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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RFA(OS) 86/2016

PRITAM SINGH BHATIA

..... Appellant

Represented by: Mr.Pawan Sharma, Advocate.

versus

GURNAM KAUR & ORS

..... Respondents

Represented by: Mr.Chetan Sharma, Senior
Advocate instructed by
Mr.Sameer Vashisht and
Mr.Amit Gupta, Advocate for
R-1.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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26.10.2016

RFA(OS) 86/2016 & CM Nos.40042-40044 of 2016

1. With a delay of 360 days in filing the appeal and 37 days in re-filing the appeal challenge is to the impugned order dated April 10, 2015.
2. Respondents No.6 to 8 who were defendants No.6 to 8 had filed RFA(OS) No.70/2015 against the impugned decision which was dismissed vide order dated August 14, 2015 against which petition seeking Special Leave to Appeal No.35262/2015 has been dismissed by the Supreme Court vide order dated February 08, 2016.
3. Vide impugned order dated April 10, 2015 CS (OS) No.1350/1997 and Test.Cas.No.81/2008 have been decided.

4. In the suit Gurnam Kaur wife of Late Sardar Sajjan Singh challenged a sale-deed registered on August 05, 1991 concerning her husband's right in property bearing Municipal No.D-1/20 and D-1/21, Rajouri Garden as also further sale-deeds executed pursuant thereto. In the plaint she made a reference to the fact that the appellant, impleaded as defendant No.1 was relying upon a general power of attorney in his favour registered with the Sub-Registrar at Panchkula in Haryana on May 17, 1990. She also made a grievance regarding Rajouri Garden Welfare Association laying claim to the property on the strength of a will dated April 05, 1983 executed by her husband Late Sajjan Singh.

5. As per her Late Sajjan Singh had died in Malaysia on April 18, 1972 and during his lifetime had on September 26, 1961 executed a will in her favour bequeathing his estate to her and she had obtained a probate of the will.

6. It is apparent that if Gurnam Kaur proved that her husband died on April 18, 1972, the power of attorney allegedly executed by him May 07, 1990 in favour of the appellant would be void and non-est being result of impersonation. So would be the status of the sale-deed dated August 05, 1991 which would vitiate further sale-deeds executed by the beneficiary of the sale-deed dated August 05, 1991.

7. There was irrefutable evidence that Sardar Sajjan Singh had died on April 18, 1972 and thus he could not have executed the sale-deed dated August 05, 1991. Similar would be the fate of the General Power of Attorney dated May 17, 1990.

8. The same issues are sought to be re-agitated in the instant appeal which has been filed with a delay of 360 days and 37 days in re-filing.

9. Since on merits the impugned decree has been upheld in RFA (OS) No.70/2015, highlighting once again that there was an irrefutable evidence that Sardar Sajjan Singh had died on April 18, 1972, we find no merit in the appeal; noting further that the wife of Sardar Sajjan Singh established that on September 26, 1961, during his lifetime Late Sardar Sajjan Singh had executed a will bequeathing his estate to her.

10. The appeal is dismissed in limine and thus there shall be no order as to cost. We do not bother ourselves with the issue of delay in filing and re-filing the appeal. All captioned civil miscellaneous applications are also dismissed.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

OCTOBER 26, 2016

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