IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 5565 of 2014 (O/M)
Date of decision : 17.11.2015

Daya Ram @ Rajender ..... Appellant

Versus

Hira Lal and others ...... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Surinder Dagar, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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<u>KULDIP SINGH, J. (ORAL)</u>

Impugned in the present regular second appeal is the judgment and decree dated 27.5.2014, passed by the learned District Judge, Mewat, affirming the judgment and decree dated 11.4.2013, passed by the learned Civil Judge (Junior Division), Mewat at Nuh, vide which the suit of the plaintiff for redemption of mortgage was decreed and it was held that the plaintiff is entitled to get back the possession of suit land by way of redemption on paying mortgage amount of Rs. 718/- to the mortgagees i.e. defendants No. 1 to 5, within two months from the date of jdugment, failing which the relief granted to plaintiff shall deem to have been denied.

According to the case of the plaintiff, the land was mortgaged on 13.6.1907 for Rs. 718/-, vide mutation No. 3326, which was usufructuary mortgage. In the written statement, the defendants did not specifically deny the mortgage money and stated that it is a matter of record. It was stated that the redemption is time barred as period of more than 30 years has elapsed and mortgagees have become the owners of the land.

I have heard the learned counsel for the appellant and have also carefully gone through the file.

So far as the limitation is concerned, there is no limitation to redeem the usufructuary mortgage.

The learned counsel for the appellant has argued that it is not determined that the mortgage money was Rs. 718/-.

It comes out that the lower Court has relied upon the mutation No. 3326 regarding the sale of mortgagee rights for Rs. 718/-. The sale of mortgagee right is always more than the mortgage money. Therefore, the lower Court acting on the pleadings held that the mortgage is of year 1907 when even Rs. 718/- was a huge amount. The findings of facts have been recorded by both the Courts below.

The learned counsel has further argued that the suit for redemption should have been filed before the Collector under the Redemption of Mortgage Act, 1913.

In any case, the appellant is before the High Court and this Court is not to go into the technicalities of the matter. The status of the present appellant is that of mortgagee and they should redeem the mortgaged property on receiving the mortgage money. They cannot hold back mortgagee rights on one or the other ground. I do not find any ground to interfere in the judgments of both the Courts below. No substantial question of law arises in the present regular second appeal. Hence, the present regular second appeal is dismissed.

(KULDIP SINGH)
JUDGE

17.11.2015
sjks