

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

106

RSA No.4696 of 2016 (O&M)

Date of decision: 17.05.2018

Israil and others

..... Appellants

Versus

Mohd. Gaini and others

..... Respondents

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

Present:- None.

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**ANIL KSHETARPAL, J. (ORAL)**

**CM-12156-C-2016**

Application is allowed and the delay is condoned.

**Main Case**

Case has been called twice, however, learned counsel for the appellants has not chosen to appear. Hence, this Court is left with no choice but to read and decide the case.

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff by filing a suit for declaration had challenged the sale deed executed by him through his General Power of Attorney dated 02.09.2005 and also challenged lease deeds executed on 05.05.1994 and 10.09.1998. The suit was instituted on 19.05.2006. Defendant No.1 contested the suit and pleaded that he was appointed General Power of Attorney after receiving the full sale consideration of Rs.1,80,000/- and therefore, the sale deed executed by him on behalf of the plaintiff is legal

and valid. Learned trial Court dismissed the suit after noticing that the plaintiff has not appeared in evidence. Learned First Appellate Court after re-appreciating the evidence found that the thumb impression of Rustam is available on the General Power of Attorney but no effort has been made to bring on record any evidence but to prove that the thumb impression does not belong to Rustam. The Court has further noticed that the plaintiff while appearing in the witness-box has admitted that it is the defendants who are in possession of the property.

This Court does not find that the judgments passed by the Courts below suffer from any illegality or perversity. In the grounds of appeal, it has not been pointed out that there is any misreading or non-reading of substantive evidence.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

**17.05.2018**  
Dinesh Bansal

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

Whether speaking/reasoned                      Yes / No

Whether Reportable                                Yes / No