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

**RSA No.3356 of 2015 (O&M)
Date of Decision: 30.10.2015**

GYANA DEVI

.....Appellant

Vs

INDERAJ SINGH AND ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Naveen Sheokand, Advocate
for the appellant.

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?*

RAJ MOHAN SINGH, J.(Oral)

CM No.8115-C of 2015

For the reasons mentioned in the application, delay of 397 days in re-filing the appeal is condoned.

Application stands disposed of.

CM No.8116-C of 2015

Prayer in this application is for condonation of delay of 26 days in filing the appeal.

Since the appeal is being decided on merits, this Court feels like to condone the delay, in view of averments made in the application.

Consequently, delay of 26 days in filing the appeal is

condoned.

Application stands disposed of.

RSA No.3356 of 2015 (O&M)

[1]. Plaintiff is in second appeal in a suit for declaration and permanent injunction to the effect that the general power of attorney dated 21.08.1996, sale deeds dated 01.01.1999 and 26.11.1999 and consequent mutations No.802 and 806 are illegal, null and void, and are not binding upon the rights of the plaintiff.

[2]. According to plaintiff she never executed any general power of attorney. Father of defendants No.1 and 2 in collusion with defendants prepared forged and fictitious general power of attorney dated 21.08.1996 in his favour and got executed sale deeds dated 26.11.1999 and 01.01.1999 in favour of defendants No.1 to 3. These documents are claimed to be null and void.

[3]. The suit has been contested by the defendants on all customary pleas. Different sale deeds have been executed on the basis of general power of attorney and after purchase of the land, defendants became absolute owners of the property in question and plaintiff has no concern whatsoever with the suit land. The sale deeds are claimed to be legal and valid.

[4]. Both the parties led their respective evidence on record to prove their case.

[5]. The Courts below on appreciation of material on record have recorded the following findings of fact:-

1. Power of attorney Ex.P-2 has been issued by the office of Joint Sub-Registrar, Nangal Chaudhary. Handwriting expert PW-3 has submitted the report without making comparison with original power of attorney which has even not been produced on record by either of the parties. One of the right thumb impression has been taken from the statement of the plaintiff recorded in the Court and another impression has been taken from the power of attorney. It has been reported that they are of different person. Once the original power of attorney was not there and was not even subjected to expert opinion, the aforesaid mechanism is of no consequence. The Handwriting Expert has admitted that he has not seen the original power of attorney and without comparison the original power of attorney, he cannot say on the basis of his personal memory that how many persons have affixed the thumb impression on the said documents. The Expert has traced out thumb impression of Gyana Devi on her name, which was affixed under the name on the power of attorney and he has not examined other thumb impressions affixed on the said power

of attorney. Word RTI or LTI have not been written against the word Gyana Devi. In view of aforesaid the report of Expert cannot be appreciated.

2. Plea of fraud has to be pleaded and proved on record. Pleadings are conspicuously silent about material particulars. Jamabandi Ex.P-1 has not been issued by defendant No.1 which was relied in the suit. The power of attorney has been executed by all the three brothers and sisters of the plaintiff in favour of Ghisha Ram and none of the executants except the plaintiff has come forward to challenge the document. This is one of the instance which rules out the possibility of any fraud having been committed in execution of the document.
3. The plaintiff has alleged her possession over the suit land, but still no revenue record is forthcoming, endorsing the plea of the plaintiff in the context of her possession over the suit land.
4. Both the Courts below have also endorsed that factum of execution of power of attorney and registration of sale deeds were very much in the knowledge of the plaintiff. Even in the cross-examination the plaintiff has admitted that she has

given the land on *batai* to one Puran. Even that Puran has not been examined.

[6]. Taking into consideration the entirety of facts and circumstances, both the Courts below have concluded that power of attorney No.9 dated 21.08.1996 on the basis of which the sale deeds in question were executed and consequent mutations were sanctioned, cannot be faulted with.

[7]. There is no cogent material on record to take different view than the one taken by the Courts below. The findings recorded by the Courts below cannot be held to be perverse or the result of misreading of evidence in any manner.

[8]. Resultantly, no law point worth consideration is involved in this appeal, consequently finding no merit in this appeal, the same is accordingly dismissed.

October 30, 2015

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**(RAJ MOHAN SINGH)
JUDGE**