



ANALYSING THE RIGHT OF PRE-EMPTION IN INDIA: CUSTOMARY LAW VERSUS CONSTITUTIONALISM

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ABSTRACT

In this paper, the researcher will be analysing the right of pre-emption in Muslim personnel law, Hindu law, and how different fields of law have analysed this right. This paper will also look into the development, essentials and contemporary relevance of the said right. This paper will further analyse landmark judgements like the Gobind Dayal case, the Bishan Singh case, the Digambar Singh case and more. This paper aims to analyse how the right of pre-emption violates Article 14, restricts freedom to sell property and how it should not be applicable in its strict sense in the modern period, since it is a weak right as established by the courts.

Keywords: Right of Pre-Emption, Property Law, Constitution Of India, Muslim Personal Law-Shufa.

PROBLEM STATEMENT

The right of pre-emption was very important during pre-constitutional India, but it is no longer justified since it violates Constitutional principles under Article 14, 15 and 19(1)(f), and it is also incompatible with property laws; therefore, the right should be applicable in a narrow sense.

RESEARCH QUESTIONS

1. Whether the right of pre-emption violates the Constitutional principles.
2. What is the modern applicability of the right of pre-emption?

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METHODOLOGY

The researcher has adopted a doctrinal method of study by analysing secondary sources like newspaper articles, existing research papers available online, and this paper will also analyse primary sources, such as an analysis of landmark judgements about the subject matter, Statutes and Constitution of India.

INTRODUCTION

The right of pre-emption has been defined as a legal right of purchasing property before others; it is an act of taking possession before others. The primary purpose of this right is to prevent strangers from taking possession of property in the neighbourhood to maintain social cohesion and harmony among the existing neighbours. The term pre-emption has a Latin origin where 'emptum' means to 'purchase or buy', and pre refers to before; the right to purchase first is called the right of pre-emption.¹ It is a preferential right given to the co-owners or neighbours to purchase the property from the owner before the sale. This is with respect to property law, but this right has been defined by various other law streams like under corporate law where right of pre-emption is a contractual right that allows the shareholders to purchase new shares before it is offered to outsiders, as it ensures that the dilution of value is prevented and they can maintain their ownership percentage, this is dealt under Section 62 of the companies act, 2013, which deals with issuing shares, rights of existing shareholders to buy shares before outsiders².

Under the European Union law, pre-emption is a doctrine where, in areas of shared competence, the EU legislation overrides the national laws. This is in order to ensure that there is no conflict, and the rules made by the EU supersede the national laws. This follows the principle of supremacy and the right of pre-emption, which checks whether EU legislation can supersede the national laws.³

Under Muslim law, pre-emption is called Shufa, which means to 'buy or purchase first', in the case of *Kunwar Digambar Singh v Kunwar Ahmed Sayeed Khan*⁴, where Justice John Edge

¹ Aishwarya Agarwal 'Pre-emption under hindu law' Lawbhoomi, (24 September 2024) <<https://lawbhoomi.com/pre-emption-under-hindu-law/>> accessed on 8th May 2026.

² Aryan Jakhar 'What are Pre-emption rights' (23rd Dec 2023) <<https://inc42.com/glossary/pre-emption-rights/>> accessed on 8th May 2026.

³ lexisnexis EU law expert 'Pre-emption definition' lexisnexis legal glossary <<https://www.lexisnexis.co.uk/legal/glossary/pre-emption>> accessed on 8th May 2026.

⁴ *Kunwar Digambar Singh v/s Kunwar Sayeed Khan* [1915] 17 BOMLR393.

spoke about the origin of this right and dealt with the persistence of pre-emption as a custom after partition. The term Shufa has derived from an Arabic word which means 'conjunction'; this is a right given to the owner of immovable property to purchase conjunction property. This was also the case that described the origin was right of Pre-Emption, which was followed in villages in British India, whose idea was bought from the Islamic law; before this, it was not followed in Hindu law.

Under Hindu law, the right of pre-emption is dealt with under Section 22 of the Hindu Succession Act, 1956, which deals with the preferential right to acquire property. This is a right given to the co-heirs who jointly hold property and want to sell their share.

In Muslim personal law, the right of pre-emption is extended to neighbours, but under Hindu law, this right is only available to co-heirs.

