

275 IOIN-CR No.3429 of 2016

KASHMIR SINGH AND ORS.
VS.
BAKSHISH SINGH THROUGH HIS LRS. KALA SINGH
AND ORS.

Present: Put up by office.

Application is allowed and necessary correction is ordered to be made on the page No.7 of the judgment dated March 14, 2017 reads as under:

12. *Adverting to the facts and circumstances of the case in hand, undoubtedly, after disposal of the appeal, vide order dated May 22, 1986, pre-emption money (zare-e-panjam) was withdrawn. Though, it has been alleged by the respondent(s) – plaintiff(s) that it was withdrawn with permission of the Court but a glance at the relevant order transpires that no such permission was accorded, rather, an option was given to the respondent(s) – plaintiff(s) to withdraw the appeal. However, subsequent thereto, pre-emption money (zare-e-panjam) was withdrawn. Meaning thereby at the time of filing of suit, there was no pre-emption money lying deposited with any of the courts. Thus, in such a situation, in view of Section 22(5)(a) of the Pre-emption Act, appeal was bound to fail. Moreover, there is no other provision made in the aforesaid Act to allow the deposit of pre-emption money at any subsequent stage. The controversy in this regard stands squarely covered by the judgment rendered in the case of **Avtar Singh (supra)** as well as Section 22(5)(a) of the Pre-emption Act. Thus, impugned order dated May 06, 2016 is not sustainable in the eyes of law and is liable to be set aside.*

13. *As an upshot of aforesaid discussion, instant petition is allowed. Consequently, impugned order dated May 06, 2016 stands set aside.*

14. *No order as to costs.”*

November 07, 2017
Ankur

(JASPAL SINGH)
JUDGE