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Haryana Wakf Board v. State of Haryana, (SC) : Law Finder Doc Id # 937143

***SUPREME COURT* OF INDIA**

Before:- Arun Mishra and Mohan M. Shantanagoudar, JJ.

Civil Appeal No. 19342 of 2017 (Arising out of SLP (C) No. 24838 of 2014).

D/d. 2.11.2017.

Haryana Wakf Board - Appellants

Versus

State of Haryana and Ors. - Respondents

With

Civil Appeal No. 19343-19344 of 2017 (@ SLP (C) No. 14715-14716 of 2014), Civil Appeal No. 19353 of 2017 (@ SLP (C) No. 28625 of 2014), Civil Appeal No. 19347 of 2017 (@ SLP (C) No. 15614 of 2014), Civil Appeal No. 19345 of 2017 (@ SLP (C) No. 15365 of 2014), Civil Appeal No. 19346 of 2017 (@ SLP (C) No. 15573 of 2014), Civil Appeal No. 19348 of 2017 (@ SLP (C) No. 15656 of 2014), Civil Appeal No. 19349 of 2017 (@ SLP (C) No. 17083 of 2014), Civil Appeal No. 19350-19351 of 2017 (@ SLP (C) No. 17085-17086 of 2014), Civil Appeal No. 19352 of 2017 (@ SLP (C) No. 24837 of 2014), Civil Appeal No. 19355 of 2017 (@ SLP (C) No. 26573 of 2014).

For the Appellants :- Imtiaz Ahmed, Mrs.Naghma Imtiaz, Ahmed Zargham, Ms. Amra Moosavi, Mohammad Ibrahim, Ms. Mitali Chauhan, (M/s. Equity Lex Associates), K.K. Mohan, Advocates.

For the Respondents :- Abhishek Agarwal, Piyush Singh, Kaustubh Prakash, Vaibhav Tyagi, Jasbir Singh Malik, Ms. Usha Nandini V., B.K. Satija, Sanjay Kumar Visen, Advocates.

A. Wakf Act, 1995 Section 56 Wakf Act, 1954, Section 36-F - Acquisition of lands of Wakf Board - Apportionment of compensation to extent of 3/4 to lessee and 1/4 to Haryana Wakf Board - Person in settled possession can be disbursed some compensation on account of displacement and deprivation of possession by virtue of acquisition of land - However, quantum of compensation to be apportioned between lessee or a person in settled possession of land and owner would depend upon nature of rights existing with a person in possession under prevalent laws and arrangement under which he is holding land - Such persons at most be granted 10% of amount considering long possession and for displacement - Apportionment of compensation set aside.

[Paras 8 and 16]

B. Wakf Act, 1954, Section 36-F - Restrictions on powers to grant lease of Wakf property - Not exceeding three years and 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 previous sanction of the Board - Admittedly, no sanction of Board - Thus, arrangement entered into in 1968-1969 exceeding three years would not confer any right, title or interest upon lessee - Even if sanction granted by Board it would not render lease void but would not confer any rights, under Tenancy Act, 1953.

[Para 8]

Cases Referred :

Col. Sir Harinder Singh Brar Bans Bahadur v. Bihari Lal, 1994(2) R.R.R. 447 : (1994) 4 SCC 523.

Inder Parshad v. Union of India, (1994) 5 SCC 239.

Mangat Ram v. State of Haryana, 1996(2) R.R.R. 625 : (1996) 8 SCC 664.

JUDGMENT

Arun Mishra, J. - Leave granted.

2. The Haryana Wakf Board against the judgment and order dated 10th February 2014 passed by the High Court of Punjab and Haryana at Chandigarh, has preferred the appeals pertaining to the apportionment of compensation to the extent of 3/4 to the lessee and 1/4 to the Haryana Wakf Board.

