(1967) 05 P&H CK 0012

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 223 of 1963

Gurbachan Singh APPELLANT

Vs

Union of India (UOI) and Others RESPONDENT

Date of Decision : 22-05-1967

Acts Referred:

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 2, 9
Displaced Persons (Compensation and Rehabilitation) Rules, 1955 — Rule 25, 30, 31, 4

Citation : AIR 1968 P&H 242 : (1968) 1 ILR (P&H) 273

Hon'ble Judges : Mehar Singh, C.J;D.K. Mahajan, J;A.N. Grover, J

Bench : Full Bench

Advocate : H.S. Wasu and B.S. Wasu, for the Appellant; Y.P. Gandhi, for the Respondent

Judgement

A.N. Grover, J.—The facts necessary for determination of the question which has been referred to the Full Bench may be succinctly stated. Gurbachan Singh and Ban-shi Ram were allotted portions of a house in Ludhiana. Both these persons laid claims to the transfer of the whole house which was acquired as evacuee property. According to Banshi Ram, he was entitled to the transfer of the whole house under Rule 30 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 on the ground that he was holder of a verified claim. Gurbachan Singh asserted that Banshi Ram was a non-claimant and, therefore. Rule 31 was applicable under which he (Gurbachan Singh) would be entitled to the transfer, being in possession of the larger portion of the house. It is common ground that there was no verified claim in the name of Banshi Ram. The claim of his father Sat Ram Das had been verified, but he was allottee of another house. On the death of Sat Ram Das the share of Banshi Ram in the claim of his deceased father, which had been verified came to Rs. 237, the remaining share having gone to his brothers.

The District Rent and Managing Officer, as also the Assistant Settlement Commissioner, declined to transfer the house in favour of Gurbachan Singh. Shri

C.P. Sapra, Settlement Commissioner, by his order dated the 12th of September, 1961, affirmed their decision and held that Ban- shi Ram was entitled to the transfer of the house being a claimant. Shri H.S. Nair, exercising the powers of the Central Government undei Section 33 of the Displaced Persons (Compensation and Rahabilitation) Act, 1954 (Act No. 44 of 1954), dismissed the revision preferred by Gurbachan Singh against the order of Shri Sapra. Gurbachan Singh filed a petition in this Court under Articles 226 and 227 of the Constitution on the 25th of April, 1963. Shamsher Bahadur J. held that Banshi Ram was entitled to the transfer of the house and the writ petition was dismissed. It appears that Banshi Ram had died during the pendency of the writ petition and his legal Representatives were impleaded in his placej consisting of his widow Shrimali Kaushilva Devi, his sons and daughters Gurbachan Singh preferred an appeal undei Clause X of the Letters Patent which came before a Division Bench. The Bench by an order dated the 16th of December, 1965, has referred the following Question to the Full Bench: --

''In this case did Banshi Ram, who was himself not holder of a verified claim, become holder of a verified claim as that expression is used in Rule 30, after the death of his father Sat Ram Das in succeeding partly to the verified claim of his deceased father, and, in these circumstances is he entitled to the benefit of the provisions of Rule 30 as a verified claim holder?"

2. Now. Rule 30 at the material time provided that

"If more persons than one holding verified claims are in occupation of any acquired evacuee property which is an allottable property, the property shall be offered to the persons whose net compensation is nearest the highest and the other persons may be allotted such other acquired evacuee pro-perty which is allottable as may be available"

In the explanation it was stated that

"the provisions of the rule shall also apply where some of the persons in occupation of any acquired evacuee property which is an allottable property hold verified claims and some do not hold such claims''" The controversy centres on the true import and meaning of the words "holding verified claims".

3. As regards the claims to urban property, the first statute, which was enacted, was the Displaced Persons (Claims) Act 1950 As stated in the preamble, this Act was to provide for the registration and verification of claims of displaced persons in respect of immovable property in Pakistan. "Claim" as defined in Section 2(a) of this Act meant the assertion of a right to the ownership of, or to any interest in any immovable property in West Pakistan which was situate within an urban area, or such class of property in any part of West Pakistan other than in any urban area as might be notified by the Central Government in this behall. ''Displaced rerson was defined to mean

''any person who, on account of the setting up of Dominions of India and Pakisan, or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has after the 1st day of March, 1947, left or been displaced from, his place of residence in such area and who has been subsequently residing in India and includes any person who is resident in any place in India and who for that reason is unable or has been made unable to manage, supervise or control any immovable property belonging to him in Pakistan.

Section 3 provided for appointment of Registering Officers for the purpose of registering claims Section 4 gave power to the Central Government to appoint the Chief Claims Officers. u/s 5 a displaced person could within such time and in such form and on payment of such fee, as might be prescribed, submit his claim to a Registering Officer u/s 6 the Claims Officer was to hold a summary enquiry and aftei taking such evidence and pxami-ning such documents, as might be necessary, pass such orders as he thought fit in relation to the verification of the claim and the valuation of such claim. The Displaced Persons (Registration of Claims) Rules, 1950, which were promulagated on the 27th of May. 1950, laid down the procedure for getting a claim rpgistered These rules were followed by the Displaced Persons (Verification of Claims) Rules. 1951 Rule 2 (ii) defined a ''"claimant" to mean a person whose claim had been registered under Sub-section (2) of Section 5 of the Act Clause (vi) of rule 2 defined a "proceeding" to mean the hearing of a claim under the Act for the purpose of its verification Chapter II of the 1951 Rules laid down the procedure for verification of claims.

The Displaced Persons (Claims) Sup-plementaiv Ordinance 1954. was promulgated in order to provide for the disposal of certain proceedings pending under the Act 1950 In the Ordinance the definition of "Claim" at given in Section 2(b) was--" (i) anv claim registered undei the principal Act and pending on the appointed day or (ii) ****" Section 4 orovided for verification oi claims The Settlement Officei was given jurisdiction to decide such claims or such classes of claims as might be transferred to him by the Chief Settlement Commis-sionei The Settlement Officer was to hold a summary enquiry and take such evidence and examine such documents as he might consider necessary and he was to pass such orders as he thought fit "in relation to the verification of ''he claim and the valuation oi such claim" This was followed bv the Displaced Persons (Claims'') Supplementary Act 1954 in which the provisions were substantially the same.

