

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

RSA No. 941 of 1991 (O&M)

Date of Decision: 14.05.2018

Smt. Chawli Devi and others

. . . Appellants

Versus

Inder Paul and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Salil Bali, Advocate
for the appellants.

Mr. Ashok Verma, Advocate
for the respondents.

Amit Rawal, J. (Oral)

This Court on 09.03.2018 noticed that there was no representation on behalf of the parties and the Registry was directed to inform the counsel representing the parties about the listing of the matter. It was also made clear that in case the appeal is not argued, the stay granted by this Court, vide order dated 01.05.1991, shall be vacated.

Mr. Salil Bali, Advocate has appeared on behalf of the appellants and Mr. Ashok Verma, Advocate has appeared on behalf of the respondents.

The appellants-defendants are in regular second appeal against the finding of fact whereby the suit for possession by way of preemption with respect to the land measuring 80 kanals, comprised in

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land measuring 13 kanals 7 marlas, being 1/3rd share of land measuring 40 kanals comprised in Khewat No.146, Khatauni No.231 kitta 5 and the land measuring 66 kanals 13 marlas out of 1/3rd share of the land comprised in Khewat No.187, Khatauni No.194, 295 area measuring 359 kanals 15 marlas sold by the vendor Smt. Kalawati vide registered sale deed No.1186 dated 10.07.1986 in favour of the defendants, challenging the sale deed by claiming the right of preemption had been dismissed by the trial Court. However, the decision taken by the trial Court had been reversed by the lower Appellate Court.

The respondents-plaintiffs instituted the suit challenging the sale deed dated 10.07.1986 on the ground that he along with other co-sharers i.e. Kalawati having 1/3rd share in the total land measuring 399 kanals 15 marlas have a right of preemption and as notice required under the provisions of Punjab Preemption Act was never given to them. The trial Court dismissed the suit on the ground that the plaintiffs did not have the superior right to preempt the suit land. However, in appeal taken by the respondents-plaintiffs before the lower Appellate Court, the suit was decreed.

Concededly, the law of preemption qua co-sharer had been repealed in the year 1995, but with regard to the tenant is applicable. The suit afore mentioned was concededly filed on 16.07.1987. The factum of co-sharer was not denied by the appellants-defendants. In such circumstances, the lower appellate Court had no other option except to decree suit.

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I do not find any illegality and perversity in the findings rendered by the lower Appellate Court, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Two months time is granted to the respondents-plaintiffs for the purpose of making payment to the appellants-defendants.

The appeal is dismissed.

[AMIT RAWAL]
JUDGE

May 14, 2018
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Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No