

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

RSA-4513-2019 (O&M)
Date of decision : 29.01.2025

Nafe Singh and others

..... Appellants

versus

Telu and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ravi Dutt Sharma, Advocate
for the appellants.

PANKAJ JAIN, J. (Oral)

1. Plaintiffs are in appeal. Suit was filed seeking decree of declaration to the effect that right of defendants to get the land redeemed stand foreclosed by efflux of time and that the plaintiffs have become owners in possession.
2. Plaintiffs claim to be mortgagee with possession i.e. usufructuary mortgage. Both the Courts below have non-suited plaintiffs holding that 'once a mortgage always a mortgage' and that the plaintiffs cannot seek foreclosure of right of redemption vested in mortgagor in a usufructuary mortgage.
3. Counsel for the appellants does not dispute that the issue with respect to foreclosure of right to redemption by efflux of time stands finally settled by the Supreme Court in ***Singh Ram vs. Sheo Ram***, reported as ***2014 AIR (SC) 3447*** wherein Supreme Court held as under:-

“15. We, thus, hold that special right of usufructuary mortgagor under Section 62 of the Transfer of Property Act to recover possession commences in the manner specified therein, i.e.,



when mortgage money is paid out of rents and profits or partly out of rents and profits and partly by payment or deposit by mortgagor. Until then, limitation does not start for purposes of Article 61 of the Schedule to the Limitation Act. A usufructuary mortgagee is not entitled to file a suit for declaration that he had become an owner merely on the expiry of 30 years from the date of the mortgage. We answer the question accordingly.”

4. Present suit relates to usufructuary mortgage i.e. mortgage with possession. In terms of ratio of law laid down in *Singh Ram’s (supra)*, there being no limitation to get the land redeemed, suit filed by the plaintiff has been rightly dismissed by the Courts below.
5. In view of above, present appeal is dismissed.
6. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

29.01.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No