3. The lands belonging to the Wakf Board at Panipat and Hissar had been acquired by issuance of Notification dated 12th September 2001 and 21st March 1991, respectively. The Land Acquisition Collector vide award dated 16th March 1994 determined the compensation, and directed its payment to the Wakf Board only; no compensation was paid to the respondents, as they failed to prove that they were occupancy tenants of the land in question. A reference was sought under the Land Acquisition Act, 1894. The Reference Court opined that the lessees were entitled to compensation to the extent of 3/4 shares and Wakf Board to the extent of 1/4 share. The Wakf Board preferred appeals in the High Court. The High Court did not make any interference with the apportionment made by the Reference Court and dismissed the appeals. Hence, the Wakf Board has come up in the appeals.

4. The only question agitated in the appeals is with regard to the apportionment of compensation. Learned counsel appearing on behalf of the Haryana Wakf Board has strenuously urged that since the status of the lessees was that of non-occupancy tenant; they could not have acquired a right of occupancy tenant over the property held by the Wakf Board. None of the lessees of Wakf Board had any right, title or interest on the basis of leases even assuming it was given on the year-to-year basis for the purpose of cultivation. No right would accrue to the lessees as per the provisions contained in the Punjab Security of Land Tenants Act, 1953 (for short "the Tenancy Act, 1953"). It was further urged that it was not permissible to grant lease for a term of more than three years and as such if lease was granted exceeding three years, 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 36-F of the Wakf Act, 1954.

5. It was also urged on behalf of the appellant that in ***Mangat Ram and Ors. v. State of Haryana & Ors. [1996(2) R.R.R. 625 : (1996) 8 SCC 664]*** reliance has been placed on the decisions of this Court in ***Harinder Singh Brar Bans Bahadur v. Bihar Lal [1994(2) R.R.R. 447 : (1994) 4 SCC 523*** and ***Inder Parshad v. Union of India [(1994) 5 SCC 239]***. In Harinder Singh Brar (supra) the lessee was having a right to purchase under Section 18 of the Tenants Act, 1953. There was no such right available in instant cases. Thus, reliance could not have been placed on Mangat Ram (supra) to apportion compensation to the extent of 3/4 to lessee and 1/4 to Wakf Board. It was further urged that in the case of Inder Parshad (supra) the dispute was with regard to apportionment of compensation to the lessee for the land held on the perpetual lease granted by the Government. Here, the lessees were deemed trespassers as land belonging to Wakf could not have been given on lease for a period beyond three years as per the provisions contained in Section 36-F of the Wakf Act, 1954 corresponding to section 56 of the Wakf Act, 1995.

6. On the other hand, learned counsel appearing for the State has submitted that it was basically the dispute between the Wakf Board and the lessee. However, it was contended that no right would accrue to the lessee over the property owned by Wakf Board. Further, as in view of the decision of Mangat Ram (supra) apportionment has been made as such no case for interference in the facts of the present case was made out.

7. Relying on the decision of this court in Mangat Ram (supra), it was contended by learned counsel for the lessees that the land was cultivated with effect from 1968-1969 and for cultivating the land payment was made to the Wakf Board, even if no right, title or interest could be acquired and the right of occupancy tenant could not be conferred on such lessees, as a matter of fact, they had been deprived of their only source of livelihood and they had made land cultivable by the dint of their efforts and had cultivated it for more than two decades before the acquisition had been made. Apart from that even if this Court accept the finding as to the rights of the lessees, compensation having been disbursed and utilized it would be extremely difficult for the poor lessees to refund it to the Wakf Board.

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 obstinate 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.

9. Section 36-F of the Wakf Act, 1954 is pari materia to the provisions of section 56 of the Wakf Act, 1995. Section 36 F of the 1954 Act is extracted hereunder:

> "*36-F. Restrictions on the powers to grant lease of wakf property.*-(1) A lease or sub-lease for any period exceeding three years of any immovable property which is wakf property shall, notwithstanding anything contained in the deed or instrument of wakf or in any other law for the time being in force, be void and of no effect.
> (2) A lease or sub-lease for a period exceeding one year and not exceeding three years of any immovable property which is wakf property shall, notwithstanding anything contained in the deed or, instrument of wakf or in any other law for the time being in force, be void and of no effect unless it is made with the previous sanction of the Board.
> (3) The Board shall, in granting sanction for the making or renewal of lease under this section review the terms and conditions on which the lease or sub-lease is proposed to be granted or renewed and make its approval subject to the revision of such terms and conditions in such manner as it may direct."

