

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.5578 of 2016 (O&M)

Date of Decision: May 22, 2019

Kumar Singh

...Appellant

Versus

Rachpal Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Ishaan Singh, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

The short point involved in the present Regular Second Appeal is whether having lost upto highest courts, the appellant-plaintiff can be permitted to file a separate suit claiming the following relief, the answer is 'No'.

“Suit for declaration to the effect that the plaintiffs are owner in possession of the land measuring 66 kanal 14 mls comprised in khewat No.363, 264, Khatauni No.224 to 228, Rect.No.56 Killa 10 (8-0), 11/1 (4-9), Rect.No.57 Killa 14/2 (1-2), 15/1 (4-9), 6 (8-0), 7(0-9), Rect.No.73 Killa 12 (8-0), 20 (0-5), Rect.No.56 Killa 1 (7-12) 2(7-2), 3/1 (3-4), Rect.57 killa 4(0-18) 5(7-2), 3/1 (3-4) Rect.57 killa 4(0-18) 5(7-2) Rect. 73 killa 11(6-12), situated in the revenue estate of village Bhatoya H.B.o.673 as entered in Jamabandi for the year 1997-98 Tehsil and District Gurdaspur and revenue entries in the name of defendant and father of the defendant regarding as mortgagor of the suit land after the sale deeds dated 3.8.1944 are illegal, null & void, ad not binding on the legal rights of the plaintiffs as owners and all the decrees obtained by the defendant vide

which he has got the illegal possession by playing the fraud, is to be treated as nullity i.e. in civil appeal no.13 of 1983-84 dated 15.3.1986 and the final decree dated 3.8.1996 passed by Civil Judge Senior Division Gurdaspur and subsequent proceeding based on above said decrees are illegal, null and void and nullity which are not binding on the ownership rights of the plaintiffs with consequential relief for decree for possession directing the defendant to hand over the possession to the plaintiffs as owners.”

The answer is `No'.

It is a matter of record that the respondents had filed a suit against Inder Singh, grand-father of the appellant bearing No.31 of 1971 for redemption of the land subject matter of the instant suit. Grand-father of the appellant, namely, Inder Singh appeared and contested the suit. Redemption of land measuring 66 kanals 14 marlas was sought, The trial Court though dismissed the suit, but the Lower Appellate Court decreed the same. An application for possession by redemption of the land was allowed on 03.08.1996 by the Lower Appellate Court. Regular Second Appeal was preferred by the appellant, which was dismissed, much less Special Leave Petition. Direction was issued to the trial Court to deliver the possession to the decree holder Rachpal Singh. Even the objection petition under Section 47 of the Code of Civil Procedure was also filed. The present suit has been filed by the plaintiffs as they are mortgagors and had become owners of the land subject matter of the suit.

It is a clear cut case of abuse of process of the court to look at the issue which has already been decided. In my view, the courts have rightly declined the aforementioned relief. There is no illegality or perversity in the findings under challenge. No ground for interference is

made out, much less involvement of any Substantial Question of Law.
Resultantly, the appeal is dismissed on merit and as well as on delay.

May 22, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No