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

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**RA-RS-73-2026 in
RSA-1442-1988
Date of decision: 09.07.2026**

Puran Singh (deceased) through his LR.

....Review Applicant/Appellant

Vs.

Nachhattar Singh (deceased) through his LR.

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. K.S. Godara, Advocate
for the review applicant/appellant.

HARSH BUNGER J. (Oral)

The present review application has been filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, seeking review of the judgment dated 11.05.2026 passed by this Court in RSA No. 1442 of 1988.

2. The present review application has been filed primarily on two grounds, **firstly**, that the respondent-plaintiff did not implead the owner of land (Vendor) namely Smt. Sachiar Kaur, as a party defendant in the suit for pre-emption; **secondly**, that there is non-compliance of section 19 of the Punjab Pre-emption Act, 1913.

3. I have heard learned counsel for the review applicant and perused the paper-book with his able assistance.

4. As regard the first plea of non-joinder, that the respondent-plaintiff did not implead the owner of land (Vendor) namely Smt. Sachiar Kaur, as a party defendant in the suit for pre-emption; learned



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counsel for the review applicant was asked to refer to any such objection raised by Sh. Puran Singh [predecessor of the review applicant (defendant in the suit)] before the learned Trial Court or any issue in that regard being framed by the Trial Court. In response to the said query, learned counsel for the review applicant has fairly conceded that no such objection as regards non-joinder of the owner of land (Vendor) namely Smt. Sachiar Kaur, was taken before the learned trial court nor any issue in that regard was framed by the learned Trial Court.

5. In ***Mumbai International Airport Pvt. Ltd. v. Regency Convention Centre and Hotels Pvt. Ltd., AIR 2010 Supreme Court 3109;*** the Hon'ble Supreme Court defined the terms "necessary party" and "proper party" as follows:-

"A "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be proper or necessary party, the court has not jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a property party to the suit for specific performance."

6. It is not disputed before this court that in a suit for pre-emption, Vendor is only a proper party and not a necessary party.



7. Here it is gainful to refer to Order 1, Rule 9 of the Code of Civil Procedure, which deals with misjoinder and non-joinder, which reads as under:-

“9. Misjoinder and nonjoinder. - No suit shall be defeated by reason of the misjoinder or nonjoinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it: [Provided that nothing in this rule shall apply to nonjoinder of a necessary party.]”

7.1 The above extracted provision opens with the words "no suit shall be defeated by reason of misjoinder or non-joinder of parties".

8. Now, Order 1, Rule 13, Civil Procedure Code provides that all objections on the ground of non-joinder or mis-joinder of parties shall be taken at the earliest possible opportunity, failing which, such objection shall be deemed to have been waived. Order 1, Rule 13 CPC reads thus:

“13. Objections as to nonjoinder or misjoinder. - All objections on the ground of non-joinder or misjoinder of parties shall be taken at the earliest possible opportunity and, in all cases where issue are settled, at or before such settlement, unless the ground of objection has subsequently arisen, and any such objection not so taken shall be deemed to have been waived.”

9. The underlying idea behind this provision is to put on guard the plaintiff so that he is not taken by surprise at the end of the trial and suffers defeat on that score. That is why the legislature has thought it fit to provide that if such objection is not taken at the earliest possible opportunity, it shall be deemed to have been waived.

10. Once it is the conceded position that in the present case, no objection as regards non-joinder of the owner of land (Vendor) namely Smt.



Sachiar Kaur, was taken before the learned trial court nor any issue in that regard was framed by the learned Trial Court and also that such a plea was also not raised by the appellant-defendant in his grounds of appeal before the learned District Judge or before this court in second appeal; in my considered view, such objection as regards non-joinder of party, must be deemed to have been waived.

10.1 Accordingly, I find no merit in the first plea raised by learned counsel for the review applicant and the same is rejected.

11. As regards the second plea, that there is non-compliance of section 19 of the Punjab Pre-emption Act, 1913; suffice it to say that neither such plea was taken by Sh. Puran Singh [predecessor of the review applicant (defendant in the suit)] before the learned Trial Court nor such a plea was raised by Sh. Puran Singh in his grounds of appeal before the learned District Judge or before this court in second appeal. Even at the time of arguments in the regular second appeal, no such plea was pressed. Rather in the suit before the learned Trial Court as well as before the learned First Appellate court and also before this court, only one argument had been pressed, which finds mention in para no. 4 of the judgment under review, which reads as under:-

“4. Before this Court, learned counsel for appellant-defendant (Puran Singh) has raised only one submission that since plaintiff (Nachhattar Singh) was related to vendor (Sachiar Kaur); therefore, his (Nachhattar Singh) claim could have been decreed only by invoking the provisions of Section 15(2) of 1913 Act, which stood repealed. With the aforesaid submission, prayer has been made for dismissal of the suit of plaintiff (Nachhattar Singh).”



11.1 Keeping in view the aforesaid contention, this court had framed the following issue in para no. 7 of the judgment under review, which reads as under:-

“7. The issue that arises before this Court for consideration is that as to whether the plaintiff (Nachhattar Singh) being related to vendor (Sachiar Kaur) could have claimed right of pre-emption only by invoking the provisions of Section 15(2) of 1913 Act, which has already been declared to be ultra vires the Constitution of India by Hon'ble the Supreme Court of India in Atam Parkash's case (supra) and not under Section 15(1)(b) of 1913 Act in his capacity as a co-sharer in the suit land ?

11.2 The aforesaid issue has been duly considered and decided by this court vide the judgment under review.

12 In ***Sanjay Kumar Agarwal v. State Tax Officer (1), 2023 AIR (Supreme Court) 5636***; wherein, Hon'ble Supreme Court has considered the scope of a review petition and has observed as under:-

“16. The gist of the afore-stated decisions is that: -

(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected."



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(v) A Review Petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law or subsequent decision/ judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review..."

13. In view of the above discussion, since a review petition has a limited purpose and cannot be allowed to be an appeal in disguise or to permit the review petitioner to re-agitate and re-argue the matter, therefore, the second plea raised by learned counsel for the review applicant is also rejected.

14. In the aforementioned circumstances, the instant review application is ***dismissed***.

15. All pending applications (if any), shall also stand closed.

(HARSH BUNGER)
JUDGE

09.07.2026
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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No