

THE PUNJAB PRE-EMPTION ACT 1991

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16. Death of pre-emptor.— Where a pre-emptor dies after making any of the demands under section 13, the right of pre-emption shall stand transferred to his legal heirs.

17. Abatement of right of pre-emption.— (1) Where a pre-emptor, before the decree of a Court, alienates the property on the basis of which he claims the right of pre-emption, such right shall abate.

(2) An alienee of the property under sub-section (1) shall not be entitled to the right of pre-emption.

18. Exercise of right of pre-emption by a Muslim and a non-Muslim against each other.— A Muslim and a non-Muslim may exercise the right of pre-emption against each other.

19. Right of pre-emption non-transferable and indivisible.— (1) Save as provided in Section 16, the right of pre-emption shall be non-transferable and indivisible.

(2) The claim for pre-emption shall be made on the whole property pre-emptible.

20. Where the pre-emptor and vendee equally entitled.— Where the pre-emptor and the vendee fall within the same class of pre-emptors and have equal right of pre-emption, the property shall be shared by them equally.

21. Improvements made by the vendee.— Where a vendee has made any improvements in the immovable property before talb-i-ishhad is made by the pre-emptor under sub-section (3) of Section 13, the vendee shall be entitled to the cost of such improvements.

22. Improvement made in the status of the vendee-defendant after institution of the suit.— Any improvement made in the status of a vendee defendant after the institution of a suit for pre-emption shall not affect the right of pre-emptor-plaintiff.

23. No right of pre-emption in respect of certain properties.— (1) No right of pre-emption shall exist in respect of sale of—

(a) waqf property or property used for charitable, religious or public purpose; and

(b) property owned by the Federal or a Provincial Government or a local authority.

(2) The property acquired by a Federal or a Provincial Government or a local authority in pursuance of any law shall not be pre-emptible.

24. Plaintiff to deposit sale price of the property.— (1) In every suit for pre-emption, the Court shall require the plaintiff to deposit in such Court one-third of the sale price of the property in cash within such period as the Court may fix:

Provided that such period shall not extend beyond thirty days of the filing of the suit:

Provided further that if no sale price is mentioned in the sale deed or in the mutation, or the price so mentioned appears to be inflated, the Court shall require deposit of one-third of the probable value of the property.

(2) Where the plaintiff fails to make a deposit under sub-section (1) within the period fixed by the Court, or withdraws the sum so deposited by him, his suit shall be dismissed.

(3) Every sum deposited under sub-section (1) shall be available for the discharge of costs.

(4) The probable value fixed under sub-section (1) shall not affect the final determination of the price payable by the pre-emptor.

25. Deposit or refund of excess price.— (1) Where a Court passes a decree in favour of pre-emptor on payment of a price which is in excess of the amount already deposited by the pre-emptor, the Court shall require the pre-emptor to deposit the remaining amount within thirty days of the passing of the decree.

(2) Where a decree is passed for a lesser amount than the amount already deposited by the pre-emptor, the Court shall refund the excess amount to such pre-emptor.

26. Sum deposited by pre-emptor not to be attached.— No sum deposited in or paid into Court by a pre-emptor under the provisions of this Act shall, while it is in custody of the Court, be liable to attachment by any Civil, Criminal, Revenue or any other Court or a Revenue Officer or a local authority.

27. Determination of price.— (1) Where the parties do not agree to the price at which the pre-emptor shall exercise his right of pre-emption, the Court shall determine whether the price at which the sale purports to have taken place was fixed in good faith or paid, and if it finds that the price was not so fixed or paid, it shall fix the market value of the property as the price to be paid by the pre-emptor.

(2) If the Court finds that the price was fixed in good faith or paid, it shall fix such price to be paid by the pre-emptor.

28. Market value how to be determined.— For the purpose of determining the market value of a property, the Court may consider the following, among other matters, as evidence of such value—

- (a) the price or value actually received or to be received by the vendor from the vendee;
- (b) the estimated amount of the average annual net profits of the property;

(c) the value of similar property in the neighbourhood;

(d) the value of similar property as shown by previous sales made in the near past.

29. Government may exclude areas from pre-emption.— The Government may, in the public interest, by a notification in the official Gazette, declare that in any local area or with respect to any sale or class of sale, no right of pre-emption shall exist or only such limited right, as it may specify, shall exist.

30. Limitation.— The period of limitation for a suit to enforce a right of pre-emption under this Act shall be four months from the date—

(a) of the registration of the sale deed;

(b) of the attestation of the mutation, if the sale is made otherwise than through a registered sale deed;

(c) on which the vendee takes physical possession of the property if the sale is made otherwise than through a registered sale deed or a mutation; or

(d) of knowledge by the pre-emptor, if the sale is not covered under paragraph (a) or paragraph (b) or paragraph (c).

31. Notice.— (1) The Officer registering the sale deed or attesting the mutation of a sale shall, within two weeks of the registration or attestation, as the case may be, give public notice in respect of such registration or attestation.

(2) The notice under sub-section (1) shall be deemed to have been sufficiently given if it is displayed on the main entrance of a mosque and on any other public place of the village or place where the property is situated.

(3) The charges for the notice under sub-section (2) shall be recovered from the vendee by the Officer registering the sale or attesting the mutation, as the case may be, at the time of such registration or attestation.

32. Matters ancillary or akin to the provisions of this Act.— Matters ancillary or akin to the provisions of this Act which have not been specifically covered under any provision thereof shall be decided according to Shari'ah.

33. Application of the Civil Procedure Code and Qanun-e-Shahadat Order.— The Provisions of the Code of Civil Procedure, 1908 (Act V of 1908) and Qanun-e-Shahadat Order, 1984 (P.O. X of 1984) or any other law on the subject for the time being in force shall, *mutatis mutandis*, apply to the proceedings under this Act.

34. Repeal of Act I of 1913.— (1) The Punjab Pre-emption Act, 1913 (I of 1913) is hereby repealed.

(2) Notwithstanding anything contained in this Act, in the cases and appeals filed under the Punjab Pre-emption Act, 1913 (I of 1913) in which judgements and decrees had been passed before the 1st day of August 1986, further proceedings, if any, relating to such cases and appeals shall notwithstanding the repeal of the said Act be governed and continued in accordance with the provisions thereof.

35. Saving.— (1) Notwithstanding anything in any other law for the time being in force, all the decrees, judgements or orders dismissing the suits of pre-emption, instituted or pending between the 1st day of August 1986 and the 28th March 1990 (both days inclusive), in which the right of pre-emption was claimed as is available under this Act, shall be of no legal effect, and such suits, on an application made by the aggrieved person, within sixty days of coming into force of this Act, shall subject to sub-section (2), be decided afresh according to the provisions thereof.

(2) Notwithstanding anything in Sections 13 and 30, in respect of the suits mentioned in sub-section (1), the period of limitation shall be one year and it shall be sufficient if the pre-emptor establishes that he had made 'Talb-i-Ishhad' in the presence of two truthful witnesses.

36. Rules.— Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

37. Repeal of Ordinance IX of 1991.— The Punjab Pre-emption Ordinance 1991 (IX of 1991), is hereby repealed.

^[1]This Act was passed by the Punjab Assembly on 21st March, 1991; assented to by the Governor of the Punjab on 31st March, 1991; and, was published in the Punjab Gazette (Extraordinary), dated 6th April, 1991, Pages 913-A to 913-G.