

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

**Regular Second Appeal No.5219 of 2017 (O&M)
Date of Decision: April 04, 2018.**

Suresh Kumar

.....APPELLANT(s).

VERSUS

Bal Ram and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Peeush Gagneja, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

Vide agreement of mortgage Ex.P3/A, Kamla Devi, predecessor-in-interest of plaintiffs agreed to mortgage the suit property in favour of appellant for a consideration of ₹7,000/-, which was received by her. However, in pursuance of that agreement, no mortgage deed was ever executed or got registered. Kamla Devi died on 03.03.2011. After her death, her legal heirs filed the present suit seeking relief of possession of the suit property, which was dismissed by Additional Civil Judge, Abohar with the observation that suit for possession is bad as the plaintiffs have not sought redemption of the mortgage.

Learned first Appellate Court reversed the findings of learned Additional Civil Judge with the observation that in fact there was no mortgage of the suit property in favour of appellant. The agreement Ex.P3/A

is an unregistered document. In the absence of any mortgage deed, the question of seeking redemption does not arise. While allowing the relief of decree of possession in favour of respondents-plaintiffs, they were also directed to refund the amount of ₹7,000/- received from the appellant, as earnest money at the time of execution of agreement of mortgage Ex.P3/A.

Learned counsel for the appellant during the course of arguments could not point out any lacuna or factual infirmity in the judgment passed by learned first Appellate Court.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

April 04, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***