

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-29 of 1994 (O&M)
Date of Order:06.03.2024

Chanchal Singh and another

.Appellants

Versus

Sukhdeep Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhishek Kaushik, Advocate,
for the appellants

Mr. Sahil Thakur, Advocate
for Mr. Manuj Nagrath, Advocate
for the respondents.

ANIL KSHETARPAL, J

1. This is the defendants' second appeal against the findings of fact arrived at by the First Appellate Court.
2. The respondents (plaintiffs) filed a suit for possession by way of redemption of mortgage. Sh. Sodagar Singh mortgaged the suit land with possession against the mortgage amount of Rs.350/- for a period of 5 years on 13.11.1957, in favour of Sh. Chanchal Singh and Sh. Umrao Singh. Subsequently, Sh. Sawinder Singh son of Sh. Sodagar Singh sold the property in favour of the plaintiffs vide registered sale deed dated 05.02.1987. After purchase of the property, the plaintiffs filed an application under Section 4 of the Redemption of Mortgagees Act, 1913, in the Court of Assistant Collector Ist Grade but the same was dismissed on 10.08.1987 with a direction to get the matter decided from the Civil Court.

Hence the civil suit was filed by the plaintiffs.

3. The defendants while contesting the suit claimed that Sh. Sawinder Singh was not son of Sh. Sodagar Singh, hence the sale deed does not confer any rights upon the plaintiffs.

4. The trial court dismissed the suit, however, the First Appellate Court on re-appreciation of the evidence came to the conclusion that Sh. Chanchal Singh, appellant no.1, in his statement, Ex.P2, admits the relationship. He admits that Sh. Sawinder Singh is son of Sh. Sodagar Singh. Moreover, the relationship of Sh. Sawinder Singh with Sh. Sodagar Singh is proved from the testimony of PW1-Jagtar Singh, who was classmate of Sh. Sawinder Singh and PW3-Didar Singh also collateral of Sh. Sawinder Singh and belongs to same village proved the relationship. He also claimed that Sh. Sawinder Singh was son of Sh. Sodagar Singh. PW2-Sawinder Singh appeared in evidence and claimed that Sh. Sawinder Singh is son of Sh. Sodagar Singh. This part of his statement was not challenged in the cross-examination.

5. The defendants are relying upon solitary statement of Sh. Iqbal Singh, who has admitted that Sh. Sodagar Singh was survived by four sons, three daughters and a widow.

6. The learned counsel representing the appellants failed to draw the attention of the court to any substantive error in appreciation of the evidence by the First Appellate Court. Sh. Sawinder Singh being co-owner was entitled to sell the property. The appellants are mortgagees. Their rights are limited to the mortgage which has been permitted to be redeemed.

7. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

8. Dismissed.
9. All the pending miscellaneous applications, if any, are also disposed of.

March 06, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO