

207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3529-2010 (O&M)
Date of decision : 29.08.2016

Ujagar Singh

... Appellant

Versus

Ranjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Malkeet Singh, Advocate
for the appellant.

Mr. M.S. Dhami, Advocate
for respondent No.4.

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?

AMIT RAWAL, J. (ORAL)

CM-13436-C-2014

For the reasons stated the application which is duly supported by an affidavit, the application is allowed and the LR's of respondent No.3, namely, Rattan Kaur are brought on record for the purpose of prosecuting the appeal.

CM stands disposed of.

RSA-3529-2010

The appellant-plaintiff is aggrieved of the dismissal of the suit seeking declaration to the effect that he is the owner in possession of 1/6th share out of the land measuring 12 marlas and construction raised thereon

and with a further relief that the registered power of attorney dated 18/19th July, 1986 and the sale deed dated 09.12.1986 executed by defendant No.4 is illegal, null and void.

Mr. Malkeet Singh, learned counsel appearing on behalf of the appellant-plaintiff submits that power of attorney did not have the power to sell the property and therefore, exceeded the power. The principle had not authorised to do such act as it was a case of fraud and misrepresentation and realizing this fact, the suit was filed in the year 2003. Both the Courts below have committed illegality and perversity in not appreciating the aforementioned evidence. The acquisition of the aforementioned fraud and misrepresentation came to knowledge only in October 2002, thus, urges this Court for setting aside the findings under challenge.

As per office report, the respondent Nos.1 to 3 have not been served.

It has been brought to the notice of this Court that respondent Nos.1 to 3 were *ex parte* before the Courts below. In view of the provisions of Order 41 Rule 14 and sub-Rule 4 of the Code of Civil Procedure, service upon respondent Nos.1 to 3 is dispensed with.

Mr. M.S. Dhami, learned counsel appearing on behalf of the respondent No.4 submits that the appellant-plaintiff has failed to prove the ingredients of Order 6 Rule 4 CPC, much less, even cancelled the power of attorney till the filing of the suit and therefore, the filing of the suit was nothing, but an act of greed, thus, urges this Court affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised

the paper book and of the view that once the sale deed had been effected on 09.12.1986 on the basis of the registered power of attorney dated 18/19th July, 1986, it was never cancelled or set aside or revoked till the filing of the suit, the act done by the agent on the basis of power given by principal is always recognized. The ingredients of fraud and misrepresentation as per Order 6 Rule 4 were conspicuously absent, even no sufficient explanation has come forth in filing the suit in the year 2003. All these factors are in the knowledge of both the Courts below while dismissing the suit.

For the foregoing reasons, I do not intend to differ with the findings rendered by the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination.

With the aforesaid observations, the appeal is dismissed.

29.08.2016
yogesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

✓
Yes/ No

Whether Reportable

✓
Yes/ No