

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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*C.M. Nos. 9174-75-C of 2012 and
RSA No. 3445 of 2012*

Date of decision: 30.11.2015

Gurmej Singh and another

....APPELLANTS

VERSUS

Dhanna Singh and others

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Premjit Kalia, Advocate,
and Mr. Kewal Krishan, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 9174-C of 2012

Prayer in this application is for exemption from filing certified copies of judgment and decree dated 17.11.2009 passed by the Additional Civil Judge (Senior Division) Ajnala.

Prayer granted. Filing of certified copies of judgment and decree dated 17.11.2009 passed by the Additional Civil Judge (Senior Division) Ajnala is dispensed with.

Application stands disposed of.

RSA No. 3445 of 2012

Challenge in this appeal is to the judgment and decree passed

by the Additional Civil Judge, Senior Division, Ajnala dated 17.11.2009 dismissing the suit for declaration filed by the appellant-plaintiff to the effect that he had become the owner by efflux of time of the land measuring 52 Kanals 14 Marlas, as detailed in the head note of the suit, situated in Village Bhullar, Tehsil Ajnala, District Amritsar and the appeal preferred against the said judgment and decree stands dismissed by the Additional District Judge, Amritsar on 20.04.2012.

2. It is the contention of the learned counsel for the appellants that Issue Nos. 1 and 2, which have been decided by the Courts below, have not appreciated the evidence, which has been led by the parties especially when the respondents, in their written statement, have accepted that the land was mortgaged with the appellant-plaintiff. He, thus, contends that although there is no specific finding given that the appellants-plaintiffs are not the mortgagee of the property, however, the issue was so framed and decided as would indicate that they are in fact not the mortgagee.

3. This contention of the learned counsel for the appellants is misplaced as the suit was only limited to the extent of declaring the appellants to be the owner of the property by efflux of time, which issue has been specifically decided against them. While returning the finding on Issue Nos. 1 and 2 also, nothing specific has been mentioned which would indicate that they are not the mortgagee of the property.

4. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below.

Further, there is no substantial question of law in the present appeal, which

requires consideration of this Court.

5. In view of the above, finding no merit in the present appeal, the same stands dismissed.

C.M. No. 9175-C of 2012

In view of the dismissal of the main appeal, no separate orders are required to be passed in this application for stay and, therefore, the same stands dismissed.

November 30, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE