

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Regular Second Appeal No.3729 of 2012 (O&M)
Date of Decision: March 10, 2016**

Deen Mohammad

.....APPELLANT.

VERSUS

Babu Ram and others

.....RESPONDENTS.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sudhir Aggarwal, Advocate
for the appellant.

Mr. Avnish Mittal, Advocate
for respondent No.1.

SURINDER GUPTA, J.

Heard.

The plaintiff-appellant filed suit seeking possession of the suit land, which was mortgaged with predecessor-in-interest of defendant no.1-Babu Ram. The suit was dismissed by Ld. Additional Civil Judge (Senior Division), Punhana, and the appeal against this judgment was dismissed by Ld. Additional District Judge, Nuh.

This is the second round of litigation regarding the suit land. The plaintiff had earlier filed similar suit, seeking redemption of mortgage of the suit land, in which defendant no.1-Babu Ram filed counter-claim with the plea that he has already become the owner of the suit land by way of

foreclosure. The suit filed by the plaintiff was dismissed and the counter-claim filed by defendant no.1 was decreed vide judgment and decree dated 7th May, 1996. It was held in that case that Babu Ram-defendant no.1 and one Makhan Lal, who are in cultivating possession of the suit land, have become its owner by way of foreclosure under Section 67 of the Limitation Act, 1882. The plaintiff filed appeal against that judgment and decree, which was, ultimately, withdrawn by him and in execution proceedings, the plaintiff and others got recorded their statement that they have no concern with the land in dispute and will not interfere in the possession of the same. The judgment and decree passed in the earlier suit has since attained finality and the point once settled, could not be re-agitated by the plaintiff in this case.

On perusal of the judgments of Courts below, I find no legal or factual infirmity therein, calling for any interference.

No question of law, what to talk of substantial question of law, requiring determination arises in this appeal, which has no merits.

Dismissed.

March 10, 2016.

deepak/jv

**(SURINDER GUPTA)
JUDGE**