

RSA No. 3857 of 2015 (O&M)

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

RSA No. 3857 of 2015 (O&M)

Date of Decision: September 10, 2015

Sharanjit Singh

...Appellant

Versus

Baljit Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Deepak Nayar, Advocate
for the appellant.

Mr. Rishu Mahajan, Advocate
for respondent No.2-caveator.

AUGUSTINE GEORGE MASI, J. (Oral):

CM-10494-C-2015

Prayer in this application is for preponement of the
hearing of case.

For the reasons mentioned in the application, the hearing
of the appeal is preponed and the same is taken on board for final
disposal, with the consent of the counsel for the parties.

RSA-3857-2015

It is the contention of the counsel for the appellant that
agreement to sell dated 17.09.2003 cannot be said to be an
agreement to sell as it is actually a mortgage-deed. He contends
that the appellant-plaintiff had taken a loan amounting to ₹2,20,000/-

from respondent-defendant No.1, for which, the said mortgage-deed was entered into. He, therefore, contends that the finding recorded by the Courts below in this regard, cannot sustain. He, however, could not dispute the fact that on the very same day, i.e. 17.09.2003, the Power of Attorney was executed in favour of respondent-defendant No.1, according to which, he was given authority to even sell the said property in question and in pursuance thereto, he has sold the property vide sale-deed dated 21.12.2006 to respondent-defendant No.2. He also could not dispute the fact that the said Power of Attorney was never cancelled/revoked and it held good till the suit was filed. He also could not dispute the fact that the sale-deed, which was to the knowledge of the appellant-plaintiff at the time of filing of the suit, has not been challenged.

If that be so, even if the finding with regard to agreement to sell dated 17.09.2003 is treated to be a mortgage-deed, the sale having not been challenged and the Power of Attorney dated 17.09.2003 in favour of respondent-defendant No.1 being not revoked and even the same binds him to the acts which have been done by respondent-defendant No.1 on that basis.

In view of the above, the judgments and decree passed by the Courts below cannot be said to be not in accordance with law specially when both the Courts below have returned concurrent findings after proper appreciation of evidence which do not call for interference as there is no perversity or illegality in the same.

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No substantial question of law is involved in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

September 10, 2015
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE