



RSA-363-2025 (O&amp;M)

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

RSA-363-2025 (O&amp;M)

Date of decision: 05.08.2025

**RAJENDER SINGH AND OTHERS****....APPELLANTS****Vs.****SURENDER KUMAR PAWAR AND ANR****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr.Lalit Kumar Yadav, Advocate  
for the appellants.

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**PARMOD GOYAL, J. (ORAL)**

1. Present second appeal has been preferred by plaintiffs-appellants being aggrieved by impugned judgment passed by Court of Civil Judge (Senior Division), Sonipat vide which application under Order 7 Rule 11 CPC was allowed and plaint was rejected. Appellants are further aggrieved by impugned judgment dated 15.10.2024 passed by learned Additional District Judge, Sonipat. First Appellate Court in Civil Appeal preferred by appellants-plaintiffs.

2. Appellants-plaintiffs had preferred a suit for possession by way of pre-emption under Punjab Pre-emption Act No. (1) of 1913 claiming to be tenants over suit property and claiming right to pre-empt sale made by defendant No. 2 on 31.10.2009. The suit was preferred after passing of 11 years from the date of execution of sale-deed on 28.02.2020.

3. Defendants duly appeared and preferred an application under Order 7 Rule 11 CPC seeking rejection of plaint on the ground that suit is not maintainable as plaintiffs have got no right of pre-emption in view of notification



dated 08.10.1985 issued by State of Haryana whereby right of pre-emption over the land situated in municipal limits was taken away by State Government. Applicant-defendant No. 2 asserted that suit land is situated within the area of Municipal Corporation, Sonipat and therefore, under the provisions of Section 8 Sub-section 1, no right of pre-emption exists in respect of land falling within area as specified by State Government notification dated 08.10.1985 (supra). The application was contested by plaintiffs-appellants. It was asserted that suit land was not part of Municipal Corporation, Sonipat on the date when sale-deed was executed i.e. on 30.10.2009, thus, notification including areas falling within municipal area was not applicable. It is asserted that right of pre-emption still exists in favour of the plaintiffs-appellants.

4. Learned Court at the first instance held that since on the date of filing of suit, the land in question was within municipal area, therefore, notification dated 08.10.1985 is fully applicable and no right of pre-emption exists in favour of plaintiffs-appellants and accordingly held the suit to be barred by law and rejected the plaint.

5. Aggrieved by said order passed by Court of first instance, first appeal was preferred which was also dismissed after considering provisions of Section 8. It was concluded that no right of pre-emption existed on the date of filing of suit and hence first appeal preferred by appellant was also dismissed.

6. Learned counsel for the appellant has challenged both the impugned orders on the ground that both the Courts below have erred in holding notification dated 08.10.1985 to be binding upon the rights of plaintiffs-appellants. It is asserted that on the date of sale of suit property i.e. 31.10.2009 when sale-deed was executed, the suit land was not in municipal jurisdiction and therefore, the subsequent inclusion of suit property municipal limits cannot defeat rights of



plaintiffs-appellants to pre-empt sale.

7. In the present case, facts are not in dispute that defendant No. 2 had executed sale-deed on 31.10.2009 regarding suit land. Notification excluding municipal land from the ambit of right of pre-emption was issued by State on 08.10.1985. Suit for pre-emption was preferred by plaintiffs only on 28.02.2020 after 11 years of sale-deed dated 31.10.2009. It is also not disputed that in the year 2015 suit property was included within municipal area much prior to filing of suit by plaintiffs-appellants. On appreciation of above-noted facts, the only question which requires consideration in the present case is whether right of pre-emption existed in favour of plaintiffs as on 28.02.2020, when the civil suit was preferred. The sole contention of the learned counsel for the appellants is that inclusion of suit property in Municipal Corporation cannot take away right of pre-emption retrospectively, especially when registered sale-deed was executed on 30.12.2009 and right to pre-empt accrued in favour of plaintiffs-appellants on the date of execution of sale-deed.

8. On consideration of the said contention, I find that contentions raised on behalf of the appellants are devoid of any merits. This Court in '**Raj Singh Vs. Krishan, 2003(1) RCR (Civil) 163**' had held that right to pre-empt sale must exist in favour of pre-empter (i) on the date of institution of suit (ii) during the pendency of the suit and (iii) at the time of decision of the suit.

9. In the present case, it is not the case of plaintiffs-appellants that they had preferred suit for pre-emption prior to inclusion of suit property in municipal limits in 2015. Suit for pre-emption was preferred after 11 years of execution of sale-deed, especially after suit land was included in Municipal Corporation and pre-emption rights stood extinguished on the date of filing of suit. Therefore, in the present case, it is not retrospective enforcement of notification issued by State



Government, rather, it is lack of cause of action in favour of plaintiffs-appellants on the date of filing of suit. Learned First Appellate Court has rightly placed reliance upon '*Ramji Vs. State of Punjab and others 1966 PLR 345*' to conclude that it hardly matters whether the qualification was lost by his own Act of pre-emptor or by act beyond his control and if his right to pre-emption goes, it stands extinguished. Therefore, inclusion of suit land in Municipal Corporation would take away right of pre-emption vested in the plaintiffs-appellants and the same stood exhausted only on inclusion of suit property within municipal area. The application of notification is, therefore, prospective in nature, no fault with the judgments passed by Courts below can be found. The judgments passed by learned First Appellate Court is exhaustive and gives detailed reasons. No interference is warranted. No pre-emption right existed in favour of the appellants on the date of filing of suit and therefore, suit was rightly held to be not maintainable and plaint was rightly rejected. The present appeal is devoid of merit. Hence dismissed.

10. Accordingly, judgments of both the Courts below are hereby affirmed.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

05.08.2025  
manoj

(PARMOD GOYAL)  
JUDGE