The need for the right of pre-emption in society was thus to prevent the intrusion of strangers and maintain social harmony. This right further protects the owner from fraud in transactions by the unknown purchaser.

DEVELOPMENT OF PRE-EMPTION IN INDIA

The right of pre-emption originated in the Islamic jurisprudence, aiming to prevent strangers from intruding and giving a priority right to the neighbours or co-sharers. This right was not recognised in India before the advent of Mohammedan law. The villages in British India started following the right of pre-emption with the purpose of not selling their land to others and keeping the land within their communities. Many villages followed the exact right given by Islamic law, while a few villages adopted this right with changes. Soon it became a recognised custom in many villages, but in case of dispute, it must be proved that it was a custom followed in such a village, or the villagers had an agreement to exercise the right of pre-emption, or the parliament passed acts regarding such right. Therefore, the source of this right is the Mohammedan law, customs of the villages and laws enacted.

In the case of *Gobind Dayal v Inayatullah*, the Allahabad High Court decided a case regarding the sale of property where the pre-emptor and the vendor were Muslims, but the vendee was a Hindu. Because of inter-religious sale, the issue was to check the applicability of muslim personal law.

Justice Mahmood stated that pre-emption is a right of substitution and not re-purchase where the pre-emptor steps in and becomes the vendee and has all rights and duties from the sale. He stated that 'Pre-Emption is a right which the owner of immovable property possesses, as such, for the quiet enjoyment of that immovable property, to obtain, in substitution for the buyer, proprietary possession of certain other immovable property, not his own, on such terms as those on which such latter immovable property is sold to another person.'⁵ Which means the pre-emptor can remove or replace the buyer or purchaser and then purchase the property himself, but the pre-emptor has to match the same price and fulfil the same conditions as accepted by the initial purchaser. Therefore, if both parties to the dispute are Muslims, the law of pre-emption is automatically applicable since this right became the general law of the land.

The right of Pre-Emption was practiced as a customary law which is not codified and not enforceable in the courts therefore it became difficult to prove hence, many acts in India recognised this right like the Punjab Pre-Emption act of 1913 consisting of 31 Sections and five chapters, amended in 1960 which recognised this right in village agricultural lands, Rajasthan Pre-Emption act of 1966 consisting of 24 Sections and four chapters which codified this right, Bengal tenancy act of 1855 recognised this right in certain situations, Partition act of 1893, Agra Pre-Emption act of 1922 which consists of 25 Sections and many other pre-independent provinces in India had their own customs about the right of Pre-Emption. But after independence, many of these acts were either abolished or amended to adapt to the changing needs of society. Also, with the development of modern statutes and provisions like the Transfer of Property Act, 1882, Article 14 of the Constitution, Freedom to alienate, and the like, the right of pre-emption lost its importance in India.⁶

This right is not applicable in cases of gifts, government sales, family transactions, settlements, wills or auctions. The right of Pre-Emption is weak because it restricts the owner of immovable property's freedom to sell at his/her own will and this right, when challenged in court, can easily be defended, which means that even if the plaintiff (co-sharer or neighbour) claims this right in the court, the owner can easily defend himself, since the purchaser has a superior right over the vendee. The right of Pre-Emption also has many formalities to be performed before it is exercised, such as the pre-emptor has to act fast or match the same amount that the purchaser

⁵ Inayatullah vs Gobind Dayal ILR 7 All. 775

⁶ Ayesha Siddika, Rubana Saila, Md. Nasim Khandoker 'The Right of Pre-emption in Personal and Statutory Laws: A Comparative Legal Analysis of Bangladesh and India' MSIJALJ (25 Dec 2025) <<https://msipublishers.com/wp-content/uploads/2025/12/MSIJALJ2172025-GS.pdf>> accessed on 10th May 2026

is offering the owner. If there is a delay on the part of the Pre-Emptor, the right is easily defeated. Further, this right is only a one-time right, and it cannot be exercised at any time; this was held in the case of *Raghunath v Radha Mohan*.⁷ This is to protect the rights of the buyer. The researcher is in favour of this judgement because if the pre-emptor is allowed to exercise this right at his wish, it becomes unfair towards the owner who has sold or partly sold the property to another, the pre-emptor should be given only one chance to exercise this right and in case the right is not exercised, he should not be allowed to exercise the right on later date or after the property being sold to a stranger if exercised then it may lead the purchaser to be in a position of uncertainty and the owner to suffer.

ESSENTIALS OF THE RIGHT OF PRE-EMPTION

Certain essential conditions are to be satisfied by the pre-emptor in order to legally exercise the right of Pre-Emption, and under Muslim law, these essentials are called Talabs, which means demands. These demands are of three types, namely, Talab-i-Muwathbat, which is the immediate demand of the pre-emptor expressing the demand to buy the property in a meeting called Majlis, as soon as the information regarding the sale is brought to notice, it should be further made in front of two witnesses. Next demand is Talab-i-Isshad, which means establishment of evidence and should be fulfilled within 14 days of Talab-i-Muwathbat, and a notice, either written or oral, is to be given to the purchaser. The last demand is called Talab-i-Tamlik, which means completion of a suit which must come under a competent court, and the suit must be instituted within 120 days of Talab-i-Muwathbat.

These demands can be made by the pre-emptor who maybe the co-owner (Shafi-i-Sharik) who cannot claim this right if the said property is mortgaged or is leased or the neighbour (Shafi-i-Jar) but not the tenant of such property as there is no ownership, there is mere possession or by participator in appendage (Shafi-i-Khalit) such as easementary rights and it can be exercised by himself or through agent or guardian in case the pre-emptor is a minor.

Further, according to the Limitation Act of 1963, under Section 97⁸, the right of pre-emption must be exercised within one year of the sale deed being registered or the purchaser taking possession of the property. The property in question must be immovable as under Section 3 of

⁷ *Raghunath v/s Radha Mohan*, (2021) 12 SCC 501.

⁸ The Limitation Act, 1963.

the Transfer of Property Act⁹, 1882 and Section 3(26) of the General Clauses Act, 1897¹⁰. There should also exist a relationship between the owner of the immovable property and the pre-emptor.

Therefore, the courts have emphasised that the essentials of this right are to be followed strictly because it is a defective, weak, and community-centric right that is community-centric, and it violates the freedom to alienate property because the pre-emptor can interfere and exercise this right over sales that have already been completed, which leads the purchaser and owner to a position of suffering. In case the essentials of the right are not strictly applied, the purchaser is uncertain as to whether the sale is complete or not. If the essentials of preemption are not followed, then the claim of preemption will be dismissed. The court in the case of *Sovana Dey v Tapaban Dey* held that Article 227 will have a limited scope and the High Courts cannot interfere with the lower court's judgments in this regard unless there is injustice.¹¹

Hence, if the essentials are strictly applied, the right protects purchasers. The court emphasises the strict application of these essentials so that it becomes difficult for the pre-emptor to exercise the right.

PROCEDURE TO EXERCISE THE RIGHT OF PRE-EMPTION

Firstly, the owner must have the intention to sell the immovable property, secondly, this intention must be notified to the pre-emptor (co-owner), thirdly, the pre-emptor has one month to exercise the right of pre-emption and in case he exercises then the property must be sold to the pre-emptor and if the sale is made to a stranger, it will be canceled but if he does not exercise, the property can be sold to an outsider.¹²

WHEN IS THE RIGHT LOST?

- In case the above-mentioned demands are not met, then the right is lost by acquiescence.

⁹ The Transfer of Property Act, 1882- Section 3

¹⁰ The General Clauses Act, 1897

¹¹ 'Strict Compliance Required for Right of Pre-emption Under Section 8 of the West Bengal Land Reforms Act: *Sovana Dey v. Tapaban Dey*' casemine, (11 Aug 2022) <<https://www.casemine.com/commentary/in/strict-compliance-required-for-right-of-pre-emption-under-section-8-of-the-west-bengal-land-reforms-act:-sovana-dey-v.-tapaban-dey/view>> accessed on 11 May 2026

¹² Jakub Chajdas 'What is pre-emption and how is it exercised' CGO legal, <<https://cgolegal.com/pre-emption-right/>> accessed on 11 May 2026

