

PUNJAB PRE-EMPTION ACT, 1913

1913 2. a. 4. 5. 6. 7. 9. 10. 447 ACT. 191.1. CHAPTER Short title and local extent. of certain enactments Definition S. CHAPTER 11 General Provisions. Right of pre-emption : application of. No right of pre-emption in respect of certain buildings. Exists in agricultural land and sdllage immovable property. Exists under certain conditions in urban immovable Central Government may exclude from pre-emption. Exclusion of pre-emption in respect of certain aliena- party to alienation cannot claim pre-emption. 11. Sum deposited by pre-emptor not to be attached. CHAPTER 111 Peruns in whom ibe rigiü of pre-emptkjn vets 12. 14. 15. 16. The law determining the right of pre-emption. Joint right of pre-emption how exercised. Limit of exercise of right in ot land by member of an agricultural tribe. Permn in whom right or pre-emption vests in rgpect of sales of agricultural land and village immoveable Per—n in whom right Ot pre-emption vests in urban property.

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CHAPTER V Limitation 30. Limitation

31. Punjab Pre-emption (Amendment) Act, 1960, to apply to all suits.b. Act 1.1 191* : 'THE PUNJAB PRE-EMPTION 19/3. 449 PUN.'An or 1913. March, 1913.1 Am. •ndedbyrun/ab Act. or Act. Government of India Order. Amended by Aet by the pendence (Adaptation of and puniab Acts) Order, (G. G. 0.4m A m ended by A d aptatbn Of order. 1950 Anen&d by Adaptation or ßhird Am:ndmmt) OrderLa} Expended to the territories Which. Immediately before the 1st NO 1956, Were pried in the State Patiala and Eist Punjab States Union Punjab Act No. 23 or Amended by punbb Act 10 Of J960• A mended by Punjab Act 13 Of An Act to Law relating to Pre-emption in 'Punjab. WHEREAS it is expedient to amend the law relating to pre-emption in Punjab, it is hereby enacted as follows:— CHAPTER 1 PRELIMINARY. 1. (1) This Act may be called the Punjab Pre-emp- Short title and tinn Act. 1913. local 'For Statement' of Objects and Reasons, Gee piö--jab Part V. page '89, for Report Of the Select Committee. gee ibid

1012. Part V par 332, a nd for Proceed in Coun See Punjab Gazette, .pages 2J5—217 and ibi . 1913, page 23. 'For Statement Of Objects end Reasons, see Punjab Gazette, Par' V. page 189, for Report of the Select Committee. see ibid. 1912 V, page 29, and for Proceedings in Council, gee Punjab Legislative Council Debataë, Volume XT, pages 31—5', and 801-95. rt ceme into fort•• on December, 1928.—t.'ide Punjab Government Notification No. 5489}, dzted 16th November, 1928. 'Tor Statement Of Objects and Reasons. punJab Government Care"e 1057, page 689. 'For Statement Of Objects and Ronsons. see Government Gazette (Extraordinary). '959, page 993. •Tor Statement of Objcctg and Reasons. see Punjab Government (Extraordinary). 1964, page KSubgtituted for the •..nrds "East Punjab" had been inserted (Adaptation Of 'Or the words The Punjab" by the Of Laws 'Bengal and Punjab Acts) Order. 19481, by mird Order, 1951. : Act L (2) extends to Territory Of Chandigarh l, Repeal or 2. (1) The Punjab Pre-emption Act, 1905, is hereby repealed. (2) Nothing in this Act shall affect the provisions of Order 21. rule 88, of the Code of Civil Procedure, 1908, or v sections 53 and 54 Of the Punjab Tenancy Act, 1887. • • Notwithstanding anything to the Contrarv in 4 of the Punjab General Clauses Act, 189fi, the Shall in all suits, appeals and proceedings pending at the commencement of this Act give effect, so far as may to the procedure prescribed by this Act. In this Act, unless a different intention appears the subject or context,— (I) 'agricultural land' shall mean land as defined in the 2Punjab Alienation of Land Act, 1900 (as xili amended by Act I of 1907), but shall not include the rights of a mortgagee, whether usufructuary or not, in such land ; (2) 'village immovable property' shall mean im- movable property within the limits of a village, other than agricultural land ; (3) 'urban immovable property' shall mean irn- movable property within the