4. Once the work of registration and verifiration of claims was done the next stage was reached for awarding compensation to persons whose claims had been duly vari-fied in respect of property left by them in West Pakistan. That purpose was achieved by the enactment of the Displaced Persons (Compensation and Rehabilitation) Act. 1954 (Act No. 44 of 1954) hereinafter referred to as the Act, which not only provided for payment of compensation but also dealt with the matter of rehabilitation of displaced persons and for matters connected with the aforesaid purposes. Section 2 contained the definition of "displaced persons" which was substantially in the same term." as was to be found in the Act of

1950. but the following addition was made:--

"and also includes the successors-in-in-terest of any such person"

Clause (e) of Section 2 contained the definition of "verified claim" which reads thus:-

''Verified claim means any claim regis tered under the Displaced Persons (Claims) Act, 1950 (44 of 19501 in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act. 1954 (12 of 1954). and includes any claim registered on or before the 31st day of May, 1953, undei the East Punjab Refugees (Registration of Land Claims) Act, 1948 (East Puniab Act 12 of 1948) or under the Patiala Refugees (Regis tration of Land) (Claims) Ordinance 2004 (Order 10 of 2004 of Bk.) and verified by any authority appointed for the purpose by the Government of Punjab the Government of Patiala and East Punjab States Union, as the case may be, which has not been satis fied wholly or partially by the allotment of any evacuee land under the relevant noti fication specified in Section 10 of this Act,

* * ** * *

Section 4(1) of the Act provided that : --

"the Central Government shall, from time to time, but not later than the 30th day of June, 1955, by notification in the Official Gazette, require all displaced persons having a verified claim to make applications for the payment of compensation"

Undei Section 7(1), on receipt of an application for payment of compensation the Settlement Commissioner was :--

"to make an enquiry in such manner as may be prescribed and having due regard to the prescribed scales of compensation the nature of the verified claim and other circumstances of the case"

the amount of compensation to which an applicant was entitled had to be ascertained. Section 8 related to the form and manner of payment of compensation According to this section a displaced person was to be paid out of the compensation pool the amount of net compensation found payable to him and the payment was to be made in one of the following forms or partly in one and partly in any other form: --

(a) in cash;

(b) in Government bonds;

(c) by sale to the displaced person of any nropertv from the compensation pool and setting off the purchase money against the compensation payable to him:

(d) by any other mode of transfer to the displaced person of any property from the compensation pool and setting off the valuation of the property against the compensation payable to him:

(e) by transfer of shares or debentures in any company or corporation:

(f) in such other form as may be prescribbed

Again under the provisions of Section 9. where there was any dispute as to the person or persons who were entitled to the compensation including any dispute as to who were the successors-in-interest of any deceased claimant to compensation or as to the apportionment of compensation among persons entitled thereto, such dispute was to be decided by the Settlement Officer where the value of the verified claim did not exceed Rs 20.000, and by the Settlement Commissioner where the value of the verified claim exceeded Rs. 20,000. The Displaced Persons (Compensation and Rehabilitation) Rules. 1955, hereinafter referred to as the Rules, were promulgated in May 1955 Chapter II laid down the procedure for submission of compensation application and determination of public dues Rule 4 in this Chapter related to form of application for compensation. The application was to be accompanied by the documents mentioned in Sub-rule (2) of the rule Sub-rule (3) provided that where an application was made by a successor-in-interest of a displaced person having a verified claim the application was to be accompanied by certain additional documents and oarticulars. Under Rule 15 net compensation was to be determined which was payable to an applicant in respect of his verified claim Rule 17 indicated the limits of pavment of compensation in cash or by transfer of property forming part of compensation pool

Chapter V. which is of importance for the purpose of this case, dealt with payment of compensation by transfer of acquired evacuee properties. Under Rule 22 three classes of acquired evacuee property were declared to be ordinarily '' allottable, one of which was residential nropertv in the occupation oi displaced person the value of which did not exceed Rs 10,000 Rule 25(1) provided that where an applicant for pav-mem of ompensation was in solt pccupa-tion of an acquired evacuee property which was an allottable property such property could he transferred to him in lien of the compensation payable to him "under the Act. Rule 26 made provision for transfer of such property tp a displaced person who did not hold a wrifed claim. Under Rule 29 where anv person, having a verified claim, who was in sole occupation of any property under the Compensation pool, which was an allot table property refused to accept the transfer of such propertv in satisfaction of his claim his claim foi compensation was 10 to satisfied in the manner given in clauses (a), (b) and (c) of the said rule Clause (a) laid down that if the compensation due to him covered the entire cost of the property, oi exceeded the value of the property, the propertv was to be transferred to him and his claim was to be deemed to have been satisfied to the extent of the value of the property in his occupation

Then came Rule 30 headed a payment of compensation where an acquired evacuee property which is an allottable property, is in occupation, of more than one person". Rule 31 was hearded thus:-- "Transfer of acquired evacuee propertv in occupation of displaced persons none of whom holds a verified claim" Chapter VI related to payment of compensation bv transfer of Government built property Another rule, which may be noticed on account of an argument having been built upon it by Mr. H.S. Wasu,the learned counsel for the appellant is Rule 65. It provided-

"65 (11 Any person to whom more than four acres of agricultural land have been allotted shall not be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less than Rs. ''20000.

(2) Any person to whom foin acres or less of agricultural land have been allotted, shall not be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less thar Rs 10.000"

5. Mr. H.S. Wasu has laid a great deal of stress on the position which according to him emerges out of the entire background of the legislation relatinp to registration of claims, their verification and the .''ompensa-tion which, was then to be paid in satisfaction of those claims An illustration may "''e taken for considering his submission Suppose A had urban immovable propertv in West Pakistan He got his claim registered under the Act of 1950 His lain was duly verified in accordance with the provisions already noticed It would he A Ind A alone who would be holding a verified claim If A dies leaving two sons B and C they would be entitled to compensation undei Section 9 of the Act The application which they would have to make would be m accordance with Sub-rule (3) of Rule 4 of tht Rules. They would thus be entitled to compensation but the cannot be regarded as holding verified claims within he meaning of Rule 30 Mt Wasu has also, elied on the definition of "verified claim" as given in Section 2(e) of the Act which does not include the successors-in-interest of a deceased claimant, whereas the definition of a ''displaced person" as given in Section 2(b) specifically provides for the Inclusion of successors-in-interest also.

It ii contended bv Mr. Wasu that if the intention was to give the benefil of the provisions of Rule 30 to the successors-in-inte-rest of a deceased claimant, then either the words "displaced person" would have been used or in the definition of "verified claim" the words "sucressors-in-interest" would have been found. He has further referred to the difference in the language employed in Rule ''''5 where only the word? "an applicant for payment of compensation" appear, which would certainly include the succes-sors-in-interest of a deceased claimant, and the language of Rule 30. which does not employ similar words The words "gross compensation''" also, according to Mr Was can have reference only to the "gross compensation" payable to the original claimant and not to the successors-in-interest. who would get a share out of the nel compensation only. Mr. Wasu has relied on Rule 18 according to which for the purpose of determining the compensation payable to an applicant, the total value of all the claim? of the applicant in respect of all kinds of properties, other than agricultiral land was to be added up and the compensation was to be assessed on the total value of all such claims

It is maintained bv Mr Wasu that Rule 18 will not cover the case of an applicant who had his own verified claim and also succeeded to a verified claim either by inheritance or by transfer and the clubbing of these claims would not be legal, though the applicant would be entitled to payment of compensation separately on these claims. As regards Rule 65, although it relates to rural buildings, but it is pressed into service by Mr. Was for understanding the proper meaning of the words in question in Rule 30. which rule covers both types of buildings, namely, urban as well as rural. An illustration with reference to Rule 65 may be given. A gets an allotment of 4 acres of agricultural land Under Sub-rule (2) of Rule 65. he would be debarred from receiving com-pensa tion separately in respect of verified claim foi any rural building the assessed value of which is less than Rs 10,000 Now. if he dies after getting allotment of agricultural land and his son inherits his verified claim in respect of the rural building, then can it be said that his son would be entitled to claim the benefi'' of the provisions in Rule 30 Mr Wasu points out that if the words in question arc to be interpreted in the sense in which the respondents want them to be understood then there is no reason why the son in the given case should not be able tc take advantage oi the provisions of Rule 30 whereas the father would have been expressly debarred undei Rule 65(2) from getting the aforesaid benefit This, he savs, will lead to a very anomalous and strange situation.

6. Mr Wasu has next referred to the decision in Wazir Chand v Piran Ditta, Civil Writ No 62-D of 1959. That petition had been decided by me sitting singly on 18th August 1959'' Piara Ram who held a registered claim which had been verified, had been occupant of the portion of a house in Rohtak Piran Ditta had a similar claim which had also been verified and was occupant of another portion of the same property Piara Ram died leaving behind five sons and a widow who were substituted in his place. The Questmn was as to who wab entitled to the transfer of the whole house undei the provisions ot Rule 30. The compensation to which Praia Ram had been found entitled had been divided into six shares. The com-pensatior payable to each one of the heirs Piara Ram came to about Rs. 511. The Settlement Commissioner allotted the property to Piran Ditta on the ground that the net compensation due to him wae nearest to the value of the property. The Deputy Chief Settlement Commr on appeal, was of the view that the house was allottable to at least three of the heirs of Piara Ram because their compensation taken together would come to Rs. 1,533. Piran Ditta moved u/s 33 of the Act. Mr. Johnson, Joint Secretary to Government of India, gave a different decision

According to him, once Piara Ram died, each of his heirs became entitled to compensation due tc three heirs could not be taken into account while deciding who was entitled to the allotment of the property under Rule 30. His order was challenged by a petition under Article 226 of the Constitution. After considering the contentions of the parties. 1 made it clear that T did not wish to express am final opinion on their correctness of otherwise The petition was disposed oi and dismissed on the ground that even if the view put forward on behalf of the petitioners was plausible, it was not possible to sav that the view expressed bv Mr. Johnson was also not plausible. Since a good deal of argument was necessary in order to decide which view was correct it was not regarded to be such an error as to justify any interference as was well settled. An appeal under Clause 10 of the Letters, Patent was filed and a Division Bench consisting of Khosla C J. and Shamsher Bhadur J reversed my decision the Bench judgment having been reported as Wazir Chand v. Piran Ditta. ILR 1961 P&H 59. Before the Bench it was argued thai the proved claim of Piara Ram must bt- considered as a single unit After referring to Rule 3 under which an application is tc be made for compensation, it was observed that the word "successor" included" "successors" The application has been made by all the successors cessors-in-interest of Piara Ram According to the Bench it was obvious that the compensation was due in respect of & single verified claim and not on account of six verified claims. Therefore, the compensation which was due to the successors-in-interest of Piara Ram must be deemed to be a single unit.

Mi Wasu has largely relied on what was said al pages 64 and 65 bv Khosla C. J who delivered the judgment:--

"It will be seen that the person, who is entitled to make a claim for the allotment of the property is a person, who holds a veri fied claim The three heirs of Piara Ram who were in occupation of this house, did not hold any verified claim at all because the verified claim was held by Piara Ram They have merely been held entitled to com pensation in respect of that verified claim

** * * * * * * * * * * I do not see how the heirs of Piara Ram for instance, could become rivals of one another but this conclusion must inevitably follow if we are to treat each one of them as a distinct entitv possessing separate and distinct rights as opposed to all the other occupants oi the house including their own brothers This interpretation of Rule 30 would do violence to the opening phrase which contemplates persons holding different verified claims and not persons, who derived their rights from a single verified claim"

It was finally held that the heirs of Piara Ram must be considered as a single unit both for purposes of determining whether they held a verified claim and also for determining whal was their net compensation. The appeal was allowed on the ground that the heirs of Piara Ram were entitled to allotment of the house

7. I must confess, with utmost respect, that I have had some difficulty in reconciling the observations which have been extracted above and the decision of the case If the heirs of a deceased person in whose name the claims had been verified could not be said to hold any verified claim as has been observed at page 64 it is, difficult to see how they coutd maintain any claim for transfer of a ho''ise under Rule 30 which in terms and in unmistakable language provides only for

persons who hold verified claims Indeed, the final decision of the Bench appears to have been based on the view that the sons of Piara Ram were entitled to the benefit of Rule 30 and that coutd be done only if they were regarded is nersons holding verified claims It must be remembered that the scheme of Rule 30 clearly is that where there are more persons than one claiming transfer of an acquired evacuee property on the ground of uccupati n they must satis-of the condition of holding verified claims. They would onlv then become eligible and it would have to be decided by the amount of the compensation which was ''''net" at one time and which is "gros " now as to who would be entitled to its transfer. If the heirs oi Piara Ram in the aforesaid case did not fulfil the condition precedent foi claiming the benefit of rule 30, they could not have been held entitled to the transfer of the acquired evacuee property even though the figure of compensation which was due to Piara Ram had to be taken into consideration

I venture to think that in spite of the observations at page 64 which seem to support the contention of Mr Wasu, the final decision is not in his favour and can indeed be relied upon bv the respondents for showing that even the heirs of a deceased person who did not hold a veriiied claim in their own right but had only inherited the same from their father can take advantage of the provision'' of Rule 30 Tt is, somewhat interesting that Shamsher Bahadur J who was a part to the Bench decision in Wazir Chand''s case ILR (1961) P&H 59 after referring to the observations at page 64, has said in his order dismissipp the present writ petition:-

"It does not mean that the right of suc-cessor-in-interest of an unsatisfied verified claimant cannot be entertained for purposes of allotment Technically the fifth respondent mav nol be a verified claimant in his own right but he is a lawful heir of a person who held a verified claim and which still remain unsatisfied in my view the observations made in ILR 1961 P&H 59 do not support the contention of the petitioner that the fifth respondent is not entitled to any compensation not being an independent holder of a verified claim in respect of property oi which he is in possession as an allottee"

8. Mr Y.P. Gandhi for the respondents submits thai the meaning if the words "holding verified claims" and "hold verified claims" appearing vn the substantive part of Rule 30 and in the Explanation res-pectively should not be interpreted by reference to such rules or provisions which deal with different situations and which werp enacted with different objectes and and purposes, According to him, these words have to be interpreted with reference to the purpose and object of the Act, and the rules relating to grant of compensation to persons who had lost properties in Pakistan. It is pointed out that the entire work of registration and the verification of the claims was carried out with the avowed object of compensating the aforesaid persons There was also the allied purpose of rehabilitation of displaced persons. The compensation u/s 8 of the Act way-payable in different modes One of these was by sale of the any property from the compensation pool and setting off the purchase money against thp

"comppnsation payable.

Chapter V of the Rule specifically dealt with pavment of compensation by transfer of acquired evacuee property Rule 25 has to be read with Rule 30 and Rule 26 with Rule 31 They are twin provisions dealing with cases where a person or persons are in occupation of the pronertv concerned and have a claim for pavment of compensation and where they do not have any such claim and are merely displaced persons. The purpose essentially of Rules 25 and 30 is to transfer property to occupants who are entitled to payment of compensation in lieu thereof. Rule 29 points to the importance which the rule making authority attached to satisfaction of claims by transfer of property According to that rule, as noticed before, where a peison having a verified claim for urban or rural property, in sole occupation ot any property under the com-pensatior pool, which is an allottable pro-pertv refuse? to accept the transfer of such property in satisfaction of his claim, he is to suffer thp consequences provided by the three clauses of that rule In this manner the rule-makeing authoriiv intended to ensure that the claims of person who were in occupation of allottable properties should be satisfied by transfer of those properties so that the\\ may not have be paid compensation in the other modes provided bv Section 8.

9. Mr. Gandhi maintains that the words which have to be interpreted in Rule 30 should be construed in the above background and no significance should be attached to thp difference in phraseology in Rule 25 and Rule 30 A person says Mr Gandhi, can be said to hold a verified claim if his claim still subsists for oavment of compensation no matter whether it is in his own name or whether it originally stood in the name of his ancestors and he has 2ot it by inheritance It is further pointed out that that rule-makine authority did not introduce anv such words as "in their own right" after the words "holdine verified claims" in the substantive part of Rule 30 nor does anv such clarification nppear in the Explanation They-- the Court would be encroaching upon the functions of the rule-making authority bv adding words which dn not appear in the rule itself Reliance has been placed on the principle enunciated in Akhori Ramsewak Prasad Vs. Saran Singh and Others, according to which it is not necessary that to be the holder of a decree, the decree itself must be in the name of ''A'' but even his sons would be holders of the decree by virtue of the interest they hold in it. Similarly if a father has a ''c''laim verified in his name and he dies thp sons having an interest in that claim in the matter of payment of compensation can be legitimately regarded as holders of the verifierd claim

10. Mr Gandhi has next referred to the meaning of the word ''holder" in Corpus Juris Secundum Volume 40, at page 408 It is well known that "holder" is used in legal literature or statutes mostly in relation to negotiable instruments but in Corpu? Juris Secundum phrases in which the word occurs are set out in note 89 and one if these is "lawful holder of the certificate" The words rrferrini? to the lawful holder of tax-sale certificate mean the person who in law is the owner of the certificate and entitled to the rights and benefits which may accrue under it

11. It seems to me that there is a good deal of substance in the contentions of Mr. Gandhi I find it difficult to accede to the view commended by Mr. Wasu that the words in question which appear in Rule 30 should be confined to persons who have got claims verified in their own name or in their own righi and that the natural heirs or successors ot such persons cannot be regarded as holding or cannot be said to hold verified claims in the sense in which these words are used in the substantive part of Rule 30 as also in the Explanation. The scheme of the Act and the rules, particularly Chapter V in which Rule 30 occurs, has been amply discussed and to my mind there is little doubt with regard to the obiect and the purpose for which the Rules contained in the aforesaid Chapter were enacted If Rules 25 and 30 have to be read in the way in which Mr. Wasu wants them to be read, the result would be most illogical and irrational. It would lead to an absurd result if it be held that the sole occupant of an acquired evacuee Property, no matter whether he has a clairr verified in his own right or has succeeded to in can or is bound to receive compensation by transfer of that property, but the situation becomes completely different when that property is in occupation of more than two persons both of whom or one of whom does not have claims which were verified in their name but which were verified in the name of their father

After the death of a father, the son who has succeeded to his estate has indisputably a right to receive compensation if the claim of his father has been verified in respect of property left in Pakistan Under Rule 25 if he is in sole occupaoion the compensation must be oaid to hin and received by him by transfer of the property Can it be plausibly said that under Rule 30 he cannot claim or is not liable to accept compensation in that manner even though his competition may be with another occupant who also does not have any verified claim either in his own right or as an heir or successor as in the present case? These two rules are essentialh meant for payment of compensation by transfer of property whereas Rules 26 and 31 are meant for transfer of property to persons who have been displaced, the object heinp their rehabilitation The words of a statute says Maxwell on Interpretation of Statutes, 11h Edition at page 51.

"When there is doubt about their meaning, are to be understood in the sense in which thev best harmonic with the subiect of the enactment and the ''object which the legislature has in view Their meaning is found not so much in a strictly gramatical or etymological propriety or lanugage nor even in its popular use as in the subiect or in the occasion on which they are used, and the object to be attained"

Brett. M R observed at page 190 in Lion Mutual Marine Insurance Association Ltd. v. Tucker. (18831 12 QBD 176:

"Reading the statute and also the articles or memorandum of association as applying to the subject-matter to which in this case the are applied, namely, a mutual insurance association, one reading is sensible and just, and according to the ordinary modes of business whilst the other it senseless, un-iust, and absurd

Which, then, is the right way to read the words? It seems to me that the right way for the Court to construe words which are applicable to two cases, and which will produce two results one of which is ridiculous and the other just and according to business, is to read them so as to carry out that which is just and honest and businesslike "

In my opinion, the only way in which the words in question in Rule 30 can be read so as to best harmonise with the subiect and the pbiect which the rule-making authority had in view and to achieve a result which would be honest and businesslike in the entire context of Chapter V of the Rules would be to construe them thus A person would be holding a verified claim or would hold such a claim when he has a title to that claim and is entitled to the rights and benefits which may accrue under it In other words an heir who succeeds to the estate of a deceased person in whose name the claims had been verified being fully entitled to all the rights and benefits which would accrue under those claims would certainly be holding the verified claims or can be -aid to hold them. I am not satisfied that even if the aforesaid words in Rule 30 are read literally, anv other construction or interpretation is possible According to the meaning given in the Webster''s New International Dictionary. Vol I (Second Fdition) the word "hold" is stated to mean, apart from the various other meaning? given therein-

"To retain in one''s keeping; to maintain possession of or authority over: * * * *

* * * To have or keep.* *

* * * * To own or possess; to be in possession of: to occupv to derive title to: as. to hold office: to hold an estate of or from the sovereign".

