



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

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RSA-6-2020 (O&M)

Date of Decision.:13.05.2025

Rampat

.....Appellant

Vs.

Devender Singh and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sushil Jain, Advocate for the appellant.

DEEPAK GUPTA, J. (ORAL)

Suit for declaration filed by plaintiff Ram Pat (*appellant herein*) regarding property in dispute was dismissed by the trial Court on 17.09.2015 and the appeal filed by him was dismissed by the first Appellate Court on 27.08.2019. Against this concurrent finding, plaintiff has approached this Court by way of present Regular Second Appeal.

2. Admittedly, predecessor-in-interest of the defendants had mortgaged the suit property with possession with the predecessors-in-interest of the plaintiff prior to 1879.

3. The case of the plaintiff is that mortgage period was for two years and as predecessors-in-interest of the defendants or the defendants failed to get the mortgage redeemed, therefore, the relationship of mortgagor and mortgagee had come to an end and plaintiff had become absolute owner of the suit property as limitation period for redemption of mortgage being 30 years, had already lapsed.

4. Defendants opposed the claim submitting that no period of redemption was ever fixed. They denied that mortgage was for a fix period of 02 years and as such, it was claimed that there was no limitation for redemption. It was also submitted that land in question was mortgaged



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with possession without fixation of the mortgage amount or the period of redemption and it was in these circumstances that petition for redemption before the SDM/Collector was filed by the defendants for fixation of the mortgage amount and that said petition is pending adjudication.

5. After framing necessary issues and taking evidence, both the Courts below have dismissed the suit.

6. The Courts below found that there was no evidence to support the plaintiff's claim that the suit property had been mortgaged by the defendants' ancestors to the plaintiff's ancestors for a period of two years. Apart from the plaintiff's own unsubstantiated statement (PW1) regarding the duration of the mortgage, no other evidence was presented to prove the specific period for redemption. In light of this, and given that no fixed term for redemption was established and the mortgage was one with possession, the Courts below concluded that the transaction constituted a usufructuary mortgage. Consequently, the mortgagor's right to redeem the property could not be extinguished by the mere passage of time, and the mortgagee could not claim ownership solely by virtue of such lapse.

7. Learned counsel for the appellant could not convince this Court regarding any illegality or perversity in the aforesaid concurrent findings as recorded by the Courts below, which are found to be based on proper appreciation of evidence.

As such, holding the present appeal to be devoid of any merit, same is hereby dismissed.

**(DEEPAK GUPTA)
JUDGE**

May 13, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No