

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

RSA-4477-2017 (O&M)

Date of Decision:20.11.2018

Hari Singh (deceased through LRs)

... Appellant

Vs.

Karan Singh and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present : Mr. Sumit Sangwan, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff has not been successful in claiming declaration to the effect that plaintiff and proforma defendants are the owners of the land measuring 43 Kanal and 2 Marls on the basis of mortgage deeds dated 9.6.1977 and 3.6.1974 by laying challenge to the Will dated 4.3.1982 and subsequent sale deeds.

It was alleged that land measuring 43 Kanal 2 Marlas was mortgaged by the father of the defendant in favour of the plaintiff. Aforementioned suit was contested by the defendant by averring that mortgage had already been redeemed, therefore, had no right to claim the ownership. On preponderance of evidence, the trial court dismissed the suit. The appeal laid before the lower Appellate court was also dismissed.

The argument as sought to be raised in support of pleading and memorandum and in my view would not be sustainable once the aforementioned mortgage deed already stood redeemed and status of the mortgagee in such circumstances cannot be said to be authorized, therefore,

had no locus to challenge. This is what has been held by the courts below.
Concurrent finding recorded by both the courts below cannot be faulted
with. No ground for interference is made. The Second Appeal is dismissed.

20.11.2018
rajeev

(AMIT RAWAL)
Judge

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