

152 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2167-2010 (O&M)

Date of decision: 04.04.2024

Balwant Singh

....Appellant

Versus

Ranjit Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. J.S.Bhatia, Advocate for the appellant

Mr.P.K.Ganga, Advocate for respondent no.11 and 12

ANIL KSHETARPAL, J (Oral)

1. A larger Bench of the Supreme Court in **Singh Ram (dead) through LRs vs. Sheo Ram and others 2014 AIR (SC) 3447** has laid down that in case of usufructuary mortgage, the mortgagee is not entitled to claim declaration that he has become owner of the mortgaged property by efflux of time by calculating the limitation from the date the mortgage was created.

2. In this Regular Second Appeal, the plaintiff assails the correctness of the judgment passed by the First Appellate Court, which, in turn has reversed the judgment and decree passed by the trial court. In substance, the plaintiff filed a suit claiming to have become owner of 2/3rd share of the land measuring 110 kanals 16 marlas on the ground that the mortgage dated 08.07.1954 has not been redeemed for a period of more than 30 years. Hence, he has become owner by efflux of time. The trial court decreed the suit, however, the First Appellate Court while relying upon a Full Bench judgment of this Court in **Ram Kishan and**

others vs. Sheo Ram and others 2008 (1) PLR 1 held that the mortgagee will remain as such for all times to come and the period of limitation for filing the suit will not begin to run from the date of the mortgage. The conclusion drawn in **Ram Kishan's case (supra)** has been upheld by a larger Bench of Supreme Court in **Singh Ram's case (supra)**. The learned counsel representing the appellant has failed to draw the attention of the Court to any substantive error in the judgment passed by the First Appellate Court.

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

4. Hence, dismissed.

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

04.04.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE