

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

RSA No.2118 of 1996 (O&M)

Date of decision : 03.07.2018

Chandrawali

...Appellant

Versus

Satbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S. Dhaliwal, Advocate for the appellant.

Mr. Arun Jain, Sr. Advocate with
Mr. Amit Jain, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court dated 29.08.1995 reversing the judgment and decree passed by the trial Court dated 22.12.1993.

The plaintiff had filed a suit for possession by way of pre-emption being co-sharer.

Learned trial Court decreed the suit, whereas the learned First Appellate Court reversed the judgment on the ground that Punjab Pre-emption Act, has been amended and such amendment carried out by the Act No.10 of 1995 is with retrospective effect. A Constitution Bench of Hon'ble Supreme Court in the case of *Shyam Sunder and others Vs. Ram Kumar*

and another, Appeal (Civil) No.4680 of 1993 decided on 31.07.2001 have held that the amendment carried out by the Act No.10 of 1995 shall not operate with retrospective effect and the suit which has been decided before the amendment would not be effected by the amendment even if an appeal is pending.

In view thereof, the judgment under challenge is liable to be set aside. The case is remitted back to the First Appellate Court to re-decide the appeal on merits in accordance with law.

Parties through their counsel are directed to appear before the First Appellate Court on 21.08.2018.

03.07.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No