

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

ASHOK KUMAR
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RSA-5829-2018 (O&M)

Date of decision: 01.11.2021

RAMJAN

..Appellant

Versus

RASHID AHMAD AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sachin Mittal, Advocate for
Mr. Abhimanyu Singh, Advocate for the appellant.

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on
account of restricted functioning of the Courts.

CM No.16054-C of 2018

For the reasons contained in the application, same is allowed and
delay of 130 days in filing the appeal is condoned.

Main Case

Defendant No.1 assails the concurrent findings of fact arrived at
by the Courts below while decreeing the suit for possession by way of the
redemption of the usufructuary mortgage. The plaintiffs have filed the suit for
passing a decree by claiming that they are owners of 9 kanals and 15 marlas
of land which was mortgaged in the year 1944 vide mutation No.512 and
513. The defendants contested the suit with the assertion that the plaintiffs
left the possession with an intention not to claim back and therefore, their
possession has ripened into title because of adverse possession. Both the

Courts, after recording a finding that the mortgage of the suit land in the year 1944 is proved, has passed a decree for redemption of the mortgage.

Learned counsel representing the appellant contends that in view of Section 4 of The Redemption of Mortgages (Punjab) Act, 1913, the plaintiffs were required to first file the suit before the Collector.

No doubt, the aforesaid Act enables a mortgagor to pray for redemption by filing a summary suit, however, the provisions of the Act do not exclude the jurisdiction of the Civil Court. Even after the Collector passes an order in the proceedings under the Act, the parties are entitled to file a civil suit under Section 12 of the 1913 Act. Hence, no ground to interfere in the impugned order is made out.

Dismissed.

All the pending miscellaneous application(s), if any, are also disposed of.

01.11.2021

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE