



**CM-12841-C-2023 in/and
RSA-3581-2023 (O&M)**

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

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**CM-12841-C-2023 in/and
RSA-3581-2023 (O&M)
Date of decision: 07.07.2026**

Sukhwinder Kaur and another

....Applicants/Appellants

Vs.

Amrik Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

**Present: Mr. Sandeep Arora, Advocate
for the applicants/appellants.**

**Mr. Jitender Singh Dadwal, Advocate
for respondent No.1.**

HARSH BUNGER J. (Oral)

CM-12841-C-2023:

Present application is filed seeking condonation of delay of 34 days in filing the regular second appeal i.e. RSA-3581-2023.

For the reasons mentioned in the application, delay of 34 days in filing the regular second appeal i.e. RSA-3581-2023 is condoned.

Application is accordingly disposed of.

RSA-3581-2023 (O&M):

1 Present regular second appeal has been preferred by the appellants/plaintiffs challenging the judgment and decree dated 09.05.2023 passed by learned Additional District Judge, Ludhiana, whereby an appeal preferred by respondent No.1 (Amrik Singh) challenging the judgment and



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decree dated 13.11.2017 passed by learned Civil Judge (Junior Division), Ludhiana, decreeing the suit for declaration preferred by the appellants/plaintiffs; was allowed by setting aside judgment & decree dated 13.11.2017 and consequently, the suit filed by the appellants/plaintiffs was dismissed.

2. Briefly the present appellants/plaintiffs filed a suit for declaration to effect that they are the owners in possession of land measuring 33 kanals - 1-1/2 marlas, situated at village Sahauli, Tehsil and District Ludhiana; with a further prayer for grant of permanent injunction for restraining the defendants No.3 and 5 from alienating, mortgaging, transferring or gifting the suit property to anyone and also from restraining them from dispossessing the plaintiffs from the suit property.

3. The aforesaid suit was filed by the appellants/plaintiffs on the plea that the appellant/plaintiff No.1 (Sukhwinder Kaur) had purchased land measuring 16 kanal – 10-3/4 marlas from Amrik Singh son of Sh. Jahangir Singh (defendant No.1 in the suit) vide sale deed dated 17.05.1995 and similarly the appellant/plaintiff No.2 (Bhupinder Singh) had purchased land measuring 16 kanal – 10-3/4 marlas from Zora Singh (father of defendant No. 2 – Harjinder Singh) vide sale deed dated 17.05.1995, however it was averred that the names of the plaintiff(s) were not recorded in the revenue records. The aforesaid sale deeds in favour of appellants/plaintiffs were claimed to have been executed by GPA – Sh. Ranjodh Singh.

3.1 It was further pleaded that after demise of Sh. Zora Singh, (father of defendant No.2 - Harjinder Singh), Harjinder Singh along with



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Amrik Singh and Darshan Singh sold the suit property to Surinder Kaur (defendant No.3 in the suit) vide sale deed dated 25.10.2012, although they were left with no concern with the land in question, as the same was already sold by Amrik Singh (defendant No.1 in the suit) and Zora Singh (father of defendant No.2 – Harjinder Singh) through registered sale deeds executed by their attorney Sh. Ranjodh Singh. It was pleaded that the sale deed dated 25.10.2012 was forged document. On the basis of aforesaid pleas(s), the suit was filed.

3.2 Upon issuance of notice, defendant No.1 (Amrik Singh) appeared in the suit and contested the same by filing his written statement, *inter alia*, on the plea that no sale deed was ever executed by defendant No.1 or by Sh. Zora Singh (father of defendant No.2). It was categorically stated that Zora Singh had already expired much prior to the alleged execution of power of attorney in favour of Sh. Ranjodh Singh. It was claimed that Zora Singh expired on 11.10.1991, whereas GPA was dated 11.06.1992. The execution of the power of attorney in favour of Ranjodh Singh was denied and even the thumb impressions of Zora Singh on the said power of attorney were disputed.

3.3 Similarly defendants No.3 and 4 also contested the claim of the appellants/plaintiffs by filing their separate written statement, wherein it was *inter alia* submitted that the sale deeds in favour of the plaintiffs were an act of fraud and even a case FIR was registered against the appellants/plaintiffs.

