

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1400 of 2015 (O&M)

Date of Decision.11.08.2015

Hardev Singh and others

.....Appellants

Versus

Shingara Singh and others

.....Respondents

Present: Mr. Inderjit Sharma, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The plaintiffs suit for mortgage was rested on plea that their predecessor had mortgaged the property and that the defendants are in possession as mortgagees. At the trial, the plaintiffs relied on copies of jamabandies commencing from the year 1961-62 to 2003-2004 which were exhibited as Ex.P1 to P-9. The documents referred to the fact that one Kaka Singh was mortgagor and in the subsequent entries in the year 1988-89, Kaka Singh's sons had been referred to namely Jaggar Singh, Maghar Singh and Gurcharan Singh. The suit had been filed by sons of Jagar Singh being the son of Kaka Singh and in the cross-examination of the plaintiffs, it was sought to be elicited that there was no document of mortgage and that the plaintiffs were not personally aware of the creation of mortgage. So long as the defendants' possession is traced only to the mortgage and the plaintiffs have been able to bring a nexus to the original mortgagor by cogent evidence, the plaintiffs' right cannot

be defeated unless there has been some other transfer of interest in favour of the defendants confirming the title. The learned counsel would argue before me that the plaintiffs had even admitted that the defendants were the owners of property. I cannot take this to be an admission to wish away title which they had when they were staking claim for redemption of the mortgage. It has been held by the Supreme Court that if there is a suit for redemption, it cannot be defeated on the issue of limitation unless right to redeem itself is foreclosed by conduct of parties or by transfer of interest. The Full Bench ruling of this Court in Ram Kishan Vs. Sheo Ram and others 2007(2) PLJ FB 746 was affirmed in the judgment of the Supreme Court in Singh Ram (D) through LRs Vs. Sheo Ram and others 2014(9) SCC 185.

2. The courts below have approached the issue correctly and the only point of law that would arise would be whether the suit of redemption shall be competent well beyond a period of 55-56 years. The point has been squarely answered by the Supreme Court in the decision referred to above.

3. I do not find any legal issue to be considered in the second appeal and would find no warrant for interference. The regular second appeal is dismissed.

(K. KANNAN)
JUDGE

August 11, 2015
Pankaj*