

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

122

2023:PHHC:084967

**RSA-2114-2023 (O&M)  
Date of decision: 06.07.2023**

**MEWA SINGH & ORS.**

**..Appellants**

**Versus**

**STATE OF HARYANA & ORS.**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Alok Jain, Advocate  
for the appellants.

Mr. J.S. Pannu, AAG, Haryana.

**ANIL KSHETARPAL, J(Oral)**

**CM-7166-C-2023**

1. For the reasons stated in the application which is supported by an affidavit, the application is allowed.
2. The delay of 138 days in refiling in the appeal is condoned.
3. CM stands disposed of.

**CM-7168-C-2023 & CM-7169-C-2023**

4. For the reasons stated in the applications which are supported by an affidavit, the applications for bringing on record the legal representatives of deceased late Sh. Kalyan Singh (appellant No.9) and late Sh. Dhian Singh (appellant No.6), are allowed, subject to all the just exceptions.
5. CMs stand disposed of.

**Main case**

6. The plaintiffs are challenging the correctness of concurrent findings of fact arrived at by the Courts below while dismissing their suit by detailed judgments.

7. In order to comprehend the controversy involved, the relevant facts, in brief, are required to be noticed, which are as follows:

8. While filing the suit, the plaintiffs claim that Sh. Gurbachan Singh son of Sh. Pindi Pal Singh was the owner of land, which is located in Pakistan. He mortgaged the land in favour of Sh. Bhagwan Singh and Sh. Gian Singh sons of Sh. Gehna Singh. Subsequently, the aforesaid mortgaged land was got redeemed by Sh. Gurbachan Singh on payment of mortgage money of Rs.5,500/- and mutation of redemption was sanctioned in the year 1945, however, Sh. Bhagwan Singh and Sh. Gian Singh, predecessor in interest of the plaintiffs purchased the land vide registered sale deed dated 23.02.1945 for a sale consideration of Rs.5,000/- from Sh. Gurbachan Singh.

9. Further, it is the case of the plaintiffs that in lieu of the land purchased by the predecessor in interest of the plaintiffs, Sh. Gurbachan Singh was allotted land measuring 51 kanal and 9 marlas in village Manchuri. Subsequently, in the year 1962, the possession of the land was delivered to Sh. Bhagwan Singh and Sh. Gian Singh, however, due to the mistake of the office of Consolidation Officer, entry showing Sh. Bhagwan Singh and Sh. Gian Singh as mortgagee was made, though, they had purchased the property. Thus, the plaintiffs claim that they are owners of the property and the entry of the mortgage is wrong. The suit was contested not only by the State of Haryana but also by the legal representatives of Sh. Gurbachan Singh.

10. Both the Courts on appreciation of evidence, dismissed the suit filed by the plaintiffs while recording the following findings:-

i) The plaintiffs have failed to produce sale deed allegedly executed by Sh. Gurbachan Singh in their favour on 23.02.1945.

ii) The plaintiffs have been allotted land in Patiala District, whereas, this land was allotted to Sh. Gurbachan Singh in District Karnal.

11. This Bench has heard the learned counsel representing the appellants at length and with his able assistance perused the paperbook.

12. The learned counsel representing the appellants fairly admits that the sale deed has not been produced, however, he submits that there is a mutation entry of the sale deed, hence, the purchase in favour of the plaintiffs is proved. In the alternative, he submits that even if the sale deed is ignored, the plaintiffs rights as mortgagee still continuous because the entry in the revenue record continues to reflect the plaintiffs to be mortgagee in possession through tenants.

13. This Court has considered the submissions and analysed the arguments of the learned counsel representing the appellants.

14. It may be noted that the plaintiffs themselves have asserted in the plaint that the mortgage in the year 1945 stood redeemed on payment of mortgaged money in the year 1945 itself. Now, the plaintiffs in the second appeal cannot for the first time take a different stand.

15. It is also not in dispute that the allotment of the land was made in favour of Sh. Gurbachan Singh. The plaintiffs never claimed allotment of the land. It is not the case of the plaintiffs that the land was wrongly allotted to Sh. Gurbachan Singh. Moreover, it has come on record that the plaintiffs

were allotted land in District Patiala. There is no evidence to prove that Sh. Gurbachan Singh was not owner of any other land. It is also not proved by the plaintiffs that they were not allotted land in lieu of their ownership in District Patiala. Moreover, the plaintiffs have based their case on title. They are required to stand on their own legs.

16. In such circumstances, both the Courts have taken a plausible view of the matter.

17. Hence, no ground to interfere is made out.

18. Dismissed.

19. All the pending miscellaneous applications, if any, are also disposed of.

July 06<sup>th</sup>, 2023

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(ANIL KSHETARPAL)  
JUDGE

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