limits of a town, other than agricultural land. For the purposes of this Act a specified place shall be deemed to be a town (a) if so declared by the a(Central Government) by notification in the Official Gazette, or (b) if so found by the Courts ; (4) 'member of an agricultural tribe' and group oi agricultural tribes' shall have the meanings 'Substituted for the word "Punjab" by the Punjab Reorganisation Order, *Substituted by the Adaptation Ot Laws (Third Amendment) Order, 1951. 'Substituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation Ot Laws on State and Con- curlTnt Subjects) Order, 1968. 1913 : Act 1.1 PRF.-F,MIVr10N 451 assigned to them respectively under the 'Pnnjab Alienation of Land Act, 1900. (5) sale Shall not include— (a) a sale in execution of a decree for money or of an order of a Civil, Criminal or Revenue Court or of a Revenue Officer, (b) the creation Of an occupancy tenancy by a landlord, whether for consideration or Otherwise ; (6) any expression which is defined by section 3 of the Punjab Land ReVenue Act, 1887, shall, subject to the provisions of this Act, have the meaning assigned to it in the said section

CHAPTER 11 GENERAL PROVISIONS Right 4. The right of pre-emption shall mean the right of a emption : appu- person to acquire agricultural land or village immovable cation Ot• property or urban immovable property in preference to other persons, and it arises in respect of such land only in the case of sales and in respect of such property only in the case of sales or of foreclosures of the right to redeem such Nothing in this section shall prevent a Court from holding that an alienation purporting to be other than a sale is in effect a sale. No right ot No right Of pre-emption shall exist in respect Of— pre— emption in certain eases. (a) the sale of or foreclosure of a right to rendeem— (i) a shop, serai or katra ; (ii) a dharmsala, mosque or other similar building; or 'Repealed by the Adaptation Of Laws mird Amendment) Order. 5 and 6 substituted by Punjab Act NO. IO ot 1960. 452 PRE-EMPTION | : Ph. Aet J. (b) the sale or agricultural land being waste land reclaimed by the Vendee. Est-planation—For the purposes or this section the expression I 'waste land" means land recorded as banjar of any kind in rcwcnue records and such ghair mumkin lands as are reclaimable G. A right Of pre-emption shall exist, in rspect land andvillage immovable property, and, subject to the provisions immov-of clause (b) of section 5, in respect Of agricultural land, property• but every such right shall. be, subject to all the provisions and limitations in this Act eontp@ied.l Exists V. 7' Subject to the Of section 5 a right of wnaï-ore-emption shall exist in' of urban immovable immovable pro-property in any town 'or sub-division of a town when a p erty• custom of pre-emption is proved to have been in existence in such town or sub-division at the time of the commence- ment of this Act, and not othe1".viÉe. Central 8. (1) Except as may •o!herwise be declared in the ernment may ex-case of eny agricultürål land in a notification by the ciude areas from ICCentral Government], no. right of pre-emption shall exist within any cantopmqnp. (2) The 1[Central Goverrypenpl may declare by noti- fication that in any local area or with respect to any land pr property or class of land or property or with respect to a sale or class or sales, no right of pre-emption or only such limited right as the '[Central Government] may specify, shall exist. Exclusion of •9. Notwithstanding anythingin this Act, a right Of ore- emotion shall not exist in respect of any sale made by pre-etnption respect of certain or to '(Governmentl or by or to any local authority or to any company under the provisions Of part VII of the Land Acquisition Act, 1894, or in respect of any sale sanctioned by 1 ot the Deputy Commissioner under section 3 (2) Of the 'Punjab Alienation of Land Act, 1900. Party to IO. In the case of a sale by joint-owners, no party to cannot claimsuch sale shall be permitted to claim a right Of pre-emption. 'Substituted for tho "'State Government" the Punjab (Chandigarh) (Adaptation of Laws On State and Con- current Subjects) Order, 1968. 'Substituted for the Word "Crown" by the Adaptation ot Laws Order, 1950. 'Repealed by the Adaptation Of Laws (Third Amendment) Order, 1951. : Pb. Act I. No sum depositf•d in pnid into hy •r emptor under the pmvisions o' this Act or tho Coda civil Procedure shall, while it if in tho Court. be liable to attnehnment in n order of a Civil. Criminal (•ourt, or of Revenue Omccr. CHAPTER PERSONS WHOM THE RIGHT or vmrs 12. In respect of all sales and foreclosures not com- Tl•• pleted the commencement Of this Act the right of preemption shall be determined by the provisions of this Act; but in respect of all sales and forechgures completed the commencement Of this Act the right Of pre- be {ore emption Shall be determined by the law in force at the time Of such completion

