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ITEM NO.102

COURT NO.3

SECTION IV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 2864/2008

HET RAM (D) BY LRS.

APPELLANT(S)

VERSUS

ISHWAR CHAND AND ORS.

RESPONDENT(S)

(WITH APPLN. (S) FOR SUBSTITUTION AND INTERIM RELIEF AND OFFICE REPORT)

Date : 12/04/2017 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Mr. Naresh K. Kaushik, Adv.

Mr. Manoj Joshi, Adv.

Mrs Lalita Kaushik, Adv.

For Respondent(s) Mr. Manoj Swarup, Adv.

Mr. Atul Kumar, Adv.

Mr. Girish Chandra, Adv.

Ms. Sweety Singh, Adv.

Mr. Sudhanshu Shekhar, Adv.

Mr. Jammesh Kumar, Adv.

Mr. Tushar Duneja, Adv.

Mr. Himanshu Shekhar, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order.

[VINOD LAKHINA]

COURT MASTER [ASHA SONI]

COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2864/2008

HET RAM (D) BY LRS. ...APPELLANT(S)

VERSUS

ISHWAR CHAND AND ORS. ...RESPONDENT(S)

ORDER

1. I.A. No.2 of 2017 for substitution to bring on record the L.Rs. Of deceased appellant No.1/1 â Tarlok Chand is allowed subject to all just exceptions.

2. The plaintiffs' suit for redemption of mortgage in respect of the property which he had purchased from the mortgagor was decreed by the learned trial Court but reversed in First Appeal. The said reversal was set aside by the High Court in Second Appeal and the decree passed by the learned trial Court was restored.

3. We have perused the orders of the learned First Appellate Court as well as the High Court. We have heard the learned counsels for the parties.

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4. From the materials on record it is clear to the Court that the mortgage made in favour of the appellant â defendant has been proved by documentary as well as by oral evidence. On the contrary, the claim of tenancy set up by the appellant - defendant has not been established. In fact, the appellant as the defendant in cross-examination admitted the mortgage. If that is so, we do not see how the decree passed by the learned trial Court could have been reversed in

First Appeal. The High Court having restored the said decree we are of the view that the same needs to be maintained. Accordingly, we find no merit in this appeal. It is, therefore, dismissed with no order as to costs.

.....,J.

(RANJAN GOGOI)

.....,J.

(NAVIN SINHA)

NEW DELHI

APRIL 12, 2017