

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-7748-C-2015 in/and
RSA No. 3209 of 2015 (O/M)
Date of decision : 8.3.2018

Baryam Singh through LRs and others Appellants

Versus

Nachhatar Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. C.B. Goel, Advocate, for appellants.
Mr. J.S. Khattar, Advocate, for,
Mr. Deepak Sharma, Advocate,
for caveators-respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

CM-7748-C-2015

There is delay of 79 days in filing the accompanying appeal.

For the reasons mentioned in the application, delay of 79 days in refiling the accompanying appeal is condoned.

Application is disposed of.

Main case

Impugned in present Regular Second Appeal is judgment dated 5.9.2014, passed by the learned Additional District Judge, Ambala, affirming judgment and decree dated 13.12.2011, passed by the learned Civil Judge (Junior Division), Ambala.

I have heard the learned counsels for both the parties and have also carefully gone through the file.

It comes out that plaintiffs-appellants had filed a suit before

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the lower Court stating that they are successor of mortgagee of suit land namely Chittru alias Chatru. The mortgage has not been redeemed for more than 60 years. Therefore, they alongwith proforma defendants have become owner of the suit land. The lower Court applied the ratio of full bench authority of this Court in *Ram Kishan and others Versus Sheo Ram and others*, 2007 RCR (Civil) 334 (P and H) (FB), and came to the conclusion that in case of usufructuary mortgage, mortgagee does not become owner by efflux of time, the limitation of 30 years is not applicable in such cases.

It is stated that terms of mortgagee have not been mentioned.

I am of the view that plain reading of the plaint itself shows that the relief claimed by appellants cannot be granted to them.

In view of settled law in Full Bench authority of this Court in *Ram Kishan's* case (supra), there is no ground to interfere in the concurrent findings of the two Courts below.

(KULDIP SINGH)
JUDGE

8.3.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No