

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

RSA No.5407 of 2018 (O&M)

Date of Decision: 28.08.2019

Ramphal and others

.....Appellants

Vs

Dhajja Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Dharamveer Phour, Advocate
for the appellants.

RAJ MOHAN SINGH, J.

[1]. Defendants have preferred this regular Second Appeal against the concurrent judgments and decrees passed by the Courts below decreeing the suit for redemption of agricultural land in a usufructuary mortgage.

[2]. The issue of usufructuary mortgage was debated before the Courts below and right to seek redemption on payment of mortgage money was established and acknowledged by the courts below as the period for redemption would not start till such time usufruct of the land and profits are being adjusted towards interests on the mortgaged amount. It was observed by the courts below that the principle of '*once mortgage always a mortgage*' would apply and the mortgage is redeemable irrespective of time constraints. Both the Courts below have decreed the suit. The aforesaid proposition was

upheld by the Full Bench of this Court in **Ram Kishan & Ors. vs. Sheo Ram & Ors, 2008(1) CCC 414 (P&H).**

[3]. I have considered the submissions made by learned counsel for the appellants.

[4]. After filing the appeal, the appeal was adjourned repeatedly. In the interim order dated 26.10.2018, it was observed by the High Court that pendency of this appeal would not be a ground to derail the execution proceedings that may have been filed by the decree holder.

[5]. Learned counsel for the appellants has very candidly informed the Court that in execution of the decree, the possession has been taken by the decree holder. Even otherwise this Court is convinced that the appellant has no case on merits.

[6]. For the reasons recorded hereinabove, I find no question of law worth consideration in this appeal, nor the findings recorded by the Courts below are the result of misreading of evidence or suffered with any perversity. The appeal is found to be totally devoid of merits and is accordingly dismissed.

August 28, 2019

Atik

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

**(RAJ MOHAN SINGH)
JUDGE**