10. In view of the non-obstinate 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 straight-jacket 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.

11. In Mangat Ram (supra) this Court has considered the question of disbursement of compensation in paragraph 7 which reads as under:

> "7. As regards apportionment of the compensation, the High Court has directed to pay 1/4 to the tenant and 3/4 to the Wakf Board. In view of the judgment in ***Col. Sir Harinder Singh Brar Bans Bahadur v. Bihari Lal (1994) 4 SCC 523*** and ***Inder Parshad v. Union of India, (1994) 5 SCC 239*** the tenants are entitled to 3/4 of the compensation while the landlord is entitled to 1/4 of the compensation. In view of the above law, the order of the High Court in appeals arising from reference under Section 30 is modified to the extent that appellants/tenants Mangat Ram and Others are entitled to 3/4th while the Wakf Board is entitled to 1/4th of the compensation amount. The amount awarded in the judgment of the Single Judge under Section 23(1-A) also requires to be apportioned accordingly."

This Court has followed the decision in Harinder Singh Brar (supra) and Inder Parshad (supra) holding that Wakf Board was entitled to compensation of 3/4th and the landlord was entitled to 1/4th of compensation. This Court was not asked to examine whether lessee of Wakf Board acquired any right, title or interest in the land or would acquire it in future. The aforesaid provisions of Wakf Act were not placed for consideration. It is settled proposition of law that a decision cannot be said to be an authority on the issue that has not been decided.

12. This Court in Mangat Ram (supra) relied upon the decision in Inder Parshad (supra) in which, we find that this Court has ordered that apportionment to be made to the extent of 67% to tenant and 33% to owner, as the lease of land was given on perpetual basis to the lessee by the Government, he was having the rights to hold the land perpetually, thus, was held entitled for aforesaid apportionment. That is not the factual situation obtainable in the instant cases. The aforesaid ratio could not be said to be applicable to Mangat Ram (supra) as no such right was available as per the provisions contained in Section 36-F of the Wakf Act, 1954 corresponding to section 56 of the Wakf Act, 1995. The compensation has to be determined depending upon the right, title or interest which, one possesses is the law settled by various decisions of this Court. Thus, the ratio of the aforesaid decision could not have been attracted for apportioning the compensation to the extent it was so done in the case of Mangat Ram (supra) to the tenants, 3/4th and Wakf Board 1/4th, it was not so borne out from the decision of Inder Parshad (supra). There was no such general proposition laid down by this Court in Inder Parshad (supra). This court in Inder Parshad (supra) has emphasised that right, title, and interest held by the lessee have to be taken into consideration for the purpose of apportionment. This Court in Inder Parshad (supra) has observed:

> "5.In this case, admittedly the Government being the owner of the land, the appellant held the demised land as lessee with superstructure built thereon and was in possession and enjoyment of the same on the date of acquisition. The contents of the award extracted hereinbefore clearly indicate that the Land Acquisition Collector could not determine compensation payable towards the leasehold interest held by the appellant. Being an owner the Government is not enjoined to acquire its own interest in the land or land alone for public purpose. When its land is granted on lease in favour of a lessee its power to resume the land is subject to non-fulfilment of the terms and conditions of the lease by the lessee. So long as the lessee acts and complies with the covenants contained in the lease or the grant, the right to resumption in terms of the lease or grant would not arise. But when the land is required for public purpose, the Government should get absolute title thereof free from all encumbrances. Compensation becomes payable for the leasehold right or interest held by the lessee or grantee when the land is acquired. The point becomes clear from the following illustrations. Take a case where the Government granted lease of agricultural land on the annual

