

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

DATE OF DECISION: SEPTEMBER 28, 2015

Krishna and another

.....Appellants

VERSUS

Jai Bhagwan and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Rakesh Nehra &
Mr. Vijay Saini, Advocates,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgements and decree passed by the Courts below vide which the suit for declaration to the effect that the registered general power of attorney dated 14.07.2000 in favour of Om Parkash and as a consequence thereof the sale deed dated 05.06.2002 for 8 marlas land in favour of respondent-defendant Nos.2 and 3 and sale deed dated 06.05.2005 for 11 Kanals and 5 marlas land in favour of respondent-defendant No.1 are illegal and not sustainable as per law as the general power of attorney has been obtained on the basis of the fraud having been played upon the appellant-plaintiffs with a consequential relief of permanent injunction restraining the respondents from interfering in the land in dispute in any manner. The appeal preferred against the said judgement and decree

dated 04.05.2012 passed by the learned Additional Civil Judge (Senior Division), Sonapat, stands dismissed by the Additional District Judge, Sonapat on 20.08.2014.

It is the contention of learned counsel for the appellants that certain blank papers were got thumb marked/signatures obtained to execute certain receipts, which have been fraudulently converted into registered general power of attorney dated 14.07.2000 in favour of Om Parkash and on the basis of said general power of attorney, he has executed the above referred two sale deeds, which cannot be sustained as the very base which has led to the execution of the sale deeds is not sustainable. He accordingly contends that the judgements and decree passed by the courts below cannot sustain.

I have gone through the judgements passed by the courts below with the able assistance of counsel for the appellants and on going through the same, I am unable to accept the contentions as raised by them. In fact, the appellant-plaintiffs have not been able to discharge the onus, which has come on them, to prove that their general power of attorney dated 14.07.2000 executed in favour of Om Parkash, which is a registered document, was forged or fabricated. There is no evidence on record, which indicates that such a situation, as has been sought to be depicted, is made out. That apart, Om Parkash, in whose favour the registered general power of attorney dated 14.07.2000 was executed, has not been impleaded as a party respondent. Rather, the respondent-defendants have been able to prove on the basis of cogent and persuasive evidence that the general power of attorney, Ex.D1, dated 14.07.2000 has been properly executed. Therefore, the findings recorded by the Courts below, thus, cannot be faulted with.

At this stage, counsel for the appellants has asserted that even if the sale deeds dated 05.06.2002 and 06.05.2005 are treated to be validly executed, it pertain to only 12 kanals of land whereas the total land in ownership of the appellant-plaintiffs is 67 kanals but the respondent-defendants on the pretext of dismissal of the civil suit preferred by the appellant-plaintiffs are making efforts to take possession of the whole property i.e. 67 kanals.

This contention of learned counsel for the appellants also cannot be accepted as it is a mere apprehension on the part of the appellant-plaintiffs. As is apparent from the pleadings, the total land, which was sold through two sale deeds dated 05.06.2002 and 06.05.2005 is only 8 Marlas and 11 Kanals and 5 Marlas respectively and, therefore, possession, if any, can be taken by the respondent-defendants of that land, which is the subject matter of the sale deeds only and that too in accordance with law.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

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

September 28, 2015
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE