

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

RSA No.3970 of 2017 (O & M)
Date of decision :17.08.2017

Rajesh

...Appellant

Versus

Gulab Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arun Sharma, Advocate
for the appellant.

ANIL KSHETARPAL, J. (Oral)

Defendant-appellant has filed this Regular Second Appeal against the concurrent findings of fact arrived at by the courts below.

Respondent filed a suit for redemption of mortgage of a shop. It was asserted by the plaintiff that the shop was mortgaged to defendant-appellant for a consideration of Rs.5,000/- on 24.01.2001 through a registered mortgage deed. In defence, defendant-appellant claimed that the plaintiff is not the owner of the property and, therefore, the plaintiff is not entitled to redeem the mortgage and to seek possession.

Learned trial court after appreciating the evidence available on the file, decreed the suit filed by the plaintiff.

Appeal filed by the defendant-appellant was also dismissed by the learned First Appellate Court, after re-appreciating the evidence available on the file.

Learned counsel for the appellant has submitted that plaintiff has not proved on the file, his right to claim back possession. Learned counsel for the appellant has further submitted that plaintiff is not owner of the shop, therefore, the suit filed by the plaintiff was liable to be dismissed.

I have considered the submission of learned counsel for the appellant. In the present case, the only dispute which is to be decided is whether the plaintiff had mortgaged the property in question or not. There is no issue with regard to ownership of the plaintiff. In fact, the dispute with regard to ownership of the plaintiff is totally alien to the present controversy. The present suit is only for entitlement of the plaintiff to redeem the property and seek possession.

For the reasons recorded above, I do not find any reason to interfere with the concurrent findings of fact arrived at by the courts below.

Accordingly, appeal is dismissed.

17.08.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No