

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

**CR No.504 of 2014**

**Date of decision: 15.10.2015**

Ajmer Singh

... Petitioner

Vs.

Sucha Singh and another

... Respondents

**CR No.511 of 2014**

Ajmer Singh

... Petitioner

Vs.

Sucha Singh and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. G.S.Punia, Senior Advocate with  
Mr. P.S.Punia, Advocate  
for the petitioner.

Mr. Chanan Singh, Advocate  
for the respondents.

**AMIT RAWAL J. (Oral)**

This order of mine shall dispose of two civil revision petitions, bearing Nos.504 and 511 of 2014, whereby, in both suits, an application moved at the instance of petitioner-plaintiff, under Section 65 of the Indian Evidence Act, seeking permission to lead secondary evidence to prove General Power of Attorney (hereinafter

referred to as GPA) dated 19.11.2004 allegedly executed by defendant/respondent No.1– Sucha Singh, in favour of one Amarjit Singh, has been declined.

Mr. G.S.Punia, learned Senior counsel assisted by Mr. P.S.Punia, Advocate submits that respondent-defendant No.1 had entered into two agreements to sell dated 17.11.2004 and 20.11.2004 through GPA, namely, Amarjit Singh. He further submits that GPA had signed the acknowledgment of extending the target date in respect of agreement to sell dated 17.11.2004, therefore, it is essential and necessary requirement of law, for adjudication of the lis between the parties, much less, seeking discretion under Section 20 of the Specific Relief Act, to prove the same. He further submits that respondent-defendant No.1, in the written statement admitted the execution of two power of attorneys dated 19.11.2004 and 24.11.2004, at Jalandhar, in favour of GPA. Since original registered power of attorney dated 19.11.2004 is in possession of Amarjit Singh, who, had been summoned but did not appear despite issuance of non-bailable warrants, therefore, necessity arose to file the aforementioned application.

Mr. Chanan Singh, learned counsel appearing on behalf of the respondent-defendants submits that respondent-defendant had admitted only execution of attorney dated 24.11.2004 and not of 19.11.2004 and at the best, the Court below could issue notice to the defendant, as well as, to the GPA to produce the same and after

issuance of receipt of notice, in case, GPA has not produced then a cause of action, at the best, can be said to have accrued in favour of the petitioner-plaintiff, thus, submits that there is no illegality, much less, perversity in the order under challenge and prays for dismissal of the revision petitions.

I have heard learned counsel for the parties and appraised the paper book.

The respondent-defendant in the written statement has admitted the execution of two power of attorneys dated 19.11.2004 and 24.11.2004, thus, one of the essential ingredient of Section 65 of the Indian Evidence Act, vis-a-vis, existence of a particular document, has been proved. Since Amarjit Singh had failed to appear in pursuance to the process/summons issued, much less, non-bailable warrants, the petitioner-plaintiff has been left in lurch to prove extension of agreement to sell, as well as, extension date for execution and registration of the sale deed in respect of the agreement to sell dated 17.11.2004 and as well as, to prove execution of the agreement to sell dated 20.11.2004. In these circumstances, petitioner-plaintiff moved an application seeking permission to produce and prove certified copy of GPA, by way of secondary evidence.

It is a matter of record that both the power of attorneys are registered ones. The existence of the power of attorney had been admitted and the original has not seen light of the day. In the

absence of the attorney, much less, even defendant has not made any effort to produce the same through Amarjit Singh, the only remedy left with the petitioner-plaintiff was to move an application to lead secondary evidence.

In my view, the reasoning given by the trial Court, in declining the application, is wholly mis-conceived. The trial Court has not noticed the aforementioned facts, while rejecting the application. Keeping in view the aforementioned facts, application for leading secondary evidence, moved by the petitioner-plaintiff, vis-a-vis, to prove certified/registered copy of the power of attorney dated 19.11.2004, is allowed and the petitioner-plaintiff is held entitled to prove the same, through secondary evidence.

Accordingly, the impugned orders are set aside and the revision petitions are allowed.

**(AMIT RAWAL)**  
**JUDGE**

**October 15, 2015**  
savita