(B), Bombay
Telephones, Bombay.

AWARD

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EXHIBIT 'C'

CASE NO. LAC-267

ACQUISITION OF LAND BEARING CADASTRAL SURVEY NO. 51/669 PART, 8/669, 9/669 AND 669 PART OF CUMBALLA HILL AND MALBAR HILL DIVISION FOR A PUBLIC PURPOSE VIZ. FOR CONSTRUCTION OF TELEPHONE EXCHANGE BUILDING TO PROVIDE ADDITIONAL TELEPHONE FACILITY TO THE RESIDENTS OF THE AREA.

No. and date of notification under Section 4 of the Land Acquisition Act.

Government Notification Revenue and Forest Department No. LEO-3367-H dated 25.5.67 and published in the Maharashtra Government Gazette Part-I dated 1.6.1967.

No. and date of notification under Section 6 of the Land Acquisition Act.

Government Notification Revenue and Forest Department No. LEO-3367-H dated 16th May 1970 and published in the Extra Ordinary Maharashtra Government Gazette dated 19.5.1970.

LANDS : Cadastral Survey Nos. 1/669 part, 8/669, 9/669 and 669 pt of Cumballa Hill and Malbar Hill Division, Bombay.

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REASONS FOR AWARD

INTRODUCTION:- The Deputy General Manager (G), Bombay Telephones requested the Collector of Bombay by his letter No. PELA-1-40 dated 27th March 1967 to acquire about 15000 square yards of land in C.S. Nos. 1/669 and 9/669 of Malbar Hill Division for construction of Telephone Exchange Building and residential quarters for the staff of Bombay Telephones. The Notification under

Section 4 of the Land Acquisition Act for these lands was issued by the Government in Revenue and Forest Department on 27th May 1967. As the part of Orphanage for the boys was affected due to this acquisition, revised the boundaries of acquisition and informed this office on 23rd October 1967 to acquire about 6200 square yards only. The declaration under Section 6 of the Land Acquisition Act for revised area was issued by the Government on 16th May 1970 and this was published in the Extra Ordinary Maharashtra Government Gazette dated 19th May 1970.

2) NOTICES AND OWNERSHIP : Requisite notices under Sections 9 and 10 of the Land Acquisition Act have been posted on site and served on all the persons known to be interested. As per the record available in the office of the Collector of Bombay the lands are owned as under:

1. Shri Habib Mahomed Hashambhoy C.S.Nos. 8/669, 9/669 and 669 pt.

2. Trustees of Sir Curimbhoy

Ebrahim Khoja Orphanage

C.S.No.1/669

Shri Habib Mahomed Hashambhoy purchased large area admeasuring 25281 square yards in C.S. No.669 of Malbar and Gumballa Hill Division under Sale Deed No.Bom. 4800 dated 2nd April, 1957. The entire area was purchased for Rs.5,10,000/- i.e at a rate of Rs.20/- (little more) per square yards. In the same sale deed it is stated that the said Shri H. Hashambhoy agreed to sale several pieces of the said land to different

persons at different rates. The details of these sales are as under:

Name of purchaser	Area Sold Sq. Yards.	Consideration Rs.	Rs./sq. Y. Rs.
1. His Highness Maharaja of Idar	1591	2,13,080.00	134/- (about)
2. "	766	56,480.00	110/-
3. Trustees of Currimbhoy	11,793	2,65,342.00	22-50

The remaining area of 11,191 square yards remained with him. He has subsequently sold out entire area except that under acquisition.

The trustees of the Currimbhoy Ibrahim Khoja Orphanage are the owners of C.S.No.1/669. They purchased this land under the Indenture of Sale-Deed DOM NO.4116 dated 2.4.1957. The total area purchased along with a bungalow is 11793 square yards for 2,65,342.00 i.e. at a rate of Rs.22.50 per square yard.

The notices under Section 9 and 10 of the Land Acquisition Act are served upon Shri N.J. Chaudharia who has claimed the interest in the land under acquisition because of the "Convenant" dated 23.5.1997 whereby the height of the buildings on the land under acquisition is restricted. He is the owner of C.S.No.2/66 of Malbar and Cumballa Hill Division and has constructed a six storey building known as 'Palmera'. According to him by the Indenture of Government dated 23rd May

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1890 made between the then vendor and purchaser the land ~~xxxxxx~~ under acquisition is to remain unbuilt so as to abstract the prospect of the property then called as "Altamount" (now partly owned by N.J. Gamadia)

The notices under Section 9 and 10 of the Land Acquisition Act are also served upon following interested persons/institutions.

1. The Bank of Baroda
2. Shri Jayantilal R. Mehta
3. M/s. H.A. Mahomed & Sons
4. M/s. Latif M. Hashambhoy & Ors.
5. Shri Latif M. Hashambhoy
6. Shri Nipankumar A. Sheth and
7. Miss. Ratan M. Merchant.

All interested persons at serial No. 1 to 7 have claimed their interest as mortgagees. Their interest to the extent of loans given to Shri Habibmahomed Hashambhoy is not disputed by M.M. Hashambhoy.

Shri H.M. Hashambhoy along with Solicitors M/s. Ambubhai R. Diwanji and Architect Shri N.M. Malbari, duly authorised by him have appeared before me and their statements both written and oral are duly recorded.

M/s. Ambubhai R. Diwanji, Solicitors, duly authorised by mortgagees at Sr.No. 2 to 7 have appeared before me. Shri A.H. Atha, Architect from M/s. Abdulla

P. Mitha & Namavati, duly authorised by the Trustees of Currimbhoy E. Khoja Orphanage has appeared before me. Shri S.G. Khandwalle, Solicitors from M/s. Deputy Ferreira & Co. and Shri P.G. Kherada, Law Officer Bank of Baroda have appeared on behalf of the Bank of Baroda. M/s. Payne & Co. Solicitors and Shri Homi Mistry, architect have appeared for Shri N.J. Gandhi. The statements both oral and written as regards their interest in the land are duly recorded.

3. TENURE AND AREA : The land under acquisition is held on Pension and Tax tenure.

The area of the land under acquisition and notified under Section 6 of the Land Acquisition Act is as under :

C.S. NO.	<u>APPROXIMATE AREA UNDER ACQUISITION</u>	
	Square meters	Square yards.
1/669 pt.	1530.27	1830.18
8/669, 9/669 & 669 pt.	2740.58	3277.70
Total	4270.85	5107.88

This has been verified by the Superintendent Bombay City Survey and Land Records, Bombay and the same is not disputed either by the claimants or by the Acquiring Body. I, therefore, accept the area of 4270.80 square meters as true area and adopt the same for the purpose of my Award.

