

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

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2024:PHHC:057840

RSA-1354-1994

Date of decision: 29.04.2024

MITHU SINGH

..Appellant

Versus

LAL SINGH (DECEASED) THROUGH LRS & ANR. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Inderjeet Singh Brar, Advocate
for the appellant.

Mr. Sandeep Kumar Bokolia, Advocate
for LRs of respondent.

ANIL KSHETARPAL, J(Oral)

1. The learned counsel representing the appellant has informed the Court that an application to bring on record the legal representatives of the appellant has been filed, which has not been listed by the office. However, on the request of the Court, the learned counsel representing the appellant has proceeded to address arguments as he is representing the legal representatives of the appellant.

2. In this regular second appeal, the defendants assail the correctness of the concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs' suit for possession by way of redemption of mortgage dated 17.06.1976. The defendants while contesting the suit claimed that earlier also the plaintiffs executed a mortgage of land measuring 32 kanal in favour of defendants on 31.05.1974 against loan of Rs.28,000/-. Subsequently, the plaintiffs entered into an agreement to sell on 20.03.1978 with respect to the same 32 kanal land for Rs.50,700/-. The mortgage amount of Rs.16,000/- of the second mortgage was to be adjusted

dated 20.03.1978. However, the defendants did not bring on record any document with regard to the mortgage deed dated 31.05.1974 or agreement to sell dated 20.03.1978. Both the Courts below have decreed the suit.

3. At the time of arguments, the learned counsel representing the appellant admits that a suit for specific performance of the agreement to sell dated 20.03.1978 was filed by the defendants, which was decreed, however, execution petition was dismissed in default, hence, the conditional decree for specific performance was not implemented. It is also admitted that the plaintiffs deposited the mortgage amount of Rs.16,000/- pursuant to the decree passed by both the Courts below, which was withdrawn by the appellant (defendant).

4. Keeping in view the aforesaid facts, no ground to interfere is made out.

5. Dismissed accordingly.

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

April 29th, 2024
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(ANIL KSHETARPAL)
JUDGE

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