3.4 Likewise, defendant No.5 also opposed the claim of the appellants/plaintiffs.



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4. From the pleadings of the parties, learned Trial Court framed the following issues on 06.05.2015:-

- “1) Whether the plaintiffs are entitled to declaration as prayed for? OPP***
- 2) Whether the plaintiffs are entitled for permanent injunction as prayed for? OPP***
- 3) Whether the suit is not maintainable? OPD***
- 4) Whether the plaintiffs have not come to the Court with clean hands? OPD***
- 5) Whether the suit is barred under section 34 of Specific Relief Act? OPD***
- 6) Whether the suit has not been properly valued for the purpose of Court fee and jurisdiction? OPD***
- 7) Whether the plaintiffs have no locus standi to file the present suit? OPD***
- 8) Relief”***

5. The parties led their respective evidence on the aforesaid issues.

6. Learned Trial Court vide judgment and decree dated 13.11.2017 decreed the suit filed by the plaintiffs/appellants and under issue No.1 and 2, the following findings were returned:-

“12 It is pertinent to mention here that the entire case of the plaintiffs is dependent upon the power of attorney Ex. PW-3/3 which is alleged by the defendants to be a forged document on the ground that the same was executed on 11.06.1992 by Darshan Singh, Zora Singh and Amrik Singh whereas Zora Singh had already expired on 11.10.1991. It is important to mention here that since power of attorney Ex. PW-3/3 is a registered document, presumption of truth is attached with the same and the



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onus was upon the defendants to prove that the same is a forged and fabricated document.

13. *In order to support their case, the defendants have examined witness DW-3 Rajwinder Singh and DW-4 Jit Singh. DW-3 is a Sewadaar at Gurudwara Takhat Shri Keshgarh Sahib who brought the record regarding immersion of ashes of Zora Singh on 13.10.1991 and in the record Ex. D1 brought by him, the date of death of Zora Singh is mentioned as 11.10.1991. Similarly, DW-4 Jit Singh is Chowkidaar at Village Sahauli who brought the record Ex. D4/A regarding death of Zora Suigh where the date of death is again mentioned as 11.10.1991.*
14. *However, none of the parties to the case have brought on record death certificate of Zora Singh. As far as the record Ex. D4/A brought by DW-4 Chowkidaar is concerned, it is pertinent to mentioned that he has admitted in his cross-examination that the document Ex. D4/A is written by Amrik Singh i.e. defendant No. 1 in the present case. Further, he admitted in his cross-examination that Zora Singh died on 12.10.1996 as alleged by the plaintiffs. Hence, this Court is of the view that the document Ex. P4/A is not reliable because DW-4 has completely stated different facts in his cross-examination.*
15. *As far as the testimony of PW-3 is concerned, this Court is of the view that the same is regarding the immersion of ashes of a dead person and the same ceremonies can be performed by any person by mentioning any name and any date. Hence, it is not a proof of death of Zora Singh on 11.10.1991. Accordingly, this Court is of the view that the defendants have failed to prove the fact that Zora*



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Singh expired on 11.10.1991 and rebut the presumption of truth attached to power of attorney Ex. PW-3/3, which is duly registered document bearing thumb impression of Zora Singh which is sufficient in itself to prove the fact that Zora Singh was alive on 11.06.1992 when power of attorney Ex PW-3/3 was executed and registered. Moreover, the defendants have also not examined any handwriting or finger print expert to prove the fact that thumb impression of Zora Singh on power of attorney Ex. PW-3/3 is not genuine. Even further, it is also important to mention here that the said power of attorney is also executed by defendant No. 1 Amrik Singh who is duly contesting the present suit but till date he has made no effort to get the same revoked if he considers it to be a forged and fabricated document.

16. *Accordingly, this Court has reached the conclusion that the plaintiffs have duly proved the power of attorney Ex. PW-3/3 and the defendants have failed to prove the same to be a forged and fabricated document. Accordingly, the plaintiffs are owners of the property in dispute on the basis of their sale deed Ex. P1 and P2 which have been executed on the basis on power of attorney Ex. PW-3/3.”*

7. Feeling aggrieved, respondent No.1 herein (Amrik Singh) preferred an appeal before the learned Additional District Judge, Ludhiana, which came to be allowed vide judgment and decree dated 09.05.2023 whereby the judgment and decree passed by the learned Trial Court has been set aside and the suit filed by the appellants/plaintiffs has been dismissed, by holding as under:-



