

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Regular Second Appeal No.4588 of 2015 (O & M)

Date of Decision: *December 18, 2015*

Jagir Singh & another

..... APPELLANTS

VERSUS

Gurpreet Singh & others

..... RESPONDENTS

...

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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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?

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PRESENT: - Mr. Anil Verma, Advocate, for the appellants.

. . .

Jaspal Singh, J

CM No.11024-C & 11026-C of 2015

Kept open.

RSA No.4588 of 2015 (O & M)

1. The instant appeal has been preferred by plaintiffs – Jagir Singh and Jagtar Singh, challenging judgment & decree dated July 20, 2012 passed by the trial court as well as judgment & decree dated February 24, 2015 passed by the lower appellate court, whereby the findings recorded by the trial court have been upheld and appeal filed by the plaintiffs against the judgment & decree passed by the trial court has been dismissed.

Accordingly, the suit filed by the plaintiffs for declaration and permanent injunction, as detailed in the head note of the plaint, has been dismissed, *exparte*.

2. While assailing the findings recorded by both the courts below, it has been ebulliently argued by learned counsel for the appellants that same are absolutely against the evidence available on file and settled canons of law. Mis-appreciation of evidence as well as legal proposition has resulted into mis-carriage of justice. The trial court erred in observing that suit property had been allotted in favour of Atma Singh (father of plaintiffs) vide conveyance deed dated October 14, 1965 (Ex.P1). On the death of Atma Singh, property was transferred in the names of plaintiffs. Power of Attorneys dated December 23, 2008 and June 03, 2009, purported to have been executed by the plaintiffs were cancelled on October 01, 2009. Sale deeds in question had been executed on August 10, 2009 and August 26, 2009, prior to the cancellation of power of attorney on October 01, 2009.

3. It has been further contended by learned counsel for the appellants that alleged power of attorneys were forged and fabricated documents. They never executed any general power of attorney in favour of defendant No.4, thus, sale deeds executed by defendant No.4 on the basis of said power of attorneys are illegal, null, void and without consideration. Further, defendants have failed to contest the suit and therefore, from the un rebutted evidence, suit of the plaintiffs deserve decretal in toto, and impugned judgments & decrees rendered by the courts below are not sustainable in the eyes of law and are liable to be set aside by way of acceptance of the instant appeal.

4. This court has given a deep thought to the aforesaid submissions made by learned counsel for the appellant and scrutinized the impugned judgments & decrees passed by both the courts below.

5. From the perusal of judgments rendered by both the courts below, it is amply clear that plaintiffs could not produce any cogent evidence in regard to their plea that power of attorneys were forged and fabricated documents. Moreover, the power of attorneys bear their thumb impressions and photographs, and are registered documents. Plaintiffs have failed to prove that any misrepresentation was made or they were defrauded by the defendants. The sale deeds have challenged on the contention that they have not received any sale consideration. Had it been so, they could have taken recourse to the remedies available to them as per law. Since, they have not been in a position to prove that general power of attorneys executed by them were tainted/illegal, it is held that findings of both the courts below do not suffer from any infirmity, illegality or impropriety.

6. Moreover, an application under Order 41 Rule 27 CPC read with Section 151 CPC moved by the appellants – plaintiffs for producing certified copy of criminal complaint captioned as 'Jagir Singh vs. Bhupinder Singh & others' as additional evidence, at appellate stage, has also been dismissed by the lower appellate court vide order dated February 19, 2015 while holding that the same is not at all necessary for the decision of the case, and if any adverse order in the criminal complaint is passed against the defendants, the same is not going to be relevant to the decision of the appeal, which is to be decided on the basis of its own peculiar facts.

7. In view of the aforesaid discussion, this court is of the considered view that judgments & decrees passed by the courts below or

lower appellate court do not call for any interference by this Court. There is no infirmity, illegality or impropriety in the findings recorded by the courts below. The instant appeal is nothing but devoid of merits. As such, the appeal is dismissed. However, parties are left to bear their own costs.

December 18, 2015
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(Jaspal Singh)
Judge