

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****219****RSA-2327-2018 (O&M)****Date of decision: 09.04.2026****Atepal and others****...Appellant(s)****Vs.****Khajan Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rakesh Kumar Sharma, Advocate
for the appellants.

Mr. Karan Singh, Advocate
for the respondents.

NIDHI GUPTA, J.**CM-6220-C-2018**

Prayer in this application filed under Section 151 CPC is for
condonation of delay of 295 days in refiling the accompanying appeal

2. Heard.

3. For the reasons mentioned in the application which is duly
supported by an affidavit of learned counsel for the applicant/appellants,
the same is allowed; and the delay of 295 days in refiling the
accompanying appeal is condoned.

CM-6221-C-2018

Prayer in this application filed under Section 5 of the Limitation
Act is for condonation of delay of 11 days in filing the accompanying appeal

2. Heard.



3. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant No.4, the same is allowed and delay of 11 days in filing the appeal is condoned.

CM-6222-C-2018

Prayer in the present application under Order 22 Rule 3 CPC read with Section 151 CPC is for bringing on record the legal heirs of appellants No. 9 and 22 (iv).

2. Heard.

3. In view of the reasons mentioned in the application, which is duly supported by an affidavit of the applicant-Zile Singh, the same is allowed; and the applicants, as mentioned in para 2 of the application are brought on record as legal representatives of the deceased/appellant No.9 Narain Singh and appellant No.22/Chunni Lal subject to all just exceptions and for the purpose of this litigation alone.

RSA-2327-2018 (O&M)

Defendants are in second appeal against the concurrent judgments and decrees of the learned District Courts, whereby suit filed by the plaintiff/respondents for declaration and redemption, has been partly decreed by both the District Courts.

2. It is not disputed by learned counsel for the appellants/defendants that suit of the plaintiff was not barred by limitation in view of a Three Judge Bench judgment of Hon'ble Supreme Court in ***Singh Ram (D) through LRs vs. Sheo Ram and others, Law Finder***



Doc Id # 603373; whereby it is held that there is no limitation for filing the suit for redemption.

3. It is however submitted by learned counsel for the appellants that civil suit for redemption filed by the respondents was not maintainable on account of the fact that the appellants have categorically denied that the suit land was ever mortgaged. It is submitted that therefore, the very premise on which the suit has been decreed, is incorrect. It is contended that the plaintiff/respondent has produced no record whatsoever in the form of Mortgage Deed, receipt of mortgage amount or any other such evidence to show that the suit land was ever mortgaged. No documentary evidence to the effect that land was mortgaged by the predecessors of the plaintiff to the predecessors of the defendants for a sum of Rs.75/-, has been filed or proved on record by the plaintiff. It is submitted that therefore, it is not proved on record as to whether the land in question was mortgaged by the predecessors of the parties. There is no evidence in favour of the plaintiff; whereas the defendants are in possession of the suit land for over 100 years. This fact has even been acknowledged by the District Courts.

4. It is further contended that land in question is possessed by the defendants from their forefathers without any interference. As such, defendants have become owners of the same by efflux of time by way of adverse possession also.

5. It is accordingly prayed that present Appeal be allowed; and the impugned judgments and decrees of the District Courts be set aside.



6. *Per contra*, learned counsel for the respondents vehemently opposes submissions advanced on behalf of the appellants and submits that there are categorical findings of fact on record that the suit land was mortgaged by the predecessors of the plaintiff to the predecessors of the defendants for a sum of Rs.75/-. It is submitted that it is no longer *res integra* that there is no limitation for redemption of mortgage. As such, suit of the plaintiff was very much maintainable. It is accordingly prayed that the present Appeal be dismissed being meritless.

7. I have heard learned counsel for the parties and perused the case file in a great detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellants.

8. The first contention raised on behalf of the appellants is that defendants have categorically denied that the suit land was ever mortgaged. However, the said contention of the appellants is contrary to their own stand, as taken by the defendants in their written statement. Reference in this regard is made to the averments made by the defendants in their written statement as recorded by the learned Civil Judge (Senior Division), Hathin in para 2 of the judgment dated 11.12.2014, as under: -

"2. The defendants No. 1, 2, 4 to 7, 10, 11 & 13 filed con-joint written statement taking preliminary objections regarding maintainability, non joinder of necessary parties, estoppel and locus standi etc. On merits, they denied that the plaintiffs are owners of the suit land. They are owners in possession of the suit land as the occupy ownership rights in the suit land as more than 60 years have elapsed since mortgage. Now the



plaintiffs and performa defendant have no right, title or interest in the suit land.”

9. Thus, the defendants have themselves admitted in their written statement that they are mortgagees upon the suit land. When confronted with this, learned counsel for the appellants admits the same to be true.

10. Further in this regard, reference may be made to the findings recorded by the learned Additional District Judge, Palwal in judgment dated 16.08.2016; whereby defendants’ appeal was dismissed, which read as under: -

“14. It can be appreciated from the matter on record that the defendants in the written statement had come up with a case that their predecessors had become lawful owner of the suit property as the suit land has not been redeemed within the period of 60 years from the date of mortgage. However, on behalf of defendant DW1 Zile Singh defendant no.14 appeared and deposed through his affidavit Ex.DW1/A that the suit property has never been under possession as mortgagee and that as defendant cultivated suit land for over 100 years they have become owners. However, in the cross examination he admitted that he does not know if suit property was mortgaged on Rs.75/- to the ancestors. He has admitted that around 130-135 years back they came in possession as mortgagees. The revenue record in the form of jamabandies entries as proved by PW2, patwari, show that since 1885-86, Ex.P3, there is mortgage entry @ Rs.75/- and mortgagees have been shown in possession. Jamabandi of the year 2002-03 reflects the same. Plaintiffs have been

shown to be mortgagors. Thus, the fact of mortgage between the predecessors of the parties stands proved.”

11. From the above said findings of fact, it is irrevocably established on record that the suit land was mortgaged by the predecessors of the parties as admitted by defendants themselves in their written statement and evidence.
12. As regards limitation, the said issue already stands settled by a Three Judge Bench judgment of Hon’ble Supreme Court in ***Singh Ram (D) through Lrs (supra)***.
13. Learned counsel for the appellants is unable to controvert or dispute the above said facts and findings and the legal position.
14. In view of the above noted factual and legal position, no ground is made out to interfere in the impugned judgments and decrees of the learned District Courts. The present Regular Second Appeal is hereby **dismissed**.
15. Pending applications, if any, stand disposed of.

09.04.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No