

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

**RSA No. 5831 of 2015 (O&M)
Date of decision: 14.09.2017**

Pargan Singh

...Appellant

Vs.

Manjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.P. Kaushal, Advocate for the appellant.

RAJIV NARAIN RAINA, J. (ORAL)

1. This is an appeal filed against the judgment and decree passed by judgment and decree dated 16.07.2015 passed by the learned Addl. District Judge, Kapurthala and judgment and decree dated 14.12.2012 passed by the Civil Judge (Sr. Division) Kapurthala.

2. Taking into consideration the findings of the Courts below, no scope is left to interfere in this regular second appeal.

3. The power of attorney has been held to be a valid document by both the Courts below and upon which the defendant could convey property by attornment. The power of attorney was executed on 24.09.2003. At the time of registration of sale deed, the appellant was incarcerated in jail on a criminal charge and suffered judicial custody from 14.08.2004 to 18.11.2005. The holder of power of attorney, the defendant-1, under authority of the plaintiff sold 23 Marlas of land to defendant 2 & 3 on 27.10.2004 by executing the sale deed.

4. The plaintiff challenged both the making of the power of attorney and the subsequent sale. The version propounded by the plaintiff in his suit was that he was in dire need of money and had obtained a loan of

₹1,00,000/- from the 1st defendant who was a financier introduced to the plaintiff by a common friend. Therefore, it cannot be assumed that there was no previous dealing between the plaintiff and the 1st defendant. I have seen the photocopy of the power of attorney which gives authority of sale and I find nothing ex facie suspicious on the face of the document to see it as a document manufactured or pre or post dated.

5. The plaintiff admitted his signatures on the document by virtue of the admission that he thumb-marked blank papers. The document is written in the Punjabi script with no suspicious gaps anywhere on the leaf, and to remove doubt, the date “24.09.2003” is typed on the top of the document though it may be handwritten at the foot of the page, which to my mind as well, makes no cause for concern to disbelieve the document and rule it out of reckoning. It does not appear that the typed or written part has been fitted on the thumb impression. On the other hand, the document inspires faith and trust as to its authenticity.

6. Besides, if the plaintiff had any reason to suspect the intentions of the 1st defendant he had plenty of time to cancel the power of attorney or to notify the Sub Registrar not to execute sale deed with respect to the suit property. He could even have cancelled it from jail by following the procedure. The plaintiff cannot, therefore, make a legitimate grievance of it after the property has been duly conveyed and third party rights created by passing valuable consideration and without notice or suspicion.

7. I have no reason to disagree with the judgment and decree of the courts below where findings have been returned after appreciating the evidence on record. The view taken on the evidence is a plausible one and not one which is impossible. In any case, even errors of fact so long as they

do not give rise to a substantial question of law will not confer jurisdiction to the High Court under Section 100 of the CPC or Section 41 of the Punjab Courts Act, 1918.

8. In view of the observations made above, the judgment in appeal is affirmed and as a result the appeal is ordered to be dismissed.

[RAJIV NARAIN RAINA]
JUDGE

14.09.2017

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Whether speaking/reasoned: *Yes*

Whether Reportable: *No*