

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

**RSA No.1064 of 1988 (O&M)  
Date of Decision.26.03.2019**

The State of Punjab and others

..Appellants

Vs

Kundan Singh and others

...Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Ashok Kumar Singla, Sr. DAG, Punjab  
for the appellants.

None for the respondents.

-.-

**AMIT RAWAL J. (ORAL)**

The present regular second appeal is directed against the concurrent finding of fact whereby suit of the respondents-plaintiffs for redemption of the mortgage deed dated 12.08.1942 has been decreed by the trial Court and affirmed by the lower Appellate court in appeal.

The respondents-plaintiffs sought redemption of land measuring 8 kanals bearing khasra No.86/13 min khewat No.266 within the revenue estate of village Loharka Kalan and permanent injunction by way of consequential relief. Plaintiffs alleged that Kundan Singh and Rasal Singh sons of Assa Singh being owners in possession sold 20 kanals of land out of total 30 kanals vide sale deed 09.04.1979 but later on acquired knowledge that the land was not free from encumbrance but under mortgage. Notice was issued to the mortgagee by the competent officer, Amritsar to pay the mortgage amount in respect of land measuring 5 kanals 14 marlas for a sum of ₹99/- and remaining land measuring 4 kanals 11 marlas was under

mortgage with other persons. The competent officer on behalf of the Central Government conceded the mortgagee rights and vested the land as evacuee without deposit of mortgage amount. The said vesting was not valid in law.

Defendants opposed the suit by raising numerous preliminary objections regarding maintainability, limitation and barred by provisions of Section 16 of the Punjab Package Deal Properties (Disposal) Act, 1976.

Since the parties were at variance, the trial Court framed following issues:-

- “1. Whether the civil court has no jurisdiction to entertain and try this suit? OPD.*
- 2. Whether the suit is not maintainable? OPD.*
- 3. Whether the plaintiffs are entitled to redeem the suit land by 15.12.89? OPP.*
- 4. Whether the suit land vested in the custodian free from all encumbrances for failure of the mortgagor to redeem it within the statutory period of 30 years? OPD*
- 5. Whether the suit is within time? OPP*
- 6. Relief.”*

Plaintiffs in support of evidence examined himself and brought on record Ex.P1 to P14 i.e. order of the competent authority, postal receipts and copy of the notice etc.

Learned counsel appearing on behalf of the appellant-State submitted that the suit for redemption of mortgage filed in the year 1983 was barred by law of limitation, much less, the trial court

did not have jurisdiction, in view of the applicability of provisions of Punjab Redemption of Mortgage Act.

There is no representation on behalf of respondents, despite service.

The appeal is of the year 1988, therefore, I proceeded to decide the same.

I am afraid aforementioned arguments of learned counsel for the appellant are not sustainable, in view of the ratio decidendi culled out by Hon'ble Supreme Court in **Singh Ram (dead through Lrs) Vs. Sheo Ram and others AIR 2014 SC 3447.** In the absence of any time line, there is no limitation seeking redemption of mortgaged land. There is no *non obstante* clause in the Act ousting jurisdiction of Civil Court for the purpose of redemption.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact and law rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)  
JUDGE

March 26, 2019  
Pankaj\*

Whether Reasoned/Speaking    Yes

Whether Reportable                      No