

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

RSA No. 3938 of 2018 (O&M)
Date of decision : July 05, 2018

Bija Ram (deceased) through LRs

..... Appellants.

v.

Ram Sarup and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Arav Gupta, Advocate
for the appellants.

Ajay Tewari, J (Oral)

C.M No.10278-C of 2018

This is an application for impleading the applicant-Dharam Pal son of Bije Ram, since deceased, who was defendant No. 9 before the civil Court, as appellant in this appeal. It is stated that the said Bije Ram also died during the pendency of the civil suit but inadvertently the applicant who is his only son could not be impleaded as his L.R. For the reasons recorded, this application is allowed and the applicant-Dharam Pal is impleaded as appellant No.9. Registry is directed to carry out necessary correction in the memo. of parties.

RSA No.3938 of 2018 (O&M)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit for redemption filed by the plaintiffs/respondents. The case of the plaintiffs was that their predecessor/s had mortgaged land measuring 8 kanals to the predecessor/s of the appellants/defendants in the year 1872 for a sum of ₹ 6/-. They had

filed an application for redemption before the Collector under Section 4 of the Redemption of Mortgage Act but that was illegally dismissed and they had filed the instant suit.

The case of the appellants/defendants, on the other hand, was that since the plaintiffs had failed to redeem the land in dispute, they had become owners thereof by efflux of time. This question is now beyond the pale of controversy and it has been authoritatively held that there is no limitation for a usufructuary mortgagor to seek redemption of his land.

Counsel for the appellants has argued that the case of the respondents was that the money was paid and if that was so, then as per the decision of the Supreme Court in Singh Ram v. Sheo Ram, AIR 2014 (SC) 3447, there would be limitation. However, neither it was the case of the appellants that money was paid nor was this plea ever taken by the appellants.. Consequently, this argument can not now be raised before this Court. The Courts below have rightly held that a mortgagee cannot become owner by efflux of time. Counsel for the appellants has not been able to persuade me that the findings recorded are either based on no evidence or are based on such misreading of evidence so as to render the same so perverse as to be liable for interference under Section 100 of the CPC. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

July 05, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No