4. DESCRIPTION AND SITUATION : The land under acquisition is situate in one of the aristocrat

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locality of Bombay inhabited by rich class of people. The land C.S. Nos. 669 pt. 8/669 and 9/669 together gets access on the Peddar Road. The frontage is 94 feet. The entire S.No. 1/669 gets access on the Altamount Road. However, only a part of it situate in the rear and touching the land in C.S. No. 9/669 is under acquisition. Thus, the entire block will get access from the Peddar Road only. C.S. no. 8/669 also gets access on the 25' wide private road which provides access to land in C.S. Nos. 6/669 and 7/669 formerly owned by Shri H.M. Hashabhooy. The depth of the entire block from the Peddar Road is 208 feet and the maximum width of the plot is 318 feet.

The land under acquisition is a part of the hillock having a steep slope towards the Peddar Road. The part of land owned by Shri H.M. Hashabhooy has been cut so as to bring it in level with the Peddar Road. However, the land would have to be cut, dressed and levelled before it is put to use.

The land owned by the Trustee is comparatively at higher level and is slightly uneven and rough. The northern part of C.S. No. 1/669 admeasuring about 400 square yards is a recess land.

Entire land under acquisition but for one temporary tin shed in C.S. No. 9/669 is open without any structure. The shed is occupied by the Collector appointed by Shri H.M. Kashabhooy. There are a few mango, chinch and a few other trees on the land under acquisition.

The land under acquisition is situate in the heart of Bombay City and gets frontage on the Peddar Road. The B.E.S.T. Bus route Nos. 83, 84 and 86 ply on this road. It is at about 5 to 6 minutes walking distance from the Kemps Corner Bly-over bridge. The multi-storied residential, commercial, Hospital and school buildings are constructed on the surrounding plots. The residential building for Atomic Energy Staff named as 'Kenilworth' is situate to the South of land under acquisition. The C.S.No.1/669 gets wide frontage on Altamount Road which meets the Hermitage pass near the Kemps Corner at one end and Carmichael Road at the other end. This road is not as busy as Peddar Road. Large number of residential buildings have been constructed on both sides of the Altamount Road.

According to the Final Development Plan for the Greater Bombay, the land falls in the Residential zone. Prior to coming into force of the Development Plan, the permissible FSI in the Malbar and Cumballa Hill Division was 2, however under the final development Central Rules sanctions by Government and published in the Extra Ordinary Government Gazette dated 7.1.1967, the permissible FSI for this area is reduced to 1.33 only and it has come into force from 9.2.1967. The notification under Section 4 of the Land Acquisition Act is issued on 25.5.1967 and published in the Maharashtra Government Gazette on 1.6.1967 i.e after the commencement of the revised F.S.I. Rules.

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5) CLAIM :- Shri H.M. Hashambhoy in his claim statement dated 11.6.1970 has asked for the compensation @ Rs.600/- per square yard. At the time of enquiry under Section 11 of the Land Acquisition Act held on 5th December 1970 he claimed the compensation at Rs.600/- per square yard. He subsequently revised the claim and filed revised claim statement on 15.12.1970 and claimed market value at Rs.830/- per square yard. He has also claimed the actual cost of cutting and levelling of the lands, the cost of construction of road on plot No.7B (his internal road) and cost of compound wall on south side of the plot. However no specific claim is given by him.

Shri H.J. Gamadia has claimed one fourth of share in the compensation awarded for entire land under acquisition which he has valued @ Rs.450/- per square yards.

The claim filed by the mortgagees is as under.

1. The Bank of Baroda :- The Bank has claimed entire compensation payable to the owner viz. Shri H.M. Hashambhoy. However the bank has given a loan of Rs.1,75,000/- to the owner against equitable mortgage of the property owned by the owner. They have claimed interest but not specified the amount of interest. Shri H.M. Hashambhoy has however stated that the entire amount is Rs.1,90,000/-

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2. Shri Jayantilal R. Mehta Rs. 2,14,742.83 Int. @ 8% from 22.8.1968
3. Shri Latif M. Hashambhoy Rs. 26,200.00 Int. @ 7% from 15.11.1970
4. Shri Nipankumar A. Sheth Rs. 45,000.00 Int. @ 7% from 26.9.1963.
5. Miss. Retan M. Merchant Rs. 30,000.00 Int. @ 7% from 13.9.1963.
6. M/s. H.A. Mahomed & Sons Rs. 1,09,602.49 Int. @ 7% from 11.4.1970
7. M/s. Latif M. Hashambhoy and others. Rs. 49,000.00 Int. @ 7% from 15.11.1970

Shri A.E. Nikwale, Solicitor from M/s. Ambubhai & Diwanji, who has appeared for mortgagees at Sr.No.2 to 7 has stated that amount paid to Shri H.M. Hashambhoy by the mortgagees at Sr.No.6 is Rs.1,09,602.49. This is also confirmed by the land owner.

Thus the total claim of the mortgagees including that by Bank of Baroda (this amount as given by the owner) is Rs.6,64,545.32. Besides they have claimed interest as mentioned above.

The Trustees of Currimbhoy Ebrahim Khoja Orphanage have claimed a rate of land value @ Rs.7 0/- p/er square yard.

6. EVIDENCE LED IN SUPPORT OF CLAIM : In support of his refused claim Shri H.M. Hashambhoy has relied on the valuation Report of M.W. Malbari, Structural Engineer who has valued the land @ Rs.830/- per square yards. He has

cited six instances of sales which are shown on the plan and given in Appendix 'A'.

The Trustees of Qurrimbhoy S.Khoja Orphanage have relied on the valuation report of M/s. Abdulla Peermohamed Mitha & Hamavati Architects & valuers, who have valued the land at Rs.700/- per square yard. They have cited five instances of sales which are shown on the plan and given in Appendix 'A'. It is stated by the architects that the land value was at the highest between 1961 to 1967. However after 1967 there was recession in the property market.

No evidence is adduced by the Bank of Baroda in support of their claim. The remaining mortgagees have produced true copies of promissory notes, and certificates issued by the Chartered Accounts confirming the loans advanced to said Shri H.M. Mashambhoy

Shri H.J. Gadia has adduced no evidence in support of his claim @ 25% of the market value @ Rs.450/- per square yard. He has however produced a copy of conveyance Deed for the property owned by him and copy of Deed of 'Convenient' dated 28rd May 1898 executed between Dady Manokjee Limjee the then vendor of property (partly owned by Shri N.G. Gardia) and Shri Carimjee Alibhai then purchaser of the property now owned by Shri H.M. Mashambhoy and the Trustees.

Instances of sales cited by the architects on behalf of the claimant owners are described herein below:

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Instance No.1 :- It refers to sale of land in C.S.No.2/733 admeasuring 3799 square yards for Rs.25,00,000/- i.e at a rate of Rs.658/- per square yard in July 1963 i.e about four years prior to the date of notification under Section 4 of the Land Acquisition Act. The Vendor viz. Deviprasad Khandelwal has sold this land to Usha-Kiran Co-operative Housing Society. The Khandelwals constructed the building with 26 stories and then formed the society. The sale is executed in 1967. It is situate on Carmichael Road. It has a breadth of about 130 feet and average depth of 300 feet. On an enquiry at site it is learnt that there was a bungalow in very sound condition on this plot and it was demolished prior to the construction of 'Ushakiran'. The locality is an aristocratic locality.

Instance No.2 :- The Bank of India sold a very large piece of land admeasuring 7583 square yards in C.S.No.231 at the rate of Rs.710.50 square yards in December 1963. The purchaser is Nepean Sea Co-operative Housing Society Ltd. The land is situate far away from the land under acquisition.

Instance No.3 :- A large piece of land in C.S. No.3/723 admeasuring 5626 square yards is purchased by M/s. Carmichael Property for Rs.47,00,000/- i.e at a rate of Rs.835.40 per square yard in March 1967. It is situate on Carmichael Road. It has frontage of about 150 feet on Carmichael Road and depth of about 330 feet. There is a fourteen storied building on this land. It is learnt

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that there was a structure on this land and vacant possession was given to the purchasers. The structure was in a very sound condition.

Instance No.4 : Prabhu Kutti Co-operative Housing Society Ltd. has purchased land in C.S. No.647 admeasuring 3155 square yards for Rs.29,31,000/- i.e at a rate of Rs.929.00 square yard in November, 1967.

It is a corner plot fronting on Altamount Road. The sale is post dated and encumbered with structure. The purchasers get vacant possession of the structure. The structure was in sound condition.

Instance No.5 : The Triveni Co-operative Housing Society has purchased land admeasuring 2510 square yards in C.S. NO.1/747 and 1-6-1/733 for Rs.20,69,500.00 i.e at a rate of Rs.824.50 per square yard in April 1968 i.e after the date of notification under section 4 of the Land Acquisition Act which is 1.6.1967. It gets access through a small lane taking off the Peddar Road.

Instance No.6 : The land in C.S. No.710 admeasuring 1178.73 square yards is leased out to Esso Standard Eastern Inc. for petrol pump in January 1970. The lease is for 10 years from 6.11.1969. This land is fronting on the Peddar Road and is adjoining the land under acquisition. The frontage on the Peddar Road is just equal to that of the land under acquisition. The ground rent when capitalised @ 6% gives a rate of Rs.1178.73 square yards.

This instance is also post dated. The lessees have constructed Petrol Pump which is in use.

7. EVIDENCE LED BY THE ACQUIRING BODY : The Acquiring Body i.e Bombay Telephone, the Government of India, have adduced no evidence, whatsoever, regarding value of the land under acquisition.

8. INSTANCES OF SALES CITED BY THIS OFFICE :

Instance No.1 : It refers to a sale of land in C.S. No. 627 of Malbar and Cumballa Hill Division. An area admeasuring 3150 square yards is sold for Rs.20,50,650/- i.e at a rate of Rs.651/- per square yard on 23rd November, 1963 i.e about 3 1/2 years prior to the date of notification under Section 4 of the Land Acquisition Act. The land is purchased by the Crystal Co-operative Housing Society Ltd. who has constructed a multistoried building with shops on ground floor. The land is situate at a distance of 5 minutes walk from the land under acquisition. It has frontage on Hermitage pass and return frontage (partly) on Altamount Road. It has frontage of 150' and average depth of 180'.

Instance No.2 : The Government of India (Atomic Energy Department) have purchased land admeasuring 4857 square yards in C.S. No.671 for Rs.29,37,404 i.e at a rate of Rs.604.75 per square yard in April 1964. It is learnt that the vendor had sold land with new multistoried building to the Government of India. However the rate mentioned is for the open land. The land gets

acquisition. Its frontage on peddar road is about 250 feet and it has average depth of about 160 feet. The building is occupied by the officers of the Atomic Energy.

Instance No.3 :- The Bombay Municipal Corporation has acquired land in C.S. NO.1/438 for road near fly-over at Kemps corner. The land acquired is 928.04 square yards. The date of gaz notification under Section 4 of the Land Acquisition Act is 24th December 1964. The owners were not satisfied with the Award of the Special Land Acquisition Officer at Rs.550/- per square yard filed reference under Section 18 of the Land Acquisition Act and matter was settled in the High Court at Bombay at Rs.650/- per square yard. This is a small triangular plot. There was a two storied building on this land. It is situated to the south-west of the fly-over bridge.

Instance No.4 : A part of C.S. NO.650 admeasuring 1716 square yards was sold by Shri Anant S. Sthilekar to Rajendralal Shadilal & Co. (1st confirming party) for Rs.12,01,200/- i.e at a rate of Rs.700/- per square yard i.e on 9th Feb. 1965. The first confirming party through Shri H.T Gidwani (2nd confirming party and promoter of the Society) sold this land to the Jupiter Co-operative Housing Society Ltd. on 23.2.65 at Rs.800/- per square yard. The vendor who executed the conveyance, however, received marked value at Rs.700/- per square yard. The purchasers have constructed a multistoried building on this land. The plot is a corner plot having frontage and return frontage on Anstey Road, which meets the Altamount Road to the west of the plot.

9. VALUATION :

Before I analyse various instances of the sales quoted by the owners and cited from this office record, I mention herebelow some salient features of this acquisition which would have great bearing on the market value of the land under acquisition.

(a) The floor-Space-Index prior to 9th Feb. 1967 has been two. However the State Government, under the final Development Control Rules sanctioned and gazetted on 7.1.1967, revised the F.S.I. for the Malabar and Cumballa Hill Division to 1.33. This reduced F.S.I. has come into force from 9th Feb. 1967. However, the date of notification under Section 4 of the Land Acquisition Act is 1.6.1967.