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“18. Here, in the present case, it was for the plaintiffs to prove that the sale deeds Ex P1 and Ex P2 were bona fide and genuine but as observed above, they failed to do so as neither any witness of the alleged power of attorney has been examined nor any marginal witness of the alleged sale deeds has been examined and even no evidence has been led by the plaintiffs to prove that Zora Singh was alive on the day of execution of said power of attorney. Thus, only when the plaintiffs could have proved so, then the defendant No I was to dislodge the same proving that it were sham, bogus and fictitious. During the course of arguments the Ld. Counsel for the respondents No.1 and 2 relied upon case law **Sulakhan Singh s. Smt. Pal Kaur, 2011 (2) CCC 495 (P & H) and H.Lakshmaiah Reddy & others Vs. L. Venkateshi Reddy, 2015 (3) CCC 278 (S.C.)**. However, these judgments are not helpful to the respondents No.1 and 1 in any manner. There is no doubt with regard to settled law that presumption of truth lies in favour of registered document and that the mutation entries do not convey or extinguish any title and those entries are relevant only for the purpose of collection of land revenue but in this case the circumstances are totally different as it was the specific case of the appellants that on the day when the alleged power of attorney was executed Zora Singh was not alive and, no evidence whatsoever has been brought on record by the respondents No.1 and 2 that he was alive on that day. On the other hand, as observed above, the defendants have brought on record sufficient evidence and proved the fact that on the day when the alleged power of attorney was executed Zora Singh was not alive and that the alleged power of attorney is result of some fraud/cheating. Further, the plaintiffs has sought from the trial Court to decide their right, title on the suit land by way of



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the sale deeds executed on the basis of power of attorney which is under challenge but the plaintiffs have failed to prove the genuineness of the said power of attorney which they say was executed by Zora Singh etc in favour of Ranjodh Singh. Therefore, it is held that the alleged power of attorney is not a valid document as neither any witness of the said power of attorney has been examined nor any document has been proved on file that Zora Singh was alive at the time when the alleged power of attorney has been executed. Even no marginal witnesses of alleged sale deeds Ex P1 and Ex P2 have been examined for the reasons best known to the plaintiffs. So it is held that the Lower court has wrongly held that the alleged power of attorney Ex P3/3 was a valid document and when the alleged power of attorney was not a valid document, the alleged sale deeds Ex P1 and Ex P2 which were executed on the basis of said power of attorney Ex P3/3 also become illegal documents in the eyes of law. In these circumstances, it is held that the Ld. Lower court has wrongly held that the plaintiff is entitled to declaration and permanent injunction as prayed for. The impugned judgment and decree, therefore, are liable to be set aside being illegal and perverse.

19. In view of discussion made above, the impugned judgment and decree are set aside being illegal and perverse. Consequently, the present appeal is accepted and the suit of the plaintiffs is dismissed, with costs. If any other application is pending, same is disposed off being not pressed for.”

8. In view of the aforementioned circumstances, present regular second appeal has been filed before this Court.

9. I have heard the learned counsel for the parties and perused the paperbook with their able assistance.



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10. Evidently, the present appellants/plaintiffs filed a suit for declaration that they are owners in possession of the suit property on the strength of sale deeds dated 17.05.1995 (Ex. P-1 and P-2), which is stated to have been executed by Ranjodh Singh on the strength of GPA dated 11.06.1992, allegedly executed by Darshan Singh, Zora Singh and Amrik Singh.

10.1 On the other hand, pleaded case of the defendant No.1 was that Zora Singh had already expired on 11.10.1991 and there was no question for the execution of General Power of Attorney on 11.06.1992 in favour of Ranjodh Singh.

11. It is not disputed before this Court that the appellants/plaintiffs did not examine any witness to prove the due execution of General Power of Attorney in favour of Ranjodh Singh on 11.06.1992 nor any witness to the sale deeds dated 17.05.1995 (Ex. P-1 and P-2) in favour of the appellants/plaintiffs was examined; although the onus to prove issue No.1 was solely on the appellants/plaintiffs.

12. Although the learned Trial Court decreed the suit filed by the appellants/plaintiffs; however, the learned First Appellate Court reversed the findings returned by the learned Trial Court by holding that in the absence of any evidence led by the plaintiffs to prove the due execution of the General Power of Attorney dated 11.06.1992 in favour of Ranjodh Singh and also the sale deeds dated 17.05.1995 by Sh. Ranjodh Singh on the strength of the General Power of Attorney dated 11.06.1992, in favour of the



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appellants/plaintiffs; the judgment passed by the learned Trial Court was unsustainable.

13. Before this Court, learned counsel appearing for the appellants/plaintiffs has failed to dislodge the findings returned by the learned First Appellate Court by referring to any material whatsoever. It has not been shown that there has been any misappreciation or misreading of material evidence available on record by learned First Appellate Court, which may require interference by this Court.

14. In my considered view, the judgment and decree passed by learned First Appellate Court is based upon correct appreciation of facts, pleadings as well as evidence on record and for cogent reasons. No question of law, much less substantial question of law arises for adjudication in this regular second appeal. The present regular second appeal is thus, devoid of any merit and the same is accordingly, ***dismissed***.

15. All the pending application(s), if any, shall also stand closed.

07.07.2026
Ankit

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No