

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Shahid Waheed
Justice Musarrat Hilali
Justice Salahuddin Panhwar

C.P.L.A.No.1010-L/2014

(On appeal against the order/judgment dated 19.06.2014 passed by the Lahore High Court, Lahore in C.R.No.1147/2008)

Abdul Majeed etc

...Petitioner(s)

Versus

Haji Haq Nawaz

...Respondent(s)

For the Petitioner(s) : Sh. Usman Karim-ud-Din, ASC
(Through Video Link Lahore)

For the Respondents : Nemo

Date of Hearing : 27.10.2025

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Shahid Waheed, J:- This case involves a matter of pre-emption, governed by the Punjab Pre-emption Act of 1991. The petitioners, unsuccessful vendees, have filed this petition seeking leave to appeal against the concurrent findings rendered by the courts below. These courts found the facts to be in favour of the respondent-plaintiff, ultimately decreeing his suit for pre-emption. The solitary question presented for consideration in this petition is whether the respondent-plaintiff successfully demonstrated the making of *Talb-i-Muwathibat*, given the circumstances. Therefore, we will restrict our analysis to the pertinent facts concerning the making of *Talb-i-Muwathibat*.

2. The dispute in this case pertains to a parcel of land measuring 120 *kanals*, located in Mouza Rakh Shah Hussain, within the limits of Tehsil Noorpur Thal, District Khushab. This land was sold to the present petitioners through a duly registered sale deed No. 93, dated 28th of May, 2001. The respondent-plaintiff sought to invoke the right of pre-emption over this sale, claiming he possessed a superior right to do so. He contended that he had duly completed the necessary legal formalities known as '*talbs*.' The respondent-plaintiff asserted that on

7th of June, 2001, at 07:00 AM, while seated in his drawing room in Mouza Bumbool, he became aware of the sale through Umar Daraz (PW.3), in the presence of Muhammad Ramzan (PW.4). Upon receiving this information, he claimed to have made a formal declaration to exercise his right of pre-emption. The onus was on the respondent-plaintiff to substantiate his claims by producing compelling evidence that demonstrated the completion of *Talb-i-Muwathibat*. Upon scrutinising the record, it is revealed that the respondent-plaintiff took the stand before the Trial Court as his own witness, identified as PW.2, and reiterated the assertions made in his plaint. He also presented Umar Daraz (PW.3), the informer, in support of his claims. During his examination-in-chief, Umar Daraz stated that he had learned of the sale at 07:00 AM on the 7th of June, 2001, while at his uncle's Dera, which is situated in proximity to the respondent's Dera. During his cross-examination, Umar Daraz elaborated on the distance between his uncle's Dera and the respondent's Dera, indicating that approximately 15 to 20 houses lay between them. This detail raises a significant concern: it suggests that enough time must have passed between when he first learned of the sale and when he relayed this information to the respondent-plaintiff. Consequently, it undermines the assertion that the respondent-plaintiff made the declaration at the stated time. This doubt casts uncertainty on whether the respondent-plaintiff truly executed the *Talb-i-Muwathibat* as claimed.

3. Furthermore, there is another critical aspect that bolsters the petitioners' assertion that the respondent-plaintiff failed to execute the *Talb-i-Muwathibat* according to legal standards properly. During his examination-in-chief, Umar Daraz mentioned:

"مدعی نے کہا کہ میں اراضی متد یقیناً فتح کر رہا ہے، آپ میرے ساتھ آئیں، اس ویب میں اور محمر رمضان موجود تھے۔"

Although the law does not prescribe a specific format for declaring the intent to exercise the right of pre-emption, it is well understood that such a statement must clearly articulate an intention to exercise that right. However, the statement above implies that the respondent-plaintiff, upon gaining awareness of the sale, did not immediately formally declare his intention to exercise his right of pre-emption, but merely expressed a desire

to do so. This was not sufficient to meet the requirements of section 13 of the Punjab Pre-emption Act of 1991.

4. It is now firmly established that if any doubt arises regarding the execution of the *talbs*, the benefit of that doubt must favour the vendee. Given these circumstances, the inescapable conclusion is that the respondent-plaintiff had failed to prove the execution of *Talb-i-Muwathibat*.

5. In conclusion, this petition is converted into an appeal and is hereby allowed. Consequently, the judgments and decrees rendered by the courts below are hereby set aside, and the suit brought forth by the respondent-plaintiff is dismissed without any order as to costs.

Judge

Judge

Judge

Islamabad
27.10.2025
APPROVED FOR REPORTING
(Irfan Aslam)