

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

CR No.7646 of 2015.

Date of Decision: 01.02.2017.

Roop Singh

....Petitioner.

VERSUS

Mohinder Singh and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. R.C. Setia, Advocate for the petitioner.

SNEH PRASHAR, J.

Aggrieved by the order dated 10.09.2015 passed by learned Additional District Judge, Jalandhar accepting the appeal filed by respondent Mohinder Singh and another and restraining the petitioner and his son Lakhbir Singh from alienating the suit property by way of sale, gift and mortgage etc., the instant revision petition has been filed.

In precise, the facts, as they emerge from the impugned order, are that respondent No.1-plaintiff Mohinder Singh filed a suit for declaration and permanent injunction against the petitioner and his son Lakhbir Singh pleading that he being an illiterate person had appointed Roop Singh (petitioner-defendant No.1) as his general attorney vide registered General Power of Attorney dated 15.03.1999 giving him restricted power to sell his property measuring 05 Kanals 18 Marlas out of Khasra No.6269/6150 (6-9) i.e. his share in the said Khasra number.

However, Roop Singh-petitioner with a malafide intention sold of his whole

property measuring 12 Kanals to his son Lakhbir Singh (defendant No.2) vide sale deed dated 05.04.2007 without any consideration. Alleging that he (plaintiff-respondent No.1) was not bound by the transfer deed and that he had revoked/cancelled the General Power of Attorney executed in favour of the petitioner vide registered revocation deed dated 14.06.2012, Mohinder Singh prayed for an injunctive order restraining Lakhbir Singh (defendant No.2) in connivance with the petitioner from alienating the suit property and also from dispossessing him from the suit property illegally and forcibly.

The application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure praying for an ad-interim injunction during pendency of the suit filed by plaintiff Mohinder Singh was dismissed by learned trial Court but on an appeal preferred by the plaintiff-respondent No.1, the said application was allowed and the petitioner and his son (defendant No.2) were restrained from alienating the suit property by way of sale, gift and mortgage etc. and were also restrained from interfering in the peaceful possession of plaintiff Mohinder Singh or dispossessing him forcibly.

The submissions made by Mr. R.C. Setia, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner argues that it was the case of plaintiff Mohinder Singh himself that he had appointed petitioner Roop Singh as his general attorney by executing a registered General Power of Attorney for sale of his property measuring 05 Kanals 18 Marlas comprised in Khasra No.6269/6150 (6-9). As far as sale of that part of land is concerned, plaintiff Mohinder Singh could raise no dispute about the transaction. Otherwise also, the General Power of Attorney executed by

respondent No.1-plaintiff authorized the petitioner to sell entire land of plaintiff Mohinder Singh situated in village Samrai by virtue of the sale deed executed by the petitioner, Lakhbir Singh had become owner in possession of the suit land and the ad-interim injunctive order passed by learned first appellate Court is liable to be set aside.

As noticed by learned first appellate Court in his order dated 10.09.2015 the allegation of plaintiff Mohinder Singh is that the last two lines in the General Power of Attorney had been wrongly and unauthorizedly added by the petitioner. On perusal of the General Power of Attorney, learned first appellate Court noticed that it was specifically mentioned in the middle lines of the Power of Attorney that the petitioner was authorized to sell land measuring 05 Kanals 18 Marlas out of Khasra No.6269/6150 (6-9) but in the last two lines it was written that the petitioner had the power to alienate the entire land of the executor-plaintiff. Further, the observation of learned first appellate Court was that the last two lines in the General Power of Attorney create suspicion with regard to their authenticity as the second last line goes over the thumb impression of plaintiff-Mohinder Singh which indicates that the second last line and the last line were written lateron after obtaining thumb impression of the plaintiff. The discrepancies pointed out, indeed, suggest suspicion in the genuineness of the contents of the document.

It was also the submission of plaintiff Mohinder Singh that his land had been sold by the petitioner without consideration. The said factum certainly needs to be thoroughly probed since the petitioner had sold the entire land of plaintiff Mohinder Singh to none other but his own son

Accordingly, finding no illegality or perversity in the order dated 10.09.2015 which could call for intervention, the instant petition is dismissed.

(SNEH PRASHAR)
JUDGE

01.02.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**
Whether Reportable : **Yes/ No**