



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

(102)

RSA-2669-1995 (O&M)
Date of Decision: **06.04.2026**

LAHRI SINGH

... Appellant

Versus

SURINDER VASHISTH

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Shikhar Kataria, Advocate
for the appellant.

Mr. Sushil Sain, Advocate
for the respondent.

VIRINDER AGGARWAL, J. (Oral)

1. The instant Regular Second Appeal (hereinafter to be referred as 'RSA') is directed against the judgment and decree dated 01.08.1995 rendered by the learned Additional District Judge, Rohtak. By way of the impugned judgment, the learned Appellate Court accepted the appeal and reversed the learned trial Court's findings dated 03.03.1994, solely on the legal premise that the amended provisions of Section 15 of the Punjab Pre-emption Act, 1913 (as applicable to Haryana) operate retrospectively upon pending litigations.

1.1. In doing so, the learned First Appellate Court placed reliance upon the ratio in ***Ram Lal vs. Raja Ram and Another (1960 PLR 291)***, consequently setting aside the decree without an adjudication on the factual merits of the case. This Court, noting the significant question of



law regarding the applicability of the amendment, admitted the appeal for regular hearing on **19.11.1995**.

2. The plaintiff has preferred the instant suit for possession by way of pre-emption, asserting a superior right of purchase as a co-sharer in respect of the suit land. The claim arises from the sale of a 3/4th share (54 K 15 M) by defendant No. 2 to defendant No. 1 via a registered sale deed dated 08.11.1991 for ₹1,99,000. The plaintiff assails a prior 50-year lease deed dated 25.05.1989 as a colorable and fictitious instrument, contending it was executed collusively alongside a General Power of Attorney to defeat the plaintiff's pre-emptive rights. It is further alleged that the sale consideration was actually discharged on 15.05.1989, rendering the subsequent lease a fraudulent encumbrance designed to obstruct the plaintiff's lawful claim.

3. Upon service of notice, the respondents entered appearance through counsel and strenuously contested the proceedings by filing a written statement, wherein they raised preliminary objections pertaining to locus standi, the bar of limitation, maintainability, and the plea of partial pre-emption, while further claiming the value of improvements and reimbursement of stamp and registration charges. On merits, while the factum of the sale was admitted, all other material averments in the plaint were categorically traversed and denied.

3.1. Consequently, upon a comprehensive scrutiny of the pleadings and the rival contentions advanced by the parties, the learned trial Court deemed it appropriate to crystallize the points of controversy and proceeded to frame the following issues for adjudication:-



1. Whether the plaintiff has superior right to pre-empt the suit land?
OPP
2. Whether the lease deed executed by defendant No.2, is a same and goes transaction, as alleged ? OPP
3. Whether the plaintiff has no locus-standi to file the present suit ?
OPD
4. Whether the suit is time barred ? OPD
5. Whether the suit is bad for partial pre-emption ? OPD
6. Whether the defendants have affected improvements over the suit land and have spent a sum of Rs. 90000/-? OPD
7. Whether the defendants are entitled for stamp and registration charges ? OPD
8. Relief.

4. I have heard the learned counsel for the respective parties at considerable length and have bestowed anxious and thoughtful consideration upon their submissions, viewed through the prism of the pleadings, the evidentiary material on record, and the findings returned by the Courts below.

5. Regarding the jurisdictional scope of this second appeal, it is a settled proposition of law that in the States of Punjab and Haryana, second appeals are governed by Section 41 of the Punjab Courts Act, 1918, rather than Section 100 of the Code of Civil Procedure. Placing reliance upon the principles enunciated by the Hon'ble Supreme Court in ***Pankajakshi (Dead) through LRs vs. Chandrika* (2016) 6 SCC 157**, as followed in ***Kirodi vs. Ram Parkash* (2019) 11 SCC 317** and ***Satender vs. Saroj* 2022 (12) Scale 92**, no formal framing of a substantial question of law is necessitated.



6. Learned counsel for the appellant has contended that the First Appellate Court proceeded on a misinterpretation of Section 15 of the Punjab Pre-emption Act, 1913, as amended by the Haryana Amendment Act, 1995. It is submitted that the Constitution Bench of the Hon'ble Apex Court in *Shyam Sunder vs. Ram Kumar AIR 2001 SC 2472* has categorically held that the said amending Act operates prospectively and does not divest rights in pending appeals.

7. The learned counsel for the respondent fairly concurs with this legal position as settled by the Constitution Bench. The specific question adjudicated by the Hon'ble Apex Court, which governs the present controversy, is as follows:-

"What is the effect of substituted Section 15 introduced by the Haryana Amendment Act, 1995 (hereinafter referred to as the Amending Act 1995) in the parent Act Le. The Punjab Pre-emption Act (hereinafter referred to as the parent Act) as applicable to the State of Haryana whereby the right of a co- sharer to pre-empt a sale has been taken away during the pendency of an appeal filed against a judgment of the High Court affirming the decree passed by the trial Court in a pre-emption suit?"

7.1. The dictum laid down by the Hon'ble Apex Court in paragraph No. 48 of the aforementioned judgment is reproduced as follows:-

48. "The result of the aforesaid discussion is that the amending Act being prospective in operation does not affect the rights of the parties to the litigation on the date of adjudication of the pre-emption suit and the appellate Court is not required to take into



account or give effect to the substituted Section 15 introduced by the amending Act.”

8. In view of the foregoing, the judgment rendered by the learned First Appellate Court, being in manifest contravention of the law settled by the Hon’ble Apex Court, is rendered legally unsustainable. Consequently, the present appeal is allowed, and the judgment and decree passed by the learned First Appellate Court are hereby set aside. The matter is remanded to the learned First Appellate Court with a direction to adjudicate the appeal on its merits after affording due opportunity of hearing to both parties. Such adjudication shall be concluded within a period of four months effective from 27.04.2026, and the parties are directed to enter appearance before the said Court on 27.04.2026 at 10:00 AM.

9. The judicial record is noted to be available on the Document Management System (DMS). Let a copy of this order be transmitted to the quarter concerned for strict compliance in accordance with the prescribed rules.

10. Since the principal matter stands finally adjudicated, all pending miscellaneous applications, if any, are disposed of as having been rendered infructuous. No further orders are necessitated in this regard.

06.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No