Now, in the present case as soon as Satram Das died his heirs came to own or possess or derive title to the claim? which had been verified in his name In the literal sense, therefore they can certainly be regarded as holdine or to hold verified claims Mr Wasu is not correct when he savs that it is u/s 10 of the Act that the Successors-in-interest of a deceased claimant become entitled to compensation Section 9 merely deals with a situation where there is a dispute as to the person or persons who are entitled to the compensation (including any dispute at to who are the succpssors-in-in-terest of any deceased claimant to commpensa-tion) or as to the apportionment of compensa- tion. This section confers no right as such on the successors-in-interest to receive compensation nor was it indeed necessary for the Legislature to create anv fresh rights in that behalf, If a deceased claimant dies, his heirs would become entitled to compensation by operation of law and no question, therefore would arise of making any express provision for conferring that right on them Rule 4 is merely a procedural rule providing for the form of application for compensation It cannot be said that the heirs of a person havine a verified claim have been conferred any right to receive compensation by Clause (3) oi Rule 4 and that they could not have claimed compensation in the absence ot such a provision. Since they are entitled to compensation in accordance with the provisions of the Act. thev have ''ha same rights and are subiect to the same obligations as the person in whose name the claim had been originally verified No distinction therefore, can be made between the manner in which the compensation is to be awarded by transfer of property under Rules 25 and 30 If the compensation must be paid or giyei, bt transfer of property it can make no difference whether a person got the claims verified in his own name or they have come to him or her by inheritance or succession

12. For the reasons given above, I have no hesitation in holding that Banshi Ram, who succeeded partlv to the verified claim of his deceased father. would be entitlrrt to the benefit of Rule 30 of the Rules as a person holding a verified claim The reference is answered accordingrly.

Mehar Singh, C.J.

13. The dispute between tht parties concerns house No PVI-1180. situate in Ludhiana Ont portion of it was allotted to Gurbachan Singh appellant and the othei to Banshi Ram. Whose legal representatives are respondents 5 to 11, Banshi Ram having died dvrine the pendency of the writ petition by the appellant The portion in the occupancy of the appellant was larger Both the appellant and Banshi Ram were non-claimants Consequently according to Rule 31 of the Displaced Persons (Compensation and Rehabilitation) Rules of 1955. the appellant was entitled to the transfer of the whole of this property in his name In paragraph 5 of his writ petition undei Articles 226 and 227 of the Constitution the appellant averred that the petitioner (appellant) and respondent 5 (Banshi Ram) were both non-claimants but the petitioner beine ir occupation of a larger portion he was offered the oermanent transfer of the house in dispute under Rule 31 of the Displaced Persons (Compensation and Rrhabili-tation) Rules. 1955 in pursuance of this offer the petitioner deoosited the initial instalment of the price of the house before the target date"

To the petition of the appellant the Rehabilitation Officers, who were respondents to it, filed no return, but Banshi Ram as respondent 5 did file a return and in paragraph 5 of it while denying the averments of the appellant as above, he further said that ''the answering respondent (Banshi Ram) has no knowledge of any offer of the permanent transfer of the house in dispute under Rule 31 of the Displaced Persons (Compensation and Rehabilitation) Rules 1955, to the petitioner (appellant) and that in pursuance of that he deposited thf initial instalment of the price before the target date'' Banshi Ram then referred to a memorandum, dated Januarv 17. 1961 Annexure Rule 2 with his return, by the Settlement Officer as addressed to him which memorandum said that if both were non-claimants, the appellant was entitled to the transfer of the whole house as he was in possession of a larger portion. but Banshi Ram claimed to be a claimant This, however, did not negative the averment of the appellant that initially the house in question was offered to him for transfer because he was in occupation of a larger portion of it.

14. It is stated in the order, dated Sep-Lumber 12 1961, Annexure ''A'' to the petition of the appellant, that Satram Das. father of Banshi Ram, was, an allottee of an evacuee house No N M 86 in Jullundur, of which the assessed valuation was Rs 3,155 It was further stated by thf appellant in paragraph 10(v) of his petition that the total compensation admissible to Satram Das was Rupees 2,100 and in paraeraph 10(v) of his return Banshi Ram said thai what was stated in paragraph 10(v) of the oetition was not admitted and then he went on to say that he was a claimant He did not say what was the verified compensation rlaim of his father Satram Das deceased But what he did further was to question the averment of the appellant that his father Satram Das was an allottee of house No N. M 86 at Jullundur, and he said in paragraph 4 of his return that that house was allotted to his brother according to Annexure Rule 1 with his reply Annexure Rule 1 is said to be the copy of an order, dated January 8. 1951 passed by the District Rent Officer indicating that the house was allotted to Hargo Lal, son of Satram Das

This is however, as stated, contradicted by a clear statement of fact in the order of the Chief Settlement Commissioner, Annexure A tc the petition The order was made in the presence of the parties when Banshi Ram was himself alive and the Chief Settlement Commissioner could not possibly have made a mistake of fact of this type. Satram Das died in 1956, He left surviving him four sons, including Banshi Ram a daughter and a widow. It is stated in the order, dated April 25. 1963, of the learned Single Judge that the share of compensation ouf of the verified claim of Satram Das coming to Banshi Ram was Rs 237. The learned Judge draws this conclusion from Annexure Rule 3 of January 30, 1961, addressed by the Assistant Settlement Officer to Banshi Ram asking him to deposit Rs. 124 to make up 20 per cent of the value of the property in dispute. The aggregate of the two amounts is Rs. 361, but 20 per cent of the value of the house at Rs. 3,155 is Rs, 631. So there was an obviout mistake in this for the Assistant Settlement Officer appears to have taken the figure of Rs 361 for Rs 631. This, however does not affect the case as at present The fact remains that Banshi Ram had one-sixth share in the compensation out of the verified claim of his deceased father Satrarr Das This he came to have in 1956 when hi? father died Before 1956 if he competed in the transfer of the house in questior with the appellant, he could not succeed in view of rule 31 of 1955 Rules. While the matter was pending, after the offer of the sale ol the house had been made to the appellant. Satram Das died. It was then that Banshi Ram came forward to make a claim for the transfer of the house to himself on the ground that he had obviously after 1956 become a claimant or holder of a verified claim as that expression is used in Rule 30 of the 1955 Rules

15. The present form of Rule 30, as applying to this case, leaving out the proviso which is not material, is-

"If more persons than one holding verified claims are in occupation of any acquired evacuee property which is an allottable propertv the property shall be offered to the person whose gross compensation is the highest and the other persons may be allotted such other acquired propertv which is allottable as may bp available"

and the explanation says that the provisions of the rule shall also apply where some of the persons in occupation of any acquired evacuee property which is an allottable propertv hold verified claims and some do not hold such claims This rule could only apply to the claims of Banshi Ram if he was a person ''holding verified claim'' as that ex-oression is used in this rule

16. The appellant having failed to obtain transfer of the house from the District Rent and Managing Officer and the Assistant Settlement Commissioner in appeal also failed before the Chief Settlement Commissioner on September 12. 1961 copy of the order being Annexurp A to the oetition of the appellant The argument before the Chief Settlement Commissioner was that Banshi Ram was to be treated as a non-claimant, in othei words not ''holding verified claim'' as that expression is used in Rule 30. In support of this was cited before him ILR I960 P&H 59. in which the farts were that an evacuee house was in the occupation of Piara Ram and Piran Ditta At that time the shape of Rule 30 was that of two claim-holders the one whose verified claim was nearest to the value of thr house, was entitled to the transfer of the same. Piara Ram''s verified claim was nearer to the value of the house. He, however, died before the transfer could take place. He left six heirs each of whom was entitled to a share of Rs. 511 out of his verified claim Three of his heirs, who were actually in possession of a portion of the house in question that was previously in the occupancy of Piara Ram, claimed transfer of the house to themselves. If the heirs of Piara Ram were treated as non-claimants or the share of Piara Ram''s verified claim to each one of the heirs was taken, the property obviously went to Piran Ditta, but if the verified claim of Piara Ram deceased was treated as one unit, again obviously the house went to the heirs of Piara Ram. The decision was given bv a Division Bench consisting of Khosla C. J. and Shamsher Bahadur J. in favour of the heirs of Piara Ram

The learned Chief Justice, who spoke for the Bench, after referring to Rule 3 of the 1955 Rules, which says "An application for compensation may be made by a displaced person having a verified claim or if such displaced person is dead, by his successor-in-interest" proceeded to observe-

"It is clear that the ''successor here includes ''successors'', because a singular must always be deemed to include the plural unless the contrary appears from the context. In this case the application was made by all the successors-in-interest of Piara Ram They were entitled to make such an application in respect of the proved claim of Piara Ram The form of application was drawn up according to Rule 4, but the Department chose to split up the compensation due to Piara Ram into six parts fixing the amount payable to each of the six successors-in-interest at Rs. 511. It is nevertheless obvious that this compensation was due in respect of a single verified claim and not on account of six verified claim;,, because had that been the case the amount permissible bv way of compensation would have been somewhat larger Therefore, the compensation which was due to the successor-in-interest of Piara Ram must be deemed to be a single unit, and in this view of the matter when we come to consider the provisions of rule 30, we find that it is not a single individual occupying a house, who is to be considered as an entitv but individual or individuals, who derive their right from one verified claim I do not think it was the intention of the rule makers to deprive the leeal representatives of the holder of a verified claim of the rights which he had held * * * * * * (After citing Rule 30) It will be seen that the person, who is entitled to make) claim for the allotment of the property is a person who holds a verified claim. The three heirs of Piara Ram who were in occupation of this house, did not hold any verified claim at all because the verified claim was held by Piara Ram They have merely been held entitled to compensation in respect of that verified claim. Therefore, Rule 30, contemplates a person or persons, who are in occupation of the house and who hold a verified claim. If there are more verified claims than one then the holders of such verified claims are to be treated as separate entities In this case, for instance, Piara Ram and Piran Ditta were considered to be as separate holders of verified claims and, therefore, possessing, separate and distinct rights to the allotment of the house. As such they were rivals of one another. I do not see how the heirs of Piara Ram, for instance, could become rivals of one another, but this conclusion must inevitably follow if we are to treat each one of them as a distinct entity possessing separate and distinct rights as opposed to all the other occupants of the house including their own brothers. This interpretation of Rule 30 would do violence to the opening phrase which contemplates persons holding different verified claims and not persons, who derive their rights from a single verified claim. If in this context the latter part of the rule is read, then it will be clear that the net compensation mentioned is the net compensation due in respect of that single verified claim and not the net compensation as it is determined by being split up on account of the death of the original holder of the verified claim. The heirs of Piara Ram must, therefore, be considered as a single unit both for purposes of determining whether they hold a verified claim and also for determininp what is their net compensation "

The learned Chief Justice has made it clear beyond question that the heirs of Piara Ram did not hold so many single verified claims as individuals in themselves. They held one unit of verified claim as representing the estate of Piara Ram deceased The verified claim was held by Piara Ram deceased and for the matter of context between the rival claimants under Rule 30 the estate of Piara Ram deceased as represented by his heirs was taken as holding the verified claim in the hands of his heirs There is no incon-sistencv in the reasoning of the learned Chief Justice and the conclusion reached by him for the very simple reasor that the learned Chief Justice hold "learly that each one of the heirs of Piara Ram did not, after his death, come to hold a separate verified claim, but the total number of the heirs of Piara Ram were entitled to compensation as a single unit under the verified claim of Piara Ram deceased, in other words as successors-in-interest of him So thai there was a verified claim with the estate of

Piara Ram deceased and his heirt were entitled to share compensation due under that verified claim. Some difficulty has been felt with these words used by the learned Chief Justice. ''The heits of Piara Ram must, therefore, be considered as a single unit both for ourposes of determining whether they hold a verified claim and a also for determining what is their net compensation'', but when the learned Chief Justice says that thev are to be considered as a single unit for determining whether they hold a verified claim, and taking into consideration what was observed by him earlier it is obvious that what the learned Chief Justice was savins was that the heirs of Piara Ram were representing his estate which held a verified claim.

It was stated clearly more than once that each one of the heirs of Piara Ram deceased did not on his death, come to hold so many verified claims as separate shares of his verified claim, and the learned Chief Justice made it absolutely clear of the impossibility of such a thine happening According to the decision in Wazir Chand''s case ILR (1961) Punj 59 then each one of the heirs of Piara Ram did not come to hold so many verified claims by the splitting up of the verified claim of Piara Ram, but the estate of Piara Ram having a verified claim, as represented by his heirs, could claim com-pensatior as a single unit. This is the conclusion reached by the learned Justice in that case Among other matters the learned Chief Justice considered the question of net compensation as that expression was used in rule 30 at the time Wazir Chand''s case ILR (1961) P&H 59 came foi consideration and he pointed out that net compensation refers to the net compensation due to the deceased under his verified claim and that if that was not so and as many verified claims were to be considered as the heirs of Piara Ram, the total amount of Compensation would then have been a much larger amount because the Schedule to the Rules of 1955 provide for a scale of compensation tapering with the amount of the initial claim A higher amount sets rate-ably lesser percentage than a smaller amount which gets a higher oercentaee Piara Ram''s verified claim could have ont percentage and if it would have been split up into six parts, each one of the six parts,, being 5/6 lesser than Piara Ram''s- verified claim would have a higher percentage of net com-pensatior payable, The result would have been that in his lifetime Piara Ram would have got one amount as compensation for his verified claim and if this argument was available aftei his death, his heirs would have got a much larger amount This obviously militated against the contention that the heirgof Piara Ram themselves, each one of them were holding a verified claim aftei the death of Piara Ram.

The differernet between Wazir Chand case. ILR (1961) Pun 59 and the present case is that in that case the deceased whose heirs were laying claim to the nropertv was himself an allottee in occupation of a part of the property and also held a verified claim, but in the present case Satram Das was not an allotter in occupation of the property in question, and Banshi Ram did not have his own verified claim Rut it is clear that on the death of a holdei of a verified claim his heirs do not come to have such a verified claim split into as many verified claims as their number. As stated, this decision was cited on the side of the appellant before the Chief Settlement Commissioner, who in his order, Annexure A of September 12, 1961. said this in this respect-

"The principle laid down in ILR (1961) P&H 59 does not apply to this case as this is not a house which was allotted to the deceased Shri Satram Das but it had been allotted to Shri Banshi Ram one of his sons, The perusal of the Act and the Rules do not anywhere lay down that the compensation payable to Shri Satram Das is first to be ad-iusted towards the price of the house to him after his death. Since Shri Banshi Ram succeeded to the claim of his father, Shri Satram Das as his successor, it is Shri Banshi Ram who has the complete power of the disposal of his share of the claim and in that view of the matter he has to be treated as a claimant, as against his wishes the compensation payable to him cannot be appropriated towards the pavment of the price of the house which stood allotted to his father Shri Satram Das. In that view of the matter Shri Banshi Ram has to be treated as a claimant and he has a better right for the transfer of the property against Shri Gur-bachan Singh who is a non-claimant"

So the appellant failed in his revision application before the Chief Settlement Com-missioner and subsequently he failed in his application u/s 33of the Displaced Persons (Compensation and Rehabilitation) Act 1954 (Act 44 of 1954) It was after that that he filed his petition under Articles 226 and 227 of the Constitution questioning the legality of the orders of the rehabilitation authorities Shamsher Bahadur J. in his ordei of April 26. 1963. while dismissing the appellant''s petition, observed:

''''Mr Wasu relies on the observation made by Chief Justice Khosla in the Division Bench of which I was also a member in ILR 1961 Pun 59 At oage 64 of the report it is stated that a person who is entitled to make a claim for the allotment of the pro-oerty is a person who holds a verified claim. Tn that case it was said that the three heirs of Piara Ram the original holder of the verified claim, who were in occupation of the house were not themselves the holders of the verified claim Thev were held entitled merely to compensation It does not mean that the right of successor-in-interest of an unsatisfied verified claimant cannot be entertained for purposes of allotment Tech-nically the fifth respondent (Banshi Ram) may not be a verified claimant in his own right but he is a lawful Heir of a person who held a verified claim and which still re-mains unsatisfied. In my view the observations made in ILR 1961 P&H 59 do not support the contention of the petitioner (ap-pellant) that the fifth respondent (B;mshi Ram) is not entitled to anv compensation, not being in independent holder of a verified claim in respect of pro- perty of which he is in possession ab an allottee. I would hold that the house has been validly allotted to the fifth respondent (Banshi Ram) and the claim of the petitioner (appellant) has been rightly rejected"

The learned Judge in so many words says that Banshi Ram was not holder of a verified claim bul that he was only entitled to compensation It was never the case of the appellant that Banshi Ram was not entitled to compensation The case that has throughout been urged by the appellant is that while Banshi Ram could get compensation for his share of the verified claim of his deceased father Satram Das. he could not defeat the appellant''s claim to the house under Rule 31 of the 1955 Rules by bringing in Rule 30 on a claim that he held a verified claim which in fact he did not do so. The appellant filed an appeal under Clause 10 of the Letters Patent which came for hearing before P C. Pandit J and myself and by an order of December 6. 1965, we made reference of this Question to a larger Bench-

"In this case did Banshi Ram. who was himself not holder of a verified claim, become holder of a verified claim as that expression is used in Rule 30 after the death of his father Satram Das in succeeding partly to the verified claim of his deceased father, and in these circumstances, is he entitled to the benefit of the provisions of Rule 30 as a verified claim holder?"

It is thi'' question that has been placed for consideration before this larger Bench. It is obvious that really the only question is whether in the facts and circumstances of the present case Banshi Ram was ''holder of verified claim'' as that expression is used in Rule 30? The answer to the question is immediately given in the negative by Wazir Chand''s case ILR (1961) P&H 59 and I agree with every aspect of the reasoning adopted by the learned Chief Justice in reaching the conclusion that the answer to the question is in the negative Bv the time the present case name for consideration as already pointed out, Rule 30 had been amended and instead of net compensation'' ''gross compensation'' is now to be taken into consideration and whoever of the claimants has the highest of the gross compensation, he is entitled to the transfer of the property when the claimants are in occupation of the property Now if the six heirs of Satram Das are to be treated as holding each a'' verified claim in the amount of one-sixth share of the original verified claim of Satram Das, how may it be asked, will it be determined what is the gross compensation claim of each one of them individually The gross compensation claim of Satram Das is available, but no such compensation claim of any one of his heirs would be available in such a situation So the rule does not envisage that the successors in-interest or heirs of holder of a verified claim, after the death of such person. ; ome to hold as many verified claims as their number

What is stated in Rule 53 of the 1955 Rules lends support to this. It is sub-rule (1) of that rule which is material and reads-

"Where a displaced person having verified claim in respect of agricultural land has settled in an area other than an urban area, he may be paid one-third of the compensation due to him in cash, subiect to a maximum of Rs 1.000- Provided that no such person holding a verified claim for more than thirty standard acres shall be oaid any part of his compensation in cash ''''

If a, person say holding 51 standard acres of land, who was not entitled to claim under this sub-rule cash compensation as equivalent to one-third of his compensation due because his holding exceeded 30 standard acres, should die leaving three heirs each such heir becoming entitled to 17 standard acres, which is much less than 30 standard acres, and if each one of the three heirs is to be treated as having or holding a verified claim, then each one of them would be entitled, if he was so minded to claim, to a maximum sum of Rs 1.000 in lieu of one-third share of his share from the inheritance of his deceased father So that where the deceased himself could not have any cash compensation in such a case his heirs would become entitled to that three times the maximum cash compensation provided by the sub-rule.

It is apparent that this position has to be stated to reach the conclusion that the rule makers did not intend any such thing. The holding of a verified claim by a person in this rule is no more than the holding of such a claim by the original claimant and not by his heirs as so many verified claims as their number. Exactly same is the position under Rule 30 As has been pointed out, if they have so many verified claims in the scale of compensation provided in Rule 16 read with Appendix VIII or IX the amount of their compensation will rise much higher than the amount that would have been payable as against the verified claim of their deceased predecessor There is then Rule 20 of the 1955 Rules which reads in this manner-

"Where a claim relates to a property left, in West Pakistan, which is owned by more than one claimant as co-owners, the unit for assessment of compensation shall be the share of each co-owner and the compensation shall be payable in respect of each such share as if a claim in respect thereof had been filed and verified senaratelv"

It is this rule which splits up a joint claim into separate verified claims bv the various claimants. There is no parallel rule to meet the situation where a claimant with a verified claim, dies leaving a number of heirs to succeed him and they are to be treated as havins separately verified claims to themselves As already stated even the learned Single Judge had to say that technically Banshi Ram was not holder of a verified claim under Rule 30. There is no manner of doubt that the heirs of Staram Das deceased, including Banshi Ram, have not been separately holders of verified claims by splitting up the verified claim of their deceased father Satram Das. So Banshi Rarn was not holder of a verified claim under Rule 30 of the 1955 Rules, though he was entitled to compensation commensurate with his share of the verified claim inherited from his deceased father in the manner provided bv Act 44 of 1954, Section 8, and the rules made under the Act as the 1955 Rules, but obviously he could not defeat the claim of his rival claimant, the appellant, who had made a claim to the house in question "for transfer of it to him even before the death of Satram Das.

This appears clear from Rule 3 as also from the contents of the application in Sub-rule (3) of Rule 4, which rule refers to an application for compensation by a displaced person having a verified claim or, if he should be dead, by his successors-in-interest. Similarly, Rule 86 of the 1955 Rules points out who is to decide the claim of a successor-in-interest of a deceased claimant in an application as in Rule 4. In all these rules the claim by the original claimant having a verified claim is treated as by itself and as distinct from the position in which his successor or successors make a claim on the basis of his verified claim. In addition, in the definition of the expression ''verified claim'', in Section 2(e) of Act 44 of 1954. there is no reference to a successor-in-interest of a displaced person having a verified claim, unlike such a reference in the definition of the expression ''displaced person'' in Section 2(b) of the same Act where the words used are ''....." and also includes the successors-in-interest of any such person''.

17. It has been said during the arguments that the scheme of Act 44 of 1954 and the Rules of 1955 militate against this manner of reading of Rule 30. But those statutory provisions deal with compensation to those displaced persons who left property behind and the rehabilitation of other displaced persons. The contest between the present parties is within the scope of the statute and the rules, both sides being displaced persons. Satram Das had a right of claim to allotment of property and he in fact had an allotment of property in Jullun-dur as stated bv the Chief Settlement Commissioner in his order. He was the occupant of that property and he could utilise his verified claim to obtain that property according to Sub-rule (1) of Rule 25, which rule leaving out the provisos that are not material here reads thus-

"Where an applicant for payment of compensation is in sole occupation of an acquired evacuee property which is an allott-able property, such property may be transferred to him in lieu of the compensation payable to him under the Act"

and Rule 29 then provides that

"Where any person, having a verified claim for urban or rural property, in sole occupation of any property, under the Compensation Pool, which is an allottable property, refuses to accept the transfer of such property in satisfaction of his claim in accordance with the provisions of these rules, his claim for compensation shall be paid in the manner shown belonw: ((a) is not relevant) (b) If his net compensation does not cover the entire value of the property but is not less than 20 per cent thereof he shall not be paid compensation in cash. Such persons may be permitted to continue to occupy the property on such terms and conditions as the Settlement Commissioner may determine and the property may be allotted or sold to any other person."

There is Clause (c) but that is not relevant here.

So Satram Das had a right to obtain transfer of the Jullundur property with him under Rule 25(1), and if he refused to accept the transfer, then Rule 29(b) would have applied to him in that he would have been allowed to continue to occupy the property in his occupation on such terms and conditions as the Settlement Commissioner may have determined, but the property may have been allotted or sold to another person. In this manner Satram Das deceased in his lifetime was either to have the transfer of Jullundur property against verified claim or have the consequences of his refusal under Rule 29(b''), because his net compensation claim was not less than 20 per cent of the value of the property. The question is whether, after his death, his heirs, including Banshi Ram, are in a different position? The Chief Settlement Commissioner was con-cious of these two rules and that is the reason why in his order, a paragraph from which has already been reproduced above, he pointed out that the rules did not compel Banshi Ram to have his claim first adjusted towards the Jullundur property allotted to his father He further pointed out that Banshi Ram having the complete power of disposal over his share of the verified claim of his deceased father, could be treated as a claimant, and this has been shown to be basically not a correct approach

The Chief Settlement Commissioner thus realised that according to the rules the verified claim left by Satram Das deceased or with the estate of Satram Das deceased could more appropriately be applied in view of Rule 25 and 29 for the transfer of Jullundur property, which was the property allotted to Satram Das deceased, but ignoring this he brought in the share of the claim of Banshi Ram in contest with the appellant''s claim to the house at Ludhiana. The verified claim whether with Satram Das decaased or whether with his estate in the hands of his heir? could well be satisfied by the transfer of the Jullundur property, leaving the Ludhiana property to be disposed of according to Rule 31. This would have been perfectly consistent with the spirit and the scheme of both the statute and the rules under it. There is nothing which would have rendered such a thine contrary to that scheme. So that this argument is entirely unhelpful in the present case. Here the question simply is, both persons being displaced persons and both being initially non-claimants, can one of them by a subsequent development by inheriting one-sixth share of a verified claim of his deceased father defeat the rights of the other claimant, which rights that other claimant had under Rule 31? The answer to this question in the negative, in the circumstances of the case, as the Jullundur property was available for that verified claim, would not militate in the least against any part of the rehabilitation scheme either in the statute or in any of the rules

18. In my opinion Wazir Chand''s case ILR (1961) P&H 59 was correctly decided and on sound basis. Following that case my answer to the question posed is in the negative. It has already been pointed out in the referring order that the answer to the question finally disposes of the appeal of the appellant. The answer being in the negative. I would therefore accept the appeal of the appellant and quash the order of the Government u/s 33 of Act 44 of 1954 and also of the Chief Settlement Commissioner with a direction to the respondents, other than the heirs of Banshi Ram deceased, to proceed to deal with the property under Rule 31 of the 1955 Rules on the basis that Banshi Ram was not holder of a verified claim as that expression is used in Rule 30. I would, however, leave the parties to their own costs.

D.K. Mahajan, J.

19. I have gone through the judgments prepared by my Lord the Chief Justice and my learned brother, Grover, J. I regret I am unable to agree with my Lord

the Chief Justice. I agree with the judgment proposed to be delivered by my learned brother. Grover, J.

BY THE COURT

20. According to the majority opinion, the answer to the question referred to this Bench is that Banshi Ram or rather his legal representatives, at present, are entitled to the benefit of the provisions of Rule 30 of the 1955 Rules as verified claim holders. There is no order in regard to costs.