

CWP No.2550 of 2014

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

**CWP No.2550 of 2014
Date of decision:16.11.2016**

Kuldeep Kaur Chopra and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Amit Aggarwal, Advocate,
for the petitioners.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Jai Bhagwan, Advocate,
for respondent No.5.

Rakesh Kumar Jain, J.

The petitioners are the owners in possession of plots No.160, 161 & 162, measuring 242 Sq. Yards each, comprised in Khasra Nos.63//3/1/6, 63//3/1/5, 63//3/1/4, Khata Nos.245/321, 246/322 & 247/323, located at village Mohra, Hadbast No.188, Ambala Cantt., which were initially owned by respondents No.4 to 6. Respondents No.4 to 6 executed registered Power of Attorneys in favour of respondents No.7 to 9 in the office of Sub Registrar, Tatipur, Madhya Pradesh. Respondents No.7 to 9, as attorneys, sold the aforesaid plots to the petitioners by different sale deeds No.496, 501 & 655 dated 29.04.2005, 29.04.2005 and 06.05.2015, registered in the office of Sub Registrar, Ambala Cantt. The Registrar,

Ambala, vide impugned order dated 27.09.2013, cancelled the registration of the aforesaid sale deeds while exercising his powers under Section 68(2) of the Indian Registration Act, 1908 (hereinafter referred to as the “Act”) on the ground that the power of attorneys, registered at Tatipur, Madhya Pradesh, are forged because there is no office of the Register/Sub Registrar at Tatipur, Madhya Pradesh. He also observed in the order that before passing the impugned order, public notices were also given on 07.09.2013, 08.09.2013 & 23.09.2013 in “Punjab Kesari”.

The petitioners have challenged the competence of the Registrar to cancel the registered sale deeds in terms of Section 68(2) of the Act. It is contended that the Registrar does not have the power to cancel registration of the sale deed, the execution of which has not been denied and has already been registered by the Sub Registrar and in this regard, reliance has been placed upon a Division Bench judgment of the Lahore High Court in the case of **Hussain Ali Shah vs. Sardar Ali Shah and others**, AIR 1933 Lahore 786, a Division Bench judgment of the Madhya Bharat High Court in the case of **Nyadarsingh vs. Chensingh**, 1955 AIR (Madhya Bharat) 205 and a Single Bench judgment of this Court in the case of **Jodh Singh vs. Registrar (Deputy Commissioner), Ambala**, 1999(1) R.C.R. (Civil) 441.

On the other hand, learned counsel for the respondents has submitted that since the sale deeds have been executed on the basis of power of attorneys which were allegedly registered in the office of Tatipur, Madhya Pradesh, where there is no such office of the Sub Registrar, therefore, the transaction is fraudulent and the fraud will always remain a

fraud and the illegal document has to be declared null and void. However, no judgment to the contrary has been cited on the power of the Registrar, exercised under Section 68(2) of the Act for cancellation of the registered document.

I have heard learned counsel for the parties and examined the available record with their able assistance.

Since the question involved in this case is about the power/jurisdiction of the Registrar to pass order of cancellation of a registered document under Section 68(2) of the Act, therefore, it would be relevant to refer to Section 68 of the Act, which is reproduced as under:-

“68. Powers of Registrar to superintend and control Sub-Registrars.--(1) Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.
(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.”

The aforesaid provision has been discussed in the judgments relied upon by the petitioners.

In **Hussain Ali Shah's case (supra)**, the following observations have been made by the Lahore High Court:-

“.....The order of the Registrar, dated 25th April, 1925, cancelling the registration was, in my opinion, absolutely unauthorized. He purported to act under S. 68(2), Registration Act, but that section does not confer upon him the power of cancelling the registration of a document, the execution of which is not denied and which has been already registered by a Sub-Registrar.”

In **Nyadarsingh's case (supra)**, the Division Bench of the Madhya Bharat High Court has also observed as under:-

“This section only provides that every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar and that every Registrar shall have authority to issue any order consistent with the Act, to any sub-Registrar in respect of any act or omission on his part or in respect of rectification of any error regarding the book or the office in which any document has been registered. To me it appears that Section 68 only empowers the Registrar to issue directions to the Sub-Registrars in respect of their ministerial functions and duties.

That section does not confer on the Registrar the power of cancelling the registration of a document, the execution of which is not denied and which has already been registered by a Sub-Registrar. I am fortified in this view by a decision of the Lahore High Court in '**Hussain Ali Ahah v. Sardar Ali Shah**', AIR 1933 Lahore 786, where it has been pointed out that under the Registration Act, the Registrar has no power to cancel a registration already completed by the Sub-Registrar and that Section 68(2) does not confer any such power on the Registrar. In my opinion, the order of the Registrar dated 9.4.1952, cancelling the registration was absolutely unauthorized.”

In **Jodh Singh's case (supra)**, this Court has observed as under:-

“.....The power conferred under Section 68 of the Act on the Registrar to exercise superintendence and control over the Sub Registrar is administrative. A Division Bench of the Lahore High Court in **Hussain Ali Shah v. Sardar Ali Shah and others**, AIR 1933 Lahore 786, held that Section 68(2) of the Act does not confer upon the Registrar the power of cancelling the registration of a document, the execution of which is not denied and which has already been registered by Sub Registrar. In **Nyadarsingh v. Chensingh**, AIR 1955 Madhya Bharat 205, the Division Bench relied on the judgment of Lahore High Court, and held that Section 68 only empowers the Registrar to issue directions to the Sub

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Registrars in respect of their ministerial functions and duties. The section does not confer on the Registrar the power of cancelling registration of a document, the execution of which is not denied and which has been registered by the Sub Registrar.”

Thus, from the above, it is apparent that the consistent view of the Courts is that the power conferred under Section 68 of the Act upon the Registrar is to exercise superintendence and control over the Sub-Registrars administratively and does not confer upon the Registrar the power of cancellation of registration of a document, the execution of which is not denied and has already been registered by the Sub Registrar.

In the light of the aforesaid discussion, the present writ petition is hereby allowed and the the impugned order, by which the Registrar has cancelled the sale deeds executed in favour of the petitioners, which are not denied by the vendors and have already been registered by the Sub Registrar, is set aside.

No costs.

November 16, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No