

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

**RSA No. 2135 of 2017
Date of decision : 06.09.2017**

Bhupinder Singh ...Appellant

versus

Charan Kaur Bhogal and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. M.J.S. Bedi, Advocate
for the appellant.

RITU BAHRI, J.

This regular second appeal is directed against the concurrent findings of facts recorded by both the Courts below whereby the suit of the plaintiff-respondent No. 1 (herein after to be referred as 'respondent No. 1') has been decreed.

Brief facts of the case are that respondent No. 1 has appointed her attorney Bahadur Singh. Originally deceased Kesar Singh was owner in possession of the property in dispute. During his life time, the true owner of the suit property shifted to England with his family members about 50 years ago. Thereafter, he never visited India and expired in England on 14.01.1972. Respondent No. 1 and defendant Nos. 9 to 11 are the legal heirs of the deceased Kesar Singh. The deceased Kesar Singh never appointed any power of attorney holder during his life time but appellant and defendant Nos. 1 to 8 have taken the shelter of false and fabricated power of attorney in favour of defendant No. 2 and sale deed alleged executed by

defendant No. 2 in favour of defendant No. 1 on the basis of forged power of attorney. A criminal case i.e F.I.R No. 218 dated 15.12.2008 u/s 465/420/467/468/471/120-B IPC was also registered against defendant. The deceased Kesar Singh had handed over the possession of the suit property to Amar Singh when he left for England. Defendant Nos. 1 to 8 forcibly took the possession from said Amar Singh with barrel and bullets. Bhupinder Singh is a beneficiary on the basis of alleged false and forged sale deed. Defendant No. 2 allegedly executed forged sale deed of the property in dispute. Defendant No. 3 and 6 are the marginal witness of the forged sale deed.

The suit filed by respondent No. 1 was decreed by both the Courts below on the ground that Kesar Singh died in the year 1972 and thus it is totally false that he executed power of attorney in favour of respondent No. 2 after a gap of 36 years of his death. Further no such power of attorney, allegedly executed by Kesar Singh in favour of respondent no. 2 has been placed on record. Thus, power of attorney which bears No. 3932 as reflected in the sale deed Ex P1 was found to be forged as it came in to existence after 36 years of death of Kesar Singh. This deed further no where existed in the record. P.W.5 Madhu Bala, Junior Assistant, Commissioner Office, Jalandhar Divn. Jalandhar appeared in the witness box and brought the registration record with regard to registration No. 3932 and has stated that as per record this number pertains to power of attorney relating to Balbir Singh and Surjit Singh and no such power of attorney at this number pertains to Kesar Singh and report of their office is Ex P2. This entry does

not find mention in the record of the Registration Authority. With regard to the possession, it has been specifically held that Bhupinder Singh had taken the possession of the disputed property from Amar Singh forcibly to whom Kesar Singh had given the land for care taking.

The finding of facts recorded by the learned trial Court was rightly upheld by the Lower Appellate Court, as in the present case, the present-appellant has miserably failed to prove on record that he had paid Rs.2 lacs to Amar Singh for taking possession of the land. Further the sale deed was found to be false and fabricated one, as it came in to existence after 36 years of death of Kesar Singh

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

06.09.2017

G Arora

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No