



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

**RSA-2914-2001 (O&M)
Reserved on :- 23.04.2026
Date of Pronouncement:-29.04.2026
Uploaded on:-29.04.2026**

Hari Singh (Since Deceased) Through His LRs and Another

... Appellants

Versus

Jai Bhagwan and Another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Kulbhushan Sharma, Advocate
for the appellants.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) has been preferred by the appellants–defendants assailing the judgment and decree dated 13.03.2001 passed by the learned Additional District Judge, Rewari, whereby the findings recorded by the learned Trial Court came to be affirmed in toto. The learned Civil Judge (Senior Division), Rewari, vide judgment and decree dated 10.09.1999, had decreed the suit instituted by the respondents–plaintiff seeking a declaratory relief. The appellants, being aggrieved by the concurrent findings returned by both the Courts below, have approached this Court, contending that the impugned judgments suffer from manifest illegality

material irregularity, and erroneous appreciation of evidence, rendering them unsustainable in law.

2. Factual Background of the case is that the plaintiff instituted the suit asserting a preferential right of pre-emption on the ground that he was a tenant in possession of the suit land on the date of its sale. It was pleaded that defendants No. 1 and 2, being the vendees, were complete strangers to the holding and, therefore, subordinate to the plaintiff's superior right of pre-emption. The plaintiff further averred that the sale consideration of ₹1,27,000/- reflected in the registered sale deed was fictitious and grossly inflated, whereas the actual market value of the land was approximately ₹1,00,000/-. On these premises, a decree for possession by way of pre-emption was sought on payment of the real market value prevailing on the date of sale.

3. The defendants contested the suit, *inter alia*, pleading that the sale transaction had been effected with the knowledge and consent of the plaintiff and that the consideration was bona fide, validly fixed, and duly paid. They categorically denied the plaintiff's status as a tenant over the suit land and asserted that the suit was frivolous, misconceived, and liable to be dismissed with costs.

4. The plaintiff filed a replication traversing the averments made in the written statement and reiterating the assertions contained in the plaint. Upon consideration of the rival pleadings, the learned Trial Court framed the requisite issues for adjudication, which are as under:-

1. Whether the plaintiff has superior right of pre-emption as alleged?

OPP

2. Whether the sale consideration was fixed in good faith and actually paid ?OPP
 3. If issue No. 2 is not proved, what was the market value of the suit land at the time of sale? Parties
 4. Whether the suit is not maintainable in the present form? OPD.
 5. Whether the suit is time barred? OPD
 6. Whether the plaintiff is estopped from filing the present suit by his act and conduct ? OPD.
 7. Relief
5. Both parties were afforded adequate and effective opportunity to adduce evidence upon the settlement of issues. Upon a comprehensive appraisal of the entire pleadings and evidentiary material brought on record, the learned Trial Court decreed the suit in favour of the respondent–plaintiff by observing that *upon an appraisal of the evidence and findings returned on the issues, the learned Trial Court decreed the suit with costs, granting a decree for possession of the suit land in favour of the plaintiff by way of pre-emption. The plaintiff was directed to deposit the sale consideration of ₹1,27,000/- along with stamp charges of ₹15,875/-, after adjusting the amount of ₹25,400/- already deposited towards one-fifth of the pre-emption money. The balance decretal amount of ₹1,17,475/- was ordered to be deposited within a period of two months, failing which the suit was to stand dismissed.*
- 5.1. The appeal preferred by the appellant–defendant came to be dismissed by the learned First Appellate Court, which, upon reappreciation of the record, concurred with the findings of the Trial Court.

5.2. The appellants have instituted the present appeal impugning the concurrent judgments and decrees rendered by the learned Courts below as being legally untenable and factually unsustainable.

6. Upon a *prima facie* satisfaction as to the existence of arguable grounds, the appeal was admitted for regular hearing vide order dated 24.01.2006, and notice thereof was duly issued to the respondents. Although respondent No.1 initially entered appearance through counsel, no one has chosen to represent the respondents at the subsequent stages, and the appeal has proceeded in their absence.

6.1. For the purposes of a comprehensive, effective, and judicious adjudication of the controversy involved, the complete record of the Courts below was requisitioned and has been made available on the Digital Management System (DMS) for meticulous perusal and consideration.

7. I have heard learned counsel for the appellants at considerable length and have accorded anxious and thoughtful consideration to his submissions, in the backdrop of the pleadings on record, the evidence adduced by the parties, and the concurrent findings returned by the Courts below.

