

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

**RSA No.1326 of 2016 (O&M)
Date of Decision:16.05.2018**

Tara Singh

...Appellant

Versus

Parkash Kaur and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the appellant

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the learned courts below, while dismissing the suit filed by the plaintiff for declaration claiming that he has become owner of the property with the afflux of time.

It is pleaded case of the plaintiff that Smt.Shardi widow of Chhajju, Parkash Kaur, Piar Kaur, Nasib Kaur and Vidya daughters of Chhajju, were owners of 26 kanals and 15 marlas of land. Some of the owners had mortgaged the land in favour of Raghbir Singh, Dildar Singh, Hukam Chand, Malkiat Singh, Jagat Singh, Niranjana Singh, Sadhu Singh, Bhagwaria, Des Raj, Nanak Chand. The possession of the land was delivered to the mortgagees and the mutation of the mortgage was sanctioned on 16.12.1971. It is further pleaded that since 30 years have elapsed and the property has not been redeemed, therefore, the plaintiffs have become owner by the afflux of time.

Both the courts, after examining the evidence available on the file, have found that it was an usufructuary mortgage with possession.

A larger Bench of the Hon'ble Supreme Court in the judgment rendered in **Singh Ram (D) through L.R.s Vs. Sheo Ram and others, 2014 (9) SCC 185**, while affirming a Full Bench judgment of this Court, has held that the limitation to redeem the land in the absence of any contract to the contrary would begin to run on the date redemption of the mortgage is refused. In the present case, both the courts have found that there was no period fixed in the mortgaged deed for redemption and the suit is not beyond time from the date of refusal.

In view of the aforesaid discussion, there is no ground to interfere with the concurrent findings of fact arrived at by the courts below. The Regular Second Appeal is dismissed. Pending application, if any, shall also stand disposed of.

16.05.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No