

RSA-6013-2017(O&M)

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

RSA-6013-2017(O&M)
Date of decision : 07.03.2019

Rajesh

... Appellant

Versus

Punjab and Sind Bank and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aayush Batra, Advocate for
Mr. P.K. Ganga, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The present regular second appeal is directed against the concurrent findings of fact, whereby the suit for declaration challenging rapat No.9 dated 06.05.2010 qua attachment of the property measuring 190 kanals 7 marlas to the extent of 565/3807 share to be illegal, null and void, has been dismissed by the trial Court and affirmed in appeal.

It was alleged that the plaintiff along with the proforma defendants were successor-in-interest of Manphool, their father, who stood as a surety for loanee Mangat Ram. Mangat Ram had taken loan for four wheeler. The defendants filed the suit for recovery against Mangat Ram, which was decreed and the execution was filed on the basis of the judgment and decree. The land of Manphool was attached vide rapat No.9 dated 06.05.2010. The defendants did not produce the original record as the land

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was already released vide rapat No.299 dated 21.04.1986.

The defendants opposed the suit by submitting that the appeal preferred by Mangat Ram, vide judgment and decree dated 28.01.2004, was dismissed by the lower Appellate Court and denied the rapat No.299 dated 21.04.1986. In a recovery proceeding against Mangat Ram, Manphool Singh was also impleaded, but he did not take such plea.

The plaintiff in support of the aforementioned pleadings examined three witnesses and brought on record various documents i.e. Ex.P1 jamabandi for the year 2011-12, photocopy of rapat roznamcha Mark A and photocopy of rapat No.299 Mark B, whereas the defendants examined one witness and brought on record Ex.D1 to Ex.D4.

Mr. Ayush Batra, learned counsel appearing on behalf of the appellant submitted that DW1 admitted that as per EX.PW3/A Manphool deposited the whole borrowed amount of the loan. The rapat No.299 dated 21.04.1986 also established the redemption of the land from attachment owing to the clearance of the Bank, therefore, the impugned rapat No.9 of 06.05.2010 could not have been entered into in the revenue record, whereby the land was attached.

I am afraid the aforementioned argument is not sustainable in the eyes of law, as Ex.PW3/A pertained to the loan taken by Manphool Singh for four wheelers and the attachment was with regard to the same and not in respect of the surety viz-a-viz the loan obtained by Mangat Ram. The suit for recovery against Mangat Ram, wherein Manphool Singh was also arrayed as co-defendant, was decreed and the appeal was also dismissed. The liability of the loanee and the surety is co-extensive, cannot be segregated.

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As an upshot of my finding, I do not subscribe to the submissions of Mr. Ayush Batra, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the second appeal is dismissed.

07.03.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**