

Col. Sir Harinder Singh Brar Bans ... vs Bihari Lal And Ors. on 18 March, 1994

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Bench: K. Ramaswamy, N. Venkatachala

JUDGMENT

N. Venkatachala, J.

1. Bihari Lal was a tenant of 246 Kanals 18 Marias of land of the village Ballabhgarh in erstwhile Punjab State, now in Haryana State. He got a right to purchase that land from its landowner, Harinder Singh, since such right was conferred upon him by Section 18 of the Punjab Security of Land Tenures Act, 1953, - 'the Tenures Act' for short. That on March 2, 1961, he made an application for such purchase before the Assistant Collector of First Grade Ballabhgarh - the authority empowered to decide on the right to purchase and determine the purchase price. The Assistant Collector granted that application by his order dated March 3, 1963 recognising the tenant's right to purchase 224 Kanals 18 Marias of the said land and determining its purchase price, besides ordering deposit of that purchase price, either in a lump sum or in four equal six monthly instalments, so that the same may be paid to the landowner. The tenant who chose to deposit the first instalment of that purchase price, deposited the same on March 12, 1963, well before the time allowed therefor. The said order of the Assistant Collector made, recognising the right of purchase of the land by the tenant, became final, when the Financial Commissioner by his order dated December 9, 1965, dismissed the Revision Petition of the landowner questioning the tenant's right of purchase, in that, that order of the Financial Commissioner was not got set aside by the landowner from any superior forum. However, the order of the Assistant Collector dated March 3, 1963, relating to purchase price, which was required to be redetermined by appellate remand order of Collector, as affirmed by the revisional order dated December 9, 1965 of the Financial Commissioner, was indeed, redetermined by the Assistant Collector by his order dated September 20, 1968. But, such redetermination of the purchase price was confined to the portion of the said land which was not by

then acquired under the Land Acquisition Act, 1894 - 'the LA Act' for short. However, the Commissioner, by his order dated August 19, 1969, made in second appeal arising from the said order of the Assistant Collector, held that the rate of purchase price of portion of land redetermined by the Assistant Collector shall extend to the whole land, the purchase of which was allowed by the Assistant Collector, by his earliest order dated March 3, 1963.

2. In the meanwhile, that on August 3, 1961 a notification under Section 4(1) of the LA Act had come to be published in Haryana State Gazette, proposing acquisition of 25 Kanals 2 Marias out of the said 224 Kanals 18 Marias of land, which had been allowed to be purchased by the tenant according to Assistant Collector's order dated March 3, 1963. Possession of the land proposed for acquisition was also taken by the Land Acquisition Collector (LA Collector) from the tenant on October 14, 1961, resulting in vesting of that land in the State of Haryana, in that, such possession was taken under Section 17(1) of the LA Act. Subsequently, on October 14, 1961, the LA Collector, who made an award under Section 11 of the LA Act, determined the compensation payable for the acquired land of 25 Kanals 2 Marias as Rs. 26,271.00 and paid the whole compensation to the tenant. The landowner, who had claimed the whole amount of compensation, feeling aggrieved by the award of the LA Collector and the payment of whole compensation to the tenant, made an application to the LA Collector under Section 18 of the LA Act, for making a reference to the Court of Additional District Judge, Gurgaon for its decision under Section 30 of the LA Act. That Court, by its judgment and decree dated October 29, 1965 held that the landowner alone was entitled to the whole of compensation awarded for the said land by the LA Collector, on its view that the acquired land had vested in the State Government before the tenant could become its deemed owner under Sub-section (4) of Section 18 of the Tenures Act by depositing its purchase price, as allowed by the Assistant Collector by his order dated March 3, 1963, while the landowner was still its owner. In the tenant's first appeal preferred against that judgment and decree before the High Court of Punjab & Haryana, a learned single Judge of that Court allowed that appeal partly, on his view that the compensation awarded for the acquired land was apportionable between the landowner and the tenant in the ratio of 3 :1, thinking that the amount so apportionable to the landowner would be more or less the purchase price payable for the land by the tenant under Sub-sections (2) and (3) of Section 18 of the Tenures Act. But in the Letters Patent Appeal preferred by the tenant in the same Court against the judgment and decree of learned single Judge, a Division Bench by its judgment and decree dated August 20, 1979 rendered following its earlier judgment in a similar matter, allowed that appeal partly, holding that the landowner's entitlement to compensation awarded for the said land acquired under the LA Act, had to be limited to the amount of compensation which was liable to be paid as purchase price by the tenant, as determined under Sub-sections (2) and (3) of Section 18 of the Tenures Act. It is that judgment and decree of the Division Bench of the High Court which is the subject of present Civil Appeal No. 540 of 1980.

3. After the said acquisition, that on September 8, 1966, another notification under Section 4(1) of the LA Act had come to be published in Haryana State Gazette, proposing acquisition of 151 Kanals and 2 Marias of land out of 224 Kanals 4 Marias of land which had been allowed to be purchased by the tenant according to Assistant Collector's order dated March 3, 1963 on the purchase application made by the tenant and for the purchase of which the first instalment of purchase price had come to be deposited by the tenant on March 12, 1963. The LA Collector determined the compensation

payable for the land so acquired in a sum of Rs. 3,24,133.25 by his award dated April 4, 1968 made under Section 11 of the LA Act. Pursuant to that award, the LA Collector took possession of the land so acquired on April 8, 1968, on which date the acquired land vested absolutely in the State of Haryana by operation of Section 16 of the LA Act. Rs. 3,24,133.25, the amount determined as compensation for the acquired land by the award of the LA Collector, was also paid by him in its entirety to the landowner, Harinder Singh. On references received by the Court of the Additional District Judge, Gurgaon under Section 18 of the LA Act, to decide, on the enhanced compensation claimed and on the dispute as to whether the tenant or the landowner of the acquired land was entitled to get the compensation payable for that land, that Court by its judgment and decree dated February 15, 1971, while enhanced the compensation payable for the acquired land held that the entire amount of compensation payable for the acquired land was liable to be paid to the tenant-Bihari Lal, in that he had become the deemed owner of the acquired land on March 12, 1963 when he deposited the first instalment of the purchase price pursuant to the order dated March 3, 1963 of the Assistant Collector made on his purchase application. According to that court when once the tenant, by making the deposit of first instalment of the purchase price on March 12, 1963, became the deemed owner of the tenanted land from that day because of the legal fiction created under Sub-section (4) of Section 18 of the Tenures Act, redetermination of purchase price of land, if any, made by the authorities under the Tenures Act could not bring about any adverse effect on the deemed ownership of land got by the tenant. However, the landowner, Harinder Singh, preferred Regular First Appeal, RFA No. 345 of 1971 against the said judgment and decree of the Court of Additional District Judge, Gurgaon before the High Court. But, a Division Bench of the High Court dismissed that appeal by its judgment and decree dated May 2, 1979. It is that judgment and decree of the Division Bench of the High Court, which is the subject of present Civil Appeal No. 3288 of 1979.

4. Questions requiring our consideration in deciding the present appeals, having regard to the facts which have given rise to them, could be set out thus:

(i) Does a landowner of land which could be purchased by a tenant under Section 18 of the Tenures Act, cease to be its landowner and consequently cease to have any interest in it, on such tenant depositing according to Sub-section (4) thereof, its purchase price or first instalment of its purchase price fixed by the Assistant Collector, and becoming its deemed owner as envisaged thereunder.

(ii) If a land which its tenant was entitled to purchase under Section 18 of the Tenures Act had come to be vested in the State by reason of its acquisition under the LA Act before such tenant became its deemed owner as envisaged under Sub-section (4) of Section 18 of the Tenures Act, could the landowner of that land have made a claim for payment of compensation payable therefor under the LA Act and if such a claim had been made, what could be regarded as his entitlement in the amount of such compensation.

5. We shall now proceed to consider the said questions in the light of contentions of learned Counsel raised, for and against them.

Re : Question (i):

Since this question pertains to the result that flows from the exercise by a tenant of his right to purchase the tenanted land from its landowner under Section 18 of the Tenures Act, need to consider it on the basis of the provisions in that Section, arises. The provisions insofar as they bear on the question are, therefore, reproduced:

18. Rights of certain tenants to purchase land. - (1) Notwithstanding anything to the contrary contained in any law, usage or contract, a tenant of a landowner other than a small landowner --

(i) who has been in continuous occupation of the land comprised in his tenancy for a minimum period of six years, or shall be entitled to purchase from the landowner the land so held by him....

Provided...

Provided further....

(2) A tenant desirous of purchasing land under Sub-section (1) shall make an application, in writing to an Assistant Collector of First Grade having jurisdiction over the land concerned, and the Assistant Collector, after giving notice to the land-owner and to all other persons interested in the land and after making such inquiry as he thinks fit, shall determine the value of land which shall be the average of the price obtaining for similar land in the locality during 10 years immediately preceding the date on which the application is made.

(3) The purchase price shall be three-fourths of the value of land as so determined.

(4) (a) The tenant shall be competent to pay the purchase price either in a lump sum or in six monthly instalments not exceeding ten in the manner prescribed.

(b) On the purchase price or the first instalment thereof, as the case may be, being deposited, the tenant shall be deemed to have become the owner of the land,...

(c) If a default is committed in the payment of any of the instalments, the entire outstanding balance shall, on application by the person entitled to receive it, be recoverable as arrears of land revenue....

6. The language employed in Sub-section (1) of Section 18, as could be seen, is unequivocal as regards entitlement of a tenant to purchase land comprised in his tenancy from his landowner. A tenant desirous of purchasing land, according to his entitlement under Sub-section (1), if makes an application therefor before the Assistant Collector of First Grade having jurisdiction over such land as required by Sub-section (2) thereof, such Assistant Collector is enjoined thereunder to determine the value of land comprised in the tenancy after notice to the landowner and others who may be concerned with it. Further, according to that sub-section the value to be determined for such land is

required to be only the average of the price obtaining for similar land in the locality during ten years immediately preceding the date on which application for its purchase was made. When the value of the tenanted land is so determined as required by Sub-section (2) thereof, its purchase price payable by the tenant would be three-fourth of such value as specified in Sub-section (3) thereof. Clause (a) of Sub-section (4) thereof entitles the tenant to pay the purchase price either in a lump sum or instalments to be fixed in that behalf. Then, Clause (b) of Sub-section (4) of Section 18, declares in unequivocal terms that the tenant shall be deemed to become the owner of the land on the purchase price or the first instalment thereof, as the case may be, being deposited. When a tenant becomes a deemed owner of the land comprised in his tenancy by deposit of either the purchase price or the first instalment thereof, because of the legal fiction created under Clause (b) of Sub-section (4) of Section 18, it follows as a necessary corollary, that such land's landowner till deposit can no longer be regarded as its landowner. In other words, from the moment the tenant deposits the purchase price or the first instalment thereof payable towards the purchase of the land comprised in his tenancy, the landowner of that land ceases to have the interest which he had in it as such landowner till then, inasmuch as, no provision is found in the Tenures Act which allows him to continue to have thereafter any kind of interest whatsoever in that land. Moreover, since Sub-section (5) of Section 18 entitles the landowner to make an application merely for recovery from the tenant of purchase money payable in instalments, as arrears of land revenue, it is made obvious that the instalments of purchase money payable by tenant for the land comprised in his tenancy is not even made a charge on that land, to avoid any claim of interest by such landowner, against such land.

7. That a tenant becomes a deemed owner of land comprised in his tenancy by deposit of either the purchase money or first instalment thereof as declared by Clause (b) of Sub-section (4) of Section 18, was not disputed by learned Counsel for the appellant. It was, however, strenuously argued for the appellant that the tenant cannot become the deemed owner by deposit of the purchase money or first instalment thereof as determined by the Assistant Collector, but becomes such deemed owner when he deposits the higher purchase price determined in appeal and revision filed by the appellant before the authorities. He sought to obtain support for that argument from the judgment of this Court in *Bishan Singh and Ors. v. Khazan Singh and Anr.* and the judgment of the Privy Council in *Deonandan Prashad Singh v. Ramdhari Chowdhri and Ors.* A.I.R. (1916) PC 179.

