

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

**RSA No.4085 of 2000 (O&M)**

**Date of Decision:20.11.2018**

Pritam Singh

...Appellant(s)

**Versus**

Mohan Singh and another

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:** Mr.J.S.Brar, Advocate for the appellant.  
Mr.M.L.Saggar, Senior Advocate with  
Ms.Arman Saggar, Advocate for the respondents.

**ANIL KSHETARPAL, J.**

The plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

The plaintiff Pritam Singh had challenged the sale-deed executed by his father-in-law Mohan Singh in favour of Vidya Kaur (wife of Pritam Singh-plaintiff) dated 3.9.1986 executed on the basis of general power of attorney dated 3.9.1986 executed by him (plaintiff). It has come in the evidence that Pritam Singh was resident of village Zira and in 1985 he purchased the property in dispute at village Hastiwala from where his wife belongs. It is the case of the plaintiff that he executed a general power of attorney in favour of his father-in-law to manage the property which has been misutilised and the sale-deed has been executed in favour of Vidya Kaur.

On the other hand, it is the case of defendant No.2 that there used to be marital discord between husband and wife and for the benefit of wife, the property was purchased and general power of attorney was executed in favour of father of Vidya Kaur with the understanding that in case the dispute between husband and wife escalates, the property would be transferred in favour of the wife by her father.

It has come in the evidence that the husband and the wife are not living together. It is the case of the wife that she has been turned out of the house and that is when the sale-deed dated 18.9.1986 has been executed.

Both the courts on appreciation of evidence have found that the general power of attorney executed by Pritam Singh in favour of his father in-law Mohan Singh is executed by Pritam Singh, therefore the sale on the basis of the attorney is valid.

Learned counsel for the appellant, while referring to the general power of attorney, has submitted that in the general power of attorney, it was specifically recorded that Mohan Singh (general power of attorney holder) would only be entitled to sell the property in case of need. He submitted that since no need of Pritam Singh has come on record, therefore, the sale is bad. He relies upon a judgment of Hon'ble the Supreme Court in the case of **Swaran Kaur Vs. Jal Kaur, 2001(5) JT (SC) 250**.

On the other hand, learned senior counsel for the respondent-wife has submitted that in the written statement, it has been specifically pleaded by the wife that the plaintiff-appellant used to maltreat her and ultimately she was turned out of the house. He has further submitted that execution and registration of general power of attorney is not in dispute. He has further submitted that the general power of attorney was executed only to ensure that if the plaintiff misbehaves and continues torturing his wife, the father-in-law-Pritam Singh would transfer the property in favour of his daughter, who is none else but the wife of the plaintiff.

This Court has considered the submissions of the learned counsel for the appellant.

Let us first examine the judgment of Hon'ble the Supreme Court in **Swaran Kaur's** case (supra). In this case, Santa Singh was the owner of the property, who had executed a general power of attorney in favour of his wife Smt.Gurnam Kaur, wherein it was written/provided that in case of need, the property can be transferred by the wife. The wife namely Gurnam Kaur allegedly executed a registered sale-deed in favour of her daughter Swaran Kaur and Santa Singh challenged the aforesaid-sale-deed executed by his wife in favour of her daughter Swaran Kaur. Gurnam Kaur appeared in the case and filed her statement that her signatures on the sale-deed were obtained under the influence of certain drug administered to her. In such circumstances, Hon'ble the Supreme Court held that since payment of sale consideration has not been proved and alienation is not proved to be on account of any necessity, therefore, the sale is bad.

However, once we examine the facts of this case, it is apparent that the facts of the present case are entirely different. It is not in dispute that Pritam Singh was resident of village Zira. He married with Vidya Kaur about 17-18 years before filing of the suit i.e., some where in year 1980. There was a marital discord and it is the allegation of the wife that the husband used to maltreat her and also used to give her beatings. Pritam Singh purchased the property in the village from where the wife belongs i.e, at Hastiwala and thereafter executed a general power of attorney in favour of his father-in-law (father of the wife). It has come in the evidence that the dispute between husband and wife escalated and they were no longer living together. In such circumstances, the judgment of the Hon'ble Supreme Court in **Swaran Kaur's case** (supra) would have no application.

Both the courts have concurrently found that general power of attorney has been executed by Pritam Singh in favour of his father-in-law which includes power of sell, of course, at the time of requirement. Requirement as pleaded by the wife has been established on file because when the plaintiff-appellant appeared in evidence, admitted that both husband and wife are living separately.

In view of the above, there is no ground to interfere with the concurrent findings of fact arrived at by both the courts below. The present regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

**20.11.2018**  
**mks**

**(ANIL KSHETARPAL)**  
**JUDGE**

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

**Whether Reportable: Yes/No**