

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

R.S.A. No.1610 of 2013 (O&M)

Date of decision: 18.02.2016

Karambir

...Appellant

Versus

Telu Ram

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Akshay Jindal, Advocate for the appellant.

Jitendra Chauhan, J.

This regular second appeal is directed against the judgment and decree dated 05.01.2013, passed by the learned Additional District Judge, Karnal (for short, the 'first Appellate Court') whereby, the appeal filed by the respondent, against the judgment and decree dated 19.04.2010, passed by the learned Additional Civil Judge, Sr. Divn., Karnal, (for short, the 'trial Court'), has been allowed.

Brief facts of the case are that the plaintiff filed a suit for declaration to the effect that he has become owner of the suit

property as the defendant has failed to redeem the mortgaged vide mortgage deed dated 23.02.1971. However, vide judgment and decree dated 19.04.2010, the same was decreed.

Feeling aggrieved, the defendant filed an appeal against the judgment dated 19.04.2010 passed in favour of the plaintiff-appellant. The learned first Appellate Court held that since it was usufructuary mortgage and no time period was prescribed for redemption of the land, so the mortgager was competent to redeem the land at any time. The learned first Appellate Court allowed the appeal filed by the defendant and dismissed the suit of the plaintiff. Hence, the present appeal.

It is contended that as the mortgagor-defendant failed to redeem the land within the prescribed period of 30 years, he has foreclosed his rights from redeeming the same. It is further asserted that the learned first Appellate Court has misinterpreted the evidence brought on the file and misapplied the law.

I have heard the learned counsel and perused the record on file.

In the judgment titled as '**Ram Kishan and others Vs. Sheo Ram and others**', 2008(1) Civil Court cases:414 (P&H), passed by the Full Bench of this Court, which was

affirmed by Hon'ble Supreme Court in '**Singh Ram (D) thr. LRs Vs. Sheo Ram and others**', wherein, it has been held that where no time is stipulated for redemption of the mortgaged land, the mortgagor has right to redeem the mortgage at any time and the limitation period of 30 years is not applicable in such cases. Such being the position of law, the learned first Appellate Court has rightly dismissed the suit of the plaintiff as defendants-mortgagor has still a right to redeem his land and no injunction can be issued against him. Consequently, the judgment and decree dated 05.01.2013 passed by the learned first Appellate Court is hereby affirmed.

Consequently, the present appeal is dismissed.

18.02.2016

ashok

(JITENDRA CHAUHAN)
JUDGE