



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

RSA-2717-2025 (O&M)

Date of Decision:-**08.08.2025**

Mahinder and Others

... Appellants

Versus

Puran Singh

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Surinder Singh Duhan, Advocate
for the appellants.

VIRINDER AGGARWAL, J.

1. Appellants/respondents has assailed the judgment dated 17.05.2025 passed by learned Additional District Judge, Karnal whereby the judgment dated 07.03.2019, passed by learned Additional Civil Judge (Senior Division), Karnal, was set aside.

2. The respondent/petitioner-Puran Singh has filed a petition claiming pre-emption on the grounds that previous owner Nanhu Ram, predecessor-in-interest of the parties was owner of ½ share of the land measuring 91 Kanals 15 Marlas and he was succeeded by his natural heirs i.e. petitioner and respondents No.1 to 8. Respondents No.1 to 8 has alienated the suit property to respondent No.9, during the pendency of the petition and sale deed in favour of respondent No.9 qua the suit property is not binding upon the rights of the petitioner and sale deed No.5395/1 dated 28.12.2011 has not created any right in favour of respondent No.9. The



petitioner is having a preferential right over the land in question, the transaction in favour of respondent No.9 is fictitious, actually the property was sold for a sale consideration of ₹30 lac only whereas consideration was shown as ₹44.70 lac, just to deprive the petitioner of his right to purchase property. The petitioner requested respondents not to alienate the property except to him but they refused and the petition was filed.

3. The petition was contested by respondents No.1 to 8, on the ground that same has been filed with an ulterior motive to extract money and ingredients of Section 22 of Hindu Succession Act (hereinafter to be referred as 'the Act') are not attracted as respondents were not having any knowledge of the petition filed by the petitioner at the time of execution of sale deed in favour of respondent No.9. Respondent No.9 also filed a separate written reply, reiterating the same grounds and prayed for dismissal of the petition.

4. After trial, the learned Civil Judge, dismissed the petition on the ground that Section 22 of the Act is not applicable with regard to agricultural property and that since Punjab Pre-emption Act, 1913 was declared null-&-void. No pre-emptory right can be granted as per provisions of Section 22 of the Act.

5. Aggrieved by the judgment so passed, respondent-plaintiff preferred the first appeal and the learned Additional District Judge, Karnal accepted the appeal and set aside the judgment so passed by learned Civil Judge, by observing that in view of the judgment passed by Hon'ble Supreme Court on 07.03.2019, in case titled as **Babu Ram vs. Santokh Singh (deceased) through his LRs and Others (2019) 14 SCC 162**, has declared that the provisions of Section 22 of the Act are applicable even to



the agricultural holdings and the co-owners, who has jointly inherited the property in question from their common predecessor is entitled to pre-empt sale and the judgment of Hon'ble Apex Court in **Babu Ram's** case (supra) was passed on the same day when the judgment was passed by learned Additional Civil Judge (Senior Division), Karnal., As such, learned Additional Civil Judge (Senior Division), Karnal was not aware of the judgment of Hon'ble Apex Court in **Babu Ram's** case (supra). Accordingly, appeal was allowed. Aggrieved by the judgment and decree so passed, present appeal has been filed.

6. This appeal was preferred against judgment of First Appellate Court. Notice was issued to respondent/petitioner. Record was requisitioned.

7. Learned counsel for the appellants mainly relied upon the law laid down by Orissa High Court in case titled as **Muralidhar Das vs. Bansidhar Das and Others, 1986 AIR(Orissa) 119**, where Orissa High Court has held that a pre-emptory right under Section 22 of the Act cannot be enforced against third party to whom the property is sold and the aggrieved person has a remedy in Civil Court of competent jurisdiction. Authority cited is distinguishable in present case as the sale deed in favour of respondent No.9 was executed during the pendency of the petition filed by the respondent/petitioner-Puran Singh, so, the same is hit by the principles of *lis pendens* and would be subject to the litigation between respondent/petitioner and appellants/respondents.

8. Now considering the fact that the property was inherited by appellants from a common ancestor Nanhu Ram along with respondent/petitioner. Respondent/petitioner was rightly held to have



preferential right, hence, there is no mis-apprepreciation of legal position or evidence on record. So findings recorded by First Appellate Court are correct and do not call for any interference.

9. No substantial question of law arises, as such, the instant appeal being devoid of merits, is hereby dismissed.

10. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

08.08.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No