(b) Immediately after the War with the Pakistan during the year 1965, the Market value of the lands remained stationary and there were no sales in respect of costly lands for several months. The price of built up flats etc. also either remained stationary or came down during that period.

(c) There are either no sale transactions after the commencement of new D.C. Rules or if some sales have taken place they are not brought on the record.

(d) The lands in the Malabar and Cumballa Hill Division are very costly and hence outside the scope of any individual use such costly land. It is noticed that the professional builders are purchasing these lands by making agreements on Rs. 3/- stamp paper and then construct the flats and sale to prospective buyers on

ownership basis. They register these sales with the Government after the formation of Co-operative Housing Societies to avoid the payment of 10% court fee. This is one of the reason why the transactions are not brought on the Government Record immediately as in normal course it should be.

(e) The owner of the land Shri H.M. Hashambhoy, it appears was expecting that the "covenant" of 1890 would affect the use of his land and thereby he started removing the hillock. The cutting is not complete. The buyer who would purchase this land would either cut it completely or fill it up to bring the entire plot at uniform level. Since the access to this plot is from Peddar Road which is at lower level, the entire plot has to be levelled. The cost of cutting would be heavy as the rock cannot be removed without blasting with ammunition, the plot being in the residential area. The rock mxx has therefore to be cut with manual labour only. The cost of cutting would be very heavy.

(f) Shri H.M. Hashambhoy had purchased a very large piece of land measuring 25281 square yards @ Rs.20/- per square yard in April 1957. The reason for such low price paid might be that the vendor viz, Maharaja of Gwalior who sold this land to him was himself affected by the 'Covenant' dated 23rd May 1890, otherwise he should not have sold this entire land at a uniform rate of Rs.20/- per square yard when the prevailing market price was much more than Rs.20/-

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per quare yard. The C.S. NO. 665 with frontage on Altamont Road and facing the land owned by the trustees was sold at Rs.112/. per square yard in November, 1954. It is generally found that when other lands without any incumbrance are available for sale in the property market, no investor would pay the same price for the land where he may face even a slight complication. It is also apparent that the trustees of Orphanage who purchased a very large piece of land from said Shri Hashambhoy in 1957 could not properly use this land. At the time of purchase there was a old bungalow and this has been retained till today. Except this partly ground floor and partly one upper floor structure the entire land admeasuring 11793 square yards is kept open.

(g) In the "Covenant" dated 23rd May 1890 and made between Dady Maneckjee Idmjee and Currimjee Alibhoy it is stated that no structure whatsoever shall be erected, built or raised upon the portion of the property marked with letter ('B') on the plan attached with that covenant. Even the plantation of trees of higher heights are not permitted under that Covenant Shri H.H. Hashambhoy has denied that under the said deed of covenant dated 23.5.1890, any restrictions are mentioned therein as far as his land is concerned. He has stated that the said covenant, is not operative. Whatever Mr. Hashambhoy may state, but the fact is that the himself has restricted the height of structures constructed on some of the plots he had sold in 1957.

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(h) Shri N.J. Gadadia, had filed the Ordinary O.C. Suit No.242 of 1963 in the High Court at Bombay against Shri H.M. Hashambhoy and others. This suit came for hearing before the Honourable Mr. Justice Kenia at Bombay High Court on 19.3.1971 and it was ordered to return the plaint to the proper court as High Court has no ~~jurisdiction~~ jurisdiction to entertain such suit. The suit is now transferred to the City Civil Court and is yet to be heard and finalised.

The claimants have filed in all six instances of sales. Instance No.1 gives a rate of Rs.658.06 per square yard in July 1963 i.e. about four years prior to the date of notification. It is already stated that the vendor and the builders were M/s. Khandelwala. They constructed the flats and sold on ownership basis. This instance is comparable with the land under acquisition subject to allowance that the vendors might have charged slightly higher price from the purchasers. This is apparent when this instance is compared with instances Nos.1 & 4 cited by this office. Instance No.2 is in respect of sale by the Bank of India. It is reported by the claimants that the Bank of India sold about 7583 square yards at Rs.710.50 per square yard in December, 1963. The details supplied by the claimants could not be verified as the document for this instance is not available in the office of Deputy Registrar at Bombay. The land in this instance is situated far away from the land under acquisition. The Napeansea Road area where the land is situate is a quiet

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area and preferred by the flat owners. Instance No.3 is in respect of sale of 5626 square yard in C.S. No.3/727- It gives a rate of Market value at Rs.835.40 per square yard on 20.3.1967 i.e about two months prior to the date of notification under Section 4 of the Land Acquisition Act. The purchasers have however constructed a multistoried building with 2 F.S.I. There was a bungalow on this land. Though this sale is after the revised Development Control Rules. However it appears that the owners might have produced an agreement to sale of an earlier date and obtained the F.S.I. as per old rules. This instance gives a slightly higher rate of land value as the rate includes the cost of bungalow. Instance Nos.4 and 5 cited by the claimants give the market value of land at Rs.920/- p.s.y. and Rs.824.50 per square yard in November, 1967 and April 1968. The purchasers in both instances are Co-operative Housing Societies. The documents for these instance could not be verified as the same are not available in the office of the Registrar. On site inspection it was found that the owners might have managed to get the plans passed by the B.M.C. prior to 9.2.1967. Besides these instances are purchases by Co-operative Housing Societies and it is not known whether the vendors have sold the lands at these rates to the societies or the confirming parties who normally take their share under the same document. The instance No.4 is for a build up property. Instance No.6 is for a small plot admeasuring 1155.48 square yard. The land in C.S. No.720 is leased out for 10 years to M/s. Esso Standard Eastern Inc. from 6.11.69.

The annual g.r is Rs.81,720/- p.a and this when capitalised at 8% gives a rate of Rs.1183.48^{post} per square yard. This instance is spot dated. Thus all the instances except Nos.1 and 3 cited by claimant do not guide to arrive at fair market value of the land under acquisition.