- In case the pre-emptor himself does not perform these demands either expressly or impliedly, he voluntarily waives his right and cannot claim it later.
- In case of the first two demands being met, but before the third demand is fulfilled, the pre-emptor dies, then the legal heirs cannot claim this right to fulfil the third demand of instituting the suit.
- In case of misjoinder, which means if the pre-emptor becomes a co-plaintiff in a suit with any person who cannot exercise the right of pre-emption, the right is lost. But if the pre-emptor becomes a co-plaintiff with a person who can exercise the right of pre-emption and such person has not fulfilled the first two demands, then the right of pre-emption remains valid.
- While exercising the right, the pre-emptor should follow the law; if the law is violated, then the right cannot be exercised.
- In the case where, before the sale, the pre-emptor was given information regarding the sale, but he refused to purchase the property, then on a later date, he cannot exercise or claim his right.¹³
- In case the pre-emptor, while exercising the right, does not comply with all the essentials.
- In case the pre-emptor himself was a part of selling the property to the outsider, he cannot claim the right on a future date.
- In cases where the pre-emptor has exercised the right only for part of a property, the general rule of pre-emption states that the property is to be acquired as a whole and not part.

The buyer can defend their purchase of property by stating the above-mentioned in the case of a dispute arising.

CONSTITUTIONAL ANALYSIS OF THE RIGHT OF PRE-EMPTION

Right to property was a fundamental right guaranteed under Article 19(1)(f) of the Constitution, which was guaranteed by the courts, which allowed citizens to acquire, hold, enjoy and dispose of property, with some reasonable restrictions.¹⁴ But at a later date, the Constitution of India

¹³ Shafaq Gupta 'Shufa (pre-emption) under Muslim Law' ipleaders, (27 Aug 2024)
<https://blog.ipleaders.in/shufa-pre-emption-under-muslim-law/#When_does_the_right_of_Shufa_arise>
accessed on 11th May 2026

¹⁴ Constitution of India, 1950 Article 19(1)(f)

was amended in the year 1978, which popularly came to be known as the 44th Amendment Act, which made the right to property a Constitutional right under Article 300A.

In the case of *Bhau Ram v Bhaji Nath Singh*¹⁵, the court held that the right of preemption that is based upon vicinage alone is unconstitutional, but the co-owners can exercise the right. Vicinage means a person who has ownership of the land adjacent to the vendor and if a neighbour is allowed to exercise this right, it restricts the owner's right of freedom to sell or dispose property at his will, the court further stated that the owner cannot be forced to sell the property to the pre-emptor just because he is the neighbour and the very purpose of the right is to keep individuals from other castes, religions away from purchasing the property which in turn violate Article 15 of the Constitution, which prohibits discrimination¹⁶ based on the above mentioned grounds. The judges in this case have tried to protect the rights of the owner without restricting his right of free sale. Therefore, the researcher agrees with the stance taken by judges since they recognised the co-owners, which avoids litigation and saves time for both parties and the court.

Therefore, the right of Pre-Emption is unfair since the owner's right to free sale is restricted since the owner has only limited options of people to sell the property, this also economically restricts the owner since he would be unknown to market prices that would be offered by outsiders to purchase the property, this makes the owner sell the property at much lower price than the market value of property.

Further, since the right is based on vicinage (proximity) or blood relations, it also violates Article 14 of the Constitution that deals with equality and giving preference to one group of individuals over others is discrimination and arbitrary.

But on the contrary, the right of Pre-emption protects the rights of the co-owners by ensuring that the ownership control of the property remains with them and the property is not diluted. The Indian courts have held that the co-owner has the right to exercise pre-emption, and in case the property is sold to another, the co-owner can re-purchase the said property.

The right also protects agricultural land from fragmentation by ensuring that the farmers are given a preferential right over outsiders to buy agricultural land. This helps the farmers financially by continuing the cultivation of land, which in turn leads to primary sector

¹⁵ *Bhau Ram v Bhaji Nath Singh* 1961 AIR 1327

¹⁶ Constitution of India, 150 Article 15

development and sustainable development of the country. In case the agricultural land is sold to an outsider, the value of the land is lost since such land might not be used for cultivation. There is a procedure that is to be followed by the farmer who wishes to buy the agricultural land, first such farmer must prove that there is a direct relationship between the said land and himself, the said farmer must within 30 days exercise the right of pre-emption from the date from which the owner wishes to sell the land and after acceptance, the farmer has three months to pay the price of the land and purchase.¹⁷

JUDICIAL INTERPRETATION OF THE RIGHT OF PRE-EMPTION

The Indian judiciary has adopted a restrictive approach while deciding cases with regard to preemption. The judges state that this right should be exercised only if all other remedies are exhausted, and it must also be strictly proved that the person exercising the right has the authority to do so, and while exercising the right, no other statutory provisions can be overridden.

