

Mohan

Vs

Bijinder Singh and Others

Civil Appeal No. 5024 of 1985

(M.P. Thakkar, K.N. Singh JJ)

02.02.1988

JUDGMENT

1. Constitutional validity of a provision conferring right Of pre-emption on the tenant of a land is the principal question involved in this appeal by a purchaser (appellant) of a parcel of land from its original owners (respondents 2 and 3).
2. The provision concerned is embodied in Section 15 of Punjab Pre-emption Act, 1913. The said provision cannot be successfully assailed inasmuch as its constitutional validity has been sustained by this Court in *Atam Prakash v. State of Haryana* ((1986) 2 SCC 249 : (1986) 1 SCR 319 : AIR 1986 SC 859) in the following terms : (SCC p. 261, para 10)

The right of pre-emption vested in a tenant can also be easily sustained. There can be no denying that the movement of all land reform legislations has been towards enabling the tiller of the soil to obtain proprietary right in the soil so that he may not be disturbed from possession of the land and deprived of his livelihood by a superior proprietor. The right of pre-emption in favour of a tenant granted by the Act is only another instance of a legislation aimed at protecting the tenant. There can be no doubt that tenants form a distinct class by themselves and the right of pre-emption granted in their favour is reasonable and in the public interest. We are, therefore, of the view that clause 'fourthly' of Section 15(1)(a), clauses 'fourthly and fifthly' of Section 15(1)(b) and clause 'fourthly' of Section 15(1)(c) are valid and do not infringe either Article 14 or 15 of the Constitution.

It may be stated that two other questions of fact namely (1) whether respondent 1 was the adopted son of the original tenant (since deceased) and (2) whether the adoptive father was in fact a tenant of the land in question were also raised in the trial court and the lower appellate court. The trial court and the lower appellate court have recorded concurrent findings on both these points in favour of respondent 1 plaintiff. The High Court was therefore fully justified in dismissing the second appeal preferred by the present appellant. There is no substance in this appeal. The appeal, therefore, fails and is dismissed. There will be no order as to costs. Interim orders shall stand vacated.

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