payment of rent with a covenant that the Government is entitled to resume the land when needed for public purpose or as when the Government finds that the land is required for public purpose. In terms of the covenants, the Government is entitled to exercise its option to determine the lease though the lessee has been complying with the condition of payment of annual premium or rent and resume the land in accordance with terms of the grant. In that event, the need to take recourse to acquisition and to make compensation does not arise. Take a case where the Government granted the lease of the open land with permission to the lessee to construct a building for his quiet enjoyment with appropriate covenants and the lessee with permission constructed the building and by complying with the covenants of the lease was in quiet enjoyment. The selfsame property, when required for public purpose, the Government cannot unilaterally determine the lease and call upon the lessee to deliver the possession. Therefore, the Government is required to exercise the power of eminent domain by invoking the provisions under the Land Acquisition Act for getting such land. The Collector shall have to determine the compensation towards the leasehold interest held by the lessee, if assessable separately and determine the compensation. The lessee being the owner of the superstructure and the Government being the owner of the land if compensation is determined for both the components, then the same has to be apportioned between them. At what proportion the lessor and the lessee are entitled to receive the compensation has to be determined. In the absence of any covenant in the lease for payment and in the absence of any specific date available to him, the Collector has to determine the respective shares at which the compensation is to be apportioned between the Government and the lessee, the course open to the Land Acquisition Collector is to determine the total compensation, make an award and make a reference to the civil court under Section 30 for decision on appointment. Exactly that is the situation on the facts of this case. Take another illustration. The Government grants a patta of its land subject to payment of land revenue. Later, the land is required for public purpose. The payment of land revenue is at par with the payment of land revenue payable by a private owner to the State. By grant of patta, the title has been vested in the grantee. Therefore, the grantee is entitled to the full compensation of the acquired land.

"8. In the island of Bombay, certain lands were held on a tenure known as "Foras". Under Section 2 of Bombay Act VI of 1851, the occupants were entitled to hold the lands subject only to the payment of revenue then payable. Between 1864 and 1867 the Government of India acquired these lands under the provisions of the Land Acquisition Act (VI of 1857). On November 22, 1938, the Governor-General sold them to certain persons under whom the present respondents claimed. In April 1942 the appellant acting under the Bombay City Land Revenue Act (Bombay Act II of 1876) issued notices to the respondents proposing to levy assessment on the lands at the rates mentioned therein. The respondents thereupon instituted two suits disputing the right of the appellant to assess the lands to revenue. They contended that under the Foras Land Act the occupants had acquired the right to hold the lands on payment of revenue not exceeding what was then payable, that the right to levy even that assessment was extinguished when the Government acquired the lands under the Land Acquisition Act, that the Governor-General having conveyed the lands absolutely under the sale deed dated November 22, 1938, the respondents were entitled to hold them revenue free and that even if revenue was payable it could not exceed what was payable under the Foras Land Act. On those facts, this Court held that if the Government has itself an interest in the land, it has only to acquire the other interests outstanding therein, so that it might be in a position to pass, it on absolutely for public user. And the Act primarily contemplates all interests as held outside the Government and directs that the entire compensation based upon the market value of the whole land must be distributed among the claimants. When the Government possessed an interest in land which is the subject-matter of acquisition under the Act, that interest is itself outside such acquisition, because there can be no question of Government acquiring

> what is its own, an investigation into the nature and value of that interest will no doubt be necessary for determining the compensation payable for the interest outstanding in the claimants but that would not make it the subject of acquisition. In that case, since the claimants are entitled to pay only land revenue and thereafter since sale of the land was made, the pre-existing right in the land which the Government had ceased and claimants became owners. Therefore it was held that the claimants alone were entitled to the full compensation. But on the facts in this case, it is seen that since the Land Acquisition Collector had determined the compensation of the sum total of the interests held by the lessor and the lessee in the land under acquisition but being not able to decide on the apportionment of such compensation between Government and the appellant reference was made to the civil court to determine the apportionment. The civil court decided by its award that apportionment of compensation fixed in the award of the Land Acquisition Collector between the lessee-claimant and the Government-landlord shall be in order of 67 percent and 33 percent. The High Court by its judgment and decree under the present appeal has modified the apportionment of compensation payable for land as 75 percent for the lessee and 25 percent for the lessor Under these circumstances it cannot be said that the Land Acquisition Collector had determined the compensation only towards the leasehold interest held by the appellant and that, therefore, the appellant is entitled to the entire compensation determined by the Collector. Therefore, the judgment and decree under appeal does not call for interference and the appeal is, accordingly, dismissed. But in the circumstances, the parties are directed to bear their own costs."

13. In Mangat Ram (supra) this Court has also relied on the decision in Harinder Singh Brar (supra), in which this Court ordered the payment of compensation to the tenant considering the provisions of Section 18 of the Tenancy Act, 1953. The land was possessed by the tenant under the lease agreement, such lessee was entitled to purchase it under Section 18 Tenancy Act, 1953. The provisions of the said Act are not attracted in the instant case. This Court has in Harinder Singh Brar (supra) observed that the nature of interest which, the landowner possessed in the land at the time of its acquisition is material to be taken into account in each case, and also the fact that is required to be taken into consideration is whether any right was conferred upon the tenant. In the aforesaid case, the property did not belong to the Wakf Board. In the cases at hand, there was no right conferred upon the tenant to become the occupancy tenant or lessee beyond three years, which could be said to have been taken away by the land acquisition. This Court has observed in Harinder Singh Brar (supra) that certain amount in respect of the purchase price would have to be paid by the tenant while exercising right, as per formulae provided under Section 18 of the Tenancy Act, 1953. The owner would not be entitled to anything more. This Court further observed about apportionment that statutory price under section 18 was not market price as tenant had the right to purchase at statutory price, the market price must go to him in the said proportion. This Court considered the question of apportionment thus:

> 13. We could add to the component of the market value of the land in item (i) above, 15% being the consideration payable for the compulsory nature of acquisition, that is, solatium. Since interest becomes payable for delayed payment of compensation after the Collector takes possession of the acquired land such interest, if accrued, has to be added to each component of compensation. The compensation award able since comprises of the said components every person entitled to make a claim as regards his interest in the land and the component of compensation award able thereto. There cannot be any doubt nor was it disputed that the landowner possesses certain interest in the acquired tenanted land if it is acquired under the L.A. Act and vested in the State before its tenant becomes its deemed owner under sub-section (4) of Section 18 of the Tenures Act. The landowner could claim the component of compensation or any portion thereof according to the nature of interest possessed by him prior to the acquisition and vesting of the land under the L.A. Act. The composition of each of the components of compensation adverted to by us are seen, the landowner can make no claim for the components

of compensation under items (ii) to vi), in that, those components of compensation could become payable only to a tenant who would have suffered damages award able thereunder. However, if regard is had to the nature of interest of landowner comprised in the tenancy of a tenant, a claim could be made by him for the component of compensation of market value in item (I) and solatium and interest payable thereon. The question which, then, needs our consideration is, whether the landowner who, as owner of the tenanted land before its acquisition and vesting under the L.A. Act, could claim the whole component of compensation in item (I) and solatium and interest award able thereon. Here, comes the nature of interest which the landowner possessed in the tenanted land at the time of its acquisition and its vesting in the State under the L.A. Act. It cannot be gainsaid, that a landowner of tenanted land, to the purchase of which a tenant had become entitled under Section 18 of the Tenures Act, could be anything other than the purchase price payable for purchase of it under the Act, particularly, when a tenant had made an application for such purchase availing the right conferred upon him in that regard under Section 18 of the Tenures Act. If at the time of acquisition and vesting of the tenanted land under the L.A. Act, the landowner's entitlement from the tenant was such land's purchase price, his interest, having regard to its nature, could only be in the component of compensation consisting of market value of the land adverted to in item (i) and solatium and interest payable thereon and nothing beyond it. Therefore, such a landowner could only lay his claim for the amount of the purchase price out of the component of such compensation and limited to the amount of purchase price. However, it was contended on behalf of the appellant that the landowner would become entitled to three-fourths of the amount of compensation award able for the land acquired even though the tenant was entitled to its purchase under the Tenures Act. In support of the submission, reliance was placed on the observations made by a learned Single Judge of the High Court in his judgment-the subject-matter of one of the present appeals, which read, thus:

