

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

Regular Second Appeal No.771 of 2013 (O&M)
Date of decision: 31.08.2015

Narinder Singh

.... Appellant

versus

Gursharanjeet Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. S.S. Salar, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (*Oral*)

1. The appeal is by the defendant. The suit was filed by the plaintiff contending that the alleged power of attorney executed by him in favour of one Soma Singh on the basis of which the sale was purported to have been made in favour of the defendant was forgery and not binding on the plaintiff. On the two issues relating to the validity of the power of attorney and the validity of the sale since the contention by the plaintiff was that it was forged, the burden of proof had been cast on the defendant to establish the genuineness.

2. The courts below had the following circumstances to rule that the power of attorney and the sale could not be true: (i) the

power of attorney Soma Singh had not been examined; (ii) the two witnesses, who were said to have signed knowing the principal and the execution of the documents did not support the defendant who brought them as his witnesses. On the other hand, they stated that they had signed the documents at home and did not go to the Registrar's office at all. They had been treated as hostile witnesses; (iii) in respect of very same subject matter, there had been a suit instituted against the plaintiff for specific performance and the defendant stated that he knew about such a suit but took no steps to have himself impleaded or to make enquiries about the nature of dispute; (iv) the defendant admitted in evidence that he made no enquiry about the title of the plaintiff before his purchase; (v) The property had been sold two years prior to the disputed transaction @ ₹95,000/- per bigha to Ramesh Kumar and others while the sale deed was for 8 bighas for a consideration of ₹1,42,000/-. The gross inadequacy of the consideration was suspicious; (vi) in a suit instituted against the plaintiff, there had been an order of injunction restraining the plaintiff from alienating the property on 18.10.1994. The alleged power of attorney and the sale had been made during the pendency of the order of injunction against alienation.

3. With all the above circumstances elicited by the courts below, they observed that even the conduct of the defendant had never been above board. He was convicted for forgery in relation to

the very same transaction. However, the appeal was reported to be pending. The court had to merely address the issue of whether the examination of the Registering Officer who spoke about the registration of the power of attorney and sale deed could have made any difference. The courts finding, and in my view, correctly, that a Registering Officer could only speak about the formalities of registration and his evidence cannot be used for fixing the identity of the principal who should have been present in order to make a power of attorney in favour of another. There was also a handwriting expert to say that the signature of the plaintiff had been traced and imprinted in the document but the court observed that it will not place any reliance on the same, holding that evidence of handwriting expert is a weak evidence and without reference to it, the plaintiff was bound to succeed on the failure of the defendant to establish the documents to be genuine.

4. The case is well reasoned and there are several reasons illustrated to show that the document which the defendant was propounding for which the plaintiff was seeking for a declaration that they were forged has been correctly decided and the judgments would require no interference in second appeal. Second appeal is dismissed as devoid of any merit.

(K.KANNAN)
JUDGE

31.08.2015
sanjeev