

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 504 of 2010 (O/M)
Date of decision : 21.8.2015

Mohinder Singh

..... Appellant

Versus

Harbans Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Arun Abrol, Advocate, for the appellant.

None for respondents.

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

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is the judgment dated 19.1.2009, passed by the learned Additional District Judge (Adhoc) Fast Track Court, Gurdaspur, affirming the judgment and decree dated 31.1.2001, passed by the Civil Judge (Senior Division), Gurdaspur, whereby the suit filed by the plaintiffs was dismissed.

Plaintiffs had filed a suit to the effect that they being the mortgagees have become the owners in possession of land measuring 5 kanals 2 marlas by efflux of time as the suit land has

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not been got redeemed within the stipulated period of 30 days. Further, permanent injunction was also sought against defendant No. 1 (Harbans Singh), restraining him from interfering or forcibly dispossessing them from the land in dispute. The lower Court found that the appellants have not become the owner of the suit land by the efflux of time. They also failed to prove their ownership. These findings were affirmed by the learned Additional District Judge (Adhoc) Fast Track Court, Gurdaspur, vide order dated 19.1.2009.

After going through the file of the lower Court, I am of the view that both the courts below have recorded the findings of facts that plaintiffs have not become owner of the suit land by efflux of time. So far as the possession is concerned, the contention of the learned counsel for the appellant is that the entry made in the mutation agreement (Ex.D2) to the effect that on 7.9.1996, all the mortgagees, namely, Nirmal Tej Singh, Mohinder Singh, Harbans Singh and Rajinder Singh appeared before the Assistant Collector 2nd Grade and admitted the receipt of payment of mortgaged money of Rs. 199/- on 2.8.1969. and thereby redeeming the suit land is illegal. Nirmal Singh was expired in the year 1990.

Learned counsel seeks to rely upon the judgment (Ex.D4) wherein the date of death of Nirmal Singh is mentioned as 20.2.1990. However, this judgment is between the legal heirs of Nirmal Singh with one Puran Kaur. No death certificate of Nirmal

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Singh was produced to show that he had died prior to the said mutation. On the basis of mutation, the possession of defendant No. 1 was recorded in the subsequent revenue record. Therefore, as per the revenue record, the plaintiffs are no more in possession of the disputed property. This is also finding of fact and cannot be interfered in the regular second appeal. No question of law much less the substantial question of law arises. Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

21.8.2015
sjks