

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

RSA No.2373 of 2017 (O&M)

Date of decision : 28.07.2017

Shana Ram through LRs

...Appellant(s)

Versus

Manak Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Parveen Chauhan, Advocate for the appellant(s).

ANIL KSHETARPAL, J. (ORAL)

CM No.5783-C of 2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 1189 days in refiling the present appeal is condoned.

Application stands allowed.

Main Case

The plaintiff is in present Regular Second Appeal against the concurrent judgment passed by the Courts below.

The plaintiff had filed a suit for declaration as well as possession alongwith consequential relief of permanent injunction. It was the case of the plaintiff that he was owner of 32 kanals of land and sale deeds executed by his power of attorneys are illegal, null and void. Power of attorney holders namely defendant Nos.13 and 14 had no power to deal in

the property received in exchange. Power of attorney was only with respect to the land measuring 16 kanals and, therefore, the sale deeds executed by power of attorney holders were illegal, null and void.

The defendants appeared and contested the suit. The defendant Nos.13 and 14 had executed number of sale deeds on the basis of the power of attorney dated 16.05.1984. The purchasers had claimed that they are bona fide purchasers.

After framing of the issues and allowing the parties to lead the evidence, the learned trial Court dismissed the suit filed by the plaintiff.

An appeal filed by legal heirs of the plaintiff was also dismissed by the learned Additional District Judge, Ambala after re-appreciating the evidence. The learned First Appellate Court has dealt with the dispute once again and upheld the judgment passed by the trial Court.

Learned counsel for the appellant(s) has submitted that last line of the General Power of Attorney gives the power to the Power of Attorney holders to deal in the land to the extent of 16 kanals only. Learned counsel for the appellant(s) has further submitted that suit filed by the plaintiff challenging the sale deeds executed within three years prior to the filing of the suit are liable to be set aside as the suit was within limitation. Learned counsel for the appellant(s) has further submitted that judgments and decrees passed by the Courts below are result of misreading and non-reading of material evidence available on the file.

I have considered the submissions made by the learned counsel for the appellant(s) and with his able assistance gone through the judgments available on the file and as well as Ex.DW6/A, the General Power of

Attorney. In the present case, it is admitted position on record that the plaintiff had executed a General Power of Attorney which is a registered document in favour of defendant Nos.13 and 14 on 16.05.1984. A complete reading of the General Power of Attorney Ex.DW6/A shows that General Power of Attorney was given to defendant Nos.13 and 14 to deal with 32 kanals of law in entirety. The plaintiff had further given power to deal with the land which is received in exchange. However, in the last, one line was written that the power of attorney is with respect to 16 kanals of land. The power of attorney is to be read as a whole. Single line in the power of attorney cannot be read in isolation to negate what has been given in the attorney.

The Courts below have also held that the power of attorney has to be read as a whole. Further, the act and conduct of the plaintiff also supports the interpretation being taken by the Courts below as well as by this Court. Pursuant to the General Power of Attorney dated 16.05.1984, defendant Nos.13 and 14 had at initial stage exchanged the land measuring 27 kanals 11 marlas. The plaintiff did not raise any objection on such exchange. Thereafter, the defendant Nos.13 and 14 started selling the land to various persons. The sale deeds were executed right from the year 1986 onwards. The plaintiff did not chose to challenge the same.

The plaintiff has filed the present suit on 20.05.2003. It is the finding of the Courts below that the plaintiff after having executed the General Power of Attorney, authorised defendant Nos.13 and 14 to deal with his land and settled in District Karnal. In these circumstances, no other confusion is possible that General Power of Attorney is with respect to the

entire land.

As far as submission of learned counsel that certain sale deeds have been executed after the year 2000 and, therefore, the suit qua challenge to the aforesaid sale deeds would be within the limitation, there is some substance in the argument of learned counsel for the appellant(s), however, since I have already held that General Power of Attorney was in fact for entire land and the execution of the power of attorney is admitted, therefore, this submission of learned counsel for the appellant(s) would not bring any fruits to appellant.

Learned counsel for the appellant(s) has further submitted that the judgments and decrees passed by the Courts below are based on misreading of evidence and non-reading of material evidence. Learned counsel for the appellant(s) has once again referred to General Power of Attorney. I have carefully read the General Power of Attorney and in my opinion, General Power of Attorney is with respect to the entire land.

Hence, I do not find any reasons to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

28.07.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No