

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

CR No.7324 of 2016(O&M)

Date of decision:3.11.2016

Arun Kumar Bawa

....Petitioner

VERSUS

Rupinder Singh Khatra and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. K.S. Khehar, Advocate for the petitioner.

REKHA MITTAL, J.

The present petition directs challenge against orders dated 15.07.2015 (Annexure P-3) passed by the Civil Judge (Junior Division), Ludhiana whereby application of the petitioner/plaintiff filed under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (in short 'CPC') was dismissed and the order dated 17.05.2016 (Annexure P-5) passed by the Additional District Judge, Ludhiana, affirming the order dated 15.07.2015 passed by the trial Court.

The petitioner/plaintiff has filed a suit for declaration that power of attorney bearing Vasika No.256 dated 15.04.2011 alleged to have been executed by the plaintiff in favour of defendant No.1 regarding half share out of land measuring 7 biswa 13 biswas detailed in head-note of the plaint and depicted in the site plan attached with the plaint is illegal, void having been obtained under coercion and the consequent sale deed bearing No.2596 dated 03.05.2011 executed by defendant No.1 in favour of defendant No.2 (his wife) is null and void, without consideration and is liable to be set aside. Further prayer has been made for grant of injunction restraining the defendants from interfering in possession of the plaintiff over the suit property and raising any construction, permanent in nature

and changing existing structure of the property in dispute. Along with the suit, an application under Order 39 Rules 1 and 2 CPC was filed for grant of interim injunction.

The respondents/defendants filed the written statement and reply to the stay application seriously contesting claim of the petitioner and denying the averments on the basis whereof, the petitioner has sought to challenge the registered power of attorney alleged to be validly executed by the attorney-holder on the basis of which, defendant No.1 executed a valid sale deed in favour of defendant No.2.

After having heard counsel for the parties in the light of rival submissions made by their respective counsel, learned trial Court has held that the plaintiff in his pleadings admitted his signatures on the power of attorney and revenue record has been placed on record. Accordingly, no prima facie case is made out in favour of the applicant/plaintiff. Balance of convenience also does not lie in his favour nor he will suffer irreparable loss if injunction is not granted. As has been noticed hereinbefore, the order passed by the trial Court has been affirmed in appeal preferred by the petitioner.

The sole submission made by counsel for the petitioner is that in case respondents are not restrained from raising construction or changing existing structure, it would lead to multiplicity of proceedings, therefore, it would be in the interest of substantial justice that subject matter of the *lis* is maintained as it is.

I have heard counsel for the petitioner and perused the paper-book particularly the order impugned.

Before advertng to the solitary submission made by counsel for the petitioner, it is pertinent to recapitulate that scope of intervention in

orders passed by the Courts below disposing of an application for interim injunction is limited and no interference is warranted unless the same is found to be perverse. In the case at hand, the petitioner/plaintiff has admitted his signatures on the power of attorney and even his appearance in the office of Sub Registrar at the time of registration of the power of attorney. The attorney-holder has executed a registered sale deed in favour of his wife. As per the settled position in law, once a person admits his signatures on a document, there is a heavy onus to be discharged by him that the signatures were not appended voluntarily or the same is the result of duress, coercion or fraud. The Courts have rightly held that at this stage there is no material on record to accept contention of the petitioner *ex facie* that power of attorney is vitiated on any count whatsoever. There is no question of any multiplicity of proceedings even if during pendency of the suit the respondents raise any construction or change the existing structure because the Court is competent to grant a moulded relief in the changed circumstances, if the petitioner/plaintiff is ultimately successful to prove his case. In this view of the matter, I do not find any error much less perversity in the impugned orders warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in *limine*. However, nothing stated in this order shall be construed as an expression of opinion on merits of the case.

NOVEMBER 3, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no