8. We are unable to find any merit in the argument advanced on behalf of the appellant. Neither the judgment of Privy Council nor the judgment of this Court from which support was sought for the argument, can furnish such support.

9. In *Deonandan Prashad Singh's* case decided by the Privy Council, the facts were these : A sub-ordinate Judge had made a pre-emption decree in respect of certain property. On the basis of that decree the pre-emptors were put in possession of that property from 1900 to 1904. That pre-emption decree when was set aside by the High Court, the original purchaser of that property regained its possession and was in such possession between 1905 and 1909. Thereafter, in 1908, when the Privy Council reverse the decree of the High Court and made a decree recognising the pre-emptor's right to purchase the property at a higher purchase price than that fixed by the Sub-ordinate Court, the pre-emptors, paid the extra price in 1909 and took possession of the property from the original purchaser. In this situation, the pre-emptor sought to get mesne profits

in respect of the property from its original purchaser between 1904 and 1909, the period during which he was in its possession. Whether the pre-emptors were entitled to mesne profits for the period between 1905 and 1909, (the period during which the judgment of the High Court was in force), was the question that again came up for decision by the Privy Council. The Privy Council held that the pre-emptors were not entitled to get mesne profits of the property for the period between 1904 and 1909, on its reasoning:

It therefore follows that where a suit is brought it is on payment of the purchase money on the specified date that the plaintiff obtains possession of the property, and until that time the original purchaser retains possession and is entitled to the rents and profits. This was so held in the case of Deokinandan v. Sri Ram I.L.R. 12 ALL 234 (K), and there Mahmud, J., whose authority is well recognized by all, stated that it was only when the terms of the decree were fulfilled and enforced that the persons having the right of pre-emption become owners of the property, that such ownership did not vest from the date of sale, notwithstanding success in the suit, and that the actual substitution of the owner of the preempted property dates with possession under the decree.

10. In Bishan Singh's case this Court had to decide as to when a decree-holder in a conditional pre-emption decree, becomes the owner of the property in the place of the original vendee of such property. On the authority of the judgment of the Privy Council in Deonandan Prashad's case, it was held by this Court that the pre-emptor is not substituted in the place of the original vendee till conditions laid down in the decree were fulfilled. We are unable to understand, how the said judgments of the Privy Council and this Court, which decided on the question of pre-emptors becoming owners of lands in the places of original vendees on the well settled authority of pre-emptors becoming owners of lands in the place of original vendees according to pre-emption decrees, could support the argument of learned Counsel for the appellant, that under the Tenures Act the tenant becomes the owner of the tenanted land when enhanced purchase price if any, is deposited or paid to landowner. The argument overlooks the fact that purchase price and its first instalment to be deposited by the tenant under the Tenures Act is that fixed by the Assistant Collector, for the tenant to become its deemed owner. Question of entitlement to possession of tenanted land cannot be disputed while the question which arises in pre-emption decrees is the time at which the pre-emptors become entitled to such possession. As to when the tenant who is entitled to purchase land comprised in his tenancy becomes the owner has, therefore, to be decided according to what is provided for in the relevant provisions of the Tenures Act itself and not with reference to pre-emptors right of ownership to property under pre-emption decrees. Relevant provisions in the Tenures Act, to which we have already adverted are contained in Section 18 thereof and could be even reiterated to avoid ambiguity. Clause (a) Sub-section (4) of Section 18 gives the option to the tenant to deposit purchase price or first instalment thereof as fixed by the Assistant Collector. Because of the legal fiction created by Clause (b) of Sub-section (4) of that Section, when once the purchase price or the first instalment of purchase money, as specified by the Assistant Collector, is deposited, such tenant becomes the deemed owner of the land comprised in his tenancy. Hence, there can arise no room for any doubt that a tenant who is in possession of the property, because of the deposit of purchase price he makes, becomes the absolute owner, displacing

the landowner's interest in such land, possessed till then. Clause (c) of Sub-section (4) of Section 18 when states that the default on the part of the tenant in making instalments of purchase price, will allow the person entitled to the same to recover it as arrears of revenue, it becomes clear that the intendment of the Act is not to postpone the right of the tenant to become the owner of the land comprised in his tenancy on account of non-payment of purchase price even if a higher purchase price is fixed by Appellate or Revisional Authority. Moreover, when the object of tenancy legislation, as well settled, is to make the tenant, the tiller of the land, its owner, the beneficial provisions which are made thereunder to confer ownership rights on tenants, cannot receive a construction which results in either postponing or defeating the right of ownership conferred on tenants in respect of their tenanted lands. As the acceptance of the argument of the learned Counsel of the appellant is bound to have the effect of defeating the object of the provisions in the Tenures Act avowedly made by the legislature for conferring right of ownership of land on its tenants, we find it difficult to accept it. However, it is made clear that if there was a deposit of purchase price or first instalment thereof made by a tenant when the operation of the order relating to fixation of purchase price was stayed by competent authority or court, such deposit could not have made the tenant a deemed owner. Our answer to the question under consideration, therefore, is that a landowner of land which could be purchased by a tenant under Section 18 of the Tenures Act ceases to be its landowner and consequently ceases to have any interest in such land, on such tenant depositing according to Sub-section (4) thereof, its purchase price or first instalment of its purchase price as fixed by Assistant Collector and becoming its deemed owner as envisaged thereunder.

Re : Question (ii).

11. Since this question pertains to the landowner's entitlement of compensation awardable for tenanted land acquired under the LA Act before its tenant becomes its deemed owner under Section 18 of the Tenures Act, it requires to be answered on the basis of the relevant provisions both in the LA Act and the Tenures Act. That a landowner loses every interest he had in respect of a land when its tenant becomes its deemed owner, as envisaged under Sub-section (4) of Section 18 of the Tenures Act, is pointed out by us already while answering question (i). What therefore, requires our consideration in dealing with the present question is, whether a landowner would be entitled to compensation awarded for a tenanted land when it is acquired under LA Act before the tenant of such land becomes its deemed owner under Sub-section (4) of Section 18 of the Tenures Act, and if so, what can be regarded as his entitlement in the amount of such compensation.

12. Since we are concerned with the compensation awardable for a land acquired under the L.A. Act before its amendment by Central Act 68 of 1984, compensation awardable for land acquired under the unamended L.A. Act, could be said to comprise of the following components:

- (i) The market value of the land at the date of publication of the Notification under Section 4(1) of the L.A. Act.
- (ii) The damage sustained by a person interested by reason of taking of standing crops or trees which may be on the land at the time of Collector's taking possession thereof.

(iii) The damage.-, if any sustained by the person interested at the time of Collector's taking possession of the land by reason of severing of such land from his other land.

(iv) The damage, if any, sustained by the person interested at the time of Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings.

(v) If in consequence of the acquisition of the land by the Collector the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change, and

(vi) The damage, if any, bona fide resulting from diminution of the profits of land between the lime of the publication of the declaration under Section 6 and the time of Collector's taking possession of the land.

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 awardable since comprises of the said components every person entitled to obtain any or all the components of the compensation, becomes entitled to make a claim as regards his interest in the land and the component of compensation awardable 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 State before its tenant becomes its deemed owner under Sub-section (4) of Section 18 of the Tenures Act. 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 awardable 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 awardable 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 gain-said, 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-fourth of the amount of compensation awardable 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 X8(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 tenants 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 envisaged 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-fourth of the value of the land determined under Sub-section (2), which means that the value of the tenanted land could only be three-fourth 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 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 3/4th 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) 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 awardable as market value in 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 LA 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 awardable 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 under Section 18 of the Tenures Act and nothing more or less.

14. We shall now turn to the facts leading to the present appeals for deciding them in the light of the answers given by us for the questions which arose for our consideration.

15. The facts which have led to landowner's appeal being C.A. No. 540/80, show that 25 kanals 2 marlas out of 224 kanals 18 marlas of land respecting which Beharilal, the tenant, became a deemed owner on March 12, 1963 under Sub-section (4) of Section 18 of the Tenures Act, had come to be acquired and vested in the State under the LA Act on October 14, 1961 earlier to the tenant becoming its deemed owner. If that be so, if regard is had to the questions answered by us, Harinder Singh, the landowner had become entitled to get out of the compensation awarded for the said land under the LA Act, an amount equivalent to its purchase price. If that amount is not taken by Harinder Singh from the deposits made by Behari Lai, the tenant, as the purchase price of that land under the Tenures Act, or out of the compensation awarded for that land under the LA Act, L.R.'s of Harinder Singh would be entitled to get the same either from the compensation, if any available, or from Bihari Lal.

16. Coming to the facts which have led to the landowner's appeal being C A. No. 3288/79, they show that 151 Kanals 2 Marias of land out of 224 Kanals 18 Marias of land respecting which the tenant, Biharilal, became the deemed owner on March 12, 1963 was acquired and vested in the State on April 8, 1968, that is, subsequent to the tenant became its deemed owner. If that be so, according to the answers given by us to the questions considered, the landowner had no right to make a claim for compensation payable for that land under the LA Act, inasmuch as he had lost all his interest in that land well before the acquisition proceedings for acquiring that land under the LA Act had commenced. Unfortunately, as is disclosed from the facts leading to the appeal, Harinder Singh, the landowner, had received the compensation of Rs. 3,24,133.25 awarded for the said land by the Land Acquisition Officer in his award made under Section 11 of the LA Act on April 4, 1968, while our answers to questions considered by us, make it clear that such amount of compensation to which the landowner was not entitled, should not have been received by him. Our aforesaid answers to questions considered by us also make it obvious that the said amount of compensation should have

been paid in its entirety to the tenant, Bihari Lal, in that, it was he who was entitled to that amount of compensation having become the deemed owner of the said acquired land of 151 Kanals 2 Marias. No doubt the third proviso to Sub-section (2) of Section 31 of the LA Act says, that nothing contained in the section shall affect the liability of any person who may receive the whole or an part of any compensation under the Act, to pay the same to the person lawfully entitled thereto. Therefore, it is obvious that the landowner, Harinder Singh, is liable to pay a sum of Rs. 3,24,133.25 received by him from the Land Acquisition Collector under his award dated April 4, 1968, to the tenant, Bihari Lal. Since Harinder Singh had the benefit of that amount to the deprivation of its use by Bihari Lal, he has to make good that amount to Bihari Lal, atleast along with 6 per cent interest from the dale of its receipt by him to the date of payment, if it is not already repaid, as urged by learned Counsel for Bihari Lal, the respondent. Further, as seen from the record, the appellant, Harinder Singh, is dead and his L.R's are prosecuting the present appeals. In this peculiar situation, we consider it just and appropriate to direct that the amount liable to be paid by Harinder Singh shall be regarded as a debt owned by Harinder Singh to Bihari Lal and the same being payable from the former to the latter, shall be a charge on the property of the deceased, Harinder Singh, in the hands of his L.R's and Bihari Lal and his successors shall be entitled to realise such debt by sale of such properties if the same is not otherwise realised. In this regard, this judgment shall be regarded as a decree which could be got executed through the reference court, whichever is such court that may have jurisdiction as on date. Such course is adopted by us since we felt that there will be no justification for driving Bihari Lal or his successors-in-interest to recover the amount of compensation together with 6 percent interest, by resorting to separate proceedings after a lapse of about 26 years.

17. Subject to what we have said as to the liability of Harinder Singh or his L.R's to make good the amount of compensation received under the award dated April 4, 1968 of the Land Acquisition Collector, we dismiss the present appeals. However, in the facts and circumstances of the cases, we do not propose to make any order as to costs.