

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

322

**RSA No. 1826 of 1986
Date of decision : 6.3.2019**

Vidyawati**.....Appellant****v.****Parsandi and others****.....Respondents****CORAM HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. C.B. Goel, Advocate, for the appellant

Mr. S.K. Jain, Advocate, for the respondents

AMIT RAWAL, J.

Present Regular Second Appeal has arisen against the concurrent findings of fact whereby suit of the appellant/plaintiff for declaration of having become owner in possession of the suit land comprising 17 *kanals* 12 *marlas* on the premise that as per the *jamabandi* for the year 1940-41, land measuring 3 *bighas* 11 *biswas* had been mortgaged with by defendant No.1 Salig Ram and his brother Gordhan with defendants No.2 to 12 and Mahabir Singh. Mahabir Singh sold his mortgagee rights to the plaintiff vide sale deed dated 8.5.1973 and Mutation bearing No. 1425 was also sanctioned on 2.8.1974.

In such circumstances, the plaintiff stepped into the shoes of Mahabir Singh and having in possession of the suit land for more than 30 years has become the owner due to lapse of time as defendant No.1 failed to redeem the property within 30 years. The suit aforesaid was dismissed by the trial Court and affirmed in appeal.

The point with regard to the declaration by a mortgagee has

already been dealt with by the Hon'ble Supreme Court in "**Singh Ram (dead) through LRs. and others v. Sheo Ram and others, 2014 AIR SC 3447**". The mortgage deed has not seen the light of the day. Even otherwise, such a suit is not maintainable.

No ground is made out for interference in the judgment and decree passed by both the Courts below, much less no substantial question of law arises for determination.

Dismissed.

Interim order granted vide order dated 30.7.1986 stands vacated.

(AMIT RAWAL)
JUDGE

6.3.2019
Ashwani

Speaking/Reasoned	Yes/No
Reportable	Yes/No