

**2022 LiveLaw (SC) 421**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

***HEMANT GUPTA; V. RAMASUBRAMANIAN, JJ.***

***CIVIL APPEAL NO.89 OF 2012; 27<sup>th</sup> APRIL, 2022***

**HARMINDER SINGH (D) THR.LRS. *Versus* SURJIT KAUR(D) THR.LRS. & ORS.**

**Transfer of Property Act, 1882; Section 62 - Usufructuary Mortgage - Once a usufructuary mortgage is created, the mortgagor has a right to redeem the mortgage at any point of time on the principle that once a mortgage always a mortgage. [Referred to *Singh Ram (Dead) Through Legal Representatives Vs. Sheo Ram & Ors. (2014) 9 SCC 185*]**

*For Parties (s) Miss Geetanjali Mohan, AOR Ms. Madhu Moolchandani, AOR Mr. K. K. Mohan, AOR Mr. Yadav Narendra Singh, AOR Mr. R.K. Rathore, Adv. Ms. Ranjeeta Rohatgi, AOR*

**ORDER**

The plaintiff is in appeal before this Court against the Judgment and decree passed by the High Court in Second Appeal on 21.12.2007 whereby the mortgagor's appeal was allowed holding that the mortgagor has a right to redeem the land in question.

One Gulab Singh – mortgaged his share of land in favour of Rajinder Singh on 02.05.1921 with possession. The defendants inherited the estate of Gulab Singh whereas Rajinder Singh - mortgagee died issueless and his rights were inherited by his wife – Rajinder Kaur. Rajinder Kaur sold her mortgagee rights to the plaintiff vide sale deed dated 18.06.1979.

Since the mortgage was not redeemed by the mortgagor within a period of 30 years, the plaintiff filed a suit for declaration that she had become the owner after the extinguishment of the mortgage rights and for permanent injunction.

The suit was decreed by the trial Court. Such decree was affirmed by the First Appellate Court as well but in Second Appeal, the suit was dismissed relying upon the judgment of this Court in '**Sampuran Singh Vs. Niranjn Kaur**', reported in (1999) 2 SCC 679.

After the judgment was rendered by the Single Judge Bench, the Full Bench of the Punjab and Haryana High Court in '**Ram Kishan & Ors. Vs. Sheo Ram & Ors.**' reported in AIR 2008 P&H 77 held that once a usufructuary mortgage is created, the mortgagor has a right to redeem the mortgage at any point of time on the principle that once a mortgage always a mortgage. Such judgment was affirmed by this Court in '**Singh Ram (Dead) Through Legal Representatives Vs. Sheo Ram & Ors.**' reported in (2014) 9 SCC 185.

In view of the aforesaid judgment, we do not find any merit in the present appeal and the same is dismissed.

Pending application(s), if any, also stand disposed of.