

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

**CRM No. M-23167 of 2018 (O&M)
Date of Decision:28.05.2018**

Naresh Kumar and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Vishal Munjal, Advocate,
 for the petitioners.

MAHABIR SINGH SINDHU, J.(ORAL)

The present petition has been filed under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') for directing the respondent Nos.2 and 3 to register an FIR against respondent No.4 under Sections 420, 467, 468, 471 of the Indian Penal Code (for short 'IPC').

It is argued by the learned counsel for the petitioners that the petitioners have been cheated on account of a forged and fabricated Power of Attorney dated 31.05.1999 executed by Smt. Ram Piari, as on the basis of the said Power of Attorney, respondent No.4 Kamal Kishore entered into an agreement to sell dated 08.03.2016 regarding House No.B 4/4, within the Abadi of Ghartholi Mohalla, Pathankot. It is further contended that as a matter of fact said Smt. Ram Piari had expired 15 years prior to the execution of the Power of Attorney and resultantly, the Sub Registrar

refused to register the sale deed in favour of the petitioners.

Brief facts of the case are that petitioners and respondent No.4 entered into an agreement to sell dated 08.03.2016 regarding House No.B 4/4, within the Abadi of Ghartholi Mohalla, Pathankot for a total sale consideration of Rs.10,000,00/- and respondent No.4 claimed himself to be the lawful attorney of said Ram Piari. An amount of Rs.3,000,00/- was paid as earnest money by the petitioners. The sale deed was to be executed on or before 08.06.2016. It is further pleaded that thereafter, the date for execution of sale deed was extended with the consent of the parties to 08.07.2016. The sale deed was scribed on 15.06.2016 on the basis of the agreement to sell dated 08.03.2016 and the same was presented before the Sub Registrar for its registration but he (Sub Registrar) refused to register the same on the premises that Ram Piari had expired 15 years back.

Perusal of the paper book nowhere reveals that the alleged sale deed scribed by respondent No.4 on 15.06.2016 (Annexure P-3) was presented before the Sub Registrar for its registration and he refused to register the same on account of the fact that Ram Piari had expired 15 years back. The dispute is purely of a civil nature and the petitioners can pursue their remedy by way of filing civil suit for specific performance of the agreement to sell, in accordance with law.

Further more, this Court cannot record a finding in the present petition that the alleged sale deed was presented before the Sub Registrar and the same was refused for registration on account of the fact that Ram Piari had expired 15 years prior thereto. These are all disputed questions of

fact and to be proved by the petitioners before the Court of competent jurisdiction, in accordance with law. Thus the present matter is of typical civil nature and petitioners are trying to give it the colour of criminal proceedings. Even otherwise, the law is well settled that 'the buyer must beware'.

In view of the above, this Court does not find any ground to issue the directions for registration of an FIR against respondent No.4. However, the petitioners are at liberty to take recourse to the other remedy available to them, in accordance with law, including under Sections 156(3) and 200 of the Cr.P.C.

The observations made above may not be construed as an expression of opinion on the legality or validity of the agreement to sell dated 08.03.2016 as well as the draft sale deed dated 15.06.2016.

Disposed off in the above terms.

(MAHABIR SINGH SINDHU)
JUDGE

28.05.2018
sk

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No