

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

**CR-4147-2017 (O&M)
Date of decision: 08.08.2017**

Darbari Singh (since deceased) through legal representatives

...Petitioner

Versus

Dharampal and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Kumar Sharma, Advocate,
for the petitioner.

Mr. Dishant D. Tuteja, Advocate,
for the respondent-caveators.

Ritu Bahri, J.

Challenge in this petition is to the order dated 04.07.2016 passed by the Additional District Judge, Rohtak, whereby application filed by Dharampal-mortgagor for permission to deposit the mortgage amount along with interest, has been disposed of by observing that since the amount already stood deposited, therefore, nothing else was required to be done in the case.

In the present case, the dispute is with regard to the mortgage deed No.838 dated 06.11.1998, vide which, Dharampal-respondent No.1 had mortgaged his land measuring 8 Kanals, situated in village Gandhra, Tehsil and District Rohtak, for a consideration of ₹2,00,000/-, which he had received in cash for his household requirement. The said conditional mortgage became absolute in the year 2003. Respondent-Dharampal did not

pay the mortgage amount with interest within two years and he lost his right

to get the land redeemed. Then, the conditional sale matured to full fledged sale after the stipulated period of two years. Thereafter, the petitioner became owner of the suit land as the mortgage was without possession. Thereafter, mortgagee-Darbari Singh filed an application under Section 7/8 of Bengal Regulation XVII of 1806 for foreclosure of conditional sale/mortgage and rendering the sale conclusive. Notice of the said petition was served upon mortgagor-Dharampal, but he did not appear even after publication of the notice and ultimately, he was proceeded against exparte vide order dated 27.05.2003. When this fact came to the knowledge of the mortgagor (Dharampal), he filed an application for setting aside of the exparte order dated 27.05.2003, which was allowed vide order dated 05.04.2013. Consequently, Dharampal filed another application on 26.08.2013 for permission to deposit the amount of Rs.2,00,000/- within interest w.e.f. 06.11.1998 till 30.08.2013 amounting to Rs.9,12,000/- for payment to the mortgagee. Thereafter, on 25.08.2015, Dharampal on his own deposited the above said amount. After accepting the amount, the file was consigned to the record and the mortgagee was given liberty to withdraw the same.

Learned counsel for the petitioner states that CR No.7532 of 2016, titled as Rajinder Singh (since deceased) through his legal heirs Vs. Dharampal involving similar questions of law and facts has been dismissed by this Court vide order dated 04.07.2017.

Learned counsel for respondent-caveator(s) is not disputing the above said facts.

Since CR No.7532 of 2016 with regard to conditional sale deed No.1206 dated 02.02.1999, involving similar question of law and facts has

been dismissed by this Court vide order dated 04.07.2017, the present revision is also dismissed on the same terms.

08.08.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No