

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****Reserved on: 09.04.2026****Pronounced on : 17.04.2026**

I. **Punjab Waqf Board** **RFA No. 1791 of 1997 (O&M)**
...Appellant

Versus

State of Haryana & Ors. **...Respondents**

II. **Punjab Waqf Board** **RFA No. 1792 of 1997 (O&M)**
...Appellant

Versus

State of Haryana & Ors. **...Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. G.S. Bhatia, Advocate
For the appellant in RFA 1791 & 1792-1997.

Mr. Gaurav Garg, AAG Haryana
For respondent Nos. 1 and 2 in RFA 1791 & 1792-1997.

Mr. Som Nath Saini, Advocate
For respondent No.3 in RFA 1791 & 1792-1997.

*********DEEPAK GUPTA, J.**

Present two appeals arise out of the same award dated 18.12.1996 passed by the learned Additional District Judge, Panipat, whereby the reference filed under Section 18 & 30 of the Land Acquisition Act, 1894 was partly allowed and the compensation awarded by the Land Acquisition Collector was enhanced from ₹1.5 lacs - ₹ 2 lacs per acre (different categories) to ₹81/- per sq. yd. along with all statutory benefits. Besides, compensation was directed to be apportioned amongst appellant - Punjab Waqf Board to the extent of 25%, and to the occupant – respondent No. 3 to the extent of 75%.

2. In RFA 1791-1997, appellant prays for enhancement; whereas, in RFA 1792-1997, appellant has challenged the apportionment.

3. On perusal of the records, it emerges that pursuant to statutory notifications dated 23.02.1989 under Section 4, followed by declaration under notification dated 22.02.1990 under Section 6 of the Land Acquisition Act, the land measuring 6 Bighas 19 Biswas situated in Patti Taraf Insar, Panipat, owned by the appellant Punjab Wakf Board and occupied by respondent No.3, along with other land, was acquired by the State of Haryana for public purpose, namely - development and utilization of land as residential & commercial Sector 13 of Haryana Urban Development Authority, Panipat.

4. Land Acquisition Collector (LAC) vide his award dated 21.02.1992, awarded compensation of ₹1.5 lacs - ₹ 2 lacs per acre for different categories of land apart from statutory benefits.

5. Appellant Punjab Wakf Board sought reference under Section 18 & 30 of the Land Acquisition Act, claiming higher market value. It was further pleaded that respondent No. 3 was tenant under the appellant only on the area of 390 sq.yd with effect from 01.11.1984 but was in possession of entire land. Reference of appellant was sent by LAC to the reference Court under Sections 18 and 30 of the Land Acquisition Act.

6. The reference Court of learned Additional District Judge, Panipat vide his award dated 18.12.1996, assessed the market value of the acquired land to be ₹ 81/- per square yard along with solatium and other statutory benefits. Reference Court also held the owner Punjab Wakf Board to be entitled to 25% of the compensation amount; whereas, the respondents No.3 was held entitled to 75% of the compensation amount.

7. Not satisfied with the aforesaid award of the reference Court, the land owner-Punjab Wakf Board filed present appeals seeking enhancement in the market value of the acquired land. The appellant further pleaded that respondent No.3 was lessee on limited area but after the expiry of the lease

period, had become unauthorized occupant and as such, he was not entitled for any compensation amount out of the awarded amount.

8. Respondent No. 3 opposed the appeals to the extent of apportionment.

9. Learned counsel for the parties have been heard and record has been perused.

10. Before this Court, it has been fairly conceded by learned counsel for all the sides that this case is covered by the Division Bench decision in RFA No. 1379 of 1994 titled '**Nand Lal & Ors. v. State of Haryana & another**' decided on **31.08.2007**, which pertain to acquisition under the same notification.

11. Given the candid concession and the principle that a coordinate bench's decision on identical acquisitions is binding for determination of market value, the market value is fixed at ₹139 per sq. yard, payable with solatium and other statutory benefits. The appellant's plea for a markedly higher figure cannot be sustained in the face of binding precedent and the parties' admission.

12. As far as the apportionment of compensation between Punjab Wakf Board on one hand, and respondent No.3 on the other hand is concerned, reference Court, on the basis of evidence on record has observed that respondent No.3 was in possession of the acquired suit land from 1986. It was further found that no notice to him was ever sent by the Punjab Wakf Board for terminating the tenancy or challenging the alleged unauthorised possession over larger area, nor any action was ever taken to eject him.

