

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No.1090 of 2011 (O&M)

Date of decision: 27.08.2015

Gaya Lal and others

..... Appellants

versus

Smt.Chandra and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Pulkit Dagar, Advocate for the appellants
Mr.R.S.Sihota, Senior Advocate with
Mr.B.R.Rana, Advocate for the respondents

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

CM Nos.3025-C 3026-C of 2011

These applications have been filed for condonation of 107 days delay in filing and 464 days delay in re-filing the appeal. The applications are accompanied by affidavits. For the reasons mentioned therein, the same are allowed and 107 days delay in filing and 464 days delay in re-filing the appeal stands condoned.

RSA No.1090 of 2011

Challenged in the present regular second appeal is the judgment and decree dated 24.4.2009, passed by the learned Additional District Judge, Faridabad, affirming that of learned Civil Judge, Junior Division, Palwal dated 26.7.2008, whereby the suit of the plaintiffs for declaration and permanent injunction was dismissed.

The case of the plaintiffs before the lower Court was that land in dispute was mortgaged by the predecessor in interest of the defendants with the predecessor in interest of the plaintiffs on 1.7.1926 for Rs.400/-. The mutation was also sanctioned on 7.2.1926. The land was not redeemed. Therefore, the plaintiffs have become owner by efflux of time.

Suffice it so say that the suit was not contested by the defendants. The matter as to whether in case of usufructuary mortgage there is any time limit for redemption has been finally decided by the Full Bench of this Court in the case of Prabhakaran and others v. M.Azhagiri Pillap and others, 2006(2) RCR (Civil) 428. The matter was taken to the Hon'ble Supreme Court. The Supreme Court in Civil Appeal No.5198 of 2008 Singh Ram (D) through LRs v. Sheo Ram and others decided on 21.8.2014 affirmed the view of the Full Bench of this Court in Prabhakaran's case (supra).

Accordingly, since the law point has been settled, there is no ground to interfere in the concurrent findings recorded by the two Courts below.

The appeal stands dismissed.

In view of disposal of the appeal, all the pending applications also stand disposed of.

27.08.2015
gk

(Kuldip Singh)
Judge