

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3928 of 2013 (O&M)
Date of Decision: 09.07.2015

Surja

... Appellant

Versus

Bhagwan Dass and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.K. Singh Goyat, Advocate,
for the appellant.

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

RAJIV NARAIN RAINA, J.

This is plaintiff's second appeal. He is mortgagee. He claims that by the passage of 30 years he has acquired ownership rights over the mortgage property by prescription and effluxion of time. There is no dispute that the mortgage deed is usufructuary in nature and, therefore, the issue raised in this appeal is no longer *res integra* and is covered by the Full Bench decision of this court in **Ram Kishan and others vs. Sheo Ram and others**, 2008(1) RCR (Civil) 334. The lower appellate court dismissed the appeal on March 22, 2013 when the decision of the Supreme Court in the appeal against the judgment of the Full Bench had not been pronounced. The view commended by this court in the Full Bench has been affirmed by the Supreme Court in **Singh Ram v. Sheo Ram**, (2014) 9 SCC 185: 2014 (4) RCR (Civil) 179 and the legal position has been clarified that once a mortgage is always a mortgage and always open to redemption.

No other issue arises in this appeal. The matter being covered by the ruling of the Supreme Court, this appeal is dismissed as the question of law involved stands settled, which was once substantial.

(RAJIV NARAIN RAINA)
JUDGE

09.07.2015
manju