

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

Date of Decision: 8.8.2017

1. RSA No.148 of 2016 (O&M)

Ibrahim ... Appellant

Versus

Khem Chand ... Respondent

2. RSA No.152 of 2016 (O&M)

Ibrahim ...Appellant

Versus

Khem Chand ...Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Rajesh Lamba, Advocate for the appellant

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of RSA Nos.148 and 152 of 2016 as common questions of law and facts are involved in both these appeals.

2. The issue involved in both the appeals is confined to the interpretation of a condition which in Roman from the vernacular reads:-

“Shart fakul rehan ye hai ke jub kabhi bhi maah jeth me kul raqam ek dum ada kar doonga faq kra loonga”. The learned District Judge, Mewat in his judgment dated 18th February, 2015 while reversing the judgment of the trial court on the interpretation placed on these words by it has held that these words can be interpreted only to mean that the land was to be got redeemed in the month of Jeth (May), but no time was fixed for performance. It appears that the period for getting the land redeemed was

fixed in the month of Jeth (May) just to restrict the right of redemption only at the end of agricultural year.

3. The learned District Judge has read the definition of the expression “agricultural year” provided in Section 3(14) of the Punjab Land Revenue Act, 1887 which defines it to mean “the year commencing on the 16th day of June, or on such other date as the (State Government) may, by notification, appoint for any local area”.

4. Besides, the first appellate court also examined the case from the point of view of Section 47 of the Punjab Tenancy Act, 1887 which specifies “the time for ejectment” and prescribes that a decree or order for ejectment of the tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under Section 44, the officer making the order, otherwise directs.”

5. Still further, the learned District Judge examined the case from the angle of “agricultural mortgages” which debit instruments and agreements are governed by the provisions of Punjab Alienation of Land Act i.e. Act No.XIII of 1990. Section 8 of the said Act deals with the conditions in permitted mortgages. The District Judge has read Section 8 with reference to Section 6 of the said Act and was conscious of the provisions and the conditions which may be added in an agreement made under Section 6 of the Act between the parties.

6. The first appellate court has also referred to Paragraph 43 of the Punjab Land Administration Manual which prescribes conditions that may be inserted in statutory mortgages for possession.

7. Ultimately, the learned District Judge held that when mortgagor has delivered possession, the mortgagee in possession would

cultivate the land and if redemption time is fixed during the period when crop is standing, the mortgagee in possession will have to part with the standing crops and the compensation of the crops will have to be assessed and for avoiding such events, in Ex.P/19 a specific condition for redemption in the month of Jeth (May) i.e. at the end of the agricultural year, when, lands are vacant after harvesting was fixed to save agriculturists who had sold the crops to harvestors.

8. In any case, when no time limit for getting the land redeemed was fixed in the mortgage deed Ex.P19 and month of May was fixed, it was just to bring the redemption in consonance with the agricultural year, and thus the mortgagor has a right to seek redemption when he pays or tenders to the mortgagee the mortgaged money and as such when the present suit was filed for redemption, the same was within time and for this, the District Judge relied on the Supreme Court judgment in Singh Ram (D) through L.Rs vs. Sheo Ram and others, (2014) 9 SCC 185. I have no reason to differ with the view of the learned District Judge who has placed the correct interpretation on the condition and suitably reversed the judgment and decree of the trial court, thereby restoring justice.

9. In view of the above, it is not possible for this Court to interfere with the findings of fact recorded by the first appellate court or the interpretation of the condition which appears to be the correct legal position. The judgment and decree of the first appellate court do not suffer from any illegality, irregularity or perversity nor the same can be said to be tainted with any error apparent on the face of record so as to require interference by this Court in these appeals. No question of law, much less a substantial one, arises for consideration in second appeal.

10. For the foregoing reasons, both the appeals are held to be without substance and are ordered to stand dismissed in limine since notice to the respondents will serve no useful purpose, the judgment and decree appealed against being sound on both law and facts.

8.8.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>No</i>