13.1 It is argued by learned counsel for the appellant-Punjab Wakf Board that the reference Court has gravely fallen in error by awarding 25% of the compensation amount to the lessee-respondent No.3 because the status of the said lessee was that of the non-occupancy tenant. He could not have acquired the right of occupancy tenant over the property held by the Punjab Wakf Board based upon the leases granted to him.

13.2 It is further argued that even if it were assumed that land was given to the respondent No.3 on the year-to-year basis for the purpose of cultivation,

no right could accrue to him as per the provisions of Punjab Security of Land Tenure Act, 1953.

13.3 It is also urged that it was not permissible to grant lease for a period of more than three years and as such, if lease was granted exceeding three years, the same was void and no right would accrue to the lessees as per the provisions contained in Section 56 of the Wakf Act, 1995, which is *pari materia* to the provisions in Section 36F of the Wakf Act, 1954.

13.4 It is contended by Id. counsel that in such like cases, the lessees-respondent No.3 at the most could be granted not more than 10% of the compensation amount considering his long possession and for his displacement. Learned counsel has relied upon ***Haryana Wakf Board vs. State of Haryana & Ors., 2019 (13) SCC 382***, relied by this court in ***'Punjab Wakf Board Ambala Cantt. vs. State of Haryana & Others' (RFA-1487-1996 decided on 29.09.2025)***.

14. On the other hand, learned counsel appearing for the respondent No.3 argued that due to the long possession of the said respondent and the fact that he was never served any notice for his eviction nor the tenancy was ever terminated, he is entitled to the entire compensation amount. Learned counsel argues further that at least 75% of the compensation amount should be awarded to the respondent, which has rightly been granted by the reference court. Learned counsels have relied upon ***Inder Prashad vs. Union of India, 1994 (5) SCC 239; Union of India vs. A. Ajit Singh, 1997 (6) SCC 50; Mangat Ram vs. State of Haryana, 1996 (8) SCC 664***; and ***Colonel Sir Harinder Singh Brar Bans Bahadur vs. Bihari Lal, 1994 (4) SCC 523***.

15. The controversy regarding apportionment of compensation between the Wakf Board and lessees came up before the Hon'ble Supreme Court in ***'Haryana Wakf Board v. State of Haryana' (supra)***. In that case, the dispute centred around whether lessees of Wakf land were entitled to 3/4th of the compensation, with only 1/4th payable to the Wakf Board. The Board had contended that lessees were only non-occupancy tenants, who could not acquire occupancy rights under the Punjab Security of Land Tenure Act, 1953. It was also urged that, in terms of Section 36-F of the Wakf Act, 1954 (*pari materia* to Section 56 of the Wakf Act, 1995), no lease of Wakf property could extend beyond three

years without prior sanction of the Board, and any lease contrary thereto was void. On the other hand, the lessee had relied upon earlier decisions (**Mangat Ram, Inder Prashad, Harinder Singh Brar etc.**) to claim 3/4th share in compensation. These authorities were also relied in **A. Ajit Singh's case (supra)**.

16.1 Hon'ble Supreme Court in **Haryana Wakf Board v. State of Haryana (supra)** examined the above cited authorities and clarified that they did not directly consider the effect of the Wakf Act provisions rendering leases beyond three years void. The Court observed that decisions rendered without considering the relevant statutory provisions could not be treated as binding precedents on the issue.

16.2 Hon'ble Supreme Court in further observed as under:-

"8. Having heard learned counsel for the parties, in our opinion, a person in settled possession can be disbursed some compensation on account of displacement and deprivation of the possession by virtue of acquisition of land. However, the quantum of compensation to be apportioned between the lessee or a person in settled possession of the land and owner would depend upon nature of rights existing with a person in possession under the prevalent laws and arrangement under which he is holding the land. It is apparent that under the Wakf Act, 1954 the provisions contained in Section 36-F, restricts the powers to grant lease of Wakf property exceeding three years and the non obstante clause contained in Section 36-F provides that such a transaction, if entered into, shall be void and of no effect until and unless it is made with the previous sanction of the Board. In this case, admittedly, there was no sanction of the Board. Thus, the arrangement entered into in 1968-1969 exceeding three years would not confer any right, title or interest upon the lessee. Even if sanction had been granted by the Board it would not render lease void but would not confer any rights, under Tenancy Act, 1953."

16.3 While analyzing Section 36-F of the Wakf Act, 1954, which is *pari materia* to Section 56 of the Wakf Act 1995, Hon'ble Supreme Court observed as under:-

"10. In view of the non-obstante clause contained in provisions of Section 36-F of the Wakf Act, 1954 the provisions contained in Section 18 of the Tenancy

Act, 1953 would not be applicable. In the instant case, it is apparent that even if we accept the submission raised by learned counsel appearing on behalf of some of the lessees that the arrangement was on the year-to-year basis it would not confer any right. In fact, leases were for the period exceeding three years. It was an impermissible and void arrangement as such no title would accrue to the lessee. They were holding Wakf property, which by its very nature was dedicated for the public purpose and no right could be conferred to the lessees on the basis of void leases. In such cases Section 18 of Tenancy Act, 1953 is not applicable. In such case, the status of the lessees would be that of a deemed trespasser and trespasser have no right to possess the property as such could not said to be entitled for disbursement of the compensation to the extent of 3/4th. Only some amount of compensation owing to displacement could have been given or in case there was a crop, for damage of the crop. They could not successfully claim apportionment on the basis of the price of the land as there was no ownership right or occupancy right vested with such lessees. The extent of compensation to be paid in such cases would depend upon the facts of each case, nature of possession, rights, if any, and no straightjacket formula can be laid down in this regard. At the most in such a case where there is no right, title conferred or accrued by virtue of cultivation of the land of occupancy, the compensation to the extent of 5% to 15% could have been given for the purpose of re-settlement in view of the fact that a person had been displaced and deprived of right to livelihood. The major part of compensation must be paid to the owner in such cases.”

17. Thus, Hon’ble Supreme Court held that leases beyond three years, without sanction, were void and conferred no tenancy or ownership rights. Persons holding under such void arrangements were to be treated as deemed trespassers. At best, they could be granted limited compensation (about 5–15%) on equitable grounds for displacement or livelihood loss, but not a substantial share in the value of the land itself. The Court found that decisions in **Mangat Ram, Inder Prasad** and **Harinder Singh Brar** did not decide the specific question arising under the Wakf Act (i.e. the effect of void, unsanctioned leases). Consequently, it was held that those authorities cannot be treated as laying down the law for wakf leases that offend Section 36-F.

18. In view of the authoritative pronouncement of Hon'ble Supreme Court in *Haryana Wakf Board v. State of Haryana (supra)*, wherein previous decisions in *Mangat Ram, Inder Prasad* and *Harinder Singh Brar (relied by cross-objectors)* were duly considered, legal position is clear that where a person is in possession under a void wakf lease (or under an arrangement which cannot confer occupancy rights), he will be treated as a deemed trespasser after the statutory three-year limit. Such a person has no right to claim compensation on the basis of the market price of the land. At the most, he may be awarded a limited amount for displacement /resettlement, or for crop damage. Hon'ble Court has clearly indicated that the compensatory award in such circumstances must be modest, generally within a small percentage of the total, and on the facts of *Haryana Wakf Board*, observed that an award not exceeding 10% of the compensation would be appropriate in view of long possession and displacement alone. This conclusion has been arrived Hon'ble Supreme Court by referring to specific statutory scheme applicable to wakf property and the application of equitable considerations. The precise percentage within the modest range may still depend on facts like nature of possession, extent of displacement, crop damage, etc., but it preclude a large apportionment, where the lease is void for want of sanction.

19. ***Application to the present case :*** Applying the above ratio to the facts of this case, although respondent No.3 has been in possession (since at least 1986) and was never served a termination notice, his possession arose under arrangements which, if found to exceed three years and lacked the Board's sanction, cannot vest occupancy rights under the Wakf Act. On that footing, he will be deemed as trespasser after three years and so, he cannot claim apportionment based on the market value of the land. Accordingly, having regard to the Hon'ble Supreme Court's guidance, respondent No.3 could at best be awarded a limited sum for displacement. In line with the *Haryana Wakf Board* ratio, he is held entitled for not exceeding 10% of the total compensation.

20. ***Conclusion:*** In view of the foregoing discussion, the present appeals are disposed of by holding that the compensation for the acquired land is assessed at ₹ 139/- per sq. yd., payable along with solatium and all other

statutory benefits in accordance with law. The appellant–Punjab Wakf Board shall be entitled to 90% of the compensation amount, while respondent No.3 shall be entitled to the remaining 10%.

21. However, in the interest of justice, it is directed that in case the total compensation amount to the extent of 10% payable to respondent No.3 exceeds the amount already received by him, as per the award of the collector and the reference court, the excess amount shall not be recovered from him.

22. Both the appeals are disposed of accordingly.

17.04.2026

Jiten

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

(DEEPAK GUPTA)
JUDGE

UPLOADED ON: - 18.04.2026