In a landmark case of *Bishan Singh v Khazan Singh*, the court elaborated on the right of pre-emption. The judge stated that:

“11. ... (1) The right of pre-emption is not a right to the thing sold but a right to the offer of a thing about to be sold. This right is called the primary or inherent right. (2) The pre-emptor has a secondary right or a remedial right to follow the thing sold. (3) It is a right of substitution but not of re-purchase, i.e. the pre-emptor takes the entire bargain and steps into the shoes of the original vendee. (4) It is a right to acquire the whole of the property sold and not a share of the property sold. (5) Preference being the essence of the right, the plaintiff must have a superior right to that of the vendee or the person substituted in his place. (6) The right being very weak, it can be defeated by all legitimate methods, such as the vendee allowing the claimant of a superior or equal right being substituted in his place.”¹⁸

Therefore, the court held that this right is weak, and this, according to the researcher, is justified because it balances the rights of the pre-emptor with the rights of the buyer. Being a weak right,

¹⁷ Chiara Peppicelli ‘Agrarian pre-emption and neighboring pre-emption: rights, requirements and regulations’ (3 July 2024) <<https://magazine.greystate.it/agrarian-pre-emption-and-neighboring-pre-emption-rights-requirements-and-regulations-0703.html>> accessed on 12th May 2026

¹⁸ *Bishan Singh v Khazan Singh* AIR 1958 SC 838

it ensures that the pre-emptor does not abuse the power to exercise the right with a wrongful intention.

In the case of *Atam Prakash v State of Haryana*, the court held that the right of pre-emption is an outdated right which is incompatible with modern principles both constitutionally and economically.¹⁹ The researcher is in favour of this judgement because it ensures that the owner (vendor) is not in a position of loss and protects the rights of the owner.

Under the Transfer of Property Act 1882, Sections 10 and 11 deal with the right of pre-emption, though it does not expressly mention the right, it deals with a personal right that cannot be transferred.

“10. Condition restraining alienation. — Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him: provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.

11. Restriction repugnant to the interest created. — Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.

1 [Where any such direction has been made in respect of one piece of immoveable property for the purpose of securing the beneficial enjoyment of another piece of such property, nothing in this section shall be deemed to affect any right which the transferor may have to enforce such direction or any remedy which he may have in respect of a breach thereof.]”²⁰

Section 10 deals with restrictions on the transfer of property, the rule protects the owner's freedom to sell his property at his choice. Though pre-emption does not explicitly restrict the owner's right to alienate, indirectly it restricts the free transfer of property, which is inconsistent with this Section, as the owner does not have the freedom to transfer freely.

¹⁹ *Atam Prakash v State of Haryana* AIR 1986 SC 859

²⁰ Section 10 and 11 of the Transfer of Property Act, 1882

Section 11 states that once a transfer is complete, the law ensures peaceful enjoyment without any disturbance, but the right of pre-emption allows the pre-emptor to exercise the right even after the sale is complete. This violates the purchaser/vendee's right of free enjoyment of property.

Therefore, if the right of pre-emption is exercised, violating the above principles, it will be considered void. The above Sections reflect the constitutional principles.

CONTEMPORARY RELEVANCE OF THE RIGHT OF PRE-EMPTION

Though the purpose of the right was to prevent strangers from intrusion and maintain social harmony. However, it has lost its relevance in the modern period because the right shows the feudal mindset of the members of society. After independence, India emphasised the constitutional principles of equality and individual liberty, but this right does not align with this stance since it aims at excluding strangers from purchasing property, which leads to exclusion and discrimination. Therefore, the Indian courts have called the right of pre-emption a weak right because it is an anarchic and unreasonable concept, and it obstructs the free transfer of property.²¹

Partition and independence marked the growth of urbanisation, and it became inevitable to avoid being a stranger to either buy the property or become a tenant. This also led to the rise in the population, which has affected the religious groups in the society; hence, the owner has no other option but to sell the property to an outsider. Further industrialisation has also led to the rapid movement of groups from one place to another in search of jobs, and it has become inevitable to prevent strangers.²²

The right of pre-emption is also inconsistent economically because it discourages outsiders from suggesting prices at which they are ready to buy the property, which means that even though the property is purchased by an outsider, the pre-emptor has to re-purchase the said property at the same price. This discourages competitive market prices that would be higher.

