

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

RSA No.5401 of 2012 (O&M)
Date of decision: 19.01.2015

Karan Singh

... Appellant

Vs.

Ram Avtar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jai Singh Yadav, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.15082-C of 2012

The application is allowed, subject to all just exceptions.

RSA No.5401 of 2012 (O&M)

This regular second appeal is directed at the instance of appellant-defendant No.2, challenging the judgments and decrees of the Courts below whereby the suit for declaration challenging the sale deed dated 24.12.2004 executed in favour of defendant No.1-Ram Avtar, which is alleged to be have been obtained fraudulently by defendant No.1 and for permanent injunction restraining defendant No.1-Ram Avtar, from alienating the suit property had been dismissed by both the Courts below.

Learned counsel appearing on behalf of the appellant-

defendant No.2 contends that the suit property was mortgaged with defendant No.2-Karan Singh, vide mortgage deed dated 17.05.2001. During the evidence, it has come on record that plaintiff-Shamsher Singh had executed another sale deed of agricultural land measuring 11 kanals 12 marlas by way of registered sale deed dated 29.08.2006 in favour of Ram Avtar, whereas first sale deed dated 24.12.2004, was in respect of 19 marlas of land. The plaintiff examined only two witnesses but did not lead any documentary evidence. The defendant PW-1, Ram Avtar, in order to prove sale deed in his favour examined witness to the sale deed, Registry Clerk and Draftsman. The status of Karan Singh is of mortgagee. It is settled proposition of law that once mortgagee is always a mortgagee and appellant would be deemed to be mortgagee of Ram Avtar.

No fault can be found with the findings rendered by the Courts below, which are based on fact and law. There is no illegality much less perversity in the findings of the Courts below.

No substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 19, 2015
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