

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

Regular Second Appeal No.3229 of 2015 (O&M)

Date of Decision: February 19, 2016

Jiwan Singh

.....APPELLANT.

VERSUS

Nachhattar Kaur and another

.....RESPONDENTS.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.S. Saini, Advocate
for the appellant.

SURINDER GUPTA, J.

Heard.

Plaintiff-appellant Jiwan Singh sought declaration that the General Power of Attorney No.243 dated 20th May, 2005, executed by Nachhattar Kaur, his wife, in favour of defendant No.2 Inderpal Kaur, his daughter, was illegal, null and void and result of fraud and consequently he is owner in possession of house/plot measuring 1 kanal 1 marla situated at Chhaju Majra Colony, Kharar.

The case of the plaintiff, in brief, is that disputed plot was purchased by him in the name of his wife. The construction over the plot was made by him from his funds and earnings, but later on, he shifted to Chandigarh being an Advocate by profession. Now, his wife in collusion with his daughter intend to sell the disputed house and for this purpose,

defendant No.1 got executed a general power of attorney in favour of defendant No.2. Defendant No.1 had also executed a registered Will dated 24th May, 2005 in favour of defendant No.2.

Defendants No.1 and 2 contested the claim of plaintiff inter alia pleading that plot was purchased by defendant No.1 from her own funds and she constructed the house by raising loan from Punjab Schedule Caste Land Development and Finance Corporation, Chandigarh, in the year 1977. The plaintiff was not residing with defendant No.1 as he had married one Jasmer Kaur and started residing with her at Village Badheri, Chandigarh. He never visited the disputed house or paid any expenses for the education or upbringing of his son or daughter. Defendant No.1 had transferred the title of the house in favour of defendant no.2 and Jagvir Singh vide judgment and decree dated 21st January, 1995. Jagvir Singh died and his share devolved upon the defendants.

Learned Additional Civil Judge (Senior Division), Kharar, dismissed the suit filed by the plaintiff on the ground that he has failed to prove that the sale consideration of the suit property was paid by him. Even otherwise, he had filed the suit after about 43 years of the execution of the sale deed. The judgment and decree dated 21st January, 1995 was not challenged by him. Later on, Gurpreet Singh was impleaded as party in the suit, but the plaintiff withdrew his claim against him.

Both the Courts below have observed that plaintiff has no right to challenge the authority of defendant No.1 to execute the general power of attorney in favour of defendant No.2, as she was owner of the suit property and she has rightly suffered the decree dated 21st January, 1995.

Learned counsel for the appellant has argued that the appellant was not aware of the judgment and decree dated 21st January, 1995 and he came to know of the same after filing of the written statement by defendants No.1 and 2.

Both the Courts below have categorically observed that the plaintiff has failed to prove that he paid the sale consideration of the sale deed dated 13th November, 1969, in favour of defendant No.1. From 1969, till the filing of the suit, he never raised any claim over the suit property, which earlier vested in defendant No.1 and now in the beneficiaries, under the decree dated 21st January, 1995.

On perusal of the judgments of the Courts below, I find no legal or factual infirmity therein, calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

February 19, 2016.

deepak/jv

**(SURINDER GUPTA)
JUDGE**