

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****Date of Decision : February 24, 2025
RSA No.843 of 2023 (O&M)****Smt. Santosh Kala****. . . . Appellant**

Vs.

Sultan Singh and others

. . . . RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**Present:-** Mr. R.S. Mamli, Advocate for the appellant.**DEEPAK GUPTA, J.**

Defendant No.3 of the suit has approached this Court against the judgment dated 26.11.2021 passed by learned District Judge, Yamuna Nagar, affirming the judgment and decree dated 28.11.2016 of the trial Court, whereby the suit filed by plaintiff – Sultan Singh (respondent No.1 herein) for pre-emption vide sale deed dated 21.12.2009, was decreed.

2. Defendant No.1 – Surjan Singh (respondent No.2 herein) through his attorney – Robin Kala (respondent No.3 herein) sold the land measuring 44 kanals 02 marlas in favour of defendant No.3 – Smt. Santosh Kala (appellant herein) for total consideration of ₹46,86,000/-. The said land included khasra No.83 measuring 02 kanals.

3. Plaintiff claimed pre-emption of the above-said sale deed to the extent of 02 kanals only comprised in khasra No.83 on the ground that he was a tenant thereon since long time. Defendants resisted the suit. Necessary issues were framed. The trial Court decreed the suit. The appeal filed by defendant No.3 was dismissed.

4. Two fold submissions have been made before this Court by learned counsel for the appellant. His first contention is that sale deed was executed for 44 kanals 02 marlas of land and therefore, suit for seeking pre-emption of 02 kanals is bad for partial pre-emption. The second contention

raised by learned counsel is that the appellant-defendant No.3 belongs to scheduled caste and that the suit for pre-emption does not lie against a vendee belonging to the scheduled caste as per Notification of 1962.

5. After going through the judgment passed by the Courts below, this Court does not find any merit in any of the contentions.

6. On the basis of oral as well as documentary evidence in the form of revenue record right from the year 1963-64 on wards, plaintiff and prior to him his father have been found to be in possession of the suit land measuring 02 kanals comprised in khasra No.83 as a tenant. As has been rightly held by the Courts below, tenant is entitled to seek pre-emption only for the property which is under his tenancy and not the entire land, which is the subject matter of sale transaction in question. Reliance can be placed upon ***“Beg Raj & others v. Rajinder Singh and others”2016(3) RCR (Civil) 241.*** As such the contention of learned counsel for the appellant to the effect that the suit is bad for partial pre-emption, is devoid of any merit.

7. Regarding the second contention, it has been found by the First Appellate Court that the plea of defendant No.3-appellant being a vendee belonging to scheduled caste was beyond pleadings. Even otherwise, no evidence was produced in this regard. The appellant had sought to adduce additional evidence in this regard, but the First Appellate Court has rightly declined the application of additional evidence as no amount of evidence beyond pleadings could be taken on record.

8. Consequent to the aforesaid discussion, this Court does not find any ground to interfere in the well-reasoned concurrent findings of facts as recorded by the Courts below. There is no illegality or perversity in the impugned judgments of the Courts below. As such, finding no merit in the present appeal, the same is hereby dismissed.

February 24, 2025

Sarita

(DEEPAK GUPTA)

JUDGE

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