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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM No.724-C of 2012 in
RSA-340-1986 (O&M)
Date of decision : 08.12.2015**

Sowaran Kaur (deceased through LRs)

...Appellants

Versus

Shubh Lata & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. O.S. Batalvi, Advocate
for the appellant.

Mr. Amit Jain, Advocate
for respondents No.1 to 4.

AMIT RAWAL, J. (ORAL)

CM NO. 724-C of 2012

Prayer in this application for seeking restoration of the appeal.

For the reasons stated in the application, the application is allowed and the appeal is restored to its present number.

CM stands disposed of.

CM NO. 8263-C of 2015

For the reasons stated in the application which is duly supported by an affidavit, LRs of deceased Sowaran Kaur as

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mentioned in the application are ordered to be brought on record for the purpose of prosecuting the present appeal.

The application stands disposed of.

RSA-340-1986

The appellants-defendants have come in regular second appeal against the concurrent findings rendered by both the Courts below, whereby, the suit for redemption of the mortgage deed dated 20.07.1954 has been decreed and the compensation of ₹ 5,440/- has been enhanced by the Lower Appellate Court to the tune of ₹ 8,000/-.

Mr. O.S. Batalvi, learned counsel appearing on behalf of the appellants-defendants submits that the plaintiff pretended herself to be the daughter of Vidhya Wati, who was the real mortgagee. However, no evidence has been led to show her parentage. In essence, the relationship of the mortgagor – mortgagee viz-a-viz, the plaintiff had specifically been denied. Both the Courts below have committed illegality and perversity in rendering the findings against the appellants-defendants. School certificate (Ex.P-2) and diploma (Ex.P-3) are not sufficient evidence to show the parentage. Even compensation enhanced by the Lower Appellate Court is too meagre. Thus, the substantial question of law arises for determination by this Court.

Mr. Amit Jain, learned counsel appearing for the respondents submits that the respondents-plaintiffs have been able to prove the parentage, as much as, the school education certificate and the diploma (Ex.P-2 and P-3) reflects the plaintiffs to be the daughter

of Vidhya Wati and the plaintiffs were cross-examined on this fact. In support of his contentions, he relies upon a judgment of the Division Bench of this Court in case "**Harman Kaur V/s Shiromani Gurudwara Parbhandhak Committee, Amritsar**", 1992 (1) RRR 135. He further submits that no substantial question of law arises for determination.

I have heard the learned counsel for the parties and appraised the paper-book.

It is matter of the record that Vidhya Wati had mortgaged the suit property on 20.07.1954. The suit, has been filed, on 05.04.1983, on deposit of the mortgage amount. The plaintiff is nonetheless but the legal representative of the mortgagor-Vidhya Wati. In order to prove her parentage, the aforementioned documents as Ex.P-2 & P-3, have been proved and there is no cross-examination. I am in the agreement with the contentions made by the learned counsel for the respondents that when there is no cross-examination to the specific part of the examination-in-chief and it is deemed to be admitted. The aforementioned proposition of law has been culled out by this Court in Harnam Kaur's case (supra).

The Lower Appellate Court has, though, increased the amount of compensation from ₹ 5,440/- to ₹ 8,000/-. Though, in my view, the appellants-defendants are not entitled to any relief, as no evidence with regard to the same has been led. Since, the Lower Appellate Court has enhanced the amount of compensation, I do not

intend to differ with the findings rendered by both the Courts below.

Keeping in view the aforementioned facts, the impugned judgments rendered by both the Courts below are upheld and I do not intend to differ with the same, as these are based upon the appreciation of the oral and documentary evidence and the appeal is, accordingly, dismissed.

08.12.2015
yogesh

**(AMIT RAWAL)
JUDGE**