Four more instances are cited from this office record. Instance No.1 gives a rate of Rs.650/- per square yard in November, 1963 i.e about 3 1/2 years prior to the date of notification under Section 4 of the Land Acquisition Act. The purchasers demolished the old structure and have erected a multistoried building on this land. The shops are provided on the ground floor. This land is near the fly-over bridge and hardly at a distance of 5 minutes walk from the land under Acquisition. Instance No.2 gives a rate of Rs.604.75 for the land purchased by the Atomic Energy Department. The area sold is 1716 square yard in April 1964. It is situate adjoining to the land under acquisition and has wide frontage on the Peddar Road. Instance No.3 pertains to the acquisition of land in G.S. No. 1/438. The B.M.C. acquired land measuring 928.04 square yards for the Fly-over bridge at the Kempa Corner. The notification under section 4 was issued on 24th December, 1964, i.e about 3 1/2 years prior to the relevant date of valuation. The Award was declared at Rs.690/- per square yard and this was settled at Rs.650/-

per square yard in Land Acquisition Reference under Section 18 of the Land Acquisition Act at the Bombay High Court. Instance No.4 is in respect of sale of land in C.S.No. 650 Opt admeasuring 1716 square yards. The vendor agreed to sale to the 1st confirming party at Rs. 700/- per Sq.Yard on 9.2.1965 and first confirming party through the 2nd confirming party agreed to sale to a society at Rs. 800/- per Sq.Yard on 23.2.1965. The actual rate received by the vendor at is Rs. 700/- per Sq.Yard indicate the Market Value of the land is in Feb. 1965 i.e. about 2 1/4 years prior to the relevant date of valuation.

Since all these instances are prior to 9.2.1967 when the revised D.C.Rules came into force, it would not be fair to proportionately reduce the valuation so as to arrive at the fair Market value of the Land on 1.6.1967. The instance 1 and 3 cited by claimants and 1 to 4 cited from this office record indicate the trend of property market to the vicinity of land under acquisition.

The land under acquisition is partly levelled and partly uneven requiring a large sum of money to level it. Considering above 6 instances of sales (1 and 3 cited by the owners and 1 to 4 cited from this office record) and giving allowance for the rise during post 3 to 3 1/2 years and then reducing the value proportionately for reduced P.S.I. 2 to 1.33 and also considering the impact of the covenant on the Market Value of the land. I feel it would be fair to value the land under acquisition at Rs. 465/- per square yard or Rs. 560/- per Sq.Meter.

The land for acquisition after the declaration of public use and after all encumbrances.

The interest of all persons interested in the land is, therefore acquired under this Award. The Market Value of the land as worked out above is free-hold value of the land under acquisition. The compensation so worked out is, therefore, to be apportioned between all interested persons in the land. In this case besides the land owners the interest is claimed by Shri H.J.Gamadia who has purchased the land on the other side of Altamount Road with all benefits as mentioned in the "Convenant" of 1980. The amount of compensation should have been apportioned between the land owners and Shri H.J.Gamadia according to the interest of each in the said land under acquisition. Since the suit filed by Shri H.J.Gamadia against Shri H.M. Hashambhoy is yet to be decided by the City Civil Court Bombay, I do not decide the share of each interested person in the market value of the land awarded in the case.

Shri H.J.Gamadia has claimed 25% share in the market of land at Rs. 450/- per Square yard. Since the dispute between Shri H.J.Gamadia and Shri H.M. Hashambhoy is pending in the city civil Court at Bombay. I do not decide about the apportionment of compensation between the said two claimants. Shri H.J.Gamadia has also claimed the 25% of the amount of compensation payable to the Trustees as according to him the covenant is applicable to the land owned by the said Trustees.

In above circumstance I order to deposit the 25% of the amount of compensation for the entire land under acquisition at Rs. 450/- per Sq.Yard or Rs. 540/- per Sq. Meter only with the court under Section 30 of the Land Acquisition Act.

This leaves me to settle the compensation payable to various mortgages including the Bank of Baroda. The Bank of Baroda has claimed a sum of Rs. 1,75,000/- plus interest. However they have not stated the amount of interest claimed by them. The owner Shri Hashambhoy has put the entire claim of the said Bank @ Rs. 1,90,000/- (inclusive of interest etc) This amount is deducted from the amount payable to the owner and awarded to the Bank of Baroda. The Bank shall have to produce original Documents pertaining to this land under acquisition before the payment is received by them.

The other claimants (mortgages) appear to have given personal loans to Shri Hashambhoy. Since the amounts claimed by each of them is not disputed by Shri Hashambhoy, I deduct these amounts from the amount of compensation payable to the owner and award to the respective mortgages. They have also claimed interest on these loans from different dates till the date of payment of compensation. The loans are given, in some cases, prior to the date of notification and in some cases according to mortgages, & the interest is settled up to 1970. Since the owner has not confirmed the dates from which interest is

payable. I direct, that interest, if any is payable to the mortgages, it should be paid by the mortgagor outside the award.

No compensation is awarded to Shri Hashambhoy for road, compound wall and levelling of the land as no specific claim is filed in this regard. Besides the said road is provided to give access to the other properties which have been already sold by Shri Hashambhoy. The compensation is awarded for the compound wall which is to the south of that road. No extra amount is proposed for levelling of the part of plot as the same was withdrawn by the claimant at the time of enquiring under Section 11 of the Land Acquisition Act.

The owners are entitled to receive 15% solatium on the market value of land awarded to them as per Section 23 (2) of the Land Acquisition Act.

Sd/-

Old Custom House Yard, Fort,
Bombay-1, Date 28.3.72.

TRUE COPY

Sd/-

Special Land Acquisition Officer(3)
Bombay and Bombay Suburban District.

46

10. DETAILS OF VALUATION

Land is C.S.No.8/669, 9/669
and 669 pt together admeasuring
2740 Sq. Mtr. at Rs. 560/- per
Sq.Meter.

2740.58 x 560 .. Rs. 15,34,724.80

15% Solatium. .. Rs. 2,30,200.72

Total amount of compensation payable .. Rs. 17,64,935.52
Say Rs. 17,64,934.00

APPORTIONMENT

(a) To be deposited under Section 30
of the Land Acquisition between
Shri H.M. Hashambhoy and Shri H.J.
Camadia.

2740.50 x 540 .. Rs. 14,79,913.20

15% Solatium. Solatium... Rs. 2,21,986.98

Rs. 17,01,900.18
Say Rs. 17,01,900.00

25% of Rs. 17,01,900.00 .. Rs. 4,25,475.00

(b) Payable to mortgagees.

i) Bank of Baroda.	Rs. 1,90,000.00
ii) Shri Jayantilal L. Mohta.	Rs. 2,14,742.83
iii) Shri Latif M. Hashambhoy.	Rs. 26,200.00
iv) Shri Nipankumar A. Sheth.	Rs. 45,000.00
v) S/Miss Ratan M. Merchant.	Rs. 30,000.00
vi) M/s. H.A. Mohamed and Son.	Rs. 1,09,602.49
vii) M/s. Latif M. Hashambhoy and Others	Rs. 49,000.00

.. Total of (a) + (b) .. Rs. 10,90,020.32

.. Amount payable to Shri Hashambhoy is .. Rs. 6,74,913.68

425475.00
221986.98
647461.98
1090020.32
1737482.30

425475.00

674913.68
425475.00
124938.68

11. ANALYSIS

2. Therefore, I declare that

(a) the true area of the land under acquisition is to be 2740.50 Sq. Mtr.

