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

**RSA No. 1534 of 2018
Date of decision : 14.05.2018**

Suba Singh ...Appellant

versus

Ram Pal ...Respondent

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Ramandeep, Advocate
for the appellant.

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RITU BAHRI , J.

C.M. No. 4073-C-2018

For the reasons mentioned in the application, delay of 232 days in re-filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

R.S.A. No. 1534-2018

This regular second appeal is directed against the concurrent findings of facts recorded by both the Courts below whereby the suit of the plaintiff-respondent (herein after to be referred as 'the respondent') for recovery of mortgage money was decreed.

Brief facts of the case are that the plaintiff filed a suit for recovery of mortgage money and interest thereon by way of foreclosure of mortgage averring that the defendant was owner in possession of agricultural land measuring 8 kanals fully detailed and described in para No. 1 of the plaint, situated in village Taranwali, Tehsil Guhla, District Kaithal. Defendant mortgaged the suit land without possession with plaintiff for consideration of Rs.1,25,000/- vide registered mortgage deed dated 12.02.2008 and agreed to pay the mortgage money along with interest thereon at the rate of 1.5% per month from the date of mortgage till redemption. After executing the mortgage deed in plaintiff's favour, defendant executed another mortgage deed of the same land in favour of HGB, Agond, fraudulently and illegally with malafide intention. Defendant failed to pay the mortgage money and interest thereon.

A bare perusal of the impugned judgments shows that the execution of registered mortgage deed Ex PX/PX2A between the parties is not in dispute. The only stand taken by the defendant/appellant is that he borrowed Rs.50,000/- from the plaintiff/respondent and was compelled to execute registered mortgage deed and a pronote/receipt of Bachittar Singh, his son. Despite the admission, respondent has taken the trouble to prove the execution of registered mortgage deed dated 12.02.2008 by examining the scribe P.W.2 Sher Singh and P.W.4 Sinder Pal, attesting witness. Both of them, in their respective affidavits stated that on 12.02.2008, mortgage deed was prepared on the instruction of the parties, was read over and explained to them and Sube Singh, mortgagor, affixed his signatures.

Thus, the terms of the mortgage have been reduced to the form of a document and have been proved, no amount of oral evidence can be looked into for the purpose of contradicting the terms of the document. Moreover, the mortgage deed is a registered document duly endorsed by the Sub Registrar to which presumption of correctness attaches and the presumption has not been rebutted. There is no document proved to show payment of Rs.50,000/- with interest was paid to plaintiff by defendant.

The finding of facts recorded by the learned trial Court was rightly upheld by the Lower Appellate Court, as in the present case, the mortgage deed has been duly proved and there was no document proved to show payment of Rs.50,000/- with interest to plaintiff by defendant.

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

14.05.2018 **(RITU BAHRI)**
G Arora **JUDGE**

Whether speaking/reasoned ***Yes***
Whether reportable ***No***