

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

120

2025:PHHC:023398



**SAO-34-2019 (O&M)  
Date of decision: 18.02.2025**

**SADHU SINGH AND ORS**

**..Appellants**

**Versus**

**APRIL SINGH (DECEASED) THROUGH LRS AND ORS**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Ashish Gupta, Advocate  
for the appellants.

Mr. Navjot Singh Wahniwal, Advocate  
for respondent No.1(i) to (v) & 3.

LRs of respondent no.1, 3 and 4 already ex parte  
vide order dated 04.09.2019.

**ANIL KSHETARPAL, J(Oral)**

1. This second appeal against First Appellate Court's order remitting the matter back to the lower Court is assailed by defendant. The defendant, is a mortgagee of a usufructuary mortgage. Mortgagor filed suit for redemption of the property, in which a preliminary decree was passed partly decreeing the suit on 14.06.1984. In appeal, the decree was modified. Subsequently, an application for preparation of the final decree was filed, which was dismissed for non-prosecution on 08.02.1986. Thereafter, restoration application was also filed by the plaintiff, which was again dismissed for non-prosecution on 22.11.2007. Another application was filed for restoration, which was again dismissed. Thereafter, the plaintiff filed fresh application for passing final decree, which was dismissed by the trial Court on technical ground. The First Appellate Court has found that the trial Court was wrong in dismissing the application for preparation of final decree



on technical ground. Thus, the trial Court's order has been set aside and matter has been remitted back to the trial Court for fresh decision after granting opportunity to the parties.

2. Learned counsel for the appellants submits that once an application for restoration has been filed, no fresh application for preparation of final decree was maintainable.

3. This Court has considered the submissions of learned counsel for the appellants.

4. The trial Court will be entitled to consider all these aspects before deciding the matter. At this stage, it will not be appropriate for this Court to interfere with the order of the First Appellate Court to remit the matter back to the trial Court.

5. Dismissed accordingly.

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

**February 18<sup>th</sup>, 2025**

*Ay*

**(ANIL KSHETARPAL)  
JUDGE**

*Whether speaking/reasoned* : *Yes/No*

*Whether reportable* : *Yes/No*