

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1709 of 2014 (O&M)
Date of Decision.01.09.2015

Harish Kumar and others

.....Appellants

Versus

Dalip Singh and others

.....Respondents

Present: Mr. Rajbir Singh, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The suit for exercising right of pre-emption brought at the instance of the plaintiff's sons after the death of the father was decreed. The pre-emption was sought against a sale made by the land owner to the present appellants. The sale had been made on 18.10.2004 and it appears that at that time when the sale was made, the landlord was himself in possession of the property having obtained an order of ejectment. This order of ejectment came to be set aside in revision by the Financial Commissioner by his order dated 1.5.2003 and on being remanded to the Court for fresh disposal, the order of ejectment was recalled and the petition for ejectment was dismissed.

2. The right of pre-emption stands on status of a person as a tenant who is entitled to enforce such a right against a purchaser from the owner. It does not at all times stand concluded on the issue of possession, for, if a possession had been taken by virtue of an ejectment

order which order was set aside subsequently and the plaintiffs were directed to be restored in possession, they are entitled to apply for a right of pre-emption. All that has to be examined by the shall be: One, to ensure that before a right is granted, his status as tenant is established and two, the suit is brought within a year from the date when the sale had taken place. If both these conditions are satisfied, the plaintiffs' suit becomes indefensible.

3. The decree granted in favour of the plaintiffs is perfectly justified and there is no scope for interference in the second appeal. The second appeal is dismissed as involving no substantial question of law.

(K. KANNAN)
JUDGE

September 01, 2015
Pankaj*