13. Whenever according to the provisions of this Act Joint m p how a right of pre-emption vests in any class or group Of persons the right may be exercised by all the members of such class or group jointly, and, if not exercised by them all jointly by any two or more Of them jointly, and, if not exercised by any two or more of them jointly, by them severally

14. No person Other than a person who was at the Limit or e'.ot right in date of sale a member of an agricultural tribe in the same respect ot group of agricultural tribes as the vendor shall have a right by member of in respect of agricultural land sold by a member Of a agricultural tribe. '[15. (1) The right of pre-emption in respect of right agricultural land and village immovable property shall and (a) where the sale is by a sole owner,— FIRST, in the son or daughter or son's son or daughter's son of the vendor ; SECONDLY, in the brother or brother's son ot the vendor ; THIRDLY, in the father's 0! father's brother's son of the vendor ; 15 and 16 substituted by Punjab Aet IO or 1B. 454 ih tho tenant Who holds under ten. ancy OT the vendor Innd or property sold or a part thereof ; (b) where the is of a share out Of joint land Or property and is not made by all the co-sharerx jo intly,— FIRST, in the sons or daughters or sons' sona or daughters' mns of the vendor or vendors SECONDLY, in the brothers or brother's sons of the vendor or vendors ; fffIRDLY, in the father's brothers or father's brother's sons of the vendor or vendors ; FOURTHLY, in the other co-sharers ; FIFTHLY, in the tenants who hold under tenancy of the vendor Or vendors the land or pro- perty sold or a part thereof ; (c) where the sale is of land or property owned jointly and is made by all the co-sharers jointly,— FIRST, in the sons or daughters or sons' sons Or daughters' sons of the vendors ; SECONDLY, in the brothers or brother's sons of the vendors ; THIRDLY, in the father's brother's or father's brother's sons of the vendors ; FOURTHLY, in the tenants who hold under ten- ancy Of the vendors or any one of them the land or property sold or a part thereof. (2) Notwithstanding anything contained in sub- section (1)— (a) where the sale is by a female of land or pro- perty to which she has succeeded through her father or brother or the sale in respect of such land or property is by the son or daughter of such female after inheritance, the right Of pre- emption shall vest,— (i) if the sale is by such female, in her brother or brother's son ; (ii) if the sale is by the son or daughter of such female, in the mother's brothers or the 1913 : pb. Act 1.1 PIRE-EMPTION •155 mother's brother's Sons or the vendor or vendors ; (b) where the sale is by a female of land or pro- perty to which she has succccdded through her hunsband, or through her son in case the son has inherited the land or property sold from his father, the right of prucmption shall vest,— FIRST, in the son or daughter of such '[husband or the] female ; SECONDLY, in the husband's brother or hus- band's brother's son of such female

