

RSA-5255-2017 (O&M)

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

RSA-5255-2017 (O&M)

Date of decision : 26.11.2018

Zakir Hussain

... Appellant

Versus

Nasrudeen and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Randhir S. Hooda, Advocate for the appellant.

AMIT RAWAL, J.

The appellant-defendant has not been successful in defending the suit for possession by way of redemption.

It was alleged that the property was mortgaged by Pussa son of Wazir bearing Khasra Nos.236 measuring 1 kanal 13 marals in favour of Dundal son of Atti Khan, for a sum of ₹70/- and mutation bearing No.224 dated 05.07.1926 was also sanctioned. The plaintiffs claimed to be sons of Jumma and real grandsons of Pussa. Dundal son of Atti Khan, original mortgagee, sold his mortgagee rights in favour of Yasin and mutation bearing No.314, in this regard, was sanctioned.

The defendant opposed the suit by alleging the suit to be time-barred, for, the limitation for redeeming the suit land had expired as it was only for ten years. The plaintiff brought on record Ex.P1 to P19 (revenue record), whereas the defendants except furnishing affidavit, did not place on record any material.

On the preponderance of evidence, the suit was decreed by the trial Court and the appeal preferred before the lower Appellate Court was

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also met with the same fate.

Mr. Randhir Hooda, learned counsel appearing on behalf of the appellant-defendant submits that as per the *ratio decidendi* culled out by Hon'ble the Supreme Court in ***Singh Ram (dead) through Legal Representatives vs. Sheo Ram and others (2014) 9 Supreme Court Cases 185***, in the absence of any time-line in the mortgage, there is no limitation to seek redemption, but in the contrary, limitation would commence from the expiry of period prescribed in the mortgage. The wrong entries in the revenue record would not reflect the continuity of the mortgage or would be treated for infinite period, therefore, there is gross illegality and perversity.

I am afraid the aforementioned argument of Mr. Hooda, is not sustainable as the defendants have purchased the mortgagee rights and not able to bring any evidence oral and documentary to establish that the mortgage was for a period of ten years, therefore, the suit in the year 2016, was barred by law of limitation.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Hooda to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

26.11.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**