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

**RSA-3979-2015 (O&M)
Date of decision : 17.03.2016**

Nanak

...Appellant

Versus

Saroj and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Shiv Kumar, Advocate
for the appellant.

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)

The appellant-defendant No.2 is aggrieved of the judgment and decree of the lower Appellate Court whereby the suit for specific performance of the agreement to sell dated 23.03.2009 in respect of the house measuring 93 square yards has been decreed and the appellant-defendant No.2 has been called upon to execute and register the sale deed on receipt of the balance sale consideration.

Mr. Shiv Kumar, learned counsel appearing on behalf of the appellant-defendant No.2 submits that a registered power of attorney was

executed in favour of respondent No.2, namely, Sukhviri, on 14.06.1993. Without consent of the Principal, she executed an agreement to sell dated 23.03.2009 with the plaintiff. On coming to know about the said illegal act, the appellant cancelled the power of attorney on 01.04.2009. The trial Court dismissed the suit, but the lower Appellate Court reversed the judgment and decree of the trial Court and decreed the suit in toto. The sale consideration allegedly received by Sukhviri-respondent No.2, has not been received by the Principal, much less, the owner therefore, it is apparent collusion between the plaintiff and the defendant No.1, this fact has not been noticed by the lower Appellate while decreeing the suit.

I have heard the learned counsel for the appellant-defendant No.2 and appraised the paper book and of the view that there is no merit in the appeal. Once, appellant-defendant No.2 had come to know about the fraudulent act of the power of attorney holder, resulted into cancellation of the power of attorney dated 01.04.2009, nothing prevented her to cancel the agreement as the suit was filed on 03.10.1999. It appears that she acquiesced the act of the power of attorney, viz-a-viz the cancellation of the agreement to sell, later on, took the plea of fraudulent act of the power of attorney. On the other hand, the respondent-plaintiff has proved the execution through the examination of the attesting witness, much less, scribe as well as marking of the presence. In my view, the finding rendered by the lower Appellate Court do not suffer from any illegality and perversity.

Keeping in view the aforementioned facts and circumstances of the case, I do not intend to differ with the findings of the lower Appellate Court 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.

17.03.2016
yogesh

(AMIT RAWAL)
JUDGE