

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

R.S.A. No.2854 of 2010 (O&M)

Date of decision: 26.3.2015

Manohar Lal (deceased) through his LRs

... Appellants

Versus

Mahender Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Sudhir Aggarwal, Advocate
for the appellants.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The only question raised in this appeal and the connected appeal is that the mortgagee-appellant has had his titular rights in suit land perfected due to non-redemption by mortgagor respondent and by efflux of time. When this is the only question raised, then the matter stands concluded against the mortgagee by the Full Bench decision of this Court in **Ram Kishan and others v. Sheo Ram and others**; 2008 (1) RCR (Civil) 334: AIR 2008 P & H 77 wherein it has been held that in a case of usufructuary mortgage, the claim of redemption of the mortgaged property on the ground of 30 years period of limitation cannot be defeated. The Full Bench verdict has been affirmed by the Supreme Court in appeal in **Singh Ram (D) Tr.Lr vs Sheo Ram & Ors**, 2015 (1) PLR 167 upholding the principle of law

opining that: “We, thus, hold that special right of usufructuary mortgagor under Section 62 of the T.P. Act to recover possession commences in the manner specified therein, i.e., when mortgage money is paid out of rents and profits or partly out of rents and profits and partly by payment or deposit by mortgagor. Until then, limitation does not start for purposes of Article 61 of the Schedule to the Limitation Act. A usufructuary mortgagee is not entitled to file a suit for declaration that he had become an owner merely on the expiry of 30 years from the date of the mortgage. We answer the question accordingly.” Therefore, once a mortgagee is always a mortgagee and land is always open to redemption.

In view of the above, I do not find any substantial question of law arising in these appeals. Thus, the same are dismissed.

(RAJIV NARAIN RAINA)
JUDGE

March 26, 2015

Paritosh Kumar