²¹ LIVE LAW 'Right Of Pre-Emption Is A 'Very Weak Right'; Pre-Emptor's Conduct Can Constitute Waiver: J&K&L High Court' (28 Nov 2025) <<https://www.livelaw.in/high-court/jammu-kashmir/jk-high-court-right-of-pre-emption-being-a-weak-right-may-be-defeated-by-all-lawful-means-or-waived-by-the-pre-emptors-conduct-311452>> accessed on 13 May 2026

²² Baldev Kohli 'RIGHT OF PRE-EMPTION IN MODERN SOCIAL CONDITIONS' <<http://14.139.60.116:8080/jspui/bitstream/123456789/736/36/Right%20of%20Pre-Emption%20in%20Modern%20Social%20Conditions.pdf>> accessed on 14 May 2026

The right of pre-emption also reduces the development of the society since there is no change, and the society becomes stagnant after a point without outsiders. It also restricts investments since investors have the fear that the pre-emptor will intervene to exercise the right, and they will have to face a loss.

The right further aimed at protecting community rights by excluding strangers, but the current property laws focus on individual freedom to sell and buy property. Therefore, the right of pre-emption is losing its relevance in the modern period.

CONCLUSION AND SUGGESTIONS

The court protects the co-owners and not the neighbours because pre-emption is considered to be a reasonable restriction on property rights in case of co-owners, whereas it is considered an unreasonable restriction in case of neighbours.

Though the right of pre-emption was recognised by the British in India, later it was adopted by various provinces and because it was ancient it was made a customary practice that is recognised by the courts, the researcher suggests that the right of pre-emption should not be strictly applied by the courts or should be applicable in a narrow sense because though it protects the co-owners which is necessary to ensure that there is fragmentation of property and the control stays with the owner, it has many loopholes. It is firstly violative of the Constitution, which is the highest law of the land, and secondly, it violates fundamental rights guaranteed by the Constitution and enforced by the State. The owner of the immovable property suffers the most since he does not have autonomy, faces loss due to no competitive prices, and delays in the sale of the property since the pre-emptor can exercise the right even after the sale is complete.

Hence, the right of pre-emption should only be applicable in cases involving protecting the rights of the co-owners and rural communities, including farmers and not in cases involving an appendage. In case an agricultural land is sold to a stranger without informing the farmers, then such property should be given to a farmer at a lower price.

The right should not be applicable in urban areas since it is impossible to restrict strangers. Because of urbanisation, industrialisation and globalisation, there has led to a massive migration of people to urban societies, and housing has become a major problem. To accommodate all people from different castes, races, and religions, the right of pre-emption has to be forgone.

Under Article 13 of the Constitution, there is a clear difference between a custom and a law, and if any of them are ultra vires or are against fundamental rights, they should be considered void.

According to the researcher, if the pre-emptor is exercising the right after the sale of the property, it must be within 3 months, which ensures that there are no delays and reduces uncertainties. There should be strict applicability of waiver; if the pre-emptor has knowledge and keeps silence at the time of the sale, then he should not be allowed to exercise the right in the future. Silence should be considered as the right being waived.

The right of pre-emption should be codified and applicable uniformly throughout the country, as it is codified under Section 22 of the Hindu Succession Act, 1956²³. This will ensure equality.

If the pre-emptor exercises the right after the owner has sold the property to an outsider, apart from matching the price at which the buyer bought the property, a penalty should be imposed on the pre-emptor for delaying exercising the right. This protects the owners as well as the outsider to whom the property was sold, and it ensures that the pre-emptor does not have an ill intent in re-purchasing the said property.

Lastly, the members of the society should not be the ones deciding as to whom to include and whom to exclude; it should be decided by the state strictly or the owner of the property by himself, without any restrictions like pre-emption.

To conclude, the right of pre-emption does not hold the importance it once held in modern times, and this shows that the principles of the Constitution are protected and statutes like the Transfer of Property Act are emphasised. Thus, the scope of the right should be narrowed and limited to only protecting the rights of the co-owners and farmers/rural communities in India.

²³ Section 22 of the Hindu Succession Act, 1956