(b) the total amount of compensation payable to be rupees Seventeen Lacs Sixty Four thousand, nine hundred thirty four only. .. Rs. 17,64,934.00

(c) to be paid to

1. Shri Habib Mohd. Hashimbhai .. Rs. 6,74,913.00

2. Shri Habib Mohd. Hashimbhai .. Rs. 4,35,475.00

3. Shri Haraji J. Gansodia. But to be deposited with the Court under Sec. 30 of the Land Acquisition Act.

4. Bank of Baroda. Rs. 1,00,000.00

5. Shri Jayantilal R. Mehta. Rs. 2,14,742.85

6. Shri Latif M. Hashimbhai. Rs. 25,200.00

7. Shri Bipin Kumar A. Mehta. Rs. 45,000.00

8. Miss Ratan M. Merchant. Rs. 10,000.00

9. M/s. H.A. Mohamed & Sons. Rs. 1,00,000.00

10. M/s. Latif M. Hashimbhai and Others. Rs. 42,000.00

Compensation to persons at Sr. No. 1 and 4 to 10 will be paid on production of original conveyance deed for the land. No objection letter the land income tax Deptt. should also be produced by persons at Sr. No. 5, 6, 7, 8 and 10.

Old Custom House Yard, Fort.
Bombay-1 dated 28.3.72.

Sd/-
Spl. Land Acquisition Officer
(3)
Bombay and B.S.D.

THUR. 5.4.72.

Sd/-
Special Land Acquisition Officer (3)
Bombay and Bombay Suburban District.

10. DETAILS OF VALUATION

Land in G.O. No. 1/669 Pt. measuring
1930.27 Sq. Meters.

at Rs. 560/- per Sq. Meter.

1930.27 x 560

Rs. 8,56,951.20

15% Contingent.

Rs. 1,28,542.68

Total amount of compensation payable

Rs. 9,85,493.88

say Rs. 9,85,494.-

APPROPRIATIONS

To be deposited under Section 30
of the Land Acquisition Act between
claimants and Shri M.J. Gamadia.

1930 x 560 Rs. 8,56,951.20

15% Contingent Rs. 1,28,542.68

Total Rs. 9,85,493.88

25% of Rs. 9,85,493.88

Rs. 2,37,574.41

say Rs. 2,37,574.00

Amount payable to the Trustees
of Curriabhoj Ibrahim Khoja Orphanage

Rs. 7,47,920.00

11. ANEXO

I, therefore, declare that

a) true area of the land under
acquisition to be 1930.27 Sq. Meters.

b) the total amount of compensation
payable to be rupees Nine Lacs
eighty five thousand four hundred
and ninety four only.

Rs. 9,85,494.00

c) to be paid to

i) The Trustees of Curriabhoj
Ibrahim Khoja Orphanage.

Rs. 7,47,920.00

ii) The Trustees of Curriabhoj
Ibrahim Khoja Orphanage.

Rs. 2,37,574.00

iii) Shri Murooji J. Gamadia.

Rs. to be deposited
with the Court under
Sec. 30 of the L.A.
Act.

TRUE COPY

SA/-

Sp. Land Acquisition Officer (3)
Old Customs House Yard, Fort,
Bombay.

SA/-

Sp. Land Ac. Officer
Ranch and B.

O.C. Cumballa.

5-6
w/c

MUNICIPAL CORPORATION OF GREATER MUMBAI

No.EB/1112/D/A.

24/2/06

To,
The Mananagar Telephone Nigam Ltd.,
O/o, Executive Engineer (Civil) Project-South,
3rd floor, Cumballa Hill Telephone
Exchange Building, Peddar Rd.,
Mumbai-400 026.

Ex. Eng Bldg Proposal (City) - I
'E' Ward Municipal Offices 3rd Floor,
10 S. K. Hafizuddin Marg. Byculla,
Mumbai - 400 008.

Sub : Full occupation for Basement + Ground + 14
upper floors for Operational block,
Administrative Block and residential floors
above of Telephone Exchange Building on plot
bearing C.S.No. 1/669 (part), 7/669, 8/669, and
9/669 at Cumballa Hill, D-Ward.

Ref : Your Architect's letter dated 20.1.2006

Sir,

WITHOUT PREJUDICE

With reference to above letter, this is to inform you that there is no objection to occupy the Building under reference for Basement + Ground + 14 upper floor for Operational block, Administrative Block and residential floors above of Telephone Exchange Building, which is constructed under supervision of Architect Shri Pralhad Apte (Regn. No. A/124/CA) and Regd. Structural Engineer Shri K. D. Rajani (Regn.No. STR-R-1) subject to the following conditions :-

1. That the remaining conditions of I.O.D. shall be complied with before B.C.C.
2. That the remaining conditions of amended plans approval letter dated 5.10.1991 shall be complied with.
3. That the fresh P.R. Card for amalgamated plot shall be submitted before asking for B.C.C.
4. That one consolidated P.R. Card for amalgamated plots shall be submitted before asking for B.C.C.
5. That the construction of compound wall on reconstituted plot boundary shall be constructed before asking for B.C.C.

This full occupation permission is granted without prejudice to the rights of M.C.G.M. to take action under Section 353-A of B.M.C.Act, if found necessary.

A set of plans duly stamped/signed showing occupation permission granted is returned herewith as token of approval.

Yours faithfully,

[Signature]
24/2/06
By: Chief Engineer
Building Proposals (City)

Forwarded

for information and

w/c

1. CE (Bw) / GM A

A/D-1112

2. DGM (P) / DGM (C) S

Final nbc form CFO Ref ds. FBM/504/53 dt.
07/07/54 addressed to E-E.B.P. Submitted on
12/07/54

Reg. B.C.C. Ltr dt. 03/07/57 to DGM(P/g)

64

118
27-7-90

Malabar Hill

विभागातील

भू-कर पाहणी क्रमांक

1A
669

मुंबई नगर भूमापन नोंदवहीतील प्रमाणित खरा उतारा नगर

भूमापन नोंदवही क्रमांक

Reg. No. 317-B प्रमाणित
Page No. 81 द्वितीयावृत्ती

वरून

अधिकार, मुंबई नगर भूमापन व भूमि अभिलेख, यांनी दिलेला.

