

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

**SAO No. 112 of 2017 (O&M)
Date of Decision: May 28, 2019**

Ram Parkash and others

.....APPELLANTS

VERSUS

Harmesh Chand and another

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashok Bhardwaj, Advocate
for the appellants.

Mr. S.S. Siao, Advocate
for respondent No.1

SURINDER GUPTA, J.(Oral)

Respondent No. 2 is a proforma respondent, as such, his service is dispensed with.

Heard. Respondent No.1-Harmesh Chand filed a suit for possession on redemption of the land measuring 1 kanal 16 marlas mortgaged by his father Pirthi Chand vide mortgage deed dated 28.06.1991. Learned Civil Judge (Jr. Divn.), Kharar dismissed the suit with costs.

In appeal, learned District Judge, SAS Nagar, Mohali remanded the case on the ground that all the children of Pirthi Chand are necessary party to the suit but have not been impleaded. It was observed that lower Court should have given opportunity to the plaintiff to amend his plaint, so

as to implead the necessary parties and then proceed further.

Learned counsel for the parties are ad-idem that the suit seeking redemption and possession can be filed by any person, who has interest in the mortgaged property, as such, observations of learned lower Appellate Court that it is bad for non-joinder of necessary parties is not legally tenable.

In view of submissions of learned counsel for the parties, the order passed by learned District Judge, SAS Nagar, Mohali is set aside. Learned Ist Appellate Court is directed to take up the appeal on Board and proceed to decide the same on merits. Parties are directed to appear before the lower Appellate Court on 05.07.2019.

Disposed of.

(SURINDER GUPTA)
JUDGE

May 28, 2019
Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***