16. The right of pre-emption in respect of urban im- person movable propertey shall vest in the tenant who holds under Whom right of tenancy of the vendor the property sold or a part thereof.] in an urban movable 17. Where several pre-emptors are found by the Court Exercise or right ot pre- to be equally entitled to the right of pre-emption, the said emption where right shall be exercised— several persons equally entitled. (a) if they claim as co-sharers, in proportion among themselves to the shares they already hold in the land or property , (b) if they claim as heirs, whether co-sharers or not, in proportion among themselves to the •shares in which but for such sale they would inherit the land or property in the event of the vendor•a decease without other heirs ; (c) '[Omitted,] (e) in any Other case, by such pre- emptors in equal shares. Pro visions Of 18. In the case of a foreclosure of the right to redeem sections 15 and village immovable property, the provisions of sections 1517 applicable to and 17 in Of Of to tatis •mutandis. redeem urban immovable property, the provisions of sections 16 and 17 shall be construed by the Court with such alterations, not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court. (e) and (d) omitted by Punjab Act No. IO of 1960. Pl.. Aet i. CHAPTER te 19. When any person proposes to sell any agricultural land or village i m moveable property or urban property or to foreclose the right to redeem any village irn- moveable property or urban immoveable property, in pect Of which any persons have a right of pre-emption. he ana_V give notice to all such persons Of the price at which he is willing to sell such land or prdperty or of the amount due in respect to the mortgage, as the Case may be. Such notice shall be given through any Court within the local limits of whose jurisdiction such land or property or any part thereof is situate, and shall be deemed suff- Cient.ly given if it be stuck up on the chaupal or other public place of the village, town or place in which the land or propertv is situate. Notice by pre- 20. The right of pre-emption of any person shall be to Ven-extinguished unless such person shall, within the period of three months from the date on which the notice under section 19 is duly given or within such further period. not exceeding one year from such date, as the Court may allow, present to the Court a notice for service on the vendor or mortgagee of his intention to enforce his right of pre- emption. Such notice shall • whether the pre-emptor accepts the price or amount due on the footing of the mortgage as correct or not, and if not, what sum be is willing to pay. When the Court is satisfied that the said notice has been. duly served on the vendor or mortgagee, the proceed- jngs shall be filed. Suits for

Ve- 21. Any person entitled to a right of pre-emption may, when the sale or foreclosure has been completed, bring a suit to enforce that right. a' 21-A. Any improvement, otherwise than through inheritance or succession, made, in the status of a vendee defendant after the institution of a suit for pre-emption shall not affect the right of the pre-emptor-plaintiff in such suit. J 'Added by Punjab Act I Of 1944, section 2. It applies to all appeals pending on, or instituted after, the commencement of this 1913 : Act 22. (1) In every suit for pre-emption the Court shall or at any time before the settlement issues, require the plaintiff to deposit in Court such sum as may be ordered in the judgment of the Court, not exceeding one-fifth of the probable value of the land or property, or require the plaintiff to give security to the satisfaction of the Court for the payment, if required, of a sum not exceeding such probable value within such time as the Court may fix in such order. In any appeal the Appellate Court may at any time exercise the powers conferred on a Court under sub-section (3) Every sum deposited or secured under sub-section (1) or (2) shall be available for the discharge of costs. (4) If the plaintiff fails within the time fixed by the Court or within such further time as the Court may make the deposit or furnish the security mentioned in sub-section (1) or (2), his plaint shall be rejected or his appeal dismissed, as the case may be. (5) (a) If any sum so deposited is withdrawn by the plaintiff, the suit or appeal shall be dismissed. (b) If any security so furnished for any cause becomes void or insufficient, the Court shall order the plaintiff to furnish fresh security or to increase the security, as the case may be, within a time to be fixed by the Court, and if the plaintiff fails to comply with such Order, the suit or appeal shall be dismissed. (6) The estimate of the probable value made for the purpose of sub-section (1) shall not affect any decision subsequently come to as to what is the market value of the land or property. Special 29. No decree shall be granted in a suit for pre-emption in respect of the sale of agricultural land until the plaintiff has satisfied the Court— (a) that the sale in respect of which pre-emption is claimed is not in contravention of the 'Punjab Alienation of Land Act, 1900, and 'Repealed by the Adaptation of Laws (Third Amendment) Order, that is not by the provisions of section 14 of this Act from exercising right "f 24. In a suit for pre-emption in respect of a sale of agricultural land, if the Court finds that the sale is in the 'Punjab Alienation of Land Act, 1900 25. (1) In the case of a sale the parties are not as to the price at which the pre-emptor shall exercise his right of pre-emption, the Court shall determine the price at which the sale purports to have taken place has been fixed in good faith or paid, and if it finds, that the price was not so fixed or paid, it shall fix as the price for the purposes of the suit the market value of the land (2) If the Court finds that the price was fixed in good faith or paid, it shall fix such price as the price for the purposes of the suit. Provided that when the price at which the sale purports to have taken place represents entirely or mainly a debt greatly exceeding in amount the market value of the property, the Court shall fix the market value as the price of the land or property for the purposes of the suit, and may put the vendee to his option either to accept such value as the full equivalent of the consideration for the original sale or to have the said sale cancelled, and the vendor and vendee restored to their original position. Fixing of price 26. If in case of a foreclosure the parties are not to the purpose of suit in case of agreed as to the amount at which the pre-emptor shall exercise his right of pre-emption, the Court shall determine whether the amount claimed by the mortgagee is due under the terms of the mortgage, and whether it is claimed in good faith. If it finds that the amount is so due and is claimed in good faith, it shall fix such amount as the price for the purposes of the suit; but if it finds that the amount is not so due, or, though due, is not claimed in good faith, it shall fix as the price for the purposes of the suit the market value of the property. 'Repealed by the of Laws (Third Amendment) Order : vb. Act 1.1 459 27. For the purpose of determining the market value, 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 or the amount really due on the footing of the mortgage, as the case may be (b) the amount of interest included in such price, value or amount ; (c) the estimated amount of the average annual net assets of the land or property • (d) the land revenue assessed upon the land or property ; (e) the value of similar land or property in the neighbourhood ; (f) the value of the land or property as shown by previous sales or mortgages

28. When more suits than one arising out of the same concurrent sale or foreclosure are pending, the plaintiff in each suit hearing of suit* shall be joined as defendant in each of the other suits, and in deciding the suits the Court shall in each decree state the order in which each claimant is entitled to exercise his right. [28-A. (1) If in any suit for pre-emption any person postponement bases a claim or plea on a right of pre-emption derived from of decision the ownership of agricultural land or other immovable

pro- in certain cases. perty, and the title to such land or property is liable to be defeated by the enforcement of a right of pre-emption with respect to it, the court shall not decide the claim or plea until the period of limitation for the enforcement of such right of pre-emption has expired and the suits for pre-emption (if any) instituted with respect to the land or pro- perty during the period have been finally decided. (2) If the ownership of agricultural land or other im- moveable property is lost by the enforcement of a right of pre-emption, the court shall disallow the claim or plea based upon the right of pre-emption derived therefrom.]

•Inserted by Punjab Act of 2. imitation. Tl't• send a €•v.•' y decree granting than a decree granting pre-emption in building or site of a building in a town Or sub-division of and the Deputy Commisioner may, within months from the date Of the r«eipt or such Copy, to the Court to which the appeal In the pre-emption would lie. or if no appeal lies, to the Divisional Court revision of the decree on the ground that the decision the Court of first instance is contrary to the provisions the 'Punjab Alienation Of Land Act, 1900. (2) No stamp shall be required upon such applica- uon, and the provisions of the Code of Civil Procedure as v apm•als shall apply, as far fiay be. to the pro- Of the Apirllate Court On receipt of such applica- (3) No by Or on behalf Of the Deputy Commissioner shall be deemed necessary for the dis— Of the application

CHAPTER V LIMITATION 30. In any case not provided for by article 10 of the Second Schedule of the 'Indian Limitation Act, 1908. the LX ot period of limitation in a suit to enforce a right of pre-emption under the provisions of this Act shall, notwith• Standing anything in article 120 of the said schedule, be (1) in the case of a sale of agricultural land Or of village immovable property, from the date Of the attestation (if any) Of the sale by u Revenue Officer having jurisdiction in the register of mutations maintained under the XVu Punjab Land Revenue Act, 1887, or by the AdaDtCtion of Order. *See now the Indian Limitatim Act, Act 1.1 from the date on which the vendee takes under the sale physical possession of any part of such land or property, whichever date shall be the earlier ; (2) in the case of a foreclosure of the right to redeem village immoveable property or urban immoveable property, from the date on which the title of the mortgagee to the property becomes absolute ; (3) in the case Of a sale of unban immoveable pro- perty, from the date on which the vendee takes under the sale physical possession of any part of the property. 31 _ No court shall pass a decree in a suit whether instituted before or after the Punjab Pre-emption ment Aet• (Amendment) Act, 1960, which is inconsistent with the to apply to all provisions of the said Act.] 'Added by Punjab Act Nm 10 ot 1", section 8.