Note:- This is a true copy of the extract of C.S. Register which forms part of this office record of the area of the property referred to therein is 1530-27 sq. mtrs. i.e. One Thousand Five Hundred Thirty Point Twenty sq. mtrs. (in words). Which has been verified with the Original and Correct.

Superintendent,
Bombay City Survey and Land Records

Cum
21/8/90



श्री
पद्म
श्री
श्री

(महाराष्ट्र जमीन महसूल अधिनियम, १९६६ च्या

नकाशाचे पान क्रमांक	रस्त्याचे किंवा विभागाचे नाव	रस्ता क्रमांक	भूकर पाहणी क्रमांक	धारणाधिकार	क्षेत्रफळ चौ. वारात	लापटनचा मूमापन क्रमांक	जिल्हाधिका-याचा नवीन क्रमांक
(१)	(२)	(३)	(४)	(५)	(६)	(७)	(८)
225	Peddler	27	1A	Pension &	sq. meters. Perts		Perts
228	Rd. & Altamont Rd.	27	669	Tax	1530-27	1 7123	X 555 620 623
	Wood No.					B 7121	गं. 4 785
		34641)					
		3466					

[Area;— one Thousand Five Hundred Thirty Point Twenty Seven sq. Metres only].

मापन नोंदवही

कलम २८२ अन्वये तयार केलेली)

M/C/Hill

विभाग

आसनास देय असलेले जमीन भाडे	लानाधिकारी स्वामी असलेल्या व्यक्तीचे नाव	सध्याच्या मालकाने संपादन केलेल्या हक्काचा प्रकार
(९)	(१०)	(११)
र. वेसे	Ismael Currimbhoy	
X Redeemed	Sir Rahemtulla Meherally	
	Ebrahim Gulamhussein Currimbhoy	
X — 11 —	Dr. Abdulla Karmally and	
	Mohomed Hashamkhoy	
	[The Trustees of the Sir Karm-	
	thai Ibrahim Khoja orphanage]	
	Ministry of Communication	
	Govt. of India [Bombay Telephones]	
		Acquired under Section
		6 of the L.A. Act-1894
		Vide Govt in Revenue
		& Forests Department's
		Notification No. LBO-
		3367-H dated 16-5-1970
		for Bombay Telephones
		for construction of Tel.
		Exchange Bldg. to pro-
		vide additional tel.
		Facility to the resi-
		dents of the area.
		The said Notification
		published in M.C. &
		Part I (a) page 142
		on 19-5-1970
		The Spl. Land Acqm.
		officer (C) Bombay
		and B.S.D. has decla-
		red award vide his
		Award Statement
		No. 68 of 28-3-1972
		and possession of the
		said land has been
		handed over to the
		A. Body viz Bombay
		Telephones on 1-11-72
		Vide M.R. No. 18/90-91
		dated 17-8-1990
		Com. on Col. 12

बृहन् मुंबई

(महाराष्ट्र जमीन महसूल अधिनियम, १९६६ च्या)

हक्काचे प्रकार

Cont- From Col-11

(१२)

Ref- SLA O (3) Bombay and

B-S-D's Case No. LAQ-267

Collector's Case No. LAQ-889

No. CSLR/SLR II/T-3/MSCH/11

W-S-No. 69/90-91

अधिक्षक, मुंबई नगर भूमापन व भूमि अभिलेख,

जुने जकात गृह, पहिला माळ, फोट, मुंबई-१ (बी. आर.)

मुंबई २१/८/९० १९

नक्कल तयार करणार...

Pr. K. K. K.
17-8-90

रुजवात करणार

Pr. K. K. K.
20/8/90

कलम २२२ अन्वये तयार केलेली)

विभाग

Two identical 1 Rupee Court Fee stamps from India are shown, one above the other. Each stamp features a central emblem with a lion standing on a pedestal, flanked by two smaller lions. The text 'COURT FEE' is at the top, 'INDIA' is on the right, and 'ONE RUPEE' is at the bottom. The stamps are marked with a purple circular postmark.

प्रमाणित खरा उत्तर

ह्यास फी भूणन रुपये 15 पैसे घेऊन दिले

मंडई नगर समापन व भूमि अभिलेख.