"I think the Punjab Security of Land Tenures Act itself appears to afford some guidance in the matter. Section 18(3) prescribes the purchase price to be paid by the tenant at three-fourths of the value of the land as determined by Section 18(2). It means that the interest of the landowner is assessed at three-fourths and the interest of the tenant is assessed at one-fourth. The value of the land as determined under Section 18(2) may be more or less than the value of the land on the date of the notification of acquisition. But that makes no difference. What is important is that the interests of the landowner and the tenant are fixed at three-fourths and one-fourth of the value of the land. On that basis, I direct the apportionment of the compensation between the appellant and the first respondent in the ratio of 1:3."

The said observation of the learned Single Judge, it must be said, with great respect to him, is based on misconstruction of the provisions of sub-sections (2) and (3) of Section 18 of the Tenures Act. The value of the land envisages under sub-section (2) is not the market value of the land but the value of the land which should be the average price of land in the neighbourhood during 10 years preceding the date of making of the application by the tenant for purchase of land. What sub-section (3) says, is that the purchase price of the tenanted land must be three-fourths of the value of the land determined under sub-section (2), which means that the value of the tenanted land could only be three-fourths of the average value of the neighbouring land during ten years preceding the date of making of the application by the tenant for purchase. Here is a statutory measure required to be adopted to find out the purchase price of tenanted land and not the supposed market value of that land as on the date of making of the application for purchase. If that be so, we are unable to understand how the market value of the land which will be far different from the statutory value of the land could be regarded as the same, as has been done by the learned Single Judge. Hence, the contention raised on behalf of the appellant that the landowner would be entitled to three-fourths of the market value of the land becomes unsustainable. If we have regard to the provisions under sub-sections (2) and (3) of

> Section 18 of the Tenures Act, rightly adverted to by the learned Single Judge, the amount of compensation to which a landowner becomes entitled can only be the purchase price which he would be entitled under the said provisions for his land, which the tenant had a right to purchase thereunder. If the purchase in favour of the tenant was over, as indicated in sub-section (5) (sic) of Section 18, the purchase price, it must be kept in mind, could have been recovered by the landowner as arrears of revenue. Therefore, in our view, the tenant could have been entitled to get out of the component of compensation award able as market value in answer item (I) referred to above and the solatium and interest payable thereon, only that amount of compensation which could be equivalent to the purchase price liable to be paid by the tenant to the landowner under Section 18 of the Tenures Act and nothing more or less. Hence, our answer to the question under consideration is, that if a tenanted land which its tenant was entitled to purchase under Section 18 of the Tenures Act did vest in the State by reason of its acquisition under the L.A. Act before he became its deemed owner as envisaged under sub-section (4) of Section 18 of the Tenures Act, the landowner of that tenanted land could have made a claim for compensation award able therefor under the L.A. Act and his entitlement out of the said compensation could only be that falling in the component of compensation in item (i), the market value of that land together with solatium and interest, however, limited to the amount of purchase price which he was entitled to get for the land answered under Section 18 of the Tenures Act and nothing more or less."

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.

16. In the instant case, the possession has already been taken by the acquiring body and compensation has already been disbursed to the lessees. It is stated that they are poor persons and they were holding the said land as the only source of livelihood and by now have spent the amount paid to them, though undertaking was given to the Wakf Board to refund the amount. But as the amount has already been spent, the lessees being poor persons it would be difficult to them to refund the amount, in exercise of powers under Article 142 of the Constitution it is directed that there shall be no recovery of the amount paid to them under order of the High Court as that was based upon the decision of Mangat Ram (supra) which we have clarified in the present case. Thus, it is made clear that no recovery shall be made of the amount on the basis of the conclusion recorded by us.

17. We, accordingly, allow these appeals and set aside the impugned judgment and orders passed by the High Court and of the Reference Court with respect to apportionment. No costs.