

RSA No.1578 of 2016 (O&M)

{1}

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

RSA No.1578 of 2016 (O&M)

Date of decision:21.10.2016

Maha Singh @ Mam Chand (since deceased) through LRs

... Appellant

Vs.

Sahab Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ramesh Hooda, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, the suit for possession by way of redemption of the land measuring 6 kanals 8 marlas on the basis of the mortgaged deed dated 16.06.1898 registered on 17.06.1898, has been decreed.

Mr. Robin Singh Hooda, learned counsel appearing on behalf of the appellant submits that the agricultural land measuring 6 kanals 8 marlas as described in the head note of the plaint and other piece of land measuring 3 bighas 3 biswas of the suit land, as per the averments made in the suit, was allegedly owned and possessed by Bhagmal son of Mohra alias Mehra Singh resident of village Panchi Jatttan, Tehsil Ganaur, District Sonipat. On 16.06.1995, said Bhagmal mortgaged the land in question without any right of Shamlat etc, in favour of Jaisa alias Jeeta son of Shri Bahadar and Meer Singh alias Amir Singh son of Shri Mehar Singh in equal share i.e., ½ share each for valuable consideration of

₹120/- vide registered mortgaged deed No.533, dated 17.6.1898. The mutation bearing no.308 dated 31.12.1898 on the basis of mortgaged deed was also sanctioned in favour of mortgagees.

The respondent-plaintiffs further averred that the plaintiffs purchased the whole land of Smt. Dakho and Smt. Dallo along with suit land for a valuable consideration. The suit aforementioned was filed on the basis of the provisions of Section 61(a) of the Limitation Act, 1963, whereas, the stand of the appellant before the Court below was that the suit land could not be redeemed after a lapse of more than 30 years and in this way, the mortgagees have become the owners of the suit land. The respondent-plaintiffs also availed the remedy before the Collector and order of the Collector was passed on 27.04.2006, therefore, the institution of the suit on 21.07.2006 was beyond the period of limitation, which fact has not been noticed by the Courts below, thus, there is illegality and perversity.

I have heard learned counsel for the appellant and appraised the judgments and decrees of the Courts below and of the view that provisions of Section 61(a) of Limitation Act, 1963 would not apply. Since the mortgage deed did not prescribe the period of limitation it can be redeemed at any point of time, in view of the ratio decidendi culled out by the Hon'ble Supreme Court in paragraphs 14, 15 and 16 of **Singh Ram (D) through LR. vs. Sheo Ram and others 2014(4) RCR (Civil) 179**. Even the appellant did not file any counter claim seeking ownership. I am of the view that once the mortgage deed was admitted by both the parties and, therefore, the concurrent findings rendered in a suit for redemption of agricultural land

filed in the year 2006, are perfectly legal and justified.

No other point has been raised.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

October 21, 2016

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No