

takes place, the question of necessity in such circumstances does not fall to be considered. The question of necessity arises when there is only a partial surrender or transfer.

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On general principles also we see no good ground for holding that if a widow brings about a complete effacement of herself with the result that the entire estate vests in the next reversioner, though the same might have been obtained by a process consisting of several stages, there is no legal transfer. In our opinion, therefore, the appeal has no force and is dismissed with costs.

Appeal dismissed.

Before Mr. Justice Sulaiman and Mr. Justice Mukerji.

CHUNNI SINGH (DEFENDANT) v. LAKSHPAT SINGH (PLAINTIFF) AND BHUREY KHAN AND OTHERS (DEFENDANTS).*

 1926
March, 4.

Act (Local) No. XI of 1922 (Agra Pre-emption Act), sections 16 and 22—Pre-emption—One sale-deed conveying separate items of property to separate purchasers—Pre-emptor not obliged to implead purchasers other than the one in whose particular purchase he is interested.

By one sale-deed several items of property were sold to different purchasers for different amounts of consideration. Held that a person wishing to pre-empt one particular item of the property so sold was not obliged to implead any of the purchasers other than the one concerned with the particular item in which he was interested. *Lachhman v. Tulsi Ram* (1), referred to. *Brij Narain Rai v. Ram Dhari Rai* (2), distinguished.

THE facts of this case sufficiently appear from the judgement of the Court.

* Second Appeal No. 223 of 1926, from a decree of Makhan Lal, Additional Subordinate Judge of Bulandshahr, dated the 26th of October, 1925, reversing a decree of Syed Nawab Hasan, Munsif of Khurja, dated the 24th of March, 1925.

(1) (1905) 2 A.L.J., 199.

(2) (1916) 40 Indian Cases, 40.

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Pandit *Shiam Krishna Dar* and Babu *Surendra Nath Gupta*, for the appellant.

Appeal heard under order XLI, rule 11, of the Code of Civil Procedure.

SULAIMAN and MUKERJI, JJ. :—This is a defendant's appeal arising out of a suit for pre-emption. By one document, dated the 29th of January, 1924, nine items of properties were sold to nine different vendees for different amounts of consideration; but there was only one document executed and registered, as the entire properties belonged to one set of vendors. Among these vendees was one Kanchan Singh, who admittedly was a co-sharer in the property purchased by him. The plaintiff has brought a suit for pre-emption against the appellant Chunni Singh only in respect of the item of the property purchased by him under the sale-deed. This property was separately earmarked as property having been purchased by Chunni Singh, a separate amount of the sale consideration was mentioned and the other vendees had no joint interest in this property at all. The first court dismissed the claim on the ground that this was a case of partial pre-emption, which disqualified the pre-emptor from obtaining a decree. The appellate court, in view of the specification of the shares in the sale-deed, has come to a contrary conclusion.

Although there was only one document different items of properties were sold to different persons and, therefore, there were really nine different contracts. The contention before us is that it was the duty of the plaintiff to have brought the suit against all the other vendees. This contention cannot be accepted. If this transaction is to be deemed to consist of nine different transactions with nine different persons, then it was certainly open to the plaintiff to object to one vendee and not the others. That this was the view before the

new Pre-emption Act was passed cannot be doubted. We may only refer to the case of *Lachhman v. Tulsi Ram* (1), where, although one solitary amount was mentioned in the sale-deed for two items of properties, at the foot of the document details were separately given. It was held by a learned Judge of this Court that it was open to the plaintiff to maintain a claim for pre-emption of either of the two properties, although both had been purchased by the same vendee. The case of *Brij Narain Rai v. Ram Dhari Rai* (2), is distinguishable, because there properties in two mahals were sold for one consideration and there was apparently no specification of the different prices for the two mahals.

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Lastly, it is contended that the enactment of section 16 of the new Act has altered the position. We cannot accept this contention. The law has in no way been altered. As against the defendants vendees the plaintiff could not have claimed pre-emption in respect of any property which he has not included in this suit. The provisions of section 22 also go to suggest that, where a purchaser has a defined interest in the sale-deed, he cannot be said to have acquired the property jointly with others. The appeal accordingly fails and is dismissed.

Appeal dismissed.

Before Mr. Justice Sulaiman and Mr. Justice Banerji.

RANJIT SINGH (PLAINTIFF) v. BHAGWATI SINGH
AND ANOTHER (DEFENDANTS).*

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Act (Local) No. XI of 1922 (Agra Pre-emption Act), section 14—Pre-emption—Estoppel by conduct.

Sections 14 and 15 of the Agra Pre-emption Act, 1922, do not mean that in no other case than where a notice is issued

* Second Appeal No. 2268 of 1925, from a decree of M. M. Sanyal, Additional Subordinate Judge of Jaunpur, dated the 25th of August, 1925, reversing a decree of the Munsif of Shahganj, dated the 30th of April, 1925.

(1) (1905) 2 A.L.J., 199.

(2) (1916) 40 Indian Cases, 40.