

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
RSA No. 4441 of 2012(O&M)
Date of decision :February 16, 2015

Sarwan Singh and another

..... Appellants

Versus

Jaswant Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H. S. Sullar, Advocate
for the appellants.

Mr. Bhag Singh, Advocate
for respondent Nos. 2 to 6.

Mr. J. S. Cooner, Advocate
for respondent No.7.

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

Amit Rawal, J (oral).

This Regular Second Appeal at the instance of the appellant-defendant No. 1 is directed against the judgment and decree dated 12.9.2009 passed by the Additional Civil Judge(Senior Division) whereby the decree of declaration declaring the gift deed dated 4.8.2001/4.9.2001 executed by defendant No.1 is null and void, ineffective and not binding upon the ownership right of the plaintiffs in favour of defendant No.2 on the basis of Power of Attorney dated 5.4.1967 registered on 10.4.1967, has been decreed and the aforementioned defendants have also been restrained from interfering in the ownership rights of the plaintiffs. The appeal filed against the aforementioned judgment and decree by the present

appellants-defendants was also dismissed by the judgment and decree dated 3.8.2012.

Mr. H. S. Sullar, learned counsel appearing on behalf of the appellants-defendants aforementioned, in support of grounds of appeal submits that both the courts below have committed illegality and perversity in decreeing the suit and dismissing the appeal. The Power of Attorney dated 5.4.1967 contained a clause which authorized the agent-Sarwan Singh to alienate the share of Prem Singh-plaintiff.

Mr. Bhag Singh, learned counsel appearing on behalf of respondent Nos. 2 to 6 submits that there was no clause in the Power of Attorney executed by Prem Singh (since deceased) in favour of Sarwan Singh and the said Power of Attorney was revoked on 10.9.2001 which was registered on 14.9.2001 after Prem Singh acquired the knowledge of the aforementioned gift deed. He further submits that all the four brothers had jointly owned the land measuring 145 Kanals 5 Marlas situated in Village Sambhalkha Tehsil and District Ambala.

Mr. J. S. Cooner, learned counsel appearing on behalf of respondent No.7 states that Santokh Singh-appellant No.2-defendant No.2 sold his share vide sale deed 29.8.2003 and therefore he has become co-owner along with the co-owners. He further submits that no substantial question of law arise for adjudication by this Court.

I have heard learned counsel for the parties, appraised the impugned judgments and decrees of both the courts

below and I am of the view that the appeal is liable to be dismissed for the following reasons.

The Power of Attorney dated 5.4.1967 registered on 10.4.1967 did not give any specific power to defendant No.1 to transfer and alienate the suit land owned by the plaintiff. In the absence of any power, the agent-defendant No.1-appellant No.1 could not alienate the property, much less give away the property to Santokh Singh. It is a matter of record that Santokh Singh has not appeared at the time of registration of the gift deed therefore gift deed was not in consonance with Section 122 of the Transfer of Property Act. The gift deed thus could not have been executed by Sarwan Singh in favour of Santokh Singh.

Both the Courts below have rendered a finding of fact and law on the aforementioned premise and held that the gift deed was not in accordance with law as it did not conform to the provisions of Section 122 of the Transfer of Property Act. In the absence of any power the gift deed executed by Sarwan Singh in favour of Santokh Singh was without any jurisdiction.

I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 16, 2015
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