

102.

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

RSA-3430-2014 (O&M)

Date of decision:12.03.2018.

DAVINDER SINGH AND OTHER

... Appellants

Versus

GURBACHAN SINGH AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Amarjit Markan, Advocate,
for the appellants.

HARI PAL VERMA, J.(Oral)

CM-15705-C-2016 & CMs-7927, 7928-2014

Prayer in these applications is to bring on record legal representatives of Rattan Singh-plaintiff No.1 in view of order dated 14.07.2016 passed by this Court, legal representatives of respondent No.7 and respondent No.8 respectively.

For the reasons stated in the applications, same are allowed and the legal representatives, as mentioned in the applications, are taken on record, subject to all just exceptions.

Amended memo of parties is taken on record.

RSA-3430-2014

The controversy involved in the present appeal is squarely covered with the law laid down by the Hon'ble Apex Court in the case of

Singh Ram (D) through LRs Versus Sheo Ram and others-2014(4) R.C.R.

(Civil) 179 wherein it has been held that when there is usufructuary

possession commences when mortgage money is paid.

Present appeal is accordingly dismissed in view of paragraphs No.14 and 15 of the judgment passed in **Singh Ram's case** (supra), which read as under:-

“14. We need not multiply reference to other judgments. Reference to above judgments clearly spell out the reasons for conflicting views. In cases where distinction in usufructuary mortgagor's right under [Section 62](#) of the T.P. Act has been noted, right to redeem has been held to continue till the mortgage money is paid for which there is no time limit while in other cases right to redeem has been held to accrue on the date of mortgage resulting in extinguishment of right of redemption after 30 years.

15. We, thus, hold that special right of usufructuary mortgagor under [Section 62](#) of the T.P. Act to recover possession commences in the manner specified therein, i.e., when mortgage money is paid out of rents and profits or partly out of rents and profits and partly by payment or deposit by mortgagor. Until then, limitation does not start for purposes of [Article 61](#) of the Schedule to the [Limitation Act](#). A usufructuary mortgagee is not entitled to file a suit for declaration that he had become an owner merely on the expiry of 30 years from the date of the mortgage. We answer the question accordingly.”

(HARI PAL VERMA)
JUDGE

12.03.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No