

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 5776 of 2014 (O/M)
Date of decision : 17.11.2015

Dalip Singh

..... Appellant

Versus

Ajay Kumar and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Umesh Kumar Kanwar, Advocate,
for the appellant.

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

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 8.7.2014, passed by the learned Additional District Judge, Fazilka, affirming the judgment and decree dated 5.6.2012, passed by the learned Civil Judge (Junior Division), Fazilka, whereby the suit of the plaintiff for declaration and permanent injunction, was dismissed.

Briefly stated, the plaintiff had sought declaration to the effect that notwithstanding anything contrary contained in the revenue record or any other title deed including the sale deed dated

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17.11.2003, bearing wasika No. 1078, the plaintiff continues to be owner in possession of land measuring 2 kanals, situated in the area of village Chack Pakhi, Tehsil Fazilka. The plaintiff claims that he had obtained a loan of Rs. 1,50,000/- from defendant No. 2, who is doing the business of commission agent. In order to secure the said loan, defendant No. 2 asked the plaintiff to execute general power of attorney and also to sign the blank pronote and stamp papers, which the plaintiff did. The plaintiff accordingly executed the general power of attorney bearing wasika No. 2 dated 14.5.2003 and signed the blank pronote and stamp papers. The plaintiff had repaid the loan. In spite of that, defendant No. 2 executed the sale deed dated 17.11.2003 in favour of his brother defendant No. 1. The said sale deed is illegal.

I have heard the learned counsel for the appellant and have also carefully gone through the file.

Before the lower Court, the plaintiff failed to prove that the general power of attorney was got executed by coercion. In the plaint itself it was stated that the registered power of attorney was executed. The power of attorney was in operation when the sale deed was executed. In the suit, no declaration was sought that the power of attorney dated 14.5.2003 is liable to be set aside being result of coercion. Similarly, no declaration was sought that the sale deed dated 17.11.2003 is liable to be set aside on the ground of

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without authority or result of fraud. The plaintiff simply sought declaration to the effect that he continues to be owner in possession of land measuring 2 kanals notwithstanding anything contrary contained in the revenue record or any other title deed including the sale deed dated 17.11.2003. The findings of facts have been recorded by both the Courts below. Therefore, no substantial question of law arises in the present regular second appeal. Hence, the present regular second appeal is dismissed.

(KULDIP SINGH)
JUDGE

17.11.2015
sjks