

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

**RFA No.3269 of 2017 (O&M)
Date of Decision:24.04.2018**

Duli Chand

...Appellant

Versus

The Land Acquisition Collector and another

...Respondents

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

Present: Mr. Kul Bhushan Sharma, Advocate
for the appellant.

Mr. Abhinash Jain, AAG, Haryana.

G.S. SANDHAWALIA, J. (ORAL)

The present appeal is arising out of the award dated 27.04.2017 whereby respondent-Gram Panchayat has been held entitled to the whole amount of compensation of the acquired land.

The petitioner's claim was on the ground that he had been recorded as *Gair Moursi Pattedar* and the name of the Gram Panchayat has been wrongly entered. Plea had been taken that he had ownership rights under Sections 5 & 8 of the Punjab Tenancy Act, 1887. Even the petitioner himself never appeared before the Reference Court and only his attorney as such has been pursuing his case. The Reference Court has noted that there is no mention in the column made regarding the payment of rent which is blank and therefore, mere entry in the column of the possession would not make out his right as a tenant and concession given by the Sarpanch as such regarding his right to compensation would not give him the right.

The counsel for the appellant vehemently admitted that once

the revenue record has shown his possession of 30 years till the time of acquisition dated 14.08.2008 then he is entitled for the compensation.

The Apex Court in **Haryana Wakf Board Vs. Haryana State, 2018(1) RCR (Civil) 150** after discussing law in detail, has held that the right of compensation to the tenant would not arise till it can be shown that some ownership right accrues as such, on account of long possession. Relevant portion 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.”

In the present case as noticed merely because petitioner was shown in the possession as *Gair Moursi Pattedar* and he was not paying any rent as such, he would not be entitled for compensation which would become payable to the owner Gram Panchayat as per the order of the Reference Court. The order does not suffer from any infirmity.

Resultantly, the appeal is dismissed.

24.04.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No