

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sailesh Ranjan
2018.12.07 18:20
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integrity of this document

RFA-452-2009

Date of decision: 06.12.2018

Dalu & others

....Appellants

Versus

Gram Panchayat, Gawal Pahari, Tehsil Sohna District Gurgaon & another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: None for the appellants.

Mr.Sudeep Mahajan, Addl.A.G. Haryana.

Ms.Vibha Tewari, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

The present appeal, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), arises out of the award of the Reference Court, Gurugram dated 18.07.2008, for the notification dated 22.11.1984, whereby the land measuring 234.33 acres, situated in Village Gawal Pahari, Tehsil Sohna District Gurugram was sought to be acquired for development and utilization of land as institutional-cum-residential-cum-commercial area of Gurugram.

The Reference Court decided the petition under Section 30 of the Act, by holding that the appellants shall be entitled to 1/3rd amount of compensation whereas the Gram Panchayat-respondent No.1 was held entitled to receive 2/3rd amount of compensation as awarded, qua the acquired land measuring 11 kanals 16 marlas, situated in Village Gawal Pahari, Tehsil Sohna District Gurgaon. It was noticed that the ancestors of the appellants-Harbans and Harkesh were in possession of the acquired property in cultivating position since long but nothing was brought on record that they had become owners by way of occupancy/tenancy.

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The Apex Court in *Haryana Wakf Board Vs. Haryana State & others 2018 (1) RCR (Civil) 150* has held that until the right of occupancy, as such, can mature into ownership or title, then only, on that account, higher percentage of compensation could be awarded. It has been held that the tenant will only be entitled to 10% of the amount. Relevant portion of the judgment reads as under:

“This Court in the aforesaid dictum has come to the eventual answer to the question raised for its consideration, that in such case the tenants should have been paid the compensation in its entirety as he had right to purchase property in accordance with provisions of the Tenancy Act, 1953. That is not the situation in the instant case available as per the provisions contained in the [Wakf Act](#).

14. Thus, this Court in Mangat Ram (supra) relied upon the aforesaid two decisions in Inder Parshad (supra) and Harvinder Singh Brar (supra) which did not deal with nor laid down the law with respect to the rights of tenants for apportionment of compensation, who were not having any title or right of tenancy for exceeding a period of three years and such leases being void under aforesaid provisions of the [Wakf Act](#). They will be deemed to be trespassers. This aspect was not raised for consideration nor decided in Mangat Ram (supra) or in relied upon cases. The ratios of relied upon cases was totally different and could not form the foundation for apportionment of compensation in Mangat Ram (supra). Thus, it could not be an authority on the said issue. Such person could at the most be granted 10% of the amount considering the long possession and for displacement.

15. We clarify that we are not holding that this ratio shall apply to other cases. But it will depend upon the facts and circumstances of each case and nature of rights. In any view of the matter, such tenants under void arrangement could not have been granted 3/4th compensation.”

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On 05.12.2018, none had put in appearance on behalf of the appellants and today also, position is the same. Resultantly, this Court is of the opinion that no case is made out for interference in the well reasoned order dated 18.07.2008 passed by the Reference Court.

Accordingly, in view of the above, the present appeal is dismissed.

06.12.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*