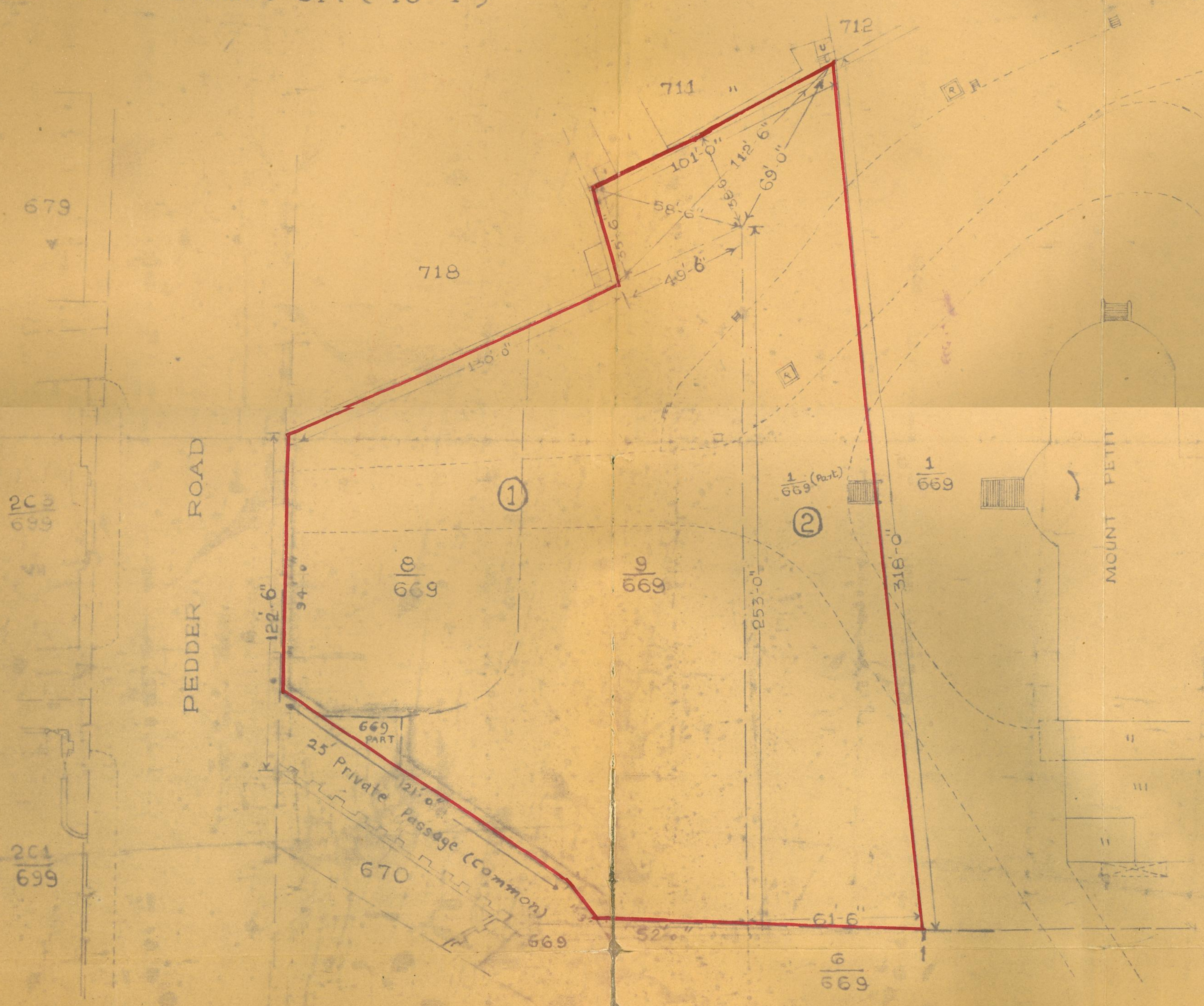
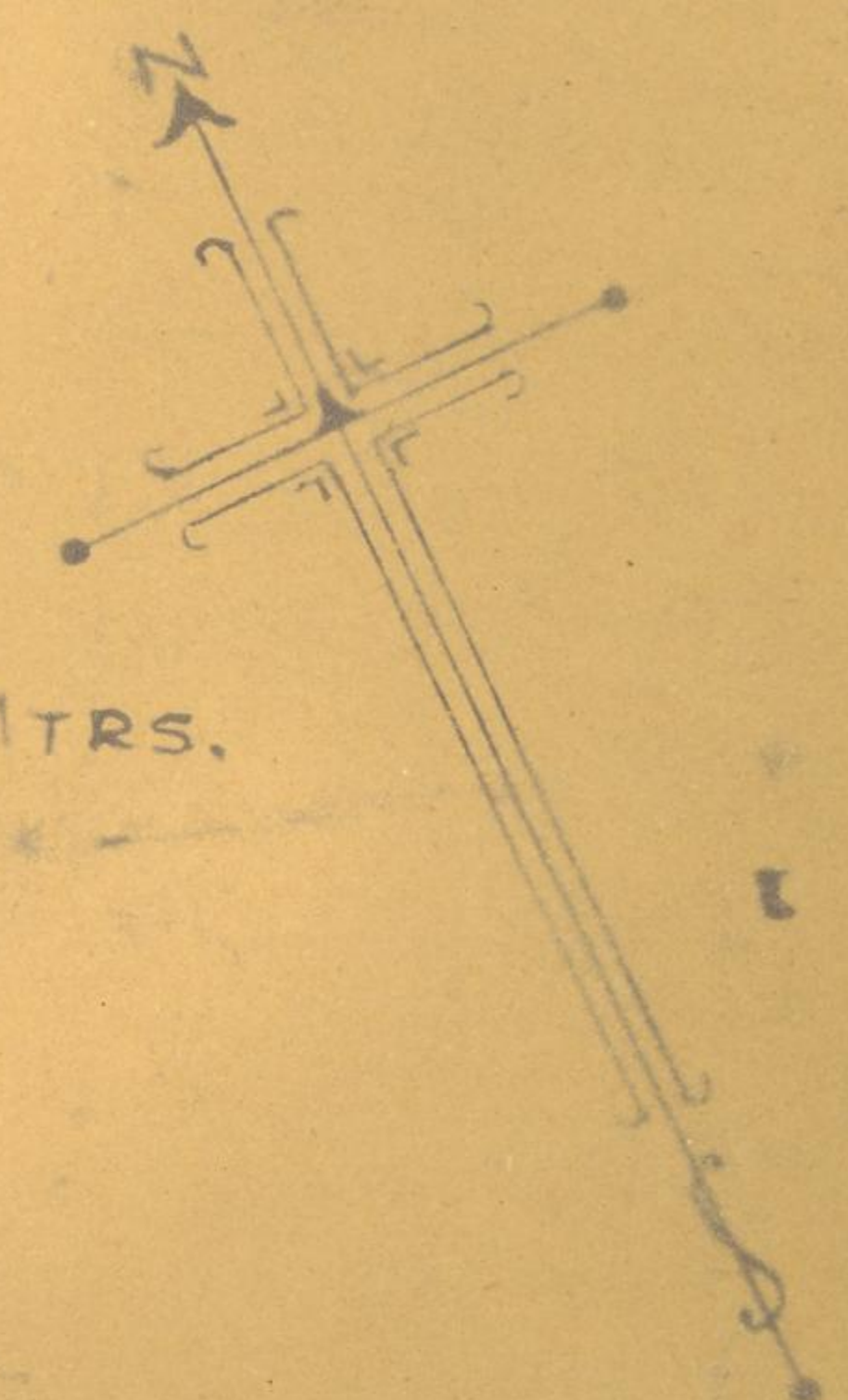
५१७७

JOINT SURVEY PLAN

OF THE PROPERTY BEARING
CADASTRAL SURVEY Nos. $\frac{8-9}{669}$, 669(Pt) & $\frac{6-9}{669}$ (PART)
OF
MALABAR HILL DIVISION.
BOUNDARY VERGED RED.

AREA: 3277.70 Sq. Yds. OR 2740.58 Sq. MTRS.
" 1830.18 " " 1530.27 " "
SCALE: 1cm to 4.8 MTRS OR (40' = 1")

TOTAL AREA: 5,107.95 Sq. Yds. OR 4,270.95 Sq. MTRS.



OWNER'S

Asst. ENGINEER (L)

SENIOR SURVEYOR,

SUPERINTENDENT.

20.2.70

20.2.70

R. S. Sethu