8. Learned counsel for the appellants has vehemently contended that the findings recorded by both the learned Courts below are vitiated by conjectures and surmises, and suffer from a manifest misappreciation of the material on record. It is urged that the Courts below have failed to appreciate that the entries in the Khasra Girdwari were ordered to be corrected in favour of the respondent–plaintiff during the pendency of the present suit, and it is a settled proposition of law that any such alteration

effected during the pendency of litigation does not bind the Civil Court, which is obligated to arrive at its own independent findings.

8.1. It is further contended that undue reliance has been placed on order Ex.P5 passed by the Assistant Collector 2nd Grade dated 14.08.1996, whereby the Khasra Girdwari was directed to be corrected in favour of the respondent–plaintiff on the basis of a compromise with one Smt. Banarasi, who was a party to those proceedings. Pursuant thereto, Rapat Rojnamcha Ex.P3 dated 16.10.1996 was entered and a copy of the Khasra Girdwari Ex.P4 was prepared. However, it is pointed out that the sale deed in favour of the respondent–plaintiff is dated 07.06.1994 and the suit was instituted on 05.06.1995, wherein the respondent claimed himself to be a tenant over the suit land and further submitted that appeal be allowed.

9. A comparative scrutiny reveals that the sale deed pertains to land comprised in Khewat No.215, Khatauni No.280, Rectangle No.75 Killa No.12 (8-0) and Rectangle No.124 Killa No.14 (8-0) to the extent of ½ share, whereas the correction of Khasra Girdwari vide Ex.P5 relates to a distinct parcel of land, i.e., Rectangle No.64 Killa No.5. Thus, the said order does not pertain to the suit property forming the subject matter of the present lis.

9.1. Further the correction was effected solely on the basis of a compromise and the operative portion of order Ex.P5 does not indicate that such correction was to relate back to the year 1986. At best, it could operate prospectively from the date of the order, i.e., 14.08.1996. Consequently, the subsequent entry in the Rapat Rojnamcha (Ex.P3),

purporting to give retrospective effect, travels beyond the scope and tenor of the said order.

9.2. Additionally, all such proceedings having been undertaken during the pendency of the suit, the same cannot be accorded determinative evidentiary value. In this regard, reliance has been placed upon the judgments of this Court in *Gurnam Singh vs. Jagjit Singh, 1997 PLJ 211 and Nanha vs. Partap Singh @ Chuhria and Another, 1986 PLJ 535*, wherein it has been unequivocally held that alterations in revenue entries effected during the pendency of a civil suit do not bind the Civil Court, which must adjudicate the matter independently on the basis of the evidence adduced before it and has held as under:-

This Court had the occasion to consider this aspect of the matter in case reported as *Gurnam Singh vs. Jagjit Singh* wherein it has been held that where the dispute is regarding possession and correction of entries in the khasra girdwaris during the pendency of the suit, entries in the revenue are to be assessed independent by the Civil Court. Similar is the view taken in *Nanha vs. Partap Singh @ Chuhria and Another*.

9.3. In view of the foregoing discussion, it is manifest that both the learned Courts below have fallen into patent error in placing reliance upon the altered Khasra Girdwari entries, which were effected pursuant to order Ex.P5 on the basis of a compromise with a co-owner, namely Smt. Banarasi, concerning a distinct Khasra number that did not form part of the subject matter of the sale in favour of the appellant-defendant. The circumstances attending such compromise unmistakably suggest that the same was orchestrated to create a semblance of evidence in support of the

respondent–plaintiff’s claim of being tenant and his alleged preferential right of pre-emption.

9.4. It is trite that the Courts are duty-bound to pierce the veil of such contrived arrangements and discern the true nature of the transaction in order to arrive at a just and legally sound conclusion. Upon a holistic appreciation of the record, it becomes evident that the respondent–plaintiff has failed to discharge the essential burden of proving that he was a tenant over the suit land on the date of execution of the sale deed in favour of the appellant–defendant a *sine qua non* for asserting a right of pre-emption under the Punjab Pre-emption Act, 1913.

9.5. The so-called compromise with Smt. Banarasi, pertaining to a different Khasra number out of the joint holding, appears to be nothing more than a calculated device to create a façade of tenancy and thereby bolster a claim which is otherwise devoid of merit. Both the learned Courts below have, thus, erred in law in treating the respondent–plaintiff as a tenant over the suit land on the relevant date, and the findings recorded in this regard are wholly unsustainable.

9.6. Accordingly, the impugned judgments and decrees are set aside. The appeal preferred by the appellant–defendant is **allowed**, and the suit instituted by the respondent–plaintiff stands dismissed.

10. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. In light of the conclusions arrived at herein, no separate or

independent orders are warranted in respect thereof, as the same have been rendered infructuous.

29.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No