IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.488 of 2017 (O&M)
Date of Decision: 17.10.2019

Ismail (deceased) through his LRs and others ....Appellants

Versus

Sh. Bundu and others ....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Virendra Rana, Advocate
for the appellants.

Mr. Rakesh Dhiman, Advocate
for respondent Nos.5 to 8.

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G.S. SANDHAWALIA, J. (ORAL)

The present appeal has been filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') against the impugned award dated 10.11.2016 of Reference Court, Mewat wherein appellant-respondent No.4 was given rights as such to claim the mortgage amount only and not the whole compensation amount.

The petition was filed under Section 30 of the Act by the private respondents-landowners on the ground that they were entitled to the compensation on account of the land being acquired for constructing a reservoir for irrigation in village Akera, Tehsil Nuh, District Mewat, vide award dated 30.01.2015. The respondents therein had taken defence that the landowners were not in possession.

After examining the evidence on record, the Reference Court came to the conclusion that respondent Nos.4 to 9 had filed a suit for

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declaration claiming their ownership but the same had been dismissed vide judgment and decree dated 26.11.2009 Ex.R3 and Ex.R4. The appeal filed was also dismissed. Petitioner Nos.1 to 8 before the Reference Court were held entitled to their share along with other private respondents.

The present appellants were the persons who had claimed that the land was under mortgage. In such circumstances, only the benefit of payment of mortgage amount had been held to be the entitlement of the appellants. The Full Bench of this Court in **Ram Kishan & others Vs. Sheo Ram & others 2008 (1) Civil Court Cases 414 (P&H)** has held that once a mortgagee would always remain mortgagee. The said view has been approved by the Apex Court in **Singh Ram Vs. Sheo Ram (2014) 9 SCC 185**.

Thus, keeping in view the above facts, the view taken that the appellants who have been held entitled to receive compensation only to the extent of the mortgage amount, cannot be held to be erroneous and suffering from any infirmity or illegality which would warrant interference by this Court, in any manner.

Resultantly, the present appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

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Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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